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USNRC  
August 22, 1995

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
Before the Atomic Safety and Licensing Board

'95 AUG 28 P3:16

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DOCKETING & SERVICE  
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In the Matter of	)	Docket Nos. 50-424-OLA-3
	)	50-425-OLA-3
GEORGIA POWER COMPANY	)	
et al.	)	Re: License Amendment
	)	(Transfer to Southern Nuclear)
	)	
Vogtle Electric Generating Plant,	)	
Units 1 and 2)	)	ASLBP No. 93-671-01-OLA-3

GEORGIA POWER COMPANY'S RESPONSE  
TO INTERVENOR'S MOTION TO ADMIT CERTAIN ADMISSIONS  
AND SECTIONS OF THE OI REPORT INTO EVIDENCE

Background

Georgia Power hereby responds to Intervenor's August 11, 1995 Motion to admit into evidence approximately one hundred and thirty admissions by Georgia Power Company in the Company's July 7, 1994 Response to Intervenor's First Request for Admissions. Intervenor requests that the OI Evidentiary Finding be admitted along with every unqualified admission, and that the Evidentiary Finding as well as supporting referenced documentation be admitted into evidence if the Company did not provide an unqualified "admit" (i.e., the Company provided a denial, an admission with clarification, or a response of neither admit nor deny).

Response

Georgia Power objects to the introduction of admission responses which are express denials or implicit denials (i.e., neither admit nor deny). Under federal practice and procedure, these responses simply are not "admissions," and are not admissible. In addition, a general basis

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of denial or a general identification of conflicting information which precluded an admission or express denial may have been provided. Other or more specific bases for denial may exist, but given the excessive number of requests for admission -- one for each OI Evidentiary Finding -- Georgia Power's ultimate position on a particular Finding is not necessarily reflected in these responses. Moreover, treating a denial or inability to admit or deny as Georgia Power's position on a particular matter when the record has not closed and witnesses -- some of whom were not interviewed by OI -- are yet to testify would be manifestly unjust.

Georgia Power does not object to admission into the record of the requested OI findings listed in the Attachment to this Response. These are admissions or admissions with clarification. The admissions may expedite or assist in structuring the Board's review. However, OI's characterization of interview notes and transcripts, and associated admissions, are not as reliable as the underlying evidence. ("The evidentiary value . . . . would not be as strong as the evidence itself," Judge Bloch, Tr. 9313.) Therefore, for each admission, the related OI Evidentiary Finding and any supporting referenced documentation should also be admitted at the same time. The Board should have full access to the underlying documents so that, for example, it may resolve characterizations or vagueness in the Evidentiary Findings. Indeed, witnesses who sponsored admissions may consider that the underlying evidentiary documents are essential to place the admissions in context (See, for example Tr. 9306-7). Georgia Power also observes that the Staff has not admitted without qualification each of the Evidentiary Findings which Intervenor has sought to admit. Therefore, possible adoption by the Board of these Evidentiary Findings of Fact in this proceeding must await further pleadings, such as the Staff's Proposed Findings of Fact.

With respect to all requested admissions, other than those in the Attachment, Georgia Power takes the following position:

**Allegation No.1:**

1. Georgia Power objects to the admission into the record of the following responses, which were not admissions: 25, 27, 28, 31, 32, 42, 44, 50, 61, 85, 160.

2. Georgia Power requests of the following additional admissions be admitted into the record, along with the related OI Evidentiary Finding and any supporting referenced materials as a clarifying basis, to place the admitted Evidentiary Findings requested by Intervenor in context: 39, 43, 48, 51, 52, 60, 74, 94, 163, 174.

3. Georgia Power hereby amends its prior Responses based on new information:

i. Evidentiary Finding 29 - Admit with clarification. Based upon his August 10, 1995 testimony on this proceeding, Mr. Burr may have met with Mr. Cash and Mr. Bockhold as well as Mr. Kochery.

ii. Evidentiary Finding 62 - Admit with clarification that, based on her testimony in this proceeding, Ms. Dixon typed the hand written list and Mr. Cash orally instructed her in the modification of the typed list.

iii. Evidentiary Finding 150 - Admit with clarification that, based upon his testimony in this proceeding, Mr. Cash was already at the Plant and was tasked at a meeting attended by Mr. Bockhold.

**Allegation No.2:**

1. Georgia Power objects to the admission into the record of the following responses, which were not admissions: 16, 36.

2. Georgia Power requests of the following additional admissions be admitted into the record, along with the related OI Evidentiary Finding and any supporting referenced materials as a clarifying basis, to place the admitted Evidentiary Findings requested by Intervenor in context: 17, 19, 41, 58.

3. Georgia Power hereby amends its prior Responses based on new information:

i. Evidentiary Finding 54 - Admit with the clarification that the fax was from SONOPCO-VOGTLE rather than to SONOPCO-VOGTLE.

ii. Evidentiary Finding 58 - Admit with the clarification that Mr. Burr was on the plane also.

**Allegation No.3:**

1. Georgia Power objects to admission into the record of the following responses: 9, 10, 12, 13, 14, 21, 24, 32 and 33 on the basis that the related OI Evidentiary Findings merely paraphrase taped statements for which there are transcripts already admitted into evidence. The OI findings are therefore cumulative, non-probative, and not the best evidence. Georgia Power also objects to admissions of the following responses, which were not admissions: 57, 102, 115, 123, 132, 140.

2. Georgia Power requests of the following additional admissions be admitted into the record, along with the related OI Evidentiary Finding and any supporting referenced materials as a clarifying basis, to place the admitted Evidentiary Findings requested by Intervenor in context: 67, 76, 83, 98, 119, 148, 153, 167.

**Allegation No.4:**

1. Georgia Power objects to admission into the record of the following responses,

which were not admissions: 4, 9, 12, 37.

2. Georgia Power requests of the following additional admissions be admitted into the record, along with the related OI Evidentiary Finding and any supporting referenced materials as a clarifying basis, to place the admitted Evidentiary Findings requested by Intervenor in context: 13; Allegation 3, Findings 173 and 176.

**Allegation No. 5:**

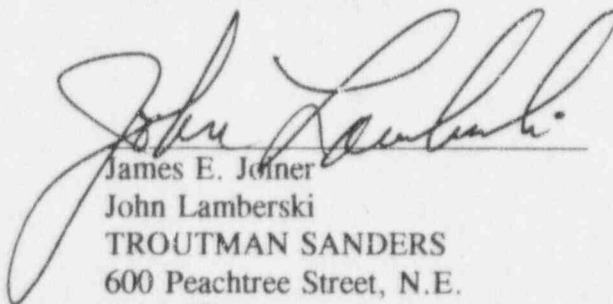
1. Georgia Power objects to admissions of the following responses, which was not admissions: 12, 13, 25.

2. Georgia Power requests of the following additional admissions be admitted into the record, along with the related OI Evidentiary Finding and any supporting referenced materials as a clarifying basis, to place the admitted Evidentiary Findings requested by Intervenor in context: 5, 6, 7, 37.

**Allegation No. 7:**

1. Georgia Power objects to admission into the record of the following responses, which were not admissions: 1, 2, 4.

Respectfully submitted,



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Dated: August 22, 1995



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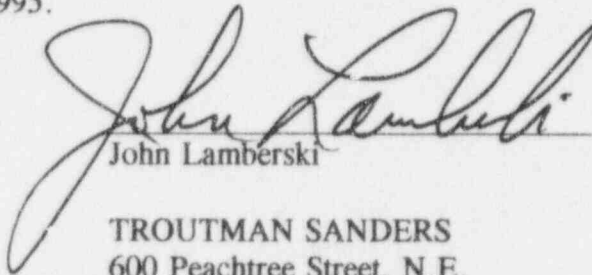
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	)	(Transfer to Southern Nuclear)
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Vogtle Electric Generating Plant,	)	
Units 1 and 2)	)	ASLBP No. 93-671-01-OLA-3

**CERTIFICATE OF SERVICE**

This is to certify that copies of the within and foregoing "Georgia Power Company's Response to Intervenor's Motion to Admit Certain Admissions and Sections of The OI Report Into Evidence" dated August 22, 1995 were served on all those listed on the attached Service List by personal delivery (marked with "\*\*") or depositing same in first class mail.

This 22nd day of August, 1995.



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ATTACHMENT

Allegation #1: Evidentiary Finding 29\*, 38, 46, 55, 56, 58, 59, 62\*, 66, 68, 75, 76, 79, 80, 82, 92, 93, 149, 150\*, 151, 161, 164, 168, 169, 172, 180, 181, 186, 188, 189, 193, 203.

Allegation #2: Evidentiary Finding 10, 11, 13, 18, 21, 22, 46, 53, 54\*, 55, 59, 61, 62.

Allegation #3: Evidentiary Finding 51, 66, 77, 82, 93, 94, 99, 112, 118, 120, 130, 134, 145, 146, 147, 152, 162, 165, 166, 200, 202, 204, 205.

Allegation #4: Evidentiary Finding 16, 17, 34, 36, 41, 47, 57, 61, 68, 70.

Allegation #5: Evidentiary Finding 3, 4, 8, 9, 10, 11, 22, 24, 27, 32, 35, 36, 43.

Allegation #7: Evidentiary Finding 3

Evidentiary Findings for Investigative Conclusion from Review of Audio Tapes:  
Evidentiary Finding 5

\* As amended in this Response.