52. If the answer to the preceding information request is in the affirmative, please identify the utility and provide a copy of the statute, rule, or commission order which imposed such requirement.

Answer:
Not applicable.

Responsible witness: Scott J. Rubin

53. Mr. Rubin recommends in Condition No. 19 that the Commission should prohibit ULH&P from entering into a service agreement which would allow ULH&P to pay any operating costs for its ultimate corporate parent. Is Mr. Rubin aware of any other utility which is prohibited from doing so?

<u>Answer:</u>
Mr. Rubin has not researched this question.

Responsible witness: Scott J. Rubin

54. If the answer to the preceding information request is in the affirmative, please identify the utility and provide a copy of the statute, rule, or commission order which imposed such restriction.

<u>Answer:</u>
Not applicable.

Responsible witness: Scott J. Rubin

55. Mr. Rubin recommends in Condition No. 20 that the Commission should prohibit ULH&P from entering into a service agreement which would count a combination customer as two customers. Is Mr. Rubin aware of any other utility which is prohibited from doing so?

Answer:
Mr. Rubin has not researched this question.

Responsible witness: Scott J. Rubin

56. If the answer to the preceding information request is in the affirmative, please identify the utility and provide a copy of the statute, rule, or commission order which imposed such restriction.

Answer:
Not applicable.

Responsible witness: Scott J. Rubin

57. Please provide the calculation which led Mr. Rubin to derive the $3.2 billion figure for gross merger savings, at Table 2 of his Attachment SJR-1.

<u>Answer:</u>
The $3.2 billion figure was calculated in error and has been replaced by a new schedule in Mr. Rubin's Supplemental Direct Testimony.

The calculation that should have been used at the time of filing Mr. Rubin's Direct Testimony – but which is no longer part of Mr. Rubin's recommendation – is:

$1.3 billion / $2.1 billion x $4.6 billion = $2.8 billion, representing the ratio of shared and regulated savings to total savings (as filed by Mr. Flaherty) multiplied by the new estimate of total savings.

Responsible witness: Scott J. Rubin

58. Mr. Rubin recommends at page 47 of his testimony that the merger savings credit should remain in effect for a minimum of four years, regardless of whether ULH&P files a base rate case during that time. Does Mr. Rubin agree that if ULH&P were to file a base rate case prior to that time, then ULH&P's customers would receive a greater amount than the actual net merger savings allocable to ULH&P which Mr. Rubin himself recommends?

<u>Answer:</u>
No.

Responsible witness: Scott J. Rubin

59. If the answer to the preceding information request is in the affirmative, what is Mr. Rubin's basis for recommending that ULH&P's customers should receive such excess amount of net merger savings?

<u>Answer:</u>
Not applicable.

Responsible witness: Scott J. Rubin

60. Mr. Rubin recommends that the Commission should not approve this application until after the shareholders of both companies have approved the merger. Is Mr. Rubin aware that the Commission has previously approved other utility mergers without imposing this requirement?

Answer:
Mr. Rubin has not researched this question.

Responsible witness: Scott J. Rubin

61. Reference Mr. Rubin's discussion of Internal Revenue Code § 482 beginning at page 28 of his testimony. Does Mr. Rubin understand that Internal Revenue Code § 482 relates to how ULH&P and Duke Energy Shared Services, LLC will report transactions for tax purposes, not for ratemaking purposes?

Answer:
Mr. Rubin understands that section 482 if a provision of the Internal Revenue Code and, as such, affects the reporting of transactions for tax purposes. Mr. Rubin also understands that the Applicants have requested a waiver of section 278.2207 based on section 482, which indicates that the Applicants would intend the tax law provision to affect the actual exchange of money or other consideration for affiliated transactions. Mr. Rubin also understands that the Applicants have stated that they will not rely on the tax law provision to affect the ratemaking treatment of such transactions, but Mr. Rubin concerns include not only ratemaking treatment, but also the preservation of capital and adequate cash flow at ULH&P.

Responsible witness: Scott J. Rubin

62. Reference Mr. Rubin's discussion of Internal Revenue Code § 482 beginning at page 28 of his testimony. Does Mr. Rubin understand that, per Mr. Blackwell's statement at page 4, line 22 to page 5, line 2, the Joint Applicants propose that, "notwithstanding the Section 482 exception, for ratemaking purposes, services will be rendered to ULH&P at cost, as is the current practice under the existing service agreement between Cinergy Services, Inc. and ULH&P.

Answer:
Yes, see response to question 61.

Responsible witness: Scott J. Rubin

63. Reference page 40 of Mr. Rubin's testimony. Please identify the utility and provide a copy of the order in any other merger proceeding in which either retention costs, relocation costs, regulatory process costs or internal/external communication costs were not included as part of the costs-to-achieve merger savings recovered from customers.

<u>Answer:</u>
Mr. Rubin has not researched this question.

Responsible witness: Scott J. Rubin

64. Reference page 41 of Mr. Rubin's testimony. What is Mr. Rubin's understanding as to whether the Ernst & Young and the May 9, 2005 presentation to analysts were discussing capitalizing versus expensing of merger savings and costs-to-achieve for financial accounting purposes, or for ratemaking purposes? Please provide the basis for your understanding.

<u>Answer:</u>
The Ernst & Young analysis is entitled "Accounting for Cost to Achieve" and appears to be prepared with a focus on financial accounting and reporting, not on ratemaking. Mr. Rubin bases his understanding on the references cited in the Ernst & Young analysis, which include citations to various accounting and financial reporting requirements. In contrast, there is no citation in the document to the Uniform System of Accounts, FERC interpretations of accounting rules, or similar accounting rules that would affect the regulatory accounting or ratemaking treatment of these items.

Responsible witness: Scott J. Rubin

65. Reference page 41 of Mr. Rubin's testimony. What is Mr. Rubin's understanding as to what percentage of the merger savings have been capitalized by Mr. Flaherty for purposes of calculating the net merger savings to be flowed to customers through the merger savings mechanism. Please provide the basis for your understanding.

Answer:
As discussed in Mr. Rubin's Direct Testimony, he reviewed Mr. Flaherty's workpapers and found numerous examples where various elements of savings were capitalized, but he has not conducted an analysis to calculate the total amount of items that were capitalized.

Responsible witness: Scott J. Rubin