

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

**Kristine Svinicki, Chairman
Commissioner Jeff Baran
Commissioner Annie Caputo
Commissioner David A. Wright**

In the Matter of)	
)	
Vogtle Electric Generating Plant, Unit 3)	Docket No. 52-025
)	
Hearing Opportunity Associated with)	NRC-2008-0252
Inspections, Tests, Analyses, and)	
Acceptance Criteria)	April 3, 2020
)	

**NUCLEAR WATCH SOUTH’S REQUEST FOR EXTENSION OF FILING
DEADLINE AND REQUEST FOR EXPEDITED CONSIDERATION**

On February 12, 2020, the Nuclear Regulatory Commission (NRC) published a notice of Southern Nuclear Operating Company's intended operation [of Vogtle Electric Generating Plant, Unit 3] and opportunity for hearing on conformance with the acceptance criteria in the combined license; and associated orders (ITAAC). The notice describes the unprecedented hearing process for the first reactor constructed in the U.S. in more than 30 years and gives a deadline to petition for hearing of April 13, 2020.

Nuclear Watch South respectfully requests a deadline extension due to the extraordinary impacts from the coronavirus public health emergency. Only two weeks after Federal Register Notice, extreme global social constraints were imposed which have been shifting almost daily. The constant adaptation is impacting and distracting almost all people, activities, businesses and agencies. New demands are being placed on everyone even as long-held practices and services are canceled and interrupted. We are requesting that the deadline for hearing request in the above-captioned proceeding be re-established to 60 days from the official lifting of the national COVID-19 emergency. We request that the deadline to apply for access to SUNSI/SGI be similarly extended. *As the published deadline is less than two weeks away, we ask for your expedited consideration of this request.*

In a March 20, 2020, phone call and subsequent calls between the NRC staff and representatives of Nuclear Energy Institute and nuclear reactor licensees, you discussed the need to prioritize the most critical NRC actions, in recognition that the coronavirus may severely impact NRC and licensee personnel.

This licensing proceeding is clearly not a priority. In the first case, Southern Nuclear filed its request with the NRC 90 days before it was required (225 days are required, Southern Nuclear filed 315 days prior to initial fuel load).

On April 1, 2020, Southern Company, parent company to both Southern Nuclear and Vogtle owner Georgia Power, filed its 8K annual report with the Securities and Exchange Commission (SEC). In the cover letter it declared the following risk:

The Company and its subsidiaries are subject to risks related to the outbreak of the novel coronavirus, including, but not limited to, disruption to the construction of Plant Vogtle Units 3 and 4.

The novel coronavirus (“COVID-19”) has been declared a pandemic by the World Health Organization and the Centers for Disease Control and Prevention and has spread globally, including throughout the United States. In response, many jurisdictions, including in the United States, have instituted restrictions on travel, public gatherings and certain business operations. These restrictions have significantly disrupted economic activity in the service territories of the Company’s utility subsidiaries and have caused volatility in capital markets. In addition, the Company’s utility subsidiaries have temporarily suspended disconnections for non-payment by certain customer classes. *The effects of the continued outbreak of COVID-19 and related government responses could include extended disruptions to supply chains and capital markets, reduced labor availability and productivity and a prolonged reduction in economic activity.* {emphasis added} These effects could have a variety of adverse impacts on the Company and its subsidiaries, including reduced demand for energy, particularly from commercial and industrial customers, impairment of goodwill or long-lived assets and impairment of the ability of the Company and its subsidiaries to develop, construct and operate facilities and to access funds from financial institutions and capital markets. *In particular, these effects could disrupt or delay construction, testing, supervisory and support activities at Plant Vogtle Units 3 and 4.* {emphasis added} Southern Nuclear Operating Company, Inc. has implemented policies and procedures designed to mitigate the risk of transmission at the construction site, including worker distancing measures, isolating individuals who are showing symptoms consistent with COVID-19, being tested for COVID-19 or who have been in close contact with such persons, requiring self-quarantine and adopting additional precautionary measures. It is too early to determine what impact, if any, the COVID-19 outbreak will have on the current construction schedule or budget for Plant Vogtle Units 3 and 4.¹

¹ <https://www.sec.gov/ix?doc=/Archives/edgar/data/92122/000009212220000024/so8-krfactors4x20.htm>

On April 1, 2020, Georgia Governor Brian Kemp issued a shelter-in-place order for Georgia effective at noon on April 3, 2020, that is, *today*.

Yesterday, on April 2, 2020, the Georgia Public Service Commission (PSC) sent a letter to Governor Kemp appealing for Vogtle construction workers be exempted from the shelter-in-place order. By inference, the PSC's interpretation of Governor Kemp's order reinforces the conclusion that Vogtle construction *is* impacted by the shelter-in-place restrictions. The letter states:

As we move to an extended "shelter in place" time in our state, we wanted to suggest that ... power plant construction laborers should be designated by the State of Georgia ... as "essential personnel" ... This definition includes construction workers at Plant Vogtle ... (*Letter dated April 2, 2020 is attached*)

Also yesterday, the U.S. Department of Energy's Savannah River Site (SRS) nuclear weapons reservation located directly across the Savannah River from Vogtle issued an emergency notice effective at 5PM today, April 3, 2020, that it will reduce its 11,000-person workforce to 2,500 essential personnel in recognition of the large number of Georgians working on the site and the impact of Governor Kemp's order, in addition to the actual threat of the disease (SRS has three confirmed cases of COVID-19).²

The hearing procedure established in the February 12, 2020, Federal Register Notice is unprecedented and untested and was formulated especially for the new Combined Operating License (COL). Vogtle is the first reactor to receive a COL in U.S. history. It is a rigorous process with very stringent requirements to become party to the proceeding. There are thousands of pages of supporting documents and almost 500 pages dedicated to the ITAAC which are at the heart of the process.

The public is entitled to play a role with the NRC as mandated by the Atomic Energy Act, the Administrative Procedure Act, and the National Environmental Policy Act. Nuclear Watch South, formerly known as Georgians Against Nuclear Energy, has intervened *pro se* before the NRC several times, most notably with respect to the reliability of the emergency diesel generators following a station black-out at Vogtle 1 during refueling in March 1991; in the license extension for Georgia Tech Research Reactor in 1994; and in both the construction and operating licenses for the Mixed Oxide Fuel Fabrication Facility (MFFF) at Savannah River Site from 2001-2018. Our

² <https://www.srs.gov/general/emergency/announcement.html>

interventions have been serious, helpful and contributed to the advancement of nuclear safety. In the case of the MFFF MOX facility, we filed a contention that terrorism and insider sabotage must be analyzed in an Environmental Impact Statement under National Environmental Policy Act requirements 30 days before the tragic attacks of September 11, 2001.

Nuclear Watch South was able to identify an expert witness soon after the Notice of Opportunity for Hearing was published but has been hobbled in working towards this hearing request deadline by the unprecedented public health emergency and deep lifestyle changes imposed by the highly contagious and potentially deadly coronavirus. Social distancing has prevented our working side by side, obviously, as it is affecting almost everyone across-the-board.

The bar is set very high with the NRC's new hearing procedure and it is hard to find people to help evaluate the application because people are preoccupied with personal challenges and companies are cutting back. Nuclear Watch South's application for a hearing requires significant document review even as we all recognize and respect the importance of taking care of our own health and having to figure out how to work in isolation and from our homes. Some of us have children who are schooling from home. We hope that we are all able to remain healthy but inevitably some people may also have the burden of caring for a sick family member or friend.

In sum, there is no urgency for this proceeding to adhere to the published schedule. To attempt to do so creates tremendous unnecessary pressure on an important, but not critical licensing proceeding. We are aware that the NRC is indeed taking steps to adjust to and prioritize the needs posed by the COVID-19 emergency. To proceed in a business-as-usual manner with nuclear safety issues in the current licensing proceeding when even Southern Company is publicizing that its Vogtle construction is likely to experience delays, unfairly restricts Nuclear Watch South's right to a hearing.

We hope and trust that you will grant Nuclear Watch South's request for an extension of the April 13, 2020, hearing deadline to 60 days from the official end of the COVID-19 pandemic emergency.

Respectfully submitted,
[signed electronically by]

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Attachment