

-11/73

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

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

MOTION TO QUASH OR TO LIMIT SUBPOENA
DUCES TECUM DATED NOVEMBER 20, 1972

Virginia Electric & Power Company ("Vepco") moves pursuant to Rule 2.720(f) of the Rules of Practice of the Atomic Energy Commission, 10 C.F.R. § 2.720(f), to quash or, alternatively, to limit the subpoena duces tecum dated November 20, 1972 served upon it, on the following grounds:

(1) The information sought by the Department of Justice is available from the parties, including intervenors, to this proceeding, and accordingly the request for such information directed to non-parties, without any connection to or interest in the matters at issue, is unnecessary.

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(2) The subpoena, despite speculation of the Department of Justice to the contrary, requires an excessively time-consuming, expensive and burdensome search for documents dated January 1, 1940, or thereafter, a period of some 33 years.

(3) The information sought by the Department of Justice relates to matters beyond the legitimate scope of the proceeding. Inasmuch as Vepco does not abut the Duke system at any point, the subpoena is being utilized to inquire into matters beyond the narrow issue defined in § 105(c)(5) of the Atomic Energy Act, as amended, which is to determine whether the facility sought to be licensed may "create or maintain a situation inconsistent with the antitrust laws."

(4) Even if the investigation is permissible, given the unreasonably broad scope of the specifications of the subpoena and the alternative and more convenient access to the same information from those already parties to the proceeding, the subpoena should be limited as follows:

(a) Response to the subpoena should be deferred until, following discovery of the parties, the Department of Justice is able to specify more particularly the specific documents that it seeks.

(b) The general time period specified in definition A(2) of the subpoena, January 1, 1940 and thereafter, is unreasonably lengthy and entirely unnecessary to the investigation. It extends well beyond the period made applicable to parties to this proceeding. The Department of Justice's speculation that only a few episodes producing such documents may exist would clearly not excuse failure to search for the documents requested throughout all relevant files. A more reasonable point at which to begin the search would be January 1, 1970.

Wherefore, Virginia Electric & Power Company moves that the subpoena dated November 20, 1972, be quashed, or, alternatively, that it be limited as stated herein.

Respectfully submitted,

Hunton, Williams, Gay & Gibson

By John H. Shenefield
John H. Shenefield

April 11, 1973

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CERTIFICATE OF SERVICE

I hereby certify that copies of MOTION TO QUASH OR TO LIMIT SUBPOENA DECUS TECUM DATED NOVEMBER 20, 1972, dated April 11, 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 12th day of April.

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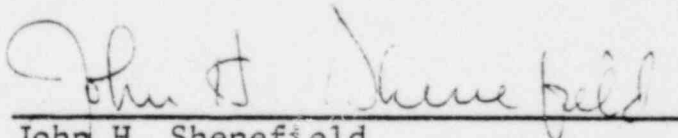
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