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June 22, 2009

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Washington, DC 20555-0001

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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, Inc. ("Progress") on February 19, 2008, for a combined license to construct and operate two Westinghouse AP1000 pressurized water reactors at the existing Harris Nuclear Power Plant site (the "COLA").<sup>1</sup> On August 4, 2008, NC WARN filed its

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

Petition containing 11 contentions. On October 30, 2008, the Board denied ten contentions and admitted one contention, Contention TC-1, limited to 9 purported omissions.<sup>2</sup> On May 18, 2009, the Commission granted appeals by the NRC Staff and Progress and remanded Contention TC-1 to the Board.<sup>3</sup> Pursuant to previous Board Orders, Party actions are suspended pending resolution of the appeals.<sup>4</sup> This letter informs the Board of new information potentially relevant and material to issues raised in Contention TC-1. Specifically, on April 17, 2009, Progress submitted Revision 1 to the COLA.

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 N.R.C. 168, 170 (1993) (citing Duke Power Co. (William B. McGuire Nuclear Station, Units 1 and 2), ALAB-143, 6 A.E.C. 623, 625. (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 N.R.C. 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 and 2), ALAB-551, 9 N.R.C. 704, 710 (1979).

Consistent with its obligation, Progress forwards Revision 1 to the COLA to the parties identified on the attached certificate of service. Because COLA Revision 1 (Enclosure (2)) exceeds 50 MB<sup>5</sup> in size, it is transmitted on optical storage media only by first class mail as attachment to this filing. 10 C.F.R. § 2.302(d)(4). COLA Revision 1 is potentially relevant and material to issues raised in this proceeding because it contains information relevant to the purported nine omissions from the COLA as described in Contention TC-1 as limited by the Board Order LBP-08-15.

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<sup>2</sup> Progress Energy Carolinas, Inc. (Shearon Harris Nuclear Power Plant, Units 2 and 3), LBP-08-15, 68 N.R.C. \_\_ (Oct. 30, 2008).

<sup>3</sup> Harris, CLI-09-08, 69 N.R.C. \_\_\_\_ (May 18, 2009).

<sup>4</sup> See Harris, Board Orders Granting Motion to Stay (Nov. 5, 2008), and Granting Joint Motion to Suspend Obligations (Nov. 14, 2008).

<sup>5</sup> As a service to the Parties and the Board, Enclosure (2) also contains courtesy copies of Revision 0 of the COLA Part 3 (the Environmental Report) and Revision 17 of the Westinghouse AP1000 Design Certification Document. These courtesy copies allow functionality of the hyperlinks in COLA Revision 1, similar to the functionality enabled for the NRC staff review. Even without these courtesy copies, COLA Revision 1 would exceed 50 MB in size.

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The location in COLA Revision 1 of information potentially relevant to Contention TC-1 is described in Enclosure (1) to this letter. As an additional potentially helpful guide, we note that a "roadmap" providing a summary of the changes between COLA Revisions 0 and 1 was submitted by Progress to the NRC on May 11, 2009. Progress letter NPD-NRC-2009-087 to the NRC of May 11, 2009 (ADAMS Accession No. ML091340475).

Sincerely,

*//Signed electronically by John H. O'Neill, Jr.//*

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

Enclosures:

(1) Harris COLA Sections That Address Contention TC-1

(2) Shearon Harris Nuclear Power Plant, Units 2 and 3, Application for a Combined Construction Permit and Operating License, Revision 1 (April 2009) (public version) with courtesy copies of COLA Part 3, Revision 0 and Westinghouse AP1000 Design Certification Document, Revision 17.

## CERTIFICATE OF SERVICE

I hereby certify that a copy the foregoing Progress Energy's Notification to the Board dated June 22, 2009 with its Enclosure (1), was provided to the Electronic Information Exchange for service to those individuals on the service list in this proceeding, and copies with Enclosure (2) on optical storage media were provided by first class mail to the persons listed below, this 22<sup>nd</sup> day of June 2009.

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*//Signed electronically by Robert Haemer//*

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Robert B. Haemer