

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD**

In the Matter of)	
)	
DUKE ENERGY CAROLINAS, LLC)	Docket Nos. 52-018 and 52-019
)	
(William States Lee III Nuclear Station, Units 1 and 2))	July 22, 2008
)	

**DUKE ENERGY CAROLINAS, LLC’S ANSWER TO THE SOUTH CAROLINA OFFICE
OF REGULATORY STAFF’S REQUEST TO PARTICIPATE AS AN INTERESTED
STATE AND TO BE ADDED TO THE OFFICIAL SERVICE LIST**

I. INTRODUCTION

In accordance with 10 C.F.R. § 2.309(h), Duke Energy Carolinas, LLC (“Duke”), applicant in the captioned matter, hereby responds to the “Request of the South Carolina Office of Regulatory Staff for an Opportunity to Participate in Any Hearing and to be Added to the Official Service List,” served June 27, 2008 (“Request”). The South Carolina Office of Regulatory Staff (“SC ORS”) requests an opportunity to participate as an interested State, pursuant to 10 C.F.R. § 2.315(c), in any hearing on Duke’s combined license application (“COL Application”) for proposed William States Lee III Nuclear Station (“WLS”) Units 1 and 2, to be located in Cherokee County, South Carolina. As set forth below, Duke does not oppose SC ORS’s request to participate as an interested State or its request to be added to the official service list.

II. BACKGROUND

On December 12, 2007, as supplemented by letters dated January 28, 2008, February 6, 2008, and February 8, 2008, Duke submitted an application to the NRC seeking approval of a COL

for proposed WLS Units 1 and 2.¹ The NRC accepted the COL Application for docketing on February 25, 2008,² and published a Hearing Notice on April 28, 2008.³ The Hearing Notice stated that any person whose interest may be affected by this proceeding and who wishes to participate as a party must file a petition for leave to intervene within 60 days of the Notice (*i.e.*, June 27, 2008) in accordance with 10 C.F.R. § 2.309.⁴ SC ORS filed its Request in response to the Commission's Hearing Notice. SC ORS seeks permission to participate in any hearing on Duke's COL Application as an interested State under 10 C.F.R. § 2.315(c). Thus, SC ORS does not seek admission as a party pursuant to 10 C.F.R. § 2.309.

III. DISCUSSION

Duke does not oppose the request of SC ORS for an opportunity to participate as an interested State in any hearing on the COL Application to the extent that (i) the NRC's hearing rules permit such participation, and (ii) SC ORS complies with the procedures set forth in 10 C.F.R. § 2.315 and any applicable Commission or Atomic Safety and Licensing Board Order. In particular, 10 C.F.R. § 2.315(c) requires each interested State to designate "a single representative for the hearing," and further requires that representative to "identify those contentions on which it will participate in advance of any hearing held."⁵ As such, 10 C.F.R. § 2.315(c), which authorizes

¹ See Notice of Receipt and Availability of Application for a Combined License, 73 Fed. Reg. 6218 (Feb. 1, 2008).

² See Acceptance for Docketing of an Application for Combined License for William States Lee III Units 1 and 2, 73 Fed. Reg. 11,156 (Feb. 29, 2008).

³ See Duke Energy; Notice of Hearing and Opportunity To Petition for Leave To Intervene and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation on a Combined License for the William States Lee III Units 1 and 2, 73 Fed. Reg. 22,978 (April 28, 2008) ("Hearing Notice"). The Hearing Notice referenced the name of the Applicant as "Duke Energy"; however, NRC published a correction to the Notice in the *Federal Register* on June 17, 2008 referring to the Applicant as "Duke Energy Carolinas, LLC." See Correction to Notice of Hearing and Opportunity To Petition for Leave To Intervene and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation on a Combined License for the William States Lee III Units 1 and 2, 73 Fed. Reg. 34,348 (June 17, 2008).

⁴ Hearing Notice, 73 Fed. Reg. at 22,979.

⁵ 10 C.F.R. § 2.315(c).

participation by interested States relative to “admitted contentions,” by its terms presupposes that another party has demonstrated standing and has proffered at least one admissible contention.⁶

Duke has no objection to SC ORS’s request that it be added to the official service list for the WLS COL proceeding.

IV. CONCLUSION

In view of the representations made by SC ORS in its June 27 Request, and subject to the understandings set forth above, Duke does not oppose SC ORS’s requests for an opportunity to participate as an interested State in any contested hearing on the COL Application and to be added to the official service list for this proceeding.

Respectfully submitted,

Signed (electronically) by Paul M. Bessette

Paul M. Bessette

Kathryn M. Sutton

Jonathan M. Rund

MORGAN, LEWIS & BOCKIUS LLP

1111 Pennsylvania Avenue, N.W.

Washington, D.C. 20004

Phone: 202-739-3000

E-mail: pbessette@morganlewis.com

Kate Barber Nolan

Assistant General Counsel

DUKE ENERGY CORPORATION

526 South Church St.-EC07H

Charlotte, NC 28202

Phone: 704-382-8869

E-Mail: kbnolan@duke-energy.com

COUNSEL FOR DUKE ENERGY CAROLINAS, LLC

Dated in Washington, D.C.
this 22nd day of July 2008

⁶ Cf. *Niagara Mohawk Power Corp.* (Nine Mile Point Nuclear Station, Unit 2), LBP-83-45, 18 NRC 213, 216 (1983) (holding in a reactor operating license proceeding that the filing of a petition under 10 C.F.R. § 2.715(c) [now § 2.315(c)] does not *ipso facto* trigger the holding of a hearing) (citing *N. States Power Co.* (Tyrone Energy Park, Unit 1), CLI-80-36, 12 NRC 523, 527 (1980)); see also *Duquesne Light Co.* (Beaver Valley Power Station, Unit 2), LBP-84-6, 19 NRC 393, 426 (1984) (same).

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD**

In the Matter of)

DUKE ENERGY CAROLINAS, LLC)

(William States Lee III Nuclear Station,
Units 1 and 2))

) Docket Nos. 52-018 and 52-019

) July 22, 2008

CERTIFICATE OF SERVICE

I hereby certify that on July 22, 2008 a copy of “Duke Energy Carolinas, LLC’s Answer to the South Carolina Office of Regulatory Staff’s Request to Participate as an Interested State and to Be Added to the Official Service List” was filed electronically with the Electronic Information Exchange on the following recipients:

Administrative Judge
Paul S. Ryerson, Chair
Atomic Safety and Licensing Board Panel
Mail Stop T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: psr1@nrc.gov

Administrative Judge
Dr. William H. Murphy
Atomic Safety and Licensing Board Panel
Mail Stop T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: wmml@nrc.gov

Administrative Judge
Nicholas G. Trikouros
Atomic Safety and Licensing Board Panel
Mail Stop T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: ngt@nrc.gov

Office of the Secretary
U.S. Nuclear Regulatory Commission
Rulemakings and Adjudications Staff
Washington, DC 20555-0001
E-mail: hearingdocket@nrc.gov

Office of the General Counsel
U.S. Nuclear Regulatory Commission
Mail Stop O-15D21
Washington, DC 20555-0001
Kathryn Winsberg; Sara Brock; Michael Spencer
E-mail: klw@nrc.gov; seb2@nrc.gov;
mas8@nrc.gov

Louis A. Zeller
Blue Ridge Environmental Defense League
(BREDL)
P.O. Box 88
Glendale Springs, NC 28629
E-mail: bredl@skybest.com

Florence P. Belser, General Counsel
State of South Carolina
Office of Regulatory Staff
1441 Main Street, Suite 300
Columbia, SC 29201
Email: fbelser@regstaff.sc.gov

North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, NC 27699-4325
Louis S. Watson, Jr.
Senior Staff Attorney
E-mail: Swatson@ncuc.net
Kimberly Jones, Assistant
E-mail: kjones@ncuc.net

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Mail Stop: O-16C1
Washington, DC 20555-0001
E-mail: ocaamail@nrc.gov

John D. Runkle
Attorney at Law
Post Office Box 3793
Chapel Hill, NC 27515-3793
E-mail: jrunkle@pricecreek.com

Pillsbury Winthrop Shaw Pittman, LLP
2300 N Street, NW
Washington, DC 20037-1128
Robert B. Haemer, Esq.
Maria Webb, Paralegal
Email: robert.haemer@pillsburylaw.com
Maria.webb@pillsburylaw.com

Signed (electronically) by Paul M. Bessette
Paul M. Bessette
MORGAN, LEWIS & BOCKIUS LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Phone: 202-739-3000
E-mail: pbessette@morganlewis.com

COUNSEL FOR DUKE ENERGY
CAROLINAS, LLC