

INFORMATION SHEET

**OFFICIAL COPY**

PRESIDING: Finley, Beatty, Brown-Bland, Bailey, Dockham, Patterson, Gray

PLACE: Dobbs Building, Raleigh, NC

DATE: June 17, 2016

TIME: 9:30 a.m. to 12:34 p.m.

DOCKET NO.: E-2, Sub 1089

COMPANY: Duke Energy Progress, LLC

DESCRIPTION: Duke Energy Progress, LLC, Application for a Certificate of Public Convenience and Necessity to Construct a 752 Megawatt Natural Gas-Fueled Electric Generating Facility in Buncombe County near the City of Asheville

APPEARANCES

FOR DUKE ENERGY PROGRESS, LLC:

Lawrence B. Somers, Esq.

FOR NC WARN:

John Runkle, Esq.

WITNESSES

Mark Landseidel

James Warren

EXHIBITS

DEP Cross Examination Exhibit Number 1 (I/A)

DEP Cross Examination Exhibit Number 2 (I/A)

DEP Cross Examination Exhibit Number 3 (I/A)

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COPIES ORDERED: Email:-Runkle

REPORTED BY: Linda Garrett

TRANSCRIBED BY: Linda Garrett

DATE TRANSCRIBED: June 20, 2016

TRANSCRIPT PAGES: 134

PREFILED PAGES: 12

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**JUN 21 2016**

Clerk's Office  
N.C. Utilities Commission

**NORTH CAROLINA UTILITIES COMMISSION**  
**APPEARANCE SLIP**

DATE 6/17/16 DOCKET #: E2 sub 1089  
NAME AND TITLE OF ATTORNEY John D. Runkle  
FIRM NAME Attorney at Law  
ADDRESS 2121 Damascus Church Rd  
CITY Chapel Hill NC ZIP 27516

**APPEARING FOR:** NC WARN, The Climate Times

APPLICANT \_\_\_\_\_ COMPLAINANT  INTERVENER \_\_\_\_\_  
PROTESTANT \_\_\_\_\_ RESPONDENT \_\_\_\_\_ DEFENDANT \_\_\_\_\_

PLEASE NOTE: Electronic Copies of the regular transcript can be obtained from the NCUC web site at [HTTP://NCUC.commerce.state.nc.us/docksrch.html](http://NCUC.commerce.state.nc.us/docksrch.html) under the respective docket number.

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\_\_\_\_\_ Number of copies of Confidential portion of regular transcript (assuming a confidentiality agreement has been signed). This will be mailed.

Name: John D. Runkle  
Phone #: 919-942-0600  
Email: jrunkle@pricecreek.com

Signature: John Runkle

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Signature: \_\_\_\_\_

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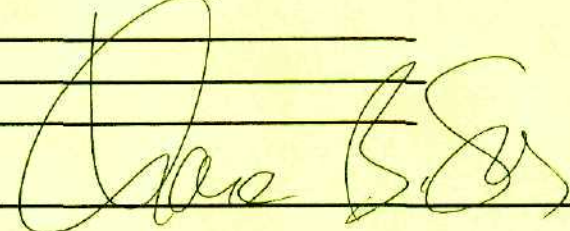
DATE 6/17/16 DOCKET #: E-2, Sub 1089  
NAME AND TITLE OF ATTORNEY Lawrence B. Somers, Deputy General Counsel  
FIRM NAME Duke Energy Progress, LLC Corp.  
ADDRESS \_\_\_\_\_  
CITY \_\_\_\_\_ ZIP \_\_\_\_\_

**APPEARING FOR:** Duke Energy Progress, LLC  
APPLICANT  COMPLAINTANT \_\_\_\_\_ INTERVENER \_\_\_\_\_  
PROTESTANT \_\_\_\_\_ RESPONDENT \_\_\_\_\_ DEFENDANT \_\_\_\_\_

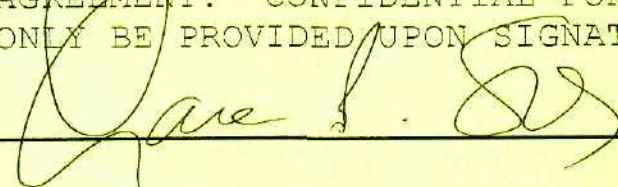
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**NC WARN**



*Building people power for  
climate & energy justice*



# Groups Ask Appeals Court to Step in, Overturn \$10 Million Bond in Power Plant Fight — News Release from NC WARN

May 19, 2016

*Utility Commission's unprecedented attempt to padlock the courthouse doors would further shield Duke Energy — and the Commission — from scrutiny in billion-dollar boondoggle*

Today NC WARN and The Climate Times called for the NC Court of Appeals to immediately suspend regulators' efforts to block our appeal of a Duke Energy power plant in Asheville. Last week, the NC Utilities Commissioners ordered us to post a \$10 million bond before we can ask the Court of Appeals to overturn the Commission's rubber-stamp approval of the plant.

That unprecedented bond action is yet another example of Commissioners shielding Duke — and themselves, in this case — from scrutiny of Duke executives' business model, which is disastrous for the climate crisis and is based on building unneeded power plants and raising rates despite a glut of regional supply of electricity for years to come.

Duke proposes to build up to 15 large gas-fired plants in the Carolinas alone, even as natural gas has become the largest greenhouse problem in the US due to methane leakage throughout the industry.

We are optimistic the Court will agree that Duke and the Utilities Commission cannot be allowed to padlock the courthouse door. The Court of Appeals has, in the past, scolded a lower court for imposing excessive bonds without sufficient evidence of potential harm.

The 1963 law allowing Duke Energy to seek a bond from critics appealing a power plant approval is purportedly designed to offset costs stemming — specifically — from delays in getting construction of an approved plant started. But Duke refused to even state that our appeal would delay construction, even as it directed the Commission to impose a \$50 million bond.

Even more amazing is that the Commissioners went along with the prohibitive bond approach, calling for a \$10 million bond even while providing no rationale for the bond amount.

In fact, neither Duke nor the Commission cited a shred of evidence to support those giant numbers — either of which would prevent any critic from taking the case to court. The

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Commission merely pulled a number out of its regulatory hat – without citing any facts to support the choice of \$10 million, versus \$5 million or \$20 million or 50 cents.

And that’s even after admitting it had never made a ruling setting a bond in any power plant case.

State law is deeply flawed when the Commissioners – whose very pro-Duke ruling is being appealed – are allowed to set a bond in the case at a level that blocks an appeal.

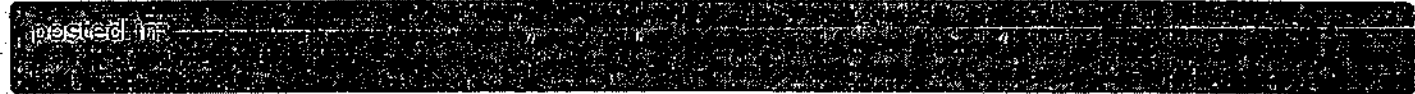
NC WARN and The Climate Times are appealing the Asheville fracking-gas plant because the Commission rubber-stamped the project without considering expert witnesses who argue that the plant is not needed and would be disastrous for the climate crisis and risky for electricity customers.

The Commission approved the project in just 45 days, a fast-track that makes errors more likely. In the words of attorney Matt Quinn, this is *"the worst of all possible cases in which to set a bond so high that appeal becomes impossible."*

Duke Energy’s uncertainty that its case for the plant will hold up in court is a risk that should fall on the corporation and its shareholders – not ratepayers and not critics seeking a thorough, transparent review of the \$1.1 billion project.

Duke Energy’s control over various levels of our state government and civic institutions has become a crisis of democracy in North Carolina – and is directly linked to the surging climate crisis that is damaging millions and threatens us all with extinction.

**[See today’s filing to the NC Court of Appeals](#)**



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NC WARN - P.O. Box 61051, Durham NC 27715-1051

Ph: (919) 416-5077 - Fax: (919) 286-3985 - Email: [NC.WARN@ncwarn.org](mailto:NC.WARN@ncwarn.org)



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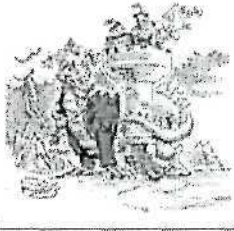
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Ph: (919) 416-5077 Fax: (919) 286-3985 Email [NC\\_WARN@ncwarn.org](mailto:NC_WARN@ncwarn.org)



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NC WARN  
1 hr ·

Lots happening on the natural gas front, here is some GOOD NEWS!  
Sometimes the system works as it should...This is an important incremental victory and embarrassment to the commission.  
#StanduptoDuke

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NC WARN » Appeals Court Deals Blow to Duke Energy and Regulators in Power Plant Fight — News...

Court rejects \$10 million bond set by utilities commission that would have blocked critics' chance to appeal Duke's global warming machine

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# NC WARN



Building people power for  
climate & energy justice



## Appeals Court Deals Blow to Duke Energy and Regulators in Power Plant Fight — News Release from NC WARN

June 7, 2016

*Court rejects \$10 million bond set by utilities commission that would have blocked critics' chance to appeal Duke's global warming machine*

Late today the NC Court of Appeals dealt a rare blow to the state utilities commission and Duke Energy by reversing an order that would have blocked a court appeal of a controversial power plant in Asheville.

The court agreed with NC WARN and The Climate Times, **who argued** that a \$10 million bond set by the commission as a condition of appealing the plant approval was not based on evidence.

The court essentially ordered the commission to conduct a proper proceeding over the bond issue instead of pulling multi-million dollar amounts out of its regulatory hat while not even requiring Duke to provide any evidence – or to even state – that our appeal would delay construction of the \$1.1 billion project.

If the commission blows the issue again, the court could decide to accept the appeal without a bond – which would be entirely appropriate.

In approving the huge gas-fired power plant in a fast-track proceeding, the utilities commission ignored – and allowed Duke to ignore – affidavits from technical experts arguing that the plant is not needed, that the future supply and price of gas are highly risky, and that the plant would amplify greenhouse emissions at the worst possible time.

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