

## NC WARN'S FCC COMPLAINT REGARDING WUNC

[filed online 2/11/20]

From: Jim Warren

Subject: Violation of Enhanced Underwriting Rules by WUNC

Description: I am filing this complaint on behalf of climate justice nonprofit NC WARN. This complaint alleges the violation of enhanced underwriting rules by WUNC, which is a noncommercial radio station whose city of license is Chapel Hill, North Carolina. WUNC repeatedly airs sponsor announcements by Duke Energy Corporation, Duke Energy Carolinas, LLC and/or Duke Energy Progress, LLC (collectively, “Duke” or “Duke Energy”), that violate the rule prohibiting announcements which are promotional in nature by noncommercial radio stations.

By way of example, WUNC has repeatedly broadcast an announcement on behalf of Duke stating, among other things, that Duke is building a “Smarter Energy Future.” That statement—“Smarter Energy Future”—is qualitative, not value neutral, and generally promotional in nature. Other recurring Duke Energy announcements on WUNC include: an announcement stating that Duke is “reducing carbon emissions by 36 percent since 2005 and committed to continue reducing emissions and increasing renewable energy” (aired November 12, 2019, among many other occurrences) and an announcement stating that Duke is “committed to increasing solar power across North Carolina” (aired shortly before 7:00 am on January 14, 2020, among other times). Again, these statements among others are qualitative, not value neutral, and generally promotional in nature.

As you know, noncommercial radio stations like WUNC are prohibited from airing commercial advertising. 47 U.S.C. Section 399b(b)(2). “Commercial advertising” includes announcements that promote an entity’s business or contain qualitative descriptions. 47 U.S.C. Section 399b(a); *Commission Policy Concerning the Noncommercial Nature of Educational Broadcasting Stations*, Public Notice, 7 FCC Rcd 827 (1992). By any measure, Duke’s above-described announcements promote its business interests and are qualitative in violation of applicable rules.

In addition to being promotional and qualitative, Duke’s above-described advertisements on WUNC are misleading. For example, Duke’s claim that it is “reducing carbon emissions by 36 percent since 2005” is based only on its carbon dioxide emissions and ignores its significantly increased emission of methane, which is also a carbon compound and is 100 times more potent at climate warming than carbon dioxide. Moreover, Duke’s claim that it is “committed to increasing solar power across North Carolina” is misleading in light of the fact that Duke plans to rely on only 8% renewable generation by 2033, with 40% of its power generated from fossil fuels at that time. In light of the current climate crisis, these misleading, promotional and qualitative advertisements should not be permitted over WUNC’s airwaves.

We are concerned that the financial relationship between Duke and WUNC explains why these misleading advertisements are permitted on WUNC radio. Duke’s underwriting funds paid to

WUNC are not reflected on WUNC's online public inspection file maintained pursuant to 47 C.F.R. Section 73.3527. We have requested that WUNC provide information on the extent of its funding by Duke, but WUNC declined to provide that information.

By letter of August 28, 2019 (<https://www.ncwarn.org/wp-content/uploads/ltr-8-28-19-to-C-Walker-WUNC.pdf>), NC WARN notified WUNC of its continued inappropriate promotion of Duke Energy via the underwriting cited above. However, WUNC has continued most of these promotional announcements. Despite a series of communications we have had with them, they have declined to change this practice. Therefore, WUNC's failure to comply with enhanced underwriting rules is not merely inadvertent.

We therefore ask that the FCC enter an order prohibiting WUNC from continuing to broadcast promotional, misleading advertising by Duke. We also ask the FCC to order WUNC to disclose all announcements it has broadcast by Duke in the last 24 months so that a full evaluation of its compliance with enhanced underwriting rules can be ascertained. Further, we ask that the FCC require that WUNC disclose the extent of its funding by Duke.

Radio Issues: Commercials/Promotions

Your Radio Method: Broadcast (AM/FM)

Date of Your Issues/Problem: January 14, 2020

Time of Your Issue/Problem: Approximately 7:00 am

City Where Program was Viewed/Heard: Chapel Hill, North Carolina

State Where Program was Viewed/Heard: North Carolina

Name of program or DJ: Local underwriting during broadcast of NPR's Morning Edition

Name of Radio Company: WUNC

Account Number: N/A

Your First Name: Jim

Your Last Name: Warren

Address: P.O. Box 61051, Durham, NC 27715

Phone: 919-416-5077

Filing on Behalf of Someone: Yes