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June 16, 2011

Honorable G.K. Butterfield  
United States House of Representatives  
2305 Rayburn HOB  
Washington, DC 20510

Dear Congressman Butterfield:

On behalf of all our customers, Duke Energy thanks you for your continued support for sensible approaches to regulating the electric utility industry.

As you know, the Environmental Protection Agency ("EPA") has proposed federal regulations to govern the disposal of coal ash and other coal combustion residuals ("CCR") under the Resource Conservation and Recovery Act (RCRA). The agency is currently weighing two options: regulating CCR as hazardous waste under RCRA subtitle C, or regulating them as non-hazardous waste under RCRA subtitle D. Specifically, the regulation of coal combustion residuals as a hazardous waste would significantly increase our compliance costs compared to an approach that regulates these substances as non-hazardous. These increased costs, however, would come with no corresponding increase in the protection of human health or the environmental.

In response to EPA's action, Congressman McKinley introduced H.R. 1391, the Recycling Coal Combustion Residuals Accessibility Act of 2011, which prohibits EPA from regulating the four high volume CCRs (*i.e.*, fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste) as hazardous waste. While Duke Energy fully supports this statutory prohibition, we feel the legislation needs to be expanded to establish a statutory structure for state regulation of CCR disposal under non-hazardous waste rules that would ensure the protection of human health and the environment.

A manager's amendment is scheduled to be offered during tomorrow's House Energy and Commerce Subcommittee on Environment and the Economy's scheduled markup of H.R. 1391 as a substitute for the original bill. The manager's amendment:

- Provides for a consistent, protective regulatory framework for CCR disposal based on the controls already in place for municipal solid waste landfills.
- Strengthens existing state regulatory programs to ensure that CCR disposal activities would be subject to enforceable permits that address facility design standards, groundwater monitoring and protection, corrective action and closure, and post-closure care.
- Imposes facility design, construction, and maintenance standards to ensure CCR impoundment safety.

- Gives EPA the authority to step in to enforce compliance with the standards in the event a state fails to meet certain conditions.
- Preserves the ability of states to regulate more stringently, if desired, and
- Improves CCR disposal practices significantly, where necessary; keeps costs as low as possible for customers; and helps to preserve the many beneficial uses of coal ash on which many good North Carolina jobs depend.

Duke Energy supports the manager's amendment and asks for your support for it and the bill as amended. The amended bill will ensure environmentally protective regulation of CCR without imposing unnecessary and costly regulations on the utility industry that would increase electricity costs for our consumers in North Carolina and other states we serve.

Sincerely,

A handwritten signature in black ink, appearing to be the initials 'MD' followed by a stylized flourish.