

No. 138, Original

**In the
SUPREME COURT OF THE UNITED STATES**

STATE OF SOUTH CAROLINA,

Plaintiff

v.

STATE OF NORTH CAROLINA,

Defendant

OFFICE OF THE SPECIAL MASTER

**Case Management Order No. 7
Regarding Issuance of Third Party Subpoenas and Discovery Pending Proceedings
on Interim Report Granting Intervention**

September 18, 2008

Consistent with proceedings during the August 22, 2008 Telephonic Conference, the Special Master issues the following rulings:

1. Pending entry of a final Case Management Order, Rule 45 of the Federal Rules of Civil Procedure shall govern the issuance of subpoenas to third parties, with the exception that the 100-mile limit set forth in Fed. R. Civ. P. 45(b)(2)(B) shall not apply. Consistent with this ruling, and by agreement of the parties at the aforementioned Telephonic Conference, the attorneys general for the States of South Carolina and North Carolina (hereinafter, the “States”) may cause the issuance of such subpoenas, subject to review by the Special Master.

2. The below procedures shall govern discovery with respect to Duke Energy Carolinas, LLC, Catawba River Water Supply Project, and the City of Charlotte (hereinafter, the “Intervenors”), pending the Special Master’s issuance of an Interim Report regarding the issue of intervention and any proceedings in the Court with respect to such Interim Report. The parties shall discuss whether the Case Management Plan may be finalized during this interim period by incorporating and adjusting for the below procedures.

a. Document discovery shall proceed as between the States, and as between the States and the Intervenors, as though the Intervenors were full parties to this action, subject to the right of any State or Intervenor to seek relief from the Special Master in the form of a Protective Order.

b. The Intervenors shall not be required to respond to Interrogatories, and shall not have the right to propound Interrogatories.

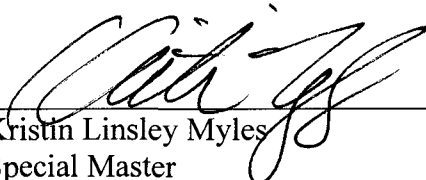
c. Deposition discovery shall be deferred pending final resolution of the intervention issue.

d. The Intervenors shall not have the rights of parties with respect to the issuance of third party subpoenas addressed in Paragraph 1, above.

e. Both the terms of this Order and compliance therewith shall be without prejudice to the position of any State or Intervenor in connection with the Court's review of the Special Master's Interim Report.

f. To the extent adjustments are needed to the impending plan for discovery in order to accommodate the above procedures, the States and Intervenors shall cooperate with one another in an effort to agree on such adjustments, subject to resolution of any remaining unresolved issues by the Special Master as part of the final Case Management Plan.

Dated: September 18, 2008



Kristin Linsley Myles
Special Master

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