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RELATED CORRESPONDENCE

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

DOCKETED
USNRC

In the Matter of)
GEORGIA POWER CO., et al.)
(Vogtle Electric Generating Plant,)
Units 1 and 2))

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Docket Nos. 50-424 and 50-425

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DOCKETING & SERVICE
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INTERVENORS CAMPAIGN FOR A PROSPEROUS GEORGIA/GEORGIANS AGAINST NUCLEAR ENERGY
MOTION TO COMPEL APPLICANTS' RESPONSES TO
INTERROGATORIES AND REQUESTS TO PRODUCE DOCUMENTS

Pursuant to 10 CFR Section 2.740 (f), Campaign for a Prosperous Georgia/Georgians Against Nuclear Energy (hereinafter "Intervenors") hereby move for an order compelling Applicants Georgia Power Company et al. (hereinafter "Applicants") to respond fully to Intervenors' First and Second Set of Interrogatories and Requests to Produce.

Applicants have failed to offer substantial and warranted objections to these interrogatories and requests to produce. "Failure to answer or respond shall not be excused on the ground that the discovery sought is objectionable unless the person or party failing to answer or respond has applied for a protective order pursuant to paragraph (c) of this section." 10 CFR 2.740 (f)(1). Applicants have failed to make application for such order.

Applicants refuse to answer Interrogatory A-2, which seeks to identify any Open Items and identify (by name, business address, occupation and employer) all individuals working on the resolution of the Open Items and designate the Item or the portion thereof the individual is working on and also provide any documents related to the Open Items.

Applicants object that this is vague, not relevant, outside the scope of the proceeding and overly broad. In fact, it is very relevant. "Open Items" of course

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refers to the NRC staff's Open Items, a commonly used term which is hardly "vague." Any of these items might relate to contentions accepted by the Licensing Board; Intervenor cannot ascertain which are relevant until Applicants provide Intervenor with the list. Applicants provide no specificity as to why this question is not relevant to this proceeding. The remainder of the request is similarly relevant and not overly broad, since the list of Open Items is presumably not unduly lengthy. Intervenor therefore move that the Board override this objection and require Applicants to respond fully.

Intervenor Interrogatory A-3 states: "VEGP Response to IQA-1 identified almost seven pages of names, addresses, and organizations of individuals providing technical information to VEGP and their responses to Intervenor questions, but the VEGP responses did not include the financial relationship among themselves, the organizations they represent and VEGP. Nor did the VEGP response to question A-1 identify the specific remuneration between VEGP and these individuals. The Rosenthal experimenter effect is a well documented research bias displayed unwittingly by an experimenter that can skew or lead technical statements to predictable conclusions. As F. W. Bessel, a German astronomer, first proved in 1815, individual differences even among most experienced astronomers can lead to observational differences. Rosenthal experimenter expectancy effect builds on top of individual differences by skewing an experiment along lines of bias or prejudice. The VEGP technical consultants should assist in measuring the pronouncement of this effect on VEGP technical responses. Please provide an estimate of this effect." Applicants refuse to respond, saying the question is vague, not relevant and beyond the scope of the proceeding. Applicants further state that they have done no estimate of the Rosenthal experimenter expectancy effect. They refuse to describe the financial ties, which are very relevant because, as explained in the question, it can skew the results to the detriment of

plant safety in relation to the contentions accepted by the ASLB. Intervenors therefore move that the Board override this objection and require Applicants to respond fully.

Applicants refuse to answer Interrogatory B-6(p), which states: "Page 1414811 [of Applicants response to Intervenors first request for production of documents], Applicants state, 'Suppliers were evaluated prior to award to ASSure that their quality assurance program and facilities complied with the procurement document requirements...based on surveys, past performances, audits, and the review and approval of the suppliers' documented quality programs.' Would the Applicants again choose TDI if ordering new emergency diesel generators for a new nuclear power plant today? If not, why not? If so, why? Provide the bases for the response." Applicants object that this "asks a hypothetical question to which Applicants could respond only through abstract speculation" and seeks information irrelevant to this proceeding. In assuring that the public health and safety is protected, Applicants must assure that emergency generators are able to operate if and when needed. This requires a constant re-evaluation to assure that the generators selected are up to this exacting standard; certainly additional cost (if any) should not be the determining factor in so crucial a safety concern. The Licensing Board has accepted Intervenors' proposed contention 14 which deals specifically with the TDI generators. Intervenors therefore move that the Board override this objection and require Applicants to respond fully.

Applicants fail to answer Interrogatory B-6(r), which states, "Page 149258, TDI states, 'Georgia Power Company extension of cooperation to Transamerica Delaval, Inc. over the last three months has been one of hardship...' What is the Applicants' response to this accusation? Have relationships between TDI and the Applicants improved since that time?" Applicants do not refuse to respond per se,

nor do they question the relevance of the interrogatory, but instead they fail to answer it. Applicants state that "Georgia Power Company has sought to foster a mutual cooperative effort to insure that the diesel generators supplied by TDI to VEGP are adequate to perform their intended function." This avoids the question-- have the relationships improved since that time? This again relates to Contention 14. Intervenors therefore move that the Board override this objection and require Applicants to respond fully.

Applicants refuse to answer Interrogatory B-6(s), which states: "Page 1410976, the Applicants state, 'Should we not hear from Transamerica by this date, we will assume that there exist in your organization a lack of dedication to ensuring a quality product per the specification and the contract.' Do the Applicants believe that TDI is dedicated to ensuring a quality product per the specifications, contracts and regulatory requirements? Provide the bases for this response." Applicants object that this "asks the Applicants to speculate concerning the subjective intent of TDI" and is irrelevant. The relevance is obvious--if TDI is not dedicated to meeting the requirements of the generators, then the generators will not be an acceptable guarantor of the public health and safety. Applicants have speculated as to TDI's "subjective intent" in the very letter quoted in the interrogatory. Such speculative conjectures are part of the decision-making process of any business, particularly when (as with TDI) there is a track record on which to base that speculation. The Board has accepted contention 14, relating to TDI generators, in this proceeding. Intervenors therefore move that the Board override this objection and require Applicants to respond fully.

Applicants refuse to answer Interrogatory B-19, which states, "List all wells used to map the marl aquiclude under VEGP. Provide marl data from each. Describe test techniques and whether the marl material brought to the surface was through corings or cuttings. Discuss well 42E. Discuss uncertainty ranges." Applicants

object to the request to discuss uncertainty ranges "on the ground that it is vague, confusing, not susceptible to a proper response." Discussing the range of uncertainty is hardly a vague request; any scientific evaluation has a range of uncertainty. This interrogatory relates to contention 7, accepted by the Licensing Board. Intervenors therefore move that the Board override this objection and require Applicants to respond fully.

Applicants refuse to answer Interrogatory B-20's request that Applicants discuss the uncertainty in the VEGP analysis of the confined aquifer mapping. Applicants object to discussing the uncertainty "on the ground that it is vague, confusing, and not susceptible to a proper response." Again, any scientific evaluation has a degree of uncertainty associated with it; this uncertainty is completely relevant to the conclusions based on the evaluation. This relates to contention 7, accepted by the Board. Intervenors therefore move that the Board override this objection and require Applicants to respond fully.

For Interrogatory B-24, Applicants again refuse to answer "on the ground that it is vague, confusing, and not susceptible to a proper response." Again, any scientific evaluation has a degree of uncertainty associated with it; this uncertainty is completely relevant to the conclusions based on the evaluation. This also relates to contention 7. Intervenors therefore move that the Board override this objection and require Applicants to respond fully.

Applicants refuse to answer Interrogatory B-25, which requests comparative information at other sites to that at Vogtle for purposes of evaluating the claims concerning groundwater (contention 7). Applicants have made many technical statements and drawn numerous technical conclusions based on esoteric assumptions and recondite theories. The technical conclusions cannot be assailed without validation from two perspectives, either by finding groundwater contamination in the

VEGP aquifers in the future or by showing that similar technical conclusions are other facilities have been contraverted. Groundwater contamination at the nearby Savannah River Plant, at Plant Hatch and at other facilities are relevant. (cf. VEGP Response p. 92 where VEGP uses effluent data from other sites as part of VEGP's own technical statement) Intervenors therefore move that the Board override this objection and require Applicants to respond fully.

Applicants object to B-26 on the grounds that it asks for information that is irrelevant and that is not considered due to the Commission prohibition against consideration of financial qualification (now under court challenge). The information is clearly relevant to protection of the groundwater and public health and safety. The information requested concerning technical provisions for protection of the groundwater is not relevant to the financial qualification rule. This Interrogatory relates to contention 7, accepted by the Board. Intervenors therefore move that the Board override this objection and require Applicants to respond fully.

Applicants object that B-27 is not relevant and points out that the Licensing Board disallowed consideration of concentration of facilities per se. However, this question is directly relevant to possible groundwater contamination--accepted by the Licensing Board in Contention 7--and is thus relevant to a matter in controversy in this proceeding. Intervenors therefore move that the Board override this objection and require Applicants to respond fully.

In B-29, Applicants again object that requests for ranges of uncertainty are "vague, confusing and not susceptible to a proper response." Again, any scientific analysis should include the range of uncertainty. For example, at Savannah River Plant, similar assurances about the confinement of the Tuscaloosa Aquifer were made and later proved inaccurate; the range of uncertainty of the claims for Vogtle are

clearly relevant. This question also relates to contention 7. Intervenors therefore move that the Board override this objection and require Applicants to respond fully.

Applicants refuse to answer Interrogatory B-40, which states: "To IQ H-1, H-2, H-3 and H-4, Applicants argue that the questions are irrelevant and outside the scope of this proceeding. To the extent that multiconductor configurations are affected in different ways than single conductor configurations (subcontention 10.3), this is relevant and within the scope of this proceeding. Please provide the response to IQ H-1, H-2, H-3 and H-4." Applicants object that this is irrelevant. Again, within the limited scope described in the Interrogatory, this is completely relevant to subcontention 10.3, accepted by the Board. Intervenors therefore move that the Board override this objection and require Applicants to respond fully.

For Interrogatories B-41 through B-48, Applicants raise similar objections that the Interrogatories are not relevant to this proceeding. For each of the interrogatories, Intervenors explained the relevance and asked the Applicants to respond. Each of these interrogatories was asked in terms of a specific contention accepted by the Licensing Board. Intervenors therefore move that the Board override this objection and require Applicants to respond fully.

For the reasons set forth above, Campaign for a Prosperous Georgia/Georgians Against Nuclear Energy request this Board to grant its motion to compel responses to interrogatories and requests to produce documents as set forth herein.

Respectfully submitted this, the 1st day of March, 1985.



Tim Johnson
for Intervenors
Campaign for a Prosperous Georgia and
Georgians Against Nuclear Energy

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CERTIFICATE OF SERVICE

This is to certify that copies of the foregoing Intervenor's Motion to Compel Applicants' Responses to Interrogatories and Requests to Produce Documents were served by deposit with the U. S. Postal Service in the City of Atlanta with first class postage attached to be delivered to the Secretary of the Commission, the members of the Licensing Board and all others listed below, this first day of March, 1985.



Tim Johnson
Campaign for a Prosperous Georgia

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