

ORIGINAL

5 Dec. 2022

Docket No. E-2, Sub 1150

(Original and 15-copies)

From: Oliver L. Canaday (O.L. Canaday), 713 Camellia Ave., Panama City, FL. 32404
(Duke Energy Progress, LLC = (DEP)); (Pursuant to = In Accordance With (IAW))
(Not Later Than (NLT)); (Identify = (IDed)); (Freedom of Information Act = (FOIA))

To: Shonta Dunston - Chief Clerk of N.C, Utility Commission, (Attn: Chair Charlotte
A. Marshall) 4325 Mail Center, Raleigh, N.C. -27699-, (and/or) 430 N. Salisbury St.,
Dobbs Building, Raleigh, N.C. -27603-

Robert W. Kaylor, P.A., 353 East Six Forks Road, Suite 260, Raleigh, N.C. -27609-

- Ref: (a) Docket No. E-2, Sub 1150 (DEP Application of 14 Jul. 2017) -[furnishes provisions of Chapter 62 (G.S. 62-326, G.S. 62-310, R8-62, G.S. 62-80, G.S. 62-2(3a) have not furnished enforcement];
- (b) Robert W. Kaylor, P.A. letter of Objection to Compel of 4 Oct. 2022- furnishes [DEP knowingly (evidentiary Hearing Record) closed to new information];
- (c) Commission Rule R8-62(a)(b)(c)(j)(p)(2)i. [requires cost matters applicable to transmission facilities, having annual (line construction) start date NLT Sept.1];
- (d) G.S. 62-326. "Furnishing False Information to the Commission; withholding Information from Commission";
- (e) G.S. 62-310. "Public utility violating and provision of Chapter, rules or orders; penalty; enforcement by injunction" (have not been enforces);
- (g) G.S. 62-31. Power - make - enforce rules and regulations for public utilities;
- (h) Rule R1-9(a)(b)(1)(2)(3)(4)(5) - Complaints and procedures thereon: Answers;
- (i) Claim (Cause of Action) – is a set of operative facts creating a right enforceable in court; and used when evidence is available and is sure and true;
- (j) Proof- is evidence furnished that a statement is real and true by *prepondence of the evidence, **beyond reasonable doubt, ***clear and convincing;
- (j-1) -Collusion (n) (legal definition): -is when two or more parties secretly agree to defraud a third party of their rights or accomplish an illegal purpose;
- (j-2) -Federal Trade Commission (FTC): -Prohibits firms from engaging in unfair, misleading, or deceptive conduct and practices as they participate in commerce;

- (j3) -The Sherman Act: in particular prohibits firms from entering into collusive agreements that harm other parties and sets maximum fine for corporate collusion at \$100-million;
- (j-4) G.S 62-73. Complaints against public utilities: -made by any person having an interest, and by the Commission on its own motion;
- (j-5) -'Pursuant to' (legal) = something's IAW a particular law, ruling, or request;
- (j-6) -False information (legal) – any written or verbal statement or representation of fact that is not true and made intentionally or without having taken reasonable steps to ascertain whether or not the information was true;
- (j-7) -Allegation (legal) - A party claims a fact not proven to be true - based on fact;
- (j-8) -Allege (legal) – to claim or assert something is true;
- (j-9) -'subject to'-means- A decision is effective when made and deemed approved unless and until reversed by designated body [Example - subject to a rule/law you must obey rule/law or pay amount of money (violators are subject to fine)];
- (k) Due Process of Law(n) -A fundamental principle of fairness in all legal matters, -All legal proceedings set by statute and court practice, including notice of rights must be followed for each individual so no prejudicial - unequal treatment results;
- (l) Amendment V. U.S. Constitution- “No person shall be...deprived of...or property,...without due process of law;"...etc.;
- (m) Amendment XIV. U.S Constitution - “All persons born...in the United States... are citizens of the United States...No State shall make or enforce any law...nor shall any State deprive any person of...or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”;
- (n) G.S. 62-100. Definitions “As...in this Article:...begin to construct” clearing land;
- (o) Philosophy - Axiom of Command (credit to Rear Admiral Grace Hopper) coined (paraphrased) *'easier to ask for forgiveness, than ask for permission'. **'such' philosophy (action) have demonstrated DEP violating provisions of Chapter and having Commission dismiss violations of Chapter 62 ;
- (p) O.L. Canaday letter of 11 Oct, 2021 of - Enforce Disposition of Violations of provisions Chapter 62...etc. [Attn: to furnished enclosures];

Encl: (1) Certificate of 12 Jan. 2018 (furnishes):...”and further subject to all other orders,

rules, regulations and conditions as are now or may hereafter be lawfully made by the North Carolina Utilities Commission. ISSUED BY ORDER OF THE COMMISSION. This the 12th day of January, 2018.”;

- (2)- Certificate of 14 Nov. 2017...”constitutes a true and accurate transcript of said Hearing”...etc. of 31 Oct. 2017 for Docket No. E-2, Sub 1150;
- (3) Extract of 4 Aug. 2022 - Commission reply to O.L. Canaday, Request for copy Public Records (FOIA) related to DEP late-filed Exhibit No. 2 of 13 Nov. 2017;
- (4) Commission letter Response (FOIA) of 7 Sept. 2022, request copy of Commissions’ authorization of DEPs’ Late-Filed Exhibit No. 2 of 13 Nov. 2017;
- (5) Extract of 13 Nov. 2017, DEP letter of 13 Nov. 2017 having: DEP Late-Filed Exhibit No. 2 – A cost Comparison of the four best-scored alternative routes;
- (6) Extract of Hearing of 31 Oct. 2017-Facts- Demonstrate Commission and DEP have knowingly of information: *-authorizing DEP Late-Filed Exhibit No. 1 of 13 Nov. 2017 & ‘such’ Hearing content have no authorization to file Exhibit No. 2; *-furnishes evidentiary record closed 6 Nov. 2017; *-furnishes Commission discovering DEP’s Application having no cost analysis; *-Furnishes DEP admitting to Commission the cost analysis is not in Application or Burns & McDowell Report (record materials/study);
- (7) Extract of Commission Order of 12 Jan. 2018 issuing DEP a Certificate to construct o/a 11.5-miles of 230kV transmission line, **and have following contents:** *-(Commissioners & DEP Appearances); *-DEP submitted Late-Filed Exhibit No. 2 of 13 Nov. 2013 (false information); *-Commission furnishes the evidentiary record closed to new evidence [IAW Hearing 6 Nov. 2017];*there is no projected cost of \$13,692.398.00 (in witness Same’s testimony, furnishes false information in Order; *-Commission furnished DEP Revised Vegetation Management Plan & Policys (Docket No. E-2, Sub 1010 of 22 Mar. 2016; *-Therefore ORDERED, paraphrased (at) 5. DEP is required to furnish written notice to landowners of no-spray area option of their land IAW DEP Revised Vegetation Management Plan and Policys;
- (8) -Public Staff Letter to Commission of 16 Oct. 2017, Recommends issue of Certificate;
- (8a) -Public Staff Letter of 19 Mar. 2019, reply to Public Records Request (FOIA) and E-Mail exchanges of Public Staff and DEP of 15 Aug. 2017 thru 2 Oct. 2017 & having information related to cost of line construction and acquisition of ROW, also information on 2016 IRP and 2015 IRP Update;

- (9) (Filed) County of Johnston, N.C. *Special Use Permit of 15 Oct. 2018 via Case #18-12 (IAW Board of County Commissioners for 21.52 Ac.); -proposed use - electrical substation; related matters -*DEP offer (O.L. Canaday) for easement of 14 Aug. 2018; -*Johnston County Register of Deeds furnishes DEP having easement filed 24 Jul. 2018 for Anthon Ivan Lassiter (may have earlier filings); *Special Permit of 15 Oct. 2018 furnishes reasonable start date of 16 Oct, 2018 for Construction of line;
- (10) Commission Order of 10 Oct. 2022 Denying Motions to Compel: *for DEP Start Date of Line Construction IAW R8-62(p)(2)i.; **authorization for filing Late-Filed Exhibit No. 2 of 13 Nov. 2013 (after Record closed 6 Nov. 2017);
- (10a)- DEP Objection to compel of 4 Oct. 2022: 1)-*furnish line construction start date,; 2)-*furnish copy of Commission authorization for DEP Late-Filed Exhibit No. 2 of 13 Nov. 2013; (see Ref: (o)
- (11) Commission Order of 27 Sept. 2022, Order Requiring Response to Motions to to Compel: 1)-*Start Construction of line; 2)-*Authorization of Exhibit No. 2;
- (12) 62-11. Oath of Office. – of – (for) N.C. Utility Commissioners;
- (13) Public Utilities, Article 1 General Provisions, ‘Notes of decisions’ “By enacting the Public Utilities Act, the General Assemble conferred broad powers upon North Carolina Utilities Commission to regulate public utilities and to compel their Operation in accordance with policy of the state.” (...“powers to regulate public utilities and to compel their operation in accordance with policy of state as declared in statute.”); and “Power of eminent domain is inherent in certificate of public convenience and necessity.”;
- Subj: -O.L. Canaday Objects to Commissions’ Order Denying Motions to Compel of 10 Oct. 2022, and
 -O.L. Canaday Motions (to) File Violation(s) Complaint IAW G.S. 62-73 (matters) in Certificate of 12 Jan. 2018; IAW...”and further subject to all other orders, rules, regulations, and conditions as of now or may hereafter be lawfully made by the North Carolina Utilities Commission. ISSUED BY ORDER OF THE COMMISSION. This the 12th day of January 2018.”;

1.- O.L. Canaday objects to Commissions’ Order denying Motions to compel, and this objection is not frivolous; and files motions of complaint - violations (of) in Certificate.

Objection to motions of Compel follows:

- .a -Fact- IAW Ref: (h), R1-9(4), In a clear concise statement, O.L. Canaday (having

proof) claims DEP knowingly and willingly have violated G.S. 62-326 via requirement having a start date, IAW R8-62(p)(2)i. for construction annually NLT Sept. 1; and

1)- -Fact- O.L. Canaday (having proof) claims and furnishes DEP's Application of 14 Jul. 2017 for Certificate furnishes "Pursuant to" (IAW) Rule R8-62 and furnishes DEP knowing and willingly having violated all requirements of furnishing cost analysis in Application. construction start date NLT 1 Sept.

2019. And, DEP furnishes "Pursuant to" G.S. 62-100 which is related to construction, and furnishes DEP knowingly of construction. The start date of violation date of 1 Sept. 2019 and continuing until cured having o/a 1,154-days in violation; and

2)- -Fact- IAW Ref: (h), R1-9(5), O.L. Canaday having proof claims particular relief desired is IAW provisions of Chapter 62. Relief analysis is furnished further in complaint; and

b. IAW Ref: (h), R1-9(4), In a clear concise statement, O.L. Canaday (having proof) claims DEP knowingly and willingly filed Late-Filed Exhibit No. 2 of 13 Nov. 2017 (which is new information). DEP 'knowingly and willingly' violated: G.S. 62-326 via filing false information in Record and Commission order of having closed evidentiary Hearing effective 6 Nov, 2017 for new information, at Hearing of 31 Oct, 2017; and

1)- -Fact- (DEP nor Commission have furnished copy of authorization (instruction) for Late-Filed Exhibit No. 2.) [Note* (exception) -Commission furnished (description) authoring DEP Late-Filing of Exhibit No. 1 Evaluation of 230kV Transmission Line route to parallel existing 500kV transmission line in (during) Hearing.] And, violations start 13 Nov. 2017 continuing until cured IAW G.S. 62-310; and

2)- -Fact- IAW Ref: (h), R1-9(5) O.L. Canaday (having proof) claims particular relief desired is IAW provisions of Chapter 62 having violation of filing Exhibit No. 2 and relief analysis is furnished further in complaint.

2.- -Fact- Docket status -remains Open. -And, O.L. Canaday finds no Rule or Law in Chapter 62 furnishing Commission Order having a statute of limitation date until docket is closed by Commission Order; and,

3.- -Fact- nor, O.L. Canaday have not finds where Commission closes Docket No. E-2, Sub 1150 and knowingly having issued DEP Certificate having 'such' false Information, -(not a challenge -Fact-).'

4.- -Fact- O.L. Canaday (having proof) files motion of complaint of DEP's violations in Certificate content IAW G.S. 62-73; and

5.- DEP has *'professional Conductors' working Application (Ref: (a)) see following:

- *-Attorney Lawrence B. Somers, N.C. Bar No, 22329 (active)
- Attorney Robert W. Kaylor, N.C. Bar No. 6237 (active)
- Timothy J, Same, N.C. Professional Engineer, License No. 032750 (current)
- James T. Unbdenstock, N,C. Professional Engineer, License No. 019231 (current)
- Kristein Dwiggin, Project Manager, Re: Cleveland Matthews Road Tap Line*

6.- DEP have furnished Commission (at times); O.L. Canaday challenges Commission and Order for Certificate of 12 Jan. 2018, therefore, O.L. Canaday brings-forth - Facts- (having proof) and claim violation matters in Certificate requirements (related in Application for issuing Certificate); and/or, withholding information from Commission. And proof is in Ref: (a) and Enclosures herein), **follows:** and

a. -Fact- IAW Ref: (h), R1-9(4), requires a clear concise statement of DEP violations in Certificate of 12 Jan. 2018. -Fact- O.L. Canaday (having proof) claims DEP have

furnished false information to Commission (for issued Certificate of 12 Jan .2018); and
'such' false information is furnished in Order issuing Certificate of 12 Jan. 2018. This is
not Due Process IAW Ref: (k), (l) and (m).

1)- -Fact- O.L. Canaday (having Proof) claims DEP VERIFICATION document of
5 Jul. 2017 having furnished false information to Commission for Certificate; and

a)- -Fact- O.L. Canaday (having proof) claims DEP Verification furnishes false
information, IAW Representative (Mr. Same) furnishing information 5 Jul. 2017 - having
read Application and..."knows contents thereof; and that the same are true and correct to
best of knowledge,"...etc.; and

b)- -Fact- O.L.Canaday (having proof) claims Verification document having fol-
lowing false information: **1).** -Application is dated 14 Jul. 2017, Mr. Same could not
have read Application prior to it being available and verify 5 Jul. 2017 (10-days prior to
being available = (Ref: (a) contains proof; **2).** -Application furnished "Pursuant to" G.S.
62-100 and Rule R8-62, and DEP have not furnished annual construction start date of
September 1 (required at year 2019) = (Ref: (a) contains proof; **3).** -Application furn-
ished false information in "Pursuant to" Rule R8-62(a)(p) (incorporates R8-61 and R8-
60) these 3-Rules have required matters (cost analysis) of: construction; operation; main-
tenance; & ROW acquisition & Danger Tree Rights = Ref: (a) contains proof; **4).** -DEP's
(Mr. Same) having admitted-to no-cost analysis in Application or in Burns & McDonnell
Report of 06/2/2017 in (during) evidentiary Hearing of 31 Oct. 2017 'under oath' - (Ref:
(a)- furnishes proof; **5).** Application furnishes "Pursuant to" G.S. 62-101 having require-
ment -"A transmission line for which a certificate is required shall be constructed,

operated, and maintained in conformity with the certificate.”, and (Ref: (a) furnishes proof – Certificate having false information, not in conformity with certificate; 6)- Fact O.L. Canaday (having proof) claims DEP have knowingly and willingly submitted Verification document of 5 Jul, 2017 to Commission having false information. And, ‘such’ false information is furnished (intervener & 31-Route landowners) that depend on DEP technical information and analysis in Application of 14 Jul. 2017 to be true/ correct (furnished) for date of 31 Sept. 2017 for Hearing to have equal information for Due Process); and

c)- -Fact- O.L. Canaday (having proof) claims DEP (witness Mr. Same) furnishing Direct Testimony [O.L. Canaday witnessed oath when read into evidentiary Hearing of 31 Oct. 2017); furnishes (under oath in Q&A): **“Q. WERE YOU INVOLVED IN PREPARING DEP’S APPLICATION IN THIS DOCKET? A. Yes.” “Q. TO YOUR KNOWLEDGE, WILL DEP FILE AND PROVIDE ALL INFORMATION,... REQUIRED BY THIS COMMISSION,...REQUIRED FOR CONSTRUCTION AND OPERATION OF THIS TRANSMISSION LINE? A. Yes. The uncontroverted proof of violations in Application (furnished in this document of complaint have furnished proof) this Direct Testimony furnished false information to Commission in filing Application IAW Ref: (a) and information in this complaint document; and**

d)- -Fact- O.L. Canaday (having proof) claims Commission Discovered DEP’s Application of 14 Jul. 2017 having been submitted withholding cost analysis in (during) evidentiary Hearing of 31 Oct. 2017 proceeding in Q & A. The proof is DEP’s (witness Mr. Same) admitted to Commission (under oath, “A. No, sir.”) cost analysis is not in

Application (nor) in Burns & McDowell study (Report); and

1)- Note* O.L. Canaday (hind-sight) -DEP having violated G.S. 62-326 – with-holding required information). This (was) time (opportunity) for Commission to use Power of G.S. 62-31 and enforce G.S. 62-310 - which furnishes penalty; enforcement by injunction (which would have furnished time for DEP to furnish complete cost analysis IAW Rule R8-62(a)(p) (incorporating references R8-61 and R8-60). Note* DEP will-ingly and knowingly requirement, have not furnished required cost analysis, IAW “Pursuant to” Rule R8-62 in Application; and Commission have not used G.S. 62-31 and enforced G.S. 62-326 and G.S. 62-310 to correct Application; and

2)- -Fact- O.L. Canaday (having proof) claim Commission instructed evidentiary Hearing Record closed to new information 6 Nov. 2017; = proof in Ref: (a)) Record; and

3)- -Fact- O.L. Canaday (having proof) claims DEP filed false information (Late-Filed Exhibit No. 2 of 13 Nov. 2017) & (proof in Ref: (a)). Note* exception (authorized) filed as late-filed Exhibit No. 1 & described in instructions for filing ‘such’-an Evaluation of 230kV Transmission Line Route to Parallel existing 500kV Transmission Line; and

4)- Fact- O.L. Canaday (having proof) claims Commission knowingly and will-ingly (by date) furnishes such false information of Exhibit No. 2 in Order for Certificate. (Note* -Commissions mentions O.L. Canaday late-filed information not filed (& correct not filed) -arrived late); and proof is in Commission Order; and

a)- -Fact- O.L. Canaday (having proof) claims DEP have not provided ‘such’ authorization for late filing Exhibit No. 2, (it does not exist) IAW information in Ref: (a), see Encl: (10); (10a); and (11); and

b)- -Fact- O.L. Canaday (having proof) claims Commission have not provided 'such' authorization (via Request for Public Information (FOIA)); (it does not Exist); and

c)- -Fact- O.L. Canaday (having proof) claims information; [via certified transcript, transcribed for Docket No. E-2, Sub 1150 by Certificate of 14 Nov. 2017 (by Linda S. Garrett, Court Recorder/Notary Public No. 19971700150)]; furnishes uncontroverted proof, Commission have not furnished DEP authorization for filing of Late-Filed Exhibit No. 2 in Record; and proof, having furnished false justification in Order for Certificate. ** O.L. Canaday motions Commission use power of G.S. 62-31 and enact G.S. 62-80 and rescind Certificate Order until DEP sorts out and cures all violations in (for) Application.

d)- -Fact- O.L. Canaday (having Proof) 'claims neither official' for Commission nor -DEP have produced 'such' authorization (instruction) for having submitted 'such' (false) information to be filed in formal proceedings of Docket No. E-2, Sub 1150. Therefore O.L. Canaday (having furnished proof) claim such' new information in Exhibit No.2 is false. And, 'such' false information (have been) filed and furnished in justification for Certificate of public convenience and necessity of 12 Jan. 2018. 'Such' filing of information demonstrates -DEP knowingly and willingly furnishing false information in Application for issuing DEP Certificate. This furnishes uncontroverted proof required 'Due Process', have not been furnished IAW Ref: (l) and (m), in proceedings having inherent Power of eminent domain, and IAW Commission's oath: and

e)- -Fact- O.L. Canaday (having proof) claims DEP's Application have furnished Commission false information (via DEP furnishing & submitting following information) -*"Pursuant to" G.S. 62-101; -*"Pursuant to" Commission Rule R8-62"; -*"Pursuant to" G.S. 62-100; & *"The Report satisfies all the requirements of N.C.

Gen. Stat. 62-102.” DEP have knowingly and willingly furnished false information related in *such required matters. The proof is in Ref: (a) and IDed violation(s) furnished in this Certificate complaint, and have furnished substantial proof of violations.

7.- -Fact- O.L. Canaday (having proof) claims, having **discovery 10 Nov. 2022 in DEPs’ Certificate** (DEP Representative(s) -having furnished ***false information** and **withholds information IAW G.S. 62-326**). And, **4 Dec. 2022, o/a 0400 hours O.L. Canaday have discovered DEP having furnished Application knowingly and willingly** having omitted all required cost analysis IAW **“Pursuant to” Rule R8-62 and incorporates requirements of R8-61 and R8-60**).

a. -Facts- O.L. Canaday (having proof) claims DEP have furnished Certificate (contents of Application of 14 Jul. 2014); false information; and

b. -IAW Ref: (h) R1-9(4), requires a clear concise statement DEPs’ violation **-Fact-** O.L. Canaday (having proof) claims - DEP violates provisions of Chapter 62, ‘subject to’ requirements in Certificate, via not having requirements of rule [R8-62(p)(2)i.- IAW having an annual start date 1 Sept. This annual start date violation starts 1 Sept. 2019 and violation having o/a 1,136-days of violations (continuing until cured) and

1)- -IAW Rule R8-62(p)i. **-Fact-** [O.L. Canaday (having proof) claims, the Certificate is ‘subject to’ rule requirements IAW -- Rule R8-62(p)(2)i. and requires DEP furnish a start date annually NLT 1 September; and

a)- **-Fact-** This year (date) under construction at 1 Sept. 2019 and DEP have not furnished Commission such date in Ref: (a) (it does not exist); and

b)- **-Fact-** O.L. Canaday discovered (o/a 24 Nov. 2022) DEP having requirements

for a Special Use Permit from Johnston County. The Special Use Permit having a filed date of 15 Oct. 2018 in Register of Deeds and copy of easement, (see Encl. (9); and

c)- -Fact- O.L. Canaday have furnished copy of DEP offer (easement) date of 14 Aug. 2018. -Fact- earliest discovered DEP easement contract signed/filed in Register of Deeds have date of 24 Jul. 2018 by Anthon Ivan Lassiter (maybe earlier dates); and

d)- -Fact- DEP having a signed easement 24 Jul. 2018 and having a required Special Use Permit filed in register of Deeds 15 Oct, 2018, furnishes; and

e)- -Fact- DEP having authorization for Special Permit 15 Oct. 2018 and easement signed 24 Jul. 2028 furnishes DEP having legal requirements to start construction. (DEP continues knowingly and willingly withholding construction start date.) Violation dates, analysis, furnished by O.L. Canaday, via foregoing (date matters), violations have o/a 1,504-days penalties (starting 16 Oct.2019 – thru present 29 Nov. 2022 (continuing until cured); and

2)- -IAW Rule R1-9(5). -Fact- O.L. Canaday (having proof) claims particular relief desired: to be IAW provisions of Chapter 62 and G.S. 62-310 prescribed penalties IAW N.C. General Assemble. There is 1 violation X 4 offenses (*R8-62(p)(2)i., *G.S 62-326 (withholding date); *Certificate requirement violation; and *G.S. 62-310 prescribed penalties; = 4-violations X \$1,000.00 each violation = \$4,000.00-a-day X 1,504-days penalty = **\$6,016,000.00 sum of penalty sub-total** (continuing until cured); and

c. -IAW Ref: (h), Rule R1-9(4). -Fact- O.L. Canaday (having proof) claims (clear concise statement) DEP violation continuing R8-62 violations of (R8-62)(c)(3)a.(4)c.) is DEP withholding considerations of operation and maintenance *(O&M) cost; and

1)- -Fact- The violations of (R8-62)(c)(3)a.4c,) O&M consideration (cost) is 2 X 4-routes/alternatives = 8 Violations X 2 offenses (G.S. 62-326/G.S. 62-310) = 16-violations X \$1,000.00 penalty = \$16,000.00 X o/a 1,930 daily penalty = \$30,880,000.00; and

2)- IAW Ref: (h), Rule R1-9(5). -Fact- O.L. Canaday (having proof) claims particular relief desired is: IAW N.C. General Assemble provisions of Chapter 62 and G.S. 62-310 prescribed penalties of \$1,000.00 a day until cured **is o/a \$30,880,000.00 sum of penalties sub-total;**

d. -IAW Ref: (h), Rule R1-9(4). -Fact- O.L. Canaday (having proof) claims -(concise statement of DEPs' violation): continuing R8-62 violations in (R8- 62(c)(3)b.(4)c.). Fact O.L. Canaday (having proof) claims DEP Application have not furnished requirements of projected cost of* line construction and to include *acquisition of ROW (must have for construction) and *alternatives routes (4-best scored-routes). DEP demonstrates knowing and willingly withholding 'such' *construction cost and *acquisition of ROW requirements of*alternatives (4-routes) from Commission (it does not exist in Application); and

1)- -Fact- O.L. Canaday (having proof) claims Commission closed record to new information 6 Nov. 2017 - (at evidentiary Hearing of 31 Oct. 2017); and

2)- -Fact- O.L. Canaday (having proof) claims DEP furnished Late-Filed Exhibit No. 2 of 13 Nov. 2017 to Commission and is false information (IAW G.S. 62-326); and

3)- -Fact- O.L. Canaday (having Proof) claims DEP having (exception) authorized (instructions to Late-File Exhibit No. 1, described as new 230kV line paralleling existing 500kV Line and running to new sub-station. *(-Fact- there is no description (authorizing) a Late-Filed Exhibit No. 2 of 13 Nov. 2017 furnished by Commission); and

4)- -Fact- O.L. Canaday (having proof) claim transcript of Hearing of 31 Oct. 2017 have no such authorization in content for Exhibit No. 2; and content is certified IAW Certificate of 14 Nov. 2017 -and transcribed for Docket No. E-2, Sub 1150 transcript Hearing by: Linda S. Garrett, Court Reporter/Notary Public No. 19971700150; and

5)- -Fact- IAW Ref: (h), R1-9(5). O.L. Canaday (having proof) claims particular relief desired is IAW provisions of Chapter 62 and G.S. 62-310 prescribed penalties. The start date of penalty begins submitted Application date of 14 Jul. 2017. DEP withholds 2-(*line construction cost -*acquisition of ROW cost) X 4-(*alternatives (4-routes)) = 8 violations X 3-(offenses of *G.S. 62-326; *G.S. 62-310; & *R8-62) = 24-violations X \$1000.00 day penalty = \$24,000.00 daily penalties X 1,930-days = **\$46,320,000.00**

sum of penalties, sub-total;

6)- IAW Rule R1-9(5). The particular relief desired for DEP violating R8-62 is furnished in sub-totals of violations IAW provisions of Chapter 62 and IAW G.S. 62-310 prescribed penalties IAW the N.C. General Assembly, follows:

| | |
|--------------------|----------------|
| R8-62(p)(2)i,..... | \$6,016,000.00 |
| R8-62(c)(3)a,..... | 30,880,000.00 |
| R8-62(c)(3)b,..... | 40,320,000.00 |

=====

\$77,216,000.00 sum, sub-total R8-62

e. -Fact- IAW Ref: (h), R1-9(4) -Fact- O.L. Canaday (having proof) claims (in a clear concise statement of DEP violations of Rule R8 61(b)(3)(i)(ii)(iii)(viii)(e) – (incorporated reference - R8-62(a)). [O.L. Canaday claims having (best effort) separating transmission lines matters from generating facilities matters.] O.L. Canaday (having proof) claims violations start 14 Jul. 2017, ('such' provisions of Rules in R8-61 do not

exist in DEPs' Application); and DEP Certificate have violated 'such' provisions in Rule R8-61, and 'such' violations follow:

1)- -Fact- O.L. Canaday (having proof) claims DEP have not furnished requirements of R8-61(b)(3)(i) – DEP's Application of 14 Jul. 2017) have not furnished cost of (new *transmission lines & *acquisition of ROW/Danger Tree Rights area), of final alternatives considered (4-routes).

a)- Violation Analysis = 2-*violations X alternatives (4-routes) = 8-violations X 4-offenses (*R8-61, *G.S. 62-326, *G.S. 62-310, *Certificate order = 32-violations; and

b)- IAW Rule R1-9(5). -Fact- O.L. Canaday (having proof) claims DEP knowingly and willingly withholds requirements of R8-61(b)(3)(i) and totals 32-violations [violations have beginning 14 Jul. 2017 (and continuing until cured)]; = \$1,000.00-a-day penalty X 32-violations = \$32,000.00-daily penalty X o/a 1930-days in violation = **\$61,760,000.00 sum of penalties sub total** (penalties continues until cured)

2)- IAW Rule R1-9(4) requires a clear concise statement of DEP violations of R8-61(b)(3)(ii). -Fact- O.L. Canaday (having proof) claims DEP have not furnished required cost expressed as dollars per megawatt of capacity IAW R8-61(b)(3)(ii); and

a)- -Fact- O.L. Canaday (having Proof) claims DEP have not furnished required cost information in Application comparing final alternatives (4-routes) considered; and

b)- IAW Rule R1-9(5), Fact- O.L. Canaday (having proof) claims particular relief desired: IAW provision of Chapter-62. Violation have 1-cost requirement X 4-alternatives (4-routes) = 4 requirements X 4-offenses (*R8-61, *G.S. 62-326, *G.S. 62-310, and *Certificate order) = 16-violations X \$1,000.00-daily = \$16,000.00-daily

penalty X o/a 1,930-days in penalties = **\$30,880,000.00 sum of penalties sub total** (and continues until cured); and

3)- -IAW Ref: (h), Rule R1-9(4). –Fact- O.L. Canaday (having proof) claims (in a clear concise statement), DEP have violated R8-61(b)(3)(iii); and

a)- -Fact- O.L. Canaday (having Proof) claims DEP having withhold - *cost of annual operation expense by category (line) X alternatives (4-routes); and

b)- IAW Ref: (h), Rule R1-9(5), -Fact- O.L. Canaday (having proof) claims particular relief desired: IAW provision of Chapter 62. Violation is having 1-cost requirement X 4-alternative (4-routes) X 4-offenses (*R8-61, *G.S. 62-326, *G.S. 62-310, and *Certificate order) = 16-violations X \$1,000.00-daily penalty = \$16,000.00-daily penalty X o/a 1,930-days in violation = **\$30,880,000.00 sum of penalties sub total** (and continues until cured); and

4)- -IAW Ref: (h), Rule R1-9(4). –Fact- O.L. Canaday (having proof) claims (in a clear concise statement), -DEP have violated R8-61(b)(3)(iv); and

a)- -Fact- O.L. Canaday (having proof) claims DEP having withhold cost of (estimated annual operating expense expresses as dollars per net megawatt-hour); and

b)- -IAW Ref: (h), Rule R1-9(5). –Fact- O.L. Canaday (having proof) claim particular relied desired; IAW provisions of Chapter 62. Violation is 1-cost requirement X 4-Alternatives = 4-violations X 4-offenses (*R8-61, *G.S. 62-326, *G.S. 62-310, and *Certificate order) = 16-violations X \$1,000.00-daily penalty = \$16,000,000.00-a-day penalty X 1,930-days in violation = **\$30,880.000.00 sum of penalties sub total** (and continues until cured); and

5)- -IAW Ref: (h), R1-9(4), -Fact- O.L. Canaday (having proof) claims (in a clear concise statement); -DEP have violated Rule R8-61(e); and

a)- -Fact- O.L. Canaday (having proof) claims DEP having violated R8-61(e) by ...DEP have not furnished..."shall have the burden of proof to demonstrate that all cost incurred are reasonable and prudent." [The proof is, this burden of proof does not exist in Ref: (a), and violations begin 14 Jul. 2017.] (Note*- When Commission or DEP furnishes reference to Commission Order of 12 Jan. 2018, related to 'such' cost information – the following is gleaned from Order, page 9, 3rd-paragraph (paraphrased):

Note* -Fact- Commission Order furnishes: -"As demonstrated by witness Same's Testimony, it furnishes, 'witness Same's Testimony under oath [in (during)] Hearing = furnishes that cost analysis is not in Application or the Burns & McDonnell Report of 06/2/2017 = (in Q & A in Hearing, furnishes that the cost analysis is not in Report or Application by A. (answer) Yes.; -and

*-Fact- "and DEP late-Filed Exhibit No. 2, the projected cost of constructing the transmission line on Route 31 is \$13,692,398.00." = Exhibit No. 2 having date of 13 Nov. 2017, O.L. Canaday (having proof, -Claims such cost is false information (IAW G.S. 62-326); and

*-Fact- 1)- Commission closed evidentiary Record 6 Nov. 2017; *2)- not authorized; *3)- and DEP knowing and willingly filed new information o/a 8-days after closed; and

*-Fact- Commission furnishes projected cost of transmission line on 31-Route cost as \$13,692,398, and furnishes No Party presented evidence this estimated cost as unreasonable; and record furnishes (*unauthorized cost have not entered Application) - and submitted o/a 8-days after evidentiary Record closed date of 6 Nov. 2017; and

*-Fact- Commission furnishes, DEP late-filed Exhibit No 2 consistent with 31-Route (\$13,692,398.00) or lower –and- 4-Route (\$13,149,245.00) = \$543,153.00-lower construction cost - - *****- DEP nor Commission have addressed associated cost of O&M [*31-Route o/a 11.5-miles long and 4-Route o/a 6.2-miles = 31-Route having o/a 46% greater O&M cost - - and (DEP nor Commission addresses this difference).

b)- -Fact- A reasonable person furnishes 4-Route cost of O&M at 46% less and have least cost O&M for rate payers (long term, life of line) IAW R8-60(a) have purpose to implement G.S. 62-2(3a) with least cost integrated resource planning by utilities in N.C, and (b)-furnishes applicability to DEP by name; and

c)- -Fact- The proof is, this burden of proof does not exist in Ref: (a), and DEP (knowingly and willingly) withholding (required) related alternatives cost of O&M; and

d)- -Fact- IAW Ref.: (h), R1-9(5), O.L. Canaday (having proof) claims particular relief desired (be in a clear concise statement); having violated Rule R8-61(e) and (Penalties beginning date of (Application) of 14 Jul. 2017.); have 1-violation X 4-alternatives = 4-violations X 7-violations (*construction, *acquisition of ROW, *operations, *maintenance, *G.S. 62-326, *G.S. 62-310, *Certificate order) = 28-violations X \$1,000.00-a-day = \$28,000.00-a-day X o/a 1.930-days in violation = **\$ 54,040,000.00 sum of penalties sub-total**, (continues until cured); and

e)- -Fact- IAW Rule R1-9(5). O.L. Canaday (having proof) claims, the particular relief desired for violating R8-61 are penalties, to be IAW provisions of Chapter 62 and IAW G.S. 62-310 prescribed penalties for violating R8-61 – Total of sub totals follow:

| | |
|---------------|--|
| (3)(i)..... | \$61,760,000.00 |
| (3)(ii)..... | 30,880,000.00 |
| (3)(iii)... | 30,880,000.00 |
| (3)(iv)..... | 30,880,000.00 |
| R8-61(e)..... | 54,040,000.00 |
| ===== | |
| | \$193,000,000.00 sub total for R8-61 violations |

6)- -Fact- IAW Ref: (h), R1-9(4), -Fact- O.L. Canaday (having proof) claims (in a clear concise statement) DEP having violated R8-60(a)(b)(h) (incorporated by reference in R8-62(p)); and

a)- -Fact- O.L. Canaday (having proof) claims DEP Application (start date of 14 Jul. 2017) -have not furnished required information IAW R8-60(a). Purpose of this rule is implement provisions of G.S.62-2(3a)...”with respect to least cost integrated resource

planning by utilities in North Carolina.” (Proof, there is no such cost in Ref: (a)); and

b)- -Fact- IAW in R8-60(a) ‘integrated resource planning’ = ‘least cost combination’ on long term basis; -the Resource Planning furnishes (IDed by comparison) the best resource option (least cost) of 4-Routes is 4-routes X 8-violations of (*construction & *acquisition of ROW, *operation, *maintenance and violation of *R8-60(a), *G.S. 62-326, *G.S. 62-310, and *G.S. 62-2(3a) = 32-violations X \$1,000.00-a-day penalty = \$32,000.00-daily penalty X 1,930 days in violation = **\$61,760,000.00 sum of penalties sub-total** and (continues until cured); and

7)- -Fact- Continuing DEP violations of Certificate IAW **Rule R8-60(b), the rule furnishes applicability by name - Duke Energy Progress, Inc.**; ...other utilities; and

8)- -Fact- Continuing DEP violations of Certificate IAW R8-60(h); DEP have not filed its requirement of its Biennial Report By 1 Sept. 2016 (even years). DEP requirement to file, with Commission, its current integrated resource plan with all information required in subsection i. of this rule. And by 1 Sept. 2015, (odd years), each year in which a biennial report is not required to be Filed with Commission an update report is required to be filed containing updated 15-year forecast of items described in subparagraph (c)(1)...etc. The DEP Biennial Report of 1 Sept. 2016 or Update Report of 1 Sept. 2015 (for Cleveland – Matthews Road Line); have not been filed IAW R8-60(h); and

a)- -Fact- DEPs’ Application of 14 Jul. 2017 have not furnished ‘such’ ‘required’ integrated Resource Planning and Filings in content of Application. The Proof is, it does not exist in (Ref: (a)); and

b)- -Fact- Further proof, this R8-60(h) (requirement) have not exist - furnished in

Encl: (8a), page 2/15, 5th paragraph, see E-mail exchanges between Public staff and DEP (the E-mail exchanges (o/a 15 Aug. 2017)) furnish DEP have not furnished the required Integrated Resource Planning in Application or filed it with Commission; and

c)- -Fact- more proof, DEP have purchased substation site date of 15 Dec. 2015; 21.52 acre, parcel No. 06F04070L, Pin ID# 164500-27-7686, Sale Price: \$523,000.00 (at Register of Deeds file, Johnston County, N.C.). -Fact- the sale date of purchase 15 Dec. 2015 , and Application of 14 Jul. 2017 of 230kV Transmission Line. -Fact furnishes DEP knowingly of Resource Planning needs prior to Application of 14 Jul. 2017. Fact- These dates (connect dots) furnishes proof DEP knowing & willingly violating Rule R8-60(h) for DEP Application of 14 Jul. 2017 via site purchase date of 15 Dec. 2015; and

d)- -Filed violation of Rule R8-60(h) furnishes DEP knowing & willingly violating requirement in R8-60(h) and violations are related to: 2 -requirements (**Biennial Report of 1 Sept. 2016* and **Update Report of 1 Sept. 2015*) X 5 violations (**Rule R8-60(h)*; **G.S. 62-2(3a)*; **G.S. 62-326*, **G.S. 62-310*, **Certificate order*) = 10-violations X \$1,000.00-a-day penalty = \$10,000.00-daily penalty X o/a 1,930-days in violation = **\$19,300,000.00 sum total sub-total** (continuing until cured)

e)- IAW Rule R1-9(5). O.L. Canaday (having proof) claims particular relief desired for violating R8-60 are penalties to be IAW provisions of Chapter 62 and IAW G.S. 62-310 prescribed penalties IAW N.C General Assemble. The R8-60 violations sub-totals follow:

| | |
|--|--|
| R8-60(a)..... | \$61,760,000.00 |
| R8-60(b)..... | -Applicability - to DEP, Inc. & others |
| R8-60(h)..... | 19,300,000.00 |
| ===== | |
| \$81,060,000.00 Sub-total of R8-60 violations | |

f. -Fact- IAW Ref: (h), R1-9(4), -Fact- O.L. Canaday (having proof) claims in (a clear concise statement); DEP's violation of (in) Certificate (Order of 12 Jul. 2018). O.L. Canaday (having proof) claims, -DEP having started construction of line prior to furnishing 67-landowners written notice of option of no-spraying herbicides on their land in ROW. This violation having been discovered, in written complaint of violation by O.L. Canaday of 14 Sept. 2020, and proof follows; and

1)- -Fact- DEP have knowingly and willingly furnished (damage control 'late' o/a 640-days); written notice, of no-spray options on land in ROW & Danger Tree Rights area, date of 28 Sept. 2020 and received by O.L. Canaday 2 Oct. 2020; and

2)- -Fact- O.L. Canaday (having proof) claims DEP Responses of 29 Sept. 2020 and 28 Oct. 2020 demonstrates DEP having and knowingly 'such written notice' information from Commission Order of 12 Jan. 2018 (page-15, 2nd paragraph); and

3)- -Fact- O.L. Canaday (having proof) claims DEP (both) Responses furnish DEP confirms (knowingly) of written notice requirements *via Docket No. E-2, Sub 1010 of 22 Mar. 2016* (DEP's Revised Vegetation Management Plan and Policies); and furnished in Commission Order of 12 Jan. 2018 (page-15, 2nd paragraph); and

a)- Fact- Note* -O.L. Canaday complaint of 14 Sept. 2020 furnished complaint IAW Order at Page-16, Paragraph-5. Note* - DEP Response of 9 Dec. 2020 furnishes knowingly of CPCN Order page-15 (DEP's -Revised Vegetation Management Plan and Policies); regarding written notice to landowners of their option of no-spray prior to start of construction. Confirms DEP having and knowing requirement 12 Jan. 2018; and

b)- -Fact- IAW DEP 3-Responses (furnishes) and clearly demonstrates DEP is

knowingly (confirms) of written notice requirement (for New 230kV line construction) date of 22 Mar. 2016 and again 12 Jan. 2018, proof, violation is not an inadvertent oversight by DEP professionals; and

4)- -Fact- DEP Responses of: 29 Sept. 2020; -28 Oct. 2020; -9 Dec. 2020 furnishes DEP admitting starting construction (prior to furnishing required written notification) IAW Certificate order (Commission Order of 12 Jan. 2018). This 'admitting' of violation clearly furnishes DEP knowingly and willfully (violating G.S. 62-326) via admitting start of construction prior to written notification & not inadvertent oversight (there is no-ops, of 4-getting 640-days); demonstrating violation is not an inadvertent oversight); and

5)- -Fact- DEP, (knowingly and willingly) admitting violation of (written notice) and apologizing to Commission clearly furnishes this violation is not an inadvertent oversight by DEP Professionals; it furnishes, it is clearly overt and asking for forgiveness (see Ref: (o)) ['it is easier to ask for forgiveness, than ask for permission']. Note-* Fact- this is DEP's philosophy in these proceedings (submitting Application) Docket No. E-2, Sub 1150. And proof, furnished in O.L. Canaday reporting violations in Application and dismissed (alleged & allegations) - (have not furnished correct legal terminology); and

6)- -Fact- DEP Responses of 29 Sept. 2020 & 28 Oct. 2020 furnishes having knowingly & willingly furnishing oral explanation (no-spraying option of herbicides); and simultaneously furnishing voluntary compensations negotiations of easements. This is (overt) uncontroverted proof - DEP initiated what DEP having planned (proof in results); and

7)- -Fact- Furnishes DEP knowingly & willingly (intent) having met with o/a 64-volunteer landowners for easement compensation negotiations and orally explaining o/a

64-times option of no-spraying herbicides and (simultaneously) negotiating the compensation of easements. [Note*- Why would DEP knowingly & willingly furnish o/a 64-oral explanations avoiding the written notice? This DEP action demonstrates **(overt) action ‘openly’ (in your face)** knowingly & willingly disobeying Order in Certificate related in (no-spray option, written notice) in Certificate]; and

8)- -Fact- DEP Responses of 29 Sept. 2020 and 28 Oct. 2020 clearly demonstrates DEP having knowingly and willingly, “met with all property owners along transmission line route who entered into voluntary easement and compensation negotiations and orally explained to them, prior to line construction” (64-landowners = explaining o/a 64-times) etc. DEP explained using herbicide for ROW maintenance and DEP allowed owners to designate land as no-spray and to designate their land as “no-spray” to do so. (Note* three-landowners were in condemnation legation, makes total 67-landowners). and

9)- -Fact- [Note* -DEP (nor Commission) have been forthcoming furnishing construction start date requirement IAW Rule R8-62(p)(2)i.] Construction of line have started after Johnston County, N.C. granted DEP a Special Use Permit. This Permit have been filed in Registered of deeds date of 15 Oct. 2018. DEP having Permit (furnishes) construction is knowingly (legally) permitted to start 16 Oct. 2018; and

10)- -Fact- Having construction start date of 16 Oct.2018, and date DEP furnished written notice of 2 Oct. 2020 furnishes – 640-days (violating G.S. 62-326); withholding information from Commission; and

11)- Fact- DEP knowingly & willingly furnished 64-oral explanations, substituting required written notice. Oral no-spray options demonstrate furnishing o/a-64 oral explan-

ations & is disobeying Commission Order & *Certificate order; via written notice; and violates *G.S. 62-326 and *G.S. 62-310. (See Ref: (o), this is a good example of (DEP knowingly & willingly) violating Commission Order & knowingly it easier to ask for forgiveness than ask for permission (just apologize for forgiveness); and

12)- -Fact- IAW Ref: (h), R1-9(5). O.L. Canaday (having proof) claims particular relief desired is IAW provisions of Chapter 62 and G.S. 62-310-(having prescribed penalties IAW N.C. General Assemble) – and furnished in following analysis:

-there are *67-landowners not receiving written notification prior to construction starting, and furnishes: *Certificate order violated; *Rule R8-62(p)(2)i.-violated);* G.S. 62-326 (with-holding information); *G.S. 62-310 -Any public utility violating any provision of Chapter, rules, or orders: penalty; enforcement by injunction – DEP was in violation of Commission Order for 640-days (by Permit date); prescribed penalties are:

IAW the N.C. General Assemble – are \$1,000.00 a-day until cured; and-Fact- 67-landowners X 4-violations = 268-violations X \$1,000.00 a day = \$268,000.00 penalty-a-day X 640-days in violation = **\$171,520,000.00 sum of penalties sub-total.** and,

8.- -IAW Ref: (h), Rule R1-9(4), requires a clear concise statement of DEP's violation.

-Fact- O.L. Canaday (having proof) claims DEP have knowingly and willingly furnished Commission false information in Late-Filed Exhibit No. 2 of 13 Nov. 2017 (which is new information). At, Commission closing Record for new information date of 6 Nov. 2017 in evidentiary Hearing of 31 Oct. 2017; and

a. -Fact- O.L. Canaday (having Proof) claims DEP have not provided proof of authorization to Late-File new information content of Exhibit No. 2 of 13 Nov. 2017; and

1)- -Fact- DEP asked Commission to dismiss compel order for 'such' authorization (instruction) for Late-Filed Exhibit No. 2 (A cost comparison of the four best-scored alternative routes), see Encl: (5); (6); (10); (10a); and (11) for proof; and

2)- -Fact- O.L. Canaday (having proof) claims this false information DEP furnished Commission, have been furnished 'in-turn' back to DEP, and DEP knowingly and willingly have furnished 'such' information (via certificate) in condemnation of O.L.

Canadays' Property o/a 909 Parker Town Road, Rour Oaks, N.C. via Consent Judgment of 6 Aug, 2021 by Honorable Thomas N. Lock, Judge Presiding in the N.C., Johnston County Court No. 18 SP 591; and

3)- -Fact- O.L. Canaday (having proof) claims DEP knowing and willingly filed Exhibit No. 2 (knowingly it false information, from Record closing 6 Nov. 2017); and

4)- Fact- O.L. Canaday (having proof) claims Commission have furnished this false information in issuing Certificate, see Encl: (7) for information; and

a)- -Fact- O.L. Canaday (having Proof) claims Commission furnished - Late- Filed Exhibit No. 2 of 13 Nov. 2017 containing cost estimates for construction of 4-alternatives (4-Best-Scored routes) in Order to issue Certificate, see page-3/9, 5th Paragraph for proof; and

b)- -Fact- O.L. Canaday (having proof) claims Commission knowingly of evidentiary Record closing to new evidence 6 Nov. 2017, see page 3/9, 7th paragraph; and

c)- -Fact- O.L. Canaday (having proof) claims Commission (**FINDING OF FACT**) furnishes false information, page 4/9 (at) 5th paragraph, (meets requirements of G.S. 62-102 which incorporates G.S. 62-101) = G.S. 62-101 requires conformity of construction. operated. and maintenance conformity in Certificate; there is no cost analysis for construction, operation, and maintenance in Certificate; and

d)- -Fact- O.L. Canaday (having proof) claims Commission knowingly and

willing having false information in order issuing Certificate at page 4/9, paragraph 6.(b). There is no cost for alternative courses of action furnished in DEP Application for alternatives) (4-routes) associated cost for alternatives are: construction, operation, and maintenance, see Rule R8-62 for cost requirements. Note*-the Commission discovered the cost analysis (omitted) in evidentiary Hearing of 31 Oct. 2017. (Fact- this was perfect opportunity to enforce G.S. 62-31 and enforce G.S. 62-310, injunction, and furnishing time to correct Application.) Note*-DEP have furnished "Pursuant to" R8-62 and (incorporates R8-61 and R8-60; therefore, DEP furnishes knowingly and willingly foregoing requirements of R8-62 related cost requirements.); and

e)- -Fact- O.L. Canaday (having Proof) claims Commission knowingly and willing, having furnished information at page 4/9, paragraph 6.(c), the cost associated with transmission line are reasonable; and proof furnishes cost do not exist in Ref: (a). And, also, Commission having discovered, DEP Application having omitted the cost analysis in Application – see Encl: (6), Pages-10/22 – 12/22, attention to page 12/22, lines 15-14 – DEP admits not having cost analysis in Application or Burns & McDowell study or Report of 06//2/2017; and

f)- -Fact- O.L. Canaday (having proof) claims Commission furnishing information O.L. Canaday not satisfying his burden of proof. Proof furnishes, O.L. Canaday have good cause & good reason, DEP's Application not IAW R8-62 requiring associated cost. (Note*-the scenario of proceeding – O.L. Canaday was furnished 'Intervener' status 23 Oct. 2017 for Hearing date of 31 Oct. 2017, and information available 23 Oct. 2017 furnished in DEP's Application have no cost. And Commission have seen all violations

for Certificate, mostly in Rule R8-62 and two other violations of G.S. 62-326 (withholding information and furnishing Commission false information) and DEP violating Commission Order of option to no-spraying herbicides by oral explanation (of option) for 640-days; and

g)- -Fact- O.L. Canaday (having proof) claims Commissions' Order, Encl: (7), page 5/9, 3rd paragraph; -having false information: and

1). -Fact- O.L. Canadaw (having Proof) claims Commission (furnishes Witness Same's testimony); and his testimony have not furnished any cost analysis; and

2). -Fact- O.L. Canaday (having Proof) claims Commission knowing and willingly furnished (Exhibit No. 2 of 13 Nov. 2017); DEP projected cost of 31-Route at \$13,692,398.00. And Commission have knowingly closed Record (for new information) date of 6 Nov. 2017- IAW Commission Hearing of 31 Oct. 2017, and it filed 8-days late. (Note* O.L. Canaday filed new information matters after 6 Nov. 2017 and Commission Order -noted- "after such time as the evidentiary record...was closed to new evidence," and (correctly) this late filed information have not been filed; and

h)- -Fact- O.L. Canaday (having proof) claims Public Staff (recommending Commission) issue Certificate; -have furnished Commission false information in recommendation and proof is in Encl: (8) and (8a); and

1). -Fact- O.L. Canaday (having proof) claims Public Staff knowingly and willfully furnished Commission false information in letter of 16 Oct, 2017 (recommending to issue Certificate). Public Staff having knowingly Application did not have cost analysis of alternatives (4-best scored routes) for construction, operation, maintenance, and acquisition of ROW and Danger Tree area (see Encl: (8) and (8a); and

2)- -Fact- O.L. Cansday (having proof) claims Public Staff having E-mails from DEP furnishing cost matters of construction elements of 4-Route/Preferred, 1-Route, and 31-Route o/a 15 Aug. 2017. Note* -date of o/a 15 Aug. 2017, furnishing information having knowingly (o/a 45-days) prior to Hearing of 31 Oct. 2017; and

3)- -Fact- O.L. Canaday (having proof) claims Public Staff received E-mails o/a 30-days after DEP submitted Application of 14 Jul. 2017, and E-mails have not furnished scenario of transition from 4-Route/Preferred to 31-Route/Preferred; and

4)- -Fact- O.L. Canaday (having proof) claims Public Staff & DEP exchanged E-mails o/a 15 Aug. 2017 and DEP furnished Public Staff estimate of acquisition of ROW (at) \$4,709,205.00. The Record, (Ref: (a), furnishes the 64-landowners volunteering to sign easements (did so) and did not have this acquisition of ROW information. Note*-this violates N.C. Arms length transaction; -all- parties are to have equal footing (information) for making decision for real property transactions. The landowners were blindsided not knowingly the acquisition cost (required in R8-62), and DEP having and knowingly (acquisition) and willingly negotiated with landowners not knowingly 'such' information; and

5)- -Fact- O.L. Canaday (having proof) claim Public Staff and DEP exchanged more E-mails o/a 18 Sept. 2017 and matrix furnishes 31-Route/Preferred (big question is where is information for transiting from 4-Route/Preferred to 31-Route/Preferred?; and

5)- -Fact- O.L. Canaday (having proof) claims, the particular relief desired is IAW provisions of Chapter 62 and IAW G.S. 62-310 prescribed penalties IAW N.C. Law and N.C. General Assemble. Fact- O.L. Canaday (having Proof) claims DEP knowingly and

willing filed false information (Exhibit No. 2) violation starting 13 Nov. 2017, having 1-violation) Exhibit No. 2) X 3-offenses (*violating Commission Order; * G.S. 62-326, G.S. 62-310) = 3-Violations X \$1,000.00 = \$3,000.00-a-day-penalty X 1,840-days-in violation = **\$5,520,000.00 sum of violations.**

9.- IAW Ref: (h), R1-9(4) requires a clear concise statement of DEP violation; Fact-O.L. Canaday (having Proof) claims DEP have knowingly and willingly initiated all the foregoing violations; and

a. IAW Ref: (h) R1-9(5), -Fact- O.L. Canaday (having proof) claims particular relief desired - to be IAW provisions of Chapter 62, and IAW G.S. 62-310 prescribed penalties IAW N.C. Law and N.C. General Assemble; and

b. O.L. Canaday motions Commission use power of G.S. 62-31 and enforce provisions of Chapter IAW G.S. 62-310 for prescribed penalties. And, O.L. Canaday motions Commission use G.S. 62-31 and enforce G.S.62-80 and rescind Order issuing Certificate for cause: DEP having knowingly and willingly omitted all cost analysis in Rule R8-62 for Application, under guise of "Pursuant to" Rule R8-62. -[Got to studying Rule R8-62, all the environmental impact information is in Application. Not one element, related to required cost analysis, is in Application, this is gross negligence in requirements for comparison of alternatives (4-Routes) & associated cost in: construction-ROW-acquisition, operation, & maintenance for comparison IAW G.S. 62-2(3a). The purpose of Rule R8-60 is least cost for rate payers over the operating lives of such new facilities; & Applicability to DEP is specifically named (and others). O.L. Canaday have discovered 4 Dec. 2022 at 0400-hours, DEP have knowingly and willingly submitted Application omitting all cost analysis, like Commission discovered in evidentiary Hearing of 31 Oct. 2017; and

c. -Fact- O.L. Canaday (having proof) claims DEP have committed all foregoing violations and O.L. Canaday motions Commission use Power of 62-31 and enforce G.S. 62-310 for total sum of penalties in Certificate and note penalties continue until cured:

| | | |
|--|------------------|------------------------|
| Sub-total R8-62..... | \$77,216,000.00 | |
| Sub-total R8-61..... | 193,000.000.00 | |
| Sub-total R8-60..... | 81,060,000.00 | |
| Violation of Certificate order on-going construction..... | 171,520,000.00 | |
| (of written notice of 'No-Spray' option – herbicide) | | |
| Violation of Certificate via filing false information..... | 5,520,000.00 | |
| (in Record, Exhibit No. 2 of 13 Nov. 2017) | ===== | |
| | \$528,316,000.00 | sum total of Penalties |

d. -O.L. Canaday (having proof) claims this penalty IAW G.S. 62-310 (reason) for 'such' penalties is for enforcement of: any provision of Chapter 62; -any rule; -regulation; or order of the Commission; or other process restraining such person, corporation, or their representatives from further violation of this Chapter or of any rule, regulation, or order of the Commission; and

e. -O.L. Canaday claims 'such' penalty enforced by power of G.S. 62-31 and IAW G.S. 62-310 prescribed penalties, IAW provisions of Chapter 62, IAW Laws of N.C. and General Assembly, -'such' penalty having affect for desired obedience of Chapter; and

f. -Fact- O.L. Canaday (having proof) claims DEP have caused harm via mental anguish of pain and suffering for five-years (proof in Ref: (a). And, DEP have knowingly and willfully furnished Commission false information and having withhold of information, and that having been furnished (in-turn) to issue DEP a Certificate of public convenience and necessity having inherent power of eminent domain. These violations of G.S. 62-326, by DEP (having knowingly and willfully): 1)- furnished false informat-

ion and disobeying order (filing) Exhibit No. 2 of 13 Nov. 2017; 2)- disobeyed Commission Order of written notice; 3)- and have flagrantly disregarded Rule R8-62 (incorporating R8-61 and R8-60) requirements of cost analysis in Application for ill-gaining issued Certificate. And, these violations have enabled DEP roll-along (disregarding) Ref: (k), (l), and (m) and my property rights 'taken' thru furnishing false information and withholding of required cost analysis information; and

g. -Fact- O.L. Canaday (having proof) claim damage of 5-years of mental anguish , and pain and suffering; and

1)- -Fact- DEP having property condemned (knowingly and willingly) having furnished false information and withholding information (all cost analysis) in Rule R8-62 [incorporating R8-61 and R8-60 (at R8-62(a)(p))]; in having Commission issue Certificate of public convenience and necessity; and

2)- -Fact- O.L. Canaday (having proof) claims DEP Verification of 5 Jul. 2017 have knowingly & willingly furnished false information to Commission in gaining Certificate of public convenience and necessity of 12 Jan. 2018; and

3)- -Fact- O.L. Canaday (having proof) claims DEP Direct Testimony of 14 Jul. 2017 [again (under oath) reading into Record) 31 Oct. 2017, furnished DEP would furnish all information needed by Commission for construction and operation of this transmission line. The Record furnishes DEP Testimony (knowingly and willingly) having furnished false information to Commission for Certificate of public convenience and necessity of 12 Jan. 2018; and

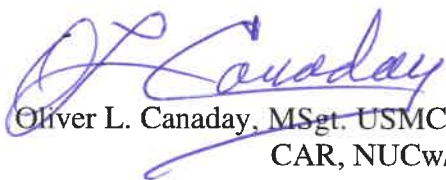
4)- -Fact- O.L. Canaday (having proof) claim DEP Application having "Pursuant

to” Rule R8-62 (IAW) have not furnished cost analysis required for issuing Certificate of public convenience and necessity IAW R8-62 and (incorporated R8-61 & R8-60); and

5)- -Fact- O.L. Canaday (having proof) claim DEP have knowing and willing violated all the foregoing violations furnished in this document; and

6)- O.L. Canaday claims an equal damage \$528,326,000.00 as furnished IAW provisions of Chapter 62 and IAW G.S. 62-326 and IAW G.S. 62-310 prescribed penalties. And motions Commission use power of G.S. 62-31 and enforce G.S. 62-326. G.S. 62-310, and G.S. 62-80 rescind Certificate until these flagrant violations are sorted-out and a comparison of the 4-routes having associated cost of: construction, operation, and maintenance compared for least cost to rate payers for the long term (life of line).

Sincerely,



Oliver L. Canaday, MSgt. USMC, Ret. 0441/0331, CACw/3-brz-stars, PH, AMw/#7,
CAR, NUCw/2-brz-stars, MUC, RVNSw/sil-star

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-2, SUB 1150

KNOW ALL PERSONS BY THESE PRESENTS THAT

DUKE ENERGY PROGRESS, LLC
410 South Wilmington Street
Raleigh, North Carolina 27601

is hereby issued this

CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC CONVENIENCE
AND NECESSITY PURSUANT TO G.S. 62-102

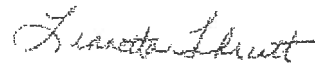
to construct approximately 11.5 miles of new 230-kV Transmission Line, located in Johnston County and a small portion of Wake County, North Carolina, which will originate at the site of a new Cleveland-Matthews Road Substation, located at the southeast corner of Polenta Road and Matthews Road, and which will terminate at the tap point along the existing Erwin-Selma 230-kV Transmission Line

subject to receipt of all federal and state permits as required by existing and future regulations prior to beginning construction and further subject to all other orders, rules, regulations, and conditions as are now or may hereafter be lawfully made by the North Carolina Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 12th day of January, 2018.

NORTH CAROLINA UTILITIES COMMISSION



Linnetta Threatt, Deputy Clerk

ENC: (1)

STATE OF NORTH CAROLINA

COUNTY OF WAKE

C E R T I F I C A T E

I, Linda S. Garrett, Notary Public/Court Reporter,
do hereby certify that the foregoing hearing before the
North Carolina Utilities Commission in Docket No. E-2,
Sub 1150, was taken and transcribed under my
supervision; and that the foregoing pages constitute a
true and accurate transcript of said Hearing.

I do further certify that I am not of counsel for,
or in the employment of either of the parties to this
action, nor am I interested in the results of this
action.

IN WITNESS WHEREOF, I have hereunto subscribed my
name this 14th day of November, 2017.



Linda S. Garrett

Notary Public No. 19971700150



**State of North Carolina
Utilities Commission**

COMMISSIONERS

Charlotte A. Mitchell, Chair

ToNola D. Brown-Bland

Jeffrey A. Hughes

Daniel G. Clodfelter

Floyd B. McKissick, Jr.

Kimberly W. Duffley

Karen M. Kemerait

August 4, 2022

VIA U.S. MAIL

Mr. Oliver L. Canaday
713 Camallia Avenue
Panama City, Florida 32404

Dear Mr. Canaday:

This letter is in response to your Public Records Act Request to the North Carolina Utilities Commission dated June 29, 2022, in which you request records "related to DEPs' (Authorization) to Submit Late-Filed Exhibit No. 2 for Docket Record File."

In my April 5, 2022 letter to you in response to a previous Public Records Act request, I stated;

To the extent that your October 11, 2021 letter was directed at the merits of the application of Duke Energy Progress, LLC, for a certificate of environmental compatibility and public convenience and necessity to construct a transmission line in Johnston County, filed in Docket No. E-2, Sub 1150, the documents concerning the disposition of those issues are publicly available via the Commission's online docket system in that docket and in the separate docket opened to address the complaint made in your letter filed with the Commission on December 6, 2018, Docket No. E-2, Sub 1195. See Commission orders dated January 12, 2018, May 4, 2018, and August 3, 2018, in Docket No. E-2, Sub 1150, and Commission orders dated June 24, 2019, and September 3, 2019, in Docket No. E-2, Sub 1195.

In your June 29, 2022 letter you state that my April 5, 2022 response is unsatisfactory.

The North Carolina Public Records Act, which is set forth in Chapter 132 of the North Carolina General Statutes, requires that an agency permit inspection of records in its custody "as promptly as possible," and further provides in N.C. Gen. Stat. § 132-6(a1):

STREET ADDRESS:

430 N. Salisbury Street • Raleigh, NC 27603

4325 Mail St

Telephone: 919-733-4249

Facsimile: 919-733-7300

Encl. (3) P. 1/3

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Dec 08 2022

A public agency or custodian may satisfy the requirements in subsection (a) of this section by making public records available online in a format that allows a person to view the public record and print or save the public record to obtain a copy. If the public agency or custodian maintains public records online in a format that allows a person to view and print or save the public records to obtain a copy, the public agency or custodian is not required to provide copies to these public records in any other way.

The Commission has complied with the Public Records Act by making the records you request publicly available in its online docket system. The entire record of Docket No. E-2, Sub 1150, the Commission proceeding related to the application by Duke Energy Progress, LLC (DEP), for a certificate of environmental compatibility and public convenience and necessity to construct a transmission line in the Cleveland Area of Johnston County, North Carolina, including all documents responsive to your request for records related to DEP's submission of Late-Filed Exhibit No. 2, is available at <https://starw1.ncuc.gov/NCUC/page/docket-docs/PSC/DocketDetails.aspx?DocketId=a9a20bf3-aac8-47fe-84bc-b9f52ae18cb8>. You can also access these documents by selecting "Docket Portal" from the Commission's home page at <https://www.ncuc.net/>, selecting the "Search for Dockets" tab, entering Docket No. "E-2 Sub 1150," and clicking "Search."

The Commission previously responded to the extent required by the Public Records Act to your nearly identical request for the "source document, copy, used to admit Exhibit No. 2 into the Record." As noted at pages 5-6 of the Commission's August 3, 2018 Order Denying Motions for Relief issued in Docket No. E-2, Sub 1150:

On July 3, 2018, Mr. Canaday filed a public records request addressed to the Custodian of Records of the North Carolina Utilities Commission, requesting copies of the following documents: (1) "the Public Staff investigation, exhibits, and other matters of Record"; and (2) "source document, copy, used to admit Exhibit No. 2 into the Record." The Commission's Custodian of Records responded to Mr. Canaday's request by letter dated July 16, 2018, stating in pertinent part as follows:

With respect to both of your requests, any potentially responsive documents in the NCUC's possession, custody, and control are located on the NCUC's online docket portal, to which you already have unrestricted access as a party to Docket No. E-2, Sub 1150. The NCUC does not have in its possession any records that are responsive to your request to which you do not already have immediate online access.

As you may be aware, the NCUC and the Public Staff of the NCUC (Public Staff) are separate, independent agencies that

P, 2/3

possess and maintain different records. As such, I suggest that you contact the records custodian of the Public Staff to request any potentially responsive documents that may be in the possession, custody, or control of the Public Staff.

On July 27, 2018, Mr. Canaday wrote directly to the Presiding Commissioner expressing his dissatisfaction with the Custodian of Records' response to his July 3, 2018 public records request.

The Presiding Commissioner, upon receiving Mr. Canaday's July 27, 2018 communication, directed that the letter be filed with the Chief Clerk and a copy provided to DEP. As to the substance of Mr. Canaday's letter, *the Presiding Commissioner finds that the Custodian of Records' response to Mr. Canaday's initial public records request was complete and satisfactory pursuant to Chapter 132 of the North Carolina General Statutes, particularly N.C.G.S. § 132-6(a1). Therefore, the Presiding Commissioner concludes that no further response is necessary or appropriate.* Nonetheless, the Presiding Commissioner reminds Mr. Canaday that the information submitted by DEP as a late-filed exhibit was at the instruction of the Presiding Commissioner during the course of the hearing in this matter, and no party objected either at the time of such instruction or within a reasonable amount of time following DEP's submission of the late-filed exhibit. Accordingly, Mr. Canaday may find responsive to his public records request some or all of the following records, all of which Mr. Canaday already has unrestricted access through the Commission's online docket portal: (1) Transcript of Testimony, Volume 2, Heard October 31, 2017; (2) the Commission's January 12, 2018 Order granting a CPCN to DEP; (3) the Commission's September 25, 2017 Order requiring DEP to provide additional information; and (4) DEP's verified responses to the Commission's September 25, 2017 Order. [Emphasis added.]

Therefore, in compliance with the Public Records Act and consistent with the Commission's August 3, 2018 Order Denying Motions for Relief, the Commission has made all documents responsive to your request available through its online docket system, and no further response is necessary or appropriate.

Sincerely,

/s/ Sam Watson

Sam Watson
General Counsel

*Commissioner Daniel
G. Clodfelter
Presiding 31 Oct 2022
- Submit late-filed exhibit
P. 3/3 Starts P. 154 Lines 23-34
P. 155, Lines 1-34
P. 156, Lines 1-6*



State of North Carolina
Utilities Commission

COMMISSIONERS

Charlotte A. Mitchell, Chair

ToNola D. Brown-Bland

Jeffrey A. Hughes

Daniel G. Clodfelter

Floyd B. McKissick, Jr.

Kimberly W. Duffley

Karen M. Kemerait

September 7, 2022

VIA U.S. MAIL

Mr. Oliver L. Canaday
713 Camallia Avenue
Panama City, Florida 32404

Dear Mr. Canaday:

This letter is in response to your most recent letter, dated August 24, 2022. I have responded previously to your Public Records Act request by directing your attention to the relevant documents and the complete record of the transmission line proceeding in the Commission's online, publicly accessible docket system. Under the Public Records Act, I am only required to provide you with copies of relevant Commission documents, which I have done.

Your letter requests information, not records, regarding the decisions made by the Commission in the transmission line docket, which is beyond that which is required by the Public Records Act. The Commission has explained itself in its orders, and any challenge to the Commission's orders should be made to the Court of Appeals.

Sincerely,

/s/ Sam Watson

Sam Watson
General Counsel

Sam Watson
(919) 715-7057
Nathan B. Keadle
(919) 733-0848

STREET ADDRESS:
430 N. Salisbury Street • Raleigh, NC 27603

4325 Mail Service

Telephone: 919-733-4249
Facsimile: 919-733-7300

ENCL: (4)

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Dec 08 2022



Lawrence B. Somers
Deputy General Counsel

Mailing Address:
NCRH 20 / P.O. Box 1551
Raleigh, NC 27602

o: 919.546.6722
f: 919.546.2694

bo.somers@duke-energy.com

November 13, 2017

VIA ELECTRONIC FILING

M. Lynn Jarvis, Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4325

**RE: Duke Energy Progress, LLC Late-Filed Exhibits
Docket No. E-2, Sub 1150**

Dear Ms. Jarvis:

I enclose two late-filed exhibits on behalf of Duke Energy Progress, LLC ("DEP") for filing in connection with the referenced matter:

- DEP Late-Filed Exhibit No. 1 — Evaluation of 230kV Transmission Line Route to Parallel Existing 500kV Transmission Line
- DEP Late-Filed Exhibit No. 2 — A cost comparison of the four best-scored alternative routes.

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

ENCL. (5) P.1/3

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OFFICIAL COPY

Nov 13 2017
Dec 08 2022

Date: November 8, 2017
To: Tim Same, Duke Energy Progress
From: Tim Barton, Burns & McDonnell
Subject: Duke Energy Progress: Cleveland-Matthews Road 500kV Parallel Options

At the request of the North Carolina Utilities Commission (NCUC), Burns & McDonnell revisited and further documented options for paralleling the existing Cumberland-Wake 500kV transmission line, as a route alternative for the Cleveland-Matthews Road 230kV Transmission Tap Line Project. The existing 500kV transmission line is located within a 180-foot wide easement. To accommodate a new 230kV transmission line, an additional 82.5 feet of easement would be required, adjacent to the current easement.

Route options were evaluated that paralleled both the east and west side of the 500kV right-of-way. Routes were also segregated as either north or south of where route segment 1 (as identified in the *Routing Study and Environmental Report*) crosses the 500kV corridor. Route segment 1 is approximately 3.1 miles from the proposed Matthews Road substation to the 500kV corridor.

Aerial photography was reviewed for route options that paralleled the 500kV corridor and homes, apartments and businesses were identified within the easement required for the 230kV transmission line. For the northern route, due to the density of development adjacent to the areas where these structures were identified, there were not feasible route variations that would easily avoid these constraint areas. For the southern routes, there are a few constraint areas that could potentially be avoided but would require the new transmission line to diverge from the existing corridor which would add additional length, impacts to additional landowners, and require crossing under the existing 500kV multiple times. Crossing the 500kV line would require modifications to the existing 500kV structures which would be additional cost beyond just the construction of the 230kV line. The locations of the structures identified in this analysis are provided on figures attached to this memo. Tables 1 and 2 below provide the number of these structures that occur within the right-of-way, along with the length of the transmission required to support the tap line project, segregated by the two northern routes and two southern routes respectively. The route options would all be longer than the Cleveland-Matthews Road preferred route option at 11.5 miles. Both the northern route options are approximately 2.5 miles longer and the southern route options are approximately 8 miles longer, than the preferred route.

Cost Comparison of Routes 31, 4, 32, and 1

| | Selected Route Route 31 North-South | Route 4 East-West | Route 32 North-South | Route 1 East-West |
|---|---|----------------------|-------------------------|----------------------|
| Install /Modify Line Structures and Wires | 3,328,000 | 3,072,000 | 3,119,235 | 2,891,776 |
| Install /Modify Line Structures and Wires (Inspector's Time) | 244,000 | 200,000 | 244,000 | 200,000 |
| Site Finalization (clean-up) | 192,000 | 96,000 | 192,000 | 96,000 |
| Site Finalization (clean-up) Inspector | 27,000 | 14,000 | 27,000 | 14,000 |
| As-built | 2,000 | 2,000 | 2,000 | 2,000 |
| Erosion Control | 1,000,000 | 2,000,000 | 1,000,000 | 2,000,000 |
| Staking | 24,000 | 12,000 | 24,000 | 12,000 |
| ROW Clearing | 1,818,000 | 940,000 | 1,818,000 | 940,000 |
| Centerline Survey | 317,000 | 164,000 | 317,000 | 164,000 |
| Tie Plat Survey | 180,000 | 93,000 | 180,000 | 93,000 |
| Flagging Clearing Limit | 60,000 | 31,000 | 60,000 | 31,000 |
| Subtotal | 7,192,000 | 6,624,000 | 6,983,235 | 6,443,776 |
| Engineering labor & Material Estimates | 1,936,265 | 2,142,163 | 3,001,683 | 3,151,788 |
| Subtotal - Direct View | 9,128,265 | 8,766,163 | 9,984,918 | 9,595,564 |
| Adjusted to Include Burdens | \$ 13,692,398 | \$ 13,149,245 | \$ 14,977,377 | \$ 14,393,346 |

P. 3/3

1 PLACE: Dobbs Building
2 Raleigh, North Carolina
3 PLACE: Dobbs Building, Raleigh, North Carolina
4 DATE: October 31, 2017
5 DOCKET NO.: E-2, Sub 1150
6 TIME IN SESSION: 9:58 A.M. TO 12:29 P.M.
7 BEFORE: Commissioner Daniel G. Clodfelter, Presiding
8 Commissioner Bryan E. Beatty
9 Commissioner Lyons Gray

FILED
NOV 16 2017
Clerk's Office
N.C. Utilities Commission

11 IN THE MATTER OF:

12
13 Application of Duke Energy Progress, LLC for
14 a Certificate of Environmental Compatibility
15 and Public Convenience and Necessity Pursuant
16 to N.C. Gen. Stat. 62-100 et seq. to Construct
17 Approximately 11.5 Miles of New 230 kV
18 Transmission Line in Cleveland area of
19 Johnston County, North Carolina

20
21 Volume 2
22
23
24

ENC. (6) P. 1/22

1 A P P E A R A N C E S:

2

3 FOR DUKE ENERGY PROGRESS, LLC:

4 Lawrence B. Somers, Esq.

5 Deputy General Counsel

6 Duke Energy Corporation

7 Post Office Box 1551/NCRH 20

8 Raleigh, North Carolina 27602

9

10 Robert W. Kaylor, Esq.

11 Law Office of Robert W. Kaylor, P.A.

12 353 E. Six Forks Road, Suite 260

13 Raleigh, North Carolina 27609

14

15 FOR INTERVENOR OLIVER L. CANADAY:

16 Oliver L. Canaday

17 713 Camellia Avenue

18 Panama City, Florida 32404

19

20 FOR THE USING AND CONSUMING PUBLIC:

21 Heather D. Fennell, Esq.

22 Public Staff - North Carolina Utilities Commission

23 4326 Mail Service Center

24 Raleigh, North Carolina 27699-4300

1 this Application. Based on concerns expressed in a lot
2 of those written filings, on September 25th of this year
3 the Commission issued an Order requiring Duke Energy
4 Progress to provide additional information in response to
5 certain written questions. And on October 9th, 2017,
6 Duke Energy Progress filed answers and responses to those
7 additional questions from the Commission.

8 On October 11th, 2017, the State Clearinghouse
9 sent an email to the Commission indicating that
10 Clearinghouse will complete its review of the Application
11 by November 3rd, 2017. Let me interrupt the recitation
12 of the history to say because we don't have the
13 Clearinghouse response back today, we will -- at the
14 conclusion of the testimony, we'll hold this hearing open
15 until, let's say, November -- Monday, November 6th. That
16 will give the Clearinghouse time to get any comments
17 they've got in, which will be next Friday. So we will
18 hold the hearing open and then the time for post-hearing
19 briefs will run from that date. Is that agreeable?

20 MR. KAYLOR: Yes.

21 MR. SOMERS: Yes.

22 COMMISSIONER CLODFELTER: Okay. On October
23 16th, 2017, the Public Staff filed a letter recommending
24 that the Commission grant the requested certificate.

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)

**DIRECT TESTIMONY OF
TIMOTHY J. SAME FOR
DUKE ENERGY PROGRESS,
LLC**

OFFICIAL COPY

Jul 14 2017
Dec 08 2022

17

OFFICIAL COPY

FILED
Dec 08 2022

1 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

2 A. My name is Timothy J. Same, and my business address is 410 S. Wilmington
3 Street, Raleigh, North Carolina 27601.

4 Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

5 A. I am employed as Lead Transmission Siting Specialist, Transmission Siting,
6 Permitting, and Engagement by Duke Energy Progress, LLC ("DEP").

7 Q. WHAT ARE YOUR RESPONSIBILITIES AS LEAD TRANSMISSION
8 SITING SPECIALIST?

9 A. As Lead Transmission Siting Specialist, Transmission Siting and Permitting, I
10 am responsible for both the siting/due diligence of substation sites to be
11 purchased in fee, as well as the selection of preferred/least impactful routes
12 for transmission lines which require easement and/or right of way ("ROW")
13 acquisition for DEP territories.

14 Q. PLEASE DESCRIBE YOUR EDUCATIONAL AND PROFESSIONAL
15 BACKGROUND.

16 A. I am a registered Professional Engineer in the state of North Carolina, having
17 received a Bachelor of Science in Civil Engineering from Clarkson
18 University. I began my career in Pennsylvania working as a job engineer in
19 the field for Lane Construction, rebuilding Route 22 through Bethlehem,
20 Pennsylvania. I then began employment with Dunn & Sgromo Engineers in
21 Syracuse, New York, where I worked as an assistant engineer and began
22 designing site work and utilities. In 1999, I began working for Costich
23 Engineering, P.C. where I continued designing site work and utilities for land

P. 5/22

1 development projects, and eventually became a Senior Project Manager before
2 leaving in 2006 to begin working for the John R. McAdams Company, Inc. as
3 a Project Manager. While with the John R. McAdams Company, Inc., I
4 handled increasingly more complex land development projects including
5 multi-phase, private sector, and mixed-use development/construction projects.
6 In 2009, I continued my career in Project Management with Greenhorne &
7 O'Mara, where I transitioned into overseeing architects and engineers working
8 on federal projects on military installations in the mid-Atlantic region. In
9 addition, while at Greenhorne & O'Mara, I began designing projects for
10 Progress Energy Carolinas, Inc. (now DEP). In 2013, I began my
11 employment with DEP in the substation engineering unit. In September 2014,
12 I transitioned into my current role as the Lead Siting Specialist for DEP.

13 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE NORTH**
14 **CAROLINA UTILITIES COMMISSION?**

15 A. No, but I have previously submitted pre-filed direct testimony before this
16 Commission in Docket No. E-2, Subs 1102 and 1111.

17 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

18 A. The purpose of my testimony in this proceeding is to support DEP's
19 Application for a Certificate of Public Convenience and Necessity to construct
20 11.5 miles of new 230kV transmission line in the Cleveland area of Johnston
21 County, North Carolina, which I will refer to as the "Cleveland-Matthews line"
22 or "Project".

1 Q. WERE YOU INVOLVED IN PREPARING DEP'S APPLICATION IN
2 THIS DOCKET?

3 A. Yes.

4 Q. TO YOUR KNOWLEDGE, WILL DEP FILE AND PROVIDE ALL
5 INFORMATION, BEGIN PUBLIC NOTICE REQUIRED BY THIS
6 COMMISSION, AND OBTAIN ALL FEDERAL AND STATE
7 LICENSES, PERMITS, AND EXEMPTIONS REQUIRED FOR
8 CONSTRUCTION AND OPERATION OF THIS TRANSMISSION
9 LINE?

10 A. Yes.

11 Q. PLEASE DESCRIBE THE PROCESS UTILIZED TO SITE THE
12 CLEVELAND-MATTHEWS LINE.

13 Duke Energy Progress retained Burns & McDonnell Engineering Company,
14 Inc. ("Burns & McDonnell"), a full service international engineering and
15 construction firm with substantial utility and infrastructure siting experience,
16 to assist the Company with the line siting and public input for the Project.
17 Burns & McDonnell conducted a comprehensive siting study and prepared a
18 Routing Study and Environmental Report (the "Routing Study"), which is
19 attached as Exhibit A to the Application. My role was to oversee Burns &
20 McDonnell from preliminary route alternative identification through the
21 selection of the preferred route.

22 The following is an overview of the steps involved in the identification
23 of the route alternatives and the selection of a preferred route for the Project.

- 1 • No highly sensitive stream crossings
- 2 • Utilizes cropland acres when possible to avoid extensive removal of
- 3 forested areas along the route
- 4 • Crosses acres of wetland and hydric soils in a perpendicular manner,
- 5 where possible, which is beneficial not only from a construction,
- 6 access and maintenance perspective, but would also potentially require
- 7 less permitting effort in these areas

The preferred route was one of the least overall impacting routes (fifth lowest-scoring) in the numerical evaluation performed for the proposed Project. For this and the above reasons, and by using standard construction procedures and mitigation techniques when coordinating the Project with State and Federal agencies to comply with necessary regulations, the construction, operation, and maintenance of the proposed Project will have limited effects on the natural and social resources within the study area. DEP will continue to work with environmental stakeholders and landowners to reduce impacts of this proposed Project.

17 Q. PLEASE DESCRIBE THE PREFERRED ROUTE OF THE PROPOSED
18 TRANSMISSION LINE.

19 A. The preferred route originates at the site of the proposed Cleveland-Matthews
20 Road Substation, located on the southeast corner of Polenta Road and
21 Matthews Road in Johnston County, North Carolina. The route exits the
22 substation site to the southeast and extends for approximately 0.5 mile before
23 turning west for approximately 0.2 mile while crossing Matthews Road. The

1 A. There are 67 landowners that will be directly affected by having at least some
2 portion of the proposed 125-foot right-of-way on their property. On April 20,
3 2017, Duke Energy Progress sent letters to the 67 property owners of the total
4 77 land parcels that are within the proposed 125-foot right of way. In addition,
5 Duke Energy Progress also sent letters to another 23 owners of 24 total land
6 parcels that are outside the proposed 125-foot right of way, but within 200 feet
7 of the proposed centerline in case survey crews need to access a portion of
8 these parcels outside, but adjacent to the proposed right of way. All of these
9 letters (90 total notification letters) were mailed certified US Postal Service
10 and included the appropriate reference to N.C. Gen. Stat. §40A-11 providing
11 the necessary 30-day notice to enter the properties for the purpose of
12 surveying, soil borings, appraisals, and assessments.

13 **Q. IN CONCLUSION, WHY IS DUKE ENERGY PROGRESS SEEKING**
14 **APPROVAL TO CONSTRUCT THE CLEVELAND-MATTHEWS**
15 **LINE?**

16 A. Duke Energy Progress' comprehensive transmission line siting process
17 identified the Cleveland-Matthews Line as the best and least impactful route
18 to serve the transmission needs in this portion of Johnston County. I believe
19 that DEP's application is in the public convenience and necessity, and I ask
20 that the Commission approve it.

21 **Q. DOES THIS CONCLUDE YOUR PRE-FILED DIRECT TESTIMONY?**

22 A. Yes.

1 studied.

2 A That's true. I mean, there's an infinite
3 number of possibilities as far as what could have been
4 studied.

5 Q Well, I understand, but this is an existing
6 corridor you've got, and it seems to join up with Segment
7 1 pretty close to the substation, proposed substation. I
8 just was not sure why all those weighting factors weren't
9 sort of reviewed and studied along with the 39 options
10 that were looked at.

11 A Understood. I don't know.

12 Q So we don't know what the cost would have been.
13 It would have been a longer line, but you've selected a
14 longer line --

15 A Yes, sir.

16 Q -- than the western corridors already --

17 A Yes, sir.

18 Q -- so we just don't know what the cost
19 difference would have been, either, do we?

20 A True.

21 Q Okay. Help me out on the cost difference. I
22 mean, we're -- as a Commission, we're obligated not only
23 to talk about property owners, but also talk about
24 ratepayers.

1 A Yes.

2 Q And so you've selected a longer line over the
3 western options that would have been shorter. What's the
4 cost comparison on those? How much more is it going to
5 cost to choose the preferred corridor than to choose one
6 of the western corridors?

7 A So I will say we, you know, we don't have a
8 detailed analysis down to the dollars and cents relative
9 to cost. We did a very high level evaluation of cost
10 relative to each other. Essentially, and I'm trying to
11 remember the amount, but it was a small percentage of the
12 overall project cost we anticipated would have been the
13 difference between the two, even though the southern line
14 is almost twice as long. And some of those reasons why
15 were some of the previous comments I made relative to
16 access, constructability.

17 The western routes, which are the shorter
18 routes that you're referring to, pretty much the majority
19 of those western options paralleled streams, a lot -- a
20 lot more wetlands in those areas. We've had some
21 experience on some projects recently where when we're in
22 those environmentally sensitive areas, we're working from
23 construction matting. That construction matting is very
24 expensive. And what our construction planners, work

1 management folks, have indicated is that because of the
2 most likely -- because the matting most likely would be
3 necessary for those western routes, that they felt that
4 the overall access -- I mean, basically they gave us
5 input on both options from their opinion of what
6 construction cost would have been, and they were very
7 similar to each other.

8 So because we're working primarily in upland
9 areas, and the crossings that we do have for streams and
10 such on the preferred route, those are perpendicular
11 crossings to the environmentally sensitive areas,
12 generally speaking, and the western routes were more
13 parallel and basically running almost, you know, more
14 entirely in those environmentally sensitive areas.

15 Q I apologize to you. I've been doing a lot of
16 reading on this, but I've still got some more to finish.
17 So if it's in here, I may not have found it yet. Are
18 your cost analyses in the record materials?

19 A No, sir.

20 Q They've not been -- they're not part of the
21 Burns & McDowell study, I didn't find them in there, and
22 they're not elsewhere in the record on your analysis of
23 the different costs of the different options?

24 A No, sir.

1 Q How much?

2 A Well, it depends upon how the growth rate
3 continues in the areas where these two feeders are built.

4 Q You've got load growth projections.

5 A That is correct.

6 Q And you worked off of those?

7 A I did.

8 Q And so what do they show you?

9 A I still show that even with these two feeders
10 that are being built today, that I will have overloads in
11 2019 and 2020 that need to be addressed.

12 Q Mr. Same, if you asked Burns & McDowell to go
13 back and look at an option that paralleled the 500 kV
14 line at Segment 1 and then ran over to the substation,
15 how long would it take them to do that?

16 A (Same) I'm not sure I could answer that.

17 Q Why not?

18 A You know, maybe a couple months. I don't know.

19 COMMISSIONER CLODFELTER: Okay. Gentlemen,
20 you've gotten a lot of questions from a lot of folks, so
21 we're going to go back to your counsel. Yes, sir, Mr.
22 Canaday. Do you have one more?

23 MR. CANADAY: Yes, sir.

24 COMMISSIONER CLODFELTER: Go right ahead.

1 MR. CANADAY: I have two questions I'd like to
2 ask.

3 COMMISSIONER CLODFELTER: Let's get all the
4 questions in because these gentlemen are then going to
5 ask redirect questions --

6 MR. CANADAY: Right.

7 COMMISSIONER CLODFELTER: -- on rebuttal. So
8 go ahead with your questions, sir.

9 MR. CANADAY: Right.

10 EXAMINATION BY MR. CANADAY:

11 Q Mr. Same, what's your definition of a business?

12 A (Same) In the purpose of the report, we
13 consider businesses are land uses that are identified as
14 non-residential, non-agricultural, you know, known places
15 of business.

16 Q Why would you pick non-agriculture as being
17 non-business?

18 A It's more of a land use issue, a zoning issue,
19 sir, not my interpretation of a business.

20 Q I know you're aware of this probably because
21 you've read everything I've mailed in probably, but the
22 agriculture in North Carolina, like tobacco and sweet
23 potatoes and corn and all that, is worth \$76 billion a
24 year. That seems like that would be a business.

1 A Yes, sir.

2 Q Okay. Well, the way farmers do business is an
3 acre, that's their business unit, is pound to the acre
4 like if it's tobacco; it's bushel if it's corn and
5 soybeans; in tons if it's hay or something like that.

6 When you make those -- that matrix up or when
7 the engineers made the matrix up -- I went to graduate
8 school and we did matrixes. Once you go -- when you make
9 the matrix and it's pure and you haven't diddled with it
10 and weighted it in any way, it's a true matrix, but just
11 as soon as you go to changing the weight of different
12 things, you can guide where something is going to go on
13 an outcome of a question that you're working at. I could
14 take that matrix and weight things and send that line
15 anywhere I wanted to. And it seems to me, as a
16 landowner, that's sort of like what happened, the path of
17 least resistance.

18 COMMISSIONER CLODFELTER: Mr. Canaday --

19 MR. CANADAY: Yes, sir.

20 COMMISSIONER CLODFELTER: -- I think we're
21 getting your point, but do you have a question for the
22 gentleman to answer?

23 MR. CANADAY: That was my question, the
24 definition of a business.

1 reason for the transmission, the proposed location, and
2 the description and all that, but when it came to the
3 environmental report setting, it's in Section 5 in the
4 subparagraphs of 5.1, 2, 3, 4 and 5.5. It doesn't
5 mention EMF at all, so it's an incomplete report as far
6 as pollution goes. There's the environmental impact. I
7 didn't find an environmental impact for EMF in those five
8 subparagraphs, so that makes it an incomplete report. I
9 didn't find anything that was proposed mitigating
10 measures that would minimize the -- the EMF environmental
11 impact in that statement, either.

12 The other thing is the proposed Route 31. I
13 haven't found -- this calls for an alternative that would
14 be in their Application to that proposed route, unless
15 they're considering all 30 or 32 routes that they've got
16 all drawn out there, if that's their alternative action.

17 And since they didn't do all that, I was going
18 to ask for a Cease and Desist Order from the Commission
19 because it's an incomplete report in the Application. Do
20 I get to go to my next part, sir?

21 COMMISSIONER CLODFELTER: You keep going. We
22 won't decide what kind of order or when or what until
23 we've taken all the evidence in and then we sort of
24 consider it all and decide, okay, this is what we think

1 you, sir. You are excused.

2 (Witness excused.)

3 COMMISSIONER CLODFELTER: And if you have any
4 other witnesses, you can call them.

5 (No response.)

6 COMMISSIONER CLODFELTER: All right. Any
7 rebuttal?

8 MR. SOMERS: No. We put that in previously.

9 COMMISSIONER CLODFELTER: Put that in
10 initially. Okay. Ms. Fennell? All right. Let's talk
11 about the time table here. We get the State
12 Clearinghouse remarks on the 3rd, so we will close the
13 record on the 6th of November. I don't know when the
14 transcript will be available. How long do you think
15 you're going to need for post-hearing -- Mr. Canaday, if
16 you want to submit any additional written briefs or
17 materials, or if you want to present your proposed Cease
18 and Desist Order for us to consider, that's done after
19 the hearing today. And so what we're talking about now
20 is how long -- how much time the parties need to do those
21 things, okay?

22 MR. CANADAY: Yes, sir.

23 COMMISSIONER CLODFELTER: So I think we know
24 what you want us to do, so it may not take you very long

1 to send us what you want us to do because we know what it
2 is. These guys are going to want us to consider an
3 order, so I'm going to ask them how long it may take them
4 to submit that.

5 MR. SOMERS: Mr. Chairman, I would suggest that
6 30 days from the mailing of the transcript would be fine.

7 COMMISSIONER CLODFELTER: All right.

8 MR. SOMERS: I know the Commission's calendar
9 is going to be busy the end of November, early December,
10 but we can make that work.

11 COMMISSIONER CLODFELTER: I think it will be.
12 Yeah. I want to be sure -- that's right. I want to be
13 sure we're within the 60 days that we've got in order to
14 issue the order after the hearing date. I think we will
15 be, if that's the case.

16 MR. SOMERS: Again, not knowing how long the
17 transcript might take, 10 business days, two weeks, in
18 order to give the Commission sufficient time to meet the
19 statutory timeline for the order, would it be better if
20 we had post-hearing submissions within three weeks of the
21 mailing of the transcript?

22 COMMISSIONER CLODFELTER: Let's do that. And
23 I'm going to throw a ringer at you. The three of us
24 talked during the break, and we think it might be helpful

1 if your post-hearing submission provided a little bit
2 more detailed information about what would be required to
3 run parallel to the 500 kV line and then break off of
4 Segment 1 to run over to the substation, what additional
5 right-of-way would be required and what additional
6 impacts you think there would be. I'm not asking for
7 Burns & McDowell to go out and do that study, but if
8 you've got additional information to supplement the
9 testimony on that, that would be helpful. The three of
10 us think that would be useful.

11 MR. SOMERS: Just so I'm clear what you're
12 asking for, do you -- how do you want us to present that,
13 as like a late-filed exhibit?

14 COMMISSIONER CLODFELTER: A late-filed exhibit
15 would be --

16 MR. SOMERS: We can verify that. Okay.

17 COMMISSIONER CLODFELTER: A late-filed exhibit
18 will be fine.

19 MR. SOMERS: And, again, what you're asking for
20 is if the Company were to parallel the existing 500 kV
21 line --

22 COMMISSIONER CLODFELTER: As far as you can
23 from the tap point on one of the 230s and then run over
24 to the substation.

1 MR. SOMERS: Okay. What would that entail in
2 terms of right-of-way and --

3 COMMISSIONER CLODFELTER: Mr. Same testified
4 about some of that, but I think a little more detail
5 about that might be of interest.

6 MR. SOMERS: Sure. Be glad to.

7 COMMISSIONER CLODFELTER: All right. If
8 there's -- yes, ma'am.

9 MS. FENNELL: May I ask a clarifying question
10 for the public?

11 COMMISSIONER CLODFELTER: Yes.

12 MS. FENNELL: You're holding open the record
13 until the 6th?

14 COMMISSIONER CLODFELTER: That's right.

15 MS. FENNELL: So if there are members of the
16 public who wish to include further information, they can
17 send it in until the 6th?

18 COMMISSIONER CLODFELTER: If there are --
19 that's right. Since the record is going to be open, if
20 we have written submissions from other members of the
21 public, we'll receive those up until November 6th as
22 well.

23 MS. FENNELL: And the three-week deadline is
24 for the parties?

1 COMMISSIONER CLODFELTER: That is correct.

2 Yes, sir, Mr. Canaday.

3 MR. CANADAY: That means that would get posted
4 on the computer so you can read what's going on just like
5 it's been being done?

6 COMMISSIONER CLODFELTER: Yes, sir. Yes, sir.
7 It will be posted. You've been able to follow it all.
8 And now you've got some neighbors who don't follow it
9 online, but I hope they'll be -- I hope there will be
10 talk, enough talk by those who do have access because we
11 post everything online and they can share that with their
12 neighbors, okay? All right. If there's nothing further,
13 thank you all for your patience this morning and for your
14 presentations, and we will recess the hearing, to be
15 concluded with the closing of the record on November 6th.
16 Thank you.

17 (The hearing was recessed, to be concluded with the
18 closing of the record on November 6, 2017.)

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STATE OF NORTH CAROLINA

COUNTY OF WAKE

C E R T I F I C A T E

I, Linda S. Garrett, Notary Public/Court Reporter,
do hereby certify that the foregoing hearing before the
North Carolina Utilities Commission in Docket No. E-2,
Sub 1150, was taken and transcribed under my
supervision; and that the foregoing pages constitute a
true and accurate transcript of said Hearing.

I do further certify that I am not of counsel for,
or in the employment of either of the parties to this
action, nor am I interested in the results of this
action.

IN WITNESS WHEREOF, I have hereunto subscribed my
name this 14th day of November, 2017.



Linda S. Garrett

Notary Public No. 19971700150

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

12 Jan. 2018

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) ORDER GRANTING CERTIFICATE
and Public Convenience and Necessity to) OF ENVIRONMENTAL
Construct Approximately 11.5 Miles of New) COMPATIBILITY AND PUBLIC
230-kV Transmission Line in Johnston County,) CONVENIENCE AND NECESSITY
North Carolina)

HEARD ON: Monday, October 30, 2017, at 6:30 p.m., in Courtroom No. 4, Johnston County Courthouse, 2017 E. Johnston Street, Smithfield, North Carolina

Tuesday, October 31, 2017, at 10:00 a.m., in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina

BEFORE: Commissioner Daniel G. Clodfelter, Presiding; Commissioners Bryan E. Beatty and Lyons Gray

APPEARANCES:

For Duke Energy Progress, LLC:

Lawrence B. Somers, Deputy General Counsel, Duke Energy Corporation,
NCRH 20/Post Office Box 1551, Raleigh, North Carolina 27602-1551

Robert W. Kaylor, Law Office of Robert W. Kaylor, P.A., 353 E. Six Forks Road, Suite 260, Raleigh, North Carolina 27609

For Intervenor Oliver L. Canaday:

Oliver L. Canaday, 713 Camellia Avenue, Panama City, Florida 32404

For the Using and Consuming Public:

Heather Fennell, Staff Attorney, Public Staff - North Carolina Utilities Commission, 4325 Mail Service Center, Raleigh, North Carolina 27699-4300

ENCL. (7) P.1/9

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Dec 08 2022

BY THE COMMISSION: On July 14, 2017, Duke Energy Progress, LLC (DEP), filed an application and the direct testimony and exhibits of James Umbdenstock and Timothy J. Same, pursuant to G.S. 62-100 et seq. and Commission Rules R1-5 and R8-62, for a certificate of environmental compatibility and public convenience and necessity (CPCN) authorizing the construction of a new 11.5-mile, 230-kilovolt (kV) transmission line near the Cleveland-Matthews area of Johnston County, North Carolina (Proposed Route or Route 31).

On July 18, 2017, the Commission issued an Order Scheduling Hearings, Requiring Filing of Testimony, Establishing Discovery Guidelines and Requiring Public Notice.

On July 24, 2017, DEP filed a Revised Routing Study and Environmental Report (Report or Study).

On September 25, 2017, based upon concerns expressed in consumer statements of position, the Commission ordered DEP to provide additional information about the proposed transmission line and substation. On October 9, 2017, DEP filed verified responses to the Commission's September 25, 2017 Order Requiring Duke Energy Progress, LLC, to Provide Additional Information.

On or before October 24, 2017, the Public Staff - North Carolina Utilities Commission (Public Staff) forwarded consumer statements of position for filing with the Commission. On October 16, 2017, the Public Staff filed a letter recommending that the Commission grant DEP's application on the conditions that: (1) DEP be required to disclose any proposed shift in the centerline of the proposed route and, if such a shift occurs, that the Commission should address whether notice and hearing requirements should be provided to affected landowners; and (2) that the Commission, prior to DEP beginning construction of the line, first receive a letter from the State Environmental Review Clearinghouse stating that no further review action by the Commission is required for compliance with the North Carolina Environmental Policy Act.

On October 23, 2017, Oliver L. Canaday filed a petition to intervene, and requested that the Commission issue a cease and desist order in this proceeding, on the grounds of Mr. Canaday's allegations of fraud against DEP. The Commission granted Mr. Canaday's petition to intervene on October 25, 2017. No other parties petitioned to intervene in this proceeding.

Thirty affected residents or landowners provided statements in opposition to DEP's application, with some of those individuals filing multiple such statements, including Mr. Canaday.

On October 25, 2017, DEP filed rebuttal testimony of witnesses Same and Umbdenstock to respond to the allegations contained in Mr. Canaday's petition to intervene.

On October 30, 2017, a public hearing was held in Smithfield, North Carolina, at which eighteen witnesses testified: Tracy Adams, Jeffrey Canady, Kimberly Canady, Tim

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Duke, Carl Holloway, Sam Holloway, Casey Johnson, Lou Ann Johnson, Randy Johnson, Linda Lassiter Keen, Marty Lassiter, Billy Price, Dana Adams Reeves, Alan Roberts, Gwyn Roberts, Ronnie Stewart, John Webster, and Danny Wood.

On October 31, 2017, an evidentiary hearing was held in Raleigh, North Carolina. During this hearing, DEP presented direct testimony, exhibits, and rebuttal testimony. The Public Staff did not present evidence, and Mr. Canaday presented his own testimony and exhibits in opposition to DEP's application.

On November 8, 2017, the State Environmental Review Clearinghouse filed a letter requesting that DEP provide supplemental documentation and information requested by the Department of Natural and Cultural Resources, including the results of an archaeological survey to be conducted by an experienced archaeologist.

On November 13, 2017, the Commission ordered DEP to provide updated information regarding the status of DEP's then-ongoing discussions with affected landowners regarding the landowners' concerns about the Proposed Route.

On November 13, 2017, DEP submitted Late-Filed Exhibit 1 containing an analysis of the feasibility of a new 230-kV transmission line parallel to DEP's existing 500-kV transmission line. Also on November 13, 2017, DEP submitted Late-Filed Exhibit 2 containing cost estimates of the four best-scored transmission line routes, including Route 31.

On November 14, 2017, DEP filed verified responses to the Commission's November 13, 2017 Order Requiring Additional Information.

On December 5, 2017, after such time as the evidentiary record in this proceeding was closed to new evidence, Mr. Canaday submitted additional exhibits, and reiterated his request that the Commission issue a cease and desist order against DEP to prevent construction of the proposed transmission line.

Based upon DEP's verified application, the testimony and exhibits timely received into evidence, and the entire record in this proceeding, the Commission makes the following:

FINDINGS OF FACT

1. DEP is a public utility providing electric service to customers in its service area in North Carolina and is subject to the jurisdiction of the Commission.
2. The Commission has jurisdiction over DEP's application. Pursuant to G.S. 62-100 et seq. and Commission Rule R8-62, a public utility must receive a CPCN prior to constructing transmission lines at or above 161 kV in North Carolina.

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3. The proposed transmission line would originate at the site of a new Cleveland-Matthews Road Substation, to be located at the southeast corner of Polenta Road and Matthews Road in Johnston County, North Carolina, and would terminate at the tap point along the existing Erwin-Selma 230-kV Transmission Line. The approximate total length of the proposed transmission line is 11.5 miles.

4. Mr. Canaday gave testimony and submitted statements opposing the proposed transmission line. Thirty affected residents or landowners also submitted public comments opposing the proposed transmission line, and eighteen public hearing witnesses testified in opposition to the line.

5. DEP's application meets the requirements of G.S. 62-102.

6. DEP has carried its burden of proof under G.S. 62-105(a) through substantial, competent evidence showing that:

- (a) the proposed transmission line is necessary to satisfy the reasonable needs of the public for an adequate and reliable supply of electricity;
- (b) when compared with reasonable alternative courses of action, construction of the transmission line in the proposed location is reasonable, preferred, and in the public interest;
- (c) the costs associated with the proposed transmission line are reasonable;
- (d) the impact that the proposed transmission line will have on the environment is justified considering the state of available technology, the nature and economics of the alternatives, and other material considerations; and
- (e) the environmental compatibility, public convenience and necessity require the construction of the transmission line.

7. 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 alternate route.

8. It is in the public interest, reasonable, and appropriate to grant the requested certificate.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1-2

These findings of fact are essentially informational, jurisdictional, and procedural in nature and uncontroverted.

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the purpose of increased privacy or additional wildlife habitat. Some individuals expressed concern that DEP's proposed line would have the potential to reduce the value of their respective properties, and consequently the amount of their respective children's inheritances. Several individuals commented that DEP's surveyors had inappropriately cut some trees that were larger than the permitted size of six inches in diameter.

In response to questions from the Commission, witness Same testified that DEP would agree to consider minor adjustments to the Proposed Route, provided that additional landowners would not be affected by such adjustments.

As demonstrated by witness Same's testimony, the Study and DEP Late-Filed Exhibit No. 2, the projected cost of constructing the transmission line on Route 31 is \$13,692,398.00. No party to this proceeding presented evidence alleging that this estimated cost is unreasonable. Furthermore, DEP Late-Filed Exhibit 2 demonstrates that the proposed costs associated with Route 31 are consistent with or lower than alternative routes reviewed in the siting process.

Mr. Canaday testified that DEP's application was incomplete and the Study was deficient in that it assigned insufficient weight to farmland and forests in the ranking process. In response to Mr. Canaday's allegations regarding the weight assigned in the siting process to farmland and forested land, witness Same testified that DEP assigned a weighting of 2 for "cropland crossed" and a weighting of 3 for "upland forest crossed." Witness Same explained that the intent of weighting is to differentiate between the levels of perceived impact on the underlying land uses and to help determine areas of higher versus lower constraint when routing the line. "Cropland crossed" was assigned a lower weight than "upland forest crossed," witness Same explained, because continued farming activity is permitted and is feasible under DEP transmission lines. Witness Same noted that only the following four routing factors were assigned a higher weighting than "upland forest crossed": "residential proximity" and "open space/green areas" had a weighting of 5, while "wetland crossing" and "stream sensitivity" had a weighting of 4. These weightings, DEP contends, appropriately reflect the values and risks of land uses that could impact and potentially preclude DEP from siting and eventually constructing the proposed line. In addition, these weightings reflect input from past transmission line siting proceedings, as well as public feedback obtained during the study process.

Mr. Canaday further took issue with DEP's route selection process, noting that the Company did not appropriately classify farms as being businesses, and, therefore, the Company's planning matrix was weighted in favor of routing the line through farmland. Similarly, Mr. Canaday argued that DEP's process did not acknowledge the forestry businesses in the path of the proposed route. Other individuals stated that DEP's route scoring matrix was biased against them because they were not able to attend the open houses and voice their concerns. One commenter noted that DEP had not achieved any of its own routing goals in that the proposed route does not use any existing right of way, nor does it follow any highways or roads. Another stated that DEP should work with the county to locate new power lines simultaneous with the approval of new housing subdivisions.

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On December 5, 2017, after the record in this proceeding was closed to new evidence, Mr. Canaday submitted documentation purporting to show that DEP has existing 500-kV/230-kV substations that do not require or occupy 200 acres. Mr. Canaday argues that these purportedly existing substations require approximately 27.5 acres or less. While there are two 500-kV to 230-kV substations in the approximate locations that Mr. Canaday cites, the photographs constituting this submission are not sufficiently clear to permit a determination on Mr. Canaday's allegation regarding acreage.

The Commission notes that witness Umbdenstock has a degree in electrical engineering, and that he has worked for DEP for almost 38 years and is currently a lead engineer. Further, he is a licensed Professional Engineer in the State of North Carolina. If Mr. Canaday has similar credentials, that information was not included in the record. Further, his December 5, 2017 submittal was not timely for the October 31, 2017 hearing. As such, it was not the topic of cross examination, nor did it qualify for inclusion in the record (based on the November 6 deadline established during that hearing). For these reasons, the Commission finds witness Umbdenstock's testimony regarding the land requirements for substations to be more persuasive than Mr. Canaday's December 5, 2017 submittal.

As noted above, several public commenters suggested that the new 230-kV line should parallel the existing 500-kV line, and then approach the new distribution substation from the west. In its October 9, 2017 submittal, DEP stated that such a route would be longer than the Company's preferred route, and that additional right of way adjacent to the 500-kV line would be needed. At the conclusion of the October 31, 2017 hearing, the Commission ordered the Company to submit a late-filed exhibit providing more detailed information about what would be required to run the new line parallel to the existing 500-kV line.

On November 13, 2017, DEP submitted a late-filed exhibit providing the additional information. DEP noted that the existing 500-kV line is located in a 180-foot-wide easement, and that to accommodate a new 230-kV line, an additional 82.5 feet of easement would be needed adjacent to the existing easement. DEP stated that it had analyzed four options, two coming from the north and two coming from the south, one on each side of the existing line. All four options would be longer than DEP's proposed 230-kV line, and all have homes located within the required right-of-way. (The number of homes ranged from 11 to 43, and one of the options also impacted eight apartment buildings and three places of business.) DEP stated further that it might be possible to avoid the homes if one of the southern routes were selected, but this would require the new line to cross under the 500-kV line multiple times, adding to the length, the cost, and the number of impacted landowners. The Commission concludes, based on this evidence, that the construction of a new 230-kV line paralleling the existing 500-kV transmission line is neither feasible nor cost effective and likely would have greater negative impacts on more properties.

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be exposed to when using certain household appliances.” Neither Mr. Canaday nor any other witness presented themselves as experts in the science of biological impacts from electromagnetic fields. Therefore, the Commission finds that Mr. Canaday’s testimony (and that of public witnesses as well) relative to EMF is anecdotal and not persuasive evidence as to his allegation that DEP’s application was incomplete or that DEP’s Study was faulty.

The Commission further notes that many of the commenters expressed concerns that the line could have negative impacts on people, livestock, and crops. While it was not discussed during the hearing, a consumer statement of position referenced, and the Commission is aware, that DEP routinely uses herbicides to assist in managing vegetation in its rights-of-way. In its vegetation management policies, the Company has agreed to allow landowners to designate their property as being a “no-spray” area. 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).

Summary

For the reasons discussed herein, the Commission concludes that DEP has carried its burden of proof pursuant to G.S. 62-105(a) in demonstrating that the proposed transmission line is necessary for an adequate and reliable supply of electric energy to its service area. The Commission next concludes that DEP has carried its burden of proof in successfully demonstrating that Route 31 is the preferred transmission line route, that construction of a transmission line along Route 31 is in the public interest, and that the proposed costs associated therewith are reasonable. The Commission concludes that the environmental compatibility, public convenience, and necessity require construction of the proposed transmission line along Route 31. In so concluding, the Commission rejects Mr. Canaday’s arguments that DEP’s route selection process was faulty.

Further, for the reasons discussed herein, the Commission concludes that Mr. Canaday has not met the burden of proof required by G.S. 62-105(a) with regard to any alternative route for the transmission line. Mr. Canaday has not proven that any of his alternative suggestions are preferable to the proposed route or would provide long-term, reliable electric service to the Cleveland-Matthews area of Johnston County. DEP’s Late-Filed Exhibit 1 demonstrates that a new 230-kV transmission line adjacent to the existing 500-kV transmission line would not be a feasible option. No evidence was presented regarding the feasibility or cost of alternative routes or their impact on other landowners.

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Having carefully reviewed the application, and based upon all the evidence of record and the recommendation of the Public Staff that the CPCN be issued, the Commission finds and concludes that the proposed transmission line satisfies the environmental compatibility and public convenience and necessity requirements of G.S. 62-100 et seq., and, therefore, a certificate of environmental compatibility and public convenience and necessity should be issued for the proposed transmission line construction.

IT IS, THEREFORE, ORDERED as follows:

1. That Mr. Canaday's motion requesting that the Commission issue against DEP a cease and desist order to preclude construction of the proposed transmission line is denied.

2. That pursuant to G.S. 62-102, a certificate of environmental compatibility and public convenience and necessity to construct approximately 11.5 miles of new 230-kV transmission line in Johnston County and Wake County, North Carolina, as described in DEP's application, is hereby issued to DEP, and the same is attached hereto as Appendix A, subject to the conditions set forth herein and therein.

3. That, prior to DEP's construction of the transmission line, the Commission first must receive confirmation from the State Environmental Review Clearinghouse that the Department of Natural and Cultural Resources concurs with DEP's application and that no further review by the State Environmental Review Clearinghouse is required. The Commission reserves the right to reconsider its decision in the event that further review, not known as of the date of this Order, is subsequently required by the State Environmental Review Clearinghouse.

4. That DEP is required to notify the Commission of any proposed shift to the centerline of the approved transmission line route for the Commission's review and determination of whether DEP will be subject to the public notice and hearing requirements set forth in Article 5A of Chapter 62 of the General Statutes.

5. That, prior to DEP's construction of the transmission line, DEP is required to provide written notice to affected landowners of their option to designate their land as a "no-spray area," consistent with DEP's Revised Vegetation Management Plan and Policies.

ISSUED BY ORDER OF THE COMMISSION.

This the 12th day of January, 2018.

NORTH CAROLINA UTILITIES COMMISSION



Linnetta Threatt, Deputy Clerk

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**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-2, SUB 1150

KNOW ALL PERSONS BY THESE PRESENTS THAT

DUKE ENERGY PROGRESS, LLC
410 South Wilmington Street
Raleigh, North Carolina 27601

is hereby issued this

**CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC CONVENIENCE
AND NECESSITY PURSUANT TO G.S. 62-102**

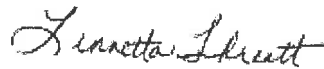
to construct approximately 11.5 miles of new 230-kV Transmission Line, located in Johnston County and a small portion of Wake County, North Carolina, which will originate at the site of a new Cleveland-Matthews Road Substation, located at the southeast corner of Polenta Road and Matthews Road, and which will terminate at the tap point along the existing Erwin-Selma 230-kV Transmission Line

subject to receipt of all federal and state permits as required by existing and future regulations prior to beginning construction and further subject to all other orders, rules, regulations, and conditions as are now or may hereafter be lawfully made by the North Carolina Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 12th day of January, 2018.

NORTH CAROLINA UTILITIES COMMISSION



Linnetta Threatt, Deputy Clerk

P. 9/9



**NORTH CAROLINA
PUBLIC STAFF
UTILITIES COMMISSION**

October 16, 2017

M. Lynn Jarvis
Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4300

Re: Docket No. E-2, Sub 1150 – Duke Energy Progress, LLC – Application of Duke Energy Progress, LLC, for a Certificate of Environmental Compatibility and Public Convenience and Necessity to Construct Approximately 11.5 Miles of New 230-kV Transmission Line in Johnston County, North Carolina

Dear Chief Clerk:

On July 14, 2017, Duke Energy Progress, LLC, (DEP or the Company) filed an application pursuant to G.S. 62-100 et seq., for a certificate of environmental compatibility and public convenience and necessity to construct a transmission line in Johnston County, North Carolina. The Public Staff has reviewed the application filed by Duke Energy Progress in the above-captioned docket. As part of its review, the Public Staff met with impacted property owners and representatives of DEP, responded to phone calls from impacted residents, and reviewed responses to data requests submitted to the Company. The application was submitted to the State Clearinghouse on September 29, 2017. By email, the Clearinghouse has indicated that its review should be completed on November 3, 2017.

Based upon our investigation of the application, exhibits, and other matters of record, the Public Staff believes that Duke Energy Progress has complied with the requirements of G.S. 62-102, and has demonstrated as required by G.S. 62-105 that the proposed transmission line is necessary and that when compared with

Executive Director
(919) 733-2435

Communications
(919) 733-2810

Economic Research
(919) 733-2902

Legal
(919) 733-6110

Transportation
(919) 733-7766

Accounting
(919) 733-4279

Consumer Services
(919) 733-9277

Electric
(919) 733-2267

Natural Gas
(919) 733-4326

Water
(919) 733-5610

Encls (8) P. 1/2

Chief Clerk
Page Two
October 16, 2017

reasonable alternative courses of action, construction of the line in the proposed location is reasonable, that the estimated costs associated with the line are reasonable, that the impact of the line on the environment is justified considering the state of available technology, and that the environmental compatibility, public convenience, and necessity requires the transmission line.

As noted in the Company's Response to the Commission Order of September 25, 2017, Requiring Additional Information, the Public Staff met with representatives of DEP to review requests from property owners to shift the centerline of the preferred route. The Public Staff would like to encourage the Company to continue to work with property owners where the Company can address concerns raised by the owners. However, to the extent the shift in the centerline of the proposed route impacts a property owner that is not currently impacted by the preferred route contained in the Company's application, the new proposed route should be subject to the notice and hearing requirements of Article 5A of Chapter 62 of the General Statutes unless a waiver of the notice and hearing requirements are obtained from the property owners impacted by the shift. The Public Staff would consider a property owner to be impacted by a proposed line if the line comes within either (i) 50 feet of the property line of the owner or (ii) 250 feet of a primary residence of a property owner. The Public Staff requests that the Company share with the Commission any proposed shift of the centerline of the proposed route and address the notice and hearing requirements if there are any new property owners impacted by the proposed line.

Based on its investigation and review of the application, the Public Staff recommends that the Commission issue the certificate requested in this proceeding subject to the conditions that the Company disclose any proposed shift in the centerline of the proposed route and address whether notice and hearing requirements should be provided to additional property owners, and that the Commission receives a letter from the State Clearinghouse stating no further State Clearinghouse review action by the Commission is required for compliance with the North Carolina Environmental Policy Act.

Sincerely,

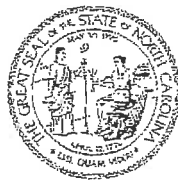
Electronically submitted
/s/ Heather D. Fennell
Staff Attorney
heather.fennell@psncuc.nc.gov

HDF/
c: Parties of Record

ENCL. (8) 12/2

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Oct 16 2017
Dec 08 2022



NORTH CAROLINA
PUBLIC STAFF
UTILITIES COMMISSION

March 19, 2019

Oliver L. Canaday
PO Box 624
Four Oaks, NC 27524

Re: Public Records Request – E-2, Sub 1150

Dear Mr. Canaday:

On March 1, 2019, you requested documents of the Public Staff investigation used “to recommend DEP complied with the cost requirements of G.S. 62-102 and G.S. 62-105,” and “that the estimated costs associated with the line are reasonable.” Enclosed are the documents from the Public Staff’s investigation of the costs of the transmission line proposed in E-2, Sub 1150.

Sincerely,

Heather D. Fennell
Staff Attorney

heather.fennell@psncuc.nc.gov

Page 1/15

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Electric
(919) 733-2267

Natural Gas
(919) 733-4326

Water
(919) 733-5610

Duke Energy Progress, LLC

Docket No. E-2, Sub 1150
Cleveland-Matthews 230kv Transmission Line Project (Cleveland-Matthews)

→ Public Staff Data Request No. 1
→ Date Sent: August 15, 2017
Requested Due Date: August 29, 2017

Public Staff Technical Contact: Tommy Williamson and David Williamson
Phone: 919.733.1540 and 919.733.1518
Email: Tommy.Williamson@psncuc.nc.gov ,
David.Williamson@psncuc.nc.gov

Public Staff Legal Contact: Heather Fennell
Phone: 919.733.0975 Email: Heather.Fennell@psncuc.nc.gov

****Please provide available responses electronically. If Excel format is used, please ensure all formulas are working.**

General:

1. Please provide electronic copies of all questionnaires, letters, emails, and comments via the project website, received by the company with respect to this project.
2. On a continuing basis, please provide all discovery and data requests served on DEP by other parties in this proceeding.
3. On a continuing basis, please provide all answers submitted by DEP in response to discovery and data requests of other parties in this proceeding.
4. On a continuing basis, please provide all materials, logs, and notes on interactions with the impacted customers.

Transmission Line Need:

5. DEP's 2015 IRP Update and the 2016 IRP did not include the proposed transmission line or substation in its planning period. Please explain what led to the discovery of the need for this project, which should include a description of any changes that have been observed or are being forecasted in the region and supporting documentation or calculations.

6. Please explain how load growth in this area will develop over the next ten years.
7. Please explain the timetable DEP applies to perform a system voltage analysis and conductor/equipment overload analysis to identify any existing voltage deficiencies or overload conditions on the transmission system in the region, and the overall transmission system?
8. Were any existing voltage deficiencies or overload conditions observed during the most recent analyses in the region? If so, please elaborate.
9. Please supply the DEP equivalent to the Duke Energy Carolinas, LLC (DEC) document that describes the Electrical Facilities Ratings Methodology found at:
<http://www.oasis.oati.com/DUK/DUKdocs/FINAL DEC FRM 20130425.pdf>
10. Please describe the facility ratings (continuous and emergency) for all transmission lines in the project area, including identification of the most limiting components and their thermal ratings. For each of the limiting components, were the thermal ratings adjusted due to as-built conditions? If so, please provide a detailed explanation, including the pre- and post-adjustment thermal ratings.
11. Please provide a list of all transmission planning model inputs used with this project, along with a description of each model input. Please include operational state and data of all loads, and generating resource units.
12. Has this project been identified as part of the North Carolina Transmission Planning Collaborative (NCTPC)? If so, please provide the report in which it first appeared in an NCTPC Final Report. If not, please explain why it was not.

Transmission Line and Substation Costs:

13. Please provide a detailed breakdown of the projected \$28 million in costs for the new transmission line and new Cleveland-Matthews Road Substation. Please include the associated parties responsible for each cost (materials, equipment, labor, land purchase, right-of-way acquisition, etc.).
14. Please provide a detailed breakdown of the cost of transmission route 4 (the preferred route) and route 1 (lowest weighted score).
15. Please list any non-DEP resources (i.e. contractors, etc.) that will be used for the transmission line and substation project, along with a description of the service provided and projected cost of those services.

~~2013~~ P20C 3/15

Surveying:

16. Please describe the process and timeline that DEP will follow during the surveying portion of this project.
17. Is the Company using LiDAR technology during the survey schedule? Please provide the cost differentials/analysis on traditional surveying versus using the LiDAR technology.

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NC Public Staff
Docket No. E-2, Sub 1150
NC Public Staff Data Request No. 1
Cleveland-Matthews Transmission Line
Item No. 1-13
Page 1 of 1

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Dec 08 2022

DUKE ENERGY PROGRESS, LLC

Request:

Please provide a detailed breakdown of the projected \$28 million in costs for the new transmission line and new Cleveland-Matthews Road Substation. Please include the associated parties responsible for each cost (materials, equipment, labor, land purchase, right-of-way acquisition, etc.).

Response:

Please see the attached spreadsheet 'CMR Public Staff Req 1_Responses Q13-Q15_082317.xlsx'.



CMR Public Staff Req
1_Responses Q13-Q15

12/8/22

Q13 - Breakdown of projected \$28M in costs

| | Cost Type | Projected Cost | Responsible Party |
|---|--------------------------|----------------|--|
| Labor: | Line Construction | 11,071,511 | DEP Line Construction Contractor |
| | Project Management | 143,654 | DEP Project Management Group |
| | Right of Way Acquisition | 111,695 | DEP Real Estate Group |
| | Substation Construction | 7,096,076 | DEP Substation Construction Contractor |
| | Total Labor: | 18,422,936 | |
| Materials | Substation Construction | 1,938,396 | DEP Materials Management |
| | Line Construction | 2,620,887 | DEP Materials Management |
| | Total Materials: | 4,559,283 | |
| Land Purchase: | (Sub Station) | 514,146 | DEP Real Estate Group |
| Right of Way Acquisition /Route Selection: | | 4,709,205 | DEP Real Estate Group |
| TOTAL: | | 28,205,570 | |

Page 6/15

Q14 - Cost of Transmission Route 4 vs Route 1

| | Cost Estimate Cleveland Matthews Route 4/Preferred | Cost Estimate Cleveland Matthews Route 1/Lowest |
|---|--|---|
| | | |
| Install /Modify Line Structures and Wires | 3,328,000 | 3,072,000 |
| Install /Modify Line Structures and Wires (Inspector's Time) | 244,000 | 200,000 |
| Site Finalization (clean-up) | 192,000 | 96,000 |
| Site Finalization (clean-up) Inspector | 27,000 | 14,000 |
| As-built | 2,000 | 2,000 |
| Erosion Control | 1,000,000 | 2,000,000 |
| Staking | 24,000 | 12,000 |
| ROW Clearing | 1,818,000 | 940,000 |
| Centerline Survey | 317,000 | 164,000 |
| Tie Plat Survey | 180,000 | 93,000 |
| Flagging Clearing Limit | 60,000 | 31,000 |
| | | |
| Subtotal | 7,192,000 | 6,624,000 |
| | | |
| Engineering labor & Material Estimates | 1,936,265 | 2,142,163 |
| | | |
| Subtotal - Direct View | 9,128,265 | 8,766,163 |
| | | |
| Adjusted to Include Burdens | 13,692,398 | 13,149,245 |

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Dec 08 2022

Rec #15

Q15 - Non-DEP Resources Expected to be Used

Although none of the specific resources have been assigned at this point, we expect a great deal of the project cost to be for contracted services.

| | Cost Type | Projected Cost | Responsible Party | Non-DEP Resources Expected? |
|---|--------------------------|----------------|--|-----------------------------|
| Labor: | Line Construction | 11,071,511 | DEP Line Construction Contractor | yes |
| | Project Management | 143,654 | DEP Project Management Group | no |
| | Right of Way Acquisition | 111,695 | DEP Real Estate Group | no |
| | Substation Construction | 7,096,076 | DEP Substation Construction Contractor | yes |
| | Total Labor: | 18,422,936 | | |
| Materials | Substation Construction | 1,938,396 | DEP Materials Management | no |
| | Line Construction | 2,620,887 | DEP Materials Management | no |
| | Total Materials: | 4,559,283 | | |
| Land Purchase: | | 514,146 | DEP Real Estate Group | no |
| Right of Way Acquisition: Route Selection: | | 4,700,205 | DEP Real Estate Group | yes |
| TOTAL: | | 28,205,570 | | |

Non-DEP resources are expected for a portion of the above projected costs:

| Type of Contractor | Description of Service |
|--|---|
| Environmental Consultants (Burns & McDonnell) | Routing study and environmental report |
| Vegetation Mgmt | ROW clearing and grading |
| Clearing and grading | Land clearing, grading, excavation, erosion control |
| Engineering Consultants | Design engineering services |
| Construction Inspection | Construction Oversight |
| Substation Contractor | Substation and Protection & Controls Construction |
| Line Contractor | Line Construction |
| | |
| | |
| | |

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NC Public Staff
Docket No. E-2, Sub 1150
NC Public Staff Data Request No. 1
Cleveland-Matthews Transmission Line
Item No. 1-14
Page 1 of 1

DUKE ENERGY PROGRESS, LLC

Request:

Please provide a detailed breakdown of the cost of transmission route 4 (the preferred route) and route 1 (lowest weighted score).

Response:

Please see the attached spreadsheet contained in our response to PS DR1-13.

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NC Public Staff
Docket No. E-2, Sub 1150
NC Public Staff Data Request No. 1
Cleveland-Matthews Transmission Line
Item No. 1-15
Page 1 of 1

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Dec 08 2022

DUKE ENERGY PROGRESS, LLC

Request:

Please list any non-DEP resources (i.e. contractors, etc.) that will be used for the transmission line and substation project, along with a description of the service provided and projected cost of those services.

Response:

Please see the attached spreadsheet contained in our response to PS DR1-13.

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1/15

Duke Energy Progress, LLC

Docket No. E-2, Sub 1150
Cleveland-Matthews 230kv Transmission Line Project (Cleveland-Matthews)

→ Public Staff Data Request No. 2
→ Date Sent: September 18, 2017
Requested Due Date: October 2, 2017

Public Staff Technical Contact: Tommy Williamson and David Williamson
Phone: 919.733.1540 and 919.733.1518
Email: Tommy.Williamson@psncuc.nc.gov ,
David.Williamson@psncuc.nc.gov

Public Staff Legal Contact: Heather Fennell
Phone: 919.733.0975 Email: Heather.Fennell@psncuc.nc.gov

****Please provide available responses electronically. If Excel format is used, please ensure all formulas are working.**

1. Please provide a detailed breakdown of the cost of transmission route 31 (the preferred route) and route 4 (lowest weighted score).
2. Please confirm that the costs used in the response to DR1-13 and DR1-15 were the costs associated with route 31.

Other Questions:

3. Describe any contemplated joint-use with this project along existing DEP distribution ROW or non-DEP distribution ROW.
4. Please explain if there are any system benefits that South River EMC may be receiving because of this project. If any benefits are being added to the EMC, please explain if the EMC will be paying for any portion of the line that crosses over into the EMC's territory.
5. The Visual Character section of the RSER (6.3.3) states that mostly H-frame structures will be used. What other types of structures will be used? Please provide any details on the other structures to be used.
6. In three versions of DEP's letter to property owners potentially impacted by the transmission line, DEP states; "You are receiving this letter because you were the owner of a property (or properties) within 500 feet of the centerline of one of the routes being studied for potential placement of the transmission line."

- a. Mr. Timothy Same's testimony indicates that only the applicants within 200 feet of the centerline were notified. Please explain this discrepancy, including a description of the actual distance from the centerline used to determine the property owners that were ultimately notified.
- b. Please provide the source documentation for this distance requirement (DEP's internal planning criteria, NERC or other regulatory requirement, etc.).

NC Public Staff
Docket No. E-2, Sub 1150
NC Public Staff Data Request No. 2
Cleveland-Matthews Transmission Line
Item No. 2-1
Page 1 of 1

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Dec 08 2022

DUKE ENERGY PROGRESS, LLC

Request:

Please provide a detailed breakdown of the cost of transmission route 31 (the preferred route) and route 4 (lowest weighted score).

Response:

Please see attached file, "CMR Public Staff Req 2_Responses Q1-Q2_092817.xlsx"



CMR Public Staff Req
2_Responses Q1-Q2_

page 3/5

Q1 - Cost of Transmission Route 31 vs Route 4 (see below)

Note: When the responses to DR1-Q14 and DR2-Q1 were provided, it was clear that the question was a comparison of the cost of the preferred route vs the lowest scoring route. The particular route numbers referenced in DR2-Q1 more accurately reflect the route numbering.

Q2 - Confirm that the costs used in response to DR1-13 and DR1-15 were the costs associated with route 31. Response = Confirmed

| | Cost Estimate Cleveland Matthews Route 31/Preferred | Cost Estimate Cleveland Matthews Route 4/Lowest |
|---|---|---|
| Install /Modify Line Structures and Wires | 3,328,000 | 3,072,000 |
| Install /Modify Line Structures and Wires (Inspector's Time) | 244,000 | 200,000 |
| Site Finalization (clean-up) | 192,000 | 96,000 |
| Site Finalization (clean-up) Inspector | 27,000 | 14,000 |
| As-built | 2,000 | 2,000 |
| Erosion Control | 1,000,000 | 2,000,000 |
| Staking | 24,000 | 12,000 |
| ROW Clearing | 1,818,000 | 940,000 |
| Centerline Survey | 317,000 | 164,000 |
| Tie Plat Survey | 180,000 | 93,000 |
| Flagging Clearing Limit | 60,000 | 31,000 |
| Subtotal | 7,192,000 | 6,624,000 |
| Engineering labor & Material Estimates | 1,936,265 | 2,142,163 |
| Subtotal - Direct View | 9,128,265 | 8,766,163 |
| Adjusted to Include Burdens | 13,692,398 | 13,149,245 |

NC Public Staff
Docket No. E-2, Sub 1150
NC Public Staff Data Request No. 2
Cleveland-Matthews Transmission Line
Item No. 2-2
Page 1 of 1

DUKE ENERGY PROGRESS, LLC

Request:

Please confirm that the costs used in the response to DR1-13 and DR1-15 were the costs associated with route 31.

Response:

Yes. See also response to data request 2-1.

Page 15/15

Filed in JOHNSTON COUNTY, NC CRAIG OLIVE, Register of Deeds Filed 10/15/2018 11:26:39 AM
DEED BOOK: 5232 PAGE: 830-832 INSTRUMENT # 2018588281
Real Estate Excise Tax: \$0.00 Deputy/Assistant Register of Deeds: LaWanda Neal

Cover Sheet

for

Special Use Permit

issued to

Duke Energy Progress LLC

issued by

Johnston County Planning Department

Encl.(9) P.1/4

Johnston County Planning & Zoning Department
309 E. Market Street
Smithfield, NC 27577
(919) 989-5150

COUNTY OF JOHNSTON
SPECIAL USE PERMIT

On the date(s) listed below, the Board of County Commissioners for Johnston met and held a public hearing to consider the following application.

Applicants: Duke Energy Progress LLC (Reuben Jones)
Landowners: Duke Energy Progress LLC
Property Location: Southeast corner of Polenta Rd. and Matthews Rd. in Cleveland Township
Case #18-12
Parcel I.D. #06F04070L

Proposed use of property: An electrical substation

Meeting date(s): June and August 2018

Board of Commissioners of Johnston County finds to allow for an electrical substation.

Finding of Facts for the Special Use Permit:

1. That the use or development is located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;
Applicant: The proposed substation was sited by Duke Energy Progress (DEP) in response to load growth in Johnston County and will provide increased electric power capacity and reliability for residents.
2. That the use of the development appears to comply with all required use and intensity regulations of Articles II & IV of the Johnston County Land Development Code and the applicable specific standards in section 14-257 and with all applicable regulations;
Applicant: Typical maintenance visits to the substation are approx. twice a month. Utility facilities are allowed in AR zones provided a Special Use District is established (Chapter 14, Article II, Div. 2, c (1)). The facility will be greater than 20 feet from all property lines and the apparatus will be enclosed by an 8-foot high fence in accordance with the ordinance. A stormwater permit will be sought from the County and an erosion control permit will be sought from the State.
3. That the use or development is located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property, or that the use or development is a public necessity;
Applicant: DEP has identified the proposed substation as a public need through its site evaluation process. The site will be designed with landscaping for the purposes of screening the equipment.
4. That the use or development conforms with general plans for the physical development of the County's Planning jurisdiction, the Design Manual, or other development policies as adopted by the Board of Commissioners.
Applicant: The proposed electrical substation increases reliability of electrical service to existing development and facilities further development according to the County's strategic plan. Since the facility is not occupied, it does not create the typical associated need for services.

Special Use Conditions:

1. Permitted Uses: To allow for an electrical substation.
2. The Special Use Permit shall expire with the violation of any Special Use Condition.
3. Applicant shall submit a detailed site plan for review and approval by the Planning and Zoning Department Staff.
4. All buildings and/or structures must comply with rules enforced by Federal, State and Local agencies.
5. Install a Class A landscaping buffer along the southern property boundary line with no trees within 150 ft. of the transmission line. Install Class B landscaping buffer along remaining property lines. Existing natural vegetation may be used if equal or more intense.
6. The area housing all the equipment shall be enclosed within an 8' fence topped with barbwire.

P. 2/4

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Dec 08 2022

Gross Land Area: 21.52 acre tract

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Johnston County that the Board of Commissioners hereby approves
This the 27th day of September, 2018

County of Johnston

By:

Braston Newton

Braston Newton, Planning Director

NORTH CAROLINA, JOHNSTON COUNTY

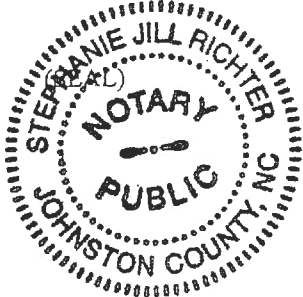
I, Stephanie Jill Richter, a Notary Public in and for said State and County, do hereby certify that Braston Newton (Director of Planning), personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and notarial seal, this the 27th day of September, 2018

Stephanie Jill Richter
Notary Public

My commission expires:

9-9-2019



Owners:

[Signature] *[Signature]*
Duke Energy Progress LLC

NORTH CAROLINA, Franklin COUNTY

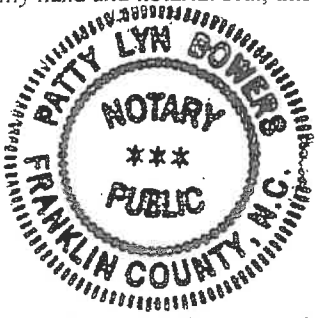
I, Patty Lyn Bowers, a Notary Public in and for said State and County, do hereby certify that Robney N. Hutcherson (Owner(s) of Property), personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and notarial seal, this the 4th day of October, 2018

Patty Lyn Bowers
Notary Public

My commission expires: November 21, 2020

(SEAL)



(Not valid until fully executed and recorded)

NORTH CAROLINA - JOHNSTON COUNTY

The foregoing certificate/s of _____

Notary Public/Notaries Public is/are certified to be correct.

Filed for registration and recorded in the office in Book _____, Page _____

This _____ day of _____, 20____ at _____ o'clock _____ M.

By _____

Register of Deeds

Asst./Deputy Register of Deeds

Recorded in Ordinance Book _____, Page _____

P. 3/4



P.O. Box 124, Co. 27, P.O. 124
43/21, 124

P. 4/4

10 Dec 10 12

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 Necessity to)
Construct Approximately 11.5 Miles of New)
230 kV Transmission Line in Johnston County,)
North Carolina)
ORDER DENYING
MOTIONS TO COMPEL

BY THE COMMISSION: On January 12, 2018, the Commission issued an order in the above-captioned docket granting a certificate of environmental compatibility and public convenience and necessity for Duke Energy Progress, LLC (DEP), to construct approximately 11.5 miles of new 230 kV transmission line to provide power to the Cleveland-Matthews area of Johnston County, North Carolina.

On September 13, 2022, intervenor Oliver Canaday filed a motion to compel DEP to furnish a start date for construction of the approved transmission line.

On September 26, 2022, Mr. Canaday filed a further motion to compel DEP to furnish a copy of Commission authorization or instructions for the filing of DEP's November 13, 2017 Late-Filed Exhibit No. 2.

On September 27, 2022, the Commission issued an order requiring DEP to respond to Mr. Canaday's motions to compel.

On October 4, 2022, DEP filed an Objection to Oliver Canaday's Motions to Compel. DEP argues that "the Commission has previously considered and rejected Mr. Canaday's arguments and motions," that "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," and that "as such, Mr. Canaday has no valid legal basis to ask the Commission to compel DEP to provide him with any information related to this docket" — "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 this objection, DEP provided the following update on the status of the transmission line:

[R]ight-of-way clearing for the Cleveland-Matthews 230 kV transmission line commenced in May 2019 and . . . construction of the line commenced in June 2019. Construction on the line was completed and the line was

ENCLOSURE: (10) P. 1/2

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Dec 08 2022

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.

After careful consideration, the Commission finds good cause to (1) deny Mr. Canaday's motion to compel DEP to furnish a start date for construction of the approved transmission line as moot, and (2) deny Mr. Canaday's motion to compel DEP to furnish a copy of Commission authorization or instructions for the filing of DEP's November 13, 2017 Late-Filed Exhibit No. 2 as untimely.

First, DEP provided in its response the requested information regarding the start date for construction of the Cleveland-Matthews transmission line. DEP states that construction was begun in May 2019 and that the line was placed into service in October 2020. Thus, Mr. Canaday's motion to compel is now moot.

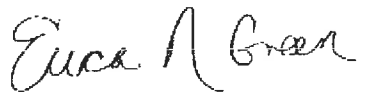
Second, as DEP notes, the evidentiary record in this docket is closed, and the time for appeal of the Commission's final order has run. There being no further opportunity for hearing or for appeal of the Commission's January 12, 2018 order, Mr. Canaday's motion to compel is untimely. The Commission, therefore, concludes that there is not good cause to require DEP to respond to Mr. Canaday's motion to compel or any further discovery in this proceeding. As the Commission stated over four years ago in its August 3, 2018 Order Denying Motions for Relief addressing, in part, similar issues, Mr. Canaday has exhausted all remedies and relief available to him that are within the jurisdiction of this Commission.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 10th day of October, 2022.

NORTH CAROLINA UTILITIES COMMISSION



Erica N. Green, Deputy Clerk

Commissioner Daniel G. Clodfelter did not participate.

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LAW OFFICE OF
ROBERT W. KAYLOR, P.A.
353 EAST SIX FORKS ROAD, SUITE 260
RALEIGH, NORTH CAROLINA 27609
(919) 828-5250
FACSIMILE (919) 828-5240

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

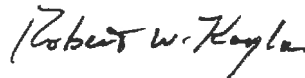
**Re: Duke Energy Progress, LLC's Objection to Oliver Canaday's Motions
to Compel
Docket No. E-2, Sub 1150**

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

ENCL: (Pa) P/4

OFFICIAL COPY

Dec 08 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 |) |
| Necessity Pursuant to N.G. Gen. Stat. §§ 62- |) |
| 100 et seq. to Construct Approximately 11.5 |) |
| Miles of New 230kV Transmission Line in |) |
| Johnston County, North Carolina |) |
| |) |

**DUKE ENERGY PROGRESS, LLC's
OBJECTION TO
OLIVER CANADAY'S
MOTIONS TO COMPEL**

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.

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Dec 08 2022

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.

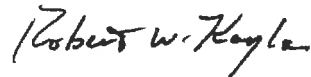
3. Finally, the evidentiary record in this docket has long been closed as a result of Mr. Canaday's failure to properly appeal the Commission's orders to the North Carolina Court of Appeals and any discovery option that was available to Mr. Canaday in this docket has expired; therefore, these current 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

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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 4th day of October, 2022.



Robert W. Kaylor
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North Carolina State Bar No. 6237

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27 Sept, 2022

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Dec 08 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 Necessity to) ORDER REQUIRING RESPONSE
Construct Approximately 11.5 Miles of New) TO MOTIONS TO COMPEL
230 kV Transmission Line in Johnston County,)
North Carolina)

BY THE COMMISSION: On January 12, 2018, the Commission issued an order in the above-captioned docket granting a certificate of environmental compatibility and public convenience and necessity for Duke Energy Progress, LLC (DEP), to construct approximately 11.5 miles of new 230 kV transmission line to provide power to the Cleveland-Matthews area of Johnston County, North Carolina.

On September 13, 2022, intervenor Oliver Canaday filed a motion to compel DEP to furnish a start date for construction of the approved transmission line.

On September 26, 2022, Mr. Canaday filed a further motion to compel DEP to furnish a copy of Commission authorization or instructions for the filing of DEP's November 13, 2017 Late-Filed Exhibit No. 2.

The Commission finds good cause to require DEP to respond to Mr. Canaday's motions to compel on or before October 12, 2022.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 27th day of September, 2022.

NORTH CAROLINA UTILITIES COMMISSION



Erica N. Green, Deputy Clerk

ENCL. (11)

§ 62-11. Oath of office.

Each utilities commissioner before entering upon the duties of his office shall file with the Secretary of State his oath of office to support the Constitution and laws of the United States and the Constitution and laws of the State of North Carolina, and to well and truly perform the duties of his said office as utilities commissioner, and that he is not the agent or attorney of any public utility, or an employee thereof, and that he has no interest in any public utility. (1933, c. 134, s. 5; 1935, c. 280; 1939, c. 404; 1941, c. 97; 1963, c. 1165, s. 1.)

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Dec 08 2022

PUBLIC UTILITIES

§ 62-
Note

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Dec 08 2022

ARTICLE 1

General Provisions

Section

- 62-1. Short title.
- 62-2. Declaration of policy.
- 62-3. Definitions.
- 62-4. Applicability of Chapter.
- 62-5. Utilities; property affected by boundary certification.
- 62-6 to 62-9. Reserved.

§ 62-1. Short title

This Chapter shall be known and may be cited as the Public Utilities Act.

Added by Laws 1963, c. 1165, § 1.

Historical and Statutory Notes

Laws 1963, c. 1165 amended, revised and rewrote provisions of chapters 56, 60, and 62 that were recodified into chapters 62 and 74A. Chapter 74A, contained provisions of former §§ 60-82 through 60-87 that were subsequently repealed. Provisions of Chapter 74A, Company Police, may now be found at Chapter 74E. The provisions pertaining to railroad corporations were subsequently repealed or recodified to § 136-190 et seq.

Notes of Decisions

Commission generally 3

Construction and application 1

Public utilities generally 4

Purpose 2

1. Construction and application . . .

By enacting the Public Utilities Act, the General Assembly conferred broad powers upon North Carolina Utilities Commission to regulate public utilities and to compel their operation in accordance with the policy of the State. State ex rel. Utilities Com'n v. Carolina Water Service, Inc. of N.C., 2013, 225 N.C.App. 120, 738 S.E.2d 187. Public Utilities ⇐ 147

By enactment of statutory chapter governing public utilities, General Assembly conferred upon Utilities Commission broad powers to regulate public

Note 1

utilities and to compel their operation in accordance with policy of state as declared in statute. State ex rel. Utilities Com'n v. Public Staff-North Carolina Utilities Com'n, 1996, 123 N.C.App. 623, 473 S.E.2d 661. Public Utilities ⇐ 145.1

The several provisions of the public utilities statutes are to be construed together to accomplish primary purpose of assuring public of adequate service at reasonable charge. State ex rel. Utilities Commission v. General Tel. Co. of Southeast, 1974, 208 S.E.2d 681, 285 N.C. 671. Statutes ⇐ 1151

2. Purpose

Primary purpose of the Public Utilities Act is not to guarantee to stockholders of public utility constant growth in value of and in dividend yield from their investment, but is to assure public of adequate service at reasonable charge. State ex rel. Utilities Commission v. General Tel. Co. of Southeast, 1974, 208 S.E.2d 681, 285 N.C. 671. Public Utilities ⇐ 102

3. Commission generally

Utilities Commission, being an administrative agency created by statute, has no regulatory authority except such as is conferred upon it by statute. State ex rel. Utilities Com'n v. Mountain Elec. Co-op., Inc., 1992, 423 S.E.2d 516, 108 N.C.App. 283, affirmed 435 S.E.2d 71, 334 N.C. 681. Public Utilities ⇐ 147

Utilities Commission is statutory body possessing only authority conferred upon it by the General Assembly. State ex rel. Utilities Com'n v. Seaboard Coast Line R. Co., 1983, 303 S.E.2d 549, 62 N.C.App. 631, appeal dismissed, review denied 307 S.E.2d 168, 309 N.C. 324. Public Utilities ⇐ 147

The State Utilities Commission is a creation of the legislature and, in fixing rates to be charged by public utilities, exercises legislative function; it has no authority except that given to it by statute. State ex rel. Utilities Commission v. Edmisten, 1977, 232 S.E.2d 184, 291 N.C. 451. Public Utilities ⇐ 120; Public Utilities ⇐ 147 *Cont. -*

ENCL (13) P. 1/2

§ 62-1

PUBLIC UTILITIES

cont. - A fortiori, the State Utilities Commission has no authority to permit that which is forbidden by statute or to extend a previously granted rate increase which statute has declared terminated. State ex rel. Utilities Commission v. Edmisten, 1977, 232 S.E.2d 184, 291 N.C. 451. Public Utilities ⇌ 120; Public Utilities ⇌ 147

Utilities Commission, being an administrative agency created by statute, has no regulatory authority except such as is conferred on it by statute. State ex rel. Utilities Commission v. National Merchandising Corp., 1975, 220 S.E.2d 304, 288 N.C. 715. Public Utilities ⇌ 147

Utilities Commission may not, by an order, require or authorize a rule or practice by a public utility company forbidden by statute or authorize such company to refuse to perform a duty imposed upon it by statute unless such authority has been conferred upon Commission by statute. State ex rel. Utilities Commission v. National Merchandising Corp., 1975, 220 S.E.2d 304, 288 N.C. 715. Public Utilities ⇌ 147

4. Public utilities generally

To grant a certificate of public convenience and necessity to conduct a business which is not a public utility, within definition of statute, would be both arbitrary and in excess of statutory authority of Utilities Commission. State ex rel. Utilities Commission v. Edmisten, 1979, 252 S.E.2d 516, 40 N.C.App. 109, affirmed in part, reversed in part 263 S.E.2d 583, 299 N.C. 432. Public Utilities ⇌ 113

A public service or public utility corporation having power of eminent domain makes such corporation amenable to state control through Utilities Commission. State ex rel. Utilities Commission v. Edmisten, 1979, 252 S.E.2d 516, 40 N.C.App. 109, affirmed in part, reversed in part 263 S.E.2d 583, 299 N.C. 432. Public Utilities ⇌ 113

One test to determine whether plant or system is a "public utility" within jurisdiction of Utilities Commission is whether public may enjoy it by right or by permission only. State ex rel. Utilities Commission v. Edmisten, 1979, 252 S.E.2d 516, 40 N.C.App. 109, affirmed in part, reversed in part 263 S.E.2d 583, 299 N.C. 432. Public Utilities ⇌ 113

Power of eminent domain is inherent in certificate of public convenience and necessity. State ex rel. Utilities Commission v. Edmisten, 1979, 252 S.E.2d 516, 40 N.C.App. 109, affirmed in part, reversed in part 263 S.E.2d 583, 299 N.C. 432. Eminent Domain ⇌ 10(1)

Having received benefits of its chartered privileges, including ownership of property obtained, at least in part, by power of eminent domain, electrical utility was charged with corresponding responsibilities in business affected with public interest. State ex rel. Utilities Commission v. Edmisten, 1979, 252 S.E.2d 516, 40 N.C.App. 109, affirmed in part, reversed in part 263 S.E.2d 583, 299 N.C. 432. Electricity ⇌ 8.1(1)

Fact that corporation has authority to, and does, engage in private business in addition to its public service does not deprive it of its status as a public service corporation. State ex rel. Utilities Commission v. Edmisten, 1979, 252 S.E.2d 516, 40 N.C.App. 109, affirmed in part, reversed in part 263 S.E.2d 583, 299 N.C. 432. Public Utilities ⇌ 112

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