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OLA-3



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

DOCKETED
USNRC

November 13, 1995 NOV 20 P2:28
Board Notification 95-17

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

MEMORANDUM TO: Atomic Safety and Licensing Board
and All Parties

FROM: Steven A. Varga, Director
Division of Reactor Projects - I/II
Office of Nuclear Reactor Regulation

SUBJECT: SUPPLEMENTAL INFORMATION POTENTIALLY RELEVANT AND MATERIAL
TO BOARD PROCEEDING IN THE MATTER OF VOGTLE ELECTRIC
GENERATING PLANT, UNITS 1 AND 2

In conformance with the Commission's policy on notification of the Licensing Board of new, relevant, and material information, this memorandum calls attention to the information discussed below.

The Board has pending before it a contention challenging the application of Georgia Power Company (GPC) for licensing agreements that would authorize Southern Nuclear Operating Company, Inc. (Southern Nuclear), a subsidiary of The Southern Company, to operate the Vogtle Electric Generating Plant, Units 1 and 2. One of the issues involves a challenge whether Southern Nuclear possesses the requisite character, competence and integrity, as well as the necessary candor, truthfulness and willingness to abide by regulatory requirements.

By previous Board Notification (BN) 95-16 dated September 25, 1995, the NRC Staff informed the Board and parties that a predecisional enforcement conference would be held October 4, 1995, at the NRC Region II Offices in Atlanta, Georgia, associated with the Decision and Remand Order by the Secretary of Labor regarding the discrimination suit (Department of Labor Case No. 90-ERA-30) of GPC former employee, Mr. Marvin Hobby.

Enclosure 1 is the conference summary issued by Region II October 11, 1995, that includes copies of the conference transcript and GPC's presentation slides and handouts. Enclosure 2 is Mr. Hobby's "Response To Predecisional Enforcement Conference Presentation of Georgia Power Company and Request For Imposition of Enhanced Penalties" that was transmitted to the NRC's Office of Enforcement under cover letter from counsel, dated November 2, 1995.

Contact: Darl S. Hood, NRR
415-3049

N005

9511140071
updated on 12/12/96

November 13, 1995

This information is being brought to the attention of the Licensing Board and All Parties, as it may be relevant and material to issues pending before the Licensing Board.

Docket Nos. 50-424-OLA-3 and
50-425-OLA-3

Enclosures:

1. Conference Summary, 10/11/95
2. Hobby Response to Conference, 11/2/95

cc w/encls:
See next page

BOARD NOTIFICATION NO. 17

GEORGIA POWER COMPANY, *et al.*
(Vogtle Electric Generating Plant, Units 1 and 2)
Docket Nos. 50-424-OLA-3, 50-425-OLA-3

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Mr. C. K. McCoy
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Vogtle Electric Generating Plant

cc:

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Manager - Licensing
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Resident Inspector
U.S. Nuclear Regulatory Commission
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Waynesboro, Georgia 30830

Board Notification 95-17

Dated November 13, 1995

w/out enclosure unless noted below

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J. Martin, RIII
J. Callan, RIV
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L. Chandler, OGC
OGC (3) w/enclosure
K. Cater, SECY (3)
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ACRS w/enclosure
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P. Skinner, RII
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C. Evans, RII
J. Lieberman, OE
R. Pedersen, OE
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D. Murphy, OI
R. Rosano, OE

November 13, 1995

This information is being brought to the attention of the Licensing Board and All Parties, as it may be relevant and material to issues pending before the Licensing Board.

Docket Nos. 50-424-OLA-3 and
50-425-OLA-3

Enclosures:

1. Conference Summary, 10/11/95
2. Hobby Response to Conference, 11/2/95

cc w/encls:
See next page

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OFFICE	DRPE/PD22/PM	DRPE/ED22/D	DE/D	OGC	DRPE/D	RII
NAME	D. HOOD <i>DSH</i>	H. BERKOW <i>[Signature]</i>	L. LIBERMAN <i>[Signature]</i>	<i>[Signature]</i>	S. WARGA <i>[Signature]</i>	BY E-MAIL <i>DSH</i>
DATE	11/8/95	11/9/95	11/8/95	11/8/95	11/13/95	11/8/95
COPY	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO

OFFICIAL RECORD COPY

October 11, 1995

EA 95-171

Georgia Power Company
ATTN: Mr. W. George Hairston, III
Executive Vice President
P. O. Box 1295
Birmingham, AL 35201

SUBJECT: PREDECISIONAL ENFORCEMENT CONFERENCE SUMMARY - VOGTLE NUCLEAR PLANT
DOCKET NOS. 50-424 AND 50-425

Dear Mr. Hairston:

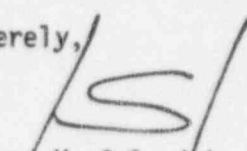
This letter refers to the Predecisional Enforcement Conference held at our request on October 4, 1995, at the Region II office in Atlanta, Georgia. The issue discussed related to an apparent violation of 10 CFR 50.7, involving Employee Protection. A list of attendees, the meeting transcript, and a copy of your handout are enclosed.

Your presentation provided additional information and clarification of the issues associated with the apparent violation. We are continuing our review of this apparent violation to determine the appropriate enforcement action.

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

Should you have any questions concerning this letter, please contact us.

Sincerely,


Richard V. Crlenjak, Chief
Reactor Projects Branch 3
Division of Reactor Projects

Docket Nos.: 50-424 and 50-425
License Nos.: NPF-68 and NPF-81

Enclosures: 1. List of Attendees
2. Transcript
3. Handout

cc w/encls:
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Vice President
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Birmingham, AL 35201

9510230343 951011
PDR ADDOCK 05000424
G PDR

224 PR

(cc w/encls cont'd - See page 2)

210184

Enclosure 1

(cc w/encls cont'd)
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- P. Skinner, RII
- D. Seymour, RII
- G. Hallstrom, RII
- J. Lieberman, NRR
- D. Wheeler, NRR
- D. Hood, NRR
- PUBLIC

NRC Senior Resident Inspector
 U.S. Nuclear Regulatory Commission
 8805 River Road
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DATE	10/11/95	10/11/95	10/11/95	10/11/95	10/ / 95	10/ / 95
COPY?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	YES NO	YES NO

In The Matter Of:

*IN THE MATTER OF MARVIN B. HOBBY v.
GEORGIA POWER COMPANY*

*PREDECISIONAL ENFORCEMENT CONFERENCE
October 4, 1995*

*BROWN REPORTING, INC.
ATLANTA, AUGUSTA, CARROLLTON, ROME
1100 SPRING STREET
SUITE 750
ATLANTA, GA USA 30309
(404) 876-8979 or (800) 637-0293*

Original File 1004hobb.asc, 52 Pages
Min-U-Script® File ID: 1456496487

Word Index included with this Min-U-Script®

ENCLOSURE 2

[1] BEFORE THE NUCLEAR REGULATORY COMMISSION
 [2]
 [3] IN THE MATTER OF)
 [4] MARVIN B. HOBBY)
 [5] vs.)
 [6] GEORGIA POWER COMPANY)
 [7]
 [8]
 [9] OPEN PREDECISIONAL ENFORCEMENT CONFERENCE
 [10]
 [11]
 [12] October 4, 1995
 [13] 2:00 p.m.
 [14]
 [15] NRC Region II Office
 [16] 101 Marietta Street
 [17] Suite 2900
 [18] Atlanta, Georgia
 [19]
 [20] John P. Payne, CCR-B-1006, RPR
 [21]
 [22]
 [23] BROWN REPORTING, INC.
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 [25] ATLANTA, GEORGIA 30309
 (404) 876-8979

[1] APPEARANCES
 [2]
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 MS. L.J. WATSON
 [5] MR. B. URYC
 MR. J.R. GRAY
 [6] MR. E.W. MERSCHOFF
 MS. C. EVANS
 [7] MR. P.H. SKINNER
 MR. LL. WHEELER
 [8]
 [9] Nuclear Regulatory Commission
 Office of General Counsel:
 [10] MS. MITZI YOUNG (By Telephone)
 [11]
 [12] Georgia Power Company:
 [13] MR. W.G. HAIRSTON, III
 MR. A.H. DOMBY
 [14] MR. F. WILLIAMS
 MR. J.A. BAILEY
 [15]
 [16]
 [17]
 [18]
 [19]
 [20]
 [21]
 [22]
 [23]
 [24]
 [25]

[1] MR. REYES: Good afternoon. I am Luis
 [2] Reyes. I'm the Deputy Regional Administrator for
 [3] the Nuclear Regulatory Commission's Region II
 [4] office.
 [5] This afternoon we will conduct a
 [6] predecisional enforcement conference between the NRC
 [7] and Georgia Power Company which is open to the
 [8] public for observation. This conference will be
 [9] transcribed. I request members of the public to
 [10] hold any questions they may have about the conduct
 [11] of the conference until the conference is
 [12] concluded. The NRC staff will stay after the
 [13] meeting to answer any questions concerning the
 [14] conduct of the conference.
 [15] The agenda for the conference is shown in
 [16] the viewgraph. We have a viewgraph in the room
 [17] showing our expectations of the meeting this
 [18] afternoon.
 [19] Following my brief opening remarks,
 [20] Mr. Bruno Uryc, Director of the Region II
 [21] Enforcement Staff, will discuss the agency's
 [22] enforcement policy. I will then provide
 [23] introductory remarks concerning my perspective on
 [24] the events to be addressed today, and then Mr. Ellis
 [25] Merschhoff to my left, Director of the Division of

Page 4

(1) Reactor Projects, will then discuss the apparent
(2) violation.
(3) You will then be given an opportunity to
(4) respond to the apparent violation. In this regard,
(5) I wish to reiterate to the licensee and members of
(6) the public that the decision to hold this conference
(7) does not mean that the NRC has determined that a
(8) violation has occurred or that enforcement action
(9) will be taken. This conference is, however, an
(10) important step in arriving at that decision.
(11) Following Georgia Power Company's
(12) presentation, I plan to take about a ten-minute
(13) break so that the NRC can briefly review what it has
(14) heard and determine if we have any follow-up
(15) questions, and lastly, I will provide concluding
(16) remarks.
(17) At this point, I would like to have the
(18) NRC staff introduce themselves and then ask Georgia
(19) Power Company to introduce its participants.
(20) Linda?
(21) **MS. WATSON:** I'm Linda Watson. I'm with
(22) the enforcement staff.
(23) **MR. GRAY:** Joe Gray, Deputy Director,
(24) Office of Enforcement.
(25) **MR. URYC:** Bruno Uryc, Director of the

Page 5

(1) Region II Enforcement Staff.
(2) **MR. REYES:** I'm Luis Reyes. I'm the
(3) Deputy Regional Administrator.
(4) **MR. MERSCHOFF:** Ellis Merschhoff, Director
(5) of Reactor Projects.
(6) **MS. EVANS:** Carolyn Evans, Regional
(7) Counsel.
(8) **MR. SKINNER:** Perry Skinner, Section
(9) Chief of the Georgia Power Company here in Region
(10) II.
(11) **MR. WHEELER:** Duke Wheeler, Vogtle
(12) Licensing Project Manager.
(13) **MR. BAILEY:** Jim Bailey, Manager of
(14) Licensing.
(15) **MR. WILLIAMS:** I'm Fred Williams, Senior
(16) Vice President of Georgia Power Company.
(17) **MR. HAIRSTON:** I'm George Hairston,
(18) Executive Vice President of Georgia Power Company.
(19) **MR. DOMBY:** I am Art Dobby. I'm with the
(20) law firm of Troutman Sanders representing Georgia
(21) Power Company.
(22) **MR. REYES:** Thank you. Mr. Uryc will now
(23) discuss the agency's enforcement policy.
(24) **MR. URYC:** Thank you, Mr. Reyes. I will
(25) provide some background information on the

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(1) enforcement process for those who might not be
(2) familiar with this process.
(3) The NRC Enforcement Program is governed
(4) by the Commission's enforcement policy which was
(5) recently revised and became effective on June 30th,
(6) 1995. It has been published as NUREG-1600, and for
(7) those of you who desire, I have left some copies on
(8) the table behind me that you're welcome to take.
(9) For cases where there is a potential for
(10) escalated enforcement action, that is, where the
(11) severity level of the apparent violation may be at
(12) Severity Level I, II, or III, a predecisional
(13) enforcement conference is normally held.
(14) In this particular case, the decision to
(15) hold a predecisional enforcement conference is based
(16) on the Secretary of Labor's decision which was
(17) issued on August 4th, 1995, in the matter of
(18) Marvin B. Hobby versus the Georgia Power Company.
(19) In that decision, the Secretary of Labor concluded
(20) that discrimination occurred under the Energy
(21) Reorganization Act. The apparent violation derives
(22) from this decision. Copies of the Secretary of
(23) Labor's decision that we're going to discuss today
(24) are also available on the table should you desire
(25) one.

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(1) A predecisional enforcement conference is
(2) essentially the last step of the enforcement process
(3) before the staff makes an enforcement decision.
(4) Under the Commission's enforcement policy, these
(5) conferences are normally closed meetings between the
(6) NRC staff and the licensee. However, this
(7) conference, although initially designated as a
(8) closed conference, has been opened to public
(9) observation based on a formal request by an
(10) interested member of the public. The trial program
(11) to conduct selected conferences as open conferences
(12) was initiated by the Commission in July of 1992, and
(13) this program has been extended pending further
(14) evaluation.
(15) The purpose of a predecisional
(16) enforcement conference is not to negotiate a
(17) sanction. Our purpose here today is to obtain
(18) information that will assist us in determining the
(19) appropriate enforcement action, such as a common
(20) understanding of the facts, root causes, and missed
(21) opportunities associated with the apparent
(22) violation; secondly, a common understanding of the
(23) corrective action taken or planned; and a common
(24) understanding of the significance of the issues and
(25) the need for lasting comprehensive corrective

(1) action.

(2) At the predecisional enforcement
(3) conference stage of the process, we want to be sure
(4) that the licensee understands the significance of
(5) the issues and is taking effective corrective
(6) action. We are seeking information that may be
(7) relevant to either mitigation or escalation of any
(8) resulting sanction as well as determining the
(9) licensee's position relative to the decision issued
(10) by the Secretary of Labor in this case. A copy of
(11) that decision was enclosed with our letter of
(12) September the 1st which made initial arrangements
(13) for this conference.

(14) The apparent violation discussed at this
(15) conference is subject to further review by the NRC.
(16) It is subject to change prior to any resulting
(17) enforcement action. It is important to note, as
(18) Mr. Reyes has said, that the decision to conduct
(19) this conference does not mean that the NRC has
(20) determined that a violation has occurred or that
(21) enforcement action will be taken. I should also
(22) note that statements of views or expressions of
(23) opinion made by NRC employees at this conference, or
(24) the lack thereof, are not intended to represent
(25) final agency determination or beliefs.

(1) Counsel.

(2) MR. REYES: Proceeding with the agenda
(3) this afternoon, let me summarize the issues as I see
(4) them, and then I will turn it over to Ellis
(5) Merschoff.

(6) The Secretary of Labor concluded in the
(7) Marvin Hobby case that in 1990, Georgia Power
(8) Company senior managers engaged in discriminatory
(9) actions by terminating Mr. Hobby for raising nuclear
(10) safety concerns. The NRC places a high value on the
(11) freedom of nuclear industry employees to raise
(12) potential safety concerns to licensee management.
(13) Section 211 of the Energy Reorganization Act and
(14) 10 CFR 50.7 establish strict requirements for the
(15) protection of employees against discrimination for
(16) raising nuclear safety concerns, and the NRC
(17) enforcement policy calls for strong enforcement
(18) sanctions in cases where these requirements are
(19) violated. Our purpose today is to provide you an
(20) opportunity to discuss the basis for your decisions
(21) in this case.

(22) In addition, the NRC is concerned about
(23) the potential of a chilling effect that may have
(24) resulted from Mr. Hobby's termination. The broad
(25) span of control and influence exercised by the

(1) Now, following this conference, the
(2) regional administrator, in coordination with the NRC
(3) Office of Enforcement and other headquarters
(4) offices, will reach an enforcement decision, and
(5) this process normally takes about four weeks to
(6) accomplish. If the final enforcement action
(7) involves a proposed civil penalty or an order, the
(8) NRC will issue a press release 24 hours after that
(9) enforcement action is issued.

(10) Finally, if you have any comments
(11) regarding the Commission's trial program to allow
(12) public observation of the NRC's predecisional
(13) enforcement conferences, I have provided some
(14) comment sheets on the table behind me. These
(15) comments will be forwarded to the Director of the
(16) Office of Enforcement for review and consideration;
(17) and for any public participants, we ask that you
(18) sign the attendance sheet that's on the table so
(19) that we can judge the public interest in continuing
(20) this open conference policy.

(21) MR. REYES: Before we proceed with the
(22) agenda, did somebody just come in on the phone?
(23) Mitzi Young? We have a person participating on the
(24) phone.

(25) MR. GRAY: From the NRC Office of General

(1) senior Georgia Power Company managers who were
(2) involved in this matter could have a negative impact
(3) on your employees' perceptions regarding their
(4) freedom to raise safety concerns. Therefore, we
(5) expect you to address the actions taken or planned
(6) to assure that this adverse employment action does
(7) not have a chilling effect on other licensee or
(8) contractor employees raising real or perceived
(9) nuclear safety concerns.

(10) Georgia Power Company's steps to insure
(11) that senior managers of GPC are aware of their
(12) responsibilities to provide a work environment in
(13) which all employees may freely identify safety
(14) concerns without fear of retaliation or
(15) discrimination are a key element in establishing an
(16) effective employee concerns program. Whether or not
(17) you agree that a violation occurred, you should
(18) address the actions you have taken to insure
(19) managers are aware of these responsibilities. In
(20) addition, you should address the actions you have
(21) taken with respect to the Secretary of Labor's
(22) decision and the order to offer Mr. Hobby
(23) reinstatement.

(24) I would like to proceed with the agenda
(25) and have Ellis Merschoff, Director of the Division

[1] of Reactor Projects, discuss the apparent specific
[2] violations that we are to consider today.
[3] **MR. MERSCHOFF:** On August 4th, 1995, the
[4] Secretary of Labor issued a decision and remand
[5] order in the Department of Labor Case 90-ERA-30.
[6] The Secretary of Labor found that in 1990, senior
[7] managers of Georgia Power Company discriminated
[8] against Mr. Marvin B. Hobby, former general manager
[9] of GPC's Nuclear Operations Contract Administration,
[10] when Mr. Hobby's position was eliminated and he was
[11] forced to resign from GPC. In addition, the
[12] Secretary of Labor also found that other acts of
[13] discrimination occurred, such as denial of executive
[14] parking privileges and limiting access privileges.
[15] The Secretary of Labor specifically
[16] determined that Georgia Power Company's decision to
[17] terminate Mr. Hobby was based solely on retaliatory
[18] animus for his having raised safety concerns related
[19] to the operation of the Vogtle Nuclear Plant,
[20] principally those described in an April 27th, 1989,
[21] memorandum that Mr. Hobby provided to Mr. Fred
[22] Williams, Georgia Power Company's Vice President of
[23] Bulk Power.
[24] This is an apparent violation of
[25] 10 CFR 50.7, Employee Protection, which prohibits

[1] discrimination against an employee engaging in
[2] protected activities such as providing an employer
[3] information about alleged violations of NRC
[4] requirements. This apparent violation is being
[5] considered for escalating enforcement.
[6] What you see up there is essentially the
[7] concern and the violation as we understand it. It
[8] says that the decision and remand order was issued
[9] determining that Georgia Power had discriminated
[10] against Mr. Marvin B. Hobby as a result of raising
[11] safety concerns and the Secretary of Labor's finding
[12] that Mr. Hobby was discriminated against as a result
[13] of these protected activities as an apparent
[14] violation.
[15] In terms of what we hope to accomplish
[16] today, the purpose of this conference is to afford
[17] you an opportunity to provide a common understanding
[18] of the facts, the root causes, and the significance
[19] of these issues; to provide the basis for the
[20] adverse employment action taken against Mr. Hobby;
[21] whether or not a chilling effect resulted from
[22] Mr. Hobby's termination and the recent Secretary of
[23] Labor decision; the potential negative impact on the
[24] reporting of safety concerns due to the senior GPC
[25] managers who were involved in this matter; the

[1] severity of the violation; any escalation or
[2] mitigation considerations; your plans to implement
[3] corrective action; and any other application of the
[4] enforcement policy relevant.
[5] With that, Mr. Reyes, I will turn it over
[6] to you.
[7] **MR. REYES:** We will turn over the meeting
[8] to Georgia Power and let you come forward with your
[9] presentation.
[10] **MR. HAIRSTON:** Thank you, Mr. Reyes.
[11] We're ready to start our presentation.
[12] I am George Hairston, Executive Vice
[13] President of Georgia Power Company, and I am here
[14] today to respond to the questions raised in the
[15] NRC's letter of September the 1st, 1995. We ask
[16] that you defer any enforcement action pending the
[17] completion of Georgia Power's appeal of the
[18] Secretary of Labor's decision.
[19] Georgia Power had a legitimate,
[20] nondiscriminatory reason for eliminating Mr. Hobby's
[21] position in 1990. It has been five years since the
[22] events in question, and Georgia Power's
[23] demonstrative history of not retaliating for raising
[24] safety concerns should be considered. Moreover, as
[25] even the NRC staff has recognized in the Vogtle

[1] license amendment proceedings, Mr. Hobby and his
[2] group had no relation or effect upon the safe
[3] operation of Georgia nuclear power plants. Thus,
[4] there has not been and there will not be any
[5] chilling effect as a result of Mr. Hobby's case.
[6] Let me talk a minute about the order of
[7] my presentation, just so you know what I'm going to
[8] be doing.
[9] I will begin our presentation by
[10] providing you with an overview of the facts
[11] surrounding the elimination of Mr. Hobby's
[12] position. You will then hear from Mr. Williams, who
[13] will respond directly to your questions about the
[14] basis for the adverse employment action taken
[15] against Mr. Hobby. He was the principal decision
[16] maker, and he will tell you precisely why
[17] Mr. Hobby's position was eliminated. After that, I
[18] will address the basis for our appeal. I will then
[19] conclude our remarks by addressing the issues of
[20] whether any chilling effect has occurred as the
[21] results of this decision or the underlying acts of
[22] eliminating this job position.
[23] Briefly, let me just go through the
[24] chronology, and you do have these overheads in your
[25] possession.

(1) The chronology which I'd like to go
(2) through hits the major events covered by the
(3) Department of Labor record. These events occurred
(4) over five years ago, and a brief review is helpful.

(5) In transferring the Georgia Power nuclear
(6) employees to Birmingham in 1988, Mr. Hobby turned
(7) down an opportunity to be considered for a
(8) position. In late 1988, Mr. Grady Baker of Georgia
(9) Power Company, outside the nuclear chain of command
(10) for the previous six months, performed an annual
(11) evaluation of Mr. Hobby. A copy is included in the
(12) handout supplied to you.

(13) Mr. Baker noted that Mr. Hobby's
(14) strengths were in the nuclear area. Marvin's
(15) knowledge of the - and this is in quotes.

(16) "Marvin's knowledge of the national nuclear
(17) industry is unsurpassed." The evaluation also noted
(18) Mr. Hobby had developmental needs to broaden his
(19) knowledge in Georgia Power's general operations. Of
(20) course, by this time, the corporate nuclear
(21) organization was in Birmingham.

(22) On December the 27th, 1988, only a few
(23) weeks after nuclear operations began to report to
(24) him, Mr. Bill Dahlberg approved the formation of a
(25) Nuclear Operations Contract Administration group. A

(1) copy of Mr. Dahlberg's memo of that date is included
(2) in your package. Marvin Hobby became the general
(3) manager of this NOCA group, as it was called. He
(4) received a two-level increase in position. He had
(5) three employees, two serving as financial analysts
(6) and one secretary, reporting to him when the group
(7) was first started.

(8) Oglethorpe Power Corporation, as most of
(9) you know, is a co-owner of a major portion of Plant
(10) Vogtle and Plant Hatch. In addition, Oglethorpe
(11) owns a portion of some of the cofired plants on the
(12) Georgia system. During late 1988 and into 1989,
(13) Georgia Power and Oglethorpe were discussing
(14) negotiating the relationship which the planned
(15) Southern Nuclear Operating Company would have with
(16) the co-owners.

(17) On April the 26th, 1989, Mr. Hobby
(18) forwarded a request of Oglethorpe to Fred Williams
(19) to explain the reporting structure of Georgia Power
(20) Company and how Mr. Joe Farley, an officer of
(21) Southern Company in Birmingham, fit into the
(22) picture. Mr. Williams provided that explanation on
(23) May the 15th, 1989. Copies of the request and the
(24) response of Mr. Williams are included in your
(25) package. Mr. Hobby claims that Georgia Power

(1) illegally eliminated his position as the results of
(2) concerns that he raised in an April the 27th, 1989,
(3) memorandum to Fred Williams.

(4) I would like us to review that memo or
(5) parts of that memo today because it's important to
(6) actually see the statements made in the letter to
(7) understand its tone and content.

(8) On page 7 is the concern which is the
(9) basis of Mr. Hobby's action against Georgia Power
(10) Company. I have an overlay of that, and if you
(11) would, I would ask you to read the
(12) next-to-the-bottom paragraph, the one that starts
(13) with "a significant concern."

(14) In May and June of 1989, Bill Dahlberg,
(15) the then president and CEO of Georgia Power Company,
(16) was reconsidering the need for Mr. Hobby's NOCA
(17) group. He met with Joe Farley and Grady Baker to
(18) discuss the ongoing negotiations with Oglethorpe
(19) Power. At this meeting, concern was expressed that
(20) NOCA was unnecessary. A request was made at that
(21) time for the SONOPCO project to employ Mr. Hobby.
(22) Mr. Dahlberg concurred with a freeze on the NOCA
(23) group hiring any further employees. The need for
(24) NOCA was uncertain.

(25) Fred Williams was in charge of contracts

(1) between the co-owners, including Oglethorpe and
(2) Georgia Power at this time. He learned during 1989
(3) that Mr. Hobby's group would begin reporting to him
(4) effective January the 1st, 1990. He began a review
(5) process to determine how Mr. Hobby's group would fit
(6) into his existing organization. What did NOCA do?
(7) What was the level of activity? These are some of
(8) the questions he began to ask Mr. Hobby and his
(9) staff.

(10) Independent of these activities, Georgia
(11) Power's management council members met on November
(12) the 7th, 1989, to evaluate the performance and
(13) future advancement potential of many high-level
(14) managers and officers, including Mr. Hobby. Fred
(15) Williams was not in attendance, nor was Mr. Pat
(16) McDonald. Mr. Grady Baker, who had last reviewed
(17) Mr. Hobby in late 1988, was present. So was
(18) Mr. Dahlberg.

(19) In terms of performance, three of the
(20) reviewers gave Mr. Hobby the lowest possible
(21) rating. Four rated him about average, and one
(22) person rated him below average. In terms of future
(23) potential for advancement, everyone rated him as
(24) having no further potential.

(25) Fred Williams, after reviewing

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[1] Mr. Hobby's organization, recommended to his boss,
[2] Mr. Dwight Evans, that the position of Mr. Hobby be
[3] eliminated because it was unnecessary. Mr. Evans
[4] agreed, and on December the 29th, 1989, the proposed
[5] elimination of the position was presented to the
[6] management council. No one disagreed with
[7] Mr. Williams' recommendation.

[8] I would like to have Mr. Williams explain
[9] to you the reasons for his recommendation. Fred?

[10] **MR. WILLIAMS:** Thank you, George.

[11] I think I'll read this statement, and
[12] maybe we can answer questions later. That will make
[13] sure I've covered everything.

[14] From 1984 through the present, I have
[15] been the Georgia Power Company officer responsible
[16] for administration of contracts between Georgia
[17] Power Company and other joint owners of Plants
[18] Vogtle and Hatch. These contracts also include
[19] Cofired Plant Scherer and Cofired Plant Wansley and
[20] a jointly owned transmission system here in the
[21] state of Georgia, so the relationship between the
[22] co-owners in 1989 was much broader than just whether
[23] the co-owners would agree to the formation of the
[24] Southern Nuclear Company and the transfer of
[25] operating license authority to Southern Nuclear.

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[1] There were many commercial issues at the time, such
[2] as the agreement between Georgia Power and
[3] Oglethorpe Power which governed Georgia's sale of
[4] partial requirements for electricity to Oglethorpe
[5] and the Municipal Group.

[6] Because of my responsibilities in these
[7] areas and Mr. Hobby's assignments in 1989, I had
[8] contact with Marvin throughout that year, including
[9] negotiations on a draft nuclear managing board
[10] agreement between the co-owners.

[11] Marvin began reporting to me effective
[12] January 1, 1990. Even before that date, I began to
[13] review the need for Marvin's contract administration
[14] group. In my review, I met with Marvin and his
[15] staff to determine what tasks they were performing.
[16] The group consisted at that time of Marvin and two
[17] much lower level positions filled by employees with
[18] an accounting or financial type background and a
[19] secretary.

[20] After talking with Marvin's group for
[21] hours and reviewing the tasks which they were
[22] performing and a November 1989 memo which set out
[23] their activities that I had requested be prepared, I
[24] concluded that there was not a legitimate need for a
[25] separate group within Georgia Power to perform these

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[1] tasks. There was no operations contract between
[2] Southern Nuclear and Georgia Power to administer. I
[3] viewed my co-owner responsibilities as including any
[4] such contract. In fact, I am the Chair of the
[5] nuclear managing board of the co-owners today. The
[6] operations contract between Georgia Power and
[7] Southern Nuclear isn't in place even yet, and that
[8] would have been the contract that the NOCA group
[9] would have been administering when it was set up.

[10] In the fall of 1989, I made my views of
[11] Marvin's group known to Marvin himself and to my
[12] boss, Dwight Evans. In addition, I could not see
[13] any reason in particular at the time we were
[14] downsizing the company for a general manager
[15] position to oversee the group's responsibilities.

[16] In making my decision to absorb the group
[17] into my area and to recommend the elimination of
[18] Marvin's general manager's position, his performance
[19] was not a factor in that deliberation. In fact, I
[20] discussed with Marvin whether he would consider
[21] other job prospects within two levels of his current
[22] position of the 20 and the possibility of
[23] transferring to Georgia Power's nuclear group in
[24] Birmingham if he wanted to stay in the nuclear
[25] area. Marvin's background was in nuclear, and his

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[1] best opportunities would be there. I should
[2] mention, too, that at the time, when an employee
[3] took a lower level position, his or her salary was
[4] not automatically cut. It would be red circled and
[5] maintained. He would just move into a different pay
[6] scale at that time, but his current salary would be
[7] maintained.

[8] Marvin was not interested in other
[9] positions within the company outside of nuclear or
[10] in the Southern Nuclear project in Birmingham, so at
[11] that time, we began discussing voluntary
[12] outplacement packages. These packages were not
[13] uncommon for impacted - and that's the word we gave
[14] to employees whose jobs were eliminated at that
[15] time - we had a considerable amount of these -
[16] impacted managers and officers. Although I had
[17] never dealt with negotiating one, Marvin was very
[18] receptive to this idea, and we began to talk
[19] financial figures. When I gave him specific
[20] approved figures, he was dissatisfied and called the
[21] former president of Georgia Power, Mr. Jim Miller.
[22] At that time, I believe Mr. Miller was still on the
[23] board of directors of Georgia Power Company.

[24] It was at that point that Mr. Tom Boren,
[25] our Senior VP of Human Resources, got involved with

(1) negotiating terms. Tom had been involved in similar
(2) outplacement agreements. Marvin said he believed
(3) that Pat McDonald and Joe Farley wanted to get him
(4) out of the company, and I understood that it was
(5) McDonald's view that NOCA nuclear expertise in
(6) Atlanta dedicated solely to overseeing nuclear
(7) expertise in Birmingham was not needed. What I said
(8) there was that a group in Atlanta overseeing nuclear
(9) expertise in Birmingham at the Southern Nuclear
(10) project was not needed, that that would be the role
(11) of line management at the Southern Nuclear project.
(12) It was a view that was shared by me and others,
(13) including Mr. Evans, my boss.

(14) Marvin was told that if an outplacement
(15) package could not be negotiated, his position would
(16) be eliminated and he would be an employee impacted
(17) by the company's downsizing. What that means is, I
(18) tried to negotiate something with him because I told
(19) him that his position was going to be eliminated and
(20) if it was eliminated, he would be then under the
(21) normal procedure for impacted employees and whatever
(22) severance package that went with that.

(23) He said in his Department of Labor case
(24) that on January 10th, 1990, I told him that he would
(25) get no support in the company from senior management

(1) because of the April 27th memo. This is simply not
(2) true. His memo was not a factor in eliminating the
(3) position. In fact, until it was raised with the
(4) Department of Labor, I had forgotten about the April
(5) 27th memo at that time.

(6) Let me just summarize to you what I told
(7) the Department of Labor judge during the hearing.
(8) The memorandum and the issues in it had nothing to
(9) do with the decision to eliminate Marvin's
(10) position. Marvin's position of \$100,000-plus-a-year
(11) general manager was just not justified by this job,
(12) and I believe that everyone involved, including
(13) Dwight Evans, Marvin, and those reporting to him
(14) understood that, and the position cannot be
(15) justified today.

(16) Thank you.

(17) MR. MERSCHOFF: Do you need access to a
(18) phone?

(19) MR. REYES: Let's go off the record for a
(20) minute.

(21) (Discussion ensued off the record.)

(22) MR. REYES: We're back on.

(23) MR. MERSCHOFF: I have two questions on
(24) that. One, you said the purpose of NOCA was to
(25) oversee a contract between Southern Nuclear and

(1) Georgia Power. Was that the sole purpose of it?

(2) MR. WILLIAMS: That's correct.

(3) MR. MERSCHOFF: And you say that contract
(4) isn't in place yet. At what point was NOCA
(5) dissolved as an organization?

(6) MR. WILLIAMS: NOCA was dissolved when I
(7) eliminated the job in the beginning of 1990. I
(8) absorbed the other positions within the existing
(9) bulk power contracts administration area that was
(10) already at that point in time administering and
(11) managing all the joint owner contracts, our
(12) operating agreements already at that time.

(13) MR. MERSCHOFF: When I read the decision,
(14) I thought there was a manager put in place in that
(15) position after Mr. Hobby.

(16) MR. WILLIAMS: No. Let me straighten
(17) that out, too. What I did was essentially put the
(18) function underneath an existing manager, a manager
(19) level 17, three levels below, who was administering
(20) at that point in time some 40 contracts between us
(21) and the joint owners. A level 17 manager took
(22) over. In fact, it was just moved in his area, which
(23) is where I determined it should have been in the
(24) first place.

(25) MR. MERSCHOFF: Was it then subsequently

(1) dissolved?

(2) MR. WILLIAMS: NOCA was dissolved.

(3) MR. MERSCHOFF: Is there a NOCA function
(4) under this manager today?

(5) MR. WILLIAMS: No. The staff under this
(6) manager today essentially was understaffed, anyway,
(7) because of all the contracts we had and that we were
(8) administering between us and the joint owners. As I
(9) said, it was not just the Vogtle plant. Hatch,
(10) Wansley, Scherer. We have a pump storage
(11) hydrofacility that is being managed in that same
(12) group. We have an integrated transmission system
(13) agreement. We have three new power supply
(14) agreements, and all of those have multiple contracts
(15) in them. That was a department that existed before
(16) NOCA was ever formed. We were already billing the
(17) co-owners, doing the budgeting with the co-owners on
(18) the Vogtle Nuclear Plant well before NOCA was even
(19) thought about. I was already negotiating a new
(20) arrangement between us, the nuclear managing board
(21) concept and all.

(22) The only responsibility NOCA could
(23) possibly have would then be to administer the
(24) contract between Southern Nuclear when it became
(25) Southern Nuclear instead of a project and us at

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(1) Georgia Power Company, and that would have had to
(2) have been my department then, so it didn't make
(3) sense to put all this money and department in place
(4) just between us and Southern Nuclear when it could
(5) be done directly with the existing manager and his
(6) staff that were there. We did absorb those two
(7) positions, and they're still there, and we're
(8) managing those contracts. In fact, one of the
(9) positions has now been eliminated, and that has been
(10) transferred to the county.

(11) I do want to clarify one thing about the
(12) officer chain in Southern Nuclear. Pat McDonald at
(13) the time, George Hairston, Ken McCoy, and Tom
(14) Beckham were all employees of Georgia Power still
(15) during this whole time. They were not removed from
(16) the Georgia Power payroll. In fact, all the
(17) employees working on Georgia projects in the
(18) Southern Nuclear operating project at that time were
(19) still Georgia Power employees, so, you know, they
(20) were still performing their functions. The only
(21) thing different, instead of moving from the
(22) thirteenth floor to the fourteenth floor, they had
(23) moved from Georgia Power's building to Birmingham.
(24) Nothing else had changed at that point in time.
(25) There was no Southern Nuclear Company, if you

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(1) would. It was still Georgia Power employees
(2) functioning the same way they had. They were just
(3) over the project.

(4) We did put officers that had dual
(5) hatting, which was this whole issue about reporting,
(6) in my opinion. That's the only concern that
(7) Oglethorpe ever raised with me, whether y'all would
(8) accept dual hatting, which I believe you would,
(9) because you've had that presented to you before in
(10) other areas, and it was under my understanding that
(11) that was not a problem. Here was Georgia Power
(12) employees doing Georgia Power work, and here was a
(13) new group called NOCA that was being set up to
(14) administer a contract that didn't exist yet, trying
(15) to force themselves into something that was already
(16) functioning.

(17) I think if you look at some of the things
(18) even raised by Mr. Hobby, we tried to include them.
(19) We tried to make sure, when it did happen, we would
(20) have them if it made sense; but during that year of
(21) my review, it just didn't make sense that this
(22) separate project needed to be there with a hundred
(23) thousand dollar a year boss and with two accountants
(24) and a secretary when for one or two of those people
(25) we could have just added them to the existing

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(1) department that was already there. In fact, we
(2) didn't have to. We could have taken on the function
(3) without them, but since those people were in the
(4) position, it was good. Since I was already
(5) understaffed in that area, anyway, they picked up
(6) actually other duties, not just this project.

(7) MR. HAIRSTON: Thank you, Fred. I've got
(8) about ten more minutes, and then I may answer some
(9) of your questions that remain in part of my
(10) presentation.

(11) Georgia Power and Mr. Hobby litigated
(12) this matter in late 1990 before one of the
(13) Department of Labor administrative law judges, Judge
(14) Williams. Mr. Hobby testified, as did Mr. Baker,
(15) Mr. Dahlberg, Mr. Williams, Mr. Evans, Mr. Tom
(16) Boren, and others. Mr. Boren was an officer who
(17) attended the November 7th performance review meeting
(18) as well as the December 29th, 1989, management
(19) council meeting where the recommendation to
(20) eliminate Mr. Hobby's position was made. A total of
(21) about 15 witnesses testified over several full
(22) days.

(23) Why was Mr. Hobby's position eliminated?
(24) The ALJ, which is on the left, said, I find the
(25) decision to eliminate the position of manager of

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(1) NOCA was in no way related to the concern raised in
(2) the April 27th, 1989, memorandum. And you can read
(3) on.

(4) Almost four years later - that's
(5) right - almost four years later, the Secretary of
(6) Labor rejected the recommendation, the recommended
(7) decision of his own administrative law judge. His
(8) order, decision in this area is on the right of that
(9) overhead.

(10) In doing so, the Secretary basically said
(11) that Mr. Hobby's testimony was to be believed and
(12) that the testimony of the Georgia Power witnesses
(13) should be discredited. This is the exact opposite
(14) of what Judge Williams had recommended. Time after
(15) time, the Secretary, who was reviewing a cold
(16) transcript without actually seeing and hearing
(17) witnesses, rejected the credibility determination of
(18) Judge Williams.

(19) Georgia Power contends that under the
(20) circumstances presented here, this is improper, and
(21) we will appeal this decision of the Secretary.

(22) As an aside, it must first be remanded to
(23) an administrative law judge to determine the amount
(24) of compensation of Mr. Hobby.

(25) Let me just briefly go through some

(1) issues that we would offer for your consideration.
(2) The first, I have an overhead that states the
(3) grounds or some of the grounds we would have for a
(4) Georgia Power appeal.

(5) As I understand it, there are several
(6) problems with the Secretary's order on which appeal
(7) would be taken. I would like to go over very
(8) briefly some of the grounds for an appeal which we
(9) will pursue. First, I'd like to show you some case
(10) law relating to the standard which a reviewing
(11) court, a reviewing court will apply.

(12) I think it would be worthwhile for you to
(13) review the overhead entitled "The Standard of Review
(14) for the Secretary of Labor Order." These are two
(15) different cases between the two paragraphs. We
(16) think we meet this standard.

(17) We'll be going to the second bullet where
(18) the Secretary of Labor improperly made credibility
(19) determinations. We will show you a few points about
(20) that. There are a series of overheads on this.

(21) These are examples to demonstrate the
(22) difference in credibility that the law judge, Judge
(23) Williams, and the Secretary of Labor had on
(24) credibility; and I think they speak for themselves.
(25) Luis, in your package, we also have a copy of those

(1) in a management council meeting on November the 7th,
(2) 1990, yet please take a minute to review the
(3) evidence which the Secretary cites in support of
(4) this conclusion.

(5) Luis, let me correct a date. That's
(6) November the 7th, 1989.

(7) As you can see, there is absolutely no
(8) basis for the Secretary's conclusion. In fact, the
(9) evidence contradicts his findings. Other compelling
(10) examples about how the Secretary ignored the
(11) evidence will be presented in our appeal.

(12) Lastly, let me look at the issue of lack
(13) of cooperation with NOCA. The Secretary concluded
(14) that Mr. Hobby's concern about the lack of
(15) cooperation with NOCA was a safety concern. We
(16) believe this is wrong as a matter of law. As you
(17) can see from the language quoted here, the NRC staff
(18) itself has concluded that Mr. Hobby and NOCA have no
(19) relationship, had no relation to the safe operation
(20) of the Vogtle facilities.

(21) Let me talk about the root cause and
(22) significance of the apparent violation, one of the
(23) issues you raised. We do not believe that there was
(24) a violation of 50.7 because Mr. Hobby's position was
(25) eliminated based on the reasons which Mr. Williams

(1) overheads.

(2) MR. REYES: Yes, sir.

(3) MR. HAIRSTON: These charts are a
(4) side-by-side comparison of several conflicting
(5) credibility determinations made by Judge Williams
(6) and the Secretary of Labor.

(7) In essence, the Secretary chose to
(8) believe the testimony of Mr. Hobby and to discredit
(9) the testimony of each of the seven or eight Georgia
(10) Power witnesses who swore under oath that
(11) Mr. Hobby's concern was not a factor in the
(12) elimination of his position. We believe that this
(13) was improper and is grounds for reversal in and of
(14) itself.

(15) That's the last of the credibility
(16) overheads.

(17) Then we have an overhead of the Secretary
(18) of Labor's decision not based on substantial
(19) evidence in the record.

(20) The linchpin of the Secretary's ruling
(21) was his conclusion that the decision to eliminate
(22) Mr. Hobby's position occurred in a management
(23) council meeting on November the 7th, 1990 - let me
(24) say that again - was the conclusion that the
(25) decision to eliminate Mr. Hobby's position occurred

(1) explained to you. It was not eliminated based on
(2) any sort of retaliation for raising a safety
(3) concern.

(4) Let me speak for a minute about the need
(5) for corrective action. We do not believe that there
(6) is a need for us to take action to make sure that
(7) Georgia Power or Southern Nuclear employees know
(8) that. They are encouraged to identify and report
(9) safety and nonsafety concerns which they may have.
(10) This attitude of openness is reflected in our
(11) dealings with you as the regulator.

(12) From the very beginning of this case, we
(13) have kept the NRC informed about its status. In
(14) fact, on February the 1st, 1990, before Mr. Hobby
(15) filed his Department of Labor complaint, Pat
(16) McDonald called Mr. Stewart at NRC and informed him
(17) that Mr. Hobby was claiming he was being discharged
(18) for raising a regulatory concern. In your package,
(19) there are some letters that went back and forth
(20) between our counsels that cover a series of phone
(21) calls or notifications.

(22) Georgia Power and Southern Nuclear's
(23) organizations have a longstanding policy designed to
(24) foster the raising of concerns and the
(25) identification of problems at the nuclear plants of

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(1) the Southern system. We have included in your
(2) package representative documents on policies and
(3) historic statements of the company where we've
(4) emphasized and reemphasized our policy. They go
(5) back to 1988 and include training material used at
(6) Hatch and Vogtle. I won't go through all of these,
(7) but let me just highlight a couple, and I think it's
(8) fairly exhaustive, and there is an index that can
(9) take you through it in a much more organized form.

(10) On May the 11th, 1994, I directed a
(11) letter to all Georgia Power nuclear employees in
(12) which I reiterated the company's policy that
(13) everyone should feel free to raise any concern they
(14) may have either to their supervisors, to the quality
(15) concerns program, or to the NRC itself. I promised
(16) that a fair and reasonable response would be given
(17) to each concern and that each employee could raise
(18) his or her concern without any fear of penalty or
(19) retaliation.

(20) Yesterday, Mr. Alan Franklin, the CEO of
(21) Georgia Power and my boss, sent a letter to all
(22) Georgia Power executives, all Georgia Power
(23) executives, and nuclear employees, again reminding
(24) them of this policy. This letter contains the
(25) following commitment to all who raise a concern. No

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(1) retaliation for raising a compliance concern will be
(2) tolerated. We firmly believe that we have been
(3) successful in encouraging employees to come forward
(4) with their concerns. As you know, the NRC in May
(5) and June of this year conducted an inspection of the
(6) quality concerns programs for Plants Vogtle and
(7) Hatch. The inspection report pointed out that we
(8) needed to tighten up the Hatch program in terms of
(9) the thoroughness of review of concerns, plus a few
(10) other comments.

(11) What I have personally found very
(12) encouraging is the following statement from the
(13) NRC's report. The 50 employees interviewed all
(14) stated they would report safety concerns. All said
(15) they would report such concerns first to their
(16) supervisors or managers and would have confidence
(17) that the supervisor or manager would adequately
(18) resolve the concern. Most said that all such
(19) concerns in the past had been adequately resolved by
(20) their supervisor and management. All said that they
(21) have not been intimidated by management for raising
(22) safety concerns.

(23) I recognize that the NRC might feel
(24) responsibility to act on the Secretary of Labor's
(25) order. However, our case is unique for several

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(1) reasons, and we feel deferral of any enforcement
(2) action is appropriate.

(3) First, five years have passed since
(4) Mr. Hobby's general manager position was
(5) eliminated. Georgia Power's employment levels,
(6) including general manager positions, have been
(7) reduced significantly from early 1990. This
(8) demonstrates that, in fact, Mr. Hobby's position was
(9) eliminated because it was unneeded. This is
(10) additional information which the NRC should consider
(11) which was not available to the Department of Labor.

(12) Second, there is a pending licensing
(13) proceeding before the NRC, ASLB which will address
(14) aspects of Mr. Hobby's concern about Mr. McDonald's
(15) chain of command. Mr. Hobby, Mr. Williams,
(16) Mr. Dahlberg, Mr. Farley, and Mr. McDonald all
(17) testified in that proceeding. In addition, the NRC
(18) staff filed proposed findings in that proceeding
(19) which concluded that Mr. Hobby and NOCA had no
(20) relation to the safe operation of the Vogtle
(21) facilities. We would expect the ASLB to address the
(22) reasonableness of this concern as well as the
(23) credibility of the witnesses. It looks like the
(24) decision may be issued in a few months. The NRC
(25) staff should await the Board's review.

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(1) Finally, we expect a reversal of the
(2) Secretary of Labor's decision following an appeal.

(3) For these reasons, we ask that you defer
(4) any enforcement action until the conclusion of these
(5) further proceedings.

(6) I want to make sure that you have all the
(7) handouts that we brought. We have the handouts of
(8) the overlays used in the presentation and the copies
(9) of the reference documents. We have the DOL
(10) administrative law judge's 1991 recommended
(11) decision. We have a package covering employee
(12) concerns and nonretaliation policies, and then we
(13) also have excerpts of the DOL hearing which we feel
(14) the NRC staff will find helpful.

(15) Mr. Reyes, this concludes my prepared
(16) remarks.

(17) MR. REYES: Let me make sure we have
(18) the documents. I want to make sure we have them
(19) all.

(20) MR. HAIRSTON: We have one more set we're
(21) bringing out, the transcripts. These are just
(22) portions of the transcripts.

(23) Mr. Reyes, we realize we're putting a lot
(24) of information, written information before you, and
(25) it's going to take you some time to look through it

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[1] and bring you up to speed with not only the issues
[2] of the Secretary of Labor's decision and the
[3] preceding decisions but also the thick package on
[4] what our policies are and what we've done in the
[5] representative packet we brought you, and so what I
[6] would propose, after your staff has reviewed that,
[7] if they have any other questions, we would be glad
[8] to file, you know, additional clarifications upon
[9] your request.

[10] MR. REYES: Have you concluded your
[11] presentation?

[12] MR. HAIRSTON: Yes, sir.

[13] MR. REYES: Do we have any questions now?

[14] MR. GRAY: I do.

[15] Recognizing that you intend to appeal,
[16] that you disagree with the Secretary of Labor's
[17] decision, you are nevertheless currently under an
[18] order from the Secretary of Labor -

[19] MR. HAIRSTON: That's correct.

[20] MR. GRAY: - that provides that the
[21] Respondent is ordered to offer Complainant
[22] reinstatement to the same or a comparable position
[23] to which he is entitled, comparably paying benefits,
[24] and so on.

[25] Have you at this point offered to

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[1] reinstate the Complainant, or have you sought a stay
[2] of this Secretary of Labor order?

[3] MR. HAIRSTON: It is our understanding
[4] that until it is remanded back to the judge and the
[5] judge acts, it's not a final requirement on us, and
[6] so we're in the process right now of waiting on the
[7] judge. We've had no notification from the judge
[8] that there will be a remedial hearing.

[9] MR. GRAY: At this point, you have not
[10] made the offer and have not sought a stay?

[11] MR. HAIRSTON: No.

[12] MR. MERSCHOFF: It's our intent, of
[13] course, to put out the minutes of this promptly with
[14] all of the attachments you've provided. I just want
[15] to be sure that you understand that. This all goes
[16] into the public domain.

[17] MR. HAIRSTON: Yes, I understand.

[18] MR. MERSCHOFF: We will endeavor to do
[19] that very promptly.

[20] MS. EVANS: No questions.

[21] MR. REYES: What I'd like to do, per our
[22] original agenda, I'd like to have a caucus, since
[23] you're here, for about ten minutes. I want to
[24] consult with the NRC staff and make sure that while
[25] you're still here, there's no issues that we can't

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[1] come back and ask you and take the advantage of you
[2] being present. So we will go off the record for
[3] about ten minutes, and we'll be promptly back.

[4] (Discussion ensued off the record.)

[5] MR. REYES: We do have some questions
[6] that we'd just like to clarify.

[7] The first one is, on the size of the
[8] organization for NOCA, what was the intended size of
[9] the organization originally? Do you know?

[10] MR. WILLIAMS: No. I knew what they had
[11] put together originally, which was the manager and
[12] two, as I said, much lower level positions of
[13] accounting and financial background. I think during
[14] the year, Mr. Hobby tried to hire a performance
[15] engineer, and that was the situation wherein
[16] Mr. Dahlberg said at that point we couldn't hire any
[17] further.

[18] MR. URYC: Do you know what the potential
[19] was in growth? Could that have eventually been a
[20] 30-person organization?

[21] MR. WILLIAMS: No way, because as I said,
[22] we had seven or eight people managing already 47
[23] contracts, and we had people in the joint ownership
[24] accounting area that were doing accounting functions
[25] already. We had people in my area that were

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[1] following the operational issues as far as co-owner
[2] type operational issues, not line operation. They
[3] had more people than they needed then in that
[4] particular job, even if the contract was in place at
[5] the time.

[6] MR. GRAY: On your appeal of the
[7] Secretary of Labor's decision, do you have a feel
[8] for how long that may take? I think you probably
[9] will need to go through the remand first. I think
[10] that the case law would show that that's necessary.

[11] MR. HAIRSTON: That's why we're waiting.
[12] You can't take it to a U.S. court until a decision
[13] is ripe, which would be after remand, and we have
[14] not heard from the judge yet, so we have to wait
[15] until we get through that phase and then start our
[16] appeal process.

[17] MR. GRAY: Maybe Mr. Dobby can provide an
[18] estimate of the time frame for that appeal.

[19] MR. DOMBY: I would be glad to attempt
[20] to. Obviously, if an agreement were to be reached
[21] on the element of compensation and settlement, that
[22] would eliminate any appeal. If the parties
[23] stipulated to the compensation element, then we
[24] would not have to have a remand hearing. I'm
[25] familiar with a case that currently is being

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(1) perfected for appeal to the 11th Circuit, and that
(2) has taken over a year. I don't know the exact time
(3) frame. So there is some time involved in perfecting
(4) the appeal.

(5) MR. HAIRSTON: And we're probably looking
(6) at four months for the ASLB's, inside probably a
(7) minimum of three to four months.

(8) MR. REYES: Linda?

(9) MS. WATSON: In the Secretary of Labor's
(10) decision, he states that Mr. Williams admitted that
(11) he had counseled Mr. Hobby about writing memos such
(12) as the April 27th memo, and I'm just wondering if
(13) you have some comment about whether or not you told
(14) him not to write such memos or what your comments
(15) were in that regard.

(16) MR. WILLIAMS: Sure. As far as this
(17) particular memo, I didn't tell him not to write any
(18) memo. What I explained to him was, when he brought
(19) me the memo and I read it, it was replete with
(20) errors. It was not what I had asked him to bring to
(21) me, in the first place. I was trying to get an idea
(22) of just what they thought their role was going to
(23) be. They're the ones that created this job.
(24) They're the ones that were pushing it and saying
(25) they were having problems getting people to

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(1) cooperate with them. I said, what are your defined
(2) responsibilities? All we had was a one-sheet, Bill
(3) Dahlberg, essentially, memo saying, we're creating
(4) NOCA. So we asked him to say, all right, Mr. Hobby,
(5) tell me what you think your functions are. Bring
(6) those to me and let me understand what you think
(7) your role is going to be because I think your role
(8) already exists, and so he was putting that
(9) together.

(10) Instead, what he brought me was this, and
(11) he starts off with the first sentence in here, there
(12) is clearly no defined person responsible acting for
(13) the agent and joint owners. I had been doing that
(14) since 1984. I had been acting as agent for the
(15) joint owners and all the joint-owned facilities, so
(16) that's the first line in the memo.

(17) He goes on to say it's his understanding,
(18) when we negotiate a new contract with GPC and
(19) SONOPCO, that he would be the one negotiating that
(20) and act as their agent. That was not going to
(21) happen, either. I had been the lead negotiator
(22) negotiating Southern Nuclear and all these other
(23) contract changes we've been talking about since
(24) early '88, a year before, so here he was in an
(25) ill-defined role that really did not have a

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(1) definitive job description.

(2) Other people were continuing to meet
(3) Georgia Power employees, whether they were in
(4) Birmingham now in the Southern Nuclear project or
(5) still in Atlanta, meeting, talking about budget,
(6) exchange of information, accounting information,
(7) GC's memos. He was getting concerned about that.
(8) That was what I was telling him. Marvin,
(9) there's not a defined role yet. These people, even
(10) in their memos, mentioned, what do you think
(11) Mr. Hobby's position and his group should be in
(12) this? So they were even asking as to what was the
(13) purpose for this.

(14) As far as the regulatory issue where he
(15) said, I hear at all these different levels, well,
(16) I'm an officer of the company, and I haven't heard
(17) anybody say, we don't think Pat McDonald reports to
(18) Bill Dahlberg. He says he hears that. I said,
(19) Marvin, it's just not the case. He's an officer of
(20) Georgia Power and reports to Bill Dahlberg. The
(21) management council of the board of directors
(22) approved the budget procedures, and also, it's
(23) working the way it is. Well, I hear Oglethorpe says
(24) that, Marvin, yesterday, you asked me about that.
(25) I gave him an organizational chart. I said what

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(1) Oglethorpe had told me before was that they just
(2) wanted to make sure NRC was comfortable with the
(3) dual hat rule, being an officer of Southern Nuclear
(4) and Georgia Power and Alabama Power at that time.
(5) I said, Marvin, a lot of these problems
(6) you've got in your memo just are not true; they're
(7) not factual. I said, if we tried to get an
(8) organization like yours off the ground, there would
(9) be an interface between a new project and the rest
(10) of the co-owners and us.

(11) You know, the memo, one, is not factual.
(12) I can tell you some of the things in there that are
(13) wrong now. You're complaining and you're whining a
(14) lot in the memo. Marvin, my manager style would be
(15) that you need to sit down with these people and try
(16) to work things out and not just fire a memo off
(17) accusing people and saying things are not working
(18) right. You need to consider that before you send
(19) this memo out. And that was my discussion with
(20) Marvin in a nutshell.

(21) MR. URYC: So what you're saying is that
(22) in reality, the April 27th memo from Mr. Hobby was,
(23) in fact, a work product you had directed him to do,
(24) that being, Mr. Hobby, please define what your view
(25) of NOCA is and what its responsibilities are going

[1] to be?

[2] MR. WILLIAMS: That's correct.

[3] MR. URYC: You were giving him that
[4] direction, and this is the work product that he
[5] brought to you in response to your direction of
[6] April 27th?

[7] MR. WILLIAMS: That's correct.

[8] MS. WATSON: On another topic, the
[9] Secretary of Labor also found that there was
[10] discrimination in changing Mr. Hobby's parking
[11] privileges and his building access. Can you briefly
[12] tell us what your reasons behind those were?

[13] MR. WILLIAMS: Yes. Actually, it's a
[14] concern from the standpoint of nuclear safety
[15] because we were already informed, one, Mr. Hobby was
[16] eliminating his job. We had the discussions of
[17] trying to find a meaningful separation or another
[18] job. I had already moved Mr. Hobby's people up to
[19] the bulk-power market floor and absorbed those into
[20] the existing department that was already doing this
[21] job and left him in his office.

[22] One day he came up, though, as we
[23] frequently were still meeting after that, and I
[24] might say the pipeline issue and all of this was
[25] even after the April 27th memo. Up to this time, I

[1] still had Mr. Hobby meeting with the joint owners
[2] working on these contracts, at least the technical
[3] portions of them, so I had no problem with Mr. Hobby
[4] continuing to function in those areas. It was just
[5] we didn't need a general manager's job at this
[6] level. It just was too expensive for the company to
[7] have that, and it was confusing from a reporting
[8] standpoint.

[9] But he had come up to my office and said
[10] he was tired. I said, why are you tired? And he
[11] said, because I've been down shredding nuclear
[12] documents. Having told Mr. Hobby we're going to
[13] eliminate his job and not being able to come to a
[14] reasonable settlement, that gave me some concern
[15] that a man was down there shredding some documents
[16] that I was unaware, so after that, and then a day or
[17] two later, I think, Mr. Boren, the senior VP who had
[18] been part of our negotiations on separation, had
[19] seen Mr. Hobby come in through our executive garage
[20] and had somebody that we didn't know with him or he
[21] did not recognize. The way our executive garage is
[22] set up is, you came in with just a card access
[23] through one of these wooden doors and you didn't
[24] have to pass the guard to go inside, so you didn't
[25] have to sign anybody in. You could bring anybody

[1] in.

[2] The combination of those two things and
[3] the fact that we had eliminated his job, I suggested
[4] to Mr. Hobby, you need to move on up to the floor
[5] where I was so I would know what's going on. I
[6] needed him to sign in every day just in my area for
[7] what I considered security reasons from the
[8] standpoint of the company and our nuclear program
[9] and other programs, and all I'd asked him to do
[10] during that period of time was to find another job,
[11] and I had offered eight or ten thousand dollars help
[12] to him from a consultant to help him find another
[13] job. I had to continually work with the personnel
[14] department to work with Mr. Hobby on looking for
[15] another job in the company. He never took any kind
[16] of opportunity to do any of that, and he just sat
[17] out his time. I said, there's no reason, then, for
[18] you to be going anywhere else in the building. With
[19] my concern of safety, I want to know what you're
[20] doing, so be on my floor. Sign in. You only need
[21] to be on the first through the third floor, which is
[22] the human resources that does this type thing, and
[23] the nineteenth floor. In reality, once you're
[24] inside the Georgia Power building - you may be
[25] there - you can go to any floor you want to, so

[1] that was not a big constraint.

[2] As far as the parking place, we moved him
[3] from a covered garage on one side of the building to
[4] right outside the front door on the other side,
[5] still in the manager's level. We had a parking
[6] place for him. It wasn't like we told him to go
[7] find some place to park. We moved him from a free
[8] access area where we were concerned about him to one
[9] where he had to come by the guard.

[10] MS. WATSON: That's all I have.

[11] MR. WHEELER: Did other people on your
[12] floor also have to sign in?

[13] MR. WILLIAMS: No.

[14] MR. WHEELER: But he did?

[15] MR. WILLIAMS: Again, the reason I was
[16] doing that was that I was concerned about the
[17] position and what went on. It was not because of
[18] any retaliatory, I was just concerned and would
[19] like to know what he was doing.

[20] MR. REYES: Thank you for answering all
[21] our questions. We have no further questions at this
[22] time, and we want to close the meeting. Thanks.

[23] (Proceedings concluded at 3:30 p.m.)

[24]

[25]

STATE OF GEORGIA:
COUNTY OF FULTON:

[1]

[2]

[3] I hereby certify that the foregoing transcript
[4] was reported, as stated in the caption, and the
[5] proceedings thereto were reduced to typewriting
[6] under my direction; that the foregoing pages 1
[7] through 51 represent a true, complete, and correct
[8] transcript of the evidence given upon said hearing,
[9] and I further certify that I am not of kin or

[10] counsel to the parties in the case; am not in the
[11] employ of counsel for any of said parties; nor am I
[12] in anywise interested in the result of said case.

[13] Disclosure Pursuant to O.C.G.A. 9-11-28 (d):

[14] The party taking this deposition will receive
[15] the original and one copy based on our standard and
[16] customary per page charges. Copies to other parties
[17] will be furnished at one half that per page rate.
[18] Incidental direct expenses of production may be
[19] added to either party where applicable.

[20] Our customary appearance fee will be charged to
[21] the party taking this deposition.

[22] This, the 5th day of October, 1995.

[23]

[24] JOHN P. PAYNE, CCR-B-1006

My commission expires on the

[25] 7th day of October, 1997.

CHRONOLOGY

- Summer, 1988 Announcement of SONOPCO Project location in Birmingham.
- Marvyn Hobby turns down an opportunity to be considered for a position in GPC Nuclear Operations in Birmingham.
- November 1, 1988 "Phase I" SONOPCO Project Formation in Birmingham.
- December 14, 1988 Grady Baker's performance evaluation of Marvin Hobby. (Tab 1)
- December 27, 1988 Bill Dahlberg memorandum forming new NOCA group; new General Manager position created for Hobby. (Tab 2)
- January 27, 1989 Hobby's new General Manager position two levels above his old position; salary increase from \$95,000 to \$103,140 per year plus potential bonus (CX14; Tr. 116).
- April 26, 1989 Hobby memo to Fred Williams transmitting Oglethorpe Power's request for explanation of reporting structure. (Tab 3)
- April 27, 1989 Hobby memo to Fred Williams identifying problem areas between NOCA and SONOPCO Project. This memo was solicited by Williams. (Hobby Tr. 147-148) (Tab 4)

CHRONOLOGY - Continued

- May 5, 1989 Bill Dahlberg, Joe Farley, Grady Baker meeting in Atlanta to discuss SONOPCO-related negotiations between GPC and Oglethorpe Power. Request for SONOPCO Project to employ Hobby.
- May 15, 1989 Williams memo to Hobby responding to Oglethorpe Power's request; Hobby provides memorandum to Oglethorpe Power. (Tab 5)
- June 28, 1989 Michael Barker in SONOPCO Project (Vogtle) calls "Dial Dahlberg" concerning his transfer request to Hobby's NOCA. Barker states that Dahlberg says the need for NOCA is uncertain. (Hobby Tr. 908-911.)
- November 7, 1989 Georgia Power Management Council meeting in which the performance of VPs and GMs was evaluated (McDonald and Williams not present).
- January 1, 1990 Hobby begins to report to Fred Williams. Williams reports to Dwight Evans.
- February 2, 1990 Hobby's position as GM - NOCA eliminated, out-package set forth in letter. (Tab 6)
- October-November, 1990 Department of Labor Hearings, Hobby v. Georgia Power.

WHY WAS MR. HOBBY'S POSITION AS
GENERAL MANAGER ELIMINATED?

November 8, 1991
Recommended Decision
90-ERA-90

I find that the decision to eliminate the position of manager of NOCA was in no way related to . . . the concern raised in his April 27, 1989 memorandum as to from whom Mr. McDonald receives his management direction for operation of the Georgia Power Nuclear plants . . . the decision to eliminate the position was fully justified as a measure to operate the Respondent's nuclear program more economically and efficiently. (ALJ at 44)

August 4, 1995
Decision and
Remand Order

Respondent [Georgia Power] decided to remove Complainant from the "pipeline" to silence these ongoing complaints about the reporting structure. (SOL at 23)

GROUND'S FOR GEORGIA POWER APPEAL

The Standard of Review for the Secretary of Labor's Order

The Secretary of Labor improperly made credibility determinations

The Secretary of Labor's decision is not based on substantial evidence in the record

The Secretary of Labor erroneously concluded that Mr. Hobby's complaints about Mr. McDonald's "lack of cooperation with NOCA" were safety concerns

THE STANDARD OF REVIEW FOR THE SECRETARY OF LABOR ORDER

"A Secretary's findings of fact and credibility choices must be supported by substantial evidence...As in this case, when there are disagreements between the Secretary and the ALJ involving questions of fact and credibility, the court may examine the evidence more critically in determining whether there is substantial evidence to support the Secretary's decision....we are not required to choose between the ALJ's and Secretary's determinations. Rather, we merely require that the Secretary's choice in adopting two fairly conflicting views be supported by articulate, cogent and reliable analysis." Bechtel Const. Co. v. Secretary of Labor, 50 F3d 926, 933 (11th Cir., 1995).

"[W]hen the administrative law judge has concluded that a witness's testimony is credible, that is an important factor for a reviewing court to consider. The notion that special deference is owed to a credibility finding by a trier of fact is deeply imbedded in our law....We are neither to conduct a de novo proceeding, nor to rubber stamp the administrative decisions which come before us. Rather, our function is to ensure the decision was based on a reasonable and consistently applied standard, and was carefully considered in light of all the relevant facts." The basis for rejecting the ALJ's credibility findings should ordinarily be expressly stated. See, Parker v. Bowen, 788 F2d 1512, 1521 (11th Cir. en banc, 1986).

THE SECRETARY OF LABOR IMPROPERLY
MADE CREDIBILITY DETERMINATIONS

Judge Williams

[Mr. Hobby] declined to transfer [to Birmingham]. Instead, he designed a job for himself which he could perform at the Atlanta headquarters of Georgia Power, i.e., manager of a contract administration group. He then sold the idea to Mr. Head, whom he respected and with whom he apparently had a good relationship. Mr. Baker reluctantly went along with the idea because he did not have anything else for the Complainant to do. Mr. Dahlberg's approval was based, in part, on his belief that incorporation of SONOPCO would occur in a matter of months. (ALJ at 40)

Secretary of Labor

The ALJ erred in finding that Complainant designed NOCA as a means to stay in Atlanta... Dahlberg testified that he established NOCA in Atlanta because that is where he is located. (SOL at 22, fn.13)

THE SECRETARY OF LABOR
IMPROPERLY MADE CREDIBILITY
DETERMINATION

Judge Williams

Fred Williams' objection to having the memorandum go forward, or even being preserved, was based on its obvious complaining style . . . I believe Mr. Williams when he says that he was just trying to help Complainant to be a better manager. (ALJ at 42)

I have quoted the April memorandum in toto because I believe it amply demonstrates why Mr. Williams was unhappy with the document. His objection . . . was based on its obvious complaining style. Significantly, the memorandum which the Complainant raised the previous day, which raised essentially the same reporting question, was retained in Respondent's files. (ALJ at 42)

Secretary of Labor

Criticism [of Hobby's management skills] was based on the protected complaint raised in the memorandum, not on the memorandum's "complaining style." (SOL at 20)

I conclude that Williams feared the memorandum, detailing and documenting Complainant's [Hobby's] problems with McDonald's interference and warning Respondent [GPC] about the potential regulatory violation, would validate Smith's concerns or garner new ones by Oglethorpe [Power]. (SOL at 24)

THE SECRETARY OF LABOR
IMPROPERLY MADE CREDIBILITY
DETERMINATION

Judge Williams

Secretary of Labor

That their [Management Council] evaluation of the Complainant's abilities may have differed from earlier performance evaluations comes as no great surprise. Mr. Miller and Mr. Head, for whom he had earlier worked, had retired from the Company . . . the evaluation was based on his performance in a different position. Mr. Baker was concerned that the Complainant had not fulfilled his job of gaining cooperation from SONOPCO. (ALJ at 43)

The drastic, inadequately explained change in Respondent's perception of Complainant's work performance is further evidence of pretext. (SOL at 21)

THE SECRETARY OF LABOR
IMPROPERLY MADE CREDIBILITY
DETERMINATION

Judge Williams

Revocation of executive parking privileges and badge and his restriction to certain floors of the headquarters building was not in retaliation for his having filed the instant [DOL] complaint but was a justified security measure. (ALJ at 44)

Secretary of Labor

Williams and Boren limited his privileges to hinder the lawsuit. (SOL at 28)

**THE SECRETARY'S FINDING IS NOT BASED
ON SUBSTANTIAL EVIDENCE**

The council members in effect decided to terminate Complainant's employment during the November 7 meeting. Baker ultimately conceded that they decided to eliminate the position at that time. Williams and Evans simply provided Respondent with a post-hoc explanation for implementing the November 7 decision. (SOL at 18, citing Tr. at 702-04, 708-09.)

THE EVIDENCE

- Q. So it's your testimony that on the date of that management council meeting Marvin Hobby was eliminated from Georgia Power Company, the final decision?
- A. Not eliminated. We concurred with a recommendation that had been made, yes, and that was the final concurrence. There was nobody else to get concurrence from, because all the senior officers of the company were there.

Part

Q. Now, Mr. Dwight Evans testified earlier that his recollection of it, and that he had a specific recollection, was that the decision was made much later on December 29th, 1990.

A. I have no idea what Mr. Evans has in mind.

Q. So, it's your understanding that happened a lot earlier than that December 29th meeting?

A. No. I've testified several times that I don't remember the date of this meeting.

Q. But the notes --

A. But, you know, both counsel and you have showed me things, and you've asked me if this makes sense, and I have agreed with you that it does make sense, but I do not have an independent recollection of the date of the meeting, period.

Baker, Tr. at 704.

Q. So we have that management council meeting [at which the leadership of individuals in higher positions of the Company were evaluated]. Now I want to ask you if you remember another management council meeting subsequent to the one we've just been talking about, and if you remember Dwight Evans at that meeting announcing to the management council that a recommendation had been made by Fred Williams, approved by Dwight Evans, approved by Tom Boren, that Marvin Hobby's job should be eliminated as not necessary?

A. Yes, sir.

Q. And without regard to whether -- you know, I won't ask you to state what month because I know you don't remember the date, but is your testimony that the meeting in which Mr. Evans spoke occurred after the meeting in which the performance and potential was evaluated?

A. Yes.

Baker, Tr. at 708-709.

MR. McDONALD'S "LACK OF COOPERATION"
WITH NOCA WAS NOT A SAFETY CONCERNS

THE SECRETARY'S POSITION

" . . . Complainant's protected complaint about the reporting structure also was implicit in his complaints about McDonald's lack of cooperation with NOCA . . . criticism of Complainant's complaints about lack of cooperation from McDonald is, therefore, based on and tantamount to criticism of Complainant's protected activity." (SOL at 22-23)

"Williams admission that he informed Dahlberg and Baker of some of the concerns raised in the April 27 memo . . . inherently would have included Complainant's accusations of wrongdoing and predictions of NRC intervention as a corollary to McDonald's lack of cooperation with NOCA." (SOL at 24)

THE NRC'S POSITION

- NOCA was not required by NRC regulations, the plants' licenses or the licensee's commitments to the NRC
- ". . . the so-called NOCA group had no relation to or effect upon the operation, or the safe operation, of the Vogtle facilities." NRC Proposed Findings of Fact, Conclusions of Law, and Order. Georgia Power Company (Vogtle Electric Generating Plant), Docket SO-424/425 OLA-3, March 6, 1995, at 29.
- ". . . Mr. Hobby and NOCA had no relation to the safe operation of the Vogtle facilities." Id., at 33.

Performance Appraisal

Employee Name (Last Name First) Hobby, Marvin B.	Emp. No. 42784	Current Job No./Title Asst. to Senior Executive Vice President
Division/Department Executive	Annual Merit Review Date 1/1/89	Location 14/333

Accountability

Manage nuclear financial services in such a manner that provides timely reporting and information to managers on fiscal matters, provide oversight to budget preparation and

Goal expenditures.

Maintain Nuclear Operating Services Operating and Maintenance actual expenditures as follows

- 95.0% of budget or less.....Excellent
- 95.1% to 100% of budget.....Commendable
- 100.1% to 105.0% of budget.....Fully Acceptable

Performance Evaluation

Through October, total nuclear responsibility budget was \$12,231,146 under budget or 5.95%. Through October, Nuclear Operating Services O & M expenditures were \$6,800,000 under budget or 13.8%.

- Excellent
- Commendable
- Fully Acceptable
- Needs Improvement
- Unsatisfactory

Accountability

Provide administrative, procurement, MIS and financial services support to Hatch and Vogtle such that site O & M expenditures are maintained within approved levels.

Goal

Maintain Nuclear Operations Responsibility budget as follows:

- 95.5% of budget or less.....Excellent
- 95.1% to 100% of budget.....Commendable
- 100.1% to 105.0% of budget.....Fully Acceptable

Performance Evaluation

Through October, total nuclear operations responsibility budget was \$12,231,146 under budget or 5.95%.

- Excellent
- Commendable
- Fully Acceptable
- Needs Improvement
- Unsatisfactory

Employee Name (Last Name First)	Emp. No.	Current No./Title
Hobby, Marvin B.	42784	Asst. to Senior Executive Vice Presi
Division/Department	Annual Merit Review Date	Location
Executive	1/1/89	14/333

Accountability

Provide Management direction and oversight to Corporate Security and Quality Technical Services to ensure compliance with NRC requirements.

Goal

Achieve improved performance in security such that the number of NRC violations related to security per 10 inspector manhours is limited to:

LEVEL	I	II	III	IV and V
Excellent	0	0	0	0
Commendable	0	0	0	1
Full Performance for Region	0	0	0	2

No violations in Nuclear Procurement Group.

There were no violations resulting from the work of the Quality Technical Services Group.

- Excellent
 Commendable
 Fully Acceptable
 Needs Improvement
 Unsatisfactory

Accountability Promote safe work practices in all locations to reduce disabling accidents as evidenced by keeping the incidence rate as low as possible.

Goal

Performance Measure: An incidence rate of
0.09 or less.....Excellent
0.10 to 0.13.....Commendable
0.14 to 0.17.....Fully Acceptable

Performance Evaluation

The lost time incidence rate at Plant Hatch and Plant Vogtle is 0.0.

- Excellent
 Commendable
 Fully Acceptable
 Needs Improvement
 Unsatisfactory

Performance Appraisal

Employee Name (Last Name First) Hobby, Marvin B.	Emp. No. 42784	Current Job Title Asst. to Senior Executive Vice President
Division/Department Executive	Annual Merit Review Date 1/1/89	Location 14/333
Accountability: Provide coordination and management of Nuclear Procurement Organization such that capacity factors of both Plant Hatch and Vogtle are maximized.		

Goals

Achieve capacity factors as follows:

Plant Hatch.....65%
Plant Vogtle.....67.5%

Performance Evaluation

Capacity factors through October are as follows:

Plant Hatch63.2%
Plant Vogtle.....72.8%

- Excellent
 Commendable
 Fully Acceptable
 Needs Improvement
 Unsatisfactory

Accountability

Goals

Performance Evaluation

- Excellent
 Commendable
 Fully Acceptable
 Needs Improvement
 Unsatisfactory

Performance Appraisal

Employee Name (Last Name First)
 lobby, Marvin B.

Emp. No.
 42784

Annual Merit Review Date
 1/1/89

Overall Performance Rating

- Excellent
 Commendable
 Fully Acceptable
 Needs Improvement
 Unsatisfactory

Employee's Strengths

Marvin's knowledge of national nuclear industry is unsurpassed. He has been on temporary assignment in Nuclear Operations this year and the Sr. Vice President - Nuclear Operations concurs in this rating.

Developmental Needs

Other assignments to broaden knowledge of Georgia Power Company's general operations.

Future Growth Possibilities

Departmental manager

Developmental Action Plan

Developmental Goals	Action Steps	Target Completion Date	Person Responsible
Be Developed			

Goals for the Review Period (This section to be completed at the beginning of the Review Period.)

The employee has been presented goals for the review period and these goals have been discussed in relation to department and/or organizational goals.

Employee Signature <i>M. B. lobby</i>	Date	Rater (Immediate Supervisor)	Date
(This section to be completed at time of review)			
Employee Signature <i>M. B. lobby</i>	Date	Employee Comments	
Rater (Immediate Supervisor) <i>[Signature]</i>	Date 12/14/88		
Endorser (Second Level Supervisor) <i>[Signature]</i>	Date		

Case No: 42784 Employee Name: HOUBY, J

Date of Proposed Change: 05/31/89 Status: 01-01-89

Present Status

Code	10
Grade	01
Position	083
Job Title	3319

Recommended Status

Division	SAME
District	SAME
Team	SAME
Department	SAME
Position	09A
Position	SAME

Employee Name: IRVIN, HCHBY AC No: 009091

Payroll Case No: F Amount: 7956.00 Hours: 75

Wage Hour Code: A

Amount of This Change: 379.00 Wage Hour Code: A

Change Date Effective: 1-1-89

Change Date Effective: 1-1-89

PC	LC	ASB	Sub	Job
0	9450	920	100	0 100

PC	LC	ASB	Sub	Job
				SAME

Date: 1/1/89

Signature: [Signature]

Union Resources Organization: [Blank]

Payroll Use Only: [Blank]

Georgia Power Company
333 Piedmont Avenue
Atlanta, Georgia 30308
Telephone 404 526-6000

Mailing Address:
Post Office Box 4545
Atlanta, Georgia 30302

A. W. Dahlberg
President
Chief Executive Officer

the southern electric system

December 27, 1988

EXECUTIVE OFFICERS
DIVISION VICE PRESIDENTS
GENERAL OFFICE DEPARTMENT HEADS
DIVISION MANAGERS

As you know, Georgia Power Company's nuclear operations group has been relocated to Birmingham, Alabama. We are in the process of working out the agreements with our joint owners to establish Southern Nuclear Operating Company which, when finalized, will contract with us to operate our nuclear plants.

It is important for us to realize that while our nuclear operations may be managed in Birmingham and ultimately will be managed by a separate Southern subsidiary, Georgia Power will be held accountable by our regulatory groups, our stockholders, and the public for the operation and performance of our nuclear units. It is essential that Georgia Power Company be involved in the operations of our units, monitor their performance and integrate nuclear operations goals, accountabilities, and financial planning into Georgia Power Corporate Plan.

Effective immediately, a Nuclear Operations Contract Administration Group is formed to interface with our nuclear operations group in Birmingham. This group will report to Mr. G. F. Head, Senior Vice President, who will be responsible for all nuclear operations interactions.

Mr. M. B. Hobby, Assistant to the Senior Executive Vice President, currently on loan to Nuclear Operations, is named General Manager Nuclear Operations Contract Administration and will report to Mr. Head.

Your support as we move to restructure our nuclear operations group is appreciated.

Sincerely,



A. W. Dahlberg

/dt

c: Mr. E. L. Addison
Mr. J. M. Farley
Mr. H. A. Franklin

TAB-A



Ex. 19

DATE: April 26, 1989
TO: Mr. Fred D. Williams
FROM: M. B. Hobby

At the April 19 Subcommittee for Power Generation meeting, Mr. Dan Smith requested a response to the following. The wording is taken from the minutes exactly as Dan stated.

"Dan Smith requested that Oglethorpe be provided an organization presentation by SONOPCO on the reporting chain up through the Board of Directors for Mr. George Hairston, Mr. R. P. McDonald, Mr. Joe Farley. He specifically asked how Mr. Farley fits into the picture and who he reports to up through the Board."

As we discussed, I am forwarding the question to you for reply.

/blm
c: Mr. G. F. Head

Reply,
Marcia Hobby

CONFIDENTIAL

April 27, 1989

Mr. Fred Williams:

Following is a list of problem areas in Nuclear Operations that you requested.

1. Responsibility as Agent: There is no clearly defined person responsible for acting as agent for the Joint Owners. I serve on the Joint Subcommittee for Power Generation (and am currently serving as Chairman) and deal with their Nuclear Operations people probably more than anyone else. However, you are involved, several of your people are involved and others.

It was my understanding when we tried to negotiate a contract between GPC and SONOPCO and amend the contract between GPC and the Joint Owners, that I would act as OPC's (for example) agent, working for George Head, and that all interactions on nuclear matters between GPC and OPC would come through me with the exception of some specific, routine reports that would be provided directly from SONOPCO to all owners. I am prepared to handle that.

Yet, on Friday, April 21, I received a call from John Meier stating that the SONOPCO Project was establishing a Quarterly Review Meeting with GPC's Joint Owners to discuss Nuclear Operations. John asked if that meeting could replace the Joint Committee or Subcommittee. I said no.

On Tuesday, April 25, Dan Smith from OPC called to say they had been contacted by John Meier and OPC wanted to know who was setting up this Quarterly Review Meeting, its purpose, and why I was not included. He said Oglethorpe was confused as to what is going on and who was in charge.

While I know that there are significant differences between GPC and OPC on a number of matters, the relationship between us in nuclear is excellent. If GPC could get a handle on SONOPCO and, if nuclear could be separated from these other issues, I believe Dan Smith and I could work out all of the problems in nuclear.

2. Communications: On January 19, Pat McDonald called to say he was developing an E mail system to connect all Joint Owners -- including GPC. One of its purposes was to provide daily reports to each Joint Owner on the status of our plants. He asked me to contact Roy Barron to work out details. I did.

On Monday, March 13 (I believe that was the date), Roy Barron told me that the system was ready to do a test run and all he needed was to get Pat McDonald's approval. I called Pat to ask for his approval but he was out of town in Florida. I asked his secretary to ask him if it were okay when he called in. She called back on March 15 to say she had been unable to ask him.

I talked with Pat on Tuesday, March 21, and he said the system wasn't ready.

We are still not connected. I get no information from SONOPCO on the status of our units. I get all of my information (except monthly summaries three weeks after the end of the month) from Oglethorpe Power. I get daily reports from them.

Secondly, we have been limited by Pat McDonald to talking to only one person at the SONOPC. Project -- first it was Bob Gilbert, who delegated it to Merv Brown, who delegated it to Tim Marvin. This process has worked fairly well on routine data requests but on non-routine items, it has been an impediment.

As an example, I was alerted that we were to receive an update of the draft TAC report on Nuclear Operations during the week of April 10 - 14. The responsibility for that report, its review, and rebuttal testimony had been assigned to me. Art Domby had been helping me. Early during that week, Art called Tom Beckham and Ken McCoy and had told them that, when we received the report, we would need technical assistance -- in a short time frame -- in reviewing the report and in preparing for a meeting with the PSC.

Friday, about noon, April 14, I received the report and Art asked me to call McCoy and Beckham to alert them we needed the technical assistance on Monday, April 17, and the meeting with PSC staff and consultants would be held on April 19. My discussions with Beckham went well -- he was very cooperative. McCoy said he didn't know what I was talking about and said he hadn't talked to Domby in weeks. Domby remembers his call because he had to have McCoy tracked down at Plant Vogtle.

I don't know what happened in Birmingham. I received a call from Tim Marvin raising hell that Art and I had called a Vice President. McDonald called a meeting. I received a call from Dwight Evans who said McDonald was irate and I had been taken off the TAC report. I was later told, though I can't prove it to be true, that the Vice Presidents of Georgia Power on the SONOPCO Project were told they could not talk to me or Art Dobby.

In Mr. Dahlberg's memo of December 27, he stated that the interface at Georgia Power with the Nuclear Operations group in Birmingham would be George Head and me (see Attachment A). The interface we have had with them, except for routine data requests, has been negligible. In fact, it has been prohibited.

Yet, SONOPCO Project personnel are not so inhibited. See memo (Attachment B) from Bob Gilbert dated April 20, 1989. Note that George Head and I were not copied on the memo.

In discussing the establishment of Nuclear Operations Contract Administration, I was told that Mr. Head and I would review and approve the SONOPCO Project budget. However, Grant Mitchell of Corporate and Financial Planning at SONOPCO doesn't agree. See page 3 of memo (Attachment C) from G. Mitchell dated April 20, 1989. Neither George Head or I received a copy but it is in direct conflict with what the President of GPC has stated. It is also in conflict with what SONOPCO agreed with the Joint Owners. I also found that first paragraph on page 1 of that memo interesting. Had Georgia Power personnel sent out these two memos, SONOPCO would have raised hell.

3. Interfering with Other GPC Functions: When I was first named to this job, we had a meeting in which I was assigned by executive management certain responsibilities.

Since then, Mr. McDonald has objected to several of these assignments and I have been removed from meetings or relieved of responsibilities, not because GPC management agreed, but in order to get cooperation from SONOPCO.

What we need is for SONOPCO to support us and cooperate with us and allow Georgia Power management the right to determine who does what. Our management and other GPC people will be held accountable for our regulatory affairs effort. We need SONOPCO's support and then let us do our jobs. Unfortunately in several examples, Mr. McDonald has interjected himself into directions of other company functions and support from SONOPCO appears to hinge on his getting his way.

4. Staffing: When we established NOCA, I told George Head we needed a manager, secretary, two accountants, and two performance engineers. He agreed to start out with one accountant and one performance engineer and revisit the staffing level as the work load increased. We later added another accountant.

Back in January, I called Ken McCoy to ask if I could talk to Mike Barker about the performance engineer job. Mike had done a similar job for me prior to going to Birmingham and was well qualified. Ken asked if it were a promotion. I said I had not had the job evaluated yet and didn't know. He said if it were a promotion, SONOPCO would not object.

I had a job description done by Personnel and it was determined to be a Level 13 job — one step promotion for Mike Barker. Mr. Head approved the job description at that level.

I told George Hairston about this in the GPC cafeteria later and relayed my conversation with McCoy, but he would not give me permission to talk to Mike Barker. I called the Administration people at SONOPCO and asked what the rules were. They said they were told if it were a promotion, management would give its permission.

After talking with George Head, we posted the job. I selected the best three candidates and they were all from SONOPCO — which is not surprising. Our Personnel department was told the request to interview had been approved all the way up to George Hairston. But, there it stopped. Later, our Personnel department was told Mr. McDonald would not approve the request because he didn't agree that the job level should be a 13! Although GPC Personnel department and a Senior Vice President at GPC had approved the position, Mr. McDonald has held up this request and I have not been allowed to interview these three gentlemen.

I need the expertise the performance engineer would bring and the lack of support from Mr. McDonald is impacting my ability to get the job done.

5. Cooperation: I served on Phase I of the SONOPCO Task Force and was, and am, a real supporter of the Operating Company concept. In our discussions, Bob Buettner, an attorney with Balsh and Bingham and now a Vice President at Alabama, said Mr. Farley was concerned that once this operating company was established, we would wind up with a group of arrogant, technically trained elitists that the operating companies would have no control over. I now respect Mr. Farley's concern more than I did two years ago.

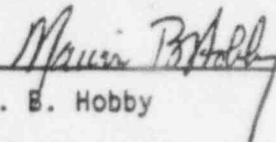
It takes one to operate -- two to cooperate. I know that most people at Georgia Power want to cooperate with SONOPCO and want it to be a success for GPC and the System. But, there are great concerns by many people.

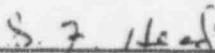
A significant concern that a lot of people have is who does Mr. McDonald work for. I have heard discussions on that at high levels in the Company. It is a very important question because the operating licenses for Hatch and Vogtle are in GPC's name; for Farley, APC. I am not a lawyer or licensing specialist, but I believe both will tell you that it is essential that GPC and APC be in control of these plants. Oglethorpe Power is so concerned that it has formally requested confirmation that Mr. McDonald receives his management direction from and reports to Mr. Dahlberg. If that is not the case, we are in violation of our license and could experience some significant repercussions from the NRC -- including the revocation of the licenses.

Oglethorpe is very concerned about this issue and they feel NRC is concerned. A Region II NRC employee suggested to Oglethorpe that NRC was so concerned that they might seek to put a resident inspector in Birmingham to see what was going on.

In establishing an Operating Company, the System, among other things, sought to open up the opportunity for us to run other utilities' power plants under contract. We should now be operating in that mode -- subject to meeting license conditions. There are some possibilities in the industry now and we ought to be giving serious considerations to how we operate now so that, should we get through the legal hurdles and be given permission to expand outside our service area, we will be ready to aggressively pursue these opportunities. But, I really doubt any utility would be interested in contracting with SONOPCO if their experience with the contractor was going to be similar to Georgia Power's.

Fred, there are other issues relative to SONOPCO, important to the System, that needs to be addressed. I have asked repeatedly for an opportunity to discuss these with senior management. I hope we will get that opportunity soon and can work toward a more cooperative relationship with SONOPCO.


M. B. Hobby


G. F. Head

/blm

Georgia Power Company
333 Piedmont Avenue
Atlanta, Georgia 30308
Telephone 404 526-8000

A. Hachment

Mailing Address:
Post Office Box 4545
Atlanta, Georgia 30302

A. W. Dahlberg
President
Chief Executive Officer

The Southern Electric System

December 27, 1988

EXECUTIVE OFFICERS
DIVISION VICE PRESIDENTS
GENERAL OFFICE DEPARTMENT HEADS
DIVISION MANAGERS

As you know, Georgia Power Company's nuclear operations group has been relocated to Birmingham, Alabama. We are in the process of working out the agreements with our joint owners to establish Southern Nuclear Operating Company which, when finalized, will contract with us to operate our nuclear plants.

It is important for us to realize that while our nuclear operations may be managed in Birmingham and ultimately will be managed by a separate Southern subsidiary, Georgia Power will be held accountable by our regulatory groups, our stockholders, and the public for the operation and performance of our nuclear units. It is essential that Georgia Power Company be involved in the operations of our units, monitor their performance and integrate nuclear operations goals, accountabilities, and financial planning into Georgia Power Corporate Plan.

Effective immediately, a Nuclear Operations Contract Administration Group is formed to interface with our nuclear operations group in Birmingham. This group will report to Mr. G. F. Head, Senior Vice President, who will be responsible for all nuclear operations interactions.

Mr. M. B. Hobby, Assistant to the Senior Executive Vice President, currently on loan to Nuclear Operations, is named General Manager Nuclear Operations Contract Administration and will report to Mr. Head.

Your support as we move to restructure our nuclear operations group is appreciated.

Sincerely,



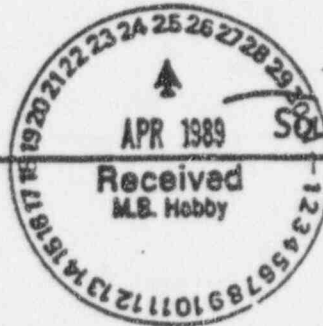
A. W. Dahlberg

/dt

c: Mr. E. L. Addison
Mr. J. M. Farley
Mr. H. A. Franklin

TAB-A

Intracompany Memo



Southern Company Services

DATE: April 20, 1989

TO: Mr. J. T. Beckham
 Mr. L. B. Long
 Mr. C. K. McCoy
 Mr. J. D. Woodard
 Mr. J. G. Meggs

FROM: R. M. Gilbert

Rob Gilbert

*CC
 Mamin Hobby ✓
 MWS.
 DRR
 ASR*

Financial Services is implementing the transitional steps required to consolidate the financial interfaces between the SONOPCO Project and the other System companies. Accordingly, we will assume responsibility for providing cash forecasting data to Alabama Power and Georgia Power effective with May business. This transitional step will require some changes in the current forecasting process, but should have minimal overall impact on your area.

Phyllis McLain has coordinated the development of procedures and schedules with Alabama and Georgia, and will be responsible for compiling all nuclear-related cash expenditure estimates for the SONOPCO Project. She will be in contact with the appropriate personnel in your area with more specific information.

If you have any questions, please call me at extension 5750.

RMG:df

cc: Messrs. J. M. Farley
 R. P. McDonald
 W. G. Hairston
 C. D. McCrary
 J. O. Meier
 D. M. Crowe
 R. S. Fucich
 B. E. Hunt
 C. P. Stinespring
 C. L. Whatley
 C. G. Mitchell
 Ms. P. J. McLain

Alabama Power
 T. J. Bowden
 W. B. Hutchins
 W. L. Smith

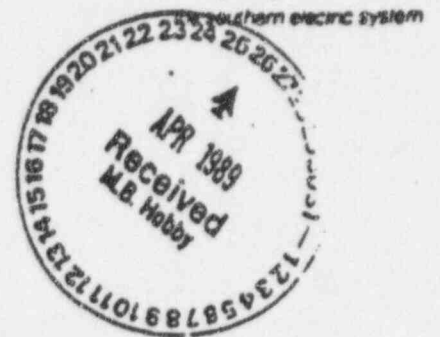
Georgia Power
 W. Y. Jobe
 R. J. Pershing ✓
 C. O. Rawlins

Southern Company Services, Inc.
Post Office Box 2625
Birmingham, Alabama 35202
Telephone 205 870-6011

*C.C. ASR
RSP
Marvin
Hobby → His sec
pg 3.
- C.M. me
Attachment C*

Southern Company Services

SUBJECT: Meeting Notes of April 14th
DATE: April 20, 1989
FROM: C. Grant Mitchell
TO: Mr. Larry Cook
Mr. Jeff Wallace ✓



Below are some notes on topics we discussed in our meeting of April 14th:

- GPC was informed of the following proposed budget assumptions with regard to SONOPCO:
 - SONOPCO will be incorporated by January 1990.
 - The operating license will be obtained and the plant employees will become SONOPCO employees in January 1991.
- SONOPCO must have a means of identifying SCS charges included in budget and actual data to respond to requests from GPSC and others.
- Meeting/discussion notes will need to be kept to show GPC's involvement in the budget process in order to satisfy the GPSC that GPC had input.
- ✓ - SONOPCO must be able to respond to GPC and GPSC's request regarding number of employees, salaries and SCS charges budgeted by month.
- SONOPCO must maintain good work papers in support of budget development in order to support audit requirements.
- There will be no problem with SONOPCO providing GPC with total budget expenditures instead of split between labor and other expenses.
- GPC will only require that SONOPCO provide monthly spreads for the last three forecast years as operations and maintenance, not by FERC.
- If SONOPCO does not budget to the 729 series clearing account GPC will not be able to provide responsibility reports at this level. If SONOPCO does not budget at this level, instructions should be provided not to charge actuals to the 729 series accounts.
- SONOPCO must coordinate with GPC regarding assumptions that are to be used in developing budgets for Pensions, Other Employee

Larry Cook, et al
 ie 2
 ril 20, 1989

Benefits and Payroll Taxes. When SONOPCO exists SONOPCO includes in their budget; when SONOPCO does not exist - GPC includes in their budget development.

SONOPCO must work with Larry Cook to ensure that capital labor is included in the GPC responsibility reports - necessary since this budget data will not be identified as labor.

GPC was made aware of some differences that exists in recording of expenses between APC and GPC:

- APC charges office building rent to nuclear O&M for the Farley project group, whereas GPC charges comparable rent to A&G.
- APC charges employee physicals to nuclear O&M for nuclear employees whereas GPC charges these to A&G.

Larry Cook said that he would check these differences out to see GPC could change. Larry was informed that the treatment of rent could be because of a Joint Owner Agreement.

GPC was informed of the effort SONOPCO was incurring to ensure that all nuclear related charges were being identified through the DA and EA sub work orders. Larry Cook said that he would revisit the use of these special subs and inform us of his findings.

GPC informed that departments will only have one budget at SONOPCO, i.e., there will not be a responsibility budget and a functional budget for each department. Items not previously included in a department's responsibility will now be assigned.

GPC said that it will not pose a problem if SONOPCO submits budgets that include a full months labor rather than on a payperiod basis.

GPC said that General Repair Shop and Repair Shop (Forest Park) charges which were previously not charged to individual RCNs should be budgeted to individual RCN in the 1990 budget.

GPC is going to recommend that both fixed and variable costs be billed to any associated company, including SONOPCO Project, using the GPC helicopter. If this proposal is adopted, the projects would need to budget both fixed and variable costs associated with the usage of the GPC helicopter to their individual RCN beginning with the 1990 budget.

After SONOPCO is incorporated usage of the SCS system aircraft by SONOPCO employees will be billed to SONOPCO by SCS; charge will

Mr. Larry Cook, et al
 Page 3
 April 20, 1989

include both fixed and variable cost. I recommend that these charges be budgeted by the project in 1990 and the plants beginning in 1991 and that a mechanism be put in place so that if SONOPCO is not incorporated in 1990, APC and GPC will be able to identify these charges as SONOPCO.

- GPC did not budget PPP for 1989; accrual of PPP is at the corporate level and all included in A&G. Payout will not be charged against individual RCN although it will be functionalized.
- GPC will probably budget fixed portion of PPP in 1990; departments will be instructed to include base adjustments.
- GPC was informed that SONOPCO may want to budget and accrue their own PPP to the functional account at an executive level. They were asked if they perceived this as a problem - they are to let me know.
- GPC is reviewing the GPC departments that will continue to charge to the nuclear accounts. Larry Cook is to provide me with a list of these departments after it is developed.

Jeff Wallace asked me what Marvin Hobby's role would be in the budget process. I told Jeff that we were intending to submit budgets to Mr. Rick Pershing and that we had not been given any instructions otherwise.

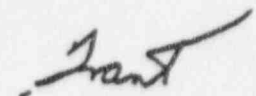
In summary, the following items were discussed:

- Budget assumptions re SONOPCO's incorporation and obtaining the operating license.
- Importance of retaining identity of SCS charges.
- * - Details required to respond to requests.
- Budgeted labor will not be required by FERC.
- Monthly spreads for the last three forecast years.
- The 729 clearing account will not be used beginning 1990.
- Coordination between SONOPCO and GPC will be required re budgeting Pensions, Other Employee Benefits and Payroll Taxes in the 1990 budget process.
- Differences that exists in recording of expenses between APC and GPC.
- Usage of the DA and EA subs.
- Departments will not have two budgets, i.e., responsibility and functional.
- SONOPCO will accrue its own labor accrual.
- Treatment of GPC and SCS aircraft charges.
- Treatment of PPP by GPC and proposed treatment by SONOPCO.

Mr. Larry Cook, et al
Page 4
April 20, 1989

- Non-Nuclear departments at GPC continuing to charge Nuclear O&M.
- Marvin lobby's role in SONOPCO's budget process.

As you are able to respond to any of the above "open" items, please provide me with response. Should you have any comments or questions concerning these notes, please call.



C. Grant Mitchell

CC: Mr. Bob Gilbert
Mr. Paul Brashier
Mr. Merv Brown
Mr. Charles Rucker

FILE:
BUD 1.1.90
BUD 1.3.89

DATE: May 16, 1989
TO: M. B. Hobby
FROM: F. D. Williams

In response to your questions in your letter of April 26, 1989, I have the following reply.

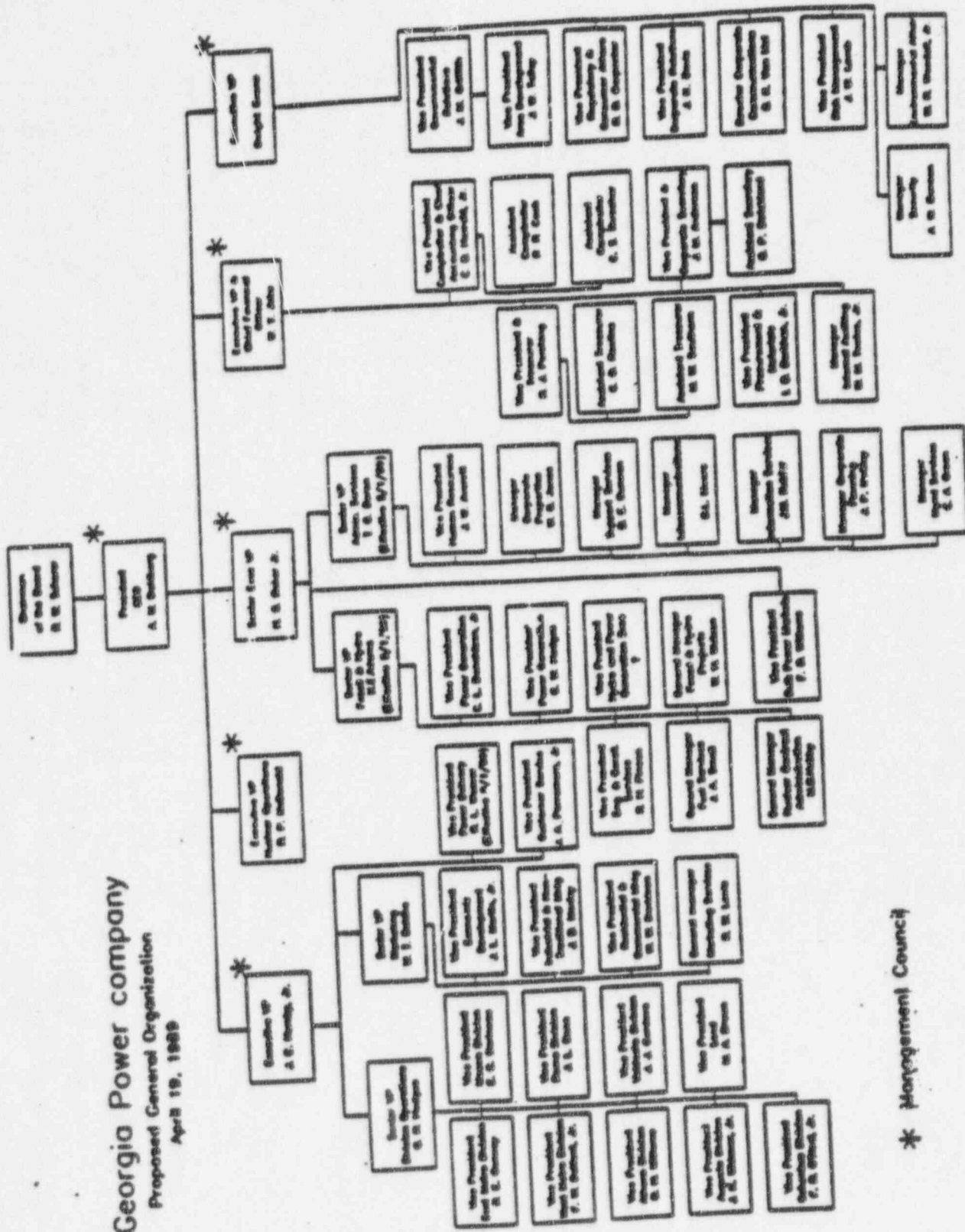
Mr. R. P. McDonald reports to A. W. Dahlberg for operation and support activities of Plants Vogtle and Hatch. I have attached a copy of the most recent published organization chart showing the reporting. Mr. George Hairston reports to Mr. McDonald.

Mr. J. M. Farley, Executive Vice President - Nuclear, provides services relating to the anticipated transfer of nuclear operating and support activities from Georgia Power Company to the Southern Nuclear Operating Company. These services include the compliance with applicable regulatory requirements and for nuclear support on an industry basis.

jdg
Attachment

2-8

Georgia Power company
 Proposed General Organization
 April 19, 1989

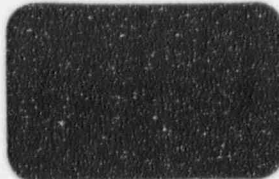


* Management Council

Georgia Power Company
333 Piedmont Avenue
Atlanta Georgia 30308
Telephone 404 526-7211

Mailing Address
Post Office Box 4545
Atlanta Georgia 30302

Fred D. Williams
Vice President
Bulk Power Markets



C-4



Georgia Power

THE GEORGIA POWER COMPANY

February 2, 1990

Mr. Marvin B. Hobby
333 Piedmont
14th Floor

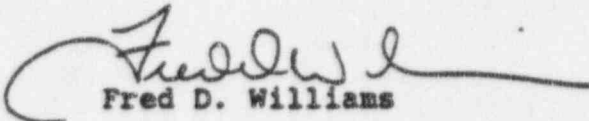
As a result of a management review of our organization, your position as General Manager, Nuclear Operation Contract Administration and Assistant To, has been eliminated. In connection with the elimination of your position, a program has been established in order to recognize your valuable service with the Company over the years and to minimize any financial hardship which you may have to encounter as a result of the elimination of your position.

After April 2, 1990, you will no longer be required to perform any services for the Company. You will have the opportunity to elect to receive benefits under the program, if you agree to sign an agreement containing a release and settlement concerning the elimination of your position within the Company. The benefits will consist of the following:

1. A severance pay benefit equal to four (4) weeks' straight time pay plus one week's straight time pay for each year of system service, based upon your regular rate of pay in effect on the day before your separation notice date. The benefit will be paid in a lump sum, or twelve (12) equal monthly installments, depending upon your selection. The lump sum payment will be made as soon as practical but not later than thirty (30) days after your termination date.
2. You will also receive an amount equal to the employer and employee cost of your group medical and group life insurance. This benefit will cover the cost for six (6) months of insurance coverage. The benefit will be based on the amount of coverage and number of covered dependents currently in effect. This benefit will be paid in a lump sum, or in twelve (12) monthly installments, depending upon your selection. The lump sum payment will be made as soon as practical, but no later than thirty (30) days after your termination date.

Mr. M. B. Hobby
February 2, 1990
Page 2

In order to receive the two benefits above, you must elect the benefits by signing an agreement containing a release and settlement relating to the elimination of your position no later than March 16, 1990.


Fred D. Williams

TROUTMAN, SANDERS, LOCKERMAN & ASHMORE
A PARTNERSHIP OF REGISTERED PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

CANDLER BUILDING, SUITE 1400

127 PEACHTREE STREET, N.E.

ATLANTA, GEORGIA 30303-1810

404-528-8000

CABLE WASTED

TELECOPIER 404-521-0466

February 20, 1990

WRITER'S DIRECT DIAL NUMBER
404-528-6054

JESSE P. SCHAUDIERS, JR.

C-10

Richard Goddard, Esquire
Regional Counsel
Nuclear Regulatory Commission
Region II
101 Marietta Street, Suite 3100
Atlanta, Georgia 30323

VIA HAND DELIVERY

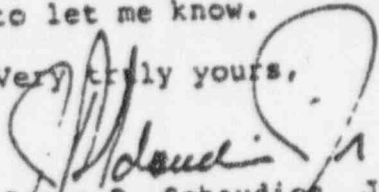
Dear Mr. Goddard:

This letter is to inform you of the existence of a charge we have been told has been filed against our client, Georgia Power Company, under the Energy Reorganization Act. Georgia Power Company has been advised by the law firm of Kohn, Kohn and Colapinto that Marvin Hobby filed a charge with the Department of Labor on February 6, 1990, but no one within the Company or this law firm has yet seen the charge.

On February 1, 1990, Mr. R.P. McDonald advised Regional Administrator Stuart Ebnetter that he had learned Hobby's lawyers claimed Hobby was being discharged in retaliation for a regulatory concern he allegedly raised in 1989. Hobby's counsel has alleged the concern was raised in a memo of April 27, 1989, but Georgia Power Company does not have a copy of the alleged memo. Hobby's former Georgia Power Company superior recently asked him to provide a copy of the alleged memo, but Hobby said he did not have one. Subsequently, Hobby's attorneys have also failed to provide a copy of the memo to the Company after being requested to do so.

Mr. McDonald told Mr. Ebnetter he would keep him apprised of developments in Hobby's allegations, but there is little more to report at this time. I will send you a copy of the DOL charge after I receive it. In the meantime, if I can be of further assistance, please do not hesitate to let me know.

Very truly yours,


Jesse P. Schaudiers, Jr.

JPSJr./sm

cc: Mr. Stuart Ebnetter

ENT BY:FC/LL

7-5-4-80 ; 4:17PM ; TROUTMAN, SANDERS, LOCKERMAN & ASHMORE

2024824145:W 4

TROUTMAN, SANDERS, LOCKERMAN & ASHMORE

ATTORNEYS AT LAW
CANDLER BUILDING, SUITE 1400
127 PEACHTREE STREET, N.E.
ATLANTA, GEORGIA 30303-1810
404 528 9000
CABLE MAILING
TELETYPE 404 528 0488

WRITER'S DIRECT DIAL NUMBER
404 528 8004

JESSE P. SCHAUDIES, JR.

March 16, 1990

Richard Goddard, Esquire
Regional Counsel
Nuclear Regulatory Commission
Region II
101 Marietta Street, Suite 3100
Atlanta, Georgia 30323

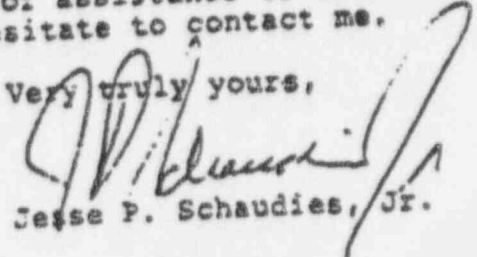
Re: Claim by Marvin Hobby

Dear Mr. Goddard:

Georgia Power Company received this week a copy of the two (2) Complaints I have enclosed for your review. As I believe you know, Marvin Hobby is a former employee of Georgia Power Company. While the Complaints appear to have been filed sometime ago, this week was our first opportunity to review them. Thus, I had been asked by Mr. R.P. McDonald and Mr. George Hairston to forward them to you for your review.

If there is any way we can be of assistance to the NRC in this regard, I hope you will not hesitate to contact me.

Very truly yours,


Jesse P. Schaudies, Jr.

JPSJr./sm

Enclosures

cc: Mr. R.P. McDonald
Mr. W. George Hairston

TROUTMAN, SANDERS, LOCKERMAN & ASHMORE

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

ATTORNEYS AT LAW

CANDLER BUILDING, SUITE 1400

127 PEACHTREE STREET, N.E.

ATLANTA, GEORGIA 30303-1810

404/522-8000

CABLE: MASTRO

TELECOPIER 404/521-0488

JESSE P. SCHAUDIES, JR.

WRITER'S DIRECT DIAL NUMBER
404-522-6034

May 4, 1990

Richard Goddard, Esquire
United States Nuclear Regulatory Commission
Region II
Suite 3100
101 Marietta Street
Atlanta, Georgia 30323

VIA HAND DELIVERY

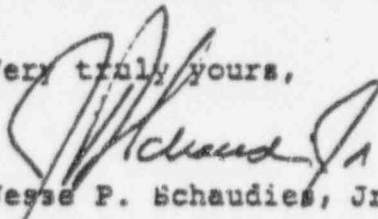
Re: Marvin B. Hobby v. Georgia Power Company
Case No. 90-ERA-30

Dear Mr. Goddard:

I have previously supplied you with copies of Mr. Hobby's Complaint and the DOL Determination in the above-captioned matter. As I believe you know, Mr. Hobby has alleged that he raised a regulatory concern in a memorandum of April 27, 1989. Just this week, I have received, for the first time, a copy of all eight (8) pages of the alleged memorandum. I have endeavored to obtain from Mr. Hobby's counsel copies of the attachments that are referenced in the memorandum, but those have not been forthcoming. Mr. McDonald has asked that I forward the memorandum to you without waiting any longer for the attachments.

If there is any way I can be of further assistance, please do not hesitate to let me know.

Very truly yours,



Jesse P. Schaudies, Jr.

JPSJr./sm

Enclosure

cc: Mr. R.P. McDonald (without enclosure) (VIA FAX)

TROUTMAN, SANDERS, LOCKERMAN & ASHMORE
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

ATTORNEYS AT LAW

CANDLER BUILDING, SUITE 1400

127 PEACHTREE STREET, N.E.

ATLANTA, GEORGIA 30303-1810

404-658-8000

CABLE: MAESTRO

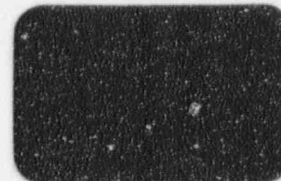
TELECOPIER 404-221-0459

JESSE P. SCHAUDIES, JR.

WRITER'S DIRECT DIAL NUMBER

404-658-8054

May 7, 1990



Richard Goddard, Esquire
United States Nuclear Regulatory Commission
Region II
Suite 3100
101 Marietta Street
Atlanta, Georgia 30323

C-9

VIA HAND DELIVERY

Re: Marvin B. Hobby v. Georgia Power Company
Case No. 90-ERA-30

Dear Mr. Goddard:

Enclosed please find copies of three (3) documents that Mr. Hobby's counsel has provided. He has said these were attached to the April 27, 1989, memo. These were received in my office yesterday via FAX, and I have been asked to provide them to you.

Very truly yours,

Jesse P. Schaudies, Jr.

JPSJr./sm

Enclosures

cc: Mr. R.P. McDonald (with enclosures)

U.S. Department of Labor

Employment Standards Administration
Wage and Hour Division
1375 Peachtree Street, N.E.
Atlanta, Georgia 30367



May 25, 1990

Mr. Marvin Hobby
925 Melody Lane
Roswell, GA 30075

Mr. Michael E. Kohn
Kohn, Kohn & Colapinto, P. C.
517 Florida Avenue, N.W.
Washington, DC 20001

In the Matter of: Marvin B. Hobby v. Georgia Power Company
Case No. 90-ERA-30
SOL Case No. 90-10455

Dear Messrs. Hobby and Kohn:

This letter is to notify you of the results of our compliance review pursuant to the Court's Order of May 7, 1990. As part of this review, by letters dated May 9, 1990, we notified each party to provide this office any additional information or material by 5 p.m. on May 18, 1990. By letters dated May 18, 1990, the attorneys for each party submitted additional information including depositions and other documents.

We hereby amend our March 26, 1990 findings notification letter to the extent indicated as follows. Based upon the information made available to us, Mr. Hobby's job was eliminated due to a management reorganization, and management's decisions concerning the reorganization were made without knowledge or consideration of Mr. Hobby's engagement in protected activities.

A copy of this letter is being forwarded to Administrative Law Judge Joel Williams.

Very truly yours,

Daniel W. Bremer
District Director

cc: Mr. Joel Williams
Administrative Law Judge
Office of Administrative Law Judges
U. S. Department of Labor
1111 20th Street, N.W., Suite 700
Washington, DC 20036

✓ Mr. Jesse P. Schaudies, Jr.
Troutman, Sanders, Lockerman
& Ashmore
Candler Building, Suite 1400
127 Peachtree Street, N.E.
Atlanta, GA 30303-1810

Nuclear Regulatory Commission
Office of Enforcement
Washington, DC 20555

Mr. A. William Dalberg
President & CEO
Georgia Power Company
333 Piedmont Avenue, N.E.
Atlanta, GA 30308



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
101 MARIETTA STREET, N.W.
ATLANTA, GEORGIA 30323

JUN 21 1990



Georgia Power Company
ATTN: Mr. R. P. McDonald
Executive Vice President
Nuclear Operations
40 Inverness Center Parkway
Post Office Box 1295
Birmingham, Alabama 35201

Gentlemen:

SUBJECT: MARVIN B. HOBBY v. GEORGIA POWER COMPANY
(DOL CASE NO. 90-ERA-30)

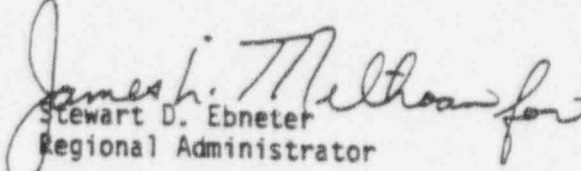
This letter responds to your letter dated May 17, 1990, which provided a response to our request for information regarding the basis for the employment action involving a former Georgia Power Company (GPC) employee who alleged to the Department of Labor (DOL) that his position was eliminated because he had raised safety concerns while performing his duties at GPC.

Our request, which was sent by letter dated April 18, 1990, to Mr. W. G. Hairston, III, was based upon the findings of the DOL Acting District Director who documented his findings in a letter dated March 26, 1990. Those findings indicated that the former employee was "...a protected employee engaging in protected activity within the scope of the Energy Reorganization Act of 1974 and discrimination as defined and prohibited by the statute was a factor in the action which comprise his complaint." Based on additional information, DOL has subsequently amended their initial finding and concluded in a letter dated May 25, 1990, that the former employee's position "...was eliminated due to a management reorganization, and management's decisions concerning the reorganization were made without knowledge or consideration of [the individual's] engagement in protected activities."

Based on the current pending status of this matter before DOL Administrative Law Judge J. Williams, we concur with your request to defer further discussion of the merits of the discrimination allegation until completion of the DOL process.

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

Sincerely,


Stewart D. Ebnetter
Regional Administrator

**POLICIES AND PRACTICES
FOR EMPLOYEE CONCERNS**

THE SOUTHERN COMPANY

The Southern Style

Teamwork - "We communicate openly and value honesty. We listen. We respect all opinions and expect differing viewpoints as we work together toward common goals." (TAB A)

Vogtle/Hatch Officer Highlights -

"I will specifically highlight the teamwork behavior with particular emphasis on respecting all opinions and expecting differing viewpoints."

"Sharing of information is imperative to succeed." (TAB B)

GEORGIA POWER COMPANY

Code of Ethics - "Truth - the internal and external reporting and exchange of information is a critical part of the conduct of our business." (TAB C)

Corporate Guidelines - Corporate Concerns Program (Atlanta) (TAB D)

Quality Concerns Programs - Vogtle & Hatch (TAB E)

NRC Inspection Report 95-14 (Vogtle) and 95-12 (Hatch), June 22, 1995

Vogtle Concerns Brochure

Hatch Initial Training Documentation

Vogtle General Employee Retraining

Plant Newsletter Articles

Communication with Nuclear Employees (TAB F)

May 11, 1994 W. G. Hairston, III Letter

May 11, 1994 J. D. Woodard Talking Paper

January 1, 1991 W. B. Shipman (Vogtle) Letter

SOUTHERN NUCLEAR OPERATING COMPANY

Employee Concerns Program (Birmingham) (TAB G)

Guidelines

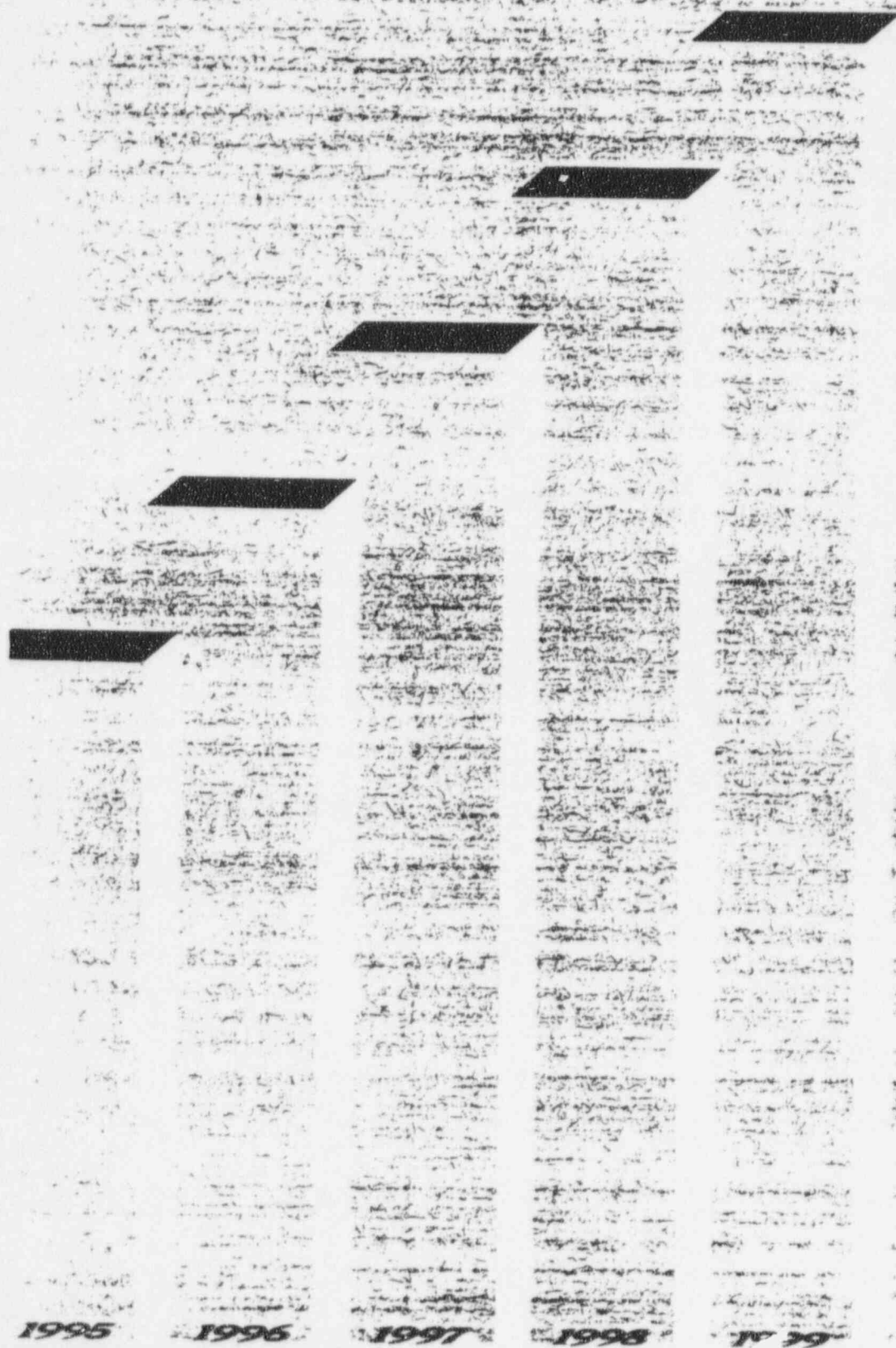
Procedure

Brochure

Newsletter Articles

Correspondence with SNC Employees

Southern Beyond 2000



The Challenges We Face

- The global marketplace is placing competitive pressures on our customers and forcing us to further reduce our costs.
- Competition to build new generation will continue to grow. Independent power producers are pressing to open all generation projects to competitive bidding — with the support of industrial customers seeking cheaper energy.
- Power marketers are pushing hard for more competition. Multiple players are flooding this market in anticipation of a restructured industry.
- Wholesale rates are being driven down by wholesale transmission access, mandated by the Energy Policy Act of 1992.
- Federal regulators are advocating a sweeping restructuring of our industry. Members of Congress are calling for market-force competition. And throughout America, individual states are considering retail access — even for residential customers.
- Retail access may or may not be inevitable, but we must plan as if it is. Clearly, competition at the retail level will accelerate. Just the threat of retail access has unleashed forces that will have a far-reaching impact on our markets, competitive position, and structure.
- All customer groups are demanding more choices, greater control over their energy use and costs, and new energy services and products.
- Even without competition, the growth potential of our core business is limited by economic factors and slower growth in energy use.

America's Best Diversified Utility

It means that our target is not limited to just the Southeast — that we truly intend to be "America's Best." It also means we will be involved in areas beyond our traditional business. We will not attempt things we are not qualified to do. But we can diversify geographically — even beyond the United States, as we have already shown. And we can enter certain other utility businesses in which we have expertise.

Clearly, we will remain a utility. Specifically, we will be in four major businesses:

- The core business — our electric operating companies.
- The international electric power business — SEI.
- The domestic power generation and power marketing business — also SEI.
- Major new business lines we choose to enter — future business units.

The core business will continue to be our dominant business for the foreseeable future, although it will be threatened by additional competitors. We will defend this market by continuing to drive down cost and drive up customer satisfaction. We will maintain and increase our market share through price leadership.

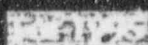
While defending our core business, we will seek growth through our unregulated businesses. Internationally, we will continue to seek attractive projects with superior financial results.

Domestically, we will offset the challenges to our core business by aggressively seeking new markets that evolve with changing regulation.

We will explore major new utility business opportunities. Expansion of our core business and expansion into other utility services will provide a growth opportunity for us.

Of Success

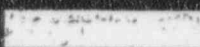
We will be in the best quartile of all meaningful measures — with a view toward the top. Our goals will likely change from year to year. Our 1996 and intermediate goals and our Bold Aggressive Goals are being developed by task forces.



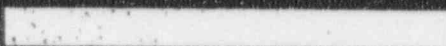
Best quartile in financial performance
Best quartile in customer satisfaction
Best quartile in cost performance

[Redacted]

(To be determined)



(To be determined)



(Examples only)

Have lowest cost among all competitors

Reduce overheads by 25%

Achieve productivity increases equal to or greater than inflation every year (or at least 5%)

Reduce incremental capital per kilowatt served to 50% of current level

Increase non-core business to 10% of earnings by 2003

Have major new business by 2000

DATE: June 25, 1993
TO: All Corporate Employees
FROM: W. G. Hairston, III
RE: Southern Nuclear Concerns Program

The Southern Nuclear Concerns Program is available to the company's employees and its contractors. If you have concerns related to nuclear safety, possible violations of law, unethical actions, or other work related problems, you are encouraged to resolve such concerns or problems as soon as possible with your supervisor or Southern Nuclear management representative, if you are a contractor. Where efforts to resolve your concerns fail or where you believe it is inappropriate to bring a concern to your management, the Concerns Program should be used.

The Concerns Program is in no way intended to affect an individual's right to pursue a concern through governmental/regulatory authorities such as the U.S. Nuclear Regulatory Commission (NRC), the Department of Labor, Equal Employment Opportunity Commission (EEOC) or Occupational Safety and Health Administration (OSHA).

The Corporate Concerns Program Administrator, Mike Snowden, will facilitate the process for resolution of a concern at the corporate level. After initial review, the Program Administrator will refer the concern to the appropriate management level employee for investigation. The management individual responsible for the investigation will make a report to the Concerns Program Administrator upon completion of the investigation. The Concerns Program Administrator is responsible for determining whether the response is timely and complete and for communication of a response to the submitter. The Concerns Program Administrator will work with the involved manager to ensure proper closure of the concern with the submitter. Every effort will be made to provide a response to the individual submitting the concern within 20 working days. Confidentiality will be maintained to the extent practical. Concerns may be submitted anonymously, however, anonymity precludes feedback to the submitter.

As President, I will periodically review a summary of concerns submitted to the Concerns Program Administrator. The Corporate Compliance Officer is responsible for auditing the overall Concerns Program annually.

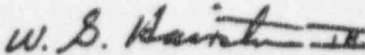
You may contact the Concerns Program Administrator at the following numbers or you may submit your concern in writing:

Mike Snowden, Corporate Concerns Program Administrator
Hugh Bryant, Corporate Concerns Program Coordinator
Bin B011
Toll free 1-800-222-4496
Corporate extension..... 8-821-5941

These phones are not equipped to reveal the identity of the caller.

It is important that this program work effectively if we are to continue our success at Southern Nuclear. Retaliation against anyone submitting a concern will not be tolerated. Any employee, including supervisor, manager, or officer, who retaliates against or penalizes an individual in any way for submitting a concern will be subject to disciplinary action, up to and including termination of employment.

Your continuing support is appreciated.


W. G. Hairston, III

jms9793

The Southern Style

Ethical Behavior

We tell the truth.
We keep our promises.
We deal fairly with everyone.

Customer First

Our business is customer satisfaction. We will think like customers ...

Shareholder Value

... and act like owners. We work to increase the value of our investment.

Great Place to Work

We are a first-name company. We enjoy our work and celebrate our successes. We seek opportunities to learn. We do not compromise safety and health.

Teamwork

We communicate openly and value honesty. We listen. We respect all opinions and expect differing viewpoints as we work together toward common goals. We emphasize cooperation — not turf.

Superior Performance

We continue to set high goals for ourselves. We take personal responsibility for success. We act with speed, decisiveness, and individual initiative to solve problems. We use change as a competitive advantage.

Citizenship

We are committed to the environment and to the communities we serve.

**POINTS TO HIGHLIGHT FOR
SOUTHERN STYLE/PRINCIPLES OF NUCLEAR OPERATIONS**

Talking Points for the Southern Style:

1. Emphasize my personal commitment to act, make decisions and treat others in accordance with the Principles of The Southern Style.
2. I will challenge the plant employees to understand The Southern Style, accept ownership of it and make the same level of commitment that I am making.
3. I will challenge personnel to give me feedback of my performance as it relates to The Southern Style.
4. I also plan on using the Dennis Kravetz study to highlight the performance successes of The Southern Style of leadership. I will give specific examples from that study of the success stories within The Southern Company.
5. I will specifically highlight the teamwork behavior with emphasis on respecting all opinions and expecting differing viewpoints. Cooperation versus turf.
6. I will share the desire for our personnel to be highly productive employees who also have strong people skills. These two characteristics are the keys to success in The Southern Company.

Talking Points for the Principles:

1. In order for us to be America's Best Nuclear Operations, we must be successful at using The Southern Style.
2. I will emphasize the day-to-day need for conservative decision making when dealing with safety issues.
3. In order to be successful, it is necessary to have a passion for continuous improvement. We will continue our "Lessons Learned" approach.
4. I will explain the importance of maintaining a daily problem focus in order to have an excellent operating record, as well as a long term consideration in solving problems.
5. I will challenge people to have personal accountability for everything they do.

Ken McCoy
Vice President
Vogtle Project

sostyle.doc
9/14/95

The Southern Style

Ethical Behavior	We tell the truth. We keep our promises. We deal fairly with everyone.
Customer First	Our business is customer satisfaction. We will think like customers...
Shareholder Value	... and act like owners. We work to increase the value of our investment.
Great Place to Work	We are a first-name company. We enjoy our work and celebrate our successes. We seek opportunities to learn. We do not compromise safety and health.
Teamwork	We communicate openly and value honesty. We listen. We respect all opinions and expect differing viewpoints as we work together toward common goals. We emphasize cooperation -- not turf.
Superior Performance	We continue to set high goals for ourselves. We take personal responsibility for success. We act with speed, decisiveness, and individual initiative to solve problems. We use change as a competitive advantage.
Citizenship	We are committed to the environment and to the communities we serve.

POINTS TO HIGHLIGHT FOR SOUTHERN STYLE/PRINCIPLES OF NUCLEAR OPERATIONS

SOUTHERN STYLE

- **ETHICAL BEHAVIOR**
 1. Have simple, basic rules.
 2. Don't make promises we don't intend to keep.
 3. "Fairly" doesn't mean giving people everything they want.
- **CUSTOMER FIRST**
 1. The customer wants inexpensive power and the most for the expenditure.
- **SHAREHOLDER VALUE**
 1. We are fiduciary agents for our shareholders.
 2. Shareholders will move their investments for profitability.
 3. We must always act like owners.
- **GREAT PLACE TO WORK**
 1. Respect is essential.
 2. Celebrate our successes, all are important. Example: The HP Banana Award which began as a manager giving an employee a banana from his lunch for a job well done. This is now one of the most prestigious awards the Company gives.
 3. Continue to grow.
 4. The Principles document adequately covers our commitment to safety/health of our publics.
- **TEAMWORK**
 1. Reference the Principles document.
 2. Avoid the "turf" mode.
 3. We will succeed or fail together.
- **SUPERIOR PERFORMANCE**
 1. A direct mesh between the Southern Style and the Principles document.
 2. Our goals must challenge us.
 3. Proactive change ensures competitiveness.
- **CITIZENSHIP**
 1. We must protect/enhance the environment.
 2. Our plants are Wildlife Habitats.
 3. Be supportive of our communities.

POINTS PAPER

Page 2

PRINCIPLES

- **SAFETY**

1. Everyone's responsibility.
2. Important to your family/company.
3. Operation of equipment is a safety priority.

- **CONTINUOUS IMPROVEMENT**

1. Operation of the plants requires continuous attentions.
2. Simplify when possible to accomplish the task.
3. Sharing of information is imperative to succeed.

- **PROBLEM FOCUS**

1. Nuclear plants are demanding facilities with potential for problems.
2. Be cost effective in resolutions.
3. Prioritization is a key element in resolving problems.
4. Attention to details is a must.

- **RESPONSIBILITY AND ACCOUNTABILITY**

1. Everyone must participate and work together.
2. Speed, simplicity, self confidence and different talents are key elements.
3. Hold yourself accountable to be your best for you and the Company.

Tom Beckham
Vice President
Hatch Project

plier or customer to take any political action that is inconsistent with his personal beliefs.

Conflict of Interest Every employee should avoid any activity in which his or her personal interests are at odds with the company's interests. As employees, we must exhibit at all times loyalty to our company. Engaging in any activity that dilutes employees' attention or loyalty to their careers and the company, even if only in appearance, constitutes a conflict of interest and cannot be allowed to continue.

Safe and Responsible Behavior Competent and safe performance on the job is part of every employee's daily duty. In the interest of the safety and well being of ourselves, our fellow workers and our customers, we will be careful and responsible. Included in this is employees' responsibility to keep themselves while at work totally free from the influence of alcoholic beverages and at all times totally free from the influence of illegal drugs.

"This Company will not wrong anyone intentionally. If by chance it commits a wrong, it will right it voluntarily."

—Preston Arkwright, 1922

"This Company will not wrong anyone intentionally. If by chance it commits a wrong, it will right it voluntarily."

—Preston Arkwright, 1922

Code of Ethics

are wholeheartedly dedicated to providing our service in an ethical manner so that all who interact with us—our customers, our employees, our shareholders, our regulators, our suppliers and our competitors, as well as the public at large—can trust the company to deal with them in an honest and open manner in all transactions.

The commitment to honesty and integrity at Georgia Power goes back to our earliest history as a company. It is reflected in the speeches of Preston Arkwright, the company's first president. In a speech in 1922 he said, "Men in business should not forget that their character and self-respect are invested in the enterprise as well as their money and their work. Their reputation for moral character, in addition to the personal happiness it brings, has for them an intrinsic commercial value. We have an even greater need than men generally for strict adherence to moral principles." On another occasion Arkwright noted, "This company will not wrong anyone intentionally. If by chance it commits a wrong, it will right it voluntarily."

Following this long-standing management philosophy, we must have the confidence and courage to recognize our duty to our customers, our employees and the communities we serve.

This summary of the character of the company is for the guidance of those just joining the company, to remind ourselves of the importance of our most important resource—our integrity—and so that the reasons for many of our policies based on this code of ethics will be understood.

Fairness Above all else, it is our intention to treat everyone in a fair and equitable manner. No action of the company will be undertaken that does not meet this test. No person representing Georgia Power shall take unfair advantage of any customer, employee, or representative of any concern with which we do business. Furthermore, we will display dignity and courtesy in business dealings with those inside and outside the company.

An organization this size must have numerous policies and procedures to ensure as nearly as possible consistent business behavior. In no case, however, should a policy or procedure of the company be used as an excuse for treating an employee, customer or shareholder in an unfair manner. Common sense and our sense of ethics should prevail.

Resources The resources of the company, including its money, its property and the time and talent of its employees, are to be used for conducting our business and meeting the needs of those we serve. These resources are to be handled prudently by those to whom they are entrusted. They most certainly are not to be diverted to the personal use of any of us.

Information We have a great deal of information available to us about the company, its customers, its employees, its shareholders and its business transactions. All who have dealings with Georgia Power should know that we will not use this information for any purpose except that for which it was developed or given.

Truth The internal and external reporting and exchange of information is a critical part of the conduct of our business. We will be complete, candid and accurate in our internal and external communication and take all practical steps to ensure that reliable information is provided by this company.


Business Relationships All decisions made on behalf of Georgia Power are to be made in the best interest of the company, its customers, its shareholders and the public at large. Thus the acceptance in a business context of gifts, loans, entertainment, personal favors or anything that would influence a business decision, or appear to influence a business decision, must be avoided. Since our families have enormous influence over us, it is necessary that family members also avoid such compromising situations.

We will not make illegal payments, whether as money, services or other considerations, to persons to influence their actions regarding the company.

Laws and Regulation The company and its officials, employees and representatives will obey all laws and regulations.

Politics Employees should feel free to personally support political activities as citizens of a free nation. However, it is in some cases illegal for the company to support political candidates. No company asset can be used to support any political candidate. Furthermore, no official of the Company shall coerce any employee, sup

Corporate Guidelines

Georgia Power 

SUBJECT	CORPORATE CONCERNS PROGRAM	NO.	1.3.2
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POLICY: It is the Company's policy to provide a means for employees to express concerns without fear of retaliation.

I. GENERAL

Any matter of concern to the employee may be presented to management or the Corporate Concerns Office at any time; however, concerns should be made known to immediate supervisors as soon as is reasonably possible. The Company will not permit retaliation against any employee who uses this program to pursue any matter of concern. All supervisors, foremen, managers and officers of the Company will be receptive and responsive to employee concerns.


This policy is applicable to all exempt, non-exempt, and covered* employees of the Company and shall be administered by the Manager, Corporate Concerns. As necessary, Corporate Concerns will also coordinate concerns with other affected organizations (such as Equal Opportunity, etc.).

* Covered employees are encouraged to utilize the contract agreement for addressing issues relating to the terms and conditions of their employment.

II. SPECIFIC STEPS

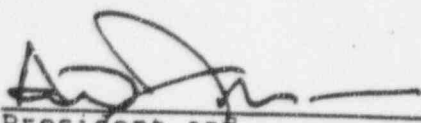
- A. Ordinarily, an employee will first discuss any matter of concern with his/her immediate supervisor.
- B. If the employee is not satisfied with the results of Step A, the supervisor will arrange for the employee to discuss the concern with his/her respective vice president.
- C. If an employee feels it is necessary, Step A can be skipped, and the concern taken directly to the vice president.
- D. If, after discussing the concern with the vice president, the employee is not satisfied, the vice president will arrange for the employee to pursue the matter with the Manager, Corporate Concerns.
- E. If the employee is unable to get an appointment at any level, he/she should call the Corporate Concerns Program directly.

Corporate Guidelines

Georgia Power 

SUBJECT	CORPORATE CONCERNS PROGRAM	NO.	1.3.2
		REVISION	12-18-89
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- F. If an employee feels it is necessary, Steps A and/or C may be skipped, and the concern taken directly to the Corporate Concerns Program, either anonymously or in confidence.



President and
Chief Executive Officer

A place to bring concerns

'Everyone has an obligation not to stand idly by when things happen that will hurt the Company and its employees or customers,' says Lee Glenn, manager of the Corporate Concerns program. 'We will not allow an employee to suffer because of submitting a concern.'

The new Corporate Concerns program was created to ensure that no employees believe that their concerns are not answered—or that their supervisors are acting unethically with the blessing of upper management.

Lee Glenn, manager of corporate concerns, headed the Quality Concerns program at Vogtle from September 1984 through February 1987. "Although it is based on the Quality Concerns program at Vogtle—which has addressed nearly 3,000 issues—this is a much broader program. The Vogtle program focuses on technical and quality issues in a very tightly regulated environment. The Corporate Concerns program is opening the door to the full gamut of employee concerns."

The Corporate Concerns program is part of a re-emphasis on ethical behavior, the basis of which is summed up in the code of ethics. But, Glenn says, "a code of ethics and the Corporate Concerns program only set a standard and show management commitment to ethical behavior.

"This company has depended and always will depend on individuals to have high standards and live up to them. They should not allow themselves to slip, and if they see unethical behavior, they should have enough pride in their jobs and the Company not to let it go unintended," he says. If employees question actions they



believe to be unethical and do not get satisfactory answers, they can take their concerns to the Corporate Concerns program.

The time to contact Corporate Concerns is after trying every avenue possible within your own organization, Glenn says. "The vast majority of problems should be handled between supervisors and the people they supervise. Most problems don't require a separate department to deal with them. My role is to pro-

vide a service to employees and supervisors—to bridge the communications gap to deal with concerns that cannot be addressed through normal channels."

In the Quality Concerns program at Vogtle, Glenn says, many of the concerns came from people who saw substandard work done, then moved to another area and didn't know whether the problem had been fixed. "More than 80 percent of the time we'd find the problem had been properly

addressed and we could reassure the employee that everything was okay," says Glenn.

There were also many calls from employees who identified situations that did require corrective action. "I would say that less than 5 percent of the concerns we saw at Vogtle were malicious in intent—with someone using the program as a way to achieve his own ends or attack someone he disagreed with."

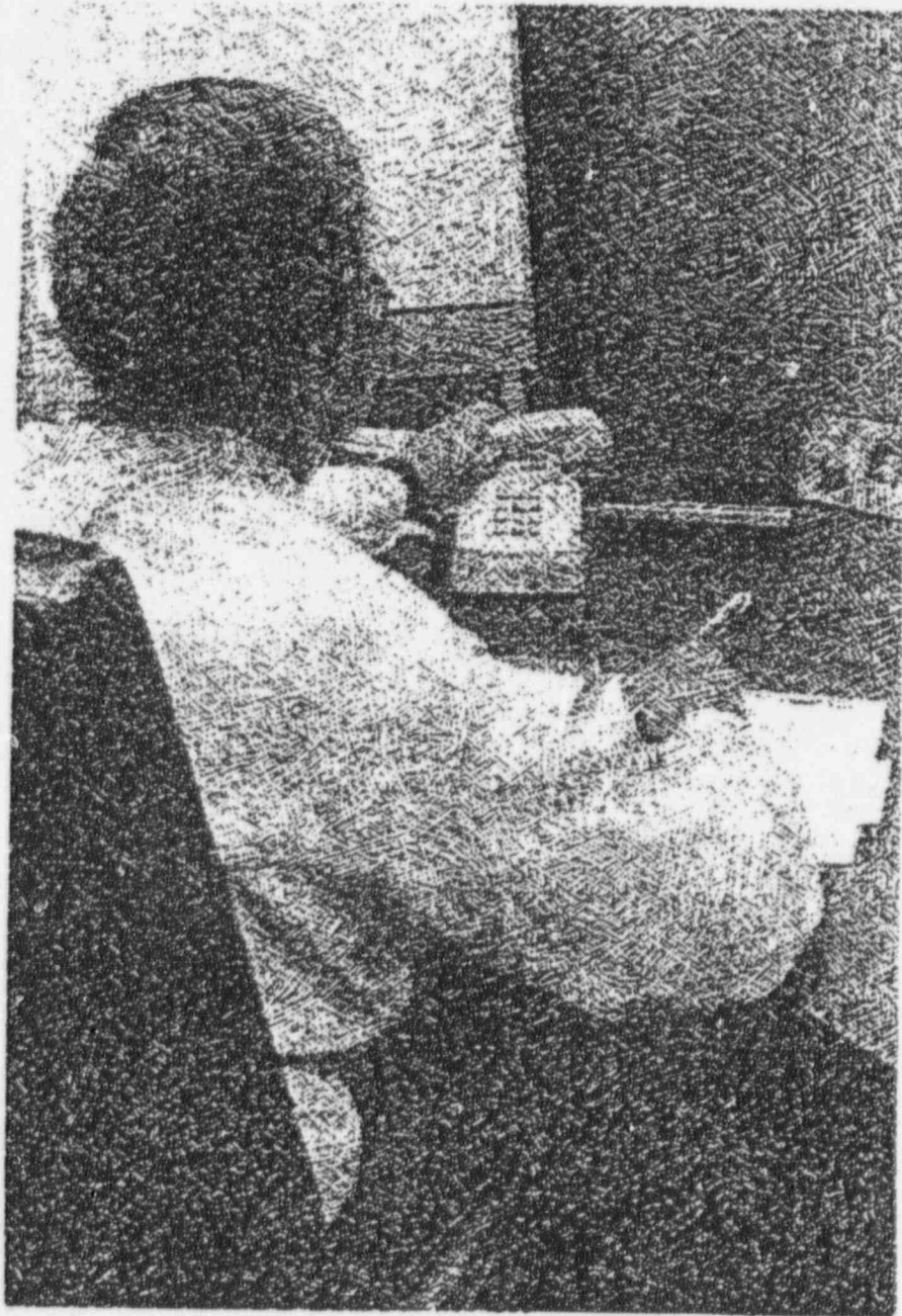
Glenn expects the response to the Corporate Concerns program will be similar—that most calls will be from people whose concerns are based on limited information or misunderstandings.

How does the program work? Take an imaginary example: a generating plant employee whose foreman has had his crew work in an unsafe manner in order to get a job done quickly. He complains to the foreman, who says, "There's nothing I can do. We've got to get the unit on line." What can the concerned employee do?

Glenn says, "If he is not comfortable going to anyone in the plant, he can call 1-800-537-3078 or extension 8-526-2323 or write Corporate Concerns, P. O. Box 54384, Atlanta, GA. 30308-0384. It's best if he can let us know who he is, so we can contact him again and tell him what we found out.

"With the details he provides—the foreman's name, when and where the incident occurred—we and someone with expertise in that area will talk to the people involved and find out the full story. The problem may be a foreman who doesn't understand safe procedures. That's a bad situation, but that's something we can fix through training. If the foreman knows what he is supposed to do, but thinks productivity is more important than safety, some disciplinary action may have to be taken. What happens to the foreman is a management decision—but this company

continued on next page



Concerns *continued*

is not going to find problems and then let them be swept back under the rug."

Glenn acknowledges that the reason some employees do not pursue concerns is that they are afraid for their jobs or of being branded troublemakers. He says the Corporate Concerns program will investigate anonymous complaints, but that the Vogtle program has shown that a complaint can be dealt with much more successfully if the investigators can get back in touch with the concerned employee and make sure they understand the problem.

"Obviously, if it's a very specific complaint, the people involved may have a good idea who turned in the complaint," Glenn says. "The chances are that the person who called in has already said something to the foreman, so when an investigator starts asking questions, the foreman will suspect that the one who objected is the one who called in the complaint. In his mind, he may decide John Doe is a troublemaker."

Glenn emphasizes, "We will not allow an employee to suffer because of submitting concerns, whether the concerns are substantiated or not. There are tell-tale signs someone is being punished—inconsistency in discipline, lowered performance appraisals, being given the worst jobs—and we've got some measuring sticks and thermometers that worked well at Vogtle to show if someone is being retaliated against."

"We might have to intercede and offer the employee protection. We have to do this, from an ethical standpoint and a desire for the program to work. Anyone who comes to us is in a tight situation already. He's made a bold step. If we stand by and let someone suffer from stating a concern, we won't accomplish what we set out to do with this program."

He adds, "The Corporate Concerns program pledges that there will be no retaliation in any form or fashion for submitting a concern—and that strong management action will be taken if such retaliation occurs."



Lee Glenn, manager,
corporate concerns

The Corporate Concerns program acts as an independent third party to the investigation—and uses the resources the Company already has to investigate complaints. For example, if sexual harassment or discrimination problems are turned in to the Corporate Concerns program, they will probably be referred to equal opportunity manager Willie Hinton. "If someone else has years of experience in an area, we'll use their expertise. We might use an internal department to investigate some concerns, but if that department is also impugned, we will go elsewhere. If we have to hire a totally outside consultant, we will. We will not let the fox do the investigating. We can draw on resources throughout the Southern system. We will find someone we and the concerned employee are comfortable with."

Depending on the nature of the concern, Glenn says, it might require a task force of expertise—

perhaps including experts in auditing, engineering, human resources and legal considerations—to assure all aspects of the issue are addressed.

Glenn says he does not see a conflict between ethical behavior and performance-based goals. "I see an emphasis on ethical behavior and on being competitive as being complementary. We have a corporate responsibility to make a profit and to enhance the value of the Company, but I don't believe the management of this company has lost sight of the fact that this must be done with and through people, by giving them the tools to do the jobs and by not abusing them or putting them into unsafe or unethical situations. We set performance goals in terms of availability, reliability of service and revenue, but it is implicit that personal safety and ethical conduct be the first consideration in that performance."

He adds, "The biggest thing involved is obligation. We're not going to be the Company we can be until everyone feels not only obliged to do their job to the best of their abilities, but also to take part in the overall team effort. Everyone has the obligation not to stand idly by when things happen that will hurt the Company and its employees or customers. We need that sense of obligation. If people will read the code of ethics and understand what it means to them individually, then we and the Company can stay on the right path." ▲

—Ginger Kaderabek

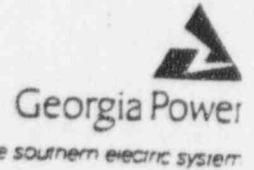
1-800-537-3078

Remember—if you have any concern about quality assurance, ethics or any activity or matter related to the Company that you'd like to express, you may call this toll-free number for the Corporate Concerns program. You do not have to identify yourself unless you wish to.

Georgia Power Company
335 Piedmont Avenue
Atlanta, Georgia 30308
Telephone 404 526-6000

Mailing Address:
Post Office Box 4545
Atlanta, Georgia 30302

A. W. Dahlberg
President



October 6, 1988

Dear Fellow Employee,

The past few weeks have been trying ones for all of us, but in the midst of challenging events, I have seen heartwarming demonstrations of employee devotion and concern for Georgia Power. I am sure that when the smoke has cleared, we will find that our company is as strong as ever, as dedicated as ever to providing reliable, economical electric service and as deserving as ever of our loyalty and pride.

Georgia Power has always strived to afford others the dignity and trust that it desires for itself. Nothing has changed that, and nothing will change it as long as we know who we are and what we're about.

For more than a year, a group of employees worked to capture on paper the essence of the company through the development of a code of ethics. That effort is completed, and the code has been adopted by our board of directors as the fundamental philosophy of how we will do business. A copy is enclosed.

The code of ethics is the source for all our policies, procedures, and practices and is to be used by all officers and employees as the basis of the many decisions we make in our daily work. Any activity which does not conform to this code of ethics is to be made to conform.

Also, there will be further changes in the way employee concerns are handled. These changes will make it easier for your concerns to be expressed and addressed. Lee Glenn has been named manager, corporate concerns. He will head a program through which employees may express concerns in a wide variety of areas for management attention and response. The program will get started within the next week. A toll-free number, 1-800-537-3078, goes into effect Oct. 10. Employees may use this number to express concerns about quality assurance, ethics or any matter related to the proper operation of this company.

These steps and the code of ethics are not hurry-up responses to the immediate situation, but are the result of many employees' work over some period of time. We will provide you with more information about the code of ethics and the corporate concerns program within the next few weeks.

Sincerely,

A. W. Dahlberg
President

Georgia Power Company
353 Piedmont Avenue
Atlanta, Georgia 30305
Telephone 404 526-7612

Mailing Address
Post Office Box 4542
Atlanta, Georgia 30302



Georgia Power

November 9, 1988

TO: EXECUTIVE OFFICERS
GENERAL OFFICE DEPARTMENT HEADS
DIVISION VICE PRESIDENTS
DIVISION MANAGERS
PLANT MANAGERS

RE: Corporate Concerns Program

Attached is a reprint of an article which will appear in an upcoming issue of the company magazine, "Perspective". This copy is being provided to ensure that you note and understand the two important concepts presented.

Information on the Corporate Concerns Program will continue to be made available throughout Georgia Power Company. Please feel free to contact me at 8-526-1465 if you have any questions or comments.

Lee B. Glenn
Manager, Corporate Concerns

LBG:jl

Attachment

TAB A

ARTICLE FOR "PERSPECTIVE"

The Georgia Power Corporate Concerns Program is now available to all Company employees. There are two points about the program that are important for you to understand.

First, the program is in place as a service organization. It is our purpose to identify concerns and bring them to your attention to be addressed. A degree of separation is necessary to eliminate even the perception of bias and to assure program credibility. However, issues can and will be addressed to the lowest appropriate level of management for resolution.

The second point deals with the program's pledge of non-retaliation. A program such as this cannot survive unless employees feel they can participate free from the fear of negative consequences. As such, we pledge that such actions will not be tolerated. Should you know of or suspect an employee's participation with Corporate Concerns, it is important that it have absolutely no bearing on the way that employee is treated. At the same time, participation does not offer an employee immunity from any action, disciplinary or otherwise, which can be shown to have been consistently and equitably applied within an organization.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
101 MARITTA STREET, N.W., SUITE 2900
ATLANTA, GEORGIA 30323-0199

June 22, 1995

LCV-0640
NRC-1293

Mr. J. D. Woodard
Senior Vice President-Nuclear
Georgia Power Company
P. O. Box 1295
Birmingham, AL 35201

SUBJECT: NRC INSPECTION REPORT NOS. 50-424/95-14, 50-425/95-14, 50-321/95-12,
and 50-366/95-12

Gentlemen:

This refers to the inspection conducted by R. Crlenjak of this office on May 15 through June 1, 1995. The inspection included a review of activities authorized for your Vogtle and Hatch facilities. At the conclusion of the inspection, the findings were discussed with those members of your staff identified in the enclosed report.

Areas examined during the inspection are identified in the report. Within these areas, the inspection consisted of selective examinations of procedures and representative records, interviews with personnel, and observation of activities in progress.

The NRC encourages licensees to implement employee concerns programs and we recognize your positive initiatives to provide an effective alternate means for employees to voice their concerns. Although we judged your programs to be effective at all three company locations (Hatch, Vogtle, and the Corporate Offices in Birmingham), we found Hatch's program to be minimally effective. Specifically, as described in the enclosed report and discussed in the Hatch exit meeting on June 1, 1995, two significant weaknesses were identified which could lead to inadequate attention to safety significant issues raised through your concerns program: 1) immediate (up-front/on-receipt) technical reviews were not performed to ensure safety significance and reportability were appropriately addressed and 2) some past concerns were not fully investigated or answered. You acknowledged these weaknesses during the June 1 exit meeting and proposed corrective actions. You are requested to provide a written response within 60 days of the date of this letter addressing the two items listed above, including your corrective actions and any safety significant findings you may have identified during your subsequent program review.

Within the scope of this inspection, no violations or deviations were identified.

In accordance with 10 CFR 2.790(a), a copy of this letter and its enclosure will be placed in the NRC Public Document Room.

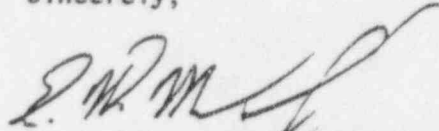
JUN 23 1995
RECEIVED
VICE PRESIDENT

JUN 23 1995
RECEIVED
EXECUTIVE
VICE-PRESIDENT

9507120031

Should you have any questions concerning this letter, please contact us.

Sincerely,



E. W. Merschoff, Director
Division of Reactor Projects

Docket Nos. 50-424, 50-425
License Nos. NPF-68, NPF-81

Enclosure: NRC Inspection Report

cc w/encl:
Mr. C. K. McCoy
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Birmingham, AL 35201

Mr. J. T. Beckham, Jr.
Vice President-Plant Hatch
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Birmingham, AL 35201

J. B. Beasley
General Manager, Plant Vogtle
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GPC

4

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