NOV 14 1986

MEMORANDUM FOR: Harold R. Denton, Director
Office of Nuclear Reactor Regulation

FROM: Jesse L. Funches, Director
Planning and Program Analysis Staff
Office of Nuclear Reactor Regulation

SUBJECT: OPERATING LICENSE ANTITRUST ANALYSIS OF PLANT VOGTLE, UNIT 1

Enclosed for your signature is a finding of no significant changes pursuant to the operating license antitrust review of Plant Vogtle, Unit 1. This finding is based upon an analysis by the antitrust staffs of PPAS and OGC (after consultation with the Department of Justice), which concludes that a "no significant change" finding is warranted. The staff analysis is enclosed as background information.

This is an initial finding which will be noticed in the Federal Register, thereby providing the public the opportunity to request a reevaluation of your finding. If there are no requests for reevaluation, the finding will become final, and the operating license antitrust review of Unit 1 of Plant Vogtle will have been completed.

Original Signed by
Jesse Funches

Jesse L. Funches, Director
Planning and Program Analysis Staff
Office of Nuclear Reactor Regulation

Enclosures:
As stated

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Docket File No. 50-424A
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Plant Vogtle/Package

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PLANT VOGTLE, UNIT 1
OPERATING LICENSE ANTITRUST REVIEW
FINDING OF NO SIGNIFICANT CHANGE

Section 105c(2) of the Atomic Energy Act of 1954, as amended, provides for an antitrust review of an application for an operating license if the Commission determines that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous construction permit review. The Commission has delegated the authority to make the "significant change" determination to the Director, Office of Nuclear Reactor Regulation. Based upon an examination of the events since the issuance of the Vogtle construction permits to Georgia Power Company (Georgia Power), the staffs of the Planning and Resource Analysis Branch, Office of Nuclear Reactor Regulation and the Office of the General Counsel, hereafter referred to as "staff" have jointly concluded, after consultation with the Department of Justice, that the changes that have occurred since the construction permit review are not of the nature to require a second antitrust review at the operating license (OL) stage of the application.

In reaching this conclusion, the staff considered the structure of the electric utility industry in Georgia, the events relevant to the Plant Vogtle and Plant Hatch construction permit reviews, the events relevant to the Plant Hatch, Unit 2 operating license review and the events that have occurred subsequent to these antitrust reviews.

The conclusion of the staff's analysis is as follows:

> "The generation and transmission of bulk power and energy in the state of Georgia has for many years been dominated by the Georgia Power Company. During the construction permit review of Plant Hatch and Plant Vogtle, the staffs of the Department of Justice and the Atomic Energy Commission identified several instances where Georgia Power Company abused its market position and its market power at the expense of smaller competing power systems in Georgia. Georgia Power's activities had a stifling effect upon the competitive process in bulk power supply in Georgia and severely hampered the ability of competing municipal and cooperative electric systems to supply their customers with the most cost effective sources of power and energy available. After extensive negotiations involving Georgia Power, intervening power systems and the staffs of the Department of Justice and the Atomic Energy Commission, Georgia Power agreed to a settlement agreement which included in the Hatch and Vogtle licenses a set of conditions designed to stimulate the competitive process in the Georgia bulk power services market.
>
> "The license conditions provided municipal and cooperative electric power systems, individually and through their broker representatives, ownership participation in Plant Vogtle and Unit 2 of Plant Hatch as well as ownership in the integrated transmission grid running throughout most of Georgia--heretofore controlled solely by Georgia Power Co. Moreover, the

license conditions provided these competing power systems the means to effectively implement their newly acquired power and energy options by requiring Georgia Power to: (1) file partial requirements rates with the Federal Power Commission; (2) coordinate and share energy reserves; (3) interconnect with qualifying Georgia power entities; (4) transmit bulk power over its transmission system, and generally treat all power systems in the state more equally.

"The operating license antitrust review is concerned with changes in the licensee's activities since the construction permit review that may create or maintain a situation inconsistent with the antitrust laws. Staff has identified several groups of changes that have occurred since the construction permit review which are attributable to the licensees; however, these changes have largely been procompetitive and do not warrant remedial action by the Commission. The vast majority of these changes have materialized through the implementation of the antitrust license conditions attached to the Plant Vogtle and Plant Hatch Unit 2 construction permits. Through their purchases in portions of Plant Hatch and Plant Vogtle (and portions of Unit 1 of Plant Hatch and various Georgia Power Co. fossil fueled plants which were not subject to the licensing commitments), as well as participation in the Georgia transmission grid, the municipal and cooperative power systems in Georgia are now active players in the Georgia bulk power market. Georgia Power has provided these systems with ownership in existing and planned future transmission facilities based upon each system's expected use of the transmission grid. Georgia Power has also provided interconnections and filed partial requirements power rates allowing newly emerging power systems to shop for power supply alternatives within and outside of the Georgia Power territorial service area. An example of this new found independence is Oglethorpe Power Corporation's (Oglethorpe) energy exchange agreements with the Alabama Electric Cooperative and the South Mississippi Electric Power Association. Oglethorpe has also entered into negotiations to sell a portion of its Plant Scherer capacity to the Seminole Electric Cooperative of Florida. Both Oglethorpe and the Municipal Electric Authority of Georgia (MEAG) have set goals of generating self-sufficiency and are capable of achieving these goals in the near future given the marketing tools provided by the settlement agreement and the emergence of competitive alternatives in the state of Georgia since the completion of the Vogtle construction permit review.

"The formation of Oglethorpe and MEAG in 1974 and 1975 coupled with the successful implementation of the antitrust license conditions has resulted in a vastly different Georgia bulk power market than was apparent during the construction permit review in Plant Hatch and Plant Vogtle. The changes which have taken place in this market have largely been procompetitive, allowing smaller competitors to mature and contribute to the competitive process ongoing in the Georgia bulk power services market. Based upon the successful implementation of the antitrust license conditions to date and the lack of any significant negative competitive activities by the licensees since the antitrust review at the construction permit stage, staff recommends that no affirmative significant change determination be made pursuant to the application for an operating license for Unit 1 of Plant Vogtle."

Based upon the staff's analysis, it is my finding that there have been no "significant changes" in the licensees' activities or proposed activities since the completion of the previous antitrust review in connection with the construction permit.

Original Signed by
H. R. Denton

Harold R. Denton, Director
Office of Nuclear Reactor Regulation

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