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'84 JUL -2 P4:11

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SELECT  
COMPLAINTS & ENFORCEMENT  
BRANCH

In the Matter of	)	
	)	
GEORGIA POWER CO.	)	Docket Nos. 50-424
<u>et al.</u>	)	50-425
	)	(OL)
(Vogtle Electric Generating Plant,	)	
Units 1 and 2)	)	

NRC STAFF RESPONSE TO (1) CPG "SECOND AMENDMENT TO SUPPLEMENT TO PETITION FOR LEAVE TO INTERVENE AND REQUEST FOR A HEARING" AND (2) AN [UNTITLED] FILING REGARDING GANE'S AMENDED BASIS FOR GANE CONTENTION 2

I. INTRODUCTION

Subsequent to the Special Prehearing Conference in this proceeding held on May 30, 1984, in Augusta, Georgia, Petitioners Campaign for a Prosperous Georgia (CPG) on June 13, 1984,<sup>1/</sup> and Georgians Against Nuclear Energy (GANE) on June 13, 1984,<sup>2/</sup> filed "amendments" to certain of the contentions proposed for admission as litigable issues. The NRC staff (Staff) response to these amended contentions is set out below.

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- 1/ "Second Amendment to Supplement to Petition for Leave to Intervene and Request for a Hearing."
  - 2/ Untitled Filing Regarding GANE's Amended Basis for GANE Contention 2. The GANE filing is postmarked June 15, 1984.

DESIGNATED ORIGINAL

Certified By SR DSO7

## II. DISCUSSION

### A. The CPG Amendments

CPG filed amendments to three of its contentions. In an accompanying letter dated June 13, 1984, CPG notes that the amendments relate to proposed contentions CPG-2, CPG-3 and CPG-11.

#### CPG-11

CPG-11 deals with the Vogtle steam generator tubes. In the subject submittal, CPG states that it "\* \* \* repeats information provided orally at the prehearing conference by [CPG]." The Staff responded to this new information regarding proposed CPG contention 11 in its "Supplemental Response to CPG/GANE Contention" filed on June 20, 1984, and continues to oppose admission of this contention for the reasons there discussed.

#### CPG-2

CPG-2 raised a "need for power" issue. In the subject amendment CPG submits a discussion of "allegedly higher fuel costs". Nothing in this recent amendment provides a basis for admitting a contention on "need for power". The Staff's position in opposition to this proposed contention is fully set forth both in the "NRC Staff Response to Supplements to Petition for Leave to Intervene and Requests for Hearing Filed by [GANE] and [CPG]" (Response to Contentions), dated May 14, 1984, (at pages 5-6) and in the "NRC Staff Response to CPG's Request for Waiver" dated June 18, 1984. Reiterating the Staff's position, admission of Contention CPG-2, as amended, would constitute an impermissible challenge to a Commission regulation (i.e., 10 C.F.R. 51.53(c)) (1982). The contention, as amended, cannot as a matter of law be admitted for litigation in this proceeding.

CPG-3

Proposed contention CPG-3 deals with "financial qualifications. The amendment to proposed contention CPG-3 seeks to amend the contention to add matters ostensibly pending before the Georgia Public Service Commission. These matters relate to "Fuel Cost Recovery" proceedings and "radioactive wastes due to the [applicant's alleged] financial problems". The Staff has most recently responded to CPG's proposed "financial qualifications" contention in the June 20, 1984 filing mentioned above.<sup>3/</sup> There the Staff noted that the Commission's Statement of Policy on Financial Qualifications dated June 7, 1984, clearly precludes admission of contention CPG-3. Nothing in CPG's latest amendment, which essentially relates to matters pending before a State administrative agency, causes or requires the Staff to change its position as regards the contention in question. Accordingly, the Board should deny admission of contention CPG-3, as amended.

B. The GANE Amendment to GANE Contention 2

GANE's untitled filing constitutes an "amended basis for GANE's contention Number 2, Cumulative Effects of the Savannah River Plant (SRP) and Plant Vogtle, and rationale supporting the admissibility of the late-filing there of".

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<sup>3/</sup> "NRC Staff Supplemental Response to CPG/GANE Contentions" at pp. 1-2.

GANE's recent amendment is accompanied by a document entitled "Savannah River Plant - Offsite Releases Comparison" ostensibly prepared by W.F. Lawless, Assistant Professor, Mathematics, Paine College, on June 7, 1984. The recent GANE amendment briefly discusses the five factors, set out in 10 C.F.R. 2.714(a)(1), which must be addressed when a party seeks admission of a late filed contention.<sup>4/</sup> The emphasis of Petitioner GANE's recent filing is misplaced. The Staff has never asserted that the amended contention in question is late-filed. To the contrary, the Staff, in our Response to Contentions dated May 14, 1984, at page 6, suggested that Petitioner consider information available to it and either explain why information available to it is inadequate or why the information shows some specific indication of harm to the public.

In the Staff's view, the document submitted by Professor Lawless still does not provide the information suggested by the Staff in our May 14, 1984 filing. It is still not set out why or in what manner the information on the cumulative effect of radiation from the DOE facility

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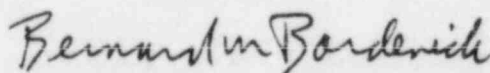
<sup>4/</sup> As noted in GANE's recent filing Professor Lawless addressed the "concerns" included in the instant filing at the Special Prehearing Conference on May 30, 1984. However, Professor Lawless has elaborated on and set to paper these concerns.

and Vogtle, discussed in the FES issued in connection with the construction permit for Vogtle, was in error on needs to be reexamined.<sup>5/</sup> Accordingly, the Staff's position remains unchanged. Contention GANE-2 should not be admitted as an issue in this proceeding for reasons previously stated by the Staff (both verbally at the Special Prehearing Conference and in writing on May 14, 1984) as GANE has not established that pertinent NRC documents are inadequate or that radiation levels from Vogtle will be above levels allowed by Commission regulations.

### III. CONCLUSION

For the reasons noted above, at the Special Prehearing Conference, and in various previous filings discussed above, the Staff is of the view that proposed contentions GPG-2, 3 and 11 and GANE-2 should not be admitted as contentions in this proceeding.

Respectfully Submitted,



Bernard M. Bordenick  
Counsel for NRC Staff

Dated at Bethesda, Maryland  
this 27th day of June, 1984

<sup>5/</sup> Further, GANE does not even show any substantial change between the draft EIS for the DOE's L-reactor and the final EIS for that reactor.

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 Units 1 and 2) )

Docket Nos. 50-424  
50-425  
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OFFICE OF SECRETARY  
ATOMIC SAFETY AND LICENSING BOARD  
BRANCH

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO (1) CPG "SECOND AMENDMENT TO SUPPLEMENT TO PETITION FOR LEAVE TO INTERVENE AND REQUEST FOR A HEARING" AND (2) AN [UNTITLED] FILING REGARDING GANE'S AMENDED BASIS FOR GANE CONTENTION 2" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this 27th day of June, 1984.

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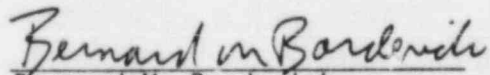
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