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UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

Staff Exh. II-46  
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USNRC

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Docket No. 50-424  
License No. NPF-68  
EA 93-304, EA 94-036,  
EA 94-037, and EA 94-052

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

Georgia Power Company  
ATTN: Mr. H. Allen Franklin  
President and Chief Executive Officer  
333 Piedmont  
Atlanta, Georgia 30323

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTIES -  
\$200,000, AND DEMANDS FOR INFORMATION  
(NRC Office of Investigations Report No. 2-90-020 and NRC  
Inspection Report No. 50-424,425/90-19, Supplement 1)

This refers to the investigation conducted by the Nuclear Regulatory Commission's Office of Investigations (OI) at Georgia Power Company's (GPC or Licensee) Vogtle Electric Generating Plant (VEGP) which was completed on December 17, 1993. The investigation was initiated as a result of information received in June 1990 by Region II alleging, in part, that material false statements were made to the NRC by senior officials of GPC regarding the reliability of the Diesel Generators (DGs). The pertinent events involved in this matter are described below.

On March 20, 1990, during a refueling outage at VEGP Unit 1, GPC declared a Site Area Emergency (SAE) when offsite power was lost concurrent with the failure of the only Unit 1 DG that was available (1A). The other Unit 1 DG (1B) was unavailable due to maintenance activities.

The NRC immediately responded to the SAE at the VEGP site with an Augmented Inspection Team (AIT). The NRC effort was upgraded to an Incident Investigation Team (IIT) on March 23, 1990. The IIT was composed of NRC Headquarters technical staff and industry personnel. The results of this investigation are documented in NUREG-1410, "Loss of Vital AC Power and the Residual Heat Removal System During Mid-Loop Operations at Vogtle Unit 1 on March 20, 1990."

On March 23, 1990, the NRC issued a Confirmation of Action Letter (CAL) to GPC that, among other things, confirmed that GPC had agreed not to return VEGP Unit 1 to criticality until the Regional Administrator was satisfied that appropriate corrective actions had been taken, and that the plant could safely return to power operations.

On April 9, 1990, GPC made a presentation to the NRC in the Region II offices in support of GPC's request to return VEGP Unit 1 to power operations. As part of this presentation, GPC provided information on DG starts in response to a specific NRC request that GPC address DG reliability in its April 9

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NUCLEAR REGULATORY COMMISSION

Docket No. 50-424/425-OLA-3 EXHIBIT NO. 7E-46  
In the matter of Georgia Power Co. et al., Vogtle Units 1 & 2  
 Staff  Applicant  Intervenor  Other  
 Identified  Received  Rejected Reporter SD  
Date 9/22/95 Witness HOOD / MATTHEWS / SKINNER

IEH/

presentation. GPC submitted a written summary of its April 9 presentation in an April 9, 1990 letter, "Vogtle Electric Generating Plant Confirmation of Action Letter."

On April 12, 1990, the NRC formally granted permission for VEGP Unit 1 to return to criticality and resume power operations.

On April 19, 1990, pursuant to 10 CFR 50.73, GPC submitted Licensee Event Report (LER) 50-424/90-006, "Loss of Offsite Power Leads to Site Area Emergency."

On June 29, 1990, GPC submitted a revised LER, 50-424/90-006-01. The purpose of the submittal was to clarify information related to successful DG starts that were discussed in the April 9, 1990 letter and the April 19, 1990 LER, and to update the status of corrective actions in the original LER.

From August 6 through August 17, 1990, the NRC conducted a Special Team Inspection at VEGP, as a result of NRC concerns about, and allegations related to, VEGP operational activities. This inspection examined the technical validity and safety significance of the allegations, but did not investigate alleged wrongdoing. The Special Team informed GPC that the June 29, 1990 submittal failed to address the April 9, 1990 data and requested that GPC clarify DG starts reported on April 9, 1990. Results of this inspection are documented, in part, in NRC Inspection Report No. 50-424,425/90-19, Supplement 1, dated November 1, 1991.

On August 30, 1990, GPC submitted a letter, "Clarification of Response to Confirmation of Action Letter." The purpose of the submittal was to clarify the diesel start information that was addressed in the April 9, 1990 submittal.

The NRC has carefully reviewed the evidence associated with these events, submittals, and representations to the NRC. Specifically, the NRC reviewed information gathered as part of the OI investigation, information gathered during the IIT, NUREG-1410, Supplement 1 of NRC Inspection Report 90-19, discovery responses in the Vogtle operating license amendment proceeding (Docket Nos. 50-424 OLA-3, 50-425 OLA-3), and other related information. After careful and considerable deliberation, the NRC has concluded that the five violations described in the enclosed Notice of Violation and Proposed Imposition of Civil Penalties (Notice) resulted from the repeated failure of various levels of GPC management on a number of occasions from April 9 to August 30, 1990 to provide the NRC with information that was complete and accurate in all material respects. Each of these violations is discussed below.

Violation A: Inaccurate DG Start Counts Reported in April 9, 1990 Restart Briefing and CAL Response Letter.

The first violation that occurred (Violation A) involves the inaccurate DG start information that was provided in response to a specific NRC request that GPC address the issue of DG reliability in the

April 9, 1990 presentation and letter. The root causes of this violation were (1) the failure of the VEGP General Manager in directing the Unit Superintendent to collect DG start information and in assessing what the Unit Superintendent gave him before he provided the DG start information to the NRC and (2) the failure of the Unit Superintendent in performing and reporting his count. The VEGP General Manager was personally involved in the preparation of the data regarding the DG reliability and tasked the Unit Superintendent with collecting the number of successful DG starts for the 1A and 1B DGs. Although The VEGP General Manager was aware of problems on the 1B DG during overhaul, he failed to adequately specify the starting point for the count to ensure that the count did not include these problems and failed to ensure that the Unit Superintendent understood his criteria for "successful starts." In fact, the VEGP General Manager stated no criteria for successful starts, a term not formally defined, when he directed the Unit Superintendent to gather successful DG starts. The Unit Superintendent collected DG start data from the Control Room Log and the Shift Supervisor's Log without determining from the VEGP General Manager when to start the counts and orally conveyed totals to the VEGP General Manager for the 1A and 1B diesels. The VEGP General Manager did not determine the point at which the Unit Superintendent began his count (i.e., the specific start number, date or time) or whether the Unit Superintendent's data included any problems or failures. Information was then presented to the NRC in an April 9, 1990 oral presentation by the VEGP General Manager and in an April 9, 1990 letter that since March 20, 1990, there were 18 and 19 successful consecutive starts on the 1A and 1B DGs, respectively, without problems or failures. By failing to specify or verify the starting point for the count, the 19 trouble-free starts for the 1B DG that GPC reported in the presentation and letter included three starts with problems that occurred during DG overhaul/maintenance activities (a high lube oil temperature trip on March 22, 1990; a low jacket water pressure/turbo lube oil pressure low trip on March 23, 1990; and a failure to trip on a high jacket water temperature alarm occurring on March 24, 1990). The correct number of consecutive successful starts was 12 for the 1B DG--a number significantly less than that reported by GPC to the NRC on April 9, 1990. The inaccuracy was material. In considering a restart decision, the NRC was especially interested in the reliability of the DGs and specifically asked that GPC address the matter in its presentation on restart. The NRC relied, in part, upon this information presented by GPC on April 9, 1990 in the oral presentation and in the GPC letter in reaching the NRC decision to allow Vogtle Unit 1 to return to power operation.

Violation B: Incomplete Information Regarding DG Starting Air Quality in April 9, 1990 CAL Response Letter.

Violation B involves the failure of GPC to include complete information regarding DG starting air quality in its April 9 letter. The air for starting a DG and operating its instruments and controls is derived from the starting air system. The starting air system contains dryers

designed to maintain moisture content (i.e., dew point) at acceptable levels. GPC presented an incomplete discussion regarding control of dew points in its April 9, 1990 letter by only stating that initial reports of high dew points were attributed to faulty instrumentation. A review of maintenance records and deficiency cards associated with Unit 1 would have revealed that high dew points were also attributable to system air dryers occasionally being out of service for extended periods and to system repressurization following maintenance, as documented in NRC Inspection Report No. 50-424,425/90-19, Supplement 1, dated November 1, 1991. This information should have been included in the April 9 letter. The incompleteness was material. In considering a restart decision, the NRC was especially interested in the reliability of the DGs and specifically asked that GPC address the matter in its presentation on restart. The NRC relied, in part, upon this information presented by GPC in its letter of April 9, 1990 in reaching the decision to allow Vogtle Unit 1 to return to power operation.

**Violation C: Inaccurate DG Start Counts Reported in April 19, 1990 LER.**

Violation C involves the inaccurate number of DG starts subsequent to the controls systems being subjected to a "comprehensive test program" (CTP) that were reported in the April 19, 1990 LER. The root causes for this violation were as follows. First, the VEGP General Manager inappropriately used the term CTP in the LER since this term failed to adequately identify when the reported count of consecutive successful DG starts began. Second, the General Manager - Plant Support (Vogtle Project) and the VEGP Technical Support Manager, in the preparation of the April 19 LER, did not fully understand the term CTP (in light of the different interpretation of the term CTP raised by the Acting VEGP Assistant General Manager - Plant Support, these individuals were on notice that the term was either imprecise or ambiguous). Third, the Acting VEGP Assistant General Manager - Plant Support failed to resolve his concern about the accuracy of the DG start counts prior to issuance of the April 19 LER.

LER 90-006, submitted to the NRC on April 19, 1990, was based, in part, on information presented to the NRC on April 9, 1990. During the preparation of the LER, the Acting VEGP Assistant General Manager - Plant Support questioned the accuracy of the April 9, 1990 letter given that there were trips on the 1B DG after March 20, 1990. In order to address concerns that a count beginning on March 20 would include trips, the VEGP General Manager confirmed that the start count reported on April 9 began later than the trips--after completion of a CTP of the DG control systems. In agreeing to the use of the term CTP in the LER, the VEGP General Manager should have recognized that the term CTP was inadequate to specify the start point for the April 9 start count that he intended. In later discussions regarding the draft LER, the General Manager, Technical Support Manager and Acting VEGP Assistant General Manager - Plant Support acknowledged that they could not identify the specific DG start that represented the starting point for the count presented to the NRC, i.e., the first start following completion of the

CTP. The General Manager - Plant Support (Vogtle Project), the VEGP Technical Support Manager, and the Acting VEGP Assistant General Manager - Plant Support were aware that the VEGP General Manager had earlier stated that his April 9 count began after instrument recalibration. The Acting VEGP Assistant General Manager - Plant Support stated that his understanding of the CTP was that it would be a test program to determine root causes and restore operability. These three individuals collectively failed to clarify the term CTP before issuance of the LER. In fact, the Unit Superintendent who collected the original April 9th data advised the Acting VEGP Assistant General Manager - Plant Support and the VEGP Technical Support Manager that he started his counts on March 20, prior to the time when a CTP could have been completed. It was reasonable to conclude that the CTP ended with the completion of the surveillance test and declaration of diesel operability, thus resulting in 10 and 12 starts for the 1A and 1B DG, respectively. Consequently, the 1A and 1B DG start counts reported on April 19, 1990 overstated the actual counts by including starts that were part of the test program. The inaccuracy was material in that knowledge by the NRC of a lesser number of consecutive successful starts on 1A DG and 1B DG without problems or failures could have had a natural tendency or capability to cause the NRC to inquire further as to the reliability of the DGs.

Violation D: Inaccurate and Incomplete Information Reported in June 29, 1990 LER Revision Cover Letter.

Violation D involves three instances in which inaccurate and incomplete information was provided in the June 29, 1990 LER revision cover letter.

The first instance involves GPC's failure to include information clarifying the April 9, 1990 letter. In this instance, GPC failed to correct the omission after being notified that the letter failed to include information to clarify the DG start counts reported in the April 9, 1990 letter, even though the letter stated that its purpose was, in part, to provide this clarification. The incompleteness was material in that the NRC subsequently requested GPC to make a submittal clarifying the April 9, 1990 letter.

The second instance involves GPC's failure in erroneously attributing DG start record keeping practices as a reason for the difference between the DG starts reported in the April 19 LER and in the June 29 LER revision. GPC failed to correct the error after being informed of it prior to issuing the letter. As a result, the June 29 cover letter contained an incorrect reason for the difference between the DG starts reported in the April 19 LER and in the June 29 revision. The inaccuracy was material in that it could have led the NRC to erroneously conclude that the correct root causes for the difference in the number of diesel starts reported in the April 19, 1990 LER and the June 29, 1990 letter had been identified by GPC.

The third instance involves GPC's failure to state that the root causes for the difference between the DG start counts in the April 19 LER and

the June 29 letter were personnel errors. Again, GPC failed to adequately resolve a concern raised during the review of the June 29 letter that the root causes for the reporting errors on April 19, 1990 were personnel error. As a result, GPC stated reasons in the cover letter that were incomplete. The incompleteness was material in that, had correct root causes for the difference in the number of diesel starts reported in the April 19, 1990 LER and the June 29, 1990 letter been presented, this information could have led the NRC to seek further information.

A brief review of the facts surrounding Violation D is useful to characterize the significance of the Licensee's inadequate performance on this matter. On April 30, 1990, the Acting VEGP Assistant General Manager - Plant Support gave the VEGP General Manager a listing of 18 DG starts, which, when confirmed on May 2, 1990, definitively showed that the start counts reported in the April 9 presentation, the April 9 CAL response, and the April 19 LER were incorrect.

After being informed that the April 19 DG start counts were in error, the Senior Vice President - Nuclear Operations informed the Regional Administrator that a revision to the April 19 LER would be submitted, in part, to correct the DG start counts. After being provided conflicting data for the second time, the Senior Vice President - Nuclear Operations again notified the Regional Administrator. He also requested that an audit be conducted by GPC's Safety Audit and Engineering Review (SAER) group to establish the correct data and to determine why the errors were made. The audit, completed June 29, narrowly focused on a review of diesel records (Test Data Sheets, Shift Supervisor's Log, and Diesel Generator Start Log) to verify the number of DG starts. The audit did not identify any specific cause for the error in the number reported in the LER. The audit stated, however, that the error appeared to result from incomplete documentation. The audit also noted that there apparently was some confusion about the specific point at which the test program was completed. The audit was insufficient in scope, as it did not examine the performance of the VEGP General Manager and the Unit Superintendent in collecting the initial data. Thus, it did not identify their inadequate performance as the root causes for the erroneous information reported on April 9 and in the April 19 LER.

On June 29, 1990, the draft cover letter for the LER revision was being reviewed at the site. The draft had originated in GPC corporate headquarters and included language personally developed by the Senior Vice President - Nuclear Operations and the Vice President - Vogtle Project. During the site review, a VEGP Technical Assistant (TA) (formerly the Acting VEGP Assistant General Manager - Plant Support) noted that the letter was incomplete and challenged the accuracy of the reasons stated in the draft cover letter in conversations with the Supervisor - SAER, the VEGP Assistant General Manager - Plant Support, the VEGP Manager - Engineering Support, and a Licensing Engineer - Vogtle Project. The VEGP TA stated that: (1) the letter failed to clarify the DG starts reported on April 9, (2) DG record keeping practices were not a cause of the difference in the DG starts reported in the April 19 LER because adequate information was available when the counting errors were made, and (3) the erroneous counts resulted from personnel errors in

developing the count. The Licensing Engineer - Vogtle Project, the VEGP Assistant General Manager, the Supervisor - SAER, and the VEGP Manager - Engineering Support were fully aware of these assertions but failed to adequately resolve these concerns before still another inaccurate and incomplete submission was made to the NRC.

The Licensing Engineer - Vogtle Project had staff responsibility for preparing the cover letter for the LER revision and was specifically instructed by the Senior Vice President - Nuclear Operations to work closely with the site to ensure that the submittal was accurate and complete. Despite this clear direction, and after having been informed by the site of the clear failure of the June 29, 1990 draft cover letter to address the April 9, 1990 letter that it referenced and that the April 9, 1990 errors were different from the April 19, 1990 errors, the Licensing Engineer - Vogtle Project failed to address these concerns prior to issuance of the LER revision.

The VEGP Manager - Engineering Support was responsible for the Diesel Start Logs and agreed with the audit report findings regarding deficiencies in their condition. Given that his logs had not been used to collect the DG start data, he pointed out that it was wrong to state that the condition of his logs caused errors in the information initially provided to the NRC. The VEGP Manager - Engineering Support, who understood and agreed that DG record keeping practices were not a cause of the difference in the DG starts reported in the April 19, 1990 LER and the June 29, 1990 letter, nevertheless approved the erroneous draft as a voting member of the Plant Review Board (PRB) without resolving the problems in the draft.

The Supervisor - SAER was aware that the audit (that formed the basis for the reasons stated in the June 29, 1990 letter) was narrow in scope and did not identify a specific cause for the error in the number of 18 starts reported in the April 19, 1990 LER. The Supervisor - SAER was also aware that observations stated in the audit report were inappropriately being used to identify the root causes for the errors in the April 19, 1990 LER. The VEGP TA and the VEGP Manager - Engineering Support made the Supervisor - SAER aware of this inaccuracy, but the Supervisor - SAER, with apparent indifference, defended the inaccuracy. Also, the Supervisor - SAER was made aware by the VEGP TA on June 12, 1990 that, to identify the root cause of the error in the April 19, 1990 LER (i.e., personnel errors), the audit scope would need to include an assessment of the performance of the Unit Superintendent and the VEGP General Manager, the individuals that developed the initial count. Yet, the audit report did not include either of these individuals in the list of persons contacted during the audit. On June 29, 1990, the Supervisor - SAER was again made aware by the VEGP TA that the root cause for the difference was personnel error. Despite this knowledge, the Supervisor - SAER failed to adequately address these concerns prior to issuance of the June 29, 1990 letter.

The VEGP Assistant General Manager was apprised of concerns regarding the June 29, 1990 letter by the VEGP TA (an individual who had been involved in preparing the April 19, 1990 LER and had been involved in developing an accurate DG start count). The VEGP TA identified to him the failure of the

June 29, 1990 draft cover letter to address the inaccuracies in the April 9, 1990 letter that it referenced and the VEGP TA pointed out the erroneous causes stated for the reasons for the difference in the June 29, 1990 DG start counts. The VEGP Assistant General Manager, as a voting member of the PRB, approved the proposed June 29, 1990 submittal without addressing these concerns.

In addition to these performance failures, the NRC has also concluded that the VEGP General Manager, the Vice President - Vogtle Project, and the Senior Vice President - Nuclear Operations failed to ensure that information provided to the NRC in the June 29 cover letter was complete. The Vice President - Vogtle Project and the Senior Vice President - Nuclear Operations were actively involved in the preparation of the June 29 cover letter. The VEGP General Manager and Vice President - Vogtle Project reviewed, and the Senior Vice President - Nuclear Operations signed the June 29 cover letter which stated that its purpose was, in part, to clarify information provided to the NRC on April 9. However, no such clarification, or even a relevant discussion of the April 9 information, was provided in the June 29 submittal.

Violation E: Inaccurate and Incomplete Information Reported in August 30, 1990 Letter.

Violation E involves two instances in which inaccurate and incomplete information was provided in the August 30, 1990 letter.

The first instance involves GPC's failure to provide accurate information with respect to the correct root cause of the errors in the April 9, 1990 letter. The letter stated that the errors in the April 9 letter and presentation and the April 19 LER were caused, in part, by confusion in the distinction between a successful start and a valid test. This information was inaccurate. The root cause for providing this inaccurate information in the August 30, 1990 letter was GPC's failure to ensure that concerns about the accuracy of the information that were raised were fully and accurately resolved before the letter was issued. During the August 29, 1990 Plant Review Board (PRB) meeting, the VEGP Manager - Technical Support questioned if the Unit Superintendent (the individual who originally collected the DG start data) was confused in the distinction between a successful start and a valid test. The VEGP General Manager admitted that the Unit Superintendent was not confused about the distinction when he collected the data which was used to prepare the April 9 letter, but stated that the sentence was not in error because other people were confused. The VEGP General Manager acknowledged that there was confusion among individuals after April 9, but admitted that the Unit Superintendent was not confused when he developed the information. Confusion after April 9 was not relevant to the reasons for the error in the April 9 letter. By retaining this wording, the first reason in the August 30 letter was inaccurate. In addition, the members of the PRB who were reviewing the draft of the August 30 letter, collectively failed to adequately resolve the concern that had been raised about the accuracy of the first reason.



As a result, the August 30 letter was inaccurate. The inaccuracy was material in that it could have led the NRC to erroneously conclude that the correct root causes for the error in the April 9, 1990 letter had been identified by GPC.

The second instance involves GPC's failure to provide complete information with respect to the root causes of the error in the April 9, 1990 letter and the April 19 LER. The August 30 letter states that the error in the April 9 letter and presentation and the April 19 LER were caused, in part, by an error made by the individual who performed the count of DG starts. This statement is incomplete in that it failed to identify personnel errors by the VEGP General Manager that also contributed to the problem. The incompleteness was material in that, had the correct root causes for the error in the April 9, 1990 letter regarding DG start counts been reported, this information could have led the NRC to seek further information.

GPC was clearly aware as early as May 2 that the April 9 letter was incorrect. GPC failed to take sufficient actions to correct the April 9 letter and to determine the reasons for the errors it contained. While GPC undertook efforts to correct the April 19 LER, it narrowly focused only on that submittal. For example, GPC conducted an audit, the scope of which was limited to review of DG records, in an attempt to correct the start count reported in the April 19 LER. Furthermore, in its June 29 submittal, while GPC referred to both the April 9 letter and the April 19 LER, it attempted to explain only the reasons for the error in the April 19 LER. The Senior Vice President - Nuclear Operations and the Vice President - Vogtle Project were directly involved in the development of the June 29 letter. In fact, as of June 29, GPC had initiated no action to determine the root cause for the error in the April 9 letter. Subsequently, the NRC requested that GPC make a submittal addressing the April 9 letter. As of August 17, 1990, the Vice President - Vogtle Project was aware of NRC concerns regarding the errors in, and the misleading nature of, the April 9 letter. The Vice President - Vogtle Project committed during the August 17 meeting with the NRC special inspection team to provide clarification to the NRC regarding the April 9 letter. Based on the evidence of Licensee discussions subsequent to this meeting with the NRC, the Vice President - Vogtle Project was aware of the seriousness of the NRC concerns regarding the possible errors in the April 9 letter, including concerns that the errors in the information provided to the NRC may have been intentional. Despite this knowledge, no root cause evaluation was initiated. Rather, GPC forwarded a submittal regarding the April 9 letter on August 30 that was drafted at corporate headquarters under the direction of the Vice President - Vogtle Project, without an assessment of the actions of the VEGP General Manager and the Unit Superintendent who developed erroneous information for the April 9 letter. As a result, no adequate evaluation of the root causes of the error in the April 9 letter was available to GPC at the time of the August 30 submittal. The NRC concluded that the Vice President - Vogtle Project failed to exercise sufficient oversight of the preparation of the

August 30 letter to assure that serious NRC concerns were accurately addressed. The August 30 letter was inaccurate and incomplete with respect to the root causes for the error in the April 9 letter.

The circumstances surrounding these violations represent a very significant regulatory concern. In particular, these violations are of regulatory significance, not because of the effect that the inaccuracies had on the safety of plant operation, but because the circumstances surrounding the communications with the NRC demonstrate an inadequate regard individually by a number of senior Licensee officials, and collectively by the Licensee's management, for complete and accurate communications with the NRC. The violations involved, in part, the reliability of the DGs -- the failure of one of which was the very issue that caused an extended shutdown. GPC was clearly aware of the NRC's interest in the DGs, in that the NRC specifically asked GPC to address DG reliability as part of its restart presentation for April 9, 1990. It was reasonable to have expected the licensee to have recognized that the DG reliability was an issue that would affect an NRC restart decision. On such a matter, the NRC expects and demands that licensees' presentations reflect a concerted effort to assure completeness and accuracy. That expectation was not met. Rather, the record reflects an informal, unstructured, and not-well-defined effort to obtain information to satisfy the Commission on an important issue having a direct bearing on the NRC's decision on restart. Given the importance of the NRC's having complete and accurate information before making a restart decision, the Licensee's performance was unacceptable. Even more significant was the Licensee's subsequent performance failures when its own staff questioned the accuracy of the April 9 information and the subsequent efforts to explain and correct the inaccurate information. Notwithstanding the involvement of senior Licensee management, GPC repeatedly failed to ensure that information provided to the NRC was complete and accurate.

The NRC is very concerned about these violations. The circumstances surrounding them represent a serious breakdown on the part of GPC to ensure that information provided to the NRC is accurate and complete in all material respects. From the initial inaccurate representations to the NRC on April 9, 1990 in its presentation seeking to support restart, through the above-described series of inadequate efforts to modify, explain, clarify, and correct the original inaccuracies and subsequent clarifications and explanations, the Licensee has failed to meet the requirements of 10 CFR 50.9.

It is of fundamental importance in the nuclear industry that, when errors are made, they will be promptly corrected, lessons will be learned, and corrections to procedures and training will be developed through root cause analyses so that future performance can be improved. This was not done here. Recognizing that the evidence reflects a variety of individual performances and attitudes, an overall review of that evidence nevertheless raises a question as to whether the Licensee's actions were directed toward defending the information provided in the restart presentation without an adequate understanding of the basis for the information and notwithstanding a recognition that the NRC sought the information as a part of a restart decision. Such an approach is inconsistent with responding to "inquiries with

the simple candor on which we must insist in order to discharge our own responsibility for public health and safety. Nothing less than simple candor is sufficient." Virginia Electric and Power Company (North Anna Power Station, Units 1 and 2), CLI-76-22, 4 NRC 480, 491 (1976). GPC did not exhibit an attitude of being "as sure as they possibly can be that all submissions to this Commission are accurate." Id., at 486.

After considering the Licensee's performance in this matter, including (1) the Licensee's knowledge that the information on DG reliability was important to the NRC and likely would influence the NRC's decision on restart, (2) the repetitive and compounding nature of the errors and inaccuracies, (3) the degree of high level management involvement in the repetitive failures, and (4) the apparent inability or apparent unwillingness of the Licensee to correct and resolve the problems despite clear indications from Licensee personnel that errors and inaccuracies continued to be proposed for submittal to the NRC, the NRC has concluded that significant enforcement action is warranted. Therefore, to emphasize, as the Commission said in the VEPCO decision, the need for licensees to scrutinize their operations to be as sure as they possibly can that all submissions to the Commission are complete and accurate, I have been authorized, after consultation with the Commission, to categorize these violations as a Severity Level II problem in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), 10 CFR Part 2, Appendix C, and to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalties (Notice) in the amount of \$200,000 for this problem.

The base value of a civil penalty for a Severity Level II problem is \$80,000. The escalation and mitigation factors in the Enforcement Policy were considered. The base amount was escalated 50 percent because the NRC, during its review of related allegations, identified most of the violations that were involved in this case. The base civil penalty was also escalated 100 percent for prior opportunity to identify since both Licensee and NRC staff personnel had, on a number of occasions, advised the Licensee of inaccuracies and the need to correct inaccuracies in the then-existing and proposed submittals that were involved in this case. This resulted in an adjusted penalty of \$200,000. The other adjustment factors in the Policy were considered but no further adjustment to the base civil penalty were considered to be warranted.

In addition to this Notice, the NRC is issuing the enclosed Demands for Information (DFIs) to GPC regarding individual performance failures to enable the NRC to determine whether additional enforcement actions are necessary. By separate correspondence, the individuals who are the subjects of these DFIs have been given the opportunity to submit separate responses to the DFIs.

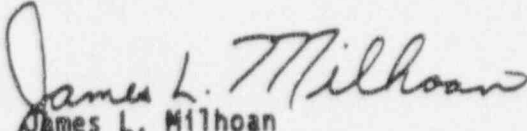
You are required to respond to this letter and should follow the instructions specified in the enclosed Notice and DFIs when preparing your response. In your response, you should document the specific actions taken and any additional actions you plan to prevent recurrence. In addition, your response should specifically address what actions you plan to take, if any, to ensure that all employees involved in licensed activities at all levels of your organization understand their responsibilities to provide complete and

accurate information in submittals to, and communications with, the NRC. After reviewing your response to this Notice, including your proposed corrective actions and the results of future inspections, the NRC will determine whether further NRC enforcement action is necessary to ensure compliance with NRC regulatory requirements.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response will be placed in the NRC Public Document Room.

The responses directed by this letter and the enclosed Notice are not subject to the clearance procedures of the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, Pub. L. No. 96-511.

Sincerely,

  
James L. Milhoan  
Deputy Executive Director  
for Nuclear Reactor Regulation,  
Regional Operations, and Research

Enclosures:

1. Notice of Violation and Proposed Imposition of Civil Penalties - \$200,000
2. Demand For Information Regarding Messrs. Thomas V. Greene, Georgie R. Frederick, Harry W. Majors, and Michael W. Horton
3. Demand For Information Regarding Mr. C. Kenneth McCoy
4. Demand For Information Regarding Mr. George Bockhold, Jr.

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NOTICE OF VIOLATION  
AND  
PROPOSED IMPOSITION OF CIVIL PENALTIES

Georgia Power Company  
Vogtle Electric Generating Plant

Docket No. 50-424  
License No. NPF-68  
EA 93-304

During an NRC inspection conducted from August 6, 1990 to August 17, 1990 and an NRC investigation completed on December 17, 1993, violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," 10 CFR Part 2, Appendix C, the Nuclear Regulatory Commission proposes to impose civil penalties pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205. The particular violations and associated civil penalties are set forth below:

10 CFR 50.9(a) requires that information provided to the NRC by a licensee shall be complete and accurate in all material respects.

- A. Contrary to the above, information provided to the NRC Region II Office by Georgia Power Company (GPC) in an April 9, 1990 letter and in an April 9, 1990 oral presentation to the NRC was inaccurate in a material respect. Specifically, the letter states that: "Since March 20, the 1A DG has been started 18 times, and the 1B DG has been started 19 times. No failures or problems have occurred during any of these starts."

These statements are inaccurate in that they represent that 19 consecutive successful starts without problems or failures had occurred on the 1B Diesel Generator (DG) for the Vogtle facility as of April 9, 1990, when, in fact, of the 19 starts referred to in the letter associated with the 1B DG at the Vogtle facility, three of those starts had problems. Specifically, Start 132 tripped on high temperature lube oil, Start 134 tripped on low pressure jacket water and Start 136 had a high temperature jacket water trip alarm. As of April 9, 1990, the 1B DG had only 12 consecutive successful starts without problems or failures rather than the 19 represented by GPC. The same inaccuracy was presented to the NRC at its Region II Office during an oral presentation by GPC on April 9, 1990.

The inaccuracy was material. In considering a restart decision, the NRC was especially interested in the reliability of the DGs and specifically asked that GPC address the matter in its presentation on restart. The NRC relied, in part, upon this information presented by GPC on April 9, 1990 in the oral presentation and in the GPC letter in reaching the NRC decision to allow Vogtle Unit 1 to return to power operation.

- B. Contrary to the above, information provided to the NRC Region II Office by GPC in an April 9, 1990 letter was incomplete in a material respect. Specifically, the letter states, when discussing the air quality of the DG starting air system at the Vogtle facility, that: "GPC has reviewed air quality of the D/G air system including dewpoint control and has

concluded that air quality is satisfactory. Initial reports of higher than expected dewpoints were later attributed to faulty instrumentation."

This statement is incomplete in that it fails to state that actual high dew points had occurred at the Vogtle facility. It also fails to state that the causes of those high dew points included failure to use air dryers for extended periods of time and repressurization of the DG air start system receivers following maintenance.

The incompleteness was material. In considering a restart decision, the NRC was especially interested in the reliability of the DGs and specifically asked that GPC address the matter in its presentation on restart. The NRC relied, in part, upon this information presented by GPC in its letter of April 9, 1990 in reaching the decision to allow Vogtle Unit 1 to return to power operation.

- C. Contrary to the above, information provided to the NRC by GPC in a Licensee Event Report (LER), dated April 19, 1990, was inaccurate in a material respect. Specifically, the LER states: "Numerous sensor calibrations (including jacket water temperatures), special pneumatic leak testing, and multiple engine starts and runs were performed under various conditions. After the 3-20-90 event, the control systems of both engines have been subjected to a comprehensive test program. Subsequent to this test program, DG1A and DG1B have been started at least 18 times each and no failures or problems have occurred during any of these starts."

These statements are inaccurate in that they represent that at least 18 consecutive successful starts without problems or failures had occurred on the DGs for Vogtle Unit 1 (1A DG and 1B DG) following the completion of the comprehensive test program of the control systems for these DGs, when, in fact, following completion of the comprehensive test program of the control systems, there were no more than 10 and 12 consecutive successful starts without problems or failures for 1A DG and 1B DG respectively.

The inaccuracy was material in that knowledge by the NRC of a lesser number of consecutive successful starts on 1A DG and 1B DG without problems or failures could have had a natural tendency or capability to cause the NRC to inquire further as to the reliability of the DGs.

- D. Contrary to the above, information provided to the NRC by GPC in an LER cover letter dated June 29, 1990 was inaccurate and incomplete in material respects as evidenced by the following three examples:

The letter states that: "In accordance with 10 CFR 50.73, Georgia Power Company (GPC) hereby submits the enclosed revised report related to an event which occurred on March 20, 1990. This revision is necessary to clarify the information related to the number of successful diesel generator starts as discussed in the GPC letter dated April 9, 1990...."



1. The LER cover letter is incomplete because the submittal did not provide information regarding clarification of the April 9, 1990 letter.

The incompleteness was material in that the NRC subsequently requested GPC to make a submittal clarifying the April 9, 1990 letter.

The letter states that: "If the criteria for the completion of the test program is understood to be the first successful test in accordance with Vogtle Electric Generating Plant (VEGP) procedure 14980-1 "Diesel Generator Operability Test," then there were 10 successful starts of Diesel Generator 1A and 12 successful starts of Diesel Generator 1B between the completion of the test program and the end of April 19, 1990, the date the LER-424/1990-06 was submitted to the NRC. The number of successful starts included in the original LER (at least 18) included some of the starts that were part of the test program. The difference is attributed to diesel start record keeping practices and the definition of the end of the test program."

2. The last sentence in the above paragraph is inaccurate because diesel record keeping practices were not a cause of the difference in number of diesel starts reported in the April 19, 1990 LER and the June 29, 1990 letter. The difference was caused by personnel errors unrelated to any problems with the diesel generator record keeping practices.

The inaccuracy was material in that it could have led the NRC to erroneously conclude that the correct root causes for the difference in the number of diesel starts reported in the April 19, 1990 LER and the June 29, 1990 letter had been identified by GPC.

3. The last sentence in the above paragraph is also incomplete because it failed to include the fact that the root causes for the difference in the number of diesel starts reported in the April 19, 1990 LER and the June 29, 1990 letter were personnel errors. First, the Vogtle Plant General Manager who directed the Unit Superintendent to perform the start count (which formed the basis for the April 19, 1990 LER) failed to issue adequate instructions as to how to perform the count and did not adequately assess the data developed by the Unit Superintendent. In addition, the Unit Superintendent made an error in reporting his count. Second, the Vogtle Plant General Manager, the General Manager for Plant Support and the Technical Support Manager failed to clarify and verify the starting point for the count of successful consecutive DG starts reported in the April 19, 1990 LER.

The incompleteness was material in that, had correct root causes for the difference in the number of diesel starts reported in the

April 19, 1990 LER and the June 29, 1990 letter been presented, this information could have led the NRC to seek further information.

- E. Contrary to the above, information provided to the NRC Region II Office by GPC in a letter dated August 30, 1990 was inaccurate and incomplete in material respects as evidenced by the following two examples:

The letter states that: "The confusion in the April 9th letter and the original LER appear to be the result of two factors. First, there was confusion in the distinction between a successful start and a valid test... Second, an error was made by the individual who performed the count of DG starts for the NRC April 9th letter."

1. These statements are inaccurate in that confusion between a successful start and a valid test was not a cause of the error regarding DG start counts which GPC made in its April 9, 1990 letter to the NRC.

The inaccuracy was material in that it could have led the NRC to erroneously conclude that the correct root causes for the error in the April 9, 1990 letter had been identified by GPC.

2. The statements are also incomplete. While an error was made by the Unit Superintendent who performed the count of diesel starts for the April 9, 1990 letter, the root causes of the error in that letter were not completely identified by GPC. Specifically, the Vogtle Plant General Manager who directed the Unit Superintendent to perform the start count failed to issue adequate instructions as to how to perform the count and did not adequately assess the data developed by the Unit Superintendent. In addition, the Unit Superintendent did not adequately report his count to the Vogtle Plant General Manager.

The incompleteness was material in that, had the correct root causes for the error in the April 9, 1990 letter regarding DG start counts been reported, this information could have led the NRC to seek further information.

These violations in the aggregate represent a Severity Level II problem (Supplement VII).

Civil Penalty - \$200,000

Pursuant to the provisions of 10 CFR 2.201, Georgia Power Company (Licensee) is hereby required to submit a written statement or explanation to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, within 30 days of the date of this Notice of Violation and Proposed Imposition of Civil Penalties (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each alleged violation:

(1) admission or denial of the alleged violation, (2) the reasons for the violation if admitted, and if denied, the reasons why, (3) the corrective

steps that have been taken and the results achieved, (4) the corrective steps that will be taken to avoid further violations, and (5) the date when full compliance will be achieved.

If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued to show cause why the license should not be modified, suspended, or revoked or why such other action as may be proper should not be taken. Consideration may be given to extending the response time for good cause shown. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

Within the same time as provided for the response required above under 10 CFR 2.201, the Licensee may pay the civil penalties by letter addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, with a check, draft, money order, or electronic transfer payable to the Treasurer of the United States in the amount of the civil penalty proposed above, or the cumulative amount of the civil penalties if more than one civil penalty is proposed, or may protest imposition of the civil penalties, in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission. Should the Licensee fail to answer within the time specified, an order imposing the civil penalties will be issued. Should the Licensee elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalties, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation" and may: (1) deny the violations listed in this Notice, in whole or in part, (2) demonstrate extenuating circumstances, (3) show error in this Notice, or (4) show other reasons why the penalties should not be imposed. In addition to protesting the civil penalties, in whole or in part, such answer may request remission or mitigation of the penalties.

In requesting mitigation of the proposed penalties, the factors addressed in Section VI.B.2 of 10 CFR Part 2, Appendix C should be addressed. Any written answer in accordance with 10 CFR 2.205 should be set forth separately from the statement or explanation in reply pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of the Licensee is directed to the other provisions of 10 CFR 2.205, regarding the procedure for imposing a civil penalties.

Upon failure to pay any civil penalties due which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205, this matter may be referred to the Attorney General, and the penalties, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234(c) of the Act, 42 U.S.C. 2282c.

The response noted above (Reply to Notice of Violation, letter with payment of civil penalties, and Answer to a Notice of Violation) should be addressed to: Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN:

Notice of Violation

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Document Control Desk, Washington, D.C. 20555 with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region II and a copy to the NRC Resident Inspector at the Vogtle facility.

Dated at Rockville, Maryland  
this 9<sup>th</sup> day of May, 1994

Georgia Power Company

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