



S-47

Attachment F

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

Staff/Exh: II-47  
DOCKETED  
USNRC

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OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

Kenneth McCoy  
Southern Nuclear Operating Company  
40 Inverness Center Parkway  
Birmingham, Alabama 35242

SUBJECT: DEMAND FOR INFORMATION REGARDING KENNETH MCCOY

Dear Mr. McCoy:

Enclosed for your information and use is a DEMAND FOR INFORMATION REGARDING KENNETH MCCOY (DFI) that is being issued to the Georgia Power Company (Licensee) on this date. This DFI deals with your actions in providing information to the NRC on the Vogtle diesel generators and is being issued to obtain additional information to determine whether NRC should take further action to restrict your participation in NRC licensed and regulated activities.

You are invited to submit a response to the enclosed DFI, separate from the response to be submitted by the Licensee. We will consider any response that you choose to provide, along with the responses of the Licensee, in determining whether enforcement action that may impact your future participation in licensed activities is warranted in this case.

If you do respond, your response should be submitted in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555 within 30 days of the date of the enclosed DFI. Should you have any questions on this matter, please call James Lieberman, Director, Office of Enforcement, at 301-504-2741.

Sincerely

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

Enclosure: as stated

cc w/o Enclosure:  
Georgia Power Company

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PDR ADOCK 05000424  
G PDR

NUCLEAR REGULATORY COMMISSION  
Docket No. 50-424/425-OLA-3 EXHIBIT NO. II-47  
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 HODD / MATTHEWS / SKINNER

UNITED STATES  
NUCLEAR REGULATORY COMMISSION

In the Matter of )

GEORGIA POWER COMPANY )  
(Vogtle Electric Generating )  
Plant, Units 1 & 2) )

Docket Nos. 50-425/50-425  
License Nos. NPF-68/NPF-81  
EA 94-052

DEMAND FOR INFORMATION  
REGARDING C. KENNETH McCOY

I

Georgia Power Company (Licensee) is the holder of Facility License Nos. NPF-68, and NPF-81 (Licenses) issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 50. The Licenses authorize the operation of the Vogtle Electric Generating Plant (VEGP) Units 1 and 2, in accordance with conditions specified therein.

II

On December 17, 1993, an investigation of licensed activities was completed by the NRC's Office of Investigations (OI) at Licensee's VEGP facility. The investigation was initiated in response to information received in June 1990 by NRC Region II alleging, in part, that material false statements were made to the NRC by senior Licensee officials 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 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.

III

The NRC has 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. The NRC has identified apparent violations of regulatory requirements involving five separate instances that occurred from April 9 to August 30, 1990, where the Licensee failed to provide information that was complete and accurate in all material respects. These violations are addressed in the Notice of Violation and Proposed Imposition of Civil Penalties issued to the Licensee on this date, and incorporated herein by reference.

The NRC has also determined that the Vice President - Vogtle Project at the time of two of these violations, Mr. C. Kenneth McCoy, failed to ensure that information provided to the NRC was complete. The circumstances surrounding his performance failures are described below.

Mr. McCoy was actively involved in the preparation of the June 29, 1990 cover letter for an LER revision that was being submitted to the NRC and reviewed it prior to forwarding it to the Senior Vice President - Nuclear Operations for signature and issuance. The June 29, 1990 cover letter stated that its purpose was, in part, to clarify information provided to the NRC on April 9,

1990. However, no such clarification, or even a relevant discussion of the April 9, 1990 information, was provided in the June 29, 1990 submittal.

Mr. McCoy also failed to ensure that the August 30, 1990 letter submitted to the NRC adequately explained the reasons for the errors in the April 9, 1990 letter. Mr. McCoy committed during the August 17, 1990 meeting with the NRC Special Inspection Team to provide clarification to the NRC regarding the April 9, 1990 letter. Based on the evidence of Licensee discussions subsequent to this meeting with the NRC, Mr. McCoy was aware of the seriousness of the NRC concerns regarding the possible errors in the April 9, 1990 letter, including concerns that the errors in the information provided to the NRC may have been intentional. Despite this awareness, the NRC could not find evidence to indicate that Mr. McCoy took steps to ensure that a root cause analysis was performed. In particular, Mr. McCoy failed to ensure that the performance of the VEGP General Manager and the Unit Superintendent in developing the April 9, 1990 DG start data were critically examined. Thus, the NRC concludes that Mr. McCoy failed to exercise sufficient oversight of the preparation of the August 30, 1990 letter to ensure that serious NRC concerns were accurately addressed.

#### IV

The performance failures recounted above represent a lack of management control and supervision over licensed activities, and raise a question as to whether the Licensee, with Mr. McCoy involved, will, in the future, provide

complete and accurate information to the NRC and otherwise comply with NRC requirements.

Therefore, further information is needed to determine whether the Commission can have reasonable assurance that in the future the Licensee, with the involvement of Mr. McCoy, will provide complete and accurate information to the Commission and otherwise conduct activities in accordance with the Commission's requirements.

V

Accordingly, pursuant to sections 161c, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR 50.54(f), in order for the Commission to determine whether the Licenses should be modified to restrict the participation of Mr. McCoy in licensed activities or other enforcement action taken to ensure compliance with NRC regulatory requirements, the Licensee is required to submit to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, within 30 days of the date of this Demand for Information, the following information, in writing and under oath or affirmation:

- A. A description of Mr. C. Kenneth McCoy's current position and responsibilities.

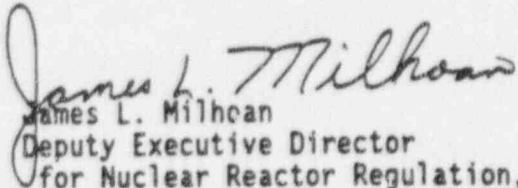
- B. A description of actions that Mr. McCoy, as a senior manager, took to ensure that the Licensee provided the NRC with complete and accurate information in each of the five submissions.
  
- C. An explanation of why, notwithstanding his direct involvement in the preparation of the June 29, 1990 letter, Mr. McCoy failed to ensure that the letter clarified the April 9, 1990 letter and an explanation of why, notwithstanding his knowledge of the seriousness of the NRC concerns regarding the possible errors in the April 9, 1990 letter, including concerns about potential wrongdoing, Mr. McCoy failed to exercise sufficient oversight of the preparation of the August 30, 1990 letter to ensure that it was complete and accurate in all material respects.
  
- D. An explanation of the corrective actions taken, or planned by the Licensee to address Mr. McCoy's performance failures.
  
- E. Given the two violations of NRC requirements, an explanation as to why NRC should have confidence that the Licensee, with the involvement of Mr. McCoy, will in the future conduct licensed activities in accordance with all NRC requirements, including the requirements of 10 CFR 50.9, "Completeness and accuracy of information."

Copies of the response also shall be sent to the Assistant General Counsel for Hearings and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 and to the Regional Administrator, NRC Region II, 101 Marietta Street, Suite 2900, Atlanta, GA 30323.



After reviewing your response, the NRC will determine whether further action is necessary to ensure compliance with regulatory requirements.

FOR THE NUCLEAR REGULATORY COMMISSION

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

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