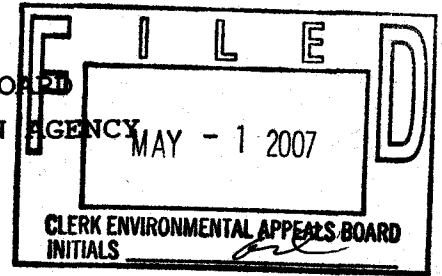


BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.



\_\_\_\_\_  
In re: )  
)  
)  
South Carolina Electric & )  
Gas Company - Cope Station ) NPDES Appeal No. 06-09  
)  
)  
Permit No. SC00457752 )  
\_\_\_\_\_)

ORDER GRANTING MOTION

TO FURTHER STAY THE PETITION

On April 30, 2007, U.S. EPA Region 4 (the "Region") filed a motion requesting a 60-day stay of the proceedings in this case. This is one of several motions filed by the parties -- the Region and Petitioner, South Carolina Electric & Gas Company -- requesting a stay of the proceedings in the above-captioned matter. On January 31, 2007, the Environmental Appeals Board ("Board") issued an order granting a request by Region 4 to stay the proceedings and extend the Region's deadline to file its response to the petition until April 30, 2007.<sup>1</sup> In support of

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<sup>1</sup> See Order Granting Motion to Stay the Petition (EAB Jan. 31, 2007) available at <http://www.epa.gov/eab/>.

that request, the Region explained that the parties were actively working on the issues associated with the challenged permit conditions, and were expecting to resolve this matter by permit modification. The Region further explained that it had been in continuous discussions with the state of South Carolina addressing the proposed permit modification, and seeking section 401 certification. The Region also noted that it had issued a notice of the proposed permit modification seeking public comment.

In its current motion, the Region explains that the public comment period has already closed and comments on the proposed permit were received.<sup>2</sup> In addition, the Region adds, the State issued the section 401 certification on February 19, 2007, which Petitioner has challenged. The Region explains that "[U]nder state law that challenge prevents the certification from taking effect." See Status Report on Permit Modification and Motion to Stay the Petition (filed April 30, 2007). According to the

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<sup>2</sup> The Region notes that the only comments received during the public comment period were comments by Petitioner.

Region, the challenge process has not been concluded and there is no effective certification at this time. *Id.* at 1. As a result, EPA has not determined when to issue the final modified permit. *Id.* In light of all this, the Region is seeking an additional 60-day extension of time to complete this process and to allow the state 401 certification challenge to come to closure. The Region further represents that it has discussed this motion with Petitioner and that Petitioner supports the request.

The Region also reports that the parties have made progress in their settlement discussions and have resolved many of the issues in the appeal before the Board. The Region further represents that it is continuing discussions with the State and Petitioner to reach closure on the remaining issue of concern.

For good cause shown, the Board hereby grants the Region's request to stay the proceedings until June 29, 2007. If the parties do not reach resolution of the matters raised in the

petition by such date, the Region must then file<sup>3</sup> a response to the petition no later than June 29, 2007.<sup>4</sup>

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: *May 1, 2007*

By: *Kathie A. Stein*

Kathie A. Stein  
Environmental Appeals Judge

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<sup>3</sup> Documents are "filed" with the Board on the date they are received by the Clerk.

<sup>4</sup> Any request for a further extension of time must be filed at least five days before June 29, 2007.

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing Order Granting Motion to Further Stay the Petition in the matter of South Carolina Electric & Gas Company - Cope Station, NPDES Appeal No. 06-09, were sent to the following persons in the manner indicated:

**By First Class Mail Postage Prepaid  
and via fax:**

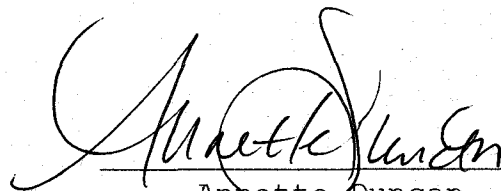
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Dated: MAY - 1 2007



Annette Duncan  
Secretary