

September 9, 2019

The Honorable Roy Cooper
North Carolina Office of the Governor
20301 Mail Service Center
Raleigh, NC 27699-0301



Ms. Sushma Masemore
Deputy Assistant Secretary for Environment & State Energy Director
N.C. Department of Environmental Quality
217 West Jones Street
Raleigh, NC 27603

CC: North Carolina Utilities Commission
Chairwoman Charlotte Mitchell and Commissioners ToNola D. Brown-Bland, Lyons
Gray, and Daniel G. Clodfelter
430 North Salisbury Street
Dobbs Building, 5th Floor
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**Re: 2019 North Carolina Clean Energy Plan Draft Report –
Comments Submitted by the Energy Justice North Carolina Coalition**

Dear Governor Cooper and Ms. Masemore,

In the tragic wake of Hurricane Dorian, it is indisputable that we are in a climate emergency and need the type of holistic, urgent, and just energy revolution necessary to adequately address this existential crisis. On behalf of our over 80,000 members and supporters in North Carolina, we, the Energy Justice NC Coalition thank the Cooper administration for commencing the process of establishing a North Carolina Clean Energy Plan consistent with the Governor's landmark Executive Order 80. The Energy Justice NC Coalition consists of the undersigned local, state, and national environmental justice, social justice, faith, environmental, and conservation groups.

We welcome the Governor's goal to reduce greenhouse gas emissions by 60-70% below 2005 levels in the electricity sector by 2030, which is in line with the urgent call from the United Nations Intergovernmental Panel on Climate Change that the world must slash global emissions at unprecedented rates in the next decade to avoid climate catastrophe. However, as the Cooper administration shapes the specific policies to finalize the Plan, we urge the Governor to rapidly adopt policies that can practically achieve these targets and directly address the environmental injustices that plague the state's electricity sector. In particular, we strongly encourage the Governor to advocate for and take a lead on executive policy to end Duke Energy's monopoly over North Carolina's energy system—

and to transform the state's fossil-fuel-dominated electricity system to 100% renewable energy as soon as practicable in order to fight the climate crisis and ensure economic and environmental justice for all North Carolinians.

Following a litany of horrific hurricanes and forest fires where lives were lost, recurring coal ash spills, rampant air and water pollution, and millions of dollars of damage to public and private property, there is no question that North Carolinians are in the eye of the storm of the climate emergency. North Carolinians, and particularly indigenous peoples, communities of color and low-income communities, disproportionately suffer from the fossil fuel pollution that Duke Energy perpetuates. These same communities also bear the highest energy burdens in the state, with the most impoverished households spending an average of 17 percent of their gross income on home energy costs in 2016. Therefore, North Carolinians are urgently calling on Governor Cooper—for the remainder of the Governor's term and over the course of the election cycle—to be a true climate and equity leader in this era of runaway climate change. The hallmark of climate leadership in North Carolina is to keep fossil fuels in the ground and stop the influence of Duke Energy and other fossil fuel companies over the state's energy portfolio by ending the monopoly system. We are looking to Governor Cooper to prioritize the health of our families, climate, and democracy over Duke Energy and fossil fuel industry profits.

Below, we discuss key improvements to the Plan that are necessary to ensure that the final Clean Energy Plan meets the Governor's clean energy goals and achieves economic and environmental justice for all North Carolinians. Now more than ever, we are in a moment that requires swift and bold action.

1. End the Duke Energy Monopoly and Permit Energy Choice for all North Carolinians

We are pleased that the draft Plan recognizes the need for comprehensive reform of utility incentives and utility system planning to drive the clean energy transition. The investigatory process laid out in Recommendation A-1 should begin immediately, and any legislation or regulatory action that might conflict with the decisions made by that process should be postponed until the process is complete.

The reform process should result in systemic change of the entire electric power sector. In particular, the regulatory compact between the state government and electricity monopolies like Duke Energy is based on the fundamental premise that utilities are required to act in the public interest. North Carolina adopted the current Public Utilities Act governing the regulation of public utilities in 1963, 55 years ago, when the effects of a fossil-fuel-based energy economy were unknown. Today, however, those consequences are crystal clear: global climate change, rising sea levels, ocean acidification, ecological disruptions, social collapse and mass species extinctions, the existential threat that the human species may be unable to survive the consequent changes in a rapidly heating and cooling world, and rampant air and water pollution that have led to increased public health risks and long-term illnesses, particularly affecting our state's low-income communities and communities of color.

In light of the incomparable harms of relying on fossil fuels to power North Carolina's electricity, Duke Energy continues to burn dirty energy (including fracked gas and coal), build new dirty energy plants, and hinder the widespread adoption of clean energy—all actions which work against the public interest. We know that the investor-owned electric monopolies that are regulated under the Public Utilities Act show no voluntary interest in reducing carbon dioxide and natural gas emissions at the rate required by a global consensus of scientists, as the utility monopolies continue to propose Integrated Resource Plans that are inadequate for a 21st century energy economy. Therefore, it is incumbent on the Governor to drive change in our energy system and end the monopoly of Duke Energy and other fossil fuel industry players.

2. End all Fossil Fuel Extraction and Rapidly Phase Out Existing Extraction

To avoid the most catastrophic climate change damages, total greenhouse emissions must stay within the “pollution budget” for limiting warming to no more than 1.5°C. Fossil fuel extraction is the single greatest contributor to the climate emergency and must be limited to stay within this budget. There is enough oil, gas, and coal in already developed fields and mines globally—that is, places where the infrastructure is built and the capitol is sunk—to far exceed the pollution budget for 1.5°C if these reserves were all produced and burned. This means that meeting global climate goals will require North Carolina to put an immediate halt to the approval of new fossil fuel projects and phase-out existing oil, gas and coal burning power plants.

Simply put, the Governor must act to keep fossil fuels in the ground and harness the power of his executive authority to make this a reality. The Governor has the executive authority through his agencies to deny all state permits and challenge federal permits required for all new fossil fuel infrastructure in North Carolina, which includes both state projects and federal projects like the proposed Atlantic Coast Pipeline, the Mountain Valley Pipeline and the 12 Gigawatts of fracked gas power plants that Duke Energy plans to build over the next 15 years. The Governor also has the ability to ban fracking across the state. No clean energy revolution can be possible or address the climate crisis without halting all new fossil fuel extraction and phasing out existing extraction.

Harms of dirty gas

The goals set in the draft Plan can only be achieved if a moratorium is placed on new fossil fuel gas infrastructure. Since the Plan was not able to model methane emissions from fossil fuel gas operations, it does not account for that super-potent pollutant. Methane has 86 times the effect of CO₂ over a 20-year period, and is both leaking and being vented in large quantities from oil and gas operations.

The final Plan should include halting major pipeline efforts in North Carolina. In particular, the Atlantic Coast Pipeline brings gas from the fracking fields of Pennsylvania and West Virginia in order to supply a fleet of new gas-burning power plants that the corporation intends to build in North Carolina. The Mountain Valley Pipeline is also a fracked gas pipeline bringing gas from West Virginia to southern Virginia and cuts through

North Carolina. Research shows that the U.S. fracking boom is the primary cause of recent increases in atmospheric methane.

The fact that not all of these methane emissions occur in North Carolina is irrelevant. If this gas expansion is allowed to continue, North Carolina will be supporting the market that causes those emissions to occur elsewhere, and the resulting climate impacts will be felt across the state in the form of worsening droughts, flooding and wildfires. This is a global problem that is not served by emissions reduction plans that refuse to look beyond state borders. This continued gas expansion would also be an economic disaster, since those plants will be stranded assets well before 2030 as the costs of solar, wind and storage continue to drop.

If Duke's gas plans are implemented, any CO2 reductions achieved under the Plan would be nullified. Some of the recommendations in the draft Plan might have the effect of precluding gas expansion. But an explicit call for a moratorium on new gas would ensure that we avoid these risky developments as well as create market certainty for clean energy developers seeking to operate in the State.

Harms of wood pellets

Similarly, the climate impacts of North Carolina wood pellet operations are not accounted for in the draft Plan. While it is true that the wood pellets produced here are not part of the North Carolina energy mix, the State continues to issue permits to additional facilities that are clear-cutting NC forests to produce pellets for export to Europe. The burning of wood pellets for fuel is a misguided attempt to reduce carbon emissions. In fact, it worsens emissions in the following ways:

- carbon is emitted when the pellets are burned for fuel in Europe;
- carbon is emitted during logging and processing of the trees and shipping of the pellets; and
- the forests, if left intact, would be a significant carbon sink, absorbing CO2 and thus helping to slow the climate crisis.

Harms of biogas

The final Clean Energy Plan must address the air and water pollution harms of using biogas. The most widely-used biogas technology relies on primitive lagoon and sprayfield waste management systems at industrial hog operations, which store hog feces and urine in often-unlined pits and spray the liquid waste on to nearby cropland. This system pollutes streams, waterways and terrestrial ecosystems, harms public health of communities living nearby and downstream, and creates noxious odors. These harms are disproportionately felt by Native American, Latinx, and African American communities.

3. Ensure a Just Transition Led by Impacted Communities and Workers and that Upholds Indigenous Rights

In effectuating this energy transformation, it is critical to prioritize support for communities that have historically been harmed first and worst by the dirty energy economy and for workers in the energy sector and related industries. The draft Plan includes just transition initiatives, and it can be further strengthened and made more robust. We encourage the Governor to flesh out a comprehensive economic plan to drive job growth and invest in a new green economy that is designed, built and governed by communities and workers. Building new energy, waste, transportation and housing infrastructure, designed to serve climate resilience and human needs; retrofitting millions of buildings to conserve energy and other resources; and actively restoring natural ecosystems to protect communities from climate change are but a few ways to build a sustainable, low carbon economy in which no one is left behind during this change.

Additionally, the draft Plan does not address indigenous peoples' rights. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) must be upheld and implemented, along with treaties, instruments and decisions of international law that recognizes that Indigenous Peoples have the right to give or withhold "free, prior and informed consent" to legislation and development of their lands, territories and/or natural resources, cultural properties and heritage, and other interests, and to receive remedies of losses and damages of property taken without consent.

4. Build a 100% Clean Electricity System that Benefits All North Carolinians

The draft Plan outlines a goal to "increase the existing Renewable Energy and Energy Efficiency Portfolio Standard (REPS) or create a new policy with zero-emitting resource targets. . ." RPS goals, like the State's REPS policy, are pivotal to states' success at ramping up clean energy generation, but they need to be binding, ambitious, and well-designed. North Carolina's current REPS policy is outdated, ineffective and facing expiration. The State must update its REPS policy or create an equivalent statewide mandate that lays out the path for 100% clean, renewable electricity generation by 2030. This policy must exclude dirty sources, including all fossil fuels and biomass, and have provisions to advance democratic energy sources, specifically community and rooftop solar.

In addition to Renewable Portfolio Standards, the State must invest in clean energy policies that support democratic clean energy development, including but not limited to: incentives for wind, solar, and storage investments; community solar and virtual net metering; time-of-use rates; and a green energy bank or statewide energy fund. The State must consider the environmental and social benefits of clean energy sources—particularly distributed clean energy sources—in prioritizing siting and determining compensation mechanisms.

Finally, the State must remove barriers to individuals and businesses investing in clean energy by blocking discriminatory fixed fees and allowing for solar third-party power

purchase agreements. This latter mechanism was strongly advanced by stakeholders in the facilitated workshops and should therefore be included as a recommendation in the Plan.

None of these policies can exist in a vacuum. The State must invest time and money into smart, long-term planning to ensure that these policies, new business models, and grid infrastructure are developed to protect the most vulnerable individuals and communities. As fossil fuel operations decline, the State can facilitate job training and create jobs for former fossil fuel workers to help build a clean energy system. Those who have been hit worst by the climate crisis and fossil fuel industry pollution need to be included in planning and decision-making around building a fossil fuel-free future, and they must have priority in building both skills and tangible wealth in the transition. As the State invests in new energy infrastructure, it must ensure that low- and moderate-income folks do not face a further disproportionate energy burden.

5. Address the Inequitable Access to Clean Energy for Rural Residents, and the Harmful Policies and Practices Employed by Rural Electric Cooperatives and Municipal Electric Utilities

The draft Plan does include some recommendations pertaining to policies and programs that electric cooperatives (co-ops) and municipal electric utilities (munis) can implement to expand access to energy efficiency and renewable energy for their members/ratepayers (and rightly includes co-ops and munis in the Energy Efficiency Resource Standard recommendation) However, it falls far short of achieving its purported equity goals in this regard. Specifically, the draft Plan does not address: the effective deregulation of co-op and muni governance, rates and investments by the state; the allowance in the state REPS for co-ops and munis to outsource the attainment of Renewable Energy Credits in order to meet their REPS' requirement; or the exemption of co-ops (and munis) from HB 589 (2017) and associated solar energy policies and program requirements. The deregulation of co-ops in particular has led to extremely high monthly fixed charges, punitive and/or ineffective net metering/net billing policies and rates, miniscule energy efficiency and renewable energy investments, and the persistence of high energy cost burdens for rural households.

The draft Plan does little to address these problems and barriers. As such, we recommend the following be added to the final Clean Energy Plan:

(1) propose/advance legislation similar to Colorado's 2010 Act "Concerning Increased Transparency in the Governance of Cooperative Electric Associations," which, among other things, required meetings of Boards of Directors to be open to member attendance, the timely posting of meeting agendas prior to each meeting as well as the meeting minutes following each board meeting, and the establishment and publication of clear nomination and election policies and procedures;

(2) enact an executive policy, and/or advance/propose legislation providing co-op and muni members/ratepayers a direct pathway for the review and resolution of

grievances related to governance, rates, investments, policies, etc proposed or implemented by their utility;

(3) place co-ops and muni rates, rate structures (including net metering/net billing rates) and investments under the purview of the North Carolina Utilities Commission; and

(4) develop a statewide network of co-ops, munis, and local weatherization, housing and economic development agencies to combine resources and enhance outreach and uptake for energy efficiency programming benefitting low-income reside, etc. include requirements for co-ops and munis to meet the obligations in an equal manner as for investor-owned utilities.

6. Electrify the Transportation Sector

Though the Plan touches upon this issue, the final Plan must be strengthened by adopting an ambitious pathway to tackle the state's second leading source of GHG emissions: transportation. GHG pollutants from transportation make up more than 32% of the state's total emissions. In particular, highway mobile sources—which include light duty vehicles like passenger cars and trucks, as well as heavy-duty vehicles like buses and commercial trucks—account for 90% of transportation emissions. At the same time, fossil fuel vehicles threaten the public health and safety of North Carolinians, costing billions of dollars in health costs each year nationwide. Thus, in order for the Clean Energy Plan to meet the goal of zero emissions by mid-century, the Plan must not only green the electricity grid but also, in tandem, electrify ground transportation and reduce vehicle miles traveled in order to achieve meaningful GHG emission reductions by 2030 as well as combat egregious air pollution problems. The Plan completely fails to name a target date and relies solely on market mechanisms. We urge the Governor to set the ambitious target date of 2030 to ban all fossil fuel car sales in order to adequately meet the challenge of the climate crisis.

7. Ensure that the North Carolina Utilities Commission is Acting in the Public Interest and against the Climate Crisis

In establishing systemic change in the utilities sector, it is clear that the transition period will still require a strong North Carolina Utilities Commission ("NCUC") that acts in the public interest. Governor Cooper can utilize his legal authority to appoint commissioners to the NCUC, which is required to provide fair regulation within the public's interest, promote least cost energy planning, provide just and reasonable rates, and promote conservation of energy and the development of renewable energy and energy efficiency. To date, however, the NCUC has failed its duty to make decisions in line with these mandates to tackle climate chaos and long-term climate mitigation costs that will impact North Carolinian consumers. Specifically, the NCUC has failed to consider the risks to the environment and to the people of this state that are associated with continuing to build out an energy infrastructure dependent on large polluting and fossil-fuel generating power stations. Reforms in the leadership at the NCUC are needed to fulfill our common commitment to address climate change, transition to a clean energy economy, and protect

the beauty, integrity, stability and health of our human and biological communities for ourselves and our posterity.

We recognize and applaud the Governor's 2017 and 2019 appointments of Commissioners ToNola Brown-Bland, Daniel Clodfelter, Charlotte Mitchell, and new potential Commissioners who we expect to be confirmed. The existing Commissioners have stood firm under pressure from the fossil fuel industry and made fair decisions. We encourage the appointment of future new commissioners who will similarly commit to protect the interests of North Carolinians and who (i) have a proven commitment to protecting and promoting North Carolinians' public interests; (ii) have no conflicts of interest with fossil fuel money; and (iii) have legal, medical, and technical expertise as well as experience in holistic risk evaluation.

8. Inspire and Give Hope to All North Carolinians

We applaud the Governor's efforts to kick off the Plan with stakeholder processes, and we encourage the Governor's office to expand and accelerate these efforts to reach the many disparate communities that are intimately affected by the state's energy choices. We urge the Governor to proactively reach out to communities and organizations that are not typically represented in these spaces, especially community groups that are all volunteer, low-income communities, indigenous peoples, and communities of color.

The purpose of diversifying and strengthening the shareholder process is to inspire and give hope to all North Carolinians—for which we are desperate in light of ensuing climate and environmental injustices that pervade the state. We have hope that we will no longer be relegated to the inequity of having to pay the lion's share of a utility that is making us sick, destroying our communities and our future. We retain hope for a clean energy future that protects our environment and provides us jobs. We want and deserve hope that our politicians are people who are intrinsically inspired by the powerful words of our Constitution not extrinsically lured by the toxic corporate utility money. We hope that the Cooper administration can deliver on these hopes of all North Carolinians.

We appreciate your time and consideration.

Sincerely,

Energy Justice NC Coalition

350 Triangle
Alliance for Climate Education
Alliance for Energy Democracy
Appalachian Voices
Concerned Citizens of Maxton
Center for Biological Diversity

Energy Justice North Carolina Coalition
Comments on draft 2019 Clean Energy Plan

Down East Coal Ash Coalition
Friends of the Earth
NC Climate Justice Collective
NC Environmental Justice Network
NC WARN
Protecting Progress in Durham
Rachel Carson Council
RedTailed Hawk Collective

The Energy Justice NC Coalition is a collaboration of 14 local, state and national nonprofit organizations working to ensure economic and environmental justice for North Carolinians by restructuring the electric utility industry, and establish competitive retail and wholesale electricity markets in the state. Such a restructuring will separate the generation and sale of electricity from the development, maintenance and regulation of the transmission and distribution system. It will also create a more economical and efficient electricity market in North Carolina that lowers electric rates and eliminates the external costs of energy production currently borne by ratepayers and taxpayers.