

Implementation of the “Clean Smokestacks Act”

**A Report to the
Environmental Review Commission and the
Joint Legislative Utility Review Committee**

**Submitted by the North Carolina Department
of Environment and Natural Resources and
the North Carolina Utilities Commission**



June 1, 2005

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**This report is submitted pursuant to the requirement of Section 14 of
Session Law 2002-4, Senate Bill 1078 enacted June 20, 2002. The actions taken to
date by Progress Energy Carolinas, Inc. and Duke Power, a Division of Duke
Energy Corporation, appear to be in accordance with the provisions and
requirements of the Clean Smokestacks Act.**

Signed:

**William G. Ross, Jr., Secretary
Department of Environment and Natural Resources**

Signed:

**Jo Anne Sanford, Chair
North Carolina Utilities Commission**

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The General Assembly of North Carolina, Session 2001, passed Session Law 2002-4 also known as Senate Bill 1078. This legislation is titled "*An Act to Improve Air Quality in the State by Imposing Limits on the Emission of Certain Pollutants from Certain Facilities that Burn Coal to Generate Electricity and to Provide for Recovery by Electric Utilities of the Costs of Achieving Compliance with Those Limits*" ("the Clean Smokestacks Act" or "the Act"). The Clean Smokestacks Act, in Section 14, requires the Department of Environment and Natural Resources ("DENR") and the Utilities Commission ("Commission") to report annually, i.e., by June 1 of each year, on the implementation of the Act to the Environmental Review Commission and the Joint Legislative Utility Review Committee.

The Act, in Section 9, requires Duke Power, a Division of Duke Energy Corporation (Duke Energy), and Progress Energy Carolinas, Inc. (Progress Energy) to submit annual reports to DENR and the Commission containing certain specified information. Duke Energy and Progress Energy filed reports, with DENR and the Commission, by cover letter dated March 31, 2005, and April 1, 2005, respectively. Specifically, such reports were submitted in compliance with the requirements of G.S. 62-133.6(i). Duke Energy's and Progress Energy's reports are attached, and made part of this report, as Attachments A and B, respectively.

Additionally, the Secretary of DENR wrote the Commission on May 9, 2005, as follows:

"North Carolina's investor owned electric utilities, Duke Energy and Progress Energy, have filed their compliance plan annual updates for 2005 in accordance with N.C.G.S. 62-133.6(i), Section 9(i) of S.L. 2002-4, known as the 'Clean Smokestacks Act'. Pursuant to N.C.G.S. 62-133.6(j), the Department of Environment and Natural Resources has reviewed this information, and the submittals comply with the Act. The plans and schedules of the companies appear adequate to achieve the emission limitations set out in N.C.G.S. 143-215.107D."

This report is presented to meet the reporting requirement of the Act pertaining to DENR and the Commission, as discussed above, and is submitted jointly by DENR and the Commission. The report is structured to address the various actions that have occurred pursuant to the provisions of Sections 9, 10, 12, and 13 of this Act. Reports of

actions under these Sections describe the extent of implementation of the Act to this date.

I. Section 9(c) of the Act, Codified as Section 62-133.6(c) of the North Carolina General Statutes

G.S. 62-133.6(c) provides: *The investor-owned public utilities shall file their compliance plans, including initial cost estimates, with the Commission and the Department of Environment and Natural Resources not later than 10 days after the date on which this section becomes effective. The Commission shall consult with the Secretary of Environment and Natural Resources and shall consider the advice of the Secretary as to whether an investor-owned public utility's proposed compliance plan is adequate to achieve the emissions limitations set out in G.S. 143-215.107D.*

Status: North Carolina's investor-owned electric utilities, Progress Energy and Duke Energy, filed their initial compliance plans as required in June and July of 2002, respectively, in accordance with G.S. 62-133.6(c), Section 9(c) of S.L. 2002-4, the Clean Smokestacks Act. DENR reviewed this information and determined that the submittals comply with the Act and, as proposed, appear adequate to achieve the emission limitations set out in G.S. 143-215.107D.

II. Section 9(i) of the Act, Codified as Section 62-133.6(i) of the North Carolina General Statutes

G.S. 62-133.6(i) provides: *An investor-owned public utility that is subject to the emissions limitations set out in G.S. 143-215.107D shall submit to the Commission and to the Department of Environment and Natural Resources on or before 1 April of each year a verified statement that contains all of the following [specified information]:*

The following are the eleven subsections of G.S. 62-133.6(i) and the related responses from Progress Energy and Duke Energy for each subsection:

1. **G.S. 62-133.6(i)(1) requires:** *A detailed report on the investor-owned public utility's plans for meeting the emissions limitations set out in G.S. 143-215.107D.*

Progress Energy Response: "The initial plan for Progress Energy Carolinas, Inc. was submitted on July 29, 2002. Appendix A [of the attached Progress Energy submittal dated April 1, 2005, i.e., Attachment B] contains an updated version of this plan, effective April 1, 2005."

Duke Energy Response: "Exhibits A and B [of the attached Duke submittal dated March 31, 2005, i.e., Attachment A, outline the updated plan as of April 1, 2005,] . . . for technology selections by facility and unit, projected operational dates, expected

emission rates, and the corresponding tons of emissions that demonstrate compliance with the provisions of G.S. 143-215.107D."

2. **G.S. 62-133.6(i)(2) requires:** *The actual environmental compliance costs incurred by the investor-owned public utility in the previous calendar year, including a description of the construction undertaken and completed during that year.*

Summary of Progress Energy Report: The actual environmental compliance costs incurred by Progress Energy in calendar year 2004 were \$78.3 million. Progress Energy performed a significant amount of work at the Asheville and Roxboro plants, and began preliminary engineering for the Lee and Mayo plants.

Summary of Duke Energy Report: The actual environmental compliance costs incurred by Duke Energy in calendar year 2004 were \$106.8 million. The Company reported that costs were incurred for such things as a variety of project studies and investigations, engineering, equipment specifications development, equipment layout, contracting related costs, logistics, and general grading and site preparation activities.

3. **G.S. 62-133.6(i)(3) requires:** *The amount of the investor-owned public utility's environmental compliance cost amortized in the previous calendar year.*

Summary of Progress Energy and Duke Energy Reports: Progress Energy amortized \$174 million in 2004. Duke Energy amortized \$211.4 million in 2004. As indicated in the June 1, 2004 report to the Environmental Review Commission and the Joint Legislative Utility Review Committee ("the June 1, 2004 report"), Progress Energy, in response to a data request submitted by the Commission, had projected that it would amortize \$75 million of environmental compliance costs in 2004. Also, as indicated in the June 1, 2004 report, Duke Energy, in response to a Commission data request, had projected that it would amortize \$171 million of environmental compliance costs in 2004.

4. **G.S. 62-133.6(i)(4) requires:** *An estimate of the investor-owned public utility's environmental compliance costs and the basis for any revisions of those estimates when compared to the estimates submitted during the previous year.*

Summary of Progress Energy Report: Progress Energy reported that the estimated total capital costs escalated for inflation are currently projected to be \$895 million, a 10 percent increase from the original 2002 cost estimate. The cost increases are due to higher steel prices and changes to the original plan (detailed in the attached Progress Energy report).

Summary of Duke Energy Report: Duke Energy reported that its expected costs are about 17.8 percent higher than the estimates provided in 2003. More specifically, in its 2005 report, the Company estimated its compliance costs to be \$1.742 billion, as compared to the \$1.479 billion reflected in its 2003 report, an increase of \$263 million. The Company stated that the adjustments to the estimates are the

result of additional project scope definition and refinement of project schedules and higher costs for certain commodities (steel, primarily) and labor.

5. **G.S. 62-133.6(i)(5) requires:** *A description of all permits required in order to comply with the provisions of G.S. 143-215.107D for which the investor-owned public utility has applied and the status of those permits or permit applications.*

Progress Energy Response:

Asheville Plant

- Numerous soil erosion and sedimentation control plans have been approved
- Non-discharge permit for wastewater collection system extension approved
- Authorization to Construct (ATC) installation of constructed wetlands approved

Roxboro Plant

- Several soil erosion and sedimentation control plans have been approved
- ATC for coal pile runoff pond modifications approved

Duke Energy Response:

Belews Creek

- NPDES Permit modification submitted

Marshall

- Scrubbers
 - Landfill construction plan application submitted
 - Sedimentation and erosion control plan permits approved
 - ATC application for Solids Removal System approved
 - ATC application for Constructed Wetlands approved
- Selective Non-Catalytic Reduction (SNCR)
 - Air permit approved
 - NPDES permit renewal submitted

Allen

- Air permit approved

Riverbend

- Air permit approved

6. **G.S. 62-133.6(i)(6) requires:** *A description of the construction related to compliance with the provisions of G.S. 143-215.107D that is anticipated during the following year.*

Progress Energy Response: See Appendix C of the attached letter from Progress Energy dated April 1, 2005 (Attachment B), for details of construction and installation of equipment. Significant construction activities at the Asheville Plant in 2005 include the completion of systems for the Unit 1 scrubber so that it can be placed

into service by year's end. At the Roxboro Plant, significant construction activities in 2005 include completion of a new coal unloading facility.

Duke Energy Response: See attached letter from Duke Energy dated March 31, 2005 (Attachment A), for details of construction anticipated for the next year for:

Allen Steam Station

- Scrubbers
- SNCR, Units 2, 3, and 4

Belews Creek Steam Station

- Scrubbers

Cliffside Steam Station

- Scrubbers

Marshall Steam Station

- Scrubbers
- SNCR, Units 1, 2, 3, and 4

Buck Steam Station

- SNCR, Units 5 and 6

Dan River Steam Station

- Burners, Units 2 and 3
- Classifiers, Units 2 and 3

Riverbend Steam Station

- SNCR, Units 4, 5, 6, and 7
- Burners, Units 5 and 6
- Classifiers, Unit 6

7. **G.S. 62-133.6(i)(7) requires:** *A description of the applications for permits required in order to comply with the provisions of G.S. 143-215.107D that are anticipated during the following year.*

Progress Energy Response: For the Asheville Plant, an ATC for a pretreatment system has been submitted. For the Roxboro Plant, applications have been or will be submitted for several erosion and sedimentation control plans, a NPDES permit modification for wastewater treatment system, an ATC for the wastewater treatment system, and an Army Corps permit to fill wetlands for gypsum storage area.

Duke Energy Response:

Belews Creek Steam Station Scrubbers, Units 1-2

- Landfill Site Suitability Application – Plan to submit 3/31/05

- Landfill Construction Plan Application – Plan to submit 10/30/05
- Air Permit Application – Plan to submit May 2005
- Sedimentation and Erosion Control Plan – Plan to submit 2/8/05
- ATC application for Wastewater Treatment System – Plan to submit 9/1/05
- ATC application for Constructed Wetlands – Plan to submit 8/15/05

Allen Steam Station SNCR, Unit 4

- Air Permit Application – Plan to submit October 2005

Buck Steam Station SNCR, Unit 5

- Air Permit Application – Plan to submit December 2005

Buck Steam Station SNCR, Unit 6

- Air Permit Application – Plan to submit December 2005

Dan River Steam Station Separated Overfired Air (SOFA), Unit 2

- Air Permit Application – Plan to submit June 2005

Dan River Steam Station SOFA, Unit 3

- Air Permit Application – Plan to submit June 2005

Marshall Steam Station SNCR, Unit 2

- Air Permit Application – Plan to submit December 2005

8. **G.S. 62-133.6(i)(8) requires:** *The results of equipment testing related to compliance with G.S. 143-215.107D.*

Progress Energy Response: "No equipment testing related to compliance with G.S. 143-215.107D occurred in 2004."

Duke Energy Response:

Allen Steam Station SNCR, Unit 1

- Equipment acceptance testing in November, 2003
 - Nominal 25% reduction in NO_x with ammonia slip of less than 5 ppm at full load
- During the 2004 ozone season, achieved a 0.162# NO_x/MMBTU outlet rate, 5% better than the 0.17#/MMBTU target established for the unit

Belews Creek Steam Station Selective Catalytic Reduction (SCR)

- Operational problems in first half of 2004 ozone season

- After many problems addressed, emissions averaged 0.07# NOx/MMBTU in August and September 2004

9. **G.S. 62-133.6(i)(9) requires:** *The number of tons of oxides of nitrogen (NOx) and sulfur dioxide (SO2) emitted during the previous calendar year from the coal-fired generating units that are subject to the emissions limitations set out in G.S. 143-215.107D.*

Progress Energy Response: "The total calendar year 2004 emissions from the affected coal-fired Progress Energy Carolinas units are:

- NOx 49,959 [tons]
- SO₂ 195,655 [tons]"

Duke Energy Response: In the 2004 calendar year, the following were emitted from the North Carolina based Duke Energy coal-fired units:

- NOx - 64,634 tons
- SO₂ - 276,083 tons

10. **G.S. 62-133.6(i)(10) requires:** *The emissions allowances described in G.S. 143-215.107D(i) that are acquired by the investor-owned public utility that result from compliance with the emissions limitations set out in G.S. 143-215.107D.*

Progress Energy Response: "During 2004, PEC did not acquire any allowances as a result of compliance with the emission limitations set out in G.S. 143-215.107D. "

Duke Energy Response: "No emissions allowances have been acquired by Duke Power Company resulting from compliance with the limitations set out in G.S. 143-215.107D."

11. **G.S. 62-133.6(i)(11) requires:** *Any other information requested by the Commission or the Department of Environment and Natural Resources*

Summary of Commission Request: The Commission submitted informational requests to Progress Energy on April 20, 2005, and Duke Energy on April 20, 2005, and May 6, 2005. The information requested, among other things, concerned current projected amortization schedules over the remaining years of the seven-year accelerated cost-recovery period.

Progress Energy Response: Progress Energy responded that it currently expects to amortize the remaining balance of the \$813 million of environmental compliance costs set forth in the Act as follows: 2005 - \$107 million; 2006 - \$107 million; 2007 - \$107 million; 2008 - \$121.9 million; and 2009 \$121.9 million. However, Progress Energy noted that subsection (d) of G.S. 62-133.6 provides that the Commission shall hold a hearing to review its compliance costs and may modify or revise those costs as necessary to ensure they are just, reasonable, and prudent based

on the most recent cost information available and determine the annual cost recovery amount that Progress Energy will be required to record and recover during 2008 and 2009.

Progress Energy also commented that subsection (f) of G.S. 62-133.6 provides that in any general rate case initiated by it to adjust base rates effective on or after January 1, 2008, Progress Energy shall be allowed to recover its actual compliance costs less the cumulative amount of accelerated cost recovery previously recorded.

Regarding incremental costs that Progress Energy expects to incur above and beyond the previously stated \$813 million, Progress Energy, among other things, advised that such costs “. . . are the result of either unforeseen increases in the cost of compliance or expenditures made in order to reduce PEC’s [Progress Energy Carolinas] fuel costs. Thus, as contemplated by subsection (f) [i.e., G.S. 62-133.6(f)], PEC should be allowed to include these costs in its rate base and seek recovery of these costs in its next general rate case.”

Duke Energy Response: In regard to calendar years 2005 through 2007, Duke Energy responded that it currently plans to amortize \$281 million of environmental compliance costs annually.

Regarding the amounts of amortization to be recorded in calendar years 2008 and 2009 and potential variances in costs from the \$1.5 billion set forth in the Act, Duke Energy stated as follows: “While Section 62-133.6(b) states that ‘(Duke) shall amortize environmental compliance costs in the amount of . . . (\$1,500,000,000)’, Section 62-133.6(d) states that the Commission ‘may modify . . . those costs . . . based upon the most recent cost information available’ and will ‘determine the annual cost recovery amounts that each investor-owned public utility shall be required to record and recover during calendar years 2008 and 2009.’ Therefore, the amount to be amortized in 2008 and 2009 will be determined by the Commission as noted in our earlier response. The Commission’s actions will be based on updated estimate information provided to the Commission in the proceeding required by the statute. The estimate in that proceeding could be higher or lower than the original estimate of \$1.5 billion. While Duke Power cannot speculate as to the action the Commission will take, we believe the Commission could authorize the utility to amortize the unamortized portion of the updated estimated amount, whether higher or lower than \$1.5 billion, in 2008 and 2009. Another potential alternative is that Duke could initiate a general rate case in 2007-2008 timeframe and propose, pursuant to G.S. 62-122.6(f), a different treatment for the unamortized portion of the original estimate and any additional compliance costs”.

III. Section 10 of the Act provides: *It is the intent of the General Assembly that the State use all available resources and means, including negotiation, participation in interstate compacts and multistate and interagency agreements, petitions pursuant to 42 U.S.C. § 7426, and litigation to induce other states and entities, including the Tennessee Valley Authority, to achieve reductions in emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) comparable to those required by G.S. 143-215.107D, as*

enacted by Section 1 of this act, on a comparable schedule. The State shall give particular attention to those states and other entities whose emissions negatively impact air quality in North Carolina or whose failure to achieve comparable reductions would place the economy of North Carolina at a competitive disadvantage.

DENR/DAQ and Department of Justice Activities to implement this Section:

- A meeting was held between DENR/DAQ and the Tennessee Valley Authority (TVA) and the Tennessee air program officials in August 2002, to discuss actions planned by TVA that would be comparable to the Clean Smokestacks Act. TVA presented their plans to add five additional SO₂ scrubbers to power plants primarily in the eastern portion of the TVA system. These new scrubbers should benefit North Carolina most. TVA plans to complete installation of the new facilities by 2010 and the first plant, Paradise, will be installed by 2006. Regarding NOx control, TVA is on schedule to have the first 8 of its selective catalytic reduction (SCR) systems in place. TVA plans to have 25 boiler units controlled by 2005 at a cost of \$1.3 billion which will reduce ozone season NOx by 75 percent.

Through DENR's efforts, the Clean Smokestacks Act is achieving notoriety nationally and is being touted in other States as a model for State action. The Secretary of DENR and the Chief of Planning of DAQ made presentations about the Clean Smokestacks Act at two national state environmental organization meetings in the fall of 2002. The Chief of Planning of DAQ testified in 2002, at a U.S. Senate Environment and Public Works Committee Hearing on the features and benefits of North Carolina's Clean Smokestacks Act. The Deputy Director of DAQ participates on a national dialogue workgroup addressing ideal features of national multi-pollutant legislation for coal-fired utility boilers. The Clean Smokestacks Act is held up as an ideal example.

- The State also has been active in maintaining federal standards. In an April 2003 letter to EPA Administrator Whitman, Governor Easley urged the Administration to ensure that the federal Clear Skies bill not override State initiatives such as the Clean Smokestacks Act. The Governor also indicated the State's opposition to bill text that would extinguish the statutory rights of States regarding interstate pollution abatement. DAQ and the Attorney General commented in opposition to a proposed federal rule that would weaken the federal New Source Review program and potentially result in significant new upwind emissions.

Intent to Sue TVA: On November 10, 2004, Attorney General Cooper dispatched a letter to the TVA (and, among others, EPA and the States of Tennessee, Alabama, and Kentucky), informing these parties of the State's intent to sue the TVA for violations of the Clean Air Act's New Source Review program and other provisions at several of its coal-fired facilities. The Act required the State to provide such sixty-day notice prior to filing a "citizen suit" enforcement action under the Act for certain of the alleged violations. The Attorney General is currently preparing to file civil action(s)

against the TVA in order to mandate compliance with the relevant pollution control requirements.

Section 126 Petition: On March 18, 2004, the Attorney General filed with EPA a petition pursuant to Section 126 of the Clean Air Act. Section 126 allows a downwind State to petition EPA to mandate emissions reductions from sources in upwind States, if the emissions contribute significantly to nonattainment of federal ambient air standards in the downwind State or interfere with maintenance of the standards in the downwind State. The petition alleges that sources in thirteen upwind States emit SO₂ and NO_x that unlawfully cause attainment problems in North Carolina under the eight-hour ozone and PM_{2.5} standards. After the EPA failed to act on the State's Section 126 petition in the time period required by law, the Attorney General filed an action requesting that a federal court compel the EPA to render a decision. The State and EPA then reached an agreement establishing a schedule by which EPA must act on the petition. On May 9, 2005, a federal court entered a judgment requiring EPA to comply with that schedule. Under the schedule, EPA must propose a rule regarding the State's Section 126 petition by August 1, 2005, and issue a final rule by March 15, 2006.

Georgia NO_x SIP Call Requirements: Under the NO_x SIP call rule, power plants and other sources of NO_x in certain States must limit emissions in order to assist downwind States with ozone attainment and maintenance issues. North Carolina is subject to the rule. EPA had previously concluded that sources in the northern part of Georgia (including the Atlanta area) should be subject to the NO_x SIP call rule. However, EPA recently proposed to stay Georgia's NO_x SIP call requirements while EPA reconsiders whether Georgia should be required to comply with the program. DENR has requested that EPA not stay Georgia's requirements. EPA has not made a final decision on the stay.

IV. Section 12 of the Act provides: *The General Assembly anticipates that measures implemented to achieve the reductions in emissions of oxides of nitrogen (NO_x) and sulfur dioxide (SO₂) required by G.S. 143-215.107D, as enacted by Section 1 of this act, will also result in significant reductions in the emissions of mercury from coal-fired generating units. The Division of Air Quality of the Department of Environment and Natural Resources shall study issues related to monitoring emissions of mercury and the development and implementation of standards and plans to implement programs to control emissions of mercury from coal-fired generating units. The Division shall evaluate available control technologies and shall estimate the benefits and costs of alternative strategies to reduce emissions of mercury. The Division shall annually report its interim findings and recommendations to the Environmental Management Commission and the Environmental Review Commission beginning 1 September 2003. The Division shall report its final findings and recommendations to the Environmental Management Commission and the Environmental Review Commission no later than 1 September 2005. The costs of implementing any air quality standards and plans to reduce the emission of mercury from coal-fired generating units below the standards in effect on the date this act becomes effective, except to the extent that the emission of mercury is reduced as a*

result of the reductions in the emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) required to achieve the emissions limitations set out in G.S. 143-215.107D, as enacted by Section 1 of this act, shall not be recoverable pursuant to G.S. 62-133.6, as enacted by Section 9 of this act.

DAQ Actions to Implement this Section: The DAQ submitted reports on September 1, 2003 and 2004, as required by this section. The first report primarily focused on the "state of knowledge" of the co-benefit of mercury control that will result from the control of NOx and SO₂ from coal-fired utility boilers. Also, preliminary estimates were made for this co-benefit for the North Carolina utility boilers based on the initial plans submitted by Progress Energy and Duke Energy. The second report primarily focused on "definition of options". The Division has begun preparing the September 2005 report by scheduling meetings with stakeholders. The purpose of these meetings is to (1) discuss options for recommendations identified in the second reports, (2) identify any additional options that should be considered for the final reports, and (3) begin a dialogue on the prioritization of the options for the purpose of structuring the final recommendations.

V. Section 13 of the Act provides: *The Division of Air Quality of the Department of Environment and Natural Resources shall study issues related to the development and implementation of standards and plans to implement programs to control emissions of carbon dioxide (CO2) from coal-fired generating units and other stationary sources of air pollution. The Division shall evaluate available control technologies and shall estimate the benefits and costs of alternative strategies to reduce emissions of carbon dioxide (CO2). The Division shall annually report its interim findings and recommendations to the Environmental Management Commission and the Environmental Review Commission beginning 1 September 2003. The Division shall report its final findings and recommendations to the Environmental Management Commission and the Environmental Review Commission no later than 1 September 2005. The costs of implementing any air quality standards and plans to reduce the emission of carbon dioxide (CO2) from coal-fired generating units below the standards in effect on the date this act becomes effective, except to the extent that the emission of carbon dioxide (CO2) is reduced as a result of the reductions in the emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) required to achieve the emissions limitations set out in G.S. 143-215.107D, as enacted by Section 1 of this act, shall not be recoverable pursuant to G.S. 62-133.6, as enacted by Section 9 of this act.*

DAQ Actions to Implement this Section: The DAQ submitted reports on September 1, 2003 and 2004, as required by this section. The first report primarily focused on the "state of knowledge" and actions being taken or planned elsewhere regarding CO₂ control from coal-fired utility boilers. The second report primarily focused on "definition of options". The Division has begun preparing the September 2005 report by scheduling meetings with stakeholders. The purpose of these meetings is to (1) discuss options for recommendations identified in the second reports, (2) identify any additional options that should be considered for the final reports, and (3) begin a

dialogue on the prioritization of the options for the purpose of structuring the final recommendations.

VI. Supplementary Information: As noted in earlier reports, the Public Staff - North Carolina Utilities Commission (Public Staff) will audit the books and records of Progress Energy and Duke Energy on an ongoing basis in regard to the costs incurred and amortized in compliance with the provisions of the Act. The Public Staff has undertaken such a review, focusing on the verification of costs related to complying with the Act, the amortization of those costs, and the operating results of emission reduction equipment installed by Progress Energy and Duke Energy. The Public Staff filed its most recent reports in the present regard with the Commission on May 17, 2005. Such reports, which are a continuation of the Public Staff's ongoing review, present the Public Staff's findings for the 12-month period ending December 31, 2004. Attached, and made part of this report, are the Public Staff's reports for Duke Energy and Progress Energy, Attachments C and D, respectively.

CONCLUSION

Actions taken to date by Progress Energy and Duke Energy appear to be in accordance with the provisions and requirements of the Clean Smokestacks Act.

ATTACHMENTS

- Attachment A:** Duke Power, a Division of Duke Energy Corporation, Clean Smokestacks Compliance Plan Annual Update for 2005, Submitted by Cover Letter Dated March 31, 2005
- Attachment B:** Progress Energy Carolinas, Inc. Annual North Carolina Clean Smokestacks Act Compliance Report, Submitted by Cover Letter Dated April 1, 2005
- Attachment C:** Report of the Public Staff on Costs Incurred and Amortized by Duke Energy Corporation in Compliance with Session Law 2002-4, Filed on May 17, 2005
- Attachment D:** Report of the Public Staff on Costs Incurred and Amortized by Progress Energy Carolinas, Inc. in Compliance With Session Law 2002-4, Filed on May 17, 2005