

# COUNTERFLOW

BY STEVE HUNTOON

## The Devil Went Down to Georgia

By Steve Huntoon

"Johnny, rosin up your bow and play your fiddle hard,  
'Cause hell's broke loose in Georgia and the Devil deals the cards."

There's a process problem with the Georgia Public Service Commission's Vogtle decision, and there's a substance problem.

### Process Problem

Georgia commissioners publicly and vehemently stated that Vogtle should be completed.<sup>1</sup> And *then* they had a hearing on whether Vogtle should be completed. See the problem?

Regulators are supposed to make reasoned decisions based on records. It's hard to do that before you have a record.

"Sentence first! Verdict afterwards," as the Queen said in "Alice in Wonderland."

### Substance Problem

Last September, my column showed that the original "need" for Vogtle, in the form of a projected increase in customer demand, had basically disappeared.<sup>2</sup> And with simplifying assumptions favorable to Vogtle, and using Lazard cost estimates, completing Vogtle would impose excess costs of \$23.6 billion



Huntoon

on Georgia consumers over the next 40 years.

Here's a quick quiz: After eight years of construction, what percent of Vogtle is constructed? Answer in footnote below.<sup>3</sup>

So there was a hearing. Or more like Kabuki theater. The Public Interest Advocacy Staff (PIA Staff) of the Georgia commission showed:<sup>4</sup>

- Because of multiple flaws in Southern Co.'s case, "the project is uneconomic on a going forward basis by \$1.6 billion." The commission's Advisory Staff agreed with PIA Staff that completing Vogtle is uneconomic at the cost estimated by Southern.<sup>5</sup>
- "Certain costs [\$1.5 billion, excluding Toshiba's parental guarantee] for which the company is seeking recovery from ratepayers resulted from project mismanagement."
- "Had the commission been more accurately informed by the company as to the depth of the problems facing the project, the commission would have had the opportunity to assess the project status and make different decisions earlier on in the construction, when sunk costs were not so daunting an issue."
- Giving Vogtle co-owners "the right to abandon the project if any company costs are disallowed for any reason, including fraud, failure to disclose a material fact or criminal misconduct" was a "threat" and "unconscionable."

Southern, of course, disputed all this.

Given the enormity of these issues and the long-term consequences of a decision to complete or not complete Vogtle, one would have expected a deliberate, careful analysis of the record and a reasoned decision.

Instead, the last day of hearings was Dec. 14, briefs were required five days later and the commission made its decision *two days* after that. Speed readers, I guess.

Are you ready for the decision itself? The Georgia commission *without any explanation at all* simply proclaims:<sup>6</sup>

"Based upon careful consideration of all the evidence in the record, the commission finds as a matter of fact and concludes as a matter of law that it is appropriate to continue construction of Vogtle Units 3 & 4 under the terms set forth in this order."

Georgia, that's all the explanation you get. C'est la vie.<sup>7</sup>

But what should consumers expect from regulators who had announced their decision *before* the hearing? Why waste ink?<sup>8</sup>

### More Project Delays Rewarded

Going forward, Georgia consumers have no protection against continuing project delays and overruns.<sup>9</sup> The Georgia commission order claims that it incents performance by reducing return on equity if target dates aren't met.

Unfortunately that is just wrong. Reduced ROE during delays is only for the periods of delay. After the project is in commercial operation, that ROE becomes part of the rate base, upon which Southern gets a generous return for at least 40 years. That is why Southern already will make an *extra* \$5.2 billion over the life of the project from the delays to date.<sup>10</sup> Nice work if you can get it.

The longer Vogtle takes to complete, the more Southern makes.

And every electric consumer in Georgia is on the hook for whatever Vogtle ends up costing.

What site selection adviser for a large consumer of electricity will recommend locating a new facility in Georgia? Because there is no competition in Georgia,<sup>11</sup> any



*Continued on page 4*

# COUNTERFLOW

BY STEVE HUNTOON

## The Devil Went Down to Georgia

*Continued from page 3*

new business would have unlimited exposure to the Vogtle plant. Moody's Investor Service already downgraded JEA because it owns 206 MW of Vogtle.<sup>12</sup>

### Customer Refund Gimmick

One last note on the Georgia commission decision: It directed that Southern refund part of the Toshiba/Westinghouse Electric settlement payment to consumers, \$25 per customer per month for three months, with a bill line item saying "Vogtle Settlement Refund." Great PR, but this refund money isn't coming from Southern. It's money that otherwise would have been credited against the cost of Vogtle.

So consumers effectively will be paying Southern a generous return on their refunds for decades. Sort of like your credit card company sending you a \$75 gift card, but then that \$75 shows up on your next bill as a cash advance. Which you can't pay off for the next 40 years.

Oh, sorry, one more thing: The Georgia commission authorized a token 5-MW solar project to be located at, you guessed it, Vogtle. No consideration of whether that project size or location made any sense. But even more rate base for Southern.

### The Sad Reality

The sad reality is that Vogtle never made sense, and this became obvious years ago. The Vogtle owners failed to oversee the failures of Toshiba and Westinghouse, failed to report the failures to the Georgia commission, and failed to provide realistic project costs and schedules. The hole be-

came billions deeper as a result, and Southern's past and future profits grew as a result.

Instead of holding the Vogtle owners accountable for their failings, the Georgia commission is more concerned with not appearing to have made consumers pay something for nothing. So the Georgia commission approves continuing an uneconomic project, gives Southern and the new project contractor an even bigger blank check than before, and maintains the incentive of higher profitability from greater delays.

The flogging will continue until morale improves.

*Steve Huntoon is a former president of the Energy Bar Association, with 30 years of experience advising and representing energy companies and institutions. He received a B.A. in economics and a J.D. from the University of Virginia. He is the principal in Energy Counsel, LLP, [www.energy-counsel.com](http://www.energy-counsel.com).*

<sup>1</sup> "I do want to see this project completed," said PSC Commissioner Lauren "Bubba" McDonald. "I do not like to see failure." <http://www.ajc.com/business/georgia-power-told-its-homework-vogtle-nuke-options/mnHqeJ7BdDza0U25xAxfBP/>. "As an unabashed supporter of nuclear power," [PSC Chairman Stan] Wise wrote, "I intend to be present for that vote and will resign shortly thereafter so that you may appoint my successor prior to the (candidate) qualifying period for the 2018 elections." <http://politics.myajc.com/news/state-regional-govt-politics/psc-wise-quit-after-vogtle-vote-governor-can-appoint-successor/Dv6bJbPTpNupmLUUe83f8J/>.

Commissioner Tim Echols said: "The last thing I want to do to my ratepayers is to say, 'Look, I spent \$4.5 billion of your money, and you have nothing to show for it.' That's a formula for getting unelected, as far as I'm concerned." <https://www.greentechmedia.com/articles/read/the-nuclear-power-war-isnt-over-yet#gs.1G0q8AQ>. Echols went on to write an op-ed for *The Wall Street Journal* and an article for *Public Utilities Fortnightly* in full-throated advocacy for completing Vogtle, all before the hearing on whether to complete Vogtle.

<sup>2</sup> <http://energy-counsel.com/docs/Vogtle-the-Law-of-Holes-and-Two-Modest-Proposals.pdf>. The column also showed that the fuel diversity argument for Vogtle was vacuous.

<sup>3</sup> Reportedly, 40%. A shocking audit report on Vogtle's sister nuclear units in South Carolina was prepared by Bechtel in 2016. It was never meant to see the light of day, but the link to it is in the news story here: [https://www.postandcourier.com/news/audit-highlighted-problems-with-south-carolina-nuclear-project-a-year/article\\_9ac96112-9185-11e7-9979-977331ac2233.html](https://www.postandcourier.com/news/audit-highlighted-problems-with-south-carolina-nuclear-project-a-year/article_9ac96112-9185-11e7-9979-977331ac2233.html).

<sup>4</sup> <http://facts.psc.state.ga.us/Public/GetDocument.aspx?ID=170562>. In this proposed order, the PIA Staff provides a damning "just the facts" recitation of everything wrong about Vogtle.

<sup>5</sup> <https://www.youtube.com/watch?v=JtycWKqQV8k>

<sup>6</sup> <http://www.psc.state.ga.us/facts2/Document.aspx?documentNumber=170765>.

<sup>7</sup> Adding to the incredulity is that terms of the commission decision were reviewed with Southern in advance of the commission meeting. "Although Echols said he did not want to get into details about his interaction with Georgia Power over the new conditions, he added, 'Ultimately, they were read in and gave feedback' on those restrictions." <http://chronicle.augusta.com/news/2017-12-21/georgia-public-service-commission-vote-allows-plant-vogtle-proceed>.

<sup>8</sup> Not part of the decision is a motion by one of the commissioners on what the decision should be. This motion refers to the uncertainty of future natural gas prices, and how Vogtle can be a hedge against high gas prices. Of course, future energy prices can't be known. But the salient fact is that a forecast of future natural gas prices is effectively a mean. Lower gas prices would mean Vogtle is even more uneconomic. Higher gas prices would mean Vogtle is less uneconomic and might even be economic. But decisions need to be based on the mean, not on one extreme or another. And here's another important point: If the gas price hedging value is significant the right thing to do is suspend Vogtle at a relatively trivial cost of \$112 million for up to 10 years, which cost comes from Southern's own consultant. <http://facts.psc.state.ga.us/Public/GetDocument.aspx?ID=169459> (Black & Veatch Deferral Study). The Georgia Commission decision makes no mention of this option.

<sup>9</sup> The original project completion date was in 2017. In December 2016, Southern promised completion by 2020. Then nine months later, the completion date was pushed back almost two more years. And that date is likely more fantasy than reality. As of late 2016, two AP1000 plants in China were supposed to go into commercial operation in early 2017. <https://www.reuters.com/article/us-westinghouse-nuclear/westinghouse-to-start-first-china-reactor-in-2017-sees-tens-more-idUSKCN11M1Q7>. Somehow that didn't happen, and last month the China state agency said they "will hopefully begin commercial operation next year." <http://www.nicobargroup.com/news-views-1/>. "Hopefully"?

<sup>10</sup> "As a result of the delays experienced by the project, the company will make considerably more profit over the lifecycle of the units than it would have had the project been completed on time. The company's profit will increase from approximately \$7.4 billion to approximately \$12.6 billion over the unit's entire lifecycle." <http://facts.psc.state.ga.us/Public/GetDocument.aspx?ID=170562> (page 8).

<sup>11</sup> As I've pointed out before, Vogtle and the lack of competition are joined at the hip.

<sup>12</sup> [https://www.moodys.com/research/Moodys-assigns-Aa2-and-Aa3-to-JEA-FL-sr-and-PR\\_904363490](https://www.moodys.com/research/Moodys-assigns-Aa2-and-Aa3-to-JEA-FL-sr-and-PR_904363490)

Connect with us on your favorite social media

