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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'86 OCT -6 P4:43

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)	
)	
GEORGIA POWER COMPANY)	Docket Nos. 50-424
<u>et al.</u>)	50-425
)	(OL)
(Vogtle Electric Generating Plant,)	
Units 1 and 2))	

NRC STAFF RESPONSE TO
APPLICANTS' MOTION TO STRIKE NOTICE OF
APPEAL OF CAMPAIGN FOR A PROSPEROUS GEORGIA

I. INTRODUCTION

Georgia Power Company et al. (Applicants) on September 18, 1986, moved the Atomic Safety and Licensing Appeal Board to strike a Notice of Appeal filed in this proceeding on September 8, 1986, by Campaign for a Prosperous Georgia (CPG). Applicants' position is that CPG is no longer a party to this proceeding and, accordingly, has no right to appeal. For the reasons set out below, the NRC staff supports Applicants' motion.

II. DISCUSSION

The background events surrounding admission of CPG and Georgians Against Nuclear Energy (GANE) as consolidated Intervenors in this

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proceeding and CPG's unequivocal withdrawal as an Intervenor from this proceeding are accurately set forth at pages 1-2 of Applicant's motion. ^{1/}

It is well settled that an appeal from a Licensing Board decision by a non-party such as CPG will not be considered by the Atomic Safety and Licensing Appeal Board. See Kansas Gas & Electric Co. (Wolf Creek Nuclear Generating Station, Unit 1), ALAB-311, 3 NRC 85, 88 (1976); Cleveland Electric Illuminating Co. (Perry Nuclear Power Plant, Units 1 and 2), ALAB-294, 2 NRC 663,664 (1975); Public Service Electric & Gas Co. (Hope Creek Generating Station, Units 1 and 2), ALAB-251, 8 AEC 993, 994 (1974); TVA (Bellefonte Nuclear Plant, Units 1 and 2), ALAB-237, 8 AEC 654 ((1974). Once CPG voluntarily determined to withdraw as an Intervenor in this proceeding, its status as a party was terminated as was its right to appeal any Licensing Board decision. Thus, Applicant's motion to strike CPG's Notice of Appeal should be granted.

CONCLUSION

For the reasons set out above, Applicants motion to strike CPG's notice of appeal should be granted.

Respectfully submitted,

Bernard M. Bordenick

Bernard M. Bordenick
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 3rd day of October, 1986.

^{1/} GANE remained as an Intervenor, participated in the hearings below and has properly filed, on September 8, 1986, a separate notice of appeal.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO APPLICANTS' MOTION TO STRIKE NOTICE OF APPEAL OF CAMPAIGN FOR A PROSPEROUS GEORGIA" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this 3rd day of October, 1986.

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