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September 30, 1998 NRC

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY  
RULEMAKING AND  
ADJUDICATIONS STAFF

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
Duke Energy Corporation	)	Docket Nos. 50-269/270/287 LR
	)	
(Oconee Nuclear Station,	)	
Units 1, 2, and 3)	)	

RESPONSE OF DUKE ENERGY CORPORATION TO THE REQUEST FOR  
ENLARGEMENT OF TIME OF THE CHATTOOGA RIVER WATERSHED  
COALITION AND MESSRS. NORMAN "BUZZ" WILLIAMS,  
WILLIAM "BUTCH" CLAY, AND W.S. LESAN

I. INTRODUCTION

Pursuant to the September 18, 1998 Memorandum and Order of the NRC Atomic Safety and Licensing Board in this proceeding (hereafter "Prehearing Order") and 10 CFR §2.730(c), Duke Energy Corporation ("Duke"), licensee in the above-captioned matter, hereby responds to the September 27, 1998 filing of the Chattooga River Watershed Coalition and Messrs. Norman "Buzz" Williams, William "Butch" Clay, and W.S. Lesan (collectively, the "Petitioners").<sup>1/</sup> The Petitioners' filing requests a thirty-day enlargement of time, until approximately October 27, 1998, in which to submit an amended petition to intervene in this license renewal proceeding. For the reasons discussed below, Duke opposes Petitioners' request.

<sup>1/</sup> Counsel for Duke did not receive a copy of Petitioners' filing until September 29, 1998.

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## II. BACKGROUND

Duke filed an application to renew the operating licenses for its Oconee Nuclear Station, Units 1, 2, and 3 (NRC license numbers DPR-38, DPR-47, and DPR-55), on July 6, 1998. The NRC published in the *Federal Register* a Notice of Receipt of Duke's application on July 14, 1998. 63 Fed. Reg. 37, 909 (1998). On August 11, 1998, the Commission published in the *Federal Register* its Notice of Acceptance for Docketing of the Application and Notice of Opportunity for a Hearing Regarding Renewal of Licenses Nos. DPR-38, DPR-47, and DPR-55 for an Additional 20-Year Period (63 Fed. Reg. 42885) (1998).

On September 8, 1998, Petitioners submitted a letter seeking leave to intervene in the Oconee Nuclear Station license renewal proceeding. On September 15, 1998, the Commission issued an Order designating an Atomic Safety and Licensing Board (hereafter "Licensing Board") for this proceeding and prescribing detailed scheduling and policy guidance for the conduct of any hearing. See CLI-98-17, 48 NRC \_\_ (Sept. 15, 1998). The Commission's schedule calls for decisions on intervention petitions and proposed contentions within 30 days of the Commission's Order. Shortly thereafter, on September 18, 1998, the Licensing Board issued its Prehearing and Order setting forth its directives and expectations regarding the conduct of this proceeding. See ASLBP No. 98-752-02-LR, 48 NRC \_\_ (Sept. 18, 1998). Citing its intention to conduct this proceeding as expeditiously as possible with fairness to all participants, the Licensing Board established a schedule for amended intervention petitions, including proposed contentions, and responses, consistent with the Commission's schedule expectations.

### III. DISCUSSION

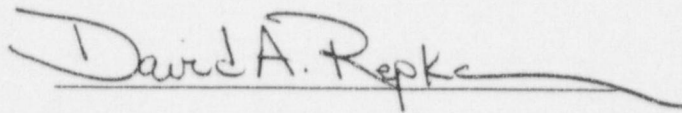
Duke opposes the Petitioners' extension request. The Licensing Board's schedule provided ample time for amended petitions to intervene and is consistent with the Commission's clear expectations. Moreover, in its September 18, 1998 Prehearing Order, the Licensing Board set a standard for granting requests for extensions of time, reiterating the Commission's guidance on the conduct of adjudicatory proceedings, as established in CLI-98-17. Among other things, such a motion is to demonstrate "unavoidable and extreme circumstances" that support permitting the extension. Prehearing Order, slip op. at 8. Petitioners have utterly failed to show such cause for an enlargement of time.

As pointed out by the NRC Staff in its opposition to the extension request, Petitioners have had, effectively, since mid-July to consider their basis for intervention in this proceeding, to identify the issues that they would seek to litigate, and to obtain counsel to represent them in this proceeding. It is simply inadequate to suggest at this late date that the need to find counsel would constitute "unavoidable and extreme circumstances" justifying the extension. This is particularly true given that (1) the requested delay would significantly hamper the ability of the Licensing Board to meet the schedule expectations established by the Commission for this proceeding, and (2) the lack of counsel at this time would not preclude Petitioners from establishing their standing to intervene and from identifying proposed contentions. For better or worse, NRC proceedings are formal proceedings that require a commitment from all who would participate. Fairness and judicial economy dictate that the Licensing Board establish this expectation from the outset of this proceeding.

IV. CONCLUSION

For the reasons set forth above, the Petitioners' request for an enlargement of time  
ii. which to amend their petition for leave to intervene fails to satisfy applicable Commission  
standards, and should be denied.

Respectfully submitted,



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ATTORNEYS FOR  
DUKE ENERGY CORPORATION

Dated in Washington, D.C.  
This 30th day of September, 1998

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD <sup>98</sup> OCT -1 P3:58

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ADJUDICATION STAFF

In the Matter of

DUKE ENERGY CORPORATION

(Oconee Nuclear Station,  
Units 1, 2 and 3)

Docket Nos. 50-269/270/287-LR

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "Response of Duke Energy Corporation To The Request For Enlargement Of Time Of The Chattooga River Watershed Coalition And Messrs. Norman "Buzz" Williams, William "Butch" Clay, And W.S. Lesan" in the above captioned proceeding have been served upon the following by electronic mail as noted, with conforming copies and additional service deposited in United States Mail, first class, this 30th day of September 1998.

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Attn: Rulemakings and Adjudications  
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