

135 FERC ¶ 61,213  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Marc Spitzer, Philip D. Moeller,  
John R. Norris, and Cheryl A. LaFleur.

Duke Energy Corporation

Docket No. EC11-60-000

Progress Energy, Inc.

NOTICE OF PROPOSED COMMUNICATION  
WITH DEPARTMENT OF JUSTICE

(Issued June 6, 2011)

1. On April 4, 2011, pursuant to sections 203(a)(1) and 203(a)(2) of the Federal Power Act<sup>1</sup> and Part 33 of the Commission's regulations,<sup>2</sup> Duke Energy Corporation (Duke Energy) and Progress Energy, Inc. (Progress Energy) submitted an application for the approval of a transaction pursuant to which Progress Energy will become a wholly-owned subsidiary of Duke Energy and the former shareholders of Progress Energy will become shareholders of Duke Energy (Merger Transaction).

2. Notice of the April 4, 2011 filing was published in the *Federal Register*, 76 Fed. Reg. 21,733 (2011), with interventions, protests and comments due on or before April 25, 2011. An errata notice extending the comment date to June 3, 2011 subsequently issued.

3. The purpose of this notice is to advise the applicants and intervenors that the Commission proposes to permit communications between staff from the Department of Justice, Antitrust Division (DOJ Antitrust Division Staff) and Commission Advisory Staff regarding the Merger Transaction during the pendency of this proceeding. Because such communications, under our current regulations, require the consent of all parties to this proceeding, the Commission directs applicants and any intervenors who object to these communications to

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<sup>1</sup> 16 U.S.C. § 824b (2006).

<sup>2</sup> 18 C.F.R. § 33, *et seq.* (2010).

indicate their objection within seven days of the issuance of this notice.<sup>3</sup> Otherwise, the Commission will deem applicants and intervenors in this proceeding to have consented to communications between DOJ Antitrust Division Staff and Commission Advisory Staff during the pendency of the Merger Transaction proceeding. The Commission notes that this proposal is limited in application and applies only to this proceeding and communications between Commission Advisory Staff and DOJ Antitrust Division Staff related to the Merger Transaction.

By the Commission,

( S E A L )

Kimberly D. Bose,  
Secretary.

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<sup>3</sup> The Commission directs any party seeking late intervention to indicate its objection, if any, in its late-filed motion to intervene.