

PROGRESS ENERGY INC
Form 425
October 07, 2011

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): **October 7, 2011**

DUKE ENERGY CORPORATION

(Exact Name of Registrant as Specified in its Charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

001-32853
(Commission
File Number)

20-2777218
(IRS Employer
Identification No.)

550 South Tryon Street, Charlotte, North Carolina 28202-4200

(Address of Principal Executive Offices, including Zip code)

Edgar Filing: PROGRESS ENERGY INC - Form 425

(704) 594-6200

(Registrant's telephone number, including area code)

DUKE ENERGY CAROLINAS, LLC

(Exact Name of Registrant as Specified in its Charter)

North Carolina
(State or Other Jurisdiction
of Incorporation)

001-04928
(Commission
File Number)

56-0205520
(IRS Employer
Identification No.)

550 South Tryon Street, Charlotte, North Carolina 28202-4200

(Address of Principal Executive Offices, including Zip code)

(704) 594-6200

(Registrant's telephone number, including area code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

☒ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

ITEM 8.01. OTHER EVENTS

On October 7, 2011, Duke Energy Carolinas, LLC ("Duke Energy Carolinas") made a filing with the North Carolina Utilities Commission (the "NCUC") outlining its mitigation strategy to address market power concerns by the Federal Energy Regulatory Commission (the "FERC") resulting from the proposed merger the ("Merger") between Duke Energy Corporation ("Duke Energy") and Progress Energy, Inc. ("Progress Energy") and requesting either a waiver from the NCUC of a required 30-day notification period or an expedited notification period before filing any agreement or proposed agreement with the FERC which could affect retail rates. On September 30, 2011, FERC issued an order conditionally authorizing the Merger, subject to the FERC's approval of mitigation measures to address its finding that the Merger could have an adverse effect on competition in the North Carolina and South Carolina wholesale power markets. The companies have up to 60 days to propose measures with FERC to address its market power concerns. Duke Energy and Progress Energy intend to file their proposed mitigation plan with FERC by mid-October if they obtain either a waiver of the 30-day notification period or an expedited notification period from the NCUC.

The NCUC filing highlights that Duke Energy and Progress Energy intend to propose a "virtual divestiture" , which is an option FERC indicated could be used to mitigate its market power concerns. A virtual divestiture would involve the offering of a certain amount of power into the market rather than the sale or divestiture of physical assets. This offering is proposed to be made to entities serving load in the relevant areas at a price determined by average incremental cost plus 10 percent. On a daily basis, Duke Energy Carolinas plans to offer 300 megawatt hours during each summer hour and 225 megawatt hours during each winter hour while Progress Energy Carolinas plans to offer 500 megawatt hours during each summer hour only.

The proposed mitigation plan will not impact the \$650 million of guaranteed fuel and joint dispatch savings contained in settlement agreements with the North Carolina Public Staff and the South Carolina Office of Regulatory Staff.

SIGNATURE

Pursuant to the requirements of the Securities and Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

DUKE ENERGY CORPORATION

Date: October 7, 2011

By:	/s/ Marc E. Manly
Name:	Marc E. Manly
Title:	Group Executive, Chief Legal Officer and Corporate Secretary