

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
19 EHR 02398, 19EHR02399, 19EHR02401,  
19EHR02403, 19EHR02404, 19EHR02406

<p>Duke Energy Carolinas LLC, and Duke Energy Progress LLC, Petitioners,</p> <p>v.</p> <p>State of North Carolina ex rel. North Carolina Department of Environmental Quality, Respondent.</p> <p>and</p> <p>Appalachian Voices, The Stokes County Branch of the NAACP, Mountaintrue, The Catawba Riverkeeper Foundation, The Waterkeeper Alliance, The Sierra Club, and The Roanoke River Basin Association, Respondent-Intervenors.</p>	<p><b>ORDER GRANTING RESPONDENT'S PARTIAL MOTION TO DISMISS</b></p>
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THIS MATTER CAME before the Undersigned on Respondent's Partial Motion to Dismiss on July 31, 2019. All Parties submitted motion papers and had an opportunity to be heard on the record. After careful consideration of the motion papers, legal authorities cited and argued, the Undersigned hereby determines that Petitioner failed to state a claim for relief and, therefore, DISMISSES the following claims:

That DEQ erred by electing the method of closure for each of the nine coal ash impoundments subject to this litigation;

That DEQ erred in making its closure elections before Duke Energy submitted its closure plans;

That DEQ erred by using a comparative standard for its election decision rather than the yes-or-no standard set out for DEQ's review of closure plans; and

That DEQ erred in determining that closure must be fully implemented by December 31, 2029.

SO ORDERED.

This the 2nd day of August, 2019.



Selina Malherbe  
Administrative Law Judge

## CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service:

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This the 2nd day of August, 2019.



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