

LAW OFFICE OF  
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October 4, 2022

**VIA ELECTRONIC FILING**

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

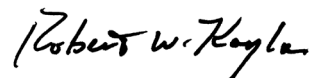
**Re: Duke Energy Progress, LLC's Objection to Oliver Canaday's Motions  
to Compel  
Docket No. E-2, Sub 1150**

Dear Ms. Dunston:

I enclose for filing in the above-referenced matter, Duke Energy Progress, LLC's  
Objection to Oliver Canaday's Motions to Compel.

If you have any questions, please let me know.

Sincerely,



Robert W. Kaylor, P.A.

Enclosure

cc: Oliver L. Canaday  
Parties of Record

OFFICIAL COPY

Oct 04 2022

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. E-2, SUB 1150

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	)	
Application of Duke Energy Progress, LLC	)	
for a Certificate of Environmental	)	
Compatibility and Public Convenience and	)	<b>DUKE ENERGY PROGRESS, LLC's</b>
Necessity Pursuant to N.G. Gen. Stat. §§ 62-	)	<b>OBJECTION TO</b>
100 et seq. to Construct Approximately 11.5	)	<b>OLIVER CANADAY'S</b>
Miles of New 230kV Transmission Line in	)	<b>MOTIONS TO COMPEL</b>
Johnston County, North Carolina	)	
	)	

As required by the Commission's *Order Requiring Response to Motions to Compel* issued on September 27, 2022 and requiring response by October 12, 2022, Duke Energy Progress, LLC ("DEP" or the "Company") hereby responds to Oliver L. Canaday's ("Mr. Canaday") September 13, 2022 and September 26, 2022 motions to compel as follows:

1. DEP requests the Commission to take judicial notice of the following from the Commission's May 3, 2022 *Recommended Order Dismissing Complaint* in Docket No. E-2, Sub 1298 ("Notice Complaint") at page 3:

[On] January 12, 2018, the Commission issued an Order Granting Certificate of Environmental Compatibility and Public Convenience and Necessity in the CPCN Proceeding (Docket No. E-2, Sub 1150 "CPCN Order"). In the CPCN Order, after consideration of the facts and arguments raised by Mr. Canaday, the Commission found that "Mr. Canaday did not satisfy his burden of proof under G.S. 62-105(a), by failing to provide substantial, competent evidence proposing a reasonable alternative route." CPCN Order at 4.

On March 13, 2018, Mr. Canaday filed a Motion for Reconsideration in the CPCN Proceeding, which was denied on May 4, 2018, by the Commission's Order Denying Motion for Reconsideration.

On June 7, June 15, June 22, June 26, July 2 and July 12, 2018, Mr. Canaday filed various requests, motions, and objections in the CPCN Proceeding. The Commission construed the filings liberally as a motion for further reconsideration of the Commission's CPCN Order; a motion to compel DEP and/or the Public Staff to provide certain documentation and/or information; a motion to postpone the effective date of the CPCN Order, pursuant to N.C.G.S. § 62-95; a motion for review, in support of which Mr. Canaday cites to N.C.G.S. § 62-78; and a motion for investigation, in support of which Mr. Canaday cites to N.C.G.S. §§ 62-37, 62-65, and 62-95.

On August 3, 2018, in the CPCN Proceeding, the Commission issued an Order Denying Motions for Relief, denying all of Mr. Canaday's motions for relief that had not been previously addressed in the CPCN Proceeding. The Commission further notified Mr. Canaday that he had exhausted all remedies and relief available to him that were within the jurisdiction of the Commission. Order Denying Motions for Relief at 6.

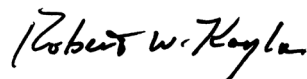
2. As set forth above, the Commission has previously considered and rejected Mr. Canaday's arguments and motions in the CPCN Order and in the Commission's *Order Denying Motion for Reconsideration* issued May 4, 2018. As such, Mr. Canaday has no valid legal basis to ask the Commission to compel DEP to provide him any information related to this docket.

3. Finally, the evidentiary record in this docket has long been closed as a result of Mr. Canaday's failure to properly appeal the Commission's orders to the North Carolina Court of Appeals and any discovery option that was available to Mr. Canaday in this docket has expired; therefore, these current motions to compel are untimely and improper and should be denied. Notwithstanding DEP's objection to Mr. Canaday's September 13, 2022 motion to compel, DEP advises the Commission that right-of-way clearing for the Cleveland-Matthews 230kV transmission line commenced in May 2019 and that construction of the line commenced in June 2019. Construction on the line was completed

and the line was placed in service on October 6, 2020. Construction is still underway on the CPCN project to finalize the switch access road at the southeast terminus of the project and should be completed in mid-December 2022.

WHEREFORE, for all the foregoing reasons, Duke Energy Progress, LLC respectfully requests that the Commission deny and dismiss the filings made by Mr. Canaday on September 13 and September 26, 2022 on the grounds that they are meritless and untimely.

Respectfully submitted, this the 4<sup>th</sup> day of October, 2022.



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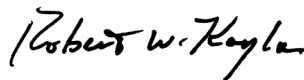
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North Carolina State Bar No. 6237

## CERTIFICATE OF SERVICE

I certify that a copy of Duke Energy Progress, LLC's Objection to Oliver Canaday's Motions to Compel, filed today in Docket No. E-2, Sub 1150, has been served by electronic mail, hand delivery or by depositing a copy in the United States mail, postage prepaid to the following parties:

Oliver Canaday  
713 Camellia Avenue  
Panama City, FL 32404

This the 4<sup>th</sup> day of October, 2022.



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