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

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

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 CONDUCT  
FURTHER DISCOVERY AGAINST THE NRC STAFF

Georgia Power Company ("Georgia Power") hereby responds to and opposes Intervenor's motion<sup>1/</sup> to conduct additional discovery against the NRC staff. Intervenor was afforded an opportunity to depose the NRC Staff's management panel months ago (in April)<sup>2/</sup> and declined to take advantage of the opportunity. Because Intervenor failed to take advantage of this opportunity in a timely manner, the Board should not allow Intervenor's attempt to delay completion of this proceeding, especially now, after all the witnesses have finished testifying and the parties are busy preparing proposed findings.

<sup>1/</sup> Intervenor's Motion to Complete Discovery Against NRC Staff's Expert Witnesses (Management Panel) (Oct. 5, 1995).

<sup>2/</sup> Letter from M. Young to M. Kohn (March 29, 1995).

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Nor should the Board accept Intervenor's excuse that he was not interested before in conducting the depositions without access to certain documents (relating mainly to the issuance of the issuance of a modified Notice of Violation ("NOV") and settlement discussions). The Board previously ruled that Intervenor had not demonstrated good cause for any reopened discovery based on the modification of the NOV. Memorandum and Order (Motion to Reopen Discovery), dated March 30, 1995, at 4-6. The Board subsequently considered Intervenor's request for clarification (in effect a motion for reconsideration) and rejected Intervenor's argument that the management panel should be considered expert witnesses somehow required to produce these additional privileged and predecisional documents. Memorandum and Order (Request for Clarification), dated April 4, 1995, at 4. Intervenor's current motion is yet another motion for reconsideration -- in effect, Intervenor's third bite at the apple.

Nor is there any basis for yet another round of reconsideration. The record does not support Intervenor's assertion that "during the course of testifying it became obvious that the NRC management panel was providing expert testimony." Mr. Zimmerman merely stated that he believed he was qualified as an expert on the character and integrity issues (Tr. 15258), not that his prefiled testimony constituted expert testimony in the legal sense. And Mr. Reyes testified that his opinions were based on direct interface with the company and the specific individuals for over nine years. Tr. 15257 (Sept. 27, 1995). Georgia Power submits that these NRC witnesses were not acting as technical experts, but rather as NRC management representatives sponsoring the official position of the agency.

In any event, Georgia Power believes that Intervenor's argument is nothing more than smoke designed to cloud the real issue -- whether Intervenor should be permitted to invade pre-decisional documents reflecting the Staff's consideration of settlement. Intervenor has not now, nor has it ever, made the exceptional showing of cause necessary to obtain such documents. See 10 C.F.R. § 2.744(c). As the Board has already ruled on two prior occasions, settlement discussions should be protected. See Memorandum and Order (Motion to Reopen Discovery), dated March 30, 1995, at 3; Tr. 15166.

For all of these reasons, Intervenor's motion to conduct further discovery against the NRC Staff should be denied.

Respectfully submitted,



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Units 1 and 2)	)	ASLBP No. 93-671-01-OLA-3

CERTIFICATE OF SERVICE

I hereby certify that copies of "Georgia Power Company's Response to Intervenor's Motion to Conduct Further Discovery Against the NRC Staff" dated October 12, 1995, were served upon the persons listed on the attached service list by deposit in the U.S. Mail, first class, postage prepaid, or where indicated by an asterisk by hand delivery, this 12th day of October, 1995.



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Counsel for Georgia Power Company

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NUCLEAR REGULATORY COMMISSION

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