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October 6, 2008

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In the Matter of
Progress Energy Carolinas, Inc.
(Shearon Harris Nuclear Power Plant, Units 2 and 3)
Docket Nos. 52-022 COL and 52-023 COL; ASLBP No. 08-868-04-COL

Dear Administrative Judges:

This proceeding involves an application, submitted by Progress Energy Carolinas (“Progress”) on February 19, 2008, for a combined license to construct and operate two Westinghouse AP1000 pressurized water reactors at Harris (the “COLA”).¹ On August 4, 2008, NC WARN filed its Petition now before the Board that contains eleven contentions. This letter encloses three documents containing new information potentially relevant and material to issues raised in NC WARN’s contentions.

¹ Harris Units 2 and 3 Combined License Application (Rev. 0, Feb. 18, 2008), transmittal letter available at ADAMS Accession No. ML080580078. Entire Application available at <http://www.nrc.gov/reactors/new-reactors/col/harris.html>.

A Party to an NRC proceeding has an obligation to advise the Board of new documents that are relevant and material to the proceeding. Sacramento Municipal Utility District (Rancho Seco Nuclear Generating Station), CLI-93-5, 37 NRC 168, 170 (1993) (*citing* Duke Power Co. (William B. McGuire Nuclear Station, Units 1 and 2), ALAB-143, 6 AEC 623, 62. (1973)). The new information should be specific to the issues in the adjudication. Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit 1), ALAB-774, 19 NRC 1350, 1358 n. 6 (1984). Therefore, the notification should identify the possible relationship between the document and issues open before the Board, including the issue and its bearing on the facility in question. Virginia Electric and Power Co., (North Anna Nuclear Power Station, Units 1 & 2), ALAB-551, 9 NRC 704, 710 (1979).

Consistent with its obligation, Progress encloses three letters: a letter from Westinghouse to the NRC filing Revision 17 to the AP1000 Design Certification Application, and two letters from Progress to the NRC discussing changes to the COLA. These letters are potentially relevant and material to issues raised in this proceeding as follows:

1. Westinghouse's letter to the NRC dated September 22, 2008 (Enclosure 1) submits to the NRC Revision 17 to the AP1000 Design Certification Application. NC WARN Contention TC-1 alleged the COLA was incomplete due to referencing AP1000 design information. The COLA referenced Westinghouse Technical Report APP-GW-GLR-134. *AP 1000 DCD Impacts to Support COLA Standardization*, Revision 3, ADAMS Accession No. ML080220389 ("TR-134"). TR-134 is a proffer of material that will be incorporated as Revision 17. As discussed in Enclosure 1, Revision 17 includes additional information besides that described in TR-134; therefore, Enclosure 1 reflects the current AP1000 design information.²

2. Progress's letter to the NRC dated October 3, 2008 (Enclosure 2) submits to the NRC changes to section 10.4 of the Environmental Report (ER) in the COLA. NC WARN Contention EC-1, in part, alleges that the estimate in the ER of the internal costs for two AP1000 reactors is understated, especially in comparison to the cost estimate filed by Progress in a State proceeding for two units in Levy County, Florida. Enclosure 2 revises the ER to rely on the higher Levy cost estimate as a bounding cost estimate for Harris Units 2 and 3. There is no longer an issue in

² The public version of AP1000 Design Control Document (Enclosure 2 of Enclosure 1) is expected to be available soon on the NRC website and through ADAMS.

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dispute with NC WARN regarding the Harris Units 2 and 3 cost estimate in section 10.4 of the COLA.³

3. Progress's letter to the NRC dated September 17, 2008 (Enclosure 3) responds to questions from the NRC about potential aircraft hazards in the plant vicinity. NC WARN Contentions TC-3, TC-4, and TC-5 discuss, in part, deliberate attacks by terrorists utilizing aviation assets. While the information corrected in Enclosure 3 is not, in Applicant's view, related to use of aircraft by terrorists nor material to NC WARN's contentions, we are mindful that the final decision on relevancy is to be made by the Board. Houston Lighting and Power Co. (South Texas Project, Units 1 & 2), LBP-86-15, 23 NRC 595, 627 (1986). Thus, we include this letter.

Sincerely,

//Signed electronically//

John H. O'Neill Jr.
Counsel for Progress Energy

Enclosure 1 -- Westinghouse letter DCP/NRC2266 to the NRC dated September 22, 2008

Enclosure 2 -- Progress letter NPD-NRC-2008-039 to the NRC dated October 3, 2008

Enclosure 3 -- Progress letter NPD-NRC-2008- 033 to the NRC dated September 17, 2008

³ Applicant's counsel will contact NC WARN's counsel to discuss NC WARN's willingness to withdraw that part of Contention EC-1 that the NRC Staff argued was admissible, in light of the change to section 10.4 of the COLA.

CERTIFICATE OF SERVICE

I hereby certify that a copy the foregoing Progress Energy's notification to the Board dated September xx, 2008, was provided to the Electronic Information Exchange for service to those individuals on the service list in this proceeding, and courtesy copies were provided by email to the persons listed below, this 6th day of October 2008.

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//Signed electronically//

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