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Georgia Power

*the southern electric system*

December 10, 1991  
ELV-03293

Docket No. 50-424  
50-425

U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Attn: Thomas E. Murley, Director  
Office of Nuclear Reactor Regulation

Subject: Additional Information Regarding  
Amended 10 CFR § 2.206 Petition Filed by  
Mr. Marvin Hobby and Mr. Aller Mosbaugh

Gentlemen:

By letter dated October 3, 1991, Georgia Power Company ("GPC") responded to your August 22, 1991 request for additional information. The request for additional information sought information associated with several allegations submitted by the petitioners in a July 8, 1991 supplement to their original petition.

Subsequent to GPC's October 3, 1991 response, we have identified information which is relevant to the preparation of a Director's Decision in this matter. The NRC may be aware of most of the information provided in this letter. Nevertheless, the purpose of this letter is to assure that you have the benefit of all material and relevant facts and circumstances during your deliberations.

I. Recommended Decision and Order in Marvin Hobby v. Georgia Power Company.

By Order dated November 8, 1991 in the U.S. Department of Labor Case No. 90-ERA-30, (the "Order") the Honorable Joel R. Williams recommended to the Secretary of Labor that the complaint of Mr. Marvin Hobby be dismissed with prejudice. GPC previously had called the NRC's attention to this proceeding, as explained in the Company's response, dated September 28, 1990 and April 1, 1991, in this matter.

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A. Alleged False Testimony of Mr. R. Patrick McDonald.

The petitioners have repeatedly alleged that Mr. R. Patrick McDonald, the Executive Vice President of GPC responsible for nuclear operations, submitted perjured testimony during Energy Reorganization Act proceedings before the Department of Labor. Foremost is the claim that Mr. McDonald's testimony regarding the selection of SONOPCO Project staff was false and that a thorough NRC investigation would demonstrate that the staffing was made in a two-day meeting at the 270 Peachtree Street Building in Atlanta, Georgia (see, e.g., pp. 10-15 of the petitioners' July 8, 1991 "Amendments" to the original petition).

Judge Williams' Order addresses Mr. Hobby's assertions as follows:

The meeting in preparation for the Fuchko and Yunker trial occurred six days after the memo establishing the NOCA [Nuclear Operations Contract Administration group] was issued. I find that Complainant's [Hobby's] testimony, in regard to his having been told by anybody involved in the proceeding that he would have to change any testimony that he would give in that matter to conform to that of Mr. McDonald, to be totally unbelievable. I fail to see where Respondent's [Georgia Power Company's] attorneys would even consider having the Complainant testify about the SONOPCO selection process as he was not involved in the same and any testimony he would have given relating thereto would have been nothing more than hearsay. The Complainant is unable to identify the attorney who purportedly approached him with such an incredible request. The two partner attorneys, who conducted the two sessions which the Complainant attended, have denied making such a statement and I consider them to be credible witnesses. There were two other associate attorneys present in the meeting, but the Complainant made no attempt to subpoena them to the hearing. Although he allegedly relayed the purported conversation to Mr. McHenry the next day, Mr. McHenry was not examined at the hearing in regard thereto and I decline to credit his affidavit, prepared with the Complainant's assistance 1 1/2 years after the purported event.

Order at p. 40-41.

B. Alleged Unlawful Management Direction of the Licensee.

The petitioners also alleged that Mr. McDonald received his management direction from Mr. Joseph Farley and, as a result, Georgia Power Company has improperly transferred control over its

nuclear operating licenses. (See, principally, Section III.1 of the September 11, 1990 original petition.) After Judge Williams outlined the origin of this concern of Mr. Hobby (p. 21), the Judge then found as follows:

I recognize that in addition to the memorandum, the Complainant did mention a concern, as to Mr. McDonald's receiving his management direction from Mr. Farley instead of Mr. [Dahlberg] to Mr. Evans and perhaps others. Mr. Evans did acknowledge the Complainant's having mentioned such concern 'in passing.' Depending upon the tone of such conversation, Mr. Evans could have taken the concern as the Complainant's personal one. Nevertheless, the time frame for the oral complaints is not established in the record. Mr. Smith [of Oglethorpe Power] laid the matter to rest in May 1989 upon receipt of the organization chart and Mr. Williams' memo [of May 15, 1989]. Although the Complainant continued to be concerned about the reporting relationship in June 1989, when he corresponded with Admiral Wilkinson, there is no evidence of record to establish that he continued to raise the subject with anyone beyond that time. Perhaps he had become as convinced as I am that Mr. McDonald did, in fact, take his management direction from Mr. Dahlberg in regard to the two nuclear plants owned, in part, by Georgia Power. Certainly, any doubts in his mind concerning the same should have been dispelled by the August 1989 meeting in reference to the Public Service Commission case. The evidence referable to what transpired in this meeting clearly established that Mr. Dahlberg exercised control over Mr. McDonald regarding Georgia Power's nuclear operations.

Order at 42.

C. Alleged Retaliation for Raising Concerns.

Finally, the Order is relevant to the petitioners' non-specific allegation that Georgia Power retaliates against managers who raise regulatory concerns (Item III.9(d) of the original petition).

I find that the decision to eliminate [Mr. Hobby's] position of manager of NOCA was in no way related to the Complainant's participation in the January 2, 1989 meeting [in which he allegedly raised the concern about the accuracy of Mr. McDonald's testimony regarding the selection of employees for the SONOPCO Project] or the concern raised in his April 27, 1989 memorandum as to from whom Mr. McDonald receives his management direction for operation of the

Georgia Power nuclear plants. I find that, instead, the decision to eliminate the position was fully justified as a measure to operate the Respondent's nuclear program more economically and efficiently.

Order at 44.

II. Vogtle Special Team Inspection Report Nos. 50-424, 425/90-19 Supplement 1, November 1, 1991.

Sections 2.1, 2.2, 2.4, 2.5, and 2.7 of the above-cited Inspection Report address, in whole or in part, allegations in Sections III.8, 6(e)(iii), 5(a), 3 and 9(d) of the original petition of September 11, 1990, respectively. Each provides a factual basis for concluding that allegations of wrongdoing are unsubstantiated, although the alleged events and technical deficiencies may have occurred. It should be noted that the NRC's inspection efforts which form the basis of the Inspection Report were initiated over a month prior to the September 11, 1990 submission of the original petition.

GPC is aware of other NRC Inspection Reports on this docket which are relevant to aspects of the Petition. First, Inspection Report 91-20, dated September 12, 1991, at page 4 of the report "Details," addresses the allegation contained in Section III.6(c) of the original petition. Second, Inspection Report 91-14, dated July 19, 1991, in particular Sections 2.b, c, f, and 3.c provide factual bases demonstrating the falsity of the general allegation contained in Section III.6 of the Petition that GPC "subverts" the requirements of Technical Specifications. Third, the two allegations in Section III.6(e)(i) and (ii) were addressed by the NRC well before the submission of the original petition. Inspection Report 90-10 dated June 14, 1990 sets forth factual conclusions relative to the two events which are the subject matter of LERs 1-90-004 and 2-90-001 and which were previously identified as non-cited violations. See, also, Inspection Report 90-19, Supplement 1, page 2, first paragraph, last sentence.

III. Petitioner's Possession of Draft LER 1-90-004.

The petitioners alleged that GPC personnel purposely violated Technical Specifications in order to keep the Vogtle Electric Generating Plant operating or to hasten the restart of a unit (Section III.6(e)(ii) of the original petition). GPC has recently obtained, in conjunction with discovery in Mr. Mosbaugh's Department of Labor proceeding, a draft (Enclosure 1) of Licensee Event Report 1-90-004, dated March 7, 1990. Notations on the draft, in what appears to be Mr. Mosbaugh's handwriting, indicate that prior to submitting the original

petition Mr. Mosbaugh knew: 1) Operations Department management identified the noncompliance of Technical Specifications on a morning status conference call, and 2) the reason for the noncompliance of Technical Specifications was that information concerning equipment out-of-service had been placed on the back of a Limiting Condition of Operation status sheet. Thus, it appears Mr. Mosbaugh possessed information prior to September 1990 which was contrary to the statements made in his September 11, 1990 petition.

IV. Participants in an April 19, 1990 Conference Call Regarding LER 1-90-006.

GPC's October 3, 1991 supplemental response sets forth the basis of GPC's April 1, 1991 statement regarding the Senior Vice President's lack of participation in a telephone conference call late on April 19, 1990 which finalized LER 1-90-006. In late October, 1991 in conjunction with discovery in Mr. Mosbaugh's Department of Labor proceeding, GPC obtained cassette audio tapes which were surreptitiously made by Mr. Mosbaugh during, approximately, the February-September, 1990 time frame. One of those tapes of April 27, 1990 discussions (identified as Tape No. 71) indicates that Mr. Hairston was not a participant during the April 19, 1990 telephone conference call when language concerning emergency diesel generator start counts was finalized in the LER. The following is a transcript of a portion of this tape which contains a discussion between Mr. Mosbaugh ("ALM") and another participant ("P") on the April 19th conference call.

- ALM: I think there is a high probability that there is a problem with their statement [in LER 90-06 concerning diesel generator start information].
- P: What George told me over the phone--
- ALM: George who?
- P: George Bockhold--
- ALM: When?
- P: Before we issued the LER.
- ALM: Yeah.
- P: We had a big conversation on those numbers with George [Bockhold], uh, [George] Hairston--
- ALM: Yeah.

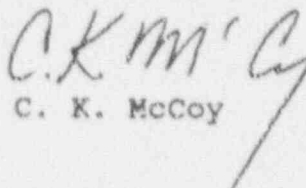
- P: --or not Hairston, [Bill] Shipman.
- ALM: They were all on there.
- P: --and what George [Bockhold] said is they had explained to the Region that they had had--they used-- Tom got those numbers from what we presented to the NRC and then he just added the additional starts after that---
- ALM: That's right.
- P: But--and we questioned that with George [Bockhold] and what George [Bockhold] said is, 'Yes, we did have failures; the Region was aware we had failures, but we were in the troubleshooting mode and once we cleared the troubleshooting mode then we had that many successful starts.'
- ALM: That's not true--
- P: That's what I was told.
- ALM: You can interpret--
- ALM: Yeah, but that was a presumption on George's part--
- P: No. George did not presume anything. He made that as a statement of fact and all that information was presented to him before he made the NRC presentation [on April 9, 1990] and that's the way he made the presentation.
- ALM: OK, well that's--
- P: George was aware of the fact that [inaudible]--
- ALM: You've got to establish, you know, you have weasel words in this thing, you've got to establish a criteria, OK, between X and X, how many successful starts do I think I had? What's my criteria? The words in there say 'failures and problems.' What's a problem?

- P: Well, I think probably the more appropriate way would have been to word it to say, 'We have had--we have had eighteen consecutive starts without a trip from this date going back.'
- ALM: Whatever--the words in there are weasely, OK,--
- P: Well, they weren't--
- ALM: --they say 'failures and problems' and they say 'since the 20th.'
- P: They weren't intended to be weasely. From my standpoint, they weren't intended to be weasely.
- ALM: You can read those words a couple of different ways. All I'm saying is that somebody, you know, we need to decide what we missed--
- P: You'll probably want to mention that to George [Bockhold]--
- ALM: We need to decide what we missed, then we need to review the data and see if what we meant is true or not, but I have yet to be able to figure out, among the various ways of interpreting it, I find a flaw with each method of interpreting the words.

As can be observed from the highlighted portion of this excerpt, the participant indicated that Mr. Shipman and not Mr. Hairston participated in conversations which finalized the LER. This is consistent with the collective recollection of participants during the August, 1990 special inspection, as reflected in documents enclosed in GPC's October 3, 1991 supplemental response. Moreover, the conversation indicates that Mr. Mosbaugh, as of April 27, 1990, had not reached a personal conclusion of "material false statement" relative to the LER. GPC's prior responses include an April 30, 1990 memo to Mr. Bockhold from Mr. Mosbaugh which indicates to us that Mr. Mosbaugh's conclusion regarding incorrect, material information in the LER crystallized only after the original LER had been forwarded to the NRC.

I hope this information will be helpful to resolve these matters in an expeditious manner. If I can be of any further assistance, please do not hesitate to contact me.

Very truly yours,

  
C. K. McCoy

Enclosure

cc: Georgia Power Company  
Mr. A. W. Dahlberg  
Mr. W. G. Hairston, III  
Mr. W. B. Shipman  
Mr. P. D. Rushton  
Mr. J. T. Beckham  
Mr. M. Sheihani  
NORMS

U. S. Nuclear Regulatory Commission  
Mr. S. D. Ebnetter, Regional Administrator  
Mr. D. S. Hood, Licensing Project Manager, NRR  
Mr. B. R. Bonser, Senior Resident Inspector, Vogtle  
Document Control Desk



ENCLOSURE

TITLE

LER 1-90-004

N/A / 1  
Mgr. Engr. Supt. Date

N/A / 1  
Mgr. HP/Chem. Date

John Phillips / 3/7/80  
Mgr. Tech. Supt. Date

N/A / 1  
Mgr. Maint. Date

N/A / 1  
Mgr. Admin. Date

N/A / 1  
Mgr. Ops. Date

N/A / 1  
Mgr. Trng. Date

N/A / 1  
Mgr. Out./Plan Date

N/A / 1  
Asst. General Mgr. - Support Date

N/A / 1  
Asst. General Mgr. - Operations Date

RB

Mtg. No.

Please review, sign where appropriate and return to Willie Smith by \_\_\_\_\_.

If there are any questions, please call Willie Smith at extension 3329.

3-7-90

LER 1-90-004

"FAILURE TO COMPLY WITH TECHNICAL SPECIFICATION 3.0.4 OCCURS ON ENTRY INTO MODE 6"

EVENT DATE: 3-1-90

ABSTRACT:

On 3-1-90, at 0133 CST, a failure to comply with Technical Specification (T.S.) 3.0.4 occurred when Unit 1 entered Mode 6 (Refueling) from Mode 5 (Hot Shutdown). Prior to entering Mode 6, a Limiting Condition for Operation (LCO) had been initiated for Source Range Channel 1N31 to allow performance of a 18 month channel calibration. Although this LCO remained in effect, the Shift Superintendent signed off on the applicable procedure to indicate he had reviewed the LCO Book for impact on entering Mode 6 and that approval was granted to change status from Mode 5 to Mode 6. After entry into Mode 6, the Shift Superintendent recognized that T.S. 3.9.2 requires two Source Range Monitors to be operable in Mode 6 and that a failure to comply with T.S. 3.0.4 had occurred. No immediate action was required since the action requirements of T.S. 3.9.2 were satisfied.

The root cause for this event is considered as cognitive personnel error by the Shift Superintendent. The Shift Superintendent has been counseled and a copy of this LER will be placed in the Operations Required Reading Book.

#### A. REQUIREMENT FOR REPORT

This report is required per 10CFR50.73(a)(2)(i) because of a failure to comply with Technical Specification (T.S.) 3.0.4.

#### B. UNIT STATUS AT TIME OF EVENT

Unit 1 had shutdown to commence its second refueling outage. This event occurred when Unit 1 entered Mode 6 (Refueling) from Mode 5 (Cold Shutdown). Reactor coolant temperature and pressure were approximately 110 degrees Fahrenheit and 0 psig respectively. Additionally, the Reactor Coolant System was drained to midloop and nozzle dams had been installed.

#### C. DESCRIPTION OF EVENT

On 2-28-90, a Limiting Condition for Operation (LCO) was entered to allow performance of 18 month surveillance 24595-1 "Nuclear Instrumentation System (NIS) Source Range Channel 1N31 Channel Calibration". Entry of the LCO for Source Range Channel 1N31 was appropriately recorded in the LCO Book and in the Unit 1 Shift Supervisor Log.

On 3-1-90, procedure 12007-C "Refueling Entry (Mode 5 to Mode 6)" was being performed in preparation for entry into Mode 6. Items (4) and (5) of step 4.3.1.c were completed by the Shift Superintendent and initialed off. Step 4.3.1.c reads: "REVIEW the following for impact on entering Mode 6: (1) Jumper and Lifted Wire Log, (2) Temporary Modification Log, (3) Equipment Clearance Log, (4) LCO Book, (5) Outstanding Work Orders." At 0014 CST, the Shift Superintendent signed off on procedure 12007-C to indicate approval to change status from Mode 5 to Mode 6. At 0133 CST, Mode 6 was entered when Reactor Vessel Head detensioning commenced.

Several hours later, the Shift Superintendent was reviewing the LCO Book in preparation for shift turnover and recognized that a failure to comply with T.S. 3.0.4 had occurred on the entry into Mode 6. At the time of the mode change, the LCO for Source Range Channel 1N31 was still in effect and the channel was still in "test" for performance of surveillance 24595-1. T.S. 3.9.2 requires two Source Range Neutron Flux Monitors to be operable in Mode 6. Therefore, the requirements of T.S. 3.0.4, which state in part "Entry into an OPERATIONAL MODE or other specified condition shall not be made unless the conditions for the Limiting Condition for Operation are met without reliance on provisions contained in the ACTION requirements", had not been fully complied with. No immediate corrective action was required due to this discovery since the action requirements of T.S. 3.9.2 were satisfied.

*Not discussed at Log Book review.  
But Swartz covered on 6:30 call.*

#### D. CAUSE OF EVENT

The root cause for this event is considered as cognitive personnel error on the part of the Shift Superintendent. In reviewing the LCO Book and signing off on procedure 12007-C, the Shift Superintendent should have recognized Source Range Channel 1N31 as being a mode change restraint. There were no unusual characteristics of the work location that contributed to the occurrence of this event.

*"On the books"*

#### E. ANALYSIS OF EVENT

The action requirements of T.S. 3.9.2 state that with one Source Range Neutron Flux Monitor inoperable or not operating, to immediately suspend all operations involving CORE ALTERATIONS or positive reactivity changes. These action requirements were complied with. By 1120 CST on 3-1-80, surveillance 24695-1 had been completed and the LCO for Source Range Channel 1N31 was exited at that time. Since the action requirements of T.S. 3.9.2 were complied with, it is concluded that there was no adverse effect on plant safety or on the health and safety of the public.

#### F. CORRECTIVE ACTIONS

1. The involved Shift Superintendent has been counseled regarding his failure to recognize 1N31 as a mode change restraint.
2. A copy of this LER will be placed in the Operations Required Reading Book to reemphasize the need to be aware of mode change restraints.

#### G. ADDITIONAL INFORMATION

1. Failed Component Identification

None.

2. Previous Similar Events

A failure to fully comply with T.S. 3.0.4 previously occurred for Unit 1 on 10-28-87 (reference LER 424/87-051), when the Unit changed status from Mode 4 (Hot Shutdown) to Mode 3 (Hot Standby) with certain required equipment having not been verified as operable prior to completing the mode change. However, the root cause for these two events differ slightly in that the earlier event resulted from a failure to implement "Information Only LCO's".

3. Energy Industry Identification System Codes

Incore/Excore Monitoring System - IG