Frost Brown Todd LLC
ATTORNEYS

Mark David Goss
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May 6, 2011

Via Hand-Delivery

Mr. Jeffrey Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
P. O. Box 615
Frankfort, Kentucky 40602-0615

Re: In the Matter of: The Joint Application of Duke Energy Corp., Cinergy Corp., Duke Energy Ohio, Inc., Duke Energy Kentucky, Inc., Diamond Acquisition Corporation, and Progress Energy, Inc., for Approval of the Indirect Transfer of Control of Duke Energy Kentucky, Inc.
PSC Case No. 2011-00124

Dear Mr. Derouen:

Enclosed please find a copy of the applications and other filings relating to the merger transaction that is the subject of the above-styled proceeding filed by the Joint Applicants before agencies and commissions in other jurisdictions. This filing is the second filing made in compliance with the Joint Applicants' representation in paragraph nineteen of the Joint Application that it would file these documents as part of the record of this case. By way of reference, this filing includes:

1) Progress Energy's Correspondence filing Application for Approval of Indirect Transfers of Control of Licenses filed with the United States Nuclear Regulatory Commission on March 30, 2011 with accompanying Exhibits;

2) Duke Energy's Correspondence to the United States Nuclear Regulatory Commission Requesting Threshold Determination that Merger will not Constitute a Direct or Indirect Transfer of Duke Licenses and Supporting Information Related to the Proposed Merger Between Duke Energy Corporation and Progress Energy, Inc. filed on March 31, 2011 with accompanying Exhibits; and,

3) Progress Energy's Pre-Application Correspondence to the South Carolina Public Service Commission dated April 4, 2011 and April 12, 2011; and Civil Cover Sheet and Correspondence filing Joint Application to Engage in a Business Combination Transaction on April 25, 2011 with accompanying Exhibits.

By agreement, upon initial consultation with Commission Staff in regards this filing requirement and upon initial consultation with the counsel for the Attorney General, the Joint Applicants are filing with the Commission (and will deliver to the Attorney General) two print copies of the foregoing applications and other filings and ten electronic copies to the Commission and two electronic copies to the Attorney General. As a convenience, the electronic copy is bates labeled by page count.

Please file these documents in the record and return file-stamped copies to me.

Please do not hesitate to contact me if you have any questions.

Sincerely yours,

Mark David Goss

Enclosures

cc: Dennis G. Howard, III
Larry Cook

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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

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

INDEX OF DOCUMENTS RELATING TO REGULATORY APPROVALS PENDING BEFORE OTHER AGENCIES (SECOND FILING)

Tab	Letter	Description
1.		Progress Energy's Correspondence filing Application for Approval of Indirect Transfers of Control of Licenses filed with the United States Nuclear Regulatory Commission on March 30, 2011
	A.	Application for Order Approving Indirect Transfers of Control of Licenses
	B.	Merger Agreement
	C.	Pre-Merger and Post-Merger Simplified Organizational Charts
	D.	Directors and Principal Officers of Carolina Power & Light Company, Florida Power Corporation, Florida Progress Corporation, Progress Energy, Inc., Duke Energy Corporation; Principal Nuclear Officers of Duke Energy Carolinas, LLC; Directors and Senior Officers of Post-Merger Duke Energy Corporation
	E.	Required State and Federal Approvals
2.		Duke Energy's Correspondence to the United States Nuclear Regulatory Commission Requesting Threshold Determination that Merger will not Constitute a Direct or Indirect Transfer of Duke Licenses and Supporting Information Related to the Proposed Merger Between Duke Energy Corporation and Progress Energy, Inc. filed on March 31, 2011
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	B.	Pre-Merger and Post-Merger Simplified Organizational Charts
	C.	Directors and Principal Officers of Duke Energy Carolinas, LLC, Duke Energy Corporation, and Progress Energy, Inc.; and Principal Nuclear Officers of Carolina Power and Light Company and Florida Power Corporation; and Directors and Senior Officers of Post-Merger Duke Energy Corporation
	D.	Required State and Federal Approvals
3.		Progress Energy's Pre-Application Correspondence to the South Carolina Public Service Commission dated April 4, 2011 and April 12, 2011; and Civil Cover Sheet and Correspondence filing Joint Application to Engage in

		a Business Combination Transaction on April 25, 2011
	A.	Merger Agreement
	B.	Investment Analysis by Oppenheimer, Baird, and Bank of America
	C.	Joint Dispatch Agreement
	D.	Compass Lexecon Analysis of Economic Efficiencies Under Joint Dispatch
	E.	Fuels Synergies Review (Public Version)
	F.	Market Power Study

Progress Energy

PO Box 1551
411 Fayetteville Street
Raleigh, NC 27602

10 CFR 50.4
10 CFR 50.80
10 CFR 72.50

Serial: RA-11-010
March 30, 2011

ATTENTION: Document Control Desk
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

BRUNSWICK STEAM ELECTRIC PLANT, UNIT NOS. 1 AND 2
DOCKET NOS. 50-325 AND 50-324 / RENEWED LICENSE NOS. DPR-71 AND DPR-62

BRUNSWICK STEAM ELECTRIC PLANT
INDEPENDENT SPENT FUEL STORAGE INSTALLATION
DOCKET NO. 72-6

CRYSTAL RIVER UNIT 3 NUCLEAR GENERATING PLANT
DOCKET NO. 50-302 / LICENSE NO. DPR-72

SHEARON HARRIS NUCLEAR POWER PLANT, UNIT NO. 1
DOCKET NO. 50-400 / RENEWED LICENSE NO. NPF-63

H. B. ROBINSON STEAM ELECTRIC PLANT, UNIT NO. 2
DOCKET NO. 50-261 / RENEWED LICENSE NO. DPR-23

H.B. ROBINSON STEAM ELECTRIC PLANT, UNIT NO. 2
INDEPENDENT SPENT FUEL STORAGE INSTALLATION
DOCKET NO. 72-3 / RENEWED LICENSE NO. SNM-2502

H.B. ROBINSON STEAM ELECTRIC PLANT, UNIT NO. 2
INDEPENDENT SPENT FUEL STORAGE INSTALLATION
DOCKET NO. 72-60

APPLICATION FOR APPROVAL OF INDIRECT TRANSFERS OF CONTROL OF LICENSES PURSUANT TO 10 CFR § 50.80 AND 10 CFR § 72.50

Ladies and Gentlemen:

Pursuant to Section 184 of the Atomic Energy Act, as amended, 10 CFR § 50.80, and 10 CFR § 72.50, Carolina Power & Light Company (CP&L), now doing business as Progress Energy Carolinas, Inc., and Florida Power Corporation (FPC), now doing business as Progress Energy Florida, Inc. (together, Applicants) hereby submit an application, included as Attachment

NMSS01
A001
NMSS
NRR

(1), seeking U.S. Nuclear Regulatory Commission (NRC) consent to the indirect transfers of control of the following NRC licenses: (1) Brunswick Steam Electric Plant, Units 1 and 2 (Brunswick), Renewed Operating Licenses DPR-71 & DPR-62; (2) Crystal River Nuclear Generating Plant, Unit 3 (Crystal River), Operating License DPR-72; (3) Shearon Harris Nuclear Power Plant, Unit 1 (Harris), Renewed Operating License NPF-63; (4) H.B. Robinson Steam Electric Plant, Unit 2 (Robinson), Renewed Operating License DPR-23; and (5) H.B. Robinson Steam Electric Plant Independent Spent Fuel Storage Installation Facility, Renewed Materials License No. SNM-2502 (collectively, the Licenses). The indirect transfers of control will result from the proposed merger of Duke Energy Corporation (Duke Energy) and Progress Energy, Inc. (Progress Energy). Progress Energy is CP&L's and FPC's ultimate parent corporation.

The terms and conditions of the proposed transaction are set forth in the Agreement and Plan of Merger, dated as of January 8, 2011, by and among Duke Energy, Diamond Acquisition Corporation and Progress Energy (the Merger Agreement), included as Attachment (2). Under the terms of the Merger Agreement, and subject to regulatory approvals and the satisfaction of certain obligations of the parties, Diamond Acquisition Corporation (Merger Sub), a wholly-owned direct subsidiary of Duke Energy, will merge with and into Progress Energy and each share of Progress Energy common stock will be cancelled and converted into the right to receive 2.6125 shares of Duke Energy common stock, subject to certain appropriate adjustments. Progress Energy will become a wholly-owned direct subsidiary of Duke Energy and the former shareholders of Progress Energy will become shareholders of Duke Energy. Charts showing the pre- and post-merger organizational structures of Progress Energy and Duke Energy are included with this application as Attachment (3).

When the transaction is completed, the Merger Agreement provides that Duke Energy will have an eighteen member board of directors. All eleven current directors of Duke Energy will continue as directors when the transaction is complete, subject to their ability and willingness to serve. Progress Energy, after consultation with Duke Energy, designated seven of the current directors of Progress Energy who will be added to the board of directors of Duke Energy when the transaction is complete, similarly subject to their ability and willingness to serve. A list of the current directors and principal executive officers of Progress Energy and Duke Energy, as well as a list of directors and principal executive officers of post-merger Duke Energy, is included as Attachment (4).

The information contained in this Application demonstrates that CP&L and FPC will continue to possess the requisite qualifications to own and operate the licensed facilities in accordance with the Licenses. The proposed indirect transfers of control will not result in any change in the role of CP&L and FPC as the licensed operators of the facilities and will not result in any changes to their financial qualifications, decommissioning funding assurance, or technical qualifications. No physical changes will be made to the facilities and there will be no changes in day-to-day operations as a result of these transfers. The indirect transfers of control will not involve any changes to the current licensing bases. The indirect transfer will neither have any adverse impact on the public health and safety, nor be inimical to the common defense and security. Finally, this request for indirect transfers of control of the Licenses will not result in the licensees becoming owned, controlled, or dominated by a foreign entity. The Applicants

therefore respectfully request that the NRC consent to the indirect transfers of control in accordance with 10 CFR § 50.80 and 10 CFR § 72.50.

The parties to the proposed transaction anticipate closing on December 1, 2011, subject to receipt of all required regulatory approvals, which are listed in Attachment (5). Applicants request that the NRC review this Application on a schedule that will permit the NRC to issue its consent to the indirect license transfers as promptly as possible and are prepared to work closely with the NRC staff to expedite the Application's review, but request approval, in any event, by October 15, 2011. The Applicants further request that such consent become immediately effective upon issuance and that it permit the indirect transfers of control to be implemented at any time within the customary one year of the date of approval of this Application.

Should you have any questions or require additional information regarding this request for transfers of control of licenses, please contact Donna Alexander at 919.546.5357 or Donna.Alexander@pgnmail.com. Service of any comments, hearing requests, intervention petitions, or other filings should be made to: John H. O'Neill, Jr., Pillsbury Winthrop Shaw Pittman LLP, 2300 N Street NW, Washington, DC 20037, tel. 202.663.8148, email: john.o'neill@pillsburylaw.com (counsel for CP&L and FPC).

This application contains no regulatory commitments.

Sincerely,

James Scarola

James Scarola
Senior Vice President and Chief Nuclear Officer
Carolina Power & Light Company
Florida Power Corporation

STATE OF NORTH CAROLINA :
: TO WIT:
COUNTY OF WAKE :

I, James Scarola, state that I am the Senior Vice President and Chief Nuclear Officer of Carolina Power & Light Company and Florida Power Corporation, and that I am duly authorized to execute and file this request on behalf of these companies. To the best of my knowledge and belief, the statements contained in this document with respect to these companies are true and correct. To the extent that these statements are not based on my personal knowledge, they are based upon information provided by employees and/or consultants of the companies. Such information has been reviewed in accordance with company practice, and I believe it to be reliable.

James Scarola

Subscribed and sworn before me, a Notary Public in and for the State of North Carolina and County of Wake, this 30th day of March 2011.

WITNESS my Hand and Notarial Seal:

Carol P Penny
Notary Public

My Commission Expires:

October 20, 2013
Date

Attachments: (1) Application for Order Approving Indirect Transfers of Control of Licenses
(2) Merger Agreement
(3) Pre- and Post-Merger Simplified Organizational Charts
(4) Directors and Principal Officers of Carolina Power & Light Company, Florida Power Corporation, Florida Progress Corporation, Progress Energy, Inc., Duke Energy Corporation; Principal Nuclear Officers of Duke Energy Carolinas, LLC; Directors and Senior Officers of Post-Merger Duke Energy Corporation
(5) Required State and Federal Approvals

cc: USNRC Regional Administrator – Region II
USNRC Resident Inspector – BSEP, Unit Nos. 1 and 2
USNRC Resident Inspector – CR3
USNRC Resident Inspector – SHNPP, Unit No. 1
USNRC Resident Inspector – HBRSEP, Unit No. 2
USNRC - Director of the Office of Nuclear Reactor Regulation
USNRC - Director of the Office of Nuclear Material Safety and Safeguards

Susan Uttal, Esq., NRC OGC
Thomas Fredrichs, Senior Level Advisor for Financial Matters, NRR
John Stang, NRR Project Manager – ONS, Unit Nos. 1, 2 and 3
Jon Thompson, NRR Project Manager – CNS, Unit Nos. 1 and 2; MNS Unit Nos. 1 and 2
Farideh Saba, NRR Project Manager – BSEP, Unit Nos. 1 and 2; CR3
Brenda Mozafari, NRR Project Manager – SHNPP, Unit No. 1; HBRSEP, Unit No. 2
Lara S. Nichols, Esq., Duke Energy Corporation, Vice President – Legal
David T. Conley, Esq., Progress Energy Service Company, LLC, Senior Counsel
John H. O'Neill, Jr., Esq., Pillsbury Winthrop Shaw Pittman LLP

ATTACHMENT (1)

APPLICATION FOR ORDER APPROVING INDIRECT TRANSFERS OF CONTROL OF LICENSES

Carolina Power & Light Company and Florida Power Corporation
March 30, 2011

APPLICATION FOR ORDER APPROVING INDIRECT TRANSFERS OF CONTROL OF LICENSES

March 30, 2011

Submitted by

Carolina Power & Light Company
and
Florida Power Corporation

Brunswick Steam Electric Plant, Units 1 and 2
NRC Renewed Facility Operating License Nos. DPR-71 and DPR-62
Docket Nos. 50-325, 50-324

Crystal River Nuclear Generating Plant, Unit 3
NRC Facility Operating License No. DPR-72
Docket No. 50-302

Shearon Harris Nuclear Power Plant, Unit 1
NRC Renewed Facility Operating License Nos. NPF-63
Docket No. 50-400

H.B. Robinson Steam Electric Plant, Unit 2
NRC Renewed Facility Operating License No. DPR-23

H.B. Robinson Steam Electric Plant Independent Spent Fuel Storage Installation
Materials Renewed License No. SNM-2502
Docket Nos. 50-261, 72-3

APPLICATION FOR ORDER APPROVING
INDIRECT TRANSFERS OF CONTROL OF LICENSES

TABLE OF CONTENTS

I. INTRODUCTION

Carolina Power & Light Company (CP&L) and Florida Power Corporation (FPC) (together, Applicants) hereby submit an application seeking U.S. Nuclear Regulatory Commission (NRC) consent to the indirect transfers of control of the following NRC licenses: (1) Brunswick Steam Electric Plant, Units 1 and 2 (Brunswick), Renewed Operating Licenses DPR-71 & DPR-62; (2) Crystal River Nuclear Generating Plant, Unit 3 (Crystal River), Operating License DPR-72; (3) Shearon Harris Nuclear Power Plant, Unit 1 (Harris), Renewed Operating License NPF-63; (4) H.B. Robinson Steam Electric Plant, Unit 2 (Robinson), Renewed Operating License DPR-23; and (5) H.B. Robinson Steam Electric Plant Independent Spent Fuel Storage Installation Facility, Renewed Materials License No. SNM-2502 (collectively, the Licenses). (The facilities that are the subject of the Licenses are collectively referred to as the licensed facilities.) The indirect transfers of control will result from the proposed merger of Duke Energy Corporation (Duke Energy) and Progress Energy, Inc. (Progress Energy). Progress Energy is CP&L's and FPC's ultimate parent corporation.[1]

The terms and conditions of the proposed transaction are set forth in the Agreement and Plan of Merger, dated as of January 8, 2011, by and among Duke Energy, Diamond Acquisition Corporation and Progress Energy (the Merger Agreement). A copy of the Merger Agreement is included with this Application as Attachment (2). Under the terms of the Merger Agreement, and subject to regulatory approvals and the satisfaction of certain obligations of the parties, Diamond Acquisition Corporation (Merger Sub), a wholly-owned direct subsidiary of Duke Energy, will merge with and into Progress Energy and each share of Progress Energy common stock will be cancelled and converted into the right to receive 2.6125 shares of Duke Energy

[1] CP&L is wholly owned by Progress Energy. FPC is wholly owned by Florida Progress Corporation ("Florida Progress"), which is wholly owned by Progress Energy.

common stock, subject to certain adjustments. Progress Energy will become a wholly-owned direct subsidiary of Duke Energy and the former shareholders of Progress Energy will become shareholders of Duke Energy. Charts showing the pre- and post-merger organizational structures of Progress Energy and Duke Energy are included with this application as Attachment (3).

Based on the closing price of Duke Energy common stock on the New York Stock Exchange on January 7, 2011, the last trading day before the public announcement of the Merger Agreement, Progress Energy shareholders would receive a value of $46.48 per share, or $13.7 billion in total equity value. Duke Energy also will assume approximately $12.2 billion in Progress Energy net debt. Following completion of the merger, it is anticipated that Duke Energy shareholders will own approximately 63 percent of the combined company and Progress Energy shareholders will own approximately 37 percent of the combined company on a fully diluted basis.

When the transaction is completed, the Merger Agreement provides that Duke Energy will have an eighteen-member board of directors. All eleven current directors of Duke Energy will continue as directors when the transaction is complete, subject to their ability and willingness to serve. Progress Energy, after consultation with Duke Energy, designated seven of the current directors of Progress Energy to be added to the board of directors of Duke Energy when the transaction is complete, similarly subject to their ability and willingness to serve. A list of directors and senior officers of Progress Energy and Duke Energy, as well as a list of directors and principal executive officers for post-merger Duke Energy, is included with this application as Attachment (4).

The proposed indirect transfers of control will not result in any change in the role of the CP&L and FPC as the licensed operators of the licensed facilities and will not result in any

changes to their financial qualifications, decommissioning funding assurance, or technical qualifications.[2] CP&L and FPC will retain the requisite qualifications to own and operate the licensed facilities.

Brunswick Steam Electric Plant (Brunswick) is composed of two units, each of which is rated 1007 megawatts electric (MWe) (net) and 2923 megawatts thermal (MWt). Each unit consists of a General Electric boiling water reactor, other associated plant equipment and steam turbine, and related site facilities. Brunswick is located 20 miles south of Wilmington, North Carolina, at the mouth of the Cape Fear River in Brunswick County, North Carolina. Undivided ownership interest in Brunswick is held by two owners in the following percentages:

Carolina Power & Light Company	81.67 %
North Carolina Eastern Municipal Power Agency	18.33 %

Carolina Power & Light Company is the sole operator of Brunswick.

Shearon Harris Nuclear Power Plant (Harris) is a single unit, 900 MWe (net) (2900 MWt) nuclear power plant, consisting of a Westinghouse three-loop pressurized water reactor, other associated plant equipment, and related site facilities. Harris is located in the extreme southwest corner of Wake County, North Carolina, and the southeast corner of Chatham County, North Carolina. It is approximately 16 miles southwest of Raleigh, North Carolina and about 15 miles northeast of Sanford, North Carolina. Undivided ownership interest in Harris is held by two owners in the following percentages:

Carolina Power & Light Company	83.83 %
North Carolina Eastern Municipal Power Agency	16.17 %

[2] At an appropriate time, CP&L and FPC will amend their respective applications for combined construction and operating licenses for Shearon Harris Nuclear Power Plant, Units 2 and 3, and Levy Nuclear Plant, Units 1 and 2, to reflect the new ultimate holding company arrangement.

Carolina Power & Light Company is the sole operator of Harris.

H.B. Robinson Steam Electric Plant, Unit 2 (Robinson) is a single unit, 787 MWe (gross) (2339 MWt) nuclear power plant, consisting of a Westinghouse three-loop pressurized water reactor, other associated plant equipment, and related site facilities. Robinson is located in northwest Darlington County, South Carolina, approximately 3 miles west-northwest of Hartsville, South Carolina. Carolina Power & Light Company is the sole owner and licensed operator of Robinson.

Crystal River Nuclear Generating Plant, Unit 3 (Crystal River) is a single unit, 924 MWe (gross) (2609 MWt) nuclear power plant, consisting of a Babcock and Wilcox two-loop pressurized water reactor, other associated plant equipment, and related site facilities. Crystal River is located on the Gulf of Mexico, 70 miles north of Tampa, Florida. Undivided ownership interest in Crystal River is held by ten owners in the following percentages:

Florida Power Corporation	91.78 %
City of Alachua, Florida	0.08 %
City of Bushnell, Florida	0.04 %
City of Gainesville, Florida	1.41 %
Kissimmee Utility Authority	0.68 %
City of Leesburg, Florida	0.82 %
Utilities Commission of the City of New Smyrna Beach	0.56 %
City of Ocala, Florida	1.33 %
Orlando Utilities Commission	1.60 %
Seminole Electric Cooperative, Inc.	1.70 %

Florida Power Corporation is the sole operator of Crystal River.[3]

The information contained in this Application demonstrates that CP&L and FPC will continue to possess the requisite qualifications to maintain their interests under the Licenses. The proposed indirect transfers of control of the Licenses will not result in any change in the role of the licensed operators of the facilities and will not result in any changes to their technical qualifications. In addition, CP&L and FPC will remain financially qualified to conduct their activities under the Licenses. Financial assurance for decommissioning remains the same. Finally, this request for consent to indirect transfers of control of the Licenses will not result in any of the licensed facilities becoming owned, controlled, or dominated by a foreign entity.

II. STATEMENT OF PURPOSE OF THE TRANSFERS AND NATURE OF THE TRANSACTION MAKING THE TRANSFERS NECESSARY OR DESIRABLE

The merger of Progress Energy with Duke Energy will create the nation's largest utility with $65 billion in enterprise value and $37 billion in market capitalization. The scale, scope and diversity of the combined company are expected to result in increased financial stability and strength, enhanced access to capital, and greater ability to undertake the significant fleet and grid modernization required to respond to increasing environmental regulation, plant retirements and demand growth. The merger should benefit customers through operating efficiencies over time; additionally customers in North Carolina and South Carolina are expected to benefit from joint dispatch efficiencies and fuel procurement savings. The new Duke Energy will be able to leverage the best practices of both companies to achieve even higher levels of safety, operational excellence and customer satisfaction. In addition, the merger also provides consistent and

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[3] CP&L and FPC are authorized to submit applications regarding the licenses for those facilities under their respective agreements with the co-owners of Brunswick, Harris and Crystal River.

predictable earnings and cash flows to support dividend payments to shareholders and maintain balance sheet strength.

III. GENERAL CORPORATE INFORMATION REGARDING CAROLINA POWER & LIGHT COMPANY, FLORIDA POWER CORPORATION, FLORIDA PROGRESS CORPORATION, PROGRESS ENERGY, INC., AND DUKE ENERGY CORPORATION

A. General Information Regarding Carolina Power & Light Company

1. Name and Address

Carolina Power & Light Company, doing business as Progress Energy Carolinas Inc.
410 S. Wilmington Street
Raleigh, NC 27601

2. Description of Business

CP&L is an investor-owned, vertically integrated electric utility organized and existing under the laws of the State of North Carolina and a wholly-owned subsidiary of Progress Energy. CP&L provides electric generation, transmission and distribution services to wholesale and retail customers in North Carolina and South Carolina. CP&L sells electricity to retail customers within its service territory and to wholesale customers within and outside its service territory.

3. Organization and Management

The common stock of CP&L is wholly owned by Progress Energy, which is currently widely held and publicly traded. Following the proposed transaction, CP&L's parent, Progress Energy, will become a direct, wholly-owned subsidiary of Duke Energy. CP&L will not be owned, controlled or dominated by an alien, foreign corporation or foreign government. All members of CP&L's board of directors and all of its principal officers are citizens of the United States. Their names and addresses are listed in Attachment (4).

B. General Information Regarding Florida Power Corporation

1. Name and Address

Florida Power Corporation, doing business as Progress Energy Florida, Inc.
299 1st Avenue N
St. Petersburg, FL 33701

2. Description of Business

FPC is an investor-owned, vertically integrated electric utility organized and existing under the laws of the State of Florida and a wholly-owned subsidiary of Florida Progress, which is a wholly-owned subsidiary of Progress Energy. FPC provides electric generation, transmission and distribution services to wholesale and retail customers in the State of Florida. FPC sells electricity to retail customers within its service territory and to wholesale customers within and outside its service territory.

3. Organization and Management

The common stock of FPC is wholly owned by Florida Progress, which is wholly owned by Progress Energy. The common stock of Progress Energy is currently widely held and publicly traded. Following the proposed transaction, FPC's ultimate parent, Progress Energy, will become a direct, wholly-owned subsidiary of Duke Energy. FPC will not be owned, controlled or dominated by an alien, foreign corporation or foreign government. All members of FPC's board of directors and all of its principal officers are citizens of the United States. Their names and addresses are listed in Attachment (4).

C. General Information Regarding Florida Progress Corporation

1. Name and address

Florida Progress Corporation
410 S. Wilmington Street
Raleigh, NC 27601

2. Description of Business

Florida Progress, organized and existing under the laws of the State of Florida, is the holding company for FPC. It conducts no other business and owns no other assets.

3. Organization and Management

The common stock of Florida Progress is wholly owned by Progress Energy, which is currently widely held and publicly traded. Following the proposed transaction, Florida Progress's parent, Progress Energy, will become a direct, wholly-owned subsidiary of Duke Energy. Florida Progress will not be owned, controlled or dominated by an alien, foreign corporation or foreign government. All members of Florida Progress's board of directors and all of its principal officers are citizens of the United States. Their names and addresses are listed in Attachment (4).

D. General Information Regarding Progress Energy, Inc.

1. Name and Address

Progress Energy Inc.
410 S. Wilmington Street
Raleigh, NC 27601

2. Description of Business

Progress Energy, organized and existing under the laws of the State of North Carolina, is a Fortune 500 energy company with more than 22,000 megawatts of generation capacity and approximately $10 billion in annual revenues. Progress Energy is the parent company of CP&L. Progress Energy is also the parent company of Florida Progress, which is the holding company for FPC. CP&L and FPC are two major electric utilities that serve approximately 3.1 million customers in North Carolina, South Carolina, and Florida. Headquartered in Raleigh, North Carolina, Progress Energy is traded on the New York Stock Exchange under the symbol PGN.

3. Organization and Management

The common stock of Progress Energy is currently widely held and publicly traded. Following the proposed transaction, Progress Energy will become a direct, wholly-owned

subsidiary of Duke Energy. Progress Energy will not be owned, controlled or dominated by an alien, foreign corporation or foreign government. Seven members of Progress Energy's board of directors will become members of Duke Energy's board of directors after the merger. All members of Progress Energy's board of directors and all of its principal officers are citizens of the United States. Their names and addresses are listed in Attachment (4).

E. General Information Regarding Duke Energy Corporation

1. Name and Address

Duke Energy Corporation
526 South Church Street
Charlotte, North Carolina 28202

2. Description of Business

Duke Energy is a diversified energy company with both regulated and unregulated utility operations, organized and existing under the laws of the State of Delaware, with approximately $14 billion in annual revenues. Duke Energy supplies, delivers and processes energy for customers in the United States and selected international markets. Its regulated utility operations own approximately 27,000 megawatts of generating capacity and serve approximately four million customers located in five states in the Southeast and Midwest, representing a population of twelve million people. Its commercial power and international business segments own and operate diverse power generation assets in North America and Latin America, including a growing portfolio of renewable energy assets in the United States. Headquartered in Charlotte, North Carolina, Duke Energy is a Fortune 500 company traded on the New York Stock Exchange under the symbol DUK.

3. Organization and Management

The business of Duke Energy is conducted by its board of directors and executive officers. All members of Duke Energy's board of directors and all of its principal officers are

citizens of the United States. Their names and addresses are listed in Attachment (4). Duke is not owned, controlled or dominated by an alien, foreign corporation or foreign government.

Following the proposed transaction, the common stock of Duke Energy will be widely held and publicly traded. Duke Energy will not be owned, controlled or dominated by an alien, foreign corporation or foreign government. After the merger, the Duke Energy board of directors will consist of eleven members from the existing Duke Energy board and seven members from the Progress Energy board who were designated by Progress Energy after execution of the Merger Agreement. The designated members of the Duke Energy post-merger board of directors and the agreed upon management team are listed in Attachment (4). All are U.S. citizens.

IV. TECHNICAL QUALIFICATIONS

The technical qualifications of the licensees are not affected by the proposed indirect transfers of control of the Brunswick, Harris, Robinson, and Crystal River licenses. There will be no physical changes to Brunswick, Harris, Robinson, or Crystal River and no changes in their day-to-day operations in connection with the indirect transfers of control. The current licensees will at all times remain the licensed operators of Brunswick, Harris, Robinson, and Crystal River. No conforming amendments will be required to the facility operating licenses or the site-specific ISFSI license as a result of the proposed transaction. The nuclear operating organizations for the licensed facilities are expected to remain essentially unchanged as a result of the acquisition.

Dhiaa M. Jamil, currently Chief Nuclear Officer (CNO) of Duke Energy, will be the senior nuclear generation executive after the merger, reporting directly to the CEO. Through the integration process, the precise post-merger organization will be developed and may include a senior level corporate management structure through which the nuclear site vice presidents at each licensed facility would report. The candidates for these senior management positions include the existing senior management of the Duke Energy and Progress Energy nuclear fleets who have significant industry experience and are US citizens (see Attachment (4)). There are no plans to change the Nuclear Site Vice Presidents in anticipation of the merger. Any changes would occur due to the normal course of business, in which case replacements would be made using the existing succession management processes.

V. FINANCIAL QUALIFICATIONS

After the proposed transaction, CP&L and FPC will continue to generate and distribute electricity and recover the cost of this electricity through rates authorized by the North Carolina Utilities Commission, the Public Service Commission of South Carolina, the Florida Public Service Commission, and the Federal Energy Regulatory Commission. Therefore, CP&L and FPC will continue to meet the definition of "electric utility" set forth in 10 CFR § 50.2. Accordingly, their financial qualifications are presumed by 10 CFR § 50.33(f) and no specific demonstration of financial qualifications is required.

VI. DECOMMISSIONING FUNDING

Information regarding the status of decommissioning funding for Brunswick, Harris, Robinson, and Crystal River as of December 31, 2008 was reported to the NRC in accordance with 10 CFR § 50.75(f)(1) on March 25, 2009 and supplemented by letters dated May 18, 2010

and July 1, 2010.[4] The proposed transaction will not affect the decommissioning funding arrangements previously reported. The licensees will continue to maintain their existing decommissioning trust funds segregated from their assets and outside their administrative control in accordance with the requirements of 10 CFR § 50.75(e)(1). As required by 10 CFR § 50.75(f)(1), Applicants will provide an updated Biennial Decommissioning Funding Status Report by March 31, 2011. After the merger, CP&L will remain responsible for the decommissioning liabilities associated with CP&L's ownership interests in Brunswick, Harris and Robinson, and FPC will remain responsible for the decommissioning liabilities associated with Crystal River. CP&L and FPC will continue to fund their decommissioning trusts for the licensed facilities accordance with 10 CFR § 50.75.

VII. ANTITRUST INFORMATION

This Application post-dates the issuance of the plants' operating licenses, and therefore no antitrust review is required or authorized. Based upon the Commission's decision in *Kansas Gas and Electric Co., et al.* (Wolf Creek Generating Station, Unit 1), CLI-99-19, 49 N.R.C. 441 (1999), the Atomic Energy Act does not require or authorize antitrust reviews of post-operating license transfer applications. *See also* 10 CFR § 50.80(b); Final Rule, Antitrust Review Authority: Clarification, 65 Fed. Reg. 44,649 (July 19, 2000).

VIII. RESTRICTED DATA AND CLASSIFIED NATIONAL SECURITY INFORMATION

This application for indirect transfers does not contain any Restricted Data or other Classified National Security Information, nor do the proposed indirect transfers result in any change in access to any Restricted Data or Classified National Security Information. CP&L's

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[4] The Biennial Decommissioning Funding Status Report and supplemental letters are available at ADAMS Accession Nos. ML090920407, ML101450394, and ML101880262.

and FPC's existing restrictions on access to Restricted Data and Classified National Security Information are unaffected by the proposed transfers. In compliance with Section 145a of the Atomic Energy Act, CP&L and FPC agree that restricted or classified defense information will not be provided to any individual until the Office of Personnel Management investigates and reports to the NRC on the character, associations, and loyalty of such individual, and the NRC determines that permitting such person to have access to Restricted Data will not endanger the common defense and security of the United States.

IX. ENVIRONMENTAL CONSIDERATIONS

The requested consent to transfers of control of the Licenses is exempt from environmental review because it falls within the categorical exclusion contained in 10 CFR § 51.22(c)(21), for which neither an Environmental Assessment nor an Environmental Impact Statement is required. Moreover, the proposed transfers will not directly affect the actual operation of the plants in any substantive way. The proposed transfers do not involve an increase in the amounts, or a change in the types, of any radiological effluents that may be allowed to be released off-site, and they do not involve an increase in the amounts, or a change in the types, of non-radiological effluents that may be released off-site. Further, there is no increase in the individual or cumulative operational radiation exposure, and the proposed transfers have no environmental impact.

X. PRICE-ANDERSON INDEMNITY AND NUCLEAR INSURANCE

The proposed indirect transfers of control do not affect the existing Price-Anderson indemnity agreement for Brunswick, Harris, Robinson, and Crystal River, and do not affect the required nuclear property damage insurance pursuant to 10 CFR § 50.54(w) and nuclear energy liability insurance pursuant to Section 170 of the Act and 10 CFR Part 140. CP&L and FPC will

maintain all required nuclear property damage insurance and nuclear energy liability insurance. In addition, CP&L and FPC's annual reporting in compliance with 10 CFR § 140.21(e) provides reasonable assurance regarding their ongoing ability to pay their share of any annual retrospective premium.

XI. EFFECTIVE DATES

The proposed transaction requires the customary regulatory approvals of various federal and state regulatory authorities, in addition to the NRC. The parties to the proposed transaction anticipate closing on December 1, 2011. The Applicants respectfully request that the NRC review this Application on a schedule that will permit NRC to issue its consent to the indirect license transfers as promptly as possible. The Applicants are prepared to work closely with the NRC staff to help expedite the Application's review, but request approval in any event no later than October 15, 2011. Attachment (5) lists all other material State and Federal approvals required before the Merger can be closed. Applicants anticipate that all such approvals will be obtained in time to support closing on or before December 1, 2011. The Applicants further request that the consent be immediately effective upon issuance and that it permit the indirect transfers of control to be implemented at any time within the customary one year of the date of approval of this Application.

XII. CONCLUSION

Based upon the foregoing information, the Applicants request that the NRC issue an Order consenting to the indirect transfers of control of the Renewed Facility Operating Licenses Nos. DPR-71, DPR-62, NPF-63, DPR-23, Facility Operating License No. DPR-72, and ISFSI Renewed Materials License No. SNM-2502.

ATTACHMENT (2)

MERGER AGREEMENT

Carolina Power & Light Company and Florida Power Corporation
March 30, 2011

PROGRESS ENERGY INC (PGN)

425

Filing under Securities Act Rule 425 of certain prospectuses and communications in connection with business combination transactions
Filed on 01/10/2011

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of The
Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): January 10, 2011 (January 8, 2011)

PROGRESS ENERGY, INC.
(Exact name of registrant as specified in its charter)

North Carolina	1-15929	56-2155481
(State or other jurisdiction of incorporation)	(Commission File Number)	(IRS Employer Identification No.)
410 S. Wilmington St., Raleigh, North Carolina (Address of principal executive offices)		27601-1748 (Zip Code)

Registrant's telephone number, including area code: (919) 546-6111

N/A
(Former name or former address, if changed since last report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

☒ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

ITEM 1.01. ENTRY INTO A MATERIAL DEFINITIVE AGREEMENT.

On January 8, 2011, Duke Energy Corporation, a Delaware corporation ("Duke Energy"), Diamond Acquisition Corporation, a North Carolina corporation ("Merger Sub"), and Progress Energy, Inc. ("Progress Energy"), a North Carolina corporation, entered into an Agreement and Plan of Merger (together with the exhibits thereto, the "Merger Agreement"). Merger Sub is a newly-formed, wholly-owned direct subsidiary of Duke Energy.

The Merger Agreement provides that Merger Sub will merge with and into Progress Energy (the "Merger") and each share of Progress Energy common stock will be cancelled and converted into the right to receive 2.6125 shares of Duke Energy common stock, subject to appropriate adjustment for a reverse stock split of the Duke Energy common stock as contemplated in the Merger Agreement (and except that any shares of Progress Energy common stock that are owned by Progress Energy, other than in a fiduciary capacity, will be cancelled without any consideration therefor). Each outstanding option to acquire, and each outstanding equity award relating to, one share of Progress Energy common stock will be converted into an option to acquire, or an equity award relating to, 2.6125 shares of Duke Energy common stock, as applicable, subject to appropriate adjustment for the reverse stock split. As a result of the Merger, Progress Energy will become a wholly-owned subsidiary of Duke Energy and the former shareholders of Progress Energy will become shareholders of Duke Energy. The board of directors of Duke Energy has approved a reverse share split (at a ratio of 1-for-2 or 1-for-3, to be determined by the board of directors of Duke Energy after consultation with Progress Energy) that will be effective prior to the Merger and will be subject to the Merger being completed and receipt of the requisite approval of the shareholders of Duke Energy.

The Merger Agreement provides that upon completion of the Merger, Duke Energy will have an eighteen member board of directors. All 11 current directors of Duke Energy will continue as directors, subject to their ability and willingness to serve. Seven of the current directors of Progress Energy will be added to the board of directors of Duke Energy upon completion of the Merger, subject to their ability and willingness to serve, with such seven directors to be designated by Progress Energy, following reasonable consultation with Duke Energy, no later than March 20, 2011.

James E. Rogers, Chairman, President and Chief Executive Officer of Duke Energy, will be the Executive Chairman of the Board of Directors of Duke Energy following the completion of the Merger. Duke Energy, Merger Sub and Mr. Rogers have executed a term sheet (the "Rogers Employment Agreement Term Sheet") pursuant to which the parties agree to amend the existing employment agreement for Mr. Rogers in certain respects to reflect the changes to Mr. Rogers' duties and responsibilities in connection with the transactions contemplated by the Merger Agreement. William D. Johnson, Chairman, President and Chief Executive Officer of Progress Energy will be President and Chief Executive Officer of Duke Energy following the completion of the Merger. Duke Energy, Merger Sub and Mr. Johnson have executed a term sheet (the "Johnson Employment Agreement Term Sheet") pursuant to which the parties agree to enter into a new employment agreement for Mr. Johnson prior to the effective time of the Merger reflecting the terms in such term sheet. The Johnson Employment Agreement Term Sheet and the Rogers Employment Agreement Term Sheet are Exhibits C and D, respectively, to the Merger Agreement that is filed as Exhibit 2.1 hereto and are incorporated into this report by reference.

Duke Energy and Progress Energy have each made customary representations, warranties and covenants in the Merger Agreement, including, among others, covenants to conduct their businesses in the ordinary course between the execution of the Merger Agreement and the completion of the Merger and covenants not to engage in certain kinds of transactions during that period. During such period, Progress Energy will not increase its $0.62 regular quarterly cash dividend without the prior written consent of Duke Energy and Duke Energy may increase its regularly quarterly cash dividend up to $0.25 per share without the prior written consent of Progress Energy commencing with the regular quarterly dividend that would be payable in 2011 with respect to the second quarter of 2011 and to up to $0.255 commencing with the regular quarterly dividend that would be payable in 2012 with respect to the second quarter of 2012. In addition, Duke Energy and Progress Energy have made certain additional customary covenants, including, among others, covenants, subject to certain exceptions, (A) to cause a shareholder meeting to be held to consider, in the case of Progress Energy, approval of the Merger Agreement and, in the case of Duke Energy, approval of the issuance of Duke Energy common stock in the Merger and the amendment to Duke Energy's amended and restated certificate of incorporation to effect the reverse stock split discussed above, (B) not to solicit proposals relating to alternative business combination transactions, and (C) not to enter into discussions concerning, or provide confidential information in connection with, alternative business combination transactions.

Consummation of the Merger is subject to customary conditions, including, among others, (i) approval of the shareholders of each of Duke Energy and Progress Energy, (ii) absence of any material adverse effect, (iii) expiration or termination of the applicable Hart-Scott-Rodino Act waiting period, (iv) absence of any order or injunction prohibiting the consummation of the Merger, (v) the registration statement of Duke Energy filed on Form S-4 having become effective, (vi) shares of Duke Energy common stock to be issued in connection with the Merger having been approved for listing on the New York Stock Exchange, (vii) subject to certain exceptions, the accuracy of representations and warranties with respect to Duke Energy's and Progress Energy's business, as applicable, (viii) receipt of customary tax opinions, (ix) receipt of all required statutory approvals from, among others, the Federal Energy Regulatory Commission, the Nuclear Regulatory Commission, the Federal Communications Commission, and state public service and utility commissions and (x) the effectiveness of the amendment to Duke Energy's amended and restated certificate of incorporation to effect the reverse stock split discussed above. The Merger Agreement contains certain termination rights for both Duke Energy and Progress Energy, and further provides that, upon termination of the Merger Agreement under specified circumstances, a party would be required to pay the other party's fees and expenses in an amount not to exceed $30 million or a termination fee of $400 million in the case of a fee payable by Progress Energy to Duke Energy or a termination fee of $675 million in the case of a fee payable by Duke Energy to Progress Energy. The termination fee is payable by Duke Energy under specified circumstances, including (i) if Duke Energy enters into a definitive agreement with respect to certain business combinations (other than the Merger Agreement), or (ii) if Progress Energy terminates the Merger Agreement following a withdrawal by Duke Energy's Board of Directors of its recommendation of the approval of the issuance of Duke Energy common stock in the Merger and the amendment to Duke Energy's amended and restated certificate of incorporation to effect the reverse stock split discussed above under certain circumstances. The termination fee is payable by Progress Energy under specified circumstances, including (i) if Progress Energy enters into a definitive agreement with respect to certain business combinations (other than the Merger Agreement), or (ii) if Duke Energy terminates the Merger Agreement following a withdrawal by Progress Energy's Board of Directors of its recommendation of the Merger Agreement and the Merger under certain circumstances.

The Merger Agreement has been filed to provide security holders with information regarding its terms. It is not intended to provide any other factual information about Duke Energy, Progress Energy or their respective subsidiaries and affiliates. The Merger Agreement contains representations and warranties by each of the parties to the Merger Agreement. These representations and warranties were made solely for the benefit of the other parties to the Merger Agreement and (a) are not intended to be treated as categorical statements of fact, but rather as a way of allocating risk to one of the parties if those statements prove to be inaccurate, (b) may have been qualified in the Merger Agreement by confidential disclosure schedules that were delivered to the other party in connection with the signing of the Merger Agreement, which disclosure schedules contain information that modifies, qualifies and creates exceptions to the representations, warranties and covenants set forth in the Merger Agreement, (c) may be subject to standards of materiality applicable to the parties that differ from what might be viewed as material to shareholders and (d) were made only as of the date of the Merger Agreement or such other date or dates as may be specified in the Merger Agreement. Moreover, information concerning the subject matter of the representations, warranties and covenants may change after the date of the Merger Agreement, which subsequent information may or may not be fully reflected in public disclosures by Duke Energy or Progress Energy. Accordingly, you should not rely on the representations, warranties and covenants or any descriptions thereof as characterizations of the actual state of facts or condition of Duke Energy or Progress Energy.

The foregoing description of the Merger Agreement does not purport to be complete and is qualified in its entirety by reference to the Merger Agreement, which is filed as Exhibit 2.1 hereto, and is incorporated into this report by reference.

ITEM 5.02. DEPARTURE OF DIRECTORS OR CERTAIN OFFICERS; ELECTION OF DIRECTORS; APPOINTMENT OF CERTAIN OFFICERS; COMPENSATORY ARRANGEMENTS OF CERTAIN OFFICERS.

On January 8, 2011, in connection with the execution of the Merger Agreement, each of Lloyd M. Yates, Jeffrey J. Lyash, John R. McArthur and Mark F. Mulhern (the "Progress Officers"), each of whom is an executive officer of Progress Energy, entered into a letter agreement (the "Letter Agreements") with Progress Energy waiving certain rights of such Progress Officer under Progress Energy's Management Change-in-Control Plan (the "CIC Plan") and such Progress Officer's employment agreement with Progress Energy or one of its subsidiaries. Pursuant to the Letter Agreements, each of the Progress Officers waives the right to resign with Good Reason under the CIC Plan or to assert a constructive termination under the employment agreement on account of (i) the relocation of the Progress Officer to Charlotte, North Carolina, (ii) a change in the Progress Officer's position, duties or responsibilities on account of accepting the position identified in the Letter Agreement or (iii) a reduction in the Progress Officer's incentive compensation opportunity on account of becoming a participant in Duke Energy's incentive compensation plans following the consummation of the Merger; provided that his or her target incentive compensation opportunity is substantially similar to that of similarly situated executives of Duke Energy. The Letter Agreements will be terminated in the event that the Merger Agreement is terminated prior to the Merger being completed.

The foregoing description of the Letter Agreements does not purport to be complete and is qualified in its entirety by reference to the Letter Agreements, a form of which is filed as Exhibit 10.1 hereto, and is incorporated into this report by reference.

CAUTIONARY STATEMENTS REGARDING FORWARD-LOOKING INFORMATION

This document contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Forward-looking statements are typically identified by words or phrases such as "may," "will," "anticipate," "estimate," "expect," "project," "intend," "plan," "believe," "target," "forecast," and other words and terms of similar meaning. Forward-looking statements involve estimates, expectations, projections, goals, forecasts, assumptions, risks and uncertainties. Progress Energy cautions readers that any forward-looking statement is not a guarantee of future performance and that actual results could differ materially from those contained in the forward-looking statement. Such forward-looking statements include, but are not limited to, statements about the benefits of the proposed merger involving Duke Energy and Progress Energy, including future financial and operating results, Progress Energy's or Duke Energy's plans, objectives, expectations and intentions, the expected timing of completion of the transaction, and other statements that are not historical facts. Important factors that could cause actual results to differ materially from those indicated by such forward-looking statements include risks and uncertainties relating to: the ability to obtain the requisite Duke Energy and Progress Energy shareholder approvals; the risk that Progress Energy or Duke Energy may be unable to obtain governmental and regulatory approvals required for the merger, or required governmental and regulatory approvals may delay the merger or result in the imposition of conditions that could cause the parties to abandon the merger; the risk that a condition to closing of the merger may not be satisfied; the timing to consummate the proposed merger; the risk that the businesses will not be integrated successfully; the risk that the cost savings and any other synergies from the transaction may not be fully realized or may take longer to realize than expected; disruption from the transaction making it more difficult to maintain relationships with customers, employees or suppliers; the diversion of management time on merger-related issues; general worldwide economic conditions and related uncertainties; the effect of changes in governmental regulations; and other factors we discuss or refer to in the "Risk Factors" section of our most recent Annual Report on Form 10-K filed with the Securities and Exchange Commission. These risks, as well as other risks associated with the merger, will be more fully discussed in the joint proxy statement/prospectus that will be included in the Registration Statement on Form S-4 that will be filed with the SEC in connection with the merger. Additional risks and uncertainties are identified and discussed in Progress Energy's and Duke Energy's reports filed with the SEC and available at the SEC's website at www.sec.gov. Each forward-looking statement speaks only as of the date of the particular statement and neither Progress Energy nor Duke Energy undertakes any obligation to update or revise its forward-looking statements, whether as a result of new information, future events or otherwise.

ADDITIONAL INFORMATION AND WHERE TO FIND IT

This document does not constitute an offer to sell or the solicitation of an offer to buy any securities, or a solicitation of any vote or approval, nor shall there be any sale of securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction. In connection with the proposed merger between Duke Energy and Progress Energy, Duke Energy will file with the SEC a Registration Statement on Form S-4 that will include a joint proxy statement of Duke Energy and Progress Energy that also constitutes a prospectus of Duke Energy. Duke Energy and Progress Energy will deliver the joint proxy statement/prospectus to their respective shareholders. **Duke Energy and Progress Energy urge investors and shareholders to read the joint proxy statement/prospectus regarding the proposed merger when it becomes available, as well as other documents filed with the SEC, because they will contain important information.** You may obtain copies of all documents filed with the SEC regarding this transaction, free of charge, at the SEC's website (www.sec.gov). You may also obtain these documents, free of charge, from Duke Energy's website (www.duke-energy.com) under the heading "Investors" and then under the heading "Financials/SEC Filings." You may also obtain these documents, free of charge, from Progress Energy's website (www.progress-energy.com) under the tab "Investors" and then under the heading "SEC Filings."

PARTICIPANTS IN THE MERGER SOLICITATION

Duke Energy, Progress Energy, and their respective directors, executive officers and certain other members of management and employees may be soliciting proxies from Duke Energy and Progress Energy shareholders in favor of the merger and related matters. Information regarding the persons who may, under the rules of the SEC, be deemed participants in the solicitation of Duke Energy and Progress Energy shareholders in connection with the proposed merger will be set forth in the joint proxy statement/prospectus when it is filed with the SEC. You can find information about Duke Energy's executive officers and directors in its definitive proxy statement filed with the SEC on March 22, 2010. You can find information about Progress Energy's executive officers and directors in its definitive proxy statement filed with the SEC on March 31, 2010. Additional information about Duke Energy's executive officers and directors and Progress Energy's executive officers and directors can be found in the above-referenced Registration Statement on Form S-4 when it becomes available. You can obtain free copies of these documents from Duke Energy and Progress Energy using the contact information above.

ITEM 9.01 FINANCIAL STATEMENTS AND EXHIBITS.

(d) *Exhibits.*

Exhibit No.	Description of Exhibit
2.1	Agreement and Plan of Merger, dated as of January 8, 2011, by and among Duke Energy Corporation, Diamond Acquisition Corporation and Progress Energy, Inc. (Schedules have been omitted pursuant to Item 601(b)(2) of Regulation S-K. A copy of any omitted schedule will be furnished supplementally to the Securities and Exchange Commission upon request.)
10.1	Form of Letter Agreement, dated January 8, 2011.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

PROGRESS ENERGY, INC.

Date: January 10, 2011

By: /s/ John R. McArthur

Name: John R. McArthur

Title: Executive Vice President, General Counsel and Corporate Secretary

EXHIBIT INDEX

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10.1	Form of Letter Agreement, dated January 8, 2011.

Exhibit 2.1

EXECUTION COPY

AGREEMENT AND PLAN OF MERGER

by and among

DUKE ENERGY CORPORATION,

DIAMOND ACQUISITION CORPORATION

and

PROGRESS ENERGY, INC.

Dated as of January 8, 2011

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AGREEMENT AND PLAN OF MERGER, dated as of January 8, 2011 (this "Agreement"), by and among DUKE ENERGY CORPORATION, a Delaware corporation ("Duke"), DIAMOND ACQUISITION CORPORATION, a North Carolina corporation and a direct wholly-owned subsidiary of Duke ("Merger Sub"), and PROGRESS ENERGY, INC., a North Carolina corporation ("Progress").

WHEREAS, the respective Boards of Directors of Duke and Merger Sub have approved this Agreement, and deem it advisable and in the best interests of their respective stockholders to consummate the merger of Merger Sub with and into Progress on the terms and conditions set forth herein (the "Merger"), and the Board of Directors of Duke has determined to recommend to the stockholders of Duke that they approve an amendment to the Amended and Restated Certificate of Incorporation of Duke providing for a reverse stock split and that they approve the issuance of shares of Duke Common Stock in connection with the Merger as set forth in this Agreement;

WHEREAS, the Board of Directors of Progress has adopted this Agreement, and deems it in the best interest of Progress to consummate the merger of Merger Sub with and into Progress on the terms and conditions set forth herein and has determined to recommend to the shareholders of Progress that they approve this Agreement and the Merger;

WHEREAS, Duke and Progress desire to make certain representations, warranties, covenants and agreements in connection with the Merger and the transactions contemplated by this Agreement and also to prescribe various conditions to the Merger; and

WHEREAS, for United States federal income tax purposes, it is intended that the Merger shall qualify as a reorganization under Section 368(a) of the Internal Revenue Code of 1986, as amended (the "Code"), and this Agreement is intended to be, and is hereby, adopted as a plan of reorganization within the meaning of Section 368(a) of the Code.

NOW, THEREFORE, in consideration of the foregoing and of the representations, warranties, covenants and agreements contained in this Agreement, the parties agree as follows:

ARTICLE I

THE MERGER

Section 1.01. The Merger. Upon the terms and subject to the conditions set forth in this Agreement, at the Effective Time, Merger Sub shall be merged with and into Progress in accordance with the North Carolina Business Corporation Act (the "NCBCA"). At the Effective Time, the separate corporate existence of Merger Sub shall cease, and Progress shall be the surviving corporation in the Merger (the "Surviving Corporation") and shall continue its corporate existence under the laws of the State of North Carolina and shall succeed to and assume all of the rights and obligations of Progress and Merger Sub in accordance with the NCBCA and shall become, as a result of the Merger, a direct wholly-owned subsidiary of Duke.

Section 1.02. Closing. Unless this Agreement shall have been terminated pursuant to Section 7.01, the closing of the Merger (the "Closing") will take place at 10:00 a.m., local time, on a date to be specified by the parties (the "Closing Date"), which, subject to Section 4.06 of this Agreement, shall be no later than the second business day after satisfaction or waiver of the

conditions set forth in Article VI (other than those conditions that by their terms are to be satisfied at the Closing, but subject to the satisfaction or waiver (to the extent permitted by applicable law) of such conditions at such time), unless another time or date is agreed to by the parties hereto. The Closing shall be held at such location as is agreed to by the parties hereto.

Section 1.03. Effective Time of the Merger. Subject to the provisions of this Agreement, as soon as practicable after 10:00 a.m., local time, on the Closing Date the parties thereto shall file articles of merger (the "Articles of Merger") executed in accordance with, and containing such information as is required by, Section 55-11-05 of the NCBCA with the Secretary of State of the State of North Carolina and on or after the Closing Date shall make all other filings or recordings required under the NCBCA. The Merger shall become effective at such time as the Articles of Merger are duly filed with the Secretary of State of the State of North Carolina or at such later time as is specified in the Articles of Merger (the time the Merger becomes effective being hereinafter referred to as the "Effective Time").

Section 1.04. Effects of the Merger. The Merger shall generally have the effects set forth in this Agreement and the applicable provisions of the NCBCA.

Section 1.05. Articles of Incorporation and By-laws of the Surviving Corporation

(a) At the Effective Time, the articles of incorporation of Merger Sub as in effect immediately prior to the Effective Time shall be the articles of incorporation of the Surviving Corporation until thereafter amended in accordance with the provisions thereof and hereof and applicable Law, in each case consistent with the obligations set forth in Section 5.08.

(b) At the Effective Time, the by-laws of Merger Sub as in effect immediately prior to the Effective Time shall be the by-laws of the Surviving Corporation until thereafter amended in accordance with the provisions thereof and hereof and applicable Law, in each case consistent with the obligations set forth in Section 5.08.

Section 1.06. Directors and Officers of the Surviving Corporation.

(a) The directors of Merger Sub at the Effective Time shall, from and after the Effective Time, be the directors of the Surviving Corporation in the Merger until their successors have been duly elected or appointed and qualified, or their earlier death, resignation or removal.

(b) The officers of Progress at the Effective Time shall, from and after the Effective Time, be the initial officers of the Surviving Corporation until their successors have been duly elected or appointed and qualified, or their earlier death, resignation or removal.

Section 1.07. Post-Merger Operations.

(a) Board Matters. Duke shall take all necessary corporate action to cause the following to occur as of the Effective Time: (i) the number of directors constituting the Board of Directors of Duke shall be as set forth in Exhibit A hereto, with the identities of the Duke Designees (as defined in Exhibit A hereto) as set forth in Exhibit A hereto and the identities of the Progress Designees (as defined in Exhibit A hereto) as identified by Progress after the date hereof in accordance with the provisions of Exhibit A hereto, subject to such individuals' ability and

willingness to serve; (ii) the committees of the Board of Directors of Duke shall be as set forth in **Exhibit A** hereto, and the chairpersons of each such committee shall be designated in accordance with the provisions of **Exhibit A** hereto, subject to such individuals' ability and willingness to serve; and (iii) the lead independent director of the Board of Directors of Duke shall be designated in accordance with the provisions of **Exhibit A** hereto, subject to such individual's ability and willingness to serve. In the event any Duke Designee or any Progress Designee becomes unable or unwilling to serve as a director on the Board of Directors of Duke, or as a chairperson of a committee or as lead independent director, a replacement for such designee shall be determined in accordance with the provisions of **Exhibit A** hereto.

(b) Chairman of the Board; President and Chief Executive Officer; Executive Officers.

(i) Duke's Board of Directors shall cause the current Chief Executive Officer of Progress (the "Progress CEO") to be appointed as the President and Chief Executive Officer of Duke, and cause the current Chief Executive Officer of Duke (the "Duke CEO") to be appointed as the Chairman of the Board of Directors of Duke, in each case, effective as of, and conditioned upon the occurrence of, the Effective Time, and subject to such individuals' ability and willingness to serve. The roles and responsibilities of such officers shall be as specified on **Exhibit B** to this Agreement. In the event that the Progress CEO is unwilling or unable to serve as the President and Chief Executive Officer of Duke as of the Effective Time, Progress and Duke shall confer and mutually designate a President and Chief Executive Officer of Duke, who shall be appointed by Duke in accordance with the Amended and Restated Certificate of Incorporation and Amended and Restated By-laws of Duke as in effect as of the Effective Time. In the event that the Duke CEO is unwilling or unable to serve as the Chairman of the Board of Directors of Duke as of the Effective Time, Progress and Duke shall confer and mutually designate a Chairman of the Board of Directors of Duke, who shall be appointed by Duke in accordance with the Amended and Restated Certificate of Incorporation and Amended and Restated By-laws of Duke as in effect as of the Effective Time.

(ii) The material terms of the Progress CEO's employment with Duke as the President and Chief Executive Officer of Duke to be in effect as of the Effective Time are set forth on **Exhibit C** hereto. The parties shall use their commercially reasonable efforts to cause an employment agreement reflecting such terms to be executed by Duke and the Progress CEO as promptly as practicable after the date hereof, effective as of, and conditioned upon the occurrence of, the Effective Time.

(iii) The material terms of the Duke CEO's employment with Duke as the Chairman of the Board of Directors of Duke to be in effect as of the Effective Time are set forth on **Exhibit D** hereto. The parties shall use their commercially reasonable efforts to cause an amendment to the employment agreement of the Duke CEO reflecting such amended terms to be executed by Duke and the Duke CEO as promptly as practicable after the date hereof, effective as of, and conditioned upon the occurrence of, the Effective Time.

(iv) Subject to such individuals' ability and willingness to so serve, Duke shall take all necessary corporate action so that the individuals identified on **Exhibit E** and designated for the Duke senior executive officer positions specified on such Exhibit shall hold such officer positions as of the Effective Time. In the event that any such individual(s) is(are) unwilling or unable to serve in such officer position(s) as of the Effective Time, Progress and Duke shall confer and mutually appoint other individual(s) to serve in such officer position(s).

(c) Name, Headquarters and Operations. Following the Effective Time, Duke shall retain its current name, and shall maintain its headquarters and principal corporate offices in Charlotte, North Carolina, none of which shall change as a result of the Merger, and, taken together with its subsidiaries following the Effective Time, shall maintain substantial operations in Raleigh, North Carolina.

(d) Community Support. The parties agree that provision of charitable contributions and community support in their respective service areas serves a number of their important corporate goals. During the two-year period immediately following the Effective Time, Duke and its subsidiaries taken as a whole intend to continue to provide charitable contributions and community support within the service areas of the parties and each of their respective subsidiaries in each service area at levels substantially comparable to the levels of charitable contributions and community support provided, directly or indirectly, by Duke and Progress within their respective service areas prior to the Effective Time.

Section 1.08. Transition Committee. As promptly as practicable after the date hereof and to the extent permitted by applicable law, the parties shall create a special transition committee to oversee integration planning, including, to the extent permitted by applicable law, consulting with respect to operations and major regulatory decisions. This transition committee shall be co-chaired by the Progress CEO and the Duke CEO, and shall be composed of such chief executive officers and two other designees of Duke and two other designees of Progress.

ARTICLE II

CONVERSION OF SHARES; EXCHANGE OF CERTIFICATES

Section 2.01 Effect on Capital Stock. At the Effective Time, by virtue of the Merger and without any action on the part of holders of any shares of Progress Common Stock or any capital stock of Merger Sub:

(a) Cancellation of Certain Progress Common Stock. Each share of Progress Common Stock that is owned by Progress (other than in a fiduciary capacity), Duke or Merger Sub shall automatically be canceled and retired and shall cease to exist, and no consideration shall be delivered in exchange therefor.

(b) Conversion of Progress Common Stock. Subject to Sections 2.02(e) and 2.02(k), each issued and outstanding share of Progress Common Stock (other than shares to be canceled in accordance with Section 2.01(a)) shall be converted into the right to receive 2.6125 (the "Exchange Ratio") fully paid and nonassessable shares of Duke Common Stock (such aggregate amount, the "Merger Consideration"). As of the Effective Time, all such shares of Progress Common Stock shall no longer be outstanding and shall automatically be canceled and retired and shall cease to exist, and each holder of a certificate representing any such shares of Progress Common Stock shall cease to have any rights with respect thereto, except the right to receive the Merger Consideration as contemplated by this Section 2.01(b) (and cash in lieu of fractional shares

of Duke Common Stock payable in accordance with Section 2.02(e)) to be issued or paid in consideration therefor upon the surrender of certificates in accordance with Section 2.02, without interest, and the right to receive dividends and other distributions in accordance with Section 2.02.

(c) Conversion of Merger Sub Common Stock. At the Effective Time, by virtue of the Merger and without any action on the part of the holder thereof, each share of common stock, par value $0.01 per share, of Merger Sub issued and outstanding immediately prior to the Effective Time shall be converted into and become one validly issued, fully paid and nonassessable share of common stock, par value $0.01 per share, of the Surviving Corporation and shall constitute the only outstanding capital stock of the Surviving Corporation. From and after the Effective Time, all certificates representing the common stock of Merger Sub shall be deemed for all purposes to represent the number of shares of common stock of the Surviving Corporation into which they were converted in accordance with the immediately preceding sentence.

Section 2.02 Exchange of Certificates.

(a) Exchange Agent. Prior to the Effective Time, Duke shall enter into an agreement with such bank or trust company as may be mutually agreed by Duke and Progress (the "Exchange Agent"), which agreement shall provide that Duke shall deposit with the Exchange Agent at or prior to the Effective Time, for the benefit of the holders of shares of Progress Common Stock, for exchange in accordance with this Article II, through the Exchange Agent, certificates representing the shares of Duke Common Stock representing the Merger Consideration (or appropriate alternative arrangements shall be made by Duke if uncertificated shares of Duke Common Stock will be issued). Following the Effective Time, Duke shall make available to the Exchange Agent, from time to time as needed, cash sufficient to pay any dividends and other distributions pursuant to Section 2.02(c) (such shares of Duke Common Stock to be deposited, together with any dividends or distributions with respect thereto with a record date after the Effective Time, being hereinafter referred to as the "Exchange Fund").

(b) Exchange Procedures. As soon as reasonably practicable after the Effective Time and in any event not later than the fifth Business Day following the Effective Time, Duke shall cause the Exchange Agent to mail to each holder of record of a certificate or certificates that immediately prior to the Effective Time represented outstanding shares of Progress Common Stock (the "Certificates") whose shares were converted into the right to receive shares of Duke Common Stock pursuant to Section 2.01(b), (i) a letter of transmittal (which shall specify that delivery shall be effected, and risk of loss and title to the Certificates shall pass, only upon delivery of the Certificates to the Exchange Agent and shall be in such form and have such other provisions as Duke and Progress may reasonably specify) and (ii) instructions for use in surrendering the Certificates in exchange for certificates representing whole shares of Duke Common Stock (or appropriate alternative arrangements shall be made by Duke if uncertificated shares of Duke Common Stock will be issued), cash in lieu of fractional shares pursuant to Section 2.02(e) and any dividends or other distributions payable pursuant to Section 2.02(c). Upon surrender of a Certificate for cancellation to the Exchange Agent, together with such letter of transmittal, duly completed and validly executed in accordance with the instructions thereto, and such other documents as may reasonably be required by the Exchange Agent, the holder of such Certificate shall be entitled to receive in exchange therefor that number of whole shares of Duke Common Stock (which shall be in uncertificated book entry form unless a physical certificate is requested),

that such holder has the right to receive pursuant to the provisions of this Article II, certain dividends or other distributions in accordance with Section 2.02(c) and cash in lieu of any fractional share of Duke Common Stock in accordance with Section 2.02(e), and the Certificate so surrendered shall forthwith be canceled. In the event of a transfer of ownership of Progress Common Stock that is not registered in the transfer records of Progress, the proper number of shares of Duke Common Stock may be issued to a person other than the person in whose name the Certificate so surrendered is registered if such Certificate shall be properly endorsed or otherwise be in proper form for transfer and the person requesting such issuance shall pay any transfer or other taxes required by reason of the issuance of shares of Duke Common Stock to a person other than the registered holder of such Certificate or establish to the satisfaction of Duke that such tax has been paid or is not applicable. Until surrendered as contemplated by this Section 2.02, each Certificate shall be deemed at any time after the Effective Time to represent only the right to receive upon such surrender the Merger Consideration, which the holder thereof has the right to receive in respect of such Certificate pursuant to the provisions of this Article II, certain dividends or other distributions in accordance with Section 2.02(c) and cash in lieu of any fractional share of Duke Common Stock, in accordance with Section 2.02(e). No interest shall be paid or will accrue on the Merger Consideration or any cash payable to holders of Certificates pursuant to the provisions of this Article II.

(c) Distributions with Respect to Unexchanged Shares. No dividends or other distributions with respect to Duke Common Stock with a record date after the Effective Time shall be paid to the holder of any unsurrendered Certificate with respect to the shares of Duke Common Stock issuable hereunder in respect thereof and no cash payment in lieu of fractional shares shall be paid to any such holder pursuant to Section 2.02(e), and all such dividends and other distributions shall be paid by Duke to the Exchange Agent and shall be included in the Exchange Fund, in each case until the surrender of such Certificate in accordance with this Article II. Subject to the effect of applicable escheat or similar laws, following surrender of any such Certificate there shall be paid to the recordholder thereof, (i) without interest, the number of whole shares of Duke Common Stock issuable in exchange therefor pursuant to this Article II, the amount of dividends or other distributions with a record date after the Effective Time theretofore paid with respect to such whole shares of Duke Common Stock and the amount of any cash payable in lieu of a fractional share of Duke Common Stock to which such holder is entitled pursuant to Section 2.02(e) and (ii) at the appropriate payment date, the amount of dividends or other distributions with a record date after the Effective Time but prior to such surrender and with a payment date subsequent to such surrender payable with respect to such whole shares of Duke Common Stock.

(d) No Further Ownership Rights in Progress Common Stock; Closing of Transfer Books. All shares of Duke Common Stock issued upon the surrender for exchange of Certificates in accordance with the terms of this Article II (including any cash paid pursuant to this Article II) shall be deemed to have been issued (and paid) in full satisfaction of all rights pertaining to the shares of Progress Common Stock theretofore represented by such Certificates, subject, however, to Progress's obligation to pay any dividends or make any other distributions with a record date prior to the Effective Time that may have been declared or made by Progress on such shares of Progress Common Stock that remain unpaid at the Effective Time. As of the Effective Time, the stock transfer books of Progress shall be closed, and there shall be no further registration of transfers on the stock transfer books of Progress of the shares of Progress Common Stock that were outstanding immediately prior to the Effective Time. If, after the Effective Time, Certificates are presented to Progress, Duke or the Exchange Agent for any reason, they shall be canceled and exchanged as provided in this Article II, except as otherwise required by law.

(e) No Fractional Shares.

(i) No certificates or scrip representing fractional shares of Duke Common Stock shall be issued upon the surrender for exchange of Certificates, no dividend or distribution of Duke shall relate to such fractional share interests and such fractional share interests will not entitle the owner thereof to vote or to any rights of a shareholder of Duke but, in lieu thereof, each holder of such Certificate will be entitled to a cash payment in accordance with the provisions of this Section 2.02(e).

(ii) As promptly as practicable following the Effective Time, the Exchange Agent shall determine the excess of (A) the number of whole shares of Duke Common Stock delivered to the Exchange Agent by Duke pursuant to Section 2.02(a) representing the Merger Consideration over (B) the aggregate number of whole shares of Duke Common Stock to be distributed to former holders of Progress Common Stock pursuant to Section 2.02(b) (such excess being herein called the "Excess Shares"). Following the Effective Time, the Exchange Agent shall, on behalf of former shareholders of Progress, sell the Excess Shares at then-prevailing prices on the New York Stock Exchange, Inc. ("NYSE"), all in the manner provided in Section 2.02(e)(iii). The parties acknowledge that payment of the cash consideration in lieu of issuing fractional shares of Duke Common Stock was not separately bargained for consideration but merely represents a mechanical rounding off for purposes of avoiding the expense and inconvenience to Duke that would otherwise be caused by the issuance of fractional shares of Duke Common Stock.

(iii) The sale of the Excess Shares by the Exchange Agent shall be executed on the NYSE through one or more member firms of the NYSE and shall be executed in round lots to the extent practicable. The Exchange Agent shall use reasonable efforts to complete the sale of the Excess Shares as promptly following the Effective Time as, in the Exchange Agent's sole judgment, is practicable consistent with obtaining the best execution of such sales in light of prevailing market conditions. Until the net proceeds of such sale or sales have been distributed to the holders of Certificates formerly representing Progress Common Stock, the Exchange Agent shall hold such proceeds in trust for holders of Progress Common Stock (the "Common Shares Trust"). The Surviving Corporation shall pay all commissions, transfer taxes and other out-of-pocket transaction costs, including the expenses and compensation of the Exchange Agent incurred in connection with such sale of the Excess Shares. The Exchange Agent shall determine the portion of the Common Shares Trust to which each former holder of Progress Common Stock is entitled, if any, by multiplying the amount of the aggregate net proceeds composing the Common Shares Trust by a fraction, the numerator of which is the amount of the fractional share interest to which such former holder of Progress Common Stock would otherwise be entitled (after taking into account all shares of Progress Common Stock held at the Effective Time by such holder) and the denominator of which is the aggregate amount of fractional share interests to which all former holders of Progress Common Stock would otherwise be entitled.

(iv) As soon as practicable after the determination of the amount of cash, if any, to be paid to holders of Certificates formerly representing Progress Common Stock with respect to any fractional share interests, the Exchange Agent shall make available such amounts to such holders of Certificates formerly representing Progress Common Stock, without interest, subject to and in accordance with the terms of Section 2.02(c).

(f) Termination of Exchange Fund. Any portion of the Exchange Fund that remains undistributed to the holders of the Certificates for one year after the Effective Time shall be delivered to Duke, upon demand, and any holders of the Certificates who have not theretofore complied with this Article II shall thereafter look only to Duke for payment of their claim for Merger Consideration, any dividends or distributions with respect to Duke Common Stock and any cash in lieu of fractional shares of Duke Common Stock.

(g) No Liability. None of Duke, Progress, Merger Sub, the Surviving Corporation or the Exchange Agent or any of their respective directors, officers, employees and agents shall be liable to any person in respect of any shares of Duke Common Stock, any dividends or distributions with respect thereto, any cash in lieu of fractional shares of Duke Common Stock or any cash from the Exchange Fund, in each case delivered to a public official pursuant to any applicable abandoned property, escheat or similar law. If any Certificate shall not have been surrendered prior to five years after the Effective Time (or immediately prior to such earlier date on which any Merger Consideration, any dividends or distributions payable to the holder of such Certificate or any cash payable to the holder of such Certificate formerly representing Progress Common Stock pursuant to this Article II, would otherwise escheat to or become the property of any Governmental Authority), any such Merger Consideration, dividends or distributions in respect of such Certificate or such cash shall, to the extent permitted by applicable law, become the property of Duke, free and clear of all claims or interest of any person previously entitled thereto.

(h) Investment of Exchange Fund. The Exchange Agent shall invest any cash included in the Exchange Fund, as directed by Duke, on a daily basis, provided that no gain or loss thereon shall affect the amounts payable to the holders of Progress Common Stock pursuant to the other provisions of this Article II. Any interest and other income resulting from such investments shall be paid to Duke.

(i) Withholding Rights. Duke and the Exchange Agent shall be entitled to deduct and withhold from any consideration payable pursuant to this Agreement to any person who was a holder of Progress Common Stock immediately prior to the Effective Time such amounts as Duke and the Exchange Agent may be required to deduct and withhold with respect to the making of such payment under the Code or any other provision of applicable federal, state, local or foreign tax law. To the extent that amounts are so withheld by Duke or the Exchange Agent and duly paid over to the applicable taxing authority, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the person to whom such consideration would otherwise have been paid.

(j) Lost, Stolen or Destroyed Certificates. If any Certificate shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming such Certificate to be lost, stolen or destroyed and, if required by Duke, the posting by such person of a bond in such reasonable amount as Duke may direct as indemnity against any claim that may be made against it with respect to such Certificate, the Exchange Agent shall issue in exchange for such lost, stolen or destroyed Certificate, the Merger Consideration and, if applicable, any unpaid dividends and distributions on shares of Duke Common Stock deliverable in respect thereof and any cash in lieu of fractional shares, in each case pursuant to this Agreement.

(k) Adjustments to Prevent Dilution. In the event that Progress changes the number of shares of Progress Common Stock or securities convertible or exchangeable into or exercisable for shares of Progress Common Stock, or Duke changes the number of shares of Duke Common Stock or securities convertible or exchangeable into or exercisable for shares of Duke Common Stock, issued and outstanding prior to the Effective Time, in each case as a result of a reclassification, stock split (including a reverse stock split), stock dividend or distribution, subdivision, exchange or readjustment of shares, or other similar transaction, the Exchange Ratio shall be equitably adjusted; provided, however, that nothing in this Section 2.02(k) shall be deemed to permit or authorize any party hereto to effect any such change that it is not otherwise authorized or permitted to undertake pursuant to this Agreement. Without limiting the generality of the foregoing, upon Duke's implementation of the reverse stock split as described in Section 5.01(c), the Exchange Ratio will be reduced by multiplying the then-current Exchange Ratio by a ratio, the numerator of which is the number of shares of Duke Common Stock outstanding immediately following such reverse stock split, and the denominator of which is the number of shares of Duke Common Stock outstanding immediately prior to such reverse stock split.

(l) Uncertificated Shares. In the case of outstanding shares of Progress Common Stock that are not represented by Certificates, the parties shall make such adjustments to this Section 2.02 as are necessary or appropriate to implement the same purpose and effect that this Section 2.02 has with respect to shares of Progress Common Stock that are represented by Certificates.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

Section 3.01 Representations and Warranties of Progress. Except as set forth in the letter dated the date of this Agreement and delivered to Duke by Progress concurrently with the execution and delivery of this Agreement (the "Progress Disclosure Letter") or, to the extent the qualifying nature of such disclosure is readily apparent therefrom and excluding any forward-looking statements, risk factors and other similar statements that are cautionary and non-specific in nature, as set forth in the Progress SEC Reports filed on or after January 1, 2009 and prior to the date hereof, Progress represents and warrants to Duke as follows:

(a) Organization and Qualification.

(i) Each of Progress and its subsidiaries is duly organized, validly existing and in good standing (with respect to jurisdictions that recognize the concept of good standing) under the laws of its jurisdiction of organization and has full power and authority to conduct its business as and to the extent now conducted and to own, use and lease its assets and properties, except for such failures to be so organized, existing and in good standing (with respect to jurisdictions that recognize the concept of good standing) or to have such power and authority that, individually or in the aggregate, have not had and could not be reasonably expected to have a material adverse effect on Progress. Each of Progress and its subsidiaries is duly qualified, licensed or admitted to

do business and is in good standing (with respect to jurisdictions that recognize the concept of good standing) in each jurisdiction in which the ownership, use or leasing of its assets and properties, or the conduct or nature of its business, makes such qualification, licensing or admission necessary, except for such failures to be so qualified, licensed or admitted and in good standing (with respect to jurisdictions that recognize the concept of good standing) that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress. Section 3.01(a) of the Progress Disclosure Letter sets forth as of the date of this Agreement the name and jurisdiction of organization of each subsidiary of Progress. No subsidiary of Progress owns any stock in Progress. Progress has made available to Duke prior to the date of this Agreement a true and complete copy of Progress's articles of incorporation and by-laws, each as amended through the date hereof.

(ii) Section 3.01(a) of the Progress Disclosure Letter sets forth a description as of the date of this Agreement, of all Progress Joint Ventures, including (x) the name of each such entity and (y) a brief description of the principal line or lines of business conducted by each such entity. For purposes of this Agreement:

(A) "Joint Venture" of a person or entity shall mean any person that is not a subsidiary of such first person, in which such first person or one or more of its subsidiaries owns directly or indirectly an equity interest, other than equity interests held for passive investment purposes that are less than 5% of each class of the outstanding voting securities or equity interests of such second person;

(B) "Progress Joint Venture" shall mean any Joint Venture of Progress or any of its subsidiaries in which the invested capital associated with Progress's or its subsidiaries' interest, as of the date of this Agreement exceeds $50,000,000; and

(C) "Duke Joint Venture" shall mean any Joint Venture of Duke or any of its subsidiaries in which the invested capital associated with Duke's or its subsidiaries' interest, as of the date of this Agreement, exceeds $100,000,000.

(iii) Except for interests in the subsidiaries of Progress, the Progress Joint Ventures and interests acquired after the date of this Agreement without violating any covenant or agreement set forth herein, neither Progress nor any of its subsidiaries directly or indirectly owns any equity or similar interest in, or any interest convertible into or exchangeable or exercisable for, any equity or similar interest in, any person, in which the invested capital associated with such interest of Progress or any of its subsidiaries exceeds, individually as of the date of this Agreement, $50,000,000.

(b) Capital Stock.

(i) The authorized capital stock of Progress consists of:

(A) 500,000,000 shares of common stock, no par value (the "Progress Common Stock"), of which 293,150,141 shares were outstanding as of November 2, 2010; and

(B) 20,000,000 shares of preferred stock, no par value per share, none of which were outstanding as of the date of this Agreement.

As of the date of this Agreement, no shares of Progress Common Stock were held in the treasury of Progress. As of the date of this Agreement, 1,418,447 shares of Progress Common Stock were subject to outstanding stock options granted under the Progress Employee Stock Option Plans (collectively, the "Progress Employee Stock Options"), 1,194,888 shares of Progress Common Stock were subject to outstanding awards of restricted stock units or phantom shares of Progress Common Stock ("Progress Restricted Stock Units"), 1,875,087 shares of Progress Common Stock were subject to outstanding awards of performance shares of Progress Common Stock, determined at maximum performance levels ("Progress Performance Shares") and 1,651,047 additional shares of Progress Common Stock were reserved for issuance pursuant to the Progress Energy, Inc. 1997 Equity Incentive Plan, the Progress Energy, Inc. 2002 Equity Incentive Plan, the Progress Energy, Inc. 2007 Equity Incentive Plan, the Amended and Restated Progress Energy, Inc. Non-Employee Director Stock Unit Plan, and any other compensatory plan, program or arrangement under which shares of Progress Common Stock are reserved for issuance (collectively, the "Progress Employee Stock Option Plans"). Since November 2, 2010, no shares of Progress Common Stock have been issued except pursuant to the Progress Employee Stock Option Plans and Progress Employee Stock Options issued thereunder and the Progress Energy, Inc. Investor Plus Plan, and from November 2, 2010 to the date of this Agreement, no shares of Progress Common Stock have been issued other than 17,367 shares of Progress Common Stock issued pursuant to the Progress Employee Stock Option Plans or Progress Employee Stock Options issued thereunder and 62,489 shares of Progress Common Stock issued pursuant to the Progress Energy, Inc. Investor Plus Plan. All of the issued and outstanding shares of Progress Common Stock are, and all shares reserved for issuance will be, upon issuance in accordance with the terms specified in the instruments or agreements pursuant to which they are issuable, duly authorized, validly issued, fully paid and nonassessable. Except as disclosed in this Section 3.01(b), as of the date of this Agreement there are no outstanding subscriptions, options, warrants, rights (including stock appreciation rights), preemptive rights or other contracts, commitments, understandings or arrangements, including any right of conversion or exchange under any outstanding security, instrument or agreement (together, "Options"), obligating Progress or any of its subsidiaries (A) to issue or sell any shares of capital stock of Progress, (B) to grant, extend or enter into any Option with respect thereto, (C) redeem or otherwise acquire any such shares of capital stock or other equity interests or (D) provide a material amount of funds to, or make any material investment (in the form of a loan, capital contribution or otherwise) in, any of their respective subsidiaries.

(ii) Except as permitted by this Agreement, all of the outstanding shares of capital stock of each subsidiary of Progress are duly authorized, validly issued, fully paid and nonassessable and are owned, beneficially and of record, by Progress or a subsidiary of Progress, free and clear of any liens, claims, mortgages, encumbrances, pledges, security interests, equities and charges of any kind (each a "Lien"), except for any of the foregoing that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress. There are no (A) outstanding Options obligating Progress or any of its subsidiaries to issue or sell any shares of capital stock of any subsidiary of Progress or to grant, extend or enter into any such Option or (B) voting trusts, proxies or other commitments, understandings, restrictions or arrangements in favor of any person other than Progress or a subsidiary

wholly-owned, directly or indirectly, by Progress with respect to the voting of or the right to participate in dividends or other earnings on any capital stock of Progress or any subsidiary of Progress.

(iii) Progress is a "holding company" as defined under Section 1262 of the Public Utility Holding Company Act of 2005, as amended (the "2005 Act").

(iv) As of the date of this Agreement, no bonds, debentures, notes or other indebtedness of Progress or any of its subsidiaries having the right to vote (or which are convertible into or exercisable for securities having the right to vote) (collectively, "Progress Voting Debt") on any matters on which Progress shareholders may vote are issued or outstanding nor are there any outstanding Options obligating Progress or any of its subsidiaries to issue or sell any Progress Voting Debt or to grant, extend or enter into any Option with respect thereto.

(v) There have been no repricings of any Progress Employee Stock Options through amendments, cancellation and reissuance or other means during the current or prior two (2) calendar years. None of the Progress Employee Stock Options, Progress Restricted Stock Units or Progress Performance Shares (A) have been granted since November 2, 2010, except as permitted by this Agreement, or (B) have been granted in contemplation of the Merger or the transactions contemplated in this Agreement. None of the Progress Employee Stock Options was granted with an exercise price below the per share closing price on the NYSE on the date of grant. All grants of Progress Employee Stock Options, Progress Restricted Stock Units and Progress Performance Shares were validly made and properly approved by the Board of Directors of Progress (or a duly authorized committee or subcommittee thereof) in compliance with all applicable laws and recorded on the consolidated financial statements of Progress in accordance with GAAP, and no such grants of Progress Employee Stock Options involved any "back dating," "forward dating" or similar practices.

(c) Authority. Progress has full corporate power and authority to enter into this Agreement, to perform its obligations hereunder and, subject to obtaining Progress Shareholder Approval, to consummate the transactions contemplated hereby. The execution, delivery and performance of this Agreement by Progress and the consummation by Progress of the transactions contemplated hereby have been duly and validly adopted and unanimously approved by the Board of Directors of Progress, the Board of Directors of Progress has recommended approval of this Agreement by the shareholders of Progress and directed that this Agreement be submitted to the shareholders of Progress for their approval, and no other corporate proceedings on the part of Progress or its shareholders are necessary to authorize the execution, delivery and performance of this Agreement by Progress and the consummation by Progress of the Merger and the other transactions contemplated hereby, other than obtaining Progress Shareholder Approval. This Agreement has been duly and validly executed and delivered by Progress and, assuming this Agreement constitutes the legal, valid and binding obligation of Duke and Merger Sub, constitutes a legal, valid and binding obligation of Progress enforceable against Progress in accordance with its terms, except that such enforcement may be subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws, now or hereafter in effect, relating to creditors' rights generally and to general equitable principles.

(d) No Conflicts; Approvals and Consents.

(i) The execution and delivery of this Agreement by Progress does not, and the performance by Progress of its obligations hereunder and the consummation of the Merger and the other transactions contemplated hereby will not, conflict with, result in a violation or breach of, constitute (with or without notice or lapse of time or both) a default under, result in or give to any person any right of payment or reimbursement, termination, cancellation, modification or acceleration of, or result in the creation or imposition of any Lien upon any of the assets or properties of Progress or any of its subsidiaries or any of the Progress Joint Ventures under, any of the terms, conditions or provisions of (A) the certificates or articles of incorporation or by-laws (or other comparable organizational documents) of Progress or any of its subsidiaries or any of the Progress Joint Ventures, or (B) subject to the obtaining of Progress Shareholder Approval and the taking of the actions described in paragraph (ii) of this Section 3.01(d), including the Progress Required Statutory Approvals, (x) any statute, law, rule, regulation or ordinance (together, "laws"), or any judgment, order, writ or decree (together, "orders"), of any federal, state, local or foreign government or any court of competent jurisdiction, administrative agency or commission or other governmental authority or instrumentality, domestic, foreign or supranational (each, a "Governmental Authority") applicable to Progress or any of its subsidiaries or any of the Progress Joint Ventures or any of their respective assets or properties, or (y) any note, bond, mortgage, security agreement, credit agreement, indenture, license, franchise, permit, concession, contract, lease, obligation or other instrument to which Progress or any of its subsidiaries or any of the Progress Joint Ventures is a party or by which Progress or any of its subsidiaries or any of the Progress Joint Ventures or any of their respective assets or properties is bound, excluding from the foregoing clauses (x) and (y) such items that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress.

(ii) Except for (A) compliance with, and filings under, the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations thereunder (the "HSR Act"); (B) the filing with and, to the extent required, the declaration of effectiveness by the Securities and Exchange Commission (the "SEC") of (1) a proxy statement relating to the approval of this Agreement by Progress's shareholders (such proxy statement, together with the proxy statement relating to the approval of this Agreement by Duke's shareholders, in each case as amended or supplemented from time to time, the "Joint Proxy Statement") pursuant to the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder (the "Exchange Act"), (2) the registration statement on Form S-4 prepared in connection with the issuance of Duke Common Stock in the Merger (the "Form S-4") and (3) such reports under the Exchange Act as may be required in connection with this Agreement and the transactions contemplated hereby; (C) the filing of documents with various state securities authorities that may be required in connection with the transactions contemplated hereby; (D) such filings with and approvals of the NYSE to permit the shares of Duke Common Stock that are to be issued pursuant to Article II to be listed on the NYSE; (E) the registration, consents, approvals and notices required under the 2005 Act; (F) notice to, and the consent and approval of, the Federal Energy Regulatory Commission (the "FERC") under Section 203 of the Federal Power Act, as amended (the "Power Act"), or an order under the Power Act disclaiming jurisdiction over the transactions contemplated hereby; (G) the filing of an application to, and consent and approval of, and issuance of any required licenses and license amendments by, the Nuclear Regulatory Commission (the "NRC") under the Atomic Energy Act of 1954, as amended (the "Atomic Energy Act"); (H) the filing of the

Articles of Merger and other appropriate merger documents required by the NCBCA with the Secretary of State of the State of North Carolina and appropriate documents with the relevant authorities of other states in which Progress is qualified to do business; (I) compliance with and such filings as may be required under applicable Environmental Laws; (J) to the extent required, notice to and the approval of the North Carolina Utilities Commission (the "NCUC"), the Public Service Commission of South Carolina (the "PSCSC"), the Florida Public Service Commission (the "FPSC"), the Public Utilities Commission of Ohio (the "PUCO"), the Indiana Utility Regulatory Commission (the "IURC") and the Kentucky Public Service Commission (the "KPSC") (collectively, the "Applicable PSCs"); (K) required pre-approvals (the "FCC Pre-Approvals") of license transfers with the Federal Communications Commission (the "FCC"); (L) such other items as disclosed in Section 3.01(d) of the Progress Disclosure Letter; and (M) compliance with, and filings under, antitrust or competition laws of any foreign jurisdiction, if required (the items set forth above in clauses (A) through (H) and (J), collectively, the "Progress Required Statutory Approvals"), no consent, approval, license, order or authorization ("Consents") or action of, registration, declaration or filing with or notice to any Governmental Authority is necessary or required to be obtained or made in connection with the execution and delivery of this Agreement by Progress, the performance by Progress of its obligations hereunder or the consummation of the Merger and the other transactions contemplated hereby, other than such items that the failure to make or obtain, as the case may be, individually or in the aggregate, could not reasonably be expected to have a material adverse effect on Progress.

(e) SEC Reports, Financial Statements and Utility Reports.

(i) Progress and its subsidiaries have filed or furnished each form, report, schedule, registration statement, registration exemption, if applicable, definitive proxy statement and other document (together with all amendments thereof and supplements thereto) required to be filed or furnished by Progress or any of its subsidiaries pursuant to the Securities Act of 1933, as amended, and the rules and regulations thereunder (the "Securities Act") or the Exchange Act with the SEC since January 1, 2007 (as such documents have since the time of their filing been amended or supplemented, the "Progress SEC Reports"). As of their respective dates, after giving effect to any amendments or supplements thereto, the Progress SEC Reports (A) complied as to form in all material respects with the requirements of the Securities Act and the Exchange Act, if applicable, as the case may be, and, to the extent applicable, the Sarbanes-Oxley Act of 2002 ("SOX"), and (B) did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

(ii) Each of the principal executive officer of Progress and the principal financial officer of Progress (or each former principal executive officer of Progress and each former principal financial officer of Progress, as applicable) has made all certifications required by Rule 13a-14 or 15d-14 under the Exchange Act or Sections 302 and 906 of SOX and the rules and regulations of the SEC promulgated thereunder with respect to the Progress SEC Reports. For purposes of the preceding sentence, "principal executive officer" and "principal financial officer" shall have the meanings given to such terms in SOX. Since January 1, 2007, neither Progress nor any of its subsidiaries has arranged any outstanding "extensions of credit" to directors or executive officers within the meaning of Section 402 of SOX.

(iii) The audited consolidated financial statements and unaudited interim consolidated financial statements (including, in each case, the notes, if any, thereto) included in the Progress SEC Reports (the "Progress Financial Statements") complied as to form in all material respects with the published rules and regulations of the SEC with respect thereto in effect at the time of filing or furnishing the applicable Progress SEC Report, were prepared in accordance with United States generally accepted accounting principles ("GAAP") applied on a consistent basis during the periods involved (except as may be indicated therein or in the notes thereto and except with respect to unaudited statements as permitted by Form 10-Q of the SEC) and fairly present (subject, in the case of the unaudited interim financial statements, to normal, recurring year-end audit adjustments that were not or are not expected to be, individually or in the aggregate, materially adverse to Progress) the consolidated financial position of Progress and its consolidated subsidiaries as of the respective dates thereof and the consolidated results of their operations and cash flows for the respective periods then ended.

(iv) All filings (other than immaterial filings) required to be made by Progress or any of its subsidiaries since January 1, 2007, under the 2005 Act, the Power Act, the Atomic Energy Act, the Natural Gas Act, the Natural Gas Policy Act of 1978, the Communications Act of 1934 and applicable state laws and regulations, have been filed with the SEC, the FERC, the Department of Energy (the "DOE"), the FCC or any applicable state public utility commissions (including, to the extent required, NCUC, PSCSC and FPSC), as the case may be, including all forms, statements, reports, agreements (oral or written) and all documents, exhibits, amendments and supplements appertaining thereto, including all rates, tariffs, franchises, service agreements and related documents, and all such filings complied, as of their respective dates, with all applicable requirements of the applicable statute and the rules and regulations thereunder, except for filings the failure of which to make or the failure of which to make in compliance with all applicable requirements of the applicable statute and the rules and regulations thereunder, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress.

(v) Progress has designed and maintains a system of internal control over financial reporting (as defined in Rules 13a–15(f) and 15d–15(f) of the Exchange Act) sufficient to provide reasonable assurances regarding the reliability of financial reporting. Progress (x) has designed and maintains disclosure controls and procedures (as defined in Rules 13a–15(e) and 15d–15(e) of the Exchange Act) to provide reasonable assurance that all information required to be disclosed by Progress in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and is accumulated and communicated to Progress's management as appropriate to allow timely decisions regarding required disclosure, and (y) has disclosed, based on its most recent evaluation of internal control over financial reporting, to Progress's outside auditors and the audit committee of the Board of Directors of Progress (A) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect Progress's ability to record, process, summarize and report financial information and (B) any fraud, whether or not material, that involves management or other employees who have a significant role in Progress's internal control over financial reporting. Since December 31, 2006, any material change in internal control over financial reporting required to be disclosed in any Progress SEC Report has been so disclosed.

(vi) Since December 31, 2006, (x) neither Progress nor any of its subsidiaries nor, to the knowledge of the Executive Officers (for the purposes of this Section 3.01(e)(vi), as such term is defined in Section 3b-7 of the Exchange Act) of Progress, any director, officer, employee, auditor, accountant or representative of Progress or any of its subsidiaries has received or otherwise obtained knowledge of any material complaint, allegation, assertion or claim, whether written or oral, regarding the accounting or auditing practices, procedures, methodologies or methods of Progress or any of its subsidiaries or their respective internal accounting controls relating to periods after December 31, 2006, including any material complaint, allegation, assertion or claim that Progress or any of its subsidiaries has engaged in questionable accounting or auditing practices (except for any of the foregoing after the date hereof which have no reasonable basis), and (y) to the knowledge of the Executive Officers of Progress, no attorney representing Progress or any of its subsidiaries, whether or not employed by Progress or any of its subsidiaries, has reported evidence of a material violation of securities laws, breach of fiduciary duty or similar violation, relating to periods after December 31, 2006, by Progress or any of its officers, directors, employees or agents to the Board of Directors of Progress or any committee thereof or to any director or Executive Officer of Progress.

(f) Absence of Certain Changes or Events. Since December 31, 2009, through the date hereof, Progress and its subsidiaries have conducted their respective businesses in all material respects in the ordinary course of business in a consistent manner since such date and there has not been any change, event or development that, individually or in the aggregate, has had or could reasonably be expected to have a material adverse effect on Progress.

(g) Absence of Undisclosed Liabilities. Except for matters reflected or reserved against in the consolidated balance sheet (or notes thereto) as of December 31, 2009, included in the Progress Financial Statements, neither Progress nor any of its subsidiaries has any liabilities or obligations (whether absolute, accrued, contingent, fixed or otherwise, or whether due or to become due) of any nature that would be required by GAAP to be reflected on a consolidated balance sheet of Progress and its consolidated subsidiaries (including the notes thereto), except liabilities or obligations (i) that were incurred in the ordinary course of business consistent with past practice since December 31, 2009, (ii) that were incurred in connection with the transactions contemplated by this Agreement and that are not material in the aggregate or (iii) that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress. Neither Progress nor any of its subsidiaries is a party to, or has any commitment to become a party to, any joint venture, off-balance sheet partnership or any similar contract or arrangement (including any Contract relating to any transaction or relationship between or among Progress and any of its subsidiaries, on the one hand, and any unconsolidated affiliate, including any structured finance, special purpose or limited purpose entity or person, on the other hand, or any "off-balance sheet arrangements" (as defined in Item 303(a) of Regulation S-K under the Exchange Act), where the result, purpose or effect of such contract or arrangement is to avoid disclosure of any material transaction involving, or material liabilities of, Progress or any of its subsidiaries, in the Progress Financial Statements or the Progress SEC Reports.

(h) Legal Proceedings. Except for Environmental Claims, which are the subject of Section 3.01(n), as of the date of this Agreement, (i) there are no actions, suits, arbitrations or proceedings pending or, to the knowledge of Progress, threatened against, relating to or affecting, nor to the knowledge of Progress are there any Governmental Authority investigations, inquiries

or audits pending or threatened against, relating to or affecting, Progress or any of its subsidiaries or any of the Progress Joint Ventures or any of their respective assets and properties that, in each case, individually or in the aggregate, have had or could reasonably be expected to have a material adverse effect on Progress and (ii) neither Progress nor any of its subsidiaries or material assets is subject to any order of any Governmental Authority that, individually or in the aggregate, has had or could reasonably be expected to have a material adverse effect on Progress.

(i) Information Supplied. None of the information supplied or to be supplied by Progress for inclusion or incorporation by reference in (i) the Form S-4 will, at the time the Form S-4 is filed with the SEC, at any time it is amended or supplemented or at the time it becomes effective under the Securities Act, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, or (ii) the Joint Proxy Statement will, at the date it is first mailed to Duke's shareholders or Progress's shareholders or at the time of the Progress Shareholders Meeting or the Duke Shareholders Meeting, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading. The Joint Proxy Statement (other than the portions thereof relating solely to the Duke Shareholders Meeting) will comply as to form in all material respects with the requirements of the Exchange Act and the rules and regulations thereunder, except that no representation is made by Progress with respect to statements made or incorporated by reference therein based on information supplied by or on behalf of Duke or Merger Sub for inclusion or incorporation by reference in the Joint Proxy Statement.

(j) Permits; Compliance with Laws and Orders. Progress, its subsidiaries and the Progress Joint Ventures hold all permits, licenses, certificates, notices, authorizations, approvals and similar Consents of all Governmental Authorities ("Permits") necessary for the lawful conduct of their respective businesses, except for failures to hold such Permits that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress. Progress, its subsidiaries and the Progress Joint Ventures are in compliance with the terms of their Permits, except failures so to comply that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress. Progress, its subsidiaries and the Progress Joint Ventures are not, and since January 1, 2008 have not been, in violation of or default under any law or order of any Governmental Authority, except for such violations or defaults that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress. Progress is, and since January 1, 2008 has been, in compliance in all material respects with (i) SOX and (ii) the applicable listing standards and corporate governance rules and regulations of the NYSE. The above provisions of this Section 3.01(j) do not relate to matters with respect to taxes, such matters being the subject of Section 3.01(k), Environmental Permits and Environmental Laws, such matters being the subject of Section 3.01(n), benefits plans, such matters being the subject of Section 3.01(l) and nuclear power plants, such matters being the subject of Section 3.01(o).

(k) Taxes.

(i) Except as has not had, and could not reasonably be expected to have, a material adverse effect on Progress:

(A) Each of Progress and its subsidiaries has timely filed, or has caused to be timely filed on its behalf, all Tax Returns required to be filed by it, and all such Tax Returns are true, complete and accurate. All Taxes shown to be due and owing on such Tax Returns have been timely paid.

(B) The most recent financial statements contained in the Progress SEC Reports filed prior to the date of this Agreement reflect, in accordance with GAAP, an adequate reserve for all Taxes payable by Progress and its subsidiaries for all taxable periods through the date of such financial statements.

(C) There is no audit, examination, deficiency, refund litigation, proposed adjustment or matter in controversy with respect to any Taxes or Tax Return of Progress or its subsidiaries, and, to the knowledge of Progress, neither Progress nor any of its subsidiaries has received written notice of any claim made by a governmental authority in a jurisdiction where Progress or any of its subsidiaries, as applicable, does not file a Tax Return, that Progress or such subsidiary is or may be subject to income taxation by that jurisdiction. No deficiency with respect to any Taxes has been proposed, asserted or assessed against Progress or any of its subsidiaries, and no requests for waivers of the time to assess any Taxes are pending.

(D) There are no outstanding written agreements, consents or waivers to extend the statutory period of limitations applicable to the assessment of any Taxes or deficiencies against Progress or any of its subsidiaries, and no power of attorney granted by either Progress or any of its subsidiaries with respect to any Taxes is currently in force.

(E) Neither Progress nor any of its subsidiaries is a party to any agreement providing for the allocation or sharing of Taxes imposed on or with respect to any individual or other person (other than (I) such agreements with customers, vendors, lessors or the like entered into in the ordinary course of business and (II) agreements with or among Progress or any of its subsidiaries), and neither Progress nor any of its subsidiaries (A) has been a member of an affiliated group (or similar state, local or foreign filing group) filing a consolidated U.S. federal income Tax Return (other than the group the common parent of which is Progress or a subsidiary of Progress) or (B) has any liability for the Taxes of any person (other than Progress or any of its subsidiaries) (I) under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local or foreign law), or (II) as a transferee or successor.

(F) There are no material Liens for Taxes (other than for current Taxes not yet due and payable) on the assets of Progress and its subsidiaries.

(ii) Neither Progress nor any of its subsidiaries has taken or agreed to take any action or knows of any fact, agreement, plan or other circumstance that is reasonably likely to prevent or impede the Merger from qualifying as a reorganization under Section 368(a) of the Code.

For purposes of this Agreement:

"Taxes" means any and all federal, state, local, foreign or other taxes of any kind (together with any and all interest, penalties, additions to tax and additional amounts imposed with respect thereto) imposed by any governmental authority, including, without limitation, taxes or other charges on or with respect to income, franchises, windfall or other profits, gross receipts, property, sales, use, capital stock, payroll, employment, unemployment, social security, workers' compensation, or net worth, and taxes or other charges in the nature of excise, withholding, ad valorem or value added.

"Tax Return" means any return, report or similar statement (including the schedules attached thereto) required to be filed with respect to Taxes, including, without limitation, any information return, claim for refund, amended return, or declaration of estimated Taxes.

(l) Employee Benefit Plans; ERISA.

(i) Except for such matters that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress, (A) all Progress Employee Benefit Plans are in compliance with all applicable requirements of law, including the Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations thereunder ("ERISA"), and the Code, and (B) there does not now exist, nor do any circumstances exist that could result in, any Controlled Group Liability that would be a liability of Progress or any of its subsidiaries following the Closing. The only material employment agreements, severance agreements or severance policies applicable to Progress or any of its subsidiaries are the agreements and policies disclosed in Section 3.01(l)(i) of the Progress Disclosure Letter.

(ii) As used herein:

(A) "Controlled Group Liability" means any and all liabilities (1) under Title IV of ERISA, (2) under Section 302 of ERISA, (3) under Sections 412 and 4971 of the Code, and (4) as a result of a failure to comply with the continuation coverage requirements of Section 601 et seq. of ERISA and Section 4980B of the Code;

(B) "Progress Employee Benefit Plan" means any Plan entered into, established, maintained, sponsored, contributed to or required to be contributed to by Progress or any of its subsidiaries for the benefit of the current or former employees or directors of Progress or any of its subsidiaries and existing on the date of this Agreement or at any time subsequent thereto and, in the case of a Plan that is subject to Part 3 of Title I of ERISA, Section 412 of the Code or Title IV of ERISA, at any time during the five-year period preceding the date of this Agreement with respect to which Progress or any of its subsidiaries has or could reasonably be expected to have any present or future actual or contingent liabilities; and

(C) "Plan" means any employment, bonus, incentive compensation, deferred compensation, long term incentive, pension, profit sharing, retirement, stock purchase, stock option, stock ownership, stock appreciation rights, phantom

stock, leave of absence, layoff, vacation, day or dependent care, legal services, cafeteria, life, health, medical, accident, disability, workmen's compensation or other insurance, retention, severance, separation, termination, change of control or other benefit plan, agreement, practice, policy, program, scheme or arrangement of any kind, whether written or oral, including any "employee benefit plan" within the meaning of Section 3(3) of ERISA.

(iii) No event has occurred, and there exists no condition or set of circumstances in connection with any Progress Employee Benefit Plan, that has had or could reasonably be expected to have a material adverse effect on Progress.

(iv) Section 3.01(l)(iv) of the Progress Disclosure Letter identifies each Progress Employee Benefit Plan that provides, upon the occurrence of a change in the ownership or effective control of Progress or its subsidiaries or a change in the ownership of all or a substantial portion of the assets of Progress or its subsidiaries, either alone or upon the occurrence of any additional or subsequent events and whether or not applicable to the transactions contemplated by this Agreement, for (A) an acceleration of the time of payment of or vesting in, or an increase in the amount of, compensation or benefits due any current or former employee, director or officer of Progress or its subsidiaries, (B) any forgiveness of indebtedness or obligation to fund compensation or benefits with respect to any such employee, director or officer, or (C) an entitlement of any such employee, director or officer to severance pay, unemployment compensation or any other payment or other benefit.

(v) Each Progress Employee Benefit Plan that is in any part a "nonqualified deferred compensation plan" subject to Section 409A of the Code (A) materially complies and, at all times after December 31, 2008 has materially complied, both in form and operation, with the requirements of Section 409A of the Code and the final regulations thereunder and (B) between January 1, 2005 and December 31, 2008 was operated in material reasonable, good faith compliance with Section 409A of the Code, as determined under applicable guidance of the United States Department of the Treasury (the "Treasury") and the Internal Revenue Service.

(m) Labor Matters. As of the date hereof, neither Progress nor any of its subsidiaries is a party to, bound by or in the process of negotiating any collective bargaining agreement or other labor agreement with any union or labor organization. As of the date of this Agreement, there are no disputes, grievances or arbitrations pending or, to the knowledge of Progress, threatened between Progress or any of its subsidiaries and any trade union or other representatives of its employees and there is no charge or complaint pending or threatened in writing against Progress or any of its subsidiaries before the National Labor Relations Board (the "NLRB") or any similar Governmental Authority, except in each case as, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress, and, to the knowledge of Progress, as of the date of this Agreement, there are no material organizational efforts presently being made involving any of the employees of Progress or any of its subsidiaries. From December 31, 2007, to the date of this Agreement, there has been no work stoppage, strike, slowdown or lockout by or affecting employees of Progress or any of its subsidiaries and, to the knowledge of Progress, no such action has been threatened in writing, except in each case as, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress. Except as, individually or in the aggregate, has not had and

could not reasonably be expected to have a material adverse effect on Progress: (A) there are no litigations, lawsuits, claims, charges, complaints, arbitrations, actions, investigations or proceedings pending or, to the knowledge of Progress, threatened between or involving Progress or any of its subsidiaries and any of their respective current or former employees, independent contractors, applicants for employment or classes of the foregoing; (B) Progress and its subsidiaries are in compliance with all applicable laws, orders, agreements, contracts and policies respecting employment and employment practices, including, without limitation, all legal requirements respecting terms and conditions of employment, equal opportunity, workplace health and safety, wages and hours, child labor, immigration, discrimination, disability rights or benefits, facility closures and layoffs, workers' compensation, labor relations, employee leaves and unemployment insurance; and (C) since January 1, 2007, neither Progress nor any of its subsidiaries has engaged in any "plant closing" or "mass layoff," as defined in the Worker Adjustment Retraining and Notification Act or any comparable state or local law (the "WARN Act"), without complying with the notice requirements of such laws.

(n) Environmental Matters.

(i) Each of Progress, its subsidiaries and the Progress Joint Ventures since January 1, 2008 has been and is in compliance with all applicable Environmental Laws (as hereinafter defined), except where the failure to be in such compliance, individually or in the aggregate, has not had and could not reasonably be expected to have a material adverse effect on Progress.

(ii) Each of Progress, its subsidiaries and the Progress Joint Ventures has obtained all Permits under Environmental Laws (collectively, the "Environmental Permits") necessary for the construction of their facilities and the conduct of their operations as of the date of this Agreement, as applicable, and all such Environmental Permits are validly issued, in full force and effect, and final, and Progress, its subsidiaries and the Progress Joint Ventures are in compliance with all terms and conditions of the Environmental Permits, except where the failure to obtain such Environmental Permits, of such Permits to be in good standing or, where applicable, of a renewal application to have been timely filed and be pending or to be in such compliance, individually or in the aggregate, has not had and could not reasonably be expected to have a material adverse effect on Progress.

(iii) There is no Environmental Claim (as hereinafter defined) pending:

(A) against Progress or any of its subsidiaries or any of the Progress Joint Ventures;

(B) to the knowledge of Progress, against any person or entity whose liability for such Environmental Claim has been retained or assumed either contractually or by operation of law by Progress or any of its subsidiaries or any of the Progress Joint Ventures; or

(C) against any real or personal property or operations that Progress or any of its subsidiaries or any of the Progress Joint Ventures owns, leases or manages, in whole or in part, or, to the knowledge of Progress, formerly owned,

leased or managed, in whole or in part, except in the case of clause (A), (B) or (C) for such Environmental Claims that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress.

(iv) To the knowledge of Progress, there have not been any Releases (as hereinafter defined) of any Hazardous Material (as hereinafter defined) that would be reasonably likely to form the basis of any Environmental Claim against Progress or any of its subsidiaries or any of the Progress Joint Ventures, in each case, except for such Releases that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress.

(v) As used in this Section 3.01(n) and in Section 3.02(n):

(A) "Environmental Claim" means any and all administrative, regulatory or judicial actions, suits, orders, demands, demand letters, directives, claims, liens, investigations, proceedings or notices of noncompliance, liability or violation (written or oral) by any person or entity (including any Governmental Authority) alleging potential liability (including potential responsibility or liability for enforcement, investigatory costs, cleanup costs, governmental response costs, removal costs, remedial costs, natural resources damages, property damages, personal injuries or penalties) arising out of, based on or resulting from circumstances forming the basis of any actual or alleged noncompliance with, violation of, or liability under, any Environmental Law or Environmental Permit;

(B) "Environmental Laws" means all domestic or foreign federal, state and local laws, principles of common law and orders relating to pollution, the environment (including ambient air, surface water, groundwater, land surface or subsurface strata) or protection of human health as it relates to the environment including laws relating to the presence or Release of Hazardous Materials, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of, or exposure to, Hazardous Materials;

(C) "Hazardous Materials" means (a) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, and polychlorinated biphenyls; and (b) any chemical, material, substance or waste that is prohibited, limited or regulated under any Environmental Law; and

(D) "Release" means any spill, emission, leaking, injection, deposit, disposal, discharge, dispersal, leaching or migration into the atmosphere, soil, surface water, groundwater or property.

(o) Ownership of Nuclear Power Plants. The operations of the nuclear generation stations owned, in whole or part, by Progress or its subsidiaries (collectively, the "Progress Nuclear Facilities") are and have been conducted in compliance with all applicable laws and Permits, except for such failures to comply that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress. Each of the

Progress Nuclear Facilities maintains, and is in material compliance with, emergency plans designed to respond to an unplanned Release therefrom of radioactive materials and each such plan conforms with the requirements of applicable law in all material respects. The plans for the decommissioning of each of the Progress Nuclear Facilities and for the storage of spent nuclear fuel conform with the requirements of applicable law in all material respects and, solely with respect to the portion of the Progress Nuclear Facilities owned, directly or indirectly, by Progress, are funded consistent with applicable law. Since December 31, 2008, the operations of the Progress Nuclear Facilities have not been the subject of any notices of violation, any ongoing proceeding, NRC Diagnostic Team Inspections or requests for information from the NRC or any other agency with jurisdiction over such facility, except for such notices or requests for information that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress. No Progress Nuclear Facility is listed by the NRC in the Unacceptable Performance column of the NRC Action Matrix, as a part of NRC's Assessment of Licensee Performance. Liability insurance to the full extent required by law for operating the Progress Nuclear Facilities remains in full force and effect regarding such facilities, except for failures to maintain such insurance in full force and effect that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress.

(p) Vote Required. Assuming the accuracy of the representation and warranty contained in Section 3.02(r), the affirmative vote of the holders of record of at least a majority of the outstanding shares of Progress Common Stock, with respect to the approval of this Agreement (the "Progress Shareholder Approval"), is the only vote of the holders of any class or series of the capital stock of Progress or its subsidiaries required to approve this Agreement, the Merger and the other transactions contemplated hereby.

(q) Opinions of Financial Advisors. The Board of Directors of Progress has received the opinion of each of Lazard Freres & Co. LLC and Barclays Capital Inc., to the effect that, as of the date of such opinion and based on the assumptions, qualifications and limitations contained therein, the Exchange Ratio is fair, from a financial point of view, to the holders of Progress Common Stock.

(r) Ownership of Duke Capital Stock. Neither Progress nor any of its subsidiaries or other affiliates beneficially owns any shares of Duke capital stock.

(s) Articles 9 and 9A of the NCBCA Not Applicable; Other Statutes. Progress has taken all necessary actions, if any, so that the provisions of Articles 9 and 9A of the NCBCA will not, before the termination of this Agreement, apply to this Agreement, the Merger or the other transactions contemplated hereby. No "fair price," "merger moratorium," "control share acquisition," or other anti-takeover or similar statute or regulation applies or purports to apply to this Agreement, the Merger or the other transactions contemplated hereby.

(t) Joint Venture Representations. Each representation or warranty made by Progress in this Section 3.01 relating to a Progress Joint Venture that is neither operated nor managed solely by Progress or a Progress subsidiary shall be deemed made only to the knowledge of Progress.

(u) Insurance. Except for failures to maintain insurance or self-insurance that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress, from January 1, 2007, through the date of this Agreement, each of Progress and its subsidiaries has been continuously insured with financially responsible insurers or has self-insured, in each case in such amounts and with respect to such risks and losses as are customary for companies in the United States conducting the business conducted by Progress and its subsidiaries during such time period. Neither Progress nor any of its subsidiaries has received any notice of any pending or threatened cancellation, termination or premium increase with respect to any insurance policy of Progress or any of its subsidiaries, except with respect to any cancellation, termination or premium increase that, individually or in the aggregate, has not had and could not reasonably be expected to have a material adverse effect on Progress.

(v) Energy Price Risk Management. Progress has established risk parameters, limits and guidelines in compliance with the risk management policy approved by Progress's Board of Directors (the "Progress Risk Management Guidelines") and monitors compliance by Progress and its subsidiaries with such energy price risk parameters. Progress has provided the Progress Risk Management Guidelines to Duke prior to the date of this Agreement. Progress is in compliance in all material respects with the Progress Risk Management Guidelines.

(w) Progress Material Contracts.

(i) For purposes of this Agreement, the term "Progress Material Contract" shall mean any Contract to which Progress or any of its subsidiaries is a party or bound as of the date hereof:

(A) that is a "material contract" (as such term is defined in Item 601(b)(10) of Regulation S-K of the SEC);

(B) that (1) purports to limit in any material respect either the type of business in which Progress or its subsidiaries (or, after the Effective Time, Duke or its subsidiaries) or any of their respective affiliates may engage or the manner or geographic area in which any of them may so engage in any business, (2) would require the disposition of any material assets or line of business of Progress or its subsidiaries (or, after the Effective Time, Duke or its subsidiaries) or any of their respective affiliates as a result of the consummation of the transactions contemplated by this Agreement, (3) is a material Contract that grants "most favored nation" status that, following the Effective Time, would impose obligations upon Duke or its subsidiaries, including Progress and its subsidiaries, or (4) prohibits or limits, in any material respect, the right of Progress or any of its subsidiaries (or, after the Effective Time, Duke or its subsidiaries) to make, sell or distribute any products or services or use, transfer, license or enforce any of their respective intellectual property rights; or

(C) that (1) has an aggregate principal amount, or provides for an aggregate obligation, in excess of $100,000,000 (I) evidencing indebtedness for borrowed money of Progress or any of its subsidiaries to any third party, (II) guaranteeing any such indebtedness of a third party or (III) containing a covenant restricting the payment of dividends, or (2) has the economic effect of any of the items set forth in subclause (1) above.

(ii) Neither Progress nor any subsidiary of Progress is in breach of or default under the terms of any Progress Material Contract and no event has occurred that (with or without notice or lapse of time or both) could result in a breach or default under any Progress Material Contract where such breach or default could reasonably be expected to have, individually or in the aggregate, a material adverse effect on Progress. To the knowledge of Progress, no other party to any Progress Material Contract is in breach of or default under the terms of any Progress Material Contract where such breach or default has had, or could reasonably be expected to have, individually or in the aggregate, a material adverse effect on Progress. Except as could not reasonably be expected to have, individually or in the aggregate, a material adverse effect on Progress, each Progress Material Contract is a valid and binding obligation of Progress or the subsidiary of Progress which is party thereto and, to the knowledge of Progress, of each other party thereto, and is in full force and effect, except that such enforcement may be subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws, now or hereafter in effect, relating to creditors' rights generally and to general equitable principles.

(x) Anti-Bribery Laws.

(i) To the knowledge of Progress, Progress and its subsidiaries are, and since January 1, 2008, have been, in compliance in all material respects with all statutory and regulatory requirements under the Foreign Corrupt Practices Act (15 U.S.C. §§ 78dd-1, et seq.), as amended, the Anti-Kickback Act of 1986, as amended, the Organization for Economic Cooperation and Development Convention Against Bribery of Foreign Officials in International Business Transactions and all legislation implementing such convention and all other international anti-bribery conventions, and all other anti-corruption and bribery laws (including any applicable written standards, requirements, directives or policies of any Governmental Authority) (the "Anti-Bribery Laws") in jurisdictions in which Progress and its subsidiaries have operated or currently operate. Since January 1, 2008, neither Progress nor any of its subsidiaries has received any communication from any Governmental Authority or any written communication from any third party that alleges that Progress, any of its subsidiaries or any employee or agent thereof is in material violation of any Anti-Bribery Laws, and no such potential or actual material violation or liability has been discovered.

(ii) Without limiting the other provisions of this Section 3.01(x), since January 1, 2008, none of Progress or its subsidiaries nor, to the knowledge of Progress, any of their respective current or former directors, officers, principals, employees, managers, sales persons, consultants or other agents or representatives, distributors, contractors, joint venturers or any other person acting on any of their behalf, has, directly or indirectly, made or offered or solicited or accepted any contribution, gift, gratuity, entertainment, bribe, rebate, payoff, influence payment, kickback or other payment or anything else of value to or from any person, private or public (including customers, potential customers, political parties, elected officials and candidates), whether in money, property, services or any other form, to influence any act of such person in such person's official capacity, inducing such person to do or omit to do any act in violation of the lawful official duty of such person or securing an improper advantage or to induce such person to use such person's influence to obtain or retain business for Progress or its subsidiaries or otherwise to confer any benefit to Progress or its subsidiaries in violation in any material respect of any Anti-Bribery Laws.

(iii) Since January 1, 2006, neither Progress nor any of its subsidiaries has made any disclosure (voluntary or otherwise) to any Governmental Authority with respect to any alleged material irregularity, material misstatement or material omission or other potential material violation or liability arising under or relating to any Anti-Bribery Law.

Section 3.02 Representations and Warranties of Duke and Merger Sub. Except as set forth in the letter dated the date of this Agreement and delivered to Progress by Duke concurrently with the execution and delivery of this Agreement (the "Duke Disclosure Letter") or, to the extent the qualifying nature of such disclosure is readily apparent therefrom and excluding any forward-looking statements, risk factors and other similar statements that are cautionary and non-specific in nature, as set forth in the Duke SEC Reports filed on or after January 1, 2009 and prior to the date hereof, Duke and Merger Sub represent and warrant to Progress as follows:

(a) Organization and Qualification.

(i) Each of Duke and its subsidiaries is duly organized, validly existing and in good standing (with respect to jurisdictions that recognize the concept of good standing) under the laws of its jurisdiction of organization and has full power and authority to conduct its business as and to the extent now conducted and to own, use and lease its assets and properties, except for such failures to be so organized, existing and in good standing (with respect to jurisdictions that recognize the concept of good standing) or to have such power and authority that, individually or in the aggregate, have not had and could not be reasonably expected to have a material adverse effect on Duke. Each of Duke and its subsidiaries is duly qualified, licensed or admitted to do business and is in good standing (with respect to jurisdictions that recognize the concept of good standing) in each jurisdiction in which the ownership, use or leasing of its assets and properties, or the conduct or nature of its business, makes such qualification, licensing or admission necessary, except for such failures to be so qualified, licensed or admitted and in good standing (with respect to jurisdictions that recognize the concept of good standing) that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke. Section 3.02(a) of the Duke Disclosure Letter sets forth as of the date of this Agreement the name and jurisdiction of organization of each subsidiary of Duke. Merger Sub is a newly formed corporation and has engaged in no activities except as contemplated by this Agreement. All of the outstanding capital stock of Merger Sub is owned directly by Duke. No subsidiary of Duke owns any stock in Duke. Duke has made available to Progress prior to the date of this Agreement a true and complete copy of Duke's certificate of incorporation and by-laws, each as amended through the date hereof.

(ii) Section 3.02(a) of the Duke Disclosure Letter sets forth a description as of the date of this Agreement, of all Duke Joint Ventures, including (x) the name of each such entity and (y) a brief description of the principal line or lines of business conducted by each such entity.

(iii) Except for interests in the subsidiaries of Duke, the Duke Joint Ventures and interests acquired after the date of this Agreement without violating any covenant or agreement set forth herein, neither Duke nor any of its subsidiaries directly or indirectly owns any

equity or similar interest in, or any interest convertible into or exchangeable or exercisable for, any equity or similar interest in, any person, in which the invested capital associated with such interest of Duke or any of its subsidiaries exceeds, individually as of the date of this Agreement, $100,000,000.

(b) Capital Stock.

(i) The authorized capital stock of Duke consists of:

(A) 2,000,000,000 shares of common stock, par value $0.001 per share (the "Duke Common Stock"), of which 1,324,548,714 shares were outstanding as of October 29, 2010; and

(B) 44,000,000 shares of preferred stock, par value $0.001 per share, none of which were outstanding as of the date of this Agreement.

As of the date of this Agreement, no shares of Duke Common Stock are held in the treasury of Duke. As of the date of this Agreement, 13,869,567 shares of Duke Common Stock were subject to outstanding stock options granted under the Duke Employee Stock Option Plans ("Duke Employee Stock Options"), 1,756,064 shares of Duke Common Stock were subject to outstanding awards of phantom stock units of Duke Common Stock ("Duke Phantom Stock Units"), 7,549,720 shares of Duke Common Stock were subject to outstanding awards of performance shares of Duke Common Stock, determined at maximum performance levels ("Duke Performance Shares") and 75,901,515 additional shares of Duke Common Stock were reserved for issuance pursuant to the Duke Power Company Stock Incentive Plan, the Duke Energy Corporation 1998 Long-Term Incentive Plan, the Duke Energy Corporation 2006 Long-Term Incentive Plan, the Duke Energy Corporation 2010 Long-Term Incentive Plan, the Duke Energy Corporation Directors' Savings Plan, the Duke Energy Corporation Executive Savings Plan and any other compensatory plan, program or arrangement under which shares of Duke Common Stock are reserved for issuance (collectively, the "Duke Employee Stock Option Plans"). Since October 29, 2010, no shares of Duke Common Stock have been issued except pursuant to the Duke Employee Stock Option Plans and Duke Employee Stock Options issued thereunder, and from October 29, 2010 to the date of this Agreement, no shares of Duke Common Stock have been issued other than 268,498 shares of Duke Common Stock issued pursuant to the Duke Employee Stock Option Plans or Duke Employee Stock Options issued thereunder. All of the issued and outstanding shares of Duke Common Stock are, and all shares reserved for issuance will be, upon issuance in accordance with the terms specified in the instruments or agreements pursuant to which they are issuable, duly authorized, validly issued, fully paid and nonassessable. Except as disclosed in this Section 3.02(b), as of date of this Agreement there are no outstanding Options obligating Duke or any of its subsidiaries (A) to issue or sell any shares of capital stock of Duke, (B) to grant, extend or enter into any Option with respect thereto, (C) redeem or otherwise acquire any such shares of capital stock or other equity interests or (D) provide a material amount of funds to, or make any material investment (in the form of a loan, capital contribution or otherwise) in, any of their respective subsidiaries.

(ii) Except as permitted by this Agreement, all of the outstanding shares of capital stock of each subsidiary of Duke are duly authorized, validly issued, fully paid and

nonassessable and are owned, beneficially and of record, by Duke or a subsidiary of Duke, free and clear of any Liens, except for any of the foregoing that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke. All of the outstanding shares of capital stock of Merger Sub are duly authorized, validly issued, fully paid and nonassessable and are owned, beneficially and of record, directly by Duke. The shares of Merger Sub owned by Duke are owned free and clear of any Liens. There are no (A) outstanding Options obligating Duke or any of its subsidiaries to issue or sell any shares of capital stock of any subsidiary of Duke or to grant, extend or enter into any such Option or (B) voting trusts, proxies or other commitments, understandings, restrictions or arrangements in favor of any person other than Duke or a subsidiary wholly-owned, directly or indirectly, by Duke with respect to the voting of or the right to participate in dividends or other earnings on any capital stock of Duke or any subsidiary of Duke.

(iii) As of the date of this Agreement, none of the subsidiaries of Duke or the Duke Joint Ventures is a "public utility company," a "holding company," a "subsidiary company" or an "affiliate" of any holding company within the meaning of Section 2(a)(5), 2(a)(7), 2(a)(8) or 2(a)(11) of the 2005 Act, respectively. None of Duke, its subsidiaries and the Duke Joint Ventures is registered under the 2005 Act.

(iv) As of the date of this Agreement, no bonds, debentures, notes or other indebtedness of Duke or any of its subsidiaries having the right to vote (or which are convertible into or exercisable for securities having the right to vote) (collectively, "Duke Voting Debt") on any matters on which Duke shareholders may vote are issued or outstanding nor are there any outstanding Options obligating Duke or any of its subsidiaries to issue or sell any Duke Voting Debt or to grant, extend or enter into any Option with respect thereto.

(v) Each share of Duke Common Stock to be issued in the Merger shall be duly authorized, validly issued, fully paid and nonassessable and free and clear of any Liens.

(vi) There have been no repricings of any Duke Employee Stock Options through amendments, cancellation and reissuance or other means during the current or prior two (2) calendar years. None of the Duke Employee Stock Options, Duke Phantom Stock Units or Duke Performance Shares (A) have been granted since August 6, 2010, except as permitted by this Agreement, or (B) have been granted in contemplation of the Merger or the transactions contemplated in this Agreement. None of the Duke Employee Stock Options was granted with an exercise price below the per share closing price on the NYSE on the date of grant. All grants of Duke Employee Stock Options, Duke Phantom Stock Units and Duke Performance Shares were validly made and properly approved by the Board of Directors of Duke (or a duly authorized committee or subcommittee thereof) in compliance with all applicable laws and recorded on the consolidated financial statements of Duke in accordance with GAAP, and no such grants of Duke Employee Stock Options involved any "back dating," "forward dating" or similar practices.

(c) Authority. Duke has full corporate power and authority to enter into this Agreement, to perform its obligations hereunder and, subject to obtaining Duke Shareholder Approval, to consummate the transactions contemplated hereby. The execution, delivery and performance of this Agreement by Duke and the consummation by Duke of the transactions contemplated hereby have been duly and validly adopted and unanimously approved by the Board

of Directors of Duke, the Board of Directors of Duke has recommended approval by the shareholders of Duke of the Duke Charter Amendment and the Duke Share Issuance, and directed that the Duke Charter Amendment and Duke Share Issuance be submitted to the shareholders of Duke for their approval, and no other corporate proceedings on the part of Duke or its shareholders are necessary to authorize the execution, delivery and performance of this Agreement by Duke and the consummation by Duke of the Merger and the other transactions contemplated hereby, other than obtaining Duke Shareholder Approval. This Agreement has been duly and validly executed and delivered by Duke and, assuming this Agreement constitutes the legal, valid and binding obligation of Progress, constitutes a legal, valid and binding obligation of Duke enforceable against Duke in accordance with its terms, except that such enforcement may be subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws, now or hereafter in effect, relating to creditors' rights generally and to general equitable principles.

(d) No Conflicts; Approvals and Consents.

(i) The execution and delivery of this Agreement by Duke does not, and the performance by Duke of its obligations hereunder and the consummation of the Merger and the other transactions contemplated hereby will not, conflict with, result in a violation or breach of, constitute (with or without notice or lapse of time or both) a default under, result in or give to any person any right of payment or reimbursement, termination, cancellation, modification or acceleration of, or result in the creation or imposition of any Lien upon any of the assets or properties of Duke or any of its subsidiaries or any of the Duke Joint Ventures under, any of the terms, conditions or provisions of (A) subject to the effectiveness of the Duke Charter Amendment, the certificates or articles of incorporation or by-laws (or other comparable organizational documents) of Duke or any of its subsidiaries or any of the Duke Joint Ventures, or (B) subject to the obtaining of Duke Shareholder Approval and the taking of the actions described in paragraph (ii) of this Section 3.02(d), including the Duke Required Statutory Approvals, (x) any laws or orders of any Governmental Authority applicable to Duke or any of its subsidiaries or any of the Duke Joint Ventures or any of their respective assets or properties, or (y) any note, bond, mortgage, security agreement, credit agreement, indenture, license, franchise, permit, concession, contract, lease, obligation or other instrument to which Duke or any of its subsidiaries or any of the Duke Joint Ventures is a party or by which Duke or any of its subsidiaries or any of the Duke Joint Ventures or any of their respective assets or properties is bound, excluding from the foregoing clauses (x) and (y) such items that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke.

(ii) Except for (A) compliance with, and filings under, the HSR Act; (B) the filing with and, to the extent required, the declaration of effectiveness by, the SEC of (1) the Joint Proxy Statement pursuant to the Exchange Act, (2) the Form S-4 and (3) such reports under the Exchange Act as may be required in connection with this Agreement and the transactions contemplated hereby; (C) the filing of documents with various state securities authorities that may be required in connection with the transactions contemplated hereby; (D) such filings with and approvals of the NYSE with respect to the Duke Charter Amendment, if necessary, and to permit the shares of Duke Common Stock that are to be issued pursuant to Article II to be listed on the NYSE; (E) the registration, consents, approvals and notices required under the 2005 Act; (F) notice to, and the consent and approval of, FERC under Section 203 of the Power Act, or an order under the Power Act disclaiming jurisdiction over the transactions contemplated hereby; (G) the

filing of an application to, and consent and approval of, and issuance of any required licenses and license amendments by, the NRC under the Atomic Energy Act; (H) the filing of the Certificate of Amendment with respect to the Duke Charter Amendment with the Secretary of State of the State of Delaware and the Articles of Merger and other appropriate merger documents required by the NCBCA with the Secretary of State of the State of North Carolina and appropriate documents with the relevant authorities of other states in which Duke is qualified to do business; (I) compliance with and such filings as may be required under applicable Environmental Laws; (J) to the extent required, notice to and the approval of, the Applicable PSCs; (K) the FCC Pre-Approvals; (L) such other items as disclosed in Section 3.02(d) of the Duke Disclosure Letter; and (M) compliance with, and filings under, antitrust or competition laws of any foreign jurisdiction, if required (the items set forth above in clauses (A) through (H) and (J) collectively, the "Duke Required Statutory Approvals"), no Consents or action of, registration, declaration or filing with or notice to any Governmental Authority is necessary or required to be obtained or made in connection with the execution and delivery of this Agreement by Duke, the performance by Duke of its obligations hereunder or the consummation of the Merger and the other transactions contemplated hereby, other than such items that the failure to make or obtain, as the case may be, individually or in the aggregate, could not reasonably be expected to have a material adverse effect on Duke.

(c) SEC Reports, Financial Statements and Utility Reports.

(i) Duke and its subsidiaries have filed or furnished each form, report, schedule, registration statement, registration exemption, if applicable, definitive proxy statement and other document (together with all amendments thereof and supplements thereto) required to be filed or furnished by Duke or any of its subsidiaries pursuant to the Securities Act or the Exchange Act with the SEC since January 1, 2007 (as such documents have since the time of their filing been amended or supplemented, the "Duke SEC Reports"). As of their respective dates, after giving effect to any amendments or supplements thereto, the Duke SEC Reports (A) complied as to form in all material respects with the requirements of the Securities Act and the Exchange Act, if applicable, as the case may be, and, to the extent applicable, SOX and (B) did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

(ii) Each of the principal executive officer of Duke and the principal financial officer of Duke (or each former principal executive officer of Duke and each former principal financial officer of Duke, as applicable) has made all certifications required by Rule 13a-14 or 15d-14 under the Exchange Act or Sections 302 and 906 of SOX and the rules and regulations of the SEC promulgated thereunder with respect to the Duke SEC Reports. For purposes of the preceding sentence, "principal executive officer" and "principal financial officer" shall have the meanings given to such terms in SOX. Since January 1, 2007, neither Duke nor any of its subsidiaries has arranged any outstanding "extensions of credit" to directors or executive officers within the meaning of Section 402 of SOX.

(iii) The audited consolidated financial statements and unaudited interim consolidated financial statements (including, in each case, the notes, if any, thereto) included in the Duke SEC Reports (the "Duke Financial Statements") complied as to form in all material respects with the published rules and regulations of the SEC with respect thereto in effect at the time of

filing or furnishing the applicable Duke SEC Report, were prepared in accordance with GAAP applied on a consistent basis during the periods involved (except as may be indicated therein or in the notes thereto and except with respect to unaudited statements as permitted by Form 10-Q of the SEC) and fairly present (subject, in the case of the unaudited interim financial statements, to normal, recurring year-end audit adjustments that were not or are not expected to be, individually or in the aggregate, materially adverse to Duke) the consolidated financial position of Duke and its consolidated subsidiaries as of the respective dates thereof and the consolidated results of their operations and cash flows for the respective periods then ended.

(iv) All filings (other than immaterial filings) required to be made by Duke or any of its subsidiaries since January 1, 2007, under the 2005 Act, the Power Act, the Atomic Energy Act, the Natural Gas Act, the Natural Gas Policy Act of 1978, the Communications Act of 1934 and applicable state laws and regulations, have been filed with the SEC, the FERC, the DOE, the NRC, the FCC or any applicable state public utility commissions (including, to the extent required, NCUC, PSCSC, PUCO, IURC and KPSC), as the case may be, including all forms, statements, reports, agreements (oral or written) and all documents, exhibits, amendments and supplements appertaining thereto, including all rates, tariffs, franchises, service agreements and related documents, and all such filings complied, as of their respective dates, with all applicable requirements of the applicable statute and the rules and regulations thereunder, except for filings the failure of which to make or the failure of which to make in compliance with all applicable requirements of the applicable statute and the rules and regulations thereunder, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke.

(v) Duke has designed and maintains a system of internal control over financial reporting (as defined in Rules 13a–15(f) and 15d–15(f) of the Exchange Act) sufficient to provide reasonable assurances regarding the reliability of financial reporting. Duke (x) has designed and maintains disclosure controls and procedures (as defined in Rules 13a–15(e) and 15d–15(e) of the Exchange Act) to provide reasonable assurance that all information required to be disclosed by Duke in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and is accumulated and communicated to Duke's management as appropriate to allow timely decisions regarding required disclosure, and (y) has disclosed, based on its most recent evaluation of internal control over financial reporting, to Duke's outside auditors and the audit committee of the Board of Directors of Duke (A) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect Duke's ability to record, process, summarize and report financial information and (B) any fraud, whether or not material, that involves management or other employees who have a significant role in Duke's internal control over financial reporting. Since December 31, 2006, any material change in internal control over financial reporting required to be disclosed in any Duke SEC Report has been so disclosed.

(vi) Since December 31, 2006, (x) neither Duke nor any of its subsidiaries nor, to the knowledge of the Executive Officers (for the purposes of this Section 3.02(e)(vi), as such term is defined in Section 3b-7 of the Exchange Act) of Duke, any director, officer, employee, auditor, accountant or representative of Duke or any of its subsidiaries has received or otherwise obtained knowledge of any material complaint, allegation, assertion or claim, whether written or

oral, regarding the accounting or auditing practices, procedures, methodologies or methods of Duke or any of its subsidiaries or their respective internal accounting controls relating to periods after December 31, 2006, including any material complaint, allegation, assertion or claim that Duke or any of its subsidiaries has engaged in questionable accounting or auditing practices (except for any of the foregoing after the date hereof which have no reasonable basis), and (y) to the knowledge of the Executive Officers of Duke, no attorney representing Duke or any of its subsidiaries, whether or not employed by Duke or any of its subsidiaries, has reported evidence of a material violation of securities laws, breach of fiduciary duty or similar violation, relating to periods after December 31, 2006, by Duke or any of its officers, directors, employees or agents to the Board of Directors of Duke or any committee thereof or, to any director or Executive Officer of Duke.

(f) Absence of Certain Changes or Events. Since December 31, 2009 through the date hereof, Duke and its subsidiaries have conducted their respective businesses in all material respects in the ordinary course of business in a consistent manner since such date and there has not been any change, event or development that, individually or in the aggregate, has had or could reasonably be expected to have a material adverse effect on Duke.

(g) Absence of Undisclosed Liabilities. Except for matters reflected or reserved against in the consolidated balance sheet (or notes thereto) as of December 31, 2009, included in the Duke Financial Statements, neither Duke nor any of its subsidiaries has any liabilities or obligations (whether absolute, accrued, contingent, fixed or otherwise, or whether due or to become due) of any nature that would be required by GAAP to be reflected on a consolidated balance sheet of Duke and its consolidated subsidiaries (including the notes thereto), except liabilities or obligations (i) that were incurred in the ordinary course of business consistent with past practice since December 31, 2009, (ii) that were incurred in connection with the transactions contemplated by this Agreement and that are not material in the aggregate or (iii) that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke. Neither Duke nor any of its subsidiaries is a party to, or has any commitment to become a party to, any joint venture, off-balance sheet partnership or any similar contract or arrangement (including any Contract relating to any transaction or relationship between or among Duke and any of its subsidiaries, on the one hand, and any unconsolidated affiliate, including any structured finance, special purpose or limited purpose entity or person, on the other hand, or any "off-balance sheet arrangements" (as defined in Item 303(a) of Regulation S-K under the Exchange Act), where the result, purpose or effect of such contract or arrangement is to avoid disclosure of any material transaction involving, or material liabilities of, Duke or any of its subsidiaries, in the Duke Financial Statements or the Duke SEC Reports.

(h) Legal Proceedings. Except for Environmental Claims, which are the subject of Section 3.02(n), as of the date of this Agreement, (i) there are no actions, suits, arbitrations or proceedings pending or, to the knowledge of Duke, threatened against, relating to or affecting, nor to the knowledge of Duke are there any Governmental Authority investigations, inquiries or audits pending or threatened against, relating to or affecting, Duke or any of its subsidiaries or any of the Duke Joint Ventures or any of their respective assets and properties that, in each case, individually or in the aggregate, have had or could reasonably be expected to have a material adverse effect on Duke and (ii) neither Duke nor any of its subsidiaries or material assets is subject to any order of any Governmental Authority that, individually or in the aggregate, has had or could reasonably be expected to have a material adverse effect on Duke.

(i) Information Supplied. None of the information supplied or to be supplied by Duke for inclusion or incorporation by reference in (i) the Form S-4 will, at the time the Form S-4 is filed with the SEC, at any time it is amended or supplemented or at the time it becomes effective under the Securities Act, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, or (ii) the Joint Proxy Statement will, at the date it is first mailed to Progress's shareholders or Duke's shareholders or at the time of the Progress Shareholders Meeting or the Duke Shareholders Meeting, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading. The Joint Proxy Statement (other than the portions thereof relating solely to the Progress Shareholders Meeting) and the Form S-4 will comply as to form in all material respects with the requirements of the Exchange Act and Securities Act, respectively, and the rules and regulations thereunder, except that no representation is made by Duke with respect to statements made or incorporated by reference therein based on information supplied by or on behalf of Progress for inclusion or incorporation by reference in the Joint Proxy Statement or the Form S-4.

(j) Permits; Compliance with Laws and Orders. Duke, its subsidiaries and the Duke Joint Ventures hold all Permits necessary for the lawful conduct of their respective businesses, except for failures to hold such Permits that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke. Duke, its subsidiaries and the Duke Joint Ventures are in compliance with the terms of their Permits, except failures so to comply that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke. Duke, its subsidiaries and the Duke Joint Ventures are not, and since January 1, 2008 have not been, in violation of or default under any law or order of any Governmental Authority, except for such violations or defaults that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke. Duke is, and since January 1, 2008 has been, in compliance in all material respects with (i) SOX and (ii) the applicable listing standards and corporate governance rules and regulations of the NYSE. The above provisions of this Section 3.02(j) do not relate to matters with respect to taxes, such matters being the subject of Section 3.02(k), Environmental Permits and Environmental Laws, such matters being the subject of Section 3.02(n), benefits plans, such matters being the subject of Section 3.02(l), and nuclear power plants, such matters being the subject of Section 3.02(o).

(k) Taxes.

(i) Except as has not had, and could not reasonably be expected to have, a material adverse effect on Duke:

(A) Each of Duke and its subsidiaries has timely filed, or has caused to be timely filed on its behalf, all Tax Returns required to be filed by it, and all such Tax Returns are true, complete and accurate. All Taxes shown to be due and owing on such Tax Returns have been timely paid.

(B) The most recent financial statements contained in the Duke SEC Reports filed prior to the date of this Agreement reflect, in accordance with GAAP, an adequate reserve for all Taxes payable by Duke and its subsidiaries for all taxable periods through the date of such financial statements.

(C) There is no audit, examination, deficiency, refund litigation, proposed adjustment or matter in controversy with respect to any Taxes or Tax Return of Duke or its subsidiaries, and, to the knowledge of Duke, neither Duke nor any of its subsidiaries has received written notice of any claim made by a governmental authority in a jurisdiction where Duke or any of its subsidiaries, as applicable, does not file a Tax Return, that Duke or such subsidiary is or may be subject to income taxation by that jurisdiction. No deficiency with respect to any Taxes has been proposed, asserted or assessed against Duke or any of its subsidiaries, and no requests for waivers of the time to assess any Taxes are pending.

(D) There are no outstanding written agreements, consents or waivers to extend the statutory period of limitations applicable to the assessment of any Taxes or deficiencies against Duke or any of its subsidiaries, and no power of attorney granted by either Duke or any of its subsidiaries with respect to any Taxes is currently in force.

(E) Neither Duke nor any of its subsidiaries is a party to any agreement providing for the allocation or sharing of Taxes imposed on or with respect to any individual or other person (other than (I) such agreements with customers, vendors, lessors or the like entered into in the ordinary course of business, and (II) agreements with or among Duke or any of its subsidiaries), and neither Duke nor any of its subsidiaries (A) has been a member of an affiliated group (or similar state, local or foreign filing group) filing a consolidated U.S. federal income Tax Return (other than the group the common parent of which is Duke or a subsidiary of Duke) or (B) has any liability for the Taxes of any person (other than Duke or any of its subsidiaries) (I) under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local or foreign law), or (II) as a transferee or successor.

(F) There are no material Liens for Taxes (other than for current Taxes not yet due and payable) on the assets of Duke and its subsidiaries.

(ii) Neither Duke nor any of its subsidiaries has taken or agreed to take any action or knows of any fact, agreement, plan or other circumstance that is reasonably likely to prevent or impede the Merger from qualifying as a reorganization under Section 368(a) of the Code.

(l) Employee Benefit Plans; ERISA.

(i) Except for such matters that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke, (A) all Duke Employee Benefit Plans are in compliance with all applicable requirements of law, including

ERISA and the Code, and (B) there does not now exist, nor do any circumstances exist that could result in, any Controlled Group Liability that would be a liability of Duke or any of its subsidiaries following the Closing. The only material employment agreements, severance agreements or severance policies applicable to Duke or any of its subsidiaries are the agreements and policies disclosed in Section 3.02(l)(i) of the Duke Disclosure Letter.

(ii) As used herein, "Duke Employee Benefit Plan" means any Plan entered into, established, maintained, sponsored, contributed to or required to be contributed to by Duke or any of its subsidiaries for the benefit of the current or former employees or directors of Duke or any of its subsidiaries and existing on the date of this Agreement or at any time subsequent thereto and, in the case of a Plan that is subject to Part 3 of Title I of ERISA, Section 412 of the Code or Title IV of ERISA, at any time during the five-year period preceding the date of this Agreement with respect to which Duke or any of its subsidiaries has or could reasonably be expected to have any present or future actual or contingent liabilities.

(iii) No event has occurred, and there exists no condition or set of circumstances in connection with any Duke Employee Benefit Plan, that has had or could reasonably be expected to have a material adverse effect on Duke.

(iv) Section 3.02(l)(iv) of the Duke Disclosure Letter identifies each Duke Employee Benefit Plan that provides, upon the occurrence of a change in the ownership or effective control of Duke or its subsidiaries or a change in the ownership of all or a substantial portion of the assets of Duke or its subsidiaries, either alone or upon the occurrence of any additional or subsequent events and whether or not applicable to the transactions contemplated by this Agreement, for (A) an acceleration of the time of payment of or vesting in, or an increase in the amount of, compensation or benefits due any current or former employee, director or officer of Duke or its subsidiaries, (B) any forgiveness of indebtedness or obligation to fund compensation or benefits with respect to any such employee, director or officer, or (C) an entitlement of any such employee, director or officer to severance pay, unemployment compensation or any other payment or other benefit.

(v) Each Duke Employee Benefit Plan that is in any part a "nonqualified deferred compensation plan" subject to Section 409A of the Code (A) materially complies and, at all times after December 31, 2008 has materially complied, both in form and operation, with the requirements of Section 409A of the Code and the final regulations thereunder and (B) between January 1, 2005 and December 31, 2008 was operated in material reasonable, good faith compliance with Section 409A of the Code, as determined under applicable guidance of the Treasury and the Internal Revenue Service.

(m) Labor Matters. As of the date hereof, neither Duke nor any of its subsidiaries is a party to, bound by or in the process of negotiating any collective bargaining agreement or other labor agreement with any union or labor organization. As of the date of this Agreement, there are no disputes, grievances or arbitrations pending or, to the knowledge of Duke, threatened between Duke or any of its subsidiaries and any trade union or other representatives of its employees and there is no charge or complaint pending or threatened in writing against Duke or any of its subsidiaries before the NLRB or any similar Governmental Authority, except in each case as, individually or in the aggregate, have not had and could not reasonably be expected to have a

material adverse effect on Duke, and, to the knowledge of Duke, as of the date of this Agreement, there are no material organizational efforts presently being made involving any of the employees of Duke or any of its subsidiaries. From December 31, 2007, to the date of this Agreement, there has been no work stoppage, strike, slowdown or lockout by or affecting employees of Duke or any of its subsidiaries and, to the knowledge of Duke, no such action has been threatened in writing, except in each case as, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke. Except as, individually or in the aggregate, has not had and could not reasonably be expected to have a material adverse effect on Duke: (A) there are no litigations, lawsuits, claims, charges, complaints, arbitrations, actions, investigations or proceedings pending or, to the knowledge of Duke, threatened between or involving Duke or any of its subsidiaries and any of their respective current or former employees, independent contractors, applicants for employment or classes of the foregoing; (B) Duke and its subsidiaries are in compliance with all applicable laws, orders, agreements, contracts and policies respecting employment and employment practices, including, without limitation, all legal requirements respecting terms and conditions of employment, equal opportunity, workplace health and safety, wages and hours, child labor, immigration, discrimination, disability rights or benefits, facility closures and layoffs, workers' compensation, labor relations, employee leaves and unemployment insurance; and (C) since January 1, 2007, neither Duke nor any of its subsidiaries has engaged in any "plant closing" or "mass layoff," as defined in the WARN Act, without complying with the notice requirements of such laws.

(n) Environmental Matters.

(i) Each of Duke, its subsidiaries and the Duke Joint Ventures since January 1, 2008 has been and is in compliance with all applicable Environmental Laws, except where the failure to be in such compliance, individually or in the aggregate, has not had and could not reasonably be expected to have a material adverse effect on Duke.

(ii) Each of Duke, its subsidiaries and the Duke Joint Ventures has obtained all Environmental Permits necessary for the construction of their facilities and the conduct of their operations as of the date of this Agreement, as applicable, and all such Environmental Permits are validly issued, in full force and effect and final, and Duke, its subsidiaries and the Duke Joint Ventures are in compliance with all terms and conditions of the Environmental Permits, except where the failure to obtain such Environmental Permits, of such Permits to be in good standing or, where applicable, of a renewal application to have been timely filed and be pending or to be in such compliance, individually or in the aggregate, has not had and could not reasonably be expected to have a material adverse effect on Duke.

(iii) There is no Environmental Claim pending

(A) against Duke or any of its subsidiaries or any of the Duke Joint Ventures;

(B) to the knowledge of Duke, against any person or entity whose liability for such Environmental Claim has been retained or assumed either contractually or by operation of law by Duke or any of its subsidiaries or any of the Duke Joint Ventures; or

(C) against any real or personal property or operations that Duke or any of its subsidiaries or any of the Duke Joint Ventures owns, leases or manages, in whole or in part, or, to the knowledge of Duke, formerly owned, leased or arranged, in whole or in part, except in the case of clause (A), (B) or (C) for such Environmental Claims that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke.

(iv) To the knowledge of Duke, there have not been any Releases of any Hazardous Material that would be reasonably likely to form the basis of any Environmental Claim against Duke or any of its subsidiaries or any of the Duke Joint Ventures, in each case, except for such Releases that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke.

(o) Operations of Nuclear Power Plants. The operations of the nuclear generation stations owned, in whole or part, by Duke or its subsidiaries (collectively, the "Duke Nuclear Facilities") are and have been conducted in compliance with all applicable laws and Permits, except for such failures to comply that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke. Each of the Duke Nuclear Facilities maintains, and is in material compliance with, emergency plans designed to respond to an unplanned Release therefrom of radioactive materials and each such plan conforms with the requirements of applicable law in all material respects. The plans for the decommissioning of each of the Duke Nuclear Facilities and for the storage of spent nuclear fuel conform with the requirements of applicable law in all material respects and, solely with respect to the portion of the Duke Nuclear Facilities owned, directly or indirectly, by Duke, are funded consistent with applicable law. Since December 31, 2008, the operations of the Duke Nuclear Facilities have not been the subject of any notices of violation, any ongoing proceeding, NRC Diagnostic Team Inspections or requests for information from the NRC or any other agency with jurisdiction over such facility, except for such notices or requests for information that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke. No Duke Nuclear Facility is listed by the NRC in the Unacceptable Performance column of the NRC Action Matrix, as a part of NRC's Assessment of Licensee Performance. Liability insurance to the full extent required by law for operating the Duke Nuclear Facilities remains in full force and effect regarding such facilities, except for failures to maintain such insurance in full force and effect that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke.

(p) Vote Required. Assuming the accuracy of the representation and warranty contained in Section 3.01(r), the affirmative vote of the holders of record of at least a majority of the shares of Duke Common Stock (i) outstanding, with respect to an amendment to the Amended and Restated Certificate of Incorporation of Duke providing for the Duke Charter Amendment and (ii) voting thereon, provided that the total vote cast represents over fifty percent in interest of all securities entitled to vote on the proposal, with respect to the issuance of shares of Duke Common Stock in connection with the Merger as contemplated by this Agreement (the "Duke Share Issuance") ((i) and (ii) collectively, the "Duke Shareholder Approval"), are the only votes of the holders of any class or series of the capital stock of Duke or its subsidiaries required to approve this Agreement, the Merger and the other transactions contemplated hereby.

(q) Opinions of Financial Advisors. The Board of Directors of Duke has received the opinion of each of J.P. Morgan Securities LLC and Merrill Lynch, Pierce, Fenner and Smith Incorporated, to the effect that, as of the date of such opinion and based on the assumptions, qualifications and limitations contained therein, the Exchange Ratio is fair, from a financial point of view, to Duke.

(r) Ownership of Progress Capital Stock. Neither Duke nor any of its subsidiaries or other affiliates beneficially owns any shares of Progress capital stock.

(s) Certain Statutes. No "fair price," "merger moratorium," "control share acquisition," or other anti-takeover or similar statute or regulation applies or purports to apply to this Agreement, the Merger or the other transactions contemplated hereby.

(t) Joint Venture Representations. Each representation or warranty made by Duke in this Section 3.02 relating to a Duke Joint Venture that is neither operated nor managed solely by Duke or a Duke subsidiary shall be deemed made only to the knowledge of Duke.

(u) Insurance. Except for failures to maintain insurance or self-insurance that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke, from January 1, 2007, through the date of this Agreement, each of Duke and its subsidiaries has been continuously insured with financially responsible insurers or has self-insured, in each case in such amounts and with respect to such risks and losses as are customary for companies in the United States conducting the business conducted by Duke and its subsidiaries during such time period. Neither Duke nor any of its subsidiaries has received any notice of any pending or threatened cancellation, termination or premium increase with respect to any insurance policy of Duke or any of its subsidiaries, except with respect to any cancellation, termination or premium increase that, individually or in the aggregate, has not had and could not reasonably be expected to have a material adverse effect on Duke.

(v) Energy Price Risk Management. Duke has established risk parameters, limits and guidelines in compliance with the risk management policy approved by Duke's Board of Directors (the "Duke Risk Management Guidelines") and monitors compliance by Duke and its subsidiaries with such energy price risk parameters. Duke has provided the Duke Risk Management Guidelines to Progress prior to the date of this Agreement. Duke is in compliance in all material respects with the Duke Risk Management Guidelines.

(w) Duke Material Contracts.

(i) For purposes of this Agreement, the term "Duke Material Contract" shall mean any Contract to which Duke or any of its subsidiaries is a party or bound as of the date hereof:

(A) that is a "material contract" (as such term is defined in Item 601(b)(10) of Regulation S-K of the SEC);

(B) that (1) purports to limit in any material respect either the type of business in which Duke or its subsidiaries (including, after the Effective Time, Progress or its subsidiaries) or any of their respective affiliates may engage or the

manner or geographic area in which any of them may so engage in any business, (2) would require the disposition of any material assets or line of business of Duke or its subsidiaries (including, after the Effective Time, Progress or its subsidiaries) or any of their respective affiliates as a result of the consummation of the transactions contemplated by this Agreement, (3) is a material Contract that grants "most favored nation" status that, following the Effective Time, would impose obligations upon Duke or its subsidiaries, including Progress and its subsidiaries, or (4) prohibits or limits, in any material respect, the right of Duke or any of its subsidiaries (including, after the Effective Time, Progress or its subsidiaries) to make, sell or distribute any products or services or use, transfer, license or enforce any of their respective intellectual property rights; or

(C) that (1) has an aggregate principal amount, or provides for an aggregate obligation, in excess of $200,000,000 (I) evidencing indebtedness for borrowed money of Duke or any of its subsidiaries to any third party, (II) guaranteeing any such indebtedness of a third party or (III) containing a covenant restricting the payment of dividends, or (2) has the economic effect of any of the items set forth in subclause (1) above.

(ii) Neither Duke nor any subsidiary of Duke is in breach of or default under the terms of any Duke Material Contract and no event has occurred that (with or without notice or lapse of time or both) could result in a breach or default under any Duke Material Contract where such breach or default could reasonably be expected to have, individually or in the aggregate, a material adverse effect on Duke. To the knowledge of Duke, no other party to any Duke Material Contract is in breach of or default under the terms of any Duke Material Contract where such breach or default has had, or could reasonably be expected to have, individually or in the aggregate, a material adverse effect on Duke. Except as could not reasonably be expected to have, individually or in the aggregate, a material adverse effect on Duke, each Duke Material Contract is a valid and binding obligation of Duke or the subsidiary of Duke which is party thereto and, to the knowledge of Duke, of each other party thereto, and is in full force and effect, except that such enforcement may be subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws, now or hereafter in effect, relating to creditors' rights generally and to general equitable principles.

(x) Anti-Bribery Laws.

(i) To the knowledge of Duke, Duke and its subsidiaries are, and since January 1, 2008 have been, in compliance in all material respects with the Anti-Bribery Laws in jurisdictions in which Duke and its subsidiaries have operated or currently operate. Since January 1, 2008, neither Duke nor any of its subsidiaries has received any communication from any Governmental Authority or any written communication from any third party that alleges that Duke, any of its subsidiaries or any employee or agent thereof is in material violation of any Anti-Bribery Laws, and no such potential or actual material violation or liability has been discovered.

(ii) Without limiting the other provisions of this Section 3.02(x), since January 1, 2008, none of Duke or its subsidiaries nor, to the knowledge of Duke, any of their respective current or former directors, officers, principals, employees, managers, sales persons, consultants

or other agents or representatives, distributors, contractors, joint venturers or any other person acting on any of their behalf, has, directly or indirectly, made or offered or solicited or accepted any contribution, gift, gratuity, entertainment, bribe, rebate, payoff, influence payment, kickback or other payment or anything else of value to or from any person, private or public (including customers, potential customers, political parties, elected officials and candidates), whether in money, property, services or any other form, to influence any act of such person in such person's official capacity, inducing such person to do or omit to do any act in violation of the lawful official duty of such person or securing an improper advantage or to induce such person to use such person's influence to obtain or retain business for Duke or its subsidiaries or otherwise to confer any benefit to Duke or its subsidiaries in violation in any material respect of any Anti-Bribery Laws.

(iii) Since January 1, 2006, neither Duke nor any of its subsidiaries has made any disclosure (voluntary or otherwise) to any Governmental Authority with respect to any alleged material irregularity, material misstatement or material omission or other potential material violation or liability arising under or relating to any Anti-Bribery Law.

ARTICLE IV

COVENANTS

Section 4.01 Covenants of Progress. From and after the date of this Agreement until the Effective Time, Progress covenants and agrees as to itself and its subsidiaries that (except as expressly contemplated or permitted by this Agreement, as set forth in Section 4.01 of the Progress Disclosure Letter, for transactions (other than those set forth in Section 4.01(d) to the extent relating to the capital stock of Progress) solely involving Progress and one or more of its direct or indirect wholly-owned subsidiaries or between two or more direct or indirect wholly-owned subsidiaries of Progress, as required by law, or to the extent that Duke shall otherwise previously consent in writing, such consent not to be unreasonably withheld or delayed):

(a) Ordinary Course. Progress and each of its subsidiaries shall conduct their businesses in all material respects in the ordinary course of business consistent with past practice. Without limiting the generality of the foregoing, Progress and its subsidiaries shall use commercially reasonable efforts to preserve intact in all material respects their present business organizations, to maintain in effect all existing Permits and to timely submit renewal applications (as applicable), subject to prudent management of workforce and business needs, to keep available the services of their key officers and employees, to maintain their assets and properties in good working order and condition, ordinary wear and tear excepted, to preserve their relationships with Governmental Authorities, customers and suppliers and others having significant business dealings with them and to comply in all material respects with all laws, orders and Permits of all Governmental Authorities applicable to them.

(b) Charter Documents. Progress shall not amend or propose to amend its articles of incorporation or, other than in a manner that would not materially restrict the operation of its or their businesses, its by-laws or its subsidiaries' articles of incorporation or by-laws (or other comparable organizational documents).

(c) Dividends. Progress shall not, nor shall it permit any of its subsidiaries to,

(i) declare, set aside or pay any dividends on or make other distributions in respect of any of its capital stock or share capital, except:

(A) that, subject to Section 4 06 of this Agreement, Progress may continue the declaration and payment of regular quarterly cash dividends on Progress Common Stock, not to exceed $0.62 per share for each quarterly dividend, with usual record and payment dates for such dividends in accordance with past dividend practice, and

(B) for the declaration and payment of dividends by a direct or indirect wholly-owned subsidiary of Progress solely to its parent, or by a direct or indirect partially owned subsidiary of Progress (provided, that Progress or a Progress subsidiary receives or is to receive its proportionate share of such dividend or distribution), and

(C) for the declaration and payment of regular cash dividends with respect to preferred stock of Progress's subsidiaries outstanding as of the date of this Agreement or permitted to be issued under the terms of this Agreement, and

(D) for the declaration and payment of dividends necessary to comply with Section 4.06,

(ii) split, combine, reclassify or take similar action with respect to any of its capital stock or share capital or issue or authorize or propose the issuance of any other securities in respect of, in lieu of or in substitution for shares of its capital stock or comprised in its share capital,

(iii) adopt a plan of complete or partial liquidation or resolutions providing for or authorizing such liquidation or a dissolution, merger, consolidation, restructuring, recapitalization or other reorganization, or

(iv) except as disclosed in Section 4.01(c)(iv) of the Progress Disclosure Letter, directly or indirectly redeem, repurchase or otherwise acquire any shares of its capital stock or any Option with respect thereto except:

(A) in connection with intercompany purchases of capital stock or share capital, or

(B) for the purpose of funding the Progress Employee Stock Option Plans or employee stock ownership or dividend reinvestment and stock purchase plans, or

(C) mandatory repurchases or redemptions of preferred stock of Progress or its subsidiaries in accordance with the terms thereof.

(d) Share Issuances. Progress shall not, nor shall it permit any of its subsidiaries to, issue, deliver or sell, or authorize or propose the issuance, delivery or sale of, any shares of its capital stock or any Option with respect thereto (other than (i) the issuance of Progress Common Stock upon the exercise of Progress Employee Stock Options outstanding as of the date hereof or issued after the date hereof in accordance with the terms of this Agreement in accordance with their terms, (ii) the issuance of Progress Common Stock in respect of Progress Restricted Stock, Progress Restricted Stock Units, Progress Performance Shares and other equity compensation awards, excluding Progress Employee Stock Options, granted under the Progress Employee Stock Option Plans ("Other Progress Equity Awards") outstanding as of the date hereof or issued after the date hereof in accordance with the terms of this Agreement in accordance with their terms, (iii) the issuance of Progress Restricted Stock, Progress Performance Shares and the grant of Progress Restricted Stock Units and Other Progress Equity Awards in accordance with their terms providing, in aggregate, up to an additional 2,000,000 shares of Progress Common Stock in any 12-month period following the date hereof, in amounts, at times and on terms and conditions in the ordinary course of business consistent with past practice, with Progress Performance Shares counted assuming the achievement of maximum performance level for the purposes of determining how many shares were granted during any such 12-month period; provided, however, that any Progress Restricted Stock, Progress Restricted Stock Units, Progress Performance Shares and Other Progress Equity Awards granted after the date of this Agreement shall be granted on terms pursuant to which such Progress Restricted Stock, Progress Restricted Stock Units, Progress Performance Shares and Other Progress Equity Awards shall not vest on the Effective Time or otherwise in connection with the occurrence of the transactions contemplated hereby and that, notwithstanding any plan, program or arrangement to the contrary, and except as provided in Section 4.01(d)(iii) of the Progress Disclosure Letter, any definition of "good reason" or any similar concept of constructive termination relating to such awards shall be as defined in Section 4.01(d)(iii) of the Progress Disclosure Letter and the terms and conditions of each grant of Progress Performance Shares shall be consistent with the treatment set forth in Section 5.06(a)(iii), (iv) the *pro rata* issuance by a subsidiary of its capital stock to its shareholders, and (v) the issuance of shares of Progress Common Stock in connection with any employee benefit plan intended to satisfy the requirements of Section 401(a) of the Code in the ordinary course of business consistent with past practice), or modify or amend any right of any holder of outstanding shares of its capital stock or any Option with respect thereto other than to give effect to Section 5.06.

(e) Acquisitions; Capital Expenditures. Except for (x) acquisitions of, or capital expenditures relating to, the entities, assets and facilities identified in Section 4.01(e) of the Progress Disclosure Letter, (y) expenditures of amounts set forth in Progress's capital expenditure plan included in Section 4.01(e) of the Progress Disclosure Letter, and (z) capital expenditures (1) required by law or Governmental Authorities or (2) incurred in connection with the repair or replacement of facilities destroyed or damaged due to casualty or accident (whether or not covered by insurance), Progress shall not, nor shall it permit any of its subsidiaries to, make any capital expenditures, or acquire or agree to acquire (whether by merger, consolidation, purchase or otherwise) any person or assets, if (A) in the case of any acquisition or acquisitions or series of related acquisitions of any person, asset or property located within the United States, the expected gross expenditures and commitments pursuant to all such acquisitions (including the amount of any indebtedness and amounts received for negative trading positions assumed) exceeds or may exceed, in the aggregate, $150,000,000, (B) any such acquisition is of persons, properties or assets located outside of the United States, (C) any such acquisition or capital expenditure constitutes any

line of business that is not conducted by Progress, its subsidiaries or the Progress Joint Ventures as of the date of this Agreement, or (D) any such acquisition or capital expenditure is reasonably likely, individually or in the aggregate, to materially delay the satisfaction of the conditions set forth in Section 6.02(d) or Section 6.03(d) or prevent the satisfaction of such conditions.

(f) Dispositions. Except for (x) dispositions set forth in Section 4.01(f) of the Progress Disclosure Letter, (y) dispositions of obsolete equipment or assets or dispositions of assets being replaced, in each case in the ordinary course of business consistent with past practice, and (z) dispositions by Progress or its subsidiaries of its assets in accordance with the terms of restructuring and divestiture plans mandated or approved by applicable local or state regulatory agencies, Progress shall not, nor shall it permit any of its subsidiaries to, sell, lease, grant any security interest in or otherwise dispose of or encumber any of its assets or properties if the aggregate value of all such dispositions exceeds or may exceed, in the aggregate, $150,000,000. For the purposes of this Section 4.01(f), the value of any disposition or series of related dispositions shall mean the greater of (i) the book value or (ii) the sales price, in each case of the person, asset or property which is the subject of such disposition and, in each case, together with the indebtedness and amounts paid for negative energy price risk management positions transferred by Progress or its subsidiaries in connection with such disposition.

(g) Indebtedness. Except as disclosed in Section 4.01(g) of the Progress Disclosure Letter, Progress shall not, nor shall it permit any of its subsidiaries to, (A) incur or guarantee any indebtedness or enter into any "keep well" or other agreement to maintain any financial condition of another person or enter into any arrangement having the economic effect of any of the foregoing (including any capital leases, "synthetic" leases or conditional sale or other title retention agreements) other than (i) short-term indebtedness incurred in the ordinary course of business, (ii) letters of credit obtained in the ordinary course of business, (iii) borrowings under Progress's or its subsidiaries' existing credit facilities (or replacement facilities permitted by this Section 4.01(g)) but only to the extent the commercial paper market is unavailable to Progress upon reasonable terms and conditions, as to which borrowings Progress agrees to notify Duke promptly following the consummation thereof, (iv) indebtedness incurred in connection with the refunding or refinancing of existing indebtedness (x) at maturity or upon final mandatory redemption (without the need for the occurrence of any special event) or (y) at a lower cost of funds, (v) indebtedness incurred to finance acquisitions permitted pursuant to Section 4.01(e) or indebtedness assumed pursuant thereto, (vi) other indebtedness in an aggregate principal amount not to exceed $250,000,000 outstanding at any time, (vii) guarantees or other credit support issued pursuant to energy price risk management or marketing positions established prior to the date of this Agreement, (viii) in addition to the guarantees or other credit support contemplated by subsection (A)(vii) of this Section 4.01(g), additional guarantees or other credit support issued in connection with energy price risk management or marketing activities in the ordinary course of business and (ix) indebtedness owed to any direct or indirect wholly-owned subsidiary of Progress, or, in the case of a subsidiary of Progress, to Progress or (B) make any loans or advances to any other person, other than (i) in the ordinary course of business consistent with past practice, (ii) to any direct or indirect wholly-owned subsidiary of Progress, or, in the case of a subsidiary of Progress, to Progress or (iii) as required pursuant to any obligation in effect as of the date of this Agreement.

(h) Marketing of Energy; Energy Price Risk Management. Progress shall not, nor shall it permit any of its subsidiaries to, (i) permit any material change in policies governing or

otherwise relating to energy price risk management or marketing of energy other than as a result of acquisitions or capital expenditures permitted pursuant to Section 4.01(e) or (ii) enter into any physical commodity transactions, exchange-traded futures and options transactions, over-the-counter transactions and derivatives thereof or similar transactions other than as permitted by the Progress Risk Management Guidelines.

(i) Employee Benefits. Except as required by law, or the terms of any collective bargaining agreement or any Progress Employee Benefit Plan, or as disclosed in Section 4.01(i) of the Progress Disclosure Letter or as otherwise expressly permitted by this Agreement, Progress shall not, nor shall it permit any of its subsidiaries to, enter into, adopt, amend or terminate any Progress Employee Benefit Plan, or other agreement, arrangement, plan or policy between Progress or one of its subsidiaries and one or more of its directors, officers or employees (other than any amendment that is immaterial or administrative in nature), or, except for normal increases in the ordinary course of business consistent with past practice, increase in any manner the compensation or fringe benefits of any director, executive officer or other employee, or, except for normal payments in the ordinary course of business consistent with past practice, and the award of annual bonuses on terms and conditions that are consistent with Section 5.07(g), pay any benefit not required by any plan or arrangement in effect as of the date of this Agreement; provided, however, that the foregoing shall not restrict Progress or its subsidiaries from (i) entering into or making available to newly hired officers and employees or to officers and employees in the context of promotions based on job performance or workplace requirements in the ordinary course of business consistent with past practice, plans, agreements, benefits and compensation arrangements (including incentive grants) that have, consistent with past practice, been made available to newly hired or promoted officers and employees, (ii) entering into severance agreements with, or adopting severance plans in the ordinary course of business consistent with past practice for, employees who are not executive officers in connection with terminations of employment of such employees, or (iii) entering into or amending collective bargaining agreements with existing collective bargaining representatives or newly certified bargaining units regarding mandatory subjects of bargaining under applicable law, in each case in a manner consistent with past practice to the extent permitted by law.

(j) [Intentionally Reserved.]

(k) Accounting. Progress shall not, nor shall it permit any of its subsidiaries to, make any changes in its accounting methods materially affecting the reported consolidated assets, liabilities or results of operations of Progress, except as required by law or GAAP.

(l) Insurance. Progress shall, and shall cause its subsidiaries to, maintain with financially responsible insurance companies (or through self-insurance, consistent with past practice) insurance in such amounts and against such risks and losses as are customary for companies engaged in their respective businesses, to the extent available on commercially reasonable terms.

(m) Taxes. Except as could not reasonably be expected to have a material adverse effect on Progress, Progress shall not, nor shall it permit any of its subsidiaries to, (i) settle any claim, action or proceeding relating to Taxes or (ii) make any Tax election (this clause (m) being the sole provision of this Section 4.01 governing Tax matters).

(n) Release of Claims. Except as disclosed in Section 4.01(n) of the Progress Disclosure Letter and except with respect to any settlements or agreements with or before any Governmental Authorities in the ordinary course of business, Progress shall not, and shall not permit any of its subsidiaries to, waive, release, assign, settle or compromise any claim, action or proceeding against Progress or any of its subsidiaries, other than waivers, releases, assignments, settlements or compromises that (x) with respect to the payment of monetary damages, involve only the payment of monetary damages (A) equal to or less than the amounts specifically reserved with respect thereto on the balance sheet as of December 31, 2009 included in the Progress SEC Documents or (B) that do not exceed $15,000,000 individually or $50,000,000 in the aggregate during any consecutive twelve-month period, and (y) with respect to any non-monetary terms and conditions therein, impose or require actions that would not reasonably be expected individually or in the aggregate to have a material adverse effect on Progress.

(o) Contracts. Except as permitted by Section 4.01(i), Progress shall not, nor shall it permit any of its subsidiaries to, (i) enter into any Contract that would materially restrict, after the Effective Time, Duke and its subsidiaries (including the Surviving Corporation and its subsidiaries) with respect to engaging or competing in any line of business or in any geographic area or (ii) other than in the ordinary course of business, waive, release, or assign any material rights or claims under, or materially modify or terminate any Contract that is material to Progress and its subsidiaries, taken as a whole, (A) in any manner that is materially adverse to Progress or (B) which would prevent or materially delay the consummation of the Merger and the other transactions contemplated by this Agreement, it being understood and agreed that the restriction on material modifications and terminations in clause (ii)(A) shall not apply with respect to any Contract permitted to be entered into under clause (e), (f), (g), (h) or (n) of this Section 4.01.

Section 4.02 Covenants of Duke. From and after the date of this Agreement until the Effective Time, Duke covenants and agrees as to itself and its subsidiaries that (except as expressly contemplated or permitted by this Agreement, as set forth in Section 4.02 of the Duke Disclosure Letter, for transactions (other than those set forth in Section 4.02(d) to the extent relating to the capital stock of Duke) solely involving Duke and one or more of its direct or indirect wholly-owned subsidiaries or between two or more direct or indirect wholly-owned subsidiaries of Duke, as required by law, or to the extent that Progress shall otherwise previously consent in writing, such consent not to be unreasonably withheld or delayed):

(a) Ordinary Course. Duke and each of its subsidiaries shall conduct their businesses in all material respects in the ordinary course of business consistent with past practice. Without limiting the generality of the foregoing, Duke and its subsidiaries shall use commercially reasonable efforts to preserve intact in all material respects their present business organizations, to maintain in effect all existing Permits and to timely submit renewal applications (as applicable), subject to prudent management of workforce and business needs, to keep available the services of their key officers and employees, to maintain their assets and properties in good working order and condition, ordinary wear and tear excepted, to preserve their relationships with Governmental Authorities, customers and suppliers and others having significant business dealings with them and to comply in all material respects with all laws, orders and Permits of all Governmental Authorities applicable to them.

(b) Charter Documents. Duke shall not amend or propose to amend its certificate of incorporation other than in connection with the Duke Charter Amendment or, other than in a manner that would not materially restrict the operation of its or their businesses, its by-laws or its subsidiaries' certificates of incorporation or by-laws (or other comparable organizational documents).

(c) Dividends. Duke shall not, nor shall it permit any of its subsidiaries to,

(i) declare, set aside or pay any dividends on or make other distributions in respect of any of its capital stock or share capital, except:

(A) that, subject to Section 4.06 of this Agreement, Duke may continue the declaration and payment of regular quarterly cash dividends on Duke Common Stock not to exceed $0.245 per share for each quarterly dividend, with usual record and payment dates for such dividends in accordance with past dividend practice; provided, that Duke may increase its regular quarterly cash dividend to an amount not to exceed $0.25 commencing with the regular quarterly dividend that would be payable in 2011 with respect to the second quarter of 2011 (corresponding to the dividend paid on September 16, 2010) and to an amount not to exceed $0.255 commencing with the regular quarterly dividend that would be payable in 2012 with respect to the second quarter of 2012 (it being Duke's intention prior to the Effective Time to declare and pay those dividends permitted by this Section 4.02(c)(i)(A) if and to the extent there are funds legally available therefor and such dividends may otherwise lawfully be declared and paid), and

(B) for the declaration and payment of dividends by a direct or indirect wholly-owned subsidiary of Duke solely to its parent, or by a direct or indirect partially owned subsidiary of Duke (provided, that Duke or a Duke subsidiary receives or is to receive its proportionate share of such dividend or distribution), and

(C) for the declaration and payment of dividends necessary to comply with Section 4.06,

(ii) split, combine, reclassify or take similar action with respect to any of its capital stock or share capital or issue or authorize or propose the issuance of any other securities in respect of, in lieu of or in substitution for shares of its capital stock or comprised in its share capital,

(iii) adopt a plan of complete or partial liquidation or resolutions providing for or authorizing such liquidation or a dissolution, merger, consolidation, restructuring, recapitalization or other reorganization,

(iv) except as disclosed in Section 4.02(c)(iv) of the Duke Disclosure Letter directly or indirectly redeem, repurchase or otherwise acquire any shares of its capital stock or any Option with respect thereto except:

(A) in connection with intercompany purchases of capital stock or share capital, or

(B) for the purpose of funding the Duke Employee Stock Option Plan or employee stock ownership or dividend reinvestment and stock purchase plans, or

(v) bind Duke to any restriction not in existence on the date hereof on the payment by Duke of dividends and distributions on Duke Common Stock.

(d) Share Issuances. Duke shall not, nor shall it permit any of its subsidiaries to, issue, deliver or sell, or authorize or propose the issuance, delivery or sale of, any shares of its capital stock or any Option with respect thereto (other than (i) the issuance of Duke Common Stock upon the exercise of Duke Employee Stock Options outstanding as of the date hereof or issued after the date hereof in accordance with the terms of this Agreement in accordance with their terms, (ii) the issuance of Duke Common Stock in respect of Duke Phantom Stock Units, Duke Performance Shares and other equity compensation awards, excluding Duke Employee Stock Options, granted under the Duke Employee Stock Option Plans ("Other Duke Equity Awards") outstanding as of the date hereof or issued after the date hereof in accordance with the terms of this Agreement in accordance with their terms, (iii) the issuance of Duke Employee Stock Options, Duke Performance Shares and the grant of Duke Phantom Stock Units and Other Duke Equity Awards in accordance with their terms providing, in aggregate, up to an additional 6,000,000 shares of Duke Common Stock in any 12-month period following the date hereof, in amounts, at times and on terms and conditions in the ordinary course of business consistent with past practice, with each Duke Employee Stock Option counting as 1/4 of a share of Duke Common Stock and Duke Performance Shares counted assuming the achievement of maximum performance level, in each case for the purposes of determining how many shares were granted during any such 12-month period; provided, however, that any Duke Employee Stock Options, Duke Phantom Stock Units, Duke Performance Shares and Other Duke Equity Awards granted after the date of this Agreement shall be granted on terms pursuant to which such Duke Employee Stock Options, Duke Phantom Stock Units, Duke Performance Shares and Other Duke Equity Awards shall not vest on the Effective Time or otherwise in connection with the occurrence of the transactions contemplated hereby and that, notwithstanding any plan, program or arrangement to the contrary, any definition of "good reason" or any similar concept of constructive termination relating to such awards shall be as defined in Section 4.02(d)(iii) of the Duke Disclosure Letter, (iv) the *pro rata* issuance by a subsidiary of its capital stock to its shareholders and (v) the issuance of shares of Duke Common Stock in connection with any employee benefit plan intended to satisfy the requirements of Section 401(a) of the Code in the ordinary course of business consistent with past practice), or modify or amend any right of any holder of outstanding shares of its capital stock or any Option with respect thereto other than to give effect to Section 5.06.

(e) Acquisitions; Capital Expenditures. Except for (x) acquisitions of, or capital expenditures relating to, the entities, assets and facilities identified in Section 4.02(e) of the Duke Disclosure Letter, (y) expenditures of amounts set forth in Duke's capital expenditure plan included in Section 4.02(e) of the Duke Disclosure Letter, and (z) capital expenditures (1) required by law or Governmental Authorities or (2) incurred in connection with the repair or replacement of facilities destroyed or damaged due to casualty or accident (whether or not covered by insurance), Duke shall not, nor shall it permit any of its subsidiaries to, make any capital expenditures, or acquire or agree to acquire (whether by merger, consolidation, purchase or otherwise) any person or assets, if (A) the expected gross expenditures and commitments pursuant thereto (including the amount of any indebtedness and amounts received for negative energy price risk management

positions assumed) exceeds or may exceed $300,000,000 (no more than $150,000,000 of which may be for any acquisition or series of related acquisitions of any person, asset or property located outside of the United States), (B) any such acquisition or capital expenditure constitutes any line of business that is not conducted by Duke, its subsidiaries or the Duke Joint Ventures as of the date of this Agreement or extends any line of business of Duke, its subsidiaries or the Duke Joint Ventures into any geographic region outside of the continental United States or Canada in which Duke, its subsidiaries or the Duke Joint Ventures do not conduct business as of the date of this Agreement, or (C) any such acquisition or capital expenditure is reasonably likely, individually or in the aggregate, to materially delay the satisfaction of the conditions set forth in Section 6.02(d) or Section 6.03(d) or prevent the satisfaction of such conditions.

(f) Dispositions. Except for (x) dispositions set forth in Section 4.02(f) of the Duke Disclosure Letter, (y) dispositions of obsolete equipment or assets or dispositions of assets being replaced, in each case in the ordinary course of business consistent with past practice, and (z) dispositions by Duke or its subsidiaries of its assets in accordance with the terms of restructuring and divestiture plans mandated or approved by applicable local or state regulatory agencies, Duke shall not, nor shall it permit any of its subsidiaries to, sell, lease, grant any security interest in or otherwise dispose of or encumber any of its assets or properties if (A) the aggregate value of all such dispositions exceeds or may exceed $300,000,000 (no more than $150,000,000 of which may be for any disposition or series of related dispositions of any person, asset or property located outside the United States). For the purposes of this Section 4.02(f), the value of any disposition or series of related dispositions shall mean the greater of (i) the book value or (ii) the sales price, in each case of the person, asset or property which is the subject of such disposition and, in each case, together with the indebtedness and amounts paid for negative energy price risk management positions transferred by Duke or its subsidiaries in connection with such disposition.

(g) Indebtedness. Except as disclosed in Section 4.02(g) of the Duke Disclosure Letter, Duke shall not, nor shall it permit any of its subsidiaries to, (A) incur or guarantee any indebtedness or enter into any "keep well" or other agreement to maintain any financial condition of another person or enter into any arrangement having the economic effect of any of the foregoing (including any capital leases, "synthetic" leases or conditional sale or other title retention agreements) other than (i) short-term indebtedness incurred in the ordinary course of business, (ii) letters of credit obtained in the ordinary course of business, (iii) borrowings under Duke's or its subsidiaries' existing credit facilities (or replacement facilities permitted by this Section 4.02(g)) but only to the extent the commercial paper market is unavailable to Duke upon reasonable terms and conditions, and as to which borrowings Duke agrees to notify Progress promptly following the consummation thereof, (iv) indebtedness incurred in connection with the refunding or refinancing of existing indebtedness (x) at maturity or upon final mandatory redemption (without the need for the occurrence of any special event) or (y) at a lower cost of funds, (v) indebtedness incurred to finance acquisitions permitted pursuant to Section 4.02(e) or indebtedness assumed pursuant thereto, (vi) other indebtedness in an aggregate principal amount not to exceed $500,000,000 outstanding at any time, (vii) guarantees or other credit support issued pursuant to energy price risk management or marketing positions established prior to the date of this Agreement, (viii) in addition to the guarantees or other credit support contemplated by subsection (A)(vii) of this Section 4.02(g), additional guarantees or other credit support issued in connection with energy price risk management or marketing activities in the ordinary course of business and (ix) indebtedness owed to any direct or indirect wholly-owned subsidiary of Duke, or, in the case of a

subsidiary of Duke, to Duke or (B) make any loans or advances to any other person, other than (i) in the ordinary course of business consistent with past practice, (ii) to any direct or indirect wholly-owned subsidiary of Duke, or, in the case of a subsidiary of Duke, to Duke or (iii) as required pursuant to any obligation in effect as of the date of this Agreement.

(h) Marketing of Energy; Energy Price Risk Management. Except as disclosed in Section 4.02(h) of the Duke Disclosure Letter, Duke shall not, nor shall it permit any of its subsidiaries to, (i) permit any material change in policies governing or otherwise relating to energy price risk management or marketing of energy other than as a result of acquisitions or capital expenditures permitted pursuant to Section 4.02(e) or (ii) enter into any physical commodity transactions, exchange-traded futures and options transactions, over-the-counter transactions and derivatives thereof or similar transactions other than as permitted by the Duke Risk Management Guidelines.

(i) Employee Benefits. Except as required by law, or the terms of any collective bargaining agreement or any Duke Employee Benefit Plan, or as disclosed in Section 4.02(i) of the Duke Disclosure Letter or as otherwise expressly permitted by this Agreement, Duke shall not, nor shall it permit any of its subsidiaries to, enter into, adopt, amend or terminate any Duke Employee Benefit Plan, or other agreement, arrangement, plan or policy between Duke or one of its subsidiaries and one or more of its directors, officers or employees (other than any amendment that is immaterial or administrative in nature), or, except for normal increases in the ordinary course of business consistent with past practice, increase in any manner the compensation or fringe benefits of any director, executive officer or other employee, or, except for normal payments in the ordinary course of business consistent with past practice, and the award of annual bonuses on the terms and conditions set forth in Section 4.02(i) of the Duke Disclosure Letter, pay any benefit not required by any plan or arrangement in effect as of the date of this Agreement; provided, however, that the foregoing shall not restrict Duke or its subsidiaries from (i) entering into or making available to newly hired officers and employees or to officers and employees in the context of promotions based on job performance or workplace requirements in the ordinary course of business consistent with past practice, plans, agreements, benefits and compensation arrangements (including incentive grants) that have, consistent with past practice, been made available to newly hired or promoted officers and employees, (ii) entering into severance agreements with, or adopting severance plans in the ordinary course of business consistent with past practice for, employees who are not executive officers in connection with terminations of employment of such employees, or (iii) entering into or amending collective bargaining agreements with existing collective bargaining representatives or newly certified bargaining units regarding mandatory subjects of bargaining under applicable law, in each case in a manner consistent with past practice to the extent permitted by law.

(j) [Intentionally Reserved.]

(k) Accounting. Duke shall not, nor shall it permit any of its subsidiaries to, make any changes in its accounting methods materially affecting the reported consolidated assets, liabilities or results of operations of Duke, except as required by law or GAAP.

(l) Insurance. Duke shall, and shall cause its subsidiaries to, maintain with financially responsible insurance companies (or through self-insurance, consistent with past practice) insurance in such amounts and against such risks and losses as are customary for companies engaged in their respective businesses to the extent available on commercially reasonable terms.

(m) Taxes. Except as could not reasonably be expected to have a material adverse effect on Duke, Duke shall not, nor shall it permit any of its subsidiaries to, (i) settle any claim, action or proceeding relating to Taxes or (ii) make any Tax election (this clause (m) being the sole provision of this Section 4.02 governing Tax matters).

(n) Release of Claims. Except as disclosed in Section 4.02(n) of the Duke Disclosure Letter and except with respect to any settlements or agreements with or before any Governmental Authorities in the ordinary course of business, Duke shall not, and shall not permit any of its subsidiaries to, waive, release, assign, settle or compromise any claim, action or proceeding against Duke or any of its subsidiaries, other than waivers, releases, assignments, settlements or compromises that (x) with respect to the payment of monetary damages, involve only the payment of monetary damages (A) equal to or less than the amounts specifically reserved with respect thereto on the balance sheet as of December 31, 2009 included in the Duke SEC Documents or (B) that do not exceed $30,000,000 individually or $100,000,000 in the aggregate during any consecutive twelve-month period, and (y) with respect to any non-monetary terms and conditions therein, impose or require actions that would not reasonably be expected individually or in the aggregate to have a material adverse effect on Duke.

(o) Contracts. Except as permitted by Section 4.02(i), Duke shall not, nor shall it permit any of its subsidiaries to, (i) enter into any Contract that would materially restrict, after the Effective Time, Duke and its subsidiaries (including the Surviving Corporation and its subsidiaries) with respect to engaging or competing in any line of business or in any geographic area or (ii) waive, release, or assign any material rights or claims under, or materially modify or terminate any Contract that is material to Duke and its subsidiaries, taken as a whole, (A) in any manner that is materially adverse to Duke or (B) which would prevent or materially delay the consummation of the Merger and the other transactions contemplated by this Agreement, it being understood and agreed that the restriction on material modifications and terminations in clause (ii)(A) shall not apply with respect to any Contract permitted to be entered into under clause (e), (f), (g), (h) or (n) of this Section 4.02.

Section 4.03 No Solicitation by Progress. (a) Except as expressly permitted by this Section 4.03, Progress shall not, nor shall it permit any of its subsidiaries to, nor shall it authorize or permit any of its directors, officers or employees to, and shall use its reasonable best efforts to cause any investment banker, financial advisor, attorney, accountant or other representative retained by it or any of its subsidiaries not to, directly or indirectly, (i) solicit, initiate or knowingly encourage (including by way of furnishing information), or take any other action designed to facilitate, any inquiries or the making of any proposal that constitutes a Progress Takeover Proposal or (ii) participate in any negotiations or substantive discussions regarding any Progress Takeover Proposal; provided, however, that if, at any time prior to receipt of the Progress Shareholder Approval (the "Progress Applicable Period"), the Board of Directors of Progress determines in good faith, after consultation with its legal and financial advisors, that a Progress Takeover Proposal that did not result from a breach (other than in immaterial respects) of this Section 4.03(a) is, or is reasonably likely to result in, a Progress Superior Proposal (as defined in Section 4.03(b)), and subject to providing prior written notice of its decision to take such action to

Duke and compliance with Section 4.03(c), Progress may (x) furnish information with respect to and provide access to the properties, books and records of Progress and its subsidiaries to the person making such proposal (and its representatives) pursuant to a customary confidentiality agreement containing terms no less favorable to Progress with respect to confidentiality than those set forth in the Confidentiality Agreement (the "Confidentiality Agreement") dated July 29, 2010, between Duke and Progress (provided, that such confidentiality agreement shall not in any way restrict Progress from complying with its disclosure obligations under this Agreement, including with respect to such proposal) and (y) participate in discussions or negotiations regarding such proposal. Progress, its subsidiaries and their representatives immediately shall cease and cause to be terminated any existing activities, discussions or negotiations with any parties with respect to any Progress Takeover Proposal. For purposes of this Agreement, "Progress Takeover Proposal" means any bona fide inquiry, proposal or offer from any person relating to (i) any direct or indirect acquisition or purchase of a business that constitutes 20% or more of the net revenues, net income or the assets (including equity securities) of Progress and its subsidiaries, taken as a whole (a "Progress Material Business"), (ii) any direct or indirect acquisition or purchase of 20% or more of any class of voting securities of Progress or any subsidiary of Progress owning, operating or controlling a Progress Material Business, (iii) any tender offer or exchange offer that if consummated would result in any person beneficially owning 20% or more of any class of voting securities of Progress, or (iv) any merger, consolidation, business combination, recapitalization, liquidation, dissolution or similar transaction involving Progress or any subsidiary of Progress owning, operating or controlling a Progress Material Business, in each case other than the transactions contemplated by this Agreement. Notwithstanding the foregoing and provided that Progress has otherwise complied with this Section 4.03(a), nothing in this Section 4.03(a) shall prohibit Progress or its directors, officers, employees, representatives or agents from contacting in writing any person who has made a Progress Takeover Proposal after the date of this Agreement solely to request the clarification of the terms and conditions thereof to the extent necessary to permit it to determine whether the Progress Takeover Proposal is, or is reasonably likely to result in, a Progress Superior Proposal.

(b) Except as contemplated by this Section 4.03, neither the Board of Directors of Progress nor any committee thereof shall (A) withdraw or modify, or propose publicly to withdraw or modify, in a manner adverse to Duke, the approval or recommendation to Progress's shareholders by such Board of Directors or such committee of this Agreement or the Merger, (B) approve or recommend, or propose publicly to approve or recommend, any Progress Takeover Proposal, or (C) cause Progress to enter into any letter of intent, agreement in principle, acquisition agreement or other similar agreement (each, a "Progress Acquisition Agreement") related to any Progress Takeover Proposal. Notwithstanding the foregoing:

(i) in response to a Progress Takeover Proposal that did not result from a breach (other than in immaterial respects) of Section 4.03(a), during the Progress Applicable Period, the Board of Directors of Progress may, if it determines in good faith, after consulting with outside counsel, that the failure to take such action would be reasonably likely to result in a breach of the Board of Directors' fiduciary obligations under applicable law, (A) withdraw or modify, or propose publicly to withdraw or modify, the approval or recommendation by such Board of Directors or any committee thereof of this Agreement or the Merger, (B) approve or recommend, or propose to approve or recommend, any Progress Superior Proposal, or (C) terminate this Agreement pursuant to Section 7.01(d), but only after (1) in the case of each of clauses (B) or (C),

such Board of Directors has determined in good faith that such Progress Takeover Proposal constitutes a Progress Superior Proposal, and (2) in the case of clause (C), (I) Progress has notified Duke in writing of the determination that such Progress Takeover Proposal constitutes a Progress Superior Proposal and (II) at least five business days following receipt by Duke of such notice, the Board of Directors of Progress has determined that such Progress Superior Proposal remains a Progress Superior Proposal; provided, however, that in the event that any such Progress Takeover Proposal is thereafter modified by the person making such Progress Takeover Proposal and the Board of Directors determines pursuant to clause (C) to terminate this Agreement pursuant to Section 7.01(d), Progress shall again comply with clauses (I) and (II) of this paragraph (b)(i) except that the five business-day period shall be reduced to two business days; and

(ii) in circumstances other than in response to a Progress Takeover Proposal as provided in Section 4.03(b)(i), during the Progress Applicable Period, the Board of Directors of Progress may, if it determines in good faith, after consulting with outside counsel, that the failure to take such action would be reasonably likely to result in a breach of the Board of Directors' fiduciary obligations under applicable law, withdraw or modify, or propose publicly to withdraw or modify, the approval or recommendation by such Board of Directors or any committee thereof of this Agreement or the Merger, but only after (1) Progress has notified Duke in writing that the Board of Directors of Progress is prepared to make the determination set forth in this clause (ii) setting forth the reasons therefor in reasonable detail, (2) for a period of five business days following Duke's receipt of the notice set forth in clause (1) of this sentence (or, if the period from the time of receipt by Duke of such notice to the Progress Shareholders Meeting shall be less than five business days, for such lesser period), Progress negotiates with Duke in good faith to make such adjustments to the terms and conditions of this Agreement, the Merger and the other transactions contemplated hereby as would enable the Progress Board of Directors to proceed with its recommendation of this Agreement and the Merger and (3) at the end of such five-business day period (or such lesser period, as the case may be, in accordance with this clause (ii)) the Board of Directors of Progress maintains its determination described in this clause (ii) (after taking into account Duke's proposed adjustments, if any, to the terms and conditions of this Agreement, the Merger and the other transactions contemplated hereby).

For purposes of this Agreement, "Progress Superior Proposal" means any written Progress Takeover Proposal that the Board of Directors of Progress determines in good faith (after consultation with a financial advisor of nationally recognized reputation) to be more favorable (taking into account (i) all financial and strategic considerations, including relevant legal, financial, regulatory and other aspects of such Progress Takeover Proposal and the Merger and the other transactions contemplated by this Agreement deemed relevant by the Board of Directors, (ii) the identity of the third party making such Progress Takeover Proposal, and (iii) the conditions and prospects for completion of such Progress Takeover Proposal) to Progress's shareholders than the Merger and the other transactions contemplated by this Agreement (taking into account all of the terms of any proposal by Duke to amend or modify the terms of the Merger and the other transactions contemplated by this Agreement), except that (x) the references to "20%" in clauses (i), (ii) and (iii) of the definition of "Progress Takeover Proposal" in Section 4.03(a) shall each be deemed to be a reference to "50%", (y) a "Progress Takeover Proposal" shall only be deemed to refer to a transaction involving Progress, and not any of its subsidiaries or Progress Material Businesses alone, and (z) the references to "or any subsidiary of Progress owning, operating or controlling a Progress Material Business" in clauses (ii) and (iv) shall be deemed to be deleted.

(c) In addition to the obligations of Progress set forth in paragraphs (a) and (b) of this Section 4.03, Progress shall as promptly as practicable advise Duke, orally and in writing, of any Progress Takeover Proposal or of any request for information relating to any Progress Takeover Proposal (and in any case within 48 hours of such request or the receipt of such Progress Takeover Proposal), the principal terms and conditions of such request or Progress Takeover Proposal and the identity of the person making such request or Progress Takeover Proposal. Progress shall keep Duke informed in all material respects of the status and details (including amendments or proposed amendments) of any such request or Progress Takeover Proposal. Contemporaneously with any termination by Progress of this Agreement pursuant to Section 7.01(b)(i), Progress shall provide Duke with a written verification that it has complied with its obligations pursuant to this Section 4.03(c) (other than noncompliance which is immaterial).

(d) Nothing contained in this Agreement shall prohibit Progress or its Board of Directors or any committee thereof from (i) taking and disclosing to its shareholders a position contemplated by Rule 14e-2(a) promulgated under the Exchange Act or from making any disclosure to Progress's shareholders if, in the good faith judgment of the Board of Directors of Progress, after consultation with outside counsel, failure so to disclose would be inconsistent with its or Progress's obligations under applicable law or (ii) taking actions permitted by Section 4.01(f).

Section 4.04 No Solicitation by Duke. (a) Except as expressly permitted by this Section 4.04, Duke shall not, nor shall it permit any of its subsidiaries to, nor shall it authorize or permit any of its directors, officers or employees to, and shall use its reasonable best efforts to cause any investment banker, financial advisor, attorney, accountant or other representative retained by it or any of its subsidiaries not to, directly or indirectly, (i) solicit, initiate or knowingly encourage (including by way of furnishing information), or take any other action designed to facilitate, any inquiries or the making of any proposal that constitutes a Duke Takeover Proposal or (ii) participate in any negotiations or substantive discussions regarding any Duke Takeover Proposal; provided, however, that if, at any time prior to receipt of the Duke Shareholder Approval (the "Duke Applicable Period"), the Board of Directors of Duke determines in good faith, after consultation with its legal and financial advisors, that a Duke Takeover Proposal that did not result from a breach (other than in immaterial respects) of this Section 4.04(a) is, or is reasonably likely to result in, a Duke Superior Proposal (as defined in Section 4.04(b)), and subject to providing prior written notice of its decision to take such action to Progress and compliance with Section 4.04(c), Duke may (x) furnish information with respect to and provide access to the properties, books and records of Duke and its subsidiaries to the person making such proposal (and its representatives) pursuant to a customary confidentiality agreement containing terms no less favorable to Duke with respect to confidentiality than those set forth in the Confidentiality Agreement (provided, that such confidentiality agreement shall not in any way restrict Duke from complying with its disclosure obligations under this Agreement, including with respect to such proposal) and (y) participate in discussions or negotiations regarding such proposal. Duke, its subsidiaries and their representatives immediately shall cease and cause to be terminated any existing activities, discussions or negotiations with any parties with respect to any Duke Takeover Proposal. For purposes of this Agreement, "Duke Takeover Proposal" means any bona fide inquiry, proposal or offer from any person relating to (i) any direct or indirect acquisition or purchase of a business that constitutes 20% or more of the net revenues, net income or the assets (including equity securities) of Duke and its subsidiaries, taken as a whole (a "Duke Material

Business"), (ii) any direct or indirect acquisition or purchase of 20% or more of any class of voting securities of Duke or any subsidiary of Duke owning, operating or controlling a Duke Material Business, (iii) any tender offer or exchange offer that if consummated would result in any person beneficially owning 20% or more of any class of voting securities of Duke, or (iv) any merger, consolidation, business combination, recapitalization, liquidation, dissolution or similar transaction involving Duke or any subsidiary of Duke owning, operating or controlling a Duke Material Business, in each case other than the transactions contemplated by this Agreement. Notwithstanding the foregoing and provided that Duke has otherwise complied with this Section 4.04(a), nothing in this Section 4.04(a) shall prohibit Duke or its directors, officers, employees, representatives or agents from contacting in writing any person who has made a Duke Takeover Proposal after the date of this Agreement solely to request the clarification of the terms and conditions thereof to the extent necessary to permit it to determine whether the Duke Takeover Proposal is, or is reasonably likely to result in, a Duke Superior Proposal.

(b) Except as contemplated by this Section 4.04, neither the Board of Directors of Duke nor any committee thereof shall (A) withdraw or modify, or propose publicly to withdraw or modify, in a manner adverse to Progress, the approval or recommendation to Duke's shareholders by such Board of Directors or such committee of the Duke Share Issuance or Duke Charter Amendment, (B) approve or recommend, or propose publicly to approve or recommend, any Duke Takeover Proposal, or (C) cause Duke to enter into any letter of intent, agreement in principle, acquisition agreement or other similar agreement (each, a "Duke Acquisition Agreement") related to any Duke Takeover Proposal. Notwithstanding the foregoing:

(i) in response to a Duke Takeover Proposal that did not result from a breach (other than in immaterial respects) of Section 4.04(a), during the Duke Applicable Period, the Board of Directors of Duke may, if it determines in good faith, after consulting with outside counsel, that the failure to take such action would be reasonably likely to result in a breach of the Board of Directors' fiduciary obligations under applicable law, (A) withdraw or modify, or propose publicly to withdraw or modify, the approval or recommendation by such Board of Directors or any committee thereof of the Duke Share Issuance or Duke Charter Amendment, (B) approve or recommend, or propose to approve or recommend, any Duke Superior Proposal, or (C) terminate this Agreement pursuant to Section 7.01(f), but only after (1) in the case of each of clauses (B) or (C), such Board of Directors has determined in good faith that such Duke Takeover Proposal constitutes a Duke Superior Proposal, and (2) in the case of clause (C), (I) Duke has notified Progress in writing of the determination that such Duke Takeover Proposal constitutes a Duke Superior Proposal and (II) at least five business days following receipt by Progress of such notice, the Board of Directors of Duke has determined that such Duke Superior Proposal remains a Duke Superior Proposal; provided, however, that in the event that any such Duke Takeover Proposal is thereafter modified by the person making such Duke Takeover Proposal and the Board of Directors determines pursuant to clause (C) to terminate this Agreement pursuant to Section 7.01(f), Duke shall again comply with clauses (I) and (II) of this paragraph (b)(i) except that the five business-day period shall be reduced to two business days; and

(ii) in circumstances other than in response to a Duke Takeover Proposal as provided in Section 4.04(b)(i), during the Duke Applicable Period, the Board of Directors of Duke may, if it determines in good faith, after consulting with outside counsel, that the failure to take such action would be reasonably likely to result in a breach of the Board of Directors' fiduciary

obligations under applicable law, withdraw or modify, or propose publicly to withdraw or modify, the approval or recommendation by such Board of Directors or any committee thereof of the Duke Share Issuance or Duke Charter Amendment, but only after (1) Duke has notified Progress in writing that the Board of Directors of Duke is prepared to make the determination set forth in this clause (ii) setting forth the reasons therefor in reasonable detail, (2) for a period of five business days following Progress's receipt of the notice set forth in clause (1) of this sentence (or, if the period from the time of receipt by Progress of such notice to the Duke Shareholders Meeting shall be less than five business days, for such lesser period), Duke negotiates with Progress in good faith to make such adjustments to the terms and conditions of this Agreement, the Merger and the other transactions contemplated hereby as would enable the Duke Board of Directors to proceed with its recommendation of the Duke Share Issuance and the Duke Charter Amendment and (3) at the end of such five-business day period (or such lesser period, as the case may be, in accordance with this clause (ii)) the Board of Directors of Duke maintains its determination described in this clause (ii) (after taking into account Progress's proposed adjustments, if any, to the terms and conditions of this Agreement, the Merger and the other transactions contemplated hereby).

For purposes of this Agreement, a "Duke Superior Proposal" means any written Duke Takeover Proposal that the Board of Directors of Duke determines in good faith (after consultation with a financial advisor of nationally recognized reputation) to be more favorable (taking into account (i) all financial and strategic considerations, including relevant legal, financial, regulatory and other aspects of such Duke Takeover Proposal and the Merger and the other transactions contemplated by this Agreement deemed relevant by the Board of Directors, (ii) the identity of the third party making such Duke Takeover Proposal, and (iii) the conditions and prospects for completion of such Duke Takeover Proposal) to Duke's shareholders than the Merger and the other transactions contemplated by this Agreement (taking into account all of the terms of any proposal by Progress to amend or modify the terms of the Merger and the other transactions contemplated by this Agreement), except that (x) the references to "20%" in clauses (i), (ii) and (iii) of the definition of "Duke Takeover Proposal" in Section 4.04(a) shall each be deemed to be a reference to "50%", (y) a "Duke Takeover Proposal" shall only be deemed to refer to a transaction involving Duke, and not any of its subsidiaries or Duke Material Businesses alone, and (z) the references to "or any subsidiary of Duke owning, operating or controlling a Duke Material Business" in clauses (ii) and (iv) shall be deemed to be deleted.

(c) In addition to the obligations of Duke set forth in paragraphs (a) and (b) of this Section 4.04, Duke shall as promptly as practicable advise Progress, orally and in writing, of any Duke Takeover Proposal or of any request for information relating to any Duke Takeover Proposal (and in any case within 48 hours of such request or the receipt of such Duke Takeover Proposal), the principal terms and conditions of such request or Duke Takeover Proposal and the identity of the person making such request or Duke Takeover Proposal. Duke shall keep Progress informed in all material respects of the status and details (including amendments or proposed amendments) of any such request or Duke Takeover Proposal. Contemporaneously with any termination by Duke of this Agreement pursuant to Section 7.01(b)(i), Duke shall provide Progress with a written verification that it has complied with its obligations pursuant to this Section 4.04(c) (other than noncompliance which is immaterial).

(d) Nothing contained in this Agreement shall prohibit Duke or its Board of Directors or any committee thereof from (i) taking and disclosing to its shareholders a position contemplated

by Rule 14e-2(a) promulgated under the Exchange Act or from making any disclosure to Duke's shareholders if, in the good faith judgment of the Board of Directors of Duke, after consultation with outside counsel, failure so to disclose would be inconsistent with its or Duke's obligations under applicable law or (ii) taking actions permitted by Section 4.02(f).

Section 4.05 Other Actions. Each of Progress and Duke shall use its reasonable best efforts not to, and shall use its reasonable best efforts not to permit any of its respective subsidiaries to, take any action that would, or that could reasonably be expected to, result in (i) any of the representations and warranties of such party set forth in this Agreement that is qualified as to materiality or material adverse effect becoming untrue, (ii) any of such representations and warranties that is not so qualified becoming untrue in any material respect, or (iii) any condition to the Merger set forth in Article VI not being satisfied.

Section 4.06 Coordination of Dividends. From the date of this Agreement until the Effective Time, Duke and Progress shall coordinate with each other regarding the declaration and payment of dividends in respect of the shares of Progress Common Stock and Duke Common Stock and the record dates and payment dates relating thereto, it being the intention of Progress and Duke that no holder of Progress Common Stock or Duke Common Stock shall receive two dividends, or fail to receive one dividend, for any single calendar quarter with respect to its shares of Progress Common Stock or Duke Common Stock (including Duke Common Stock issued in connection with the Merger), as the case may be. In furtherance of and without limiting the generality of the foregoing, if at the time that Progress would otherwise declare a regular quarterly cash dividend pursuant to Section 4.01(c)(i)(A) the parties expect the Closing Date to occur during the period of time from and after the record date for such Progress dividend and prior to the record date for the next subsequent regular quarterly cash dividend of Duke, the parties shall coordinate to reduce the amount of such Progress dividend to an amount reasonably calculated to effectuate the intent of the parties described in the first sentence of this Section 4.06. In the event (a) the Closing Date would, in the absence of this Section 4.06, occur after the record date for the last regular quarterly cash dividend of Progress prior to the Closing Date and prior to the record date for the next subsequent regular quarterly cash dividend of Duke and (b) such last recent Progress regular quarterly cash dividend occurring prior to the Closing shall not have been reduced as contemplated by the preceding sentence, Duke shall be permitted to (i) declare and pay a special dividend to Duke stockholders immediately prior to the Closing in an amount reasonably calculated to effectuate the intent of the parties described in the first sentence of this Section 4.06 or (ii) subject to the prior written consent of Progress (which consent shall not be unreasonably withheld), postpone the Closing to a date no later than one business day after the record date for the next succeeding regular quarterly cash dividend of Duke (in which event Progress shall be permitted to declare and pay a special dividend immediately prior to the Closing in an amount reasonably calculated to effectuate the intent of the parties described in the first sentence of this Section 4.06, and neither party shall be entitled to terminate this Agreement pursuant to Section 7.01(b)(i) during the period of such postponement).

ARTICLE V

ADDITIONAL AGREEMENTS

Section 5.01 Preparation of the Form S-4 and the Joint Proxy Statement; Shareholders Meetings. (a) As soon as practicable following the date of this Agreement, Progress and Duke shall prepare and file with the SEC the Joint Proxy Statement and Duke shall prepare and file with the SEC the Form S-4, in which the Joint Proxy Statement will be included. The Joint Proxy Statement and Form S-4 shall comply as to form in all material respects with the applicable provisions of the Securities Act and the Exchange Act and the rules and regulations thereunder. Duke shall use its reasonable best efforts, and Progress will reasonably cooperate with Duke in such efforts, to have the Form S-4 declared effective under the Securities Act as promptly as practicable after such filing and to keep the Form S-4 effective as long as necessary to consummate the Merger and other transactions contemplated hereby. Progress will use its reasonable best efforts to cause the Joint Proxy Statement to be mailed to Progress's shareholders, and Duke will use its reasonable best efforts to cause the Joint Proxy Statement to be mailed to Duke's shareholders, in each case as promptly as practicable after the Form S-4 is declared effective under the Securities Act. Duke shall also take any action required to be taken by it under any applicable state or provincial securities laws in connection with the issuance of Duke Common Stock in the Merger and each party shall furnish all information concerning itself and its shareholders as may be reasonably requested in connection with any such action. Each party will advise the others, promptly after it receives notice thereof, of the time when the Form S-4 has become effective or any supplement or amendment has been filed, the issuance of any stop order, the suspension of the qualification of the Duke Common Stock issuable in connection with the Merger for offering or sale in any jurisdiction, or any request by the SEC for amendment of the Joint Proxy Statement or the Form S-4 or comments thereon and responses thereto or requests by the SEC for additional information. If prior to the Effective Time any event occurs with respect to Progress, Duke or any subsidiary of Progress or Duke, respectively, or any change occurs with respect to information supplied by or on behalf of Progress or Duke, respectively, for inclusion in the Joint Proxy Statement or the Form S-4 that, in each case, is required to be described in an amendment of, or a supplement to, the Joint Proxy Statement or the Form S-4, Progress or Duke, as applicable, shall promptly notify the other of such event, and Progress or Duke, as applicable, shall cooperate with the other in the prompt filing with the SEC of any necessary amendment or supplement to the Joint Proxy Statement and the Form S-4 and, as required by law, in disseminating the information contained in such amendment or supplement to Progress's shareholders and to Duke's shareholders; provided that no amendment or supplement to the Joint Proxy Statement or the Form S-4 shall be filed by either party, and no material correspondence with the SEC shall be made by either party, without providing the other party a reasonable opportunity to review and comment thereon.

(b) Progress shall, as soon as reasonably practicable following the date of this Agreement, duly call, give notice of, convene and hold a meeting of its shareholders (the "Progress Shareholders Meeting") for the purpose of obtaining the Progress Shareholder Approval and any other matters required under applicable law to be considered at the Progress Shareholders Meeting. Without limiting the generality of the foregoing, Progress agrees that unless this Agreement is terminated pursuant to Section 7.01, its obligations pursuant to the first sentence of this Section 5.01(b) shall not be affected by (i) the commencement, public proposal, public disclosure or

communication to Progress of any Progress Takeover Proposal, (ii) the withdrawal or modification by the Board of Directors of Progress of its approval or recommendation to Progress's shareholders of this Agreement, the Merger or the other transactions contemplated hereby, or (iii) the approval or recommendation of any Progress Superior Proposal. Notwithstanding any of the events set forth in clauses (i), (ii) and (iii) of the immediately preceding sentence, in the event Progress fulfills its obligations pursuant to this Section 5.01(b) and the Progress Shareholder Approval is not obtained at the Progress Shareholders Meeting, Duke shall not thereafter have the right to terminate this Agreement pursuant to Sections 7.01(h)(i) as a result of the Board of Directors of Progress (or any committee thereof) having, pursuant to Section 4.03(b)(ii), withdrawn or modified, or proposed publicly to withdraw or modify, the approval or recommendation by such Board of Directors of this Agreement or the Merger; provided Duke shall retain all other rights to terminate this Agreement set forth in Section 7.01.

(c) Duke shall, as soon as reasonably practicable following the date of this Agreement, duly call, give notice of, convene and hold a meeting of its shareholders (the "Duke Shareholders Meeting") for the purpose of obtaining the Duke Shareholder Approval and any other matters required under applicable law to be considered at the Duke Shareholders Meeting. Without limiting the generality of the foregoing, Duke agrees that unless this Agreement is terminated pursuant to Section 7.01, its obligations pursuant to the first sentence of this Section 5.01(c) shall not be affected by (i) the commencement, public proposal, public disclosure or communication to Duke of any Duke Takeover Proposal, (ii) the withdrawal or modification by the Board of Directors of Duke of its approval or recommendation to Duke's shareholders of the Duke Share Issuance and the Duke Charter Amendment, or (iii) the approval or recommendation of any Duke Superior Proposal. Notwithstanding any of the events set forth in clauses (i), (ii) and (iii) of the immediately preceding sentence, in the event Duke fulfills its obligations pursuant to this Section 5.01(c) and the Duke Shareholder Approval is not obtained at the Duke Shareholders Meeting, Progress shall not thereafter have the right to terminate this Agreement pursuant to Section 7.01(g)(i) as a result of the Board of Directors of Duke (or any committee thereof) having, pursuant to Section 4.04(b)(ii), withdrawn or modified, or proposed publicly to withdraw or modify, the approval or recommendation by such Board of Directors of this Agreement or the Duke Merger; provided Progress shall retain all other rights to terminate this Agreement set forth in Section 7.01.

Subject to receipt of the Duke Shareholder Approval, on or before the Closing Date and prior to the Effective Time, Duke shall file with the Secretary of State of the State of Delaware a Certificate of Amendment to the Amended and Restated Certificate of Incorporation of Duke providing for, after prior consultation with Progress, a 1-for-2 or 1-for-3 reverse stock split with respect to the Duke Common Stock (the "Duke Charter Amendment"), such Certificate of Amendment to become effective on the Closing Date prior to the filing of the Articles of Merger with the Secretary of State of the State of North Carolina.

(d) Progress and Duke will use their reasonable best efforts to hold the Duke Shareholders Meeting and the Progress Shareholders Meeting on the same date and as soon as practicable after the date of this Agreement.

Section 5.02 Letters of Duke's Accountants. Duke shall use its reasonable best efforts to cause to be delivered to Progress two letters from Duke's independent accountants, one dated a

date within two business days before the date on which the Form S-4 shall become effective and one dated a date within two business days before the Closing Date, each addressed to Progress, in form and substance reasonably satisfactory to Progress and customary in scope and substance for comfort letters delivered by independent public accountants in connection with registration statements similar to the Form S-4.

Section 5.03 Letters of Progress's Accountants. Progress shall use its reasonable best efforts to cause to be delivered to Duke two letters from Progress's independent accountants, one dated a date within two business days before the date on which the Form S-4 shall become effective and one dated a date within two business days before the Closing Date, each addressed to Duke, in form and substance reasonably satisfactory to Duke and customary in scope and substance for comfort letters delivered by independent public accountants in connection with registration statements similar to the Form S-4.

Section 5.04 Access to Information; Effect of Review.

(a) Access. Subject to the Confidentiality Agreement, to the extent permitted by applicable law, each of Progress and Duke shall, and shall cause each of its respective subsidiaries to, and, so long as consistent with its confidentiality obligations under its applicable agreements, shall use its respective reasonable best efforts to cause the Progress Joint Ventures and Duke Joint Ventures, respectively, to, afford to the other party and to the officers, employees, accountants, counsel, financial advisors and other representatives of such other party reasonable access during normal business hours during the period prior to the Effective Time to all their respective properties, books, contracts, commitments, personnel and records and, during such period, to the extent permitted by applicable law, each of Progress and Duke shall, and shall cause each of its respective subsidiaries to, and, so long as consistent with its confidentiality and other contractual obligations under its applicable agreements, shall use its respective reasonable best efforts to cause the Progress Joint Ventures and Duke Joint Ventures, respectively, to, (i) confer on a regular and frequent basis with one or more representatives of the other party to discuss material operational and regulatory matters and the general status of its ongoing operations, (ii) advise the other party of any change or event that has had or could reasonably be expected to have a material adverse effect on such party, and (iii) furnish promptly all other information concerning its business, properties and personnel, in each case as such other party may reasonably request; provided, however, that no actions shall be taken pursuant to this Section 5.04(a) that would create a risk of loss or waiver of the attorney/client privilege, provided, further, that the parties shall use their respective commercially reasonable efforts to allow for access and disclosure of information in a manner reasonably acceptable to the parties that does not result in the loss or waiver of the attorney-client privilege (which efforts shall include entering into mutually acceptable joint defense agreements between the parties if doing so would reasonably permit the disclosure of information without violating applicable law or jeopardizing such attorney-client privilege). Notwithstanding the foregoing, if a party requests access to proprietary information of the other party, the disclosure of which would have a material adverse effect on the other party if the Closing were not to occur (giving effect to the requesting party's obligations under the Confidentiality Agreement), such information shall only be disclosed to the extent reasonably agreed upon by the chief financial officers (or their designees) of Progress and Duke. All information exchanged pursuant to this Section 5.04(a) shall be subject to the Confidentiality Agreement.

(b) Effect of Review. No review pursuant to this Section 5.04 shall have any effect for the purpose of determining the accuracy of any representation or warranty given by any of the parties hereto to any of the other parties hereto.

Section 5.05 Regulatory Matters; Reasonable Best Efforts

(a) Regulatory Approvals. Each party hereto shall cooperate and promptly prepare and file all necessary documentation, to effect all necessary applications, notices, petitions and filings, and shall use reasonable best efforts to take or cause to be taken all actions, and do or cause to be done all things in order to obtain all approvals and authorizations of all Governmental Authorities, necessary or advisable to consummate and make effective, in the most expeditious manner reasonably practicable, the Merger and the other transactions contemplated by this Agreement, including the Progress Required Statutory Approvals and the Duke Required Statutory Approvals; provided, however, that Progress shall have primary responsibility for the preparation and filing of any related applications, filings or other materials with the FPSC and the NCUC and PSCSC, provided, further, that Duke shall have primary responsibility for the preparation and filing of any related applications, filings or other materials with the PUCO, the IURC and the KPSC. Progress shall have the right to review and approve in advance all characterizations of the information relating to Progress, on the one hand, and Duke shall have the right to review and approve in advance all characterizations of the information relating to Duke, on the other hand, in either case, that appear in any application, notice, petition or filing made in connection with the Merger or the other transactions contemplated by this Agreement. Progress and Duke agree that they will consult and cooperate with each other with respect to the obtaining of all such necessary approvals and authorizations of Governmental Authorities.

(b) Reasonable Best Efforts. Subject to the terms and conditions set forth in this Agreement, each of the parties hereto shall use its reasonable best efforts (subject to, and in accordance with, applicable law) to take, or cause to be taken, promptly all actions, and to do, or cause to be done, promptly and to assist and cooperate with the other parties in doing, all things necessary, proper or advisable to consummate and make effective the Merger and the other transactions contemplated by this Agreement, including (i) the obtaining of all necessary Consents or waivers from third parties and Governmental Authorities, (ii) the defending of any lawsuits or other legal proceedings, whether judicial or administrative, challenging this Agreement or the consummation of the transactions contemplated by this Agreement, and (iii) the execution and delivery of any additional instruments necessary to consummate the transactions contemplated by this Agreement. For purposes of this Agreement, "reasonable best efforts" shall not include nor require either party or its subsidiaries to (A) sell, or agree to sell, hold or agree to hold separate, or otherwise dispose or agree to dispose of any asset, in each case if such sale, separation or disposition or agreement with respect thereto would, individually or in the aggregate, reasonably be expected to have a material adverse effect on the expected benefits of the transactions contemplated by this Agreement to such party, or (B) conduct or agree to conduct its business in any particular manner if such conduct or agreement with respect thereto would, individually or in the aggregate, reasonably be expected to have a material adverse effect on the expected benefits of the transactions contemplated by this Agreement to such party, or (C) agree to any order, action or regulatory condition of any regulatory body, whether in an approval proceeding or another regulatory proceeding, that, if effected, would cause a material reduction in the expected benefits for such party's shareholders (for example, the parties expect their customers to participate in the

benefits of the transactions contemplated by this Agreement in amounts up to but not exceeding (x) the benefits of joint system dispatch and fuel savings as they materialize in future fuel clause proceedings and (y) rates that are lower than they otherwise would have been as net merger savings materialize in future rate proceedings initiated in the ordinary course of business) (any of the foregoing effects, a "Burdensome Effect").

(c) State Anti-Takeover Statutes. Without limiting the generality of Section 5.05(b), Progress and Duke shall (i) take all action necessary to ensure that no state anti-takeover statute or similar statute or regulation is or becomes applicable to the Merger, this Agreement or any of the other transactions contemplated by this Agreement and (ii) if any state anti-takeover statute or similar statute or regulation becomes applicable to the Merger, this Agreement or any other transaction contemplated by this Agreement, take all action necessary to ensure that the Merger and the other transactions contemplated by this Agreement may be consummated as promptly as reasonably practicable on the terms contemplated by this Agreement and otherwise to minimize the effect of such statute or regulation on the Merger and the other transactions contemplated by this Agreement.

Section 5.06 Stock Options; Restricted Stock and Equity Awards; Stock Plans. (a) At the Effective Time, each Progress Employee Stock Option, whether vested or unvested, shall be converted into an option to acquire, on the same terms and conditions as were applicable under such Progress Employee Stock Option, including vesting, a number of shares of Duke Common Stock equal to the number of shares of Progress Common Stock subject to such Progress Employee Stock Option immediately before the Effective Time multiplied by the Exchange Ratio (rounded down to the nearest whole share) at a price per share of Duke Common Stock equal to the price per share under such Progress Employee Stock Option divided by the Exchange Ratio (rounded up to the nearest cent) (each, as so adjusted, a "Progress Adjusted Option");

(i) at the Effective Time, each award of restricted shares of Progress Common Stock ("Progress Restricted Stock") shall be converted into an award of a number of restricted shares of Duke Common Stock equal to the number of restricted shares of Progress Common Stock multiplied by the Exchange Ratio, on the same terms and conditions as were applicable to such award of restricted shares of Progress Common Stock, including vesting ("Progress Adjusted Restricted Stock");

(ii) at the Effective Time, each Progress Restricted Stock Unit shall be converted into an award of a number of restricted stock units of Duke Common Stock equal to the number of restricted stock units of Progress Common Stock multiplied by the Exchange Ratio, on the same terms and conditions as were applicable to such award of restricted stock units of Progress Common Stock, including vesting ("Progress Adjusted Restricted Stock Units");

(iii) at the Effective Time, each Progress Performance Share shall be assumed and converted into an award of a number of performance shares of Duke Common Stock equal to the number of performance shares of Progress Common Stock multiplied by the Exchange Ratio, on the same terms and conditions as were applicable to such award of performance shares of Progress Common Stock, including vesting, and the performance measurement period for such performance shares shall remain open (such that no payments shall be made under the terms of such performance shares solely as a result of or in connection with the Merger) and the

Compensation Committee of the Board of Directors of Duke shall adjust the performance measures of such performance shares as soon as practicable after the Effective Time as it determines is appropriate and equitable to reflect the performance of Progress during the performance measurement period prior to the Effective Time, the transactions contemplated by this Agreement and the performance measures under awards made to similarly situated Duke employees for the same or comparable performance cycle (the "Progress Adjusted Performance Shares");

(iv) all outstanding Other Progress Equity Awards, whether vested or unvested, as of immediately prior to the Effective Time shall be converted into an equity or equity-based award in respect of a number of shares of Duke Common Stock equal to the number of shares of Progress Common Stock represented by such award multiplied by the Exchange Ratio, on the same terms and conditions as were applicable to such Progress equity or equity-based award, including vesting ("Other Progress Adjusted Equity Awards"); and

(v) prior to the Effective Time, the Board of Directors of Progress (or, if appropriate, any committee administering the Progress Employee Stock Option Plans) shall adopt such resolutions or take such other actions as may be required to effect the foregoing and to ensure that the conversion pursuant to Section 2.01(b) of the Progress Common Stock held by any director or officer of Progress and the conversion pursuant to this Section 5.06(a) into Progress Adjusted Options of Progress Employee Stock Options, Progress Adjusted Restricted Stock of Progress Restricted Stock, Progress Adjusted Restricted Stock Units of Progress Restricted Stock Units, Progress Adjusted Performance Shares of Progress Performance Shares and Other Progress Adjusted Equity Awards of Other Progress Equity Awards held by any director or officer of Progress will be eligible for exemption under Rule 16b-3(e) under the Exchange Act.

(b) Prior to the Effective Time, the Board of Directors of Duke shall adopt such resolutions or take such other actions as may be required to ensure to the maximum extent permitted by law that the conversion pursuant to Section 2.01(a) of the Progress Common Stock held by any director or officer of Progress and the conversion pursuant to Section 5.06(a) will be eligible for exemption under Rule 16b-3(e) under the Exchange Act. Prior to the Effective Time, Progress shall deliver to the holders of Progress Adjusted Options, Progress Adjusted Restricted Stock, Progress Adjusted Restricted Stock Units, Progress Adjusted Performance Shares and Other Progress Adjusted Equity Awards appropriate notices setting forth such holders' rights pursuant to the respective plans and this Agreement (collectively, the "Stock Plans").

(c) At the Effective Time, by virtue of the Merger, the Stock Plans shall be assumed by Duke, with the result that all obligations of Progress under the Stock Plans, including with respect to awards outstanding at the Effective Time under each Stock Plan, shall be obligations of Duke following the Effective Time. Prior to the Effective Time, Duke shall take all necessary actions for the assumption of the Stock Plans, including the reservation, issuance and listing of Duke Common Stock in a number at least equal to the number of shares of Duke Common Stock that will be subject to Progress Adjusted Options, Progress Adjusted Restricted Stock Units, Progress Adjusted Performance Shares and Other Progress Adjusted Equity Awards. As promptly as practicable following the Effective Time, Duke or its subsidiaries shall prepare and file with the SEC a registration statement on Form S-8 (or another appropriate form) registering a number of shares of Duke Common Stock determined in accordance with the preceding sentence. Such

registration statement shall be kept effective (and the current status of the prospectus or prospectuses required thereby shall be maintained) at least for so long as Progress Adjusted Options, Progress Adjusted Restricted Stock Units, Progress Adjusted Performance Shares and Other Progress Adjusted Equity Awards remain outstanding.

Section 5.07 Employee Matters (a) From and after the Effective Time, the Duke Employee Benefit Plans and the Progress Employee Benefit Plans in effect as of the date of this Agreement and at the Effective Time shall remain in effect with respect to employees and former employees of Duke or Progress and their subsidiaries (the "Newco Employees"), respectively, covered by such Plans at the Effective Time, until such time as Duke and Progress together shall otherwise determine, subject to applicable laws and the terms of such plans. Prior to the Effective Time, Duke and Progress shall cooperate in reviewing, evaluating and analyzing Duke Employee Benefit Plans and Progress Employee Benefit Plans with a view towards maintaining appropriate Plans for Newco Employees.

(b) With respect to any Plans in which any Newco Employees who are employees of Duke or Progress (or their subsidiaries) prior to the Effective Time first become eligible to participate on or after the Effective Time, and in which such Newco Employees did not participate prior to the Effective Time (the "New Plans"), Duke shall, or shall cause its subsidiaries to, use reasonable best efforts, subject to applicable law, to: (i) waive all pre-existing conditions, exclusions and waiting periods with respect to participation and coverage requirements applicable to the Newco Employees and their eligible dependents under any New Plans in which such employees may be eligible to participate after the Effective Time, except to the extent such pre-existing conditions, exclusions or waiting periods would apply under the analogous Duke Employee Benefit Plan or Progress Employee Benefit Plan, as the case may be; (ii) provide each Newco Employee and their eligible dependents with credit for any co-payments and deductibles paid prior to the Effective Time under a Duke Employee Benefit Plan or Progress Employee Benefit Plan (to the same extent that such credit was given under the analogous Duke Employee Benefit Plan or Progress Employee Benefit Plan, as applicable, prior to the Effective Time) in satisfying any applicable deductible or out-of-pocket requirements under any New Plans in which such employees may be eligible to participate after the Effective Time; and (iii) recognize all service of the Newco Employees with Progress and Duke, and their respective affiliates, for all purposes (including, for purposes of eligibility to participate, vesting credit, entitlement to benefits, and, except with respect to defined benefit pension plans, benefit accrual) in any New Plan in which such employees may be eligible to participate after the Effective Time, including any severance plan, to the extent such service is taken into account under the applicable New Plan; provided that the foregoing shall not apply to the extent it would result in duplication of benefits.

(c) Prior to the Effective Time, Duke and Progress shall cooperate to establish common retention, relocation and severance policies or plans that apply to Newco Employees on and after the Effective Time; provided, however, that for the period beginning on the Closing Date and ending on the second anniversary of the Closing Date (the "Continuation Period"), each Newco Employee who was an employee of Progress immediately prior to the Effective Time whose employment is terminated during the Continuation Period shall be eligible to receive severance benefits in amounts and on terms and conditions no less favorable than those provided to employees of Progress pursuant to plans or policies in effect immediately prior to the Effective Time, including, without limitation, the Progress CIC Plan (as defined in Section 5.07(d)).

(d) Duke acknowledges and agrees that (i) it will assume, as of the Effective Time, all obligations under the Progress Energy, Inc. Management Change-in-Control Plan, as amended and restated effective January 1, 2008 but after giving effect to the amendment of the definition of "Good Reason" set forth in Section 4.01(d)(iii) of the Progress Disclosure Letter (the "Progress CIC Plan") and (ii) a termination of employment from Duke and its affiliates shall be the same as a termination of employment from Progress and its affiliates for all purposes under the Progress CIC Plan.

(e) Prior to the Effective Time, Progress shall (i) amend the definition of Committee set forth in Section 2.9 of the Progress CIC Plan by deleting the last sentence of such definition in its entirety and (ii) either amend the Progress CIC Plan or prescribe terms in the applicable award agreement to provide that, except as set forth in Section 4.01(d)(iii) of the Progress Disclosure Letter, for all equity awards granted under the Progress Employee Stock Option Plans to participants in the Progress CIC Plan after the date hereof, the definition of "good reason" or similar concept of constructive termination relating to such awards shall be as defined in Section 4.01(d)(iii) of the Progress Disclosure Letter. Progress also acknowledges and agrees that (A) neither Progress nor any of its subsidiaries will take any actions to fund any grantor trust or similar vehicle that it currently maintains, or may maintain at any time following the date hereof, in connection with the transactions contemplated by this Agreement and (B) prior to the Effective Time, Progress will take all actions necessary to amend (x) any grantor trust maintained by Progress to eliminate any requirement to fund any such grantor trust in connection with the transactions contemplated by this Agreement and (y) any Progress Employee Benefit Plan requiring the establishment or funding of a grantor trust to eliminate such requirement.

(f) Duke acknowledges and agrees that it shall assume, as of the Effective Time, all obligations under the Amended and Restated Supplemental Senior Executive Retirement Plan of Progress Energy, Inc. (the "SERP"); provided that nothing herein shall prohibit Progress or its affiliates or their respective successors and assigns from modifying, amending or terminating the provisions of the SERP in any manner in accordance with its terms and applicable law; provided, further that no modification, amendment or termination shall adversely affect a participant's accrued benefit or the right to payment thereof under the provisions of the SERP as in effect immediately prior to such amendment, modification or termination. Without limiting the generality of the foregoing, following the Effective Time, in the event that the SERP is amended in a manner that would otherwise reduce a participant's right to accrue future benefits under the SERP, Duke shall provide such participant with the opportunity to earn additional benefits under the SERP (or another compensation or benefit arrangement) equal to no less than the incremental amount that the participant would have earned under the SERP (i.e., due to the accrual of additional years of Service (as defined in the SERP)) in the absence of such amendment, except that such incremental amount shall be calculated after treating the participant's Final Average Salary (as defined in the SERP) as if it was solely based on compensation earned by the participant prior to the Effective Time, as increased after the Effective Time by cost of living adjustments. Progress shall amend the SERP as soon as practicable after the date hereof to provide that no individual may become a participant in the SERP following the date of this Agreement.

(g) At the Effective Time, outstanding awards under the Progress Management Incentive Compensation Plan shall be assumed and the performance period for each such award shall remain open (such that no payments shall be made under the terms of the Progress

Management Incentive Compensation Plan solely as a result of or in connection with the Merger) at a level and providing an annual incentive compensation opportunity that is not less than the level and annual incentive compensation opportunity under the existing Progress Management Incentive Compensation Plan and the applicable performance criteria and vesting requirements for each such award shall be adjusted by the Compensation Committee of the Board of Directors of Duke as it determines is appropriate and equitable to reflect the performance of Progress during the performance period prior to the Effective Time, the transactions contemplated by this Agreement and the performance measures under awards made to similarly situated Duke employees as soon as practicable following the Effective Time.

(h) Without limiting the generality of Section 8.06, the provisions of this Section 5.07 are solely for the benefit of the parties to this Agreement, and no current or former director, officer, employee or independent contractor or any other person shall be a third-party beneficiary of this Agreement, and nothing herein shall be construed as an amendment to any Progress Employee Benefit Plan, Duke Employee Benefit Plan or other compensation or benefit plan or arrangement for any purpose.

Section 5.08 Indemnification, Exculpation and Insurance. (a) Each of Duke, Merger Sub and Progress agrees that, to the fullest extent permitted under applicable law, all rights to indemnification, advancement and exculpation from liabilities for acts or omissions occurring at or prior to the Effective Time now existing in favor of the current or former directors, officers and employees and the fiduciaries currently indemnified under benefit plans of Progress and its subsidiaries, as provided in their respective certificate or articles of incorporation, by-laws (or comparable organizational documents) or other agreements providing indemnification, advancement or exculpation shall survive the Merger and shall continue in full force and effect in accordance with their terms, and no such provision in any certificate or articles of incorporation, by-laws (or comparable organizational document) or other agreement shall be amended, modified or repealed in any manner that would adversely affect the rights or protections thereunder to any such individual with respect to acts or omissions occurring at or prior to the Effective Time. In addition, from and after the Effective Time, all directors, officers and employees and all fiduciaries currently indemnified under benefit plans of Progress or its subsidiaries who become directors, officers, employees or fiduciaries under benefit plans of Duke will be entitled to the indemnity, advancement and exculpation rights and protections afforded to directors, officers and employees or fiduciaries under benefit plans of Duke. From and after the Effective Time, Duke shall cause the Surviving Corporation and its subsidiaries to honor and perform, in accordance with their respective terms, each of the covenants contained in this Section 5.08 without limit as to time.

(b) For six years after the Effective Time, Duke shall maintain in effect the directors' and officers' liability (and fiduciary) insurance policies currently maintained by Progress covering acts or omissions occurring on or prior to the Effective Time with respect to those persons who are currently covered by Progress's respective directors' and officers' liability (and fiduciary) insurance policies on terms with respect to such coverage and in amounts no less favorable than those set forth in the relevant policy in effect on the date of this Agreement; provided that the annual cost thereof shall not exceed 300% of the annual cost of such policies as of the date hereof. If such no less favorable insurance coverage cannot be maintained for such cost, Duke shall maintain the most advantageous policies of directors' and officers' insurance otherwise obtainable for such cost. Prior to the Effective Time, Progress may purchase a six-year "tail" prepaid policy

on terms and conditions no less advantageous to the Progress Indemnified Parties, or any other person entitled to the benefit of Sections 5.08(a) and (b), as applicable, than the existing directors' and officers' liability (and fiduciary) insurance maintained by Progress, covering without limitation the transactions contemplated hereby; provided that the aggregate cost thereof shall not exceed 600% of the annual cost of the directors' and officers' liability (and fiduciary) insurance maintained by Progress as of the date hereof. If such "tail" prepaid policy has been obtained by Progress prior to the Effective Time, it shall satisfy the obligations set forth in the first two sentences of this paragraph (b) and Duke shall, after the Effective Time, maintain such policy in full force and effect, for its full term, and continue to honor its obligations thereunder.

(c) From and after the Effective Time, Duke will cause the Surviving Corporation to indemnify and hold harmless each present director and officer of Progress or any of its subsidiaries (in each case, for acts or failures to act in such capacity), determined as of the date hereof, and any person who becomes such a director or officer between the date hereof and the Effective Time (collectively, the "Progress Indemnified Parties"), against any costs or expenses (including reasonable attorneys' fees, costs and expenses), judgments, fines, losses, claims, damages or liabilities incurred in connection with any claim, action, suit, proceeding or investigation, whether civil, criminal, administrative or investigative, arising out of matters existing or occurring at or prior to the Effective Time, whether asserted or claimed prior to, at or after the Effective Time (including any matters arising in connection with the transactions contemplated by this Agreement), to the fullest extent permitted by applicable law (and Duke will cause the Surviving Corporation to also advance expenses (including reasonable attorneys' fees, costs and expenses) as incurred to the fullest extent permitted under applicable law; provided that if required by applicable law the person to whom expenses are advanced provides an undertaking to repay such advances if it is ultimately determined that such person is not entitled to indemnification); and provided, further, that any determination as to whether a Progress Indemnified Party is entitled to indemnification or advancement of expenses hereunder pursuant to applicable law shall be made by independent counsel jointly selected by the Surviving Corporation and such Progress Indemnified Party.

(d) The obligations of Duke and the Surviving Corporation under this Section 5.08 shall not be terminated or modified by such parties in a manner so as to adversely affect any Progress Indemnified Party, or any other person entitled to the benefit of Sections 5.08(a) and (b), as the case may be, to whom this Section 5.08 applies without the consent of the affected Progress Indemnified Party, or such other person, as the case may be. If Duke, the Surviving Corporation or any of their respective successors or assigns (i) shall consolidate with or merge into any other corporation or entity and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (ii) shall transfer all or substantially all of its properties and assets to any individual, corporation or other entity, then, and in each such case, proper provisions shall be made so that the successors and assigns of Duke or the Surviving Corporation, as the case may be, shall assume all of the obligations of Duke, or the Surviving Corporation, as the case may be, set forth in this Section 5.08.

(e) The provisions of Section 5.08 are (i) intended to be for the benefit of, and will be enforceable by, each indemnified party, his or her heirs and his or her representatives and (ii) in addition to, and not in substitution for, any other rights to indemnification, advancement, exculpation or contribution that any such person may have by contract or otherwise.

Section 5.09 Fees and Expenses. (a) Except as provided in this Section 5.09, all fees and expenses incurred in connection with the Merger, this Agreement and the transactions contemplated by this Agreement shall be paid by the party incurring such fees or expenses, whether or not the Merger is consummated, except that each of Progress and Duke shall each bear and pay one-half of the costs and expenses incurred in connection with (1) the filing, printing and mailing of the Form S-4 and the Joint Proxy Statement (including SEC filing fees), (2) the filings of the premerger notification and report forms under the HSR Act (including filing fees) and (3) the preparation and filing of all applications, filings or other materials with the FPSC, PUCO, the NCUC, the IURC, the KPSC and the PSCSC. The Surviving Corporation shall file any return with respect to, and shall pay, any state or local taxes (including penalties or interest with respect thereto), if any, that are attributable to (i) the transfer of the beneficial ownership of Progress's real property and (ii) the transfer of Progress Common Stock pursuant to this Agreement as a result of the Merger. Progress and Duke shall cooperate with respect to the filing of such returns, including supplying any information that is reasonably necessary to complete such returns.

(b) Progress shall immediately pay Duke a fee equal to $400 million (the "Progress Termination Fee") minus any amounts as may have been previously paid by Progress pursuant to Section 5.09(d), payable by wire transfer of same day funds, in the event that:

(i) following the Progress Shareholder Approval, (x) a Progress Takeover Proposal shall have been made known to Progress or any person shall have publicly announced an intention (whether or not conditional) to make a Progress Takeover Proposal, (y) thereafter this Agreement is terminated by Progress pursuant to Section 7.01(b)(i) and (z) within six months of such termination Progress or any of its subsidiaries enters into any Progress Acquisition Agreement or consummates any Progress Takeover Proposal, in either case with the person (or an affiliate of such person) that made the Progress Takeover Proposal referred to in clause (x), or

(ii) prior to or during the Progress Shareholders Meeting (or any subsequent meeting of Progress shareholders at which it is proposed that the Merger be approved), (x) a Progress Takeover Proposal shall have been publicly disclosed or any person shall have publicly announced an intention (whether or not conditional) to make a Progress Takeover Proposal, (y) thereafter this Agreement is terminated by either Progress or Duke pursuant to Section 7.01(b)(iii), and (z) within 12 months of such termination Progress or any of its subsidiaries enters into any Progress Acquisition Agreement or consummates any Progress Takeover Proposal, in either case with the person (or an affiliate of such person) that made the Progress Takeover Proposal referred to in clause (x), or

(iii) this Agreement is terminated by Progress pursuant to Section 7.01(d), or

(iv) this Agreement is terminated by Duke pursuant to Section 7.01(h)(i), provided, however, that if this Agreement is terminated by Duke pursuant to Section 7.01(h)(i) as a result of the Board of Directors of Progress (or any committee thereof) having withdrawn or modified, or proposed publicly to withdraw or modify, the approval or recommendation by such Board of Directors of this Agreement or the Merger primarily due to adverse conditions, events or actions of or relating to Duke, the Progress Termination Fee shall not be payable to Duke, or

(v) this Agreement is terminated by Duke pursuant to 7.01(h)(iii).

For the purposes of Section 5.09(b)(i) and (ii), the terms "Progress Acquisition Agreement" and "Progress Takeover Proposal" shall have the meanings assigned to such terms in Section 4.03 (except that the references to "20%" in the definition of "Progress Takeover Proposal" in Section 4.03(a) shall be deemed to be references to "50%") and the Termination Fee shall be immediately payable upon the first to occur of Progress entering into such Progress Acquisition Agreement or consummating such Progress Takeover Proposal.

(c) Duke shall immediately pay Progress a fee equal to $675 million (the "Duke Termination Fee") minus any amounts as may have been previously paid by Duke pursuant to Section 5.09(e), payable by wire transfer of same day funds, in the event that:

(i) following the Duke Shareholder Approval, (x) a Duke Takeover Proposal shall have been made known to Duke or any person shall have publicly announced an intention (whether or not conditional) to make a Duke Takeover Proposal, (y) thereafter this Agreement is terminated by Duke pursuant to Section 7.01(b)(i), and (z) within six months of such termination Duke or any of its subsidiaries enters into any Duke Acquisition Agreement or consummates any Duke Takeover Proposal, in either case with the person (or an affiliate of such person) that made the Duke Takeover Proposal referred to in clause (x), or

(ii) prior to or during the Duke Shareholders Meeting (or any subsequent meeting of Duke shareholders at which it is proposed that the Duke Share Issuance or Duke Charter Amendment be approved), (x) a Duke Takeover Proposal shall have been publicly disclosed or any person shall have publicly announced an intention (whether or not conditional) to make a Duke Takeover Proposal, (y) thereafter this Agreement is terminated by either Progress or Duke pursuant to Section 7.01(b)(ii), and (z) within 12 months of such termination Duke or any of its subsidiaries enters into any Duke Acquisition Agreement or consummates any Duke Takeover Proposal, in either case with the person (or an affiliate of such person) that made the Duke Takeover Proposal referred to in clause (x), or

(iii) this Agreement is terminated by Duke pursuant to Section 7.01(f), or

(iv) this Agreement is terminated by Progress pursuant to Section 7.01(g)(i), provided, however, that if this Agreement is terminated by Progress pursuant to Section 7.01(g)(i) as a result of the Board of Directors of Duke (or any committee thereof) having withdrawn or modified, or proposed publicly to withdraw or modify, the approval or recommendation by such Board of Directors of the Duke Share Issuance or Duke Charter Amendment primarily due to adverse conditions, events or actions of or relating to Progress, the Duke Termination Fee shall not be payable to Progress, or

(v) this Agreement is terminated by Progress pursuant to 7.01(g)(iii).

For the purposes of Section 5.09(c)(i) and (ii), the terms "Duke Acquisition Agreement" and "Duke Takeover Proposal" shall have the meanings assigned to such terms in Section 4.04 (except that the references to "20%" in the definition of "Duke Takeover Proposal" in Section 4.04(a) shall be deemed to be references to "50%") and the Duke Termination Fee shall be immediately payable upon the first to occur of Duke entering into such Duke Acquisition Agreement or consummating such Duke Takeover Proposal.

(d) If this Agreement is terminated (i) by Progress or Duke pursuant to Section 7.01(b)(iii) (after the public disclosure of a Progress Takeover Proposal or the announcement by any person of the intention (whether or not conditional) to make a Progress Takeover Proposal and in each case there shall not have been a bona fide withdrawal thereof prior to the Progress Shareholders Meeting) or (ii) by Duke pursuant to Section 7.01(e), Progress shall reimburse Duke promptly upon demand, but in no event later than three business days after the date of such demand, by wire transfer of same day funds, for all reasonable, out-of-pocket fees and expenses incurred or paid by or on behalf of, Duke in connection with the Merger or the transactions contemplated by this Agreement, including all reasonable fees and expenses of counsel, investment banking firms, accountants, experts and consultants to Duke; provided, however, that Progress shall not be obligated to make payments pursuant to this Section 5.09(d) in excess of $30,000,000 in the aggregate.

(e) If this Agreement is terminated (i) by Progress or Duke pursuant to Section 7.01(b)(ii) (after the public disclosure of a Duke Takeover Proposal or the announcement by any person of the intention (whether or not conditional) to make a Duke Takeover Proposal and in each case there shall not have been a bona fide withdrawal thereof prior to the Duke Shareholders Meeting), or (ii) by Progress pursuant to Section 7.01(c), Duke shall reimburse Progress promptly upon demand, but in no event later than three business days after the date of such demand, by wire transfer of same day funds, for all reasonable, out-of-pocket fees and expenses incurred or paid by or on behalf of, Progress in connection with the Merger or the transactions contemplated by this Agreement, including all reasonable fees and expenses of counsel, investment banking firms, accountants, experts and consultants to Progress; provided, however, that Duke shall not be obligated to make payments pursuant to this Section 5.09(e) in excess of $30,000,000 in the aggregate.

(f) Progress acknowledges that the agreements contained in Sections 5.09(b) and 5.09(d) are an integral part of the transactions contemplated by this Agreement, and that, without these agreements, Duke would not enter into this Agreement; accordingly, if Progress fails promptly to pay the amount due pursuant to Section 5.09(b) or 5.09(d), and, in order to obtain such payment, Duke commences a suit that results in a judgment against Progress for the fees set forth in Section 5.09(b) or 5.09(d), Progress shall pay to Duke its costs and expenses (including attorneys' fees and expenses) in connection with such suit, together with interest on the amount of the fee at the prime rate of Citibank N.A. in effect on the date such payment was required to be made.

(g) Duke acknowledges that the agreements contained in Sections 5.09(c) and 5.09(e) are an integral part of the transactions contemplated by this Agreement, and that, without these agreements, Progress would not enter into this Agreement; accordingly, if Duke fails promptly to pay the amount due pursuant to Section 5.09(c) or 5.09(e), and, in order to obtain such payment, Progress commences a suit that results in a judgment against Duke for the fees set forth in Section 5.09(c) or 5.09(e), Duke shall pay to Progress its costs and expenses (including attorneys' fees and expenses) in connection with such suit, together with interest on the amount of the fee at the prime rate of Citibank N.A. in effect on the date such payment was required to be made.

Section 5.10 Public Announcements. Progress and Duke will consult with each other before issuing, and provide each other the reasonable opportunity to review, comment upon and

concur with, any press release or other public statements with respect to the transactions contemplated by this Agreement, including the Merger, and shall not issue any such press release or make any such public statement prior to such consultation, except as any party, after consultation with counsel, determines is required by applicable law or applicable rule or regulation of the NYSE.

Section 5.11 Affiliates. As soon as practicable after the date of this Agreement, Progress shall deliver to Duke, and Duke shall deliver to Progress, a letter identifying all persons who are, at the time this Agreement is submitted for adoption by the respective shareholders of Duke and Progress, "affiliates" of Progress or Duke, as the case may be, for purposes of Rule 145 under the Securities Act.

Section 5.12 NYSE Listing. Duke shall use its reasonable best efforts to cause the shares of Duke Common Stock issuable to Progress's shareholders as contemplated by this Agreement to be approved for listing on the NYSE, subject to official notice of issuance, as promptly as practicable after the date of this Agreement, and in any event prior to the Closing Date.

Section 5.13 Shareholder Litigation. Each of Progress and Duke shall give the other the reasonable opportunity to consult concerning the defense of any shareholder litigation against Progress or Duke, as applicable, or any of their respective directors or officers relating to the transactions contemplated by this Agreement.

Section 5.14 Tax-Free Reorganization Treatment. The parties to this Agreement intend that the Merger will qualify as a reorganization under Section 368(a) of the Code, and each shall not, and shall not permit any of their respective subsidiaries to, take any action, or fail to take any action, that would reasonably be expected to jeopardize the qualification of the Merger as a reorganization under Section 368(a) of the Code.

Section 5.15 Standstill Agreements; Confidentiality Agreements. During the period from the date of this Agreement through the Effective Time, neither Progress nor Duke shall terminate, amend, modify or waive any provision of any confidentiality or standstill agreement to which it or any of its respective subsidiaries is a party except (i) as required by applicable law, (ii) during the Progress Applicable Period in the case of Progress or during the Duke Applicable Period in the case of Duke, neither party shall enforce any standstill agreements or similar obligations in effect on the date of this Agreement in any manner that might prevent a third party from requesting permission to submit a Progress Takeover Proposal in accordance with Section 4.03 or a Duke Takeover Proposal in accordance with Section 4.04, as applicable or (iii) if the Board of Directors of the applicable party determines in good faith that failure to do so could reasonably be expected to result in a breach of its fiduciary obligations under applicable law. Except as provided in the first sentence of this Section 5.15, Progress or Duke, as the case may be, shall enforce any confidentiality or standstill agreement to which it or any of its respective subsidiaries is a party, including by seeking injunctions to prevent any breaches of such agreements and to enforce specifically the terms and provisions thereof, to the fullest extent permitted under applicable law.

ARTICLE VI

CONDITIONS PRECEDENT

Section 6.01 Conditions to Each Party's Obligation to Effect the Merger. The respective obligation of each party to effect the Merger is subject to the satisfaction or waiver by Progress and Duke on or prior to the Closing Date of the following conditions:

(a) Shareholder Approvals. Each of the Duke Shareholder Approval and the Progress Shareholder Approval shall have been obtained.

(b) No Injunctions or Restraints. No (i) temporary restraining order or preliminary or permanent injunction or other order by any federal or state court of competent jurisdiction preventing consummation of the Merger or (ii) applicable federal or state law prohibiting consummation of the Merger (collectively, "Restraints") shall be in effect.

(c) Form S-4. The Form S-4 shall have become effective under the Securities Act and shall not be the subject of any stop order or proceedings seeking a stop order and no proceedings for that purpose shall have been initiated or overtly threatened by the SEC.

(d) NYSE Listing. The shares of Duke Common Stock issuable to Progress's shareholders as contemplated by this Agreement shall have been approved for listing on the NYSE, subject to official notice of issuance.

(e) Charter Amendment. The Duke Charter Amendment shall have become effective.

Section 6.02 Conditions to Obligations of Progress. The obligation of Progress to effect the Merger is further subject to satisfaction or waiver of the following conditions:

(a) Representations and Warranties. The representations and warranties of Duke set forth herein shall be true and correct both when made and at and as of the Closing Date, as if made at and as of such time (except to the extent expressly made as of an earlier date, in which case as of such date), except where the failure of such representations and warranties to be so true and correct (without giving effect to any limitation as to "materiality" or "material adverse effect" set forth therein) does not have, and could not reasonably be expected to have, individually or in the aggregate, a material adverse effect on Duke.

(b) Performance of Obligations of Duke. Duke shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Closing Date.

(c) Tax Opinion. Progress shall have received a written opinion from Hunton & Williams L.L.P, counsel to Progress, dated as of the Closing Date, to the effect that the Merger will qualify as a reorganization under Section 368(a) of the Code. Such counsel shall be entitled to rely upon representation letters from each of Duke, Progress, Merger Sub and others, in each case, in form and substance reasonably satisfactory to such counsel. Each such representation letter shall be dated as of the date of such opinion. The opinion condition referred to in this Section 6.02(c) shall not be waivable after receipt of the Progress Shareholder Approval, unless further approval of the shareholders of Progress is obtained with appropriate disclosure.

(d) Statutory Approvals. The Progress Required Statutory Approvals and the Duke Required Statutory Approvals shall have been obtained (including, in each case, the expiration or termination of the waiting periods (and any extensions thereof) under the HSR Act applicable to the Merger and the transactions contemplated by this Agreement) at or prior to the Effective Time, such approvals shall have become Final Orders (as defined below) and neither (i) such Final Orders nor (ii) any other order, action or regulatory condition of a regulatory body shall impose terms or conditions that, individually or in the aggregate, could reasonably be expected to have a Burdensome Effect on Progress or Duke. A "Final Order" means action by the relevant Governmental Authority that has not been reversed, stayed, enjoined, set aside, annulled or suspended, with respect to which any waiting period prescribed by law before the transactions contemplated hereby may be consummated has expired (a "Final Order Waiting Period"), and as to which all conditions to the consummation of such transactions prescribed by law, regulation or order have been satisfied.

(e) No Material Adverse Effect. Except as disclosed in the Duke SEC Reports filed on or after January 1, 2010 and prior to the date hereof or in any specific section of the Duke Disclosure Letter corresponding to Section 3.02, since December 31, 2009, there shall not have been any change, event, occurrence or development that, individually or in the aggregate, has had or could reasonably be expected to have a material adverse effect on Duke.

(f) Closing Certificates. Progress shall have received a certificate signed by an executive officer of Duke, dated the Effective Time, to the effect that, to such officer's knowledge, the conditions set forth in Sections 6.02(a), 6.02(b) and 6.02(e) have been satisfied.

Section 6.03 Conditions to Obligations of Duke. The obligation of Duke to effect the Merger is further subject to satisfaction or waiver of the following conditions:

(a) Representations and Warranties. The representations and warranties of Progress set forth herein shall be true and correct both when made and at and as of the Closing Date, as if made at and as of such time (except to the extent expressly made as of an earlier date, in which case as of such date), except where the failure of such representations and warranties to be so true and correct (without giving effect to any limitation as to "materiality" or "material adverse effect" set forth therein) does not have, and could not reasonably be expected to have, individually or in the aggregate, a material adverse effect on Progress.

(b) Performance of Obligations of Progress. Progress shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Closing Date.

(c) Tax Opinion. Duke shall have received a written opinion from Wachtell, Lipton, Rosen & Katz, counsel to Duke, dated as of the Closing Date, to the effect that the Merger will qualify as a reorganization under Section 368(a) of the Code. Such counsel shall be entitled to rely upon representation letters from each of Duke, Progress, Merger Sub and others, in each case, in form and substance reasonably satisfactory to such counsel. Each such representation letter shall

be dated as of the date of such opinion. The opinion condition referred to in this Section 6.03(c) shall not be waivable after receipt of the Duke Shareholder Approval, unless further approval of the shareholders of Duke is obtained with appropriate disclosure.

(d) Statutory Approvals. The Progress Required Statutory Approvals and the Duke Required Statutory Approvals shall have been obtained (including, in each case, the expiration or termination of the waiting periods (and any extensions thereof) under the HSR Act applicable to the Merger and the transactions contemplated by this Agreement) at or prior to the Effective Time, such approvals shall have become Final Orders and neither (i) such Final Orders nor (ii) any other order, action or regulatory condition of a regulatory body shall impose terms or conditions that, individually or in the aggregate, could reasonably be expected to have a Burdensome Effect on Duke or Progress.

(e) No Material Adverse Effect. Except as disclosed in the Progress SEC Reports filed on or after January 1, 2010 and prior to the date hereof or in any specific section of the Progress Disclosure Letter corresponding to Section 3.01, since December 31, 2009, there shall not have been any change, event, occurrence or development that, individually or in the aggregate, has had or could reasonably be expected to have a material adverse effect on Progress.

(f) Closing Certificates. Duke shall have received a certificate signed by an executive officer of Progress, dated the Effective Time, to the effect that, to such officer's knowledge, the conditions set forth in Sections 6.03(a), 6.03(b) and 6.03(e) have been satisfied.

Section 6.04 Frustration of Closing Conditions. Neither Progress nor Duke may rely on the failure of any condition set forth in Section 6.01, 6.02 or 6.03, as the case may be, to be satisfied if such failure was caused by such party's failure to use reasonable best efforts to consummate the Merger and the other transactions contemplated by this Agreement, to the extent required by and subject to Section 5.05.

ARTICLE VII

TERMINATION, AMENDMENT AND WAIVER

Section 7.01 Termination. This Agreement may be terminated at any time prior to the Effective Time, whether before or (other than pursuant to clauses (d), (f), (g) or (h) below) after the Progress Shareholder Approval or the Duke Shareholder Approval:

(a) by mutual written consent of Progress and Duke;

(b) by either Progress or Duke:

(i) if the Merger shall not have been consummated by the 12-month anniversary of the date of this Agreement (the "Initial Termination Date"); provided, however, that the right to terminate this Agreement pursuant to this Section 7.01(b)(i) shall not be available to any party whose failure to perform any of its obligations under this Agreement results in the failure of the Merger to be consummated by such time; and provided, further, that, (A) if on the Initial Termination Date the conditions to the Closing set forth in Sections 6.01(b), 6.02(d) and/or 6.03(d) shall not have been fulfilled but all other conditions to the Closing shall have been fulfilled or shall

be capable of being fulfilled, then either party may (on one or more occasions) extend the Initial Termination Date up to the 18-month anniversary of the date of this Agreement and (B) if the Initial Termination Date (as it may be extended pursuant to clause (A) of this Section 7.01(b)(i)) shall occur during any Final Order Waiting Period, the Initial Termination Date shall be extended until the third business day after the expiration of such Final Order Waiting Period;

(ii) if the Duke Shareholder Approval shall not have been obtained at a Duke Shareholders Meeting duly convened therefor or at any adjournment or postponement thereof;

(iii) if the Progress Shareholder Approval shall not have been obtained at a Progress Shareholders Meeting duly convened therefor or at any adjournment or postponement thereof;

(iv) if any Restraint having any of the effects set forth in Section 6.01(b) shall be in effect and shall have become final and nonappealable; provided that the party seeking to terminate this Agreement pursuant to this Section 7.01(b)(iv) shall have used its reasonable best efforts to prevent the entry of and to remove such Restraint; or

(v) if any condition to the obligation of such party to consummate the Merger set forth in Section 6.02 (in the case of Progress) or in Section 6.03 (in the case of Duke) becomes incapable of satisfaction prior to the Initial Termination Date (or, if the Initial Termination Date is extended in accordance with the second proviso to Section 7.01(b)(i), such date as extended); provided, however, in the case of Section 6.02(d) and 6.03(d), the Initial Termination Date shall refer to such date as it may be extended pursuant to the second proviso to Section 7.01(b)(i); and provided further, that the failure of any such condition to be capable of satisfaction is not the result of a material breach of this Agreement by the party seeking to terminate this Agreement;

(c) by Progress, if Duke shall have breached or failed to perform in any material respect any of its representations, warranties, covenants or other agreements contained in this Agreement, which breach or failure to perform (A) would give rise to the failure of a condition set forth in Section 6.02(a) or (b), and (B) is incapable of being cured by Duke or is not cured by Duke within 60 days following receipt of written notice from Progress of such breach or failure to perform;

(d) by Progress in accordance with Section 4.03(b); provided, that, in order for the termination of this Agreement pursuant to this paragraph (d) to be deemed effective, Progress shall have complied with Section 4.03 and with applicable requirements, including the payment of the Progress Termination Fee, of Section 5.09;

(e) by Duke, if Progress shall have breached or failed to perform in any material respect any of its representations, warranties, covenants or other agreements contained in this Agreement, which breach or failure to perform (A) would give rise to the failure of a condition set forth in Section 6.03(a) or (b), and (B) is incapable of being cured by Progress or is not cured by Progress within 60 days following receipt of written notice from Duke of such breach or failure to perform;

(f) by Duke in accordance with Section 4.04(b); provided, that, in order for the termination of this Agreement pursuant to this paragraph (f) to be deemed effective, Duke shall have complied with Section 4.04 and with applicable requirements, including the payment of the Duke Termination Fee, of Section 5.09;

(g) by Progress, if the Board of Directors of Duke (or any committee thereof) (i) shall have withdrawn or modified, or proposed publicly to withdraw or modify, the approval or recommendation by such Board of Directors of the Duke Charter Amendment or the Duke Share Issuance, (ii) shall fail to reaffirm such approval or recommendation within 15 business days of receipt of Progress's written request at any time when a Duke Takeover Proposal shall have been made and not rejected by the Board of Directors of Duke; provided, that, such 15-business day period shall be extended for ten business days following any material modification to such Duke Takeover Proposal occurring after the receipt of Progress's written request and provided, further, that such 15-business day period shall recommence each time a Duke Takeover Proposal has been made following the receipt of Progress's written request by a person that had not made a Duke Takeover Proposal prior to the receipt of Progress's written request, or (iii) shall have approved or recommended, or proposed to approve or recommend, a Duke Takeover Proposal; or

(h) by Duke, if the Board of Directors of Progress (or any committee thereof) (i) shall have withdrawn or modified, or proposed publicly to withdraw or modify, the approval or recommendation by such Board of Directors of this Agreement or the Merger, (ii) shall fail to reaffirm such approval or recommendation within 15 business days of receipt of Duke's written request at any time when a Progress Takeover Proposal shall have been made and not rejected by the Board of Directors of Progress; provided, that, such 15-business day period shall be extended for ten business days following any material modification to such Progress Takeover Proposal occurring after the receipt of Duke's written request and provided, further, that such 15-business day period shall recommence each time a Progress Takeover Proposal has been made following the receipt of Duke's written request by a person that had not made a Progress Takeover Proposal prior to the receipt of Duke's written request, or (iii) shall have approved or recommended, or proposed to approve or recommend, a Progress Takeover Proposal.

Section 7.02 Effect of Termination. (a) In the event of termination of this Agreement by either Duke or Progress as provided in Section 7.01, this Agreement shall forthwith become null and void and have no effect, without any liability or obligation on the part of Progress or Duke, other than the provisions of Section 5.09, this Section 7.02 and Article VIII, which provisions shall survive such termination, and except to the extent that such termination results from the willful and material breach by a party of any of its representations, warranties, covenants or agreements set forth in this Agreement, in which case such termination shall not relieve any party of any liability or damages resulting from its willful and material breach of this Agreement (including any such case in which a Progress Termination Fee or a Duke Termination Fee, as the case may be, is, or any expenses of Progress or Duke in connection with the transactions contemplated by this Agreement are, payable pursuant to Section 5.09 to Progress or Duke, as the case may be (the "Injured Party"), to the extent any such liability or damage suffered by the Injured Party exceeds the amount of the Progress Termination Fee, in the circumstance in which Duke is the Injured Party, or the Duke Termination Fee, in the circumstance in which Progress is the Injured Party and any expenses payable pursuant to Section 5.09 to the Injured Party, it being the intent that any Progress Termination Fee, Duke Termination Fee and any expenses paid to the Injured Party shall serve as a credit against and off-set any liability or damage suffered by the Injured Party to the extent of such payment)

(b) In the event Duke terminates this Agreement pursuant to Section 7.01(h)(i) as a result of the Board of Directors of Progress having withdrawn or modified, or proposed to publicly withdraw or modify, the approval or recommendation by such Board of Directors of this Agreement or the Merger that was made primarily due to adverse conditions, events or actions of or relating to Duke, in any judicial, court or tribunal proceeding in which the payment of the Progress Termination Fee is at issue under the proviso in Section 5.09(b)(iv), whether brought or initiated by Duke or Progress, Progress shall have the burden of proving that the Board of Directors of Progress withdrew or modified, or proposed publicly to withdraw or modify, the approval or recommendation by such Board of Directors of this Agreement or the Merger primarily due to adverse conditions, events or actions of or relating to Duke.

(c) In the event Progress terminates this Agreement pursuant to Section 7.01(g)(i) as a result of the Board of Directors of Duke having withdrawn or modified, or proposed to publicly withdraw or modify, the approval or recommendation by such Board of Directors of the Duke Share Issuance and the Duke Charter Amendment that was made primarily due to adverse conditions, events or actions of or relating to Progress, in any judicial, court or tribunal proceeding in which the payment of the Duke Termination Fee is at issue under the proviso in Section 5.09(c)(iv), whether brought or initiated by Progress or Duke, Duke shall have the burden of proving that the Board of Directors of Duke withdrew or modified, or proposed publicly to withdraw or modify, the approval or recommendation by such Board of Directors of the Duke Share Issuance and the Duke Charter Amendment primarily due to adverse conditions, events or actions of or relating to Progress.

Section 7.03 Amendment. This Agreement may be amended by the parties at any time before or after the Duke Shareholder Approval or the Progress Shareholder Approval; provided, however, that after any such approval, there shall not be made any amendment that by law requires further approval by the shareholders of Duke or Progress without the further approval of such shareholders. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties.

Section 7.04 Extension; Waiver. At any time prior to the Effective Time, a party may (a) extend the time for the performance of any of the obligations or other acts of the other parties, (b) waive any inaccuracies in the representations and warranties of the other parties contained in this Agreement or in any document delivered pursuant to this Agreement or (c) subject to the proviso of Section 7.03, waive compliance by the other parties with any of the agreements or conditions contained in this Agreement. Any agreement on the part of a party to any such extension or waiver shall be valid only if set forth in an instrument in writing signed on behalf of such party. The failure of any party to this Agreement to assert any of its rights under this Agreement or otherwise shall not constitute a waiver of such rights.

ARTICLE VIII

GENERAL PROVISIONS

Section 8.01 Nonsurvival of Representations and Warranties. None of the representations and warranties in this Agreement or in any instrument delivered pursuant to this Agreement shall survive the Effective Time. This Section 8.01 shall not limit any covenant or agreement of the parties that by its terms contemplates performance after the Effective Time and such provisions shall survive the Effective Time.

Section 8.02 Notices. All notices, requests, claims, demands and other communications under this Agreement shall be in writing and shall be deemed given (as of the time of delivery or, in the case of a telecopied communication, of confirmation) if delivered personally, telecopied (which is confirmed) or sent by overnight courier (providing proof of delivery) to the parties at the following addresses (or at such other address for a party as shall be specified by like notice):

if to Duke, to:

Duke Energy Corporation
526 South Church Street
Charlotte, North Carolina 28202
Telecopy No.: (704) 382-7705
Attention: Marc E. Manly

with a copy to:

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, New York 10019
Telecopy No.: (212) 403-2000
Attention: Steven A. Rosenblum

if to Progress, to:

Progress Energy, Inc.
410 S. Wilmington Street
Raleigh, North Carolina 27602
Telecopy No.: (919) 546-5245
Attention: John R. McArthur

with a copy to:

Hunton & Williams LLP
200 Park Avenue
New York, New York 10166
Telecopy No.: (212) 309-1100
Attention: James A. Jones, III

and

Hunton & Williams LLP
One Bank of America Plaza, Suite 1400
421 Fayetteville Street
Raleigh, North Carolina 27601
Telecopy No.: (919) 833-6352
Attention: Timothy S. Goettel

Section 8.03 Definitions. For purposes of this Agreement:

(a) an "affiliate" of any person means another person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first person, where "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of a person, whether through the ownership of voting securities, by contract, as trustee or executor, or otherwise;

(b) "capital stock" or "shares of capital stock" means (i) with respect to a corporation, as determined under the laws of the jurisdiction of organization of such entity, capital stock or such shares of capital stock; (ii) with respect to a partnership, limited liability company, or similar entity, as determined under the laws of the jurisdiction of organization of such entity, units, interests, or other partnership or limited liability company interests; or (iii) any other equity ownership or participation;

(c) "Contract" means any legally binding written or oral agreement, contract, subcontract, lease, instrument, note, license or sublicense;

(d) "material adverse effect" means, when used in connection with Progress or Duke, as the case may be, any change, effect, event, occurrence or state of facts (i) that is materially adverse to the business, assets, properties, financial condition or results of operations of such person and its subsidiaries taken as a whole but excluding any of the foregoing resulting from (A) changes in international or national political or regulatory conditions generally (in each case, to the extent not disproportionately affecting the applicable person and its subsidiaries, taken as a whole, as compared to similarly situated persons), (B) changes or conditions generally affecting the U.S. economy or financial markets or generally affecting any of the segments of the industry in which the applicable person or any of its subsidiaries operates (in each case, to the extent not disproportionately affecting the applicable person and its subsidiaries, taken as a whole, as compared to similarly situated persons), (C) the announcement or consummation of, or compliance with, this Agreement, or (D) any taking of any action by such party at the written request of the other party, or (ii) that prevents or materially delays such person from performing its material obligations under this Agreement or consummation of the transactions contemplated hereby;

(e) "person" means an individual, corporation, partnership, limited liability company, joint venture, association, trust, unincorporated organization or other entity;

(f) "subsidiary" means, with respect to any person, any other person, whether incorporated or unincorporated, of which more than 50% of either the equity interests in, or the voting control of, such other person is, directly or indirectly through subsidiaries or otherwise, beneficially owned by such first person; and

(g) "knowledge" means (i) with respect to Progress, the actual knowledge of the persons listed in Section 8.03(g) of the Progress Disclosure Letter, and (ii) with respect to Duke, the actual knowledge of the persons listed in Section 8.03(g) of the Duke Disclosure Letter.

Section 8.04 Interpretation and Other Matters. (a) When a reference is made in this Agreement to an Article, Section or Exhibit, such reference shall be to an Article or Section of, or an Exhibit to, this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words "include," "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation." The words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. All terms defined in this Agreement shall have the defined meanings when used in any certificate or other document made or delivered pursuant hereto unless otherwise defined therein. The definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such terms. Any agreement, instrument or statute defined or referred to herein or in any agreement or instrument that is referred to herein means such agreement, instrument or statute as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of statutes) by succession of comparable successor statutes and references to all attachments thereto and instruments incorporated therein. References to a person are also to its permitted successors and assigns.

(b) Each of Duke and Progress has or may have set forth information in its respective disclosure letter in a section thereof that corresponds to the section of this Agreement to which it relates. A matter set forth in one section of a disclosure letter need not be set forth in any other section of the disclosure letter so long as its relevance to the latter section of the disclosure letter or section of this Agreement is readily apparent on the face of the information disclosed in the disclosure letter to the person to which such disclosure is being made. The fact that any item of information is disclosed in a disclosure letter to this Agreement shall not be construed to mean that such information is required to be disclosed by this Agreement. Such information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the terms "material," "material adverse effect" or other similar terms in this Agreement.

(c) Duke agrees to cause Merger Sub to comply with its obligations under this Agreement.

Section 8.05 Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each party and delivered to the other parties.

Section 8.06 Entire Agreement; No Third-Party Beneficiaries. This Agreement (including the documents and instruments referred to herein) and the Confidentiality Agreement (i) constitute the entire agreement, and supersede all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement and (ii) except for the provisions of Section 5.08 (which shall be enforceable by the Indemnified Parties) and except for the rights of Progress's shareholders to receive the Merger Consideration after the Effective Time in the event the Merger is consummated, are not intended to confer upon any person other than the parties any rights or remedies. The representations and warranties in this Agreement are the product of negotiations among the parties and are for the sole benefit of the parties. Any inaccuracies in such representations and warranties are subject to waiver by the parties in accordance with the terms of this Agreement without notice or liability to any other person. The representations and warranties in this Agreement may represent an allocation among the parties of risks associated with particular matters regardless of the knowledge of any of the parties and may have been qualified by certain disclosures not reflected in the text of this Agreement. Accordingly, persons other than the parties may not rely upon the representations and warranties in this Agreement as characterizations of actual facts or circumstances as of the date of this Agreement or as of any other date.

Section 8.07 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware, regardless of the laws that might otherwise govern under applicable principles of conflict of laws, except that matters related to the fiduciary obligations of the Progress Board of Directors shall be governed by the laws of the State of North Carolina.

Section 8.08 Assignment. Neither this Agreement nor any of the rights, interests or obligations under this Agreement shall be assigned, in whole or in part, by operation of law or otherwise by any of the parties hereto without the prior written consent of the other party. Any attempted or purported assignment in violation of the preceding sentence shall be null and void and of no effect whatsoever. Subject to the preceding two sentences, this Agreement shall be binding upon, inure to the benefit of, and be enforceable by, the parties and their respective successors and assigns.

Section 8.09 Enforcement.

(a) The parties agree that irreparable damage would occur and that the parties would not have any adequate remedy at law in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement, without the necessity of posting bonds or similar undertakings in connection therewith, this being in addition to any other remedy to which they are entitled at law or in equity.

(b) Each of the parties (i) irrevocably submits itself to the personal jurisdiction of each state or federal court sitting in the State of Delaware, as well as to the jurisdiction of all courts to which an appeal may be taken from such courts, in any suit, action or proceeding arising out of or relating to this Agreement or any of the transactions contemplated herein, (ii) agrees that every such suit, action or proceeding shall be brought, heard and determined exclusively in the Court of

Chancery of the State of Delaware (provided that, in the event subject matter jurisdiction is unavailable in or declined by the Court of Chancery, then all such claims shall be brought, heard and determined exclusively in any other state or federal court sitting in the State of Delaware), (iii) agrees that it shall not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from such court, (iv) agrees not to bring any suit, action or proceeding arising out of or relating to this Agreement or any of the transactions contemplated herein in any other court, and (v) waives any defense of inconvenient forum to the maintenance of any suit, action or proceeding so brought.

(c) Each of the parties agrees that service of any process, summons, notice or document by U.S. registered mail to its address set forth in Section 8.02 shall be effective service of process for any action, suit or proceeding brought against it, provided, however, that nothing contained in the foregoing clause shall affect the right of any party to serve legal process in any other manner permitted by applicable Law.

Section 8.10 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible to the fullest extent permitted by applicable law in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

Section 8.11 Waiver of Jury Trial. Each party to this Agreement knowingly and voluntarily waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any action, suit or proceeding arising out of or relating to this Agreement.

IN WITNESS WHEREOF, Duke, Merger Sub and Progress have caused this Agreement to be signed by their respective officers thereunto duly authorized, all as of the date first written above.

DUKE ENERGY CORPORATION

By /s/ James E. Rogers

Name: James E. Rogers

Title: Chairman, President and Chief Executive Officer

DIAMOND ACQUISITION CORPORATION

By /s/ David S. Maltz

Name: David S. Maltz

Title: Vice President

PROGRESS ENERGY, INC.

By /s/ William D. Johnson

Name: William D. Johnson

Title: Chairman, President and Chief Executive Officer

— SIGNATURE PAGE TO THE MERGER AGREEMENT—

Exhibit A

1. As of the Effective Time, the size of the Board of Directors of Duke will be increased to 18.

2. All 11 current directors of Duke (the "Duke Designees") will continue as directors as of the Effective Time, subject to their ability and willingness to serve. Seven of the current directors of Progress (the "Progress Designees") will be added to the Board of Directors of Duke as of the Effective Time, subject to their ability and willingness to serve, such seven directors to be designated by Progress, following reasonable consultation with Duke, no later than March 20, 2011.

3. If any Duke Designee is unable or unwilling to serve as a director of Duke as of the Effective Time, Duke will designate a replacement, following reasonable consultation with Progress, which replacement shall be deemed a Duke Designee for all purposes of the Merger Agreement.

4. If any Progress Designee is unable or unwilling to serve as a director of Duke as of the Effective Time, Progress will designate a replacement, following reasonable consultation with Duke, which replacement shall be deemed a Progress Designee for all purposes of the Merger Agreement.

5. As of the Effective Time, the standing Board committees of Duke will consist of Duke's existing committees plus a Regulatory Policy and Operations Committee. At least one Progress Designee will serve on each committee. In determining and recommending committee assignments, the Board and the Corporate Governance Committee will take into account, among other things, the skills and expertise of the directors, the needs of the committees, and the goal that committee workloads be distributed reasonably among the full Board.

6. Progress will designate the chairs of the Compensation Committee and the Audit Committee, and Duke will designate the chairs of each of the other Board committees, in each case following reasonable consultation with the other party, and in each case subject to such individuals' ability and willingness to serve. If any such designated chair is unable or unwilling to serve in such position as of the Effective Time, the party that designated such chair shall designate a replacement from among such party's director designees, following reasonable consultation with the other party.

7. Duke will designate the lead independent director, following reasonable consultation with Progress, subject to such individual's ability and willingness to serve. If the individual so designated as lead independent director is unable or unwilling to serve in such position as of the Effective Time, Duke will designate a replacement from among the Duke Designees, following reasonable consultation with Progress.

8. Prior to the Effective Time, Duke will amend its Principles for Corporate Governance to provide that the normal retirement date for directors will be the annual meeting held in the calendar year following the calendar year in which such director reaches the age of 71.

Exhibit B

Roles and Responsibilities

Chief Executive Officer

- Member of the Board
- Determines Board agenda
- Conduit between Duke and Board
- Develops the strategic plan
- Develops and communicates vision & mission
- Develops public policy positions
- Jointly designates executive management team with Executive Chairman prior to announcement
- Following transition, selects executive management team with input from Executive Chairman
- Develops annual budget for Board approval
- Drives strategic financial and operational results
- Leads the organization
- Represents Duke to the public and investors

Executive Chairman

- Conducts Board meetings
- Supports Board selection process
- Assists in setting Board agenda
- Provides input on public policy positions
- Spokesman on public policy initiatives
  - National and international policy
  - Global initiatives
  - Active role in national and state government relations, in coordination with CEO
- Jointly designates executive management team with CEO prior to announcement
- Following transition, provides input on selection of executive management team
- Represents the Board to the public

Overview of responsibilities

	Primary responsibility			Secondary responsibility		
	Executive	Chairman	CEO	Executive	Chairman	CEO
• Market/public communications						
▪ Before federal or international authorities		Ö				Ö
▪ Before state authorities			Ö		Ö	
▪ Rate proceedings			Ö			
▪ Financial/earnings call/strategy/appearance at EEI and other industry conferences			Ö			
▪ National media on federal/global energy policy		Ö				Ö
• Point of contact for merger activities			Ö		Ö	
• Responsibility to determine Board agenda			Ö		Ö	
• Operational execution			Ö			
• Corporate strategy			Ö		Ö	

Exhibit C

EMPLOYMENT AGREEMENT
TERM SHEET
WILLIAM D. JOHNSON

As soon as reasonably practicable following the execution of this term sheet but in any event prior to the effective date of the closing of the merger (the "Merger") contemplated by the Agreement and Plan of Merger by and among Duke Energy Corporation ("Duke"), Progress Energy, Inc. ("Progress") and Diamond Acquisition Corporation (the "Merger Agreement"), Duke will take such action (or cause its affiliates to take such action) as may be necessary and appropriate to effectuate a new employment agreement to be entered into or assumed by Duke for William D. Johnson (the "Executive"), which agreement shall take effect as of the Merger. Effective upon the closing of the Merger and until such time as a new employment agreement becomes effective, this term sheet shall govern the respective parties' rights and obligations and shall constitute an amendment of the Executive's employment agreement when deemed effective as provided herein. The new employment agreement shall be governed by the following provisions.

1. Basic Premise – The new employment agreement shall be substantially similar to the form of the current employment agreement for Duke's current CEO, except as otherwise described below.

2. Role – The Executive shall be named as President and CEO of Duke effective upon the Merger, which will require conforming changes to the new employment agreement.

3. Term – Three-year term of employment commencing upon the closing of the Merger.

4. Ongoing Compensation

   (a) Annual Base Salary – $1,100,000.

   (b) Short-Term Incentive Plan – The Executive shall be eligible to participate in the applicable Duke short-term incentive plan, with a target opportunity of 125% of annual base salary. The terms and conditions of the Executive's short-term incentive compensation opportunities shall be substantially similar to the short-term incentive compensation opportunities provided to other executive officers of Duke, as determined by the Duke Compensation Committee from time to time.

   (c) Long-Term Incentives – The Executive shall be eligible to participate in the applicable Duke long-term incentive plan, with a target opportunity of 500% of annual base salary. The terms and conditions (e.g., performance measures, vesting schedules, allocation between performance and phantom shares) of the Executive's long-term incentive awards shall be substantially similar to the long-term incentive awards granted to other executive officers of Duke, as determined by the Duke Compensation Committee from time to time.

(d) Adjustments – Given the time period between the effective date of this term sheet and the anticipated date of the closing of the Merger, the Duke Compensation Committee will review benchmark data and reserves discretion to increase the compensation of the Executive if determined to be appropriate after taking into account the compensation provided to CEOs of Duke's peer group.

(e) Employee Benefits – The Executive shall be entitled to employee benefits (e.g., retirement plans, health and insurance plans, perquisites) as determined by the Duke Compensation Committee from time to time.

(f) SERP – The Executive's benefit under the Amended and Restated Supplemental Senior Executive Retirement Plan of Progress Energy, Inc. (the "SERP") shall be treated in the same manner as the benefit of other executives in the SERP who are employed with Duke following the closing of the Merger.

5. Impact of Termination of Employment

(a) If the Executive is involuntarily terminated without cause or quits for good reason following, but prior to the second anniversary of, the closing of the Merger, he will be entitled to severance equal to the benefits provided under the Progress Energy Inc. Management Change-in-Control Plan, as amended from time to time, except that no tax gross-up shall be provided, and the parties shall use their best efforts to structure the severance in a manner that eliminates or reduces the impact of Sections 280G and 4999 of the tax code.

(b) If the Executive is involuntarily terminated without cause or quits for good reason following the second anniversary of, but prior to the third anniversary of, the closing of the Merger, he will be entitled to the severance provided under his current employment agreement, as amended from time to time.

(c) For purposes of determining whether the Executive has "good reason" to terminate employment or a "constructive termination" has occurred, his move to Charlotte, NC, Sections 2.13(b) and 2.13(c) of the Progress Energy, Inc. Management Change-in-Control Plan and Section 8(a)(i) of his current employment agreement, shall be disregarded.

6. Other Matters

(a) Relocation Benefits – The Executive will be reimbursed for direct and indirect relocation costs, provided that the Executive shall not receive a tax gross-up or indemnification for any such relocation costs that constitute income to the Executive.

(b) Advisor Fees – The Executive will be reimbursed for reasonable expenses incurred in connection with the negotiation of this term sheet and the new employment agreement.

(c) Corporate Aircraft – The Executive will be subject to substantially the same policies as currently in effect for Duke's current CEO.

IN WITNESS WHEREOF, the parties signing below have executed this term sheet this 8th day of January, 2011, intending to be legally bound thereby.

DIAMOND ACQUISITION CORPORATION
By: _____

DUKE ENERGY CORPORATION
By: _____

William D. Johnson

Exhibit D

TERM SHEET FOR AMENDMENT TO
EMPLOYMENT AGREEMENT
JAMES E. ROGERS

As soon as reasonably practicable following the execution of this term sheet, but in any event prior to the Effective Time of the Merger contemplated by the Agreement and Plan of Merger by and among Duke Energy Corporation, Progress Energy, Inc. and Diamond Acquisition Corporation (the "Merger Agreement"), James E. Rogers (the "Executive") and Duke will each use their commercially reasonable efforts to amend (or cause their respective affiliates to amend) the employment agreement by and between the Executive and Duke, dated as of February 19, 2009 (the "Current Agreement"), as may be necessary and appropriate to effectuate the terms of the Executive's employment following the Merger that are set forth below, which amendments shall take effect as of the Effective Time. Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Merger Agreement.

1. Current Agreement – Except as otherwise described below, the Current Agreement shall remain in full force and effect.

2. Role and Responsibilities – The Executive shall serve as Executive Chairman of the Board of Directors of Duke (the "Executive Chair") following the Merger and will cease to be employed as President and Chief Executive Officer of Duke as of the Effective Time. The Executive will continue to report directly to the Board of Directors of Duke and his roles and responsibilities will be those set forth on **Exhibit B** to the Merger Agreement. In no event will the foregoing amendments to the Current Agreement provide the Executive with the right to terminate his employment for "Good Reason" (as defined in the Current Agreement) under Section 10(b) of the Current Agreement.

3. Term – The Executive's term of employment will end on the later of (i) December 31, 2013 and (ii) the second anniversary of the Effective Time, unless terminated earlier pursuant to the terms of the Current Agreement.

4. Ongoing Compensation – The Executive's compensation will remain the same in all respects as under the Current Agreement through December 31, 2013. Should the term of employment continue beyond December 31, 2013 and the Executive continue to serve as Executive Chair as of that date, the Compensation Committee of the Board of Directors of Duke will address the Executive's compensation for the remaining term of his employment at that time.

5. Advisor Fees – The Executive will be reimbursed for reasonable expenses incurred in connection with the negotiation of this term sheet and the amendment to the Current Agreement.

IN WITNESS WHEREOF, the parties signing below have executed this term sheet this 8th day of January, 2011, intending to be legally bound thereby.

DIAMOND ACQUISITION CORPORATION
By: _____

DUKE ENERGY CORPORATION
By: _____

James E. Rogers

Exhibit E

Individual	Position
Lynn Good	Chief Financial Officer
Dhiaa Jamil	Nuclear Generation
Jeff Lyash	Energy Supply
Marc Manly	General Counsel, Corporate Secretary
John McArthur	Regulated Utilities
Mark Mulhern	Chief Administrative Officer
Keith Trent	Commercial Businesses
Jennifer Weber	Human Resources
Lloyd Yates	Customer Operations

In addition, A.R. Mullinax and Paula Sims shall co-lead integration during the transition period following Closing.

Exhibit 10.1

January 7, 2011

[Employee Name]

[Employee Address]

Dear [Employee]:

In consideration of the transactions contemplated in the Agreement and Plan of Merger by and among Duke Energy Corporation (the "Company"), Diamond Acquisition Corporation and Progress Energy, Inc. ("Progress"), dated as of January 8, 2011 (the "Merger Agreement"), and your continued employment with the Company following the consummation of the Merger (as defined in the Merger Agreement), this letter agreement sets forth your agreement to waive certain limited rights to terminate your employment for Good Reason (as defined in the Progress Management Change-in-Control Plan, as amended and restated effective January 1, 2008 (the "CIC Plan")) or to claim "constructive termination" pursuant to your employment agreement with [Progress Entity], dated as of [date] (the "Employment Agreement").

You acknowledge and agree to waive your right to (i) terminate your employment for Good Reason under (a) Section 2.13(b) of the CIC Plan as a result of a change in your position, duties or responsibilities in connection with becoming the officer responsible for Regulated Utilities at the Company following the consummation of the Merger; (b) Section 2.13(c) of the CIC Plan as a result of a change in your total incentive compensation opportunity due to your becoming a participant in the Company's incentive compensation plans following the consummation of the Merger; *provided* that your target incentive compensation opportunity is substantially similar to that of similarly situated executives of the Company; and (c) Section 2.13(d) of the CIC Plan as a result of a relocation to Charlotte, North Carolina in connection with the Merger or (ii) claim constructive termination under your Employment Agreement as a result of the changes to your position or duties or the relocation of your principal work location as set forth above. Progress acknowledges that in the event that the Merger Agreement is terminated without the Merger being consummated, this letter agreement will be void *ab initio* and of no further force or effect.

This letter agreement does not affect any other terms or in any way waive any other rights that you may have under the CIC Plan, your Employment Agreement or any other agreements between you and Progress or any of its affiliates or the compensation and benefit plans of Progress or any of its affiliates in which you participate as of the date hereof, including your right to terminate your employment for Good Reason under the CIC Plan or to claim constructive termination under your Employment Agreement, in each case for a reason other than the specific reasons set forth herein, and applies only if a Change-in-Control (as defined in the CIC Plan) occurs as a result of the transactions contemplated by the Merger Agreement.

Please sign below to indicate your acknowledgment and acceptance of the terms of this letter agreement.

Very truly yours,
By: _____
Name: William D. Johnson
Title: Chairman, President and CEO,
Progress Energy, Inc.

Agreed to and acknowledged
as of the 8th day of January, 2011:

_____
[Employee]

ATTACHMENT (3)

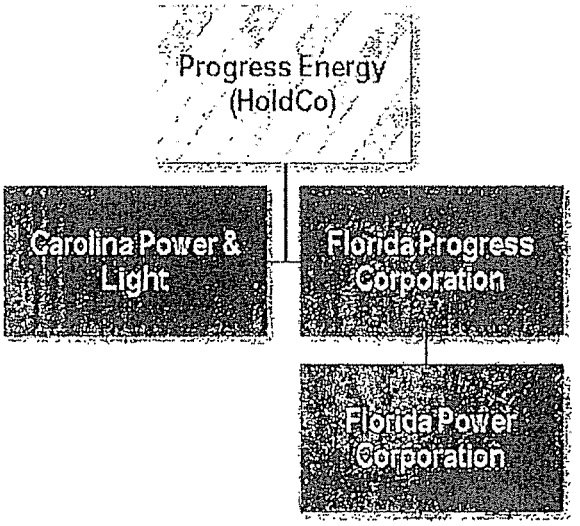
PRE- AND POST-MERGER SIMPLIFIED ORGANIZATIONAL CHARTS

Carolina Power & Light Company and Florida Power Corporation
March 30, 2011

ATTACHMENT (3)

PRE- AND POST- MERGER SIMPLIFIED ORGANIZATIONAL CHARTS

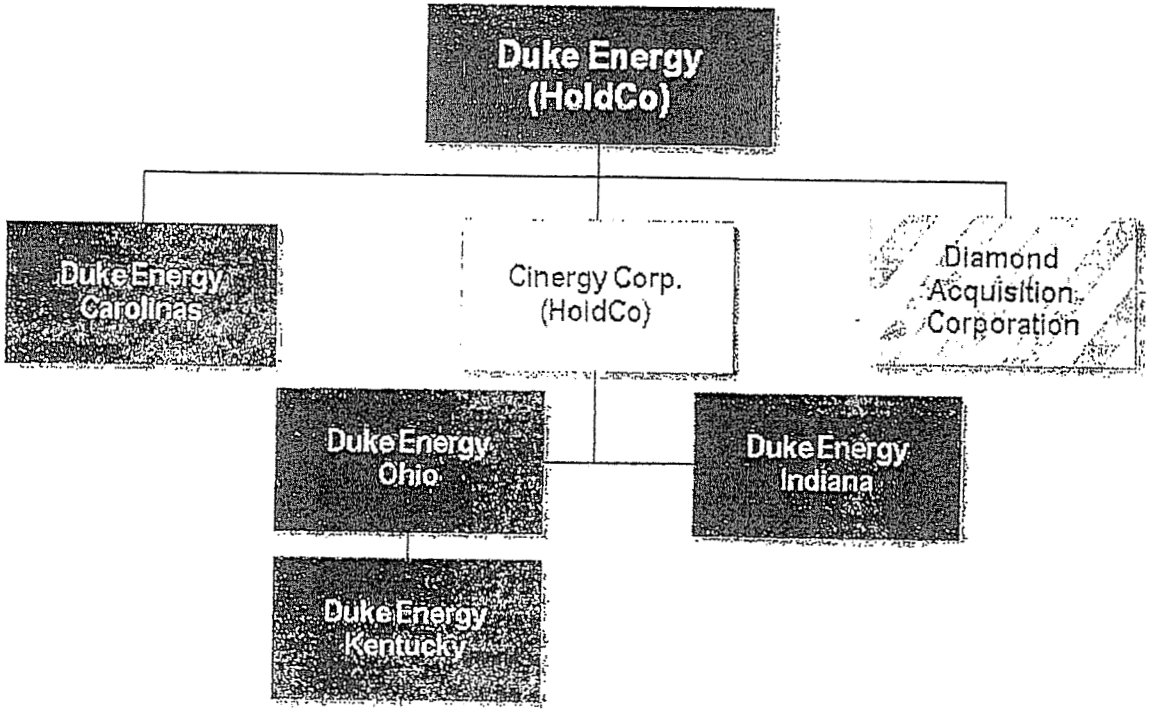
Simplified Organizational Chart of Pre-Merger Nuclear Plant Ownership: Progress Energy



ATTACHMENT (3)

PRE- AND POST- MERGER SIMPLIFIED ORGANIZATIONAL CHARTS

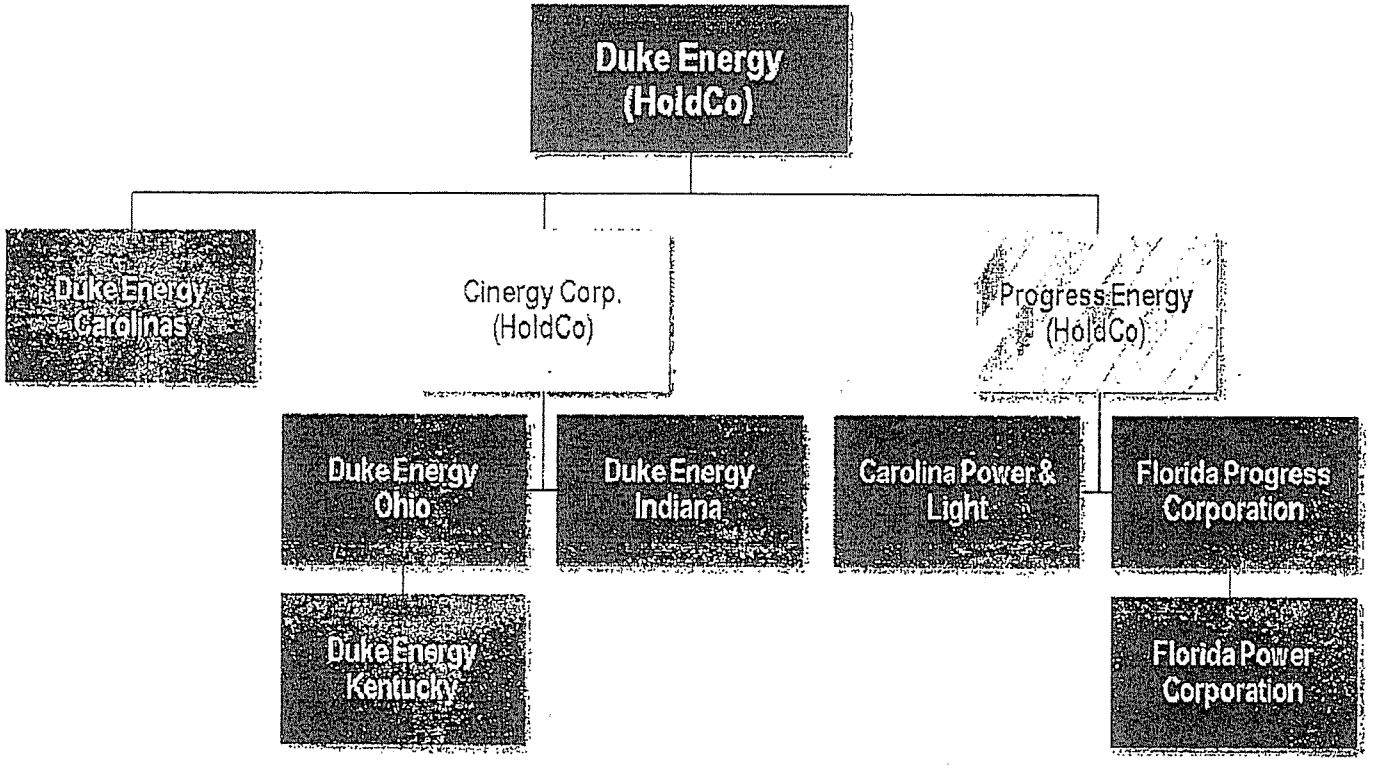
Simplified Organizational Chart of Pre-Merger Nuclear Plant Ownership:
Duke Energy



ATTACHMENT (3)

PRE- AND POST- MERGER SIMPLIFIED ORGANIZATIONAL CHARTS

Simplified Organizational Chart of Post-Merger Nuclear Plant Ownership



ATTACHMENT (4)

DIRECTORS AND PRINCIPAL OFFICERS OF CAROLINA POWER & LIGHT COMPANY, FLORIDA POWER CORPORATION, FLORIDA PROGRESS CORPORATION, PROGRESS ENERGY, INC., DUKE ENERGY CORPORATION; PRINCIPAL NUCLEAR OFFICERS OF DUKE ENERGY CAROLINAS, LLC; AND DIRECTORS AND SENIOR OFFICERS OF POST-MERGER DUKE ENERGY CORPORATION

Carolina Power & Light Company and Florida Power Corporation
March 30, 2011

ATTACHMENT (4)

DIRECTORS AND PRINCIPAL OFFICERS OF CAROLINA POWER & LIGHT COMPANY, FLORIDA POWER CORPORATION, FLORIDA PROGRESS CORPORATION, PROGRESS ENERGY, INC., DUKE ENERGY CORPORATION; PRINCIPAL NUCLEAR OFFICERS OF DUKE ENERGY CAROLINAS, LLC; AND DIRECTORS AND SENIOR OFFICERS OF POST-MERGER DUKE ENERGY CORPORATION

I. CAROLINA POWER & LIGHT COMPANY

A. CP&L Board of Directors

The business address and names of the current CP&L board of directors are as follows. All are U.S. citizens.

Carolina Power & Light Company
410 S. Wilmington Street
Raleigh, NC 27601

Jeffrey A. Corbett
William D. Johnson
Jeffrey J. Lyash
John R. McArthur
Mark F. Mulhern
James Scarola
Paula J. Sims
Lloyd M. Yates

B. CP&L Principal Officers

The business address, names, and current titles of the CP&L principal officers are as follows. All are U.S. citizens.

Carolina Power & Light Company
410 S. Wilmington Street
Raleigh, NC 27601

Caren B. Anders	Vice President
Michael J. Annacone	Vice President – Brunswick Nuclear Plant
Len S. Anthony	General Counsel
Melody Birmingham-Byrd	Vice President
Christopher L. Burton	Vice President – Harris Nuclear Plant
Robert F. Caldwell	Vice President
Jeffrey A. Corbett	Senior Vice President
Joseph W. Donahue	Vice President – Nuclear Oversight
Robert J. Duncan II	Vice President – Robinson Nuclear Plant

ATTACHMENT (4)

DIRECTORS AND PRINCIPAL OFFICERS OF CAROLINA POWER & LIGHT COMPANY, FLORIDA POWER CORPORATION, FLORIDA PROGRESS CORPORATION, PROGRESS ENERGY, INC., DUKE ENERGY CORPORATION; PRINCIPAL NUCLEAR OFFICERS OF DUKE ENERGY CAROLINAS, LLC; AND DIRECTORS AND SENIOR OFFICERS OF POST-MERGER DUKE ENERGY CORPORATION

John Elnitsky	Vice President
David B. Fountain	Corporate Secretary
Rodney E. Gaddy	Vice President
Charles M. Gates	Vice President
Sherri L. Green	Treasurer and Vice President
Anne M. Huffman	Vice President
William D. Johnson	Chairman
Patricia Kornegay-Timmons	Assistant Secretary
Gayle S. Lanier	Vice President
Jeffrey J. Lyash	Executive Vice President
R. Tucker Mann	Vice President
Lee T. Mazzocchi	Vice President
John R. McArthur	Chief Compliance Officer and Executive Vice President
Robert H. McCall	Vice President
Garry D. Miller	Vice President – Nuclear Engineering
Thomas F. Moses	Assistant Treasurer
Mark F. Mulhern	Chief Financial Officer and Senior Vice President
Carol C. Nelson	Vice President
Mitchell W. Perry	Vice President
James Scarola	Chief Nuclear Officer and Senior Vice President
Paula J. Sims	Senior Vice President
Robert A. Sipes	Vice President
John F. Smith III	Vice President
Jeffrey M. Stone	Chief Accounting Officer
P. Eugene Upchurch	Vice President
Alexander J. Weintraub	Vice President
Holly H. Wenger	Assistant Secretary
Margaret S. Yaeger	Controller
Lloyd M. Yates	President and Chief Executive Officer

II. FLORIDA POWER CORPORATION

A. FPC Board of Directors

The business address and names of the current FPC board of directors are as follows. All are U.S. citizens.

ATTACHMENT (4)

DIRECTORS AND PRINCIPAL OFFICERS OF CAROLINA POWER & LIGHT COMPANY, FLORIDA POWER CORPORATION, FLORIDA PROGRESS CORPORATION, PROGRESS ENERGY, INC., DUKE ENERGY CORPORATION; PRINCIPAL NUCLEAR OFFICERS OF DUKE ENERGY CAROLINAS, LLC; AND DIRECTORS AND SENIOR OFFICERS OF POST-MERGER DUKE ENERGY CORPORATION

Florida Power Corporation
299 1st Avenue N
St. Petersburg, FL 33701

Vincent M. Dolan
William D. Johnson
Michael A. Lewis
Jeffrey J. Lyash
John R. McArthur
Mark F. Mulhern
Paula J. Sims

B. FPC Principal Officers

The business address, names, and current titles of the FPC principal officers are as follows. All are U.S. citizens.

Florida Power Corporation
299 1st Avenue N
St. Petersburg, FL 33701

Martha W. Barnwell	Vice President
Laura M. Boisvert	Vice President
Robert F. Caldwell	Vice President
Vincent M. Dolan	President and Chief Executive Officer
Joseph W. Donahue	Vice President – Nuclear Oversight
Robert J. Duncan II	Vice President – Nuclear Operations
John Elnitsky	Vice President
David B. Fountain	Corporate Secretary
Jon A. Franke	Vice President – Crystal River Nuclear Plant
Will A. Garrett	Controller
Robert A. Glenn	Assistant Secretary and General Counsel
Sherri L. Green	Treasurer and Vice President
Anne M. Huffman	Vice President
William D. Johnson	Chairman
Jackie Joyner	Vice President
Gayle S. Lanier	Vice President
Michael A. Lewis	Senior Vice President

ATTACHMENT (4)

DIRECTORS AND PRINCIPAL OFFICERS OF CAROLINA POWER & LIGHT COMPANY, FLORIDA POWER CORPORATION, FLORIDA PROGRESS CORPORATION, PROGRESS ENERGY, INC., DUKE ENERGY CORPORATION; PRINCIPAL NUCLEAR OFFICERS OF DUKE ENERGY CAROLINAS, LLC; AND DIRECTORS AND SENIOR OFFICERS OF POST-MERGER DUKE ENERGY CORPORATION

Jeffrey J. Lyash	Executive Vice President
R. Tucker Mann	Vice President
David J. Maxon	Vice President
Lee T. Mazzocchi	Vice President
John R. McArthur	Chief Compliance Officer and Executive Vice President
Garry D. Miller	Vice President – Nuclear Engineering
Thomas F. Moses	Assistant Treasurer
Mark F. Mulhern	Chief Financial Officer and Senior Vice President
Carol C. Nelson	Vice President
Jeffrey D. Oliver	Vice President
James Scarola	Chief Nuclear Officer and Senior Vice President
Paula J. Sims	Senior Vice President
David W. Sorrick	Vice President
Jeffrey M. Stone	Chief Accounting Officer
Peter E. Toomey	Vice President
Alexander J. Weintraub	Vice President
Holly H. Wenger	Assistant Secretary
Mark V. Wimberly	Vice President

III. FLORIDA PROGRESS CORPORATION

A. Florida Progress Corporation Board of Directors

The business address and names of the current Florida Progress Corporation board directors are as follows. All are U.S. citizens.

Florida Progress Corporation
410 S. Wilmington Street
Raleigh, NC 27601

Vincent M. Dolan
William D. Johnson
Jeffrey J. Lyash
John R. McArthur
Mark F. Mulhern
Paula J. Sims

B. Florida Progress Corporation Principal Officers

ATTACHMENT (4)

DIRECTORS AND PRINCIPAL OFFICERS OF CAROLINA POWER & LIGHT COMPANY, FLORIDA POWER CORPORATION, FLORIDA PROGRESS CORPORATION, PROGRESS ENERGY, INC., DUKE ENERGY CORPORATION; PRINCIPAL NUCLEAR OFFICERS OF DUKE ENERGY CAROLINAS, LLC; AND DIRECTORS AND SENIOR OFFICERS OF POST-MERGER DUKE ENERGY CORPORATION

The business address, names, and current titles of the Florida Progress Corporation principal officers are as follows. All are U.S. citizens.

Florida Progress Corporation
410 S. Wilmington Street
Raleigh, NC 27601

David B. Fountain	General Counsel and Corporate Secretary
Sherri L. Green	Treasurer
William D. Johnson	Chairman, President and Chief Executive Officer
Patricia Kornegay-Timmons	Assistant Secretary
Gayle S. Lanier	Vice President
John R. McArthur	Executive Vice President
Thomas F. Moses	Assistant Treasurer
Mark F. Mulhern	Chief Financial Officer
Carol C. Nelson	Vice President
Jeffrey M. Stone	Chief Accounting Officer and Controller
Holly H. Wenger	Assistant Secretary

IV. PROGRESS ENERGY, INC.

A. Progress Energy Board of Directors

The business address and names of the current Progress Energy board of directors are as follows. All are U.S. citizens.

Progress Energy, Inc.
410 S. Wilmington Street
Raleigh, NC 27601

John D. Baker II
James E. Bostic, Jr.
Harris E. DeLoach, Jr.
James B. Hyler, Jr.
William D. Johnson
Robert W. Jones
W. Steven Jones
Mel R. Martinez

E. Marie McKee
John H. Mullin III
Charles W. Pryor, Jr.
Carlos A. Saladrigas
Theresa M. Stone
Alfred C. Tollison, Jr.

B. Progress Energy Principal Officers

The business address, names, and current titles of the Progress Energy principal officers are as follows. All are U.S. citizens.

Progress Energy, Inc.
410 S. Wilmington Street
Raleigh, NC 27601

David B. Fountain	Assistant Secretary
Sherri L. Green	Treasurer
William D. Johnson	Chairman, President, and Chief Executive Officer
Patricia Kornegay-Timmons	Assistant Secretary
Jeffrey J. Lyash	Executive Vice President
John R. McArthur	Chief Compliance Officer, Corporate Secretary, Executive Vice President, and General Counsel
Thomas F. Moses	Assistant Treasurer
Mark F. Mulhern	Chief Financial Officer and Senior Vice President
Jeffrey M. Stone	Chief Accounting Officer and Controller
Holly H. Wenger	Assistant Secretary

V. DUKE ENERGY CORPORATION

A. Duke Energy Board of Directors

The business address and names of the current Duke Energy board of directors are as follows. All are U.S. citizens.

Duke Energy Corporation
526 South Church Street
Charlotte, NC 28202

ATTACHMENT (4)

DIRECTORS AND PRINCIPAL OFFICERS OF CAROLINA POWER & LIGHT COMPANY, FLORIDA POWER CORPORATION, FLORIDA PROGRESS CORPORATION, PROGRESS ENERGY, INC., DUKE ENERGY CORPORATION; PRINCIPAL NUCLEAR OFFICERS OF DUKE ENERGY CAROLINAS, LLC; AND DIRECTORS AND SENIOR OFFICERS OF POST-MERGER DUKE ENERGY CORPORATION

William Barnet III
G. Alex Bernhardt, Sr.
Michael G. Browning
Daniel R. DiMicco
John H. Forsgren
Ann M. Gray
James H. Hance, Jr.
E. James Reinsch
James T. Rhodes
James E. Rogers
Philip R. Sharp

B. Duke Energy Principal Officers

The business address, names, and current titles of the Duke Energy principal officers are as follows. All are U.S. citizens.

Duke Energy Corporation
526 South Church Street
Charlotte, NC 28202

Richard B. Bates	Vice President, Mergers and Acquisitions
Roberta B. Bowman	Senior Vice President and Chief Sustainability Officer
Jeffery G. Browning	Senior Vice President, Audit Services and Chief Ethics and Compliance Officer
Keith G. Butler	Senior Vice President, Tax
Myron L. Caldwell	Senior Vice President, Financial Planning and Analysis
Swati V. Daji	Vice President, Global Risk Management and Insurance and Chief Risk Officer
Stephen G. De May	Senior Vice President, Investor Relations and Treasurer
Lynn J. Good	Group Executive and Chief Financial Officer
Dhiaa M. Jamil	Group Executive, Chief Generation Officer and Chief Nuclear Officer
David S. Maltz	Vice President, Legal and Assistant Corporate Secretary
Gianna M. Manes	Senior Vice President and Chief Customer Officer
Marc E. Manly	Group Executive, Chief Legal Officer and Corporate Secretary
Beverly K. Marshall	Vice President, Federal Policy and Government Affairs
David W. Mohler	Senior Vice President and Chief Technology Officer
Alva R. Mullinax	Senior Vice President and Chief Information Officer

ATTACHMENT (4)

DIRECTORS AND PRINCIPAL OFFICERS OF CAROLINA POWER & LIGHT COMPANY, FLORIDA POWER CORPORATION, FLORIDA PROGRESS CORPORATION, PROGRESS ENERGY, INC., DUKE ENERGY CORPORATION; PRINCIPAL NUCLEAR OFFICERS OF DUKE ENERGY CAROLINAS, LLC; AND DIRECTORS AND SENIOR OFFICERS OF POST-MERGER DUKE ENERGY CORPORATION

Ronald R. Reising	Senior Vice President, Supply Chain and Chief Procurement Officer
Robert J. Ringel	Vice President, Legal and Assistant Corporate Secretary
James E. Rogers	President and Chief Executive Officer
John L. Stowell	Vice President, Environmental Health and Safety Policy
B. Keith Trent	Group Executive and President, Commercial Businesses
William F. Tyndall	Senior Vice President, Federal Government and Regulatory Affairs
Jennifer L. Weber	Group Executive, Human Resources and Corporate Relations
Steven K. Young	Senior Vice President and Controller

C. Duke Energy Carolinas, LLC Principal Nuclear Officers

The business address, names, and current titles of the Duke Energy Carolinas, LLC principal nuclear officers are as follows. All are U.S. citizens.

Duke Energy Carolinas, LLC
526 South Church Street
Charlotte, NC 28202

David A. Baxter	Vice President, Nuclear Engineering
Bryan J. Dolan	Vice President, Nuclear Plant Development
T.P. Gillespie Jr.	Site Vice President, Oconee
Dhiaa M. Jamil	Group Executive, Chief Generation Officer and Chief Nuclear Officer
Ronald A. Jones	Senior Vice President, Nuclear Development
Daniel K. McRainey	Vice President, Nuclear Special Projects
James R. Morris	Site Vice President, Catawba
John W. Pitesa	Senior Vice President, Nuclear Operations
Regis T. Repko	Site Vice President, McGuire
Benjamin C. Waldrep	Vice President, Nuclear Fleet Performance

ATTACHMENT (4)

DIRECTORS AND PRINCIPAL OFFICERS OF CAROLINA POWER & LIGHT COMPANY, FLORIDA POWER CORPORATION, FLORIDA PROGRESS CORPORATION, PROGRESS ENERGY, INC., DUKE ENERGY CORPORATION; PRINCIPAL NUCLEAR OFFICERS OF DUKE ENERGY CAROLINAS, LLC; AND DIRECTORS AND SENIOR OFFICERS OF POST-MERGER DUKE ENERGY CORPORATION

VI POST-MERGER DUKE ENERGY CORPORATION

A. Post-Merger Board of Directors

At the close of the merger, the size of the board of directors of Duke Energy will be increased to eighteen. All eleven current directors of Duke Energy will continue as directors as of the effective time of close, subject to their ability and willingness to serve. James E. Rogers, currently Chairman, President and Chief Executive Officer of Duke Energy, will serve as the Executive Chairman of the board of directors. The following seven of the current directors of Progress Energy will be added to the Board of Directors of Duke Energy as of the effective time of close, subject to their ability and willingness to serve: John D. Baker II, Harris E. DeLoach, Jr., James B. Hyler, Jr., William D. Johnson, E. Marie McKee, Carlos A. Saladrigas and Theresa M. Stone. All members of the Duke Energy board of directors after the merger will be U.S. Citizens.

B. Post-Merger Principal Officers

After the merger, the Duke Energy headquarters will remain in Charlotte, North Carolina. The headquarters business address will be:

Duke Energy Corporation
550 South Tryon Street
Charlotte, NC 28202

ATTACHMENT (4)

DIRECTORS AND PRINCIPAL OFFICERS OF CAROLINA POWER & LIGHT COMPANY, FLORIDA POWER CORPORATION, FLORIDA PROGRESS CORPORATION, PROGRESS ENERGY, INC., DUKE ENERGY CORPORATION; PRINCIPAL NUCLEAR OFFICERS OF DUKE ENERGY CAROLINAS, LLC; AND DIRECTORS AND SENIOR OFFICERS OF POST-MERGER DUKE ENERGY CORPORATION

The merger agreement provides that, subject to such individuals' ability and willingness to serve, the following individuals will be the senior officers of Duke Energy upon completion of the merger:

- Lynn J. Good, currently group executive and chief financial officer of Duke Energy, will continue as chief financial officer;
- Dhiaa M. Jamil, currently group executive, chief generation officer and chief nuclear officer of Duke Energy, will lead nuclear generation;
- William D. Johnson, currently chairman, president and chief executive officer of Progress Energy, will serve as the president and chief executive officer of Duke Energy;
- Jeffrey J. Lyash, currently executive vice president of energy supply of Progress Energy, will lead energy supply;
- Marc E. Manly, currently group executive, chief legal officer and corporate secretary of Duke Energy, will be general counsel and corporate secretary;
- John R. McArthur, currently executive vice president, general counsel and corporate secretary of Progress Energy, will lead regulated utilities;
- Mark F. Mulhern, currently senior vice president and chief financial officer of Progress Energy, will be chief administrative officer;
- B. Keith Trent, currently group executive and president of commercial businesses of Duke Energy, will lead commercial businesses;
- Jennifer L. Weber, currently group executive and chief human resources officer of Duke Energy, will lead human resources; and
- Lloyd M. Yates, currently president and chief executive officer of Progress Energy Carolinas, will lead customer operations.

ATTACHMENT (5)

REQUIRED STATE AND FEDERAL APPROVALS

ATTACHMENT (5)

REQUIRED STATE AND FEDERAL APPROVALS

In addition to the NRC approval requested in this Application, the Applicants must also obtain the following state and federal approvals or file the following notifications prior to the merger:

1. Consent and approval of the Federal Energy Regulatory Commission (FERC) under Section 203 of the Federal Power Act, as amended, or an order under the Power Act disclaiming jurisdiction over the transactions contemplated hereby; as well as approval of two related filings with the FERC under Section 205 of the Federal Power Act, each of which is necessary to complete the merger: (1) a joint dispatch agreement under which Duke Energy Carolinas, LLC (DEC) and CP&L will jointly dispatch their generation facilities, and (2) a joint open access transmission tariff under which DEC and CP&L will jointly provide transmission service;

2. Approval of the North Carolina Utilities Commission, the South Carolina Public Service Commission, and the Kentucky Public Service Commission;[5]

3. Filing of notification under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the implementing rules and regulations, and the expiration or early termination of the waiting period thereunder;

4. Approval and, to the extent required, a declaration of effectiveness by the Securities and Exchange Commission pursuant to the filing of (1) a proxy statement relating to the approval of the Merger Agreement by Progress Energy's and Duke Energy's shareholders pursuant to the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder; (2) the registration statement on Form S-4 prepared in connection with the issuance of Duke Energy Common Stock in the Merger; and (3) such reports under the Exchange Act as may be required in connection with the Merger Agreement and the transactions contemplated thereby; and

5. Pre-approvals of license transfers with the Federal Communications Commission.

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[5] Duke Energy and Progress Energy will also provide information regarding the merger to their other state regulators: the Florida Public Service Commission, the Indiana Utility Regulatory Commission and the Ohio Public Utilities Commission, as applicable.

Dhiaa M. Jamil
Group Executive,
Chief Generation Officer and
Chief Nuclear Officer

Duke Energy
EC03XM/526 South Church Street
Charlotte, NC 28202

Mailing Address:
P. O. Box 1006 - EC03XM
Charlotte, NC 28201-1006

(704) 382-2200 (Direct)
(704) 382-4869 (Fax)

Dhiaa.Jamil@duke-energy.com

March 31, 2011

ATTENTION: Document Control Desk
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Subject: Duke Energy Carolinas, LLC

Oconee Nuclear Station, Units 1, 2, and 3
Renewed Facility Operating License Nos. DPR-38, DPR-47, and DPR-55
Docket Nos. 50-269, 50-270, and 50-287

McGuire Nuclear Station, Units 1 and 2
Renewed Facility Operating License Nos. NFP-9, NPF-17
Docket Nos. 50-369, 50-370

Catawba Nuclear Station, Units 1 and 2
Renewed Facility Operating License Nos. NFP-35, NPF-52
Docket Nos. 50-413 and 50-414

Oconee Nuclear Station
Independent Spent Fuel Storage Installation
NRC License No. SNM-2503
Docket No. 72-004

Request for Threshold Determination of Nonjurisdiction or in the Alternative, Request for Consent to the Indirect Transfer of Control of Licenses Pursuant to 10 CFR § 50.80 and 10 CFR § 72.50

On January 8, 2011, Duke Energy Corporation (Duke Energy), the parent corporation of Duke Energy Carolinas, LLC (Duke), executed an Agreement and Plan of Merger by and among Duke Energy, Diamond Acquisition Corporation and Progress Energy, Inc. (Progress Energy) (the Merger Agreement). A copy of the Merger Agreement is included with this request as Attachment 1 of the Enclosure. Pursuant to the Merger Agreement, Progress Energy will become a wholly-owned direct subsidiary of Duke Energy. Duke is the owner and operating licensee of Oconee Nuclear Station, Units 1, 2 and 3 (Oconee) and McGuire Nuclear Station, Units 1 and 2 (McGuire); Duke has a 38.49 percentage ownership interest in Catawba Nuclear Station Unit 1 and is the operating licensee of Units 1 and 2 (Catawba); Duke also holds a specific license for the Oconee ISFSI (collectively Duke Licenses).

Duke submits this letter on its behalf, and on behalf of Duke Energy, with the knowledge and consent of Progress Energy. Its purpose is to provide the Nuclear Regulatory Commission (NRC) with an adequate basis to make a threshold determination that the proposed merger of Duke Energy and Progress Energy will not constitute a direct or indirect transfer of the Duke Licenses or any rights thereunder, and thus Duke does not require the NRC's approval under Section 184 of the Atomic Energy Act, as amended, 10 CFR § 50.80 and 10 CFR § 72.50 in connection with the proposed merger. Information to assist the Staff in their review is provided in the Enclosure.

Under the terms of the Merger Agreement, and subject to regulatory approvals and the satisfaction of appropriate obligations of the parties, Diamond Acquisition Corporation, a wholly-owned direct subsidiary of Duke Energy, will merge with and into Progress Energy and each share of Progress Energy common stock will be cancelled and converted into the right to receive 2.6125 shares of Duke Energy common stock, subject to certain appropriate adjustments. Following completion of the merger, it is anticipated that Duke Energy shareholders will own approximately 63 percent of the combined company and Progress Energy shareholders will own approximately 37 percent of the combined company on a fully diluted basis.

Duke will remain a wholly-owned direct subsidiary of Duke Energy. Progress Energy will become a wholly-owned direct subsidiary of Duke Energy and the former shareholders of Progress Energy will become shareholders of Duke Energy. Progress Energy is the parent corporation of Carolina Power & Light Company (CP&L), now doing business as Progress Energy Carolinas, Inc. and Florida Power Corporation (FPC), now doing business as Progress Energy Florida, Inc. CP&L and FPC will become indirect subsidiaries of Duke Energy. Charts showing the pre- and post-merger simplified organizational structures of Progress Energy and Duke Energy are included as Attachment 2 of the Enclosure.

When the transaction is completed, the Merger Agreement provides that Duke Energy will have an eighteen-member board of directors. All eleven current directors of Duke Energy will continue as directors when the transaction is complete, subject to their ability and willingness to serve. Progress Energy, after consultation with Duke Energy, designated seven of the current directors of Progress Energy who will be added to the board of directors of Duke Energy when the transaction is complete, similarly subject to their ability and willingness to serve. The Merger Agreement further designates the principal executive officers of the merged company. A list of directors and principal executive officers of Duke, Duke Energy, Progress Energy and post-merger Duke Energy Corporation is included as Attachment 3 of the Enclosure.

The proposed merger will not affect the relationship between Duke and Duke Energy. No change to Duke's corporate ownership structure will occur as a result of the proposed merger and Duke will continue to hold the Duke Licenses. Duke will continue to be responsible for the safe and economic operation of the Duke-licensed facilities. No physical changes to the plants will be made as a result of the proposed merger. Nor will any significant changes to the day-to-day operations of the nuclear stations be made as a result of the proposed merger. Operation will be in accordance with the terms and conditions of the present licenses and in accordance with the current licensing bases.

The Enclosure provides information pertaining to the proposed merger. This information demonstrates, as to Duke, the transaction is similar to other transactions which the Commission has determined in the context of a threshold review did not result in a direct or indirect license

transfer. Further, as this information demonstrates, the merger will not (1) adversely impact the operation of Oconee, McGuire, or Catawba; (2) adversely impact the managerial or technical qualifications of the licensed operator; (3) adversely impact the financial qualifications of the licensees or the existing assurance of adequate decommissioning funding for the plants; or (4) result in foreign ownership, control, or domination over any of the licensees.

The merger will, however, result in an indirect transfer of control over the NRC licenses held by CP&L and FPC. On March 30, 2011, CP&L and FPC submitted an application seeking NRC consent to the indirect transfer of control of the following NRC licenses: (1) Brunswick Steam Electric Plant, Units 1 and 2, Renewed Operating Licenses DPR-71 & DPR-62; (2) Crystal River Nuclear Generating Plant, Unit 3, Operating License DPR-72; (3) Shearon Harris Nuclear Power Plant, Unit 1, Renewed Operating License NPF-63; (4) H.B. Robinson Steam Electric Plant, Unit 2, Renewed Operating License DPR-23; and (5) H.B. Robinson Steam Electric Plant Independent Spent Fuel Storage Installation Facility, Renewed Materials License No. SNM-2502.

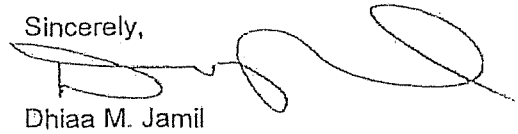
Based upon the foregoing and the information provided in the Enclosure, Duke requests a threshold determination that the proposed merger of Duke Energy and Progress Energy will not constitute a direct or indirect transfer of the Duke Licenses. In the alternative, if the NRC concludes that the proposed merger constitutes a transfer of control of any of the Duke Licenses, Duke respectfully requests approval of such transfer pursuant to Section 184 of the Atomic Energy Act, as amended, 10 CFR § 50.80 and 10 CFR § 72.50.

The parties to the proposed transaction anticipate closing on December 1, 2011, subject to receipt of all required regulatory approvals, which are listed in Attachment 4 of the Enclosure. Duke respectfully requests the Staff's determination regarding this matter prior to May 31, 2011, so that should NRC approval be required, additional information may be provided to the Staff if needed to support the approval by October 15, 2011.[1]

Should you have any questions or require additional information regarding this request for threshold determination of nonjurisdiction or in the alternative, request for consent to the indirect transfer of control of licenses pursuant to 10 CFR § 50.80 and 10 CFR § 72.50, please contact Lara Nichols at 704.382.9960 or Lara.Nichols@duke-energy.com or Jeff Thomas at 704.382.3438 or Jeff.Thomas@duke-energy.com

There are no regulatory commitments contained in this letter or enclosure.

Sincerely,



Dhiaa M. Jamil
Group Executive, Chief Generation Officer and Chief Nuclear Officer

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1 In their application for approval of indirect transfers of control, CP&L and FPC have requested NRC approval by this date.

Enclosure: Supporting Information Related to The Proposed Merger Between Duke Energy Corporation and Progress Energy, Inc.

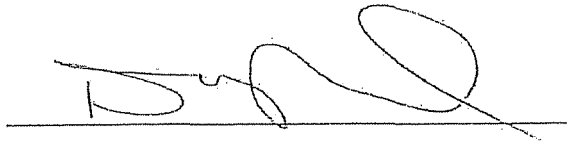
Attachments:

1. Merger Agreement
2. Pre-Merger and Post-Merger Simplified Organization Charts
3. Directors and Officers of Duke Energy Carolinas, LLC, Duke Energy Corporation, Progress Energy, Inc. and Post-Merger Duke Energy Corporation
4. Required State and Federal Approvals

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, Dhiaa M. Jamil, state that I am the Group Executive, Chief Generation Officer and Chief Nuclear Officer for Duke Energy, and that I am duly authorized to execute and file this request on behalf of this company. To the best of my knowledge and belief, the statements contained in this document with respect to this company are true and correct. To the extent that these statements are not based on my personal knowledge, they are based upon information provided by employees and/or consultants of the company. Such information has been reviewed in accordance with company practice, and I believe it to be reliable.



Dhiaa M. Jamil
Group Executive, Chief Generation Officer and Chief Nuclear Officer

Subscribed and sworn before me, a Notary Public in and for the State of North Carolina and County of Mecklenburg, this 31st day of March 2011.

WITNESS my Hand and Notarial Seal:

Phoebe P. Elliott
Notary Public

My commission expires:

June 26, 2011
Date

Phoebe P. Elliott
Notary Public
Mecklenburg County, NC

xc:

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U. S. Nuclear Regulatory Commission
March 31, 2011

ENCLOSURE

SUPPORTING INFORMATION RELATED TO THE PROPOSED MERGER BETWEEN DUKE ENERGY CORPORATION AND PROGRESS ENERGY, INC.

TABLE OF CONTENTS

I. INTRODUCTION

Duke Energy Carolinas, LLC (Duke) requests a threshold determination that the proposed merger of Duke Energy Corporation (Duke Energy) and Progress Energy, Inc. (Progress Energy) will not constitute a direct or indirect transfer of control of the operating licenses for the Oconee Nuclear Station, Units 1, 2 and 3 (Oconee), McGuire Nuclear Station, Units 1 and 2 (McGuire), Catawba Nuclear Station, Units 1 and 2 (Catawba) and Oconee Nuclear Station Independent Spent Fuel Storage Installation (Oconee ISFSI).[1] In the alternative, if the NRC concludes that the proposed merger constitutes a transfer of control of any of the Duke Licenses, Duke respectfully requests approval of such transfer pursuant to Section 184 of the Atomic Energy Act, as amended, 10 CFR § 50.80 and 10 CFR § 72.50.

Duke is the owner and operating licensee of Oconee and McGuire. Duke has a 38.49 percentage ownership interest in Catawba Unit 1, is the licensed operator of Unit 1, and is the non-owner operating licensee of Unit 2. Duke also holds a specific license for the Oconee ISFSI. The use of the term "Duke Licenses" herein refers to the following:

- Oconee Unit 1 DPR-38
- Oconee Unit 2 DPR-47
- Oconee Unit 3 DPR-55
- McGuire Unit 1 NPF-9
- McGuire Unit 2 NPF-17
- Catawba Unit 1 NPF-35
- Catawba Unit 2 NPF-52
- Oconee ISFSI SNM-2503

The facilities that are the subject of the Duke Licenses are collectively referred to as the Licensed Facilities.

The proposed merger will not affect the relationship between Duke and Duke Energy. No change to Duke's corporate ownership structure will occur as a result of the proposed merger and Duke will continue to hold the Duke Licenses.[2] Duke will continue to be responsible for the safe and economic operation of the Licensed Facilities. No physical changes to the plants will be made as a result of the proposed merger. Nor will any significant changes to the day-to-day

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1 Duke is also a general licensee for storage of spent fuel in certain certified dry casks at Oconee, McGuire and Catawba pursuant to 10 CFR § 72.210.

2 The merger will not affect the existing joint ownership of Catawba.

operations of the nuclear stations be made as a result of the proposed merger. Operation will be in accordance with the terms and conditions of the present licenses and in accordance with the current licensing bases.

Duke will continue to be a utility regulated by the Federal Energy Regulatory Commission, the North Carolina Utilities Commission and the Public Service Commission of South Carolina. As such, Duke will continue to be financially qualified to operate, maintain and decommission the Licensed Facilities.

II. STATEMENT OF PURPOSE AND DESCRIPTION OF THE TRANSACTION

The terms and conditions of the proposed transaction are set forth in the Agreement and Plan of Merger, dated as of January 8, 2011, by and among Duke Energy Corporation, Diamond Acquisition Corporation and Progress Energy, Inc. (the Merger Agreement). A copy of the Merger Agreement is included with this request as Attachment 1 of this Enclosure. Under the terms of the Merger Agreement, and subject to regulatory approvals and the satisfaction of certain obligations of the parties, Diamond Acquisition Corporation, a wholly-owned direct subsidiary of Duke Energy, will merge with and into Progress Energy and each share of Progress Energy common stock will be cancelled and converted into the right to receive 2.6125 shares of Duke Energy common stock, subject to certain appropriate adjustments.

Duke will remain a wholly-owned direct subsidiary of Duke Energy. Progress Energy will become a wholly-owned direct subsidiary of Duke Energy and the former shareholders of Progress Energy will become shareholders of Duke Energy. Progress Energy is the parent company of Carolina Power & Light Company (CP&L), now doing business as Progress Energy Carolinas, Inc. and also the parent company of Florida Progress Corporation, which is the holding company for Florida Power Corporation (FPC), now doing business as Progress Energy Florida, Inc. CP&L and FPC will become indirect subsidiaries of Duke Energy. Charts showing the pre- and post-merger organizational structures of Progress Energy and Duke Energy are included as Attachment 2 of this Enclosure.

Based on the closing price of Duke Energy common stock on the New York Stock Exchange on January 7, 2011, the last trading day before the public announcement of the Merger Agreement, Progress Energy shareholders would receive a value of $46.48 per share, or $13.7 billion in total equity value. Duke Energy also will assume approximately $12.2 billion in Progress Energy net debt. Following completion of the merger, it is anticipated that Duke Energy shareholders will own approximately 63 percent of the combined company and Progress Energy shareholders will own approximately 37 percent of the combined company on a fully diluted basis.

When the transaction is completed, the Merger Agreement provides that Duke Energy will have an eighteen-member board of directors. All eleven current directors of Duke Energy will continue as directors when the transaction is complete, subject to their ability and willingness to serve. Progress Energy, after consultation with Duke Energy, designated seven of the current directors of Progress Energy who will be added to the board of directors of Duke Energy when the transaction is complete, similarly subject to their ability and willingness to serve. Duke Energy's Chairman, President and Chief Executive Officer, James E. Rogers, will be Executive Chairman of the post-merger board of directors. William D. Johnson, Progress Energy's Chairman, President, and Chief Executive Officer, will be President and

Chief Executive Officer of Duke Energy post-merger. The Merger Agreement further designates the principal officers of Duke Energy upon closing of the merger. Notably, Duke Energy's Chief Generation Officer and Chief Nuclear Officer (CNO), Dhiaa M. Jamil, will lead the nuclear generation function for the merged company. No significant changes in the organization of any of the Licensed Facilities are expected to be made as a result of the transaction. A list of directors and principal executive officers of Duke, Duke Energy, Progress Energy and the post-merger Duke Energy Corporation is included as Attachment 3 of this Enclosure.

The merger of Progress Energy with Duke Energy will create the nation's largest utility with $65 billion in enterprise value and $37 billion in market capitalization. The scale, scope and diversity of the combined company are expected to result in increased financial stability and strength, enhanced access to capital, and greater ability to undertake the significant fleet and grid modernization required to respond to increasing environmental regulation, plant retirements and demand growth. The merger should benefit customers through operating efficiencies over time; additionally customers in North Carolina and South Carolina are expected to benefit from joint dispatch efficiencies and fuel procurement savings. The new Duke Energy will be able to leverage the best practices of both companies to achieve even higher levels of safety, operational excellence and customer satisfaction. In addition, the merger also provides consistent and predictable earnings and cash flows to support dividend payments to shareholders and maintain balance sheet strength.

III. REGULATORY EVALUATION

A. Request for Threshold Determination that No NRC Approval is Required

NRC regulation 10 CFR § 50.80 implements Section 184 of the Atomic Energy Act for Part 50 licenses. Section 50.80(a) provides in part that: "No license for a production utilization facility, or any right thereunder, shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission shall give its consent in writing." Similarly, 10 CFR § 72.50 requires consent for the transfer of control of a specific license for an independent spent fuel storage installation. Under the facts set forth above, the proposed merger will not result in transfer of the Duke Licenses. Duke and all facts pertinent to its ownership, financing and operation of the Licensed Facilities are unaltered by the transaction. Further, there is no effect on Duke's technical or financial qualifications to hold the Duke Licenses, nor any effect on the decommissioning funds available or obligated for decommissioning of the Licensed Facilities. Finally, the proposed merger does not raise the issue of foreign ownership of either Duke, or its parent Duke Energy.

B. Precedent

The facts presented here are similar to other transactions which the Commission determined in the context of a threshold review did not present a direct or indirect license transfer issue. The Commission has repeatedly concluded that proposed mergers in which (a) the transaction occurs at the holding company level, (b) there is no change in the licensee's ownership structure, (c) the parent company of the licensee is the dominant entity in the post-merger organization, (d) there is no change in the financing or operation at the licensee level did not

constitute a transfer in control of the NRC licenses. The following determinations serve as precedent for the action requested by Duke:

> NRC Letter *re: Merger of MCN Energy into DTE Energy* (TAC No. MA7885) (February 15, 2000) (ADAMS Accession No. ML003683266)(determining upon threshold review that the merger between MCN Energy Group, Inc. (MNC) and DTE Energy Company (DTE) pursuant to which MCN became a subsidiary of DTE and an affiliate of Detroit Edison Company did not result in a transfer of control of the operating license for Fermi 2 held by Detroit Edison);
>
> NRC Letter *re: Merger of Dominion Resources, Inc. and Consolidated Natural Gas Company* (TAC Nos. MA6430, MA64312, MA6432 and MA6433) (December 7, 1999) (ADAMS Accession No. ML993470426) (determining upon threshold review that the merger between Dominion Resources, Inc. (DRI) and Consolidated Natural Gas Company (CNG) pursuant to which CNG became a subsidiary of DRI and an affiliate of Virginia Electric and Power Company did not did not result in a transfer of control of the licenses for North Anna Units 1 and 2 and Surry Power Station Units 1 and 2 held by Virginia Power);
>
> NRC Letter re: *Proposed Merger Involving Wisconsin Power & Light Company* (TAC No. M96691) (July 30, 1997) (ADAMS Accession No. ML020770479) (determining upon threshold review that the merger between WPL Holdings, Inc. (WPLH), Interstate Power Corporation (IPC) and IES Industries Inc. (IESI) pursuant to which IESI merged into WPLH and IPC became a subsidiary of WPLH and an affiliate of Wisconsin Power & Light Company (WPL) did not did not result in a transfer of control of the license for Kewaunee Nuclear Power Plant held by WPL); and
>
> *see also,* NRC Letter *re: Merger of Interstate Power Company into IES Utilities Inc.* (TAC No. MA9346) (December 27, 2000) (ADAMS Accession No. ML003781005) (determining upon threshold review that the consolidation of Interstate Power Company (IPC) into IES Utilities, Inc. (IES), both subsidiaries of Alliant Energy Corporation, did not result in a transfer of control of the license for Duane Arnold Energy Center held by IES)

For the reasons set forth herein, Duke respectfully requests that the NRC determine that the proposed merger between Duke Energy and Progress Energy does not involve a direct or indirect transfer of control over the Duke Licenses, and thus does not require NRC approval as to Duke.[3]

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[3] The merger will, however, result in an indirect transfer of control over the NRC licenses held by CP&L and FPC. On March 30, 2011, CP&L and FPC submitted an application seeking NRC consent to the indirect transfer of control of the following NRC licenses: (1) Brunswick Steam Electric Plant, Units 1 and 2, Renewed Operating Licenses DPR-71 & DPR-62; (2) Crystal River Nuclear Generating Plant, Unit 3, Operating License DPR-72; (3) Shearon Harris Nuclear Power Plant, Unit 1, Renewed Operating License NPF-63; (4) H.B. Robinson Steam Electric Plant, Unit 2, Renewed Operating License DPR-23; and (5) H.B. Robinson Steam Electric Plant Independent Spent Fuel Storage Installation Facility, Renewed Materials License No. SNM-2502.

C. Request in the Alternative for Approval of Indirect Transfer of Rights

In the alternative, if the NRC concludes that the proposed merger constitutes a transfer of control of any of the Duke Licenses, Duke respectfully requests approval of such transfer pursuant to Section 184 of the Atomic Energy Act, as amended, 10 CFR § 50.80 and 10 CFR § 72.50. Provided below is the information required by 10 CFR § 50.80(b) and (c) regarding "the identity and technical and financial qualifications of the proposed transferee as would be required by those sections if the applicant were for an initial license..." This information demonstrates that should approval of the proposed merger as to Duke be required, post closing Duke will continue to be qualified to be the holder of the license and otherwise meets the requirements of 10 CFR § 50.80 and 10 CFR § 72.50.

IV. GENERAL CORPORATE INFORMATION REGARDING DUKE ENERGY CAROLINAS, LLC, DUKE ENERGY CORPORATION AND PROGRESS ENERGY, INC.

A. General Information Regarding Duke Energy Carolinas, LLC

1. Name and Address

Duke Energy Carolinas, LLC
526 South Church Street
Charlotte, North Carolina 28202

2. Description of Business

Duke is engaged in the business of generating, transmitting, distributing and selling electric power and energy. It is a public utility under the laws of North Carolina and subject to the jurisdiction of the North Carolina Utilities Commission with respect to its operations in that State. The company also transacts business and is an "electrical utility" under the laws of the State of South Carolina; accordingly, its operations in that State are subject to the jurisdiction of the Public Service Commission of South Carolina. Duke is also a public utility under the Federal Power Act, and certain of its operations are subject to the jurisdiction of the Federal Energy Regulatory Commission. The company owns and/or operates regulated electric facilities, including seven nuclear units licensed by the NRC, as well as electric distribution and transmission facilities.

3. Organization and Management

Duke is a wholly-owned direct subsidiary of Duke Energy Corporation, which is currently widely held and publicly traded. Following the proposed transaction, Duke will continue to be a wholly-owned direct subsidiary of Duke Energy Corporation. Duke will not be owned, controlled or dominated by an alien, foreign corporation or foreign government. All members of Duke's board of directors and all of its principal officers are citizens of the United States. Their names and addresses are listed in Attachment 3 of this Enclosure.

B. General Information Regarding Duke Energy Corporation

1. Name and Address

Duke Energy Corporation
526 South Church Street
Charlotte, North Carolina 28202

2. Description of Business

Duke Energy is a diversified energy company with both regulated and unregulated utility operations, organized and existing under the laws of the State of Delaware, with approximately $14 billion in annual revenues. Duke Energy supplies, delivers and processes energy for customers in the United States and selected international markets. Its regulated utility operations own approximately 27,000 megawatts of generating capacity and serve approximately four million customers located in five states in the Southeast and Midwest, representing a population of twelve million people. Its commercial power and international business segments own and operate diverse power generation assets in North America and Latin America, including a growing portfolio of renewable energy assets in the United States. Headquartered in Charlotte, North Carolina, Duke Energy is a Fortune 500 company traded on the New York Stock Exchange under the symbol DUK.

3. Organization and Management

Following the proposed transaction, the common stock of Duke Energy will be widely held and publicly traded. Duke Energy will not be owned, controlled or dominated by an alien, foreign corporation or foreign government. All members of Duke Energy's board of directors and all of its principal officers are citizens of the United States. Their names and addresses are listed in Attachment 3 of this Enclosure. After the merger, the Duke Energy board of directors will consist of eleven members of the existing Duke Energy board and seven members from the Progress Energy board who were designated by Progress Energy after execution of the Merger Agreement. The designated members of the Duke Energy post-merger board of directors are listed in Attachment 3 of this Enclosure. All are U.S. citizens.

C. General Information Regarding Progress Energy, Inc.

1. Name and Address

Progress Energy, Inc.
410 S. Wilmington Street
Raleigh, NC 27601

2. Description of Business

Progress Energy, organized and existing under the laws of the State of North Carolina, is a Fortune 500 energy company with more than 22,000 megawatts of generation capacity and approximately $10 billion in annual revenues. Progress Energy is the parent company of CP&L. Progress Energy is also the parent company of Florida Progress Corporation, which is the holding company for FPC. CP&L and FPC are major electric utilities that serve approximately

3.1 million customers in the North Carolina, South Carolina, and Florida. Headquartered in Raleigh, North Carolina, Progress Energy is traded on the New York Stock Exchange under the symbol PGN.

3. *Organization and Management*

The common stock of Progress Energy is currently widely held and publicly traded. Following the proposed transaction, Progress Energy will become a wholly-owned direct subsidiary of Duke Energy. Progress Energy will not be owned, controlled or dominated by an alien, foreign corporation or foreign government. Seven members of Progress Energy's board of directors will become members of Duke Energy's board of directors after the merger. All members of Progress Energy's board of directors and all of its principal officers are citizens of the United States. Their names and addresses are listed in Attachment 3 of this Enclosure.

V. TECHNICAL QUALIFICATIONS

Duke's technical qualifications are not affected by the proposed merger. There will be no physical changes to the Licensed Facilities and no changes in their day-to-day operations in connection with the transaction. Duke will at all times remain the licensed operator of Oconee, McGuire and Catawba. No conforming amendments will be required to the facility operating licenses or the site-specific ISFSI license as a result of the proposed transaction.

The Licensed Facilities will continue to be operated in accordance with the Duke Licenses, NRC requirements, the licensing bases and other NRC commitments. The nuclear operating organizations for the Licensed Facilities are expected to remain essentially unchanged as a result of the acquisition. Sufficient qualified technical resources will be provided to support safe operation and maintenance of the units and clear lines of authority through to the CNO will be maintained.

Dhiaa Jamil, currently CNO of Duke Energy, will be the senior nuclear generation executive after the merger, reporting directly to the CEO. Through the integration process, the precise post-merger organization will be developed and may include a senior level corporate management structure through which the nuclear site vice presidents at each licensed facility would report. The candidates for these senior management positions include the existing senior management of the Duke Energy and Progress Energy nuclear fleets who have significant industry experience and are US citizens. The names of the principal nuclear officers for Duke, CP&L and FPC are included in Attachment 3 of this Enclosure. There are no plans to change the Nuclear Site Vice Presidents in anticipation of the merger. Any changes would occur due to the normal course of business, in which case replacements would be made using the existing succession management processes.

As demonstrated by the above, the technical qualifications of the organization will remain intact.

VI. FINANCIAL QUALIFICATIONS

A. Operating Financial Qualifications

After the proposed transaction, Duke will continue to generate and distribute electricity and recover the cost of this electricity through rates authorized by the North Carolina Utilities

Commission, the Public Service Commission of South Carolina and the Federal Energy Regulatory Commission. Therefore, Duke will continue to meet the definition of "electric utility" set forth in 10 CFR § 50.2. Accordingly, its financial qualifications are presumed by 10 CFR § 50.33(f) and no specific demonstration of financial qualifications is required.

B. Decommissioning Funding

The proposed transaction will not impact the decommissioning funding assurance for the nuclear stations. Information regarding the status of decommissioning funding for Oconee, McGuire and Catawba as of December 31, 2010 was reported to the NRC in accordance with 10 CFR § 50.75(f)(1) on March 30, 2011. The funds are currently in full compliance with 10 CFR § 50.75. Duke will continue to maintain its existing decommissioning trust funds segregated from its assets and outside its administrative control in accordance with the requirements of 10 CFR § 50.75(e)(1). After the merger, Duke will remain responsible for the decommissioning liabilities associated with its ownership interests in Oconee, McGuire and Catawba. Duke will continue to fund its decommissioning trusts for the licensed facilities in accordance with 10 CFR § 50.75.

VII. ANTITRUST INFORMATION

To the extent the NRC determines that the proposed merger results in an indirect transfer of the Duke Licenses, such transfer post-dates the issuance of the plants' operating licenses, and therefore no antitrust review is required or authorized. Based upon the Commission's decision in *Kansas Gas and Electric Co., et al.* (Wolf Creek Generating Station, Unit 1), CLI-99-19, 49 N.R.C. 441 (1999), the Atomic Energy Act does not require or authorize antitrust reviews of post-operating license transfer applications. *See also* 10 CFR § 50.80(b); Final Rule, Antitrust Review Authority: Clarification, 65 Fed. Reg. 44,649 (July 19, 2000).

VIII. RESTRICTED DATA AND CLASSIFIED NATIONAL SECURITY INFORMATION

This request for threshold review and alternative request for consent to transfer the Duke Licenses does not contain any Restricted Data or other classified National Security Information. However, consistent with 10 CFR § 50.80(b) and § 50.37, Duke and Duke Energy will appropriately safeguard such information if any such information does become involved and will not permit any individual to have access to any such information until the Office of Personnel Management investigates and reports to the NRC on the character, associations, and loyalty of such individual, and the NRC determines that permitting such person to have access to Restricted Data will not endanger the common defense and security of the United States.

IX. ENVIRONMENTAL CONSIDERATIONS

This request for threshold review and alternative request for consent to transfer the Duke Licenses is exempt from environmental review because it falls within the categorical exclusion contained in 10 CFR § 51.22(c)(21), for which neither an Environmental Assessment nor an Environmental Impact Statement is required. Moreover, if deemed to be a transfer, the proposed transfers will not directly affect the actual operation of the plants in any substantive way. The proposed transfers will not involve an increase in the amounts, or a change in the types, of any radiological effluents that may be allowed to be released off-site, and they would not involve an increase in the amounts, or a change in the types, of non-radiological effluents

that may be released off-site. Further, there would be no increase in the individual or cumulative operational radiation exposure, and the proposed transfers would have no environmental impact.

X. PRICE-ANDERSON INDEMNITY AND NUCLEAR INSURANCE

The proposed transaction does not affect the existing Price-Anderson indemnity agreement for Oconee, McGuire and Catawba, and does not affect the required nuclear property damage insurance pursuant to 10 CFR § 50.54(w) and nuclear energy liability insurance pursuant to Section 170 of the Act and 10 CFR Part 140. Duke will maintain all required nuclear property damage insurance and nuclear energy liability insurance. In addition, Duke's annual reporting in compliance with 10 CFR § 140.21(e) provides reasonable assurance regarding its ongoing ability to pay its share of any annual retrospective premium.

XI. EFFECTIVE DATES

The parties to the proposed transaction anticipate closing on December 1, 2011, subject to receipt of all required regulatory approvals, which are listed in Attachment 4 of this Enclosure.

Duke respectfully requests the Staff's threshold determination regarding this matter prior to May 31, 2011, so that should NRC approval be required, additional information may be provided to the Staff if needed to support a schedule that will permit NRC to issue its consent to the indirect license transfers as promptly as possible. Duke is prepared to work closely with the NRC staff to help expedite its review, but should approval be required as to the Duke Licenses, Duke requests approval in any event no later than October 15, 2011.[4] Duke further requests that, if required, the consent be immediately effective upon issuance and that it permit the indirect transfers of control to be implemented at any time within the customary one year of the date of approval. Duke will keep the NRC informed of any significant developments that have a material impact on the schedule.

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[4] In their application for approval of indirect transfers of control, CP&L and FPC have requested NRC approval by this date.

U. S. Nuclear Regulatory Commission
March 31, 2011

ATTACHMENT 1

MERGER AGREEMENT

EXECUTION COPY

AGREEMENT AND PLAN OF MERGER

by and among

DUKE ENERGY CORPORATION,

DIAMOND ACQUISITION CORPORATION

and

PROGRESS ENERGY, INC.

Dated as of January 8, 2011

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CONDITIONS PRECEDENT

ARTICLE VII
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ARTICLE VIII
GENERAL PROVISIONS

DEFINED TERMS INDEX

AGREEMENT AND PLAN OF MERGER, dated as of January 8, 2011 (this "Agreement"), by and among DUKE ENERGY CORPORATION, a Delaware corporation ("Duke"), DIAMOND ACQUISITION CORPORATION, a North Carolina corporation and a direct wholly-owned subsidiary of Duke ("Merger Sub"), and PROGRESS ENERGY, INC., a North Carolina corporation ("Progress").

WHEREAS, the respective Boards of Directors of Duke and Merger Sub have approved this Agreement, and deem it advisable and in the best interests of their respective stockholders to consummate the merger of Merger Sub with and into Progress on the terms and conditions set forth herein (the "Merger"), and the Board of Directors of Duke has determined to recommend to the stockholders of Duke that they approve an amendment to the Amended and Restated Certificate of Incorporation of Duke providing for a reverse stock split and that they approve the issuance of shares of Duke Common Stock in connection with the Merger as set forth in this Agreement;

WHEREAS, the Board of Directors of Progress has adopted this Agreement, and deems it in the best interest of Progress to consummate the merger of Merger Sub with and into Progress on the terms and conditions set forth herein and has determined to recommend to the shareholders of Progress that they approve this Agreement and the Merger;

WHEREAS, Duke and Progress desire to make certain representations, warranties, covenants and agreements in connection with the Merger and the transactions contemplated by this Agreement and also to prescribe various conditions to the Merger; and

WHEREAS, for United States federal income tax purposes, it is intended that the Merger shall qualify as a reorganization under Section 368(a) of the Internal Revenue Code of 1986, as amended (the "Code"), and this Agreement is intended to be, and is hereby, adopted as a plan of reorganization within the meaning of Section 368(a) of the Code.

NOW, THEREFORE, in consideration of the foregoing and of the representations, warranties, covenants and agreements contained in this Agreement, the parties agree as follows:

ARTICLE I

THE MERGER

Section 1.01. The Merger. Upon the terms and subject to the conditions set forth in this Agreement, at the Effective Time, Merger Sub shall be merged with and into Progress in accordance with the North Carolina Business Corporation Act (the "NCBCA"). At the Effective Time, the separate corporate existence of Merger Sub shall cease, and Progress shall be the surviving corporation in the Merger (the "Surviving Corporation") and shall continue its corporate existence under the laws of the State of North Carolina and shall succeed to and assume all of the rights and obligations of Progress and Merger Sub in accordance with the NCBCA and shall become, as a result of the Merger, a direct wholly-owned subsidiary of Duke.

Section 1.02. Closing. Unless this Agreement shall have been terminated pursuant to Section 7.01, the closing of the Merger (the "Closing") will take place at 10:00 a.m., local time, on a date to be specified by the parties (the "Closing Date"), which, subject to Section 4.06 of this Agreement, shall be no later than the second business day after satisfaction or waiver of the

conditions set forth in Article VI (other than those conditions that by their terms are to be satisfied at the Closing, but subject to the satisfaction or waiver (to the extent permitted by applicable law) of such conditions at such time), unless another time or date is agreed to by the parties hereto. The Closing shall be held at such location as is agreed to by the parties hereto.

Section 1.03. Effective Time of the Merger. Subject to the provisions of this Agreement, as soon as practicable after 10:00 a.m., local time, on the Closing Date the parties thereto shall file articles of merger (the "Articles of Merger") executed in accordance with, and containing such information as is required by, Section 55-11-05 of the NCBCA with the Secretary of State of the State of North Carolina and on or after the Closing Date shall make all other filings or recordings required under the NCBCA. The Merger shall become effective at such time as the Articles of Merger are duly filed with the Secretary of State of the State of North Carolina or at such later time as is specified in the Articles of Merger (the time the Merger becomes effective being hereinafter referred to as the "Effective Time").

Section 1.04. Effects of the Merger. The Merger shall generally have the effects set forth in this Agreement and the applicable provisions of the NCBCA.

Section 1.05. Articles of Incorporation and By-laws of the Surviving Corporation.

(a) At the Effective Time, the articles of incorporation of Merger Sub as in effect immediately prior to the Effective Time shall be the articles of incorporation of the Surviving Corporation until thereafter amended in accordance with the provisions thereof and hereof and applicable Law, in each case consistent with the obligations set forth in Section 5.08.

(b) At the Effective Time, the by-laws of Merger Sub as in effect immediately prior to the Effective Time shall be the by-laws of the Surviving Corporation until thereafter amended in accordance with the provisions thereof and hereof and applicable Law, in each case consistent with the obligations set forth in Section 5.08.

Section 1.06. Directors and Officers of the Surviving Corporation.

(a) The directors of Merger Sub at the Effective Time shall, from and after the Effective Time, be the directors of the Surviving Corporation in the Merger until their successors have been duly elected or appointed and qualified, or their earlier death, resignation or removal.

(b) The officers of Progress at the Effective Time shall, from and after the Effective Time, be the initial officers of the Surviving Corporation until their successors have been duly elected or appointed and qualified, or their earlier death, resignation or removal.

Section 1.07. Post-Merger Operations.

(a) Board Matters. Duke shall take all necessary corporate action to cause the following to occur as of the Effective Time: (i) the number of directors constituting the Board of Directors of Duke shall be as set forth in **Exhibit A** hereto, with the identities of the Duke Designees (as defined in **Exhibit A** hereto) as set forth in **Exhibit A** hereto and the identities of the Progress Designees (as defined in **Exhibit A** hereto) as identified by Progress after the date hereof in accordance with the provisions of **Exhibit A** hereto, subject to such individuals' ability and

willingness to serve; (ii) the committees of the Board of Directors of Duke shall be as set forth in **Exhibit A** hereto, and the chairpersons of each such committee shall be designated in accordance with the provisions of **Exhibit A** hereto, subject to such individuals' ability and willingness to serve; and (iii) the lead independent director of the Board of Directors of Duke shall be designated in accordance with the provisions of **Exhibit A** hereto, subject to such individual's ability and willingness to serve. In the event any Duke Designee or any Progress Designee becomes unable or unwilling to serve as a director on the Board of Directors of Duke, or as a chairperson of a committee or as lead independent director, a replacement for such designee shall be determined in accordance with the provisions of **Exhibit A** hereto.

(b) Chairman of the Board; President and Chief Executive Officer; Executive Officers.

(i) Duke's Board of Directors shall cause the current Chief Executive Officer of Progress (the "Progress CEO") to be appointed as the President and Chief Executive Officer of Duke, and cause the current Chief Executive Officer of Duke (the "Duke CEO") to be appointed as the Chairman of the Board of Directors of Duke, in each case, effective as of, and conditioned upon the occurrence of, the Effective Time, and subject to such individuals' ability and willingness to serve. The roles and responsibilities of such officers shall be as specified on **Exhibit B** to this Agreement. In the event that the Progress CEO is unwilling or unable to serve as the President and Chief Executive Officer of Duke as of the Effective Time, Progress and Duke shall confer and mutually designate a President and Chief Executive Officer of Duke, who shall be appointed by Duke in accordance with the Amended and Restated Certificate of Incorporation and Amended and Restated By-laws of Duke as in effect as of the Effective Time. In the event that the Duke CEO is unwilling or unable to serve as the Chairman of the Board of Directors of Duke as of the Effective Time, Progress and Duke shall confer and mutually designate a Chairman of the Board of Directors of Duke, who shall be appointed by Duke in accordance with the Amended and Restated Certificate of Incorporation and Amended and Restated By-laws of Duke as in effect as of the Effective Time.

(ii) The material terms of the Progress CEO's employment with Duke as the President and Chief Executive Officer of Duke to be in effect as of the Effective Time are set forth on **Exhibit C** hereto. The parties shall use their commercially reasonable efforts to cause an employment agreement reflecting such terms to be executed by Duke and the Progress CEO as promptly as practicable after the date hereof, effective as of, and conditioned upon the occurrence of, the Effective Time.

(iii) The material terms of the Duke CEO's employment with Duke as the Chairman of the Board of Directors of Duke to be in effect as of the Effective Time are set forth on **Exhibit D** hereto. The parties shall use their commercially reasonable efforts to cause an amendment to the employment agreement of the Duke CEO reflecting such amended terms to be executed by Duke and the Duke CEO as promptly as practicable after the date hereof, effective as of, and conditioned upon the occurrence of, the Effective Time.

(iv) Subject to such individuals' ability and willingness to so serve, Duke shall take all necessary corporate action so that the individuals identified on **Exhibit E** and designated for the Duke senior executive officer positions specified on such Exhibit shall hold such officer positions as of the Effective Time. In the event that any such individual(s) is(are) unwilling or

unable to serve in such officer position(s) as of the Effective Time, Progress and Duke shall confer and mutually appoint other individual(s) to serve in such officer position(s).

(c) Name, Headquarters and Operations. Following the Effective Time, Duke shall retain its current name, and shall maintain its headquarters and principal corporate offices in Charlotte, North Carolina, none of which shall change as a result of the Merger, and, taken together with its subsidiaries following the Effective Time, shall maintain substantial operations in Raleigh, North Carolina.

(d) Community Support. The parties agree that provision of charitable contributions and community support in their respective service areas serves a number of their important corporate goals. During the two-year period immediately following the Effective Time, Duke and its subsidiaries taken as a whole intend to continue to provide charitable contributions and community support within the service areas of the parties and each of their respective subsidiaries in each service area at levels substantially comparable to the levels of charitable contributions and community support provided, directly or indirectly, by Duke and Progress within their respective service areas prior to the Effective Time.

Section 1.08. Transition Committee. As promptly as practicable after the date hereof and to the extent permitted by applicable law, the parties shall create a special transition committee to oversee integration planning, including, to the extent permitted by applicable law, consulting with respect to operations and major regulatory decisions. This transition committee shall be co-chaired by the Progress CEO and the Duke CEO, and shall be composed of such chief executive officers and two other designees of Duke and two other designees of Progress.

ARTICLE II

CONVERSION OF SHARES; EXCHANGE OF CERTIFICATES

Section 2.01 Effect on Capital Stock. At the Effective Time, by virtue of the Merger and without any action on the part of holders of any shares of Progress Common Stock or any capital stock of Merger Sub:

(a) Cancellation of Certain Progress Common Stock. Each share of Progress Common Stock that is owned by Progress (other than in a fiduciary capacity), Duke or Merger Sub shall automatically be canceled and retired and shall cease to exist, and no consideration shall be delivered in exchange therefor.

(b) Conversion of Progress Common Stock. Subject to Sections 2.02(e) and 2.02(k), each issued and outstanding share of Progress Common Stock (other than shares to be canceled in accordance with Section 2.01(a)) shall be converted into the right to receive 2.6125 (the "Exchange Ratio") fully paid and nonassessable shares of Duke Common Stock (such aggregate amount, the "Merger Consideration"). As of the Effective Time, all such shares of Progress Common Stock shall no longer be outstanding and shall automatically be canceled and retired and shall cease to exist, and each holder of a certificate representing any such shares of Progress Common Stock shall cease to have any rights with respect thereto, except the right to receive the Merger Consideration as contemplated by this Section 2.01(b) (and cash in lieu of fractional shares

of Duke Common Stock payable in accordance with Section 2.02(e)) to be issued or paid in consideration therefor upon the surrender of certificates in accordance with Section 2.02, without interest, and the right to receive dividends and other distributions in accordance with Section 2.02.

(c) Conversion of Merger Sub Common Stock. At the Effective Time, by virtue of the Merger and without any action on the part of the holder thereof, each share of common stock, par value $0.01 per share, of Merger Sub issued and outstanding immediately prior to the Effective Time shall be converted into and become one validly issued, fully paid and nonassessable share of common stock, par value $0.01 per share, of the Surviving Corporation and shall constitute the only outstanding capital stock of the Surviving Corporation. From and after the Effective Time, all certificates representing the common stock of Merger Sub shall be deemed for all purposes to represent the number of shares of common stock of the Surviving Corporation into which they were converted in accordance with the immediately preceding sentence.

Section 2.02 Exchange of Certificates.

(a) Exchange Agent. Prior to the Effective Time, Duke shall enter into an agreement with such bank or trust company as may be mutually agreed by Duke and Progress (the "Exchange Agent"), which agreement shall provide that Duke shall deposit with the Exchange Agent at or prior to the Effective Time, for the benefit of the holders of shares of Progress Common Stock, for exchange in accordance with this Article II, through the Exchange Agent, certificates representing the shares of Duke Common Stock representing the Merger Consideration (or appropriate alternative arrangements shall be made by Duke if uncertificated shares of Duke Common Stock will be issued). Following the Effective Time, Duke shall make available to the Exchange Agent, from time to time as needed, cash sufficient to pay any dividends and other distributions pursuant to Section 2.02(c) (such shares of Duke Common Stock to be deposited, together with any dividends or distributions with respect thereto with a record date after the Effective Time, being hereinafter referred to as the "Exchange Fund").

(b) Exchange Procedures. As soon as reasonably practicable after the Effective Time and in any event not later than the fifth Business Day following the Effective Time, Duke shall cause the Exchange Agent to mail to each holder of record of a certificate or certificates that immediately prior to the Effective Time represented outstanding shares of Progress Common Stock (the "Certificates") whose shares were converted into the right to receive shares of Duke Common Stock pursuant to Section 2.01(b), (i) a letter of transmittal (which shall specify that delivery shall be effected, and risk of loss and title to the Certificates shall pass, only upon delivery of the Certificates to the Exchange Agent and shall be in such form and have such other provisions as Duke and Progress may reasonably specify) and (ii) instructions for use in surrendering the Certificates in exchange for certificates representing whole shares of Duke Common Stock (or appropriate alternative arrangements shall be made by Duke if uncertificated shares of Duke Common Stock will be issued), cash in lieu of fractional shares pursuant to Section 2.02(e) and any dividends or other distributions payable pursuant to Section 2.02(c). Upon surrender of a Certificate for cancellation to the Exchange Agent, together with such letter of transmittal, duly completed and validly executed in accordance with the instructions thereto, and such other documents as may reasonably be required by the Exchange Agent, the holder of such Certificate shall be entitled to receive in exchange therefor that number of whole shares of Duke Common Stock (which shall be in uncertificated book entry form unless a physical certificate is requested),

that such holder has the right to receive pursuant to the provisions of this Article II, certain dividends or other distributions in accordance with Section 2.02(c) and cash in lieu of any fractional share of Duke Common Stock in accordance with Section 2.02(e), and the Certificate so surrendered shall forthwith be canceled. In the event of a transfer of ownership of Progress Common Stock that is not registered in the transfer records of Progress, the proper number of shares of Duke Common Stock may be issued to a person other than the person in whose name the Certificate so surrendered is registered if such Certificate shall be properly endorsed or otherwise be in proper form for transfer and the person requesting such issuance shall pay any transfer or other taxes required by reason of the issuance of shares of Duke Common Stock to a person other than the registered holder of such Certificate or establish to the satisfaction of Duke that such tax has been paid or is not applicable. Until surrendered as contemplated by this Section 2.02, each Certificate shall be deemed at any time after the Effective Time to represent only the right to receive upon such surrender the Merger Consideration, which the holder thereof has the right to receive in respect of such Certificate pursuant to the provisions of this Article II, certain dividends or other distributions in accordance with Section 2.02(c) and cash in lieu of any fractional share of Duke Common Stock, in accordance with Section 2.02(e). No interest shall be paid or will accrue on the Merger Consideration or any cash payable to holders of Certificates pursuant to the provisions of this Article II.

(c) Distributions with Respect to Unexchanged Shares. No dividends or other distributions with respect to Duke Common Stock with a record date after the Effective Time shall be paid to the holder of any unsurrendered Certificate with respect to the shares of Duke Common Stock issuable hereunder in respect thereof and no cash payment in lieu of fractional shares shall be paid to any such holder pursuant to Section 2.02(e), and all such dividends and other distributions shall be paid by Duke to the Exchange Agent and shall be included in the Exchange Fund, in each case until the surrender of such Certificate in accordance with this Article II. Subject to the effect of applicable escheat or similar laws, following surrender of any such Certificate there shall be paid to the recordholder thereof, (i) without interest, the number of whole shares of Duke Common Stock issuable in exchange therefor pursuant to this Article II, the amount of dividends or other distributions with a record date after the Effective Time theretofore paid with respect to such whole shares of Duke Common Stock and the amount of any cash payable in lieu of a fractional share of Duke Common Stock to which such holder is entitled pursuant to Section 2.02(e) and (ii) at the appropriate payment date, the amount of dividends or other distributions with a record date after the Effective Time but prior to such surrender and with a payment date subsequent to such surrender payable with respect to such whole shares of Duke Common Stock.

(d) No Further Ownership Rights in Progress Common Stock; Closing of Transfer Books. All shares of Duke Common Stock issued upon the surrender for exchange of Certificates in accordance with the terms of this Article II (including any cash paid pursuant to this Article II) shall be deemed to have been issued (and paid) in full satisfaction of all rights pertaining to the shares of Progress Common Stock theretofore represented by such Certificates, subject, however, to Progress's obligation to pay any dividends or make any other distributions with a record date prior to the Effective Time that may have been declared or made by Progress on such shares of Progress Common Stock that remain unpaid at the Effective Time. As of the Effective Time, the stock transfer books of Progress shall be closed, and there shall be no further registration of transfers on the stock transfer books of Progress of the shares of Progress Common Stock that were outstanding immediately prior to the Effective Time. If, after the Effective Time, Certificates are

presented to Progress, Duke or the Exchange Agent for any reason, they shall be canceled and exchanged as provided in this Article II, except as otherwise required by law.

(e) No Fractional Shares.

(i) No certificates or scrip representing fractional shares of Duke Common Stock shall be issued upon the surrender for exchange of Certificates, no dividend or distribution of Duke shall relate to such fractional share interests and such fractional share interests will not entitle the owner thereof to vote or to any rights of a shareholder of Duke but, in lieu thereof, each holder of such Certificate will be entitled to a cash payment in accordance with the provisions of this Section 2.02(e).

(ii) As promptly as practicable following the Effective Time, the Exchange Agent shall determine the excess of (A) the number of whole shares of Duke Common Stock delivered to the Exchange Agent by Duke pursuant to Section 2.02(a) representing the Merger Consideration over (B) the aggregate number of whole shares of Duke Common Stock to be distributed to former holders of Progress Common Stock pursuant to Section 2.02(b) (such excess being herein called the "Excess Shares"). Following the Effective Time, the Exchange Agent shall, on behalf of former shareholders of Progress, sell the Excess Shares at then-prevailing prices on the New York Stock Exchange, Inc. ("NYSE"), all in the manner provided in Section 2.02(e)(iii). The parties acknowledge that payment of the cash consideration in lieu of issuing fractional shares of Duke Common Stock was not separately bargained for consideration but merely represents a mechanical rounding off for purposes of avoiding the expense and inconvenience to Duke that would otherwise be caused by the issuance of fractional shares of Duke Common Stock.

(iii) The sale of the Excess Shares by the Exchange Agent shall be executed on the NYSE through one or more member firms of the NYSE and shall be executed in round lots to the extent practicable. The Exchange Agent shall use reasonable efforts to complete the sale of the Excess Shares as promptly following the Effective Time as, in the Exchange Agent's sole judgment, is practicable consistent with obtaining the best execution of such sales in light of prevailing market conditions. Until the net proceeds of such sale or sales have been distributed to the holders of Certificates formerly representing Progress Common Stock, the Exchange Agent shall hold such proceeds in trust for holders of Progress Common Stock (the "Common Shares Trust"). The Surviving Corporation shall pay all commissions, transfer taxes and other out-of-pocket transaction costs, including the expenses and compensation of the Exchange Agent incurred in connection with such sale of the Excess Shares. The Exchange Agent shall determine the portion of the Common Shares Trust to which each former holder of Progress Common Stock is entitled, if any, by multiplying the amount of the aggregate net proceeds composing the Common Shares Trust by a fraction, the numerator of which is the amount of the fractional share interest to which such former holder of Progress Common Stock would otherwise be entitled (after taking into account all shares of Progress Common Stock held at the Effective Time by such holder) and the denominator of which is the aggregate amount of fractional share interests to which all former holders of Progress Common Stock would otherwise be entitled.

(iv) As soon as practicable after the determination of the amount of cash, if any, to be paid to holders of Certificates formerly representing Progress Common Stock with respect to any fractional share interests, the Exchange Agent shall make available such amounts to such

holders of Certificates formerly representing Progress Common Stock, without interest, subject to and in accordance with the terms of Section 2.02(c).

(f) Termination of Exchange Fund. Any portion of the Exchange Fund that remains undistributed to the holders of the Certificates for one year after the Effective Time shall be delivered to Duke, upon demand, and any holders of the Certificates who have not theretofore complied with this Article II shall thereafter look only to Duke for payment of their claim for Merger Consideration, any dividends or distributions with respect to Duke Common Stock and any cash in lieu of fractional shares of Duke Common Stock.

(g) No Liability. None of Duke, Progress, Merger Sub, the Surviving Corporation or the Exchange Agent or any of their respective directors, officers, employees and agents shall be liable to any person in respect of any shares of Duke Common Stock, any dividends or distributions with respect thereto, any cash in lieu of fractional shares of Duke Common Stock or any cash from the Exchange Fund, in each case delivered to a public official pursuant to any applicable abandoned property, escheat or similar law. If any Certificate shall not have been surrendered prior to five years after the Effective Time (or immediately prior to such earlier date on which any Merger Consideration, any dividends or distributions payable to the holder of such Certificate or any cash payable to the holder of such Certificate formerly representing Progress Common Stock pursuant to this Article II, would otherwise escheat to or become the property of any Governmental Authority), any such Merger Consideration, dividends or distributions in respect of such Certificate or such cash shall, to the extent permitted by applicable law, become the property of Duke, free and clear of all claims or interest of any person previously entitled thereto.

(h) Investment of Exchange Fund. The Exchange Agent shall invest any cash included in the Exchange Fund, as directed by Duke, on a daily basis, provided that no gain or loss thereon shall affect the amounts payable to the holders of Progress Common Stock pursuant to the other provisions of this Article II. Any interest and other income resulting from such investments shall be paid to Duke.

(i) Withholding Rights. Duke and the Exchange Agent shall be entitled to deduct and withhold from any consideration payable pursuant to this Agreement to any person who was a holder of Progress Common Stock immediately prior to the Effective Time such amounts as Duke and the Exchange Agent may be required to deduct and withhold with respect to the making of such payment under the Code or any other provision of applicable federal, state, local or foreign tax law. To the extent that amounts are so withheld by Duke or the Exchange Agent and duly paid over to the applicable taxing authority, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the person to whom such consideration would otherwise have been paid.

(j) Lost, Stolen or Destroyed Certificates. If any Certificate shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming such Certificate to be lost, stolen or destroyed and, if required by Duke, the posting by such person of a bond in such reasonable amount as Duke may direct as indemnity against any claim that may be made against it with respect to such Certificate, the Exchange Agent shall issue in exchange for such lost, stolen or destroyed Certificate, the Merger Consideration and, if applicable, any unpaid

dividends and distributions on shares of Duke Common Stock deliverable in respect thereof and any cash in lieu of fractional shares, in each case pursuant to this Agreement.

(k) Adjustments to Prevent Dilution. In the event that Progress changes the number of shares of Progress Common Stock or securities convertible or exchangeable into or exercisable for shares of Progress Common Stock, or Duke changes the number of shares of Duke Common Stock or securities convertible or exchangeable into or exercisable for shares of Duke Common Stock, issued and outstanding prior to the Effective Time, in each case as a result of a reclassification, stock split (including a reverse stock split), stock dividend or distribution, subdivision, exchange or readjustment of shares, or other similar transaction, the Exchange Ratio shall be equitably adjusted; provided, however, that nothing in this Section 2.02(k) shall be deemed to permit or authorize any party hereto to effect any such change that it is not otherwise authorized or permitted to undertake pursuant to this Agreement. Without limiting the generality of the foregoing, upon Duke's implementation of the reverse stock split as described in Section 5.01(c), the Exchange Ratio will be reduced by multiplying the then-current Exchange Ratio by a ratio, the numerator of which is the number of shares of Duke Common Stock outstanding immediately following such reverse stock split, and the denominator of which is the number of shares of Duke Common Stock outstanding immediately prior to such reverse stock split.

(l) Uncertificated Shares. In the case of outstanding shares of Progress Common Stock that are not represented by Certificates, the parties shall make such adjustments to this Section 2.02 as are necessary or appropriate to implement the same purpose and effect that this Section 2.02 has with respect to shares of Progress Common Stock that are represented by Certificates.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

Section 3.01 Representations and Warranties of Progress. Except as set forth in the letter dated the date of this Agreement and delivered to Duke by Progress concurrently with the execution and delivery of this Agreement (the "Progress Disclosure Letter") or, to the extent the qualifying nature of such disclosure is readily apparent therefrom and excluding any forward-looking statements, risk factors and other similar statements that are cautionary and non-specific in nature, as set forth in the Progress SEC Reports filed on or after January 1, 2009 and prior to the date hereof, Progress represents and warrants to Duke as follows:

(a) Organization and Qualification.

(i) Each of Progress and its subsidiaries is duly organized, validly existing and in good standing (with respect to jurisdictions that recognize the concept of good standing) under the laws of its jurisdiction of organization and has full power and authority to conduct its business as and to the extent now conducted and to own, use and lease its assets and properties, except for such failures to be so organized, existing and in good standing (with respect to jurisdictions that recognize the concept of good standing) or to have such power and authority that, individually or in the aggregate, have not had and could not be reasonably expected to have a material adverse effect on Progress. Each of Progress and its subsidiaries is duly qualified, licensed or admitted to

do business and is in good standing (with respect to jurisdictions that recognize the concept of good standing) in each jurisdiction in which the ownership, use or leasing of its assets and properties, or the conduct or nature of its business, makes such qualification, licensing or admission necessary, except for such failures to be so qualified, licensed or admitted and in good standing (with respect to jurisdictions that recognize the concept of good standing) that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress. Section 3.01(a) of the Progress Disclosure Letter sets forth as of the date of this Agreement the name and jurisdiction of organization of each subsidiary of Progress. No subsidiary of Progress owns any stock in Progress. Progress has made available to Duke prior to the date of this Agreement a true and complete copy of Progress's articles of incorporation and by-laws, each as amended through the date hereof.

(ii) Section 3.01(a) of the Progress Disclosure Letter sets forth a description as of the date of this Agreement, of all Progress Joint Ventures, including (x) the name of each such entity and (y) a brief description of the principal line or lines of business conducted by each such entity. For purposes of this Agreement:

(A) "Joint Venture" of a person or entity shall mean any person that is not a subsidiary of such first person, in which such first person or one or more of its subsidiaries owns directly or indirectly an equity interest, other than equity interests held for passive investment purposes that are less than 5% of each class of the outstanding voting securities or equity interests of such second person;

(B) "Progress Joint Venture" shall mean any Joint Venture of Progress or any of its subsidiaries in which the invested capital associated with Progress's or its subsidiaries' interest, as of the date of this Agreement exceeds $50,000,000; and

(C) "Duke Joint Venture" shall mean any Joint Venture of Duke or any of its subsidiaries in which the invested capital associated with Duke's or its subsidiaries' interest, as of the date of this Agreement, exceeds $100,000,000.

(iii) Except for interests in the subsidiaries of Progress, the Progress Joint Ventures and interests acquired after the date of this Agreement without violating any covenant or agreement set forth herein, neither Progress nor any of its subsidiaries directly or indirectly owns any equity or similar interest in, or any interest convertible into or exchangeable or exercisable for, any equity or similar interest in, any person, in which the invested capital associated with such interest of Progress or any of its subsidiaries exceeds, individually as of the date of this Agreement, $50,000,000.

(b) Capital Stock.

(i) The authorized capital stock of Progress consists of:

(A) 500,000,000 shares of common stock, no par value (the "Progress Common Stock"), of which 293,150,141 shares were outstanding as of November 2, 2010; and

(B) 20,000,000 shares of preferred stock, no par value per share, none of which were outstanding as of the date of this Agreement.

As of the date of this Agreement, no shares of Progress Common Stock were held in the treasury of Progress. As of the date of this Agreement, 1,418,447 shares of Progress Common Stock were subject to outstanding stock options granted under the Progress Employee Stock Option Plans (collectively, the "Progress Employee Stock Options"), 1,194,888 shares of Progress Common Stock were subject to outstanding awards of restricted stock units or phantom shares of Progress Common Stock ("Progress Restricted Stock Units"), 1,875,087 shares of Progress Common Stock were subject to outstanding awards of performance shares of Progress Common Stock, determined at maximum performance levels ("Progress Performance Shares") and 1,651,047 additional shares of Progress Common Stock were reserved for issuance pursuant to the Progress Energy, Inc. 1997 Equity Incentive Plan, the Progress Energy, Inc. 2002 Equity Incentive Plan, the Progress Energy, Inc. 2007 Equity Incentive Plan, the Amended and Restated Progress Energy, Inc. Non-Employee Director Stock Unit Plan, and any other compensatory plan, program or arrangement under which shares of Progress Common Stock are reserved for issuance (collectively, the "Progress Employee Stock Option Plans"). Since November 2, 2010, no shares of Progress Common Stock have been issued except pursuant to the Progress Employee Stock Option Plans and Progress Employee Stock Options issued thereunder and the Progress Energy, Inc. Investor Plus Plan, and from November 2, 2010 to the date of this Agreement, no shares of Progress Common Stock have been issued other than 17,367 shares of Progress Common Stock issued pursuant to the Progress Employee Stock Option Plans or Progress Employee Stock Options issued thereunder and 62,489 shares of Progress Common Stock issued pursuant to the Progress Energy, Inc. Investor Plus Plan. All of the issued and outstanding shares of Progress Common Stock are, and all shares reserved for issuance will be, upon issuance in accordance with the terms specified in the instruments or agreements pursuant to which they are issuable, duly authorized, validly issued, fully paid and nonassessable. Except as disclosed in this Section 3.01(b), as of the date of this Agreement there are no outstanding subscriptions, options, warrants, rights (including stock appreciation rights), preemptive rights or other contracts, commitments, understandings or arrangements, including any right of conversion or exchange under any outstanding security, instrument or agreement (together, "Options"), obligating Progress or any of its subsidiaries (A) to issue or sell any shares of capital stock of Progress, (B) to grant, extend or enter into any Option with respect thereto, (C) redeem or otherwise acquire any such shares of capital stock or other equity interests or (D) provide a material amount of funds to, or make any material investment (in the form of a loan, capital contribution or otherwise) in, any of their respective subsidiaries.

(ii) Except as permitted by this Agreement, all of the outstanding shares of capital stock of each subsidiary of Progress are duly authorized, validly issued, fully paid and nonassessable and are owned, beneficially and of record, by Progress or a subsidiary of Progress, free and clear of any liens, claims, mortgages, encumbrances, pledges, security interests, equities and charges of any kind (each a "Lien"), except for any of the foregoing that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress. There are no (A) outstanding Options obligating Progress or any of its subsidiaries to issue or sell any shares of capital stock of any subsidiary of Progress or to grant, extend or enter into any such Option or (B) voting trusts, proxies or other commitments, understandings, restrictions or arrangements in favor of any person other than Progress or a subsidiary

wholly-owned, directly or indirectly, by Progress with respect to the voting of or the right to participate in dividends or other earnings on any capital stock of Progress or any subsidiary of Progress.

(iii) Progress is a "holding company" as defined under Section 1262 of the Public Utility Holding Company Act of 2005, as amended (the "2005 Act").

(iv) As of the date of this Agreement, no bonds, debentures, notes or other indebtedness of Progress or any of its subsidiaries having the right to vote (or which are convertible into or exercisable for securities having the right to vote) (collectively, "Progress Voting Debt") on any matters on which Progress shareholders may vote are issued or outstanding nor are there any outstanding Options obligating Progress or any of its subsidiaries to issue or sell any Progress Voting Debt or to grant, extend or enter into any Option with respect thereto.

(v) There have been no repricings of any Progress Employee Stock Options through amendments, cancellation and reissuance or other means during the current or prior two (2) calendar years. None of the Progress Employee Stock Options, Progress Restricted Stock Units or Progress Performance Shares (A) have been granted since November 2, 2010, except as permitted by this Agreement, or (B) have been granted in contemplation of the Merger or the transactions contemplated in this Agreement. None of the Progress Employee Stock Options was granted with an exercise price below the per share closing price on the NYSE on the date of grant. All grants of Progress Employee Stock Options, Progress Restricted Stock Units and Progress Performance Shares were validly made and properly approved by the Board of Directors of Progress (or a duly authorized committee or subcommittee thereof) in compliance with all applicable laws and recorded on the consolidated financial statements of Progress in accordance with GAAP, and no such grants of Progress Employee Stock Options involved any "back dating," "forward dating" or similar practices.

(c) Authority. Progress has full corporate power and authority to enter into this Agreement, to perform its obligations hereunder and, subject to obtaining Progress Shareholder Approval, to consummate the transactions contemplated hereby. The execution, delivery and performance of this Agreement by Progress and the consummation by Progress of the transactions contemplated hereby have been duly and validly adopted and unanimously approved by the Board of Directors of Progress, the Board of Directors of Progress has recommended approval of this Agreement by the shareholders of Progress and directed that this Agreement be submitted to the shareholders of Progress for their approval, and no other corporate proceedings on the part of Progress or its shareholders are necessary to authorize the execution, delivery and performance of this Agreement by Progress and the consummation by Progress of the Merger and the other transactions contemplated hereby, other than obtaining Progress Shareholder Approval. This Agreement has been duly and validly executed and delivered by Progress and, assuming this Agreement constitutes the legal, valid and binding obligation of Duke and Merger Sub, constitutes a legal, valid and binding obligation of Progress enforceable against Progress in accordance with its terms, except that such enforcement may be subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws, now or hereafter in effect, relating to creditors' rights generally and to general equitable principles.

(d) No Conflicts; Approvals and Consents.

(i) The execution and delivery of this Agreement by Progress does not, and the performance by Progress of its obligations hereunder and the consummation of the Merger and the other transactions contemplated hereby will not, conflict with, result in a violation or breach of, constitute (with or without notice or lapse of time or both) a default under, result in or give to any person any right of payment or reimbursement, termination, cancellation, modification or acceleration of, or result in the creation or imposition of any Lien upon any of the assets or properties of Progress or any of its subsidiaries or any of the Progress Joint Ventures under, any of the terms, conditions or provisions of (A) the certificates or articles of incorporation or by-laws (or other comparable organizational documents) of Progress or any of its subsidiaries or any of the Progress Joint Ventures, or (B) subject to the obtaining of Progress Shareholder Approval and the taking of the actions described in paragraph (ii) of this Section 3.01(d), including the Progress Required Statutory Approvals, (x) any statute, law, rule, regulation or ordinance (together, "laws"), or any judgment, order, writ or decree (together, "orders"), of any federal, state, local or foreign government or any court of competent jurisdiction, administrative agency or commission or other governmental authority or instrumentality, domestic, foreign or supranational (each, a "Governmental Authority") applicable to Progress or any of its subsidiaries or any of the Progress Joint Ventures or any of their respective assets or properties, or (y) any note, bond, mortgage, security agreement, credit agreement, indenture, license, franchise, permit, concession, contract, lease, obligation or other instrument to which Progress or any of its subsidiaries or any of the Progress Joint Ventures is a party or by which Progress or any of its subsidiaries or any of the Progress Joint Ventures or any of their respective assets or properties is bound, excluding from the foregoing clauses (x) and (y) such items that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress.

(ii) Except for (A) compliance with, and filings under, the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations thereunder (the "HSR Act"); (B) the filing with and, to the extent required, the declaration of effectiveness by the Securities and Exchange Commission (the "SEC") of (1) a proxy statement relating to the approval of this Agreement by Progress's shareholders (such proxy statement, together with the proxy statement relating to the approval of this Agreement by Duke's shareholders, in each case as amended or supplemented from time to time, the "Joint Proxy Statement") pursuant to the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder (the "Exchange Act"), (2) the registration statement on Form S-4 prepared in connection with the issuance of Duke Common Stock in the Merger (the "Form S-4") and (3) such reports under the Exchange Act as may be required in connection with this Agreement and the transactions contemplated hereby; (C) the filing of documents with various state securities authorities that may be required in connection with the transactions contemplated hereby; (D) such filings with and approvals of the NYSE to permit the shares of Duke Common Stock that are to be issued pursuant to Article II to be listed on the NYSE; (E) the registration, consents, approvals and notices required under the 2005 Act; (F) notice to, and the consent and approval of, the Federal Energy Regulatory Commission (the "FERC") under Section 203 of the Federal Power Act, as amended (the "Power Act"), or an order under the Power Act disclaiming jurisdiction over the transactions contemplated hereby; (G) the filing of an application to, and consent and approval of, and issuance of any required licenses and license amendments by, the Nuclear Regulatory Commission (the "NRC") under the Atomic Energy Act of 1954, as amended (the "Atomic Energy Act"); (H) the filing of the

Articles of Merger and other appropriate merger documents required by the NCBCA with the Secretary of State of the State of North Carolina and appropriate documents with the relevant authorities of other states in which Progress is qualified to do business; (I) compliance with and such filings as may be required under applicable Environmental Laws; (J) to the extent required, notice to and the approval of the North Carolina Utilities Commission (the "NCUC"), the Public Service Commission of South Carolina (the "PSCSC"), the Florida Public Service Commission (the "FPSC"), the Public Utilities Commission of Ohio (the "PUCO"), the Indiana Utility Regulatory Commission (the "IURC") and the Kentucky Public Service Commission (the "KPSC") (collectively, the "Applicable PSCs"); (K) required pre-approvals (the "FCC Pre-Approvals") of license transfers with the Federal Communications Commission (the "FCC"); (L) such other items as disclosed in Section 3.01(d) of the Progress Disclosure Letter; and (M) compliance with, and filings under, antitrust or competition laws of any foreign jurisdiction, if required (the items set forth above in clauses (A) through (H) and (J), collectively, the "Progress Required Statutory Approvals"), no consent, approval, license, order or authorization ("Consents") or action of, registration, declaration or filing with or notice to any Governmental Authority is necessary or required to be obtained or made in connection with the execution and delivery of this Agreement by Progress, the performance by Progress of its obligations hereunder or the consummation of the Merger and the other transactions contemplated hereby, other than such items that the failure to make or obtain, as the case may be, individually or in the aggregate, could not reasonably be expected to have a material adverse effect on Progress.

(e) SEC Reports, Financial Statements and Utility Reports.

(i) Progress and its subsidiaries have filed or furnished each form, report, schedule, registration statement, registration exemption, if applicable, definitive proxy statement and other document (together with all amendments thereof and supplements thereto) required to be filed or furnished by Progress or any of its subsidiaries pursuant to the Securities Act of 1933, as amended, and the rules and regulations thereunder (the "Securities Act") or the Exchange Act with the SEC since January 1, 2007 (as such documents have since the time of their filing been amended or supplemented, the "Progress SEC Reports"). As of their respective dates, after giving effect to any amendments or supplements thereto, the Progress SEC Reports (A) complied as to form in all material respects with the requirements of the Securities Act and the Exchange Act, if applicable, as the case may be, and, to the extent applicable, the Sarbanes-Oxley Act of 2002 ("SOX"), and (B) did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

(ii) Each of the principal executive officer of Progress and the principal financial officer of Progress (or each former principal executive officer of Progress and each former principal financial officer of Progress, as applicable) has made all certifications required by Rule 13a-14 or 15d-14 under the Exchange Act or Sections 302 and 906 of SOX and the rules and regulations of the SEC promulgated thereunder with respect to the Progress SEC Reports. For purposes of the preceding sentence, "principal executive officer" and "principal financial officer" shall have the meanings given to such terms in SOX. Since January 1, 2007, neither Progress nor any of its subsidiaries has arranged any outstanding "extensions of credit" to directors or executive officers within the meaning of Section 402 of SOX.

(iii) The audited consolidated financial statements and unaudited interim consolidated financial statements (including, in each case, the notes, if any, thereto) included in the Progress SEC Reports (the "Progress Financial Statements") complied as to form in all material respects with the published rules and regulations of the SEC with respect thereto in effect at the time of filing or furnishing the applicable Progress SEC Report, were prepared in accordance with United States generally accepted accounting principles ("GAAP") applied on a consistent basis during the periods involved (except as may be indicated therein or in the notes thereto and except with respect to unaudited statements as permitted by Form 10-Q of the SEC) and fairly present (subject, in the case of the unaudited interim financial statements, to normal, recurring year-end audit adjustments that were not or are not expected to be, individually or in the aggregate, materially adverse to Progress) the consolidated financial position of Progress and its consolidated subsidiaries as of the respective dates thereof and the consolidated results of their operations and cash flows for the respective periods then ended.

(iv) All filings (other than immaterial filings) required to be made by Progress or any of its subsidiaries since January 1, 2007, under the 2005 Act, the Power Act, the Atomic Energy Act, the Natural Gas Act, the Natural Gas Policy Act of 1978, the Communications Act of 1934 and applicable state laws and regulations, have been filed with the SEC, the FERC, the Department of Energy (the "DOE"), the FCC or any applicable state public utility commissions (including, to the extent required, NCUC, PSCSC and FPSC), as the case may be, including all forms, statements, reports, agreements (oral or written) and all documents, exhibits, amendments and supplements appertaining thereto, including all rates, tariffs, franchises, service agreements and related documents, and all such filings complied, as of their respective dates, with all applicable requirements of the applicable statute and the rules and regulations thereunder, except for filings the failure of which to make or the failure of which to make in compliance with all applicable requirements of the applicable statute and the rules and regulations thereunder, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress.

(v) Progress has designed and maintains a system of internal control over financial reporting (as defined in Rules 13a–15(f) and 15d–15(f) of the Exchange Act) sufficient to provide reasonable assurances regarding the reliability of financial reporting. Progress (x) has designed and maintains disclosure controls and procedures (as defined in Rules 13a–15(e) and 15d–15(e) of the Exchange Act) to provide reasonable assurance that all information required to be disclosed by Progress in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and is accumulated and communicated to Progress's management as appropriate to allow timely decisions regarding required disclosure, and (y) has disclosed, based on its most recent evaluation of internal control over financial reporting, to Progress's outside auditors and the audit committee of the Board of Directors of Progress (A) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect Progress's ability to record, process, summarize and report financial information and (B) any fraud, whether or not material, that involves management or other employees who have a significant role in Progress's internal control over financial reporting. Since December 31, 2006, any material change in internal control over financial reporting required to be disclosed in any Progress SEC Report has been so disclosed.

(vi) Since December 31, 2006, (x) neither Progress nor any of its subsidiaries nor, to the knowledge of the Executive Officers (for the purposes of this Section 3.01(e)(vi), as such term is defined in Section 3b-7 of the Exchange Act) of Progress, any director, officer, employee, auditor, accountant or representative of Progress or any of its subsidiaries has received or otherwise obtained knowledge of any material complaint, allegation, assertion or claim, whether written or oral, regarding the accounting or auditing practices, procedures, methodologies or methods of Progress or any of its subsidiaries or their respective internal accounting controls relating to periods after December 31, 2006, including any material complaint, allegation, assertion or claim that Progress or any of its subsidiaries has engaged in questionable accounting or auditing practices (except for any of the foregoing after the date hereof which have no reasonable basis), and (y) to the knowledge of the Executive Officers of Progress, no attorney representing Progress or any of its subsidiaries, whether or not employed by Progress or any of its subsidiaries, has reported evidence of a material violation of securities laws, breach of fiduciary duty or similar violation, relating to periods after December 31, 2006, by Progress or any of its officers, directors, employees or agents to the Board of Directors of Progress or any committee thereof or to any director or Executive Officer of Progress.

(f) Absence of Certain Changes or Events. Since December 31, 2009, through the date hereof, Progress and its subsidiaries have conducted their respective businesses in all material respects in the ordinary course of business in a consistent manner since such date and there has not been any change, event or development that, individually or in the aggregate, has had or could reasonably be expected to have a material adverse effect on Progress.

(g) Absence of Undisclosed Liabilities. Except for matters reflected or reserved against in the consolidated balance sheet (or notes thereto) as of December 31, 2009, included in the Progress Financial Statements, neither Progress nor any of its subsidiaries has any liabilities or obligations (whether absolute, accrued, contingent, fixed or otherwise, or whether due or to become due) of any nature that would be required by GAAP to be reflected on a consolidated balance sheet of Progress and its consolidated subsidiaries (including the notes thereto), except liabilities or obligations (i) that were incurred in the ordinary course of business consistent with past practice since December 31, 2009, (ii) that were incurred in connection with the transactions contemplated by this Agreement and that are not material in the aggregate or (iii) that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress. Neither Progress nor any of its subsidiaries is a party to, or has any commitment to become a party to, any joint venture, off-balance sheet partnership or any similar contract or arrangement (including any Contract relating to any transaction or relationship between or among Progress and any of its subsidiaries, on the one hand, and any unconsolidated affiliate, including any structured finance, special purpose or limited purpose entity or person, on the other hand, or any "off-balance sheet arrangements" (as defined in Item 303(a) of Regulation S-K under the Exchange Act), where the result, purpose or effect of such contract or arrangement is to avoid disclosure of any material transaction involving, or material liabilities of, Progress or any of its subsidiaries, in the Progress Financial Statements or the Progress SEC Reports.

(h) Legal Proceedings. Except for Environmental Claims, which are the subject of Section 3.01(n), as of the date of this Agreement, (i) there are no actions, suits, arbitrations or proceedings pending or, to the knowledge of Progress, threatened against, relating to or affecting, nor to the knowledge of Progress are there any Governmental Authority investigations, inquiries

or audits pending or threatened against, relating to or affecting, Progress or any of its subsidiaries or any of the Progress Joint Ventures or any of their respective assets and properties that, in each case, individually or in the aggregate, have had or could reasonably be expected to have a material adverse effect on Progress and (ii) neither Progress nor any of its subsidiaries or material assets is subject to any order of any Governmental Authority that, individually or in the aggregate, has had or could reasonably be expected to have a material adverse effect on Progress.

(i) Information Supplied. None of the information supplied or to be supplied by Progress for inclusion or incorporation by reference in (i) the Form S-4 will, at the time the Form S-4 is filed with the SEC, at any time it is amended or supplemented or at the time it becomes effective under the Securities Act, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, or (ii) the Joint Proxy Statement will, at the date it is first mailed to Duke's shareholders or Progress's shareholders or at the time of the Progress Shareholders Meeting or the Duke Shareholders Meeting, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading. The Joint Proxy Statement (other than the portions thereof relating solely to the Duke Shareholders Meeting) will comply as to form in all material respects with the requirements of the Exchange Act and the rules and regulations thereunder, except that no representation is made by Progress with respect to statements made or incorporated by reference therein based on information supplied by or on behalf of Duke or Merger Sub for inclusion or incorporation by reference in the Joint Proxy Statement.

(j) Permits; Compliance with Laws and Orders. Progress, its subsidiaries and the Progress Joint Ventures hold all permits, licenses, certificates, notices, authorizations, approvals and similar Consents of all Governmental Authorities ("Permits") necessary for the lawful conduct of their respective businesses, except for failures to hold such Permits that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress. Progress, its subsidiaries and the Progress Joint Ventures are in compliance with the terms of their Permits, except failures so to comply that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress. Progress, its subsidiaries and the Progress Joint Ventures are not, and since January 1, 2008 have not been, in violation of or default under any law or order of any Governmental Authority, except for such violations or defaults that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress. Progress is, and since January 1, 2008 has been, in compliance in all material respects with (i) SOX and (ii) the applicable listing standards and corporate governance rules and regulations of the NYSE. The above provisions of this Section 3.01(j) do not relate to matters with respect to taxes, such matters being the subject of Section 3.01(k), Environmental Permits and Environmental Laws, such matters being the subject of Section 3.01(n), benefits plans, such matters being the subject of Section 3.01(l) and nuclear power plants, such matters being the subject of Section 3.01(o).

(k) Taxes.

(i) Except as has not had, and could not reasonably be expected to have, a material adverse effect on Progress:

(A) Each of Progress and its subsidiaries has timely filed, or has caused to be timely filed on its behalf, all Tax Returns required to be filed by it, and all such Tax Returns are true, complete and accurate. All Taxes shown to be due and owing on such Tax Returns have been timely paid.

(B) The most recent financial statements contained in the Progress SEC Reports filed prior to the date of this Agreement reflect, in accordance with GAAP, an adequate reserve for all Taxes payable by Progress and its subsidiaries for all taxable periods through the date of such financial statements.

(C) There is no audit, examination, deficiency, refund litigation, proposed adjustment or matter in controversy with respect to any Taxes or Tax Return of Progress or its subsidiaries, and, to the knowledge of Progress, neither Progress nor any of its subsidiaries has received written notice of any claim made by a governmental authority in a jurisdiction where Progress or any of its subsidiaries, as applicable, does not file a Tax Return, that Progress or such subsidiary is or may be subject to income taxation by that jurisdiction. No deficiency with respect to any Taxes has been proposed, asserted or assessed against Progress or any of its subsidiaries, and no requests for waivers of the time to assess any Taxes are pending.

(D) There are no outstanding written agreements, consents or waivers to extend the statutory period of limitations applicable to the assessment of any Taxes or deficiencies against Progress or any of its subsidiaries, and no power of attorney granted by either Progress or any of its subsidiaries with respect to any Taxes is currently in force.

(E) Neither Progress nor any of its subsidiaries is a party to any agreement providing for the allocation or sharing of Taxes imposed on or with respect to any individual or other person (other than (I) such agreements with customers, vendors, lessors or the like entered into in the ordinary course of business and (II) agreements with or among Progress or any of its subsidiaries), and neither Progress nor any of its subsidiaries (A) has been a member of an affiliated group (or similar state, local or foreign filing group) filing a consolidated U.S. federal income Tax Return (other than the group the common parent of which is Progress or a subsidiary of Progress) or (B) has any liability for the Taxes of any person (other than Progress or any of its subsidiaries) (I) under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local or foreign law), or (II) as a transferee or successor.

(F) There are no material Liens for Taxes (other than for current Taxes not yet due and payable) on the assets of Progress and its subsidiaries.

(ii) Neither Progress nor any of its subsidiaries has taken or agreed to take any action or knows of any fact, agreement, plan or other circumstance that is reasonably likely to prevent or impede the Merger from qualifying as a reorganization under Section 368(a) of the Code.

For purposes of this Agreement:

"Taxes" means any and all federal, state, local, foreign or other taxes of any kind (together with any and all interest, penalties, additions to tax and additional amounts imposed with respect thereto) imposed by any governmental authority, including, without limitation, taxes or other charges on or with respect to income, franchises, windfall or other profits, gross receipts, property, sales, use, capital stock, payroll, employment, unemployment, social security, workers' compensation, or net worth, and taxes or other charges in the nature of excise, withholding, ad valorem or value added.

"Tax Return" means any return, report or similar statement (including the schedules attached thereto) required to be filed with respect to Taxes, including, without limitation, any information return, claim for refund, amended return, or declaration of estimated Taxes.

(l) Employee Benefit Plans; ERISA.

(i) Except for such matters that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress, (A) all Progress Employee Benefit Plans are in compliance with all applicable requirements of law, including the Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations thereunder ("ERISA"), and the Code, and (B) there does not now exist, nor do any circumstances exist that could result in, any Controlled Group Liability that would be a liability of Progress or any of its subsidiaries following the Closing. The only material employment agreements, severance agreements or severance policies applicable to Progress or any of its subsidiaries are the agreements and policies disclosed in Section 3.01(l)(i) of the Progress Disclosure Letter.

(ii) As used herein:

(A) "Controlled Group Liability" means any and all liabilities (1) under Title IV of ERISA, (2) under Section 302 of ERISA, (3) under Sections 412 and 4971 of the Code, and (4) as a result of a failure to comply with the continuation coverage requirements of Section 601 et seq. of ERISA and Section 4980B of the Code;

(B) "Progress Employee Benefit Plan" means any Plan entered into, established, maintained, sponsored, contributed to or required to be contributed to by Progress or any of its subsidiaries for the benefit of the current or former employees or directors of Progress or any of its subsidiaries and existing on the date of this Agreement or at any time subsequent thereto and, in the case of a Plan that is subject to Part 3 of Title I of ERISA, Section 412 of the Code or Title IV of ERISA, at any time during the five-year period preceding the date of this Agreement with respect to which Progress or any of its subsidiaries has or could reasonably be expected to have any present or future actual or contingent liabilities; and

(C) "Plan" means any employment, bonus, incentive compensation, deferred compensation, long term incentive, pension, profit sharing, retirement, stock purchase, stock option, stock ownership, stock appreciation rights, phantom

stock, leave of absence, layoff, vacation, day or dependent care, legal services, cafeteria, life, health, medical, accident, disability, workmen's compensation or other insurance, retention, severance, separation, termination, change of control or other benefit plan, agreement, practice, policy, program, scheme or arrangement of any kind, whether written or oral, including any "employee benefit plan" within the meaning of Section 3(3) of ERISA.

(iii) No event has occurred, and there exists no condition or set of circumstances in connection with any Progress Employee Benefit Plan, that has had or could reasonably be expected to have a material adverse effect on Progress.

(iv) Section 3.01(l)(iv) of the Progress Disclosure Letter identifies each Progress Employee Benefit Plan that provides, upon the occurrence of a change in the ownership or effective control of Progress or its subsidiaries or a change in the ownership of all or a substantial portion of the assets of Progress or its subsidiaries, either alone or upon the occurrence of any additional or subsequent events and whether or not applicable to the transactions contemplated by this Agreement, for (A) an acceleration of the time of payment of or vesting in, or an increase in the amount of, compensation or benefits due any current or former employee, director or officer of Progress or its subsidiaries, (B) any forgiveness of indebtedness or obligation to fund compensation or benefits with respect to any such employee, director or officer, or (C) an entitlement of any such employee, director or officer to severance pay, unemployment compensation or any other payment or other benefit.

(v) Each Progress Employee Benefit Plan that is in any part a "nonqualified deferred compensation plan" subject to Section 409A of the Code (A) materially complies and, at all times after December 31, 2008 has materially complied, both in form and operation, with the requirements of Section 409A of the Code and the final regulations thereunder and (B) between January 1, 2005 and December 31, 2008 was operated in material reasonable, good faith compliance with Section 409A of the Code, as determined under applicable guidance of the United States Department of the Treasury (the "Treasury") and the Internal Revenue Service.

(m) Labor Matters. As of the date hereof, neither Progress nor any of its subsidiaries is a party to, bound by or in the process of negotiating any collective bargaining agreement or other labor agreement with any union or labor organization. As of the date of this Agreement, there are no disputes, grievances or arbitrations pending or, to the knowledge of Progress, threatened between Progress or any of its subsidiaries and any trade union or other representatives of its employees and there is no charge or complaint pending or threatened in writing against Progress or any of its subsidiaries before the National Labor Relations Board (the "NLRB") or any similar Governmental Authority, except in each case as, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress, and, to the knowledge of Progress, as of the date of this Agreement, there are no material organizational efforts presently being made involving any of the employees of Progress or any of its subsidiaries. From December 31, 2007, to the date of this Agreement, there has been no work stoppage, strike, slowdown or lockout by or affecting employees of Progress or any of its subsidiaries and, to the knowledge of Progress, no such action has been threatened in writing, except in each case as, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress. Except as, individually or in the aggregate, has not had and

could not reasonably be expected to have a material adverse effect on Progress: (A) there are no litigations, lawsuits, claims, charges, complaints, arbitrations, actions, investigations or proceedings pending or, to the knowledge of Progress, threatened between or involving Progress or any of its subsidiaries and any of their respective current or former employees, independent contractors, applicants for employment or classes of the foregoing; (B) Progress and its subsidiaries are in compliance with all applicable laws, orders, agreements, contracts and policies respecting employment and employment practices, including, without limitation, all legal requirements respecting terms and conditions of employment, equal opportunity, workplace health and safety, wages and hours, child labor, immigration, discrimination, disability rights or benefits, facility closures and layoffs, workers' compensation, labor relations, employee leaves and unemployment insurance; and (C) since January 1, 2007, neither Progress nor any of its subsidiaries has engaged in any "plant closing" or "mass layoff," as defined in the Worker Adjustment Retraining and Notification Act or any comparable state or local law (the "WARN Act"), without complying with the notice requirements of such laws.

(n) Environmental Matters.

(i) Each of Progress, its subsidiaries and the Progress Joint Ventures since January 1, 2008 has been and is in compliance with all applicable Environmental Laws (as hereinafter defined), except where the failure to be in such compliance, individually or in the aggregate, has not had and could not reasonably be expected to have a material adverse effect on Progress.

(ii) Each of Progress, its subsidiaries and the Progress Joint Ventures has obtained all Permits under Environmental Laws (collectively, the "Environmental Permits") necessary for the construction of their facilities and the conduct of their operations as of the date of this Agreement, as applicable, and all such Environmental Permits are validly issued, in full force and effect, and final, and Progress, its subsidiaries and the Progress Joint Ventures are in compliance with all terms and conditions of the Environmental Permits, except where the failure to obtain such Environmental Permits, of such Permits to be in good standing or, where applicable, of a renewal application to have been timely filed and be pending or to be in such compliance, individually or in the aggregate, has not had and could not reasonably be expected to have a material adverse effect on Progress.

(iii) There is no Environmental Claim (as hereinafter defined) pending:

(A) against Progress or any of its subsidiaries or any of the Progress Joint Ventures;

(B) to the knowledge of Progress, against any person or entity whose liability for such Environmental Claim has been retained or assumed either contractually or by operation of law by Progress or any of its subsidiaries or any of the Progress Joint Ventures; or

(C) against any real or personal property or operations that Progress or any of its subsidiaries or any of the Progress Joint Ventures owns, leases or manages, in whole or in part, or, to the knowledge of Progress, formerly owned,

leased or managed, in whole or in part, except in the case of clause (A), (B) or (C) for such Environmental Claims that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress.

(iv) To the knowledge of Progress, there have not been any Releases (as hereinafter defined) of any Hazardous Material (as hereinafter defined) that would be reasonably likely to form the basis of any Environmental Claim against Progress or any of its subsidiaries or any of the Progress Joint Ventures, in each case, except for such Releases that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress.

(v) As used in this Section 3.01(n) and in Section 3.02(n):

(A) "Environmental Claim" means any and all administrative, regulatory or judicial actions, suits, orders, demands, demand letters, directives, claims, liens, investigations, proceedings or notices of noncompliance, liability or violation (written or oral) by any person or entity (including any Governmental Authority) alleging potential liability (including potential responsibility or liability for enforcement, investigatory costs, cleanup costs, governmental response costs, removal costs, remedial costs, natural resources damages, property damages, personal injuries or penalties) arising out of, based on or resulting from circumstances forming the basis of any actual or alleged noncompliance with, violation of, or liability under, any Environmental Law or Environmental Permit;

(B) "Environmental Laws" means all domestic or foreign federal, state and local laws, principles of common law and orders relating to pollution, the environment (including ambient air, surface water, groundwater, land surface or subsurface strata) or protection of human health as it relates to the environment including laws relating to the presence or Release of Hazardous Materials, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of, or exposure to, Hazardous Materials;

(C) "Hazardous Materials" means (a) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, and polychlorinated biphenyls; and (b) any chemical, material, substance or waste that is prohibited, limited or regulated under any Environmental Law; and

(D) "Release" means any spill, emission, leaking, injection, deposit, disposal, discharge, dispersal, leaching or migration into the atmosphere, soil, surface water, groundwater or property.

(o) Ownership of Nuclear Power Plants. The operations of the nuclear generation stations owned, in whole or part, by Progress or its subsidiaries (collectively, the "Progress Nuclear Facilities") are and have been conducted in compliance with all applicable laws and Permits, except for such failures to comply that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress. Each of the

Progress Nuclear Facilities maintains, and is in material compliance with, emergency plans designed to respond to an unplanned Release therefrom of radioactive materials and each such plan conforms with the requirements of applicable law in all material respects. The plans for the decommissioning of each of the Progress Nuclear Facilities and for the storage of spent nuclear fuel conform with the requirements of applicable law in all material respects and, solely with respect to the portion of the Progress Nuclear Facilities owned, directly or indirectly, by Progress, are funded consistent with applicable law. Since December 31, 2008, the operations of the Progress Nuclear Facilities have not been the subject of any notices of violation, any ongoing proceeding, NRC Diagnostic Team Inspections or requests for information from the NRC or any other agency with jurisdiction over such facility, except for such notices or requests for information that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress. No Progress Nuclear Facility is listed by the NRC in the Unacceptable Performance column of the NRC Action Matrix, as a part of NRC's Assessment of Licensee Performance. Liability insurance to the full extent required by law for operating the Progress Nuclear Facilities remains in full force and effect regarding such facilities, except for failures to maintain such insurance in full force and effect that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress.

(p) Vote Required. Assuming the accuracy of the representation and warranty contained in Section 3.02(r), the affirmative vote of the holders of record of at least a majority of the outstanding shares of Progress Common Stock, with respect to the approval of this Agreement (the "Progress Shareholder Approval"), is the only vote of the holders of any class or series of the capital stock of Progress or its subsidiaries required to approve this Agreement, the Merger and the other transactions contemplated hereby.

(q) Opinions of Financial Advisors. The Board of Directors of Progress has received the opinion of each of Lazard Freres & Co. LLC and Barclays Capital Inc., to the effect that, as of the date of such opinion and based on the assumptions, qualifications and limitations contained therein, the Exchange Ratio is fair, from a financial point of view, to the holders of Progress Common Stock.

(r) Ownership of Duke Capital Stock. Neither Progress nor any of its subsidiaries or other affiliates beneficially owns any shares of Duke capital stock.

(s) Articles 9 and 9A of the NCBCA Not Applicable; Other Statutes. Progress has taken all necessary actions, if any, so that the provisions of Articles 9 and 9A of the NCBCA will not, before the termination of this Agreement, apply to this Agreement, the Merger or the other transactions contemplated hereby. No "fair price," "merger moratorium," "control share acquisition," or other anti-takeover or similar statute or regulation applies or purports to apply to this Agreement, the Merger or the other transactions contemplated hereby.

(t) Joint Venture Representations. Each representation or warranty made by Progress in this Section 3.01 relating to a Progress Joint Venture that is neither operated nor managed solely by Progress or a Progress subsidiary shall be deemed made only to the knowledge of Progress.

(u) Insurance. Except for failures to maintain insurance or self-insurance that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress, from January 1, 2007, through the date of this Agreement, each of Progress and its subsidiaries has been continuously insured with financially responsible insurers or has self-insured, in each case in such amounts and with respect to such risks and losses as are customary for companies in the United States conducting the business conducted by Progress and its subsidiaries during such time period. Neither Progress nor any of its subsidiaries has received any notice of any pending or threatened cancellation, termination or premium increase with respect to any insurance policy of Progress or any of its subsidiaries, except with respect to any cancellation, termination or premium increase that, individually or in the aggregate, has not had and could not reasonably be expected to have a material adverse effect on Progress.

(v) Energy Price Risk Management. Progress has established risk parameters, limits and guidelines in compliance with the risk management policy approved by Progress's Board of Directors (the "Progress Risk Management Guidelines") and monitors compliance by Progress and its subsidiaries with such energy price risk parameters. Progress has provided the Progress Risk Management Guidelines to Duke prior to the date of this Agreement. Progress is in compliance in all material respects with the Progress Risk Management Guidelines.

(w) Progress Material Contracts.

(i) For purposes of this Agreement, the term "Progress Material Contract" shall mean any Contract to which Progress or any of its subsidiaries is a party or bound as of the date hereof:

(A) that is a "material contract" (as such term is defined in Item 601(b)(10) of Regulation S-K of the SEC);

(B) that (1) purports to limit in any material respect either the type of business in which Progress or its subsidiaries (or, after the Effective Time, Duke or its subsidiaries) or any of their respective affiliates may engage or the manner or geographic area in which any of them may so engage in any business, (2) would require the disposition of any material assets or line of business of Progress or its subsidiaries (or, after the Effective Time, Duke or its subsidiaries) or any of their respective affiliates as a result of the consummation of the transactions contemplated by this Agreement, (3) is a material Contract that grants "most favored nation" status that, following the Effective Time, would impose obligations upon Duke or its subsidiaries, including Progress and its subsidiaries, or (4) prohibits or limits, in any material respect, the right of Progress or any of its subsidiaries (or, after the Effective Time, Duke or its subsidiaries) to make, sell or distribute any products or services or use, transfer, license or enforce any of their respective intellectual property rights; or

(C) that (1) has an aggregate principal amount, or provides for an aggregate obligation, in excess of $100,000,000 (I) evidencing indebtedness for borrowed money of Progress or any of its subsidiaries to any third party, (II) guaranteeing any such indebtedness of a third party or (III) containing a covenant

restricting the payment of dividends, or (2) has the economic effect of any of the items set forth in subclause (1) above.

(ii) Neither Progress nor any subsidiary of Progress is in breach of or default under the terms of any Progress Material Contract and no event has occurred that (with or without notice or lapse of time or both) could result in a breach or default under any Progress Material Contract where such breach or default could reasonably be expected to have, individually or in the aggregate, a material adverse effect on Progress. To the knowledge of Progress, no other party to any Progress Material Contract is in breach of or default under the terms of any Progress Material Contract where such breach or default has had, or could reasonably be expected to have, individually or in the aggregate, a material adverse effect on Progress. Except as could not reasonably be expected to have, individually or in the aggregate, a material adverse effect on Progress, each Progress Material Contract is a valid and binding obligation of Progress or the subsidiary of Progress which is party thereto and, to the knowledge of Progress, of each other party thereto, and is in full force and effect, except that such enforcement may be subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws, now or hereafter in effect, relating to creditors' rights generally and to general equitable principles.

(x) Anti-Bribery Laws.

(i) To the knowledge of Progress, Progress and its subsidiaries are, and since January 1, 2008, have been, in compliance in all material respects with all statutory and regulatory requirements under the Foreign Corrupt Practices Act (15 U.S.C. §§ 78dd-1, et seq.), as amended, the Anti-Kickback Act of 1986, as amended, the Organization for Economic Cooperation and Development Convention Against Bribery of Foreign Officials in International Business Transactions and all legislation implementing such convention and all other international anti-bribery conventions, and all other anti-corruption and bribery laws (including any applicable written standards, requirements, directives or policies of any Governmental Authority) (the "Anti-Bribery Laws") in jurisdictions in which Progress and its subsidiaries have operated or currently operate. Since January 1, 2008, neither Progress nor any of its subsidiaries has received any communication from any Governmental Authority or any written communication from any third party that alleges that Progress, any of its subsidiaries or any employee or agent thereof is in material violation of any Anti-Bribery Laws, and no such potential or actual material violation or liability has been discovered.

(ii) Without limiting the other provisions of this Section 3.01(x), since January 1, 2008, none of Progress or its subsidiaries nor, to the knowledge of Progress, any of their respective current or former directors, officers, principals, employees, managers, sales persons, consultants or other agents or representatives, distributors, contractors, joint venturers or any other person acting on any of their behalf, has, directly or indirectly, made or offered or solicited or accepted any contribution, gift, gratuity, entertainment, bribe, rebate, payoff, influence payment, kickback or other payment or anything else of value to or from any person, private or public (including customers, potential customers, political parties, elected officials and candidates), whether in money, property, services or any other form, to influence any act of such person in such person's official capacity, inducing such person to do or omit to do any act in violation of the lawful official duty of such person or securing an improper advantage or to induce such person to use such person's influence to obtain or retain business for Progress or its subsidiaries or otherwise

to confer any benefit to Progress or its subsidiaries in violation in any material respect of any Anti-Bribery Laws.

(iii) Since January 1, 2006, neither Progress nor any of its subsidiaries has made any disclosure (voluntary or otherwise) to any Governmental Authority with respect to any alleged material irregularity, material misstatement or material omission or other potential material violation or liability arising under or relating to any Anti-Bribery Law.

Section 3.02 Representations and Warranties of Duke and Merger Sub. Except as set forth in the letter dated the date of this Agreement and delivered to Progress by Duke concurrently with the execution and delivery of this Agreement (the "Duke Disclosure Letter") or, to the extent the qualifying nature of such disclosure is readily apparent therefrom and excluding any forward-looking statements, risk factors and other similar statements that are cautionary and non-specific in nature, as set forth in the Duke SEC Reports filed on or after January 1, 2009 and prior to the date hereof, Duke and Merger Sub represent and warrant to Progress as follows:

(a) Organization and Qualification.

(i) Each of Duke and its subsidiaries is duly organized, validly existing and in good standing (with respect to jurisdictions that recognize the concept of good standing) under the laws of its jurisdiction of organization and has full power and authority to conduct its business as and to the extent now conducted and to own, use and lease its assets and properties, except for such failures to be so organized, existing and in good standing (with respect to jurisdictions that recognize the concept of good standing) or to have such power and authority that, individually or in the aggregate, have not had and could not be reasonably expected to have a material adverse effect on Duke. Each of Duke and its subsidiaries is duly qualified, licensed or admitted to do business and is in good standing (with respect to jurisdictions that recognize the concept of good standing) in each jurisdiction in which the ownership, use or leasing of its assets and properties, or the conduct or nature of its business, makes such qualification, licensing or admission necessary, except for such failures to be so qualified, licensed or admitted and in good standing (with respect to jurisdictions that recognize the concept of good standing) that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke. Section 3.02(a) of the Duke Disclosure Letter sets forth as of the date of this Agreement the name and jurisdiction of organization of each subsidiary of Duke. Merger Sub is a newly formed corporation and has engaged in no activities except as contemplated by this Agreement. All of the outstanding capital stock of Merger Sub is owned directly by Duke. No subsidiary of Duke owns any stock in Duke. Duke has made available to Progress prior to the date of this Agreement a true and complete copy of Duke's certificate of incorporation and by-laws, each as amended through the date hereof.

(ii) Section 3.02(a) of the Duke Disclosure Letter sets forth a description as of the date of this Agreement, of all Duke Joint Ventures, including (x) the name of each such entity and (y) a brief description of the principal line or lines of business conducted by each such entity.

(iii) Except for interests in the subsidiaries of Duke, the Duke Joint Ventures and interests acquired after the date of this Agreement without violating any covenant or agreement set forth herein, neither Duke nor any of its subsidiaries directly or indirectly owns any

equity or similar interest in, or any interest convertible into or exchangeable or exercisable for, any equity or similar interest in, any person, in which the invested capital associated with such interest of Duke or any of its subsidiaries exceeds, individually as of the date of this Agreement, $100,000,000.

(b) Capital Stock.

(i) The authorized capital stock of Duke consists of:

(A) 2,000,000,000 shares of common stock, par value $0.001 per share (the "Duke Common Stock"), of which 1,324,548,714 shares were outstanding as of October 29, 2010; and

(B) 44,000,000 shares of preferred stock, par value $0.001 per share, none of which were outstanding as of the date of this Agreement.

As of the date of this Agreement, no shares of Duke Common Stock are held in the treasury of Duke. As of the date of this Agreement, 13,869,567 shares of Duke Common Stock were subject to outstanding stock options granted under the Duke Employee Stock Option Plans ("Duke Employee Stock Options"), 1,756,064 shares of Duke Common Stock were subject to outstanding awards of phantom stock units of Duke Common Stock ("Duke Phantom Stock Units"), 7,549,720 shares of Duke Common Stock were subject to outstanding awards of performance shares of Duke Common Stock, determined at maximum performance levels ("Duke Performance Shares") and 75,901,515 additional shares of Duke Common Stock were reserved for issuance pursuant to the Duke Power Company Stock Incentive Plan, the Duke Energy Corporation 1998 Long-Term Incentive Plan, the Duke Energy Corporation 2006 Long-Term Incentive Plan, the Duke Energy Corporation 2010 Long-Term Incentive Plan, the Duke Energy Corporation Directors' Savings Plan, the Duke Energy Corporation Executive Savings Plan and any other compensatory plan, program or arrangement under which shares of Duke Common Stock are reserved for issuance (collectively, the "Duke Employee Stock Option Plans"). Since October 29, 2010, no shares of Duke Common Stock have been issued except pursuant to the Duke Employee Stock Option Plans and Duke Employee Stock Options issued thereunder, and from October 29, 2010 to the date of this Agreement, no shares of Duke Common Stock have been issued other than 268,498 shares of Duke Common Stock issued pursuant to the Duke Employee Stock Option Plans or Duke Employee Stock Options issued thereunder. All of the issued and outstanding shares of Duke Common Stock are, and all shares reserved for issuance will be, upon issuance in accordance with the terms specified in the instruments or agreements pursuant to which they are issuable, duly authorized, validly issued, fully paid and nonassessable. Except as disclosed in this Section 3.02(b), as of date of this Agreement there are no outstanding Options obligating Duke or any of its subsidiaries (A) to issue or sell any shares of capital stock of Duke, (B) to grant, extend or enter into any Option with respect thereto, (C) redeem or otherwise acquire any such shares of capital stock or other equity interests or (D) provide a material amount of funds to, or make any material investment (in the form of a loan, capital contribution or otherwise) in, any of their respective subsidiaries.

(ii) Except as permitted by this Agreement, all of the outstanding shares of capital stock of each subsidiary of Duke are duly authorized, validly issued, fully paid and

nonassessable and are owned, beneficially and of record, by Duke or a subsidiary of Duke, free and clear of any Liens, except for any of the foregoing that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke. All of the outstanding shares of capital stock of Merger Sub are duly authorized, validly issued, fully paid and nonassessable and are owned, beneficially and of record, directly by Duke. The shares of Merger Sub owned by Duke are owned free and clear of any Liens. There are no (A) outstanding Options obligating Duke or any of its subsidiaries to issue or sell any shares of capital stock of any subsidiary of Duke or to grant, extend or enter into any such Option or (B) voting trusts, proxies or other commitments, understandings, restrictions or arrangements in favor of any person other than Duke or a subsidiary wholly-owned, directly or indirectly, by Duke with respect to the voting of or the right to participate in dividends or other earnings on any capital stock of Duke or any subsidiary of Duke.

(iii) As of the date of this Agreement, none of the subsidiaries of Duke or the Duke Joint Ventures is a "public utility company," a "holding company," a "subsidiary company" or an "affiliate" of any holding company within the meaning of Section 2(a)(5), 2(a)(7), 2(a)(8) or 2(a)(11) of the 2005 Act, respectively. None of Duke, its subsidiaries and the Duke Joint Ventures is registered under the 2005 Act.

(iv) As of the date of this Agreement, no bonds, debentures, notes or other indebtedness of Duke or any of its subsidiaries having the right to vote (or which are convertible into or exercisable for securities having the right to vote) (collectively, "Duke Voting Debt") on any matters on which Duke shareholders may vote are issued or outstanding nor are there any outstanding Options obligating Duke or any of its subsidiaries to issue or sell any Duke Voting Debt or to grant, extend or enter into any Option with respect thereto.

(v) Each share of Duke Common Stock to be issued in the Merger shall be duly authorized, validly issued, fully paid and nonassessable and free and clear of any Liens.

(vi) There have been no repricings of any Duke Employee Stock Options through amendments, cancellation and reissuance or other means during the current or prior two (2) calendar years. None of the Duke Employee Stock Options, Duke Phantom Stock Units or Duke Performance Shares (A) have been granted since August 6, 2010, except as permitted by this Agreement, or (B) have been granted in contemplation of the Merger or the transactions contemplated in this Agreement. None of the Duke Employee Stock Options was granted with an exercise price below the per share closing price on the NYSE on the date of grant. All grants of Duke Employee Stock Options, Duke Phantom Stock Units and Duke Performance Shares were validly made and properly approved by the Board of Directors of Duke (or a duly authorized committee or subcommittee thereof) in compliance with all applicable laws and recorded on the consolidated financial statements of Duke in accordance with GAAP, and no such grants of Duke Employee Stock Options involved any "back dating," "forward dating" or similar practices.

(c) Authority. Duke has full corporate power and authority to enter into this Agreement, to perform its obligations hereunder and, subject to obtaining Duke Shareholder Approval, to consummate the transactions contemplated hereby. The execution, delivery and performance of this Agreement by Duke and the consummation by Duke of the transactions contemplated hereby have been duly and validly adopted and unanimously approved by the Board

of Directors of Duke, the Board of Directors of Duke has recommended approval by the shareholders of Duke of the Duke Charter Amendment and the Duke Share Issuance, and directed that the Duke Charter Amendment and Duke Share Issuance be submitted to the shareholders of Duke for their approval, and no other corporate proceedings on the part of Duke or its shareholders are necessary to authorize the execution, delivery and performance of this Agreement by Duke and the consummation by Duke of the Merger and the other transactions contemplated hereby, other than obtaining Duke Shareholder Approval. This Agreement has been duly and validly executed and delivered by Duke and, assuming this Agreement constitutes the legal, valid and binding obligation of Progress, constitutes a legal, valid and binding obligation of Duke enforceable against Duke in accordance with its terms, except that such enforcement may be subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws, now or hereafter in effect, relating to creditors' rights generally and to general equitable principles.

(d) No Conflicts; Approvals and Consents.

(i) The execution and delivery of this Agreement by Duke does not, and the performance by Duke of its obligations hereunder and the consummation of the Merger and the other transactions contemplated hereby will not, conflict with, result in a violation or breach of, constitute (with or without notice or lapse of time or both) a default under, result in or give to any person any right of payment or reimbursement, termination, cancellation, modification or acceleration of, or result in the creation or imposition of any Lien upon any of the assets or properties of Duke or any of its subsidiaries or any of the Duke Joint Ventures under, any of the terms, conditions or provisions of (A) subject to the effectiveness of the Duke Charter Amendment, the certificates or articles of incorporation or by-laws (or other comparable organizational documents) of Duke or any of its subsidiaries or any of the Duke Joint Ventures, or (B) subject to the obtaining of Duke Shareholder Approval and the taking of the actions described in paragraph (ii) of this Section 3.02(d), including the Duke Required Statutory Approvals, (x) any laws or orders of any Governmental Authority applicable to Duke or any of its subsidiaries or any of the Duke Joint Ventures or any of their respective assets or properties, or (y) any note, bond, mortgage, security agreement, credit agreement, indenture, license, franchise, permit, concession, contract, lease, obligation or other instrument to which Duke or any of its subsidiaries or any of the Duke Joint Ventures is a party or by which Duke or any of its subsidiaries or any of the Duke Joint Ventures or any of their respective assets or properties is bound, excluding from the foregoing clauses (x) and (y) such items that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke.

(ii) Except for (A) compliance with, and filings under, the HSR Act; (B) the filing with and, to the extent required, the declaration of effectiveness by, the SEC of (1) the Joint Proxy Statement pursuant to the Exchange Act, (2) the Form S-4 and (3) such reports under the Exchange Act as may be required in connection with this Agreement and the transactions contemplated hereby; (C) the filing of documents with various state securities authorities that may be required in connection with the transactions contemplated hereby; (D) such filings with and approvals of the NYSE with respect to the Duke Charter Amendment, if necessary, and to permit the shares of Duke Common Stock that are to be issued pursuant to Article II to be listed on the NYSE; (E) the registration, consents, approvals and notices required under the 2005 Act; (F) notice to, and the consent and approval of, FERC under Section 203 of the Power Act, or an order under the Power Act disclaiming jurisdiction over the transactions contemplated hereby; (G) the

filing of an application to, and consent and approval of, and issuance of any required licenses and license amendments by, the NRC under the Atomic Energy Act; (H) the filing of the Certificate of Amendment with respect to the Duke Charter Amendment with the Secretary of State of the State of Delaware and the Articles of Merger and other appropriate merger documents required by the NCBCA with the Secretary of State of the State of North Carolina and appropriate documents with the relevant authorities of other states in which Duke is qualified to do business; (I) compliance with and such filings as may be required under applicable Environmental Laws; (J) to the extent required, notice to and the approval of, the Applicable PSCs; (K) the FCC Pre-Approvals; (L) such other items as disclosed in Section 3.02(d) of the Duke Disclosure Letter; and (M) compliance with, and filings under, antitrust or competition laws of any foreign jurisdiction, if required (the items set forth above in clauses (A) through (H) and (J) collectively, the "Duke Required Statutory Approvals"), no Consents or action of, registration, declaration or filing with or notice to any Governmental Authority is necessary or required to be obtained or made in connection with the execution and delivery of this Agreement by Duke, the performance by Duke of its obligations hereunder or the consummation of the Merger and the other transactions contemplated hereby, other than such items that the failure to make or obtain, as the case may be, individually or in the aggregate, could not reasonably be expected to have a material adverse effect on Duke.

(e) SEC Reports, Financial Statements and Utility Reports.

(i) Duke and its subsidiaries have filed or furnished each form, report, schedule, registration statement, registration exemption, if applicable, definitive proxy statement and other document (together with all amendments thereof and supplements thereto) required to be filed or furnished by Duke or any of its subsidiaries pursuant to the Securities Act or the Exchange Act with the SEC since January 1, 2007 (as such documents have since the time of their filing been amended or supplemented, the "Duke SEC Reports"). As of their respective dates, after giving effect to any amendments or supplements thereto, the Duke SEC Reports (A) complied as to form in all material respects with the requirements of the Securities Act and the Exchange Act, if applicable, as the case may be, and, to the extent applicable, SOX and (B) did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

(ii) Each of the principal executive officer of Duke and the principal financial officer of Duke (or each former principal executive officer of Duke and each former principal financial officer of Duke, as applicable) has made all certifications required by Rule 13a-14 or 15d-14 under the Exchange Act or Sections 302 and 906 of SOX and the rules and regulations of the SEC promulgated thereunder with respect to the Duke SEC Reports. For purposes of the preceding sentence, "principal executive officer" and "principal financial officer" shall have the meanings given to such terms in SOX. Since January 1, 2007, neither Duke nor any of its subsidiaries has arranged any outstanding "extensions of credit" to directors or executive officers within the meaning of Section 402 of SOX.

(iii) The audited consolidated financial statements and unaudited interim consolidated financial statements (including, in each case, the notes, if any, thereto) included in the Duke SEC Reports (the "Duke Financial Statements") complied as to form in all material respects with the published rules and regulations of the SEC with respect thereto in effect at the time of

filing or furnishing the applicable Duke SEC Report, were prepared in accordance with GAAP applied on a consistent basis during the periods involved (except as may be indicated therein or in the notes thereto and except with respect to unaudited statements as permitted by Form 10-Q of the SEC) and fairly present (subject, in the case of the unaudited interim financial statements, to normal, recurring year-end audit adjustments that were not or are not expected to be, individually or in the aggregate, materially adverse to Duke) the consolidated financial position of Duke and its consolidated subsidiaries as of the respective dates thereof and the consolidated results of their operations and cash flows for the respective periods then ended.

(iv) All filings (other than immaterial filings) required to be made by Duke or any of its subsidiaries since January 1, 2007, under the 2005 Act, the Power Act, the Atomic Energy Act, the Natural Gas Act, the Natural Gas Policy Act of 1978, the Communications Act of 1934 and applicable state laws and regulations, have been filed with the SEC, the FERC, the DOE, the NRC, the FCC or any applicable state public utility commissions (including, to the extent required, NCUC, PSCSC, PUCO, IURC and KPSC), as the case may be, including all forms, statements, reports, agreements (oral or written) and all documents, exhibits, amendments and supplements appertaining thereto, including all rates, tariffs, franchises, service agreements and related documents, and all such filings complied, as of their respective dates, with all applicable requirements of the applicable statute and the rules and regulations thereunder, except for filings the failure of which to make or the failure of which to make in compliance with all applicable requirements of the applicable statute and the rules and regulations thereunder, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke.

(v) Duke has designed and maintains a system of internal control over financial reporting (as defined in Rules 13a–15(f) and 15d–15(f) of the Exchange Act) sufficient to provide reasonable assurances regarding the reliability of financial reporting. Duke (x) has designed and maintains disclosure controls and procedures (as defined in Rules 13a–15(e) and 15d–15(e) of the Exchange Act) to provide reasonable assurance that all information required to be disclosed by Duke in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and is accumulated and communicated to Duke's management as appropriate to allow timely decisions regarding required disclosure, and (y) has disclosed, based on its most recent evaluation of internal control over financial reporting , to Duke's outside auditors and the audit committee of the Board of Directors of Duke (A) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect Duke's ability to record, process, summarize and report financial information and (B) any fraud, whether or not material, that involves management or other employees who have a significant role in Duke's internal control over financial reporting. Since December 31, 2006, any material change in internal control over financial reporting required to be disclosed in any Duke SEC Report has been so disclosed.

(vi) Since December 31, 2006, (x) neither Duke nor any of its subsidiaries nor, to the knowledge of the Executive Officers (for the purposes of this Section 3.02(e)(vi), as such term is defined in Section 3b-7 of the Exchange Act) of Duke, any director, officer, employee, auditor, accountant or representative of Duke or any of its subsidiaries has received or otherwise obtained knowledge of any material complaint, allegation, assertion or claim, whether written or

oral, regarding the accounting or auditing practices, procedures, methodologies or methods of Duke or any of its subsidiaries or their respective internal accounting controls relating to periods after December 31, 2006, including any material complaint, allegation, assertion or claim that Duke or any of its subsidiaries has engaged in questionable accounting or auditing practices (except for any of the foregoing after the date hereof which have no reasonable basis), and (y) to the knowledge of the Executive Officers of Duke, no attorney representing Duke or any of its subsidiaries, whether or not employed by Duke or any of its subsidiaries, has reported evidence of a material violation of securities laws, breach of fiduciary duty or similar violation, relating to periods after December 31, 2006, by Duke or any of its officers, directors, employees or agents to the Board of Directors of Duke or any committee thereof or, to any director or Executive Officer of Duke.

(f) Absence of Certain Changes or Events. Since December 31, 2009 through the date hereof, Duke and its subsidiaries have conducted their respective businesses in all material respects in the ordinary course of business in a consistent manner since such date and there has not been any change, event or development that, individually or in the aggregate, has had or could reasonably be expected to have a material adverse effect on Duke.

(g) Absence of Undisclosed Liabilities. Except for matters reflected or reserved against in the consolidated balance sheet (or notes thereto) as of December 31, 2009, included in the Duke Financial Statements, neither Duke nor any of its subsidiaries has any liabilities or obligations (whether absolute, accrued, contingent, fixed or otherwise, or whether due or to become due) of any nature that would be required by GAAP to be reflected on a consolidated balance sheet of Duke and its consolidated subsidiaries (including the notes thereto), except liabilities or obligations (i) that were incurred in the ordinary course of business consistent with past practice since December 31, 2009, (ii) that were incurred in connection with the transactions contemplated by this Agreement and that are not material in the aggregate or (iii) that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke. Neither Duke nor any of its subsidiaries is a party to, or has any commitment to become a party to, any joint venture, off-balance sheet partnership or any similar contract or arrangement (including any Contract relating to any transaction or relationship between or among Duke and any of its subsidiaries, on the one hand, and any unconsolidated affiliate, including any structured finance, special purpose or limited purpose entity or person, on the other hand, or any "off-balance sheet arrangements" (as defined in Item 303(a) of Regulation S-K under the Exchange Act), where the result, purpose or effect of such contract or arrangement is to avoid disclosure of any material transaction involving, or material liabilities of, Duke or any of its subsidiaries, in the Duke Financial Statements or the Duke SEC Reports.

(h) Legal Proceedings. Except for Environmental Claims, which are the subject of Section 3.02(n), as of the date of this Agreement, (i) there are no actions, suits, arbitrations or proceedings pending or, to the knowledge of Duke, threatened against, relating to or affecting, nor to the knowledge of Duke are there any Governmental Authority investigations, inquiries or audits pending or threatened against, relating to or affecting, Duke or any of its subsidiaries or any of the Duke Joint Ventures or any of their respective assets and properties that, in each case, individually or in the aggregate, have had or could reasonably be expected to have a material adverse effect on Duke and (ii) neither Duke nor any of its subsidiaries or material assets is subject to any order of any Governmental Authority that, individually or in the aggregate, has had or could reasonably be

expected to have a material adverse effect on Duke.

(i) Information Supplied. None of the information supplied or to be supplied by Duke for inclusion or incorporation by reference in (i) the Form S-4 will, at the time the Form S-4 is filed with the SEC, at any time it is amended or supplemented or at the time it becomes effective under the Securities Act, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, or (ii) the Joint Proxy Statement will, at the date it is first mailed to Progress's shareholders or Duke's shareholders or at the time of the Progress Shareholders Meeting or the Duke Shareholders Meeting, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading. The Joint Proxy Statement (other than the portions thereof relating solely to the Progress Shareholders Meeting) and the Form S-4 will comply as to form in all material respects with the requirements of the Exchange Act and Securities Act, respectively, and the rules and regulations thereunder, except that no representation is made by Duke with respect to statements made or incorporated by reference therein based on information supplied by or on behalf of Progress for inclusion or incorporation by reference in the Joint Proxy Statement or the Form S-4.

(j) Permits; Compliance with Laws and Orders. Duke, its subsidiaries and the Duke Joint Ventures hold all Permits necessary for the lawful conduct of their respective businesses, except for failures to hold such Permits that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke. Duke, its subsidiaries and the Duke Joint Ventures are in compliance with the terms of their Permits, except failures so to comply that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke. Duke, its subsidiaries and the Duke Joint Ventures are not, and since January 1, 2008 have not been, in violation of or default under any law or order of any Governmental Authority, except for such violations or defaults that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke. Duke is, and since January 1, 2008 has been, in compliance in all material respects with (i) SOX and (ii) the applicable listing standards and corporate governance rules and regulations of the NYSE. The above provisions of this Section 3.02(j) do not relate to matters with respect to taxes, such matters being the subject of Section 3.02(k), Environmental Permits and Environmental Laws, such matters being the subject of Section 3.02(n), benefits plans, such matters being the subject of Section 3.02(l), and nuclear power plants, such matters being the subject of Section 3.02(o).

(k) Taxes.

(i) Except as has not had, and could not reasonably be expected to have, a material adverse effect on Duke:

(A) Each of Duke and its subsidiaries has timely filed, or has caused to be timely filed on its behalf, all Tax Returns required to be filed by it, and all such Tax Returns are true, complete and accurate. All Taxes shown to be due and owing on such Tax Returns have been timely paid.

(B) The most recent financial statements contained in the Duke SEC Reports filed prior to the date of this Agreement reflect, in accordance with GAAP, an adequate reserve for all Taxes payable by Duke and its subsidiaries for all taxable periods through the date of such financial statements.

(C) There is no audit, examination, deficiency, refund litigation, proposed adjustment or matter in controversy with respect to any Taxes or Tax Return of Duke or its subsidiaries, and, to the knowledge of Duke, neither Duke nor any of its subsidiaries has received written notice of any claim made by a governmental authority in a jurisdiction where Duke or any of its subsidiaries, as applicable, does not file a Tax Return, that Duke or such subsidiary is or may be subject to income taxation by that jurisdiction. No deficiency with respect to any Taxes has been proposed, asserted or assessed against Duke or any of its subsidiaries, and no requests for waivers of the time to assess any Taxes are pending.

(D) There are no outstanding written agreements, consents or waivers to extend the statutory period of limitations applicable to the assessment of any Taxes or deficiencies against Duke or any of its subsidiaries, and no power of attorney granted by either Duke or any of its subsidiaries with respect to any Taxes is currently in force.

(E) Neither Duke nor any of its subsidiaries is a party to any agreement providing for the allocation or sharing of Taxes imposed on or with respect to any individual or other person (other than (I) such agreements with customers, vendors, lessors or the like entered into in the ordinary course of business, and (II) agreements with or among Duke or any of its subsidiaries), and neither Duke nor any of its subsidiaries (A) has been a member of an affiliated group (or similar state, local or foreign filing group) filing a consolidated U.S. federal income Tax Return (other than the group the common parent of which is Duke or a subsidiary of Duke) or (B) has any liability for the Taxes of any person (other than Duke or any of its subsidiaries) (I) under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local or foreign law), or (II) as a transferee or successor.

(F) There are no material Liens for Taxes (other than for current Taxes not yet due and payable) on the assets of Duke and its subsidiaries.

(ii) Neither Duke nor any of its subsidiaries has taken or agreed to take any action or knows of any fact, agreement, plan or other circumstance that is reasonably likely to prevent or impede the Merger from qualifying as a reorganization under Section 368(a) of the Code.

(l) Employee Benefit Plans; ERISA.

(i) Except for such matters that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke, (A) all Duke Employee Benefit Plans are in compliance with all applicable requirements of law, including

ERISA and the Code, and (B) there does not now exist, nor do any circumstances exist that could result in, any Controlled Group Liability that would be a liability of Duke or any of its subsidiaries following the Closing. The only material employment agreements, severance agreements or severance policies applicable to Duke or any of its subsidiaries are the agreements and policies disclosed in Section 3.02(l)(i) of the Duke Disclosure Letter.

(ii) As used herein, "Duke Employee Benefit Plan" means any Plan entered into, established, maintained, sponsored, contributed to or required to be contributed to by Duke or any of its subsidiaries for the benefit of the current or former employees or directors of Duke or any of its subsidiaries and existing on the date of this Agreement or at any time subsequent thereto and, in the case of a Plan that is subject to Part 3 of Title I of ERISA, Section 412 of the Code or Title IV of ERISA, at any time during the five-year period preceding the date of this Agreement with respect to which Duke or any of its subsidiaries has or could reasonably be expected to have any present or future actual or contingent liabilities.

(iii) No event has occurred, and there exists no condition or set of circumstances in connection with any Duke Employee Benefit Plan, that has had or could reasonably be expected to have a material adverse effect on Duke.

(iv) Section 3.02(l)(iv) of the Duke Disclosure Letter identifies each Duke Employee Benefit Plan that provides, upon the occurrence of a change in the ownership or effective control of Duke or its subsidiaries or a change in the ownership of all or a substantial portion of the assets of Duke or its subsidiaries, either alone or upon the occurrence of any additional or subsequent events and whether or not applicable to the transactions contemplated by this Agreement, for (A) an acceleration of the time of payment of or vesting in, or an increase in the amount of, compensation or benefits due any current or former employee, director or officer of Duke or its subsidiaries, (B) any forgiveness of indebtedness or obligation to fund compensation or benefits with respect to any such employee, director or officer, or (C) an entitlement of any such employee, director or officer to severance pay, unemployment compensation or any other payment or other benefit.

(v) Each Duke Employee Benefit Plan that is in any part a "nonqualified deferred compensation plan" subject to Section 409A of the Code (A) materially complies and, at all times after December 31, 2008 has materially complied, both in form and operation, with the requirements of Section 409A of the Code and the final regulations thereunder and (B) between January 1, 2005 and December 31, 2008 was operated in material reasonable, good faith compliance with Section 409A of the Code, as determined under applicable guidance of the Treasury and the Internal Revenue Service.

(m) Labor Matters. As of the date hereof, neither Duke nor any of its subsidiaries is a party to, bound by or in the process of negotiating any collective bargaining agreement or other labor agreement with any union or labor organization. As of the date of this Agreement, there are no disputes, grievances or arbitrations pending or, to the knowledge of Duke, threatened between Duke or any of its subsidiaries and any trade union or other representatives of its employees and there is no charge or complaint pending or threatened in writing against Duke or any of its subsidiaries before the NLRB or any similar Governmental Authority, except in each case as, individually or in the aggregate, have not had and could not reasonably be expected to have a

material adverse effect on Duke, and, to the knowledge of Duke, as of the date of this Agreement, there are no material organizational efforts presently being made involving any of the employees of Duke or any of its subsidiaries. From December 31, 2007, to the date of this Agreement, there has been no work stoppage, strike, slowdown or lockout by or affecting employees of Duke or any of its subsidiaries and, to the knowledge of Duke, no such action has been threatened in writing, except in each case as, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke. Except as, individually or in the aggregate, has not had and could not reasonably be expected to have a material adverse effect on Duke: (A) there are no litigations, lawsuits, claims, charges, complaints, arbitrations, actions, investigations or proceedings pending or, to the knowledge of Duke, threatened between or involving Duke or any of its subsidiaries and any of their respective current or former employees, independent contractors, applicants for employment or classes of the foregoing; (B) Duke and its subsidiaries are in compliance with all applicable laws, orders, agreements, contracts and policies respecting employment and employment practices, including, without limitation, all legal requirements respecting terms and conditions of employment, equal opportunity, workplace health and safety, wages and hours, child labor, immigration, discrimination, disability rights or benefits, facility closures and layoffs, workers' compensation, labor relations, employee leaves and unemployment insurance; and (C) since January 1, 2007, neither Duke nor any of its subsidiaries has engaged in any "plant closing" or "mass layoff," as defined in the WARN Act, without complying with the notice requirements of such laws.

(n) Environmental Matters.

(i) Each of Duke, its subsidiaries and the Duke Joint Ventures since January 1, 2008 has been and is in compliance with all applicable Environmental Laws, except where the failure to be in such compliance, individually or in the aggregate, has not had and could not reasonably be expected to have a material adverse effect on Duke.

(ii) Each of Duke, its subsidiaries and the Duke Joint Ventures has obtained all Environmental Permits necessary for the construction of their facilities and the conduct of their operations as of the date of this Agreement, as applicable, and all such Environmental Permits are validly issued, in full force and effect and final, and Duke, its subsidiaries and the Duke Joint Ventures are in compliance with all terms and conditions of the Environmental Permits, except where the failure to obtain such Environmental Permits, of such Permits to be in good standing or, where applicable, of a renewal application to have been timely filed and be pending or to be in such compliance, individually or in the aggregate, has not had and could not reasonably be expected to have a material adverse effect on Duke.

(iii) There is no Environmental Claim pending

(A) against Duke or any of its subsidiaries or any of the Duke Joint Ventures;

(B) to the knowledge of Duke, against any person or entity whose liability for such Environmental Claim has been retained or assumed either contractually or by operation of law by Duke or any of its subsidiaries or any of the Duke Joint Ventures; or

(C) against any real or personal property or operations that Duke or any of its subsidiaries or any of the Duke Joint Ventures owns, leases or manages, in whole or in part, or, to the knowledge of Duke, formerly owned, leased or arranged, in whole or in part, except in the case of clause (A), (B) or (C) for such Environmental Claims that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke.

(iv) To the knowledge of Duke, there have not been any Releases of any Hazardous Material that would be reasonably likely to form the basis of any Environmental Claim against Duke or any of its subsidiaries or any of the Duke Joint Ventures, in each case, except for such Releases that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke.

(o) Operations of Nuclear Power Plants. The operations of the nuclear generation stations owned, in whole or part, by Duke or its subsidiaries (collectively, the "Duke Nuclear Facilities") are and have been conducted in compliance with all applicable laws and Permits, except for such failures to comply that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke. Each of the Duke Nuclear Facilities maintains, and is in material compliance with, emergency plans designed to respond to an unplanned Release therefrom of radioactive materials and each such plan conforms with the requirements of applicable law in all material respects. The plans for the decommissioning of each of the Duke Nuclear Facilities and for the storage of spent nuclear fuel conform with the requirements of applicable law in all material respects and, solely with respect to the portion of the Duke Nuclear Facilities owned, directly or indirectly, by Duke, are funded consistent with applicable law. Since December 31, 2008, the operations of the Duke Nuclear Facilities have not been the subject of any notices of violation, any ongoing proceeding, NRC Diagnostic Team Inspections or requests for information from the NRC or any other agency with jurisdiction over such facility, except for such notices or requests for information that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke. No Duke Nuclear Facility is listed by the NRC in the Unacceptable Performance column of the NRC Action Matrix, as a part of NRC's Assessment of Licensee Performance. Liability insurance to the full extent required by law for operating the Duke Nuclear Facilities remains in full force and effect regarding such facilities, except for failures to maintain such insurance in full force and effect that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke.

(p) Vote Required. Assuming the accuracy of the representation and warranty contained in Section 3.01(r), the affirmative vote of the holders of record of at least a majority of the shares of Duke Common Stock (i) outstanding, with respect to an amendment to the Amended and Restated Certificate of Incorporation of Duke providing for the Duke Charter Amendment and (ii) voting thereon, provided that the total vote cast represents over fifty percent in interest of all securities entitled to vote on the proposal, with respect to the issuance of shares of Duke Common Stock in connection with the Merger as contemplated by this Agreement (the "Duke Share Issuance") ((i) and (ii) collectively, the "Duke Shareholder Approval"), are the only votes of the holders of any class or series of the capital stock of Duke or its subsidiaries required to approve this Agreement, the Merger and the other transactions contemplated hereby.

(q) Opinions of Financial Advisors. The Board of Directors of Duke has received the opinion of each of J.P. Morgan Securities LLC and Merrill Lynch, Pierce, Fenner and Smith Incorporated, to the effect that, as of the date of such opinion and based on the assumptions, qualifications and limitations contained therein, the Exchange Ratio is fair, from a financial point of view, to Duke.

(r) Ownership of Progress Capital Stock. Neither Duke nor any of its subsidiaries or other affiliates beneficially owns any shares of Progress capital stock.

(s) Certain Statutes. No "fair price," "merger moratorium," "control share acquisition," or other anti-takeover or similar statute or regulation applies or purports to apply to this Agreement, the Merger or the other transactions contemplated hereby.

(t) Joint Venture Representations. Each representation or warranty made by Duke in this Section 3.02 relating to a Duke Joint Venture that is neither operated nor managed solely by Duke or a Duke subsidiary shall be deemed made only to the knowledge of Duke.

(u) Insurance. Except for failures to maintain insurance or self-insurance that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke, from January 1, 2007, through the date of this Agreement, each of Duke and its subsidiaries has been continuously insured with financially responsible insurers or has self-insured, in each case in such amounts and with respect to such risks and losses as are customary for companies in the United States conducting the business conducted by Duke and its subsidiaries during such time period. Neither Duke nor any of its subsidiaries has received any notice of any pending or threatened cancellation, termination or premium increase with respect to any insurance policy of Duke or any of its subsidiaries, except with respect to any cancellation, termination or premium increase that, individually or in the aggregate, has not had and could not reasonably be expected to have a material adverse effect on Duke.

(v) Energy Price Risk Management. Duke has established risk parameters, limits and guidelines in compliance with the risk management policy approved by Duke's Board of Directors (the "Duke Risk Management Guidelines") and monitors compliance by Duke and its subsidiaries with such energy price risk parameters. Duke has provided the Duke Risk Management Guidelines to Progress prior to the date of this Agreement. Duke is in compliance in all material respects with the Duke Risk Management Guidelines.

(w) Duke Material Contracts.

(i) For purposes of this Agreement, the term "Duke Material Contract" shall mean any Contract to which Duke or any of its subsidiaries is a party or bound as of the date hereof:

(A) that is a "material contract" (as such term is defined in Item 601(b)(10) of Regulation S-K of the SEC);

(B) that (1) purports to limit in any material respect either the type of business in which Duke or its subsidiaries (including, after the Effective Time, Progress or its subsidiaries) or any of their respective affiliates may engage or the

manner or geographic area in which any of them may so engage in any business, (2) would require the disposition of any material assets or line of business of Duke or its subsidiaries (including, after the Effective Time, Progress or its subsidiaries) or any of their respective affiliates as a result of the consummation of the transactions contemplated by this Agreement, (3) is a material Contract that grants "most favored nation" status that, following the Effective Time, would impose obligations upon Duke or its subsidiaries, including Progress and its subsidiaries, or (4) prohibits or limits, in any material respect, the right of Duke or any of its subsidiaries (including, after the Effective Time, Progress or its subsidiaries) to make, sell or distribute any products or services or use, transfer, license or enforce any of their respective intellectual property rights; or

(C) that (1) has an aggregate principal amount, or provides for an aggregate obligation, in excess of $200,000,000 (I) evidencing indebtedness for borrowed money of Duke or any of its subsidiaries to any third party, (II) guaranteeing any such indebtedness of a third party or (III) containing a covenant restricting the payment of dividends, or (2) has the economic effect of any of the items set forth in subclause (1) above.

(ii) Neither Duke nor any subsidiary of Duke is in breach of or default under the terms of any Duke Material Contract and no event has occurred that (with or without notice or lapse of time or both) could result in a breach or default under any Duke Material Contract where such breach or default could reasonably be expected to have, individually or in the aggregate, a material adverse effect on Duke. To the knowledge of Duke, no other party to any Duke Material Contract is in breach of or default under the terms of any Duke Material Contract where such breach or default has had, or could reasonably be expected to have, individually or in the aggregate, a material adverse effect on Duke. Except as could not reasonably be expected to have, individually or in the aggregate, a material adverse effect on Duke, each Duke Material Contract is a valid and binding obligation of Duke or the subsidiary of Duke which is party thereto and, to the knowledge of Duke, of each other party thereto, and is in full force and effect, except that such enforcement may be subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws, now or hereafter in effect, relating to creditors' rights generally and to general equitable principles.

(x) Anti-Bribery Laws.

(i) To the knowledge of Duke, Duke and its subsidiaries are, and since January 1, 2008 have been, in compliance in all material respects with the Anti-Bribery Laws in jurisdictions in which Duke and its subsidiaries have operated or currently operate. Since January 1, 2008, neither Duke nor any of its subsidiaries has received any communication from any Governmental Authority or any written communication from any third party that alleges that Duke, any of its subsidiaries or any employee or agent thereof is in material violation of any Anti-Bribery Laws, and no such potential or actual material violation or liability has been discovered.

(ii) Without limiting the other provisions of this Section 3.02(x), since January 1, 2008, none of Duke or its subsidiaries nor, to the knowledge of Duke, any of their respective current or former directors, officers, principals, employees, managers, sales persons, consultants

or other agents or representatives, distributors, contractors, joint venturers or any other person acting on any of their behalf, has, directly or indirectly, made or offered or solicited or accepted any contribution, gift, gratuity, entertainment, bribe, rebate, payoff, influence payment, kickback or other payment or anything else of value to or from any person, private or public (including customers, potential customers, political parties, elected officials and candidates), whether in money, property, services or any other form, to influence any act of such person in such person's official capacity, inducing such person to do or omit to do any act in violation of the lawful official duty of such person or securing an improper advantage or to induce such person to use such person's influence to obtain or retain business for Duke or its subsidiaries or otherwise to confer any benefit to Duke or its subsidiaries in violation in any material respect of any Anti-Bribery Laws.

(iii) Since January 1, 2006, neither Duke nor any of its subsidiaries has made any disclosure (voluntary or otherwise) to any Governmental Authority with respect to any alleged material irregularity, material misstatement or material omission or other potential material violation or liability arising under or relating to any Anti-Bribery Law.

ARTICLE IV

COVENANTS

Section 4.01 Covenants of Progress. From and after the date of this Agreement until the Effective Time, Progress covenants and agrees as to itself and its subsidiaries that (except as expressly contemplated or permitted by this Agreement, as set forth in Section 4.01 of the Progress Disclosure Letter, for transactions (other than those set forth in Section 4.01(d) to the extent relating to the capital stock of Progress) solely involving Progress and one or more of its direct or indirect wholly-owned subsidiaries or between two or more direct or indirect wholly-owned subsidiaries of Progress, as required by law, or to the extent that Duke shall otherwise previously consent in writing, such consent not to be unreasonably withheld or delayed):

(a) Ordinary Course. Progress and each of its subsidiaries shall conduct their businesses in all material respects in the ordinary course of business consistent with past practice. Without limiting the generality of the foregoing, Progress and its subsidiaries shall use commercially reasonable efforts to preserve intact in all material respects their present business organizations, to maintain in effect all existing Permits and to timely submit renewal applications (as applicable), subject to prudent management of workforce and business needs, to keep available the services of their key officers and employees, to maintain their assets and properties in good working order and condition, ordinary wear and tear excepted, to preserve their relationships with Governmental Authorities, customers and suppliers and others having significant business dealings with them and to comply in all material respects with all laws, orders and Permits of all Governmental Authorities applicable to them.

(b) Charter Documents. Progress shall not amend or propose to amend its articles of incorporation or, other than in a manner that would not materially restrict the operation of its or their businesses, its by-laws or its subsidiaries' articles of incorporation or by-laws (or other comparable organizational documents).

(c) Dividends. Progress shall not, nor shall it permit any of its subsidiaries to,

(i) declare, set aside or pay any dividends on or make other distributions in respect of any of its capital stock or share capital, except:

(A) that, subject to Section 4.06 of this Agreement, Progress may continue the declaration and payment of regular quarterly cash dividends on Progress Common Stock, not to exceed $0.62 per share for each quarterly dividend, with usual record and payment dates for such dividends in accordance with past dividend practice, and

(B) for the declaration and payment of dividends by a direct or indirect wholly-owned subsidiary of Progress solely to its parent, or by a direct or indirect partially owned subsidiary of Progress (provided, that Progress or a Progress subsidiary receives or is to receive its proportionate share of such dividend or distribution), and

(C) for the declaration and payment of regular cash dividends with respect to preferred stock of Progress's subsidiaries outstanding as of the date of this Agreement or permitted to be issued under the terms of this Agreement, and

(D) for the declaration and payment of dividends necessary to comply with Section 4.06,

(ii) split, combine, reclassify or take similar action with respect to any of its capital stock or share capital or issue or authorize or propose the issuance of any other securities in respect of, in lieu of or in substitution for shares of its capital stock or comprised in its share capital,

(iii) adopt a plan of complete or partial liquidation or resolutions providing for or authorizing such liquidation or a dissolution, merger, consolidation, restructuring, recapitalization or other reorganization, or

(iv) except as disclosed in Section 4.01(c)(iv) of the Progress Disclosure Letter, directly or indirectly redeem, repurchase or otherwise acquire any shares of its capital stock or any Option with respect thereto except:

(A) in connection with intercompany purchases of capital stock or share capital, or

(B) for the purpose of funding the Progress Employee Stock Option Plans or employee stock ownership or dividend reinvestment and stock purchase plans, or

(C) mandatory repurchases or redemptions of preferred stock of Progress or its subsidiaries in accordance with the terms thereof.

(d) Share Issuances. Progress shall not, nor shall it permit any of its subsidiaries to,

issue, deliver or sell, or authorize or propose the issuance, delivery or sale of, any shares of its capital stock or any Option with respect thereto (other than (i) the issuance of Progress Common Stock upon the exercise of Progress Employee Stock Options outstanding as of the date hereof or issued after the date hereof in accordance with the terms of this Agreement in accordance with their terms, (ii) the issuance of Progress Common Stock in respect of Progress Restricted Stock, Progress Restricted Stock Units, Progress Performance Shares and other equity compensation awards, excluding Progress Employee Stock Options, granted under the Progress Employee Stock Option Plans ("Other Progress Equity Awards") outstanding as of the date hereof or issued after the date hereof in accordance with the terms of this Agreement in accordance with their terms, (iii) the issuance of Progress Restricted Stock, Progress Performance Shares and the grant of Progress Restricted Stock Units and Other Progress Equity Awards in accordance with their terms providing, in aggregate, up to an additional 2,000,000 shares of Progress Common Stock in any 12-month period following the date hereof, in amounts, at times and on terms and conditions in the ordinary course of business consistent with past practice, with Progress Performance Shares counted assuming the achievement of maximum performance level for the purposes of determining how many shares were granted during any such 12-month period; provided, however, that any Progress Restricted Stock, Progress Restricted Stock Units, Progress Performance Shares and Other Progress Equity Awards granted after the date of this Agreement shall be granted on terms pursuant to which such Progress Restricted Stock, Progress Restricted Stock Units, Progress Performance Shares and Other Progress Equity Awards shall not vest on the Effective Time or otherwise in connection with the occurrence of the transactions contemplated hereby and that, notwithstanding any plan, program or arrangement to the contrary, and except as provided in Section 4.01(d)(iii) of the Progress Disclosure Letter, any definition of "good reason" or any similar concept of constructive termination relating to such awards shall be as defined in Section 4.01(d)(iii) of the Progress Disclosure Letter and the terms and conditions of each grant of Progress Performance Shares shall be consistent with the treatment set forth in Section 5.06(a)(iii), (iv) the *pro rata* issuance by a subsidiary of its capital stock to its shareholders, and (v) the issuance of shares of Progress Common Stock in connection with any employee benefit plan intended to satisfy the requirements of Section 401(a) of the Code in the ordinary course of business consistent with past practice), or modify or amend any right of any holder of outstanding shares of its capital stock or any Option with respect thereto other than to give effect to Section 5.06.

(e) Acquisitions; Capital Expenditures. Except for (x) acquisitions of, or capital expenditures relating to, the entities, assets and facilities identified in Section 4.01(e) of the Progress Disclosure Letter, (y) expenditures of amounts set forth in Progress's capital expenditure plan included in Section 4.01(e) of the Progress Disclosure Letter, and (z) capital expenditures (1) required by law or Governmental Authorities or (2) incurred in connection with the repair or replacement of facilities destroyed or damaged due to casualty or accident (whether or not covered by insurance), Progress shall not, nor shall it permit any of its subsidiaries to, make any capital expenditures, or acquire or agree to acquire (whether by merger, consolidation, purchase or otherwise) any person or assets, if (A) in the case of any acquisition or acquisitions or series of related acquisitions of any person, asset or property located within the United States, the expected gross expenditures and commitments pursuant to all such acquisitions (including the amount of any indebtedness and amounts received for negative trading positions assumed) exceeds or may exceed, in the aggregate, $150,000,000, (B) any such acquisition is of persons, properties or assets located outside of the United States, (C) any such acquisition or capital expenditure constitutes any

line of business that is not conducted by Progress, its subsidiaries or the Progress Joint Ventures as of the date of this Agreement, or (D) any such acquisition or capital expenditure is reasonably likely, individually or in the aggregate, to materially delay the satisfaction of the conditions set forth in Section 6.02(d) or Section 6.03(d) or prevent the satisfaction of such conditions.

(f) Dispositions. Except for (x) dispositions set forth in Section 4.01(f) of the Progress Disclosure Letter, (y) dispositions of obsolete equipment or assets or dispositions of assets being replaced, in each case in the ordinary course of business consistent with past practice, and (z) dispositions by Progress or its subsidiaries of its assets in accordance with the terms of restructuring and divestiture plans mandated or approved by applicable local or state regulatory agencies, Progress shall not, nor shall it permit any of its subsidiaries to, sell, lease, grant any security interest in or otherwise dispose of or encumber any of its assets or properties if the aggregate value of all such dispositions exceeds or may exceed, in the aggregate, $150,000,000. For the purposes of this Section 4.01(f), the value of any disposition or series of related dispositions shall mean the greater of (i) the book value or (ii) the sales price, in each case of the person, asset or property which is the subject of such disposition and, in each case, together with the indebtedness and amounts paid for negative energy price risk management positions transferred by Progress or its subsidiaries in connection with such disposition.

(g) Indebtedness. Except as disclosed in Section 4.01(g) of the Progress Disclosure Letter, Progress shall not, nor shall it permit any of its subsidiaries to, (A) incur or guarantee any indebtedness or enter into any "keep well" or other agreement to maintain any financial condition of another person or enter into any arrangement having the economic effect of any of the foregoing (including any capital leases, "synthetic" leases or conditional sale or other title retention agreements) other than (i) short-term indebtedness incurred in the ordinary course of business, (ii) letters of credit obtained in the ordinary course of business, (iii) borrowings under Progress's or its subsidiaries' existing credit facilities (or replacement facilities permitted by this Section 4.01(g)) but only to the extent the commercial paper market is unavailable to Progress upon reasonable terms and conditions, as to which borrowings Progress agrees to notify Duke promptly following the consummation thereof, (iv) indebtedness incurred in connection with the refunding or refinancing of existing indebtedness (x) at maturity or upon final mandatory redemption (without the need for the occurrence of any special event) or (y) at a lower cost of funds, (v) indebtedness incurred to finance acquisitions permitted pursuant to Section 4.01(e) or indebtedness assumed pursuant thereto, (vi) other indebtedness in an aggregate principal amount not to exceed $250,000,000 outstanding at any time, (vii) guarantees or other credit support issued pursuant to energy price risk management or marketing positions established prior to the date of this Agreement, (viii) in addition to the guarantees or other credit support contemplated by subsection (A)(vii) of this Section 4.01(g), additional guarantees or other credit support issued in connection with energy price risk management or marketing activities in the ordinary course of business and (ix) indebtedness owed to any direct or indirect wholly-owned subsidiary of Progress, or, in the case of a subsidiary of Progress, to Progress or (B) make any loans or advances to any other person, other than (i) in the ordinary course of business consistent with past practice, (ii) to any direct or indirect wholly-owned subsidiary of Progress, or, in the case of a subsidiary of Progress, to Progress or (iii) as required pursuant to any obligation in effect as of the date of this Agreement.

(h) Marketing of Energy; Energy Price Risk Management. Progress shall not, nor shall it permit any of its subsidiaries to, (i) permit any material change in policies governing or

otherwise relating to energy price risk management or marketing of energy other than as a result of acquisitions or capital expenditures permitted pursuant to Section 4.01(e) or (ii) enter into any physical commodity transactions, exchange-traded futures and options transactions, over-the-counter transactions and derivatives thereof or similar transactions other than as permitted by the Progress Risk Management Guidelines.

(i) Employee Benefits. Except as required by law, or the terms of any collective bargaining agreement or any Progress Employee Benefit Plan, or as disclosed in Section 4.01(i) of the Progress Disclosure Letter or as otherwise expressly permitted by this Agreement, Progress shall not, nor shall it permit any of its subsidiaries to, enter into, adopt, amend or terminate any Progress Employee Benefit Plan, or other agreement, arrangement, plan or policy between Progress or one of its subsidiaries and one or more of its directors, officers or employees (other than any amendment that is immaterial or administrative in nature), or, except for normal increases in the ordinary course of business consistent with past practice, increase in any manner the compensation or fringe benefits of any director, executive officer or other employee, or, except for normal payments in the ordinary course of business consistent with past practice, and the award of annual bonuses on terms and conditions that are consistent with Section 5.07(g), pay any benefit not required by any plan or arrangement in effect as of the date of this Agreement; provided, however, that the foregoing shall not restrict Progress or its subsidiaries from (i) entering into or making available to newly hired officers and employees or to officers and employees in the context of promotions based on job performance or workplace requirements in the ordinary course of business consistent with past practice, plans, agreements, benefits and compensation arrangements (including incentive grants) that have, consistent with past practice, been made available to newly hired or promoted officers and employees, (ii) entering into severance agreements with, or adopting severance plans in the ordinary course of business consistent with past practice for, employees who are not executive officers in connection with terminations of employment of such employees, or (iii) entering into or amending collective bargaining agreements with existing collective bargaining representatives or newly certified bargaining units regarding mandatory subjects of bargaining under applicable law, in each case in a manner consistent with past practice to the extent permitted by law.

(j) [Intentionally Reserved.]

(k) Accounting. Progress shall not, nor shall it permit any of its subsidiaries to, make any changes in its accounting methods materially affecting the reported consolidated assets, liabilities or results of operations of Progress, except as required by law or GAAP.

(l) Insurance. Progress shall, and shall cause its subsidiaries to, maintain with financially responsible insurance companies (or through self-insurance, consistent with past practice) insurance in such amounts and against such risks and losses as are customary for companies engaged in their respective businesses, to the extent available on commercially reasonable terms.

(m) Taxes. Except as could not reasonably be expected to have a material adverse effect on Progress, Progress shall not, nor shall it permit any of its subsidiaries to, (i) settle any claim, action or proceeding relating to Taxes or (ii) make any Tax election (this clause (m) being the sole provision of this Section 4.01 governing Tax matters).

(n) Release of Claims. Except as disclosed in Section 4.01(n) of the Progress Disclosure Letter and except with respect to any settlements or agreements with or before any Governmental Authorities in the ordinary course of business, Progress shall not, and shall not permit any of its subsidiaries to, waive, release, assign, settle or compromise any claim, action or proceeding against Progress or any of its subsidiaries, other than waivers, releases, assignments, settlements or compromises that (x) with respect to the payment of monetary damages, involve only the payment of monetary damages (A) equal to or less than the amounts specifically reserved with respect thereto on the balance sheet as of December 31, 2009 included in the Progress SEC Documents or (B) that do not exceed $15,000,000 individually or $50,000,000 in the aggregate during any consecutive twelve-month period, and (y) with respect to any non-monetary terms and conditions therein, impose or require actions that would not reasonably be expected individually or in the aggregate to have a material adverse effect on Progress.

(o) Contracts. Except as permitted by Section 4.01(i), Progress shall not, nor shall it permit any of its subsidiaries to, (i) enter into any Contract that would materially restrict, after the Effective Time, Duke and its subsidiaries (including the Surviving Corporation and its subsidiaries) with respect to engaging or competing in any line of business or in any geographic area or (ii) other than in the ordinary course of business, waive, release, or assign any material rights or claims under, or materially modify or terminate any Contract that is material to Progress and its subsidiaries, taken as a whole, (A) in any manner that is materially adverse to Progress or (B) which would prevent or materially delay the consummation of the Merger and the other transactions contemplated by this Agreement, it being understood and agreed that the restriction on material modifications and terminations in clause (ii)(A) shall not apply with respect to any Contract permitted to be entered into under clause (e), (f), (g), (h) or (n) of this Section 4.01.

Section 4.02 Covenants of Duke. From and after the date of this Agreement until the Effective Time, Duke covenants and agrees as to itself and its subsidiaries that (except as expressly contemplated or permitted by this Agreement, as set forth in Section 4.02 of the Duke Disclosure Letter, for transactions (other than those set forth in Section 4.02(d) to the extent relating to the capital stock of Duke) solely involving Duke and one or more of its direct or indirect wholly-owned subsidiaries or between two or more direct or indirect wholly-owned subsidiaries of Duke, as required by law, or to the extent that Progress shall otherwise previously consent in writing, such consent not to be unreasonably withheld or delayed):

(a) Ordinary Course. Duke and each of its subsidiaries shall conduct their businesses in all material respects in the ordinary course of business consistent with past practice. Without limiting the generality of the foregoing, Duke and its subsidiaries shall use commercially reasonable efforts to preserve intact in all material respects their present business organizations, to maintain in effect all existing Permits and to timely submit renewal applications (as applicable), subject to prudent management of workforce and business needs, to keep available the services of their key officers and employees, to maintain their assets and properties in good working order and condition, ordinary wear and tear excepted, to preserve their relationships with Governmental Authorities, customers and suppliers and others having significant business dealings with them and to comply in all material respects with all laws, orders and Permits of all Governmental Authorities applicable to them.

(b) Charter Documents. Duke shall not amend or propose to amend its certificate of

incorporation other than in connection with the Duke Charter Amendment or, other than in a manner that would not materially restrict the operation of its or their businesses, its by-laws or its subsidiaries' certificates of incorporation or by-laws (or other comparable organizational documents).

(c) Dividends. Duke shall not, nor shall it permit any of its subsidiaries to,

(i) declare, set aside or pay any dividends on or make other distributions in respect of any of its capital stock or share capital, except:

(A) that, subject to Section 4.06 of this Agreement, Duke may continue the declaration and payment of regular quarterly cash dividends on Duke Common Stock not to exceed $0.245 per share for each quarterly dividend, with usual record and payment dates for such dividends in accordance with past dividend practice; provided, that Duke may increase its regular quarterly cash dividend to an amount not to exceed $0.25 commencing with the regular quarterly dividend that would be payable in 2011 with respect to the second quarter of 2011 (corresponding to the dividend paid on September 16, 2010) and to an amount not to exceed $0.255 commencing with the regular quarterly dividend that would be payable in 2012 with respect to the second quarter of 2012 (it being Duke's intention prior to the Effective Time to declare and pay those dividends permitted by this Section 4.02(c)(i)(A) if and to the extent there are funds legally available therefor and such dividends may otherwise lawfully be declared and paid), and

(B) for the declaration and payment of dividends by a direct or indirect wholly-owned subsidiary of Duke solely to its parent, or by a direct or indirect partially owned subsidiary of Duke (provided, that Duke or a Duke subsidiary receives or is to receive its proportionate share of such dividend or distribution), and

(C) for the declaration and payment of dividends necessary to comply with Section 4.06,

(ii) split, combine, reclassify or take similar action with respect to any of its capital stock or share capital or issue or authorize or propose the issuance of any other securities in respect of, in lieu of or in substitution for shares of its capital stock or comprised in its share capital,

(iii) adopt a plan of complete or partial liquidation or resolutions providing for or authorizing such liquidation or a dissolution, merger, consolidation, restructuring, recapitalization or other reorganization,

(iv) except as disclosed in Section 4.02(c)(iv) of the Duke Disclosure Letter directly or indirectly redeem, repurchase or otherwise acquire any shares of its capital stock or any Option with respect thereto except:

(A) in connection with intercompany purchases of capital stock or share capital, or

(B) for the purpose of funding the Duke Employee Stock Option Plan or employee stock ownership or dividend reinvestment and stock purchase plans, or

(v) bind Duke to any restriction not in existence on the date hereof on the payment by Duke of dividends and distributions on Duke Common Stock.

(d) Share Issuances. Duke shall not, nor shall it permit any of its subsidiaries to, issue, deliver or sell, or authorize or propose the issuance, delivery or sale of, any shares of its capital stock or any Option with respect thereto (other than (i) the issuance of Duke Common Stock upon the exercise of Duke Employee Stock Options outstanding as of the date hereof or issued after the date hereof in accordance with the terms of this Agreement in accordance with their terms, (ii) the issuance of Duke Common Stock in respect of Duke Phantom Stock Units, Duke Performance Shares and other equity compensation awards, excluding Duke Employee Stock Options, granted under the Duke Employee Stock Option Plans ("Other Duke Equity Awards") outstanding as of the date hereof or issued after the date hereof in accordance with the terms of this Agreement in accordance with their terms, (iii) the issuance of Duke Employee Stock Options, Duke Performance Shares and the grant of Duke Phantom Stock Units and Other Duke Equity Awards in accordance with their terms providing, in aggregate, up to an additional 6,000,000 shares of Duke Common Stock in any 12-month period following the date hereof, in amounts, at times and on terms and conditions in the ordinary course of business consistent with past practice, with each Duke Employee Stock Option counting as 1/4 of a share of Duke Common Stock and Duke Performance Shares counted assuming the achievement of maximum performance level, in each case for the purposes of determining how many shares were granted during any such 12-month period; provided, however, that any Duke Employee Stock Options, Duke Phantom Stock Units, Duke Performance Shares and Other Duke Equity Awards granted after the date of this Agreement shall be granted on terms pursuant to which such Duke Employee Stock Options, Duke Phantom Stock Units, Duke Performance Shares and Other Duke Equity Awards shall not vest on the Effective Time or otherwise in connection with the occurrence of the transactions contemplated hereby and that, notwithstanding any plan, program or arrangement to the contrary, any definition of "good reason" or any similar concept of constructive termination relating to such awards shall be as defined in Section 4.02(d)(iii) of the Duke Disclosure Letter, (iv) the *pro rata* issuance by a subsidiary of its capital stock to its shareholders and (v) the issuance of shares of Duke Common Stock in connection with any employee benefit plan intended to satisfy the requirements of Section 401(a) of the Code in the ordinary course of business consistent with past practice), or modify or amend any right of any holder of outstanding shares of its capital stock or any Option with respect thereto other than to give effect to Section 5.06.

(e) Acquisitions; Capital Expenditures. Except for (x) acquisitions of, or capital expenditures relating to, the entities, assets and facilities identified in Section 4.02(e) of the Duke Disclosure Letter, (y) expenditures of amounts set forth in Duke's capital expenditure plan included in Section 4.02(e) of the Duke Disclosure Letter, and (z) capital expenditures (1) required by law or Governmental Authorities or (2) incurred in connection with the repair or replacement of facilities destroyed or damaged due to casualty or accident (whether or not covered by insurance), Duke shall not, nor shall it permit any of its subsidiaries to, make any capital expenditures, or acquire or agree to acquire (whether by merger, consolidation, purchase or otherwise) any person or assets, if (A) the expected gross expenditures and commitments pursuant thereto (including the amount of any indebtedness and amounts received for negative energy price risk management

positions assumed) exceeds or may exceed $300,000,000 (no more than $150,000,000 of which may be for any acquisition or series of related acquisitions of any person, asset or property located outside of the United States), (B) any such acquisition or capital expenditure constitutes any line of business that is not conducted by Duke, its subsidiaries or the Duke Joint Ventures as of the date of this Agreement or extends any line of business of Duke, its subsidiaries or the Duke Joint Ventures into any geographic region outside of the continental United States or Canada in which Duke, its subsidiaries or the Duke Joint Ventures do not conduct business as of the date of this Agreement, or (C) any such acquisition or capital expenditure is reasonably likely, individually or in the aggregate, to materially delay the satisfaction of the conditions set forth in Section 6.02(d) or Section 6.03(d) or prevent the satisfaction of such conditions.

(f) Dispositions. Except for (x) dispositions set forth in Section 4.02(f) of the Duke Disclosure Letter, (y) dispositions of obsolete equipment or assets or dispositions of assets being replaced, in each case in the ordinary course of business consistent with past practice, and (z) dispositions by Duke or its subsidiaries of its assets in accordance with the terms of restructuring and divestiture plans mandated or approved by applicable local or state regulatory agencies, Duke shall not, nor shall it permit any of its subsidiaries to, sell, lease, grant any security interest in or otherwise dispose of or encumber any of its assets or properties if (A) the aggregate value of all such dispositions exceeds or may exceed $300,000,000 (no more than $150,000,000 of which may be for any disposition or series of related dispositions of any person, asset or property located outside the United States). For the purposes of this Section 4.02(f), the value of any disposition or series of related dispositions shall mean the greater of (i) the book value or (ii) the sales price, in each case of the person, asset or property which is the subject of such disposition and, in each case, together with the indebtedness and amounts paid for negative energy price risk management positions transferred by Duke or its subsidiaries in connection with such disposition.

(g) Indebtedness. Except as disclosed in Section 4.02(g) of the Duke Disclosure Letter, Duke shall not, nor shall it permit any of its subsidiaries to, (A) incur or guarantee any indebtedness or enter into any "keep well" or other agreement to maintain any financial condition of another person or enter into any arrangement having the economic effect of any of the foregoing (including any capital leases, "synthetic" leases or conditional sale or other title retention agreements) other than (i) short-term indebtedness incurred in the ordinary course of business, (ii) letters of credit obtained in the ordinary course of business, (iii) borrowings under Duke's or its subsidiaries' existing credit facilities (or replacement facilities permitted by this Section 4.02(g)) but only to the extent the commercial paper market is unavailable to Duke upon reasonable terms and conditions, and as to which borrowings Duke agrees to notify Progress promptly following the consummation thereof, (iv) indebtedness incurred in connection with the refunding or refinancing of existing indebtedness (x) at maturity or upon final mandatory redemption (without the need for the occurrence of any special event) or (y) at a lower cost of funds, (v) indebtedness incurred to finance acquisitions permitted pursuant to Section 4.02(e) or indebtedness assumed pursuant thereto, (vi) other indebtedness in an aggregate principal amount not to exceed $500,000,000 outstanding at any time, (vii) guarantees or other credit support issued pursuant to energy price risk management or marketing positions established prior to the date of this Agreement, (viii) in addition to the guarantees or other credit support contemplated by subsection (A)(vii) of this Section 4.02(g), additional guarantees or other credit support issued in connection with energy price risk management or marketing activities in the ordinary course of business and (ix) indebtedness owed to any direct or indirect wholly-owned subsidiary of Duke, or, in the case of a

subsidiary of Duke, to Duke or (B) make any loans or advances to any other person, other than (i) in the ordinary course of business consistent with past practice, (ii) to any direct or indirect wholly-owned subsidiary of Duke, or, in the case of a subsidiary of Duke, to Duke or (iii) as required pursuant to any obligation in effect as of the date of this Agreement.

(h) Marketing of Energy; Energy Price Risk Management. Except as disclosed in Section 4.02(h) of the Duke Disclosure Letter, Duke shall not, nor shall it permit any of its subsidiaries to, (i) permit any material change in policies governing or otherwise relating to energy price risk management or marketing of energy other than as a result of acquisitions or capital expenditures permitted pursuant to Section 4.02(e) or (ii) enter into any physical commodity transactions, exchange-traded futures and options transactions, over-the-counter transactions and derivatives thereof or similar transactions other than as permitted by the Duke Risk Management Guidelines.

(i) Employee Benefits. Except as required by law, or the terms of any collective bargaining agreement or any Duke Employee Benefit Plan, or as disclosed in Section 4.02(i) of the Duke Disclosure Letter or as otherwise expressly permitted by this Agreement, Duke shall not, nor shall it permit any of its subsidiaries to, enter into, adopt, amend or terminate any Duke Employee Benefit Plan, or other agreement, arrangement, plan or policy between Duke or one of its subsidiaries and one or more of its directors, officers or employees (other than any amendment that is immaterial or administrative in nature), or, except for normal increases in the ordinary course of business consistent with past practice, increase in any manner the compensation or fringe benefits of any director, executive officer or other employee, or, except for normal payments in the ordinary course of business consistent with past practice, and the award of annual bonuses on the terms and conditions set forth in Section 4.02(i) of the Duke Disclosure Letter, pay any benefit not required by any plan or arrangement in effect as of the date of this Agreement; provided, however, that the foregoing shall not restrict Duke or its subsidiaries from (i) entering into or making available to newly hired officers and employees or to officers and employees in the context of promotions based on job performance or workplace requirements in the ordinary course of business consistent with past practice, plans, agreements, benefits and compensation arrangements (including incentive grants) that have, consistent with past practice, been made available to newly hired or promoted officers and employees, (ii) entering into severance agreements with, or adopting severance plans in the ordinary course of business consistent with past practice for, employees who are not executive officers in connection with terminations of employment of such employees, or (iii) entering into or amending collective bargaining agreements with existing collective bargaining representatives or newly certified bargaining units regarding mandatory subjects of bargaining under applicable law, in each case in a manner consistent with past practice to the extent permitted by law.

(j) [Intentionally Reserved.]

(k) Accounting. Duke shall not, nor shall it permit any of its subsidiaries to, make any changes in its accounting methods materially affecting the reported consolidated assets, liabilities or results of operations of Duke, except as required by law or GAAP.

(l) Insurance. Duke shall, and shall cause its subsidiaries to, maintain with financially responsible insurance companies (or through self-insurance, consistent with past practice)

insurance in such amounts and against such risks and losses as are customary for companies engaged in their respective businesses to the extent available on commercially reasonable terms.

(m) Taxes. Except as could not reasonably be expected to have a material adverse effect on Duke, Duke shall not, nor shall it permit any of its subsidiaries to, (i) settle any claim, action or proceeding relating to Taxes or (ii) make any Tax election (this clause (m) being the sole provision of this Section 4.02 governing Tax matters).

(n) Release of Claims. Except as disclosed in Section 4.02(n) of the Duke Disclosure Letter and except with respect to any settlements or agreements with or before any Governmental Authorities in the ordinary course of business, Duke shall not, and shall not permit any of its subsidiaries to, waive, release, assign, settle or compromise any claim, action or proceeding against Duke or any of its subsidiaries, other than waivers, releases, assignments, settlements or compromises that (x) with respect to the payment of monetary damages, involve only the payment of monetary damages (A) equal to or less than the amounts specifically reserved with respect thereto on the balance sheet as of December 31, 2009 included in the Duke SEC Documents or (B) that do not exceed $30,000,000 individually or $100,000,000 in the aggregate during any consecutive twelve-month period, and (y) with respect to any non-monetary terms and conditions therein, impose or require actions that would not reasonably be expected individually or in the aggregate to have a material adverse effect on Duke.

(o) Contracts. Except as permitted by Section 4.02(i), Duke shall not, nor shall it permit any of its subsidiaries to, (i) enter into any Contract that would materially restrict, after the Effective Time, Duke and its subsidiaries (including the Surviving Corporation and its subsidiaries) with respect to engaging or competing in any line of business or in any geographic area or (ii) waive, release, or assign any material rights or claims under, or materially modify or terminate any Contract that is material to Duke and its subsidiaries, taken as a whole, (A) in any manner that is materially adverse to Duke or (B) which would prevent or materially delay the consummation of the Merger and the other transactions contemplated by this Agreement, it being understood and agreed that the restriction on material modifications and terminations in clause (ii)(A) shall not apply with respect to any Contract permitted to be entered into under clause (e), (f), (g), (h) or (n) of this Section 4.02.

Section 4.03 No Solicitation by Progress. (a) Except as expressly permitted by this Section 4.03, Progress shall not, nor shall it permit any of its subsidiaries to, nor shall it authorize or permit any of its directors, officers or employees to, and shall use its reasonable best efforts to cause any investment banker, financial advisor, attorney, accountant or other representative retained by it or any of its subsidiaries not to, directly or indirectly, (i) solicit, initiate or knowingly encourage (including by way of furnishing information), or take any other action designed to facilitate, any inquiries or the making of any proposal that constitutes a Progress Takeover Proposal or (ii) participate in any negotiations or substantive discussions regarding any Progress Takeover Proposal; provided, however, that if, at any time prior to receipt of the Progress Shareholder Approval (the "Progress Applicable Period"), the Board of Directors of Progress determines in good faith, after consultation with its legal and financial advisors, that a Progress Takeover Proposal that did not result from a breach (other than in immaterial respects) of this Section 4.03(a) is, or is reasonably likely to result in, a Progress Superior Proposal (as defined in Section 4.03(b)), and subject to providing prior written notice of its decision to take such action to

Duke and compliance with Section 4.03(c), Progress may (x) furnish information with respect to and provide access to the properties, books and records of Progress and its subsidiaries to the person making such proposal (and its representatives) pursuant to a customary confidentiality agreement containing terms no less favorable to Progress with respect to confidentiality than those set forth in the Confidentiality Agreement (the "Confidentiality Agreement") dated July 29, 2010, between Duke and Progress (provided, that such confidentiality agreement shall not in any way restrict Progress from complying with its disclosure obligations under this Agreement, including with respect to such proposal) and (y) participate in discussions or negotiations regarding such proposal. Progress, its subsidiaries and their representatives immediately shall cease and cause to be terminated any existing activities, discussions or negotiations with any parties with respect to any Progress Takeover Proposal. For purposes of this Agreement, "Progress Takeover Proposal" means any bona fide inquiry, proposal or offer from any person relating to (i) any direct or indirect acquisition or purchase of a business that constitutes 20% or more of the net revenues, net income or the assets (including equity securities) of Progress and its subsidiaries, taken as a whole (a "Progress Material Business"), (ii) any direct or indirect acquisition or purchase of 20% or more of any class of voting securities of Progress or any subsidiary of Progress owning, operating or controlling a Progress Material Business, (iii) any tender offer or exchange offer that if consummated would result in any person beneficially owning 20% or more of any class of voting securities of Progress, or (iv) any merger, consolidation, business combination, recapitalization, liquidation, dissolution or similar transaction involving Progress or any subsidiary of Progress owning, operating or controlling a Progress Material Business, in each case other than the transactions contemplated by this Agreement. Notwithstanding the foregoing and provided that Progress has otherwise complied with this Section 4.03(a), nothing in this Section 4.03(a) shall prohibit Progress or its directors, officers, employees, representatives or agents from contacting in writing any person who has made a Progress Takeover Proposal after the date of this Agreement solely to request the clarification of the terms and conditions thereof to the extent necessary to permit it to determine whether the Progress Takeover Proposal is, or is reasonably likely to result in, a Progress Superior Proposal.

(b) Except as contemplated by this Section 4.03, neither the Board of Directors of Progress nor any committee thereof shall (A) withdraw or modify, or propose publicly to withdraw or modify, in a manner adverse to Duke, the approval or recommendation to Progress's shareholders by such Board of Directors or such committee of this Agreement or the Merger, (B) approve or recommend, or propose publicly to approve or recommend, any Progress Takeover Proposal, or (C) cause Progress to enter into any letter of intent, agreement in principle, acquisition agreement or other similar agreement (each, a "Progress Acquisition Agreement") related to any Progress Takeover Proposal. Notwithstanding the foregoing:

(i) in response to a Progress Takeover Proposal that did not result from a breach (other than in immaterial respects) of Section 4.03(a), during the Progress Applicable Period, the Board of Directors of Progress may, if it determines in good faith, after consulting with outside counsel, that the failure to take such action would be reasonably likely to result in a breach of the Board of Directors' fiduciary obligations under applicable law, (A) withdraw or modify, or propose publicly to withdraw or modify, the approval or recommendation by such Board of Directors or any committee thereof of this Agreement or the Merger, (B) approve or recommend, or propose to approve or recommend, any Progress Superior Proposal, or (C) terminate this Agreement pursuant to Section 7.01(d), but only after (1) in the case of each of clauses (B) or (C),

such Board of Directors has determined in good faith that such Progress Takeover Proposal constitutes a Progress Superior Proposal, and (2) in the case of clause (C), (I) Progress has notified Duke in writing of the determination that such Progress Takeover Proposal constitutes a Progress Superior Proposal and (II) at least five business days following receipt by Duke of such notice, the Board of Directors of Progress has determined that such Progress Superior Proposal remains a Progress Superior Proposal; provided, however, that in the event that any such Progress Takeover Proposal is thereafter modified by the person making such Progress Takeover Proposal and the Board of Directors determines pursuant to clause (C) to terminate this Agreement pursuant to Section 7.01(d), Progress shall again comply with clauses (I) and (II) of this paragraph (b)(i) except that the five business-day period shall be reduced to two business days; and

(ii) in circumstances other than in response to a Progress Takeover Proposal as provided in Section 4.03(b)(i), during the Progress Applicable Period, the Board of Directors of Progress may, if it determines in good faith, after consulting with outside counsel, that the failure to take such action would be reasonably likely to result in a breach of the Board of Directors' fiduciary obligations under applicable law, withdraw or modify, or propose publicly to withdraw or modify, the approval or recommendation by such Board of Directors or any committee thereof of this Agreement or the Merger, but only after (1) Progress has notified Duke in writing that the Board of Directors of Progress is prepared to make the determination set forth in this clause (ii) setting forth the reasons therefor in reasonable detail, (2) for a period of five business days following Duke's receipt of the notice set forth in clause (1) of this sentence (or, if the period from the time of receipt by Duke of such notice to the Progress Shareholders Meeting shall be less than five business days, for such lesser period), Progress negotiates with Duke in good faith to make such adjustments to the terms and conditions of this Agreement, the Merger and the other transactions contemplated hereby as would enable the Progress Board of Directors to proceed with its recommendation of this Agreement and the Merger and (3) at the end of such five-business day period (or such lesser period, as the case may be, in accordance with this clause (ii)) the Board of Directors of Progress maintains its determination described in this clause (ii) (after taking into account Duke's proposed adjustments, if any, to the terms and conditions of this Agreement, the Merger and the other transactions contemplated hereby).

For purposes of this Agreement, "Progress Superior Proposal" means any written Progress Takeover Proposal that the Board of Directors of Progress determines in good faith (after consultation with a financial advisor of nationally recognized reputation) to be more favorable (taking into account (i) all financial and strategic considerations, including relevant legal, financial, regulatory and other aspects of such Progress Takeover Proposal and the Merger and the other transactions contemplated by this Agreement deemed relevant by the Board of Directors, (ii) the identity of the third party making such Progress Takeover Proposal, and (iii) the conditions and prospects for completion of such Progress Takeover Proposal) to Progress's shareholders than the Merger and the other transactions contemplated by this Agreement (taking into account all of the terms of any proposal by Duke to amend or modify the terms of the Merger and the other transactions contemplated by this Agreement), except that (x) the references to "20%" in clauses (i), (ii) and (iii) of the definition of "Progress Takeover Proposal" in Section 4.03(a) shall each be deemed to be a reference to "50%", (y) a "Progress Takeover Proposal" shall only be deemed to refer to a transaction involving Progress, and not any of its subsidiaries or Progress Material Businesses alone, and (z) the references to "or any subsidiary of Progress owning, operating or controlling a Progress Material Business" in clauses (ii) and (iv) shall be deemed to be deleted.

(c) In addition to the obligations of Progress set forth in paragraphs (a) and (b) of this Section 4.03, Progress shall as promptly as practicable advise Duke, orally and in writing, of any Progress Takeover Proposal or of any request for information relating to any Progress Takeover Proposal (and in any case within 48 hours of such request or the receipt of such Progress Takeover Proposal), the principal terms and conditions of such request or Progress Takeover Proposal and the identity of the person making such request or Progress Takeover Proposal. Progress shall keep Duke informed in all material respects of the status and details (including amendments or proposed amendments) of any such request or Progress Takeover Proposal. Contemporaneously with any termination by Progress of this Agreement pursuant to Section 7.01(b)(i), Progress shall provide Duke with a written verification that it has complied with its obligations pursuant to this Section 4.03(c) (other than noncompliance which is immaterial).

(d) Nothing contained in this Agreement shall prohibit Progress or its Board of Directors or any committee thereof from (i) taking and disclosing to its shareholders a position contemplated by Rule 14e-2(a) promulgated under the Exchange Act or from making any disclosure to Progress's shareholders if, in the good faith judgment of the Board of Directors of Progress, after consultation with outside counsel, failure so to disclose would be inconsistent with its or Progress's obligations under applicable law or (ii) taking actions permitted by Section 4.01(f).

Section 4.04 No Solicitation by Duke. (a) Except as expressly permitted by this Section 4.04, Duke shall not, nor shall it permit any of its subsidiaries to, nor shall it authorize or permit any of its directors, officers or employees to, and shall use its reasonable best efforts to cause any investment banker, financial advisor, attorney, accountant or other representative retained by it or any of its subsidiaries not to, directly or indirectly, (i) solicit, initiate or knowingly encourage (including by way of furnishing information), or take any other action designed to facilitate, any inquiries or the making of any proposal that constitutes a Duke Takeover Proposal or (ii) participate in any negotiations or substantive discussions regarding any Duke Takeover Proposal; provided, however, that if, at any time prior to receipt of the Duke Shareholder Approval (the "Duke Applicable Period"), the Board of Directors of Duke determines in good faith, after consultation with its legal and financial advisors, that a Duke Takeover Proposal that did not result from a breach (other than in immaterial respects) of this Section 4.04(a) is, or is reasonably likely to result in, a Duke Superior Proposal (as defined in Section 4.04(b)), and subject to providing prior written notice of its decision to take such action to Progress and compliance with Section 4.04(c), Duke may (x) furnish information with respect to and provide access to the properties, books and records of Duke and its subsidiaries to the person making such proposal (and its representatives) pursuant to a customary confidentiality agreement containing terms no less favorable to Duke with respect to confidentiality than those set forth in the Confidentiality Agreement (provided, that such confidentiality agreement shall not in any way restrict Duke from complying with its disclosure obligations under this Agreement, including with respect to such proposal) and (y) participate in discussions or negotiations regarding such proposal. Duke, its subsidiaries and their representatives immediately shall cease and cause to be terminated any existing activities, discussions or negotiations with any parties with respect to any Duke Takeover Proposal. For purposes of this Agreement, "Duke Takeover Proposal" means any bona fide inquiry, proposal or offer from any person relating to (i) any direct or indirect acquisition or purchase of a business that constitutes 20% or more of the net revenues, net income or the assets (including equity securities) of Duke and its subsidiaries, taken as a whole (a "Duke Material

Business"), (ii) any direct or indirect acquisition or purchase of 20% or more of any class of voting securities of Duke or any subsidiary of Duke owning, operating or controlling a Duke Material Business, (iii) any tender offer or exchange offer that if consummated would result in any person beneficially owning 20% or more of any class of voting securities of Duke, or (iv) any merger, consolidation, business combination, recapitalization, liquidation, dissolution or similar transaction involving Duke or any subsidiary of Duke owning, operating or controlling a Duke Material Business, in each case other than the transactions contemplated by this Agreement. Notwithstanding the foregoing and provided that Duke has otherwise complied with this Section 4.04(a), nothing in this Section 4.04(a) shall prohibit Duke or its directors, officers, employees, representatives or agents from contacting in writing any person who has made a Duke Takeover Proposal after the date of this Agreement solely to request the clarification of the terms and conditions thereof to the extent necessary to permit it to determine whether the Duke Takeover Proposal is, or is reasonably likely to result in, a Duke Superior Proposal.

(b) Except as contemplated by this Section 4.04, neither the Board of Directors of Duke nor any committee thereof shall (A) withdraw or modify, or propose publicly to withdraw or modify, in a manner adverse to Progress, the approval or recommendation to Duke's shareholders by such Board of Directors or such committee of the Duke Share Issuance or Duke Charter Amendment, (B) approve or recommend, or propose publicly to approve or recommend, any Duke Takeover Proposal, or (C) cause Duke to enter into any letter of intent, agreement in principle, acquisition agreement or other similar agreement (each, a "Duke Acquisition Agreement") related to any Duke Takeover Proposal. Notwithstanding the foregoing:

(i) in response to a Duke Takeover Proposal that did not result from a breach (other than in immaterial respects) of Section 4.04(a), during the Duke Applicable Period, the Board of Directors of Duke may, if it determines in good faith, after consulting with outside counsel, that the failure to take such action would be reasonably likely to result in a breach of the Board of Directors' fiduciary obligations under applicable law, (A) withdraw or modify, or propose publicly to withdraw or modify, the approval or recommendation by such Board of Directors or any committee thereof of the Duke Share Issuance or Duke Charter Amendment, (B) approve or recommend, or propose to approve or recommend, any Duke Superior Proposal, or (C) terminate this Agreement pursuant to Section 7.01(f), but only after (1) in the case of each of clauses (B) or (C), such Board of Directors has determined in good faith that such Duke Takeover Proposal constitutes a Duke Superior Proposal, and (2) in the case of clause (C), (I) Duke has notified Progress in writing of the determination that such Duke Takeover Proposal constitutes a Duke Superior Proposal and (II) at least five business days following receipt by Progress of such notice, the Board of Directors of Duke has determined that such Duke Superior Proposal remains a Duke Superior Proposal; provided, however, that in the event that any such Duke Takeover Proposal is thereafter modified by the person making such Duke Takeover Proposal and the Board of Directors determines pursuant to clause (C) to terminate this Agreement pursuant to Section 7.01(f), Duke shall again comply with clauses (I) and (II) of this paragraph (b)(i) except that the five business-day period shall be reduced to two business days; and

(ii) in circumstances other than in response to a Duke Takeover Proposal as provided in Section 4.04(b)(i), during the Duke Applicable Period, the Board of Directors of Duke may, if it determines in good faith, after consulting with outside counsel, that the failure to take such action would be reasonably likely to result in a breach of the Board of Directors' fiduciary

obligations under applicable law, withdraw or modify, or propose publicly to withdraw or modify, the approval or recommendation by such Board of Directors or any committee thereof of the Duke Share Issuance or Duke Charter Amendment, but only after (1) Duke has notified Progress in writing that the Board of Directors of Duke is prepared to make the determination set forth in this clause (ii) setting forth the reasons therefor in reasonable detail, (2) for a period of five business days following Progress's receipt of the notice set forth in clause (1) of this sentence (or, if the period from the time of receipt by Progress of such notice to the Duke Shareholders Meeting shall be less than five business days, for such lesser period), Duke negotiates with Progress in good faith to make such adjustments to the terms and conditions of this Agreement, the Merger and the other transactions contemplated hereby as would enable the Duke Board of Directors to proceed with its recommendation of the Duke Share Issuance and the Duke Charter Amendment and (3) at the end of such five-business day period (or such lesser period, as the case may be, in accordance with this clause (ii)) the Board of Directors of Duke maintains its determination described in this clause (ii) (after taking into account Progress's proposed adjustments, if any, to the terms and conditions of this Agreement, the Merger and the other transactions contemplated hereby).

For purposes of this Agreement, a "Duke Superior Proposal" means any written Duke Takeover Proposal that the Board of Directors of Duke determines in good faith (after consultation with a financial advisor of nationally recognized reputation) to be more favorable (taking into account (i) all financial and strategic considerations, including relevant legal, financial, regulatory and other aspects of such Duke Takeover Proposal and the Merger and the other transactions contemplated by this Agreement deemed relevant by the Board of Directors, (ii) the identity of the third party making such Duke Takeover Proposal, and (iii) the conditions and prospects for completion of such Duke Takeover Proposal) to Duke's shareholders than the Merger and the other transactions contemplated by this Agreement (taking into account all of the terms of any proposal by Progress to amend or modify the terms of the Merger and the other transactions contemplated by this Agreement), except that (x) the references to "20%" in clauses (i), (ii) and (iii) of the definition of "Duke Takeover Proposal" in Section 4.04(a) shall each be deemed to be a reference to "50%", (y) a "Duke Takeover Proposal" shall only be deemed to refer to a transaction involving Duke, and not any of its subsidiaries or Duke Material Businesses alone, and (z) the references to "or any subsidiary of Duke owning, operating or controlling a Duke Material Business" in clauses (ii) and (iv) shall be deemed to be deleted.

(c) In addition to the obligations of Duke set forth in paragraphs (a) and (b) of this Section 4.04, Duke shall as promptly as practicable advise Progress, orally and in writing, of any Duke Takeover Proposal or of any request for information relating to any Duke Takeover Proposal (and in any case within 48 hours of such request or the receipt of such Duke Takeover Proposal), the principal terms and conditions of such request or Duke Takeover Proposal and the identity of the person making such request or Duke Takeover Proposal. Duke shall keep Progress informed in all material respects of the status and details (including amendments or proposed amendments) of any such request or Duke Takeover Proposal. Contemporaneously with any termination by Duke of this Agreement pursuant to Section 7.01(b)(i), Duke shall provide Progress with a written verification that it has complied with its obligations pursuant to this Section 4.04(c) (other than noncompliance which is immaterial).

(d) Nothing contained in this Agreement shall prohibit Duke or its Board of Directors or any committee thereof from (i) taking and disclosing to its shareholders a position contemplated

by Rule 14e-2(a) promulgated under the Exchange Act or from making any disclosure to Duke's shareholders if, in the good faith judgment of the Board of Directors of Duke, after consultation with outside counsel, failure so to disclose would be inconsistent with its or Duke's obligations under applicable law or (ii) taking actions permitted by Section 4.02(f).

Section 4.05 Other Actions. Each of Progress and Duke shall use its reasonable best efforts not to, and shall use its reasonable best efforts not to permit any of its respective subsidiaries to, take any action that would, or that could reasonably be expected to, result in (i) any of the representations and warranties of such party set forth in this Agreement that is qualified as to materiality or material adverse effect becoming untrue, (ii) any of such representations and warranties that is not so qualified becoming untrue in any material respect, or (iii) any condition to the Merger set forth in Article VI not being satisfied.

Section 4.06 Coordination of Dividends. From the date of this Agreement until the Effective Time, Duke and Progress shall coordinate with each other regarding the declaration and payment of dividends in respect of the shares of Progress Common Stock and Duke Common Stock and the record dates and payment dates relating thereto, it being the intention of Progress and Duke that no holder of Progress Common Stock or Duke Common Stock shall receive two dividends, or fail to receive one dividend, for any single calendar quarter with respect to its shares of Progress Common Stock or Duke Common Stock (including Duke Common Stock issued in connection with the Merger), as the case may be. In furtherance of and without limiting the generality of the foregoing, if at the time that Progress would otherwise declare a regular quarterly cash dividend pursuant to Section 4.01(c)(i)(A) the parties expect the Closing Date to occur during the period of time from and after the record date for such Progress dividend and prior to the record date for the next subsequent regular quarterly cash dividend of Duke, the parties shall coordinate to reduce the amount of such Progress dividend to an amount reasonably calculated to effectuate the intent of the parties described in the first sentence of this Section 4.06. In the event (a) the Closing Date would, in the absence of this Section 4.06, occur after the record date for the last regular quarterly cash dividend of Progress prior to the Closing Date and prior to the record date for the next subsequent regular quarterly cash dividend of Duke and (b) such last recent Progress regular quarterly cash dividend occurring prior to the Closing shall not have been reduced as contemplated by the preceding sentence, Duke shall be permitted to (i) declare and pay a special dividend to Duke stockholders immediately prior to the Closing in an amount reasonably calculated to effectuate the intent of the parties described in the first sentence of this Section 4.06 or (ii) subject to the prior written consent of Progress (which consent shall not be unreasonably withheld), postpone the Closing to a date no later than one business day after the record date for the next succeeding regular quarterly cash dividend of Duke (in which event Progress shall be permitted to declare and pay a special dividend immediately prior to the Closing in an amount reasonably calculated to effectuate the intent of the parties described in the first sentence of this Section 4.06, and neither party shall be entitled to terminate this Agreement pursuant to Section 7.01(b)(i) during the period of such postponement).

ARTICLE V

ADDITIONAL AGREEMENTS

Section 5.01 Preparation of the Form S-4 and the Joint Proxy Statement; Shareholders Meetings. (a) As soon as practicable following the date of this Agreement, Progress and Duke shall prepare and file with the SEC the Joint Proxy Statement and Duke shall prepare and file with the SEC the Form S-4, in which the Joint Proxy Statement will be included. The Joint Proxy Statement and Form S-4 shall comply as to form in all material respects with the applicable provisions of the Securities Act and the Exchange Act and the rules and regulations thereunder. Duke shall use its reasonable best efforts, and Progress will reasonably cooperate with Duke in such efforts, to have the Form S-4 declared effective under the Securities Act as promptly as practicable after such filing and to keep the Form S-4 effective as long as necessary to consummate the Merger and other transactions contemplated hereby. Progress will use its reasonable best efforts to cause the Joint Proxy Statement to be mailed to Progress's shareholders, and Duke will use its reasonable best efforts to cause the Joint Proxy Statement to be mailed to Duke's shareholders, in each case as promptly as practicable after the Form S-4 is declared effective under the Securities Act. Duke shall also take any action required to be taken by it under any applicable state or provincial securities laws in connection with the issuance of Duke Common Stock in the Merger and each party shall furnish all information concerning itself and its shareholders as may be reasonably requested in connection with any such action. Each party will advise the others, promptly after it receives notice thereof, of the time when the Form S-4 has become effective or any supplement or amendment has been filed, the issuance of any stop order, the suspension of the qualification of the Duke Common Stock issuable in connection with the Merger for offering or sale in any jurisdiction, or any request by the SEC for amendment of the Joint Proxy Statement or the Form S-4 or comments thereon and responses thereto or requests by the SEC for additional information. If prior to the Effective Time any event occurs with respect to Progress, Duke or any subsidiary of Progress or Duke, respectively, or any change occurs with respect to information supplied by or on behalf of Progress or Duke, respectively, for inclusion in the Joint Proxy Statement or the Form S-4 that, in each case, is required to be described in an amendment of, or a supplement to, the Joint Proxy Statement or the Form S-4, Progress or Duke, as applicable, shall promptly notify the other of such event, and Progress or Duke, as applicable, shall cooperate with the other in the prompt filing with the SEC of any necessary amendment or supplement to the Joint Proxy Statement and the Form S-4 and, as required by law, in disseminating the information contained in such amendment or supplement to Progress's shareholders and to Duke's shareholders; provided that no amendment or supplement to the Joint Proxy Statement or the Form S-4 shall be filed by either party, and no material correspondence with the SEC shall be made by either party, without providing the other party a reasonable opportunity to review and comment thereon.

(b) Progress shall, as soon as reasonably practicable following the date of this Agreement, duly call, give notice of, convene and hold a meeting of its shareholders (the "Progress Shareholders Meeting") for the purpose of obtaining the Progress Shareholder Approval and any other matters required under applicable law to be considered at the Progress Shareholders Meeting. Without limiting the generality of the foregoing, Progress agrees that unless this Agreement is terminated pursuant to Section 7.01, its obligations pursuant to the first sentence of this Section 5.01(b) shall not be affected by (i) the commencement, public proposal, public disclosure or

communication to Progress of any Progress Takeover Proposal, (ii) the withdrawal or modification by the Board of Directors of Progress of its approval or recommendation to Progress's shareholders of this Agreement, the Merger or the other transactions contemplated hereby, or (iii) the approval or recommendation of any Progress Superior Proposal. Notwithstanding any of the events set forth in clauses (i), (ii) and (iii) of the immediately preceding sentence, in the event Progress fulfills its obligations pursuant to this Section 5.01(b) and the Progress Shareholder Approval is not obtained at the Progress Shareholders Meeting, Duke shall not thereafter have the right to terminate this Agreement pursuant to Sections 7.01(h)(i) as a result of the Board of Directors of Progress (or any committee thereof) having, pursuant to Section 4.03(b)(ii), withdrawn or modified, or proposed publicly to withdraw or modify, the approval or recommendation by such Board of Directors of this Agreement or the Merger; provided Duke shall retain all other rights to terminate this Agreement set forth in Section 7.01.

(c) Duke shall, as soon as reasonably practicable following the date of this Agreement, duly call, give notice of, convene and hold a meeting of its shareholders (the "Duke Shareholders Meeting") for the purpose of obtaining the Duke Shareholder Approval and any other matters required under applicable law to be considered at the Duke Shareholders Meeting. Without limiting the generality of the foregoing, Duke agrees that unless this Agreement is terminated pursuant to Section 7.01, its obligations pursuant to the first sentence of this Section 5.01(c) shall not be affected by (i) the commencement, public proposal, public disclosure or communication to Duke of any Duke Takeover Proposal, (ii) the withdrawal or modification by the Board of Directors of Duke of its approval or recommendation to Duke's shareholders of the Duke Share Issuance and the Duke Charter Amendment, or (iii) the approval or recommendation of any Duke Superior Proposal. Notwithstanding any of the events set forth in clauses (i), (ii) and (iii) of the immediately preceding sentence, in the event Duke fulfills its obligations pursuant to this Section 5.01(c) and the Duke Shareholder Approval is not obtained at the Duke Shareholders Meeting, Progress shall not thereafter have the right to terminate this Agreement pursuant to Section 7.01(g)(i) as a result of the Board of Directors of Duke (or any committee thereof) having, pursuant to Section 4.04(b)(ii), withdrawn or modified, or proposed publicly to withdraw or modify, the approval or recommendation by such Board of Directors of this Agreement or the Duke Merger; provided Progress shall retain all other rights to terminate this Agreement set forth in Section 7.01.

Subject to receipt of the Duke Shareholder Approval, on or before the Closing Date and prior to the Effective Time, Duke shall file with the Secretary of State of the State of Delaware a Certificate of Amendment to the Amended and Restated Certificate of Incorporation of Duke providing for, after prior consultation with Progress, a 1-for-2 or 1-for-3 reverse stock split with respect to the Duke Common Stock (the "Duke Charter Amendment"), such Certificate of Amendment to become effective on the Closing Date prior to the filing of the Articles of Merger with the Secretary of State of the State of North Carolina.

(d) Progress and Duke will use their reasonable best efforts to hold the Duke Shareholders Meeting and the Progress Shareholders Meeting on the same date and as soon as practicable after the date of this Agreement.

Section 5.02 Letters of Duke's Accountants. Duke shall use its reasonable best efforts to cause to be delivered to Progress two letters from Duke's independent accountants, one dated a

date within two business days before the date on which the Form S-4 shall become effective and one dated a date within two business days before the Closing Date, each addressed to Progress, in form and substance reasonably satisfactory to Progress and customary in scope and substance for comfort letters delivered by independent public accountants in connection with registration statements similar to the Form S-4.

Section 5.03 Letters of Progress's Accountants. Progress shall use its reasonable best efforts to cause to be delivered to Duke two letters from Progress's independent accountants, one dated a date within two business days before the date on which the Form S-4 shall become effective and one dated a date within two business days before the Closing Date, each addressed to Duke, in form and substance reasonably satisfactory to Duke and customary in scope and substance for comfort letters delivered by independent public accountants in connection with registration statements similar to the Form S-4.

Section 5.04 Access to Information; Effect of Review.

(a) Access. Subject to the Confidentiality Agreement, to the extent permitted by applicable law, each of Progress and Duke shall, and shall cause each of its respective subsidiaries to, and, so long as consistent with its confidentiality obligations under its applicable agreements, shall use its respective reasonable best efforts to cause the Progress Joint Ventures and Duke Joint Ventures, respectively, to, afford to the other party and to the officers, employees, accountants, counsel, financial advisors and other representatives of such other party reasonable access during normal business hours during the period prior to the Effective Time to all their respective properties, books, contracts, commitments, personnel and records and, during such period, to the extent permitted by applicable law, each of Progress and Duke shall, and shall cause each of its respective subsidiaries to, and, so long as consistent with its confidentiality and other contractual obligations under its applicable agreements, shall use its respective reasonable best efforts to cause the Progress Joint Ventures and Duke Joint Ventures, respectively, to, (i) confer on a regular and frequent basis with one or more representatives of the other party to discuss material operational and regulatory matters and the general status of its ongoing operations, (ii) advise the other party of any change or event that has had or could reasonably be expected to have a material adverse effect on such party, and (iii) furnish promptly all other information concerning its business, properties and personnel, in each case as such other party may reasonably request; provided, however, that no actions shall be taken pursuant to this Section 5.04(a) that would create a risk of loss or waiver of the attorney/client privilege, provided, further, that the parties shall use their respective commercially reasonable efforts to allow for access and disclosure of information in a manner reasonably acceptable to the parties that does not result in the loss or waiver of the attorney-client privilege (which efforts shall include entering into mutually acceptable joint defense agreements between the parties if doing so would reasonably permit the disclosure of information without violating applicable law or jeopardizing such attorney-client privilege). Notwithstanding the foregoing, if a party requests access to proprietary information of the other party, the disclosure of which would have a material adverse effect on the other party if the Closing were not to occur (giving effect to the requesting party's obligations under the Confidentiality Agreement), such information shall only be disclosed to the extent reasonably agreed upon by the chief financial officers (or their designees) of Progress and Duke. All information exchanged pursuant to this Section 5.04(a) shall be subject to the Confidentiality Agreement.

(b) Effect of Review. No review pursuant to this Section 5.04 shall have any effect for the purpose of determining the accuracy of any representation or warranty given by any of the parties hereto to any of the other parties hereto.

Section 5.05 Regulatory Matters; Reasonable Best Efforts.

(a) Regulatory Approvals. Each party hereto shall cooperate and promptly prepare and file all necessary documentation, to effect all necessary applications, notices, petitions and filings, and shall use reasonable best efforts to take or cause to be taken all actions, and do or cause to be done all things in order to obtain all approvals and authorizations of all Governmental Authorities, necessary or advisable to consummate and make effective, in the most expeditious manner reasonably practicable, the Merger and the other transactions contemplated by this Agreement, including the Progress Required Statutory Approvals and the Duke Required Statutory Approvals; provided, however, that Progress shall have primary responsibility for the preparation and filing of any related applications, filings or other materials with the FPSC and the NCUC and PSCSC, provided, further, that Duke shall have primary responsibility for the preparation and filing of any related applications, filings or other materials with the PUCO, the IURC and the KPSC. Progress shall have the right to review and approve in advance all characterizations of the information relating to Progress, on the one hand, and Duke shall have the right to review and approve in advance all characterizations of the information relating to Duke, on the other hand, in either case, that appear in any application, notice, petition or filing made in connection with the Merger or the other transactions contemplated by this Agreement. Progress and Duke agree that they will consult and cooperate with each other with respect to the obtaining of all such necessary approvals and authorizations of Governmental Authorities.

(b) Reasonable Best Efforts. Subject to the terms and conditions set forth in this Agreement, each of the parties hereto shall use its reasonable best efforts (subject to, and in accordance with, applicable law) to take, or cause to be taken, promptly all actions, and to do, or cause to be done, promptly and to assist and cooperate with the other parties in doing, all things necessary, proper or advisable to consummate and make effective the Merger and the other transactions contemplated by this Agreement, including (i) the obtaining of all necessary Consents or waivers from third parties and Governmental Authorities, (ii) the defending of any lawsuits or other legal proceedings, whether judicial or administrative, challenging this Agreement or the consummation of the transactions contemplated by this Agreement, and (iii) the execution and delivery of any additional instruments necessary to consummate the transactions contemplated by this Agreement. For purposes of this Agreement, "reasonable best efforts" shall not include nor require either party or its subsidiaries to (A) sell, or agree to sell, hold or agree to hold separate, or otherwise dispose or agree to dispose of any asset, in each case if such sale, separation or disposition or agreement with respect thereto would, individually or in the aggregate, reasonably be expected to have a material adverse effect on the expected benefits of the transactions contemplated by this Agreement to such party, or (B) conduct or agree to conduct its business in any particular manner if such conduct or agreement with respect thereto would, individually or in the aggregate, reasonably be expected to have a material adverse effect on the expected benefits of the transactions contemplated by this Agreement to such party, or (C) agree to any order, action or regulatory condition of any regulatory body, whether in an approval proceeding or another regulatory proceeding, that, if effected, would cause a material reduction in the expected benefits for such party's shareholders (for example, the parties expect their customers to participate in the

benefits of the transactions contemplated by this Agreement in amounts up to but not exceeding (x) the benefits of joint system dispatch and fuel savings as they materialize in future fuel clause proceedings and (y) rates that are lower than they otherwise would have been as net merger savings materialize in future rate proceedings initiated in the ordinary course of business) (any of the foregoing effects, a "Burdensome Effect").

(c) State Anti-Takeover Statutes. Without limiting the generality of Section 5.05(b), Progress and Duke shall (i) take all action necessary to ensure that no state anti-takeover statute or similar statute or regulation is or becomes applicable to the Merger, this Agreement or any of the other transactions contemplated by this Agreement and (ii) if any state anti-takeover statute or similar statute or regulation becomes applicable to the Merger, this Agreement or any other transaction contemplated by this Agreement, take all action necessary to ensure that the Merger and the other transactions contemplated by this Agreement may be consummated as promptly as reasonably practicable on the terms contemplated by this Agreement and otherwise to minimize the effect of such statute or regulation on the Merger and the other transactions contemplated by this Agreement.

Section 5.06 Stock Options; Restricted Stock and Equity Awards; Stock Plans. (a) At the Effective Time, each Progress Employee Stock Option, whether vested or unvested, shall be converted into an option to acquire, on the same terms and conditions as were applicable under such Progress Employee Stock Option, including vesting, a number of shares of Duke Common Stock equal to the number of shares of Progress Common Stock subject to such Progress Employee Stock Option immediately before the Effective Time multiplied by the Exchange Ratio (rounded down to the nearest whole share) at a price per share of Duke Common Stock equal to the price per share under such Progress Employee Stock Option divided by the Exchange Ratio (rounded up to the nearest cent) (each, as so adjusted, a "Progress Adjusted Option");

(i) at the Effective Time, each award of restricted shares of Progress Common Stock ("Progress Restricted Stock") shall be converted into an award of a number of restricted shares of Duke Common Stock equal to the number of restricted shares of Progress Common Stock multiplied by the Exchange Ratio, on the same terms and conditions as were applicable to such award of restricted shares of Progress Common Stock, including vesting ("Progress Adjusted Restricted Stock");

(ii) at the Effective Time, each Progress Restricted Stock Unit shall be converted into an award of a number of restricted stock units of Duke Common Stock equal to the number of restricted stock units of Progress Common Stock multiplied by the Exchange Ratio, on the same terms and conditions as were applicable to such award of restricted stock units of Progress Common Stock, including vesting ("Progress Adjusted Restricted Stock Units");

(iii) at the Effective Time, each Progress Performance Share shall be assumed and converted into an award of a number of performance shares of Duke Common Stock equal to the number of performance shares of Progress Common Stock multiplied by the Exchange Ratio, on the same terms and conditions as were applicable to such award of performance shares of Progress Common Stock, including vesting, and the performance measurement period for such performance shares shall remain open (such that no payments shall be made under the terms of such performance shares solely as a result of or in connection with the Merger) and the

Compensation Committee of the Board of Directors of Duke shall adjust the performance measures of such performance shares as soon as practicable after the Effective Time as it determines is appropriate and equitable to reflect the performance of Progress during the performance measurement period prior to the Effective Time, the transactions contemplated by this Agreement and the performance measures under awards made to similarly situated Duke employees for the same or comparable performance cycle (the "Progress Adjusted Performance Shares");

(iv) all outstanding Other Progress Equity Awards, whether vested or unvested, as of immediately prior to the Effective Time shall be converted into an equity or equity-based award in respect of a number of shares of Duke Common Stock equal to the number of shares of Progress Common Stock represented by such award multiplied by the Exchange Ratio, on the same terms and conditions as were applicable to such Progress equity or equity-based award, including vesting ("Other Progress Adjusted Equity Awards"); and

(v) prior to the Effective Time, the Board of Directors of Progress (or, if appropriate, any committee administering the Progress Employee Stock Option Plans) shall adopt such resolutions or take such other actions as may be required to effect the foregoing and to ensure that the conversion pursuant to Section 2.01(b) of the Progress Common Stock held by any director or officer of Progress and the conversion pursuant to this Section 5.06(a) into Progress Adjusted Options of Progress Employee Stock Options, Progress Adjusted Restricted Stock of Progress Restricted Stock, Progress Adjusted Restricted Stock Units of Progress Restricted Stock Units, Progress Adjusted Performance Shares of Progress Performance Shares and Other Progress Adjusted Equity Awards of Other Progress Equity Awards held by any director or officer of Progress will be eligible for exemption under Rule 16b-3(e) under the Exchange Act.

(b) Prior to the Effective Time, the Board of Directors of Duke shall adopt such resolutions or take such other actions as may be required to ensure to the maximum extent permitted by law that the conversion pursuant to Section 2.01(a) of the Progress Common Stock held by any director or officer of Progress and the conversion pursuant to Section 5.06(a) will be eligible for exemption under Rule 16b-3(e) under the Exchange Act. Prior to the Effective Time, Progress shall deliver to the holders of Progress Adjusted Options, Progress Adjusted Restricted Stock, Progress Adjusted Restricted Stock Units, Progress Adjusted Performance Shares and Other Progress Adjusted Equity Awards appropriate notices setting forth such holders' rights pursuant to the respective plans and this Agreement (collectively, the "Stock Plans").

(c) At the Effective Time, by virtue of the Merger, the Stock Plans shall be assumed by Duke, with the result that all obligations of Progress under the Stock Plans, including with respect to awards outstanding at the Effective Time under each Stock Plan, shall be obligations of Duke following the Effective Time. Prior to the Effective Time, Duke shall take all necessary actions for the assumption of the Stock Plans, including the reservation, issuance and listing of Duke Common Stock in a number at least equal to the number of shares of Duke Common Stock that will be subject to Progress Adjusted Options, Progress Adjusted Restricted Stock Units, Progress Adjusted Performance Shares and Other Progress Adjusted Equity Awards. As promptly as practicable following the Effective Time, Duke or its subsidiaries shall prepare and file with the SEC a registration statement on Form S-8 (or another appropriate form) registering a number of shares of Duke Common Stock determined in accordance with the preceding sentence. Such

registration statement shall be kept effective (and the current status of the prospectus or prospectuses required thereby shall be maintained) at least for so long as Progress Adjusted Options, Progress Adjusted Restricted Stock Units, Progress Adjusted Performance Shares and Other Progress Adjusted Equity Awards remain outstanding.

Section 5.07 Employee Matters. (a) From and after the Effective Time, the Duke Employee Benefit Plans and the Progress Employee Benefit Plans in effect as of the date of this Agreement and at the Effective Time shall remain in effect with respect to employees and former employees of Duke or Progress and their subsidiaries (the "Newco Employees"), respectively, covered by such Plans at the Effective Time, until such time as Duke and Progress together shall otherwise determine, subject to applicable laws and the terms of such plans. Prior to the Effective Time, Duke and Progress shall cooperate in reviewing, evaluating and analyzing Duke Employee Benefit Plans and Progress Employee Benefit Plans with a view towards maintaining appropriate Plans for Newco Employees.

(b) With respect to any Plans in which any Newco Employees who are employees of Duke or Progress (or their subsidiaries) prior to the Effective Time first become eligible to participate on or after the Effective Time, and in which such Newco Employees did not participate prior to the Effective Time (the "New Plans"), Duke shall, or shall cause its subsidiaries to, use reasonable best efforts, subject to applicable law, to: (i) waive all pre-existing conditions, exclusions and waiting periods with respect to participation and coverage requirements applicable to the Newco Employees and their eligible dependents under any New Plans in which such employees may be eligible to participate after the Effective Time, except to the extent such pre-existing conditions, exclusions or waiting periods would apply under the analogous Duke Employee Benefit Plan or Progress Employee Benefit Plan, as the case may be; (ii) provide each Newco Employee and their eligible dependents with credit for any co-payments and deductibles paid prior to the Effective Time under a Duke Employee Benefit Plan or Progress Employee Benefit Plan (to the same extent that such credit was given under the analogous Duke Employee Benefit Plan or Progress Employee Benefit Plan, as applicable, prior to the Effective Time) in satisfying any applicable deductible or out-of-pocket requirements under any New Plans in which such employees may be eligible to participate after the Effective Time; and (iii) recognize all service of the Newco Employees with Progress and Duke, and their respective affiliates, for all purposes (including, for purposes of eligibility to participate, vesting credit, entitlement to benefits, and, except with respect to defined benefit pension plans, benefit accrual) in any New Plan in which such employees may be eligible to participate after the Effective Time, including any severance plan, to the extent such service is taken into account under the applicable New Plan; provided that the foregoing shall not apply to the extent it would result in duplication of benefits.

(c) Prior to the Effective Time, Duke and Progress shall cooperate to establish common retention, relocation and severance policies or plans that apply to Newco Employees on and after the Effective Time; provided, however, that for the period beginning on the Closing Date and ending on the second anniversary of the Closing Date (the "Continuation Period"), each Newco Employee who was an employee of Progress immediately prior to the Effective Time whose employment is terminated during the Continuation Period shall be eligible to receive severance benefits in amounts and on terms and conditions no less favorable than those provided to employees of Progress pursuant to plans or policies in effect immediately prior to the Effective Time, including, without limitation, the Progress CIC Plan (as defined in Section 5.07(d)).

(d) Duke acknowledges and agrees that (i) it will assume, as of the Effective Time, all obligations under the Progress Energy, Inc. Management Change-in-Control Plan, as amended and restated effective January 1, 2008 but after giving effect to the amendment of the definition of "Good Reason" set forth in Section 4.01(d)(iii) of the Progress Disclosure Letter (the "Progress CIC Plan") and (ii) a termination of employment from Duke and its affiliates shall be the same as a termination of employment from Progress and its affiliates for all purposes under the Progress CIC Plan.

(e) Prior to the Effective Time, Progress shall (i) amend the definition of Committee set forth in Section 2.9 of the Progress CIC Plan by deleting the last sentence of such definition in its entirety and (ii) either amend the Progress CIC Plan or prescribe terms in the applicable award agreement to provide that, except as set forth in Section 4.01(d)(iii) of the Progress Disclosure Letter, for all equity awards granted under the Progress Employee Stock Option Plans to participants in the Progress CIC Plan after the date hereof, the definition of "good reason" or similar concept of constructive termination relating to such awards shall be as defined in Section 4.01(d)(iii) of the Progress Disclosure Letter. Progress also acknowledges and agrees that (A) neither Progress nor any of its subsidiaries will take any actions to fund any grantor trust or similar vehicle that it currently maintains, or may maintain at any time following the date hereof, in connection with the transactions contemplated by this Agreement and (B) prior to the Effective Time, Progress will take all actions necessary to amend (x) any grantor trust maintained by Progress to eliminate any requirement to fund any such grantor trust in connection with the transactions contemplated by this Agreement and (y) any Progress Employee Benefit Plan requiring the establishment or funding of a grantor trust to eliminate such requirement.

(f) Duke acknowledges and agrees that it shall assume, as of the Effective Time, all obligations under the Amended and Restated Supplemental Senior Executive Retirement Plan of Progress Energy, Inc. (the "SERP"); provided that nothing herein shall prohibit Progress or its affiliates or their respective successors and assigns from modifying, amending or terminating the provisions of the SERP in any manner in accordance with its terms and applicable law; provided, further that no modification, amendment or termination shall adversely affect a participant's accrued benefit or the right to payment thereof under the provisions of the SERP as in effect immediately prior to such amendment, modification or termination. Without limiting the generality of the foregoing, following the Effective Time, in the event that the SERP is amended in a manner that would otherwise reduce a participant's right to accrue future benefits under the SERP, Duke shall provide such participant with the opportunity to earn additional benefits under the SERP (or another compensation or benefit arrangement) equal to no less than the incremental amount that the participant would have earned under the SERP (i.e., due to the accrual of additional years of Service (as defined in the SERP)) in the absence of such amendment, except that such incremental amount shall be calculated after treating the participant's Final Average Salary (as defined in the SERP) as if it was solely based on compensation earned by the participant prior to the Effective Time, as increased after the Effective Time by cost of living adjustments. Progress shall amend the SERP as soon as practicable after the date hereof to provide that no individual may become a participant in the SERP following the date of this Agreement.

(g) At the Effective Time, outstanding awards under the Progress Management Incentive Compensation Plan shall be assumed and the performance period for each such award shall remain open (such that no payments shall be made under the terms of the Progress

Management Incentive Compensation Plan solely as a result of or in connection with the Merger) at a level and providing an annual incentive compensation opportunity that is not less than the level and annual incentive compensation opportunity under the existing Progress Management Incentive Compensation Plan and the applicable performance criteria and vesting requirements for each such award shall be adjusted by the Compensation Committee of the Board of Directors of Duke as it determines is appropriate and equitable to reflect the performance of Progress during the performance period prior to the Effective Time, the transactions contemplated by this Agreement and the performance measures under awards made to similarly situated Duke employees as soon as practicable following the Effective Time.

(h) Without limiting the generality of Section 8.06, the provisions of this Section 5.07 are solely for the benefit of the parties to this Agreement, and no current or former director, officer, employee or independent contractor or any other person shall be a third-party beneficiary of this Agreement, and nothing herein shall be construed as an amendment to any Progress Employee Benefit Plan, Duke Employee Benefit Plan or other compensation or benefit plan or arrangement for any purpose.

Section 5.08 Indemnification, Exculpation and Insurance. (a) Each of Duke, Merger Sub and Progress agrees that, to the fullest extent permitted under applicable law, all rights to indemnification, advancement and exculpation from liabilities for acts or omissions occurring at or prior to the Effective Time now existing in favor of the current or former directors, officers and employees and the fiduciaries currently indemnified under benefit plans of Progress and its subsidiaries, as provided in their respective certificate or articles of incorporation, by-laws (or comparable organizational documents) or other agreements providing indemnification, advancement or exculpation shall survive the Merger and shall continue in full force and effect in accordance with their terms, and no such provision in any certificate or articles of incorporation, by-laws (or comparable organizational document) or other agreement shall be amended, modified or repealed in any manner that would adversely affect the rights or protections thereunder to any such individual with respect to acts or omissions occurring at or prior to the Effective Time. In addition, from and after the Effective Time, all directors, officers and employees and all fiduciaries currently indemnified under benefit plans of Progress or its subsidiaries who become directors, officers, employees or fiduciaries under benefit plans of Duke will be entitled to the indemnity, advancement and exculpation rights and protections afforded to directors, officers and employees or fiduciaries under benefit plans of Duke. From and after the Effective Time, Duke shall cause the Surviving Corporation and its subsidiaries to honor and perform, in accordance with their respective terms, each of the covenants contained in this Section 5.08 without limit as to time.

(b) For six years after the Effective Time, Duke shall maintain in effect the directors' and officers' liability (and fiduciary) insurance policies currently maintained by Progress covering acts or omissions occurring on or prior to the Effective Time with respect to those persons who are currently covered by Progress's respective directors' and officers' liability (and fiduciary) insurance policies on terms with respect to such coverage and in amounts no less favorable than those set forth in the relevant policy in effect on the date of this Agreement; provided that the annual cost thereof shall not exceed 300% of the annual cost of such policies as of the date hereof. If such no less favorable insurance coverage cannot be maintained for such cost, Duke shall maintain the most advantageous policies of directors' and officers' insurance otherwise obtainable for such cost. Prior to the Effective Time, Progress may purchase a six-year "tail" prepaid policy

on terms and conditions no less advantageous to the Progress Indemnified Parties, or any other person entitled to the benefit of Sections 5.08(a) and (b), as applicable, than the existing directors' and officers' liability (and fiduciary) insurance maintained by Progress, covering without limitation the transactions contemplated hereby; provided that the aggregate cost thereof shall not exceed 600% of the annual cost of the directors' and officers' liability (and fiduciary) insurance maintained by Progress as of the date hereof. If such "tail" prepaid policy has been obtained by Progress prior to the Effective Time, it shall satisfy the obligations set forth in the first two sentences of this paragraph (b) and Duke shall, after the Effective Time, maintain such policy in full force and effect, for its full term, and continue to honor its obligations thereunder.

(c) From and after the Effective Time, Duke will cause the Surviving Corporation to indemnify and hold harmless each present director and officer of Progress or any of its subsidiaries (in each case, for acts or failures to act in such capacity), determined as of the date hereof, and any person who becomes such a director or officer between the date hereof and the Effective Time (collectively, the "Progress Indemnified Parties"), against any costs or expenses (including reasonable attorneys' fees, costs and expenses), judgments, fines, losses, claims, damages or liabilities incurred in connection with any claim, action, suit, proceeding or investigation, whether civil, criminal, administrative or investigative, arising out of matters existing or occurring at or prior to the Effective Time, whether asserted or claimed prior to, at or after the Effective Time (including any matters arising in connection with the transactions contemplated by this Agreement), to the fullest extent permitted by applicable law (and Duke will cause the Surviving Corporation to also advance expenses (including reasonable attorneys' fees, costs and expenses) as incurred to the fullest extent permitted under applicable law; provided that if required by applicable law the person to whom expenses are advanced provides an undertaking to repay such advances if it is ultimately determined that such person is not entitled to indemnification); and provided, further, that any determination as to whether a Progress Indemnified Party is entitled to indemnification or advancement of expenses hereunder pursuant to applicable law shall be made by independent counsel jointly selected by the Surviving Corporation and such Progress Indemnified Party.

(d) The obligations of Duke and the Surviving Corporation under this Section 5.08 shall not be terminated or modified by such parties in a manner so as to adversely affect any Progress Indemnified Party, or any other person entitled to the benefit of Sections 5.08(a) and (b), as the case may be, to whom this Section 5.08 applies without the consent of the affected Progress Indemnified Party, or such other person, as the case may be. If Duke, the Surviving Corporation or any of their respective successors or assigns (i) shall consolidate with or merge into any other corporation or entity and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (ii) shall transfer all or substantially all of its properties and assets to any individual, corporation or other entity, then, and in each such case, proper provisions shall be made so that the successors and assigns of Duke or the Surviving Corporation, as the case may be, shall assume all of the obligations of Duke, or the Surviving Corporation, as the case may be, set forth in this Section 5.08.

(e) The provisions of Section 5.08 are (i) intended to be for the benefit of, and will be enforceable by, each indemnified party, his or her heirs and his or her representatives and (ii) in addition to, and not in substitution for, any other rights to indemnification, advancement, exculpation or contribution that any such person may have by contract or otherwise.

Section 5.09 Fees and Expenses. (a) Except as provided in this Section 5.09, all fees and expenses incurred in connection with the Merger, this Agreement and the transactions contemplated by this Agreement shall be paid by the party incurring such fees or expenses, whether or not the Merger is consummated, except that each of Progress and Duke shall each bear and pay one-half of the costs and expenses incurred in connection with (1) the filing, printing and mailing of the Form S-4 and the Joint Proxy Statement (including SEC filing fees), (2) the filings of the premerger notification and report forms under the HSR Act (including filing fees) and (3) the preparation and filing of all applications, filings or other materials with the FPSC, PUCO, the NCUC, the IURC, the KPSC and the PSCSC. The Surviving Corporation shall file any return with respect to, and shall pay, any state or local taxes (including penalties or interest with respect thereto), if any, that are attributable to (i) the transfer of the beneficial ownership of Progress's real property and (ii) the transfer of Progress Common Stock pursuant to this Agreement as a result of the Merger. Progress and Duke shall cooperate with respect to the filing of such returns, including supplying any information that is reasonably necessary to complete such returns.

(b) Progress shall immediately pay Duke a fee equal to $400 million (the "Progress Termination Fee") minus any amounts as may have been previously paid by Progress pursuant to Section 5.09(d), payable by wire transfer of same day funds, in the event that:

(i) following the Progress Shareholder Approval, (x) a Progress Takeover Proposal shall have been made known to Progress or any person shall have publicly announced an intention (whether or not conditional) to make a Progress Takeover Proposal, (y) thereafter this Agreement is terminated by Progress pursuant to Section 7.01(b)(i) and (z) within six months of such termination Progress or any of its subsidiaries enters into any Progress Acquisition Agreement or consummates any Progress Takeover Proposal, in either case with the person (or an affiliate of such person) that made the Progress Takeover Proposal referred to in clause (x), or

(ii) prior to or during the Progress Shareholders Meeting (or any subsequent meeting of Progress shareholders at which it is proposed that the Merger be approved), (x) a Progress Takeover Proposal shall have been publicly disclosed or any person shall have publicly announced an intention (whether or not conditional) to make a Progress Takeover Proposal, (y) thereafter this Agreement is terminated by either Progress or Duke pursuant to Section 7.01(b)(iii), and (z) within 12 months of such termination Progress or any of its subsidiaries enters into any Progress Acquisition Agreement or consummates any Progress Takeover Proposal, in either case with the person (or an affiliate of such person) that made the Progress Takeover Proposal referred to in clause (x), or

(iii) this Agreement is terminated by Progress pursuant to Section 7.01(d), or

(iv) this Agreement is terminated by Duke pursuant to Section 7.01(h)(i), provided, however, that if this Agreement is terminated by Duke pursuant to Section 7.01(h)(i) as a result of the Board of Directors of Progress (or any committee thereof) having withdrawn or modified, or proposed publicly to withdraw or modify, the approval or recommendation by such Board of Directors of this Agreement or the Merger primarily due to adverse conditions, events or actions of or relating to Duke, the Progress Termination Fee shall not be payable to Duke, or

(v) this Agreement is terminated by Duke pursuant to 7.01(h)(iii).

For the purposes of Section 5.09(b)(i) and (ii), the terms "Progress Acquisition Agreement" and "Progress Takeover Proposal" shall have the meanings assigned to such terms in Section 4.03 (except that the references to "20%" in the definition of "Progress Takeover Proposal" in Section 4.03(a) shall be deemed to be references to "50%") and the Termination Fee shall be immediately payable upon the first to occur of Progress entering into such Progress Acquisition Agreement or consummating such Progress Takeover Proposal.

(c) Duke shall immediately pay Progress a fee equal to $675 million (the "Duke Termination Fee") minus any amounts as may have been previously paid by Duke pursuant to Section 5.09(e), payable by wire transfer of same day funds, in the event that:

(i) following the Duke Shareholder Approval, (x) a Duke Takeover Proposal shall have been made known to Duke or any person shall have publicly announced an intention (whether or not conditional) to make a Duke Takeover Proposal, (y) thereafter this Agreement is terminated by Duke pursuant to Section 7.01(b)(i), and (z) within six months of such termination Duke or any of its subsidiaries enters into any Duke Acquisition Agreement or consummates any Duke Takeover Proposal, in either case with the person (or an affiliate of such person) that made the Duke Takeover Proposal referred to in clause (x), or

(ii) prior to or during the Duke Shareholders Meeting (or any subsequent meeting of Duke shareholders at which it is proposed that the Duke Share Issuance or Duke Charter Amendment be approved), (x) a Duke Takeover Proposal shall have been publicly disclosed or any person shall have publicly announced an intention (whether or not conditional) to make a Duke Takeover Proposal, (y) thereafter this Agreement is terminated by either Progress or Duke pursuant to Section 7.01(b)(ii), and (z) within 12 months of such termination Duke or any of its subsidiaries enters into any Duke Acquisition Agreement or consummates any Duke Takeover Proposal, in either case with the person (or an affiliate of such person) that made the Duke Takeover Proposal referred to in clause (x), or

(iii) this Agreement is terminated by Duke pursuant to Section 7.01(f), or

(iv) this Agreement is terminated by Progress pursuant to Section 7.01(g)(i), provided, however, that if this Agreement is terminated by Progress pursuant to Section 7.01(g)(i) as a result of the Board of Directors of Duke (or any committee thereof) having withdrawn or modified, or proposed publicly to withdraw or modify, the approval or recommendation by such Board of Directors of the Duke Share Issuance or Duke Charter Amendment primarily due to adverse conditions, events or actions of or relating to Progress, the Duke Termination Fee shall not be payable to Progress, or

(v) this Agreement is terminated by Progress pursuant to 7.01(g)(iii).

For the purposes of Section 5.09(c)(i) and (ii), the terms "Duke Acquisition Agreement" and "Duke Takeover Proposal" shall have the meanings assigned to such terms in Section 4.04 (except that the references to "20%" in the definition of "Duke Takeover Proposal" in Section 4.04(a) shall be deemed to be references to "50%") and the Duke Termination Fee shall be immediately payable upon the first to occur of Duke entering into such Duke Acquisition Agreement or consummating such Duke Takeover Proposal.

(d) If this Agreement is terminated (i) by Progress or Duke pursuant to Section 7.01(b)(iii) (after the public disclosure of a Progress Takeover Proposal or the announcement by any person of the intention (whether or not conditional) to make a Progress Takeover Proposal and in each case there shall not have been a bona fide withdrawal thereof prior to the Progress Shareholders Meeting) or (ii) by Duke pursuant to Section 7.01(e), Progress shall reimburse Duke promptly upon demand, but in no event later than three business days after the date of such demand, by wire transfer of same day funds, for all reasonable, out-of-pocket fees and expenses incurred or paid by or on behalf of, Duke in connection with the Merger or the transactions contemplated by this Agreement, including all reasonable fees and expenses of counsel, investment banking firms, accountants, experts and consultants to Duke; provided, however, that Progress shall not be obligated to make payments pursuant to this Section 5.09(d) in excess of $30,000,000 in the aggregate.

(e) If this Agreement is terminated (i) by Progress or Duke pursuant to Section 7.01(b)(ii) (after the public disclosure of a Duke Takeover Proposal or the announcement by any person of the intention (whether or not conditional) to make a Duke Takeover Proposal and in each case there shall not have been a bona fide withdrawal thereof prior to the Duke Shareholders Meeting), or (ii) by Progress pursuant to Section 7.01(c), Duke shall reimburse Progress promptly upon demand, but in no event later than three business days after the date of such demand, by wire transfer of same day funds, for all reasonable, out-of-pocket fees and expenses incurred or paid by or on behalf of, Progress in connection with the Merger or the transactions contemplated by this Agreement, including all reasonable fees and expenses of counsel, investment banking firms, accountants, experts and consultants to Progress; provided, however, that Duke shall not be obligated to make payments pursuant to this Section 5.09(e) in excess of $30,000,000 in the aggregate.

(f) Progress acknowledges that the agreements contained in Sections 5.09(b) and 5.09(d) are an integral part of the transactions contemplated by this Agreement, and that, without these agreements, Duke would not enter into this Agreement; accordingly, if Progress fails promptly to pay the amount due pursuant to Section 5.09(b) or 5.09(d), and, in order to obtain such payment, Duke commences a suit that results in a judgment against Progress for the fees set forth in Section 5.09(b) or 5.09(d), Progress shall pay to Duke its costs and expenses (including attorneys' fees and expenses) in connection with such suit, together with interest on the amount of the fee at the prime rate of Citibank N.A. in effect on the date such payment was required to be made.

(g) Duke acknowledges that the agreements contained in Sections 5.09(c) and 5.09(e) are an integral part of the transactions contemplated by this Agreement, and that, without these agreements, Progress would not enter into this Agreement; accordingly, if Duke fails promptly to pay the amount due pursuant to Section 5.09(c) or 5.09(e), and, in order to obtain such payment, Progress commences a suit that results in a judgment against Duke for the fees set forth in Section 5.09(c) or 5.09(e), Duke shall pay to Progress its costs and expenses (including attorneys' fees and expenses) in connection with such suit, together with interest on the amount of the fee at the prime rate of Citibank N.A. in effect on the date such payment was required to be made.

Section 5.10 Public Announcements. Progress and Duke will consult with each other before issuing, and provide each other the reasonable opportunity to review, comment upon and

concur with, any press release or other public statements with respect to the transactions contemplated by this Agreement, including the Merger, and shall not issue any such press release or make any such public statement prior to such consultation, except as any party, after consultation with counsel, determines is required by applicable law or applicable rule or regulation of the NYSE.

Section 5.11 Affiliates. As soon as practicable after the date of this Agreement, Progress shall deliver to Duke, and Duke shall deliver to Progress, a letter identifying all persons who are, at the time this Agreement is submitted for adoption by the respective shareholders of Duke and Progress, "affiliates" of Progress or Duke, as the case may be, for purposes of Rule 145 under the Securities Act.

Section 5.12 NYSE Listing. Duke shall use its reasonable best efforts to cause the shares of Duke Common Stock issuable to Progress's shareholders as contemplated by this Agreement to be approved for listing on the NYSE, subject to official notice of issuance, as promptly as practicable after the date of this Agreement, and in any event prior to the Closing Date.

Section 5.13 Shareholder Litigation. Each of Progress and Duke shall give the other the reasonable opportunity to consult concerning the defense of any shareholder litigation against Progress or Duke, as applicable, or any of their respective directors or officers relating to the transactions contemplated by this Agreement.

Section 5.14 Tax-Free Reorganization Treatment. The parties to this Agreement intend that the Merger will qualify as a reorganization under Section 368(a) of the Code, and each shall not, and shall not permit any of their respective subsidiaries to, take any action, or fail to take any action, that would reasonably be expected to jeopardize the qualification of the Merger as a reorganization under Section 368(a) of the Code.

Section 5.15 Standstill Agreements; Confidentiality Agreements. During the period from the date of this Agreement through the Effective Time, neither Progress nor Duke shall terminate, amend, modify or waive any provision of any confidentiality or standstill agreement to which it or any of its respective subsidiaries is a party except (i) as required by applicable law, (ii) during the Progress Applicable Period in the case of Progress or during the Duke Applicable Period in the case of Duke, neither party shall enforce any standstill agreements or similar obligations in effect on the date of this Agreement in any manner that might prevent a third party from requesting permission to submit a Progress Takeover Proposal in accordance with Section 4.03 or a Duke Takeover Proposal in accordance with Section 4.04, as applicable or (iii) if the Board of Directors of the applicable party determines in good faith that failure to do so could reasonably be expected to result in a breach of its fiduciary obligations under applicable law. Except as provided in the first sentence of this Section 5.15, Progress or Duke, as the case may be, shall enforce any confidentiality or standstill agreement to which it or any of its respective subsidiaries is a party, including by seeking injunctions to prevent any breaches of such agreements and to enforce specifically the terms and provisions thereof, to the fullest extent permitted under applicable law.

ARTICLE VI

CONDITIONS PRECEDENT

Section 6.01 Conditions to Each Party's Obligation to Effect the Merger. The respective obligation of each party to effect the Merger is subject to the satisfaction or waiver by Progress and Duke on or prior to the Closing Date of the following conditions:

(a) Shareholder Approvals. Each of the Duke Shareholder Approval and the Progress Shareholder Approval shall have been obtained.

(b) No Injunctions or Restraints. No (i) temporary restraining order or preliminary or permanent injunction or other order by any federal or state court of competent jurisdiction preventing consummation of the Merger or (ii) applicable federal or state law prohibiting consummation of the Merger (collectively, "Restraints") shall be in effect.

(c) Form S-4. The Form S-4 shall have become effective under the Securities Act and shall not be the subject of any stop order or proceedings seeking a stop order and no proceedings for that purpose shall have been initiated or overtly threatened by the SEC.

(d) NYSE Listing. The shares of Duke Common Stock issuable to Progress's shareholders as contemplated by this Agreement shall have been approved for listing on the NYSE, subject to official notice of issuance.

(e) Charter Amendment. The Duke Charter Amendment shall have become effective.

Section 6.02 Conditions to Obligations of Progress. The obligation of Progress to effect the Merger is further subject to satisfaction or waiver of the following conditions:

(a) Representations and Warranties. The representations and warranties of Duke set forth herein shall be true and correct both when made and at and as of the Closing Date, as if made at and as of such time (except to the extent expressly made as of an earlier date, in which case as of such date), except where the failure of such representations and warranties to be so true and correct (without giving effect to any limitation as to "materiality" or "material adverse effect" set forth therein) does not have, and could not reasonably be expected to have, individually or in the aggregate, a material adverse effect on Duke.

(b) Performance of Obligations of Duke. Duke shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Closing Date.

(c) Tax Opinion. Progress shall have received a written opinion from Hunton & Williams LLP, counsel to Progress, dated as of the Closing Date, to the effect that the Merger will qualify as a reorganization under Section 368(a) of the Code. Such counsel shall be entitled to rely upon representation letters from each of Duke, Progress, Merger Sub and others, in each case, in form and substance reasonably satisfactory to such counsel. Each such representation letter shall be dated as of the date of such opinion. The opinion condition referred to in this Section 6.02(c)

shall not be waivable after receipt of the Progress Shareholder Approval, unless further approval of the shareholders of Progress is obtained with appropriate disclosure.

(d) Statutory Approvals. The Progress Required Statutory Approvals and the Duke Required Statutory Approvals shall have been obtained (including, in each case, the expiration or termination of the waiting periods (and any extensions thereof) under the HSR Act applicable to the Merger and the transactions contemplated by this Agreement) at or prior to the Effective Time, such approvals shall have become Final Orders (as defined below) and neither (i) such Final Orders nor (ii) any other order, action or regulatory condition of a regulatory body shall impose terms or conditions that, individually or in the aggregate, could reasonably be expected to have a Burdensome Effect on Progress or Duke. A "Final Order" means action by the relevant Governmental Authority that has not been reversed, stayed, enjoined, set aside, annulled or suspended, with respect to which any waiting period prescribed by law before the transactions contemplated hereby may be consummated has expired (a "Final Order Waiting Period"), and as to which all conditions to the consummation of such transactions prescribed by law, regulation or order have been satisfied.

(e) No Material Adverse Effect. Except as disclosed in the Duke SEC Reports filed on or after January 1, 2010 and prior to the date hereof or in any specific section of the Duke Disclosure Letter corresponding to Section 3.02, since December 31, 2009, there shall not have been any change, event, occurrence or development that, individually or in the aggregate, has had or could reasonably be expected to have a material adverse effect on Duke.

(f) Closing Certificates. Progress shall have received a certificate signed by an executive officer of Duke, dated the Effective Time, to the effect that, to such officer's knowledge, the conditions set forth in Sections 6.02(a), 6.02(b) and 6.02(e) have been satisfied.

Section 6.03 Conditions to Obligations of Duke. The obligation of Duke to effect the Merger is further subject to satisfaction or waiver of the following conditions:

(a) Representations and Warranties. The representations and warranties of Progress set forth herein shall be true and correct both when made and at and as of the Closing Date, as if made at and as of such time (except to the extent expressly made as of an earlier date, in which case as of such date), except where the failure of such representations and warranties to be so true and correct (without giving effect to any limitation as to "materiality" or "material adverse effect" set forth therein) does not have, and could not reasonably be expected to have, individually or in the aggregate, a material adverse effect on Progress.

(b) Performance of Obligations of Progress. Progress shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Closing Date.

(c) Tax Opinion. Duke shall have received a written opinion from Wachtell, Lipton, Rosen & Katz, counsel to Duke, dated as of the Closing Date, to the effect that the Merger will qualify as a reorganization under Section 368(a) of the Code. Such counsel shall be entitled to rely upon representation letters from each of Duke, Progress, Merger Sub and others, in each case, in form and substance reasonably satisfactory to such counsel. Each such representation letter shall

be dated as of the date of such opinion. The opinion condition referred to in this Section 6.03(c) shall not be waivable after receipt of the Duke Shareholder Approval, unless further approval of the shareholders of Duke is obtained with appropriate disclosure.

(d) Statutory Approvals. The Progress Required Statutory Approvals and the Duke Required Statutory Approvals shall have been obtained (including, in each case, the expiration or termination of the waiting periods (and any extensions thereof) under the HSR Act applicable to the Merger and the transactions contemplated by this Agreement) at or prior to the Effective Time, such approvals shall have become Final Orders and neither (i) such Final Orders nor (ii) any other order, action or regulatory condition of a regulatory body shall impose terms or conditions that, individually or in the aggregate, could reasonably be expected to have a Burdensome Effect on Duke or Progress.

(e) No Material Adverse Effect. Except as disclosed in the Progress SEC Reports filed on or after January 1, 2010 and prior to the date hereof or in any specific section of the Progress Disclosure Letter corresponding to Section 3.01, since December 31, 2009, there shall not have been any change, event, occurrence or development that, individually or in the aggregate, has had or could reasonably be expected to have a material adverse effect on Progress.

(f) Closing Certificates. Duke shall have received a certificate signed by an executive officer of Progress, dated the Effective Time, to the effect that, to such officer's knowledge, the conditions set forth in Sections 6.03(a), 6.03(b) and 6.03(e) have been satisfied.

Section 6.04 Frustration of Closing Conditions. Neither Progress nor Duke may rely on the failure of any condition set forth in Section 6.01, 6.02 or 6.03, as the case may be, to be satisfied if such failure was caused by such party's failure to use reasonable best efforts to consummate the Merger and the other transactions contemplated by this Agreement, to the extent required by and subject to Section 5.05.

ARTICLE VII

TERMINATION, AMENDMENT AND WAIVER

Section 7.01 Termination. This Agreement may be terminated at any time prior to the Effective Time, whether before or (other than pursuant to clauses (d), (f), (g) or (h) below) after the Progress Shareholder Approval or the Duke Shareholder Approval:

(a) by mutual written consent of Progress and Duke;

(b) by either Progress or Duke:

(i) if the Merger shall not have been consummated by the 12-month anniversary of the date of this Agreement (the "Initial Termination Date"); provided, however, that the right to terminate this Agreement pursuant to this Section 7.01(b)(i) shall not be available to any party whose failure to perform any of its obligations under this Agreement results in the failure of the Merger to be consummated by such time; and provided, further, that, (A) if on the Initial Termination Date the conditions to the Closing set forth in Sections 6.01(b), 6.02(d) and/or 6.03(d) shall not have been fulfilled but all other conditions to the Closing shall have been fulfilled or shall

be capable of being fulfilled, then either party may (on one or more occasions) extend the Initial Termination Date up to the 18-month anniversary of the date of this Agreement and (B) if the Initial Termination Date (as it may be extended pursuant to clause (A) of this Section 7.01(b)(i)) shall occur during any Final Order Waiting Period, the Initial Termination Date shall be extended until the third business day after the expiration of such Final Order Waiting Period;

(ii) if the Duke Shareholder Approval shall not have been obtained at a Duke Shareholders Meeting duly convened therefor or at any adjournment or postponement thereof;

(iii) if the Progress Shareholder Approval shall not have been obtained at a Progress Shareholders Meeting duly convened therefor or at any adjournment or postponement thereof;

(iv) if any Restraint having any of the effects set forth in Section 6.01(b) shall be in effect and shall have become final and nonappealable; provided that the party seeking to terminate this Agreement pursuant to this Section 7.01(b)(iv) shall have used its reasonable best efforts to prevent the entry of and to remove such Restraint; or

(v) if any condition to the obligation of such party to consummate the Merger set forth in Section 6.02 (in the case of Progress) or in Section 6.03 (in the case of Duke) becomes incapable of satisfaction prior to the Initial Termination Date (or, if the Initial Termination Date is extended in accordance with the second proviso to Section 7.01(b)(i), such date as extended); provided, however, in the case of Section 6.02(d) and 6.03(d), the Initial Termination Date shall refer to such date as it may be extended pursuant to the second proviso to Section 7.01(b)(i); and provided further, that the failure of any such condition to be capable of satisfaction is not the result of a material breach of this Agreement by the party seeking to terminate this Agreement;

(c) by Progress, if Duke shall have breached or failed to perform in any material respect any of its representations, warranties, covenants or other agreements contained in this Agreement, which breach or failure to perform (A) would give rise to the failure of a condition set forth in Section 6.02(a) or (b), and (B) is incapable of being cured by Duke or is not cured by Duke within 60 days following receipt of written notice from Progress of such breach or failure to perform;

(d) by Progress in accordance with Section 4.03(b); provided, that, in order for the termination of this Agreement pursuant to this paragraph (d) to be deemed effective, Progress shall have complied with Section 4.03 and with applicable requirements, including the payment of the Progress Termination Fee, of Section 5.09;

(e) by Duke, if Progress shall have breached or failed to perform in any material respect any of its representations, warranties, covenants or other agreements contained in this Agreement, which breach or failure to perform (A) would give rise to the failure of a condition set forth in Section 6.03(a) or (b), and (B) is incapable of being cured by Progress or is not cured by Progress within 60 days following receipt of written notice from Duke of such breach or failure to perform;

(f) by Duke in accordance with Section 4.04(b); provided, that, in order for the termination of this Agreement pursuant to this paragraph (f) to be deemed effective, Duke shall

have complied with Section 4.04 and with applicable requirements, including the payment of the Duke Termination Fee, of Section 5.09;

(g) by Progress, if the Board of Directors of Duke (or any committee thereof) (i) shall have withdrawn or modified, or proposed publicly to withdraw or modify, the approval or recommendation by such Board of Directors of the Duke Charter Amendment or the Duke Share Issuance, (ii) shall fail to reaffirm such approval or recommendation within 15 business days of receipt of Progress's written request at any time when a Duke Takeover Proposal shall have been made and not rejected by the Board of Directors of Duke; provided, that, such 15-business day period shall be extended for ten business days following any material modification to such Duke Takeover Proposal occurring after the receipt of Progress's written request and provided, further, that such 15-business day period shall recommence each time a Duke Takeover Proposal has been made following the receipt of Progress's written request by a person that had not made a Duke Takeover Proposal prior to the receipt of Progress's written request, or (iii) shall have approved or recommended, or proposed to approve or recommend, a Duke Takeover Proposal; or

(h) by Duke, if the Board of Directors of Progress (or any committee thereof) (i) shall have withdrawn or modified, or proposed publicly to withdraw or modify, the approval or recommendation by such Board of Directors of this Agreement or the Merger, (ii) shall fail to reaffirm such approval or recommendation within 15 business days of receipt of Duke's written request at any time when a Progress Takeover Proposal shall have been made and not rejected by the Board of Directors of Progress; provided, that, such 15-business day period shall be extended for ten business days following any material modification to such Progress Takeover Proposal occurring after the receipt of Duke's written request and provided, further, that such 15-business day period shall recommence each time a Progress Takeover Proposal has been made following the receipt of Duke's written request by a person that had not made a Progress Takeover Proposal prior to the receipt of Duke's written request, or (iii) shall have approved or recommended, or proposed to approve or recommend, a Progress Takeover Proposal.

Section 7.02 Effect of Termination. (a) In the event of termination of this Agreement by either Duke or Progress as provided in Section 7.01, this Agreement shall forthwith become null and void and have no effect, without any liability or obligation on the part of Progress or Duke, other than the provisions of Section 5.09, this Section 7.02 and Article VIII, which provisions shall survive such termination, and except to the extent that such termination results from the willful and material breach by a party of any of its representations, warranties, covenants or agreements set forth in this Agreement, in which case such termination shall not relieve any party of any liability or damages resulting from its willful and material breach of this Agreement (including any such case in which a Progress Termination Fee or a Duke Termination Fee, as the case may be, is, or any expenses of Progress or Duke in connection with the transactions contemplated by this Agreement are, payable pursuant to Section 5.09 to Progress or Duke, as the case may be (the "Injured Party"), to the extent any such liability or damage suffered by the Injured Party exceeds the amount of the Progress Termination Fee, in the circumstance in which Duke is the Injured Party, or the Duke Termination Fee, in the circumstance in which Progress is the Injured Party and any expenses payable pursuant to Section 5.09 to the Injured Party, it being the intent that any Progress Termination Fee, Duke Termination Fee and any expenses paid to the Injured Party shall serve as a credit against and off-set any liability or damage suffered by the Injured Party to the extent of such payment).

(b) In the event Duke terminates this Agreement pursuant to Section 7.01(h)(i) as a result of the Board of Directors of Progress having withdrawn or modified, or proposed to publicly withdraw or modify, the approval or recommendation by such Board of Directors of this Agreement or the Merger that was made primarily due to adverse conditions, events or actions of or relating to Duke, in any judicial, court or tribunal proceeding in which the payment of the Progress Termination Fee is at issue under the proviso in Section 5.09(b)(iv), whether brought or initiated by Duke or Progress, Progress shall have the burden of proving that the Board of Directors of Progress withdrew or modified, or proposed publicly to withdraw or modify, the approval or recommendation by such Board of Directors of this Agreement or the Merger primarily due to adverse conditions, events or actions of or relating to Duke.

(c) In the event Progress terminates this Agreement pursuant to Section 7.01(g)(i) as a result of the Board of Directors of Duke having withdrawn or modified, or proposed to publicly withdraw or modify, the approval or recommendation by such Board of Directors of the Duke Share Issuance and the Duke Charter Amendment that was made primarily due to adverse conditions, events or actions of or relating to Progress, in any judicial, court or tribunal proceeding in which the payment of the Duke Termination Fee is at issue under the proviso in Section 5.09(c)(iv), whether brought or initiated by Progress or Duke, Duke shall have the burden of proving that the Board of Directors of Duke withdrew or modified, or proposed publicly to withdraw or modify, the approval or recommendation by such Board of Directors of the Duke Share Issuance and the Duke Charter Amendment primarily due to adverse conditions, events or actions of or relating to Progress.

Section 7.03 Amendment. This Agreement may be amended by the parties at any time before or after the Duke Shareholder Approval or the Progress Shareholder Approval; provided, however, that after any such approval, there shall not be made any amendment that by law requires further approval by the shareholders of Duke or Progress without the further approval of such shareholders. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties.

Section 7.04 Extension; Waiver. At any time prior to the Effective Time, a party may (a) extend the time for the performance of any of the obligations or other acts of the other parties, (b) waive any inaccuracies in the representations and warranties of the other parties contained in this Agreement or in any document delivered pursuant to this Agreement or (c) subject to the proviso of Section 7.03, waive compliance by the other parties with any of the agreements or conditions contained in this Agreement. Any agreement on the part of a party to any such extension or waiver shall be valid only if set forth in an instrument in writing signed on behalf of such party. The failure of any party to this Agreement to assert any of its rights under this Agreement or otherwise shall not constitute a waiver of such rights.

ARTICLE VIII

GENERAL PROVISIONS

Section 8.01 Nonsurvival of Representations and Warranties. None of the representations and warranties in this Agreement or in any instrument delivered pursuant to this Agreement shall survive the Effective Time. This Section 8.01 shall not limit any covenant or

agreement of the parties that by its terms contemplates performance after the Effective Time and such provisions shall survive the Effective Time.

Section 8.02 Notices. All notices, requests, claims, demands and other communications under this Agreement shall be in writing and shall be deemed given (as of the time of delivery or, in the case of a telecopied communication, of confirmation) if delivered personally, telecopied (which is confirmed) or sent by overnight courier (providing proof of delivery) to the parties at the following addresses (or at such other address for a party as shall be specified by like notice):

if to Duke, to:

Duke Energy Corporation
526 South Church Street
Charlotte, North Carolina 28202
Telecopy No.: (704) 382-7705
Attention: Marc E. Manly

with a copy to:

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, New York 10019
Telecopy No.: (212) 403-2000
Attention: Steven A. Rosenblum

if to Progress, to:

Progress Energy, Inc.
410 S. Wilmington Street
Raleigh, North Carolina 27602
Telecopy No.: (919) 546-5245
Attention: John R. McArthur

with a copy to:

Hunton & Williams LLP
200 Park Avenue
New York, New York 10166
Telecopy No.: (212) 309-1100
Attention: James A. Jones, III

and

Hunton & Williams LLP
One Bank of America Plaza, Suite 1400
421 Fayetteville Street
Raleigh, North Carolina 27601
Telecopy No.: (919) 833-6352
Attention: Timothy S. Goettel

Section 8.03 Definitions. For purposes of this Agreement:

(a) an "affiliate" of any person means another person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first person, where "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of a person, whether through the ownership of voting securities, by contract, as trustee or executor, or otherwise;

(b) "capital stock" or "shares of capital stock" means (i) with respect to a corporation, as determined under the laws of the jurisdiction of organization of such entity, capital stock or such shares of capital stock; (ii) with respect to a partnership, limited liability company, or similar entity, as determined under the laws of the jurisdiction of organization of such entity, units, interests, or other partnership or limited liability company interests; or (iii) any other equity ownership or participation;

(c) "Contract" means any legally binding written or oral agreement, contract, subcontract, lease, instrument, note, license or sublicense;

(d) "material adverse effect" means, when used in connection with Progress or Duke, as the case may be, any change, effect, event, occurrence or state of facts (i) that is materially adverse to the business, assets, properties, financial condition or results of operations of such person and its subsidiaries taken as a whole but excluding any of the foregoing resulting from (A) changes in international or national political or regulatory conditions generally (in each case, to the extent not disproportionately affecting the applicable person and its subsidiaries, taken as a whole, as compared to similarly situated persons), (B) changes or conditions generally affecting the U.S. economy or financial markets or generally affecting any of the segments of the industry in which the applicable person or any of its subsidiaries operates (in each case, to the extent not disproportionately affecting the applicable person and its subsidiaries, taken as a whole, as compared to similarly situated persons), (C) the announcement or consummation of, or compliance with, this Agreement, or (D) any taking of any action by such party at the written request of the other party, or (ii) that prevents or materially delays such person from performing its material obligations under this Agreement or consummation of the transactions contemplated hereby;

(e) "person" means an individual, corporation, partnership, limited liability company, joint venture, association, trust, unincorporated organization or other entity;

(f) "subsidiary" means, with respect to any person, any other person, whether incorporated or unincorporated, of which more than 50% of either the equity interests in, or the voting control of, such other person is, directly or indirectly through subsidiaries or otherwise, beneficially owned by such first person; and

(g) "knowledge" means (i) with respect to Progress, the actual knowledge of the persons listed in Section 8.03(g) of the Progress Disclosure Letter, and (ii) with respect to Duke, the actual knowledge of the persons listed in Section 8.03(g) of the Duke Disclosure Letter.

Section 8.04 Interpretation and Other Matters. (a) When a reference is made in this Agreement to an Article, Section or Exhibit, such reference shall be to an Article or Section of, or an Exhibit to, this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words "include," "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation." The words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. All terms defined in this Agreement shall have the defined meanings when used in any certificate or other document made or delivered pursuant hereto unless otherwise defined therein. The definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such terms. Any agreement, instrument or statute defined or referred to herein or in any agreement or instrument that is referred to herein means such agreement, instrument or statute as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of statutes) by succession of comparable successor statutes and references to all attachments thereto and instruments incorporated therein. References to a person are also to its permitted successors and assigns.

(b) Each of Duke and Progress has or may have set forth information in its respective disclosure letter in a section thereof that corresponds to the section of this Agreement to which it relates. A matter set forth in one section of a disclosure letter need not be set forth in any other section of the disclosure letter so long as its relevance to the latter section of the disclosure letter or section of this Agreement is readily apparent on the face of the information disclosed in the disclosure letter to the person to which such disclosure is being made. The fact that any item of information is disclosed in a disclosure letter to this Agreement shall not be construed to mean that such information is required to be disclosed by this Agreement. Such information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the terms "material," "material adverse effect" or other similar terms in this Agreement.

(c) Duke agrees to cause Merger Sub to comply with its obligations under this Agreement.

Section 8.05 Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each party and delivered to the other parties.

Section 8.06 Entire Agreement; No Third-Party Beneficiaries. This Agreement (including the documents and instruments referred to herein) and the Confidentiality Agreement (i) constitute the entire agreement, and supersede all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement and (ii) except for the provisions of Section 5.08 (which shall be enforceable by the Indemnified Parties) and except for the rights of Progress's shareholders to receive the Merger Consideration after the Effective Time in the event the Merger is consummated, are not intended to confer upon any person other than the parties any rights or remedies. The representations and warranties in this Agreement are the product of negotiations among the parties and are for the sole benefit of the parties. Any inaccuracies in such representations and warranties are subject to waiver by the parties in accordance with the terms of this Agreement without notice or liability to any other person. The representations and warranties in this Agreement may represent an allocation among the parties of risks associated with particular matters regardless of the knowledge of any of the parties and may have been qualified by certain disclosures not reflected in the text of this Agreement. Accordingly, persons other than the parties may not rely upon the representations and warranties in this Agreement as characterizations of actual facts or circumstances as of the date of this Agreement or as of any other date.

Section 8.07 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware, regardless of the laws that might otherwise govern under applicable principles of conflict of laws, except that matters related to the fiduciary obligations of the Progress Board of Directors shall be governed by the laws of the State of North Carolina.

Section 8.08 Assignment. Neither this Agreement nor any of the rights, interests or obligations under this Agreement shall be assigned, in whole or in part, by operation of law or otherwise by any of the parties hereto without the prior written consent of the other party. Any attempted or purported assignment in violation of the preceding sentence shall be null and void and of no effect whatsoever. Subject to the preceding two sentences, this Agreement shall be binding upon, inure to the benefit of, and be enforceable by, the parties and their respective successors and assigns.

Section 8.09 Enforcement.

(a) The parties agree that irreparable damage would occur and that the parties would not have any adequate remedy at law in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement, without the necessity of posting bonds or similar undertakings in connection therewith, this being in addition to any other remedy to which they are entitled at law or in equity.

(b) Each of the parties (i) irrevocably submits itself to the personal jurisdiction of each state or federal court sitting in the State of Delaware, as well as to the jurisdiction of all courts to which an appeal may be taken from such courts, in any suit, action or proceeding arising out of or relating to this Agreement or any of the transactions contemplated herein, (ii) agrees that every such suit, action or proceeding shall be brought, heard and determined exclusively in the Court of

Chancery of the State of Delaware (provided that, in the event subject matter jurisdiction is unavailable in or declined by the Court of Chancery, then all such claims shall be brought, heard and determined exclusively in any other state or federal court sitting in the State of Delaware), (iii) agrees that it shall not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from such court, (iv) agrees not to bring any suit, action or proceeding arising out of or relating to this Agreement or any of the transactions contemplated herein in any other court, and (v) waives any defense of inconvenient forum to the maintenance of any suit, action or proceeding so brought.

(c) Each of the parties agrees that service of any process, summons, notice or document by U.S. registered mail to its address set forth in Section 8.02 shall be effective service of process for any action, suit or proceeding brought against it, provided, however, that nothing contained in the foregoing clause shall affect the right of any party to serve legal process in any other manner permitted by applicable Law.

Section 8.10 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible to the fullest extent permitted by applicable law in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

Section 8.11 Waiver of Jury Trial. Each party to this Agreement knowingly and voluntarily waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any action, suit or proceeding arising out of or relating to this Agreement.

IN WITNESS WHEREOF, Duke, Merger Sub and Progress have caused this Agreement to be signed by their respective officers thereunto duly authorized, all as of the date first written above.

DUKE ENERGY CORPORATION

By _____
Name: James E. Rogers
Title: Chairman, President and Chief Executive Officer

DIAMOND ACQUISITION CORPORATION

By _____
Name: David S. Maltz
Title: Vice President

PROGRESS ENERGY, INC.

By _____
Name:
Title:

—SIGNATURE PAGE TO THE MERGER AGREEMENT—

IN WITNESS WHEREOF, Duke, Merger Sub and Progress have caused this Agreement to be signed by their respective officers thereunto duly authorized, all as of the date first written above.

DUKE ENERGY CORPORATION

By _____
Name:
Title:

DIAMOND ACQUISITION CORPORATION

By _____
Name:
Title:

PROGRESS ENERGY, INC.

By _____
William D. Johnson
Chairman, President and Chief Executive Officer

— SIGNATURE PAGE TO THE MERGER AGREEMENT—

Exhibit A

1. As of the Effective Time, the size of the Board of Directors of Duke will be increased to 18.

2. All 11 current directors of Duke (the "Duke Designees") will continue as directors as of the Effective Time, subject to their ability and willingness to serve. Seven of the current directors of Progress (the "Progress Designees") will be added to the Board of Directors of Duke as of the Effective Time, subject to their ability and willingness to serve, such seven directors to be designated by Progress, following reasonable consultation with Duke, no later than March 20, 2011.

3. If any Duke Designee is unable or unwilling to serve as a director of Duke as of the Effective Time, Duke will designate a replacement, following reasonable consultation with Progress, which replacement shall be deemed a Duke Designee for all purposes of the Merger Agreement.

4. If any Progress Designee is unable or unwilling to serve as a director of Duke as of the Effective Time, Progress will designate a replacement, following reasonable consultation with Duke, which replacement shall be deemed a Progress Designee for all purposes of the Merger Agreement.

5. As of the Effective Time, the standing Board committees of Duke will consist of Duke's existing committees plus a Regulatory Policy and Operations Committee. At least one Progress Designee will serve on each committee. In determining and recommending committee assignments, the Board and the Corporate Governance Committee will take into account, among other things, the skills and expertise of the directors, the needs of the committees, and the goal that committee workloads be distributed reasonably among the full Board.

6. Progress will designate the chairs of the Compensation Committee and the Audit Committee, and Duke will designate the chairs of each of the other Board committees, in each case following reasonable consultation with the other party, and in each case subject to such individuals' ability and willingness to serve. If any such designated chair is unable or unwilling to serve in such position as of the Effective Time, the party that designated such chair shall designate a replacement from among such party's director designees, following reasonable consultation with the other party.

7. Duke will designate the lead independent director, following reasonable consultation with Progress, subject to such individual's ability and willingness to serve. If the individual so designated as lead independent director is unable or unwilling to serve in such position as of the Effective Time, Duke will designate a replacement from among the Duke Designees, following reasonable consultation with Progress.

8. Prior to the Effective Time, Duke will amend its Principles for Corporate Governance to provide that the normal retirement date for directors will be the annual meeting held in the calendar year following the calendar year in which such director reaches the age of 71.

Exhibit B

Roles and Responsibilities

Chief Executive Officer	Executive Chairman
• Member of the Board • Determines Board agenda • Conduit between Duke and Board	• Conducts Board meetings • Supports Board selection process • Assists in setting Board agenda
• Develops the strategic plan • Develops and communicates vision & mission • Develops public policy positions	• Provides input on public policy positions • Spokesman on public policy initiatives ➢ National and international policy ➢ Global initiatives ➢ Active role in national and state government relations, in coordination with CEO
• Jointly designates executive management team with Executive Chairman prior to announcement • Following transition, selects executive management team with input from Executive Chairman	• Jointly designates executive management team with CEO prior to announcement • Following transition, provides input on selection of executive management team
• Develops annual budget for Board approval • Drives strategic financial and operational results • Leads the organization • Represents Duke to the public and investors	• Represents the Board to the public

Overview of responsibilities				
	Primary responsibility		Secondary responsibility	
	Executive Chairman	CEO	Executive Chairman	CEO
• Market/public communications				
• Before federal or international authorities	√			√
• Before state authorities		√	√	
• Rate proceedings		√		
• Financial/earnings call/strategy/ appearance at EEI and other industry conferences		√		
• National media on federal/global energy policy	√			√
• Point of contact for merger activities		√	√	
• Responsibility to determine Board agenda		√	√	
• Operational execution		√		
• Corporate strategy		√	√	

Exhibit C

EMPLOYMENT AGREEMENT
TERM SHEET
WILLIAM D. JOHNSON

As soon as reasonably practicable following the execution of this term sheet but in any event prior to the effective date of the closing of the merger (the "Merger") contemplated by the Agreement and Plan of Merger by and among Duke Energy Corporation ("Duke"), Progress Energy, Inc. ("Progress") and Diamond Acquisition Corporation (the "Merger Agreement"), Duke will take such action (or cause its affiliates to take such action) as may be necessary and appropriate to effectuate a new employment agreement to be entered into or assumed by Duke for William D. Johnson (the "Executive"), which agreement shall take effect as of the Merger. Effective upon the closing of the Merger and until such time as a new employment agreement becomes effective, this term sheet shall govern the respective parties' rights and obligations and shall constitute an amendment of the Executive's employment agreement when deemed effective as provided herein. The new employment agreement shall be governed by the following provisions.

1. Basic Premise – The new employment agreement shall be substantially similar to the form of the current employment agreement for Duke's current CEO, except as otherwise described below.

2. Role – The Executive shall be named as President and CEO of Duke effective upon the Merger, which will require conforming changes to the new employment agreement.

3. Term – Three-year term of employment commencing upon the closing of the Merger.

4. Ongoing Compensation

   (a) Annual Base Salary – $1,100,000.

   (b) Short-Term Incentive Plan – The Executive shall be eligible to participate in the applicable Duke short-term incentive plan, with a target opportunity of 125% of annual base salary. The terms and conditions of the Executive's short-term incentive compensation opportunities shall be substantially similar to the short-term incentive compensation opportunities provided to other executive officers of Duke, as determined by the Duke Compensation Committee from time to time.

   (c) Long-Term Incentives – The Executive shall be eligible to participate in the applicable Duke long-term incentive plan, with a target opportunity of 500% of annual base salary. The terms and conditions (e.g., performance measures, vesting schedules, allocation between performance and phantom shares) of the Executive's long-term incentive awards shall be substantially similar to the long-term incentive awards granted to other executive officers of Duke, as determined by the Duke Compensation Committee from time to time.

(d) Adjustments – Given the time period between the effective date of this term sheet and the anticipated date of the closing of the Merger, the Duke Compensation Committee will review benchmark data and reserves discretion to increase the compensation of the Executive if determined to be appropriate after taking into account the compensation provided to CEOs of Duke's peer group.

(e) Employee Benefits – The Executive shall be entitled to employee benefits (e.g., retirement plans, health and insurance plans, perquisites) as determined by the Duke Compensation Committee from time to time.

(f) SERP – The Executive's benefit under the Amended and Restated Supplemental Senior Executive Retirement Plan of Progress Energy, Inc. (the "SERP") shall be treated in the same manner as the benefit of other executives in the SERP who are employed with Duke following the closing of the Merger.

5. Impact of Termination of Employment

(a) If the Executive is involuntarily terminated without cause or quits for good reason following, but prior to the second anniversary of, the closing of the Merger, he will be entitled to severance equal to the benefits provided under the Progress Energy Inc. Management Change-in-Control Plan, as amended from time to time, except that no tax gross-up shall be provided, and the parties shall use their best efforts to structure the severance in a manner that eliminates or reduces the impact of Sections 280G and 4999 of the tax code.

(b) If the Executive is involuntarily terminated without cause or quits for good reason following the second anniversary of, but prior to the third anniversary of, the closing of the Merger, he will be entitled to the severance provided under his current employment agreement, as amended from time to time.

(c) For purposes of determining whether the Executive has "good reason" to terminate employment or a "constructive termination" has occurred, his move to Charlotte, NC, Sections 2.13(b) and 2.13(c) of the Progress Energy, Inc. Management Change-in-Control Plan and Section 8(a)(i) of his current employment agreement, shall be disregarded.

6. Other Matters

(a) Relocation Benefits – The Executive will be reimbursed for direct and indirect relocation costs, provided that the Executive shall not receive a tax gross-up or indemnification for any such relocation costs that constitute income to the Executive.

(b) Advisor Fees – The Executive will be reimbursed for reasonable expenses incurred in connection with the negotiation of this term sheet and the new employment agreement.

(c) Corporate Aircraft - The Executive will be subject to substantially the same policies as currently in effect for Duke's current CEO.

IN WITNESS WHEREOF, the parties signing below have executed this term sheet this ___ day of January, 2011, intending to be legally bound thereby.

DIAMOND ACQUISITION CORPORATION

By: _____

DUKE ENERGY CORPORATION

By: _____

_____
William D. Johnson

Exhibit D

TERM SHEET FOR AMENDMENT TO EMPLOYMENT AGREEMENT JAMES E. ROGERS

As soon as reasonably practicable following the execution of this term sheet, but in any event prior to the Effective Time of the Merger contemplated by the Agreement and Plan of Merger by and among Duke Energy Corporation, Progress Energy, Inc. and Diamond Acquisition Corporation (the "Merger Agreement"), James E. Rogers (the "Executive") and Duke will each use their commercially reasonable efforts to amend (or cause their respective affiliates to amend) the employment agreement by and between the Executive and Duke, dated as of February 19, 2009 (the "Current Agreement"), as may be necessary and appropriate to effectuate the terms of the Executive's employment following the Merger that are set forth below, which amendments shall take effect as of the Effective Time. Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Merger Agreement.

1. Current Agreement – Except as otherwise described below, the Current Agreement shall remain in full force and effect.

2. Role and Responsibilities – The Executive shall serve as Executive Chairman of the Board of Directors of Duke (the "Executive Chair") following the Merger and will cease to be employed as President and Chief Executive Officer of Duke as of the Effective Time. The Executive will continue to report directly to the Board of Directors of Duke and his roles and responsibilities will be those set forth on **Exhibit B** to the Merger Agreement. In no event will the foregoing amendments to the Current Agreement provide the Executive with the right to terminate his employment for "Good Reason" (as defined in the Current Agreement) under Section 10(b) of the Current Agreement.

3. Term – The Executive's term of employment will end on the later of (i) December 31, 2013 and (ii) the second anniversary of the Effective Time, unless terminated earlier pursuant to the terms of the Current Agreement.

4. Ongoing Compensation – The Executive's compensation will remain the same in all respects as under the Current Agreement through December 31, 2013. Should the term of employment continue beyond December 31, 2013 and the Executive continue to serve as Executive Chair as of that date, the Compensation Committee of the Board of Directors of Duke will address the Executive's compensation for the remaining term of his employment at that time.

5. Advisor Fees – The Executive will be reimbursed for reasonable expenses incurred in connection with the negotiation of this term sheet and the amendment to the Current Agreement.

IN WITNESS WHEREOF, the parties signing below have executed this term sheet this ___ day of January, 2011, intending to be legally bound thereby.

DIAMOND ACQUISITION CORPORATION

By: _____

DUKE ENERGY CORPORATION

By: _____

_____
James E. Rogers

Exhibit E

Individual	Position
Lynn Good	Chief Financial Officer
Dhiaa Jamil	Nuclear Generation
Jeff Lyash	Energy Supply
Marc Manly	General Counsel, Corporate Secretary
John McArthur	Regulated Utilities
Mark Mulhern	Chief Administrative Officer
Keith Trent	Commercial Businesses
Jennifer Weber	Human Resources
Lloyd Yates	Customer Operations

In addition, A.R. Mullinax and Paula Sims shall co-lead integration during the transition period following Closing.

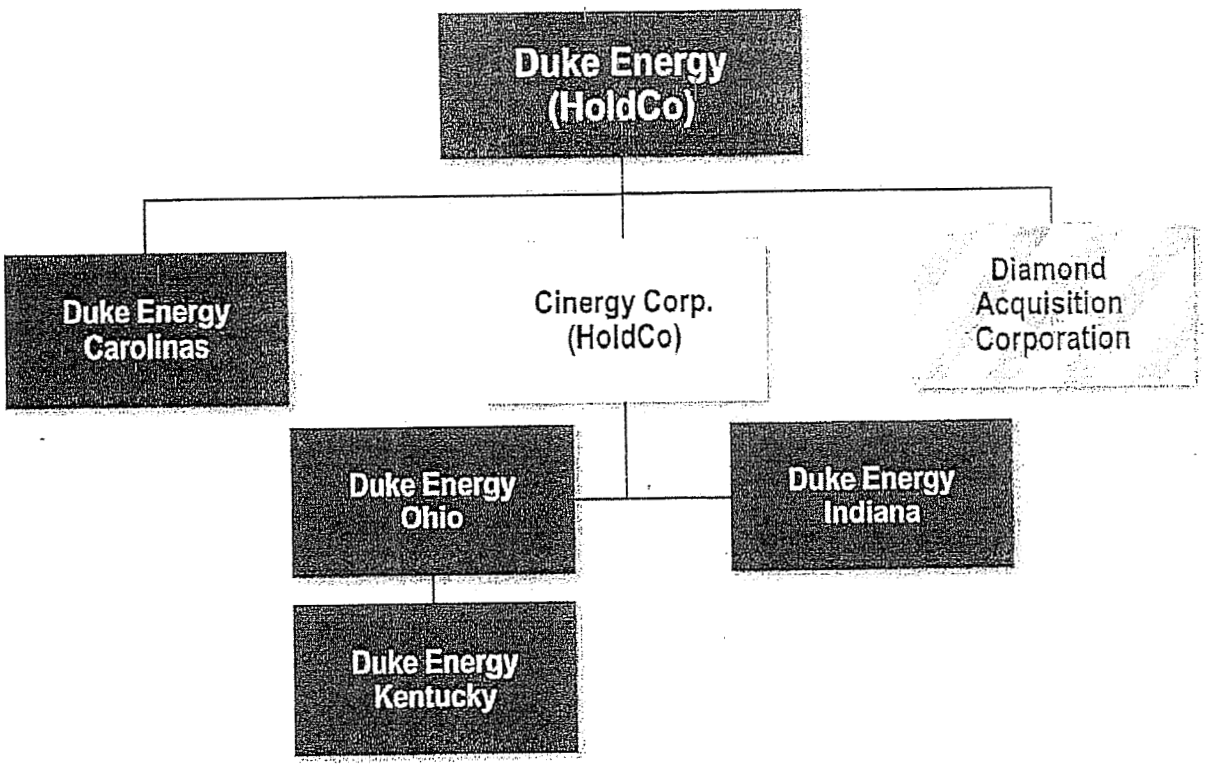
U. S. Nuclear Regulatory Commission
March 31, 2011

ATTACHMENT 2

PRE- AND POST-MERGER SIMPLIFIED ORGANIZATIONAL CHARTS

PRE- AND POST- MERGER SIMPLIFIED ORGANIZATIONAL CHARTS

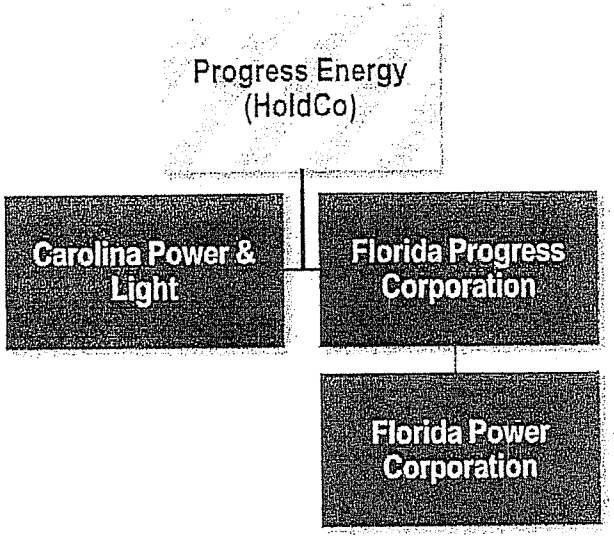
Simplified Organizational Chart of Pre-Merger Utility Operating Companies*:
Duke Energy



*Nuclear Plant Ownership within Duke Energy Carolinas

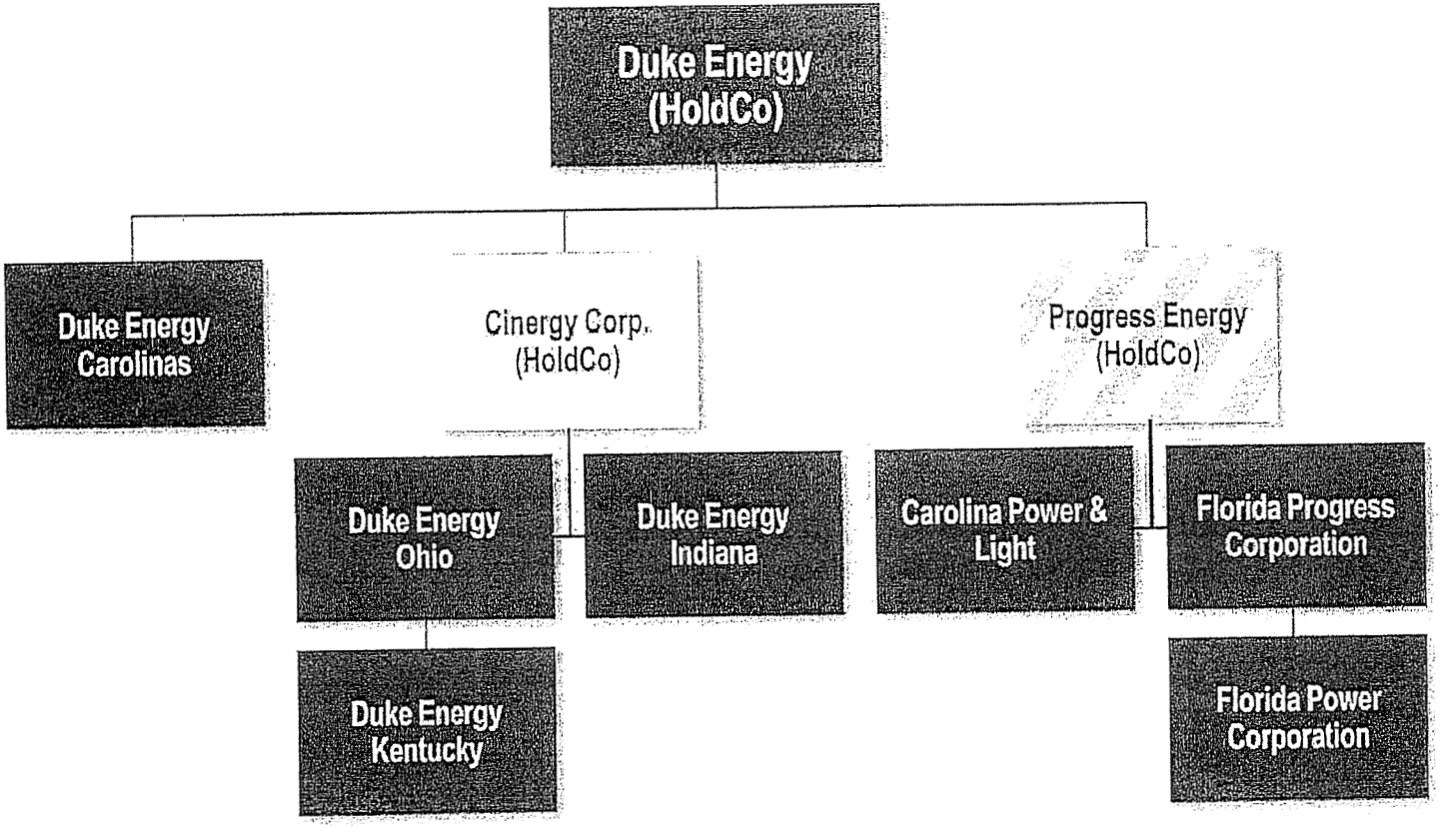
PRE- AND POST- MERGER SIMPLIFIED ORGANIZATIONAL CHARTS

Simplified Organizational Chart of Pre-Merger Nuclear Plant Ownership: Progress Energy



PRE- AND POST- MERGER SIMPLIFIED ORGANIZATIONAL CHARTS

Simplified Organizational Chart of Post-Merger Utility Operating Companies*:



*Nuclear Plant Ownership within Duke Energy Carolinas, Carolina Power & Light, and Florida Power Corporation.

U. S. Nuclear Regulatory Commission
March 31, 2011

ATTACHMENT 3

DIRECTORS AND PRINCIPAL OFFICERS OF DUKE ENERGY CAROLINAS, LLC, DUKE ENERGY CORPORATION, AND PROGRESS ENERGY, INC.; AND PRINCIPAL NUCLEAR OFFICERS OF CAROLINA POWER AND LIGHT COMPANY AND FLORIDA POWER CORPORATION; AND DIRECTORS AND SENIOR OFFICERS OF POST-MERGER DUKE ENERGY CORPORATION

I. DUKE ENERGY CAROLINAS, LLC (DUKE)

A. Duke Board of Directors

The business address and names of the current Duke board of directors are as follows. All are U.S. citizens.

Duke Energy Carolinas, LLC
526 South Church Street
Charlotte, North Carolina 28202

Lynn J. Good
James E. Rogers
Marc E. Manly

B. Duke Principal Officers

The business address, names, and current titles of the Duke principal officers and senior nuclear leadership are as follows. All are U.S. citizens.

Duke Energy Carolinas, LLC
526 South Church Street
Charlotte, North Carolina 28202

Susie C. Adams	Vice President, Business Support
Antonio J. Almeida	Vice President, Business Relations and Economic Development
Richard G. Beach	Assistant Secretary
David A. Baxter	Vice President, Nuclear Engineering
Keith G. Butler	Senior Vice President, Tax
Myron L. Caldwell	Senior Vice President Financial Planning and Analysis
Russell K. Campbell	Vice President, Asset Management
Brett C. Carter	President, North Carolina
Swati V. Daji	Chief Risk Officer
Stephen G. De May	Senior Vice President and Treasurer
Bryan J. Dolan	Vice President, Nuclear Plant Development
James B. Gainer	Vice President, Federal Regulatory Policy
T. Preston Gillespie, Jr.	Site Vice President, Oconee
Lynn J. Good	Chief Financial Officer
Thomas P. Harrall, Jr.	Vice President, Carolinas Field Operations
Sue C. Harrington	Assistant Secretary
Joseph E. Harwood	Vice President, Catawba Contracts
Richard W. Haviland	Senior Vice President, Construction and Major Projects
Catherine E. Heigel	President, South Carolina
Dhiaa M. Jamil	Group Executive, Chief Generation Officer, and Chief Nuclear Officer
Steven D. Jester	Vice President, Hydro Re-licensing and Lake Services
Ronald A. Jones	Senior Vice President, Nuclear Development
Robert T. Lucas III	Assistant Secretary
Karol P. Mack	Assistant Secretary
David S. Maltz	Vice President and Secretary

Gianna M. Manes	Senior Vice President and Chief Customer Officer
Marc E. Manly	Group Executive, President and Chief Legal Officer
Daniel K. McRainey	Vice President, Nuclear Special Projects
David W. Mohler	Senior Vice President and Chief Technology Officer
James R. Morris	Site Vice President, Catawba
Alva R. Mullinax	Senior Vice President and Chief Information Officer
Paul R. Newton	Senior Vice President, Strategy, Wholesale Customers and Commodities & Analytics
C. James O'Connor	Vice President, Human Resources
V. Nelson Peeler	Vice President and Project Director, Enterprise Asset Management Initiative
John W. Pitesa	Senior Vice President, Nuclear Operations
Daltrum H. Poston	Vice President, Central Operations
Ronald R. Reising	Senior Vice President and Chief Procurement Officer
Regis T. Repko	Site Vice President, McGuire
Caryn J. Riggs	Vice President, Performance Support
John J. Roebel	Senior Vice President, Generation Support
James E. Rogers	Chief Executive Officer
Carol E. Shrum	Vice President, Rates
Jim L. Stanley	Senior Vice President, Power Delivery
Mark A. Svrcek	Vice President, Business Development and Origination
William F. Tyndall	Senior Vice President, Federal Government and Regulatory Affairs
Benjamin C. Waldrep	Vice President, Nuclear Fleet Performance
Jennifer L. Weber	Senior Vice President and Chief Human Resources Officer
James D. Wiles	Vice President, FE&G Accounting
Steven K. Young	Senior Vice President and Controller

II. DUKE ENERGY CORPORATION

A. Duke Energy Board of Directors

The business address and names of the current Duke Energy board of directors are as follows. All are U.S. citizens.

Duke Energy Corporation
526 South Church Street
Charlotte, NC 28202

William Barnet III
G. Alex Bernhardt, Sr.
Michael G. Browning
Daniel R. DiMicco
John H. Forsgren
Ann M. Gray
James H. Hance, Jr.
E. James Reinsch
James T. Rhodes
James E. Rogers
Philip R. Sharp

B. Duke Energy Principal Officers

The business address, names, and current titles of the Duke Energy principal officers are as follows. All are U.S. citizens.

Duke Energy Corporation
526 South Church Street
Charlotte, NC 28202

Richard B. Bates	Vice President, Mergers and Acquisitions
Roberta B. Bowman	Senior Vice President and Chief Sustainability Officer
Jeffery G. Browning	Senior Vice President, Audit Services and Chief Ethics and Compliance Officer
Keith G. Butler	Senior Vice President, Tax
Myron L. Caldwell	Senior Vice President, Financial Planning and Analysis
Swati V. Daji	Vice President, Global Risk Management and Insurance and Chief Risk Officer
Stephen G. De May	Senior Vice President, Investor Relations and Treasurer
Lynn J. Good	Group Executive and Chief Financial Officer
Dhiaa M. Jamil	Group Executive, Chief Generation Officer and Chief Nuclear Officer
David S. Maltz	Vice President, Legal and Assistant Corporate Secretary
Gianna M. Manes	Senior Vice President and Chief Customer Officer
Marc E. Manly	Group Executive, Chief Legal Officer and Corporate Secretary
Beverly K. Marshall	Vice President, Federal Policy and Government Affairs
David W. Mohler	Senior Vice President and Chief Technology Officer
Alva R. Mullinax	Senior Vice President and Chief Information Officer
Ronald R. Reising	Senior Vice President, Supply Chain and Chief Procurement Officer
Robert J. Ringel	Vice President, Legal and Assistant Corporate Secretary
James E. Rogers	President and Chief Executive Officer
John L. Stowell	Vice President, Environmental Health and Safety Policy
B. Keith Trent	Group Executive and President, Commercial Businesses
William F. Tyndall	Senior Vice President, Federal Government and Regulatory Affairs
Jennifer L. Weber	Group Executive, Human Resources and Corporate Relations
Steven K. Young	Senior Vice President and Controller

III. PROGRESS ENERGY, INC.

A. Progress Energy Board of Directors

The business address and names of the current Progress Energy board of directors are as follows. All are U.S. citizens.

Progress Energy, Inc.
410 S. Wilmington Street
Raleigh, NC 27601

John D. Baker II
James E. Bostic, Jr.
Harris E. DeLoach, Jr.
James B. Hyler, Jr.
William D. Johnson
Robert W. Jones
W. Steven Jones
Mel R. Martinez
E. Marie McKee
John H. Mullin III
Charles W. Pryor, Jr.
Carlos A. Saladrigas
Theresa M. Stone
Alfred C. Tollison, Jr.

B. Progress Energy Principal Officers

The business address, names, and current titles of the Progress Energy principal officers are as follows. All are U.S. citizens.

Progress Energy, Inc.
410 S. Wilmington Street
Raleigh, NC 27601

David B. Fountain	Assistant Secretary
Sherri L. Green	Treasurer
William D. Johnson	Chairman, President, and Chief Executive Officer
Patricia Kornegay-Timmons	Assistant Secretary
Jeffrey J. Lyash	Executive Vice President
John R. McArthur	Chief Compliance Officer, Corporate Secretary, Executive Vice President, and General Counsel
Thomas F. Moses	Assistant Treasurer
Mark F. Mulhern	Chief Financial Officer and Senior Vice President
Jeffrey M. Stone	Chief Accounting Officer and Controller
Holly H. Wenger	Assistant Secretary

C. CP&L and FPC Principal Nuclear Officers

The business address, names, and current titles of the CP&L and FPC principal nuclear officers are as follows. All are U.S. citizens.

Carolina Power & Light Company
410 S. Wilmington Street
Raleigh, NC 27601

or

Florida Power Corporation
299 1st Avenue N
St. Petersburg, FL 33701

Michael J. Annacone	Vice President – Brunswick Nuclear Plant
Christopher L. Burton	Vice President – Harris Nuclear Plant
Joseph W. Donahue	Vice President – Nuclear Oversight
Robert J. Duncan II	Vice President – Robinson Nuclear Plant
Jon A. Franke	Vice President – Crystal River Nuclear Plant
Garry D. Miller	Vice President – Nuclear Engineering
James Scarola	Chief Nuclear Officer and Senior Vice President

IV. POST-MERGER DUKE ENERGY CORPORATION

A. Post-Merger Board of Directors

At the close of the merger, the size of the board of directors of Duke Energy will be increased to eighteen. All eleven current directors of Duke Energy will continue as directors as of the effective time of close, subject to their ability and willingness to serve. James E. Rogers, currently Chairman, President and Chief Executive Officer of Duke Energy, will serve as the Executive Chairman of the board of directors. The following seven of the current directors of Progress Energy will be added to the Board of Directors of Duke Energy as of the effective time of close, subject to their ability and willingness to serve: John D. Baker II, Harris E. DeLoach, Jr., James B. Hyler, Jr., William D. Johnson, E. Marie McKee, Carlos A. Saladrigas and Theresa M. Stone. All members of the Duke Energy board of directors after the merger will be U.S. Citizens.

B. Post-Merger Senior Officers

After the merger, the Duke Energy headquarters will remain in Charlotte, North Carolina. The headquarters business address will be:

Duke Energy Corporation
550 South Tryon Street
Charlotte, NC 28202

The Merger Agreement provides that, subject to such individuals' ability and willingness to serve, the following individuals will be the senior officers of Duke Energy upon completion of the merger. All are U.S citizens.

- Lynn J. Good, currently group executive and chief financial officer of Duke Energy, will continue as chief financial officer;
- Dhiaa M. Jamil, currently group executive, chief generation officer and chief nuclear officer of Duke Energy, will lead nuclear generation;
- William D. Johnson, currently chairman, president and chief executive officer of Progress Energy, will serve as the president and chief executive officer of Duke Energy;

- Jeffrey J. Lyash, currently executive vice president of energy supply of Progress Energy, will lead energy supply;
- Marc E. Manly, currently group executive, chief legal officer and corporate secretary of Duke Energy, will be general counsel and corporate secretary;
- John R. McArthur, currently executive vice president, general counsel and corporate secretary of Progress Energy, will lead regulated utilities;
- Mark F. Mulhern, currently senior vice president and chief financial officer of Progress Energy, will be chief administrative officer;
- B. Keith Trent, currently group executive and president of commercial businesses of Duke Energy, will lead commercial businesses;
- Jennifer L. Weber, currently group executive and chief human resources officer of Duke Energy, will lead human resources; and
- Lloyd M. Yates, currently president and chief executive officer of Progress Energy Carolinas, will lead customer operations.

U. S. Nuclear Regulatory Commission
March 31, 2011

ATTACHMENT 4

REQUIRED STATE AND FEDERAL APPROVALS

In addition to the NRC determination requested by Duke herein and approval requested by CP&L and FPC in their application, the proposed merger is contingent upon the following state and federal approvals or notifications:

1. Consent and approval of the Federal Energy Regulatory Commission (FERC) under Section 203 of the Federal Power Act, as amended, or an order under the Power Act disclaiming jurisdiction over the transactions contemplated hereby; as well as approval of two related filings with the FERC under Section 205 of the Federal Power Act, each of which is necessary to complete the merger: (1) a joint dispatch agreement under which Duke and CP&L will jointly dispatch their generation facilities, and (2) a joint open access transmission tariff under which Duke and CP&L will jointly provide transmission service;

2. Approval of the North Carolina Utilities Commission, the Public Service Commission of South Carolina and the Kentucky Public Service Commission;[1]

3. Filing of notification under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the implementing rules and regulations, and the expiration or early termination of the waiting period thereunder;

4. Approval and, to the extent required, a declaration of effectiveness by the Securities and Exchange Commission pursuant to the filing of (1) a proxy statement relating to the approval of the Merger Agreement by Progress Energy's and Duke Energy's shareholders pursuant to the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder; (2) the registration statement on Form S-4 prepared in connection with the issuance of Duke Energy Common Stock in the merger; and (3) such reports under the Exchange Act as may be required in connection with the Merger Agreement and the transactions contemplated thereby; and

5. Pre-approvals of license transfers with the Federal Communications Commission.

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1 Duke Energy and Progress Energy will also provide information regarding the merger to their other state regulators: the Florida Public Service Commission, the Indiana Utility Regulatory Commission and the Ohio Public Utilities Commission, as applicable.

Progress Energy

April 4, 2011

The Honorable Jocelyn G. Boyd
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, SC 29210

Dear Mrs. Boyd:

The purpose of this letter is to advise the Commission that today Progress Energy, Inc. and Duke Energy Corporation made all required merger related filings with the North Carolina Utilities Commission, the Federal Energy Regulatory Commission and the Kentucky Public Service Commission. On or before April 25, 2011, Progress Energy, Inc. and Duke Energy Corporation will cause to be filed with the Commission all merger related applications in South Carolina.

Respectfully submitted,

Len S. Anthony
General Counsel
Progress Energy Carolinas, Inc.

LSA:mhm

cc: Mr. John Flitter

STAREG1443

Progress Energy

April 12, 2011

The Honorable Jocelyn G. Boyd
Chief Clerk / Administrator
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, SC 29210

Re: Acquisition of Progress Energy, Inc. by Duke Energy Corporation and Merger of Progress Energy Carolinas, Inc. and Duke Energy Carolinas, LLC

Dear Mrs. Boyd:

By letter dated April 4, 2011, Progress Energy, Inc. ("Progress") and Duke Energy Corporation ("Duke") committed to the Commission that they would cause to be filed with the Commission on or before April 25, 2011, all merger related applications in South Carolina. The purpose of this letter is to further describe the nature of these filings. As will be detailed more fully in the Application, the proposed merger contemplates that two business transactions will occur: 1) Duke, a holding company, will acquire Progress, a holding company; and 2) Progress Energy Carolinas, Inc. ("PEC"), a South Carolina electrical utility, will be merged into Duke Energy Carolinas, LLC ("DEC"), a South Carolina electrical utility. Given that the merger of DEC and PEC cannot occur absent the acquisition of Progress by Duke, and the primary impact of the acquisition of Progress by Duke is upon DEC and PEC, the Applicants will treat the two transactions as one for the purposes of the Application. Therefore, Progress and Duke, on behalf of their respective electrical utilities (PEC and DEC), will file an application for approval of: the business combinations listed above, and a Joint Dispatch Agreement which will allow the centralized economic dispatch of PEC's and DEC's generation assets to serve their Carolinas' customers.

Very truly yours,

Len S. Anthony/mhm

Len S. Anthony
General Counsel
Progress Energy Carolinas, Inc.

LSA:mhm

cc: Mr. Frank Ellerbe
Ms. Nanette Edwards
Mr. John Flitter

STAREG1471

Progress Energy Service Company, LLC
[illegible]

STATE OF SOUTH CAROLINA)

(Caption of Case)

Application Regarding the Acquisition of Progress Energy, Incorporated by Duke Energy Corporation and Merger of Progress Energy Carolina, Incorporated and Duke Energy Carolinas, LLC)

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET/NDI NUMBER: 2011 - 158 - E

(Please type or print)
Submitted by: Len Anthony **SC Bar Number:**

Address: P.O. Box 1551
Mail Code 17A4
Raleigh NC 27602

Telephone: 919-546-6367
Fax:
Other:
Email: Len.S.Anthony@pgnmail.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ **Emergency Relief demanded in petition**

☒ **Request for item to be placed on Commission's Agenda expeditiously**

☐ **Other:**

INDUSTRY (Check one)

- ☒ Electric
- ☐ Electric/Gas
- ☐ Electric/Telecommunications
- ☐ Electric/Water
- ☐ Electric/Water/Telecom.
- ☐ Electric/Water/Sewer
- ☐ Gas
- ☐ Railroad
- ☐ Sewer
- ☐ Telecommunications
- ☐ Transportation
- ☐ Water
- ☐ Water/Sewer
- ☐ Administrative Matter
- ☐ Other:

NATURE OF ACTION (Check all that apply)

- ☐ Affidavit
- ☐ Agreement
- ☐ Answer
- ☐ Appellate Review
- ☐ Application
- ☐ Brief
- ☐ Certificate
- ☐ Comments
- ☐ Complaint
- ☐ Consent Order
- ☐ Discovery
- ☐ Exhibit
- ☐ Expedited Consideration
- ☐ Interconnection Agreement
- ☐ Interconnection Amendment
- ☐ Late-Filed Exhibit
- ☐ Letter
- ☐ Memorandum
- ☐ Motion
- ☐ Objection
- ☐ Petition
- ☐ Petition for Reconsideration
- ☐ Petition for Rulemaking
- ☐ Petition for Rule to Show Cause
- ☐ Petition to Intervene
- ☐ Petition to Intervene Out of Time
- ☐ Prefiled Testimony
- ☐ Promotion
- ☐ Proposed Order
- ☐ Protest
- ☐ Publisher's Affidavit
- ☐ Report
- ☐ Request
- ☐ Request for Certification
- ☐ Request for Investigation
- ☐ Resale Agreement
- ☐ Resale Amendment
- ☐ Reservation Letter
- ☐ Response
- ☐ Response to Discovery
- ☐ Return to Petition
- ☐ Stipulation
- ☐ Subpoena
- ☐ Tariff
- ☐ Other:

Progress Energy

April 25, 2011

Mrs. Jocelyn Boyd
Chief Clerk/ Administrator
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, South Carolina 29210

Re: Docket No. 2011-158-E
Application of Duke Energy Corporation and Progress Energy Inc. to Engage in a Business Combination Transaction

Dear Mrs. Boyd:

Enclosed for filing is the Application of Duke Energy Corporation ("Duke") and Progress Energy, Inc. ("Progress") on behalf of their electrical utility subsidiaries, Duke Energy Carolinas, LLC and Progress Energy Carolinas, Inc., to Engage in a Business Combination Transaction. Exhibit 5 to the Application contains confidential data describing how the applicants intend to reduce their delivered cost of fuel. In accordance with Commission Order No. 2005-226 dated May 6, 2005 in Docket No. 2005-83-A and Commission Regulation 103-804(S)(1) and (2), Progress and Duke are filing both a confidential and a public version of Exhibit 5. The confidential version is in a sealed envelope marked "CONFIDENTIAL." As stated more fully in the Application, Progress and Duke respectfully request that the Commission find that the confidential version contains protected information and issue a protective order barring disclosure under the Freedom of Information Act, S.C. Code Ann. § 30-4-10 *et seq.*, S.C. Code Reg. 103-804(S)(1) and any other provision of law, except in its public form.

Very truly yours,

Len S. Anthony
General Counsel
Progress Energy Carolinas, Inc.

LSA:mhm

Enclosures
cc: Ms. Nanette Edwards
Mr. John Flitter
STAREG1502

Progress Energy Service Company, LLC
P.O. Box 1551
Raleigh, NC 27602

STATE OF SOUTH CAROLINA
PUBLIC SERVICE COMMISSION

DOCKET NO. 2011-158-E

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of	)	**APPLICATION OF DUKE ENERGY CORPORATION AND PROGRESS ENERGY, INC. ON BEHALF OF THEIR ELECTRICAL UTILITY SUBSIDIARIES, DUKE ENERGY CAROLINAS, LLC AND PROGRESS ENERGY CAROLINAS, INC., TO ENGAGE IN A BUSINESS COMBINATION TRANSACTION**
	)	
Application of Duke Energy Corporation and Progress Energy, Inc. on Behalf of Their Electrical Utility Subsidiaries, Duke Energy Carolinas, LLC and Progress Energy Carolinas, Inc., to Engage in a Business Combination Transaction	)	
	)	
	)	
	)	
	)	

Duke Energy Corporation ("Duke") and Progress Energy, Inc. ("Progress") (collectively referred to as "the Applicants"), on behalf of their utility subsidiaries, Duke Energy Carolinas, LLC ("DEC") and Progress Energy Carolinas, Inc. ("PEC") hereby apply to the Public Service Commission of South Carolina ("the Commission") pursuant to S.C. Code Ann. § 58-27-1300 (Supp. 2010) and Commission Regulation 103-823 for authorization to engage in a business combination transaction. In support of this Application, the Applicants show the following:

1. DEC is an electrical utility organized, existing and operating under the laws of the State of North Carolina and is authorized to generate, transmit and distribute electric power in its service territory in South Carolina and North Carolina. Its principal office is located at 526 South Church Street, Charlotte, North Carolina 28202-1802. DEC's service territory in South Carolina and North Carolina encompasses over 24,000 square miles and contains nearly 2.4 million customers. DEC is a wholly owned subsidiary of Duke, which is a holding company that does not own or operate utility assets in South Carolina. Duke is a corporation organized and existing under the laws of the State of Delaware.

2. PEC is an electrical utility organized, existing and operating under the laws of the State of North Carolina and is authorized to generate, transmit and distribute electric power in its service territory in South Carolina and North Carolina. Its principal office is located at 411 Fayetteville Street, Post Office Box 1551, Raleigh, North Carolina 27602-1551. PEC's service territory in South Carolina and North Carolina encompasses over 34,000 square miles and contains nearly 1.5 million customers. PEC is a wholly owned subsidiary of Progress, which is a holding company that does not own or operate utility assets in South Carolina. Progress is a corporation organized and existing under the laws of the State of North Carolina.

3. The names and addresses of the Applicants' attorneys who are authorized to receive notices and communications with respect to this application are:

Kodwo Ghartey-Tagoe
Vice President - Legal
Duke Energy Corporation
EC03T / P.O. Box 1006
Charlotte, North Carolina 28201-1006
Telephone: (704) 382-4295

Frank Ellerbe
Robinson, McFadden & Moore, P.C
1901 Main St. Suite 1200
Columbia, SC 29201
Telephone: (803)-223-9651

Len S. Anthony
General Counsel
Progress Energy Carolinas, Inc.
Post Office Box 1551/PEB 17A4
Raleigh, North Carolina 27602-1551
Telephone: (919) 546-6367

THE TRANSACTION

4. Duke and Progress have entered into a business combination agreement ("the Merger Agreement") pursuant to which Duke will acquire all of the issued and outstanding common stock of Progress in exchange for shares of Duke's common stock. [1] A copy of the Merger Agreement is attached to this Application as Exhibit 1. Under the terms of the Merger Agreement, Progress shareholders will receive 2.6125 shares of Duke common stock for each share of Progress common stock they own upon the closing of the transaction. This exchange ratio will be adjusted to 0.87083 shares of Duke stock for each Progress share, to account for a one-for-three reverse stock split to be effected by Duke in connection with the closing of the transaction, as further described in the Merger Agreement.

5. The board of directors of Duke following the acquisition will consist of eighteen directors. Duke will designate eleven directors, and Progress will designate seven directors.

6. The Duke-Progress business combination transaction will occur at the holding company level. Progress will become a subsidiary of Duke, and both Progress and PEC will continue to exist as separate legal entities. PEC and DEC will be merged into a single legal entity at some point in the future. Prior to that formal consolidation, numerous aspects of their operations must be addressed, including but not limited to determination of business practices, operating procedures, equipment specifications, uniform rate schedules, service regulations, and computer systems. When those operational issues have been addressed and Applicants are prepared to submit uniform rate schedules and service regulations for the combined electric utility to operate in South Carolina, those rate schedules and service regulations will be submitted to the Commission for approval.

[1] Progress common stock owned by Duke or Progress (other than in a fiduciary capacity) will not be included in the exchange. Such stock will automatically be canceled and retired.

THE LEGAL STANDARD FOR APPROVAL

7. S.C. Code Ann. § 58-27-1300 provides that an electrical utility subject to the jurisdiction of the Commission must first obtain Commission approval prior to selling, assigning, transferring, leasing, consolidating, or merging its utility property, powers, franchises, or privileges. S.C. Code Ann. § 58-27-10 defines "electrical utility" as persons and corporations, their lessees, assignees, trustees, receivers, or other successors in interest owning or operating equipment or facilities for generating, transmitting, delivering, or furnishing electricity to or for the public for compensation in South Carolina. Thus, PEC and DEC are "electrical utilities." Duke and Progress are not "electrical utilities". As explained in paragraph 6, two business transactions will occur: 1) Duke, a holding company, will acquire Progress, a holding company; and 2) at some point after the merger of the holding companies, PEC, a South Carolina electrical utility, will be merged into DEC, a South Carolina electrical utility. Although the statute clearly requires Commission approval of the merger of DEC and PEC (S.C. Code Ann. § 58-27-1300), it does not expressly grant the Commission jurisdiction over Duke acquiring Progress. But given that the merger of DEC and PEC cannot occur absent the acquisition of Progress by Duke, and the primary impact of the acquisition of Progress by Duke is upon DEC and PEC, the Applicants, on behalf of PEC and DEC, will treat the two transactions as one for the purposes of this Application.

8. S.C. Code Ann. § 58-27-1300 does not specify the standard the Commission should apply in reviewing and approving such transactions. However, in previous electrical utility mergers and combinations, the Commission has sought to ensure that South Carolina retail customers are protected from any adverse effects of a proposed consolidation or merger. In so doing, the Commission has considered factors such as whether the proposed transaction will

have any adverse effect on the utility's retail rates and charges, whether the utility's retail cost of service and jurisdictional revenues or expenses are adversely affected by the transaction, and whether the merger will result in any benefits to South Carolina retail customers. (See, e.g., Application of Duke Energy Corporation for Approval Pursuant to South Carolina Code Sections 58-27-1300, 58-27-1710, 58-27-1720 and 58-27-1730 to Issue Securities in Connection with a Business Combination Transaction with Westcoast Energy, Inc., Docket No. 2001-441-E, Order No. 2002-20 entered January 29, 2002; Application of Carolina Power & Light Company and Interpath Communications, Inc. to Transfer Ownership of CP&L and Interpath to a Holding Company, Docket No. 1999-434-E/C, Order No. 2000-0229 entered March 6, 2000; Application of Duke Power Company for Approval to Issue Securities in Connection with a Business Combination Transaction with PanEnergy Corporation, Docket No. 96-383-E, Order No. 97-310 entered April 21, 1997; Application of South Carolina Electric & Gas Company to Transfer and Redesignate Certain Certificates of Public Convenience and Necessity in accordance with a Corporate Reorganization, Docket No. 84-389-E/G, Order No. 84-981 entered November 27, 1984.)

9. The combination of Progress and Duke, and PEC and DEC, satisfies the standard of approval that has been articulated and applied by the Commission. As demonstrated below, the combination will produce financial benefits arising from the advantages of a larger, more diversified company; will generate direct and immediate operational and rate benefits to customers; will provide additional integration benefits over time; will create the largest utility in the Nation that will remain headquartered in the Carolinas; and the combination will not diminish effective state regulation.

FINANCIAL BENEFITS

10. The combined company will be the largest regulated electric utility in the Nation. It will be headquartered in Charlotte, with a significant presence in Raleigh, North Carolina. It will have the largest market capitalization, the largest generating capacity, the largest nuclear generating capacity and the largest number of customers of any regulated utility in the Nation. Following the completion of the natural gas combined cycle facilities being constructed by PEC and DEC, it will have a more diverse generation mix than either company standing alone. The size and diversity of the combined company will give it the financial strength to better compete for capital and invest in new baseload and other generation in the Carolinas when needed, as well as other necessary modernization of its plant, equipment, infrastructure and service offerings. Regulated utility operations will constitute over 88 percentofthecombinedcompany'sbusiness, thus creating a highly-focused electric utility positioned to maximize operational and supply chain efficiencies. Attached to this Application as Exhibit 2 are investment analyses of the proposed business combination prepared by Oppenheimer, Baird, and Bank of America confirming these benefits.

DIRECT AND IMMEDIATE OPERATIONAL BENEFITS

11. Although PEC and DEC will not be combined into a single legal entity contemporaneously with the acquisition of Progress by Duke, there will be significant coordination of the operations of PEC and DEC beginning upon the merger closing. These coordinated operations are intended to produce significant operational efficiencies that will directly benefit customers. The primary, and most immediate such benefit, will result from transitioningindividualdispatchofPEC'sandDEC'sgenerating assets to combined dispatch via a joint dispatch agreement. Upon completion of the merger, PEC and DEC will also implement a

joint Open Access Transmission Tariff ("OATT") for their three combined balancing authority areas.[2] The centralized economic dispatch of PEC's and DEC's generation assets to serve their Carolinas customers is estimated to reduce the combined company's fuel costs by approximately $364 million over the five-year period 2012-2016. These savings are the result of using the lower cost generation resources of each company to displace the higher cost resources of the other depending upon the marginal cost of production of each entity's available resources in a given hour. By transitioning to joint dispatch on a real time basis, each utility's available energy can be used to displace the other's higher cost energy whenever such a cost difference exists without regard to the size of the difference. Importantly, absent such joint dispatch, much of these savings would not otherwise be achievable. Attached to this Application as Exhibit 3 is the proposed Joint Dispatch Agreement.

12. The $364 million in fuel savings is a conservative estimate because no production cost model, including the model used to generate the $364 million savings estimate, is sufficiently granular to capture the operations of dispatchers and hourly power traders on an energy trading floor. For example, dispatchers receive data every few seconds allowing them to make real time operational decisions (e.g. economically adjust generator(s) output to match load; react to unit trips, adjust unit ramp rates, change unit start times, adjust spinning reserve requirements, and purchase economy power). Efficiencies gained in these real time, or minute-to-minute, operations are not fully captured in an hourly production cost model. Attached to this Application as Exhibit 4 is the study demonstrating the projected fuel savings of $364 million.

[2] The joint OATT will provide for joint terms and conditions but will continue to have separate transmission and ancillary service rates for the PEC and DEC balancing authority areas. PEC and DEC have filed for approval of the joint OATT with the Federal Energy Regulatory Commission. The single OATT will eliminate transmission wheeling charges between the PEC-East, PEC-West and DEC Balancing Authority Areas ("BAA").

13. Significantly, the creation of a joint OATT for both DEC's and PEC's three balancing authority areas will benefit both PEC's and DEC's retail and wholesale customers. The elimination of multiple transmission charges will reduce the transaction costs associated with the energy exchanges between PEC and DEC, and will also allow wholesale customers to move power between and through PEC's and DEC's service territories with only a single transmission charge. As the system is configured today, wholesale customers are required to pay two separate transmission charges in these situations.

14. In addition to the fuel savings generated through the joint dispatch of PEC's and DEC's generation systems, further fuel savings will be realized through the sharing of, and implementation of, best practices for fuel procurement and use. The leveraging of each entity's expertise in railroad transportation services and coal procurement is estimated to result in a combined savings of $115 million over the five-year period 2012-2016. Additional savings of $183.9 million over this same five-year period are expected to be created through the application of coal blending practices to DEC's coal use, similar to PEC's current practices. Additionally, coordinating the use of PEC's and DEC's interstate natural gas pipeline capacity to the greatest extent allowed, reagent procurement efficiencies, and elimination of the need for DEC to establish a natural gas trading desk, are estimated to produce an additional $31.8 million of fuel savings, for a total of $330.7 million over five years. Combined with the joint dispatch fuel savings results, gross total fuel savings are estimated to be $694.7 million over the five-year period 2012-2016. The derivation of the additional $330.7 million of fuel savings is contained in Exhibit 5. The methodology to be used to allocate the joint dispatch and fuel savings between the two companies is contained in Exhibit 3. DEC and PEC intend to begin passing these fuel cost savings on to their customers immediately upon the approval and closing of the merger.

15. Exhibit 5 contains commercially sensitive information describing how the Applicants intend to reduce their delivered cost of fuel, including target reductions in rail and fuel costs, and fuel use strategies. Accordingly, the Applicants are filing both redacted (Public) and unredacted (Confidential) versions of this Exhibit. The Applicants request the Commission find that the Confidential version of Exhibit 5 contains protected information and issue a protective order barring its disclosure under the Freedom of Information Act, S.C. Code Ann. §§ 30-4-10 *et seq.*, S.C. Code Ann. Reg. 103-804(S)(1), or any other provision of law, except in its Public form. Pursuant to S.C. Code Ann. Reg. 103-804(S)(2) the determination of whether a document may be exempt from disclosure is withintheCommission'sdiscretion.Sucharuling is necessary to avoid harming the Applicants' ability to negotiate favorable rates, terms and conditions with their fuel and transportation suppliers. In accordance with Commission Order No. 2005-226, dated May 6, 2005, issued in Docket No. 2005-83-A, the Applicants are including with this Application a true and correct copy of the Confidential version of Exhibit 5 in a sealed envelope marked "CONFIDENTIAL". Each page of the Confidential version is marked "CONFIDENTIAL VERSION." The Applicants will provide the study to parties to this proceeding pursuant to an appropriate confidentiality agreement.

16. Additional savings are expected from the two utilities being able to reduce their respective reserve margin once they are affiliated. Although PEC and DEC each will continue to develop and file annual integrated resource plans, upon consummation of the merger, the planning of the two systems will be coordinated to a much greater extent. Just as the combined dispatch and operation of the two generation systems will produce significant fuel savings, coordinatedplanningofthetwocompanies'resourceplansshouldresultinareductioninthe amount of generating reserves necessary to serve the two systems on an ongoing basis. The

expected reduction in overall reserves, which reflects increased reliability of the much larger combined systems, is made possible by the creation of a larger supply pool that reduces the possibility of having insufficient resources to meet peak demand following a contingency such as an unexpected outage on a large generating unit or weather-induced high demand periods. For example, although the loss of DEC's largest unit (1100 MWs) represents approximately 6% of DEC's projected 2012 peak load, the loss of this unit would represent only 3.6% of the combined load of DEC and PEC in 2012. A lower reserve margin will reduce the amount of resources (and theassociatedcosts)requiredbyPECandDECtomeetcustomers'electricit y needs.

FUTURE INTEGRATION BENEFITS

17. It is anticipated that upon the actual integration of Duke's and Progress' service companies, additional cost savings opportunities will be created. The transition to integration is a significant undertaking, and these savings will occur over time as a result of the combination and assimilation of the companies' information technology systems, supply chain functions, generation operations, corporate and administrative programs, and inventories. There will be upfront costs associated with integrating these functions to yield benefits, but future savings in these areas are expected to be significant. Customers will enjoy the benefits of these savings in future rate proceedings.

18. The cost savings described above do not reflect any savings associated with involuntary workforce reductions. Over time, Progress, Duke, PEC and DEC expect their combined workforces to be reduced compared to continued operation as unaffiliated companies. To the maximum extent possible, the companies will manage these reductions through normal retirements, employee attrition, possible voluntary retirement programs and similar measures, rather than through forced layoffs.

19. The savings generated from these integration activities will inure to the benefit of DEC's and PEC's customers as they are reflected in future rate cases. Both PEC and DEC are operating in an increasing cost environment with modest load growth. Both utilities have embarked upon aggressive construction programs to replace or modernize old coal units, which have no environmental controls, with new clean coal and natural gas generation. For example, Duke is constructing over 1200 megawatts of new natural gas generation and is completing its 825-megawatt clean coal Cliffside facility. Similarly, PEC is constructing over 2000 megawatts of new natural gas generation. Together these new plants will cost in excess of $5 billion. Further, both utilities are facing significant cost increases associated with the Environmental Protection Agency's new proposed regulations, including those involving cooling water intake; coal ash ponds; mercury emissions; and greenhouse gas emissions. In addition, the Nuclear Regulatory Commission continues to issue new rules imposing significant additional costs on the utilities' nuclear operations. Specifically, new rules 10 C.F.R. §§ 73.54 and 73.55 establish new costly cyber security regulations and requirements for physical protection of nuclear reactors against radiological sabotage. Current forecasts demonstrate that the increased costs associated with the utilities' fleet modernization programs and compliance with new regulatory requirements will require one or more general rate cases for both utilities in the 2011-2013 timeframe. Savings realized from merger integration activities in the test years for these general rate cases will help offset such rate increases.

CAROLINAS CORPORATE PRESENCE

20. The combined company will maintain the name of Duke Energy, with corporate headquarters in Charlotte and the continuation of a substantial presence in Raleigh. The Carolinas will benefit from an industry leader headquartered here, as well as the philanthropic,

cultural and civic support associated with a major corporate presence. Moreover, as the largest utility in an industry that many expect to demonstrate further consolidation in order to achieve many of the advantages described herein, it is much less likely that the resulting company will be acquired by another entity with the risk of corporate headquarters being moved to another region. Similarly, with this combination of two companies domiciled in the Carolinas, the risk that one or both could be acquired in this process of consolidation, and their corporate headquarters moved, is eliminated.

EFFECTIVE STATE REGULATION IS NOT DIMINISHED

21. In Dockets Nos. 96-383-E, 1999-434-E/C, 2001-441-E, and 2005-210-E the Commission established regulatory conditions and Codes of Conduct for PEC and DEC. The purpose of these regulatory conditions and Codes of Conduct was, among other things, to ensure that the Commission's jurisdiction over PEC and DEC was not diminished, and that the companies' rates and quality of service were not adversely impacted as a result of previous mergers or combinations involving PEC, DEC, and their corporate parents or affiliates, or the establishment of service companies. These conditions will continue to apply to PEC and DEC and protect against the risks at issue.

22. Furthermore, both PEC and DEC will remain subject to full regulation by the Commission. The merger in no way diminishes the authority of the Commission to regulate the service quality and rates of PEC and DEC. Therefore, effective state regulatory oversight of both utilities will continue.

23. With regard to cost allocations between and among the various companies within the Duke holding company structure following the merger, PEC and its service company propose to adopt DEC's service company's cost allocation manual. PEC and its service company will

adopt the same cost types or functions and allocation factors as are used by DEC and its service company. New service agreements will be filed as appropriate, as well as updated affiliate services lists. Service company costs that can be directly assigned will be assigned to the entity within the combined company receiving the benefit. Costs that cannot be directly assigned will use the appropriate allocation factor to allocate the cost to the appropriate entities within the combined company.

MARKET POWER STUDY

24. Attached to this Application as Exhibit 6 are the market power studies prepared by Progress and Duke in support of their merger approval filing with the Federal Energy Regulatory Commission.

CONCLUSION

25. The acquisition of Progress by Duke at the holding company level, and the ultimate combination of PEC and DEC, will allow the utilities to more effectively finance the large infrastructure investments required to meet the future energy needs of South Carolina and North Carolina. Through the proposed joint dispatch arrangement and fuel procurement synergies, PEC and DEC expect to reduce their joint fuel costs by over $690 million over the 5-year period 2012-2016. Other integration savings will accrue to customers in the ordinary course of rate making proceedings.

26. The Commission will continue to have full regulatory authority over PEC and DEC. Thus, any issues associated with this combination can readily be addressed and immediate net benefits to the utilities' customers assured. The acquisition of Progress by Duke, and the merger of PEC and DEC, are justified by the public convenience and necessity for the reasons explained above. The Commission should review the proposed acquisition of Progress by Duke,

and the merger of DEC and PEC, and approve the proposed Joint Dispatch Agreement and the merger of DEC and PEC.

WHEREFORE, Applicants, on behalf of DEC and PEC, apply to the Commission for approval of the merger of PEC and DEC, as described herein, and the Joint Dispatch Agreement attached hereto as Exhibit 3.

Respectfully submitted this the 25th day of April, 2011.

DUKE ENERGY CAROLINAS, LLC

/s/

By: _____

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PROGRESS ENERGY CAROLINAS, INC.

/s/

By: _____

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EXHIBIT 1

MERGER AGREEMENT

EXECUTION COPY

EXHIBIT 1

AGREEMENT AND PLAN OF MERGER

by and among

DUKE ENERGY CORPORATION,

DIAMOND ACQUISITION CORPORATION

and

PROGRESS ENERGY, INC.

Dated as of January 8, 2011

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DEFINED TERMS INDEX

AGREEMENT AND PLAN OF MERGER, dated as of January 8, 2011 (this "Agreement"), by and among DUKE ENERGY CORPORATION, a Delaware corporation ("Duke"), DIAMOND ACQUISITION CORPORATION, a North Carolina corporation and a direct wholly-owned subsidiary of Duke ("Merger Sub"), and PROGRESS ENERGY, INC., a North Carolina corporation ("Progress").

WHEREAS, the respective Boards of Directors of Duke and Merger Sub have approved this Agreement, and deem it advisable and in the best interests of their respective stockholders to consummate the merger of Merger Sub with and into Progress on the terms and conditions set forth herein (the "Merger"), and the Board of Directors of Duke has determined to recommend to the stockholders of Duke that they approve an amendment to the Amended and Restated Certificate of Incorporation of Duke providing for a reverse stock split and that they approve the issuance of shares of Duke Common Stock in connection with the Merger as set forth in this Agreement;

WHEREAS, the Board of Directors of Progress has adopted this Agreement, and deems it in the best interest of Progress to consummate the merger of Merger Sub with and into Progress on the terms and conditions set forth herein and has determined to recommend to the shareholders of Progress that they approve this Agreement and the Merger;

WHEREAS, Duke and Progress desire to make certain representations, warranties, covenants and agreements in connection with the Merger and the transactions contemplated by this Agreement and also to prescribe various conditions to the Merger; and

WHEREAS, for United States federal income tax purposes, it is intended that the Merger shall qualify as a reorganization under Section 368(a) of the Internal Revenue Code of 1986, as amended (the "Code"), and this Agreement is intended to be, and is hereby, adopted as a plan of reorganization within the meaning of Section 368(a) of the Code.

NOW, THEREFORE, in consideration of the foregoing and of the representations, warranties, covenants and agreements contained in this Agreement, the parties agree as follows:

ARTICLE I

THE MERGER

Section 1.01. The Merger. Upon the terms and subject to the conditions set forth in this Agreement, at the Effective Time, Merger Sub shall be merged with and into Progress in accordance with the North Carolina Business Corporation Act (the "NCBCA"). At the Effective Time, the separate corporate existence of Merger Sub shall cease, and Progress shall be the surviving corporation in the Merger (the "Surviving Corporation") and shall continue its corporate existence under the laws of the State of North Carolina and shall succeed to and assume all of the rights and obligations of Progress and Merger Sub in accordance with the NCBCA and shall become, as a result of the Merger, a direct wholly-owned subsidiary of Duke.

Section 1.02. Closing. Unless this Agreement shall have been terminated pursuant to Section 7.01, the closing of the Merger (the "Closing") will take place at 10:00 a.m., local time, on a date to be specified by the parties (the "Closing Date"), which, subject to Section 4.06 of this Agreement, shall be no later than the second business day after satisfaction or waiver of the

conditions set forth in Article VI (other than those conditions that by their terms are to be satisfied at the Closing, but subject to the satisfaction or waiver (to the extent permitted by applicable law) of such conditions at such time), unless another time or date is agreed to by the parties hereto. The Closing shall be held at such location as is agreed to by the parties hereto.

Section 1.03. Effective Time of the Merger. Subject to the provisions of this Agreement, as soon as practicable after 10:00 a.m., local time, on the Closing Date the parties thereto shall file articles of merger (the "Articles of Merger") executed in accordance with, and containing such information as is required by, Section 55-11-05 of the NCBCA with the Secretary of State of the State of North Carolina and on or after the Closing Date shall make all other filings or recordings required under the NCBCA. The Merger shall become effective at such time as the Articles of Merger are duly filed with the Secretary of State of the State of North Carolina or at such later time as is specified in the Articles of Merger (the time the Merger becomes effective being hereinafter referred to as the "Effective Time").

Section 1.04. Effects of the Merger. The Merger shall generally have the effects set forth in this Agreement and the applicable provisions of the NCBCA.

Section 1.05. Articles of Incorporation and By-laws of the Surviving Corporation.

(a) At the Effective Time, the articles of incorporation of Merger Sub as in effect immediately prior to the Effective Time shall be the articles of incorporation of the Surviving Corporation until thereafter amended in accordance with the provisions thereof and hereof and applicable Law, in each case consistent with the obligations set forth in Section 5.08.

(b) At the Effective Time, the by-laws of Merger Sub as in effect immediately prior to the Effective Time shall be the by-laws of the Surviving Corporation until thereafter amended in accordance with the provisions thereof and hereof and applicable Law, in each case consistent with the obligations set forth in Section 5.08.

Section 1.06. Directors and Officers of the Surviving Corporation.

(a) The directors of Merger Sub at the Effective Time shall, from and after the Effective Time, be the directors of the Surviving Corporation in the Merger until their successors have been duly elected or appointed and qualified, or their earlier death, resignation or removal.

(b) The officers of Progress at the Effective Time shall, from and after the Effective Time, be the initial officers of the Surviving Corporation until their successors have been duly elected or appointed and qualified, or their earlier death, resignation or removal.

Section 1.07. Post-Merger Operations.

(a) Board Matters. Duke shall take all necessary corporate action to cause the following to occur as of the Effective Time: (i) the number of directors constituting the Board of Directors of Duke shall be as set forth in **Exhibit A** hereto, with the identities of the Duke Designees (as defined in **Exhibit A** hereto) as set forth in **Exhibit A** hereto and the identities of the Progress Designees (as defined in **Exhibit A** hereto) as identified by Progress after the date hereof in accordance with the provisions of **Exhibit A** hereto, subject to such individuals' ability and

willingness to serve; (ii) the committees of the Board of Directors of Duke shall be as set forth in **Exhibit A** hereto, and the chairpersons of each such committee shall be designated in accordance with the provisions of **Exhibit A** hereto, subject to such individuals' ability and willingness to serve; and (iii) the lead independent director of the Board of Directors of Duke shall be designated in accordance with the provisions of **Exhibit A** hereto, subject to such individual's ability and willingness to serve. In the event any Duke Designee or any Progress Designee becomes unable or unwilling to serve as a director on the Board of Directors of Duke, or as a chairperson of a committee or as lead independent director, a replacement for such designee shall be determined in accordance with the provisions of **Exhibit A** hereto.

(b) Chairman of the Board; President and Chief Executive Officer; Executive Officers.

(i) Duke's Board of Directors shall cause the current Chief Executive Officer of Progress (the "Progress CEO") to be appointed as the President and Chief Executive Officer of Duke, and cause the current Chief Executive Officer of Duke (the "Duke CEO") to be appointed as the Chairman of the Board of Directors of Duke, in each case, effective as of, and conditioned upon the occurrence of, the Effective Time, and subject to such individuals' ability and willingness to serve. The roles and responsibilities of such officers shall be as specified on **Exhibit B** to this Agreement. In the event that the Progress CEO is unwilling or unable to serve as the President and Chief Executive Officer of Duke as of the Effective Time, Progress and Duke shall confer and mutually designate a President and Chief Executive Officer of Duke, who shall be appointed by Duke in accordance with the Amended and Restated Certificate of Incorporation and Amended and Restated By-laws of Duke as in effect as of the Effective Time. In the event that the Duke CEO is unwilling or unable to serve as the Chairman of the Board of Directors of Duke as of the Effective Time, Progress and Duke shall confer and mutually designate a Chairman of the Board of Directors of Duke, who shall be appointed by Duke in accordance with the Amended and Restated Certificate of Incorporation and Amended and Restated By-laws of Duke as in effect as of the Effective Time.

(ii) The material terms of the Progress CEO's employment with Duke as the President and Chief Executive Officer of Duke to be in effect as of the Effective Time are set forth on **Exhibit C** hereto. The parties shall use their commercially reasonable efforts to cause an employment agreement reflecting such terms to be executed by Duke and the Progress CEO as promptly as practicable after the date hereof, effective as of, and conditioned upon the occurrence of, the Effective Time.

(iii) The material terms of the Duke CEO's employment with Duke as the Chairman of the Board of Directors of Duke to be in effect as of the Effective Time are set forth on **Exhibit D** hereto. The parties shall use their commercially reasonable efforts to cause an amendment to the employment agreement of the Duke CEO reflecting such amended terms to be executed by Duke and the Duke CEO as promptly as practicable after the date hereof, effective as of, and conditioned upon the occurrence of, the Effective Time.

(iv) Subject to such individuals' ability and willingness to so serve, Duke shall take all necessary corporate action so that the Individuals identified on **Exhibit E** and designated for the Duke senior executive officer positions specified on such Exhibit shall hold such officer positions as of the Effective Time. In the event that any such individual(s) is(are) unwilling or

unable to serve in such officer position(s) as of the Effective Time, Progress and Duke shall confer and mutually appoint other individual(s) to serve in such officer position(s).

(c) Name, Headquarters and Operations. Following the Effective Time, Duke shall retain its current name, and shall maintain its headquarters and principal corporate offices in Charlotte, North Carolina, none of which shall change as a result of the Merger, and, taken together with its subsidiaries following the Effective Time, shall maintain substantial operations in Raleigh, North Carolina.

(d) Community Support. The parties agree that provision of charitable contributions and community support in their respective service areas serves a number of their important corporate goals. During the two-year period immediately following the Effective Time, Duke and its subsidiaries taken as a whole intend to continue to provide charitable contributions and community support within the service areas of the parties and each of their respective subsidiaries in each service area at levels substantially comparable to the levels of charitable contributions and community support provided, directly or indirectly, by Duke and Progress within their respective service areas prior to the Effective Time.

Section 1.08. Transition Committee. As promptly as practicable after the date hereof and to the extent permitted by applicable law, the parties shall create a special transition committee to oversee integration planning, including, to the extent permitted by applicable law, consulting with respect to operations and major regulatory decisions. This transition committee shall be co-chaired by the Progress CEO and the Duke CEO, and shall be composed of such chief executive officers and two other designees of Duke and two other designees of Progress.

ARTICLE II

CONVERSION OF SHARES; EXCHANGE OF CERTIFICATES

Section 2.01 Effect on Capital Stock. At the Effective Time, by virtue of the Merger and without any action on the part of holders of any shares of Progress Common Stock or any capital stock of Merger Sub:

(a) Cancellation of Certain Progress Common Stock. Each share of Progress Common Stock that is owned by Progress (other than in a fiduciary capacity), Duke or Merger Sub shall automatically be canceled and retired and shall cease to exist, and no consideration shall be delivered in exchange therefor.

(b) Conversion of Progress Common Stock. Subject to Sections 2.02(e) and 2.02(k), each issued and outstanding share of Progress Common Stock (other than shares to be canceled in accordance with Section 2.01(a)) shall be converted into the right to receive 2.6125 (the "Exchange Ratio") fully paid and nonassessable shares of Duke Common Stock (such aggregate amount, the "Merger Consideration"). As of the Effective Time, all such shares of Progress Common Stock shall no longer be outstanding and shall automatically be canceled and retired and shall cease to exist, and each holder of a certificate representing any such shares of Progress Common Stock shall cease to have any rights with respect thereto, except the right to receive the Merger Consideration as contemplated by this Section 2.01(b) (and cash in lieu of fractional shares

of Duke Common Stock payable in accordance with Section 2.02(e)) to be issued or paid in consideration therefor upon the surrender of certificates in accordance with Section 2.02, without interest, and the right to receive dividends and other distributions in accordance with Section 2.02.

(c) Conversion of Merger Sub Common Stock. At the Effective Time, by virtue of the Merger and without any action on the part of the holder thereof, each share of common stock, par value $0.01 per share, of Merger Sub issued and outstanding immediately prior to the Effective Time shall be converted into and become one validly issued, fully paid and nonassessable share of common stock, par value $0.01 per share, of the Surviving Corporation and shall constitute the only outstanding capital stock of the Surviving Corporation. From and after the Effective Time, all certificates representing the common stock of Merger Sub shall be deemed for all purposes to represent the number of shares of common stock of the Surviving Corporation into which they were converted in accordance with the immediately preceding sentence.

Section 2.02 Exchange of Certificates.

(a) Exchange Agent. Prior to the Effective Time, Duke shall enter into an agreement with such bank or trust company as may be mutually agreed by Duke and Progress (the "Exchange Agent"), which agreement shall provide that Duke shall deposit with the Exchange Agent at or prior to the Effective Time, for the benefit of the holders of shares of Progress Common Stock, for exchange in accordance with this Article II, through the Exchange Agent, certificates representing the shares of Duke Common Stock representing the Merger Consideration (or appropriate alternative arrangements shall be made by Duke if uncertificated shares of Duke Common Stock will be issued). Following the Effective Time, Duke shall make available to the Exchange Agent, from time to time as needed, cash sufficient to pay any dividends and other distributions pursuant to Section 2.02(c) (such shares of Duke Common Stock to be deposited, together with any dividends or distributions with respect thereto with a record date after the Effective Time, being hereinafter referred to as the "Exchange Fund").

(b) Exchange Procedures. As soon as reasonably practicable after the Effective Time and in any event not later than the fifth Business Day following the Effective Time, Duke shall cause the Exchange Agent to mail to each holder of record of a certificate or certificates that immediately prior to the Effective Time represented outstanding shares of Progress Common Stock (the "Certificates") whose shares were converted into the right to receive shares of Duke Common Stock pursuant to Section 2.01(b), (i) a letter of transmittal (which shall specify that delivery shall be effected, and risk of loss and title to the Certificates shall pass, only upon delivery of the Certificates to the Exchange Agent and shall be in such form and have such other provisions as Duke and Progress may reasonably specify) and (ii) instructions for use in surrendering the Certificates in exchange for certificates representing whole shares of Duke Common Stock (or appropriate alternative arrangements shall be made by Duke if uncertificated shares of Duke Common Stock will be issued), cash in lieu of fractional shares pursuant to Section 2.02(e) and any dividends or other distributions payable pursuant to Section 2.02(c). Upon surrender of a Certificate for cancellation to the Exchange Agent, together with such letter of transmittal, duly completed and validly executed in accordance with the instructions thereto, and such other documents as may reasonably be required by the Exchange Agent, the holder of such Certificate shall be entitled to receive in exchange therefor that number of whole shares of Duke Common Stock (which shall be in uncertificated book entry form unless a physical certificate is requested),

that such holder has the right to receive pursuant to the provisions of this Article II, certain dividends or other distributions in accordance with Section 2.02(c) and cash in lieu of any fractional share of Duke Common Stock in accordance with Section 2.02(e), and the Certificate so surrendered shall forthwith be canceled. In the event of a transfer of ownership of Progress Common Stock that is not registered in the transfer records of Progress, the proper number of shares of Duke Common Stock may be issued to a person other than the person in whose name the Certificate so surrendered is registered if such Certificate shall be properly endorsed or otherwise be in proper form for transfer and the person requesting such issuance shall pay any transfer or other taxes required by reason of the issuance of shares of Duke Common Stock to a person other than the registered holder of such Certificate or establish to the satisfaction of Duke that such tax has been paid or is not applicable. Until surrendered as contemplated by this Section 2.02, each Certificate shall be deemed at any time after the Effective Time to represent only the right to receive upon such surrender the Merger Consideration, which the holder thereof has the right to receive in respect of such Certificate pursuant to the provisions of this Article II, certain dividends or other distributions in accordance with Section 2.02(c) and cash in lieu of any fractional share of Duke Common Stock, in accordance with Section 2.02(e). No interest shall be paid or will accrue on the Merger Consideration or any cash payable to holders of Certificates pursuant to the provisions of this Article II.

(c) Distributions with Respect to Unexchanged Shares. No dividends or other distributions with respect to Duke Common Stock with a record date after the Effective Time shall be paid to the holder of any unsurrendered Certificate with respect to the shares of Duke Common Stock issuable hereunder in respect thereof and no cash payment in lieu of fractional shares shall be paid to any such holder pursuant to Section 2.02(e), and all such dividends and other distributions shall be paid by Duke to the Exchange Agent and shall be included in the Exchange Fund, in each case until the surrender of such Certificate in accordance with this Article II. Subject to the effect of applicable escheat or similar laws, following surrender of any such Certificate there shall be paid to the recordholder thereof, (i) without interest, the number of whole shares of Duke Common Stock issuable in exchange therefor pursuant to this Article II, the amount of dividends or other distributions with a record date after the Effective Time theretofore paid with respect to such whole shares of Duke Common Stock and the amount of any cash payable in lieu of a fractional share of Duke Common Stock to which such holder is entitled pursuant to Section 2.02(e) and (ii) at the appropriate payment date, the amount of dividends or other distributions with a record date after the Effective Time but prior to such surrender and with a payment date subsequent to such surrender payable with respect to such whole shares of Duke Common Stock.

(d) No Further Ownership Rights in Progress Common Stock; Closing of Transfer Books. All shares of Duke Common Stock issued upon the surrender for exchange of Certificates in accordance with the terms of this Article II (including any cash paid pursuant to this Article II) shall be deemed to have been issued (and paid) in full satisfaction of all rights pertaining to the shares of Progress Common Stock theretofore represented by such Certificates, subject, however, to Progress's obligation to pay any dividends or make any other distributions with a record date prior to the Effective Time that may have been declared or made by Progress on such shares of Progress Common Stock that remain unpaid at the Effective Time. As of the Effective Time, the stock transfer books of Progress shall be closed, and there shall be no further registration of transfers on the stock transfer books of Progress of the shares of Progress Common Stock that were outstanding immediately prior to the Effective Time. If, after the Effective Time, Certificates are

presented to Progress, Duke or the Exchange Agent for any reason, they shall be canceled and exchanged as provided in this Article II, except as otherwise required by law.

(e) No Fractional Shares.

(i) No certificates or scrip representing fractional shares of Duke Common Stock shall be issued upon the surrender for exchange of Certificates, no dividend or distribution of Duke shall relate to such fractional share interests and such fractional share interests will not entitle the owner thereof to vote or to any rights of a shareholder of Duke but, in lieu thereof, each holder of such Certificate will be entitled to a cash payment in accordance with the provisions of this Section 2.02(e).

(ii) As promptly as practicable following the Effective Time, the Exchange Agent shall determine the excess of (A) the number of whole shares of Duke Common Stock delivered to the Exchange Agent by Duke pursuant to Section 2.02(a) representing the Merger Consideration over (B) the aggregate number of whole shares of Duke Common Stock to be distributed to former holders of Progress Common Stock pursuant to Section 2.02(b) (such excess being herein called the "Excess Shares"). Following the Effective Time, the Exchange Agent shall, on behalf of former shareholders of Progress, sell the Excess Shares at then-prevailing prices on the New York Stock Exchange, Inc. ("NYSE"), all in the manner provided in Section 2.02(e)(iii). The parties acknowledge that payment of the cash consideration in lieu of issuing fractional shares of Duke Common Stock was not separately bargained for consideration but merely represents a mechanical rounding off for purposes of avoiding the expense and inconvenience to Duke that would otherwise be caused by the issuance of fractional shares of Duke Common Stock.

(iii) The sale of the Excess Shares by the Exchange Agent shall be executed on the NYSE through one or more member firms of the NYSE and shall be executed in round lots to the extent practicable. The Exchange Agent shall use reasonable efforts to complete the sale of the Excess Shares as promptly following the Effective Time as, in the Exchange Agent's sole judgment, is practicable consistent with obtaining the best execution of such sales in light of prevailing market conditions. Until the net proceeds of such sale or sales have been distributed to the holders of Certificates formerly representing Progress Common Stock, the Exchange Agent shall hold such proceeds in trust for holders of Progress Common Stock (the "Common Shares Trust"). The Surviving Corporation shall pay all commissions, transfer taxes and other out-of-pocket transaction costs, including the expenses and compensation of the Exchange Agent incurred in connection with such sale of the Excess Shares. The Exchange Agent shall determine the portion of the Common Shares Trust to which each former holder of Progress Common Stock is entitled, if any, by multiplying the amount of the aggregate net proceeds composing the Common Shares Trust by a fraction, the numerator of which is the amount of the fractional share interest to which such former holder of Progress Common Stock would otherwise be entitled (after taking into account all shares of Progress Common Stock held at the Effective Time by such holder) and the denominator of which is the aggregate amount of fractional share interests to which all former holders of Progress Common Stock would otherwise be entitled.

(iv) As soon as practicable after the determination of the amount of cash, if any, to be paid to holders of Certificates formerly representing Progress Common Stock with respect to any fractional share interests, the Exchange Agent shall make available such amounts to such

holders of Certificates formerly representing Progress Common Stock, without interest, subject to and in accordance with the terms of Section 2.02(c).

(f) Termination of Exchange Fund. Any portion of the Exchange Fund that remains undistributed to the holders of the Certificates for one year after the Effective Time shall be delivered to Duke, upon demand, and any holders of the Certificates who have not theretofore complied with this Article II shall thereafter look only to Duke for payment of their claim for Merger Consideration, any dividends or distributions with respect to Duke Common Stock and any cash in lieu of fractional shares of Duke Common Stock.

(g) No Liability. None of Duke, Progress, Merger Sub, the Surviving Corporation or the Exchange Agent or any of their respective directors, officers, employees and agents shall be liable to any person in respect of any shares of Duke Common Stock, any dividends or distributions with respect thereto, any cash in lieu of fractional shares of Duke Common Stock or any cash from the Exchange Fund, in each case delivered to a public official pursuant to any applicable abandoned property, escheat or similar law. If any Certificate shall not have been surrendered prior to five years after the Effective Time (or immediately prior to such earlier date on which any Merger Consideration, any dividends or distributions payable to the holder of such Certificate or any cash payable to the holder of such Certificate formerly representing Progress Common Stock pursuant to this Article II, would otherwise escheat to or become the property of any Governmental Authority), any such Merger Consideration, dividends or distributions in respect of such Certificate or such cash shall, to the extent permitted by applicable law, become the property of Duke, free and clear of all claims or interest of any person previously entitled thereto.

(h) Investment of Exchange Fund. The Exchange Agent shall invest any cash included in the Exchange Fund, as directed by Duke, on a daily basis, provided that no gain or loss thereon shall affect the amounts payable to the holders of Progress Common Stock pursuant to the other provisions of this Article II. Any interest and other income resulting from such investments shall be paid to Duke.

(i) Withholding Rights. Duke and the Exchange Agent shall be entitled to deduct and withhold from any consideration payable pursuant to this Agreement to any person who was a holder of Progress Common Stock immediately prior to the Effective Time such amounts as Duke and the Exchange Agent may be required to deduct and withhold with respect to the making of such payment under the Code or any other provision of applicable federal, state, local or foreign tax law. To the extent that amounts are so withheld by Duke or the Exchange Agent and duly paid over to the applicable taxing authority, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the person to whom such consideration would otherwise have been paid.

(j) Lost, Stolen or Destroyed Certificates. If any Certificate shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming such Certificate to be lost, stolen or destroyed and, if required by Duke, the posting by such person of a bond in such reasonable amount as Duke may direct as indemnity against any claim that may be made against it with respect to such Certificate, the Exchange Agent shall issue in exchange for such lost, stolen or destroyed Certificate, the Merger Consideration and, if applicable, any unpaid

dividends and distributions on shares of Duke Common Stock deliverable in respect thereof and any cash in lieu of fractional shares, in each case pursuant to this Agreement.

(k) Adjustments to Prevent Dilution. In the event that Progress changes the number of shares of Progress Common Stock or securities convertible or exchangeable into or exercisable for shares of Progress Common Stock, or Duke changes the number of shares of Duke Common Stock or securities convertible or exchangeable into or exercisable for shares of Duke Common Stock, issued and outstanding prior to the Effective Time, in each case as a result of a reclassification, stock split (including a reverse stock split), stock dividend or distribution, subdivision, exchange or readjustment of shares, or other similar transaction, the Exchange Ratio shall be equitably adjusted; provided, however, that nothing in this Section 2.02(k) shall be deemed to permit or authorize any party hereto to effect any such change that it is not otherwise authorized or permitted to undertake pursuant to this Agreement. Without limiting the generality of the foregoing, upon Duke's implementation of the reverse stock split as described in Section 5.01(c), the Exchange Ratio will be reduced by multiplying the then-current Exchange Ratio by a ratio, the numerator of which is the number of shares of Duke Common Stock outstanding immediately following such reverse stock split, and the denominator of which is the number of shares of Duke Common Stock outstanding immediately prior to such reverse stock split.

(l) Uncertificated Shares. In the case of outstanding shares of Progress Common Stock that are not represented by Certificates, the parties shall make such adjustments to this Section 2.02 as are necessary or appropriate to implement the same purpose and effect that this Section 2.02 has with respect to shares of Progress Common Stock that are represented by Certificates.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

Section 3.01 Representations and Warranties of Progress. Except as set forth in the letter dated the date of this Agreement and delivered to Duke by Progress concurrently with the execution and delivery of this Agreement (the "Progress Disclosure Letter") or, to the extent the qualifying nature of such disclosure is readily apparent therefrom and excluding any forward-looking statements, risk factors and other similar statements that are cautionary and non-specific in nature, as set forth in the Progress SEC Reports filed on or after January 1, 2009 and prior to the date hereof, Progress represents and warrants to Duke as follows:

(a) Organization and Qualification.

(i) Each of Progress and its subsidiaries is duly organized, validly existing and in good standing (with respect to jurisdictions that recognize the concept of good standing) under the laws of its jurisdiction of organization and has full power and authority to conduct its business as and to the extent now conducted and to own, use and lease its assets and properties, except for such failures to be so organized, existing and in good standing (with respect to jurisdictions that recognize the concept of good standing) or to have such power and authority that, individually or in the aggregate, have not had and could not be reasonably expected to have a material adverse effect on Progress. Each of Progress and its subsidiaries is duly qualified, licensed or admitted to

do business and is in good standing (with respect to jurisdictions that recognize the concept of good standing) in each jurisdiction in which the ownership, use or leasing of its assets and properties, or the conduct or nature of its business, makes such qualification, licensing or admission necessary, except for such failures to be so qualified, licensed or admitted and in good standing (with respect to jurisdictions that recognize the concept of good standing) that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress. Section 3.01(a) of the Progress Disclosure Letter sets forth as of the date of this Agreement the name and jurisdiction of organization of each subsidiary of Progress. No subsidiary of Progress owns any stock in Progress. Progress has made available to Duke prior to the date of this Agreement a true and complete copy of Progress's articles of incorporation and by-laws, each as amended through the date hereof.

(ii) Section 3.01(a) of the Progress Disclosure Letter sets forth a description as of the date of this Agreement, of all Progress Joint Ventures, including (x) the name of each such entity and (y) a brief description of the principal line or lines of business conducted by each such entity. For purposes of this Agreement:

(A) "Joint Venture" of a person or entity shall mean any person that is not a subsidiary of such first person, in which such first person or one or more of its subsidiaries owns directly or indirectly an equity interest, other than equity interests held for passive investment purposes that are less than 5% of each class of the outstanding voting securities or equity interests of such second person;

(B) "Progress Joint Venture" shall mean any Joint Venture of Progress or any of its subsidiaries in which the invested capital associated with Progress's or its subsidiaries' interest, as of the date of this Agreement exceeds $50,000,000; and

(C) "Duke Joint Venture" shall mean any Joint Venture of Duke or any of its subsidiaries in which the invested capital associated with Duke's or its subsidiaries' interest, as of the date of this Agreement, exceeds $100,000,000.

(iii) Except for interests in the subsidiaries of Progress, the Progress Joint Ventures and interests acquired after the date of this Agreement without violating any covenant or agreement set forth herein, neither Progress nor any of its subsidiaries directly or indirectly owns any equity or similar interest in, or any interest convertible into or exchangeable or exercisable for, any equity or similar interest in, any person, in which the invested capital associated with such interest of Progress or any of its subsidiaries exceeds, individually as of the date of this Agreement, $50,000,000.

(b) Capital Stock.

(i) The authorized capital stock of Progress consists of:

(A) 500,000,000 shares of common stock, no par value (the "Progress Common Stock"), of which 293,150,141 shares were outstanding as of November 2, 2010; and

(B) 20,000,000 shares of preferred stock, no par value per share, none of which were outstanding as of the date of this Agreement.

As of the date of this Agreement, no shares of Progress Common Stock were held in the treasury of Progress. As of the date of this Agreement, 1,418,447 shares of Progress Common Stock were subject to outstanding stock options granted under the Progress Employee Stock Option Plans (collectively, the "Progress Employee Stock Options"), 1,194,888 shares of Progress Common Stock were subject to outstanding awards of restricted stock units or phantom shares of Progress Common Stock ("Progress Restricted Stock Units"), 1,875,087 shares of Progress Common Stock were subject to outstanding awards of performance shares of Progress Common Stock, determined at maximum performance levels ("Progress Performance Shares") and 1,651,047 additional shares of Progress Common Stock were reserved for issuance pursuant to the Progress Energy, Inc. 1997 Equity Incentive Plan, the Progress Energy, Inc. 2002 Equity Incentive Plan, the Progress Energy, Inc. 2007 Equity Incentive Plan, the Amended and Restated Progress Energy, Inc. Non-Employee Director Stock Unit Plan, and any other compensatory plan, program or arrangement under which shares of Progress Common Stock are reserved for issuance (collectively, the "Progress Employee Stock Option Plans"). Since November 2, 2010, no shares of Progress Common Stock have been issued except pursuant to the Progress Employee Stock Option Plans and Progress Employee Stock Options issued thereunder and the Progress Energy, Inc. Investor Plus Plan, and from November 2, 2010 to the date of this Agreement, no shares of Progress Common Stock have been issued other than 17,367 shares of Progress Common Stock issued pursuant to the Progress Employee Stock Option Plans or Progress Employee Stock Options issued thereunder and 62,489 shares of Progress Common Stock issued pursuant to the Progress Energy, Inc. Investor Plus Plan. All of the issued and outstanding shares of Progress Common Stock are, and all shares reserved for issuance will be, upon issuance in accordance with the terms specified in the instruments or agreements pursuant to which they are issuable, duly authorized, validly issued, fully paid and nonassessable. Except as disclosed in this Section 3.01(b), as of the date of this Agreement there are no outstanding subscriptions, options, warrants, rights (including stock appreciation rights), preemptive rights or other contracts, commitments, understandings or arrangements, including any right of conversion or exchange under any outstanding security, instrument or agreement (together, "Options"), obligating Progress or any of its subsidiaries (A) to issue or sell any shares of capital stock of Progress, (B) to grant, extend or enter into any Option with respect thereto, (C) redeem or otherwise acquire any such shares of capital stock or other equity interests or (D) provide a material amount of funds to, or make any material investment (in the form of a loan, capital contribution or otherwise) in, any of their respective subsidiaries.

(ii) Except as permitted by this Agreement, all of the outstanding shares of capital stock of each subsidiary of Progress are duly authorized, validly issued, fully paid and nonassessable and are owned, beneficially and of record, by Progress or a subsidiary of Progress, free and clear of any liens, claims, mortgages, encumbrances, pledges, security interests, equities and charges of any kind (each a "Lien"), except for any of the foregoing that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress. There are no (A) outstanding Options obligating Progress or any of its subsidiaries to issue or sell any shares of capital stock of any subsidiary of Progress or to grant, extend or enter into any such Option or (B) voting trusts, proxies or other commitments, understandings, restrictions or arrangements in favor of any person other than Progress or a subsidiary

wholly-owned, directly or indirectly, by Progress with respect to the voting of or the right to participate in dividends or other earnings on any capital stock of Progress or any subsidiary of Progress.

(iii) Progress is a "holding company" as defined under Section 1262 of the Public Utility Holding Company Act of 2005, as amended (the "2005 Act").

(iv) As of the date of this Agreement, no bonds, debentures, notes or other indebtedness of Progress or any of its subsidiaries having the right to vote (or which are convertible into or exercisable for securities having the right to vote) (collectively, "Progress Voting Debt") on any matters on which Progress shareholders may vote are issued or outstanding nor are there any outstanding Options obligating Progress or any of its subsidiaries to issue or sell any Progress Voting Debt or to grant, extend or enter into any Option with respect thereto.

(v) There have been no repricings of any Progress Employee Stock Options through amendments, cancellation and reissuance or other means during the current or prior two (2) calendar years. None of the Progress Employee Stock Options, Progress Restricted Stock Units or Progress Performance Shares (A) have been granted since November 2, 2010, except as permitted by this Agreement, or (B) have been granted in contemplation of the Merger or the transactions contemplated in this Agreement. None of the Progress Employee Stock Options was granted with an exercise price below the per share closing price on the NYSE on the date of grant. All grants of Progress Employee Stock Options, Progress Restricted Stock Units and Progress Performance Shares were validly made and properly approved by the Board of Directors of Progress (or a duly authorized committee or subcommittee thereof) in compliance with all applicable laws and recorded on the consolidated financial statements of Progress in accordance with GAAP, and no such grants of Progress Employee Stock Options involved any "back dating," "forward dating" or similar practices.

(c) Authority. Progress has full corporate power and authority to enter into this Agreement, to perform its obligations hereunder and, subject to obtaining Progress Shareholder Approval, to consummate the transactions contemplated hereby. The execution, delivery and performance of this Agreement by Progress and the consummation by Progress of the transactions contemplated hereby have been duly and validly adopted and unanimously approved by the Board of Directors of Progress, the Board of Directors of Progress has recommended approval of this Agreement by the shareholders of Progress and directed that this Agreement be submitted to the shareholders of Progress for their approval, and no other corporate proceedings on the part of Progress or its shareholders are necessary to authorize the execution, delivery and performance of this Agreement by Progress and the consummation by Progress of the Merger and the other transactions contemplated hereby, other than obtaining Progress Shareholder Approval. This Agreement has been duly and validly executed and delivered by Progress and, assuming this Agreement constitutes the legal, valid and binding obligation of Duke and Merger Sub, constitutes a legal, valid and binding obligation of Progress enforceable against Progress in accordance with its terms, except that such enforcement may be subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws, now or hereafter in effect, relating to creditors' rights generally and to general equitable principles.

(d) No Conflicts; Approvals and Consents.

(i) The execution and delivery of this Agreement by Progress does not, and the performance by Progress of its obligations hereunder and the consummation of the Merger and the other transactions contemplated hereby will not, conflict with, result in a violation or breach of, constitute (with or without notice or lapse of time or both) a default under, result in or give to any person any right of payment or reimbursement, termination, cancellation, modification or acceleration of, or result in the creation or imposition of any Lien upon any of the assets or properties of Progress or any of its subsidiaries or any of the Progress Joint Ventures under, any of the terms, conditions or provisions of (A) the certificates or articles of incorporation or by-laws (or other comparable organizational documents) of Progress or any of its subsidiaries or any of the Progress Joint Ventures, or (B) subject to the obtaining of Progress Shareholder Approval and the taking of the actions described in paragraph (ii) of this Section 3.01(d), including the Progress Required Statutory Approvals, (x) any statute, law, rule, regulation or ordinance (together, "laws"), or any judgment, order, writ or decree (together, "orders"), of any federal, state, local or foreign government or any court of competent jurisdiction, administrative agency or commission or other governmental authority or instrumentality, domestic, foreign or supranational (each, a "Governmental Authority") applicable to Progress or any of its subsidiaries or any of the Progress Joint Ventures or any of their respective assets or properties, or (y) any note, bond, mortgage, security agreement, credit agreement, indenture, license, franchise, permit, concession, contract, lease, obligation or other instrument to which Progress or any of its subsidiaries or any of the Progress Joint Ventures is a party or by which Progress or any of its subsidiaries or any of the Progress Joint Ventures or any of their respective assets or properties is bound, excluding from the foregoing clauses (x) and (y) such items that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress.

(ii) Except for (A) compliance with, and filings under, the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations thereunder (the "HSR Act"); (B) the filing with and, to the extent required, the declaration of effectiveness by the Securities and Exchange Commission (the "SEC") of (1) a proxy statement relating to the approval of this Agreement by Progress's shareholders (such proxy statement, together with the proxy statement relating to the approval of this Agreement by Duke's shareholders, in each case as amended or supplemented from time to time, the "Joint Proxy Statement") pursuant to the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder (the "Exchange Act"), (2) the registration statement on Form S-4 prepared in connection with the issuance of Duke Common Stock in the Merger (the "Form S-4") and (3) such reports under the Exchange Act as may be required in connection with this Agreement and the transactions contemplated hereby; (C) the filing of documents with various state securities authorities that may be required in connection with the transactions contemplated hereby; (D) such filings with and approvals of the NYSE to permit the shares of Duke Common Stock that are to be issued pursuant to Article II to be listed on the NYSE; (E) the registration, consents, approvals and notices required under the 2005 Act; (F) notice to, and the consent and approval of, the Federal Energy Regulatory Commission (the "FERC") under Section 203 of the Federal Power Act, as amended (the "Power Act"), or an order under the Power Act disclaiming jurisdiction over the transactions contemplated hereby; (G) the filing of an application to, and consent and approval of, and issuance of any required licenses and license amendments by, the Nuclear Regulatory Commission (the "NRC") under the Atomic Energy Act of 1954, as amended (the "Atomic Energy Act"); (H) the filing of the

Articles of Merger and other appropriate merger documents required by the NCBCA with the Secretary of State of the State of North Carolina and appropriate documents with the relevant authorities of other states in which Progress is qualified to do business; (I) compliance with and such filings as may be required under applicable Environmental Laws; (J) to the extent required, notice to and the approval of the North Carolina Utilities Commission (the "NCUC"), the Public Service Commission of South Carolina (the "PSCSC"), the Florida Public Service Commission (the "FPSC"), the Public Utilities Commission of Ohio (the "PUCO"), the Indiana Utility Regulatory Commission (the "IURC") and the Kentucky Public Service Commission (the "KPSC") (collectively, the "Applicable PSCs"); (K) required pre-approvals (the "FCC Pre-Approvals") of license transfers with the Federal Communications Commission (the "FCC"); (L) such other items as disclosed in Section 3.01(d) of the Progress Disclosure Letter; and (M) compliance with, and filings under, antitrust or competition laws of any foreign jurisdiction, if required (the items set forth above in clauses (A) through (H) and (J), collectively, the "Progress Required Statutory Approvals"), no consent, approval, license, order or authorization ("Consents") or action of, registration, declaration or filing with or notice to any Governmental Authority is necessary or required to be obtained or made in connection with the execution and delivery of this Agreement by Progress, the performance by Progress of its obligations hereunder or the consummation of the Merger and the other transactions contemplated hereby, other than such items that the failure to make or obtain, as the case may be, individually or in the aggregate, could not reasonably be expected to have a material adverse effect on Progress.

(e) SEC Reports, Financial Statements and Utility Reports.

(i) Progress and its subsidiaries have filed or furnished each form, report, schedule, registration statement, registration exemption, if applicable, definitive proxy statement and other document (together with all amendments thereof and supplements thereto) required to be filed or furnished by Progress or any of its subsidiaries pursuant to the Securities Act of 1933, as amended, and the rules and regulations thereunder (the "Securities Act") or the Exchange Act with the SEC since January 1, 2007 (as such documents have since the time of their filing been amended or supplemented, the "Progress SEC Reports"). As of their respective dates, after giving effect to any amendments or supplements thereto, the Progress SEC Reports (A) complied as to form in all material respects with the requirements of the Securities Act and the Exchange Act, if applicable, as the case may be, and, to the extent applicable, the Sarbanes-Oxley Act of 2002 ("SOX"), and (B) did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

(ii) Each of the principal executive officer of Progress and the principal financial officer of Progress (or each former principal executive officer of Progress and each former principal financial officer of Progress, as applicable) has made all certifications required by Rule 13a-14 or 15d-14 under the Exchange Act or Sections 302 and 906 of SOX and the rules and regulations of the SEC promulgated thereunder with respect to the Progress SEC Reports. For purposes of the preceding sentence, "principal executive officer" and "principal financial officer" shall have the meanings given to such terms in SOX. Since January 1, 2007, neither Progress nor any of its subsidiaries has arranged any outstanding "extensions of credit" to directors or executive officers within the meaning of Section 402 of SOX.

(iii) The audited consolidated financial statements and unaudited interim consolidated financial statements (including, in each case, the notes, if any, thereto) included in the Progress SEC Reports (the "Progress Financial Statements") complied as to form in all material respects with the published rules and regulations of the SEC with respect thereto in effect at the time of filing or furnishing the applicable Progress SEC Report, were prepared in accordance with United States generally accepted accounting principles ("GAAP") applied on a consistent basis during the periods involved (except as may be indicated therein or in the notes thereto and except with respect to unaudited statements as permitted by Form 10-Q of the SEC) and fairly present (subject, in the case of the unaudited interim financial statements, to normal, recurring year-end audit adjustments that were not or are not expected to be, individually or in the aggregate, materially adverse to Progress) the consolidated financial position of Progress and its consolidated subsidiaries as of the respective dates thereof and the consolidated results of their operations and cash flows for the respective periods then ended.

(iv) All filings (other than immaterial filings) required to be made by Progress or any of its subsidiaries since January 1, 2007, under the 2005 Act, the Power Act, the Atomic Energy Act, the Natural Gas Act, the Natural Gas Policy Act of 1978, the Communications Act of 1934 and applicable state laws and regulations, have been filed with the SEC, the FERC, the Department of Energy (the "DOE"), the FCC or any applicable state public utility commissions (including, to the extent required, NCUC, PSCSC and FPSC), as the case may be, including all forms, statements, reports, agreements (oral or written) and all documents, exhibits, amendments and supplements appertaining thereto, including all rates, tariffs, franchises, service agreements and related documents, and all such filings complied, as of their respective dates, with all applicable requirements of the applicable statute and the rules and regulations thereunder, except for filings the failure of which to make or the failure of which to make in compliance with all applicable requirements of the applicable statute and the rules and regulations thereunder, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress.

(v) Progress has designed and maintains a system of internal control over financial reporting (as defined in Rules 13a–15(f) and 15d–15(f) of the Exchange Act) sufficient to provide reasonable assurances regarding the reliability of financial reporting. Progress (x) has designed and maintains disclosure controls and procedures (as defined in Rules 13a–15(e) and 15d–15(e) of the Exchange Act) to provide reasonable assurance that all information required to be disclosed by Progress in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and is accumulated and communicated to Progress's management as appropriate to allow timely decisions regarding required disclosure, and (y) has disclosed, based on its most recent evaluation of internal control over financial reporting, to Progress's outside auditors and the audit committee of the Board of Directors of Progress (A) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect Progress's ability to record, process, summarize and report financial information and (B) any fraud, whether or not material, that involves management or other employees who have a significant role in Progress's internal control over financial reporting. Since December 31, 2006, any material change in internal control over financial reporting required to be disclosed in any Progress SEC Report has been so disclosed.

(vi) Since December 31, 2006, (x) neither Progress nor any of its subsidiaries nor, to the knowledge of the Executive Officers (for the purposes of this Section 3.01(e)(vi), as such term is defined in Section 3b-7 of the Exchange Act) of Progress, any director, officer, employee, auditor, accountant or representative of Progress or any of its subsidiaries has received or otherwise obtained knowledge of any material complaint, allegation, assertion or claim, whether written or oral, regarding the accounting or auditing practices, procedures, methodologies or methods of Progress or any of its subsidiaries or their respective internal accounting controls relating to periods after December 31, 2006, including any material complaint, allegation, assertion or claim that Progress or any of its subsidiaries has engaged in questionable accounting or auditing practices (except for any of the foregoing after the date hereof which have no reasonable basis), and (y) to the knowledge of the Executive Officers of Progress, no attorney representing Progress or any of its subsidiaries, whether or not employed by Progress or any of its subsidiaries, has reported evidence of a material violation of securities laws, breach of fiduciary duty or similar violation, relating to periods after December 31, 2006, by Progress or any of its officers, directors, employees or agents to the Board of Directors of Progress or any committee thereof or to any director or Executive Officer of Progress.

(f) Absence of Certain Changes or Events. Since December 31, 2009, through the date hereof, Progress and its subsidiaries have conducted their respective businesses in all material respects in the ordinary course of business in a consistent manner since such date and there has not been any change, event or development that, individually or in the aggregate, has had or could reasonably be expected to have a material adverse effect on Progress.

(g) Absence of Undisclosed Liabilities. Except for matters reflected or reserved against in the consolidated balance sheet (or notes thereto) as of December 31, 2009, included in the Progress Financial Statements, neither Progress nor any of its subsidiaries has any liabilities or obligations (whether absolute, accrued, contingent, fixed or otherwise, or whether due or to become due) of any nature that would be required by GAAP to be reflected on a consolidated balance sheet of Progress and its consolidated subsidiaries (including the notes thereto), except liabilities or obligations (i) that were incurred in the ordinary course of business consistent with past practice since December 31, 2009, (ii) that were incurred in connection with the transactions contemplated by this Agreement and that are not material in the aggregate or (iii) that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress. Neither Progress nor any of its subsidiaries is a party to, or has any commitment to become a party to, any joint venture, off-balance sheet partnership or any similar contract or arrangement (including any Contract relating to any transaction or relationship between or among Progress and any of its subsidiaries, on the one hand, and any unconsolidated affiliate, including any structured finance, special purpose or limited purpose entity or person, on the other hand, or any "off-balance sheet arrangements" (as defined in Item 303(a) of Regulation S-K under the Exchange Act), where the result, purpose or effect of such contract or arrangement is to avoid disclosure of any material transaction involving, or material liabilities of, Progress or any of its subsidiaries, in the Progress Financial Statements or the Progress SEC Reports.

(h) Legal Proceedings. Except for Environmental Claims, which are the subject of Section 3.01(n), as of the date of this Agreement, (i) there are no actions, suits, arbitrations or proceedings pending or, to the knowledge of Progress, threatened against, relating to or affecting, nor to the knowledge of Progress are there any Governmental Authority investigations, inquiries

or audits pending or threatened against, relating to or affecting, Progress or any of its subsidiaries or any of the Progress Joint Ventures or any of their respective assets and properties that, in each case, individually or in the aggregate, have had or could reasonably be expected to have a material adverse effect on Progress and (ii) neither Progress nor any of its subsidiaries or material assets is subject to any order of any Governmental Authority that, individually or in the aggregate, has had or could reasonably be expected to have a material adverse effect on Progress.

(i) Information Supplied. None of the information supplied or to be supplied by Progress for inclusion or incorporation by reference in (i) the Form S-4 will, at the time the Form S-4 is filed with the SEC, at any time it is amended or supplemented or at the time it becomes effective under the Securities Act, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, or (ii) the Joint Proxy Statement will, at the date it is first mailed to Duke's shareholders or Progress's shareholders or at the time of the Progress Shareholders Meeting or the Duke Shareholders Meeting, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading. The Joint Proxy Statement (other than the portions thereof relating solely to the Duke Shareholders Meeting) will comply as to form in all material respects with the requirements of the Exchange Act and the rules and regulations thereunder, except that no representation is made by Progress with respect to statements made or incorporated by reference therein based on information supplied by or on behalf of Duke or Merger Sub for inclusion or incorporation by reference in the Joint Proxy Statement.

(j) Permits; Compliance with Laws and Orders. Progress, its subsidiaries and the Progress Joint Ventures hold all permits, licenses, certificates, notices, authorizations, approvals and similar Consents of all Governmental Authorities ("Permits") necessary for the lawful conduct of their respective businesses, except for failures to hold such Permits that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress. Progress, its subsidiaries and the Progress Joint Ventures are in compliance with the terms of their Permits, except failures so to comply that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress. Progress, its subsidiaries and the Progress Joint Ventures are not, and since January 1, 2008 have not been, in violation of or default under any law or order of any Governmental Authority, except for such violations or defaults that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress. Progress is, and since January 1, 2008 has been, in compliance in all material respects with (i) SOX and (ii) the applicable listing standards and corporate governance rules and regulations of the NYSE. The above provisions of this Section 3.01(j) do not relate to matters with respect to taxes, such matters being the subject of Section 3.01(k), Environmental Permits and Environmental Laws, such matters being the subject of Section 3.01(n), benefits plans, such matters being the subject of Section 3.01(l) and nuclear power plants, such matters being the subject of Section 3.01(o).

(k) Taxes.

(i) Except as has not had, and could not reasonably be expected to have, a material adverse effect on Progress:

(A) Each of Progress and its subsidiaries has timely filed, or has caused to be timely filed on its behalf, all Tax Returns required to be filed by it, and all such Tax Returns are true, complete and accurate. All Taxes shown to be due and owing on such Tax Returns have been timely paid.

(B) The most recent financial statements contained in the Progress SEC Reports filed prior to the date of this Agreement reflect, in accordance with GAAP, an adequate reserve for all Taxes payable by Progress and its subsidiaries for all taxable periods through the date of such financial statements.

(C) There is no audit, examination, deficiency, refund litigation, proposed adjustment or matter in controversy with respect to any Taxes or Tax Return of Progress or its subsidiaries, and, to the knowledge of Progress, neither Progress nor any of its subsidiaries has received written notice of any claim made by a governmental authority in a jurisdiction where Progress or any of its subsidiaries, as applicable, does not file a Tax Return, that Progress or such subsidiary is or may be subject to income taxation by that jurisdiction. No deficiency with respect to any Taxes has been proposed, asserted or assessed against Progress or any of its subsidiaries, and no requests for waivers of the time to assess any Taxes are pending.

(D) There are no outstanding written agreements, consents or waivers to extend the statutory period of limitations applicable to the assessment of any Taxes or deficiencies against Progress or any of its subsidiaries, and no power of attorney granted by either Progress or any of its subsidiaries with respect to any Taxes is currently in force.

(E) Neither Progress nor any of its subsidiaries is a party to any agreement providing for the allocation or sharing of Taxes imposed on or with respect to any individual or other person (other than (I) such agreements with customers, vendors, lessors or the like entered into in the ordinary course of business and (II) agreements with or among Progress or any of its subsidiaries), and neither Progress nor any of its subsidiaries (A) has been a member of an affiliated group (or similar state, local or foreign filing group) filing a consolidated U.S. federal income Tax Return (other than the group the common parent of which is Progress or a subsidiary of Progress) or (B) has any liability for the Taxes of any person (other than Progress or any of its subsidiaries) (I) under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local or foreign law), or (II) as a transferee or successor.

(F) There are no material Liens for Taxes (other than for current Taxes not yet due and payable) on the assets of Progress and its subsidiaries.

(ii) Neither Progress nor any of its subsidiaries has taken or agreed to take any action or knows of any fact, agreement, plan or other circumstance that is reasonably likely to prevent or impede the Merger from qualifying as a reorganization under Section 368(a) of the Code.

For purposes of this Agreement:

"Taxes" means any and all federal, state, local, foreign or other taxes of any kind (together with any and all interest, penalties, additions to tax and additional amounts imposed with respect thereto) imposed by any governmental authority, including, without limitation, taxes or other charges on or with respect to income, franchises, windfall or other profits, gross receipts, property, sales, use, capital stock, payroll, employment, unemployment, social security, workers' compensation, or net worth, and taxes or other charges in the nature of excise, withholding, ad valorem or value added.

"Tax Return" means any return, report or similar statement (including the schedules attached thereto) required to be filed with respect to Taxes, including, without limitation, any information return, claim for refund, amended return, or declaration of estimated Taxes.

(l) Employee Benefit Plans; ERISA.

(i) Except for such matters that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress, (A) all Progress Employee Benefit Plans are in compliance with all applicable requirements of law, including the Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations thereunder ("ERISA"), and the Code, and (B) there does not now exist, nor do any circumstances exist that could result in, any Controlled Group Liability that would be a liability of Progress or any of its subsidiaries following the Closing. The only material employment agreements, severance agreements or severance policies applicable to Progress or any of its subsidiaries are the agreements and policies disclosed in Section 3.01(l)(i) of the Progress Disclosure Letter.

(ii) As used herein:

(A) "Controlled Group Liability" means any and all liabilities (1) under Title IV of ERISA, (2) under Section 302 of ERISA, (3) under Sections 412 and 4971 of the Code, and (4) as a result of a failure to comply with the continuation coverage requirements of Section 601 et seq. of ERISA and Section 4980B of the Code;

(B) "Progress Employee Benefit Plan" means any Plan entered into, established, maintained, sponsored, contributed to or required to be contributed to by Progress or any of its subsidiaries for the benefit of the current or former employees or directors of Progress or any of its subsidiaries and existing on the date of this Agreement or at any time subsequent thereto and, in the case of a Plan that is subject to Part 3 of Title I of ERISA, Section 412 of the Code or Title IV of ERISA, at any time during the five-year period preceding the date of this Agreement with respect to which Progress or any of its subsidiaries has or could reasonably be expected to have any present or future actual or contingent liabilities; and

(C) "Plan" means any employment, bonus, incentive compensation, deferred compensation, long term incentive, pension, profit sharing, retirement, stock purchase, stock option, stock ownership, stock appreciation rights, phantom

stock, leave of absence, layoff, vacation, day or dependent care, legal services, cafeteria, life, health, medical, accident, disability, workmen's compensation or other insurance, retention, severance, separation, termination, change of control or other benefit plan, agreement, practice, policy, program, scheme or arrangement of any kind, whether written or oral, including any "employee benefit plan" within the meaning of Section 3(3) of ERISA.

(iii) No event has occurred, and there exists no condition or set of circumstances in connection with any Progress Employee Benefit Plan, that has had or could reasonably be expected to have a material adverse effect on Progress.

(iv) Section 3.01(l)(iv) of the Progress Disclosure Letter identifies each Progress Employee Benefit Plan that provides, upon the occurrence of a change in the ownership or effective control of Progress or its subsidiaries or a change in the ownership of all or a substantial portion of the assets of Progress or its subsidiaries, either alone or upon the occurrence of any additional or subsequent events and whether or not applicable to the transactions contemplated by this Agreement, for (A) an acceleration of the time of payment of or vesting in, or an increase in the amount of, compensation or benefits due any current or former employee, director or officer of Progress or its subsidiaries, (B) any forgiveness of indebtedness or obligation to fund compensation or benefits with respect to any such employee, director or officer, or (C) an entitlement of any such employee, director or officer to severance pay, unemployment compensation or any other payment or other benefit.

(v) Each Progress Employee Benefit Plan that is in any part a "nonqualified deferred compensation plan" subject to Section 409A of the Code (A) materially complies and, at all times after December 31, 2008 has materially complied, both in form and operation, with the requirements of Section 409A of the Code and the final regulations thereunder and (B) between January 1, 2005 and December 31, 2008 was operated in material reasonable, good faith compliance with Section 409A of the Code, as determined under applicable guidance of the United States Department of the Treasury (the "Treasury") and the Internal Revenue Service.

(m) Labor Matters. As of the date hereof, neither Progress nor any of its subsidiaries is a party to, bound by or in the process of negotiating any collective bargaining agreement or other labor agreement with any union or labor organization. As of the date of this Agreement, there are no disputes, grievances or arbitrations pending or, to the knowledge of Progress, threatened between Progress or any of its subsidiaries and any trade union or other representatives of its employees and there is no charge or complaint pending or threatened in writing against Progress or any of its subsidiaries before the National Labor Relations Board (the "NLRB") or any similar Governmental Authority, except in each case as, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress, and, to the knowledge of Progress, as of the date of this Agreement, there are no material organizational efforts presently being made involving any of the employees of Progress or any of its subsidiaries. From December 31, 2007, to the date of this Agreement, there has been no work stoppage, strike, slowdown or lockout by or affecting employees of Progress or any of its subsidiaries and, to the knowledge of Progress, no such action has been threatened in writing, except in each case as, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress. Except as, individually or in the aggregate, has not had and

could not reasonably be expected to have a material adverse effect on Progress: (A) there are no litigations, lawsuits, claims, charges, complaints, arbitrations, actions, investigations or proceedings pending or, to the knowledge of Progress, threatened between or involving Progress or any of its subsidiaries and any of their respective current or former employees, independent contractors, applicants for employment or classes of the foregoing; (B) Progress and its subsidiaries are in compliance with all applicable laws, orders, agreements, contracts and policies respecting employment and employment practices, including, without limitation, all legal requirements respecting terms and conditions of employment, equal opportunity, workplace health and safety, wages and hours, child labor, immigration, discrimination, disability rights or benefits, facility closures and layoffs, workers' compensation, labor relations, employee leaves and unemployment insurance; and (C) since January 1, 2007, neither Progress nor any of its subsidiaries has engaged in any "plant closing" or "mass layoff," as defined in the Worker Adjustment Retraining and Notification Act or any comparable state or local law (the "WARN Act"), without complying with the notice requirements of such laws.

(n) Environmental Matters.

(i) Each of Progress, its subsidiaries and the Progress Joint Ventures since January 1, 2008 has been and is in compliance with all applicable Environmental Laws (as hereinafter defined), except where the failure to be in such compliance, individually or in the aggregate, has not had and could not reasonably be expected to have a material adverse effect on Progress.

(ii) Each of Progress, its subsidiaries and the Progress Joint Ventures has obtained all Permits under Environmental Laws (collectively, the "Environmental Permits") necessary for the construction of their facilities and the conduct of their operations as of the date of this Agreement, as applicable, and all such Environmental Permits are validly issued, in full force and effect, and final, and Progress, its subsidiaries and the Progress Joint Ventures are in compliance with all terms and conditions of the Environmental Permits, except where the failure to obtain such Environmental Permits, of such Permits to be in good standing or, where applicable, of a renewal application to have been timely filed and be pending or to be in such compliance, individually or in the aggregate, has not had and could not reasonably be expected to have a material adverse effect on Progress.

(iii) There is no Environmental Claim (as hereinafter defined) pending:

(A) against Progress or any of its subsidiaries or any of the Progress Joint Ventures;

(B) to the knowledge of Progress, against any person or entity whose liability for such Environmental Claim has been retained or assumed either contractually or by operation of law by Progress or any of its subsidiaries or any of the Progress Joint Ventures; or

(C) against any real or personal property or operations that Progress or any of its subsidiaries or any of the Progress Joint Ventures owns, leases or manages, in whole or in part, or, to the knowledge of Progress, formerly owned,

leased or managed, in whole or in part, except in the case of clause (A), (B) or (C) for such Environmental Claims that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress.

(iv) To the knowledge of Progress, there have not been any Releases (as hereinafter defined) of any Hazardous Material (as hereinafter defined) that would be reasonably likely to form the basis of any Environmental Claim against Progress or any of its subsidiaries or any of the Progress Joint Ventures, in each case, except for such Releases that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress.

(v) As used in this Section 3.01(n) and in Section 3.02(n):

(A) "Environmental Claim" means any and all administrative, regulatory or judicial actions, suits, orders, demands, demand letters, directives, claims, liens, investigations, proceedings or notices of noncompliance, liability or violation (written or oral) by any person or entity (including any Governmental Authority) alleging potential liability (including potential responsibility or liability for enforcement, investigatory costs, cleanup costs, governmental response costs, removal costs, remedial costs, natural resources damages, property damages, personal injuries or penalties) arising out of, based on or resulting from circumstances forming the basis of any actual or alleged noncompliance with, violation of, or liability under, any Environmental Law or Environmental Permit;

(B) "Environmental Laws" means all domestic or foreign federal, state and local laws, principles of common law and orders relating to pollution, the environment (including ambient air, surface water, groundwater, land surface or subsurface strata) or protection of human health as it relates to the environment including laws relating to the presence or Release of Hazardous Materials, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of, or exposure to, Hazardous Materials;

(C) "Hazardous Materials" means (a) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, and polychlorinated biphenyls; and (b) any chemical, material, substance or waste that is prohibited, limited or regulated under any Environmental Law; and

(D) "Release" means any, spill, emission, leaking, injection, deposit, disposal, discharge, dispersal, leaching or migration into the atmosphere, soil, surface water, groundwater or property.

(o) Ownership of Nuclear Power Plants. The operations of the nuclear generation stations owned, in whole or part, by Progress or its subsidiaries (collectively, the "Progress Nuclear Facilities") are and have been conducted in compliance with all applicable laws and Permits, except for such failures to comply that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress. Each of the

Progress Nuclear Facilities maintains, and is in material compliance with, emergency plans designed to respond to an unplanned Release therefrom of radioactive materials and each such plan conforms with the requirements of applicable law in all material respects. The plans for the decommissioning of each of the Progress Nuclear Facilities and for the storage of spent nuclear fuel conform with the requirements of applicable law in all material respects and, solely with respect to the portion of the Progress Nuclear Facilities owned, directly or indirectly, by Progress, are funded consistent with applicable law. Since December 31, 2008, the operations of the Progress Nuclear Facilities have not been the subject of any notices of violation, any ongoing proceeding, NRC Diagnostic Team Inspections or requests for information from the NRC or any other agency with jurisdiction over such facility, except for such notices or requests for information that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress. No Progress Nuclear Facility is listed by the NRC in the Unacceptable Performance column of the NRC Action Matrix, as a part of NRC's Assessment of Licensee Performance. Liability insurance to the full extent required by law for operating the Progress Nuclear Facilities remains in full force and effect regarding such facilities, except for failures to maintain such insurance in full force and effect that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress.

(p) Vote Required. Assuming the accuracy of the representation and warranty contained in Section 3.02(r), the affirmative vote of the holders of record of at least a majority of the outstanding shares of Progress Common Stock, with respect to the approval of this Agreement (the "Progress Shareholder Approval"), is the only vote of the holders of any class or series of the capital stock of Progress or its subsidiaries required to approve this Agreement, the Merger and the other transactions contemplated hereby.

(q) Opinions of Financial Advisors. The Board of Directors of Progress has received the opinion of each of Lazard Freres & Co. LLC and Barclays Capital Inc., to the effect that, as of the date of such opinion and based on the assumptions, qualifications and limitations contained therein, the Exchange Ratio is fair, from a financial point of view, to the holders of Progress Common Stock.

(r) Ownership of Duke Capital Stock. Neither Progress nor any of its subsidiaries or other affiliates beneficially owns any shares of Duke capital stock.

(s) Articles 9 and 9A of the NCBCA Not Applicable; Other Statutes. Progress has taken all necessary actions, if any, so that the provisions of Articles 9 and 9A of the NCBCA will not, before the termination of this Agreement, apply to this Agreement, the Merger or the other transactions contemplated hereby. No "fair price," "merger moratorium," "control share acquisition," or other anti-takeover or similar statute or regulation applies or purports to apply to this Agreement, the Merger or the other transactions contemplated hereby.

(t) Joint Venture Representations. Each representation or warranty made by Progress in this Section 3.01 relating to a Progress Joint Venture that is neither operated nor managed solely by Progress or a Progress subsidiary shall be deemed made only to the knowledge of Progress.

(u) Insurance. Except for failures to maintain insurance or self-insurance that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Progress, from January 1, 2007, through the date of this Agreement, each of Progress and its subsidiaries has been continuously insured with financially responsible insurers or has self-insured, in each case in such amounts and with respect to such risks and losses as are customary for companies in the United States conducting the business conducted by Progress and its subsidiaries during such time period. Neither Progress nor any of its subsidiaries has received any notice of any pending or threatened cancellation, termination or premium increase with respect to any insurance policy of Progress or any of its subsidiaries, except with respect to any cancellation, termination or premium increase that, individually or in the aggregate, has not had and could not reasonably be expected to have a material adverse effect on Progress.

(v) Energy Price Risk Management. Progress has established risk parameters, limits and guidelines in compliance with the risk management policy approved by Progress's Board of Directors (the "Progress Risk Management Guidelines") and monitors compliance by Progress and its subsidiaries with such energy price risk parameters. Progress has provided the Progress Risk Management Guidelines to Duke prior to the date of this Agreement. Progress is in compliance in all material respects with the Progress Risk Management Guidelines.

(w) Progress Material Contracts.

(i) For purposes of this Agreement, the term "Progress Material Contract" shall mean any Contract to which Progress or any of its subsidiaries is a party or bound as of the date hereof:

(A) that is a "material contract" (as such term is defined in Item 601(b)(10) of Regulation S-K of the SEC);

(B) that (1) purports to limit in any material respect either the type of business in which Progress or its subsidiaries (or, after the Effective Time, Duke or its subsidiaries) or any of their respective affiliates may engage or the manner or geographic area in which any of them may so engage in any business, (2) would require the disposition of any material assets or line of business of Progress or its subsidiaries (or, after the Effective Time, Duke or its subsidiaries) or any of their respective affiliates as a result of the consummation of the transactions contemplated by this Agreement, (3) is a material Contract that grants "most favored nation" status that, following the Effective Time, would impose obligations upon Duke or its subsidiaries, including Progress and its subsidiaries, or (4) prohibits or limits, in any material respect, the right of Progress or any of its subsidiaries (or, after the Effective Time, Duke or its subsidiaries) to make, sell or distribute any products or services or use, transfer, license or enforce any of their respective intellectual property rights; or

(C) that (1) has an aggregate principal amount, or provides for an aggregate obligation, in excess of $100,000,000 (I) evidencing indebtedness for borrowed money of Progress or any of its subsidiaries to any third party, (II) guaranteeing any such indebtedness of a third party or (III) containing a covenant

restricting the payment of dividends, or (2) has the economic effect of any of the items set forth in subclause (1) above.

(ii) Neither Progress nor any subsidiary of Progress is in breach of or default under the terms of any Progress Material Contract and no event has occurred that (with or without notice or lapse of time or both) could result in a breach or default under any Progress Material Contract where such breach or default could reasonably be expected to have, individually or in the aggregate, a material adverse effect on Progress. To the knowledge of Progress, no other party to any Progress Material Contract is in breach of or default under the terms of any Progress Material Contract where such breach or default has had, or could reasonably be expected to have, individually or in the aggregate, a material adverse effect on Progress. Except as could not reasonably be expected to have, individually or in the aggregate, a material adverse effect on Progress, each Progress Material Contract is a valid and binding obligation of Progress or the subsidiary of Progress which is party thereto and, to the knowledge of Progress, of each other party thereto, and is in full force and effect, except that such enforcement may be subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws, now or hereafter in effect, relating to creditors' rights generally and to general equitable principles.

(x) Anti-Bribery Laws.

(i) To the knowledge of Progress, Progress and its subsidiaries are, and since January 1, 2008, have been, in compliance in all material respects with all statutory and regulatory requirements under the Foreign Corrupt Practices Act (15 U.S.C. §§ 78dd-1, et seq.), as amended, the Anti-Kickback Act of 1986, as amended, the Organization for Economic Cooperation and Development Convention Against Bribery of Foreign Officials in International Business Transactions and all legislation implementing such convention and all other international anti-bribery conventions, and all other anti-corruption and bribery laws (including any applicable written standards, requirements, directives or policies of any Governmental Authority) (the "Anti-Bribery Laws") in jurisdictions in which Progress and its subsidiaries have operated or currently operate. Since January 1, 2008, neither Progress nor any of its subsidiaries has received any communication from any Governmental Authority or any written communication from any third party that alleges that Progress, any of its subsidiaries or any employee or agent thereof is in material violation of any Anti-Bribery Laws, and no such potential or actual material violation or liability has been discovered.

(ii) Without limiting the other provisions of this Section 3.01(x), since January 1, 2008, none of Progress or its subsidiaries nor, to the knowledge of Progress, any of their respective current or former directors, officers, principals, employees, managers, sales persons, consultants or other agents or representatives, distributors, contractors, joint venturers or any other person acting on any of their behalf, has, directly or indirectly, made or offered or solicited or accepted any contribution, gift, gratuity, entertainment, bribe, rebate, payoff, influence payment, kickback or other payment or anything else of value to or from any person, private or public (including customers, potential customers, political parties, elected officials and candidates), whether in money, property, services or any other form, to influence any act of such person in such person's official capacity, inducing such person to do or omit to do any act in violation of the lawful official duty of such person or securing an improper advantage or to induce such person to use such person's influence to obtain or retain business for Progress or its subsidiaries or otherwise

to confer any benefit to Progress or its subsidiaries in violation in any material respect of any Anti-Bribery Laws.

(iii) Since January 1, 2006, neither Progress nor any of its subsidiaries has made any disclosure (voluntary or otherwise) to any Governmental Authority with respect to any alleged material irregularity, material misstatement or material omission or other potential material violation or liability arising under or relating to any Anti-Bribery Law.

Section 3.02 Representations and Warranties of Duke and Merger Sub. Except as set forth in the letter dated the date of this Agreement and delivered to Progress by Duke concurrently with the execution and delivery of this Agreement (the "Duke Disclosure Letter") or, to the extent the qualifying nature of such disclosure is readily apparent therefrom and excluding any forward-looking statements, risk factors and other similar statements that are cautionary and non-specific in nature, as set forth in the Duke SEC Reports filed on or after January 1, 2009 and prior to the date hereof, Duke and Merger Sub represent and warrant to Progress as follows:

(a) Organization and Qualification.

(i) Each of Duke and its subsidiaries is duly organized, validly existing and in good standing (with respect to jurisdictions that recognize the concept of good standing) under the laws of its jurisdiction of organization and has full power and authority to conduct its business as and to the extent now conducted and to own, use and lease its assets and properties, except for such failures to be so organized, existing and in good standing (with respect to jurisdictions that recognize the concept of good standing) or to have such power and authority that, individually or in the aggregate, have not had and could not be reasonably expected to have a material adverse effect on Duke. Each of Duke and its subsidiaries is duly qualified, licensed or admitted to do business and is in good standing (with respect to jurisdictions that recognize the concept of good standing) in each jurisdiction in which the ownership, use or leasing of its assets and properties, or the conduct or nature of its business, makes such qualification, licensing or admission necessary, except for such failures to be so qualified, licensed or admitted and in good standing (with respect to jurisdictions that recognize the concept of good standing) that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke. Section 3.02(a) of the Duke Disclosure Letter sets forth as of the date of this Agreement the name and jurisdiction of organization of each subsidiary of Duke. Merger Sub is a newly formed corporation and has engaged in no activities except as contemplated by this Agreement. All of the outstanding capital stock of Merger Sub is owned directly by Duke. No subsidiary of Duke owns any stock in Duke. Duke has made available to Progress prior to the date of this Agreement a true and complete copy of Duke's certificate of incorporation and by-laws, each as amended through the date hereof.

(ii) Section 3.02(a) of the Duke Disclosure Letter sets forth a description as of the date of this Agreement, of all Duke Joint Ventures, including (x) the name of each such entity and (y) a brief description of the principal line or lines of business conducted by each such entity.

(iii) Except for interests in the subsidiaries of Duke, the Duke Joint Ventures and interests acquired after the date of this Agreement without violating any covenant or agreement set forth herein, neither Duke nor any of its subsidiaries directly or indirectly owns any

equity or similar interest in, or any interest convertible into or exchangeable or exercisable for, any equity or similar interest in, any person, in which the invested capital associated with such interest of Duke or any of its subsidiaries exceeds, individually as of the date of this Agreement, $100,000,000.

(b) Capital Stock.

(i) The authorized capital stock of Duke consists of:

(A) 2,000,000,000 shares of common stock, par value $0.001 per share (the "Duke Common Stock"), of which 1,324,548,714 shares were outstanding as of October 29, 2010; and

(B) 44,000,000 shares of preferred stock, par value $0.001 per share, none of which were outstanding as of the date of this Agreement.

As of the date of this Agreement, no shares of Duke Common Stock are held in the treasury of Duke. As of the date of this Agreement, 13,869,567 shares of Duke Common Stock were subject to outstanding stock options granted under the Duke Employee Stock Option Plans ("Duke Employee Stock Options"), 1,756,064 shares of Duke Common Stock were subject to outstanding awards of phantom stock units of Duke Common Stock ("Duke Phantom Stock Units"), 7,549,720 shares of Duke Common Stock were subject to outstanding awards of performance shares of Duke Common Stock, determined at maximum performance levels ("Duke Performance Shares") and 75,901,515 additional shares of Duke Common Stock were reserved for issuance pursuant to the Duke Power Company Stock Incentive Plan, the Duke Energy Corporation 1998 Long-Term Incentive Plan, the Duke Energy Corporation 2006 Long-Term Incentive Plan, the Duke Energy Corporation 2010 Long-Term Incentive Plan, the Duke Energy Corporation Directors' Savings Plan, the Duke Energy Corporation Executive Savings Plan and any other compensatory plan, program or arrangement under which shares of Duke Common Stock are reserved for issuance (collectively, the "Duke Employee Stock Option Plans"). Since October 29, 2010, no shares of Duke Common Stock have been issued except pursuant to the Duke Employee Stock Option Plans and Duke Employee Stock Options issued thereunder, and from October 29, 2010 to the date of this Agreement, no shares of Duke Common Stock have been issued other than 268,498 shares of Duke Common Stock issued pursuant to the Duke Employee Stock Option Plans or Duke Employee Stock Options issued thereunder. All of the issued and outstanding shares of Duke Common Stock are, and all shares reserved for issuance will be, upon issuance in accordance with the terms specified in the instruments or agreements pursuant to which they are issuable, duly authorized, validly issued, fully paid and nonassessable. Except as disclosed in this Section 3.02(b), as of date of this Agreement there are no outstanding Options obligating Duke or any of its subsidiaries (A) to issue or sell any shares of capital stock of Duke, (B) to grant, extend or enter into any Option with respect thereto, (C) redeem or otherwise acquire any such shares of capital stock or other equity interests or (D) provide a material amount of funds to, or make any material investment (in the form of a loan, capital contribution or otherwise) in, any of their respective subsidiaries.

(ii) Except as permitted by this Agreement, all of the outstanding shares of capital stock of each subsidiary of Duke are duly authorized, validly issued, fully paid and

nonassessable and are owned, beneficially and of record, by Duke or a subsidiary of Duke, free and clear of any Liens, except for any of the foregoing that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke. All of the outstanding shares of capital stock of Merger Sub are duly authorized, validly issued, fully paid and nonassessable and are owned, beneficially and of record, directly by Duke. The shares of Merger Sub owned by Duke are owned free and clear of any Liens. There are no (A) outstanding Options obligating Duke or any of its subsidiaries to issue or sell any shares of capital stock of any subsidiary of Duke or to grant, extend or enter into any such Option or (B) voting trusts, proxies or other commitments, understandings, restrictions or arrangements in favor of any person other than Duke or a subsidiary wholly-owned, directly or indirectly, by Duke with respect to the voting of or the right to participate in dividends or other earnings on any capital stock of Duke or any subsidiary of Duke.

(iii) As of the date of this Agreement, none of the subsidiaries of Duke or the Duke Joint Ventures is a "public utility company," a "holding company," a "subsidiary company" or an "affiliate" of any holding company within the meaning of Section 2(a)(5), 2(a)(7), 2(a)(8) or 2(a)(11) of the 2005 Act, respectively. None of Duke, its subsidiaries and the Duke Joint Ventures is registered under the 2005 Act.

(iv) As of the date of this Agreement, no bonds, debentures, notes or other indebtedness of Duke or any of its subsidiaries having the right to vote (or which are convertible into or exercisable for securities having the right to vote) (collectively, "Duke Voting Debt") on any matters on which Duke shareholders may vote are issued or outstanding nor are there any outstanding Options obligating Duke or any of its subsidiaries to issue or sell any Duke Voting Debt or to grant, extend or enter into any Option with respect thereto.

(v) Each share of Duke Common Stock to be issued in the Merger shall be duly authorized, validly issued, fully paid and nonassessable and free and clear of any Liens.

(vi) There have been no repricings of any Duke Employee Stock Options through amendments, cancellation and reissuance or other means during the current or prior two (2) calendar years. None of the Duke Employee Stock Options, Duke Phantom Stock Units or Duke Performance Shares (A) have been granted since August 6, 2010, except as permitted by this Agreement, or (B) have been granted in contemplation of the Merger or the transactions contemplated in this Agreement. None of the Duke Employee Stock Options was granted with an exercise price below the per share closing price on the NYSE on the date of grant. All grants of Duke Employee Stock Options, Duke Phantom Stock Units and Duke Performance Shares were validly made and properly approved by the Board of Directors of Duke (or a duly authorized committee or subcommittee thereof) in compliance with all applicable laws and recorded on the consolidated financial statements of Duke in accordance with GAAP, and no such grants of Duke Employee Stock Options involved any "back dating," "forward dating" or similar practices.

(c) Authority. Duke has full corporate power and authority to enter into this Agreement, to perform its obligations hereunder and, subject to obtaining Duke Shareholder Approval, to consummate the transactions contemplated hereby. The execution, delivery and performance of this Agreement by Duke and the consummation by Duke of the transactions contemplated hereby have been duly and validly adopted and unanimously approved by the Board

of Directors of Duke, the Board of Directors of Duke has recommended approval by the shareholders of Duke of the Duke Charter Amendment and the Duke Share Issuance, and directed that the Duke Charter Amendment and Duke Share Issuance be submitted to the shareholders of Duke for their approval, and no other corporate proceedings on the part of Duke or its shareholders are necessary to authorize the execution, delivery and performance of this Agreement by Duke and the consummation by Duke of the Merger and the other transactions contemplated hereby, other than obtaining Duke Shareholder Approval. This Agreement has been duly and validly executed and delivered by Duke and, assuming this Agreement constitutes the legal, valid and binding obligation of Progress, constitutes a legal, valid and binding obligation of Duke enforceable against Duke in accordance with its terms, except that such enforcement may be subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws, now or hereafter in effect, relating to creditors' rights generally and to general equitable principles.

(d) No Conflicts; Approvals and Consents.

(i) The execution and delivery of this Agreement by Duke does not, and the performance by Duke of its obligations hereunder and the consummation of the Merger and the other transactions contemplated hereby will not, conflict with, result in a violation or breach of, constitute (with or without notice or lapse of time or both) a default under, result in or give to any person any right of payment or reimbursement, termination, cancellation, modification or acceleration of, or result in the creation or imposition of any Lien upon any of the assets or properties of Duke or any of its subsidiaries or any of the Duke Joint Ventures under, any of the terms, conditions or provisions of (A) subject to the effectiveness of the Duke Charter Amendment, the certificates or articles of incorporation or by-laws (or other comparable organizational documents) of Duke or any of its subsidiaries or any of the Duke Joint Ventures, or (B) subject to the obtaining of Duke Shareholder Approval and the taking of the actions described in paragraph (ii) of this Section 3.02(d), including the Duke Required Statutory Approvals, (x) any laws or orders of any Governmental Authority applicable to Duke or any of its subsidiaries or any of the Duke Joint Ventures or any of their respective assets or properties, or (y) any note, bond, mortgage, security agreement, credit agreement, indenture, license, franchise, permit, concession, contract, lease, obligation or other instrument to which Duke or any of its subsidiaries or any of the Duke Joint Ventures is a party or by which Duke or any of its subsidiaries or any of the Duke Joint Ventures or any of their respective assets or properties is bound, excluding from the foregoing clauses (x) and (y) such items that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke.

(ii) Except for (A) compliance with, and filings under, the HSR Act; (B) the filing with and, to the extent required, the declaration of effectiveness by, the SEC of (1) the Joint Proxy Statement pursuant to the Exchange Act, (2) the Form S-4 and (3) such reports under the Exchange Act as may be required in connection with this Agreement and the transactions contemplated hereby; (C) the filing of documents with various state securities authorities that may be required in connection with the transactions contemplated hereby; (D) such filings with and approvals of the NYSE with respect to the Duke Charter Amendment, if necessary, and to permit the shares of Duke Common Stock that are to be issued pursuant to Article II to be listed on the NYSE; (E) the registration, consents, approvals and notices required under the 2005 Act; (F) notice to, and the consent and approval of, FERC under Section 203 of the Power Act, or an order under the Power Act disclaiming jurisdiction over the transactions contemplated hereby; (G) the

filing of an application to, and consent and approval of, and issuance of any required licenses and license amendments by, the NRC under the Atomic Energy Act; (H) the filing of the Certificate of Amendment with respect to the Duke Charter Amendment with the Secretary of State of the State of Delaware and the Articles of Merger and other appropriate merger documents required by the NCBCA with the Secretary of State of the State of North Carolina and appropriate documents with the relevant authorities of other states in which Duke is qualified to do business; (I) compliance with and such filings as may be required under applicable Environmental Laws; (J) to the extent required, notice to and the approval of, the Applicable PSCs; (K) the FCC Pre-Approvals; (L) such other items as disclosed in Section 3.02(d) of the Duke Disclosure Letter; and (M) compliance with, and filings under, antitrust or competition laws of any foreign jurisdiction, if required (the items set forth above in clauses (A) through (H) and (J) collectively, the "Duke Required Statutory Approvals"), no Consents or action of, registration, declaration or filing with or notice to any Governmental Authority is necessary or required to be obtained or made in connection with the execution and delivery of this Agreement by Duke, the performance by Duke of its obligations hereunder or the consummation of the Merger and the other transactions contemplated hereby, other than such items that the failure to make or obtain, as the case may be, individually or in the aggregate, could not reasonably be expected to have a material adverse effect on Duke.

(e) SEC Reports, Financial Statements and Utility Reports.

(i) Duke and its subsidiaries have filed or furnished each form, report, schedule, registration statement, registration exemption, if applicable, definitive proxy statement and other document (together with all amendments thereof and supplements thereto) required to be filed or furnished by Duke or any of its subsidiaries pursuant to the Securities Act or the Exchange Act with the SEC since January 1, 2007 (as such documents have since the time of their filing been amended or supplemented, the "Duke SEC Reports"). As of their respective dates, after giving effect to any amendments or supplements thereto, the Duke SEC Reports (A) complied as to form in all material respects with the requirements of the Securities Act and the Exchange Act, if applicable, as the case may be, and, to the extent applicable, SOX and (B) did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

(ii) Each of the principal executive officer of Duke and the principal financial officer of Duke (or each former principal executive officer of Duke and each former principal financial officer of Duke, as applicable) has made all certifications required by Rule 13a-14 or 15d-14 under the Exchange Act or Sections 302 and 906 of SOX and the rules and regulations of the SEC promulgated thereunder with respect to the Duke SEC Reports. For purposes of the preceding sentence, "principal executive officer" and "principal financial officer" shall have the meanings given to such terms in SOX. Since January 1, 2007, neither Duke nor any of its subsidiaries has arranged any outstanding "extensions of credit" to directors or executive officers within the meaning of Section 402 of SOX.

(iii) The audited consolidated financial statements and unaudited interim consolidated financial statements (including, in each case, the notes, if any, thereto) included in the Duke SEC Reports (the "Duke Financial Statements") complied as to form in all material respects with the published rules and regulations of the SEC with respect thereto in effect at the time of

filing or furnishing the applicable Duke SEC Report, were prepared in accordance with GAAP applied on a consistent basis during the periods involved (except as may be indicated therein or in the notes thereto and except with respect to unaudited statements as permitted by Form 10-Q of the SEC) and fairly present (subject, in the case of the unaudited interim financial statements, to normal, recurring year-end audit adjustments that were not or are not expected to be, individually or in the aggregate, materially adverse to Duke) the consolidated financial position of Duke and its consolidated subsidiaries as of the respective dates thereof and the consolidated results of their operations and cash flows for the respective periods then ended.

(iv) All filings (other than immaterial filings) required to be made by Duke or any of its subsidiaries since January 1, 2007, under the 2005 Act, the Power Act, the Atomic Energy Act, the Natural Gas Act, the Natural Gas Policy Act of 1978, the Communications Act of 1934 and applicable state laws and regulations, have been filed with the SEC, the FERC, the DOE, the NRC, the FCC or any applicable state public utility commissions (including, to the extent required, NCUC, PSCSC, PUCO, IURC and KPSC), as the case may be, including all forms, statements, reports, agreements (oral or written) and all documents, exhibits, amendments and supplements appertaining thereto, including all rates, tariffs, franchises, service agreements and related documents, and all such filings complied, as of their respective dates, with all applicable requirements of the applicable statute and the rules and regulations thereunder, except for filings the failure of which to make or the failure of which to make in compliance with all applicable requirements of the applicable statute and the rules and regulations thereunder, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke.

(v) Duke has designed and maintains a system of internal control over financial reporting (as defined in Rules 13a–15(f) and 15d–15(f) of the Exchange Act) sufficient to provide reasonable assurances regarding the reliability of financial reporting. Duke (x) has designed and maintains disclosure controls and procedures (as defined in Rules 13a–15(e) and 15d–15(e) of the Exchange Act) to provide reasonable assurance that all information required to be disclosed by Duke in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and is accumulated and communicated to Duke's management as appropriate to allow timely decisions regarding required disclosure, and (y) has disclosed, based on its most recent evaluation of internal control over financial reporting , to Duke's outside auditors and the audit committee of the Board of Directors of Duke (A) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect Duke's ability to record, process, summarize and report financial information and (B) any fraud, whether or not material, that involves management or other employees who have a significant role in Duke's internal control over financial reporting. Since December 31, 2006, any material change in internal control over financial reporting required to be disclosed in any Duke SEC Report has been so disclosed.

(vi) Since December 31, 2006, (x) neither Duke nor any of its subsidiaries nor, to the knowledge of the Executive Officers (for the purposes of this Section 3.02(e)(vi), as such term is defined in Section 3b-7 of the Exchange Act) of Duke, any director, officer, employee, auditor, accountant or representative of Duke or any of its subsidiaries has received or otherwise obtained knowledge of any material complaint, allegation, assertion or claim, whether written or

oral, regarding the accounting or auditing practices, procedures, methodologies or methods of Duke or any of its subsidiaries or their respective internal accounting controls relating to periods after December 31, 2006, including any material complaint, allegation, assertion or claim that Duke or any of its subsidiaries has engaged in questionable accounting or auditing practices (except for any of the foregoing after the date hereof which have no reasonable basis), and (y) to the knowledge of the Executive Officers of Duke, no attorney representing Duke or any of its subsidiaries, whether or not employed by Duke or any of its subsidiaries, has reported evidence of a material violation of securities laws, breach of fiduciary duty or similar violation, relating to periods after December 31, 2006, by Duke or any of its officers, directors, employees or agents to the Board of Directors of Duke or any committee thereof or, to any director or Executive Officer of Duke.

(f) Absence of Certain Changes or Events. Since December 31, 2009 through the date hereof, Duke and its subsidiaries have conducted their respective businesses in all material respects in the ordinary course of business in a consistent manner since such date and there has not been any change, event or development that, individually or in the aggregate, has had or could reasonably be expected to have a material adverse effect on Duke.

(g) Absence of Undisclosed Liabilities. Except for matters reflected or reserved against in the consolidated balance sheet (or notes thereto) as of December 31, 2009, included in the Duke Financial Statements, neither Duke nor any of its subsidiaries has any liabilities or obligations (whether absolute, accrued, contingent, fixed or otherwise, or whether due or to become due) of any nature that would be required by GAAP to be reflected on a consolidated balance sheet of Duke and its consolidated subsidiaries (including the notes thereto), except liabilities or obligations (i) that were incurred in the ordinary course of business consistent with past practice since December 31, 2009, (ii) that were incurred in connection with the transactions contemplated by this Agreement and that are not material in the aggregate or (iii) that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke. Neither Duke nor any of its subsidiaries is a party to, or has any commitment to become a party to, any joint venture, off-balance sheet partnership or any similar contract or arrangement (including any Contract relating to any transaction or relationship between or among Duke and any of its subsidiaries, on the one hand, and any unconsolidated affiliate, including any structured finance, special purpose or limited purpose entity or person, on the other hand, or any "off-balance sheet arrangements" (as defined in Item 303(a) of Regulation S-K under the Exchange Act), where the result, purpose or effect of such contract or arrangement is to avoid disclosure of any material transaction involving, or material liabilities of, Duke or any of its subsidiaries, in the Duke Financial Statements or the Duke SEC Reports.

(h) Legal Proceedings. Except for Environmental Claims, which are the subject of Section 3.02(n), as of the date of this Agreement, (i) there are no actions, suits, arbitrations or proceedings pending or, to the knowledge of Duke, threatened against, relating to or affecting, nor to the knowledge of Duke are there any Governmental Authority investigations, inquiries or audits pending or threatened against, relating to or affecting, Duke or any of its subsidiaries or any of the Duke Joint Ventures or any of their respective assets and properties that, in each case, individually or in the aggregate, have had or could reasonably be expected to have a material adverse effect on Duke and (ii) neither Duke nor any of its subsidiaries or material assets is subject to any order of any Governmental Authority that, individually or in the aggregate, has had or could reasonably be

expected to have a material adverse effect on Duke.

(i) Information Supplied. None of the information supplied or to be supplied by Duke for inclusion or incorporation by reference in (i) the Form S-4 will, at the time the Form S-4 is filed with the SEC, at any time it is amended or supplemented or at the time it becomes effective under the Securities Act, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, or (ii) the Joint Proxy Statement will, at the date it is first mailed to Progress's shareholders or Duke's shareholders or at the time of the Progress Shareholders Meeting or the Duke Shareholders Meeting, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading. The Joint Proxy Statement (other than the portions thereof relating solely to the Progress Shareholders Meeting) and the Form S-4 will comply as to form in all material respects with the requirements of the Exchange Act and Securities Act, respectively, and the rules and regulations thereunder, except that no representation is made by Duke with respect to statements made or incorporated by reference therein based on information supplied by or on behalf of Progress for inclusion or incorporation by reference in the Joint Proxy Statement or the Form S-4.

(j) Permits; Compliance with Laws and Orders. Duke, its subsidiaries and the Duke Joint Ventures hold all Permits necessary for the lawful conduct of their respective businesses, except for failures to hold such Permits that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke. Duke, its subsidiaries and the Duke Joint Ventures are in compliance with the terms of their Permits, except failures so to comply that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke. Duke, its subsidiaries and the Duke Joint Ventures are not, and since January 1, 2008 have not been, in violation of or default under any law or order of any Governmental Authority, except for such violations or defaults that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke. Duke is, and since January 1, 2008 has been, in compliance in all material respects with (i) SOX and (ii) the applicable listing standards and corporate governance rules and regulations of the NYSE. The above provisions of this Section 3.02(j) do not relate to matters with respect to taxes, such matters being the subject of Section 3.02(k), Environmental Permits and Environmental Laws, such matters being the subject of Section 3.02(n), benefits plans, such matters being the subject of Section 3.02(l), and nuclear power plants, such matters being the subject of Section 3.02(o).

(k) Taxes.

(i) Except as has not had, and could not reasonably be expected to have, a material adverse effect on Duke:

(A) Each of Duke and its subsidiaries has timely filed, or has caused to be timely filed on its behalf, all Tax Returns required to be filed by it, and all such Tax Returns are true, complete and accurate. All Taxes shown to be due and owing on such Tax Returns have been timely paid.

(B) The most recent financial statements contained in the Duke SEC Reports filed prior to the date of this Agreement reflect, in accordance with GAAP, an adequate reserve for all Taxes payable by Duke and its subsidiaries for all taxable periods through the date of such financial statements.

(C) There is no audit, examination, deficiency, refund litigation, proposed adjustment or matter in controversy with respect to any Taxes or Tax Return of Duke or its subsidiaries, and, to the knowledge of Duke, neither Duke nor any of its subsidiaries has received written notice of any claim made by a governmental authority in a jurisdiction where Duke or any of its subsidiaries, as applicable, does not file a Tax Return, that Duke or such subsidiary is or may be subject to income taxation by that jurisdiction. No deficiency with respect to any Taxes has been proposed, asserted or assessed against Duke or any of its subsidiaries, and no requests for waivers of the time to assess any Taxes are pending.

(D) There are no outstanding written agreements, consents or waivers to extend the statutory period of limitations applicable to the assessment of any Taxes or deficiencies against Duke or any of its subsidiaries, and no power of attorney granted by either Duke or any of its subsidiaries with respect to any Taxes is currently in force.

(E) Neither Duke nor any of its subsidiaries is a party to any agreement providing for the allocation or sharing of Taxes imposed on or with respect to any individual or other person (other than (I) such agreements with customers, vendors, lessors or the like entered into in the ordinary course of business, and (II) agreements with or among Duke or any of its subsidiaries), and neither Duke nor any of its subsidiaries (A) has been a member of an affiliated group (or similar state, local or foreign filing group) filing a consolidated U.S. federal income Tax Return (other than the group the common parent of which is Duke or a subsidiary of Duke) or (B) has any liability for the Taxes of any person (other than Duke or any of its subsidiaries) (I) under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local or foreign law), or (II) as a transferee or successor.

(F) There are no material Liens for Taxes (other than for current Taxes not yet due and payable) on the assets of Duke and its subsidiaries.

(ii) Neither Duke nor any of its subsidiaries has taken or agreed to take any action or knows of any fact, agreement, plan or other circumstance that is reasonably likely to prevent or impede the Merger from qualifying as a reorganization under Section 368(a) of the Code.

(l) Employee Benefit Plans; ERISA.

(i) Except for such matters that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke, (A) all Duke Employee Benefit Plans are in compliance with all applicable requirements of law, including

ERISA and the Code, and (B) there does not now exist, nor do any circumstances exist that could result in, any Controlled Group Liability that would be a liability of Duke or any of its subsidiaries following the Closing. The only material employment agreements, severance agreements or severance policies applicable to Duke or any of its subsidiaries are the agreements and policies disclosed in Section 3.02(l)(i) of the Duke Disclosure Letter.

(ii) As used herein, "Duke Employee Benefit Plan" means any Plan entered into, established, maintained, sponsored, contributed to or required to be contributed to by Duke or any of its subsidiaries for the benefit of the current or former employees or directors of Duke or any of its subsidiaries and existing on the date of this Agreement or at any time subsequent thereto and, in the case of a Plan that is subject to Part 3 of Title I of ERISA, Section 412 of the Code or Title IV of ERISA, at any time during the five-year period preceding the date of this Agreement with respect to which Duke or any of its subsidiaries has or could reasonably be expected to have any present or future actual or contingent liabilities.

(iii) No event has occurred, and there exists no condition or set of circumstances in connection with any Duke Employee Benefit Plan, that has had or could reasonably be expected to have a material adverse effect on Duke.

(iv) Section 3.02(l)(iv) of the Duke Disclosure Letter identifies each Duke Employee Benefit Plan that provides, upon the occurrence of a change in the ownership or effective control of Duke or its subsidiaries or a change in the ownership of all or a substantial portion of the assets of Duke or its subsidiaries, either alone or upon the occurrence of any additional or subsequent events and whether or not applicable to the transactions contemplated by this Agreement, for (A) an acceleration of the time of payment of or vesting in, or an increase in the amount of, compensation or benefits due any current or former employee, director or officer of Duke or its subsidiaries, (B) any forgiveness of indebtedness or obligation to fund compensation or benefits with respect to any such employee, director or officer, or (C) an entitlement of any such employee, director or officer to severance pay, unemployment compensation or any other payment or other benefit.

(v) Each Duke Employee Benefit Plan that is in any part a "nonqualified deferred compensation plan" subject to Section 409A of the Code (A) materially complies and, at all times after December 31, 2008 has materially complied, both in form and operation, with the requirements of Section 409A of the Code and the final regulations thereunder and (B) between January 1, 2005 and December 31, 2008 was operated in material reasonable, good faith compliance with Section 409A of the Code, as determined under applicable guidance of the Treasury and the Internal Revenue Service.

(m) Labor Matters. As of the date hereof, neither Duke nor any of its subsidiaries is a party to, bound by or in the process of negotiating any collective bargaining agreement or other labor agreement with any union or labor organization. As of the date of this Agreement, there are no disputes, grievances or arbitrations pending or, to the knowledge of Duke, threatened between Duke or any of its subsidiaries and any trade union or other representatives of its employees and there is no charge or complaint pending or threatened in writing against Duke or any of its subsidiaries before the NLRB or any similar Governmental Authority, except in each case as, individually or in the aggregate, have not had and could not reasonably be expected to have a

material adverse effect on Duke, and, to the knowledge of Duke, as of the date of this Agreement, there are no material organizational efforts presently being made involving any of the employees of Duke or any of its subsidiaries. From December 31, 2007, to the date of this Agreement, there has been no work stoppage, strike, slowdown or lockout by or affecting employees of Duke or any of its subsidiaries and, to the knowledge of Duke, no such action has been threatened in writing, except in each case as, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke. Except as, individually or in the aggregate, has not had and could not reasonably be expected to have a material adverse effect on Duke: (A) there are no litigations, lawsuits, claims, charges, complaints, arbitrations, actions, investigations or proceedings pending or, to the knowledge of Duke, threatened between or involving Duke or any of its subsidiaries and any of their respective current or former employees, independent contractors, applicants for employment or classes of the foregoing; (B) Duke and its subsidiaries are in compliance with all applicable laws, orders, agreements, contracts and policies respecting employment and employment practices, including, without limitation, all legal requirements respecting terms and conditions of employment, equal opportunity, workplace health and safety, wages and hours, child labor, immigration, discrimination, disability rights or benefits, facility closures and layoffs, workers' compensation, labor relations, employee leaves and unemployment insurance; and (C) since January 1, 2007, neither Duke nor any of its subsidiaries has engaged in any "plant closing" or "mass layoff," as defined in the WARN Act, without complying with the notice requirements of such laws.

(n) Environmental Matters.

(i) Each of Duke, its subsidiaries and the Duke Joint Ventures since January 1, 2008 has been and is in compliance with all applicable Environmental Laws, except where the failure to be in such compliance, individually or in the aggregate, has not had and could not reasonably be expected to have a material adverse effect on Duke.

(ii) Each of Duke, its subsidiaries and the Duke Joint Ventures has obtained all Environmental Permits necessary for the construction of their facilities and the conduct of their operations as of the date of this Agreement, as applicable, and all such Environmental Permits are validly issued, in full force and effect and final, and Duke, its subsidiaries and the Duke Joint Ventures are in compliance with all terms and conditions of the Environmental Permits, except where the failure to obtain such Environmental Permits, of such Permits to be in good standing or, where applicable, of a renewal application to have been timely filed and be pending or to be in such compliance, individually or in the aggregate, has not had and could not reasonably be expected to have a material adverse effect on Duke.

(iii) There is no Environmental Claim pending

(A) against Duke or any of its subsidiaries or any of the Duke Joint Ventures;

(B) to the knowledge of Duke, against any person or entity whose liability for such Environmental Claim has been retained or assumed either contractually or by operation of law by Duke or any of its subsidiaries or any of the Duke Joint Ventures; or

(C) against any real or personal property or operations that Duke or any of its subsidiaries or any of the Duke Joint Ventures owns, leases or manages, in whole or in part, or, to the knowledge of Duke, formerly owned, leased or arranged, in whole or in part, except in the case of clause (A), (B) or (C) for such Environmental Claims that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke.

(iv) To the knowledge of Duke, there have not been any Releases of any Hazardous Material that would be reasonably likely to form the basis of any Environmental Claim against Duke or any of its subsidiaries or any of the Duke Joint Ventures, in each case, except for such Releases that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke.

(o) Operations of Nuclear Power Plants. The operations of the nuclear generation stations owned, in whole or part, by Duke or its subsidiaries (collectively, the "Duke Nuclear Facilities") are and have been conducted in compliance with all applicable laws and Permits, except for such failures to comply that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke. Each of the Duke Nuclear Facilities maintains, and is in material compliance with, emergency plans designed to respond to an unplanned Release therefrom of radioactive materials and each such plan conforms with the requirements of applicable law in all material respects. The plans for the decommissioning of each of the Duke Nuclear Facilities and for the storage of spent nuclear fuel conform with the requirements of applicable law in all material respects and, solely with respect to the portion of the Duke Nuclear Facilities owned, directly or indirectly, by Duke, are funded consistent with applicable law. Since December 31, 2008, the operations of the Duke Nuclear Facilities have not been the subject of any notices of violation, any ongoing proceeding, NRC Diagnostic Team Inspections or requests for information from the NRC or any other agency with jurisdiction over such facility, except for such notices or requests for information that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke. No Duke Nuclear Facility is listed by the NRC in the Unacceptable Performance column of the NRC Action Matrix, as a part of NRC's Assessment of Licensee Performance. Liability insurance to the full extent required by law for operating the Duke Nuclear Facilities remains in full force and effect regarding such facilities, except for failures to maintain such insurance in full force and effect that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke.

(p) Vote Required. Assuming the accuracy of the representation and warranty contained in Section 3.01(r), the affirmative vote of the holders of record of at least a majority of the shares of Duke Common Stock (i) outstanding, with respect to an amendment to the Amended and Restated Certificate of Incorporation of Duke providing for the Duke Charter Amendment and (ii) voting thereon, provided that the total vote cast represents over fifty percent in interest of all securities entitled to vote on the proposal, with respect to the issuance of shares of Duke Common Stock in connection with the Merger as contemplated by this Agreement (the "Duke Share Issuance") ((i) and (ii) collectively, the "Duke Shareholder Approval"), are the only votes of the holders of any class or series of the capital stock of Duke or its subsidiaries required to approve this Agreement, the Merger and the other transactions contemplated hereby.

(q) Opinions of Financial Advisors. The Board of Directors of Duke has received the opinion of each of J.P. Morgan Securities LLC and Merrill Lynch, Pierce, Fenner and Smith Incorporated, to the effect that, as of the date of such opinion and based on the assumptions, qualifications and limitations contained therein, the Exchange Ratio is fair, from a financial point of view, to Duke.

(r) Ownership of Progress Capital Stock. Neither Duke nor any of its subsidiaries or other affiliates beneficially owns any shares of Progress capital stock.

(s) Certain Statutes. No "fair price," "merger moratorium," "control share acquisition," or other anti-takeover or similar statute or regulation applies or purports to apply to this Agreement, the Merger or the other transactions contemplated hereby.

(t) Joint Venture Representations. Each representation or warranty made by Duke in this Section 3.02 relating to a Duke Joint Venture that is neither operated nor managed solely by Duke or a Duke subsidiary shall be deemed made only to the knowledge of Duke.

(u) Insurance. Except for failures to maintain insurance or self-insurance that, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Duke, from January 1, 2007, through the date of this Agreement, each of Duke and its subsidiaries has been continuously insured with financially responsible insurers or has self-insured, in each case in such amounts and with respect to such risks and losses as are customary for companies in the United States conducting the business conducted by Duke and its subsidiaries during such time period. Neither Duke nor any of its subsidiaries has received any notice of any pending or threatened cancellation, termination or premium increase with respect to any insurance policy of Duke or any of its subsidiaries, except with respect to any cancellation, termination or premium increase that, individually or in the aggregate, has not had and could not reasonably be expected to have a material adverse effect on Duke.

(v) Energy Price Risk Management. Duke has established risk parameters, limits and guidelines in compliance with the risk management policy approved by Duke's Board of Directors (the "Duke Risk Management Guidelines") and monitors compliance by Duke and its subsidiaries with such energy price risk parameters. Duke has provided the Duke Risk Management Guidelines to Progress prior to the date of this Agreement. Duke is in compliance in all material respects with the Duke Risk Management Guidelines.

(w) Duke Material Contracts.

(i) For purposes of this Agreement, the term "Duke Material Contract" shall mean any Contract to which Duke or any of its subsidiaries is a party or bound as of the date hereof:

(A) that is a "material contract" (as such term is defined in Item 601(b)(10) of Regulation S-K of the SEC);

(B) that (1) purports to limit in any material respect either the type of business in which Duke or its subsidiaries (including, after the Effective Time, Progress or its subsidiaries) or any of their respective affiliates may engage or the

manner or geographic area in which any of them may so engage in any business, (2) would require the disposition of any material assets or line of business of Duke or its subsidiaries (including, after the Effective Time, Progress or its subsidiaries) or any of their respective affiliates as a result of the consummation of the transactions contemplated by this Agreement, (3) is a material Contract that grants "most favored nation" status that, following the Effective Time, would impose obligations upon Duke or its subsidiaries, including Progress and its subsidiaries, or (4) prohibits or limits, in any material respect, the right of Duke or any of its subsidiaries (including, after the Effective Time, Progress or its subsidiaries) to make, sell or distribute any products or services or use, transfer, license or enforce any of their respective intellectual property rights; or

(C) that (1) has an aggregate principal amount, or provides for an aggregate obligation, in excess of $200,000,000 (I) evidencing indebtedness for borrowed money of Duke or any of its subsidiaries to any third party, (II) guaranteeing any such indebtedness of a third party or (III) containing a covenant restricting the payment of dividends, or (2) has the economic effect of any of the items set forth in subclause (1) above.

(ii) Neither Duke nor any subsidiary of Duke is in breach of or default under the terms of any Duke Material Contract and no event has occurred that (with or without notice or lapse of time or both) could result in a breach or default under any Duke Material Contract where such breach or default could reasonably be expected to have, individually or in the aggregate, a material adverse effect on Duke. To the knowledge of Duke, no other party to any Duke Material Contract is in breach of or default under the terms of any Duke Material Contract where such breach or default has had, or could reasonably be expected to have, individually or in the aggregate, a material adverse effect on Duke. Except as could not reasonably be expected to have, individually or in the aggregate, a material adverse effect on Duke, each Duke Material Contract is a valid and binding obligation of Duke or the subsidiary of Duke which is party thereto and, to the knowledge of Duke, of each other party thereto, and is in full force and effect, except that such enforcement may be subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws, now or hereafter in effect, relating to creditors' rights generally and to general equitable principles.

(x) Anti-Bribery Laws.

(i) To the knowledge of Duke, Duke and its subsidiaries are, and since January 1, 2008 have been, in compliance in all material respects with the Anti-Bribery Laws in jurisdictions in which Duke and its subsidiaries have operated or currently operate. Since January 1, 2008, neither Duke nor any of its subsidiaries has received any communication from any Governmental Authority or any written communication from any third party that alleges that Duke, any of its subsidiaries or any employee or agent thereof is in material violation of any Anti-Bribery Laws, and no such potential or actual material violation or liability has been discovered.

(ii) Without limiting the other provisions of this Section 3.02(x), since January 1, 2008, none of Duke or its subsidiaries nor, to the knowledge of Duke, any of their respective current or former directors, officers, principals, employees, managers, sales persons, consultants

or other agents or representatives, distributors, contractors, joint venturers or any other person acting on any of their behalf, has, directly or indirectly, made or offered or solicited or accepted any contribution, gift, gratuity, entertainment, bribe, rebate, payoff, influence payment, kickback or other payment or anything else of value to or from any person, private or public (including customers, potential customers, political parties, elected officials and candidates), whether in money, property, services or any other form, to influence any act of such person in such person's official capacity, inducing such person to do or omit to do any act in violation of the lawful official duty of such person or securing an improper advantage or to induce such person to use such person's influence to obtain or retain business for Duke or its subsidiaries or otherwise to confer any benefit to Duke or its subsidiaries in violation in any material respect of any Anti-Bribery Laws.

(iii) Since January 1, 2006, neither Duke nor any of its subsidiaries has made any disclosure (voluntary or otherwise) to any Governmental Authority with respect to any alleged material irregularity, material misstatement or material omission or other potential material violation or liability arising under or relating to any Anti-Bribery Law.

ARTICLE IV

COVENANTS

Section 4.01 Covenants of Progress. From and after the date of this Agreement until the Effective Time, Progress covenants and agrees as to itself and its subsidiaries that (except as expressly contemplated or permitted by this Agreement, as set forth in Section 4.01 of the Progress Disclosure Letter, for transactions (other than those set forth in Section 4.01(d) to the extent relating to the capital stock of Progress) solely involving Progress and one or more of its direct or indirect wholly-owned subsidiaries or between two or more direct or indirect wholly-owned subsidiaries of Progress, as required by law, or to the extent that Duke shall otherwise previously consent in writing, such consent not to be unreasonably withheld or delayed):

(a) Ordinary Course. Progress and each of its subsidiaries shall conduct their businesses in all material respects in the ordinary course of business consistent with past practice. Without limiting the generality of the foregoing, Progress and its subsidiaries shall use commercially reasonable efforts to preserve intact in all material respects their present business organizations, to maintain in effect all existing Permits and to timely submit renewal applications (as applicable), subject to prudent management of workforce and business needs, to keep available the services of their key officers and employees, to maintain their assets and properties in good working order and condition, ordinary wear and tear excepted, to preserve their relationships with Governmental Authorities, customers and suppliers and others having significant business dealings with them and to comply in all material respects with all laws, orders and Permits of all Governmental Authorities applicable to them.

(b) Charter Documents. Progress shall not amend or propose to amend its articles of incorporation or, other than in a manner that would not materially restrict the operation of its or their businesses, its by-laws or its subsidiaries' articles of incorporation or by-laws (or other comparable organizational documents).

(c) Dividends. Progress shall not, nor shall it permit any of its subsidiaries to,

(i) declare, set aside or pay any dividends on or make other distributions in respect of any of its capital stock or share capital, except:

(A) that, subject to Section 4.06 of this Agreement, Progress may continue the declaration and payment of regular quarterly cash dividends on Progress Common Stock, not to exceed $0.62 per share for each quarterly dividend, with usual record and payment dates for such dividends in accordance with past dividend practice, and

(B) for the declaration and payment of dividends by a direct or indirect wholly-owned subsidiary of Progress solely to its parent, or by a direct or indirect partially owned subsidiary of Progress (provided, that Progress or a Progress subsidiary receives or is to receive its proportionate share of such dividend or distribution), and

(C) for the declaration and payment of regular cash dividends with respect to preferred stock of Progress's subsidiaries outstanding as of the date of this Agreement or permitted to be issued under the terms of this Agreement, and

(D) for the declaration and payment of dividends necessary to comply with Section 4.06,

(ii) split, combine, reclassify or take similar action with respect to any of its capital stock or share capital or issue or authorize or propose the issuance of any other securities in respect of, in lieu of or in substitution for shares of its capital stock or comprised in its share capital,

(iii) adopt a plan of complete or partial liquidation or resolutions providing for or authorizing such liquidation or a dissolution, merger, consolidation, restructuring, recapitalization or other reorganization, or

(iv) except as disclosed in Section 4.01(c)(iv) of the Progress Disclosure Letter, directly or indirectly redeem, repurchase or otherwise acquire any shares of its capital stock or any Option with respect thereto except:

(A) in connection with intercompany purchases of capital stock or share capital, or

(B) for the purpose of funding the Progress Employee Stock Option Plans or employee stock ownership or dividend reinvestment and stock purchase plans, or

(C) mandatory repurchases or redemptions of preferred stock of Progress or its subsidiaries in accordance with the terms thereof.

(d) Share Issuances. Progress shall not, nor shall it permit any of its subsidiaries to,

issue, deliver or sell, or authorize or propose the issuance, delivery or sale of, any shares of its capital stock or any Option with respect thereto (other than (i) the issuance of Progress Common Stock upon the exercise of Progress Employee Stock Options outstanding as of the date hereof or issued after the date hereof in accordance with the terms of this Agreement in accordance with their terms, (ii) the issuance of Progress Common Stock in respect of Progress Restricted Stock, Progress Restricted Stock Units, Progress Performance Shares and other equity compensation awards, excluding Progress Employee Stock Options, granted under the Progress Employee Stock Option Plans ("Other Progress Equity Awards") outstanding as of the date hereof or issued after the date hereof in accordance with the terms of this Agreement in accordance with their terms, (iii) the issuance of Progress Restricted Stock, Progress Performance Shares and the grant of Progress Restricted Stock Units and Other Progress Equity Awards in accordance with their terms providing, in aggregate, up to an additional 2,000,000 shares of Progress Common Stock in any 12-month period following the date hereof, in amounts, at times and on terms and conditions in the ordinary course of business consistent with past practice, with Progress Performance Shares counted assuming the achievement of maximum performance level for the purposes of determining how many shares were granted during any such 12-month period; provided, however, that any Progress Restricted Stock, Progress Restricted Stock Units, Progress Performance Shares and Other Progress Equity Awards granted after the date of this Agreement shall be granted on terms pursuant to which such Progress Restricted Stock, Progress Restricted Stock Units, Progress Performance Shares and Other Progress Equity Awards shall not vest on the Effective Time or otherwise in connection with the occurrence of the transactions contemplated hereby and that, notwithstanding any plan, program or arrangement to the contrary, and except as provided in Section 4.01(d)(iii) of the Progress Disclosure Letter, any definition of "good reason" or any similar concept of constructive termination relating to such awards shall be as defined in Section 4.01(d)(iii) of the Progress Disclosure Letter and the terms and conditions of each grant of Progress Performance Shares shall be consistent with the treatment set forth in Section 5.06(a)(iii), (iv) the *pro rata* issuance by a subsidiary of its capital stock to its shareholders, and (v) the issuance of shares of Progress Common Stock in connection with any employee benefit plan intended to satisfy the requirements of Section 401(a) of the Code in the ordinary course of business consistent with past practice), or modify or amend any right of any holder of outstanding shares of its capital stock or any Option with respect thereto other than to give effect to Section 5.06.

(e) Acquisitions; Capital Expenditures. Except for (x) acquisitions of, or capital expenditures relating to, the entities, assets and facilities identified in Section 4.01(e) of the Progress Disclosure Letter, (y) expenditures of amounts set forth in Progress's capital expenditure plan included in Section 4.01(e) of the Progress Disclosure Letter, and (z) capital expenditures (1) required by law or Governmental Authorities or (2) incurred in connection with the repair or replacement of facilities destroyed or damaged due to casualty or accident (whether or not covered by insurance), Progress shall not, nor shall it permit any of its subsidiaries to, make any capital expenditures, or acquire or agree to acquire (whether by merger, consolidation, purchase or otherwise) any person or assets, if (A) in the case of any acquisition or acquisitions or series of related acquisitions of any person, asset or property located within the United States, the expected gross expenditures and commitments pursuant to all such acquisitions (including the amount of any indebtedness and amounts received for negative trading positions assumed) exceeds or may exceed, in the aggregate, $150,000,000, (B) any such acquisition is of persons, properties or assets located outside of the United States, (C) any such acquisition or capital expenditure constitutes any

line of business that is not conducted by Progress, its subsidiaries or the Progress Joint Ventures as of the date of this Agreement, or (D) any such acquisition or capital expenditure is reasonably likely, individually or in the aggregate, to materially delay the satisfaction of the conditions set forth in Section 6.02(d) or Section 6.03(d) or prevent the satisfaction of such conditions.

(f) Dispositions. Except for (x) dispositions set forth in Section 4.01(f) of the Progress Disclosure Letter, (y) dispositions of obsolete equipment or assets or dispositions of assets being replaced, in each case in the ordinary course of business consistent with past practice, and (z) dispositions by Progress or its subsidiaries of its assets in accordance with the terms of restructuring and divestiture plans mandated or approved by applicable local or state regulatory agencies, Progress shall not, nor shall it permit any of its subsidiaries to, sell, lease, grant any security interest in or otherwise dispose of or encumber any of its assets or properties if the aggregate value of all such dispositions exceeds or may exceed, in the aggregate, $150,000,000. For the purposes of this Section 4.01(f), the value of any disposition or series of related dispositions shall mean the greater of (i) the book value or (ii) the sales price, in each case of the person, asset or property which is the subject of such disposition and, in each case, together with the indebtedness and amounts paid for negative energy price risk management positions transferred by Progress or its subsidiaries in connection with such disposition.

(g) Indebtedness. Except as disclosed in Section 4.01(g) of the Progress Disclosure Letter, Progress shall not, nor shall it permit any of its subsidiaries to, (A) incur or guarantee any indebtedness or enter into any "keep well" or other agreement to maintain any financial condition of another person or enter into any arrangement having the economic effect of any of the foregoing (including any capital leases, "synthetic" leases or conditional sale or other title retention agreements) other than (i) short-term indebtedness incurred in the ordinary course of business, (ii) letters of credit obtained in the ordinary course of business, (iii) borrowings under Progress's or its subsidiaries' existing credit facilities (or replacement facilities permitted by this Section 4.01(g)) but only to the extent the commercial paper market is unavailable to Progress upon reasonable terms and conditions, as to which borrowings Progress agrees to notify Duke promptly following the consummation thereof, (iv) indebtedness incurred in connection with the refunding or refinancing of existing indebtedness (x) at maturity or upon final mandatory redemption (without the need for the occurrence of any special event) or (y) at a lower cost of funds, (v) indebtedness incurred to finance acquisitions permitted pursuant to Section 4.01(e) or indebtedness assumed pursuant thereto, (vi) other indebtedness in an aggregate principal amount not to exceed $250,000,000 outstanding at any time, (vii) guarantees or other credit support issued pursuant to energy price risk management or marketing positions established prior to the date of this Agreement, (viii) in addition to the guarantees or other credit support contemplated by subsection (A)(vii) of this Section 4.01(g), additional guarantees or other credit support issued in connection with energy price risk management or marketing activities in the ordinary course of business and (ix) indebtedness owed to any direct or indirect wholly-owned subsidiary of Progress, or, in the case of a subsidiary of Progress, to Progress or (B) make any loans or advances to any other person, other than (i) in the ordinary course of business consistent with past practice, (ii) to any direct or indirect wholly-owned subsidiary of Progress, or, in the case of a subsidiary of Progress, to Progress or (iii) as required pursuant to any obligation in effect as of the date of this Agreement.

(h) Marketing of Energy; Energy Price Risk Management. Progress shall not, nor shall it permit any of its subsidiaries to, (i) permit any material change in policies governing or

otherwise relating to energy price risk management or marketing of energy other than as a result of acquisitions or capital expenditures permitted pursuant to Section 4.01(e) or (ii) enter into any physical commodity transactions, exchange-traded futures and options transactions, over-the-counter transactions and derivatives thereof or similar transactions other than as permitted by the Progress Risk Management Guidelines.

(i) Employee Benefits. Except as required by law, or the terms of any collective bargaining agreement or any Progress Employee Benefit Plan, or as disclosed in Section 4.01(i) of the Progress Disclosure Letter or as otherwise expressly permitted by this Agreement, Progress shall not, nor shall it permit any of its subsidiaries to, enter into, adopt, amend or terminate any Progress Employee Benefit Plan, or other agreement, arrangement, plan or policy between Progress or one of its subsidiaries and one or more of its directors, officers or employees (other than any amendment that is immaterial or administrative in nature), or, except for normal increases in the ordinary course of business consistent with past practice, increase in any manner the compensation or fringe benefits of any director, executive officer or other employee, or, except for normal payments in the ordinary course of business consistent with past practice, and the award of annual bonuses on terms and conditions that are consistent with Section 5.07(g), pay any benefit not required by any plan or arrangement in effect as of the date of this Agreement; provided, however, that the foregoing shall not restrict Progress or its subsidiaries from (i) entering into or making available to newly hired officers and employees or to officers and employees in the context of promotions based on job performance or workplace requirements in the ordinary course of business consistent with past practice, plans, agreements, benefits and compensation arrangements (including incentive grants) that have, consistent with past practice, been made available to newly hired or promoted officers and employees, (ii) entering into severance agreements with, or adopting severance plans in the ordinary course of business consistent with past practice for, employees who are not executive officers in connection with terminations of employment of such employees, or (iii) entering into or amending collective bargaining agreements with existing collective bargaining representatives or newly certified bargaining units regarding mandatory subjects of bargaining under applicable law, in each case in a manner consistent with past practice to the extent permitted by law.

(j) [Intentionally Reserved.]

(k) Accounting. Progress shall not, nor shall it permit any of its subsidiaries to, make any changes in its accounting methods materially affecting the reported consolidated assets, liabilities or results of operations of Progress, except as required by law or GAAP.

(l) Insurance. Progress shall, and shall cause its subsidiaries to, maintain with financially responsible insurance companies (or through self-insurance, consistent with past practice) insurance in such amounts and against such risks and losses as are customary for companies engaged in their respective businesses, to the extent available on commercially reasonable terms.

(m) Taxes. Except as could not reasonably be expected to have a material adverse effect on Progress, Progress shall not, nor shall it permit any of its subsidiaries to, (i) settle any claim, action or proceeding relating to Taxes or (ii) make any Tax election (this clause (m) being the sole provision of this Section 4.01 governing Tax matters).

(n) Release of Claims. Except as disclosed in Section 4.01(n) of the Progress Disclosure Letter and except with respect to any settlements or agreements with or before any Governmental Authorities in the ordinary course of business, Progress shall not, and shall not permit any of its subsidiaries to, waive, release, assign, settle or compromise any claim, action or proceeding against Progress or any of its subsidiaries, other than waivers, releases, assignments, settlements or compromises that (x) with respect to the payment of monetary damages, involve only the payment of monetary damages (A) equal to or less than the amounts specifically reserved with respect thereto on the balance sheet as of December 31, 2009 included in the Progress SEC Documents or (B) that do not exceed $15,000,000 individually or $50,000,000 in the aggregate during any consecutive twelve-month period, and (y) with respect to any non-monetary terms and conditions therein, impose or require actions that would not reasonably be expected individually or in the aggregate to have a material adverse effect on Progress.

(o) Contracts. Except as permitted by Section 4.01(i), Progress shall not, nor shall it permit any of its subsidiaries to, (i) enter into any Contract that would materially restrict, after the Effective Time, Duke and its subsidiaries (including the Surviving Corporation and its subsidiaries) with respect to engaging or competing in any line of business or in any geographic area or (ii) other than in the ordinary course of business, waive, release, or assign any material rights or claims under, or materially modify or terminate any Contract that is material to Progress and its subsidiaries, taken as a whole, (A) in any manner that is materially adverse to Progress or (B) which would prevent or materially delay the consummation of the Merger and the other transactions contemplated by this Agreement, it being understood and agreed that the restriction on material modifications and terminations in clause (ii)(A) shall not apply with respect to any Contract permitted to be entered into under clause (e), (f), (g), (h) or (n) of this Section 4.01.

Section 4.02 Covenants of Duke. From and after the date of this Agreement until the Effective Time, Duke covenants and agrees as to itself and its subsidiaries that (except as expressly contemplated or permitted by this Agreement, as set forth in Section 4.02 of the Duke Disclosure Letter, for transactions (other than those set forth in Section 4.02(d) to the extent relating to the capital stock of Duke) solely involving Duke and one or more of its direct or indirect wholly-owned subsidiaries or between two or more direct or indirect wholly-owned subsidiaries of Duke, as required by law, or to the extent that Progress shall otherwise previously consent in writing, such consent not to be unreasonably withheld or delayed):

(a) Ordinary Course. Duke and each of its subsidiaries shall conduct their businesses in all material respects in the ordinary course of business consistent with past practice. Without limiting the generality of the foregoing, Duke and its subsidiaries shall use commercially reasonable efforts to preserve intact in all material respects their present business organizations, to maintain in effect all existing Permits and to timely submit renewal applications (as applicable), subject to prudent management of workforce and business needs, to keep available the services of their key officers and employees, to maintain their assets and properties in good working order and condition, ordinary wear and tear excepted, to preserve their relationships with Governmental Authorities, customers and suppliers and others having significant business dealings with them and to comply in all material respects with all laws, orders and Permits of all Governmental Authorities applicable to them.

(b) Charter Documents. Duke shall not amend or propose to amend its certificate of

incorporation other than in connection with the Duke Charter Amendment or, other than in a manner that would not materially restrict the operation of its or their businesses, its by-laws or its subsidiaries' certificates of incorporation or by-laws (or other comparable organizational documents).

(c) Dividends. Duke shall not, nor shall it permit any of its subsidiaries to,

(i) declare, set aside or pay any dividends on or make other distributions in respect of any of its capital stock or share capital, except:

(A) that, subject to Section 4.06 of this Agreement, Duke may continue the declaration and payment of regular quarterly cash dividends on Duke Common Stock not to exceed $0.245 per share for each quarterly dividend, with usual record and payment dates for such dividends in accordance with past dividend practice; provided, that Duke may increase its regular quarterly cash dividend to an amount not to exceed $0.25 commencing with the regular quarterly dividend that would be payable in 2011 with respect to the second quarter of 2011 (corresponding to the dividend paid on September 16, 2010) and to an amount not to exceed $0.255 commencing with the regular quarterly dividend that would be payable in 2012 with respect to the second quarter of 2012 (it being Duke's intention prior to the Effective Time to declare and pay those dividends permitted by this Section 4.02(c)(i)(A) if and to the extent there are funds legally available therefor and such dividends may otherwise lawfully be declared and paid), and

(B) for the declaration and payment of dividends by a direct or indirect wholly-owned subsidiary of Duke solely to its parent, or by a direct or indirect partially owned subsidiary of Duke (provided, that Duke or a Duke subsidiary receives or is to receive its proportionate share of such dividend or distribution), and

(C) for the declaration and payment of dividends necessary to comply with Section 4.06;

(ii) split, combine, reclassify or take similar action with respect to any of its capital stock or share capital or issue or authorize or propose the issuance of any other securities in respect of, in lieu of or in substitution for shares of its capital stock or comprised in its share capital,

(iii) adopt a plan of complete or partial liquidation or resolutions providing for or authorizing such liquidation or a dissolution, merger, consolidation, restructuring, recapitalization or other reorganization,

(iv) except as disclosed in Section 4.02(c)(iv) of the Duke Disclosure Letter directly or indirectly redeem, repurchase or otherwise acquire any shares of its capital stock or any Option with respect thereto except:

(A) in connection with intercompany purchases of capital stock or share capital, or

(B) for the purpose of funding the Duke Employee Stock Option Plan or employee stock ownership or dividend reinvestment and stock purchase plans, or

(v) bind Duke to any restriction not in existence on the date hereof on the payment by Duke of dividends and distributions on Duke Common Stock.

(d) Share Issuances. Duke shall not, nor shall it permit any of its subsidiaries to, issue, deliver or sell, or authorize or propose the issuance, delivery or sale of, any shares of its capital stock or any Option with respect thereto (other than (i) the issuance of Duke Common Stock upon the exercise of Duke Employee Stock Options outstanding as of the date hereof or issued after the date hereof in accordance with the terms of this Agreement in accordance with their terms, (ii) the issuance of Duke Common Stock in respect of Duke Phantom Stock Units, Duke Performance Shares and other equity compensation awards, excluding Duke Employee Stock Options, granted under the Duke Employee Stock Option Plans ("Other Duke Equity Awards") outstanding as of the date hereof or issued after the date hereof in accordance with the terms of this Agreement in accordance with their terms, (iii) the issuance of Duke Employee Stock Options, Duke Performance Shares and the grant of Duke Phantom Stock Units and Other Duke Equity Awards in accordance with their terms providing, in aggregate, up to an additional 6,000,000 shares of Duke Common Stock in any 12-month period following the date hereof, in amounts, at times and on terms and conditions in the ordinary course of business consistent with past practice, with each Duke Employee Stock Option counting as 1/4 of a share of Duke Common Stock and Duke Performance Shares counted assuming the achievement of maximum performance level, in each case for the purposes of determining how many shares were granted during any such 12-month period; provided, however, that any Duke Employee Stock Options, Duke Phantom Stock Units, Duke Performance Shares and Other Duke Equity Awards granted after the date of this Agreement shall be granted on terms pursuant to which such Duke Employee Stock Options, Duke Phantom Stock Units, Duke Performance Shares and Other Duke Equity Awards shall not vest on the Effective Time or otherwise in connection with the occurrence of the transactions contemplated hereby and that, notwithstanding any plan, program or arrangement to the contrary, any definition of "good reason" or any similar concept of constructive termination relating to such awards shall be as defined in Section 4.02(d)(iii) of the Duke Disclosure Letter, (iv) the *pro rata* issuance by a subsidiary of its capital stock to its shareholders and (v) the issuance of shares of Duke Common Stock in connection with any employee benefit plan intended to satisfy the requirements of Section 401(a) of the Code in the ordinary course of business consistent with past practice), or modify or amend any right of any holder of outstanding shares of its capital stock or any Option with respect thereto other than to give effect to Section 5.06.

(e) Acquisitions; Capital Expenditures. Except for (x) acquisitions of, or capital expenditures relating to, the entities, assets and facilities identified in Section 4.02(e) of the Duke Disclosure Letter, (y) expenditures of amounts set forth in Duke's capital expenditure plan included in Section 4.02(e) of the Duke Disclosure Letter, and (z) capital expenditures (1) required by law or Governmental Authorities or (2) incurred in connection with the repair or replacement of facilities destroyed or damaged due to casualty or accident (whether or not covered by insurance), Duke shall not, nor shall it permit any of its subsidiaries to, make any capital expenditures, or acquire or agree to acquire (whether by merger, consolidation, purchase or otherwise) any person or assets, if (A) the expected gross expenditures and commitments pursuant thereto (including the amount of any indebtedness and amounts received for negative energy price risk management

positions assumed) exceeds or may exceed $300,000,000 (no more than $150,000,000 of which may be for any acquisition or series of related acquisitions of any person, asset or property located outside of the United States), (B) any such acquisition or capital expenditure constitutes any line of business that is not conducted by Duke, its subsidiaries or the Duke Joint Ventures as of the date of this Agreement or extends any line of business of Duke, its subsidiaries or the Duke Joint Ventures into any geographic region outside of the continental United States or Canada in which Duke, its subsidiaries or the Duke Joint Ventures do not conduct business as of the date of this Agreement, or (C) any such acquisition or capital expenditure is reasonably likely, individually or in the aggregate, to materially delay the satisfaction of the conditions set forth in Section 6.02(d) or Section 6.03(d) or prevent the satisfaction of such conditions.

(f) Dispositions. Except for (x) dispositions set forth in Section 4.02(f) of the Duke Disclosure Letter, (y) dispositions of obsolete equipment or assets or dispositions of assets being replaced, in each case in the ordinary course of business consistent with past practice, and (z) dispositions by Duke or its subsidiaries of its assets in accordance with the terms of restructuring and divestiture plans mandated or approved by applicable local or state regulatory agencies, Duke shall not, nor shall it permit any of its subsidiaries to, sell, lease, grant any security interest in or otherwise dispose of or encumber any of its assets or properties if (A) the aggregate value of all such dispositions exceeds or may exceed $300,000,000 (no more than $150,000,000 of which may be for any disposition or series of related dispositions of any person, asset or property located outside the United States). For the purposes of this Section 4.02(f), the value of any disposition or series of related dispositions shall mean the greater of (i) the book value or (ii) the sales price, in each case of the person, asset or property which is the subject of such disposition and, in each case, together with the indebtedness and amounts paid for negative energy price risk management positions transferred by Duke or its subsidiaries in connection with such disposition.

(g) Indebtedness. Except as disclosed in Section 4.02(g) of the Duke Disclosure Letter, Duke shall not, nor shall it permit any of its subsidiaries to, (A) incur or guarantee any indebtedness or enter into any "keep well" or other agreement to maintain any financial condition of another person or enter into any arrangement having the economic effect of any of the foregoing (including any capital leases, "synthetic" leases or conditional sale or other title retention agreements) other than (i) short-term indebtedness incurred in the ordinary course of business, (ii) letters of credit obtained in the ordinary course of business, (iii) borrowings under Duke's or its subsidiaries' existing credit facilities (or replacement facilities permitted by this Section 4.02(g)) but only to the extent the commercial paper market is unavailable to Duke upon reasonable terms and conditions, and as to which borrowings Duke agrees to notify Progress promptly following the consummation thereof, (iv) indebtedness incurred in connection with the refunding or refinancing of existing indebtedness (x) at maturity or upon final mandatory redemption (without the need for the occurrence of any special event) or (y) at a lower cost of funds, (v) indebtedness incurred to finance acquisitions permitted pursuant to Section 4.02(e) or indebtedness assumed pursuant thereto, (vi) other indebtedness in an aggregate principal amount not to exceed $500,000,000 outstanding at any time, (vii) guarantees or other credit support issued pursuant to energy price risk management or marketing positions established prior to the date of this Agreement, (viii) in addition to the guarantees or other credit support contemplated by subsection (A)(vii) of this Section 4.02(g), additional guarantees or other credit support issued in connection with energy price risk management or marketing activities in the ordinary course of business and (ix) indebtedness owed to any direct or indirect wholly-owned subsidiary of Duke, or, in the case of a

subsidiary of Duke, to Duke or (B) make any loans or advances to any other person, other than (i) in the ordinary course of business consistent with past practice, (ii) to any direct or indirect wholly-owned subsidiary of Duke, or, in the case of a subsidiary of Duke, to Duke or (iii) as required pursuant to any obligation in effect as of the date of this Agreement.

(h) Marketing of Energy; Energy Price Risk Management. Except as disclosed in Section 4.02(h) of the Duke Disclosure Letter, Duke shall not, nor shall it permit any of its subsidiaries to, (i) permit any material change in policies governing or otherwise relating to energy price risk management or marketing of energy other than as a result of acquisitions or capital expenditures permitted pursuant to Section 4.02(e) or (ii) enter into any physical commodity transactions, exchange-traded futures and options transactions, over-the-counter transactions and derivatives thereof or similar transactions other than as permitted by the Duke Risk Management Guidelines.

(i) Employee Benefits. Except as required by law, or the terms of any collective bargaining agreement or any Duke Employee Benefit Plan, or as disclosed in Section 4.02(i) of the Duke Disclosure Letter or as otherwise expressly permitted by this Agreement, Duke shall not, nor shall it permit any of its subsidiaries to, enter into, adopt, amend or terminate any Duke Employee Benefit Plan, or other agreement, arrangement, plan or policy between Duke or one of its subsidiaries and one or more of its directors, officers or employees (other than any amendment that is immaterial or administrative in nature), or, except for normal increases in the ordinary course of business consistent with past practice, increase in any manner the compensation or fringe benefits of any director, executive officer or other employee, or, except for normal payments in the ordinary course of business consistent with past practice, and the award of annual bonuses on the terms and conditions set forth in Section 4.02(i) of the Duke Disclosure Letter, pay any benefit not required by any plan or arrangement in effect as of the date of this Agreement; provided, however, that the foregoing shall not restrict Duke or its subsidiaries from (i) entering into or making available to newly hired officers and employees or to officers and employees in the context of promotions based on job performance or workplace requirements in the ordinary course of business consistent with past practice, plans, agreements, benefits and compensation arrangements (including incentive grants) that have, consistent with past practice, been made available to newly hired or promoted officers and employees, (ii) entering into severance agreements with, or adopting severance plans in the ordinary course of business consistent with past practice for, employees who are not executive officers in connection with terminations of employment of such employees, or (iii) entering into or amending collective bargaining agreements with existing collective bargaining representatives or newly certified bargaining units regarding mandatory subjects of bargaining under applicable law, in each case in a manner consistent with past practice to the extent permitted by law.

(j) [Intentionally Reserved.]

(k) Accounting. Duke shall not, nor shall it permit any of its subsidiaries to, make any changes in its accounting methods materially affecting the reported consolidated assets, liabilities or results of operations of Duke, except as required by law or GAAP.

(l) Insurance. Duke shall, and shall cause its subsidiaries to, maintain with financially responsible insurance companies (or through self-insurance, consistent with past practice)

insurance in such amounts and against such risks and losses as are customary for companies engaged in their respective businesses to the extent available on commercially reasonable terms.

(m) Taxes. Except as could not reasonably be expected to have a material adverse effect on Duke, Duke shall not, nor shall it permit any of its subsidiaries to, (i) settle any claim, action or proceeding relating to Taxes or (ii) make any Tax election (this clause (m) being the sole provision of this Section 4.02 governing Tax matters).

(n) Release of Claims. Except as disclosed in Section 4.02(n) of the Duke Disclosure Letter and except with respect to any settlements or agreements with or before any Governmental Authorities in the ordinary course of business, Duke shall not, and shall not permit any of its subsidiaries to, waive, release, assign, settle or compromise any claim, action or proceeding against Duke or any of its subsidiaries, other than waivers, releases, assignments, settlements or compromises that (x) with respect to the payment of monetary damages, involve only the payment of monetary damages (A) equal to or less than the amounts specifically reserved with respect thereto on the balance sheet as of December 31, 2009 included in the Duke SEC Documents or (B) that do not exceed $30,000,000 individually or $100,000,000 in the aggregate during any consecutive twelve-month period, and (y) with respect to any non-monetary terms and conditions therein, impose or require actions that would not reasonably be expected individually or in the aggregate to have a material adverse effect on Duke.

(o) Contracts. Except as permitted by Section 4.02(i), Duke shall not, nor shall it permit any of its subsidiaries to, (i) enter into any Contract that would materially restrict, after the Effective Time, Duke and its subsidiaries (including the Surviving Corporation and its subsidiaries) with respect to engaging or competing in any line of business or in any geographic area or (ii) waive, release, or assign any material rights or claims under, or materially modify or terminate any Contract that is material to Duke and its subsidiaries, taken as a whole, (A) in any manner that is materially adverse to Duke or (B) which would prevent or materially delay the consummation of the Merger and the other transactions contemplated by this Agreement, it being understood and agreed that the restriction on material modifications and terminations in clause (ii)(A) shall not apply with respect to any Contract permitted to be entered into under clause (e), (f), (g), (h) or (n) of this Section 4.02.

Section 4.03 No Solicitation by Progress. (a) Except as expressly permitted by this Section 4.03, Progress shall not, nor shall it permit any of its subsidiaries to, nor shall it authorize or permit any of its directors, officers or employees to, and shall use its reasonable best efforts to cause any investment banker, financial advisor, attorney, accountant or other representative retained by it or any of its subsidiaries not to, directly or indirectly, (i) solicit, initiate or knowingly encourage (including by way of furnishing information), or take any other action designed to facilitate, any inquiries or the making of any proposal that constitutes a Progress Takeover Proposal or (ii) participate in any negotiations or substantive discussions regarding any Progress Takeover Proposal; provided, however, that if, at any time prior to receipt of the Progress Shareholder Approval (the "Progress Applicable Period"), the Board of Directors of Progress determines in good faith, after consultation with its legal and financial advisors, that a Progress Takeover Proposal that did not result from a breach (other than in immaterial respects) of this Section 4.03(a) is, or is reasonably likely to result in, a Progress Superior Proposal (as defined in Section 4.03(b)), and subject to providing prior written notice of its decision to take such action to

Duke and compliance with Section 4.03(c), Progress may (x) furnish information with respect to and provide access to the properties, books and records of Progress and its subsidiaries to the person making such proposal (and its representatives) pursuant to a customary confidentiality agreement containing terms no less favorable to Progress with respect to confidentiality than those set forth in the Confidentiality Agreement (the "Confidentiality Agreement") dated July 29, 2010, between Duke and Progress (provided, that such confidentiality agreement shall not in any way restrict Progress from complying with its disclosure obligations under this Agreement, including with respect to such proposal) and (y) participate in discussions or negotiations regarding such proposal. Progress, its subsidiaries and their representatives immediately shall cease and cause to be terminated any existing activities, discussions or negotiations with any parties with respect to any Progress Takeover Proposal. For purposes of this Agreement, "Progress Takeover Proposal" means any bona fide inquiry, proposal or offer from any person relating to (i) any direct or indirect acquisition or purchase of a business that constitutes 20% or more of the net revenues, net income or the assets (including equity securities) of Progress and its subsidiaries, taken as a whole (a "Progress Material Business"), (ii) any direct or indirect acquisition or purchase of 20% or more of any class of voting securities of Progress or any subsidiary of Progress owning, operating or controlling a Progress Material Business, (iii) any tender offer or exchange offer that if consummated would result in any person beneficially owning 20% or more of any class of voting securities of Progress, or (iv) any merger, consolidation, business combination, recapitalization, liquidation, dissolution or similar transaction involving Progress or any subsidiary of Progress owning, operating or controlling a Progress Material Business, in each case other than the transactions contemplated by this Agreement. Notwithstanding the foregoing and provided that Progress has otherwise complied with this Section 4.03(a), nothing in this Section 4.03(a) shall prohibit Progress or its directors, officers, employees, representatives or agents from contacting in writing any person who has made a Progress Takeover Proposal after the date of this Agreement solely to request the clarification of the terms and conditions thereof to the extent necessary to permit it to determine whether the Progress Takeover Proposal is, or is reasonably likely to result in, a Progress Superior Proposal.

(b) Except as contemplated by this Section 4.03, neither the Board of Directors of Progress nor any committee thereof shall (A) withdraw or modify, or propose publicly to withdraw or modify, in a manner adverse to Duke, the approval or recommendation to Progress's shareholders by such Board of Directors or such committee of this Agreement or the Merger, (B) approve or recommend, or propose publicly to approve or recommend, any Progress Takeover Proposal, or (C) cause Progress to enter into any letter of intent, agreement in principle, acquisition agreement or other similar agreement (each, a "Progress Acquisition Agreement") related to any Progress Takeover Proposal. Notwithstanding the foregoing:

(i) in response to a Progress Takeover Proposal that did not result from a breach (other than in immaterial respects) of Section 4.03(a), during the Progress Applicable Period, the Board of Directors of Progress may, if it determines in good faith, after consulting with outside counsel, that the failure to take such action would be reasonably likely to result in a breach of the Board of Directors' fiduciary obligations under applicable law, (A) withdraw or modify, or propose publicly to withdraw or modify, the approval or recommendation by such Board of Directors or any committee thereof of this Agreement or the Merger, (B) approve or recommend, or propose to approve or recommend, any Progress Superior Proposal, or (C) terminate this Agreement pursuant to Section 7.01(d), but only after (1) in the case of each of clauses (B) or (C),

such Board of Directors has determined in good faith that such Progress Takeover Proposal constitutes a Progress Superior Proposal, and (2) in the case of clause (C), (I) Progress has notified Duke in writing of the determination that such Progress Takeover Proposal constitutes a Progress Superior Proposal and (II) at least five business days following receipt by Duke of such notice, the Board of Directors of Progress has determined that such Progress Superior Proposal remains a Progress Superior Proposal; provided, however, that in the event that any such Progress Takeover Proposal is thereafter modified by the person making such Progress Takeover Proposal and the Board of Directors determines pursuant to clause (C) to terminate this Agreement pursuant to Section 7.01(d), Progress shall again comply with clauses (I) and (II) of this paragraph (b)(i) except that the five business-day period shall be reduced to two business days; and

(ii) . In circumstances other than in response to a Progress Takeover Proposal as provided in Section 4.03(b)(i), during the Progress Applicable Period, the Board of Directors of Progress may, if it determines in good faith, after consulting with outside counsel, that the failure to take such action would be reasonably likely to result in a breach of the Board of Directors' fiduciary obligations under applicable law, withdraw or modify, or propose publicly to withdraw or modify, the approval or recommendation by such Board of Directors or any committee thereof of this Agreement or the Merger, but only after (1) Progress has notified Duke in writing that the Board of Directors of Progress is prepared to make the determination set forth in this clause (ii) setting forth the reasons therefor in reasonable detail, (2) for a period of five business days following Duke's receipt of the notice set forth in clause (1) of this sentence (or, if the period from the time of receipt by Duke of such notice to the Progress Shareholders Meeting shall be less than five business days, for such lesser period), Progress negotiates with Duke in good faith to make such adjustments to the terms and conditions of this Agreement, the Merger and the other transactions contemplated hereby as would enable the Progress Board of Directors to proceed with its recommendation of this Agreement and the Merger and (3) at the end of such five-business day period (or such lesser period, as the case may be, in accordance with this clause (ii)) the Board of Directors of Progress maintains its determination described in this clause (ii) (after taking into account Duke's proposed adjustments, if any, to the terms and conditions of this Agreement, the Merger and the other transactions contemplated hereby).

For purposes of this Agreement, "Progress Superior Proposal" means any written Progress Takeover Proposal that the Board of Directors of Progress determines in good faith (after consultation with a financial advisor of nationally recognized reputation) to be more favorable (taking into account (i) all financial and strategic considerations, including relevant legal, financial, regulatory and other aspects of such Progress Takeover Proposal and the Merger and the other transactions contemplated by this Agreement deemed relevant by the Board of Directors, (ii) the identity of the third party making such Progress Takeover Proposal, and (iii) the conditions and prospects for completion of such Progress Takeover Proposal) to Progress's shareholders than the Merger and the other transactions contemplated by this Agreement (taking into account all of the terms of any proposal by Duke to amend or modify the terms of the Merger and the other transactions contemplated by this Agreement), except that (x) the references to "20%" in clauses (i), (ii) and (iii) of the definition of "Progress Takeover Proposal" in Section 4.03(a) shall each be deemed to be a reference to "50%", (y) a "Progress Takeover Proposal" shall only be deemed to refer to a transaction involving Progress, and not any of its subsidiaries or Progress Material Businesses alone, and (z) the references to "or any subsidiary of Progress owning, operating or controlling a Progress Material Business" in clauses (ii) and (iv) shall be deemed to be deleted.

(c) In addition to the obligations of Progress set forth in paragraphs (a) and (b) of this Section 4.03, Progress shall as promptly as practicable advise Duke, orally and in writing, of any Progress Takeover Proposal or of any request for information relating to any Progress Takeover Proposal (and in any case within 48 hours of such request or the receipt of such Progress Takeover Proposal), the principal terms and conditions of such request or Progress Takeover Proposal and the identity of the person making such request or Progress Takeover Proposal. Progress shall keep Duke informed in all material respects of the status and details (including amendments or proposed amendments) of any such request or Progress Takeover Proposal. Contemporaneously with any termination by Progress of this Agreement pursuant to Section 7.01(b)(i), Progress shall provide Duke with a written verification that it has complied with its obligations pursuant to this Section 4.03(c) (other than noncompliance which is immaterial).

(d) Nothing contained in this Agreement shall prohibit Progress or its Board of Directors or any committee thereof from (i) taking and disclosing to its shareholders a position contemplated by Rule 14e-2(a) promulgated under the Exchange Act or from making any disclosure to Progress's shareholders if, in the good faith judgment of the Board of Directors of Progress, after consultation with outside counsel, failure so to disclose would be inconsistent with its or Progress's obligations under applicable law or (ii) taking actions permitted by Section 4.01(f).

Section 4.04 No Solicitation by Duke. (a) Except as expressly permitted by this Section 4.04, Duke shall not, nor shall it permit any of its subsidiaries to, nor shall it authorize or permit any of its directors, officers or employees to, and shall use its reasonable best efforts to cause any investment banker, financial advisor, attorney, accountant or other representative retained by it or any of its subsidiaries not to, directly or indirectly, (i) solicit, initiate or knowingly encourage (including by way of furnishing information), or take any other action designed to facilitate, any inquiries or the making of any proposal that constitutes a Duke Takeover Proposal or (ii) participate in any negotiations or substantive discussions regarding any Duke Takeover Proposal; provided, however, that if, at any time prior to receipt of the Duke Shareholder Approval (the "Duke Applicable Period"), the Board of Directors of Duke determines in good faith, after consultation with its legal and financial advisors, that a Duke Takeover Proposal that did not result from a breach (other than in immaterial respects) of this Section 4.04(a) is, or is reasonably likely to result in, a Duke Superior Proposal (as defined in Section 4.04(b)), and subject to providing prior written notice of its decision to take such action to Progress and compliance with Section 4.04(c), Duke may (x) furnish information with respect to and provide access to the properties, books and records of Duke and its subsidiaries to the person making such proposal (and its representatives) pursuant to a customary confidentiality agreement containing terms no less favorable to Duke with respect to confidentiality than those set forth in the Confidentiality Agreement (provided, that such confidentiality agreement shall not in any way restrict Duke from complying with its disclosure obligations under this Agreement, including with respect to such proposal) and (y) participate in discussions or negotiations regarding such proposal. Duke, its subsidiaries and their representatives immediately shall cease and cause to be terminated any existing activities, discussions or negotiations with any parties with respect to any Duke Takeover Proposal. For purposes of this Agreement, "Duke Takeover Proposal" means any bona fide inquiry, proposal or offer from any person relating to (i) any direct or indirect acquisition or purchase of a business that constitutes 20% or more of the net revenues, net income or the assets (including equity securities) of Duke and its subsidiaries, taken as a whole (a "Duke Material

Business"), (ii) any direct or indirect acquisition or purchase of 20% or more of any class of voting securities of Duke or any subsidiary of Duke owning, operating or controlling a Duke Material Business, (iii) any tender offer or exchange offer that if consummated would result in any person beneficially owning 20% or more of any class of voting securities of Duke, or (iv) any merger, consolidation, business combination, recapitalization, liquidation, dissolution or similar transaction involving Duke or any subsidiary of Duke owning, operating or controlling a Duke Material Business, in each case other than the transactions contemplated by this Agreement. Notwithstanding the foregoing and provided that Duke has otherwise complied with this Section 4.04(a), nothing in this Section 4.04(a) shall prohibit Duke or its directors, officers, employees, representatives or agents from contacting in writing any person who has made a Duke Takeover Proposal after the date of this Agreement solely to request the clarification of the terms and conditions thereof to the extent necessary to permit it to determine whether the Duke Takeover Proposal is, or is reasonably likely to result in, a Duke Superior Proposal.

(b) Except as contemplated by this Section 4.04, neither the Board of Directors of Duke nor any committee thereof shall (A) withdraw or modify, or propose publicly to withdraw or modify, in a manner adverse to Progress, the approval or recommendation to Duke's shareholders by such Board of Directors or such committee of the Duke Share Issuance or Duke Charter Amendment, (B) approve or recommend, or propose publicly to approve or recommend, any Duke Takeover Proposal, or (C) cause Duke to enter into any letter of intent, agreement in principle, acquisition agreement or other similar agreement (each, a "Duke Acquisition Agreement") related to any Duke Takeover Proposal. Notwithstanding the foregoing:

(i) in response to a Duke Takeover Proposal that did not result from a breach (other than in immaterial respects) of Section 4.04(a), during the Duke Applicable Period, the Board of Directors of Duke may, if it determines in good faith, after consulting with outside counsel, that the failure to take such action would be reasonably likely to result in a breach of the Board of Directors' fiduciary obligations under applicable law, (A) withdraw or modify, or propose publicly to withdraw or modify, the approval or recommendation by such Board of Directors or any committee thereof of the Duke Share Issuance or Duke Charter Amendment, (B) approve or recommend, or propose to approve or recommend, any Duke Superior Proposal, or (C) terminate this Agreement pursuant to Section 7.01(f), but only after (1) in the case of each of clauses (B) or (C), such Board of Directors has determined in good faith that such Duke Takeover Proposal constitutes a Duke Superior Proposal, and (2) in the case of clause (C), (I) Duke has notified Progress in writing of the determination that such Duke Takeover Proposal constitutes a Duke Superior Proposal and (II) at least five business days following receipt by Progress of such notice, the Board of Directors of Duke has determined that such Duke Superior Proposal remains a Duke Superior Proposal; provided, however, that in the event that any such Duke Takeover Proposal is thereafter modified by the person making such Duke Takeover Proposal and the Board of Directors determines pursuant to clause (C) to terminate this Agreement pursuant to Section 7.01(f), Duke shall again comply with clauses (I) and (II) of this paragraph (b)(i) except that the five business-day period shall be reduced to two business days; and

(ii) in circumstances other than in response to a Duke Takeover Proposal as provided in Section 4.04(b)(i), during the Duke Applicable Period, the Board of Directors of Duke may, if it determines in good faith, after consulting with outside counsel, that the failure to take such action would be reasonably likely to result in a breach of the Board of Directors' fiduciary

obligations under applicable law, withdraw or modify, or propose publicly to withdraw or modify, the approval or recommendation by such Board of Directors or any committee thereof of the Duke Share Issuance or Duke Charter Amendment, but only after (1) Duke has notified Progress in writing that the Board of Directors of Duke is prepared to make the determination set forth in this clause (ii) setting forth the reasons therefor in reasonable detail, (2) for a period of five business days following Progress's receipt of the notice set forth in clause (1) of this sentence (or, if the period from the time of receipt by Progress of such notice to the Duke Shareholders Meeting shall be less than five business days, for such lesser period), Duke negotiates with Progress in good faith to make such adjustments to the terms and conditions of this Agreement, the Merger and the other transactions contemplated hereby as would enable the Duke Board of Directors to proceed with its recommendation of the Duke Share Issuance and the Duke Charter Amendment and (3) at the end of such five-business day period (or such lesser period, as the case may be, in accordance with this clause (ii)) the Board of Directors of Duke maintains its determination described in this clause (ii) (after taking into account Progress's proposed adjustments, if any, to the terms and conditions of this Agreement, the Merger and the other transactions contemplated hereby).

For purposes of this Agreement, a "Duke Superior Proposal" means any written Duke Takeover Proposal that the Board of Directors of Duke determines in good faith (after consultation with a financial advisor of nationally recognized reputation) to be more favorable (taking into account (i) all financial and strategic considerations, including relevant legal, financial, regulatory and other aspects of such Duke Takeover Proposal and the Merger and the other transactions contemplated by this Agreement deemed relevant by the Board of Directors, (ii) the identity of the third party making such Duke Takeover Proposal, and (iii) the conditions and prospects for completion of such Duke Takeover Proposal) to Duke's shareholders than the Merger and the other transactions contemplated by this Agreement (taking into account all of the terms of any proposal by Progress to amend or modify the terms of the Merger and the other transactions contemplated by this Agreement), except that (x) the references to "20%" in clauses (i), (ii) and (iii) of the definition of "Duke Takeover Proposal" in Section 4.04(a) shall each be deemed to be a reference to "50%", (y) a "Duke Takeover Proposal" shall only be deemed to refer to a transaction involving Duke, and not any of its subsidiaries or Duke Material Businesses alone, and (z) the references to "or any subsidiary of Duke owning, operating or controlling a Duke Material Business" in clauses (ii) and (iv) shall be deemed to be deleted.

(c) In addition to the obligations of Duke set forth in paragraphs (a) and (b) of this Section 4.04, Duke shall as promptly as practicable advise Progress, orally and in writing, of any Duke Takeover Proposal or of any request for information relating to any Duke Takeover Proposal (and in any case within 48 hours of such request or the receipt of such Duke Takeover Proposal), the principal terms and conditions of such request or Duke Takeover Proposal and the identity of the person making such request or Duke Takeover Proposal. Duke shall keep Progress informed in all material respects of the status and details (including amendments or proposed amendments) of any such request or Duke Takeover Proposal. Contemporaneously with any termination by Duke of this Agreement pursuant to Section 7.01(b)(i), Duke shall provide Progress with a written verification that it has complied with its obligations pursuant to this Section 4.04(c) (other than noncompliance which is immaterial).

(d) Nothing contained in this Agreement shall prohibit Duke or its Board of Directors or any committee thereof from (i) taking and disclosing to its shareholders a position contemplated

by Rule 14e-2(a) promulgated under the Exchange Act or from making any disclosure to Duke's shareholders if, in the good faith judgment of the Board of Directors of Duke, after consultation with outside counsel, failure so to disclose would be inconsistent with its or Duke's obligations under applicable law or (ii) taking actions permitted by Section 4.02(f).

Section 4.05 Other Actions. Each of Progress and Duke shall use its reasonable best efforts not to, and shall use its reasonable best efforts not to permit any of its respective subsidiaries to, take any action that would, or that could reasonably be expected to, result in (i) any of the representations and warranties of such party set forth in this Agreement that is qualified as to materiality or material adverse effect becoming untrue, (ii) any of such representations and warranties that is not so qualified becoming untrue in any material respect, or (iii) any condition to the Merger set forth in Article VI not being satisfied.

Section 4.06 Coordination of Dividends. From the date of this Agreement until the Effective Time, Duke and Progress shall coordinate with each other regarding the declaration and payment of dividends in respect of the shares of Progress Common Stock and Duke Common Stock and the record dates and payment dates relating thereto, it being the intention of Progress and Duke that no holder of Progress Common Stock or Duke Common Stock shall receive two dividends, or fail to receive one dividend, for any single calendar quarter with respect to its shares of Progress Common Stock or Duke Common Stock (including Duke Common Stock issued in connection with the Merger), as the case may be. In furtherance of and without limiting the generality of the foregoing, if at the time that Progress would otherwise declare a regular quarterly cash dividend pursuant to Section 4.01(c)(i)(A) the parties expect the Closing Date to occur during the period of time from and after the record date for such Progress dividend and prior to the record date for the next subsequent regular quarterly cash dividend of Duke, the parties shall coordinate to reduce the amount of such Progress dividend to an amount reasonably calculated to effectuate the intent of the parties described in the first sentence of this Section 4.06. In the event (a) the Closing Date would, in the absence of this Section 4.06, occur after the record date for the last regular quarterly cash dividend of Progress prior to the Closing Date and prior to the record date for the next subsequent regular quarterly cash dividend of Duke and (b) such last recent Progress regular quarterly cash dividend occurring prior to the Closing shall not have been reduced as contemplated by the preceding sentence, Duke shall be permitted to (i) declare and pay a special dividend to Duke stockholders immediately prior to the Closing in an amount reasonably calculated to effectuate the intent of the parties described in the first sentence of this Section 4.06 or (ii) subject to the prior written consent of Progress (which consent shall not be unreasonably withheld), postpone the Closing to a date no later than one business day after the record date for the next succeeding regular quarterly cash dividend of Duke (in which event Progress shall be permitted to declare and pay a special dividend immediately prior to the Closing in an amount reasonably calculated to effectuate the intent of the parties described in the first sentence of this Section 4.06, and neither party shall be entitled to terminate this Agreement pursuant to Section 7.01(b)(i) during the period of such postponement).

ARTICLE V

ADDITIONAL AGREEMENTS

Section 5.01 Preparation of the Form S-4 and the Joint Proxy Statement; Shareholders Meetings. (a) As soon as practicable following the date of this Agreement, Progress and Duke shall prepare and file with the SEC the Joint Proxy Statement and Duke shall prepare and file with the SEC the Form S-4, in which the Joint Proxy Statement will be included. The Joint Proxy Statement and Form S-4 shall comply as to form in all material respects with the applicable provisions of the Securities Act and the Exchange Act and the rules and regulations thereunder. Duke shall use its reasonable best efforts, and Progress will reasonably cooperate with Duke in such efforts, to have the Form S-4 declared effective under the Securities Act as promptly as practicable after such filing and to keep the Form S-4 effective as long as necessary to consummate the Merger and other transactions contemplated hereby. Progress will use its reasonable best efforts to cause the Joint Proxy Statement to be mailed to Progress's shareholders, and Duke will use its reasonable best efforts to cause the Joint Proxy Statement to be mailed to Duke's shareholders, in each case as promptly as practicable after the Form S-4 is declared effective under the Securities Act. Duke shall also take any action required to be taken by it under any applicable state or provincial securities laws in connection with the issuance of Duke Common Stock in the Merger and each party shall furnish all information concerning itself and its shareholders as may be reasonably requested in connection with any such action. Each party will advise the others, promptly after it receives notice thereof, of the time when the Form S-4 has become effective or any supplement or amendment has been filed, the issuance of any stop order, the suspension of the qualification of the Duke Common Stock issuable in connection with the Merger for offering or sale in any jurisdiction, or any request by the SEC for amendment of the Joint Proxy Statement or the Form S-4 or comments thereon and responses thereto or requests by the SEC for additional information. If prior to the Effective Time any event occurs with respect to Progress, Duke or any subsidiary of Progress or Duke, respectively, or any change occurs with respect to information supplied by or on behalf of Progress or Duke, respectively, for inclusion in the Joint Proxy Statement or the Form S-4 that, in each case, is required to be described in an amendment of, or a supplement to, the Joint Proxy Statement or the Form S-4, Progress or Duke, as applicable, shall promptly notify the other of such event, and Progress or Duke, as applicable, shall cooperate with the other in the prompt filing with the SEC of any necessary amendment or supplement to the Joint Proxy Statement and the Form S-4 and, as required by law, in disseminating the information contained in such amendment or supplement to Progress's shareholders and to Duke's shareholders; provided that no amendment or supplement to the Joint Proxy Statement or the Form S-4 shall be filed by either party, and no material correspondence with the SEC shall be made by either party, without providing the other party a reasonable opportunity to review and comment thereon.

(b) Progress shall, as soon as reasonably practicable following the date of this Agreement, duly call, give notice of, convene and hold a meeting of its shareholders (the "Progress Shareholders Meeting") for the purpose of obtaining the Progress Shareholder Approval and any other matters required under applicable law to be considered at the Progress Shareholders Meeting. Without limiting the generality of the foregoing, Progress agrees that unless this Agreement is terminated pursuant to Section 7.01, its obligations pursuant to the first sentence of this Section 5.01(b) shall not be affected by (i) the commencement, public proposal, public disclosure or

communication to Progress of any Progress Takeover Proposal, (ii) the withdrawal or modification by the Board of Directors of Progress of its approval or recommendation to Progress's shareholders of this Agreement, the Merger or the other transactions contemplated hereby, or (iii) the approval or recommendation of any Progress Superior Proposal. Notwithstanding any of the events set forth in clauses (i), (ii) and (iii) of the immediately preceding sentence, in the event Progress fulfills its obligations pursuant to this Section 5.01(b) and the Progress Shareholder Approval is not obtained at the Progress Shareholders Meeting, Duke shall not thereafter have the right to terminate this Agreement pursuant to Sections 7.01(h)(i) as a result of the Board of Directors of Progress (or any committee thereof) having, pursuant to Section 4.03(b)(ii), withdrawn or modified, or proposed publicly to withdraw or modify, the approval or recommendation by such Board of Directors of this Agreement or the Merger; provided Duke shall retain all other rights to terminate this Agreement set forth in Section 7.01.

(c) Duke shall, as soon as reasonably practicable following the date of this Agreement, duly call, give notice of, convene and hold a meeting of its shareholders (the "Duke Shareholders Meeting") for the purpose of obtaining the Duke Shareholder Approval and any other matters required under applicable law to be considered at the Duke Shareholders Meeting. Without limiting the generality of the foregoing, Duke agrees that unless this Agreement is terminated pursuant to Section 7.01, its obligations pursuant to the first sentence of this Section 5.01(c) shall not be affected by (i) the commencement, public proposal, public disclosure or communication to Duke of any Duke Takeover Proposal, (ii) the withdrawal or modification by the Board of Directors of Duke of its approval or recommendation to Duke's shareholders of the Duke Share Issuance and the Duke Charter Amendment, or (iii) the approval or recommendation of any Duke Superior Proposal. Notwithstanding any of the events set forth in clauses (i), (ii) and (iii) of the immediately preceding sentence, in the event Duke fulfills its obligations pursuant to this Section 5.01(c) and the Duke Shareholder Approval is not obtained at the Duke Shareholders Meeting, Progress shall not thereafter have the right to terminate this Agreement pursuant to Section 7.01(g)(i) as a result of the Board of Directors of Duke (or any committee thereof) having, pursuant to Section 4.04(b)(ii), withdrawn or modified, or proposed publicly to withdraw or modify, the approval or recommendation by such Board of Directors of this Agreement or the Duke Merger; provided Progress shall retain all other rights to terminate this Agreement set forth in Section 7.01.

Subject to receipt of the Duke Shareholder Approval, on or before the Closing Date and prior to the Effective Time, Duke shall file with the Secretary of State of the State of Delaware a Certificate of Amendment to the Amended and Restated Certificate of Incorporation of Duke providing for, after prior consultation with Progress, a 1-for-2 or 1-for-3 reverse stock split with respect to the Duke Common Stock (the "Duke Charter Amendment"), such Certificate of Amendment to become effective on the Closing Date prior to the filing of the Articles of Merger with the Secretary of State of the State of North Carolina.

(d) Progress and Duke will use their reasonable best efforts to hold the Duke Shareholders Meeting and the Progress Shareholders Meeting on the same date and as soon as practicable after the date of this Agreement.

Section 5.02 Letters of Duke's Accountants. Duke shall use its reasonable best efforts to cause to be delivered to Progress two letters from Duke's independent accountants, one dated a

date within two business days before the date on which the Form S-4 shall become effective and one dated a date within two business days before the Closing Date, each addressed to Progress, in form and substance reasonably satisfactory to Progress and customary in scope and substance for comfort letters delivered by independent public accountants in connection with registration statements similar to the Form S-4.

Section 5.03 Letters of Progress's Accountants. Progress shall use its reasonable best efforts to cause to be delivered to Duke two letters from Progress's independent accountants, one dated a date within two business days before the date on which the Form S-4 shall become effective and one dated a date within two business days before the Closing Date, each addressed to Duke, in form and substance reasonably satisfactory to Duke and customary in scope and substance for comfort letters delivered by independent public accountants in connection with registration statements similar to the Form S-4.

Section 5.04 Access to Information; Effect of Review.

(a) Access. Subject to the Confidentiality Agreement, to the extent permitted by applicable law, each of Progress and Duke shall, and shall cause each of its respective subsidiaries to, and, so long as consistent with its confidentiality obligations under its applicable agreements, shall use its respective reasonable best efforts to cause the Progress Joint Ventures and Duke Joint Ventures, respectively, to, afford to the other party and to the officers, employees, accountants, counsel, financial advisors and other representatives of such other party reasonable access during normal business hours during the period prior to the Effective Time to all their respective properties, books, contracts, commitments, personnel and records and, during such period, to the extent permitted by applicable law, each of Progress and Duke shall, and shall cause each of its respective subsidiaries to, and, so long as consistent with its confidentiality and other contractual obligations under its applicable agreements, shall use its respective reasonable best efforts to cause the Progress Joint Ventures and Duke Joint Ventures, respectively, to, (i) confer on a regular and frequent basis with one or more representatives of the other party to discuss material operational and regulatory matters and the general status of its ongoing operations, (ii) advise the other party of any change or event that has had or could reasonably be expected to have a material adverse effect on such party, and (iii) furnish promptly all other information concerning its business, properties and personnel, in each case as such other party may reasonably request; provided, however, that no actions shall be taken pursuant to this Section 5.04(a) that would create a risk of loss or waiver of the attorney/client privilege, provided, further, that the parties shall use their respective commercially reasonable efforts to allow for access and disclosure of information in a manner reasonably acceptable to the parties that does not result in the loss or waiver of the attorney-client privilege (which efforts shall include entering into mutually acceptable joint defense agreements between the parties if doing so would reasonably permit the disclosure of information without violating applicable law or jeopardizing such attorney-client privilege). Notwithstanding the foregoing, if a party requests access to proprietary information of the other party, the disclosure of which would have a material adverse effect on the other party if the Closing were not to occur (giving effect to the requesting party's obligations under the Confidentiality Agreement), such information shall only be disclosed to the extent reasonably agreed upon by the chief financial officers (or their designees) of Progress and Duke. All information exchanged pursuant to this Section 5.04(a) shall be subject to the Confidentiality Agreement.

(b) Effect of Review. No review pursuant to this Section 5.04 shall have any effect for the purpose of determining the accuracy of any representation or warranty given by any of the parties hereto to any of the other parties hereto.

Section 5.05 Regulatory Matters; Reasonable Best Efforts.

(a) Regulatory Approvals. Each party hereto shall cooperate and promptly prepare and file all necessary documentation, to effect all necessary applications, notices, petitions and filings, and shall use reasonable best efforts to take or cause to be taken all actions, and do or cause to be done all things in order to obtain all approvals and authorizations of all Governmental Authorities, necessary or advisable to consummate and make effective, in the most expeditious manner reasonably practicable, the Merger and the other transactions contemplated by this Agreement, including the Progress Required Statutory Approvals and the Duke Required Statutory Approvals; provided, however, that Progress shall have primary responsibility for the preparation and filing of any related applications, filings or other materials with the FPSC and the NCUC and PSCSC, provided, further, that Duke shall have primary responsibility for the preparation and filing of any related applications, filings or other materials with the PUCO, the IURC and the KPSC. Progress shall have the right to review and approve in advance all characterizations of the information relating to Progress, on the one hand, and Duke shall have the right to review and approve in advance all characterizations of the information relating to Duke, on the other hand, in either case, that appear in any application, notice, petition or filing made in connection with the Merger or the other transactions contemplated by this Agreement. Progress and Duke agree that they will consult and cooperate with each other with respect to the obtaining of all such necessary approvals and authorizations of Governmental Authorities.

(b) Reasonable Best Efforts. Subject to the terms and conditions set forth in this Agreement, each of the parties hereto shall use its reasonable best efforts (subject to, and in accordance with, applicable law) to take, or cause to be taken, promptly all actions, and to do, or cause to be done, promptly and to assist and cooperate with the other parties in doing, all things necessary, proper or advisable to consummate and make effective the Merger and the other transactions contemplated by this Agreement, including (i) the obtaining of all necessary Consents or waivers from third parties and Governmental Authorities, (ii) the defending of any lawsuits or other legal proceedings, whether judicial or administrative, challenging this Agreement or the consummation of the transactions contemplated by this Agreement, and (iii) the execution and delivery of any additional instruments necessary to consummate the transactions contemplated by this Agreement. For purposes of this Agreement, "reasonable best efforts" shall not include nor require either party or its subsidiaries to (A) sell, or agree to sell, hold or agree to hold separate, or otherwise dispose or agree to dispose of any asset, in each case if such sale, separation or disposition or agreement with respect thereto would, individually or in the aggregate, reasonably be expected to have a material adverse effect on the expected benefits of the transactions contemplated by this Agreement to such party, or (B) conduct or agree to conduct its business in any particular manner if such conduct or agreement with respect thereto would, individually or in the aggregate, reasonably be expected to have a material adverse effect on the expected benefits of the transactions contemplated by this Agreement to such party, or (C) agree to any order, action or regulatory condition of any regulatory body, whether in an approval proceeding or another regulatory proceeding, that, if effected, would cause a material reduction in the expected benefits for such party's shareholders (for example, the parties expect their customers to participate in the

benefits of the transactions contemplated by this Agreement in amounts up to but not exceeding (x) the benefits of joint system dispatch and fuel savings as they materialize in future fuel clause proceedings and (y) rates that are lower than they otherwise would have been as net merger savings materialize in future rate proceedings initiated in the ordinary course of business) (any of the foregoing effects, a "Burdensome Effect").

(c) State Anti-Takeover Statutes. Without limiting the generality of Section 5.05(b), Progress and Duke shall (i) take all action necessary to ensure that no state anti-takeover statute or similar statute or regulation is or becomes applicable to the Merger, this Agreement or any of the other transactions contemplated by this Agreement and (ii) if any state anti-takeover statute or similar statute or regulation becomes applicable to the Merger, this Agreement or any other transaction contemplated by this Agreement, take all action necessary to ensure that the Merger and the other transactions contemplated by this Agreement may be consummated as promptly as reasonably practicable on the terms contemplated by this Agreement and otherwise to minimize the effect of such statute or regulation on the Merger and the other transactions contemplated by this Agreement.

Section 5.06 Stock Options; Restricted Stock and Equity Awards; Stock Plans. (a) At the Effective Time, each Progress Employee Stock Option, whether vested or unvested, shall be converted into an option to acquire, on the same terms and conditions as were applicable under such Progress Employee Stock Option, including vesting, a number of shares of Duke Common Stock equal to the number of shares of Progress Common Stock subject to such Progress Employee Stock Option immediately before the Effective Time multiplied by the Exchange Ratio (rounded down to the nearest whole share) at a price per share of Duke Common Stock equal to the price per share under such Progress Employee Stock Option divided by the Exchange Ratio (rounded up to the nearest cent) (each, as so adjusted, a "Progress Adjusted Option");

(i) at the Effective Time, each award of restricted shares of Progress Common Stock ("Progress Restricted Stock") shall be converted into an award of a number of restricted shares of Duke Common Stock equal to the number of restricted shares of Progress Common Stock multiplied by the Exchange Ratio, on the same terms and conditions as were applicable to such award of restricted shares of Progress Common Stock, including vesting ("Progress Adjusted Restricted Stock");

(ii) at the Effective Time, each Progress Restricted Stock Unit shall be converted into an award of a number of restricted stock units of Duke Common Stock equal to the number of restricted stock units of Progress Common Stock multiplied by the Exchange Ratio, on the same terms and conditions as were applicable to such award of restricted stock units of Progress Common Stock, including vesting ("Progress Adjusted Restricted Stock Units");

(iii) at the Effective Time, each Progress Performance Share shall be assumed and converted into an award of a number of performance shares of Duke Common Stock equal to the number of performance shares of Progress Common Stock multiplied by the Exchange Ratio, on the same terms and conditions as were applicable to such award of performance shares of Progress Common Stock, including vesting, and the performance measurement period for such performance shares shall remain open (such that no payments shall be made under the terms of such performance shares solely as a result of or in connection with the Merger) and the

Compensation Committee of the Board of Directors of Duke shall adjust the performance measures of such performance shares as soon as practicable after the Effective Time as it determines is appropriate and equitable to reflect the performance of Progress during the performance measurement period prior to the Effective Time, the transactions contemplated by this Agreement and the performance measures under awards made to similarly situated Duke employees for the same or comparable performance cycle (the "Progress Adjusted Performance Shares");

(iv) all outstanding Other Progress Equity Awards, whether vested or unvested, as of immediately prior to the Effective Time shall be converted into an equity or equity-based award in respect of a number of shares of Duke Common Stock equal to the number of shares of Progress Common Stock represented by such award multiplied by the Exchange Ratio, on the same terms and conditions as were applicable to such Progress equity or equity-based award, including vesting ("Other Progress Adjusted Equity Awards"); and

(v) prior to the Effective Time, the Board of Directors of Progress (or, if appropriate, any committee administering the Progress Employee Stock Option Plans) shall adopt such resolutions or take such other actions as may be required to effect the foregoing and to ensure that the conversion pursuant to Section 2.01(b) of the Progress Common Stock held by any director or officer of Progress and the conversion pursuant to this Section 5.06(a) into Progress Adjusted Options of Progress Employee Stock Options, Progress Adjusted Restricted Stock of Progress Restricted Stock, Progress Adjusted Restricted Stock Units of Progress Restricted Stock Units, Progress Adjusted Performance Shares of Progress Performance Shares and Other Progress Adjusted Equity Awards of Other Progress Equity Awards held by any director or officer of Progress will be eligible for exemption under Rule 16b-3(e) under the Exchange Act.

(b) Prior to the Effective Time, the Board of Directors of Duke shall adopt such resolutions or take such other actions as may be required to ensure to the maximum extent permitted by law that the conversion pursuant to Section 2.01(a) of the Progress Common Stock held by any director or officer of Progress and the conversion pursuant to Section 5.06(a) will be eligible for exemption under Rule 16b-3(e) under the Exchange Act. Prior to the Effective Time, Progress shall deliver to the holders of Progress Adjusted Options, Progress Adjusted Restricted Stock, Progress Adjusted Restricted Stock Units, Progress Adjusted Performance Shares and Other Progress Adjusted Equity Awards appropriate notices setting forth such holders' rights pursuant to the respective plans and this Agreement (collectively, the "Stock Plans").

(c) At the Effective Time, by virtue of the Merger, the Stock Plans shall be assumed by Duke, with the result that all obligations of Progress under the Stock Plans, including with respect to awards outstanding at the Effective Time under each Stock Plan, shall be obligations of Duke following the Effective Time. Prior to the Effective Time, Duke shall take all necessary actions for the assumption of the Stock Plans, including the reservation, issuance and listing of Duke Common Stock in a number at least equal to the number of shares of Duke Common Stock that will be subject to Progress Adjusted Options, Progress Adjusted Restricted Stock Units, Progress Adjusted Performance Shares and Other Progress Adjusted Equity Awards. As promptly as practicable following the Effective Time, Duke or its subsidiaries shall prepare and file with the SEC a registration statement on Form S-8 (or another appropriate form) registering a number of shares of Duke Common Stock determined in accordance with the preceding sentence. Such

registration statement shall be kept effective (and the current status of the prospectus or prospectuses required thereby shall be maintained) at least for so long as Progress Adjusted Options, Progress Adjusted Restricted Stock Units, Progress Adjusted Performance Shares and Other Progress Adjusted Equity Awards remain outstanding.

Section 5.07 Employee Matters. (a) From and after the Effective Time, the Duke Employee Benefit Plans and the Progress Employee Benefit Plans in effect as of the date of this Agreement and at the Effective Time shall remain in effect with respect to employees and former employees of Duke or Progress and their subsidiaries (the "Newco Employees"), respectively, covered by such Plans at the Effective Time, until such time as Duke and Progress together shall otherwise determine, subject to applicable laws and the terms of such plans. Prior to the Effective Time, Duke and Progress shall cooperate in reviewing, evaluating and analyzing Duke Employee Benefit Plans and Progress Employee Benefit Plans with a view towards maintaining appropriate Plans for Newco Employees.

(b) With respect to any Plans in which any Newco Employees who are employees of Duke or Progress (or their subsidiaries) prior to the Effective Time first become eligible to participate on or after the Effective Time, and in which such Newco Employees did not participate prior to the Effective Time (the "New Plans"), Duke shall, or shall cause its subsidiaries to, use reasonable best efforts, subject to applicable law, to: (i) waive all pre-existing conditions, exclusions and waiting periods with respect to participation and coverage requirements applicable to the Newco Employees and their eligible dependents under any New Plans in which such employees may be eligible to participate after the Effective Time, except to the extent such pre-existing conditions, exclusions or waiting periods would apply under the analogous Duke Employee Benefit Plan or Progress Employee Benefit Plan, as the case may be; (ii) provide each Newco Employee and their eligible dependents with credit for any co-payments and deductibles paid prior to the Effective Time under a Duke Employee Benefit Plan or Progress Employee Benefit Plan (to the same extent that such credit was given under the analogous Duke Employee Benefit Plan or Progress Employee Benefit Plan, as applicable, prior to the Effective Time) in satisfying any applicable deductible or out-of-pocket requirements under any New Plans in which such employees may be eligible to participate after the Effective Time; and (iii) recognize all service of the Newco Employees with Progress and Duke, and their respective affiliates, for all purposes (including, for purposes of eligibility to participate, vesting credit, entitlement to benefits, and, except with respect to defined benefit pension plans, benefit accrual) in any New Plan in which such employees may be eligible to participate after the Effective Time, including any severance plan, to the extent such service is taken into account under the applicable New Plan; provided that the foregoing shall not apply to the extent it would result in duplication of benefits.

(c) Prior to the Effective Time, Duke and Progress shall cooperate to establish common retention, relocation and severance policies or plans that apply to Newco Employees on and after the Effective Time; provided, however, that for the period beginning on the Closing Date and ending on the second anniversary of the Closing Date (the "Continuation Period"), each Newco Employee who was an employee of Progress immediately prior to the Effective Time whose employment is terminated during the Continuation Period shall be eligible to receive severance benefits in amounts and on terms and conditions no less favorable than those provided to employees of Progress pursuant to plans or policies in effect immediately prior to the Effective Time, including, without limitation, the Progress CIC Plan (as defined in Section 5.07(d)).

(d) Duke acknowledges and agrees that (i) it will assume, as of the Effective Time, all obligations under the Progress Energy, Inc. Management Change-in-Control Plan, as amended and restated effective January 1, 2008 but after giving effect to the amendment of the definition of "Good Reason" set forth in Section 4.01(d)(iii) of the Progress Disclosure Letter (the "Progress CIC Plan") and (ii) a termination of employment from Duke and its affiliates shall be the same as a termination of employment from Progress and its affiliates for all purposes under the Progress CIC Plan.

(e) Prior to the Effective Time, Progress shall (i) amend the definition of Committee set forth in Section 2.9 of the Progress CIC Plan by deleting the last sentence of such definition in its entirety and (ii) either amend the Progress CIC Plan or prescribe terms in the applicable award agreement to provide that, except as set forth in Section 4.01(d)(iii) of the Progress Disclosure Letter, for all equity awards granted under the Progress Employee Stock Option Plans to participants in the Progress CIC Plan after the date hereof, the definition of "good reason" or similar concept of constructive termination relating to such awards shall be as defined in Section 4.01(d)(iii) of the Progress Disclosure Letter. Progress also acknowledges and agrees that (A) neither Progress nor any of its subsidiaries will take any actions to fund any grantor trust or similar vehicle that it currently maintains, or may maintain at any time following the date hereof, in connection with the transactions contemplated by this Agreement and (B) prior to the Effective Time, Progress will take all actions necessary to amend (x) any grantor trust maintained by Progress to eliminate any requirement to fund any such grantor trust in connection with the transactions contemplated by this Agreement and (y) any Progress Employee Benefit Plan requiring the establishment or funding of a grantor trust to eliminate such requirement.

(f) Duke acknowledges and agrees that it shall assume, as of the Effective Time, all obligations under the Amended and Restated Supplemental Senior Executive Retirement Plan of Progress Energy, Inc. (the "SERP"); provided that nothing herein shall prohibit Progress or its affiliates or their respective successors and assigns from modifying, amending or terminating the provisions of the SERP in any manner in accordance with its terms and applicable law; provided, further that no modification, amendment or termination shall adversely affect a participant's accrued benefit or the right to payment thereof under the provisions of the SERP as in effect immediately prior to such amendment, modification or termination. Without limiting the generality of the foregoing, following the Effective Time, in the event that the SERP is amended in a manner that would otherwise reduce a participant's right to accrue future benefits under the SERP, Duke shall provide such participant with the opportunity to earn additional benefits under the SERP (or another compensation or benefit arrangement) equal to no less than the incremental amount that the participant would have earned under the SERP (i.e., due to the accrual of additional years of Service (as defined in the SERP)) in the absence of such amendment, except that such incremental amount shall be calculated after treating the participant's Final Average Salary (as defined in the SERP) as if it was solely based on compensation earned by the participant prior to the Effective Time, as increased after the Effective Time by cost of living adjustments. Progress shall amend the SERP as soon as practicable after the date hereof to provide that no individual may become a participant in the SERP following the date of this Agreement.

(g) At the Effective Time, outstanding awards under the Progress Management Incentive Compensation Plan shall be assumed and the performance period for each such award shall remain open (such that no payments shall be made under the terms of the Progress

Management Incentive Compensation Plan solely as a result of or in connection with the Merger) at a level and providing an annual incentive compensation opportunity that is not less than the level and annual incentive compensation opportunity under the existing Progress Management Incentive Compensation Plan and the applicable performance criteria and vesting requirements for each such award shall be adjusted by the Compensation Committee of the Board of Directors of Duke as it determines is appropriate and equitable to reflect the performance of Progress during the performance period prior to the Effective Time, the transactions contemplated by this Agreement and the performance measures under awards made to similarly situated Duke employees as soon as practicable following the Effective Time.

(h) Without limiting the generality of Section 8.06, the provisions of this Section 5.07 are solely for the benefit of the parties to this Agreement, and no current or former director, officer, employee or independent contractor or any other person shall be a third-party beneficiary of this Agreement, and nothing herein shall be construed as an amendment to any Progress Employee Benefit Plan, Duke Employee Benefit Plan or other compensation or benefit plan or arrangement for any purpose.

Section 5.08 Indemnification, Exculpation and Insurance. (a) Each of Duke, Merger Sub and Progress agrees that, to the fullest extent permitted under applicable law, all rights to indemnification, advancement and exculpation from liabilities for acts or omissions occurring at or prior to the Effective Time now existing in favor of the current or former directors, officers and employees and the fiduciaries currently indemnified under benefit plans of Progress and its subsidiaries, as provided in their respective certificate or articles of incorporation, by-laws (or comparable organizational documents) or other agreements providing indemnification, advancement or exculpation shall survive the Merger and shall continue in full force and effect in accordance with their terms, and no such provision in any certificate or articles of incorporation, by-laws (or comparable organizational document) or other agreement shall be amended, modified or repealed in any manner that would adversely affect the rights or protections thereunder to any such individual with respect to acts or omissions occurring at or prior to the Effective Time. In addition, from and after the Effective Time, all directors, officers and employees and all fiduciaries currently indemnified under benefit plans of Progress or its subsidiaries who become directors, officers, employees or fiduciaries under benefit plans of Duke will be entitled to the indemnity, advancement and exculpation rights and protections afforded to directors, officers and employees or fiduciaries under benefit plans of Duke. From and after the Effective Time, Duke shall cause the Surviving Corporation and its subsidiaries to honor and perform, in accordance with their respective terms, each of the covenants contained in this Section 5.08 without limit as to time.

(b) For six years after the Effective Time, Duke shall maintain in effect the directors' and officers' liability (and fiduciary) insurance policies currently maintained by Progress covering acts or omissions occurring on or prior to the Effective Time with respect to those persons who are currently covered by Progress's respective directors' and officers' liability (and fiduciary) insurance policies on terms with respect to such coverage and in amounts no less favorable than those set forth in the relevant policy in effect on the date of this Agreement; provided that the annual cost thereof shall not exceed 300% of the annual cost of such policies as of the date hereof. If such no less favorable insurance coverage cannot be maintained for such cost, Duke shall maintain the most advantageous policies of directors' and officers' insurance otherwise obtainable for such cost. Prior to the Effective Time, Progress may purchase a six-year "tail" prepaid policy

on terms and conditions no less advantageous to the Progress Indemnified Parties, or any other person entitled to the benefit of Sections 5.08(a) and (b), as applicable, than the existing directors' and officers' liability (and fiduciary) insurance maintained by Progress, covering without limitation the transactions contemplated hereby; provided that the aggregate cost thereof shall not exceed 600% of the annual cost of the directors' and officers' liability (and fiduciary) insurance maintained by Progress as of the date hereof. If such "tail" prepaid policy has been obtained by Progress prior to the Effective Time, it shall satisfy the obligations set forth in the first two sentences of this paragraph (b) and Duke shall, after the Effective Time, maintain such policy in full force and effect, for its full term, and continue to honor its obligations thereunder.

(c) From and after the Effective Time, Duke will cause the Surviving Corporation to indemnify and hold harmless each present director and officer of Progress or any of its subsidiaries (in each case, for acts or failures to act in such capacity), determined as of the date hereof, and any person who becomes such a director or officer between the date hereof and the Effective Time (collectively, the "Progress Indemnified Parties"), against any costs or expenses (including reasonable attorneys' fees, costs and expenses), judgments, fines, losses, claims, damages or liabilities incurred in connection with any claim, action, suit, proceeding or investigation, whether civil, criminal, administrative or investigative, arising out of matters existing or occurring at or prior to the Effective Time, whether asserted or claimed prior to, at or after the Effective Time (including any matters arising in connection with the transactions contemplated by this Agreement), to the fullest extent permitted by applicable law (and Duke will cause the Surviving Corporation to also advance expenses (including reasonable attorneys' fees, costs and expenses) as incurred to the fullest extent permitted under applicable law; provided that if required by applicable law the person to whom expenses are advanced provides an undertaking to repay such advances if it is ultimately determined that such person is not entitled to indemnification); and provided, further, that any determination as to whether a Progress Indemnified Party is entitled to indemnification or advancement of expenses hereunder pursuant to applicable law shall be made by independent counsel jointly selected by the Surviving Corporation and such Progress Indemnified Party.

(d) The obligations of Duke and the Surviving Corporation under this Section 5.08 shall not be terminated or modified by such parties in a manner so as to adversely affect any Progress Indemnified Party, or any other person entitled to the benefit of Sections 5.08(a) and (b), as the case may be, to whom this Section 5.08 applies without the consent of the affected Progress Indemnified Party, or such other person, as the case may be. If Duke, the Surviving Corporation or any of their respective successors or assigns (i) shall consolidate with or merge into any other corporation or entity and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (ii) shall transfer all or substantially all of its properties and assets to any individual, corporation or other entity, then, and in each such case, proper provisions shall be made so that the successors and assigns of Duke or the Surviving Corporation, as the case may be, shall assume all of the obligations of Duke, or the Surviving Corporation, as the case may be, set forth in this Section 5.08.

(e) The provisions of Section 5.08 are (i) intended to be for the benefit of, and will be enforceable by, each indemnified party, his or her heirs and his or her representatives and (ii) in addition to, and not in substitution for, any other rights to indemnification, advancement, exculpation or contribution that any such person may have by contract or otherwise.

Section 5.09 Fees and Expenses. (a) Except as provided in this Section 5.09, all fees and expenses incurred in connection with the Merger, this Agreement and the transactions contemplated by this Agreement shall be paid by the party incurring such fees or expenses, whether or not the Merger is consummated, except that each of Progress and Duke shall each bear and pay one-half of the costs and expenses incurred in connection with (1) the filing, printing and mailing of the Form S-4 and the Joint Proxy Statement (including SEC filing fees), (2) the filings of the premerger notification and report forms under the HSR Act (including filing fees) and (3) the preparation and filing of all applications, filings or other materials with the FPSC, PUCO, the NCUC, the IURC, the KPSC and the PSCSC. The Surviving Corporation shall file any return with respect to, and shall pay, any state or local taxes (including penalties or interest with respect thereto), if any, that are attributable to (i) the transfer of the beneficial ownership of Progress's real property and (ii) the transfer of Progress Common Stock pursuant to this Agreement as a result of the Merger. Progress and Duke shall cooperate with respect to the filing of such returns, including supplying any information that is reasonably necessary to complete such returns.

(b) Progress shall immediately pay Duke a fee equal to $400 million (the "Progress Termination Fee") minus any amounts as may have been previously paid by Progress pursuant to Section 5.09(d), payable by wire transfer of same day funds, in the event that:

(i) following the Progress Shareholder Approval, (x) a Progress Takeover Proposal shall have been made known to Progress or any person shall have publicly announced an intention (whether or not conditional) to make a Progress Takeover Proposal, (y) thereafter this Agreement is terminated by Progress pursuant to Section 7.01(b)(i) and (z) within six months of such termination Progress or any of its subsidiaries enters into any Progress Acquisition Agreement or consummates any Progress Takeover Proposal, in either case with the person (or an affiliate of such person) that made the Progress Takeover Proposal referred to in clause (x), or

(ii) prior to or during the Progress Shareholders Meeting (or any subsequent meeting of Progress shareholders at which it is proposed that the Merger be approved), (x) a Progress Takeover Proposal shall have been publicly disclosed or any person shall have publicly announced an intention (whether or not conditional) to make a Progress Takeover Proposal, (y) thereafter this Agreement is terminated by either Progress or Duke pursuant to Section 7.01(b)(iii), and (z) within 12 months of such termination Progress or any of its subsidiaries enters into any Progress Acquisition Agreement or consummates any Progress Takeover Proposal, in either case with the person (or an affiliate of such person) that made the Progress Takeover Proposal referred to in clause (x), or

(iii) this Agreement is terminated by Progress pursuant to Section 7.01(d), or

(iv) this Agreement is terminated by Duke pursuant to Section 7.01(h)(i) , provided, however, that if this Agreement is terminated by Duke pursuant to Section 7.01(h)(i) as a result of the Board of Directors of Progress (or any committee thereof) having withdrawn or modified, or proposed publicly to withdraw or modify, the approval or recommendation by such Board of Directors of this Agreement or the Merger primarily due to adverse conditions, events or actions of or relating to Duke, the Progress Termination Fee shall not be payable to Duke, or

(v) this Agreement is terminated by Duke pursuant to 7.01(h)(iii).

For the purposes of Section 5.09(b)(i) and (ii), the terms "Progress Acquisition Agreement" and "Progress Takeover Proposal" shall have the meanings assigned to such terms in Section 4.03 (except that the references to "20%" in the definition of "Progress Takeover Proposal" in Section 4.03(a) shall be deemed to be references to "50%") and the Termination Fee shall be immediately payable upon the first to occur of Progress entering into such Progress Acquisition Agreement or consummating such Progress Takeover Proposal.

(c) Duke shall immediately pay Progress a fee equal to $675 million (the "Duke Termination Fee") minus any amounts as may have been previously paid by Duke pursuant to Section 5.09(e), payable by wire transfer of same day funds, in the event that:

(i) following the Duke Shareholder Approval, (x) a Duke Takeover Proposal shall have been made known to Duke or any person shall have publicly announced an intention (whether or not conditional) to make a Duke Takeover Proposal, (y) thereafter this Agreement is terminated by Duke pursuant to Section 7.01(b)(i), and (z) within six months of such termination Duke or any of its subsidiaries enters into any Duke Acquisition Agreement or consummates any Duke Takeover Proposal, in either case with the person (or an affiliate of such person) that made the Duke Takeover Proposal referred to in clause (x), or

(ii) prior to or during the Duke Shareholders Meeting (or any subsequent meeting of Duke shareholders at which it is proposed that the Duke Share Issuance or Duke Charter Amendment be approved), (x) a Duke Takeover Proposal shall have been publicly disclosed or any person shall have publicly announced an intention (whether or not conditional) to make a Duke Takeover Proposal, (y) thereafter this Agreement is terminated by either Progress or Duke pursuant to Section 7.01(b)(ii), and (z) within 12 months of such termination Duke or any of its subsidiaries enters into any Duke Acquisition Agreement or consummates any Duke Takeover Proposal, in either case with the person (or an affiliate of such person) that made the Duke Takeover Proposal referred to in clause (x), or

(iii) this Agreement is terminated by Duke pursuant to Section 7.01(f), or

(iv) this Agreement is terminated by Progress pursuant to Section 7.01(g)(i) , provided, however, that if this Agreement is terminated by Progress pursuant to Section 7.01(g)(i) as a result of the Board of Directors of Duke (or any committee thereof) having withdrawn or modified, or proposed publicly to withdraw or modify, the approval or recommendation by such Board of Directors of the Duke Share Issuance or Duke Charter Amendment primarily due to adverse conditions, events or actions of or relating to Progress, the Duke Termination Fee shall not be payable to Progress, or

(v) this Agreement is terminated by Progress pursuant to 7.01(g)(iii).

For the purposes of Section 5.09(c)(i) and (ii), the terms "Duke Acquisition Agreement" and "Duke Takeover Proposal" shall have the meanings assigned to such terms in Section 4.04 (except that the references to "20%" in the definition of "Duke Takeover Proposal" in Section 4.04(a) shall be deemed to be references to "50%") and the Duke Termination Fee shall be immediately payable upon the first to occur of Duke entering into such Duke Acquisition Agreement or consummating such Duke Takeover Proposal.

(d) If this Agreement is terminated (i) by Progress or Duke pursuant to Section 7.01(b)(iii) (after the public disclosure of a Progress Takeover Proposal or the announcement by any person of the intention (whether or not conditional) to make a Progress Takeover Proposal and in each case there shall not have been a bona fide withdrawal thereof prior to the Progress Shareholders Meeting) or (ii) by Duke pursuant to Section 7.01(e), Progress shall reimburse Duke promptly upon demand, but in no event later than three business days after the date of such demand, by wire transfer of same day funds, for all reasonable, out-of-pocket fees and expenses incurred or paid by or on behalf of, Duke in connection with the Merger or the transactions contemplated by this Agreement, including all reasonable fees and expenses of counsel, investment banking firms, accountants, experts and consultants to Duke; provided, however, that Progress shall not be obligated to make payments pursuant to this Section 5.09(d) in excess of $30,000,000 in the aggregate.

(e) If this Agreement is terminated (i) by Progress or Duke pursuant to Section 7.01(b)(ii) (after the public disclosure of a Duke Takeover Proposal or the announcement by any person of the intention (whether or not conditional) to make a Duke Takeover Proposal and in each case there shall not have been a bona fide withdrawal thereof prior to the Duke Shareholders Meeting), or (ii) by Progress pursuant to Section 7.01(c), Duke shall reimburse Progress promptly upon demand, but in no event later than three business days after the date of such demand, by wire transfer of same day funds, for all reasonable, out-of-pocket fees and expenses incurred or paid by or on behalf of, Progress in connection with the Merger or the transactions contemplated by this Agreement, including all reasonable fees and expenses of counsel, investment banking firms, accountants, experts and consultants to Progress; provided, however, that Duke shall not be obligated to make payments pursuant to this Section 5.09(e) in excess of $30,000,000 in the aggregate.

(f) Progress acknowledges that the agreements contained in Sections 5.09(b) and 5.09(d) are an integral part of the transactions contemplated by this Agreement, and that, without these agreements, Duke would not enter into this Agreement; accordingly, if Progress fails promptly to pay the amount due pursuant to Section 5.09(b) or 5.09(d), and, in order to obtain such payment, Duke commences a suit that results in a judgment against Progress for the fees set forth in Section 5.09(b) or 5.09(d), Progress shall pay to Duke its costs and expenses (including attorneys' fees and expenses) in connection with such suit, together with interest on the amount of the fee at the prime rate of Citibank N.A. in effect on the date such payment was required to be made.

(g) Duke acknowledges that the agreements contained in Sections 5.09(c) and 5.09(e) are an integral part of the transactions contemplated by this Agreement, and that, without these agreements, Progress would not enter into this Agreement; accordingly, if Duke fails promptly to pay the amount due pursuant to Section 5.09(c) or 5.09(e), and, in order to obtain such payment, Progress commences a suit that results in a judgment against Duke for the fees set forth in Section 5.09(c) or 5.09(e), Duke shall pay to Progress its costs and expenses (including attorneys' fees and expenses) in connection with such suit, together with interest on the amount of the fee at the prime rate of Citibank N.A. in effect on the date such payment was required to be made.

Section 5.10 Public Announcements. Progress and Duke will consult with each other before issuing, and provide each other the reasonable opportunity to review, comment upon and

concur with, any press release or other public statements with respect to the transactions contemplated by this Agreement, including the Merger, and shall not issue any such press release or make any such public statement prior to such consultation, except as any party, after consultation with counsel, determines is required by applicable law or applicable rule or regulation of the NYSE.

Section 5.11 Affiliates. As soon as practicable after the date of this Agreement, Progress shall deliver to Duke, and Duke shall deliver to Progress, a letter identifying all persons who are, at the time this Agreement is submitted for adoption by the respective shareholders of Duke and Progress, "affiliates" of Progress or Duke, as the case may be, for purposes of Rule 145 under the Securities Act.

Section 5.12 NYSE Listing. Duke shall use its reasonable best efforts to cause the shares of Duke Common Stock issuable to Progress's shareholders as contemplated by this Agreement to be approved for listing on the NYSE, subject to official notice of issuance, as promptly as practicable after the date of this Agreement, and in any event prior to the Closing Date.

Section 5.13 Shareholder Litigation. Each of Progress and Duke shall give the other the reasonable opportunity to consult concerning the defense of any shareholder litigation against Progress or Duke, as applicable, or any of their respective directors or officers relating to the transactions contemplated by this Agreement.

Section 5.14 Tax-Free Reorganization Treatment. The parties to this Agreement intend that the Merger will qualify as a reorganization under Section 368(a) of the Code, and each shall not, and shall not permit any of their respective subsidiaries to, take any action, or fail to take any action, that would reasonably be expected to jeopardize the qualification of the Merger as a reorganization under Section 368(a) of the Code.

Section 5.15 Standstill Agreements; Confidentiality Agreements. During the period from the date of this Agreement through the Effective Time, neither Progress nor Duke shall terminate, amend, modify or waive any provision of any confidentiality or standstill agreement to which it or any of its respective subsidiaries is a party except (i) as required by applicable law, (ii) during the Progress Applicable Period in the case of Progress or during the Duke Applicable Period in the case of Duke, neither party shall enforce any standstill agreements or similar obligations in effect on the date of this Agreement in any manner that might prevent a third party from requesting permission to submit a Progress Takeover Proposal in accordance with Section 4.03 or a Duke Takeover Proposal in accordance with Section 4.04, as applicable or (iii) if the Board of Directors of the applicable party determines in good faith that failure to do so could reasonably be expected to result in a breach of its fiduciary obligations under applicable law. Except as provided in the first sentence of this Section 5.15, Progress or Duke, as the case may be, shall enforce any confidentiality or standstill agreement to which it or any of its respective subsidiaries is a party, including by seeking injunctions to prevent any breaches of such agreements and to enforce specifically the terms and provisions thereof, to the fullest extent permitted under applicable law.

ARTICLE VI

CONDITIONS PRECEDENT

Section 6.01 Conditions to Each Party's Obligation to Effect the Merger. The respective obligation of each party to effect the Merger is subject to the satisfaction or waiver by Progress and Duke on or prior to the Closing Date of the following conditions:

(a) Shareholder Approvals. Each of the Duke Shareholder Approval and the Progress Shareholder Approval shall have been obtained.

(b) No Injunctions or Restraints. No (i) temporary restraining order or preliminary or permanent injunction or other order by any federal or state court of competent jurisdiction preventing consummation of the Merger or (ii) applicable federal or state law prohibiting consummation of the Merger (collectively, "Restraints") shall be in effect.

(c) Form S-4. The Form S-4 shall have become effective under the Securities Act and shall not be the subject of any stop order or proceedings seeking a stop order and no proceedings for that purpose shall have been initiated or overtly threatened by the SEC.

(d) NYSE Listing. The shares of Duke Common Stock issuable to Progress's shareholders as contemplated by this Agreement shall have been approved for listing on the NYSE, subject to official notice of issuance.

(e) Charter Amendment. The Duke Charter Amendment shall have become effective.

Section 6.02 Conditions to Obligations of Progress. The obligation of Progress to effect the Merger is further subject to satisfaction or waiver of the following conditions:

(a) Representations and Warranties. The representations and warranties of Duke set forth herein shall be true and correct both when made and at and as of the Closing Date, as if made at and as of such time (except to the extent expressly made as of an earlier date, in which case as of such date), except where the failure of such representations and warranties to be so true and correct (without giving effect to any limitation as to "materiality" or "material adverse effect" set forth therein) does not have, and could not reasonably be expected to have, individually or in the aggregate, a material adverse effect on Duke.

(b) Performance of Obligations of Duke. Duke shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Closing Date.

(c) Tax Opinion. Progress shall have received a written opinion from Hunton & Williams LLP, counsel to Progress, dated as of the Closing Date, to the effect that the Merger will qualify as a reorganization under Section 368(a) of the Code. Such counsel shall be entitled to rely upon representation letters from each of Duke, Progress, Merger Sub and others, in each case, in form and substance reasonably satisfactory to such counsel. Each such representation letter shall be dated as of the date of such opinion. The opinion condition referred to in this Section 6.02(c)

shall not be waivable after receipt of the Progress Shareholder Approval, unless further approval of the shareholders of Progress is obtained with appropriate disclosure.

(d) Statutory Approvals. The Progress Required Statutory Approvals and the Duke Required Statutory Approvals shall have been obtained (including, in each case, the expiration or termination of the waiting periods (and any extensions thereof) under the HSR Act applicable to the Merger and the transactions contemplated by this Agreement) at or prior to the Effective Time, such approvals shall have become Final Orders (as defined below) and neither (i) such Final Orders nor (ii) any other order, action or regulatory condition of a regulatory body shall impose terms or conditions that, individually or in the aggregate, could reasonably be expected to have a Burdensome Effect on Progress or Duke. A "Final Order" means action by the relevant Governmental Authority that has not been reversed, stayed, enjoined, set aside, annulled or suspended, with respect to which any waiting period prescribed by law before the transactions contemplated hereby may be consummated has expired (a "Final Order Waiting Period"), and as to which all conditions to the consummation of such transactions prescribed by law, regulation or order have been satisfied.

(e) No Material Adverse Effect. Except as disclosed in the Duke SEC Reports filed on or after January 1, 2010 and prior to the date hereof or in any specific section of the Duke Disclosure Letter corresponding to Section 3.02, since December 31, 2009, there shall not have been any change, event, occurrence or development that, individually or in the aggregate, has had or could reasonably be expected to have a material adverse effect on Duke.

(f) Closing Certificates. Progress shall have received a certificate signed by an executive officer of Duke, dated the Effective Time, to the effect that, to such officer's knowledge, the conditions set forth in Sections 6.02(a), 6.02(b) and 6.02(e) have been satisfied.

Section 6.03 Conditions to Obligations of Duke. The obligation of Duke to effect the Merger is further subject to satisfaction or waiver of the following conditions:

(a) Representations and Warranties. The representations and warranties of Progress set forth herein shall be true and correct both when made and at and as of the Closing Date, as if made at and as of such time (except to the extent expressly made as of an earlier date, in which case as of such date), except where the failure of such representations and warranties to be so true and correct (without giving effect to any limitation as to "materiality" or "material adverse effect" set forth therein) does not have, and could not reasonably be expected to have, individually or in the aggregate, a material adverse effect on Progress.

(b) Performance of Obligations of Progress. Progress shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Closing Date.

(c) Tax Opinion. Duke shall have received a written opinion from Wachtell, Lipton, Rosen & Katz, counsel to Duke, dated as of the Closing Date, to the effect that the Merger will qualify as a reorganization under Section 368(a) of the Code. Such counsel shall be entitled to rely upon representation letters from each of Duke, Progress, Merger Sub and others, in each case, in form and substance reasonably satisfactory to such counsel. Each such representation letter shall

be dated as of the date of such opinion. The opinion condition referred to in this Section 6.03(c) shall not be waivable after receipt of the Duke Shareholder Approval, unless further approval of the shareholders of Duke is obtained with appropriate disclosure.

(d) Statutory Approvals. The Progress Required Statutory Approvals and the Duke Required Statutory Approvals shall have been obtained (including, in each case, the expiration or termination of the waiting periods (and any extensions thereof) under the HSR Act applicable to the Merger and the transactions contemplated by this Agreement) at or prior to the Effective Time, such approvals shall have become Final Orders and neither (i) such Final Orders nor (ii) any other order, action or regulatory condition of a regulatory body shall impose terms or conditions that, individually or in the aggregate, could reasonably be expected to have a Burdensome Effect on Duke or Progress.

(e) No Material Adverse Effect. Except as disclosed in the Progress SEC Reports filed on or after January 1, 2010 and prior to the date hereof or in any specific section of the Progress Disclosure Letter corresponding to Section 3.01, since December 31, 2009, there shall not have been any change, event, occurrence or development that, individually or in the aggregate, has had or could reasonably be expected to have a material adverse effect on Progress.

(f) Closing Certificates. Duke shall have received a certificate signed by an executive officer of Progress, dated the Effective Time, to the effect that, to such officer's knowledge, the conditions set forth in Sections 6.03(a), 6.03(b) and 6.03(e) have been satisfied.

Section 6.04 Frustration of Closing Conditions. Neither Progress nor Duke may rely on the failure of any condition set forth in Section 6.01, 6.02 or 6.03, as the case may be, to be satisfied if such failure was caused by such party's failure to use reasonable best efforts to consummate the Merger and the other transactions contemplated by this Agreement, to the extent required by and subject to Section 5.05.

ARTICLE VII

TERMINATION, AMENDMENT AND WAIVER

Section 7.01 Termination. This Agreement may be terminated at any time prior to the Effective Time, whether before or (other than pursuant to clauses (d), (f), (g) or (h) below) after the Progress Shareholder Approval or the Duke Shareholder Approval:

(a) by mutual written consent of Progress and Duke;

(b) by either Progress or Duke:

(i) if the Merger shall not have been consummated by the 12-month anniversary of the date of this Agreement (the "Initial Termination Date"); provided, however, that the right to terminate this Agreement pursuant to this Section 7.01(b)(i) shall not be available to any party whose failure to perform any of its obligations under this Agreement results in the failure of the Merger to be consummated by such time; and provided, further, that, (A) if on the Initial Termination Date the conditions to the Closing set forth in Sections 6.01(b), 6.02(d) and/or 6.03(d) shall not have been fulfilled but all other conditions to the Closing shall have been fulfilled or shall

be capable of being fulfilled, then either party may (on one or more occasions) extend the Initial Termination Date up to the 18-month anniversary of the date of this Agreement and (B) if the Initial Termination Date (as it may be extended pursuant to clause (A) of this Section 7.01(b)(i)) shall occur during any Final Order Waiting Period, the Initial Termination Date shall be extended until the third business day after the expiration of such Final Order Waiting Period;

(ii) if the Duke Shareholder Approval shall not have been obtained at a Duke Shareholders Meeting duly convened therefor or at any adjournment or postponement thereof;

(iii) if the Progress Shareholder Approval shall not have been obtained at a Progress Shareholders Meeting duly convened therefor or at any adjournment or postponement thereof;

(iv) if any Restraint having any of the effects set forth in Section 6.01(b) shall be in effect and shall have become final and nonappealable; provided that the party seeking to terminate this Agreement pursuant to this Section 7.01(b)(iv) shall have used its reasonable best efforts to prevent the entry of and to remove such Restraint; or

(v) if any condition to the obligation of such party to consummate the Merger set forth in Section 6.02 (in the case of Progress) or in Section 6.03 (in the case of Duke) becomes incapable of satisfaction prior to the Initial Termination Date (or, if the Initial Termination Date is extended in accordance with the second proviso to Section 7.01(b)(i), such date as extended); provided, however, in the case of Section 6.02(d) and 6.03(d), the Initial Termination Date shall refer to such date as it may be extended pursuant to the second proviso to Section 7.01(b)(i); and provided further, that the failure of any such condition to be capable of satisfaction is not the result of a material breach of this Agreement by the party seeking to terminate this Agreement;

(c) by Progress, if Duke shall have breached or failed to perform in any material respect any of its representations, warranties, covenants or other agreements contained in this Agreement, which breach or failure to perform (A) would give rise to the failure of a condition set forth in Section 6.02(a) or (b), and (B) is incapable of being cured by Duke or is not cured by Duke within 60 days following receipt of written notice from Progress of such breach or failure to perform;

(d) by Progress in accordance with Section 4.03(b); provided, that, in order for the termination of this Agreement pursuant to this paragraph (d) to be deemed effective, Progress shall have complied with Section 4.03 and with applicable requirements, including the payment of the Progress Termination Fee, of Section 5.09;

(e) by Duke, if Progress shall have breached or failed to perform in any material respect any of its representations, warranties, covenants or other agreements contained in this Agreement, which breach or failure to perform (A) would give rise to the failure of a condition set forth in Section 6.03(a) or (b), and (B) is incapable of being cured by Progress or is not cured by Progress within 60 days following receipt of written notice from Duke of such breach or failure to perform;

(f) by Duke in accordance with Section 4.04(b); provided, that, in order for the termination of this Agreement pursuant to this paragraph (f) to be deemed effective, Duke shall

have complied with Section 4.04 and with applicable requirements, including the payment of the Duke Termination Fee, of Section 5.09;

(g) by Progress, if the Board of Directors of Duke (or any committee thereof) (i) shall have withdrawn or modified, or proposed publicly to withdraw or modify, the approval or recommendation by such Board of Directors of the Duke Charter Amendment or the Duke Share Issuance, (ii) shall fail to reaffirm such approval or recommendation within 15 business days of receipt of Progress's written request at any time when a Duke Takeover Proposal shall have been made and not rejected by the Board of Directors of Duke; provided, that, such 15-business day period shall be extended for ten business days following any material modification to such Duke Takeover Proposal occurring after the receipt of Progress's written request and provided, further, that such 15-business day period shall recommence each time a Duke Takeover Proposal has been made following the receipt of Progress's written request by a person that had not made a Duke Takeover Proposal prior to the receipt of Progress's written request, or (iii) shall have approved or recommended, or proposed to approve or recommend, a Duke Takeover Proposal; or

(h) by Duke, if the Board of Directors of Progress (or any committee thereof) (i) shall have withdrawn or modified, or proposed publicly to withdraw or modify, the approval or recommendation by such Board of Directors of this Agreement or the Merger, (ii) shall fail to reaffirm such approval or recommendation within 15 business days of receipt of Duke's written request at any time when a Progress Takeover Proposal shall have been made and not rejected by the Board of Directors of Progress; provided, that, such 15-business day period shall be extended for ten business days following any material modification to such Progress Takeover Proposal occurring after the receipt of Duke's written request and provided, further, that such 15-business day period shall recommence each time a Progress Takeover Proposal has been made following the receipt of Duke's written request by a person that had not made a Progress Takeover Proposal prior to the receipt of Duke's written request, or (iii) shall have approved or recommended, or proposed to approve or recommend, a Progress Takeover Proposal.

Section 7.02 Effect of Termination. (a) In the event of termination of this Agreement by either Duke or Progress as provided in Section 7.01, this Agreement shall forthwith become null and void and have no effect, without any liability or obligation on the part of Progress or Duke, other than the provisions of Section 5.09, this Section 7.02 and Article VIII, which provisions shall survive such termination, and except to the extent that such termination results from the willful and material breach by a party of any of its representations, warranties, covenants or agreements set forth in this Agreement, in which case such termination shall not relieve any party of any liability or damages resulting from its willful and material breach of this Agreement (including any such case in which a Progress Termination Fee or a Duke Termination Fee, as the case may be, is, or any expenses of Progress or Duke in connection with the transactions contemplated by this Agreement are, payable pursuant to Section 5.09 to Progress or Duke, as the case may be (the "Injured Party"), to the extent any such liability or damage suffered by the Injured Party exceeds the amount of the Progress Termination Fee, in the circumstance in which Duke is the Injured Party, or the Duke Termination Fee, in the circumstance in which Progress is the Injured Party and any expenses payable pursuant to Section 5.09 to the Injured Party, it being the intent that any Progress Termination Fee, Duke Termination Fee and any expenses paid to the Injured Party shall serve as a credit against and off-set any liability or damage suffered by the Injured Party to the extent of such payment).

(b) In the event Duke terminates this Agreement pursuant to Section 7.01(h)(i) as a result of the Board of Directors of Progress having withdrawn or modified, or proposed to publicly withdraw or modify, the approval or recommendation by such Board of Directors of this Agreement or the Merger that was made primarily due to adverse conditions, events or actions of or relating to Duke, in any judicial, court or tribunal proceeding in which the payment of the Progress Termination Fee is at issue under the proviso in Section 5.09(b)(iv), whether brought or initiated by Duke or Progress, Progress shall have the burden of proving that the Board of Directors of Progress withdrew or modified, or proposed publicly to withdraw or modify, the approval or recommendation by such Board of Directors of this Agreement or the Merger primarily due to adverse conditions, events or actions of or relating to Duke.

(c) In the event Progress terminates this Agreement pursuant to Section 7.01(g)(i) as a result of the Board of Directors of Duke having withdrawn or modified, or proposed to publicly withdraw or modify, the approval or recommendation by such Board of Directors of the Duke Share Issuance and the Duke Charter Amendment that was made primarily due to adverse conditions, events or actions of or relating to Progress, in any judicial, court or tribunal proceeding in which the payment of the Duke Termination Fee is at issue under the proviso in Section 5.09(c)(iv), whether brought or initiated by Progress or Duke, Duke shall have the burden of proving that the Board of Directors of Duke withdrew or modified, or proposed publicly to withdraw or modify, the approval or recommendation by such Board of Directors of the Duke Share Issuance and the Duke Charter Amendment primarily due to adverse conditions, events or actions of or relating to Progress.

Section 7.03 Amendment. This Agreement may be amended by the parties at any time before or after the Duke Shareholder Approval or the Progress Shareholder Approval; provided, however, that after any such approval, there shall not be made any amendment that by law requires further approval by the shareholders of Duke or Progress without the further approval of such shareholders. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties.

Section 7.04 Extension; Waiver. At any time prior to the Effective Time, a party may (a) extend the time for the performance of any of the obligations or other acts of the other parties, (b) waive any inaccuracies in the representations and warranties of the other parties contained in this Agreement or in any document delivered pursuant to this Agreement or (c) subject to the proviso of Section 7.03, waive compliance by the other parties with any of the agreements or conditions contained in this Agreement. Any agreement on the part of a party to any such extension or waiver shall be valid only if set forth in an instrument in writing signed on behalf of such party. The failure of any party to this Agreement to assert any of its rights under this Agreement or otherwise shall not constitute a waiver of such rights.

ARTICLE VIII

GENERAL PROVISIONS

Section 8.01 Nonsurvival of Representations and Warranties. None of the representations and warranties in this Agreement or in any instrument delivered pursuant to this Agreement shall survive the Effective Time. This Section 8.01 shall not limit any covenant or

agreement of the parties that by its terms contemplates performance after the Effective Time and such provisions shall survive the Effective Time.

Section 8.02 Notices. All notices, requests, claims, demands and other communications under this Agreement shall be in writing and shall be deemed given (as of the time of delivery or, in the case of a telecopied communication, of confirmation) if delivered personally, telecopied (which is confirmed) or sent by overnight courier (providing proof of delivery) to the parties at the following addresses (or at such other address for a party as shall be specified by like notice):

if to Duke, to:

Duke Energy Corporation
526 South Church Street
Charlotte, North Carolina 28202
Telecopy No.: (704) 382-7705
Attention: Marc E. Manly

with a copy to:

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, New York 10019
Telecopy No.: (212) 403-2000
Attention: Steven A. Rosenblum

if to Progress, to:

Progress Energy, Inc.
410 S. Wilmington Street
Raleigh, North Carolina 27602
Telecopy No.: (919) 546-5245
Attention: John R. McArthur

with a copy to:

Hunton & Williams LLP
200 Park Avenue
New York, New York 10166
Telecopy No.: (212) 309-1100
Attention: James A. Jones, III

and

Hunton & Williams LLP
One Bank of America Plaza, Suite 1400
421 Fayetteville Street
Raleigh, North Carolina 27601
Telecopy No.: (919) 833-6352
Attention: Timothy S. Goettel

Section 8.03 Definitions. For purposes of this Agreement:

(a) an "affiliate" of any person means another person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first person, where "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of a person, whether through the ownership of voting securities, by contract, as trustee or executor, or otherwise;

(b) "capital stock" or "shares of capital stock" means (i) with respect to a corporation, as determined under the laws of the jurisdiction of organization of such entity, capital stock or such shares of capital stock; (ii) with respect to a partnership, limited liability company, or similar entity, as determined under the laws of the jurisdiction of organization of such entity, units, interests, or other partnership or limited liability company interests; or (iii) any other equity ownership or participation;

(c) "Contract" means any legally binding written or oral agreement, contract, subcontract, lease, instrument, note, license or sublicense;

(d) "material adverse effect" means, when used in connection with Progress or Duke, as the case may be, any change, effect, event, occurrence or state of facts (i) that is materially adverse to the business, assets, properties, financial condition or results of operations of such person and its subsidiaries taken as a whole but excluding any of the foregoing resulting from (A) changes in international or national political or regulatory conditions generally (in each case, to the extent not disproportionately affecting the applicable person and its subsidiaries, taken as a whole, as compared to similarly situated persons), (B) changes or conditions generally affecting the U.S. economy or financial markets or generally affecting any of the segments of the industry in which the applicable person or any of its subsidiaries operates (in each case, to the extent not disproportionately affecting the applicable person and its subsidiaries, taken as a whole, as compared to similarly situated persons), (C) the announcement or consummation of, or compliance with, this Agreement, or (D) any taking of any action by such party at the written request of the other party, or (ii) that prevents or materially delays such person from performing its material obligations under this Agreement or consummation of the transactions contemplated hereby;

(e) "person" means an individual, corporation, partnership, limited liability company, joint venture, association, trust, unincorporated organization or other entity;

(f) "subsidiary" means, with respect to any person, any other person, whether incorporated or unincorporated, of which more than 50% of either the equity interests in, or the voting control of, such other person is, directly or indirectly through subsidiaries or otherwise, beneficially owned by such first person; and

(g) "knowledge" means (i) with respect to Progress, the actual knowledge of the persons listed in Section 8.03(g) of the Progress Disclosure Letter, and (ii) with respect to Duke, the actual knowledge of the persons listed in Section 8.03(g) of the Duke Disclosure Letter.

Section 8.04 Interpretation and Other Matters. (a) When a reference is made in this Agreement to an Article, Section or Exhibit, such reference shall be to an Article or Section of, or an Exhibit to, this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words "include," "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation." The words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. All terms defined in this Agreement shall have the defined meanings when used in any certificate or other document made or delivered pursuant hereto unless otherwise defined therein. The definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such terms. Any agreement, instrument or statute defined or referred to herein or in any agreement or instrument that is referred to herein means such agreement, instrument or statute as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of statutes) by succession of comparable successor statutes and references to all attachments thereto and instruments incorporated therein. References to a person are also to its permitted successors and assigns.

(b) Each of Duke and Progress has or may have set forth information in its respective disclosure letter in a section thereof that corresponds to the section of this Agreement to which it relates. A matter set forth in one section of a disclosure letter need not be set forth in any other section of the disclosure letter so long as its relevance to the latter section of the disclosure letter or section of this Agreement is readily apparent on the face of the information disclosed in the disclosure letter to the person to which such disclosure is being made. The fact that any item of information is disclosed in a disclosure letter to this Agreement shall not be construed to mean that such information is required to be disclosed by this Agreement. Such information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the terms "material," "material adverse effect" or other similar terms in this Agreement.

(c) Duke agrees to cause Merger Sub to comply with its obligations under this Agreement.

Section 8.05 Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each party and delivered to the other parties.

Section 8.06 Entire Agreement; No Third-Party Beneficiaries. This Agreement (including the documents and instruments referred to herein) and the Confidentiality Agreement (i) constitute the entire agreement, and supersede all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement and (ii) except for the provisions of Section 5.08 (which shall be enforceable by the Indemnified Parties) and except for the rights of Progress's shareholders to receive the Merger Consideration after the Effective Time in the event the Merger is consummated, are not intended to confer upon any person other than the parties any rights or remedies. The representations and warranties in this Agreement are the product of negotiations among the parties and are for the sole benefit of the parties. Any inaccuracies in such representations and warranties are subject to waiver by the parties in accordance with the terms of this Agreement without notice or liability to any other person. The representations and warranties in this Agreement may represent an allocation among the parties of risks associated with particular matters regardless of the knowledge of any of the parties and may have been qualified by certain disclosures not reflected in the text of this Agreement. Accordingly, persons other than the parties may not rely upon the representations and warranties in this Agreement as characterizations of actual facts or circumstances as of the date of this Agreement or as of any other date.

Section 8.07 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware, regardless of the laws that might otherwise govern under applicable principles of conflict of laws, except that matters related to the fiduciary obligations of the Progress Board of Directors shall be governed by the laws of the State of North Carolina.

Section 8.08 Assignment. Neither this Agreement nor any of the rights, interests or obligations under this Agreement shall be assigned, in whole or in part, by operation of law or otherwise by any of the parties hereto without the prior written consent of the other party. Any attempted or purported assignment in violation of the preceding sentence shall be null and void and of no effect whatsoever. Subject to the preceding two sentences, this Agreement shall be binding upon, inure to the benefit of, and be enforceable by, the parties and their respective successors and assigns.

Section 8.09 Enforcement.

(a) The parties agree that irreparable damage would occur and that the parties would not have any adequate remedy at law in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement, without the necessity of posting bonds or similar undertakings in connection therewith, this being in addition to any other remedy to which they are entitled at law or in equity.

(b) Each of the parties (i) irrevocably submits itself to the personal jurisdiction of each state or federal court sitting in the State of Delaware, as well as to the jurisdiction of all courts to which an appeal may be taken from such courts, in any suit, action or proceeding arising out of or relating to this Agreement or any of the transactions contemplated herein, (ii) agrees that every such suit, action or proceeding shall be brought, heard and determined exclusively in the Court of

Chancery of the State of Delaware (provided that, in the event subject matter jurisdiction is unavailable in or declined by the Court of Chancery, then all such claims shall be brought, heard and determined exclusively in any other state or federal court sitting in the State of Delaware), (iii) agrees that it shall not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from such court, (iv) agrees not to bring any suit, action or proceeding arising out of or relating to this Agreement or any of the transactions contemplated herein in any other court, and (v) waives any defense of inconvenient forum to the maintenance of any suit, action or proceeding so brought.

(c) Each of the parties agrees that service of any process, summons, notice or document by U.S. registered mail to its address set forth in Section 8.02 shall be effective service of process for any action, suit or proceeding brought against it, provided, however, that nothing contained in the foregoing clause shall affect the right of any party to serve legal process in any other manner permitted by applicable Law.

Section 8.10 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible to the fullest extent permitted by applicable law in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

Section 8.11 Waiver of Jury Trial. Each party to this Agreement knowingly and voluntarily waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any action, suit or proceeding arising out of or relating to this Agreement.

IN WITNESS WHEREOF, Duke, Merger Sub and Progress have caused this Agreement to be signed by their respective officers thereunto duly authorized, all as of the date first written above.

DUKE ENERGY CORPORATION

By _____
Name: James E. Rogers
Title: Chairman, President and Chief Executive Officer

DIAMOND ACQUISITION CORPORATION

By _____
Name: David S. Maltz
Title: Vice President

PROGRESS ENERGY, INC.

By _____
Name:
Title:

IN WITNESS WHEREOF, Duke, Merger Sub and Progress have caused this Agreement to be signed by their respective officers thereunto duly authorized, all as of the date first written above.

DUKE ENERGY CORPORATION

By _____
Name:
Title:

DIAMOND ACQUISITION CORPORATION

By _____
Name:
Title:

PROGRESS ENERGY, INC.

By _____
William D. Johnson
Chairman, President and Chief Executive Officer

1. As of the Effective Time, the size of the Board of Directors of Duke will be increased to 18.

2. All 11 current directors of Duke (the "Duke Designees") will continue as directors as of the Effective Time, subject to their ability and willingness to serve. Seven of the current directors of Progress (the "Progress Designees") will be added to the Board of Directors of Duke as of the Effective Time, subject to their ability and willingness to serve, such seven directors to be designated by Progress, following reasonable consultation with Duke, no later than March 20, 2011.

3. If any Duke Designee is unable or unwilling to serve as a director of Duke as of the Effective Time, Duke will designate a replacement, following reasonable consultation with Progress, which replacement shall be deemed a Duke Designee for all purposes of the Merger Agreement.

4. If any Progress Designee is unable or unwilling to serve as a director of Duke as of the Effective Time, Progress will designate a replacement, following reasonable consultation with Duke, which replacement shall be deemed a Progress Designee for all purposes of the Merger Agreement.

5. As of the Effective Time, the standing Board committees of Duke will consist of Duke's existing committees plus a Regulatory Policy and Operations Committee. At least one Progress Designee will serve on each committee. In determining and recommending committee assignments, the Board and the Corporate Governance Committee will take into account, among other things, the skills and expertise of the directors, the needs of the committees, and the goal that committee workloads be distributed reasonably among the full Board.

6. Progress will designate the chairs of the Compensation Committee and the Audit Committee, and Duke will designate the chairs of each of the other Board committees, in each case following reasonable consultation with the other party, and in each case subject to such individuals' ability and willingness to serve. If any such designated chair is unable or unwilling to serve in such position as of the Effective Time, the party that designated such chair shall designate a replacement from among such party's director designees, following reasonable consultation with the other party.

7. Duke will designate the lead independent director, following reasonable consultation with Progress, subject to such individual's ability and willingness to serve. If the individual so designated as lead independent director is unable or unwilling to serve in such position as of the Effective Time, Duke will designate a replacement from among the Duke Designees, following reasonable consultation with Progress.

8. Prior to the Effective Time, Duke will amend its Principles for Corporate Governance to provide that the normal retirement date for directors will be the annual meeting held in the calendar year following the calendar year in which such director reaches the age of 71.

Exhibit B

Roles and Responsibilities

Chief Executive Officer	Executive Chairman
• Member of the Board • Determines Board agenda • Conduit between Duke and Board	• Conducts Board meetings • Supports Board selection process • Assists in setting Board agenda
• Develops the strategic plan • Develops and communicates vision & mission • Develops public policy positions	• Provides input on public policy positions • Spokesman on public policy initiatives ➢ National and international policy ➢ Global initiatives ➢ Active role in national and state government relations, in coordination with CEO
• Jointly designates executive management team with Executive Chairman prior to announcement • Following transition, selects executive management team with input from Executive Chairman	• Jointly designates executive management team with CEO prior to announcement • Following transition, provides input on selection of executive management team
• Develops annual budget for Board approval • Drives strategic financial and operational results • Leads the organization • Represents Duke to the public and investors	• Represents the Board to the public

Overview of responsibilities				
	Primary responsibility		Secondary responsibility	
	Executive Chairman	CEO	Executive Chairman	CEO
• Market/public communications				
◦ Before federal or international authorities	√			√
◦ Before state authorities		√	√	
◦ Rate proceedings		√		
◦ Financial/earnings call/strategy/ appearance at EEI and other industry conferences		√		
◦ National media on federal/global energy policy	√			√
• Point of contact for merger activities		√	√	
• Responsibility to determine Board agenda		√	√	
• Operational execution		√		
• Corporate strategy		√	√	

Exhibit C

EMPLOYMENT AGREEMENT
TERM SHEET
WILLIAM D. JOHNSON

As soon as reasonably practicable following the execution of this term sheet but in any event prior to the effective date of the closing of the merger (the "Merger") contemplated by the Agreement and Plan of Merger by and among Duke Energy Corporation ("Duke"), Progress Energy, Inc. ("Progress") and Diamond Acquisition Corporation (the "Merger Agreement"), Duke will take such action (or cause its affiliates to take such action) as may be necessary and appropriate to effectuate a new employment agreement to be entered into or assumed by Duke for William D. Johnson (the "Executive"), which agreement shall take effect as of the Merger. Effective upon the closing of the Merger and until such time as a new employment agreement becomes effective, this term sheet shall govern the respective parties' rights and obligations and shall constitute an amendment of the Executive's employment agreement when deemed effective as provided herein. The new employment agreement shall be governed by the following provisions.

1. Basic Premise – The new employment agreement shall be substantially similar to the form of the current employment agreement for Duke's current CEO, except as otherwise described below.

2. Role – The Executive shall be named as President and CEO of Duke effective upon the Merger, which will require conforming changes to the new employment agreement.

3. Term – Three-year term of employment commencing upon the closing of the Merger.

4. Ongoing Compensation

   (a) Annual Base Salary – $1,100,000.

   (b) Short-Term Incentive Plan – The Executive shall be eligible to participate in the applicable Duke short-term incentive plan, with a target opportunity of 125% of annual base salary. The terms and conditions of the Executive's short-term incentive compensation opportunities shall be substantially similar to the short-term incentive compensation opportunities provided to other executive officers of Duke, as determined by the Duke Compensation Committee from time to time.

   (c) Long-Term Incentives – The Executive shall be eligible to participate in the applicable Duke long-term incentive plan, with a target opportunity of 500% of annual base salary. The terms and conditions (e.g., performance measures, vesting schedules, allocation between performance and phantom shares) of the Executive's long-term incentive awards shall be substantially similar to the long-term incentive awards granted to other executive officers of Duke, as determined by the Duke Compensation Committee from time to time.

(d) Adjustments – Given the time period between the effective date of this term sheet and the anticipated date of the closing of the Merger, the Duke Compensation Committee will review benchmark data and reserves discretion to increase the compensation of the Executive if determined to be appropriate after taking into account the compensation provided to CEOs of Duke's peer group.

(e) Employee Benefits – The Executive shall be entitled to employee benefits (e.g., retirement plans, health and insurance plans, perquisites) as determined by the Duke Compensation Committee from time to time.

(f) SERP – The Executive's benefit under the Amended and Restated Supplemental Senior Executive Retirement Plan of Progress Energy, Inc. (the "SERP") shall be treated in the same manner as the benefit of other executives in the SERP who are employed with Duke following the closing of the Merger.

5. Impact of Termination of Employment

(a) If the Executive is involuntarily terminated without cause or quits for good reason following, but prior to the second anniversary of, the closing of the Merger, he will be entitled to severance equal to the benefits provided under the Progress Energy Inc. Management Change-in-Control Plan, as amended from time to time, except that no tax gross-up shall be provided, and the parties shall use their best efforts to structure the severance in a manner that eliminates or reduces the impact of Sections 280G and 4999 of the tax code.

(b) If the Executive is involuntarily terminated without cause or quits for good reason following the second anniversary of, but prior to the third anniversary of, the closing of the Merger, he will be entitled to the severance provided under his current employment agreement, as amended from time to time.

(c) For purposes of determining whether the Executive has "good reason" to terminate employment or a "constructive termination" has occurred, his move to Charlotte, NC, Sections 2.13(b) and 2.13(c) of the Progress Energy, Inc. Management Change-in-Control Plan and Section 8(a)(i) of his current employment agreement, shall be disregarded.

6. Other Matters

(a) Relocation Benefits – The Executive will be reimbursed for direct and indirect relocation costs, provided that the Executive shall not receive a tax gross-up or indemnification for any such relocation costs that constitute income to the Executive.

(b) Advisor Fees – The Executive will be reimbursed for reasonable expenses incurred in connection with the negotiation of this term sheet and the new employment agreement.

(c) Corporate Aircraft - The Executive will be subject to substantially the same policies as currently in effect for Duke's current CEO.

IN WITNESS WHEREOF, the parties signing below have executed this term sheet this ___ day of January, 2011, intending to be legally bound thereby.

DIAMOND ACQUISITION CORPORATION

By: _____

DUKE ENERGY CORPORATION

By: _____

_____
William D. Johnson

Exhibit D

TERM SHEET FOR AMENDMENT TO EMPLOYMENT AGREEMENT JAMES E. ROGERS

As soon as reasonably practicable following the execution of this term sheet, but in any event prior to the Effective Time of the Merger contemplated by the Agreement and Plan of Merger by and among Duke Energy Corporation, Progress Energy, Inc. and Diamond Acquisition Corporation (the "Merger Agreement"), James E. Rogers (the "Executive") and Duke will each use their commercially reasonable efforts to amend (or cause their respective affiliates to amend) the employment agreement by and between the Executive and Duke, dated as of February 19, 2009 (the "Current Agreement"), as may be necessary and appropriate to effectuate the terms of the Executive's employment following the Merger that are set forth below, which amendments shall take effect as of the Effective Time. Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Merger Agreement.

1. Current Agreement – Except as otherwise described below, the Current Agreement shall remain in full force and effect.

2. Role and Responsibilities – The Executive shall serve as Executive Chairman of the Board of Directors of Duke (the "Executive Chair") following the Merger and will cease to be employed as President and Chief Executive Officer of Duke as of the Effective Time. The Executive will continue to report directly to the Board of Directors of Duke and his roles and responsibilities will be those set forth on **Exhibit B** to the Merger Agreement. In no event will the foregoing amendments to the Current Agreement provide the Executive with the right to terminate his employment for "Good Reason" (as defined in the Current Agreement) under Section 10(b) of the Current Agreement.

3. Term – The Executive's term of employment will end on the later of (i) December 31, 2013 and (ii) the second anniversary of the Effective Time, unless terminated earlier pursuant to the terms of the Current Agreement.

4. Ongoing Compensation – The Executive's compensation will remain the same in all respects as under the Current Agreement through December 31, 2013. Should the term of employment continue beyond December 31, 2013 and the Executive continue to serve as Executive Chair as of that date, the Compensation Committee of the Board of Directors of Duke will address the Executive's compensation for the remaining term of his employment at that time.

5. Advisor Fees – The Executive will be reimbursed for reasonable expenses incurred in connection with the negotiation of this term sheet and the amendment to the Current Agreement.

IN WITNESS WHEREOF, the parties signing below have executed this term sheet this ___ day of January, 2011, intending to be legally bound thereby.

DIAMOND ACQUISITION CORPORATION

By: _____

DUKE ENERGY CORPORATION

By: _____

_____

James E. Rogers

Exhibit E

Individual	Position
Lynn Good	Chief Financial Officer
Dhiaa Jamil	Nuclear Generation
Jeff Lyash	Energy Supply
Marc Manly	General Counsel, Corporate Secretary
John McArthur	Regulated Utilities
Mark Mulhern	Chief Administrative Officer
Keith Trent	Commercial Businesses
Jennifer Weber	Human Resources
Lloyd Yates	Customer Operations

In addition, A.R. Mullinax and Paula Sims shall co-lead integration during the transition period following Closing.

List of Exhibits

EXHIBIT 2

INVESTMENT ANALYSIS BY

OPPENHEIMER,
BAIRD,
AND BANK OF AMERICA

EXHIBIT 2

EQUITY RESEARCH

INDUSTRY UPDATE

OPPENHEIMER

January 9, 2011

Electric Utility Merger

ENERGY/ELECTRIC UTILITIES

Potential DUK/PGN Combination Could Work, Though Near-Term Value Creation Limited

SUMMARY

Late last week, DealReporter indicated that Progress Energy (PGN, Perform) was in merger discussions with a number of Southeast utilities. This weekend, the Wall Street Journal revealed that advanced talks are ongoing between Duke Energy (DUK, Perform) and Progress. Terms seem to include Duke buying Progress for a modest premium in an all-stock transaction. While we have seen similar discussions in the past involving Progress–most notably apparent talks with Southern (SO, Perform) a few years ago–we believe there is stronger potential that this merger could work, albeit with modest aspirations. Some of the key issues that would need to be worked out include: appropriate premium; cost savings potential; rate concessions needed to get regulators on board; dividend policy; and "social" issues. On page 2, we provide our accretion analysis, as well as a list of strategic options available to Duke if the merger becomes a reality.

KEY POINTS

- **Don't Expect Much More than a 5% Premium.** Like most regulated utility mergers (particularly of equals), this potential transaction does not offer a lot of synergies. In our opinion, a number of other benefits will emerge, including a larger balance sheet to handle large capex programs; proactive rate cases settlements; reduced need to issue future equity; and a dividend boost for Progress holders. Our assumed $47 per share takeout price used for our analysis would represent a 5.1% premium over Friday's close and an 8.3% premium over Wednesday's closing price. Even with this modest premium, the deal would be $0.01 dilutive to Duke shareholders on 2012E EPS.

- **Cost Savings and Rate Concessions Intertwined.** As shown on page 2, we have assumed $344 million of cost savings. However, we expect half of synergies to flow back to ratepayers. The $344 million represents 6% savings from the combined operating and maintenance (O&M) expenses. The bulk should come from the Carolinas, where the greatest potential for savings exists. We have assumed a 10% savings rate in the Carolinas. We treat cost to achieve synergies as non-recurring.

- **Potential 4.4% Boost to Dividend for Progress Shareholders.** Assuming our exchange ratio of 2.642 shares of Duke stock for every share of Progress stock is in the ball park, Progress shareholders would receive $0.6473 in quarterly dividend versus the current $0.62 that Progress pays per share. This would represent a 4.4% "surprise" increase, as Progress management had indicated that it was unlikely that its dividend would be increased in the next few years.

- **Ripe Time for Management to Merge.** For once, social issues might have accelerated the logic of a potential merger. With the abrupt resignation of Duke's Franchise Electric COO Jim Turner–he seemed to be the heir apparent to Chairman and CEO Jim Rogers–Duke can offer a top spot to Progress Chairman and CEO Bill Johnson. Assuming a deal closes late 2011, Jim Rogers could take over the chairman spot while Bill Johnson becomes president/CEO.

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Potential Duke/Progress Slightly Dilutive in 2012

On Thursday, DealReporter announced that Progress was in talks with other Southeast-based utilities. Over the weekend, the Wall Street Journal indicated that advanced talks between Duke and Progress were ongoing. According to our analysis, a deal would be slightly dilutive ($0.01) to Duke shareholders, although we note that our 2012 earnings estimates for Progress are $0.08 per share below consensus. If consensus is correct, the transaction would be breakeven in 2012, keeping all of our other assumptions intact.

In Exhibit 1, we lay out our assumptions for a potential merger between Duke Energy and Progress Energy. Our assumptions keep current stock prices where they closed on Friday. We have used our estimates, as we have detailed models on each, as shown on pages 4 and 5. Citing DealReporter, some publications have indicated that Progress would not consider a takeout for less than $47 a share, which is the takeout price that we have assumed for our analysis. This represents a 5.1% premium to Progress's closing price on Friday and an 8.3% premium over last Wednesday's closing price, before the DealReporter report was released. Given the low premium, we do not anticipate that Duke's stock price will be heavily discounted if a deal is announced, unless investors do not like the way management of the new Duke is structured. Given how important the Carolinas will become to the new Duke and that most of Duke's current management came from the Midwest utilities during Duke's merger with Cinergy in 2006, the presence of Progress Energy management on the new team seems critical.

While the analysis below is straightforward, we should elaborate on our cost savings assumption. Typically, we expect the bulk of the synergies to come from O&M expenses. We also assume that roughly 10% of O&M expense reduction is achievable for contiguous utilities. In this case, we believe that the potential synergies on the entire combined O&M is likely to be less. As such, we believe that synergies could add up to 6% of our projected combined O&M expenses of $5.73 billion for 2012 (or $344 million). We note, however, that we estimate that the combined O&M costs for Duke Carolinas and Progress Carolinas in 2012 to be around $2.86 billion. Ten percent of that subset would be $286 million, leaving a more reasonable $58 million of synergies to be achieved at the parent; we expect extremely limited cost savings at the Midwest and Florida utilities. We treat our $250 million cost-to-achieve synergies at a non-recurring cost.

Exhibit 1: Accretion Test Shows Potential PGN Deal Slightly Dilutive to DUK Holders

Progress Energy Data			**Accretion Analysis**		
Stock price	$44.72	/share	Net income from DUK	$1,815	mm
Shares outstanding	292.9	mm	Net income from PGN	$932	mm
Market capitalization	$13,100	mm	Cost savings (6% of combined O&M)	$344	mm
Opco FY12 EPS	$3.18		Rate concessions	(172)	mm
Implied P/E multiple	14.1	x	Incremental interest costs	-	mm
			Incremental tax costs	($60)	mm
Duke Energy Data			Total new net income	$2,856	mm
Stock price	$17.79	/share	Shares outstanding after close	2,098	mm
Shares outstanding	1,325	mm	Indicative 2012 EPS	$1.36	
Market capitalization	$23,564	mm	Impact on EPS to Duke	($0.01)	0.6% dilutive
Opco FY12 EPS	$1.37				
Implied P/E multiple	13.0	x	**EPS Components**		
			DUK starting EPS	$1.37	
Potential Transaction			Dilution from new equity	($0.51)	
Premium	5.1%		PGN income contribution	$0.44	
Purchase price	$47.00	/share	Cost savings contribution	$0.16	
Implied P/E paid	14.8	x	Incremental interest costs	$0.00	
DUK shares/PGN share	2.642	shares	Incremental tax costs	($0.03)	
Total purchase of equity	$13,768	mm	DUK ending EPS	$1.44	
Leverage used	0%	debt			
New debt issued	-	mm	**Dividend Analysis**		
Interest rate	5.5%		DUK quarterly dividend	$0.2450	/share
Shares issued	774	mm	PGN quarterly dividend	$0.6200	/share
Cost for synergies	$250	mm	DUK quarterly dividend	$0.6473	/ 2.642 shares
Tax rate	35.0%		Dividend increase to PGN holders	4.4%	

Source: Oppenheimer & Co. estimates; FactSet

Strategic Directions Available to Duke if Merger Takes Place

While we have often been skeptical of many mergers, we believe this one might make strategic sense in the current environment. Starting with Progress, we believe shareholders will get a slight premium in their stock price. Assuming Duke's stock price remains constant, a $47 stock offer would match a stock price level that shareholders have not seen in three years. On top of that, they would get an implied 4.4% boost to their dividend. Beyond financial matters, a merger with Duke improves Progress's balance sheet and could potentially allow it to pursue nuclear construction projects that it was hard pressed to pursue on its own. We do not expect that this merger would have impacted Progress's ability to undertake its coal-to-gas conversion program in North Carolina, once filed.

From Duke's point of view, this type of merger fits very well with the goal of Chairman and CEO Jim Rogers, who has been advocating more consolidation. Near term, the deal would not be appealing from a financial stance, as it is breakeven to slightly dilutive. However, the transaction allows Duke to refocus on some of its strategic options.

As noted for Progress, we believe that the size of Duke's balance if this transaction were to happen would allow the company to pursue large-scale generation projects more effectively. It was duly noted by the industry that the building of new nuclear carries tremendous credit risk, as highlighted by Southern's downgrade by Moody's, in part due to Southern's investment in new nuclear. Not only is Duke considering new nuclear, but it is also pursuing new clean coal investments. A larger and still strong balance sheet would protect it from credit downgrade pressures.

It is well known that Duke has been struggling as of late in Ohio, going as far as indicating that it might consider selling its generation assets in that market. While Ohio is its third-largest market (behind the Carolinas and Indiana), a merger with Progress would further dilute Duke's exposure to Ohio. At the same time, it would add exposure to Florida, a state that we believe should experience meaningful recovery over the coming years as baby boomers retire. Eventually, we would not be surprised if Duke Ohio were sold over time, particularly if a member of the Progress management team were to run the combined entity.

Finally, if a merger were to take place, it would come at a time when Duke is getting ready to file for another rate case in North Carolina. Given some of the cost savings that can be achieved, particularly in North Carolina where both utility headquarters reside, we believe that the merger could offer the best deal for Duke and for North Carolina ratepayers to offset the large capital spending programs that have pressured electric rates upward. Furthermore, this might be an opportune time to file a long-awaited Progress Carolinas rate case, although we are not as confident that the outcome would be as constructive.

Duke Energy
Consolidated Income Statement
(In millions, except EPS and share amount)
For the Periods Ended December 31,

	2007	2008	2009	2010E	2011E	2012E
Operating Revenues						
Regulated Electric and Gas	$ 9,696	$ 10,115	$ 10,681	$ 11,633	$ 12,084	$ 12,792
Non-Regulated Electric, Natural Gas and Other	3,024	3,092	2,050	2,349	2,470	2,597
Total Operating Revenues	12,720	13,207	12,731	13,982	14,554	15,389
Fuel Used in Electric Gen and Purchased Power - Regulated	(2,602)	(3,007)	(3,246)	(3,428)	(3,503)	(3,535)
Fuel Used in Electric Gen and Purchased Power - Non-Regulated	(1,344)	(1,400)	(765)	(869)	(945)	(1,032)
Fuel Used in Electric Gen and Purchased Power - Total	(3,946)	(4,407)	(4,011)	(4,298)	(4,448)	(4,567)
Cost of Natural Gas and Coal Sold	(557)	(613)	(433)	(594)	(603)	(612)
Operation, Maintenance and Other	(3,324)	(3,351)	(3,313)	(3,512)	(3,600)	(3,690)
Depreciation and Amortization	(1,746)	(1,670)	(1,656)	(1,817)	(1,962)	(2,087)
Property and Other Taxes	(649)	(639)	(685)	(786)	(840)	(879)
Impairment Charges	-	(85)	(420)	(656)	-	-
Total Operating Expenses	(10,222)	(10,765)	(10,518)	(11,662)	(11,453)	(11,935)
Gains on Sales of Invest. in Commercial and Multi-Family Real Estate	-	-	-	-	-	-
Gains (Losses) on Sales of Other Assets and Other, net	(5)	69	36	7	-	-
Operating Income	2,493	2,511	2,249	2,327	3,081	3,454
Equity in Earnings (Loss) of Unconsolidated Affiliates	157	(102)	70	90	90	90
Losses on Sales and Impairments of Equity Investments	-	(9)	(21)	-	-	-
Other Income and Expenses, net	271	232	284	300	350	210
Total Other Income and Expenses	428	121	333	390	440	300
EBIT	2,921	2,632	2,582	2,717	3,521	3,754
EBITDA	4,667	4,302	4,238	4,534	5,483	5,840
Interest Expense	(685)	(741)	(751)	(855)	(952)	(1,078)
Minority Interest (Benefit) Expense	(2)	4	(10)	-	-	-
EBT	2,234	1,895	1,821	1,862	2,569	2,676
Income Tax Expense from Continuing Operations	(712)	(616)	(758)	(756)	(797)	(830)
Effective Tax Rate	*31.9%*	*32.5%*	*41.6%*	*40.6%*	*31.0%*	*31.0%*
Income from Continuing Operations	1,522	1,279	1,063	1,107	1,773	1,846
Income (Loss) from Discontinued Operations, net of tax	(22)	16	12	1	-	-
Extraordinary Items, net of tax	-	67	-	(5)	-	-
Net Income	1,500	1,362	1,075	1,103	1,773	1,846
Non-Recurring Items	83	171	504	703	(6)	5
Adjusted On-going Net Income	$ 1,583	$ 1,533	$ 1,579	$ 1,806	$ 1,767	$ 1,851
Earnings Per Share - Diluted	1.18	1.07	0.83	0.84	1.31	1.37
Non-Recurring Items	0.07	0.14	0.39	0.53	(0.00)	0.00
Income (Loss) from Discontinued Operations, net of tax	0.02	(0.01)	(0.01)	-	-	-
Earnings Per Share from Ongoing Operations	1.25	1.21	1.22	1.37	1.31	1.37
Earnings per Share Growth	-30.9%	-3.2%	0.8%	12.3%	-4.4%	4.6%
Dividend per Share	0.86	0.90	0.94	0.97	0.99	1.01
Dividend Growth	-31.7%	4.7%	4.4%	3.2%	2.1%	2.0%
Payout Ratio	69%	74%	77%	71%	76%	74%
Weighted Average Shares Outstanding - Basic	1,260	1,265	1,293	1,318	1,351	1,359
Weighted Average Shares Outstanding - Diluted	1,266	1,267	1,294	1,318	1,349	1,351

Source: Company reports, Oppenheimer & Co. estimates

Progress Energy
Consolidated Income Statement
(In millions, except EPS and share amount)
For the Periods Ended December 31,

	2007	2008	2009	2010E	2011E	2012E
Operating Revenues	$ 9,153	$ 9,167	$ 9,885	$ 10,123	$ 9,880	$ 10,260
Operating Expenses:						
Fuel used in Electric Generation	(3,145)	(3,021)	(3,752)	(3,280)	(3,403)	(3,480)
Purchased Power	(1,184)	(1,299)	(911)	(1,325)	(1,073)	(1,178)
Operation and maintenance	(1,842)	(1,820)	(1,894)	(2,030)	(1,981)	(2,036)
Depreciation, amortization and accretion	(905)	(839)	(986)	(936)	(801)	(841)
Taxes Other than on Income	(501)	(508)	(557)	(580)	(603)	(632)
Other	(30)	3	(13)	-	-	-
Total Operating Expenses	(7,607)	(7,484)	(8,113)	(8,160)	(7,860)	(8,167)
Operating Income	1,546	1,683	1,772	1,963	2,019	2,093
Other Income:						
AFUDC - equity	51	122	124	95	105	115
Other, net	(7)	(17)	23	25	30	30
Total Other Income	44	105	147	120	135	145
EBIT	1,590	1,788	1,919	2,083	2,154	2,238
EBITDA	2,495	2,627	2,905	3,019	2,955	3,078
Interest Expenses:						
Interest Income	34	24	14	9	9	9
Interest Charges	(605)	(679)	(718)	(768)	(799)	(829)
AFUDC - borrowed	17	40	39	30	33	30
Net Interest Expense	(554)	(615)	(665)	(729)	(767)	(790)
EBT	1,036	1,173	1,254	1,354	1,388	1,448
Income Tax Expense	(334)	(395)	(404)	(491)	(471)	(488)
Effective Tax Rate	*32.2%*	*33.7%*	*32.2%*	*36.2%*	*33.7%*	*33.7%*
Net Income attrib. to noncontrolling interests, net of tax	(9)	(5)	(4)	(3)	(3)	(3)
Income from Continuing Operations	693	773	846	860	924	957
Discontinued Operations, Net of Tax	(189)	57	(79)	(2)	-	-
Cumulative effect of charge in acct. principle, net of tax	-	-	-	2		
Net Income	$ 504	$ 830	$ 767	$ 860	$ 924	$ 957
Adjustments	192	(54)	78	26	-	-
Adjusted Net Income	$ 696	$ 776	$ 846	$ 886	$ 924	$ 957
Adjusted EPS - Basic	$2.72	$2.98	$3.03	$3.05	$3.08	$3.18
Adjusted EPS - Diluted	**$2.71**	**$2.97**	**$3.03**	**$3.05**	**$3.08**	**$3.18**
EPS Growth	*3.18%*	*9.75%*	*1.85%*	*0.63%*	*0.91%*	*3.23%*
EPS - Basic	$1.97	$3.19	$2.75	$2.96	$3.08	$3.18
EPS - Diluted	$1.96	$3.18	$2.75	$2.96	$3.08	$3.18
Dividend per Common Share	$2.445	$2.465	$2.480	$2.480	$2.480	$2.500
Dividend Payout Ratio	90%	83%	82%	81%	81%	79%
Common Shares Outstanding - Basic	256.1	260.3	279.0	290.8	300.4	301.4
Common Shares Outstanding - Diluted	256.7	260.8	279.0	290.8	300.4	301.4

Source: Company reports, Oppenheimer & Co. estimates

Important Disclosures and Certifications

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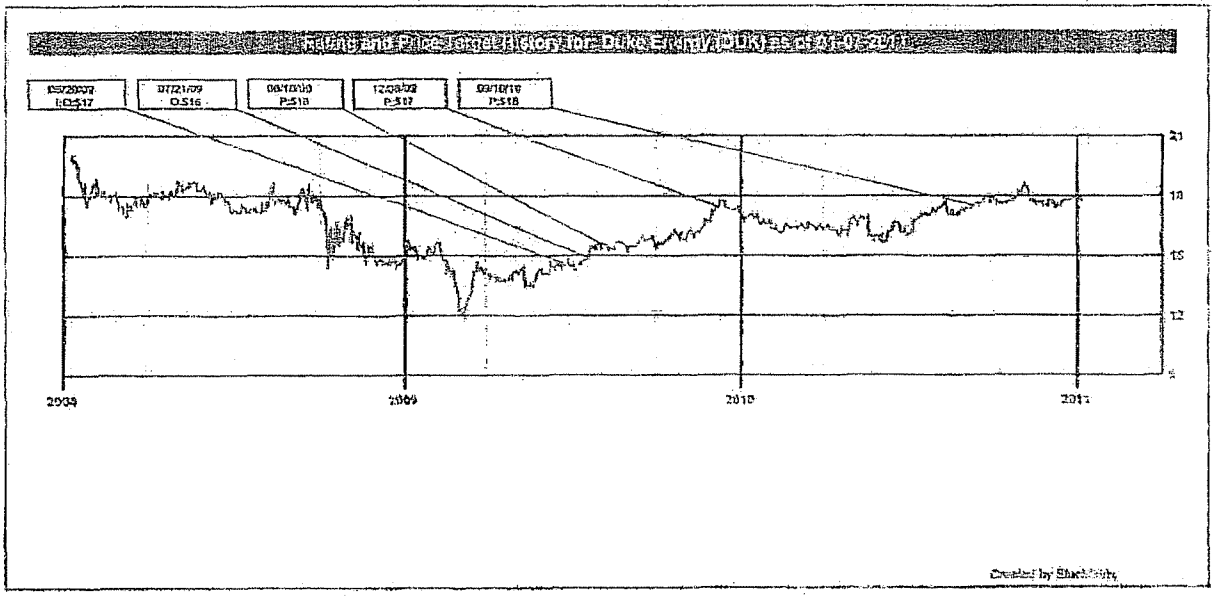
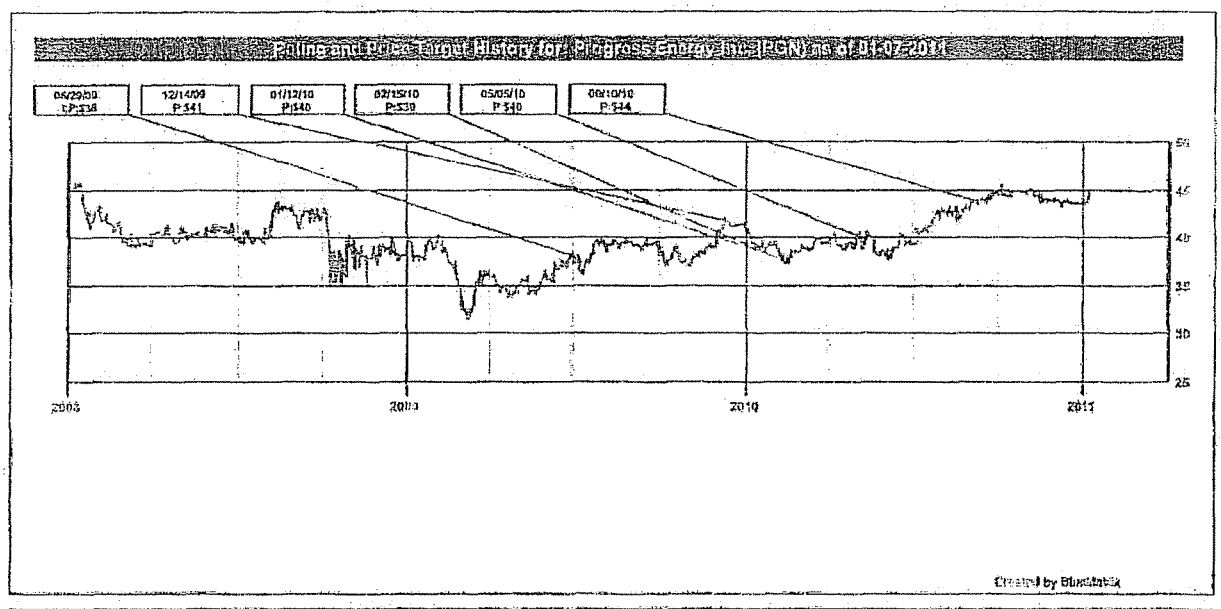
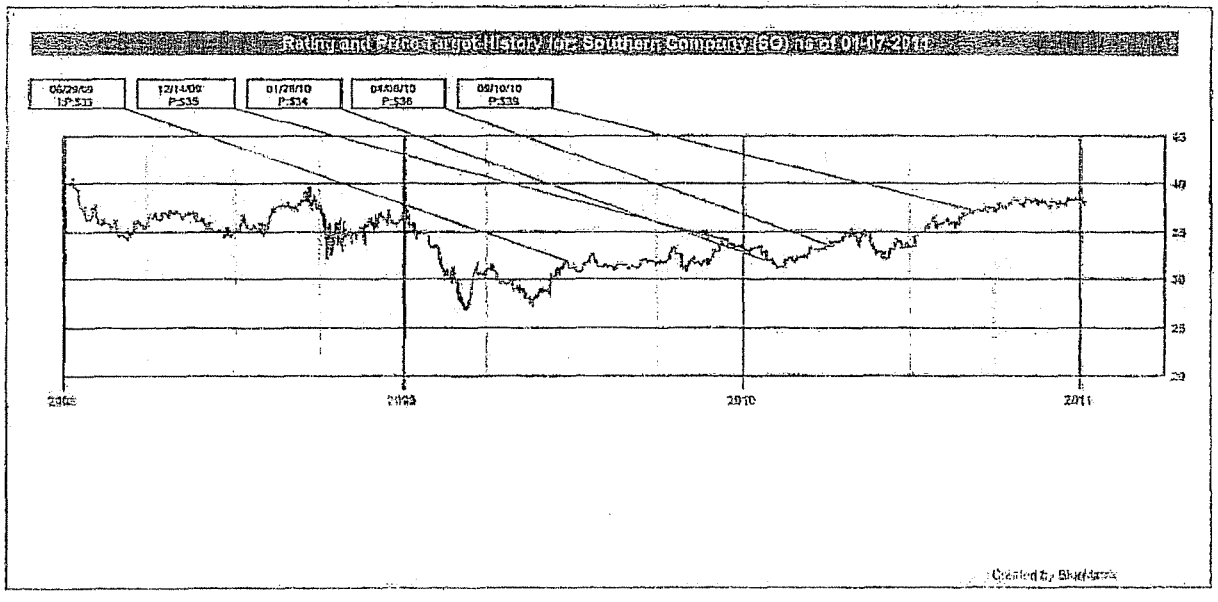
Stock Prices as of January 9, 2011

Duke Energy (DUK - NYSE, 17.79, PERFORM)
Progress Energy Inc. (PGN - NYSE, 44.72, PERFORM)
Southern Company (SO - NYSE, 38.08, PERFORM)







All price targets displayed in the chart above are for a 12- to- 18-month period. Prior to March 30, 2004, Oppenheimer & Co. Inc. used 6-, 12-, 12- to 18-, and 12- to 24-month price targets and ranges. For more information about target price histories, please write to Oppenheimer & Co. Inc., 300 Madison Avenue, New York, NY 10017, Attention: Equity Research Department, Business Manager.

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Outperform(O) - Stock expected to outperform the S&P 500 within the next 12-18 months.

Perform (P) - Stock expected to perform in line with the S&P 500 within the next 12-18 months.

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Neutral - anticipates that the shares will trade at or near their current price and generally in line with the leading market averages due to a perceived absence of strong dynamics that would cause volatility either to the upside or downside, and/or will perform less well than higher rated companies within its peer group. Our readers should be aware that when a rating change occurs to Neutral from Buy, aggressive trading accounts might decide to liquidate their positions to employ the funds elsewhere.

Sell - anticipates that the shares will depreciate 10% or more in price within the next 12 months, due to fundamental weakness perceived in the company or for valuation reasons, or are expected to perform significantly worse than equities within the peer group.

Distribution of Ratings/IB Services Firmwide

			IB Serv/Past 12 Mos.	
Rating	Count	Percent	Count	Percent
OUTPERFORM [O]	339	50.40	137	40.41
PERFORM [P]	318	47.30	93	29.25
UNDERPERFORM [U]	16	2.40	2	12.50

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Company Specific Disclosures

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Additional Information Available

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Utilities Research
January 11, 2011

Progress Energy, Inc. (PGN)

Merger Improves Growth Opportunities; but Stock Likely Range Bound

Price: (1/10/11)	43.99	Rating:	Neutral	FY Dec	2009A	2010E	2011E
52WK H-L:	48 - 37			Q1	0.66A	0.75A	
Market Cap (mil):	11,437.40	Suitability:	Lower Risk	Q2	0.64A	0.62A	
Shares Out (mil):	260.0			Q3	1.22A	1.23A	
Float (mil):	292.3			Q4	0.50A	0.40E	
Avg. Daily Vol (mil):	1.66			Total	3.03A	3.00E	3.20E
		Price Target:	46	FY P/E	14.5	14.7	13.7
Dividend	2.48						
Yield (%)	5.64						

Please refer to Appendix - Important Disclosures and Analyst Certification.

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Action

PGN/DUK merger strategically positions combined company for accelerated infrastructure investment to facilitate cleaner generation, consistent with fleet modernization strategies. Additionally, a larger balance sheet and improved financial metrics would well position the companies to support nuclear investment opportunities in the Carolinas and potentially Florida. Despite a positive long-term outlook for the proposed merger, we expect PGN's stock will likely remain range bound until approval is received; therefore, we maintain our Neutral rating.

Summary

- Proposed strategic merger between PGN/DUK strengthens financial metrics and balance sheet size, we believe key attributes necessary to efficiently fund substantial infrastructure investment opportunities.
- **Combined company investment proposition: EPS growth and competitive dividend yield.** Regulated investment opportunities should support combined company long-term EPS growth of 4-6% annually. The dividend policy is expected to remain consistent with DUK's current 65-70% target payout ratio.
- **Nuclear opportunities potentially back in focus for PGN with larger balance sheet and improved financial metrics.** Following the near-term EPS growth benefit anticipated from coal-to-natural-gas generation switching, nuclear generation additions are most likely the next key investment opportunities.
- **Upcoming Carolina rate cases for DUK (2011) and PGN could provide an opportunity to settle most regulatory uncertainties in a comprehensive settlement.** Constructive Carolina regulatory environment has supported settlements in the past, which we believe could include merger and rate relief issues in the future.
  - Merger synergy savings could help smooth potential customer rate increases associated with significant new/efficient/greener energy assets while keeping earned returns appropriate for investors.
  - Management estimates $300-$420 million in annual non-fuel O&M synergy savings in addition to $600-$800 million in joint dispatch/fuel savings over five years ($120-$160 million annually).
- **Maintain Neutral rating, as PGN's stock price will likely remain range bound ($43-$46) until necessary regulatory approval is received,** expected by YE2011. Stock could underperform post-merger closing until synergy savings and integration work is well underway.

Details

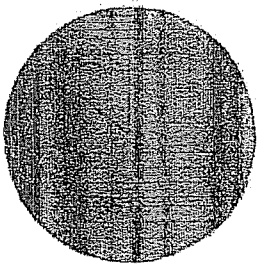
Acquisition details, pending merger approval/completion:

- **PGN shareholders will receive 2.6125 shares of DUK stock common stock/PGN share (approximate value today about $46).** DUK plans to do a reverse stock split at the close of the transaction, therefore the exchange ratio may be revised upon closing. No additional equity is assumed; both companies ended their DRIP programs on 12/31/10.
- **PGN shareholders should receive ~3% dividend increase using DUK's current dividend rate.**
- **PGN/DUK expect the merger could be completed by YE 2011 and expect the merger to be accretive to DUK's EPS in the first year following merger completion.** DUK's current 2012 consensus EPS estimate is $1.37. DUK currently trades at a P/E multiple of 13.0x 2012E EPS, while electric utilities currently trade at 12.8x 2012E EPS. PGN currently trades at 13.5x the consensus 2012 EPS estimate.
- **We believe the proposed merger is strategically driven as opposed to financially motivated,** given the slight premium to PGN's current share price (~6-7%). Both companies' strategic plans are very capital intensive, including new nuclear power generation, so a bigger balance sheet would be a positive for enhancing longer-term EPS growth.
- **Management appointments.** If the proposed merger is completed, Jim Rogers, current CEO of DUK, would become executive chairman and Bill Johnson, current CEO of PGN, would assume the CEO title. Lynn Good, current CFO of DUK, will become CFO of the combined entity, while Mark Mulhern, CFO of PGN, will become CAO.

Combined Company Outlook:
Upon closure of the merger by YE2011, Duke Energy Corporation will be the largest U.S. utility as measured by market cap, generation capacity, and electric customers. The DUK/PGN merger, if approved, looks to achieve synergies through fuel and joint dispatch savings in the Carolinas (54% of customer base), as well as increased investment in regulated operations. Non-fuel O&M savings should provide the largest benefit in achieving merger synergies. Management will attempt to leverage the regulated platform throughout the contiguous service areas to improve operational efficiencies and reduce the business risk profile. As Figure 1 illustrates, the newly formed company plans to focus on investment in regulated operations and rate base growth. Management reiterated its long-term EPS estimate of 4-6% annually, in addition to a 65-70% payout ratio.

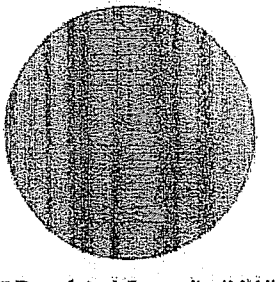
Figure 1: Post-Merger Generation Breakdown

EBIT Contribution
2010E EBIT: ~$5.5B



Regulated Generation
Unregulated Generation

Generating Capacity Breakdown
Total Owned Capacity: ~57GW

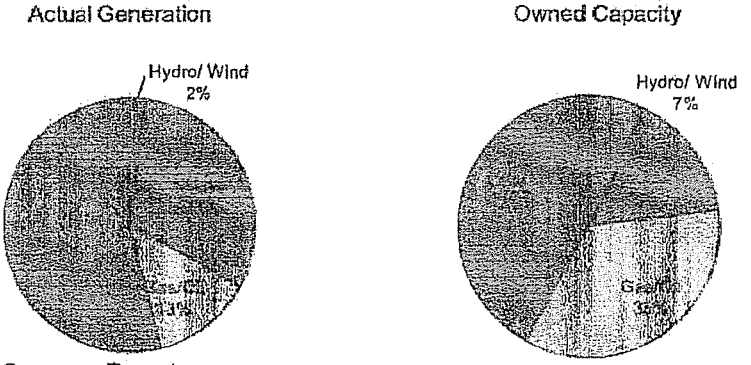


Regulated Capacity (MW)
Unregulated Capacity (MW)

Source: SNL Financial, Company Reports

The increased size and scalability of the combined company facilitates management's goal of improving asset optionality and positions itself well for the pursuit of new nuclear development opportunities pending approval of appropriate regulatory recovery mechanisms. Management expects to continue the coal-to-gas switching program in order to comply with federal/state regulations, which should provide enhanced growth opportunities through investment in regulated operations. As shown in Figure 2 below, the newly formed company plans to shift its generation mix away from coal to lower-carbon sources including clean coal and natural gas.

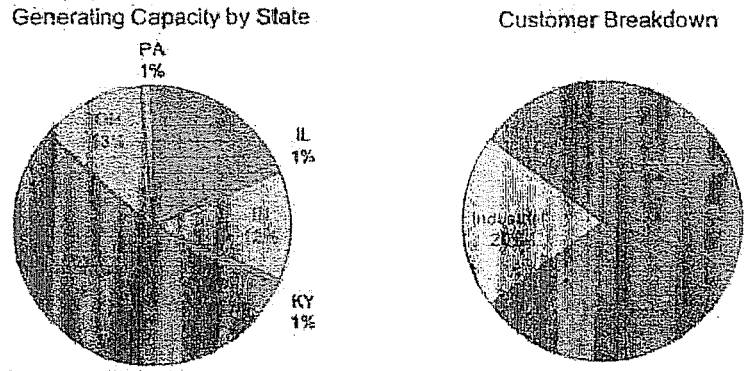
Figure 2: Post-Merger Capacity & Generation Mix



Source: Company Reports

In addition to improved capacity and fuel diversity, the increased geographical footprint should lower the regulatory risk profile, as the combined company's regulated operations will encompass 7.1 million customers in six service territories. Upon merger completion, DUK's largest territory will be the Carolinas (54% of owned generating capacity), which benefits from constructive regulation, above-average customer growth, and long-term energy infrastructure planning. Future capex will likely be focused on states with enhanced regulatory recovery mechanisms. Therefore a concentration of regulated operations in the Carolinas could help offset increasing risk from the non regulated power market in OH potentially boosting the combined company's P/E multiple as diversity minimizes state-specific risks. Figure 3 illustrates the breakdown of current generating capacity by state, along with the total customer classification breakdown.

Figure 3: Geographical Capacity & Customer Classification



Source: Company Reports

Merger Analysis:
Figure 4 illustrates the impact of the merger on DUK/PGN stock prices and the synergies necessary to achieve accretion in the first year after the merger is finalized. Management's goal is to reach $600-$800 million in fuel savings over the first five years of operation as economies of scale are realized, as well as eventually realize annual non-fuel O&M savings of 5-7% ($300-$420 million) due to operational efficiencies resulting largely from coordinated operations in the Carolinas. We expect synergy savings will be shared with customers, the percentage most likely hammered out in a settlement to help mitigate the impact of rate increases for increased infrastructure investment.

Figure 4: Merger Analysis

2012 Pro Forma Combined Earnings Potential

DUK Net Income est ($M)	1,808
PGN Net Income est ($M)	987
2012 Pro Forma NI	2,795
2012 DUK EPS Prior to Merger	$1.37
2012 Pro Forma EPS Prior to Synergies	$1.34
Necessary Synergy Savings for Accretion ($/sh)	**$0.03**
Necessary Synergy Savings for Accretion ($M)	**63**
DUK Shares Outstanding (Billions)	1.32
Additional Shares @ 2.615 conversion rate	0.77
2012 Combined EPS after Synergies	$1.37
Forward P/E Multiple Range	13x-13.5x
DUK Trading Range Pre Merger Close	$17.50-$18.50
PGN Trading Range (5% discount to conversion price)	$43.50-$46.00

Source: Company Reports, RW Baird & Co. Estimates

Regulatory Discussion.
Completion of the merger is contingent upon shareholder approval by both companies, as well as regulatory approvals from Federal Energy Regulatory Commission (FERC), Nuclear Regulatory Commission (NRC), North Carolina Utilities Commission (NCUC) and South Carolina Public Service Commission (SCPSC).

Synergy savings and aggressive clean energy plans (especially in the Carolinas) could support prompt and constructive regulatory approval, as customers benefit from near-term synergy sharing and cleaner, more efficient generation over the long-term.

PGN/DUK's merger synergy analysis and the possible of customer synergy sharing is as follows:

- Management expects to secure $600-$800 million in joint dispatch and fuel savings over the first five years ($120-$160 million annually), which will immediately benefit Carolina customers and shareholders through some sort of regulator-approved sharing mechanism.
- Management also estimates $300-$420 million in annual non-fuel O&M synergy savings, given the contiguous nature of PGN/DUK systems and reduced overhead costs. Total non-fuel O&M expenses are estimated to be $6 billion for 2012. As a proxy, the utility industry is typically able to capture non-fuel O&M efficiencies of 5-7% annually. Management expects its non-fuel O&M synergy savings to be in the 5-7% range, likely trending toward the top end of the range in later years.

We believe that PGN/DUK could use upcoming Carolina rate cases (DUK – 2011 and PGN – 2013) to discuss necessary rate relief in addition to outstanding merger issues (including synergy potential and customer sharing options). The magnitude of both the PGN and DUK rate cases could be significant, as both companies are looking to recover billions of dollars of infrastructure investment via its Fleet Modernization Plans. Therefore,

we expect PGN/DUK could incorporate a merger synergy sharing agreement into a global settlement that would resolve these rate cases, potentially offsetting to a degree necessary customer rate increases. The Carolinas have supported constructive regulatory decisions, including a history of rate case settlements.

Another regulatory challenge in getting mergers approved can be the concentration of generating capacity or "market power." In the past, merging companies have sold down the combined portfolio of generating assets to address FERC and state regulators' anticompetitive concerns; therefore, market power issues are not necessarily a deal stopper but could impact merger synergies/benefits. Given that most of PGN/DUK's assets are sold into regulated markets, we expect this to be less of an issue.

Sector Implications

An acceleration of M&A activity in the past has helped boost stock price multiples as investors speculate who is next. With M&A activity picking up in 2010 and 2011 off to a strong start, sector multiples most likely will benefit from recent M&A speculation.

The potential sweet spot for perceived merger targets are mid-cap utilities where hurdles to obtaining regulatory merger approvals can be less onerous. Baird-covered utilities meeting that criteria: CPK, DPL, LNT, HE, TEG, TE, and VVC.

In the past, M&A has accelerated when other investment options have diminished. Slowed energy infrastructure investment opportunities seem to be providing CEOs with free time to investigate potential combinations. Past M&A cycles ended when regulators clawed back a majority of potential merger synergies and limited merger benefits were left for shareholders. We have yet to see signs of this happening, so we expect the acquisition environment to remain favorable over the near-term.

Investment Thesis

Key investment considerations include, but are not limited to, the following:

- **Solid regulated electric utilities.** In the long term, we expect 2-3% regulated utility earnings growth reflecting above-average population and economic growth in the southeastern U.S. and constructive regulatory environments. Above-average customer growth of over 2%/year, has allowed PGN to hold base rates steady while keeping returns attractive for investors. We believe the regulatory environments in the Carolinas are constructive from an investor standpoint, partially offset by a less constructive decision recently in Florida as the regulatory process has become more politicized.
- **Merger provides potential upside to long term EPS growth rate.** Proposed strategic merger between PGN/DUK strengthens financial metrics and balance sheet size, we believe key attributes necessary to efficiently fund substantial infrastructure investment opportunities.
- **Environmental upgrades.** Since 2002, PGN has invested over $2 billion in environmental equipment in order to comply with federal air quality standards and plans to invest an additional $1-2 billion through 2018. Environmental investments/costs are recovered through a cost recovery mechanism in Florida. In North Carolina, advanced recovery of investment was accomplished through the state's Clean Smokestacks program.
- **Above-average dividend.** PGN's dividend of $2.48/share provides an above-average yield of ~5.6%, and we expect no dividend rate growth until PGN reaches its targeted 70-75% payout level possibly by 2012. If the merger is approved, PGN's dividend rate would improve 3% to DUK's current dividend rate.
- **Improving balance sheet.** PGN has boosted its liquidity through issuances of debt and equity, and as a result the company the company is well positioned for an acceleration in infrastructure investment.
- **Valuation.** Our 12-month price target of $46 is 13x our 2012 EPS estimate when adjusting for an estimated $1-2/share incremental value associated with PGN's synfuel-related tax credit carry forwards. We believe a P/E multiple inline with its regulated peers reflecting improving regulatory environment Florida is warranted. PGN's peers in Baird Regulated Electric Utility group currently trade at a median 2011 P/E of 12.7x.

Risks & Caveats

Our risk rating on PGN is Lower Risk given the relatively limited annual earnings volatility and expected stock price volatility resulted from its primarily regulated utility business. Risks include, but are not limited to, the following:

- **The company's business is sensitive to fluctuations in the weather.** A particularly warm winter or cool summer could adversely affect PGN's financial results.
- **The company has no control over the wholesale prices of natural gas, oil or coal.** While the company maintains a fuel clause recovery mechanism that helps mitigate risk, a spike in the price of these fuels could adversely affect the company's financial results.
- **PGN purchases on the open market a material portion of its electricity needs.** Like natural gas prices, the price of wholesale electricity can and does fluctuate. While the company maintains a fuel clause recovery mechanism that helps mitigate risk, such fluctuations could adversely affect PGN's operations.
- **PGN's utility operations are subject to federal, state and local legislative requirements.** Changes in regulations or in the regulatory environment in general as

well as approval of terms for PGN's proposed merger could materially impact PGN's earnings.

- **Although PGN has not made any material acquisitions recently, the company may have the opportunity to purchase assets or companies in the near future.** PGN makes acquisitions with the belief that such activity will generate additional profits beyond what could have been earned if those funds were used for a different purpose. Acquisitions carry risks related to personnel, information system integration, regulatory treatment and a myriad of other hurdles, all of which could negatively affect earnings.

Company Description

Progress Energy is an integrated energy holding company headquartered in Raleigh, NC formed in 2000 through the merger of Carolina Power & Light and Florida Progress. Progress Energy's two main operating subsidiaries, Progress Energy Carolinas and Progress Energy Florida, are regulated electric utilities serving over 3.0 million residential, commercial and industrial customers in the Carolinas and Florida. Progress Energy purchases and generates electricity through a mix of nuclear, coal, gas and hydroelectric generating facilities and transmits and distributes the power to its retail customers and other wholesale customers. Progress Energy has successfully divested its non-regulated businesses, making Progress Energy one of the largest pure-play regulated electric utilities in the U.S.

Progress Energy

($ In Millions Except As Noted)

Dave Parker (813) 274-7620
Maggie Hughes (414) 765-3968

	2008				2009				2010E			
	1Q08	2Q08	3Q08	4Q08	1Q09	2Q09	3Q09	4Q09	1Q10	2Q10	3Q10	4Q10E
Net Sales	$2,066	$2,244	$2,656	$2,161	$2,442	$2,312	$2,824	$2,307	$2,535	$2,372	$2,903	$2,351
Cost of Goods Sold	929	1,026	1,319	1,046	1,171	1,083	1,200	1,208	1,159	1,058	1,245	1,369
Gross Income	1,137	1,218	1,377	1,115	1,271	1,229	1,624	1,098	1,376	1,314	1,657	982
Operating Expense	772	812	786	794	878	840	945	774	882	874	932	654
Operating Income	365	406	591	321	393	389	679	324	494	440	726	328
Pretax Income	233	287	458	179	268	271	530	192	330	279	522	253
Net Income	$148	$199	$306	$122	$183	$179	$342	$140	$214	$181	$350	$115
EPS	$0.57	$0.77	$1.18	$0.47	$0.66	$0.65	$1.22	$0.50	$0.75	$0.62	$1.26	$0.40
Dividends	$0.62	$0.62	$0.62	$0.62	$0.62	$0.62	$0.62	$0.62	$0.62	$0.62	$0.62	$0.62
Diluted Shares	259	260	260	262	277	279	280	281	284	290	291	291
Margin Analysis												
Gross Margin	55.0%	54.3%	51.1%	51.6%	52.0%	53.2%	57.5%	47.6%	52.6%	54.3%	57.1%	41.8%
Operating Expense	37.4%	36.2%	29.2%	36.7%	36.0%	36.3%	33.5%	33.6%	35.0%	36.0%	32.0%	27.8%
Operating Margin	17.7%	18.1%	21.9%	14.9%	16.1%	16.8%	24.0%	14.0%	16.0%	17.0%	25.0%	13.9%
Pretax Margin	11.3%	12.2%	17.0%	8.3%	11.0%	11.7%	18.8%	8.3%	11.0%	11.0%	18.0%	10.8%
Net Margin	7.2%	8.9%	11.4%	5.6%	7.5%	7.8%	12.1%	6.1%	8.4%	7.6%	12.1%	4.9%

Progress Energy - Annual Earnings Model

	2006	2007	2008	% chg	2009	% chg	2010E	% chg	2011E	% chg	2012E	% chg
Net Sales	$8,725	$9,153	$9,167	0%	$9,685	6%	$10,161	5%	$10,457	3%	$10,563	1%
Cost of Goods Sold	4,108	4,329	4,320	(0%)	4,663	8%	4,831	4%	4,869	1%	4,791	(2%)
Gross Income	4,617	4,824	4,847	0%	5,022	6%	5,329	2%	5,588	5%	5,771	3%
Operating Expense	3,109	3,243	3,164	(2%)	3,450	9%	3,342	(3%)	3,444	3%	3,530	3%
Operating Income	1,508	1,581	1,683	6%	1,772	5%	1,987	12%	2,143	8%	2,241	5%
Pretax Income	1,024	1,066	1,168	10%	1,250	7%	1,395	11%	1,513	9%	1,585	5%
Net Income	651	718	776	8%	846	9%	860	2%	935	9%	983	5%
EPS	$2.50	$2.61	$2.98	6%	$3.03	2%	$2.90	(4%)	$3.20	7%	$3.30	3%
Dividends	$2.42	$2.44	$2.46	1%	$2.48	1%	$2.50	1%	$2.52	1%	$2.54	1%
Diluted Shares	261	258	260	2%	278	7%	287	3%	293	2%	298	1%
Margin Analysis												
Gross Margin	52.9%	52.7%	52.9%		52.8%		52.5%		53.4%		54.6%	
Operating Expense	35.6%	35.4%	34.5%		34.9%		32.9%		32.9%		33.4%	
Operating Margin	17.3%	17.3%	18.4%		17.9%		19.6%		20.5%		21.2%	
Pretax Margin	11.7%	11.7%	12.7%		12.0%		13.8%		14.5%		15.0%	
Net Margin	7.5%	7.9%	8.5%		8.6%		8.5%		9.0%		9.3%	

Balance Sheet Data

	2006	2007	2008	2009	3Q10
Cash & Equivalents	$335	$256	$180	$725	$691
Receivables	930	903	912	800	1,112
Inventory	969	994	1,239	1,325	1,214
Current Assets	3,585	2,775	3,550	3,531	3,706
Fixed Assets	15,246	16,605	18,293	19,733	20,775
Total Assets	25,701	26,286	29,903	31,175	32,706
Current Debt	324	1,078	1,050	546	1,005
Payables	712	789	912	835	827
Current Liabilities	2,818	3,246	3,489	2,656	3,474
Other Liabilities	5,659	6,702	6,842	6,908	7,479
L.T. Debt and Lease	8,835	8,737	10,659	12,051	11,636
Common Equity	8,286	8,422	8,714	9,459	10,021

Ratio Analysis

	2007	2008	2009	3Q10
Debt/Total Cap	53%	57%	57%	56%
Current Ratio	0.9	1.0	1.3	1.1
Days Sales Outst.	37	36	32	34
EBIT/Interest	2.6x	2.5x	2.5x	2.6x
Inventory Turn	83	84	100	86
Return on Equity	8.8%	9.1%	9.3%	9.3%
High P/E Ratio	18.6x	16.5x	13.9x	14.7x
Low P/E Ratio	15.4x	10.9x	10.3x	12.8x
Book Value	$ 32.77	$ 33.11	$ 33.66	$ 34.35
Price/Book	1.5x	1.2x	1.2x	1.3x
Cash Flow/Share	$ 6.81	$ 6.71	$ 7.10	$ 6.27
Price/Cash Flow	7.1x	5.9x	5.8x	7.1x

Please refer to Appendix - Important Disclosures and Analyst Certification.

Progress Energy

($ in Millions Except As Noted)

	2005	2006	2007	2008	2009	2010E	2011E	2012E	3 Est Yr Growth
Total Revenue	$10,109	$8,725	$9,153	$9,167	$9,885	$10,161	$10,457	$10,563	2.2%
Gross Margins	4,626	4,617	4,824	4,847	5,222	5,329	5,586	5,771	3.4%
Operating Income	1,456	1,508	1,581	1,683	1,772	1,987	2,143	2,241	8.1%
Other Income	31	126	73	124	157	137	143	143	(3.1%)
Net Interest Expense	640	610	585	639	679	740	773	799	5.6%
Income Taxes	24	373	348	392	404	525	575	602	14.2%
Preferred Dividends	0	0	0	0	0	0	0	0	
Net Income	823	651	719	776	846	860	936	983	5.1%
Earnings Per Share	$3.33	$2.60	$2.81	$2.98	$3.03	$3.00	$3.20	$3.30	2.9%
Reported EPS	$2.62	$2.28	$1.97	$3.19	$2.75	$3.00	$3.20	$3.30	
Diluted Shares	247	251	256	260	279	287	293	298	2.2%
Annualized Dividend Per Share	$2.36	$2.42	$2.44	$2.46	$2.48	$2.50	$2.52	$2.54	0.8%
Payout Ratio (%)	71	93	87	82	82	83	79	77	
Returns									
Return on Invested Capital	5.4	4.7	5.2	4.0	4.0	3.8	3.9	4.0	
Return on Common Equity	10.5	8.0	8.6	9.1	9.3	8.8	9.1	9.2	
Internal Cash % of Total Capital	4.7	5.2	5.2	4.8	5.1	3.9	4.2	4.3	
Coverage Ratios									
Interest Coverage Ex. Non-Cash	2.3	2.7	2.8	2.8	2.8	2.9	3.0	3.0	
Preferred Dividend Coverage (X)	2.3	2.7	2.8	2.8	2.6	2.9	3.0	3.0	
Internal Cash % Of Construction	64.3	51.6	53.6	52.7	61.6	49.9	55.5	58.8	
Internal Cash % of Total Cap. Req.	47.2	43.6	36.0	52.7	50.5	32.4	36.7	40.7	
% of Total Capital									
Short-term Debt	0.8	0.0	1.1	5.1	0.6	0.6	0.6	0.6	
Total Debt	57.7	52.2	53.3	57.1	56.9	56.4	56.1	56.0	
Preferred Stock	0.5	0.5	0.5	0.5	0.4	0.4	0.4	0.4	
Common Equity	41.8	47.2	45.7	42.5	42.7	43.2	43.5	43.6	
% Growth in Invested Capital									
Total Invested Capital	$19,308	$17,548	$18,414	$20,522	$22,155	$23,392	$24,230	$25,057	4.2%
Total Debt	11,134	9,159	9,815	11,709	12,597	13,191	13,591	14,041	3.7%
Total Preferred	93	93	93	93	93	93	93	93	0.0%
Total Common Equity	8,036	8,286	8,422	8,714	9,459	10,102	10,540	10,917	4.9%
Cash Flow									
Cash Flow From Operations	$1,474	$1,912	$1,252	$1,981	$2,271	$1,640	$1,779	$1,886	
Dividends	582	607	627	642	693	717	739	756	
Internal Cash	892	1,305	625	1,339	1,578	923	1,040	1,129	
Construction Excluding Acquisitions	1,412	1,770	1,800	1,850	1,850	1,850	1,850	1,850	
Other Investing Activities (Net)	(590)	(758)	(2,105)	(2,554)	(758)	23	44	14	
Redemptions	1,073	2,375	123	(248)	1,410	406	1,000	950	
Total Capital Requirements	1,895	3,387	(182)	(952)	2,502	2,278	2,894	2,814	
Total Financing	1,850	582	890	1,929	2,901	1,500	1,640	1,550	
Other Data									
KWH Sales Total (MM)	103,977	101,607	105,125	103,306	98,246	99,487	102,604	104,387	2.0%
KWH Sales Retail (MM)	83,278	82,861	83,853	82,350	80,445	81,330	82,631	84,135	1.5%
% YoY Retail Growth	2.0	(0.5)	1.2	(1.8)	(2.3)	1.1	1.6	1.8	
Net Utility Plant In Service	16,322	15,245	16,605	18,293	19,733	21,393	22,956	24,174	7.0%
Construction Work In Progress	815	1,289	1,765	2,745	1,790	1,890	2,290	3,090	
Ratings History									
Standard & Poor's	BBB-	BBB-	BBB-	BBB+	BBB+				

Please refer to "Appendix - Important Disclosures" and Analyst Certification.

Date Printed:	1/10/2011						Progress Energy						Dave Parker (813) 274-7620
Fiscal Year:	DEC						PGN						Maggie Hughes (414) 765-3968
($ Millions)													
Balance Sheet	2005	2006	2007	2008	2009	3Q10	Cash Flow Statement	2005	2006	2007	2008	2009	2010E	2011E
ASSETS							Net Income	$823	$651	$719	$776	$846	$860	$938
Cash & Equivalents	$797	$336	$298	$180	$725	$691	Depreciation & Amort	1,195	1,119	1,026	969	1,135	780	826
Receivables	1,103	930	903	912	800	1,112	Working Capital Changes	(66)	(208)	(568)	5	(127)	6	19
Inventory	866	969	994	1,239	1,325	1,214	Deferred taxes/Non-Cash	(478)	350	75	232	417	(6)	(8)
Other	972	1,350	622	1,219	681	689	Cash Flow from Operations	1,474	1,912	1,252	1,981	2,271	1,640	1,779
Total Current	3,738	3,585	2,775	3,550	3,531	3,706	Dividend Payments	(582)	(607)	(627)	(642)	(693)	(717)	(739)
Fixed Assets	16,322	15,245	18,605	18,293	19,733	20,776	Net Capital Expenditures	(1,412)	(1,539)	(2,201)	(2,555)	(2,215)	(2,440)	(2,390)
Goodwill	0	0	0	0	0	0	Free Cash Flow	($520)	($234)	($1,576)	($1,216)	($637)	($1,517)	($1,350)
Other Assets	8,963	8,871	6,906	8,060	7,911	8,224								
Total Assets	$27,023	$25,701	$26,286	$29,903	$31,175	$32,706	Operating Cash Flow Per Share	$5.97	$7.62	$4.89	$7.62	$8.14	$5.72	$6.06
							Free Cash Flow Per Share	($2.11)	($0.93)	($6.16)	($4.68)	($2.28)	($5.29)	($4.60)
LIAB. & EQUITY														
Current Debt	$688	$324	$1,078	$1,050	$546	$1,005	Du Pont Formula	2005	2006	2007	2008	2009	2010E	2011E
Payables	678	712	709	912	835	827	Net Margins (N/S)	8.1%	7.5%	7.9%	8.5%	8.6%	8.5%	9.0%
Other	1,479	1,782	1,381	1,527	1,277	1,642	Assets Turnover (S/A)	0.4	0.3	0.4	0.3	0.3	0.3	0.3
Total Current	2,845	2,818	3,248	3,489	2,658	3,474	Leverage (A/E)	3.4	3.2	3.1	3.3	3.4	3.3	3.2
							Return on Equity	10.5%	8.0%	8.6%	9.1%	9.3%	8.8%	9.1%
LT Debt & Lease	10,446	8,835	8,737	10,659	12,051	11,636								
Deferred Taxes	441	457	500	946	1,319	1,585	Valuation Parameters	2005	2006	2007	2008	2009	2010E	Recent
Other Liabilities	5,160	5,212	5,286	6,003	5,595	5,897	Price (Common) - PGN High	$46.00	$49.55	$52.75	$49.16	$42.20	$43.89	$44.65
							Low	40.2	40.3	43.1	32.6	31.4	32.6	
Preferred Stock	93	93	93	93	93	93								
Common Equity	8,038	8,286	8,422	8,714	9,459	10,021	Forward P/E Ratio High	14.7x	16.1x	16.4x	16.4x	16.4x	16.4x	
Total	$27,023	$25,701	$26,286	$29,903	$31,175	$32,706	Low	12.0x	13.5x	14.5x	14.6x	14.6x	14.6x	
							Close	14.2x	17.9x	15.9x	15.9x	15.9x	15.9x	15.9x
Ratio Analysis:														
Current Ratio	1.3	1.3	0.9	1.0	1.3	1.1	Book Value	$ 32.28	$ 32.62	$ 32.77	$ 33.11	$ 33.66	$ 34.51	$ 35.35
Working Capital	$784	$755	$349	$931	$694	$546	Price/Book Ratio High	1.4x	1.5x	1.6x	1.5x	1.3x	1.3x	1.3x
Working Cap/Assets	2.9%	2.9%	1.3%	3.1%	2.2%	1.7%	Low	1.2x	1.2x	1.3x	1.0x	0.9x	0.9x	1.0x
Inventory Turns	82	82	83	94	100	96	Close	1.4x	1.5x	1.6x	1.2x	1.2x	1.2x	1.3x
Total Debt/Capital	68%	62%	63%	67%	67%	66%	EBITDA	$2,851	$2,627	$2,607	$2,652	$2,907	$2,767	$2,971
LT Debt/Equity	130%	107%	104%	122%	127%	116%	Enterprise Value High	$21,699	$21,250	$23,063	$24,311	$23,646	$25,486	$27,407
EBIT/Interest Expense	2.2x	2.4x	2.6x	2.5x	2.5x	2.6x	Low	20,264	18,923	20,598	20,005	20,819	22,249	23,903
Total Debt/EBIT	7.6x	6.1x	6.2x	7.0x	7.1x	6.3x	EV / EBITDA High	8.2x	8.1x	8.8x	9.2x	8.1x	9.2x	9.2x
							Low	7.6x	7.2x	7.9x	7.5x	7.1x	8.0x	8.1x
							Close	8.0x	8.0x	8.4x	8.3x	8.0x	9.1x	9.1x

Please refer to "Appendix - Important Disclosures" and Analyst Certification.

Appendix - Important Disclosures and Analyst Certification

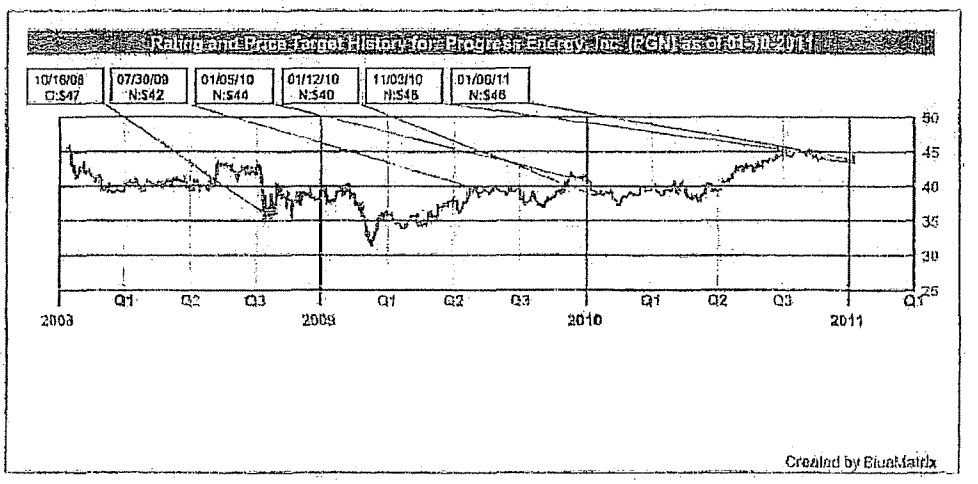


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EXHIBIT 2

Duke Energy

Duke Energy-Progress Energy Merger

Merger Acquisition
Divestiture
UNDERPERFORM

Equity | United States | Electric Utilities
11 January 2011

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More detail affirms our view of the merger

After getting more details on the transaction from the investor conference call, we continue to believe that the Progress Energy acquisition makes strategic sense for Duke. We believe that the deal should be accretive following the merger close based on synergy expectations and reasonable regulatory outcomes.

Accretion reasonable with synergy targets

Management gave more detail on expected merger synergies during the conference call. They expect non-fuel synergies to be 5%-7% of combined nonfuel O&M of about $6B, or around $360M. This would be on top of $600M-$800M of immediate customer savings over 2012-2016 due to fuel and dispatch optimization of the combined fleet in the Carolinas. Assuming that Duke will have to share 50% of nonfuel synergies, we estimate about $0.03-$0.04/sh of accretion in 2012 and 2013. Management also expects 4%-6% annual EPS growth off of a 2011 base year.

Reiterate Underperform on DUK; PGN rating moved to 6

While the merger would address one of our key concerns on Duke Energy's non-regulated risk profile, there are still significant hurdles that need to be crossed this year. Key issues that need to be resolved are the Ohio electric rate plan, the question of Edwardsport cost increase recovery, and successful completion of the merger. We reiterate our Underperform on Duke given these hurdles and its still-premium valuation. We changed our rating on Progress to 6-No Rating from Neutral. Due to Duke's offer, we believe that PGN will no longer be trading on fundamentals.

Stock Data

Price	US$17.55
Price Objective	US$17.00
Date Established	21-Oct-2010
Investment Opinion	A-3-7
Volatility Risk	LOW
52-Week Range	US$15.47-18.60
Mkt Val / Shares Out (mn)	US$23,061 / 1,314.0
BofAML Ticker / Exchange	DUK / NYS
Bloomberg / Reuters	DUK US / DUK.N
ROE (2010E)	8.4%
Total Dbt to Cap (Sep-2010A)	45.0%
Est. 5-Yr EPS / DPS Growth	4.0% / 1.0%

Estimates (Dec)

(US$)	2008A	2009A	2010E	2011E	2012E
EPS	1.21	1.23	1.42	1.27	1.31
GAAP EPS	1.21	1.23	1.42	1.27	1.31
EPS Change (YoY)	-2.4%	1.7%	15.4%	-10.6%	3.1%
Consensus EPS (Bloomberg)			1.42	1.33	1.35
DPS	0.90	0.96	0.98	1.00	1.02

Valuation (Dec)

	2008A	2009A	2010E	2011E	2012E
P/E	14.5x	14.3x	12.4x	13.8x	13.4x
GAAP P/E	14.5x	14.3x	12.4x	13.8x	13.4x
Dividend Yield	5.1%	5.5%	5.6%	5.7%	5.8%
EV / EBITDA*	12.0x	11.8x	10.5x	10.9x	10.5x
Free Cash Flow Yield*	-4.6%	-3.6%	-5.4%	-2.9%	-0.4%

*For full definitions of Quantum™ measures, see page 6.

Refer to important disclosures on page 7 to 10. Analyst Certification on Page 5. Price Objective Basis/Risk on page 5. Link to Definitions on page 5. 1100502

iQprofile℠ Duke Energy

iQmethod℠ – Bus Performance*

(US$ Millions)	2008A	2009A	2010E	2011E	2012E
Return on Capital Employed	4.2%	4.0%	4.5%	4.1%	4.1%
Return on Equity	7.3%	7.4%	8.4%	7.4%	7.5%
Operating Margin	23.0%	24.6%	27.3%	26.0%	26.2%
Free Cash Flow	(1,058)	(833)	(1,242)	(660)	(98)

iQmethod℠ – Quality of Earnings*

(US$ Millions)	2008A	2009A	2010E	2011E	2012E
Cash Realization Ratio	2.2x	2.2x	2.1x	2.4x	2.3x
Asset Replacement Ratio	2.7x	2.6x	3.0x	2.8x	2.3x
Tax Rate	33.5%	33.3%	31.9%	30.4%	28.9%
Net Debt-to-Equity Ratio	63.6%	70.7%	77.0%	84.0%	88.5%
Interest Cover	4.1x	4.1x	4.0x	3.4x	3.2x

Income Statement Data (Dec)

(US$ Millions)	2008A	2009A	2010E	2011E	2012E
Sales	13,279	12,732	13,387	13,221	13,666
% Change	4.0%	-4.1%	5.1%	-1.2%	3.4%
Gross Profit	8,262	8,348	9,038	8,858	9,198
% Change	0.7%	1.0%	8.3%	-2.0%	3.9%
EBITDA	4,697	4,785	5,363	5,170	5,386
% Change	-0.2%	1.9%	12.1%	-3.6%	4.2%
Net Interest & Other Income	(741)	(765)	(921)	(1,017)	(1,104)
Net Income (Adjusted)	1,537	1,584	1,864	1,689	1,749
% Change	-2.2%	3.0%	17.7%	-9.4%	3.0%

Free Cash Flow Data (Dec)

(US$ Millions)	2008A	2009A	2010E	2011E	2012E
Net Income from Cont Operations (GAAP)	1,537	1,584	1,864	1,689	1,749
Depreciation & Amortization	1,647	1,647	1,707	1,729	1,800
Change in Working Capital	(533)	52	(323)	(198)	(159)
Deferred Taxation Charge	485	941	635	895	596
Other Adjustments, Net	192	(761)	0	0	0
Capital Expenditure	(4,386)	(4,296)	(5,125)	(4,775)	(4,075)
Free Cash Flow	-1,058	-833	-1,242	-660	-98
% Change	NM	21.3%	-49.1%	46.8%	85.1%

Balance Sheet Data (Dec)

(US$ Millions)	2008A	2009A	2010E	2011E	2012E
Cash & Equivalents	986	1,542	808	747	1,028
Trade Receivables	1,653	1,741	1,741	1,741	1,741
Other Current Assets	2,634	2,483	2,483	2,483	2,483
Property, Plant & Equipment	34,036	37,950	41,608	45,044	47,628
Other Non-Current Assets	13,768	13,324	13,324	13,324	13,324
Total Assets	**53,077**	**57,040**	**59,964**	**63,339**	**66,205**
Short-Term Debt	1,189	902	902	902	902
Other Current Liabilities	3,156	3,186	3,186	3,186	3,186
Long-Term Debt	13,250	16,113	17,510	19,396	21,091
Other Non-Current Liabilities	14,331	14,953	15,505	16,592	17,348
Total Liabilities	31,926	35,154	37,103	40,076	42,527
Total Equity	21,151	21,886	22,861	23,263	23,687
Total Equity & Liabilities	53,077	57,040	59,964	63,339	66,214

* For full definitions of iQmethod℠ measures, see page 6.

Company Description

Duke Energy Corporation operates as a diversified energy company in the Americas based in Charlotte, NC. The company operates regulated utilities in the Midwest and the Carolinas. It also has approximately 4,000 megawatts of electric generation in Latin America. The electric franchise supplies electric service to approximately 4 million residential, commercial, and industrial customers with approximately 150,900 miles of distribution lines and a 20,900 mile transmission system.

Investment Thesis

Duke benefits from constructive regulation in the Carolinas and the Midwest, strong ratebase growth opportunities, and a strong balance sheet. However, DUK's generation rates in OH are above market and a set to rise higher in 2010 and 2011, leading to the potential for increased shopping and lower rates in 2012. Roughly 30 percent of company earnings are from the International and Commercial segments, with riskier earnings. DUK also trades at a significant premium to the group.

Stock Data

Average Daily Volume	5,695,359

Quarterly Earnings Estimates

	2009	2010
Q1	0.28A	0.36A
Q2	0.26A	0.34A
Q3	0.40A	0.51A
Q4	0.27A	NA

Strategic rationale remains solid

Following greater detail given by the companies post Monday's merger announcement, we believe that the strategic rationale continues to be solid for both companies - and in line with our initial take. In particular, the companies provided more detail on synergies (which we outline below) and earnings growth post merger. Without giving 2011 earnings guidance, the companies believe that a long-term earnings growth rate of 4%-6% off of a 2011 earnings base is achievable following the merger.

Merger should be accretive assuming modest synergies

As shown in Table 1, we expect that the merger should be moderately accretive in 2012/2013. There are two key reasons for this. First is the assumption of no external equity issued beyond 2010 by either company. The companies expect that as a result of bonus depreciation, the ability to accelerate PGN's deferred synfuel tax benefits and the benefits of the combined balance sheet should eliminate the need for equity. This is a bigger benefit for PGN, which we had expected to continue an upsized DRIP ($150M) in 2012 and 2013. The second contributor to accretion is synergies. On the call, management expects that overall synergies will be about 5%-7% of combined 2012 O&M of about $6B, or $300-$420M/yr. We believe that it is reasonable to assume that sharing some of these benefits will be a condition of merger approval. This is on top of the $600-$800M of fuel and dispatch savings that will directly benefit customers in the Carolinas over 2012-2016. If we assume that Duke will be able to retain half of the nonfuel synergies, then the deal could be $0.04/sh accretive in 2012 and $0.03/sh accretive in 2013.

Table 1: Accretion/dilution analysis of DUK/PGN merger

	2011E	2012E	2013E
DUK standalone EPS - no equity	1.27	1.31	1.39
PGN standalone EPS - no equity	3.18	3.33	3.45
DUK net income	1,685	1,737	1,843
PGN net income	938	982	1,018
Total income pre-synergies	2,623	2,719	2,861
DUK shares		1,326	1,326
PGN's DUK shares (2.6126x)		771	771
Total shares		2,097	2,097
Merged EPS pre synergies		1.30	1.36
Accretion/dilution pre synergies		(0.01)	(0.03)
Potential synergies (6% total O&M)		360	360
% sharing assumed		50%	50%
Retained synergies		180	180
Merged EPS post synergies		1.35	1.42
Accretion post synergies		0.04	0.03
Retained synergies (pretax) to break even		46	90
Dividend	$ 0.98	$ 1.00	$ 1.02
Payout ratio	77%	74%	72%

Source: DUK, PGN, BofA Merrill Lynch Global Research

Duke gains a more regulated profile

We see several positives for Duke with the Progress acquisition apart from the earnings accretion. The first is adding regulated earnings and reducing the business risk profile. About 25% of Duke's earnings come from unregulated earnings at Commercial Power and the International segment. After buying PGN, this would fall to about 15%. We could further argue that the combined company could be less interested in continuing to operate the effectively deregulated generation fleet in Ohio. The second benefit of the merger is clarifying succession questions. Given changes in Duke's management team – partially stemming from issues in Indiana – there was no clear successor to Jim Rogers at Duke. The PGN acquisition and announcement of Bill Johnson as CEO resolves this.

Progress benefits from balance sheet, higher dividend

While the merger appears to have a stronger rationale on face for Duke than Progress, we do believe that there are benefits to Progress shareholders. The adoption of Duke's dividend will mean a 3% dividend increase for PGN shareholders as well as the potential for ~2% annual dividend growth going forward. Without the merger, we believe that PGN would not be in a position to increase the dividend until around 2013. Additionally, the combined entity will have a stronger balance sheet, and the elimination of external equity needs preserves earnings power for current shareholders. On the downside, Duke's purchase adds some unregulated earnings to the mix.

Reiterate Underperform on DUK - work to be done in '11

We are reiterating our Underperform rating on Duke Energy. The merger does address the primary concern that we have on the stock – its unregulated earnings exposure. However, between now and merger close we believe there are still a few issues that DUK will need to resolve. Risks to our price objective are a strong turnaround in the power markets that serves to fix some of our concerns at Commercial Power.

- **Merger approval.** First is obviously receiving timely merger approvals in the Carolinas and from the federal government. While the merger approval standard in NC is to hold customers harmless, we would still expect much focus on how to share synergies. Additionally, press reports on Monday suggested that Dominion had made offers to buy both Duke and Progress late last week, raising the possibility that other parties get involved.

- **Ohio.** Duke still needs to reach a conclusion on its Ohio rate plan and ultimately decide whether to retain the unregulated generation there. We continue to remain concerned about potential downside in 2012 from the adoption of new rates in OH and the threat of shopping.

- **Indiana/Edwardsport.** Finally, Duke will need to reach a resolution in Indiana over how to recover the significant cost increases at the Edwardsport IGCC power plant. There had been a settlement in which DUK would earn a lower ROE on the excess costs, but was withdrawn following ethics questions in communications between Duke and Indiana regulators.

Separately, we changed our rating on PGN to 6-No Rating from Neutral based on the merger announcement. Because of the deal, the stock will no longer trade on fundamentals.

Price objective basis & risk

Duke Energy (DUK)

Our price objective is $17. In our view, the regulated utility businesses deserve a slight premium valuation to the sector, while the Commercial Power and International merit a slight discount. We value the utilities at 14x 2012E EPS of $0.99 (net of parent losses) which equates to $14 per share. For the non-regulated operations, we use 10.5x 2012E EPS of $0.31, or $3 per share. The sum-of-the-parts is then $17. Risks to our price objective are a strong turnaround in the power markets that serves to fix some of our concerns at Commercial Power. Both the shopping risk and post ESP roll-off risk are a function of the current low-priced power market. Additionally, DUK is trying to move Ohio further toward re-regulation and may try to address the 2012 price risk in that context.

Progress Energy (PGN)

We have removed the investment opinion on the company's stock. Investors should no longer rely on our previous opinions or price objectives.

Link to Definitions

Energy

Click here for definitions of commonly used terms.

Analyst Certification

I, Steve Fleishman, hereby certify that the views expressed in this research report accurately reflect my personal views about the subject securities and issuers. I also certify that no part of my compensation was, is, or will be, directly or indirectly, related to the specific recommendations or view expressed in this research report.

US - Electric Utilities/Competitive Power Coverage Cluster

Investment rating	Company	BofA Merrill Lynch ticker	Bloomberg symbol	Analyst
BUY				
	American Water Works	AWK	AWK US	Steve Fleishman
	CenterPoint Energy, Inc.	CNP	CNP US	Steve Fleishman
	GenOn Energy, Inc.	GEN	GEN US	Ameet L Thakkar
	NextEra Energy	NEE	NEE US	Steve Fleishman
	Northeast Utilities	NU	NU US	Steve Fleishman
	NSTAR	NST	NST US	Steve Fleishman
	NV Energy	NVE	NVE US	Steve Fleishman
	PG&E Corporation	PCG	PCG US	Steve Fleishman
	Public Service Enterprise Group Inc.	PEG	PEG US	Steve Fleishman
	Wester Energy	WR	WR US	Steve Fleishman
	Wisconsin Energy	WEC	WEC US	Alex Kania
	Xcel Energy	XEL	XEL US	Steve Fleishman
NEUTRAL				
	Alliant Energy	LNT	LNT US	Steve Fleishman
	American Electric Power	AEP	AEP US	Steve Fleishman
	Calpine	CPN	CPN US	Ameet L Thakkar
	CMS Energy	CMS	CMS US	Steve Fleishman
	Consolidated Edison	ED	ED US	Steve Fleishman
	Constellation Energy Group	CEG	CEG US	Ameet L Thakkar
	Dominion Resources	D	D US	Steve Fleishman
	Edison International	EIX	EIX US	Steve Fleishman
	Entergy	ETR	ETR US	Steve Fleishman
	NRG Energy	NRG	NRG US	Ameet L Thakkar
	Pinnacle West	PNW	PNW US	Steve Fleishman
	Portland General Electric Company	POR	POR US	Steve Fleishman

US - Electric Utilities/Competitive Power Coverage Cluster

Investment rating	Company	BofA Merrill Lynch ticker	Bloomberg symbol	Analyst
	PPL Corporation	PPL	PPL US	Steve Fleishman
	Progress Energy	PGN	PGN US	Steve Fleishman
	SCANA Corp.	SCG	SCG US	Steve Fleishman
	Southern Company	SO	SO US	Steve Fleishman
	TECO Energy	TE	TE US	Steve Fleishman
	UIL Holdings	UIL	UIL US	Steve Fleishman
UNDERPERFORM				
	Ameren Corp	AEE	AEE US	Steve Fleishman
	DPL Inc.	DPL	DPL US	Steve Fleishman
	DTE Energy	DTE	DTE US	Steve Fleishman
	Duke Energy	DUK	DUK US	Steve Fleishman
	Exelon	EXC	EXC US	Steve Fleishman
	FirstEnergy	FE	FE US	Steve Fleishman
	Hawaiian Electric Industries	HE	HE US	Steve Fleishman

iQmethod™ Measures Definitions

Business Performance	Numerator	Denominator
Return On Capital Employed	NOPAT = (EBIT + Interest Income) * (1 - Tax Rate) + Goodwill Amortization	Total Assets – Current Liabilities + ST Debt + Accumulated Goodwill Amortization
Return On Equity	Net Income	Shareholders' Equity
Operating Margin	Operating Profit	Sales
Earnings Growth	Expected 5-Year CAGR From Latest Actual	N/A
Free Cash Flow	Cash Flow From Operations – Total Capex	N/A
Quality of Earnings		
Cash Realization Ratio	Cash Flow From Operations	Net Income
Asset Replacement Ratio	Capex	Depreciation
Tax Rate	Tax Charge	Pre-Tax Income
Net Debt-To-Equity Ratio	Net Debt = Total Debt, Less Cash & Equivalents	Total Equity
Interest Cover	EBIT	Interest Expense
Valuation Toolkit		
Price / Earnings Ratio	Current Share Price	Diluted Earnings Per Share (Basis As Specified)
Price / Book Value	Current Share Price	Shareholders' Equity / Current Basic Shares
Dividend Yield	Annualised Declared Cash Dividend	Current Share Price
Free Cash Flow Yield	Cash Flow From Operations – Total Capex	Market Cap. = Current Share Price * Current Basic Shares
Enterprise Value / Sales	EV = Current Share Price * Current Shares + Minority Equity + Net Debt + Other LT Liabilities	Sales
EV / EBITDA	Enterprise Value	Basic EBIT + Depreciation + Amortization

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Investment rating	Total return expectation (within 12-month period of date of initial rating)	Ratings dispersion guidelines for coverage cluster*
Buy	≥ 10%	≤ 70%
Neutral	≥ 0%	≤ 30%
Underperform	N/A	≥ 20%

*Ratings dispersions may vary from time to time where BofA Merrill Lynch Research believes it better reflects the investment prospects of stocks in a Coverage Cluster.

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EXHIBIT 3

JOINT DISPATCH AGREEMENT

JOINT DISPATCH AGREEMENT

BETWEEN

DUKE ENERGY CAROLINAS, LLC

AND

CAROLINA POWER & LIGHT COMPANY

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(continued)

JOINT DISPATCH AGREEMENT

THIS JOINT DISPATCH AGREEMENT ("Agreement") is made and entered into as of the ____ day of _____, 20__, by and between Duke Energy Carolinas, LLC ("DEC"), and Carolina Power and Light Company, doing business as Progress Energy Carolinas, Inc. ("PEC") (collectively referred to herein as the "Parties" and individually as a "Party").

WHEREAS, DEC and PEC are the owners and operators of electric generation, transmission and distribution facilities and are engaged in the business of generating, transmitting, distributing, and selling electric energy to the retail customers in their franchised service areas in North Carolina and South Carolina and also at wholesale to municipalities, cooperatives, and other electric utilities; and

WHEREAS, Duke Energy Corporation, the parent company of DEC, and Progress Energy, Inc., the parent company of PEC, have entered into an Agreement and Plan of Merger dated January 8, 2011 ("Merger"); and

WHEREAS, DEC and PEC intend to jointly dispatch their Power Supply Resources in order to most economically serve the Native Load Customers of both DEC and PEC following the consummation of the Merger; and

WHEREAS, the Parties desire to establish a framework under which the foregoing joint dispatch of the DEC and PEC Power Supply Resources, and the resulting cost savings will be equitably shared between the Parties;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein set forth, the Parties mutually agree as follows:

ARTICLE I
DEFINITIONS

Capitalized terms shall have the meanings set forth below in the Article I. If a capitalized term is not defined below, it shall have the meaning provided elsewhere in this Agreement or as commonly used in the electric utility industry.

"**Balancing Authority**" means the responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a Balancing Authority Area, and supports interconnection frequency in real time.

"**Balancing Authority Area**" or "**BAA**" means the collection of generation, transmission, and loads within the metered boundaries of the Balancing Authority within which the Balancing Authority maintains the load-resource balance.

"**Existing Non-Native Load Sales**" means Non-Native Load Sales made pursuant to obligations entered into prior to the effective date of this Agreement.

"**Industry Standards**" means all applicable national and regional electric reliability council principles, guides, criteria, and standards and industry standard practices.

"**Joint Dispatch**" means the dispatch of the Power Supply Resources owned by DEC and PEC respectively on a least cost basis as described in Section 3.1.

"**Must Run Resources**" means generation units or power purchases that are dispatched out of merit order either due to contractual arrangements or to satisfy operational, reliability or regulatory requirements.

"**Native Load**" means the load of a Party's Retail Native Load Customers and the retail load of its wholesale customers served by the Party, directly or indirectly, at Native Load Priority.

"**Native Load Customers**" means a Party's Retail Native Load Customers plus its wholesale customers that have Native Load served by the Party, for which the Party has an obligation pursuant to wholesale contracts, for the length of such contracts, to engage in planning and to sell and deliver electric capacity and energy in a manner comparable to the Party's service to its Retail Native Load Customers.

"**Native Load Priority**" means a priority of service equivalent to that provided by the Party to its Retail Native Load Customers.

"**NCUC**" means the North Carolina Utilities Commission.

"**New Non-Native Load Sales**" means Non-Native Load Sales entered into after the effective date of this Agreement.

"**Non-Native Load Sales**" means a Party's sales of energy at wholesale, not including transactions between the Parties pursuant to this Agreement or service to Native Load.

"Power Purchases" means purchases of energy at wholesale from sellers other than the other Party.

"Power Supply Resources" means the generating facilities owned by a Party and its Existing Power Purchases and Long Term Power Purchases as further provided herein to be used under this Agreement.

"PSCSC" means the Public Service Commission of South Carolina.

"Retail Native Load Customers" means the retail electric customers for which either DEC or PEC has an obligation under North Carolina and South Carolina law to engage in long-term planning and to supply all generation, transmission, distribution, delivery and sales, and other related services, including installing or contracting for capacity, if needed to provide adequate and reliable service.

"VACAR" means the Virginia-Carolinas sub region within the North American Electric Reliability Corporation's (NERC) SERC Reliability Corporation (SERC).

"VACAR Reserve Sharing Group Arrangement" means the collection of agreements and procedures developed concurrently by the Principals and Operating Representatives of multiple two-party Interchange Agreements as described in the Operating Manual for the VACAR Reserve Sharing Group Arrangement, Revision No. 2, dated January 11, 2011 by and among Dominion, Duke Energy Carolinas, LLC, Progress Energy Carolinas, Inc., South Carolina Electric & Gas Company and South Carolina Public Service Authority, as amended.

ARTICLE II
TERM OF AGREEMENT

2.1 Term.

Subject to approval and any conditions imposed by state and federal regulatory authorities, this Agreement shall take effect upon consummation of the Merger and shall continue in full force and effect for a period of five (5) years from the effective date, continuing thereafter until terminated by mutual agreement of the Parties or by either Party upon five (5) years' written notice to the other Party. If the Parties terminate the Merger prior to its consummation, this Agreement shall have no force or effect.

ARTICLE III
SCOPE OF THE AGREEMENT

3.1 Purpose.

The primary purpose of this Agreement is to provide the contractual basis for the Joint Dispatch of the Power Supply Resources of both DEC and PEC for the purpose of reducing the cost of serving their Native Load Customers to the extent consistent with the provision of reliable electric service, Industry Standards, and applicable laws and regulations ("Joint Dispatch"). This Agreement also shall provide the contractual basis for the sharing of the cost savings resulting from such Joint Dispatch.

3.2 Limits on Scope and Effect of the Agreement

(a) Nothing in this Agreement is intended to or shall it be construed as:

(i) Providing for or requiring a single integrated electric system;

(ii) Providing for or requiring a single BAA, control area or transmission system;

(iii) Providing for or requiring joint planning or joint development of generation or transmission;

(iv) Providing for or requiring a Party to construct generation or transmission facilities for the benefit of the other Party;

(v) Transferring any rights to generation or transmission facilities from one Party to the other; or

(vi) Providing for or requiring any equalization of the Parties' production costs or rates.

(b) To the extent that the Parties desire to engage in any of the activities or take any of the actions described in Section 3.2 (a), the Parties will amend this Agreement or enter into a separate agreement, subject to approval by the applicable state and federal regulatory authorities.

(c) In addition to the foregoing, DEC and PEC have agreed, in previous proceedings before the NCUC (NCUC Docket E-7, Sub 795 and NCUC Docket E-2, Sub 884, respectively), to insert into any affiliate agreements such as this Agreement the following provisions:

(i) The participation by both DEC and PEC in this Agreement is voluntary, neither DEC nor PEC is obligated to participate in this Agreement or to make any purchases or sales pursuant thereto and the participation of both DEC and PEC in this Agreement is subject to termination, after notice is provided pursuant to Section 2.1 of this Agreement;

(ii) Neither DEC nor PEC may make or incur a charge under this Agreement except in accordance with North Carolina law and the rules, regulations and orders of the NCUC promulgated thereunder;

(iii) Neither DEC nor PEC may seek to reflect in its North Carolina retail rates (i) any costs incurred under this Agreement exceeding the amount allowed by the NCUC or (ii) any revenue level earned under the Agreement other than the amount imputed by the NCUC; and

(iv) Neither DEC nor PEC will assert in any forum that the NCUC's authority to assign, allocate, make pro forma adjustments to or disallow revenues or costs for retail ratemaking and regulatory accounting and reporting purposes is preempted and DEC and

PEC will bear the full risk of any preemptive effects of federal law with respect to this Agreement.

ARTICLE IV
THE JOINT DISPATCHER

4.1 Joint Dispatch Function.

DEC shall act as the Joint Dispatcher, on behalf of DEC and PEC, and shall have the following responsibilities:

(a) Directing the dispatch of both DEC's and PEC's Power Supply Resources;

(b) Making Power Purchases for durations of less than one year ("New Short-Term Power Purchases") to serve the Parties' Native Loads and making Non-Native Load Sales for durations of less than one year from the Parties' Power Supply Resources to the benefit of each Party's Native Load Customers;

(c) Developing and providing bills and billing-related information to effectuate the terms of this Agreement;

(d) Such other activities and duties as may be assigned from time to time by the mutual agreement of the Parties, subject to applicable state and federal regulatory approvals; and

(e) Incurring the costs necessary to perform its responsibilities under this Agreement, subject to applicable state and federal regulatory approvals.

ARTICLE V
JOINT DISPATCH OF POWER SUPPLY RESOURCES

5.1 Joint Dispatch.

As soon as practicable after the effective date of the Merger, the Joint Dispatcher shall direct the dispatch of the Parties' Power Supply Resources in a manner that: (a) ensures the reliable fulfillment of each Party's service obligations to its Native Load Customers; (b) minimizes the total costs incurred to fulfill each Party's service obligations to its Native Load Customers; and (c) economically satisfies any obligations of each of the Parties with respect to Non-Native Load Sales. To these ends, the Joint Dispatcher shall direct the dispatch of the Power Supply Resources of both Parties consistent with Industry Standards for the safe and reliable operation of both of the Parties' electric systems, the safe and reliable operation of both of the Parties' generating resources, and all applicable laws and regulations, including but not limited to the applicable rules, regulations, orders, and conditions of the NCUC, the PSCSC, the Federal Energy Regulatory Commission ("FERC"), the North American Electric Reliability Corporation ("NERC"), and the SERC Reliability Corporation ("SERC").

5.2 Compliance with Contractual and Regulatory Obligations.

Nothing in this Agreement is intended to diminish or alter the jurisdiction or authority of the NCUC or the PSCSC over the Parties, including, among other things, the jurisdiction and authority to establish the retail rates on a bundled basis for each of the Parties, to impose regulatory accounting and reporting requirements, to impose service quality standards, to require each of the Parties to engage separately in least cost integrated resource planning, or to issue certificates of public convenience and necessity for new generating resources. In addition, nothing in this Agreement is intended to alter the Parties' contractual or regulatory obligations or to provide for Joint Dispatch in a fashion that is inconsistent with those obligations, including, without limitation, the following:

(a) DEC's obligation to plan for and provide least cost electric service to its Retail Native Load Customers and PEC's obligation to plan for and provide least cost electric service to its Retail Native Load Customers;

(b) DEC's obligation to serve its Native Load Customers with the lowest cost power it can reasonably generate or purchase from other sources, before making power available for Non-Native Load Sales;

(c) PEC's obligation to serve its Native Load Customers with the lowest cost power it can reasonably generate or purchase from other sources, before making power available for Non-Native Load Sales;

(d) All of DEC's and PEC's respective obligations under wholesale purchase contracts, including contracts for the purchase of energy and capacity on a non-dispatchable basis;

(e) All of DEC's and PEC's respective obligations under wholesale sales contracts, including obligations under full and partial requirements sales contracts;

(f) All of DEC's and PEC's respective obligations under reliability exchange agreements existing prior to the effective date of this Agreement;

(g) DEC's and PEC's respective transmission rights and obligations, including rights and obligations under any transmission service agreements or transmission tariffs and their respective obligations to provide transmission services and to act as the BA for their respective BAAs;

(h) DEC's and PEC's respective individual obligations under the VACAR Reserve Sharing Group Arrangement; and

(i) DEC's and PEC's respective obligations with respect to Must Run Resources to ensure that they are not dispatched in a manner inconsistent with the contractual, operational, reliability or regulatory requirements applicable to such Must Run Resources.

ARTICLE VI
POWER SUPPLY RESOURCES AND NON-NATIVE LOAD SALES

6.1 Generating Resources.

As of the effective date of this Agreement, all generating resources including those that begin commercial operation after the effective date of this Agreement shall be a Power Supply Resource of the Party that owns it and that Party shall be responsible for the capacity costs and energy costs of such Power Supply Resources. If the Parties are subsequently allowed to develop future generating resources jointly or to enter into a reserve sharing agreement with respect to future generating resources, the Parties, at the time that they enter into such an arrangement, and subject to the receipt of all relevant state and federal regulatory approvals, shall agree, upon the allocation of the generation that is the subject of that arrangement for purposes of determining the Parties' Power Supply Resources and responsibility for capacity costs and energy costs.

6.2 Existing Power Purchases and New-Long Term Power Purchases.

The capacity costs (if any) and energy costs associated with Power Purchases contracted for by a Party prior to the effective date of this Agreement ("Existing Power Purchases") and with Power Purchases contracted for by a party after the effective date of this Agreement that are for a year or longer ("New Long-Term Power Purchases") shall be the responsibility of that Party. Existing Power Purchases and New Long-Term Power Purchases shall be Power Supply Resources of the contracting Party.

6.3 New Short-Term Power Purchases.

(a) Power Purchases contracted for by either Party after the effective date of the Agreement for duration of less than a year ("New Short-Term Power Purchases") shall be treated as follows:

(i) If a New Short-Term Power Purchase is determined after-the-fact to have been economic to both Parties or to neither Party, each Party shall be allocated a percentage of the MWh, capacity costs (if any) and the energy costs associated with such purchase equal to the Party's Native Load for the hours in which purchases are made divided by the sum of both Parties' Native Loads for such hours.

(ii) If a New Short-Term Power Purchase is subsequently determined to be economic to only one Party, the MWh, capacity costs (if any), and the energy costs associated with such purchase shall be allocated to the Party for which the New Short-Term Power Purchase is economic.

(b) The MWh of a New Short-Term Power Purchase that has been allocated to a Party pursuant to Section 6.3(a)(i) or (ii) shall be a Power Supply Resource of that Party. To the extent that a Party incurs energy costs for a New Short-Term Power Purchase that differs from the allocations set forth in Section 6.3(a) (i) or (ii), a transfer payment will be made to reconcile the difference.

6.4 Existing Non-Native Load Sales.

Existing Non-Native Load Sales shall be the responsibility of the Party that has contracted for each such sale and are subject to the energy and cost allocation provisions of Section 7.3 and 7.5(b).

6.5 New Non-Native Load Sales.

Subject to Sections 7.2 and 7.5(a) each Party shall be responsible for the cost of the energy from its Power Supply Resources that serve New Non-Native Load Sales, as determined by the Joint Dispatcher on an after-the-fact basis using production cost modeling.

ARTICLE VII
CALCULATION OF JOINT DISPATCH SAVINGS

7.1 Overview.

(a) For each hour, the energy produced as a result of the Joint Dispatch shall be allocated to the Parties' Native Load obligations, Existing Non-Native Load Sales, and New Non-Native Load Sales. The determination of how much energy is allocated to each Party shall be conducted on an after-the-fact basis as described below. Such energy allocation is solely for the purpose of calculating savings from the Joint Dispatch and the Parties payment obligations under this Article VII.

(b) The least cost energy from each Party's Power Supply Resources shall be applied first to serve its own Native Load obligations. If it is determined after-the-fact that a Party's Power Supply Resources provided energy to serve the other Party's Native Load service obligations or Non-Native Load Sales obligations, then only such provision of energy shall be considered to be a wholesale power transaction between the Parties.

(c) The transfer payments under this Agreement are intended to produce an energy cost for serving each Party's Native Load Customers that is the same as if such Native Load were served by that Party's Power Supply Resources, adjusted by the allocation of costs and savings of the Joint Dispatch as reflected in the payments set forth in Section 7.5.

7.2 Allocation of Energy to New Non-Native Load Sales.

For each hour, New Non-Native Load Sales shall be deemed to have been satisfied by the highest cost energy from the Parties' Power Supply Resources produced in that hour (other than Must Run Resources).

7.3 Allocation of Energy to Existing Non-Native Load Sales.

To the extent that a Party has, in an hour, an Existing Non-Native Load Sales pursuant to Section 6.4, such Existing Non-Native Load Sales shall be deemed to have been satisfied by the next highest cost energy (other than from Must Run Resources) available after the allocation of energy to New Non-Native Load Sales pursuant to Section 7.2. Each Party shall be responsible

initially for the energy cost of its Power Supply Resources deemed to have served the Parties' Existing Non-Native Load Sales ("Incurred Existing Non-Native Load Sales Costs").

7.4 Allocation of Energy to Native Load.

After the allocation of energy costs to Non-Native Load Sales has been performed pursuant to Sections 7.2 and 7.3, the remaining least cost energy produced in an hour by the Parties' Power Supply Resources shall be deemed to have served the Parties' Native Loads. Each Party's Native Load also shall be allocated the costs of energy produced from its own Must Run Resources. Each Party shall be responsible initially for the energy costs of its Power Supply Resources deemed to have served the Parties Native Loads ("Incurred Native Load Costs").

7.5 Payments for Purchases and Sales of Energy Between the Parties.

For each hour, a payment shall be calculated for the purchase and sale of energy between the Parties as a result of the Joint Dispatch of the Parties' Power Supply Resources. This payment shall be calculated as follows:

(a) Payments for energy sales to meet New Non-Native Load Sales

(i) After the fact for each hour, the Joint Dispatcher shall use production cost models to determine, the energy costs allocated to the New Non-Native Load Sales pursuant to Section 6.5 and 7.2. Such energy costs shall be compared to the revenues generated from such sales. This difference, whether positive or negative, will be considered the "Non-Native Load Sales Margin." Each Party shall be entitled to an amount equal to: (1) the energy cost from its Power Supply Resources allocated to the New Non-Native Load Sales; (2) plus a percentage of the Non-Native Load Sales Margin equal to the MWh produced by the Party's Power Supply Resources during the hour divided by the total MWh produced by both Parties Power Supply Resources during the hour.

(ii) To the extent that the Parties incur energy costs for and revenues from New Non-Native Load Sales that produces a different result than the calculation set forth in Section 7.5 (a)(i), a transfer payment will be made between the Parties to reconcile that difference.

(b) Payments for energy sales to meet Existing Non-Native Load Sales.

(i) After the fact, for each hour, the Joint Dispatcher shall use production cost models to determine the cost that a Party would have incurred to satisfy its Existing Non-Native Load Sales without the benefit of Joint Dispatch ("Stand Alone Existing Non-Native Load Sales Cost"). The positive difference between the cost of all Power Supply Resources deemed to have satisfied Existing Non-Native Load Sales determined pursuant to Section 7.3 and the sum of the Parties' Stand Alone Existing Non-Native Load Sales Costs shall be the "Existing Non-Native Load Sales Joint Dispatch Savings."

(ii) The Joint Dispatcher shall allocate to each Party a pro rata share of the Existing Non-Native Load Sales Joint Dispatch Savings based on each Party's relative amount of MWh produced by their respective Power Supply Resources in the hour.

(iii) The Joint Dispatcher shall then subtract each Party's allocated share of Existing Non-Native Load Sales Joint Dispatch Savings for the hour from its Stand Alone Existing Non-Native Load Sales Costs for that hour. The resulting cost figure for each Party shall be that Party's "Joint Dispatch Existing Non-Native Load Sales Costs" for the hour.

(iv) The Party whose Joint Dispatch Existing Non-Native Load Sales Costs for an hour are more than its Incurred Non-Native Load Sales Costs for that hour shall owe the other Party a payment for that hour equal to the difference between its Joint Dispatch Existing Non-Native Load Sales Costs and its Incurred Existing Non-Native Load Sales Costs.

(c) Payments for energy sales related to Native Load.

(i) After the fact, for each hour, the Joint Dispatcher shall use production cost models to determine the cost each Party would have incurred to serve its Native Load without the benefit of Joint Dispatch ("Stand Alone Native Load Costs"). The positive difference between the cost of all Power Supply Resources deemed to have served the Parties' Native Load pursuant to Section 7.4 and the sum of the Parties Stand Alone Native Load Costs shall be the "Native Load Joint Dispatch Savings."

(ii) The Joint Dispatcher shall allocate to each Party a pro rata share of the Native Load Joint Dispatch Savings based on each Party's relative amount of MWh produced by their respective Power Supply Resources in the hour.

(iii) The Joint Dispatcher shall then subtract each Party's allocated share of Native Load Joint Dispatch Savings for the hour from its Stand Alone Native Load Costs for that hour. The resulting cost figure for each Party shall be that Party's "Joint Dispatch Native Load Costs" for the hour.

(iv) The Party whose Joint Dispatch Native Load Costs for an hour are more than its Incurred Native Load Costs for that hour shall owe the other Party a payment for that hour equal to the difference between its Joint Dispatch Native Load Costs and its Incurred Native Load Costs.

The Joint Dispatcher shall sum each Party's payment obligations reduced by its payment entitlements under Sections 7.5(a), (b) and (c) above for that hour. The Party with a positive total shall owe that amount to the other Party as payment for energy sold to it during that hour.

ARTICLE VIII
CAPACITY SALES

8.1 Capacity Sales.

If a Party requires additional capacity in an hour in order to meet its obligations reliably, and the other Party has the ability to supply all or some capacity (with or without accompanying energy), without impacting reliability or service quality to the selling Party's Native Load Customers, then the Joint Dispatcher may enter into a capacity sale on behalf of the selling Party

pursuant to the selling Party's then-effective FERC-filed cost-based rate tariff and such sale shall be priced in accordance therewith. However, nothing in this Agreement shall be construed as creating a right in either Party to the capacity of the other Party.

ARTICLE IX
BILLING PROCEDURES

9.1 Records.

The Joint Dispatcher shall maintain such records as may be necessary to determine the assignment of costs savings of Joint Dispatch and the payments required pursuant to this Agreement. Such records shall be made available to the Parties as reasonably required, including as needed for state and federal regulatory purposes.

9.2 Monthly Statements.

As promptly as practicable after the end of each calendar month, the Joint Dispatcher shall prepare a statement setting forth the monthly summary of costs for which each Party is responsible and revenues from Short-Term Non-Native Load Sales to be allocated to each Party in sufficient detail as may be needed for settlements under the provisions of this Agreement. As required, the Joint Dispatcher may provide such statements on an estimated basis and then adjust those statements for actual results.

9.3 Monthly Bills.

As promptly as practicable after the end of each calendar month, the Joint Dispatcher shall prepare a monthly bill for each Party based on the sum of that Party's payment obligations reduced by its payment entitlements calculated pursuant to Section 7.5. The Joint Dispatcher shall net each Party's hourly payment obligations against its hourly payment entitlements, and render a bill for the differences. The bill for each December shall also state an annual payment amount that nets out each Party's obligations and entitlements for the calendar year.

9.4 Billings and Payments.

The Joint Dispatcher shall handle all billing between the Parties and with other entities with which the Joint Dispatcher engages in activities pursuant to this Agreement. Payment between the Parties shall be by making remittance of the net amount billed or by making appropriate accounting entries on the books of the Parties. Payment of the bills for a calendar year shall be made no later than 30 days after the receipt of the bill for December of that calendar year.

9.5 Taxes.

Should any federal, state, or local tax, surcharge or similar assessment, in addition to those that may now exist, be levied upon the energy dispatched pursuant to the terms of this Agreement or for the Joint Dispatcher's services provided in connection with this Agreement, or upon either of the Parties measured by energy or service, or the revenue therefrom, any such additional amounts shall be included in the net billing as described in Section 9.4.

ARTICLE X
FORCE MAJEURE

10.1 Events Excusing Performance.

Neither Party shall be liable to the other Party for or on account of any loss, damage, injury, or expense resulting from or arising out of a delay or failure to perform, either in whole or in part, any of the agreements or obligations made by or imposed upon the Parties by this Agreement, by reason of or through strike, work stoppage of labor, failure of contractors or suppliers of materials (including fuel), failure of equipment, environmental restrictions, riot, fire, flood, ice, wind, invasion, civil war, commotion, insurrection, military or usurped power, order of any court granted in any bona fide adverse legal proceedings or action, or of any civil or military authority either de facto or de jure, explosion, Act of God or the public enemies, or any other cause reasonably beyond its control and not attributable to its neglect. A Party experiencing such a delay or failure to perform shall use due diligence to remove the cause or causes thereof; however, no Party shall be required to add to, modify or upgrade any facilities, or to settle a strike or labor dispute except when, according to its own best judgment, such action is advisable.

ARTICLE XI
INDUSTRY STANDARDS

11.1 Adherence to Reliability Criteria.

The Parties agree to conform to Industry Standards as they affect the implementation or the Parties' performance of this Agreement.

ARTICLE XII
GENERAL

12.1 No Third Party Beneficiaries.

This Agreement does not create rights of any character whatsoever in favor of any person, corporation, association, entity or power supplier, other than the Parties, and the obligations herein assumed by the Parties are solely for the use and benefit of said Parties. Nothing in this Agreement shall be construed as permitting or vesting, or attempting to permit or vest, in any person, corporation, association, entity or power supplier, other than the Parties, any rights hereunder or in any of the resources or facilities owned or controlled by the Parties or the use thereof.

12.2 Waivers.

Any waiver at any time by a Party of its rights with respect to a default under this Agreement, or with respect to any other matter arising in connection with this Agreement, shall not be deemed a waiver with respect to any subsequent default or matter. Any delay, short of the statutory period of limitation, in asserting or enforcing any right under this Agreement, shall not be deemed a waiver of such right.

12.3 Successors and Assigns.

This Agreement shall inure to the benefit of and be binding only upon the Parties and their respective successors and assigns, and shall not be assignable by any Party without the written consent of the other Party except to a successor in the operation of its properties by reason of a merger, consolidation, sale or foreclosure whereby substantially all such properties are acquired by or merged with those of such a successor, subject to all relevant state and federal regulatory approvals.

12.4 Liability and Indemnification.

Subject to any applicable state or federal law which may specifically restrict limitations on liability, each Party shall release, indemnify, and hold harmless the other Party, its directors, officers and employees from and against any and all liability for loss, damage or expense alleged to arise from, or incidental to, injury to persons and/or damage to property in connection with its facilities or the production or transmission of electric energy by or through such facilities, or related to performance or non-performance of this Agreement, including any negligence arising hereunder. In no event shall any Party be liable to another Party for any indirect, special, incidental or consequential damages with respect to any claim arising out of this Agreement.

12.5 Section Headings.

The descriptive headings of the Articles and Sections of this Agreement are used for convenience only and shall not modify or restrict any of the terms and provisions thereof.

12.6 Notice.

Any notice or demand for performance required or permitted under any of the provisions of this Agreement shall be deemed to have been given on the date of such notice, in writing, is deposited in the U.S. mail, postage prepaid, certified or registered mail, addressed to:

Catherine S. Stempien
Vice President – Legal
Duke Energy Corporation
550 South Tryon Street
Charlotte, NC 28202

David B. Fountain
Vice President – Legal
Progress Energy Service Company, LLC
410 S. Wilmington Street
Raleigh, NC 27601

or in such other form or to such other address as the Parties may stipulate.

ARTICLE XIII
REGULATORY APPROVAL

13.1 Regulatory Authorization.

This effectiveness of this Agreement is subject to and conditioned upon:

(a) Acceptance for filing without material condition or modification by the FERC; and

(b) The Parties obtaining all necessary approvals from state regulatory authorities to consummate the Merger and enter into the Agreement, in all cases without material condition or modification.

13.2 Changes.

It is contemplated by the Parties that it may be appropriate from time to time to change, amend, modify or supplement this Agreement to reflect changes in operating practices or costs of operations or for other reasons. Any such changes to this Agreement shall be in writing executed by the Parties, subject to all necessary state and federal regulatory authorizations.

ARTICLE XIV
COMPLIANCE WITH
NCUC REGULATORY ORDERS

14.1 DEC and PEC Regulatory Conditions.

In compliance with NCUC regulatory conditions, the Parties agree as follows:

(a) To the extent Joint Dispatch under this Agreement transfers control of, or operational responsibility for, DEC's generation assets used for the generation of electric power for DEC's North Carolina retail customers, then:

(i) DEC will not commit to or carry out the transfer except in accordance with all applicable law, and the rules, regulations, and orders of the NCUC promulgated thereunder; and

(ii) DEC will not include in its North Carolina cost of service or rates the value of the transfer, whether or not subject to federal law, except as allowed by the NCUC in accordance with North Carolina law.

(b) To the extent Joint Dispatch under this Agreement transfers control of, or operational responsibility for, PEC's generation assets used for the generation of electric power for PEC's North Carolina retail customers, then:

(i) PEC will not commit to or carry out the transfer except in accordance with all applicable law, and the rules, regulations, and orders of the NCUC promulgated thereunder; and

(ii) PEC will not include in its North Carolina cost of service or rates the value of the transfer, whether or not subject to federal law, except as allowed by the NCUC in accordance with North Carolina law.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and attested by their duly authorized officers on the day and year first above written.

DUKE ENERGY CAROLINAS, LLC

By:_____
Name: Brett C. Carter
Title: President

PROGRESS ENERGY CAROLINAS, INC.

By:_____
Name: Lloyd M. Yates
Title: President and Chief Executive Officer

EXHIBIT 4

COMPASS LEXECON ANALYSIS OF ECONOMIC EFFICIENCIES UNDER JOINT DISPATCH

COMPASS LEXECON

EXHIBIT 4

Analysis of Economic Efficiencies under Joint Dispatch

Prepared for

Duke Energy Carolinas and Progress Energy Carolinas

I. Executive Summary

A. Overview of Tasks

Compass Lexecon was asked by Duke Energy Carolinas ("DEC") and Progress Energy Carolinas ("PEC") (and collectively, "Companies") to calculate an estimate of the potential cost savings that would be expected to be derived from a combined dispatch of their Carolina electric generating assets located in the two companies' individual balancing authority areas ("BAA") over a 5-year horizon from 2012 to 2016. To accomplish this task, Compass Lexecon used a security-constrained dispatch production cost model to run optimized least-cost production for the individual BAAs on a stand-alone basis and then ran the same model assuming a combined "joint dispatch" across the BAAs holding constant assumptions about load, fuel prices, existing contracts, etc. A net reduction in the total production costs required to serve system loads represents the estimated savings attributable to the joint dispatch.

B. Efficiency Benefits of Joint Dispatch

The estimated potential cost savings of jointly dispatching the DEC and PEC Carolina-based generation fleets are driven largely by optimizing dispatch so as to minimize fuel costs. This optimization results in lower costs of fuel because the joint dispatch creates a larger, more flexible pool of operating assets that is available to draw on when making generation dispatch decisions. Joint dispatch enhances the ability to substitute available capacity at a more efficient plant in one BAA for a more costly unit required to meet load in the other BAA absent the joint dispatch. While these estimated net savings vary in magnitude from period to period, using base case assumptions, savings attributable to joint dispatch over the five year period of approximately $364 million dollars can be expected.

Base Case Savings ($mm)

2012	2013	2014	2015	2016	Total
$38	$49	$64	$97	$116	$364

C. Realization of the Efficiency Benefits Is Not Realistic Absent the Merger

The use of joint dispatch by the companies is an integration benefit that is unavailable absent the merger. By merging, the companies freely integrate the dispatch of their generating units in a way that is not possible absent being a combined organization due to the existence of real time operational constraints and transactions costs.

D. Calculated Efficiency Benefits Are Conservative

The estimated joint dispatch cost savings can be considered a conservative estimate for several reasons. First, multiple sensitivity analyses show that changes in underlying input

assumptions generally result in higher estimated benefits. Secondly, the model does not capture the ability of joint dispatch to take advantage of daily fuel and electricity price volatility or potential benefits that can arise for capturing savings within a given hour. Finally, ancillary benefits to the local economy from lower electricity prices have not been analyzed nor has the extent to which future joint planning could further reduce the costs of the merged companies.

II. The Joint Dispatch Analysis

A. The Joint Dispatch Model

A chronological hourly production cost dispatch model was used to calculate the estimated benefits of jointly dispatching the DEC and PEC systems for the years 2012-2016. In particular, a security-constrained dispatch model was used to conduct the analysis to ensure that it could dynamically capture transmission system limitations integrated into the production cost modeling. Moreover, by using a security-constrained dispatch model, the hour-to-hour changes when jointly dispatching the DEC and PEC power systems could be captured.[1]

As Appendix A explains in greater detail, a security-constrained dispatch model allows for optimization of the day-to-day decision making associated with committing generation facilities to serve projected loads. For each day in the analysis, the model determines those generating resources that should be committed, accounting for planned and forced outages, to meet the following day's expected hourly loads as cost effectively as possible. The model simulates least-cost dispatch without sacrificing operational reliability by incorporating a detailed representation of the actual high voltage transmission system. Using a model that can simulate chronological hourly operations subject to actual transmission system limitations was necessary to accurately estimate joint dispatch benefits.

Although the dispatch model captures day-to-day generation unit commitment and hour-to-hour dispatch, it does have some limitations. For example, it does not capture real-time system operational changes that may occur within any particular day. That is, the model does not simulate actions that need to be taken to balance load to accommodate differences between expected and actual loads that may occur in real time. In addition, the model does not predict occasional disturbances that can occur when unexpected generation or transmission outages occur within a particular day. In general it is reasonable to assume that these intra-day disturbances can be more efficiently resolved with a larger integrated system. As previously noted the model results are considered conservative and do not capture this intra-day benefit.

To calculate the potential benefits due to joint dispatch, the analysis was structured to estimate the total variable costs of meeting the load of each of the companies before and after the merger, and to calculate the difference in costs generated by these scenarios. For each company,

[1] Appendix A describes the dispatch model used to conduct the analysis.

the projected total retail and firm wholesale loads for its customers were compiled for each of the years 2012-2016. The analysis then simulated the dispatch of the companies' resources to meet the load, first assuming that the companies independently meet their customers' loads, and then assuming the companies jointly dispatch generating resources to meet their combined loads. A comparison of the projected costs shows that the cost of meeting the loads through joint dispatch is lower than the costs of meeting the loads of each company separately. Therefore, joint dispatch results in positive benefits – i.e., cost savings.

The source of these benefits is the increased efficiency that the companies can achieve by jointly dispatching their generating resources. Through joint dispatch, the complement of resources that are committed to meet loads day-by-day is able to be jointly optimized. This allows for a lower cost portfolio of generation supply to be utilized to meet customer loads. In addition, joint dispatch allows the companies to take advantage of a combined generating resource portfolio on an hour-by-hour basis.

B. Input Assumptions

The modeling analysis focused on the DEC and PEC balancing authority areas in the Carolinas.[2] A variety of modeling input data and assumptions were necessary to carry out the analysis. Some of these data, such as generating unit and transmission system physical characteristics, were readily available to be compiled given that they are based on current and expected facility technology which is known with certainty. Other data, such as expected fuel prices and loads, needed to be forecasted. The primary source of the input data and assumptions used in the analysis were DEC and PEC. Descriptions of the various input assumptions are as follows.[3]

First, to conduct security-constrained dispatch analysis requires that the model use a detailed representation of the high voltage transmission system which includes precise interconnections for all individual generating units and load centers. The companies provided the appropriate transmission system information, including planned upgrades to accommodate future generation plant additions and retirements. These transmission system data allowed the analysis to capture any actual physical limitations that may be encountered when dispatching generation resources.

Next, the companies provided information on all their current and future generating unit capacities. Future generation unit retirements and additions were based on the companies' most recent integrated resource plans ("IRP") and represent known future system supply changes. These data were checked against the transmission system data to ensure all generation units in the two companies' service territories were captured in the analysis (including generation

[2] The model also captures transmission system interaction with other interconnected BAAs, however explicit generation dispatch of these other interconnected regions was not modeled in the analysis.
[3] Appendix B summarizes in greater detail the majority of input data and assumptions used for the analysis.

resources not owned by the companies). In addition, any generation units from which the companies have power purchase agreements were included as company resources in the analysis.[4]

In order to ensure that a consistent source of generating unit heat rates (efficiencies) was used in the analysis, heat rate data were obtained from Ventyx Velocity Suite Products ("Ventyx"). The Ventyx heat rate data are primarily derived through the analysis of actual recent operational data collected by the Environmental Protection Agency in association with emissions monitoring. Using these heat rates ensured that expected generation fuel consumption was estimated based on recent operational data. The companies also provided information on expected maintenance and forced outage rates for the generating units.[5] The modeling analysis used these rates to schedule future maintenance requirements and simulate forced outages.[6]

Fuel price forecasts and customer load assumptions also were primarily obtained from the companies. Expected delivered coal and uranium prices were provided for all generating units for each of the years in the analysis. Expected natural gas prices were based on the Nymex Henry Hub natural gas monthly futures contracts as of October of 2010 with adjustments for basis differentials between Henry Hub and the Carolinas. Natural gas prices were adjusted to take into account delivery charges based on DEC and PEC access to natural gas transportation services.[7] Expected distillate fuel oil prices were based on the Nymex number 2 fuel oil futures contracts prices as of October of 2010.[8]

Each company provided total (retail and wholesale customer) hourly load data served by resources owned or located in the company BAAs. Expected changes in wholesale load obligations and expected future growth in load obligations were obtained from the companies. Known changes in firm wholesale load obligations were incorporated into the analysis. Expected load growth forecasted by the companies as reported in their IRPs was then used to escalate load over the forecast horizon.

The analysis uses the companies' transmission system interconnections consistent with historic and physical system limitations to establish expected transmission system interchange flows. In the pre-merger dispatch, the transmission system interconnections are assigned and limited, consistent with the companies' pre-existing transmission service agreements. In the

[4] Long-term power purchase agreements are primarily used by PEC.
[5] In cases where company data for individual units were not provided, the model was populated with publicly available North American Electric Reliability Corporation Generating Availability Data System data.
[6] Near-term DEC and PEC maintenance schedules were not used in the analysis. Instead, maintenance was scheduled by the model based on required scheduled outage rates. This eliminated the impact that any particular near term long or short outage may have on the results of the analysis.
[7] In some instances certain gas-fired generation resources are subject to local distribution charges which can significantly increase the delivered price of gas to a particular generating facility.
[8] Various DEC and PEC combustion turbine generating units are able to operate on both natural gas and number 2 fuel oil. In certain instances these generating units are limited to using fuel oil during the winter months in

joint dispatch case, the pre-merger transmission interconnections associated with pre-existing transmission agreements is maintained and available to facilitate additional power exchanges. At the same time, joint dispatch power exchanges also take advantage of any additional available transmission capacity to facilitate power exchanges between the companies, taking into account physical constraints on the transmission system.

The analysis does not assume pre- or post-merger that PEC or DEC makes opportunity off-system sales and/or purchases with other interconnected regions. However, the possibility of future opportunity sales and purchases, and their impact on the analysis, would not materially change the results of the analysis. For example, in many cases, off-system sales will still be made post-merger. After the merged companies have met their native demand, if there are resources available at a lower cost than the price the off-system buyer is willing to pay, the merged company will still make the sales. The merged companies still benefit from these sales, while supplying native load at a lower cost than when the companies dispatched separately. Thus, pre-merger off-system sales may be reduced in some instances, but increased in other instances as the improvements and efficiencies from joint operations result in lower marginal costs for the system as a whole.

Also, based on historical data and market observations, opportunities to produce increased value from off-system sales, especially to PJM, occur when natural gas prices rise significantly as they did in 2008. At low prices, such as those seen in 2009 to the present, these opportunities are significantly reduced. Given the relatively low natural gas price forecast used in the dispatch model ($5.23 annual NYMEX strip for 2012) the value creation off-system is not as material as the joint dispatch savings themselves. Furthermore, as discussed below in the sensitivities section, if actual natural gas prices rise over the forecast horizon, both off-system value creation and joint dispatch savings have the potential to increase relative to current fuel prices.

III. Joint Dispatch Modeling Results

A. Description of Results

The results of the joint dispatch analysis show that the merged companies can obtain significant cost savings by using their electric generation supply portfolios more efficiently. These savings are the result of relying on the lowest cost energy available from the companies' combined generation portfolio day-by-day and hour-by-hour. Combining the companies' generation portfolios allows displacement of higher cost energy that would have otherwise been used by each individual company in the absence of joint dispatch. Exhibit No. 1 provides several examples of how the joint dispatch of the companies' combined generation resources creates cost savings.

Exhibit No. 1 shows the projected monthly utilization of the companies' large and small coal fired units, gas fired combined cycle units, and gas/oil-fired combustion turbine units before

and after the merger for the years 2012 and 2015.[9] Beginning with 2012, Exhibit No. 1 (page 1 of 8) shows that the DEC large (> 200 MW) coal-fired generating units' utilization increases across the majority of months. During hours when DEC's high efficiency coal-fired generators have excess production capability they can provide lower-cost energy when compared to PEC's somewhat less efficient large coal-fired generators.

In addition, Exhibit No.1 (pages 1, 2, & 3 of 8) shows that there are times when DEC's coal-fired generating units can substitute for PEC's more expensive gas-fired combined cycle generating units (while at other times, depending on system conditions and loads, the opposite substitution of PEC for DEC resources can occur).[10] Finally, there is a variety of substitution where PEC and DEC moderate-cost, intermediate resources (smaller coal and combined cycles) substitute for the more expensive gas and oil-fired combustion turbines that both PEC and DEC have in their portfolios. In these instances, Exhibit No. 1 (page 4 of 8) shows significant reductions in peaking unit utilization that is replaced by resources other than peaking units.

The substitution pattern is similar in 2015, although the monthly production and substitution change in response to load growth and coal plant retirement. As Exhibit No. 1 (page 5 of 8) shows, DEC's large coal-fired generating units' utilization increases across the majority of months. We also see in 2015 that the expected utilization of intermediate and peaking units increases considerably as new gas-fired units come online and older coal units are retired. Thus, Exhibit No. 1 shows that the monthly pattern of substitution becomes more variable.

In 2015, Exhibit No. 1 (pages 6 & 7 of 8) shows that the projected change of utilization of intermediate cost resources (smaller coal and combined cycles) as a result of the merger varies from month-to-month. Sometimes, DEC's generating units utilization increases while PEC's generation units utilization decreases, however there are also months where the opposite occurs. In addition, Exhibit No. 1 (page 8 of 8) shows that there continues to be considerable variation in the substitution of lower cost supply for DEC's and PEC's most expensive gas and oil-fired peaking combustion turbines. At times, both companies' peaking units' utilization declines, while at other times one company's peaking units' utilization increases while the other company's peaking units' utilization declines.

These monthly utilization changes are directly driven by the relative variable costs of the companies' generation resources and the change in monthly load profiles. Because load profiles and outage schedules change significantly from month-to-month, the patterns of substitution vary considerably month-to-month. The results show that it is generally the case that DEC's lower-cost supplies can be better utilized during periods of lower demand when the generating units would not otherwise be producing at maximum output. The results also show that reductions in

[9] These two years were selected to provide an example of the change before and after planned resource additions.
[10] This can be seen by observing that in some months DEC's coal unit production increases are not completely offset by PEC's coal unit production decreases. This means that reductions in PEC gas-fired production are occurring as well.

peaking unit utilization are consistently achieved in certain months of the year. However, the intermediate unit changes in utilization are more complicated, as sometimes intermediate units are substituting for higher cost units, while in other times lower cost coal units are substituting for the higher cost intermediate units.

Exhibit No. 2 summarizes the benefits associated with the estimated cost savings that result from the joint dispatch base case. Exhibit No. 2 shows that under base case assumptions the joint dispatch of PEC's and DEC's generation assets to serve consumers in the Carolinas is estimated to reduce the combined companies' dispatch costs by $364 million in nominal terms over the years 2012-2016. This translates to 1-2.5% per annum savings when compared to continued dispatch of the companies' assets to separately meet their customer loads. As demonstrated in the sensitivities section these savings have upside potential under many scenarios.

The joint dispatch savings are not limited to only DEC and PEC. A portion of the projected benefits will accrue to both existing long-term firm municipal and cooperative consumers as well as wholesale customers making short-term purchases in the Carolinas. Municipal and cooperative consumers that are full and/or partial requirements wholesale customers of the companies will see lower fuel costs as a result of joint dispatch. The wholesale market in general can expect a more efficient system to provide overall regional benefits through lower energy prices.

With respect to these long-term firm customers, both DEC and PEC are currently serving a considerable amount of municipal load in the Carolinas under long-term power supply agreements (see Exhibits No. 3 A and B).[11] The joint dispatch analysis includes all of the DEC and PEC long-term firm wholesale customer loads. Thus, in those instances where the companies' joint dispatch results in lower cost energy supplies, wholesale customers with contracts will see benefits. In addition, in those instances where wholesale customer generation assets are managed by the companies, the joint dispatch should allow for better optimization of these contractually managed assets.

Short-term wholesale customers can also expect to benefit from reduced power costs. Although the majority of the wholesale customer load in the Carolinas is already served under long-term agreements that span several years into the future, in general the companies will make available cost-based power supply that will be lower cost due to joint dispatch than it would be otherwise. To the extent wholesale customers make short-term wholesale purchases from the companies or purchase power on pro-rata formula based rates, they can expect power prices to be lower.

[11] In some instances municipal power supply assets are also managed by the companies

B. Joint Dispatch Creates Cost Savings

The use of joint dispatch by the companies is an integration benefit that is unavailable absent the merger. By merging, the companies freely integrate the dispatch of their generating units in a way that is not possible absent being a combined organization. Through the implementation of joint dispatch, each company's available electric energy can be used to displace the other's higher cost electric energy whenever cost savings exists without regard to timing or the size of the difference. This level of integration would not be possible to achieve absent the merger.

The difficulty of achieving these benefits absent the merger is due to the fact that the joint dispatch benefits are achieved hour-to-hour (and even minute-to-minute) with very little risk. Even though without combining the companies, DEC, PEC, or both, may have, during any given hour, resources not needed to serve their retail customers, the practical ability to sell this available hour-to-hour electric energy supply into the wholesale market is much more limited. Joint dispatch removes these limitations. Joint dispatch provides a much more transparent view of the other party's portfolio of resources and can alter the commitment of both portfolios to serve the combined load at a lower cost. In a bilateral market, both parties are factoring in risk of conditions changing. Joint dispatch allows the combined portfolio to be adjusted in real time to further optimize when conditions do change.

For example, wholesale market transactions are primarily conducted at least a day ahead of delivery and must incorporate a level of margin that accounts for transaction risks. To the extent beneficial wholesale purchases and sales need to be planned further ahead than a day or week to account for expected generating unit availability and native load requirements, it can be difficult for the companies to consummate such transactions except in those instances where excess supply can be forecasted with certainty. Moreover, where cost savings from joint dispatch are associated with substitution of peaking generation units, which tend to operate for only hours at a time and are subject to real-time dispatch, wholesale market transactions are not granular enough in many instances to allow companies to coordinate supply exchanges. Through the integration of generation operations the companies obtain the control over generating assets that is necessary to capitalize on hour-to-hour, minute-to-minute, or even in some instances second-to-second, cost savings operations. Joint dispatch is how the companies implement the integration and create cost savings.

Finally, the difficulty of obtaining these benefits absent a merger of the companies is evident from the companies' inability to jointly operate in real time as necessary to capture such savings in periods pre-merger. Simply put, the joint dispatch environment of a merged company is a more efficient environment in which to minimize total fuel cost as compared to wholesale market transactions between individual companies.

C. Projected Joint Dispatch Savings Are Conservative

The estimated $364 million in joint dispatch cost savings to be realized by DEC's and PEC's retail and wholesale customers is expected to be a conservative estimate for several reasons. First, input assumptions based on the current economy create conservative estimates of joint dispatch benefits. For example, sensitivity analyses described below show that there are future scenarios where joint dispatch cost savings would be expected to be greater. Second, the joint dispatch analysis cannot explicitly capture all of the benefits that the companies will realize from operating their systems jointly. There will be greater ability to respond cost effectively to real-time dispatch requirements and over the long-run the companies can be expected to find additional savings opportunities through learning and possibly joint planning. Finally, even in instances where it may be the case that the joint dispatch cost savings could be lower than estimated, it will always be the case that cost savings benefits that result directly from the joint dispatch fail to capture other economic benefits that will accrue to the Carolinas. The lower-energy cost benefits of the merger not only directly benefit customers of the companies, but will also be beneficial to all Carolinians by imparting broader benefits to the regional economy.

Sensitivities: First, as would be expected, the estimated benefits will vary by changing the underlying input assumptions. To understand the sensitivity of the results to the input assumptions, the changes in benefits that result from varying important assumptions that affect the modeling results -- fuel prices and load growth -- were calculated. These two assumptions were ideally suited for sensitivity analysis because, for example, the companies currently envision minimal incremental changes to their generation fleet over the next several years beyond what is already captured in the model. That is, future capacity additions and retirements for each company are well known for at least the next five years and the primary drivers of future variable costs will be fuel prices and load growth.

Exhibits No. 4A-E show the joint dispatch savings assuming higher and lower gas prices, higher coal prices, and higher and lower load growth scenarios. While all of the scenarios affect the total calculated savings due to joint dispatch, all modeled scenarios provide positive and substantial benefits. For example, Exhibit 4A shows the results of the high gas price sensitivity analysis. This case assumes natural gas prices are higher by approximately $1.50 in 2012 and $3.00 higher in 2015. A significant increase in joint dispatch benefits occurs when gas prices increase from the base case resulting in projected costs savings over the period 2012-2016 of approximately $629 million in nominal terms or an increase of $265 million over the base case because coal for gas substitution results in a much larger per MWh savings.

Exhibit 4B shows the results of lower assumed natural gas prices. This case assumes that Henry Hub prices for natural gas are a flat $4.00 over the modeling period. This relatively low price scenario results in modeled benefits due to joint dispatch of $312 million, or a reduction of $52 million. The net effects of changing natural gas price assumptions is driven by, for example, the increase in benefits that flow from displacing less efficient natural gas-fired units with more

efficient natural gas or coal-fired units in a higher gas price world. Conversely, lower gas prices reduce these potential benefits. Higher coal prices as shown in Exhibit 4C, assumed to be $0.50 higher than the higher-priced individual company coal forecast, similarly reduce modeled joint dispatch benefits by a small amount to $326 million (i.e., a reduction of $38 million).

As shown in Exhibit 4D, at an extremely low assumed load growth of only 0.5% per annum versus a compounded level of 2-2.5% in the base case, benefits would be expected to decline to a net $249 million, a net savings reduction of $115 million relative to the base case. This scenario reflects conservative assumptions about actual future conditions, but still yields substantial positive potential savings from joint dispatch. Higher rates of load growth, assumed to be approximately +1% compounded per annum above the base case, yield modeled benefits of $437 million, or an increase of $73 million as shown in Exhibit 4E.

As shown by these results, when varying important input assumptions there are significant potential increases to the benefits with relatively small potential decreases to the benefits. These asymmetric changes in the benefits result when testing changes in the input assumptions in all cases except an extreme low load growth case. The source of this asymmetry can be traced to the base case assumptions which are driven by recent recessionary economic conditions. Electric demand and natural gas prices are at low levels when compared to prior to the recent recession. To the extent the economy rebounds more rapidly than expected, the merger will create greater benefits than those calculated for the base case. Furthermore, even if recessionary conditions persist, the joint dispatch savings would increase if underlying fuel costs rise due to environmental or other global market conditions.

Additional Real Time Benefits: Second, the joint dispatch analysis is not granular enough to capture the minute-to-minute operations of dispatchers. Generation dispatchers receive data every few seconds allowing them to make real time operational decisions (e.g. adjust generator(s) output to match load; react to unit trips, adjust unit ramp rates, change unit start times, adjust spinning reserve requirements, etc). Efficiencies gained in these real time, or minute-to-minute, operations are not fully captured in the analysis.

In addition, as the companies gain experience operating their generating units and transmission systems with greater integration there will undoubtedly be future opportunities for savings. As the companies operate generation units to meet combined loads they will gain an understanding of how to use these resources in a complementary fashion. Finally, to the extent future system expansion planning can capitalize on the joint operation of the companies' generation and transmission systems, there will likely be additional benefits that cannot yet be identified.

Insulation From Real Time Price Volatility: The model uses forward fuel prices that only vary monthly when making dispatch decisions. This framework assumes the same daily and hourly price for fuel in each hour of the month consistent with the monthly fuel forecast

previously described. In practice, daily fuel prices can spike within the month resulting in short-term opportunities not captured in the model. For example, since January 1, 2010 delivered gas into Transco Z5 has ranged from as low as $3.23 per MMBTU to over $19 per MMBTU on a daily basis. The ability to partially mitigate these price anomalies result in joint dispatch savings above and beyond those characterized in this study.

Economic Stimulus: Importantly, the lower energy costs and associated lower prices estimated by the joint dispatch analysis provide additional benefits to the local economy of the Carolinas that is not captured by the dispatch analysis itself. That is, at lower prices, regional economic activity will be encouraged, thus raising local economic output (gross state product) as well as providing for improved employment opportunities.

Overall, as is always the case with analyses that rely on numerous assumptions about future conditions, the benefits estimated by a model such as the one employed here can never be expected to be perfectly forecast. There can be changes in underlying assumptions and there may be aspects of the companies' joint operations that sometimes prevent every single possible beneficial joint dispatch decision from being taken. However, for the reasons discussed herein the benefits can be expected to be conservatively estimated and it is certain that there will be cost savings benefits due to joint dispatch that are positive and significant.

Appendix A

Security Constrained Dispatch Production Cost Model

The joint dispatch analysis utilized the security constrained unit commitment and dispatch model (DAYZER)[12] to simulate expected DEC and PEC generation unit commitment and dispatch on an hourly basis. DAYZER incorporates all the security, reliability, economic and engineering constraints on generation units and transmission system components, allowing the simulation of realistic actual system operations. Thus, DAYZER was programmed to explicitly incorporate a detailed physical representation of all electric generation and transmission in the DEC and PEC balancing authority areas.

The objective of the joint dispatch analysis was to simulate, pre- and post-merger, the security constrained least-cost hourly electricity system dispatch of the DEC and PEC systems for the years 2012-2016. Because the DEC and PEC generation resources are used exclusively to meet customer loads in the Carolinas, the modeling focused on electric generation resources in the Carolinas.[13] The model simulated both a day-ahead generation unit commitment, and an hourly generation unit dispatch, subject to electric system operational requirements. Thus, for each day in the analysis the model first determined the least cost mixture of generation resources that need to be committed (available) to meet the following day's loads and then determined the least-cost hourly dispatch of the committed resources.[14]

The model takes into account the following factors when determining generation unit dispatch: (1) transmission security constraints (n-1) including any second contingency constraints if applicable; (2) operating reserve requirements (spinning and non-spinning reserves, automatic generation control and quick start reserves); (3) transmission losses; (4) generation unit ramping constraints and minimum up and down times; (5) hourly hydro-electric schedules; (6) pumped storage optimization; and, (7) generation unit start-up, no load and variable costs.

The model requires numerous inputs which are summarized as follows:

1) Generation unit characteristics and input costs:

- Generation unit characteristics
  - Capacity (MW)--vary with season as appropriate and for hydro-electric units vary hourly based on typical daily patterns for each month that have been observed historically.

[12] DAYZER is an acronym for Day-Ahead Locational Market Clearing Prices Analyzer.
[13] The model allows for inadvertent power flows between regions subject to transmission costs and physical limitations, but inter-regional dispatch is not modeled.
[14] The model determines a day-ahead security constrained dispatch which does not capture real-time shifts in demand and supply that can require unscheduled dispatch of generation resources.

- Heat rates, variable operation and maintenance costs, emission rates and expected maintenance and forced outage rates.
- Plant location and operating constraints (start-up time, ramp up, and associated costs).

- Long-term power purchase agreement terms and conditions that govern plant dispatch and delivery.

- Fuel Costs:
  - Coal, natural gas, fuel oil, and uranium prices.

2) Load

- Hourly total load forecasts for each company allocated to load centers based on company transmission models.
- Breakdown of retail and wholesale loads as necessary to properly incorporate company obligations in the analysis.

3) Transmission System

- All major transmission facilities including new transmission lines associated with new generation unit additions.
- Transmission system contingency requirements as necessary.
- Operating reserve requirements.

Subject to the operational constraints, the model determined the least-cost mixture of committed generation units to rely upon day-by-day, and hour-by-hour, for the pre- and post-merger scenarios. Then, for each scenario, the total variable costs (composed primarily of fuel costs) were calculated and summed for all hours in each year analyzed. The difference in the total variable costs is the savings attributable to jointly dispatching the generation resources of the two companies.

Appendix B

Joint Dispatch Modeling Assumptions

The following sections provide details associated with the input assumptions used for the joint-dispatch analysis.

Generation Units:

The generation units assumptions can be categorized into the following three categories—existing units, unit retirements and unit additions. Summarization of each of these categories is as follows.

A- Existing Generation Units:

A-1: The characteristics of the existing generation units have been compiled primarily using data obtained from the companies. The companies provided generation unit listings that included capacity ratings, scheduled and forced outage rates, pollutant emission rates, and variable operation and maintenance cost estimates. Generation unit average heat rates were developed based on Environmental Protection Agency continuous emissions monitoring data compiled by Ventyx. Using heat rates from a consistent empirical data source ensured that no biases were introduced in the dispatch process.

A-2: Hydro-electric capacity factors were based on actual historical monthly generation for the last three years as provided by DEC and 10 years as provided by PEC.

A-3: Dual fuel CTs burn only No. 2 fuel oil in the winter period (Nov. – Mar.) except where noted.

A-4: PEC's purchases from the two Congentrix NUGs are at a projected low capacity factor.

A-5: Pump Storage efficiency:
-Bad Creek Pumping Efficiency = 77.35%.
-Jocassee Pumping Efficiency = 78.50%.

Particular generation units' assumptions are as follows:

PEC Specific Generation Units:

A-6: Asheville steam units provide spinning reserve pre-merger.

A-7: Asheville F-frame combustion turbines often run at partial load to provide operating reserves – assume a 15,000 BTU/kWh heat rate at partial load.

A-8: Wayne combustion turbines – Winter: 3 units oil only, 1 gas; Summer: 2 units gas, 2 units oil if needed to run.

A-9: Wayne Units 3, 4, and 5 are dual fuel.

A-10: Richmond combustion turbines – Winter: burn gas.

A-11: Combustion turbines less than 100 MW can provide quick start reserves, CT's above 100 MW do not provide quick start reserves.

DEC Specific Generation Units:

A-12: All CT's provide quick start.

A-13: Non-Pump storage hydro units do not provide quick start .

A-14: All dual-fuel CT's run on gas year round.

A-15: Pump storage units are utilized for regulation but do not provide spinning or non-spinning reserves.

Must Commit Generation Units:

A-16: Asheville Steam units should be treated as must commit for voltage support.

A-17: Sutton 3 and Robinson 1 must be running for voltage support.

A-18: Riverbend 4 and 5 have a must run unit requirement for voltage support.

B-Generation Unit Retirements:

B-1: DEC and PEC generation unit retirement assumptions are shown in the following table. These assumptions are based on company integrated resource plans.

Unit Name	Unit Type	Owner	Retirement Date	Summer Capacity (MW)	Winter Capacity (MW)
Wansley 8	NCC	Carolina Power & Light W	12/1/2011	160	160
Buck 7	GT	Duke Energy Corp	6/1/2012	25	25
Buck 8	GT	Duke Energy Corp	6/1/2012	25	25
Buck 9	GT	Duke Energy Corp	6/1/2012	12	12
Buzzard Roost 10	GT	Duke Energy Corp	6/1/2012	18	18
Buzzard Roost 11	GT	Duke Energy Corp	6/1/2012	18	18
Buzzard Roost 12	GT	Duke Energy Corp	6/1/2012	18	18
Buzzard Roost 13	GT	Duke Energy Corp	6/1/2012	18	18
Buzzard Roost 14	GT	Duke Energy Corp	6/1/2012	18	18
Buzzard Roost 15	GT	Duke Energy Corp	6/1/2012	18	18
Buzzard Roost 6	GT	Duke Energy Corp	6/1/2012	22	22
Buzzard Roost 7	GT	Duke Energy Corp	6/1/2012	22	22
Buzzard Roost 8	GT	Duke Energy Corp	6/1/2012	22	22
Buzzard Roost 9	GT	Duke Energy Corp	6/1/2012	22	22
Dan River 4	GT	Duke Energy Corp	6/1/2012	0	0
Dan River 5	GT	Duke Energy Corp	6/1/2012	24	24
Riverbend 10	GT	Duke Energy Corp	6/1/2012	22	22
Riverbend 11	GT	Duke Energy Corp	6/1/2012	20	20
Riverbend 8	GT	Duke Energy Corp	6/1/2012	0	0
Riverbend 9	GT	Duke Energy Corp	6/1/2012	22	22
Dan River 3	STc200	Duke Energy Corp	10/1/2012	142	145
Lee ST 1	STc100	Carolina Power & Light E	1/1/2013	74	80
Lee ST 2	STc100	Carolina Power & Light E	1/1/2013	77	80
Lee ST 3	STc+	Carolina Power & Light E	1/1/2013	246	257
Dan River 6	GT	Duke Energy Corp	6/1/2013	24	24
FPL Cherokee Clean Energy	NCC	Duke Energy Corp	6/30/2013	88	88
L V Sutton 1	STc200	Carolina Power & Light E	1/1/2014	97	98
L V Sutton 2	STc200	Carolina Power & Light E	1/1/2014	104	107
L V Sutton 3	STc+	Carolina Power & Light E	1/1/2014	403	411
W S Lee 1	STc100	Duke Energy Corp	10/1/2014	100	100
W S Lee 2	STc100	Duke Energy Corp	10/1/2014	100	102
W S Lee 3	STc200	Duke Energy Corp	10/1/2014	170	170
Cape Fear 5	STc200	Carolina Power & Light E	12/31/2014	144	148
Cape Fear 6	STc200	Carolina Power & Light E	12/31/2014	172	175
W H Weatherspoon 1	STc100	Carolina Power & Light E	12/31/2014	48	49
W H Weatherspoon 2	STc100	Carolina Power & Light E	12/31/2014	48	49
W H Weatherspoon 3	STc100	Carolina Power & Light E	12/31/2014	75	79
Buck 5	STc200	Duke Energy Corp	1/1/2015	128	131
Buck 6	STc200	Duke Energy Corp	1/1/2015	128	131
Riverbend 4	STc100	Duke Energy Corp	1/1/2015	94	96
Riverbend 5	STc100	Duke Energy Corp	1/1/2015	94	96
Riverbend 6	STc200	Duke Energy Corp	1/1/2015	133	136
Riverbend 7	STc200	Duke Energy Corp	1/1/2015	133	136

C-Generation Unit Additions:

C-1: DEC and PEC generation unit addition assumptions are shown in the following table. These assumptions are based on company integrated resource plans.

Unit name	Unit Type	Zone	Installation Date	Summer Capacity (MW)	Winter Capacity (MW)
Buck Combined Cycle	NCC	Duke Energy Corp	1/1/2012	620	677
Cliffside Steam 6	STc+	Duke Energy Corp	10/1/2012	825	843
Wayne County Combined Cycle	NCC	Carolina Power & Light E	1/1/2013	920	1049
Dan River Combined Cycle	NCC	Duke Energy Corp	1/1/2013	620	677
Sutton Combined Cycle	NCC	Carolina Power & Light E	12/1/2013	625	717

Load Data:

Hourly load forecasts have been provided by DEC and PEC with the load distribution provided from the load flow cases provided by DEC.

Load Growth:

For DEC and PEC the following cumulative annualized load growth rate assumptions are applied to the base 2011 peak loads:

Zone	Season	2012	2013	2014	2015	2016
PEC East	S	2.6%	5.5%	8.1%	10.1%	11.9%
DEC	S	1.5%	3.1%	5.2%	7.4%	9.9%
PEC West	S	2.6%	5.5%	8.1%	10.1%	11.9%
PEC East	W	2.5%	5.5%	8.0%	9.9%	11.8%
DEC	W	1.6%	3.3%	5.4%	7.6%	10.2%
PEC West	W	2.5%	5.5%	8.0%	9.9%	11.8%

For DEC and PEC the following peak loads and annual energy consumption are used in the analysis:

		2012	2013	2014	2015	2016
PEC East	Peak Load	12,637.26	12,979.71	13,279.98	13,514.69	13,736.33
	Energy GWh	60,268.49	61,303.23	62,347.63	63,433.69	64,619.81
DEC	Peak Load	19,823.91	20,129.50	20,536.20	20,961.79	21,454.39
	Energy GWh	98,531.43	99,758.88	101,785.61	103,900.37	106,727.93
PEC West	Peak Load	1,097.14	1,128.35	1,155.39	1,176.40	1,195.69
	Energy GWh	5,783.00	5,931.58	6,074.71	6,186.58	6,304.93

PEC loads were adjusted to shift a portion of the load growth into the on-peak in association with PEC wholesale sales agreements. This is achieved by increasing on-peak loads and then adjusting off-peak energy consumption as necessary to match PEC annual energy consumption forecasts.

D-Transmission Contract Assumptions:

D-1: Only firm energy and transmission contracts were modeled (see table below).

D-2: Generation contracts are for energy only, so all operating reserves should be zero, and the cost should be as shown in table below (all contracts are dispatchable).

D-3: A 436 MW transmission contract from PEC East to PEC West through DEC was modeled.

D-4: The Rowan CC contract (150 MW) sinks to PEC West.

D-5: The DEC Cherokee and other renewable contracts are not dispatchable.

D-6: PEC renewable and cogeneration contracts are not dispatchable.

D-7: The Broad River contract sinks to PEC East.

D-8: Cherokee Contract expires on 6/30/2013.

D-9: A 100 MW contract from DEC to PEC East (2011 through 2016) was modeled.

D-10: A PEC East Import contract 250 MW at $50 from SCEG (1-1-2011 through 12/31/2012) was modeled.

D-11: A PEC external purchase contract (SEPA Hydro), 94 MW through 2016.

Region	Seller	Plant/Unit	Contractual Capacity MW Summer	Contractual Capacity MW Winter	Start Date	End Date
DEC	Cherokee County Cogeneration Partners, L.P.	Cherokee County Cogeneration	88	88	7/1/1998	6/30/2013
PEC	Southern Power Company	Rowan CC	151	151	1/1/2010	12/31/2019
PEC	Calpine	Broad River 1	160	166	6/1/2001	5/31/2021
PEC	Calpine	Broad River 2	160	166	6/1/2001	5/31/2021
PEC	Calpine	Broad River 3	160	166	6/1/2001	5/31/2021
PEC	Calpine	Broad River 4	168	194.5	6/1/2001	2/28/2022
PEC	Calpine	Broad River 5	168	194.5	6/1/2001	2/28/2022
PEC	SEPA	SEPA Hydro Contract	94	94	12/31/2010	12/31/2012
PEC	SEPA	SEPA Hydro Contract	109	109	1/1/2013	12/31/2038

Operating Reserves Assumptions:

The operating reserves are 371 MW for PEC, 50% spinning and 50% quick start. PEC West has 100 MW of spin reserve requirement and quick start is met through firm transmission. DEC has only quick start requirement of 506 MW and no spinning reserves.

AGC requirements are 120 MW for PEC and 110 MW for DEC.

Post-merger operating reserves:

CASE	Submarket	Spin	Quickstart	AGC
Post	DEC_PEC	185	691	230

Pre-merger operating reserves:

CASE	Submarket	Spin	Quickstart	AGC
Pre	PEC	185	185	120
Pre	PEC West	100	0	0
Pre	DEC	0	506	110

Emission Allowance Prices:

Emission permit prices for NOX and SOX were obtained from PEC and were used for both companies. The values are shown in the following tables:

NOx Emission Rates		
	Oct-Apr	May-Sep
Year	$/Ton	$/Ton
2010	$363	$408
2011	$275	$308
2012	$867	$1,055
2013	$897	$1,237
2014	$955	$1,211
2015	$986	$1,229
2016	$972	$1,233

SO2 Emission Rates	
Year	$/Ton
2010	$34
2011	$32
2012	$30
2013	$377
2014	$426
2015	$375
2016	$256

Fuel Prices:

Natural Gas:

Natural gas futures prices for Transco Zone 5 plus LDC charges were used in the analysis. The standard LDC charge for all natural gas units is 1.63% of Zone 5 price. Except for the following units:

Unit ID			LDC
4409	Buck 7	NG_BK_DAN	2.5
4410	Buck 8	NG_BK_DAN	2.5
4411	Buck 9	NG_BK_DAN	2.5
4914	Dan River 4	NG_BK_DAN	2.5
4915	Dan River 5	NG_BK_DAN	2.5
4916	Dan River 6	NG_BK_DAN	2.5
5315	W S Lee GT8	NG_LEE	3.8
5409	W S Lee GT7	NG_LEE	3.8
6704	Riverbend 10	NG_RBEND	4.9
6705	Riverbend 11	NG_RBEND	4.9
6710	Riverbend 8	NG_RBEND	4.9
6711	Riverbend 9	NG_RBEND	4.9

Coal Prices:

Coal Price forecasts for both DEC and PEC were provided by the companies.

Oil Prices (Fuel Oil No. 2):

Oil prices are from NYMEX futures for heating oil #2.

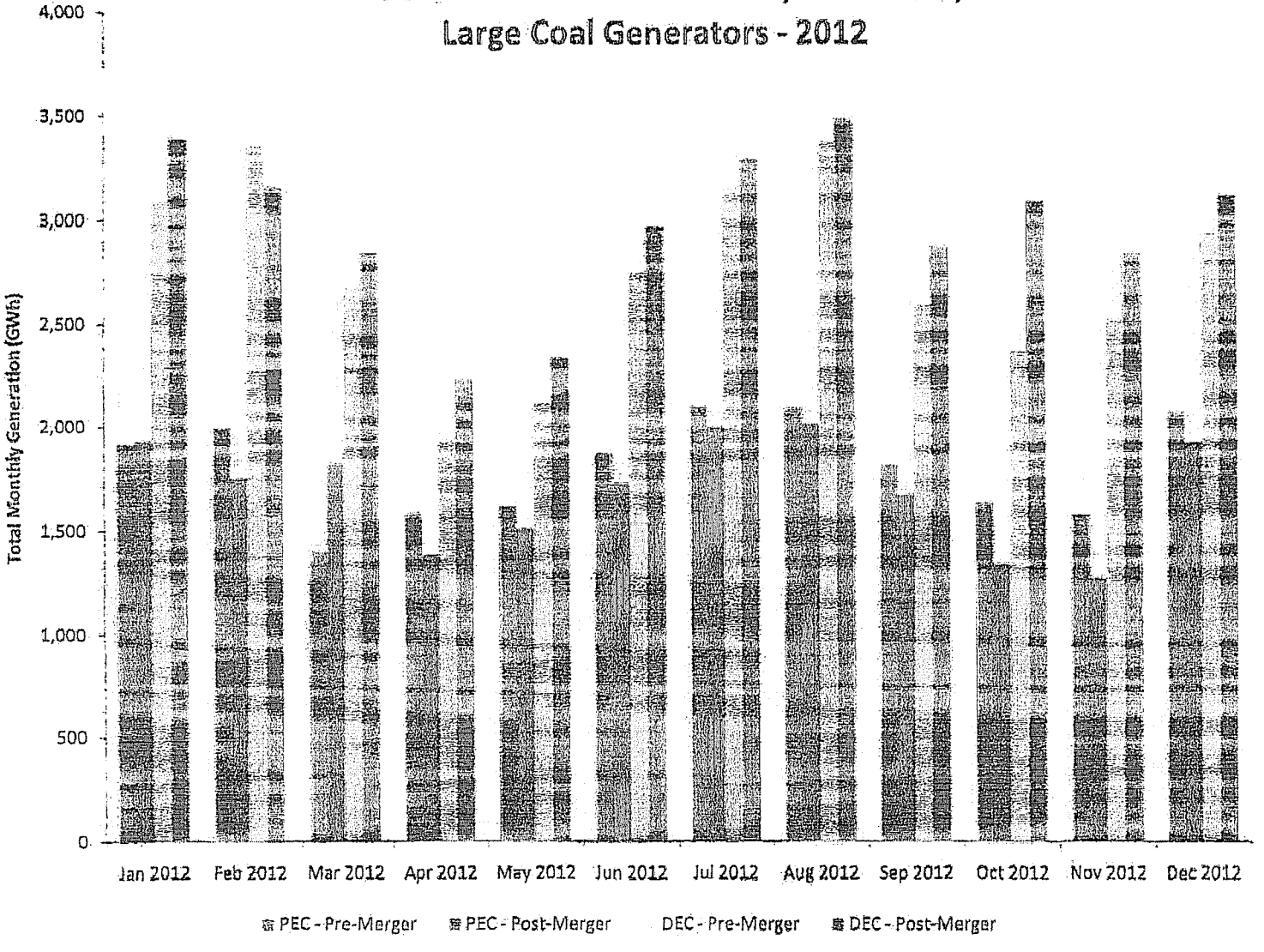
Transmission Model:

DEC 2015 load flow models were used for 2012-2016 simulation. It was assumed that the load flow case included all DEC's planned transmission upgrades. Relevant transmission upgrades affecting PEC capacity additions were taken into account. The list of transmission constraints was generated by DAYZER using contingency analysis for the calendar year 2011 and 2015.

Exhibit No. 1

TOTAL MONTHLY GENERATION BY COMPANY, UNIT TYPE, AND SCENARIO

Large Coal Generators - 2012

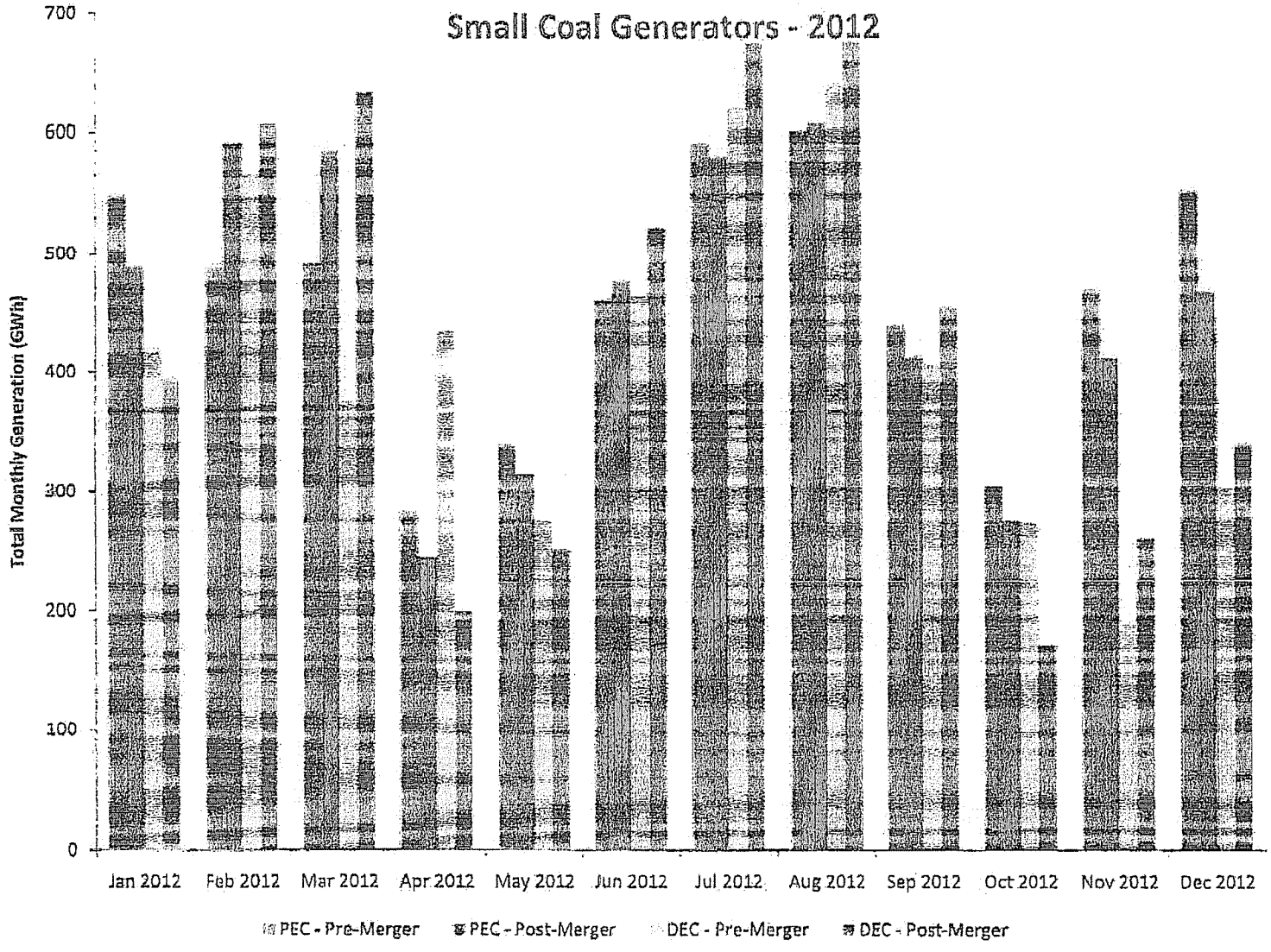


Note: Coal fired generating units greater than 200 MW.
Source: Joint Dispatch Analysis.

Exhibit No. 1

TOTAL MONTHLY GENERATION BY COMPANY, UNIT TYPE, AND SCENARIO

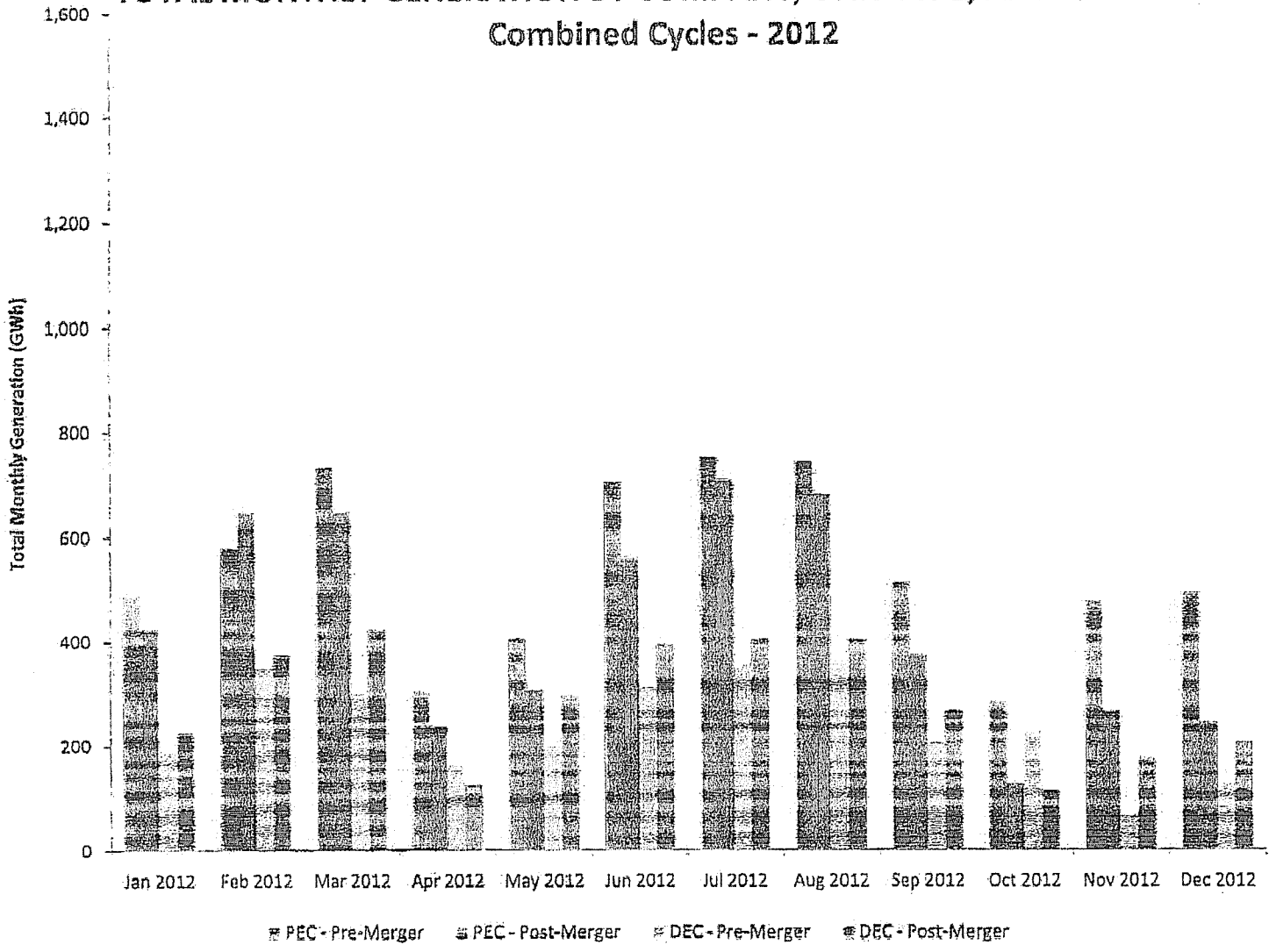
Small Coal Generators - 2012



Note: Coal fired generating units less than 200 MW.
Source: Joint Dispatch Analysis.

Exhibit No. 1

TOTAL MONTHLY GENERATION BY COMPANY, UNIT TYPE, AND SCENARIO
Combined Cycles - 2012

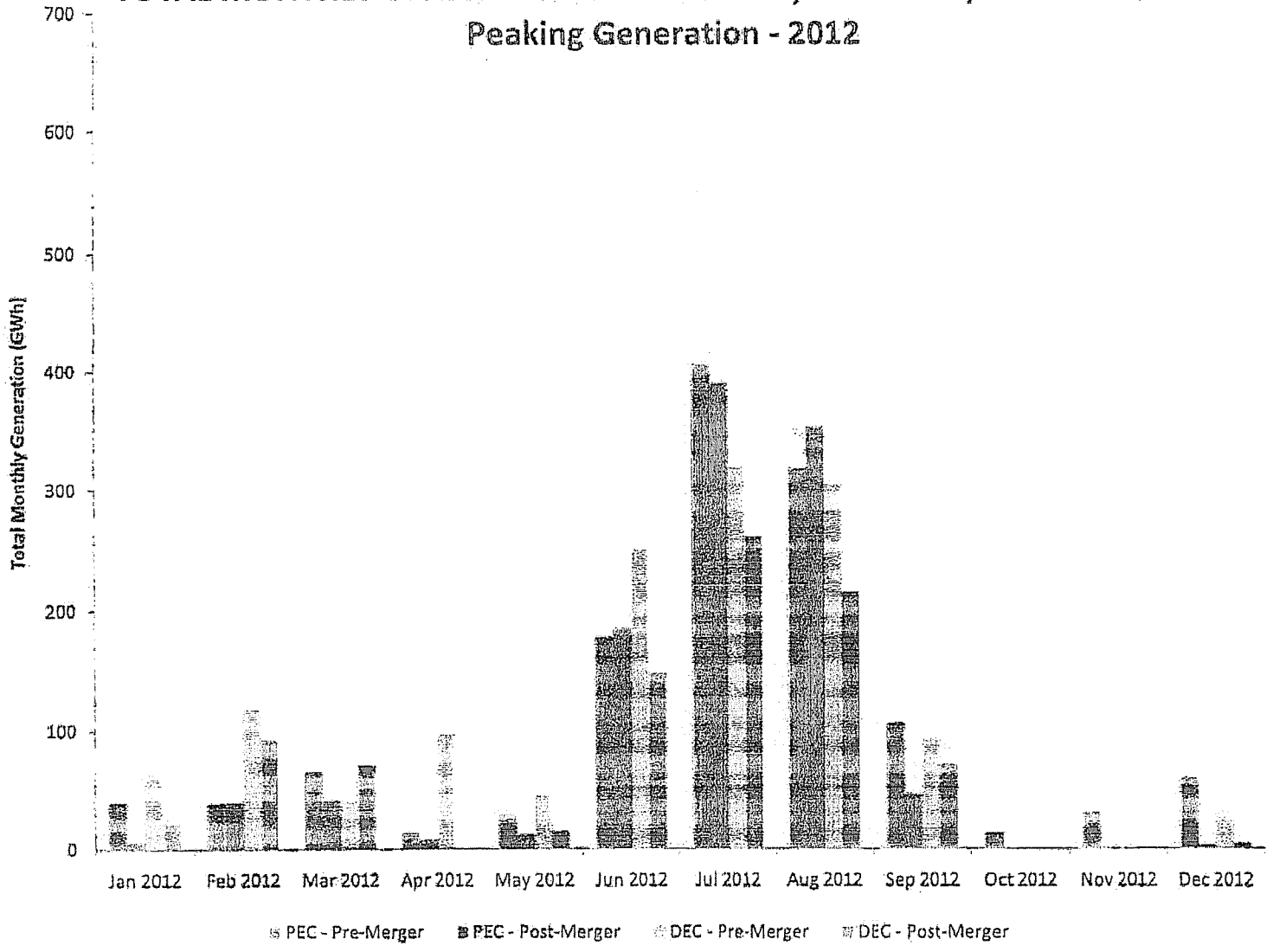


Note: Gas fired combined cycle units.
Source: Joint Dispatch Analysis.

Exhibit No. 1

TOTAL MONTHLY GENERATION BY COMPANY, UNIT TYPE, AND SCENARIO

Peaking Generation - 2012

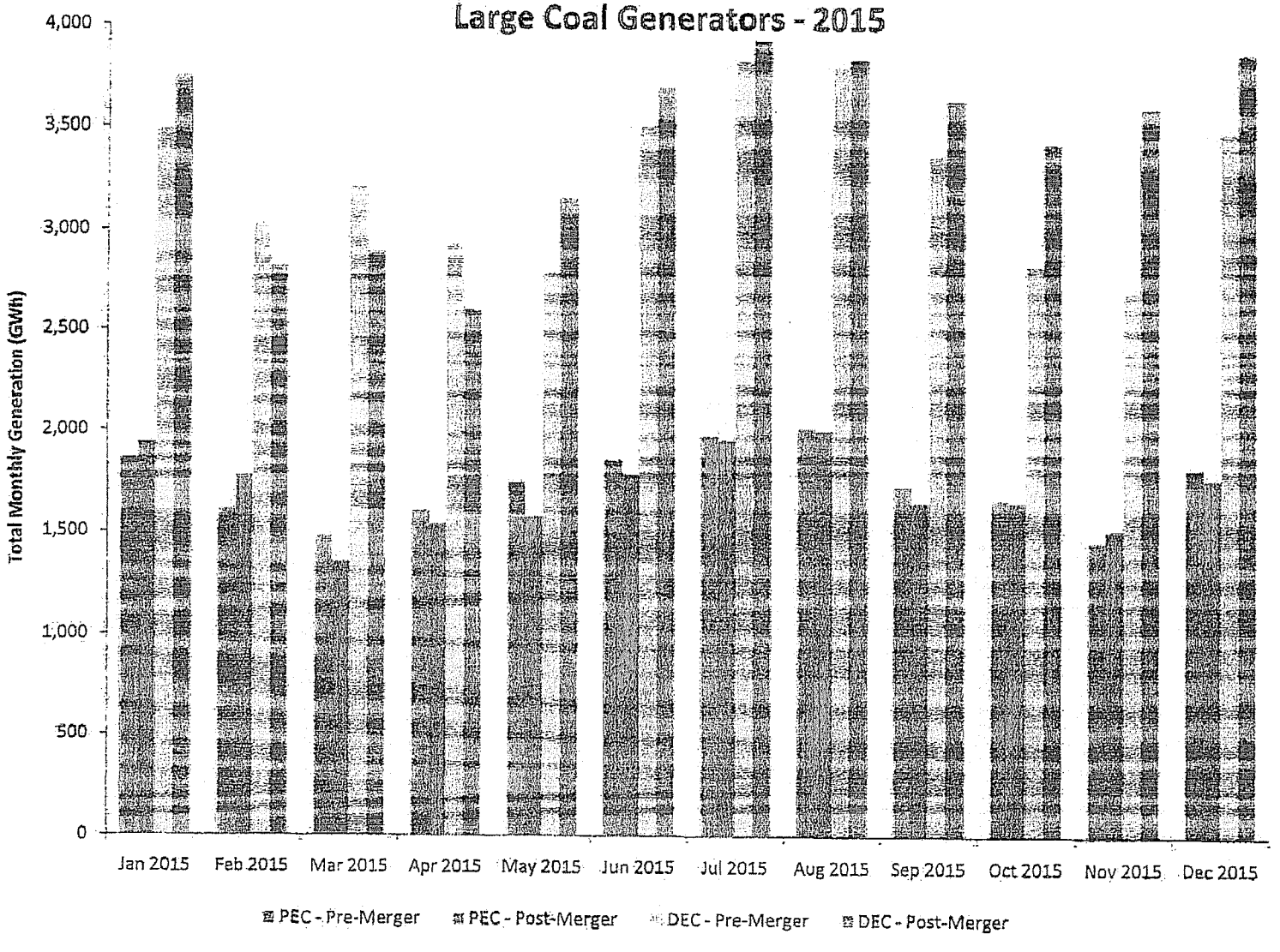


Note: High cost gas/oil fired combustion turbine generators owned by the companies.
Source: Joint Dispatch Analysis.

Exhibit No. 1

TOTAL MONTHLY GENERATION BY COMPANY, UNIT TYPE, AND SCENARIO

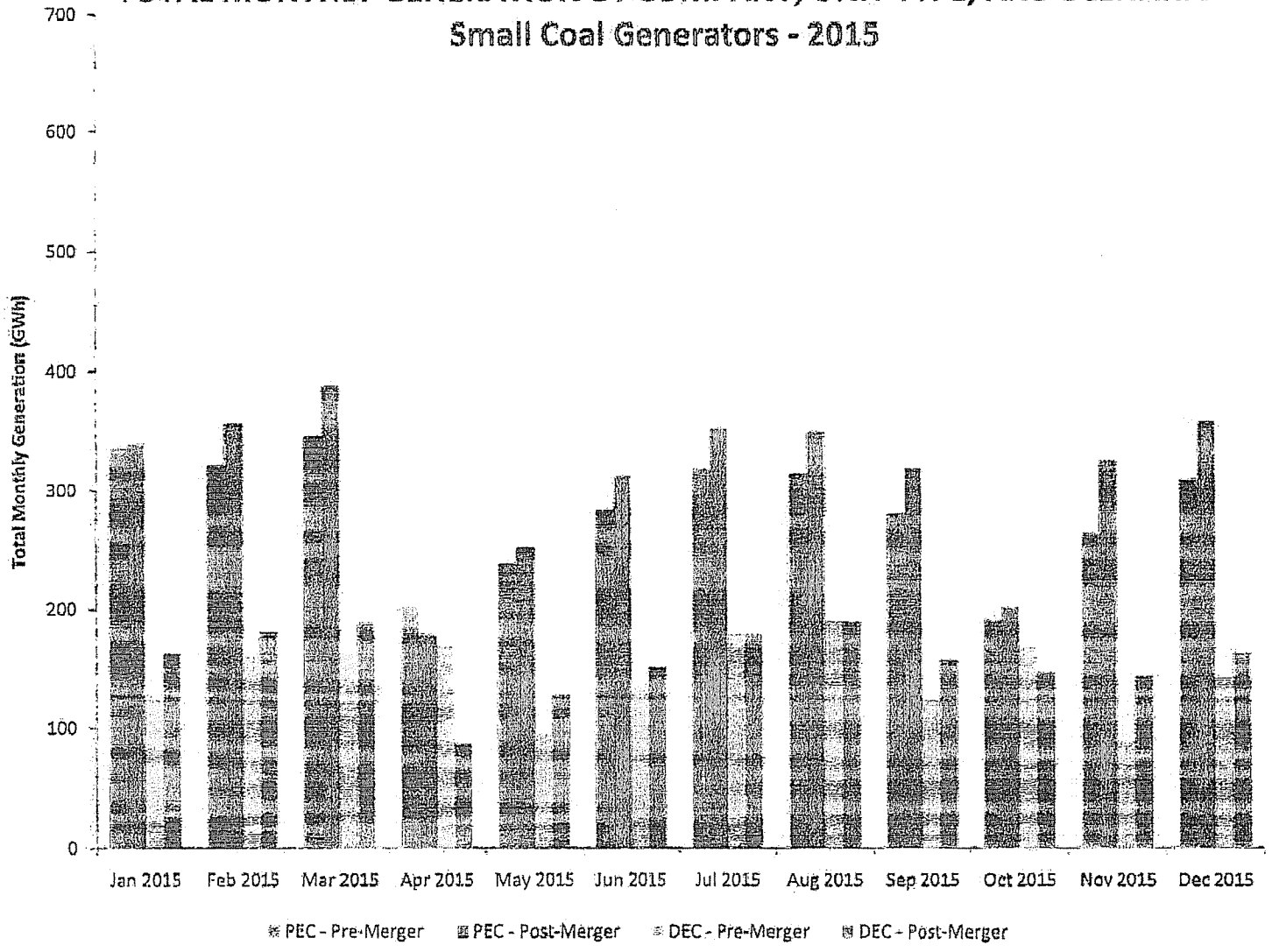
Large Coal Generators - 2015



Note: Coal fired generating units greater than 200 MW.
Source: Joint Dispatch Analysis.

Exhibit No. 1

TOTAL MONTHLY GENERATION BY COMPANY, UNIT TYPE, AND SCENARIO
Small Coal Generators - 2015

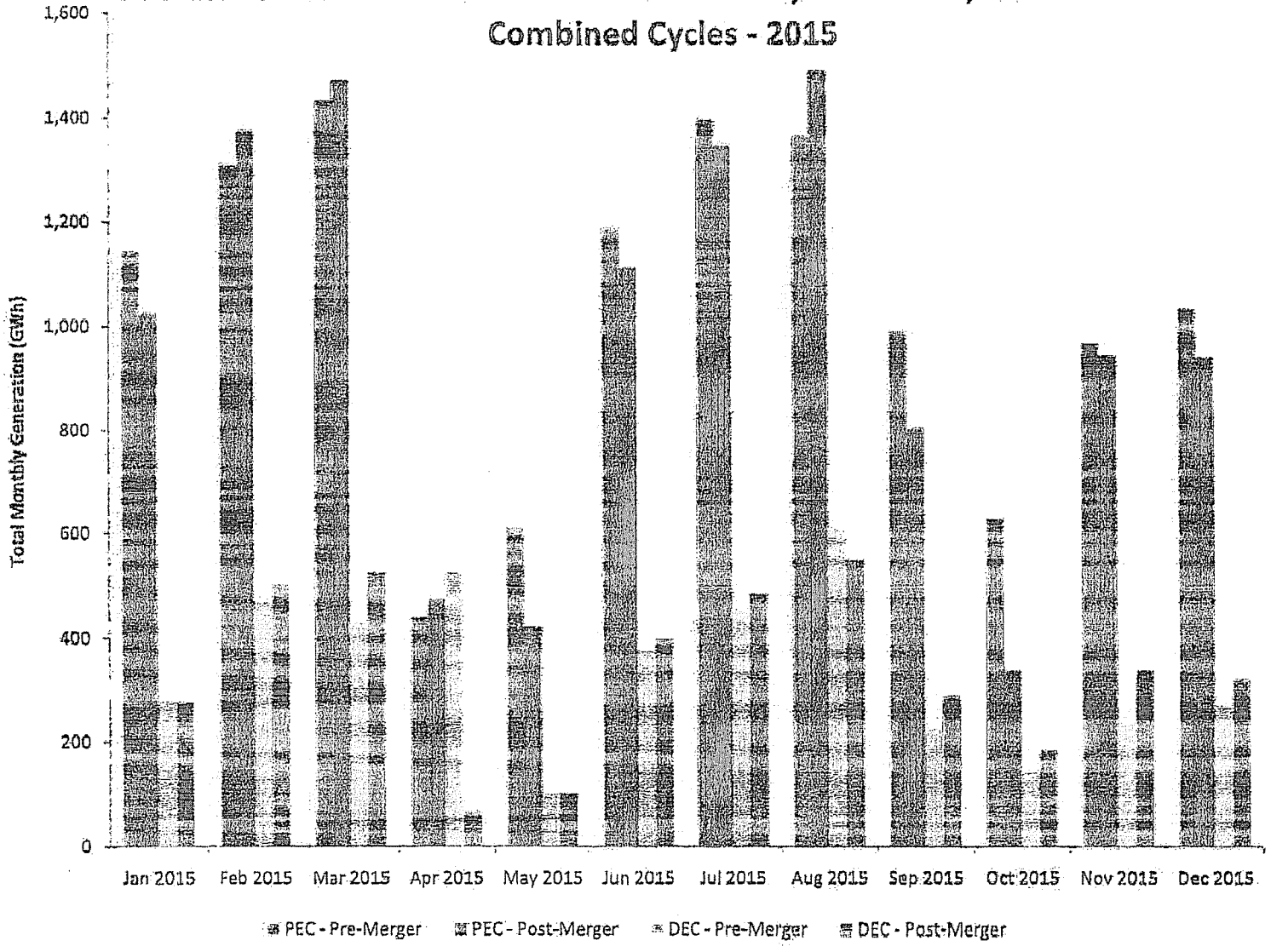


Note: Coal fired generating units less than 200 MW.
Source: Joint Dispatch Analysis.

Exhibit No. 1

TOTAL MONTHLY GENERATION BY COMPANY, UNIT TYPE, AND SCENARIO

Combined Cycles - 2015

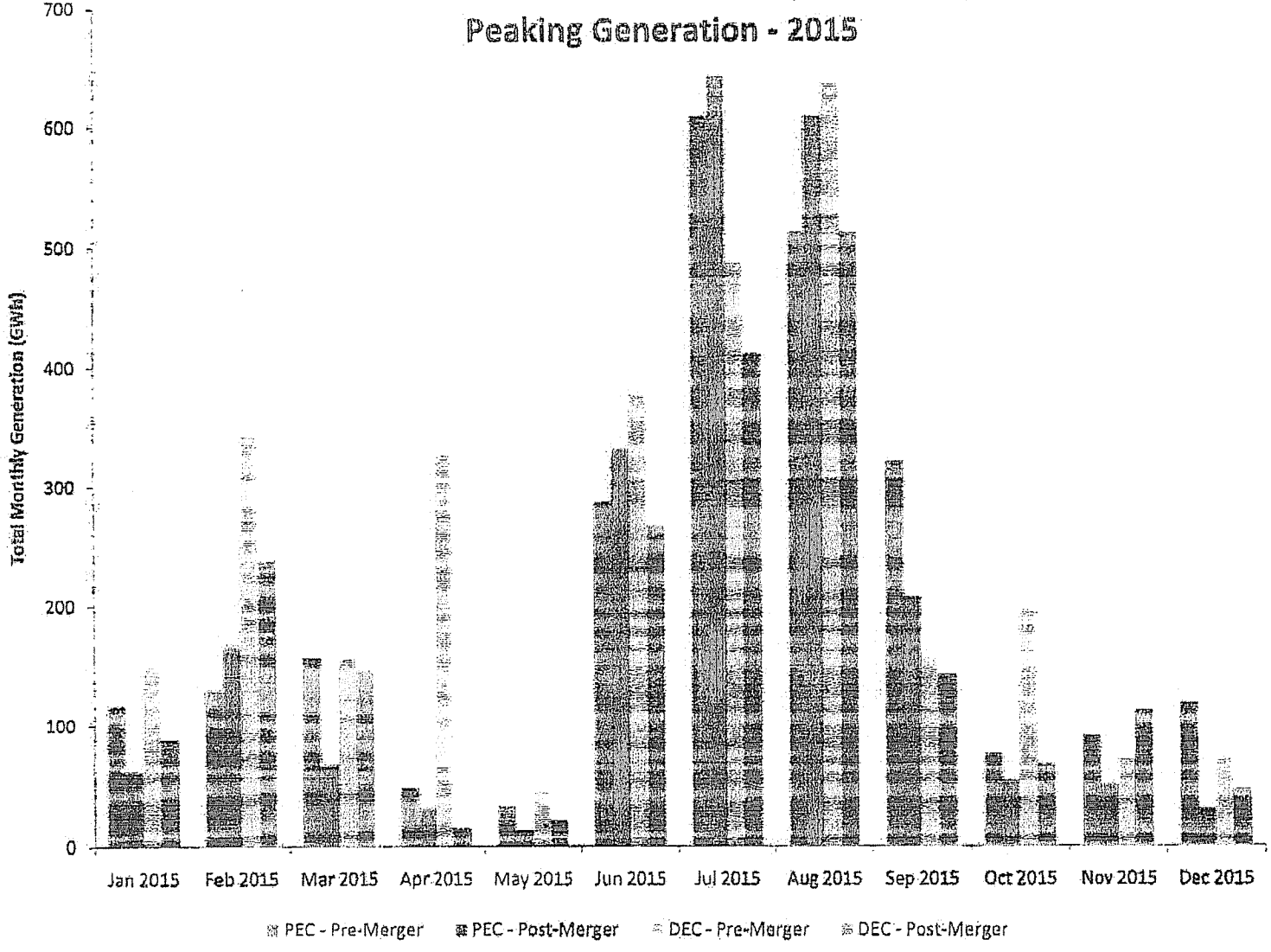


Note: Gas fired combined cycle units.
Source: Joint Dispatch Analysis.

Exhibit No. 1

TOTAL MONTHLY GENERATION BY COMPANY, UNIT TYPE, AND SCENARIO

Peaking Generation - 2015



Note: High cost gas/oil fired combustion turbine generators owned by the companies.
Source: Joint Dispatch Analysis.

Exhibit No. 2

ESTIMATED COST SAVINGS ASSOCIATED WITH DUKE AND PROGRESS JOINT DISPATCH
Base Case ($mm)

		2012	2013	2014	2015	2016
Estimated Cost - No Joint Dispatch		$3,871	$4,110	$4,426	$4,465	$4,715
Estimated Cost - With Joint Dispatch		$3,833	$4,061	$4,361	$4,368	$4,599
Savings	$	$38	$49	$64	$97	$116
	%	1.0%	1.2%	1.5%	2.2%	2.5%

	'12-'16
Cumulative Savings	$364

Source: Joint Dispatch Analysis

Exhibit No. 3A
DUKE WHOLESALE CONTRACTUAL OBLIGATIONS
2012

Wholesale Customer	Contract Designation	Type	Contract Term	Capacity (MW)
NC/SC Municipalities	Partial Requirements	Native Load Priority	12/31/2018	326
NP&L Wholesale	Full Requirements	Native Load Priority	Annual renewals. Can be terminated on one-year notice by either party.	14
Blue Ridge EMC	Full Requirements	Native Load Priority	12/31/2021	174
Piedmont EMC	Full Requirements	Native Load Priority	12/31/2021	90
Rutherford EMC	Partial Requirements	Native Load Priority	12/31/2021	156
Haywood EMC	Full Requirements	Native Load Priority	12/31/2021	21
NCEMC	Catawba Contract Backstand	Native Load Priority/ System Firm	Through Operating Life of Catawba and McGuire Nuclear Station	687
NCEMC	Shaped Capacity Sale	Native Load Priority	12/31/2038	72

Note: Customers included in NC/SC Municipalities: City of Concord, NC, Town of Dallas, NC; Town of Forest City, NC; Town of Kings Mountain, NC; Lockhart Power Company; Town of Due West, SC; Town of Prosperity, SC; and the City of Greenwood, SC. Contract designation for the City of Greenwood is for Full Requirements. Customers included in NP&L Wholesale: the Town of Highlands, NC and Western Carolina University.

Source: Duke Energy Carolina's 2010 Integrated Resource Plan.

Exhibit No. 3B

PROGRESS WHOLESALE CONTRACTUAL OBLIGATIONS

2012

Wholesale Customer	Contract Designation	Type	Contract Term	Capacity (MW)
Town of Black Creek, NC	Full Requirements	Native Load Firm	12/31/2017	3.2
City of Camden, SC	Full Requirements	Native Load Firm	12/31/2013	50
Fayetteville Public Works Commission	Partial Requirements	Native Load Firm	6/31/2012	301
Fayetteville Public Works Commission	Full Requirements	Native Load Firm	6/30/2032	531
French Broad EMC	Full Requirements	Native Load Firm	12/31/2012	90
Haywood EMC	Partial Requirements	Native Load Firm	12/31/2021	34
Town of Lucama, NC	Full Requirements	Native Load Firm	12/31/2017	5.3
North Carolina Electric Membership Corporation	NCEMC SOR D	Native Load Firm	12/31/2019	420
North Carolina Electric Membership Corporation	NCEMC SOR A	Native Load Firm	12/31/2015	225
North Carolina Electric Membership Corporation	NCEMC SOR E	Native Load Firm	12/31/2012	225
North Carolina Electric Membership Corporation	NCEMC PPA	Subordinate to Native Load Firm	12/31/2024	300
North Carolina Eastern Municipal Power Agency	Partial Requirements	Native Load Firm	12/31/2017	763
Piedmont EMC	Partial Requirements	Native Load Firm	12/31/2021	21
Town of Sharpsburg, NC	Full Requirements	Native Load Firm	12/31/2017	5.6
Town of Stantonsburg, NC	Full Requirements	Native Load Firm	12/31/2017	5.9
Town of Waynesville, NC	Full Requirements	Native Load Firm	12/31/2015	17
Town of Winterville, NC	Full Requirements	Native Load Firm	12/31/2017	12

Source: Progress Energy Carolina's 2010 Integrated Resource Plan.

Exhibit No. 4A

ESTIMATED COST SAVINGS ASSOCIATED WITH DUKE AND PROGRESS JOINT DISPATCH

High Gas Price Case ($mm)

		2012	2013	2014	2015	2016
Estimated Cost - No Joint Dispatch		$3,984	$4,300	$4,755	$4,995	$5,407
Estimated Cost - With Joint Dispatch		$3,924	$4,216	$4,627	$4,826	$5,218
Savings	$	$61	$84	$128	$168	$188
	%	1.5%	2.0%	2.7%	3.4%	3.5%

	'12-'16
Cumulative Savings	$629

Source: Joint Dispatch Analysis

Exhibit No. 4B

ESTIMATED COST SAVINGS ASSOCIATED WITH DUKE AND PROGRESS JOINT DISPATCH

Low Gas Price Case ($mm)

		2012	2013	2014	2015	2016
Estimated Cost - No Joint Dispatch		$3,707	$3,832	$4,055	$4,032	$4,222
Estimated Cost - With Joint Dispatch		$3,678	$3,786	$3,985	$3,959	$4,129
Savings	$	$29	$47	$70	$74	$93
	%	0.8%	1.2%	1.7%	1.8%	2.2%

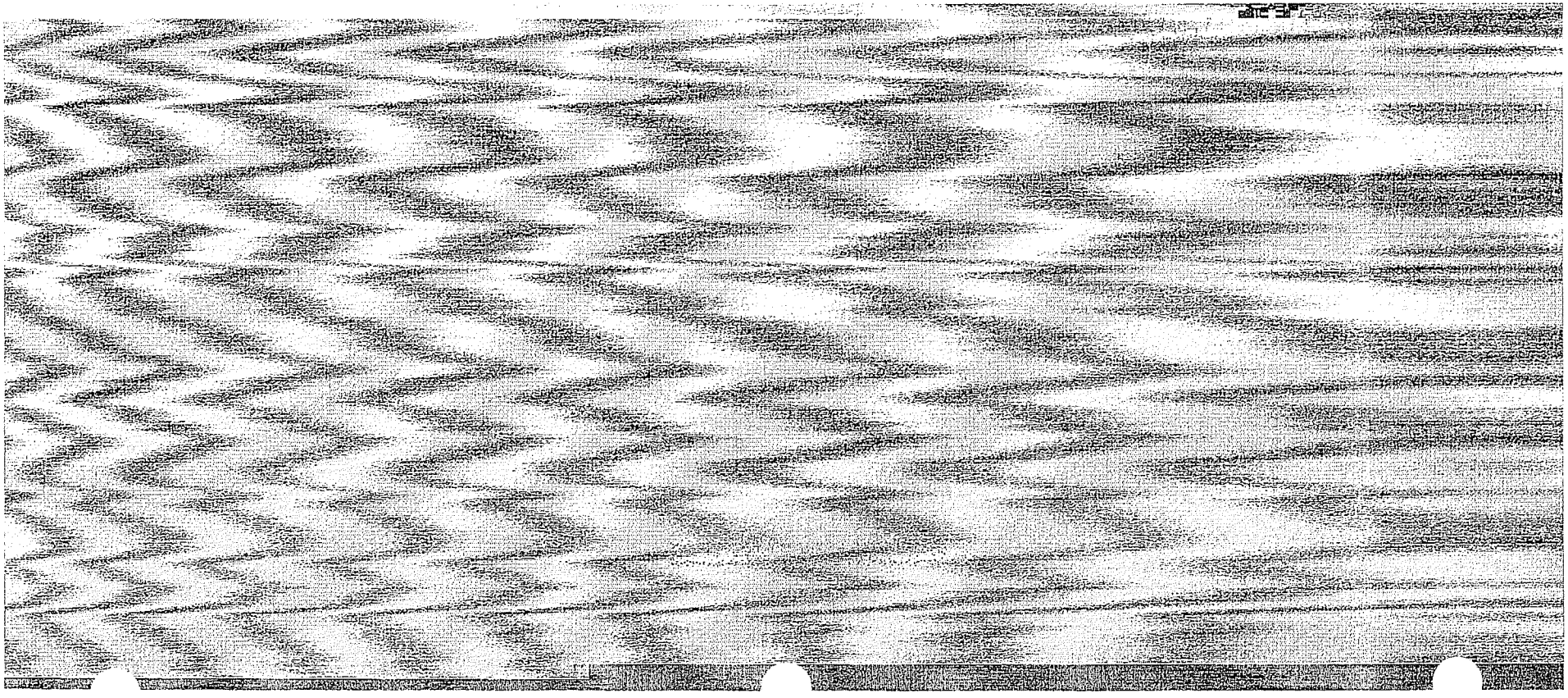


Exhibit No. 4C

ESTIMATED COST SAVINGS ASSOCIATED WITH DUKE AND PROGRESS JOINT DISPATCH

High Coal Price Case ($mm)

		2012	2013	2014	2015	2016
Estimated Cost - No Joint Dispatch		$4,179	$4,274	$4,545	$4,774	$5,096
Estimated Cost - With Joint Dispatch		$4,147	$4,230	$4,487	$4,686	$4,992
Savings	$	$32	$45	$58	$88	$104
	%	0.8%	1.0%	1.3%	1.8%	2.0%

	'12-'16
Cumulative Savings	$326

Source: Joint Dispatch Analysis

Exhibit No. 4D

ESTIMATED COST SAVINGS ASSOCIATED WITH DUKE AND PROGRESS JOINT DISPATCH

Low Load Case ($mm)

		2012	2013	2014	2015	2016
Estimated Cost - No Joint Dispatch		$3,792	$3,921	$4,098	$3,976	$4,043
Estimated Cost - With Joint Dispatch		$3,758	$3,880	$4,051	$3,914	$3,977
Savings	$	$34	$41	$46	$62	$66
	%	0.9%	1.0%	1.1%	1.6%	1.6%

	'12-'16
Cumulative Savings	$249

Source: Joint Dispatch Analysis

Exhibit No. 4E

ESTIMATED COST SAVINGS ASSOCIATED WITH DUKE AND PROGRESS JOINT DISPATCH
High Load Case ($mm)

		2012	2013	2014	2015	2016
Estimated Cost - No Joint Dispatch		$3,995	$4,340	$4,775	$4,983	$5,396
Estimated Cost - With Joint Dispatch		$3,953	$4,287	$4,704	$4,862	$5,246
Savings	$	$42	$53	$71	$121	$150
	%	1.1%	1.2%	1.5%	2.4%	2.8%

	'12-'16
Cumulative Savings	$437

Source: Joint Dispatch Analysis

EXHIBIT 5

FUELS SYNERGIES REVIEW

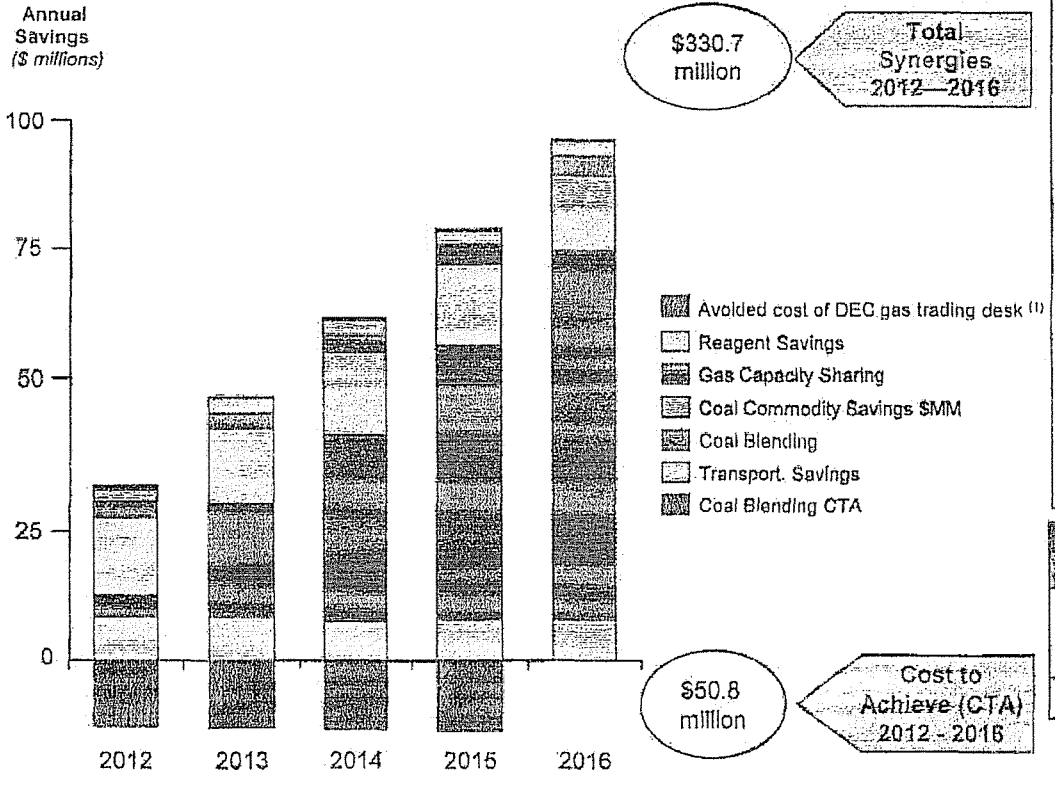
(Public Version)

Duke Energy Carolinas (DEC)
Progress Energy Carolinas (PEC)

Fuels Synergies Review

Synergies Summary

Fuel Supply Synergies



Strategic Rationale

Refreshed fuel sourcing strategy

- Combining fleets provides opportunities to optimize fuel sourcing

Improved cost position and supply diversity

- Reduced fuel and transportation expenses
  - Expected commodity savings
  - Transportation savings
- Rationalization of reagent contracts and supply routes

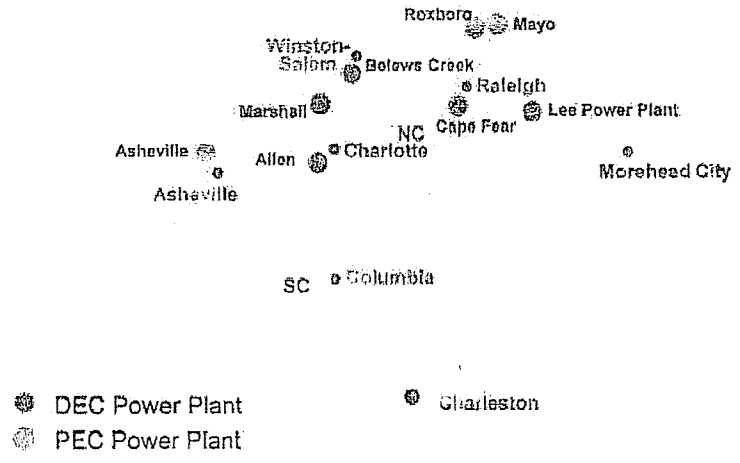
Opportunity Description

Description	▪ Fuel and transportation cost savings
Synergies	▪ ~$330MM over 5 years

Note: No material savings associated with reductions in inventory levels
1) Cancellation of expansion plans to the DEC natural gas trading functions providing savings in the amount of $400k per year
Source: DEC and PEC Coal, Gas, Transportation, and Reagents data, Booz & Company Analysis

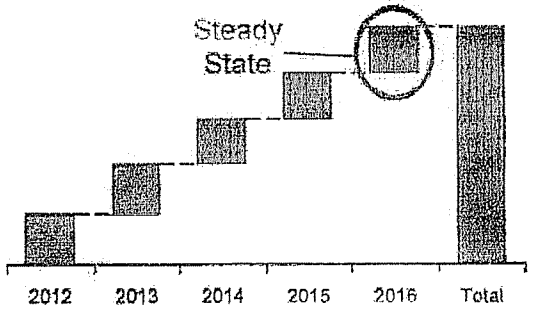
Coal Transportation Synergies

Norfolk Southern ("NS") Served Plants



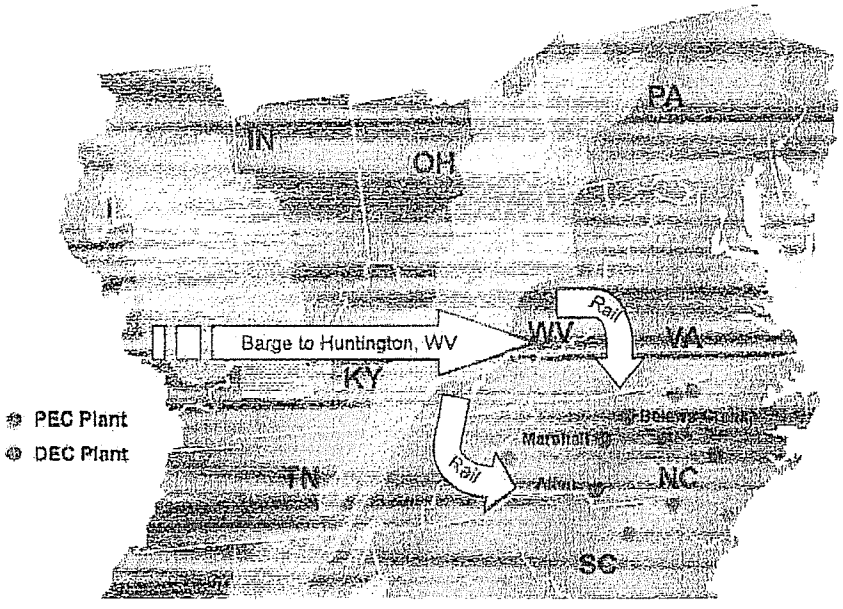
Transport. Savings Opportunity

($ millions)



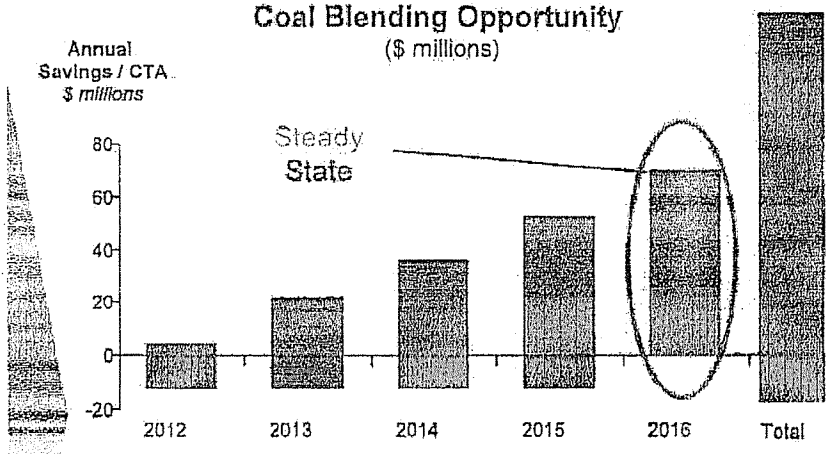
Coal Blending and Sourcing Analysis

Coal Sourcing Basins and Delivery Routes



Coal Blending Opportunity

($ millions)

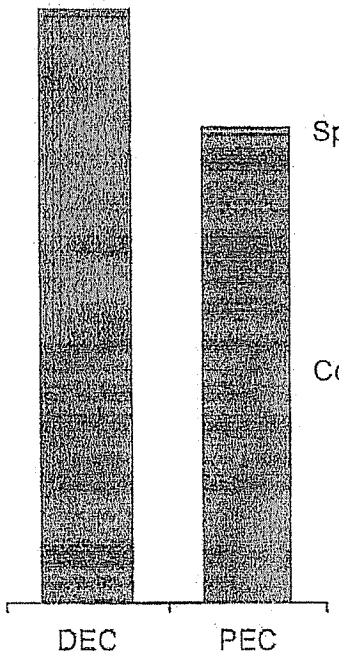


1) Cliffside Unit 6 is excluded from the analyses as it is still under construction

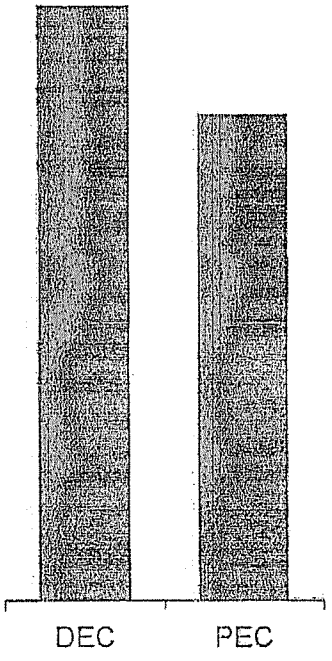
Source: DEC and PEC annual reports, Energy Velocity, Booz & Company analysis

Coal Commodity Synergies

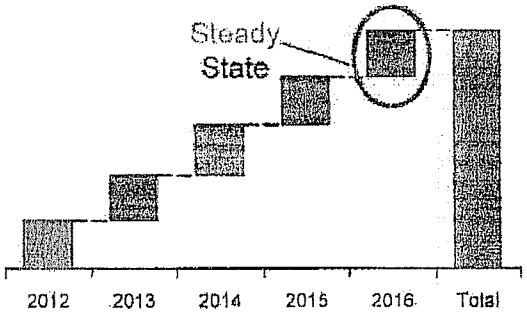
Coal Purchases from Central Appalachia
2009 Tons (000's)



Coal Price[1,2]
In $ per Ton



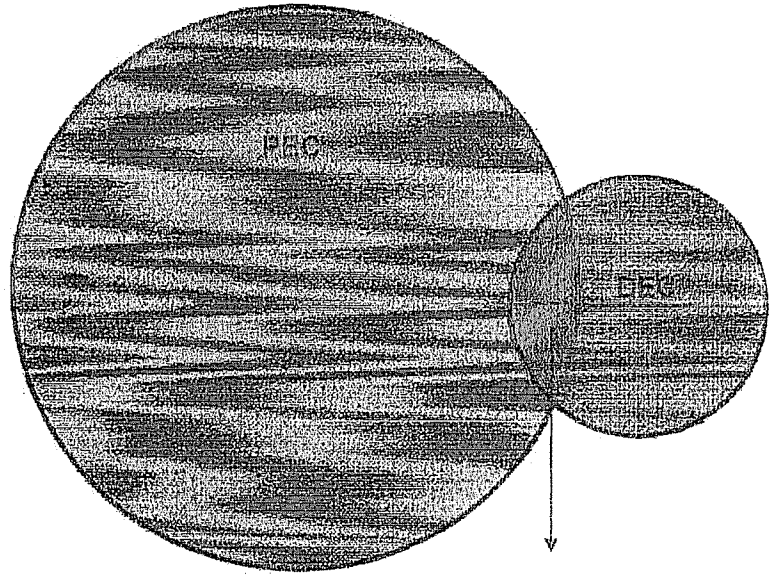
Coal Commodity Savings Opportunity
($ millions)



1) DEC price is based on provided active coal contracts details for 2010; PEC coal price is based on provided active coal contracts details for 2011
2) Carolinas Only
Source: Energy Velocity 2009; DEC and PEC active coal contracts details, Booz & Company analysis

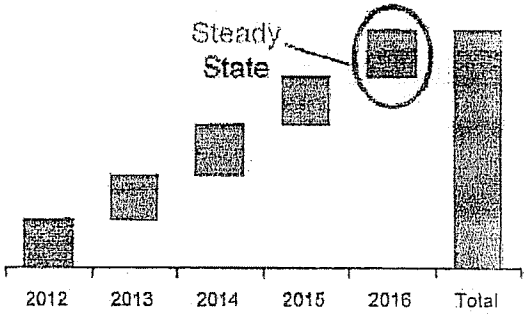
Gas Capacity Sharing Synergies

Pipeline Capacity Alignment



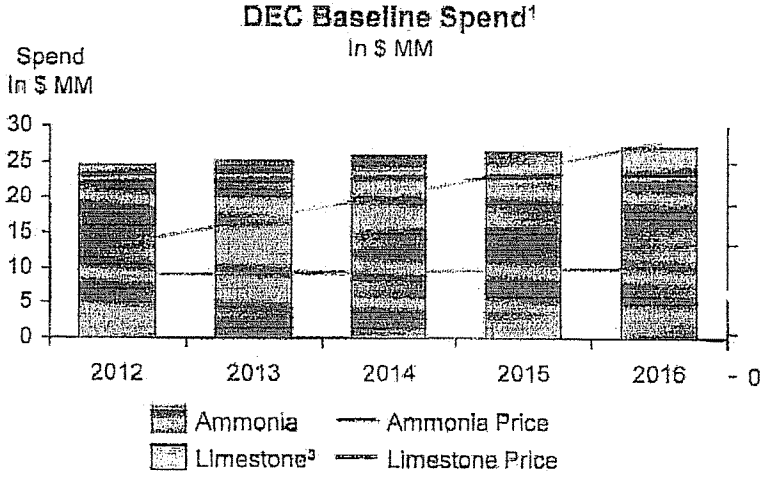
Volume Overlap
with PEC Capacity

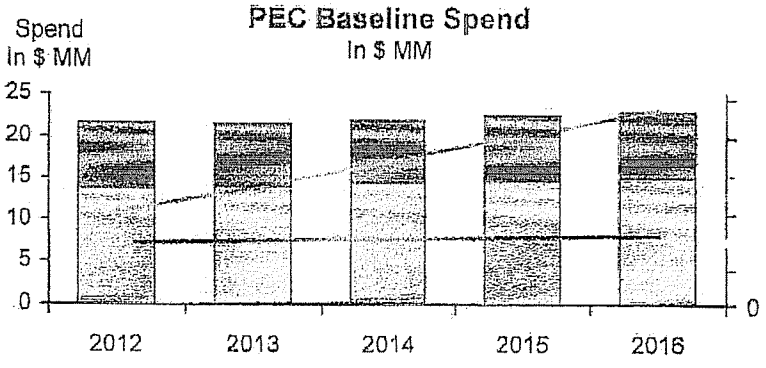
Gas Capacity Sharing Opportunity
($ millions)

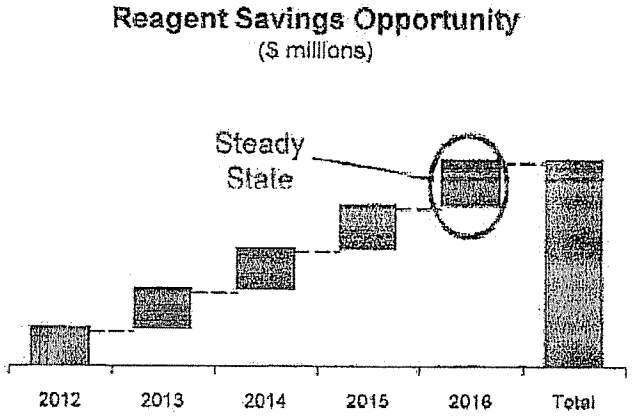


Sources: DEC and PEC gas capacity contracts; Booz & Company analysis

Reagents: Ammonia and Limestone Analysis







1) Based on tons not under contract.
Source: Booz & Company analysis

EXHIBIT 6

MARKET POWER STUDY

EXHIBIT 6

MARKET POWER STUDY

LIST OF EXHIBITS

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Duke Energy Generation and Purchases [1/]

Balancing Authority/ RTO	Plant Name	Summer Capacity MW	Ownership Share	Ownership Interest MW
DUK (Current Generation)				
DUK	Belews Creek	2,220	100.00%	2,220
DUK	Buck	431	100.00%	431
DUK	Cliffside	760	100.00%	760
DUK	Dan River	324	100.00%	324
DUK	G G Allen	1,127	100.00%	1,127
DUK	Marshall	2,078	100.00%	2,078
DUK	Riverbend	518	100.00%	518
DUK	W S Lee	452	100.00%	452
DUK	McGuire	2,200	100.00%	2,200
DUK	Catawba	2,258	19.25%	435
DUK	Oconee	2,538	100.00%	2,538
DUK	Bad Creek	1,360	100.00%	1,360
DUK	Cowans Ford	325	100.00%	325
DUK	Jocassee	730	100.00%	730
DUK	Keowee	152	100.00%	152
DUK	Other Hydro	589	100.00%	589
DUK	Buzzard Roost	176	100.00%	176
DUK	Lincoln Combustion	1,267	100.00%	1,267
DUK	Mill Creek	595	100.00%	595
DUK	Rockingham	825	100.00%	825
	Subtotal	20,926		19,102
Planned Retirement By Summer 2012				
DUK	Buck 3-4 (5/15/11)	(113)	100.00%	(113)
DUK	Buck 7-9 (6/1/12)	(62)	100.00%	(62)
DUK	Cliffside 1-4 (10/1/11)	(198)	100.00%	(198)
DUK	Dan River 1-3,5 (2012)	(300)	100.00%	(300)
DUK	Riverbend 8-11 (6/1/12)	(64)	100.00%	(64)
DUK	Buzzard Roost 6-15 (6/1/12)	(176)	100.00%	(176)
	Subtotal	(913)		(913)
Planned Capacity Additions by 2012				
DUK	Jocassee 1+2 (uprate)	50	100.00%	50
DUK	Bridgewater Hydro (uprate)	9	100.00%	9
DUK	Buck CC (12/31/11)	620	100.00%	620
DUK	Cliffside (6/30/12)	825	100.00%	825
	Subtotal	1,504		1,504
DEC Purchases				
	Cherokee Cogen			88
	SEPA Allocation			59
	Misc Purchases			123
				270
	DUK, Total Owned and Purchased, Current			19,372 [2/]
	DUK, Total Owned and Purchased, 2012			19,963

Balancing Authority/ RTO	Plant Name	Summer Capacity MW	Ownership Share	Ownership Interest MW
MISO [3]				
MISO	Walter C Beckjord 1-5, GTs [4]	892	100.00%	892
MISO	Walter C Beckjord 6 [4]	414	37.50%	155
MISO	Dicks Creek [4]	136	100.00%	136
MISO	East Bend [4]	600	69.00%	414
MISO	Miami Fort 6, GTs [4]	219	100.00%	219
MISO	Miami Fort 7-8 [4]	1,020	64.00%	653
MISO	Woodsdale [4]	462	100.00%	462
MISO	W H Zimmer [4]	1,300	46.50%	605
MISO	Vermillion Energy Facility [4]	568	75.00%	426
MISO	Cayuga	1,104	100.00%	1,104
MISO	Connersville	86	100.00%	86
MISO	Edwardsport	160	100.00%	160
MISO	Gibson 1-4	2,512	100.00%	2,512
MISO	Gibson 5	620	50.05%	310
MISO	Markland	45	100.00%	45
MISO	Miami Wabash	80	100.00%	80
MISO	Noblesville	286	100.00%	286
MISO	R Gallagher	560	100.00%	560
MISO	Wabash River 2-7	676	100.00%	676
MISO	Madison	576	100.00%	576
MISO	Henry County	129	100.00%	129
MISO	Wheatland	460	100.00%	460
MISO	St. Paul Cogeneration	33	100.00%	33
PJM	Conesville 4 [5]	780	40.00%	312
PJM	J M Stuart [5]	2,350	39.00%	916
PJM	Killen Station [5]	610	33.00%	201
				12,408
PJM [6]				
PJM	Lee Energy Facility [7]	568	100.00%	568
PJM	Washington Energy Facility [7]	617	100.00%	617
PJM	Fayette Energy Facility [7]	614	100.00%	614
PJM	Hanging Rock Energy Facility [7]	1,220	100.00%	1,220
PJM	North Allegheny	70	100.00%	70
	PJM, Total			3,089
OVEC				
OVEC	Kyger Creek [8]	993	9.00%	89
OVEC	Clifty Creek [8]	1,203	9.00%	108
	OVEC, Total			198

Balancing Authority/ RTO	Plant Name	Summer Capacity MW	Ownership Share	Ownership Interest MW
WECC				
WACM	Happy Jack	29	100.00%	29
WACM	Silver Sage	42	100.00%	42
WACM	Kit Carson	51	100.00%	51
PACE	Three Buttes	99	100.00%	99
PACE	Top of the World Wind Energy	200	100.00%	200
	WECC, Total			421
ERCOT				
ERCOT	Ocotillo	59	100.00%	59
ERCOT	Notrees	153	100.00%	153
ERCOT	Sweetwater Wind Project	585	48.40%	283
	ERCOT, Total			495
Total, Owned and Purchased, Current				35,984 9/
Total, Owned and Purchased, 2012				36,574 9/

Notes:

1/ Seasonal ratings may not match ratings used for other purposes.

2/ Excludes some small solar generating units owned by a Duke Energy affiliate (less than 10 MW).

3/ Ratings from EIA 860 Generator Database, as updated by Duke Energy.

4/ The facilities are expected to be transferred to PJM in 2012.

5/ These co-owned generators (Conesville, J M Stuart and Killen Station) are physically located in the PJM footprint but are directly connected to facilities under the control of MISO and operate as MISO Network Resources.

6/ Based on EIA 860, as updated (see note 2 above). These ratings differ slightly from the capacity figures used in PJM in its 2009 PJM Load, Capacity and Transmission Report, January 13, 2010 used for purposes of market-wide data (http://www.pjm.com/documents/reports/eia-reports.aspx).

7/ These units are committed to PJM through May 31, 2012 as a result of PJM's capacity auction (RPM).

8/ These units are committed to serving load obligations in MISO.

9/ Excludes some small solar generating units owned by a Duke Energy affiliate.

Progress Energy Generation and Purchases

Balancing Authority Area	Unit Name	Summer Capacity (MW)	Ownership Share	Ownership Interest (MW)
CPLE/CPLW				
CPLW	Asheville	703.0	100.00%	703.0
CPLE	Blewett	74.0	100.00%	74.0
CPLE	Brunswick	1,858.0	81.67% [1/]	1,858.0
CPLE	Cape Fear	380.0	100.00%	380.0
CPLE	Darlington County	801.0	100.00%	801.0
CPLE	H B Robinson	916.0	100.00%	916.0
CPLE	Harris	900.0	83.83% [1/]	900.0
CPLE	L V Sutton	659.0	100.00%	659.0
CPLE	Lee	472.0	100.00%	472.0
CPLW	Marshall	5.0	100.00%	5.0
CPLE	Mayo	742.0	83.83% [1/]	742.0
CPLE	Morehead	12.0	100.00%	12.0
CPLE	Richmond	1,287.0	100.00%	1,287.0
CPLE	Roxboro	2,424.0	96.30% [1/]	2,424.0
CPLE	Tillery	89.0	100.00%	89.0
CPLE	W H Weatherspoon	304.0	100.00%	304.0
CPLW	Walters	112.0	100.00%	112.0
CPLE	Wayne County	863.0	100.00%	863.0
	Subtotal			12,601.0
Planned Capacity Additions by 2012				
CPLE	Richmond (6/1/11)	635.0	100.00%	635.0
CPLE	H B Robinson Uprate	25.0	100.00%	25.0
CPLE	Harris 1 Uprate	30.0	100.00%	30.0
	Subtotal			690.0
PEC Purchases [2/]	**Counterparty/Facility**			
DUK	Broad River [3/]			850.0
CPL	Roxboro (contract ended 12/31/09, purchase continue)			47.0
CPL	Southport (contract ended 12/31/09, purchase continue)			86.0
CPL	Southern Company (Rowan)			145.0
CPL	SEPA Allocation			95.0
	Subtotal			1,223.0
	CPLE, CPLW, Total Owned and Purchased, Current			13,824.0
	CPLE, CPLW, Total Owned and Purchased, 2012			14,514.0
FPC				
FPC	Anclote	1,011.0	100.00%	1,011.0
FPC	Avon Park	48.0	100.00%	48.0
FPC	Bayboro	174.0	100.00%	174.0
FPC	Crystal River Units 1-2	869.0	100.00%	869.0
FPC	Crystal River Unit 3	860.0	91.78%	789.3
FPC	Crystal River Units 4-5	1,442.0	100.00%	1,442.0

Balancing Authority Area	Unit Name	Summer Capacity (MW)	Ownership Share	Ownership Interest (MW)
FPC	DeBary	645.0	100.00%	645.0
FPC	G E Turner	149.0	100.00%	149.0
FPC	Higgins	113.0	100.00%	113.0
FPC	Hines Energy Complex	1,912.0	100.00%	1,912.0
FPC	Intercession City	987.0	100.00% [4/]	987.0
FPC	P L Bartow	1,310.0	100.00%	1,310.0
FPC	Rio Pinar	12.0	100.00%	12.0
FPC	Suwannee River	284.0	100.00%	284.0
FPC	Tiger Bay	205.0	100.00%	205.0
FPC	University of Florida	46.0	100.00%	46.0
	Subtotal			8,996.3

PEF Purchases	Counterparty/Facility	
	QF Dade County Resource Recovery	43.0
	QF El Dorado	114.2
	QF Lake Cogen	110.0
	QF Lake County Resource Recovery	12.8
	QF LFC Jefferson	8.5
	QF LFC Madison	8.5
	QF Mulberry	115.0
	QF Orange Cogen (CFR Biogen)	74.0
	QF Orlando Cogen	79.2
	QF Pasco County Resource Recovery	23.0
	QF Pinellas County Resource Recovery 1	40.0
	QF Pinellas County Resource Recovery 2	14.8
	QF Ridge Generating Station	39.6
	Southern Co. UPS [5/]	412.0
	Shady Hills	478.0
	Vandolah	462.0
	Subtotal	2,034.6
	Total, FPC	12,030.9

Total, Owned and Purchased, Current	**25,854.9**
Total, Owned and Purchased, 2012	**26,544.9**

Notes:

1/ Progress Energy controls these jointly owned facilities and supplies output to its joint owner to serve their load. This load is included in PEC load.

2/ Not listed are smaller renewable purchases, such as Buncombe County Landfill, Hydrodyne Industries, and Madison Hydro Partners.

3/ The purchase contract specifies 835 MW, but the transmission reservation is for 850 MW.

4/ PEF is a joint owner (with Georgia Power Company) of a 143 MW CT at Intercession City site. Georgia Power has the exclusive right to the output of this facility June-September, and PEF has the exclusive right for the remainder of the year.

5/ PEF purchases 412 MW from SOCO's Scherer 3 and Miller 1-4 units.

Available Economic Capacity

Carolinas Markets

			Pre-Merger						Post-Merger				
			DUKE		PROGRESS				DUKE ENERGY				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
No Rate Depancaking													
DUK	S_SP1	$ 80	1,081	26.6%	1	0.0%	4,072	1,125	1,082	26.6%	4,072	1,126	1
DUK	S_SP2	$ 55	1,294	27.2%	-	0.0%	4,757	1,086	1,294	27.2%	4,757	1,086	-
DUK	S_P	$ 40	1,352	37.7%	-	0.0%	3,587	1,575	1,352	37.7%	3,587	1,575	-
DUK	S_OP	$ 35	809	23.5%	-	0.0%	3,448	832	809	23.5%	3,448	832	-
DUK	W_SP	$ 80	3,503	44.2%	-	0.0%	7,922	2,180	3,503	44.2%	7,922	2,180	-
DUK	W_P	$ 40	1,067	25.3%	-	0.0%	4,221	857	1,067	25.3%	4,221	857	-
DUK	W_OP	$ 35	26	0.9%	-	0.0%	3,049	438	26	0.9%	3,049	438	-
DUK	SH_SP	$ 55	1,875	34.4%	-	0.0%	5,457	1,427	1,875	34.4%	5,457	1,427	-
DUK	SH_P	$ 35	14	0.7%	-	0.0%	2,187	434	14	0.6%	2,187	434	-
DUK	SH_OP	$ 33	21	0.9%	-	0.0%	2,337	411	21	0.9%	2,337	411	-
CPLE	S_SP1	$ 80	170	7.2%	2	0.1%	2,343	437	172	7.3%	2,343	438	1
CPLE	S_SP2	$ 55	66	2.7%	32	1.3%	2,431	484	98	4.0%	2,431	491	7
CPLE	S_P	$ 40	96	3.1%	-	0.0%	3,136	364	96	3.1%	3,136	364	-
CPLE	S_OP	$ 35	132	3.0%	1,340	30.8%	4,359	1,150	1,472	33.8%	4,359	1,336	186
CPLE	W_SP	$ 80	764	16.6%	-	0.0%	4,606	555	764	16.6%	4,606	555	-
CPLE	W_P	$ 40	21	0.4%	246	4.8%	5,126	464	267	5.2%	5,126	468	4
CPLE	W_OP	$ 35	54	1.1%	-	0.0%	5,113	474	54	1.1%	5,113	474	-
CPLE	SH_SP	$ 55	176	4.2%	556	13.2%	4,210	525	732	17.4%	4,210	636	111
CPLE	SH_P	$ 35	33	0.7%	389	8.5%	4,591	495	422	9.2%	4,591	507	12
CPLE	SH_OP	$ 33	57	1.2%	140	3.0%	4,624	408	197	4.3%	4,624	415	7

Available Economic Capacity

Carolinas Markets

			Pre-Merger						Post-Merger				
			DUKE		PROGRESS				DUKE ENERGY				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
With Rate Depancaking													
DUK	S_SP1	$ 80	1,081	26.6%	1	0.0%	4,072	1,125	1,085	26.6%	4,072	1,129	5
DUK	S_SP2	$ 55	1,294	27.2%	-	0.0%	4,757	1,086	1,294	27.2%	4,757	1,085	-
DUK	S_P	$ 40	1,352	37.7%	-	0.0%	3,587	1,575	1,349	37.6%	3,587	1,573	(2)
DUK	S_OP	$ 35	809	23.5%	-	0.0%	3,448	832	985	28.6%	3,448	1,073	241
DUK	W_SP	$ 80	3,503	44.2%	-	0.0%	7,922	2,180	3,505	44.2%	7,922	2,186	7
DUK	W_P	$ 40	1,067	25.3%	-	0.0%	4,221	857	1,121	26.5%	4,223	926	69
DUK	W_OP	$ 35	26	0.9%	-	0.0%	3,049	438	26	0.9%	3,049	436	(2)
DUK	SH_SP	$ 55	1,875	34.4%	-	0.0%	5,457	1,427	1,874	34.4%	5,457	1,427	(1)
DUK	SH_P	$ 35	14	0.7%	-	0.0%	2,187	434	14	0.6%	2,228	496	63
DUK	SH_OP	$ 33	21	0.9%	-	0.0%	2,337	411	20	0.9%	2,337	414	3
CPLE	S_SP1	$ 80	170	7.2%	2	0.1%	2,343	437	213	9.1%	2,343	442	6
CPLE	S_SP2	$ 55	66	2.7%	32	1.3%	2,431	484	139	5.7%	2,431	444	(41)
CPLE	S_P	$ 40	96	3.1%	-	0.0%	3,136	364	296	9.4%	3,136	382	19
CPLE	S_OP	$ 35	132	3.0%	1,340	30.8%	4,359	1,150	1,489	34.2%	4,359	1,364	214
CPLE	W_SP	$ 80	764	16.6%	-	0.0%	4,606	555	912	19.8%	4,606	645	90
CPLE	W_P	$ 40	21	0.4%	246	4.8%	5,126	464	496	9.4%	5,272	430	(35)
CPLE	W_OP	$ 35	54	1.1%	-	0.0%	5,113	474	60	1.2%	5,113	464	(11)
CPLE	SH_SP	$ 55	176	4.2%	556	13.2%	4,210	525	746	17.7%	4,210	598	73
CPLE	SH_P	$ 35	33	0.7%	389	8.5%	4,591	495	422	9.2%	4,591	499	4
CPLE	SH_OP	$ 33	57	1.2%	140	3.0%	4,624	408	196	4.2%	4,624	414	6
CPLW	S_SP1	$ 80	65	8.2%	-	0.0%	799	398	64	8.0%	799	401	3
CPLW	S_SP2	$ 55	39	4.8%	-	0.0%	799	449	63	7.9%	799	425	(23)
CPLW	S_P	$ 40	24	3.1%	-	0.0%	770	373	99	12.4%	799	417	43
CPLW	S_OP	$ 35	36	4.5%	-	0.0%	799	388	89	11.2%	799	451	63
CPLW	W_SP	$ 80	78	13.3%	-	0.0%	585	415	78	13.3%	585	418	3
CPLW	W_P	$ 40	3	0.5%	-	0.0%	712	442	62	8.5%	726	397	(45)
CPLW	W_OP	$ 35	7	0.9%	-	0.0%	783	407	8	1.0%	783	405	(1)
CPLW	SH_SP	$ 55	62	9.2%	-	0.0%	676	465	59	8.8%	676	440	(24)
CPLW	SH_P	$ 35	5	0.7%	-	0.0%	676	450	5	0.7%	676	456	6
CPLW	SH_OP	$ 33	8	1.2%	-	0.0%	676	380	8	1.1%	676	385	4

Applicants' Sales Data

Duke Energy Carolinas' Generation and Sales

	Type	2008 (MWh)	2009 (MWh)	2010 (MWh)	Total (MWh)	Percent	Source
1	Total Duke Carolinas Generation	85,846,145	80,577,153	84,845,228	251,268,526		Form EIA-861
2	Retail Sales	77,246,972	74,443,058	79,553,460	231,243,490	92.2%	Form EIA-861
3	Sales for Resale	8,229,109	5,386,629	5,669,571	19,505,309		Form EIA-861
4	Sales inside Duke BAA	4,773,892	4,412,686	4,934,413	14,120,991	5.6%	[3] - [5]
5	Sales outside Duke BAA	3,456,217	973,943	955,158	5,384,318	2.1%	EQR
6	Sales to PJM	1,867,406	804,536	714,799	3,386,741	1.351%	EQR
7	Sales to Other BAAs	1,499,904	132,963	196,947	1,829,814	0.730%	[5]-[6]-[8]
8	Sales to Progress BAAs	87,907	36,444	43,412	167,763		EQR
9	Sales to Progress Energy	75,120	34,464	40,046	149,630	0.060%	[8]-[10]
10	Sales to Progress BAAs other than to Progress Energy	12,787	1,980	3,366	18,133	0.007%	EQR

Progress Energy Carolinas' Generation and Sales

	Type	2008 (MWh)	2009 (MWh)	2010 (MWh)	Total (MWh)	Percent	Source
1	Total Progress Carolinas Generation	55,727,432	56,013,177	58,188,728	169,929,337		Form EIA-861
2	Retail Sales	43,786,847	42,980,718	45,703,382	132,470,947	76.8%	Form EIA-861
3	Sales for Resale	14,328,970	13,965,922	13,998,620	42,293,512		Form EIA-861
4	Sales inside Progress BAAs	11,795,391	12,016,693	13,551,664	37,362,748	21.4%	[3] - [5]
5	Sales outside Progress BAAs	2,533,579	1,950,229	446,956	4,930,764	2.8%	EQR
6	Sales to PJM	2,241,947	1,468,901	397,315	4,108,163	2.351%	EQR
7	Sales to Other BAAs	266,771	445,182	39,638	751,591	0.430%	[5]-[6]-[8]
8	Sales to Duke BAA	24,881	36,146	10,003	71,010		EQR
9	Sales to Duke Energy	22,237	34,825	9,500	66,562	0.038%	[8]-[10]
10	Sales to Duke BAA other than to Duke Energy	2,524	1,321	503	4,448	0.003%	EQR

EQR Data (Short-Term Energy Sales)

Duke Energy Carolinas	2008	2009	2010
Total Sales (MWh)	4,134,654	1,363,796	1,029,643
Sales into Progress Energy Carolinas BAA (MWh)	87,907	36,444	43,412
Share of DEC's Sales into Progress Energy Carolinas BAA	2.13%	2.67%	4.22%
Sales into Progress Energy Carolinas BAA (MWh)	87,907	36,444	43,412
Sales to PEC (MWh)	74,520	34,464	40,046
Sales to Others (MWh)	13,387	1,980	3,366
Sales to Wholesale Customers with Load in BAA (MWh)*	75	50	925
Sales to PEC (%)	84.77%	94.57%	92.25%
Sales to Others (%)	15.23%	5.43%	7.75%
Sales to Wholesale Customers with Load in BAA (%)*	0.09%	0.14%	2.13%

Progress Energy Carolinas	2008	2009	2010
Total Sales (MWh)	2,952,714	2,016,865	597,404
Sales into Duke Energy Carolinas BAA (MWh)	24,861	36,146	10,003
Share of PEC's Sales into Duke Energy Carolinas BAA	0.84%	1.79%	1.67%
Sales into Duke Energy Carolinas BAA (MWh)	24,861	36,146	10,003
Sales to DEC (MWh)	22,237	34,825	9,500
Sales to Others (MWh)	2,624	1,321	503
Sales to Wholesale Customers with Load in BAA (MWh)**	-	-	-
Sales to DEC (%)	89.45%	96.35%	94.97%
Sales to Others (%)	10.55%	3.65%	5.03%
Sales to Wholesale Customers with Load in BAA (%)**	0.00%	0.00%	0.00%

* Sales to NCEMC. Other reported buyers were AEP, BNP Paribas Energy, Cargill, Conoco Phillips, Constellation, The Energy Authority, Lehman Brothers, Merrill Lynch, PJM, J. Aron, Tenaska, and TVA.

** Other reported buyers were Cargill, The Energy Authority, SCEG and Southeastern Power Administration.

Source: EQRs (as compiled by Ventyx)

MODELING AND DATA INPUTS

CASm is a proprietary linear programming model developed specifically to perform the calculations required in undertaking the delivered price test. The model includes each potential supplier as a distinct "node" or area that is connected via a transportation (or "pipes") representation of the transmission network. Each link in the network has its own non-simultaneous limit and cost. Potential suppliers are allowed to use all economically and physically feasible links or paths to reach the destination market. In instances where more generation meets the economic facet of the delivered price test than can actually be delivered on the transmission network, scarce transmission capacity is allocated based on the relative amount of economic generation that each party controls at a constrained interface. The model incorporates Simultaneous Import Limits ("SILs") as required by the Commission.

I conducted the competitive analysis screen using the existing market structure and publicly available data on generation and transmission capacity. The data inputs were adjusted to reflect 2012 conditions as a representative year (*e.g.*, to reflect updated fuel prices, load, and generation). A complete set of the input data used in my analysis is contained in my workpapers.[1]

A. Regions Modeled

I included as potential suppliers all entities within three wheels of the destination market.[2] The model includes all significant generation and load sources, including traditional utilities, non-utility and merchant generators, municipal utilities and cooperatives. Each entity is generally

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[1] My workpapers contain both a public and a confidential/proprietary set of workpapers. The public workpapers contain the basic input data and outputs of the analyses I have conducted. The confidential workpapers contain the CRA's proprietary CASm model and associated databases (to allow an entity to replicate my delivered price test analyses), and information that requires confidential treatment. A confidential/proprietary agreement is provided as part of the public workpapers that allows an entity access to the confidential/proprietary workpapers.

[2] Potential suppliers were selected in recognition of the Commission's guidance regarding the number of wheels a potential supplier can realistically travel and still be considered a player in the destination market. For example, in *FirstEnergy*, the Commission limited the number of wheels "a supplier could reasonably travel to reach the destination market," recognizing that "[m]ore distant suppliers would face considerable losses and transmission costs." The Commission limited the potential suppliers to those within four wheels. *Ohio Edison Co.*, 80 FERC ¶ 61,039, *reh'g denied*, 81 FERC ¶ 61,109 (1997), *reh'g denied*, 85 FERC ¶ 61,203 (1998).

Also, the request for comments on the use of computer models in merger analysis suggests that "three wheels has been deemed adequate." Inquiry Concerning the Commission's Policy on the Use of Computer Models in Merger Analysis, Notice of Request for Written Comments and Intent to Convene a Technical Conference, Docket No. PL98-6-000, April 16, 1998, at 24. I conservatively excluded suppliers in some regions, such as utilities in Canada, that are technically within three wheels of some of the destination markets.

modeled as an individual "node."[3] For most of the regions included in the model, including the relevant regional transmission organizations ("RTOs"), balancing authority areas were used to aggregate generation and transmission assets.

B. Generating Resources

The main sources for data on generating plant capability are the EIA-860 and EIA-411 reports. I also have reviewed data from Ventyx, The Velocity Suite's databases ("Ventyx"),[4] which are also largely based on these same public reports, planning reports and Integrated Resource Plans ("IRPs"),[5] and prior filings made by the companies. These data sources provide information on capacity (nameplate and seasonal (summer and winter) net dependable capacity ("NDC") ratings), planned retirements and additions, operating status, primary and secondary fuel, and ownership, including jointly-owned units. NDC ratings were used for the analyses, with the summer ratings used for the shoulder time periods. Planned retirements and known capacity additions through 2012 were reflected in the analysis; otherwise all units with operating status listed as "Operating" were included in the analysis. For jointly-owned plants, shares were assigned to each of the respective owners, except as specified below and in the testimony. The capacity representing shares of jointly-owned units was "moved" in most regions of the model from its actual physical location to the geographic location of the owner, to the extent the owner is a load-serving entity. Firm transmission to the owner's balancing authority area is assumed to be in place. For example, this treatment was used for moving OVEC generation to its respective owners' location in PJM and MISO.

Each supplier's generating resources were adjusted to reflect long-term (one year or more) capacity purchases and sales where they could be identified from publicly available data.[6] The

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[3] The term "nodes" is used in CASm to denote a region or bubble where load, generation, or transmission assets are aggregated.

[4] Ventyx is a set of databases, analytical tools and forecasts that is widely used in the industry.

[5] *See, e.g., The Duke Energy Carolinas Integrated Resource Plan* (Annual Report), September 1, 2010, filed with the North Carolina Utilities Commission - Docket No. E-100, Sub 128; *Progress Energy Carolinas, Integrated Resource Plan*, September 13, 2010, filed with the North Carolina Utilities Commission - Docket No. E-100, Sub 128, and the Public Service Commission of South Carolina - Docket No. 2010 - 8 – E; *Annual Report of the North Carolina Utilities Commission;* November 30, 2010; and *Progress Energy Florida's 2010 Ten-Year Site Plan*, April 1, 2010, filed with the Florida Public Service Commission.

[6] Sources for such information include FERC Form 1 and EIA Forms 411 and 412, utility resource plans and NERC's Electricity Supply and Demand database (as compiled by Ventyx). Requirements contracts generally are

capacity representing firm purchases and sales, analogous to the treatment of jointly-owned units, was "moved" in the model from its actual physical location to the geographic location of the buyer. Generation ownership was adjusted to reflect the transfer of control by assuming that the sale resulted in a decrease in capacity for the seller and a corresponding increase in capacity for the buyer.[7] Consistent with guidance provided in Appendix A, it was assumed that system power sales were comprised of the lowest-cost supply for the seller unless a more representative price could be identified.[8] Public data on purchases and sales, however, are not entirely complete or consistent across sources. In any event, adjustments to generating capacity for long-term sales and purchases is primarily relevant for the Applicants. The generation database is intended to reflect 2012 conditions and I have included only a limited amount of new generation that is coming on-line by 2012.[9] DEO and DEK have proposed to withdraw their transmission assets from MISO and join PJM as of January 1, 2012.[10] To reflect this, approximately 5,200 MW of generation, primarily generation owned by DEO and DEK, was "moved" from MISO to PJM as part of their integration into PJM. About 5,000 MW of Duke Energy's load obligations was also moved to PJM.[11]

Because the delivered price test is intended to evaluate energy products, seasonal capacity was de-rated to approximate the actual availability of the units in each period. That is, it was

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treated as the equivalent of native load and potential supplier's Economic Capacity was not adjusted to reflect them.

7 Consistent with this assumption, non-utility generation ("NUGs") were assumed to be under the control of the purchasing utility. The Revised Filing Requirements direct applicants to consider whether operational control of a unit is transferred to the buyer. Such information generally is not readily available for non-applicants. Therefore, I treated long-term sales as being under the control of the purchaser

8 "[T]he lowest running cost units are used to serve native load and other firm contractual obligations" (Order No. 592 at 30,132). The lowest-cost supply that was available year-round (i.e., excluding hydro) was used. To the extent that long-term sales could be identified specifically as unit sales, the capacity of the specific generating unit was adjusted to reflect the sale, and the variable element of the purchase price attributed to the sale was the variable cost of the unit. The dispatch price for system purchases was based on the energy price reported for long-term purchases in FERC Form 1 (or similar forms, as reported in Ventyx) where such purchases could be identified and a variable cost price determined. In instances where the purchases could not be matched with FERC Form 1 data, the dispatch price was estimated.

9 As I discuss in my testimony, I evaluated a 2015 snapshot, reflecting generation additions/retirements expected by that date and expected load growth, but holding all other assumptions constant.

10 *See* http://www.pjm.com/markets-and-operations/market-integration/~/media/markets-ops/duke-integration/duke-request.ashx

11 *See* http://www.pjm.com/markets-and-operations/market-integration/~/media/planning/res-adeq/load-forecast/summer-2010-peaks-and-5cps.ashx. I assumed that Duke Energy was responsible for 85 percent of load in the Duke Zone.

assumed that generation capacity would be unavailable during some hours of the year for either (planned) maintenance or forced (unplanned) outages. Data reported in the NERC "Generating Availability Data System" ("GADS") was used to calculate the "average equivalent availability factor" to estimate total outages, and the "average equivalent forced outage rate" to estimate forced outages for fossil and nuclear plants.[12] Based on a review of historical planned outages (as reported in the FERC Form 714), scheduled maintenance was assumed to occur mostly in the shoulder season (80 percent), with remainder scheduled during the winter season. Forced outages were assumed to occur uniformly throughout the year.

Supply curves were developed for each potential supplier in the model, based on estimates of each unit's incremental costs. The incremental cost is calculated by multiplying the fuel cost for the unit by the unit's efficiency (heat rate) and adding any additional variable costs that may apply, such as costs for variable operations and maintenance ("VO&M") and costs for environmental controls.[13]

Data used to derive incremental cost estimates for each unit were taken from the following sources:

- Heat Rates – EIA Form 860, supplemented by data reported in Ventyx's database. (Note that the most recently available data from the Form 860 date back to 1995, so much of the heat rate data is based on information reported by Ventyx.)[14]

- Fuel Costs - Futures prices and Regional Projections. Regional dispatch costs for natural gas and oil units were derived from futures market data and spot price history (2012 data, retrieved in January 2011). For gas-fired units, I relied on 2012 NYMEX Henry Hub natural gas futures contract prices and applied

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[12] GADs reported data from 2005-2009 was used in most instances. In addition to thermal unit availability, hydro unit availability and generation are specified for each time period. For each of the time periods analyzed, hydro capacity factors have been assigned to each unit based on historical operation. Capacity factors for hydro units were based on five years of Form 923 monthly generation data, reported maximum capacities and, where necessary, assumptions regarding minimum capacity (assumed to be 15 percent of maximum if no data is available).

[13] For NUGs, the incremental costs were estimated on the basis of the energy price reported in relevant regulatory filings, if available. Otherwise, NUGs were assumed to be must-run and the variable costs set to zero. New merchant and utility capacity included in the analysis was priced assuming an average full-load heat rate of 10,000 Btu/kWh for combustion turbines and 7,000 Btu/kWh for combined cycle plants. These values were derived from an evaluation of existing technology. Variable O&M costs for new units were assumed to be the same as for existing units.

[14] For combined-cycle units, Ventyx provides information on the combined-cycle and peaking (*e.g.*, duct-firing) modes of operation and I have incorporated this information where available.

regional basis differentials. I used these data to estimate regional delivered commodity prices for all gas-fired units modeled. Basis differentials were estimated from a review of regional market center and Henry Hub prices from EIA. The NYMEX Henry Hub price, plus each region's basis differential equals my estimated regional price. For oil-fired units, I relied on the NYMEX futures contract for light sweet crude oil. I estimated delivered residual and distillate oil prices based on a multi-year analysis of delivered refined products versus spot crude oil prices. I used plant specific coal prices (from FERC Form 423 (January 2009 to October 2010) supplemented by Ventyx's Spot prices available data) as the basis for my coal unit dispatch cost and escalated to 2012 using information in EIA's 2009 Annual Energy Outlook (table 15). In instances where no forecast was available for a given unit, I used regional average price estimate as my default. In addition, I assumed that supercritical coal units had a maximum dispatch cost of $30/MWh.

- Variable O&M – $1/MWh for gas and oil steam units, $3/MWh for scrubbed coal-fired units and $2/MWh for other coal-fired units (generic estimates based on trade and industry sources). Additional Variable O&M adders for other unit types are shown in my workpapers. As noted, these Variable O&M costs are generic estimates by plant type and do not necessarily match actual individual unit O&M costs. Notably, Variable O&M accounts for a minor portion of the dispatch costs used in the analysis, and, importantly, the specific O&M assumption tends not to alter the merit order of the generic types of generation.

- Environmental Costs – All units covered by Phase II of the Clean Air Act Amendments of 1990 (CAAA) are assessed a variable dispatch adder to cover costs associated with SO2 emissions. This unit-specific cost is calculated using the SO2 content of fuel burned at the unit as reported in FERC Form 423 (adjusting for emissions reduction equipment at the facility) and an SO2 allowance cost of $30/ton.[15] In addition to SO2, the unit dispatch costs also reflect the impact of existing NOx trading programs in the Northeast (OTR). Unit-specific data on NOx rates (lbs/mmBtu) were taken from the EPA's "2000 Acid Rain Program Emission Scorecard."[16] The NOx allowance price for the OTR was assumed to be $680/ton.[17]

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[15] Consistent with my methodology for estimating coal prices, I used plant specific estimates of SO2 emissions as the basis for my coal unit dispatch cost. When there was no estimate for a given unit, I defaulted to a regional average SO_2 estimate. SO_2 costs are from Evolution Markets LLC.

[16] In cases where unit-specific data were not available, such as for new capacity, the following boiler level assumptions were applied, based on the unit's fuel type: Coal – 0.4; Oil – 0.2; Natural Gas – 0.1.

[17] NOx rates were derived from EPA's Acid Rain Program Emission Scorecard and NOx allowance price is from Evolution Markets LLC.

C. Transmission

The Commission's Appendix A analysis specifies that the transmission system be modeled on the basis of inter-balancing authority area transmission capability using transmission prices based on transmission providers' maximum non-firm OATT rates, except where lower rates can be documented. This dictates a transportation representation of the transmission network, and the structure of CASm was designed to conform to Appendix A. This representation remains appropriate for some regions in the United States (*i.e.*, those where transmission service is still generally provided under each transmission owner's OATT). Basing tariffs on OATT rates is increasingly modified by RTO transmission pricing arrangements, however, and the Commission has instructed applicants to account for them.[18] I incorporated the RTO arrangements in my modeling of transmission rates and limits and have also explicitly incorporated SILs into my modeling assumptions.

Balancing area-to-balancing area transmission capability was taken primarily from postings on the various transmission operators' Open Access Same-Time Information System ("OASIS"). OASIS reports Total Transfer Capability ("TTC"), firm Available Transfer Capability ("ATC") and non-firm ATC. Data generally are provided monthly for a twelve-month period starting with the next month. Given that I apply a SIL into each destination market, the overall amount of rival capacity into the destination market is limited by the SIL.

A summary of the posted OASIS data is provided in workpapers, which also show the assumed values for all of the transmission paths in the analysis. For the direct interconnections to DUK, CPLE and CPLW, I used the average of Applicants' Monthly TTC posting and decremented it for TRM.[19] I also adjusted the TTCs to reflect the schedules between balancing authority areas included in the analysis in each time period, as discussed below. Monthly ATC or TTC values were used in other regions of the Southeast in most instances. For other regions where transmission is no longer posted on a balancing area-to-balancing area basis, I have generally used values from older filings or used information from other sources, although I would note that the

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18. *See Revised Filing Requirements Under Part 33 of the Commission's Regulations*, Order No. 642, FERC Stats. & Regs. [Regs. Preambles July 1996-Dec. 2000] ¶ 31,111 at 31,890 (2000), *on reh'g*, Order No. 642-A, 94 FERC ¶ 61,289 (2001). ("Revised Filing Requirements" or "Order No. 642").

19 For the limits between DUK and the two CPL BAAs, I used postings from Progress Energy Carolinas' OASIS.

assumption on transmission capacity in the regions outside of the Carolinas has an insignificant non-material impact on the results of my analysis.

Consistent with Order No. 592, the ceiling rates in Schedule 8 (Non-Firm Point-to-Point Transmission Service) of each utility's Order No. 888 filings were used as the basis for transmission rates for utilities that are not part of RTO arrangements.[20] In many instances, utilities report both on-peak and off-peak ceiling rates in its Order No. 888 filing. If so, the applicable transmission rate for the on- and off-peak periods were used. If not, the filed ceiling rate was applied for all periods. Ancillary service charges from Schedules 1 (Scheduling, System Control and Dispatch Service) and 2 (Reactive Supply and Voltage Control from Generation Sources Service) of Order No. 888 filings were added where applicable to determine the final rates. For the RTOs, I have used information on their respective OASIS sites to calculate the applicable transmission rates.

Losses, which are assumed to be 2.8 percent, are assessed for each wheel incurred along the path to deliver power to the destination market but are not added for the final wheel into the destination market.

D. SILS

I relied on SIL data provided by Applicants. Applicants provided me with an analysis of the SIL into DUK, CPLE, CPLW and their first-tier markets (SC, SCEG, SOCO and TVA) for three seasonal snapshots: Summer, Winter and Spring. For each market, Applicants provided the First Contingency Incremental Transfer Capability ("FCITC") and the interchange schedules that they have modeled by season. The SIL from Applicants' study is the sum of the FCITC minus interchange (where interchange is defined as a negative value for imports). My analysis accounts for the agreements underlying the interchange by moving generation resources between balancing authority areas. Therefore, the remaining transmission capability into a market is the portion of the SIL that has not already been accounted for in my modeling. For example, one of the interchange schedules included in Applicants' SIL analysis is an 850 MW reservation from DUK to CPLE to

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[20] In instances where transmission data were not reported in dollars per MWh, the $/MW rates were converted to $/MWh rates using the "Appalachian" method. *Appalachian Power Co.*, 39 FERC ¶ 61,296 at 61,965 (1987). In some instances, I used rates posted on the transmission operators' OASIS offerings page, which may be lower than the ceiling rates provided in Schedule 8. In instances when data was not available, I assumed default transmission rates of $2/MWh and $1/MWh for peak and off-peak periods, respectively.

reflect Progress Energy Carolinas' long-term power purchase agreement with respect to the Broad River peaking facility located in DUK. In my analysis, I treat Broad River as a resource in CPLE during times when the peaking facility is economic to operate based on the assumptions in the DPT and, therefore, I have modeled the interchange capability related to the Broad River schedule and account for this by assuming 850 MW of the SIL is already used.[21] This accounting for how much of the interchange has already been modeled is done in each time period to determine the amount of SIL available for suppliers, including Applicants, outside of the market. A detailed accounting of the interchange modeled in each market by time period is provided in workpapers.

E. **Allocation of Limited Transmission**

Appendix A notes that there are various methods for allocating transmission, and that applicants should support the method used.[22] For purposes of this analysis, limited transmission capacity was allocated using a prorata "squeeze-down" method, so-named because it seeks to prorate capacity at each node and is the closest approximation to what the Commission applied in *FirstEnergy*[23] that is computationally feasible. Under this method, shares of available transmission are allocated at each interface, diluting the importance of distant capacity as it gets closer to the destination market. When there is economic supply (*i.e.*, having a delivered cost less than 105 percent of the destination market price) competing to get through a constrained transmission interface into a balancing authority area, the transmission capability is allocated to the suppliers in proportion to the amount of economic supply each supplier has outside the interface.

Shares on each transmission path are based on the shares of deliverable energy at the source node for the particular path being analyzed. The calculations start at the outside of a

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[21] The treatment of non-SIL transmission capabilities is symmetric. For example, when Broad River is economic, I decrement the non-SIL TTC rating from DUK to CPLE to reflect that a portion of the transfer capability along the path is used by PEC to import Broad River into the CPLE market.

[22] *See Inquiry Concerning the Commission's Merger Policy Under the Federal Power Act: Policy Statement*, Order No. 592, FERC Stats. & Regs.[Regs. Preambles 1996-2000] ¶ 31,044 at 30,133(1996) ("Merger Policy Statement" or "Order No. 592") ("In many cases, multiple suppliers could be subject to the same transmission path limitation to reach the same destination market and the sum of their economic generation capacity could exceed the transmission capability available to them. In these cases, the ATC must be allocated among the potential suppliers for analytic purposes. There are various methods for accomplishing this allocation. Applicants should support the method used."), *reconsideration denied*, Order No. 592-A, 79 FERC ¶ 61,321 (1997).

[23] *Ohio Edison Co.* at 61,106-07: "When there was more economic capacity (or available economic capacity) outside of a transmission interface than the unreserved capability would allow to be delivered into the destination market, the transmission capability was allocated to the suppliers in proportion to the amount of economic capacity each supplier had outside the interface."

network, defined with the destination market as its center, and end at the destination market itself. A series of decision rules are required to accomplish this proration. The purpose of these decision rules is limited to assigning a unique power flow direction to each link for any given destination market analysis. Once the links are given a direction, the complex network can be solved. CASm implements a series of rules to determine the direction of the path. The first rule (and the one expected to be applied most frequently) is based on the direction of the flow under an economic allocation of transmission capacity. Other options take into consideration the predominant flow on the line based on desired volume (the amount of economic capacity seeking to reach the destination market, the number of participants seeking to use a path in a particular direction, and the path direction that points toward the destination market). Directions can also be set manually.

The model proceeds to assign suppliers at each node a share equal to their maximum supply capability. At each node, "new" suppliers (those located at the node outside of the next interface) are given a share equal to their supply capability, and the shares of more distant suppliers (those who have had to pass through interfaces or SILs more remote from the destination market in order to reach the node) are scaled down to match the line capacity into the node. Ultimately, the shares at the destination market represent the prorated shares of Economic Capacity (or Available Economic Capacity) that is economically and physically feasible.[24] Additional details on how CASm allocates transmission is provided in Exhibit J-8.

F. Prices

As described in Exhibit J-1, information I reviewed to select the prices that I used in my analysis included (i) Applicants' system lambdas for 2009 and 2010, adjusted to reflect forecast fuel price differences for the 2012 modeled year; (ii) the price levels that would balance each Applicant's supply stack with their average load for the period; (iii) the capacity factors for each type of capacity that the Applicants own to determine which units, with what fuel and heat rate, typically sets prices in the time period; (iv) energy prices forecasted by Ventyx; and (v) EQR data. The underlying data for each of these items is provided in workpapers.

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[24] The allocation of imports in the model sometimes results in slight underutilization of the SILs. The effect can be slight changes in pre- to post-merger market size.

G. Load

Load values were generally based on information from FERC Form 714, which contains information on historical hourly load and forecasted peak and energy, IRPs and other planning documents. For loads on the Duke Energy Carolinas' and Progress Energy Carolinas' systems, I used information on peak load from the IRPs.[25] These loads, and others in the model, were then shaped based on the hourly load pattern for Duke Energy Carolinas in its FERC Form 714. In instances where reliable load estimates were unavailable, I conservatively assumed the entity had sufficient load such that they did not have any Available Economic Capacity.

For PJM, I have used the same basic assumptions that I developed for my recent analysis in connection with the FirstEnergy-Allegheny Energy merger,[26] but updated to reflect 2012 load levels and to incorporate the DEO and DEK load and resources becoming part of PJM.[27] Specifically, first I assumed that AEP and Virginia Power continue to have full load-serving responsibilities and use their lowest cost generation to meet load. Second, I assumed that New Jersey, Maryland and Delaware auctioned load will continue to be served by the parties that won recent auctions and, if they are generation owners, that they would serve load using their own generation. Based on a review of results available at the time of my analysis in June 2010, this means that approximately 70 percent of these loads are met by dedicated resources. As with the AEP and Virginia Power loads, I assume that these generation-owning parties serve the tranches they won with their lowest-cost generation. Third, , I assumed that in the Pennsylvania utilities' auctions, the major Pennsylvania utility shares are limited to 65 percent of their POLR loads and that they in fact achieve those shares and serve their loads from their lowest-cost local generation (as the Commissions' regulations mandate that I assume). Under this set of assumptions, about 70 percent of total PJM load is assumed to have generation committed to serving it in an Available

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[25] Duke Energy Carolinas' load was adjusted to be consistent with my modeling of the Catawba facility by excluding NCEMC's loads related to its ownership share in Catawba (which is included in Duke Energy Carolinas' IRP forecast). Load for PEC was split between CPLE and CPLW based on information from Applicants (about 10 percent of PEC's loads are in CPLW).

[26] *See Application of FirstEnergy Corp. and Allegheny Energy, Inc.*, Docket No. EC10-68-000, Testimony of William H. Hieronymus, June 21, 2010.

[27] As noted earlier, I assumed Duke Energy served 85 percent of load in the Duke Zone using its lowest cost generation located in PJM. For Duke Energy's resources remaining in MISO, I estimated its load obligation as the difference between Cinergy's load (as reported in its FERC Form 714) and Duke Energy's load obligations in PJM.

Economic Capacity sense, leaving only about 30 percent available to compete in the Southeast markets that are the focus of my analysis in connection with this transaction.

H. Sensitivity Analyses

I have conducted price sensitivity analyses in which market prices were either increased or decreased by 10 percent. These are "one-off" sensitivity analyses where I have relied on the same input data as contained in my base case analysis except for changing the assumed market price. The numerical results are provided in workpapers.

Increasing prices by 10 percent significantly increases Progress Energy Carolinas' Available Economic Capacity. The effect is to cause one additional screen failure in the CPLE BAA, in a shoulder period, and screen failures in the same two periods in the DUK BAA (assuming no rate depancaking) as the screen failures in the CPLE BAA. The same screen failures occur in the CPLE BAA when depancaking is taken into account. There are additional failures in the DUK BAA when transmission rate pancaking is eliminated. As described in Exhibit J-1, failures arising from depancaking cannot signal a market power problem. There are no failures in CPLW. These results, while somewhat more concerning than the base case results, still result in non-systematic occasional screen failures such as I discuss in my testimony.

Conversely, decreasing prices by 10 percent significantly reduces Applicants' and particularly Progress Energy Carolinas' Available Economic Capacity. There are no screen failures in any time period in any of the three BAAs, irrespective of whether rates are assumed to be depancaked or not.

These sensitivities are useful in illustrating the flatness of supply curves in the regions of the time period price levels and hence the extent to which results are price-sensitive. However, they are less useful than sensitivities in Economic Capacity analyses. For Available Economic Capacity, raising prices without changing anything else creates a mis-match between prices and load levels and hence artificially increases, or decreases, Available Economic Capacity by amounts that can significantly alter results.

I. Historical Sales Information

Historical sales information was based on information from Applicants' FERC Form 1 and their Electronic Quarterly Reports ("EQRs"). These data are summarized in Exhibit J-6, discussed in my testimony and details included in my workpapers.

COMPETITIVE ANALYSIS SCREENING MODEL (CASm)

Charles River Associates' Competitive Analysis Screening model ("CASm") is designed to perform the calculations required in order to conduct a market power analysis under Appendix A of the FERC Merger Policy Statement ("Order No. 592" or "Appendix A") and the Revised Filing Requirements.[1] The delivered price test specified in Appendix A requires an analysis of market concentration for a large number of markets under a number of different conditions. CASm facilitates this process by performing the required calculations.

The primary requirement of Appendix A is to assess potential suppliers to a market using a "delivered price test." This test involves comparing variable generation costs plus delivery costs (transmission rates, transmission losses and ancillary services) to a "market price." If the delivered cost of generation is less than 105 percent of the market price, the generation is considered economic. Economic generation is further limited to the amount that can be delivered into the market, given transmission capability and constraints.

CASm is a linear programming ("LP") model that implements the prescribed delivered price test by determining – for each destination market, for each relevant time period, and for each relevant supply measure – potential supply to the destination market both pre- and post-merger (or transaction). In effect, CASm determines the relevant geographic market by applying the delivered price test, based on the economics of production and delivery (transmission rates, transmission losses and ancillary services), and also based on the physical transmission capacity available to the competing suppliers on an open access basis. This requires a delivery route for the energy on the established transmission paths, each of which has a capability, transmission rate and transmission losses associated with it. CASm finds the supply that can be delivered to the destination market consistent with cost minimization and the delivered price test.

As a formal matter, CASm minimizes the production and transmission costs of supplying demand in the destination market. Any shortfall in demand is filled by a hypothetical generator located in the destination market that can produce an unlimited amount of energy at 105 percent of the market price. On this basis, any supplier who can profitably supply energy to the destination market will do so, to the maximum extent that their cost structure and the transmission system allow. This formulation ensures that no supplied generation is uneconomic; the hypothetical generator will undercut all such suppliers.

CASm determines pre- and post-merger market shares and calculates concentration (as measured by the Herfindahl-Hirschman Index, or HHI) and the change in HHIs.

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[1] CASm has been used in analyzing numerous mergers and power plant acquisitions as well as market-based rate authority proceedings before the Commission.

To undertake these analyses, CASm solves a series of scenarios involving a network of interconnected suppliers. By limiting suppliers based on the economics of generation and delivery, or by limiting the interconnections between those suppliers based on the transmission capability, each Appendix A analysis can be completed. CASm includes a simplified depiction of the transmission system, essentially a system of "pipes" with independent, fixed capacity between and among utilities.

The following sections describe:

- What data inputs are required to operate CASm
- How different analyses are undertaken in CASm
- What outputs CASm produces; and
- How CASm is implemented.

INPUT DATA

Market Participants

The largest element of the required data for CASm relates to individual market participants, which generally are utilities with both generating capacity and load obligations. In addition, some market participants may have load obligations but no generating capacity (*e.g.*, transmission dependent utilities, or TDUs) or have generating capacity but no load obligations (*e.g.*, merchant capacity). CASm regards all distinct market participants as having the ability to both supply and consume electricity. The particular circumstances of each analysis will determine the extent to which each activity is possible.

Nodes

In CASm, a node is a location where electricity is generated or consumed, or where it may "split" or change direction. All market participants are defined as having a unique node, and hence unique location in the transportation network. Total simultaneous import limits can be imposed at each node to mirror reliability restrictions.

Output Capability

Each market participant may have generating ability, which is defined generically in terms of any number of "tranches" of generation having both a quantity (MW) and dispatch cost ($/MWh). This output capability and cost may differ over time, for example because of planned and unplanned outage rates and fuel prices. CASm has a number of data inputs available for modifying the

underlying physical availability of generating assets to get the relevant "supply curve" for any given model period.

Destination Market Prices

For each destination market, a prevailing market price is defined. The destination market price is used to calculate a threshold price that potential suppliers must meet to be included in the market for the delivered price test.

Interconnections

Interconnections represent the network that links market participants together. These interconnections are represented as a "transportation" network, where flows are specifically directed.

Lines

A line between two nodes in CASm may represent either a single line, or the combined effect of a number of lines. Each line has an upper limit on the flow, and losses may occur on the line. Because capacity on the line may represent physical limits less firm commitments, limits are allowed to be different, depending on the direction of the flow. Limits on the simultaneous flow on combinations of lines can be imposed to simulate the effect of loopflow or reliability constraints. Limits can also be imposed on the total amount of supply into a Node.

Scenarios

The final input area for CASm is related to scenario definition. Scenarios define which parties are considering merging, which load periods are relevant, and so on. In effect, the scenarios define a number of individual analyses to be performed, and how they should be compared to each other for reporting purposes. CASm can solve scenarios either as separate LP programs or, in instances where there are no changes in the underlying data or network, CASm can solve a single scenario and then calculate the changes "virtually" using the underlying results of the initial scenario. When solving separate pre and post scenarios, CASm uses the same decisions in the post scenario as in the pre scenario, although there may be slight differences if the model can find two alternative solutions that meet the LP's requirements.

Accounting for Ownership

It is sometimes necessary to merge the results for several nodes, or to split them, based on ownership changes between scenarios. CASm has a "report as" function that will merge the results of several nodes into a single one to correctly account for ownership. Also, CASm may "impute"

all or part of any tranche in the supply curve of a node to any other node to account for shared ownership. This feature is used by CASm primarily for vertical market analysis.

REQUIRED CALCULATIONS

Appendix A's delivered price test defines two different supply measures to evaluate:

- **Economic Capacity** is the amount of capacity that can reach a market at a cost (including transmission rates, transmission losses and ancillary services) no more than 105 percent of the destination market price.

- **Available Economic Capacity** is the amount of Economic Capacity that is available after serving native load and other net firm commitments with the lowest cost units.

For every analysis, the following process is undertaken:

First, a Linear Programming (LP) problem is solved. The LP construction is slightly different, depending on the underlying assumptions of each of the supply measures. CASm includes two options for allocating scarce transmission capacity. CASm has a "proration" option, which is called "squeeze-down." This is discussed in detail below. Another option is an economic allocation of limited transfer capability. Under this option, where available supply exceeds the ability of the network to deliver that capacity to the destination market, the least-cost supply is allocated the available transmission capacity.

The final step involves calculating what can be delivered to the destination market, after accounting for line losses. CASm allocates total system losses amongst suppliers on the basis on how much they injected, and how far away (how many wheels) they are from the destination market.

Economic Capacity

For the Economic Capacity analysis, CASm solves an LP with the following form:

minimize cost for supplies at the destination market

subject to:

supply cost at destination < system lambda + 5%, for all suppliers

supply < quantity, for each node and tranche

supply + flows in = flows out + "demand", for each node

line flows are adjusted for losses, for all interconnections

line flows < available limit, for all interconnections (constrained network only)

sum over lines (flow * simultaneous factor) <= simultaneous limit, for all limits

sum over nodes (net injection * flowgate factor) <= flowgate limit, for all limits

The objective is slightly different when transmission capacity is to be prorated. The objective then becomes:

minimize cost for supplies at the destination market; and

minimize divergence from calculated pro rata "share," for each supplier

And, where ownership imputation is being used, the following constraints are added:

sum over economic tranches <= imputed share of economic tranches, for all owners at each imputed node

Available Economic Capacity

For the Available Economic Capacity analysis, CASm solves an LP with the following form:

minimize cost for supplies at the destination market

subject to:

supply cost at destination < system lambda + 5%, for all suppliers

supply < quantity (less native load), for each node and tranche

supply + flows in = flows out + "demand", for each node

line flows are adjusted for losses, for all interconnections

line flows < available limit, for all interconnections (constrained network only)

sum over lines (flow * simultaneous factor) <= simultaneous limit, for all limits

sum over nodes (net injection * flowgate factor) <= flowgate limit, for all limits

This is different from the economic capacity analysis only to the extent that potential suppliers are required to meet their load obligations prior to participating in the market.

When transmission capacity is to be prorated the objective becomes:

minimize cost for supplies at the destination market; and

minimize divergence from calculated pro rata "share," for each supplier

And, where ownership imputation is being used, the following constraints are added:

> sum over economic tranches <= imputed share of economic tranches, for all owners at each imputed node

OUTPUTS

The primary output from CASm is a report that summarizes the results of different analyses. For each destination market, load period and FERC analysis type, CASm reports the following for both pre- and post-merger:

- Supplied MW
- Market Share
- HHIs

This report also shows the change in HHIs post-merger compared to pre-merger.

CASm also produces a transmission report that shows the detail of each node, and the injections and flows between them. Finally, a summary of the results for each market is also produced.

"SQUEEZE-DOWN" PRORATION

In the "squeeze-down" proration algorithm, prorated shares on each line are based on the weighted shares of deliverable energy at the source node for that line. As discussed more fully below, weighted shares at the destination market node are calculated by a recursive algorithm that starts at the "outside" of the network then calculates shares on each line until it reaches the "middle." Specifically, where available supply exceeds the ability of the network to deliver that capacity to the destination market, suppliers are allocated shares at each node, and hence each outgoing line, based on the results of an algorithm that considers both supply and transfer capability at each node. Starting at the "outside" of the network, CASm calculates a share at each node that is based on a proportion of the incoming transfer capability (and the share of that capability allocated to each supplier), and the maximum economic supply available at that node. When the algorithm reaches the destination market, a total share of the incoming transfer capability has been determined.

This algorithm requires that all possible paths are simultaneously feasible, which, in turn, requires that each line be assigned a unique "direction." The steps of the proration algorithm include:

1. A C++ program enumerates all possible paths to the destination, the cost of transmission on each path and the maximum possible flow on the path. A "wheel limit," or maximum number of point-to-point links, may be imposed on paths.

2. The minimum "entry cost" for each supplier is calculated. This cost is the injection cost of the cheapest generator that has capacity for possible delivery to the destination.

3. Paths for which the entry cost plus the transmission cost are higher than 105% of the destination market price are rejected as being uneconomic.

4. To the extent remaining paths are not simultaneously feasible (because, for example, suppliers can seek to use the paths in both directions), a series of decision rules for determining the direction of the line are undertaken (in the following order):

    - Instructions can be manually input as to the chosen direction of a line.
    - Merger-case decisions should be consistent with base-case decisions.
    - The direction of the line as determined in an economic allocation of available transmission is applied.
    - The direction heading toward a destination market, if it is clear, is chosen.
    - The direction that retains the maximum potential volume-weighted flow on the line (calculated from the paths that depend on this line) is chosen.
    - The direction on which the maximum number of economic paths depend is chosen.

If these other options fail to reach a feasible solution, manual input will be required.

5. If there are simultaneous limits, they are checked for feasibility. All lines that have a worsening effect on a simultaneous constraint, given their defined flow direction, are checked against the simultaneous limit. If they would exceed the simultaneous limit if fully utilized, then their maximum capacity is prorated downwards in proportion to their respective limit participation factors. In this way, no set of targets will be produced that could not be delivered in a way that is feasible with the simultaneous limits.

6. Proration begins at nodes furthest from the destination market (where only exports, and no imports are being attempted). Suppliers at these nodes are assigned a "share" equal to their maximum economic supply capability.

7. Proration continues at the next set of nodes that should consist only of nodes with inflows from "resolved" nodes from step 5. Suppliers at these nodes are assigned a "share" equal to their

maximum economic supply capability. Suppliers from the "resolved" nodes have their shares scaled down to match the transmission capacity into the node.

8. To the extent an iteration of the algorithm does not resolve any additional nodes and the destination market has not yet been reached (i.e., a loop is detected), flow is disallowed from any unresolved node to the furthest and smallest node affected by a loop.

9. The proration has been completed when the destination market node has been resolved. At that point, the "shares" at the destination market represent the prorated shares of deliverable energy.

10. If ownership at a node is to be "imputed," or credited to another node, further proration targets are calculated. First, only those tranches that can deliver to the destination within 105% of the market price are considered. A factor representing the share each owner has of these economic tranches is calculated. For each owner, a constraint is calculated that limits the sum of injections attributed to that owner to be not more than that owner's "share" of the target calculated above. In this way, the proportion of ownership of economic capacity at a node is fairly reflected in the final solution outcome.

11. Injections for each supplier are "capped" at the calculated shares, and these injections are then checked for economic feasibility. While suppliers need not deliver their energy to the destination in exactly the way that their share was calculated, the solution is still both economically and physically feasible. The final solution represents the least-cost method of delivering these supplies.

CASM IMPLEMENTATION

CASm has been implemented using GAMS (Generalized Algebraic Modeling System). GAMS is a programming language which supports both data manipulation and calls to many mainstream mathematical modeling systems. The linear programming problems generated by CASm are solved by BDMLP or CPLEX. The path enumeration program has been written in Microsoft Visual C++ version 5.

Available Economic Capacity

First-Tier Markets

			Pre-Merger						Post-Merger				
			DUKE		PROGRESS				DUKE ENERGY				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
SC	S_SP1	$ 80	8	8.8%	-	0.0%	90	419	8	8.8%	90	415	(5)
SC	S_SP2	$ 55	3	3.6%	-	0.0%	90	420	4	4.6%	90	414	(6)
SC	S_P	$ 40	1	0.3%	-	0.0%	314	5,109	1	0.3%	314	5,109	(1)
SC	S_OP	$ 35	4	1.1%	-	0.0%	401	6,020	4	1.1%	401	6,019	-
SC	W_SP	$ 80	161	16.7%	-	0.0%	969	565	160	16.5%	969	556	(9)
SC	W_P	$ 40	5	0.3%	-	0.0%	1,578	1,686	5	0.3%	1,578	1,683	(2)
SC	W_OP	$ 35	12	1.1%	-	0.0%	1,038	451	12	1.1%	1,038	444	(8)
SC	SH_SP	$ 55	98	5.0%	-	0.0%	1,963	392	150	7.7%	1,963	398	6
SC	SH_P	$ 35	15	0.7%	-	0.0%	2,092	389	19	0.9%	2,092	378	(11)
SC	SH_OP	$ 33	20	1.0%	-	0.0%	1,963	399	27	1.4%	1,963	397	(1)
SCEG	S_SP1	$ 80	8	1.1%	-	0.0%	725	4,695	8	1.1%	725	4,695	-
SCEG	S_SP2	$ 55	3	0.4%	-	0.0%	787	4,537	3	0.4%	787	4,536	(1)
SCEG	S_P	$ 40	1	0.2%	-	0.0%	320	7,157	1	0.2%	320	7,158	1
SCEG	S_OP	$ 35	2	0.7%	-	0.0%	320	7,154	3	0.9%	320	7,153	-
SCEG	W_SP	$ 80	207	8.6%	-	0.0%	2,413	2,928	207	8.6%	2,413	2,928	-
SCEG	W_P	$ 40	2	0.1%	-	0.0%	1,369	1,167	2	0.1%	1,369	1,166	-
SCEG	W_OP	$ 35	10	1.4%	-	0.0%	750	439	11	1.4%	750	445	6
SCEG	SH_SP	$ 55	134	5.3%	-	0.0%	2,530	828	157	6.2%	2,530	837	9
SCEG	SH_P	$ 35	5	0.3%	-	0.0%	1,655	589	6	0.4%	1,645	556	(32)
SCEG	SH_OP	$ 33	8	0.5%	-	0.0%	1,592	393	10	0.6%	1,584	397	4
SOCO	S_SP1	$ 80	285	2.2%	-	0.0%	12,998	860	284	2.2%	12,998	856	(4)
SOCO	S_SP2	$ 55	185	1.4%	-	0.0%	13,041	790	178	1.4%	13,041	791	1
SOCO	S_P	$ 40	38	0.3%	-	0.0%	10,232	758	30	0.3%	10,232	756	(2)
SOCO	S_OP	$ 35	104	1.0%	-	0.0%	10,755	648	110	1.0%	10,664	648	5
SOCO	W_SP	$ 80	550	2.9%	-	0.0%	18,999	1,183	556	2.9%	18,999	1,181	(2)
SOCO	W_P	$ 40	23	0.2%	-	0.0%	11,597	668	20	0.2%	11,639	657	(6)
SOCO	W_OP	$ 35	49	0.8%	-	0.0%	6,522	324	66	1.0%	6,373	312	(12)
SOCO	SH_SP	$ 55	303	2.1%	-	0.0%	14,246	642	324	2.3%	14,347	629	(13)
SOCO	SH_P	$ 35	6	0.1%	-	0.0%	9,389	553	19	0.2%	9,252	558	5
SOCO	SH_OP	$ 33	7	0.1%	-	0.0%	7,432	384	26	0.4%	7,361	373	(11)

Available Economic Capacity

First-Tier Markets

			Pre-Merger						Post-Merger				
			DUKE		PROGRESS				DUKE ENERGY				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
TVA	S_SP1	$ 80	140	1.6%	-	0.0%	8,801	551	140	1.6%	8,801	546	(4)
TVA	S_SP2	$ 55	102	1.0%	-	0.0%	9,936	923	102	1.0%	9,936	920	(3)
TVA	S_P	$ 40	91	1.1%	-	0.0%	8,334	596	91	1.1%	8,334	595	-
TVA	S_OP	$ 35	79	0.9%	-	0.0%	8,625	1,032	79	0.9%	8,625	1,032	-
TVA	W_SP	$ 80	234	1.6%	-	0.0%	14,297	1,487	234	1.6%	14,297	1,487	-
TVA	W_P	$ 40	17	0.2%	-	0.0%	8,737	323	17	0.2%	8,733	324	1
TVA	W_OP	$ 35	28	0.4%	-	0.0%	7,834	310	27	0.4%	7,834	310	-
TVA	SH_SP	$ 55	177	1.6%	-	0.0%	10,883	514	177	1.6%	10,880	508	(6)
TVA	SH_P	$ 35	38	0.5%	-	0.0%	8,122	365	39	0.5%	8,119	369	4
TVA	SH_OP	$ 33	46	0.6%	-	0.0%	8,339	320	52	0.6%	8,337	322	2
PJM	S_SP1	$ 80	3,364	4.6%	1	0.0%	72,523	604	3,374	4.7%	72,525	604	-
PJM	S_SP2	$ 55	2,159	3.3%	-	0.0%	65,065	665	2,246	3.5%	64,980	665	-
PJM	S_P	$ 40	2,875	4.7%	-	0.0%	60,598	703	2,875	4.8%	60,596	703	-
PJM	S_OP	$ 35	1,571	3.0%	-	0.0%	52,680	903	1,571	3.0%	52,680	903	-
PJM	W_SP	$ 80	4,304	5.6%	-	0.0%	76,562	584	4,264	5.6%	76,557	584	(1)
PJM	W_P	$ 40	295	0.7%	-	0.0%	44,169	816	295	0.7%	44,169	816	-
PJM	W_OP	$ 35	716	1.6%	-	0.0%	43,880	890	716	1.6%	43,880	890	-
PJM	SH_SP	$ 55	2,069	3.6%	-	0.0%	57,993	683	2,246	3.9%	57,951	683	(1)
PJM	SH_P	$ 35	461	1.2%	-	0.0%	37,235	917	461	1.2%	37,233	917	-
PJM	SH_OP	$ 33	950	2.3%	-	0.0%	42,271	883	950	2.3%	42,271	883	-

Exhibit [illegible].0

Economic Capacity
Carolinas Markets

			Pre-Merger						Post-Merger				
			DUKE		PROGRESS				DUKE ENERGY				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
DUK	S_SP1	$ 80	18,301	75.4%	804	3.3%	24,268	5,756	19,109	78.7%	24,268	6,259	502
DUK	S_SP2	$ 55	16,594	73.0%	852	3.8%	22,744	5,404	17,478	76.9%	22,744	5,973	569
DUK	S_P	$ 40	13,433	75.8%	604	3.4%	17,733	5,801	14,039	79.2%	17,733	6,319	519
DUK	S_OP	$ 35	10,431	70.5%	672	4.5%	14,793	5,061	11,149	75.4%	14,793	5,748	687
DUK	W_SP	$ 80	17,529	71.7%	1,036	4.2%	24,442	5,226	18,573	76.0%	24,442	5,839	613
DUK	W_P	$ 40	12,016	70.8%	750	4.4%	16,983	5,083	12,809	75.4%	16,983	5,746	664
DUK	W_OP	$ 35	8,681	65.9%	766	5.8%	13,165	4,449	9,461	71.9%	13,165	5,232	783
DUK	SH_SP	$ 55	14,073	70.9%	800	4.0%	19,851	5,114	14,873	74.9%	19,851	5,687	573
DUK	SH_P	$ 35	8,372	69.4%	478	4.0%	12,066	4,903	8,936	74.1%	12,066	5,557	654
DUK	SH_OP	$ 33	7,863	68.9%	486	4.3%	11,407	4,835	8,392	73.6%	11,407	5,477	642
CPLE	S_SP1	$ 80	404	2.6%	12,007	78.3%	15,337	6,191	12,420	81.0%	15,337	6,613	422
CPLE	S_SP2	$ 55	397	2.7%	11,392	77.3%	14,737	6,043	11,790	80.0%	14,737	6,460	417
CPLE	S_P	$ 40	685	5.6%	8,629	70.1%	12,305	4,987	9,371	76.2%	12,305	5,838	851
CPLE	S_OP	$ 35	632	5.3%	8,555	71.5%	11,968	5,171	9,202	76.9%	11,968	5,945	773
CPLE	W_SP	$ 80	869	5.4%	10,431	64.5%	16,166	4,268	11,316	70.0%	16,166	4,975	707
CPLE	W_P	$ 40	1,051	7.7%	8,140	59.4%	13,697	3,653	9,300	67.9%	13,697	4,670	1,017
CPLE	W_OP	$ 35	1,082	8.7%	7,015	56.1%	12,511	3,292	8,131	65.0%	12,511	4,296	1,003
CPLE	SH_SP	$ 55	617	4.4%	9,710	68.7%	14,132	4,825	10,333	73.1%	14,132	5,432	607
CPLE	SH_P	$ 35	1,048	8.8%	7,346	61.6%	11,926	3,912	8,436	70.7%	11,926	5,042	1,130
CPLE	SH_OP	$ 33	979	9.1%	6,090	56.3%	10,821	3,315	7,091	65.5%	10,821	4,359	1,044
CPLW	S_SP1	$ 80	228	15.0%	779	51.4%	1,516	2,936	1,007	66.4%	1,516	4,480	1,545
CPLW	S_SP2	$ 55	225	14.8%	792	52.2%	1,516	3,013	1,008	66.5%	1,516	4,487	1,474
CPLW	S_P	$ 40	182	15.0%	493	40.7%	1,211	1,994	679	56.1%	1,211	3,251	1,257
CPLW	S_OP	$ 35	183	15.1%	506	41.8%	1,210	2,071	690	57.1%	1,210	3,347	1,276
CPLW	W_SP	$ 80	129	11.7%	551	49.9%	1,106	2,717	680	61.5%	1,106	3,878	1,161
CPLW	W_P	$ 40	145	11.6%	591	47.4%	1,246	2,477	740	59.4%	1,246	3,620	1,143
CPLW	W_OP	$ 35	160	13.8%	455	39.3%	1,158	1,843	617	53.3%	1,158	2,951	1,108
CPLW	SH_SP	$ 55	192	15.0%	673	52.8%	1,276	3,068	856	67.1%	1,276	4,559	1,491
CPLW	SH_P	$ 35	159	15.9%	392	39.0%	1,005	1,865	558	55.6%	1,005	3,173	1,308
CPLW	SH_OP	$ 33	163	16.2%	393	39.1%	1,005	1,883	567	56.5%	1,005	3,272	1,389

			Pre-Merger						Post-Merger				
			DUKE		PROGRESS				DUKE ENERGY				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
TVA	S_SP1	$ 80	324	0.8%	172	0.4%	42,562	6,865	497	1.2%	42,562	6,866	1
TVA	S_SP2	$ 55	319	0.9%	178	0.5%	37,714	6,506	498	1.3%	37,713	6,507	1
TVA	S_P	$ 40	338	1.1%	100	0.3%	32,014	6,154	435	1.4%	32,011	6,155	2
TVA	S_OP	$ 35	268	1.0%	113	0.4%	27,715	6,048	385	1.4%	27,712	6,050	2
TVA	W_SP	$ 80	434	1.0%	162	0.4%	43,517	6,303	598	1.4%	43,517	6,304	1
TVA	W_P	$ 40	357	1.1%	124	0.4%	32,297	5,405	479	1.5%	32,297	5,406	1
TVA	W_OP	$ 35	346	1.3%	128	0.5%	25,839	4,885	485	1.9%	25,839	4,886	1
TVA	SH_SP	$ 55	382	1.1%	137	0.4%	35,558	5,528	534	1.5%	35,558	5,529	1
TVA	SH_P	$ 35	371	1.4%	124	0.5%	26,441	4,664	504	1.9%	26,441	4,665	2
TVA	SH_OP	$ 33	391	1.7%	128	0.5%	23,503	4,148	534	2.3%	23,503	4,149	1
PJM	S_SP1	$ 80	8,706	5.7%	650	0.4%	154,103	740	9,355	6.1%	154,103	744	5
PJM	S_SP2	$ 55	7,082	5.2%	590	0.4%	135,828	819	7,671	5.7%	135,828	824	5
PJM	S_P	$ 40	7,053	5.9%	564	0.5%	118,989	810	7,616	6.4%	119,011	815	5
PJM	S_OP	$ 35	4,805	4.9%	529	0.5%	98,034	955	5,332	5.4%	98,034	960	5
PJM	W_SP	$ 80	8,593	5.8%	734	0.5%	147,738	717	9,326	6.3%	147,738	722	6
PJM	W_P	$ 40	4,604	4.5%	647	0.6%	103,246	858	5,250	5.1%	103,289	863	5
PJM	W_OP	$ 35	4,606	4.9%	632	0.7%	94,020	908	5,236	5.6%	94,020	915	7
PJM	SH_SP	$ 55	6,084	5.2%	537	0.5%	116,883	825	6,620	5.7%	116,883	829	5
PJM	SH_P	$ 35	4,207	4.9%	483	0.6%	85,670	915	4,687	5.5%	85,682	920	5
PJM	SH_OP	$ 33	4,207	5.1%	460	0.6%	82,589	938	4,667	5.7%	82,608	944	5