

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

AFFIDAVIT OF C. KENNETH MCCOY

Appeared before the undersigned attesting officer, duly authorized to administer oaths, C. Kenneth McCoy, who upon being duly sworn, testified as follows:

1.

My name is C. Kenneth McCoy. I am Vice-President - Vogtle Project of Georgia Power Company and Vice-President - Vogtle Project of Southern Nuclear Operating Company. I have previously given sworn testimony in this proceeding.

2.

I am submitting this Affidavit with the prior permission of the Atomic Safety & Licensing Board (Tr. 15,531) to comment upon, to clarify, and to the extent necessary, to correct the information contained in Intervenor's Exhibit II-97, which consists of a portion of my September 12, 1990 deposition in Mr. Allen Mosbaugh's Department of Labor complaint against Georgia Power Company (Case No. 90-ERA58).

3.

In the two transcript pages of Exhibit II-97, I was asked about false statements in "corrective action letters" to the Nuclear Regulatory Commission and whether Mr. Mosbaugh had called such matters to my attention in April, 1990. My recollection at that time was that Mr. Mosbaugh had expressed some concern to Mr. William Shipman regarding the accuracy of certain statements to the NRC and that Mr. Shipman and Mr. Hairston had responded to the concern by revising the Licensee Event Report in question and ordering a Quality Assurance audit.

4.

Intervenor's counsel, Mr. Kohn, then directed my attention away from the LER and to the "corrective action letter." He asked whether I remembered learning that there were false statements contained in such a letter. I responded by giving my recollection that Mr. Mosbaugh had raised a concern with Mr. Shipman about the accuracy of diesel start numbers. As I remembered it, Mr. Mosbaugh felt that what was in the corrective action letter, as well as the LER, was in error. I completed my answer by referring to the QA audit which was performed in order to verify the correctness of the LER statement. I also referred to my recollection that the transmittal letter accompanying the revised LER attempted to clarify some confusion about the terminology in the "original letter." At the time I was questioned on these topics, none of the relevant documents were identified for the record and none were provided for my review.

In addition, the questions posed were not limited to any particular date during the month of April, nor were they directed to my having obtained information from any particular individual or other source. In fact, my answers obviously confused events occurring during April and events occurring later. At the time, I was simply responding to the best of my recollection.

5.

As I read this deposition excerpt today, I recognize that my responses were potentially confusing. I attribute this to a number of factors, including the breath and lack of specificity of the questions, the fact that I had not attempted to refresh my memory with respect to diesel generator statements (a subject not particularly germane to the Department of Labor proceeding); the unavailability of Mr. Mosbaugh's tape recordings for review and the fact that the deposition was taken before the Company had spent months or even years exhaustively reviewing documents, tapes, interviews, transcripts and other pertinent information in connection with various NRC proceedings and investigations as part of its effort to recreate, in specific detail, the history of events that occurred in 1990.

6.

In point of fact, my recollection of the events of 1990 surrounding the Confirmation of Action letter, the Licensee Event Report, the LER revision and cover letter and the OSI and August 30 letter is much better today than it was five years ago when the deposition was taken. In my prefiled testimony in this

proceeding, I attempted to address these events in specific detail. I treated the COA letter and LER at pages 11-21 of the testimony. At page 16 of the testimony, I addressed the particular question of whether I recognized on April 19 that the information supplied the NRC on April 9 was in error:

I do not believe that Mr. Shipman told me that inaccurate information had been provided on April 9, and I had, at that time, no concerns regarding the number of starts that had been reported. Mr. Shipman may have told me there was a concern that the NRC might not have understood that there were additional problem starts after the site area emergency. My discussion with Mr. Brockman on April 19 indicated to me that our April 9 presentation and letter had not created such a misunderstanding.

7.

On April 17, 1995, Intervenor's counsel again questioned me on this topic. At transcript page 2978 the following exchange occurred:

Q. And at the time you learned that a concern had been raised about the counts -- those numbers in the LER, you also learned that there was a concern raised about what was in that original confirmation of action response?

A. I don't recall if both issues were raised or just one. My recollection generally is that there was a concern raised about the number of counts in the LER -- or the number of starts rather referenced in the LER.

Intervenor's counsel then referred me to Exhibit 97 and asked whether that refreshed my memory. I responded by stating at page 2979:

THE WITNESS: Yes, this is closer to the time frame. And you know, it appears that I had a more definitive recollection of what was said at that time. So I have no reason to believe that this is not true.

In giving that answer, I again failed to call attention to the breadth and vagueness of the original question, and I answered in a way that was imprecise and potentially confusing or misleading. I recognize in reviewing the transcript that I should have responded more carefully and with greater specificity.

8.

I have reviewed my prefiled testimony again and I reaffirm that it is true and correct. There is obviously a discrepancy between my prefiled testimony in this proceeding and the information contained in Intervenor's Exhibit II-97 and at transcript pages 2978-9. It is my prefiled testimony which is correct. I apologize for not having brought this matter to the attention of the Board and the parties earlier. I believe this Affidavit will resolve any confusion or misunderstanding I may have created.

FURTHER, AFFIANT sayeth naught.

CKM

This 15th day of ~~October~~ ^{NOVEMBER}, 1995.

C. Kenneth McCoy
C. KENNETH MCCOY

Sworn to and subscribed
before me this 15th day
of ~~October~~ ^{NOVEMBER}, 1995.

CKM

Mary N. Bentley
Notary Public

My Commission Expires:

May 9, 1999

(SEAL)