

Official Transcript of Proceedings
NUCLEAR REGULATORY COMMISSION

Title: Georgia Power Company
Vogtle Electric Generating Plant
Telephone Conference

Docket Number: 50-424-OLA-3; 50-425-OLA-3
ASLBP No.: 93-671-01-OLA-3

Location: (not applicable)

Date: Wednesday, August 30, 1995

Work Order No.: NRC-321

Pages 12916-12937

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1 UNITED STATES OF AMERICA
 2 NUCLEAR REGULATORY COMMISSION

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4 ATOMIC SAFETY AND LICENSING BOARD

5 HEARING

6 -----X

7 In the matter of: : 50-424-OLA-3
 8 GEORGIA POWER COMPANY, et al. : 50-425-OLA-3
 9 : Re: License Amendment
 10 (Vogtle Electric Generating : (transfer to
 11 Plant, Unit 1 and Unit 2) : Southern Nuclear)
 12 : ASLBP No.

13 -----X 93-671-01-OLA-3

14 Wednesday, August 30, 1995

15
 16 TELEPHONE CONFERENCE CALL

17
 18 The above-entitled matter came on for
 19 scheduling conference, pursuant to notice, at 3:00 p.m.

20 BEFORE:

21 PETER B. BLOCH Chairman
 22 JAMES H. CARPENTER Administrative Judge
 23 THOMAS D. MURPHY Administrative Judge

24
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P-R-O-C-E-E-D-I-N-G-S

(3:05 p.m.)

1
2
3 CHAIRMAN BLOCH: The purpose of this
4 conference is to permit Intervenor to digest the
5 suggestion for scheduling, and to propose changes in
6 schedule. We have received a fax from Intervenor, which
7 appears to be part of a motion relating to interrogatory
8 questions and document requests, and which it doesn't seem
9 directly related to the scheduling matter.

10 So, Mr. Kohn, why don't you start?

11 MR. KOHN: Thank you. First, the -- with
12 respect to the schedule, we're inclined to go as swiftly
13 as possible to get through as many witnesses as we can,
14 and that's our goal. The only issues that remain is the
15 scope of discovery open to Intervenor on a few issues, and
16 the --

17 CHAIRMAN BLOCH: Mr. Kohn, I note that in
18 submitting additional discovery questions, that there's no
19 motion giving cause for reopening discovery.

20 MR. KOHN: Right. Well, first, I thought that
21 I would just basically touch bases with everyone and
22 explain what we are planning to do, and then follow it up
23 in -- I didn't have time to put together a complete motion
24 at this point. So I thought it might be better for people
25 to see the scope of what we're looking at, and have some

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1 general discussions, and see what the timing of filing the
2 motion would be. Obviously, I could file it at some point
3 in the next day.

4 But I thought I -- it would be better, at
5 least for people to have an understanding of the scope we
6 would be looking at.

7 CHAIRMAN BLOCH: Well, because maybe if you
8 explain it so well, everyone will just agree to answer.

9 MR. KOHN: And I had thought that that was
10 another possibility, and I corrected an earlier copy to
11 Counsel for the Licensee.

12 Basically, what we're looking at is after
13 looking at their expert testimony from last week, and the
14 proposed expert testimony for this week, the documents
15 requested is what we really need to conduct a thorough
16 examination of their experts. And we have previously
17 requested in discovery that they identify all of their
18 experts and produce documents associated with their
19 experts, and we just have not really had that happen, and
20 it has put Intervenor on a terrible disadvantage.

21 Particularly, early on we filed scope of
22 discovery that Georgia Power objected to on -- on the
23 breadth of it, that we were requesting too many work
24 orders and things of that nature, and the Board focused us
25 down into what we need for our case in chief. What we're

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1 now at is what documents we need in the rebuttal case,
2 particularly inasmuch as Georgia Power submitted a lot of
3 work orders and deficiency cards as their rebuttal
4 documents.

5 And I think it's just an unfair advantage for
6 the Licensee to have, at its disposal, every document it
7 needs at the plant and use it in the rebuttal. But, at
8 the same time, Intervenor is sort of cut off back in 1994
9 where we stood. And that is -- and, in addition, is the
10 fact that the discovery against their experts has never
11 taken place, and we really need that discovery in order to
12 examine their expert witnesses that are left.

13 CHAIRMAN BLOCH: Well, most of this doesn't
14 seem to be discovery of the experts, though.

15 MR. KOHN: Well, I think it does relate to
16 their experts, because if you go over what we're looking
17 for, it's dealing with their testimony concerning the
18 cause of the site area emergency, their root cause
19 analysis, and things of that nature.

20 CHAIRMAN BLOCH: Have these questions not been
21 asked before?

22 MR. KOHN: These questions have not been asked
23 before. It would be my -- well, I would only be guessing.
24 At this point, there may -- I think the work orders -- the
25 large scope of the work orders may have been asked for

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1 before but were objected to by Georgia Power and -- and
2 were not allowed.

3 CHAIRMAN BLOCH: Okay. I think the motion
4 already specified the purpose of each of those sets of
5 documents, and it ought to establish a good cause.

6 MR. BLAKE: Judge Bloch, can I go back to the
7 initial purpose of the conversation?

8 CHAIRMAN BLOCH: Well, I take it Mr. Kohn is
9 not requesting any change in schedule, is that right?

10 MR. KOHN: That's correct.

11 MR. BLAKE: Well, I need to alert -- Mr. Kohn
12 knows but the Board doesn't know, and the Staff also knows
13 but the Board doesn't know, a couple of changes that we
14 had to make when we checked on witness availability.

15 CHAIRMAN BLOCH: Oh, okay. Why don't you --
16 why don't we do that first, and then get on to this other
17 matter for a brief time.

18 MR. BLAKE: The two problems that prompted the
19 need for change were that Mr. Stokes wasn't available on
20 the 15th, and that Mr. Webb is a single parent, and
21 therefore did not make a good utility infielder to sort of
22 back up. He wanted to have a time when he could fly to
23 Washington, do it, and hopefully get back to his children.

24 So that prompted the following changes. We
25 would start with Eckert on September 5th at 1:00. The

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1 hope is that he will finish that afternoon. Mr. Kohn has
2 indicated that -- also that same hope, and I didn't talk
3 with Mitzi or Charles about it.

4 MR. BARTH: Are we on this thing now? Can you
5 hear us? I don't know whether this thing is working or
6 not.

7 CHAIRMAN BLOCH: Yes. We can hear you,
8 Charles.

9 MR. BARTH: If we start with Eckert on
10 Tuesday, we would hope that, if they were close to being
11 done or something, we could continue that evening, Your
12 Honor, to get him done in one shot. It would certainly
13 make for a more orderly proceeding if Mr. Kohn goes, and
14 then the Staff goes on Eckert, and finish him off, even if
15 we start at 1:00. So, hopefully, we can do it in the
16 afternoon. But if it -- hour is all we need, and I would
17 hope you would think about that.

18 CHAIRMAN BLOCH: We would consider a small
19 amount of time over, but not an extended evening session.

20 MR. BLAKE: And Mr. Eckert would be prepared
21 to stay over if it weren't completed is my understanding.
22 But we would hope that he's finished on that date.

23 On the 6th, we would start with Mr. Webb, so
24 that he had a date to come up, and he would plan on coming
25 up here so that he would be here on the morning of the

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1 6th. And then, we would go to Bockhold, whatever time
2 Webb is done on the 6th, and Bockhold would be -- continue
3 on the 7th, with nobody else behind him. And then,
4 Hairston on the 8th, is the only witness. The following
5 week, on the 13th, we'd start with Kitchens. We'd then go
6 to Stokes on the 13th.

7 CHAIRMAN BLOCH: Let me get that changed here.
8 Just a second. Stokes on the 13th, you said?

9 MR. BLAKE: Yes, after Kitchens. Kitchens is
10 not expected to be that long.

11 CHAIRMAN BLOCH: Okay.

12 MR. BLAKE: And then, Chenault on the 14th.

13 CHAIRMAN BLOCH: Right.

14 MR. BLAKE: Followed by Hill Ward, and Hill
15 Ward continues onto the 15th.

16 CHAIRMAN BLOCH: So you think that -- okay.
17 So Stokes is scheduled for a short spot.

18 MR. KOHN: Intervenor has some concerns with
19 the way the schedule is set. I mean, we didn't -- we were
20 happy with the prior schedule, but this one does have some
21 concerns for us, and I can tell you what they are.

22 CHAIRMAN BLOCH: Okay. Well, let me just --
23 for the 14th, he was proposing Hill and --

24 MR. KOHN: Chenault, followed by Hill and
25 Ward.

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1 CHAIRMAN BLOCH: Ward. Okay. And on the
2 15th?

3 MR. KOHN: Continuation of Hill and Ward.

4 CHAIRMAN BLOCH: Okay. All right. And your
5 concerns are?

6 MR. KOHN: With the prior testimony, we had
7 exact witnesses set forth, and there was not going to be
8 the need to double up on witnesses. We set witnesses per
9 day, so it creates an added problem for Intervenor to
10 prepare in an evening for two cross examinations. So
11 that's one problem.

12 CHAIRMAN BLOCH: But when they're doing that,
13 it's primarily where it's going to be briefer testimony.

14 MR. KOHN: I understand. But the way it was
15 set out last time and how we agreed to it, that was not a
16 necessity and it would not have happened. So that -- I'm
17 just pointing out the problems that Intervenor has.

18 And, second, is Mr. Stokes is now going early,
19 and he was going to go last. And right now, it's our
20 opinion that Mr. -- that -- well, there is discovery in
21 the 1995 water issue, and I think --

22 CHAIRMAN BLOCH: The Stokes testimony will not
23 have to do with the '95 water issue. That's later.

24 MR. KOHN: I understand. But the only reason
25 they're calling Mr. Stokes up is to change his testimony

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1 to account for the 1994 water issue. They have not filed
2 pre-filed testimony in rebuttal for Mr. Stokes, so --

3 MR. BLAKE: You're right. That's the reason
4 that Stokes is being called is because of our review of
5 his testimony, Judge.

6 CHAIRMAN BLOCH: But what you're going to be
7 doing, Mr. Kohn, is to clarify the testimony in light of
8 what is now known about this incident.

9 MR. KOHN: I understand. But what I'm saying
10 is that that entire incident -- there should be discovery
11 on it, and Intervenor -- and then, the resolution of the
12 1995 water incident should happen at one time, not take
13 Mr. Stokes out of turn at this juncture to see what he has
14 to say. We'd like to have a crack at our entire discovery
15 and see what we obtain, and then go up with Mr. Stokes on
16 that issue.

17 CHAIRMAN BLOCH: Mr. Blake, do you have any
18 problem with that?

19 MR. BLAKE: Well, I only have a problem that
20 you've previously given -- outlined an approach for it,
21 Judge, and I thought it was an appropriate approach. It
22 was have Stokes come back, he is the one where we'd have
23 some -- some question about his prior testimony, and let's
24 hear from him.

25 And then, any party that wants to take on this

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1 '95, and that will be Intervenor, ought to file a motion
2 to say what it is they want to do and -- and what needs to
3 be done about it, discovery and/or evidence in the
4 proceeding, and they ought to show the cause, and they
5 ought to say why it's an additional basis at this point or
6 within the contention -- all of the things that you said
7 before. I thought it was --

8 CHAIRMAN BLOCH: That's correct.

9 MR. BLAKE: I thought it was an appropriate
10 approach.

11 CHAIRMAN BLOCH: That approach is still the
12 one we're going to take, but it seems to me it's quite
13 possible that if Intervenor wants to delay talking to
14 Stokes at all, that there's nothing lost. He may wind up
15 talking to Stokes with exactly the same situation.

16 Mr. Barth, you're trying to get something in?

17 MR. BARTH: I'd like to make a suggestion,
18 more or less to confirm your previous decision and support
19 Ernie in this thing. I think that you should probably
20 hear Stokes and then make up your mind whether something
21 further need be done, given a proper showing by the
22 Intervenor.

23 I don't prejudge it. Stokes may clear this
24 up, or he may not. I don't know. But it seems to me your
25 previous order, which you wanted to hear Stokes to clarify

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1 his previous testimony over the three days, was prefiled.
2 I think you should hear that and then make up your mind,
3 given a proper motion, for more.

4 CHAIRMAN BLOCH: Okay. We'll take a very
5 brief recess here. Just a second.

6 (Whereupon, the proceedings were off the
7 record from 3:17 p.m. until 3:19 p.m.)

8 CHAIRMAN BLOCH: Mr. Blake, we have conferred.
9 Did you have something important to add before we decide
10 about this?

11 MR. BLAKE: No, it was -- it was -- well, I
12 hate to characterize it as important or not important.
13 All I was going to say, Judge, was what you would have
14 available to you when you got motions on what to do about
15 the '95 would not only be Johnson's input, which you
16 previously obtained, but then you'd have Stokes as well,
17 which Charles has pointed out.

18 And to the extent Mr. Kohn doesn't, at this
19 juncture, desire to examine him, wants to put all of his
20 eggs in his ability to show that there would be a
21 subsequent need for more discovery or more evidence, then
22 he is free to do that or he would get two bites out of the
23 apple.

24 CHAIRMAN BLOCH: Well, that's kind of what we
25 decided. So, Mr. Kohn, Licensee can, if it wants to, call

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1 Mr. Stokes on this issue. At the close of his testimony,
2 you'll be permitted either to say that you don't want to
3 cross examine him now, or that you'll cross examine him
4 now and you may have to cross examine him again after the
5 discovery on the '95 issue. Was that satisfactory for
6 you, sir?

7 MR. KOHN: It is satisfactory.

8 CHAIRMAN BLOCH: Okay. Now, on the question
9 of discovery, I'm not sure why we need further discussion
10 on the call. Mr. Kohn, what would be the purpose of
11 discussing your discovery motions on the call?

12 MR. KOHN: The only hope was that, to the
13 extent the parties could discuss it and come to some
14 resolution on -- during the call, that would be
15 beneficial. But I don't think that's going to happen, so
16 I don't think there's any real need to continue on it.

17 CHAIRMAN BLOCH: And I did notice that some of
18 the items you've asked for appear to be things that the
19 Board has been interested in, but I think it's a pretty
20 small percentage of what you're asking for. So most of it
21 will have to rest on your showing cause.

22 MR. KOHN: There is one additional matter.
23 Actually, there's two. First, when we left last week, the
24 Board asked us what motions were pending. There was a
25 motion pending on the joint stipulated exhibits, and we

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1 forgot to mention that as one of the motions pending.

2 CHAIRMAN BLOCH: That's fully on our record.

3 MR. KOHN: Okay.

4 CHAIRMAN BLOCH: I'm not aware of any --

5 MR. KOHN: Yes, that was filed back some time
6 ago -- a motion requesting that the joint stipulated
7 exhibits be accepted into evidence.

8 CHAIRMAN BLOCH: And is there an answer to
9 that? What's the date of that motion, do you know?

10 MR. KOHN: I can look for it. I don't have it
11 in front of me. It just came to me, and I don't know if
12 it --

13 CHAIRMAN BLOCH: Mr. Blake, do you recall
14 answering that?

15 MR. BLAKE: Well, I think this is what started
16 as a joint, that has been the topic of numerous
17 discussions on the record about what is the status of this
18 exhibit, is it in, is it out, do we have an agreement.

19 CHAIRMAN BLOCH: But I'm not remembering the
20 motion.

21 MR. BLAKE: Well, I think the motion sort of
22 got bypassed by all of the subsequent discussion and the
23 approach that's currently underway, which is whenever
24 Intervenor raises one of their exhibits we take it on at
25 that point and move on.

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1 MR. KOHN: I don't think it was -- it was
2 dealt with. I mean, we filed that after that decision --
3 I mean, actually, we were doing that piecemeal, because we
4 didn't want to go back and address, you know, 50 exhibits
5 that are on there.

6 MR. BLAKE: Well, others may be better
7 equipped than I, Judge Bloch. But that's what I thought
8 was happening at the moment, and I thought, frankly, it
9 was working fairly well.

10 CHAIRMAN BLOCH: It may be. I know it was
11 somewhat different than what I thought we were doing at
12 the beginning where we said we were going to rule on the
13 admissibility of all of the exhibits.

14 MR. BLAKE: Right.

15 CHAIRMAN BLOCH: But I don't know what the
16 status of that paper is right now.

17 MR. KOHN: That I can track down. Mary Jane
18 was responsible for filing that, and she is not in the
19 office today. But I can track that down and file another
20 copy with you, if it hasn't been previously. I'm sure --
21 I'm certain it was previously filed, but I could just fax
22 another copy out.

23 CHAIRMAN BLOCH: Okay. So I take it, Mr.
24 Kohn, what we're expecting from you is --

25 MR. BLAKE: Judge Bloch?

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1 CHAIRMAN BLOCH: Yes?

2 MR. BLAKE: I'm sorry to interrupt you. But,
3 apparently, Charles got cut off because there's this
4 frantic call on the other line. Let me see if I can tie
5 him back in.

6 CHAIRMAN BLOCH: Oh, thank you.

7 MR. BLAKE: Can you pause just for a second?

8 CHAIRMAN BLOCH: Sure.

9 MR. BARTH: Are we back on?

10 CHAIRMAN BLOCH: Charles?

11 MR. BARTH: Yes, my usual goof.

12 MR. BLAKE: Okay. Judge Bloch?

13 CHAIRMAN BLOCH: Yes?

14 MR. BLAKE: Okay. I've reconnected NRC Staff.

15 CHAIRMAN BLOCH: Thank you.

16 Mr. Kohn, if I hear correctly, I'm going to
17 expect a more complete motion addressing this discovery
18 request you've got now. And we're also expecting a
19 discovery motion on the '95 incident?

20 MR. KOHN: Yes.

21 CHAIRMAN BLOCH: Okay. And if we can get
22 expedited resolution to the responses to that, that will
23 be helpful. Maybe when the motions are received, Georgia
24 Power and the Staff can let us know how long it will take
25 for them to respond.

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1 I don't think there's anything else before us
2 today. Is there any necessary business?

3 MR. BARTH: I would like to say one thing
4 before you hang up, Judge Bloch.

5 CHAIRMAN BLOCH: Yes. That's Mr. Barth.

6 MR. BARTH: I might as well do it on the
7 phone. At the last hearing, you asked a question about
8 the use of admissions in the proceeding, and I think I
9 probably misspoke. Insofar as the Federal Rules have any
10 analogy, Rule 36(b) starts out, "Any matter admitted under
11 this rule is conclusively established."

12 And it seems to me I misspoke, where I said
13 that there will be a problem with evidence, and I think
14 that the admissions, insofar as the Staff has made them,
15 are conclusive against us; and as far as the Power Company
16 had made them, are conclusive against the Power Company.
17 And if we didn't make the same admissions, then we might
18 have problems.

19 That does solve a goof on my part, I think, I
20 hope. I would not want to mislead people. The rule is
21 very clear. There is no NRC story besides this on this
22 part of it at all.

23 CHAIRMAN BLOCH: Right. Is there any other
24 necessary business?

25 MR. KOHN: One other matter concerns the

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1 resolution or the followup on the ALNOR as found data,
2 whether it was recorded or not. My communications with
3 NRC have indicated that Georgia Power is now contacting
4 the vendor, and I'd like to be corrected if that is -- if
5 I'm misinformed about that.

6 MR. BLAKE: No, you're not -- well, I don't
7 know what you've learned from the NRC, but let me tell you
8 what we are doing, Michael. We're responding to the two
9 Board requests, one which was to determine from a
10 discovery standpoint if -- if we had erred during
11 discovery in not providing those documents. And our
12 review to date tells us we did not err, but we're
13 continuing to complete that.

14 The second request the Board made was to
15 determine whether or not there were any, subsequent to
16 April 7, as found readings using the 2466 ALNOR
17 instrument. And we are doing that, including checking
18 with the vendor to determine for sure that they didn't do
19 an as found when they received it.

20 And our checks to date, which are not
21 completed, confirm again what we previously have
22 indicated, that the only -- you know, what we previously
23 thought, which was that the only numbers that ALNOR got
24 were after they calibrated the instrument. But we're
25 continuing to run that to ground and won't provide an

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1 answer until we're absolutely convinced. But that's where
2 we are as of today.

3 MR. KOHN: Intervenor had one concern, was
4 that we were under the impression that NRC was going to be
5 following up on that and --

6 MR. BLAKE: I think they are as well.

7 CHAIRMAN BLOCH: Does the NRC have something
8 to say about that?

9 MR. BARTH: I can't so far, with ALNOR in
10 Illinois. Their records do not indicate any condition of
11 those machines, for those -- when they got it. But we do
12 not have the documentation. And, like the Power Company,
13 we're still taking a look at this before we lock this
14 thing into stone.

15 CHAIRMAN BLOCH: Okay. There was testimony
16 that it's required to get the as found, so I guess if --
17 if, in fact, the as found was not obtained, there is some
18 question as to whether the prior practice was to obtain
19 it. And I'll leave that up to the Staff at this point, as
20 to how to find out about that.

21 But there is testimony on our record that,
22 under the procedures, at the end of a calibration period,
23 you check the as found because it's needed to do that in
24 order to know whether the instrument was properly
25 calibrated during the in-calibration period. That's my

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1 understanding of the evidence at least.

2 MR. BARTH: Just a moment, Judge Bloch.

3 MS. YOUNG: Judge Bloch?

4 CHAIRMAN BLOCH: Who is speaking?

5 MS. YOUNG: Mitzi Young.

6 CHAIRMAN BLOCH: Yes?

7 MS. YOUNG: Are you referring to testimony by
8 Scott Hammond?

9 CHAIRMAN BLOCH: I believe that there was
10 testimony -- yeah, the last -- I believe it was testimony
11 by Scott Hammond.

12 MS. YOUNG: I don't remember him referring to
13 a procedure, so we'd have to check that.

14 CHAIRMAN BLOCH: Okay. I would have to check
15 whether he said "a procedure." I guess I inferred that --
16 that the procedure required that. My understanding was
17 that what I just described is the way in which the
18 calibration system works, so that you know that during the
19 calibration period the instrument was trustworthy.

20 MS. YOUNG: I think Licensee is really in the
21 best position to tell you what their procedure required at
22 that time.

23 CHAIRMAN BLOCH: Well, if the Staff wants to
24 work it out that way, that's fine.

25 MR. BARTH: Let's take a look at the

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1 testimony.

2 CHAIRMAN BLOCH: Yeah, I don't think the
3 testimony covers what the procedure or the practice had
4 been.

5 Is there any other necessary business? There
6 being none, the hearing is adjourned.

7 (Whereupon, at 3:29 p.m., the proceedings in
8 the above-entitled matter were adjourned.)

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C E R T I F I C A T E

This is to certify that the attached proceedings before the United States Nuclear Regulatory Commission in the matter of:

Name of Proceeding: TELECONFERENCE CALL RE: GA POWER CO. ET AL. (VOGTLE UNITS 1 & 2)

Docket Number: 50-424/425-OLA-3

Place of Proceeding: ROCKVILLE, MARYLAND

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission taken by me and, thereafter reduced to typewriting by me or under the direction of the court reporting company, and that the transcript is a true and accurate record of the foregoing proceedings.

Corbett Riner

CORBETT RINER
Official Reporter
Neal R. Gross and Co., Inc.

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