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JUL 09 2001

Clerk's Office  
N.C. Utilities Commission

E-100, Sub 37A

MEMORANDUM

To: North Carolina Utilities Commission  
From: Robert K. Koger, President, North Carolina Advanced Energy Corporation  
Re: Charter Amendment regarding the appointment of members of the Board of Directors of North Carolina Advanced Energy Corporation  
Date: July 5, 2001

The Board of Directors (the "Board") of the North Carolina Advanced Energy Corporation ("Advanced Energy") hereby requests the North Carolina Utilities Commission (the "Commission"), representing all of the members of Advanced Energy, approve an amendment to the Articles of Incorporation of Advanced Energy.

In order to better advance the Corporate Purposes of Advanced Energy and to allow Advanced Energy to promote and support research and advancements relating to the production and use of energy and discovery of alternative sources of energy, the Board recommends and respectfully requests that the Commission approve the amendment to the Articles of Incorporation of Advanced Energy attached hereto.

Attached hereto are the certification and resolutions passed by the Board, the Articles of Amendment of North Carolina Advanced Energy Corporation, and a proposed Order of the Commission.

The effect of the proposed amendment is to increase the number of Public Directors on the Board from seven to eight while maintaining the present total number of Directors at twelve. Nantahala Power & Light will no longer have a representative on the Board but will be represented by Duke Power, a division of Duke Energy Corporation.

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## **ARTICLES OF AMENDMENT OF NORTH CAROLINA ADVANCED ENERGY CORPORATION**

Pursuant to Section 55A-10-05 of the General Statutes of North Carolina, the undersigned corporation hereby submits these Articles of Amendment for the purpose of amending its Restated Articles of Incorporation.

1. The name of the corporation is North Carolina Advanced Energy Corporation.
2. The Restated Articles of Incorporation of the corporation are hereby amended as follows.

(a) The first sentence of Article 5, Section 2 of the Restated Articles of Incorporation is amended and restated in its entirety as follows.

"There shall be eight (8) Public Directors of this Corporation each of whom shall be appointed to such office by the Governor of the State of North Carolina. The eight Public Directors shall be appointed to the following initial terms beginning June 1, 1980: three for one year each; three for two years each; and two for three years each and each shall serve until his or her death, resignation, retirement, removal, or until his or her successor is selected and qualifies. Each of the initial seven Public Directors shall take office immediately upon the Governor of the State of North Carolina certifying his or her appointment as such to the initial three Directors and incorporators provided for in these Articles."

(b) The second paragraph of Article 5, Section 4 of the Restated Articles of Incorporation is amended and restated in its entirety as follows.

"Each of the initial eight Public Directors shall take office immediately upon the Governor of the State of North Carolina certifying his or her appointment as such to the initial three Directors and incorporators provided for in these Articles."

(c) The first paragraph of Article 5, Section 5 of the Restated Articles of Incorporation is amended and restated in its entirety as follows.

"Each of the electric utility companies generating and selling electricity in North Carolina and subject to regulation by the North Carolina Utilities Commission, to wit, Duke Power, a division of Duke Energy Corporation; Virginia Electric and Power Company, dba Dominion North Carolina Power; and Carolina Power & Light Company shall be entitled to appoint one member to the Board of Directors of this Corporation but only for so long as such electric utility company is making contributions to the Corporation in the following manner:"

3. The date of adoption of the foregoing amendment to the Restated Articles of Incorporation was April 19, 2001.

4. The amendment to the Restated Articles of Incorporation was approved by the members of the corporation in the manner prescribed by law.

5. These Articles of Amendment will be effective upon filing.

Dated this the 5 day of July 2001.

North Carolina Advanced Energy Corporation

By: Robert K. Koger

Name: Robert K. Koger

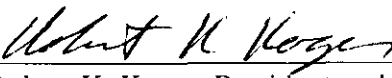
Title: President and Executive Director

**NORTH CAROLINA ADVANCED ENERGY CORPORATION**  
**CERTIFICATE OF PRESIDENT**

The undersigned President and Executive Director of North Carolina Advanced Energy Corporation (the "Corporation") hereby certifies as follows:

Attached hereto as Attachment A is a true, correct and complete copy of a resolution adopted by the Board of Directors of the Corporation.

IN WITNESS WHEREOF, the undersigned executed this certificate this 5 day of July 2001.

  
\_\_\_\_\_  
Robert K. Koger, President and Executive Director

**ATTACHMENT A**

**NORTH CAROLINA ADVANCED ENERGY CORPORATION**

**RESOLUTION TO INSERT IN MINUTES OF BOARD OF DIRECTORS MEETING  
APPROVING AMENDMENT TO ARTICLES OF INCORPORATION:**

WHEREAS, the Board of Directors desires to amend the Articles of Incorporation of North Carolina Advanced Energy Corporation to increase the number of Public Directors from seven to eight and to eliminate the right of Nantahala Power and Light Company to appoint one member to the Board of Directors.

NOW, THEREFORE, BE IT RESOLVED: That the Board of Directors approves and hereby recommends to the members that the Articles of Amendment to the Articles of Incorporation, attached hereto as Exhibit A, be approved.

FURTHER RESOLVED: That the Board of Directors shall submit the Articles of Amendment to the members for approval as required by law.

FURTHER RESOLVED: That the officers of the Corporation be authorized and directed to file the Articles of Amendment with the North Carolina Secretary of State after member approval has been duly obtained.

FURTHER RESOLVED: That the officers of the Corporation are hereby authorized and directed to take such further action as may be necessary or appropriate to effectuate the intent of the foregoing resolutions.

STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH

DOCKET NO. \_\_\_\_\_, SUB \_\_\_\_\_

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	)	ORDER GRANTING REQUEST
Establishment of a North Carolina	)	FOR AMENDMENT OF
Advanced Energy Corporation	)	ARTICLES OF INCORPORATION

BY THE COMMISSION: On July 5, 2001, Robert K. Koger, President of the North Carolina Advanced Energy Corporation ("NCAEC"), filed a memorandum requesting approval to amend the Articles of Incorporation of NCAEC. The memorandum stated that "In order to better advance the Corporate Purposes of Advanced Energy and to allow Advanced Energy to promote and support research and advancements relating to the production and use of energy and discovery of alternative sources of energy, the Board recommends and respectfully requests that the Commission approve the amendment to the Articles of Incorporation" of NCAEC. The Board of Directors of NCAEC recommended that:

(a) The first sentence of Article 5, Section 2 of the Restated Articles of Incorporation is amended and restated in its entirety as follows;

"There shall be eight (8) Public Directors of this Corporation each of whom shall be appointed to such office by the Governor of the State of North Carolina. The eight Public Directors shall be appointed to the following initial terms beginning June 1, 1980: three for one year each; three for two years each; and two for three years each and each shall serve until his or her death, resignation, retirement, removal, or until his or her successor is selected and qualifies. Each of the initial seven Public Directors shall take office immediately upon the Governor of the State of North Carolina certifying his or her appointment as such to the initial three Directors and incorporators provided for in these Articles."

(b) The second paragraph of Article 5, Section 4 of the Restated Articles of Incorporation is amended and restated in its entirety as follows; and

"Each of the initial eight Public Directors shall take office immediately upon the Governor of the State of North Carolina certifying his or her appointment as such to the initial three Directors and incorporators provided for in these Articles."

(c) The first paragraph of Article 5, Section 5 of the Restated Articles of Incorporation is amended and restated in its entirety as follows.

"Each of the electric utility companies generating and selling electricity in North Carolina and subject to regulation by the North Carolina Utilities Commission, to wit, Duke Power, a division of Duke Energy Corporation; Virginia Electric and Power Company, dba Dominion North Carolina Power; and Carolina Power & Light Company shall be entitled to appoint one member to the Board of Directors of this Corporation but only for so long as such electric utility company is making contributions to the Corporation in the following manner:"

IT IS, THEREFORE, ORDERED that the Commission approves the above amendment to the Articles of Incorporation of NCAEC.

ISSUED BY ORDER OF THE COMMISSION.

This the \_\_\_\_ day of \_\_\_\_\_ 2001.

NORTH CAROLINA UTILITIES COMMISSION

\_\_\_\_\_

By: \_\_\_\_\_