

Staff II-53

Attachment B

DOCKETED
USNRC

Luis A. Reyes

U.S. Nuclear Regulatory Commission
Atlanta, Georgia 30323

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OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Education: B.S., Electrical Engineering, 1973
M.S., Nuclear Engineering, 1975
Post Graduate Work in Fusion Energy
Professional Engineer's License

Experience:

1992 - Present Deputy Regional Administrator, Region II
Executes established NRC policies and assigned programs relating to inspection, licensing, enforcement and governmental liaison within Regional boundaries.

During February - June 1994, assigned to the position of Associate Director for Reactor Projects, NRR, and participated as a member of the NRR Executive Team providing project management, and licensing functions for all power and research reactors, event assessment, and generic communications.

1987 - 1992 Director, Division of Reactor Projects, Region II
Responsible for the regulatory oversight of operations and construction at all nuclear reactors in the Southeast.

1986 - 1987 Deputy Director, Division of Reactor Projects, Region II
Responsible, along with the Director, for the regulatory oversight of operations at all nuclear reactors in the Southeast excluding those owned by the Tennessee Valley Authority.

1984 - 1986 Operations, Branch Chief, Division of Reactor Safety, Region III
Responsible for the implementation of Region based inspections in the areas of core physics, preoperational and startup testing and licensed operator examinations for all nuclear plants in the Midwest.

1983 - 1984 Chief, Test Programs Section, Division of Reactor Safety, Region III
Responsible for directing and participating in preoperational and startup inspections prior to issuance of operating licenses to reactors in the Midwest.

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NUCLEAR REGULATORY COMMISSION
Docket No. 50-424/425-OLA-3 EXHIBIT NO. II-53
In the matter of Georgia Power Co. et al., Vogtle Units 1 & 2
 Staff Applicant Intervenor Other
 Identified Received Rejected Reporter SD
Date 9/27/95 Witness ZIMMERMAN / REYES

- 1982 - 1983 Section Chief, Division of Reactor Projects, Region III
Responsible for directing and participating in the Resident Inspection Program at a large number of reactors in the Midwest.
- 1979 - 1982 Senior Resident Inspector, Division of Reactor Projects, Region III
Established the resident office at the Davis-Besse site, monitored the startup of the unit after TMI required shutdown order and conducted the implementation of the Resident Inspection Program.
- 1978 - 1979 Reactor Inspector, Region III
Conducted inspections in the region based inspection program.
- 1975 - 1978 Instrumentation and Control Engineer, Argonne National Laboratory
Responsible system engineer for several systems at the Experimental Breeder Reactor II.

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, <i>et al.</i>)	50-425-OLA-3
)	
(Vogtle Electric Generating Plant)	Re: Licensee Amendment
Units 1 and 2))	(Transfer to Southern Nuclear)
)	

TESTIMONY OF ROY P. ZIMMERMAN AND LUIS A. REYES
ON THE CHARACTER AND INTEGRITY CONTENTION

Q1. Would you each please state your name, job title, employment affiliation, and professional qualifications.

ANSWER

My name is Roy P. Zimmerman. I am employed by the U.S. Nuclear Regulatory Commission as the Associate Director for Projects in the Office of Nuclear Reactor Regulation. A statement of my education and my professional qualifications is attached (Attachment A).

My name is Luis A. Reyes. I am employed by the U.S. Nuclear Regulatory Commission as the Deputy Regional Administrator for Region II. A statement of my education and my professional qualifications is attached (Attachment B).

Q2. What is the purpose of your testimony?

ANSWER

The purpose of this testimony is to address NRC management's assessment of the character and integrity of the proposed transferee, Southern Nuclear Operating Company (Southern Nuclear), in light of the matters raised by the contention admitted in this proceeding:

That is, whether the information associated with (1) the alleged illegal transfer of control of nuclear operations at Vogtle without NRC approval or (2) the alleged false reporting of information concerning the diesel generator after the March 20, 1990 Site Area Emergency show that the transferee lacks "the requisite character, competence and integrity, as well as the necessary candor, truthfulness and willingness to abide by regulatory requirements" to be an NRC licensee. See LBP-93-5, 37 NRC 96, 110 (1993).

Q3. Please describe your responsibilities with respect to the Vogtle facility and the proposed license transferee?

ANSWER

(Zimmerman) I have held the position of Associate Director for Projects, Office of Nuclear Reactor Regulation, since June, 1994. My duties include oversight responsibility for project management activities related to licensing and inspection of power reactor facilities. I manage certain NRC activities regarding Vogtle, including assisting Region II in monitoring licensee safety performance, and the review and processing of license amendment requests submitted by Georgia Power Company (GPC) and Southern Nuclear.

(Reyes) Since 1986, I have been employed at the NRC Region II Office, which has oversight responsibilities for GPC facilities such as Vogtle and the proposed transferee, Southern Nuclear, which currently operates Alabama Power Company's Farley Plant. As Director of the Division of Reactor Projects from 1987 to 1992, I was involved in the reviews and inspections conducted prior to the issuance of the operating licenses for Vogtle Units 1 and 2. Currently, I am the Deputy Regional Administrator and I am responsible for NRC inspection and enforcement activities at nuclear facilities in Region II, including those operated by GPC and

the proposed transferee, Southern Nuclear. My position involves a significant amount of interface with GPC and Southern Nuclear officials.

Q4. Would you each describe your familiarity with the matters raised by the contention in this proceeding?

ANSWER

(Reyes) On March 20, 1990, I was the first NRC manager to respond to the loss of offsite power and subsequent Site Area Emergency (SAE) declared at Vogtle. I was also involved in the decision to allow Unit 1 to restart. In August 1990, I established and managed the Special Team Inspection that reviewed certain allegations raised concerning the Vogtle facility in 1990.

Pierce Skinner, a member of my staff, was a member of the Vogtle Coordinating Group (VCG) and kept me apprised of the VCG's activities and recommendations. During a rotational assignment in the NRC Office of Nuclear Reactor Regulation (NRR), I participated in the issuance of the May 9, 1994, Notice of Violation and Proposed Imposition of Civil Penalties (NOV) and Demands for Information (DFI) that were issued to GPC and a number of individuals employed by GPC based on violations related to GPC's failure to provide complete and accurate information to the NRC. Also, as a senior Regional manager, I was involved in the decision to issue the February 13, 1995, Modified Notice of Violation and Proposed Imposition of Civil Penalties (Modified NOV), regarding the Severity Level II problem previously identified in the NOV.

(Zimmerman) In my current position, I have been briefed by the NRC Vogtle Coordinating Group (VCG) during their evaluation of the GPC and individual responses to the

Notice of Violation (NOV) and Demands for Information issued to Georgia Power Company on May 9, 1994. I participated in the decision to issue the NRC's Modified Notice of Violation and Proposed Imposition of Civil Penalties (Modified NOV) issued on February 13, 1995. I also direct Staff activities regarding the review of GPC's proposed request for license transfer.

(Zimmerman and Reyes) Specifically, we have read portions of the illegal transfer testimony received in evidence during the January 1995 hearing in this proceeding. We are generally familiar with issues raised by Intervenor and the positions of GPC and the NRC Staff. With respect to the diesel generator issue, we have read: the 1990 GPC correspondence identified in the NOV and Modified NOV; the Office of Investigations (OI) Report of Investigation, Case No. 2-90-020R, dated December 17, 1993 (OI Report); the Vogtle Coordinating Group Reports, dated February 9 and November 4, 1994, the May 1994 NOV and DFIs; the 1994 GPC and individual responses to the NOV and DFIs; the OI Memorandum to James Milhoan, dated October 28, 1994 [OI Analysis of GPC's NOV Response]; the February 1995 supplemental NOV responses by GPC and George Bockhold; the February 1995 Modified NOV; and portions of the stipulated transcripts for Tapes 57 and 58.

Q5. Have you listened to any of the Mosbaugh audio tape recordings regarding the diesel generator issue in this proceeding and please explain the reason why you have or have not?

While Mr. Reyes has heard portions of Tapes 57 and 58 during briefings conducted prior to the completion of the OI Report, we have not listened to any other tapes. We have relied on our respective staffs, and the VCG, comprised of NRR, Region II and Office of Enforcement personnel, to accomplish the detailed effort of listening to Intervenor tapes and identifying information pertinent to the diesel generator issue in this proceeding.

Q6. Are you familiar with the NRC inspection reports, OI Report Exhibits, or other documents identified in the VCG reports, the GPC NOV Response, and the GPC and individual responses to the DFIs?

Except as noted above, we have not been involved in assessing the underlying events described in the NRC's enforcement action against Vogtle at a level of detail that would include a review of the documents mentioned. Again, we relied on the VCG to evaluate information gathered by OI and any other pertinent information as necessary to identify whether there were any violations associated with the allegations raised by Intervenor.

Q7. What conclusions has the Staff reached concerning whether the specific matters alleged by Intervenor in support of his contention show that the transferee lacks the requisite character, competence, integrity, truthfulness and candor?

With respect to the "illegal transfer" issue, the Staff has concluded, as explained in the testimony by the NRC panel during the January 1995 hearing, that GPC has kept the Staff informed regarding the proposed transfer and that the Staff is not aware of any information that would alter its previous finding published in a Director's Decision (DD-93-8), that GPC has been and remains in control of nuclear operations at Vogtle. Given that no illegal transfer occurred, the Staff does not find any basis to conclude that the illegal transfer issue shows that Southern Nuclear lacks the requisite character and integrity to be a license transferee.

With respect to the diesel generator issue, the Staff concludes that the circumstances show a number of performance failures rather than the lack of character alleged in the contention. The Staff did not conclude that senior GPC managers intentionally provided inaccurate, incomplete and misleading information to the NRC regarding the testing and reliability of the diesel generators following the SAE.

As set forth in the NOV, the NRC concluded that the violations are of regulatory significance, not because of the effect that the inaccuracies had on the safety of plant operations, but because the circumstances surrounding the communication with the NRC demonstrated an inadequate regard individually by a number of senior GPC officials, and collectively, by GPC management, for complete and accurate communications with the NRC. This stemmed in large part from the initial failure to ensure the accuracy of the start count information presented on April 9 and the failure of GPC to resolve concerns raised by its own staff regarding the accuracy and completeness of information subsequently submitted. In light of the instances of individual and corporate performance failures and the importance of ensuring prompt correction of errors once identified, the events showed that GPC did not comply with 10 C.F.R. § 50.9 and raised a concern as to whether GPC had been candid in communications to the NRC.

GPC, however, did take steps to keep the NRC informed during post-repair and trouble shooting activities and showed technical competence in those and related activities. Even though it was not until August 30, 1990, that diesel generator start counts initially provided on April 9 were corrected, senior GPC managers, including Mr. Hairston, endeavored to keep the NRC informed about errors identified by GPC personnel as they became aware of them.

In addition, GPC interactions with the NRC after 1990, particularly during plant tours, management meetings, and day-to-day interface with resident inspectors and other Region II personnel, have been straightforward and candid. These interactions have involved both GPC site and corporate personnel (including Messrs. Hairston and McCoy, who are also officers of Southern Nuclear).

In view of (1) the corrective actions identified in the GPC Response to the NOV and DFIs, (2) the commitments by GPC, Southern Nuclear and Mr. Bockhold that were provided on February 1, 1995, and (3) GPC's overall performance in communicating with the NRC subsequent to the SAE, the Staff concludes that circumstances surrounding the diesel generator reporting issue reveal a number of performance failures rather than a lack of character and integrity as alleged in the contention. Given that a number of GPC management officials also are officers of the proposed transferee, Southern Nuclear, and that other individuals identified in the Modified NOV would be employed by Southern Nuclear if the proposed transfer were granted, the Staff has no basis for concluding that the proposed transferee lacks the requisite character, competence, integrity, truthfulness and candor to operate a nuclear facility.