



Kendrick C. Fentress
Associate General Counsel

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Kendrick.Fentress@duke-energy.com

October 24, 2019

VIA ELECTRONIC FILING

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

**RE: Copy of Letter on behalf of Duke Energy Progress, LLC's and Duke
Energy Carolinas, LLC
Docket Nos. E-2, Sub 1167 and E-7, Sub 1166**

Dear Ms. Campbell:

For the Commission's information, enclosed please find a copy of the letter mailed today on behalf of Duke Energy Progress, LLC and Duke Energy Carolinas, LLC to Brio Energy, LLC.

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

Sincerely,

A handwritten signature in black ink that reads 'Kendrick C. Fentress'.

Kendrick C. Fentress

Enclosure

cc: Parties of Record

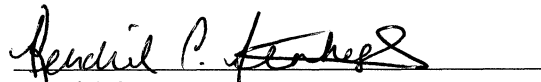
OFFICIAL COPY

Oct 24 2019

CERTIFICATE OF SERVICE

I certify that a copy of the Letter to Brio Energy on behalf of Duke Energy Progress, LLC and Duke Energy Carolinas, LLC, in Docket Nos. E-2, Sub 1167 and E-7, Sub 1166, 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 24th day of October, 2019.



Kendrick C. Fentress
Associate General Counsel
Duke Energy Corporation
P.O. Box 1551/NCRH 20
Raleigh, North Carolina 27602
Tel. 919.546.6733
Kendrick.Fentress@duke-energy.com



OFFICE OF THE GENERAL COUNSEL

DUKE ENERGY

DEC45A / PO. Box 1321
CHARLOTTE, NC 28201

MICHELLE S. SPAK
Deputy General Counsel

Duke Energy Corporation
550 South Tryon Street – DEC45A
Charlotte, NC 28202

October 24, 2019

Sent via Certified Mail / Return Receipt Requested
7015 1520 0001 5368 5588

Jarad A. Fager, Co-Owner and Registered Agent
Brio Energy, LLC
4778 N 300 W, Ste 150
Provo, UT 84604-7755

RE: CEASE AND DESIST

Dear Mr. Fager:

This letter serves as an immediate demand that Brio Energy, LLC (“Brio Energy”), and its employees, agents, and/or affiliated entities immediately **CEASE AND DESIST** from publicizing and/or advertising false information regarding Duke Energy and its customers, and from using Duke Energy’s name and likeness in publicizing and/or advertising false information regarding Duke Energy or a solar program affiliated with Duke Energy.

Upon information and belief, Brio Energy is providing false information to potential customers in North Carolina claiming to “work with Duke Energy” and asking if customers are “interested in having free solar panels installed” on their homes, and telling potential customers “the state is sending us to sign people up for solar because Duke is raising bills \$400 per month.” These statements are not true. Rather, they are intentionally false and misleading in an effort to sell solar installations and obtain potential customers while impeaching Duke Energy’s reputation. These statements are exploitative and deceptive, and constitute defamation.

Duke Energy has serious and significant concerns regarding Brio Energy’s false representations, defamatory statements, and misinformation being provided to its current and potential customers.

Please be advised that this is not the first time Duke Energy has been alerted of Brio Energy providing false and misleading information regarding Duke Energy to its customers. Brio Energy also received a Cease and Desist letter from Duke Energy dated June 19, 2019, a copy of which is enclosed at Attachment A. Upon receipt of the June 19, 2019 Letter, Mr. Adam Coomer, Co-Owner of Brio Energy, contacted Duke Energy and provided that he received the

Jarad A. Fager, Owner and Registered Agent
Brio Energy, LLC
October 24, 2019
Page 2

letter and had several questions regarding solar power with Duke Energy. Mr. Coomer requested to talk with someone at Duke Energy so he would fully understand what Brio Energy should or should not do going forward. After speaking with a representative of Duke Energy on July 2, 2019, Mr. Coomer received a follow-up email from Duke Energy which included a list of specific talking points for Mr. Coomer and Brio Energy to use. Mr. Coomer responded to the July 2nd email and stated that he would implement the talking points. A copy of the July 2, 2019 email correspondence is enclosed as Attachment B.

Duke Energy has serious and significant concerns regarding Brio Energy's representations, defamatory statements and misinformation being provided to its current and potential customers. The purpose of this letter is to notify you, Jarad A. Fager, as Owner of and Registered Agent for Brio Energy, that Brio Energy shall immediately **discontinue the false representations discussed herein and refrain from representing or publicizing false information** regarding Duke Energy as it constitutes defamation, and Brio Energy is **prohibited from advertising, representing and marketing misleading information regarding Duke Energy to its customers and/or potential customers.**

Duke Energy reserves the right to pursue all legal remedies available to it to address this matter. If you have any questions regarding this Cease and Desist Letter, direct them to your attorney.

Sincerely,



Michelle S. Spak
Deputy General Counsel

MSS/hpb

cc: Adam Cooner, Co-Owner, Brio Energy, LLC (via Email to adam@briosolarenergy.com)
Kim Campbell, Chief Clerk, North Carolina Utilities Commission, Docket Nos. E-2, Sub 1167 and E-7, Sub 1166

Attachment A



OFFICE OF THE GENERAL COUNSEL

DUKE ENERGY
DEC45A / P.O. Box 1321
CHARLOTTE, NC 28201

MICHELLE S. SPAK
Deputy General Counsel

Duke Energy Corporation
550 South Tryon Street—DEC45A
Charlotte, NC 28202

June 19, 2019

Sent via Certified Mail / Return Receipt Requested
7015 1520 0001 5368 5250

Jarad A. Fager, Owner and Registered Agent
Brio Energy, LLC
4778 N 300 W, Ste 150
Provo, UT 84604-7755

RE: CEASE AND DESIST

Dear Mr. Fager:

This letter serves as notification for Brio Energy, LLC ("Brio Energy"), to immediately **CEASE AND DESIST** from publicizing and/or advertising false information regarding Duke Energy and its customers.

Upon information and belief, Brio Energy is providing false information to potential customers in North Carolina claiming Duke Energy is being required to "shut down coal plants" and Duke Energy customers are being required to "convert to solar panels." Neither of these statements are true. Rather, they are intentionally false and misleading in an effort to sell solar installations and obtain potential customers while impeaching Duke Energy's reputation, are exploitative, and constitute defamation.

Therefore, Duke Energy has serious and significant concerns regarding Brio Energy's false representations, and defamatory statements and information. The purpose of this letter is to notify you, Jarad A. Fager, as Owner of and Registered Agent for Brio Energy, that Brio Energy shall immediately **discontinue false representations discussed herein and refrain from representing or publicizing false information** regarding Duke Energy as it constitutes defamation, and Brio Energy is **prohibited from advertising, representing and marketing misleading information regarding Duke Energy and its customers.**

Duke Energy reserves the right to pursue all legal remedies available to it to address this matter. If you have any questions regarding this Cease and Desist Letter, direct them to your attorney.

Jarad A. Fager, Owner and Registered Agent
Brio Energy, LLC
June 19, 2019
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Sincerely,

Michelle S. Spak | hpb
Michelle S. Spak
Deputy General Counsel

MSS/hpb

cc: Brio Energy, via eMail to brioinstalls@gmail.com

Attachment B

Blum, Heather Paige

From: Adam Coomer <adam@briosolarenergy.com>
Sent: Tuesday, July 2, 2019 7:02 PM
To: Fleener, Wendi
Cc: Blum, Heather Paige
Subject: Re: Duke Energy Follow-up

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Thank you for the specifics. I was just confused based on articles I'm seeing online stating something slightly different. We will implement these.
Thanks!

Adam Coomer
Brio Energy
425-999-0786
adam@briosolarenergy.com

On Jul 2, 2019, at 2:31 PM, Fleener, Wendi <Wendi.Fleener@duke-energy.com> wrote:

Hi Adam,

Wanted to make sure to follow-up with you on our conversation.

Below is a list of specific talking points for you and your team to use.

The top 2 would be a great way to engage customers on the reasons to go solar.

The additional facts you can use as needed on what Duke Energy is doing as a company related to renewables and coal.

Please let me know if there are questions.

Thanks!

- North Carolina is #2 in the country for the amount of solar energy installed and this is an opportunity to be part of that growing trend!
- Many residential customers are choosing to go solar as a way to do good for the environment and potentially save money on their energy bill.
- Duke Energy has connected more than 3 GW of solar energy in NC, with plans to bring more than 7,000 MW on line by 2025
- As Duke Energy is adding more solar resources to its generation mix, it is retiring a number of coal ash plants including the safe closure of ash basins in ways that protect the community and environment, while managing costs for customers.
- In North Carolina, they've already finished excavating ash at eight of 31 basins.
- They are also building three new ash reprocessing units that will allow them to recycle nearly 1 million more tons of ash annually into concrete for construction projects in our region.
- They've recently completed major system redesigns at operating coal plants to transition to handling all ash dry in on-site landfills. This allows them to take ash basins out of service and begin the process of safely closing them.

- Remaining basins in the state must be closed by December 2029, and Duke Energy is working to ensure science and engineering drive the closure plans for those to minimize community disruption and environmental impact.
 - North Carolina has not required Duke Energy to close coal plants- just ash basins, which is required by state and federal law.
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