

BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
COLUMBIA, SOUTH CAROLINA

HEARING #11-11171

JANUARY 20, 2011

2:36 P.M.

ALLOWABLE EX PARTE BRIEFING

REQUESTED BY PROGRESS ENERGY CAROLINAS, INC., AND DUKE ENERGY CAROLINAS, LLC, - Merger of Progress Energy, Inc., and Duke Energy Corporation

**TRANSCRIPT OF
PROCEEDINGS**

COMMISSIONERS PRESENT: John E. 'Butch' HOWARD, *CHAIRMAN*, David A. WRIGHT, *VICE CHAIRMAN*; and COMMISSIONERS Elizabeth B. 'Lib' FLEMING, G. O'Neal HAMILTON, Randy MITCHELL, Swain E. WHITFIELD, and Nikiya 'Nikki' HALL

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APPEARANCES:

LEN ANTHONY, ESQUIRE, along with *LLOYD YATES, Chairman/President/CEO*, representing **PROGRESS ENERGY CAROLINAS, INC.**

CATHERINE HEIGEL, ESQUIRE, and President, Duke Energy South Carolina, representing **DUKE ENERGY CAROLINAS, LLC**

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P R O C E E D I N G S

1
2 **CHAIRMAN HOWARD:** Please be seated. Good
3 crowd for a Thursday afternoon. This ex parte
4 hearing is now called to order and I'll ask for
5 Attorney Melchers to read the docket.

6 **MR. MELCHERS:** Thank you, Mr. Chairman,
7 Commissioners. This is a notice of a request for
8 an allowable ex parte briefing, which was filed by
9 Progress Energy Carolinas, Inc., and Duke Energy
10 Carolinas, LLC, and it was to commence this
11 afternoon, January 20, 2011, at 2:30, and the
12 subject matter to be discussed at the briefing is
13 the merger of Progress Energy, Inc., and Duke
14 Energy Corporation. Thank you, Mr. Chairman.

15 **CHAIRMAN HOWARD:** As I understand, Ms. Heigel,
16 you're going first?

17 **MS. HEIGEL [DUKE]:** Well, I believe Mr.
18 Anthony has some --

19 **CHAIRMAN HOWARD:** All right.

20 **MS. HEIGEL [DUKE]:** -- opening comments.

21 **CHAIRMAN HOWARD:** Mr. Anthony, welcome.

22 **MR. ANTHONY:** Thank you, Chairman Howard,
23 members of the Commission. I've always wanted to
24 do this. I think this meeting should begin with:
25 Dearly beloved, we are gathered here today --

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[Laughter]

-- to announce the marriage, the wedding, the combination of two fabulous entities that you all know and love.

What we have here are two presidents of the companies that are involved in the merger transaction, here to present to you the fundamentals of the transaction, and by that, we're going to cover the transaction itself -- that is, legally, what is occurring -- then we'll talk about the regulatory approvals that are required, then we'll discuss the benefits that will inure to the customers of both utilities, and then close with a discussion of the structure that we hope to produce at the end of the merger transaction.

So with that, we'll turn it over to -- Ms. Heigel, I believe, is going to do the first two sections. For the audience, I have additional hard copies of the presentation. If you'd like them, I'll just put them on the back --

[Reference: PowerPoint Slide 1]

MS. HEIGEL [DUKE]: Good morning, Chairman Howard, Vice Chairman Wright, and members of the Commission. It's a pleasure to be here today. As Mr. Anthony said, this is a pretty big deal, and we

1 are, both companies, very excited about it.

2 [Reference: PowerPoint Slides 2-4]

3 We'll get through the legalese portion with
4 all the safe harbor statements, basically asking
5 those here today and members of the Commission not
6 to rely on this information for purposes of making
7 investments.

8 [Reference: PowerPoint Slides 5-6]

9 So when we talk about a big deal, this
10 combination will create the largest public utility
11 in the country: Number one in market cap, at
12 \$36-1/2 billion, number one in total customers at
13 over 7 million customers, and number one in terms
14 of generation that is owned and controlled by the
15 utility, including number one in regulated nuclear
16 operations.

17 So why do this? Scale. Synergies. And
18 savings, ultimately, to customers. There's a
19 modest premium that's being paid by Duke Energy to
20 Progress Energy for this combination, and we
21 believe the combination better enables the combined
22 entity to meet the challenges of the future.

23 Duke Energy Carolinas -- or Duke Energy
24 Corporation, rather, which is the holding company
25 and owns Duke Energy Carolinas as well as several

1 other utility operating companies, will acquire
2 Progress Energy, Inc. Progress Energy, Inc., is
3 also a holding company and currently owns Progress
4 Energy Carolinas, Inc., and Progress Energy
5 Florida, Inc.

6 The legal entities which are both the
7 jurisdictional utilities over which you have
8 authority and oversight -- Progress Energy
9 Carolinas, Inc., and Duke Energy Carolinas, LLC --
10 will continue to operate as separate regulated
11 utilities for the foreseeable future.

12 On the next slide --

13 [Reference: PowerPoint Slide 7]

14 -- you'll see a diagram of what I've just kind
15 of verbalized, with the Duke Energy holding company
16 at the top acquiring the Progress Energy holding
17 company which is shaded there. This is not unlike
18 or dissimilar from the acquisition of the Cinergy
19 holding company which occurred, back in 2006.

20 [Reference: PowerPoint Slide 8]

21 The management team was also announced as part
22 of the merger announcement, and I'm sure that many
23 of you have read about this. Mr. Rogers, who is
24 the current chairman, chief executive officer, and
25 president of Duke Energy Corporation, will remain

1 as executive chairman; and Bill Johnson, who is
2 currently chairman, president, and CEO of Progress
3 Energy Corporation, will assume the role of
4 president and CEO of the combined company.

5 We have a number of officers there that you
6 see listed, which make up a combination of the
7 leadership teams of both Duke Energy and Progress
8 Energy.

9 [Reference: PowerPoint Slides 9-10]

10 So regulatory approvals: We have a number of
11 regulatory approvals that we have to clear before
12 this merger can consummate, both Federal and state
13 approvals, and we anticipate that that process will
14 take about a year. We are hopeful to be able to
15 complete this transaction by the end of the year.

16 The Federal Energy Regulatory Commission, or
17 FERC, must approve the transaction. They have
18 jurisdiction over transfers involving entities that
19 own FERC-jurisdictional assets, transmission
20 facilities, and they will also do what's called a
21 market power analysis.

22 The establishment of a single Open Access
23 Transmission Tariff, or OATT, is contemplated for
24 both Progress Energy Carolinas' and Duke Energy
25 Carolinas' control areas. Currently, we each have

1 our own OATTs, and that, we hope, will merge to
2 one.

3 And finally, FERC will need to approve a joint
4 dispatch and operating agreement. And I'll talk --
5 we'll talk a little bit more about that through the
6 presentation.

7 Another Federal approval we need is from the
8 Department of Justice. That is what's called a
9 Hart-Scott-Rodino filing, and that is our antitrust
10 review. Not, in many ways, dissimilar from some of
11 the review that FERC will be undertaking.

12 The NRC will also need to review a number of
13 license transfers, indirect control transfers, that
14 will need to be filed on behalf of Progress Energy
15 Carolinas and the Progress Energy Florida
16 Enterprise. We believe that those filings will be
17 routine. Notwithstanding being routine for the
18 NRC, the process still is expected to take at least
19 six to nine months.

20 There are other Federal approvals, notably the
21 FCC. Progress Energy owns a number of -- or, has a
22 number of licenses for stations, I guess is the
23 best way to put it, frequencies, radio frequencies,
24 about 100 of those. So your former colleague,
25 Commissioner Clyburn, will get a chance to opine on

1 the approval of the indirect control transfer of
2 those licenses.

3 [Reference: PowerPoint Slide 11]

4 North Carolina and other states: North
5 Carolina will be requested -- the North Carolina
6 Utilities Commission -- to approve this merger.
7 The law in North Carolina is different than many of
8 the other states in which we operate, and it has a
9 very broad definition of what constitutes a public
10 utility, and also what constitutes affecting a
11 public utility. And so, as a result, we will be
12 seeking approval from the North Carolina Utilities
13 Commission. In other states, at this time, we are
14 still evaluating what approvals may or may not be
15 necessary. We know that Ohio, Florida, and Indiana
16 do not need to approve this merger.

17 [Reference: PowerPoint Slide 12]

18 South Carolina law is like many other states'
19 laws as it relates to the sale, disposition, of
20 utility property. As I've said before, Ohio,
21 Indiana -- we've looked at other states --
22 Tennessee, Alabama, et cetera, have laws very
23 similar to South Carolina. And the South Carolina
24 statute -- I'm not going to read it, but it's on
25 the slide for you -- because the transaction that

1 is occurring here, as I previously outlined, is at
2 the holding-company level and not at the regulated-
3 utility, operating-company level, we believe that
4 South Carolina law that requires Commission
5 approval is not triggered by this transaction.

6 [Reference: PowerPoint Slide 13]

7 Having said that, we believe that certain of
8 the combined operations that the utilities will
9 seek to do as a result of the merger are properly
10 things that should come before this Commission for
11 approval, and in particular, as I mentioned before,
12 the joint dispatch and operation of both companies'
13 generating assets.

14 After the merger, Progress Energy Carolinas /
15 Duke Energy Carolinas will continue to own the same
16 facilities, service, and customers and charge the
17 same rates as before the merger. The transaction
18 that's proposed here is not unlike the
19 BellSouth/AT&T merger in 2006 in that regard.

20 The only change requiring this Commission's
21 approval is the transfer of control of the dispatch
22 function of Progress Energy Carolinas to Duke
23 Energy Carolinas.

24 [Reference: PowerPoint Slide 14]

25 So with that, I'm going to slide the clicker.

1 Are there any questions? I meant to invite
2 questions as we went along.

3 **CHAIRMAN HOWARD:** Commissioners, any
4 questions?

5 [No response]

6 **CHAIRMAN HOWARD:** Attorney Melchers has some,
7 I believe.

8 **MR. MELCHERS:** Ms. Heigel, thinking about the
9 slides that we looked at most recently, in regard
10 to material on pages 12 and 13, how exactly are you
11 proposing that the regulatory approvals that this
12 Commission, in the proposed merger, would have
13 responsibility for approving -- how would those be
14 presented to this Commission?

15 **MS. HEIGEL [DUKE]:** It is our plan to have
16 Progress Energy Carolinas file before this
17 Commission an application for approval to transfer
18 its dispatch function to the control of Duke Energy
19 Carolinas.

20 **MR. MELCHERS:** And how do the two entities see
21 that as different from an approval of a merger?

22 **MS. HEIGEL [DUKE]:** The approval of the merger
23 is a legal -- let me go back, because it's easier
24 for me if I go back to the -- this slide.

25 [Reference: PowerPoint Slide 7]

1 So approval of the merger is approval of Duke
2 Energy HoldCo acquiring Progress Energy HoldCo, and
3 neither -- that transaction does not affect, per
4 the statute -- does not involve the selling,
5 assigning, transfer, lease, consolidation, or
6 merger of utility property, as "utility property"
7 is defined in Section 58-27-10.

8 So the merger, in and of itself, does not
9 trigger the South Carolina statute. The companies'
10 plan to jointly dispatch and operate all of the
11 generating assets of both jurisdictional utilities,
12 because of the savings that Mr. Yates will talk
13 about here momentarily that we see as being
14 beneficial to customers, because of that plan, we
15 believe that this section, 58-27-1300 is triggered
16 for that specific purpose of transferring that
17 power, that function.

18 **MR. MELCHERS:** The change of control of
19 Progress Energy's generation --

20 **MS. HEIGEL [DUKE]:** Dispatch.

21 **MR. MELCHERS:** -- assets. Assets or --

22 **MS. HEIGEL [DUKE]:** They are not -- we are not
23 transferring the assets. The legal, regulatory
24 construct as it relates to the ownership of the
25 assets remains unchanged. It is, rather, control

1 of the dispatch of those assets --

2 **MR. MELCHERS:** Okay.

3 **MS. HEIGEL [DUKE]:** -- as opposed to the legal
4 ownership.

5 **MR. MELCHERS:** Now, Duke Energy and Progress
6 Energy made a presentation to the North Carolina
7 Commission on January 10th, right?

8 **MS. HEIGEL [DUKE]:** That's correct.

9 **MR. YATES [PROGRESS]:** That's correct.

10 **MR. MELCHERS:** And in that transcript, didn't
11 Progress Energy represent to the North Carolina
12 Utilities Commission, as well as in its recent
13 presentation to shareholders, that the merger was
14 subject to approval of the South Carolina Public
15 Service Commission?

16 **MS. HEIGEL [DUKE]:** I'll defer to Mr. Yates,
17 as I was not at that meeting.

18 **MR. YATES [PROGRESS]:** I believe, initially,
19 when we --

20 **CHAIRMAN HOWARD:** Mr. Anthony, I see you
21 standing.

22 **MR. ANTHONY:** Yeah, thank you. I'm sorry, Mr.
23 Yates. That language was carefully selected to say
24 we would be seeking regulatory approval from the
25 South Carolina Public Service Commission, not

1 necessarily of the merger transaction itself, but
2 we would be seeking the approval that was just
3 described by Ms. Heigel. I don't have the
4 transcript in front of me, but that was what should
5 have been said, if it was not, but that we would be
6 seeking the appropriate South Carolina approvals,
7 which is exactly what we're discussing here, the
8 transfer of the control of the generation assets.

9 **MR. MELCHERS:** So are you saying that it was
10 characterized or limited in its presentation to the
11 North Carolina Commission in the same way that it
12 has been characterized or limited today?

13 **MR. ANTHONY:** We did not go into this level of
14 detail in the North Carolina presentation.

15 **MR. YATES [PROGRESS]:** That's correct.

16 **MR. ANTHONY:** That presentation was a more
17 generic description of the actions that were being
18 contemplated. We did not have a section of the
19 presentation, as we do here, discussing the various
20 regulatory approvals.

21 **MR. MELCHERS:** Okay. We would appreciate a
22 copy of the transcripts and slides of what was
23 presented to the North Carolina Commission. Can
24 you provide us with a copy of that?

25 **MR. ANTHONY:** Yes, sir.

1 **MR. MELCHERS:** Okay. How do you -- and I
2 don't know who wants to answer this, but how do you
3 distinguish this proposed merger from others that
4 have been filed for approval here at the Public
5 Service Commission, such as the Duke/Cinergy
6 merger, CP&L/Progress Florida, Duke/PanEnergy,
7 Duke/Westcoast Energy.

8 **MS. HEIGEL [DUKE]:** I can answer those as it
9 relates to the legacy Duke companies. We'll start
10 with PanEnergy. PanEnergy, Westcoast, and Cinergy
11 all have one thing in common, and that is, at the
12 time of the acquisition, the acquiring company,
13 Duke Energy or Duke Power, was both the parent
14 company and the regulated entity, and the
15 jurisdictional entity over which this Commission
16 has jurisdiction. As of the Cinergy filing, that
17 filing in 2005 involved the creation of the holding
18 company structure and approval of that, with then
19 the acquisition of Cinergy Corp., which is shown
20 there.

21 [Reference: PowerPoint Slide 7]

22 And so what we have here today is
23 distinguished from those three prior cases that you
24 reference for Duke, because at that time the
25 regulated entity and the parent company were one

1 and the same.

2 **MR. MELCHERS:** And how does that distinction
3 make a difference in regard to the statute?

4 **MS. HEIGEL [DUKE]:** Again, the way the statute
5 defines "electrical utility," "utility" is that
6 entity over which this Commission has jurisdiction.
7 When we created the holding company structure, we
8 created a parent company that is separate and apart
9 and distinct from the regulated operating company
10 of Duke Energy Carolinas, what has become known as
11 Duke Energy Carolinas.

12 For example, if you go back to those prior
13 deals -- Westcoast, for example -- that involved
14 the issuance of securities by the regulated entity.
15 This is a transaction that does not involve any
16 issuance of securities by Duke Energy Carolinas.

17 **MR. MELCHERS:** So in regard to the approvals
18 that the entities are proposing to bring before the
19 Commission, if the Commission disagrees with your
20 interpretation of the State statute, does that
21 issue get addressed in that proceeding?

22 **MS. HEIGEL [DUKE]:** I think we would have to
23 confer amongst ourselves about how we would want to
24 deal with that situation.

25 **MR. MELCHERS:** Okay. Thank you.

1 **CHAIRMAN HOWARD:** Commissioners?

2 **VICE CHAIRMAN WRIGHT:** I'm going to wait until
3 after Mr. Yates.

4 **CHAIRMAN HOWARD:** Mr. Yates?

5 [Reference: PowerPoint Slides 14-15]

6 **MR. YATES [PROGRESS]:** Okay. So, Chairman
7 Howard, Vice Chairman Wright, Commissioners, good
8 afternoon. I'll refer you to page 14. I'll be
9 talking about two things, the benefits of this
10 merger and then the structure.

11 If you go to page 15, a fact we mentioned
12 earlier, one of the big benefits here is the joint-
13 dispatch efficiencies and fuel procurement, and we
14 believe, by combining the two systems, or
15 dispatching the two systems collectively -- and
16 that is, the Progress Energy Carolinas systems and
17 the Duke Energy Carolinas systems -- because our
18 service territories are contiguous, we'll dispatch
19 those together as opposed to two separate systems
20 and we see savings, between fuel procurement and
21 dispatch, of around \$600 million over a five-year
22 period, which again goes back to the customers in
23 our fuel cases.

24 There's also a benefit of a single Open Access
25 Transmission Tariff, which will benefit wholesale

1 customers, so as wholesale customers today wheel
2 power through Progress Energy Carolinas and Duke
3 Carolinas, they pay two transmission rates and are
4 pancaked or on top of each other. We'll file a
5 single OAT Tariff here, and they'll pay one rate,
6 so there will be a savings for wholesale customers.

7 We'll combine resource planning here. As a
8 result of combining resource planning, there will
9 be some reduction in reserve margin. Again,
10 because you're combining and looking at two systems
11 as a whole, the reserve margin requirements go
12 down, because the probability of failure on a
13 bigger system is a lot lower. Also, ultimately, as
14 you, again, look at the systems together, when you
15 look to add plants, you would add fewer plants over
16 time, again, because instead of adding a plant in
17 Progress Energy Carolinas and one in Florida, you
18 add a plant for the combined system, which also
19 should benefit or look at some savings for both
20 companies.

21 We see scale giving us enhanced purchasing
22 power, not only in fuel but in other areas, when we
23 buy major commodities and components, such as poles
24 and wires and things like that. And again, I think
25 an important piece here, we have two very strong

1 companies who are strong in customer service,
2 reliability, and cost, and combining these two
3 together as we look for the best practices, we'll
4 only get better and stronger at that.

5 [Reference: PowerPoint Slide 16]

6 If you go to page 16, another big benefit here
7 is our fuel diversity. So what you see -- and I'll
8 look at the bottom pie charts -- you know, Duke
9 alone and Progress alone, you see the amount of
10 coal dispatched. Well, when you look at those
11 combined, you pretty much have a natural hedge here
12 with coal and gas, which will allow us to burn the
13 lowest-cost fuel depending on, you know, which fuel
14 is lower-priced. Primarily the difference would be
15 between coal and natural gas.

16 Also, dispatching these systems together will
17 allow us to continue to maximize the most efficient
18 plants at any given period before we dispatch a
19 megawatt on the next efficient plant. So again,
20 the bigger the systems, the more utilization you're
21 going to get out of -- you know, the higher -- the
22 plants that are much more efficient, which will
23 result in savings to the customer.

24 [Reference: PowerPoint Slide 17]

25 On page 17, you know, the financial benefits.

1 When you think about the electric utility industry,
2 it is the second most capital-intensive industry in
3 our country right now. We need to rebuild the
4 infrastructure. We're dealing with aging
5 infrastructure, aging power plants, and we need
6 access to capital. And, again, when you combine
7 these two companies with \$90 billion in assets,
8 with the credit metrics we're going to have, we're
9 going to get better access to capital at lower
10 costs, which is beneficial to our customers. So, a
11 stronger balance sheet. Again, we're going to
12 invest a lot of capital, and we're going to keep
13 our risk profile a lot lower.

14 Also the last statement there, it will give us
15 the scale to invest in regional nuclear generation.
16 An important piece there. We think regional
17 nuclear is the right way to build nuclear. We
18 think over time we need to invest in nuclear
19 facilities, and we believe this merger gives us the
20 scale to do that. And the caveat here is we still
21 need to work in North Carolina to get the
22 legislation and the rules right to be able to
23 facilitate new nuclear, but we think this merger
24 will be a big step in helping us to build regional
25 nuclear or invest in regional nuclear.

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[Reference: PowerPoint Slide 18]

Go to page 18, and the things there talk about strong credit quality and liquidity. Our debt-to-total-capitalization metrics continue to be strong, about 51 percent, about \$6.3 billion in liquidity, when these two companies are combined together. Again, gives us a lot of financial strength in the markets. The suppliers of that liquidity are very diverse, but it puts us in a very good financial situation.

[Reference: PowerPoint Slide 19]

Page 19, just a couple of metrics. Number one in enterprise value. We'll be the largest utility in the United States with respect to enterprise value, market capitalization, and capacity, owning 57,000 megawatts. It's a lot of generation capacity.

[Reference: PowerPoint Slide 20]

Page 20, you see the map with our contiguous -- with our service territories, again, the strength there, North and South Carolina. I talked about enterprise value, market cap. We'll serve 7.1 million electric customers, \$90 billion in assets, \$40 billion rate base. And, you know, the company continues to be regulated, about 85 percent

1 regulated, 15 percent unregulated. So it's a very
2 stable company financially; it will benefit both
3 customers and shareholders.

4 [Reference: PowerPoint Slides 21-22]

5 And finally, page 22, this was mentioned here,
6 but that the structure here will be called Duke
7 Energy Corporation. This is an all-stock
8 transaction. 2.6125 of Duke Energy for every
9 Progress Energy share of stock. Headquartered in
10 Charlotte, North Carolina. Jim Rogers, Catherine
11 mentioned, will be Executive Chairman; Bill Johnson
12 will be the CEO of the new company; 11 board
13 members from Duke Energy, including Mr. Rogers, and
14 seven board members from Progress Energy, including
15 Bill Johnson.

16 So following the shareholder votes and
17 regulatory approval, which we think will be done by
18 the end of the year, we see this as a very positive
19 transaction for customers and shareholders and most
20 of our employees.

21 [Reference: PowerPoint Slide 23]

22 So with that, I'll stop and open the floor for
23 questions, any questions you may have.

24 **CHAIRMAN HOWARD:** Commissioners, any questions
25 of Mr. Yates or Ms. Heigel? Commissioner Wright.

1 **VICE CHAIRMAN WRIGHT:** Thank you, Mr.
2 Chairman. Good afternoon.

3 **MR. YATES [PROGRESS]:** Good afternoon.

4 **VICE CHAIRMAN WRIGHT:** It's a lot of stuff.
5 I've got the question I think both of you might
6 want to answer because you're still not merged,
7 okay?

8 **MR. YATES [PROGRESS]:** Uh-huh.

9 **VICE CHAIRMAN WRIGHT:** And it deals with an
10 issue that I haven't seen -- I don't think have
11 seen covered in the media or on the Web, at least
12 not that I can tell, and it doesn't directly relate
13 to the merger process, but there's a consequence to
14 it that I think raises an issue that is of
15 interest. As you know, SCANA and Santee Cooper
16 have entered into that partnership for the two
17 nuclear facilities over in Jenkinsville at a 55/45
18 share. And in recent months, I think Santee Cooper
19 has kind of hinted that they may not need all the
20 capacity that will be coming out of that, and there
21 has been reported, maybe -- some of it maybe
22 publicly stated by either Progress or by Duke at
23 different times that they might be interested in
24 that excess capacity in some arrangement, if it
25 becomes available. I guess my question is how does

1 this proposed merger of Duke and Progress Energy
2 impact the discussions that may have already taken
3 place between either Duke or Progress and Santee
4 Cooper or SCANA for that excess capacity in
5 Jenkinsville?

6 **MR. YATES [PROGRESS]:** So, today, they can't
7 impact that, because we have to -- we're talking to
8 Santee Cooper -- and I'll speak for Progress here.
9 We're going to have to continue to talk separately
10 about those things. I will tell you that that
11 project, regional nuclear, is something we're
12 interested in and if we can get the terms and
13 conditions right and if we can get the rules, the
14 legislation, right in North Carolina, it would be
15 something we would be interested in doing. But
16 because of antitrust laws, we can't talk about that
17 together as one bigger transaction.

18 **MS. HEIGEL [DUKE]:** I would just echo Lloyd's
19 sentiments there. We continue to have a strong
20 interest in regional nuclear generation, and that
21 being said, there are some hurdles that still
22 exist. We've been very upfront about what those
23 hurdles are with the various stakeholders that are
24 involved. And we just believe that, with nuclear
25 and the cost of nuclear, that regional generation

1 and a regional approach continues to make the most
2 sense.

3 **VICE CHAIRMAN WRIGHT:** Thank you.

4 **CHAIRMAN HOWARD:** Commissioner Hamilton.

5 **COMMISSIONER HAMILTON:** Thank you. Thank you,
6 Mr. Chairman. Happy to have both of you with us
7 today. My question is more a matter of concern
8 that I have after the presentation that we've
9 heard, about the input through the Commission that
10 the consumers of the states will have in the merger
11 of the two companies. I believe, as Ms. Heigel has
12 pointed out, that South Carolina's will be limited,
13 and I think three states you named would have no
14 input into the merger; it would just happen, other
15 than FERC approval?

16 **MS. HEIGEL [DUKE]:** There is the FERC
17 approval. To the extent that certain shared
18 services agreements and cost allocations would
19 change, those would go before those Commissions, as
20 they have previously, after the Duke/Cinergy
21 merger.

22 **COMMISSIONER HAMILTON:** Okay. I know I
23 listened to the series of questions our attorney
24 had with you. And we've faced these things several
25 times in the past, and it seems we found a new

1 approach to it this time, which is a little
2 disturbing. I hope this side and your side, too,
3 will look at this thing very close and make sure
4 that the people of the State of South Carolina are
5 properly given a chance to be heard on what is
6 best, in their best interest. Thank you.

7 **MS. HEIGEL [DUKE]:** Thank you.

8 **CHAIRMAN HOWARD:** Commissioner Fleming.

9 **COMMISSIONER FLEMING:** Thank you, Mr.
10 Chairman. This, as you said, I think, the largest
11 -- if it comes about, would be the largest utility
12 holding company in the country, and it looks like
13 you've got a pretty clear line -- maybe a couple of
14 states in between -- from Florida all the way up to
15 Indiana. How is that going to change Duke's
16 marketing, how it markets electricity and moves it
17 back and forth?

18 **MS. HEIGEL [DUKE]:** As that's an operational
19 question, I'll defer to Lloyd.

20 **MR. YATES [PROGRESS]:** That should not change
21 the marketing of electricity between those states.
22 I mean, I think -- the interesting thing, if you go
23 back to that map -- let me see if I'll mess this up
24 [indicating]. I did mess it up.

25 [Reference: PowerPoint Slide 20]

1 If you look at those three service
2 territories, the interesting thing is they all
3 serve three different markets. So if you look at
4 the utility in Florida, it's in a market called
5 FRCC; the North Carolina and South Carolina markets
6 are in SERC which is a southern market; and then
7 Indiana, Ohio, and Kentucky are in the Midwest --
8 they're in MISO, moving toward PJM. So I think
9 you'll continue to see service in three different
10 markets, not necessarily wheeling power from
11 Florida to the Carolinas all way to Indiana. I
12 mean, I don't think it will change a whole lot.

13 **COMMISSIONER FLEMING:** So there won't be a
14 retail market.

15 **MR. YATES [PROGRESS]:** No, not a whole lot.

16 **COMMISSIONER FLEMING:** Not a whole lot?

17 **MR. YATES [PROGRESS]:** Yeah. Well, when you
18 say a retail market, do you mean will we sell power
19 off-system, or -- I may not be answering your
20 question. Today we sell excess generation to other
21 markets. That won't change much, if that's the
22 question?

23 **COMMISSIONER FLEMING:** Okay.

24 **MR. YATES [PROGRESS]:** Okay.

25 **COMMISSIONER FLEMING:** I guess what I'm

1 saying, it looks like you'd have an opportunity to
2 increase that excess.

3 **MR. YATES [PROGRESS]:** I don't --

4 **COMMISSIONER FLEMING:** But you're not --

5 **MR. YATES [PROGRESS]:** No.

6 **COMMISSIONER FLEMING:** -- looking at that?

7 And at present -- so I guess you've answered my
8 next question, because South Carolina and North
9 Carolina, both of these companies are vertically
10 integrated and generate electricity that basically
11 just serves the customers of these two states.

12 **MR. YATES [PROGRESS]:** Yes.

13 **COMMISSIONER FLEMING:** Is that what you intend
14 to continue?

15 **MR. YATES [PROGRESS]:** Yes.

16 **MS. HEIGEL [DUKE]:** The franchises of the
17 existing utility operating companies will remain
18 unaltered.

19 **COMMISSIONER FLEMING:** Okay. And on the news
20 I think it said that Duke would be absorbing the \$8
21 billion debt of Progress Energy?

22 **MS. HEIGEL [DUKE]:** I can't vouch for the
23 number, but the assumption of debt is correct.

24 **COMMISSIONER FLEMING:** The assumption of debt.

25 **MR. YATES [PROGRESS]:** Uh-huh.

1 **COMMISSIONER FLEMING:** But from what you were
2 saying earlier, Mr. Yates, I believe you said that
3 you don't think that will affect your market
4 standing at all, with the assumption of the debts?

5 **MR. YATES [PROGRESS]:** Well, our market
6 standing in terms -- the way we trade power? It
7 should not, no.

8 **COMMISSIONER FLEMING:** Your ratings.

9 **MR. YATES [PROGRESS]:** No, it should not --
10 yeah, because --

11 **COMMISSIONER FLEMING:** Well, it sounded like
12 you thought it would enhance the ratings.

13 **MR. YATES [PROGRESS]:** Because of the combined
14 company being stronger together. So, today, we
15 have that debt sitting at -- think about it this
16 way. Today Progress Energy has a market capital
17 close to \$13 billion with that \$8 billion of debt.
18 Duke has very little debt at their holding company
19 level. So when you merge these two companies
20 together, you have assets of \$90 billion, so with
21 that \$8 billion of debt, it doesn't look as
22 significant as it does with a smaller company. So,
23 again, the total company's credit metrics will be a
24 lot stronger than Progress Energy's credit metrics
25 separate in and of itself.

1 **COMMISSIONER FLEMING** Okay. And I guess -- I
2 mean, all of my questioning was trying to figure
3 out, the Duke holding company, per se, exactly how
4 it will impact utilities. So, you're saying that
5 the State versus FERC, pretty much the regulations
6 will stay the same? Or do you see that changing?

7 **MS. HEIGEL [DUKE]:** The jurisdiction that FERC
8 has will not change.

9 **COMMISSIONER FLEMING:** So, it will pretty much
10 -- the regulatory groups will stay pretty much as
11 they are now?

12 **MS. HEIGEL [DUKE]:** Yes.

13 **MR. YATES [PROGRESS]:** Yes.

14 **COMMISSIONER FLEMING:** So, the
15 responsibilities of each?

16 **MR. YATES [PROGRESS]:** Yes.

17 **COMMISSIONER FLEMING:** And I have a question
18 to ask. You know, it's my perception that there
19 are some philosophical differences or cultural
20 differences between Progress Energy and Duke, and
21 my perception is they're pretty strong, or have
22 been pretty strong. And maybe you answered that
23 when you said you are leaving the legal entities
24 separate in both states. Could you talk a little
25 bit about those philosophical differences and how

1 **COMMISSIONER FLEMING:** Called utility
2 regulation?

3 **MR. YATES [PROGRESS]:** I think if you go back
4 to this chart -- and it's interesting; Catherine
5 pointed it out --

6 [Reference: PowerPoint Slide 8]

7 -- half the people on there are Progress
8 people and half are Duke people, so it's set to
9 blend the cultures that way, understanding there
10 will be differences.

11 **COMMISSIONER FLEMING:** Okay. And I do want to
12 learn a little bit more about these legal entities
13 remaining separate. Could you go into a little bit
14 more detail about that, how it will look and
15 operate? And also talk about what you see as some
16 of the advantages of doing this? Because you
17 usually think of, in a merger, one of the benefits
18 being economies of scale, so I would like for you
19 to talk about that a little bit more.

20 **MS. HEIGEL [DUKE]:** Sure. So I think the root
21 of the question is why would we keep these two
22 legal entities separate, if we're trying to achieve
23 synergies? And the answer is, we are trying to,
24 because our rate structures are different, not to
25 impact customers and the rates they currently are

1 accustomed to, but at the same time we see that
2 there are operational synergies and efficiencies
3 that we can gain -- joint dispatch being one --
4 that immediately benefit customers, that, through
5 the sharing of best practices and other things,
6 that we can provide both companies' customers with
7 the benefits of the combined company, leaving
8 undisturbed the rates at this time, subject to
9 normal rate-case filings in the ordinary course of
10 the respective operating companies' business, so
11 that customers are not adversely impacted, but
12 positively impacted.

13 **COMMISSIONER FLEMING:** So do you see this
14 continuing on, from now on? Or are you looking at
15 an endpoint when those rates begin to look similar?

16 **MS. HEIGEL [DUKE]:** I think at some point in
17 time in the future, we envision that there may be
18 some convergence in the rates, at which time it may
19 become appropriate to then do a final legal merger
20 of the two operating companies, at which time we
21 would come before this Commission and seek approval
22 to do that.

23 **COMMISSIONER FLEMING:** So when you say you
24 have two different legal entities, does that
25 include your governmental affairs, as well; you

1 would be operating as Progress Energy and Duke --

2 **MS. HEIGEL [DUKE]:** We would --

3 **COMMISSIONER FLEMING:** -- Energy, in both

4 states --

5 **MS. HEIGEL [DUKE]:** We would --

6 **COMMISSIONER FLEMING:** -- separately?

7 **MS. HEIGEL [DUKE]:** We would seek to, for
8 those functions that we can get synergies with,
9 where we don't need duplication of function, we
10 would seek to streamline those, to reduce cost --
11 non-fuel O&M cost -- for the benefit of customers
12 of both companies.

13 **COMMISSIONER FLEMING:** And what are some of
14 the disadvantages of remaining separate but equal?

15 **MS. HEIGEL [DUKE]:** I think the confusion
16 factor for customers: There's a merger but it all
17 appears the same as it was. Lloyd, if you have any
18 other thoughts on that?

19 **MR. YATES [PROGRESS]:** Yeah, well, I think for
20 employees, maybe a little bit of confusion.

21 They'll still be Progress employees and Duke
22 employees. I think behind the scenes -- you know,
23 the customers will see different rates and they'll
24 see different bills. I think we'll still
25 capitalize on operational synergies, and I'll give

1 you an example. If there's a storm in one part of
2 South Carolina, traditionally in the past we'll be
3 able to move resources to restore outages faster.
4 We'll be able to leverage people to help us,
5 contractors to help us restore power, you know, and
6 get lower prices from them, get better response
7 from those contractors. So behind the scenes,
8 we'll operate as separate legal entities, and our
9 goal here is to capitalize on operational
10 efficiencies, help each other with planned outages,
11 nuclear outages, and share best practices, move
12 people, share engineers.

13 I think there's a lot of opportunity just to
14 do things collectively better, behind the scenes.
15 While the customers still see a bill from Duke
16 Energy and Progress Energy, we'll still move
17 resources to the best place and exchange best
18 practices to try and drive our performance up.

19 **COMMISSIONER FLEMING:** And just when you were
20 talking about confusion with your employees, I'm
21 thinking of pay scales. Are they comparable? Will
22 they be comparable? If you're not comparable, how
23 are you working that out?

24 **MR. YATES [PROGRESS]:** We have a lot more work
25 to do in that area. I think those things --

1 **MS. HEIGEL [DUKE]:** I'm hoping theirs is
2 higher.

3 [Laughter]

4 **MR. YATES [PROGRESS]:** Yeah. We're just
5 starting to look at those things, pay scales and
6 organizations and things like that. So, we have a
7 lot of work to do here over the next year.

8 **COMMISSIONER FLEMING:** Okay. And just one
9 last question. I have applauded both Duke and
10 Progress Energy for the work you've done in energy
11 efficiency and demand response. What are your
12 plans in the future in those particular areas?

13 **MS. HEIGEL [DUKE]:** I think that's still yet
14 to be worked out. Again, that would be part of
15 assuming the best practices and integrating those,
16 and may involve changes on both sides.

17 **COMMISSIONER FLEMING:** You would hope if they
18 came together it would be even better, wouldn't
19 you?

20 **MS. HEIGEL [DUKE]:** Well, that's why we're
21 here today.

22 **COMMISSIONER FLEMING:** Well, I hope so, if
23 that happens. Thank you.

24 **COMMISSIONER MITCHELL:** Mr. Chairman.

25 **CHAIRMAN HOWARD:** Commissioner Mitchell.

1 **COMMISSIONER MITCHELL:** Mr. Chairman, just as
2 a summary, I'd like to -- when we have a hearing
3 like this, in my mind, I like a brief synopsis.
4 And I've just got a couple of questions, and I want
5 you to clarify if I'm wrong. The companies plan
6 now to combine the generating assets, and is it
7 your opinion today that this Commission has
8 authority to rule on that?

9 **MS. HEIGEL [DUKE]:** We are combining the
10 operation, the dispatch of those. We are not
11 transferring legal title to those assets from one
12 entity to the other, and yes, we do believe that
13 the Commission has jurisdiction to approve the
14 transfer of control of those assets.

15 **COMMISSIONER MITCHELL:** Okay. And you stated
16 earlier that they're going to be two separate
17 operating companies in South Carolina after the
18 merger. However, I believe your statement was that
19 if those two entities merged, the Commission would
20 have jurisdiction to rule in that matter.

21 **MS. HEIGEL [DUKE]:** Yes, sir.

22 **COMMISSIONER MITCHELL:** Okay. Now, as you go
23 forward now, then, we'll have the effect of what we
24 do today, the regulatory process in South Carolina,
25 there will be two separate fuel case hearings?

1 **MS. HEIGEL [DUKE]:** That will continue.

2 **MR. YATES [PROGRESS]:** Yes.

3 **COMMISSIONER MITCHELL:** And the company will
4 file for rate increase, as deemed necessary, just
5 as you do.

6 **MR. YATES [PROGRESS]:** Yes.

7 **MS. HEIGEL [DUKE]:** That's correct.

8 **COMMISSIONER MITCHELL:** And your summarization
9 of the entire thing, the customers' rates will
10 benefit? Will significantly benefit? Or what is
11 it?

12 **MS. HEIGEL [DUKE]:** We project that they will
13 be lower than they otherwise would have been but
14 for the combination, and that we will see, we hope,
15 between \$600-\$800 million in savings that would be
16 passed through to the customers through annual fuel
17 proceedings in the first five years.

18 **COMMISSIONER MITCHELL:** Thank you. Thank you,
19 Mr. Chairman.

20 **CHAIRMAN HOWARD:** Any other questions?
21 Attorney Melchers.

22 **MR. MELCHERS:** Thank you. One follow-up to
23 what you just said. With the joint-dispatch
24 approach, do you see that, generally, Progress
25 Energy would see more utilization of its generation

1 assets or that Duke would see more use of its
2 generation assets?

3 **MR. YATES [PROGRESS]:** Typically, Duke would
4 see more use of its generation assets, because
5 Duke's system is more efficient than Progress's
6 system. Also, Duke has hydro facilities that would
7 be utilized a little bit more, as opposed to some
8 oil-fired generation that Duke -- that Progress
9 would utilize.

10 **MR. MELCHERS:** Thanks.

11 **CHAIRMAN HOWARD:** Any other questions?

12 [No response]

13 Mr. Anthony?

14 **MR. ANTHONY:** Thank you, Mr. Chairman. I just
15 want to thank the Commission for allowing us to do
16 this on such short notice. And allow me, if you
17 would, to emphasize what Commissioner Mitchell was
18 just pointing out so succinctly, and that is, the
19 immediate operational impact that we are
20 contemplating is the combination of the generation
21 resources to produce the \$600 million of fuel
22 savings.

23 The two legal entities will remain just as
24 they are: Progress Energy Carolinas, Duke Energy
25 Carolinas; their independent rate structures, fuel

1 proceedings, IRP, et cetera, for a variety of
2 reasons. The rate structures are different, our
3 computer systems are different, the way we do our
4 service company allocations and cost-allocation
5 manuals are different. It's going to take quite a
6 while to figure out how to integrate those type
7 things.

8 But what we're trying to do is in the
9 immediate future, accomplish those things we can
10 that will produce the savings. And this is an
11 operationally based merger versus what I'd call a
12 synergy based merger. This is not a merger based
13 upon headcount reduction; this is a merger based
14 upon the operational efficiencies of putting two
15 contiguous territories together and allowing those
16 resources to be dispatched as one, taking advantage
17 of those savings, as well as the resource planning
18 going forward, where we won't have to build as many
19 new resources because of reduced reserve margin,
20 and we'll capture the efficiencies from greater
21 purchasing power, maximizing the fuel blending,
22 maximizing use of interstate pipelines. All of
23 those things can be done without headcount
24 reductions.

25 But we're very sensitive to a lot of things,

1 including the economy, and so our goal is to
2 accomplish as much as we can through operational
3 benefits, versus headcount reductions. And the
4 headcount reductions that we do foresee are through
5 attrition, normal retirements and normal people
6 just leaving the companies for various reasons.
7 That is our goal. And when we do reach the point
8 when we can actually combine the two utilities into
9 one, we will be back before you, for your approval
10 at that time.

11 So we're trying to be sensitive to all of the
12 elements that are rightfully your area of expertise
13 and jurisdiction, and we'll bring them before you
14 as those occur. And the fuel savings will occur in
15 those annual fuel proceedings of the utilities each
16 year, just automatically. Thank you.

17 **COMMISSIONER WHITFIELD:** Mr. Chairman.

18 **CHAIRMAN HOWARD:** Commissioner Whitfield.

19 **COMMISSIONER WHITFIELD:** The fuel savings
20 you're referring to -- I think she had the slide up
21 -- that was over a five-year period, the figure you
22 just quoted; is that right?

23 **MR. ANTHONY:** Yes, sir, \$600 million estimated
24 over five years, as a result of the economies and
25 efficiencies resulting from dispatching the

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generation as a whole.

COMMISSIONER WHITFIELD: Thank you, Mr. Anthony. Thank you, Mr. Chairman.

MR. ANTHONY: Thank you.

CHAIRMAN HOWARD: I'd like to thank Mr. Yates, Ms. Heigel, and Mr. Anthony, for your input. Thank you, very much. I think you've clarified a lot of questions. At this time if there's nothing else, this briefing will be adjourned. Thank you all for coming.

MR. YATES [PROGRESS]: Thank you.

MS. HEIGEL [DUKE]: Thank you for your time.

[WHEREUPON, at 3:25 p.m., the proceedings in the above-entitled matter were adjourned.]

C E R T I F I C A T E

I, Jo Elizabeth M. Wheat, CVR-CM-GNSC, do hereby certify that the foregoing is, to the best of my skill and ability, a true and correct transcript of all the proceedings had in an allowable ex parte briefing held in the above-captioned matter before the Public Service Commission of South Carolina.

Given under my hand, this the 22nd day of January, 2011.



Jo Elizabeth M. Wheat, CVR-CM-GNSC

ATTEST:



Jocelyn G. Boyd,
CHIEF CLERK/ADMINISTRATOR