

50-424/425-OLA-3

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JOHN LAMBERSKI

DIRECT 404 885-3360

January 24, 1994

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DOCK AND SEARCH

Administrative Judge Peter B. Bloch, Chairman  
Administrative Judge James H. Carpenter  
Administrative Judge Thomas D. Murphy  
Atomic Safety and Licensing Board (Georgia Power)  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Re: Vogtle Electric Generating Plant, Units 1 and 2  
License Amendment (Transfer to Southern Nuclear)  
ASLBP No. 93-671-01-OLA-3.

Dear Sirs:

In accordance with the Licensing Board's January 3, 1994 Memorandum and Order (status), Georgia Power Company ("GPC") has attempted to negotiate with the other parties an agreement concerning the status of this case and procedures and schedules to resolve it. To date, GPC has not been successful in bringing the parties to the table. However, GPC is hopeful that further discussions, including the January 27, 1994 conference call, will prove fruitful. To that end, GPC encloses herewith its suggested procedures and schedules to move this proceeding forward.

GPC attempted to meet with counsel for the NRC Staff and for Intervenor on January 13, 1994 and again on January 20, 1994. See letter to Edwin J. Reis from John Lamberski, dated January 12, 1994. Counsel for NRC Staff, has taken the position that it would not be worthwhile for the parties to meet at this time because the Commission has not made a decision on the pending enforcement proceeding (concerning the accuracy of GPC statements to NRC in 1990 associated with the Vogtle diesel generators). Until that time, the NRC Staff maintains that it cannot take a position on either (1) the subject matter of the enforcement proceeding, or (2) the alleged illegal transfer of licenses issue. Counsel for the Staff also said that he could not discuss a schedule for the proceeding because he did not know the Commission's schedule for reaching a decision on enforcement. Staff counsel did say that he could entertain proposals from the parties concerning changes to the NRC's transcripts of Intervenor's tape recordings, although he suggested this be done through the mail.

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GPC counsel also initiated contact with Michael Kohn, counsel for Intervenor. Mr. Kohn's position is that he would not be willing to discuss the subject matter of the enforcement proceeding until the report of the Office of Investigations is available. Nonetheless, Mr. Kohn did agree that he could now entertain GPC's proposed changes to the NRC Staff's transcripts of Intervenor's tapes. Mr. Kohn also said he was willing to proceed now with the illegal transfer of licenses issue. In our brief discussion of how to proceed on that issue, it was apparent that Intervenor and GPC differ on the appropriate procedure and schedule for moving forward. However, we did agree that we would need the participation of the NRC Staff in any further discussions on this matter. Our conversation ended with my suggesting that we separately file proposals with the Board and, thereafter with the Board's help, try to reach an agreement on how to proceed.

As discussed in my January 12, 1994 letter, GPC believes that substantial progress can be made in this case now. GPC does not understand the NRC Staff's position. The Staff has provided no rational basis why it cannot discuss the matters addressed in my January 12 letter, such as the illegal transfer of licenses allegation. Such discussions cannot have an adverse effect on the enforcement proceeding. GPC believes, for example, that stipulations concerning the allegation of illegal license transfer can yield substantial savings of time and resources in this proceeding. For example, with respect to those matters to which the parties stipulate, GPC submits there would no longer be a need for further discovery.

This proceeding, in GPC's view, is ripe for factual stipulation to narrow the facts in issue. The events in issue relative to diesel generator statements in 1990 to a great, but not complete, extent were documented contemporaneously by GPC and the NRC and by Mr. Mosbaugh's audiotapes. Furthermore, the NRC's investigative effort resulted in many interviews of NRC and GPC personnel at a time much closer to the operative events than any future depositions. With respect to the factual basis/allegation of "illegal license transfer," Intervenor's counsel represented Mr. Hobby in his Department of Labor proceeding in which various individuals testified to that specific allegation. No logical reason exists why that record cannot be a source for factual stipulation, particularly given that proceeding occurred several years closer in time to the 1988-1989 activities which gave rise to Mr. Hobby's allegation. This extensive historic record is a better basis for going forward than a 1994 re-creation through depositions of

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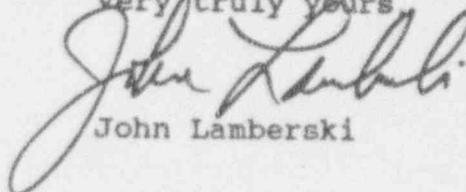
individuals with dimmed memories potentially confused by intervening events.

We have spent considerable time reviewing the NRC's transcripts of the forty-some tapes which the NRC obtained in September, 1990 and retained until December 20, 1993. That effort, along with our review of NRC transcripts which apparently have been verified by Mr. Mosbaugh, is continuing. A significant number of conversations on these and other tapes are relevant to this proceeding. Serious consideration should be given to methods to facilitate the stipulation by the parties of the statements on the tapes. If stipulations are not reached, tremendous costs, further delays and inefficiencies will result. If transcript stipulation resolution through joint review by the parties is not possible, GPC will request the aid of the Board Chairman to determine whether some form of settlement on this topic is appropriate to avoid a convoluted, awkward procedure of playing tapes and repetitive testifying during the hearing in chief.

Stipulations, particularly as they relate to the statements on audiotapes, may well be more probative than depositions or testimony because of the significant passage of time since the operative events. Indeed, in response to GPC's first set of interrogatories which asked Mr. Mosbaugh to "[i]dentify all communications, whether written or oral, between the Plant Vogtle staff and the GPC corporate office on April 19, 1990 concerning the language of LER 90-006," Mr. Mosbaugh replied that "Intervenor's best recollection of the events that occurred on April 19, 1990 concerning the language of LER 90-006 is set out in transcripts and tape recordings in the possession of NRC...."

GPC proposes that this proceeding go forward in accordance with the attached schedule. Prior to the January 27, 1994 conference call with the Board, GPC will review any proposals advanced by the other parties and will again attempt to reach agreement on procedures and schedules.

Very truly yours,



John Lamberski

cc: Service List

GPC's Proposed Schedule

Jan. 31	Initial proposed stipulations submitted to parties (including proposed changes to NRC transcripts of tapes)
Feb. 7	Exchange of positions on initial proposed stipulations
Feb. 8-11	Negotiations among parties concerning initial proposed stipulations
Feb. 14-18	Conference with ASLB Chairman, if necessary to discuss/resolve initial proposed stipulation disputes
Feb. 18	Release of all NRC interview records
Feb. 28	Preliminary identification of witnesses and exhibits
Mar. 14 - Apr. 15	Depositions
Apr. 29	Proposed additions to stipulations (related to new information revealed in interview records or depositions)
Apr. 29	ADR proposals
May 2-6	Negotiation of additional stipulations and ADR proposals
May 9-13	Settlement Conference (if necessary) to address additional stipulations and ADR proposals
May 30	Motions for Summary Disposition

ASLB Order (Ruling on Summary Disposition)

Prefiled testimony on any unresolved issue due within two weeks of ASLB Order

Hearing on date scheduled by ASLB