

**BEFORE THE GEORGIA PUBLIC SERVICE COMMISSION
STATE OF GEORGIA**

In Re:)	
Review of Proposed Revisions and)	
Verification of Expenditures Pursuant to)	Docket No. 29849
Georgia Power Company's Certificate of)	
Public Convenience and Necessity for)	
Plant Vogtle Units 3 and 4,)	
14th Semi-annual Construction)	
Monitoring Report)	

NUCLEAR WATCH SOUTH PROPOSED ORDER

Nuclear Watch South respectfully submits its Proposed Order to the Georgia Public Service Commission (PSC *or* Commission) in the 14th Vogtle Construction Monitoring Review in accordance with standard practice as described in Procedural and Scheduling Order (Amended).

SUMMARY

In its Proposed Order, Nuclear Watch South submits its findings that:

- 1) The PSC must reimburse Georgia Power for \$160 million in expenditures in accordance with its own Order in the 8th VCMR.
- 2) The PSC has *responsibility* to ensure Georgia consumers reliable electricity at reasonable rates, the *mandate* to weigh all the evidence before issuing an opinion, and the *power* to revoke the certificate of a resource that does not meet the necessity test.
- 3) Georgia Power's forecasted need for Vogtle 3 & 4 was wrong. The Company is now overbuilt in a consistently flat market. Vogtle 3 & 4 are not needed.
- 4) Vogtle expansion does not meet the necessity test and should be decertified in accordance with PSC authority.
- 5) Georgia Power is profiting unfairly from Vogtle construction.
- 6) It is cheaper to cancel Vogtle 3 & 4 construction than to complete.
- 7) Neither Georgia Power nor the ratepaying public will be harmed by decertifying Vogtle 3 & 4 construction .
- 8) The unassailable evidence presented by Georgia Power's annual report data concerning

its market performance and electricity demand has not been refuted by any party including Georgia Power or PSC staff.

- 9) The PSC should decertify Vogtle 3 & 4 construction and cancel collection of the Nuclear Construction Cost Recovery tariff.

I. THE PSC MUST REIMBURSE GEORGIA POWER FOR EXPENDITURES IN ACCORDANCE WITH ITS OWN ORDER IN THE 8TH VCMR

The PSC must reimburse Georgia Power for \$160 million in expenditures in accordance with its own Order in the 8th VCMR.

II. THE PSC HAS THE MANDATE, THE MISSION AND THE AUTHORITY TO REVOKE CERTIFICATION OF EXCESS CAPACITY.

The PSC's mission statement includes this sentiment: "to ensure that consumers receive reasonably priced electric service." ¹ (*see* PSC website)

State of Georgia Rules and Regulations requires in all cases that every member of the Commission "reserve his opinion and in no way commit himself in advance ... until the facts and evidence are all submitted" and that "the Commission will hold no presumption in favor of the position of any party ... and shall only give weight and credit to any party ... as can be supported by credible evidence in the record." ²

¹ Georgia Public Service Commission's website states: "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, electric and natural gas services from financially viable and technically competent companies."

² State of Georgia Rules and Regulations (515-2-1-.01) says:

Every member of the Commission will, in all cases, reserve his opinion and in no way commit himself in advance touching the merits of any matter or question to be passed upon by the Commission or that should be dealt with by it, until the facts and evidence are all submitted and the Commission considers the same in administrative session. In determining findings of fact or in its deliberations, the Commission will hold no presumption in favor of the position of any party, including the Public Interest Advocacy Staff, and shall only give weight and credit to any party in the case as can be supported by credible evidence in the record.
Rule 515-2-1-.01 "Opinions of Commissioners"

Georgia Code 45-3A-6 gives the PSC the authority to modify or revoke a certificated capacity resource if reexamination shows that the resource is no longer needed.³

Taken together, the three statutes quoted from Georgia law give the PSC the *responsibility* to ensure Georgia consumers reliable electricity at reasonable rates, the *mandate* to weigh all the evidence before issuing an opinion, and the *power* to revoke the certificate of a resource that does not meet the necessity test.

As shown below, Georgia Power's annual report data reveal that the company is overbuilt in a shrinking, shifting market and no longer needs the power from Vogtle 3 & 4. Meanwhile, Georgia citizens are paying an unprecedented nuclear tariff for Vogtle construction which is resulting in unprecedented profits for Georgia Power.

We call upon the Commissioners to put the situation to rights by revoking Vogtle 3 & 4 certification and cancelling Nuclear Construction Cost Recovery collection.

³ Georgia Legal Code governing the VCM includes O.C.G.A. § 46-3A-6 which states:

Upon application of a utility or *upon its own motion*, the commission may *reexamine any certificate granted under this chapter* to determine whether new forecasts of future requirements require the modification of the construction, purchase, sale, or expenditure for a certificated capacity resource. If upon such reexamination the commission finds that the certificated capacity resource is *no longer needed* or that any additional certificated capacity resource is needed to assure a reliable supply of electric power and energy for the utility's Georgia retail customers, the commission may *modify or revoke* the certificate. [O.C.G.A. § 46-3A-6, excerpt, emphasis added]

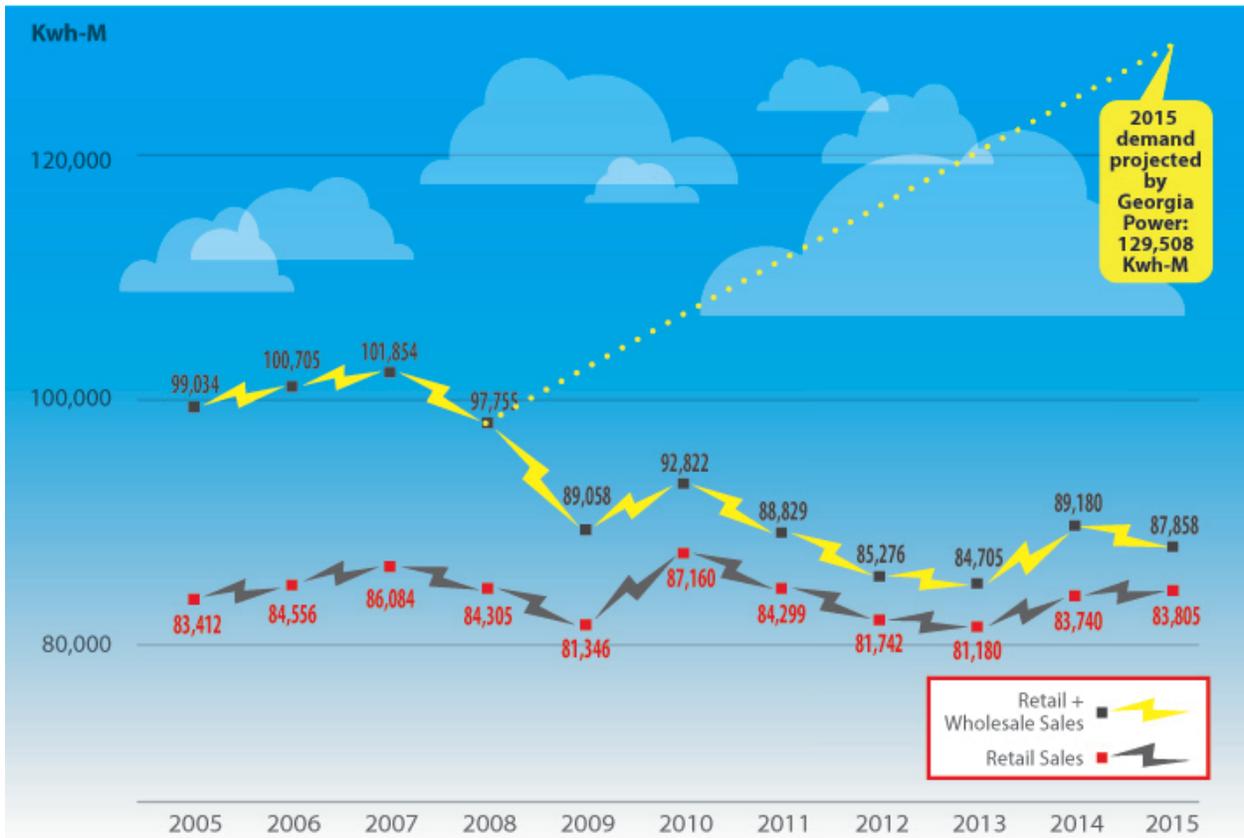
III. GEORGIA POWER DOES NOT HAVE A MARKET FOR THE POWER FROM VOGTLE 3 & 4. VOGTLE 3 & 4 ARE NOT NEEDED.

Data from Georgia Power's annual reports submitted to the Securities and Exchange Commission for 2005-2015 show that Georgia Power's forecast of 4.1% annual growth in consumer demand has not materialized. (see CHART 1 - GEORGIA POWER SALES VOLUME 2005-2015)

In 2009, Georgia Power forecast the need for an additional 8,000 MW of capacity from 2008-2018 for a 4.1% annual growth in capacity. The past 10 years have seen a reduction of -1.2% in combined retail and wholesale electricity sales despite Georgia's population growth of 12.5%.

CHART 1 - GEORGIA POWER SALES VOLUME 2005-2015

Georgia Power Sales Volume 2005-2015



Source: Georgia Power Company annual reports 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015

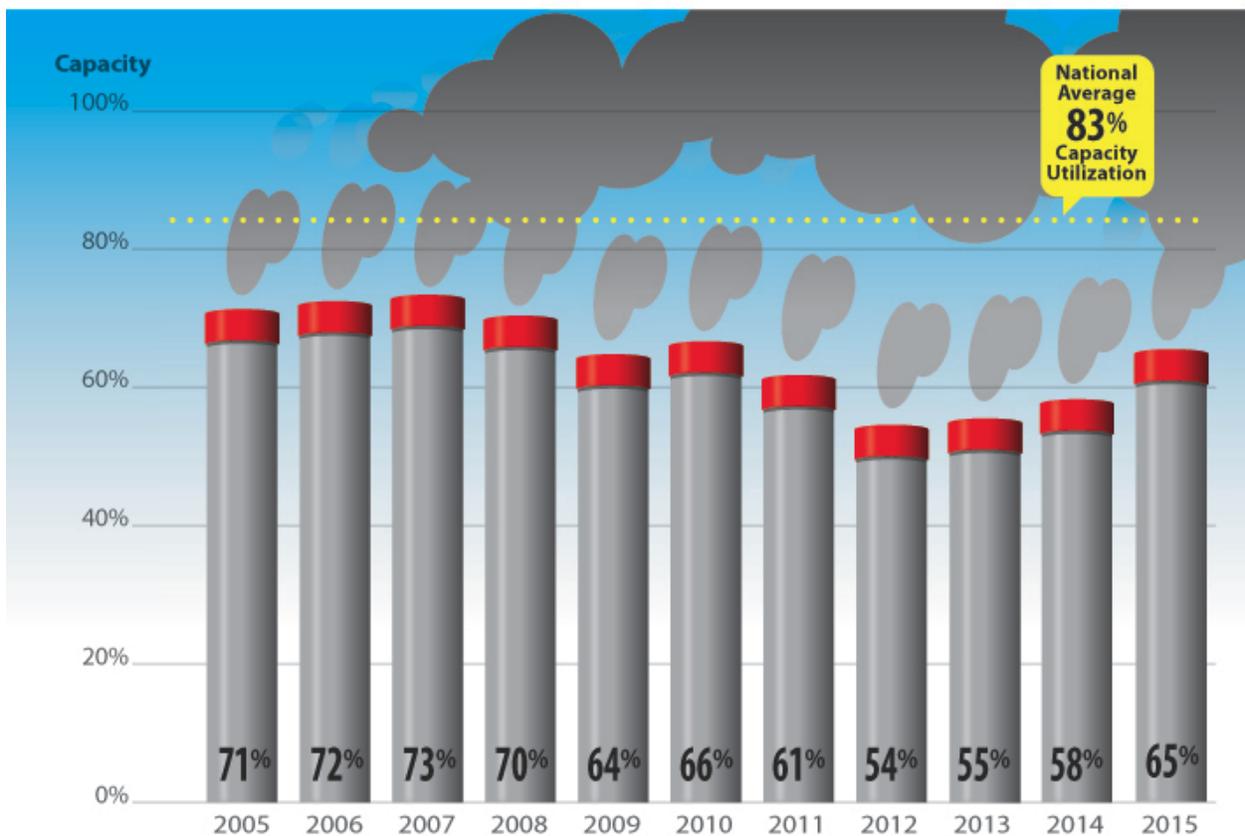
Chart: © 2016 Nuclear Watch South, www.nuclearwatchsouth.org

IV. GEORGIA POWER IS NOT USING CAPACITY FOR WHICH GEORGIA CUSTOMERS HAVE ALREADY PAID. VOGTLE 3 & 4 ARE NOT NEEDED.

Data from Georgia Power annual reports 2005-2015 show that Georgia Power's existing capacity utilization factor declined from 71% to 65% in the period 2005-2015. Despite the recent closure of 2,000 Mw of coal power, Georgia Power's unused capacity still exceeds the national average by almost 20%. (see CHART 2 - GEORGIA POWER CAPACITY UTILIZATION 2005-2015)

CHART 2 - GEORGIA POWER CAPACITY UTILIZATION 2005-2015

Georgia Power Capacity Utilization 2005-2015



Source: Georgia Power Company annual reports 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015

Chart: © 2016 Nuclear Watch South, www.nuclearwatchsouth.org

V. DESPITE GEORGIA POWER'S POOR MARKET PERFORMANCE AND VOGTLE CONSTRUCTION PROBLEMS THE PSC IS FORCING GEORGIA RESIDENTIAL AND SMALL BUSINESS CUSTOMERS TO PAY HIGHER RATES WHICH ARE GIVING HISTORIC HIGH PROFITS TO GEORGIA POWER SHAREHOLDERS.

Georgia Power's profit data from its 2005-2015 annual reports show that in 2011, after Vogtle construction and Nuclear Construction Cost Recovery (NCCR) tariff begin, profits surge over 20% higher than in previous years. During Vogtle construction, Georgia Power's profits have remained at historic high levels well above the \$1 billion mark and have escalated each year. (see CHART 3 - GEORGIA POWER PROFITS 2005-2015)

CHART 3 - GEORGIA POWER PROFITS 2005-2015

Georgia Power Profits 2005-2015



Source: Georgia Power Company annual reports 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015

Chart: © 2016 Nuclear Watch South, www.nuclearwatchsouth.org

The Vogtle construction years have seen nearly one day of delay for every day of construction, to the tune of \$2 million per day, amounting to over \$2 billion in cost overruns while the project is only 31% complete. Georgia Power's profits have increased almost 70% in the 10-year period 2005-2015 while electricity sales fell more than 1% overall for the same period. The price for Georgia Power's residential customers rose by more than 16% between 2010 and 2015.

Neither the PSC Staff nor Georgia Power have refuted the performance figures Nuclear Watch South has submitted numerous times in this docket. In an unregulated market, Georgia Power's profits would be linked to its performance. It is only because of the PSC's continued approval that Georgia Power is posting such large profits for its shareholders to the detriment of the Georgia ratepayers whom it is elected to protect.

The Commission's disregard for the evidence shown by the data results in continued rate pressure on Georgia residential and small business customers who have no other choice of electricity provider than Georgia Power. The PSC's actions continue to benefit Georgia Power over the Georgia ratepayer whom it is sworn to protect.

VI. CHEAPER TO CANCEL VOGTLE 3 & 4 THAN TO COMPLETE

It will be cheaper to cancel, than to complete, construction of Plant Vogtle 3&4 given that the two additional reactors are not needed. Georgia Power testified in the current 14th VCM that Vogtle expansion is still only 31% finished. Georgia Power and its partners have spent almost \$6 billion on Vogtle so far. The cost of the completed project is roughly \$18 billion at present. The cost to cancel the construction project would be far less than the \$12 billion left to be spent which would save Georgia ratepayers billions of dollars.

There are many examples of cancelled reactors, from which cost-to-cancel data can be derived, including the previous cancellation of Vogtle 3 & 4 and the cancellation of nine reactors in various stages of construction by Tennessee Valley Authority. The *New York Times* reported on the TVA board decision to cancel four reactors in which \$4 billion had been invested and \$12.5

billion was left to spend. The TVA board cited changed market conditions for its decision. *New York Times*, 8/30/84. <http://www.nytimes.com/1984/08/30/business/tva-cancels-4-reactors-knoxville-tenn-aug-29.html>

With the \$12 billion saved from stopping Plant Vogtle construction, more than twice the amount already sunk into unneeded capacity, Georgia Power can more rapidly deploy distributed renewable generating capacity as needed to transition away from coal and outmoded base load power. Constructing 21st-century clean, renewable energy, such as rooftop solar on new business and residential construction, will create thousands of jobs in smart grid transmission infrastructure, supply manufacturing and installation.

Continued inaction from the PSC results in escalating harm to Georgia ratepayers whom the PSC is sworn to protect.

VII. GEORGIA POWER AND GEORGIA ELECTRIC CUSTOMERS WILL NOT BE HARMED BY REVOKING VOGTLE 3 & 4 CERTIFICATION

Georgia Code 45-3A-6 cited above, which authorizes the PSC to revoke Vogtle 3 & 4 certification, also allows Georgia Power to recover the cost of shutting down unneeded power plants, so the Company is not harmed by stopping Vogtle construction.⁴ Georgia electricity customers will remain competently served by Georgia Power's ample capacity, and will enjoy a cost savings as they are relieved of the burden of rate increases and NCCR tariffs on their monthly bills.

Even though the public's money can be said to be wasted if Vogtle 3 & 4 are cancelled after

⁴ O.C.G.A. § 46-3A-6: If the utility cancels, abandons, or increases some or all of the capacity resource as a result of such modification or revocation of the certificate, it may recover through any rate-making vehicle over a reasonable period of time, absent fraud, concealment, failure to disclose a material fact, imprudence, or criminal misconduct, the amount of its investment in such capacity resource, along with the cost of carrying the unamortized portion of that investment, net of actual salvage value, to the extent such investment is verified as made pursuant to the certificate. The commission shall disallow such investment and costs resulting from fraud, concealment, failure to disclose a material fact, imprudence, or criminal misconduct. [O.C.G.A. § 46-3A-6 excerpt *emphasis added*]

billions have been sunk into its construction, as the project is only 31% finished, it will save even more of the public's money than has been spent thus far to cancel the unneeded resource capacity.

Conversely, if Georgia Power is allowed to continue constructing unneeded power supply at the expense of Georgia residential and small business electricity customers, those customers' money will be wasted and they will be harmed.

VIII. VOGTLE 3 & 4 EXPANSION DOES NOT MEET THE NECESSITY TEST AND SHOULD BE DECERTIFIED BY THE PUBLIC SERVICE COMMISSION

Since Vogtle 3 & 4 expansion does not meet the public convenience and necessity test, the Commission should exercise the power granted to it under Georgia law to decertify construction and immediately cancel collection of the Nuclear Construction Cost Recovery tariff.

IX. CONCLUSION

The foregoing information shows that Vogtle 3 & 4 should be decertified. Market conditions have changed dramatically since decisions to certify and fund Vogtle 3 & 4 construction were made. Georgia Power's own performance indicators show clearly that the company's forecast was wrong and it is now incumbent upon the PSC to move rapidly to stem the flow of cash from Georgia Power's captive rate base to Georgia Power's shareholders.

Nuclear Watch South urgently calls upon the Commission to exercise the responsibility and authority vested in it by Georgia O.C.G.A. § 46-3A-6 to revoke Vogtle certification. The PSC needs to act immediately as the Vogtle expansion project falls behind at the rate of almost a day for every single day it is under construction, and the sunk costs mount by millions of dollars each month.

Conclusions

- The Commission is bound by its Order in the 8th VCM to allow Georgia Power to recover its expenses from the 14th VCM period.
- The Georgia Public Service Commission's mission is to "exercise its authority and influence to ensure that consumers receive safe, reliable and reasonably priced ... electric service."
- The PSC has the power to cancel Vogtle 3&4 reactors at any time if the certificated capacity is no longer needed.
- Georgia Power annual report data reveals that the company is overbuilt in a shrinking, shifting market and no longer needs the power from Vogtle 3&4.
- Georgia citizens are paying an unprecedented nuclear tariff for Vogtle construction which is resulting in unprecedented high profits for Georgia Power.
- It is cheaper to cancel Vogtle construction than to complete the unneeded reactors.
- The Georgia Public Service Commission should revoke certification for Vogtle 3 & 4 as authorized by Georgia O.C.G.A. § 46-3A-6 in order to protect Georgia electricity customers from further investment in unneeded resource capacity.
- The greatest benefit to the Georgia public since Vogtle 3 & 4 no longer meet the necessity test is for the Commission to immediately revoke certification and stop billing Georgia electric customers for Vogtle 3 & 4.

Respectfully submitted,


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