

# UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

## SUBPOENA TO TESTIFY BEFORE A GRAND JURY

To: North Carolina Utilities Commission  
Custodian of Records  
c/o Ed Finley, Chairman of Utilities

~~YOU ARE COMMANDED to appear in this United States district court at the time, date, and place shown below to testify before the court's grand jury. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.~~

### REQUEST FOR DOCUMENTS

Place: United States District Court, Eastern District of North Carolina Terry Sanford Federal Building 310 New Bern Avenue, Raleigh, North Carolina 27601	Date and Time: June 17, 2014 at 9:00am
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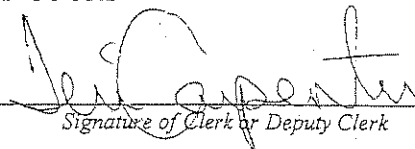
You must also bring with you the following documents, electronically stored information, or objects (*blank if not applicable*):

.. SEE ATTACHMENT


The appearance commanded by this document is a continuing obligation during the course of this proceeding. To avoid being away unnecessarily, please call Legal Assistant Julie King at (919) 856-4002 or toll free at 1-800-538-1564, for any assistance you may need.

Date: June 5, 2014

CLERK OF COURT

  
Signature of Clerk or Deputy Clerk

The name, address, e-mail, and telephone number of the United States attorney, or assistant United States attorney, who requests this subpoena, are:

  
Banumathi Rangarajan, AUSA  
U.S. Attorney's Office, EDNC  
310 New Bern Avenue, Suite 800  
Raleigh, North Carolina 27601  
(919) 856-4530

USAO # 2014R00058-43

PROOF OF SERVICE

This subpoena for (name of individual or organization) North Carolina Utilities Commission  
was received by me on (date) \_\_\_\_\_

I served the subpoena by delivering a copy to the named person as follows: by hand delivery to  
Sam Watson, General Counsel at North Carolina Utilities Commission on 6/13/2014  
on (date) \_\_\_\_\_ ; or

12:55pm  
Dly Building  
Raleigh NC

I returned the subpoena unexecuted because: \_\_\_\_\_

I declare under penalty of perjury that this information is true.

Date: 6/13/2014

SAD J Finch  
\_\_\_\_\_  
Server's signature

SAD J Finch  
\_\_\_\_\_  
Printed name and title

NOBE, 1705 Zymon Park Drive Raleigh  
\_\_\_\_\_  
Server's address  
NC

Additional information regarding attempted service, etc:

## ATTACHMENT A

In re Grand Jury Subpoena to:  
Custodian of Records

### **NORTH CAROLINA UTILITIES COMMISSION (“NCUC”)**

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):

#### I. INSTRUCTIONS

A. This subpoena requires that you appear before the Grand Jury at the time and place specified and produce to the Grand Jury all documents described herein.

B. Documents to be produced include all documents in your possession, custody or control, wherever located. Without limitation on the term "control" a document is deemed to be in your control if you have the right to secure that document or a copy thereof from another person.

C. All documents that respond, in whole or in part, to any part or clause or any paragraph of this subpoena shall be produced in their entirety, including all attachments to documents called for by this subpoena shall be produced, even if they are not otherwise responsive to this subpoena. Documents shall be produced in the order and in the file folders in which they appear in your files and shall not be shuffled or otherwise rearranged. Documents that in their original condition were stapled, clipped or otherwise fastened together shall be produced in such form.

D. All responsive materials shall be provided in their native format. For example, all material maintained in electronic format shall be provided in that original format, to preserve metadata, and not converted into another format (such as a .pdf, .tif, .jpeg, or other image format). For materials that are maintained in both electronic and hard copy format, provide them in both formats.

E. **Please organize the response separately for each individual facility for which information is requested.**

F. Any document demanded by the subpoena that is withheld on a claim of privilege must be preserved. If the document contains privileged material, produced the entire document with the privileged portion deleted. For any document or any portion of a document withheld under a claim of privilege, submit a sworn or certified statement from your counsel in which you identify the document by author(s), addressee(s), date, number of pages, current location, and subject matter; specify the nature and basis of the claimed privilege and paragraph of this demand for documents to which the document is responsive; and identify each person to whom the document or its contents, or any part thereof, was disclosed.

G. No agreement by the United States Attorney’s Office or any of its representatives purporting to modify, limit or otherwise vary this subpoena shall be valid or binding on the

Department of Justice unless confirmed or acknowledged in writing (or made of record in court) by a duly authorized representative thereof.

## II. DEFINITIONS

A. "And" and "or" as used herein are terms of inclusion and not of exclusion, and shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this schedule any document or information that might otherwise be construed to be outside its scope.

B. "Document" means any written, recorded or graphic material of any kind or form (including electronic records) that is in your possession, custody or control. The term includes, but is not limited to: contracts; agreements; letters; telegrams; interoffice communications; memoranda; notes; reports; analyzes; notebooks; surveys; lists; outlines; schedules; pamphlets; newsletters; flyers; charts; tabulations; compilations; studies; books; records; telephone books or messages; visitor books; calendar or diary entries; desk or appointment calendars; drafts; business cards; minutes or meetings or conferences; notes or memos or other records of telephone or other conversations or communications; electronic mail transmission; ledgers; financial statements; bills or invoices; purchase orders; receipts; photostats; microfilm; microfiche; audio and video tape or disc recordings; and computer printouts. It also includes electronically stored data from which information can be obtained either directly or by translation through detection devices or readers. Any such document is to be produced in reasonably usable form, along with instructions for reading the data. The term "document" includes the original (or a copy thereof if the original is not available) and all copies that differ in any respect from the original or that bear any notation, marking or information not on the original.

C. "Person" means any natural person, corporation, firm, company, sole proprietorship, partnership, joint venture, association, institute or other business or legal entity, and includes any affiliate, parent or subsidiary.

D. "Company," "Corporation," and "Entity" include any corporation, firm, company, sole proprietorship, partnership, joint venture, association, institute or other business or legal entity, and includes any affiliate, parent or subsidiary. "Your company" includes but is not limited to any other business entities related by common ownership, common management, common directors, common officers or by other means.

E. "Duke Energy" as used herein includes any parent, subsidiary, predecessor, or successor of Duke Energy, including but not limited to: Duke Energy Carolinas, LLC, Duke Energy Progress, Inc., and Carolina Power & Light Company d/b/a Progress Energy Carolinas, Inc.

F. "Relating to" means constituting, analyzing, describing, discussing, reporting on, commenting on, inquiring about, setting forth, explaining, considering, pertaining to, mentioning, regarding, alluding to or concerning, in whole or in part.

G. The singular form of a noun or pronoun shall be considered to include within its meaning the plural form of the noun or pronoun, and vice versa.

H. “Seepage and/or discharges” includes, but is not limited to, any and all movements of water, wastewater, sluice or other liquids, or coal ash or its contents and all coal ash discharges and seepages from any location at any of the facilities listed, whether permitted or unpermitted.

I. “Evidence of seepages and/or discharges” includes, but is not limited, to natural erosion paths or channels, or residue of coal ash or its contents coming from any coal ash ponds, lagoons, impoundments, dams, or landfills, or collection system or emergence point, or other coal ash containment methods or facilities located at any of the facilities listed.

J. “Efforts to divert seepages and/or discharges” include but are not limited to the creation, installment or use of piping, riprap, drainage, ditches and/or other methods, devices, or systems.

### III. DOCUMENTS TO BE PRODUCED

Unless specifically mentioned, all records and documents are sought for the following facility:

#### **Dan River Steam Station (also known as the Dan River Combined Cycle Station – Rockingham County)**

1. Certified copies of **all** of the 5-year independent consultant inspection reports as required by the NCUC for the plant listed above that were not previously produced in response to prior federal grand jury subpoena Ref. No. 2014R00058-26. Include all report attachments.
2. To the extent not covered by any of the above requests, all memos, e-mails, documents, and correspondence documenting site visits at any of the facilities in conjunction with annual inspections of coal ash impoundments by any division of NCUC, or otherwise, in connection with those 5 year independent consultant inspection reports.



U. S. Department of Justice

*Thomas G. Walker*  
United States Attorney  
Eastern District of North Carolina

*Terry Sanford Federal Building*  
310 New Bern Avenue  
Suite 800  
Raleigh, North Carolina 27601-1461

Telephone (919) 856-4530  
Criminal FAX (919) 856-4487  
Civil FAX (919) 856-4821  
[www.usdoj.gov/usao/nce](http://www.usdoj.gov/usao/nce)

June 5, 2014

North Carolina Utilities Commission  
Custodian of Records  
c/o Ed Finley, Chairman of Utilities

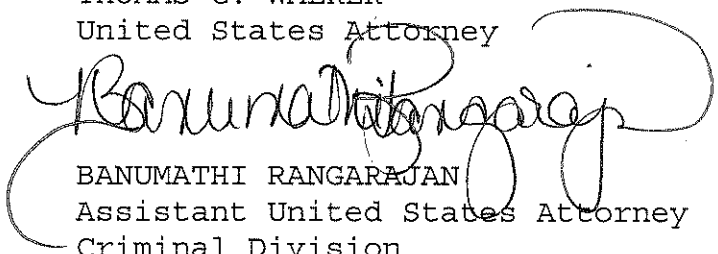
RE: Grand Jury Subpoena  
2014R00058-43

To Whom It May Concern:

An official criminal investigation of a suspected felony is being conducted by an agency of the United States and a federal grand jury. As a subpoena recipient, this office is requesting that you complete the Business Record Affidavit pursuant to Rule 902(11) of the Federal Rules of Evidence, as amended December 1, 2000. By submitting this affidavit with the requested documents, you may avoid the need to appear at trial to testify to the authenticity of these records.

Sincerely yours,

THOMAS G. WALKER  
United States Attorney

  
BANUMATHI RANGARAJAN  
Assistant United States Attorney  
Criminal Division

