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UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

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

APPLICANT'S ANSWER TO MOTION
OF INTERVENORS TO RESETTLE
PREHEARING ORDER OF NOVEMBER 27, 1972

On November 27, 1972, the Board issued a Prehearing Order recording the disposition of discovery objections made by the Board at a prehearing conference held on November 17, 1972. The Order provided the parties with an opportunity to move for resettlement of its provisions. Intervenors have filed a motion in that regard to which Applicant, Duke Power Company, herewith replies.^{1/}

While Applicant does not disagree with the basic thrust of the modifications sought by the intervenors, we believe that the rulings of the Board in regard to Joint Request Items 6(p) and 37 were more narrow than intervenors' resettlement proposal would suggest.

^{1/} Applicant also filed a motion seeking certain revisions on December 4, 1972. This motion dealt with provisions other than those addressed by intervenors' motion.

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1. Request Item 6(p) - The Green River Proceeding

As indicated during the oral argument, the Board agreed that Applicant need produce only those documents "which express the intent for which [Applicant's] participation before the FPC with regard to the Green River Project was undertaken." (Tr. 247) If, as suggested by intervenors, the Board's Order stated only that Applicant's objection to Joint Request Item 6(p) was overruled, this limitation would not be reflected.

2. Request Item 37 - Fuel Adjustment Clause Proceeding

Joint Request Item 37, while specifically directed to FPC Docket No. E-7720, is similar to Item 4(g) which was directed generally to rate changes sought by Applicant. By agreement between the parties, request 4(g) was modified as follows:

Applicant agreed "'not to produce documents relating to 1, the intent for which rate levels or designs were initiated or maintained or 2, the contemplated effect of those designs'" (Tr. 232).

At the prehearing conference, counsel for intervenors narrowed the scope of Item 37 so that it, like Item 4(g), was directed

to documents concerning the intent or contemplated effect of the FPC fuel adjustment clause filing. (Tr. 230-31) As so modified, this request was acceptable to Applicant and Applicant agreed to respond thereto. (Tr. 232) Accordingly, the Board stated that this objection was "moot." (Tr. 232) Intervenors suggest that the Board simply indicate that Applicant's objection to Item 37 is moot. Applicant respectfully suggests that the order should indicate that the original request was modified and, for that reason, the objection is moot.

Accordingly, Applicant requests that paragraph B(h)(8) of the Board's Prehearing Order Number Two be modified as follows:

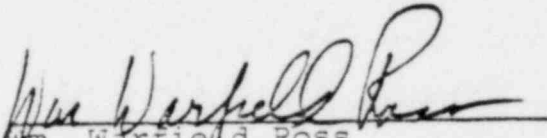
(h) "8. Pending Proceedings Before F.P.C."

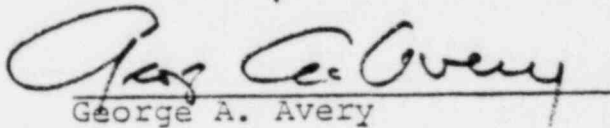
Applicant's objection to joint request 6(p) is sustained except that Applicant shall produce documents which express the intent for which it participated before the FPC in Docket No. 2700, regarding the Green River project.

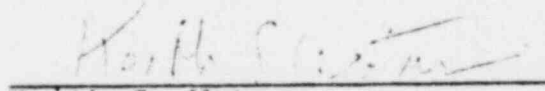
Intervenors have limited joint request 37 to those documents which reflect the intent for which applicant initiated or

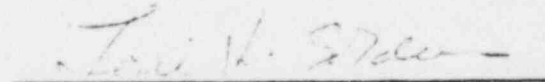
maintained FPC Docket No. E-7720 or the contemplated effect of the rate adjustment sought in that proceeding. Applicant has agreed to respond to this request as modified. Accordingly, the objection to Item 37 is moot.

Respectfully submitted,


Wm. Warfield Ross


George A. Avery


Keith S. Watson


Toni K. Golden

December 5, 1972

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CERTIFICATE OF SERVICE

I hereby certify that copies of APPLICANT'S ANSWER TO MOTION OF INTERVENORS TO RESETTLE PREHEARING ORDER OF NOVEMBER 27, 1972, dated December 3, 1972, in the above-captioned matter have been served on the following by deposit in the United States mail, first class or air mail, this 5th day of December, 1972:

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

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

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

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

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

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

Atomic Safety and
Licensing Board Panel
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

Abraham Braitman, Esquire
Special Assistant for
Antitrust Matters
Office of Antitrust
and Indemnity
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