



March 28, 2019

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

CC Senator Phil Berger
Speaker Tim Moore
Attorney General Josh Stein
North Carolina General Assembly Members

Re: North Carolina Utilities Commission—Criteria Guiding Upcoming Appointments

Dear Governor Cooper,

On behalf of our over 80,000 members and supporters in North Carolina, we—the Energy Justice NC Coalition, consisting of the undersigned local, state, and national environmental justice, social justice, environmental, and conservation groups—are writing to urge you to appoint bold, fair, and progressive members to the North Carolina Utilities Commission (NCUC) who will transform the state’s fossil-fuel dominated electricity system to fight climate change and ensure economic and environmental justice for all North Carolinians. As the Intergovernmental Panel on Climate Change (IPCC) recently warned, if we are to keep global warming below 1.5°C, we must act aggressively and quickly to transition our energy system to 100% clean and renewable energy and phase out fossil fuel use and extraction. In light of this critical moment in time, we ask that you use particular criteria, as discussed below, to appoint three new commissioners, who will determine the fate of all North Carolinians for generations to come. It is clear that appointments to the NCUC in May 2019, especially in the leadership role of Chairperson, may be the most important decision you make for North Carolinians now and into the foreseeable future.

As you clearly articulate in Executive Order 80: North Carolina’s Commitment to Address Climate Change and Transition to a Clean Energy Economy (Oct. 29, 2018), climate change poses both “significant health risks to North Carolinians” and the state’s economy.¹ In addition, you also ordered the state to honor the 2015 Paris Agreement goals, the state’s commitments to the United States Climate Alliance, and Article 14 of the North Carolina Constitution, which “requires the conservation, protection and preservation of the state lands and

¹ Governor R. Cooper, EXECUTIVE ORDER NO. 80: NORTH CAROLINA’S COMMITMENT TO ADDRESS CLIMATE CHANGE AND TRANSITION TO A CLEAN ENERGY ECONOMY (Oct. 29, 2018).

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waters in public trust.” However, in spite of these mandates, the NCUC, under the leadership of Chairman Ed Finley, has failed its duty to make decisions in line with these mandates to tackle climate change. Specifically, the NCUC has failed to consider the risks to the environment and to the people of this state associated with continuing to build out an energy infrastructure dependent on large polluting and fossil-fuel generating power stations. New leadership at the NCUC is 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.

The NCUC Matters to All North Carolinians

As you are well aware, the NCUC is responsible for regulating rates and services of investor-owned utilities that provide electricity, natural gas and water in North Carolina. It is crucial that the public have input on who gets appointed to protect the public interest through regulation of the rates and quality of service provided by these utility companies.

The NCUC 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. It is important that the appointed commissioners have both the ability to make decisions that are fair and the courage to hold the utilities accountable.

Climate Change Demands that the NCUC Make Smart and Bold Choices Now

Only a few months ago, the United Nations IPCC reported that, if we are to avoid climate catastrophe, we must cut global emissions 45 percent within just 12 years.² Leading climate scientists from around the world have warned that this is the timeline for “global warming to be kept to a maximum of 1.5 degrees Celsius, beyond which even half a degree will significantly worsen the risks of drought, floods, extreme heat and poverty.” Put simply, if we are to keep global warming below 1.5°C, we must act aggressively and quickly to avoid the worst impacts of climate change.

In North Carolina, climate change is rampant in the form of horrific hurricanes that have ravaged the state and the destruction that lies in their wake: the incalculable cost of actual human lives, the emotional, social, and physical destruction of whole communities and livelihoods, and the millions of dollars of damage to public and private property. The state’s heavy dependence on dirty energy has also polluted our air and water, especially in low-income communities and communities of color, which are also disproportionately impacted by climate change.

² United Nations Intergovernmental Panel on Climate Change, Global Warming of 1.5C (Oct. 8, 2018) *available at*: <https://www.ipcc.ch/sr15/>.

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Fighting climate change means that North Carolina must transition its energy system to be fueled by 100% renewable and clean energy as fast as possible and phase out fossil fuel use and extraction. Now more than ever, we are in a moment that requires swift and bold action. It is critical that we have regulators and decision-makers who are informed of the latest climate science, as well as knowledgeable about innovative solutions. The decisions and action taken now and in the coming years will surely have repercussions for decades to come.

North Carolina's Monopoly No Longer Works in Our Public Interest

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, 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 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 NCUC to drive change in our energy system. At base, your appointments of new NCUC commissioners in May 2019, especially in the leadership role of Chairperson, may be the most important decision you make for North Carolinians now and into the foreseeable future.

Necessary Criteria for the New NCUC Commissioners

The NCUC has an enormous impact on our energy future and our ability to achieve the clean energy and climate goals enumerated in Executive Order 80, precisely because the Commission regulates electricity and natural gas utilities. Therefore, it is crucial that you consider the urgency and opportunity in addressing the climate challenge through rapidly developing clean and renewable energy and appoint new Commissioners who will uphold the goals and initiatives you have set for our great state.

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We recognize and applaud your 2017 appointments of Commissioners ToNola Brown-Bland, Daniel Clodfelter and Charlotte Mitchell. All three Commissioners have stood firm under pressure from the fossil fuel industry and made fair decisions. We encourage you to appoint three new commissioners who will also similarly commit to protect the interests of North Carolinians.

Therefore, we believe the new appointees should meet the following criteria:

- **Proven Commitment to Protecting and Promoting North Carolinians' Interests.** Candidates should have a strong interest and experience in protecting the health, safety, and rights of all NC residents, especially low-income North Carolinians and communities that are vulnerable to fossil fuel plants and climate change impacts. Candidates should also have a strong interest and experience in promoting energy solutions that enhance the public good, including in clean and renewable energy and distributed energy solutions.
- **Legal and Technical Expertise.** Candidates should have strong legal and/or technical experience, especially with respect to electricity and energy markets.
- **Experience in Holistic Risk Evaluation.** At least one candidate should have a background in holistic risk assessment and evaluations (as would be applied to NCUC decisions), which includes but is not limited to taking into account social, environmental, health costs as well as damages from climate change. Currently, the Commission only undergoes least-cost analysis in their decision-making, which is wholly inadequate, especially in the face of climate change.
- **Medical or Public Health Expertise.** At least one candidate should have a medical degree or a public health background and is able to evaluate the public health risks stemming from the use of fossil fuels for energy production.
- **Strong Public Values and Independent Thinkers.** All candidates must be strong and principled individuals capable of standing firm under pressure, especially from fossil fuel corporations, lobbyists, and other groups whose interests are contrary to the public interest.
- **No Conflicts of Interest with Fossil Fuel Money.** All candidates must be free from any conflicts of interest with fossil fuel utility companies and their affiliates and should commit to reject any donations from the fossil fuel industries. To the extent these candidates were in a position to receive donations in the past, these candidates must be free from any such conflicts.

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- **The Appointment of a New Chairperson who Embodies the Prior Criteria.** The NCUC requires a new chairperson who has no prior ties to the fossil fuel or investor owned electric utility industry and who has a demonstrated commitment to the values articulated in Executive Order No. 80.

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

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.