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CAC to IURC: Protect Ratepayers, Reject Duke's Coal Ash Plan Duke's Plan Too Expensive and Fails to Protect Environment

INDIANAPOLIS – Citizens Action Coalition (“CAC”) recently filed the testimony of Ben Inskeep, CAC Program Director, asking the Indiana Utility Regulatory Commission (“IURC”) to deny Duke Energy’s request to charge their Indiana ratepayers for coal ash compliance projects. The case is docketed before the IURC as Cause No. 45940.

“CAC urges the Commission to ensure all coal ash is cleaned up the right way and to leverage every tool at their disposal to mitigate the bill impacts to ratepayers, many of whom are already under enormous financial strain both due to rising energy bills and inflationary pressures that have resulted in significant price increases for many consumer goods and services,” recommended Mr. Inskeep.

Duke is proposing to leave 94% of the toxic coal ash included in this proceeding in unlined ponds and landfills along the shores of the Ohio, Wabash, and White Rivers. This is despite groundwater monitoring conducted by Duke Energy which indicates that pollution from this toxic coal ash is seeping into groundwater, with numerous harmful contaminants such as arsenic exceeding established standards.

“Duke is claiming it is doing closure by removal as required by a federal mandate, yet IDEM’s approvals expressly find that the claimed ‘closure by removal’ does not actually comply with all of the federal requirements” stated Mr. Inskeep. “This is not a lawful or appropriate use of ratepayer money, especially since it is likely ratepayers that will eventually have to pay for additional closure or corrective action projects at these sites in the future.”

Additionally, Duke Energy is treating the State of Indiana and Hoosier ratepayers markedly differently than their affiliate utilities in other States, like the Carolinas, where toxic coal ash is being excavated and moved to dry, lined disposal sites or recycled for encapsulated forms of reuse, such as in concrete. Mr. Inskeep notes in his testimony that in South Carolina, Duke Energy Progress’s expert found *“that closure by removal of all or the vast majority of the CCR is the only closure approach that can reliably and cost-effectively meet the federal CCR closure performance standards.”*

“There is no meaningful difference in the on-the-ground circumstances between Duke Energy’s coal ash ponds in Indiana and elsewhere where utilities, including Duke affiliate utilities in other jurisdictions, have decided to pursue closure by removal at CCR units,” said Mr. Inskeep.” The result is that Indiana residents are receiving substantially less protection from the risks posed by Duke’s coal ash than the residents of states like North Carolina, and there is no principled technical, scientific, or policy basis for this unequal outcome.”

Mr. Inskeep recommended that the IURC:

- Deny Duke’s request to earn a return “on” Coal Ash Compliance Project costs, especially given that it makes up over 25% of the proposed charges to ratepayers between 2025-2030.
- Deny Duke’s request to charge ratepayers for:
 - All costs incurred prior to the General Assembly’s passage of the controversial SEA 9 from the 2023 legislative session.
 - All expenses related to the voluntarily dismissed previous coal ash case, Cause No. 45749.
 - All costs that are not required by a federal mandate or not compliant with all provisions of the relevant federal mandate.
 - All costs that are inconsistent with the EPA’s proposed Legacy CCR Rule.
 - All costs that are associated with coal ash closure plans that have not been approved by IDEM, as they are not yet ripe for consideration at this time.
- Reject Duke’s methodology for allocating any approved costs from the Coal Ash Compliance Projects as it is unfair to residential customers.
- Allocate some of the financial burden of the Coal Ash Compliance Project to Duke’s shareholders.
- Deny Duke’s request to defer large (25% or greater) cost overruns.
- Deny Duke cost recovery of membership dues in trade associations, like the Utility Solid Waste Activities Group (“USWAG”)

“Duke’s Coal Ash Compliance Project is not only extraordinarily expensive, but it also fails to adequately clean up Duke’s toxic coal messes, meaning they are not environmentally sustainable and create large risks to ratepayers of future, additional compliance costs,” concluded Mr. Inskeep.

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The testimony of Ben Inskeep is available [here](#). Other case-related documents are available [here](#) and upon request.