STATE OF NORTH CAROLINA

COUNTY OF WATAUGA

IN THE OFFICE OF
ADMINISTRATVIE HEARINGS
08 EHR 0779 and 09 EHR 3175

APPALACHIAN VOICES, Petitioner, v. NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, DIVISION OF AIR QUALITY, Respondent, and DUKE ENERGY CAROLINAS, LLC, Respondent-Intervenor.	))))))))))))))))))	APPALACHIAN VOICES' EXCEPTIONS TO DECISION (Before the Environmental Management Commission)

Now comes Petitioner, Appalachian Voices, Pursuant to G.S. 150B-36, with exceptions to the Decision of the Administrative Law Judge (ALJ) in the above-captioned matter as it comes before the State Agency for a Final Agency Decision. The accompanying brief in support of the exceptions contains the case background and factual and legal support for each exception.

The exceptions are:

Exception #1: The ALJ Erred in Concluding that – as a Matter of Law – Appalachian Voices must Support a Motion for Summary Judgment with Affidavits or Other Verified Pleadings

Exception #2: The ALJ Erred in Concluding that – as a Matter of Law – DAQ is not Required to Consider the Collateral Impacts of Surface Coal Mining when Selecting BACT for a Coal-Fired Power Plant

Exception #3: The ALJ Erred in Concluding that – as a Matter of Law – DAQ is Prohibited from Requiring Duke Energy to Burn Specific Types of Coal or Blends Thereof

Exception #4: The ALJ Erred in Concluding that – as a Matter of Law – DAQ is not Required to Consider Other Sources of Coal as Alternatives to Burning Surface-Mined Central Appalachian Coal

Respectfully submitted, this 13th day of October 2009.

/s/_____
Scott Gollwitzer

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CERTIFICATE OF SERVICE

I hereby certify that copies of APPALACHIAN VOICES' EXCEPTIONS TO THE DECISION (Before the Environmental Management Commission) has been served on the following counsel by hand delivery or by first-class USPS mail, postage pre-paid and by electronic mail on the following:

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Dated at Asheville, North Carolina this 13th day of November 2009.

/s/_____
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