

11 Oct. 2021

Docket No. E-2, Sub 1150

From: Oliver L. Canaday (O.L. Canaday), 713 Camellia Ave., Panama City, FL. 32404
("Pursuant to" = In Accordance With (IAW))

To: Ms. Kimberly A. Campbell, Chief Clerk of N.C. Utility Commission; (Attn: Chair
Charlotte A. Marshall); 4325 Mail Service Center, Raleigh, N.C. -27699-
(N. Salisbury St., Dobbs Building, Raleigh, N.C. -27603-

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

N. Lorrin Freeman (DA Wake County Superior Court), P.O. 31, Raleigh,
N.C. -27601-

Ref: (a) N,C. Utility Commission file, Docket No. E-2, Sub 1150 of 14 Jul. 2017, is
assigned to Duke Energy Progress (DEPs') Certificate Application to Construct
o/a 11.5 miles of 230kV Line; (Cleveland – Matthews Road Project);

(b)- Commissions' Order of 12 Jan. 2018, Issued DEP a Certificate of
Environmental Compatibility and Public Convenience & Necessity (CPCN) to
construct o/a 11.5 miles of line:

(b-1) Certificate of CPCN Pursuant to G.S. 62-102* (required as described IAW G.S.
62-101 requires to be constructed, operated, and maintained in conformity with
(such) Certificate); *issued to DEP to construct o/a 11.5 miles of 230kV line;...,
"subject to all other orders, rules, regulations, and conditions as are now or may
hereafter be lawfully made by North Carolina Utilities Commission", –issued
by Order of Commission 12 Jan. 2018;

(c) O.L. Canadays' (Discovery) -Violation (Complaint) date of 14 Sept. 2020 DEPs'
Violation of Commissions' Order of 12 Jan. 2018, -construction started on 230kV
line prior to written notification of no-spray herbicides option to landowners;

(d) O.L. Canadays' o/a 4 Jul. 2021 (Discovery of DEPs' violation(s)) in Certificate
of 12 Jan. 2018 related to execution (carry-out) of construction of ROW;

(e) Commissions' Rule R1-9 – Complaints and procedures Thereon: Answers-
-**Rule R1-9(b),(4)** - A clear concise statement of violation of any provision(s) of
Law, or any Order, or any Rule of the Commission, in which any Rule or
Practice is Unjust and Unreasonable, - - -,etc;
-**Rule R1-9(b),(5)** - The particular relief desired.

(f) DoDD 5106.01, PL 97-252, & USMC Gen. Order No.3: Report of Waste, Fraud,
and Abuse; Office of IG, US DOD, 4800 Mark Center Drive, Alexandria, VA.

22350-1500 and a CC Copy to U.S. Attorney General, 950 Pennsylvania Ave, Washington, D.C. 20530 [ph. (202) 353-1555; BRAC (PL 101-510) Independent Commission of FY-21 *[Operation and Maintenance (O&M) Considerations (cost) comparison of alternatives of 4-Best Scored Routes: 31; 4; 32; &1) related to O&M cost o/a 11.5 miles v/s o/a 6.2 miles of 230kV Line for perpetuity

- (g) Docket No. E-2, Sub 1150, Order Scheduling Hearing of 18 Jul. 2017, [related to Establish Discovery]; Appendix A. Page 1/3- - Parties shall informally and cooperatively conduct discovery and share information about the facts and issues involved in this matter,- -,*Party seeking information may file motion to compel with the Commission;
- (h) O.L. Canaday reply of 5 May 2021 to DEPs' Response of 9 Dec. 2021, and no Response from DEP, nor, Commission for prescribed penalties IAW G.S.63-310;
- (i) O.L. Canaday reviewed Docket No. E-2, Sub 1150, the Commission does not demonstrate any penalties of DEPs' violations IAW G.S. 62-310;
- (j) O.L. Canadays' reply of 6 Nov. 2020 (Subj. Line) furnishes Docket No. E-2, Sub 1150; & Commission files in Docket No. E-2, Sub 1195 -(docket demonstrates 1195 added at top of page & falsely filed in Docket No. E-2, Sub 1195 file);
- (k) Docket No. E-2, Sub 1010 of 22 Mar. 2016 - DEPs' Revised Vegetation Mgmt. Plan & Policies (option no-spray herbicides), Reference furnished in Commissions' Order of 12 Jan. 2018 Page 15, 2nd paragraph, lines: 9- - -14 (see enclosure (1));

Encl: (1) Appendix A (Commissions' issued CERTIFICATE of 12 Jan. 2018) & extract related in its' Requirements of – Pursuant to G.S. 62-102); and Demonstrated in Contents;- - - ”and further subject to all other orders, rules, regulations, and conditions as are now or may hereafter be lawfully made by the North Carolina Utility Commission”, [Order extract Pages: 16, 1, 2, 3, 4, 9, & 15];

- (2) Extract - G.S. 62-102 – & (Applicant described in G.S. 62-101); and
- (3) Extract - G.S. 62-101. Certificate to construct transmission line, (“A transmission Line for which a Certificate is required shall be constructed, operated, and maintained in conformity with the certificate.”)- - -etc.
- (4) Extract: DEPs' Application of 14 Jul. 2017 pages 1 and 2, -IAW “Pursuant to” G.S. 62-101, and “Pursuant to” Commissions' Rule R8-62”; DEP filed Application for CPCN; -[see reference (a) for all contents]; & Rule R8-62 furnishes (requirements of) -R8-61, R8-60-purpose is to implement provisions of G.S. 62-2(3a) - “which decrease utility bills”;

- (5) -*Rule R8-62(a),(c)(2)(3)a.(p)(2)i.; CPCN for the Construction of electric Transmission lines in N.C.;
- (5a) -*Rule R8-61(b),(3)(i)(iii)(iv)(viii); Preliminary Plans & Certificate CPCN, related to transmission facilities (230kV line) in N.C.;
- (5b) -*Rule R8-60(a),(b),(c)(2),(g),(5),(6)(i)(ii)(iii),(7)(ii),(8); Integrated Resource Planning and Filing. *(a), Purpose. - rule to implement the provisions of G.S. 62-2(3a),- - -,with respect to least coast integrated resource planning by utilities in N.C.;
- (b). “**Applicability** -This rule is applicable to Duke Energy Progress Progress,”- - -,etc. (by name in Rule R8-60);
- (6)- **-G.S. 62-326.** Furnishing false information to the Commission; withholding Information from Commission; -&-
-Rule R1-8. Docket numbers required on pleadings and papers;
- (7)- **-G.S. 62-310.** Public utility violating any provision of Chapter, rules, or orders; penalty: enforcement by injunction. -&-
-G.S. 62-31. Power to make and enforce rules & regulations for public Utilities;
- (8)- G.S. 62-2(3a). Declaration of Policy. (extract, page-1) [require energy planning – decrease utility bills; (IAW Purpose of Rule R8-60);
- (9)- G.S. 62-105. Burden of proof; (a) The burden of proof is on applicant in all cases under this Article,- - -,etc.; -also, Rule R8-61(e)- - -“The public utility shall have the burden of proof to demonstrate that all cost are reasonable and prudent.” -IAW Reference (a) (contents), -***[DEP does not demonstrate all cost are reasonable and prudent, IAW R8-61(e)];
- (10)- -G.S.10B-60. Enforcement and penalties; [(k) –not limited to forgery];
- (11)- DEPs’ PETITION FOR CONDEMNATION OF RIGHT-OF-WAY (N.C. Gen. Stat. Chapter 40A, Article 2) of 14 Dec. 2018;
- (12)- G.S. 62-80. Commission power to rescind, alter, amend prior order/decision;
- (13)- -G.S. 62-100. Definitions (as used in article) “The term “begin to construct” includes any clearing of land”- - -etc.
- (14)- DEPs’ NOTICE OF DEPOSIT of 22 Jul. 2019 (Check for \$35,000.000 to condemn property via Eminent domain) - [includes Report of Commissioners of 2 Jul. 2019 for estimated Damage of \$35,000.00;

- (15)- DEPs' Response of 9 Dec. 2020 furnishes (restates) admission of violation of Commissions' Order of 12 Jan. 2018, & furnishes violation(s) to - Rule R1-8;
- (16)- DEPs' Response of 28 Oct. 2020, furnishes violations to: *-Rule R1-8;
*-provisions of Chapter 62 IAW G.S. 62-326, & G.S. 62-310: *-Verification document violates N.C. G.S. 10B-60 and (in O.L. Canadays' opinion) demonstrates forgery (in) a Notary document furnished Commission in Response in formal proceedings & records in Docket No. E-2, Sub 1150;
- (17)- Commissions' Public Staff letter to Commission of 16 Oct. 2017, related to recommendation to the Commission to issue Certificate requested; and
- (17a)- Public Staff reply to FOIA Request of 19 Mar. 2019; -(E-mail exchanges between Public Staff & DEP of o/a 15 Aug. thru 2 Oct. 2017); related to: a)- provide a detail breakdown of \$28 million cost; b)- ROW acquisition; c)- detailed break down of 4-Route/preferred); no transition from 4-Route preferred to 31-Route/preferred; [this FOIA information 'demonstrates' the Public Staff furnished false information to commission; ***side note (DEPs' Certificate application contains no matters of construction cost (16 Oct. 2017) or required acquisition of ROW & Danger Tree Rights area (in construction cost), nor associated O&M considerations (cost) of routes); [*DEP furnished Late-Filed Exhibit-2 of 13 Nov. 2017 with some construction cost, but, minus acquisition (cost) of ROW and Danger Tree Rights area]; DEPs' violation(s), 'related to cost'-start date is 14 Jul. 2017 (date of application);
- (18)- Extract of Hearing transcript of 31 Oct. 2017, demonstrates Commission discovered: (a) -'withhold of required cost analysis' required in Commissions' Rules: R8-62; R8-61; R8-60-to implement provisions of G.S. 62-2(3a) & (b) -Q&A in Hearing furnishes record closed 6 Nov. 2017, (& Late Filed Exhibit-1 is authorized late file of 13 Nov. 2017), -**there is no authorization to late file Exhibit-2 late (after 6 Nov. 2017) in Hearing transcript file, ***therefore, this false information is filed in Docket No. E-2, Sub 1150;
- (19)- DEPs' Late Filed Exhibits of 13 Nov. 2017; -[Exhibit 1 is authorized during 31 Oct. 2017 Hearing; -*this Hearing does not authorize Late-Filed Exhibit 2]; & (*Example (attached) Docket No. E-2, Sub 1215 demonstrates DEP is knowingly to furnish acquisition (cost) of ROW & Danger Tree Rights area in Route analysis estimate(s) in applications for a Certificate, CPCN);

Subj: -Enforce -Disposition of Violations of Provisions of Chapter 62, Related to Docket No. E-2, Sub 1150 (as prescribed for penalty(s)) IAW G.S. 62-310, and for;

- 1)- Commissions' Order of 12 Jan. 2018; and
- 2)- Commissions' Certificate of 12 Jan. 2018 - Conformity of Construction; and
- 3)- DEPs' Response(s) of 28 Sept. 2020 & 9 Dec. 2020; and
- 4)- o/a 4 Jul. 2021 (New Discovery -Violation(s)) Requirements IAW Certificate Implementation -Which Includes Order and Rules: R8-62, R8-61, & R8-60- Having Purpose to Implement G.S. 62-2(3a) for Least Cost Integrated Energy Planning for Efficiency and Conservation by Utilities in N.C. Which Decrease Utility Bills;

***-Background, related to subject - present date. O.L. Canaday is not knowingly of a (sum) penalty(s) forfeited by DEP (for violating provisions of Chapter 62); or penalty(s) enforced IAW G.S. 62-310. Therefore violations are furnished (2nd, & 3rd time) to ensure 'Capture' of violation(s)/penalty(s). Penalty/enforcement is IAW prescribed penalties (\$-sum & injunction) of Docket No. E-2, Sub 1150.

O.L. Canaday motions for - direct - reply from Commission for following violations:

**'One' is: -O.L. Canaday motions Commission furnish disposition (IAW power of G.S. 62-31 and G.S. 62-310); of DEPs' violation (provisions of Chapter 62, discovered 14 Sept. 2020); in Commissions' Order of 12 Jan. 2018; and

**'Two' is: -O.L. Canaday motions Commission furnish disposition (IAW power of G.S. 62-31 and G.S. 62-310) of DEPs' violation(s) (provisions of Chapter); of Rules (R8-62, R8-61, R8-60 and Order) discovered o/a 4 Jul. 2021 in Commissions' Certificate of 12 Jan. 2018 (Rule(s) violations demonstrates not conforming IAW G.S. 62-101); and

**'Three is': -O.L. Canaday motions Commission furnish disposition; IAW power of G.S. 62-31 and G.S. 62-310; of DEPs' violation(s) of provisions of Chapter; in DEPs' Response of 9 Dec. 2020 violation(s) of: Rule R8-1; G.S. 62-326 (false information); and G.S. 62-310 of Chapter; and

****'Four'** is: O.L. Canaday motions Commission furnish disposition (IAW power of G.S. 62-31 and G.S. 62-310); -of Chapter in DEPs' Response of 28 Oct. 2020 violation(s) of: Rule R8-1; -G.S. 62-326 (false information); -provisions of Chapter; and violation of G.S. 10B-60 (a Class 1 felony).

1.- This reply is for DEPs' violation(s) of: -Commissions' Order; -DEPs' violations in Response(s); and -recently, discovery of DEPs' violations of Certificate = the (implementation of construction of ROW & Danger Tree Rights area) issued by Commission; and -O.L. Canadays' reply is not frivolous: and

1-a. -DEP (continues) withholding a preponderance of required information, and DEP furnished a 'preponderance' of false information in (during) Certificate application of 14 Jul. 2017, (see reference (a)); and

1-b. -These violations clearly demonstrates DEPs' (*gaining of*) '*ill gained*' issued Certificate thru '*preponderance*' of violations. And, these violations furnish proof of DEPs' professional representatives: -attorneys; -engineers; & -managements' intent, (planned at-start), violations of G.S. 62-326 for 'gaining' of 'ill-gained' Certificate; and.

1-c. -The contents: of reference (a) and enclosures (17a) & (17) furnishes dates for- (time-lines) demonstrates DEPs' knowingly of violations for 'ill-gained' Certificate; and

1-d. -To best of O.L. Canadays' knowingly of identified violations/offenses, there are no alleged allegations in reply (unless-stated-such).

1-e. -When (if) there are duplications in penalties related to Rules: R8-62, R8-61, and R8-60 - expect it caused by separate Rule requirements/same information (repeatedly) related to least cost alternatives (4-Best-Scored Routes & associated O&M consideration

(cost)). Rule R8-62 requirements (must have) -cost comparison (to demonstrate) least cost service to o/a 1.6 million customers, to avoid Waste/Fraud/Abuse of rates paid; and

1-f. -Discovery o/a 4 Jul. 2021, one finding of requirement for Environmental Impact Study (Report), Rule R8-62(c)(4)a.b.c. (the basis furnished in Certificate application).

This discovery demonstrates DEPs' knowingly withholds O&M considerations (cost) of alternatives from Commission; as it is reasonable to expect a professional to read paragraph (3) requirements prior to reading paragraph (4) requirements; and

1-g. -O.L. Canaday brings attention to Commission, -DEPs' preponderance of violations in Certificate application in reference (a); and clear evidence of Commissions' issuing a 'ill-gained' Certificate to DEP (while) when DEP knowingly and willingly furnished false information to Commission in filing for Certificate application, following:

a. IAW reference (e) – Rule R1-9(b)(4); **A clear concise statement of DEPs' violation of a provision of Chapter 62 is:** DEPs' Response of 9 Dec. 2020 violated G.S. 62-326 and R1-8 related to formal proceeding, in which DEP furnished two docket numbers in Response; to which Docket No. E-2, Sub 1150 is assigned; and

1)- IAW reference (e) –Rule R1-9,(b)(5); **The particular relief desired is;**
O.L. Canaday motions Commission use power of G.S. 62-31 and Order enforcement of penalties for each offense as prescribed IAW G.S. 62-310. There are **3-penalties** X \$1,000.00 = \$3,000.00 X number of penalty days o/a 222 days = **\$660,000.00 sum of penalty(s)** (adjust number of days - when violation is cured); and

2)- **The uncontroversial evidence is:** -DEPs' Response of 9 Dec. 2020 demonstrates violation of R1-8 (furnishing 2-Docket Numbers to Commissions' formal

proceedings): (The 2-docket numbers are ploy to dismiss complaint.) Other violations are: G.S. 62-326-(false information), & G.S. 62-310-(violating provisions of Chapter); totals 3-offenses (starting 9 Dec. 2020) and (adjust days when cured); and

b. IAW reference (e), Rule R1-9(b)(4); **A concise statement of DEPs' violation of a provision of Chapter 62.** -DEP violated Commissions' Order of 12 Jan. 2018 in starting construction of ROW, prior to furnishing written notification of option [of no spray (herbicide/chemicals)]; to (67)-Landowners having the ROW across their land; and

1)- IAW reference (e), Rule R1-9(b)(5); **The particular relief desired is *(Two); (1st)** is O.L. Canaday motions Commission to use power of G.S. 62-31 & Order enforcement of penalty(s) for violations of provisions of Chapter 62 (offenses): (a)- Order; (b)- G.S. 62-326; & (c)- G.S. 62-310 - totals 3-offenses. The prescribed penalty(s) sum IAW G.S. 62-310: **3-offenses X (67 landowners = (201)- offenses X \$1,000.00 a day = \$201,000.00 a day X o/a 505-days = \$101,505,000.00 sum of penalties** (adjust date after cured). [DEP continues withhold of start-date, this is a separate offense]; and **-(2nd)** is O.L. Canaday motions Commission use power of G.S. 62-31 & Order enforcement of provisions of Chapter IAW G.S.62-310 **penalty(s) enforcement by injunction;** and

2)- **The uncontroversial evidence** is, see DEPs' Response(s) of 28 Oct. 2020 and 9 Dec. 2020, DEP admits to starting construction prior to furnishing written notice to (67)-landowners in ROW. ****Additional facts demonstrates DEPs' (knowingly) intent to violate Order of 12 Jan.2018, facts follow;** and

a)- Fact-1 is Commissions' Order, page 16, paragraph 5. 'clearly states' Order related to written notice, prior to starting construction; and

b)- Fact-2 is DEP knowingly *continues withhold of construction* start date from Commission; (withhold start date is a separate offense). The estimate of penalty (mid-May 2019) is used = this is o/a 505 days in penalty (written notice received 2 Oct, 2020), & adjusted when cured. Facts demonstrate DEP is knowingly of starting construction requirements since o/a 12 Jan. 2018 (receipt of issued Order). DEPs' (knowingly) of violation and continuing 'withhold of start date', demonstrates DEPs' intent and demonstrating no remorse of not furnishing start-date as required; and

c)- Fact-3 DEPs' (intent) is further demonstrated in Order, page 15, para. 2, lines 12- -14 that references Docket No. E-2, Sub 1010 (22 Mar. 2016). This file demonstrates DEP is well aware of its' no-spray and written- notice agreement IAW Docket No. E-2, Sub 1010 file (dated prior year); and

d)- Fact-4 DEPs' "In the Matter of" – Certification application CPCN of 14 Jul. 2017 (Docket No. E-2, Sub 1150). DEP states "Pursuant to N.C. Gen. Stat. 62-100"... etc. to construct o/a 11.5 miles of New 230kV Transmission Line. See enclosure (13), the first definition furnished, is (such) construction, and demonstrates DEPs' knowingly of (what construction is), and further demonstrates DEPs' knowingly & willfully violated Order of 12 Jan. 2018, which violates G.S. 62-326 and G.S. 62-310; and

e)- Fact-5; the foregoing paragraph b. (& sub-paragraphs) demonstrates DEPs' knowingly of Order requirements of 'written-notice'; and knowingly & willfully violated Order. This, clearly demonstrates 'intent', -when knowingly & willfully violating the Order requirement; and

f)- IAW G.S. 62-310, -the prescribed penalties do not prescribe an apology to cure (such) violation(s) of provisions of Chapter 62.

c. IAW Rule R1-9(b)(4). **A concise statement of DEPs' violation of a provision of Chapter 62.** DEPs' Response of 28 Oct. 2020, Docket No. E-2, Sub 1150 (corrected) from Response of 29 Sept. 2020-(Docket No. E-2, Sub 1195). DEPs' Response of 28 Oct. 2020 furnished violation to Rule R1-8, when furnishing Exhibit-1 (demonstrated) with Docket No. E-2, Sub, 1195 to Commission, see enclosure (16); and

1)- IAW Rule R1-9(b)(5). **The particular relief desired is:** O.L. Canaday motions Commission use power of G.S. 62-31 and Order enforcement of penalties for each offense as prescribed IAW G.S. 62-310. There are a **total of 3-offenses** X \$1,000.00 = \$3,000.00 X o/a 272 days = **\$816,000.00 sum of penalty(s)**, (adjust when cured); and

2)- **The uncontroversial evidence for violation(s) are:** -DEP furnished Commission, (EXHIBIT 1- Docket No. E-2, Sub 1195 of 29 Sept. 2020) in Response of 28 Oct. 2020, which is assigned Docket No. E-2, Sub 1150, violating R1-8; G.S. 62-326 (furnishing false information); & G.S. 62-310 (all violates provisions of Chapter); and penalty(s) prescribed IAW G.S. 62-310; = **3-offenses** provisions of Chapter; start date is 28 Oct. 2020 continuing until cured. **[Note, -DEPs' Response of 9 Dec. 2020 continues ploy of furnishing (false) Docket No. E-2, Sub 1195 to Commission.]

d. IAW Rule R1-9(b)(4); **A clear concise statement of DEPs' violation(s) of provisions of Chapter 62 is:** DEPs' Response of 28 Oct. 2020 furnished (corrected) Docket No. E-2, Sub 1150 in Response, and VERIFICATION furnished with (corrected) Response of 28 Oct. 2020 have following violations, see enclosure (16); and

1)- The VERIFICATION contents sworn to be true and correct is for Docket No. E-2, Sub 1195 and is false information in Docket No.E-2, Sub 1150; and

- 2)- The signature for contents to be true and correct in VERIFICATION is for Docket No.E-2, Sub 1195 and is false information in Docket No. E-2, Sub 1150; and
- 3)- The Notary Seal document (VERIFICATION) sworn to be true and correct is for Docket No. E-2, Sub 1195 and furnished in Docket No.E-2, Sub 1150; and
- 4)- DEP (pin-changed) Docket No.1195 to Docket No. E-2, Sub 1150; and
- 5)- DEP furnished (changed) VERIFICATION of 29 Sept. 2020 to Commission in Response of 28 Oct. 2020 for formal proceeding related to Docket No. E-2, Sub 1150;
- 6)- Changing Docket No. E-2, Sub 1195 to 1150 violates N.C. G.S. 10B-60 which is demonstrated as a Class 1 Felony, see enclosures (16) and (10); and

a)- IAW Rule R1-9(b)(5); **The particular relief desired is (two);** 1st is, O.L. Canaday motions Commission to use power of G.S. 62-31 and Order enforcement of penalty(s) of provisions in Chapter 62 related to G.S. 62-326, and enforcement of prescribed penalty IAW G.S. 62-310. There are (5)-violations X 3-offenses = **15 offenses** X \$1,000.00 = \$15,000.00 X o/a 272 days (adjust as cured) = **\$4,080,000.00 sum of penalty(s);** & (2nd) This violation occurred on Commissions' Watch. O.L. Canaday motions Commission Chair, Charlotte A. Mitchell, [(active) Attorney N.C. Bar No 34106]; use power of G.S. 62-31 & **Order filing an affidavit** with Secretary of State furnishing DEPs' action of violation (changing of 'Notary Document' VERIFICATION Docket No. E-2, Sub 1195 to 1150). This is to enforce violation of G.S.10B-60 (a Class 1 Felony), & IAW purpose of enforcing provisions of this Chapter and article 34 of Chapter 66 of the General Statutes - in the Spirit of N.C. Law; and

b)- **The uncontroversial evidence follows:** The (5)-violations furnished in

foregoing paragraph d. violates: -R1-8 & G.S. 62-326 (false information) -violates provisions of Chapter 62 - IAW prescribed penalties of G.S 62-310; = totals 3- violations X 5-offenses = **15 offenses** X 272 days starting 28 Oct. 2020 continuing until cured. Adjust days when cured, see enclosure (16) for violations. Enclosure (16), VERIFICATION, demonstrates contents, dates, and signature belong to Docket No. E-2, Sub 1195 furnished in foregoing violations.

e. IAW Rule R1-9(b)(4); **A clear concise statement of DEPs' violation(s) of Provision(s) of Chapter 62 is:** O.L. Canaday discovered DEPs' execution of Certificate of 12 Jan. 2018 (implementation - starting construction); of issued Certificate (o/a 4 Jul. 2021) -violated Commissions' Certificate 'Order' by starting ROW construction prior to furnishing written notice of no-spray option to (67)-landowners. [IAW (certificate instructions) of: - - - " and further subject to all other orders, rules", - - -, lawfully made by the North Carolina Utility Commission."] (see enclosure (1); and

1)- IAW Rule R1-9(b)(5); **The particular relief desired is:** O.L. Canaday motions Commission to use power of G.S. 62-31 and Order enforcement of penalties IAW provisions in Chapter 62 as prescribed IAW G.S. 62-310 for violation(s) in Certificate execution requirements: *of order; *-violation of G.S. 62-326/withhold; *-violation of G.S. 62-310. There are 3-violations X (67)-landowners = **(201)-offenses** X \$1,000.00 a day = \$201,000.00 X o/a 505 days in Certificate execution of construction violation = o/a **\$101,505,000.00 penalty sum**, (adjust days for construction start date); and

2)- **The uncontroversial evidence is** - DEP admitted to violations of Order, see enclosures: (16); (15); & see reference (a).

e-1. IAW Rule R1-9(b)(4); **A clear concise statement of DEPs' violations of provisions of Chapter 62 is:** DEP violated provisions of Chapter 62 in implementing of issued Certificate of 12 Jan. 2018 by starting (execution) of Certificate and not having CPCN 'Pursuant to' G.S. 62-102; as described in G.S. 62-101 for conformity of construction in Certificate (described) in G.S. 62-101; and

1)- IAW Rule R1-9(b)(5); **The particular relief desired is:** O.L. Canaday motions Commission to use power of G.S. 62-31 and order enforcement of penalties for each offense as prescribed IAW G.S. 62-310. There is a **total of 14-offenses** X \$1,000.00 = \$14,000.00 X 1,166-o/a days/violation = **\$16,324,000.00 sum/penalty(s).**

2)- **The uncontroversial evidence for violation(s) are:** 'Pursuant to' G.S. 62-102 requires Applicant (DEP) for Certificate be described in G.S. 62-101 for a transmission line –...“for which a certificate is required shall be constructed, operated, and managed in conformity with the certificate.” -The following are requirements that are violations IAW Certificate conformity: and

- a)- constructed/withholds acquisition of ROW cost, offense-1; and
- b)- constructed/withholds acquisition of Danger Tree Rights area, offense-1; and
- c)- constructed/withholds (associated O&M cost of alternatives -4-Best-Scored Routes: 31; 4; 32; 1 & O&M), which is offenses-4 X 2 = 8; and
- d)- violation of pursuant to G.S. 62-102 & G.S. 62-101 conformity, offenses-2; and
- e)- violation of G.S. 62-326 & G.S. 62-310,offenses-2; and
- d)- Offenses **total 14-offenses** in violation of Pursuant to G.S. 62-102

requirements, and reference (a) demonstrates DEP withholds these requirements, starting 14 Jul. 2017 and continues until cured.

e-2. IAW R1-9(b)(4); **A clear concise statement of DEPs' violation is:** DEP violates -Rule R8-62(p)(2)i. –that requires following information not later than (NLT) September 1 on annual basis: “i. date construction started:”...etc. and

1)- IAW R1-9(b)(5); **The particular relief desired is:** O.L. Canaday motions Commission to use power of G.S. 62-31 and Order enforcement penalty(s) for each offense of provisions of Chapter as prescribed IAW G.S. 62-310. The violations are in: - R8-62; G.S. 62-326; and G.S. 62-310; **a total of 3-offenses** X \$1,000.00 = \$3,000.00 X 853-days = **\$2,559,000.00 sum of penalties:** and

2)- **The uncontroversial evidence is** contents of (reference (a), nor, certificate does not contain requirements of Rule R8-62(p)(2)i. as required in provisions of Chapter 62.

e-3. IAW R1-9(b)(4); **A clear concise statement of DEPs' violation of provisions of Chapter 62:** DEP violates -Rule R8-60(i)(5). This violation(s) (for Docket No. E-2, Sub 1150) have a start date on annual basis by 1 Sept. Each utility (DEP) is required to file a Biennial Report every 2-years) & each year biennial report is not required then an Up Date Report is required to be filed.

1)- IAW R1-9(b)(5); **The particular relief desired is:** O.L. Canaday motions Commission to use power of G.S. 62-31 and Order enforcement penalties of violations in provisions of Chapter 62. The violations of R8-60(i)(5) is 9-violations (G.S. 62-326; & G.S. 62-310 is 20 violations) **total of 29-offenses** X \$1,000.00 = \$29,000.00 X 2,494-days = **\$72,326,000.00 sum of penalties;** and

2)- **The uncontroversial evidence is:** -Reference (a) demonstrates these reports not filed (starting 1 Sept. 2015 IAW Public Staff); -nor part of Certificate application.

Enclosure (17a) demonstrates (Public Staff) discovered (such report(s) not filed starting 2015 (included in its planning period): [Intergraded Resource Plan (IRP) every 2-years, & IRP Update (in-between years); violations are: R8-60(i)(5) = 9-violations + (G.S. 62-326 -10 violations & G.S. 62-310 is 10 violations) = **29-offenses** X \$1,000.00 = \$29,000.00 X 2,494-days = **\$72,326,000.00 sum of Penalties.**

e-4. IAW Rule R1-9(b)(4). **A clear concise statement of DEPs' violation of provisions of Chapter 62** as identified follows. -(DEPs' violations of requirements of Rule R8-62 start 14 Jul. 2017 on application start date, unless demonstrated a different date). DEP violated R8-62(c)(3), by withhold of O&M considerations of alternatives (4-Best-Scored Routes: 31; 4; 32; & 1); and

1)- IAW Rule R1-9(b)(5); **The particular relief desired is:** O.L. Canaday motions Commission to use power of G.S. 62-31 and Order enforcement of penalties IAW provisions of Chapter 62 and prescribed IAW G.S. 62-310. There are 8-violations in alternatives (4-routes) X 2-O&M cost); G.S. 62-326 = 9-violations; G.S. 62-310 = 9-violations for a total of: **26-offenses** X \$1,000.00 = \$26,000.00 X 1,166 days = **\$30,316,000.00 sum of penalty(s)** (adjust days when cured); and

2)- **The uncontroversial evidence is;** reference (a) does not demonstrate DEP furnished O&M considerations for alternatives to Commission in Certificate application.

e-5. IAW Rule R1-9(b)(4); **A clear concise statement of DEPs' violation of R8-62(p)(2)i. is:** DEPs' violation of R8(p)(2)i., the Commissions' Rule requires date new construction starts annually NLT 1 Sept. of year construction started and for this (such) requirement date of 1 Sept. 2019 is required; and

1)- IAW Rule R1-9(b)(5); **The particular relief desired is;** O.L. Canaday motions Commission to use power of G.S. 62-31 and Order enforcement of: Violation(s) of Rule R8-62(p)i.; G.S. 62-326/withhold; G.S. 62-310/prescribed penalties of Chapter = **3-offenses X \$1,000.00 = \$3,000.00 X 853 days = \$2,568,000.00 sum of penalty(s)**, (to adjust days when cured); and

2)- **The uncontroversial evidence is;** DEP does not demonstrate this information (required date) filed in reference (a) and furnished to Commission.

e-6. IAW Rule R1-9(b)(4); **A clear concise statement of DEPs' violation of Commissions' Rule - R8-61(b)(3)i**, that Requires cost information of final alternatives applicant considered for New Line; which includes alternatives (4-Routes with O&M considerations) for each Route(s) considered; and

1)- IAW Rule R1-9(b)(5); **The particular relief desired is:** O.L. Canaday motions Commission to use power of G.S. 62-31 and Order enforcement of penalty(s) of provision of Chapter 62 IAW prescribed penalties of G.S. 62-310. DEPs' violations are: **26-offenses X \$1,000.00 = \$26,000.00 X 1,166 days = \$30,316,000.00 sum/penalties;** &

2)- **The uncontroversial evidence is;** reference (a) contents demonstrate that DEPs' Certificate application does not furnish required information IAW R8-61(b)(3)i. The withhold of O&M cost of final alternatives (4-Routes) is 8-violations; G.S. 62-326/withhold is 9-violations; and G.S. 62-310 have 9-violations for a total **of 26-offenses in violations.**

e-7. IAW Rule R1-9(b)(4); **A clear concise statement of DEPs' violation is: DEP violates Commissions' Rule R8-61(3)(i) that requires estimate of construction cost**

for New Transmission Line(s). DEP withholds acquisition of ROW, and, acquisition of Danger Tree Rights area for construction of ROW for New Line; and

1)- IAW Rule R1-9(b)(5); **The particular relief desired is:** O.L. Canaday motions Commission to use power of G.S. 62-31 and Order enforcement of violations of provisions of Chapter 62, IAW prescribed penalties of G.S. 62-310. The total is **26-offenses** X \$1,000.00 = \$26,000.00 X 1,166 days = **\$30,316,000.00 sum/penalties;** &

2)- **The uncontroversial evidence is;** reference (a) contents do not demonstrate this information is furnished to commission in Certificate application. The evidence in reference (a) & enclosure (17a); furnishes; DEPs' knowingly withholding acquisition of ROW and Danger Tree Rights area of alternatives (4-Routes). The violations - withhold acquisition of ROW & -Danger Tree Rights area (2-violations X 4-Routes = 8-offenses; + G.S. 62-326/withhold is 9-offenses; + G.S. 62-310 is 9 offenses = **total of 26-offenses** in violations of R8-61(3)i. requirements.

e-8. IAW Rule R1-9(b)(4); **A clear concise statement of DEPs' violations is:** DEP violates - R8-61(b)(3)(iii) that requires estimated annual operating expense by category (O&M) are 2-category(s); and

1)- IAW Rule R1-9(b)(5); **The particular relief desired is:** O.L. Canaday motions Commission to use power of G.S. 62-31 & Order enforcement of penalties of provisions of Chapter 62 IAW prescribed penalties in G.S. 62-310. There are a total of **26-offenses** X \$1,000.00 = \$26,000.00 X 1,166 days = **\$30,316,000.00 sum of penalties;** and

2)- **The uncontroversial evidence is,** DEP does not furnish Commission this required category cost IAW Rule R8-61(b)(iii) in reference (a). Reference (a)

demonstrates DEP withholding (2)-categories (O&M) for the alternatives (4-routes).

This totals 8-offenses; + G.S. 62-326 is 9-offenses; + G.S. 62-310 is 9-offenses, and all total is 26-offenses of Rule R8-61(b)(iii) requirements.

e-9. IAW Rule R1-9(b)(4); **A clear concise statement of DEPs' violation(s) of provisions of chapter 62 is:** DEP withholds requirements of R8-61(b)(3)(viii) which requires anticipated impact of facility (New 230kV Line) to have on customer rates; and IAW Rule R1-9(b)(5); **The particular relief desired is:** O.L. Canaday motions Commission to use power of G.S. 62-31 and Order enforcement of penalty(s) IAW prescribed penalty(s) of G.S. 62-310; **the total of 26-penalty(s) X \$1,000.00 = \$26,000.00 X 1,166 days = \$30,316,000.00 sum of penalties;** and

2)- **The uncontroversial evidence is;** reference (a) demonstrates DEPs' withhold of Rule R8-61(b)(iii) requirements of estimated impact of new 230kV line will have on customer rates. This requirement includes alternatives considered (4-routes) and their O&M cost is 8-offenses; + G.S. 62-326/withhold is 9-offenses; + G.S. 62-310 violations is 9-offenses = **total of 26-offenses** in R8-62(b)(iii) requirements.

e-10. IAW Rule R1-9(b)(4); **A clear concise statement of DEPs' violation(s) of R8-61(e).** DEP has not demonstrated the burden of proof, that all cost incurred are reasonable for the transmission line(s) in reference (a); and

1)- IAW Rule R1-9(b)(5); **The particular relief desired is:** O.L. Canaday motions Commission to use power of G.S. 62-31 and Order enforcement of penalty(s) of violations of R8-61(e). The sum of penalties are: **26-offenses X \$1,000.00 = \$26,000.00 X 1,166 days = \$30,316,000.00 for sum of penalties,** (adjust days when cured): and

2)- **The uncontroversial evidence is reference (a)**, it demonstrates DEP has not furnished the required information -("The public utility shall have the burden of proof to demonstrate that all cost incurred are reasonable and prudent.") For DEP to furnish burden of proof; DEP must furnish alternatives (4-Best-Scored Routes: 31; 4; 32; & 1 and each route having associated O&M cost for comparison, this is 8-violations, + G.S. 62-326 - 9-violations ; and + G.S. 62-310 – 9 violations , **a total of 26-offenses**.

e-11. IAW Rule R1-9(b)(4); **A clear concise statement of DEPs' violation(s) of R8-60(a)**; DEP withholds purpose of this rule, via, does not implement the provisions of G.S. 62-2(3a) with respect to least cost integrated resource planning by utilities in N.C.; and

1)- IAW Rule R1-9(b)(5); **The particular relief desired is:** O.L. Canaday motions Commission to use power of G.S. 62-31 and Order enforcement of penalties of G.S. 62-310 prescribing penalties. The total violation(s)-offenses are **26-offenses X \$1,000.00 = \$26,000.00 X 1,166 days = \$30,316,000.00 sum of penalties** (adjust days when cured); and

2)- **The uncontroversial evidence is reference (a)**; (contents) do not demonstrate DEP furnishes information for least cost integrated resource planning to the Commission. At minimum; -resource planning would demonstrate the alternatives (4-Best-Scored Routes & with associated O&M cost/each route) for a comparison, and demonstrate the least cost of integrated planning, which is: alternatives-4 X 2 O&M = 8-offenses; + G.S. -9-offenses; + G.S. 62-310 -9-offenses = **total of 26-offenses** that DEP withholds (& could well be a greater number of offenses, when using a greater number of resources

for planning; this uses the alternative routes. ****[Note, This Rule R8-60(b),**

Applicability, specially states this Rule is applicability to DEP.]

e-12. IAW Rule R1-9(b)(4); **A clear concise statement of DEPs' violation of Rule R8-60(c)(2).** DEP withholds all comprehensive analysis of resource options considered in *providing electric service at least cost over planning period;* and

1)- IAW Rule R1-9(b)(5); **The particular relief desired is:** O.L. Canaday motions Commission to use power of G.S. 62-31 and Order enforcement of provisions of Chapter 62 as prescribed in IAW G.S. 62-310 penalty(s). The minimum knowingly resource options that DEP withholds from Commission is comparison of alternatives (4-Best-Scored Routes with associated O&M cost). The violation of resource options is **26-offenses X \$1,000.00 = \$26,000.00 a day X 1,166 days = \$30,316,000.00 sum of penalty(s)** and (adjust days when cured): and

2)- **The uncontroversial evidence is contents of reference (a),** and DEP does not furnish the alternatives (4-routes) and their associated O&M cost. This is 8-offenses; + G.S. 62-326 – 9-offenses; + G.S. 62-310 – 9-offenses; **totals 26 knowingly penalty(s).** (A Commission investigation may find more violations of withholding resource options related to Rule R8-60(c)(2) and furnish (more) least cost resource options.)

e-13. IAW Rule R1-9(b)(4); **A clear concise statement of DEPs' violation of Rule R8-60(g) is:** DEP violated Rule R8-60(g) by No Evaluation of Resource Options as part of its integrated resource planning (IRP) furnished to Commission. This resource planning would determine the least cost combination (on a long-term basis) of reliable resource options and would include construction/implementation cost, and transmission

and distribution cost and other qualitative factors such as complying with environmental impacts; and

1)- IAW Rule R1-9(b)(5); **The particular relief desired is:** O.L. Canaday motions Commission to use Power of G.S. 62-31 and Order enforcement of penalty(s) of violations of provisions of Chapter 62, IAW prescribed penalties of G.S. 62-310. The violations – offenses are: R8-60(g) is 8-violations; + G.S. 62-326 is 9-violations; + G.S. 62-310 is 9-violations, **totals of 26-offenses** X \$1,000.00 = \$26,000.00 X 1,166 days = **\$30,316,000.00 sum of penalties;** and

2)- **The uncontroversial evidence is contents of reference (a).** Reference (a) demonstrates DEP withholds these resource options requirements of Rule R8-60(g) for the IRP review. At minimum, the resource review, DEP would furnish the alternatives (4-routes and their associated O&M cost for comparison); this withhold of information is **8-violations**. **Note –further evidence is in Hearing transcript of 31 Oct. 2017, see enclosure (18), pages – 10/16- -12/16; with attention to page 12/16, lines 15- -24; **DEP witness (under oath) admits the cost analysis is not in record materials**. **This is further evidence (from start of Certificate application) of DEP demonstrating intent to withhold cost analysis of alternatives with O&M cost from Commission.

e-14. IAW Rule R1-9(b)(4); **A clear concise statement of DEPs' violation of provisions of Chapter 62 is:** DEPs' violation of Rule R8-60(i)(5) Transmission facilities were not furnished (to Commission) as required IAW specific plans to be constructed during the planning horizon; with requirement to include a discussion of adequacy of its transmission system; and

1)- IAW Rule R1-9(b)(5); **The particular relief desired is:** O.L. Canaday motions Commission to use power of G.S. 62-31 and 'Order' enforcement of violations of provisions of Chapter 62, IAW prescribed penalty(s) in G.S. 62-310. The violations of Rule R8-60(i)(5) is 8-violations; + G.S. 62-326 is 9-violations; + G.S. 62-310 is 9-violations; and totals: **26-offenses** X \$1,000.00 = \$26,000.00 X 1,166 days = **\$30,316,000.00 sum of penalty(s);** and

2)- **The uncontroversial evidence is contents of reference (a),** it does not demonstrate that DEP filed a specific plan for (during) the planning horizon and include a discussion of adequacy of transmission system. At minimum, a discussion of adequacy would include alternatives (4-Routes & associated O&M cost) – **this is 8-violations.**

e-15. IAW Rule R1-9(b)(4); **A clear concise statement of DEPs' violations of provisions of Chapter 62 is:** DEP demonstrates violating Rule R8-60(i)(6)(ii)(iii), as DEP withholds required demand-side management programs (for which the biennium is filed) the type of resource (demand response and energy efficiency). The programs (routes) evaluated but rejected, DEP to provide information for each resource (alternative routes, 4-Best-Scored Routes) considered demonstrating energy efficiency. [Using one criteria of energy efficiency (Ohms' Law); dictates a longer line is less energy efficient, and, it dictates a shorter line is more energy efficient.] The purpose of Rule R8-60 is to implement provisions of G.S. 62-2(3a) with respect for least-cost utilities in N.C. and

1)- IAW Rule R1-9(b)(5); **The particular relief desired is:** O.L. Canaday motions Commission to use power of G.S. 62-31 and Order enforcement of penalty(s) of violation(s) in provisions of Chapter 62, IAW penalty(s) prescribed in G.S. 62-310 for

violations of Chapter and Rule R8-60(i)(6)(ii)(iii). DEP withholds the biennium report, which at minimum withholds alternatives = 8-violations; + G.S. 62-326 -9-violations; + G.S. 62-310 -9-violations; totals – **26-offenses** X \$1,000.00 = \$26,000.00 X 1,166 days = **\$30,316,000.00 sum of penalties** (adjust days when cured); and

2)- **The uncontroversial evidence is contents of reference (a);** and, reference (a) demonstrates DEP has not furnished the Commission (required) biennium reports for demand-side-management for each resource alternatives, (4-Best-Scored Routes - with associated O&M cost for comparison); to furnish least-cost utilities to N.C. rate-payers. The minimum resources (DEP) to report in biennium report, is the alternatives (4-Best -Scored Routes and associated O&M cost - that totals **8-violations** DEP withholds from the Commission. Enclosure (17a), page 2/15, paragraph 5. demonstrates the Public Staff discovered the IRP Update and IRP was not furnished to Commission o/a 15 Aug. 2017, and DEP took no corrective action for Certificate application.

e-16. IAW Rule R1-9(b)(4); **A clear concise statement of DEPs' violations of provisions of Chapter 62:** DEP violated Commission Rule R8-60(m). By 30 Nov. each year DEP is required to hold a meeting to review its biennial report or update report with interested parties. DEP is knowingly, O.L. Canaday is an interested Party since o/a 31 Oct. 2017; and O.L. Canaday is not aware ('such') a meeting being held: 30 Nov. 2017; 2018; 2019; and 2020 (2020 may have been cancelled due to Covid Virus).

1)- IAW Rule R1-9(b)(5); **The particular relief desired is:** O.L. Canaday motions Commission to use power of G.S. 62-31, and Order enforcement of penalty(s) of violations of provisions of Chapter 62 IAW penalties prescribed in G.S. 62-310 for

violations of Chapter. There are **20-violations** X \$1,000.00 = \$20,000.00 X 2,191 days = **\$43,820,000.00 sum of penalties** for violations (when cured, adjust days); and

2)- **The uncontroversial evidence is**; -reference (a) contents do not demonstrate DEP holding either report (biennial report or the up-date report) by 30 November each year. Enclosure (17a) demonstrates DEP have not filed 'such' reports going back to starting o/a 30 Nov. 2015 (according to the Public Staff). [The even-years (starting 2008) require a biennial report; the odd-years require an up-date report.] The Docket No. E-2, Sub 1150 of 14 Jul. 2017 (requires) an identification of need for New 230kV line and New Sub-Station to be in ('such reports') starting 30 Nov. 2015 (beginning of the planning horizon). Adding these violations: (up-date report - 2015; 2017; 2019); and (the biennial report – 2016; 2018; 2020); the total is 6-violations; + G.S. 62-326 -7 offenses; + G.S.62-310-7-offenses is a **total of 20 violations** X 2,191-days of penalty(s).

2.- Consolidation of violations supporting DEPs' intent to 'ill-gain' Certificate; and

a. -There are o/a 778-violations that total o/a \$679,639,000.00 sum of penalty(s). The foregoing penalty(s) are substantial (preponderance) amounts of false information, DEP, furnished to Commission and withhold of information from Commission during this proceeding of Docket No. E-2, Sub 1150. The foregoing violations and penalty(s) demonstrates *DEP gained issued Certificate thru 'ill-gained' means of furnishing false information and withholding of information from Commission*; see following: and

b. -The following (some) glaring matters furnishing false information to Commission:

1)- VERIFICATION of 5 Jul. 2017 for Docket No. E-2, Sub 1150, DEPs' Lead Engineer for Project states, having read contents of Certificate application, knows

contents thereof to be true and correct; and is authorized to make this Verification.**Fact, foregoing violations demonstrate this a false verification; and yes - the catch (to best of knowledge and information); furnished by DEP. **Note; Fact - Engineer Same is DEPs' Lead Engineer for 'orchestration' of The Cleveland-Matthews Project. -And - (reality) is, Engineer Same, when signing VERIFICATION; (he) was verifying (his own work) furnished in Certificate application. See Direct Testimony (sworn under-oath to tell the truth); enclosure (4), pages: 9/16 thru 11/16, [**attention to pages - 10/16 & 11/16 lines 1 - 24 (both pages)] -and- [attention to page 11/16, lines -1 thru 21]. When contents in VERIFICATION are not true & correct - DEP is knowingly/responsible; and

2)- "Pursuant to N.C. Gen. Stat 62-101" is false information, see enclosure (4), page 1/16, 1st-line, demonstrates foregoing statement. The contents of reference (a) and this violation complaint demonstrates DEP implementing construction - not conforming to requirements of Certificate. (1-example - requirement of ROW acquisition furnished to Commission prior to implementing Certificate, and enclosure (17a) o/a 15 Aug. 2017 demonstrates DEPs' knowingly withhold of acquisition.); and

3)- "Pursuant to N.C. - -Commission Rule R8-62" (see enclosure (4), page 1/16, 1st-line) signed by: DEP Attorney Lawrence B. Somers is not true; and evidence is in reference (a); and foregoing violations (paragraphs e. thru e-16); related to R8-62 demonstrate false information furnished to Commission for certificate; which makes the certificate 'ill-gained' via furnished false information; and

4)- "In matter of application" of DEP- -NOW COMES DEP, "pursuant to N.C. Gen. Stat. 62-100"...etc.- is a false statement in Certificate application, signed by:

Lawrence B Somers (DEP attorney) (see enclosure (4), page 2/16, 1st & 2nd –line). G.S. 62-100 relates to definitions; and first definition is for construction. See reference (c) and -enclosures (13) & (16) -furnishes evidence of DEP admitting to violation; demonstrating ‘clearly’, Certificate is ‘ill-gained’ thru DEP furnishing false information to Commission in filing for Certificate application in Docket No. E-2, Sub 1150; and

5)- DEP violated Rule R8-62 (& requirements of R8-61 & R8-60) for Certificate Application, withholding, cost analysis of alternatives (4-Routes and associated O&M cost). DEPs’ contract via The Burns & McDonnell Engineering Report of 06/2/2017 (2 Jun. 2017) furnished - environmental report for route selection, IAW R8-62(c)(4)(a); & did not furnish O&M cost of alternative routes of (c). DEP withholds ‘required cost analysis’ & (1-is)-for alternatives (4-Best-Scored Routes and O&M cost of each route) – for least cost to o/a 1.6-million rate payers over (long-term-basis). [Burns & McDonnell Report furnishes information that either alternative (4-routes) satisfies environmental requirements of ROW.] Reference (a), and evidence in this violation-complaint demonstrates DEP withholds all required cost analysis (except some construction cost matters). The alternative routes & their associated O&M (cost) is (one)-withhold from Commission; and violation of Rule R8-62 requirements contributed to DEPs’ gaining of issued ‘ill-gained’ Certificate; and

6)- DEPs’ Direct Testimony of 14 Jul, 2017 by (Timothy J. Same, N.C. licensed engineer); DEP witness furnished Commission following false Information: “Q. TO YOUR KNOWLEDGE, WILL DEP FILE AND PROVIDE ALL INFORMATION,- - - REQUIRED BY THIS COMMISSION,”---etc.? A. Yes.” **The foregoing violations

and evidence demonstrates this Direct Testimony is false information furnished to Commission for Certificate application, see enclosure (4), page 11/16, lines 1 – 10; and this false information contributed to DEPs' (gaining) of 'ill-gained' Certificate; and

7)- Further evidence (proof) of DEP furnishing false evidence (Timothy J. Same a N.C. Engineer, under oath); to Commission in Hearing of 31 Oct. 2017, enclosure (18), page 12/16, lines: 15 – 24; DEP admits to Commission that cost analysis is not in record: "Q I apologize to you.- -Are your cost analysis in the record materials? A No, sir." *Note, this demonstrates DEP self admits withhold of (such) cost analysis from Commission; and this contributes to DEPs' 'ill-gaining' of Certificate; and

8)- -More evidence (in Hearing) demonstrating DEPs' intent, from beginning (this proceeding) to withhold cost analysis of alternatives and their O&M cost (from Commission) in Hearing; see enclosure (18), page 12/16, lines: 15 – 24, with attention to lines: 17 – 24. A good extract is: "Are your cost analysis in the record materials? Line 19 A No, sir. -Line 20 Q They've not been - - they're not part of the Burns & McDowell study,- - -, and they're not elsewhere in the record on your analysis of different cost of the different options? Line 24 A No, sir." This is clear (proof) of intent that DEP intended not to furnish cost analysis of alternatives (4-routes & associated O&M cost) starting with Verification of 5 Jul. 2017 to Commission; and this false information contributed to DEPs' gaining of 'ill-gained' Certificate; and

9)- It is apparent the 46% longer 31-Route compared to 4-Route or 1-Route will cost o/a 46% more to O&M. This 46% more cost (includes Ohms' Law, loss over distant); to be in each months' rates) and does not go away over time. The rate records

demonstrate a rate-increase o/a each 2/3 years with cost of fuel (being a wild-card at times); furnishing back to back) years increase. The 31-Route O&M (longer distance) by 'preferred design', will cost rate-payers o/a 46% more when compared to cost of O&M for 4-Route and/or 1-Route. This cost amount, withhold(s), are in violation(s) of Rule R8-61(b)(3)(i)(iii)(viii), & R8-60(a)(b)(c)(2); -(both) Rules are referenced in 'Pursuant to' R8-62 (requirements) of Certificate application of 14 Jul. 2017 (from-start); and

10)- IAW information in all foregoing violations and paragraph 9)-, it is clear that, DEP 'ill-gained' Certificate of Docket No. E-2, Sub 1150 via (foregoing) demonstrated violations of Chapter 62. The Docket No. E-2, Sub 1150 (file) demonstrates Certificate (issued by Commission) to DEP; continues 'withhold' of (required) cost analysis and information for the 'ill-gained' Certificate; and, the record demonstrates:

a)- -Public Staff letter of 16 Oct. 2017 recommended issuing Certificate, while knowingly (o/a 15 Aug. 2017) that DEP was withholding cost analysis requirements IAW requirements of Rule R8-62, see enclosures (17) and (17a). IAW Order, Public Staffs' recommendation contributed to DEPs' gaining of 'ill-gained' certificate; and

b)- -The Commission discovered (in Q&A) DEPs' withholding required cost analysis of project route selection *during Hearing of 31 Oct. 2017. See enclosure (18), page 12/16, line - 15 thru 24; demonstrates DEP admitting not furnishing cost analysis IAW Certificate requirements of Rule R8-62; *for certificate application. Reference (a) demonstrates, Commission having taken no action to have DEP correct violation, which contributed to DEP gaining the 'ill-gained' Certificate; and

c)- -References (a), (b), and foregoing violations; demonstrates Commission

issued DEP (such) 'ill-gained' Certificate, via, DEPs' multiple violation(s) of provisions of Chapter (G.S. 62-326 and G.S. 62-310); DEPs' furnished false information and withhold of required information from Commission, contributed to DEPs' 'ill-gained' Certificate; and

d)- -This violation complaint (demonstrates), DEPs'- knowingly and willfully, withhold of cost analysis acquisition of ROW and Danger Tree Rights area, and this withhold of information contributed to DEPs' 'ill-gained' Certificate; and

e)- -O.L. Canaday believes it relevant to demonstrate Professional Parties associated with Docket No. E-2, Sub 1150:

DEP Parties are: -Kristen Dwiggin, Project Manager for DEP
-Attorney Lawrence B. Somers (active) N.C. Bar 22329;
-Attorney Robert W. Kaylor, (active) N.C. Bar 6237;
-Engineer Timothy J. Same (current) N.C. License No. 032750;
-Engineer James T. Umbdenstock (current) N.C. License No. 019231;

Public Staff Parties are: Attorney David Drooz (active) N.C. Bar 103310;
Attorney Heather D. Fennell (active) N.C. Bar 34366;

Presiding for Commission: Commissioner Daniel G. Clodfelter (N.C. Attorney, active, N.C. Bar 7661);

Intervener: O.L. Canaday (31-Route property owner, 909 Parker Town Road, Four Oaks, N.C.); -having (vested interest) in 5th Amendment granting the taking of personal property via 'just compensation' IAW Rules of Law; and

-The foregoing violation(s) in this complaint, contents of reference (a), and enclosure (17a), demonstrate DEP gained issued Certificate by 'ill-gained means' in furnishing false information & withholding information from Commission in these proceedings of record. *Note, -rate paying public uses same (Docket) information, DEPs' professionals furnished Commission for decision making. The above Parties are "professionals" in

their occupations, except intervener, (O.L. Canaday, a 31-Route property owner).

f)- The foregoing glaring matters under (2. Consolidation...) of violating of provisions of Chapter 62 is reasonable cause for a 'Hard Look' by Commission; **and, O.L. Canaday motions Commission** give para. 2. a 'Hard Look' and use power of G.S. 62-31 and IAW G.S. 62-80 Power; for Commission to amend prior Order and Certificate to the least cost Route to rate payers; after DEP furnishes cost analysis of: construction with-(acquisition of ROW & Danger Tree Rights area); O&M-cost of alternatives (4-Routes); for cost comparison over perpetual time (life of line to be o/a 70-years) for cost estimate passed on to rate payers.

3.- For all forgoing penalties of violations and uncontroversial evidence ('just causes'); O.L. Canaday prays the Commission for an 'Order' using power of G.S. 62-31 enforcing prescribed penalties of - and: *

a. IAW -G.S. 62-310; for

1)- -Enforcement by injunction, "at once" for 'just cause'; and

2)- -Enforcement/additional penalties prescribed in Chapter for 'just cause'; and

3)- -Enforce prescribed penalties sum of \$1,000.00 each offense and each day DEP continues offense is a separate offense, (just cause/obedience to Chapter), IAW policy of State as declared in statute & assure public of adequate service at reasonable charge; and

b. IAW G.S. 62-80 ("The Commission...at any time upon notice", to DEP...etc.; and

1)- -Power of Commission to rescind Order of 12 Jan. 2018; ('just cause') and

2)- -Power of Commission to amend Order to (least cost - rate-route: construction, operation, and maintenance/Route-4 of 1); to be IAW Rule R8-60 is 'just cause; and

3)- -Power of Commission via preponderance of forgoing violation(s) total of o/a 778-violations, and total of o/a \$679,639,000.00 sum of penalty(s); (demonstrates 'just-cause') to support Commissions' amending prior Order to least-expense-route for o/a 1.6-million rate-payers (for long term basis); and

4)- -Power of Commission (when discovery & knowingly) furnishes 'just-cause'; IAW G.S. 62-31; -Commission stops 'knowingly' flagrant: waste, fraud, and abuse of o/a 1.6-million rate-payers & of five DOD installations in DEP operating territory; and

c. -IAW G.S. 10B-60. Enforcement of penalty(s) for DEPs' violation of defacing (forgery) notarial record related to VERIFICATION furnished in DEPs' Response of 28 Oct. 2020 for Docket No. E-2, Sub 1150 (demonstrates to be a Class 1-felony); and

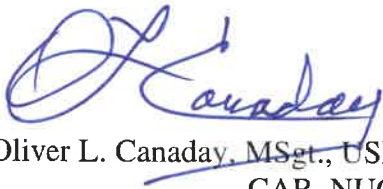
d. A note; 1.- Construction and application... "By enactment of statutory chapter governing public utilities, General Assembly conferred upon Utilities Commission broad powers to regulate public utilities and to compel their operation in accordance with policy of state as declared in statute." 2. Purpose. "Primary purpose of the Public Utilities Act is- -to assure public of adequate service at reasonable charge."; and

e. **To extent of O.L. Canadays' understanding of (foregoing paragraph d.);** O.L. Canaday motions the Commission to use power of G.S. 62-31 and Order enforcement of provisions Chapter for 'all foregoing violations demonstrated' as prescribed IAW G.S. 62-310 penalties, and IAW policy of state as declared in statutes; and

f. *-For such further relief as the Commission seems just, equitable, and proper that fits preponderance of violation(s) that DEP furnished in gaining of 'ill-gained' Certificate and Order. **-And;** DEPs' furnishing of 'ill-gained' Certificate and Order to Court for Petition of Condemnation of ROW on property, via eminent domain (see enclosures (11) and (14)). The Courts' action demonstrates DEP furnished 'ill-gained' Certificate and Order (issued by Commission); for Petition of Condemnation to execute eminent domain action violating the 5th Amendment (related to 'taking of property' for benefit of public); this discovery violation o/a 5 Oct. 2021 by O.L. Canaday.

-This day 11 Oct. 2021.

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

Linnetta Threatt, Deputy Clerk

ENCL. (1) P. 1/8

OCT 15 2021

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P. 2/8

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

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.

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.

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.

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.

→ 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

Linnetta Threatt, Deputy Clerk

§ 62-102. Application for certificate.

(a) An applicant for the certificate described in G.S. 62-101 shall file an application with the Commission containing the following information:

- (1) The reasons the transmission line is needed;
- (2) A description of the proposed location of the transmission line;
- (3) A description of the proposed transmission line;
- (4) An environmental report setting forth:
 - a. The environmental impact of the proposed action;
 - b. Any proposed mitigating measures that may minimize the environmental impact; and
 - c. Alternatives to the proposed action.
- (5) A list of all necessary approvals that the applicant must obtain before it may begin to construct the transmission line; and
- (6) Any other information the Commission requires.

(b) Within 10 days of filing the application, the applicant shall serve a copy of it on each of the following in the manner provided in G.S. 1A-1, Rule 4:

- (1) The Public Staff;
- (2) The Attorney General;
- (3) The Department of Environmental Quality;
- (4) The Department of Commerce;
- (5) The Department of Transportation;
- (6) The Department of Agriculture and Consumer Services;
- (7) The Department of Natural and Cultural Resources;
- (8) Each county through which the applicant proposes to construct the transmission line;
- (9) Each municipality through whose jurisdiction the applicant proposes to construct the transmission line; and
- (10) Any other party that the Commission orders the applicant to serve.

The copy of the application served on each shall be accompanied by a notice specifying the date on which the application was filed.

(c) Within 10 days of the filing of the application, the applicant shall give public notice to persons residing in each county and municipality in which the transmission line is to be located by publishing a summary of the application in newspapers of general circulation so as to substantially inform those persons of the filing of the application. This notice shall thereafter be published in those newspapers a minimum of three additional times before the time for parties to intervene has expired. The summary shall also be sent to the North Carolina State Clearinghouse. The summary shall be subject to prior approval of the Commission and shall contain at a minimum the following:

- (1) A summary of the proposed action;
- (2) A description of the location of the proposed transmission line written in a readable style;
- (3) The date on which the application was filed; and
- (4) The date by which an interested person must intervene.

(d) Inadvertent failure of service on or notice to any municipality, county, governmental agency, or other person described in this section may be cured by an order of the Commission designed to give that person adequate notice to enable effective participation in the proceeding.

(e) An application for an amendment of a certificate shall be in a form approved by and shall contain any information required by the Commission. Notice of such an application shall be in the same manner as for a certificate. (1991, c. 189, s. 1; 1991 (Reg. Sess., 1992), c. 959, s. 18; 1997-261, s. 3; 1997-443, s. 11A.119(a); 2015-241, s. 14.30(s), (u).)

G.S. 62-102

ENCL. (2)

§ 62-101. Certificate to construct transmission line.

- (a) No public utility or any other person may begin to construct a new transmission line without first obtaining from the Commission a certificate of environmental compatibility and public convenience and necessity. Only a public utility as defined in this Article may obtain a certificate to construct a new transmission line, except an entity may obtain a certificate to construct a new transmission line solely for the purpose of providing interconnection of an electric generation facility.
- (b) A transmission line for which a certificate is required shall be constructed, operated, ←
→ and maintained in conformity with the certificate. A certificate may be amended or transferred with the approval of the Commission.
- (c) A certificate is not required for construction of the following lines:
- (1) A line designed to carry less than 161 kilovolts;
 - (2) The replacement or expansion of an existing line with a similar line in substantially the same location, or the rebuilding, upgrading, modifying, modernizing, or reconstructing of an existing line for the purpose of increasing capacity or widening an existing right-of-way;
 - (3) A transmission line over which the Federal Energy Regulatory Commission has licensing jurisdiction, if the Commission determines that agency has conducted a proceeding substantially equivalent to the proceeding required by this Article;
 - (4) Any transmission line for which, before March 6, 1989, a public utility or other person has surveyed a proposed route and, based on that route, has acquired rights-of-way for it by voluntary conveyances or has filed condemnation proceedings for acquiring those rights-of-way which, together, involve twenty-five percent (25%) or more of the total length of the proposed route;
 - (5) An electric membership corporation owned transmission line for which the construction or upgrading has had a proceeding conducted which the Commission determines is substantially equivalent to the proceeding required by this Article;
 - (6) Any line owned by a municipality to be constructed wholly within the corporate limits of that municipality.
- (d) The Commission may waive the notice and hearing requirements of this Article and issue a certificate or amend an existing certificate under either of the following circumstances:
- (1) When the Commission finds that the owners of land to be crossed by the proposed transmission line segment do not object to such a waiver and either:
 - a. The transmission line will be less than one mile long; or
 - b. The transmission line is for the purpose of relocating an existing transmission line segment to resolve a highway or other public project conflict; to accommodate a commercial, industrial, or other private development conflict; or to connect an existing transmission line to a substation, to another public utility, or to a public utility customer when any of these is in proximity to the existing transmission line.
 - (2) If the urgency of providing electric service requires the immediate construction of the transmission line, provided that the Commission shall give notice to those parties listed in G.S. 62-102(b) before issuing a certificate or approving an amendment.



Lawrence B. Somers
Deputy General Counsel
Mailing Address:
410 S. Wilmington Street
NCRH 20
Raleigh, NC 27601

o: 919.546-6722
f: 919.546.2694

bo.somers@duke-energy.com

July 14, 2017

VIA ELECTRONIC FILING

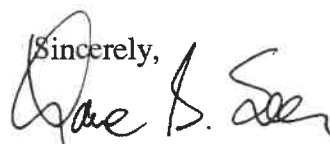
Ms. M. Lynn Jarvis, Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4300

**Re: Application of Duke Energy Progress, LLC for a Certificate of Environmental Compatibility and Public Convenience and Necessity to Construct Transmission Line in the Cleveland Area of Johnston County, North Carolina
Docket No. E-2, Sub 1150**

Dear Ms. Jarvis:

Pursuant to N.C. Gen. Stat. §§ 62-101 et seq. and Commission Rule R8-62, Duke Energy Progress, LLC ("DEP") submits for filing its Application, a draft public notice summary of the Application, and supporting testimony for a Certificate of Environmental Compatibility and Public Convenience and Necessity to construct approximately 11.5 miles of new 230kV transmission line in Cleveland area of Johnston County, North Carolina. The parties identified in N.C. Gen. Stat. § 62-102(b) will be served, and notice will be published in the appropriate newspapers, once the Commission approves the draft public notice summary pursuant to N.C. Gen. Stat. § 62-102(c). Pursuant to Commission Rule R8-62(f), DEP respectfully requests that the Commission please either notify DEP of the Commission's approval of such notice or of any required changes within three (3) business days of the filing of this Application. A check in the amount of \$250 is enclosed for the Application filing fee.

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

Sincerely,

Lawrence B. Somers

Enclosures

cc: David Drooz (w/encls.)

ENCL. (4) P.1/16

OFFICIAL COPY

Jul 14 2017

Oct 15 2021

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BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-2, SUB 1150

In the Matter of)	
)	
Application of Duke Energy Progress, LLC)	DUKE ENERGY PROGRESS,
For a Certificate of Environmental)	LLC'S APPLICATION FOR A
Compatibility and Public Convenience and)	CERTIFICATE OF
Necessity Pursuant to <u>N.C. Gen. Stat. §§ 62-</u>)	ENVIRONMENTAL
<u>100 et seq.</u> to Construct Approximately 11.5)	COMPATIBILITY AND PUBLIC
Miles of New 230kV Transmission Line in)	CONVENIENCE AND
Cleveland area of Johnston County, North)	NECESSITY
Carolina)	

NOW COMES Duke Energy Progress, LLC ("Duke Energy Progress," "DEP" or the "Company"), pursuant to N.C. Gen. Stat. §§ 62-100 et seq. and Rules R1-5 and R8-62 of the Rules of Practice and Procedure of the North Carolina Utilities Commission ("the Commission") and files its Application for a Certificate of Environmental Compatibility and Public Convenience and Necessity ("Certificate") to construct a new 230kV transmission line in the Cleveland area of Johnston County, North Carolina. The new transmission line will originate at the proposed Cleveland-Matthews Road 230kV/23kV transmission-to-distribution substation and terminate at the tap point along the existing Erwin-Selma 230kV transmission line. The total length of the proposed transmission line is approximately 11.5 miles. The project will be referred to in this application as the "Cleveland-Matthews Line." In support thereof, DEP shows the following:

1. The Applicant's general offices are located at 410 South Wilmington Street, Raleigh, North Carolina, and its mailing address is:

Duke Energy Progress, LLC
410 S. Wilmington Street

P. 2/16

NCRH 20 / P. O. Box 1551
Raleigh, North Carolina 27602

2. The names and addresses of Applicant's attorneys are:

Lawrence B. Somers, Deputy General Counsel
Duke Energy Progress, LLC
NCRH 20/P.O. Box 1551
Raleigh, North Carolina 27602
Tel: (919) 546-6722
bo.somers@duke-energy.com

Robert W. Kaylor
Law Office of Robert W. Kaylor, P.A.
353 Six Forks Road, Suite 260
Raleigh, North Carolina 27609
Tel: (919) 828-5250
bkaylor@rwkaylorlaw.com

Copies of all pleadings, testimony, orders, and correspondence in this proceeding should be served upon the attorneys listed above.

3. Duke Energy Progress is engaged in the generation, transmission, distribution, and sale of electricity at retail in the eastern and western portions of North Carolina, and the northeastern portion of South Carolina. It also sells electricity at wholesale to many municipal, cooperative, and investor-owned electric utilities. The Company is authorized to transact business in the State of North Carolina and is a public utility under the laws of the State of North Carolina. Accordingly, its operations in the State of North Carolina are subject to the jurisdiction of the Commission.

4. DEP is required by the Federal Energy Regulatory Commission ("the FERC") to comply with the Reliability Standards of the North American Electric Reliability Corporation ("NERC"). NERC may impose stringent penalties for violations of NERC Reliability Standards. In accordance with these Reliability Standards, DEP

P. 3/16

mile before crossing Lassiter Road. From here, the route extends approximately 0.5 mile south-southeast before crossing Hickory Grove Church Road. The route then extends southeast for approximately 0.9 mile and crosses King Mill Road. Continuing southeast for another 0.2 mile, the route then turns and travels east for approximately 0.4 mile before turning south. The route extends south-southeast for 0.6 mile and crosses Black Creek. Turning southeast, the route then extends 0.8 mile and crosses Elevation Road. The route continues to travel southeast for another approximately 0.9 mile and then turns south for 0.6 mile and crosses Old School Road. The route then turns southwest for only 0.1 mile and then turns south for 0.3 mile before crossing Jackson Road. The route continues to the south for 0.3 mile before turning southeast, extending approximately 0.4 mile, and crossing an existing CSX/Amtrak railroad line. The route continues southeast for approximately 1.3 miles, crossing U.S. Highway 301, Parker Road, and Interstate 95 before terminating at a tap point along the existing Erwin-Selma 230kV transmission line. This route is 60,791 feet (approximately 11.5 miles) in length, as shown in Figure 4-5 of the Report.

9. The transmission line routing process, studies and physical properties are fully described in the Report. The Report satisfies all of the requirements of N.C. Gen. Stat. § 62-102. Exhibit B is a draft public notice summary of the Application that DEP proposes to publish in the newspapers of general circulation serving the portions of Johnston County impacted by the proposed line. DEP will publish this public notice summary upon Commission approval and serve the parties identified in N.C. Gen. Stat. § 62-102(b) with a copy of this Application and a notice stating the date the Application

P. 4/16

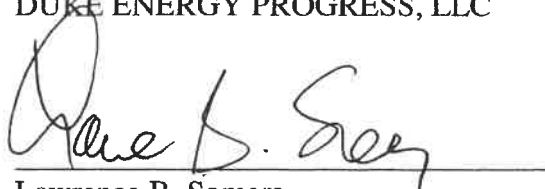
was filed, the date by which parties must seek intervention, and the statute and the rule governing intervention.

10. The information and data required to be filed by Commission Rule R8-62 is supported by the testimony of James Umbdenstock and Timothy Same, being filed simultaneously with this Application and incorporated herein by reference.

WHEREFORE, Duke Energy Progress requests that the Commission grant the Company a Certificate of Environmental Compatibility and Public Convenience and Necessity to construct approximately 11.5 miles of new 230kV transmission line in the Cleveland area of Johnston County, North Carolina.

Respectfully submitted this 14th day of July, 2017.

DUKE ENERGY PROGRESS, LLC



Lawrence B. Somers
Deputy General Counsel
Duke Energy Corporation
P.O. Box 1551/NCRH 20
Raleigh, North Carolina 27602
Tel 919.546.6722
bo.somers@duke-energy.com

Robert W. Kaylor
Law Office of Robert W. Kaylor, P.A.
353 E. Six Forks Road, Suite 260
Raleigh, North Carolina 27609
Tel: 919-828-5250
bkaylor@rwkaylorlaw.com

ATTORNEYS FOR DUKE ENERGY
PROGRESS, LLC

P. 5/16

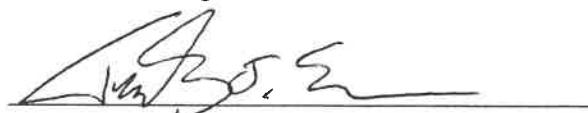
VERIFICATION

STATE OF NORTH CAROLINA)

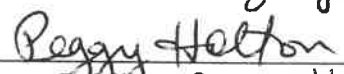
COUNTY OF WAKE)

DOCKET NO. E-2, SUB 1150

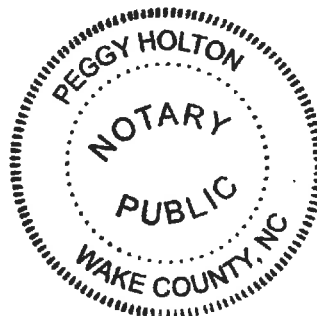
PERSONALLY APPEARED before me, Timothy J. Same, after first being duly sworn, said that he is Lead Transmission Siting Specialist, Transmission Siting and Permitting for Duke Energy Progress, LLC and as such is authorized to make this verification; that he has read the foregoing *Application for a Certificate of Environmental Compatibility and Public Convenience and Necessity* and knows the contents thereof; and that the same are true and correct to the best of his knowledge, information, and belief


Timothy J. Same

Sworn to and subscribed before
me this 5th day of July 2017.


Notary Public Peggy Holton

My Commission expires: 12/22/2021



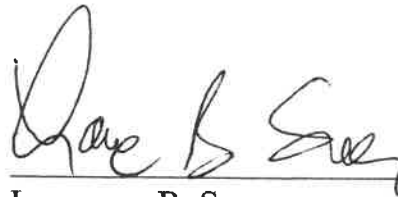
P. 6/16

CERTIFICATE OF SERVICE

I certify that a copy of Duke Energy Progress, LLC's Application for a Certificate of Environmental Compatibility and Public Convenience and Necessity to Construct Transmission Line in the Cleveland Area of Johnston County, North Carolina in Docket No. E-2, Sub 1150, has been served by electronic mail, hand delivery or by depositing a copy in the United States mail, postage prepaid to the following parties:

David Drooz
Public Staff
North Carolina Utilities Commission
4326 Mail Service Center
Raleigh, NC 27699-4326
david.drooz@psncuc.nc.gov

This the 14th day of July, 2017.



Lawrence B. Somers
Deputy General Counsel
Duke Energy Corporation
P. O. Box 1551 / NCRH 20
Raleigh, NC 27602
Telephone: 919.546.6722
bo.somers@duke-energy.com

P. 7/16

Routing Study and Environmental Report

prepared for

Duke Energy
Cleveland – Matthews Road 230kV Transmission Tap Line
Project
Raleigh, NC

Project No. 92394

06/2/2017

prepared by

Burns & McDonnell Engineering Company, Inc.
Kansas City, Missouri

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P. 8/16

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

Oct 15 2021

OFFICIAL COPY

P. 9/16

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

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 process to obtain input for the evaluation of the alternatives. The study team
2 then quantified the engineering, social, and environmental resources that
3 would be impacted by each feasible route. Quantitative data and public input
4 were used to evaluate the alternatives and to select a preferred route for the
5 proposed transmission line.

6 **Q. HOW DID YOU DEVELOP THIRTY-TWO ALTERNATE ROUTES**
7 **FOR THE CLEVELAND-MATTHEWS LINE?**

8 A. The objective of the routing analysis was to identify an economically feasible
9 route that offered the most benefits in terms of providing reliable electric
10 service, but also limited adverse impacts to the social and natural environment
11 within the study area. This effort included four main components:

- 12 • Field reconnaissance of the study area from publicly accessible
13 roadways
- 14 • Review of USGS topographic maps and recent aerial photography
- 15 • Review of local planning and zoning documents and available GIS
16 data
- 17 • Contacts with local, State, and Federal agencies

18 Based on the information gathered, a set of feasible routes were identified that
19 connect the proposed Cleveland-Matthews Road Substation to either the Lee-
20 Milburnie 230kV, Erwin-Milburnie 230kV, or Erwin-Selma 230kV
21 transmission lines. The primary goals regarding routing were to:

- 22 • Minimize overall impacts by paralleling existing ROWs, including
23 transmission lines, highways, and roads, where possible

1 Road or Railroad Crossings gives an indicator of potential permitting and/or
2 line crossing issues. New ROW is the acreage of new land that would be
3 needed to construct the line. This amount varies depending on the amount of
4 ROW for the proposed Project that can be shared with existing utilities and
5 roads. New ROW was measured for each route alternative but was not
6 included in the evaluation process since it is similar to a Total Length
7 measurement in reflecting potential overall impacts of a route alternative.
8 Length not along existing Infrastructure was measured because following
9 existing corridors is generally considered to have less impact than a new
10 ROW. Existing infrastructure for this Project includes transmission lines,
11 railroads, and roads. Because it is desirable and less impacting to co-locate a
12 new route along existing corridors, potential impacts would be more likely to
13 occur where a route would be built away from existing corridors, so length not
14 along existing infrastructure was measured; however, length not along
15 existing infrastructure was not included in the evaluation since there were
16 very limited areas among all route alternatives where co-location occurred.
17 Heavy Angles (>30 degrees) were considered because these angles typically
18 require larger structures and more space. Consequently, these structures tend
19 to be more visible and more expensive.

20 Proximity to residences, businesses, and public facilities was
21 considered for the route analysis. Residences within 125 Feet, between 126-
22 300 Feet, and between 301-500 Feet were counted for each proposed segment
23 using aerial photography supplemented with field verification. The impact to

1 The categories described above were considered to represent the
2 potential impact of construction and operation of the new transmission line.
3 The Project team then assigned weights to the factors based on input from the
4 public, agencies, DEP engineers, and experience with similar transmission
5 line projects across the country. A weight scale from 1 to 5 was used for this
6 process, with 1 representing the lowest consideration and 5 representing the
7 highest consideration during the evaluation. The weights associated with each
8 routing factor are presented in Table 4-2 of the Routing Study.

9 **Q. WHAT WERE THE RESULTS OF THE COMPREHENSIVE**
10 **EVALUATION?**

11 A. We determined that Route 31 was the best overall (least impactful) route.

12 **Q. WHY?**

13 A. Route 31 was selected as the best route for the following reasons:

- 14 • Overall lowest Residential Proximity Score among all routes, an
15 indication of minimal potential impacts to residences and property
16 owners
- 17 • Minimal input from concerned landowners as opposed to much greater
18 input along other lowest scoring routes, indicating less chance of
19 construction or access issues and a more positive public perception of
20 the Project
- 21 • No open space (subdivision-owned) crossed
- 22 • Least number of residences within 300 feet of centerline
- 23 • No businesses or public facilities within 500 feet of centerline

- 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

8 The preferred route was one of the least overall impacting routes (fifth

9 lowest-scoring) in the numerical evaluation performed for the proposed

10 Project. For this and the above reasons, and by using standard construction

11 procedures and mitigation techniques when coordinating the Project with

12 State and Federal agencies to comply with necessary regulations, the

13 construction, operation, and maintenance of the proposed Project will have

14 limited effects on the natural and social resources within the study area. DEP

15 will continue to work with environmental stakeholders and landowners to

16 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.

Rule R8-62. CERTIFICATES OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC CONVENIENCE AND NECESSITY FOR THE CONSTRUCTION OF ELECTRIC TRANSMISSION LINES IN NORTH CAROLINA.

- (a) Each public utility or person, prior to commencing construction of a new transmission line for which a certificate is required pursuant to G.S. 62-101, shall first obtain a certificate of environmental compatibility and public convenience and necessity from the Commission. The requirement for such certificate may be satisfied by an applicable certificate granted by the Commission under G.S. 62-110 and Commission Rule R8-61.
- (b) The procedures for the filing of an application for a certificate shall be as specified in Commission Rule R1-5.
- (c) The filing of an application for a certificate shall include the following:
- (1) The reasons the transmission line is needed including when it is needed for the purpose described;
 - (2) A description of the proposed location of the transmission line including a U.S. Geological Survey map showing the proposed route and alternative routes evaluated in relation to appropriate geographic reference points;
 - (3) A description of the proposed transmission line including:
 - a. The facilities including structure type and their average height range (as determined by preliminary engineering), the right of way corridor including its width, the capacity and voltage level of the lines; and operation and maintenance considerations.
 - b. A showing of the projected cost of the line.
 - (4) An environmental report setting forth:
 - a. The environmental impact of the proposed action including, as appropriate, its effect on natural resources, cultural resources, land use, and aesthetics;
 - b. Any proposed mitigating measures that may minimize the environmental impact; and
 - c. Alternative routes for the proposed lines;
 - (5) A listing of residential, commercial, industrial and institutional development; other man-made features; natural features which influenced route selection and how they were considered in the selection process; and
 - (6) A complete list of all federal and state licenses, permits and exemptions required for construction and operation of the transmission line and a statement of whether each has been obtained or applied for. A copy of those that have been obtained should be filed with the application; a copy of those that have not been obtained at the time of the application should be filed with the Commission as soon as they are obtained.

ENCL. (5) P. 1/6

- (7) The application shall be accompanied by prefiled direct testimony incorporating and supporting the application. Provided, however, an applicant requesting a waiver of the notice and hearing requirements pursuant to Rule R8-62(k) and G.S. 62-101(d)(1) shall not be required to prefile direct testimony supporting the application unless the waiver request is subsequently denied by the Commission.

(d) The applicant shall file a written summary with the Commission explaining any proposed deviation from the approved certificate, unless the deviation is insignificant. The Commission will, within thirty (30) days, determine and notify the applicant if the deviation(s) will require the Company to file an application for an amended certificate. If the Commission determines that an amended certificate is necessary, the applicant shall, giving consideration to the circumstances that created the deviation, file the following:

- (1) The reasons the amendment is needed;
- (2) A brief description of the proposed amendment;
- (3) An amended environmental report, or addendum to the report filed with the initial application, containing the following information:
 - a. A U.S. Geological Survey Map showing the amended route in relation to all routes reviewed by the Commission in the initial application proceeding;
 - b. The right of way width and structures (structure type, approximate average height range and approximate locations as determined by preliminary engineering) along the amended route;
 - c. Revised project cost based on the proposed amended route;
 - d. A description of any changes in environmental impacts (either additional or reduced) of the proposed amended route, including, as appropriate, its effect on natural and cultural resources, land use and aesthetics; and
 - e. Any proposed mitigation measures specifically proposed to reduce environmental impacts of the amended segment of the line.
- (4) Notice for amending a certificate must be given as provided in Rule R8-62(e).

(e) Within 10 days after the filing of the application or application for amendment, the applicant shall serve a copy of the application on the parties listed in G.S. 62-102(b) in the manner provided in G.S. 1A-1, Rule 4. The copy of the application served on each party shall be accompanied by a notice specifying the date on which the application was filed and giving information on procedural steps to take and time deadlines to follow for intervention.

(f) At the time of filing, the applicant shall file a summary of the application to be used to fulfill the notice requirements of this certificate. The summary shall contain, at a minimum the following:

- (1) A summary of the proposed action;

- (2) A description of the location of the proposed transmission line written in readable style and the location of the nearest business office to the proposed line where detailed maps (U.S. Geological Survey Map, or equal) may be examined. Said maps to also be available for review in the Commission's Office of the Chief Clerk;
- (3) The date on which the application was filed; and
- (4) The date by which persons with substantial interest in the certification proceeding must intervene.

The Commission shall, within 3 business days after the date of the filing, notify the applicant of its approval or of any required changes or additions to the summary.

(g) Within 10 days after the filing of the application, the applicant shall give public notice to persons residing in each county and municipality in which the proposed transmission line is to be located by publishing the approved summary of the application in newspapers of general circulation in the affected cities and counties so as to substantially inform those persons of the filing of the application. This notice shall thereafter be published in those newspapers a minimum of three additional times before the time for parties to intervene has expired. The summary shall also be sent to the North Carolina State Clearinghouse.

If the Commission orders public hearings on the application, the applicant shall send a revised summary to the North Carolina State Clearinghouse that states when and where the hearing will be held. In addition, the applicant shall similarly revise the newspaper notice so that all published notices following the first shall describe the schedule of public hearings.

(h) After the initial public notice and for the duration of the proceeding, the applicant shall make a copy of the application available for public review at its office(s) in proximity to the proposed transmission line.

(i) Persons desiring to intervene and having a substantial interest in this proceeding in accordance with G.S. 62-103(b) shall file a petition with the Commission to intervene setting forth interest and basis for intervention no later than 100 days after the date of the filing of the application. A county or municipality shall comply with the requirements of G.S. 62-106 with respect to filing with the Commission and serving on the applicant the provisions of an ordinance that may affect the construction, operation or maintenance of the proposed transmission line. Local ordinances brought forward by municipalities or counties shall be presumed to be in the public interest; however, the Commission may find that the greater public interest requires preemption of the local ordinance.

(j) Testimony and exhibits by expert witnesses shall be filed pursuant to Commission Rule R1-24(g). Absent substantial cause, the Public Staff and other intervenors shall file direct testimony and exhibits of expert witnesses no later than the deadline established for filing petitions to intervene. Non-expert witness testimony is not required to be reduced to writing or filed prior to the hearing.

(k) The applicant may request in writing, as a part of the application, that the Commission waive the notice and hearing requirements. A completed application and the waiver request shall be prefiled with the Public Staff's Electric Division at least twenty (20) days before the application is filed to allow for investigation of the request. At the same time the applicant shall file a letter of intent to file for a waiver with the Commission. When the application is subsequently filed, it shall be accompanied by a written request for the waiver and a statement that the request has been prefiled as required by this Rule. The applicant shall identify and describe any conditions of the proposed transmission line which meets the waiver requirements set forth in G.S. 62-101(d)(1). The Commission shall rule on this waiver within 30 days after the date of the filing. A request to waive notice and hearing requirements will automatically waive the notice requirements of G.S. 62-102(b) and (c). If the Commission denies the request for a waiver, the applicant shall serve notice within 10 days, as prescribed in Rule R8-62(e), from the date the Commission serves notice of its decision.

(l) Pursuant to G.S. 62-101(d)(2), the applicant may request that the Commission waive the notice and hearing requirements because the urgency of providing electric service requires the immediate construction of the transmission line. In making this decision the Commission shall determine whether failure to build the line could result in unreliable or insufficient electrical supply to the public. The Commission shall rule on this request within 10 days of the application. If the Commission concurs, it shall waive the notice and hearing requirements but shall give notice to those parties listed in G.S. 62-102(b) and (c) before issuing a certificate or approving an amendment.

(m) The procedures for seeking exemption pursuant to G.S. 62-101(c)(3) or (5) from the requirement of obtaining a certificate shall be as follows:

- (1) A public utility or person is not required to obtain a certificate before beginning to construct a transmission line referred to in either G.S. 62-101(c)(3) or (5) if the Federal Energy Regulatory Commission (FERC) or the Rural Electrification Administration (REA), as appropriate, has conducted a proceeding on the line that is substantially equivalent to the proceeding required by Article 5A of G. S. Chapter 62.
- (2) A public utility or person shall be exempt from the requirement of a public hearing to obtain a certificate before beginning to construct a transmission line referred to in either G.S. 62-101(c)(3) or (5), if the FERC or the REA, as appropriate, has conducted a proceeding on the line that is substantially equivalent to the proceeding required by Article 5A of G. S. Chapter 62.
- (3) To apply for the exemption under section (1) above, the public utility or person shall file the following information with the Commission:
 - a. the location and transcript of each public hearing;
 - b. the notices of hearing and a description of how and to whom the notices were given;
 - c. a statement that the hearings were conducted in conformity with the FERC or REA laws, as appropriate, and a general description of what the applicable law requires; and

- d. the final order of the FERC or the REA authorizing the construction of the line.
- (4) To apply for the exemption under section (2) above, the public utility or person shall file the information required by sections (3)a., b., and c. above.
- (5) The Commission shall within five (5) days of receipt of the application distribute copies of it to the Public Staff and any other party that has previously requested it. In addition the Commission shall promptly supply copies to any other parties who subsequently request them.
- (6) Within thirty (30) days from receipt of the application, the Commission shall enter an order granting the applicable exemption if it finds that the FERC or the REA has conducted a proceeding on the line that is substantially equivalent to the hearing required by the Commission's certification procedure under Article 5A of G. S. Chapter 62, and with respect to the exemption provided under section (1) above, that the FERC or the REA has issued a final order authorizing construction of the line.
- (n) When justified by the public convenience and necessity and a showing that circumstances require immediate action, the Commission may permit an applicant for a certificate to proceed with initial clearing, excavation, and construction before receiving the certificate required by G.S. 62-101. In so proceeding, however, the applicant acts at its own risk, and by granting such permission, the Commission does not commit to ultimately grant a certificate for the transmission line.
- (o) If, after proper notice of the application has been given, no significant protests are filed with the Commission the applicant may request the Commission in writing, or the Commission on its own motion, may cancel the hearing and decide the case on the filed record.
- (p) Plans for the construction of transmission lines in North Carolina (161 kV and above) shall be incorporated in filings made pursuant to Commission Rule R8-60. In addition, each public utility or person covered by this rule shall provide the following information on an annual basis no later than September 1:
 - (1) For existing lines, the information required on FERC Form 1, pages 422, 423, 424, and 425, except that the information reported on pages 422 and 423 may be reported every five years.
 - (2) For lines under construction, the following:
 - a. Commission docket number;
 - b. location of end point(s);
 - c. length;
 - d. range of right-of-way width;
 - e. range of tower heights;
 - f. number of circuits;
 - g. operating voltage;
 - h. design capacity;
 - i. date construction started; and

- j. projected in-service date (if more than 6 month delay from last report, explain).
- (3) For all other proposed lines, as the information becomes available, the following:
 - a. county location of end point(s);
 - b. approximate length;
 - c. typical right-of-way width for proposed type of line;
 - d. typical tower height for proposed type of line;
 - e. number of circuits;
 - f. operating voltage;
 - g. design capacity;
 - h. estimated date for starting construction (if more than 6 month delay from last report, explain); and
 - i. estimated in-service date (if more than 6 month delay from last report, explain).

(NCUC Docket No. E-100, Sub 62, 12/4/92; NCUC Docket No. E-100, Sub 78A, 04/29/98; NCUC Docket No. E-100, Sub 105, 02/27/06.)

Rule R8-61.

PRELIMINARY PLANS AND CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY FOR CONSTRUCTION OF ELECTRIC GENERATION AND RELATED TRANSMISSION FACILITIES IN NORTH CAROLINA; CONSTRUCTION OF OUT-OF-STATE ELECTRIC GENERATING FACILITIES; PROGRESS REPORTS AND ONGOING REVIEWS OF CONSTRUCTION; PROJECT DEVELOPMENT COST REVIEWS FOR NUCLEAR GENERATING FACILITIES.

(a) A public utility or other person that plans to build an electricity generating facility with a nameplate capacity of 300 megawatts (alternating current) or more shall file with the Commission and the Department of the Environment and Natural Resources its preliminary plans at least 120 days before filing an application for a certificate of public convenience and necessity. The preliminary plans shall include the following exhibits:

- (1) Exhibit 1 shall contain the following site information:
 - (i) A color map or aerial photo (a U.S. Geological Survey map or an aerial photo map prepared via the State's geographic information system is preferred) showing the proposed site boundary and layout, with all major equipment, including the generator, fuel handling equipment, plant distribution system, startup equipment, planned and existing pipelines, planned and existing roads, planned and existing water supplies, and planned and existing electric facilities;
 - (ii) The E911 street address, county in which the proposed facility would be located, and GPS coordinates of the approximate center of the proposed facility site to the nearest second or one thousandth of a degree;
 - (iii) The full and correct name of the site owner and, if the owner is other than the applicant, the applicant's interest in the site;
 - (iv) Justification for the adoption of the site selected, and general information describing the other locations considered;
 - (v) Information concerning geological, aesthetic, ecological, meteorological, seismic, water supply, and local population;
 - (vi) A description of investigations completed, in progress, or proposed involving the subject site;
 - (vii) A statement of existing or proposed plans known to the applicant of federal, state, local governmental and private entities for other developments at or adjacent to the proposed site;
 - (viii) In the case of natural gas-fired facilities, a map showing the proximity of the facility to existing natural gas facilities; a description of dedicated gas facilities to be constructed to serve the facility; and any filed agreements, service contracts, or tariffs for interstate pipeline capacity;

ENCL. (5a) P. 1/5

- (ix) A brief general description of practicable transmission line routes emanating from the site, including a color map showing their general location; and
 - (x) The gross, net, and nameplate generating capacity of each unit and the entire facility's total projected dependable capacity in alternating current (AC).
- (2) Exhibit 2 shall contain the following permitting information:
- (i) A list of all agencies from which approvals will be sought covering various aspects of any generation facility constructed on the site and the title and nature of such approvals; and
 - (ii) A statement of existing or proposed environmental evaluation programs to meet the applicable air and water quality standards.
- (3) Exhibit 3 shall include a schedule showing the anticipated beginning dates for construction, testing, and commercial operation of the generating facility.

(b) In filing an application for a certificate of public convenience and necessity pursuant to G.S. 62-110.1(a) in order to construct a generating facility in North Carolina, a public utility shall include the following exhibits supported by relevant testimony:

- (1) Exhibit 1 shall contain the following resource planning information:
- (i) The utility's most recent biennial report and the most recent annual report filed pursuant to Rule R8-60, plus any proposals by the utility to update said reports;
 - (ii) The extent to which the proposed facility would conform to the utility's most recent biennial report and the most recent annual report that was filed pursuant to Rule R8-60;
 - (iii) A statement of how the facility would contribute to resource and fuel diversity, whether the facility would have dual-fuel capability, and how much fuel would be stored at the site.
 - (iv) An explanation of the need for the facility, including information on energy and capacity forecasts; and
 - (v) An explanation of how the proposed facility meets the identified energy and capacity needs, including the anticipated facility capacity factor, heat rate, and service life.
- (2) Exhibit 2 shall contain the siting and permitting information as listed in Rule R8-61(a), with updates as necessary for facilities that are 300 megawatts (alternating current) nameplate capacity or more, and for which this information had already been filed.
- (3) Exhibit 3 shall contain the following cost information for the proposed facility, and for the final alternatives that the applicant considered:

- (i) An estimate of the construction costs for the generating facility, including the costs for new substation(s) and transmission line(s), and upgrades to existing substations(s) and transmission lines(s). For nuclear plants, construction costs shall include the plant's first core fuel load;
 - (ii) Estimated construction costs expressed as dollars per megawatt of capacity;
 - (iii) Estimated annual operating expenses by category, including fuel costs;
 - (iv) Estimated annual operating expenses expressed as dollars per net megawatt-hour.
 - (v) The projected cost of each major component of the generating facility and the projected schedule for incurring those costs;
 - (vi) The projected effect of investment in the generating facility on the utility's overall revenue requirement for each year during the construction period;
 - (vii) The anticipated in-service expenses associated with the generating facility for the 12-month period of time following commencement of commercial operation of the facility; and
 - (viii) The anticipated impact the facility will have on customer rates.
- (4) Exhibit 4 shall contain the following construction information:
- (i) The anticipated construction schedule for the generating facility;
 - (ii) The specific type of units selected for the generating facility; the suppliers of the major components of the facility; the basis for selecting the type of units, major components, and suppliers; and arrangements made or planned to assure a dependable fuel supply;
 - (iii) The qualifications and selection process of principal contractors and suppliers for construction of the generating facility, other than those listed in Item (ii) above; and
 - (iv) Risk factors related to the construction and operation of the generating facility, including a verified statement as to whether the facility will be capable of operating during the lowest temperature that has been recorded in the area using information from the National Weather Service Automated Surface Observing System (ASOS) First Order Station in Asheville, Charlotte, Greensboro, Hatteras, Raleigh or Wilmington, depending upon the station that is located closest to where the plant will be located.

- (5) If the facility is a coal or nuclear-fueled facility, the application shall include Exhibit 5, which shall contain information demonstrating that energy efficiency measures; demand-side management; renewable energy resource generation; combined heat and power generation; or any combination thereof, would not establish or maintain a more cost-effective and reliable generation system and that the construction and operation of the facility is in the public interest.

(c) The public utility shall submit a progress report and any revision in the construction cost estimate during each year of construction according to a schedule established by the Commission.

(d) Upon the request of the public utility or upon the Commission's own motion, the Commission may conduct an ongoing review of construction of the generating facility as the construction proceeds.

(e) A public utility requesting an ongoing review of construction of the generating facility pursuant to G.S. 62-110.1(f) shall file an application, supported by relevant testimony, for an ongoing review no later than 12 months after the date of issuance of a certificate of public convenience and necessity by the Commission; provided, however, that the public utility may, prior to the conclusion of such 12-month period, petition the Commission for a reasonable extension of time to file an application based on a showing of good cause. Upon the filing of a request for an ongoing review, the Commission shall establish a schedule of hearings. The hearings shall be held no more often than every 12 months. The Commission shall also establish the time period to be reviewed during each hearing. The purpose of each ongoing review hearing is to determine the reasonableness and prudence of the costs incurred by the public utility during the period under review and to determine whether the certificate should remain in effect or be modified or revoked. The public utility shall have the burden of proof to demonstrate that all costs incurred are reasonable and prudent.

(f) A public utility may file an application pursuant to G.S. 62-110.6 requesting the Commission to determine the need for an out-of-state electric generating facility that is intended to serve retail customers in North Carolina. If need for the generating facility is established, the Commission shall also approve an estimate of the construction costs and construction schedule for such facility. The application may be filed at any time after an application for a certificate of public convenience and necessity or license for construction of the generating facility has been filed in the state in which the facility will be sited. The application shall be supported by relevant testimony and shall include the information required by subsection (b) of this Rule to the extent such information is relevant to the showing of need for the generating facility and the estimated construction costs and proposed construction schedule for the generating facility. The public utility shall submit a progress report and any revision in the construction cost estimate for the out-of-state electric generating facility during each year of construction according to a schedule established by the Commission.

(g) If the Commission makes a determination of need pursuant to G.S. 62-110.6 and subsection (f) of this Rule, the provisions of subsections (d) and (e) of this Rule shall apply to a request by a public utility for an ongoing review of construction of a generating facility to be constructed in another state that is intended to serve retail customers in North Carolina. An electric public utility shall file an application, supported by relevant testimony, for an ongoing review no later than 12 months after the date of issuance of a certificate of public convenience and necessity or license by the state commission in which the out-of-state generating facility is to be constructed; provided, however, that the public utility may, prior to the conclusion of such 12-month period, petition the Commission for a reasonable extension of time to file an application based on a showing of good cause.

(h) A public utility may file an application pursuant to G.S. 62-110.7 requesting the Commission to review the public utility's decision to incur project development costs for a potential in-state or out-of-state nuclear generating facility that is intended to serve retail electric customers in North Carolina. The application, supported by relevant testimony, shall be filed prior to the filing of an application for a certificate to construct the facility.

(NCUC Docket No. E 100, Sub 54, 12/8/88; E-100, Sub 78A, 04/29/98; NCUC Docket No. E-100, Sub 113, 02/29/08; NCUC Docket No. E-100, Sub 134, 07/30/12; NCUC Docket No. M-100, Sub 135, 09/10/13; NCUC Docket No. E-100, Sub 134, 11/04/14.)

Oct 15 2021

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R8-61-5/5

Rule R8-60. INTEGRATED RESOURCE PLANNING AND FILINGS.

(a) Purpose. — The purpose of this rule is to implement the provisions of G.S. 62-2(3a) and G.S. 62-110.1 with respect to least cost integrated resource planning by the utilities in North Carolina.

(b) Applicability. — This rule is applicable to Duke Energy Progress, Inc.; Duke Energy Carolinas, LLC; and Virginia Electric and Power Company, d/b/a Dominion North Carolina Power.

(c) Integrated Resource Plan. — Each utility shall develop and keep current an integrated resource plan, which incorporates, at a minimum, the following:

- (1) a 15-year forecast of native load requirements (including any off-system obligations approved for native load treatment by the Commission) and other system capacity or firm energy obligations extending through at least one summer or winter peak (other system obligations); supply-side (including owned/leased generation capacity and firm purchased power arrangements) and demand-side resources expected to satisfy those loads; and the reserve margin thus produced; and
- (2) a comprehensive analysis of all resource options (supply-and demand-side) considered by the utility for satisfaction of native load requirements and other system obligations over the planning period, including those resources chosen by the utility to provide reliable electric utility service at least cost over the planning period.

Each utility shall include an assessment of demand-side management and energy efficiency in its integrated resource plan. G.S. 62-133.9(c). In addition, each utility's consideration of supply-side and demand-side resources, including alternative supply-side energy resources, and the provision of reliable electric utility service at least cost shall appropriately consider and incorporate the utility's obligation to comply with the Renewable Energy and Energy Efficiency Portfolio Standard (REPS). G.S. 62-133.8.

(d) Purchased Power. — As part of its integrated resource planning process, each utility shall assess on an on-going basis the potential benefits of soliciting proposals from wholesale power suppliers and power marketers to supply it with needed capacity.

(e) Alternative Supply-Side Energy Resources. — As part of its integrated resource planning process, each utility shall assess on an on-going basis the potential benefits of reasonably available alternative supply-side energy resource options. Alternative supply-side energy resources include, but are not limited to, hydro, wind, geothermal, solar thermal, solar photovoltaic, municipal solid waste, fuel cells, and biomass.

(f) Demand-Side Management. — As part of its integrated resource planning process, each utility shall assess on an on-going basis programs to promote demand-side management, including costs, benefits, risks, uncertainties, reliability and customer acceptance, where appropriate. For purposes of this rule, demand-side management consists of demand response programs and energy efficiency and conservation programs.

ENCL. (5b) P. 1/7

R8-60-1/7

(g) Evaluation of Resource Options. — As part of its integrated resource planning process, each utility shall consider and compare a comprehensive set of potential resource options, including both demand-side and supply-side options, to determine an integrated resource plan that offers the least cost combination (on a long-term basis) of reliable resource options for meeting the anticipated needs of its system. The utility shall analyze potential resource options and combinations of resource options to serve its system needs, taking into account the sensitivity of its analysis to variations in future estimates of peak load, energy requirements, and other significant assumptions, including, but not limited to, the risks associated with wholesale markets, fuel costs, construction/implementation costs, transmission and distribution costs, and costs of complying with environmental regulation. Additionally, the utility's analysis should take into account, as applicable, system operations, environmental impacts, and other qualitative factors.

(h) Filings.

- (1) By September 1, 2008, and every two years thereafter, each utility subject to this rule shall file with the Commission its then current integrated resource plan, together with all information required by subsection (i) of this rule. This biennial report shall cover the next succeeding two-year period.
- (2) By September 1 of each year in which a biennial report is not required to be filed, an update report shall be filed with the Commission containing an updated 15-year forecast of the items described in subparagraph (c)(1), as well as a summary of any significant amendments or revisions to the most recently filed biennial report, including amendments or revisions to the type and size of resources identified, as applicable.
- (3) Each biennial and update report filed shall be accompanied by a short-term action plan that discusses those specific actions currently being taken by the utility to implement the activities chosen as appropriate per the applicable biennial and update reports.
- (4) Each biennial and update report shall include the utility's REPS compliance plan pursuant to Rule R8-67(b).
- (5) If a utility considers certain information in its biennial or update report to be proprietary, confidential, and within the scope of G.S. 132-1.2, the utility may designate the information as "confidential" and file it under seal.

(i) Contents of Biennial Reports. — Each utility shall include in each biennial report the following:

- (1) Forecasts of Load, Supply-Side Resources, and Demand-Side Resources. The forecasts filed by each utility as part of its biennial report shall include descriptions of the methods, models, and assumptions used by the utility to prepare its peak load (MW) and energy sales (MWh) forecasts and the variables used in the models. In the biennial reports, the forecasts filed by each utility shall include, at a minimum, the following:

- (i) The most recent ten-year history and a forecast of customers by each customer class, the most recent ten-year history and a forecast of energy sales (MWh) by each customer class, and the most recent ten-year history and a forecast of the utility's summer and winter peak load (MW);
 - (ii) A tabulation of the utility's forecast for at least a 15-year period, including peak loads for summer and winter seasons of each year, annual energy forecasts, reserve margins, and load duration curves, with and without projected supply or demand-side resource additions. The tabulation shall also indicate the projected effects of demand response and energy efficiency programs and activities on the forecasted annual energy and peak loads on an annual basis for a 15-year period, and these effects also may be reported as an equivalent generation capacity impact; and
 - (iii) Where future supply-side resources are required, a description of the type of capacity/resource (MW rating, fuel source, base, intermediate, or peaking) that the utility proposes to use to address the forecasted need.
- (2) Generating Facilities. — Each utility shall provide the following data for its existing and planned electric generating facilities (including planned additions and retirements, but excluding cogeneration and small power production):
 - (i) Existing Generation. — The utility shall provide a list of existing units in service, with the information specified below for each listed unit. The information shall be provided for a 15-year period beginning with the year of filing:
 - a. Type of fuel(s) used;
 - b. Type of unit (e.g., base, intermediate, or peaking);
 - c. Location of each existing unit;
 - d. A list of units to be retired from service with location, capacity and expected date of retirement from the system;
 - e. A list of units for which there are specific plans for life extension, refurbishment or upgrading. The reporting utility shall also provide the expected (or actual) date removed from service, general location, capacity rating upon return to service, expected return to service date, and a general description of work to be performed; and
 - f. Other changes to existing generating units that are expected to increase or decrease generation capability of the unit in question by an amount that is plus or minus 10%, or 10 MW, whichever is greater.
 - (ii) Planned Generation Additions. — Each utility shall provide a list of planned generation additions, the rationale as to why each listed generation addition was selected, and a 15-year projection of the following for each listed addition:

- a. Type of fuel(s) used;
 - b. Type of unit (e.g. MW rating, baseload, intermediate, peaking);
 - c. Location of each planned unit to the extent such location has been determined; and
 - d. Summaries of the analyses supporting any new generation additions included in its 15-year forecast, including its designation as base, intermediate, or peaking capacity.
- (iii) Non-Utility Generation. — Each utility shall provide a separate and updated list of all non-utility electric generating facilities in its service areas, including customer-owned and stand-by generating facilities. This list shall include the facility name, location, primary fuel type, and capacity (including its designation as base, intermediate, or peaking capacity). The utility shall also indicate which facilities are included in its total supply of resources. If any of this information is readily accessible in documents already filed with the Commission, the utility may incorporate by reference the document or documents in its report, so long as the utility provides the docket number and the date of filing.

(3) Reserve Margins. — The utility shall provide a calculation and analysis of its winter and summer peak reserve margins over the projected 15-year period. To the extent the margins produced in a given year differ from target reserve margins by plus or minus 3%, the utility shall explain the reasons for the difference.

(4) Wholesale Contracts for the Purchase and Sale of Power.

- (i) The utility shall provide a list of firm wholesale purchased power contracts reflected in the biennial report, including the primary fuel type, capacity (including its designation as base, intermediate, or peaking capacity), location, expiration date, and volume of purchases actually made since the last biennial report for each contract.
- (ii) The utility shall discuss the results of any Request for Proposals (RFP) for purchased power it has issued since its last biennial report. This discussion shall include a description of each RFP, the number of entities responding to the RFP, the number of proposals received, the terms of the proposals, and an explanation of why the proposals were accepted or rejected.
- (iii) The utility shall include a list of the wholesale power sales contracts for the sale of capacity or firm energy for which the utility has committed to sell power during the planning horizon, the identity of each wholesale entity to which the utility has committed itself to sell power during the planning horizon, the number of megawatts (MW) on an annual basis for each contract, the length of each contract, and the type of each contract (e.g., native load priority, firm, etc.).

- (5) **Transmission Facilities.** — Each utility shall include a list of transmission lines and other associated facilities (161 kV or over) which are under construction or for which there are specific plans to be constructed during the planning horizon, including the capacity and voltage levels, location, and schedules for completion and operation. The utility shall also include a discussion of the adequacy of its transmission system (161 kV and above).
- (6) **Demand-Side Management.** — Each utility shall provide the results of its overall assessment of existing and potential demand-side management programs, including a descriptive summary of each analysis performed or used by the utility in the assessment. The utility also shall provide general information on any changes to the methods and assumptions used in the assessment since its last biennial report.
- (i) For demand-side programs available at the time of the report, the utility shall provide the following information for each resource: the type of resource (demand response or energy efficiency); the capacity and energy available in the program; number of customers enrolled in each program; the number of times the utility has called upon the resource; and, where applicable, the capacity reduction realized each time since the previous biennial report. The utility shall also list any demand-side resource it has discontinued since its previous biennial report and the reasons for that discontinuance.
 - (ii) For demand-side management programs it proposes to implement within the biennium for which the report is filed, the utility shall provide the following information for each resource: the type of resource (demand response and energy efficiency); a description of the new program and the target customer segment; the capacity and energy expected to be available from the program; projected customer acceptance; the date the program will be launched; and the rationale as to why the program was selected.
 - (iii) For programs evaluated but rejected the utility shall provide the following information for each resource considered: the type of resource (demand response or energy efficiency); a description of the program and the target customer segment; the capacity and energy available from the program; projected customer acceptance; and reasons for the program's rejection.
 - (iv) For consumer education programs the utility shall provide a comprehensive list of all such programs the utility currently provides to its customers, or proposes to implement within the biennium for which the report is filed, including a description of the program, the target customer segment, and the utility's promotion of the education program. The utility shall also provide a list of any educational program it has discontinued since its last biennial report and the reasons for discontinuance.

- (7) **Assessment of Alternative Supply-Side Energy Resources.** — The utility shall include its current overall assessment of existing and potential alternative supply-side energy resources, including a descriptive summary of each analysis performed or used by the utility in the assessment. The utility shall also provide general information on any changes to the methods and assumptions used in the assessment since its most recent biennial or update report.
- (i) For the currently operational or potential future alternative supply-side energy resources included in each utility's plan, the utility shall provide information on the capacity and energy actually available or projected to be available, as applicable, from the resource. The utility shall also provide this information for any actual or potential alternative supply-side energy resources that have been discontinued from its plan since its last biennial report and the reasons for that discontinuance.
 - (ii) For alternative supply-side energy resources evaluated but rejected, the utility shall provide the following information for each resource considered: a description of the resource; the potential capacity and energy associated with the resource; and the reasons for the rejection of the resource.
- (8) **Evaluation of Resource Options.** — Each utility shall provide a description and a summary of the results of its analyses of potential resource options and combinations of resource options performed by it pursuant to subsection (g) of this rule to determine its integrated resource plan.
- (9) **Levelized Busbar Costs.** — Each utility shall provide information on levelized busbar costs for various generation technologies.

(j) **Contents of Update Reports.** — In addition to the information required by sections (h)(2)-(4) of this rule, each utility shall include in its update report data and tables that provide the following data for the planning horizon: (1) the information required by sections (i)(1) and (2) of this rule, including the utility's load forecast adjusted for the impacts of any new energy efficiency programs, existing generating capacity with planned additions, uprates, derates, and retirements, planned purchase contracts, undesignated future resources identified by type of generation and MW rating, renewable capacity, demand-side management capacity, and any resource gap; (2) cumulative resource additions necessary to meet load obligation and reserve margins; and (3) projections of load, capacity, and reserves for both the summer and winter periods. A total system IRP may be filed in lieu of an update report for purposes of compliance with this section.

(k) **Review of Biennial Reports.** — Within 150 days after the later of either September 1 or the filing of each utility's biennial report, the Public Staff or any other intervenor may file an integrated resource plan or report of its own as to any utility or may file an evaluation of or comments on the reports filed by the utilities, or both. The

Public Staff or any intervenor may identify any issue that it believes should be the subject of an evidentiary hearing. Within 60 days after the filing of initial comments, the parties may file reply comments addressing any substantive or procedural issue raised by any other party. A hearing to address issues raised by the Public Staff or other intervenors may be scheduled at the discretion of the Commission. The scope of any such hearing shall be limited to such issues as identified by the Commission. One or more hearings to receive testimony from the public, as required by law, shall be set at a time and place designated by the Commission.

(l) Review of Update Reports. — Within 60 days after the filing of each utility's update report required by section (j) of this rule, the Public Staff or any other intervenor may file an update report of its own as to any utility. Further, within the same time period the Public Staff shall report to the Commission whether each utility's update report meets the requirements of this rule. Intervenors may request leave from the Commission to file comments. Comments will be received or expert witness hearings held on the update reports only if the Commission deems it necessary. The scope of any comments or expert witness hearing shall be limited to issues identified by the Commission. One or more hearings to receive testimony from the public, as required by law, shall be set at a time and place designated by the Commission.

(m) By November 30 of each year, each utility individually or jointly shall hold a meeting to review its biennial or update report with interested parties.

(NCUC Docket No. E-100, Sub 54, 12/8/88; NCUC Docket No. E-100, Sub 78A, 04/29/98; 08/11/98; NCUC Docket No. M-100, Sub 128, 10/27/99; NCUC Docket No. E-100, Sub 113, 2/29/08; NCUC Docket No. E-100, Sub 113, 3/13/08; NCUC Docket No. E-100, Sub 126, 4/11/2012; NCUC Docket No. M-100, Sub 140, 12/03/13; NCUC Docket No. E-100, Sub 111, 7/20/2015; NCUC Docket No. E-100, Sub 126, 6/13/2016; NCUC Docket Nos. E-100, Subs 126 & 157; 11/13/2019.)

§ 62-326. Furnishing false information to the Commission; withholding information from the Commission.

(a) Every person, firm or corporation operating under the jurisdiction of the Utilities Commission or who is required by law to file reports with the Commission who shall knowingly or willfully file or give false information to the Utilities Commission in any report, reply, response, or other statement or document furnished to the Commission shall be guilty of a Class 1 misdemeanor.

(b) Every person, firm, or corporation operating under the jurisdiction of the Utilities Commission or who is required by law to file reports with the Commission who shall willfully withhold clearly specified and reasonably obtainable information from the Commission in any report, response, reply or statement filed with the Commission in the performance of the duties of the Commission or who shall fail or refuse to file any report, response, reply or statement required by the Commission in the performance of the duties of the Commission shall be guilty of a Class 1 misdemeanor. (1969, c. 765, s. 1; 1993, c. 539, s. 490; 1994, Ex. Sess., c. 24, s. 14(c).)

Rule R1-8. DOCKET NUMBERS REQUIRED ON PLEADINGS AND PAPERS.

All pleadings, papers and correspondence relating to formal proceedings to which docket numbers have been assigned shall refer to such docket numbers.

ENCL. (6)

Article 15.

Penalties and Actions.

§ 62-310. Public utility violating any provision of Chapter, rules or orders; penalty; enforcement by injunction.

(a) Any public utility which violates any of the provisions of this Chapter or refuses to conform to or obey any rule, order or regulation of the Commission shall, in addition to the other penalties prescribed in this Chapter forfeit and pay a sum up to one thousand dollars (\$1,000) for each offense, to be recovered in an action to be instituted in the Superior Court of Wake County, in the name of the State of North Carolina on the relation of the Utilities Commission; and each day such public utility continues to violate any provision of this Chapter or continues to refuse to obey or perform any rule, order or regulation prescribed by the Commission shall be a separate offense.

(b) If any person or corporation shall furnish water or sewer utility service in violation of any provision of this Chapter applicable to water or sewer utilities, except as to the reasonableness of rates or charges and the discriminatory character thereof, or shall provide such service in violation of any rule, regulation or order of the Commission, the Commission shall apply to a superior court judge who has jurisdiction pursuant to G.S. 7A-47.1 or 7A-48 in the district or set of districts as defined in G.S. 7A-41.1 in which the person or corporation so operates, for the enforcement of any provision of this Chapter or of any rule, regulation or order of the Commission. The court shall have jurisdiction to enforce obedience to this Chapter or to any rule, regulation or order of the Commission by appropriate writ, order 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. (1899, c. 164, s. 23; Rev., s. 1087; C.S., s. 1106; 1933, c. 134, s. 8; c. 307, ss. 36, 37; 1941, c. 97; 1963, c. 1165, s. 1; 1973, c. 1073; 1987 (Reg. Sess., 1988), c. 1037, s. 96.)

§ 62-31. Power to make and enforce rules and regulations for public utilities.

The Commission shall have and exercise full power and authority to administer and enforce the provisions of this Chapter, and to make and enforce reasonable and necessary rules and regulations to that end. (1907, c. 469, s. 1a; 1913, c. 127, s. 2; C.S., s. 1037; 1933, c. 134, s. 8; 1941, c. 97; 1947, c. 1008, s. 2; 1949, c. 1132, s. 3; 1963, c. 1165, s. 1.)

ENCL. (7)

Chapter 62.

Public Utilities.

Article 1.

General Provisions.

§ 62-1. Short title.

This Chapter shall be known and may be cited as the Public Utilities Act. (1963, c. 1165, s. 1.)

§ 62-2. Declaration of policy.

(a) Upon investigation, it has been determined that the rates, services and operations of public utilities as defined herein, are affected with the public interest and that the availability of an adequate and reliable supply of electric power and natural gas to the people, economy and government of North Carolina is a matter of public policy. It is hereby declared to be the policy of the State of North Carolina:

- (1) To provide fair regulation of public utilities in the interest of the public;
- (2) To promote the inherent advantage of regulated public utilities;
- (3) To promote adequate, reliable and economical utility service to all of the citizens and residents of the State;
- (3a) To assure that resources necessary to meet future growth through the provision of adequate, reliable utility service include use of the entire spectrum of demand-side options, including but not limited to conservation, load management and efficiency programs, as additional sources of energy supply and/or energy demand reductions. To that end, to require energy planning and fixing of rates in a manner to result in the least cost mix of generation and demand-reduction measures which is achievable, including consideration of appropriate rewards to utilities for efficiency and conservation which decrease utility bills;
- (4) To provide just and reasonable rates and charges for public utility services without unjust discrimination, undue preferences or advantages, or unfair or destructive competitive practices and consistent with long-term management and conservation of energy resources by avoiding wasteful, uneconomic and inefficient uses of energy;
- (4a) To assure that facilities necessary to meet future growth can be financed by the utilities operating in this State on terms which are reasonable and fair to both the customers and existing investors of such utilities; and to that end to authorize fixing of rates in such a manner as to result in lower costs of new facilities and lower rates over the operating lives of such new facilities by making provisions in the rate-making process for the investment of public utilities in plants under construction;
- (5) To encourage and promote harmony between public utilities, their users and the environment;
- (6) To foster the continued service of public utilities on a well-planned and coordinated basis that is consistent with the level of energy needed for the protection of public health and safety and for the promotion of the general welfare as expressed in the State energy policy;

ENCL. (8)

§ 62-105. Burden of proof; decision.

(a) The burden of proof is on the applicant in all cases under this Article, except that any party proposing an alternative location for the proposed transmission line shall have the burden of proof in sustaining its position. The Commission may consider any factors that it finds are relevant and material to its decision. The Commission shall grant a certificate for the construction, operation, and maintenance of the proposed transmission line if it finds:

- (1) That the proposed transmission line is necessary to satisfy the reasonable needs of the public for an adequate and reliable supply of electric energy;
- (2) That, 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;
- (3) That the costs associated with the proposed transmission line are reasonable;
- (4) That the impact the proposed transmission line will have on the environment is justified considering the state of available technology, the nature and economics of the various alternatives, and other material considerations; and
- (5) That the environmental compatibility, public convenience, and necessity require the transmission line.

(b) If the Commission determines that the location of the proposed transmission line should be modified, it may condition its certificate upon modifications it finds necessary to make the findings and determinations set forth in subsection (a) of this section. (1991, c. 189, s. 1.)

ENCL. (9)

Part 8. Enforcement, Sanctions, and Remedies.

§ 10B-60. Enforcement and penalties.

(a) The Secretary may issue a warning to a notary or restrict, suspend, or revoke a notarial commission for a violation of this Chapter and on any ground for which an application for a commission may be denied under this Chapter. Any period of restriction, suspension, or revocation shall not extend the expiration date of a commission.

(b) Except as otherwise permitted by law, a person who commits any of the following acts is guilty of a Class 1 misdemeanor:

- (1) Holding one's self out to the public as a notary if the person does not have a commission.
- (2) Performing a notarial act if the person's commission has expired or been suspended or restricted.
- (3) Performing a notarial act before the person had taken the oath of office.

(c) A notary shall be guilty of a Class 1 misdemeanor if the notary does any of the following:

- (1) Takes an acknowledgment or administers an oath or affirmation without the principal appearing in person before the notary.
- (2) Takes a verification or proof without the subscribing witness appearing in person before the notary.
- (3) Takes an acknowledgment or administers an oath or affirmation without personal knowledge or satisfactory evidence of the identity of the principal.
- (4) Takes a verification or proof without personal knowledge or satisfactory evidence of the identity of the subscribing witness.

(d) A notary shall be guilty of a Class I felony if the notary does any of the following:

- (1) Takes an acknowledgment or a verification or a proof, or administers an oath or affirmation if the notary knows it is false or fraudulent.
- (2) Takes an acknowledgment or administers an oath or affirmation without the principal appearing in person before the notary if the notary does so with the intent to commit fraud.
- (3) Takes a verification or proof without the subscribing witness appearing in person before the notary if the notary does so with the intent to commit fraud.

(e) It is a Class I felony for any person to perform notarial acts in this State with the knowledge that the person is not commissioned under this Chapter.

ENCL. (10) P. 1/3

(f) Any person who without authority obtains, uses, conceals, defaces, or destroys the seal or notarial records of a notary is guilty of a Class I felony.

(g) For purposes of enforcing this Chapter and Article 34 of Chapter 66 of the General Statutes, the following provisions are applicable:

(1) Law enforcement agents of the Department of the Secretary of State have statewide jurisdiction and have all of the powers and authority of law enforcement officers. The agents have the authority to assist local law enforcement agencies in their investigations and to initiate and carry out, on their own or in coordination with local law enforcement agencies, investigations of violations.

(2) Any party to a transaction requiring a notarial certificate for verification and any attorney licensed in this State who is involved in such a transaction in any capacity, whether or not the attorney is representing one of the parties to the transaction, may execute an affidavit and file it with the Secretary of State, setting forth the actions which the affiant alleges constitute violations. Upon receipt of the affidavit, law enforcement agents of the Department shall initiate and carry out, on their own or in coordination with local law enforcement agencies, investigations of violations.

(h) Resignation or expiration of a notarial commission does not terminate or preclude an investigation into a notary's conduct by the Secretary, who may pursue the investigation to a conclusion, whereupon it may be a matter of public record whether or not the finding would have been grounds for disciplinary action.

(i) The Secretary may seek injunctive relief against any person who violates the provisions of this Chapter. Nothing in this Chapter diminishes the authority of the North Carolina State Bar.

(j) Any person who knowingly solicits, coerces, or in any material way influences a notary to commit official misconduct, is guilty as an aider and abettor and is subject to the same level of punishment as the notary.

(k) The sanctions and remedies of this Chapter supplement other sanctions and remedies provided by law, including, but not limited to, forgery and aiding and abetting.

(l) The Secretary shall notify the North Carolina State Bar (State Bar) of any final decision finding a violation of subsection (a) of this section by a notary who is also an attorney-at-law licensed under Chapter 84 of the General Statutes. The Secretary shall endeavor to provide a copy of any court order rendered under subsection (b), (c), (d), (e), (f), or (j) of this section to the State Bar in cases where the notary is an attorney-at-law licensed under Chapter 84 of the General Statutes. Any referral by the Secretary to the State

Bar under this subsection shall be considered a showing of professional unfitness under G.S. 84-28(d), and the State Bar shall administer discipline accordingly. (1991, c. 683, s. 2; 1993, c. 539, ss. 6-8, 1121; 1994 Ex. Sess., c. 24, s. 14(c); 1995, c. 226, s. 4; 2001-450, s. 3; 2005-391, s. 4; 2006-59, s. 23; 2013-204, s. 1.4; 2013-387, s. 5.)

NORTH CAROLINA
JOHNSTON COUNTY

FILED IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
BEFORE THE CLERK

2018 DEC 17 P 12:38 18 SP 591

DUKE ENERGY PROGRESS, LLC

JOHNSTON CO., C.S.C.

Petitioner,

BY

**PETITION FOR CONDEMNATION
OF RIGHT-OF-WAY**

v.

(N.C. Gen. Stat. Chapter 40A, Article 2)

OLIVER LINWOOD CANADAY,

Respondent.

NOW COMES Petitioner, Duke Energy Progress, LLC, a North Carolina limited liability company ("**DEP**"), and alleges and says as follows:

1. DEP is a North Carolina company with its principal place of business in Charlotte, North Carolina, and is authorized by the North Carolina Utilities Commission to supply electricity to members of the general public within its franchised service area, including Johnston County, North Carolina.

2. It is the good faith intention of DEP to conduct and carry on the public business authorized by its Charter. DEP possesses the power and right to construct, maintain, and operate any and all kinds of plants, works, lines, substations, and systems for the generation, transmission, distribution, regulation, and control of electricity and for other purposes specified in its Charter, together with the power and right to acquire, hold, maintain and develop real and personal property for or in connection with the foregoing purposes; it further possesses the right of eminent domain under the laws of North Carolina to enable it to locate, re-locate, construct, protect, and maintain its plants, works, transmission and distribution lines, substations, systems, and other facilities essential to its business.

ENCL. (11) P. 1/11

3. DEP plans to construct one or more lines, apparatuses, appurtenances, and equipment across, under, over, and through land owned by Respondent, or in which Respondent has an interest, more particularly described in EXHIBIT A attached hereto and incorporated herein ("*Respondent's Land*") for the purpose of transporting and distributing electricity and as part of the necessary functioning of DEP's business.

4. DEP institutes this proceeding for the purpose of obtaining the easement rights and interests described in EXHIBIT B attached hereto and incorporated herein (the "*Easements*") for purposes of conducting DEP's business, which Easements are necessary for the public use and benefit, and DEP will in good faith continue the public use once the Easements are acquired.

5. Upon information and belief, the parties set forth on EXHIBIT C attached hereto and incorporated herein are the only parties who own or have, or claim to own or have, an estate or interest in Respondent's Land, insofar as the same can by reasonable diligence be ascertained, and the addresses and any legal disability for such parties, as far as can be reasonably ascertained, are set forth in said exhibit.

6. DEP is informed and believes, and alleges upon information and belief, that Respondent's Land is, insofar as the same can by reasonable diligence be ascertained, subject only to such liens and encumbrances as may be set forth in EXHIBIT D attached hereto and incorporated herein by reference.

7. Respondent shall be permitted to remove all buildings, structures, permanent improvements or fixtures that are presently situated on or affixed within the portions of Respondent's Land to be encumbered by the Easements.

WHEREFORE, DEP respectfully prays as follows:

1. That the Court order the appointment of three competent and disinterested freeholders, residing in Johnston County, whose duty shall be to appraise the just compensation

owed by DEP to Respondent for the Easements acquired by DEP as described herein; and that the Court fix the time and place of the first meeting of said Commissioners and a deadline for the Commissioners' award;

2. That the Court award DEP the Easements upon the payment of just compensation to be fixed therefor by said Commissioners in accordance with law; and

3. That the Court award to Petitioner such other and further relief as the Court may deem just and proper.

This the 14th day of December, 2018.

SMITH, ANDERSON, BLOUNT, DORSETT,
MITCHELL & JERNIGAN, L.L.P.

By: 

Matthew D. Rhoad

N.C. State Bar No. 29409

William H. Moss

N.C. State Bar No. 12497

Cerretta Amos

N.C. State Bar No. 45620

P.O. Box 2611

Raleigh, North Carolina 27602

(919) 821-1220

Attorneys for Petitioner

VERIFICATION

STATE OF NORTH CAROLINA
COUNTY OF WAKE

PAULA GOURLEY, being first duly sworn, deposes and says: That he or she is REGIONAL MANAGER OF LAND SERVICES of Duke Energy Progress, LLC, that he or she has authority to make this verification on its behalf, that he or she has read the foregoing Petition, and that the contents of the foregoing Petition are true to his or her own knowledge, except as to matters stated upon information and belief, and as to those matters he or she believes them to be true.

This the 7 day of DECEMBER, 2018.

Name: Paula Gourley

Sworn to and subscribed before me,
this the 7 day of DECEMBER, 2018.

Kevin L Lee
Notary Public

My Commission Expires: JUNE 15, 2021
(SEAL)

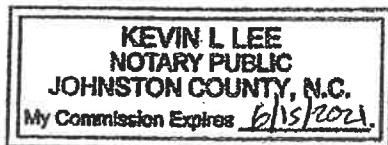


EXHIBIT A
(Respondent's Land)

That property described as:

Lying and being in Elevation Township, Johnston County, North Carolina, being shown as "Total Combined Acres=25.343" on a plat recorded in Book of Maps 58, Page 485, Johnston County Registry and being more particularly described in the instruments recorded in Book 2086, Page 810 and Book 1985, Page 21, both Johnston County Registry.

For identification purposes only, said tract is identified by Johnston County Parcel Identification Number 165100-83-6193.

P. 5/11

EXHIBIT B
(Easements Being Acquired)

Any capitalized terms not defined herein shall have the same meaning ascribed to them in the foregoing Petition for Condemnation of Right-of-Way to which this Exhibit is attached.

DEP seeks to condemn unto itself and its successors and assigns the perpetual easements and rights of way set forth herein, for the purposes and subject to the terms and conditions set forth herein, over and across Respondent's Land.

As used herein, the term "***Right of Way Strip***" shall mean those areas or parcels of land containing 1.81 acres, all as shown on a plat of survey entitled "Duke Energy Progress, LLC Cleveland-Matthews Road 230 kV Transmission Tap Line R/W to be Acquired Oliver Linwood Canaday," dated 1/8/18, marked Map: 114884-458901, said plat being attached hereto and incorporated herein by reference.

230kV
Line
→ (a) DEP's Use of Right of Way Strip. DEP, its successors and assigns, shall have a perpetual easement to enter upon Respondent's Land within the Right of Way Strip to construct, reconstruct, replace, rebuild, enlarge, modify, remove, inspect, repair, maintain, operate, and use within the Right of Way Strip multiple lines for transporting electrical energy and for telecommunications and/or data uses of DEP, its successors and assigns, which lines may consist of single or multiple rows of poles, towers, or other structures (at appropriate intervals and without limitation as to number) and related footings and foundations; crossarms; insulators; aboveground and/or underground conductors, static wires, grounds, cables, conduits, electronic equipment, and other appurtenant apparatus, fixtures, hardware, and appliances; and guy wires and anchors inside and/or outside the Right of Way Strip to support DEP's overhead facilities at angle points. DEP shall have the right to: (i) clear and keep the Right of Way Strip free of all trees and other vegetation (except as provided in subsection (b) below), structures, and other objects of any nature including, without limitation, satellite signal receiver systems, billboards, signs, buildings, manufactured homes, mobile homes and trailers, graves, wells, retaining walls, racking, dumpsters, sheds, fire pits or barbecues, swimming pools and any associated decking, septic systems or storage tanks and systems (whether aboveground or belowground), flammable materials, building materials, wrecked or disabled vehicles or equipment, refuse of any type, and all other objects (whether aboveground or belowground); and (ii) install and maintain roads within the Right of Way Strip and install gates in any fences located within the Right of Way Strip, to afford DEP access to the Right of Way Strip.

→ (b) Respondent's Reserved Use. Respondent shall be entitled to use the Right of Way Strip for all purposes not inconsistent with the rights and easements herein granted to DEP, including the right to: (i) cultivate and harvest annual seasonal crops (not including orchards or timber); (ii) pave, improve and use the Right of Way Strip for vehicular parking, provided that such vehicles are operable and readily moveable under their own power and further provided that Respondent install protective barriers satisfactory to DEP for the protection of DEP's facilities; (iii) use the Right of Way Strip for recreation, provided no structures or objects (aboveground or belowground) are erected or placed therein without the prior written approval of DEP (which DEP may withhold in its sole discretion); (iv) use and maintain existing roads and drives and sewer, water, and other utility lines within the Right of Way Strip at their existing locations as of the date of this instrument; (v) construct, use, and maintain new paved or unpaved roads, streets, and

driveways and new water, sewer, drainage, and other utility lines or pipes crossing the Right of Way Strip, provided such facilities conform to the following requirements: (A) such facilities cross the Right of Way Strip from one side of the Right of Way Strip to the other side at an angle of not less than thirty (30) degrees between the center line of said facilities and the center line of the Right of Way Strip, (B) no road, street, or driveway shall intersect with any other road, street, or driveway, in whole or in part, within the Right of Way Strip, (C) no portion of such facilities and their associated easement area, if any, is located within twenty-five (25) feet of any of DEP's poles, towers, structures, guy wires, or guy anchors, (D) such facilities are constructed in such a manner as to withstand the weight of DEP's heavy equipment, and (E) such facilities are constructed in strict compliance with all clearance requirements of DEP and all other regulations and ordinances then applicable to electrical facilities; (vi) maintain existing fences, provided that DEP may add gates to allow it access as set forth in subsection (a)(ii) above; (vii) build new fences on the Right of Way Strip with the prior written approval of DEP (which DEP may withhold in its sole discretion), provided any such new fences conform to the following requirements: (A) such fences shall not be attached to DEP's poles, towers or structures, (B) such fences shall be installed at least twenty-five (25) feet from DEP's poles, towers, structures, guy wires, and guy anchors, (C) such fences shall not exceed 10 feet in height, (D) such fences shall cross the Right of Way Strip from one side of the Right of Way Strip to the other side at an angle of not less than 30 degrees between the centerline of the fence and the center line of the Right of Way Strip, and (E) if a fence crosses the Right of Way Strip or makes part of it inaccessible to DEP, Respondent shall install a gate pursuant to DEP's specifications to allow free access required by DEP's vehicles and equipment; and (viii) excavate, grade, and fill, provided Respondent receives DEP's prior written approval (which DEP may withhold in its sole discretion), which approval may contain conditions including, without limitation, the allowable grade and distances from DEP's facilities that cannot be excavated.

(c) DEP's Use of Respondent's Land Outside of the Right of Way Strip. DEP, its successors and assigns, shall have the right to enter upon Respondent's Land outside of the Right of Way Strip for the following purposes and uses:

(1) to cut, at any time and from time to time, in DEP's discretion, any tree located outside the Right of Way Strip the length of which tree plus five (5) feet equals or exceeds the distance from the base of such tree to the nearest overhead facility or to a point on the ground directly underneath the nearest overhead facility ("***Danger Trees***"), and to cut and remove any limb or any part thereof from any tree standing outside of the Right of Way Strip when such limb or part thereof protrudes or is likely to protrude into the Right of Way Strip.

(2) to gain access to the Right of Way Strip and Danger Trees at any time and from time to time by vehicles, equipment, and pedestrians, provided that DEP's use of Respondent's Land outside of the Right of Way Strip shall be confined to then-existing streets, roads, and driveways to the extent they provide sufficient access to the Right of Way Strip and/or Danger Trees by vehicles, equipment, and pedestrians. If then-existing streets, roads, and driveways do not provide sufficient access, then DEP shall be entitled to use a reasonably convenient and feasible access route or routes over Respondent's Land to access the Right of Way Strip and/or Danger Trees and shall be entitled to construct and maintain a roadway or driveway for such purposes.

P. 7/11

(d) DEP's Repair Obligation. DEP shall repair damage to Respondent's Land, including roads, driveways, and fences, resulting directly from DEP's exercise of its rights acquired herein. Provided, however, for purposes of the initial clearing of all trees which DEP is entitled to cut and remove from Respondent's Land pursuant to Paragraphs (a) and (c) above, said trees shall, upon such cutting, become the property of DEP. Nothing in this easement shall impose upon DEP any duty to repair or warn of any condition or any type of injury or damage to Respondent's Land existing prior to the date hereof nor shall DEP have any duty to repair or warn of any condition or any type of injury or damage upon Respondent's Land caused by Respondent, any third party, any Act of God, or any natural process, including, without limitation, erosion or conditions caused by vegetation.

The failure of DEP to exercise or continue to exercise any of the rights herein shall not be construed as a waiver or abandonment of the right thereafter at any time or from time to time to exercise any and all of such rights.

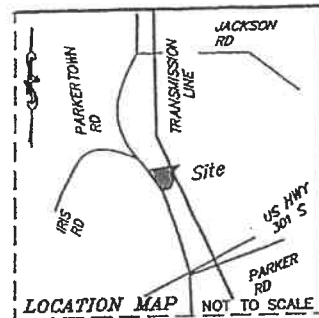
P. 8/11

PARCEL 19
NOTES:

- SURVEYED & MAPPED FOR: DUKE ENERGY PROGRESS, LLC
- STATE PLANE COORDINATES AS SHOWN WERE ESTABLISHED BY GPS METHOD, AND WERE BASED ON NGS MONUMENTS, AND THE DATUM IS NAD 83 (2011). THE PROJECT COMBINED FACTOR = 0.999878418 PROJECT COORDINATES ARE LOCALIZED ON PT # 23 (P1 STA 01+00) AND HAVE A STATE PLANE VALUE OF OF N = 608,679.65 E = 2,162,874.04. VERTICAL DATUM BASED ON NAVD 88
- ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES UNLESS OTHERWISE NOTED.
- AREA BY COORDINATE COMPUTATION.
- PROPERTY SUBJECT TO ANY VALID & ENFORCEABLE EASEMENTS, RESTRICTIONS & RIGHTS OF WAY OF RECORD.
- SURVEY IS BASED ON PHYSICAL EVIDENCE AND EXISTING MONUMENTATION FOUND DURING THE SURVEY.
- PROPERTY CORNER PIPE SIZES AS SHOWN ARE NOMINAL INSIDE DIAMETER.
- THIS SURVEY IS OF A PROPOSED EASEMENT FOR A PUBLIC UTILITY AS DEFINED IN G.S. 62-3.

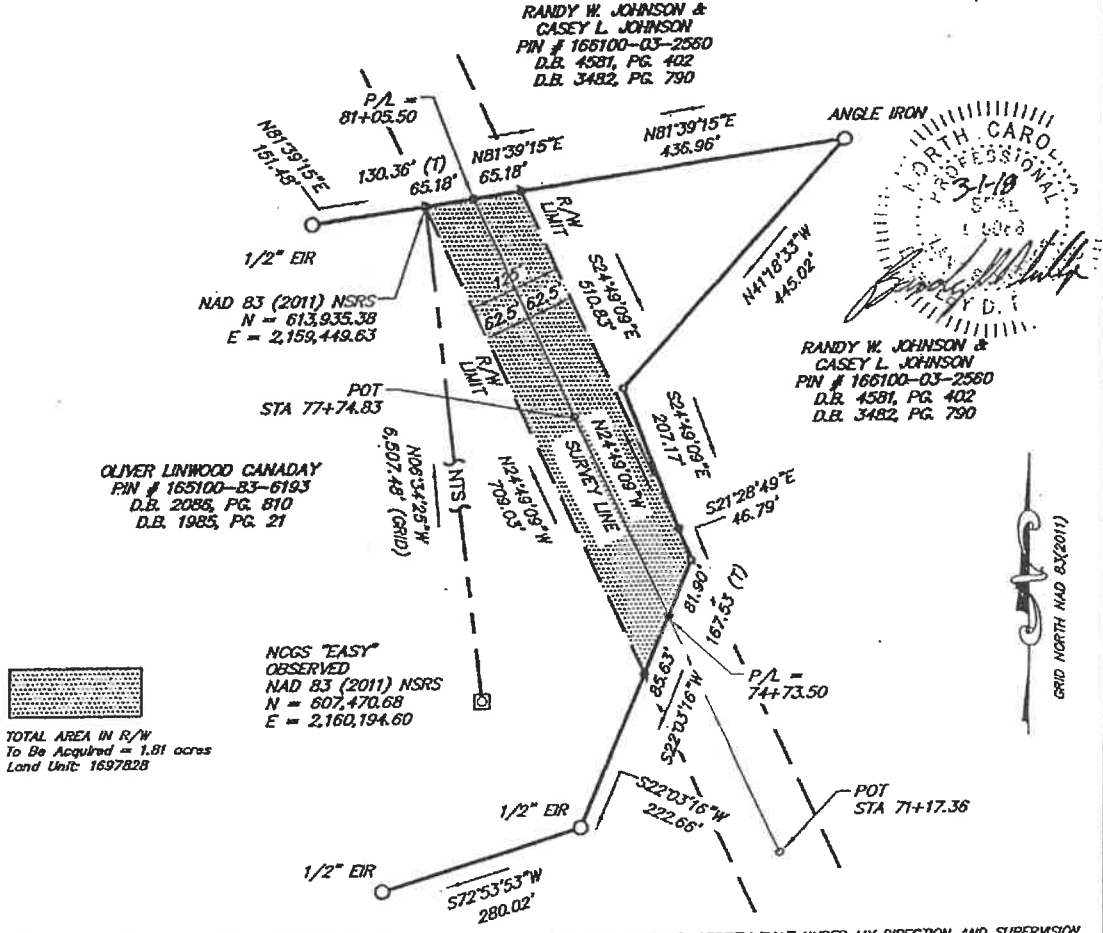
LEGEND

- LINES SURVEYED
 LINES NOT SURVEYED
 TIE LINES
 RIGHT OF WAY LINE
 OVERHEAD DISTRIBUTION
 LINE (OVERHEAD)
 NTS - NOT TO SCALE
 - - - CHAIN LINK FENCE
 R/W INTERSECTION
 EIR/EIP/RRS/IP/EPK
 COMPUTED POINT - POT
 ECU/ CONCRETE MONUMENT
 P1 POINT
 P/L - PROPERTY LINE
 C/L - CENTER LINE
 RRS - RAILROAD SPIKE
 (T) - TOTAL R/W - RIGHT OF WAY
 (STA) - STATION R/R - RAIL ROAD
 POT - POINT ON TANGENT
 EIR/R/R/IP - EXISTING IRON (ROD) (PIPE)
 EPK - EXISTING NAIL



DAVIS • MARTIN • POWELL
 ENGINEERS & SURVEYORS
 6415 OLD PLANK RD, HIGH POINT, NC 27285
 (336) 886-4821 | WWW.DMP-INC.COM | LICENSE: F-0245

FLOOD CERTIFICATION: THE SUBJECT PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA AS SCALED FROM MAPS FURNISHED BY NORTH CAROLINA FLOOD PLAIN MAPPING PROGRAM DATED 12/2/2005. SUBJECT TO VERIFICATION BY DETAILED FLOOD MAP STUDY. SEE COMMUNITY PANEL # 37201680001 AND # 37201651000.



THIS MAP MAY NOT BE A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS AND HAS NOT BEEN REVIEWED FOR COMPLIANCE WITH RECORDING REQUIREMENTS FOR PLATS.

I, BRADLEY D. PHILLIPS, CERTIFY THAT UNDER MY DIRECTION AND SUPERVISION, THIS MAP WAS DRAWN FROM AN ACTUAL FIELD SURVEY, THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FROM DEEDS AS INDICATED, THAT THE RATIO OF PRECISION AS CALCULATED IS 1:10,000+ AND THIS MAP DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET AND MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.1600) AND MEETS THE ATTACHMENT RULES OF NCOS 47-30 PARAGRAPH (m).
 BRADLEY D. PHILLIPS
 L-5088

SITE: 114884 FOR SOURCE OF TITLE REFER TO D.B. 2086, PG. 810 & D.B. 1985, PG. 21 DMP: 170191

DUKE ENERGY PROGRESS, LLC	
CLEVELAND-MATTHEWS ROAD 230 kV TRANSMISSION TAP LINE	
R/W TO BE ACQUIRED	
OLIVER LINWOOD CANADAY	
ELEVATION TOWNSHIP	
JOHNSTON COUNTY, N.C.	
BOOK: 100	CREW: SR
DATE: 1/8/18	DRAWN BY: ARG
SCALE: 1"=200'	R.O.P.: 1:10,000+
LAND UNIT: 1697828	MAP: 114884-458901

550 S. TRYON STREET
 PO BOX 1007
 CHARLOTTE N.C. 28201-1007
 TELEPHONE NO. (704)382-6658

P. 9/11

EXHIBIT C

(Name, Address, and Legal Disability (if any) of Persons with Interest in Respondent's Land)

Oliver Linwood Canaday

713 S Camellia Av
Panama City, FL 32404-6939

P. 10 / 11

EXHIBIT D

(Liens and Encumbrances on Respondent's Land)

1. Agricultural deferred-land use taxes.
2. Voluntary Agricultural District Program Application from Oliver L. Canaday to Johnston County recorded 6/22/10 in Book 3860, Page 111, Johnston County Registry.
3. Petition from landowners, including Nellie A. Canaday to State Highway Commission of North Carolina dated 9/8/59, recorded 5/31/60 in Book 574, Page 444, Johnston County Registry.
4. Easement granted by S.E. Sherrill and wife, Louise Maude Sherrill to Carolina Power & Light Company dated 1/11/49, recorded 3/21/49 in Book 480, Page 159, Johnston County Registry.
5. Easement granted by S.E. Sherrill and wife, Maude T. Sherrill to Carolina Power & Light Company dated 6/25/65, recorded 7/13/65 in Book 640, Page 292, Johnston County Registry.

P. 11/11

§ 62-80. Powers of Commission to rescind, alter or amend prior order or decision.

The Commission may at any time upon notice to the public utility and to the other parties of record affected, and after opportunity to be heard as provided in the case of complaints, rescind, alter or amend any order or decision made by it. Any order rescinding, altering or amending a prior order or decision shall, when served upon the public utility affected, have the same effect as is herein provided for original orders or decisions. (1949, c. 989, s. 1; 1963, c. 1165, s. 1.)

ENCL. (1A)

districts as defined in G.S. 7A-41.1 in which the business is conducted, upon 10 days' notice, for a peremptory mandamus upon said person for the putting in force of said order or decision; and if said judge shall find that the order of said Commission was valid and within the scope of its powers, he shall issue such peremptory mandamus.

(b) An appeal shall lie to the Court of Appeals in behalf of the Commission, or the defendant, from the refusal or the granting of such peremptory mandamus. The remedy prescribed in this section for enforcement of orders of the Commission is in addition to other remedies prescribed by law. (1949, c. 989, s. 1; 1963, c. 1165, s. 1; 1967, c. 1190, s. 4; 1987 (Reg. Sess., 1988), c. 1037, s. 92.)

§ 62-99. Repealed by Session Laws 1967, c. 1190, s. 5.

Article 5A.

Siting of Transmission Lines.

→ **§ 62-100. Definitions.**

→ As used in this Article:

- (1) The term "begin to construct" includes any clearing of land, excavation, or other action that would adversely affect the natural environment of the route of a transmission line; but that term does not include land surveys, boring to ascertain geological conditions, or similar preliminary work undertaken to determine the suitability of proposed routes for a transmission line that results in temporary changes to the land.
- (2) The word "county" means any one of the counties listed in G.S. 153A-10.
- (3) The word "land" means any real estate or any estate or interest in real estate, including water and riparian rights, regardless of the use to which it is devoted.
- (4) The word "lines" means distribution lines and transmission lines collectively.
- (5) The word "municipality" means any incorporated community, whether designated as a city, town, or village and any area over which it exercises any of the powers granted by Article 19 of Chapter 160A of the General Statutes.
- (6) The term "public utility" means any of the following:
- A public utility, as defined in G.S. 62-3(23).
 - An electric membership corporation.
 - A joint municipal power agency.
 - A city or county that is engaged in producing, generating, transmitting, delivering, or furnishing electricity for private or public use.
- (7) The term "transmission line" means an electric line designed with a capacity of at least 161 kilovolts. (1991, c. 189, s. 1; 2013-232, s. 1.)

ENCL. (13)

SMITH, ANDERSON, BLOUNT,
DORSETT, MITCHELL & JERNIGAN, L.L.P.

OFFICES
Wells Fargo Capitol Center
150 Fayetteville Street, Suite 2300
Raleigh, North Carolina 27601

LAWYERS

July 22, 2019

MAILING ADDRESS
P.O. Box 2611
Raleigh, North Carolina
27602-2611

MATTHEW D. RHOAD
DIRECT DIAL: (919) 821-6748
E-Mail: mrhoad@smithlaw.com

TELEPHONE: (919) 821-1220
FACSIMILE: (919) 821-6800

VIA FEDEX

Notice of Deposit

The Honorable Michelle C. Ball
Johnston County Clerk of Court
207 E. Johnston Street
Smithfield, North Carolina 27577

Re: *Duke Energy Progress, LLC v. Oliver Linwood Canaday*
Court File No. 18 SP 591
Our File No. 8035.625

Dear Ms. Ball:

Enclosed please find an original and two copies of a Notice of Deposit and Duke Energy Check No. 1000038885 in the amount of \$35,000.00 for the above-referenced action. Please process the enclosed and return the additional file-stamped copies as well as a receipt for the deposit to me in the enclosed envelope.

A copy of the Report of Commissioners is attached for your convenience.

Please feel free to contact me if you have any questions.

Sincerely,

SMITH, ANDERSON, BLOUNT, DORSETT,
MITCHELL & JERNIGAN, L.L.P.

By:

Matthew D. Rhoad

Enclosures

cc: Oliver Linwood Canaday (w/ enclosure)

ENCL (4) P.1/6

DUKE ENERGY PROGRESS, LLC
 100 S TRYON STREET
 ACCOUNTS PAYABLE - ST25B
 CHARLOTTE, NC 28202



000031 R3K1SDA
 JOHNSTON COUNTY CLERK OF SUPERIOR
 COURT
 PO BOX 297
 SMITHFIELD NC 27577

Date: 07/15/2019
 Check #: 1000038885
 Payment Amount: 35,000.00
 Vendor #: 0000129816

Remittance Advice

Invoice Date	Invoice #	Voucher ID #	Invoice Gross Amt	Discount Amount	Invoice Net Amt
07/10/2019	710201935000JOH	10619644	35,000.00	0.00	35,000.00

PLEASE DETACH BEFORE DEPOSITING CHECK

SHADED AREA MUST GRADUALLY CHANGE FROM BLUE AT TOP TO GREEN AT BOTTOM

Oct 15 2021

DUKE ENERGY PROGRESS, LLC
 100 S TRYON STREET
 ACCOUNTS PAYABLE - ST25B
 CHARLOTTE, NC 28202



64-975/612

Date: 07/15/2019
 Check #: 1000038885

Pay Exactly **Thirty-Five Thousand and 00/100 -US Dollars **

Amount

***35,000.00

TO THE ORDER OF JOHNSTON COUNTY CLERK OF SUPERIOR COURT

VOID AFTER 180 DAYS

WELLS FARGO BANK, N.A.

Authorized Signer

P. 2/6

⑈ 1000038885⑈ ⑆ 06120975618019001176⑈

OFFICIAL COPY

22 Jul. 2019

NORTH CAROLINA
JOHNSTON COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
BEFORE THE CLERK
18 SP 591

DUKE ENERGY PROGRESS, LLC

Petitioner,

v.

OLIVER LINWOOD CANADAY,

Respondent.

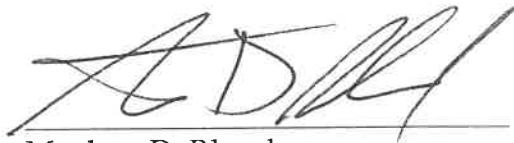
NOTICE OF DEPOSIT

NOW COMES the Petitioner, pursuant to N.C. Gen. Stat. § 40A-28(d), and hereby gives notice that concurrently herewith it has deposited with the Clerk of Superior Court of Johnston County the sum of \$35,000.00, being the amount appraised by the Commissioners in their Report of Commissioners filed in this matter on or about July 3, 2019.

This the 22nd day of July, 2019.

SMITH, ANDERSON, BLOUNT, DORSETT,
MITCHELL & JERNIGAN, L.L.P.

By:



Matthew D. Rhoad
N.C. State Bar No. 29409
Cerretta G. Amos
N.C. State Bar No. 45620
Sharita M. Whitaker
N.C. State Bar No. 41673
P.O. Box 2611
Raleigh, North Carolina 27602
(919) 821-1220
Attorneys for Petitioner

P. 3/6

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served the foregoing pleading in the above-entitled action upon all other parties to this cause by depositing a copy thereof, postage paid in the United States mail, addressed to said parties as follows:

Oliver Linwood Canaday
713 Camellia Ave.
Panama City, FL 32404

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

This the 22nd day of July, 2019


Matthew D. Rhoad

Oct 15 2021

OFFICIAL COPY

STATE OF NORTH CAROLINA

COUNTY OF JOHNSTON

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
BEFORE THE CLERK
File No.: 18 SP 591

DUKE ENERGY PROGRESS
Petitioner

2019 JUL -3 P 4:07

JOHNSTON COUNTY

FILED

REPORT OF COMMISSIONERS

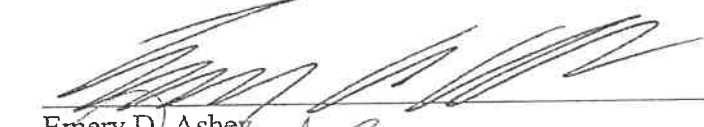
vs.

OLIVER LINWOOD CANADAY
Respondent

TO THE CLERK OF SUPERIOR COURT OF JOHNSTON COUNTY:

We, Emery D. Ashley, Donald J. Byrd, and Charles K. Hinnant, Commissioners appointed by the Court to assess the damages that have been and will be sustained by Oliver Linwood Canaday, the owner of certain property lying in the County of Johnston, which Duke Energy Progress, Condemnor, proposes to condemn for its use, do hereby certify that we met on May 15, 2019, and having first been duly sworn, we visited the premises of the owner, and after taking into full consideration the quality and quantity of the property aforesaid, and all other inconveniences likely to result to the owner, we have estimated and do assess the compensation aforesaid at the sum of \$35,000.00

Given under our hands, the 2nd day of July 2019.


Emery D. Ashley


Donald J. Byrd


Charles K. Hinnant

OCT 15 2021

OFFICIAL COPY

P. 5/6

CERTIFICATE OF SERVICE


This is to certify that the undersigned has served a copy of the foregoing Report of Commissioners on the following persons on 7/3/2019, by depositing copies thereof in the United States Post Office, first class Mail, postage paid, addressed as follows:

Matthew D. Rhoad
Smith Anderson
PO Box 2611
Raleigh, NC 27602

Oliver Linwood Canaday
713 S. Camelia Ave.
Panama City, FL 32404

Oliver Linwood Canaday
PO Box 624
Four Oaks, NC 27524

This the 3rd day of July, 2019.



Kristin A. Buckner, Assistant Clerk

OCT 15 2021

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P. 6/6

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

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December 9, 2020

Dec 09 2020

VIA ELECTRONIC FILING

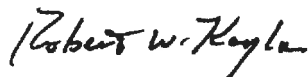
Ms. Kimberley A. Campbell
Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, NC 27699-4300

**RE: Duke Energy Progress, LLC's Response to December 4, 2020
Filing of Oliver Canaday
Docket Nos. E-2, Sub 1195 and E-2, Sub 1150**

Dear Ms. Campbell:

Enclosed for filing in the above-referenced dockets, please find Duke Energy Progress, LLC's Response to December 4, 2020 Filing of Oliver L. Canaday.

Sincerely,



Robert W. Kaylor, P.A.

Enclosure

cc: Parties of Record

ENCL (15) 4/5

Oct 15 2021

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BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-2, SUB 1195

DOCKET NO. E-2, SUB 1150

DOCKET NO. E-2, SUB 1195

In the Matter of
Oliver L. Canaday, 909 Parker Town
Road, Four Oaks, North Carolina 27524

DOCKET NO. E-2, SUB 1150

In the Matter of
Application of Duke Energy Progress, LLC
For A Certificate of Environmental
Compatibility and Public Convenience and
Necessity Pursuant to N.C. Gen. Stat. § 62-
100 et seq. to Construct Approximately
11.5 Miles of New 230kV Transmission
Line in Cleveland area of Johnston County,
North Carolina

**DUKE ENERGY PROGRESS,
LLC'S RESPONSE TO
DECEMBER 4, 2020 FILING
BY OLIVER L. CANADAY**

NOW COMES Duke Energy Progress, LLC ("DEP" or the "Company"), through counsel and pursuant to Rule R1-9 of the North Carolina Utilities Commission ("NCUC" or "Commission") Rules and Regulations, responding to the filing dated November 6, 2020 and docketed on December 4, 2020 by Oliver L. Canaday ("Mr. Canaday") in these dockets.¹ In this Response, DEP shows as follows:

1. Mr. Canaday's filing is a bit difficult to follow, but it is simply his latest attempt to challenge the Commission's January 12, 2018 *Order Granting Certificate of Environmental Compatibility and Public Convenience and Necessity* in Docket No. E-2, Sub 1150 ("E-2, Sub 1150 CPCN Order"). It also appears to be in essence yet

¹ Out of an abundance of caution, DEP is making this filing in both dockets involving Mr. Canaday.

another attempt by Mr. Canaday to re-litigate the Commission's May 7, 2018 *Order Denying Motion for Reconsideration*, the Commission's August 3, 2018 *Order Denying Motions for Relief* in Docket No. E-2, Sub 1150, and/or the Commission's June 24, 2019 *Order Dismissing Complaint* in Docket No. E-2, Sub 1195. The December 4, 2020 filing by Mr. Canaday purports to be a "response" to DEP's October 28, 2020 Response; however, it appears to be a list of meritless allegations that relate to the E-2, Sub 1150 docket and the E-2, Sub 1195 docket. Mr. Canaday is obviously adamantly opposed to the needed Cleveland-Matthews 230 kV transmission line that has been approved and constructed, and he now seeks to require the Commission to impose monetary penalties in excess of \$40 million against DEP as part of his latest obstructionist tactic.

2. In his December 4, 2020 filing, Mr. Canaday states that he is one of 61 (or 80) landowners affected by what he terms DEP's violation of ordering paragraph No. 5 of the Commission's January 12, 2018 E-2, Sub 1150 CPCN Order at p. 15 regarding written notice to landowners of their option to designate their land as a no-spray prior to beginning construction of the Cleveland-Matthews 230 kV line. In its October 28, 2020 Response, DEP has already admitted that it did not provide written notice prior to beginning construction and apologized to the Commission. The Company further explained, however, that it orally informed property owners with whom it negotiated right of way agreements (all but the three who required condemnation, including Mr. Canaday) that DEP utilizes herbicides as part of its right of way maintenance practices and allowed any property owner who wanted to designate their property as a "no-spray" area to do so. Furthermore, the Company subsequently

provided written notice to all property owners. Finally, the right of way on Mr. Canaday's property has not been sprayed with herbicides; accordingly, he has suffered no actual harm or damage to his property. To the extent that Mr. Canaday asserts that the Commission should assess tens of millions of dollars in penalties (presumably for the benefit of Mr. Canaday and the other landowners), such assertions are totally without merit as Mr. Canaday has in no way been harmed or his property damaged by DEP, and Mr. Canaday has no standing to represent other landowners before the Commission.

For the reasons set forth above, Duke Energy Progress, LLC prays the Commission for an order denying any relief requested by Mr. Canaday in his December 4, 2020 filing in this docket, and for such further relief as the Commission deems just, equitable and proper.

This, the 9th day of December 2020.

Robert W. Kaylor


Robert W. Kaylor
Law Office of Robert W. Kaylor, P.A.
353 E. Six Forks Road, Suite 260
Raleigh, NC 27609
919.828.5250
bkaylor@rwkaylorlaw.com
State Bar No. 6237

Lawrence B. Somers
Deputy General Counsel
Duke Energy Corporation
410 S. Wilmington Street, NC 20
Raleigh, North Carolina 27601
Telephone 919.546.6722
bo.somers@duke-energy.com

CERTIFICATE OF SERVICE

I certify that a copy of Duke Energy Progress, LLC's Response to December 4, 2020 Filing of Oliver Canaday, in Docket Nos. E-2, Sub 1195 and E-2, Sub 1150, has been served by electronic mail, hand delivery, or by depositing a copy in the United States Mail, 1st Class Postage Prepaid, properly addressed to parties of record.

This the 9th day of December, 2020.



Robert W. Kaylor
Law Office of Robert W. Kaylor, P.A.
353 E. Six Forks Road, Suite 260
Raleigh, NC 27609
Tel: 919.828.5250
bkaylor@rwkaylorlaw.com
North Carolina State Bar No. 6237

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P. 5/5



**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

4326 Mail Service Center • Raleigh, North Carolina 27699-4300 • Fax (919) 733-9565
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ENCL. (17) P 1/2

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Oct 16 2017

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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

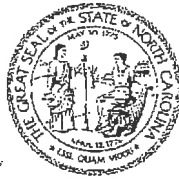
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**NORTH CAROLINA
PUBLIC STAFF
UTILITIES COMMISSION**

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 115

ENCL (7a) p. 1/15

Executive Director
(919) 733-2435

Communications
(919) 733-2810

Economic Research
(919) 733-2902

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(919) 733-6110

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(919) 733-7766

Accounting
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Consumer Services
(919) 733-9277

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.

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.

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

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-Q1

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Page 5/15

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:		514,146	DEP Real Estate Group
Right of Way Acquisition /Route Selection:		4,709,205	DEP Real Estate Group
TOTAL:		28,205,570	

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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Page 715

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:		4,709,205	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

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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Page 9/15

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

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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Page 101
/115

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

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_

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page 0/15

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
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page 14/15

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.

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Page 15/15



Lawrence B. Somers
Deputy General Counsel

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

o 919.546.6722
c 919.546.2694

bo.somers@duke-energy.com

October 28, 2020

VIA ELECTRONIC FILING

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

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

Dear Ms. Campbell:

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

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

Sincerely,

Lawrence B. Somers

Enclosure

cc: Parties of Record

ENCL. (16) P. 1/8

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Oct 28 2020

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BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-2, SUB 1150

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

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

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

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

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

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

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

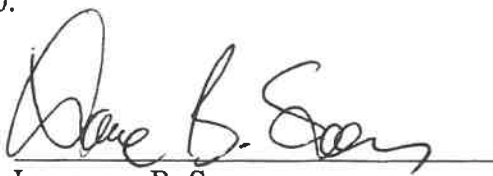
3. On September 25, 2020, DEP personnel visited the Cleveland-Matthews line right of way and confirmed that no herbicides have been applied on Complainant’s property. Herbicides have been applied to targeted tree species within the line right of way on property located in the next span of line, but this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

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

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

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

This the 29th day of September, 2020.



Lawrence B. Somers
Deputy General Counsel
Duke Energy Corporation
NCRH 20
410 S. Wilmington Street
Raleigh, North Carolina 27601
Telephone 919.546.6722
bo.somers@duke-energy.com

Robert W. Kaylor
Law Office of Robert W. Kaylor, P.A.
353 E. Six Forks Road, Suite 260
Raleigh, NC 27609
919.828.5250
bkaylor@rwkaylorlaw.com
State Bar No. 6237

OCT 15 2021

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Transmission – Public Engagement
NC5 | 410 South Wilmington Street
Raleigh, NC 27601

September 28, 2020

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

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

Dear Property Owner:

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

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

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

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

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

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

Sincerely,

Kristen Dwiggins,
Project Manager

Reference: 165100-83-6193

P. 6/8

www.duke-energy.com

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VERIFICATION

STATE OF NORTH CAROLINA)

DOCKET NO. E-2, SUB H95 1150


COUNTY OF WAKE)

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

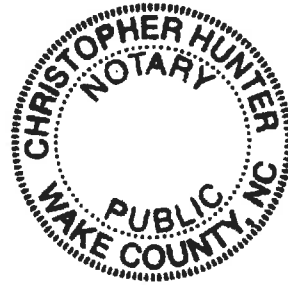


Miranda S. Gregory
Real Estate Representative, Land Services
Duke Energy Progress, LLC

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


Notary Public

My Commission expires: 03/01/2025



P. 7/8

CERTIFICATE OF SERVICE

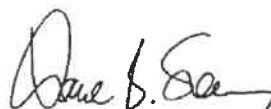
I certify that a copy of Duke Energy Progress, LLC's Response to Oliver L. Canaday's September 25, 2020 Complaint, in Docket Nos. E-2, Sub 1150 and E-2, Sub 1195, has been served by electronic mail, hand delivery or by depositing a copy in the United States mail, postage prepaid to the following parties:

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

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

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

This the 28th day of October, 2018.



Lawrence B. Somers
Deputy General Counsel
Duke Energy Corporation
P. O. Box 1551 / NCRH 20
Raleigh, NC 27602
Telephone: 919.546.6722
bo.somers@duke-energy.com

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P. 8/8



**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

4326 Mail Service Center • Raleigh, North Carolina 27699-4300 • Fax (919) 733-9565
An Equal Opportunity / Affirmative Action Employer

ENCL. (17) P. 1/2

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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

P. 2/2

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Oct 16 2017

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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

10

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

FILED

NOV 16 2017

Clerk's Office
N.C. Utilities Commission

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	T A B L E O F C O N T E N T S	
2	E X A M I N A T I O N S	
3		PAGE
4	PANEL - JAMES UMBDENSTOCK, TIMOTHY J. SAME	
5	Direct Examination by Mr. Somers.....	10
6	Cross Examination by Ms. Fennell.....	65
7	Examination by Commissioner Clodfelter.....	68
8	Cross Examination by Mr. Canaday.....	71
9	Examination by Commissioner Beatty.....	79
10	Examination by Commissioner Gray.....	99
11	Further Examination by Commissioner Clodfelter.....	102
12	Examination by Mr. Canaday.....	110
13	Examination by Mr. Somers.....	113
14		
15	GAIL TYNER	
16	Direct Examination by Mr. Somers.....	126
17	Cross Examination by Mr. Canaday.....	130
18	Examination by Commissioner Beatty.....	133
19		
20	OLIVER L. CANADAY	
21	Testimony by Oliver L. Canaday.....	136
22	Examination by Commissioner Clodfelter.....	144
23		
24		

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**

17

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11/14/2021

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

OCT 15 2021

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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

8 The preferred route was one of the least overall impacting routes (fifth
9 lowest-scoring) in the numerical evaluation performed for the proposed
10 Project. For this and the above reasons, and by using standard construction
11 procedures and mitigation techniques when coordinating the Project with
12 State and Federal agencies to comply with necessary regulations, the
13 construction, operation, and maintenance of the proposed Project will have
14 limited effects on the natural and social resources within the study area. DEP
15 will continue to work with environmental stakeholders and landowners to
16 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

P. 8/16

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 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.)

19

20

21

22

23

24



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. (19) P. 1/4

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Nov 13 2017

Oct 15 2021

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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.

p. 2/4

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

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P. 3/4

Porter's Neck Tap Line Route Analysis Estimate

NCUC Docket No.
E-2 Sub 1215 of 6/25/2019

General Scope

The following estimates are for the six alternatives for the Porter's Neck Tap Line from the Substation to the existing Castle Hayne – Folkstone 230kV circuit. To accommodate the tap line, two existing structures on the Castle Hayne – Folkstone 230kV circuit will need to be raised to provide clearance for the tap span and an existing 115kV circuit running parallel with the Castle Hayne – Folkstone 230kV line.

Burdened Project Costs

	Route 34	Route 35	Route 37	Route 42	Route 46	Route 47
	Segments (2,5,10,15,24)	Segments (2,5,10,23,27)	Segments (2,5,9,13,19,25,28)	Segments (2,5,9,13,20,26,28)	Segments (2,5,9,14,22,27)	Segments (2,5,9,14,22,29)
Siting & Land Acquisition	\$ 6,406,000	\$ 6,535,000	\$ 7,084,000	\$ 6,740,000	\$ 6,463,000	\$ 6,814,000
Matting & Environmental	\$ 3,926,000	\$ 4,058,000	\$ 4,008,000	\$ 4,188,000	\$ 4,233,000	\$ 4,227,000
Engineering & Materials	\$ 2,335,000	\$ 2,360,000	\$ 2,473,000	\$ 2,415,000	\$ 2,353,000	\$ 2,417,000
Construction	\$ 3,148,000	\$ 3,220,000	\$ 4,193,000	\$ 4,140,000	\$ 3,853,000	\$ 4,140,000
Total	\$ 15,815,000	\$ 16,173,000	\$ 17,758,000	\$ 17,483,000	\$ 16,902,000	\$ 17,598,000

Estimate Assumptions

Siting & Land Acquisition

- New ROW at \$52k/ac.
- 125' ROW
- Danger Tree Rights at \$36.4k/ac.
- 62.5' each side

Matting & Environmental

- 7' x 14 Composite mats
- daily rental
- 28' wide roads
- Structure Work Pads 30' x 50'
- Pull Pads 50' x 100'
- mat flipping during construction
- Hand Clearing
- E&S Control = wattles

Engineering & Materials

- 450' ruling span
- 3 new Remote Control Switches
- Sub. Eng. and mat'l not included

Construction

- 4 day work week
- Mob./Demob. included
- Continuous construction
- Sub. Constr. costs not included
- Labor burden = 50%
- Material burden = 16.5%
- Class 4 Estimate

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