

# SOUTHERN ENVIRONMENTAL LAW CENTER

Telephone 404-521-9900

TEN 10TH STREET NW, SUITE 1050  
ATLANTA, GA 30309-3848

Facsimile 404-521-9909

January 31, 2020

## **VIA HAND DELIVERY**

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

**Re: Post-Hearing Brief of Georgia Interfaith Power & Light and Partnership for  
Southern Equity; Docket No. 29849**

Dear Mr. McAlister:

Please find enclosed an original, 15 copies, and an electronic version of the Post-Hearing Brief of Georgia Interfaith Power & Light and Partnership for Southern Equity to be filed in Docket No. 29849.

Respectfully submitted,



Jill Kysor  
Staff Attorney  
Southern Environmental Law Center  
Ten 10<sup>th</sup> St., NW, Suite 1050  
Atlanta, Georgia 30309  
404-521-9900  
jkysor@selcga.org

**BEFORE THE  
GEORGIA PUBLIC SERVICE COMMISSION**

In Re: Verification of Expenditures Pursuant to Georgia )  
Power Company's Certificate of Public Convenience )  
And Necessity for Plant Vogtle Units 3 and 4, Combined ) Docket No. 29849  
Twentieth and Twenty-first Semi-annual Construction )  
Monitoring Report )

**POST-HEARING BRIEF OF GEORGIA INTERFAITH POWER & LIGHT  
AND PARTNERSHIP FOR SOUTHERN EQUITY**

Pursuant to the Procedural and Scheduling Order (PSO), Georgia Interfaith Power & Light (GIPL) and the Partnership for Southern Equity (PSE) respectfully submit the following Post-Hearing Brief in this Twentieth and Twenty-first Vogtle Construction Monitoring proceeding (VCM 20/21).

The PSO outlined a single issue for resolution in this proceeding: “[w]hether the Commission should verify and approve or disapprove the expenditures as made pursuant to the certificate issued by the Commission.” PSO at 4. Georgia Power Company (“the Company”) seeks verification and approval of \$1.27 billion,<sup>1</sup> the largest single amount ever at stake in a VCM proceeding. (Tr. 72). With this enormous sum, the Company and the Commission enter new territory: for the first time in the history of this project, cumulative capital investment now exceeds the certified cost of \$4.4 billion. (*Id.*) Specifically, the capital costs presented for approval raise total capital costs incurred to date to \$5.189 billion, according to Table 1.1 of the

---

<sup>1</sup> Georgia Power requests verification and approval of \$1.248 billion spent during the VCM periods and \$21.5 million that had already been spent but was deferred for verification and approval until now.

Company's Twentieth/Twenty-first Semi-Annual Construction Monitoring Report.<sup>2</sup> This means that the amounts presented here for approval exceed the certified cost by \$789 million.

Despite a series of major cost overruns beginning in the 8<sup>th</sup> VCM, the Commission has declined to amend the Company's certificate to build Vogtle Units 3 and 4. As a result, the approved certified capital cost remains \$4.4 billion. For this reason, only capital costs up to \$4.4 billion can be approved "as made pursuant to the certificate." Costs exceeding that threshold cannot (and should not) be verified and approved "as made pursuant to the certificate" because the certificate does not contemplate their incurrence.

Under the governing statute, O.C.G.A. § 46-3A-7(b), the Commission's obligation to verify and approve or disapprove extends only to "expenditures made pursuant to the certificate." It follows that the Commission may only approve \$481 million of the sums presented. The remaining \$789 million cannot be approved as made pursuant to the certificate because that amount exceeds the certified cost.<sup>3</sup>

Accordingly, GIPL and PSE urge the Commission to verify and approve no more than \$481 million of the capital expenditures presented in this 20<sup>th</sup> and 21<sup>st</sup> VCM. The Commission

---

<sup>2</sup> Notably, there is a discrepancy between Georgia Power's representation of the capital costs incurred and the amount verified and approved by the Commission prior to this VCM. The total of all VCM verification and approvals, less the Toshiba Parent Guarantee dollars applied to the benefit of customers, is \$3.66 billion. If the Commission verifies and approves the \$1.27 billion before it, total verifications and approvals will be \$4.93 billion, not the \$5.189 billion claimed by Georgia Power in Table 1.1 of its VCM 20/21 Report. This apparent discrepancy shows why more clarity and transparency are needed in future VCM filings.

<sup>3</sup> These amounts are based on the \$5.189 billion in capital costs spent to date from Table 1.1, less the certified amount of \$4.4 billion. That leaves only \$789 million to be verified and approved pursuant to the certificate because the remaining \$481 million is in excess of the certified cost.

must defer consideration of the remainder until the Commission either amends the certificate or makes a final prudency determination of those dollars.<sup>4</sup>

Respectfully submitted this 31<sup>st</sup> day of January, 2020.



---

Kurt Ebersbach  
Jillian Kysor  
Stacy Shelton  
Southern Environmental Law Center  
Ten 10<sup>th</sup> St. NW, Suite 1050  
Atlanta, GA 30309  
P: (404) 521-9900  
F: (404) 521-9909  
kebersbach@selcga.org  
jkysor@selcga.org  
sshelton@selcga.org

*Counsel for GIPL and PSE*

---

<sup>4</sup> GIPL and PSE continue to maintain that the Commission has an immediate obligation to consider whether it's appropriate to amend the certificate to reflect the true cost of Units 3 and 4. The Commission's purported waiver of its Rule 8 for the duration of the VCM monitoring period is unlawful and void. However, to the extent the Commission continues to defer consideration of amending the certificate until Unit 3's completion, it must likewise delay any approval of excess capital costs.

**CERTIFICATE OF SERVICE**

I certify that I have this 31<sup>st</sup> day of January, 2020, served by electronic mail the **Post-Hearing Brief of Georgia Interfaith Power & Light and Partnership for Southern Equity** in Docket No. 29849, Georgia Power Company's Vogtle Units 3 and 4 Construction Monitoring, on the following parties:



Jill Kysor

**On Behalf of the Georgia Public Service Commission:**

Reece McAlister  
Executive Secretary  
Georgia Public Service Commission  
244 Washington Street, S.W.  
Atlanta, Georgia 30334  
reecem@psc.state.ga.us

Jeffrey Stair, Esq.  
Georgia Public Service Commission  
244 Washington Street, S.W.  
Atlanta, Georgia 30334  
jeffreys@psc.state.ga.us

**On Behalf of Georgia Power Company:**

Jim R. Fletcher  
Manager, Regulatory Affairs  
Georgia Power Company  
Regulatory Affairs Bin 10230  
241 Ralph McGill Blvd., N.E.  
Atlanta, Georgia 30308-3374

Kevin Greene  
Troutman Sanders  
600 Peachtree Street, NE  
Suite 5200 Bank of America Plaza  
Atlanta, GA 30308-2216  
kevin.green@troutmansanders.com

**On Behalf of Georgia Industrial Group  
("GIG"):**

Randall D. Quintrell  
Randall D. Quintrell, P.C.  
999 Peachtree Street, N.E., 23<sup>rd</sup> Floor  
Atlanta, GA 30309-3996  
randy.quintrell@sutherland.com

Jeffrey Pollock  
J. Pollock Incorporated  
12647 Olive Blvd., Suite 585  
St. Louis, MO 63141  
jcp@jpollockinc.com

**On Behalf of The Georgia Traditional  
Manufacturers Association:**

G. L. Bowen, III  
Charles B. Jones, III  
Georgia Traditional Manufacturers Association  
The Hurt Building  
50 Hurt Plaza, Suite 985  
Atlanta, GA 30303  
rbowen@gtma.org  
cjones@gtma.org

**On Behalf of Resource Supply Management  
("RSM"):**

Jim Clarkson  
Resource Supply Management  
1370 Walcora Dr.  
Sumter, SC 29150  
jclarkson@rsmenergy.com

**On Behalf of Southern Alliance for Clean  
Energy, Inc. ("SACE"):**

J. Reneé Kastanakis  
Kastanakis Law, LLC  
1350 Avalon Place, N.E.  
Atlanta, GA 30306  
404-314-0073  
rkastanakis@aol.com

Sara Barczak  
Bryan Jacob  
Southern Alliance for Clean Energy  
1455 Hampton Hill Drive  
Alpharetta, Georgia 30022  
sara@cleanenergy.org  
bryan@cleanenergy.org

**On Behalf of Georgia Watch:**

Liz Coyle  
Georgia Watch  
55 Marietta Street N.W.  
Suite 903  
Atlanta, GA 30303  
lcoyle@georgiawatch.org

**On Behalf of The Nuclear Energy Institute:**

Ellen C. Ginsberg  
Vice President, General Counsel and Secretary  
Nuclear Energy Institute  
1201 F Street NW  
Suite 1100  
Washington, DC 20004  
ecg@nei.org

**On Behalf of The Municipal Electric Authority of Georgia:**

Rebecca Woods, Esq.  
Seyfarth Shaw LLP  
1075 Peachtree Street, N.E.  
Suite 2500  
Atlanta, GA 30309-3958  
rwoods@seyfarth.com

Peter M. Degnan, Esq.  
General Counsel  
Municipal Electric Authority of Georgia  
1470 Riveredge Parkway, N.W.  
Atlanta, GA 30328  
pdegan@meagpower.org

Robert J. Middleton, Jr.  
Hall Booth Smith, P.C.  
2417 Westgate Drive  
Albany, GA 31707  
rjm@hallboothsmith.com

**On Behalf of Georgia Association of Manufacturers (“GAM”):**

G. L. Bowen, III  
Charles B. Jones, III  
Georgia Association of Manufacturers  
The Hurt Building  
50 Hurt Plaza, Suite 985  
Atlanta, GA 30303  
rbowen@gamfg.org  
cjones@gamfg.org

**On Behalf of Nuclear Watch South:**

Glenn Carroll  
Coordinator  
Nuclear Watch South  
P. O. Box 8574  
Atlanta, GA 31106  
atom.girl@nonukesyall.org

Erin Glynn, Esq.  
Attorney for Petitioner  
The Callins Law Firm  
101 Marietta Street, Suite 1030  
Atlanta, GA 30303  
eglynn@callins.com

**On Behalf of (JEA) Jacksonville Electric Authority:**

Jody L. Brooks  
Chief Legal Officer, JEA  
21 West Church Street (T-16)  
Jacksonville, FL 32202  
TEL: 904-665-6383  
Broojl@jea.com

**On Behalf of North America’s Building Trades Unions, The Georgia State Building and Construction Trades Council, and the Augusta Building and Construction Trades Council:**

Richard M. Resnick  
Lucas R. Aubrey  
Sherman, Dunn, Cohen, Leifer & Yellig, P.C.  
900 Seventh Street, N.W., Suite 1000  
Washington, D.C. 20001  
resnick@shermardunn.com  
aubrey@shermardunn.com

**On Behalf of The Concerned Ratepayers of  
Georgia:**

Ben J. Stockton, PE, MBA  
Executive Director  
Concerned Ratepayers of Georgia  
2305 Global Forum Blvd., Suite 912  
Atlanta, GA 30340  
TEL: 404-924-5336  
encomanager13@gmail.com

Steven C. Prenovitz, MBA, Consultant  
Concerned Ratepayers of Georgia  
4295 Amberglade Ct.  
Norcross, GA 30092  
TEL: 770-448-8978  
CELL: 770-843-8978  
scprenovitz@gmail.com