THE HONORABLE JOHN H. CHUN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FEDERAL TRADE COMMISSION, *et al.*,

Plaintiffs,

v.

AMAZON.COM, INC., a corporation,

Defendant.

CASE NO.: 2:23-cv-01495-JHC

PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
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(202) 326-2222

Pursuant to W.D. Wash. LCR 7(n), Plaintiffs submit for the Court's consideration as supplemental authority in support of their opposition to Amazon's motion to dismiss (Dkt. #149) the attached recently issued decision in *Duke Energy Carolinas, LLC v. NTE Carolinas II, LTE*, No. 22-2168, __ F.4th __, 2024 WL 3642432 (4th Cir. Aug. 5, 2024). The Fourth Circuit held that the district court failed to apply the correct legal standard to an antitrust plaintiff's allegations of anticompetitive conduct in violation of Section 2 of the Sherman Act and vacated the district court's order granting the defendant's motion for summary judgment. The Fourth Circuit's discussion of whether alleged "multi-faceted" anticompetitive conduct by a monopolist—including "exclusionary pricing allegations," *id.* at *15-16—must be considered as a whole, *see id.* at *11-13, is highly relevant to disputed issues associated with Amazon's motion to dismiss, *see* Dkt. #127 at 8-15; Dkt. #149 at 6-8, 14-15; Dkt. #178 at 3-6.

Dated: August 9, 2024

Respectfully submitted,

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