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FOUNDED 1866

February 3, 2009

By Email and First-Class Mail

Kristin Linsley Myles, Special Master  
Munger, Tolles & Olson LLP  
560 Mission Street, Twenty-Seventh Floor  
San Francisco, California 94105-2907

Re: State of South Carolina v. State of North Carolina, No. 138, Original

Dear Special Master Myles:

We hereby set forth Joint Progress Report No. 11 from Intervenors City of Charlotte, North Carolina (Charlotte), Catawba River Water Supply Project (CRWSP) and Duke Energy Carolinas, LLC (Duke) (collectively, Intervenors).

Pursuant to your instruction in the December 5, 2008 status conference, Intervenors, South Carolina and North Carolina have continued to meet and confer on the definition of the phases and the schedule for discovery in the case. All parties conferred on January 14, 21 and 28, and February 2 and 3. Because the Supreme Court has granted South Carolina's motion for leave to file exceptions to the Interim Report, the Intervenors' status is virtually certain to be resolved by the end of the current Supreme Court term. Because resolution of the Intervenors' status will have a significant impact on discovery in this case, the parties did not believe it wise to focus on scheduling and instead spent their meet-and-confer time attempting to define the phases. The parties have not been able to reach consensus through their extensive meet-and-confer sessions. The Intervenors generally agree with North Carolina's statement of the issues, and, in order to streamline the process, will not offer a separate statement.

Document discovery in accordance with Case Management Order No.7 is continuing among the parties without any pending disputes requiring judicial assistance. Duke continues to gather and produce responsive documents and is engaged in a continuing cooperative process with South Carolina concerning document discovery. Duke made additional productions on January 8, and January 21, 2009. Charlotte made its second production on February 2, 2009, and is preparing a third production for delivery during the week of February 9, 2009. CRWSP made its initial production on February 3, 2009.

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South Carolina has been providing Intervenors with copies of South Carolina's documents obtained pursuant to third-party subpoenas.

Sincerely,

A handwritten signature in cursive script that reads "Virginia A. Seitz". The signature is written in dark ink on a light-colored background.

Virginia A. Seitz

cc: All Counsel of Record