

S-13

STAFF

II-13

DOCKETED
USNRC

1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE
U. S. NUCLEAR REGULATORY COMMISSION

SEP -8 P4:02

OFFICE OF SECRETARY
OFFICE OF PUBLIC AFFAIRS & SERVICE
BRANCH

In the Matter of:)
)
INVESTIGATIVE INTERVIEW OF:)
)
KENNETH R. HOLMES)
)
(CLOSED))

Room 105

Federal Court House
8th & Walker Streets
Augusta, Georgia

Friday, September 27, 1991

The above-entitled matter convened for
INVESTIGATIVE INTERVIEW pursuant to notice at 8:45 a.m.

NUCLEAR REGULATORY COMMISSION *STAFF*
Docket No. 50-424/425-OLA-3 EXHIBIT NO. II-13
In the matter of Georgia Power Co. et al., Vogtle Units 1 & 2
 Staff Applicant Intervenor Other
 Identified Received Rejected Reporter W.L.W.
Date 8-17-95 Witness H. L. ...

EXHIBIT 50
PAGE 1 OF 393 PAGE(S)

9509120254 950817
PDR ADOCK 05000424
PDR

1 APPEARANCES:

2

3 On behalf of the Nuclear Regulatory Commission:

4

5 LARRY L. ROBINSON, Investigator

6 CRAIG T. TATE, Investigator

7 Office of Investigations

8 U. S. Nuclear Regulatory Commission

9 Suite 2900, 101 Marietta Tower

10 Atlanta, Georgia 30303

11

12 On behalf of the Witness:

13

14 ARTHUR DOMBY, Attorney

15 JOHN LAMBERSKI, Attorney

16 Troutman, Sanders, Lockerman & Ashmore

17 1400 Candler Building

18 Atlanta, Georgia 30303

19

20

21

22

23

24

25

P R O C E E D I N G S

1
2 MR. ROBINSON: For the record, this is an
3 investigative interview pursuant to subpoena of Kenneth R.
4 Holmes, regarding an allegation that officials of Georgia
5 Power Company made material false statements and/or
6 representations to the Nuclear Regulatory Commission
7 regarding the reliability of the Vogtle Electric Generating
8 Plant emergency diesel generators subsequent to the March
9 20, 1990 site area emergency at Plant Vogtle.

10 This interview is being conducted in Room 105,
11 U.S. District Courthouse, Augusta, Georgia on September 27,
12 1991. It is now 8:47 a.m. Present at the interview are the
13 witness, Mr. Holmes, Mr. Arthur Doby, Mr. John Lamberski;
14 NRC OI Investigators L.L. Robinson and C.T. Tate and a court
15 reporter, who is transcribing the interview.

16 Mr. Holmes, do you have any objections to being
17 sworn to the nature of your testimony and the truthfulness
18 you're about to give today?

19 MR. HOLMES: No, I do not.

20 MR. ROBINSON: Please rise and raise your right
21 hand.

22 Whereupon,

23 KENNETH R. HOLMES

24 appeared as a witness herein, and having been first duly
25 sworn, was examined and testified as follows:

EXAMINATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BY MR. ROBINSON:

Q Are you represented by counsel here today, Mr. Holmes?

A Yes, I am.

Q Is Mr. Dobby your counsel?

A Mr. Dobby, yes.

Q Is Mr. Lamberski your counsel also?

A Yes, he is.

MR. ROBINSON: Mr. Dobby, for the record, will you please state your full name, your affiliation and the scope of your representation in this matter?

MR. DOBBY: My name is Arthur H. Dobby, I'm a partner in the firm of Troutman, Sanders, Lockerman & Ashmore, 127 Peachtree Street, Atlanta, Georgia. I am an attorney licensed in the State of Georgia and the federal courts. I am serving as Mr. Holmes' counsel today. I also serve as general counsel for the Nuclear Operations Department of Georgia Power Company.

I have already discussed with Mr. Holmes the nature of my representation, conflicts of interest and other administrative matters.

MR. ROBINSON: Mr. Lamberski, is your representation of Mr. Holmes essentially the same as Mr. Dobby described?

1 MR. LAMBERSKI: Yes, it is, identical.

2 MR. ROBINSON: Mr. Dobby, in addition to your
3 representation of the Georgia Power Company Nuclear
4 Operations Department, do you represent or anticipate
5 representing any other parties, either individual or
6 corporate in this matter?

7 MR. DOMBY: Yes, I do.

8 MR. ROBINSON: Would you please identify these
9 parties?

10 MR. DOMBY: At this time --

11 MR. ROBINSON: As best as you can.

12 MR. DOMBY: At this time, in addition to Mr.
13 Holmes, I anticipate representation of the other individuals
14 who have been served with subpoenas in this case;
15 specifically, Mr. Odom, Mr. Kochery, Mr. Parton, Mr. Stokes
16 and Mr. Horton -- did I say Mr. Horton?

17 MR. ROBINSON: No.

18 Any other individuals that you anticipate
19 representing in this matter?

20 MR. DOMBY: Since I don't know the entire scope of
21 your investigation at this time, I am unsure.

22 MR. ROBINSON: Thank you.

23 Do you currently find or anticipate a conflict of
24 interest with respect to your representation of Mr. Holmes
25 as an individual and your concurrent representation of the

1 corporate subject of this allegation?

2 MR. DOMBY: Absolutely not.

3 MR. ROBINSON: If -- in the event a conflict were
4 to arise during the course of this interview or this
5 testimony, what action would you take?

6 MR. DOMBY: In the event of a conflict of interest
7 between Mr. Holmes and my corporate counsel -- is that your
8 question, Mr. Robinson?

9 MR. ROBINSON: Corporate client basically, yes.

10 MR. DOMBY: In that event, subject to limitations
11 of ethical obligations I have as a member of the bar of the
12 State of Georgia, I would recuse myself from representing
13 Mr. Holmes and continue to represent Georgia Power Company.

14 MR. ROBINSON: Thank you.

15 Do you plan to share the testimony of this witness
16 with any other individual or corporate client represented by
17 you in this matter?

18 MR. DOMBY: To the extent consented to by Mr.
19 Holmes in the course of my official representation of other
20 clients, I may do so.

21 MR. ROBINSON: Has Mr. Holmes consented for this
22 testimony to be shared at this point?

23 MR. DOMBY: Mr. Holmes and I understand the nature
24 of our representation and that gets into attorney/client
25 discussions, Mr. Robinson.

1 MR. ROBINSON: At this point in your relationship
2 with Mr. Holmes, have you discussed the topic of the sharing
3 of information at all?

4 MR. DOMBY: That gets into attorney/client
5 discussions. Mr. Holmes and I are in an attorney/client
6 representation relationship right now and those discussions
7 are confidential.

8 BY MR. ROBINSON:

9 Q Mr. Holmes, for the record, please state your full
10 name, employer and current job title.

11 A My full name is Kenneth Rogers Holmes, my employer
12 is Georgia Power Company, I am currently the Manager of
13 Training and Emergency Preparedness.

14 Q Okay. Mr. Holmes, did Georgia Power Company, or
15 any representative of Georgia Power Company recommend,
16 suggest or direct that you be represented by counsel in this
17 matter?

18 MR. DOMBY: That's three questions, Mr. Robinson.
19 Could you please break it down?

20 BY MR. ROBINSON:

21 Q Mr. Holmes, did Georgia Power Company recommend
22 that you be represented by counsel in this matter?

23 A No, they did not.

24 Q Did Georgia Power Company suggest that you be
25 represented by counsel in this matter?

1 A No, they did not.

2 Q Did Georgia Power Company direct that you be
3 represented by counsel in this matter?

4 A No, they did not.

5 Q Did you make the choice of Mr. Dobby as your
6 attorney representative of your own free will and choice?

7 A Yes, I did and Mr. Lamberski also.

8 Q Were Mr. Dobby's services in this matter offered
9 to you at no personal cost to you?

10 A When I inquired about services, the discussion was
11 that it would be at no cost, that's true.

12 Q Okay. You've been summoned here today strictly as
13 a witness. At this juncture there is no apparent indication
14 to the government or the NRC that you have any exposure to
15 criminal or regulatory sanctions pertaining to this matter.
16 Do you understand that?

17 A Yes, I do.

18 Q Do you feel that you would suffer any adverse
19 consequences from your employer if you would have elected
20 not to have personal representation here?

21 A No.

22 Q Do you feel that you would have suffered any
23 adverse consequences from your employer if you had elected
24 representation other than corporate counsel?

25 A No, I don't.

1 Q Will your testimony in this matter be in any way
2 inhibited by Mr. Doby or Mr. Lamberski's presence?

3 A No.

4 Q With the knowledge that Mr. Doby represents you
5 and your employer concurrently in this matter, if you had
6 knowledge of information which you believed to be adverse to
7 your employer, would you feel free to provide such
8 information in your testimony here today?

9 A No, I would not.

10 Q Why not?

11 A Because all I'm here to do is to tell the truth
12 and my company has always encouraged us to tell the truth.

13 MR. LAMBERSKI: Ken, I think you might have
14 misunderstood the question.

15 BY MR. ROBINSON:

16 Q Yeah. If you felt that that that truth -- if you
17 felt that that truth would be adverse to Georgia Power
18 Company, would you feel free to express that truth in your
19 testimony here today?

20 A Sure, yeah.

21 Q Mr. Holmes, have you given Mr. Doby your express
22 permission to share your testimony in this matter with any
23 others at any other time?

24 MR. DOMBY: Mr. Robinson, that gets into
25 attorney/client discussions. The attorney/client

1 relationship attached at a particular point in time and it
2 currently exists, and you're basically getting into
3 attorney/client confidential areas.

4 MR. ROBINSON: Okay. I note your objection for
5 the record, Mr. Dobby. I am in a position of establishing
6 the government's right that the execution of the laws
7 pertaining to this matter can be done in a manner that's not
8 detrimental in any way to the execution of those laws. I'm
9 not asking your client about any -- with any respect about
10 the content of the information that you and he have
11 discussed. I'm just asking if he has in fact discussed it
12 with you.

13 MR. DOMBY: Let's take a break and I think what we
14 could do is we can get a -- subject to your agreement, Mr.
15 Robinson, we can get an answer to your question provided
16 that there isn't follow on questions regarding the substance
17 of our discussions. Would that be acceptable?

18 MR. ROBINSON: I would be willing to go ahead and
19 go off the record here for a few minutes as long as I have
20 your assurance that you don't use that opportunity to engage
21 in additional attorney/client conversation regarding this
22 issue that hasn't been done at this point. If it hasn't
23 been accomplished at this point, obviously there's no
24 information that is covered by the attorney/client privilege
25 and I would repeat my question to Mr. Holmes -- if that

1 particular issue, the issue of sharing of testimony, has not
2 been discussed between you and your client at this point.

3 MR. DOMBY: Let me ask the question this way for
4 the record.

5 Mr. Holmes, are you willing to share your
6 transcript with your employer through common counsel in this
7 proceeding?

8 THE WITNESS: Yes. In fact, I anticipated doing
9 that. We talked about the transcript and how I would be
10 able to get it, look at it and I anticipated asking my
11 counsel to look at it with me.

12 BY MR. ROBINSON:

13 Q And to share it with your employer?

14 A Yes.

15 MR. DOMBY: That phraseology did not infringe upon
16 attorney/client discussions, Mr. Robinson.

17 MR. ROBINSON: Fine.

18 At this point in time, I'm going to take a break
19 in the proceedings. I'll allow you to conduct any
20 conversations you want to with your client and we'll resume
21 in a few minutes.

22 MR. LAMBERSKI: Can we state the purpose of the
23 break on the record please?

24 MR. ROBINSON: The purpose of the break is to
25 allow Mr. Dobby and Mr. Holmes to conduct --

1 MR. LAMBERSKI: I don't know that we want one at
2 this point.

3 MR. DOMBY: I don't think we need one at this
4 time.

5 MR. ROBINSON: Well okay, I'm making the decision
6 to take a break and I don't feel any necessity to discuss
7 the purpose of the break at this point.

8 For the record it is now 8:59 a.m. and we're off
9 the record.

10 (A short recess was taken.)

11 MR. ROBINSON: It's 10:18 and we're back on the
12 record.

13 BY MR. ROBINSON:

14 Q Mr. Holmes, would you briefly please state your
15 educational background and employment history in the nuclear
16 industry if you could?

17 MR. DOMBY: Do you want to do administrative
18 matters?

19 MR. ROBINSON: Yeah, we'll still do that prior to
20 the substantive portion --

21 MR. DOMBY: Fine.

22 A You said my educational background?

23 BY MR. ROBINSON:

24 Q Brief.

25 A And employment history?

1 Q Yes.

2 A Okay. I graduated from high school in South
3 Carolina, went to the U.S. Naval Academy where I graduated
4 with a Bachelor of Science degree. From there I was chosen
5 to go into the nuclear Navy, served on board submarines for
6 three years and served as an instructor at the Navy Nuclear
7 Power School in Orlando, Florida for two years.

8 Upon leaving the Navy, I was employed by Georgia
9 Power Company at Plant Vogtle to be an instructor at the
10 training center there. And have been an instructor and a
11 supervisor and a manager in the training area. Additionally
12 while I've been at the plant, I've been a shift
13 superintendent, is the title now, for a year. And also for a
14 year, I was the technical assistant to the plant manager.
15 Those roles were -- I forget the time frame, but I've been
16 the Manager of Training and Emergency Preparedness for the
17 past three years and hold an SRO license, I got an SRO
18 license in 1986, fall of '86 is when I got an SRO license.

19 Q When was it that you were first employed with
20 Georgia Power?

21 A November of 1982.

22 Q '82.

23 A Uh-huh.

24 Q And first assigned at Plant Vogtle?

25 A Right then.

1 Q At that time.

2 A At that time, yes.

3 Q Okay. As the training manager, can you briefly
4 explain the nature of your duties and responsibilities
5 there?

6 A Okay. My correct title or my real title is
7 Manager of Training and Emergency Preparedness. I'm in
8 charge of all site training that goes on. There are various
9 areas of training that I manage, I manage the licensed
10 operator training program, both the initial and the
11 continuing training or requal training for the licensed
12 operators. The non-licensed operators, the plant equipment
13 operators and the rad waste operators, the health physics
14 technicians and the chemistry technicians, provide training
15 for them; the maintenance department, which are mechanics,
16 electricians and the I&C technicians, manage the training
17 programs given to them. Manage general employee training
18 and we have a fire brigade on site and we have a fire
19 training area, so I manage fire training. We also have a QA
20 trainer that works with the QA Department providing training
21 for them. Do both training with those instructors and
22 oversee any contractors that we bring on site to provide
23 site training. That's the training area.

24 In emergency preparedness, I have a staff of two
25 people that really maintain the procedures and the plans,

1 conduct the training and run the drills and the exercises,
2 prepare the scenarios so that we can exercise our emergency
3 planning function which is part of our license.

4 Q Thank you, I appreciate that.

5 As part of the subpoena -- do you have any
6 questions?

7 MR. TATE: No.

8 BY MR. ROBINSON:

9 Q As part of the subpoena, you were asked to bring
10 documents to your testimony here today. Do you have those
11 documents with you?

12 A Yes, I do.

13 MR. ROBINSON: I think in addressing your issue of
14 the administrative data, Mr. Dobby, I think probably that
15 question will be answered in itself very quickly on the
16 record here. What we'd like to do here today, Mr. Holmes,
17 is to take the documents that you brought.

18 BY MR. ROBINSON:

19 Q Are any of those documents necessary for you to
20 use in your day-to-day operations of your job at the plant?

21 A No.

22 Q Okay, we'll take the documents and give you a duly
23 authorized receipt for the documents today and then provide
24 copies as necessary if you require them in your normal
25 operations of the plant.

1 A Okay.

2 Q Can we go ahead and I'll give you a hand receipt
3 for those?

4 MR. DOMBY: Mr. Holmes has brought copies of
5 documents pursuant to the subpoena. I think that was the
6 language made, so we do not have the originals. In order to
7 comply with the subpoena, we brought copies because those
8 were requested. Also, as we discussed, I believe it was
9 Monday, Mr. Robinson, in order to clarify the scope of the
10 documents being produced, Mr. Holmes is not the repository
11 of record of certain official documents of Georgia Power and
12 therefore, these come from his personal files, which is the
13 understanding that we reached.

14 MR. ROBINSON: Thank you.

15 BY MR. ROBINSON:

16 Q The documents that you're presenting to me here,
17 do you feel that you need a receipt for these copies of
18 these documents?

19 MR. DOMBY: No.

20 Q Have you categorized them prior to this appearance
21 --

22 MR. LAMBERSKI: Why don't we just identify them on
23 the record.

24 MR. DOMBY: That'd be fine. Why don't we let him

25 --

1 MR. ROBINSON: Yeah, it'd be best for him to do
2 that.

3 THE WITNESS: Okay. It was a pretty wide spectrum
4 that you asked for. I looked for things that were pertinent
5 to the diesel generators and any investigation or statements
6 that were made to the Commission with respect to the diesel
7 generators, between the periods that were on the subpoena, I
8 believe March 30 through August 30.

9 MR. ROBINSON: Right.

10 MR. LAMBERSKI: March 20 I believe it was.

11 THE WITNESS: Yeah, March 20 -- yeah, March 20.

12 The things that I had in my possession was, I was
13 the event critique leader for an event critique that we
14 performed as a result of the loss of off-site power on site.
15 And that document, which is quite a lengthy document, is one
16 thing that I had a copy of and made a copy for y'all.

17 MR. ROBINSON: And this document that is a series
18 of individual pages, approximately two to two and a half
19 inches thick, identified as 346 pages, Event Report, Loss of
20 Off-Site Power and On Site AC Power. Report Number 1-90-
21 003. Date of Event: 3/20/90. Signature of Event Review
22 Team Leader: K.R. Holmes.

23 THE WITNESS: And I only have two other documents.
24 In looking through my notes -- I normally keep a notebook, a
25 "spiral notebook" In looking through my notes for that time

1 period, I found where I was first asked to participate as
2 the critique leader and notes that I took from that time,
3 and then looked on through my notes to the last thing that I
4 felt was applicable, which really I think was the IIT exit
5 we had on 4/2/90. So those are just copies from my personal
6 notes. In here I think there may be some things that are
7 not related to this, you know, some things were asked for to
8 present to the IIT.

9 MR. ROBINSON: Okay.

10 THE WITNESS: There's quite a few items that may
11 not be related to this, but it's a continuous copy of those
12 pages.

13 BY MR. ROBINSON:

14 Q Do you know off the top of your head how many
15 pages this consists of?

16 A No, I don't.

17 MR. ROBINSON: Let the record reflect that this
18 packet of documents, the initial page of this packet of
19 documents contains the handwritten notations, quote,
20 "Critique Leader, Site Area Emergency, Other Critiques: Unit
21 2, Chris Eckert; Outage, Mike Lackey. Consisting of 23
22 pages of notes from -- copies of notes from the notebook of
23 Mr. Holmes, is that correct?

24 THE WITNESS: Yes, sir.

25 MR. ROBINSON: Thank you. And the last document?

1 THE WITNESS: The last document -- I also use a
2 Day Timer, and I looked through my Day Timer and I was very
3 busy from the time I was appointed critique leader and
4 basically wiped everything else off my calendar almost, and
5 the only record of entry that I could find that was
6 applicable to this event was one dated April 17. The way
7 you use a Day Timer is you tear the corners off, so it looks
8 like it might be the 24th but it's the 17th, where we said
9 "Event: Review Team review of comments." That's the only
10 thing I could find in my Day Timer that was related to the
11 diesels and the event critique that kind of ties me to the
12 diesels.

13 MR. ROBINSON: All right, thank you.

14 BY MR. ROBINSON:

15 Q Does this constitute all the documents that you
16 are -- feel that you're required to supply as a result of
17 this subpoena, or all that you were able to find?

18 A That's all that I was able to find that are in my
19 personal possession. I looked through everything I had and
20 that's all that I could find that I think is applicable.

21 MR. ROBINSON: All right, thank you.

22 With respect to the -- question?

23 MR. TATE: Let me just ask -- in view of the fact
24 that these are all copies, when we no longer need them for
25 our purposes, do you require that they be returned to you?

1 THE WITNESS: No.

2 MR. TATE: Thank you.

3 MR. ROBINSON: With regard to the administrative
4 aspect of transcripts of this interview -- question?

5 MR. LAMBERSKI: Ken, you may want to ask that they
6 either be returned or destroyed. They are your personal
7 notes, we wouldn't want them to leave your possession or be
8 reviewed by anyone who didn't have a need to know, in your
9 estimation.

10 MR. TATE: They would be made part of the case
11 file.

12 MR. ROBINSON: They would either be retained in
13 our office as part of the case file or returned to the
14 owner.

15 THE WITNESS: But he just asked, you know, if I
16 didn't want them back -- rather than just leave them sitting
17 around, if you're not going to make them part of the case
18 file, would you please see that they're destroyed?

19 MR. ROBINSON: No problem, we'll do that.

20 MR. LAMBERSKI: Okay.

21 MR. ROBINSON: With respect to transcripts of the
22 subpoenaed testimony here today. Obviously, transcripts
23 will either be provided or provided for inspection in
24 consonance with the Administrative Procedures Act, Section
25 555(c), regarding transcripts of subpoena to compel

1 interviews. It would be premature prior to the testimony
2 for me to make a projection on the time. It will be done
3 promptly in consonance with that Administrative Procedures
4 Act section.

5 I think the problem regarding the delivery of this
6 transcript can be alleviated in that the government has
7 elected at this point in time to postpone the remainder of
8 this subpoenaed interview, and obviously arrangements will
9 be made through both you and Mr. Dobby, if the testimony
10 portion of this interview is to be continued at a later
11 date. So that essentially the transcript will consist of
12 the administrative information that we covered up front in
13 the beginning.

14 MR. DOMBY: Mr. Robinson, in terms of efficiency,
15 expediency and basically diligent carrying out of your
16 obligations, I think it's appropriate to say on the record
17 that Mr. Holmes is prepared to testify today. Monday we
18 discussed the fact that I'd be in attendance. I think the
19 NRC was well aware of my attendance here and Mr. Holmes
20 being prepared to testify.

21 If in fact, your desire not to continue this
22 interview is a function of issues that you have not
23 addressed previously in the administrative area for the
24 agency, I find that derelict. In addition, Mr. Holmes has
25 freely and voluntarily selected me as his counsel, I think

1 you're aware of that based upon the record. In addition,
2 that was a knowing choice and pursuant to established
3 precedent. He has an absolute right to select any counsel
4 of his choice.

5 He's obviously here prepared to testify and I
6 think it would be a miscarriage and inappropriate if you
7 reschedule this particular testimony. This individual has
8 responsibilities pertaining to the operation of a nuclear
9 power plant, as do other witnesses that you've subpoenaed.
10 And for your office to postpone a particular matter simply
11 for convenience, I think is inappropriate and I just wanted
12 to put that on the record.

13 MR. ROBINSON: Fine. Your comments are noted for
14 the record.

15 This -- it's now 10:33 and this interview is
16 hereby temporarily suspended.

17 MR. DOMBY: May I add, the phrase "temporarily
18 suspended" -- any subsequent subpoenas will have to be --
19 or will be examined by counsel as not a postponed or
20 deferred interview, but rather a separate subpoena.

21 MR. TATE: So noted.

22 MR. ROBINSON: So noted. Thank you.

23 (Whereupon, the interview was concluded at
24 10:33 a.m.)

25

REPORTER'S CERTIFICATE

This is to certify that the attached proceedings before the United States Nuclear Regulatory Commission

in the matter of:

NAME OF PROCEEDING: Kenneth R. Holmes

DOCKET NUMBER:

PLACE OF PROCEEDING: Augusta, Georgia

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.

Peggy Warren

Official Reporter
Ann Riley & Associates, Ltd.

EXHIBIT 50

PAGE 23 OF 393 PAGE(S)