

I-MOSBA-107

COPY

DOCKETED
USNRC

'95 JUL 27 P4:32

Exhibit 107, page 1 of 22

W G Hairston III
Director, Office of Enforcement

OFFICE OF SECRETARY
DOCKETING & SERVICE

August 1, 1994

Mr. James Lieberman
Director, Office of Enforcement
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Re: NRC Demand for Information Regarding C. Kenneth McCoy; Docket No. 50-424/50-425; License No. NPF-68/NPF-81; EA 90-052

Dear Mr. Lieberman:

This letter is written in response to the Demand for Information signed by Mr. James L. Milhoan of May 9, 1994 regarding Mr. C. Kenneth McCoy, Vice President-Vogtle Project. The Demand for Information requests further information to determine reasonable assurance that the Georgia Power Company, with the involvement of Mr. McCoy, will provide complete and accurate information to the NRC and otherwise conduct activities in accordance with Commission requirements in the future.^{1/}

Before turning to the specific explanations requested in the Demand for Information (DFI), two observations are warranted. First, Georgia Power does not believe that the August 30, 1990 letter to the NRC was incomplete or inaccurate in a material respect, as reflected in Georgia Power's response to the May 9, 1994 Notice of Violation (EA93-304). GPC's response explained the August 30, 1990 letter fulfilled the communication purpose for which it was intended. Moreover, Mr. McCoy personally followed up on the letter with a responsible NRC Region II manager to assure that the letter addressed the NRC's concerns held at that time.

Second, even though Mr. McCoy was directly involved in the preparation of the June 29, 1990 letter as to the causes of the inaccuracy in Licensee Event Report (LER) 90-006 (dated April 19, 1990) the record before the NRC demonstrates clearly that Mr. McCoy relied upon a specially-tasked, independent audit conducted by the Safety Analysis and Engineering Review (SAER) group. This group, located at the site, reports outside of plant line management directly to Mr. McCoy through the Manager-SAER. Mr. McCoy and the Manager-SAER are located

^{1/}References to exhibits contained throughout this response to the Demand for Information shall follow the exhibit numbering system used in the December 17, 1993 Office of Investigation's Report No. 2-90-020R, unless otherwise indicated.

9508150240 950713
PDR ADOCK 05000424
G PDR

NUCLEAR REGULATORY COMMISSION
Docket No. 50-424/425-OLA-3 EXHIBIT NO. Int. II-107
In the matter of Georgia Power Co. et al., Vogtle Units 1 & 2
 Staff Applicant Intervenor Other
 Identified Received Rejected Reporter KHW
Date 7/13/95 Witness Hairston

Mr. James Lieberman

August 1, 1994

Page 2

in Georgia Power Company's Nuclear Operations office in Birmingham, Alabama. Equally apparent from the record is that corporate office representatives, including Mr. McCoy, understood that the "at least 18" start count reflected in LER 90-006: 1) was the same base data presented to the NRC on April 9, 1990 and incorporated into GPC's April 9, 1990 letter and 2) the numbers of successful starts had been confirmed. Unbeknownst to Mr. McCoy and other GPC corporate representatives on April 19th, however, was the fact that the April 9th data included non-trouble free starts. GPC, therefore, submits that any failure of the June 29 letter to fully clarify the April 9, 1990 letter was an organizational failure. The reasons why the letter was not clarified to a greater degree is obvious: the April 9th letter was considered clarified by the revised LER but was not recognized as erroneous by corporate office personnel. At that time Mr. McCoy, reasonably relying on his staff and the SAER report, was not made aware that the April 9, 1990 letter's error was different than the error in the April 19 LER. Any performance failure of Mr. McCoy related to the June 29 letter, therefore, was a function of his position and the information provided to him, rather than any individual performance failure reflective of a lack of due regard for or total acceptance of NRC requirements.

Facts and circumstances associated with the June 29th and August 30th letters reflect Mr. McCoy's desire to provide not only accurate information but also expansive, explanatory facts and to openly inform the NRC of performance failures by the licensee. In both instances in which fault is assigned to him, his direct actions resulted in more information being provided to the NRC -- and greater acknowledgement of substandard GPC performance. Alleged "incompleteness" and alleged "failure to exercise sufficient oversight" cannot negate that he and other responsible GPC officers were motivated by their respect for Section 50.9 obligations to develop explanatory letters. GPC respectfully suggests this motivation, and not the extent to which the licensee organization failed to carry out their desires, should be appropriately considered when evaluating this response.

In accordance with the requested Demand for Information, the following information, in writing and under oath, is provided:

- A. A description of Mr. C. Kenneth McCoy's current position and responsibilities.

Mr. McCoy is currently the Vice President-Nuclear (Vogtle Project), the same position which he held in 1990. He is the Georgia Power officer who holds direct responsibility for safe operation of the two Vogtle Electric Generating Plant (VEGP) units and for the compliance with applicable NRC and other governmental requirements. As described in the VEGP Final Safety Analysis Report (FSAR):

Mr. James Lieberman

August 1, 1994

Page 3

The GPC vice president-nuclear (Vogtle), who also serves as SNC vice president-nuclear (Vogtle), reports to the GPC senior vice president-nuclear operations regarding operation issues and as SNC vice president-nuclear, reports to the SNC executive vice president regarding support services (SNC matters). As GPC vice president-nuclear, he is responsible for operation and maintenance of VEGP and as SNC vice president-nuclear, he is responsible for licensing, engineering, maintenance, and administrative support activities. As the GPC vice president-nuclear (Vogtle), he directs the GPC general manager-nuclear plant (Vogtle) and as the SNC vice president-nuclear (Vogtle), he directs the SNC general manager-nuclear support (Vogtle) and the SNC manager-safety audit and engineering review (Vogtle).

Mr. McCoy does not have direct line management authority over other GPC licensed facilities, although he does assume authority for execution of NRC correspondence in the absence of other GPC officers. He frequently observes licensed activities at the VEGP site and directly oversees the corporate office Project organization, including engineering and licensing support, safety analysis and engineering review, and other support activities performed by Southern Nuclear Operating Company (SNC) under agreement with Georgia Power. He communicates directly with NRC representatives on an on-going basis and formally submits correspondence to the NRC prepared by his staff, such as license amendment requests, and reports required by 10 CFR Section 50.73.

- B. A description of actions that Mr. McCoy, as a senior manager, took to ensure that the licensee provided the NRC with complete and accurate information in each of the five submittals.

The following information addresses the actions which Mr. McCoy, either directly or indirectly, took to assure accuracy in the April 9, 1990 Confirmation of Action response letter, the April 19th LER 90-006, the June 29, 1990 revised LER 90-006, the June 29, 1990 cover letter to the revised LER 90-006, and the August 30, 1990 letter regarding diesel generator information.

On the broadest level Mr. McCoy has assured that since he assumed his current responsibility the VEGP Project culture has evolved to one of internal and external openness in communicating conditions adverse to safety. If cognizant NRC managers and inspectors are polled, GPC is confident of the inescapable conclusion that VEGP employees are open and responsive in conveying information important to safety to NRC representatives. For example, a plant "problems" list is maintained and shared with the NRC. The list sets out the safety and management challenges on a prioritized basis which need to be addressed. On a working level

Mr. James Lieberman
August 1, 1994
Page 4

issues of potential interest to the NRC are identified for the NRC's benefit, regardless of specific reporting obligations. Approximately twice a year, meetings are held between GPC senior management representatives and their NRC counterparts.

After the Site Area Emergency of March 20, 1990 Mr. McCoy was personally involved in recovery activities. Indicative of his established practice of full disclosure to the NRC, he directed the VEGP General Manager to keep the NRC informed of problems experienced on the diesel generator which he became aware of (Tape No. 11 of March 24, 1990). He frankly stated his opinion to NRC representatives that available data indicated a reliability problem with diesel generator control sensors, which should be addressed generically in the industry (April 4, 1990 telephone conference IIT document No. 168-1 Tr.57-60). He also told the NRC that the VEGP should not proceed with sensor examination until the two organizations were in agreement with the testing to be conducted (*Id.*). Soon after the SAE, the words of McCoy to his subordinate managers speak volumes as to his openness:

George, this is one that I think obviously has some potential for being related [to the SAE] as Allen is saying, and we need to be sure that the NRC and inspection team participate in anything we do in troubleshooting that and documenting it. And before we fix anything or change anything from an "as found" condition we need to get Brockman's [of the NRC] concurrence. (Tape 11, Exhibit 13, page 153, December 17, 1993 Office of Investigation Report 2-92-020 [references herein to "Exhibits" are to exhibits of this Report]).

The message conveyed by this statement, and the sharing of pertinent information with the NRC, pervaded subsequent GPC and NRC meetings.

With respect to the April 9th letter, Mr. McCoy relied upon his subordinates and personally reviewed the letter prior to submittal. The letter was consistent with his general knowledge and personal opinions.

With respect to the Licensee Event Report 90-006, dated April 19, 1990, Mr. McCoy relied upon the formal LER development process established for these reports. He also personally reviewed the LER prior to submittal to the NRC. GPC has concluded that in the preparation of the LER Mr. McCoy was informed of a potential error in the April 9th letter. Specifically, the literal language used in the April 9th letter stated that "since March 20" "no problems or failures have occurred during any of the starts". This statement could be misconstrued, notwithstanding the NRC's full knowledge of problems experienced on the 1B diesel generator during its return to service. Mr. McCoy personally informed his NRC

Mr. James Lieberman

August 1, 1994

Page 5

counterpart (Mr. Brockman) of the potential inaccuracy associated with a literal reading of the letter. In his review of the LER, he questioned the VEGP General Manager regarding the beginning point of the diesel start count. He obtained confirmation that the April 9 count began after the completion of the comprehensive test program of the control systems. This confirmation assured him that the LER statement was accurate and consistent with his own knowledge. His desire for accuracy is reflected in a conversation on April 19 in which he is informed that the LER can state "greater than 18" starts, and Mr. McCoy, based on his knowledge, states that it would not be "greater than 18" -- "it would be 18." (Tape 58) After proposed wording had been discussed, Mr. McCoy tasked corporate and site representatives to review in a subsequent telephone call the specific language actually included in the revised draft LER.

The June 29, 1990 correspondence was intended to correct an error identified in LER 90-006 and, prior to the SAER audit, the April 9 letter. Conversations reviewed by Georgia Power indicate that Mr. McCoy was personally involved in the insertion of the following sentence:

"The number of successful starts included in the original LER included some of the starts that were part of the test program."

By these actions Mr. McCoy corrected the misinformation which was provided to him on April 19th, to wit: the number of successful starts numbering "at least 18" was not after the completion of the test program. As to other information contained in the letter he personally reviewed the SAER audit and physically counted the 10 and 12 successful starts of DG 1A and 1B, respectively, between the completion of the then-defined program and the end of April 19, 1990. His actions, combined with the efforts of others, assured not only that the original LER was corrected, but also that an explanation of the error was provided.

As more fully discussed below, GPC believes that Mr. McCoy, in order to be responsive to an NRC special inspection team suggestion, initiated the preparation of GPC's August 30, 1990 letter. The inspection team considered resolved an issue of alleged "intentional error" in diesel generator statements and further clarification of start dates was suggested. Contemporaneous documentation associated with the development of a draft of the August 30 letter demonstrates Mr. McCoy's personal efforts to explain the evolution of prior GPC statements and to summarize the diesel starts for the period of March 20 to April 9, 1990. That summarization of starts was completely responsive to the NRC's outstanding questions at the time.

Mr. James Lieberman
August 1, 1994
Page 6

- C. 1. An explanation of why, notwithstanding his direct involvement of the June 29, 1990 letter, Mr. McCoy failed to ensure that the letter clarified the April 9, 1990 letter . . .

Prior to the issuance of the Demand for Information Mr. McCoy was not questioned by the NRC as to how the June 29, 1990 letter was thought to clarify the April 9th letter. Mr. McCoy's own handwritten words, set down in August, 1990, answers this question:

In a Licensee Event Report (LER) dated April 19, 1990 (LER 50-424/1990-006, ELV-01545) and Revision 1 to this LER dated June 29, 1990 (ELV-01729), GPC attempted to clarify this [April 9th information] by using reg. guide terminology (i.e. valid vs successful starts) and clearly defining the time period. (Attachment 1.)

A review of conversations on April 19th confirm that Mr. McCoy clarified a definition for the time period associated with the April 9th diesel generator data. The June 29th letter used Reg. Guide terminology and also clearly defined the time period of revised count data (by dates of March 21 through June 7).

Thus, from Mr. McCoy's standpoint, each of the documents which followed the April 9 letter attempted to clarify prior statements and successfully did so. In both instances the time period of the count was more precisely defined.

Mr. McCoy used verified data and observations from an SAER audit which had been commissioned by the Senior Vice President, Mr. W. George Hairston. McCoy had confidence in the SAER audit, he reviewed it personally, and he talked to the SAER manager in the corporate office about the audit. He looked at the actual documentation of starts appended to the report. The audit appeared logical, including its explanations of why there had been differences in start count data. Exhibit 29, page 65. He had additional assurance that, through the normal LER revision process, the site would review and confirm, or comment upon, the cover letter. In these circumstances Mr. McCoy's efforts demonstrate appropriate, senior management involvement, with a solid basis and reasonable assurance of accuracy. GPC is unaware that Mr. McCoy knew, or should have known, that the error inherent in the April 9th letter count data was different than the error inherent in the April 19th LER. A correction of the LER (via the June 29th cover letter) and an LER revision with an expressly defined time period of the count, was reasonably believed to clarify the April 9th statement.

- C.2 . . . an explanation of why, notwithstanding his knowledge of the seriousness of the NRC concerns regarding the possible errors in the April 9, 1990 letter, including

Mr. James Lieberman

August 1, 1994

Page 7

concerns about potential wrongdoing, Mr. McCoy failed to exercise sufficient oversight of the preparation of the August 30, 1990 letter to insure that it was complete and accurate in all material respects.

First, the August 30, 1990 letter was issued after concerns about potential wrongdoing had been resolved by the NRC Operational Safety Inspection. However Mr. McCoy made a commitment to the team leader, at the team leader's suggestion, to clarify the start data in the April 9th letter. Exhibit 29, page 77. (See, Attachment 2, entitled Exit Meeting 8/16/90 1400 E., included in these NRC notes is NRC Document 189, which represents that J. Milhoan was briefed by the team leader that there had been "NO INTENT" associated with diesel start misstatements.) Mr. McCoy's intent was to convey all the data to the NRC, not to determine a root cause of prior errors that had already been investigated by NRC. Additional documentation that the allegation of wrongdoing had been dismissed is included in GPC's White Paper of August 16th: "This issue appears to be resolved". Attachment 2. During this time GPC management also was informed of an NRC inspector's oral statements that the matter had been resolved.

Secondly, the August 30 letter provided an adequate explanation of diesel start numbers reported on April 9th. A full data synopsis is provided in the attached tables to the letter. Reference is made to the LER and revised LER for context, i.e. "similar information was reported in . . ." A discussion of confusion, due to GPC's historic use of variable terminology, addressed the difficulty which GPC had experienced in finalizing a revised LER, and the difficulty of the NRC special inspection team in understanding GPC's prior statements. The error of the Unit Superintendent, i.e. the inclusion of a start which was not "successful," was identified.

The August 30th letter did not make a "root cause" examination of the April 9th presentation. Neither GPC nor, we suspect, the NRC Operational Safety Inspection team identified a potential difference in understanding between the Unit Superintendent and the VEGP General Manager relative to when the April 9th start count began until many months after August, 1990. Viewed from Mr. McCoy's perspective and knowledge in August, 1990, it was reasonable to base an explanatory letter of the start numbers on the information available. Both NRC and GPC viewed the Unit Superintendent's efforts as a basis for the count errors and neither saw the need for further recreation of his efforts. The need to review the VEGP General Manager's performance further at that time is based on hindsight, as a result of allegations submitted in September, 1990.

Mr. James Lieberman

August 1, 1994

Page 8

- D. An explanation of the corrective actions taken, or planned by the licensee to address Mr. McCoy's performance failures.

As explained above, Georgia Power views Mr. McCoy's efforts as reflective of reasonable reliance, proper motivation, and an appropriate level of supervision and involvement. If the NRC determines that either the June 29, 1990 letter or August 30, 1990 letter failed to provide complete and accurate information to the NRC, the failure resulted from the licensee organization's failure. Mr. McCoy has been, and remains, cognizant of ongoing senior management responsibility for accurate and complete statements to the NRC. After a May, 1990, management meeting with senior NRC managers, Mr. McCoy made personal efforts to maintain and facilitate strong communications with the NRC and within GPC. As can be attested by individual NRC representatives, including Mr. David Matthews and Mr. Pierce Skinner, he has remained frank and open with both employees and with the NRC in identifying problems affecting the VEGP. Mr. McCoy has been personally involved in Georgia Power's review of the Notice of Violation. This effort underscores his personal appreciation for communication weaknesses within a large organization and the potential for resulting non-compliance. He fully appreciates that, although procedures for written submittals to the NRC are adequate for normal, routine correspondence, correspondence which corrects or clarifies errors in prior submittals requires greater management involvement and oversight.

- E. An explanation as to why NRC should have confidence that the licensee, with the involvement of Mr. McCoy, will in the future conduct license activities in accordance with all NRC requirements.

The increased performance of the VEGP since 1988 is due in no small part to Ken McCoy's management direction and example. Since assuming his duties as Vice President, Plant Vogtle in 1988, the NRC's Systematic Assessment of Licensee Performance ratings and observations and other performance indicators for the VEGP have markedly improved. The improvements reflect decisions which he has made as a manager, as well as the contributions of numerous VEGP employees. His approach to nuclear operations is conservative. His communications style is totally open. He is receptive to suggestions and concerns of subordinates. He attempts to fix problems, address challenges and hold individuals accountable. He articulates his desires and goals in a straightforward manner. Mr. McCoy is an example of a manager who the NRC should desire to have conducting licensed activities. In 1990 after the Site Area Emergency Mr. McCoy assured that the NRC was informed of specific problems. Over the past four years, he has continued to meet and discuss VEGP operations with NRC representatives in the same frank manner.

Mr. James Lieberman

August 1, 1994

Page 9

Ironically, even the former acting Assistant General Manager - Plant Support has commented on the proper regard which Mr. McCoy has for nuclear safety:

"I mean, I personally have much more credibility in McCoy than others up there, you know, because of his INPO and just because of the way he views things and what he says down here. I think he believes in the INPO approach, and I think he believes in compliance" (April 9, 1990, Tape No. 38.)

Subsequent to filing an action against GPC under Section 210 of the Energy Reorganization Act, the same person testified:

"Q: . . . let me make a list and you tell me if they should be on the list of people that you do not have reason to distrust. Ken McCoy?

A: My experiences with Ken have generally been favorable. (DOL Case No. 91-ERA-11, Deposition of September 11, 1990, Transcript 113.)

On May 8, 1990, Mr. McCoy explained a fundamental and imperative need to communicate openly with the NRC in order to avoid misperceptions:

But I think there have been some perceptions based on some personalities and that sort of thing. I attribute part of the heavy smoke that's out of proportion maybe to the real fire [to] some of our dealings in the past. We have to work on that. So I have got to communicate completely, openly and clearly with Ken Brockman our Region guy in Atlanta on what's going on down here and that sort of thing. . . . so I think our best hope is to build our relationship to insure that those people in the Region really have confidence in us and they have the ammunition to defend us [against a misperception of non-conservative action]. I believe they will if we're open with them, candid, and that sort of thing. (Exhibit 74, Tape 99, NRC Transcript pages 22-24).

This excerpt, and the balance of this tape, demonstrates the value of effective communications with the NRC which has been recognized by Mr. McCoy throughout his career in the nuclear industry.

Please feel free to contact me should you desire additional information regarding this matter. This response to the Demand for Information has been developed after substantial inquiry under the supervision of me and other GPC officers. The response was reviewed by certain individuals familiar with these events for accuracy and completeness. While I do not

Mr. James Lieberman
August 1, 1994
Page 10

have personal knowledge of all the facts as stated, I and others have thoroughly reviewed and evaluated the information. Based on all these efforts, I have high confidence of the response's accuracy. The information provided in this response is true and correct to the best of my knowledge and belief. I am available to provide any clarification, expansion or verification which you should require. Mr. W. George Hairston, III states that he is the Executive Vice President-Nuclear of Georgia Power Company and is authorized to execute this letter on behalf of Georgia Power Company.

Sincerely,

W. G. Hairston III
W. G. Hairston, III

Sworn to and subscribed before
me this 1st day of August, 1994.

Sherry Ann Mitchell
Notary Public

My Commission Expires:
12-15-96

Enclosures

cc: Georgia Power Company
Mr. J. Beasley, Jr.
Mr. M. Sheibani
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
Assistant General Counsel for Hearings and Enforcement