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June 18, 2012

***VIA HAND-DELIVERY***

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

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COMMISSION

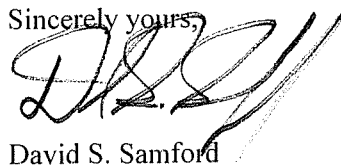
Re: In the Matter of: The Joint Application of Duke Energy Corporation, Cinergy Corp., Duke Energy Ohio, Inc., Duke Energy Kentucky, Inc., Diamond Acquisition Corporation, and Progress Energy, Inc., for Approval of the Indirect Transfer of Control of Duke Energy Kentucky, Inc. PSC Case No. 2011-00124

Dear Mr. Derouen:

Please find enclosed for filing with the Commission in the above-referenced case an original and ten (10) copies of the Joint Applicants' Tenth Status Report. The Report is being tendered in conformity with the Commission's August 2, 2011 Order. Please return a file stamped copy of the Report to my office.

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

Sincerely yours,



David S. Samford

Enclosures

cc: Jennifer Hans (w/enclosure)  
Dennis G. Howard, II (w/enclosure)  
Lawrence W. Cook (w/enclosure)

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COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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IN THE MATTER OF:

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

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JOINT APPLICANTS'  
TENTH STATUS REPORT

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Come now Duke Energy Corporation (“Duke”), Cinergy Corp. (“Cinergy”), Duke Energy Ohio, Inc. (“Duke Ohio”), Duke Energy Kentucky, Inc. (“Duke Kentucky”), Diamond Acquisition Corporation (“Diamond”) and Progress Energy, Inc. (“Progress”) (collectively, the “Joint Applicants”), and pursuant to Paragraph 4 of the Commission’s August 2, 2011, Order in the above-captioned case tender this report regarding the status of the merger transaction.

The Joint Applicants are committed to proceeding with the merger. To date, the Joint Applicants have completed the following in connection with the merger closing process:

- Shareholder approvals were given on August 23, 2011.
- The requisite waiting period for Duke and Progress (collectively, the “Companies”) under their initial Hart-Scott Rodino Act (“HSR”) filing expired; however, the period for closing consistent with the initial HSR filing was set to expire April 26, 2012. Because the merger was not expected to close prior to that

date, the Companies filed new HSR filings on March 22, 2012. The waiting period for that filing has also expired.

- The Federal Communications Commission (“FCC”) granted approval of the assignment of certain licenses from Progress to Duke on July 27, 2011. On January 5, 2012, the FCC extended the approval through July 12, 2012.
- The Commission granted its approval of the indirect transfer of control of Duke Kentucky on October 28, 2011.
- The Nuclear Regulatory Commission granted approval of the indirect transfer of Progress’s licenses on December 2, 2011.
- The Companies have applied for approval of the merger by the North Carolina Utilities Commission (“NCUC”). Hearings on the North Carolina application were held on September 20-22, 2011. The Companies and NCUC Public Staff entered into a supplemental settlement agreement, which was filed on May 8, 2012. The supplemental agreement resolves the retail ratemaking issues raised by the Federal Energy Regulatory Commission (“FERC”) mitigation plan. It also modifies and clarifies an earlier settlement agreement filed with the NCUC in September 2011. On June 11, 2012, the NCUC issued an Order Establishing a Procedural Schedule directing the Companies and NC Public Staff to file comments or testimony by June 13, 2012 regarding the impact of the FERC Orders issued on June 8, 2012 (“FERC Orders”) on the NCUC merger proceeding and the supplemental settlement agreement. The NCUC order also directs intervenors to file comments or testimony by June 18, 2012 regarding the impact of the FERC orders on the NCUC merger proceeding, the supplemental settlement

agreement and the comments or testimony filed by the Companies and the Public Staff. The Companies and Public Staff will until June 19, 2012 to file reply comments or rebuttal testimony in response to the intervenors' filings. On June 12, 2012, the Companies filed with the NCUC a motion for waiver of advanced notice to file a revised JDA with the FERC. On June 13, 2012, the Companies filed verified testimony and the North Carolina Public Staff filed comments describing the impact of the FERC Orders on the NCUC merger proceeding and the supplemental settlement agreement.

- The Companies have applied for approval of the Joint Dispatch Agreement (“JDA”) by the South Carolina Public Service Commission (“SCPSC”). The hearing on the South Carolina application was held on December 12, 2011. On June 4, 2012, the Companies filed verified testimony with the SCPSC regarding developments in the case since the December 12, 2011 hearing. On June 13, 2012, the Companies filed additional verified testimony describing the orders issued by the FERC on June 8, 2012 in connection with the JDA and the merger and providing the SCPSC with an amended JDA. . Also on June 13, 2012, the SCPSC issued a directive providing that intervenors may file responses to the Companies’ verified testimony by June 15, 2012, that no additional hearings are required in the case, and requiring that proposed orders, updated to address the developments in the case since initial proposed orders were filed in December 2011, be filed by June 22, 2012.

The FERC granted conditional approval of the merger on September 30, 2011, provided that the Companies propose an adequate mitigation plan to address market power concerns in the

Carolinas associated with the merger. The FERC directed the Companies to file a market power mitigation plan to address its market power concerns. In mid-October, the Companies filed a market power mitigation plan proposing a concept called “virtual divestiture.” This concept consisted of an offer to sell power during peak times of the year at an incremental cost, plus ten percent. On October 31, 2011, the Companies also filed for a rehearing of the merger application, requesting that the FERC revise its analysis to be consistent with the FERC’s previous application of its rules and orders. In addition, the Companies had asked the FERC to address the mitigation plan by no later than December 15, 2011. Also in connection with the merger, the Companies had applied for approval of the JDA and a Joint Open Access Transmission Tariff (“JOATT”).

On December 14, 2011, the FERC issued an Order rejecting the market mitigation plan submitted by the Companies. FERC’s Order did not reject the merger - the transaction remains conditionally authorized pending satisfaction of FERC’s market power concerns. The FERC did not take action on the proposed JDA or the JOATT due to its rejection of the mitigation plan, and directed the Companies to resubmit the JDA and JOATT. Due to the FERC’s action, the Companies were not able to meet the previously targeted closing date of January 1, 2012.

On January 13, 2012, the Companies filed with the FERC a request for rehearing on the FERC’s December 14, 2011 Order. On February 13, 2012, the FERC issued its Order Granting Rehearing for Further Consideration. This Order allows the FERC additional time to consider the Companies’ rehearing request which would have otherwise been denied by operation of law.

On February 22, 2012, the Companies filed advance notice of the revised mitigation plan with the NCUC and SCPSC. The Companies filed the plan with the FERC on March 26, 2012,



[http://elibrary.ferc.gov/idmws/file\\_list.asp?accession\\_num=20120326-5024](http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20120326-5024)

[http://elibrary.ferc.gov/idmws/file\\_list.asp?accession\\_num=20120326-5025](http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20120326-5025)

- o 1 DEC power sales agreements Docket ER12-1342:

[http://elibrary.ferc.gov/idmws/file\\_list.asp?accession\\_num=20120326-5028](http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20120326-5028)

- o Joint OATT Docket ER12-1343:

[http://elibrary.ferc.gov/idmws/file\\_list.asp?accession\\_num=20120326-5034](http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20120326-5034)

On June 8, 2012, the FERC issued a conditional order approving the merger transaction. The companies have substantially completed their evaluation of the order's conditions and expect to make a compliance filing with the FERC. They will also work to secure final merger-related approvals from the NCUC and SCPSC as quickly as possible. The companies are continuing to target a July 1 closing date.

As part of the Stipulation and Settlement Agreement approved by the Commission in the above-captioned proceeding ("Settlement"), the Joint Applicants agreed, among other things, to support low income weatherization efforts in Duke Energy Kentucky's service territory through five annual contributions of \$115,000 to be made on or before March 31 of each year. Although the merger did not close by March 31, 2012, as a good faith gesture in anticipation of completing the merger in 2012, Duke Energy Kentucky made the first low income weatherization contribution as set forth in the Settlement. Although performance was not tied to a specific date, Duke Energy Kentucky has also made the \$50,000 economic development contribution for 2012.

The Companies have announced July 1, 2012 as a targeted closing date for planning purposes and will communicate any changes in the targeted closing date in the future. Closing remains dependent upon the regulatory approval process.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing was mailed, first class postage prepaid, this 18<sup>th</sup> day of June, 2012 to the following parties of record:

Hon. Jennifer B. Hans  
Hon. Dennis G. Howard, II  
Hon. Lawrence Cook  
Utility and Rate Intervention Division  
P. O. Box 2000  
Frankfort, Kentucky 40602-2000



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*Counsel for the Joint Applicants*