

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:20-CV-00215-RJC-DSC

TERRIE SANDERS ET AL,
Plaintiffs,
v.
DUKE ENERGY CAROLINAS LLC,
FORMERLY DUKE ENERGY
CORPORATION,
Defendant.

ORDER

THIS MATTER is before the Court on "Duke Energy Carolinas, LLC's Motion to Dismiss Plaintiffs' Second Amended Complaint," Doc. 8, filed June 17, 2020 and the parties' briefs and exhibits. Docs. 9, 12, and 13. In Plaintiffs' response to Defendant's "Memorandum of Law in Support of its Motion to Dismiss Plaintiffs' Second Amended Complaint," Plaintiffs request leave to amend their Complaint to allege that the Federal Power Act and the Federal Energy Regulatory Commission License define the applicable standard of care. See Doc. # 12 at pp. 20-21. For the reasons set forth therein, Plaintiffs' request for leave to amend their Complaint will be granted.

The Fourth Circuit has held that leave to amend a pleading should be granted unless (1) "the amendment would be prejudicial to the opposing party," (2) "the moving party has acted in bad faith," or (3) "the amendment would be futile." Equal Rights Ctr. V. Niles Bolton Assocs., 602 F.3d 597, 603 (4th Cir. 2010). Defendant opposes Plaintiffs' request for leave to amend the Complaint, arguing that such amendment would be futile. The Court disagrees.

Plaintiffs' request for leave to amend their Complaint to allege that the FPA and FERC License define the applicable standard of care is **GRANTED**. Plaintiffs shall file their Amended Complaint within five days of this Order.

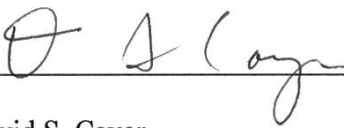
It is well settled that an amended pleading supersedes the original pleading, and that motions directed at superseded pleadings are to be denied as moot. Young v. City of Mount Ranier, 238 F.3d 567, 573 (4th Cir. 2001) (amended pleading renders original pleading of no effect); Turner v. Kight, 192 F.Supp.2d 391, 397 (D. Md. 2002) (denying as moot motion to dismiss original complaint on grounds that amended complaint superseded original complaint).

IT IS THEREFORE FURTHER ORDERED that "Duke Energy Carolinas, LLC's Motion to Dismiss Plaintiff's Second Amended Complaint," Doc. 8, is administratively **DENIED** as moot without prejudice.

The Clerk is directed to send copies of this Order to counsel for the parties and to the Honorable Robert J. Conrad, Jr..

SO ORDERED.

Signed: October 14, 2020



David S. Cayer
United States Magistrate Judge

