BEFORE THE
GEORGIA PUBLIC SERVICE COMMISSION
STATE OF GEORGIA

Re: Construction Monitoring Proceeding for Georgia Power Company's Plant Vogtle Units 3 and 4; Supplemental Information, Staff Review and Opportunity for Settlement.	]]]]	Docket No. 29849

Brief of the Southern Alliance for Clean Energy

COMES NOW the Southern Alliance for Clean Energy (hereafter "SACE"), and submits its brief to the Georgia Public Service Commission (hereafter "Commission") regarding the proposed Stipulation between Georgia Power Company (hereafter "Company" or "Georgia Power") and the Georgia Public Service Commission Staff (hereafter "Staff" or "Commission Staff").

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I. The Proposed Stipulation Increases the Capital Cost of Plant Vogtle Units 3 and 4, Waives Approximately $1.552 Billion in Potential Project Cost Disallowances, Significantly Reduces the Chance that Any Prudency Review of Project Costs Will Ever Be Done In the Future and Offers Few Protections to Customers

The proposed Stipulation creates the largest revenue requirement imposed on Georgia Power ratepayers based on the least amount of public review by the Commission in its history. The prudency review for Vogtle Units 1 and 2 took weeks of public hearings, contained extensive testimony from senior Georgia Power Company officials, consultants and accounting experts and created an

enormous public record on which the Commission based its decision. (See Dockets 3673 and 3840) The current proceeding is an unorthodox, non-transparent and truncated process that would not be adequate or legal for consideration of an ordinary tariff change, much less a multi-billion dollar review of two, yet-to-be completed nuclear units.

The current proceeding is a unique hybrid process that has never been used for any other matter or case considered before the Commission. What started as a request from Georgia Power Company to review the $350 million in litigation settlement costs was transformed into a de facto expedited prudency review that increases the current certified cost of the Project from $6.113 billion to approximately $8 billion with only a one-day public hearing, testimony from a combined panel consisting of just two Commission witnesses and two Company witnesses, who were not fully familiar with the expert witness testimony filed in April by the Company (Tr. 175), resulting in a meager hearing transcript of approximately 250 pages upon which the Commission will base its decision.

The proposed Stipulation under review increases the Project capital costs from $4.418 billion to $5.680 billion. (Georgia Power Exhibit 2, pp. 1-2) An increase of $1.262 billion from the 2009 certified cost, and provides limited immediate benefits to ratepayers. Approval of the Stipulation may appear to provide some benefits to Georgia Power customers, but upon closer examination

those benefits are marginal and possibly illusory. Additionally, approval of the Stipulation will mean that Georgia Power ratepayers will be obligated for the next 60 years to pay the new forecasted capital and financing costs unless a robust challenge is filed in the future.

Approval of the Stipulation will mean that the Commission is waiving any future review of $700 million in additional financing costs incurred due to the current 39-month construction delay, the $350 million in Georgia Power's share of the litigation settlement costs with its Contractor and the $502 million in additional fuel costs incurred by the 39-month construction delay. Thus a total of $1.552 billion in additional Project costs caused by the 39-month construction delay will be permanently waived or conceded by the Commission and never subject to any possible prudency review in the future.

The claimed $325 million reduction in rates for customers over the next four years is a creative manipulation and reinterpretation of a reduction to the return on equity level used on the Project's financing and a short-term deferral of financing costs that eventually will be paid by ratepayers. The Stipulation Panel's direct testimony at page 5 states, ". . .that approximately $185 million will never be paid by any customers . . .," (Tr. 47) but approximately $70 million of this amount is based on taxes the Company will never pay because of the reduction to shareholder earnings. (Tr. 239) The real reduction for customers is approximately $115

million, but even that amount is not agreed upon by the Commission Staff. (Tr. 148) The proposed Stipulation only delivers approximately $28,750,000 per year for the next four years in direct cost reductions to customers. This is a negligible annual reduction to the Nuclear Construction Cost Recovery ("NCCR") tariff that does not justify adoption of the Stipulation.

Approval of the proposed Stipulation will significantly reduce the chance that a thorough prudency review of the new Vogtle Project costs will ever be done in the future because neither the Commission nor the Company have any incentive to undertake the long and difficult work required if it is possible to commit minimal time and expense without any major public outcry. Promises were made during the certification process in 2009 that a full prudency review of the Project costs would be conducted upon completion of the Project. Promises were reaffirmed in the 8th Vogtle Construction Monitoring Review Order that a full prudency review of the Project costs would be conducted when Unit 3 was complete. Both of these promises to ratepayers will be broken by approval of the Stipulation, and it is very speculative that any prudency review will be conducted in the future if it is not done by the Commission because no third-party has the resources or data comparable to the Commission Staff.

Finally, as was repeatedly acknowledged during the single Stipulation hearing, the Commission can always change or amend the current Stipulation in

the future. (Tr. 247-248) The likelihood that a 300 basis point reduction to the Company's return on equity level applied to the Nuclear Construction Cost Recovery tariff will occur if the new Vogtle units are not commercially operational by December 31, 2020, which represents a 45-month delay, is problematic at best. This provision can easily be stripped out of the Stipulation or amended in some way to eliminate or dramatically reduce the financial impact of the Company failing to meet the December 31, 2020 commercial operation date.

A. Vogtle's Forecasted Capital Project Cost Will Increase by $1.262 Billion to $5.680 Billion That Includes $2.380 Billion in Yet-To-Be-Spent Capital Costs

The proposed Stipulation increases the certified capital cost of the Project from $4.418 billion to a capital cost forecast of $5.680 billion, an increase of $1.262 billion. This increase in the forecasted capital cost of the Project also means that the yet-to-be-spent capital costs of the Project go from $3.3 billion (Tr. 204) to $5.680 billion an increase of $2.380 billion. This is a bad deal for ratepayers because the new forecasted capital cost is also presumed to be "reasonable and prudent," which shifts the burden of proof from the Company to justify the higher cost for the two new nuclear units onto either the Commission Staff or some third-party that might challenge the prudency of the higher costs. (Stipulation, pp. 1-2, par. 4)

Why should a capital and construction cost increase to $5.680 billion that exceeds the current certified capital and construction cost of $4.413 billion be presumed to be prudent and reasonable today? Common sense and reason would suggest just the opposite. A responsible party would be on notice that there are serious problems with the Project's cost if the current certified capital and construction cost of $4.413 billion is increased by $1.267 billion. No presumption of prudency and reasonableness should be given to this new, higher cost for construction. Rather than granting the higher construction cost the presumption of prudency and reasonableness now, more diligent scrutiny and review should be conducted for costs that exceed the original certified amount of $4.413 billion.

B. Approval of the Proposed Stipulation Nullifies the Commission's Order in the 8th Vogtle Construction Monitoring Report That Provided for a Prudency Review To Be Completed Regarding the Project's Costs When Unit 3 Was Completed

The Eighth Semi-Annual Construction Monitoring Report Order adopted a Stipulation that stated that costs in excess of the certified amount of $6.113 billion would not be allowed into rate base until the Company proved that they were reasonable and prudent. (Docket 29849, 8th VCM Order, Ex. 1, ¶¶ 3 and 4) Approval of the proposed Stipulation will nullify the Company's obligation under the 8th VCM Order to make a showing of prudency and reasonableness for costs above the certified amount. The Commission's decision to approve the Stipulation

and waive any prudency review after repeated statements and commitments to do so undermines the Commission's credibility concerning any thorough and open review of the Project costs in the future.

C. The Commission Staff Never Attempted to Conduct A Prudency Review Once the February 5, 2016 Order Regarding Supplemental Information, Staff Review, and Opportunity for Settlement Was Approved by the Commission

Testimony at the December 6, 2016 hearing makes it very clear that no attempt was made by the Commission Staff to initiate a prudency review. Limited steps were taken to assemble documents that could be used in a prudency review proceeding (Tr. 198-199), but no report, memorandum, audit, or any document was produced that contained the analysis performed by the PSC Staff and its consultants that analyzed or discussed the billions of dollars in capital and construction costs they were reviewing as part of this proceeding. (Tr. 201-202)

Minimal resources were specifically devoted to the Supplemental Information Staff Review process by the Commission. Just three staff members worked full-time to review the Vogtle costs for this proceeding and the semi-annual filings (Tr. 176, 202) with several others working only part-time or "on an as-needed basis". (Tr. 176) In addition to Dr. William Jacobs and Mr. Philip Hayet, only three consultants were retained on a part-time basis to assist the Staff with their review (Tr. 181-182) for a total cost of approximately $70,000 to

$80,000. (Tr. 192) In comparison, the PSC Staff allocated 12 staff members and attorneys along with Dr. William Jacobs, Mr. Philip Hayet and Mr. E. Carey Cook to work on the 15th VCM review, a semi-annual proceeding that just reviews whether expenditures were spent as reported by the Company.[1]

It was probably a foolish assumption to think a thorough prudency review might be conducted by the Commission when the Commission's February 5, 2016, Order Regarding Supplemental Information, Staff Review, and Opportunity for Settlement, mentioned "settlement" in the title of the Order and contained over a dozen references to settlement throughout the Order. The testimony from the December 6th hearing clearly showed that the PSC Staff was not focused on conducting a prudency review of the costs for Vogtle Units 3 and 4, but worked to develop information about the project that could be used in settlement negotiations with Georgia Power. (Tr. 177, 184, 192, 194-195, 197-198, 202, 203)

II. The Proposed Stipulation May Be Amended In the Future And Any Consumer Protections Contained in the Stipulation Could Be Eliminated or Weakened

The Commission Staff and Georgia Power may claim that the Stipulation contains consumer protections, but there is no guarantee or precedent in this docket that would suggest that those protections will remain in the future. Promises were

[1] 15th VCM Public Interest Advocacy Staff: Sheree Kernizan, Jeffrey Stair, Daniel Walsh, Steve Roetger, Tom Newsome, Robert Trokey and Shemetha Jones. 15th VCM Advisory Staff: Dennis Sewell, Pandora Epps, Allison Morris, Blair Fink and Nancy Gibson. Docket 29849, 15th Semi-annual Construction Monitoring Report Procedural and Scheduling Order, p. 5.

made in 14 previous Vogtle Construction Monitoring Report reviews that a complete and open prudency review of Vogtle costs would be conducted and now those promises have not been kept. As Georgia Power's counsel pointed out in the December 6th hearing, "[a]ny stipulation can be changed in the future . . .." (Tr. 248)

While the Stipulation provides that the NCCR tariff will remain unchanged in 2017, it can be increased in 2018 and 2019 (Tr. 245), or until the certified capital and construction cost amount of $4.413 billion is reached. The cap on the increase of the NCCR tariff is only for 2017.

III. The Company Has Not Met Its Burden of Proof to Justify Inclusion of Any Costs Allocated to Vogtle Units 1 and 2 and All Such Costs Should Be Disallowed As Imprudent

Table 1.1 in the Fourteenth Semi-annual Vogtle Construction Monitoring Report indicates in Footnotes 1, 2 and 3 that costs associated with the construction of Vogtle Units 3 and 4 also benefited Vogtle Units 1 and 2. Footnote 1 indicates that $28 million was spent for the "EPC Joint Use Building (that benefits Vogtle 1 & 2)." Footnote 2 references the new Training Facility that "will support employees from all four units." Finally, Footnote 3 mentions $23 million spent for transmission upgrades that benefits Units 1 and 2.

According to testimony from Georgia Power, ". . . early on in the project, there was a determination made that, from a philosophical standpoint, such costs that would have only been incurred by construction of 3 and 4 would never have been necessary for 1 and 2 would be charged to 3 and 4." (Tr. 205-206) From a philosophical standpoint this rationale might be defensible when Georgia Power's share of the Project in question has not gone over budget by $1.765 billion.[2] But when the project is seriously behind schedule by at least 39-months and over budget by at least $1.765 billion a responsible company should try to minimize the cost overages as much as possible, even if it is only a token amount, rather than trying to get every last penny included in the project's ballooning budget.

In this case there is no denying that the expenditures in question will provide benefits to Vogtle Units 1 and 2 and/or their employees, and there is an operational cost recovery mechanism for Units 1 and 2 to recover any expenses associated with their operation, yet the Company is unwilling to allocate a reasonable share of the costs to Units 1 and 2 and recover those expenses through the appropriate rate case process.

Georgia Power's entire justification for recovery of all the expenses jointly benefiting all the Vogtle units is contained in the December 6th hearing transcript at pages 208 through 209. That justification is inadequate and a reasonable portion of

[2] This includes both capital and financing costs. Docket 29849, Fourteenth Semi-annual Vogtle Construction Monitoring Report, p. 6, Table 1.1.

the joint unit costs should be allocated to Vogtle Units 1 and 2 and disallowed for recovery in the Vogtle Units 3 and 4 budget.

IV. Conclusion

WHEREFORE, the Southern Alliance for Clean Energy requests that the Commission not approve the proposed Stipulation because it creates the largest revenue requirement imposed on Georgia Power Company ratepayers based on the least amount of public review by the Commission in its history. Additionally, the proposed Stipulation should be disallowed because it provides for a $1.262 billion increase in Project construction costs, only marginal customer benefits are provided by the reduction to the Company's return on equity level for the NCCR tariff, $1.552 billion in potential Project cost disallowances will be permanently lost, the Stipulation will have a negative impact on any prudency review being conducted in the future and the Stipulation lacks reliable consumer protections. Any costs allocated to Vogtle Units 1 and 2 should be disallowed as imprudent, and should be considered in the next rate case proceeding.

Respectfully submitted this 13th day of, December 2016.

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Brief of the Southern Alliance for Clean Energy in Docket No. 29849 was filed with the Public Service Commission's Executive Secretary by hand delivery. An electronic copy of same was served upon all parties listed below by electronic mail, unless otherwise indicated, as follows:

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