

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

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

APPLICANT'S RESPONSE TO
INTERVENORS' DISCOVERY OBJECTIONS

This Response is filed in opposition to intervenors "Objections * * * to Document Requests and Interrogatories of Applicant" served on October 18, 1972. Applicant also moves the Board to direct that oral argument be heard on that motion, pursuant to Section 2.730(d) of the Rules of Practice.

I.

Intervenors' first objection applies to Interrogatories 14(c) and (d), 15, 72, and 73.^{1/} In these inquiries, Applicant is seeking various items of information concerning the industrial development activities of the municipal intervenors. Specifically, Interrogatories 14(c) and 15 seek information and documents pertaining to efforts by the municipalities to attract industrial or commercial facilities to the area served by that municipality with any municipal service, such as gas, water, sewer, or electric

^{1/} Specified interrogatories to which objections have been raised are set forth in full for the convenience of the Board in the Appendix attached hereto.

service. Interrogatories 72 and 73 seek statistical data as to customers outside the city limits who are provided with municipal services, including electricity, gas, water, or sewer service.

Intervenors claim that the inquiries are overly broad and irrelevant. More specifically, they object to Interrogatories 14(c) and (d) and 15 insofar as they inquire about industrial development activities embracing the area served by the municipality with gas, sewer, and water facilities, but not with electrical service. Interrogatories 72 and 73 are objected to in toto because they seek data as to gas, sewer and water customers. Intervenors would limit inquiry concerning municipal services other than electricity to questions which deal directly with the possible existence of tying between electric service and other municipal services. Applicant submits that intervenors suggest a standard which is unduly restrictive of the proper scope of discovery.

1. Relevance to Tying Arrangements

The information sought is clearly relevant in a number of respects. First, it pertains directly to the issue of anti-competitive activities by intervenors. Discovery concerning this subject cannot be limited to the direct inquiries as to tying in Interrogatories 18 and 19, which intervenors claim are sufficient. The purpose of discovery is not limited to the

production of evidence; it can also be used to obtain information which leads to evidence. Section 2.740(b)(1) of the Rules of Practice. The information sought by Interrogatories 14(c) and (d) and 15 will be useful as a factual background against which to assess any information produced in response to the interrogatories directly dealing with tying. In addition, it will provide a basis on which Applicant may further pursue the industrial development activities of the intervenors to determine whether anti-competitive conduct has existed.

The statistical data sought by Interrogatories 72 and 73 are clearly germane to any valid assessment of possible evidence of anti-competitive conduct. The inquiries are simple. They seek data as to customers for various services outside the municipal boundaries, where a choice of suppliers of such services may be possible. The very numbers themselves might indicate the existence or non-existence of tying arrangements.

It is Applicant's prerogative to analyze these data, and access to the necessary information should not be cut off by the intervenors' self-serving suggestion that no correlations can be drawn therefrom. Such a conclusion is a matter to be weighed by the Board in its decision after the receipt of evidence.

For instance, the statistical data would be useful, if not essential, in assessing evidence of specific tying arrangements which may be revealed in the answers to Interrogatories 18 and 19.

Without this statistical information, it would be difficult to determine the extent and magnitude of tying arrangements. The geographic areas covered by such arrangements could be significant. Accordingly, Applicant should be permitted to inquire into this question in order to determine whether there is any relationship between the areas in which tying appears to exist and the areas in which competition among Applicant and intervenors is possible. A statistical inquiry of broad scope is a useful tool in developing geographic patterns. Moreover, if this information is not produced, the Board would have to assess any particular instance of tying which may come to light without any solid factual basis as to the extent to which municipalities provide more than one type of service to commercial and industrial entities or the effectiveness of any tying arrangements.

The many tying cases demonstrate that the analysis and proof of the existence of tying arrangements is much more complex than intervenors seem to suggest. See, e.g., Fortner Enterprises, Inc. v. United States Steel Corp., 394 U.S. 495 (1969); United States v. Loew's Incorporated, 371 U.S. 38 (1962); Osborn v. Sinclair Refining Company, 286 F.2d 832 (4th Cir. 1960), certiorari denied, 366 U.S. 963 (1961). It would be naive to adopt intervenors' apparent position that the existence vel non of tying will be fully revealed by the answers to the direct inquiries in Interrogatories 18 and 19. Even if each Intervenor

were to respond in the negative to both Interrogatories 18 and 19, Applicant is entitled to pursue other evidentiary avenues in an effort to show that one or more of them engaged in anti-competitive conduct by the use of tying arrangements.

For the reasons just discussed, the information sought concerning other municipal services is, in fact, germane to the issue of possible anti-competitive conduct by the intervenors. Apart from that fact, however, the information is germane to other issues in this proceeding.

2. Relevance to Intervenors' Competitive Abilities

The basic thrust of intervenors' contention is that they have been unable to compete effectively with Applicant for industrial customers. The interrogatories in question seek information as to the arena within which competition for such customers takes place. Applicant wishes to know the nature of the activities undertaken by the municipalities in seeking industrial customers. It wishes to have a complete picture of these activities. Thus, Applicant is not willing to limit its inquiry solely to efforts to attract industry to locate within the area in which the municipality provides electric service. It wishes to know about efforts by any municipal departments or agencies to attract industry to the entire area served with any municipal services by each intervenor. Obviously, such information is germane to intervenors' competitive potential. These

intervenors will apparently be claiming that Applicant has hindered their efforts to obtain industrial customers for their electric systems. To assess that claim, the Board should know the basis on which the municipality seeks to attract industrial development. If inquiry is limited only to those instances in which electric service is specifically involved, a distorted picture might be created. Only by looking at the totality of the industrial development effort can the Board see the true role played by electric service in industrial decisions as to site location. The Board should reject the intervenors' attempt to truncate the appropriate inquiry.

Intervenors suggest that, because their own allegations against Applicant are confined to charges of a price squeeze which disables them from competing effectively, discovery should be confined to this issue. But Applicant's position is that price in the abstract is not the sole determinant of one's ability to compete. Advantages other than price can play a large, or even major, role in the marketplace. Thus, we contend, the ability of a municipality to offer services other than power supply, or to attract industrial customers to its area wholly for reasons apart from its provision of such service, is an appropriate subject for the Board to consider. Such questions are clearly encompassed within the scope of the issues adopted by the Board for the purpose of

determining the relevancy of discovery,^{2/} and Applicant's discovery requests are entirely proper.

Intervenors' reliance upon United States v. Aluminum Co. of America, 148 F.2d 416 (2d Cir. 1945), is therefore misplaced. The inquiry in that case focused only on price comparison because no other competitive factors had been put in issue. Here, in contrast, the entire competitive posture of the Applicant and the intervenors is at issue. Accordingly, Applicant's interrogatories seek information on the competitive setting as a whole. Production of the information sought will enable Applicant to present a complete picture of the factors which underlie decisions by industrial entities as to plant location, and the ability of the intervenors to attract such customers.

II.

Intervenors' second objection raises a point closely related to its first objection. They ask the Board to limit the scope of Interrogatories 14(a) and (b) and 15. Once again

^{2/} Order Setting Forth Matters in Controversy, September 20, 1972. For example, one question contained in issue I(12) is whether there is "existing or potential competition in the relevant bulk power supply market(s) and the retail distribution markets * * *." Also, issue I(13) raises the historic competitive viability of the municipal, cooperative and small, privately owned utilities in Applicant's general area.

these questions deal with activities of the municipalities aimed at attracting industrial development. Applicant has asked about efforts to attract such development to the municipality or to the area served by the municipality with electricity. The questions are aimed, in other words, at the municipality's general industrial development efforts. Intervenor would limit the question solely to efforts aimed at attracting customers for the municipal electric system.

As in the preceding objection, intervenors would restrict the scope of discovery too narrowly. Where the claim is made that intervenors have been hampered in their ability to attract industrial customers, it is surely permissible to inquire into the total effort expended toward this end by the municipality. Even the knowledge that the price and availability of electricity is not considered by a municipal department to be a significant locational factor is valuable information when assessing the nature of competition among Applicant and the intervenors.

If accepted, intervenors' argument could block access to information which is clearly relevant. It is not difficult to conceive of a city which seeks to attract industry through a municipal department specifically charged with that responsibility. Such a department might deal with electric service availability along with a number of other subjects in seeking

to attract industry. The role of electric service within the broad context of industrial development would clearly be germane to the issues. Yet an inquiry limited as intervenors suggest would produce no information concerning the activities of such a department. The municipality could simply determine that the objective of such activities was to attract industry in general terms and not simply to attract new electric service customers. It could thus choose to remain silent as to the interrogatories in question. This anomalous result should be avoided. The inquiry as framed by Applicant is clearly germane and should be responded to by each intervenor.

III.

Intervenors object to certain interrogatories because they seek information concerning EPIC, Inc. The basis for this objection is twofold: (1) EPIC is a discrete corporate entity, not a party hereto and its papers are not subject to the possession, custody, or control of intervenors; (2) EPIC's plans are "of very questionable relevance." Objections, p. 8. It is not clear to which interrogatories this objection applies, since only two [59(a), 76(b)] are identified.^{3/}

^{3/} Apart from intervenors' objection to production of any EPIC documents, it should be noted that as a result of conferences among counsel Interrogatory 59(a), as revised, is otherwise acceptable by both the intervenors and the Applicant.

The first stated ground either misconceives or mischaracterizes the questions propounded by Applicant. We fully recognize that Applicant's right of documentary discovery, as exercised in the interrogatories here in question, extends only to material in the possession, custody or control of intervenors. However, it is perfectly possible, if not likely, that documents pertaining to EPIC are resting in the files of the municipal intervenors who are members of EPIC. Such documents are unquestionably in the possession, custody or control of intervenors and it is to those documents which the interrogatories are directed. It is inaccurate to characterize Interrogatories 59(a), 76(b), or any other interrogatory, as intended to require the respondent to obtain documents not in its possession, custody or control from another entity. Nor does the issue of whether or not the interrogatories may be addressed to EPIC have any bearing on this matter.

Intervenors' second ground of objection is nothing short of startling. The Justice Department advice letters, the intervenors' Initial Prehearing Statement, the Justice Department Reply to Applicant's Answer, indeed almost every pleading filed in this proceeding, make repeated reference to EPIC and to Applicant's attitudes and activities concerning EPIC. For example, the Justice Department in its Oconee advice letter alleges that Applicant refuses to deal with EPIC, (p. 4); and intervenors in their Initial Prehearing Statement allege

that Applicant has opposed the development of EPIC and that such conduct is evidence "of erection by Duke of barriers to entry of competition with it at the bulk power generation and/or transmission level." (Pp. 9-10.) Yet intervenors object to producing information within their possession, custody or control which bears on EPIC. They cannot have it both ways.

Intervenors' Objections characterize EPIC as a potential competitor with Applicant. Intervenors apparently wish to claim that this entity has been hindered in its development by Applicant but, at the same time, keep the outlines of that entity shadowy and indistinct. How can the Board assess the validity of that claim without a fully developed record as to EPIC's history, plans and present status? Only when it is armed with this knowledge can it properly assess the role, if any, which Applicant's activities have played in the existing or potential viability of EPIC.

If the claims regarding EPIC are going to be pressed, this Board and Applicant are entitled to the fullest possible explanation of what EPIC is, what it has been doing, what its present status is, and where it plans to go. Accordingly, the Board should reject intervenors' attempt to block access to documents, studies, plans, etc., concerning EPIC, where such materials are within the possession, custody or control of any party to this proceeding.

IV.

Intervenors object to Interrogatories 24(b), 25(b) and 28 through 32. Those questions generally relate to the accounting by each parties' electric system for tax equivalents, services donated to the municipality or any department or agencies thereof, and transfers from the system to other municipal accounts. In place of the information sought, intervenors offer a stipulation which, they claim, admits that the municipal electric systems do transfer funds to, or provide services at less than cost for, the municipalities which own them. The principal thrust of intervenors' argument is that the profitability of the municipal electric systems is irrelevant to this proceeding. Intervenors themselves, however, have heretofore claimed that they are unable to compete effectively with Applicant because they are caught in a price squeeze. Moreover, notwithstanding intervenors' assertion to the contrary, the issue of profitability is not only "adverted to", but is explicitly set forth in the Joint Recital of Contested Issues of Fact and Law (Third Draft) adopted by the Board for the purpose of determining the relevancy of discovery.^{4/} Thus, issue

^{4/} Order Setting Forth Matters in Controversy, September 20, 1972. Issue I(13) provides: "Have the municipal, cooperative and small privately owned utilities in Applicant's general area displayed a history over the years indicating competitive viability? If so, has the alleged absence of access to coordination had any effect on such competitive viability? Have these small systems been able to compete effectively [continued]"

I(13) raises questions concerning the historic competitive viability of the intervenors in terms of their ability to attract new customers, operate efficiently and at a reasonable profit margin. The interrogatories itemized above do no more than request data and information necessary in determining such profit margins. As such, they are clearly appropriate subjects for discovery and are encompassed within the area defined by the Board.

Intervenors' proposed stipulation is insufficient because it would deny to Applicant any knowledge of the magnitude of the transfers or services provided for less than full compensation. Such information is within the custody, possession or control of each intervenor and is not otherwise available to Applicant. Thus, Applicant would be faced with the claim that the intervenors have been competitively harmed, but have no opportunity to show the degree to which these systems are profitable. Further, should Applicant wish to argue, as intervenors suggest, that "the competitive position of the Cities' electric systems would be improved if the transfers

4/ [continued]

against Applicant in terms of their ability to attract new customers and their ability to operate efficiently and at reasonable profit margins? Were those that failed to survive, if any, able to secure bulk power supplies to retain their market share? -- to increase it? Has Applicant acquired, or sought to acquire, small distribution systems?"

were not made * * *"^{5/}, Applicant would be forced to make the argument without the facts which would demonstrate its validity.

Intervenors claim that their proposed stipulation "would remove from dispute the entire question whether such transfers [including the provision of electric service at less than full compensation] are in fact made."^{6/} Adoption of this stipulation, together with data provided in certain audit reports, intervenors state, would then constitute full and complete answers to the questions noted above. This alternative cannot be sustained since it does not provide a sufficient response to questions in an area that is relevant under the Board's definition.

First, the stipulation itself does not state what the intervenors (Objections, p. 9) purport that it states. Nowhere does it state whether transfers were or were not made, or whether services were or were not provided at less than full compensation (or, in either case, by which system). The proposed stipulation merely alleges that "normally" (which years remain unspecified) the systems (which) collect sufficient revenues (from whom) to cover costs and "permit" transfers. This hardly "would remove from dispute the entire question whether such transfers are in fact made."

5/ Objections, p.9.

6/ Ibid.

Furthermore, Applicant has not seen any copy of the audit reports referred to by intervenors in their Objections. Those reports will be produced in response to Applicant's request for production of documents, not as a gratuitous, voluntary act by intervenors. Whether such reports ultimately prove to be responsive to the interrogatories here in question cannot now be determined. If they are, each intervenor who can do so should so state in its response and refer specifically to the data and information which are responsive to the request.

Intervenors further object to these interrogatories on the ground that the information sought may not be available. Such an assertion, however, is an answer, not an objection. But even if it were an objection, it is wholly deficient since intervenors completely fail to distinguish among themselves and by generalizing for all seek to avoid responses by any. This attempt at collectivism also renders their claim of burden illusory since the Board has no way of determining the extent of the burden claimed, by which party it is claimed, or how many of the parties are affected.

In sum, the viability and profitability of these parties is an issue adopted by the Board for the purpose of discovery. Accordingly, each intervenor should be directed to respond to each of the questions contained in Interrogatories 24(b), 25(b), and 28 through 32.

V.

Intervenors object to responding in whole to Interrogatories 17, 65(a), 69, 70, 71 [except subparagraph (c)] and 74 on the ground that a legal opinion is sought. Instead, intervenors state they will provide "copies of all local ordinances, by-laws, etc. which purport on their face to deal with the subject matter inquired into".

This objection is apparently the product of a misunderstanding since Applicant had agreed to accept those materials as an adequate response during the first conference with counsel on the interrogatories. Thus, there is no outstanding dispute to be resolved by the Board. It should be noted, however, that Applicant's understanding of the materials to be provided includes all pertinent documents not readily available (e.g., local ordinances and rules as distinguished from state statutes) and, where appropriate (as may be so in response to Interrogatory 74), copies of municipal bond indentures.

CONCLUSIONS

For the foregoing reasons, the Board should:

- (1) Deny intervenors' motion to strike or modify the interrogatories and requests for documents specified in Points I through IV of the motion;

(2) Direct intervenors to respond to Interrogatories 14 (as revised), 15, 24(b), 25(b), 28, 29 (as revised), 30, 31, 32, 59(a) (as revised), 72, 73 (as revised), 76(b) and any other interrogatory which calls for information concerning EPIC which is in the possession, custody or control of respondent;

(3) Direct intervenors to respond to Interrogatories 17, 65(a), 69, 70, 71 [except subparagraph (c)] and 74 as compromised and outlined above in Applicant's Point V.

Applicant also moves that the Board direct oral argument upon the issues raised in intervenors' motion and this Response thereto.

Respectfully submitted,

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October 31, 1972

APPENDIX

Text of Specified Interrogatories to Which
Objections Have Been Raised 1/

14. (as revised)

(a) State whether the system or the municipality or any agency or department of the municipality at any time from January 1, 1960 to date has had an industrial development department or an individual employee or group of employees, a prescribed or substantial de facto part of whose duties is or has been to attract commercial and/or industrial [facilities to locate in the municipality or within the area served by its electric facilities]^{2/}. If so:

- (i) provide the names and addresses of such present or former department and its present and former chief(s) and all such individual employee(s); and
- (ii) provide the dates from January 1, 1960 to the present during which such department existed and such departmental chief(s) and/or individual employee(s) were employed.

(b) State whether the system or the municipality, or any department agency of the municipality, at any time from January 1, 1960 to date has retained, employed, or been advised

1/ Intervenors generally object to producing any EPIC documents, but have only specified two requests to which that objection applies. Accordingly, only those two, 59(a) and 76(b), are noted in this Appendix.

2/ Intervenors' Objection II goes only to the bracketed language. Intervenors would substitute therefor the words "customers for the system".

on a consulting basis by any person or organization to advise on, investigate or in any way conduct activities or other efforts designed to attract commercial and/or industrial [facilities to locate in the municipality or within the area served by its electric facilities].^{3/} If so, provide the name and address of each person or organization employed, retained, or rendering advice as a consultant for this purpose during the period January 1, 1960 to date, together with the name of the entity by whom and the dates during which such person or organization was employed, retained, or rendered advice as a consultant.

(c) Describe in detail the activities or other efforts undertaken during the period January 1, 1960 to date by the system or the municipality, or any agency or department of the municipality, or by any person or other entity employed, retained or consulted by or on behalf of the system or the municipality or any of its agencies or departments, to attract commercial and/or industrial facilities to locate in the municipality or within the area served by any of its sewage, gas, water, or electric facilities, specifying

^{3/} Intervenors' Objection II goes only to the bracketed language. Intervenors would substitute therefor the words "customers for the system".

in each case the name of the entity conducting such activity or other efforts and the dates relevant thereto.

(d) Furnish a copy of any document relating to the activities described in subparagraphs (a) to (c) of this Interrogatory.

15. State whether the system or the municipality or any agency or department thereof, has prepared, or caused to be prepared, surveys, made site investigations or engaged in, or caused others to engage in, other activities or other efforts for the purpose of encouraging increased use of electricity or to analyze the potential for locating commercial and/or industrial facilities in the area served with electric power or other utility services by the municipality. If so, furnish copies of all advertising, brochures, letters or other documents prepared in regard thereto from January 1, 1960 to date for the purpose of encouraging commercial and/or industrial customers to locate in the service area of the system or for the purpose of encouraging increased use of electricity in said service area.

17. Furnish a copy of your system's charter, and any other document, statute or provision, which evidences the system's right to organize and operate, together with any rules, regulations, bylaws or other similar directives pro-

mulgated by the system or any other entity which govern its organization and operations. Furnish a copy of any amendment to or suspension or repealer of the aforesaid documents adopted, or in effect, during the period January 1, 1960 to date.

24(b). State whether the figures provided include an imputation for the value or cost of services donated to or provided to the municipality or any of its agencies or departments. If so:

- (i) state the amount of any such imputation;
- (ii) state whether each amount is classified as a tax equivalent.

25(b) State whether the figures provided in response to subparagraph (a) of this Interrogatory include an imputation for the value or cost of services donated to or provided to the municipality or any of its agencies or departments.

If so:

- (i) state the amount of any such imputation;
- (ii) state how that value was determined;
- (iii) state whether this amount is classified as a tax equivalent;
- (iv) state whether this imputation is included in the system's operating revenue figures furnished in response to Interrogatory 24.

28. (a) State the amount of tax equivalents for each year 1960 through 1971.*

(b) Describe in detail each service provided or payment made which is classified by the system as tax equivalents and set forth:

(i) the estimated value given to each such service in each year;

(ii) the method by which the value of any service donated to or provided to the municipality or any of its agencies or departments was determined;

(iii) whether each amount specified in response to subparagraphs (a) and (b) of this Interrogatory is included in the operating revenue and expense data furnished in answer to Interrogatories 24 and 25, respectively.

29. (as revised)

(a) State the cost and estimated value of, and describe in detail, each service donated to or provided to the municipality or any of its agencies or departments by the system, for each year 1960 through 1971.*

(b) List the amount and date of each payment made to the municipality, or any of its agencies or departments, which is not classified as a tax equivalent but is included in the operating revenue and cost data furnished in response to Interrogatories 24, 25 and 28.

*/ In response to this Interrogatory and to all others indicated by an asterisk use the same time period as was used in response to Interrogatory 24; e.g., if calendar years were used there, use calendar years, if fiscal years ending June 30, use fiscal years ending June 30. Data should be provided for each year ending on or before August 31, 1972.

(c) For each payment specified in response to subparagraph (b) of this Interrogatory, state how the value of any service donated to or provided to the municipality or any of its agencies or departments was determined.

30. State the amount of the total funds transferred by the system to the general funds, or other account, of the municipality or to the account of any other municipal department or agency during each year 1960 through 1971.* In each case specify:

(a) the amount;

(b) title of the account to which such funds were transferred;

(c) the year in which such transfer was made;

(d) the year in which it is reflected in the data.

31. State the total kilowatt-hours supplied to the municipality and any of its agencies and departments by the system for each year 1960 through 1971* and the total revenues actually derived therefrom for each such year.*

32. State the price per kilowatt-hour paid by the municipality and any of its agencies and departments for electric energy supplied to it by the system during each year 1960 through 1971.*

59(a). (as revised)

Furnish all documents prepared, sent or received by the system or the municipality from January 1, 1960 to date, which contain any reference to expected construction or development of production capability for the system, or to

expected future increases in investment in the system, or to growth in the system's peak demand, sales, revenues, profits and/or number of customers.

65. (a) State whether customers within the corporate limits of the municipality or within the area generally rendered electric service by its system presently have, or at any time during the period January 1, 1960 to date had, the option of

(i) changing from electric service by the system to service by any other utility, or

(ii) changing from electric service by another utility to service by the system.

69. State whether any electricity supplier, other than the system, is now, or has been at any time during the period January 1, 1960 to date, legally or otherwise limited in its present ability to acquire new customers within the corporate limits of the municipality or in the area served by its electric system. If so, describe each limitation and the basis of it.

70. State whether there are any legal restrictions which presently limit the ability of the system to provide electric service, either at retail or wholesale, outside the municipality's corporate limits. If so, describe such restriction(s) and state the date on which each such restriction became effective.

71. Does the municipality have any right to control, restrict or otherwise determine zoning outside its corporate limits? If so:

(a) State the basis on which the municipality derives such authority and provide a copy of any statute, rule, regulation, ordinance, or other document on which such authority is based.

(b) Describe the extent of the municipality's authority to control, restrict or determine zoning outside its corporate limits.

(c) [No objection, as revised.]

72. (a) State the number of residential, commercial and industrial customers (by customer class) which are located outside the municipality's corporate limits and which are presently served by the municipality or any agency or department thereof with electricity, gas, water or sewage service.

(b) State the annual kilowatt-hour sales to and gross revenues derived from such customers during the year 1971.

73. (as revised)

State, if possible, or if not, estimate, the number of residential, commercial and industrial customers (by customer class) which are located outside the municipality's corporate limits which at any time during the period January 1, 1960 to date, were served with water or sewer service (specify which) by the municipality and whose electric service was) supplied by a utility other than the municipality.

74. Furnish citations to and copies of each provision of any municipal bond indenture, municipal ordinance, state law or any other law, rule, regulation or order which restricts or defines in any way the authority of the municipality or any agency or department thereof, to:

(a) Construct system facilities outside of the municipality;

(b) Construct system facilities for the sale of electricity outside the municipality;

(c) Share the ownership of electric facilities with any other utility or entity;

(d) Interconnect with any other utility or entity;

(e) Coordinate or integrate in any other way with any other utility or entity.

76(b) State whether the municipality or any agency or department thereof, alone or jointly with any other utility or entity, presently plans to install generating or additional transmission capacity. If so, describe in detail:

(i) any such plans;

(ii) the stage of their progression;

(iii) the name and address of each utility or entity involved in any such plan;

(iv) furnish each document relating in any way to the feasibility, desirability, or cost of any such plan.

ATOMIC ENERGY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that copies of APPLICANT'S RESPONSE TO INTERVENORS' DISCOVERY OBJECTIONS, dated October 31, 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 31st day of October, 1972:

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