

OFFICIAL COPY

NO. COA P16-368

NORTH CAROLINA COURT OF APPEALS

FILED
NOV 15 2016
Clerk's Office
N.C. Utilities Commission

E-2 Sub 1089

STATE OF NORTH CAROLINA *EX*)
REL. UTILITIES COMMISSION;)
PUBLIC STAFF – NORTH CAROLINA)
UTILITIES COMMISSION; and DUKE)
ENERGY PROGRESS, LLC,)

Respondents,)

v.)

NC WARN and THE CLIMATE TIMES,)

Petitioners.)

FROM NC UTILITIES
COMMISSION
DOCKET NO. E-2, SUB 1089

RESPONSE TO MOTION FOR SANCTIONS

FILED
2016 NOV 14 P 12:31
CLERK OF N.C. UTILITIES COMMISSION

TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

ARGUMENT 3

 The procedural complexity of this case 3

 The petition is not frivolous 6

 If the petition is not granted, the Commission will be
 above appellate review in CPCN cases 8

 The motion for sanctions should be denied 9

CONCLUSION 10

CERTIFICATE OF SERVICE 11

TABLE OF AUTHORITIES

Cases

Maldjian v. Bloomquist, __ N.C. App. __, 782 S.E.2d 80 (2016)
..... 9

Spivey v. Wright’s Roofing, 225 N.C. App. 106, 737 S.E.2d 745
(2013) 3, 9

Cases (Out-of-State)

In re Estate of Dionne, 518 A.2d 178 (N.H. 1986) 6

Fent v. State ex rel. Dept. of Human Servs., 236 P.3d 61 (OK
2010) 6

G.B.B. Invs. Inc. v. Hinterkopf, 343 So. 2d 899 (Fla. Ct. App.
1977) 6

Jensen v. State Tax Comm’n, 835 P.2d 965 (Utah 1992) 6

Psychiatric Assocs. v. Siegel, 610 So. 2d 419 (Fla. 1992) 6

R. Commc’ns Inc. v. Sharp, 875 S.W.2d 314 (Tex. 1994) 6

Statutes

N.C. Gen. Stat. § 62-82(b) 3, 6

N.C. Gen. Stat. § 62-90 3, 8

N.C. Gen. Stat. § 62-92 8

Rules

N.C. R. App. Proc. 34 1
N.C. R. App. Proc. 34(a) 9
N.C. R. App. Proc. 37(a) 1

NO. COA P16-368

NORTH CAROLINA COURT OF APPEALS

STATE OF NORTH CAROLINA *EX*)
REL. UTILITIES COMMISSION;)
PUBLIC STAFF – NORTH CAROLINA)
UTILITIES COMMISSION; and DUKE)
ENERGY PROGRESS, LLC,)

Respondents,)

FROM NC UTILITIES
COMMISSION

DOCKET NO. E-2, SUB 1089

v.)

NC WARN and THE CLIMATE TIMES,)

Petitioners.)

RESPONSE TO MOTION FOR SANCTIONS

NOW COME Petitioners, NC WARN and The Climate Times, by and through undersigned counsel, pursuant to Rules 34 and 37(a) of the North Carolina Rules of Appellate Procedure, and file the following Response to Duke Energy Progress LLC’s Motion for Sanctions:

1. In its Response to Petition for Writ of Certiorari and Motion for Sanctions, Duke Energy Progress LLC (“Duke”) asked that this Court impose sanctions pursuant to N.C. R. App. Proc. 34 because Petitioners’ recent Petition for

Writ of Certiorari was supposedly frivolous. *Duke's Motion for Sanctions* p 33. Duke's Motion for Sanctions should be denied.

2. This is an unprecedented case that combines a complex procedural background and legal issues of great importance to the public. The N.C. Utilities Commission ("Commission") set an unjustified \$98 million bond as a condition of appealing Duke's Certificate of Public Convenience and Necessity ("CPCN Order") in the above-mentioned case. When Petitioners attempted to challenge the CPCN Order, their appeal was dismissed by the Commission. When Petitioners attempted to challenge the bond amount itself, the Commission circuitously used the erroneous bond as a basis to dismiss any challenge to the bond itself. Undersigned counsel is not aware of any case law supporting such actions by the Commission—actions that amount to usurping Petitioners' right to access our State's Courts. As described below, this dispute put Petitioners in a novel and uncertain procedural position and, as Petitioners candidly admitted to this Court in their recent Petition for Writ of Certiorari, Petitioners filed their Petition for Writ of Certiorari out of an abundance of caution.

3. There may be debate over whether the Petitioners' position is correct, but Petitioners urge that every filing was made in good faith, with a solid basis in law and fact, and with the earnest belief that the important legal issues in the above-captioned case warrant this Court's attention. Under the circumstances, and

as described in further detail below, sanctions are inappropriate. *See Spivey v. Wright's Roofing*, 225 N.C. App. 106, 119, 737 S.E.2d 745, 753-54 (2013) (holding that the defendants' position was incorrect but, nonetheless, sanctions were inappropriate).

THE PROCEDURAL COMPLEXITY OF THIS CASE

4. A full recitation of the procedural history of this case was recounted on pages 4-11 of Petitioners' Petition for Writ of Certiorari filed on 17 October 2016. To illustrate why that Petition for Writ of Certiorari was necessary, it will be helpful to briefly summarize some but not all of the history of this case.

5. In general, there is no bond requirement for appeals from the Commission. *See* N.C. Gen. Stat. § 62-90 *et seq.* However, there is a bond requirement for appeals from a CPCN Order. N.C. Gen. Stat. § 62-82(b). On 10 May 2016, the Commission entered its First Bond Order, which required that NC WARN and The Climate Times post a \$10,000,000 bond. (Pet. Ex. J). In response, on 23 May 2016, Petitioners filed a Petition for Writ of Certiorari asking that this Court overturn the Commission's \$10,000,000 bond requirement. On 27 May 2016, Petitioners filed a Notice of Appeal and Exceptions as to the First Bond Order and the underlying CPCN Order. (Pet. Ex. K).

6. On 7 June 2016, this Court granted the 23 May 2016 Petition for the purpose of vacating and remanding the \$10,000,000 First Bond Order and

requiring that the Commission set a bond based on competent evidence. (Ex. A, Order). Petitioners understandably interpreted this Court's Order as stating that the Commission's bond orders are not above challenge.

7. On 8 July 2016, the Commission entered a Second Bond Order that set a \$98,000,000 bond. (Pet. Ex. R). Petitioners filed a Notice of Appeal and Exceptions as to the Second Bond Order on 28 July 2016. (Pet. Ex. U). A few days later, on 2 August 2016, the Commission entered its First Dismissal Order, which used the bond requirement to dismiss Petitioners' 27 May 2016 Notice of Appeal as to the CPCN Order. (Pet. Ex. V). The First Dismissal Order did not address the Notice of Appeal of 28 July 2016 as to the Second Bond Order. *Id.*

8. Thus, after the First Dismissal Order, there was one dismissed Notice of Appeal and one active Notice of Appeal. To the best of undersigned counsel's knowledge, there is no published case law on whether that circumstance requires a third notice of appeal or a petition to this Court or both. Thus, in an abundance of caution, Petitioners took both tracks: on 18 August 2016, Petitioners filed a Notice of Appeal as to the First Dismissal Order, and a Petition for Writ of Certiorari as to the First Dismissal Order, the Second Bond Order and the CPCN Order. *See* (Pet. Ex. X).

9. On 6 September 2016, this Court denied the Petition for Writ of Certiorari in an Order that did not specify the basis for the denial. (Ex. B, Order):

A few days later, on 9 September 2016, Duke filed a Motion to Dismiss with the Commission. (Pet. Ex. Z).

10. Subsequently, on 19 September 2016, the Commission dismissed all of Petitioners' pending Notices of Appeal ("Second Dismissal Order"). (Pet. Ex. BB). The basis for the Second Dismissal Order was Petitioners' failure to post the bond—a bond that Petitioners contend is erroneous. *Id.* at 7-9.

11. In response, and in a final effort to achieve appellate review, Petitioners filed the present Petition for Writ of Certiorari on 17 October 2016. Cognizant of the mounting number of petitions, Petitioners' Petition for Writ of Certiorari noted the procedural uncertainty of the case and candidly expressed that—right or wrong—Petitioners believe that this final petition is unique from the prior petitions because there are no pending notices of appeal and therefore the only route to appellate review is through petition. *Pet. for Writ of Cert.* p 3. Further, the present Petition is unique because it is the only Petition to address the Second Dismissal Order.

12. Obviously this is a procedurally complex case. At many times there were elements of this case before both this Court and the Commission. NC WARN and The Climate Times never wanted to face the argument that their appeal should be dismissed because they did not file a petition or, alternatively, did not file a notice of appeal. Thus, Petitioners adopted both approaches out of an

abundance of caution. Given this unusual history, all filings were justified by good faith and grounded in the law and facts.

THE PETITION IS NOT FRIVOLOUS

13. The present Petition for Writ of Certiorari (17 October 2016) is far from frivolous. By way of example but not limitation, the Petition makes a persuasive case that the \$98,000,000 bond violates the Open Courts Clause of the N.C. Constitution. In similar circumstances, this precise argument has been adopted by several states throughout the country. *E.g.*, *Fent v. State ex rel. Dept. of Human Servs.*, 236 P.3d 61 (OK 2010); *G.B.B. Invs. Inc. v. Hinterkopf*, 343 So. 2d 899 (Fla. Ct. App. 1977); *Psychiatric Assocs. v. Siegel*, 610 So. 2d 419 (Fla. 1992); *In re Estate of Dionne*, 518 A.2d 178 (N.H. 1986); *R. Commc'ns Inc. v. Sharp*, 875 S.W.2d 314 (Tex. 1994); *Jensen v. State Tax Comm'n*, 835 P.2d 965 (Utah 1992).

14. Moreover, the Petition makes a compelling case that the Commission misapplied the bond statute. The bond statute, by its very terms, applies only to an “appeal from any order of the Commission which awards any such certificate [of public convenience and necessity].” N.C. Gen. Stat. § 62-82(b). Yet the Commission used the bond statute as a basis for dismissing all appeals—including appeals from orders other than the CPCN Order. (Pet. Ex. BB, pp 7-9).

15. Perhaps Petitioners are correct or perhaps they are incorrect. But there is nothing frivolous about these very real challenges to the Commission's orders.

16. According to Duke, when this Court denied the prior 18 August 2016 Petition for Writ of Certiorari, that denial constituted a rejection of the above-described arguments proffered in the present 17 October 2016 Petition for Writ of Certiorari. This argument is erroneous for at least two (2) reasons. First, the present Petition (17 October 2016) is the first to specifically address the Second Bond Order.

17. Second, there is no way for Duke or Petitioners to know whether the denial of the 18 August 2016 Petition was on the merits or, alternatively, only procedural. The denial did not articulate a basis—it was a simple denial without findings. (Ex. B, Order). In the present 17 October 2016 Petition for Writ of Certiorari, Petitioners candidly acknowledged and addressed this issue. After admitting that “This Court declined to issue its Writ,” Petitioners were forthright with why they were filing the present Petition: “Petitioners believe that the present Petition is distinguishable from the prior Petition because all notices of appeal before the Commission have been dismissed and therefore there is no path to appellate review without this Court issuing its Writ.” *Pet. for Writ of Cert.* p 3. In other words, Petitioners were not clear whether the prior Petition was denied

because there was another available route to appellate review, namely the pending Notice of Appeal. Once that Notice of Appeal was dismissed, the only route available was the present Petition.

IF THE PETITION IS NOT GRANTED, THE COMMISSION WILL BE ABOVE APPELLATE REVIEW IN CPCN CASES

18. The importance of the issues in this case demonstrate why Petitioners felt it necessary, to be certain of their rights, to file the present Petition.

19. In general, litigants have an automatic right to appeal decisions of the Commission. N.C. Gen. Stat. § 62-90. However, in CPCN cases only, there is a bond requirement. N.C. Gen. Stat. § 62-92.

20. In the present case, the Commission set an extravagant bond that almost no litigant could post: \$98,000,000. (Pet. Ex. R). When that bond was, predictably, not posted, the Commission dismissed Petitioners' challenges to the CPCN Order. While we disagree, we understand this reasoning. But what is unfair and worthy of this Court's close attention is that the Commission subsequently dismissed an appeal of the Second Bond Order itself. (Pet. Ex. BB).

21. The Commission's actions place it above reproach. If this Court does not issue its Writ, then the Commission will be judge, jury, and executioner—the Commission will be allowed to issue permits, set extravagant and erroneous bonds designed to prevent appellate review of said permits, and then use the erroneous bonds to dismiss any challenges to the permits or to the bonds themselves.

THE MOTION FOR SANCTIONS SHOULD BE DENIED

22. According to N.C. R. App. Proc. 34(a), sanctions may be imposed only if an appeal is frivolous.

23. Petitioners are correct in their challenges to the Commission's orders. But even if Petitioners are not correct, their actions do not rise to the level of frivolousness. At minimum, this case should be guided by the example set in *Spivey v. Wright's Roofing*, 225 N.C. App. 106, 737 S.E.2d 745 (2013). In *Spivey*, this Court characterized the defendant's position as "not a strong one." *Id.* at 119, 737 S.E.2d at 753. Nonetheless, this Court determined that sanctions were inappropriate under the circumstances: "Although we agree [that] . . . Defendants' position was not a strong one and interpret the underlying theme of Defendants' challenge to the Commission's order to be more equitable than legal in nature, we conclude, '[i]n our discretion,' that sanctions should not be imposed upon counsel pursuant to Rule 34." *Id.* at 119, 737 S.E.2d at 753-54. Many other cases stand for the same proposition: that even if a litigant loses, this Court has discretion to not award sanctions. *E.g., Maldjian v. Bloomquist*, __ N.C. App. __, __, 782 S.E.2d 80, 85-86 (2016) (the N.C. Rules of Appellate Procedure were violated, but in this Court's discretion, no sanctions were imposed).

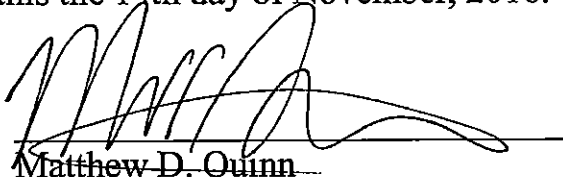
24. In this novel and complex case, Petitioners did their best under uncertain procedural circumstances to bring about appellate review. Given the

importance of this case, and the substantial legal support for Petitioners' arguments, this Court should exercise its discretion and not impose sanctions. The alternative is drastic: the Commission will be allowed to cut off appellate review in CPCN cases by issuing extravagant yet unchallengeable bond orders.

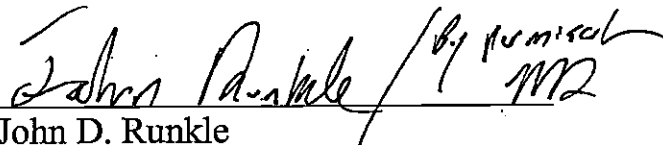
CONCLUSION

WHEREFORE, Petitioners NC WARN and The Climate Times respectfully request that this Court deny Duke's Motion for Sanctions.

Respectfully submitted, this the 14th day of November, 2016.



Matthew D. Quinn
N.C. State Bar No.: 40004
Law Offices of F. Bryan Brice, Jr.
127 W. Hargett Street, Suite 600
Raleigh, NC 27601
(919) 754-1600 – telephone
(919) 573-4252 – facsimile
matt@attybryanbrice.com



John D. Runkle
N.C. State Bar No.: 10503
2121 Damascus Church Road
Chapel Hill, NC 27516
(919) 942-0600 – telephone
jrunkle@pricecreek.com

Counsel for NC WARN & The Climate Times

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a copy of the foregoing RESPONSE TO MOTION FOR SANCTIONS was served on the following parties to this action, pursuant to Appellate Rule 26, by depositing the same enclosed in a postpaid, properly addressed wrapper in a Post Office or official depository under the exclusive care and custody of the United States Post Office Department to:

Gail L. Mount
Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, NC 27699-4300
mount@ncuc.net

Sam Watson
General Counsel
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, NC 27699-4300
swatson@ncuc.net

Antoinette R. Wike
Chief Counsel
Public Staff
4326 Mail Service Center
Raleigh, NC 27699-4300
Antoinette.Wike@psncuc.nc.gov

Lawrence B. Somers
Deputy General Counsel
Duke Energy Corporation
PO Box 1551/NCRH 20
Raleigh, NC 27602-1551
bo.summers@duke-energy.com

Dwight Allen
Allen Law Offices, PLLC
Suite 200
1514 Glenwood Avenue
Raleigh, NC 27608
dallen@theallenlawoffices.com

Scott Carver
Columbia Energy, LLC
One Town Center, 21st Floor
East Brunswick, NJ 08816
scarver@lspower.com

Gurdin Thompson
Austin D. Gerken, Jr.
Southern Environmental Law Center
Suite 220
601 West Rosemary Street
Chapel Hill, NC 27516-2356
gthompson@selcnc.org
djgerken@selcnc.org

Peter H. Ledford
NC Sustainable Energy Association
4800 Six Forks Road
Suite 300
Raleigh, NC 27609
peter@energync.org

Ralph McDonald
Adam Olls
Bailey and Dixon, LLP
Carolina Industrial Group for Fair
Utility Rates II
P.O. Box 1351
Raleigh, NC 27602-1351
mcdonald@bdixon.com

Richard Fireman
374 Laughing River Road
Mars Hill, NC 28754
firepeople@main.nc.us

Daniel Higgins
Burns Day & Presnell, P.A.
Columbia Energy, LLC
P.O. Box 10867
Raleigh, NC 27605
dhiggins@bdppa.com


Sharon Miller
Carolina Utility Customer Association
Suite 201 Trawick Professional Ctr
1708 Trawick Road
Raleigh, NC 27604
smiller@cucainc.org

Robert Page
Crisp, Page & Currin, LLP
Carolina Utility Customer Association
Suite 205
4010 Barrett Drive
Raleigh, NC 27609-6622
rpage@cpclaw.com

Grant Millin
48 Riceville Road, B314
Asheville, NC 28805
grantmillin@gmail.com

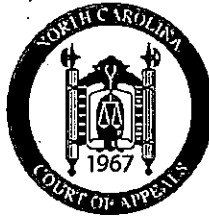
Brad Rouse
3 Stegall Lane
Asheville, NC 28805
brouse_invest@yahoo.com

This the 14th day of November, 2016.



Matthew D. Quinn

EXHIBIT A



North Carolina Court of Appeals

DANIEL M. HORNE JR., Clerk
Court of Appeals Building
One West Morgan Street
Raleigh, NC 27601
(919) 831-3600

Fax: (919) 831-3615
Web: <http://www.nccourts.org>

Mailing Address:
P. O. Box 2779
Raleigh, NC 27602

No. P16-368

**STATE OF NORTH CAROLINA EX
REL. UTILITIES COMMISSION;
PUBLIC STAFF-NORTH CAROLINA
UTILITIES COMMISSION; AND DUKE
ENERGY PROGRESS, LLC,**

RESPONDENTS,

V.

**NC WARN AND THE CLIMATE TIMES,
PETITIONERS.**

From N.C. Utilities Commission
(1089 E-2, SUB)

ORDER

The following order was entered:

The 'Petition for Writ of Certiorari' and 'Petition for Writ of Supersedeas' filed in this cause by N.C. Waste Awareness and Reduction Network and The Climate Times on 19 May 2016 are decided as follows: The petition for writ of certiorari is allowed for the limited purpose of vacating and remanding the order entered on 10 May 2016 by the North Carolina Utilities Commission setting an appeal bond. On remand, the Commission shall, in its discretion, set bond in an amount that is in accordance with N.C. Gen. Stat. 62-82(b) and based upon competent evidence. Because we vacate the Commission's order, we dismiss the petition for writ of supersedeas as moot.

By order of the Court this the 7th of June 2016.

WITNESS my hand and the seal of the North Carolina Court of Appeals, this the 7th day of June 2016.

Daniel M. Horne Jr.
Clerk, North Carolina Court of Appeals

Copy to:
Mr. Matthew D. Quinn, Attorney at Law, For NC Warn, et al
Ms. Gail L. Mount, Chief Clerk, For Utilities Commission
Mr. Sam Watson, General Counsel, For Utilities Commission

Ms. Antoinette R. Wike, Chief Counsel, For Utilities Commission
Mr. Lawrence B. Somers, Deputy General Counsel, For Duke Energy Progress, Inc.
Mr. Dwight W. Allen, Attorney at Law
Mr. Scott Carver
Mr. Daniel C. Higgins, Attorney at Law
Mr. Richard Freeman
Mr. Adam N. Oils, Attorney at Law
Mr. Ralph McDonald
Mr. Michael D. Youth, Attorney at Law
Mr. Peter H. Ledford
Ms. Gudrun Thompson, Attorney at Law
Mr. Austen D. Gerken, Jr., Attorney at Law
Ms. Sharon Miller
Mr. Grant Millin
Mr. Brad Rouse
Mr. Robert F. Page, Attorney at Law
Mr. Britton H. Allen, Attorney at Law
Hon. Geneva Thigpen, Utilities Commission

EXHIBIT B



North Carolina Court of Appeals

DANIEL M. HORNE JR., Clerk
Court of Appeals Building
One West Morgan Street
Raleigh, NC 27601
(919) 831-3600

Mailing Address:
P. O. Box 2779
Raleigh, NC 27602

Fax: (919) 831-3615
Web: <http://www.nccourts.org>

No. P16-368

STATE OF NORTH CAROLINA EX
REL. UTILITIES COMMISSION;
PUBLIC STAFF-NORTH CAROLINA
UTILITIES COMMISSION; AND DUKE
ENERGY PROGRESS, LLC,

RESPONDENTS,

V.

NC WARN AND THE CLIMATE TIMES,
PETITIONERS.

From N.C. Utilities Commission
(1089 E-2, SUB)

ORDER

The following order was entered:

The petition filed in this cause on the 18th of August 2016 and designated 'Petition for Writ of Certiorari' is denied.

By order of the Court this the 6th of September 2016.

The above order is therefore certified to the N.C. Utilities Commission.

WITNESS my hand and the seal of the North Carolina Court of Appeals, this the 6th day of September 2016.

Daniel M. Horne Jr.
Clerk, North Carolina Court of Appeals

Copy to:

Mr. Matthew D. Quinn, Attorney at Law, For NC Warn, et al
Ms. Gail L. Mount, Chief Clerk, For Utilities Commission
Mr. Sam Watson, General Counsel, For Utilities Commission
Ms. Antoinette R. Wike, Chief Counsel, For Utilities Commission
Mr. Lawrence B. Somers, Deputy General Counsel, For Duke Energy Progress, Inc.
Mr. Dwight W. Allen, Attorney at Law

Mr. Scott Carver
Mr. Daniel C. Higgins, Attorney at Law
Mr. Richard Freeman
Mr. Adam N. Olls, Attorney at Law
Mr. Ralph McDonald
Mr. Michael D. Youth, Attorney at Law
Mr. Peter H. Ledford
Ms. Gudrun Thompson, Attorney at Law
Mr. Austen D. Gerken, Jr., Attorney at Law
Ms. Sharon Miller
Mr. Grant Millin
Mr. Brad Rouse
Mr. Robert F. Page, Attorney at Law
Mr. Britton H. Allen, Attorney at Law
Hon. Geneva Thigpen, Utilities Commission

LAW OFFICES OF
F. BRYAN BRICE, JR.

FILED

NOV 15 2016

127 W. HARGETT ST.
SUITE 600
RALEIGH, NC 27601

Clerk's Office
N.C. Utilities Commission
TEL: 919-754-1600
FAX: 919-573-4252
matt@attybryanbrice.com

November 14, 2016

E-2 SUB 1089

Gail L. Mount
Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, NC 27699-4300

Sam Watson
General Counsel
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, NC 27699-4300

Antoinette R. Wike
Chief Counsel
Public Staff
4326 Mail Service Center
Raleigh, NC 27699-4300

Lawrence B. Somers
Deputy General Counsel
Duke Energy Corporation
PO Box 1551/NCRH 20
Raleigh, NC 27602-1551

Dwight Allen
Allen Law Offices, PLLC
Suite 200
1514 Glenwood Avenue
Raleigh, NC 27608

Scott Carver
Columbia Energy, LLC
One Town Center, 21st Floor
East Brunswick, NJ 08816

Gurdin Thompson
Austin D. Gernken, Jr.
Southern Environmental Law Center
Suite 220
601 West Rosemary Street
Chapel Hill, NC 27516-2356

Peter H. Ledford
Michael D. Youth
NC Sustainable Energy Association
4800 Six Forks Road
Suite 300
Raleigh, NC 27609

Ralph McDonald
Adam Olls
Bailey and Dixon, LLP
Carolina Industrial Group for Fair
Utility Rates II
P.O. Box 1351
Raleigh, NC 27602-1351

Daniel Higgins
Burns Day & Presnell, P.A.
Columbia Energy, LLC
P.O. Box 10867
Raleigh, NC 27605

Sharon Miller
Carolina Utility Customer Association
Suite 201 Trawick Professional Ctr
Raleigh, NC 27604

November 14, 2016

Page 2

| | |
|---|---|
| <p>Brad Rouse 3 Stegall Lane Asheville, NC 28805</p> <p>Robert Page Crisp, Page & Currin, LLP Carolina Utility Customer Association Suite 205 4010 Barrett Drive Raleigh, NC 27609-6622</p> | <p>Grant Millin 48 Riceville Road, B314 Asheville, NC 28805</p> |
|---|---|

Re: State of North Carolina EX REL. Utilities Commission, et al. v. NC WARN and The Climate Times; NC Utilities Commission; Docket No. E-2, Sub 1089; NC COA; P16-368

Dear Counsel:

Enclosed with this letter, please find a file-stamped copy of NC WARN and The Climate Times' *Response to Motion for Sanctions* for the above-referenced matter.

Please do not hesitate to contact our office if you have any questions or concerns. Thank you.

Sincerely,



Jeremy L. Best
Paralegal to Matthew D. Quinn

Enclosure