

ATTACHMENT A

BEFORE THE ENVIRONMENTAL MANAGEMENT COMMISSION

In Re: REQUEST FOR)
 DECLARATORY RULING ON THE)
 INTERPRETATION OF 15A NCAC)
 § 2L.0106(c) WITH RESPECT TO COAL)
 ASH LAGOONS)
)
 CAPE FEAR RIVER WATCH, SIERRA)
 CLUB, WATERKEEPER ALLIANCE,)
 and WESTERN NORTH CAROLINA)
 ALLIANCE,)
 Petitioners.)

AFFIDAVIT OF JEFFREY J. LYASH

1. My name is Jeffrey J. Lyash. I am the Executive Vice President of Energy Supply with supervisory responsibility for operations at both Duke Energy Carolinas, LLC (“Duke Energy”) and Carolina Power & Light Company d/b/a Progress Energy Carolinas, Inc. (“Progress Energy”).

2. I am familiar with the operational efforts of both Duke Energy and Progress Energy to manage coal ash produced at their coal-burning power generation facilities, including their compliance with environmental laws and regulations. I am also familiar with assessments by the two companies of the activities that would be necessary to comply with new regulatory requirements if the Environmental Protection Agency (“EPA”) proceeded to regulate coal combustion residuals as described in the Proposed Rule issued on June 21, 2010.

3. I am familiar with the contents of the Request for Declaratory Ruling (the “Request”), filed by the Cape Fear River Watch, Sierra Club, Waterkeeper Alliance and Western North Carolina Alliance (the “Petitioners”) with the Environmental Management Commission (“EMC”).

4. Both Duke Energy and Progress Energy own and operate coal ash lagoons that are subject to regulation under the Subchapter 2L of Title 15A of the North Carolina Administrative Code. For all active lagoons, the two companies are currently implementing programs to monitor groundwater at the compliance boundary of the coal ash lagoon. These programs are carried out under the oversight of the Department of Environment and Natural Resources (“DENR”). The companies monitor groundwater to ensure that groundwater at and beyond the compliance boundary is not adversely impacted by the treatment of coal ash in the lagoons.

5. Based on my understanding of the Request, if the EMC were to issue a Declaratory Ruling in the form suggested by the Petitioners, coal ash lagoons with NPDES permits first issued on or before December 30, 1983, apparently would be required to take immediate action to eliminate sources of contamination that cause a concentration of a substance in excess of groundwater quality standards, even when such contamination is confined within the compliance boundary.

6. Duke Energy and Progress Energy are not currently in a position to precisely assess the impact of such a ruling due to several sources of uncertainty, including uncertainty about what actions would be required to eliminate the source of groundwater contamination associated with a coal ash lagoon and the timetable that would be considered “immediate” under the new interpretation of the rule.

7. Although the phrase “take immediate action to eliminate sources of contamination” does not clearly signal what steps Duke Energy and Progress Energy would be required to take with regard to their facilities, it potentially encompasses actions similar to those that would be required by one or a combination of the two options published by the EPA in its Proposed Rule for the regulation of coal combustion residuals; therefore, the analysis of the

impacts of that proposed rule provides a basis for assessing potential impacts of the Petitioners' requested declaratory ruling. Based on that analysis, the companies have determined that the following actions may be required if lagoons were no longer an option for the treatment or disposal of coal ash:

- Certain power plants in the fleet would have to be retired;
- Other typically scrubbed plants would have to be fully converted to dry fly ash and dry bottom ash handling;
- Other wastewater streams must be diverted and new wastewater treatment options developed for those streams;
- Existing ash basins would have to be dewatered according to NPDES permits and the resulting water would require proper disposal;
- Dewatered coal ash basins may have to be dug out and disposed of in an appropriate on-site disposal facility, although most plants currently have no such facility or capability available. Alternatively, ash may have to be transported to appropriate off-site disposal facilities, although such facilities do not currently exist in sufficient capacity and would require lengthy selection, permitting and construction;
- Unanticipated and lengthy unit outages may be required depending on the interpreted timetable of "immediate."

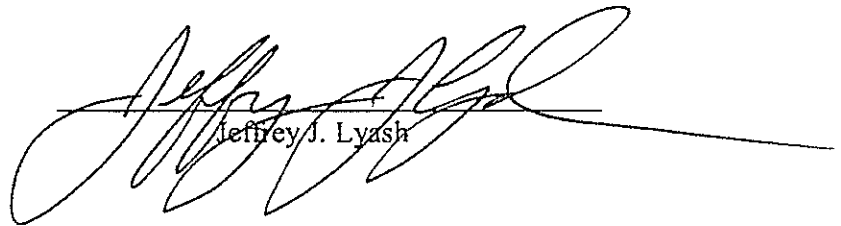
8. Given the impact on operations and significant efforts required to process and handle the waste resulting from the closure of a coal ash lagoon, these actions would result in significant costs to the companies (possibly including purchased power), marking a substantial

increase in the costs currently associated with compliance with the rules, and would require a major overhaul of operations within the state.

9. The nature of such costs would be significant and would likely force the companies to file for rate increases such that these increased costs would fall on our customers. The companies' customers have already been subjected to numerous cost increases related to environmental compliance.

I certify that the foregoing statements made by me are true. I am aware that, if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Executed this 27th day of November, 2012.


Jeffrey J. Lyash

STATE OF NORTH CAROLINA)
COUNTY OF Mecklenburg)

Signed and sworn to before me this day by Jeffrey J. Lyash.

Date: 11-27-12

Deborah S. Rome
Printed or Typed Name of Notary Public
Deborah S. Rome

My Commission Expires: 1-24-15

[Official Seal or Stamp]