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*Nov. 4, 2022*

Internal Revenue Service  
CC:PA:LPD:PR (Notice 2022-50)  
Room 5203  
P.O. Box 7604  
Ben Franklin Station  
Washington, DC 20044

Submitted electronically via the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov)

**Re: Notice 2022-50 (Request for Comments on Elective Payment of Applicable Credits and Transfer of Certain Credits)**

Dear Sir or Madam:

Duke Energy Corporation (“Duke Energy”) is responding to the request for comments in Notice 2022-50, Request for Comments on Elective Payment of Applicable Credits and Transfer of Certain Credits.

Duke Energy (NYSE: DUK), a Fortune 150 company headquartered in Charlotte, N.C., is one of America's largest energy holding companies. Its electric utilities serve 8.2 million customers in North Carolina, South Carolina, Florida, Indiana, Ohio and Kentucky, and collectively own 50,000 megawatts of energy capacity. Its natural gas unit serves 1.6 million customers in North Carolina, South Carolina, Tennessee, Ohio and Kentucky. The company employs 28,000 people.

Duke Energy is leading a transformative clean energy transition, investing in renewables and battery storage, and advocating for new, zero-emitting technologies – including hydrogen, existing nuclear and advanced nuclear – to close the gap to net-zero.

As we execute one of the largest capital plans in the industry, the Inflation Reduction Act (IRA) incentivizes investments in zero-emitting technologies and makes the energy transition more affordable for our customers. We applaud Congress and the administration for advancing this important piece of legislation and look forward to partnering with you as you implement these historic clean energy policies.

Thank you for requesting feedback from stakeholders on these clean energy incentives. We are pleased to have the opportunity to provide comments on issues we feel should be addressed in the anticipated guidance regarding the provisions of Section 6418 of the Internal Revenue Code (“Code”), as added and amended by § 13801(b) of Public Law 117-169, 136 Stat. 1818 (Aug. 16, 2022), commonly known as the Inflation Reduction Act of 2022 (“IRA”), and we thank the Department of the Treasury (“Treasury”) and the Internal Revenue Service (the “IRS”) for considering our recommendations.



**Elective Transfers of Investment Tax Credits with Respect to Public Utility Property**

We recommend that the anticipated guidance under Section 6418 explicitly state that, in the case of any investment tax credit determined under Section 46 (or portion thereof) with respect to which an election is made under Section 6418(a), the transferee taxpayer specified in such election (and not the eligible taxpayer) is treated as the taxpayer for purposes of Section 50(d)(2) with respect to such credit (or such portion thereof). We also recommend that since rules similar to the rules referred to in Section 50(d)(2) (i.e., the rules of Section 46(f) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)) cannot be applied to property that is not owned by the taxpayer (i.e., the transferee taxpayer), the amount of any such credit allowed by Section 38 shall be determined without regard to Section 50(d)(2).

Section 6418(a) states that "...the transferee taxpayer specified in such election (and not the eligible taxpayer) shall be treated as the taxpayer for purposes of this title with respect to such credit (or portion thereof)." Due to this statutory language provided by Congress, the taxpayer for purposes of any credit transferred under Section 6418 should be the transferee taxpayer rather than the transferor taxpayer. Therefore, if the eligible taxpayer (i.e., transferor) under Section 6418 is a regulated public utility taxpayer (as defined under Section 7701(a)(33)(A)), the regulated public utility taxpayer should not be subject to the normalization requirements referred to in Section 50(d)(2) for purposes of any credit(s) transferred under Section 6418.

Thank you for considering our comments. If you have any questions or would like to discuss these comments further, please do not hesitate to contact Cooper Monroe at 980.373.5223 or [cooper.monroe@duke-energy.com](mailto:cooper.monroe@duke-energy.com).

Respectfully submitted,

Brian D. Savoy  
Executive Vice President and Chief Financial Officer

T. Cooper Monroe III  
Vice President, Tax

Copies to:  
The Honorable Lily Batchelder  
Assistant Secretary (Tax Policy)  
Department of the Treasury



William M. Paul  
Principal Deputy Chief Counsel  
and Deputy Chief Counsel (Technical)  
Internal Revenue Service

Mr. Thomas C. West, Jr.  
Deputy Assistant Secretary  
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Mr. Krishna Vallabhaneni  
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