



Lawrence B. Somers
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OFFICIAL COPY

Oct 28 2020

October 28, 2020

VIA ELECTRONIC FILING

Ms. Kimberley A. Campbell
Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4300

**RE: Duke Energy Progress, LLC's Response to Oliver L. Canaday's
September 25, 2020 Complaint
Docket Nos. E-2, Sub 1150 and E-2, Sub 1195**

Dear Ms. Campbell:

On September 29, 2020, Duke Energy Progress, LLC ("DEP") filed its Response to the Complaint of Oliver L. Canaday, which had been filed on September 25, 2020 in Docket No. E-2, Sub 1150 ("Response"). DEP filed and served its Response, however, in Docket No. E-2, Sub 1195, a docket involving a 2018 complaint filed by Mr. Canaday. Accordingly, by this filing, I withdraw the September 29, 2020 Response filing from Docket No. E-2, Sub 1195 and ask that the Clerk's Office file it instead in Docket No. E-2, Sub 1150. I regret any inconvenience this docketing error may have caused.

Thank you for your attention to this matter. If you have any questions, please let me know.

Sincerely,

Lawrence B. Somers

Enclosure

cc: Parties of Record

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-2, SUB 1150

In the Matter of)	
)	
Application of Duke Energy Progress, LLC For A Certificate of Environmental Compatibility and Public Convenience and Necessity Pursuant to N.C. Gen. Stat. § 62-100 et seq. to Construct Approximately 11.5 Miles of New 230kV Transmission Line in Cleveland area of Johnston County, North Carolina)	DUKE ENERGY PROGRESS, LLC'S RESPONSE TO COMPLAINT OF OLIVER L. CANADAY

NOW COMES Duke Energy Progress, LLC (“DEP” or the “Company”), through counsel and pursuant to Rule R1-9 of the North Carolina Utilities Commission (“NCUC” or “Commission”) Rules and Regulations, and hereby responds to the Complaint filed by Oliver L. Canaday (“Complainant”) on September 25, 2020. Respondent has reviewed the Complaint and replies to the allegations as set forth below. Any allegation not specifically admitted shall be deemed denied.

1. In his filing, Complainant alleges that DEP did not comply with ordering paragraph No. 5 of the Commission’s January 12, 2018 *Order Granting Certificate of Environmental Compatibility and Public Convenience and Necessity*, which memorialized the Commission’s suggestion on page 15 of the Order as follows:

In order to address the alleged environmental risks expressed by consumers, the Commission suggests that the Company inform each affected landowner, in writing, of the option to designate his or her own land as a no-spray area. In any event, DEP is required to comply with its vegetation management plan in the construction and maintenance of the proposed transmission line and substation, including the provisions allowing landowners to elect not to have herbicides sprayed on their property. *See*

Duke Energy Progress, LLC, Revised Vegetation Management Plan and Policies, Docket No. E-2, Sub 1010 (March 22, 2016).

DEP admits that it did not provide written notice to all property owners of their option to designate their land as a no-spray area prior to beginning construction of the Cleveland-Matthews 230 kV line.

2. As a second and further defense, however, DEP shows that it met with all property owners along the transmission line route who entered into voluntary easement and compensation negotiations and orally explained to them, prior to line construction, that DEP utilizes herbicides as part of its right of way maintenance practices. The Company allowed any property owner who wanted to designate their property as a “no-spray” area to do so. The only property owners that the Company has not had such discussions with are Complainant and two other property owners who did not enter into voluntary easement agreements and with whom DEP is currently involved in condemnation litigation.

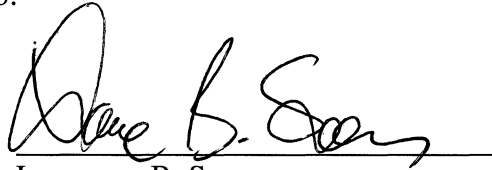
3. On September 25, 2020, DEP personnel visited the Cleveland-Matthews line right of way and confirmed that no herbicides have been applied on Complainant’s property. Herbicides have been applied to targeted tree species within the line right of way on property located in the next span of line, but this property is not directly adjacent to Complainant’s property. The herbicide application was performed on property owned by individuals that signed easement agreements and did not request that their property be designated as a no-spray area.

4. By letter dated September 28, 2020, DEP sent written notice to all property owners informing them of their option to designate their property as a no-spray area. See attached Exhibit 1.

5. DEP regrets that it did not provide written notice of the no-spray option prior to beginning construction and apologizes to the Commission. The Company respectfully asserts, however, that the harm alleged in the complaint has been mitigated because, (1) during easement agreement negotiations it orally explained the use of herbicides to all but the three property owners who required condemnation, and allowed anyone who asked to designate their property as a no-spray option to do so; (2) Complainant's property has not been sprayed and he has suffered no actual harm; (3) all property owners have now received written notice of the no-spray option. Complainant's request for the imposition of penalties in excess of \$38 million is completely unwarranted, much less excessive.

For all the foregoing reasons, Duke Energy Progress, LLC prays the Commission for an order dismissing this Complaint and for such further relief as the Commission deems just, equitable and proper.

This the 29th day of September, 2020.

A handwritten signature in black ink, appearing to read "Lawrence B. Somers", written over a horizontal line.

Lawrence B. Somers
Deputy General Counsel
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Transmission – Public Engagement
NC5 | 410 South Wilmington Street
Raleigh, NC 27601

September 28, 2020

CANADAY, OLIVER LINWOOD
713 S CAMELLIA AV
PANAMA CITY, FL 32404-6939

Re: Cleveland-Matthews Road 230-kV Tap Line Integrated Vegetation Management Program

Dear Property Owner:

Duke Energy is committed to providing safe and reliable power to our customers and communities. Trees and other vegetation are one of the leading causes of power outages. Our Integrated Vegetation Management (IVM) program helps maintain our commitment to improve reliability and keep trees and vegetation away from power lines. Duke Energy's transmission vegetation management crews use a variety of methods to manage power line rights-of-way including cutting and pruning trees, and selective application of herbicides to control incompatible tree species.

When the Cleveland Matthews 230-kV line is energized later this year, it will become part of Duke Energy's IVM program. A vital component of this program is the selective application of herbicides on a multi-year maintenance cycle. Duke Energy uses licensed, professional contractors that have been trained on appropriate, safe, and environmentally responsible techniques for herbicide application. All products used by Duke Energy are tested by the Environmental Protection Agency and approved by the appropriate state agencies. Our goal for herbicide application is to minimize the risk of power outages, facilitate safe access to equipment, and enhance wildlife habitats by retaining low-growing vegetation that promotes a diverse mixture of native grasses and plants.

If you would like more information regarding our vegetation management program, herbicide use, or to request that herbicides not be applied to the section of right of way on your property, please contact Wade Teague, Duke Energy Transmission Vegetation at 910.520.6795 or email Thomas.Teague@duke-energy.com.

Additionally, you may also call 866.297.5886 or email CarolinasEast@duke-energy.com. Please refer your comments to the Cleveland Matthews Road 230-kV Tap Line.

For more information about the Cleveland Matthews Road project, visit the project website at www.duke-energy.com/Cleveland-Matthews

Thank you for your continued patience as we complete this project.

Sincerely,

A handwritten signature in cursive script that reads 'Kristen Dwiggins'.

Kristen Dwiggins,
Project Manager


Reference: 165100-83-6193

VERIFICATION

STATE OF NORTH CAROLINA)
)
COUNTY OF WAKE)

DOCKET NO. E-2, SUB ~~H-95~~ 1150

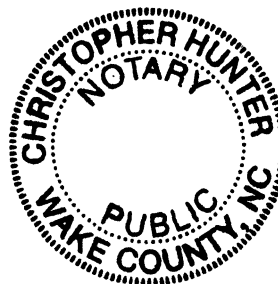
PERSONALLY APPEARED before me, Miranda S. Gregory, after first being duly sworn, said that she is Real Estate Representative – Land Services for Duke Energy Progress, LLC and as such is authorized to make this verification; that she has read the foregoing *Response to Complaint of Oliver L. Canaday* and knows the contents thereof; and that the same are true and correct to the best of her knowledge, information, and belief.


Miranda S. Gregory
Real Estate Representative, Land Services
Duke Energy Progress, LLC

Sworn to and subscribed before
me this 29th day of Sept, 2020.

Christopher Hunter
Notary Public

My Commission expires: 03/01/2025



CERTIFICATE OF SERVICE

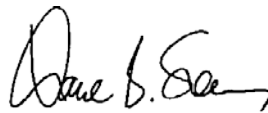
I certify that a copy of Duke Energy Progress, LLC's Response to Oliver L. Canaday's September 25, 2020 Complaint, in Docket Nos. E-2, Sub 1150 and E-2, Sub 1195, has been served by electronic mail, hand delivery or by depositing a copy in the United States mail, postage prepaid to the following parties:

Dianna Downey
Public Staff
North Carolina Utilities Commission
4326 Mail Service Center
Raleigh, NC 27699-4300
dianna.downey@psncuc.nc.gov

Oliver L. Canaday
713 Camellia Avenue
Panama City, FL 32404 and

Oliver L. Canaday
P.O. Box 624
Four Oaks, NC 27524

This the 28th day of October, 2018.



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