

MONOPOLY MONEY

How Duke Energy Uses Campaign Contributions to Rewrite the Rules and Increase Profits



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Executive Summary

Consumer, business and environmental advocates have long asserted that Duke Energy's political campaign contributions distort public policy in North Carolina in favor of the company, whether that policy is related to the regulation of air emissions from power plants, the storage and clean-up of coal ash, or bills related to renewable energy. In the 2019 legislative session, Senate Bill 559 (House Bill 624), the "Storm Securitization and Alternative Rates" bill (short title) provides an excellent test case to investigate the electric monopoly's political influence in the state. The bill appears to be Duke Energy's top legislative priority for 2019, was largely written by the utility, and was introduced in early April without any public input or stakeholder engagement. It is opposed by nearly every consumer, business and environmental group in the state and yet has been moving quickly through the Senate with bipartisan support. This report analyzes Duke Energy's campaign contributions during the 2017-2018 election cycle in order to draw conclusions about why Senate Bill 559 / House Bill 624 continues to move through the legislature despite the strong level of opposition. Our key findings are that:

1. Nearly half of all campaign contributions from Duke Energy in 2017-2018 were donated to only eleven Senators and House Representatives, each of which either represent top Republican leadership, serve as Chair or Vice / Co-Chair on one of the committees Duke's bill has or will have to pass through, and / or is listed as a sponsor or co-sponsor of Duke's bill.
2. Duke's average donation to the primary sponsors and co-sponsors of Senate Bill 559 / House Bill 624 was three times greater than their average donation to legislators that have not sponsored the bill.
3. Senator Dan Blue, the bill's key Democratic champion, received twice as much in campaign contributions from Duke Energy in 2017-2018 than in any year prior.

These results shine a bright spotlight on how Duke Energy used targeted campaign donations in the 2017-2018 election cycle to garner the influence necessary to get their bill passed. The recipients of those donations are precisely the people charged with protecting the public interest from the power of the electric monopoly, and as such, need to be serving as the "referees" when it comes to controlling Duke Energy's pursuit of profits, which are generated almost exclusively from captive ratepayers. However, it is apparent that Duke is gaming the system by "bribing the referees" using the profits they earn as a regulated electric monopoly.

In the case of Senate Bill 559 / House Bill 624, if the bill is passed, Duke's campaign contributions to key legislators will have resulted in an even greater profit windfall for the utility, thereby allowing them to spend even more to influence legislators on key policy decisions in the future. In this manner Duke's campaign contributions create a vicious circle that benefits the utility, its shareholders, and the legislative beneficiaries at the expense of, literally, everybody else.

So far the strategy is working despite stakeholder opposition. Thus, until the rules are changed, it falls on the legislators to serve as ethical referees, but the evidence in this report combined with the success of the bill thus far suggests that that is not happening.



Background on Senate Bill 559 (House Bill 624)


In brief, S-559/H-624 has two unrelated components. The first part of the bill – which takes up nearly 15 of the bill’s 16 pages – deals with financing for certain storm recovery costs. This part allows Duke Energy and other public utilities to issue bonds or use other financial instruments to recover costs associated with storm recovery. While consumer, business, and environmental advocates oppose the bill in its entirety, it is the second part that has received the most attention and garnered the strongest opposition.

Part two of the legislation would enable the North Carolina Utilities Commission — the state agency charged with regulating the rates and investments of publicly-regulated utilities — to approve multi-year rate plans put forth by the state’s electric monopolies within the timeframe of a general rate case. The rate plans proposed by Duke Energy could cover up to a five-year period, enabling the utilities to include future planned costs that may occur three to five years in the future without having to come back to the Commission to get approval in a new rate case. In other words, a multi-year rate plan would allow Duke to ask and obtain approval for future expenses at currently estimated costs, even though time and technology may render such expenses cheaper or counter to the public interest by the time the investments are made.

The second part of the bill also authorizes the Commission to approve “banded” returns on equity, which sets a low- and high-end range of authorized returns, or profits, that a utility can earn on its investments, with the current rate of return acting as the midpoint. This means that Duke Energy could earn a higher profit on its investments than it is currently authorized to, and pass those extra profits on to shareholders rather than returning them to ratepayers.

Opposition to the legislation was immediate and strong, with public statements and testimony opposing the bill coming from numerous environmental and renewable energy advocates, consumer advocates such as AARP North Carolina, and large business interests including the North Carolina Manufacturers Association, Carolina Utility Customers Association, WalMart, and Google. The key reasons these groups oppose the bill are because they claim it:

- Was written behind closed doors, without any stakeholder input;
- Represents the biggest change to ratemaking in North Carolina’s history;
- Would undermine the traditional ratemaking and regulatory process;
- Lacks any consumer protections or efficiency metrics, which allows the utility to put forward plans that primarily affect their revenue instead of other public policy goals;
- Shifts the risk of bad investments away from shareholders and onto ratepayers;
- Could prevent public input on key energy policies and investments for up to five years;
- Could lead to unchecked increases in electricity rates for consumers;

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- Would likely result in ratepayers being overcharged hundreds of millions of dollars, with the earnings going to Duke's shareholders, as they claim was the case following similar bills being passed in Virginia and South Carolina in recent years;
 - Could allow Duke Energy to pass \$13 billion in "grid improvement" costs and \$10 billion in coal ash cleanup costs onto ratepayers, with less transparency and accountability.

The stakeholders opposing the bill have asked the bill's sponsors to separate the two parts of the bill and initiate a stakeholder process to examine the impacts of the "Alternative Ratemaking" proposal within the context of a larger discussion of utility regulatory reform. As of the writing of this report, the Senate version of the bill has moved quickly through the Finance and Agriculture/Environment/Natural Resources committees and is set to be considered in the Senate Rules Committee on April 30th before going before the full Senate for a vote.

To our knowledge, no interest group other than Duke Energy is supporting the bill. Which begs the fundamental question of this report: Why are legislators advancing this bill given the strong opposition from a broad range of stakeholders, as well as its potential impacts on ratepayers? An examination of Duke Energy's political contributions sheds a bright light on that very issue.



Structure of the Report

The body of the report is broken up into three parts:

- Campaign contributions from Duke Energy's PAC and top executives in 2017-2018, by chamber (House/Senate) and political party
- The top recipients of Duke Energy campaign contributions in 2017-2018
- A comparison of campaign contributions from Duke Energy between legislators who have sponsored S-559 or H-624 and those who have not

It ends with key findings and a discussion, and a table detailing Duke Energy's campaign contributions to all House Representatives and Senators in 2017-2018 is provided in the Appendix.

Duke Energy's Campaign Contributions

The following table details campaign contributions from Duke Energy's Political Action Committee (PAC) as well as top Duke Energy executives in 2017-2018. In total, these entities donated \$439,950 to candidates running for the North Carolina House of Representatives and Senate. More than 80 percent of all campaign contributions were donated to Republicans, which is expected given the strong majority, and therefore power over the political process that Republicans hold in both chambers. As a result of this large disparity, the average total donation to Republicans in 2017-2018 was approximately 3.6 times higher than the average Duke Energy contribution to Democrats (in each chamber and in total).

Campaign Contributions from Duke Energy PAC and top executives

	Total Duke donations	No. members in chamber	Donations per member
House of Representatives			
Democrat	\$45,300	55	\$824
Republican	\$186,200	65	\$2,865
Total	\$231,500	120	\$1,929
Senate			
Democrat	\$37,500	21	\$1,786
Republican	\$170,950	29	\$5,895
Total	\$208,450	50	\$4,169
Both chambers			
Democrat	\$82,800	76	\$1,089
Republican	\$357,150	94	\$3,799
Total	\$439,950	170	\$2,588
Ratio R's to D's (total)	4.3	1.2	3.5

Source: North Carolina Board of Elections, Campaign Document Search by Entity.



Top Recipients of Duke Energy Campaign Contributions

Nearly half (43 percent) of all campaign contributions from Duke Energy in 2017-2018 were donated to the campaigns of only eleven Senators and House Representatives — out of a total of 170 members in both chambers. Of the list of the top recipients, ten are Republicans, while only one — Senator Dan Blue, the Senate Minority Leader and an original sponsor and key champion of S-559 — is a Democrat.

Top Eleven Recipients of Duke Energy campaign contributions

Senate/House	First	Last	Donations from Duke PAC/Execs	Party	District
Senate	Philip	Berger	\$68,950	Republican	S-030
Senate	Paul	Newton	\$20,700	Republican	S-036
House	Timothy	Moore	\$15,500	Republican	H-111
Senate	Daniel	Blue	\$10,900	Democrat	S-014
Senate	Harry	Brown	\$10,400	Republican	S-006
Senate	William	Rabon	\$10,400	Republican	S-008
House	Dean	Arp	\$10,400	Republican	H-069
House	Jason	Saine	\$10,400	Republican	H-097
House	John	Bell	\$10,400	Republican	H-010
House	David	Lewis	\$10,400	Republican	H-053
House	Pat	McElraft	\$10,400	Republican	H-013

Source: North Carolina Board of Elections, Campaign Document Search by Entity.

In fact, Senator Blue received twice as much in campaign contributions from Duke Energy in 2018 than in any year prior, and the 2018 donation represents nearly one-third of the Senator's total contributions from Duke in the last 15 years.

Perhaps more telling is that every single one of the Representatives and Senators on this list either represent top leadership (Berger and Moore), serve as Chair or Vice/Co-Chair on one of the committees Duke's bill has or will have to pass through (Newton, Arp, Brown, Rabon), and/or is listed as a sponsor or co-sponsor of Duke's bill (Saine, Blue, Bell, Lewis, McElraft, Rabon).



Duke Energy Donations to Sponsors and Non-Sponsors of Senate Bill 559 (House Bill 624)

In addition to directing their largest campaign contributions to the party (Republicans) and policy-makers that could help ensure that their legislative priorities become law, Duke Energy also heavily weighted their donations to a broader list of House and Senate members who have disproportionately agreed to sponsor and cosponsor their bill. This suggests that the electric monopoly had developed a strategic game plan prior to the 2018 elections for getting broad, bipartisan support for its 2019 legislative priorities.

As shown in the following table, Duke's donations to the bill's sponsors in the House and Senate were nearly four times (House) and nearly double (Senate) the donation received from Duke by legislators who are not currently sponsoring either bill. Between the two chambers, donations to bill sponsors were twice the amount given to non-sponsors.

Duke Energy Campaign Donations to Sponsors/Co-Sponsors of S-559 (H-624)

	House (H-624)	Senate (S-559)	Total
Number of bill sponsors	24	11	35
Total Duke donations to sponsors	\$103,100	\$49,900	\$153,000
Avg. donation per sponsor	\$4,296	\$4,536	\$4,371
Number of non-sponsors**	95	38	133
Total Duke donations to non-sponsors	\$128,400	\$158,550	\$286,950
Avg. donation per non-sponsor	\$1,352	\$4,172	\$2,158
Donation ratio: sponsor/non-sponsor	3.2	1.1	2.0

Source: North Carolina Board of Elections, Campaign Document Search by Entity.

Note: this analysis removed the donations for Senate Majority Leader Philip Berger and House Speaker Tim Moore from the "non-sponsor" calculation given that these two positions do not typically sponsor bills.



Results and Discussion

This report has provided the following key findings regarding Duke Energy's 2017-2018 campaign contributions and their influence on public policy, namely S-559/H-624, the "Storm Securitization and Alternative Rates" bill (short title):

- More than 40 percent of all campaign contributions from Duke Energy in 2017-2018 were donated to only eleven Senators and House Representatives, each of which either represent top Republican leadership, serve as Chair or Vice/Co-Chair of one of the committees Duke's bill has or will have to pass through, and/or is listed as a sponsor or co-sponsor of Duke's bill.
- Senator Dan Blue, the bill's key Democratic champion, received twice as much in campaign contributions from Duke Energy in 2017-2018 than in any year prior.
- Duke's average donation to the sponsors of S-559/H-624 was double their average donation to legislators that have not sponsored the bill.
- More than 80 percent of Duke's 2017-2018 campaign donations went to the party currently holding a strong majority in both the House of Representatives and the Senate — Republicans — with the average donation to Republican candidates being 3.6 times greater than the average donation to Democrats.

These results shine a bright spotlight on how Duke Energy used targeted campaign donations to garner the influence necessary to get their bill passed. While this kind of strategic behavior is not unexpected for a major corporation, it is particularly problematic in this case because Duke Energy is a regulated monopoly in North Carolina and not a business operating in a competitive market. The recipients of Duke's campaign donations are precisely the people charged with protecting the public interest from the power of an electric monopoly.

In other words, North Carolina's legislators need to be serving as the "referees" when it comes to controlling Duke Energy's endless pursuit of profits, which are generated almost exclusively from captive ratepayers. However, it is apparent that Duke's targeted campaign contributions amount to gaming the system by "bribing the referees" using the profits they are already earning as a regulated electric monopoly.

In the case of S-559/H-624, Duke's campaign contributions to key legislators, financed by profits, will result in an even greater profit windfall for the utility, thereby allowing them to spend even more to influence legislators on key policy decisions in the future. Thus, Duke Energy's campaign contributions create a vicious circle that benefits Duke Energy, its shareholders, and the legislative beneficiaries at the expense of, literally, everybody else.

So far the strategy is working despite strong opposition from a broad diversity of stakeholders. If S-559/H-624 becomes law with the alternative ratemaking provision attached, it will clearly signify that Duke's monopoly money supersedes the will of the people when it comes to influencing public policy. Until the rules are changed, it falls on the legislators to serve as ethical referees, but the evidence in this report suggests that that is not happening.

[Appendix]

List of All Duke Energy Campaign Contributions to North Carolina's State Senators and House Representatives in 2017-2018

SENATE

First	Last	Donations from Duke PAC/Execs	SB 559 sponsor?	Party	District
W. Ted	Alexander	\$100		Republican	44
John M.	Alexander	\$0		Republican	18
Deanna	Ballard	\$600	Y	Republican	45
Philip	Berger	\$68,950		Republican	30
Dan	Bishop	\$4,000		Republican	39
Daniel T.	Blue	\$10,900	Y	Democrat	14
Danny Earl	Britt	\$4,000	Y	Republican	13
Harry	Brown	\$10,400		Republican	6
James	Burgin	\$0	Y	Republican	12
Jay J.	Chaudhuri	\$0		Democrat	15
Robert B.	Clark	\$4,000	Y	Democrat	21
Warren	Daniel	\$5,000	Y	Republican	46
Don	Davis	\$2,000		Democrat	5
James W.	Davis	\$2,000		Republican	50
Kirk	deViere	\$0		Democrat	19
Chuck	Edwards	\$3,000		Republican	48
Milton	Fitch	\$0		Democrat	4
Carl	Ford	\$3,000		Republican	33
Valerie P.	Foushee	\$1,000		Democrat	23
Johnny	Gallimore	\$0		Republican	29
Michael	Garrett	\$0		Democrat	27
Rick	Gunn	\$9,700		Republican	24
Kathy	Harrington	\$1,500		Republican	43
Ralph	Hise	\$6,000	Y	Republican	47
Rick	Horner	\$1,000	Y	Republican	11
Jeff	Jackson	\$7,000		Democrat	37
Brent	Jackson	\$1,600		Republican	10
Todd	Johnson	\$0		Republican	35
Joyce	Krawiec	\$2,000		Republican	31
Paul A.	Lowe	\$2,000	Y	Democrat	32
Natasha R.	Marcus	\$0		Democrat	41
Tom	McInnis	\$4,000		Republican	25
Floyd B.	McKissick	\$6,000		Democrat	20
Mujtaba	Mohammed	\$100		Democrat	38
Paul R.	Newton	\$20,700		Republican	36
George W.	Nickel	\$0		Democrat	16
Louis M.	Pate	\$2,000		Republican	7

SENATE

First	Last	Donations from Duke PAC/Execs	SB 559 sponsor?	Party	District
Harper	Peterson	\$0		Democrat	9
William P.	Rabon	\$10,400	Y	Republican	8
Gladys	Robinson	\$1,000		Democrat	28
Norman	Sanderson	\$1,000		Republican	2
Victoria B.	Sawyer	\$0		Republican	34
Sam	Searcy	\$0		Democrat	17
Erica D.	Smith	\$3,000		Democrat	3
Bob	Steinburg	\$0		Republican	1
Jerry W.	Tillman	\$6,000	Y	Republican	26
Terry	Van Duyn	\$500		Democrat	49
Joyce	Waddell	\$0		Democrat	40
Andy	Wells	\$4,000		Republican	42
J. Michael	Woodard	\$0		Democrat	22

HOUSE

First	Last	Donations from Duke PAC/Execs	HB 624 sponsor?	Party	District
James	Adams	\$1,000		Republican	96
Gale	Adcock	\$1,000		Democrat	41
John	Ager	\$0		Democrat	115
Kelly	Alexander	\$1,000		Democrat	107
L.	Arp	\$10,400		Republican	69
Johnnie	Autry	\$1,000		Democrat	100
Cynthia	Ball	\$0		Democrat	49
Lisa	Barnes	\$0		Republican	7
Sydney	Batch	\$0		Democrat	37
Chaz	Beasley	\$1,000		Democrat	92
Mary	Belk	\$0		Democrat	88
John	Bell	\$10,400	Y	Republican	10
MaryAnn	Black	\$0		Democrat	29
Hugh	Blackwell	\$1,000		Republican	86
James	Boles	\$4,000	Y	Republican	52
William	Brisson	\$2,000		Republican	22
Cecil	Brockman	\$0		Democrat	60

First	Last	Donations from Duke PAC/Execs	HB 624 sponsor?	Party	District
Mark	Brody	\$1,000		Republican	55
Dana	Bumgardner	\$1,500		Republican	109
Deborah	Butler	\$0		Democrat	18
Becky	Carney	\$3,000		Democrat	102
Jerry	Carter	\$0		Republican	65
Christy	Clark	\$0		Democrat	98
Ashton	Clemmons	\$0		Democrat	57
George	Cleveland	\$1,000		Republican	14
Debra	Conrad	\$1,500	Y	Republican	74
Kevin	Corbin	\$1,000		Republican	120
Carla	Cunningham	\$2,000	Y	Democrat	106
Allison	Dahle	\$0		Democrat	11
Robert	Davis	\$4,000		Republican	19
James	Dixon	\$1,000		Republican	4
Joshua	Dobson	\$0		Republican	85
Jeffrey	Elmore	\$1,000		Republican	94
Terence	Everitt	\$0		Democrat	35
Joseph	Faircloth	\$4,000		Republican	62
Jean	Farmer-Butterfield	\$1,000		Democrat	24
Susan	Fisher	\$0		Democrat	114
Elmer	Floyd	\$1,000	Y	Democrat	43
John	Fraley	\$4,000		Republican	95
James	Gailliard	\$0		Democrat	25
Terry	Garrison	\$0		Democrat	32
Rosa	Gill	\$1,000		Democrat	33
Kenneth	Goodman	\$7,000	Y	Democrat	66
Edward	Goodwin	\$0		Republican	1
Charles	Graham	\$2,000		Democrat	47
Holly	Grange	\$4,000		Republican	20
Kyle	Hall	\$2,000		Republican	91
Destin	Hall	\$1,000		Republican	87
Robert	Hanig	\$0		Republican	6
Jon	Hardister	\$6,000	Y	Republican	59

First	Last	Donations from Duke PAC/Execs	HB 624 sponsor?	Party	District
Wesley	Harris	\$0		Democrat	105
Pricey	Harrison	\$0		Democrat	61
Kelly	Hastings	\$1,000		Republican	110
Zack	Hawkins	\$0		Democrat	31
Cody	Henson	\$1,000		Republican	113
Yvonne	Holley	\$1,000		Democrat	38
D.	Horn	\$2,000		Republican	68
Julia	Howard	\$5,000	Y	Republican	77
Thomas	Humphrey	\$0		Republican	12
Rachel	Hunt	\$0		Democrat	103
Howard	Hunter	\$0	Y	Democrat	5
Patricia	Hurley	\$2,000	Y	Republican	70
Frank	Iler	\$5,000		Republican	17
Verla	Insko	\$0		Democrat	56
Darren	Jackson	\$7,700		Democrat	39
Steven	Jarvis	\$0		Republican	80
Joseph	John	\$0		Democrat	40
Linda	Johnson	\$1,000		Republican	82
Brenden	Jones	\$3,000		Republican	46
Keith	Kidwell	\$0		Republican	79
Donny	Lambeth	\$1,000		Republican	75
David	Lewis	\$10,400	Y	Republican	53
Brandon	Lofton	\$0		Democrat	104
Carolyn	Logan	\$0		Democrat	101
Marvin	Lucas	\$2,000	Y	Democrat	42
Nasif	Majeed	\$0		Democrat	99
David	Martin	\$0		Democrat	34
Pat	McElraft	\$10,400	Y	Republican	13
Charles	McGrady	\$0		Republican	117
Allen	McNeill	\$1,000		Republican	78
Graig	Meyer	\$0		Democrat	50
Derwin	Montgomery	\$0		Democrat	72
Timothy	Moore	\$15,500		Republican	111
Marcia	Morey	\$0		Democrat	30
Gregory	Murphy	\$1,000	Y	Republican	9

First	Last	Donations from Duke PAC/Execs	HB 624 sponsor?	Party	District
Garland	Pierce	\$4,000	Y	Democrat	48
Larry	Pittman	\$0		Republican	83
Larry	Potts	\$500		Republican	81
Michele	Presnell	\$1,000	Y	Republican	118
Joe	Queen	\$0		Democrat	119
Amos	Quick	\$0		Democrat	58
Robert	Reives	\$1,000		Democrat	54
William	Richardson	\$500		Democrat	44
Dennis	Riddell	\$6,000		Republican	64
David	Rogers	\$3,000		Republican	112
Stephen	Ross	\$3,000		Republican	63
Carl	Russell	\$100		Democrat	93
Jason	Saine	\$10,400	Y	Republican	97
Clayton	Sasser	\$0		Republican	67
John	Sauls	\$2,000	Y	Republican	51
Mitchell	Setzer	\$5,000	Y	Republican	89
Phillip	Shepard	\$500		Republican	15
Kandie	Smith	\$0		Democrat	8
Raymond	Smith	\$0		Democrat	21
Carson	Smith	\$0		Republican	16
Michael	Speciale	\$0		Republican	3
Sarah	Stevens	\$4,000	Y	Republican	90
Larry	Strickland	\$2,000		Republican	28
John	Szoka	\$9,700		Republican	45
Evelyn	Terry	\$0		Democrat	71
John	Torbett	\$9,000		Republican	108
Brian	Turner	\$1,000		Democrat	116
Rena	Turner	\$0		Republican	84
Julie	von Haefen	\$0		Democrat	36
Harry	Warren	\$1,000		Republican	76
Donna	White	\$1,000		Republican	26
Shelly	Willingham	\$1,000	Y	Democrat	23
Michael	Wray	\$6,000	Y	Democrat	27
Lawrence	Yarborough	\$4,000	Y	Republican	2
Walter	Zachary	\$3,000	Y	Republican	73