



DIVISION OF
CORPORATION FINANCE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

March 6, 2019

Nancy M. Wright
Duke Energy Corporation
nancy.wright@duke-energy.com

Re: Duke Energy Corporation
Incoming letter dated December 28, 2018

Dear Ms. Wright:

This letter is in response to your correspondence dated December 28, 2018 concerning the shareholder proposal (the "Proposal") submitted to Duke Energy Corporation (the "Company") by John Chevedden (the "Proponent") for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders. Copies of all of the correspondence on which this response is based will be made available on our website at <http://www.sec.gov/divisions/corpfin/cf-noaction/14a-8.shtml>. For your reference, a brief discussion of the Division's informal procedures regarding shareholder proposals is also available at the same website address.

Sincerely,

M. Hughes Bates
Special Counsel

Enclosure

cc: John Chevedden

March 6, 2019

Response of the Office of Chief Counsel
Division of Corporation Finance

Re: Duke Energy Corporation
Incoming letter dated December 28, 2018

The Proposal relates to simple majority voting.

There appears to be some basis for your view that the Company may exclude the Proposal under rule 14a-8(f). We note in particular that the Proposal appears to exceed the 500-word limitation imposed by rule 14a-8(d). We also note your representation that the Proponent failed to reduce the Proposal to fewer than 500 words within 14 days of receipt of the Company's request. Accordingly, we will not recommend enforcement action to the Commission if the Company omits the Proposal from its proxy materials in reliance on rules 14a-8(d) and (f). In reaching this position, we have not found it necessary to address the alternative bases for omission upon which the Company relies.

Sincerely,

Kasey L. Robinson
Special Counsel

DIVISION OF CORPORATION FINANCE
INFORMAL PROCEDURES REGARDING SHAREHOLDER PROPOSALS

The Division of Corporation Finance believes that its responsibility with respect to matters arising under Rule 14a-8 [17 CFR 240.14a-8], as with other matters under the proxy rules, is to aid those who must comply with the rule by offering informal advice and suggestions and to determine, initially, whether or not it may be appropriate in a particular matter to recommend enforcement action to the Commission. In connection with a shareholder proposal under Rule 14a-8, the Division's staff considers the information furnished to it by the company in support of its intention to exclude the proposal from the company's proxy materials, as well as any information furnished by the proponent or the proponent's representative.

Although Rule 14a-8(k) does not require any communications from shareholders to the Commission's staff, the staff will always consider information concerning alleged violations of the statutes and rules administered by the Commission, including arguments as to whether or not activities proposed to be taken would violate the statute or rule involved. The receipt by the staff of such information, however, should not be construed as changing the staff's informal procedures and proxy review into a formal or adversarial procedure.

It is important to note that the staff's no-action responses to Rule 14a-8(j) submissions reflect only informal views. The determinations reached in these no-action letters do not and cannot adjudicate the merits of a company's position with respect to the proposal. Only a court such as a U.S. District Court can decide whether a company is obligated to include shareholder proposals in its proxy materials. Accordingly, a discretionary determination not to recommend or take Commission enforcement action does not preclude a proponent, or any shareholder of a company, from pursuing any rights he or she may have against the company in court, should the company's management omit the proposal from the company's proxy materials.



Nancy M. Wright
Deputy General Counsel

550 S. Tryon Street
Charlotte, NC 28202

Mailing Address:
Mail Code DEC45A/ P.O. Box 1321
Charlotte, NC 28201

o. 704.382.9151
nancy.wright@duke-energy.com

December 28, 2018

VIA E-MAIL

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549

Re: Omission of Shareholder Proposal Submitted by John Chevedden

Dear Sir or Madam:

Pursuant to Rule 14a-8(j)(1) promulgated under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), Duke Energy Corporation (the "Corporation") requests confirmation that the staff of the Division of Corporation Finance (the "Staff") of the U.S. Securities and Exchange Commission (the "SEC") will not recommend any enforcement action if the Corporation omits from its proxy solicitation materials ("Proxy Materials") for its 2019 Annual Meeting of Shareholders (the "2019 Annual Meeting") a proposal (the "Proposal") submitted to the Corporation by John Chevedden (the "Proponent").

This letter provides an explanation of why the Corporation believes that it may exclude the Proposal and includes the attachments required by Rule 14a-8(j). In accordance with *Staff Legal Bulletin No. 14D* (Nov. 7, 2008), this letter and its exhibits are being delivered by e-mail to shareholderproposals@sec.gov. A copy of this letter and its attachments are also being sent on this date to the Proponent in accordance with Rule 14a-8(j), informing the Proponent of the Corporation's intention to omit the Proposal from the 2019 Annual Meeting Proxy Materials. We also wish to take this opportunity to inform the Proponent that if he submits additional correspondence to the Staff with respect to the Proposal, a copy of that correspondence should also be furnished to the Corporation, addressed to the undersigned, pursuant to Exchange Act Rule 14a-8(k). This letter is being submitted not less than 80 days before the filing of the Corporation's Proxy Materials, which the Corporation intends to file on or around March 21, 2019.

THE PROPOSAL

The Proposal states:

Proposal [4] – Simple Majority Vote

RESOLVED, Shareholders request that our board take each step necessary so that each voting requirement in our charter and bylaws (that is explicit or implicit due to default to state law) that calls for a greater than simple majority vote be eliminated, and replaced by a requirement for a majority of the votes cast for and against applicable proposals, or a simple majority in compliance with applicable laws. If necessary this means the closest standard to a majority of the votes cast for and against such proposals consistent with applicable laws. A necessary unified element of this one proposal it [sic] that it includes taking the steps necessary to adjourn the annual meeting to solicit the votes necessary for approval if the votes for approval are lacking during the annual meeting.

To facilitate adoption of this proposal - adjourn appears 18-times in the Duke Energy bylaws. Shareholders are willing to pay a premium for shares of companies that have excellent corporate governance. Supermajority voting requirements have been found to be one of 6 entrenching mechanisms that are negatively related to company performance according to “What Matters in Corporate Governance” by Lucien Bebchuk, Alma Cohen and Allen Ferrell of the Harvard Law School. Supermajority requirements are used to block initiatives supported by most shareholders but opposed by a status quo management.

This proposal topic won from 74% to 88% support at Weyerhaeuser, Alcoa, Waste Management, Goldman Sachs, FirstEnergy, McGraw-Hill and Macy’s. The proponents of these proposals included Ray T. Chevedden and William Steiner. The votes would have been higher than 74% to 88% if all shareholders had equal access to independent proxy voting advice.

Currently a 1%-minority can frustrate the will of our 79%-shareholder majority in an election in which 80% of shares cast ballots. In other words a 1%-minority could have the power to prevent 79% of shareholders from taking important action such as eliminating 80%-voting thresholds to improve certain Articles in our Article of Incorporation.

97% of the ballots cast in 2018 supported the elimination of 80%-vote thresholds for approval of certain corporate governance improvements – yet this was reported as a failed vote by Duke Energy. This 2018 ballot item received 434 million votes in favor compared to only 364 million votes in favor of executive pay:

<https://www.sec.gov/Archives/edgar/data/1326160/000132616018000131/finalform8-kre2018annualme.htm>

Now is a good time to improve DUK corporate governance given the following concerns regarding the performance and reputation of DUK:

Fish deaths and mutations due to coal ash pollution, Sutton and Mayo plants.
October 2018

Anti-Competitive Behavior – Litigation with non-profit third-party provider for solar power supply to local church; case to be heard by North Carolina Supreme Court.
October 2018

Chemical Spill/Toxic Release – Environmental concerns regarding coal ash, North Carolina.
October 2018

Consumer Fraud/Abuse – Customer complaints over continued charges for discontinued Levy County Nuclear Project, Florida.
September 2018

Consumer Fraud/Abuse – Attorney General scrutinizes plan to increase rates to pay for coal ash cleanup cost, North Carolina.
July 2018

FERC \$3.5 Million settlement over alleged misleading data submissions related to competition during merger with Progress Energy.
June 2018

Worker fatality at Gallagher Station Power Plant, Indiana.
May 2018

Chemical Spill/Toxic Release – Coal ash spills into Dan River, Dan River Steam Station.
April 2018

Community concerns over environmental and drinking water impacts of coal ash, North Carolina.
March 2018

Please vote yes:
Simple Majority Vote – Proposal [4]

A copy of the Proposal and related correspondence is attached hereto as Exhibit A.

BACKGROUND

On November 3, 2018, the Proponent submitted a proposal to the Corporation via electronic mail. A copy of the original proposal is attached hereto as Exhibit B. The Proposal contained procedural deficiencies, both that it lacked proof of ownership of the requisite amount of Corporation shares as well as exceeded the 500-word limitation applicable to shareholder proposals. Accordingly, on November 7, 2018, the Corporation sent a deficiency notice via electronic mail notifying the Proponent of the requirements of Rule 14a-8 and how to cure the procedural deficiencies (the “Deficiency Notice,” attached as Exhibit C). Information from the Corporation’s servers, attached as Exhibit D¹, shows receipt of the Deficiency Notice by the

¹ Exhibit D has been redacted to remove confidential information regarding the Corporation’s information technology systems and processes.

Proponent on the same day in which it was sent.

On November 12, 2018, the Proponent sent evidence of his ownership via electronic mail, a copy of which is attached as Exhibit E. Though the ownership defect that the Proponent was previously notified of by the Corporation was remedied by this letter, the Proponent did not include a revision to the Proposal reducing the word count below 500 words, thus still leaving the Proposal deficient.

On November 26, 2018, the last day upon which shareholders could submit shareholder proposals to the Corporation for the 2019 Annual Meeting, the Proponent sent a revised Proposal to the Corporation by electronic mail. *See* Exhibit A. The Proponent did not attempt to reduce the number of words in the revised Proposal to address the word count deficiency but instead included additional language to the original Proposal.

REASONS FOR EXCLUSION OF PROPOSAL

1. Rule 14a-8(f)

The Corporation believes that the Proposal may be properly omitted pursuant to Rule 14a-8(d) and Rule 14a-8(f)(1) because the Proposal exceeds 500 words and the Proponent failed to correct this deficiency after receiving proper notice by the Corporation.

2. Rule 14a-8(i)(3)

The Corporation believes that the Proposal may be properly omitted pursuant to Rule 14a-8(i)(3) because the Proposal is impermissibly vague and indefinite so as to be inherently misleading.

3. Rule 14a-8(i)(7)

The Corporation also believes that the Proposal may be properly omitted pursuant to Rule 14a-8(i)(7) because it relates to the ordinary business of the Corporation.

DISCUSSION

1. The Corporation may omit the Proposal pursuant to Rule 14a-8(d) and Rule 14a-8(f)(1) because it exceeds 500 words and the Proponent failed to correct this deficiency after receiving proper notice by the Corporation.

Rule 14a-8(d) provides that a proposal, including any supporting statement, may not exceed 500 words. On numerous occasions the Staff has concurred that a company may exclude a shareholder proposal under Rule 14a-8(d) and Rule 14a-8(f)(1) because the proposal exceeds 500 words. *See, e.g., General Electric Co.* (Dec. 30, 2014); *Danaher Corp.* (Jan. 19, 2010); *Pool Corp.* (Feb. 17, 2009) (in each instance, allowing the exclusion of a proposal under Rule 14a-8(d) and Rule 14a-8(f)(1) where the proposal contained more than 500 words).

Under Rule 14a-8(f)(1), a company may exclude a shareholder proposal from its proxy materials if a shareholder proponent fails to comply with the eligibility or procedural requirements under Rule 14a-8. To exclude the deficient proposal, a company must notify the proponent of the eligibility or procedural deficiencies within 14 days of their receipt of the proposal and the proponent must have failed to correct such deficiencies within 14 days of receipt of such notice. As stated above, the Corporation received the initial Proposal from the Proponent on November 3, 2018, via email, and sent the Deficiency Notice to the Proponent on November 7, 2018, which was within 14 days of the Corporation's receipt of the original Proposal. See Exhibit C. The Deficiency Notice included:

- a description of the procedural requirements of Rule 14a-8(d);
- a statement explaining that the proposal submitted by the Proponent did not satisfy the procedural requirements of Rule 14a-8(d), both because the Proposal and supporting statement exceeded the 500-word limitation and because he failed to include the proof of ownership of Corporation shares;
- a statement calling the Proponent's attention to the 14-day deadline for responding to the Deficiency Notice; and
- a copy of Rule 14a-8.

The Proponent did not submit a revised Proposal within the 14 days of receipt of the Deficiency Notice to reduce the length of the Proposal to within the 500-word limit imposed by Rule 14a-8(d); instead, on November 26, 2018 (19 days after receiving the Deficiency Notice), the Proponent submitted an even longer revised Proposal.

In counting the number of words contained in the Proposal, the Corporation took a conservative approach. While SEC precedent allows corporations to count symbols such as "\$" or "%" as separate words (*see Intel Corp.* (Mar. 8, 2010) (allowing the exclusion of a proposal because it exceeded the 500-word limitation where the corporation "counted each percent symbol and dollar sign as a separate word")) and to count hyphenated words as two words (*see Minnesota Mining & Manufacturing Co.* (Feb. 27, 2000) (allowing the exclusion of a shareholder proposal under Rules 14a-8(d) and 14a-8(f)(1) where the proposal contains 504 words, but would have contained 498 words if hyphenated words were counted as one word)), the Corporation did not follow these approaches in totaling the number of words in the Proposal. Additionally, the Corporation did not count the bolded language in the title "**Proposal [4] – Simple Majority Vote**" or conclusion "**Simple Majority Vote – Proposal [4]**" and counted acronyms such as "FERC" as one word, as opposed to the multiple words represented by the acronyms. Even using this conservative word counting methodology, the Proposal well exceeds 500 words. As shown on Exhibits F and G respectively, using the Corporation's conservative word-count, the original Proposal contains 534 words and the revised Proposal contains 552.

Consistent with Staff precedent, the Corporation is of the view that the Proposal may be excluded from the 2019 Proxy Materials because the Proposal exceeds the 500-word limitation set forth in Rule 14a-8(d) and the Proponent failed to correct this deficiency after receiving proper notice by the Corporation. In fact, even using the most conservative calculation method.

In addition, after receiving the Corporation's Deficiency Notice, the Proponent did not even attempt to reduce the number of words in the revised Proposal but instead clearly ignored Corporation's Deficiency Notice and increased the number of words.

Conclusion. For the reasons stated above, we respectfully submit that the Proposal is deficient pursuant to Rule 14a-8(d) and Rule 14a-8(f)(1) because it exceeds the 500-word limitation and therefore may be excluded from the Corporation's 2019 Proxy Materials.

2. The Proposal may be excluded under Rule 14a-8(i)(3) because it is impermissibly vague and indefinite so as to be inherently misleading.

The Staff has, on numerous occasions, concurred that shareholder proposals that are vague and indefinite are inherently misleading and therefore excludable under Rule 14a-8(i)(3) because shareholders cannot make an informed decision on the merits of a proposal. *See Staff Legal Bulletin No. 14B* (Sep. 15, 2004) (noting that "neither the stockholders voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires.") Furthermore, the Staff has concurred that a shareholder proposal was sufficiently misleading so as to justify its exclusion where a corporation and its shareholders might interpret the proposal differently. *See Fuqua Industries, Inc.* (Mar. 12, 1991) (noting that any action taken by the company upon implementation of the proposal could be significantly different from the actions envisioned by the shareholders voting on the proposal).

The Proposal is vague and indefinite and therefore may be omitted because it fails to define critical terms.

The Staff has consistently concurred with the exclusion of proposals which do not define critical terms or phrases or otherwise provide guidance on what is required to implement the proposals. In *Bank of America Corp.* (Feb. 25, 2008), the Staff concurred with the exclusion of a proposal requesting that the corporation amend its policies to "observe a moratorium on all financing, investment and further involvement in activities that support MTR" (mountain top removal) projects, but did not define what would constitute "further involvement" and "activities that support MTR [projects]." *See also Eastman Kodak Co.* (Mar. 3, 2003) (proposal seeking to cap executive salaries at \$1 million, including bonus, perks and options, failed to define various terms and how options were to be valued and was therefore excludable); and *American Telephone and Telegraph Company* (Jan. 12, 1990) (proposal seeking to prohibit a corporation from "interfering" with "government policy" of foreign governments was excluded as it would require, if implemented, subjective determinations regarding what is considered to be "interference" and "government policy" as well as when the proposal would apply).

The Proposal fails to explain what is contemplated by the statement "A necessary unified element of this one proposal it [sic] that it includes taking the steps necessary to adjourn **the** annual meeting to solicit the votes necessary for approval if the votes for approval are lacking during the annual meeting." (emphasis added) It is unclear from this statement whether the Proponent intends for the Corporation to adjourn the 2019 Annual Meeting until the Proposal itself receives the votes necessary for approval, or if the Proponent intends for the Corporation to adjourn a future annual meeting at which the Corporation includes its own proposal to

shareholders to eliminate any supermajority provisions in the Corporation's Certificate of Incorporation or By-Laws. In addition, it is unclear from this statement what the timeframe is that the Proponent intends for the Corporation to solicit votes for such proposal. Does the Proponent intend for the Corporation to solicit votes until the Corporation gets the votes necessary to approve such proposal, at whatever cost that may require and whatever time that may take? Because the Proponent fails to explain this language, which the Proponent himself describes as a "necessary unified element" of the Proposal, it would be impossible for shareholders to interpret what the Proposal requires and, therefore, how they should vote. Furthermore, it would be impossible for the Corporation to interpret how to be responsive to the Proposal.

The Proposal is vague and indefinite and therefore may be omitted because it relies on an undefined external standard.

In addition to the language discussed above, the Proposal also includes a request that the Board replace both explicit supermajority requirements in the Corporation's Certificate of Incorporation and By-Laws as well as any supermajority requirements that are "implicit due to default to state law." The Staff has found in previous matters that language that relies on an external standard as a central element of the proposal is vague and misleading to shareholders when the proponent fails to explain in the proposal or supporting statement what that standard requires. In *Chevron Corp.* (Mar. 15, 2013), the Staff allowed the exclusion of a proposal which sought the board to adopt a policy that the board chairman be an independent director "according to the definition set forth in the New York Stock Exchange listing standards" but failed to include that definition in the proposal or supporting statement. The Staff stated that "in evaluating whether a proposal may be excluded on this basis, we consider only the information contained in the proposal and supporting statement and determine whether, based on that information, shareholders and the company can determine what actions the proposal seeks." Accordingly, the Staff concluded that without such definition in the proposal, neither the shareholder when voting, nor the corporation when attempting to implement, would be able to determine with reasonable certainty what the proposal required. *See also Dell Inc.* (Mar. 30, 2012) (allowing the exclusion of a proposal under Rule 14a-8(i)(3) which sought for the company to adopt a proxy access right for any shareholder that satisfies "SEC Rule 14a-8(b) eligibility requirements" but failed to detail those requirements); *The Boeing Co.* (Feb. 5, 2010) (allowing the exclusion of a proposal under Rule 14a-8(i)(3) which requested the creation of a board committee that followed the "Universal Declaration of Human Rights" without addressing what the standard entails); and *AT&T Inc.* (Feb. 16, 2010) (allowing the exclusion of a proposal under Rule 14a-8(i)(3) which sought a report on "grassroots lobbying communications as defined in 26 C.F.R. § 56.4911-2" because the proposal did not include the definition in the proposal or supporting statement).

The instances cited in the precedents above generally point to a statute or rule but fail to define that statute or rule in the proposal and supporting statement. In the Proposal, a central piece of the Proposal is for the Board to take action to remove any supermajority requirements that are "implicit due to default to state law." This language is even more vague than the precedents cited above because it does not tell shareholders or the Corporation what state laws govern, what are the "implicit" laws to which the Proponent refers, or even whether such implicit laws exist at all. Accordingly, shareholders and the Corporation are required to go in search of possible

language in state codes to determine if they have supermajority requirements that would be subject to or impacted by the Proposal. This reliance on an external, unidentified standard that is a central element of the Proposal renders it impermissibly vague and indefinite to shareholders and the Corporation.

Conclusion. For the reasons stated above, we respectfully submit that the Proposal is impermissibly vague and indefinite so as to be misleading and therefore may be excluded from the Corporation's Proxy Materials for the 2019 Annual Meeting pursuant to Rule 14a-8(i)(3).

3. The Corporation may omit the Proposal pursuant to Rule 14a-8(i)(7) because it relates to the Corporation's ordinary business operations.

Rule 14a-8(i)(7) permits the omission of a shareholder proposal that deals with a matter relating to the ordinary business of a corporation. The basis for exclusion under Rule 14a-8(i)(7) is to protect the authority of a corporation's board of directors to manage "certain core matters involving the company's business and operations." *Exchange Act Release No. 34-40018* (May 21, 1998) (the "1998 Release"). In the *1998 Release*, the Staff stated that the "general underlying policy of this exclusion is consistent with the policy of most state corporate laws: to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting." A shareholder proposal involves "ordinary business" when it relates to matters that are so fundamental to management's ability to run the corporation on a day-to-day basis that, as a practical matter, they are not appropriate for shareholder oversight. *See id.*

The Proposal may be omitted because it seeks to micromanage the Corporation as it relates to the conduct of the Corporation's annual meeting.

The Staff has a long history of findings that proposals which relate to a corporation's annual meeting involve the ordinary business of that corporation. *See, e.g., HP, Inc.* (Dec. 28, 2016) (allowing the exclusion of a proposal under Rule 14a-8(i)(7) which asked for the corporation to adopt a policy to initiate or restore in-person annual meetings); *Verizon Communications Inc.* (Jan. 22, 2015) (allowing the exclusion of a proposal under 14a-8(i)(7) as an ordinary business matter which sought to restrict management's ability to access voting results for a shareholder meeting); *Con-way Inc.* (Jan. 22, 2009) (allowing the exclusion of a proposal under Rule 14a-8(i)(7) which requested that the board take steps to webcast future annual meetings over the internet) and *General Motors Corp.* (Mar. 15, 2004) (allowing the exclusion of a proposal under 14a-8(i)(7) on the basis that the proposal's request for disclosure regarding the solicitation of shareholder votes was ordinary business).

The Proposal seeks for the Corporation to adjourn an annual meeting to get the requisite votes needed to pass the proposal. This request seeks to micromanage management's decisions on when to hold an annual meeting, when to adjourn an annual meeting and how to spend shareholder money to solicit votes, simply to getting a single proposal passed. This determination of how best to organize, manage, execute and whether to adjourn an annual meeting is much better served by management and the Board at the time of an annual shareholder meeting rather than being forced into a decision by a prior shareholder action without the benefit of all the facts and circumstances of the time.

The Proposal would significantly impair the way the Corporation conducts its annual shareholder meeting. Consequently, like the other proposals cited above, the Proposal relates to the ordinary business operations of the Corporation and therefore is proper to be excluded pursuant to Rule 14a-8(i)(7).

The Proposal is not solely focused on a significant policy issue but, by requiring the Corporation to adjourn its annual meeting, also incorporates an ordinary business matter.

Though part of the Proposal asks for the Corporation to take a corporate governance action, which the Staff has recognized in the past to be a shareholder policy issue, the Proponent also inextricably tied that action to an ordinary business matter by stating that the adjournment of the annual meeting to solicit the votes necessary for approval was a “necessary unified element of this one proposal.” The Staff has stated that certain proposals related to significant social policies may transcend day-to-day business matters if the proposal raises policy issues that are so significant that they are appropriate for shareholder consideration; however, Staff Legal Bulletin 14I (“*SLB 14I*”) stated that the applicability of the significant policy exception depends on “the connection between the significant policy issue and the company’s business operations” and that a corporation’s board of directors is well positioned to “analyze, determine and explain whether a particular issue is sufficiently significant [to the corporation] because the matter transcends ordinary business and would be appropriate for a shareholder vote.” The Staff stated that the corporation’s letter notifying the Staff of its intention to exclude a proposal should include the board’s analysis of the policy issue raised and the board’s processes for reaching its conclusions.

The Board is extremely involved in matters regarding the annual meeting of shareholders every year, including a review of matters relating to the Corporation’s annual meeting by the Corporate Governance Committee at four out of five of its regularly scheduled meetings each year. Among other things, they are responsible for setting the date, time, the record date and location of each annual meeting, as well as the oversight of the logistics required to prepare for an annual meeting. Furthermore, the Corporate Governance Committee and Board review and advise with respect to the Corporation’s position on shareholder proposals and the solicitation efforts undertaken by the Corporation for an annual meeting.

The Board considered this Proposal at its meetings on December 12 and 13, 2018. The Board was presented with information regarding this Proposal by management, including the provision regarding the adjournment of the annual meeting to solicit votes. The Board considered the day-to-day aspects of putting on an annual shareholder meeting and the implications that the Proposal would have on the Corporation’s annual meeting were the Proposal to be implemented. The Board also considered the corporate governance implications of the request to eliminate the supermajority provision from the Corporation’s Certificate of Incorporation and the failure of shareholders to support the Board’s previous attempts to amend this provision of the Certificate of Incorporation in 2017 and 2018.

Although the Board recognized that the Proposal raises a policy issue that it has supported in the

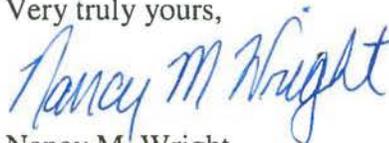
past through its proposals to shareholders in 2017 and 2018², the Board concluded that the adjournment language in the Proposal requires the application of day-to-day issues involved with the annual meeting of shareholders that are not transcended by the policy issues in the Proposal.

Conclusion. For the reasons stated above, we respectfully submit that the Proposal constitutes a matter of ordinary business that is not appropriate for shareholder oversight and therefore may be excluded from the Corporation's Proxy Materials for the 2019 Annual Meeting pursuant to Rule 14a-8(i)(7).

CONCLUSION

Based on the foregoing, the Corporation respectfully requests that the Staff advise that it will not recommend any enforcement action if the Corporation excludes the Proposal from its Proxy Materials for the 2019 Annual Meeting. If the Staff does not concur with the Corporation's positions, we would appreciate an opportunity to confer with the Staff concerning this matter prior to the issuance of a response. In such case, or if you have any questions or desire any further information, please contact the undersigned at (704) 382-9151.

Very truly yours,



Nancy M. Wright

CC: Julia S. Janson, Executive Vice President, External Affairs and Chief Legal Officer
David B. Fountain, Senior Vice President, Legal, Chief Ethics and Compliance Officer
and Corporate Secretary
David S. Maltz, Vice President, Legal and Assistant Corporate Secretary
John Chevedden

² At the 2017 annual meeting of shareholders, the proposal received only 59% of the outstanding shares of the Corporation, falling short of the required 80%. At the 2018 annual meeting of shareholders, after a significant solicitation effort by the Corporation of both its institutional and retail shareholders, the proposal still received only 62% of the outstanding shares of the Corporation, again failing short of the required 80%.

EXHIBIT A

(Copy of Proposal and Related Correspondence)

John Chevedden

Ms. Julie S. Janson
Corporate Secretary
Duke Energy Corporation (DUK)
550 S. Tryton Street
Charlotte, NC 28202
PH: 704-382-3853
FX: 704 382-3814

REVISED 23 NOV 2018

Dear Ms. Janson,

This Rule 14a-8 proposal is respectfully submitted in support of the long-term performance of our company.

This Rule 14a-8 proposal is intended as a low-cost method to improve company performance – especially compared to the substantial capitalization of our company.

This proposal is for the annual shareholder meeting. Rule 14a-8 requirements will be met including the continuous ownership of the required stock value until after the date of the respective shareholder meeting and presentation of the proposal at the annual meeting. This submitted format, with the shareholder-supplied emphasis, is intended to be used for definitive proxy publication.

Your consideration and the consideration of the Board of Directors is appreciated in support of the long-term performance of our company. Please acknowledge receipt of this proposal by email to ***

Sincerely,


John Chevedden


Date

cc: David S. Maltz <david.maltz@duke-energy.com>
Assistant Corporate Secretary
PH: 704-382-3477
FX: 980-373-5201
Nancy Wright <Nancy.wright@duke-energy.com>

[DUK: Rule 14a-8 Proposal, November 3, 2018 | Revised November 23, 2018]

[This line and any line above it – *Not* for publication.]

Proposal [4] – Simple Majority Vote

RESOLVED, Shareholders request that our board take each step necessary so that each voting requirement in our charter and bylaws (that is explicit or implicit due to default to state law) that calls for a greater than simple majority vote be eliminated, and replaced by a requirement for a majority of the votes cast for and against applicable proposals, or a simple majority in compliance with applicable laws. If necessary this means the closest standard to a majority of the votes cast for and against such proposals consistent with applicable laws. A necessary unified element of this one proposal is that it includes taking the steps necessary to adjourn the annual meeting to solicit the votes necessary for approval if the votes for approval are lacking during the annual meeting.

To facilitate adoption of this proposal – adjourn appears 18-times in the Duke Energy bylaws. Shareholders are willing to pay a premium for shares of companies that have excellent corporate governance. Supermajority voting requirements have been found to be one of 6 entrenching mechanisms that are negatively related to company performance according to “What Matters in Corporate Governance” by Lucien Bebchuk, Alma Cohen and Allen Ferrell of the Harvard Law School. Supermajority requirements are used to block initiatives supported by most shareowners but opposed by a status quo management.

This proposal topic won from 74% to 88% support at Weyerhaeuser, Alcoa, Waste Management, Goldman Sachs, FirstEnergy, McGraw-Hill and Macy’s. The proponents of these proposals included Ray T. Chevedden and William Steiner. The votes would have been higher than 74% to 88% if all shareholders had equal access to independent proxy voting advice.

Currently a 1%-minority can frustrate the will of our 79%-shareholder majority in an election in which 80% of shares cast ballots. In other words a 1%-minority could have the power to prevent 79% of shareholders from taking important action such as eliminating 80%-voting thresholds to improve certain Articles in our Article of Incorporation.

97% of the ballots cast in 2018 supported the elimination of 80%-vote thresholds for approval of certain corporate governance improvements – yet this was reported as a failed vote by Duke Energy. This 2018 ballot item received 434 million votes in favor compared to only 364 million votes in favor of executive pay:
<https://www.sec.gov/Archives/edgar/data/1326160/000132616018000131/finalform8-kre2018annualme.htm>

Now is a good time to improve DUK corporate governance given the following concerns regarding the performance and reputation of DUK:

Fish deaths and mutations due to coal ash pollution, Sutton and Mayo plants.
October 2018

Anti-Competitive Behavior – Litigation with non-profit third-party provider for solar power supply to local church; case to be heard by North Carolina Supreme Court.

October 2018

Chemical Spill/Toxic Release – Environmental concerns regarding coal ash, North Carolina.

October 2018

Consumer Fraud/Abuse – Customer complaints over continued charges for discontinued Levy County Nuclear Project, Florida.

September 2018

Consumer Fraud/Abuse – Attorney General scrutinizes plan to increase rates to pay for coal ash cleanup cost, North Carolina.

July 2018

FERC \$3.5 Million settlement over alleged misleading data submissions related to competition during merger with Progress Energy.

June 2018

Worker fatality at Gallagher Station Power Plant, Indiana.

May 2018

Chemical Spill/Toxic Release – Coal ash spills into Dan River, Dan River Steam Station.

April 2018

Community concerns over environmental and drinking water impacts of coal ash, North Carolina.

March 2018

Please vote yes:

Simple Majority Vote – Proposal [4]

[The above line – *Is* for publication.]

Notes:

John Chevedden,

sponsored this proposal.

Proposal [4] – Means [4] is the placeholder for the company to assign the number in the proxy.

Please note that the title of the proposal is part of the proposal. In the interest of clarity and to avoid confusion the title of this and each other ballot item is requested to be consistent throughout all the proxy materials.

This proposal is believed to conform with Staff Legal Bulletin No. 14B (CF), September 15, 2004 including (emphasis added):

Accordingly, going forward, we believe that it would not be appropriate for companies to exclude supporting statement language and/or an entire proposal in reliance on rule 14a-8(l)(3) in the following circumstances:

- the company objects to factual assertions because they are not supported;
- the company objects to factual assertions that, while not materially false or misleading, may be disputed or countered;
- the company objects to factual assertions because those assertions may be interpreted by shareholders in a manner that is unfavorable to the company, its directors, or its officers; and/or
- the company objects to statements because they represent the opinion of the shareholder proponent or a referenced source, but the statements are not identified specifically as such.

We believe that it is appropriate under rule 14a-8 for companies to address these objections in their statements of opposition.

See also: Sun Microsystems, Inc. (July 21, 2005).

Stock will be held until after the annual meeting and the proposal will be presented at the annual meeting. Please acknowledge this proposal promptly by email

EXHIBIT B

(Copy of Original Proposal and Related Correspondence)

John Chevedden

Ms. Julie S. Janson
Corporate Secretary
Duke Energy Corporation (DUK)
550 S. Tryton Street
Charlotte, NC 28202
PH: 704-382-3853
FX: 704 382-3814

Dear Ms. Janson,

This Rule 14a-8 proposal is respectfully submitted in support of the long-term performance of our company.

This Rule 14a-8 proposal is intended as a low-cost method to improve company performance – especially compared to the substantial capitalization of our company.

This proposal is for the annual shareholder meeting. Rule 14a-8 requirements will be met including the continuous ownership of the required stock value until after the date of the respective shareholder meeting and presentation of the proposal at the annual meeting. This submitted format, with the shareholder-supplied emphasis, is intended to be used for definitive proxy publication.

Your consideration and the consideration of the Board of Directors is appreciated in support of the long-term performance of our company. Please acknowledge receipt of this proposal by email to ***

Sincerely,


John Chevedden

November 3, 2018
Date

cc: David S. Maltz <david.maltz@duke-energy.com>
Assistant Corporate Secretary
PH: 704-382-3477
FX: 980-373-5201
Nancy Wright <Nancy.wright@duke-energy.com>

[This line and any line above it – *Not* for publication.]

Proposal [4] – Simple Majority Vote

RESOLVED, Shareholders request that our board take each step necessary so that each voting requirement in our charter and bylaws (that is explicit or implicit due to default to state law) that calls for a greater than simple majority vote be eliminated, and replaced by a requirement for a majority of the votes cast for and against applicable proposals, or a simple majority in compliance with applicable laws. If necessary this means the closest standard to a majority of the votes cast for and against such proposals consistent with applicable laws. This includes taking the steps necessary to adjourn the annual meeting to solicit the votes necessary for approval if the votes for approval are lacking during the annual meeting.

Adjourn appears 18-times in the Duke Energy bylaws. Shareholders are willing to pay a premium for shares of companies that have excellent corporate governance. Supermajority voting requirements have been found to be one of 6 entrenching mechanisms that are negatively related to company performance according to “What Matters in Corporate Governance” by Lucien Bebchuk, Alma Cohen and Allen Ferrell of the Harvard Law School. Supermajority requirements are used to block initiatives supported by most shareowners but opposed by a status quo management.

This proposal topic won from 74% to 88% support at Weyerhaeuser, Alcoa, Waste Management, Goldman Sachs, FirstEnergy, McGraw-Hill and Macy’s. The proponents of these proposals included Ray T. Chevedden and William Steiner. The votes would have been higher than 74% to 88% if all shareholders had equal access to independent proxy voting advice.

Currently a 1%-minority can frustrate the will of our 79%-shareholder majority in an election in which 80% of shares cast ballots. In other words a 1%-minority could have the power to prevent 79% of shareholders from taking important action such as eliminating 80%-voting thresholds to improve certain Articles in our Article of Incorporation.

97% of the ballots cast in 2018 supported the elimination of 80%-vote thresholds for certain items to be approved – yet this was reported as a failed vote by Duke Energy (the item with 434 million votes in favor compared to only 364 million votes in regard to executive pay)
<https://www.sec.gov/Archives/edgar/data/1326160/000132616018000131/finalform8-kre2018annualme.htm>

Now is a good time to improve DUK corporate governance given the following concerns regarding the performance and reputation of DUK:

Fish deaths and mutations due to coal ash pollution, Sutton and Mayo plants
October 2018

Anti-Competitive Behavior – Litigation with non-profit third-party provider for solar power supply to local church; case to be heard by State Supreme Court, North Carolina
October 2018

Chemical Spill/Toxic Release – environmental concerns regarding coal ash, North Carolina
October 2018

Consumer Fraud/Abuse – Customer complaints over continued charges for discontinued Levy County Nuclear Project, Florida
September 2018

Consumer Fraud/Abuse – Attorney General scrutinizes plan to increase rates to pay for coal ash cleanup cost, North Carolina
July 2018

FERC \$3.5 Million Settlement over alleged misleading data submissions related to competition during merger with Progress Energy
June 2018

Worker fatality at Gallagher Station Power Plant, Indiana
May 2018

Chemical Spill/Toxic Release – Coal ash spills into Dan River, Dan River Steam Station
April 2018

Community concerns over environmental and drinking water impacts of coal ash, North Carolina
March 2018

Please vote yes:

Simple Majority Vote – Proposal [4]

[The above line – *Is* for publication.]

John Chevedden,
proposal.

sponsors this

Notes:

This proposal is believed to conform with Staff Legal Bulletin No. 14B (CF), September 15, 2004 including (emphasis added):

Accordingly, going forward, we believe that it would not be appropriate for companies to exclude supporting statement language and/or an entire proposal in reliance on rule 14a-8(l)(3) in the following circumstances:

- the company objects to factual assertions because they are not supported;
- the company objects to factual assertions that, while not materially false or misleading, may be disputed or countered;
- the company objects to factual assertions because those assertions may be interpreted by shareholders in a manner that is unfavorable to the company, its directors, or its officers; and/or
- the company objects to statements because they represent the opinion of the shareholder proponent or a referenced source, but the statements are not identified specifically as such.

We believe that it is appropriate under rule 14a-8 for companies to address these objections in their statements of opposition.

See also: Sun Microsystems, Inc. (July 21, 2005).

The stock supporting this proposal will be held until after the annual meeting and the proposal will be presented at the annual meeting. Please acknowledge this proposal promptly by email

EXHIBIT C

(Copy of Deficiency Notice and Related Correspondence)

Wright, Nancy M.

From: Maltz, David S
Sent: Wednesday, November 7, 2018 1:54 PM
To: ***
Cc: Wright, Nancy M.
Subject: RE: Rule 14a-8 Proposal (DUK)``
Attachments: Scanned from a Xerox multifunction device.pdf

Mr. Chevedden: Please see the attached acknowledgement letter of receipt of your proposal and a notice of certain eligibility and procedural defects to cure. Thank you for your correspondence and your continuing interest in Duke Energy.

Regards,
David Maltz

-----Original Message-----

From: *** [mailto:***]
Sent: Saturday, November 3, 2018 3:24 PM
To: Maltz, David S <David.Maltz@duke-energy.com>
Cc: Wright, Nancy M. <Nancy.Wright@duke-energy.com>; Crapster, Joseph P <Joseph.Crapster@duke-energy.com>
Subject: Rule 14a-8 Proposal (DUK)``

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Mr. Maltz,
Please see the attached rule 14a-8 proposal to improve corporate governance and enhance long-term shareholder value at de minimis up-front cost - especially considering the substantial market capitalization of the company.
Sincerely,
John Chevedden



David S. Maltz
Vice President, Legal and Assistant
Corporate Secretary

550 S. Tryon Street
Charlotte, NC 28202

Mailing Address:
Mail Code DEC45A/ P.O. Box 1321
Charlotte, NC 28201

o 704.382.9151

f 980.373.5207

November 7, 2018

Electronic Mail

Re: Shareholder Proposal Submitted to Duke Energy Corporation (the "Corporation")

Dear Mr. Chevedden:

On November 3, 2018, we received your request to include a shareholder proposal in the Corporation's 2019 annual proxy statement. In order to properly consider your request, and in accordance with Rule 14a-8 of the Securities Exchange Act of 1934, as amended ("Rule 14a-8"), we hereby inform you of certain eligibility and procedural defects in your submission, as described below. For your convenience, I have included a copy of Rule 14a-8 with this letter.

In accordance with applicable rules of the Securities Exchange Commission ("SEC"), please send a written statement from the "record" holder of your shares, verifying that, at the time you submitted your proposal, you held at least \$2,000 in market value of the Corporation's common stock and had held such stock continuously for at least one year. Also, a shareholder proposal, including any supporting statement, is limited to 500 words. Your shareholder proposal and supporting statement as submitted exceeds the limitation. Please note that if you do not cure these defects within 14 calendar days of your receipt of this letter, we may properly exclude your proposal from our proxy statement.

In asking you to provide the foregoing information, the Corporation does not relinquish its right to later object to including your proposal on related or different grounds pursuant to applicable SEC rules.

Please send the requested documentation to my attention at the address above.

Sincerely,

A handwritten signature in black ink, appearing to read 'D S Maltz', followed by a large, stylized flourish or underline.

David S. Maltz

Attachment

§240.14a-8 Shareholder proposals.

(a) *Question 1: What is a proposal?* A shareholder proposal is your recommendation or requirement that the company and/or its board of directors take action, which you intend to present at a meeting of the company's shareholders. Your proposal should state as clearly as possible the course of action that you believe the company should follow. If your proposal is placed on the company's proxy card, the company must also provide in the form of proxy means for shareholders to specify by boxes a choice between approval or disapproval, or abstention. Unless otherwise indicated, the word "proposal" as used in this section refers both to your proposal, and to your corresponding statement in support of your proposal (if any).

(b) *Question 2: Who is eligible to submit a proposal, and how do I demonstrate to the company that I am eligible?* (1) In order to be eligible to submit a proposal, you must have continuously held at least \$2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date you submit the proposal. You must continue to hold those securities through the date of the meeting.

(2) If you are the registered holder of your securities, which means that your name appears in the company's records as a shareholder, the company can verify your eligibility on its own, although you will still have to provide the company with a written statement that you intend to continue to hold the securities through the date of the meeting of shareholders. However, if like many shareholders you are not a registered holder, the company likely does not know that you are a shareholder, or how many shares you own. In this case, at the time you submit your proposal, you must prove your eligibility to the company in one of two ways:

(i) The first way is to submit to the company a written statement from the "record" holder of your securities (usually a broker or bank) verifying that, at the time you submitted your proposal, you continuously held the securities for at least one year. You must also include your own written statement that you intend to continue to hold the securities through the date of the meeting of shareholders; or

(ii) The second way to prove ownership applies only if you have filed a Schedule 13D (§240.13d-101), Schedule 13G (§240.13d-102), Form 3 (§249.103 of this chapter), Form 4 (§249.104 of this chapter) and/or Form 5 (§249.105 of this chapter), or amendments to those documents or updated forms, reflecting your ownership of the shares as of or before the date on which the one-year eligibility period begins. If you have filed one of these documents with the SEC, you may demonstrate your eligibility by submitting to the company:

(A) A copy of the schedule and/or form, and any subsequent amendments reporting a change in your ownership level;

(B) Your written statement that you continuously held the required number of shares for the one-year period as of the date of the statement; and

(C) Your written statement that you intend to continue ownership of the shares through the date of the company's annual or special meeting.

(c) *Question 3: How many proposals may I submit?* Each shareholder may submit no more than one proposal to a company for a particular shareholders' meeting.

(d) *Question 4: How long can my proposal be?* The proposal, including any accompanying supporting statement, may not exceed 500 words.

(e) *Question 5: What is the deadline for submitting a proposal?* (1) If you are submitting your proposal for the company's annual meeting, you can in most cases find the deadline in last year's proxy statement. However, if the company did not hold an annual meeting last year, or has changed the date of its meeting for this year more than 30 days from last year's meeting, you can usually find the deadline in one of the company's quarterly reports on Form 10-Q (§249.308a of this chapter), or in shareholder reports of investment companies under §270.30d-1 of this chapter of the Investment Company Act of 1940. In order to avoid controversy, shareholders should submit their proposals by means, including electronic means, that permit them to prove the date of delivery.

(2) The deadline is calculated in the following manner if the proposal is submitted for a regularly scheduled annual meeting. The proposal must be received at the company's principal executive offices not less than 120 calendar days before the date of the company's proxy statement released to shareholders in connection with the previous year's annual meeting. However, if the company did not hold an annual meeting the previous year, or if the date of this year's annual meeting has been changed by more than 30 days from the date of the previous year's meeting, then the deadline is a reasonable time before the company begins to print and send its proxy materials.

(3) If you are submitting your proposal for a meeting of shareholders other than a regularly scheduled annual meeting, the deadline is a reasonable time before the company begins to print and send its proxy materials.

(f) *Question 6: What if I fail to follow one of the eligibility or procedural requirements explained in answers to Questions 1 through 4 of this section?* (1) The company may exclude your proposal, but only after it has notified you of the problem, and you have failed adequately to correct it. Within 14 calendar days of receiving your proposal, the company must notify you in writing of any procedural or eligibility deficiencies, as well as of the time frame for your response. Your response must be postmarked, or transmitted electronically, no later than 14 days from the date you received the company's notification. A company need not provide you such notice of a deficiency if the deficiency cannot be remedied, such as if you fail to submit a proposal by the company's properly determined deadline. If the company intends to exclude the proposal, it will later have to make a submission under §240.14a-8 and provide you with a copy under Question 10 below, §240.14a-8(j).

(2) If you fail in your promise to hold the required number of securities through the date of the meeting of shareholders, then the company will be permitted to exclude all of your proposals from its proxy materials for any meeting held in the following two calendar years.

(g) *Question 7: Who has the burden of persuading the Commission or its staff that my proposal can be excluded?* Except as otherwise noted, the burden is on the company to demonstrate that it is entitled to exclude a proposal.

(h) *Question 8: Must I appear personally at the shareholders' meeting to present the proposal?* (1) Either you, or your representative who is qualified under state law to present the proposal on your behalf, must attend the meeting to present the proposal. Whether you attend the meeting yourself or send a qualified representative to the meeting in your place, you should make sure that you, or your representative, follow the proper state law procedures for attending the meeting and/or presenting your proposal.

(2) If the company holds its shareholder meeting in whole or in part via electronic media, and the company permits you or your representative to present your proposal via such media, then you may appear through electronic media rather than traveling to the meeting to appear in person.

(3) If you or your qualified representative fail to appear and present the proposal, without good cause, the company will be permitted to exclude all of your proposals from its proxy materials for any meetings held in the following two calendar years.

(i) *Question 9*: If I have complied with the procedural requirements, on what other bases may a company rely to exclude my proposal? (1) *Improper under state law*: If the proposal is not a proper subject for action by shareholders under the laws of the jurisdiction of the company's organization;

NOTE TO PARAGRAPH (i)(1): Depending on the subject matter, some proposals are not considered proper under state law if they would be binding on the company if approved by shareholders. In our experience, most proposals that are cast as recommendations or requests that the board of directors take specified action are proper under state law. Accordingly, we will assume that a proposal drafted as a recommendation or suggestion is proper unless the company demonstrates otherwise.

(2) *Violation of law*: If the proposal would, if implemented, cause the company to violate any state, federal, or foreign law to which it is subject;

NOTE TO PARAGRAPH (i)(2): We will not apply this basis for exclusion to permit exclusion of a proposal on grounds that it would violate foreign law if compliance with the foreign law would result in a violation of any state or federal law.

(3) *Violation of proxy rules*: If the proposal or supporting statement is contrary to any of the Commission's proxy rules, including §240.14a-9, which prohibits materially false or misleading statements in proxy soliciting materials;

(4) *Personal grievance; special interest*: If the proposal relates to the redress of a personal claim or grievance against the company or any other person, or if it is designed to result in a benefit to you, or to further a personal interest, which is not shared by the other shareholders at large;

(5) *Relevance*: If the proposal relates to operations which account for less than 5 percent of the company's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the company's business;

(6) *Absence of power/authority*: If the company would lack the power or authority to implement the proposal;

(7) *Management functions*: If the proposal deals with a matter relating to the company's ordinary business operations;

(8) *Director elections*: If the proposal:

(i) Would disqualify a nominee who is standing for election;

(ii) Would remove a director from office before his or her term expired;

(iii) Questions the competence, business judgment, or character of one or more nominees or directors;

(iv) Seeks to include a specific individual in the company's proxy materials for election to the board of directors; or

(v) Otherwise could affect the outcome of the upcoming election of directors.

(9) *Conflicts with company's proposal*: If the proposal directly conflicts with one of the company's own proposals to be submitted to shareholders at the same meeting;

NOTE TO PARAGRAPH (i)(9): A company's submission to the Commission under this section should specify the points of conflict with the company's proposal.

(10) *Substantially implemented*: If the company has already substantially implemented the proposal;

NOTE TO PARAGRAPH (i)(10): A company may exclude a shareholder proposal that would provide an advisory vote or seek future advisory votes to approve the compensation of executives as disclosed pursuant to Item 402 of Regulation S-K (§229.402 of this chapter) or any successor to Item 402 (a "say-on-pay vote") or that relates to the frequency of say-on-pay votes, provided that in the most recent shareholder vote required by §240.14a-21(b) of this chapter a single year (*i.e.*, one, two, or three years) received approval of a majority of votes cast on the matter and the company has adopted a policy on the frequency of say-on-pay votes that is consistent with the choice of the majority of votes cast in the most recent shareholder vote required by §240.14a-21(b) of this chapter.

(11) *Duplication*: If the proposal substantially duplicates another proposal previously submitted to the company by another proponent that will be included in the company's proxy materials for the same meeting;

(12) *Resubmissions*: If the proposal deals with substantially the same subject matter as another proposal or proposals that has or have been previously included in the company's proxy materials within the preceding 5 calendar years, a company may exclude it from its proxy materials for any meeting held within 3 calendar years of the last time it was included if the proposal received:

(i) Less than 3% of the vote if proposed once within the preceding 5 calendar years;

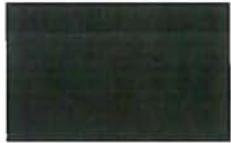
(ii) Less than 6% of the vote on its last submission to shareholders if proposed twice previously within the preceding 5 calendar years; or

(iii) Less than 10% of the vote on its last submission to shareholders if proposed three times or more previously within the preceding 5 calendar years; and

(13) *Specific amount of dividends*: If the proposal relates to specific amounts of cash or stock dividends.

EXHIBIT D

(Evidence of Receipt of Deficiency Notice)



Message Details

Envelope and Header Summary

Received Time:	07 Nov 2018 13:53:51 (GMT -05:00)
MID:	509264854
Message Size:	304.89 (KB)
Subject:	RE: Rule 14a-8 Proposal (DUK)``
Envelope Sender:	David.Maltz@duke-energy.com
Envelope Recipients:	***
Message ID Header:	<c5f61bdb0b92415bb71a2df68ef2ee15@duke-energy.com>
SMTP Auth User ID:	N/A
Attachments	Scanned from a Xerox multifunction device.pdf

Sending Host Summary

SBRS Score:	not enabled
-------------	-------------

Processing Details

	MAIL POLICY "Duke_Outgoing_Domains" MATCHED THESE RECIPIENTS:
07 Nov 2018 13:53:51 (GMT -05:00)	[Redacted]
07 Nov 2018 13:53:51 (GMT -05:00)	[Redacted]
07 Nov 2018 13:53:51 (GMT -05:00)	[Redacted]
07 Nov 2018 13:53:51 (GMT -05:00)	Start message 509264854 on incoming connection (ICID 817059928).
07 Nov 2018 13:53:51 (GMT -05:00)	Message 509264854 enqueued on incoming connection (ICID 817059928) from David.Maltz@duke-energy.com.
07 Nov 2018 13:53:51 (GMT -05:00)	Message 509264854 on incoming connection (ICID 817059928) added recipient ***
07 Nov 2018 13:53:51 (GMT -05:00)	Message 509264854 contains message ID header '<c5f61bdb0b92415bb71a2df68ef2ee15@duke-energy.com>'
07 Nov 2018 13:53:51 (GMT -05:00)	Message 509264854 original subject on injection: RE: Rule 14a-8 Proposal (DUK)``
07 Nov 2018 13:53:51 (GMT -05:00)	Message 509264854 (312210 bytes) from David.Maltz@duke-energy.com ready.
07 Nov 2018 13:53:51 (GMT -05:00)	Message 509264854 contains attachment 'Scanned from a Xerox multifunction device.pdf'.
07 Nov 2018 13:53:51 (GMT -05:00)	Message 509264854 matched per-recipient policy Duke_Outgoing_Domains for outbound mail policies.
07 Nov 2018 13:53:51 (GMT -05:00)	[Redacted]
07 Nov 2018 13:53:51 (GMT -05:00)	Message 509264854 scanned by Anti-Virus engine. Final verdict: Negative
07 Nov 2018 13:53:51 (GMT -05:00)	Message 509264854 queued for delivery.
07 Nov 2018 13:53:51 (GMT -05:00)	[Redacted]
07 Nov 2018 13:53:51 (GMT -05:00)	[Redacted]
07 Nov 2018 13:53:51 (GMT -05:00)	(DCID 80246229) Delivery started for message 509264854 to ***
07 Nov 2018 13:53:51 (GMT -05:00)	(DCID 80246229) Delivery details: Message 509264854 sent to ***
07 Nov 2018 13:53:52 (GMT -05:00)	[Redacted]



07 Nov 2018 13:53:52 (GMT -05:00)

Message 509264854 to *** received remote SMTP response '1GksXC32y3NI36R0 Message accepted for delivery'.

Key: Last Event



EXHIBIT E

(Copy of the Proponent's Evidence of Ownership and Related Correspondence)

Wright, Nancy M.

From: *** | ***
Sent: Monday, November 12, 2018 3:47 PM
To: Maltz, David S
Cc: Wright, Nancy M.; Crapster, Joseph P
Subject: Rule 14a-8 Proposal (DUK) blb
Attachments: CCE12112018_2.pdf

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Mr. Maltz,
Please see the attached letter.
Sincerely,
John Chevedden

Personal Investing

P.O. Box 770001
Cincinnati, OH 45277-0045



November 12, 2018

John R Chevedden

To Whom It May Concern:

This letter is provided at the request of Mr. John R. Chevedden, a customer of Fidelity Investments.

Please accept this letter as confirmation that as of the date of this letter, Mr. Chevedden has continuously owned no fewer than the share quantity listed in the following table in the following security, since June 1st, 2017:

Security Name	CUSIP	Symbol	Share Quantity
FirstEnergy Corp	337932107	FE	90
Pfizer Inc.	717081103	PFE	100
AMN Healthcare Services Inc.	001744101	AMN	100
Spirit AeroSystems Holdings Inc.	848574109	SPR	100
Duke Energy Corp	26441C204	DUK	50
Dana Incorporated	235825205	DAN	300

These securities are registered in the name of National Financial Services LLC, a DTC participant (DTC number: 0226) and Fidelity Investments subsidiary.

I hope you find this information helpful. If you have any questions regarding this issue, please feel free to contact me by calling 800-397-9945 between the hours of 8:30 a.m. and 5:00 p.m. Eastern Standard Time (Monday through Friday) and entering my extension 13813 when prompted.

Sincerely,

Stormy Delehanty
Personal Investing Operations

Our File: W077564-09NOV18

EXHIBIT F

(Word Count for Original Proposal)

[This line and any line above it – Not for publication.]

Proposal [4] – Simple Majority Vote

RESOLVED, Shareholders request that our board take each step necessary so that each voting requirement in our charter and bylaws (that is explicit or implicit due to default to state law) that calls for a greater than simple majority vote be eliminated, and replaced by a requirement for a majority of the votes cast for and against applicable proposals, or a simple majority in compliance with applicable laws. If necessary this means the closest standard to a majority of the votes cast for and against such proposals consistent with applicable laws. This includes taking the steps necessary to adjourn the annual meeting to solicit the votes necessary for approval if the votes for approval are lacking during the annual meeting.

Adjourn appears 18-times in the Duke Energy bylaws. Shareholders are willing to pay a premium for shares of companies that have excellent corporate governance. Supermajority voting requirements have been found to be one of 6 entrenching mechanisms that are negatively related to company performance according to "What Matters in Corporate Governance" by Lucien Bebchuk, Alma Cohen and Allen Ferrell of the Harvard Law School. Supermajority requirements are used to block initiatives supported by most shareowners but opposed by a status quo management.

This proposal topic won from 74% to 88% support at Weyerhaeuser, Alcoa, Waste Management, Goldman Sachs, FirstEnergy, McGraw-Hill and Macy's. The proponents of these proposals included Ray J. Chevelden and William Steiner. The votes would have been higher than 74% to 88% if all shareholders had equal access to independent proxy voting advice.

Currently a 1%-minority can frustrate the will of our 79%-shareholder majority in an election in which 80% of shares cast ballots. In other words a 1%-minority could have the power to prevent 79% of shareholders from taking important action such as eliminating 80%-voting thresholds to improve certain Articles in our Article of Incorporation.

97% of the ballots cast in 2018 supported the elimination of 80%-vote thresholds for certain items to be approved – yet this was reported as a failed vote by Duke Energy (the item with 434 million votes in favor compared to only 364 million votes in regard to executive pay)
<https://www.sec.gov/Archives/edgar/data/1326160/000132616018000131/finalform8-kre2018annualme.htm>

359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374
Now is a good time to improve DUK corporate governance given the following concerns regarding the performance and reputation of DUK.

380 381 382 383 384 385 386 387 388 389 390 391 392
Fish deaths and mutations due to coal ash pollution, Sutton and Mayo plants
October 2018

395 396 397 398 399 400 401 402 403 404 405 406 407
Anti-Competitive Behavior – Litigation with non-profit third-party provider for solar power supply to local church; case to be heard by State Supreme Court, North Carolina
October 2018

421 422 423 424 425 426 427 428 429 430 431
Chemical Spill/Toxic Release – environmental concerns regarding coal ash, North Carolina
October 2018

434 435 436 437 438 439 440 441 442 443 444 445 446
Consumer Fraud/Abuse – Customer complaints over continued charges for discontinued Levy County Nuclear Project, Florida
September 2018

451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467
Consumer Fraud/Abuse – Attorney General scrutinizes plan to increase rates to pay for coal ash cleanup cost, North Carolina
July 2018

472 473 474 475 476 477 478 479 480 481 482 483 484 485
FERC \$3.5 Million Settlement over alleged misleading data submissions related to competition during merger with Progress Energy
June 2018

491 492 493 494 495 496 497 498
Worker fatality at Gallagher Station Power Plant, Indiana
May 2018

501 502 503 504 505 506 507 508 509 510 511 512 513 514
Chemical Spill/Toxic Release – Coal ash spills into Dan River, Dan River Steam Station
April 2018

517 518 519 520 521 522 523 524 525 526 527 528 529
Community concerns over environmental and drinking water impacts of coal ash, North Carolina
March 2018

532 533 534
Please vote yes:

Simple Majority Vote – Proposal [4]
[The above line – Is for publication.]

John Chevedden,
proposal.

sponsors this

Notes:

This proposal is believed to conform with Staff Legal Bulletin No. 14B (CF), September 15, 2004 including (emphasis added):

Accordingly, going forward, we believe that it would not be appropriate for companies to exclude supporting statement language and/or an entire proposal in reliance on rule 14a-8(l)(3) in the following circumstances:

- the company objects to factual assertions because they are not supported;
- the company objects to factual assertions that, while not materially false or misleading, may be disputed or countered;
- the company objects to factual assertions because those assertions may be interpreted by shareholders in a manner that is unfavorable to the company, its directors, or its officers; and/or
- the company objects to statements because they represent the opinion of the shareholder proponent or a referenced source, but the statements are not identified specifically as such.

We believe that it is appropriate under rule 14a-8 for companies to address these objections in their statements of opposition.

See also: Sun Microsystems, Inc. (July 21, 2005).

The stock supporting this proposal will be held until after the annual meeting and the proposal will be presented at the annual meeting. Please acknowledge this proposal promptly by email

EXHIBIT G

(Word Count for Revised Proposal)

[This line and any line above it – Not for publication.]

Proposal [4] – Simple Majority Vote

RESOLVED, Shareholders request that our board take each step necessary so that each voting requirement in our charter and bylaws (that is explicit or implicit due to default to state law) that calls for a greater than simple majority vote be eliminated, and replaced by a requirement for a majority of the votes cast for and against applicable proposals, or a simple majority in compliance with applicable laws. If necessary this means the closest standard to a majority of the votes cast for and against such proposals consistent with applicable laws. A necessary unified element of this one proposal is that it includes taking the steps necessary to adjourn the annual meeting to solicit the votes necessary for approval if the votes for approval are lacking during the annual meeting.

To facilitate adoption of this proposal – adjourn appears 18-times in the Duke Energy bylaws. Shareholders are willing to pay a premium for shares of companies that have excellent corporate governance. Supermajority voting requirements have been found to be one of 6 entrenching mechanisms that are negatively related to company performance according to “What Matters in Corporate Governance” by Lucien Bebchuk, Alma Cohen and Allen Ferrell of the Harvard Law School. Supermajority requirements are used to block initiatives supported by most shareowners but opposed by a status quo management.

This proposal topic won from 74% to 88% support at Weyerhaeuser, Alcoa, Waste Management, Goldman Sachs, FirstEnergy, McGraw-Hill and Macy’s. The proponents of these proposals included Ray I. Chevedden and William Steiner. The votes would have been higher than 74% to 88% if all shareholders had equal access to independent proxy voting advice.

Currently a 1%-minority can frustrate the will of our 79%-shareholder majority in an election in which 80% of shares cast ballots. In other words a 1%-minority could have the power to prevent 79% of shareholders from taking important action such as eliminating 80%-voting thresholds to improve certain Articles in our Article of Incorporation.

97% of the ballots cast in 2018 supported the elimination of 80%-vote thresholds for approval of certain corporate governance improvements – yet this was reported as a failed vote by Duke Energy. This 2018 ballot item received 434 million votes in favor compared to only 364 million votes in favor of executive pay: <https://www.sec.gov/Archives/edgar/data/1326160/000132616018000131/finalform8-kre2018annualme.htm>

Now is a good time to improve DUK corporate governance given the following concerns regarding the performance and reputation of DUK:

Fish deaths and mutations due to coal ash pollution, Sutton and Mayo plants.
October 2018

414 415 416 417 418 419 420 421 422 423 424 425 426
Anti-Competitive Behavior – Litigation with non-profit third-party provider for solar power supply to local church; case to be heard by North Carolina Supreme Court.
417 418 419 420 421 422 423 424 425 426
437 438
October 2018

439 440 441 442 443 444 445 446 447 448 449
Chemical Spill/Toxic Release – Environmental concerns regarding coal ash, North Carolina.
450 451
October 2018

452 453 454 455 456 457 458 459 460 461 462 463 464
Consumer Fraud/Abuse – Customer complaints over continued charges for discontinued Levy County Nuclear Project, Florida.
465 466
467 468
September 2018

469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485
Consumer Fraud/Abuse – Attorney General scrutinizes plan to increase rates to pay for coal ash cleanup cost, North Carolina.
486 487
488 489
July 2018

490 491 492 493 494 495 496 497 498 499 500 501 502 503
FERC \$3.5 Million settlement over alleged misleading data submissions related to competition during merger with Progress Energy.
504 505 506
507 508
June 2018

509 510 511 512 513 514 515 516
Worker fatality at Gallagher Station Power Plant, Indiana.
517 518
May 2018

519 520 521 522 523 524 525 526 527 528 529 530 531 532
Chemical Spill/Toxic Release – Coal ash spills into Dan River, Dan River Steam Station.
533 534
April 2018

535 536 537 538 539 540 541 542 543 544 545 546 547
Community concerns over environmental and drinking water impacts of coal ash, North Carolina.
548 549
March 2018

550 551 552
Please vote yes:

Simple Majority Vote – Proposal [4]
[The above line – *Is* for publication.]

Notes:

John Chevedden,

sponsored this proposal.

Proposal [4] – Means [4] is the placeholder for the company to assign the number in the proxy.

Please note that the title of the proposal is part of the proposal. In the interest of clarity and to avoid confusion the title of this and each other ballot item is requested to be consistent throughout all the proxy materials.

This proposal is believed to conform with Staff Legal Bulletin No. 14B (CF), September 15, 2004 including (emphasis added):

Accordingly, going forward, we believe that it would not be appropriate for companies to exclude supporting statement language and/or an entire proposal in reliance on rule 14a-8(l)(3) in the following circumstances:

- the company objects to factual assertions because they are not supported;
- the company objects to factual assertions that, while not materially false or misleading, may be disputed or countered;
- the company objects to factual assertions because those assertions may be interpreted by shareholders in a manner that is unfavorable to the company, its directors, or its officers; and/or
- the company objects to statements because they represent the opinion of the shareholder proponent or a referenced source, but the statements are not identified specifically as such.

We believe that it is appropriate under rule 14a-8 for companies to address these objections in their statements of opposition.

See also: Sun Microsystems, Inc. (July 21, 2005).

Stock will be held until after the annual meeting and the proposal will be presented at the annual meeting.
Please acknowledge this proposal promptly by email
