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PUC DOCKET NO. 46238
SOAH DOCKET NO. 473-17-1172

JOINT REPORT AND APPLICATION OF ONCOR ELECTRIC DELIVERY COMPANY LLC AND NEXTERA ENERGY, INC. FOR REGULATORY APPROVALS PURSUANT TO PURA §§ 14.101, 39.262 AND 39.915	§ § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS

VOLUMINOUS WORKPAPERS

OF

RANDALL VICKROY

ON BEHALF OF THE

PUBLIC UTILITY COMMISSION OF TEXAS

JANUARY 18, 2017

Cities RFI 2-1:
Provide all presentations made since May 2014 to financial analysts and rating agencies that reference Oncor Electric Delivery Company LLC ("Oncor").

RESPONSE:
Pursuant to an agreement among counsel, this request is limited to information related to the transaction being considered in this proceeding and not any prior transactions or negotiations. Subject to that limitation, NextEra Energy provides the following response:

In regards to investor presentations made to financial analysts that reference Oncor, such investor presentations have been made public and can be found on the NextEra Energy Investor Relations website at the following web address:

http://www.investor.nexteraenergy.com/phoenix.zhtml?c=88486&p=irol-presentations

Regarding presentations to rating agencies, see highly sensitive items 1 through 4 on the attached voluminous index to this response.

Regarding other investor relations presentations made, see items 5 through 6 on the attached voluminous index to this response.

The response to this request is voluminous, as noted on the attached voluminous index, and contains highly sensitive protected documents. The materials are being provided pursuant to the terms of the Protective Order in this docket. Additionally, please note that the redactions reflected on the responsive documents are redacted to remove non-Oncor information.

This response was prepared by or under the direct supervision of Mark Hickson, Senior Vice President of Corporate Development, Strategy, and Integration.

VOLUMINOUS INDEX

1. Moody's Rating Assessment Service (May 4, 2016), 37 pages (HSPM)
2. Fitch's Ratings Service (May 4, 2016), 43 pages (HSPM)
3. Standard & Poor's Rating Evaluation Service (March 27, 2015), 67 pages (HSPM)
4. Standard & Poor's Rating Evaluation Service- Timelines and Business Mix (March 27, 2015), 5 pages (HSPM)
5. Dublin Investor Meetings (October 4, 2016), 51 pages
6. West Coast Investor Meetings (October 5, 2016 – October 7, 2016), 51 pages

Cities RFI 2-2:
Provide all presentations made to the NextEra Board of Directors since May 2014 that reference potential acquisition of Oncor.

RESPONSE:
Pursuant to an agreement among counsel, this request is limited to information related to the transactions being considered in this proceeding and not any prior transactions or negotiations. Subject to that limitation, NextEra Energy provides the following response:

See NextEra Energy's Highly Sensitive Attachment 1 to this response which represents the presentations prepared for the NextEra Energy Board of Directors. The redactions represent protected attorney client privileged communications.

This response was prepared by or under the direct supervision of Mark Hickson, Senior Vice President of Corporate Development, Strategy, and Integration.

Staff RFI 1-16:
Refer to the Direct Testimony of Mark Hickson, page 21, lines 4 to 16 and page 23, lines 4 to 9. Please:

a. Provide the detailed financing plans for NextEra's acquisition of EFH/EFIH and TTHC/TTI respectively.

b. Provide the issuer, amounts, timing, and specific types of securities that will "rebalance the capital structure," as stated in the testimony.

RESPONSE:

a. Although NextEra Energy has not yet finalized its financing plan for the acquisitions of EFH/EFIH and TTHC/TTI, NextEra Energy intends to fund the Proposed Transactions with a mix of equity, asset sale proceeds, and debt. On August 8, 2016, NextEra issued $1.5 billion of equity units to fund a portion of the proposed acquisition of EFH/EFIH. On November 1, 2016, NextEra entered into a forward sale agreement in which it committed to issue 12 million shares of common equity by no later than November 1, 2017, in exchange for approximately $1.5 billion, which will be used to fund a portion of the TTHC/TTI acquisition. Additionally, from time to time, NextEra Energy sells non-core assets as a means of recycling capital. During 2016, NextEra Energy sold four gas-fired generation assets and a fiber optics business for total combined consideration of $3.85 billion. Although not yet finalized, the remaining amounts are expected to be funded primarily with debt, in a manner that will allow NextEra Energy to maintain its strong credit ratings.

b. As stated above, the Company has not finalized plans related to the amounts or timing for the remaining financing needs. With respect to the issuer, NextEra Energy Capital Holdings, Inc. is the issuer of debt and NextEra Energy, Inc. is the issuer of equity. As stated in Mr. Hickson's Direct Testimony, NextEra intends to rebalance its capital structure in a manner that will allow NextEra Energy to maintain its strong credit ratings.

This response was prepared by or under the direct supervision of Mark Hickson, Senior Vice President of Corporate Development, Strategy, and Integration.

Staff RFI 1-27:
Refer to the Direct Testimony of John Reed, Exhibit JR-6, page 23. S&P states: "If at any point it appears that NextEra is unable to achieve effective control over Oncor resources and cash flows, thereby not realizing the benefits to its business risk profile, then we would expect NextEra to rapidly de-lever to achieve FFO to debt of at least 26%, absent which NextEra's credit profile would deteriorate and we would lower the ratings." Please provide the deleveraging changes in the NextEra financial structure that would need to be implemented under this scenario that would preserve its current ratings.

RESPONSE:
Assuming Standard & Poor's adjusted FFO for both NextEra and Oncor to remain consistent with 2015 levels, which totaled roughly $7.4 billion, deleveraging to achieve FFO to debt of at least 26% from the projected 18% level would imply a reduction in adjusted debt of roughly $12.6 billion.

It is important to understand that this scenario presumes that (1) NextEra does not achieve effective control over Oncor, and accordingly, (2) NextEra's credit profile would not be linked with Oncor's credit profile. As discussed in Mr. Reed's Direct Testimony, and suggested by the S&P statement quoted in this RFI, if the companies' credit profiles are not linked, it is expected that NextEra Energy could not restructure the EFIH and EFH debt without negatively impacting NextEra's credit ratings. As discussed in the Direct Testimonies of Mr. Reed and Mr. Hickson, in order to avoid this deleveraging requirement and maintain NextEra's current credit ratings, NextEra would not close the EFH transaction and the financial benefits of the transaction, including improvements to Oncor's ratings, would not be created.

This response was prepared by or under the direct supervision of John Reed, Chairman and CEO of Concentric Energy Advisors and Mark Hickson, Senior Vice President of Corporate Development, Strategy, and Integration of NextEra Energy.

Staff RFI 1-31:
Refer to the Direct Testimony of Mark Hickson, page 28, lines 1 to 6. This passage indicates that the inclusion of government restrictions would cause NextEra to not close on the transactions due to credit downgrades. However, NextEra deleveraging would also preserve NextEra credit ratings, as noted by S&P. Please explain why NextEra would not use this credit strategy.

RESPONSE:
Standard & Poor's Group Rating Methodology identifies certain governance restrictions which would cause Oncor to be de-linked from NextEra Energy's credit profile. Not only would these governing restrictions result in Oncor being unable to benefit from NextEra Energy's strong credit profile that supports its 'A-' rating, but also NextEra Energy's business risk profile would not improve to the 'Excellent' category from its current 'Strong' category, which is also an important component of this transaction as it allows NextEra Energy to deliver a lower FFO/Debt while maintaining its current A- rating. NextEra Energy is a publicly traded company and has obligations not only to serve its customers but also a fiduciary responsibility to its shareholders. A scenario in which NextEra Energy delevers to fund the acquisition with a significant amount of equity that would be required to preserve its existing rating, without a commensurate improvement in business risk profile, would result in the transaction being significantly dilutive to shareholders. In addition, the substantial equity required, which is multiples of NextEra Energy's typical equity issuances, may not be obtainable or at reasonable terms, if at all. Accordingly, if these governance restrictions were required of NextEra Energy, the transactions would not close.

This response was prepared by or under the direct supervision of Mark Hickson, Senior Vice President of Corporate Development, Strategy, and Integration.

Staff RFI 1-62:

Refer to page 16 of the Direct Testimony of Mark Hickson, stating that," ... NextEra Energy's subsidiary FPL weathered the effects of the financial crisis of 2008-2010 without significant degradation of its access to capital, and continued to execute on its investment program ...". Please:

a. Detail the NextEra and FPL capital structure and access to capital before that "crisis."
b. Compare those structures with the current NextEra and FPL capital structure and access to capital.
c. Compare those structures and access to capital from part (a) with those expected for NextEra and Oncor immediately post-acquisition.

RESPONSE:

a. At December 31, 2007, prior to the financial crisis of 2008-2010, NextEra Energy (Company) and FPL had a capital structure that consisted of 44% and 55% equity, respectively, as calculated on a GAAP basis *(i.e.*, equity/(total debt + equity)). At that same time, NextEra Energy had access to revolving lines of credit and term loan facilities that totaled $6.75 billion, of which $2.75 billion was for FPL. In addition, NextEra and FPL had total assets of $40.1 billion and $24.0 billion, respectively, and credit ratings by Standard & Poor's, Moody's, and Fitch of A, A2, and A, and A, A1, and A, respectively.

b. At September 30, 2016, the date of the Company's most recently filed Form 10-Q, NextEra Energy and FPL had a capital structure that consisted of 44% and 59% equity, respectively, as calculated on a GAAP basis (*i.e.*, equity/(total debt + equity)). At that same time, NextEra Energy had access to revolving lines of credit that totaled $9.86 billion, of which $4.0 billion was for FPL. In addition, NextEra and FPL had total assets of $87.9 billion and $44.6 billion, respectively, and credit ratings by Standard & Poor's, Moody's, and Fitch of A-, Baa1, and A- and, A-, A1, and A, respectively.

c. Although NextEra Energy has not finalized the balance of it financing plan as it relates to the Proposed Transactions, the Company expects to maintain a balanced capital structure of roughly 60% debt and 40% equity. The Company places immense importance on the strength of its balance sheet and will ensure a balanced mix of financings and asset sale proceeds are used such that its current ratings are maintained following the closing the transaction. Further, we expect Standard and Poor's to upgrade Oncor to A- from BBB+, Moody's to upgrade Oncor's senior secured rating by two notches to A1 from A3, and at least a one-notch upgrade at Fitch to BBB+ from BBB. The Company also expects to maintain strong access to capital through the credit facilities that are currently available to NextEra, FPL and Oncor.

This response was prepared by or under the direct supervision of Mark Hickson, Senior Vice President of Corporate Development, Strategy, and Integration.

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: T.W. Patch, Chairman
Kate Giard
Paul F. Lisankie
Robert M. Pickett
Janis W. Wilson

In the Matter of the Application for Authority to Acquire a Controlling Interest in COOK INLET NATURAL GAS STORAGE ALASKA, LLC by AltaGas Utility Holdings (U.S.) LLC	U-12-006 ORDER NO. 5

ORDER APPROVING JOINT APPLICATION FOR AUTHORITY TO ACQUIRE CONTROLLING INTEREST IN COOK INLET NATURAL GAS STORAGE ALASKA, LLC

BY THE COMMISSION:

Summary

We approve the joint application filed by AltaGas Ltd., AltaGas Utility Holdings (U.S.) LLC (AltaGas U.S.) (collectively, AltaGas), and Continental Energy Systems LLC (Continental) (collectively, the Applicants) requesting authority for AltaGas to acquire a controlling interest in Cook Inlet Natural Gas Storage Alaska, LLC (CINGSA). CINGSA is the holder of Certificate of Public Convenience and Necessity (Certificate) No. 733.

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Background

We opened Docket U-12-006 to consider the Joint Application requesting authority for AltaGas to acquire a controlling interest in CINGSA.[1] The Applicants stated that under the terms and conditions of a Stock Purchase Agreement by and among AltaGas, Semco Holding Corporation (Semco Holding), and Continental, dated as of February 1, 2012, (Stock Purchase Agreement),[2] AltaGas U.S. will acquire from Continental 100 percent of the outstanding shares of common stock of Semco Holding. The Applicants stated that Semco Holding owns 100 percent of the outstanding shares of common stock of SEMCO Energy, Inc. (SEMCO). The Applicants further stated that SEMCO controls 65 percent of CINGSA through an indirect subsidiary and, upon closing of the transaction contemplated by the Stock Purchase Agreement, AltaGas U.S. will replace Continental as the owner of Semco Holding.[3] Thus, if the Joint Application is approved, AltaGas will acquire, through its ownership of Semco Holding, 65 percent control of CINGSA.

[1]Order U-12-006(1), *Order Designating Commission Panel and Appointing Administrative Law Judge*, dated March 6, 2012; *Application for Approval of Acquisition of Control of Cook Inlet Natural Gas Alaska, LLC, Holder of Certificate of Public Convenience and Necessity No. 733* (Joint Application), filed February 21, 2012. The Applicants also filed an application for authority to acquire control of ENSTAR Natural Gas Company (ENSTAR) and Alaska Pipeline Company (APC) in Docket U-12-005.

[2]Joint Application, Exhibit A.

[3]Joint Application at 2.

We issued public notice of the Joint Application.[4] We received comments from Cook Inlet Region, Inc.,[5] MidAmerican Energy Pipeline Group,[6] First Alaskan Capital Partners, LLC (FACP),[7] Chugach Electric Association, Inc. (Chugach),[8] Municipality of Anchorage d/b/a Municipal Light & Power (ML&P),[9] and Vincent L. Goddard on behalf of Inlet Fish Producers, Inc. and Wild Pacific Salmon, Inc. (Inlet Entities).[10] The Applicants filed joint reply comments.[11]

We scheduled a prehearing conference.[12] No petitions for intervention were filed. With the Joint Application, the Applicants filed a petition for confidential treatment of certain portions of a disclosure letter referred to in, and delivered in connection with, the Stock Purchase Agreement.[13] We denied the petition without prejudice and required the Applicants to re-file their petition.[14] The Applicants re-filed a

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[4] *Notice of Utility Applications*, dated February 23, 2012.

[5] Public Comment from Cook Inlet Region, Inc., filed March 2, 2012.

[6] Public Comment from MidAmerican Energy Pipeline Group, filed March 13, 2012.

[7] Public Comment from FACP, filed March 13, 2012.

[8] Public Comment from Chugach, filed March 15, 2012.

[9] *Initial Comments of Municipal Light & Power*, filed March 15, 2012.

[10] Public Comment from Vincent L. Goddard, filed March 15, 2012.

[11] *Joint Reply Comments of Continental Energy Systems LLC, AltaGas Ltd., and AltaGas Utility Holdings (U.S.) LLC*, filed March 26, 2012 (Joint Reply Comments).

[12] Order U-12-005(2), Order *Scheduling Prehearing Conference*, dated March 22, 2012.

[13] *Petition for* Confidential *Treatment (3 AAC 48.045)*, filed February 21, 2012.

[14] Order U-12-005(3)/U-12-006(3), *Order Denying Petitions for Confidential Treatment Without Prejudice and Requiring Filing*, dated April 13, 2012.

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petition for confidential treatment.[15] We granted the re-filed petition for confidential treatment and addressed the timeline for our decision.[16] We held a public hearing on May 30, 2012.

Discussion

Public Comments

Chugach, Cook Inlet Region, Inc., MidAmerican Energy Pipeline Group, and FACP filed comments supporting approval of the Joint Application. ML&P and Vincent Goddard on behalf of the Inlet Entities filed written comments that, while not opposing approval of the Joint Application, expressed concerns that they wished to have taken into consideration in this proceeding.

ML&P commented that, in its view, it is critical that the entities proposing to acquire control of CINGSA demonstrate a willingness to commit the resources necessary for those utilities to do their parts to adequately meet the challenges confronting natural gas supply and transportation service in Southcentral Alaska.[17] ML&P also commented that we should require the Applicants to file five-year capital improvement plans for CINGSA and commit to providing support to ENSTAR to participate in coordinated gas supply planning efforts with the other utilities in Southcentral Alaska.[18]

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[15] *Resubmitted* Petition *for Confidential Treatment (3 AAC 48.045)*, filed April 20, 2012.

[16] Order U-12-005(4)/U-12-006(4), *Order Granting Resubmitted Petition for Confidential Treatment and Addressing Timeline for Decision*, dated May 18, 2012.

[17] ML&P Comments at 2-3.

[18] *Id.* at 4-5.

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Vincent Goddard, while stating that the Inlet Entities took no position either favoring or opposing the Joint Application, expressed on behalf of the Inlet Entities his concern about a pressure anomaly noted in CINGSA's then most recent monthly report to us. He also restated several general concerns that were presented by the Inlet Entities in the CINGSA certification proceedings in Docket U-10-051.[19]

The Applicants jointly filed reply comments.[20] The Applicants stated in response to ML&P's comments that AltaGas conducted a thorough due diligence investigation of CINGSA and the environments in which it operates. AltaGas is therefore fully aware of the challenges described in ML&P's comments and, assuming that the Joint Application is approved, willing to work cooperatively with ML&P and other Southcentral Alaska utilities to overcome those challenges.[21] The Applicants stated that they agreed with ML&P's comment that several options exist over various timeframes for meeting the natural gas demand of Southcentral Alaska residential, commercial, industrial and power plant customers. But, they also noted that none of those options has yet been selected or presented to us for its consideration.[22] The Applicants stated that, while AltaGas is willing to commit to working cooperatively with ML&P and other

[19]Public Comment of Vincent L. Goddard at 1-2. We addressed the Inlet Entities' concerns in Docket U-10-051 by stating that we would rely upon the technical analysis of the Alaska Oil and Gas Conservation Commission (AOGCC) and that we would require CINGSA to abide by the final AOGCC decision on the issues raised by the Inlet Entities before both commissions. *See* Order U-10-051(9), *Order Explaining Grant of, Certificate of Public Convenience and Necessity, Approving Inception Rates and Tariff, and Denying Petition to Intervene,* dated January 31, 2011, at 31, as corrected by *Errata Notice to Order U-10-51(9) with Corrected Order Attached,* dated April 27, 2011.

[20]Joint Reply Comments.

[21]*Id.* at 2-3.

[22]*Id.* at 3, referring to ML&P Comments at 4-5.

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Southcentral Alaska utilities to explore and move forward with various options if the Joint Application is approved, submission of a detailed five-year plan at this stage is not practical.[23] The Applicants also stated that AltaGas understands and agrees with ML&P's statement that gas supply is a challenge that will require cooperative efforts by all Southcentral Alaska utilities to overcome and that, if the Joint Application is approved, AltaGas will see to it that CINGSA will continue to contribute its fair share to those important efforts.[24]

In response to the Inlet Entities' comments, the Applicants stated that the pressure anomaly noted in CINGSA's then most recent monthly report to us was explained in a letter that CINGSA had sent to Goddard's attorney, which was attached as Exhibit A to the Joint Reply Comments, and that the anomaly had been resolved and posed no danger to the CINGSA project or to the Inlet Entities' employees or property.[25] The Applicants also stated that CINGSA was working closely with the AOGCC to obtain the authorizations required to begin gas injections and was coordinating with Goddard on implementing the gas monitoring at his fish processing plant, as required by the AOGCC.[26]

Summary of Testimony

John E. Lowe, president of the utility division of AltaGas Ltd. and president of AltaGas U.S.; Deborah S. Stein, senior vice president, finance and chief financial

[23] Joint Reply Comments at 3.
[24] *Id.* at 4.
[25] *Id.* at 5.
[26] *Id.*, referring to AOGCC Storage Injection Order No. 9.

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officer of AltaGas, Ltd. and treasurer of AltaGas U.S.; and George A. Schreiber, Jr., president and chief executive officer of Continental and chairman, president, and chief executive officer of Semco Holding and SEMCO, submitted prefiled testimony and testified at the public hearing.

Lowe and Schreiber described the Stock Purchase Agreement.[27] Lowe described AltaGas's business activities, including its experience in owning and operating regulated utilities,[28] discussed the Stock Purchase Agreement from AltaGas's viewpoint and explained AltaGas's reasons for entering into it.[29] Schreiber explained the reasons for the decision by Continental and Semco Holding to enter into the Stock Purchase Agreement, stating that AltaGas Ltd. is a strong, well-capitalized entity that, if the Joint Application is approved, will be a financially stable owner of CINGSA.[30] Schreiber and Stein both noted that Standard & Poor's placed SEMCO on positive credit watch following the announcement of the Stock Purchase Agreement.[31] Schreiber testified that AltaGas Ltd. has a proven track record as a responsible, experienced and prudent owner of regulated public utilities.[32] Schreiber also stated that consummation of the proposed transaction under the Stock Purchase Agreement and the related change in ownership of CINGSA would not disturb the continuity of the

[27] T-1 (Lowe) at 3-5; T-3 (Schreiber) at 9-10 and 13-16.
[28] T-1 (Lowe) at 7-8; Tr. at 27, 39-40.
[29] T-1 (Lowe) at 9-11; Tr. at 54.
[30] T-3 (Schreiber) at 12-13.
[31] T-3 (Schreiber) at 12-13; T-2 (Stein) at 10; Tr. 83.
[32] T-3 (Schreiber) at 13; Tr. 7, 75.

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current operations of CINGSA.[33] Schreiber described various provisions of the Stock Purchase Agreement relating to local management and employee retention, collective bargaining agreements, and interim operations that are intended to maintain the continuity of current management, operations, and contractual relationships.[34] Lowe confirmed in his testimony that notwithstanding the proposed change in ownership, CINGSA will continue to be managed and operated by the same management team and employees, performing the same jobs in the same offices.[35] Lowe added that upon approval and after closing of the transaction contemplated by the Stock Purchase Agreement, it would be AltaGas's intent to continually assess changes in the ordinary course of business that might lead to improved service, safety and reliability, but that the transaction itself would not be a driver of changes in CINGSA.[36] Lowe testified that the proposed transaction and resulting change in control over CINGSA would have no adverse effect upon utility customer service and rates and that AltaGas would not seek recovery from utility customers of any transaction costs, acquisition premiums, goodwill or control premiums, or any fees or other costs incurred in connection with the proposed transaction under the Stock Purchase Agreement.[37]

Stein testified about the financial capability of AltaGas and the effect of the proposed transaction under the Stock Purchase Agreement on the ability of CINGSA to

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[33] T-3 (Schreiber) at 13-16.

[34] *Id.*

[35] T-1 (Lowe) at 10-11; Tr. 67-68.

[36] *Id.*

[37] T-1 (Lowe) at 11-12.

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access capital.[38] Stein also responded to our questions about AltaGas's financial statements and the management discussion and analysis of the financial statements.[39] Lowe testified that AltaGas Ltd. had assets exceeding $3.5 billion Canadian and annual revenues of approximately $1.6 billion Canadian as of December 31, 2011.[40] Stein testified that AltaGas Ltd. has a BBB investment grade rating from Standard and Poor's and Dominion Bond Rating Service.[41]

Regarding the concerns ML&P expressed in its comments, Lowe testified that AltaGas is fully aware of the challenges described by ML&P and, assuming favorable Commission action on the Joint Application, is willing to work cooperatively with ML&P and other Southcentral Alaska utilities to explore and develop options for overcoming those challenges.[42] Lowe stated that AltaGas is committed to taking the necessary actions to ensure the long-term success of CINGSA.[43]

Standard of Review

We evaluate applications for the transfer of control of a certificate of public convenience and necessity under AS 42.05.281, which states that a certificate may not be sold or transferred without our prior approval, and under our regulations which apply

[38] T-2 (Stein) at 8-10.
[39] Tr. at 28-29, 32-34, 56-58, 62-67.
[40] T-1 (Lowe) at 4.
[41] T-2 (Stein) at 9.
[42] T-1 (Lowe) at 18-19; Tr. at 38-40.
[43] T-1 (Lowe) at 19; Tr. at 47-48.

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to such applications, 3 AAC 48.600 - 3 AAC 48.661. We review precedent, such as Order U-77-071(6),[44] and evaluate the facts presented in the record.

We reaffirm that the appropriate standard to apply in evaluating an application to acquire a controlling interest in an ongoing utility operation is whether the proposed transfer is consistent with the public interest under the criteria set forth in AS 42.05.

Fitness, Willingness, and Ability

Managerial Fitness

AltaGas Ltd. is a Canadian company with its main office located in Calgary, Alberta, Canada. Shares of the common stock and preferred shares of AltaGas Ltd. are traded on the Toronto Stock Exchange. Through its subsidiaries (AltaGas Utilities, Inc., Pacific Northern Gas, Heritage Gas, and Inuvik Gas), AltaGas Ltd. provides retail natural gas service to approximately 115,000 customers in Alberta, British Columbia, Nova Scotia, and the Northwest Territories (AltaGas Ltd. has a minority interest in Inuvik Gas/Northwest Territories. All other subsidiaries are 100 percent owned by AltaGas Ltd.).[45]

[44]Our predecessor agency, the Alaska Public Utilities Commission (APUC), included acquisitions of controlling interest in certificated public utilities as a form of transfer of certificate under AS 42.05.281. *Re Application Forms Requesting Authority to Acquire a Controlling Interest in a Corporation Holding a Certificate of Public Convenience and Necessity*, 2 APUC 264, 1978 WL 24010 (Alaska 1978). APUC Form X-107 is the form prescribed by the commission for applications for authorization to acquire a controlling interest in a regulated utility. The Applicants conformed their Joint Application to the informational requirements of Form X-107.

[45]Joint Application at 4, 5; See http://www.altagas.ca/sites/default/files/Utility%20Business.Spring12.v5 pdf.

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AltaGas U.S. is a Delaware limited liability company formed on January 27, 2012, for the purpose of holding AltaGas Ltd. utility investments in the United States. AltaGas U.S. is wholly owned by AltaGas Ltd. AltaGas U.S. is a newly-formed entity and has not conducted any business transactions at this time.[46] AltaGas U.S. and AltaGas Ltd. will acquire control of CINGSA through the acquisition of Semco Holding under a Stock Purchase Agreement.[47]

SEMCO will remain a wholly owned subsidiary of Semco Holding. SEMCO will continue to exist as a separate corporate entity, and the assets, liabilities, rights and obligations of SEMCO, including CINGSA, will be unaffected by the transfer.[48]

The acquisition will have no effect upon the currently effective rates, tariffs, contracts, and other business relationships of CINGSA. We rely on the commitment of AltaGas U.S. to exclude from future revenue requirement filings any acquisition adjustment to rate base or transaction-related costs resulting from the transfer.[49] The transaction involves a transfer of the ownership of Semco Holding, and the Stock Purchase Agreement does not contemplate any merger or consolidation of utilities or any sale or transfer of utility plant.[50]

[46] Joint Application at 5.
[47] *Id.* at 4.
[48] *Id.* at 8.
[49] *Id.*
[50] *Id.* at 8-9.

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The Applicants state that the transaction will have no effect on existing utility management, employees, or operations in Alaska.[51] We rely on the assertion that CINGSA will continue operating under the same experienced local management team that is currently in place.

The application identifies three principal officers for AltaGas U.S.[52] Lowe, president of the utility division of AltaGas Ltd. and president of AltaGas U.S., is an attorney who represented utlity and energy companies before joining AltaGas.[53] Stein, senior vice president finance and chief financial officer, is a certified financial risk manager and chartered accountant who leads the finance function of AltaGas Ltd.[54] Stein has extensive finance experience across several industries. Jared Green, vice president and controller and corporate secretary, is a chartered accountant, and directs the accounting, financial reporting, treasury and controls of AltaGas Utility Group Inc. and the three wholly owned natural gas distribution businesses in Alberta, British Columbia, and Nova Scotia.[55]

The Applicants' expressed intention is that the AltaGas acquisition of SEMCO will have no immediate effect on current management at the regulated utilities

[51]Joint Application at 9.

[52]*Id.* at 12, 13, Exhibit E.

[53]Lowe presented prefiled and oral testimony in this proceeding. *See* "Summary of Testimony" *supra*.

[54]Stein presented prefiled and oral testimony in this proceeding. *See* "Summary of Testimony" *supra*.

[55]Joint Application, Exhibit E at 4.

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level. The principal officers of AltaGas appear qualified for their positions, and we find that CINGSA will continue to be managerially fit to provide service.

Financial Fitness

The Applicants state that AltaGas Ltd. does not expect the proposed transaction to result in an increase in allocations of corporate expenses in future rate case filings. The Applicants assert that allocations from AltaGas will be substantially offset by reductions in allocations from Continental.[56]

The Applicants provided AltaGas Ltd.'s 2010 audited financial report, along with an independent auditor's report, as a means of demonstrating AltaGas's financial capability to acquire controlling interest of CINGSA.[57] Additionally, AltaGas filed draft versions of its 2011 audited financial statements and management's discussion and analysis (MD&A),[58] and they submitted the published version of the MD&A and audited financial statements as an exhibit at the hearing.[59] The financial statements are presented in Canadian dollars[60] and are audited in accordance with Canadian Generally Accepted Accounting Principles (GAAP), as defined in Part V of the Canadian Institute of Chartered Accountants Handbook.[61] AltaGas will use U.S. GAAP effective January 1, 2012.[62]

[56] Joint Application at 9.

[57] *Id.*, Exhibit G.

[58] *Management's Responsibility for Financial Statements,* filed March 14, 2012; *Management's Discussion and Analysis,* filed March 30, 2012.

[59] H-2.

[60] The references in this section of the discussion are to Canadian dollars.

[61] H-2 at 52.

[62] *Id.* at 64.

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Total assets of AltaGas Ltd. increased from $2.8 billion (FY10) to $3.5 billion (FY11); total liabilities increased from $1.5 billion (FY10) to $2.2 billion (FY11); and shareholders' equity increased from $1.2 billion to $1.4 billion.[63]

AltaGas Ltd.'s debt ratio[64] was 0.62 at December 31, 2011, and 0.56 at December 31, 2010, respectively, suggesting that AltaGas Ltd. is not overly leveraged. Another method of measuring a company's financial leverage is the debt-to-capital ratio.[65] AltaGas Ltd.'s debt-to-capital ratio was 49.3 percent at December 31, 2011, and 42.7 percent at December 31, 2010, which falls within its target debt-to-total capitalization ratio of 50 percent, and its debt covenants which require a debt-to-capitalization ratio no greater than 60 percent.[66]

AltaGas Ltd.'s current ratio was 0.65 at December 31, 2011, and 0.94 at December 31, 2010.[67] As explained in the financial statements, the current ratio decreased due to an increase in the current portion of long-term debt (due to the maturity of a $100 million medium term note in January 2012), "risk management-current liabilities" and accounts payable offset by an increase in accounts receivable and increase in "risk management-current assets."[68] Although AltaGas Ltd.'s current ratio was well below one at December 31, 2011, which generally is not considered

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[63]H-2 at 54.

[64]Total liabilities/total assets.

[65]Debt/shareholder's equity+debt.

[66]H-2 at 74.

[67]Current assets/current liabilities; H-2 at 39.

[68]H-2 at 39.

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favorable, AltaGas Ltd. had $848.3 million in available credit facilities and $4.2 million in cash and cash equivalents.[69] Furthermore, AltaGas generated positive net income of $94.6 million at December 31, 2011, and $101.3 million at December 31, 2010;[70] and experienced positive cash flows of $4.2 million at December 31, 2011, and $2.1 million at December 31, 2010.[71]

AltaGas Ltd. is rated BBB investment-grade by the Dominion Bond Rating Service and Standard & Poor's and is committed to maintaining its investment-grade credit rating. Both rating agencies confirmed the credit rating of AltaGas Ltd. with stable outlooks following the announcement of the proposed transaction.[72]

AltaGas has not yet developed a capital improvement plan for CINGSA, stating that it did not want to be too presumptuous and that it is waiting until after our approval before making any definite plans.[73] AltaGas asserts that it will allocate capital appropriately across its assets so that safety is not compromised and customer needs are met.[74] The allocation of capital for growth is based on appropriate hurdle rates and capital allocation models. AltaGas asserts that each of its utilities engages in a five-year capital plan that is refreshed every five years.[75]

[69] H-2 at 39.
[70] *Id.* at 55.
[71] *Id.* at 58.
[72] Joint Applicaction at 20.
[73] Tr. 25.
[74] Tr. 26-27.
[75] Tr. 24-25.

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We find that AltaGas is financially fit to acquire a controlling interest in CINGSA.

Technical Fitness

The Applicants assert that the management and employees responsible for maintaining and operating the utility systems will remain in place.[76] Based on this assertion, we find that the transaction will not affect the technical fitness of CINGSA.

Public Interest

The Applicants assert that the proposed transaction is in the public interest because CINGSA will benefit from long-term and stable ownership by an experienced energy infrastructure company with a commitment to safety and customer service.[77] Because there will be no interruption in safe and reliable utility service, the proposed transaction will not adversely impact the rates paid by customers of CINGSA.[78] The Applicants also assert that the proposed transaction will not have an impact on the current operations of CINGSA, and there will be no changes to the utility operations or facilities, and CINGSA assets, certificates, company names, or tariffs will not be combined, modified, transferred, or otherwise affected as a result of the proposed transaction.[79] The Applicants state that CINGSA will

> continue to operate under their experienced Alaska management, who will remain focused on maintaining operational safety and providing reliable service to customers. . . . AltaGas Ltd. and AltaGas U.S. also intend that the personnel who are currently responsible for the provision of safe, reliable,

[76] Joint Application at 21.

[77] *Id.* at 20.

[78] *Id.* at 20-22.

[79] *Id.* at 20-21.

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and adequate service to ENSTAR, APC, and CINGSA customers will retain those responsibilities after the closing of the Proposed Transaction. Finally, all personnel will continue to work out of the same offices, including ENSTAR's Anchorage headquarters.[80]

We rely on the AltaGas commitment that any acquisition adjustment or goodwill payment associated with the proposed transaction will not be included in rates charged to CINGSA customers.[81] The Applicants also state that AltaGas expects that there will be no changes in the overall costs of providing service currently reflected in rates as a result of the proposed transaction. The Applicants further state that the capital structure of CINGSA will not change as a result of the proposed transaction.[82]

We find that the acquisition of a controlling interest in CINGSA by AltaGas Ltd. and AltaGas U.S. is consistent with the public interest.

Decision

Approval of Joint Application

Based on the information provided in the Joint Application, supplemental filings, prefiled testimony and the responses to our questions at the public hearing, we conclude that AltaGas Ltd. and AltaGas U.S. are fit, willing and able to acquire control of CINGSA. We find that approval of the Joint Application is consistent with the public interest. Accordingly, we approve the Joint Application for AltaGas to acquire a controlling interest in CINGSA.

[80] Joint Application at 21.
[81] *Id.* at 22.
[82] *Id.*

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Final Order

This order constitutes the final decision in this proceeding. This decision may be appealed within thirty days of the date of this order in accordance with AS 22.10.020(d) and the Alaska Rules of Court, Rule of Appellate Procedure 602(a)(2). In addition to the appellate rights afforded by AS 22.10.020(d), a party may file a petition for reconsideration as permitted by 3 AAC 48.105. If such a petition is filed, the time period for filing an appeal is then calculated under Alaska Rules of Court, Rule of Appellate Procedure 602(a)(2).

ORDER

THE COMMISSION FURTHER ORDERS:

1. The *Application for Approval of Acquisition of Control of Cook Inlet Natural Gas Alaska, LLC, Holder of Certificate of Public Convenience and Necessity No.* 733, filed February 21, 2012, is approved.

2. Within ten days after closing of the Stock Purchase Agreement, AltaGas Ltd. and AltaGas Utility Holdings (U.S.) LLC shall file a notification of the final closing date and provide written confirmation of the closing contemplated by the Stock Purchase Agreement.

DATED AND EFFECTIVE at Anchorage, Alaska, this 14th day of August, 2012.

BY DIRECTION OF THE COMMISSION

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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the joint application of **CONTINENTAL ENERGY SYSTEMS LLC, SEMCO HOLDING CORPORATION, SEMCO ENERGY, INC., SEMCO PIPELINE COMPANY, SEMCO GAS STORAGE COMPANY, ALTAGAS LTD.** and **ALTAGAS UTILITY HOLDINGS (U.S.) LLC**, for approval, pursuant to MCL 460.6q, for the transfer of **SEMCO ENERGY GAS COMPANY, SEMCO PIPELINE COMPANY** and **SEMCO GAS STORAGE COMPANY**, and related approvals.	)	Case No. U-16969

At the May 24, 2012 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. John D. Quackenbush, Chairman
Hon. Orjiakor N. Isiogu, Commissioner
Hon. Greg R. White, Commissioner

ORDER APPROVING SETTLEMENT AGREEMENT

On February 15, 2012, Continental Energy Systems LLC (Continental), Semco Holding Corporation (Semco Holding), SEMCO Energy, Inc. (SEMCO Energy), SEMCO Pipeline Company (SEMCO Pipeline), SEMCO Gas Storage Company (SEMCO Storage), AltaGas Ltd., and AltaGas Utility Holdings (U.S.) LLC (AltaGas U.S.) (collectively, Applicants) filed a joint application, with supporting testimony and exhibits, requesting, pursuant to Section 6q of 2008 PA 286, MCL 460.6q, all required approvals in connection with the proposed purchase of 100% of the

issued and outstanding shares of the common stock of Semco Holding[1] by AltaGas U.S. Through the proposed transaction, control of SEMCO Energy Gas Company (SEMCO Gas), a division of SEMCO Energy, SEMCO Pipeline, and SEMCO Storage will be transferred from Continental to AltaGas Ltd. and AltaGas U.S.[2]

A prehearing conference was held on March 9, 2012, before Administrative Law Judge Dennis W. Mack. The Applicants and the Commission Staff (Staff) participated in the proceeding. On May 9, 2012, the Applicants and the Staff filed a settlement agreement resolving all issues in the case.

According to the terms of the settlement agreement, attached as Exhibit A, the parties agree that the Applicants stated in the joint application, testimony, and discovery responses that the proposed transaction and resulting change in control of SEMCO Gas, SEMCO Pipeline, and SEMCO Storage: (1) will not have an adverse effect on the rates of the customers affected by the acquisition; (2) will not have an adverse effect on the provision of safe, reliable, and adequate energy service in Michigan; (3) will not result in the subsidization of a non-regulated activity through the rates paid by the customers of the affected jurisdictional regulated utilities; (4) will not significantly impair the resulting jurisdictional regulated utilities' ability to raise necessary capital or to maintain a reasonable capital structure; and (5) is consistent with the public interest.

Based on its review, the Staff recommends Commission approval of the proposed transaction subject to the Applicants' commitment to the following conditions: (1) that AltaGas Ltd. and AltaGas U.S. will not seek rate recovery from SEMCO Gas customers of any transaction costs, acquisition premiums, goodwill or control premiums, or fees incurred in connection with the

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[1] Semco Holding is now owned by Continental.

[2] SEMCO Gas, SEMCO Pipeline, and SEMCO Storage are also referred to as the "jurisdictional regulated utilities."

proposed transaction, and that these costs will not be imposed on the customers of SEMCO Pipeline or the gas storage facility in which SEMCO Storage holds an interest; (2) that there are no covenants, agreements or legislative restrictions on AltaGas Ltd. or AltaGas U.S. that would reduce or impair the ability of the Michigan jurisdictional utilities to access the capital markets; (3) that AltaGas Ltd. and AltaGas U.S. will continue existing charitable contribution practices and community support practices in Michigan after the closing on the proposed transaction in accordance with the Stock Purchase Agreement; (4) that AltaGas Ltd. and AltaGas U.S. will maintain the existing corporate offices in Michigan and, other than in SEMCO Energy's normal course of business, have no plans to alter existing office locations; (5) that no labor force reductions are expected as a result of the proposed transaction, and that AltaGas Ltd. and AltaGas U.S. agreed in the stock purchase agreement to honor all collective bargaining agreements, maintain existing compensation and benefits arrangements (or substantially comparable compensation and benefits, in the aggregate, if changes are made) for a period of two years after the closing on the proposed transaction; (6) that AltaGas Ltd. and AltaGas U.S. will not terminate the employment of any employees without cause for a period of two years after the closing on the proposed transaction; (7) that AltaGas Ltd. and AltaGas U.S. will continue to provide retiree medical and long-term disability coverage and, if substitute benefits are put in place, recognize each employee's prior service and waive pre-existing condition limitations and other benefit plan requirements that might otherwise cause a loss or reduction in employee benefits; (8) that with respect to affiliate transactions between SEMCO Gas and AltaGas Ltd. or any subsidiary of AltaGas Ltd. in which AltaGas Ltd. holds a controlling interest, AltaGas Ltd. and AltaGas U.S. will make available to the Commission or its Staff, for inspection and examination at such time and place as the Commission or its Staff may designate, the books and records of SEMCO Gas and

the books and records of any subsidiary in which AltaGas Ltd. holds a controlling interest, relative to the transaction; (9) that SEMCO Gas customers will not be financially responsible for any adverse effects of any push-down accounting adjustments from the proposed transaction; (10) that except for: (a) new financing or refinancing of existing SEMCO Energy bank facilities which Continental and its current affiliates are paying off as part of the proposed transaction and which are to be replaced; or (b) new financing or refinancing of existing SEMCO Energy debt by SEMCO Energy or any of its affiliates subject to the Commission's jurisdiction, SEMCO Gas customers will not be responsible for any financing costs associated with the proposed transaction, including, but not limited to, any interest expense associated with any debt issued to finance the acquisition of Semco Holding's common stock and any replacement or refinancing of the debt; (11) that SEMCO Gas will maintain approximately 50% equity in its permanent capital structure while the current regulated capital structure of SEMCO Gas remains in effect, and that, in addition, SEMCO Gas will maintain a minimum of 45% equity in its permanent capital structure to January 1, 2015; (12) that the books and records of SEMCO Gas will be located in Michigan unless the Commission authorizes these books and records to be located elsewhere; (13) that unless the Consumer Price Index – All Urban Consumers metric meets or exceeds 3.0% as measured and published by the Value Line Investment Survey for calendar years 2012, 2013, or 2014, SEMCO Gas will not request an authorized return on equity of greater than 10.35% for any request for final rates that take effect prior to January 1, 2015; (14) that, for ratemaking purposes, SEMCO Gas ratepayers will not be responsible for any adverse effects associated with changes in deferred income tax balances resulting from the proposed transaction; (15) that, from the closing on the proposed transaction to January 1, 2015, SEMCO Gas will not issue dividends to any entity, measured collectively, in a manner that will cause the equity level of SEMCO Gas to vary by more

than 5% relative to a target equity level of 50%; (16) that AltaGas Ltd. and AltaGas U.S. shall notify the Commission by letter of the closing of the proposed transaction and file a copy of the letter in this docket; and (17) if the proposed transaction is not completed, Michigan customers of SEMCO Gas will not bear any costs associated with the failed transaction process or the failed transaction.

After a review of the settlement agreement, the Commission finds it reasonable and in the public interest and that it should be approved provided the proposed transaction: (1) will not have an adverse effect on the rates of the customers affected by the acquisition; (2) will not have an adverse effect on the provision of safe, reliable, and adequate energy service in this state; (3) will not result in the subsidization of a non-regulated activity through the rates paid by the customers of the affected jurisdictional regulated utilities; and (4) will not significantly impair the resulting jurisdictional regulated utilities' ability to raise necessary capital or to maintain a reasonable capital structure, and provided that the Applicants abide by the conditions recommended by the Staff.

THEREFORE, IT IS ORDERED that:

A. The settlement agreement, attached as Exhibit A, is approved.

B. The proposed transaction for the purchase of 100% of the issued and outstanding shares of Semco Holding Corporation by AltaGas Utility Holdings (U.S.) LLC through which control of SEMCO Energy Gas Company, SEMCO Pipeline Company, and SEMCO Gas Storage Company are to be transferred from Continental Energy Systems LLC to AltaGas Ltd. and AltaGas Utility Holdings (U.S.) LLC, is approved subject to the conditions agreed to in the settlement agreement.

C. This order is issued pursuant to Section 6q of 2008 PA 286, MCL 460.6q and provides all required and related approvals in connection with the proposed transaction.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, under MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

_____
John D. Quackenbush, Chairman

_____
Orjiakor N. Isiogu, Commissioner

_____
Greg R. White, Commissioner

By its action of May 24, 2012.

_____
Mary Jo Kunkle, Executive Secretary

EXHIBIT A

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the joint application of CONTINENTAL ENERGY SYSTEMS LLC, SEMCO HOLDING CORPORATION, SEMCO ENERGY, INC., SEMCO PIPELINE COMPANY, SEMCO GAS STORAGE COMPANY, ALTAGAS LTD., and ALTAGAS UTILITY HOLDINGS (U.S.) LLC, for approval, pursuant to MCL 460.6q, for the transfer of control of SEMCO ENERGY GAS COMPANY, SEMCO PIPELINE COMPANY, and SEMCO GAS STORAGE COMPANY, and related approvals.	Case No. U-16969 (e-file paperless)

SETTLEMENT AGREEMENT

On February 15, 2012, Continental Energy Systems LLC (Continental), Semco Holding Corporation (Semco Holding), SEMCO Energy, Inc. (SEMCO Energy), SEMCO Pipeline Company (SEMCO Pipeline), SEMCO Gas Storage Company (SEMCO Storage), AltaGas Ltd. and AltaGas Utility Holdings (U.S.) LLC (AltaGas U.S.), (collectively, Joint Applicants) filed a joint application with the Michigan Public Service Commission (Commission) requesting all required and other related approvals in connection with the proposed purchase by AltaGas U.S. of 100% of the issued and outstanding shares of the common stock of Semco Holding now owned by Continental (Proposed Transaction) by which control of SEMCO Energy Gas Company (SEMCO Gas), a division of SEMCO Energy; SEMCO Pipeline and SEMCO Storage would be transferred from Continental to AltaGas

Ltd. and AltaGas U.S. The filing was submitted pursuant to 2008 PA 286, § 6q, MCL 460.6q. The joint application included testimony and exhibits of (i) Continental President and Chief Executive Officer George A. Schreiber, Jr., (ii) AltaGas Utility Division President John E. Lowe, and (iii) AltaGas Ltd. Senior Vice President, Finance, and Chief Financial Officer and AltaGas U.S. Treasurer Deborah S. Stein.

The joint application and prefiled testimony[1] stated that (a) AltaGas U.S. is the proposed purchaser of 100% of the issued and outstanding common stock of Semco Holding under a Stock Purchase Agreement, dated as of February 1, 2012, by and among Continental, Semco Holding, AltaGas Ltd. and AltaGas U.S. (the Stock Purchase Agreement), (b) AltaGas U.S. was formed to own AltaGas Ltd.'s utility investments in the United States, and, since its formation, AltaGas U.S. has conducted no business operations other than incidental to its formation and in connection with the transactions contemplated by the Stock Purchase Agreement, (c) the Stock Purchase Agreement sets forth the terms and conditions for the Proposed Transaction, (d) if the change in control resulting from the Proposed Transaction is approved by the Commission, then at closing, on the terms and subject to the conditions set forth in the Stock Purchase Agreement (including receipt of Commission approvals sought in the joint application), Continental will sell, transfer, and deliver to AltaGas U.S. 100% of the issued and outstanding shares of common stock of Semco Holding in exchange for US$1.135 billion, payable

[1] http://efile.mpsc.state.mi.us/efile/docs/16969/0001.pdf

and subject to adjustment as set forth in the Stock Purchase Agreement, (e) upon closing on the Proposed Transaction, AltaGas Ltd. and AltaGas U.S. would control SEMCO Energy, including SEMCO Gas, SEMCO Pipeline and SEMCO Storage, (f) upon closing, AltaGas U.S. would also acquire various other non-jurisdictional SEMCO Energy divisions, subsidiaries, and interests, including SEMCO Energy's ENSTAR Natural Gas Company division and Alaska Pipeline Company subsidiary (collectively, ENSTAR) and SEMCO Energy's indirect partial ownership interest in Cook Inlet Natural Gas Storage Alaska, LLC (CINGSA),[2] (g) consummation of the Proposed Transaction will result in a change of ownership of Semco Holding, (h) after closing, SEMCO Energy will remain a wholly-owned subsidiary of Semco Holding, and SEMCO Energy will continue to exist as a separate corporate entity, (i) the transactions contemplated by the Stock Purchase Agreement, including the Proposed Transaction, will leave undisturbed, as applicable, all currently-effective rates, tariffs, contracts and other business relationships of SEMCO Gas, SEMCO Pipeline and SEMCO Storage, (j) the Proposed Transaction will not adversely affect the continued provision of safe, reliable, and adequate gas utility service by SEMCO Gas, nor will service provided to SEMCO Gas and other customers by SEMCO Pipeline or the storage facility in which SEMCO Storage owns an interest be

[2] CINGSA is constructing and will own and operate an in-ground natural gas storage facility in Alaska. ENSTAR and CINGSA provide gas utility and storage service to approximately 133,000 customers in Alaska, subject to the jurisdiction of, and regulation by, the Regulatory Commission of Alaska (RCA). RCA approval is required with respect to the change in control of ENSTAR and CINGSA contemplated by the Stock Purchase Agreement. The applications for such approval are currently pending in RCA Docket Nos. U-12-005 and U-12-006.

adversely affected by the Proposed Transaction, (k) after closing, gas utility service will continue to be provided to customers in Michigan by the same personnel, based in the same offices, including the current SEMCO Energy headquarters in Port Huron, Michigan, doing the same jobs they do now,[3] (l) since AltaGas U.S. is acquiring sole ownership of Semco Holding, SEMCO Energy will continue to exist as a separate corporate entity, therefore, the Proposed Transaction will have no effect on competition or market power, and (m) commitments were included in the Stock Purchase Agreement to maintain continuity in the SEMCO Gas workforce and thus help provide for the continued provision of safe, reliable, and adequate gas utility service to customers.

Pursuant to MCL 460.6q(4) and after due notice, interested parties, including the Attorney General and intervenors in SEMCO Gas's most recently filed general rate case proceeding, Case No. U-16169, were provided an opportunity to file, within 60 days from the date the joint application was filed, comments with the Commission on the proposed acquisition and related transactions. No comments were filed.

Pursuant to due notice, a prehearing conference was held at Constitution Hall, 525 West Allegan, Lansing Michigan on March 9, 2012, with Administrative

[3] As referenced in Mr. Lowe's prefiled testimony, page 11, this statement should not be read as indicating that AltaGas Ltd. and AltaGas U.S. intend to operate SEMCO Gas without continuing to assess prudently and in the ordinary course of business changes that lead to improved service, safety and reliability. However, the Proposed Transaction will not be the driver of such changes to the existing utility business.

Law Judge Dennis W. Mack presiding. At the prehearing conference,[4] the Joint Applicants presented proofs of service,[5] affidavits of publication evidencing service, and publication of the Notice of Opportunity to File Comments and Notice of Hearing.[6] The Staff also participated in the prehearing conference. No petitions to intervene were filed.

This proceeding was conducted as a contested case matter pursuant to Chapter 4 of the Administrative Procedures Act of 1969, 1969 PA 306, as amended (APA).

Subsequent to the prehearing conference, the parties exchanged information and engaged in discussions and extensive discovery concerning the Joint Applicants' filing.

By this Settlement Agreement, the Joint Applicants and Staff agree and stipulate as follows:

1. Joint Applicants represented in the joint application, prefiled testimony, and discovery responses that the Proposed Transaction:

a) will not have an adverse impact on the rates of the Michigan customers affected by the acquisition,

b) will not have an adverse impact on the provision of safe, reliable, and adequate energy service in this state,

[4] http://efile.mpsc.state.mi.us/efile/docs/16969/0047.pdf

[5] http://efile.mpsc.state.mi.us/efile/docs/16969/0006.pdf

[6] http://efile.mpsc.state.mi.us/efile/docs/16969/0024.pdf

c) will not result in the subsidization of a non-regulated activity of the resulting entities through the rates paid by customers of any of the jurisdictional regulated utilities,

d) will not significantly impair the ability of the Michigan jurisdictional regulated utilities to raise necessary capital or to maintain a reasonable capital structure, and

e) is not otherwise inconsistent with public policy and interest.

2. Based upon Staff's due diligence review of the Proposed Transaction, Staff recommends the Commission's approval of the Proposed Transaction subject to Joint Applicants' commitment to the following conditions:

a) AltaGas Ltd. and AltaGas U.S. will not seek rate recovery from SEMCO Gas customers of any transaction costs, acquisition premiums, goodwill or control premiums or fees incurred in connection with the Proposed Transaction. Nor will such costs be imposed on the customers of SEMCO Pipeline or the gas storage facility in which SEMCO Storage holds an interest.

b) There are no covenants, agreements or legislative restrictions on AltaGas Ltd. or AltaGas U.S. that would reduce or impair the ability of the Michigan jurisdictional utilities to access the capital markets.

c) AltaGas Ltd. and AltaGas U.S. will continue existing charitable contribution practices and community support practices in Michigan after the closing on the Proposed Transaction in accordance with the Stock Purchase Agreement.[7]

d) AltaGas Ltd. and AltaGas U.S. will maintain the existing corporate offices in Michigan and other than in SEMCO Energy's normal course of business, have no plans to alter existing office locations.[8]

e) No labor force reductions are expected as a result of the Proposed Transaction. More specifically, AltaGas Ltd. and AltaGas U.S. agreed in Stock Purchase Agreement to (i) honor all collective bargaining agreements, (ii) maintain existing compensation and benefits arrangements (or substantially comparable compensation and benefits, in the aggregate, if changes are made) for a period of two years after the closing on transactions contemplated by the Stock Purchase Agreement,[9] (iii) not terminate the employment of any employees without cause for a period of two years after the closing on the transactions contemplated by the Stock Purchase Agreement,[10] and (iv) continue to provide retiree medical and long-

[7] Section 6.05(g) of Stock Purchase Agreement at page 41.

[8] SEMCO Gas offices in Three Rivers and Albion are currently in the process of being moved to other locations in those same areas.

[9] Section 6.05 of Stock Purchase Agreement at page 38.

[10] Section 6.05(a) of Stock Purchase Agreement at pages 38, 39.

term disability coverage and, if substitute benefits are put in place, recognize each employee's prior service and waive pre-existing condition limitations and other benefit plan requirements that might otherwise cause a loss or reduction in employee benefits.

f) With respect to affiliate transactions between SEMCO Gas and AltaGas Ltd. or any subsidiary of AltaGas Ltd. in which AltaGas Ltd. holds a controlling interest, AltaGas Ltd. and AltaGas U.S. will make available to the Commission or its Staff, for inspection and examination at such time and place as the Commission or its Staff may designate, the books and records of SEMCO Gas and the books and records of any subsidiary in which AltaGas Ltd. holds a controlling interest, relative to such transaction.

g) SEMCO Gas customers will not be financially responsible for any adverse impacts of any push-down accounting adjustments from the transactions contemplated by the Stock Purchase Agreement.

h) SEMCO Gas customers will not be responsible for any financing costs associated with the transactions as contemplated by the Stock Purchase Agreement, including, but not limited to, any interest expense associated with any debt issued to finance the acquisition of Semco Holding's common stock and any replacement or refinancing of said debt. This does not apply to (i) new financing or refinancing of existing SEMCO Energy bank facilities which

Continental and its current affiliates are paying off as part of the transactions contemplated by the Stock Purchase Agreement and which are to be replaced or (ii) new financing or refinancing of existing SEMCO Energy debt by SEMCO Energy or any of its affiliates subject to the Commission's jurisdiction.

i) SEMCO Gas shall maintain approximately fifty (50) percent equity in its permanent capital structure while the current regulated capital structure of SEMCO Gas remains in effect. In addition, SEMCO Gas shall maintain a minimum of forty-five (45) percent equity in its permanent capital structure to January 1, 2015.

j) The books and records of SEMCO Gas will be located in Michigan unless the Commission authorizes such book and records to be located elsewhere.

k) SEMCO Gas shall not request an authorized ROE of greater than 10.35% for any request for final rates that take effect prior to January 1, 2015. This 10.35% provision will expire if the Consumer Price Index (CPI) – All Urban Consumers metric meets or exceeds 3.0% as measured and published by the Value Line Investment Survey for calendar years 2012, 2013, or 2014.

l) For ratemaking purposes, SEMCO Gas ratepayers shall not be responsible for any adverse impacts associated with changes in

deferred income tax balances resulting from the Proposed Transaction.

m) From the closing on the Proposed Transaction to January 1, 2015, SEMCO Gas will not issue dividends to any entity, measured collectively, in a manner that will cause the equity level of SEMCO Gas to vary by more than 5% relative to a target equity level of 50%.

n) AltaGas Ltd. and AltaGas U.S. shall notify the Commission by letter of the closing of the transactions contemplated by the Stock Purchase Agreement and file a copy of said letter in this docket.

3. As a further condition of approval of the Proposed Transaction, Continental agrees that, if the transactions contemplated by the Stock Purchase Agreement are not completed, the Michigan customers of SEMCO Gas will not bear any costs associated with the failed transaction process or the failed transactions.

4. It is the opinion of the Joint Applicants and Staff that Commission approval of this Settlement Agreement will promote the public interest, will aid the expeditious conclusion of this case, and will minimize the time and expense which would otherwise have to be devoted to this matter by the Commission and the parties.

5. This Settlement Agreement is for the purpose of final resolution of this case, and all provisions of the Settlement Agreement are dependent upon all other provisions contained therein.

6. Joint Applicants and Staff agree not to appeal, challenge or contest the Commission's order adopting this Settlement Agreement if such order accepts and approves this Settlement Agreement without modification. If the Commission does not accept this Settlement Agreement without modification, this Settlement Agreement shall be withdrawn and shall not constitute any part of the record in this proceeding or be used for any other purpose whatsoever.

7. Joint Applicants and Staff jointly recommend that the Commission issue its Order Adopting Settlement Agreement and resolve this case with prejudice, granting all required and requested approvals in connection with the Proposed Transaction.

8. This Settlement Agreement has been made for the sole and express purpose of recommending approval of the purchase by AltaGas U.S. of SEMCO Holdings' issued and outstanding stock in Case No. U-16969 without prejudice to the rights of Joint Applicants and Staff to take new and/or different positions in other proceedings. If the Commission approves this Settlement Agreement without modification, Joint Applicants, Staff and the Commission shall not make any reference to or use of the Settlement Agreement or the order approving it as a reason, authority, rationale or example for taking any action or position or making any subsequent decision in this case or any other cases or proceedings; provided,

however, such reference or use may be made to enforce the Settlement Agreement and order approving the Settlement Agreement.

9. Section 81 of the APA, MCL 24.281, is waived by the signatories.

Dated: May 9, 2012

Ronald W. Bloomberg

Digitally signed by Ronald W Bloomberg
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Date: 2012.05.09 08:52:02 -05'00'

CONTINENTAL ENERGY SYSTEMS LLC,
SEMCO HOLDING CORPORATION,
SEMCO ENERGY, INC.,
SEMCO PIPELINE COMPANY, AND
SEMCO GAS STORAGE COMPANY
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Sherri A. Wellman (P38989)
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Dated: May 9, 2012

Albert Ernst

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ALTAGAS UTILITY HOLDINGS (U.S.) LLC
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Dated: May 9, 2012

Amit T. Singh

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STANDARD & POOR'S RATINGS SERVICES
McGRAW HILL FINANCIAL

Global Credit Portal
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February 7, 2012

Research Update:

AltaGas Ltd. 'BBB' Ratings Affirmed Following Acquisition Of SEMCO Holding Corp; Outlook Stable

Primary Credit Analyst:
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Research Update:

AltaGas Ltd. 'BBB' Ratings Affirmed Following Acquisition Of SEMCO Holding Corp; Outlook Stable

Overview

- AltaGas Ltd. has announced it is acquiring SEMCO Holding Corp., the sole shareholder of SEMCO Holding Corp. from Continental Energy Systems LLC for about C$1.1 billion.
- We are affirming our ratings, including our 'BBB' long-term corporate credit rating, on AltaGas.
- In our view, SEMCO has an excellent business risk profile and a highly leveraged financial risk profile.
- We have revised AltaGas' business risk profile to strong from satisfactory and financial risk profile to significant from aggressive, assuming the transaction closes as expected.
- The stable outlook reflects our assessment of the company's business mix, which is increasingly diverse with a greater contribution from fee-based and regulated utility cash flows.

Rating Action

On Feb. 7, 2012, Standard & Poor's Ratings Services affirmed its ratings, including its 'BBB' long-term corporate credit rating, on Calgary, Alta.-based AltaGas Ltd. The outlook is stable.

The affirmation comes after the company announced the acquisition of SEMCO Holding Corp. (which owns SEMCO Energy Inc.) from Continental Energy Systems LLC for about C$1.1 billion. SEMCO owns regulated natural gas transmission assets in Michigan and Alaska, and is building a regulated natural gas storage facility in Alaska.

Rationale

We view the announced transaction as a positive for AltaGas' business risk profile, since the regulated utility business will diversify and improve the stability of the company's existing asset base. As a result, we have revised our business risk profile on AltaGas to strong from satisfactory and the financial risk profile to significant from aggressive. The company is financing the transaction consistent with its cash flow characteristics and existing capital structure, and we believe the cash flows' stable nature help to support the pro forma balance sheet. In our view, SEMCO has an excellent business risk profile and a highly leveraged financial risk profile. The highly leveraged financial risk profile stems from the consolidation of

Continental Energy Systems, which has debt and other subsidiary assets not being acquired.

Pro forma the transaction, we estimate that the proportion of EBITDA from direct commodity sales (fractionation margin and power generation) will be about 24%, down from 2010's 38%. We view this shift to be positive for credit.

However, we view AltaGas' balance sheet to be stretched, largely due to the continued high capex on long-term projects that will depress 2012 and 2013 financial metrics. The company has a combined capital spending program of more than C$1 billion on projects that we expect will contribute only partway into 2012 or future years. We recognize that more stable cash flows can support a higher degree of leverage.

We view the financial metrics overall as weak for the ratings, but do see improvements into next year as projects such as the Gordondale processing facility in the gas segment contribute to a full year's operating results. We forecast more significant improvements with the contribution of Forest Kerr in 2014; however, we note there remains approximately 10% of the project's C$725 million cost to be fixed. If the project timing slips, there would be a delay in the movement to a more appropriate financial profile for the ratings.

Liquidity

We view AltaGas's liquidity as adequate for the next six months, with sources less uses of C$239 million and sources covering uses 2.4x. We also believe liquidity is adequate for the next 12 months if we take into account the company's C$200 million accordion facility. AltaGas has put a C$300 million, 12-month revolver in place to provide liquidity for the transaction; however, due to the short duration, we exclude it from our calculations.

We believe that the company has good access to the capital markets, as evidenced by the announced C$350 million subscription receipt deal to partially finance the cash portion of the transaction.

Outlook

The stable outlook reflects our assessment of AltaGas' business mix, which is increasingly diverse with a greater contribution from fee-based and regulated utility cash flows. In our view, the near-term financial metrics are low for the ratings, although we recognize the cash flows are increasingly sustainable and predictable. We expect to see funds from operations-to-debt increase to the 13% range by 2014. We could take a negative rating action if the company's financial metrics do not improve as expected, or if capital projects and acquisitions are not executed and integrated on time. We also expect to see further capital projects and acquisitions financed in line with AltaGas' stated capital structure goals. We could raise the ratings as the business risk profile transitions to a lower level of commodity exposure and forecast financial ratios improve when long-term projects begin to contribute.

Related Criteria And Research

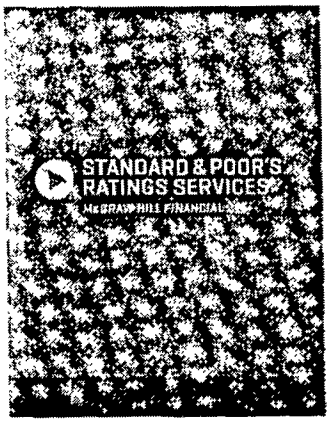
- Methodology And Assumptions: Liquidity Descriptors For Global Corporate Issuers, Sept. 28, 2011
- Criteria Methodology: Business Risk/Financial Risk Matrix Expanded, May 27, 2009
- Rating Criteria for U.S. Midstream Energy Companies, Dec. 18, 2008
- 2008 Corporate Criteria: Analytical Methodology, April 15, 2008

Ratings List

Ratings Affirmed

AltaGas Ltd.	
Corporate credit rating	BBB/Stable/--
Senior unsecured debt	BBB
Preferred stock	
Global scale	BB+
Canada scale	P-3(High)

Complete ratings information is available to subscribers of RatingsDirect on the Global Credit Portal at www.globalcreditportal.com. All ratings affected by this rating action can be found on Standard & Poor's public Web site at www.standardandpoors.com. Use the Ratings search box located in the left column.



February 9, 2012

Research Update:

Ratings On SEMCO Energy Inc. Are Placed On CreditWatch Positive After Announced Sale To AltaGas

Primary Credit Analyst:
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Research Update:

Ratings On SEMCO Energy Inc. Are Placed On CreditWatch Positive After Announced Sale To AltaGas

Overview

- AltaGas Ltd. (BBB/Stable/--) is purchasing U.S. natural gas distribution company SEMCO Holding Co., the parent of SEMCO Energy Inc., from Continental Energy Systems LLC (CES; unrated) for $1.14 billion. Upon close, we expect to link SEMCO's ratings with those of AltaGas.
- We are placing our 'BBB-' corporate credit and 'BBB+' issue-level ratings on SEMCO on CreditWatch with positive implications.

Rating Action

On Feb. 9, 2012, Standard & Poor's Ratings Services placed its ratings on SEMCO Energy Inc. (SEMCO) on CreditWatch with positive implications.

Rationale

The CreditWatch positive status stems from SEMCO's acquisition by a higher rated Canadian company, AltaGas. Consequently, we no longer base the ratings on the consolidated credit profile of former parent CES. We view the announced transaction to be positive for SEMCO because it will no longer be exposed to weaker cash flows for CES's other subsidiary New Mexico Gas Co. Inc.

We also view the announced transaction as a positive for AltaGas's business risk profile because its regulated utility business will diversify and improve the stability of the company's existing asset base. As a result, we have revised our business risk profile designation on AltaGas to "strong" from "satisfactory" and the financial risk profile to "significant" from "aggressive". The company is financing the transaction consistent with its cash flow characteristics and existing capital structure, and we believe the cash flows' stable nature help support the pro forma balance sheet.

SEMCO owns regulated natural gas distribution and transmission assets in Michigan and Alaska, and is building a regulated natural gas storage facility in Alaska.

In our view, SEMCO maintains an "excellent" business risk profile on a stand-alone basis and we are revising its financial risk profile to "significant" from "aggressive" in line with that of its new parent, AltaGas. Pro forma for the transaction, we estimate that the portion of EBITDA from direct commodity sales (fractionation margin and power generation) to be 24%,

down from 2010's 38%. We view this shift to be positive for credit.

SEMCO's primary operating assets are SEMCO Gas, a regulated natural gas distribution system in Michigan serving about 288,000 customers, and ENSTAR Natural Gas, a regulated natural gas distribution system in Alaska serving about 133,000 customers. SEMCO has also received regulatory approval to develop and operate a storage facility in Alaska called Cook Inlet Natural Gas Storage Alaska. Unregulated operations contribute less than 5% of EBITDA and include a 50% share of Eaton Rapid Gas Storage System in Michigan, a propane gas business, and ownership of three pipelines.

Financial performance at SEMCO has been improving steadily, with the ratio of funds from operation (FFO) to debt of about 18% over the next two years. However, we view AltaGas' balance sheet to be stretched, largely due to the continued high capital spending on long-term projects that will depress 2012 and 2013 financial metrics. The company has a combined capital spending program of more than C$1 billion on projects that we expect will contribute only partway into 2012 and future years. We recognize that more stable cash flows can support a higher degree of leverage.

We view the pro forma financial metrics as weak for the ratings, but do see improvements into next year as projects such as the Gordondale processing facility in the gas segment contribute to a full year's operating results. We forecast significant improvements with the contribution of Forest Kerr in 2014; however, we note there remains about 10% of the project's C$725 million cost to be fixed. If the project timing slips, there would be a delay in the movement to a more appropriate financial profile for the ratings.

Liquidity

We view SEMCO's liquidity on a consolidated basis. When including the company's revolving credit facility that matures beyond the next six months, we calculate sources divided by uses of more than 2x. On a stand-alone basis, SEMCO had a $130 million credit facility of which about $56.5 million is unused, as of Sept. 30, 2011. In addition, with about $80 million of FFO expected over the next 12 months, the company should have enough funds to meet its uses of liquidity, primarily mandatory capital expenses and any distributions.

We believe that AltaGas has good access to the capital markets, as evidenced by the announced C$350 million subscription receipt deal to partially finance the transaction's cash portion.

CreditWatch

The CreditWatch positive listing reflects the stronger consolidated credit profile of AltaGas. We expect SEMCO to be an integral part of AltaGas, providing between one-quarter to one-third of overall cash flows. When the acquisition is complete, we would likely raise SEMCO's rating to that of

AltaGas. We expect the sale to close by the third quarter of 2012, when we will remove the ratings from CreditWatch.

Related Criteria And Research

Criteria: Key Credit Factors: Business And Financial Risks In The Investor-Owned Utilities Industry, Nov. 26, 2008.

Ratings List

Ratings Placed On CreditWatch Positive

	To	From
SEMCO Energy Inc.		
Corporate Credit Rating	BBB-/Watch Pos	BBB-/Negative/--
Senior secured	BBB+/Watch Pos	BBB+
Recovery Rating	1+	

Complete ratings information is available to subscribers of RatingsDirect on the Global Credit Portal at www.globalcreditportal.com. All ratings affected by this rating action can be found on Standard & Poor's public Web site at www.standardandpoors.com. Use the Ratings search box located in the left column.

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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 TRANFER OF CONTROL OF DUKE ENERGY KENTUCKY, INC.	)	CASE NO. 2011-00124

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COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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 TRANFER OF CONTROL OF DUKE ENERGY KENTUCKY, INC.	)))))))	CASE NO. 2011-00124

O R D E R

On April 4, 2011, 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 "Applicants") tendered for filing a joint application pursuant to KRS 278.020(5) and 278.020(6) for approval of the indirect transfer of ownership and control of Duke Kentucky in accordance with the terms of a January 8, 2011 Agreement and Plan of Merger. The application also requested that the Commission (1) approve five amended affiliate agreements, (2) find that the Applicants other than Duke Kentucky and other intermediates or affiliates between Duke and Duke Kentucky are not utilities subject to our jurisdiction, (3) find that KRS 278.218 and 807 KAR 5:011, Section 11, do not apply to the proposed transaction, and (4) provide notice to the Federal Energy Regulatory Commission ("FERC") and other applicable federal or state regulatory agencies that we have approved the proposed transaction.

Duke, an energy and utility holding company with its headquarters in Charlotte, North Carolina, is one of the largest utility companies in the United States. It owns or

controls more than 35,000 megawatts of electric generating capacity in the U.S., and supplies or delivers electricity and natural gas to approximately 4.5 million customers in the U.S. It is a Fortune 500 company with approximately $12.7 billion in annual revenues.

Duke is the owner of Cinergy, which owns Duke Ohio, which, in turn, owns Duke Kentucky. Duke is the sole owner of Diamond, a corporation created specifically to accomplish the acquisition of Progress. Progress, an energy and utility holding company headquartered in Raleigh, North Carolina, is a Fortune 500 company with more than 22,000 megawatts of electric generating capacity in the U.S. It serves approximately 3.1 million electric customers in North Carolina, South Carolina and Florida and has approximately $10 billion in annual revenues.

By Order entered on April 21, 2011, the Commission established a procedural schedule which provided for two rounds of discovery, intervenor testimony, discovery on the intervenor testimony, and a public hearing. That Order also found good cause to continue our review and consideration of this application for an additional 60 days beyond the initial 60 days, as permitted under KRS 278.020(6). The only intervenor in this matter is the Kentucky Attorney General through his Office of Rate Intervention ("AG"). The Applicants were subject to two rounds of discovery by the AG and three rounds of discovery by the Commission Staff. The AG did not file testimony.

At the request of the Applicants, informal conferences were held at the Commission's offices on May 19, June 8, and June 17, 2011. Subsequent to the June informal conferences, on June 24, 2011, Applicants and the AG filed a unanimous Settlement Agreement, Stipulation and Recommendation ("Settlement Agreement"),

which is attached to this Order as Appendix A.[1] An evidentiary public hearing was held on July 8, 2011 at the Commission's offices in Frankfort, Kentucky.

OVERVIEW OF THE TRANSACTION

Pursuant to the January 8, 2011 Agreement and Plan of Merger, each share of Progress common stock will be converted into the right to receive 2.6125 shares of Duke common stock. This exchange rate will be adjusted to reflect a one-for-three reverse stock split with respect to Duke's common stock, which will be implemented prior to the closing of the merger. Shareholders of Progress stock will receive Duke stock to reflect their ownership in the combined company. Upon completion of the merger, Duke's current shareholders will own approximately 63 percent of the common stock of the combined company while current Progress shareholders will own approximately 37 percent of Duke's common stock.

Upon completion of the merger, the combined company will be headquartered in Charlotte, North Carolina. Duke will continue to own Cinergy, which will continue to own Duke Ohio, which will continue to own Duke Kentucky. According to the application, the merger will not impact the corporate structure or local operations of Duke Kentucky.

Duke Kentucky and many of its affiliates are parties to Commission-approved service agreements that permit transactions to occur between the parties under defined pricing terms and conditions. The Applicants are requesting approval of revisions that reflect the addition of Progress as a party to the following affiliate agreements: (1) Service Company Utility Service Agreement; (2) Operating Companies Service

[1] Testimony in support of the Settlement Agreement was filed by the Applicants on June 27, 2011.

Agreement; (3) Utility Money Pool Agreement;[2] (4) Intercompany Asset Transfer Agreement; and (5) Tax Sharing Agreement.

STATUTORY STANDARD FOR MERGER

Under KRS 278.020(5), no person may acquire or transfer control of a utility until the Commission has determined that the acquirer has the financial, technical, and managerial abilities to provide reasonable service. In addition, under KRS 278.020(6), no individual may acquire control of a utility unless the Commission has determined that the acquisition is made in accordance with the law, for a proper purpose, and is consistent with the public interest.

APPLICANTS' COMMITMENTS

In their application, the Applicants offered to adhere to 41 commitments ("Regulatory Commitments") relating to rates or service in conjunction with the Commission's approval of the proposed transaction.[3] These Regulatory Commitments reflected the majority (41 of 46) of the commitments imposed by the Commission in 2005 in conjunction with its approval of the Duke-Cinergy merger, Case No. 2005-00228.[4] The five commitments which the Applicants stated should not be continued in conjunction with the Duke-Progress merger were Commitment No. 4, which related to

[2] The amended money pool agreement contained in the application was updated by the Applicant's filing of April 29, 2011.

[3] The Applicants' 41 commitments were contained in Exhibit L of the application, the Direct Testimony of Julia S. Janson.

[4] Case No. 2005-00228, Joint Application of Duke Energy Corporation, Duke Energy Holding Corp., Deer Acquisition Corp., Cougar Acquisition Corp., Cinergy Corp., The Cincinnati Gas and Electric Company and The Union Light, Heat and Power Company for Approval of an Acquisition and Transfer of Control (Ky. PSC. Nov. 29, 2005).

push-down accounting; Commitment No. 6, which related to Duke Kentucky filing a number of reports on its service reliability and quality, reports that are now filed by all jurisdictional electric utilities pursuant to our Order in another case; Commitment No. 29, which related to not closing Duke Kentucky customer service centers; Commitment No. 45, which related to our ability to assert any pricing methodology in a future FERC proceeding in conjunction with inter-company transactions between Duke Kentucky and its affiliates; and Commitment No. 46, which related to Duke's interstate gas pipeline business.

In response to Commission Staff's data request, Applicants clarified various of their Regulatory Commitments; agreed to continue Commitment No. 4 to apply to any acquisition premium paid by Duke for the Progress stock; split Commitment No. 12 into two Commitments, Nos. 11 and 12; agreed to modify Commitment No. 23 to reflect the filing of certain monthly financial statements with the Commission; agreed to a new commitment, which has become Commitment No. 24, which relates to Duke Kentucky abiding by other regulatory jurisdictions in the approvals of the Duke-Progress merger; agreed to continue Commitment No. 45 in a modified form which eliminated references to the repeal of the Public Utility Holding Company Act of 1935 and the enactment of the Energy Policy Act of 2005; and agreed to a new commitment related to examining policies that may be more sympathetic to low-income customers.[5]

[5] The updated Regulatory Commitments are contained in Exhibit A to Appendix A of this Order, which is the June 24, 2011 Settlement Agreement filed by the parties.

SETTLEMENT AGREEMENT

The Applicants and the AG have characterized their Settlement Agreement as addressing all pertinent matters at issue in this proceeding and representing a fair, just and reasonable resolution of all of the issues in this proceeding.

The major provisions of the Settlement Agreement, which is attached hereto and incorporated herein as Appendix A to this Order, are as follows:

1) Duke Kentucky will not file new gas or electric base rate applications for two years from the date of a final Order approving the proposed indirect transfer of control. This provision does not apply to future deferrals of extraordinary costs, requests for emergency rate relief pursuant to KRS 278.190(2), adjustments to Duke Kentucky's cost recovery surcharge mechanisms, or the future establishment of an environmental surcharge mechanism pursuant to KRS 278.183.
2) Applicants will make five annual shareholder contributions of $115,000 each to support low-income weatherization efforts within Duke Kentucky's service territory. Contributions will go to People Working Cooperatively or to another entity to be determined by Duke Kentucky and the AG. Such contributions will not be recovered from Duke Kentucky's ratepayers.
3) Applicants will make five annual shareholder contributions of $50,000 each to support economic development within the service territory of Duke Kentucky. The contributions will be made to one or more non-profit entities as shall be agreed upon by Duke Kentucky

and the AG. These contributions will not be recovered from Duke Kentucky's ratepayers.

The Commission has thoroughly reviewed the Settlement Agreement and we compliment the Applicants and the AG on the results they achieved. We find that the Settlement Agreement represents a reasonable resolution to the issues surrounding the proposed acquisition and should be approved. While the Commission finds that the Settlement Agreement should be approved, we believe the evidence of record requires that we address the following issues which are not addressed or only partially addressed therein.

ADDITIONAL ISSUES

Commitment No. 8 of the Application

In the application, Commitment No. 8 as carried forward from our approval of the Duke-Cinergy merger required that the applicants commit to not achieve merger savings at the expense of a material degradation of the adequacy and reliability of Duke Kentucky's service. [Emphasis added.] The Commission believes that the achievement of merger savings at the expense of any degradation of the adequacy and reliability of service would be unacceptable and, thus, the word "material" should be stricken from the commitment, which is now Commitment No. 7 in Appendix B to this Order.

Commitment No. 23 of the Application

In the application, Commitment No. 23, also as carried forward from our approval of the Duke-Cinergy merger, required that the quarterly reports filed here by Duke Kentucky include a schedule of its current capital structure and a schedule of any capital contribution made to Duke Kentucky in the applicable quarter. During this

proceeding, Duke Kentucky agreed to file with the Commission separate gas and electric income statements and a combined gas and electric balance sheet for each of the eight months it does not make the quarterly filings.[6] However, in the updated Regulatory Commitments attached to the Settlement Agreement, Commitment No. 23 was revised to require monthly reports but not the quarterly reports that had been filed previously.

At the public hearing, Duke Kentucky confirmed that, due to an oversight, the wording of Commitment No. 23 was in error. It also reaffirmed its agreement to include separate gas and electric income statements and a combined gas and electric balance sheet in the monthly reports for each of the months it does not file quarterly reports.

Demand-Side Management

In several cases it has decided in recent years, the Commission has stated its belief that conservation, energy efficiency and demand-side management ("DSM") programs are very important and that such programs will become more cost-effective as additional restrictions are place on coal-fired generation.[7] In our decisions in those proceedings, we encouraged the applicant utility and "all other electric energy providers

[6] See Applicants' Response to Commission Staff's Initial Information Request, Item 18.

[7] Case No. 2008-00254, Grayson Rural Electric Cooperative Corporation (Ky. PSC Jun. 3, 2009); Case No. 2008-00030, Farmers Rural Electric Cooperative Corporation (Ky. PSC Jun. 10, 2009); and Case No. 2010-00222, Meade County Rural Electric Cooperative Corporation (Ky. PSC Feb. 17, 2011).

to make a greater effort to offer cost-effective DSM and other energy efficiency programs...."[8]

The Commission recognizes that, for many years, Duke Kentucky has offered a substantial menu of energy efficiency and DSM programs to its customers. We believe, however, that these types of programs have become increasingly important as stricter environmental regulations are being promulgated that will impact the cost of electric generation. Therefore, we find that an additional regulatory commitment is appropriate to ensure that Duke Kentucky continues to offer and aggressively pursue and deploy cost-effective DSM and energy efficiency best-practice programs to its customers. This additional commitment is set forth as No. 47 in Appendix B.

Duke Board of Directors

Duke currently has 11 members on its Board of Directors, while Progress currently has 14 members on its board. Post-merger, the reconstituted Board of Directors will consist of 18 members, 11 being elected by the Duke shareholders and 7 being elected by the Progress shareholders. Duke has no existing requirements that any Board members be customers of its utilities or that any Board members reside in the geographic territories within which it provides utility service. Duke indicated that it seeks the most highly qualified candidates to serve on its Board, without regard to their place of residency.

At this time, Duke's Midwest utilities serve just over 2.0 million customers, including roughly 500,000 gas customers served by Duke Ohio and Duke Kentucky.

[8] The Commission's emphasis on conservation, energy efficiency and demand-side management is in keeping with the November 2008 report entitled "Intelligent Energy Choices for Kentucky's Future" which sets out Governor Steve Beshear's energy policy for the Commonwealth.

Duke's customer count in North Carolina and South Carolina totals approximately 2.4 million. Thus, Duke's Midwest customers now account for almost 45.5 percent of Duke's regulated service. Post-merger, Duke will serve approximately 7.5 million customers, with its Midwest operations accounting for 26.6 percent of that total. While Duke's Midwest operations will continue to represent a sizable portion of its post-merger business, the Commission is concerned that there are presently no requirements to ensure that Duke's Midwest customers have at least one voice and one vote on its new Board. For this reason, we find that there needs to be a commitment by the Applicants that, for as long as Duke's post-merger operations include regulated utility service in Kentucky, Duke's post-merger Board of Directors will include at least one non-employee member who is a customer of either Duke Kentucky, Duke Ohio, or Duke Energy Indiana. This additional commitment is set forth as No. 48 in Appendix B.

Merger Costs

In the Direct Testimony of William Don Wathen, pages 6-7, he states that "costs to achieve the merger savings will not be included in any test year for recovery in electric or gas rates by Duke Energy Kentucky." On April 29, 2011, an errata was filed by Applicants to add the phrase "without Commission approval" to Mr. Wathen's statement. By Order of May 9, 2011, the Commission rejected the filing of the errata and advised the Applicants that the errata could be adopted only by filing an amendment to their application. The Applicants chose to not file an amendment. Based on the record, the Commission finds that no merger costs should be recovered from Duke Kentucky ratepayers and that this statement should be added as a merger commitment. This commitment is set forth as No. 49 in Appendix B.

Additional Issues – Summary

With restatement of Regulatory Commitment Nos. 7 and 23, as discussed above, and the addition of three new commitments, Regulatory Commitments Nos. 47, 48 and 49, which address DSM, the make-up of the Duke board of directors, and merger costs, a complete list of all the commitments, or conditions, which the Commission finds are reasonable and necessary in order to approve the proposed merger, is attached hereto as Appendix B.

SUMMARY OF FINDINGS

The Commission, after consideration of the evidence of record and being otherwise sufficiently advised, finds that:

1. Duke Kentucky will, after the consummation of the Duke-Progress merger, have the financial, technical, and managerial abilities to provide reasonable electric and gas utility service.

2. The proposed acquisition of Progress by Duke and the associated indirect transfer of control of Duke Kentucky resulting from this transaction is in accordance with law, for a proper purpose, and will be consistent with the public interest only if the Applicants accept and agree to the commitments and conditions set forth in Appendix B, attached hereto and incorporated herein by reference.

3. Duke, Cinergy, Duke Ohio, Diamond, Progress, or any other intermediate or affiliate between Duke and Duke Kentucky, will not, by reason of the Duke-Progress merger, be utilities as defined in KRS 278.010(3).

4. As the Duke-Progress merger results in an indirect transfer of Duke Kentucky in its entirety, rather than a transfer of control of the assets of Duke Kentucky, KRS 278.218 does not apply to the transaction.

5. As the Duke-Progress merger does not result in any change in the utility operating in Kentucky or any change in Duke Kentucky's rates, rules, classifications, or administrative regulations, 807 KAR 5:011, Section 11, does not apply to the transaction.

6. The acquisition should be approved on the condition that the Chief Executive Officers of Duke, Cinergy, Duke Ohio, Duke Kentucky, Diamond and Progress file, within seven days of the date of this Order, a written acknowledgement accepting, and agreeing to be bound by, all of the commitments set forth in Appendix B, attached hereto and incorporated herein by reference.

7. The affiliate agreements as amended to add Progress and as filed in this case should be approved.

8. Duke Kentucky should provide copies of the final approval orders or other notifications received from FERC, the United States Department of Justice, the Federal Communications Commission, the Nuclear Regulatory Commission, the North Carolina Utilities Commission, and the South Carolina Public Service Commission, to the extent these documents have not already been provided in this case.

9. While it may be the Applicants' desire that this approval be communicated to FERC and other applicable federal and state regulatory agencies, it is not the Commission's responsibility to provide such communication. The Applicants will need to provide copies of this Order to those agencies.

IT IS THEREFORE ORDERED that:

1. The indirect transfer of control of Duke Kentucky via the acquisition of Progress by Duke is approved, subject to the filing within seven days of the date of this Order of the written acknowledgements described in Finding No. 6 above.

2. The affiliate agreements as amended to add Progress and as filed in this case are approved.

3. Duke Kentucky shall file copies of the final approval orders, or other notifications received from FERC, the United States Department of Justice, the Federal Communications Commission, the Nuclear Regulatory Commission, the North Carolina Utilities Commission, and the South Carolina Public Service Commission within 10 days of their receipt.

4. Twenty days after the date of this Order and every 20 days thereafter, the Applicants shall file a written report on the status and expected closing date of the acquisition approved herein.

5. Within five days of the consummation of the acquisition, Duke Kentucky shall file a written notice with the Commission setting forth the date of acquisition.

6. Any documents filed in the future pursuant to ordering paragraphs 1, 2, 3, 4, and 5 herein shall reference this case number and shall be retained in the utility's general correspondence file.

By the Commission

ENTERED
AUG 02 2011
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:

Stephanie Bell for Jeff Derouen
Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2011-00124 DATED AUG 02 2011

Stipulation and Settlement Agreement

This Stipulation and Settlement Agreement is entered into and effective as of the 24th of June, 2011 (the "Stipulation and Settlement Agreement"), by and between JACK CONWAY, Attorney General of the Commonwealth of Kentucky, by and through his duly authorized representatives in the Office of the Attorney General's Division of Rate Intervention (the "Attorney General"), and DUKE ENERGY CORPORATION ("Duke Energy"), CINERGY CORP. ("Cinergy"), DUKE ENERGY OHIO, INC. ("Duke Energy Ohio"), DUKE ENERGY KENTUCKY, INC. ("Duke Energy Kentucky"), DIAMOND ACQUISITION CORPORATION ("Diamond") and PROGRESS ENERGY, INC. ("Progress Energy") (collectively, the "Joint Applicants"). The Attorney General and Joint Applicants are collectively referred to herein as the "Parties."

WITNESSETH:

WHEREAS the Joint Applicants filed their Application and testimony in *In the Matter of: The 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* , with the Kentucky Public Service Commission ("Commission") on April 4, 2011, and the case was docketed as Case No. 2011-00124 (the "Transfer Case"); and

WHEREAS the Attorney General was granted leave by the Commission to intervene in the Transfer Case; and

WHEREAS the Parties have diligently negotiated and reached an agreement regarding the reasonable terms and regulatory conditions which the Parties believe should apply to and

support the Commission's approval of the transaction set forth in the Transfer Case Application; and

WHEREAS the Parties agree that this Stipulation and Settlement Agreement, viewed in its entirety, constitutes a fair, just and reasonable resolution of all the issues in the Transfer Case; and

WHEREAS the Parties agree that following the completion of the merger transaction described in the Transfer Case Application, Duke Energy shall continue to possess the financial, technical and managerial abilities to ensure that Duke Energy Kentucky provides reasonable service as required by KRS 278.020(5); and

WHEREAS the Parties agree that the resolution of the Transfer Case in accordance with the terms and conditions set forth herein is for a public purpose, in accordance with law and consistent with the public interest as required by KRS 278.020(6); and

WHEREAS the Parties recognize that this Stipulation and Settlement Agreement is nonbinding upon the Commission, but simply constitutes an agreement by and between themselves, and that the Commission may inquire about and consider any issues arising from or relating to the Transfer Case as part of the formal proceeding scheduled to commence on or about July 8, 2011; and

WHEREAS the Parties desire to document and record said terms and conditions of their agreement herein;

NOW, THEREFORE, in consideration of the premises and conditions set forth herein, the Parties do hereby agree and stipulate as follows:

ARTICLE I – BASE RATE CASE STAY OUT COMMITMENT

1.01 Base Rate Case Stay Out. Except as noted in Section 1.02 herein, Duke Energy Kentucky agrees to not file an application for approval of a base rate increase for either its retail electric or natural gas businesses for two years from the date of the Commission's entry of a final order approving the indirect transfer of control of Duke Energy Kentucky in the Transfer Case. Duke Energy Kentucky may file its notice of intent to file a base rate application sooner than two years from the date of the Commission's final order in the Transfer Case.

1.02 Exceptions. Notwithstanding the base rate case stay out commitment set forth in Section 1.01, Duke Energy Kentucky shall retain the right to seek the approval from the Commission of:

a) the deferral of extraordinary and uncontrollable costs (e.g., ice, wind storm, etc.), but excluding any costs related to the transfer of indirect control transaction that is the subject matter of the Transfer Case (e.g., transaction costs and management retention bonuses, etc.);

b) emergency rate relief under KRS 278.190(2) to avoid a material impairment or damage to its credit or operations;

c) adjustments to the operation of any of Duke Energy Kentucky's cost recovery surcharge mechanisms (e.g., Fuel Adjustment Clause, Demand Side Management, Gas Cost Recovery, etc.), including any base rate roll-ins, which are part of the normal operations of such mechanisms;

d) the establishment or implementation of an environmental surcharge mechanism pursuant to KRS 278.183.

1.03 Effect of Failure to Complete Transaction. The commitment set forth in Section 1.01 shall become effective upon the Commission's final order approving the Application in the Transfer Case. In the event the anticipated merger is not completed, however, the obligation set forth in Section 1.01 shall no longer be effective or applicable to Duke Energy Kentucky.

ARTICLE II – LOW INCOME WEATHERIZATION SUPPORT

2.01 Low Income Weatherization Support. Duke Energy Kentucky currently supports low income weatherization programs within its service territory. As a supplement to this existing program, the Joint Applicants agree to make five (5) equal, annual shareholder contributions of $115,000.00 (total of $575,000.00) to support weatherization efforts within the service territory of Duke Energy Kentucky. The contributions shall be made by the Duke Energy Foundation to People Working Cooperatively ("PWC") or to another entity to be mutually determined by Duke Energy Kentucky and the Attorney General. The annual contribution shall be made on or before March 31 of each year. Duke Energy Kentucky shall take reasonable steps to assure that PWC or any other entity receiving funds hereunder will administer the funds using the same guidelines and program parameters that are currently used to administer Duke Energy Kentucky's existing low income weatherization program with the goal of maximizing the impact of the annual contributions.

2.02 No Recovery Through Rates. The Joint Applicants' contribution shall not be recovered through Duke Energy Kentucky's base rates or through its Demand Side Management Rider.

ARTICLE III – LOCAL ECONOMIC DEVELOPMENT SUPPORT

3.01 Local Economic Development Support. Duke Energy Kentucky currently supports economic development programs within its service territory. As a supplement to its

existing support, the Joint Applicants agree to make five (5) equal, annual shareholder contributions of $50,000.00 (total of $250,000.00) to support economic development opportunities within the service territory of Duke Energy Kentucky. The contributions will be made by the Duke Energy Foundation to one or more non profit recipients as shall be agreed upon by the Attorney General and Duke Energy Kentucky.

3.02 No Recovery Through Rates. The Joint Applicants' contribution shall not be recovered through Duke Energy Kentucky's base rates.

ARTICLE IV – REGULATORY COMMITMENTS AND AFFILIATE AGREEMENTS

4.01 Regulatory Commitments. The Joint Applicants agree to be bound, to the extent applicable to each of them, by the regulatory commitments set forth in Appendix A to this Stipulation and Settlement Agreement. These regulatory requirements should expressly supersede and replace any and all regulatory commitments previously imposed by the Commission's order in Case No. 2005-00228 approving the merger of Duke Energy and Cinergy Corp.

4.02 Approval of Affiliate Agreements. The Parties agree that the affiliate agreements tendered to the Commission by the Joint Applicants as Exhibit I to their Application, as amended by the Joint Applicants' tender to the Commission of an amended Utility Money Pool Agreement on April 28, 2011, are reasonable, in accordance with Kentucky law and should be approved by the Commission. The Attorney General agrees to not oppose the Commission's approval of said affiliate agreements.

ARTICLE V – OTHER PROVISIONS

5.01 Merger Savings Mechanism. The Parties agree that the unique facts of this indirect transfer case do not permit an immediate and quantifiable calculation of merger savings

likely to accrue to Duke Energy Kentucky following the completion of the proposed merger transaction. Although the Joint Applicants are targeting merger savings to be recognized over time, the Parties agree that the task of seeking to identify and quantify such savings in the short-term would be administratively burdensome and would be costly to the point of eroding the value of the savings. Accordingly, the Parties agree that future net savings arising from the merger transaction and inuring to the benefit of Duke Energy Kentucky will best be recognized for retail ratemaking purposes in future base rate case proceedings and that no merger savings mechanism should be implemented as part of the Commission's approval of the Transfer Case. The Parties' agreement that a merger savings mechanism is not appropriate in this specific situation is made solely in recognition of the unique facts of this merger transaction and not upon any particular interpretation of law. The right of the Attorney General to request the implementation of reasonable merger savings mechanisms in future transfer of control cases is expressly reserved.

5.02 Confidentiality. The Attorney General does not object to the Commission granting confidential treatment to the confidential information for which confidentiality has previously been sought by the Joint Applicants by the filing of various petitions during the course of this proceeding.

5.03 No Admissions. Except as specifically stated otherwise in this Stipulation and Settlement Agreement, the Parties agree that making this Stipulation and Settlement Agreement shall not be deemed in any respect to constitute an admission by any Party hereto that any computation, formula, allegation, assertion or contention made by any other Party in the Transfer Case is true or valid.

5.04 Filing of Stipulation and Settlement Agreement. The Parties Agree that a fully executed copy of this Stipulation and Settlement Agreement shall be filed of record in the Transfer Case as an exhibit to supplemental testimony requesting the Commission to approve the indirect transfer of control of Duke Energy Kentucky in accordance with the terms and conditions set forth herein.

5.05 Participation in Hearing. The Attorney General waives all cross-examination of the Joint Applicants' witnesses, except as set forth in subparagraph (b) of this section, unless the Commission disapproves this Stipulation and Settlement Agreement. The Attorney General further agrees that upon his execution of this Stipulation and Settlement Agreement, he will not:

a) otherwise contest the Joint Applicants' Application in the Transfer Case, as modified by this Stipulation and Settlement Agreement, during the hearing of the Transfer Case; or

b) cross-examine the Joint Applicants' witnesses during the hearing of the Transfer Case except insofar as such cross-examination is of the witness(es) offered by the Joint Applicant to support the Stipulation and Settlement Agreement.

5.06 Good Faith. The Parties agree to act in good faith and to use their best efforts to recommend to the Commission that this Stipulation and Settlement Agreement be accepted and approved.

5.07 Further Review. If the Commission enters a final order approving the Application in the Transfer Case and adopting and implementing the terms and conditions set forth herein, the Parties agree that they shall not file a petition for rehearing before the Commission or file an action for review in the Franklin Circuit Court with respect to such final order.

5.08 Effect of Final Order. The Parties agree that if the Commission issues a final order that fails to approve the Application in the Transfer Case, fails to adopt and implement all of the terms and conditions set forth herein, or adds or imposes additional conditions or burdens upon the proposed merger transaction or on any or all of the Joint Applicants that are unacceptable to any or all of the Joint Applicants in their sole discretion, upon notice given to the Commission and the Attorney General, then:

a) this Stipulation and Settlement Agreement shall be void and withdrawn by the Parties from further consideration by the Commission and none of the Parties shall be bound by any of the provisions herein, although no Party shall be prohibited from advocating any position contained in this Stipulation and Settlement Agreement; and

b) neither the terms of this Stipulation and Settlement Agreement nor any matters raised during the negotiations of this Stipulation and Settlement Agreement shall be binding on any of the Parties to this Stipulation and Settlement Agreement or be construed against any of the Parties.

5.09 Commission Jurisdiction. The Parties agree that nothing in this Stipulation and Settlement Agreement shall be construed in a manner that diminishes or eliminates the Commission's jurisdiction under Chapter 278 of the Kentucky Revised Statutes.

5.10 Future Effect. The Parties agree that this Stipulation and Settlement Agreement shall inure to the benefit of, and be binding upon, the Parties, their successors and assigns.

5.11 Whole Agreement. The Parties agree that this Stipulation and Settlement Agreement constitutes the complete agreement and understanding among the Parties and that any and all oral statements, representations, or agreements made prior hereto or contemporaneously

herewith, shall be null and void, and shall be deemed to have been merged into this Stipulation and Settlement Agreement.

5.12 Fair, Just and Reasonable Result. The Parties agree that, for the purpose of this Stipulation and Settlement Agreement, the terms are based upon the independent analysis of the Parties to reflect a fair, just and reasonable outcome and are the product of arms-length negotiation and compromise. The Parties further agree that upon the completion of the proposed merger transaction, Duke Energy shall have the requisite financial, technical and managerial abilities to ensure that Duke Energy Kentucky continues to provide reasonable service, as required by KRS 278.020(5), and that the proposed merger transaction is in accordance with law, for a proper purpose and consistent with the public interest, as required by KRS 278.020(6).

5.13 Admissibility. The Parties agree that the Stipulation and Settlement Agreement, either in whole or in part, shall not be admissible in any court or administrative agency except insofar as such court or administrative agency is addressing litigation arising out of the implementation of the terms and condition set forth herein. This Stipulation and Settlement Agreement shall not have any precedential value in this or any other jurisdiction.

5.14 Consultation and Authority. The signatories hereto warrant that they have informed, advised, and consulted with the Parties they represent in the Transfer Case with regard to the contents and significance of this Stipulation and Settlement Agreement and based upon the foregoing, are authorized to execute this Stipulation and Settlement Agreement on behalf of the Parties they represent.

5.15 Construction. The Parties agree that this Stipulation and Settlement Agreement is a product of negotiation among all Parties, and that no provision of this Stipulation and Settlement Agreement shall be strictly construed in favor of, or against, any Party.

5.16 Counterparts. The Parties agree that this Stipulation and Settlement Agreement may be executed in multiple counterparts.

IN WITNESS WHEREOF, the Parties have affixed their signatures hereunto.

JACK CONWAY, ATTORNEY GENERAL

BY: _____

DUKE ENERGY CORPORATION

BY: _____

CINERGY CORP.

BY: _____

DUKE ENERGY OHIO, INC.

BY: _____

DUKE ENERGY KENTUCKY, INC.

BY: _____

DIAMOND ACQUISITION CORPORATION

BY: _____

PROGRESS ENERGY, INC.

BY: _____

5.16 Counterparts. The Parties agree that this Stipulation and Settlement Agreement may be executed in multiple counterparts.

IN WITNESS WHEREOF, the Parties have affixed their signatures hereunto.

JACK CONWAY, ATTORNEY GENERAL

BY: _____

DUKE ENERGY CORPORATION

BY: _____

CINERGY CORP.

BY: _____

DUKE ENERGY OHIO, INC.

BY: _____

DUKE ENERGY KENTUCKY, INC.

BY: _____

DIAMOND ACQUISITION CORPORATION

BY: _____

PROGRESS ENERGY, INC.

BY: _____

Stipulation and Settlement Agreement

Exhibit A
Joint Applicants' Regulatory Commitments

1. Joint Applicants commit to make available to the Kentucky Public Service Commission ("Commission"), for inspection and examination at such time and place as the Commission designates, the books and records of Duke Energy Kentucky, Inc. ("Duke Energy Kentucky") and the books and records of any subsidiary of Duke Energy Corporation ("Duke Energy") in which Duke Energy holds a controlling interest, to the extent necessary to verify transactions with Duke Energy Kentucky. Joint Applicants commit that the books and records of Duke Energy Kentucky, Duke Energy Ohio, Inc. ("Duke Energy Ohio") and Cinergy Corp. ("Cinergy") will be located in Cincinnati, Ohio, Plainfield, Indiana, or Charlotte, North Carolina.

2. Joint Applicants commit that Duke Energy Kentucky shall not incur any additional indebtedness, issue any additional securities, or pledge any assets to finance any part of Duke Energy's merger with Progress Energy, Inc. ("Progress Energy"). Duke Energy Kentucky will loan and borrow money from affiliates only under the terms of, and only with the parties to, the Utility Money Pool Agreement that is approved as part of the Commission's review of the proposed merger transaction. Although Duke Energy and Progress Energy will be parties to the Utility Money Pool Agreement, Duke Energy Kentucky will not make money pool loans or otherwise make loans to Duke Energy, Progress Energy or any affiliate that is not a party to the Utility Money Pool Agreement.

3. The payment for Progress Energy's stock shall be recorded on Duke Energy's books, and shall be excluded from the books of Duke Energy Kentucky for retail ratemaking purposes and for accounting purposes, unless inconsistent with U.S. Securities and Exchange Commission ("SEC") principles.

4. Although there is no "push down" accounting applicable to Duke Energy Kentucky in this merger transaction, any acquisition premium paid by Duke Energy for the Progress Energy stock shall not be "pushed down" to Duke Energy Kentucky for retail ratemaking purposes or for accounting purposes, unless inconsistent with SEC principles.

5. No change in control payments will be allocated to the retail customers of Duke Energy Kentucky for retail ratemaking purposes or for accounting purposes, unless inconsistent with SEC principles.

6. Following the merger of Duke Energy and Progress Energy, executive level personnel will continue to be based in the Cincinnati/Northern Kentucky area with direct responsibility for gas and electric operations matters in Kentucky. Duke Energy Kentucky will file annual reports on the number of sustained outages (defined as having a duration of greater than five minutes) and the outage duration for the circuits at each substation. When Duke Energy's chief executive officer has annual meetings with the Commission, gas and electric operations personnel will also be present to discuss service reliability issues.

7. Joint Applicants commit that they will not achieve merger savings at the expense of material degradation in the adequacy and reliability of Duke Energy Kentucky's retail gas and electric service.

8. Joint Applicants commit that Duke Energy Kentucky shall continue to maintain a substantial level of involvement in community activities, through annual charitable and other contributions.

9. Joint Applicants commit to maintaining Duke Energy Kentucky's proactive stance on developing economic opportunities in Kentucky and supporting economic development activities throughout Duke Energy Kentucky's service territory.

10. Joint Applicants commit that the accounting and reporting system used by Duke Energy Kentucky will be adequate to provide assurance that directly assignable utility and non-utility costs are accounted for properly and that reports on the utility and non-utility operations are accurately presented.

11. Joint Applicants commit to implement and maintain cost allocation procedures that will accomplish the objective of preventing cross-subsidization, and be prepared to fully disclose all allocated costs, the portion allocated to Duke Energy Kentucky, complete details of the allocation methods, and justification for the amount and the method. Joint Applicants commit to give the Commission 30 days' advance notice of any changes in cost allocation methods set forth in the Service Company Utility Service Agreement, the Operating Company/Non-Utility Companies Service Agreements and the Operating Companies Service Agreement approved as part of the merger transaction.

12. Joint Applicants commit to periodic comprehensive third-party independent audits of the affiliate transactions under the affiliate agreements approved as part of the merger transaction. Such audits will be conducted no less often than every two years, and the reports will be filed with the Commission and the Attorney General. Duke Energy Kentucky shall file the audit report, if possible, when Duke Energy Kentucky files its annual report. The audits will continue for six years or until three service company audits are performed, in the event more than six years are needed to perform three audits.

13. Duke Energy Kentucky commits to protect against cross-subsidization in transactions with affiliates.

14. Duke Energy Kentucky acknowledges that, for ratemaking purposes, the Commission has jurisdiction over its capital structure, financing and cost of capital and that the Commission will continue to exercise such jurisdiction.

15. Joint Applicants commit that the merger will have no adverse impact on the base rates or the operation of the fuel adjustment clause, gas cost recovery and demand side management clause of Duke Energy Kentucky.

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16. In future rate cases, Duke Energy Kentucky will not seek a higher rate or return on equity than would have been sought if the merger transaction had not occurred.

17. The accounting and ratemaking treatments of Duke Energy Kentucky's excess accumulated deferred income taxes will not be affected by the merger of Duke Energy and Progress Energy.

18. Duke Energy and Progress Energy commit to take an active and ongoing role in managing and operating Duke Energy Kentucky in the interests of customers, employees, and the Commonwealth of Kentucky, and to take the lead in enhancing Duke Energy Kentucky's relationship with the Commission, with state and local governments, and with other community interests, including, but not limited to, meetings between Duke Energy's chief executive officer and the Commission at least once a year or more frequently if deemed necessary by the Commission.

19. Joint Applicants commit that, for a period of five years following the merger, Duke Energy Kentucky will advise the Commission at least annually on the adoption and implementation of best practices at Duke Energy Kentucky following the completion of the merger between Duke Energy and Progress Energy.

20. Joint Applicants commit to notify the Commission as soon as practicable of registration or issuance of new public long-term debt or equity in excess of $500 million issued by Duke Energy or Cinergy.

21. Duke Energy Kentucky commits to notify the Commission subsequent to its board approval and as soon as practicable following any public announcement of any acquisition of a regulated or non-regulated business representing five percent or more of Duke Energy's market capitalization.

22. Joint Applicants commit that Duke Energy Kentucky will pay dividends only out of retained earnings. Applicants further commit to maintain a capital structure for Duke Energy Kentucky which contains a minimum of thirty-five (35) percent equity.

23. Joint Applicants commit that when Duke Energy Kentucky files its monthly reports with the Commission, it shall include with that filing a schedule of the current capital structure and a schedule of any capital contributions made to Duke Energy Kentucky in the applicable month.

24. The Joint Applicants commit that, to the extent applicable, practicable and reasonable, Duke Energy Kentucky will abide by regulatory conditions required by other jurisdictions in their approval of the merger between Duke Energy and Progress Energy, unless those regulatory conditions are adverse to the interests of Duke Energy Kentucky's ratepayers.

25. Joint Applicants commit that customers will experience no adverse change in utility service due to the consolidation of Duke Energy Business Services, LLC, and Progress Energy Services Company, LLC.

26. Joint Applicants commit to: a) adequately fund and maintain Duke Energy Kentucky's transmission and distribution system; b) comply with all Commission regulations and statutes; and c) supply Duke Energy Kentucky's service needs.

27. When implementing best practices, Joint Applicants commit to taking into full consideration the related impacts on the levels of customer service and customer satisfaction, including any negative impacts resulting from workforce reductions.

28. Joint Applicants commit to minimize, to the extent possible, any negative impacts on levels of customer service and customer satisfaction resulting from workforce reductions.

29. Duke Energy Kentucky commits to notify the Commission in writing thirty (30) days prior to any material changes in its participation in funding for research and development. Material changes include, but are not limited to, any change in funding equal to or greater than twenty-five (25) percent of Duke Energy Kentucky's previous year's budget for research and development. The written notification will include an explanation and the reasons of the change in policy.

30. Joint Applicants commit to dedicating Duke Energy Kentucky's existing and future rate-based generation facilities to the first call requirements of its existing and future native load customers.

31. Joint Applicants commit that within sixty (60) days of the closing of any merger, disposition or acquisition involving Duke Energy or a subsidiary thereof, in the United States that is exempted under KRS 278.020(5) and KRS 278.020(6), Duke Energy Kentucky will file with the Commission a notice setting forth an analysis of any changes and implications for Duke Energy Kentucky's customers.

32. Joint Applicants commit that Duke Energy Ohio will hold one hundred (100) percent of the common stock of Duke Energy Kentucky and that Duke Energy Ohio will not transfer any of that stock without prior notice to the Commission, even if the transfer is exempted under KRS 278.020(5) and KRS 278.020(6).

33. Joint Applicants commit that when budgets, investments, dividend policies, projects and business plans are being considered by Duke Energy for the Kentucky business, at a minimum, the chief executive officer of Duke Energy Kentucky his or her designee must participate on a real-time basis to offer a Kentucky perspective to the decision and be permitted to participate in any debates on the issues on a real-time basis.

34. Joint Applicants commit that Duke Energy Kentucky's president will reside within Kentucky or the Cincinnati metropolitan area.

35. Joint Applicants commit that managerial talent will not be diverted from Duke Energy Kentucky to Duke Energy or any of its affiliates in a manner which threatens the continued efficient operation of Duke Energy Kentucky.

36. Joint Applicants commit that Duke Energy Kentucky and Duke Energy will file copies of the FERC Form 1 and FERC Form 2 with the Commission. If the Federal Energy Regulatory Commission ("FERC") ever does not require the aforementioned reports to be filed, then Duke Energy Kentucky will meet with the Commission to discuss and reach agreement on alternative reporting to meet the Commission's reasonable data needs. Joint Applicants also commit that Duke Energy, Cinergy and Duke Energy Ohio will file copies of their annual reports with the Commission.

37. Duke Energy Kentucky is committed to providing a variety of customer programs and services that enable its customers to better manage their energy bills based on the varied needs of its customers. Duke Energy Kentucky will continue to offer a variety of service options that provide accessibility and convenience, as well as consistent customer service experience, regardless of the service channel.

38. Duke Energy Kentucky will continue to have qualified and skilled customer service representatives available twenty-four (24) hours a day, to respond to power outage calls. Customers will also have access to Duke Energy Kentucky's online service and automated telephone service, twenty-four (24) hours a day, to perform routine interactions or to obtain general billing and customer information.

39. Duke Energy Kentucky will continue to staff qualified and skilled customer service representatives during core business hours to handle all types of customers' inquiries, and will continue its commitment to a Quality Assurance program.

40. Duke Energy Kentucky will continue to survey its customers regarding their satisfaction and will integrate this information into its processes, programs, and services that impact its customers.

41. Before Duke Energy Kentucky can issue long-term debt, it must receive approval of the Commission.

42. Duke Energy Kentucky will not guarantee the credit of any of its affiliates unless specifically approved by the Commission.

43. Joint Applicants commit that all debt of Duke Energy and Progress Energy will be non-recourse to Duke Energy Kentucky.

44. Joint Applicants commit that in the event the merger between Duke Energy and Progress Energy is not completed and Duke Energy makes a termination payment to Progress Energy or receives a termination payment from Progress Energy pursuant to the January 8, 2011, Merger Agreement identified in the Joint Applicants' Application, then neither the cost of the termination payment nor the receipt of a termination payment would be allocated to Duke Energy Kentucky's books except if required for SEC reporting. Additionally, if the merger is not completed, Duke Energy Kentucky's customers will not bear any costs of the failed transaction.

45. Duke Energy Kentucky commits to follow Kentucky law with respect to the pricing for inter-company transactions not otherwise covered by Commission-approved service agreements and will not presume to preclude the Commission from asserting any pricing methodology in a future proceeding at FERC.

46. The Joint Applicants commit to review with Duke Energy Kentucky whether policies more sympathetic to low-income customers would be more appropriate.

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2011-00124 DATED AUG 0 2 2011

REGULATORY COMMITMENTS

1. Joint Applicants commit to make available to the Kentucky Public Service Commission ("Commission"), for inspection and examination at such time and place as the Commission designates, the books and records of Duke Energy Kentucky, Inc. ("Duke Energy Kentucky") and the books and records of any subsidiary of Duke Energy Corporation ("Duke Energy') in which Duke Energy holds a controlling interest, to the extent necessary to verify transactions with Duke Energy Kentucky. Joint Applicants commit that the books and records of Duke Energy Kentucky, Duke Energy Ohio, Inc. ("Duke Energy Ohio") and Cinergy Corp. ("Cinergy") will be located in Cincinnati, Ohio, Plainfield, Indiana, or Charlotte, North Carolina.

2. Joint Applicants commit that Duke Energy Kentucky shall not incur any additional indebtedness, issue any additional securities, or pledge any assets to finance any part of Duke Energy's merger with Progress Energy, Inc. ("Progress Energy"). Duke Energy Kentucky will loan and borrow money from affiliates only under the terms of, and only with the parties to, the Utility Money Pool Agreement that is approved as part of the Commission's review of the proposed merger transaction. Although Duke Energy and Progress Energy will be parties to the Utility Money Pool Agreement, Duke Energy Kentucky will not make money pool loans or otherwise make loans to Duke Energy, Progress Energy or any affiliate that is not a party to the Utility Money Pool Agreement.

3. The payment for Progress Energy's stock shall be recorded on Duke Energy's books, and shall be excluded from the books of Duke Energy Kentucky for retail ratemaking purposes and for accounting purposes, unless inconsistent with U.S. Securities and Exchange Commission ("SEC") principles.

4. Although there is no "push down" accounting applicable to Duke Energy Kentucky in this merger transaction, any acquisition premium paid by Duke Energy for the Progress Energy stock shall not be "pushed down" to Duke Energy Kentucky for retail ratemaking purposes or for accounting purposes, unless inconsistent with SEC principles.

5. No change in control payments will be allocated to the retail customers of Duke Energy Kentucky for retail ratemaking purposes or for accounting purposes, unless inconsistent with SEC principles.

6. Following the merger of Duke Energy and Progress Energy, executive level personnel will continue to be based in the Cincinnati/Northern Kentucky area with direct responsibility for gas and electric operations matters in Kentucky. Duke Energy Kentucky will file annual reports on the number of sustained outages (defined as having a duration of greater than five minutes) and the outage duration for the circuits at each substation. When Duke Energy's chief executive officer has annual meetings with the Commission, gas and electric operations personnel will also be present to discuss service reliability issues.

7. Joint Applicants commit that they will not achieve merger savings at the expense of degradation in the adequacy and reliability of Duke Energy Kentucky's retail gas and electric service.

8. Joint Applicants commit that Duke Energy Kentucky shall continue to maintain a substantial level of involvement in community activities, through annual charitable and other contributions.

9. Joint Applicants commit to maintaining Duke Energy Kentucky's proactive stance on developing economic opportunities in Kentucky and supporting economic development activities throughout Duke Energy Kentucky's service territory.

10. Joint Applicants commit that the accounting and reporting system used by Duke Energy Kentucky will be adequate to provide assurance that directly assignable utility and non-utility costs are accounted for properly and that reports on the utility and non-utility operations are accurately presented.

11. Joint Applicants commit to implement and maintain cost allocation procedures that will accomplish the objective of preventing cross-subsidization, and be prepared to fully disclose all allocated costs, the portion allocated to Duke Energy Kentucky, complete details of the allocation methods, and justification for the amount and the method. Joint Applicants commit to give the Commission 30 days' advance notice of any changes in cost allocation methods set forth in the Service Company Utility Service Agreement, the Operating Company/Non-Utility Companies Service Agreements and the Operating Companies Service Agreement approved as part of the merger transaction.

12. Joint Applicants commit to periodic comprehensive third-party independent audits of the affiliate transactions under the affiliate agreements approved as part of the merger transaction. Such audits will be conducted no less often than every two years, and the reports will be filed with the Commission and the Attorney

General. Duke Energy Kentucky shall file the audit report, if possible, when Duke Energy Kentucky files its annual report. The audits will continue for six years or until three service company audits are performed, in the event more than six years are needed to perform three audits.

13. Duke Energy Kentucky commits to protect against cross-subsidization in transactions with affiliates.

14. Duke Energy Kentucky acknowledges that, for ratemaking purposes, the Commission has jurisdiction over its capital structure, financing and cost of capital and that the Commission will continue to exercise such jurisdiction.

15. Joint Applicants commit that the merger will have no adverse impact on the base rates or the operation of the fuel adjustment clause, gas cost recovery and demand side management clause of Duke Energy Kentucky.

16. In future rate cases, Duke Energy Kentucky will not seek a higher rate or return on equity than would have been sought if the merger transaction had not occurred.

17. The accounting and ratemaking treatments of Duke Energy Kentucky's excess accumulated deferred income taxes will not be affected by the merger of Duke Energy and Progress Energy.

18. Duke Energy and Progress Energy commit to take an active and ongoing role in managing and operating Duke Energy Kentucky in the interests of customers, employees, and the Commonwealth of Kentucky, and to take the lead in enhancing Duke Energy Kentucky's relationship with the Commission, with state and local governments, and with other community interests, including, but not limited to, meetings

between Duke Energy's chief executive officer and the Commission at least once a year or more frequently if deemed necessary by the Commission.

19. Joint Applicants commit that, for a period of five years following the merger, Duke Energy Kentucky will advise the Commission at least annually on the adoption and implementation of best practices at Duke Energy Kentucky following the completion of the merger between Duke Energy and Progress Energy.

20. Joint Applicants commit to notify the Commission as soon as practicable of registration or issuance of new public long-term debt or equity in excess of $500 million issued by Duke Energy or Cinergy.

21. Duke Energy Kentucky commits to notify the Commission subsequent to its board approval and as soon as practicable following any public announcement of any acquisition of a regulated or non-regulated business representing five percent or more of Duke Energy's market capitalization.

22. Joint Applicants commit that Duke Energy Kentucky will pay dividends only out of retained earnings. Applicants further commit to maintain a capital structure for Duke Energy Kentucky which contains a minimum of thirty-five (35) percent equity.

23. Joint Applicants commit that when Duke Energy Kentucky files its monthly reports with the Commission, it shall include with that filing a schedule of the current capital structure and a schedule of any capital contributions made to Duke Energy Kentucky in the applicable month. The monthly reports shall also include separate gas and electric income statements and a combined gas and electric balance sheet for each of the eight months in which it does not make quarterly filings.

24. The Joint Applicants commit that, to the extent applicable, practicable and reasonable, Duke Energy Kentucky will abide by regulatory conditions required by other jurisdictions in their approval of the merger between Duke Energy and Progress Energy, unless those regulatory conditions are adverse to the interests of Duke Energy Kentucky's ratepayers.

25. Joint Applicants commit that customers will experience no adverse change in utility service due to the consolidation of Duke Energy Business Services, LLC, and Progress Energy Services Company, LLC.

26. Joint Applicants commit to: a) adequately fund and maintain Duke Energy Kentucky's transmission and distribution system; b) comply with all Commission regulations and statutes; and c) supply Duke Energy Kentucky's service needs.

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28. Joint Applicants commit to minimize, to the extent possible, any negative impacts on levels of customer service and customer satisfaction resulting from workforce reductions.

29. Duke Energy Kentucky commits to notify the Commission in writing thirty (30) days prior to any material changes in its participation in funding for research and development. Material changes include, but are not limited to, any change in funding equal to or greater than twenty-five (25) percent of Duke Energy Kentucky's previous year's budget for research and development. The written notification will include an explanation of and the reasons for the change in policy.

30. Joint Applicants commit to dedicating Duke Energy Kentucky's existing and future rate-based generation facilities to the first call requirements of its existing and future native load customers.

31. Joint Applicants commit that within sixty (60) days of the closing of any merger, disposition or acquisition involving Duke Energy or a subsidiary thereof, in the United States that is exempted under KRS 278.020(5) and KRS 278.020(6), Duke Energy Kentucky will file with the Commission a notice setting forth an analysis of any changes and implications for Duke Energy Kentucky's customers.

32. Joint Applicants commit that Duke Energy Ohio will hold one hundred (100) percent of the common stock of Duke Energy Kentucky and that Duke Energy Ohio will not transfer any of that stock without prior notice to the Commission, even if the transfer is exempted under KRS 278.020(5) and KRS 278.020(6).

33. Joint Applicants commit that when budgets, investments, dividend policies, projects and business plans are being considered by Duke Energy for the Kentucky business, at a minimum, the chief executive officer of Duke Energy Kentucky or his or her designee must participate on a real-time basis to offer a Kentucky perspective to the decision and be permitted to participate in any debates on the issues on a real-time basis.

34. Joint Applicants commit that Duke Energy Kentucky's president will reside within Kentucky or the Cincinnati metropolitan area.

35. Joint Applicants commit that managerial talent will not be diverted from Duke Energy Kentucky to Duke Energy or any of its affiliates in a manner which threatens the continued efficient operation of Duke Energy Kentucky.

36. Joint Applicants commit that Duke Energy Kentucky and Duke Energy will file copies of the FERC Form 1 and FERC Form 2 with the Commission. If the Federal Energy Regulatory Commission ("FERC") ever does not require the aforementioned reports to be filed, then Duke Energy Kentucky will meet with the Commission to discuss and reach agreement on alternative reporting to meet the Commission's reasonable data needs. Joint Applicants also commit that Duke Energy, Cinergy and Duke Energy Ohio will file copies of their annual reports with the Commission.

37. Duke Energy Kentucky is committed to providing a variety of customer programs and services that enable its customers to better manage their energy bills based on the varied needs of its customers. Duke Energy Kentucky will continue to offer a variety of service options that provide accessibility and convenience, as well as consistent customer service experience, regardless of the service channel.

38. Duke Energy Kentucky will continue to have qualified and skilled customer service representatives available twenty-four (24) hours a day to respond to power outage calls. Customers will also have access to Duke Energy Kentucky's online service and automated telephone service, twenty-four (24) hours a day, to perform routine interactions or to obtain general billing and customer information.

39. Duke Energy Kentucky will continue to staff qualified and skilled customer service representatives during core business hours to handle all types of customers' inquiries, and will continue its commitment to a Quality Assurance program.

40. Duke Energy Kentucky will continue to survey its customers regarding their satisfaction and will integrate this information into its processes, programs, and services that impact its customers.

41. Before Duke Energy Kentucky can issue long-term debt, it must receive approval of the Commission.

42. Duke Energy Kentucky will not guarantee the credit of any of its affiliates unless specifically approved by the Commission.

43. Joint Applicants commit that all debt of Duke Energy and Progress Energy will be non-recourse to Duke Energy Kentucky.

44. Joint Applicants commit that in the event the merger between Duke Energy and Progress Energy is not completed and Duke Energy makes a termination payment to Progress Energy or receives a termination payment from Progress Energy pursuant to the January 8, 2011 Merger Agreement identified in the Joint Applicants' Application, then neither the cost of the termination payment nor the receipt of a termination payment would be allocated to Duke Energy Kentucky's books except if required for SEC reporting. Additionally, if the merger is not completed, Duke Energy Kentucky's customers will not bear any costs of the failed transaction.

45. Duke Energy Kentucky commits to follow Kentucky law with respect to the pricing for inter-company transactions not otherwise covered by Commission-approved service agreements and will not presume to preclude the Commission from asserting any pricing methodology in a future proceeding at FERC.

46. The Joint Applicants commit to review with Duke Energy Kentucky whether policies more sympathetic to low-income customers would be more appropriate.

47. Duke Energy Kentucky commits to continue aggressively pursuing cost-effective DSM and energy efficiency programs and commits to deploy such programs, using industry best practices, in Kentucky.

48. Joint Applicants commit that for as long as Duke's post-merger operations include regulated utility service in Kentucky, Duke's post-merger Board of Directors will include at least one non-employee member who is a customer of either Duke Kentucky, Duke Ohio, or Duke Energy Indiana.

49. No costs to achieve the merger transaction will be recovered from Duke Kentucky ratepayers.

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In the Matter of Application of Duke Energy Corporation..., 298 P U R 4th 363...

298 P.U.R.4th 363, 2012 WL 2590482 (N.C.U.C.)

Re Duke Energy Corporation

Docket No. E-2, Sub 998
Docket No. E-7, Sub 986

North Carolina Utilities Commission

June 29, 2012

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Before Finley, Jr. (presiding), chairman, and Joyner, Culpepper, III, Beatty, Rabon, Brown-Bland, and Allen [1], commissioners.

BY THE COMMISSION:

*1 ORDER APPROVING MERGER SUBJECT TO REGULATORY CONDITIONS AND CODE OF CONDUCT

On April 4, 2011, Duke Energy Corporation (Duke) and Progress Energy, Inc. (Progress) (collectively, the Applicants), filed an application in the above-captioned dockets seeking Commission approval pursuant to G.S. 62-111(a) to engage in a business