

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

In the Matter of:

THE JOINT APPLICATION OF DUKE ENERGY)
CORPORATION; CINERGY CORP.; DUKE)
ENERGY OHIO, INC.; DUKE ENERGY)
KENTUCKY, INC.; DIAMOND ACQUISITION) Case No. 2011-00124
CORPORATION; AND PROGRESS ENERGY,)
INC., FOR APPROVAL OF THE INDIRECT)
TRANSFER OF CONTROL OF DUKE ENERGY)
KENTUCKY, INC.)

ATTORNEY GENERAL'S INITIAL DATA REQUESTS

Comes now the intervenor, the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and submits these Initial Requests for Information to Joint Applicants Duke Energy Corp.; Cinergy Corp.; Duke Energy Ohio, Inc.; Duke Energy Kentucky, Inc.; Diamond Acquisition Corp.; and Progress Energy, Inc. [hereinafter jointly referred to as "Joint Applicants"] to be answered by the date specified in the Commission's Order of Procedure, and in accord with the following instructions:

(1) In each case where a request seeks data provided in response to a staff request, reference to the appropriate request item will be deemed a satisfactory response.

(2) Please identify the witness who will be prepared to answer questions concerning each request.

(3) Please repeat the question to which each response is intended to refer. The Office of the Attorney General can provide counsel for Joint Applicants with an electronic version of these questions, upon request.

(4) These requests shall be deemed continuing so as to require further and supplemental responses if the company receives or generates additional information within the scope of these requests between the time of the response and the time of any hearing conducted hereon.

(5) Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association, be accompanied by a signed certification of the preparer or person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

(6) If any request appears confusing, please request clarification directly from the Office of Attorney General.

(7) To the extent that the specific document, workpaper or information as requested does not exist, but a similar document, workpaper or information does exist, provide the similar document, workpaper, or information.

(8) To the extent that any request may be answered by way of a computer printout, please identify each variable contained in the printout which would not be self evident to a person not familiar with the printout.

(9) If the company has objections to any request on the grounds that the requested information is proprietary in nature, or for any other reason, please notify the Office of the Attorney General as soon as possible.

(10) As used herein, the words "document" or "documents" are to be construed broadly and shall mean the original of the same (and all non-identical copies or drafts thereof) and if the original is not available, the best copy available. These terms include all information regardless of the medium or media in which they are recorded (including electronic media and e-mail), in any written, graphic or other tangible form including, but not necessarily limited to: all reports; memoranda; books or notebooks; written or recorded statements, interviews, affidavits and depositions; all letters or correspondence; telegrams, cables and telex messages; contracts, leases, insurance policies or other agreements; warnings and caution/hazard notices or labels; mechanical and electronic recordings and all information so stored, or transcripts of such recordings; calendars, appointment books, schedules, agendas and diary entries; notes or memoranda of conversations (telephonic or otherwise), meetings or conferences; legal pleadings and transcripts of legal proceedings; maps, models, charts, diagrams, graphs and other demonstrative materials; financial statements, annual reports, balance sheets and other accounting records; quotations or offers; bulletins, newsletters, pamphlets, brochures and all other similar publications; summaries or compilations of data; deeds, titles, or other instruments of ownership; blueprints and specifications; manuals, guidelines, regulations, procedures, policies and instructional materials of any type; photographs or pictures, film, microfilm and microfiche;

videotapes; articles; announcements and notices of any type; surveys, studies, evaluations, tests and all research and development (R&D) materials; newspaper clippings and press releases; time cards / records, employee schedules or rosters, and other payroll records; cancelled checks, invoices, bills and receipts; and writings of any kind and all other tangible things upon which any handwriting, typing, printing, drawings, representations, graphic matter, magnetic or electrical impulses, or other forms of communication are recorded or produced, including audio and video recordings, computer stored information (whether or not in printout form), computer-readable media or other electronically maintained or transmitted information, and all other rough drafts, revised drafts (including all handwritten notes or other marks on the same) and copies of documents as hereinbefore defined by whatever means made.


(11) For any document withheld on the basis of privilege, state the following: date; author; addressee; indicated or blind copies; all persons to whom distributed, shown, or explained; and, the nature and legal basis for the privilege asserted.

(12) In the event any document called for has been destroyed or transferred beyond the control of the company, please state: the identity of the person by whom it was destroyed or transferred, and the person authorizing the destruction or transfer; the time, place, and method of destruction or transfer; and, the reason(s) for its destruction or transfer. If destroyed or disposed of by operation of a retention policy, state the retention policy.

(13) Please provide written responses, together with any and all

exhibits pertaining thereto, in one or more bound volumes, separately indexed and tabbed by each response, in compliance with Kentucky Public Service Commission Regulations.

Respectfully submitted,
JACK CONWAY
ATTORNEY GENERAL



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Certificate of Service and Filing

Counsel certifies that an original and ten photocopies of the foregoing were served and filed by hand delivery to Jeff Derouen, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601; counsel further states that true and accurate copies of the foregoing were mailed via First Class U.S. Mail, postage pre-paid, to:

Rocco O D'Ascenzo
Amy B Spiller
Duke Energy Kentucky, Inc.
P. O. Box 960
Cincinnati, OH 45201

Mark D. Goss
David S. Samford
Frost Brown Todd LLC
250 W Main Street Suite 2800
Lexington, KY 40507-1749

this 25th day of April, 2011



Assistant Attorney General

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1. State the amount of termination fees, and / or any and all other fees and expenses either or both party would have to pay if the contemplated transaction is not consummated.
 - a. Of those fees, state the amount for which DEK ratepayers would be responsible.
 - b. State in what documents this information is provided to both federal and state regulatory officials.
 - c. If DEK ratepayers would be responsible for any such fees / expenses, state whether the company would have to file a rate case to recover such sums.

2. State whether DEK, its corporate parent entities, or its affiliates has or have reserved the right to adjust its regular dividend pending completion of the transaction. If so:
 - a. For how long will any modification to the dividend remain in effect?
 - b. Provide, in complete detail, the rationale for any such adjustment.
 - c. State whether DEK intends on seeking PSC approval of same, and if not, why not.
 - d. As a result of any potential increase in dividend, state:
 - (i) how much additional funding for corporate expenses of any type or sort DEK will seek from its ratepayers; and
 - (ii) whether any such adjustment will cause DEK to file a rate case, and if so, when.

3. State whether as a result of the transaction, DEK, its corporate parent entities, or its affiliates plans or plan on paying any special dividends on any class of stock. Identify the class of stock, and state whether the officers, directors or majority holders of common stock are among potential recipients of any such special dividend.

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4. State how much additional common stock DEK, its corporate parent entities, or its affiliates will issue as a condition of the transaction's consummation. If any, state the effect on ratepayers.
5. State when DEK, its corporate parent entities, or its affiliates expect to receive full approval of the contemplated transaction from FERC, SEC, NRC, FCC, the U.S. Justice Dept., and all relevant state public utility regulatory authorities.
6. Is DEK's current generation fleet sufficient to meet both its base and peak loads? Does DEK anticipate any need to enter into purchased power agreements to meet these loads?
7. Progress Energy maintains several nuclear energy facilities in its fleet, located in other states. Provide a description of those facilities. Additionally, provide an explanation, in complete detail, of whether as a result of the contemplated transaction DEK's ratepayers will be expected to contribute (in any manner whatsoever, directly or indirectly) toward the costs of maintaining these facilities, including but not limited to: (a) depreciation; (b) any stranded costs or potential stranded costs; (c) current or future environmental costs; and (d) decommissioning / wind-down costs and current and / or tail liability concerns. Your answer should include the costs DEK ratepayers may contribute toward any insurance policies insuring any and all risks arising or potentially arising out of nuclear power generation and any and all actual or potential nuclear waste storage and transportation concerns. The term "costs" as used in this question includes but is not limited to premium, deductibles, any applicable self-insurance or co-insurance, and any and all other costs associated therewith, or such that can reasonably be expected to be associated therewith.
 - a. If the company intends in any manner whatsoever to ask DEK ratepayers to contribute toward any of the costs set forth in this question, provide a complete justification for same. Additionally, state whether DEK plans on seeking approval from KY PSC prior to doing so.
 - b. If the company intends in any manner whatsoever to ask DEK ratepayers to contribute toward any of the costs set forth in this question, state whether the Joint Applicants intend on recovering any such costs before or during the construction of any such facilities ("early cost recovery"), and if so, by what means. If so:
 - (i) state whether the Joint Applicants intend to pursue a guaranteed rate of return on said projects;

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- (ii) explain in detail why the ratepayers should bear all financial risks associated with the construction of said facilities, instead of the Joint Applicants' investors; and
 - (iii) confirm that shifting the financial risk to the Joint Applicants' ratepayers in this regard allows the Joint Applicants to maximize their profits.
 - c. Provide a complete explanation of all measures DEK, its parent entities or affiliates intend(s) to take to shift any and all costs associated with maintaining existing nuclear facilities, expansion thereof, or any potential new nuclear facilities to ratepayers in any jurisdiction, and / or to taxpayers (whether state or federal), including but not limited to Kentucky.
 - d. Provide a complete discussion of whether the Joint Applicants, with regard to maintaining existing nuclear facilities, expansion thereof, or any potential new nuclear facilities will or may seek additional partners, regardless of whether any such partner may or may not be a utility. For each such partner, provide the discussion requested in subpart (b), above.
 - e. Provide a complete discussion of whether either one or both of the Joint Applicants have conducted analyses of the costs of natural gas-fired generation as opposed to costs of nuclear generation. Include in your response whether any such studies have been conducted with regard to DEK's customers. Provide copies of same.
- 8. Assuming the contemplated transaction is fully approved in every jurisdiction by every regulatory authority, provide an explanation of the combined entity's plans for expansion of nuclear facilities anywhere within its combined service territories. For any such expansion, provide the explanation requested in question no. 6, above. Your response should include the anticipated generation output for each such facility.
 - a. Provide a complete explanation of the plans Progress Energy had immediately prior to the announcement of the contemplated transaction regarding any expansion and/or addition to its nuclear energy facilities anywhere within its service territories.
 - b. Include in your response whether the combined entity will pursue what have been popularly termed as "package" nuclear facilities.

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- c. Provide a discussion of costs expected to be incurred for the hardening of existing and any future facilities against terrorist incidents. This particular response may be confidential, if necessary.
- d. Provide a graph depicting increases in costs for construction of nuclear generation facilities from 2008 to the present. Additionally, provide the most recent forecasted construction costs for new nuclear generation facilities, including but not necessarily limited to those conducted by the U.S. Energy Information Administration.
- e. State whether the Joint Applicants will or may pursue partial funding for any potential new nuclear generation facilities from federal loan guarantee programs.
- f. Provide a discussion regarding how state public utility commissions in jurisdictions treat AFUDC and / or CWIP pertaining to nuclear facilities in those jurisdictions in which Joint Applicants currently maintain nuclear facilities.
- g. Published news reports indicate Duke Energy has expressed interest in purchasing a share of the proposed 2,200-MW expansion of the V.C. Summer nuclear plant in South Carolina. Please explain whether any decision has been made in this regard. Please also explain what, if any, ramifications this decision may have for DEK ratepayers. Please include in your discussion: (a) an analysis of the impact any such purchase would have on the ability of DEK, its parent entities and affiliates to obtain capital, especially in the event the proposed transaction in the instant case should be approved by all relevant regulatory authorities [if none has been performed to date, state whether the Joint Applicants will agree to provide any such analyses if and when performed]; (b) copies of any and all presentations to, and correspondence to / from any rating agencies regarding any such decision or potential decision to purchase a share of this plant [if none to date, state whether the Joint Applicants will agree to provide any such presentations and correspondence when performed or conducted]; and (c) If no decision has been reached, will the Joint Applicants commit to notifying the Commission and the parties hereto when any such decision has been reached, and to provide an updated response to this request and its subparts?

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9. A published report indicates that the North Carolina Eastern Municipal Power Agency ("the Agency"), comprised of 32 cities that own municipal utilities, may request that Duke Energy reduce the Agency's \$2.4 billion in debt owed to Progress Energy, comprising the municipalities' share of Progress' nuclear plants. Discuss whether DEK's parent entities will or may assume all or any portion of this \$2.4 billion debt, and if so, discuss any and all ramifications and impacts DEK's ratepayers will or may have. Provide also:
 - a. an analysis of the impact any such assumption of debt will or may have on the ability of DEK, its parent entities and affiliates to obtain capital, especially in the event the proposed transaction in the instant case should be approved by all relevant regulatory authorities (if none has been performed to date, state whether the Joint Applicants will agree to provide any such analyses if and when performed);
 - b. copies of any and all presentations to, and correspondence to / from any rating agencies regarding any decision or potential decision regarding any such debt assumption (if none to date, state whether the Joint Applicants will agree to provide any such presentations and correspondence when performed or conducted); and
 - c. a discussion of any efforts the North Carolina Legislature is undertaking (or may undertake) to block the transaction contemplated in the instant filing unless Duke Energy agrees to such debt assumption.

10. A published report indicates that Progress Energy is conducting engineering analyses to determine whether it might be more cost-effective to abandon its 860 MW Crystal River nuclear plant than to repair damage incurred to its containment facility. The plant has apparently not operated since September 2009, and the company since that time has apparently spent approximately \$290 mil. for purchased power in excess of the cost of power that the plant could have produced if it was functional. Provide:
 - a. copies of all analyses of the financial impacts and risks Progress and the Joint Applicants could, or will face, regardless of which option Progress ultimately exercises to address the future of this plant and any potential long-term purchase power arrangements it may have to enter to meet its load;

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- b. copies of any and all analyses regarding the impact that Progress' assumption of new debt to address the Crystal River outage and related issues could or will have on the ability of DEK, its parent entities and affiliates to obtain capital, especially in the event the proposed transaction in the instant case should be approved by all relevant regulatory authorities (if none has been performed to date, state whether the Joint Applicants will agree to provide any such analyses); and
 - c. copies of any and all presentations to, and correspondence to / from any rating agencies or investment consultants of any type or sort regarding any decision or potential decision pertaining to any such debt assumption (if none have occurred to date, state whether the Joint Applicants will agree to provide any such presentations and correspondence).
11. Duke Energy CEO Jim Rogers has been quoted in recent media reports as expressing concern regarding the approaching decommissioning of the nation's first nuclear power facilities. Duke's Form 10-K indicates that the company is facing costs for the decommissioning of some of its own nuclear facilities. Describe, in detail, how the Joint Applicants would address any potential cost overruns associated with the decommissioning of any and all of their nuclear facilities. Your description should include, at a minimum:
- a. any type or sort of insurance arrangements including self-insured retentions and stop loss policies; and
 - b. at what point the Joint Applicants may call upon the reserves and / or assets of its subsidiaries and affiliates in order to prevent any potential bankruptcy.
12. A published report indicates that Duke Energy CEO Jim Rogers has filed testimony with North Carolina regulators regarding Duke Energy's proposed Lee Nuclear Station in South Carolina.
- a. Provide a copy of that testimony;
 - b. Provide an approximate date for when Duke plans to file a petition with the South Carolina Public Service Commission seeking permission to build the plant. Include in your response whether any potential partners in that plant will also participate in that filing;

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- c. Provide the estimated MW rating of the plant, if known, together with its latest cost projection, and the projected date this plant will come on-line;
- d. State whether Duke will seek to sell one or more shares in the plant and its electrical production to other utilities. Provide complete details;
- e. Provide the status of the permitting process with all relevant federal authorities;
- f. Discuss, in detail, how Duke proposes to seek cost recovery for this plant from its customers;
- g. Discuss, in detail, whether DEK's ratepayers will be expected to contribute (in any manner whatsoever, directly or indirectly) toward the production and / or operating costs of this facility.
- h. Provide also:
 - (i) an analysis of the impact the assumption of debt associated with this project will or may have on the ability of DEK, its parent entities and affiliates to obtain capital, especially in the event the proposed transaction in the instant case should be approved by all relevant regulatory authorities (if none has been performed to date, state whether the Joint Applicants will agree to provide any such analyses);
 - (ii) copies of any and all presentations to, and correspondence to / from any rating agencies regarding any decision or potential decision regarding any such debt assumption (if none have occurred to date, state whether the Joint Applicants will agree to provide any such presentations and correspondence); and
 - (iii) a discussion of any efforts the North Carolina Legislature is undertaking (or may undertake) to block the transaction contemplated in the instant filing unless Duke Energy agrees to such debt assumption.

13. In 2006, Duke's 630-MW Edwardsport, Indiana coal gasification plant was projected to cost \$1.6 billion, but the projected price has now risen to approximately \$2.88 billion. A report published in the January 29, 2011 edition of the *Indianapolis Star* states that Duke's project engineer for the plant, Bechtel Corp.,

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wrote a letter last fall to Duke, which has allegedly now been received by the Indiana Utility Regulatory Commission, alleging that Duke was taking "significant risks" with the way it was managing the project.

- a. Discuss whether DEK ratepayers, in any manner, directly or indirectly, are currently contributing (or will be required to contribute) to the costs of the Edwardsport plant, including the cost overruns. If so, discuss in detail including a total of costs DEK ratepayers have borne to date, and projected future costs they will have to bear;
- b. Confirm that a group of large industrial customers in Indiana has demanded that Duke re-negotiate terms of an agreement over the latest cost overruns. State the results, if any, of that re-negotiation; and
- c. Provide also: (i) an analysis of the impact the cost overruns will or may have on the ability of DEK, its parent entities and affiliates to obtain capital, especially in the event the proposed transaction in the instant case should be approved by all relevant regulatory authorities [if none has been performed to date, state whether the Joint Applicants will agree to provide any such analyses]; (ii) copies of any and all presentations to, and correspondence to / from any rating agencies regarding cost overruns [if none to date, state whether the Joint Applicants will agree to provide any such presentations and correspondence when performed or conducted].

14. The petition, Vol. 1 at p. 8 states: "The transaction . . . will enhance and improve Duke Energy Kentucky's abilities to obtain capital in support of its business" Do the Joint Applicants thus acknowledge that the contemplated transaction, if approved, will indeed have an impact on the company's abilities to borrow capital?

- a. Do the Joint Applicants also acknowledge that if DEK's parent entities incur significant amounts of debt, this will likely have a negative impact on the DEK's ability to borrow capital at competitive rates?

15. The Joint Applicants in Case No. 2005-00228 stated that ULH&P would benefit from the new company's financial strength and access to capital markets. Provide documentation that establishes that statement.

16. The petition, Vol. 1 at p. 12, states: ". . . the financial and credit profile of the new Duke Energy . . . ensure that Duke Energy Kentucky and its customers will be benefited, and not disadvantaged, by this strategic combination."

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- a. Provide copies of any all current bond ratings, credit profiles and / or any and all other credit analyses for each of the Joint Applicants, together with any projected bond ratings, credit profiles and / or any and all other credit analyses regarding the Joint Applicants' status following the closing of the contemplated transaction.
 - b. In light of the fact that the petition at p. 12 states that "no substantial synergies" are expected to result from the contemplated transaction, state, in complete detail, how DEK's ratepayers will "be benefited . . . by this strategic combination." Please provide factual examples, and provide also copies of any and all analyses indicating any and all such benefits.
17. The Joint Applicants in Case No. 2005-00228 stated that ULH&P would not guarantee the credit of any of its affiliates and that ULH&P would not issue any security, incur any debt, or pledge any assets to finance any part of the purchase price paid for Cinergy's shares. Are the Joint Applicants in the instant matter prepared to make a similar pledge (i.e., that DEK will not be required to guarantee the credit of any of its affiliates, and that it will not in any way be required to pledge any assets to finance any part of the purchase price paid for Progress' shares)?
18. The petition, at Vol. 1, pp. 12 - 13, states: ". . . additional cost savings opportunities will be created. . . [a]ll of these advantages will inure to the benefit of Duke Energy Kentucky and its customers. " Provide copies of any and all analyses Joint Applicants have conducted depicting any and all such cost savings opportunities.
19. Assuming the contemplated transaction is fully approved in every jurisdiction by every regulatory authority, state whether DEK would be required to give any type or sort of preference to purchased power from: (a) any generating facilities owned by any DEK parent entity or affiliate, or currently owned by Progress, including but not limited to nuclear facilities; or, (b) any other external sources with which the Joint Applicants have contracted or may contract to purchase generation output (including renewable sources). State whether any such preference would take priority over DEK's ability to purchase power anywhere else on the market at lower prices.
 - a. If the answer is in the affirmative to any portion of this question, state whether the Joint Applicants will or have filed any petition with FERC

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seeking approval of any such preferential purchased power arrangement.

- b. State whether DEK, as a result of the contemplated transaction, will enter into any type or sort of pooling arrangement with any other current or future affiliate. Provide complete details, including copies of any such arrangements, even if only in draft form.
20. Assuming the contemplated transaction is fully approved in every jurisdiction by every regulatory authority, state whether the Joint Applicants' combined grids would in any manner fall under the control of any RTO. Include in your response:
- a. whether the Joint Applicants have any plans or potential plans to form a new RTO, and if so, please provide details;
 - b. whether PJM might expand into North Carolina and South Carolina as a result of the contemplated transaction;
 - c. a confirmation that DEK and Duke (Indiana) plan to remain members of PJM and MISO, respectively. If not, please provide an explanation in detail; and
 - d. a discussion of what, if any, benefits and / or synergies Duke (Carolinas) and / or the new combined parent entity that emerges (assuming the contemplated transaction is approved in every relevant jurisdiction) would achieve in not joining an RTO.
21. Will DEK's generating units be jointly dispatched together with all other units the Joint Applicants own and / or operate, or will they be under PJM control? If they will be jointly dispatched under Duke's control, state what synergies would be achieved. Discuss in detail.
- a. If DEK's generating units will be jointly dispatched together with other generation throughout the new entity's entire system, state whether economic dispatch principles will apply.
 - b. Provide a discussion of whether the Joint Applicants will or may request the North Carolina Utilities Commission and South Carolina utility regulators for permission to join an RTO, including whether regulators in those states might approve any such request.

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- c. Confirm that the North Carolina Utilities Commission approved the petition of Dominion Resources, Inc. to join PJM, on the condition that retail customers not be held responsible for the costs of integration or membership.
22. Provide a list describing planned DEK transmission projects for the next 10 years. Discuss also:
 - a. whether DEK will seek contributions from PJM toward any portion of the costs of any such projects;
 - b. whether new transmission facilities will be required or planned to interconnect the eastern segments of the new entity's combined transmission systems (consisting of the current Duke (Carolinas) and Progress systems) together with the western segments of the new entity's transmission systems (consisting of the current DEK, Duke (Ohio) and Duke (Indiana) systems); and
 - c. what synergies DEK may obtain with regard to transmission costs, including its planned projects, as a result of the contemplated transaction.
23. State whether DEK will or could incur any increased MISO, PJM, or other related system operator charges as a result of the contemplated transaction that it would not have incurred but for the transaction. If any: (i) state whether DEK's ratepayers will or could be required to pay for all or any portion of those increased costs; and (ii) provide as many details as possible.
24. Provide a complete explanation of any and all plans the Joint Applicants may have to expand use of renewable fuels in DEK's generation mix. Please provide any and all documents necessary in support of your explanation, together with any and all analyses of projected costs for any such expansion of renewable fuels as opposed to fuel and other associated costs that would have been incurred but for any expansion of renewable fuels.
 - a. Discuss any and all plans the Joint Applicants may have regarding the use of Kentucky-based coal or coal products in its generation mix. Please provide any and all documents necessary in support of your explanation, together with any and all analyses of projected costs of using Kentucky-based coal or coal products.

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25. Provide a detailed explanation of whether and to what extent, if applicable, the Joint Applicants intend to enhance and / or expand their gas procurement, storage, transportation and distribution programs, regardless of whether regulated or unregulated.
26. Recent published news stories indicate Duke and Progress are facing multiple shareholder lawsuits which appear to contest the contemplated transfer of control. Provide a narrative discussion regarding the effect these lawsuits will or may have on the deadlines the Joint Applicants have established regarding the consummation of the transaction. Include in your discussion any potential for increased costs the Joint Applicants may have, and any and all ramifications there may be for DEK ratepayers.
27. The federal government, in particular the EPA, has or will propose major new environmental regulations, which include but may not be limited to: the Clean Air Transport Rule (CAIR); National Ambient Air Quality Standards (NAAQS); Coal Combustion Residuals (CCR); HAPs MACT; and Water Quality 316 (a) and 316 (b) [collectively referred to hereinafter as "the EPA Regulations"]. State to what extent DEK ratepayers will or may be expected to contribute toward costs for achieving or otherwise meeting compliance with the EPA regulations at the Joint Applicants' generation and any and all other facilities located in other states.
28. Provide DEK's most recent load forecast.
29. Indicate how and to what extent DEK's rate base will or may be affected by the proposed transaction.
30. Indicate whether the proposed transaction may lead to fuel savings for DEK customers, and provide quantification, broken down by type of fuel, if possible.
31. Press releases indicate that Duke and Progress anticipated costs savings of \$600 mil. to \$800 mil. over the first five (5) years of combined operations. Please state how much of these savings will occur in DEK's service territory.
32. Duke's CFO, in a company press release dated January 14th, 2011, stated that the transaction could yield savings of \$300 mil. to \$420 mil. annually in non-fuel operating costs. State how much of these savings will occur within DEK's service territory.
33. Assuming the contemplated transaction is fully approved in every jurisdiction by every regulatory authority, will the Joint Applicants combine into a single

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operating company? If not what will the structure be? Please provide a chart demonstrating the structure.

34. Assuming the contemplated transaction is fully approved in every jurisdiction by every regulatory authority, please state whether any officers or directors of joint applicant will receive any bonus, compensation, stock shares and/or options, retirement matches, incentives, insurance, use of corporate-owned property or any other remuneration of any type or sort. Please identify the applicable individuals, the method of remuneration, and the cash value thereof.
35. Provide the name of the members of the new board of directors of each of the surviving companies regardless of name, and state whether each member currently serves as a director of the board of one of the Joint Applicants, and if so, which one.
36. Identify how much debt the Joint Applicants, stated independently for each one, plan to incur in order to consummate the proposed transaction. Will DEK ratepayers be required to reimburse one or both Joint Applicants for debt incurred for this purpose? If so, state how much.
37. Please describe, in complete detail, the relationship that DEK has with its current Servco, including the nature and extent of services provided, cost sharing requirements, and provide a break-out of the sums DEK paid to the Servco for each of the last ten (10) years.
 - a. Please describe, in complete detail, any changes that DEK is anticipated to experience in its relationship with either the existing Servco, or the new Servco, if the contemplated transaction is fully approved, and provide: (i) copies of any draft contracts, agreements or other documents describing that post-transaction relationship; and (ii) provide copies of any and all cost-sharing projections between DEK and the future Servco.
 - b. State whether Progress' Servco will be providing any services to DEK. If so: (i) identify them in full together with any projections regarding costs for which DEK will be responsible for paying to the Progress Servco; and (ii) state whether any duplication of services will or could occur.
38. Assuming the contemplated transaction is approved, will DEK be exposed to any increased costs for shared corporate services (including any services to be provided by Progress' Servco) that it otherwise would not have faced but for the approval? If

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so, identify all such costs as completely as possible, and provide any and all other details, including but not limited to whether DEK ratepayers would be responsible for all or any portion of those increased costs.

39. Reference the Wathen testimony, p. 17, wherein he describes the Operating Companies' Service Agreement. In the event the contemplated transaction is approved, state, in complete detail, whether DEK will incur any costs greater than it currently incurs. If so, provide a complete justification.
40. Assuming the contemplated transaction is approved by all relevant regulatory authorities, please explain the process through which DKE will be able to challenge the allocation of a cost from a parent entity or affiliate. If the ability to challenge the allocation of a cost will not exist, then affirmatively state that fact.
41. Please provide all minutes of any meetings held at which the acquisition was discussed: (a) between the shareholders and the company management; and (b) between the board of directors and the company management, of each of the Joint Applicants pertaining to the contemplated transaction. This request is meant to include, but is not limited to, Board meetings of any of the Joint Applicants, meetings between Joint Applicants, meetings of any of the officers of any of the Joint Applicants, etc.
42. Please provide copies of any reports, analyses or reviews of the cost of capital for DKE after any approval of the application as conducted by any/each of the Joint Applicants.
43. Please provide copies of any reports, analyses or reviews of the credit profile for DKE after any approval of the application as conducted by any/each of the Joint Applicants.
44. Please provide the total number of employees working in any and all of the Joint Applicants' customer service centers, regardless of location, dedicated to addressing inquiries and other needs of customers located in Kentucky. Please differentiate between full-time, part-time, and seasonal employees.
 - a. Please provide the total number of such employees as of the date of your response to this request, and an estimate for the number of such employees following the completion of the contemplated transaction.

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- b. Please provide a copy of any existing agreement, whether a collective bargaining or otherwise, between the Joint Applicants and their respective union employees.
45. Please provide copies of any and all documents the Joint Applicants have filed with the Securities and Exchange Commission regarding the contemplated transaction, to the extent not already provided.
46. Please state whether the Joint Applicants will agree to make available for inspection copies of any and all documents they have filed with any and all other regulatory bodies, whether state or federal, regarding the contemplated transaction. If yes, please provide same. If not, please explain why not, especially on grounds of relevancy.
47. Please provide copies of any and all reports and other documents identifying synergies expected to result from the contemplated transaction.
- a. Separately identify any synergies, with costs detailed, affecting the Joint Applicants' Kentucky-based operations; and
 - b. State whether any synergy savings, with costs detailed, will be shared with the Joint Applicants' customers, and if so, whether this includes Kentucky customers, and how much.
48. Please provide copies of any and all reports and other documents identifying economies of scale or scope, with costs detailed, expected to result from the contemplated transaction.
- a. Identify any economies of scope or scale, with costs detailed, affecting the Joint Applicants' Kentucky-based operations; and
 - b. State whether any savings related to economies of scale or scope, with costs detailed, will be shared with the Joint Applicants' customers, and if so, how much.
49. Please state whether any of the executive management of DEK, its corporate parent entities or affiliates, or of Progress Energy, and members of their proposed board of directors are members, officers, partners, directors of, or have a controlling interest in, any business entity engaged in the electric or gas industry other than the Joint Applicants, and if so, identify them by name and by type of interest.

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50. Please identify, in detail, any and all tax savings the Joint Applicants expect to result from the contemplated transaction, and provide any relevant quantifications.
51. Please state whether the Joint Applicants currently have any deferred tax accounts on their balance sheets. If "yes," please identify the account(s), the amount carried therein, and provide a summary of the nature of the balance.
- a. For each deferred tax balance identified above, please state what impact the contemplated transaction will have on the account (e.g., will the contemplated transaction result in a loss of any deferred tax credits?).
52. Do the Joint Applicants agree that there are two categories of costs for the proposed transaction, namely: (1) costs-to-achieve the transaction (e.g., due diligence reports, legal counsel, etc.); and (2) costs-to-achieve cost savings in the post-transaction structure (e.g., systems integration, etc.)? If not, please identify the categories and provide a definition. Regardless of the answer, please provide the following:
- a. For the costs-to-achieve the transaction, explain how the Joint Applicants determine the costs that are allocated to or the responsibility of their respective shareholders, and those costs that are allocated to or the responsibility of their respective ratepayers, if any. Include any allocation methodologies.
 - b. For the costs-to-achieve cost the post-transaction structure, explain how the Joint Applicants determine the costs that are allocated to or the responsibility of their respective shareholders, and those costs that are allocated to or the responsibility of their respective ratepayers, if any. Include any allocation methodologies.
 - c. For the costs-to-achieve the transaction, explain how the Joint Applicants determine the costs that are allocated to or the responsibility of their respective non-regulated operations. Include any allocation methodologies.
 - d. For the costs-to-achieve cost the post-transaction structure, explain how the Joint Applicants determine the costs that are allocated to or the responsibility of their respective regulated operations. Include any allocation methodologies.

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- e. Do the Joint Applicants agree that there are certain costs associated with the contemplated transaction that are attributable solely to the process of obtaining the approval of the transaction (e.g. legal counsel for the regulatory proceedings)?
- f. Do the Joint Applicants consider the reduction of tax liability or the obtainment of tax benefits as cost savings?
- g. Do the Joint Applicants consider the reduction of a company's or unit's operating loss a cost savings?
- h. Please supply an itemized schedule that shows the cost-to-achieve the transaction by year for as many years as your projections provide. (This is a request for a schedule that shows the estimated costs by year, by applicant.)
- i. For the schedule requested under sub-part [h] (the prior question), please identify by year for as many years as your projections provide the following:
 - (1) the assignment of costs to each of the Joint Applicants' shareholders;
 - (2) the assignment of costs to each of the Joint Applicants' ratepayers, if any; and
 - (3) the breakdown of the assignment of costs between regulated and non-regulated operations of each of the Joint Applicants.
- j. Please supply an itemized schedule that shows the costs-to-achieve the cost savings in the post-transaction structure by year for as many years as your projections provide. (This is a request for a schedule that depicts the estimated costs by year.)
- k. For the schedule requested under sub-part [j] (the prior question), please identify by year for as many years as your projections provide the following:
 - (1) the assignment of costs to each of the Joint Applicants' shareholders;

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- (2) the assignment of costs to each of the Joint Applicants' ratepayers, if any; and
 - (3) the breakdown of the assignment of costs between regulated and non-regulated operations.
53. For each category of costs to achieve cost savings in the post transaction structure, did both of the Joint Applicants determine the allocation percentages to separate out the non-regulated cost savings from the regulated costs savings? For example, did the Joint Applicants determine the amount of total staffing cost savings to allocate to regulated operations and the amount to allocate to non-regulated operations?
54. Please provide documentation of all allocations. If the Joint Applicants did not do so, please explain why.
55. For each category of costs to achieve cost savings in the post transaction structure, identify the allocation process, including the factors, for allocating costs between regulated and non-regulated operations.
56. For each category of costs to achieve cost savings in the post transaction structure, identify the corresponding amount of cost savings allocated to non-regulated operations for that category.
57. Please provide a copy of any and all due diligence report(s) conducted.
58. In the course of conducting their due diligence reviews, did the Joint Applicants identify any facts or circumstances that would have a material adverse effect on their customers? If yes, please identify same and provide the associated documents.
59. Will the contemplated transaction result in any changes in accounting principles for either of the Joint Applicants or any of their subsidiaries or affiliates? If yes, please summarize the change(s), and identify the impact on DEK ratepayers, whether direct or indirect, if any.
60. Do the Joint Applicants anticipate any substantive changes in any existing contracts of the Joint Applicants with other vendors (e.g., engineering, information technology, maintenance, etc.)? If so, please summarize the changes.
61. Do the Joint Applicants anticipate entering any new contracts as a consequence of the contemplated transaction? If so, will any of the entities with whom the Joint

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Applicants will enter into said contract(s) be affiliated in any way with the Joint Applicants, or any of their employees, stockholders, officers, contractors, consultants, or directors?

62. Published reports have stated that Duke Energy has agreed to guarantee a \$10 mil. line of credit to sponsor the Democrat National Convention to be held in Charlotte, North Carolina in 2012. Describe what, if any, measures the Joint Applicants have taken to insure that DEK's ratepayers (and all of the Joint Applicants' regulated affiliates) are 100% insulated from any financial impact to them for this debt.
- a. Confirm whether the corporate entity actually providing the guarantee described above is Duke Energy, whether it is a regulated utility, and where it is regulated.
 - (i) If the entity providing the guarantee is a PAC, please state so;
 - (ii) If the entity providing the guarantee is a regulated utility, please confirm that the regulated entity's assets are being placed at risk for a non-utility purpose.
 - b. Provide a description of any and all other similar guarantees to any political party or cause.
63. Provide the name and position of the person(s) who prepared each Exhibit to the application filing materials, if not already disclosed.
64. Please provide a copy of any and all materials, including but not limited to transcripts of presentations, recordings or notes of presentations, or other information, regarding any and all financial analyses concerning the transaction.
65. Please state whether any of the Joint Applicants' subsidiaries or affiliates located in Kentucky, or any other state, will as a condition of the contemplated transaction be required to guarantee the debt of any other subsidiary, affiliate, or holding company of the Joint Applicants. If "yes," please provide complete details.
- a. If "yes," are any of the terms to which the Kentucky-based subsidiaries or affiliates of Joint Applicants have agreed, or will agree, different in any way from the terms agreed to by subsidiaries or affiliates based in other states? If so, explain in detail.
66. Please state whether any of the Joint Applicants' subsidiaries or affiliates located in Kentucky, or any other state, will as a condition of the contemplated transaction be required to grant liens or other encumbrances against their own assets in favor of

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any lender(s) providing financing or any portion of financing necessary for the contemplated merger to occur. If "yes," please provide complete details.

- a. If "yes," are any of the terms to which the Joint Applicants' Kentucky-based subsidiaries or affiliates have agreed, or will agree, different in any way from the terms agreed to by subsidiaries or affiliates based in other states? If so, explain in detail.
67. Please provide a complete copy of any filings associated with the contemplated merger made pursuant to the Hart-Scott-Rodino Antitrust Improvements Acts of 1976 (15 U.S.C.A. § 18a; together with regulations promulgated thereunder at 16 CFR §§ 801-803) (hereinafter jointly referred to as "the Act").
- a. In the event the U.S. Department of Justice Antitrust Division determines that further inquiry is necessary and pursuant to the Act issues a second request for documents to the Joint Applicants, will the Joint Applicants agree to supply the PSC and the Kentucky Attorney General's Office with copies of any documents produced in response to such a request, regardless of when the Joint Applicants make their (its) response?
68. Will DEK give clear and conspicuous notice to Kentucky consumers regarding any change in services resulting from the contemplated transaction? If not, why not?
69. Will the transaction result in any write-ups, write-offs, or a restatement of financial results of DEK, its parent entity, or that of its affiliates? If yes, please explain in detail with all financial ramifications for DEK's ratepayers.
70. Post-transaction, will DEK, its parent entities, or its affiliates be required to make any filings with the Securities and Exchange Commission? If yes, please identify and explain the filing requirement(s).
71. Is DEK currently required to comply with The Sarbanes-Oxley Act of 2002? Will it be required to do so following the closure of the contemplated transaction? Please identify and explain the post-transaction Sarbanes-Oxley-related requirements for DEK (if any), and for its parent entities, and what effect, if any, these requirements will or may have on DEK's ratepayers.
72. Please identify any anticipated/estimated change(s) in DEK's equity-to-capital ratio. Provide all documentation which relates to same.

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73. If DEK's parent entities and/or its affiliates experience any changes in their equity-to-capital ratio, please describe any potential effect on DEK and its ratepayers.
74. As of January 1, 2011, how much of DEK's debt (in dollars and percentage of total capital) was held by Progress or any Progress subsidiary? Concerning this debt:
- a. Please provide a copy of each debt instrument between DEK and Progress or any subsidiary of Progress;
 - b. Please provide a workpaper showing, at January 1, 2011, and at the end of the most recent accounting period, the amount outstanding on each debt instrument and the interest rate; and
 - c. What is anticipated to happen to each debt instrument as a result of the transaction proposed in this case?
76. Have any of the Joint Applicants conducted a recent, complete due diligence report of all EPA requirements associated with all EPA regulated facilities?
- a. If yes, please provide a copy of copies same;
 - b. If not, why not?; and
 - c. If not, do DEK, its parent entities and its affiliates believe it prudent to accept "ownership" of the applicable facilities without a due diligence report?
77. Will DEK and / or its parent entities or affiliates receive any tax advantage(s) or benefit(s) from the proposed transaction? If so, please provide a quantification.
78. For the past five years, please provide a dollar breakdown by year of any charitable donations that DEK and / or any charitable affiliate have made. This list should detail the donation by way of purpose or designation for the contribution.
80. Assuming the contemplated transaction receives full approval from all relevant regulatory authorities, will DEK be operating on a stand-alone basis following the transaction's consummation? Will DEK be filing separate tax returns following the transaction's consummation? Please provide documentation demonstrating the anticipated or planned tax return status.
81. Assuming the contemplated transaction receives full approval from all relevant regulatory authorities, will any officer or board member of DEK have a seat on

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the board of directors of any parent entities or affiliates following the transaction's consummation? If yes, please explain in detail by way of officer or board member and company.

82. Assuming the contemplated transaction receives full approval from all relevant regulatory authorities, will DEK offer any type or sort of retention and / or incentive program for its managers? If so, which of the Joint Applicants will bear any associated costs? Will DEK's ratepayers bear any of those costs, directly or indirectly? Explain in detail along with program and costs.
83. What benefits will DEK's customers receive as a result of the contemplated transaction? Explain in detail with **specific** savings attributable to all projected savings.
84. Will DEK, and its parent entities commit to not use "pushdown accounting" in any manner arising from the contemplated transaction? If not, why not?
85. Will the contemplated transaction allow DEK any opportunity to refinance any current outstanding debt? If so, would this translate to higher costs? If so, please explain how much. If not, why not?
85. Will the Joint Applicants agree to commit in this jurisdiction to any other conditions or commitments that are either imposed by or agreed upon in any other regulatory approval process associated with this transaction in any other jurisdiction?
86. Assuming the contemplated transaction receives full approval from all relevant regulatory authorities, what amount of liquid assets will DEK's parent entities hold?
87. Please provide a narrative describing the development of the structure for the bidding and negotiation process and include in the narrative the identity of the individuals who were responsible for the development and approval of the structure of the bidding and negotiation process.
 - a. Identify every corporation, holding company, partnership, firm, individual, investor group, or other entity that was invited, solicited, or asked to participate in the bidding process.
 - b. Identify the criteria for selecting targets for soliciting a bid.
 - c. To the extent that there were "various sequences of the bidding process," describe in detail each sequence and identify the participants

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for each sequence and the corresponding result, by participant, of each sequence. (By participant, indicate whether the participant moved to the next level, whether the participant withdrew, whether the participant was eliminated, etc.)

- d. For any participant in the bidding process that submitted a valuation of E.ON U.S. or otherwise identified a purchase price, please provide a copy of the valuation and identify the purchase price.
- e. For any valuation or purchase price submitted, indicate whether DEK's parent entities asked a third-party consultant (such as an investment advisor, financial consultant, etc.) to review, critique, or otherwise analyze the valuation or purchase price. If there was such a request, then please provide details for each request and the response and include any documents relating to the request and response, including e-mails and any other documentation as defined in the Attorney General's instruction number 10.

88. With regard to Joint Applicants' assertion that the transaction is "consistent with the public interest," please provide and answer the following:

- a. For the transaction through which DEK's parent entities obtained approval for the change of control and ownership of Union Light, Heat & Power (Kentucky PSC Case No. 2005-00228), identify each factor, stated-reason, and rationale provided by the Joint Applicants in that proceeding supporting the argument that approval of the acquisition by Duke was consistent with the public interest within the meaning of KRS 278.020(5).
- b. With regard to each factor, stated-reason, and / or rationale provided by the Joint Applicants in Case No. 2005-00228 in support of the argument that the acquisition by Duke was consistent with the public interest, please indicate how the approval of the agreement presented in this proceeding impacts that factor, stated-reason, or rationale.
- c. Please identify with specificity each factor, stated-reason, or rationale of the Joint Applicants offered in support of their argument in the instant matter that Duke's acquisition of Progress is consistent with the public interest, within the meaning of KRS 278.020(5).

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- d. Is it the position of the Joint Applicants that a financial investment by a global energy company is inconsistent with (or otherwise not in) the public interest? If no, then please explain why the proposed acquisition provides any incremental public benefit. (For example, is it the case that Duke, following the closure of the contemplated transaction, has no incentive to operate DEK with the goal of sustainable long-term growth for the benefit of DEK, its customers, employees, managers and community stakeholders?)
 - e. Is it the position of either Joint Applicant that continued ownership by Duke is not in the public interest? If yes, then please identify the date on which any Joint Applicant made this determination.
89. The Joint Applicants in Case No. 2005-00228 indicated that the transaction would be seamless and transparent for ULH&P's ratepayers. State whether the Joint Applicants in the instant case plan to reach this same standard, and if so, how.
90. State what effects, if any, the contemplated transaction will have on DEK's petition to obtain membership in PJM.
91. The Joint Applicants in Case No. 2005-00228 stated that synergies expected from that transaction would include "reduced costs resulting from the elimination of overlapping functions, increased purchasing power, the avoidance of duplicative expenditures, and the consolidation of certain operations." (Application, Case No. 2005-00228, p. 9). State whether similar synergies are expected in the instant contemplated transaction.
92. State how the contemplated transaction would affect Duke's status under PUHCA 2005. Is DEK currently subject to FERC regulation? Will it be following the closure of the contemplated transaction? If so, provide any projected incremental costs associated with DEK losing its exemption from FERC regulation, if applicable.
93. Did DEK and / or its parent entities assume the existence of any synergies when they made the economic decision to purchase Progress?
- a. Aside from the determination of the purchase price, did Duke (by itself or acting through an agent or third-party) research, analyze, or otherwise investigate possible synergies associated with a purchase of Progress? If not, explain why not. If yes, then please explain in detail the results of the research, analysis, or investigation.

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94. Do the Joint Applicants anticipate, project, or otherwise forecast any additional reorganizations, mergers, change of control, or other transactions involving DEK for the thirty-six (36) month period following any potential approval and consummation of this purchase agreement? If yes, then please describe in detail.
95. Are the Joint Applicants willing to make a commitment that if they do not hold DEK for a ten-year (10) period, then they will pay (to the Commonwealth of Kentucky) an exit fee if they voluntarily enter into an agreement to sell DEK? If not, then please explain why not.
96. For each commitment made by the Joint Applicants, please identify the aspect of the commitment that does not presently exist. (In other words: For each commitment indicate whether it is simply a continuation of a current commitment or whether it represents an incremental increase in an existing commitment or a wholly-new commitment.)
97. Are the Joint Applicants willing to commit to review with DEK whether policies more sympathetic to low-income customers would be appropriate?
98. Will DEK and / or its ratepayers, directly or indirectly, incur any additional costs, liabilities, or obligations in conjunction with the proposed transaction in connection with the repayment and refinancing of closing indebtedness?
99. With regard to future rate cases, please explain the following:
 - a. How will DEK demonstrate that it is not seeking a higher rate of return on equity than would have been sought if no acquisition had occurred? Explain in complete detail.
 - b. Will the Joint Applicants agree to a commitment through which the cost associated with demonstrating compliance with this provision will be borne solely by shareholders and not recovered through rates? If not, why not?
 - c. If DEK was to seek a higher rate of return on equity than would have been sought in the absence of an acquisition, then what is the remedy? Include in this discussion an answer to the inseparable question of whether the Joint Applicants believe that the Commission has the power to establish a return on equity for DEK that is expressly below a return on equity that the Commission would otherwise authorize "but for" this commitment.

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- d. Does KRS Chapter 278 provide the authority for the Commission to, based upon this potential commitment, "cap" or otherwise limit the return on equity for DEK to a return on equity that would have been sought if no acquisition had occurred? If yes, then please identify the basis for the authority.
 - e. Do the Joint Applicants take the legal position that that the Commission's enforcement of any such provision is permissible (as being lawful in view of federal and state constitutional protections relating to the taking of property as well as federal and state statutes relating to rate-setting)?
 - f. If the answer to the above question is no, then please explain why.
 - g. If the Joint Applicants fail to adhere to any PSC conditions imposed as a condition or consequence of any approval, do the Joint Applicants believe any ultimate approval could be rescinded? If not, why not? If not, what are the ramifications to the ratepayers, including rate implications? Explain in detail.
100. With regard to any pending or threatened litigation (including any pending or threatened regulatory review or supervision enforcement actions) involving DEK, its parent entities and its affiliates, are the Joint Applicants making any provisions through which they will agree to fund the defense of pending or threatened litigation? If so, please explain in detail. If not, please explain why not.
101. Do the Joint Applicants anticipate that DEK will be a participant in a consolidated tax return or will it file separate tax returns? Please explain in detail.
102. Assuming the contemplated transaction is approved, will DEK be exposed to any type of contractual liability or obligations that it otherwise would not have faced but for the approval? If so, please describe in detail.
103. Assuming the contemplated transaction is approved, will DEK be exposed to any increased insurance premiums, whether health insurance, disability, life, etc., that it otherwise would not have faced but for the approval? If so, please describe in detail.

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104. Assuming the contemplated transaction is approved, will DEK be exposed to any additional contributions to any pension plans, medical plans, etc. for employees that it otherwise would not have faced but for the approval? If so, please describe in detail, together with any applicable employee's or officer's name(s), if known, as well as amount.
105. Assuming the contemplated transaction is approved, will DEK be exposed to any additional generation, transmission, or distribution requirements that it otherwise would not have faced but for the approval? If so, please describe in detail.
106. State whether Progress and Duke ever have or currently do retain the services of lobbyists related in any manner to: (a) any employee of the federal government; and / or (b) any employee of the Commonwealth of Kentucky. If so, identify the lobbyist and employee, and explain in detail whether the retention of these services constituted a conflict of interest or potential conflict under any applicable law, and if so, why. Identify any corrective action either or both of the Joint Applicants believe may be required to remedy any conflict or potential conflict.
107. Will the Joint Applicants agree to confirm to abide by, at a minimum, the conditions which PPL and E.ON agreed to accept in their recent merger?¹
108. A news story published in the February 21, 2011 edition of the *Charlotte Business Journal* indicated that the largest shareholder in both Progress and Duke cut its holdings in the two firms by more than \$450 million in the fourth quarter of 2010, which translated to a sale of 5.6 million shares of Progress' stock, and 12 million shares in Duke's stock.
- a. Explain what effect, if any, this significant stock sale will or could have on the contemplated transaction.
 - b. Explain what effect, if any, whether directly or indirectly, this significant stock sale will or could have on DEK ratepayers.
109. Reference the Rogers testimony, p. 14, lines 3-5, wherein he testifies that he: ". . . will be responsible for conducting board meetings, assisting in setting the board's agenda and supporting the board selection process."

¹ Case No. 2010-00204.

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- a. Identify the other company officials, if any, who will be able to conduct any type of board meeting, whether a regular meeting or any sort of extraordinary meeting;
- b. The testimony states that Mr. Rogers will be responsible for "assisting" in setting the Board's agenda. Identify any and all other Board members and / or company officers who will have the ability to set the Board's agenda, including: (i) who will have the ability to add items to the agenda, and how that process would work; and (ii) who would have the ability to delete items from the Board's agenda, and how that process would work;
- c. Identify any and all processes through which the Board's agenda can be established;
- d. Identify and discuss in detail all measures Duke Energy will have in place to insure the Board's independence;
- e. State whether Duke Energy will have in place D & O coverage; provide the name of the insurance carrier and provide a dec sheet;
- f. Identify all committees of the Board of the new parent entity, their composition, functions, and charges. Identify also the limits of each committee's authority, if any;
- g. State whether directors on the Board of the new entity will have limits on their terms, and identify where such limits can be found in the bylaws or other corporate documents;
- h. Identify and explain in detail the extent of Mr. Rogers' authority in the Board selection process. Provide a complete description of the process, including who else, if anyone, will be able to nominate and select directors;
- i. Provide a copy of any bylaws and / or any and all other rules, regulations, etc. that would or could control how the Board operates, who has the ability to set agendas, and voting rights and proxies;
- j. Provide the identity of any and all independent directors. If none, explain in detail why there will be none, and how the Company intends to comply with the Sarbanes-Oxley Act;

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- k. Provide copies of any due diligence reports that the Joint Applicants may have conducted regarding governance by the Board, and / or its independence, regardless of whether the Joint Applicants decided to follow any recommendations set forth therein; and
 - l. State whether Mr. Rogers will have final authority in: (i) setting the Board's agenda; and (ii) approving or vetoing any type or sort of Board resolution. If so, identify where that authority can be found in documents which in any way describe Duke Energy's corporate governance documents.
110. Reference the Rogers testimony, p. 14, line 5, in which he testifies that he: "will also provide input on public policy positions . . .". Please identify the individual(s) in the post-transaction Duke Energy who will have authority to decide the company's positions relative to any and all public policy decisions.
- a. State whether Mr. Rogers will have final authority to approve or veto any public policy provisions.
111. Reference the Rogers testimony, p. 17, lines 5-6, in which Mr. Rogers testifies that: "the post-merger Duke Energy [will] assume[] a larger role in helping to shape the utility industry and to contribute to the development of federal and state energy policies." State, in detail, how DEK will be prepared to meet Kentucky's energy policies in the event those policies conflict with the policies of DEK, its corporate parents or affiliates.
112. Reference the Rogers testimony, p. 17, lines 11-12, in which Mr. Rogers testifies: "Duke Energy will continue to listen, learn and lead on these issues." Provide a detailed discussion of how DEK intends to listen to its ratepayers and their interests.
- a. Do the Joint Applicants recognize that DEK has a legal responsibility to pursue its ratepayers' best interests?
113. Reference the Rogers testimony, p. 20, lines 15-19, wherein Mr. Rogers states that the combination of operational resources will improve DEK's ability to timely respond to outages caused by weather or other disasters. Reconcile this statement with Mr. Rogers' prior testimony, and other testimony, which indicate that workforce reductions will occur. Identify also the resources that

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Progress Energy will bring into DEK's service territory that will bring about such an improved responsiveness.

114. Reference the William D. Johnson testimony, p. 16, lines 20-22, wherein he testifies: "Customers in Kentucky . . . will also see tangible benefits of the merger over the long-run as the two companies integrate with one another and achieve savings and gains in efficiency and productivity." Please describe the nature, extent, and types of tangible benefits, and the savings and gains in energy productivity that DEK customers can expect to see. Please provide quantifications, if possible.
115. Reference the Johnson testimony, p. 17, lines 17-18, wherein he testifies: "I will have primary responsibility for determining the Board's agenda, developing the strategic plan . . . ". Provide a detailed description of how Mr. Johnson's authority to determine the Board's agenda, and developing the strategic plan will interact with Mr. Rogers' authority to do likewise. Include in your description who else will have authority to bring items onto the Board's agenda, including whether any of the independent directors will be able to do so.
116. Reference the Janson testimony, at p. 34, lines 6-8, wherein she states: "The increased scale and scope of operations resulting from the merger will strengthen the balance sheet of the post-merger Duke Energy and increase financial flexibility." Describe in detail how DEK's balance sheet following the transfer of control will be strengthened, and how the transaction will increase financial flexibility.
117. Reference the Janson testimony, at p. 34, lines 19-22, wherein she states that following the merger, Duke Energy will have the best intra-company mutual aid system in the nation. However, several company officials have testified that workforce reductions will occur as a result of the merger. Will any such reductions occur among employees tasked to repair / restoration, or maintenance functions? If so, provide complete details.
118. Reference the Janson testimony, at p. 34 wherein she states that in the future, DEK will experience efficiencies which could come from implementation of best practices, and a stronger financial position.
 - a. Describe in complete detail what Ms. Janson means by the use of the term "best practices." Is DEK not already following the best practices?

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If not, why not? Identify any and all practices which DEK will assume which will yield efficiencies.

- b. Describe in complete detail what Ms. Janson means by use of the term "stronger financial position."

119. Reference the Janson testimony on p. 35, wherein she states DEK will deploy more "smart grid" technology. State whether DEK will commit to deploying only such smart grid technology which:

- a. is justified by a robust cost-benefit analysis conducted from the ratepayers' perspective;
- b. would be accompanied by measurable, verifiable, transparent and enforceable performance metrics; and
- c. would be subject to prudency reviews and audits to determine if the consumer benefits have been delivered as promised.

If the company will not make such a commitment, explain in complete detail why not.

120. Reference the Janson testimony, p. 46, wherein she discussed Merger Commitment # 16, which prohibited Duke Energy Kentucky from seeking a higher rate of return on equity than would have been sought if the merger had not occurred. Discuss in detail how the Kentucky PSC would be able to determine whether DEK has satisfied this commitment.

121. In the event the successor company fails to adhere to, or comply with, any ultimate approval by the Kentucky PSC of the proposed transaction, please describe/explain in detail what penalties may be imposed on the successor company to which it will commit in addition to those existing under KRS 278.990. If the Joint Applicants are not willing to commit to additional penalties, please explain why not.

122. Please provide DEK's ROE for each of the past 5 five (years).

123. Please provide DEK's net jurisdictional revenues for each of the past five (5) years.

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124. If the application is approved by the PSC, will the Joint Applicants agree to a condition for a most favored nation's clause wherein it will agree to provide any benefits that other jurisdictional regulatory bodies impose, by way of an evidentiary hearing or settlement? If not, why not?

125. In a report dated April 20, 2011, the *New York Times* reported that Dayton Power & Light (DPL) would be acquired by AES. DPL is the minority owner of the East Bend generating station, of which DEK is the majority owner. State what effect(s), if any of which the Joint Applicants are aware, that the DPL acquisition will or could have on the operation of the East Bend plant, or any other plant(s) in the Joint Applicants' fleets.