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June 23, 2016

VIA ELECTRONIC FILING

Ms. Gail L. Mount, Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4300

**RE: Duke Energy Progress, LLC's Reply in Opposition to Response by
NC WARN and The Climate Times
Docket No. E-2, Sub 1089**

Dear Ms. Mount:

I enclose Duke Energy Progress, LLC's Reply in Opposition to Response by NC WARN and The Climate Times for filing in connection with the above-referenced matter.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Lawrence B. Somers', written over a white background.

Lawrence B. Somers

Enclosures

cc: Parties of Record

OFFICIAL COPY

Jun 23 2016

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-2, SUB 1089

In the Matter of)	
)	
Application of Duke Energy Progress, LLC for a)	DUKE ENERGY PROGRESS'
Certificate of Public Convenience and Necessity)	REPLY IN OPPOSITION TO
To Construct a 752-MW Natural Gas-Fueled)	RESPONSE BY NC WARN AND
Electric Generation Facility in Buncombe)	THE CLIMATE TIMES
County Near the City of Asheville)	

NOW COMES Duke Energy Progress, LLC, (“DEP” or “the Company”) pursuant to N.C. Gen. Stat. §62-82(b), North Carolina Utilities Commission (“Commission”) Rule R1-7, and the Commission’s June 8, 2016 *Order Setting Hearing* and replies in opposition to the June 22, 2016 Response by NC WARN and The Climate Times (collectively, “NC WARN”). The Company replies specifically as follows:

1. In its June 8, 2016 *Order Setting Hearing* (“Appeal Bond Hearing Order”), the Commission scheduled an evidentiary hearing “for the purpose of receiving competent evidence on the issue of the amount of bond or undertaking to be set by the Commission pursuant to G.S. 62-82(b)” and scheduled the evidentiary hearing for 9:30 a.m. on June 17, 2016. The Appeal Bond Hearing Order provided, in pertinent part, that “NC WARN shall sponsor a witness or witnesses with respect to any factual issues NC WARN wishes to raise responsive to DEP’s evidence or to the June 7, 2016 Order of the North Carolina Court of Appeals, subject to cross-examination, at the hearing on June 17, 2016.”

2. The June 17, 2016 evidentiary hearing was held as scheduled, with the Commission overruling NC WARN’s objection that the Commission’s evidentiary

hearing was an “abuse of its discretion.” Transcript of June 17, 2016 Evidentiary Hearing (“Transcript”) at pp. 10-13. In its April 25, 2016 Motion to Set Bond, it was NC WARN who asked the Commission to hold an evidentiary hearing to set the bond amount in the first place. Clearly, NC WARN’s motion and argument opposing the evidentiary hearing that it originally requested was disingenuous and without merit.

3. Despite NC WARN’s completely unfounded criticism of DEP’s estimated construction delay cost increases set forth in the Company’s May 2, 2016 Verified Response to Motion to Set Bond of NC WARN,¹ NC WARN *failed to call a single witness* at the June 17, 2016 evidentiary hearing to support its position as to the amount of the appeal bond that should be set by the Commission in this matter.² NC WARN presented no witnesses at the June 17, 2016 evidentiary hearing and informed the Commission it had not even consulted with an expert witness to testify on their behalf. Transcript at p. 82-83. Despite the Company’s witness testifying that none of his estimated construction costs increases from an appeal-related delay had changed at all since his verified May 2, 2016 response filing,³ at the conclusion of the evidentiary hearing, counsel for NC WARN informed the Commission that NC WARN would like until June 22, 2016 to determine if they could locate an expert witness. Transcript at p. 141-42.

4. Now, in its June 22, 2016 Response, NC WARN has alleged that it is meeting with a potential expert witness on June 24, 2016, and will not know until that

¹ See Transcript at pp. 31-33; 51-53.

² In fact, NC WARN even objected when DEP called NC WARN’s executive director, James Warren, to testify at the evidentiary hearing. Transcript at p. 95.

³ Transcript at p. 33

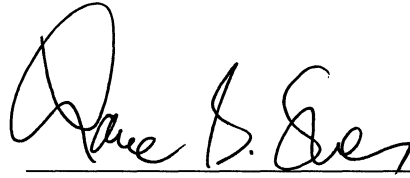
time whether it will have a witness, and if so whether it will present such witness testimony by affidavit or at a hearing upon dates convenient to their potential witness.

5. This latest stall tactic makes it even clearer that NC WARN will take every opportunity to delay the legal process in its efforts to oppose the Western Carolinas Modernization Project. NC WARN has had since the filing of its April 25, 2016 Motion to Set Bond to offer evidence as to an appropriate appeal bond amount, which it has asserted should be in the grossly inadequate amount of \$250.00. It has had since May 2, 2016 to present whatever form of argument or evidence it so chose in response to the Company's estimated increased construction costs due to an appeal-related delay.

6. For NC WARN to argue that it has not had sufficient time to present its case, while at the same time protesting the Commission's authority to hold the evidentiary hearing, is simply unconscionable. Such actions should not be permitted by this Commission.

WHEREFORE, for all the foregoing reasons, Duke Energy Progress respectfully requests that the Commission deny NC WARN's further attempts to delay this proceeding and promptly establish an appeal bond in the uncontroverted amount of \$240 million at this time to adequately protect the Company's customers as provided for in N.C. Gen. Stat. §62-82(b), and grant such further relief as the Commission deems just, equitable and proper.

Respectfully submitted, this the 23rd day of May 2016.



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CERTIFICATE OF SERVICE

I certify that a copy of Duke Energy Progress, LLC's Reply in Opposition to Response by NC WARN and The Climate Times in Docket No. E-2, Sub 1089, has been served by electronic mail, hand delivery or by depositing a copy in the United States mail, postage prepaid to the following parties:

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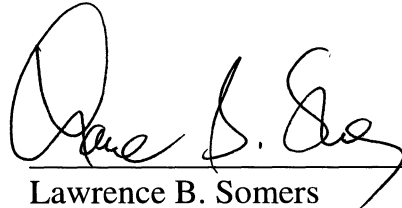
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This the 23rd day of June, 2016



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