4/3/73

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

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

APPLICANT'S MOTION TO RESETTLE
PREHEARING ORDER NUMBER SIX

Pursuant to Sections 2.730(a) and (b) of the Commission's Rules of Practice, 10 C.F.R. Part 2, and paragraph H of the Board's Prehearing Order Number Six, issued on March 22, 1973, Duke Power Company (hereinafter "Applicant") moves that paragraphs B.2, B.3(b)(ii), B.3(c) and B.3(d) of the said Order be modified. Applicant also moves to amend paragraph C.5 to include an additional issue.

PARAGRAPH B.3(b)(ii)

Paragraph B.3(b)(ii) sets out the procedure to be followed by Applicant if it desires to compel further production of documents by EPIC, Inc., after examining a Report to be supplied by EPIC on or before April 15, 1973. The Board has directed that, in seeking such further discovery from EPIC, Applicant identify specifically the additional



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documents sought.[1] Applicant believes that, as a practical matter, it will be unable to describe the documents sought with the degree of specificity required by the Board's Order. For example, one of the central issues in this case is whether the smaller systems which compete with Duke at retail have access to coordination or interconnection arrangements. Because this is at issue, request item 6 calls for all documents in the possession, custody or control of EPIC relating to coordination or interconnection by EPIC with other entities. Applicant believes that documents relating to EPIC's efforts to obtain interconnection or coordination would exist in EPIC's files.[2] These efforts, if any, would be known to EPIC, but are not known to Applicant at

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1/ The Board has also required that Applicant state the reasons why the information supplied in the Report is inadequate. Applicant has no objection to this requirement.

2/ It also should be noted that the Department of Justice believes documents "relating to EPIC's search for coordinating partners in its efforts to compete with Duke in the supply of bulk power" exist in the files of the privately-owned utility companies it subpoenaed. Affidavit of Wallace Edward Brand in Support of Motion for Reconsideration of Board's Order of January 8, 1973, AEC Docket Nos. 50-269A, et al., Feb. 8, 1973, p. 4. It is not unlikely, then, that similar documents repose in EPIC's own files.

this time. Applicant, therefore, cannot identify the documents it may seek in this regard with the specificity now required by the Board in paragraph B.3(b)(ii). Without a modification of that requirement, Applicant would be deprived of discovery clearly relevant to a major issue in this proceeding.

It is Applicant's position that the specificity requirement should not be imposed. However, at this time, Applicant requests only that the Board resettle its Order to leave this matter open until such time as Applicant completes its study of the EPIC Report and takes such further action as it deems necessary to seek EPIC documents.

1. The Board's Prior Ruling

Applicant's position that the specificity requirement should not be imposed is consistent with contentions made to this Board recently in a similar context; the Department of Justice so argued concerning the subpoenas duces tecum it served on non-parties to this proceeding. The Board accepted that showing and rescinded the condition previously imposed on the Department to require further specification of documents to be produced.[3/] Applicant

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3/ Duke Power Co., Prehearing Order Number Six, AEC Docket Nos. 50-269A, et al., March 22, 1973, para E at pp. 22-23.

believes that it must be accorded a similar opportunity to demonstrate that it cannot comply with the Board's condition regarding specificity.

2. The Applicable Standard

Applicant also submits that the standard of specificity proposed by the Board is contrary to the discovery rules of the Commission and to the body of law developed under the Federal Rules of Civil Procedure, from which the Commission adopted its discovery rules.

It is clear that the language contained in the Commission's Rules of Practice pertaining to the methods and scope of discovery is virtually identical to that of the Federal Rules. Compare generally, 10 C.F.R. §§ 2.740, 2.740a, 2.740b, and 2.741 with Fed. R. Civ. P. 26, 28, 30, 33 and 34. Indeed, the Commission directly based its discovery rules on the Federal Rules of Civil Procedure and so stated in its Statement of General Policy and Procedure, 37 Fed. Reg. 15127 (1972) (particularly §IV(c) thereof). The Commission's revised Rules of Practice were adopted following the revision of the Federal Rules of Civil Pro-

cedure in 1970 and can fairly be regarded as including the changes in discovery procedure incorporated in that revision.

Section 2.720 of the Commission's Rules of Practice authorizes the issuance of subpoenas duces tecum for "specified" documents, 10 C.F.R. §2.720(b). Its equivalent in the Federal Rules is Rule 45, which authorizes the issuance of a subpoena duces tecum to non-parties for "designated" documents.[4/] Applicant submits that the standard of these rules permits categorical descriptions. Commenting on Rule 45 as amended in 1970, the Advisory Committee noted:

> "The changes make it clear that the scope of discovery through a subpoena is the same as that applicable to Rule 34 and the other discovery rules." [28 U.S.C.A. Fed. R. Civ. P. 45 (Supp. 1973).]

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4/ We note that the AEC rule uses the word "specified" while the Federal rule uses "designated". There is no indication in the AEC's Policy Statement that this difference in terminology is intended to express a difference in policy. There is, on the other hand, an explicit statement that the Commission intended to model its discovery procedures on the Federal Rules. Statement of General Policy and Procedure, 37 Fed. Reg. 15127, §IV(c) (1972). Moreover, one of the dictionary definitions of the word "designate" is "specify" (Webster's 3rd New International Dictionary of the English Language, Unabridged 612). Hence, no significance should be attached to the slight difference in terminology between the AEC and the Federal rule on subpoenas duces tecum.

Thus, if Rule 34 (and its AEC equivalent) permits "categorical" descriptions of documents, the same approach should apply to subpoenas to third parties.

Rule 34(b), as amended in 1970, provides that requests for documents "shall set forth the items to be inspected either by individual item or by category, and describe each item and category with reasonable particularity." (Emphasis supplied.) This same language is set out in section 2.741(c) of the AEC's rules. Prior to the effective date of the amendment, Rule 34 permitted discovery of "designated documents". While the phrase "designated documents" is retained in Rule 34(a), as amended, (and in Rule 45 as well) the new language contained in Rule 34(b), quoted above, was intended to define more fully the meaning of "designated documents".

The 1970 amendments made it clear that documents described by categories were specified with sufficient particularity to overcome an objection that the demand was too broad. Thus, the framers of the Federal Rules adopted the broader view as to the sufficiency of document descriptions developed by the courts under Rule 45. "The broader view

[held] that it is sufficient if the documents are designated by categories, as long as the categories themselves are sufficiently defined. [This] view more nearly approaches the purpose of the Federal Rules of Civil Procedure and should be followed." [5/] State Theatre Co. v. Tri-States

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5/ Accepting the broader view, the court sustained the following general designation of documents scheduled in a subpoena duces tecum:

> "'All books, papers, records, memoranda, correspondence and all other documents and papers relating to the leasing and/or releasing of motion picture films for exhibition with the defendants * * * for the period commencing October 1, 1944 to February 16, 1949.'"

State Theatre Co. v. Tri-States Theatre Corp., 11 F.R.D. 381, 382 (D. Neb. 1951). See also Brown v. United States, 276 U.S. 134, 143, 48 S. Ct. 288, 290 (1928) (approving grand jury subpoena request for all correspondence between the association subpoenaed and its members during a certain period "'relating to the manufacture and sale of case goods, and particularly with reference to'" certain matters including costs of manufacture, advancing and reducing prices, and rumors of charges of price cutting); Dart Industries, Inc. v. Liquid Nitrogen Processing Corp. of Calif., 50 F.R.D. 286, 288 (D. Del. 1970) (approving request for "all documents which relate to any controversy between Dart, its predecessors, subsidiaries, licencees or affiliates and Du Pont produced in the Illinois action as well as all other documents which relate to any patent license between such entities") (emphasis supplied); United States v. Medical Society of the District of Columbia, 26 F. Supp. 55, 56 (D.D.C. 1938) (sustaining request for all documents relating to "[a]ny requirement, recommendation, or proposal of the American Medical Association that members of hospital staffs (including courtesy staffs) be members of local components or constituent societies of the American Medical Association * * *).

Theatre Corp., 11 F.R.D. 381, 383 (D. Neb. 1951) (citations omitted). See 8 Wright & Miller, Federal Practice and Procedure: Civil §2211, at 626 (1970 ed.), where it is also concluded that the amended language of Rule 34 should be interpreted as adopting the broader view taken by many courts in regard to the degree to which documents need be particularized. Discussing the degree of particularity required, Wright and Miller say: "The goal is that the designation be sufficient to apprise a man of ordinary intelligence what documents are required and that the court be able to ascertain whether the requested documents have been produced." Id. at 631 (footnote omitted).

While Rule 34 applies to production of documents from a party and Rule 45 applies to such production from either parties or non-parties, the scope of discovery and the standard of reasonableness applied in determining objections thereto are the same under either rule. See p. 5, supra. The 1970 amendments to the Federal Rules eliminated the requirement of a "good cause" showing under Rule 34, thus removing one of the principal substantive differences between the two rules. See Shepherd v. Castle, 20 F.R.D. 184, 187 (W.D. Mo. 1957). Absent

that distinction, Rules 34 and 45 "are to be construed in pari materia as far as scope of examination is concerned * * *." 4a Moore, Federal Practice, ¶34.02[1] at 34-13 (1972 ed.) (footnote omitted).

Thus, two principles are now clear under the Federal Rules: (1) Categorical descriptions are permitted under Rule 34; (2) The Rule 34 standards apply to subpoenas to non-parties under Rule 45. Therefore, categorical descriptions are permissible in subpoenas to non-parties. Since the AEC rules are intended to be the equivalent of the Federal Rules, the same standard must apply. Thus, the standard included as a condition in paragraph B.3(b)(ii) of the Board's Order is unduly narrow as a matter of law.

3. The Relief Sought

Applicant does not seek a definitive ruling at this time on this aspect of its discovery from EPIC. Since it remains to be determined whether Applicant will need to compel further discovery from this source, we believe that the issue should remain open until it can be raised before the Board in the context of an actual document request.

Indeed, it is possible that no further documents will be sought from EPIC after Applicant has had the opportunity to examine the Report. If further discovery is necessary because of the inadequacy of the material furnished, Applicant believes that it will make an appropriate showing that it cannot comply and should not be required to comply with the specification ordered by the Board.

Accordingly, Applicant requests that paragraph B.3(b)(ii) be amended to read as follows:

> (ii) states the reasons why the information supplied is inadequate. The Board reserves for future determination the degree of particularity with which the desired documents must be described.

PARAGRAPH B.3(c)

This paragraph provides that if Applicant seeks further documentation from EPIC pursuant to paragraph B.3(b)(ii) of the Board's Order, EPIC will have the opportunity to raise "questions" concerning Applicant's statement made in support of that request. Applicant submits that the

term "questions" should exclude objections previously raised before this Board. Those objections relating to relevancy and other grounds have been extensively briefed and argued by EPIC and the Applicant. The Board rejected those objections implicitly by ordering EPIC to proceed with discovery. Accordingly, Applicant proposes that paragraph B.3(c) be modified by adding the following sentence.

> Such motion shall be limited only to those matters and objections not previously raised before this Board in its Motion to Quash.

However, if the Board believes that EPIC should have another opportunity to press these objections, it should save EPIC, Applicant and the Board from the need to reargue and reconsider points previously discussed at length. The Board should not permit further briefing or argument on objections previously raised, and paragraph B.3(c) should be modified accordingly.

PARAGRAPHS B.2 and B.3(d)

In paragraph B.2, the Board has directed that EPIC

respond to certain subpoena items on or before June 1, 1973. EPIC agreed to provide the documentation called for by these items during a meeting between counsel on March 5, 1973. At that time, it also indicated that it was prepared to respond on or before April 5, 1973.

EPIC did not object to the Board in regard to this production date. Applicant believes this production date to be a reasonable one, especially in light of the long period during which EPIC has had notice of the requests. The subpoena was served on EPIC on December 18, 1972. However, because of the pendency of this motion to resettle and the consequent time necessary for the Board's deliberation, Applicant proposes that paragraph B.2 be modified to require EPIC to respond on or before April 15, 1973.

Paragraph B.3(d) also should be amended to reflect this change by deleting the phrase "in addition to the items agreed to and listed in paragraph B.2 hereof".

PARAGRAPH C.5

The Board's Final Statement of Subissues as contained in paragraph C.5 does not include a relevant issue proposed by

Applicant and agreed to by all parties. The issue as stated in Applicant's Proposed Statement of Issues, served on March 5, 1973, [issue 5(b) in that document] was as follows:

> Is each of the conditions listed in paragraph 5(a) above[6/] required [over the life of this license] to remedy the situation inconsistent with the antitrust laws which the activities under the license have been found to create or maintain? [The bracketed material was agreed upon during the off-the-record conference among counsel.]

As indicated by the colloquy before the Board (tr. 812-35), all parties agreed that the issue was relevant and should be included. The only outstanding question then was whether an additional phrase, "and carry out the purposes of the act" (tr. 827), proposed by the Department of Justice, should be added to the end of the issue.

Thus, at tr. 829, Chairman Bennett indicated that the issue as proposed by Mr. Brand would "read simply as

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6/ This same number is applicable to the Board's Statement contained in Prehearing Order Number Six.

follows: 'Is each of the conditions listed in paragraph 5(a) above appropriate to remedy the situation and carry out the purposes of the act?'" Mr. Brand indicated his agreement with that wording (tr. 829). Applicant stated that the phrase "and carry out the purposes of the act" was not necessary (tr. 831), but did agree to the substitution of the word "appropriate" for the word "required" (tr. 834).

Applicant submits that this issue is, in substance, unchallenged by the parties and should be included in the Final Statement of Subissues. It is required because it states a task which the Board must undertake: to consider whether a particular kind of relief is appropriate to remedy the situation, if any, found to be inconsistent with the antitrust laws. Applicant continues to believe that the reference to carrying out the purpose of the Act, proposed by the Justice Department, is unnecessary. However, it is willing to have that point decided by the Board in light of the oral argument presented on March 7. Hence, it will not discuss this matter further herein.

Accordingly, Applicant proposes that the following

issue be added to paragraph C.5:

> Is each of the conditions listed in paragraph 5(a) above appropriate over the life of this license in order to remedy the situation inconsistent with the antitrust laws which the activities under the license have been found to create or maintain?

PARAGRAPH C.3(b)

The Board has retained as a subissue the question of whether Applicant has imposed a price squeeze on its wholesale customers. In light of the Board's clear intent to defer until the evidentiary hearing a determination of the effect of the Federal Power Commission's decision in Docket No. E-7557 regarding this issue, Applicant does not seek to resettle this part of Prehearing Order Number Six. Applicant, however, believes that the Board should be aware that within the last two weeks the FPC has again affirmed that it has made findings and rulings "that Duke had not violated the anti-trust laws. This statement was incorporated in an order issued in Duke's pending wholesale rate

case in which the Commission limited the offering of evidence on antitrust matters "to facts and circumstances * * * arising after the close of the record in [Docket No. E-7557]." Duke Power Company, Order Accepting for Filing, and Suspending Proposed Increased Rates, Granting Intervention, and Establishing Hearing Procedures, FPC Docket No. E-7994, March 23, 1973, pp. 3 and 5. A copy of this order is attached hereto for the information of the Board.

Respectfully submitted,

George A. Avery

Toni K. Golden

Thomas W. Brunner

WALD, HARKRADER & ROSS
Attorneys for Applicant

1320 Nineteenth Street, N.W.
Washington, D. C. 20036

April 3, 1973

UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Before Commissioners: John N. Nassikas, Chairman;
Albert B. Brooke, Jr., and Rush Moody, Jr.

Duke Power Company ) Docket No. E-7994

ORDER ACCEPTING FOR FILING, AND SUSPENDING PROPOSED INCREASED RATES, GRANTING INTERVENTION, AND ESTABLISHING HEARING PROCEDURES

(Issued March 23, 1973)

On January 23, 1973, Duke Power Company (Duke) tendered for filing proposed changes in its FPC Electric Rate Schedules for Resale Service to its Municipal, Public Utility and Cooperative Customers. According to Duke's transmittal letter, the proposed changes would increase revenues from jurisdictional sales and service by $8,549,534 or 18.5% based on a volume of sales for the 12 month period ending June 30, 1972. Duke further alleged that their present wholesale rates produced a rate of return of only 4.91% during the aforementioned test period, due to a purportedly rapid rise in the cost of its additional plant facilities and cost of money. Duke maintains that the increase is necessary for Duke to earn a rate of return of 8.20% which Duke says approaches a rate of return which is adequate to attract capital necessary for Duke to provide adequate service to its wholesale customers.

The filing was noticed in the Federal Register, with a closing date for comments, protests, or petitions to intervene of February 23, 1973. Timely petitions to intervene were filed by Electricities of North Carolina and Piedmont Municipal Power Systems and seven South Carolina Municipalities (Electricities), 1/ and North Carolina Electric Membership Corporation (N.C. EMC) and Blue Ridge Electric Membership Corporation (Blue Ridge). In addition, a great number of protests from individual residents of

1/ Easley, Gaffney, Greenwood, Greer, Laurens, Newberry, Prosperity, and Rock Hill.

North Carolina have been filed. Laurens Electric Cooperative (Laurens) and Saluda River Electric Cooperative (Saluda) filed untimely petitions to intervene. In view of our action herein, no harm will result from the granting of these untimely filed petitions.

The petitioners for intervention have requested that we suspend the proposed increase for the full statutory period of five months. Additionally, the petitioners allege that the proposed increase is excessive; that the proposed increase results in discriminatory rates between Duke's retail and its wholesale customers; that the proposed rates contribute to an attempt by Duke to monopolize the electric power business in its service area; and that the proposed increase violates Phase III of the Economic Stabilization Program. 2/

In Opinion No. 641 we affirmed the Presiding Examiner's findings and ruling that Duke had not violated the anti-trust laws. Accordingly to avoid relitigation of this issue, the proceeding herein instituted shall be limited to facts and circumstances with respect to alleged anti-trust violations by Duke arising after the close of the record in that case.

We note that Duke is utilizing a fuel adjustment clause, which clause is the subject of another proceeding, Duke Power Company, Docket No. E-7720. Duke is here including the same clause which it is proposing in that proceeding, the only change being a change in the clause's base cost of fossil fuel from 35.2¢ to 45.5¢. The evidentiary proceeding instituted herein is not to be construed by any of the parties as reopening the record in Docket No. E-7720 for the purpose of relitigating issues upon which a record has already been developed in the prior proceeding.

Review of the rate filing indicates that it raises certain issues which may require development in an evidentiary hearing. The proposed increases in rates and charges have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful.

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2/ On March 5, 1973, Duke filed an Answer to Blue Ridge's and N.C. EMC's petition to intervene, denying certain of the allegations made in those petitions, but not opposing their intervention in this proceeding.

Finally, so that the Commission will have a full, complete and up to date record on all of the issues presented we shall require (Company) to submit cost and revenue data for calendar year 1972. In this connection we would point out that our caveat on page 7 in Duke Power Company, Opinion No. 641 in Docket No. E-7557, is particularly appropriate, wherein we stated:

> ". . . our filing requirements are not to be construed as a limitation on evidence which may be proferred as an aid to us in determining just and reasonable rates. All evidentiary material relevant to a fair determination of cost and revenue expectations may be appropriately presented in filings before us." (emphasis added) Accordingly, we shall order Duke to file a complete 1972 cost of service presentation.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Duke's Rate Schedules as proposed to be amended in this docket, and that the tendered rate schedules be suspended as hereinafter provided.

(2) The disposition of this proceeding should be expedited in accordance with the procedure set forth below.

(3) In the event this proceeding is not concluded prior to the termination of the suspension period herein ordered, the placing of the tariff changes applied for in this proceeding into effect, subject to refund with interest while pending Commission determination as to their justness and reasonableness, is consistent with the purpose of the Economic Stabilization Act of 1970, as amended.

(4) Participation of the above-named petitioners for intervention in this proceeding may be in the public interest.

The Commission orders:

(A) The proposed rate schedules 3/ filed by Duke Power Company on January 23, 1973, are accepted for filing subject to the conditions hereinafter specified.

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3/ The proposed rate schedule designations are attached as Appendix A.

(B) Pursuant to the authority of the Federal Power Act particularly Section 205(e) thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act (18 C.F.R., Chapter I), a public hearing shall be held, commencing with a prehearing conference on July 10, 1973, at 10 A.M., EDT, in a hearing room of the Federal Power Commission, Washington, D. C. 20426, concerning the lawfulness of the rates, charges, classifications, and services contained in Duke's Rate Schedules as proposed to be amended herein.

(C) At the prehearing conference on July 10, 1973, Duke's prepared testimony together with its entire rate filing shall be admitted to the record as its complete case-in-chief subject to appropriate motions, if any, by parties to the proceeding. All parties will be expected to come to the conference prepared to effectuate the provisions of Section 1.18 of the Commission's Rules of Practice and Procedure.

(D) On or before May 10, 1973, Duke shall file a complete 1972 cost of service presentation. On or before June 29, 1973, the Commission Staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of all intervenors shall be served on or before July 24, 1973. Any rebuttal evidence by Duke shall be served on or before August 7, 1973. The public hearing herein ordered shall convene on August 21, 1973, at 10:00 A.M., EDT.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see Delegation of Authority, 18 C.F.R. 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in the Commission's Rules of Practice and Procedure.

(F) Pending hearing and a final decision thereon, Duke's proposed rate schedules are suspended for 30 days and the use thereof deferred until April 26, 1973.

(G) The above-named petitioners are hereby permitted to intervene in these proceedings, subject to the Rules and Regulations of the Commission: Provided, however, that the participation of such intervenors shall be limited to matters affecting rights and interests specifically set forth in the petition to intervene and Provided, further, that the admission of such intervenor shall not be construed as recognition that it might be aggrieved because of any order or orders issued by the Commission in these proceedings.

(H) With respect to anti-trust issues the proceeding herein instituted shall be limited to facts and circumstances with respect to alleged anti-trust violations by Duke arising after the close of the record in that case.

(I) The Secretary shall cause prompt publication of this order in the Federal Register.

By the Commission.

( S E A L )

Kenneth F. Plumb,
Secretary.

Duke Power Company
Rate Schedule Designations

Dated: January 23, 1973
Filed: January 23, 1973

| Supplement No. | Supersedes Supplement Nos. | Duke Rate Schedule FPC No. | Customer |
|---|---|---|---|
| 6 | 4 & 5 | 28 | City of High Point, N.C. |
| 6 | 4 & 5 | 29 | City of High Point, N.C. |
| 7 | 5 & 6 | 32 | City of Lexington, N.C. |
| 17 | 12 & 16 | 131 | Blue Ridge EMC, N.C. |
| 19 | 10 & 18 | 134 | Davidson EMC, N.C. |
| 11 | 7 & 8 | 136 | Haywood EMC, N.C. |
| 14 | 12 & 13 | 137 | Pee Dee EMC, N.C. |
| 14 | 8 & 13 | 138 | Piedmont EMC, N.C. |
| 34 | 20 & 26 | 139 | Rutherford EMC, N.C. |
| 19 | 13 & 18 | 140 | Surry-Yadkin EMC, N.C. |
| 15 | 10 & 14 | 141 | Union EMC, N.C. |
| 37 | 26 & 36 | 142 | Blue Ridge E.C., S.C. |
| 28 | 19 & 27 | 143 | Broad River E.C., S.C. |
| 56 | 34 & 50 | 144 | Laurens E.C., S.C. |
| 21 | 9 & 17 | 145 | Little River E.C., S.C. |
| 29 | 23 & 25 | 146 | York E.C., S.C. |
| 8 | 6 & 7 | 155 | Town of Bostic, N.C. |
| 7 | 5 & 6 | 163 | Town of Due West, S.C. |
| 6 | 3 & 5 | 173 | City of Lexington, N.C. |
| 5 | 3 & 4 | 178 | City of Newton, N.C. |
| 5 | 3 & 4 | 262 | South Carolina Electric & Gas Co. |
| 5 | 3 & 4 | 201 | City of Seneca, S.C. |
| 5 | 3 & 4 | 218 | City of Newberry, S.C. |
| 8 | 5 & 7 | 225 | City of Albemarle, N.C. |
| 11 | 8 & 9 | 226 | City of Greer, S.C. |
| 26 | 16 & 25 | 227 | City of Gastonia, N.C. |
| 15 | 12 & 14 | 228 | City of Rock Hill, S.C. |
| 7 | 5 & 6 | 229 | Town of Lincolnton, N.C. |
| 7 | 5 & 6 | 230 | Town of Landis, N.C. |
| 10 | 8 & 9 | 231 | City of Abbevile, S.C. |
| 7 | 5 & 6 | 232 | Town of Cornelius, N.C. |
| 7 | 5 & 6 | 233 | Town of Davidaon, N.C. |
| 7 | 5 & 6 | 234 | Town of Pineville, N.C. |
| 13 | 10 & 11 | 235 | City of Shelby, N.C. |
| 7 | 5 & 6 | 236 | Heath Springs Light and Power Co. |
| 9 | 6 & 8 | 237 | Town of Forest City, N.C. |

| Supplement No. | Supersedes Supplement Nos. | Duke Rate Schedule FPC No. | Customer |
|---|---|---|---|
| 9 | 6 & 8 | 238 | City of Monroe, N.C. |
| 8 | 6 & 7 | 240 | City of Statesville, N.C. |
| 13 | 9 & 10 | 241 | City of Easley, S.C. |
| 10 | 7 & 9 | 242 | Town of Prosperity, S.C. |
| 9 | 6 & 8 | 243 | City of Gaffney, S.C. |
| 14 | 11 & 13 | 244 | City of Laurens, S.C. |
| 8 | 5 & 7 | 245 | City of Concord, N.C. |
| 6 | 4 & 5 | 246 | Town of Maiden, N.C. |
| 29 | 19 & 28 | 248 | Crescent EMC, N.C. |
| 5 | 3 & 4 | 249 | City of Clinton, S.C. |
| 17 | 11 & 16 | 250 | Commissioners of Public Works Greenwood, S.C. |
| 4 | 2 & 3 | 251 | Town of Huntersville, N.C. |
| 5 | 3 & 4 | 252 | Lockhart Power Co. |
| 4 | 2 & 3 | 253 | University of North Carolina |
| 4 | 2 & 3 | 254 | Town of Dallas, N.C. |
| 5 | 3 & 4 | 255 | Town of Granite Falls, N.C. |
| 4 | 2 & 3 | 256 | Town of Westminster, S.C. |
| 6 | 4 & 5 | 257 | Town of Drexel, N.C. |
| 6 | 3 & 4 | 258 | City of Cherryville, N.C. |
| 4 | 2 & 3 | 259 | Clemson University, S.C. |
| 4 | 2 & 3 | 260 | City of Kings Mountain, N.C. |
| 8 | 3 & 4 | 261 | City of Morganton, N.C. |

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ATOMIC ENERGY COMMISSION

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| DUKE POWER COMPANY | ) | 50-287A, 50-369A |
| (Oconee Units 1, 2 and 3 | ) | 50-370A |
| McGuire Units 1 and 2) | ) | |

## CERTIFICATE OF SERVICE

I hereby certify that copies of the attached APPLICANT'S MOTION TO RESETTLE PREHEARING NUMBER SIX, dated April 3, 1973, in the above-captioned matter has been served on the following by deposit in the United States mail, first class or air mail, this 3rd day of April, 1973

Walter W. K. Bennett, Esquire
P. O. Box 185
Pinehurst, North Carolina 28374

Joseph F. Tubridy, Esquire
4100 Cathedral Avenue, N. W.
Washington, D. C. 20016

John B. Farmakides, Esquire
Atomic Safety and
Licensing Board Panel
Atomic Energy Commission
Washington, D. C. 20545

Atomic Safety and
Licensing Board Panel
Atomic Energy Commission
Washington, D. C. 20545

Abraham Braitman, Esquire
Special Assistant for
Antitrust-Matters
Office of Antitrust
and Indemnity
Atomic Energy Commission
Washington, D. C. 20545

J. O. Tally, Jr., Esquire
P. O. Drawer 1660
Fayetteville, N. Carolina 28302

Troy B. Connor, Esquire
Reid & Priest
1701 K Street, N. W.
Washington, D. C. 20006

Joseph Rutberg, Esquire
Benjamin H. Vogler, Esquire
Antitrust Counsel for
AEC Regulatory Staff
Atomic Energy Commission
Washington, D. C. 20545

Mr. Frank W. Karas, Chief
Public Proceedings Branch
Office of the Secretary
of the Commission
Atomic Energy Commission
Washington, D. C. 20545

Joseph Saunders, Esquire
Antitrust Division
Department of Justice
Washington, D. C. 20530

William T. Clabault, Esquire
David A. Leckie, Esquire
Antitrust Public Counsel Section
Department of Justice
P. O. Box 7513
Washington, D. C. 20044

Wallace E. Brand, Esquire
Antitrust Public Counsel Section
Department of Justice
P. O. Box 7513
Washington, D. C. 20044

J. A. Bouknight, Jr., Esquire
David F. Stover, Esquire
Tally, Tally & Bouknight
Suite 311
429 N Street, S. W.
Washington, D. C. 20024

Wald, Harkrader & Ross

By:_____

Attorneys for Duke Power Company

1320 Nineteenth Street, N. W.
Washington, D. C. 20036

1. With respect to the three types of files below, describe Applicant's filing system in sufficient detail to enable the identification and location of a particular document or documents:

a. Files relating to competing power systems;

b. Files relating to bulk power supply planning;

c. Company president's files relating to policies toward adjacent electric systems.

Respectfully submitted,

C. FORREST BANNAN

WALLACE E. BRAND

DAVID A. LECKIE

Attorneys, Antitrust Division
Department of Justice

Washington, D. C.
March 30, 1973