

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,)

v.)

CASE NO.: 8:06-cv-00373-RBH

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

Defendants.)

MOTION TO TRANSFER VENUE

COME NOW Defendants Duke Energy Retirement Cash Balance Plan (“Plan”) and Duke Energy Corporation (“Company”), by and through their counsel, Alston & Bird LLP, and Ogletree, Deakins, Nash, Smoak & Stewart, P.C., and move the Court to transfer venue from United States District Court for the District of South Carolina - Anderson Division to United States District Court for the Western District of North Carolina - Charlotte Division pursuant to 28 U.S.C. § 1404(a). The strong connection between the dispute and the Western District of North Carolina – Charlotte Division, the lack of any substantial connection with the District of South Carolina – Anderson Division, and the convenience of the parties and the interests of justice warrant a transfer.

WHEREFORE, for the reasons set forth above and in Defendants’ supporting memorandum of law, defendants respectfully request that the Court grant its Motion to Transfer Venue and issue an Order transferring this case to the United States District

Court for the Western District of North Carolina – Charlotte Division. Defendants’ counsel has conferred with Plaintiffs’ counsel regarding this Motion, and Plaintiffs’ counsel would not agree to the Motion to Transfer Venue. By separate motion, Defendants are also respectfully requesting that this Court stay further proceedings until it has had an opportunity to rule on the present Motion to Transfer Venue.

Dated this 5th day of May 2006.

Respectfully submitted,

s/Kristofer K. Strasser-----

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