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December 9, 2020

**VIA ELECTRONIC FILING**

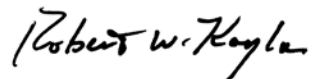
Ms. Kimberley A. Campbell  
Chief Clerk  
North Carolina Utilities Commission  
4325 Mail Service Center  
Raleigh, NC 27699-4300

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

Dear Ms. Campbell:

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

Sincerely,



Robert W. Kaylor, P.A.

Enclosure

cc: Parties of Record

OFFICIAL COPY

Dec 09 2020

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-2, SUB 1195

DOCKET NO. E-2, SUB 1150

**DOCKET NO. E-2, SUB 1195**

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

**DOCKET NO. E-2, SUB 1150**

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

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

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

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

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

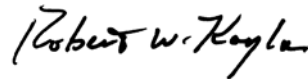
another attempt by Mr. Canaday to re-litigate the Commission's May 7, 2018 *Order Denying Motion for Reconsideration*, the Commission's August 3, 2018 *Order Denying Motions for Relief* in Docket No. E-2, Sub 1150, and/or the Commission's June 24, 2019 *Order Dismissing Complaint* in Docket No. E-2,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

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

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

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

This, the 9<sup>th</sup> day of December 2020.



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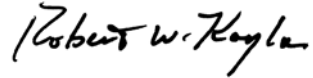
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## CERTIFICATE OF SERVICE

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

This the 9<sup>th</sup> day of December, 2020.



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