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E-2 sub 1150

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From: Oliver L. Canaday, 713 Camellia Ave., Panama City, FL. 32404
(pertains to farm on 909 Parker Town Road, Four Oaks, N.C.)

Clerk's Office
N.C. Utilities Commission

→ To: N.C. :Utilities Commission, 430 N. Salisbury Street, Dobbs Building,
Raleigh, N.C. 27699-9001

Lawrence B. Somers, NCRH 20 / PO Box 1551, Raleigh, N.C. 27602 (DEP lawyer/party)

- Ref: (a) Application of Duke Energy Progress, LLC (DEP) for Certificate of Environmental Compatibility and Public Convenience and Necessity (CPCN) to Construct Approximately 11.5 Miles of New 230kV Transmission Line in Johnston County, N.C., vi a Docket No. E-2, Sub 1150 of 14 July 2017 & to Include Information from 24 July 2017 giving Update Correction to DEP's Revised Exhibit A, pp. 4-24 and 4-25 to Application
- (b) N.C. Commission "Order" Granting Certificate to DPE for CPCN of 12 Jan. 2018
 - (c) G.S. 62-2 Declaration of Policy, (a), (1), (3), (3a), (4) (4a) "To assure...lower rates over Operating Lives of such new facilities..." (Intervener will use Term for this as Life-Cycle of Line)
 - (d) G.S. 62- 102. Application for Certificate. (a), (4), c. "Alternatives to proposed action."
 - (e) G.S. 62 - 105, Burden of Proof, decision. (a), -"The Commission shall grant a certificate for the **Construction, Operation, and Maintenance** of the proposed transmission lines if it finds"; ...and (3) -"That the cost associated with the proposed transmission line are reasonable,"
 - (f) Transcript of Hearing 31 Oct. 2017, recorded by Linda S. Garrett, Notary Public No. 19971700150; and under Commissioners: Daniel G. Clodfelter - Presiding, Bryan E. Beatty, and Lyons Gray
 - (g) N.C. Public Staff Utilities Commission Letter of 16 Oct. 2017 to M. Lynn Jarvis, Chief Clerk
 - (h) U.S. Constitution, Amendment XIV., Section 1. ...nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. Amendment V. (first paragraph) "...nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.
 - (i) Oliver L. Canaday's letter to Commission of 6 Jun. 2018, page 6, 2. b. shows o/a estimate of \$8,643,592.00 per mile, (for Life-Cycle of 40 years) for typical 230kV transmission line; (must be computed by DPE for Application, this is their **Burden of Proof to comply with G.S. 62-105, cost of Construction, Operation, and Maintenance**; -(not met as of 12 Jun. 2018)

(j) DPE's letter of Late-Filed Exhibits, Docket No. E-2, Sub 1150 of 13 Nov. 2017; attention to: Exhibit No. 2 – A cost comparison of the four best scored alternative routes

(k) G.S. 62-70. Exparte communications.

(l) G.S. 62-78. Proposed finding, briefs, exceptions, orders, expediting cases, and other procedure.
(a) "...if sufficient reason appears therefor, to grant such review..."

(m) G.S. 62-80 Powers of Commission to rescind, alter, or amend prior order and decisions.

Subj: -**Motion for Review "Fresh Evidence"** of DPE's Application for Construction of Transmission Line, Route 31, via G.S. 62-78;

- **(Intervener presents "Fresh Evidence"** as Uncontroverted Evidence, the "Order" Granting Approval of Route 31 is "Flawed" via Lacking Completion of some/key General Statutes;

- **(This 'Fresh Evidence'** was available all the time, it is in error /missed by the Commission, the Public Staff and myself; -When Review & Investigations are done, Intervener is certain this Uncontroverted Evidence must support the Best Route 4 to deliver electric power service to area in accordance with (IAW) reference (c), as references (c), (d), (e) are not complete;

-**Reference (g)** has information stated, used in "Order" not available 16 Oct. 2017 & not available at that time, Intervener Motions for investigation via G.S. 62-37 & G.S. 62-65;

-**Reference (j)** was used to support the "Order" reference (b), Intervener believes this is suspect of being New Evidence put in Record via not authorized, Intervener Motions for investigation via G.S. 62-37, G.S. 62-65 and G.S. 62-95;

-**Intervener Motions for Relief G.S 62-95 Pending Review on Appeal via G.S. 62-95 and** postpone effective date of the action, "Order" Granting Certificate;

1. This Motion for Review is not Frivolous; The "Order" Granting the Certificate will be used as a source document to condemn my land for the ROW for transmission line and "Just Compensation" via the Law, reference (h). This will deny me opportunity to use my land freely, in my best interest, and limit use of cropland as irrigation will not be compatible under/close/around high voltage 230kV Transmission Lines via DPE brochures at local Farm Extension Service Office, Smithfield, N.C.

2. Also, if this encroachment of so called Growth & Progress continues in a southerly direction it may eventually be beneficial to property owners to sell-out to Growth & Progress. The issue then

will be, myself and other Route 31 property owners will have property with a 230kV Transmission Line and we are not free to develop the land. The property owners north of Highway 210 have been developing that area the past on/about (o/a) the past 30+ years. It is Unwarranted, Unjust, and Unreasonable to purposely build a 230kV line structure o/a 11.5 miles thru a rural farm area when there is an o/a 6.23 mile line, Route 4, that has been evaluated by Engineering Firm Burns and McDonnell, via reference (a), as feasible to supply electricity to Cleveland area and deny the southern Route 31 property owners the right to develop their property for their benefit at a future date. This letter presents Uncontriverted Evidence, via reference (a), and (f) Route 4 has been studied/evaluated, - as an Alternate Route and is feasible and constructible to deliver electric power to Cleveland area. See reference (a), o/a pages 53/179 and 55/179 it appears this is a work-up by Engineers Burns & McDonnell with the DEP Project Team with Engineer Tim Same. Point Intervener **must** and **needs** to clarify to Commission is; -Engineers have written statements that Route 4 is feasible and constructible via reference (a), therefore, this is Uncontrived Evidence that Route 4 can be designated by the Commission to provide electric service to Cleveland area. Below are some critical issues to comply with G.S. - 62-2, 62-102, and 62-105. At present it the "Order" does not meet requirements of being complete via these General Statutes, See below:

a. G.S. 62-2. (a), (1), (3), (3a), (4), (4a) -Application, reference (a), -Has not complied with General Statutes and "Order" requirements. Execute Introveners' **Motion to Compel DPE to furnish the information required in (4a) "...To assure...lower rates over Operating Lives of such new facilities..."** (This is DPE submitting a similar Life-Cycle Cost of 230kV Overhead Line, (expect DPE to use their Life-Cycle # of years), CT used 40 years), as shown via CT. pie chart via reference (1), which will include cost of construction, operation, and maintenance called for by each item in G.S.

62-105(a)). Once DEP submits **operation, maintenance cost**, and for Life-Cycle Cost (est 40 years) **with construction cost**, the Commission will identify quickly that this Life-Cycle (40 years) of **operation and maintenance cost** by-far exceeds more than construction coast. Intervener believes that is why it is in G.S. 62-2 (4a) and necessary to remember for guidelines to keep electric utility cost low.

-**Construction Cost** estimates; -to Intervener is suspect New Evidence entered into the record unauthorized and used by the Commission in "Order," by error or oversight. Intervener states this is what he finds: - 1) -nothing in Hearing Transcript, reference (f), -that gives authorization for this to be entered into Record as Late-Filed Exhibit; (happens to be (No. 2); - 2) -Reference (f) transcript has DEP stating there is no cost/analysis in the Burns & McDonnell Report in reference (a). This is Uncontroverted Evidence that this cost has been entered into record unauthorized. Intervener has Motioned for this to be investigated.

-**Operation Cost** is not in reference (a) nor presented at Hearing, reference (f), -this is Uncontroverted Evidence that "Order" is deficient in DEP requirements for Granting Certificate.

-**Maintenance Cost** is not in reference (a) nor presented at Hearing, reference (f), -this is Uncontroverted Evidence that "Order" is deficient in DEP requirements for Granting Certificate.

b. G.S. 62-102 (a), (4), c. "Alternatives for proposed action" Submitted as Late-Filed Exhibit No. 2, via reference (j), discussed as suspect above in Construction Cost. Also, DEP does not show cost of operation and maintenance, so this is a deficient in DEP requirements for receiving "Order" Granting Certificate for Line on Route 31.

c. G.S. 62 105. Burden of Proof, decision. (a). -Reference (e), requirements for Commission to grant certificate has not been met. DEP has **submitted a construction cost and is suspect** discussed above. DEP has **not presented a Cost for Operation and Maintenance and Life-Cycle Cost of Transmission Line**. When the Commission gets this total cost, the Commission will notice that

Operation & Maintenance Cost over Life-Cycle (say 40 years) is far greater than the one time construction cost.

d. The Kicker to this, is Public Utilities get to recover their capitol outlay cost in a reasonable time, & charge a reasonable fee for services to pay their employees and stockholders and charge the consuming public (rate payers) for service to support this. Then you have Supreme Court rulings of ("Hope") and ("Bluefield") sort of guaranteeing Public Utilities will not fail. There are some key words in each case, what Intervener gleaned out:

1) -("Hope") - "...-entitled to a reasonable opportunity to recover their prudently incurred cost..." Intervener will concentrate on prudently incurred cost as it concerns Route 31 at extra construction cost of \$543,153.00. -Route 4 construction cost is less by \$543,153.00. This is known upfront. It is not a reasonable - prudent choice to Intervener; or any other person I know in N.C., (paying electric bill to DEP), to pay this extra cost over time, whether it is 5 years or 40 years.

2) -("Bluefield") - "...-entitled to earn a fair and reasonable rate of return on their capitol investment..." Intervener will concentrate on fair and reasonable rate of return on capitol investment. Part of this equation is connecting the dots; -when a choice is made to go an addition o/a 5.27 miles and the N.C. rate payers pay for this additional operation and maintenance cost over (example only, Life-Cycle of 40 years) and that extra 5.27 miles turns into o/a an extra charge of \$45,205,987.00 over (example - 40 years),- Intervener does not believe this is fair and reasonable cost to rate-payers even if done incrementally over 40 years. Compare Route 31 o/a 11.5 miles v. Route 4 o/a 6.23 miles, there is o/a 5.27 miles difference. DEP has not presented a Life-Cycle cost at this time; when DEP does, just multiply 5.27 X Cost per mile, and that is the extra charge rate-payers pay over the Life-Cycle. Intervener has an estimate taken from a CT. Life-Cycle chart, reduced to 66.6666% so it will be somewhere o/a close estimate with what I have to estimate with. The rate (this is an estimate only) per mile over 40 years to be o/a \$8,643,592.00 X 5.27 miles = \$45,205,987.00 paid incrementally over Life-Cycle, estimate of 40 years; due to selection of longer route. -This is not fair or reasonable, to N.C. rate payers, to pay o/a \$45,205,987.00 extra over o/a estimated 40 years; when Commission has a choice of routing the line via Route 4 at o/a 6.23 miles.

3) -According to DEP's application, reference (a); the only reason for giving a weight of 5 that routes the preferred route 31 line the extra 5.27 miles is **number of homes in close proximity to the alternative Route 4 line**. The Hearing, reference (f), DEP witness states that is the only reason for giving the weight of 5. By doing this, the weight system guided the transmission line to Route 31, and this accommodates all the residences on this o/a 6.3 miles Route 4. -But the extra cost of 5.27 miles is spread to all the DEP N.C. rate payers via the Life-Cycle Cost over o/a 40 years. The Hearing, reference (f), page 79/159, start line 5 to page 82/159, stop line 8; gives Uncontroverted Evidence that the weight of 5 is the only criteria used to guide the Transmission Line to Route 31 and extra cost to all N.C. rate payers for next o/a 40 years if "Order" is not rescinded. This violates G.S. 62-2 (3), (3a), (4) in providing electric service to Cleveland area.

4) -According to DEP's Application, reference (a); DEP does not weight farming crop land as a business for weight purpose. According to Hearing, reference (f), page 82/159, line 9 – 19 is Uncontroverted Evidence Cropland and farming is an agriculture business. The Commissioner asked a question about Agriculture Business ran out of their homes and DEP witness answered Yes to question. **Intervener motions DEP weight farm cropland as agriculture business (by the acre) ran out of their homes in the Application.** The weight system criteria needs to be applied equally, fairly, and reasonable to all business, to include Route 31 agriculture business. It is not a stretch to state the farmers cropland on Route 31 is actually his (factory floor) business - production floor, it just happens to be outside. The production floor grows/manufactures a product (say tobacco) there are several steps that is a business in process of making a cigarette before it ends up in shirt pocket of the smoker in Hong Kong, China.

3. More Uncontroverted Evidence will be presented below to support Route 4 as Best Route, and results of Commission's investigations may conclude "Order" is "flawed" due to information given to make the decision to use Route 31 as Preferred Route for Transmission Line.

4. A review of "Fresh Evidence" will show "Order". Reference (b), is "flawed" via incomplete information submitted via application, reference (a). Also, review via investigations will show Uncontroverted Evidence information submitted is not supported with competent information.

a. "Order" does not show complying with G.S. 62-2, (a), (1), (3), (3a), (4), (4a), reference (c). Intervener can not/has not found, and Commission or Public Staff has errored/missed in finding; DPE Application, reference (a); -presenting how Application shows assurance of lower cost of new facilities (transmission lines in this case); and assurances of lower rates over the Operating Lives of such new facilities. Intervener will use the term Life -Cycle to show this. DPE does not show the Life-Cycle cost, per mile, for typical 230kV overhead line so this cost is not in Application, reference (a). (Intervener expects DEP submits a total cost incurred for rate inceases, very similar to Life-Cycle Cost.) See reference (i), -in reference (i) Intervener gives an estimate o/a \$8,643,592,00 per mile for Life-Cycle Cost (based on 40 years). Comparing Route 31 at o/a 11.5 miles X \$8,643,592.00 v. Route 4 at o/a 6.23 miles X \$8,643,592.00 gives a difference of o/a \$45,205, 987.00

paid incrementally over 40 years by N.C. ratepayers. To Intervener, this is **extremely Unreasonable**, to all DPE N.C. rate payers to pay DPE rate increases, via uninformed decision, that results in extra cost. This will be especially unreasonable when Commission receives cost analysis, via Life-Cycle Cost and it shows Route 4 as Best Route for all N.C. rate payers, to deliver electric service to Cleveland area. There were several alternative routes evaluated by Engineers from Burns & McDonnell via reference (a) states any of the four best scoring lines are feasible to deliver electric service to the Cleveland area. **Route 31 is not in the "Best Interest" of the N.C. rate payers – consuming public.** (Paying o/a \$45,205,987.00 extra (done incrementally) over 40 years is unfair, unjust, unreasonable, and unwarranted when Route 4 will do required service.) Not having this cost, as shown via Hearing, reference (f), this is Uncontroverted Evidence that "Order" Certificate requirement is not supported with evidence cost.

b. G.S 62-105, Burden of Proof, decision. Reference (f), Transcript of Hearing, gives Uncontroverted Evidence the cost of operation, and maintenance is not in Application, reference (a), nor, it was not presented during the Hearing. -This is Uncontroverted Evidence DPE has not met the **Burden of Proof of cost of Operation, and Maintenance**, therefore, application is not complete. (Construction cost is suspect "New Evidence" unauthorized to be in record, have requested an investigation how it was approved to be in record, pending, waiting outcome.)

c. G.S. 62-102, Application for Certificate. (a), (4), c.,reference (d), DPE does not present alternatives to proposed action with cost in Application, reference (a), or during Hearing, reference (f). The Transcript of Hearing, reference (f), gives Uncontroverted Evidence Alternatives with cost was not given or present at the Hearing 31 Oct. 2017; therefore, DPE's Application is incomplete, and does not met requirements in the "Order" for Granting the Certificate, CPCN. (Cost required

is: Construction, Operation, and Maintenance.) Late-Filed Exhibit No. 2, Construction Cost, is suspect New Evidence.

d. DEP's Late-Filled Exhibit No. 2., reference (j) of 13 Nov. 2017 **must** have an investigation as to-where-how authorized to be entered into the record. This is what Intervener sees in record:

1) -Transcript of Hearing has statements authorizing Exhibit No. 1, a line paralleling a 500kV line.

2) -Cover letter for Late-Filed Exhibits references two Exhibits No.1 & No. 2

3) Exhibit No. 1 shows a letter from Tim Barton, Burns & McDonnell to Tim Same, Duke Energy Progress with o/a 29 pictures of computer generator maps concerning a 230kV line paralleling existing 500kV line, and DEP's cover letter via Lawrence B. Somers/signature submitting to M. Lynn Jarvis, Chief Clerk, N.C. Utilities Commission. (This was authorized at hearing during conversation and recorded in Transcript of hearing, it is located near the end of Transcript of Hearing. Intervener has no issue with this.)

4) Exhibit No. 2 is shown as Cost Comparison of Routes 31, 4, 32, and 1; and noted at right top of page: "DEP LATE-FILED EXHIBIT NO. 2 Docket No. E-2, Sub 1150". (It shows very clearly that Route 4 is lest cost to N.C. rate payers, by: \$543,153.00, and **put emphasis** this is not a **mere amount to Intervener or anyone he knows in State of North Carolina.**)

5) Exhibit No. 2 with Cost Comparisons it just shows up under cover letter and is written on cover letter, so this not an error or oversight. This shows Intervener this was done deliberate and and with intent to enter New Evidence into the record. It shows up in DPE's response to Intervener's Motion for Reconsideration by DPE's attorney Kendrick C. Fentress letter of 2 Apr. 2018, page 2, The Hearing, reference (f) gives Uncontroverted Evidence this evidence was not in DEP's Application, reference (a) via testimony during hearing, DEP witness stated there was no cost comparison in Burns & McDonnell Report, page 106/159, lines 15 – 24, question and answer conversation, -the answer was **no, there were no cost in report**. Also, the Hearing, reference (f) does not state authorization to Late-File Cost Comparisons. To Intervener, this appears the "Order" may have New Evidence entered into record to Grant Certificate that is unauthorized. Intervener Motions for an investigation on how this information was put in "Record". (There is a Motion to Investigate how this Cost Comparison was put in Record.)

e. Reference (g), Public Staff Letter of 16 Oct. 2018; **requires an investigation** to find where statements to support recommending approving DEP's Application, reference (a). The following are written facts supporting DPE's application that **does not not have competent evidence to**

support the recommendation on 16 Oct. 2018 nor at present time 12 Jun. 2018:

1) -"complied with requirements of G.S. 62-102", above Intervener addresses DPE has not complied with G.S. 62-102 ; -"Where did Public Staff get information?"

2) "as required by G.S. 62-105", above Intervener addresses DEP has not complied with G.S. 62-105; "Where did Public Staff get information?"

3) "Reasonable alternative courses of action", this showed-up for Intervener as a Late-Filed exhibit No. 2 date of 13 Nov. 2017; "Where did Public Staff get information?"

4) "Estimated cost associated with the line are reasonable"; DEP filed a Late-Filed Exhibits No. 2 date of 13 Nov. 2017, that shows cost of construction, this was first time Intervener saw this information, (and it is suspect New Evidence entered into Record unauthorized). Next, the **associated cost includes operation and maintenance cost**, this is still missing as of 13 Jun. 2018. (By the way the Operation and Maintenance Cost over Life-Cycle, (est. 40 years) will exceed the construction cost several times over. Once DEP provides the Life-Cycle cost per mile, then this can be estimated as intended via G.S. 62-2 (a), (1), (3), (3a) (4) and (4a, especially). "Where, how, -did Public Staff get information to forward to Commission; recommending the Commission issue the Certificate requested in this proceeding"... and there was some pending issues: shift center line, letter from Clearing House compliance with N.C. EPA, not relevant to heart of my question about where information came from.

5) -The Hearing, reference (f), supports Uncontroverted Evidence that this information was not available via DEP reference (a) nor did it come out at the Hearing. This is evidence the Commission may have used a supporting unauthorized document for evidence to grant "Order".

SUMMARY

5. Intervener Motions Commission to Rescind Order for Reviews of G.S. 62.2, G.S. 62-102, G.S. 62-105 to Review burdens of proof issues, and Investigations of references (g) and (j) for --1- meeting Requirements for admissions into Record and "Order"; --2- competent material admitted into Record and "Order". Intervener awaits an analysis of Reviews, and investigations of references (g) and (j) to be analyzed via Commission for evidence to support "Order" via G.S. 62-2, G.S. 62-102, and G.S. 62-105; -or show DEP has not met burden of proof to be granted a Certificate, CPCN. --Intervener has presented Uncontroverted Evidence that information is missing as required by General Statutes when cross - referenced with DEP's Application, reference (a), and Hearing

Transcript, reference (f). Intervener prays Commission gives a "Hard Look" at "Fresh Evidence" submitted for "Review" and Investigation of the two irregular documents' Information in Record, and grants Relief for justice by postponing effective date of action granted by "Order". When (if) Review of Fresh Evidence is accepted by Commission, via G.S. 62-78, -Intervener accepts further hearings or will accept Commission using G.S. 62-80 to Rescind "Order" and amend to use Route 4. -Or other requirements via "Order".

Sincerely,



Oliver L. Canaday, MSgt, USMC Ret, 0441/0331H, CACw/3 brz-stars, PH, CAR, NUCw/2 brz-stars,
MUC, RVNSw/sil-star, BC, AWC, C&S