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June 2, 1994

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

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Before Administrative Judges:
Peter B. Bloch, Chair
Dr. James H. Carpenter
Thomas D. Murphy

In the matter of

GEORGIA POWER COMPANY,
et al.

(Vogtle Electric Generating
Plant, Units 1 and 2)

Docket Nos. 50-424-OLA-3
50-425-OLA-3

Re: License Amendment
(Transfer to Southern
Nuclear)

ASLBP No. 93-671-01-OLA-3

MEMORANDUM AND ORDER
(Scope of Discovery)

On June 2, 1994, this Board convened a prehearing telephone conference, at the request of the parties. The matters covered in the conference were set forth in a letter of June 1, 1994 from Mr. David R. Lewis, representing applicant, to the Licensing Board's Chair. The telephone conversation was not transcribed. This memorandum and order sets forth the rulings of the Board in the course of that conference.

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1. Questions About Boards of Directors. The Licensing Board was persuaded by Georgia Power's attorney that: (a) interrogatories may not be directed at determining the character and competence of members of the Boards of Directors of Georgia Power Company or Southern Company, unless those directors are also directors of Southern Nuclear; and (b) interrogatories may be directed at determining the character and competence of Directors of Southern Nuclear. We do not consider the character and competence of Georgia Power or Southern Company officials to be an issue. We accept the possibility that these questions may be raised subsequently, should Mr. Mosbaugh first substantiate serious allegations so that the Board would need to fashion effective relief.

2. Questions About the Site Area Emergency or Violations of Technical Specifications. Mr. Mosbaugh has contended that Georgia Power has given to the Nuclear Regulatory Commission (NRC) false representations about the safety of diesel generators. We have interpreted this contention to include all of the communications to the NRC that are an object of concern in the final report of the Office of Investigations (Case No. 2-90-020R). Any questions related to whether the representations to the NRC were the whole truth may be raised in this proceeding. In particular, Mr. Mosbaugh may ask questions about how Georgia Power has attempted to fulfill its safety obligations with respect to

diesel generators, including whether problems with the diesels should have prevented restarting the Vogtle reactor after the site area emergency. With respect to the diesel generators Nuclear, he may raise questions about what Georgia Power's safety obligations were, including obligations under the plant's technical specifications or its procedures. It may also raise pertinent facts about the diesel generators that were known or should have been known to Georgia Power or its officials and that would question whether it told the whole truth to the NRC.

On the other hand, Mr. Mosbaugh may not now raise new issues about "any Mosbaugh allegations" that are not related to the diesel generators, such as the granting by the NRC for permission to change Vogtle's mode of operation while the Vogtle diesels were both out of service. For example, Mr. Mosbaugh may not properly advance interrogatories about the site area emergency on the ground that those questions are relevant to who was exercising control of Vogtle during the site area emergency. He may expect answers to questions directed to discovering what different individuals learned during the site area emergency, providing that the answers may be expected to relate directly or indirectly to whether Georgia Power told the whole truth to the NRC about its diesel generators.

3. New Issues. If Mr. Mosbaugh seeks to raise new issues, he may file them as late-filed issues. We will

consider whether: (a) those issues should be accepted as late-filed contentions, (b) whether adequate documentation has been presented for us to consider adjudication of the new issue to be necessary for an adequate record on the admitted contention, and (c) whether or not to postpone our determination about admitting new matters until after the pending matters have been adjudicated. We urge the parties to address each of these areas of Board concern in filings of late issues or responses to late issues.

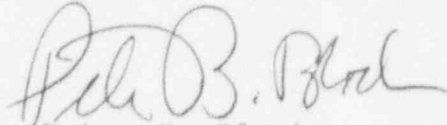
I. ORDER

For all the foregoing reasons and upon consideration of the entire record in this matter, it is this 2nd day of June, 1994, ORDERED, that:

1. The declarations of the Board concerning discovery, as discussed above, shall govern discovery in this case.
2. There shall be a one-hour on-the-record telephone conversation among the parties on June 10 at 10 am. Motions challenging the rulings of this Board in this Order shall be determined during that conference. Any party making such a motion shall serve it so that it is received by the Board

and parties no later than noon on June 9. The motions may not be supported by briefs but are for the purpose of putting the parties on notice of what will be sought from the Board.

FOR THE ATOMIC SAFETY AND LICENSING BOARD

A handwritten signature in cursive script, appearing to read "Peter B. Bloch".

Peter B. Bloch
Chair

Bethesda, Maryland

FRIDAY, JUNE 3, 1994
DISTRIBUTION DATE: 06/03/94

STARTING NO. 15105
ENDING NO. 15117

ID NUMBER	DOCKET NUMBER	PLANT NAME	DESCRIPTION	DOCUMENT DATE	DOCKET DATE	RELATED CORRES.
15105	30-30485-EA	INDIANA REGIONAL	STAFF RESPONSE AND OBJECTIONS TO LICENSEE REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS DTD 4/25 AND STAFF MOTION FOR PROTECTIVE ORDER W/ATT.	05/25/94	05/26/94	
15106	30-31765-EA	ONCOLOGY SERVICES	STAFF RESPONSE AND OBJECTIONS TO LICENSEE REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS DTD 4/25 AND STAFF MOTION FOR PROTECTIVE ORDER W/ATT.	05/25/94	05/26/94	
15107	50-245/336 (2.206)	MILLSTONE	LTR GRAY (OE) TO DELCORE W/CORRECTED COVER PAGE FOR DD-94-5 (CORRECT CAPTION)	05/26/94	05/26/94	
15108	30-31765-EA	ONCOLOGY SERVICES	LB ORDER (RULING ON DISCOVERY MATTERS) - SERVED	05/26/94	05/26/94	
15109	50-424/425-OLA-3	VOGTLE	LB MEMORANDUM AND ORDER (LBP-94-16) (GOOD CAUSE FOR ILLEGAL TRANSFER DISCOVERY; BOARD CONCERNS) - SERVED	05/25/94	05/26/94	
15110	70-3070-ML	CLAIBORNE ENRICHMENT	LB ORDER (RULING ON INTERVENOR MOTION TO CONSOLIDATE CONTENTIONS FOR HEARING) - SERVED	05/26/94	05/27/94	
15111	40-8027-EA	SEQUOYAH FUELS	LTR HOM TO DUNCAN W/STAFF FIRST REQUEST FOR PRODUCTION OF DOCUMENTS & FIRST SET OF INTERROGATORIES TO GENERAL ATOMICS	05/27/94	05/27/94	R/C
15112	40-8027-EA	SEQUOYAH FUELS	LTR HOM TO AXELRAD W/STAFF FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND FIRST SET OF INTERROGATORIES TO SFC	05/27/94	05/27/94	R/C

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NUCLEAR REGULATORY COMMISSION

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Docket No.(s) 50-424/425-OLA-3

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB M&O (SCOPE OF DISCOVERY) have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

Office of Commission Appellate
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Washington, DC 20555

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Peter B. Bloch, Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Thomas D. Murphy
Atomic Safety and Licensing Board
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Administrative Judge
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Docket No.(s)50-424/425-OLA-3
LB M&O (SCOPE OF DISCOVERY)

C. K. McCoy
V. President Nuclear, Vogtle Project
Georgia Power Company
Post Office Box 1295
Birmingham, AL 35201

Dated at Rockville, Md. this
3 day of June 1994


Office of the Secretary of the Commission