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FEDERAL ENERGY REGULATORY COMMISSION

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Catawba Wateree Hydroelectric Project
Project No. 2232-522

SCOPING MEETING

Charles Mack Citizens Center
Town of Mooresville Citizens Center
215 North Main Street
Mooresville, North Carolina

April 21, 2009

7:00 p.m.

1 APPEARANCES:

2 For Federal Energy Regulatory Commission

3 Shawn Murphy

4 Kim Carter

5

6 Joyce Brooks - Longview Associates

7 Suzie Boltz - EA Engineering

8 Paul Muessig - EA Engineering

9 Mary Koeneke - EA Engineering

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11 SPEAKERS PAGE

12 Mark Oakley 3

13 Vickie Taylor 11

14 Ben West 16

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1 P R O C E E D I N G S

2 MARK OAKLEY: Good evening, it's, ah
3 -- I guess you would call this an intimate
4 gathering; lots of familiar faces, some new faces.

5 For those of you who don't know me,
6 my name is Mark Oakley, I work with Duke Energy,
7 and I'm the Catawba-Wateree Relicensing Project
8 Manager.

9 Thank's to Shawn for giving me a few
10 minutes just to welcome you and to also share with
11 you our view on sort of the current state and the
12 current stage of the Catawba Relicensing process.

13 The fact that we're meeting tonight
14 means that FERC has, you know, advanced the ball
15 for us, it means that they've taken a big step in
16 issuing this draft environmental impact statement
17 that we're, you know, meeting about tonight.
18 They've taken a big step towards eventually get a
19 new license, and there's some more process to go,
20 but this is a major event.

21 Throughout, you know, the past years
22 that we've been involved in this, and probably
23 tonight and at tomorrow's meeting, we'll hear the
24 term a lot "CRA." CRA stands for Comprehensive
25 Relicensing Agreement. It's a pretty lengthy book,

1 but if you want a, sort of a quick study of the
2 CRA, we have these brochures on the back table, and
3 they're excellent, sort of a quick reading on what
4 is in the CRA.

5 Duke and 84 other parties started
6 working in 2003 and, ah, and, ah, with the
7 intention of developing this agreement and signing
8 this agreement -- And actually 70 of those parties
9 signed this agreement in 2006.

10 The CRA is our -- And when I say
11 "our" I'm not talking about Duke Power or Duke
12 Energy, I'm talking about all 70 parties. It's our
13 local solution and recommendation for how to meet
14 and balance the basin wide needs and interest with
15 the consideration toward future sustainability, and
16 trying to accommodate those water user recreation,
17 water quality, environmental protection enhancement
18 and hydro-operations interest.

19 The CRA has sort of become a cog, if
20 you will, if you'll, you know, beg me to develop
21 the analogy, has sort of become a cog in a big
22 machine. It has, you know, driven or spun off the
23 requirements for the new license. It contains a
24 lot of the parameters that were considered in the
25 401 water quality certifications in North and South

1 Carolina, and it has to mesh, if you will, with the
2 Fish Passage Accord for that and fish--- and
3 Wateree Hydro that was developed and signed in May
4 of 2008. And we sort of now find ourself at this
5 stage of the game where we're testing that machine.
6 We're giving it some test runs and trial runs. And
7 we've passed a couple of those tests already.

8 The North Carolina Department of
9 Water Quality has issued a 401 water quality
10 certification which actually incorporates the CRA
11 by reference, incorporates the entire document.

12 I mentioned before the Fish Passage
13 Accord, the Fish Passage Prescriptions that the
14 U.S. Fish and Wildlife Service wrote, based on that
15 accord, are compatible with the CRA. We got a
16 couple tests of that to go. One of those -- both
17 tests are ongoing now, we're taking those tests.
18 One is with South Carolina Department of Health
19 Environmental Control who is processing our 401
20 water quality certification when it is issued. We
21 expect it to be based on the requirements of the
22 CRA. And by doing this work on this Draft
23 Environmental Impact Statement, the Federal Energy
24 Regulatory Commission is evaluating our CRA and
25 testing it against other alternatives.

1 When Duke reviewed the Draft
2 Environmental Impact Statement, we did not find
3 that the DEIS has uncovered any unaddressed issues.
4 We know we didn't miss anything that attributed to
5 the thoroughness of the teams and the thoroughness
6 of the study and the scrutiny that we put each
7 other through, to be honest with you. But we have
8 found some items in the CRA -- in the DEIS rather
9 that recommend requirements in addition to what was
10 included in the CRA.

11 It's not always case of more equals
12 better. As with any complex machine and it's been
13 a long time building, making changes can do a
14 couple things, it can make it run smoother and more
15 efficient and less costly and give you better
16 products, or it can cause the machine not to work
17 exactly the way you want it to, it could throw it
18 out of balance, and maybe you don't get all the
19 products out of that you intend.

20 Some of the additional
21 recommendations in the DEIS as it's currently
22 contained, if they show up in a new license, we'll
23 unbalance the machine. It will unbalance the CRA,
24 modifying the machine. If would have to do that
25 after that kind of occurrence. Parties have the

1 alternative to see if they can rebalance the
2 machine, but there is -- it can lead to parties not
3 getting what they bargained for in terms of
4 benefits or not getting what they bargained for in
5 terms of their cost and responsibilities.

6 The well-intentioned requirements,
7 the well-intentioned additional requirements could
8 inadvertently cause a decrease in basin wide
9 benefits, and that's something that we do want to
10 avoid.

11 Duke acknowledges the role of the
12 FERC of the Commission to craft a new license that
13 supports as best as it can the needs of the
14 Catawba-Wateree basin, but we also intend to
15 provide support to FERC when we file our comments
16 that the CR with little or no changes is the local
17 solution that makes those interest.

18 We'll file our comments with the
19 objective that hopefully provide a basis that
20 allows FERC to not only fulfill its requirements
21 and its obligations, but also allows us to meet all
22 the CRA party interest.

23 Thank's for being here for -- I
24 guess you're passing up American Idle to be here,
25 but you -- for those of you who have been with us

1 before this 2003, we appreciate you hanging in
2 there with us. We appreciate the continued
3 support. Thank you, Shawn.

4 MR. MURPHY: Does anybody want to --
5 anybody else want to come up and talk about the
6 DEIS?

7 There are some things in the CRA
8 that FERC has to work around, and Mark and I have
9 been talking about them. One was the bladder dam
10 down at wateree -- with its types with a 50 year
11 license. Unfortunately, the Commission cannot tie
12 anything to the term of license.

13 We did analysis that in the DEIS on
14 the 30-year license, but that's because FERC policy
15 is to analyze for a 30 year license in an
16 environmental document. The actual term of license
17 will be determined by the licensed order, and I
18 still can't tell you which way that's going.

19 I will -- and to make that, we were
20 working with the CRA to try to make sure that is
21 apparent to the Commission that a longer term of
22 license than 30 years would be beneficial to the
23 river basin, and would be more of use an adaptation
24 of the CRA terms.

25 Whether we actually manage to put

1 that in as a stake, and it's hard, we're not sure
2 yet, which is why some things were showing up as
3 being included. Some recreation areas will be
4 drawn into the license, proposed license project
5 boundary.

6 In order to, as it were, beef up the
7 applications recreation benefits and Duke's output
8 in terms of increasing the beneficial uses of the
9 waterway, our whole effort is to make sure that
10 there's a balance use. And with the CRA that you
11 people have produced, it's difficult not to say
12 that there is a balance use as the people who will
13 be most impacted are the ones that did the
14 balancing. And we do appreciate that, we just have
15 our regulations to work it through and to make it
16 fit. It's not really a square peg in the round
17 hole, but it's awful close in some places. But
18 we'll figure out a way to get it all worked
19 together and make sure that everybody is equally
20 discomfort or happy.

21 That's often a yoke that I hear
22 about, we make everybody equally unhappy. That's
23 not really what we want, and if anybody wants to
24 come up and tell us what they want, we'll here to
25 listen, that why we come down.

1 UNIDENTIFIED PERSON: Shawn, why
2 don't you introduce your colleagues to, have them
3 introduce themselves.

4 MR. MURPHY: Well, tonight we
5 brought Kim Carter, who's the engineer working on
6 the project. My name is Shawn Murphy, I'm the
7 fisheries biologist, aquatic ecologist. We
8 actually have two people in my group working on
9 that. He's not here tonight, who did the flows.
10 And everybody else is EA engineers. Suzie, you
11 want to come up and introduce your group?

12 SUZIE BOLTZ: I'm Suzie Boltz with
13 the EA Engineering. With us tonight at the end of
14 the table is Mary Alice Koeneke, she addressed
15 terrestrial resources and endangered species. Paul
16 Muessig is an aquatic ecologist who worked on
17 aquatic ecology and water resource issues, and
18 Joyce Brooks is actually with Longview Associates,
19 she's a colleague working with us, and they handle
20 recreation and showing management landuse issues, a
21 and I was project manager, so.

22 MR. MURPHY: Now you know what
23 resources we're covering. Do you have any
24 questions? And that was Ken Kerns that asked the
25 question from Kerns & Associates, Kerns & West.

1 VICKIE TAYLOR: Is there any
2 opportunity for any dialogue at all, just asking a
3 couple of questions, are you willing to entertain
4 that?

5 MR. MURPHY: It's easier for the
6 court reporter if you come up and speak from here,
7 and -- I mean, if you have specific questions?

8 VICKIE TAYLOR

9 MS. TAYLOR: Yeah. I'm Vickie
10 Taylor Catawba-Wateree Relicensing Coalition, and
11 we will be filing written comments, which is why
12 we're not quite prepared for any verbal comments
13 yet today, but I would just like to say, we support
14 the CRA, the Comprehensive Relicensing Agreement,
15 we've signed it, we worked very hard toward it.
16 And in the words of one of our board members, but
17 we're always willing to look to see if there are
18 better ways to meet all the benefits of the
19 parties. So we're certainly open minded to
20 additional changes, recommendations in the DEIS.
21 But for now, I would just like to ask a couple of
22 questions, if I may.

23 One of which seem to stump a number
24 of people that we discussed -- we held a conference
25 yesterday to kind of dig into the differences

1 between the CRA and DEIS, and one that came up was
2 with regard to the ramping of the recreation flows.
3 And we were a little bit hard pressed to find who
4 had actually made those -- that request, and we
5 were just curious if you could give us any insight
6 as to the thinking behind adding those in.

7 MR. MURPHY: Would you happen to
8 have that section for me?

9 MS. TAYLOR: I do. Yes, ah, well,
10 the main part I would cite is Page 449 in Chapter
11 5. And the discussion of the potential effects
12 with regard to the, ah, you know, sudden increases
13 and decreases of flows is certainly understandable,
14 but I think that question people had was, the
15 effects on the resource from the recreation flows
16 was not nearly as much as from the generation
17 flows. And if ramping was gonna make a difference,
18 it would have been the generation flows, not the
19 recreation flows. And we couldn't recall anyone
20 specifically asking for ramping on the recreation
21 flows. And it didn't seem to have -- there didn't
22 seem to be anything in the record that shows that
23 there were instances of stranded fish and that the
24 recreation flows would cause the kinds of potential
25 damages that are, that are noted on that page.

1 And finally with regard to that
2 issue, the folks that work very hard on that team,
3 the peddlers, the fishermen, they said they worked
4 very hard to make sure that when the flows reach
5 certain parts of the river, there are certain
6 depths, so the wage fishermen have an opportunity,
7 then flow fishermen have a certain opportunity.
8 I'm not a fisherman, so I'm speaking of how they've
9 explained it to me. But at the time it was quite
10 critical to make sure that the maximum benefits of
11 these particular people for these interests. And
12 by adding ramping to and from, it could actually
13 upset that very carefully calculated timing
14 scenario.

15 MR. MURPHY: My best recollection.

16 MS. TAYLOR: Yeah, it's actually on
17 169, 169 and 140 as well, sorry.

18 MR. MURPHY: The ramping rate or the
19 ramping of the flows was actually something that
20 came up with some of the agencies, fish and
21 wildlife serve. And 458 in the document, we
22 discussed a little bit about how the ramping should
23 occur on both sides of the recreation flows period.

24 MS. TAYLOR: Right, yeap.

25 MR. MURPHY: If there's information

1 in the license application that we could use to
2 change that or make it more apparent that's not
3 needed, then you can point that out to me. I can't
4 see it as a problem.

5 MARK OAKLEY: The team equatic
6 resources did a duo-flow analysis to look at change
7 from base flows -- generation flows, and we have in
8 our draft comments as we're developing so far,
9 we're, we're, we are bringing that information into
10 the record, you know, out as it relates to
11 recreation, as it relates to generation flows and
12 extending that logic to recreation flows,
13 essentially that happened much less and they're a
14 much lower magnitude, so that, you know, the
15 generation flows, they seem as sort of past
16 moisture with the agencies and the folks on the
17 equatic resources team than the recreation flows
18 should also not be a concern. And then we're --
19 we're gonna make sure that those parts of the
20 record we bring out in our comments. It is in the
21 application buried in there somewhere.

22 MR. MURPHY: Okay. We won't let a
23 good argument go to waste.

24 MS. TAYLOR: There's a number other
25 things that we will comment on in our written

1 comments. The other thing that I think I might
2 just quickly ask, if we're having a little dialogue
3 here is, if there were some concern brought up in
4 our conference yesterday about the definition of
5 the "flood zone." And I don't know if I have a
6 page on that, let me just check. It's probably
7 around the 330ish. Actually that is where it is,
8 page 337. This is regarding Lake Wateree. And
9 there was just some concern for a better definition
10 of what "flood zone" meant, that meant the flood
11 easement that Duke holds around the reservoir or if
12 that was under your flood plain or what that might
13 refer to.

14 MR. MURPHY: I believe we're working
15 within the flood easement when we say "flood zone."

16 MS. TAYLOR: Great. Thank you very
17 much.

18 MR. MURPHY: Thank you, Vickie. I
19 know it's a large document, and it's really hard to
20 get through something that size and stay awake. If
21 anybody else has anything else they want to bring
22 up or if ya'll just gonna file comments, written,
23 that's fine, but if anybody else wants to talk,
24 this is time to, you know, let us have it.

25 MARK OAKLEY: If you or EA staff

1 have any questions of us, if you're willing to do
2 this in dialogue format, you take advantage also.

3 MR. MURPHY: Actually we just
4 returned serve and --

5 MARK OAKLEY: Okay.

6 MR. MURPHY: And it's our turn to
7 get comments back from you guys right now. It's
8 hard for us to ask you questions about something we
9 just wrote.

10 MARK OAKLEY: Even if you have
11 questions along the way.

12 MR. MURPHY: Did you understand page
13 200, that just doesn't sound right.

14 BEN WEST

15 MR. WEST: This is gonna be a
16 question, also. My name is Ben West, I work for
17 the Environmental Protection Agency, the Southeast
18 Regional Office in Atlanta, Georgia. We also will
19 be reviewing and providing comments on the staff
20 EIS.

21 Shawn, I was hoping you would be
22 willing to -- and you've touched on this a little
23 bit, but just a little bit more about the
24 philosophy behind the adding the amount of the
25 project lands or lands into the project boundary,

1 and some of those public benefits that you're
2 hoping I guess by virtue of that that they would
3 capture. Could you speak to that, do you mind?

4 MR. MURPHY: When FERC issues a
5 hydropower license, the term of license is
6 dependent upon the amount of extra work that has to
7 go into it. So a 30 year license is pretty much
8 standard because the -- the new investment, per se,
9 is not that great if it's a relicense.

10 Often a brand new license will get a
11 longer term because of the substantial amount of
12 investment that's going into it.

13 We have yet to argue successfully
14 that it would be better to give a license a longer
15 term simply because it doesn't make sense to have
16 it come in again in 30 years and be relicensed,
17 because it's so easy to issue on smaller projects.

18 Doing substantial construction is
19 one way that a license is deemed a longer term is
20 necessary.

21 It all -- I think it comes down to
22 the economics part that I really -- I don't -- if
23 you new the numbers are not my strong point on the
24 economics side. This like the aeration turbines
25 are what we look at as very important to

1 considering a longer term. The obtainment of more
2 land to construct recreation areas or just
3 construction of the recreation areas to provide
4 further benefit to people. It's the investment
5 that they have to put out to do that.

6 The bladder dam, I know we've
7 analyzed it for a 30 year license in the Draft
8 Environmental Impact Statement. It's not far fetch
9 for us to throw it into our spread sheets and come
10 up with a 50 year or a 40 year analysis of that
11 same thing.

12 It's unfortunate that the CRA tied
13 it to a term of license like that, and that we
14 can't operate through the CRA like that. But it --
15 it's not an impossibility, that's not a definite.
16 It's something that we have to try to work out to
17 make sure it happens in order for the CRA to be
18 fully adopted and not fall apart, and even then I
19 think they're around especially -- the CRA make
20 sure that we're not part, would not be part of a
21 license proposal; that we were trying to pul into
22 beef up the apparent investment.

23 MS. TAYLOR: Can I ask a follow-up
24 on that? So if the primary rationale for
25 increasing the project boundary by putting

1 conservation easements is to increase the total
2 investment to help justify 50 year license. I was
3 under the assumption, 'cause one makes assumptions,
4 that that was being recommendation to additional to
5 the project boundary because it was mitigation for
6 water flow. Is that also a factor --

7 MR. MURPHY: No that part is being
8 brought in because we looked at it and said that
9 needs to be part of the -- that part in particular,
10 that one in particular. I'm pretty sure we said
11 that it needs to be part of the project boundary
12 because of XYZ, not because, not simply because
13 we're trying to increase their.

14 We didn't bring anything in without
15 a reason. We had to be able to say, okay, there's a
16 good reason to bring this in, but we just didn't an
17 extra hard look to make sure that what should be
18 brought in should be brought in, 'cause there's a
19 lot of proposals and we have to analyze them all.
20 So while we're doing that we said yes or no.

21 MARK OAKLEY: Shawn, does your
22 analysis, the examples that you gave us, were
23 certainly the ones, I think, but t hey all tended
24 to be like capital costs investments in hardware
25 and structures and hard things. Do other costs

1 factor into the analysis such as, you know,
2 incremental OEM, one time OEM projects, cost of the
3 process, the relicensing process, thinks like that?

4 MR. MURPHY: Yeah, Kim is not
5 against that. Kim does my economic analysis. We
6 -- all of the costs that can be brought in are any
7 costs that can't be brought in aren't. We don't
8 short change, we don't let things just fly off that
9 should be.

10 MS. CARTER: Funding, funding.

11 MR. MURPHY: Hum.

12 MS. CARTER: Funding can't be
13 brought in.

14 MR. MURPHY: Funding?

15 MS. CARTER: Yeah, funding is not --

16 MR. MURPHY: I can't hear you. Just
17 some things that aren't brought into the economic
18 analysis will be funding of projects where you're
19 just handing the money to a state agency to do
20 something, partially because we can't require it in
21 the license because we can't go back to that agency
22 and require them to do something. Once you've
23 given them the money, they're not beholden us at
24 all. We don't have the authority to tell them what
25 to do, which is why we don't accept those kind of

1 things for licenses.

2 Any place where we would be
3 extending our authority we can't include as part of
4 a license. That's -- that comes down to the
5 agreement that you have with Duke or the parties
6 have with Duke to do things.

7 So a lot of the things that were not
8 intended to be included in the licenses that Duke
9 proposed, there, those would be some of the reasons
10 that we don't turn around and try to put 'em in,
11 they're just something that would be outside of our
12 authority to include. Or we would not be able to
13 enforce it if we did try to include it, which makes
14 a mess of things when we show the water quality
15 certificates, which we're supposed to enforce, but
16 those would be things, even if they're there, we
17 still can't enforce it, but it becomes part of the
18 licensure through water quality certificate.

19 Is there anyone else that would like
20 to speak, ask a question? If not, this is gonna be
21 an early night. All right. Well, thank ya'll for
22 coming. Thank everyone. I'd like to thank
23 everyone for coming down or out and seeing us. We
24 expect your written comments. The address I put
25 out on some sheets in the back in case you don't

1 have it, and we'll be working with EA to get this
2 turned around as fast as possible after we get
3 everyones' notes in. Thank you.

4 - - -

5 (At 7:40 the meeting adjourned)

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C E R T I F I C A T E

I, Terence M. Holmes, a duly
qualified and commissioned notary public within and
for the State of Ohio, do hereby certify that at
the time and place stated herein, and in the
presence of the persons named, I recorded in
stenotypy and tape recorded the proceedings of the
within-captioned matter, and that the foregoing
pages constitute a true, correct and complete
transcript of the said proceedings.

My Commission Expires: Terence M. Holmes
July 28, 2012 Notary Public - State of Ohio