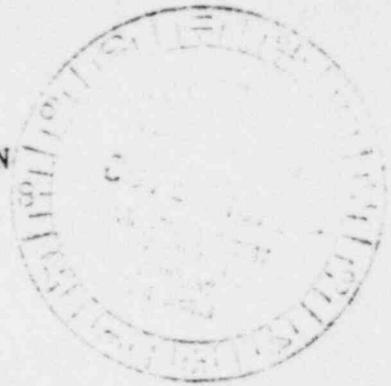


BEFORE THE
UNITED STATES ATOMIC ENERGY COMMISSION



IN THE MATTER OF
DUKE POWER COMPANY
(Oconee Nuclear Station Units 1, 2 and 3)

DOCKET NOS. 50-269
50-270
50-287

ANTI-TRUST

JOINT PETITION
OF
THE FOLLOWING
MUNICIPALITIES IN NORTH CAROLINA:

STATESVILLE, HIGH POINT, LEXINGTON, MONROE,
SHELBY, ALBEMARLE, CORNELIUS, DREXEL, GRANITE
FALLS, NEWTON, and LINCOLNTON

FOR
LEAVE TO INTERVENE
AND BECOME
PARTIES FOR ALL PURPOSES
AND TO OBTAIN AN ANTITRUST REVIEW

Tally, Tally & Bouknight
Attorneys and Counsellors at Law
P. O. Drawer 1660
Fayetteville, North Carolina 28302

Attorneys for Joint Petitioners

29 September 1971

BEFORE THE
UNITED STATES ATOMIC ENERGY COMMISSION

IN THE MATTER OF
DUKE POWER COMPANY

(Oconee Nuclear Station Units 1, 2 and 3)

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PETITIONERS

1. Petitioners are municipalities in and of the State of North
Carolina whose names and addresses are:

City of Statesville
Statesville, North Carolina

City of High Point
High Point, North Carolina

City of Lexington
Lexington, North Carolina

City of Monroe
Monroe, North Carolina

City of Shelby
Shelby, North Carolina

City of Albemarle
Albemarle, North Carolina

Town of Cornelius
Cornelius, North Carolina

Town of Drexel
Drexel, North Carolina

Town of Granite Falls
Granite Falls, North Carolina

Town of Newton
Newton, North Carolina

Town of Lincolnton
Lincolnton, North Carolina

who come now, in accord with Sections 105c.(3) and 189 of the Atomic Energy Act of 1954, as amended, and Section 2.714 of the Commission's Rules of Practice; and, notice of receipt of application of facility operating license by Duke Power Company having been published in the Federal Register on 29 December 1970; and these petitioners having participated as intervenors in the construction permit stage of this proceeding; and having there sought to obtain a determination of antitrust issues, hereby move to intervene and to be admitted as parties; and to be accorded the full rights, among others, to file motions, institute pleadings, submit testimony, cross-examine witnesses, submit briefs, and argue orally, to which parties are entitled, before the Atomic Energy Commission and all boards and authorities subordinate thereto, including the Atomic Safety and Licensing Board; and hereby request an antitrust review pursuant to Section 105 of the Atomic Energy Act of 1954,

as amended.* Counsel for all joint petitioners and upon whom service of all process and papers may be made (and upon whom all joint petitioners request and direct that such be made), with their address, are:

Tally, Tally & Bouknight
Attorneys and Counsellors at Law
P. O. Drawer 1660
Fayetteville, North Carolina 28302

DESCRIPTION OF PETITIONERS

2. The joint petitioners for leave to intervene are North Carolina municipalities each of which owns and operates an electric distribution system, selling electricity at retail to ultimate consumers within and without their municipal borders. All of the joint petitioners are captive wholesale customers of applicant Duke Power Company (Duke); and in many instances compete with Duke for retail customers. Together they pay Duke millions of dollars each year for wholesale power. The availability and price of power to each

* By Petition dated 18 January 1971 Petitioners previously sought to intervene in these proceedings. Staff and the applicant Company responded to such Petition and the Commission thereafter entered an Order stating in part:

"The Commission believes that action on the Petitioners' intervention and hearing requests should await the notice which will later be published in accordance with 10 CFR Section 2.102(d)(3). Accordingly, we note at this time that the petitioning municipalities are entitled to request antitrust review pursuant to Section 105 c. of the Act; that they have timely sought such review; and that appropriate action has been taken by the staff to initiate this review. Within that context, final action on the instant petition is deferred. We believe it would be desirable for the joint petitioners to renew their requests or file an amended petition at the appropriate time following publication of the Section 2.102(d)(3) notice...."

Publication of the Attorney General's advice pursuant to Section 2.102(d)(3) having been made on 4 September 1971, it is now appropriate and timely for Petitioners to renew their requests, and this pleading fully does so.

and all of petitioners are initially and inextricably bound with and in the determinations in this proceeding.

PETITIONERS' INTERESTS

3. Duke currently enjoys a monopoly in the generation of bulk power over a substantial portion of Western and Central North Carolina. Duke, further, is a signatory of agreements with each of Carolina Power and Light Company (CP&L), South Carolina Electric and Gas Company (SCE&G), and Virginia Electric and Power Company (VEPCO), which agreements (when considered with bi-lateral contracts between each of the other above-named utilities) provide for the interchange of power and joint planning among the four companies. Duke, CP&L, SCE&G and VEPCO together monopolize the generation of electric power over a substantial geographical area in North Carolina, South Carolina and Virginia. Nuclear energy, developed at the expense of the taxpayers of the United States, offers, when utilized on a large scale, a source of energy lower in cost than any now available to Duke. The necessity of large-scale construction permits Duke access to this low-cost source only through its interconnection and exchange agreements with the other named utilities. Petitioners have no access to the "pool" in which Duke, CP&L, VEPCO and SCE&G are effective participants. As Duke, a giant utility, is unable alone to reap the full economic benefits of nuclear power, and as each petitioner operates an electric system much smaller than Duke's, none of petitioners is able alone (nor by combination with one another) effectively to enjoy the benefits of this low-cost source of power. Monopolization of the benefits of nuclear power and of electric power marketing over petitioners' geographic area by Duke appears then imminent.

4. Petitioners' ability to offer electrical energy at retail rates competitive with those of Duke, their ability to survive as viable utilities, is in the long run dependent on their opportunity to enjoy equally with their competitors access to the miracle of nuclear electric generation.

PETITIONERS' CONTENTIONS

5. The antitrust statutes of the United States and the Atomic Energy Act of 1954 in the circumstances of Petitioners' wholesale power captive status, and Duke's otherwise monopolistic position, above detailed, require that the award of any licenses for the construction and operation of these proposed facilities be denied or conditioned upon provision to Petitioners of opportunity to purchase a fair share of these facilities and to be afforded such other rights as may be necessary to promote free competition and to prevent monopolization.

6. Petitioners have made formal demand upon Duke to respond and commit itself to these petitioners and to this Commission that, if it should be licensed for these facilities, it would offer to sell to these petitioners, pursuant to license conditions and promises to be fixed by this Commission and other appropriate authorities, a fair share of the ownership and capacity of such facilities; and petitioners here renew that request and demand.

7. Petitioners here state their expectation and willingness, so far as the propriety and practicality of their owning a fair share of these facilities is concerned, to acquire, by purchase, construction, lease, contract or otherwise, any and all reasonably required or appropriate subsidiary or additional facilities so as, fully and fairly, to integrate themselves and

their fair share of these facilities into the electric generation here involved. At the same time, of course, Petitioners reserve all their rights under law including, but not limited to, rights related to wheeling, pool participation, and the like; and the decretal protection of such rights is implied and included in the prayer reliefs requested below, particularly 4) and 5) thereof.

PRAYERS

WHEREFORE, Petitioners pray that:

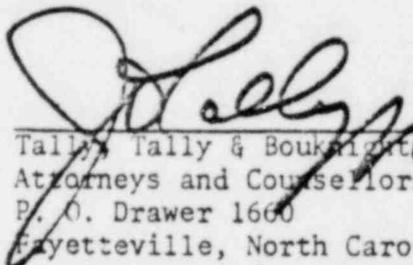
- 1) They be allowed fully, as above stated, to intervene;
- 2) They be accorded an antitrust review pursuant to Section 105 of the Atomic Energy Act of 1954, as amended, and other applicable law;
- 3) Hearings be held thereon, with these petitioners permitted fully to participate therein; and
upon all such
- 4) Duke's application be denied or conditioned, as above detailed, to avoid violation of or inconsistency with the antitrust provisions of the Atomic Energy Act of 1954, as amended, and the other provisions of the antitrust laws of the United States; and

- 5) Petitioners be granted such other and further relief as to which they are entitled.

Respectrully submitted,

THE MUNICIPALITIES OF STATESVILLE,
HIGH POINT, LEXINGTON, MONROE, SHELBY,
ALBEMARLE, CORNELIUS, DREXEL, GRANITE
FALLS, NEWTON and LINCOLNTON, all of
NORTH CAROLINA

BY:


Tally, Tally & Bouknight
Attorneys and Counselors at Law
P. O. Drawer 1600
Fayetteville, North Carolina 28302
Attorneys for Petitioners

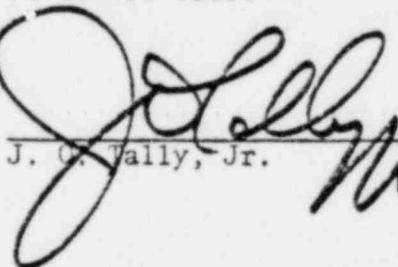
VERIFICATION

NORTH CAROLINA

CUMBERLAND COUNTY

J. O. TALLY, JR., first being duly sworn, says that:

He is Attorney for the Petitioners herein; that he is authorized to file the foregoing Petition on their behalf; that he has read it and knows the contents thereof; and that to the best of his knowledge, information and belief the statements made in it are true.



J. O. Tally, Jr.

Subscribed and sworn to before me, a Notary Public of the State of North Carolina, County of Cumberland, this 29th day of September, 1971.



Notary Public

My Commission Expires: 2-22-76

UNITED STATES OF AMERICA

ATOMIC ENERGY COMMISSION

IN THE MATTER OF)	
DUKE POWER COMPANY)	DOCKET NOS. 50-269
(OCONEE NUCLEAR STATION,)	50-270
UNITS 1, 2 and 3))	50-287

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing document dated 29 September 1971, were served upon the following by deposit in the United States Mail, First Class or Air Mail, this the 29th day of September, 1971:

Samuel Jensch, Esquire
Chairman
Atomic Safety and Licensing Board
United States Atomic Energy Commission
Washington, D. C.

Dr. Hugh Paxton
Los Alamos Scientific Laboratory
Los Alamos, New Mexico

Reece A. Hubbard
County Supervisor
Oconee County, South Carolina

Carl Horn, Esquire
President
Duke Power Company
Charlotte, North Carolina

Honorable Robert W. Scott
Governor of State of N. C.
Capitol Building
Raleigh, North Carolina

Algie A. Wells, Chairman
Atomic Safety and Licensing Board Panel
United States Atomic Energy Commission
Washington, D. C. 20545

Dr. John Henry Buck
The Budd Company
Phoenixville, Pennsylvania

Dr. Clarke Williams
Deputy Director
Brookhaven National Laboratory
Upton, Long Island, New York

Roy B. Snapp, Esquire
1710 H Street, N. W.
Washington, D. C. 20006

Honorable John Carl West
Governor of the State of S. C.
State House
Columbia, South Carolina

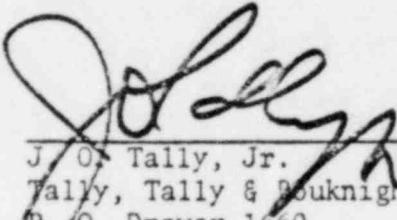
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