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VIA ELECTRONIC SUBMISSION

Jonathan Booe
Executive Vice President & Chief Operating Officer
North American Energy Standards Board
1415 Louisiana Street, Suite 3460
Houston, Texas 77002

RE: Piedmont Natural Gas Company, Inc. and the local distribution company operating segment of Duke Energy Ohio, LLC, and Duke Energy Kentucky, LLC's Comments on Standards Request No. R23001

Dear Mr. Booe:

I am writing this letter to the North American Energy Standards Board's ("NAESB") Wholesale Gas Quadrant ("WGQ") Executive Committee on behalf of Piedmont Natural Gas Company, Inc. and the local distribution company ("LDC") operating segment of Duke Energy Ohio, LLC, and Duke Energy Kentucky, LLC (collectively, the "Duke Energy LDCs" or "Companies") as a part of the WGQ End User Segment, and with respect to Standards Request No. R23001 – "Enhancement to the NAESB Base Contract for Sale and Purchase of Natural Gas Force Majeure Terms." On September 5, 2023, we previously filed a letter with NAESB reflecting informal comments concerning Standards Request No. R23001 on behalf of the Duke Energy LDCs. In this letter, we reiterate salient positions from our September 5th letter and include additional points concerning Standards Request No. R23001 in light of the WGQ Executive Committee's planned review and vote on the same recommendation during its upcoming meeting on October 26, 2023.

As explained in our prior letter, the Duke Energy LDCs urge the WGQ Executive Committee to support revisions to the NAESB Base Contract for Sale and Purchase of Natural Gas to improve the clarity associated with contractual force majeure provisions and, therefore, we oppose the No-Action Recommendations by other participants. The Duke Energy LDCs' collective ability to reliably procure and ensure access to natural gas supply is imperative, particularly during inclement weather events. LDCs utilize long-term supply planning based primarily on contractual agreements with upstream transporters and suppliers. LDCs are already at a disadvantage in potential force majeure events because notification letters from suppliers usually arrive days after the events in question have already occurred, with the fallout from recent winter storms being notable examples.

As a result, true *real-time* force majeure notifications are more readily revealed as actual pipeline reductions as opposed to contractual notices. In other words, real-time force majeure notifications other than pipeline reductions are generally non-existent. This reality is suboptimal at best for the Duke Energy LDCs because, at its core, the issue comes down to supply availability, real-time clarity in peak events, and ultimately, the ability to ensure reliability. If the ability of LDCs to ensure reliable natural gas supply during certain weather events is diminished due to unclear force majeure provisions, all LDC customers – including individual LDC customers, electric utility customers, and their respective end-use customers – can be negatively impacted.

This is particularly concerning for the Duke Energy LDCs when one considers that, as detailed in the North American Electric Reliability Corporation's September 21, 2023, presentation detailing Winter Storm Elliott's effects on the bulk-power system during worst conditions ("NERC Presentation"), there have been five weather events in the past 11 years where "unplanned cold weather-related generation outages jeopardized bulk-power system reliability[.]"[1] The ability of LDCs to reliably deliver natural gas is critical to LDC customers in general, and in particular to the electric generation obligations of many LDC electric utility customers. To that end, a "Near-Term Action" recommendation from the NERC Presentation is that NAESB "should convene natural gas and electric grid operators, and LDCs to identify *improvements in communication* during extreme cold weather events to enhance situational awareness across natural gas supply chain."[2] (emphasis added). To be clear, there are other observations included in the NERC Presentation that reflect the need for a coordinated and collective response from the electric and gas utility industries to bolster pipeline and grid reliability. From an End User Segment perspective, however, it is also clear that in this age of increasing weather events threatening LDC operations and the bulk-power system, now is not the time to further disadvantage LDCs by making it easier for third-party natural gas suppliers to sidestep their contractual obligations by hampering efforts to clarify force majeure contractual language, which would, in turn, frustrate LDCs' collective ability to fulfill their contractual obligations to their customers.

Therefore, the Duke Energy LDCs continue to support revisions to the NAESB Base Contract for Sale and Purchase of Natural Gas to improve the clarity associated with contractual force majeure provisions. Although the suggested revisions contemplated by Standards Request No. R23001 may require additional edits and evaluation to arrive at an acceptable solution for most WGQ members, the Duke Energy LDCs do not believe the "perfect should be the enemy of the good." Suppliers and upstream providers should not be able to shield themselves by invoking contractual force majeure provisions in response to mere cold weather events, and much care *ought* to be taken when revising language in

[1] December 2022 Winter Storm Elliott Grid Operations: Key Findings and Recommendations – *FERC, NERC, and Regional Entity Joint Staff Inquiry,* (September 21, 2023, at 3) (https://www.ferc.gov/news-events/news/presentation-ferc-nerc-regional-entity-joint-inquiry-winter-storm-elliott).
[2] *Id.* at 19.

order to avoid unduly shifting more risk to end users such as the Duke Energy LDCs. For the stated reasons above, the Duke Energy LDCs support continued discussion regarding Standards Request No. R23001, and request that NAESB and the WGQ consider these comments during the October 26th WGQ Executive Committee meeting.

Please feel free to contact me should you have any questions.

Sincerely,

Brian S. Heslin