

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-100, SUB 179

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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| In the Matter of: |) | INITIAL COMMENTS OF |
| Duke Energy Progress, LLC, and |) | REDTAILED HAWK COLLECTIVE AND |
| Duke Energy Carolinas, LLC, 2022 |) | ROBESON COUNTY COOPERATIVE |
| Biennial Integrated Resource Plans |) | FOR SUSTAINABLE DEVELOPMENT |
| and Carbon Plan |) | ON DUKE ENERGY CAROLINAS, LLC |
| |) | AND DUKE ENERGY PROGRESS, |
| |) | LLC'S DRAFT CARBON PLAN |

Pursuant to the North Carolina Utilities Commission's ("Commission")

November 19, 2021 *Order Requiring Filing of Carbon Plan and Establishing Procedural Deadlines*, November 29, 2021 *Order Granting Extension of Time*, and January 28, 2022 *Order Clarifying Opportunities for Public Participation in the Development of the Carbon Plan Pursuant to House Bill 951*, Intervenor the RedTailed Hawk Collective ("RTHC") and the Robeson County Cooperative for Sustainable Development ("RCCSD") respectfully submit these initial comments on the draft Carbon Plan submitted by Duke Energy Carolinas, LLC ("DEC") and Duke Energy Progress, LLC ("DEP") (collectively, "Duke Energy").

INTRODUCTION

House Bill 951 ("HB951") directs the Commission to "take all reasonable steps to achieve" its carbon reduction goals by 2030 and 2050.¹ In developing the Carbon Plan there are clearly many interested stakeholders, as exemplified by the scope of intervenors within this docket, however the authority to determine both process and result lies with

¹ S.L. 2021-165, Part I, § 1.

the Commission. Though the Commission chose in this instance to allow Duke Energy the opportunity to file an initial, proposed Carbon Plan,² that filing itself represents guideposts, equivalent in weight to any other intervening parties' comments, for the Commission to consider as it makes its ultimate determinations.

In developing the Carbon Plan, the Commission must:

[A]t a minimum, consider power generation, transmission and distribution, grid modernization, storage, energy efficiency measures, demand-side management, and the latest technological breakthroughs to achieve the least cost path...to achieve compliance.³

However, to truly determine the least cost path to compliance there are many more factors that the Commission should consider. For instance, there are determinations that will be made within other dockets before the Commission that are highly consequential to the success of the Carbon Plan. While ultimate judgments will not be made, these issues must at least be grappled with in order to truly determine the least cost Carbon Plan for North Carolina.

According to Duke Energy, “[c]oal is an increasingly risky fuel source.”⁴ Without some discussion on the use of securitization, the most economic path to the early retirement of coal assets, it is impossible to accurately analyze Duke Energy’s coal retirement timelines. Similarly, if Duke Energy decides to file a Performance-Based Regulation application, should it be approved by the Commission it will have important implications for the Carbon Plan—particularly as to the design of the decoupling rate-making mechanisms and any performance incentive mechanisms. Lawmakers implicitly

² NC Util. Comm’n, Order Requiring Filing of Carbon Plan and Establishing Procedural Deadlines, E-100 Sub-179 (2021).

³ S.L. 2021-165, Part I, § 1(1).

⁴ DUKE ENERGY, CAROLINAS CARBON PLAN, INTRODUCTION AND BACKGROUND (2022), 3.

recognized the co-dependence of these new-to-North Carolina provisions when they chose to adopt them within the same piece of legislation. In order to adopt a Carbon Plan that does not become immediately obsolete, the Commission must not ignore important determinations being made just over the horizon.

Both the leadership of the RTHC and the RCCSD, and their partner organizations, have four decades of experience and expertise in addressing environmental, climate, and energy issues in North Carolina. Both organizations are deeply rooted in the Indigenous community of Robeson County and have worked on a myriad of needs, concerns, and issues impacting the Lumbee community. While RTHC has a primary programmatic focus of working with and in Indigenous communities in North Carolina, RCCSD has a multiracial focus that is inclusive of Indigenous, Black, Latinx, and low-income White communities and perspectives.

Both RTHC and RCCSD bring the experience, perspective, and power of disproportionately, impacted, and over-burdened communities and their residents into the public policy arena. The development of a statewide Carbon Plan by the Commission involves a substantive policy process that will have significant implications for impacted communities in Robeson County and throughout Eastern NC. The outcomes of the Carbon Plan will have a substantial impact on the quality of life of disproportionately impacted communities, especially in Eastern NC. This is due to many factors including the region's vulnerabilities to climate change, the prevalence of racially diverse and low-income populations and communities, and the disproportionate number and types of polluters in environmental justice communities, a growing number of which play a dominating role in the energy sector. Prevalent research indicates that climate change

disproportionately impacts people of color, low-income communities, and Indigenous communities.⁵

The voices and perspectives of impacted community residents and representative organizations, particularly that of Indigenous, Black, LatinX, and low-income White constituents, are rarely heard and engaged within intervenor procedures in the dockets of the Commission. The RedTailed Hawk Collective and the Robeson County Cooperative for Sustainable Development thank the Commission for this opportunity to submit comments on an important process for all North Carolinians.

DISCUSSION

A. The lived experience of climate change

We often hear that climate change is referred to as something that must be avoided. The truth is that we are currently living in a climate crisis that has been brought about by what is referred to as “climate change.” There is extensive research that indicates climate change has already brought conditions that disproportionately impact Indigenous, Black, and Latinx and low-income communities.⁶

In Robeson County and throughout Eastern North Carolina, we have experienced these impacts in ways that have been felt particularly hard. In 2016 and 2018, Hurricanes Matthew (Category 5) and Florence (Category 4) devastated Robeson County and rural and coastal communities across our Eastern region. Over 18,000 flood damage claims were filed in Robeson County resulting from the devastation of Hurricane Matthew. Hurricane Florence caused \$50 million in damages in Robeson County.⁷

⁵ EXEC. ORDER NO. 246 (Jan. 7, 2022).

⁶ *Id.*

⁷ Stephen M. Marson, PhD, and Mac Legerton, ABD, *Disaster Diaspora and the Consequences of Economic Displacement and Climate Disruption, including Hurricanes Matthew (October 8, 2016) and Florence*

Donna Chavis, Founder and Coordinator of the RedTailed Hawk Collective and member of the Lumbee Tribe, commented on the devastation from Hurricane Matthew:

Heavy rains saturated Robeson County prior to Hurricane Matthew. With up to 20" of rain falling over a period of days and heavy winds, the downing of power lines and large trees was inevitable. We lost more than 10 trees in our front yard. Many of the downed trees blocked our 1/4th-mile gravel driveway through the woods. We were not able to leave the property for two weeks. Finally, volunteers came in and cut a trail through the downed trees so that we could come and go. When Hurricane Florence hit two years later, our yard and street rapidly flooded. We were forced to leave our home and traveled to Western NC until it was safe to return. When we did return a week later, all bridges across the Lumbee/Lumber River were flooded and closed. We had to travel all the way around the headwaters of the river to return home.

The impacts of Hurricane Matthew and Florence in Robeson County remain today, particularly in South and West Lumberton that suffered the most severe flooding and damages to houses, businesses, schools, and churches. Dilapidated houses and empty lots are prevalent on almost every street.

Along with "super storms," the impacts of the climate crisis in Eastern NC include increased heat related illnesses, regular flooding from more powerful rainstorms, and patterns of more extensive drought.⁸ These impacts are particularly felt in rural, Indigenous, Black, Latinx, and low-income communities. In these communities, small farms play a vital role in sustaining a way of life. That way of life, first threatened by corporate farming, is now threatened by the impacts of the climate crisis. The natural seasons are no longer promised as rising temperatures, droughts, and severe storms make conditions for growing difficult. In the midst of drought, farmers have a difficult time

(September 14, 2018) in *Robeson County North Carolina*, SYMPOSIUM ON DISASTER RISK ANALYSIS AND BIG DATA (Oct. 2019), https://www.researchgate.net/publication/337224618_Disaster.

⁸ See Ryan E. Emanuel, *Climate Change in the Lumbee River Watershed and Potential Impacts on the Lumbee Tribe of North Carolina*, 163 JOURNAL OF CONTEMPORARY WATER RESEARCH & EDUCATION 79-93 (Apr. 2018), <https://onlinelibrary.wiley.com/doi/pdf/10.1111/j.1936-704X.2018.03271.x>.

planting. Farm workers are equally impacted by these conditions and fall victim to heat related stress and illnesses. Conditions that threaten historic cultural lifeways come at immeasurable costs. Family support systems no longer are enough to maintain usual function. During June 2022, a major heat wave hit North Carolina and sent the temperature into triple digits in Robeson County and Southeastern NC.⁹

While known to be adaptive, Indigenous, Black, Latinx residents find it difficult to adjust to these new conditions that are triggered by the increasing climate crises.¹⁰

It is for all of these reasons—and more—that we are intervening in the Commission’s Carbon Plan docket. We highly recommend that the Commission develop a reliable and valid Carbon Plan for our State that leads to a responsible reduction of CO₂ and CH₄ emissions and a rapid shift to the use of clean, renewable energy sources.

B. Least cost application within the Carbon Plan

1. Least cost and risk

Risk can impact least cost in many ways, injecting uncertainty related to projected costs into an already complicated balancing process. The role risk plays in the Carbon Plan’s ability to guide North Carolina to reaching the goals of HB951 is an important aspect of that balancing process. While there will always be some degree of uncertainty associated with decisions the Commission must make, this uncertainty must be carefully managed to ensure North Carolina’s ability to meet future goals is not put in jeopardy.

⁹ Clarissa Donnelly-DeRoven, *Heat wave – the deadliest weather event – blankets NC*, NC HEALTH NEWS (July 8, 2022), <https://www.northcarolinahealthnews.org/2022/07/08/heat-wave-the-deadliest-weather-event-blankets-nc/>.

¹⁰ LAWRENCE S. ENGEL, PHD, ET AL, UNIV. OF N.C. INST. FOR THE ENV., ENHANCING COMMUNITY CAPACITY: UNDERSTANDING AND MAPPING COMMUNITY ENVIRONMENTAL HEALTH IMPACTS OF HURRICANE MATTHEW (Sept. 2017), <https://sph.unc.edu/wp-content/uploads/sites/112/2017/12/Hurricane-Matthew-EH-hazards-preliminary-report-20170915-final.pdf>.

There are many realistic and projected cost factors that need to be considered in NCUC's Carbon Plan. Some of these considerable cost factors are not well represented in Duke Energy's proposed Carbon Plan, including the significant potential of cost overruns. These costs and risk factors include but are not limited to: (1) pipeline construction and transportation infrastructure; (2) construction delays; (3) legal fees; (4) new technologies; and (5) potential stranded assets. Also, the social cost of carbon, carbon pricing, nonmarket damages, and unmet timeline goals are all factors that impact costs and potential cost overruns.

Duke Energy's planned reliance on pipelines comes with considerable risk both as to cost and to communities. First is the risk of relying on a resource that may never become available. After years of costs and delays attempting to build the Atlantic Coast Pipeline,¹¹ there is demonstrable risk in planning to rely on the completion of not just the Mountain Valley Pipeline, which has seen its own cost increases and delays,¹² but the Southgate extension as well. By the time the Atlantic Coast Pipeline was cancelled, its cost overruns had reached \$2 billion.¹³

Second, even if the pipeline does get built, considering the significant cost overruns already seen, there is cost risk as to the ultimate price tag of such projects.¹⁴ And if the proposed Mountain Valley Pipeline is terminated, a brand-new pipeline and its

¹¹ See Ivan Penn, *Atlantic Coast Pipeline Canceled as Delays and Costs Mount*, N.Y. TIMES (July 5, 2020).

¹² See *Mountain Valley Pipeline to Seek New Permits, Boosting Cost*, U.S. NEWS & WORLD REP. (May 3, 2022) ("Mountain Valley Pipeline will seek new permits that courts have been rejected twice, increasing the cost for proposed natural gas pipeline"); *The Mountain Valley Pipeline is far from inevitable*, APPALACHIAN VOICES: FRONT PORCH BLOG (Mar. 17, 2022), <https://appvoices.org/2022/03/17/mvp-completion/>.

¹³ Scott DiSavino and Taru Jain, *Dominion takes \$2.8 bln charge to exit Atlantic Coast natgas pipe*, REUTERS (July 31, 2020), <https://www.reuters.com/article/us-dominion-results-atlantic-coast/dominion-takes-2-8-bln-charge-to-exit-atlantic-coast-natgas-pipe-idUSKCN24W21Z>.

¹⁴ *Id.*

needed infrastructure would need to be planned, permitted, constructed, and employed to meet the natural gas expansion goals in all four of Duke Energy's planned scenarios.

Third, there are considerable costs attendant to the construction of a transmission pipeline, including the substantial amount of support infrastructure needed to ensure safety and to allow for its efficient use—least cost should include everything necessary for a pipeline to become used and useful, from shovels and labor to compressor and metering and regulating stations to the cost of land, not just the primary costs. There are also costs borne by the ecosystems disturbed through construction and by communities, which are in many cases already overburdened with other heavy industry.¹⁵ The recognition and details associated with this need, estimated costs, and risks are noticeably absent from Duke Energy's proposed plan.

Fourth, there is the risk that the pipeline could become a stranded asset as North Carolina seeks to achieve carbon neutrality by 2050. Though Duke Energy believes that “natural gas pipeline infrastructure may eventually be repurposed to support hydrogen fuel,” it also concedes that “[m]ost of the natural gas pipelines today have limited ability to transport hydrogen.”¹⁶ This limited ability to convert from a carbon-based fuel source to a carbon-free one represents a risk of stranding assets while still leaving ratepayers required to pay the costs.

¹⁵ There are 858 sources of air pollution in Robeson County, as measured using NC DEQ's Community Mapping Tool, and the county experiences over twice the percentage of days exceeding air quality standards for particulate matter as the rest of the state. Robeson County also ranks last in North Carolina in health factors, health outcomes, and quality of life, as measured by the University of Wisconsin Population Health Institute. Juhi Modi et al, *Environmental Health and Cumulative Impact in Robeson County, NC*, ROBESON CO. COOP FOR SUST. DEV. (July 8, 2020), <https://robcoalition.org/wp-content/uploads/2020/07/Environmental-Health-and-Cumulative-Impact-in-Robeson-County-NC.pdf>; see also *supra* EO246.

¹⁶ DUKE ENERGY, CAROLINAS CARBON PLAN, APPENDIX O: LOW-CARBON FUELS AND HYDROGEN (2022), 3, 7.

From Moore’s Law to fundamental business tenets like economies of scale and improvement through repetition—the proposition that the cost of new technology tends to decrease over time, in many cases rapidly, has held more often than it has not. Further, while there are some benefits to being a “first-mover” or early adopter of new technologies, “over the long haul, early movers are considerably less profitable than later entrants. Although pioneers do enjoy sustained revenue advantages, they also suffer from persistently high costs....”¹⁷ Of the new technologies being considered, nuclear in particular poses a risk as to cost due to the sector-wide cost overruns across recent projects.¹⁸ With North Carolina ratepayers on the hook, the cost risk of new technologies is an important consideration to include in least cost determinations.

Based on these considerations, the full cost of certain elements needed to implement Duke Energy’s proposed Carbon Plan—such as gas and nuclear infrastructure—may far exceed the costs of a rapid transition to clean, renewable energy sources with mechanisms that deliver energy reliably. The RTHC and RCCSD believe that when all costs and risks are considered in developing the Carbon Plan, that the direct transition to clean renewable energy sources will be more cost effective and practical than developing new, extensive, and expensive gas infrastructure. Finally, a massive expense of billions of dollars on such a project and scenario carries a very high-risk factor of being cancelled during its developmental, implementational, or its proposed transitional phases due to a multiplicity of potential reasons discussed above. In this

¹⁷ William Boulding and Markus Christen, *First-Mover Disadvantage*, HARV. BUS. REV. (Oct. 2001).

¹⁸ See *Energy security gives climate-friendly nuclear-power plants a new appeal*, THE ECONOMIST (Jun. 23, 2022) (detailing that though the Hinkley Point project in the U.K. is 2 years behind schedule and £10 billion over budget, it is still in a better position than projects in Finland, France, and the Vogtle plant in Georgia).

scenario, it is likely that the utility would seek relief from this financial burden by placing at least part of the liability onto ratepayers.

2. Executive Order 246 and the social cost of carbon

Governor Cooper signed Executive Order No. 246 (“EO246”) on January 7, 2022, which specifically encourages the Commission to incorporate the social cost of greenhouse gas emissions (“SC-GHG”), as determined by the federal Interagency Working Group on the Social Cost of Greenhouse Gases, into its decision-making processes.¹⁹ Though the Governor’s executive orders are not binding on the Commission, this encouragement is based upon the recognition that the SC-GHG is comprised of many factors, including some that are likely to significantly impact the energy sector in the years to come.

In order to truly determine the least cost pathway to decarbonization that also “foster[s] 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...*,”²⁰ certain facets of the SC-GHG should be considered. These include valuing the risks posed to communities and critical infrastructure by a changing climate, the energy sector’s role in both precipitating and planning for this crisis, as well as the potential for future investments to either mitigate or exacerbate the harm to come.

3. Nonmarket Damages and Carbon Pricing

There are nonmarket damages that come with climate change and the energy transition that nonetheless represent real costs borne by North Carolina communities. One type of nonmarket cost is moral damages. These are defined as “injur[ies] caused by a

¹⁹ EXEC. ORDER NO. 246 (Jan. 7, 2022).

²⁰ N.C. GEN. STAT. § 62-2(a)(6) (*emphasis added*).

violation of rights but that is not associated with actual damage to property or persons.”²¹

Moral damages are “generally understood to encompass loss of loved ones, pain and suffering as well as the affront to sensibilities associated with an intrusion on the person, home or private life,” and have been held under international law to include “mental suffering, injury to feelings, humiliation, shame, degradation, loss of social position or injury to credit and reputation.”²²

Other types of nonmarket damages include health impacts, ecological damages, and community impacts. Some common health impacts are rates of asthma and other respiratory illness, cardiac disease, and cancer. Ecological damages include air and water quality impacts, recreational harms, and wildlife impacts. Community impacts include nuisance odors and noise, traffic congestion, and other economic impacts at both household and community levels.

Though sometimes difficult to quantify, these costs should be included as much as possible in the Commission analysis of least cost. There may also be opportunities in other dockets for the Commission to integrate these sorts of damages. For instance, should Duke Energy pursue performance-based ratemaking (“PBR”), both the revenue decoupling mechanism and performance incentive mechanisms represent opportunities to value these damages in a meaningful way.

While carbon pricing mechanisms will be considered in the PBR docket, it is worth noting that carbon tax, cap and trade mechanisms, and carbon offsetting do not and cannot guarantee that a utility will significantly reduce carbon emissions at their source.

²¹ UNITED NATIONS, GENERAL ASSEMBLY, RESPONSIBILITY OF STATES FOR INTERNATIONALLY WRONGFUL ACTS, WITH COMMENTARIES (2001), Art. 36, Comment. 1.

²² *Id.* At Art. 35, Comment. 16.

The mechanisms are compensatory in nature, providing tools that are intended to counteract carbon emissions with no guarantee that carbon emissions will be mitigated at the level needed to avoid major climate catastrophe. Secondly, these mechanisms can be used by utilities to justify expanding carbon emissions while claiming that they are willing to pay or offset the costs of nonmarket damages.

The Commission needs to be aware of an alternative mechanism and policy being discussed in the marketplace that provides incentives for rapidly transitioning to the reliable utilization of clean, renewable energy sources only when a carbon emitter reduces its emissions at their source at considerable scale. Such an approach introduces a much more effective “carrot and stick” method of carbon pricing that leads to significant reductions in carbon emissions while providing financial incentives without a license to continue carbon emissions at the same or expanded level and scale. Use of such a carbon pricing mechanism would make the massive expansion of natural gas unnecessary by countering the motivation of the utility to maximize profits through (what is projected by multiple intervenors) to be the most expensive scenario for ratepayers and the most harmful to impacted, potentially already overburdened communities

4. 2030 versus 2050

HB951 requires that least cost considerations be applied to both the 2030 goal and the 2050 goal within the carbon plan. When considering the many potential pathways to achieving the 2030 goal, the ability to also achieve the 2050 goal in a least cost manner must be given equal weight. This may mean that certain investments that look prudent for reaching the 2030 goal would in fact be unreasonable once the 2050 goal is also considered. For instance, future investments in large, fossil-fuel based generation

facilities that are expected to be used for decades with limited ability to convert to carbon-less fuel sources will fundamentally risk the ability to reach the goal of carbon neutrality by 2050.

As is widely noted, this is an era of unprecedented change within the energy industry in both scale and pace. When applying least cost considerations to the 2050 goal, flexibility itself must also be valued in order for North Carolina to be able to capture the maximum amount of economic benefit, and mitigate as much wasted spending, as it can from these changes. Real Options Analysis represents one such approach to economic assessment that includes uncertainty and flexibility.²³ Without valuing flexibility, there is a risk of becoming over-reliant on large-scale, long-term investments that, while perhaps achieving certain cost-of-scale benefits in the near term, may become anchors for North Carolina utilities and ratepayers alike as newer, cheaper technologies are adopted elsewhere.

While flexibility will ultimately be one factor among the many competing considerations within least cost its inclusion is essential in order to mitigate the risk of making large investments in outdated technologies that ratepayers will be stuck with for decades.

C. Greater outreach and consultation are needed for certain communities of interest

²³ See generally Marta Biancardi et al, *R&D investment decision on smart cities: Energy sustainability and opportunity*, 153 CHAOS, SOLITON & FRACTALS 111554 (Dec. 2021), <https://www.sciencedirect.com/science/article/abs/pii/S0960077921009085>; F. Penizzotto et al, *Real options valuation of photovoltaic power investments in existing buildings*, 114 RENEWABLE AND SUSTAINABLE ENERGY REVIEWS 109308 (Oct. 2019), <https://www.sciencedirect.com/science/article/abs/pii/S1364032119305167#!>; Liyun Liu et al, *The Application of Real Option to Renewable Energy Investment: A Review*, 158 ENERGY PROCEDIA 3494-3499 (Feb. 2019), <https://www.sciencedirect.com/science/article/pii/S1876610219309658>.

“[M]eaningful, fair, and equitable public engagement in state agency decision-making is necessary to avoid and remedy harmful impacts on communities most severely and frequently impacted...”²⁴ There are many communities in North Carolina that have never meaningfully engaged with the Commission despite its decisions having impacts on their daily lives. As Governor Cooper recognized in EO246, it is often necessary for state agencies to take intentional steps for the voices of those most impacted to be brought into the room while decisions are still being made.

With the role the Carbon Plan will play in guiding future infrastructure siting and investment, economic development opportunities, and the affordability of electricity for North Carolina households, it is very important that environmental justice and Indigenous communities’ voices be included in the development process. Duke Energy “convened a small group of environmental justice-focused stakeholders on May 3, 2022, to begin discussing how to engage North Carolina communities and understand what issues are important to low-income and communities of color.”²⁵ Though Duke Energy claims this effort will be ongoing, this was their only effort to substantively engage with justice and equity perspectives before the release of their draft plan and it occurred less than two weeks before that date. Further, Duke Energy’s choice to design the general stakeholder engagement meetings over the course of entire business days made the substantive participation of low-income, Indigenous, and working-class parties all but impossible. Duke Energy’s at best feeble attempts to engage with the environmental justice community around the Carbon Plan should be considered as the Commission

²⁴ EXEC. ORDER NO. 246 (Jan. 7, 2022).

²⁵ DUKE ENERGY, CAROLINAS CARBON PLAN, APPENDIX B: STAKEHOLDER ENGAGEMENT (2022) 22.

contemplates future steps it might deem necessary during the continued development of this Carbon Plan.

The United Nations Declaration on the Rights of Indigenous Peoples provides that:

States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.²⁶

The principle of free, prior, and informed consent (“FPIC”) is based upon self-determination and tribal sovereignty. There can be many levels to FPIC, however, at the very minimum it must include meaningful consultation with tribal leaders over projects that affect their lands, territories, and resources.

Title VI of the Civil Rights Act of 1964 provides that “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”²⁷ Both the U.S. Environmental Protection Agency and the U.S. Department of Energy have regulations implementing this provision—civil rights laws function separately from energy or environmental laws.²⁸

There are two types of discrimination that must be considered, intentional discrimination and disparate impact. Disparate impact discrimination occurs when a recipient of federal financial assistance uses a facially neutral policy or practice that has a

²⁶ UNITED NATIONS, GENERAL ASSEMBLY, DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES (2007), Art. 19.

²⁷ 42 U.S.C. § 2000d.

²⁸ 40 C.F.R. § 7.30, 7.35; 10 C.F.R. § 1040.13.

harmful and disproportionate effect based on race, color, or national origin—intent does not matter. Disparate impact includes many types of harms, including environmental harms like air and water quality; adverse health effects like asthma, other respiratory illness, cardiac disease, and cancer; and non-health harms like nuisance orders and noise, traffic congestion, and social and recreational harms.²⁹

Disparate impact also includes cumulative impacts. Cumulative impacts are:

The exposures, public health or environmental effects from the combined emissions and discharges in a geographic area, including environmental pollution from all sources, whether single or multi-media, routinely, accidentally, or otherwise released. Impacts will take into account sensitive populations and socio-economic factors, where applicable and to the extent data are available.³⁰

Cumulative impacts are often the result of many different sources of exposure to environmental stressors within communities, which means that most often “multiple decision-making entities [are implicated] in addressing the causes that compromise environmental health and quality of life in these communities, requir[ing] an interagency response.”³¹

Though not binding on the Commission, EO246 also has directives regarding outreach and consultation on issues concerning environmental justice. These require cabinet agencies to identify a lead person for environmental justice and equity concerns, develop an agency public participation plan, and participate in ongoing discussions concerning further actions “to advance environmental justice, equity, and affordability

²⁹ Secretary’s ENVTL JUSTICE AND EQUITY BOARD, N.C. DEP’T OF ENVTL. QUALITY, PRESENTATIONS ON CUMULATIVE AND DISPARATE HEALTH IMPACTS IN N.C. (2022), <https://deq.nc.gov/media/29156/open>.

³⁰ *Id.* at 6.

³¹ *Supra* EO246.

priorities of North Carolinians that live in, work in, or represent low- and moderate-income communities, Indigenous communities, and communities of color.”³²

On October 5, 2017, a panel of Lumbee community practitioners and scholars addressed the Health Committee of the Lumbee Tribal Council on issues related to the Atlantic Coast Pipeline. On November 9, 2017, the Panel issued a 19-page, final report related to their presentation before the Tribal Health Committee entitled: "The Need for a Culturally Relevant Assessment of the Atlantic Coast Pipeline: Summary and Recommendations."³³ The report’s findings were that the “Lumbee Tribe was excluded from the federal decision-making process for the Atlantic Coast Pipeline” and that “Federal regulators ignored the disproportionately large number of Lumbee tribal members and other Native Americans living along the proposed pipeline route.” Also:

Federal regulators failed to consult with the Lumbee Tribe and other tribal nations during their formal review of the project.... [T]heir actions run against guidance from the Environmental Protection Agency, the Advisory Council on Historic Preservation, and the UN Declaration on the Rights of Indigenous Peoples. [And] [t]he federal government’s failure to acknowledge adverse impacts may limit the Lumbee Tribe’s ability to receive fair and just redress or mitigation for cultural or environmental damages. In particular, without proper acknowledgment of impacts, developers may attempt to reframe mitigation as a “goodwill” gesture.³⁴

The report went on to state that “The adverse economic impacts of the Atlantic Coast Pipeline would likely outweigh any economic benefits, and adverse impacts would fall disproportionately on Lumbee people.” It also stated that, “The Atlantic Coast Pipeline jeopardizes community, family, and individual wellness by promoting the

³² *Id.*

³³ HEALTH COMMITTEE OF THE LUMBEE TRIBE OF N.C., THE NEED FOR A CULTURALLY RELEVANT ASSESSMENT OF THE ATLANTIC COAST PIPELINE: SUMMARY AND RECOMMENDATIONS (Nov. 2017), https://file.ejatl.org/docs/3547/AdvisoryPanelReport_v5.pdf.

³⁴ *Id.* at 3.

degradation of in-tact ancestral lands.” Finally, the report states, “The Lumbee Tribe has an opportunity to lead North Carolina and the United States toward a better path that focuses on sustainable development.”³⁵

The report also provides an analysis of Duke Energy’s efforts to expand Piedmont Natural Gas infrastructure in Robeson County and how such expansion of pipelines, a Metering and Regulating Station, and additional infrastructure would have significant, negative impact on the Lumbee community. It states, “These facilities would fundamentally alter the rural nature of Prospect, transforming it into a more industrialized landscape.”³⁶ This perspective is a concrete example of the nonmarket damages and disproportionate impact that major elements of Duke Energy’s proposed Carbon Plan will have not only on the rural, Indigenous Peoples of North Carolina, but on all rural peoples in NC—particularly those that are already overburdened with dirty industries and that may be further targeted by utility plans for a major expansion of gas infrastructure.

After Duke Energy’s lacking attempt at stakeholder engagement with environmental justice communities, the Commission should act to ensure that these communities’ voices are included—both in the development of the Carbon Plan as well as in future dockets. In consideration of the requirements of FPIC, Title VI, and EO246, the NCUC should consider consulting directly with at-risk communities. The RTHC and RCCSD also suggest that the NC Utilities Commission review the report cited above and take steps to engage all 8 State-Recognized Tribes in discussion regarding the Carbon Plan docket prior to its final approval in December 2022, as well as future dockets. This is particularly important as future decisions are made subsequent to the implementation

³⁵ *Id.*

³⁶ *Id.*

of the Carbon Plan, such as around building new pipelines, transmission infrastructure, and generating facilities.

In conducting future stakeholder engagement and consultation, the Commission should take into account that in many of these communities' access to broadband services is limited at best. Conducting meetings in areas that are predominantly urban necessarily excludes communities that are rural and may be served by both electric cooperatives and Duke Energy. Every effort should be made to expand the locations of in person meetings as there is no guarantee that the in-person or virtual meetings will provide for fair treatment and meaningful engagement as defined in the universally accepted definition of environmental justice.

D. North Carolina communities should have more access to demand side management programs and opportunities for community-ownership of generating assets

1. Duke Energy's Grid Edge programs do not go far enough to improve access to clean energy for low- and moderate-income households

Affordability and energy insecurity—commonly defined as “an inability to adequately meet household basic energy needs including heating, cooling, and lighting”—are major issues in the Southeast, with one in four households facing access or affordability challenges.³⁷ This issue is particularly acute in areas with high rates of poverty. While rates and charges must be just and reasonable and “without discrimination, undue preferences or advantages, or unfair or destructive competitive

³⁷ DUKE UNIVERSITY NICHOLAS INST. ET AL, STAKEHOLDER RECOMMENDATIONS FOR REDUCING ENERGY INSECURITY IN THE SOUTHEAST UNITED STATES (2022), <https://nicholasinstitute.duke.edu/sites/default/files/publications/Stakeholder-Recommendations-for-Reducing-Energy-Insecurity-in-the-Southeast-United-States.pdf>.

practices,”³⁸ there are many policies and programs that may be adopted to address energy insecurity issues in North Carolina that do not pertain to rates.

Duke Energy’s proposed Carbon Plan does make some improvements within their Grid Edge programs, though they can and should be expanded upon. Proposals that Duke Energy identified through its work with the Energy Efficiency/Demand Side Management Collaborative provide an entry point, including refining eligibility criteria to expand access to income-qualified programs, expanding weatherization offerings across service territories, pursuing an Energy Burden Reduction Pilot program, and expanding the Neighborhood Energy Saver program. The development of an on-tariff financing pilot is likewise encouraging.³⁹ With the development of these programs, the Commission should also require clear implementation timelines and metrics to use to analyze projects, ensure their efficient implementation, and determine their potential to be scaled up.

North Carolina can go further than what Duke Energy proposes, Duke University’s Nicholas Institute, with partners, recently published recommendations, developed through extensive stakeholder engagement, that address energy insecurity in the Southeast.⁴⁰ Helping renting households is a common theme, with recommendations to create programming specifically for renters and to expand weatherization and clean energy programs to rental properties. Another is for an expansion of inclusive energy efficiency financing, with robust consumer protections, such as a Pay as You Save

³⁸ N.C. GEN. STAT § 62-2(a)(4).

³⁹ DUKE ENERGY, CAROLINAS CARBON PLAN, APPENDIX G: GRID EDGE AND CUSTOMER PROGRAMS (2022).

⁴⁰ See *supra* STAKEHOLDER RECOMMENDATIONS FOR REDUCING ENERGY INSECURITY IN THE SOUTHEAST UNITED STATES.

(PAYS) program.⁴¹ When conducting cost effectiveness tests for energy efficiency, the inclusion of non-energy benefits should be implemented and expanded.

Requiring data collection is essential to measuring the scale of the issue as well as monitoring the efficacy of programs that target energy insecurity. This data should be publicly accessible to allow as much research and analysis as possible, hopefully rendering new and impactful solutions. Finally, as the Covid pandemic made clear, utility shutoffs are system-wide issue that have very real impacts on many people's lives. There need to be "strong procedural protections, seasonal shutoff moratoria, protections for the socially vulnerable, and payment assistance programs to prevent disconnection from essential utility service"⁴² whenever possible.

2. There need to be more opportunities for community participation and ownership of future clean energy assets

Impacted community engagement is an essential aspect of a just clean energy transition. These communities need to have the opportunity to not only participate in critical decision-making processes, but to also have some ownership in the projects being placed there. To bring these voices into the room the Commission must help to expand community engagement opportunities, such as by exploring alternative methods of engagement like consultations, and to reduce barriers to representation within the Commission's processes.

The Nicholas School report also includes some recommendations relevant to expanding community access, including developing "regional coordinating committee[s]

⁴¹ This may be similar to what Duke Energy's proposed on-tariff financing proposal will be, though lessons for the pilot should be taken from the Nicholas Institute report.

⁴² *Id* at 5.

to facilitate cross sector collaboration among stakeholders....”⁴³ These could be implemented within certain communities-of-interest and provide an ongoing forum for dialogue as subsequent decisions get made. With the complexity and number of different programs offered, implementing a public one-stop shop that outlines eligibility across programs, includes a centralized aid application, and allows for collaborative program implementation could go a long way to increasing public adoption. Similarly, an awareness campaign targeted to educate at-risk individuals on program options would increase participation rates.

For many reasons, renting households are often locked out from clean energy access. Community solar and solar for multifamily housing are two important options that can help expand these opportunities. Over recent years there have been significant developments around program design for community solar, achieving subscriber savings and energy burden reduction while building significant capacities, with Minnesota, Massachusetts, Florida, and New York leading the way on adoption.⁴⁴ Including solar (and energy efficiency) programs for multifamily housing specifically has the potential to achieve carbon reduction while also realizing savings for households. As many cities across North Carolina seek to implement their own carbon neutrality goals, multifamily housing represents one of the most daunting sectors to address—systemic guidance at the state level is imperative to helping develop and scale such programs.

E. Biofuels are not “clean energy”

⁴³ *Id.*

⁴⁴ NATIONAL RENEWABLE ENERGY LAB, SHARING THE SUN: COMMUNITY SOLAR DEPLOYMENT, SUBSCRIPTION SAVINGS, AND ENERGY BURDEN REDUCTION (2021), <https://www.nrel.gov/docs/fy21osti/80246.pdf>.

As detailed on the Commission's website, the Renewable Energy and Energy Efficiency Portfolio Standard (REPS) became law in 2007 with the passage of Senate Bill

3. Of relevance to the Carbon Plan, NCUC's description of REPS includes the following:

Under this new law, investor-owned utilities in North Carolina will be required to meet up to 12.5% of their energy needs through renewable energy resources or energy efficiency measures. Rural electric cooperatives and municipal electric suppliers are subject to a 10% REPS requirement.... Renewable energy facilities include facilities that generate electric power by the use of a renewable energy resource, combined heat and power systems, and solar thermal energy facilities. Renewable energy resource includes...a biomass resource, including agricultural waste, animal waste, wood waste, spent pulping liquors, combustible residues, combustible liquids, combustible gases, energy crops, or landfill methane; waste heat derived from a renewable energy resource and used to produce electricity or useful, measurable thermal energy at a retail electric customer's facility; or hydrogen derived from a renewable energy resource.⁴⁵

The 2007 law codified biofuels, including biogas and biomass, as “renewable resources” although, from a purely scientific perspective, they are technically not “renewable” at all. Validity of renewability includes the definition that when a renewable resource is used, the particular renewable resource being used is not depleted. When any resource is burned and incinerated, it is completely depleted and there is nothing left of it but its byproducts, many of which are highly polluting.

In spite of the dispute regarding the renewability of biofuels, there is no dispute regarding the fact that the biofuels are not a clean source of energy production—it is a false solution and will further exacerbate the conditions in already overburdened communities.

⁴⁵ *Renewable Energy and Energy Efficiency Portfolio Standard (REPS)*, N.C. UTILITIES COMMISSION (last visited July 15, 2022), <https://www.ncuc.net/Reps/rebs.html#:~:text=Under%20this%20new%20law%2C%20investor,to%20a%2010%25%20REPS%20requirement>.

In some portions of our state, particularly in Eastern NC, agricultural and waste systems are turning to technological additions, such as anaerobic digestion systems over agricultural (hog) waste lagoons, to attempt to manage greenhouse gas emissions. Duke Energy has invested in several of these biogas projects, they note four of which (totaling 28MW of electric generation) in their Draft Plan.⁴⁶ These projects may comply with Federal and State laws, and they may benefit from subsidy programs that have the stated intent of improving the environment, however, they are not carbon free sources of electricity and should not be treated as such. In addition, the installation of pipeline to transport the methane or the tucking of waste to a facility, as proposed, further exposes communities to disruption during the laying pipeline, any accidents after the pipeline is laid, or to the excess diesel fuel emissions as tanker trucks move in and out to pick up and transport the hog waste to a process facility.

The State has gone to great lengths to streamline development of biogas projects in North Carolina. The General Assembly's passage of the 2021 Farm Bill, and the subsequent issuance of a general permit, will undoubtedly increase the number of bio-digestion systems across the state. These facts are contradictory to Duke's assessment that there are numerous barriers to this fuel source, and unfortunately because these fuels are becoming more readily available to market, these so called "low-carbon fuels" may actually increase overall carbon emissions in the state.

Biofuels from waste must be inherently dirty sources of energy, as such they first must go through an upgrading process to meet utility grade fuel standards; this is because these fuels are often tainted with impurities and contain excessive amounts of Nitrous

⁴⁶ DUKE ENERGY, CAROLINAS CARBON PLAN, APPENDIX O: LOW-CARBON FUELS AND HYDROGEN (2022) 1.

and/or Sulphur oxides. Frequently, gas that cannot be upgraded is scrubbed, flared off, or in the worst-case scenario, vented. In at least one instance, a biogas project used multiple times as much utility grade natural gas in their flare to inflate the heat content of combusted gas and burn off impure tail-gas that contained excessive sulfur dioxide from their own project⁴⁷. This amplified the amount of carbon dioxide emitted at the project site itself, additional carbon was emitted once the biogas was burned for electric generation. This further amplifies the quantity of carbon dioxide that is emitted into the atmosphere.

Research has shown that the production of methane from anaerobic digesters increases the levels of ammonia, hydrogen sulfide and sulfur dioxide in the air. Ammonia is an irritant and can burn the skin, mouth, throat, lungs, and eyes. It is a precursor to particulate matter which can further exacerbate pre-existing respiratory conditions. The process can also increase the level of nitrates that may find its way into groundwater and ultimately into the residential wells that most of these residents depend as a water resource.⁴⁸

There is a history of industrial animal operation waste management harming environmentally impacted communities.⁴⁹ In a report published by the National

⁴⁷ In re Request for Declaratory Ruling by Optima TH, LLC, Response of the Department of Environmental Quality Division of Ari Quality, Environmental Management Commission (Nov. 8, 2021), <https://deq.nc.gov/media/25587/open>.

⁴⁸ Recent studies suggest that when a lagoon is capped, potentially harmful ammonia accumulates in quantities about 3.5 times higher than in an uncapped lagoon. S.G. Lupis et al, *Best Management Practices for Reducing Ammonia Emissions: Lagoon Covers*, CO. ST. UNIV. EXT. (2012), <https://extension.colostate.edu/topic-areas/agriculture/best-management-practices-for-reducing-ammonia-emissions-lagoon-covers-1-631b/>; see also Carrie Hribar, *Understanding concentrated animal feeding operation and their impact on communities*, ENVIRONMENTAL HEALTH (2010), https://www.cdc.gov/nceh/ehs/docs/understanding_cafos_nalboh.pdf.

⁴⁹ For instance, note the 2017 settlement in NCEJN, Waterkeeper Alliance, Inc., and Cape Fear River Watch v. NC DEQ and the subsequent report on efforts by the Department to address equity in the Swine General Permit. N.C. DEP'T OF ENVTL. QUALITY, TITLE VI: INCREASING EQUITY, TRANSPARENCY, AND ENVIRONMENTAL

Association of Local Boards of Health, they state that, “Researchers in North Carolina found that the closer children live to a [concentrated animal feeding operation], the greater risk of asthma symptoms.”⁵⁰ Additionally, a paper by the CDC recently found that an estimated 17,900 U.S. deaths per year are attributable to pollution from farms.⁵¹

Since the scope of this docket is limited to sources of carbon that Duke Energy directly controls, RTHC and RCCSD acknowledge that these emissions are likely not under the reduction targets established by HB951. However, Duke Energy does purchase this gas feedstock and incorporates it into its fuel stream for generation purposes.⁵² As such, the carbon burned downstream at the point of generation should be accounted for in Duke’s carbon accounting methodology. RTHC and RCCSD urge the Commission to give additional scrutiny to this fuel type, and the carbon accounting methodology should be updated to include the flaring of biogas upstream since this is fuel generated in state and for the regulated utilities that have been mandated to reduce emissions.

F. Time requirements within House Bill 951

1. House Bill 951 only authorizes time extensions under certain, explicit circumstances.

With the enactment of HB951 on October 13, 2021, the North Carolina Legislature and Governor Cooper committed to decarbonizing North Carolina’s electricity sector by mandating that “[t]he Utilities Commission shall take all reasonable

PROTECTION IN THE PERMITTING OF SWINE OPERATIONS IN NORTH CAROLINA (2020), <https://deq.nc.gov/media/15659/download>.

⁵⁰ *Supra* Carrie Hribar.

⁵¹ Nina G.G. Domingo et al, *Air quality-related health damages of food*, PNAS (May 2021), <https://www.pnas.org/doi/full/10.1073/pnas.2013637118>.

⁵² *The Next Evolution in Agricultural Biogas – The OPTIMA-KV Pipeline Renewable Natural Gas Project*, CAVANAUGH (last visited July 15, 2022), <http://www.cavanaugholutions.com/bioenergy/projects/optima-kv/>.

steps to achieve a seventy percent (70%) reduction in emissions of carbon dioxide (CO₂) emitted in the State...by the year 2030 and carbon neutrality by the year 2050.”⁵³ The choice of these dates was intentional—timing matters when it comes to reducing carbon emissions and mitigating the impacts of climate change. These dates are also commonly used around the world as benchmarks for measuring carbon reductions within a geographic area as well as the future impacts of climate change.⁵⁴ For instance, taking urgent action to combat the drivers of climate change is one of the United Nations’ 2030 Sustainable Development Goals.⁵⁵ Missing these deadlines could harm North Carolina’s reputation in the global community. Lawmakers’ concern for timing is further demonstrated by the accelerated timeline for the adoption of an initial carbon plan, despite acknowledging the technological complexities of the task and requiring stakeholder input during the process.

When HB951 does contemplate an extension of time beyond the benchmarks of 2030 and 2050, it does so by applying explicit restrictions to what may be taken into consideration and how long that extension may be granted. While the Commission “[r]etain[s] discretion to determine optimal timing and generation and resource-mix to achieve the least cost path to compliance with the authorized carbon reduction goals...,” without a further showing that it is need, as discussed further below, this is statutorily limited to a maximum extension of 2 years.⁵⁶

i. “in the event”

⁵³ S.L. 2021-165, Part I, § 1.

⁵⁴ See e.g., UNITED NATIONS, INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE, CLIMATE CHANGE 2022: MITIGATION OF CLIMATE CHANGE (2022).

⁵⁵ UNITED NATIONS, DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS, SUSTAINABLE DEVELOPMENT GOALS (2020).

⁵⁶ S.L. 2021-165, Part I, § 1(4).

HB951 provides two, specific options that allow the Commission to “exceed the dates specified to achieve the authorized carbon reduction goals by more than two years:”

in the event the Commission authorizes construction of a nuclear facility or wind energy facility that would require additional time for completion due to technical, legal, logistical, or other factors beyond the control of the electric public utility, or in the event necessary to maintain the adequacy and reliability of the existing grid.⁵⁷

Both provisions are prefaced by the clause, “in the event.” According to Merriam-Webster,⁵⁸ there are a number of ways to interpret this phrase. The first and most straightforward definition is “something that happens” or “a noteworthy happening.” Applying this to the language within HB951 would require an “event” to happen prior to the Commission approving an extension of time beyond 2 years—without such an “event,” such a determination cannot be proscriptively made. In the context of HB951, such an “event” must be tied directly either to the Commission’s authorization of a nuclear or wind energy facility or be something that makes an extension “necessary to maintain the adequacy and reliability of the existing grid.” While such an “event” may be used to justify an extension in the future, as this is the *initial* development of the North Carolina Carbon Plan no “event” can have happened yet; therefore, there can be no basis at this point for a time extension beyond 2 years.

Another potential way to interpret “in the event” is as “a postulated outcome, condition, or eventuality.”⁵⁹ To postulate is “to assume or claim as true, existent, or necessary,”⁶⁰ so a postulated outcome would be one assumed or claimed to be true,

⁵⁷ *Id.*

⁵⁸ *In the event*, MERRIAM-WEBSTER DICTIONARY, <https://www.merriam-webster.com/dictionary/in%20the%20event>.

⁵⁹ *Id.*

⁶⁰ *Postulate* MERRIAM-WEBSTER DICTIONARY, <https://www.merriam-webster.com/dictionary/postulated>.

existent, and/or necessary. In the context of HB951, this understanding could be read to apply to the clause “in the event necessary to maintain the adequacy and reliability of the existing grid.” However, the very nature of a postulated outcome as “assumed” shows this reading as improper—the Commission’s determinations, particularly those as to least cost, must have a basis in evidence and fact. Further, this reading would provide a catch-all that would allow time extensions solely subject a declaration that it is necessary for the reliability of the grid. It is a general principle that lawmakers do not usually design laws to intentionally allow an exception to swallow the rule, HB951 should not be read that way either.

ii. *“authorizes construction of a nuclear facility or wind energy facility”*

The Carbon Plan, much like an Integrated Resource Plan,⁶¹ provides a framework that the Commission will then use to guide future decisions and to “achieve maximum efficiencies for the benefit of the people of North Carolina.”⁶² It does not, however, “authorize construction” of any generating facility by itself.⁶³ While at some future point the Commission may find it necessary to “exceed the dates specified...by more than two years” based upon the needs of a generating facility — such as after the Commission has approved a Certificate of Public Convenience and Necessity for “a nuclear facility or wind energy facility that would require additional time for completion due to technical,

⁶¹ The development process and content of both the Carbon Plan and Integrated Resource Plans are sufficiently similar for the Commission to be considering merging them together. NC Util. Comm’n, Order Requiring Filing of Carbon Plan and Establishing Procedural Deadlines, E-100 Sub-179 (2021).

⁶² N.C. GEN. STAT § 62-110.1(c).

⁶³ Similar to how the Commission, after developing the Integrated Resource Plan, “shall consider such analysis in acting upon any petition by any utility for construction,” N.C. GEN. STAT § 62-110.1(c), the Carbon Plan also provides the extensive analysis upon which petitions for a certificate of public convenience and necessity will be judged. These processes are, however, distinct.

legal, logistical, or other factors beyond the control of [Duke Energy]” — but because this is the *initial* Carbon Plan, such a finding would be improper at this time.

CONCLUSION

When Duke Energy and Dominion Energy cancelled the Atlantic Coast Pipeline, Governor Roy Cooper issued the following statement:

This decision and the changing energy landscape should lead to cleaner and more reliable energy generation in North Carolina. Our Clean Energy Plan provides an excellent framework and stakeholder process for renewable energy moving forward.⁶⁴

This statement by Governor Cooper is a meaningful way to close this discussion points in reference to the Commission’s Carbon Plan. The question before the Commission and our State is: Are we going to follow and commit to the “changing energy landscape” that “should lead to cleaner and more reliable energy generation in North Carolina?” Duke Energy seeks to make the case that a massive expansion of gas is a vital part of the “least cost” commitment of our state and that a rapid shift to clean renewable energy will not provide the most reliable and secure energy grid that our state needs. RTHC and RCCSD strongly disagree with Duke Energy on both accounts and, according to Governor Cooper’s statement, he most likely does as well. When all the evidence is compiled, reviewed, and analyzed, RTHC and RCCSD anticipate that the Commission’s position will be in alignment with Governor Cooper’s stated position and the one presented in these comments. If that be the case, the question remains: Will the Commission have the will to lead our state in the direction toward cleaner and more

⁶⁴ Press Release, Governor’s Office, Governor Cooper Comment on Pipeline Decision (July 5, 2020), <https://governor.nc.gov/news/governor-cooper-comment-pipeline-decision>.

reliable energy generation in North Carolina? RTHC and RCCSD expect and hope that will be so.

The RTHC and RCCSD appreciate the opportunity to provide comment on the North Carolina Carbon Plan process and Duke Energy's draft carbon plan, and hope that the Commission finds this information and commentary useful as it seeks to craft a Carbon Plan that truly represents all of North Carolina.

Respectfully submitted this 15th day of July, 2022.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document upon all counsel of record as listed in docket E-100, Sub 179 on the Commission's website by email transmission.

This the 15th day of July, 2022.

/s/ Ethan Blumenthal
Ethan Blumenthal