



Brian S. Heslin
Deputy General Counsel

Duke Energy Corporation
525 S. Tryon Street (DEP-09A)
Charlotte, NC 28202

o: 980.373.0550

Brian.Heslin@duke-energy.com

October 16, 2023

VIA ELECTRONIC SUBMISSION

Jonathan Booe
Executive Vice President & Chief Operating Officer
North American Energy Standards Board
1415 Louisiana Street, Suite 3460
Houston, Texas 77002

RE: Duke Energy Progress, LLC, Duke Energy Carolinas, LLC, Duke Energy Florida, LLC, Duke Energy Indiana, LLC, Duke Energy Ohio, LLC, and Duke Energy Kentucky, LLC's Comments on Standards Request No. R23001

Dear Mr. Booe:

I am writing this letter to the North American Energy Standards Board's ("NAESB") Wholesale Gas Quadrant ("WGQ") Executive Committee on behalf of Duke Energy Progress, LLC, Duke Energy Carolinas, LLC, Duke Energy Florida, LLC, Duke Energy Indiana, LLC, Duke Energy Ohio, LLC, and Duke Energy Kentucky, LLC (collectively, the "Duke Energy Electric Utilities" or "Companies") as a part of the WGQ End User Segment, and with respect to Standards Request No. R23001 – "Enhancement to the NAESB Base Contract for Sale and Purchase of Natural Gas Force Majeure Terms." On September 5, 2023, we previously filed a letter with NAESB reflecting informal comments concerning Standards Request No. R23001 on behalf of the Duke Energy Electric Utilities. In this letter, we reiterate salient positions from the September 5th letter and include additional points concerning Standards Request No. R23001 in light of the WGQ Executive Committee's planned review and vote on the same recommendation during its upcoming meeting on October 26, 2023.

As explained in our prior letter, the Duke Energy Electric Utilities urge the WGQ Executive Committee to support revisions to the NAESB Base Contract for Sale and Purchase of Natural Gas to improve the clarity associated with contractual force majeure provisions and, therefore, we oppose the No-Action Recommendations by other participants. The Duke Energy Electric Utilities are obligated to serve their various retail and wholesale customers and must plan extensively in order to meet peak electric generation load based on long-term gas supply plans. At its core, a paramount requirement for electric utilities is reliability of service. If the upstream reliability of local distribution companies ("LDCs") and third-party term suppliers that the Companies rely upon to deliver

natural gas is diminished due to unfavorable force majeure provisions, this impairs the Duke Energy Electric Utilities' collective ability to count on that supply when they need it most to reliably serve their respective customers.

Additionally, it is fundamental for the Duke Energy Electric Utilities to rely on contractual agreements with third-party term suppliers to provide firm-delivered natural gas supply to the Duke Energy Electric Utilities for use in gas generation to serve customer load. Electric utilities already are at a disadvantage when it comes to force majeure events, as force majeure letters from suppliers usually arrive days after the event in question has already occurred. The fallout from recent winter storms are prime examples. As a result, *real-time* force majeure notifications more readily show up as pipeline reductions versus letters from suppliers. For practical purposes, then, other than pipeline reductions, real-time force majeure notifications are generally non-existent.

This is particularly concerning for the Duke Energy Electric Utilities when one considers that, as detailed in the North American Electric Reliability Corporation's September 21, 2023, presentation detailing Winter Storm Elliott's effects on the bulk-power system during worst conditions ("NERC Presentation"), there have been five weather events in the past 11 years where "unplanned cold weather-related generation outages jeopardized bulk-power system reliability[.]"¹ To that end, a "Near-Term Action" recommendation from the NERC Presentation is that NAESB "should convene natural gas and electric grid operators, and LDCs to identify *improvements in communication* during extreme cold weather events to enhance situational awareness across natural gas supply chain."² (emphasis added). To be clear, there are other observations included in the NERC Presentation that reflect the need for a coordinated and collective response from the electric and gas utility industries to bolster pipeline and grid reliability. From an End User Segment perspective, however, it is also clear that in this age of increasing weather events threatening the bulk-power system, now is not the time to further disadvantage electric utilities by making it easier for third-party natural gas suppliers to sidestep their contractual obligations by hampering efforts to clarify force majeure contractual language.

Therefore, the Duke Energy Electric Utilities continue to support revisions to the NAESB Base Contract for Sale and Purchase of Natural Gas to improve the clarity associated with contractual force majeure provisions. Although the suggested revisions contemplated by Standards Request No. R23001 may require additional edits and evaluation to arrive at an acceptable solution for most WGQ members, the Duke Energy Electric Utilities do not believe the "perfect should be the enemy of the good." Suppliers and upstream providers should not be able to shield themselves by invoking contractual force majeure provisions in response to mere cold weather events, and much care *ought* to be taken when revising the language in question in order to avoid unduly shifting more risk than already exists to end users such as the Duke Energy Electric Utilities. For the stated

¹ December 2022 Winter Storm Elliott Grid Operations: Key Findings and Recommendations – *FERC, NERC, and Regional Entity Joint Staff Inquiry*, (September 21, 2023, at 3) (<https://www.ferc.gov/news-events/news/presentation-ferc-nerc-regional-entity-joint-inquiry-winter-storm-elliott>).

² *Id.* at 19.

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reasons above, the Duke Energy Electric Utilities support continued discussion regarding Standards Request No. R23001, and request that NAESB and the WGQ consider these comments during the October 26th WGQ Executive Committee meeting.

Please feel free to contact me should you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brian S. Heslin", with a long horizontal flourish extending to the right.

Brian S. Heslin