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October 1, 2019

VIA ELECTRONIC FILING

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

**Re: Duke Energy Progress, LLC's Response in Opposition to Petition to Intervene
Docket No. E-2, Sub 1215**

Dear Ms. Campbell:

Enclosed for filing in the above-referenced docket please find Duke Energy Progress, LLC's Response in Opposition to Petition to Intervene.

If you have any questions, please do not hesitate to contact me. Thank you for your assistance with this matter.

Sincerely,

A handwritten signature in black ink that reads 'Jack E. Jirak'. The signature is written in a cursive style with a large 'J' and 'E'.

Jack E. Jirak

Enclosure

cc: Parties of Record

OFFICIAL COPY

Oct 01 2019

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-2, Sub 1215

In the Matter of:)
)
Application of Duke Energy Progress, LLC for) **RESPONSE IN OPPOSITION**
a Certificate of Environmental Compatibility) **TO**
and Public Convenience and Necessity) **PETITION TO INTERVENE**
Pursuant to N.C. Gen. Stat. §§ 62-100 et. seq.)
to Construct Approximately 4.6 Miles of New)
230 kV Transmission line in the northeast area)
of Wilmington, New Hanover County, North)
Carolina)

NOW COMES Duke Energy Progress, LLC (“DEP”), by and through its counsel, and respectfully requests the Commission deny the petition to intervene of Oliver L. Canaday filed in the above-referenced docket. In support of this request, DEP shows the following:

1. On August 13, 2019, DEP filed an Application for Certificate of Environmental Compatibility and Public Convenience and Necessity (“CPCN”) to construct approximately 4.6 miles of new 230 kV Transmission in New Hanover County, North Carolina.

2. On August 15, 2019, the Commission issued an *Order Scheduling Hearings and Requiring Public Notice* that, among other items, permitted any person having an interest in this proceeding to file a petition to intervene stating such interest on or before October 9, 2019.

3. On September 25, 2019, a Petition to Intervene was filed by Oliver L. Canaday. In the petition, Mr. Canaday lists his service address as P.O. Box 624, Four Oaks, NC 27524.

4. The Petitioner has not shown sufficient interest in the proceeding to warrant intervention. As required by Commission Rule R1-19, the petition must contain “a clear, concise statement of the nature of the petitioner’s interest in the subject matter of the proceeding, and the way and manner in which such interest is affected by the issues involved in the proceeding.” The Commission has held that, although the ability to intervene under Rule 1-19 is “generous, it is not unlimited.” *Order Denying Petition to Intervene*, Docket No. E-7, Sub 828, *et.al.* at 3 (September 13, 2007). The party seeking to intervene must have a real interest in the proceeding, which is “more than an incidental or casual interest in the subject matter.” *Order Denying Petition to Intervene*, Docket No. W-274, Sub 160 at 2 (Nov. 18, 1997).

5. Based on the assertions in the petition, Petitioner does not have a sufficient interest in the Application for CPCN to warrant intervention. The Petitioner’s service address is located in Johnston County, North Carolina and is not located near the proposed transmission line. Despite the fact that the Petitioner has two accounts with DEP, neither account is located in New Hanover County, Pender County, or near the proposed transmission line.¹

6. Petitioner states his concern is that the transmission line will increase utility rates. However, this proceeding concerns a CPCN for a transmission facility in New Hanover County. It is not a general rate case. Increasing utility rates is not the subject matter of this proceeding. While the cost of the proposed transmission line is ancillary to determining the public’s need and the convenience of the line in question, any rate increases that could

¹ Petitioner previously filed a petition to intervene in another CPCN for a transmission line located in Johnston County in Docket No. E-2, Sub 1150, which was granted. However, unlike in this proceeding, the Petitioner was in fact an affected property owner from Johnston County, North Carolina.

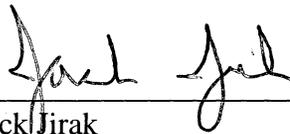
result from this proceeding are incidental to this proceeding, and will be addressed more directly in subsequent rate proceedings. As such, Petitioner's alleged interest is incidental to the subject matter of this proceeding and is not sufficiently affected by the issues involved in the proceeding to warrant intervention.

7. If the mere fact that a potential intervenor is a customer of DEP is a sufficient basis to justify intervention in a transmission CPCN proceeding, then the right to intervene would essentially be "unlimited," in contravention of the Commission's precedent. Petitioner must show an interest in the proceeding that is more substantive in nature than simply being a customer of DEP.

8. Furthermore, even if denied intervention, Petitioner remains free to submit a consumer statement of position regarding his concerns.

WHEREFORE, DEP respectfully requests that the Commission enter an order denying the petition to intervene of Oliver L. Canaday in the above-referenced docket.

Respectfully submitted this 1st day of October 2019.



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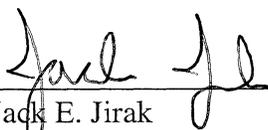
CERTIFICATE OF SERVICE

I certify that a copy of Duke Energy Progress, LLC's Response in Opposition to Petition to Intervene, in Docket No. E-2, Sub 1215, has been served by electronic mail, hand delivery or by depositing a copy in the United States mail, postage prepaid to:

Heather Fennell
Public Staff – North Carolina Utilities Commission
Staff Attorney
Heather.fennell@psncuc.nc.gov

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

This the 1st day of October, 2019.



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