

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

In the Matter of)
) Docket Nos. 50-269A, 50-270A
DUKE POWER COMPANY) 50-287A, 50-369A
(Oconee Units 1, 2 and 3) and 50-370A
McGuire Units 1 and 2))

APPLICANT'S SUPPLEMENTAL INTERROGATORIES
AND DOCUMENT PRODUCTION REQUEST TO
EACH MUNICIPAL INTERVENOR

Duke Power Company (hereinafter "Applicant") pro-
pounds the attached Interrogatories and Document Production
Request to each of the following municipal Intervenors:

City of Albemarle
City of High Point
Town of Landis
City of Lexington
Town of Lincolnton
City of Monroe
City of Shelby.

These requests are made pursuant to Sections 2.740b and 2.741(a)(1)
of the Commission's Rules of Practice (10 C.F.R. §§2.740b
and 2.741(a)(1)) with the request that the interrogatories
be answered under oath by each Intervenor.

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By _____
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September 17, 1973

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DEFINITIONS

As used herein, the term "documents" means memoranda, correspondence, recordings, transcripts, contracts, agreements, books, booklets, pamphlets, catalogues, lists, periodicals and articles therefrom, newspapers and articles therefrom, letters, messages, reports, tabulations, notes, studies, analyses, pictures, charts, surveys, statistical compilations, polls, censuses, minutes of meetings, and all other writings of any kind or nature, and copies thereof.

This request extends to all relevant, non-privileged documents presently or hereafter within the possession, custody or control of each Intervenor, whether in connection with this or any other case, proceeding, or investigation, except that it shall not be necessary, unless otherwise indicated, to produce (1) documents furnished by Applicant in this proceeding; or (2) documents which were prepared prior to January 1, 1960. Documents contained in the Federal Power Commis-

sion's 1964 or 1970 National Power Surveys need not be submitted, except that where the information from the Surveys would be responsive, the appropriate Survey date and page reference should be specified.

Each document produced and answer hereto should identify the request number (and subparagraph, if any) to which it is responsive.

If any document requested is available, but is withheld by reason of any assertion of privilege or other claim, such as work product, describe each such document, including the name, address and position of the person preparing and receiving it, the form of the document, its title (if any) and the matter to which it relates. In addition, provide a brief statement of the grounds on which privilege or other claim is being asserted.

In any case where a refusal to respond to an interrogatory is based on an assertion of privilege or other claim, provide a brief statement of the circumstances involved, the name and address of any person concerned and the grounds on which privilege or other claim is being asserted.

As used in these interrogatories, the term "standard" means a judgmental factor, principle or guideline stated in such form and with such specificity as to facilitate comparison with other possible bases for the position taken. Thus, broad statements regarding "generally prevalent concepts" or similar

formulations are not standards. Published materials may be cited as the source of standards but only to the extent the portions relied on are cited specifically and the intervenor citing the same fully endorses as its position every statement made in the cited material.

Each interrogatory and each document request is directed to each Intervenor. Response to each item should reflect all information known to any Intervenor and the views or position of each Intervenor.

SCHEDULE

1. (a) Define the geographic boundaries of each product market relevant to this proceeding.

(1) If a geographic market boundary corresponds precisely to Applicant's service area provide a map of the service area on which the Intervenor's rely. (The geographic market boundary then may be defined as "the Applicant's service area.")

(2) Unless the geographic market boundary of each product market corresponds precisely to Applicant's service area, the boundaries of each geographic market should be indicated on a large scale map.

(b) As to each product market defined in response to (a) identify and describe each factor considered in determining that it is an appropriate market for antitrust analysis in this proceeding.

(c) As to each geographic market boundary defined in response to (a), identify and describe each factor considered in determining that it is an appropriate market boundary for antitrust analysis in this proceeding.

2.(a) Do the Intervenors contend that the size of Applicant's physical and financial assets are relevant to the issue of whether activities under the license will create or maintain a situation inconsistent with the antitrust laws?

(b) If the response to (a) is not "no", identify and describe the factors used by the Intervenors in determining that these data are relevant to that issue.

3. In their Joint Petition for Leave to Intervene dated September 29, 1971, ("Joint Petition"), Intervenors state "Duke currently enjoys a monopoly in the generation of bulk power over a substantial portion of Western and Central North Carolina."

(a) Define "bulk power" as used in the quoted statement and what Intervenors would contend would be a "bulk power" facility in the context of the stated quotation.

(b) Describe the precise geographic boundaries of "a substantial portion of Western and Central North Carolina." Unless those boundaries correspond precisely to the boundaries of Applicant's service area or any market defined in response to question 1, the boundaries should be displayed on a suitable large scale map.

(c) List each electrical generation facility exceeding 10 mw within the area defined in response to (b) and not owned by Applicant and, as to each listed facility, state whether or not it is a bulk power generation facility as defined in response to (a).

(d) As to each facility identified as a non-bulk power generating facility in response to (c), identify and describe each factor considered in determining that the facility does not generate bulk power.

(e) As to each electric generating facility listed in response to (c) as a bulk power generation facility, identify and describe each factor considered in determining that Applicant has a "monopoly" despite the existence of that facility. To the extent it is contended that Applicant controls facilities it does not own, the response should include a description of each contractual provision, indirect ownership interest or other method of control by which such control is exercised. Contract clauses which on their face demonstrate Applicant's control, in the Intervenor's judgment, should be cited specifically. As to all other methods of control, the response should explain how control was obtained and precisely how it can be exercised and should describe specifically each instance in which control was exercised.^{1/}

^{1/} As to each instance in which control was exercised, the response should include, but not be limited to, (1) the representative or representatives of Applicant involved,

4.(a) In contending that Applicant enjoys a monopoly in the generation of bulk power, do the Intervenor's contend that events occurring prior to January 1, 1960, are relevant to this proceeding? If so, do the Intervenor's intend to present evidence on or inquire into any of these events during the evidentiary hearing in this proceeding?

(b) Unless in response to (a) the Intervenor's have stated that they neither consider pre-1960 events to be relevant nor intend to present evidence concerning or inquire into such events, identify and describe each pre-1960 event upon which the Intervenor's will rely. As to each event, the response should include, but not be limited to:

- (1) the representative or representatives of Duke Power Company or any other entity involved;
- (2) the subject matter of the event;
- (3) the specific actions taken by Duke Power Company or any other entity, the date or dates of each action and the method employed;
- (4) the specific sources from which the Intervenor's obtained the information on which they rely in describing each event.

Fn. continued

(2) other persons or entities involved, (3) the specific generation facility involved, (4) the specific actions taken by Duke, the date or dates of each action and the method employed, (5) the precise basis on which the Intervenor's conclude that Applicant controls the generation facility, and (6) the specific sources from which the Intervenor's obtained the information upon which they rely in describing the incident.

(c) As to each event described in response to (b), state whether the event had:

- (1) a monopolistic intent;
- (2) a monopolistic effect;
- (3) an anticompetitive intent; or
- (4) an anticompetitive effect.

(d) As to each event for which it is contended in response to (c) that it had a monopolistic or anticompetitive effect, state whether that effect continues to affect any pertinent market today.

(e) If the response to (d) is not "no":

(1) state what event does continue to so affect any pertinent market today and specify to which market or markets as defined in response to question 1 that effect applies, and

(2) if any monopolistic or anticompetitive effect no longer affects any pertinent market, state when such effect ceased, the market which had been affected, and the factors which resulted in the elimination of such effect.

5. In the Initial Prehearing Statement of the Municipalities, dated August 9, 1972 ("Initial Statement"), Interveners stated that Duke, CP&L, SCE&G and VEPCO "among themselves monopolize the generation . . . of bulk power over a substantial area in the Carolinas and Virginia." (p. 3)

(a) Describe and define the standards the Interveners use in determining that the four utilities have monopoly control of a generation facility.

(b) State whether the quoted statement is intended to include undeveloped hydroelectric sites.

(c) If the response to (b) is not "no", describe and define the standards the Interveners use in determining that the four utilities exercise monopoly control of an undeveloped hydroelectric site.

(d) Identify all hydroelectric sites listed in (f) below that Applicant does not own but controls by other means and as to each specify which of the standards of control stated in response to (c) are satisfied and describe how those standards are satisfied.

(e) The following entities operate generation facilities near those operated by Applicant:

- (1) Appalachian Power Co.
- (2) Yadkin, Inc.
- (3) Nantahala Power & Light Co.
- (4) Tapoco, Inc.
- (5) University of North Carolina
- (6) Tennessee Valley Authority
- (7) Southeastern Power Administration - Cumberland Project
- (8) Southeastern Power Administration - Clark Hill Project

- (9) Southeastern Power Administration - Hartwell Project
- (10) South Carolina Public Service Authority
- (11) City of Abbeville, South Carolina.

As to each numbered entity listed above:

(i) identify each ownership interest, contractual provision or other method of control by which the four utilities exercise monopoly control of each facility operated by each numbered entity. Contract clauses which on their face demonstrate control, in the Intervenor's judgment, should be cited specifically. As to all other methods of control, the response should explain how control was obtained and precisely how it can be exercised and should describe specifically each instance in which control has been exercised;^{2/}

^{2/} As to each instance in which control was exercised, the response should include, but not be limited to, (1) the representative or representatives of all entities involved, (2) the specific generation facility involved, (3) the specific actions taken by any of the four utilities, the date or dates of each action and the method employed, (4) the precise basis on which the Intervenor concludes that the four utilities control the facility, and (5) the specific sources from which the Intervenor obtained the information upon which they rely in describing the instance.

(ii) state whether Applicant alone can exercise monopoly control of each facility operated by each numbered entity; if so, identify each ownership interest, contractual provision or other method of control by which Duke's control is exercised. Contract clauses which on their face demonstrate control, in the Intervenor's judgment, should be cited specifically. As to all other methods of control, the response should explain how control was obtained and precisely how it can be exercised and should describe specifically each instance in which control has been exercised.^{3/}

(f) If the response to (b) is not "no", then as to each of the following undeveloped hydroelectric project sites, state whether the Intervenor's regard it as being economically feasible.

^{3/} As to each instance in which control was exercised, the response should include, but not be limited to, (1) the representative or representatives of Applicant involved, (2) other persons or entities involved, (3) the specific generation facility involved, (4) the specific actions taken by Duke, the date or dates of each action and the method employed, (5) the precise basis on which the Intervenor's conclude that Applicant controls the facility, and (6) the specific sources from which the Intervenor's obtained the information upon which they rely in describing the instance.

- 1) Junction project (Yadkin River)
- 2) Crumps Ford project (Rocky River)
- 3) Greater Blewitt project (Pee Dee River)
- 4) Morven project (Yadkin River)
- 5) Styers project (Yadkin River)
- 6) Clinchfield project (Broad River)
- 7) Greater Gaston Shoals project (Broad River)
- 8) Morganton project (Catawba River)
- 9) Courtney Island project (Catawba River)
- 10) Greater Lockhart project (Broad River)
- 11) Blairs project (Broad River)
- 12) Frost Shoals project (Broad River)
- 13) Trotter Shoals project (Savannah River)
- 14) Buffalo Cove project (Buffalo Creek)
- 15) Elk Creek project (Elk Creek)
- 16) Horse Gap project (Reddies River)
- 17) Upper Donnaha project (Yadkin River)
- 18) Baden project (Yadkin River)
- 19) Dutchman's Creek project (Pee Dee River)
- 20) Tater Top Mountain project (Pee Dee River)
- 21) Upper Wood Run project (Pee Dee River)
- 22) Coleman's Creek project (Pee Dee River)
- 23) McCoys Creek project (Pee Dee River)
- 24) Long Arm Ridge project (Linville Creek)
- 25) Laurel Knob project (Linville Creek)

- 26) Chimney Mountain project (Linville Creek)
- 27) Ripshin Branch project (Upper Creek)
- 28) Phillips Branch project (Raiders Creek)
- 29) Brown Mountain project (Upper Creek)
- 30) Baton project (Catawba River)
- 31) Island Creek project (Catawba River)
- 32) Millersville project (Catawba River)
- 33) Elk Shoals project (Catawba River)
- 34) South Mountain project (Jacobs Fork)
- 35) Belmont project (South Fork, Catawba River)
- 36) Sugar Creek project (Catawba River)
- 37) Ebb Lake project (Catawba River)
- 38) Uncles Creek project (Green River)
- 39) ' d' project (Green River)
- 40) Ross Creek project (Broad River)
- 41) Greater Cherokee project (Broad River)
- 42) Big Falls project (North Fork, Saluda River)
- 43) Reregulator project (Congaree River)
- 44) Brady Lake project (Congaree River)
- 45) Buckingham Landing (Sautee River)
- 46) Jeffries project (additional capacity)
(Cooper Canal)
- 47) St. Stephen project (Sautee River)
- 48) War Woman project (Chattooga River)
- 49) Sand Bottom project (Chattooga River)

- 50) Rogues Ford project (Chattooga River)
- 51) Camp Creek project (Chattooga River)
- 52) Battle Creek project (Chattooga River)
- 53) Horsepasture project (Horsepasture River)
- 54) Hartwell project (additional capacity)
(Savannah River)
- 55) Tallow Hill project (Broad River, Ga.)
- 56) Anthony Shoals project (Broad River, Ga.)
- 57) Burtons Landing project (Savannah River)
- 58) Stokes Bluff project (Savannah River)

(g) Define and describe the standards the Intervenors use in evaluating the economic feasibility of the sites listed in (f). These standards should be stated in terms that will facilitate comparison to the standards used by the Army Corps of Engineers.^{4/}

(1) State whether those standards correspond precisely to those used by the Army in evaluating the feasibility of hydroelectric projects;

(2) If the answer to (1) is not "yes," describe each variation between its standards and those of the Army and explain why the Intervenors believe their standards to be more appropriate.

^{4/} See Federal Power Commission, Development of Water Resources in Appalachia, Appendix B (Power Supply and Requirements), June 1968.

(3) As to each project listed in (f), specifically apply each standard identified in response to (1) above.

(4) As to each project for which some standards favor construction of the project while others do not, describe the factors considered by the Intervenor in giving predominant weight to some factors over others. Comment on each standard specifically.

(5) As to each project which has been recommended or otherwise approved by the Army, explain specifically the method used by the Intervenor in reaching their conclusion that it is or is not economically feasible. Comment specifically on each factor common to both the Army and Intervenor standards on which the Intervenor reach a different conclusion and on each factor considered by either the Army or the Intervenor not considered by the other.

6. In the Initial Statement (p. 3), the Intervenor contend that "[w]ithin its territory, Duke owns and operates . . . practically all the . . . transmission at the higher voltage levels."

(a) Define the term "its territory". Unless this territory corresponds precisely to Applicant's service area

or any market defined in response to question 1, provide a map of this "territory".

(b) Define "higher voltage levels."

(c) Identify each "higher voltage" transmission line not owned by Duke "[w]ithin its territory" and indicate the location of each such line on the map provided in response to (a).

(d) As to each transmission line identified in response to (c), state whether Intervenors contend that Duke otherwise controls that line.

(e) If the response to (d) as to any line is not "no", describe how control of that line was obtained and how it is exercised.

7. At the Prehearing Conference on February 15, 1973, counsel for the Intervenors contended:

"Duke owns the transmission lines that lead to the cities. Therefore, that is the only link that any of the cities have with anybody's generating units. Duke also in that part of the Carolinas, in a huge geographical area, owns most of the major electrical generating stations.

"Each city involved here is small. None of these cities could go out and build an Oconee Nuclear Station." (Tr. 434)

(a) State whether the Intervenors will seek to apply a bottleneck monopoly theory to this proceeding.

(b) If the answer to (a) is not "no", state as to each market defined in response to question 1, whether the

Intervenors will seek to apply a bottleneck monopoly theory to it and, as to those markets to which the Intervenors will seek to apply the theory, state what facilities, arrangements or other resources being withheld constitute the crucial prerequisite to entry into the market.

8. (a) Cite specifically each rate and each provision in any rate schedule filed by Applicant with the Federal Power Commission or any other regulatory agency which the Intervenors claim to have been anticompetitive.

(b) As to each rate or provision identified in (a), describe the market or markets (as defined in response to question 1) in which the anticompetitive effect was felt, the time period during which that effect occurred, the other electric entities affected by it, and the formula or methodology by which that anticompetitive effect can be measured.

(c) As to each rate or provision identified in (a), state whether the Intervenors contend that Applicant (1) intended the alleged anticompetitive consequences or (2) anticipated that they might arise. If the Intervenors contend either intent or anticipation, identify the specific sources of the information upon which the Intervenors rely in making such contention or contentions.

9. In its letter of advice (p. 3) to the Atomic Energy Commission, dated August 2, 1971, regarding the Oconee Nuclear Station, Units 1, 2 and 3 (36 Fed. Reg. 17883)

(hereinafter "the Oconee advice letter"), the Department of Justice states that Applicant's "present rate schedules contain a feature of ratcheted demand which could serve effectively to discourage installation of thermal generating capacity by [Duke's] wholesale customers."

(a) Do the Intervenors agree with this contention? If the response is not "no", Intervenors should respond to (b) through (e) below.

(b) Identify each "ratcheted demand" provision which the Intervenors contend could serve effectively to discourage installation of such thermal generating capacity.

(c) State how each "ratcheted demand" feature identified in response to (b) could serve effectively to discourage installation of such thermal generating capacity.

(d) State whether any Intervenor or any wholesale customer of Duke known to any Intervenor has been discouraged from installing or operating generating capacity because of any ratcheted demand feature identified in subpart (b) of this interrogatory.

(e) If the answer to (d) is not "no," identify each electric entity which has been so discouraged and as to each:

(1) describe the specific thermal generation project or projects discouraged,

(2) state the date on which each project was first proposed,

(3) state the facts relied upon by the Intervenor in contending that the ratchet provision identified in (b) discouraged each such project, including a description of each incident known to the Intervenor in which the ratchet provision was cited as an impediment to any thermal generation project, and

(4) state the specific sources of the information the Intervenor relied upon in responding to this question.

10.(a) State whether any provision in Duke's wholesale rate schedules or contracts in effect at any time from January 1, 1960, to date, has discouraged any Intervenor or any wholesale customer of Duke known to any Intervenor from installing or operating generating capacity.

(b) If the answer to (a) is not "no," identify each electric entity which has been so discouraged and as to each:

(1) describe the specific generation project or projects discouraged,

(2) state the date on which each project was first proposed,

(3) identify the provision in the rate schedule or contract which the Intervenor claim had such a discouraging effect and state the facts relied on by the Intervenor in contending that

such provision discouraged each such project including a description of each incident known to the Intervenors or any of them in which the provision was cited as an impediment to any generation project, and

(4) state the specific sources of the information the Intervenors relied upon in responding to this question.

11. Provide all documents referring to or relating to each of the contracts, rate schedule provisions or rates identified in response to questions 8, 9 or 10, or to any generating facility identified in response to questions 9(e) and 10(b).

12. In the Joint Petition, it is stated "Petitioners have made formal demand upon Duke to commit itself . . . that . . . it would offer to sell to these petitioners . . . a fair share of the ownership and capacity of [the Oconee] facilities." (p. 5)

(a) State whether, in the Intervenors' view, Piedmont Electric Cities, its constituent members, or any similar group or organization of municipal or cooperative electric systems, ever proposed to Applicant that they be allowed to purchase or otherwise obtain an equity interest in any of Applicant's nuclear facilities prior to September 29, 1971.

(b) If the answer to (a) is not "no", identify each specific letter or letters or oral statement or statements or other communication that constituted such a request for an equity interest. Such identification shall include the author or spokesman making the request, the representative or representatives to whom the request was made and the date on which the request was made.

(c) If the answer to (a) is not "no", identify the specific letter or letters or oral statement or statements or other communication that, in the Intervenor's view, constituted Applicant's response to the request. Such identification shall include the author or spokesman making the response and the date on which the response was made.

(d) Except as stated in response to (a) above, state whether any Intervenor or any of Applicant's wholesale customers, known to Intervenor, ever sought, alone or with others, to participate with Applicant in its nuclear generation expansion program (e.g., through the purchase of unit power or an equity interest) by directly seeking such participation from Duke.

(e) If the response to (d) is not "no," identify each Intervenor or customer which sought such participation and each incident in which such participation was sought. As to each incident, the response should include, but not be limited to:

(1) the representative or representatives of Applicant involved,

(2) other persons and entities involved,

(3) the type of participation sought,

(4) the specific action by which Applicant was informed of the request, the date or dates of each action and the method employed,

(5) the specific action or actions which, in the Intervenors' view, constituted Applicant's response to the request for participation, and

(6) the specific source from which the Intervenors obtained the information used in preparing their response.

(f) Produce all documents pertaining to any request or other incident described in response to this interrogatory.

13.(a) State whether the Intervenors believe the EPIC project is technically feasible without interconnection with Applicant.

(b) If the response to (a) is not "yes," then state whether EPIC is technically feasible if interconnected with Applicant for purposes of reliability only. Specify what types of transactions and arrangements are considered by the Intervenors to be necessary for an interconnection for purposes of reliability only.

(c) If the Intervenors consider that interconnection,

other than interconnection for purposes of reliability only, is necessary to make EPIC technically feasible, what forms of interconnection or coordination do the Intervenor claim would be necessary. As to each form specified, state whether it could be achieved through interconnection or coordination with a system other than Duke and, if so, identify that system.

(d) State whether the Intervenor believe the EPIC project is economically feasible without interconnection with Applicant.

(e) If the answer to (d) is not "yes," then state whether EPIC is economically feasible if interconnected with Applicant for purposes of reliability only. Specify what types of transactions and arrangements are considered by the Intervenor to be necessary for an interconnection for purposes of reliability only.

(f) If the Intervenor consider that interconnection, other than interconnection for purposes of reliability only, is necessary to make EPIC economically feasible, what forms of interconnection or coordination do the Intervenor claim would be necessary. As to each form specified, state whether it could be achieved through interconnection or coordination with a system other than Duke and, if so, identify that system.

14. In the Initial Statement, the Intervenor stated that "Duke has erected barriers to entry at the generation and transmission levels, in an attempt to preserve its

monopoly." (p.6).

(a) Identify each such barrier to entry erected by Applicant.

(b) State as to each barrier identified in response to (a) which of the markets defined in response to question 1 is affected by that barrier.

(c) As to each market identified in response to (b), state which potential entrants are barred or impeded from entering that market by a barrier erected by Applicant; potential entrants should be identified by name.

(d) As to each potential entrant identified in response to (c), state which barriers identified in response to (a) affect it.

(e) As to each barrier identified in response to (a), define and describe each component of the pattern of circumstances that bars or impedes entry into any market or that contributes thereto.

(f) As to each barrier identified in response to (a), describe each activity on the part of Applicant that constitutes or demonstrates the erection of the barrier. The description should include, but not be limited to:

(1) the electric entity or entities adversely affected by the activity;

(2) the other electric entities, if any, participating with the Applicant in the activity;

(3) the representative or representatives of Applicant and any other entity involved;

(4) the specific action or actions constituting the activity, including the date of each action and the method employed (e.g., letter, discussion, conference);

(5) a statement as to each action describing each factor considered in determining that the action contributed to the erection of a barrier to entry; and

(6) the specific sources from which the Intervenor obtained the information from which they prepared their description of the action.

(g) Produce all documents relating to the instances or activities described in response to this interrogatory.

15. In the Initial Statement Intervenor include, as Exhibit 18, an affidavit which they contend "[details] threats by Duke of extensive litigation should the municipalities attempt to oppose Duke's wholesale rates." (p. 11) Identify and describe each instance of litigation or other attempt to influence regulatory action which, in the Intervenor's view, carries out any such "threat". Such description should include:

(a) The specific incident or incidents whereby the "threat" was carried out through litigation or other action;

(b) A citation to the litigation or other action;

(c) A statement as to whether the litigation or other action was a sham in the Intervenors' view; and

(d) A statement as to whether the litigation or other action was an attempt by Applicant to deny access to others to the legislative or adjudicatory process.

16.(a) Identify and describe each instance upon which the Intervenors intend to rely and in which Duke has refused to deal, whether wholly or with regard to particular transactions, arrangements or terms, with any of its retail competitors. The response should include, but not be limited to:

(1) the competitor or competitors involved by name,

(2) a statement as to the markets, as defined in response to question 1, in which the entity or entities compete with Applicant,

(3) the type of service, transaction or other arrangement which Applicant refused to provide or enter into,

(4) the representative or representatives of Applicant involved in the refusal,

(5) any other persons or entities involved in the refusal or in the service, transaction or other arrangement refused,

(6) the specific actions taken by the competitor in which it sought to obtain the

service or enter into the transaction refused, the date or dates of each action and the method employed in taking the action,

(7) the specific actions taken by Applicant that constitute a refusal to deal, the date or dates of each action and the method employed in taking the action,

(8) the precise words purportedly used by the representative or representatives of Applicant or, if the Intervenors do not rely on a purported precise quotation, the exact language of each account of each action the Intervenors rely upon as constituting or demonstrating the refusal to deal, and

(9) the specific sources from which the Intervenors obtained the information upon which they rely in describing the instance.

(b) Produce all documents relating to any such refusal to deal.

17.(a) Identify and describe each instance where Duke has dealt on discriminatory terms with any of its retail competitors. As to each instance, the response should include, but not be limited to:

(1) a description of the actual or proposed transaction or transactions involved,

(2) the other persons and entities involved,

(3) the representative or representatives of Applicant involved,

(4) a quotation of or specific citation to the terms proposed by Duke that the Intervenor contend are discriminatory, and the factors relied on by the Intervenor in alleging that such terms are discriminatory,

(5) the specific action or actions taken by representatives of Applicant by which the discriminatory terms were introduced in each transaction, the date of each action or actions and the method by which actions were taken,

(6) a description of each other transaction or transactions relied upon by the Intervenor in determining that each transaction listed in response to (1) above is discriminatory, and

(7) the specific source from which the Intervenor obtained the information they rely upon in describing the instance.

(b) Produce all documents relating to each instance or transaction described in response to (a).

18. In the Initial Statement, Intervenor cite several services, including coordination, which they contend should be supplied by Duke in order to mitigate "the present anticompetitive situation. . . ." (pp. 14-15)

(a) (1) List each existing or former coordination arrangement to which Applicant presently has or has had the power to grant or deny access.

(2) For each arrangement listed in response to (1), list of each entity to which Applicant has granted or denied access to the arrangement, indicating as to each whether access was granted or denied.

(3) As to each entity listed in response to (2), describe the incident or incidents in which Applicant granted or denied access to coordination, including:

(i) the representative or representatives of Duke and of any other entity involved, and

(ii) the specific action or actions by Duke which granted or denied access, the date or dates of each action and the method employed to take the action.

(4) List any potential coordination relationship to which Applicant has or has had the power to grant or deny success.

(5) For each potential coordination arrangement listed in response to (4), list each electric entity to which Applicant has denied access.

(6) As to each entity listed in response to (5), describe the incident or incidents in which Applicant denied access to coordination, including:

- (i) the representative or representatives of Duke and of any other entity involved, and
- (ii) the specific action or actions by Duke which denied access, the date or dates of each action and the method employed to take the action.

(7) As to each section of this question, state the specific sources of information relied upon by the Intervenors in responding to that section of this question.

(b) Specify each type of coordination, wheeling, or interconnection arrangement or transaction which the Intervenors contend is necessary to mitigate the alleged "anticompetitive" situation. The response should include, but not be limited to, the specific facilities and entities which would be involved.

(c) State whether the alleged "anticompetitive situation" would be mitigated if only one or more, but less than all, of the arrangements and transactions specified in response to (b) were to be supplied.

(d) If the response to (c) is not "no", specify:

- (1) each transaction or arrangement which alone would mitigate the situation; and

(2) each combination of transactions and arrangements which would mitigate the situation.

(e) As to any transaction or arrangement specified in response to (b), state whether it could be achieved through interconnection or coordination with a system other than Duke.

(f) For each type of transaction or arrangement identified in response to (e) which could be achieved through interconnection or coordination with a system other than Duke, identify as to each type the entity through which such interconnection or coordination could be achieved.

19.(a) State whether the Intervenors will contend that Applicant has ever refused to interconnect with any other electric entity.

(b) If the response to (a) is not "no," identify and describe each instance in which Applicant has refused to interconnect with any other electric utility. As to each instance the reply should include but not be limited to:

- (1) the other entity or entities involved;
- (2) the specific types of interconnection transactions or arrangements sought;
- (3) the representative or representatives of Applicant or any other entity involved;
- (4) the specific action or actions by which interconnection was sought, the date of each

action and the method employed in each action;

(5) the specific action or actions by which Applicant refused to interconnect, the method employed in each action and the date of each action; and

(6) the sources upon which the Intervenors rely in describing the instance.

20.(a) State whether the Intervenors will contend that Applicant has refused to wheel power for any other electric entity.

(b) If the response to (a) is not "no," identify and describe each instance in which Applicant has refused to wheel power for any other electric utility. As to each instance, the reply should include but not be limited to:

(1) the other entity or entities involved;

(2) the specific wheeling transaction sought;

(3) the representative or representatives of Applicant involved;

(4) the specific action or actions by which wheeling was sought, the method employed in each action and the date of each action;

(5) the specific action or actions by which Applicant refused to wheel, the method employed in each action and the date of each action; and

(6) the sources upon which the Intervenors rely in describing the instance.

21. Counsel for the Intervenors has contended that Applicant has facilitated Yadkin Incorporated's "access to . . . things very advantageous to it." (Tr. 431-433). Identify and describe each transaction, arrangement or term (such as the sale of off-peak power or the sale of dump power) between Yadkin, Inc. and Applicant to which Intervenors statement refers. As to each transaction, arrangement or term, the response should include, but not be limited to:

(a) The name or title and date of each agreement in effect at any time since January 1, 1960, and the specific provision or provisions of each agreement that reflects the transaction, arrangement or term involved;

(b) A statement describing each factor considered in determining that the transaction, arrangement or term is relevant to this proceeding, and

(c) A description of all incidents, if any, relating to the transaction, arrangement or term which affect the relevance of such transaction, arrangement or term to this proceeding.^{5/}

^{5/} As to each incident, the description should include, but not be limited to, (1) the representative or representatives of each entity involved, (2) the specific action or actions of each entity that affect the pertinence of the aspect to the proceeding, the method employed in each action and the date of each action, (3) as to each action listed in response to (2), a statement describing each factor considered in determining the action as it affects the pertinence of the aspect to this proceeding, and (4) the sources used by the Intervenors in describing the incident.

22.(a) State whether the Intervenors contend that Applicant now is a party or has ever been a party to an interconnection or coordination agreement in which it agreed to joint ownership of any of its generating units with any other party, or in which it agreed to sell unit power to any other party.

(b) If the response to (a) is not "no," identify and describe each such agreement providing for interconnection, coordination, or the sale of unit power. The response as to each agreement should include, but not be limited to:

(1) the precise name or title of agreement and the parties thereto,

(2) the effective dates of the agreement,

(3) citation of the specific provision or provisions, if any, by which joint ownership is provided,

(4) the party or parties, if any, obtaining a joint ownership interest,

(5) citation of the specific provision or provisions, if any, by which the sale of unit power is agreed to, and

(6) the party or parties, if any, entitled to purchase unit power.

23.(a) Retail distribution systems not possessing 25 mw of generation are not eligible for full membership in the

Southeastern Electric Reliability Council. Do Intervenors contend that this requirement is unreasonable or discriminatory?

(b) If the answer to (a) is not "no", identify and describe each factor considered in contending that this membership requirement is or may be unreasonable or discriminatory. To the extent that these factors include actions taken by any electric utility, the response as to that factor should include, but not be limited to:

(1) the name of the utility or utilities taking the action or actions;

(2) the representative or representatives of the utility taking the action;

(3) the specific action or actions that evidences unreasonable or discriminatory exclusion, the method used in each action, and the date of each action;

(4) a statement as to each action listed in response to (3) describing the basis on which it was concluded that the action evidenced unreasonable or discriminatory exclusion;

(5) the sources from which the Intervenors obtained the information used in describing the action.

(c) Do Intervenors contend that the formation of SERC or its subsequent activities reflect an anticompetitive or monopolistic intent or effect?

(d) If the response to (c) is not "no," identify and describe each instance of conduct by Applicant or any other participant in SERC that demonstrates an anticompetitive or monopolistic effect or intent. As to each instance of conduct, the response should include, but not be limited to:

(1) the entity or entities participating in the instance and as to each entity the participating representative or representatives;

(2) the specific transaction with regard to which the instance occurred including the subject matter of the transaction, the date of the transaction and a specific citation to any agreement or other writing recording the transaction,

(3) the specific action or actions that demonstrate an anticompetitive or monopolistic effect or intent, the method employed in each action, and the date of each action;

(4) as to each action listed in response to (3) a statement as to whether it demonstrates:

- (i) an anticompetitive effect;
- (ii) an anticompetitive intent;
- (iii) a monopolistic effect; or
- (vi) a monopolistic intent;

(5) the sources upon which the Intervenors rely in describing the instance.

(e) Provide all documents pertaining to SERC, its formation and activities and Applicant's participation therein, including, but not limited to, any documents pertaining to the decisions setting qualifications for membership and full participation.

(f) If the responses to both (a) and (c) are "no", describe fully the significance of the formation of the Southeastern Electric Reliability Council and its subsequent activity for this proceeding.

24. At the February 15, 1973, Prehearing Conference, counsel for the Intervenor stated "I am not sure whether [a letter from W. H. Grigg of Applicant to the Department of Justice dated August 6, 1971] is a commitment for Duke or not." (Tr. 443) State in which respects, if any, Mr. Grigg's letter is insufficient to commit Applicant to coordinating arrangements on terms mandated in Gainesville Utilities v. Florida Power Corp., 402 U.S. 515 (1971).

25.(a) State as to each of the following activities of Applicant whether the Intervenor will contend that the activity was a sham attempt to influence government action, or sham litigation:

- (1) Duke's opposition to the 1952 appropriation for the Southeastern Power Administration.
- (2) Opposition to the 1953 appropriation for the Southeastern Power Administration.

- (3) Applicant's activities at any time regarding the Carter's Island-Trotter Shoals Project on the Savannah River.
- (4) Applicant's attempt to obtain regulatory approval for its acquisition of the Nantahala Power & Light Company.
- (5) Applicant's efforts to dissuade North Carolina municipalities from participation in EPIC.
- (6) Applicant's submission of an application for a license for a hydroelectric project on the Green River (FPC Project No. 2563) and opposition to the application for a hydroelectric project submitted by EPIC (FPC Project No. 2700).
- (7) Applicant's statements (e.g., testimony of Carl Horn, Esq. before the North Carolina Utilities Commission, Intervenor's Exhibit 14 to the Initial Statement; "Bond Prospectus, dated August 5, 1970," Intervenor's Exhibit 15 to the Initial Statement) anticipating the likelihood of Duke litigation regarding EPIC.
- (8) Purported statements by Applicant regarding anticipated litigation concerning wholesale rates, made on June 22, 1967.
- (9) Applicant's support in 1959 for territorial limitations upon the operation of the Tennessee Valley Authority.

(b) As to each item listed in (a) for which the response is "no", describe the significance for this proceeding, if any, of the activities of Applicant described by the item.

(c) To the extent the response to any item listed in (a) is not "no," identify and describe each factor considered in determining Applicant's activities with regard to that item which constituted a sham.

(1) To the extent the factors include actions of Applicant, the response should include, but not be limited to:

(i) the representative or representatives of Applicant and any other entity involved in the action;

(ii) the specific action or actions that the Intervenors contend demonstrates the existence of a sham, the method employed in each action, and the date of each action;

(iii) as to each action listed in response to (ii) a quotation of the precise words relied upon as demonstrating the existence of a sham or, if the Intervenors relied on an account or accounts that does not include a precise quotation, the text of the account or accounts of the statement relied upon; and

(iv) the specific sources the Intervenors rely on in describing the statement.

(2) As to facts that are derived primarily from objective data about Applicant's operations, the response should include, but not be limited to:

(i) a specification of each item of data relied upon and the source from which it is obtained; and

(ii) a statement outlining the analysis by which it is concluded that the data demonstrate the existence of a sham.

(d) State as to each of the activities cited in the numbered clauses of subpart (a) of this question, whether the Intervenors will contend that the activity was an attempt by Applicant to deny access to others to the legislative or adjudicatory process.

(e) If the response to (d) is not "no," identify each action or representation by Applicant that it is contended constitutes or evidences such attempt. As to each action or representation which allegedly constitutes or evidences such attempt:

(1) state each element of the action or representation that constitutes or evidences the attempt by Applicant to deny access to others to the legislative or adjudicatory process,

(2) identify the source of the information the Intervenors rely upon in making these contentions, and

(3) produce all documents pertaining to that action or representation and to the factual

basis for contending that it evidenced or constituted an attempt by Applicant to deny access to others to the legislative or adjudicatory process.

(f) If the response to (d) is not "no," state whether Applicant intended by its activities to deny access to others to the legislative or adjudicatory process.

(g) If the response to (f) is not "no," state which activities or what incidents the Intervenors contend demonstrate such intent. ^{6/}

26.(a) Except for those applications listed in 25(a), identify and describe every instance upon which the Intervenors intend to rely and in which Applicant has opposed applications of other utilities for project licenses. As to each instance:

(1) name the project involved and the utility making the application,

(2) state the body or bodies, if any, before which Applicant opposed the application and cite the proceeding by docket number or similarly specific identification,

^{6/} As to each activity or incident, the response should include, but not be limited to, (1) the representative or representatives of the entities involved, (2) the specific actions taken by Applicant, the date or dates of each action and the method employed, (3) the precise manner in which the incident demonstrates the intent to deny access to others to the legislative or adjudicatory process, and (4) the specific sources from which the Intervenors obtained their information.

(3) identify the document filing or other action, if any, by which Applicant first indicated its opposition to the project to the body and the date on which the action was taken,

(4) if it is contended that Applicant never publicly indicated its opposition to the project, describe fully in what way the Interveners contend that Applicant opposed the project, ^{7/}

(5) state whether the Interveners contend that Applicant's opposition to the project is a sham in whole or in part,

(6) if the Interveners contend that Applicant's opposition is a sham, in whole or in part, identify each action or representation by Applicant that it is contended constitutes or evidences a sham. As to each action or

^{7/} Such description should include, but not be limited to, a description of each incident known to the Interveners, or any of them, in which Applicant evidenced its active opposition to the project including as to each incident (1) the representative or representatives of Applicant or any other entity involved, (2) the body or persons approached or influenced, (3) the date or dates and the method of the approach, (4) the specific content of the communication made by Applicant, and (5) the sources of all information used by the Interveners in describing the incident.

representation that it is contended constitutes or evidences a sham in whole or in part,

(i) state each element of the action or representation that constitutes or evidences a sham,

(ii) identify the source of the information the Intervenor's rely upon in contending that a sham was evidenced or perpetuated, and

(iii) produce all documents pertaining to that action or representation and to the factual basis for contending that it evidenced or constituted a sham;

(7) state whether the Intervenor's contend that Applicant's opposition to the project was an attempt to deny access to others to the legislative or adjudicatory process,

(8) if the Intervenor's contend that Applicant's opposition was an attempt to deny access to others to the legislative or adjudicatory process, identify each action or representation by Applicant that it is contended constitutes or evidences such attempt. As to each action or representation that it is contended constitutes or evidences such attempt,

(i) state each element of the action or representation that constitutes or evidences the attempt by Applicant to deny access to others to the legislative or adjudicatory process,

(ii) identify the source of the information the Intervenors rely upon in contending that an attempt by Applicant to deny access to others to the legislative or adjudicatory process was evidenced or perpetuated, and

(iii) produce all documents pertaining to the action or representation and to the factual basis for contending that it evidenced or constituted an attempt by Applicant to deny access to others to the legislative or adjudicatory process.

(b) Identify and describe each instance not described in response to questions 25 or 26(a) in which, in the Intervenors' view, Applicant has engaged in conduct constituting or evidencing a sham attempt to influence governmental action in whole or in part. As to each instance, the response should include but not be limited to:

(1) the subject matter of the governmental action,

(2) the representative or representatives of Applicant or any other entity involved, and

(3) the specific actions or representations constituting the purported sham, the method employed in each action or representation and the date or dates of each action or representation. As to each action or representation that it is contended constitutes or evidences a sham in whole or in part,

(i) state each element of the action or representation that constitutes or evidences a sham,

(ii) identify the source of the information the Intervenors rely upon in contending that a sham was evidenced or perpetuated, and

(iii) produce all documents pertaining to that action or representation and to the factual basis for contending that it evidenced or constituted a sham.

(c) Identify and describe each instance not described in response to questions 25 or 26(a), in which, in the Intervenors' view, Applicant has attempted to deny others access to the legislative or adjudicatory processes. As to each instance, the response should include but not be limited to:

(1) the subject matter of the legislative or adjudicatory process,

(2) the representative or representatives of Applicant or any other entity involved, and

(3) the specific actions or representations constituting the purported attempt, the method employed in each action or representation and the date or dates of each action or representation. As to each action or representation that it is contended constitutes or evidences an attempt to deny access to the legislative or adjudicatory process,

(i) state each element of the action or representation that constitutes or evidences such an attempt,

(ii) identify the source of the information the Intervenors rely upon in contending that such an attempt was evidenced or perpetuated, and

(iii) produce all documents pertaining to that action or representation and to the factual basis for contending that it evidenced or constituted such an attempt.

27.(a) State whether any Intervenor at any time since January 1, 1960, to date has requested changes in its wholesale power arrangement with Applicant.

(b) If the response to (a) is not "no", identify and describe each instance in which such change was requested.

The response should include, but not be limited to:

(1) the representative or representatives of any Intervenor making the request;

(2) the representative or representatives of Applicant involved,

(3) other persons and entities involved,

(4) a detailed specification of the change sought,

(5) the specific action by which Applicant was informed of the request, the date or dates of each action and the method employed,

(6) the specific action or actions which, in the Intervenor's view, constituted Applicant's response to the request for the change, and

(7) the specific source from which the Intervenor obtained the information used in preparing their response.

(c) State whether Intervenor will contend that Applicant ever had indicated it would refuse to grant a change in any wholesale power arrangement. (Instances specified in response to (b) may be disregarded in answering this question.)

(d) If the response to (c) is not "no", identify and describe each instance in which Applicant has so indicated. The response should include, but not be limited to:

(1) the representative or representatives of Applicant involved;

(2) the representative or representatives of any wholesale customer or other entity to whom the indication was given;

(3) a detailed specification of the change involved;

(4) the specific action or actions, if any, by which Applicant was made aware of the possible change and the date or dates of each action and the method employed;

(5) the specific action or actions which in Intervenors' view, constituted Applicant's indication, the date or dates of each action and the method employed;

(6) a quotation of the precise words which Intervenors contend constituted the indication or, in the event the Intervenors rely on an account or accounts which do not include the precise words used, a quotation of the passage of each account or accounts relied upon; and

(7) the specific source from which the Intervenors obtained the information used in preparing their response to this question.

(e) Produce all documents pertaining to any request or indication identified in response to (b) or (d) above.

28. In the Initial Statement (pp. 6-7), it is stated "Duke has . . . imposed a price squeeze upon the municipal systems. . . ."

(a) State the date on which the squeeze first arose.

(b) Identify each wholesale and retail industrial rate schedule of Applicant in effect at any time since the date indicated in response to (a) which establishes rates which create or contribute to the squeeze or which evidence an intent to create a squeeze;

(c) As to each rate identified in response to (b), specify whether the said rate creates the squeeze, contributes to the squeeze, or evidences an intent to create a squeeze.

(d) As to each rate identified in response to (b), state whether the Intervenors contend that such rate is not justified by the principles of cost of service utility rate making, stating where the Intervenors do so contend, the basis for this claim.

(e) Unless no rate has been identified in response to (c) as evidencing an intent to create a squeeze, describe each incident relied upon as demonstrating an intent to impose a price squeeze, including:

(1) the representative or representatives of Applicant or any other entities involved;

(2) the specific customer or customers, if any, involved;

(3) the specific action or actions evidencing an intent to impose a price squeeze, the date of each action and the method employed;

(4) as to each action listed in response to (3), a quotation of the precise words used by the representatives of Applicant that evidence an intent to impose a price squeeze or, if the Intervenor is relying on an account or accounts not including a precise quotation, a quotation of the passage of each account purportedly describing the conspiratorial actions;

(5) as to each action listed in response to (3), a statement listing each factor considered in determining that the action evidenced an intent to impose a price squeeze; and

(6) the specific sources upon which the Intervenor relies in describing the incident.

(f) For each rate identified in response to (b) and for each Intervenor:

(1) describe specifically the load characteristics (including billing demand, load factor and any other assumption used) of the smallest new industrial customer from which the system would be

unable to obtain revenues sufficient to recover the cost of power;

(2) describe the formula or methodology by which the answer to (1) was determined;

(3) state whether the formula or methodology described in response to (2) would be used consistently for any size load in determining whether revenues would exceed the cost of power;

(4) if the response to (3) is not "yes", describe any changes in the formula or methodology for varying load sizes, and state the load size or sizes to which each variation applies.

(g) Describe and define the standards by which one can determine that margin over and above the cost of power which is sufficient to recover all properly allocable costs of serving a customer.

(h) Identify and describe all instances known to the Intervenors, or any of them, in which a wholesale customer of Applicant has declined to serve a potential industrial customer or has been unable to serve an industrial customer because of an insufficient margin between the rate it could obtain and the cost of electricity obtained from Applicant. As to each instance:

(1) name the wholesale customer unable or unwilling to serve and the potential industrial customer involved,

(2) state the date on which service was sought by or first discussed with the potential industrial customer,

(3) describe the anticipated maximum demand and load factor of the potential industrial customer,

(4) list each factor known to the Intervenors to have been considered by either the wholesale customer or the potential industrial customer in determining who the retail supplier should be,

(5) identify the sources of the Intervenors' information relied upon in describing each instance, and

(6) produce all documents pertaining to each instance.

29. The Department of Justice states that Applicant may engage in "probable activities under the license which would need to be resolved by a hearing before your Commission." (Oconee advice letter, p. 4). Do the Intervenors agree with this contention of the Department? If so:

(a) Define and describe the standards the Intervenors would use to determine that an activity is "probable."

(b) Identify and describe each "probable activity" which the Intervenors would include in the quoted passage

and describe why they regard it as probable. The response should include but not be limited to the application of each standard defined in response to (a) to each "probable activity."

30. In the Joint Petition, it is stated that "Nuclear energy ... offers, when utilized on a large scale, a source of energy lower in cost than any now available to Duke." (p. 4)

(a) State whether the Oconee plant constitutes a "large scale" use of nuclear energy.

(b) State whether the McGuire plant constitutes a "large scale" use of nuclear energy.

(c) (1) Define "energy" as used in the quoted passage;

(2) Define "cost of energy" as used in the quoted passage;

(3) Identify each category of expenses, as set forth in the Uniform System of Accounts of the Federal Power Commission that is included in the "cost of energy".

(d) State as to each plant or purchased power contract listed below, what the "cost of energy" for that source is deemed to be by the Intervenors and the source of the information used in determining that cost:

1) Riverbend Plant (Units 1 - 5)

2) Buck Plant (Units 1 - 5)

3) Clifford Plant (Units 1 + 2)

- 4) Dan River Plant (Units 1 - 3)
- 5) Lee Plant (Units 1 + 2)
- 6) Tiger Plant
- 7) Allen Plant (Units 1 - 4)
- 8) Marshall Plant (Units 1 - 4)
- 9) Greenwood Steam Plant
- 10) Bridgewater Hydroelectric Plant
- 11) Oxford Hydroelectric Plant
- 12) Cowans Ford Hydroelectric Plant
(Units 1 + 2)
- 13) Mountain Island Hydroelectric Plant
- 14) Wylie Hydroelectric Plant
- 15) Cedar Creek Hydroelectric Plant
- 16) Wateree Hydroelectric Plant
- 17) Keowee Hydroelectric Plant
- 18) Purchase of Power from Carolina
Power and Light Co. (FPC Rate Schedule
No. 247)
- 19) Purchase of Power from South Carolina
Electric and Gas Co. (FPC Rate Schedule
No. 8).

(e) State what the Intervenors contend is the present "cost of energy" from the Oconee plant and identify the source of the information used in defining that cost.

(f) State what the Intervenors contend will be the "cost of energy" from the McGuire plant and identify the source of the information used in defining that cost.

(g) State whether the Intervenors contend that the "cost of energy" from nuclear plants to be placed in service on the Applicant's system in the period from 1978 through 1984 will be lower than the "cost of energy" from the McGuire plant. State the basis for the Intervenors' position in this regard.

(h) To the extent that the "cost of energy" for any source of energy listed in (d) is lower than or equal to the "cost of energy" for Oconee as listed in response to (e) or for McGuire as listed in response to (f),

(1) identify and describe each factor that prompted Intervenors to disregard that source in making the quoted statement; and

(2) describe the significance for this proceeding of the existence of that source as a source of lower cost "energy."

31. In the Joint Petition, Intervenors refer to "the benefits of this low-cost source of power" and "the benefits of nuclear power". (p. 2)

(a) State as to each Intervenor what the cost of unit power including reasonable transmission costs would be from the Oconee plant and separately from the McGuire plant.

(b) State as to each Intervenor its average delivered cost of power at present and as projected for 1977.

(c) List each "benefit" other than the possible reduced cost of power that the Intervenors believe Applicant may receive from nuclear generation. As to each "benefit," identify and describe each factor considered in determining:

(1) that Applicant's circumstances will be enhanced by the "benefit", and

(2) that the "benefit" will result from the installation of the Oconee and McGuire plants.

(d) Identify and describe each factor considered in determining that Applicant's wholesale rate does not provide adequate access to each "benefit".

32. The Department of Justice has indicated that actions by the North Carolina Utilities Commission and the South Carolina Public Service Commission may have been in contravention of Federal law.^{8/} Do the Intervenors agree with this contention by the Department? If so, identify and describe each action of either Commission that the Intervenors contend contravenes Federal law. As to each action:

(a) Cite the docket number and the date of the final decision or order in the said docket;

(b) Identify the parties, if any, to the proceeding leading to the action;

^{8/} Justice Reply Brief of July 24, 1972, p. 10.

(c) Specify (by precise citation, if possible) the provisions of the action that contravene Federal law, and

(d) Cite the provision of Federal law contravened.

33.(a) State whether the Intervenors contend that any enactments of the legislatures of North or South Carolina regarding electric service are invalid under Federal law.

(b) If the response to (a) is not "no," identify and describe each enactment that is invalid in whole or in part under Federal law. As to each enactment, the response should include but not be limited to:

(1) a specific citation to the enactment and to the provision or provisions that are invalid, and

(2) a specific citation to the provisions of Federal law that invalidate each provision of a legislative enactment.

34(a) State whether the Intervenors contend that Applicant has entered into any agreement which, although on its face represents that it is undertaken pursuant to or in anticipation of action by the North Carolina Utilities Commission or the South Carolina Public Service Commission or in specific compliance with any law of North Carolina or South Carolina relating to electric service, contravenes Federal law.

(b) If the response to (a) is not "no," identify

and describe each such agreement that contravenes Federal law. As to each agreement, the response should include, but not be limited to:

- (1) the name or title of the agreement and the date on which it was executed,
- (2) the other party or parties to the agreement,
- (3) a specific citation to the provision or provisions that contravene Federal law, and
- (4) a specific citation to the provision or provisions of Federal law contravened.

35. At the prehearing conference on November 17, 1972, counsel for the Intervenors contended (Tr. 191) that retail territorial assignment pursuant to the statutes of North Carolina and South Carolina is being used to allocate wholesale customers between generating utilities. Identify and describe each instance in which generating utilities in North Carolina and South Carolina have so utilized the retail territorial assignment statutes. As to each instance, the response should include, but not be limited to:

- (a) The generating utilities so allocating wholesale customers;
- (b) The wholesale customers allocated;
- (c) The title or name of the specific agreement by

which each wholesale customer was allocated and the date of each agreement;

(d) The specific action or actions of each utility relied upon as demonstrating the intent to allocate wholesale customers, including the representative or representatives of each utility taking the action, the method employed in the action and the date of the action;

(e) A statement as to each action listed in response to (d) identifying and describing each factor considered in determining that the action evidences an intent to allocate wholesale customers; and

(f) The specific sources that Intervenors relied upon in describing the allocation of wholesale customers (Tr. 191-193).

36.(a) Except for those instances identified in response to interrogatory 35, state whether the Intervenors contend that Applicant has ever entered into, proposed or agreed to an agreement or understanding to allocate wholesale or retail customers or to allocate the right to serve wholesale or retail customers on a territorial basis. The response need not include allocations which purport on their face to be pursuant to the North Carolina or South Carolina territorial assignment laws.

(b) If the answer to (a) is not "no", identify and describe each agreement or understanding or proposed agreement

or understanding so allocating territory or customers on which the Intervenors will rely in this proceeding.

(1) As to each allocation by formal agreement the response should include, but not be limited to:

(i) the name or title of the agreement and the date executed or, if not executed, the date proposed,

(ii) the other entity or entities entering into the agreement, or if not executed, contemplated as entering into the agreement, and

(iii) a specific citation to the provision or provisions allocating wholesale or retail customers. In addition, the response should include, but not be limited to, as to any proposed formal agreement not executed by Applicant,

(aa) a statement indicating the entity originating the proposed agreement,

(bb) a description of each incident in which Applicant agreed to or otherwise supported the proposed agreement^{9/} and

^{9/} This description should include, but not be limited to, (1) the representative or representatives of Applicant or any other entities involved, and (2) the specific actions taken by Applicant that constituted or demonstrated agreement or support, the method employed in each action and the date or dates of each action.

(cc) a specification of the sources of the information the Interviewer's rely upon in answering the questions in this subpart (1).

(2) As to any understanding or proposed understanding not recorded in a formal agreement and as to any proposal for an agreement for which no draft is presently available, the response should include, but not be limited to:

(i) the representative or representatives of Applicant involved in discussions relating to the allocation or proposed allocation,

(ii) the names of other entities involved in such discussions and their representatives,

(iii) a statement indicating the origin of the proposal to allocate customers or territory,

(iv) all specific actions by which Applicant participated in discussions relating to the allocation or proposed allocation, the method employed in each action and the date of each action,

(v) a listing of each action listed in response to (iv) in which Applicant agreed to or supported the allocation of territory or customers,

(vi) a statement describing the terms of the allocation or proposed allocation,

(vii) the precise words used in each action listed in response to (v) in which Applicant agreed to the allocation of territory or customers or, if the Intervenor do not rely on an account or accounts that records the words employed, the precise language of each account on which the Intervenor do rely, and

(viii) a specification of the sources relied on by the Intervenor in responding to the questions posed in each subpart of this interrogatory.

(c) Produce all documents relating to any actual or proposed agreement or understanding to allocate customers or territory identified in response to (b) and all documents relating to any transaction in which any actual or proposed allocation of customers or territory listed in response to (b) arose.

36. In the Answer of the Cities . . . to Applicant's Motion for Protective Order, dated July 30, 1973, (p. 2) Intervenor contend that the acquisition by Duke of the University of North Carolina "distribution system would have a substantial adverse affect on competition."

(a) State whether Intervenors will contend that the acquisition of other suppliers of electricity in its service area by Applicant has had a "substantial adverse affect on competition."

(b) If the answer to (a) is not "no", list each acquisition by Applicant that the Intervenors contend had such a substantial adverse effect on competition.

(c) As to each acquisition listed in response to (b), identify and describe each factor considered in determining that a substantial adverse affect resulted.

(d) Except for those acquisitions listed in response to (b), list each acquisition or attempted acquisition of an electric distribution system or a substantial part thereof that the Intervenors contend is relevant to this proceeding and on which the Intervenors intend to rely. As to each partial acquisition, the response should indicate the date of each acquisition. As to attempted acquisitions, the response should include:

(1) the facilities involved,

(2) the date on which acquisition was attempted,

(3) the specific document by which the attempt was made or, if no such document is known to the Intervenors, the factual basis on which it was concluded that an attempt was made, and

(4) the date on which the attempt was rejected or, if not expressly rejected, lapsed and the specific document, if any, by which the attempt was rejected.

(e) As to each acquisition or attempted acquisition listed in response to (b) or (d), state whether Applicant engaged in any predatory or unfair practices in acquiring or attempting to acquire the system or facilities.

(f) As to each acquisition or attempted acquisition for which the response to (e) is not "no," identify and describe each incident that demonstrates that Applicant engaged in predatory or unfair practices. As to each incident, the response should include, but not be limited to:

(1) the representative or representatives of Applicant or any other entity involved;

(2) the specific action or actions constituting or evidencing predatory or unfair practices, the method employed in each action and the date of each action; and

(3) the specific sources on which the Interveners rely on in describing the incident.

(g) As to each acquisition or attempted acquisition listed in response to (b) or (d), state whether Applicant's actions had an anticompetitive or monopolistic intent.

(h) As to any acquisition or attempted acquisition for which the response to (g) is not "no", identify and describe each factor considered in determining that Applicant had an anticompetitive or monopolistic intent. To the extent that those factors include instances of conduct by Applicant, the description of the factor should include, but not be limited to:

(1) the representative or representatives of Applicant or any other entity involved,

(2) the specific action or actions evidencing an anticompetitive or monopolistic intent, the method employed in each action and the date of each action;

(3) as to each action listed in response to (2), a quotation of the precise words used by Applicant that evidences an anticompetitive or monopolistic intent, or in the event the account or accounts upon which the Intervenors rely in describing the conduct does not include the precise words used, a quotation of the portion of the account or accounts relied upon as evidencing an anticompetitive or monopolistic intent, and

(4) the sources upon which the Intervenors rely in describing the conduct.

(i) Provide all documents, not obtained from Applicant in response to the Joint Document Request, relating to Applicant's acquisition or attempted acquisition of any electric distribution system or a substantial portion thereof.

37. In the Answer of the Cities . . . to Applicant's Motion for a Protective Order, dated July 30, 1973, (p. 2), it is suggested that "Duke is willing to pay more than a reasonable price for the facilities [of other suppliers of electricity] in order to prevent their acquisition by a consumer-owned competitor. . . ."

(a) State whether the Intervenor's contend that Applicant has paid more or offered to pay more than a reasonable price for the facilities of any other supplier of electricity, and if it is so contended, list each supplier for whose facilities an excessive payment has been made or offered.

(b) As to each supplier of electricity which is listed in response to (a), state:

(1) each objective or motive that Intervenor's contend prompted Applicant to pay more or offer more than a reasonable price for the facilities of the supplier; and

(2) describe the factual basis for attributing each objective or motive to Applicant. To the extent that this factual basis includes statements made by

Applicant, the response should include, but not be limited to:

(i) the representative or representatives of Applicant making the statement,

(ii) an identification of the specific document in which the statement was made, or, in the event that the statement was made orally, the occasion on which the statement was made (including the place and date of the statement and those to whom the statement was made),

(iii) a quotation of the precise words used by Applicant that demonstrated the objective or motive, or in the event the Intervenors relied upon an account or accounts which does not include the precise words used, a quotation of the account or accounts upon which the Intervenors relied, and

(iv) the specific sources upon which the Intervenors rely in describing the objective or motive.

(c) As to each supplier of electricity listed in response to (a), describe the formula or methodology by which it was determined that the price paid or offered was more than reasonable.

38.(a) As to each market defined in response to question 1, state whether the Intervenors contend that the

flow of resources is free of distortions despite the existence of special financing assistance (such as low interest loans or tax exempt status for interest paid on borrowings) available to some other electric entities or the complete or partial tax exemption of those entities.

(b) As to each market defined in response to question 1, state whether such distortions would result from that special assistance and tax exemption, if the relief sought by the Intervenors is granted.

(c) If the answers to (a) and (b) are not "no," describe the distortions that arise and state their significance for this proceeding. If it is contended that these distortions have no significance for this proceeding, state the basis for that conclusion.

39. In the Joint Petition (p. 4), it is stated that "[n]uclear energy . . . [was] developed at the expense of the taxpayers of the United States. . . ."

(a) Describe all projects undertaken by public agencies regarded by the Intervenors as being for the development of nuclear electric generation. This description should include for each:

(1) the agency expending the funds and any substantial contractors involved,

(2) the stated purpose for which funds were authorized, and

(3) the amount expended in each fiscal year. Projects whose aggregate appropriations have been under \$10 million may be omitted.

(b) Describe all privately financed projects for the development of nuclear electric generation technology known to the Intervenor, or any of them. Such description should include:

(1) the private entities involved,
(2) the stated purpose for which the project was undertaken, and

(3) the amount of private funds expended in each year. (Fiscal or calendar years may be used as convenient, but where fiscal years are used, they should be so identified.) Projects, such as some experimental generating stations, utilizing both public and private funds should be listed in response to both items with appropriate information provided.

40.(a) Will the Intervenor contend in this proceeding that the application of antitrust principles will lead to increased efficiency in the electric industry and, in particular, to savings in fuel?

(b) If the answer to (a) is not "no," describe and define the standards used in projecting increased efficiency

as a result of the application of antitrust principles in the electric industry.

(c) Apply those standards to each of the remedies put in issue and set forth in Prehearing Order Number Six in this proceeding.

(d) Explain as to each proposed remedy how it will contribute to savings in fuel.

41. In the Initial Statement (pp. 5-6), Intervenors state that an appropriate remedy would include "[r]equiring Duke to treat intervenors, and any other entities which enter, or propose to enter, the bulk power market, as coequals with rightful access to all aspects of the wholesale power market."

(a) Define and describe the standards used to determine whether an entity is a "coequal". In addition to the general description here sought, state specifically:

(1) whether an entity can be a "coequal" if a membership standard is imposed in a power pool which requires a participating utility to have available generating capacity of potential benefit to other pool members; if not, why not; and

(2) whether "rightful access" to a dominant generating facility or power pool can be provided through a fair wholesale rate; if not, why not.

(b) Define what is meant by the term "rightful access".

(c) Explain why some form of access other than "rightful access" as a "coequal" is not the required standard.

(d) State whether the Intervenors will contend in this proceeding that Applicant ever has refused access to a pool.

(e) If the answer to (d) is not "no," identify and describe each instance in which Duke has refused access to a pool. As to each instance, the response should include but not be limited to:

(1) the name of the entity seeking access to the pool,

(2) the name or other identification of the pool to which access was sought,

(3) the type of access sought and the precise terms on which such access was sought,

(4) the representative or representatives of Applicant involved,

(5) the identity of any other persons or entities involved,

(6) the specific actions taken by the entity by which it sought to obtain access to the pool, the date or dates of each action and the method employed in taking the action,

(7) the specific actions taken by Applicant or others that constitute the denial of access,

the date or dates of each action and the method employed in taking the action,

(8) the precise words purportedly used by the representative or representatives of Applicant, or, if the Intervenors do not rely on a purported precise quotation, the exact language of each account of each action the Intervenors rely upon as constituting or demonstrating the denial of access,

(9) the Intervenors' view as to whether the response constituted or evidenced denial of access which is inconsistent with the antitrust laws, and if so, what factors the Intervenors rely on in reaching that conclusion, and

(10) the specific sources from which the Intervenors obtained the information upon which they rely in describing the instance.

(f) Produce all documents relating to any denial of access described in response to subpart (e) of this interrogatory.

42. In the Joint Petition, it is stated "Petitioners' ability to offer electrical energy at retail rates competitive with those of Duke . . . is . . . dependent on their opportunity to enjoy . . . [equal] access to . . . nuclear electric generation." (p. 5)

(a) Identify and describe each factor considered in determining that Intervenor's competitive position is dependent on equal access to nuclear electric generation.

(b) Define and describe the standards used in determining what is "equal access." In addition to the general description here sought, state specifically:

(1) whether "equal access" can be provided if a membership standard is imposed in a power pool requiring a participating utility to have available generating capacity of potential benefit to other pool members; if not, why not; and

(2) whether equal access to nuclear electric generation can be provided through a fair wholesale rate;

(3) if the response to (b)(2) is not "yes", identify and describe each factor considered in determining that the Intervenor cannot obtain sufficient access to nuclear electric generation through Applicant's wholesale rate to be competitive with Applicant for retail customers.

(c) Explain why some form of access other than "equal access" is not the required standard.

43. (a) State whether the Intervenor will present evidence on or inquire into any contracts to which Applicant

is a party or has been a party at any time during the period of January 1, 1960, to date which Intervenors deem to be full requirements contracts.

(b) If the response to (a) is not "no", identify each contract as to which Intervenors will present evidence or make inquiry. The response should include the caption or title, date and parties of each contract.

44. In the Initial Statement, it is stated that:
"In achieving its present scale, Duke has relied heavily on its access to the wholesale power market and, specifically, [1] has pooled with other companies, has benefited from [2] unit purchases, [3] short- and [4] long-term exchanges, and [5] other such transactions; [6] has maintained equalized reserves with other companies; [7] has wheeled power for others; [8] has provided firming and backup services; [9] has jointly built at least one experimental nuclear generating plant with three other companies; and [10] has planned generation and transmission facilities in coordination with other suppliers."

(p. 8)

(a) (1) State which of the markets defined in response to question 1 corresponds to "the wholesale power market." If no market so defined corresponds, define the geographic boundaries of "the wholesale power market" as stated here.

(2) Define, in terms of product, "the wholesale power market".

(b) State whether "the wholesale power market" corresponds to any of the proposed markets set forth by the Department of Justice in the chart inserted in the Transcript at page 351-a, as the Intervenors understand them.

(c) State whether the Intervenors contend that Applicant would not have achieved its present scale without the types of transactions referred to in the quoted material.

(d) If the response to (c) is not "no", describe the causal relationship between each numbered category of transactions and the Applicant's present scale. A separate response should be provided for each numbered category.

(e) Identify and describe each transaction referred to in numbered categories 1 through 10 upon which Intervenors intend to rely for any purpose at the evidentiary hearing. As to each transaction, the response should include, but not be limited to:

(1) the name or title of each agreement initiating the transaction or substantially modifying it and the date of each agreement;^{10/}

^{10/} As to any transaction not initiated by a written agreement, the response should include (1) the specific action by which the transaction was initiated, the method employed in each action and the date of each action, (2) the representative or representatives of Applicant or any other entity involved in each action, (3) the terms of the oral agreement referred to and (4) the sources the Intervenors used in describing the agreement.

(2) a description of each factor considered in determining that the transaction falls within the numbered category or categories in which Intervenors place it;

(3) a description of the degree of reliance that Intervenors contend that Applicant has placed on the transaction in achieving its present scale; and

(4) any data, calculations or evaluations in the possession of Intervenors or their consultants, regarding the degree of reliance placed by Applicant on the transaction or the significance of the transaction to Applicant's operations.

45. In the Initial Statement, it is stated that "Duke has constructed and evidently intends to construct the nuclear units here at issue in the expectation of enjoying the same access to the wholesale market." (p. 8) Further, in the Joint Petition, it is stated "the necessity of large-scale construction permits Duke access to this low-cost source only through its interconnection and exchange agreements with other named utilities. . . . Duke, a giant utility, is unable alone to reap the full economic benefits of nuclear power." (p. 4)

(a) State whether Intervenors contend that access to the "wholesale market" is a prerequisite to constructing the Oconee and McGuire units.

(b) If the response to (a) is not "no", identify and describe each factor considered in determining that access to the "wholesale market" is a prerequisite in constructing the plants.

(c) If the response to (a) is not "no", describe the express or implied statement or statements of position by Applicant relied on by Intervenors in making these contentions. As to each express or implied statement of Applicant relied on, the response should include but not be limited to:

(1) the representative or representatives of Applicant or any other entity making the statement;

(2) the specific transaction regarding which the statement was made, including the name or title and date of each agreement initiating a transaction (or if the transaction was not initiated by a written agreement, a specification of the action by which the transaction was initiated, the method used in that action and its date) and the general terms of the transaction as understood by Intervenors;

(3) the specific communication (oral or written) in which each statement was made, the date of each communication, and the method employed in the communication;

(4) a description of how the statement relates

to the degree of reliance that Applicant expects to place on the "wholesale market" in the future;

(5) a quotation of the precise words that are related to the degree of reliance placed by Applicant on the "wholesale market," or if the Intervenor's rely on an account that does not include a precise quotation, the text of the account of the statement relied upon; and

(6) the specific sources Intervenor's rely on in describing the statement.

(d) State whether the use of the term "evidently" in the quoted passage indicates that Intervenor's believe that access to the wholesale market may no longer be a prerequisite to the construction of the Oconee and McGuire plants.

(e) If the response to (d) is not "yes", state why the term "evidently" was used in the quoted passage.

(f) Describe each factual circumstance not described in response to (c) on which Intervenor's rely in making the contention that "Duke has constructed . . . the nuclear units . . . in the expectation of enjoying the same access to the wholesale market." As to each circumstance that involves analysis by Intervenor's of objective data regarding Applicant's operations, the response should include, but not be limited to:

(1) a specification of each item of data relied upon and the source from which it is obtained; and

(2) a statement explaining the analysis by which it is concluded that the data suggests the "expectation of enjoying the same access."

46. In the Initial Statement (pp. 4-5), Intervenors state that even if "the existing situation is not inconsistent with the antitrust laws, such a situation would be created by issuance to Duke of unconditioned or inadequately conditioned licenses, because . . . Duke would thereby gain such a dominant position in the bulk power market as to reduce substantially the possibility of future competition therein. . . ."

(a) Describe and define the standards used to determine:

(1) how with an unconditioned license "Duke would thereby gain such a dominant position in the bulk power market as to reduce substantially the possibility of future competition therein";

(2) when the addition of a nuclear generating station is sufficient to create a new situation inconsistent with the antitrust laws.

(b) State whether the Intervenors contend that a new situation inconsistent with the antitrust laws is created by the erection of the Oconee units, and, if so, explain how

a new situation is created through the application of the standards defined in response to (a)(2).

(c) State whether the Intervenors contend that a new situation inconsistent with the antitrust laws is created by the erection of the McGuire units, and, if so, explain how a new situation is created by application of the standards defined in response to (a)(2).

(d) If the Intervenors contend that the Oconee and/or the McGuire units create a new situation, state the significance for this proceeding of the creation of a new situation inconsistent with the antitrust laws rather than the maintenance of an existing situation.

47. Define the following terms as used by the Intervenors in this proceeding:

- (a) interconnection
- (b) coordination
- (c) coordinated development
- (d) pooling
- (e) reserve sharing
- (f) transmission
- (g) high voltage transmission
- (h) extra-high voltage transmission
- (i) unit power
- (j) firm power
- (k) spinning reserve
- (l) base load generation
- (m) emergency power
- (n) wheeling
- (o) bulk power supply
- (p) standby power
- (q) economy energy
- (r) deficiency power
- (s) bulk power
- (t) distribution
- (u) distribution voltage
- (v) transmission voltage
- (w) maintenance energy

As to each definition that does not correspond to any adopted by the Federal Power Commission^{11/} and/or by the Institute of Electrical and Electronics Engineers,^{12/} state the source of the Intervenor's definition and describe each factor considered in determining that it is more appropriate for this proceeding.

48. (a) Identify each category of transactions, arrangements or operations of the Applicant relevant to this proceeding that the Intervenor contends are not subject to pervasive regulation.

(b) As to each category of activity identified in response to (a), describe each factor considered in concluding that there is an absence of pervasive regulation. Indicate as to each category whether it is contended that there is no regulation or that there is regulation but it is not pervasive. In the latter instances, identify the limits of the regulation.

49. At Transcript 356, the Department of Justice indicates that the distance over which retail competition

^{11/} Inter-Agency Committee on Water Resources (Promulgated by the Federal Power Commission), Glossary of Important Power and Rate Terms, Abbreviations, and Units of Measurement (1965).

^{12/} IEEE, National Standard Dictionary of Electrical and Electronics Terms (1972).

is possible varies depending upon the size of the load to be served. Do the Intervenor agree with this contention by the Department? If so, state the formula or methodology by which the Intervenor would determine for any given size load the distance within which competition is possible.

50. State whether in this proceeding, as in FPC Docket No. E-7557, the Intervenor will contend that certain rates established by Applicant should be based on incremental costs. If so, state whether the analysis employed in this proceeding will be identical in all significant respects with that put forward in Docket No. E-7557. To the extent the analysis will not be identical in any significant respect, set forth all significant elements in the variation in analysis.

51.(a) Do the Intervenor contend that a purpose of terminating the CARVA pool was to exclude other potential members?

(b) If the response to (a) is not "no", describe the factual basis for the Intervenor's contention that the CARVA Pool was dissolved in order to exclude potential members. The response should include:

(1) a listing of the prospective members whose possible ownership led to the dissolution of the Pool,

(2) a statement as to whether Applicant's purpose in its actions during the discussions

that culminated in the Pool's dissolution was to exclude the prospective members listed in response to (1),

(3) a description of each statement, communication or incident relied upon by the Intervenor in contending that the Pool was dissolved for this purpose^{13/} and

(4) an identification of the sources of the information on which the Intervenor rely in preparing this response.

(c) Identify and describe each reason, in the Intervenor's view, for the dissolution of the CARVA Pool other than the purpose of excluding potential members. As to each reason, the response should include:

(1) a statement as to which Pool members were motivated by the reason, and

(2) a description of the factual basis on which the Intervenor rely in identifying each

^{13/} As to each incident, the description should include, but not be limited to, (1) the representative or representatives of Applicant involved, if any, (2) the representative of other electric entities involved, if any, (3) the specific action or actions taken that demonstrate the purpose of excluding potential members, by whom each action was taken, by what method and on what date, (4) the precise way in which each action demonstrates the purpose to exclude, and (5) the sources on which the Intervenor rely in describing the incident.

reason and in identifying the companies motivated by each reason.^{14/}

(d) Produce all documents pertaining to the dissolution of the CARVA Pool.

52. In the Joint Petition (p. 4), filed after the termination of the CARVA Pool, it is stated "Petitioners have no access to the 'pool' in which Duke, CP&L, VEPCO and SCE&G are effective participants."

(a) Define "'pool'" as used in the quoted passage.

(b) Define "effective participant" as used in the quoted passage, including particularly the significance of the term "effective".

(c) Identify and describe each contract or other arrangement constituting an element of the "'pool'". As to each arrangement, the response should include, but not be limited to:

(1) the name or title of each agreement and the date executed;

(2) a citation to the specific provisions relied upon as establishing a "'pool'" relationship between the utilities. The provisions cited should

^{14/} The response should include a description of each incident demonstrating the existence of a common purpose or a company's motivation by it. The description should include (1) the representative or representatives of each Pool company including Applicant involved, (2) other entities or persons involved, (3) the specific action or actions demonstrating a listed purpose or purposes of the CARVA dissolution, by whom taken and by what means and on what date, (4) the precise way in which each action demonstrates the existence of a listed purpose or purposes, and (5) a specification of the sources on which the Intervenors rely in describing the incident.

include those (i) providing for joint planning and coordinated development, (ii) charges for energy and accounting formulas, (iii) required reserves and (iv) procedures in the event of power shortages. Provisions pertaining to each lettered topic should be separately cited;

(3) a statement as to each provision cited in response to (2) explaining how it evidences a "'pool'" relationship between the utilities.

(d) Identify and describe each factor considered in determining who are "effective participants" in the "'pool'".

(e) State specifically as to each listed utility, (Duke, CP&L, VEPCO and SCE&G) which factors identified in response to (d) established that it was an "effective participant."

(f) Explain, through the application of the factors listed in response to (d), whether the South Carolina Public Service Authority and the Southeastern Electric Power Administration of the United States Department of the Interior are "effective participants" in the "'pool'".

(g) Identify and describe each factor considered in determining that the Intervenor have no access to the "'pool'". The response should include but not be limited to the factual basis for each factor considered. To the extent that factual

basis includes any incidents in which Intervenors were denied access or advised that they would be denied access, the description of the factual basis should include, but not be limited to:

(1) the entity or entities involved in the incident and the representative or representatives of each entity involved,

(2) the subject matter of the transaction in which the incident occurred,

(3) the specific actions by which access was denied, the method employed in each action and the date of each action,

(4) a quotation of the precise words by which access was denied or Intervenors advised that access would be denied, or if the Intervenors do not rely on an account or accounts that includes the precise words, a quotation of the account or accounts that Intervenors do rely on.

53. In the Joint Petition, Intervenors stated that "Duke, CP&L, SCE&G and VEPCO together monopolize the generation of electric power over a substantial geographic area in North Carolina, South Carolina and Virginia." (p. 4) Further, in the Initial Statement (p. 3), Intervenors stated that Duke, CP&L, SCE&G and VEPCO "among themselves monopolize the generation and transmission of bulk power over a substantial area in the Carolinas and Virginia."

(a) State whether the Intervenors contend that these four utilities have entered into a conspiracy to monopolize generation and transmission of bulk power;

(b) If the response to (a) is not "no", identify and describe each incident relied upon by the Intervenors as constituting or evidencing a conspiracy or possible conspiracy to monopolize generation and transmission of bulk power. As to each incident, the response should include, but not be limited to:

(1) the representative or representatives of each utility involved;

(2) the specific action or actions evidencing an intent to monopolize, the method employed in each action and the date of each action;

(3) as to each action listed in response to (2), a quotation of the precise words used by the representatives of the various utilities that constitute or evidence a conspiracy to monopolize or, if the Intervenors are relying on an account or accounts not including a precise quotation, a quotation of the passage of each account purportedly describing the conspiratorial actions; and

(4) the specific sources upon which the Intervenors rely in describing the incident.

(c) If the answer to (a) is "no", define and describe each standard the Intervenor use in determining that the listed utilities "together monopolize" generation and transmission of bulk power.

(d) If the answer to (a) is "no", describe each pattern of activity or other behavior by which the listed utilities "together monopolize" electric generation and transmission.

(e) If the answer to (a) is "no", describe the significance for this proceeding of the purported circumstances that the utilities "together monopolize" electric generation.

54. Provide all documents, not previously produced in this proceeding, which refer to, describe or evaluate:

(a) Piedmont Electric Cities Association, EPIC, Inc. and Electricities of North Carolina, and

(b) the purchase by Applicant of land on the Green River which Intervenor claim comprises a part of the proposed site of FPC Project No. 2700.

55. At the Prehearing Conference on November 17, 1972, counsel for the Intervenor contended "since EPIC filed for the pump storage project about two years ago, the first thing . . . that met us . . . was an effort to declare a certain position [sic] of it to be a scenic river under a North Carolina Scenic River Act. That specific portion of the river which would have been declared scenic was between two

hydroelectric projects operated by Duke and would have encompassed the dam site of our present project." (Tr. 233)

(a) State whether Intervenors contend that Applicant sought to have the Green River site declared a scenic river area.

(b) If the response to (a) is not "no", state whether it is contended that Applicant's efforts were motivated by an intent to block the construction of the EPIC facility.

(c) If the response to (a) is not "no", identify and describe each incident relied upon in asserting that Applicant contributed to efforts to block the Green River pump storage project. As to each incident, the response should include, but not be limited to:

(1) the representative or representatives of Applicant or any other entity involved,

(2) the specific action or actions of Applicant that demonstrates Applicant's participation in efforts to have the Green River area declared a scenic river, the method employed in each action and the date of each action,

(3) a statement as to each action listed in response to (2) identifying and describing each factor considered in determining that the action demonstrates Duke's participation in an effort to have the Green River site declared a scenic river,

(4) a quotation of the precise words, if any, that Intervenors contend demonstrates an intent on the part of Applicant to have the Green River site declared a scenic river for the purpose of blocking its development by EPIC, or, in the event the Intervenors do not rely on an account or accounts that does not include a precise quotation of the words used by Applicant, a quotation of the account or accounts, if any, on which Intervenors rely and contend that Applicant was so motivated, and

(5) the specific sources upon which the Intervenors rely in describing Applicant's efforts to have the Green River site declared a scenic river.

56. At the Prehearing Conference of November 17, 1972, counsel for the Intervenors stated (Tr. 235) "We would love to find a statement in Duke's internal memoranda of Board of Directors meeting, of the Executive Committee or so on explaining how they came about to buy this land in the Green River, what their intent was in buying the land, explaining their intent in entering this litigation."

(a) State whether, in Intervenors' view, any documents produced by Applicant or otherwise in the possession of the Intervenors indicate either:

(1) the steps followed by Applicant in acquiring the land on the Green River,

(2) the intent of Applicant in acquiring the land on the Green River or

(3) Duke's intent in the Green River FPC proceedings.

(b) Identify by Applicant's document production number (or if obtained from sources other than Applicant's document production, by author, recipient, date and title or subject) each document in Intervenor's possession that is pertinent to any of the three numbered items in (a) and state as to each document to which of the three numbered items in (a) it is pertinent.

(c) Provide all documents listed in response to (b) not provided in Applicant's document production and not provided in response to question 54.

57.(a) Identify and describe in detail any information known to the Intervenor as to any instances in which Applicant sought to affect the price of fuel for other operators of electric generation in North or South Carolina. Such description should specify the sources from which the Intervenor obtained their information.

(b) Produce all documents pertaining to any instance identified in response to (a).

58.(a) Describe each activity engaged in by Applicant on the basis of which the Intervenor alleges or will

allege that a situation inconsistent with the antitrust laws has been created or maintained. The response should include, but not be limited to:

- (1) the time period in which Applicant engaged in such activity,
- (2) the nature of the activity,
- (3) the basis for its being deemed "inconsistent with the policies of the antitrust laws,"

(4) the statute or policy with which it is alleged to be inconsistent.

(b) As to each activity specified in response to (a), state whether the Intervenor claim or will claim that the granting of the licenses applied for herein will maintain a situation inconsistent with the antitrust laws.

(c) As to each activity identified in response to (a), state whether the Intervenor contend that Applicant deliberately sought to create "a situation inconsistent with the policies of the antitrust laws."

(d) As to each activity listed in response to (a), to which the response to (c) was not "no," identify and describe each incident or instance of conduct upon which the Intervenor rely in contending that Applicant deliberately sought to create such a situation. As to each incident or instance of conduct, the response should include, but not be limited to:

- (1) the representative or representatives

of Applicant involved,

(2) other persons or entities involved,

(3) the specific subject matter of the incident or instance,

(4) the specific action or actions of Applicant demonstrating this intent, the method by which the action was taken and the date or dates on which taken,

(5) a statement as to each action describing how the action demonstrates the intent, and

(6) the sources of the information on which the Intervenor's rely in describing the incident or instance.

59. In the Prehearing Brief for Intervenor's . . . On the Effect of the Decision of the Federal Power Commission on the Present Proceeding, dated February 15, 1973, Intervenor's stated that there is "evidence of monopoly consciously acquired or maintained in the past" by Applicant. (p. 2)

(a) Identify and describe each instance in which Applicant has "consciously acquired or maintained" monopoly. As to each instance, the response should include, but not be limited to:

(1) the identity of the representative or representatives of Applicant manifesting a conscious intention to acquire or maintain a monopoly;

(2) the identity of any other person or entity involved;

(3) the specific transaction in which the intent to maintain or acquire a monopoly was manifested;^{15/}

(4) the specific action or actions that manifested an intent to acquire or maintain a monopoly, the method employed in each action and the date of each action;

(5) a quotation of the precise words used by Applicant that manifests an intent to acquire or maintain a monopoly, or in the event the Intervenor is relying on an account that does not include the words used, a quotation of the account relied on; and

(6) the specific sources used by the Intervenor in describing the instance.

60. Provide all documents which refer to, describe, evaluate or comment upon:

^{15/} As to any transaction evidenced by a written agreement, the transaction may be identified by a citation of the title or name of the agreement and the date executed. As to all other transactions the reply should specify the subject matter of the transaction, the date on which the transaction commenced and the date on which it terminated, and the general terms of the transaction as understood by the Intervenor.

(a) Competition in any of the markets defined in response to question 1;

(b) The status of an electric utility as a natural monopoly;

(c) Territorial allocations of retail or wholesale customers by any utility providing electric service in North Carolina or South Carolina.

61.(a) Do the Intervenor's contend that the structure or operation of the electric utility industry in North Carolina or South Carolina or Applicant's purchase of any electric system prior to January 1, 1960, is relevant to this proceeding? If so, do the Intervenor's intend to present evidence on or inquire into this structure or operation of that industry or Applicant's purchase of any electric system prior to January 1, 1960, during the evidentiary hearing in this proceeding?

(b) Provide all documents which refer to, discuss, evaluate or comment upon the structure or operation of the electric utility industry in North Carolina or South Carolina, or to the purchase of any electric system by Applicant (except for those documents produced in response to question 36 above). Such documents should include, but not be limited to, documents relating to:

(1) the decision by Applicant not to purchase a system;

(2) the decision by any system to reject or accept an offer by Applicant to purchase its system;

(3) the plans, intentions, desires or decision by any system to initiate or seek an offer from Applicant or any other system to purchase its system.

62. Provide all documents which refer to, describe, evaluate or comment upon:

(a) The actual or potential use of nuclear or fossil fuel for the generation of electricity in the Piedmont-carolinas;

(b) Projected future growth of electric power consumption in the Piedmont Carolinas;

(c) Actual or potential costs of constructing or operating a nuclear power plant in North Carolina, South Carolina, or elsewhere;

(d) Actual or potential outages or other technical difficulties which are or may be encountered in the construction or operation of a nuclear power plant.

63. Provide all documents in the possession of any of the Intervenors regarding:

(a) The sale or possible sale of the facilities of any Intervenor's or other municipal or cooperative electric

system or any substantial portion thereof to any other electric entity, including any documents pertaining to the possible discontinuance of electric operation by any Intervenor or other municipal or cooperative electric system;

(b) The acquisition of electric facilities by any Intervenor or other municipal or cooperative electric system from Applicant or any other investor owned utility;

(c) (i) The intent with which rate levels or design were initiated or maintained by a wholesale customer of Applicant or (ii) the contemplated affect of such rate level or design, and

(d) Electric service franchises for service at retail and any applications, renewals or terminations thereof.

64. In the Initial Statement (p. 7), Intervenors stated "Duke has . . . employed the substantial differentials already existing in its own internal costing to skim the cream of the retail market."

(a) Describe and define what the Intervenors contend is "the cream of the retail market." The response should include the type of customer which constitutes "the cream", the standards used in making that-determination, and the period of time involved. Where those standards are quantifiable (e.g., load size, load factor, distance from existing facilities), they should be expressed in numeric terms.

(b) As to each type of customer identified in response to (a):

(1) identify those costs (as defined in the FPC System of Accounts) which the Intervenors contend were not but should have been allocated to each such type of customer, and

(2) identify the customer class or type of customer to which those costs were allocated by Applicant.

(c) State whether the Intervenors will contend that the Applicant intended to "skim the cream of the retail market."

(d) If the answer to (c) is not "no", describe each activity of Applicant that evidences an intent to "skim the cream of the retail market." As to each activity, the response should include:

(1) the representative or representatives of Applicant participating in the activity;

(2) the specification or action constituting the activity that evidenced an intent to "skim the cream of the retail market", the date of each action and the method employed;

(3) the precise words used in each action listed in response to (2) by which Applicant evidenced an intent to "skim the cream" or, if the Intervenors

do not rely on an account or accounts that records the words employed, the precise language of each account on which the Intervenor do rely; and

(4) a specification of the sources relied on by the Intervenor in describing the activity.

65.(a) Identify by name and address each potential retail electric customer of any Intervenor that is encompassed in "the cream" that has been "skimmed" since January 1, 1960, as stated in the Initial Statement (p. 7). In the event that more than 25 potential "cream" customers of any one Intervenor have been "skimmed," only the 25 most recent potential "cream" customers of that Intervenor need be named.

(b) As to each potential "cream" customer named in response to (a) describe fully the contacts, if any, any Intervenor had with the potential customer at any time since January 1, 1960, regarding possible electric service. The response should include:

(1) the representative or representatives of the Intervenor involved;

(2) the representative or representatives of the potential "cream" customer involved;

(3) the date or dates of each contact or, if the contacts were very numerous, the period of contacts expressed in months and years;

(4) a statement outlining each substantial development such as a statement of position by either party occurring in those contacts and the substance of each such development;

(5) a statement applying each standard defined in response to question 64(a) to the customer.

66. In the Initial Statement, it is stated "these nuclear plants, if cost of construction and fuel is anywhere near the low levels estimated, will . . . further widen [Duke's] internal cost margins. . . ." (p. 7). Define "internal cost margin." The response should include the precise formula or methodology by which the Intervenors would determine the "internal cost margin" for any class of customers.

67. In the Initial Statement, it is stated that Applicant's foreclosure of retail competition for "large, high load factor customers" has the effect of "[a]chieving for Duke (and depriving Cities of) the economies which this desirable class of customers contribute to an electric system." (p. 7)

(a) Identify and describe each such economy.

(b) As to each such economy, describe each factor that, in the view of Intervenors, demonstrates the correlation between that economy and the purported foreclosure of retail competition.

(c) As to each economy, state the estimated dollar value to Applicant in each year from 1960 through 1972 of the benefit received from that economy to the extent that this benefit is directly attributable to the foreclosure of competition for large, high load factor customers. Identify specifically the data used in making this estimate. In the event assumptions regarding Applicant's operations must be made in making this estimate, these assumptions should be specifically stated.

(d) As to each economy, state the dollar loss to each Intervenor in each year from 1960 through 1972 resulting from the deprivation of the economies resulting from the foreclosure of competition for large, high load factor customers. Identify specifically the data used in making this estimate. In the event assumptions regarding Applicant's operations must be made in making this estimate, those assumptions should be specifically stated.

68. In the Joint Petition, Intervenors state that they seek to purchase "a fair share" of the Oconee plant. (p. 5)

(a) State what ownership interest or interests constitute a "fair share." If alternate arrangements would constitute a "fair share" each should be described.

(b) Identify and describe each factor considered in determining that each of the arrangements described in response to (a) constitutes "a fair share."

69. In the Joint Petition it is stated "as each petitioner operates an electric system much smaller than Duke's none of petitioners is able alone (or by combination with one another) effectively to enjoy the benefits of this low-cost source of power [nuclear generation]." (p. 4)

(a) Identify and describe each factor considered in determining that the Intervenors cannot in combination enjoy the benefits of nuclear generation. The response should include, but not be limited to, the factual basis for each factor.

(b) State whether EPIC is a combination by which Intervenors can enjoy the benefits of nuclear generation.

(c) If the response to (b) is not "yes", identify and describe each factor considered in determining that EPIC is not such a combination.

(d) State whether each Intervenor is a participant in EPIC as of the date of reply.

(e) As to each Intervenor for which the answer to (d) is "yes",

(1) state the date on which the Intervenor first participated in EPIC and the action (i.e., City Council resolution or contract) by which participation was initiated;

(2) describe the extent to which representatives of Intervenor have participated in EPIC activities

as through attendance at meetings, membership on committees, etc.;

(3) provide all documents relating to the determination by the Intervenor to begin participation in EPIC or to continue participation.

(f) As to each Intervenor for which the answer to (a) is "no",

(1) state if the Intervenor has ever participated in EPIC and, if so, the dates of such participation,

(2) list and describe each factor considered by the Intervenor in determining not to participate in EPIC, or, if the Intervenor was formerly a participant in EPIC, to terminate participation, and

(3) provide all documents relating to the Intervenor's consideration of participation in EPIC or discontinuance of participation in EPIC.

(g) State whether each Intervenor has initiated planning, including tentative or preliminary planning, regarding its source or sources of electric supply for 1983 and/or for subsequent years.

(h) As to each Intervenor for which the response to (g) is not "no",

(1) state whether the Intervenor's planning

anticipates the availability or possible availability of electricity from EPIC;

(2) if the availability or possible availability of electricity from EPIC is anticipated, state the proportion of the Intervenor's electric requirements that may be obtained from EPIC in each year beginning with 1983 in which it is now anticipated that electricity may be obtained from EPIC and state the cost of electricity from EPIC that is anticipated in each year;

(3) provide all documents relating to planning regarding sources of electricity in 1983 and subsequent years not previously produced by Intervenor in this proceeding.

70. At the March 7, 1973 Prehearing Conference, counsel for the Intervenor stated "I think that we are going to build an evidentiary record of attempts by Duke Power Company to interfere with the activities of the electric systems here represented by its attempts to influence the City Councilmen who are elected in those cities." (Tr. 800-01)

(a) Identify and describe each instance upon which Intervenor intend to rely in which Applicant sought to interfere with the activities of the Intervenor. As to each instance, the response should include, but not be limited to:

- (1) the representative or representatives of Applicant or any other entity involved,
- (2) the City Councilmen and city involved,
- (3) the subject matter of the transaction regarding which the interference was attempted,
- (4) the specification or action by which the interference was attempted, the method employed in each action and the date of each action, and
- (5) the sources upon which the Intervenors rely in describing the attempted interference.

(b) As to each instance identified in response to (a), describe each factor considered in determining that Applicant's actions were not conventional, legitimate political activity.

71. In the Joint Petition, it is contended that Applicant is presently a party to agreements providing for "joint planning among the four companies." (p. 4)

(a) Identify by name or title and date of execution, and, if the document was produced by Applicant during discovery in this proceeding, the production number of the document, each agreement to which Applicant is presently a party which provides for joint planning.

(b) Cite specifically each provision of each agreement identified in response to (a) which is relied upon as providing for joint planning.

(c) As to each provision identified in response to (b) identify and describe:

(1) each factor relied upon in concluding that the provision provides for joint planning and

(2) to the extent it is not apparent from the face of the contract, describe the specific subject areas (e.g., transmission facilities, load projection) for which joint plans are contemplated.

(d) Identify and describe each instance since July 10, 1970, known to Intervenors and upon which they intend to rely, in which Applicant has in fact engaged in joint planning with Carolina Power & Light Co., South Carolina Electric and Gas Co., or Virginia Electric & Power Co. Activities of the Southeastern Electric Reliability Council and the National Electric Reliability Council may be excluded. As to each instance, the response should include, but not be limited to:

(1) a specific identification of any joint planning document known to Intervenors, including the title or caption of the document, the date of the document, and, if the document was produced by Applicant during discovery in this proceeding, the production numbers of the document; and

(2) if no joint planning documents are known to Intervenors,

(i) the representative or representatives of Applicant or any other entity participating in such joint planning;

(ii) the other entity or entities with which joint planning was done;

(iii) the specific action or actions relied upon as constituting joint planning, the method employed in each action (e.g., discussion at conference) and the date of each action;

(iv) a statement as to each action listed in response to (iii) identifying each factor considered in determining that the action constituted joint planning; and

(v) the specific sources of the information on which the Intervenors rely in describing the instance.

72. In the Answer of the Cities . . . to Applicant's Motion to Amend Paragraph B(2)(b) of Prehearing Order Number Two, it is stated "Municipalities that own electric systems are both governmental entities and proprietors of a business enterprise." (p. 2)

(a) List by name and title each elected or appointed official of each municipal Intervenor in this proceeding whose duties have at any time since January 1, 1960, included the

setting of policy for or executive direction of the electric activities of the said municipality and as to each person listed state whether the duties of that person are entirely proprietary, entirely governmental or partly proprietary and partly governmental.

(b) As to any person whose duties are described as partly proprietary and partly governmental in response to (a), identify and describe each substantial duty of the person that is governmental and each substantial duty that is proprietary.

(c) Provide all documents setting forth the general duties or responsibilities regarding electric activities of any person or persons listed in response to (a).

73.(a) State whether an arrangement that permits some of a generating system's customers to purchase unit power in the most economical generating plant of the system discriminates against the other customers of that generating system.

(b) If the answer to (a) is not "yes", identify and describe each factor considered in determining that a unit power arrangement is not discriminatory toward other customers.

74.(a) Identify and describe each element of any line extension policy or practice applied by any Intervenor in effect at any time during the period January 1, 1960, to date.

(b) Produce all documents pertaining to any such line extension policy or practice.

75. Produce all documents pertaining to the information sought in questions 5, 6 and 7 not previously produced by any party in this proceeding.

76.(a) State the current (or most recent) level of annual carrying charges for each Intervenor's actual and proposed electric plant investment which is utilized by it or by any of its consultants.

(b) State separately the annual carrying charge levels used for:

(1) the cost of debt capital;

(2) the cost of funds from retained electric system surplus or of equity capital provided by the municipality;

(3) taxes or payments in lieu of taxes;

(4) depreciation;

(5) fixed operation and maintenance expenses;

and

(6) other charges used by the Intervenor in relation to its electric system.

77. State for each Intervenor whether, in any of its financial, economic or engineering planning or analyses, it or any of its consultants utilizes or has utilized at any

time since January 1, 1960, a target or desired rate of return on investment by the electric system. If so, state the most recent level of any such target or desired rate of return so utilized.

78.(a) State for each Intervenor whether during the period January 1, 1960, to date it ever urged that, as a result of a customer's or potential customer's large size or unusual electricity requirements, such customer or potential customer take service from another electric system. Incidents described in response to interrogatory 54 of Applicant's Initial Interrogatories and Request for Documents, dated September 13, 1972, need not be considered in responding to this interrogatory.

(b) If the response to (a) is not "no", identify and describe each instance in which such a suggestion was made. The response should include, but not be limited to:

(1) the representative or representatives of the Intervenor, customer or potential customer or any other entity involved;

(2) the specific service sought by the customer or potential customer and the date or dates on which such service was sought;

(3) the specific action taken by the Intervenor in urging the customer or potential customer to seek service from another system, the method by

which the action was taken and the date or dates on which taken;

(4) the identity of the other system from which the Intervenor suggested that service be taken; and

(5) a statement setting forth the basis on which the Intervenor concluded that it would urge the customer or potential customer to be served by another system.

79.(a) State for each Intervenor whether at any time during the period January 1, 1960, to date, it has had a policy or practice of seeking to recover a fixed or target rate of payments or services in lieu of local taxes from its electric system. If so, state each such rate contemplated, the time period in which that rate policy or practice was followed and the factors considered in establishing said rate.

(b) State the dollar amount or rate of payment in lieu of taxes for each year 1960 to date which was the goal of any policy cited in response to (a).

80. For the year 1972 to date, furnish:

(a) A copy of each Intervenor's Form 1-M and Form 12-A reports filed with the FPC;

(b) A copy of Form MU filed by each Intervenor with the North Carolina Utilities Commission; and

(c) A copy of each Intervenor's audit report.

81. For the period September 1972 to date, furnish copies of any changes effected in any Intervenor's electric rate schedules, tariffs, rate contracts or agreements, conditions and terms of service or any other statement of rates applicable to each customer class served by it.

82.(a) State whether at any time in the period September, 1972 to date, any Intervenor, or any of its employees or agents, proposed to, or discussed with, any customer the possibility of proposing any electric rate schedule, tariff, rate contract or agreement, conditions and terms of service or any other statement of rates other than those furnished in response to interrogatory 81.

(b) If the response to (a) is not "no", describe in detail any proposal made, including the identity of all persons and entities involved, the date or dates involved, and the actual terms proposed.

(c) Furnish any documents relating to any proposals described in response to (b).

83.(a) Furnish copies of all fuel, purchased power, materials, commodity, tax, wage or other adjustment clauses or surcharges applicable to each rate schedule, tariff, rate contract or agreement in effect at any time during the period September, 1972 to date.

(b) State the adjustment level applicable on January 1, 1973 and June 30, 1973 and explain the basis on which

each adjustment was determined.

84.(a) Furnish copies of all documents relating in any way to cost of service studies, bill frequency analysis, cost or profitability analyses by customer class and/or for the Intervenor's electric system as a whole prepared by or for each Intervenor during the period September, 1972 to date.

(b) Describe any similar or related studies presently being prepared by or for any Intervenor, including in such response:

(1) the date on which such study was initiated;

(2) the name of the Intervenor's employee responsible for the preparation of such study or, if the study is being prepared by an individual or organization retained by or on behalf of the Intervenor, the name and address of such entity;

(3) the planned completion date of the study;

and

(4) a general description of the purposes and subject matter of the study.

85.(a) As to each Intervenor, state whether it now has or has had in effect at any time during the period January 1, 1960, to date, an arrangement, policy or practice of not providing or not offering electric service to retail customers located in a particular area or territory, notwithstanding the Intervenor's legal ability to serve such customers.

(b) If the response to (a) is not "no", identify and describe each such arrangement, policy or practice. The response should include, but not be limited to:

(1) the specific terms of the arrangement, policy or practice and the date or dates when in effect;

(2) the other entities, if any, and their representative or representatives involved; and

(3) a statement setting forth the circumstances which led to the initiation of the arrangement, policy or practice and if the impetus for the arrangement, policy or practice came from a person or entity other than the Intervenor, the identity of each person or entity seeking to effect the arrangement, policy or practice.

(c) If any arrangement, policy or practice identified in response to (b) is no longer in effect, describe in detail the circumstances which led to its being terminated, including the date or dates of termination and persons and entities involved.

(d) Provide all documents relating to any arrangement, policy or practice identified in response to (b).

86. Produce any audit or accounting report for the years 1960 through 1972 prepared by or for any Intervenor

which segregates information pertaining to any Intervenor's electric operations, revenues or expenditures.

87. Produce all documents pertaining to instances described in response to interrogatory 78(b).

88. Identify by name and professional affiliation each consultant or technical advisor the Intervenor's have employed or retained or plan to employ or retain in connection with this proceeding and state as to each consultant or advisor the subject matter or matters on which the consultant or advisor is or will be consulted.

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

In the Matter of)
) Docket Nos. 50-269A, 50-270A
DUKE POWER COMPANY) 50-287A, 50-369A
(Oconee Units 1, 2 and 3) and 50-370A
McGuire Units 1 and 2))

CERTIFICATE OF SERVICE

I hereby certify that copies of APPLICANT'S SUPPLEMENTAL INTERROGATORIES AND DOCUMENT PRODUCTION REQUEST TO EACH MUNICIPAL INTERVENOR, dated September 17, 1973, in the above-captioned matter have been served on the following by deposit in the United States mail, first class or air mail, this 17th day of September, 1973:

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