



## Corporate Political Activity

### Duke Energy

April 12, 2017

Ticker	Exchange	Meeting Date	Record Date	Annual Meeting Location
DUK	NYSE	5-4-2017	3-6-2017	Online

Agenda	
Item	Proposal
1	MGT: Elect directors
2	MGT: Ratify selection of auditors
3	MGT: Advisory vote on executive compensation
4	MGT: Advisory vote on the frequency of future advisory votes on executive compensation
5	MGT: Eliminate supermajority voting requirements
<b>6</b>	<b>SH: Report on lobbying</b>
7	SH: Report on climate change strategy
8	SH: Report on coal risks

**Si2 Briefing** [Corporate Political Activity](#)

**Report Author** [Robin Young](#)

**Links** [Proxy Statement](#); [Political Activity Policy](#); [2015 Sustainability Report](#); [Code of Business Ethics](#); [Si2 profile of Duke Energy's](#) and selected state lobbying in *How Leading U.S. Corporations Govern and Spend on State Lobbying*

**Resolved Clause** Resolved, the shareholders of Duke Energy Corporation ("Duke Energy") request the preparation of a report, updated annually, disclosing:

1. Company policy and procedures governing lobbying, both direct and indirect, and grassroots lobbying communications.
2. Payments by Duke Energy used for (a) direct or indirect lobbying or (b) grassroots lobbying communications, in each case including the amount of the payment and the recipient.
3. Duke Energy's membership in and payments to any tax-exempt organization that writes and endorses model legislation.
4. Description of management's and the Board's decision making process and oversight for making payments described in sections 2 and 3 above.

For purposes of this proposal, a "grassroots lobbying communication" is a communication directed to the general public that (a) refers to specific legislation or regulation, (b) reflects a view on the legislation or regulation and (c) encourages the recipient of the communication to take action with respect to the legislation or regulation. "Indirect lobbying"

is lobbying engaged in by a trade association or other organization of which Duke Energy is a member.

Both "direct and indirect lobbying" and "grassroots lobbying communications" include efforts at the local, state and federal levels.

The report shall be presented to the Audit Committee or other relevant oversight committees and posted on Duke Energy's website.

**Lead Proponent** Mercy Investment Services

**Vote History** This is the second year in a row that this proposal has appeared on the Duke Energy proxy ballot. The 2016 proposal received 34.2 percent support.

**Summary** Duke Energy publishes policies for direct corporate lobbying, grassroots lobbying and trade association activities, but it does not disclose its direct federal or state-level lobbying expenditures. In addition, it only provides a partial list of trade association memberships and no information on the dues paid. It also only provides an aggregate total for the portion of dues used for political and lobbying expenditures, not individual amounts.

### I. Duke Energy and Political Activity

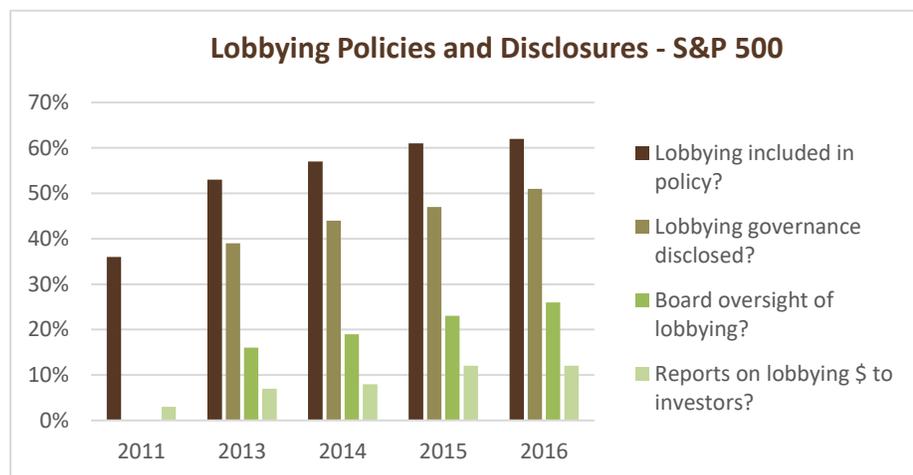
Duke Energy is the largest electric power holding company in the United States. It supplies and delivers energy to approximately 7.5 million electric customers and 1.5 million gas customers. The company's three reportable business segments include Regulated Utilities, International Energy and Commercial Portfolio. Wholly owned subsidiaries include: Duke Energy Carolinas, Duke Energy Progress, Duke Energy Florida, Duke Energy Indiana, and Duke Energy Ohio.

Financials			
(\$ millions)	2015	2016	% Change
<b>Total Revenue</b>	\$22,371	\$22,743	1.7%
<b>Net Income</b>	\$2,831	\$2,152	(24%)

The company has approximately 49,300 megawatts of generating capacity from a mix of coal (27.1 percent), nuclear (27.4 percent), natural gas and oil (22.9 percent) and hydroelectric and solar (0.7 percent). The remaining 21.9 percent comes from purchased power and net interchange.

Founded in 1905 as Southern Power, an acquisition of Nantahala Power & Light in 1988, a merger with PanEnergy in 1997 and the acquisitions of Cinergy in 2006 and Union Gas in 1998 created the modern company. In July 2012, the company completed its merger with Progress Energy to become the largest regulated utility in the United States.

In October 2016, Duke Energy completed its acquisition of Piedmont Natural Gas for \$4.9 billion in cash. The merger aimed to establish a broader, long-term strategic natural gas infrastructure platform to supplement and complement its existing natural gas pipeline investments and regulated natural gas business in the Midwest.



Later that year, the company completed the sale of its Latin American businesses in two separate transactions – its Brazilian business to China Three Gorges and remaining Central and South American businesses to I Squared Capital.

### **Lobbying Policies**

The bar chart on the previous page and the table below provide comparative data from Si2's benchmarking research and show how board oversight and company disclosure on lobbying and intermediary group memberships and spending has increased in the last five years. The table shows how the company's lobbying policy stacks up against companies in the index and in Duke Energy's sector, using data from Si2's 2016 survey of the S&P 500.

<b>Corporate Lobbying Policies – Governance &amp; Disclosure</b>			
	<b>Duke Energy</b>	<b>2016 Si2 Study Results</b>	
		<b>Utilities Sector</b>	<b>S&amp;P 500</b>
<b>Governance</b>			
Board oversight of lobbying	Yes	36%	27%
Management transparency on lobbying?*	Yes	71%	51%
<b>Policies</b>			
Federal lobbying mentioned?	Yes	89%	62%
State lobbying mentioned?	Yes	64%	32%
<b>Intermediary Groups</b>			
Trade association policy?	Yes	86%	55%
Other non-profit policy?	No	50%	30%
Discloses any memberships?	Partial	75%	44%
Discloses any payments?	Partial	68%	32%
Prohibits use of company \$ for politics?	No	0%	7%
<b>Spending Disclosure to Investors</b>			
Federal lobbying \$ reported?	No	14%	12%
Any state lobbying \$ reported?	No	4%	3%

\*Identifies corporate officer(s) involved in decision-making.

**Direct lobbying:** Duke Energy's policy on lobbying appears in the [Political Activity Policy](#), in its [2015 Sustainability Report](#) and is also mentioned briefly in its [Code of Business Ethics](#). The company states:

Duke Energy actively participates in the political process so local, state and federal lawmakers understand and consider the interests of the company, its customers, employees, shareholders, communities and other stakeholders when developing public policies. Duke Energy provides technical and intellectual expertise on potential costs, benefits and impacts of proposed policies to help lawmakers make educated decisions.

**Board oversight:** Duke Energy's policy states: " On a semi-annual basis, the Executive Vice President, External Affairs and Strategic Policy, shall report to the Corporate Governance Committee of the Duke Energy Corporation Board of Directors on the Political Expenditure Committee's (as defined below) annual strategy, and the company's political expenditures. This includes the company's payments to trade associations and other tax-exempt organizations that may be using the funds for lobbying and political activities."

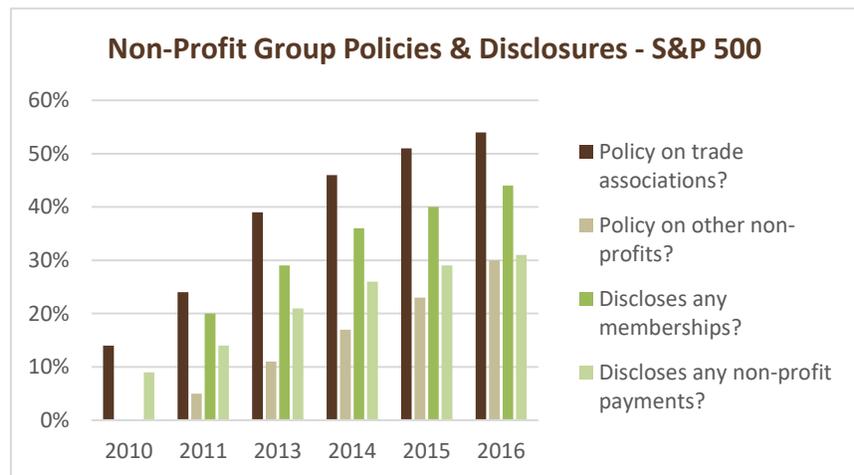
**Management transparency:** Duke Energy explains that the Government Affairs department is responsible for the coordination and approval of the company's direct corporate lobbying.

The company also states that it "shall establish and maintain a Political Expenditures Committee (PEC), whose purpose shall be to annually develop a company political expenditure strategy. This committee

will monitor and track corporate political expenditures and provide recommendations and updates to company senior management. The PEC shall be comprised of senior officers from a cross-section of disciplines in the company." It also says, "The company maintains a tiered approval process that will govern all political expenditures to ensure such expenditures have the appropriate level of management review."

**Grassroots lobbying:** The company says it has a grassroots education and advocacy network called Voices in Politics. It states that Voices in Politics "educates employees on political and policy issues and encourages them to become active in the political process by supporting or opposing policies that could affect the company. The network occasionally issues a "call to action" regarding pending legislation that could affect the company's operations, employees or stakeholders."

**Indirect lobbying:** The bar chart above provides comparative data from Si2's benchmarking research and shows how company disclosure on corporate indirect lobbying has grown in the last several years. Si2's review of S&P 500 companies' indirect spending governance practices in 2016 shows that 54 percent of these companies disclosed at least some form of policy on corporate trade association activity, up from 14 percent in 2010.



**Involvement with trade groups and other non-profit organizations:** Duke Energy's policy does address the subject of trade association activity.

**Policy—** The company's policy on trade association activity states:

1. Duke Energy belongs to a number of trade associations that participate in the political process. These associations represent a broad array of professional and industry interests.
2. Duke Energy is active in various chambers of commerce as a means to promote economic development and vitality in the jurisdictions in which we do business.
3. Duke Energy may not always agree with political positions taken by trade associations and chambers of commerce of which it is a member. However, we believe our participation in these organizations advances economic growth and community vitality.

**Membership and payment disclosure:** Duke Energy discloses two of its memberships in trade associations but does not provide a full listing. It does not list any other tax-exempt organizations that may spend money on lobbying or any dues or payments to those organizations. In its 2015 Sustainability Report, the company discloses an aggregate figure for the subset of those dues used for political and lobbying expenditures - \$892,430 in 2015. The amount includes "trade association dues used for policy research, information gathering and federal lobbying." Similar disclosures are made in its semi-annual Corporate Political Expenditure Reports. However, all reported trade association expenditure amounts contain only lobbying expenses for trade associations with dues over \$50,000 during the stated period. (See below for more on the company's involvement with intermediary groups that spend on lobbying.)

### Lobbying Expenditures

Available information from the public record on the company's lobbying shows it has spent \$31.6 million at the federal level in the last five years. These amounts may include contributions disbursed through intermediaries.

**Company disclosure of lobbying activities:** The company does not independently disclose federal lobbying expenditures. While the company does acknowledge that it engages in lobbying at the state level, it does not provide any information on state lobbying expenditures or any links to relevant state disclosure websites.

Duke Energy Federal Lobbying Expenditures 2012-2016	
Year	Federal Lobbying Expenditures
2012	\$7,250,000
2013	\$5,990,000
2014	\$5,870,000
2015	\$5,762,000
2016	\$6,770,000
<b>Total</b>	<b>\$31,642,000</b>
Federal expenditures provided by the Center for Responsive Politics through their website <a href="http://OpenSecrets.org">OpenSecrets.org</a> . Quarterly lobbying reports are available at the <a href="http://SenateOfficeofPublicRecords.org">Senate Office of Public Records</a> .	

### Involvement with Trade Associations & Other Intermediaries

The company does not disclose memberships in trade associations and other tax-exempt organizations that may spend money on political campaigns. Dues paid by the company help underwrite a percentage of each association's political and lobbying expenses. (See table for available data.)

Company Involvement with Trade Associations						
Organization	Duke Energy				Most Recent IRS Data	
	On Board	Member	2016 Contributions		Total Dues	Political Spending*
			Dues	Political*		
Business Roundtable		X	ND	ND	\$33.2 mil.	\$17 mil.
Edison Electric Institute		X	ND	ND	\$68.9 mil.	\$4.7 mil.
Nuclear Energy Institute		X	ND	ND	\$49.1 mil.	\$1.8 mil.

\*Political and lobbying expenses non-deductible under Internal Revenue Code Section 162(e)1.

### Ties to the American Legislative Exchange Council

The [Center for Media and Democracy](http://CenterforMediaandDemocracy.org) (CMD), through its website [ALEC Exposed](http://ALECExposed.org), reports that Duke Energy has been involved with the [American Legislative Exchange Council](http://ALEC.org) (ALEC). CMD says that the company is the state corporate co-chair of Indiana and South Carolina, as well as a member of the group's Energy, Environment and Agriculture Task Force. Most recently, CMD lists the company as a sponsor of ALEC's 2016 Annual Conference (More on ALEC and its corporate partners is in [Si2's Briefing Paper on Corporate Political Activity](#), pp. 34-37.)

## II. Proponent Position

The proponent believes that without disclosure of the company's lobbying policies, procedures and expenses, shareholders cannot adequately assess the use of corporate funds and the risks that such spending may impose. In addition, the resolution asserts that without enhanced disclosure, the company may be inadvertently supporting communications, causes or policy objectives through trade association lobbying that do not coincide with the company's long-term interests and may pose risks to company shareholders.

Of particular concern to the proponent is the lack of disclosure of state-level lobbying expenditures and trade association membership information, as well as the company's association with the American Legislative Exchange Council.

(Additional information on the proponent position appears in [Si2's Briefing Paper on Corporate Political Activity](#).)

### III. Management Position

Duke Energy opposes the proposal and states that, as a highly regulated public utility, it believes that it is in the company's best interests "to participate in the political process to ensure that local, state and federal lawmakers understand and consider the interests of the Corporation, our customers, employees, shareholders, communities and other stakeholders."

The company reports that in 2015 it updated its Political Activity Policy in order to enhance its governance of lobbying activities and expenditures. It states that, in addition to oversight by the Corporate Governance Committee, it has instituted a tiered governance system that "requires increasing levels of authority within the Corporation depending on the dollar amounts of the lobbying or other political expenditure being proposed." In addition, the Political Expenditures Committee "reviews the strategy, policies and practices of the corporate Political Expenditures Program."

Duke Energy says that lobbying is subject to federal and state regulations and disclosure requirements and that the information is available to the public. It also states that "Beginning in 2016, all reported lobbying expenses, DUKEPAC contributions and corporate contributions are now disclosed in the aggregate by category and posted directly on our website."

As a result of the company's existing disclosures, as well as those required by federal and state authorities, Duke Energy believes the requested report is unnecessary and would be an "unproductive use of the Corporation's resources."

### IV. Analysis

For a general analysis of the issues raised by corporate lobbying, please see Si2's [Briefing Paper on Corporate Political Activity](#). The following is specific to Duke Energy.

#### **Key Points at Issue**

- Do shareholders have enough information about Duke Energy's lobbying activities?
- Do the company's grassroots lobbying activities expose its shareholders to unnecessary risks?

**Best practices:** Duke Energy's policies and procedures address direct corporate lobbying, grassroots lobbying and lobbying by trade association partners. The company's direct corporate lobbying policies include information on board oversight and management governance. In addition, the company discusses the subject of direct corporate lobbying at the state level, but it does not provide any further information on those activities.

**Disclosure:** Despite stating that "lobbying expenses will be disclosed in the aggregate by category and posted directly on this website" the company appears to disclose only lobbying expenditures associated with trade association activity, not lobbying expenditures it makes directly at the federal and state level.

Required federal disclosure forms provide information on the issues and legislation the company lobbies about as well as which federal legislators or committees are contacted. But, since a public repository of all state-level lobbying expenditures does not currently exist and state disclosure regimes vary, this means it is difficult if not impossible to accurately determine how much the company spends in the states on lobbying. Efforts to compile such information take extensive time and labor and do not yield easily comparable information. (See Si2's [recent report on state lobbying for a profile of the company's spending in six states where the most lobbying occurs.](#))

With respect to trade association activity, Duke Energy discloses a partial list of trade association memberships and provides an aggregate amount for the portion of dues used for political and lobbying purposes, but only for those associations that receive in excess of \$50,000 per year. The company does not

identify all trade association memberships and does not disclose dues amounts paid to those associations.

**Relationships with trade associations and other politically active non-profit groups:** Some shareholders may be concerned with Duke Energy's ties to the American Legislative Exchange Council, given that group's controversial positions. Yet other shareholders may see benefits the company gains through its ALEC relationship. All may want to weigh any benefits against the reputational costs associated with the group's positions, although many of the companies that have ended their ties have been retailers with high profile consumer brands directly vulnerable to public stigma, not Utilities sector companies such as Duke Energy.

**Summing up:** In short, while the company publishes policies for direct corporate lobbying, grassroots lobbying and trade association activities, it does not disclose its direct federal or state-level lobbying expenditures. In addition, it only provides a partial list of trade association memberships and no information on the dues paid. It also only provides an aggregate total for the portion of dues used for political and lobbying expenditures, not individual amounts.

### ***Voting Considerations***

**Voting in favor:** Investors may want vote in favor of this proposal to underscore to management that current publicly available information provides an inadequate view of company lobbying. They may think that more information is vital for properly assessing risks associated with lobbying, including in the states and at the grassroots, and they may have concerns about reputational damage that can come from ties to controversial groups.

**Voting against:** Investors may decide to vote against the resolution because they think there is enough information available from the company and other sources about its lobbying, and that current disclosure laws are adequate. Some also may vote against because they consider corporate lobbying immaterial (either monetarily or from a public relations perspective). Finally, some also may believe that the company should participate in the political arena through lobbying to pursue its interests, and those of its shareholders.