

March 27, 2014

Philip R. Sharp  
Chair, Regulatory Policy &  
Operations Committee  
c/o Corporate Secretary  
Duke Energy Corporation  
P.O. Box 1321  
Charlotte, NC 28201-1321

Dear Mr. Sharp:

As long-term institutional investors with substantial holdings in Duke Energy, we are deeply troubled by recent events surrounding the Dan River coal ash spill, one of the largest in our nation's history. Our concerns include the severity of the spill, Duke's purported violations of numerous regulations, the lack of clarity on clean up and costs, the failure to adequately address the future disposition of Duke's other coal ash ponds and federal criminal subpoenas issued to Duke, the North Carolina Department of Environment and Natural Resources and the North Carolina Utilities Commission.<sup>1</sup> These events, and Duke's response to them, have shaken investors' confidence in Duke and its Board.

In spite of the continuing flurry of news accounts, we are unaware of any action taken by the Board to address these serious issues. **We call upon you as Chair of the Regulatory Policy and Operations Committee to immediately initiate an independent investigation consistent with the Committee's charter and to provide a written report to shareholders on its findings and recommendations upon completion. As an immediate first step, we call on you to step forward at the upcoming annual meeting of shareholders to provide a status report on the investigation, including the terms of reference, scope of the inquiry and a timetable for the final report.**

Such action is explicitly authorized in the charter, which notes that, "The Committee, in discharging its oversight role, is empowered to study or investigate any matter of interest or concern that the Committee deems appropriate and shall have the authority to retain outside counsel or other experts for this purpose, including the authority to approve the fees payable to such counsel or experts and any other terms of retention."<sup>2</sup> We firmly believe that such an investigation is called for and must be separate and independent from any investigation being conducted by the Company itself. Specifically, we request the Committee investigate the following in accordance with its charter:

- (1) The facts and circumstances behind the coal ash spill and an assessment of the current situation with respect to the spill, condition of surrounding waterways, clean up, costs and allocation of costs to the Company and ratepayers.

- (2) Whether adequate procedures, policies and practices are in place within the Company and at the board level to prevent such occurrences at other coal ash sites--including the current condition, risk of failure and adequacy of mitigation and relocation plans as compared to best practices in the industry.
- (3) The allegations and underlying circumstances that are now the subject of a federal criminal investigation involving Duke, and whether senior management was aware of, or engaged in, improper conduct and/or violations of Company policy.
- (4) The full details as to the legislative lobbying and political activities undertaken by the Company, particularly with respect to the McCrory Administration, the Department of Environment and Natural Resources and the North Carolina Utility Commission, regarding governmental, regulatory and enforcement efforts at the Company's coal ash facilities.

All findings and recommendations should be included in a report to shareholders upon completion. The report should include a full account of conversations with regulators as well as recommended actions to bring the Company back into compliance with current regulations and industry best practices. It should also spell out what changes the Board and this Committee will make to policy and practice to ensure regulatory compliance and adequate oversight of these matters going forward. Finally, it should include measures to hold accountable any Duke executive found to have breached regulatory requirements, engaged in improper conduct and/or to have violated any Duke policy.

In light of the escalating crisis, it is incumbent upon Duke's directors to assert independent leadership by acting promptly. We urge you to exercise your ability to retain independent counsel and the expertise of individuals with no prior financial, professional or other ties to Duke Energy, its executives or the Board to conduct this investigation. The investigation should be specifically convened on behalf of shareholders and must operate in a manner that is fully independent of management.

The spill, subsequent revelations regarding regulatory violations and the ensuing criminal investigation have created serious reputational risks. These developments also raise broader questions about Duke's approach to the management of long-term environmental risks like climate change and water pollution and underscore the need for greater transparency of political and lobbying activity, consistent with the proposal submitted for this year's proxy by the Nathan Cummings Foundation. If they remain unaddressed, these matters may have material consequences for Duke Energy and its long-term shareholders.

The gravity of these matters requires immediate Board action. The Nathan Cummings Foundation will be facilitating investor engagement with respect to this matter. Please contact Laura Campos at 212-787-7300 or [laura.campos@nathancummings.org](mailto:laura.campos@nathancummings.org) to follow up. We look forward to a prompt response.

Sincerely,

William Dempsey  
Senior Vice President  
The Nathan Cummings Foundation

Ted Wheeler  
Oregon State Treasurer

Denise L. Nappier  
Connecticut State Treasurer

Robert M. McCord  
Pennsylvania Treasurer

William R. Atwood  
Executive Director  
Illinois State Board of Investment

Dawn Wolfe  
Vice President, Governance & Sustainable Investment  
F&C Management Ltd.

Greg Kinczewski  
Vice President/General Counsel  
Marco Consulting Group

Stu Dalheim  
Vice President, Shareholder Advocacy  
Calvert Investments

Joellen Sbrissa, CSJ  
Congregation of St. Joseph

Leslie Samuelrich  
President  
Green Century Capital Management

Jonas Kron  
Senior Vice President  
Trillium Asset Management

Kathryn McCloskey  
Director, Social Responsibility  
United Church Funds

Anne Sheehan  
Director of Corporate Governance  
California State Teachers' Retirement System

Stephen Abrecht  
Co-chair  
SEIU Master Trust

Amelia Timbers  
Energy Program Manager  
As You Sow

Steve Viederman  
Chair, Finance Committee  
Christopher Reynolds Foundation

Mark Regier  
Director of Stewardship Investing  
Everence Financial and the Praxis Mutual Funds

Marcela I. Pinilla  
Director, Shareholder Advocacy  
Mercy Investment Services

Nora M. Nash, OSF  
Sisters of St. Francis of Philadelphia

**Cc: William Barnet III, Member, Regulatory Policy & Operations Committee**  
**G. Alex Bernhardt Sr., Member, Regulatory Policy & Operations Committee**  
**John T. Herron, Member, Regulatory Policy & Operations Committee**  
**James B. Hylar, Jr., Member, Regulatory Policy & Operations Committee**  
**James T. Rhodes, Member, Regulatory Policy & Operations Committee**  
**Carlos A. Saladrigas, Member, Regulatory Policy & Operations Committee**

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<sup>1</sup> <http://www.latimes.com/nation/nationnow/la-na-nn-coal-ash-spill-regulators-20140228,0,4932463.story#axzz2wF3jSl2>, <http://www.wral.com/duke-energy-vague-on-future-of-nc-coal-ash-ponds/13477108/> and <http://www.theguardian.com/world/2014/feb/13/north-carolina-coal-ash-spill-duke-energy>

<sup>2</sup> <https://www.duke-energy.com/corporate-governance/board-committee-charters/regulatory-policy-and-operations.asp>