

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

'94 AUG -3 P6:34

Before the Atomic Safety and Licensing Board

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

In the Matter of	)	Docket Nos. 50-424-OLA-3
	)	50-425-OLA-3
GEORGIA POWER COMPANY,	)	
et al.	)	Re: License Amendment
	)	(Transfer to Southern
(Vogtle Electric Generating	)	Nuclear)
Plant, Units 1 and 2)	)	
	)	ASLBP No. 93-671-01-OLA-3

GEORGIA POWER COMPANY'S  
PROPOSED SCHEDULE TO COMPLETE PROCEEDING

I. Introduction

In accordance with the Licensing Board's instructions at the prehearing conference on July 29, 1994, Georgia Power Company provides a proposed schedule to complete this proceeding. The proceeding has become mired in disputes regarding the accuracy of transcripts of tape recordings made some four years ago. Otherwise, discovery is about complete. It is time to move on to a hearing. GPC therefore proposes a schedule that would result in a late-fall hearing, in keeping with the Board's previously expressed intent and a discovery schedule agreed upon by the parties.

II. Background

This license amendment proceeding commenced with Intervenor's petition in October 1992. Discovery in this proceeding began in April 1993 and therefore has now been

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proceeding for sixteen months. During this period, Intervenor has filed eleven sets of interrogatories (seven to GPC and four to the Staff), ten documents requests (six to GPC and four to the Staff), and five sets of requests for admissions (three to GPC and two to the Staff). In response to the document requests directed to GPC, GPC has already produced over 60,000 pages of material. Intervenor has also conducted approximately 40 depositions, and has deposed another five individuals upon written interrogatories. Another six depositions are currently scheduled or contemplated.

In addition to this extensive discovery, Intervenor has numerous tape recordings. Transcripts of many of these tapes (all of those determined to be relevant to the diesel generator reporting issues) have been provided to Intervenor by the NRC and GPC. Intervenor also has available to him an OI report with transcripts of some 22 interviews. He has considerable information on the Staff's position on the license transfer issue in the partial Director's Decision on the Hobby/Mosbaugh 2.206 petition. Similarly, the Staff's Coordinating Group Analysis states the Staff's position on the diesel generator issues in great detail. Intervenor has also had the benefit of extensive stipulations drafted by GPC on both the license transfer and diesel generator reporting issues. In sum, Intervenor has received an enormous amount of information in this proceeding.

In August, 1993, while there was still considerable time left in the discovery period, GPC proposed a procedure for reaching stipulations concerning statements on tape recordings made by Intervenor Mr. Mosbaugh in 1990. Letter from J. Lamberski to C. Barth and M. Kohn (Aug. 31, 1993). When no response was received and the Board directed the parties to negotiate procedures to resolve this case, GPC attempted to meet with the parties but was unsuccessful at the time in bringing the parties together. See letter from J. Lamberski to E. Reis (Jan. 12, 1994). GPC did obtain, however, Intervenor's agreement to entertain GPC's proposed changes to the NRC Staff transcripts of Intervenor's tapes. Letter from J. Lamberski to the Licensing Board (Jan. 24, 1994).

After a prehearing conference on January 27, 1994, the Licensing Board issued an order stating its intention to manage this case so that it would be concluded no later than September 1994. The Board directed the Licensee to promptly file stipulations concerning key portions of the Mosbaugh tapes, particularly those recorded on April 19, 1990 (tapes 57 and 58), and Intervenor to file additional stipulations based on those portions of the Six Tapes that were not recorded on April 19, 1990. In response to these requests, which were required to be filed within one month, the parties were permitted to respond by requesting stipulations on tape portions that they believed were

relevant to the requests. Memorandum and Order (Feb. 1, 1994) at 1-2.

GPC provided to the parties its proposed, marked-up copy of tapes 57 and 58 on February 1, 1994. Letter from J. Lamberski to C. Barth and M. Kohn (Feb. 1, 1994).<sup>1</sup> On February 24, 1994, the NRC Staff released the last tapes and transcripts it had been withholding under an assertion of investigative privilege. On February 28, 1994, GPC provided the parties with the additional transcripts for which GPC sought stipulations. GPC asked that the parties identify any disagreements with specificity and proposed further meetings to reach an agreement. Letter from J. Lamberski to C. Barth and M. Kohn (Feb. 28, 1994).

Another status conference was held on March 1, 1994. At that time, Intervenor indicated that any additional transcript excerpts he would propose would be from the NRC prepared transcripts, and he did not plan on proposing stipulations based on the Six Tapes as had been authorized by the Licensing Board. Letter from E. Blake to the Licensing Board (March 2, 1994).

While Intervenor and the NRC Staff provided their comments and position on tapes 57 and 58, neither identified any additional excerpts for stipulation. Nor did they respond to

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<sup>1</sup>GPC also proposed stipulations on license transfer issues on February 3, 1994, and on diesel generator issues on March 1, 1994.

GPC's request for stipulations related to the additional transcripts that GPC had identified and distributed on February 28.

After months of inaction by Intervenor, GPC submitted Georgia Power Company's Second Request for Admissions and Fourth Request for Production of Documents to Intervenor (June 22, 1994), which included a request that Intervenor admit to the accuracy of the transcripts proffered by GPC in its February 28, 1994 letter. On July 18, 1994, Intervenor filed Intervenor's Response to GPC's Second Request for Admissions. In that response, Intervenor wholesaley objected to the admissibility by GPC of portions of transcripts or recordings of any GPC or Southern Nuclear employee. Id. at 1. Intervenor also stated that "the process of verifying and correcting recordings is extremely time consuming and burdensome." Id. at 17.

Despite his assertion, and after months of having ignored GPC's requests to stipulate to tape excerpts, Intervenor filed Intervenor's Fifth Request for Interrogatories and Document Request to Georgia Power Company (July 7, 1994) asking GPC to identify each speaker and statement in 148 tape recordings. In addition, Intervenor filed Intervenor's Third Request for Admissions to Georgia Power Company (July 7, 1994), wherein Intervenor requests that GPC admit or deny each statement in 22 OI transcripts of additional tape recordings. GPC objected to

this blunderbuss request. Georgia Power Company's Objections to Intervenor's July 7, 1994 Discovery Requests and Motion for a Protective Order (July 18, 1994).

At the prehearing conference on July 29 in response to the Board's inquiry, Intervenor indicated that it could now review the transcripts in order to provide a more focused request, but that it would require until September 20, 1994 to do so. Intervenor indicated it would then expect Licensee to review and stipulate to the identified portions. Based on the length of time it has taken to negotiate stipulations on tapes 57 and 58, this could take weeks beyond September 20. In addition, despite its previous objections to GPC's Second Request for Admissions, Intervenor now states that it would review those portions of the tapes that GPC previously identified, but this effort also would not commence until September. In sum, after months of inaction, Intervenor now proposes that discovery be extended several months to reach stipulation on transcripts.

### III. Proposed Schedule

At this juncture in the proceeding, GPC believes that extension of the discovery period and delay to accommodate stipulations on the tapes is unwarranted. Delay in this proceeding is extremely prejudicial to GPC. Not only is this proceeding very costly, but the delay in license transfer is preventing the realization of the benefits of a single-focus

organization, and the cloud created by Mr. Mosbaugh's allegations is adversely affecting the morale of GPC's employees. See Affidavit of W. George Hairston, III (Nov. 8, 1993), attached to Georgia Power Company's Response to NRC Staff Motion for a Further Extension of Time to Defer Discovery Documents to the Licensee, dated November 8, 1993. This proceeding has a very high personal cost, and those individuals who are accused have a right to a speedy resolution of the matter.

Accordingly, GPC proposes that the parties abandon any present attempt to reach stipulations on the transcripts other than tapes 57 and 58. Stipulations on transcript content should be an aid to the parties and schedule, not a time consuming and delaying distraction. Intervenor has simply waited too long, and the extreme prejudice of pursuing additional stipulations (without any assurance of agreement) simply outweighs the potential benefit. Obtaining stipulations was reasonable months ago, when there was time. Pursuing such stipulations at the very end of discovery, creating months of additional delay, is not. It is time to move on.

GPC therefore proposes the Licensing Board confirm the prior agreement of the parties and the Board order that discovery in this proceeding shall cease on August 8. This ruling will have no effect on the ability of the parties to use tapes and transcripts. Parties may still offer tapes or transcripts into

evidence. If there are any disputes, such disputes can be worked out at that time, under the normal adjudicatory process. At that time, such disputes are likely to be focused and amenable to meaningful argument and ruling. The abstract disagreements and quibbling that have made stipulations on tapes 57 and 58 so difficult will be avoided.

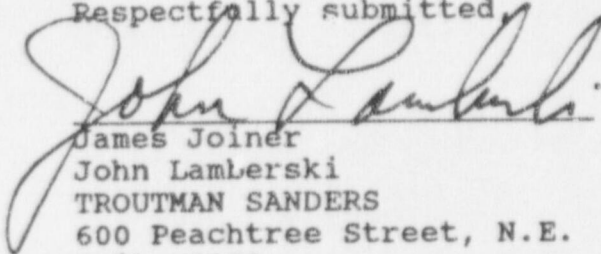
This proposal will move the proceeding forward on a schedule which, while not leading to conclusion in September, will at least lead to a hearing this fall. GPC proposes the following specific schedule:

- August 2 - Licensee Proposed Schedule for Hearing
- August 3-8 - Intervenor Depositions of Messrs. Franklin, Meier, Crosby, Hobbs, Shipman and Beasley
- August 8 - Intervenor Responds to Licensee Schedule Proposal
- August 8 - End of Discovery
- August 10 - Staff Responds to Licensee Proposal and Intervenor Response on Schedule
- August 10 - Licensee Replies to Intervenor Response on Schedule Proposal
- August 10 - Licensee Files Summary Disposition Motion on Illegal License Transfer Issue
- August 12 - Intervenor and Licensee Reply to Staff Response on Schedule Proposal
- August 23, 24 - Licensee Deposition of Allen Mosbaugh (continued)
- August 29 thru - Possible Depositions of NRC Staff  
September 9 Personnel



- September 6 - Intervenor and Staff File Responses to Licensee Motion for Summary Disposition
- September 21 - Responses in Opposition to Any Supporting Responses Filed on September 6
- October 7 - All Parties File Prepared Written Direct Testimony on Diesel Generator Issue
- October 15 - (Assumed) ASLB Decision on Summary Disposition on Illegal License Transfer Issue
- November 1 - All Parties File Prepared Written Testimony on Illegal License Transfer Issues Remaining, if Any, After Summary Disposition Decision
- November 8 - All Parties File Proposed Findings on all Issues
- November 15 - Commence Adjudicatory Hearing on All Outstanding Issues (All Rebuttal Testimony on Any Issue to be Filed 48 Hours Prior to Appearance of Witnesses)

Respectfully submitted,

  
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Dated: August 2, 1994

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

DOCKETED  
USNRC

'94 AUG -3 P6:35

In the Matter of

GEORGIA POWER COMPANY,  
et al.

(Vogtle Electric  
Generating Plant,  
Units 1 and 2)

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

Re: License Amendment  
(Transfer to Southern  
Nuclear)

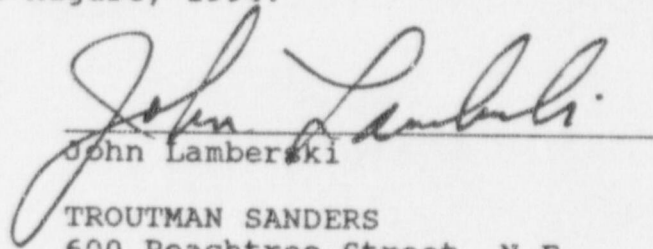
ASLBP No. 93-671-01-OLA-3

OFFICE OF SECRETARY  
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CERTIFICATE OF SERVICE

This is to certify that copies of the within and foregoing "Georgia Power Company's Proposed Schedule to Complete Proceeding" dated August 2, 1994 were served on all those listed on the attached service list by depositing same with an overnight express mail delivery service.

This is the 2nd day of August, 1994.

  
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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of  
GEORGIA POWER COMPANY,  
et al.

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\* (Transfer to Southern  
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