

Memorandum

To: All Commissioners; Deborah Flannagan; Tom Bond

From: Commissioner Advisory Staff (Dennis Sewell, Pandora Epps, Nancy Gibson, Allison Morris, and Blair Fink)

Date: February 15, 2017

Subject: Docket No. 29849 Georgia Power Company's Fifteenth Semi-Annual Vogtle Construction Monitoring Report – **Advisory Staff's Recommendation**

Georgia Power Company (“Georgia Power” or “Company”) filed its Fifteenth Semi-Annual Vogtle Construction Monitoring (“VCM”) Report pursuant to its Certificate of Public Convenience and Necessity for Plant Vogtle Units 3 and 4 in Docket No. 27800 and in accordance with the Procedural and Scheduling Order of Docket No. 29849. O.C.G.A. § 46-3A-7(b) states the Commission shall verify and approve or disapprove expenditures made pursuant to the Certificate.

Highlights of the Fifteenth (“15th”) VCM Report, which covers the period of January 1, 2016 through June 30, 2016:

- The Company requests that the Commission verify and approve the construction expenditures incurred during this reporting period of \$141 million for a cumulative construction and capital cost of \$3.68 billion. (15th VCM Report at pp. 3 & 6) (Tr. 13).
- The Company’s forecasted total construction and capital cost, as of this 15th VCM, is \$5.440 billion which reflects an increase of \$1.022 billion since certification which was \$4.418 billion. The forecasted total project financing cost, as of this 15th VCM, is \$2.422 billion which reflects an increase of \$727 million since certification which was \$1.695 billion. The forecasted total project cost, the construction and capital cost to include the finance cost, is \$7.862 billion, an increase of \$1.749 billion since certification which was \$6.113 billion. (15th VCM Report at p. 6, table 1.1). (Tr. 298).
- The Company at table 1.1b of the VCM Report tracks the impact of Replacement Energy Costs and Deferred Operating Costs. For the reporting period ending June 30, 2016, the Deferred Benefits were \$30.3 million compared to the Deferred Operating Costs of \$40 million. The Company reports a negative \$9.7 million which shows that customers have not been harmed. (15th VCM Report at pp. 5 & 8).

- The Company reports the current in-service target dates for Units 3 and 4 remains June 2019 and 2020, respectively, as was reported in the 12th VCM. (15th VCM Report at pp. 4 & 15). This reflects a total delay of thirty-nine months from the original 2016/2017 dates certified by the Commission.
- The Company has received \$2.50 billion of the available \$3.46 billion Department of Energy Loan Guarantee with a remaining balance of \$0.96 billion.
- On December 20, 2016, the Commission approved the Stipulation between its Staff and the Company in regards to the “Supplemental Information, Staff Review, and Opportunity for Settlement in the Company filed Application for Review and Approval of the Definitive Settlement Agreement” (“DSA”) for Plant Vogtle Units 3 and 4 and Amendment 7 to the Engineering, Procurement and Construction (“EPC”) Agreement (“the Application”). In accordance with the Stipulation the revised capital cost forecast is adjusted to \$5.680 billion (consisting of the current forecast of \$5.440 billion plus a contingency of \$240 million). Capital costs incurred up to \$5.680 billion will be presumed reasonable and prudent and the burden would be on any party challenging such costs. The certificate will not be amended and the certified capital cost for purposes of calculating the NCCR will remain at \$4.418 billion. **(Order Adopting Stipulations, Main Stipulation, paragraphs 3, 4 & 6).**
- In accordance with the Commission’s Order in the combined Ninth/Tenth VCM Report, which excluded items 4, 10 and 13 from reporting, the Company responded to the remaining twelve of the fifteen specified items in section 2(d)(1-15) of the Stipulation in this 15th VCM Report (15th VCM Report at pp. 5-35).

The Commissioner Advisory Staff, after careful review of the record, makes the following recommendations:

Georgia Power Company’s Request:

Verification and Approval of Expenditures Made Pursuant to the Certificate in Accordance with O.C.G.A. § 46-3A-7(b). The Company requests verification and approval of the expenditures incurred during this reporting period of \$141 million. (Tr. 13 & 14). The Public Interest Advocacy (“PIA”) Staff concurred with the Company’s request. (Tr. 155). Concerned Ratepayers of Georgia (“CRG”) urged in its pre-filed testimony the Commission to “[D]eny GA Power’s request of \$141 million of immediate reimbursement” but offered no evidence to support the request. (Tr. 381). The record in this proceeding does not support CRG’s request and no other parties have presented testimony against approval of expenditures incurred during this reporting period. **Advisory Staff recommends that the Commission verify and approve the expenditures made by the Company pursuant to its Certificate of**

Public Convenience and Necessity for Plant Vogtle Units 3 and 4 through June 30, 2016 as requested by the Company. *The Commission is only confirming the expenditures made in association with the Vogtle Project during this reporting period and it does not preclude the Commission from subsequently excluding those expenditures from rate base upon a finding of fraud, concealment, failure to disclose a material fact, imprudence, or criminal misconduct.*

PIA Staff's Requests:

1. **Request to Continue Additional Delay Scenarios.** PIA Staff Witness Hayet recommended that “the Company continue to perform economic analyses of delay scenarios of 24, 36 and 48 months from the current commercial operation dates (“COD”) of the Units, as was done in previous VCM filings.” (Tr. 298). Georgia Power has agreed that it will continue to analyze these delay scenarios and will include this analysis as part of the next VCM filing. (Company’s Brief at p. 2). **Advisory Staff recommends approval of this request.**

2. **Request to Provide the Total Project Cost Results.** PIA Staff Witness Hayet also recommended “that for each delay scenario, the Company should provide Total Project Cost results, and the full embedded cost revenue requirements associated with the Total Project Cost results that the Company expects customers will incur both during construction and over the operating lives of the Units.” (Tr. 298). PIA Staff further recommends that such response will be updated for each VCM that a 24, 36, 48 month delay scenario beyond the latest CODs for Units 3 and 4 is performed and filed within 30 days of the next VCM filing date (PIA Staff’s Brief at pp. 2 & 7). The Company agrees with PIA Staff’s request. (Company’s Brief at pp. 2 & 7). **Advisory Staff recommends approval of this request.**

3. **Benchmark Production Cost Modeling Study.** In response to the Company’s estimate of Replacement Energy Costs for April, May, and June of 2016, PIA Staff Witness Hayet testified that the “Staff has not reached any final conclusions, but has reviewed these calculations and has some concerns.” Therefore, PIA Staff recommended that “the Company perform a benchmark production cost modeling study to provide an alternative calculation for the replacement energy cost.” (Tr. 297 & 298). Staff goes on to state “a better way to quantify those impacts in a replacement energy cost analysis would be to run a production cost model reproducing actual operations without the Vogtle Units, and then re-run a case with the Vogtle Units included.” (Tr. 313). “Georgia Power recommends that the Company and PIA Staff work together to establish a mutually agreeable calculation model for replacement energy cost.” (Company’s Brief at pp. 3 & 7). In order to provide the Commission the ability to better assess the impact of the Company’s replacement energy estimate, **Advisory Staff recommends approval of the Company’s recommendation for a collaborative process in addition to the current reporting methodology for Replacement Energy Costs.**

Southern Alliance for Clean Energy's ("SACE") Recommendations:

- 1. Submission of a Publicly Available Revised Set of Commercial Operation Dates ("COD") that Incorporates the Schedule Slippage.** SACE recommends that the Company "be directed to submit a publicly available revised set of Commercial Operation Dates ("COD") for Units 3 and 4 that incorporate the construction schedule slippage that has occurred since the January 2016 Integrated Project Schedule ("IPS") was filed." (SACE's Brief at p. 2). SACE points to "the PSC Staff and Independent Monitor clearly and directly make the case why the current acknowledged 39 month Project construction delay is unlikely to hold or be reduced because the Contractor failed to meet the Focus Milestone completion dates, other critical milestones were delayed and mitigation efforts were unsuccessful." (SACE Brief at p. 4). SACE goes on to state "it is important to note the focus milestone construction delays are in addition to the existing 39 month Project construction delay. (Tr. 141). If the Focus Milestone delays persist the total Project construction delay could increase from 39 months to 48 months or longer." (SACE's Brief at p. 5). SACE again "reiterates its arguments made in the 14th VCM regarding the need to submit a revised set of Commercial Operation Dates ("COD") that is realistic and takes into account the construction schedule slippage that has occurred since January 2016." (SACE's Brief at p. 5). Advisory Staff notes that the Staff testimony supports the necessity of a realistic and accountable Commercial Operation Date. "We conclude that the Company has not demonstrated to Staff that the current CODs have a reasonable chance of being met. It is our opinion that there exists a very strong likelihood of further delayed CODs for both Units." (Tr. 155). Based upon the merits of SACE's argument, **Advisory Staff recommends approval of SACE's recommendation.**
- 2. Filing of a Mitigation Strategy that Supports the Revised COD.** SACE recommends that the Company "be directed to file a mitigation strategy that supports the revised CODs for Units 3 and 4." (SACE's Brief at p. 2). SACE states that "the current CODs should be abandoned immediately without a viable mitigation schedule. A mitigation schedule that artificially pins or constrains dates is not viable." (SACE's Brief at p. 7). SACE indicated that the "the PSC Staff's prior testimony in the 14th VCM also reflects their very negative opinion regarding the success of past mitigation efforts and the likelihood that future mitigation might work." SACE continues with "this is an exceptionally complex and challenging project, but that does not excuse Westinghouse or the Georgia Power Company from providing a reasonable mitigation schedule that supports the current CODs." SACE contends that "[N]ot producing a reasonable mitigation schedule is counterproductive and intentionally deceptive." (SACE's Brief at pp. 9 & 10). Further, the transcript demonstrates Staff's support for submission of such a schedule. "Since your 14th VCM testimony, have either of you changed your position regarding your prior statement that, quote, "Since the beginning of construction on the project to the present, mitigation has been ineffective in

eliminating delays and only recently slightly effective in reducing existing delays." (Witness Jacobs) Yeah, I would agree with that. There has been some success, but it certainly has not been effective in eliminating many of the critical path delays. Same for you, Mr. Roetger? (Witness Roetger) Yes, sir. (Tr. 240 & 241). Based upon the merits of SACE's argument, **Advisory Staff recommends approval of SACE's recommendation.**

3. **Expand the Scope of the Semi-Annual Vogtle Construction Monitoring Report.** SACE recommends that the Commission "expand the scope of its semi-annual Vogtle Construction Monitoring report to also verify the reasonableness of the Company's commercial operation dates for both units and the total costs of all financing and capital and construction expenditures to include all amounts to be paid by ratepayers, including all taxes and other costs." (SACE's Brief at p. 2). SACE asserts that "at this advanced state of the Vogtle Project with all the information that has been presented regarding the important issues affecting construction it is fully justified and logical to expand the scope of the Commission's review beyond merely verifying expenditures for the VCM period. Not to do so is indefensible and reflects a total abdication of the Commission's duty and responsibility to provide adequate oversight of the Project." (SACE's Brief at p. 12). Advisory Staff notes that the appropriate time to contemplate expansion of issues in the next VCM proceedings is when a proposed Procedural and Scheduling Order is brought before the Commission for approval. **Therefore, Advisory Staff recommends that the Commission defer consideration of this issue until such time that it is before the Commission for approval.**

4. **Provide Update on the Financial Situation of Toshiba and Westinghouse.** SACE recommends that the Company "provide the Commission with an update on the financial situation for Toshiba and Westinghouse, and what the potential impacts could be for the completion of Units 3 and 4." (SACE's Brief at p. 2). SACE stresses that "Georgia Power Company should be directed to provide the Commission with a detailed analysis of the financial posture of both Toshiba and Westinghouse and an explanation how ratepayers are insulated from any cost overruns in the future arising from billions of dollars in losses suffered by the companies." (SACE's Brief at p. 13). To request the Commission order Georgia Power to assess potential ratepayer exposure of the contractors inadequacies was not contemplated in the order setting the issues to be considered in this 15th VCM proceeding. This recommendation is beyond the scope and intent of the Procedural and Scheduling Order; **therefore Advisory Staff recommends denial.**

5. **Alternatively, Halt Construction and Initiate Proceedings for Lower Cost Alternatives.** SACE recommends that in the alternative "the Commission should order the immediate halt of construction for Vogtle Units 3 and 4 and initiate proceedings for the consideration of approval and construction of lower cost alternatives." (SACE Brief at p. 2). SACE's argues that "the Commission can take appropriate steps to protect ratepayers from billions of dollars in additional construction and financing costs to complete Vogtle Units 3 and 4 by ordering an

immediate stop to construction and authorizing proceedings to consider the approval for the construction of lower cost alternatives.” (SACE’s Brief at p. 15). “The Company and PIA Staff agree that completing the Facility is more economic for customers than the next best alternative, a combined cycle natural gas facility. The delay scenario analyses that the Company performs at the Commission’s request continue to show that completion of the Facility will remain the most economic option in all but the low fuel/\$0 CO2 case for the analyzed delays of twenty-four, thirty-six, and forty-eight months.” (Company’s Brief at p. 6). In this proceeding as well as previous proceedings both the Staff and Company have shown through testimony and other filings that the cost to complete Vogtle Units 3 and 4 is more economical in all but a few instances than the next best alternative. **Advisory Staff recommends denial of this recommendation.**

Concerned Ratepayers of Georgia’s (“CRG”) Request:

Stewart County Nuclear Site Study. CRG recommended “that the commission take a revised look at this site investigation.” (Tr. 381). This issue has recently been thoroughly vetted in Docket No. 40161, Georgia Power Company’s 2016 Integrated Resource Plan and Application for Decertification of Plant Mitchell Units 3, 4A and 4B, Plant Kraft Unit 1 CT, and Intercession City CT.

“The Commission finds that it is in the best interest of the customers of Georgia Power for the Company to begin the next phase of generation expansion. While the Commission agrees with Georgia Power that beginning the process of investigating and determining the suitability of the Stewart County site for a future nuclear generating facility is in the best interest of the Company and its customers, the Commission also has the legal responsibility and obligation to exercise its oversight of that process. The next point in time at which Georgia Power will have its generation planning before the Commission is the Integrated Resource Planning filing scheduled for 2019.” (Order Adopting Stipulations, p.8).

Therefore, Advisory Staff concludes there is no need for the Commission to act on this request. However, in its Order the Commission did reserve its right to revisit the issue at any time, so the Commission would have the authority to do so if it believe it was appropriate.

This concludes Advisory Staff’s recommendations. This matter will be discussed at the February 16, 2017 Energy Committee and is set for decision at the Administrative Session scheduled for February 21, 2017. The statutory deadline is February 27, 2017. If you have any questions, please let us know.