

Emergency Complaint to Attorney General Roy Cooper to Enforce and Amend the Corporate Charter of Duke Energy to Reduce the Impacts of the Climate Crisis

NC WARN, Beloved Community Center,
Communications Workers of America Local 3607, Climate Voices US,
Black Workers for Justice, the North Carolina Climate Justice Summit
and North Carolina Environmental Justice Network

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SUMMARY

This EMERGENCY COMPLAINT to the Attorney General requires that his office begin an investigation and, as a result of that investigation, if he determines it just and necessary, bring action to the Superior Court to enforce and amend Duke Energy's corporate charter issued by the State of North Carolina. Duke Energy emits more carbon dioxide and other greenhouse gases than any other electric utility in the United States, thus it is one of the world's largest contributors to the climate crisis.

This EMERGENCY COMPLAINT is an extraordinary process, and is seldom used, but this is an extraordinary case in which it must be used. The Complainants are seeking to amend Duke Energy's corporate charter because:

1. The global climate crisis poses a severe and accelerating hazard to the well-being of every North Carolinian, especially the disadvantaged. Based on new and continuing evidence, the world's leading scientists vigorously warn that humanity must immediately begin making dramatic reductions in carbon pollution, while preparing for worsening weather extremes and rising sea levels that could make most coastal areas uninhabitable within a generation. But, despite the gravity of climate change, Duke Energy executives continue to make climate change worse by planning to operate coal-fired power plants for decades, and by continuing to build natural gas plants that can be even worse than coal in causing climate disruption during the next 20 years, a critical period for humanity. Meanwhile, initiatives to reduce emissions on a global or national scale fall far short of what the science demands is necessary.
2. The People of North Carolina have the civic responsibility – explicitly established in the State Constitution and reaffirmed by the North Carolina Supreme Court, as well

as state and federal case law – to compel corporations in this state to meet basic standards for operating in the public good and public interest. The Attorney General has the authority to intervene on behalf of the People of North Carolina in order to police any corporation that abuses its power and recklessly endangers people's lives and economic well-being. The law clearly states that any corporation that disregards its responsibilities to the public established in its corporate charter may have that charter amended or forfeited.

3. Duke Energy is in violation of its corporate charter, as evidenced by a persistent pattern of criminal activity, fouling the state's air, land and water, continued injustices against low-wealth customers, using influence to control public debate and political processes, and holding back the growth of clean energy in order to maintain monopoly control.
4. Among Duke Energy's abuses are its persistent misleading of the public, for example: Boasting of its closure of coal-fired power plants and claiming carbon emission reductions, even though the closed plants were small and rarely used and were replaced with greater pollution levels from new coal and natural gas plants; and claiming to support solar power while officially planning to generate only 4% of energy sales in the Carolinas from all renewable energy in 2029 and fighting pro-solar policies alongside the Koch Brothers and front groups.
5. The use of coal-fired electricity, with its multiple hazards, is in rapid decline in much of the US. Now is the time for this state to phase out coal plants and begin the inevitable transition to distributed, renewable energy that will add to the thousands of jobs already being created by the growing clean energy industry.
6. There is a better path forward for North Carolina than the business model that Duke Energy forces onto its monopoly captive customers. The resources are at hand to de-carbonize the state, while benefiting local economies and current coal plant workers.

We cannot wait for Duke Energy executives to act responsibly; their actions require immediate and forceful restraint. We are therefore calling on the Attorney General to exercise his constitutional authority and duty to investigate our complaint, to enforce the corporate charter and to amend it in the following ways:

1. Duke Energy shall phase out all of its 20 coal-fired generating units at its seven plant sites in North Carolina by 2020 without building additional natural gas plants;

2. Duke Energy shall stop actively blocking competition in its monopoly service areas in North Carolina; and
3. Duke Energy shall be prohibited from making political contributions, backroom deals, and other efforts to assert influence over the political process in North Carolina.

These three remedies, although not alleviating all of the abusive practices we reference in this EMERGENCY COMPLAINT, would go a long way toward making Duke Energy less harmful to families and businesses across North Carolina while creating a competitive and economically beneficial electricity marketplace. Our request is *not* that the Attorney General seek to totally dissolve or revoke the corporate charter of Duke Energy. However, the charter granted to Duke Energy by the People of North Carolina does not, and cannot, authorize or condone corporate actions that endanger the lives of every person in the State, and that continue to fuel the global climate crisis.