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EXECUTIVE SECRETARY
G.P.S.C.

July 18, 2011

Mr. Reece McAllister
Executive Secretary
Georgia Public Service Commission
244 Washington Street, SW
Atlanta, GA 30334

Re: Review of Proposed Revisions and Verification of Expenditures Pursuant to Georgia Power Company's Certificate of Public Convenience and Necessity for Plant Vogtle Units 3 and 4, Third Semi-annual Construction Monitoring Report; Docket No. 29849-U

Dear Mr. McAllister:

Enclosed for filing with regard to the above referenced proceeding are an original and fifteen (15) copies of the brief of Georgia Watch.

Please call me at (404) 525-1085 should you have any questions. Thank you.

Sincerely,



Clare McGuire
Georgia Watch

cc: All Parties of Record

BEFORE THE GEORGIA PUBLIC SERVICE COMMISSION

In Re:)	
Review of Proposed Revisions and)	
Verification of Expenditures Pursuant to)	Docket No. 29849-U
Georgia Power Company's Certificate of)	
Public Convenience and Necessity for)	
Plant Vogtle Units 3 and 4,)	
Third Semi-annual Construction Monitoring)	
Report)	

POST-HEARING BRIEF OF GEORGIA WATCH

I. Procedural Background

On April 20, 2011, the Public Service Commission ("PSC" or "Commission") issued a Procedural and Scheduling Order for the purpose of scheduling pleadings and a hearing regarding the adoption of a risk sharing mechanism ("RSM") associated with Plant Vogtle Units 3 and 4.

Petitions to intervene were filed by: the Georgia Industrial Group, Georgia Traditional Manufacturers Association, Georgia Watch and the Southern Alliance for Clean Energy.

On April 27, 2011, Georgia Power Company ("Georgia Power" or "Company") filed the direct Testimony of Ann P. Daiss, Steven M. Fetter, and the panel of Brian L. (Pete) Ivey and Dr. Kris R. Nielsen. PSC Advocacy Staff ("Staff") prefiled the direct testimony of Lane Kollen and Tom J. Newsome on June 10, 2011.

On June 24, 2011 Georgia Power filed the rebuttal testimony of the panel of Ann P. Daiss, Allan N. Crawford and Steven M. Fetter; this same date, Georgia Power also filed the panel testimony of Brian L. (Pete) Ivey and Dr. Kris R. Nielsen.

On July 6, 2011, a hearing was held before the full Commission on all filed testimony, both direct and rebuttal. The Commission will render a decision at its regularly scheduled Administrative Session on August 2, 2011.

II. Georgia Watch's Recommendations, including Support for Recommendations

1. The Commission should adopt the RSM proposed by Staff in its testimony filed on December 10, 2010, in this docket.

The RSM proposed by Advocacy Staff in its December 2010 testimony filed in this docket provides for a much better alignment of the risks and rewards of the costs of Vogtle units 3 and 4 between Georgia Power's ratepayers and Georgia Power's shareholders than does Staff's revised risk sharing mechanism (filed as an exhibit to the June 10, 2010, testimony of Tom J. Newsome) or Georgia Power's proposed RSM (filed as "Stipulation on an Incentive Plan": see Exhibit BLI/KRN-1 to the direct testimony of the Ivey/Nielsen panel).

When asked whether staff's revised risk sharing mechanism allocates the rewards and risk of Vogtle units 3 and 4 between ratepayers and shareholders in a fair and equitable manner, Staff witness Mr. Newsome responded, "It's better than no risk sharing mechanism. **Does it work as well as the prior risk sharing mechanism? No. But it's better than nothing.**" (Emphasis added. Transcript p. 233, lines 3-9)

Nothing in the Commission's April 20, 2011 Procedural and Scheduling Order **required**

Staff to revise the RSM filed in its December 2010 testimony. The fact that Staff felt compelled to offer a revised RSM indicates Staff's good faith effort to meet Georgia Power much more than half way, in order to encourage an agreement between Staff and the Company regarding an RSM. Mr. Newsome's testimony is clear that the substantial concessions Staff offered in the revised RSM inure to the benefit Georgia Power and are detrimental to ratepayers' interests. Mr. Newsome testified that "...for a number of reasons, [Georgia Power's] proposal does not result in a meaningful allocation of risk between the ratepayer and the Company" and that "...the Company's proposal does not go far enough to protect ratepayers." (Newsome direct testimony at p. 24). The same criticisms can be leveled at Staff's revised RSM.

2. Staff's revised RSM provides an unwarranted, significant boost to Georgia Power's profit margin in the case of cost overruns, over and above the treatment of profits provided for in Staff's December 2010 RSM.

Under Staff's December 2010 RSM, Georgia Power will recover all prudently incurred costs for Vogtle 3 and 4 and will earn substantial profits, whether the project comes in at, under, or over budget.

Despite the fact that Georgia Power will earn substantial profits under Staff's December 2010 RSM, Staff's revised RSM includes significant concession regarding the treatment of Georgia Power's profit. Mr. Newsome's testimony states as follows:

If the Units are completed over budget the Company's profits would be greater than the amount it could earn if the Project was completed for \$6.1 billion. The Company would also have opportunity to earn a higher ROE and additional profit above what is allowed under current ratemaking if the Units are completed below the lower dead band of \$5.8 billion. This revision significantly reduces the link between ratepayer and shareholder interests that existed under the prior risk sharing mechanism and represents

a significant concession by Staff.

(Direct Testimony at p. 7 of 47, lines 4-10)

Georgia Watch agrees with Mr. Newsome that this revision significantly reduces the link between ratepayer and shareholder interest. When asked why staff agreed to this significant concession, Mr. Newsome replied, “We’ve been through this twice, this is the third time up. We just felt like we needed to have some movement to try and get the RSM adopted by the Commission.” (Transcript p. 232, lines 12 – 14).

Mr. Newsome’s testimony describes clearly the vast difference in the impact of cost overruns on Georgia Power’s profit in the December 2010 RSM and in Staff’s revised RSM:

This [treatment of profit] is different from what we had before. Before if they went over budget and got outside the dead band, we started lowering the profit to where... a 50 percent overrun would result in a 10 percent reduction in profit. That’s no longer the case. The more money they spend, the more profit they make. We feel this revision significantly reduces the link between ratepayer and shareholder interest. We also feel it represents a major concession by staff. (Transcript p. 210, lines 12 – 21).

Additionally, Staff’s proposed RSM includes a “floor” on the adjusted ROE applied to the Vogtle 3 & 4 rate base, which would set a minimum value for the adjusted ROE and would be determined by future Commissions during rate cases. According to witness Newsome, the floor would be the bottom end of the reasonable range for cost of equity as determined by future Commissions. (Newsome Direct Testimony, June 10, 2011, p. 8 of 47) Mr. Newsome describes the impact of this revision to the RSM previously proposed by Staff as follows:

By putting a floor underneath the adjusted ROE the impact of the critical link between ratepayer interest and shareholder interest is substantially reduced. As a result of this modification, ratepayers are exposed to greater risks than they were under Staff’s prior proposal, and shareholders benefit from a corresponding reduction in risk. **This second fundamental revision**

represents a major concession by Staff.

(Emphasis added. *Id.* at p. 9 of 47; Transcript at p. 211, lines 4-8)

Mr. Newsome's testimony illustrates the stark difference in outcomes between Staff's December 2010 RSM proposal and the revised RSM, in instances in which total project costs exceed the top of the \$6.4 billion dead band. For purposes of this illustration, Mr. Newsome used the ROE awarded to the Company in the Commission's 2010 rate case decision (i.e., 11.15 percent) and a "reasonable range floor" of 10.25 percent, which is the floor recommended in Mr. Newsome's June 10, 2010 testimony (Newsome Direct testimony at p. 9 of 47). As this example illustrates:

In the \$8,000 million and \$9,000 million Total Project Cost cases the ratepayer revenue requirement [in nominal dollars] is dramatically higher under the revised risk sharing mechanism and this results in a significant reduction in ratepayer economic benefit from the Units. This is the result of floor placed on the adjusted ROE applied to Vogtle 3 & 4 rate base.

(*Id.* at p. 11 of 47)

As the "Ratepayer Revenue Requirement on Capital" table in Mr. Newsome's testimony shows, if cost overruns of \$8,000 million or \$9,000 million were to occur, the difference in ratepayer revenue requirement on capital would be \$4,200 million and \$7,020 million, respectively. (*Id.* at p. 10)

On cross-examination, Mr. Newsome was asked how this [profit margin] revision and the other revisions recommended in his testimony squared with his December 10, 2010 testimony that "[t]he purpose of staff's RSM is to align ratepayer and shareholder interests equitably." Mr. Newsome replied:

Well, you know, equitably, I guess, is in the eye of the person -- we still -- maybe not. Again, we just felt like we needed to make some movement on it. It's less -- less protection for the shareholders -- excuse me, less protection for the ratepayer. The shareholder has -- there's maybe not as much exposure. But we just felt like we needed to move a little bit -- or move a lot, rather.

(Transcript p. 232 – 233)

That the revised risk sharing mechanism contains provisions that are more than equitable to Georgia Power's shareholders is illustrated by the following testimony:

If the Project comes in significantly over budget, the ratepayer will be saddled with a significantly higher revenue requirement and most likely a negative economic benefit. However, under Staff's revised risk sharing mechanism, the Units' profit measured in dollars would increase as Total Project Cost increases. For example, a 50 percent increase in Total Project Cost from \$6.1 billion to \$9.0 billion would result in an increase of profit from \$10.0 billion to \$13.2 billion. Under this large cost overrun case a more than equitable balance is struck between ratepayer and shareholder interests.

(Newsome Direct Testimony at p. 29 of 47).

When asked for whom the balance struck was more equitable, Mr. Newsome replied, “[f]or the shareholder.” (Transcript at 237, lines 17-18)

3. The strong likelihood of cost overruns associated with the construction of nuclear units warrants the Commission's adopting a risk sharing mechanism, especially given the first-of-its-kind nature of the Vogtle project.

This Commission has already seen the price tag of nuclear units skyrocket above the estimate provided by the Company at the time the units were certified, with Vogtle Units 1 and 2.

Georgia Power initially estimated the cost of Vogtle units 1 and 2 (which went on line in 1987 and 1989) to be \$660 million. The final cost was almost \$8.9 billion. Although the Company might argue that this exponential increase in the total project cost for Vogtle Units 1 and 2 was attributable, in large part, to environmental mandates that took effect in the wake of the Three Mile Island meltdown, changes in environmental rules and regulations are only one example of potential cost overruns. Other examples include construction delays and an increase in the cost of labor and materials.

For Georgia Power to take the position that no RSM whatsoever is necessary when--pursuant to Georgia law--ratepayers are already on the hook for unlimited cost overruns, shows a staggering disregard for ratepayers' financial well-being, especially when such a stance is taken in the same calendar year in which ratepayers have already been saddled with a 10 percent monthly base rate increase¹ and the imposition of the Nuclear Construction Cost Recovery charge², the combined impact of which is approximately \$15 per month for an average use customer. As Mr. Newsome stated, ratepayers provide the ultimate financial backstop for Vogtle units 3 and 4 even though, unlike Georgia Power, ratepayers have no control whatsoever over the project and unlimited exposure regarding any prudently incurred costs. (Transcript at 237 - 238)

4. Under the RSM proposed in Staff's December 2010 testimony, Georgia Power will recover all reasonable and prudently incurred capital costs.

¹ Effective January 2011, an average-use customer's base rates increased 10% (almost \$11.00 per month). By 2013, the base rate increase will rise to 13.8% (or \$15.33 per month).

² When lobbying for the passage of SB 31 in 2009, Georgia Power cited a \$1.30 per month impact on an average-use customer's bill. When the NCCR charge took effect in January 2011, however, the charge imposed on an average-use customer was \$3.73--almost triple the estimate Georgia Power cited to win approval of SB 31. The NCCR charge will continue to increase through 2015, at which time an average-use, 1,000 kWh per month customer will pay approximately \$8.71 per month.

Ratepayers, on the other hand, have unlimited exposure to prudently incurred total project costs, and imprudence disallowances alone are not sufficient to protect ratepayers. (Transcript at 212, 218) As Mr. Newsome testified:

Prudence reviews do not protect ratepayers from cost overruns in circumstances where it cannot be shown that the Company's conduct rose to the level of imprudence. The prudence standard is a minimum standard for a utility to meet. Accordingly, there is a gap between satisfying the prudence standard and managing the Project in the most efficient manner.

(Newsome direct testimony at p. 27, lines 1-5)

Official Code of Georgia Annotated § 46-3A-7 (Construction costs as part of rate base; review of construction work in progress; verification of expenditures; recovery of costs of canceled construction) reads, in pertinent part:

So long as the commission has not modified or revoked the certificate for an electric plant under Code Section 46-3A-6 and to the extent the utility seeks to add to its rate base upon completion of the plant construction costs that do not exceed 100 percent of those approved by the commission under Code Section 46-3A-5, Code Section 46-3A-6, or subsection (b) of this Code section, that construction cost amount may be excluded from the rate base only on the basis of fraud, concealment, failure to disclose a material fact, imprudence, or criminal misconduct. **Inclusion of costs in excess of 100 percent of those approved by the commission shall not be permitted unless shown by the utility to have been reasonable and prudent.**

(Emphasis added. O.C.G.A. § 46-3A-7(a))

As both Georgia law and Mr. Newsome's testimony make clear, Georgia Power will be permitted to recover any cost overrun expenses, as long as the Commission determines that such overruns are "reasonable and prudent." Although Georgia Watch urges the Commission to adopt the RSM proposed in Staff's December 2010 testimony, it is worth noting that neither the

December 2010 RSM nor Staff's revised RSM includes a provision contrary to O.C.G.A. § 46-3A-7(a).

Georgia law does not place a cap on the amount of cost overruns that the Company may recover, other than to state that the recovery of such expenses requires a Commission determination of reasonableness and prudence. Whether cost overruns for Vogtle Units 3 and 4 end up being \$ 1 million, \$1 billion, or \$10 billion, it is ratepayers who will be saddled with these costs, as long as the Commission determines that the costs are reasonable and prudent.

- 5. It is wholly appropriate for the Commission to hold the company to a higher standard higher than the minimum prudence standard, given the high level of risk associated with constructing nuclear units.**

As Mr. Newsome testified, “The far greater uncertainty associated with this Project as compared to other electric projects warranted this additional protection [i.e., a RSM] at certification, and still warrants the additional protection today. Even under Staff’s [revised] mechanism, ratepayers bear the substantial majority of the risk associated with cost overruns.” (Newsome Direct Testimony at p. 27 of 47; Transcript at 347)

III. Conclusion

The mission of the Georgia Public Service Commission is “to exercise its authority and influence to ensure that consumers receive safe, reliable and reasonably priced telecommunications, transportation, electric and natural gas services from financially viable and technically competent companies.” (see PSC website homepage). A Commission decision to adopt Staff’s December 2010 RSM would in no way jeopardize Georgia Power’s financial

viability. A Commission decision not to adopt it, on the other hand, would result in Georgia Power customers paying unreasonably high rates, especially given the high likelihood of cost overruns.

A risk sharing mechanism with respect to the final project costs of Vogtle Units 3 and 4 is appropriate, in the public interest, and critical to providing some minimal alignment between ratepayer and shareholder interests. As Mr. Newsome testified, “Ratepayer revenue requirement is based on the project's results of the total project cost. **Company shareholder profits should also be tied in some manner to the results or total project cost.**” (Emphasis added; Transcript at 219) Georgia Watch urges the Commission to adopt the risk sharing mechanism recommendation proposed by Staff in Tom J. Newsome’s December 2010 testimony in this docket.

Respectfully submitted this 18th day of July, 2011.



Clare McGuire
Georgia Watch

Georgia Watch
55 Marietta Street, N.W.
Atlanta, GA 30303

(404) 525-1085 ext. 14

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Post-Hearing Brief of Georgia Watch** in the above-referenced docket was filed with the Commission's Executive Secretary, and a copy of same was served upon all parties and persons listed below via hand-delivery where indicated by an asterisk, or by electronic mail:

Reece McAlister*
Executive Secretary
Georgia Public Service Comm.
244 Washington Street, SW
Atlanta, GA 30334

Jim Fletcher
Vice President, Regulatory Affairs
Georgia Power Company
Bin 10230
241 Ralph McGill Boulevard, NE
Atlanta, GA 30308-3374

Kevin Greene
Brandon Marzo
Troutman Sanders
NationsBank Plaza
600 Peachtree Street, NE
Suite 5200
Atlanta, GA 30308

Randall D. Quintrell
Randall D. Quintrell, P.C.
999 Peachtree Street, NE
Atlanta, GA 30309

Rita Kilpatrick
Southern Alliance for Clean Energy
250 Arizona Avenue
Atlanta, GA 30307

Jeffry C. Pollock
J. Pollock, Inc.
2655 Olive Blvd, Suite 335
St. Louis, Missouri 63141

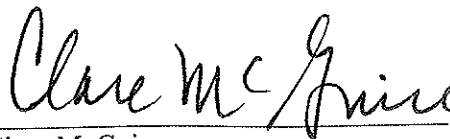
G. L. Bowen, III
Charles B. Jones, III
Georgia Traditional Manufacturers
Association
The Hurt Building
50 Hurt Plaza, Suite 985
Atlanta, Georgia 30303

Sheree Kernizan*
Georgia Public Service Comm.
244 Washington Street, SW
Atlanta, GA 30334

Jeff Stair*
Georgia Public Service Comm.
244 Washington Street, SW
Atlanta, GA 30334

Dan Walsh*
Senior Assistant Attorney General
Dept. of Law
40 Capitol Square, SW
Atlanta, GA 30334-1300

So certified, this 18th day of July 2011.



Clare McGuire
Georgia Watch