

# Exhibit A

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
ANDERSON DIVISION

**KENNETH WALTON GEORGE, DENNIS  
REED BOWEN, CLYDE FREEMAN,  
GEORGE MOYERS, JIM MATTHEWS,  
and HENRY MILLER, on their own behalf  
and on behalf of a class of persons similarly  
situated,**

**Plaintiffs,**

**vs.**

**DUKE ENERGY RETIREMENT CASH  
BALANCE PLAN and DUKE ENERGY  
CORPORATION,**

**Defendants.**

**Case No.: 8:06-cv-00373-RBH**

**DECLARATION OF JAMES O'CONNOR**

I, James O'Connor, hereby declare as follows:

1. I have personal knowledge of the facts set forth below and, if called upon to do so, could and would testify competently as to those facts.

2. I am Vice President of Employee Relations at Duke Energy Corporation ("Duke").

3. The Duke Energy 2010 Voluntary Opportunity Plan ("VOP") was offered to regular, non-unionized U.S.-based employees with greater than five years of service and to all non-unionized employees who were affected by a plan to consolidate corporate work and other support functions in Charlotte, North Carolina. This offering was created as a broad-based plan to be provided to almost half of Duke's employees and was not designed to apply in any improper way uniquely for class members. Out of 8,756 employees who were in this universe and eligible for the VOP, 5,751 are members of the class action.


4. Employees who wished to participate in the VOP submitted a request form. A total of 904 employees requested to participate in the VOP. Out of those 904 employees, we have reviewed records and identify 572 as members of the class action. The class members who accepted include one person who was on the list of class members requesting exclusion from the class as indicated in the Affidavit of John Hughes filed on April 14, 2010 (Doc. No. 305-1).

5. Duke could propose a plan to allow employees to reverse their prior decision to decline the VOP. To ensure the continued reliability of its power plants and its electric distribution system, Duke must plan for the loss of personnel. Duke's business model depends upon its reliability, and Duke's ability to successfully manage its workforce is critical to its success.

6. So that Duke may avoid any business disruptions, it must determine how many individuals from any particular department will be permitted to leave the company, and thus Duke requires the discretion to determine whether to approve a request for participation in the VOP. Duke imposed a deadline of February 24, 2010 for requesting participation so that it could evaluate the potential loss of resources and engage in the requisite succession planning, which is critical to maintaining reliability. To ensure continued operations, Duke would need to consider whether to approve or reject any additional requests to participate in the VOP. Any substantial delay in allowing employees to reverse their prior decision to reject the VOP would generate hardship. It would also permit employees to change their decision based upon factors that are unrelated to any revised communication materials that are prepared for purposes of the class action. Duke also wishes to minimize any business distraction or disruption that is inherent in any voluntary opportunity plan by making sure that any new communication is close in time to the original communication regarding the program.

7. In addition, so that Duke may adequately manage its workforce and avoid the disruption in the provision of the company's service that could occur if all employees in a particular department left at once without permitting an appropriate transition, the VOP program utilized staggered release dates. Release dates will be staggered from March 31, 2010 through March 31, 2011. Duke has identified the employees' release dates and has told them when they will be leaving the company. To ensure reliability in its service, Duke requires the discretion to establish all employee release dates according to the company's business needs.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 21<sup>st</sup> day of April, 2010.

  
James O'Connor