FERC Imposes Conditions on Proposed Duke-Progress Merger

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The Federal Energy Regulatory Commission issued an order on September 30, 2011 that conditionally approved the proposed merger of Duke Energy and Progress Energy, but stated that issues regarding competition must be resolved before moving forward with the merger. FERC found that Progress and Duke had failed to demonstrate that the proposed transaction would not hurt competition in the wholesale electric markets. Since North Carolina does not have electric retail competition, this issue will not directly affect most residential, commercial or industrial customers throughout the state. However, this issue is extremely relevant to towns and cities that sale electricity and electric cooperatives, all of whom can choose between different wholesale electric suppliers.

FERC has required Duke and Progress to propose mitigation measures to protect against any anti-competitive effects from the proposed merger. FERC specifically stated that mitigation measures could include: formation of a regional transmission organization (RTO) to help coordinate the transmission of electricity, selling power plants, transferring the rights to generated electricity, or construction of new transmission lines to allow better access to electric wholesale competitors. Mitigation measures will help ensure that Duke and Progress do not exercise monopoly power in the North Carolina wholesale electric market and will likely produce lower electric costs through more competitive pricing. Such competitive pricing will directly benefit customers that receive their electric service from towns, cities and electric cooperatives.

FERC's order can be obtained at: http://elibrary.ferc.gov/idmws/File_list.asp?document_id=13959740.

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