

October 26, 2023

Jason Shaw, Chairman
Georgia Public Service Commission
244 Washington Street, S.W.
Atlanta, Georgia 30334-5701

VIA HAND DELIVERY

PETITION TO HOLD IN ABEYANCE

RE: Docket 29849 Georgia Power Company's Application to Adjust Rates to Include Reasonable and Prudent Plant Vogtle Units 3 and 4 Costs

Dear Chairman Shaw and Commissioners:

As Georgia voters and Georgia Power Company customers we respectfully petition the Georgia Public Service Commission to delay and postpone the hearings and final decision in this docket until the two seats for Commission Districts 2 and 3 have been filled after duly authorized elections conducted by the Georgia Secretary of State's Office.

The Vogtle Units 3 and 4 prudency review pending before the Commission is the largest single construction project in Georgia and U.S. history that will affect all Georgia electric customers for the next 60 years. The financial magnitude of this approximately \$35 billion project cannot be overstated, and any proceeding in which two un-elected commissioners participate or vote unduly jeopardizes the authority and legitimacy of this Commission's decision and renders it vulnerable to judicial challenge and reversal.

The elections for Public Service Commission Districts 2 and 3 were originally scheduled for November 8, 2022 but were cancelled pursuant to a court order. It has been almost a year since the elections for these district seats should have been held. The Public Service Commission district seats are not on the November 7, 2023, election ballot. We believe a decision from the Eleventh Circuit Court of Appeals regarding these seats to be imminent. If the federal court ruling empowering PSC district voters to choose their commissioners is upheld, District 2 and 3 voters are even more unfairly impacted if the PSC rules on Vogtle costs before the election.

Additionally, Governor Brian Kemp by Executive Order¹, appointed Commissioner Fitz Johnson on August 26, 2021, to fill the unexpired term of Commissioner Chuck Eaton. Pursuant to the Governor's Executive Order, Commissioner Johnson's temporary appointment expired December 31, 2022. We are aware of no authority or precedent where an un-elected appointee for an unexpired term may continue to serve after the expiration of the appointed term.

Vogtle Units 3 and 4 were scheduled to go into service April 1, 2016, and April 1, 2017, respectively. After multiple delays Unit 3 went into operation July 31, 2023, and the commercial operation date for Unit 4 has been pushed back again to the first quarter of 2024. There is no rush for this hearing to be held, and this vote to be taken, given that seven years beyond the expected in-service date have already passed.

¹ Executive Order issued August 26, 2021, Document 08.26.21.01.

Chairman Shaw and Commissioners
October 26, 2023
Page 2

Any postponement in the hearing and vote on the prudence of adjusting rates to include Vogtle Units 3 and 4 costs until the Commission is constituted of duly elected commissioners will have a negligible impact on project costs in comparison to the seven years of repeated delays and cost overruns experienced by Georgia Power at Plant Vogtle.

Delaying the final cost review for Plant Vogtle Units 3 and 4 is justified, reasonable, and prudent under the current unique circumstances of two un-elected commissioners occupying seats on the Public Service Commission after their terms have expired. Postponing the proceeding will cause no irreparable injury or damage to Georgia Power Company. To go forward with the hearings beginning December 4 and to vote on December 19, prior to the Commission being constituted of duly elected commissioners, does a disservice to Georgia citizens and renders any decision by the Commission as currently constituted vulnerable to judicial challenge and reversal.

At the November 2, 2023, Energy Committee meeting, we request the Commission amend the Procedural and Scheduling Order in this docket to hold the Vogtle prudence hearing in abeyance until after newly elected commissioners for districts 2 and 3 are installed.

At a minimum, we request that the two un-elected commissioners be immediately suspended from conducting PSC business.

Sincerely,

_____/ signed original /_____
Glenn Carroll, Coordinator
Nuclear Watch South
P.O. Box 8574
Atlanta, Georgia 31106
404-378-4263
glenn@nonukesyall.org

_____/ signed original /_____
Kim Scott, Executive Director
Georgia WAND
250 Georgia Ave.
Suite 202
Atlanta, GA 30312
404-524-5999
kim@georgiawand.org

cc: All Commissioners
Interested Parties