

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

Joint Application of Duke Energy Corporation,)
Duke Energy Holding Corp., Deer Acquisition)
Corp., Cougar Acquisition Corp., Cinergy Corp.,) Case No. 2005-00228
The Cincinnati Gas & Electric Company, and)
The Union Light, Heat and Power Company for)
Approval of a Transfer and Acquisition)
of Control)

DIRECT TESTIMONY OF JOINT APPLICANTS

VOLUME II of II

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PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

JOINT APPLICATION OF DUKE ENERGY) CASE NO. 2005-00228
CORPORATION, DUKE ENERGY HOLDING)
CORP., DEER ACQUISITION CORP.,)
COUGAR ACQUISITION CORP., CENERGY)
CORP., THE CINCINNATI GAS & ELECTRIC)
COMPANY, AND THE UNION LIGHT, HEAT)
AND POWER COMPANY FOR APPROVAL)
OF A TRANSFER AND ACQUISITION OF)
CONTROL)

VOLUME 2 OF 2

THE UNION LIGHT, HEAT AND POWER COMPANY

DIRECT TESTIMONY OF

- LYNN J. GOOD
 - WENDY L. AUMILLER
 - STEVEN M. FETTER
 - BARRY F. BLACKWELL
 - JOHN P. STEFFEN
-

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DIRECT TESTIMONY OF

LYNN J. GOOD

ON BEHALF OF

JOINT APPLICANTS

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I. INTRODUCTION

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Lynn J. Good, and my business address is 139 East Fourth Street,
3 Cincinnati, Ohio 45202.

4 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 A. I am Vice President Finance and Controller for The Union Light, Heat and Power
6 Company ("ULH&P" or "Company"). I have similar responsibilities for Cinergy
7 Corp. ("Cinergy"), ULH&P's ultimate parent company, and the other the
8 subsidiaries of Cinergy, including The Cincinnati Gas & Electric Company
9 ("CG&E") and PSI Energy, Inc. ("PSI").

10 **Q. PLEASE BRIEFLY DESCRIBE YOUR DUTIES AS VICE PRESIDENT
11 FINANCE AND CONTROLLER OF ULH&P.**

12 A. As Vice President Finance and Controller of ULH&P, I have overall
13 responsibility for the accounting functions of the Company, including
14 responsibility for the Company's books of account, accounting records, and
15 financial statements. I also have overall responsibility for the Company's
16 budgeting and forecasting functions, as well as the tax compliance process.

17 **Q. PLEASE BRIEFLY DESCRIBE YOUR EDUCATIONAL BACKGROUND
18 AND BUSINESS EXPERIENCE.**

19 A. I have a Bachelor of Science Degree in Systems Analysis and Accounting from
20 Miami University, Oxford, Ohio, and I am a Certified Public Accountant in the
21 State of Ohio. From July 1981 to May 2002, I worked in various levels of senior
22 management with Arthur & Andersen Co. ("Arthur Andersen"), certified public

1 accountants. While at Arthur Andersen, I had regional energy industry
2 responsibilities for risk consulting and internal audit practices. From May 2002 to
3 May 2003, I was a partner with the international accounting firm Deloitte &
4 Touche LLP. I joined Cinergy in May 2003 as Vice President, Financial Project
5 Strategy and Oversight, responsible for improving financial and accounting
6 management reporting and organizational effectiveness, as well as addressing
7 compliance with the Sarbanes – Oxley Act of 2002. I was appointed to the
8 position of Vice President and Controller in November 2003, and in January
9 2005, after assuming responsibility for budgets, forecasts and tax, I was appointed
10 to my current position of Vice President Finance and Controller.

11 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**
12 **PROCEEDING?**

13 A. My testimony in this proceeding addresses various accounting matters related to
14 the proposed merger of Cinergy and Duke Energy Corporation (“Merger”). My
15 testimony discusses the general accounting standards that apply to ULH&P and
16 the accounting standards that apply to business combinations like the Merger,
17 including the concepts of “purchase accounting” and “push-down accounting” as
18 they relate to the Merger. My testimony addresses the Tax Sharing Agreement
19 that will be in place following the Merger. My testimony also discusses the *pro*
20 *forma* financial statements reflecting the Merger included as part of the Form S-4
21 filed by Duke Energy Holding Corp. (to be named Duke Energy Corporation and
22 referred to herein as “New Duke Energy”) with the U.S. Securities and Exchange
23 Commission (“SEC”) on June 30, 2005.

II. GENERAL ACCOUNTING STANDARDS

1 **Q. PLEASE BRIEFLY EXPLAIN THE BASIS FOR ULH&P'S ACCOUNTING**
2 **AND FINANCIAL STATEMENTS.**

3 A. ULH&P's accounting and financial reporting policies and practices conform to
4 generally accepted accounting principles ("GAAP").

5 **Q. WHAT IS MEANT BY THE TERM GAAP?**

6 A. GAAP refers to the common set of accounting conventions, rules and procedures
7 recognized as authoritative by the Public Company Accounting Oversight Board
8 ("PCAOB"), which promulgates auditing standards in the United States pursuant
9 to the Sarbanes – Oxley Act of 2002. GAAP is primarily used by non-
10 governmental entities as the basis of accounting for their external financial
11 statements and reporting.

12 **Q. WHAT ROLE DOES THE SEC PLAY IN ESTABLISHING GAAP?**

13 A. Under the federal securities laws, the SEC has the responsibility for establishing
14 accounting principles for entities, such as ULH&P, Cinergy and Duke Energy
15 Corporation, whose securities trade in interstate commerce. The SEC recognizes
16 the Financial Accounting Standards Board ("FASB") as the primary authoritative
17 accounting standard setting body responsible for establishing GAAP and closely
18 monitors the FASB's activities to ensure its continued acceptance of the current
19 standard setting process. In addition to requiring compliance with the
20 pronouncements of FASB, the SEC also promulgates additional rules for financial
21 statements included in SEC filings and interprets GAAP in connection with the
22 review of the accounting afforded complex and unusual transactions by entities

1 whose securities are publicly traded. These rules and interpretations are part of
2 GAAP with the same level of authority as FASB pronouncements. The SEC will
3 not accept a registrant's financial statements if its independent public accountant
4 has issued a qualified opinion because the financial statements have not been
5 prepared in accordance with GAAP.

6 **Q. WHAT IS THE ACCOUNTING PRINCIPLES BOARD ("APB")?**

7 A. The APB was the accounting standard setting board which preceded the FASB.
8 Pronouncements issued by the APB, to the extent not superseded or amended by
9 FASB pronouncements, are considered GAAP with the same level of authority as
10 FASB pronouncements.

11 **Q. WHAT IS THE UNIFORM SYSTEM OF ACCOUNTS FOR MAJOR
12 ELECTRIC UTILITIES ("USofA")?**

13 A. The USofA is the set of accounts prescribed by the Federal Energy Regulatory
14 Commission ("FERC") applicable to investor-owned electric public utilities in the
15 United States. The USofA is set forth at Part 101 of Title 18 of the Code of
16 Federal Regulations.

17 **Q. ARE ULH&P'S BOOKS AND ACCOUNTING RECORDS KEPT IN
18 COMPLIANCE WITH THE USofA?**

19 A. Yes, they are.

20 **Q. IS CINERGY CORP. REQUIRED TO FOLLOW THE USofA?**

21 A. No, it is not. Cinergy Corp. is not required to follow the USofA because its
22 accounting and financial reporting is not regulated by the FERC.

1 **Q. WILL THE HOLDING COMPANY CREATED BY THE MERGER BE**
2 **REQUIRED TO FOLLOW THE USofA?**

3 A. No, it will not. New Duke Energy, the holding company created by the Merger,
4 will not be required to follow the USofA because (like Cinergy Corp.) its
5 accounting and financial statements will not be regulated by the FERC.

III. ACCOUNTING FOR BUSINESS COMBINATIONS

6 **Q. WHAT PRONOUNCEMENTS GOVERN THE ACCOUNTING FOR**
7 **BUSINESS COMBINATIONS?**

8 A. FASB Statement No. 141, Business Combinations (“FAS 141”), is the primary
9 authoritative accounting pronouncement covering the subject of accounting for
10 business combinations. FAS 141 applies to combinations of business entities in
11 general, not just to combinations of regulated entities such as investor-owned
12 utilities.

13 **Q. AT THE TIME OF THE MERGER OF CG&E AND THE HOLDING**
14 **COMPANY FOR PSI TO FORM CINERGY, APB OPINION NO. 16**
15 **APPLIED TO BUSINESS COMBINATIONS. WHAT IS THE STATUS OF**
16 **APB OPINION NO. 16?**

17 A. APB Opinion No. 16 was superseded by FAS 141.

18 **Q. UNDER APB OPINION NO. 16, A BUSINESS COMBINATION COULD**
19 **BE ACCOUNTED FOR BY “POOLING-OF-INTEREST ACCOUNTING”**
20 **OR BY “PURCHASE ACCOUNTING”, DEPENDING UPON THE**
21 **NATURE OF THE COMBINATION. ARE THESE TWO ACCOUNTING**

1 **CONCEPTS STILL AVAILABLE FOR USE IN ACCOUNTING FOR**
2 **BUSINESS COMBINATIONS UNDER FAS 141?**

3 A. No, pooling-of interest accounting is not available under FAS 141. All business
4 combinations must be accounted for under FAS 141 using purchase accounting.

IV. ACCOUNTING FOR THE MERGER

5 **Q. IS IT CORRECT THEN THAT PURCHASE ACCOUNTING WILL**
6 **APPLY TO THE CURRENT MERGER?**

7 A. Yes, that is correct.

8 **Q. PLEASE BRIEFLY EXPLAIN WHAT YOU MEAN BY PURCHASE**
9 **ACCOUNTING.**

10 A. The purchase accounting method treats a business combination as the acquisition
11 of one company by another. The purchase price, including all of the acquirer's
12 costs of completing the acquisition, is allocated to all of the purchased company's
13 identified assets acquired and liabilities assumed, based on their fair values. If the
14 purchase price exceeds the fair value of the acquired company's net assets, the
15 excess is recorded as goodwill. Earnings and losses of the purchased company
16 are included in the acquiring (purchasing) company's financial statements from
17 the consummation date of the acquisition forward.

18 **Q. IN THE MERGER, WILL DUKE ENERGY CORPORATION BE THE**
19 **ACQUIRING (PURCHASING) COMPANY FOR PURPOSES OF FAS 141?**

20 A. Yes, that is correct.

1 **Q. IN THE MERGER, WILL CINERGY BE THE ACQUIRED**
2 **(PURCHASED) COMPANY FOR PURPOSES OF FAS 141?**

3 A. Yes, that is correct.

4 **Q. HOW WILL PURCHASE ACCOUNTING AFFECT THE FINANCIAL**
5 **STATEMENTS OF DUKE ENERGY CORPORATION, THE ACQUIRING**
6 **(PURCHASING) COMPANY?**

7 A. The financial statements of Duke Energy Corporation (*i.e.*, New Duke Energy)
8 will reflect the allocation of the purchase price to the identified assets acquired
9 and liabilities assumed, based on their fair values. Any goodwill resulting from
10 the business combination will also be reflected in New Duke Energy's financial
11 statements. New Duke Energy's common equity will also be adjusted to reflect
12 the issuance of common stock to effect the purchase. This equity is measured as
13 the number of shares issued to Cinergy's shareholders times the average price of
14 Duke Energy Corporation's share price for the two days before and after the date
15 the combination was agreed to and announced.

16 **Q. HOW WILL PURCHASE ACCOUNTING AFFECT THE FINANCIAL**
17 **STATEMENTS OF ULH&P, A SUBSIDIARY OF CINERGY, THE**
18 **ACQUIRED (PURCHASED) COMPANY?**

19 A. The recognition of purchase accounting adjustments on the financial statements of
20 the acquired company and its subsidiaries is governed by the application of "push-
21 down" accounting, a procedure described only in SEC Staff Accounting Bulletin
22 ("SAB") Nos. 54 and 73, "Push-Down Basis of Accounting in Financial
23 Statements of Subsidiaries" and "Push-Down Basis of Accounting Required in

1 Certain Limited Circumstances”, respectively. Under SAB Nos. 54 and 73, the
2 SEC requires “push-down” of purchase accounting adjustments to subsidiaries of
3 the acquiring company, if the form of ownership is within the control of the
4 parent. The SEC Staff has indicated that publicly held debt (and preferred stock)
5 that can preclude the parent from controlling the form of ownership must be
6 “significant” (*i.e.*, greater than 5%) in order to avoid push-down accounting. I do
7 not believe that ULH&P’s financial statements at December 31, 2004, reflect
8 public debt and preferred stock which would be deemed significant to ULH&P’s
9 total capitalization, based on this SEC guidance. Therefore, absent significant
10 changes in ULH&P’s capital structure, I believe that ULH&P’s financial
11 statements may be adjusted to reflect purchase accounting adjustments. However,
12 this conclusion remains under review and will not be finalized until
13 consummation of the merger.

14 **Q. DOES THE USofA CONTAIN ANY SPECIFIC PROVISIONS WITH**
15 **RESPECT TO ACCOUNTING FOR BUSINESS COMBINATIONS**
16 **INVOLVING REGULATED ELECTRIC PUBLIC UTILITIES?**

17 A. The USofA does not provide broad guidance on the accounting for business
18 combinations, but rather the specific accounts that must be used related to electric
19 plant that is purchased or sold. It is not clear whether push-down accounting for
20 ULH&P will be required. However, any differences between historical cost and
21 the fair value adjustments resulting from purchase accounting will be recorded in
22 separate accounts so that they may be excluded from future ratemaking
23 proceedings for ULH&P.

1 Q. DOES THAT MEAN THAT NO PURCHASE ACCOUNTING
2 ADJUSTMENTS WILL BE REFLECTED FOR ULH&P FOR RETAIL
3 RATEMAKING PURPOSES?

4 A. That is my understanding.

V. TAX SHARING AGREEMENT

5 Q. ARE YOU GENERALLY FAMILIAR WITH THE CINERGY PUBLIC
6 UTILITY HOLDING COMPANY SYSTEM TAX SHARING
7 AGREEMENT (“CINERGY TAX SHARING AGREEMENT”)?

8 A. Yes, I am.

9 Q. WHO ARE THE PARTIES TO THE CINERGY TAX SHARING
10 AGREEMENT?

11 A. The parties to the Cinergy Tax Sharing Agreement are ULH&P, CG&E, PSI,
12 Cinergy, and the other subsidiaries of Cinergy.

13 Q. WHAT IS THE PURPOSE OF THE CINERGY TAX SHARING
14 AGREEMENT?

15 A. The purpose of the Cinergy Tax Sharing Agreement is to allocate the consolidated
16 income tax liabilities and benefits among the members of the Cinergy
17 consolidated group.

18 Q. IS A SIMILAR TAX SHARING AGREEMENT CONTEMPLATED FOR
19 THE NEW DUKE ENERGY PUBLIC UTILITY HOLDING COMPANY
20 SYSTEM (“DUKE ENERGY TAX SHARING AGREEMENT”)?

1 A. That is my understanding. I have included as Attachment LJG-1 a copy of the
2 proposed Duke Energy Tax Sharing Agreement. I anticipate that the document
3 actually executed will be substantially in the form of Attachment LJG-1.

4 **Q. HAS THE DUKE ENERGY TAX SHARING AGREEMENT BEEN**
5 **EXECUTED?**

6 A. No, it has not.

7 **Q. WILL THE DUKE ENERGY TAX SHARING AGREEMENT BE FILED**
8 **WITH THE KENTUCKY PUBLIC SERVICE COMMISSION AFTER IT**
9 **HAS BEEN EXECUTED?**

10 A. Yes, it will.

11 **VI. PRO FORMA FINANCIAL STATEMENTS**

12 **Q. PLEASE IDENTIFY THE DOCUMENT THAT HAS BEEN MARKED**
13 **FOR PURPOSES OF IDENTIFICATION AS ATTACHMENT LJG-2 AND**
14 **ATTACHED TO YOUR PREFILED TESTIMONY.**

15 A. Attachment LJG-2 is a copy of the *pro forma* financial statements incorporated
16 within New Duke Energy's Form S-4 filed with the SEC on June 30, 2005. The
17 financial statements include: (i) *pro forma* income statements for the quarter
18 ending March 31, 2005, and the year ending December 31, 2004; and (ii) a *pro*
19 *forma* balance sheet as of March 31, 2005. These *pro forma* financial statements
20 reflect the results of operations and financial position of the merged companies on
21 an "as-if combined" basis for the respective periods. They incorporate the
22 anticipated purchase accounting adjustments to both income and financial
position. However, there are certain restrictions to the types of adjustments

1 allowed within *pro forma* statements. For example, the *pro forma* financial
2 statements do not include expected future Merger savings. The primary purpose
3 of the *pro forma* financial statements is to reflect the purchase accounting
4 adjustments that will be required upon the closing of the transaction. However, as
5 discussed above, we do not expect these purchase accounting adjustments to have
6 any impact for ULH&P for retail ratemaking purposes.

VII. CONCLUSION

7 **Q. WERE ATTACHMENTS LJG-1 AND LJG-2 PREPARED BY YOU OR**
8 **UNDER YOUR SUPERVISION?**

9 A. Yes, they were.

10 **Q. DOES THAT CONCLUDE YOUR PREFILED DIRECT TESTIMONY?**

11 A. Yes, it does.

VERIFICATION


State of Ohio)
) SS:
County of Hamilton)

The undersigned, Lynn J. Good, being duly sworn, deposes and says that she is Vice President Finance and Controller for The Union Light, Heat and Power Company, and that the matters set forth in the foregoing testimony are true and correct to the best of her information, knowledge and belief.



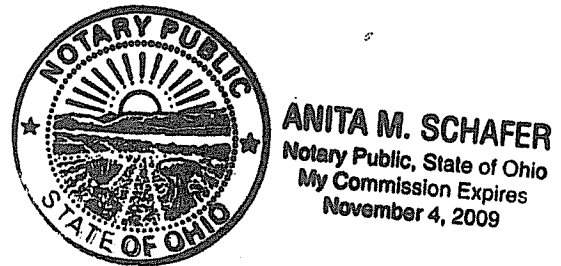
Lynn J. Good, Affiant

Subscribed and sworn to before me by Lynn J. Good on this 1st day of August, 2005.



NOTARY PUBLIC

My Commission Expires:



DUKE ENERGY CORPORATION AND CONSENTING MEMBERS OF ITS
CONSOLIDATED GROUP

AGREEMENT FOR FILING CONSOLIDATED
INCOME TAX RETURNS AND FOR
ALLOCATION OF CONSOLIDATED INCOME
TAX LIABILITIES AND BENEFITS

Duke Energy Corporation ("Duke Energy"), a registered holding company under the Public Utility Holding Company Act of 1935 (the "Act"), and its Members hereby agree as of _____ to join annually in the filing of a consolidated Federal income tax return and to allocate the consolidated Federal income tax liabilities and benefits among the members of the consolidated group in accordance with the provisions of this Agreement.

1. DEFINITIONS

"Consolidated tax" is the aggregate current Federal income tax liability for a tax year, being the tax shown on the consolidated Federal income tax return and any adjustments thereto, as described in section 5 hereof.

"Corporate taxable income" is the positive taxable income of an associate company for a tax year, computed as though such company had filed a separate return on the same basis as used in the consolidated return, except that dividend income from associate companies shall be disregarded, and other intercompany transactions, eliminated in consolidation, shall be given appropriate effect.

"Corporate taxable loss" is the taxable loss of an associate company for a tax year, computed as though such company had filed a separate return on the same basis as used in the consolidated return, except that dividend income from associate companies shall be disregarded, and other intercompany transactions, eliminated in consolidation, shall be given appropriate effect.

"Corporate tax credit" is a negative separate regular tax of an associate company for a tax year, equal to the amount by which the consolidated regular tax is reduced by including the corporate taxable loss of such associate company in the consolidated tax return.

"Separate return tax" is the tax on the corporate taxable income or loss of an associate company as though such company were not a member of a consolidated group.

"Member" is an associate company, including a Regulated Business as indicated in section 2 herein, which agrees to be subject to this agreement.

These definitions shall apply, as appropriate, in the context of the regular income tax and the Alternative Minimum Tax ("AMT") unless otherwise indicated in the Agreement.

2. REGULATED BUSINESSES OPERATING IN LLC OR LP FORM

For purposes of allocating the consolidated federal and state tax liabilities and tax benefits under this Agreement, each business operating as an LLC or LP that is subject to the rules and regulations of the Federal Energy Regulatory Commission or state utilities commissions (hereinafter, a "Regulated Business") shall be considered a member of the consolidated group, and shall be responsible for its allocable share of taxable income (or shall be entitled to a credit for its allocable share of tax loss), as set forth in Sections 3 through 6 hereof. For purposes of this Agreement, the determination of a Regulated Business's allocable share shall be made (i) as if such Regulated Business was a regarded entity for U.S. federal income tax purposes and (ii) utilizing the separate "corporate taxable income" method.

3. TAX ALLOCATION PROCEDURES

The consolidated tax shall be allocated among the members of the group consistent with the Securities and Exchange Commission's Rule 45(c) under the Act, utilizing the separate "corporate taxable income" method, in the following manner:

- a) Each Member, which has a corporate taxable loss, will be entitled to a corporate tax credit equal to the amount by which the consolidated regular income tax is reduced by including the corporate tax loss of such Member in the consolidated tax return. The Members having corporate taxable income will be allocated an amount of regular income tax liability equal to the sum of the consolidated regular tax liability and the corporate tax credits allocated to the Members having corporate tax losses based on the ratio that each such Member's corporate taxable income bears to the total corporate taxable income of all Members having corporate taxable income.

If the aggregate of the Members' corporate tax losses are not entirely utilized on the current year's consolidated return, the consolidated carryback or carryforward of such losses to the applicable taxable year(s) will be allocated to each Member having a corporate taxable loss in the ratio that such Member's separate corporate tax loss

bears to the total corporate tax losses of all Members having corporate taxable losses.

- b) The consolidated Environmental Tax will be allocated among the Members of the group by applying the procedures set forth in subsection a) above, except that the basis for allocation will be Alternative Minimum Taxable Income ("AMTI") rather than regular corporate taxable income.
- c) The consolidated AMT will be allocated among the Members in accordance with the procedures and principles set forth in Proposed Treasury Regulation section 1.1502-55 in the form such Regulation existed on the date on which this Agreement was executed.
- d) Tax benefits such as general business credits, foreign tax benefits, or other tax credits shall be apportioned directly to those Members whose investments or contributions generated the credit or benefit.

If the credit or benefit cannot be entirely utilized to offset current consolidated tax, the consolidated credit carryback or carryforward shall be apportioned to those Members whose investments or contributions generated the credit or benefit in proportion to the relative amounts of credits or benefits generated by each Member.

- e) If the amount of consolidated tax allocated to any Member under this Agreement, as determined above, exceeds the separate return tax of such Member, such excess shall be reallocated among those Members whose allocated tax liability is less than the amount of their respective separate return tax liabilities. The reallocation shall be proportionate to the respective reductions in separate return tax liability of such Members. Any remaining unallocated tax liability shall be assigned to Duke Energy. The term "tax" and "tax liability" used in the subsection shall include regular tax, Environmental Tax and AMT.

4. TAX PAYMENTS AND COLLECTIONS FOR ALLOCATIONS

Duke Energy shall make any calculations on behalf of the Members necessary to comply with the estimated tax provisions of the Internal Revenue Code of 1986 as amended (the "Code"). Based on such calculations, Duke Energy shall charge or refund to the Members appropriate amounts at intervals consistent with the dates indicated by Code section 6655. Duke Energy shall be responsible for paying to the Internal Revenue Service the consolidated current Federal income tax liability.

After filing the consolidated Federal income tax return and allocating the consolidated tax liability among the Members, Duke Energy shall charge or credit, as appropriate, the Members to reflect the difference between prior payments or credits and their current tax as allocated under this Agreement.

5. ALLOCATION OF STATE TAX LIABILITIES OR BENEFITS

State and local income tax liabilities will be allocated, where appropriate, among Members in accordance with principles similar to those employed in the Agreement for the allocation of consolidated Federal income tax liability.

6. TAX RETURN ADJUSTMENTS

In the event the consolidated tax return is subsequently adjusted by the Internal Revenue Service, state tax authorities, amended returns, claims for refund, or otherwise, such adjustments shall be reflected in the same manner as though they had formed part of the original consolidated return. Interest paid or received, and penalties imposed on account of any adjustment will be allocated to the responsible Member.

7. NEW MEMBERS

If, at any time, any other company becomes a Member of the Affiliated Group, the parties hereto agree that such new Member may become a party to this Agreement by executing a duplicate copy of this Agreement. Unless otherwise specified, such new Member shall have similar rights and obligations of all other Members under this Agreement.

8. MEMBERS LEAVING THE AFFILIATED GROUP

In the event that any Member of the Affiliated Group at any time leaves the Group and, under any applicable statutory provision or regulation, that Member is assigned and is deemed to take with it all or a portion of any of the tax attributes (including, but not limited to, net operating losses, credit carryforwards, and Minimum Tax Credit carryforwards) of the Affiliated Group, then, to the extent the amount of the attributes so assigned differs from the amount of such attributes previously allocated to such Member under this Agreement, the leaving Member shall appropriately settle with the Group. Such settlement shall consist of payment on a dollar-for-dollar basis for all differences in credits and, in the case of net operating loss differences, in an amount computed by reference to the highest marginal corporate tax rate. The settlement amounts shall be allocated among the remaining Members of the Group in proportion to the relative level of

attributes possessed by each Member and the attributes of each Member shall be adjusted accordingly.

9. SUCCESSORS, ASSIGNS

The provisions and terms of the Agreement shall be binding on and inure to the benefit of any successor or assignee by reason of merger, acquisition of assets, or otherwise, of any of the Members hereto.

10. AMENDMENTS AND TERMINATION

This Agreement may be amended at any time by the written agreement of the parties hereto at the date of such amendment and may be terminated at any time by the written consent of all such parties.

11. GOVERNING LAW

This Agreement is made under the law of the State of Delaware, which law shall be controlling in all matters relating to the interpretation, construction, or enforcement hereof.

12. EFFECTIVE DATE

This Agreement is effective for the allocation of the current Federal income tax liabilities of the Members for the consolidated tax year [2006] and all subsequent years until this Agreement is revised in writing.

13. APPROVAL

This Agreement is subject to the approval of the Securities and Exchange Commission. A copy of this Agreement will be filed as an exhibit to the Form U5S Annual Report to the Securities and Exchange Commission by Duke Energy for the year ended December 31, [2006].

The above procedure for apportioning the consolidated annual net current federal and state tax liabilities and tax benefits of Duke Energy and consenting members of its consolidated group have been agreed to by each of the below listed members of the consolidated group as evidenced by the signature of an officer of each company.

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed on its behalf by an appropriate officer thereunto duly authorized.

DUKE ENERGY CORPORATION

By: _____
Name:
Title:

DUKE ENERGY SHARED SERVICES, LLC.

By: _____
Name:
Title:

DUKE POWER COMPANY LLC

By: _____
Name:
Title:

THE CINCINNATI GAS & ELECTRIC COMPANY

By: _____
Name:
Title:

PSI ENERGY, INC.

By: _____
Name:
Title:

THE UNION, LIGHT, HEAT AND POWER
COMPANY

By: _____
Name:
Title:

MIAMI POWER CORPORATION

By: _____
Name:
Title:

**[ADDITIONAL SUBSIDIARIES TO BE ADDED AT
CLOSING OF MERGER]**

DUKE ENERGY HOLDING CORP.

UNAUDITED PRO FORMA CONDENSED COMBINED FINANCIAL INFORMATION

The Unaudited Pro Forma Condensed Combined Financial Statements have been prepared to reflect the mergers of Duke Energy and Cinergy. Prior to entering into the merger agreement, Duke Energy formed Duke Energy Holding Corp. (formerly Deer Holding Corp.). At the closing, Duke Energy Holding's two newly-formed wholly-owned subsidiaries, Deer Acquisition Corp. and Cougar Acquisition Corp., will merge with and into Duke Energy and Cinergy, respectively, as a result of which each of Duke Energy and Cinergy will become wholly-owned subsidiaries of Duke Energy Holding. After the mergers, the current shareholders of Duke Energy and Cinergy will be the shareholders of Duke Energy Holding (other than those Duke Energy shareholders who properly perfect their dissenter's rights pursuant to North Carolina law) and Duke Energy Holding will be renamed Duke Energy Corporation. The completion of the mergers is currently expected to occur by mid-2006 depending on all consents and approvals being received, although we cannot predict the actual timing.

The Unaudited Pro Forma Condensed Combined Statements of Operations combine the historical consolidated statements of operations for Duke Energy and Cinergy, giving effect to the mergers as if they had occurred on January 1, 2004. The Unaudited Pro Forma Condensed Combined Balance Sheet combines the historical consolidated balance sheets of Duke Energy and Cinergy, giving effect to the mergers as if they had been consummated on March 31, 2005. You should read these unaudited combined pro forma financial statements in conjunction with the:

- accompanying notes to the Unaudited Pro Forma Condensed Combined Financial Statements;
- separate unaudited historical financial statements of Duke Energy as of and for the three-month period ended March 31, 2005, included in the Duke Energy Quarterly Report on Form 10-Q for the three months ended March 31, 2005, which is incorporated by reference into this document;
- separate historical financial statements of Duke Energy as of and for the fiscal year ended December 31, 2004, included in the Duke Energy Annual Report on Form 10-K for the fiscal year ended December 31, 2004, which is incorporated by reference into this document;
- separate unaudited historical financial statements of Cinergy as of and for the three-month period ended March 31, 2005, included in the Cinergy Quarterly Report on Form 10-Q for the three months ended March 31, 2005, which is incorporated by reference into this document; and
- separate historical financial statements of Cinergy as of and for the year ended December 31, 2004, included in the Cinergy Annual Report on Form 10-K for the year ended December 31, 2004, which is incorporated by reference into this document.

The historical financial information of Duke Energy and Cinergy as of and for the three months ended March 31, 2005 is unaudited. The historical financial information of Duke Energy and Cinergy for the year ended December 31, 2004 is derived from the audited financial statements of Duke Energy and Cinergy, respectively, but does not include all disclosures required by accounting principles generally accepted in the United States of America. The unaudited pro forma condensed combined financial information is provided for informational purposes only. The pro forma information is not necessarily indicative of what the combined companies' financial position or results of operations actually would have been had the mergers been completed at the dates indicated. In addition, the unaudited pro forma condensed combined financial information does not purport to project the future financial position or operating results of the combined company.

The unaudited pro forma condensed combined financial information was prepared using the purchase method of accounting with Duke Energy treated as the acquirer. Accordingly, we have adjusted the historical consolidated financial information to give effect to the impact of the consideration issued in connection with the mergers. In the Unaudited Pro Forma Condensed

Combined Balance Sheet, Duke Energy's cost to acquire Cinergy has been allocated to the assets to be acquired and liabilities to be assumed based upon Duke Energy's and Cinergy's managements' preliminary estimate of their respective fair values. Any differences between the fair value of the consideration to be issued and the fair value of the assets and liabilities to be acquired will be recorded as goodwill. The amounts allocated to the assets acquired and liabilities assumed in the Unaudited Pro Forma Condensed Combined Financial Statements are based on management's preliminary internal valuation estimates. Definitive allocations will be performed and finalized based upon valuations and other studies that will be performed following the closing date of the mergers. Accordingly, the pro forma purchase allocation adjustments are preliminary and have been made solely for the purpose of providing unaudited pro forma condensed combined financial information and are subject to revision based on a final determination of fair value following the closing of the mergers. Final determinations of fair value may differ materially from those presented herein. The Unaudited Pro Forma Condensed Combined Statements of Operations also include certain purchase accounting adjustments, including items expected to have a continuing impact on the combined results, such as increased depreciation and amortization expense on acquired assets. The purchase method of accounting applied to the mergers is based on current accounting literature. The Financial Accounting Standards Board is currently engaged in a project reviewing the rules governing the application of purchase accounting. We cannot predict if this project will result in changes to current purchase accounting rules prior to the completion of the mergers.

The Unaudited Pro Forma Condensed Combined Statements of Operations do not include the impacts of any revenue, cost or other operating synergies that may result from the merger. Duke Energy currently expects the transaction to generate approximately \$400 million of annual pre-tax cost savings by the attainment of steady-state operations in the third year after the closing of the transactions. Savings are anticipated to be split approximately evenly between the regulated and unregulated operations, with savings related to the regulated operations expected to be shared with customers, subject to regulatory approval. Approximately half of the savings are expected to come from work force reduction, including attrition, early retirements and severance programs. The remainder of the savings is expected to come largely from realization of economies of scale and integrating overlapping or duplicative functions.

The Unaudited Pro Forma Condensed Combined Financial Statements do not reflect the impact of financing, liquidity or other balance sheet repositioning that may be undertaken in connection with or subsequent to the mergers, nor does it reflect any other changes that might occur regarding the Duke Energy and Cinergy combined portfolios of businesses.

Except as discussed at note (h) to the Unaudited Pro Forma Condensed Combined Balance Sheet, the Unaudited Pro Forma Condensed Combined Financial Statements do not reflect any nonrecurring charges expected to result from the mergers. The majority of nonrecurring charges resulting from the mergers are anticipated to be comprised of executive separation, employee termination costs and other exit costs related to the Cinergy business that will be recognized in the opening balance sheet in accordance with Emerging Issues Task Force (EITF) Issue No 95-3, "Recognition of Liabilities in Connection with a Purchase Business Combination." Other merger-related charges may be incurred that do not meet the criteria in EITF Issue No 95-3, including employee termination and exit costs related to the Duke Energy business, other integration-related costs, and the impacts of potential divestitures, if any, that may be required by governmental authorities. Duke Energy and Cinergy have just recently begun collecting information in order to formulate detailed integration plans to deliver planned synergies. However, at this time, the status of the integration plans and the merger-related costs, except as discussed at note (h) to the Unaudited Pro Forma Condensed Combined Balance Sheet are too uncertain to include in the pro forma financial information.

Based on Duke Energy's review of Cinergy's summary of significant accounting policies disclosed in Cinergy's financial statements, the nature and amount of any adjustments to the historical financial

statements of Cinergy to conform their accounting policies to those of Duke Energy are not expected to be significant. Upon consummation of the mergers, further review of Cinergy's accounting policies and financial statements may result in required revisions to Cinergy's policies and classifications to conform to those of Duke Energy.

As disclosed in the Duke Energy Quarterly Report on Form 10-Q for the three months ended March 31, 2005, in February 2005, Duke Energy executed an agreement with ConocoPhillips whereby Duke Energy has agreed to transfer a 19.7% interest in Duke Energy Field Services (DEFS) to ConocoPhillips for direct and indirect monetary and nonmonetary consideration of approximately \$1.1 billion. This transaction is currently anticipated to close in the second half of 2005. Subsequent to the closing of this transaction, Duke Energy expects to account for its resulting 50% interest in DEFS under the equity method of accounting, and therefore DEFS will no longer be consolidated into Duke Energy's historical consolidated financial statements. Duke Energy's historical consolidated statements of operations for the year ended December 31, 2004 and the three months ended March 31, 2005, and Duke Energy's unaudited historical balance sheet as of March 31, 2005, have not been adjusted to reflect the pro forma effect of this transaction because the transaction is not anticipated to have a significant effect on Duke Energy's consolidated net earnings or total common stockholders' equity. For 2004, DEFS generated unaffiliated revenues of approximately \$10.1 billion which is included in non-regulated electric, natural gas and natural gas liquids in the Unaudited Pro Forma Condensed Combined Statements of Operations, and in the first quarter of 2005, DEFS generated approximately \$2.6 billion of unaffiliated revenues with approximately \$2.5 billion included in non-regulated electric, natural gas and natural gas liquids and approximately \$50 million included in regulated natural gas in the Unaudited Pro Forma Condensed Combined Statements of Operations.

Except for an adjustment related to pension and other postretirement benefit obligations, as mandated by Statement of Financial Accounting Standards (SFAS) Nos. 87, "Employers' Accounting for Pensions" and 106, "Employers' Accounting for Postretirement Benefits Other Than Pensions" and as discussed in note (j) to the Unaudited Pro Forma Condensed Combined Balance Sheet, the Unaudited Pro Forma Condensed Combined Financial Statements do not reflect any pro forma adjustments related to Cinergy's regulated operations that are accounted for pursuant to SFAS No. 71 "Accounting for the Effects of Certain Types of Regulation," which are comprised of PSI, ULH&P and CG&E's transmission and distribution operations. Under the rate setting and recovery provisions currently in place for these regulated operations which provide revenues derived from cost, the fair values of the individual tangible and intangible assets and liabilities are estimated to approximate their carrying values. However, these estimates of fair value could change following further analysis of this matter. The estimated fair values of the assets and liabilities of these operations could also be materially affected by the rate structure of Cinergy's utilities upon completion of the mergers.

DUKE ENERGY HOLDING CORP.
Unaudited Pro Forma Condensed Combined Statement of Operations
For the Three Months Ended March 31, 2005
(In millions, except per-share amounts)

	<u>Duke Energy Historical</u>	<u>(a) Cinergy Historical</u>	<u>Pro Forma Adjustments</u>	<u>Duke Energy Holding Pro Forma</u>
Operating Revenues				
Non-regulated electric, natural gas, natural gas liquids and other	\$3,324	\$ 461	\$ 14 (b) 6 (h)	\$3,805
Regulated electric	1,274	577		1,851
Regulated natural gas and natural gas liquids	1,151	306		1,457
Total operating revenues	<u>5,749</u>	<u>1,344</u>	<u>20</u>	<u>7,113</u>
Operating Expenses				
Natural gas and petroleum products purchased	3,023	209	(18)(h)	3,214
Costs of fuel resold	—	85		85
Operation, maintenance and other	864	332		1,196
Fuel used in electric generation and purchased power ..	432	305	39 (b)	776
Depreciation and amortization	506	126	(1)(c)	631
Property and other taxes	160	79		239
Impairment and other charges	121	—		121
Total operating expenses	<u>5,106</u>	<u>1,136</u>	<u>20</u>	<u>6,262</u>
Gains on Sales of Investments in Commercial and				
Multi-Family Real Estate	42	—		42
Gains (Losses) on Sales of Other Assets, net	33	—		33
Operating Income	<u>718</u>	<u>208</u>	<u>—</u>	<u>926</u>
Other Income and Expenses				
Equity in earnings of unconsolidated affiliates	41	5	(3)(d)	43
Gains (Losses) on sales and impairments of equity investments	1,239	(7)		1,232
Other income and expenses, net	25	9	(1)(e)	33
Total other income and expenses	<u>1,305</u>	<u>7</u>	<u>(4)</u>	<u>1,308</u>
Interest Expense	293	64	(4)(f) (1)(g)	352
Minority Interest Expense	416	1		417
Earnings From Continuing Operations Before Income				
Taxes	1,314	150	1	1,465
Income Tax Expense from Continuing Operations	447	33	— (i)	480
Income From Continuing Operations	867	117	1	985
Dividends and Premiums on Redemption of Preferred and Preference Stock	2	—	(2)(j)	—
Income from Continuing Operations Available For Common Stockholders	<u>\$ 865</u>	<u>\$ 117</u>	<u>\$ 3</u>	<u>\$ 985</u>
Common Stock Data				
Weighted-average shares outstanding				
Basic	954	196		1,260(k)
Diluted	990	197		1,297(k)
Earnings per share (from continuing operations)				
Basic	\$ 0.91	\$ 0.60		\$ 0.78
Diluted	\$ 0.88	\$ 0.60		\$ 0.76

See accompanying Notes to Duke Energy Holding Corp. Unaudited Pro Forma Condensed Combined Statement of Operations, which are an integral part of these statements.

DUKE ENERGY HOLDING CORP.
Unaudited Pro Forma Condensed Combined Statement of Operations
For the Year Ended December 31, 2004
(In millions, except per-share amounts)

	<u>Duke Energy Historical</u>	<u>(a) CInergy Historical</u>	<u>Pro Forma Adjustments</u>	<u>Duke Energy Holding Pro Forma</u>
Operating Revenues				
Non-regulated electric, natural gas, natural gas liquids and other	\$14,275	\$1,671	\$ 145 (b) (24)(h)	\$16,067
Regulated electric	5,111	2,326		7,437
Regulated natural gas and natural gas liquids	3,117	691	(6) (h)	3,802
Total operating revenues	<u>22,503</u>	<u>4,688</u>	<u>115</u>	<u>27,306</u>
Operating Expenses				
Natural gas and petroleum products purchased	11,335	428	(52)(h)	11,711
Costs of fuel resold	—	281		281
Operation, maintenance and other	3,568	1,282		4,850
Fuel used in electric generation and purchased power .	2,098	1,244	232 (b)	3,574
Depreciation and amortization	1,851	461	(3)(c)	2,309
Property and other taxes	539	254		793
Impairment and other charges	65	—		65
Total operating expenses	<u>19,456</u>	<u>3,950</u>	<u>177</u>	<u>23,583</u>
Gains on Sales of Investments in Commercial and				
Multi-Family Real Estate	192	—		192
Gains (Losses) on Sales of Other Assets, net	(225)	—		(225)
Operating Income	<u>3,014</u>	<u>738</u>	<u>(62)</u>	<u>3,690</u>
Other Income and Expenses				
Equity in earnings of unconsolidated affiliates	161	48	(10)(d)	199
Losses on sales and impairments of equity investments	(4)	—		(4)
Other income and expenses, net	145	(3)	(4)(e)	138
Total other income and expenses	<u>302</u>	<u>45</u>	<u>(14)</u>	<u>333</u>
Interest Expense	1,349	275	(17)(f) (5)(g)	1,602
Minority Interest Expense	195	3		198
Earnings From Continuing Operations Before Income				
Taxes	1,772	505	(54)	2,223
Income Tax Expense from Continuing Operations	540	104	(22)(i)	622
Income From Continuing Operations	1,232	401	(32)	1,601
Dividends and Premiums on Redemption of Preferred and Preference Stock	9	—	(9)(j)	—
Income from Continuing Operations Available For Common Stockholders	<u>\$ 1,223</u>	<u>\$ 401</u>	<u>\$ (23)</u>	<u>\$ 1,601</u>
Common Stock Data				
Weighted-average shares outstanding				
Basic	931	181		1,213 (k)
Diluted	966	184		1,253 (k)
Earnings per share (from continuing operations)				
Basic	\$ 1.31	\$ 2.22		\$ 1.32
Diluted	\$ 1.27	\$ 2.18		\$ 1.28

See accompanying Notes to Duke Energy Holding Corp. Unaudited Pro Forma Condensed Combined Statement of Operations, which are an integral part of these statements.

Duke Energy Holding Corp.
Notes to Unaudited Pro Forma Condensed
Combined Statements of Operations

- (a) *Cinergy Historical Presentation*—Certain adjustments have been made to Cinergy’s historical presentation in order to conform to Duke Energy’s historical presentation. These adjustments had no impact on the historical income from continuing operations reported by Cinergy. All utility revenues are presented as either regulated electric or gas, respectively, with one exception for CG&E electric generation. CG&E’s electric generation business is presented as non-regulated electric revenues. Revenues derived from CG&E’s retail electric generation business are approved through a public service commission order through 2008; however, CG&E generation does not follow Statement of Financial Accounting Standards No. 71, “Accounting for the Effects of Certain Types of Regulation” and is therefore presented as non-regulated.
- (b) *Operating Revenues and Fuel used in Electric Generation and Purchased Power*—Represents the pro forma adjustments required to reflect the net incremental operating revenue and net incremental fuel and emission allowance expenses resulting from (1) the amortization of the fair value adjustments related to certain of Cinergy’s fuel contracts and power sale agreements (see balance sheet note (k)) and (2) the adjustment of emission allowances to fair value which increases the expense recognition of emission allowances consumed (see balance sheet note (d)).
- (c) *Depreciation and Amortization Expense*—Represents the pro forma adjustment required to reflect the net incremental depreciation and amortization expense resulting from the fair valuation of Cinergy’s power generating assets. As discussed in balance sheet note (c), the amount of this adjustment is based on preliminary estimates of the fair values of the related assets.
- (d) *Equity in Earnings of Unconsolidated Affiliates*—Represents the pro forma adjustment required to reflect a net decrease in equity in earnings of unconsolidated investments in domestic and foreign entities, joint ventures and partnerships (see balance sheet note (e)) resulting from the basis difference in the equity method investments being amortized over the average remaining life of the related long-lived assets of those investments.
- (e) *Interest Income*—Represents the pro forma adjustment to interest income resulting from the fair value adjustment of Cinergy’s notes receivable (see balance sheet note (f)). The final fair value determination of the notes receivable will be based on prevailing market interest rates at the completion of the mergers and the necessary adjustment will be amortized as a reduction (in the case of a premium to book value) or an increase (in the case of a discount to book value) to interest income over the remaining life of the individual notes receivable.
- (f) *Interest Expense*—Represents the pro forma adjustment to interest expense resulting from the fair valuation of Cinergy’s third-party debt related to its non-regulated operations (see balance sheet note (i)). The final fair value determination of the debt will be based on prevailing market interest rates, adjusted for estimated issuance costs, at the completion of the mergers and the necessary adjustment will be amortized as a reduction (in the case of a premium to book value) or an increase (in the case of a discount to book value) to interest expense over the remaining life of the individual debt issues.
- (g) *Interest Expense*—Represents the pro forma adjustment to interest expense to reflect the elimination of historical amortization of deferred debt costs for debt related to Cinergy’s non-regulated operations (see balance sheet note (g)).
- (h) *Intercompany Transactions*—Represents the pro forma adjustments required for transactions between Duke Energy and Cinergy included in each company’s historical statements of operations. The underlying amounts in these adjustments relate primarily to purchases and sales of power and gas between the companies. The pro forma adjustments for intercompany transactions do not net

to zero due to differing accounting designations by Duke Energy and Cinergy for certain derivative instruments.

- (i) *Income Tax Provision*—Represents the pro forma tax effect of the above adjustments determined based on an estimated prospective statutory tax rate of approximately 40%. This estimate could change based on changes in the applicable tax rates and finalization of the combined company's tax position.
- (j) *Dividends and Premiums on Redemptions of Preferred and Preference Stock*—Income from continuing operations available for common stockholders was increased to reflect the redemption of Duke Energy's preferred and preference stock as required by the merger agreement, and therefore no amounts related to dividends and premiums on redemption of preferred and preference stock were included in pro forma income from continuing operations available for common stockholders (see balance sheet note (m)).
- (k) *Earnings Per Share and Shares Outstanding*—The pro forma weighted average number of basic and diluted shares outstanding is calculated by adding Duke Energy's weighted average number of basic and diluted shares of common stock outstanding for the three months ended March 31, 2005 or the year ended December 31, 2004, as applicable, and Cinergy's weighted average number of basic and diluted shares of common stock outstanding for those same periods multiplied by the exchange ratio of 1.56:

<u>Description</u>	<u>For the Three Months Ended March 31, 2005</u>	<u>For the Year Ended December 31, 2004</u>
Basic:		
Duke Energy weighted average common shares	954	931
Cinergy weighted average common shares	196	181
Exchange ratio	1.56	1.56
	<u>306</u>	<u>282</u>
Pro forma weighted average common shares	<u>1,260</u>	<u>1,213</u>
Diluted:		
Duke Energy weighted average common shares	990	966
Cinergy weighted average common shares	197	184
Exchange ratio	1.56	1.56
	<u>307</u>	<u>287</u>
Pro forma weighted average diluted shares	<u>1,297</u>	<u>1,253</u>

DUKE ENERGY HOLDING CORP.
UNAUDITED PRO FORMA CONDENSED COMBINED BALANCE SHEET
March 31, 2005
(In millions)

	<u>Duke Energy Historical</u>	<u>(a) Cinergy Historical</u>	<u>Pro Forma Adjustments</u>	<u>Duke Energy Holding Pro Forma</u>
ASSETS				
Current Assets	\$ 8,277	\$ 2,312	\$ (134)(m) 128 (k) 22 (l) 3 (f) 49 (d)	\$10,657
Goodwill	4,141	48	4,222 (b)	8,411
Investments and Other Assets	7,591	1,570	224 (e) 918 (d) 47 (k) 32 (f) (49)(j)	10,333
Property, Plant and Equipment, net	33,391	10,043	(95)(c)	43,339
Regulatory Assets and Deferred Debits	2,508	1,058	(28)(g) 228 (j)	3,766
Total Assets	<u>\$55,908</u>	<u>\$15,031</u>	<u>\$ 5,567</u>	<u>\$76,506</u>
LIABILITIES AND COMMON STOCKHOLDERS' EQUITY				
Current Liabilities	\$ 7,121	\$ 2,814	\$ 14 (i) 139 (k) 82 (h)	\$10,170
Long-term Debt	16,934	4,240	95 (i)	21,269
Deferred Credits and Other Liabilities	13,338	3,418	496 (j) 260 (l) 93 (k)	17,605
Minority Interests	1,897	63	—	1,960
Preferred and preference stock without sinking fund requirements	134	—	(134)(m)	—
Common Stockholders' Equity				
Common stock	10,436	2	(2)(n) 9,018 (b)	19,454
Paid-in capital	—	2,920	(2,920)(n)	—
Retained earnings	5,149	1,639	(1,639)(n)	5,149
Treasury shares at cost	—	(5)	5 (n)	—
Accumulated other comprehensive income	899	(60)	60 (n)	899
Total common stockholders' equity	<u>16,484</u>	<u>4,496</u>	<u>4,522</u>	<u>25,502</u>
Total Liabilities and Common Stockholders' Equity ..	<u>\$55,908</u>	<u>\$15,031</u>	<u>\$ 5,567</u>	<u>\$76,506</u>

See accompanying Notes to Duke Energy Holding Corp. Unaudited Pro Forma Condensed Combined Balance Sheet which are an integral part of these statements.

Duke Energy Holding Corp.
Notes to Unaudited Pro Forma Condensed
Combined Balance Sheet

- (a) *Cinergy Historical Presentation*—Certain adjustments have been made to Cinergy’s historical presentation in order to conform to Duke Energy’s historical presentation.
- (b) *Goodwill*—The estimated total purchase price of the mergers, based on the market price of Duke Energy common stock during the period including the two trading days before through the two trading days after May 9, 2005, the date Duke Energy and Cinergy agreed to and announced the mergers, and the excess of purchase price over the book values of the assets acquired and liabilities assumed is as follows (\$ in millions):

Value of Duke Energy common stock issued	\$ 8,880
Value of Cinergy stock compensation assumed	<u>138</u>
Total estimated purchase price	9,018
Less: Book value of Cinergy assets acquired and liabilities assumed	<u>(4,496)</u>
Excess of purchase price over net book value of assets acquired	<u>\$ 4,522</u>

Under the purchase method of accounting, the total estimated purchase price, as shown in the table above, is allocated to Cinergy’s net tangible and identifiable intangible assets acquired and liabilities assumed based on their estimated fair values as of March 31, 2005. The fair value of these assets and liabilities is preliminary and is subject to change pending additional information that may come to our knowledge and restructuring decisions made upon completion of the mergers. The preliminary adjustments to the assets acquired and liabilities assumed are as follows (\$ in millions):

Excess of purchase price over net book value of assets acquired	\$4,522
Adjustments to goodwill related to:	
Power generating assets	95
Emission allowances	(967)
Investments	(224)
Regulatory assets	(228)
Deferred tax assets	(22)
Other assets and liabilities	(7)
Accrued expenses (transaction costs directly related to the mergers)	82
Pension and postretirement benefit obligations, net	545
Long-term debt and notes payable	109
Power supply and fuel contracts	57
Deferred tax liabilities	<u>260</u>
Total adjustments	<u>(300)</u>
Total adjustment to goodwill	<u>\$4,222</u>

Pursuant to SFAS No. 142, “Goodwill and Other Intangible Assets,” goodwill is not amortized; rather, impairment tests are performed at least annually or more frequently if circumstances indicate an impairment may have occurred. If an impairment exists, the goodwill is immediately written down to its fair value through a current charge to earnings. Accordingly, the goodwill arising from the mergers will be subject to an impairment test at least annually.

- (c) *Power Generating Assets*—Represents the pro forma adjustment required to record Cinergy’s non-regulated power generating assets at estimated fair value. This adjustment was determined based on Duke Energy’s and Cinergy’s managements’ estimates of fair value based on estimates of current replacement cost and discounted cash flows.

Duke Energy Holding Corp.
Notes to Unaudited Pro Forma Condensed
Combined Balance Sheet

The preliminary analyses indicated fair value estimates of Cinergy's non-regulated generating facilities ranging from approximately \$1.7 billion to approximately \$2.5 billion. These analyses are significantly affected by assumptions regarding environmental regulation, operating costs and the expected market prices for electricity, fuel and emission allowances. The \$(0.1) billion adjustment reflects the difference between an average of estimates within the range and the \$2.1 billion book value of the facilities as of March 31, 2005, as Duke Energy and Cinergy management believe this to be an appropriate estimate of the fair value of the underlying assets.

These adjustments will be depreciated over the estimated remaining useful lives of the underlying assets, and could be materially affected by changes in fair value prior to the closing of the mergers.

- (d) *Emission allowances*—Represents the pro forma adjustment (\$49 million to inventory and \$918 million to noncurrent assets) to record at fair value the emission allowances held by Cinergy's non-regulated operations at March 31, 2005. This adjustment was determined based on market information and a discounted cash flow analysis. This adjustment could be materially affected by changes in market prices of emission allowances.
- (e) *Investments*—Represents the pro forma adjustment required to record at fair value Cinergy's non-consolidated equity investments in domestic and foreign entities, joint ventures, partnerships, and other cost method investments. The adjustment was determined primarily based on discounted cash flow analyses. Until independent third-party valuations are received on each of the underlying investments, Duke Energy and Cinergy management believe the adjustment to be a reasonable approximation of fair value.
These adjustments could be materially affected primarily by changes in interest rates, commodity prices and third-party appraisals.
- (f) *Notes receivable*—Represents the pro forma adjustment required to record Cinergy's notes receivable at estimated fair value. The adjustment was determined based upon credit-adjusted market rates of interest.
- (g) *Deferred debt costs*—Represents the pro forma adjustment to eliminate Cinergy's deferred debt costs related to its non-regulated operations.
- (h) *Accrued expenses*—Represents the pro forma adjustment related to costs incurred by Duke Energy that are directly attributable to the mergers of approximately \$32 million and certain payments to be made to Cinergy employees as a result of the mergers of approximately \$50 million.
- (i) *Long-term debt and notes payable*—Represents the pro forma adjustment (\$14 million for short-term notes payable and the current portion of long-term debt, and \$95 million for the non-current portion of long-term debt) required to record Cinergy's third-party debt related to its non-regulated operations at estimated fair value. The increase in the fair value of the debt will be amortized through interest expense over the remaining life of the debt. The final fair value determination will be based on prevailing market interest rates, adjusted for estimated issuance costs, at the completion of the mergers and the necessary adjustment will be amortized as a reduction (in the case of a premium to book value) or an increase (in the case of a discount to book value) to interest expense over the remaining life of the individual debt issues.
- (j) *Pension and Postretirement Benefit Obligations*—Represents the pro forma adjustment required to record Cinergy's pension and postretirement benefit obligations to reflect the difference between the present value of the estimated accumulated obligations and the estimated fair values of any related plan assets, including elimination of previously deferred gains and losses, and the related historical intangible asset of \$49 million and deferred tax asset of \$57 million. \$228 million of the adjustment to record Cinergy's pension and postretirement obligations at fair value was recorded

Duke Energy Holding Corp.
Notes to Unaudited Pro Forma Condensed
Combined Balance Sheet

as a regulatory asset as Duke Energy's and Cinergy's managements' believe that those amounts are probable of recovery in regulated rates at PSI and ULH&P

The final determination of the pension and postretirement benefit obligations adjustment may differ materially, largely due to potential changes in discount rates, return on plan assets up to the date of completion of the mergers and the potential conforming of certain Duke Energy and Cinergy assumptions surrounding the determination of these obligations. Additionally, this adjustment could be materially affected by the rate structure of the Cinergy's utilities upon completion of the mergers.

- (k) *Power and Fuel Contracts*—Represents the pro forma adjustment required to record, at estimated fair market value, Cinergy's fuel contracts and power sale contracts (including CG&E's Rate Stabilization Plan) that do not qualify as derivatives or are accounted for as "normal purchase, normal sale" transactions under SFAS No. 133, "Accounting for Derivative Instruments and Hedging Activities," as amended.

These adjustments will be amortized to earnings based on the remaining lives of the underlying contracts.

These adjustments were determined based on market information, where available, as well as Duke Energy's and Cinergy's managements' view of the forward market curves for energy prices. This adjustment could be materially affected by changes in prices of power and coal and changes in contract terms.

- (l) *Deferred Income Taxes*—The net current deferred tax asset represents the estimated impact on the allocation of purchase price to current assets and liabilities. The net non-current deferred tax liability represents the estimated impact on the allocation of purchase price to non-current assets and liabilities. These estimates are based on an estimated prospective statutory tax rate of approximately 40% and could change based on changes in the applicable tax rates and finalization of the combined company's tax position.
- (m) *Duke Energy Preferred and Preference Stock*—Represents the pro forma adjustment to reflect the redemption for cash of Duke Energy's preferred and preference stock. Duke Energy's use of its reasonable best efforts to redeem all of the preferred and preference stock prior to the mergers is a condition stipulated in the merger agreement.
- (n) *Common Stockholders' Equity*—Represents pro forma adjustments to eliminate the historical common stockholders' equity of Cinergy.

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Joint Application of Duke Energy Corporation,)	
Duke Energy Holding Corp., Deer Acquisition)	
Corp., Cougar Acquisition Corp., Cinergy Corp.,)	Case No. 2005-00228
The Cincinnati Gas & Electric Company, and)	
The Union Light, Heat and Power Company for)	
Approval of a Transfer and Acquisition)	
of Control)	

DIRECT TESTIMONY OF

WENDY L. AUMILLER

ON BEHALF OF

JOINT APPLICANTS

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APPENDIX

ATTACHMENT WLA-1 -	Schematic of Post-Merger Organizational Structure Of the Combined Entities
ATTACHMENT WLA-2 -	Duke Energy Regulated Money Pool Agreement (in substantial form)

1 **I. INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Wendy L. Aumiller, and my business address is 139 East Fourth Street,
4 Cincinnati, Ohio 45202.

5 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

6 A. I am Vice President and Treasurer for Cinergy Corp. (“Cinergy” or “Joint
7 Applicant”), and its principal subsidiary companies, including The Union Light, Heat
8 and Power Company (“ULH&P”, “Joint Applicant” or “Company”), The Cincinnati
9 Gas & Electric Company (“CG&E”) and PSI Energy, Inc. (“PSI”).

10 **Q. WHAT ARE YOUR DUTIES AND RESPONSIBILITIES IN THAT**
11 **POSITION?**

12 A. I am responsible for financing the operations of Cinergy and its subsidiary
13 companies. This includes managing the existing portfolio of securities; issuing new
14 taxable debt and tax-exempt debt, common equity and preferred equity; and obtaining
15 other sources of external funds, including securitization, lease financing and short-
16 term debt facilities. My responsibilities also encompass the use of financial risk
17 management, including use of derivative instruments, for the purpose of managing
18 the companies’ interest rate and foreign currency risk exposure. I am also responsible
19 for oversight and administration of the pension and other non-qualified benefit
20 investments, and daily cash management. My duties also include managing
21 Cinergy’s and its subsidiaries’ relationships with the major credit rating agencies and
22 with the commercial banks and debt capital markets.

1 **Q. PLEASE BRIEFLY DESCRIBE YOUR EDUCATIONAL BACKGROUND**
2 **AND BUSINESS EXPERIENCE.**

3 A. I have a Bachelor's Degree and a Master's Degree in Business Administration from
4 Miami University, Oxford, Ohio, and I am a Certified Public Accountant in the State
5 of Ohio. I started working for CG&E in 1980 in the Treasury Department as a
6 Financial Analyst, and have held various positions of increasing responsibility in
7 Strategic Planning and Treasury. I was appointed Treasurer effective June 19, 2002,
8 and Vice President and Treasurer effective February 2005.

9 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

10 A. My testimony in this proceeding addresses the financial impact of the proposed
11 merger of Cinergy and Duke Energy Corporation (the "Merger") upon ULH&P. My
12 testimony discusses the primary factors that drive the credit rating agencies'
13 evaluation of a company's financial strength, and the role that the regulatory
14 environment plays in that analysis. My testimony addresses ULH&P's financial
15 objectives in the context of the Merger, its current credit ratings and the impact of the
16 Merger upon ULH&P's credit ratings. My testimony also discusses the capital
17 structure for the operating utility companies under the holding company structure
18 created by the Merger. Finally, my testimony addresses how ULH&P is insulated
19 from holding company risks under the Merger, while providing benefits from the
20 Money Pool Agreement under the Merger.

21 **II. FINANCIAL STRENGTH**

22 **Q. HOW DO YOU DEFINE FINANCIAL STRENGTH?**

23 A. Financial strength refers to the soundness or stability of the enterprise. This

1 encompasses how a business performs in various economic cycles as well as its
2 ability to continue to meet financial obligations and maintain credit ratings under a
3 variety of market conditions. Investors have confidence in the stable earnings
4 potential of a financially-strong company, enabling it to attract capital (both debt and
5 equity) on reasonable terms even in turbulent market conditions.

6 **Q. ARE YOU GENERALLY FAMILIAR WITH THE ANALYSIS MADE BY**
7 **THE THREE MAJOR CREDIT RATING AGENCIES TO ASCERTAIN THE**
8 **FINANCIAL STRENGTH OF A UTILITY COMPANY?**

9 A. Yes, I am familiar with the analyses made by Moody's Investor Service ("Moody's"),
10 Fitch, Inc. ("Fitch") and Standard & Poor's ("S&P") to ascertain the financial
11 strength of a utility company.

12 **Q. PLEASE BRIEFLY EXPLAIN YOUR UNDERSTANDING OF SUCH**
13 **ANALYSIS.**

14 A. As also discussed in the prefiled testimony of Mr. Steven M. Fetter, the ratings
15 methodologies of the three major credit rating agencies involve a broad array of
16 qualitative and quantitative considerations, looking at the utility company on a
17 historic, current and prospective basis.

18 The qualitative aspects generally considered by the major credit rating
19 agencies to determine the financial strength of a utility company include: (i) the
20 service area (employment, industrial base, sales outlook, sales diversity and state and
21 local government policies); (ii) power supply (reserve margins, age of units,
22 environmental compliance and purchase power sources); (iii) fuel supply (diversity,
23 cost and availability); (iv) regulatory principles (recognition of rate base, operating

1 expenses, capital costs and cash flow needs); (v) management (recognition of
2 problems and development/implementation of solutions); and (vi) quality of earnings
3 (cash).

4 The quantitative assessment of a company's financial strength is based largely
5 on their evaluation of various financial measures or ratios. Generally, the ratios
6 attempt to assess the level of earnings and cash flow relative to interest and other
7 fixed charges (coverage ratios) and the degree of leverage in the capital structure
8 (leverage ratios). Returns allowed and earned must be sufficient to attract on a timely
9 basis the necessary capital at competitive prices for the ongoing needs of the
10 company.

11 Four of the most important ratios include: (i) funds flow interest coverage;
12 (ii) funds from operations/total debt; (iii) total debt/total capitalization; and (iv) pre-
13 tax interest coverage. While other ratios are considered, these four are consistently
14 relied upon by the credit rating agencies in their overall assessment of ULH&P's
15 credit quality.

16 The funds flow interest coverage represents the number of times that interest
17 charges are covered by cash flows from operations. This ratio measures the extent to
18 which cash flows from operations can decline before a company would be unable to
19 meet its annual interest costs. Higher numbers indicate stronger credit profiles.

20 Funds from operations/total debt is a ratio used by the credit rating agencies to
21 measure the adequacy of funds from operations as it relates to the total debt of a
22 company.

1 Total debt/total capitalization measures the leverage of a company. Higher
2 percentages would indicate that a company may have difficulty meeting its interest
3 and principal obligations and/or securing new funding on reasonable terms when
4 needed.

5 Finally, pre-tax interest coverage represents the number of times that interest
6 charges are covered by pre-tax earnings. This ratio measures the extent to which
7 earnings can decline before a company is unable to meet its annual interest cost. Pre-
8 tax interest coverage has been de-emphasized at S&P as one of its key ratios, but that
9 measure continues to have relevance within the credit rating process.

10 The credit rating agencies take their qualitative analysis into consideration
11 when evaluating the financial ratios. A company that is deemed to have less stable
12 earnings or a higher risk profile is required to have stronger ratios to receive the same
13 credit rating as a company with more stable earnings and a lower risk profile.

14 The capital investment requirements of the business are also taken into
15 consideration to assess whether these requirements will strain the company's financial
16 resources. Earnings, including the company's allowed rate of return, will be
17 reviewed to determine if they support the funding requirements. Corporate structure
18 is also considered with regard to the level of support an operating company may
19 expect by virtue of its affiliated companies. A negative assessment by the credit
20 rating agencies would have a compounding effect as companies experiencing
21 financial stress would be more limited in their access to the financial markets, having
22 to pay a premium for funds raised - this, of course, would further impact their
23 deteriorating financial condition.

1 **Q. WHAT IS THE ROLE OF REGULATION IN THE DETERMINATION OF**
2 **THE FINANCIAL STRENGTH OF A UTILITY COMPANY?**

3 A. Investors, investment analysts, and credit rating agencies regard regulation as one of
4 the most important factors in assessing a utility company's financial strength. They
5 want to be confident that the company operates in a stable regulatory environment
6 that will allow the company to earn a reasonable return on the investment necessary
7 to meet the demand, reliability, service, and environmental requirements of its
8 customers and service area. Important considerations include the allowed rate of
9 return, the cash quality of earnings, the timely recovery of capital investments, the
10 stability of earnings, the strength of its capital structure and moderation of the
11 company's need to finance externally. Positive consideration is also given for
12 utilities operating in states where the approval processes are streamlined and cost
13 savings are equitably shared between ratepayers, bondholders and equity holders.

14 **Q. WHY IS REGULATORY SUPPORT IMPORTANT TO THE THREE MAJOR**
15 **CREDIT RATING AGENCIES WITHIN THE CONTEXT OF UTILITY**
16 **MERGER TRANSACTIONS?**

17 A. Unlike most other industries, a utility merger transaction can take significant time
18 to close due to the need for multiple layers of required regulatory approvals. The
19 three major credit rating agencies can become concerned about the potential for rising
20 near-term costs (related to the transaction expenses, and interim operating
21 inefficiencies) as a result of these delays, as well as possible delay in cash flow
22 improvements that were important assumptions in the merger economics. Another
23 area of concern is the implicit or explicit nature of regulatory policy with respect to

1 cost savings. Merger economics rely partially on jointly-realized cost savings from
2 the merged entities. The risk of concomitant earnings and rate reductions can impede
3 cost reduction plans and are against the interests of bondholders and shareholders,
4 and potentially customers if reliability were to suffer.

5 **III. ULH&P'S FINANCIAL OBJECTIVES**

6 **Q. WHAT ARE ULH&P'S FINANCIAL OBJECTIVES?**

7 A. ULH&P's continuing financial objective is to achieve the fundamentals necessary to
8 provide assured and reasonable access to the capital markets in order to continue to
9 provide cost-effective, safe, adequate, environmentally-compliant and reliable service
10 to its customers. Specific financial objectives necessary to enhance or maintain the
11 desired financial strength include: (a) achieving and maintaining at least a 50%
12 common equity ratio for ULH&P on a financial capitalization basis; and (b)
13 maintaining at least an "A-" credit rating for ULH&P's senior secured debt and at
14 least a "BBB+" credit rating for ULH&P's senior unsecured debt, and ultimately
15 improving the credit rating for ULH&P's senior secured debt (if it chose to issue
16 senior secured debt under its First Mortgage Indenture) to an "A" rating and the credit
17 rating for ULH&P's senior unsecured debt to an "A-" rating.

18 **IV. ULH&P'S CURRENT CREDIT RATINGS**

19 **Q. HOW ARE ULH&P'S SECURITIES CURRENTLY RATED BY THE** 20 **THREE MAJOR CREDIT RATING AGENCIES?**

21 A. As of the date of this prefiled testimony, ULH&P's senior unsecured securities are
22 rated by the three major credit rating agencies as follows:

	<u>Fitch</u>	<u>Moody's</u>	<u>Standard & Poor's</u>	
2	Senior Unsecured Debt	BBB+	Baa1	BBB

3 Following the announcement of the Merger, Fitch and Moody's affirmed the credit
4 ratings of Cinergy and its subsidiaries and assigned a "Stable" outlook to these
5 ratings. S&P placed the credit ratings of Cinergy and its subsidiaries on CreditWatch
6 with "Negative" implications.

7 **Q. PLEASE EXPLAIN WHAT IS MEANT BY A "BBB" CREDIT RATING.**

8 A. Securities rated in the "BBB" category are regarded as medium-grade obligations. A
9 "BBB" credit rating means that interest payments and principal security are
10 considered adequate for the present. However, adverse economic conditions or
11 changing circumstances are more likely to lead to a weakened capacity of the obligor
12 to meet its financial commitments or obligations.

13 **Q. PLEASE EXPLAIN WHAT IS MEANT BY A "BBB+" CREDIT RATING.**

14 A. Ratings may be modified by the addition of a plus sign to indicate relative standing
15 within the major rating category. A "BBB+" credit rating means that the securities
16 receiving this rating are at the top or stronger end of the "BBB" category.

17 **Q. PLEASE EXPLAIN WHAT IS MEANT BY AN "A" CREDIT RATING.**

18 A. Securities rated in the "A" category are regarded as upper medium grade and are
19 subject to low credit risk; however, risk factors are variable and greater in periods of
20 economic stress. Securities rated in the "A" category are regarded as less susceptible
21 to the adverse effects of changes in circumstances and economic conditions than
22 obligations in the immediately lower "BBB" category.

23 **Q. PLEASE EXPLAIN WHAT YOU MEAN BY AN "A-" CREDIT RATING.**

1 A. Ratings may also be modified by the addition of a minus sign to indicate relative
2 standing within the major rating category. An “A-” credit rating is at the low or
3 weaker end of the “A” credit rating category, just above a “BBB+” credit rating.

4 **Q. IN THE CASE OF MOODY’S AND FITCH, PLEASE EXPLAIN WHAT YOU**
5 **MEAN BY A “STABLE” OUTLOOK.**

6 A. A credit rating outlook indicates the potential direction of a long-term credit rating
7 over the intermediate term (typically six months to two years). In determining a
8 credit rating outlook, consideration is given to any changes in the economic and/or
9 fundamental business conditions of the entity being rated. A “Stable” outlook means
10 that a credit rating is not likely to change within the foreseeable future.

11 **Q. IN THE CASE OF S&P, PLEASE EXPLAIN WHAT YOU MEAN BY**
12 **CREDITWATCH WITH “NEGATIVE” IMPLICATIONS.**

13 A. At S&P, a CreditWatch designation highlights the potential direction of a credit
14 rating. It focuses on identifiable events and short-term trends that can cause credit
15 ratings to be placed under special surveillance by S&P’s analytical staff. These may
16 include mergers, recapitalizations, voter referendums, regulatory action, or
17 anticipated operating developments. Credit ratings appear on CreditWatch at S&P
18 when such an event, or a deviation from an expected trend, occurs and additional
19 information is necessary to evaluate the current credit rating. Placement on
20 CreditWatch by S&P does not mean that a credit rating change is inevitable. The
21 “Negative” designation means that a credit rating may be lowered by S&P.

22 **Q. WHEN WERE ULH&P’S CURRENT CREDIT RATINGS ESTABLISHED?**

1 A. ULH&P's current credit ratings were established by Moody's in November 1995, by
2 S&P in June 2002, and by Fitch in April 2004. Immediately after announcement of
3 the Merger, all three of these credit rating agencies published ratings updates. Fitch
4 and Moody's affirmed the credit ratings of ULH&P with a "Stable" outlook on May 9
5 and 10, respectively. S&P assigned its CreditWatch with "Negative" implications on
6 May 10. The post-Merger announcement press releases of the three major credit
7 rating agencies concerning the Merger and ULH&P's credit ratings are discussed in
8 more detail in Section IX of this testimony.

9 **V. CAPITAL STRUCTURE OF THE OPERATING COMPANIES**

10 **Q. UNDER THE MERGER, WILL ULH&P, CG&E AND PSI CONTINUE TO**
11 **EXIST AS SEPARATE CORPORATE ENTITIES?**

12 A. Yes, they will. We expect that ULH&P will remain a subsidiary of CG&E. PSI and
13 CG&E will be first tier subsidiaries of Cinergy which will, in turn, be a first tier
14 subsidiary of the new holding company formed as result of the Merger, which holding
15 company will be called Duke Energy Holding Corp. (to be renamed Duke Energy
16 Corporation and referred to herein as "New Duke Energy"). From the perspective of
17 ULH&P, the organizational structure will be virtually unchanged with the exception
18 of an additional holding company above Cinergy. Attachment WLA-1 to my
19 testimony presents a schematic of the post-Merger organizational structure of the
20 combined entities.

21 **Q. UNDER THE MERGER, WILL THE REGULATED UTILITY ASSETS OF**
22 **THE CURRENT DUKE ENERGY CORPORATION EXIST AS A SEPARATE**
23 **CORPORATE ENTITY?**

1 A. Yes. The Merger will result in the regulated electric utility assets of Duke Energy
2 Corporation being held by a standalone legal entity called Duke Power Company,
3 LLC (“Duke Power”). Duke Power and its sister company, Duke Capital (which will
4 hold all of the unregulated assets of Duke Energy Corporation), will be first tier
5 subsidiaries of New Duke Energy, the new holding company formed as a result of the
6 Merger.

7 **Q. DO SUCH INDIVIDUAL CORPORATE STRUCTURES FOR ULH&P,**
8 **CG&E, PSI AND DUKE POWER (REFERRED TO COLLECTIVELY AS**
9 **“OPERATING COMPANIES” AND INDIVIDUALLY AS “OPERATING**
10 **COMPANY”) IMPLY THAT EACH OPERATING COMPANY WILL HAVE,**
11 **FOR BOTH ACCOUNTING AND RATEMAKING PURPOSES, AN**
12 **INDIVIDUAL CAPITAL STRUCTURE?**

13 A. Yes, they do. Each Operating Company has, and will continue to have, its own
14 distinct capital structure for both accounting and ratemaking purposes. These capital
15 structures will be maintained on as much of a balanced basis (in terms of percentages
16 of common stock equity, preferred stock and debt) as reasonably feasible, all other
17 things being equal. Each Operating Company will have its own unique needs (*i.e.*,
18 construction, operating cash needs, *etc.*) which would require the Operating Company
19 to issue its own distinct debt or preferred securities and/or receive equity investments
20 from New Duke Energy or, in the case of PSI or CG&E, from New Duke Energy
21 through Cinergy, or in the case of ULH&P, from New Duke Energy through Cinergy
22 and CG&E. New Duke Energy may, in turn, make equity investments with attendant
23 cash from the sale of its common stock.

1 It is contemplated that the New Duke Energy common stock dividend payout
2 ratio will reflect a level that is reasonable with respect to general electric utility
3 industry practice. It is further contemplated that the upstream Operating Companies'
4 dividend amounts will be consistent with the respective Operating Company
5 maintaining a reasonable capital structure, providing reasonable and adequate service,
6 and maintaining an adequate cash position. In addition, as a matter of normal practice
7 the dividend payout ratios of the Operating Companies will represent approximately
8 equal percentages of their respective income available for common dividends. On
9 occasion, one Operating Company may participate to a greater or lesser extent in the
10 furnishing of cash for New Duke Energy's common stock dividends than the other
11 Operating Companies in order to address the unique needs of the Operating
12 Companies (*e.g.*, construction, operating cash needs, *etc.*) at that time. Similar
13 participation by ULH&P, CG&E and PSI in funding the Cinergy common stock
14 dividend has occurred in the past under the Cinergy holding company structure.

15 Although it is intended in the long run to maintain balanced capital structures
16 between the Operating Companies, spot analysis could show differences resulting
17 from the unique needs of the Operating Companies at that particular point in time.
18 For example, if ULH&P's construction program was putting a strain on the
19 company's financial health, all other things being equal, it would be reasonable to
20 expect New Duke Energy, via Cinergy and CG&E, to contribute common stock
21 equity to ULH&P in order to provide protection for ULH&P's key financial statistics,
22 thus avoiding a potential downgrade of ULH&P's security issues at that time. This is

1 similar to CG&E's actions in the past with respect to maintenance of a strong capital
2 structure for ULH&P.

3 **VI. INSULATING ULH&P FROM HOLDING COMPANY RISKS**

4 **Q. WHAT FINANCIAL PROTECTIONS HELP INSULATE ULH&P AND**
5 **ULH&P'S RETAIL ELECTRIC AND GAS CUSTOMERS FROM THE**
6 **OBLIGATIONS OF ULH&P'S HOLDING COMPANY UNDER THE**
7 **MERGER?**

8 A. ULH&P will not loan any funds (or advance any credit or indemnity) to New Duke
9 Energy or Cinergy without the prior authorization of the Kentucky Public Service
10 Commission ("Commission" or "KyPSC"). Additionally, ULH&P will not declare
11 and pay dividends out of capital or unearned surplus without the prior authorization
12 of the Commission. Furthermore, before ULH&P can issue long-term debt, it must
13 receive the approval of the Commission.

14 I should also note that the prefiled testimony of Mr. Ficke discusses several
15 commitments that the Joint Applicants (including New Duke Energy) have made,
16 including: (i) the Joint Applicants' acknowledgement that the Commission will
17 continue to have authority under Kentucky law over ULH&P's capital structure,
18 financings and cost of capital for ratemaking purposes, which will enable the
19 Commission to protect ULH&P's Kentucky retail gas and electric customers from
20 any material adverse affects that may result from ULH&P's or Cinergy's or New
21 Duke Energy's participation in non-utility businesses or in public utility businesses
22 outside of the United States; and (ii) the Joint Applicants' commitment to implement
23 accounting, reporting and cost allocation procedures designed to prevent cross-

1 subsidization. The Joint Applicants will not need to commit to abide by what is
2 commonly referred to as an *Ohio Power* waiver¹ because, with the repeal of the
3 Public Utility Holding Company Act of 1935, the underlying statutory preemption
4 issue addressed by the waiver is eliminated.

5 **Q. WHAT ABOUT DEBT AT THE NEW DUKE ENERGY AND CENERGY**
6 **LEVELS AND INSULATION OF ULH&P'S RETAIL ELECTRIC AND**
7 **GAS CUSTOMERS UNDER THE MERGER STRUCTURE?**

8 A. All debt at the New Duke Energy and Cinergy levels will be non-recourse to
9 ULH&P. This means that the holders of those debt securities will not have recourse
10 against the assets, revenues or income of ULH&P to fulfill those obligations. This is
11 the same protection that currently exists under ULH&P's current ultimate holding
12 company arrangement.

13 **Q. PLEASE EXPLAIN THE CASH MANAGEMENT PRACTICES**
14 **CONTEMPLATED FOR THE NEW DUKE ENERGY PUBLIC UTILITY**
15 **HOLDING COMPANY SYSTEM AS THEY RELATE TO DEALINGS**
16 **BETWEEN ULH&P AND ULH&P'S ULTIMATE HOLDING COMPANY.**

17 A. As mentioned above, ULH&P will not loan any funds (or advance any credit or
18 indemnity) to New Duke Energy or Cinergy following the Merger. It is contemplated
19 that substantially all short-term borrowing requirements for ULH&P, CG&E and PSI
20 will be consolidated at the Cinergy level or the New Duke Energy level.

¹ The *Ohio Power* waiver generally refers to the waiver of Securities and Exchange Commission ("SEC") preemption of the FERC's or a state utility regulatory commission's jurisdiction concerning the reasonableness of costs on the basis that such costs were incurred pursuant to a contract filed with or approved by the SEC.

1 **VII. UTILITY MONEY POOL AGREEMENT**

2 **Q. ARE YOU FAMILIAR WITH THE CINERGY PUBLIC UTILITY HOLDING**
3 **COMPANY SYSTEM UTILITY MONEY POOL AGREEMENT (“CINERGY**
4 **UTILITY MONEY POOL AGREEMENT”)?**

5 A. Yes, I am.

6 **Q. WHO ARE THE PARTIES TO THE CINERGY UTILITY MONEY POOL**
7 **AGREEMENT?**

8 A. The Cinergy Utility Money Pool Agreement is among ULH&P, Cinergy, Cinergy
9 Services, Inc., CG&E, PSI, Tri-State Improvement Co. and KO Transmission Co.
10 Other non-utility affiliates of the Cinergy public utility holding company system are
11 not parties to the Cinergy Utility Money Pool Agreement.

12 **Q. DO YOU BELIEVE THAT ULH&P’S RETAIL ELECTRIC AND GAS**
13 **CUSTOMERS HAVE BENEFITED FROM THE CINERGY UTILITY**
14 **MONEY POOL AGREEMENT?**

15 A. Yes, I do.

16 **Q. PLEASE EXPLAIN WHY YOU BELIEVE THAT ULH&P’S RETAIL**
17 **ELECTRIC AND GAS CUSTOMERS HAVE BENEFITED FROM THE**
18 **CINERGY UTILITY MONEY POOL AGREEMENT.**

19 A. The Cinergy Money Pool Agreement affords ULH&P and the other participating
20 companies a lower cost source of short-term funds as compared to the available bank
21 borrowings and commercial paper. Participating companies with excess cash can
22 extend loans to other participating companies (except Cinergy) that are in need of
23 short-term funds. The rate at which these loans are extended is lower than borrowing

1 rates from external sources and higher than what can be earned on a short-term
2 investment. This results in a win-win situation for both the lender and the borrower.

3 **Q. IS A SIMILAR MONEY POOL AGREEMENT CONTEMPLATED FOR NEW**
4 **DUKE ENERGY (“DUKE ENERGY REGULATED MONEY POOL**
5 **AGREEMENT”)?**

6 A. That is my understanding.

7 **Q. PLEASE EXPLAIN THE BASIC PARAMETERS OF THE CONTEMPLATED**
8 **DUKE ENERGY REGULATED MONEY POOL AGREEMENT.**

9 A. The parties to the contemplated Duke Energy Regulated Money Pool Agreement
10 would be Cinergy, ULH&P, CG&E, PSI, Tri-State Improvement Co., KO
11 Transmission Co., Duke Power, New Duke Energy, and the service company (or
12 companies) of Cinergy and New Duke Energy (whether separate or aggregated in a
13 combined service company). Other non-utility affiliates of the New Duke Energy
14 could be parties to a Duke Energy Unregulated Money Pool Agreement. The Duke
15 Energy Unregulated Money Pool Agreement would function completely independent
16 of the Duke Energy Regulated Money Pool Agreement. It is contemplated that the
17 substantive provisions of the Duke Energy Regulated Money Pool Agreement will be
18 similar to those of the Cinergy Utility Money Pool Agreement. Under the Duke
19 Energy Regulated Money Pool Agreement, the Operating Companies would be
20 prohibited from making money pool loans to Cinergy or New Duke Energy. I have
21 included as Attachment WLA-2 a copy of the proposed Duke Energy Regulated
22 Money Pool Agreement. I anticipate that the document actually executed will be
23 substantially in the form of Attachment WLA-2.

1 Q. HAS THE DUKE ENERGY REGULATED MONEY POOL AGREEMENT
2 BEEN EXECUTED?

3 A. No, it has not.

4 Q. WILL THE DUKE ENERGY REGULATED MONEY POOL AGREEMENT
5 BE FILED WITH THE COMMISSION AFTER IT HAS BEEN EXECUTED?

6 A. Yes, it will.

7 VIII. PRO FORMA FINANCIAL STATEMENTS

8 Q. ARE YOU GENERALLY FAMILIAR WITH THE *PRO FORMA* FINANCIAL
9 STATEMENTS SET FORTH IN ATTACHMENT LJG-2 TO THE PREFILED
10 TESTIMONY OF LYNN J. GOOD?

11 A. Yes, I am.

12 Q. PLEASE BRIEFLY EXPLAIN YOUR UNDERSTANDING OF THE KEY
13 FINANCIAL IMPACTS OF THE MERGER FOR ULH&P AS REFLECTED
14 IN THE *PRO FORMA* FINANCIAL STATEMENTS SET FORTH IN
15 ATTACHMENT LJG-2.

16 A. It is my understanding that the purchase accounting method was applied in creating
17 the consolidated *pro forma* view presented in these financial statements. It is my
18 further understanding that push-down accounting may be necessary for purposes of
19 the financial statements of ULH&P. However, Cinergy and Duke Energy
20 Corporation have historically been extremely conscious of strong credit ratings and
21 ongoing balance sheet health. I expect that there will be a continued focus on
22 maintaining strong investment grade ratings, preserving balance sheet health and

1 promoting a responsible capital structure for all operating companies, including
2 ULH&P.

3 **IX. THE MERGER'S IMPACT UPON ULH&P'S CREDIT QUALITY**

4 **Q. IN YOUR OPINION, HOW WILL THE MERGER IMPACT ULH&P'S**
5 **CREDIT QUALITY?**

6 A. On May 9, 2005, Fitch issued a report affirming the credit ratings of Cinergy and its
7 subsidiaries, including ULH&P, with a stable outlook. The report indicated that both
8 Duke Energy (meaning Duke Energy Corporation) and Cinergy, "have credit profiles
9 commensurate to those of companies with unsecured debt ratings of BBB+ and the
10 combined entity should be able to achieve a similar credit profile." Fitch also noted
11 the synergistic savings that could develop as a result of Duke Energy's Midwest
12 generation assets which also address the concern of Cinergy's "current short
13 (generation) position in Ohio and Indiana".

14 On May 10, 2005, Moody's issued a similar report affirming the credit ratings
15 of Cinergy and its operating companies with a Stable outlook. Moody's attributed the
16 affirmation to the expectation that Cinergy and its regulated utilities will become
17 subsidiaries of the new holding company (New Duke Energy) and that it "anticipates
18 no incremental debt on the part of Cinergy or its utility subsidiaries." Moody's goes
19 on to highlight the benefits of Cinergy being part of a larger organization with the
20 associated cost benefits and economies of scale, as well as Duke Energy's (meaning
21 Duke Energy Corporation's) Midwest assets being able to be used to address
22 concerns about meeting future capacity needs in Ohio and Indiana.

1 Also on May 10, 2005, S&P placed the credit ratings of Cinergy and its
2 subsidiaries, including ULH&P, on CreditWatch with “Negative” implications.
3 S&P’s actions were related to S&P’s lack of initial clarity about the final corporate
4 structure or strategy behind the combined unregulated operations, and the fact that the
5 “companies may be required to share a larger-than-anticipated portion of [their] cost
6 savings with their ratepayers in order to receive the necessary regulatory approvals.”
7 A subsequent S&P release on May 31, 2005, seems to indicate that the post-Merger
8 Duke Energy (meaning New Duke Energy) will retain its corporate credit rating of
9 “BBB” while Cinergy’s corporate credit rating may be “lowered from “BBB+” to
10 “BBB” to match the credit rating of Duke Energy.

11 These reports, which are also discussed in the prefiled testimony of Mr. Fetter,
12 are very consistent with the methodologies employed by each of the respective credit
13 rating agencies under merger scenarios and in their general approach to credit rating
14 evaluation. Moody’s and Fitch take a more credit specific approach and look at the
15 impact on individual companies. Their affirmations and Stable outlooks reflect the
16 view that little will change in the credit quality of ULH&P as a result of the Merger
17 and portend no significant changes in the post-Merger credit ratings. S&P generally
18 takes a more conservative approach and usually evaluates credit ratings on a family of
19 companies basis. Accordingly, S&P notes that the large Duke Energy (meaning Duke
20 Energy Corporation) entity is rated lower than Cinergy, thus requiring levelization of
21 Cinergy’s higher credit rating with Duke Energy’s “BBB”. It is unclear at this point
22 what impact the levelization would have on S&P’s credit ratings for Cinergy’s
23 subsidiaries, including ULH&P. Here the S&P methodology becomes more

1 subjective and less uniform across the spectrum of post-merger companies. We
2 believe that a strong case can be made with S&P that the credit profile of Cinergy's
3 operating companies should stay at their present unsecured credit rating levels of
4 "BBB."

5 **Q. WHAT HAS BEEN THE CAPITAL MARKET REACTION TO THE CREDIT**
6 **RATING AGENCY REPORTS ISSUED AFTER THE MERGER WAS**
7 **ANNOUNCED?**

8 A. Generally speaking, the capital markets have reacted benignly to the credit rating
9 agency reports. ULH&P's debt issuances are too small to have significant secondary
10 market activity which usually serves as a proxy for investor sentiment. However,
11 credit spreads of the larger Cinergy Operating Companies (*i.e.*, CG&E and PSI) have
12 remained very consistent in the aftermath of the credit rating agency reports. We
13 have seen no tangible change in the capital markets concerning CG&E and PSI as a
14 result of such reports. This would suggest that the capital markets have viewed the
15 Merger transaction largely in the same way Moody's and Fitch have viewed it. That
16 is to say, there is no material impact on the credit quality of the Cinergy Operating
17 Companies, including ULH&P.

18 **Q. HOW WOULD YOU RESPOND TO A CONTENTION THAT ULH&P'S**
19 **CREDIT RATINGS WILL BE NEGATIVELY IMPACTED BY THE**
20 **ACTIONS OF NEW DUKE ENERGY OR CINERGY FOLLOWING THE**
21 **MERGER WITH RESPECT TO NON-UTILITY BUSINESSES?**

22 A. I would disagree with such a contention. There has been a well established legal
23 separation between ULH&P and CG&E and Cinergy, and that will continue between

1 ULH&P and New Duke Energy. The creditors of ULH&P will clearly have priority
2 claim on the assets of ULH&P. ULH&P will not loan any money to Cinergy or New
3 Duke Energy. ULH&P will also not guarantee the debt of Cinergy or New Duke
4 Energy. ULH&P will raise its own capital from investors, exclusive of Cinergy or
5 New Duke Energy, and ULH&P will have access to short-term borrowing even in the
6 event of a default or credit event at Cinergy or New Duke Energy. There will be no
7 cross defaults between Cinergy debt and ULH&P debt, or between New Duke Energy
8 debt and ULH&P debt; in other words, if there would be an event of default at
9 Cinergy or New Duke Energy, that default would not trigger a default on ULH&P
10 debt.

11 With respect to the consolidated rating methodology employed by S&P,
12 which looks at the combined credit risk characteristics of a parent company and its
13 affiliated companies and equalizes the corporate credit rating for all entities at the
14 weakest link, the prefiled testimony of Mr. Fetter shows that such methodology is
15 unique among the three major credit rating agencies. In contrast, Fitch and Moody's
16 will differentiate between the comparative risks (financial, regulatory and legal,
17 among others) at a parent company versus its regulated utility subsidiary, usually
18 rating the latter entity at a higher level. In view of the legal separation that will exist
19 between ULH&P and Cinergy, and ULH&P and New Duke Energy, and the priority
20 claim that ULH&P's creditors have (and will continue to have) on the assets of
21 ULH&P, it would appear that Moody's and Fitch's treatment would be the
22 appropriate approach for ULH&P under the Merger. Furthermore, the capital
23 markets have continued to assign larger credit spreads to holding companies. This

1 supports the conclusion that the markets in which ULH&P raises funds recognize the
2 appropriateness of Fitch's and Moody's view of separate credit dynamics. If the
3 market accepted the S&P view, one would expect to see similar spreads at both the
4 holding company level and the regulated utility subsidiary level.

5 **X. CONCLUSION**

6 **Q. PLEASE SUMMARIZE YOUR CONCLUSIONS CONCERNING THE**
7 **IMPACT OF THE MERGER ON THE FINANCIAL INTEGRITY OF**
8 **ULH&P.**

9 A. In my opinion, the Merger will not have any material adverse impact upon the
10 financial integrity of ULH&P. ULH&P will continue to operate in the same manner
11 it does today. It will maintain its own standalone creditworthiness and raise external
12 funds in the capital markets uninhibited by the holding company structure. ULH&P
13 will continue to have direct access to short-term borrowing independent of Cinergy or
14 New Duke Energy and, when beneficial, may participate, through the Duke Energy
15 Regulated Money Pool Agreement, in borrowing the proceeds from commercial
16 paper issued by Cinergy or New Duke Energy, or borrowing excess cash from other
17 regulated sister companies. The increased scale and scope of operations that will
18 result from the Merger will allow for continued support of a strong balance sheet at
19 ULH&P and solid investment grade credit ratings. Lastly, ULH&P will neither
20 guarantee the credit of any of its Cinergy or New Duke Energy affiliates, nor loan any
21 funds to Cinergy or New Duke Energy without the prior authorization of the
22 Commission. ULH&P will also not issue any security, incur any debt or pledge any

1 assets to finance any part of the purchase price paid for shares of Cinergy common
2 stock as part of the Merger transaction.

3 **Q. WERE ATTACHMENTS WLA-1 AND WLA-2 PREPARED BY YOU OR**
4 **UNDER YOUR SUPERVISION?**

5 A. Yes, they were.

6 **Q. DOES THAT CONCLUDE YOUR PREFILED DIRECT TESTIMONY?**

7 A. Yes, it does.

VERIFICATION

State of Ohio)
) SS:
County of Hamilton)

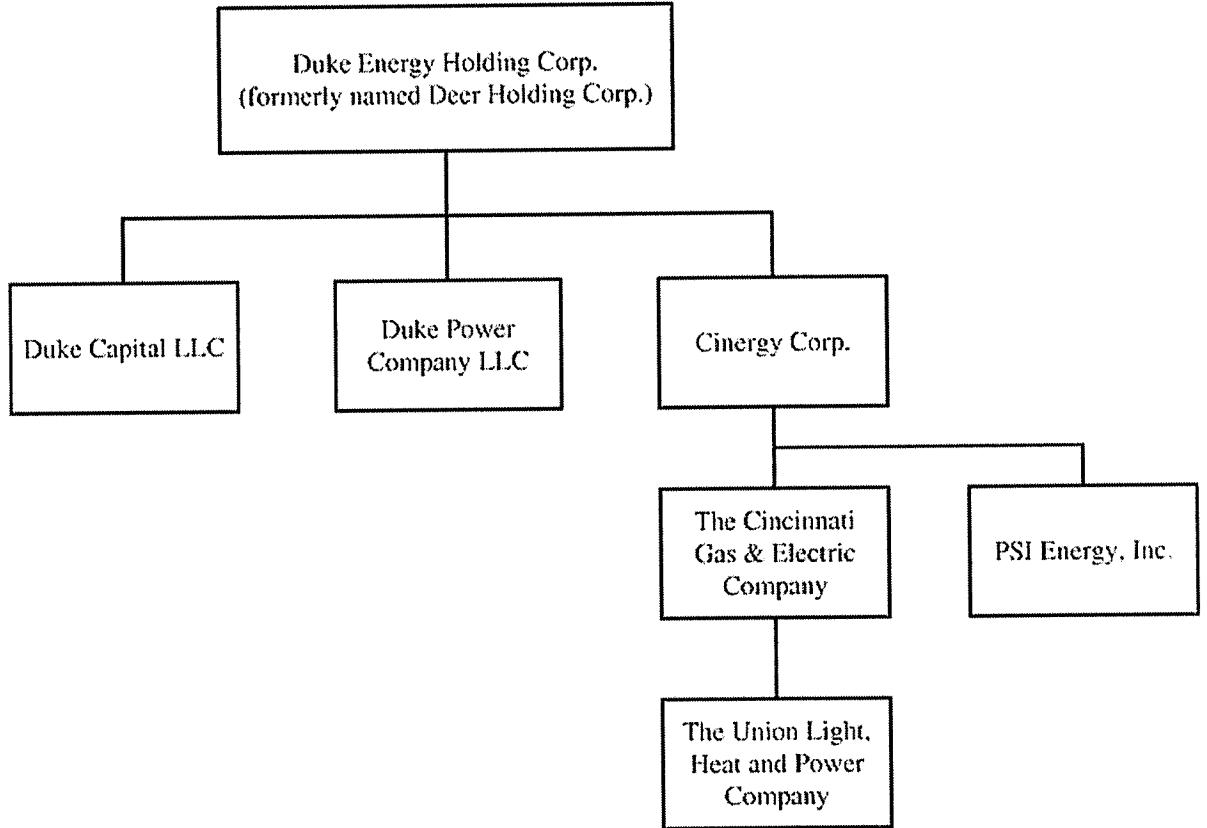
The undersigned, Wendy L. Aumiller, being duly sworn, deposes and says that she is Vice President and Treasurer for Cinergy Corp., The Union Light, Heat and Power Company, and The Cincinnati Gas & Electric Company, and that the matters set forth in the foregoing testimony are true and correct to the best of her information, knowledge and belief.

Wendy L. Aumiller
Wendy L. Aumiller, Affiant

Subscribed and sworn to before me by Wendy L. Aumiller on this 1st
day of July, 2005.

Susan M. Wolfram
NOTARY PUBLIC

My Commission Expires:
SUSAN M. WOLFRAM
Notary Public, State of Ohio
My Commission Expires Sept. 5, 2005



UTILITY MONEY POOL AGREEMENT

This UTILITY MONEY POOL AGREEMENT (this "Agreement") is made and entered into as of _____ ("Effective Date") by and among Duke Energy Corporation, a Delaware corporation ("Duke Energy"), Cinergy Corp., a Delaware corporation ("Cinergy"), Duke Energy Shared Services, LLC, a Delaware limited liability company [(and successor to Cinergy Services, Inc.)] ("Duke Services"), Duke Power Company LLC, a North Carolina limited liability company ("Duke Power"), PSI Energy, Inc., an Indiana corporation ("PSI"), The Cincinnati Gas & Electric Company, an Ohio corporation ("CG&E"), The Union Light, Heat and Power Company, a Kentucky corporation ("ULH&P"), Miami Power Corporation, an Indiana corporation ("Miami"), Tri-State Improvement Company, an Ohio corporation ("Tri-State"), and KO Transmission Company, a Kentucky corporation ("KO") (each a "party" and collectively, the "parties").

Recitals

Each of Duke Power, PSI, CG&E, ULH&P and Miami is a public utility company and a subsidiary company of Duke Energy. Duke Services is a subsidiary service company of Duke Energy. Each of Tri-State and KO is a nonutility company and a subsidiary company of CG&E.

The parties from time to time have need to borrow funds on a short-term basis. Some of the parties from time to time have funds available to loan on a short-term basis. The parties desire to establish a cash management program (the "Utility Money Pool") to coordinate and provide for certain of their short-term cash and working capital requirements.

NOW THEREFORE, in consideration of the premises, and the mutual promises set forth herein, the parties hereto agree as follows:

ARTICLE I
CONTRIBUTIONS AND BORROWINGS

Section 1.1 Contributions to Utility Money Pool. Each party will determine each day, on the basis of cash flow projections and other relevant factors, in such party's sole discretion, the amount of funds it has available for contribution to the Utility Money Pool, and will contribute such funds to the Utility Money Pool. The determination of whether a party at any time has surplus funds to lend to the Utility Money Pool or shall lend funds to the Utility Money Pool will be made by such party's chief financial officer or treasurer, or by a designee thereof, on the basis of cash flow projections and other relevant factors, in such party's sole discretion. Each party may withdraw any of its funds at any time upon notice to Duke Services as administrative agent of the Utility Money Pool.

Section 1.2 Rights to Borrow. Subject to the provisions of Section 1.4(b) of this Agreement, all short-term borrowing needs of the parties, with the exception of Duke Energy and Cinergy, will be met by funds in the Utility Money Pool to the extent such funds are available. Each party (other than Duke Energy and Cinergy) shall have the right to make short-term borrowings from the Utility Money Pool from time to time, subject to the availability of funds and the limitations and conditions set forth herein. Each party (other than Duke Energy and Cinergy) may request loans from the Utility Money Pool from time to time during the period from the date hereof until this Agreement is terminated by written agreement of the parties; provided, however, that the aggregate amount of all loans requested by any party hereunder shall not exceed the applicable borrowing limits set forth in applicable orders of regulatory authorities, resolutions of such party's shareholders and Board of Directors, such party's governing corporate documents, and agreements binding upon such party. No loans through the Utility Money Pool will be made to, and no borrowings through the Utility Money Pool will be made by, Duke Energy and Cinergy.

Section 1.3 Source of Funds. (a) Funds will be available through the Utility Money Pool from the following sources for use by the parties from time to time: (i) surplus funds in the treasuries of parties other than Duke Energy and Cinergy, (ii) surplus funds in the treasuries of Duke Energy and Cinergy, and (iii) proceeds from bank borrowings by parties and the sale of commercial paper by Duke Energy, Cinergy, Duke Power, CG&E, PSI and ULH&P ("External Funds"), in each case to the extent permitted by applicable laws and regulatory orders. Funds will be made available from such sources in such other order as Duke Services, as administrator of the Utility Money Pool, may determine will result in a lower cost of borrowing to companies borrowing from the Utility Money Pool, consistent with the individual borrowing needs and financial standing of the parties providing funds to the Utility Money Pool.

(b) Borrowing parties will borrow pro rata from each lending party in the proportion that the total amount loaned by such lending party bears to the total amount then loaned through the Utility Money Pool. On any day when more than one fund source (e.g., surplus treasury funds of Duke Energy and Cinergy and other Utility Money Pool participants ("Internal Funds") and External Funds), with different rates of interest, is used to fund loans through the Utility Money Pool, each borrowing party will borrow pro rata from each fund source in the same proportion that the amount of funds provided by that fund source bears to the total amount of short-term funds available to the Utility Money Pool.

Section 1.4 Authorization. (a) Each loan shall be authorized by the lending party's chief financial officer or treasurer, or by a designee thereof.

(b) All borrowings from the Utility Money Pool shall be authorized by the borrowing party's chief financial officer or treasurer, or by a designee thereof. No party shall be required to effect a borrowing through the Utility Money Pool if such party determines that it can (and is authorized to) effect such borrowing at lower cost directly from banks or through the sale of its own commercial paper.

Section 1.5 Interest. Each party receiving a loan shall accrue interest monthly on the unpaid principal amount of such loan to the Utility Money Pool from the date of such loan until such principal amount shall be paid in full.

(a) If only Internal Funds comprise the funds available in the Utility Money Pool, the interest rate applicable to loans of such Internal Funds shall be the CD yield equivalent of the 30-day Federal Reserve "AA" Industrial Commercial Paper Composite Rate (or, if no such Composite Rate is established for that day, then the applicable rate shall be the Composite Rate for the next preceding day for which such Composite Rate was established).

(b) If only External Funds comprise the funds available in the Utility Money Pool, the interest rate applicable to loans of such External Funds shall be equal to the lending party's cost for such External Funds (or, if more than one party had made available External Funds on such day, the applicable interest rate shall be a composite rate, equal to the weighted average of the cost incurred by the respective parties for such External Funds).

(c) In cases where both Internal Funds and External Funds are concurrently borrowed through the Utility Money Pool, the rate applicable to all loans comprised of such "blended" funds shall be a composite rate, equal to the weighted average of the (i) cost of all Internal Funds contributed by parties (as determined pursuant to Section 1.5(a) above) and (ii) the cost of all such External Funds (as determined pursuant to Section 1.5(b) above); provided, that in circumstances where Internal Funds and External Funds are available for loans through the Utility Money Pool, loans may be made exclusively from Internal Funds or External Funds, rather than from a "blend" of such funds, to the extent it is expected that such loans would result in a lower cost of borrowing.

Section 1.6 Certain Costs. The cost of compensating balances and fees paid to banks to maintain credit lines by parties lending External Funds to the Utility Money Pool shall initially be paid by the party maintaining such line. A portion of such costs shall be retroactively allocated every month to the parties borrowing such External Funds through the Utility Money Pool in proportion to their respective daily outstanding borrowings of such External Funds.

Section 1.7 Repayment. Each party receiving a loan hereunder shall repay the principal amount of such loan, together with all interest accrued thereon, on demand and in any event within 365 days of the date on which such loan was made. All loans made through the Utility Money Pool may be prepaid by the borrower without premium or penalty.

Section 1.8 Form of Loans to Parties. Loans to the parties through the Utility Money Pool will be made pursuant to open-account advances, repayable upon demand and in any event not later than one year after the date of the advance; provided, that each lending party shall at all times be entitled to receive upon demand one or more

promissory notes evidencing any and all loans by such lender. Any such note shall: (a) be dated as of the date of the initial borrowing, (b) mature on demand or on a date agreed by the parties to the transaction, but in any event not later than one year after the date of the applicable borrowing, and (c) be repayable in whole at any time or in part from time to time, without premium or penalty.

ARTICLE II
OPERATION OF UTILITY MONEY POOL

Section 2.1 Operation. Operation of the Utility Money Pool, including record keeping and coordination of loans, will be handled by Duke Services under the authority of the appropriate officers of the parties. Duke Services shall be responsible for the determination of all applicable interest rates and charges to be applied to advances outstanding at any time hereunder, shall maintain records of all advances, interest charges and accruals and interest and principal payments for purposes hereof, and shall prepare periodic reports thereof for the parties. Duke Services will administer the Utility Money Pool on an at-cost basis. Separate records shall be kept by Duke Services for the money pool established by this agreement and any other money pool administered by Duke Services.

Section 2.2 Investment of Surplus Funds in the Utility Money Pool. Funds not required to meet Utility Money Pool loans (with the exception of funds required to satisfy the Utility Money Pool's liquidity requirements) will ordinarily be invested in one or more short-term investments, including: (i) interest-bearing accounts with banks; (ii) obligations issued or guaranteed by the U.S. government and/or its agencies and instrumentalities, including obligations under repurchase agreements; (iii) obligations issued or guaranteed by any state or political subdivision thereof, provided that such obligations are rated not less than A by a nationally recognized rating agency; (iv) commercial paper rated not less than A-1 or P-1 or their equivalent by a nationally recognized rating agency; (v) money market funds; (vi) bank certificates of deposit; (vii) Eurodollar certificates of deposit or time deposits; and (viii) such other investments as the parties mutually determine .

Section 2.3 Allocation of Interest Income and Investment Earnings. The interest income and other investment income earned by the Utility Money Pool on loans and investment of surplus funds will be allocated among the parties in accordance with the proportion each party's contribution of funds in the Utility Money Pool bears to the total amount of funds in the Utility Money Pool and the cost of any External Funds provided to the Utility Money Pool by such party. Interest and other investment earnings will be computed on a daily basis and settled once per month.

Section 2.4 Event of Default. If any party shall generally not pay its debts as such debts become due, or shall admit in writing its inability to pay its debts generally, or shall make a general assignment for the benefit of creditors, or any proceeding shall be instituted by or against any party seeking to adjudicate it a bankrupt or insolvent, then the other parties may declare the unpaid principal amount of any loans to such party, and all

interest thereon, to be forthwith due and payable and all such amounts shall forthwith become due and payable.

ARTICLE III
MISCELLANEOUS

Section 3.1 Amendments. No amendment to this Agreement shall be effective unless set forth in writing and executed by each of the parties. To the extent that applicable state law or regulation or other binding obligation requires that any such amendment be filed with any affected state public utility commission for its review or otherwise, the parties shall comply in all respects with any such requirements.

Section 3.2 Legal Responsibility. Nothing herein contained shall render any party liable for the obligations of any other party hereunder and the rights, obligations and liabilities of the parties are several in accordance with their respective obligations, and not joint.

Section 3.3 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to conflicts of laws principles thereof.

Section 3.4 Effective Date; Term. This Agreement shall become effective on the Effective Date and shall continue in full force and effect until terminated by the parties. This Agreement may be terminated and thereafter will be of no further force and effect upon the mutual consent in writing of all of the parties.

Section 3.5 Entire Agreement. This Agreement contains the entire agreement between and among the parties with respect to the subject matter hereof and supersedes any prior or contemporaneous contracts, agreements, understandings or arrangements, whether written or oral, with respect thereto (including without limitation that certain Utility Money Pool Agreement between and among Cinergy, CG&E, PSI, ULH&P, Miami, KO and Tri-State and certain other subsidiaries of Cinergy dated as of September 14, 1995). Any oral or written statements, representations, promises, negotiations or agreements, whether prior hereto or concurrently herewith, are superseded by and merged into this Agreement.

Section 3.6 Severability; Regulatory Requirements. If any provision of this Agreement shall be determined to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby. Without limiting the generality of the foregoing, the transactions contemplated under this Agreement shall in all cases, and notwithstanding anything herein to the contrary, be subject to any limitations or restrictions contained in any applicable orders or authorizations, statutory provisions, rules or regulations, or agreements, whether now in existence or hereinafter promulgated, of those regulatory or governmental agencies, including without limitation any affected state public utility commission or the Federal Energy Regulatory Commission, having jurisdiction over any of the parties. To the extent, if any, that at any time any provision

of this Agreement conflicts with any such limitation or restriction of any such regulatory agencies, such limitation shall control

Section 3.7 Assignment. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned, in whole or in part, by operation of law or otherwise by any of the parties hereto without the prior written consent of each of the other parties. Any attempted or purported assignment in violation of the preceding sentence shall be null and void and of no effect whatsoever. Subject to the preceding two sentences, this Agreement shall be binding upon, inure to the benefit of, and be enforceable by, the parties and their respective successors and assigns.

Section 3.8 Captions, etc. The captions and headings used in this Agreement are for convenience of reference only and shall not affect the construction to be accorded any of the provisions hereof. As used in this Agreement, "hereof," "hereunder," "herein," "hereto," and words of like import refer to this Agreement as a whole and not to any particular section or other paragraph or subparagraph thereof.

Section 3.9 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed a duplicate original hereof, but all of which shall be deemed one and the same Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the undersigned companies have duly caused this Utility Money Pool Agreement to be executed on their behalf on the Effective Date above by the undersigned thereunto duly authorized.

DUKE ENERGY CORPORATION

By: _____
Name:
Title:

CINERGY CORP.

By: _____
Name:
Title:

DUKE ENERGY SHARED SERVICES, LLC

By: _____
Name:
Title:

DUKE POWER COMPANY LLC

By: _____
Name:
Title:

PSI ENERGY, INC.

By: _____
Name:
Title:

THE CINCINNATI GAS & ELECTRIC COMPANY

By: _____
Name:
Title:

THE UNION LIGHT, HEAT AND POWER COMPANY

By: _____
Name:
Title:

MIAMI POWER CORPORATION

By: _____
Name:
Title:

TRI-STATE IMPROVEMENT COMPANY

By: _____
Name:
Title:

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Joint Application of Duke Energy Corporation,)
Duke Energy Holding Corp., Deer Acquisition)
Corp., Cougar Acquisition Corp., Cinergy Corp.,)
The Cincinnati Gas & Electric Company, and)
The Union Light, Heat and Power Company for)
Approval of a Transfer and Acquisition)
of Control)

Case No. 2005-00228

DIRECT TESTIMONY OF

STEVEN M. FETTER

ON BEHALF OF

JOINT APPLICANTS

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IV. SHARING OF MERGER SAVINGS	13

APPENDIX

ATTACHMENT SMF-1 - Educational Background, Professional Experience,
and Qualifications of Steven M. Fetter

I. INTRODUCTION

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Steven M. Fetter, and my business address is P.O. Box 475, Rumson,
3 New Jersey 07760.

4 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 A. I am President of REGULATION UnFETTERED, an energy advisory firm I
6 started in April 2002. Prior to that, I was employed by Fitch, Inc. (“Fitch”), a
7 credit rating agency based in New York and London. Prior to that, I served as
8 Chairman of the Michigan Public Service Commission (“Michigan PSC” or
9 “Michigan Commission”).

10 **Q. PLEASE BRIEFLY DESCRIBE YOUR ROLE AS PRESIDENT OF**
11 **REGULATION UnFETTERED.**

12 A. I formed an energy advisory firm to use my financial, regulatory, legislative and
13 legal expertise to aid the deliberations of regulators, legislative bodies, and the
14 courts, and to assist them in evaluating regulatory issues. My clients include
15 electric and gas utilities, state public utility commissions and consumer advocates,
16 a non-utility energy supplier, international financial services and consulting firms,
17 and investors.

18 **Q. PLEASE BRIEFLY DESCRIBE FITCH’S BUSINESS DURING YOUR**
19 **TENURE THERE.**

20 A. Fitch is the third largest full service credit rating agency in the United States and
21 the largest European rating agency. It is one of four Nationally Recognized
22 Statistical Rating Organizations recognized by the U.S. Securities and Exchange

1 Commission. It is also recognized by the U.S. Department of Labor, state bank
2 and thrift regulators, and the National Association of Insurance Commissioners.
3 Fitch performs credit ratings of corporate obligations, asset-backed transactions,
4 and government and municipal debt. While fees are paid by bond issuer clients,
5 Fitch views its true clients to be bond investors. Accordingly, bond ratings
6 represent Fitch's independent judgment based upon financial data provided by the
7 bond issuer as well as additional quantitative and qualitative information gathered
8 from third-party sources.

9 **Q. WHAT WAS YOUR ROLE DURING YOUR EMPLOYMENT WITH**
10 **FITCH?**

11 A. I was Group Head and Managing Director of the Global Power Group within
12 Fitch. In that role, I served as group manager of the combined 18-person New
13 York and Chicago Utility Team and was also responsible for interpreting the
14 impact of regulatory and legislative developments on utility credit ratings. In
15 April 2002, I left Fitch to start REGULATION UnFETTERED, an energy
16 advisory firm.

17 **Q. HOW LONG WERE YOU EMPLOYED BY FITCH?**

18 A. I was employed by Fitch from October 1993 until April 2002. In addition, Fitch
19 retained me as a consultant shortly after I resigned for a period of approximately
20 six months.

21 **Q. HOW DOES YOUR EXPERIENCE AT FITCH RELATE TO YOUR**
22 **TESTIMONY IN THIS PROCEEDING?**

23 A. At the time I was hired, Fitch intended to supplement the traditional quantitative

1 analysis that went into the firm's utility credit ratings with a new emphasis on
2 qualitative analysis. Fitch sought my assistance on the regulatory, legislative and
3 political credit rating factors that would accompany U.S. movement toward a less
4 regulated, more competitive utility environment, both on the electric side as well
5 as within the natural gas industry. I guided the Global Power Group in
6 incorporating these issues into individual utility credit profiles.

7 My experience with Fitch has given me solid insight into the importance
8 of a regulator's role in both setting rates and also determining appropriate terms
9 and conditions of service. These are the factors that enter into the process of
10 utility credit analysis and formulation of individual company credit ratings. It
11 goes without saying that a company's credit ratings have a significant impact as to
12 whether a utility will be able to raise capital on a timely basis and upon favorable
13 terms.

14 **Q. PLEASE DESCRIBE YOUR SERVICE ON THE MICHIGAN PUBLIC**
15 **SERVICE COMMISSION.**

16 A. I was appointed as a Commissioner to the three-member Michigan PSC in
17 October 1987 by Democratic Governor James Blanchard. In January 1991, I was
18 promoted to Chairman by incoming Republican Governor John Engler, who
19 reappointed me in July 1993. During my tenure as Chairman, the Michigan PSC
20 eliminated the agency's case backlog for the first time in 23 years.

21 **Q. PLEASE DESCRIBE YOUR OTHER PRIOR PROFESSIONAL**
22 **EXPERIENCE RELATED TO THE UTILITY INDUSTRY.**

1 A. During my time on the Michigan PSC, I served as Chairman of the Board of
2 Directors of the National Regulatory Research Institute (“NRRI”) at Ohio State
3 University, the regulatory research arm of the 50 states and District of Columbia
4 public utility commissions. In 2003, I was appointed by the President of the
5 National Association of Regulatory Utility Commissioners (“NARUC”) to serve
6 as a public member of the NRRI Board – the 20-member board includes ten state
7 public utility commissioners. I was reappointed to the NRRI Board for a second
8 three-year term in June 2005. I also have served on the Keystone Center Energy
9 Board, after having participated in the Keystone Center Dialogues on Financial
10 Markets and Energy Trading and on Regional Transmission Organizations.

11 I have also been a member of the following organizations: the NARUC
12 Executive, Natural Gas, and International Relations Committees; the Steering
13 Committee of the U.S. Environmental Protection Agency/State of Michigan
14 Relative Risk Analysis Project; and the Federal Energy Regulatory Commission
15 (“FERC”) Task Force on Natural Gas Deliverability. In 1991, I traveled to Japan
16 as an Eisenhower Fellow to study the Japanese utility structure, and, in 1992, I
17 was a NARUC Fellow at the Kennedy School of Government. In February 2002,
18 I was appointed to the Board of Directors of CH Energy Group, Inc. (“CHG”), the
19 parent company of Central Hudson Gas & Electric in Poughkeepsie, New York. I
20 currently serve as chairman of the CHG Audit Committee.

21 **Q. HAVE YOU PREVIOUSLY SPONSORED TESTIMONY BEFORE**
22 **REGULATORY AND LEGISLATIVE BODIES?**

1 A. Since 1990, I have on numerous occasions testified before the U.S. Senate, the
2 U.S. House of Representatives, the FERC, and various state legislative and
3 regulatory bodies on the subjects of credit risk within the utility sector, electric
4 and natural gas utility restructuring, utility securitization bonds, and nuclear
5 energy. My full educational and professional background is attached to my
6 testimony as Attachment SMF-1.

II. SUMMARY

7 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**
8 **PROCEEDING?**

9 A. In this testimony, I offer my opinion, based upon my prior experience with a
10 credit rating agency and as a state utility regulator, as to the potential credit
11 quality implications for The Union Light, Heat and Power Company (“ULH&P”
12 or “Company”) arising from the pending merger (“Merger”) between Duke
13 Energy Corporation (“Duke Energy”) and Cinergy Corp. (“Cinergy”). I explain
14 why I believe that the Merger will not have a material adverse impact upon the
15 credit ratings of ULH&P, with the minimal negative changes I foresee driven by
16 the internal credit rating methodology at Standard & Poor’s (“S&P”). Moreover,
17 as I explain, the economies of scale and greater fuel diversity that will result from
18 the Merger, coupled with the complementary capacity need and supply profiles
19 within the larger company resulting from the Merger, create the potential that,
20 over time, ULH&P and the other affiliated companies within the merged entity
21 could overcome any near-term negative rating effects and restore their credit
22 rating levels to their current status.

1 I also focus on the sharing of Merger savings between shareholders and
2 retail customers. An appropriate sharing of such savings will encourage the
3 realization of such savings. I consider it sound public policy to provide utilities
4 with an incentive to reduce costs, become more efficient, and achieve productivity
5 gains for both customers and shareholders, and, as a state regulator, I actively
6 worked to put such programs in place.

7 In addition to the upfront sharing of net Merger savings with gas and
8 electric customers under ULH&P's proposed sharing mechanism, gas and electric
9 customers will benefit on an ongoing basis because, under the proposed Merger
10 plan, 100% of the actual jurisdictional cost reductions, efficiency improvements,
11 and productivity gains will be reflected in the test period in ULH&P's next retail
12 electric and gas rate cases to be included in customer rates upon completion of the
13 applicable case. I endorse the concept of sharing estimated net Merger savings in
14 a jurisdiction between shareholders and customers and I encourage Kentucky
15 Public Service Commission ("Commission" or "KyPSC") to approve ULH&P's
16 requested sharing mechanism.

III. UTILITY CREDIT RATINGS

17 **Q. WOULD YOU DESCRIBE THE CREDIT RATING PROCESS?**

18 A. Credit ratings reflect a credit rating agency's independent judgment of the general
19 creditworthiness of an obligor or the creditworthiness of a specific debt
20 instrument. Determinations are made through a committee process involving
21 individuals with knowledge of the company, its industry and the relevant
22 regulatory environment. Rating designations of both Fitch and S&P have "BBB-"

1 as the lowest investment-grade rating and “BB+” as the highest non-investment-
2 grade rating. Comparable rating designations by Moody’s Investors Service
3 (“Moody’s”) are “Baa3” and “Ba1”, respectively. These ratings compare to the
4 highest investment-grade rating for Fitch and S&P of “AAA” (“Aaa” for
5 Moody’s) and the lowest non-investment grade rating for Fitch and S&P of “D”
6 (“C” for Moody’s).

7 Corporate credit ratings analysis considers both qualitative and
8 quantitative factors to assess the financial and business risks of fixed-income
9 issuers. A rating is an indication of an issuer’s ability to service its debt, both
10 principal and interest, on a timely basis. It also at times incorporates some
11 consideration of ultimate recovery of investment in case of default or insolvency.

12 Prior to the evolution to competition within both the gas and electric
13 sectors, the traditional credit rating process focused almost exclusively on
14 quantitative factors. Since the early 1990s, however, all three credit rating
15 agencies have elevated qualitative factors to almost equal status, with regulatory
16 environment leading the way in significance. These qualitative factors enter into
17 a credit rating agency’s analysis and determination of the appropriate credit rating
18 to be assigned to a specific utility.

19 **Q. WHAT ARE THE KEY QUALITATIVE FACTORS USED BY THE**
20 **THREE MAJOR CREDIT RATING AGENCIES?**

21 A. The most important qualitative factors are regulation, management and business
22 strategy, operations, and access to power or gas supply with recovery of
23 associated costs.

1 **Q. WHAT ARE THE KEY QUANTITATIVE FACTORS USED BY THE**
2 **THREE MAJOR CREDIT RATING AGENCIES?**

3 A. Financial performance as measured by historical results and financial projections
4 remains a very important element in credit rating analysis. Most significant
5 within the rating agency review process is an assessment of a company's ability to
6 generate cash, reflected in ratios that measure profitability and coverage on a cash
7 flow basis. Credit rating agencies and fixed-income analysts ordinarily apply
8 analytical ratios that reflect interest protection measures¹, cash flow measures²,
9 and debt leverage³ to understand the credit profile of a utility. These measures
10 allow a credit rating agency to track over time a company's operations,
11 competitive position, and ability to secure funding for necessary purposes.

12 **Q. WHAT WERE THE CREDIT RATINGS FOR DUKE ENERGY,**
13 **CINERGY AND ULH&P AT THE TIME OF THE MERGER**
14 **ANNOUNCEMENT AND HOW DID THEY CHANGE?**

15 A. The intrinsic credit strength of a company (not supported by any underlying
16 assets as security) is indicated by a senior unsecured rating designation. At the
17 time the Merger was announced, the senior unsecured ratings for Cinergy,
18 ULH&P, and Duke Energy changed as follows:

¹ Interest protection measures include Earnings Before Interest and Taxes ["EBIT", also known as Pretax Income] / Interest Expense; and Earnings Before Interest, Taxes, Depreciation and Amortization ["EBITDA"] / Interest Expense.

² Cash flow measures include Funds from Operations ["FFO"] (Before Interest Expense) / Interest Expense; Net Cash from Operations (after dividends) [also known as Internal Cash] / Capital Expenditures; and Funds from Operations (or FFO) / Total Debt.

³ Leverage ratios include Total Debt [Long-term and Short-term plus current maturities of long-term debt plus capitalized lease obligations] / Total Capital; and Total Debt / EBITDA. The rating agencies may adjust these ratios to reflect imputed debt and interest charges flowing from long-term gas supply contracts and certain other off-balance sheet obligations.

1 **Moody's (on May 10, 2005)**

2 Cinergy: "Baa2"; ULH&P: "Baa1"; both with Stable rating outlook⁴ --
3 No change;

4 Duke Energy: "Baa1"; rating outlook changed from Stable to
5 Developing.

6 **S&P (on May 10, 2005)**

7 Cinergy: "BBB"; ULH&P: "BBB"; rating outlook⁵ changed from Stable
8 to CreditWatch Negative⁶;

9 Duke Energy: "BBB"; rating outlook changed from Stable to
10 CreditWatch Negative.

11 **Fitch (on May 9, 2005)**

12 Cinergy: "BBB+"; ULH&P: "BBB+"; both with Stable rating outlook⁷ -
13 - No change;

14 Duke Energy: "BBB+"; with Stable rating outlook -- No change.

15 **Q. HOW DO YOU VIEW THESE ACTIONS BY THE THREE MAJOR**
16 **RATING AGENCIES?**

17 **A.** I viewed the rating agency actions in response to the Merger announcement to be

⁴ Moody's defines its rating outlook as "an opinion regarding the likely direction of a rating over the medium term. Where assigned, rating outlooks fall into the following four categories: Positive, Negative, Stable, and Developing (contingent upon an event)."

⁵ S&P's "rating outlook assesses the potential direction of a long-term credit rating over the intermediate term (typically six months to two years). In determining a rating outlook, consideration is given to any changes in the economic and/or fundamental business conditions. An outlook is not necessarily a precursor of a rating change or future CreditWatch action. Positive means that a rating may be raised. Negative means that a rating may be lowered. Stable means that a rating is not likely to change. Developing means a rating may be raised or lowered."

⁶ S&P's "CreditWatch highlights the potential direction of a short- or long-term rating. It focuses on identifiable events and short-term trends that cause ratings to be placed under special surveillance by [S&P]. These may include mergers, recapitalizations, voter referendums, regulatory action, or anticipated operating developments. Ratings appear on CreditWatch when such an event or a deviation from an expected trend occurs and additional information is necessary to evaluate the current rating. A listing, however, does not mean a rating change is inevitable, and whenever possible, a range of alternative ratings will be shown...The 'positive' designation means that a rating may be raised; 'negative' means a rating may be lowered; and 'developing' means that a rating may be raised, lowered, or affirmed."

⁷ Fitch's "Rating Outlook indicates the direction a rating is likely to move over a one to two-year period. Outlooks may be positive, stable, or negative. A positive or negative Rating Outlook does not imply a rating change is inevitable. Similarly, ratings for which outlooks are 'stable' could be upgraded or downgraded before an outlook moves to positive or negative if circumstances warrant such an action."

1 relatively positive. Moody's made no changes to the Cinergy and ULH&P
2 ratings, and noted potential positive impacts from the Merger:

3 The merger is expected to offer modest opportunities for cost savings and
4 economies of scale, and Cinergy could realize some benefits from being
5 part of the much larger Duke organization. The merger also represents an
6 opportunity for Cinergy to meet future capacity needs in its service
7 territory with some of Duke's excess unregulated generating assets
8 located in the Midwest. The merger will also diversify Cinergy's
9 predominantly coal fired generating assets with nuclear, gas, and hydro
10 generating assets.⁸

11 With regard to Duke Energy, the outlook change from "Stable" to "Developing"
12 indicated Moody's need for additional information about Merger specifics before
13 determining future rating action: "...the ultimate legal and organizational
14 structure of the new [holding] company is still being finalized."

15 Fitch made no changes to the ratings of Cinergy or Duke Energy, noting
16 that, since both companies "have credit profiles commensurate to those of
17 companies with senior unsecured debt ratings of 'BBB+', Fitch anticipates the
18 combined entity should be able to achieve a similar credit profile." Fitch went on
19 to highlight the positive aspects it saw in the Merger:

20 Fitch recognizes that synergistic savings may occur especially as Duke
21 has wholesale generation assets in the Midwest that will help reduce
22 Cinergy's current short position in Ohio and Indiana. Also, the
23 combination of Cinergy's gas trading and Duke's gas transportation
24 assets may offer additional business opportunities.⁹

25 **Q. WITH REGARD TO S&P, THE CREDIT RATINGS FOR CINERGY,**
26 **DUKE ENERGY AND ULH&P REMAINED THE SAME, BUT FOR**
27 **EACH ENTITY THE RATING OUTLOOK WENT FROM STABLE TO**

⁸ Moody's Global Credit Research: "Moody's Affirms the Ratings of Cinergy Corp.; the Cincinnati Gas & Electric Company; PSI Energy, Inc.; and the Union Light, Heat and Power Company; Outlook Stable," May 10, 2005.

⁹ Fitch Research: "Cinergy Affirmed by Fitch on Duke Merger; Outlook Stable," May 9, 2005.

1 **CREDITWATCH NEGATIVE. DOES THIS INDICATE THAT THE**
2 **MERGER WILL HAVE A NEGATIVE EFFECT ON THE CREDIT**
3 **PROFILES OF THOSE COMPANIES?**

4 A. No, I do not believe so. S&P’s consolidated rating methodology differs from the
5 processes at Moody’s and Fitch. While S&P begins its analysis at the non-
6 regulated parent company and carries its view of default risk downward into the
7 regulated operating utility subsidiaries, Moody’s and Fitch initially carry out a
8 company-specific assessment of the quantitative and qualitative factors at the
9 regulated utility level and then incorporate parent company risk only if it bears
10 risk characteristics significantly out of proportion to the regulated utility
11 operations.

12 What this means is that S&P looks at the combined credit risk
13 characteristics of a parent company and its affiliated companies and equalizes or
14 levelizes the corporate credit rating for all entities at the weakest link, reflecting
15 that all of the affiliated entities share the same degree of default risk. Application
16 of this methodology led S&P to move the “BBB+” ratings of Cinergy and its
17 subsidiaries from a Stable outlook to CreditWatch Negative, indicating that the
18 above-described equalization process would likely move those ratings to the
19 level of Duke Energy’s “BBB” corporate credit rating.

20 In the instance of ULH&P and its current and prospective holding
21 companies, I believe that the approach of Moody’s and Fitch better reflects the
22 situation between ULH&P and its holding company, in that their approach
23 recognizes that: (1) ULH&P operates (and will continue to operate) as legally

1 separate from its holding company with ULH&P's creditors having a priority
2 claim over ULH&P's assets; (2) no loans or guarantees exist (or will exist) from
3 ULH&P to its holding company; (3) there are (and will continue to be) no cross-
4 default provisions in ULH&P's loan agreements; and (4) ULH&P's holding
5 company has provided (and will continue to provide) financial support as needed.
6 (See the prefiled testimony of Wendy L. Aumiller.)

7 Thus, while Moody's and Fitch do not see a likelihood that Cinergy's or
8 ULH&P's ratings will be downgraded, S&P indicates that the Cinergy and
9 ULH&P ratings likely will be downgraded, not due to a weakening of their credit
10 profiles, but due to equalization across the newly-merged entity.

11 **Q. S&P ALSO MOVED THE STABLE OUTLOOK ON THE DUKE**
12 **ENERGY RATINGS TO CREDITWATCH NEGATIVE. HOWEVER,**
13 **THE EQUALIZATION PROCESS AS YOU DESCRIBE IT SHOULD NOT**
14 **APPLY TO DUKE ENERGY'S RATINGS WHICH ARE LOWER THAN**
15 **THOSE OF CINERGY. WHAT WAS THE IMPETUS FOR THIS**
16 **ACTION?**

17 **A.** I believe that S&P was reacting to the uncertainty that characterizes the early
18 stages of any merger immediately after the transaction is announced. S&P
19 stated, "there is some uncertainty as to the final corporate structure of the merged
20 entity, especially as to where debt will reside and whether the new holding
21 company will issue additional debt." Balancing those thoughts in the same press
22 release, S&P signaled that a downgrade was unlikely for Duke Energy:

23 [S&P] expects that the ratings on Duke Energy, post merger, are more
24 likely to remain at current levels than be lowered, assuming no material

1 increase in business risk or weakening in the consolidated financial
2 profile. This is because, despite the risks mentioned, the consolidated
3 business risk profile should benefit from the operating and regulatory
4 diversity, generally supportive regulatory regimes, and an increased asset
5 base with competitive power costs.¹⁰

6 The positive characteristics highlighted in this latter point also recognize the
7 possibility that, once the Merger is consummated, Cinergy, ULH&P, and Duke
8 Energy, working in concert, may be able to improve their S&P corporate credit
9 rating status due to the increased efficiencies that are expected to flow from
10 economies of scale and greater fuel diversity, as well as the better balance that
11 will be struck between capacity needs and internal power supply within the
12 larger, more diverse entity.

IV. SHARING OF MERGER SAVINGS

13 **Q. WHAT IS YOUR UNDERSTANDING OF ULH&P'S PROPOSAL**
14 **CONCERNING THE SHARING OF MERGER SAVINGS?**

15 A. It is my understanding that ULH&P proposes to share a sliding scale of its
16 estimated net Merger savings with its retail electric and gas customers based upon
17 the average annual net savings for the first five years after the Merger. The
18 sharing level at the end of the fifth year would continue until the next ULH&P
19 retail electric and gas rate cases, at which time the actual cost reductions,
20 efficiency improvements and productivity gains giving rise to such savings would
21 be reflected in the test period and incorporated into ULH&P's retail electric and
22 gas rates upon completion of the applicable case. If ULH&P should receive a
23 new retail electric or gas rate case order before the end of the fifth year of the

¹⁰ S&P Research Update: "Duke Energy and Units Placed on Watch Neg; Cinergy Rtg's Also on Watch," May 10, 2005.

1 sharing of Merger savings, it is my understanding that ULH&P proposes to
2 include a representative level of Merger savings in rates authorized in that rate
3 case as determined in that rate case. (See the prefiled testimony of John P.
4 Steffen.)

5 **Q. WHAT IS YOUR OPINION CONCERNING ULH&P'S PROPOSAL?**

6 A. First, I would note that ULH&P bears all of the risk concerning the actual
7 realization of the estimated Merger savings. If ULH&P does not actually realize
8 the estimated savings level, ULH&P's customers will still receive the "locked in"
9 sharing level. In the absence of ULH&P's proposed mechanism, ULH&P's retail
10 electric and gas customers would not receive the benefit of some of the Merger
11 savings until ULH&P's next retail electric or gas rate case order.

12 Second, consistent with my philosophy when I served as a state regulator,
13 I believe it is sound public policy to provide ULH&P with an incentive to realize
14 and share in projected savings, especially since 100% of the actual jurisdictional
15 savings will be reflected in the test period in ULH&P's next retail electric and gas
16 rate cases and passed on to ULH&P's customers upon completion of the
17 applicable case. ULH&P's customers will also continue to benefit from the
18 sharing level at the end of the fifth year until that next rate case. In the event that
19 ULH&P should receive a new retail electric or gas rate case order before the end
20 of that fifth year, ULH&P's customers will continue to benefit as I previously
21 described.

22 I believe that the Merger savings sharing mechanism proposed by ULH&P
23 is generally in line with current regulatory practice across the United States and,

1 indeed, is more favorable to customers than the way savings/benefits from several
2 recent transactions have been shared. Furthermore, ULH&P's proposal will
3 provide real and tangible benefits to ULH&P's customers far into the future. I
4 also believe that the financial community would view favorably the KyPSC's
5 acceptance of ULH&P's proposed Merger savings sharing mechanism.

6 **Q. WAS ATTACHMENT SMF-1 PREPARED BY YOU OR UNDER YOUR**
7 **SUPERVISION?**

8 A. Yes, it was.

9 **Q. DOES THIS CONCLUDE YOUR PREFILED DIRECT TESTIMONY?**

10 A. Yes, it does.

**EDUCATIONAL BACKGROUND, PROFESSIONAL EXPERIENCE,
AND QUALIFICATIONS OF STEVEN M. FETTER**

1 **Q. PLEASE BRIEFLY DESCRIBE YOUR EDUCATIONAL BACKGROUND.**

2 A. I graduated with high honors from the University of Michigan in 1974 and
3 received an A.B. degree in Communications. I graduated from the University of
4 Michigan Law School with a J.D. in 1979.

5 **Q. PLEASE SUMMARIZE YOUR PROFESSIONAL BACKGROUND.**

6 A. I formed Regulation UnFettered to use the financial, regulatory, legislative and
7 legal expertise that I gained through my work as a utility credit analyst for Fitch,
8 Inc. (“Fitch”) and utility regulator with the Michigan Public Service Commission
9 (“Michigan PSC”) to aid the deliberations of regulators, legislative bodies and the
10 courts, and to assist in the evaluation of regulatory issues. My clients include
11 electric and gas utilities, public utility commissions and consumer advocates, a
12 non-utility energy supplier, international financial services and consulting firms,
13 and investors.

14 **Q. PLEASE DESCRIBE YOUR EXPERIENCE ON THE MICHIGAN
15 PUBLIC SERVICE COMMISSION.**

16 A. I served for six years on the three-member Michigan PSC, the agency in Michigan
17 that has regulatory responsibilities similar to those of the Kentucky Public Service
18 Commission. I was appointed as a Commissioner to the Michigan PSC in
19 October 1987 by Democratic Governor James Blanchard. In January 1991, I was
20 promoted to Chairman by incoming Republican Governor John Engler, who

1 reappointed me in July 1993. The Michigan PSC was responsible for regulating
2 Michigan's public utilities, telecommunications services and intrastate trucking,
3 and was responsible for establishing an effective state energy policy. During my
4 tenure as Chairman, the Michigan PSC eliminated the agency's case backlog for
5 the first time in 23 years.

6 **Q. PLEASE DESCRIBE FITCH.**

7 A. Fitch is the third largest full service credit rating agency in the United States and
8 the largest European rating agency. It is one of four Nationally Recognized
9 Statistical Rating Organizations recognized by the U.S. Securities and Exchange
10 Commission. It also is recognized by the U.S. Department of Labor, state bank
11 and thrift regulators, and the National Association of Insurance Commissioners.
12 Fitch performs credit ratings of corporate obligations, asset-backed transactions,
13 and government and municipal debt. Bond ratings represent Fitch's independent
14 judgment based upon financial data provided by the bond issuer as well as
15 additional quantitative and qualitative information gathered from third-party
16 sources.

17 **Q. PLEASE DESCRIBE YOUR DUTIES WHILE AT FITCH.**

18 A. I was employed by Fitch from October 1993 until April 2002. After a little more
19 than a year of regulatory analysis, in July 1995, Fitch promoted me to Manager of
20 the Global Power Group in New York. In July 1998, I was promoted to
21 Managing Director of the group. After the merger between Fitch and Duff &
22 Phelps in 2000, I was promoted to Group Head and my managerial
23 responsibilities expanded to cover analysts in both New York and Chicago. I was

1 serving in this position when I resigned in April 2002. Fitch retained me as a consultant
2 shortly after I resigned for a period of approximately six months.

3 **Q. HAVE YOU BEEN ENGAGED IN ANY OTHER PROFESSIONAL**
4 **ENDEAVORS RELEVANT TO YOUR TESTIMONY?**

5 A. During my time on the Michigan PSC, I served as Chairman of the Board of
6 Directors of the National Regulatory Research Institute (“NRRI”) at Ohio State
7 University, the regulatory research arm of the state public utility commissions. In
8 2003, I was appointed by the President of the National Association of Regulatory
9 Utility Commissioners (“NARUC”) to serve as a public member of the NRRI
10 Board – the 20-member board includes ten state public utility commissioners. I
11 was reappointed to the NRRI Board in June 2005.

12 In February 2002, I was appointed to the Board of Directors of CH Energy
13 Group, Inc. (“CHG”), the parent company of Central Hudson Gas & Electric Co.
14 in Poughkeepsie, New York. I currently serve as Chairman of the CHG Audit
15 Committee and member of the Governance and Nominating Committee.

16 Within the past two years, I served on the Keystone Energy Board, having
17 previously participated in the Keystone Center Dialogues on Financial Markets
18 and Energy Trading and on Regional Transmission Organizations. I also
19 previously served as an adjunct professor of legislation at American University’s
20 Washington College of Law. In addition, I have been a member of the following
21 organizations: the NARUC Executive, Natural Gas, and International Relations
22 Committees; the Steering Committee of the U.S. Environmental Protection
23 Agency/State of Michigan Relative Risk Analysis Project; the Federal Energy

1 Regulatory Commission Task Force on Natural Gas Deliverability; and the
2 International Advisory Council of Eisenhower Fellowships. In 1991, I traveled to
3 Japan as an Eisenhower Fellow to study the Japanese utility structure, and, in
4 1992, I was a NARUC Fellow at the Kennedy School of Government.

5 Finally, I served as Assistant Legal Counsel to Michigan Governor
6 William Milliken, legal counsel to the Michigan Senate, and Michigan Senate
7 Majority General Counsel prior to my service on the Michigan PSC.

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Joint Application of Duke Energy Corporation,)	
Duke Energy Holding Corp., Deer Acquisition)	
Corp., Cougar Acquisition Corp., Cinergy Corp.,)	Case No. 2005-00228
The Cincinnati Gas & Electric Company, and)	
The Union Light, Heat and Power Company for)	
Approval of a Transfer and Acquisition)	
of Control)	

DIRECT TESTIMONY OF

BARRY F. BLACKWELL

ON BEHALF OF

JOINT APPLICANTS

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APPENDIX

ATTACHMENT - BFB - 1 - Service Company Utility Service Agreement

ATTACHMENT - BFB - 2 - Operating Company/NonUtility companies Service Agreement

ATTACHMENT - BFB - 3 - Operating companies Service Agreement

ATTACHMENT - BFB - 4 - New Duke Energy allocation Factors by Category

ATTACHMENT - BFB - 5 - New Duke Energy Allocation of Merger Savings

I. INTRODUCTION

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Barry F. Blackwell, and my business address is 1000 East Main
3 Street, Plainfield, Indiana 46168.

4 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 A. I am the Director of Management Reporting and Analysis for Cinergy Services,
6 Inc., which provides various administrative services to The Union Light, Heat and
7 Power Company ("ULH&P" or "Company"), The Cincinnati Gas & Electric
8 Company ("CG&E"), PSI Energy, Inc. ("PSI") and other regulated and non-
9 regulated affiliates of Cinergy Corp. ("Cinergy").

10 **Q. PLEASE DESCRIBE YOUR DUTIES AS THE DIRECTOR OF**
11 **MANAGEMENT REPORTING AND ANALYSIS AS THEY RELATE TO**
12 **THIS PROCEEDING.**

13 A. As Director of Management Reporting and Analysis, I shared responsibility for
14 the development of the cost allocation processes utilized by Cinergy to allocate
15 the benefits and costs resulting from the merger of Cinergy and Duke Energy
16 Corporation to ULH&P and other companies that ULH&P will be affiliated with
17 following the merger. I also was involved in developing the processes that will be
18 used to assign, distribute and allocate service company costs to ULH&P and its
19 regulated and unregulated affiliates following the merger.

20 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND**
21 **PROFESSIONAL QUALIFICATIONS.**

1 A. I received a Bachelor of Science degree in Accounting from Indiana University
2 Purdue University of Indianapolis in 1986. I received a Master of Business
3 Administration degree from the University of Indianapolis in 1998. I am also a
4 Certified Public Accountant licensed in the State of Indiana.

5 **Q. PLEASE DESCRIBE YOUR WORK EXPERIENCE.**

6 A. I was initially employed by PSI in 1985 as a Staff Accountant and have since held
7 various Accounting or Finance-related positions in the Rates, Budgets, Financial
8 Forecasts, Corporate Accounting, Fixed Asset Accounting and Business Unit
9 Finance departments of Cinergy. I became Cost Accounting Manager in April
10 1999 and assumed the additional responsibilities of the External Reporting
11 function in November 2000. In September 2002, I became Director of Cost
12 Accounting and External Reporting. I assumed my current position and
13 responsibilities as Director of Management Reporting and Analysis in November
14 2003.

15 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**
16 **PROCEEDING?**

17 A. First, I discuss the proposed Service Company Utility Service Agreement
18 ("Service Company Agreement") that will govern the provision of services from
19 Duke Energy Shared Services, LLC ("Duke Services") to ULH&P and its
20 regulated utility affiliates following the consummation of the merger of Cinergy
21 and Duke Energy Corporation. In the course of that discussion, I describe the
22 processes to be used to assign Duke Services' costs to ULH&P and its regulated
23 and unregulated affiliates. Next, I discuss other proposed agreements that will

1 govern certain service-related transactions between ULH&P and its utility and
2 nonutility affiliates following consummation of the merger. Finally, my testimony
3 generally describes how the benefits and costs resulting from the merger will be
4 allocated to ULH&P and other companies that will be affiliated with the new
5 Duke Energy organization.

II. SERVICE COMPANY AGREEMENT

6 **Q. PLEASE DESCRIBE DUKE SERVICES.**

7 A. Following the consummation of the merger, Duke Services will be a subsidiary
8 service company of Duke Energy Holding Corp. (to be renamed Duke Energy
9 Corporation after the close of the merger) (“New Duke Energy”), which will be
10 the ultimate parent company of ULH&P. Duke Services will provide
11 administrative, management and support services to ULH&P as well as other
12 companies that will also become subsidiaries of New Duke Energy upon
13 consummation of the merger. Those services will be provided to ULH&P and
14 other public utility subsidiaries of New Duke Energy pursuant to the proposed
15 Service Company Agreement that is attached to my testimony as Attachment
16 BFB-1. The companies that will receive administrative, management and support
17 services from Duke Services are referred to in the Service Company Agreement as
18 “Client Companies.” The various Duke Services functions that will provide
19 administrative, management and support services to the Client Companies, such
20 as accounting, human resources and other corporate services, are referred to in the
21 Service Company Agreement as “Functions.”

1 **Q. PLEASE BRIEFLY DESCRIBE THE PROPOSED SERVICE COMPANY**
2 **AGREEMENT.**

3 A. The proposed Service Company Agreement is similar to the existing service
4 agreement that currently governs Cinergy Services, Inc.'s provision of
5 administrative, management and support services to ULH&P and its public utility
6 affiliates, which has been accepted or approved by the Securities and Exchange
7 Commission ("SEC"), this Commission, the Public Utilities Commission of Ohio
8 and the Indiana Utility Regulatory Commission.

9 Like the existing service agreement between Cinergy Services, Inc. and
10 ULH&P, the proposed Service Company Agreement describes the types of
11 services that Duke Services will provide to ULH&P and other Client Companies
12 and how the costs of those services will be determined, including the methods of
13 assigning costs among the Client Companies.

14 **Q. HOW WILL SERVICES PROVIDED BY DUKE SERVICES TO ULH&P**
15 **AND OTHER CLIENT COMPANIES BE PRICED?**

16 A. The Service Company Agreement provides that services shall be provided at fully
17 embedded costs, except that solely for the purpose of Internal Revenue Code
18 ("IRC") Section 482, ULH&P shall pay Duke Services as required by that
19 Section. The exception provision of the agreement recognizes the requirements of
20 the IRC and the Company's intent to comply with those requirements, which
21 likely will require the pricing of services provided by Duke Services to be
22 adjusted to reflect the market value of those services. However, notwithstanding
23 the Section 482 exception, for ratemaking purposes, services will be rendered to

1 ULH&P at cost, as is the current practice under the existing service agreement
2 between Cinergy Services, Inc. and ULH&P. Mr. Steffen explains how the
3 Company will treat for ratemaking purposes services provided to ULH&P under
4 the Service Company Agreement.

5 **Q. PLEASE EXPLAIN THE MEANING OF THE TERM COST UNDER THE**
6 **SERVICE COMPANY AGREEMENT.**

7 A. Cost, or fully embedded cost, refers to all components of costs incurred by Duke
8 Services in providing services to the Client Companies, including: (1) direct costs;
9 (2) indirect costs; and (3) costs of capital. Direct costs include labor, material and
10 other expenses incurred specifically for a particular service and any associated
11 loadings. Indirect costs include labor, material and other expenses, and any
12 associated loadings that cannot be directly identified with any particular service.
13 Examples of indirect costs are overhead costs, administrative support costs and
14 certain taxes. Costs of capital represent financing costs, including, but not limited
15 to, interest on debt and a fair return on equity.

16 **Q. WHAT ARE LOADINGS?**

17 A. Loadings represent costs that are incurred and aggregated in balance sheet
18 accounts (termed "cost pools"), which are then subsequently "loaded" out to
19 specific entities and projects by attaching an additional charge (termed a
20 "loading") to the associated direct cost. Loadings include costs such as fringe
21 benefits (e.g., medical, dental, pension, postretirement), indirect labor (e.g.,
22 vacation, holiday, sick-time), stores, freight and handling (e.g., materials
23 management labor, freight), transportation (e.g., vehicle leases, fuel, oil), and

1 payroll taxes (e.g., Federal Insurance Contributions Act, or FICA, and state and
2 federal unemployment taxes).

3 **Q. PLEASE DESCRIBE HOW COSTS OF DUKE SERVICES WILL BE**
4 **ACCOUNTED FOR UNDER THE PROPOSED UTILITY AGREEMENT.**

5 A. Duke Services will follow Generally Accepted Accounting Principles and utilize
6 the Uniform System of Accounts published by the Federal Energy Regulatory
7 Commission and adopted in Kentucky pursuant to KRS § 278.220. Duke
8 Services will maintain an accounting system in which all of its costs will be
9 accumulated. These costs will be charged to the appropriate Client Companies
10 monthly using one of the three methods of assignment set forth in the proposed
11 Service Company Agreement.

12 **Q. WHAT ARE THE METHODS OF ASSIGNMENT UNDER THE**
13 **PROPOSED SERVICE COMPANY AGREEMENT?**

14 A. The methods of assignment under the proposed Service Company Agreement are:
15 (1) directly assignable; (2) distributable; and (3) allocable.

16 **Q. PLEASE DESCRIBE EACH METHOD OF ASSIGNMENT.**

17 A. The directly assignable basis of cost assignment will be utilized to directly assign
18 costs for services specifically performed for a single Client Company. The
19 distributable cost assignment method will be used to assign costs for services
20 rendered specifically for two or more Client Companies. The allocable method of
21 assignment will be used to allocate costs for services of a general nature, which
22 are applicable to more than one of the Client Companies.

1 **Q. WHAT TYPES OF COSTS WILL BE DIRECTLY ASSIGNED FROM**
2 **DUKE SERVICES TO ULH&P?**

3 A. Costs that can be specifically identified and related to particular services
4 performed for one Client Company will be directly assigned to that Client
5 Company. For example, Duke Services employees who work on a project
6 specifically for ULH&P will charge their labor and expenses directly to ULH&P.

7 **Q. WHAT TYPES OF COSTS WILL BE DISTRIBUTED FROM DUKE**
8 **SERVICES TO ULH&P?**

9 A. Duke Services costs that are directly applicable to ULH&P and one or more
10 additional Client Companies, but which cannot be directly assigned, will be
11 distributed to those companies directly benefiting based on the allocation methods
12 set forth in Appendix A of the proposed Service Company Agreement (*see*
13 Attachment BFB-1). For example, if Duke Services provides support for a
14 demand-side management program that benefits two or more Client Companies
15 the costs of that program would be distributed only to those Client Companies
16 benefiting from the program.

17 **Q. WHAT TYPES OF COSTS WILL BE ALLOCATED FROM DUKE**
18 **SERVICES TO ULH&P?**

19 A. Duke Services costs that cannot be directly assigned or distributed will be
20 allocated to ULH&P and other Client Companies based on the allocation methods
21 set forth in Appendix A of the proposed Service Company Agreement (*see*
22 Attachment BFB-1).

1 **Q. WHAT ARE THE ALLOCATION METHODS SPECIFIED IN APPENDIX**
2 **A OF THE PROPOSED SERVICE COMPANY AGREEMENT?**

3 A. Eighteen allocation methods are set forth and described in Appendix A of the
4 proposed Service Company Agreement (*see* Attachment BFB-1). Those methods
5 are: (1) Sales Ratio; (2) Electric Peak Load Ratio; (3) Number of Customers
6 Ratio; (4) Number of Employees Ratio; (5) Construction-Expenditures Ratio; (6)
7 Circuit Miles of Electric Distribution Lines Ratio; (7) Circuit Miles of Electric
8 Transmission Lines Ratio; (8) Number of Central Processing Unit Seconds Ratio;
9 (9) Revenues Ratio; (10) Inventory Ratio; (11) Procurement Spending Ratio; (12)
10 Square Footage Ratio; (13) Gross Margin Ratio; (14) Labor Dollars Ratio; (15)
11 Number of Personal Computer Work Stations Ratio; (16) Number of Information
12 Systems Servers Ratio; (17) Total Property, Plant and Equipment Ratio; and (18)
13 Generating Unit MW Capability Ratio.

14 **Q. HOW WERE THE ALLOCATION METHODS IN THE PROPOSED**
15 **SERVICE COMPANY AGREEMENT DEVELOPED?**

16 A. Consistent with traditional cost causation principles, the allocation methods
17 reflect “cost drivers” (*i.e.*, those factors that are the greatest contributors to costs)
18 for the Functions in the proposed Service Company Agreement. For example,
19 costs of a general nature that are driven by employees, such as costs related to the
20 human resources Function, will be allocated based on the Number of Employees
21 Ratio. Similarly, costs of a general nature that are driven by customers, such as
22 costs related to the meters Function and customer billing and payment processing
23 in the marketing and customer relations Function, will be allocated based on the

1 Number of Customers Ratio. For certain Functions, costs of a general nature will
2 be allocated based on a weighted average of more than one ratio.

3 **Q. HOW DO THE ALLOCATION METHODS IN THE PROPOSED**
4 **SERVICE COMPANY AGREEMENT DIFFER FROM THE**
5 **ALLOCATION METHODS IN THE EXISTING SERVICE AGREEMENT**
6 **BETWEEN CINERGY SERVICES, INC. AND ULH&P?**

7 A. The allocation methods under the proposed Service Company Agreement are
8 similar to the allocation methods under the existing service agreement, but the
9 proposed Service Agreement will more accurately allocate and distribute service
10 company costs to the Client Companies that cause those costs to be incurred. A
11 number of the new allocation methods, which are not included in the existing
12 service agreement between Cinergy Services, Inc. and ULH&P, have been
13 developed to more reasonably allocate and distribute costs for particular
14 Functions. For example, the Procurement Spending Ratio and the Inventory Ratio
15 have both been added to better align the costs of the materials management
16 Function with its cost drivers. Additionally, a new weighted average factor has
17 been developed to allocate costs for certain services of a general nature. The new
18 weighted average factor is based on the Gross Margin Ratio, the Labor Dollars
19 Ratio and the Total Property, Plant and Equipment Ratio.

20 **Q. PLEASE EXPLAIN WHY A NEW WEIGHTED AVERAGE FACTOR**
21 **BASED ON THE GROSS MARGIN RATIO, THE LABOR DOLLARS**
22 **RATIO, AND THE PROPERTY, PLANT AND EQUIPMENT RATIO WAS**

1 **SELECTED TO ALLOCATE CERTAIN COSTS OF A GENERAL**
2 **NATURE.**

3 A. The new weighted average factor reflects the cost drivers for corporate functions
4 such as the accounting, finance and executive Functions. The ratios that the
5 weighted average factor is based on are generally reflective of the amount of those
6 types of corporate services rendered to Client Companies. As a result, a weighted
7 allocation factor based on these ratios will reasonably allocate costs to Client
8 Companies in proportion to the amount of services they receive.

9 **Q. HOW DO THE FUNCTIONS IN THE PROPOSED SERVICE COMPANY**
10 **AGREEMENT DIFFER FROM THE FUNCTIONS IN THE EXISTING**
11 **SERVICE AGREEMENT BETWEEN CINERGY SERVICES, INC. AND**
12 **ULH&P?**

13 A. With the exception of the transportation Function, the Functions in the proposed
14 Service Company Agreement and the existing service agreement between Cinergy
15 Services, Inc. and ULH&P are virtually the same. The transportation Function has
16 been modified to reflect the addition of services related to the procurement,
17 operation and maintenance of aircraft and equipment that will be utilized by the
18 Client Companies.

19 **Q. DO YOU ANTICIPATE A MATERIAL SHIFT OF ADMINISTRATIVE,**
20 **MANAGEMENT AND SUPPORT COSTS AMONG ULH&P AND THE**
21 **OTHER CLIENT COMPANIES AS A RESULT OF THE PROPOSED**
22 **SERVICE COMPANY AGREEMENT'S IMPLEMENTATION?**

1 A. No. First, costs specific to ULH&P will continue to be directly assigned or
2 distributed to ULH&P whenever possible. Second, the ratios to be utilized to
3 allocate costs of a general nature will proportionately allocate such costs to
4 ULH&P and other Client Companies based on the level of services provided to
5 each Client Company.

6 **Q. WILL DUKE SERVICES PROVIDE ADMINISTRATIVE,
7 MANAGEMENT AND SUPPORT SERVICES TO NONUTILITY
8 SUBSIDIARIES OF NEW DUKE ENERGY?**

9 A. Yes.

10 **Q. HOW WILL DUKE SERVICES' COSTS BE ASSIGNED TO
11 NONUTILITY SUBSIDIARIES OF DUKE ENERGY?**

12 A. The proposed nonutility cost assignment process will be consistent with the
13 proposed utility cost assignment process. Duke Services' provision of services to
14 nonutility subsidiaries of New Duke Energy will be governed by an agreement
15 that is similar to the proposed Service Company Agreement. When possible,
16 costs will be directly assigned or distributed to nonutility companies. The method
17 utilized to allocate costs of a general nature will be based on functions and
18 allocation methods developed for the nonutility companies, which are consistent
19 with and similar to the Functions and allocation methods in the proposed Service
20 Company Agreement.

21 **Q. HOW WILL COSTS INCURRED BY DUKE SERVICES ON BEHALF OF
22 BOTH UTILITY AND NONUTILITY CLIENT COMPANIES BE**

1 **ALLOCATED AMONG THE UTILITY AND NONUTILITY**
2 **COMPANIES?**

3 A. When Duke Services performs a service that benefits both utility and nonutility
4 companies, the costs will be apportioned by a common allocation ratio between
5 the utility companies and the nonutility companies in the aggregate. For example,
6 costs incurred by Duke Services for human resource functions will be allocated to
7 both utility and nonutility companies based on the respective number of
8 employees each utility and nonutility company employs.

9 **Q. WHAT PROCESSES WILL DUKE SERVICES EMPLOYEES FOLLOW**
10 **TO ALLOCATE THEIR TIME AND EXPENSES TO UTILITY AND**
11 **NONUTILITY COMPANIES?**

12 A. Duke Services employees will follow processes similar to the processes currently
13 followed by Cinergy Services, Inc. employees to allocate their time and expenses
14 to utility and nonutility subsidiaries of Cinergy.

15 For example, today, source documents utilized by Cinergy Services, Inc.
16 employees require input codes that are used to indicate whether costs will be
17 assigned directly, distributed or allocated. The codes also determine the
18 appropriate allocation percentages to be used.

19 **Q. HAS THE SERVICE COMPANY AGREEMENT BEEN EXECUTED?**

20 A. No.

21 **Q. WILL ULH&P FILE THE SERVICE COMPANY AGREEMENT WITH**
22 **THE COMMISSION AFTER IT HAS BEEN EXECUTED?**

23 A. Yes.

III. OTHER SERVICE AGREEMENTS

1 **Q. IS ULH&P SEEKING APPROVAL OR ACCEPTANCE OF ANY OTHER**
2 **SERVICE AGREEMENTS IN THIS PROCEEDING?**

3 A. Yes. ULH&P is also seeking approval or acceptance of the proposed service
4 agreements that are attached to my testimony as Attachment BFB-2 and
5 Attachment BFB-3.

6 **Q. PLEASE DESCRIBE THOSE AGREEMENTS.**

7 A. Attachment BFB-2 is a proposed Operating Company/Nonutility Companies
8 Service Agreement (the “Nonutility Companies Agreement”). The Nonutility
9 Companies Agreement will govern certain service-related transactions between
10 ULH&P and its nonutility affiliates following consummation of the merger.
11 Attachment BFB-3 is a proposed Operating Companies Service Agreement (the
12 “Operating Companies Agreement”). The Operating Companies Agreement will
13 govern certain service-related transactions between ULH&P and its utility
14 affiliates, including Duke Power Company LLC, CG&E and PSI, following
15 consummation of the merger. Both agreements will allow ULH&P to provide
16 services (including, but not limited to, engineering, construction, operations and
17 maintenance services) to, and receive services (such as operations, maintenance,
18 inspecting, meter reading and vegetation management) from its nonutility and
19 utility affiliates. These services will also be priced at cost for ratemaking
20 purposes as I described earlier in my testimony regarding pricing of services under
21 the Service Company Agreement.

1 **Q. HOW WILL TRANSACTIONS BETWEEN ULH&P AND ITS**
2 **NONUTILITY AND UTILITY AFFILIATES BE INITIATED UNDER THE**
3 **NONUTILITY COMPANIES AGREEMENT AND OPERATING**
4 **COMPANIES AGREEMENT?**

5 A. Transactions between ULH&P and its future nonutility and utility affiliates will be
6 initiated in much the same way transactions are initiated today between ULH&P
7 and its current nonutility affiliates. Specifically, today, any transaction between
8 ULH&P and a nonutility affiliate is initiated with a written request using a service
9 request form. Similar forms will be utilized under the Nonutility Companies
10 Agreement and Operating Companies Agreement (*see* Attachment BFB-2, Exhibit
11 A and Attachment BFB-3, Exhibit A). The purpose of the written request is to
12 ensure that internal accounting is done properly and that the request is permitted
13 by the applicable agreement. No work can be initiated without a signed service
14 request form on file. If the company from which services are requested agrees to
15 provide the services, it will approve the request in writing.

16 **Q. HOW WILL COSTS INCURRED BY ULH&P ON BEHALF OF AN**
17 **AFFILIATE BE ACCOUNTED FOR UNDER THE NONUTILITY**
18 **COMPANIES AGREEMENT AND OPERATING COMPANIES**
19 **AGREEMENT?**

20 A. That will depend on whether the affiliate maintains its own accounting system or
21 whether it will utilize New Duke Energy's accounting system. For example,
22 certain joint venture affiliates' accounting records may be maintained within each
23 joint venture entity and may not utilize New Duke Energy's accounting system.

1 In a situation where ULH&P has engaged in a transaction with one of
2 these entities, ULH&P will track all of its direct costs via New Duke Energy's
3 accounting system, and upon completion of the project, ULH&P will process an
4 invoice for payment. This invoice will include ULH&P's fully embedded cost of
5 providing the service.

6 When the transaction is with an affiliate that utilizes New Duke Energy's
7 accounting system, ULH&P will process source documents, such as labor tickets
8 and expense accounts, through New Duke Energy's accounting system, using the
9 appropriate accounting information provided by the affiliate requesting the
10 services. This accounting will indicate the company (*e.g.*, ULH&P) providing the
11 services and the affiliate company receiving the services, as well as the
12 appropriate project information required by the service request form
13 documentation. On a monthly basis, the accounting departments will summarize
14 this accounting, at which time overheads and cost of capital charges will be
15 applied. Using internal accounting reports, each entity providing and receiving
16 service can review the costs charged, at which time any discrepancies are
17 resolved.

18 **Q. HOW WILL COSTS INCURRED BY A ULH&P AFFILIATE ON BEHALF**
19 **OF ULH&P BE ACCOUNTED FOR UNDER THE NONUTILITY**
20 **COMPANIES AGREEMENT AND OPERATING COMPANIES**
21 **AGREEMENT?**

22 **A.** Again, that will depend on whether the affiliate maintains its own accounting
23 system or whether it utilizes New Duke Energy's accounting system. If the

1 affiliate providing the service does not utilize New Duke Energy's accounting
2 system, ULH&P will be invoiced directly for the services received. Where
3 ULH&P has entered into a transaction with an affiliate that utilizes New Duke
4 Energy's accounting system, the billing process is very similar to the example I
5 described above, where ULH&P provides the service to a nonutility affiliate.

6 **Q. HAS THE NONUTILITY COMPANIES AGREEMENT OR THE**
7 **OPERATING COMPANIES AGREEMENT BEEN EXECUTED?**

8 A. No.

9 **Q. WILL ULH&P FILE THOSE AGREEMENTS WITH THE COMMISSION**
10 **AFTER THEY HAVE BEEN EXECUTED?**

11 A. Yes.

12 **IV. ALLOCATION OF MERGER BENEFITS AND COSTS**

13 **Q. PLEASE GENERALLY DESCRIBE HOW THE NET SAVINGS**
14 **RESULTING FROM THE MERGER WERE ALLOCATED TO ULH&P**
15 **AND OTHER COMPANIES AFFILIATED WITH NEW DUKE ENERGY.**

16 A. As described in Mr. Flaherty's testimony, a functional and sub-functional
17 alignment was completed by each company for comparative purposes. Mr.
18 Flaherty then identified savings opportunities by function. These functional
19 groupings (*e.g.*, executive management, finance and accounting and legal) are
20 similar to the functions currently utilized by Cinergy Services, Inc. and Duke
21 Energy Corporation's shared services company to distribute and allocate shared
services costs.

1 Consistent with cost causation principles, the net merger savings (both
2 savings and costs) were allocated using an allocation method that represents the
3 “cost driver” for the functions identified by Mr. Flaherty. Where possible, the
4 allocation methods described in the proposed Service Company Agreement were
5 used as the bases for allocating the identified savings and costs by function. Net
6 merger savings that could not be directly linked to an allocation method in the
7 proposed Service Company Agreement, or for which allocation ratios were not
8 fully developed, were allocated using the new proposed weighted average factor
9 described earlier in my testimony.

10 **Q. WHAT AMOUNT OF NET MERGER SAVINGS HAS BEEN**
11 **ALLOCATED TO ULH&P OVER THE FIVE-YEAR PERIOD 2006 - 2010?**

12 A. Approximately \$18.2 million of total New Duke Energy’s net merger savings
13 have been allocated to ULH&P for the period 2006 – 2010. A summary of the net
14 merger savings allocated to ULH&P is set forth on Attachment BFB-5.

15 **Q. PLEASE DESCRIBE ATTACHMENT BFB-4.**

16 A. Attachment BFB-4 sets forth the functional categories of labor savings, non-labor
17 savings and costs to achieve identified by Mr. Flaherty and the associated
18 allocation method used to allocate the savings or costs for each functional
19 category.

20 **Q. PLEASE DESCRIBE ATTACHMENT BFB-5.**

21 A. Attachment BFB-5 shows the five-year summary of net merger savings and costs
22 applicable to ULH&P and all other New Duke Energy companies.

1 **Q. DO ULH&P'S ALLOCATED NET SAVINGS INCLUDE ANY NET**
2 **SAVINGS RELATED TO CG&E'S PLANNED TRANSFER OF**
3 **GENERATING ASSETS TO ULH&P?**

4 A. Yes. Attachment BFB-5 reflects costs and savings allocations applicable to
5 ULH&P's current regulated gas and electric operations. Attachment BFB-5
6 includes the allocated costs and savings applicable to the generating assets to be
7 transferred from CG&E to ULH&P.

8 **Q. WHY ARE THE COSTS AND SAVINGS RELATED TO THE**
9 **GENERATING ASSETS BEING REFLECTED IN ULH&P'S OVERALL**
10 **NET SAVINGS?**

11 A. The transfer of generating assets from CG&E to ULH&P is expected to occur in
12 2005 and the assets will be ULH&P assets at the effective date of the merger. As
13 such, these costs and savings will be applicable to ULH&P.

14 **Q. HOW WERE THE ALLOCATED COSTS AND SAVINGS APPLICABLE**
15 **TO THE ASSET TRANSFER DETERMINED?**

16 A. The allocated costs and savings were determined by using a ratio of the 2004 net
17 generation applicable to the transferring assets to the total 2004 net generation of
18 all of CG&E's generating assets. This method is consistent with the methods used
19 by the Company in Case No. 2005-00042 and Case No. 2003-00252 to estimate
20 the allocation of administrative and general costs associated with these assets
21 which will be allocated to ULH&P upon the completion of the transfer.

22 **Q. ARE THE ALLOCATION METHODS THAT WERE USED TO ASSIGN**
23 **THE NET MERGER SAVINGS TO ULH&P'S GAS AND ELECTRIC**

1 **OPERATIONS THE SAME AS THOSE USED TO ASSIGN THE NET**
2 **SAVINGS BETWEEN ULH&P AND THE OTHER NEW DUKE ENERGY**
3 **COMPANIES?**

4 A. Yes. For consistency, we used the same allocation methods that were used to
5 assign costs and savings between ULH&P and the other New Duke Energy
6 companies to assign costs and savings to ULH&P's gas and electric operations.

7 **Q. DID YOU PROVIDE THE ALLOCATED MERGER SAVINGS AND**
8 **COSTS TO MR. JOHN P. STEFFEN TO CALCULATE THE MERGER**
9 **SAVINGS CREDIT RIDER DISCUSSED IN HIS TESTIMONY?**

10 A. Yes, I did.

11 **Q. ARE THE TOTAL NET SAVINGS SHOWN ON ATTACHMENT BFB-5**
12 **IDENTICAL TO THE TOTAL NET SAVINGS PRESENTED IN MR.**
13 **FLAHERTY'S TESTIMONY?**

14 A. No. First Attachment BFB-5 excludes the Non-Regulated net savings identified
15 by Mr. Flaherty. Additionally, Attachment BFB-5 excludes fuel savings and
16 certain corporate separation costs related to change in control, both of which are
17 included in Mr. Flaherty's total net savings. ULH&P's portion of the excluded
18 fuel savings will be passed through to ULH&P's retail customers through
19 ULH&P's fuel cost adjustment mechanism when it becomes operational. The
20 excluded change in control costs will be absorbed by shareholders and not netted
21 against merger savings to be shared with customers. The following (in thousands)
22 reconciles the net savings amounts between Attachment BFB-5 and Mr. Flaherty's
23 testimony, Table 1.

1	Attachment BFB-5 – Total Net Savings	<u>\$767,229</u>
2	Plus: Fuel Savings	40,106
3	Less: Change in Control Costs	<u>183,308</u>
4	Mr. Flaherty - Total Corporate and Regulated Savings	\$624,027
5	Plus: Total Non-Regulated Savings	<u>718,863</u>
6	Mr. Flaherty – Total Net Savings	<u>\$1,342,890</u>

V. CONCLUSION

7 **Q. DO YOU HAVE AN OPINION AS TO WHETHER THE PROCESSES**
8 **THAT WILL BE USED TO ASSIGN COSTS TO ULH&P, PURSUANT TO**
9 **THE PROPOSED SERVICE AGREEMENTS YOU HAVE DESCRIBED,**
10 **ARE REASONABLE AND APPROPRIATE?**

11 A. Yes, I do. The cost assignment processes are reasonable methods for pricing and
12 allocating the costs of services among the various companies. The cost
13 assignment processes will fairly and accurately assign the costs of providing
14 services to the correct entity responsible for the costs. These cost assignment are
15 similar to the processes currently used to assign service company costs to ULH&P
16 and its affiliates, which have been approved by this Commission and the SEC, and
17 have proven to work well in actual practice.

18 **Q. DO YOU HAVE AN OPINION AS TO WHETHER THE PROCESSES**
19 **THAT WILL BE USED TO ALLOCATE THE BENEFITS AND COSTS**
20 **OF THE MERGER TO ULH&P ARE REASONABLE AND**
21 **APPROPRIATE?**

1 A. Yes, I do. The allocation processes are reasonable methods for allocating the
2 benefits and costs of the merger among ULH&P and the other companies that will
3 incur costs and realize benefits as a result of the merger.

4 **Q. WERE ATTACHMENTS BFB-1 THROUGH BFB-5 PREPARED BY YOU**
5 **OR UNDER YOUR SUPERVISION?**

6 A. Yes, they were.

7 **Q. DOES THIS CONCLUDE YOUR PREPARED DIRECT TESTIMONY?**

8 A. Yes, it does.

VERIFICATION

State of Indiana)
)
County of Hendricks) SS:

The undersigned, Barry F. Blackwell, being duly sworn, deposes and says that he is the Director, Management Reporting & Analysis, for Cinergy Services, Inc., and that the matters set forth in the foregoing testimony are true and correct to the best of his information, knowledge and belief.

Barry F. Blackwell
Barry F Blackwell, Affiant

Subscribed and sworn to before me by Barry Blackwell on this 8th
day of July, 2005.

Paula M. Roseman
NOTARY PUBLIC Paula M. Roseman

My Commission Expires: 3/17/09
Resident: Hendricks County

**SERVICE COMPANY
UTILITY SERVICE AGREEMENT**

This Service Company Utility Service Agreement (this "Service Agreement") is made and entered into as of _____ (the "Effective Date") by and among Duke Power LLC, a North Carolina limited liability company, The Cincinnati Gas & Electric Company, an Ohio corporation ("CG&E"), PSI Energy, Inc., an Indiana corporation ("PSI"), The Union Light, Heat and Power Company, a Kentucky corporation ("ULH&P"), Miami Power Corporation, an Indiana corporation ("Miami"), and Duke Energy Shared Services, LLC, a Delaware limited liability company and service company [(successor to Cinergy Services, Inc.)] (the "Service Company"). Duke Power Company LLC, CG&E, PSI, ULH&P and Miami are sometimes hereinafter referred to individually as a "Client Company" and collectively as the "Client Companies."

WITNESSETH

WHEREAS, on May 8, 2005, Duke Energy Corporation, a North Carolina corporation ("Old Duke"), and Cinergy Corp., a Delaware corporation ("Cinergy"), and certain other signatories thereto entered into an Agreement and Plan of Merger dated as of such date ("Merger Agreement"), providing for the merger of Old Duke and Cinergy ("Merger"), subject to the terms and upon satisfaction of the conditions set forth in the Merger Agreement, including receipt of all required regulatory approvals;

WHEREAS, the Merger Agreement contemplated that upon consummation of the Merger the holding company established under Delaware law to assist in effecting the Merger would become the ultimate parent company for the combined companies and would be renamed Duke Energy Corporation ("Duke Energy"), with Old Duke converted to a North Carolina limited liability company and renamed Duke Power Company LLC;

WHEREAS, on the Effective Date, the Merger has been consummated;

WHEREAS, each of the Client Companies and the Service Company is a subsidiary of Duke Energy;

WHEREAS, on the Effective Date, the Service Company and the Client Companies have entered into this Service Agreement whereby the Service Company agrees to provide and the Client Companies agree to accept and pay for various services as provided herein at cost, except to the extent otherwise required by Section 482 of the Internal Revenue Code; and

WHEREAS, economies and efficiencies benefiting the Client Companies will result from the performance by the Service Company of services as herein provided;

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein contained, the parties to this Service Agreement covenant and agree as follows:

ARTICLE I – SERVICES

Section 1.1 The Service Company shall furnish to the Client Companies, upon the terms and conditions hereinafter set forth, such of the services described in Appendix A hereto, at such times, for such periods and in such manner as the Client Companies may from time to time request and which the Service Company concludes it is equipped to perform. The Service Company shall also provide Client Companies with such special services, in addition to those services described in Appendix A hereto, as may be requested by a Client Company and which the Service Company concludes it is equipped to perform. In supplying such services, the Service Company may arrange, where it deems appropriate, for the services of such experts, consultants, advisers and other

persons with necessary qualifications as are required for or pertinent to the rendition of such services.

Section 1.2 Each of the Client Companies shall take from the Service Company such of the services described in Section 1.1 and such additional general or special services, whether or not now contemplated, as are requested from time to time by the Client Companies and which the Service Company concludes it is equipped to perform.

Section 1.3 The services described herein shall be directly assigned, distributed or allocated by activity, process, project, responsibility center, work order or other appropriate basis. A Client Company shall have the right from time to time to amend, alter or rescind any activity, process, project, responsibility center or work order, provided that (i) any such amendment or alteration which results in a material change in the scope of the services to be performed or equipment to be provided is agreed to by the Service Company, (ii) the cost for the services covered by the activity, process, project, responsibility center or work order shall include any expense incurred by the Service Company as a direct result of such amendment, alteration or rescission of the activity, process, project, responsibility center or work order, and (iii) no amendment, alteration or rescission of an activity, process, project, responsibility center or work order shall release a Client Company from liability for all costs already incurred by or contracted for by the Service Company pursuant to the activity, process, project, responsibility center or work order, regardless of whether the services associated with such costs have been completed.

Section 1.4 The Service Company shall maintain a staff trained and experienced in the design, construction, operation, maintenance and management of public utility properties.

ARTICLE II - COMPENSATION

Section 2.1 Except to the extent otherwise required by Section 482 of the Internal Revenue Code, as compensation for the services to be rendered hereunder, each of the Client Companies shall pay to the Service Company all costs which reasonably can be identified and related to particular services performed by the Service Company for or on its behalf. Where more than one Client Company is involved in or has received benefits from a service performed, costs will be directly assigned, distributed or allocated, as set forth in Appendix A hereto, between or among such companies on a basis reasonably related to the service performed to the extent reasonably practicable.

Section 2.2 The method of assignment, distribution or allocation of costs described in Appendix A shall be subject to review annually, or more frequently if appropriate. Such method of assignment, distribution or allocation of costs may be modified or changed by the Service Company without the necessity of an amendment to this Service Agreement, provided that in each instance, all services rendered hereunder shall be at actual cost thereof, fairly and equitably assigned, distributed or allocated, except to the extent otherwise required by Section 482 of the Internal Revenue Code. The Service Company shall promptly advise the Client Companies and the North Carolina Utilities Commission ("NCUC"), the Public Service Commission of South Carolina ("PSCSC"), the Indiana Utility Regulatory Commission ("IURC"), The Public Utilities Commission of Ohio ("PUCO"), the Kentucky Public Service Commission ("KPSC;" and together with the NCUC, the PSCSC, the IURC and the PUCO, the "Affected State Commissions") from time to time of any material changes in such method of assignment, distribution or allocation.

Section 2.3 The Service Company shall render a monthly statement to each Client Company which shall reflect the billing information necessary to identify the costs charged for that month. By the last day of each month, each Client Company shall remit to the Service Company all charges billed to it.

Section 2.4 Subject to Section 482 of the Internal Revenue Code, it is the intent of this Service Agreement that the payment for services rendered by the Service Company to the Client Companies shall cover all the costs of its doing business (less the cost of services provided to affiliated companies not a party to this Service Agreement and to other non-affiliated companies, and credits for any miscellaneous income items), including, but not limited to, salaries and wages, office supplies and expenses, outside services employed, property insurance, injuries and damages, employee pensions and benefits, miscellaneous general expenses, rents, maintenance of structures and equipment, depreciation and amortization and compensation for use of capital. Without limitation of the foregoing, "cost," as used in this Agreement, means fully embedded cost, namely, the sum of (1) direct costs, (2) indirect costs and (3) costs of capital.

ARTICLE III - TERM

Section 3.1 This Service Agreement is entered into as of the Effective Date and shall continue in force with respect to a Client Company until terminated by the Service Company and Client Company with respect to such Client Company (provided that no such termination with respect to less than all of the Client Companies shall thereby affect the term of this Agreement or any of the provisions hereof) or until terminated by unanimous agreement of all the parties then signatory to this Agreement.

ARTICLE IV – ACCOUNTS AND RECORDS

Section 4.1 The Service Company shall utilize the Uniform System of Accounts prescribed by the Federal Energy Regulatory Commission.

Section 4.2 The Service Company shall permit each Affected State Commission and applicable statutory utility consumer representative(s), together with other interested parties as required under applicable law, access to its

accounts and records, including the basis and computation of allocations, necessary for each Affected State Commission to review a Client Company's operating results.

ARTICLE V – MISCELLANEOUS

Section 5.1 Counterparts. This Service Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each party and delivered to the other parties.

Section 5.2 Entire Agreement; No Third Party Beneficiaries. This Service Agreement (including Appendix A and any other appendices or other exhibits or schedules hereto) (i) constitutes the entire agreement, and supersedes any prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement (including without limitation that certain Utility Service Agreement, originally dated as of March 2, 1994, as heretofore amended, by and among certain subsidiaries of Cinergy including CG&E, PSI, ULH&P, Miami and Cinergy's service company subsidiary) and (ii) is not intended to confer upon any person other than the parties hereto any rights or remedies.

Section 5.3 Governing Law. This Service Agreement shall be governed by, and construed in accordance with, the laws of the State of New York, regardless of the laws that might otherwise govern under applicable principles of conflict of laws.

Section 5.4 Assignment. Neither this Service Agreement nor any of the rights, interests or obligations hereunder shall be assigned, in whole or in part, by operation of law or otherwise by any of the parties hereto without the prior written consent of each of the other parties. Any attempted or purported assignment in violation of the preceding sentence shall be null and void and of no effect

whatsoever. Subject to the preceding two sentences, this Service Agreement shall be binding upon, inure to the benefit of, and be enforceable by, the parties and their respective successors and assigns.

Section 5.5 Amendments. This Service Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties. To the extent that applicable state law or regulation or other binding obligation requires that any such amendment be filed with any Affected State Commission for its review or otherwise, each Client Company shall comply in all respects with any such requirements.

Section 5.6 Interpretation. When a reference is made in this Service Agreement to an Article, Section or Appendix or other Exhibit, such reference shall be to an Article or Section of, or an Appendix or other Exhibit to, this Service Agreement unless otherwise indicated. The headings contained in this Service Agreement are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Service Agreement. Whenever the words "include", "includes" or "including" are used in this Service Agreement, they shall be deemed to be followed by the words "without limitation". The words "hereof", "herein" and "hereunder" and words of similar import when used in this Service Agreement shall refer to this Service Agreement as a whole and not to any particular provision of this Service Agreement. The definitions contained in this Service Agreement are applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such term. References to a person are also to its permitted successors and assigns.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Service Agreement to be executed as of the date and year first above written.

DUKE ENERGY SHARED SERVICES, LLC.

By: _____
Name:
Title:

DUKE POWER COMPANY LLC

By: _____
Name:
Title:

THE CINCINNATI GAS & ELECTRIC COMPANY

By: _____
Name:
Title:

PSI ENERGY, INC.

By: _____
Name:
Title:

THE UNION LIGHT, HEAT AND POWER
COMPANY

By: _____
Name:
Title:

MIAMI POWER CORPORATION

By _____

Name:

Title:

Description of Services and Determination
of Charges for Services

I. The Service Company will maintain an accounting system for accumulating all costs on an activity, process, project, responsibility center, work order, or other appropriate basis. To the extent practicable, time records of hours worked by Service Company employees will be kept by activity, process, project, responsibility center or work order. Charges for salaries will be determined from such time records and will be computed on the basis of employees' labor costs, including the cost of fringe benefits, indirect labor costs and payroll taxes. Records of employee-related expenses and other indirect costs will be maintained for each functional group within the Service Company (hereinafter referred to as "Function"). Where identifiable to a particular activity, process, project, responsibility center or work order, such indirect costs will be directly assigned to such activity, process, project, responsibility center or work order. Where not identifiable to a particular activity, process, project, responsibility center or work order, such indirect costs within a Function will be distributed in relationship to the directly assigned costs of the Function. For purposes of this Appendix A, any costs not directly assigned or distributed by the Service Company will be allocated monthly.

II. Service Company costs accumulated for each activity, process, project, responsibility center or work order will be directly assigned, distributed, or allocated to the Client Companies or other Functions within the Service Company as follows:

1. Costs accumulated in an activity, process, project, responsibility center or work order for services specifically performed for a single Client Company or Function will be directly assigned and charged to such Client Company or Function.

2. Costs accumulated in an activity, process, project, responsibility center or work order for services specifically performed for two or more Client Companies or Functions will be distributed among and charged to such Client Companies or Functions. The appropriate method of distribution will be determined by the Service Company on a case-by-case basis consistent with the nature of the work performed and will be based on the application of one or more of the methods described in paragraphs IV and V of this

Appendix A. The distribution method will be provided to each such affected Client Company or Function.

3. Costs accumulated in an activity, process, project, responsibility center or work order for services of a general nature which are applicable to all Client Companies or Functions or to a class or classes of Client Companies or Functions will be allocated among and charged to such Client Companies or Functions by application of one or more of the methods described in paragraphs IV and V of this Appendix A.

III. For purposes of this Appendix A, the following definitions or methodologies shall be utilized:

1. Where applicable, the following will be utilized to convert gas sales to equivalent electric sales: 0.303048 cubic feet of gas sales equals 1 kilowatt-hour of electric sales (based on electricity at 3412 Btu/kWh and natural gas at 1034 Btu/cubic foot).

2. "Domestic utility" refers to a utility which operates in the contiguous United States of America.

3. "Gross margin" refers to revenues as defined by Generally Accepted Accounting Principles, less cost of sales, including but not limited to fuel, purchased power, emission allowances and other cost of sales.

4. The weights utilized in the weighted average ratios in paragraph V of this Appendix A shall represent the percentage relationship of the activities associated with the function for which costs are to be allocated. For example, if an expense item is to be allocated on the weighted average of the Gross Margin Ratio, the Labor Dollars Ratio and the Total Property, Plant and Equipment ("PP&E") Ratio, and the activity to be allocated is one-third gross margin related, one-third labor related and one-third PP&E related, 33 percent of the Gross Margin Ratio would be utilized, 33 percent of the Labor Dollars Ratio and 34 percent of the PP&E Ratio would be utilized. To illustrate this application, assuming that the Gross Margin Ratio were 53.75 percent for Company A and 46.25 percent for Company B, the Labor Dollars Ratio were 25 percent for Company A and 75 percent for Company B, and the Total PP&E Ratio were 60 percent for Company A and 40 percent for Company B, the following weighted average ratio would be computed:

Activity	Weight	Company A		Company B	
		Ratio	Weighted	Ratio	Weighted
Gross Margin Ratio	33%	53.75%	17.74%	46.25%	15.26%
Labor Dollars Ratio	33%	25.00%	8.25%	75.00%	24.75%
Total Property, Plant and Equipment Ratio	<u>34%</u>	60.00%	<u>20.40%</u>	40.00%	<u>13.60%</u>
	100%		46.39%		53.61%

IV. The following allocation methods will be applied, as specified in paragraph V of this Appendix A, to assign costs for services applicable to two or more clients and/or to allocate costs for services of a general nature.

1. Sales Ratio

A ratio, based on domestic firm kilowatt-hour electric sales (and/or the equivalent cubic feet of gas sales, where applicable), excluding intra-system sales, for a preceding twelve consecutive calendar month period, the numerator of which is for a Client Company and the denominator of which is for all utility Client Companies (and Duke Energy Corporation's non-utility and non-domestic utility affiliates, where applicable), This ratio will be determined annually, or at such time as may be required due to a significant change.

2. Electric Peak Load Ratio

A ratio, based on the sum of the monthly domestic firm electric maximum system demands for a preceding twelve consecutive calendar month period, the numerator of which is for a Client Company and the denominator of which is for all utility Client Companies (and Duke Energy Corporation's non-utility and non-domestic utility affiliates, where applicable). This ratio will be determined annually, or at such time as may be required due to a significant change.

3. Number of Customers Ratio

A ratio, based on the sum of the domestic firm electric customers (and/or gas customers, where applicable) at the end of a recent month in the preceding twelve consecutive calendar month period, the numerator of which is for a Client Company and the denominator of which is for all domestic utility Client Companies (and Duke Energy Corporation's non-utility and non-domestic utility affiliates, where applicable). This ratio will be determined annually, or at such time as may be required due to a significant change.

4. Number of Employees Ratio

A ratio, based on the number of employees at the end of a recent month in the preceding twelve consecutive month period, the numerator of which is for a Client Company or Service Company Function and the denominator of which is for all Client Companies (and Duke Energy Corporation's non-utility and non-domestic utility affiliates, where applicable) and/or the Service Company. This ratio will be determined annually, or at such time as may be required due to a significant change.

5. Construction-Expenditures Ratio

A ratio, based on the projected construction expenditures, net of reimbursements, for the following twelve consecutive calendar month period, the numerator of which is for a Client Company and the denominator of which is for all Client Companies (and Duke Energy Corporation's non-utility and non-domestic utility affiliates, where applicable). Separate ratios will be computed for total construction expenditures and appropriate functional plant (i.e., production, transmission, distribution, and general) classifications. This ratio will be determined annually, or at such time as may be required due to a significant change.

6. Circuit Miles of Electric Distribution Lines Ratio

A ratio, based on installed circuit miles of domestic electric distribution lines at the end of the preceding calendar year, the numerator of which is for a Client Company and the denominator of which is for all domestic utility Client Companies. This ratio will be determined annually, or at such time as may be required due to a significant change.

7. Circuit Miles of Electric Transmission Lines Ratio

A ratio, based on installed circuit miles of domestic electric transmission lines at the end of the preceding calendar year, the numerator of which is for a Client Company and the denominator of which is for all domestic utility Client Companies. This ratio will be determined annually, or at such time as may be required due to a significant change.

8. Number of Central Processing Unit Seconds Ratio

A ratio, based on the sum of the number of central processing unit seconds expended to execute mainframe computer software applications for a preceding twelve consecutive calendar month period, the numerator of which is for a Client Company or Service Company Function, and the denominator of which is for all Client Companies, (and Duke Energy Corporation's non-utility and non-domestic utility affiliates, where applicable) and/or the Service Company. This ratio will be determined annually, or at such time as may be required due to a significant change.

9. Revenues Ratio

A ratio, based on total revenues for a preceding twelve consecutive calendar month period, the numerator of which is for a Client Company and the denominator of which is for all Client Companies (and Duke Energy Corporation's non-utility and non-domestic utility affiliates, where applicable). This ratio will be determined annually or at such time as may be required due to a significant change.

10. Inventory Ratio

A ratio, based on total inventory balance for the preceding year, the numerator of which is for a Client Company and the denominator of which is for all Client Companies (and Duke Energy Corporation's non-utility and non-domestic utility affiliates, where applicable). Separate ratios will be computed for total inventory and the appropriate functional plant (i.e., production, transmission, distribution, and general) classifications. This ratio will be determined annually or at such time as may be required due to a significant change.

11. Procurement Spending Ratio

A ratio, based on total amount of procurement spending for the preceding year, the numerator of which is for a Client Company or Service Company Function and the denominator of which is for all Client Companies (and Duke Energy Corporation's non-utility and non-domestic utility affiliates, where applicable) and/or the Service Company. Separate ratios will be computed for total procurement spending and appropriate functional plant (i.e., production, transmission, distribution, and general) classifications. This ratio will be determined annually or at such time as may be required due to a significant change.

12. Square Footage Ratio

A ratio, based on the amount of square footage occupied in a recent month in the preceding twelve consecutive month period, the numerator of which is for a Client Company or Service Company Function and the denominator of which is for all Client Companies (and Duke Energy Corporation's non-utility and non-domestic utility affiliates, where applicable) and/or the Service Company. This ratio will be determined annually or at such time as may be required due to a significant change.

13. Gross Margin Ratio

A ratio, based on total gross margin for a preceding twelve consecutive calendar month period, the numerator of which is for a Client Company and

the denominator of which is for all Client Companies (and Duke Energy Corporation's non-utility and non-domestic utility affiliates, where applicable). This ratio will be determined annually or at such time as may be required due to a significant change.

14. Labor Dollars Ratio

A ratio, based on total labor dollars for a preceding twelve consecutive calendar month period, the numerator of which is for a Client Company or Service Company Function and the denominator of which is for all Client Companies (and Duke Energy Corporation's non-utility and non-domestic utility affiliates, where applicable) and/or the Service Company. This ratio will be determined annually or at such time as may be required due to a significant change.

15. Number of Personal Computer Work Stations Ratio

A ratio, based on the total number of personal computer work stations at the end of a recent month in the preceding twelve consecutive month period, the numerator of which is for a Client Company or Service Company Function and the denominator of which is for all Client Companies (and Duke Energy Corporation's non-utility and non-domestic utility affiliates, where applicable) and/or the Service Company. This ratio will be determined annually or at such time as may be required due to a significant change.

16. Number of Information Systems Servers Ratio

A ratio, based on the total number of servers at the end of a recent month in the preceding twelve consecutive month period, the numerator of which is for a Client Company or Service Company Function and the denominator of which is for all Client Companies (and Duke Energy Corporation's non-utility and non-domestic utility affiliates, where applicable) and/or the Service Company. This ratio will be determined annually or at such time as may be required due to a significant change.

17. Total Property, Plant and Equipment Ratio

A ratio, based on the total Property, Plant and Equipment balance (net of accumulated depreciation and amortization) for the preceding year, the numerator of which is for a Client Company and the denominator of which is for all Client Companies (and Duke Energy Corporation's non-utility and non-domestic utility affiliates, where applicable). This ratio will be determined annually or at such time as may be required due to a significant change.

18. Generating Unit MW Capability Ratio

A ratio, based on the total installed megawatt capability for the preceding year, the numerator of which is for a Client Company and the denominator of which is for all Client Companies (and Duke Energy Corporation's non-utility and non-domestic utility affiliates, where applicable). This ratio will be determined annually or at such time as may be required due to a significant change.

V. A description of each Function's activities, which may be modified from time to time by the Service Company, is set forth below in paragraph "a" under each Function. As described in paragraph II, "1" and "2" of this Appendix A, where identifiable, costs will be directly assigned or distributed to Client Companies or to other Functions of the Service Company. For costs accumulated in activities, processes, projects, responsibility centers, or work orders which are for services of a general nature that cannot be directly assigned or distributed, as described in paragraph II, "3" of this Appendix A, the method or methods of allocation are set forth below in paragraph "b" under each Function. For any of the functions set forth below other than Information Systems, Transportation, Human Resources or Facilities, costs of a general nature to be allocated pursuant to this Amended and Restated Service Agreement shall exclude costs of a general nature which have been allocated to affiliated companies not a party to this Amended and Restated

Service Agreement. Substitution or changes may be made in the methods of allocation hereinafter specified, as may be appropriate, and will be provided to state regulatory agencies and to each Client Company.

1. Information Systems

a. Description of Function

Provides communications and electronic data processing services. The activities of the Function include:

- (1) Development and support of mainframe computer software applications.
- (2) Procurement and support of personal computers and related network and software applications.
- (3) Development and support of distributed computer software applications (e.g., servers).
- (4) Installation and operation of communications systems.
- (5) Information systems management and support services.

b. Method of Allocation

- (1) Development and support of mainframe computer software applications - allocated between the Client Companies and other Functions of the Service Company based on the number of Central Processing Unit Seconds Ratio and allocated among the Client Companies on a weighted average of the Gross Margin Ratio, the Labor Dollar Ratio and the PP&E Ratio.
- (2) Procurement and support of personal computers and related network and software applications - allocated to the Client Companies and to other Functions of the Service Company based on the Number of Personal Computer Work Stations Ratio.

- (3) Development and support of distributed computer software applications - allocated to the Client Companies and to other Functions of the Service Company based on the Number of Information Systems Servers Ratio.
- (4) Installation and operation of communications systems - allocated to the Client Companies and to other Functions of the Service Company based on the Number of Employees Ratio.
- (5) Information systems management and support services – allocated to the Client Companies and to other Functions of the Service Company based on a weighted average of the Gross Margin Ratio, the Labor Dollar Ratio and the PP&E Ratio.

2. Meters

a. Description of Function

Procures, tests and maintains meters.

b. Method of Allocation

Allocated to the Client Companies based on the Number of Customers Ratio.

3. Transportation

a. Description of Function

(1) Procures and maintains vehicles and equipment.

(2) Procures and maintains aircraft and equipment.

b. Method of Allocation

(1) The costs of maintaining vehicles and equipment are allocated to the Client Companies and to other Functions of the Service Company based on the Number of Employees Ratio.

(2) The costs of maintaining aircraft and equipment are allocated to the Client Companies and to other Functions of the Service Company based on a weighted average of the Gross Margin Ratio, the Labor Dollars Ratio and the PP&E Ratio.

4. Electric System Maintenance

a. Description of Function

Coordinates maintenance and support of electric transmission and distribution systems.

b. Method of Allocation

- (1) Services related to transmission system - allocated to the Client Companies based on the Circuit Miles of Electric Transmission Lines Ratio.
- (2) Services related to distribution system - allocated to the Client Companies based on the Circuit Miles of Electric Distribution Lines Ratio.

5. Marketing and Customer Relations

a. Description of Function

Advises the Client Companies in relations with domestic utility customers.

The activities of the Function include:

- (1) Design and administration of sales and demand-side management programs.
- (2) Customer meter reading, billing and payment processing.
- (3) Customer services including the operation of call center.

b. Method of Allocation

- (1) Design and administration of sales and demand-side management programs - allocated to the Client Companies based on the Sales Ratio.
- (2) Customer billing and payment processing - allocated to the Client Companies based on the Number of Customers Ratio.
- (3) Customer Services - allocated to the Client Companies based on the Number of Customers Ratio.

6. Electric Transmission and Distribution Engineering and Construction

a. Description of Function

Designs and monitors construction of electric transmission and distribution lines and substations. Prepares cost and schedule estimates, visits construction sites to ensure that construction activities coincide with plans, and administers construction contracts.

b. Method of Allocation

- (1) Transmission engineering and construction allocated to the Client Companies based on the Electric Transmission Plant's Construction-Expenditures Ratio.
- (2) Distribution engineering and construction allocated to the Client Companies based on the Electric Distribution Plant's Construction-Expenditures Ratio.

7. Power Engineering and Construction

a. Description of Function

Designs, monitors and supports the construction of electric generation facilities. Prepares specifications and administers contracts for construction of new electric generating units or improvements to existing electric generating units. Prepares cost and schedule estimates and visits construction sites to ensure that construction activities coincide with plans.

b. Method of Allocation

Allocated to the Client Companies based on the Electric Production Plant's Construction-Expenditures Ratio.

8. Human Resources

a. Description of Function

Establishes and administers policies and supervises compliance with legal requirements in the areas of employment, compensation, benefits and employee health and safety. Processes payroll and employee benefit payments. Supervises contract negotiations and relations with labor unions.

b. Method of Allocation

Allocated to the Client Companies and to other Functions of the Service Company based on the Number of Employees Ratio.

9. Materials Management

a. Description of Function

Provides services in connection with the procurement of materials and contract services, processes payments to vendors, and provides management of material and supplies inventories.

b. Method of Allocation

- (1) Procurement of materials and contract services and vendor payment processing - allocated to the Client Companies and to other Functions of the Service Company based on the Procurement Spending Ratio.
- (2) Management of materials and supplies inventory – allocated to the Client Companies on the Inventory Ratio.

10. Facilities

a. Description of Function

Operates and maintains office and service buildings. Provides security and housekeeping services for such buildings and procures office furniture and equipment.

b. Method of Allocation

Allocated to the Client Companies and to other Functions of the Service Company based on the Square Footage Ratio.

11. Accounting

a. Description of Function

Maintains the books and records of Duke Energy Corporation and its affiliates, prepares financial and statistical reports, prepares tax filings and supervises compliance with the laws and regulations.

b. Method of Allocation

Allocated to the Client Companies based on a weighted average of the Gross Margin Ratio, the Labor Dollar Ratio and the PP&E Ratio.

12. Power Planning and Operations

a. Description of Function

Coordinates the planning, management and operation of Duke Energy Corporation's electric power system. The activities of the Function include:

- (1) System Planning - planning of additions and retirements to Duke Energy Corporation's electric generation, transmission and distribution systems.
 - (2) System Operations - coordination of the energy dispatch and operation of Duke Energy Corporation's electric generating units and transmission and distribution systems.
 - (3) Power Operations – provides management and support services for Duke Energy Corporation's electric generation system.
 - (4) Wholesale Power Operations – coordination of Duke Energy Corporation's wholesale power operations.
- b. Method of Allocation
- (1) System Planning
 - (a) Generation planning - allocated to the Client Companies based on the Electric Peak Load Ratio.
 - (b) Transmission planning – allocated to the Client Companies based on the Electric Peak Load Ratio.
 - (c) Distribution planning - allocated to the Client Companies based on a weighted average of the Circuit Miles of Electric Distribution Lines Ratio and the Electric Peak Load Ratio.
 - (2) System Operations –
 - (a) Generation Dispatch - allocated to the Client Companies based on the Sales Ratio.
 - (b) Transmission Operations - allocated to the Client Companies based on a weighted average of the Circuit Miles of Electric Transmission Lines Ratio and the Electric Peak Load Ratio.
 - (c) Distribution Operations - allocated to the Client Companies based on a weighted average of the Circuit Miles of Electric Distribution Lines Ratio and the Electric Peak Load Ratio.
 - (3) Power Operations – allocated to the Client Companies based on the Generating Unit MW Capability Ratio.
 - (4) Wholesale Power Operations – allocated to the Client Companies based on the Sales Ratio.

13. Public Affairs

a. Description of Function

Prepares and disseminates information to employees, customers, government officials, communities and the media. Provides graphics, reproduction lithography, photography and video services.

b. Method of Allocation

Allocated to the Client Companies based on the Number of Customers Ratio.

14. Legal

a. Description of Function

Renders services relating to labor and employment law, litigation, contracts, rates and regulatory affairs, environmental matters, financing, financial reporting, real estate and other legal matters.

b. Method of Allocation

Allocated to the Client Companies based on a weighted average of the Gross Margin Ratio, the Labor Dollar Ratio and the PP&E Ratio.

15. Rates

a. Description of Function

Determines the Client Companies' revenue requirements and rates to electric and gas requirements customers. Administers interconnection and joint ownership agreements. Researches and forecasts customers' usage.

b. Method of Allocation

Allocated to the Client Companies based on the Sales Ratio.

16. Finance

a. Description of Function

Renders services to Client Companies with respect to investments, financing, cash management, risk management, claims and fire prevention. Prepares budgets, financial forecasts and economic analyses.

b. Method of Allocation

Allocated to the Client Companies based on a weighted average of the Gross Margin Ratio, the Labor Dollar Ratio and the PP&E Ratio.

17. Rights of Way

a. Description of Function

Purchases, surveys, records, and sells real estate interests for Client Companies.

b. Method of Allocation

- (1) Services related to electric distribution system - allocated to the Client Companies based on the Circuit Miles of Electric Distribution Lines Ratio.
- (2) Services related to electric generation system- allocated to the Client Companies based on the Electric Peak Load Ratio.
- (3) Services related to electric transmission system – allocated to the Client Companies based on the Circuit Miles of Electric Transmission Lines Ratio.

18. Internal Auditing

a. Description of Function

Reviews internal controls and procedures to ensure that assets are safeguarded and that transactions are properly authorized and recorded.

b. Method of Allocation

Allocated to the Client Companies based on a weighted average of the Gross Margin Ratio, the Labor Dollar Ratio and the PP&E Ratio.

19. Environmental Affairs

a. Description of Function

Establishes policies and procedures for compliance with environmental laws and regulations. Studies emerging environmental issues, monitors compliance with environmental requirements and provides training to the Client Companies' personnel.

b. Method of Allocation

Allocated to the Client Companies based on the Sales Ratio.

20. Fuels

a. Description of Function

Procures coal, gas and oil for the Client Companies. Ensures compliance with price and quality provisions of fuel contracts and arranges for transportation of the fuel to the generating stations.

b. Method of Allocation

Allocated to the Client Companies based on the Sales Ratio.

21. Investor Relations

a. Description of Function

Provides communications to investors and the financial community, performs transfer agent and shareholder record keeping functions, administers stock plans and performs stock-related regulatory reporting.

b. Method of Allocation

Allocated to the Client Companies based on a weighted average of the Gross Margin Ratio, the Labor Dollars Ratio and the PP&E Ratio.

22. Planning

a. Description of Function

Facilitates preparation of strategic and operating plans, monitors trends and evaluates business opportunities.

b. Method of Allocation

Allocated to the Client Companies based on a weighted average of the Gross Margin Ratio, the Labor Dollars Ratio and the PP&E Ratio.

23. Executive

a. Description of Function

Provides general administrative and executive management services.

b. Method of Allocation

Allocated to the Client Companies based on a weighted average of the Gross Margin Ratio, the Labor Dollars Ratio and the PP&E Ratio.

OPERATING COMPANY/NONUTILITY COMPANIES SERVICE AGREEMENT

This Operating Company/Nonutility Companies Service Agreement (this "Agreement") is made and entered into as of _____ (the "Effective Date") by and among The Union Light, Heat and Power Company, a Kentucky corporation ("Operating Company"), and the respective associate nonutility companies listed on the signature pages hereto (each, a "Nonutility Company").

WITNESSETH:

WHEREAS, Duke Energy Corporation ("Duke") is a Delaware corporation;

WHEREAS, Operating Company is a subsidiary of Duke and a public utility company;

WHEREAS, each Nonutility Company is a subsidiary of Duke that is or was formed to engage in any one or more non-regulated businesses;

WHEREAS, in the ordinary course of their businesses, Operating Company and each Nonutility Company maintain organizations of employees with technical expertise in matters affecting public utility companies and related businesses and own or acquire related equipment, facilities, properties and other resources; and

WHEREAS, subject to the terms and conditions herein set forth, and taking into consideration the parties' utility responsibilities or primary business operations, as the case may be, the parties hereto are willing, upon request from time to time, to perform such services, and in connection therewith to make available such equipment, facilities, properties and other resources, as they shall request from each other;

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties agree as follows:

ARTICLE 1. PROVISION OF SERVICES; LOANED EMPLOYEES

Section 1.1 Provision of Services.

(a) Upon receipt by a party hereto (in such capacity, a "Service Provider") of a written request in substantially the form attached hereto as Exhibit A (a "Service Request") from another party hereto (in such capacity, a "Client Company") for the provision to such Client Company of such services as are specified therein, including if applicable use of any related equipment, facilities, properties or other resources (collectively, "Services"), the Service Provider, if in its sole discretion it has available the personnel or other resources needed to perform the Service Request without impairment of its utility responsibilities or business operations, as the case may be, shall furnish such Services to the Client Company at such times, for such periods and in such manner as the Client Company shall have so requested and otherwise in accordance with the provisions hereof.

(b) For purposes of this Agreement, "Services" may include, but shall not be limited to: (i) in the case of Services that may be provided by Operating Company hereunder, services in such areas as engineering and construction; operations and maintenance; installation services; equipment testing; generation technical support; environmental, health and safety; and procurement services;¹ and (ii) in the case of Services that may be provided by Nonutility Companies hereunder, services in such areas as information technology services; monitoring, surveying, inspecting, constructing, locating and marking of overhead and underground utility facilities; meter reading; materials management; vegetation management; and marketing and customer relations.

(c) For the avoidance of doubt, affiliate transactions involving sales or other transfers of assets, goods, energy commodities (including electricity, natural gas, coal and other combustible fuels) or thermal energy products are outside the scope of this Agreement.

Section 1.2 Loaned Employees.

(a) If specifically requested in connection with the provision of Services, Service Provider shall loan one or more of its employees to such Client Company, provided that such loan shall not, in the sole discretion of Service Provider, interfere with or impair Service Provider's utility responsibilities or business operations, as the case may be. After the commencement thereof, any such loaned employees may be withdrawn by Service Provider from tasks duly assigned by Client Company, prior to completion thereof as contemplated in the associated Service Request, only with the consent of Client Company (which shall not be unreasonably withheld or delayed), except in the event of a demonstrable emergency requiring the use of any such employees in another capacity for Service Provider.

(b) While performing work on behalf of Client Company, any such loaned employees shall be under its supervision and control, and Client Company shall be responsible for their actions to the same extent as though such persons were its employees (it being understood that such persons shall nevertheless remain employees of Service Provider and nothing herein shall be construed as creating an employer-employee relationship between any Client Company and any loaned employees). Accordingly, for the duration of any such loan, Service Provider shall continue to provide its loaned employees with the same payroll, pension, savings, tax withholding, unemployment, bookkeeping and other personnel support services then being provided by Service Provider to its other employees.

ARTICLE 2. SERVICE REQUESTS

Section 2.1 Procedure. All Services (including any loans of employees) (i) shall be performed in accordance with Service Requests issued by or on behalf of Client Company and accepted by Service Provider and (ii) shall be assigned to applicable activities, processes, projects, responsibility centers or on other appropriate bases to enable specific work to be properly assigned. Service Requests shall be as specific as practicable in defining the Services requested. Client Company shall have the right from time to time to amend or rescind any Service Request, *provided* that (a) Service Provider consents to any amendment that results in a material change in the scope of

Services to be provided, (b) the costs associated with an amended or rescinded Service Request shall include the costs incurred by Service Provider as a result of such amendment or rescission, and (c) no amendment or rescission of a Service Request shall release Client Company from any liability for costs already incurred or contracted for by Service Provider pursuant to the original Service Request, regardless of whether any labor or the furnishing of any property or other resources has been commenced or completed.

ARTICLE 3. COMPENSATION FOR SERVICES

Section 3.1 Cost of Services. As compensation for any Services rendered to it pursuant to this Agreement, Client Company shall pay to Service Provider the fully embedded cost thereof (i.e., the sum of (i) direct costs, (ii) indirect costs and (iii) costs of capital), except to the extent otherwise required by Section 482 of the Internal Revenue Code. As soon as practicable after the close of each month, Service Provider shall render to each Client Company a statement reflecting the billing information necessary to identify the costs charged for that month. By the last day of each month, Client Company shall remit to Service Provider all charged billed to it.

ARTICLE 4. LIMITATION OF LIABILITY; INDEMNIFICATION

Section 4.1 Limitation of Liability/Services. In performing Services pursuant to Section 1.1 hereof, Service Provider will exercise due care to assure that the Services are performed in a workmanlike manner in accordance with the specifications set forth in the applicable Service Request and consistent with any applicable legal standards. The sole and exclusive responsibility of Service Provider for any deficiency therein shall be promptly to correct or repair such deficiency or to re-perform such Services, in either case at no additional cost to Client Company, so that the Services fully conform to the standards described in the first sentence of this Section 4.1. No Service Provider makes any other warranty with respect to the provision of Services, and each Client Company agrees to accept any Services without further warranty of any nature.

Section 4.2 Limitation of Liability/Loaned Employees. In furnishing Services under Section 1.2 hereof (i.e., involving loaned employees), neither the Service Provider, nor any officer, director, employee or agent thereof, shall have any responsibility whatever to any Client Company receiving such Services, and Client Company specifically releases Service Provider and such persons, on account of any claims, liabilities, injuries, damages or other consequences arising in connection with the provision of such Services under any theory of liability, whether in contract, tort (including negligence or strict liability) or otherwise, it being understood and agreed that any such loaned employees are made available without warranty as to their suitability or expertise.

Section 4.3 Disclaimer. WITH RESPECT TO ANY SERVICES PROVIDED UNDER THIS AGREEMENT, THE SERVICE PROVIDER THEREOF MAKES NO WARRANTY OR REPRESENTATION OTHER THAN AS SET FORTH IN SECTION 4.1, AND THE PARTIES HERETO HEREBY AGREE THAT NO OTHER WARRANTY, WHETHER STATUTORY, EXPRESS OR IMPLIED (INCLUDING BUT NOT LIMITED TO ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE), SHALL BE APPLICABLE

TO THE PROVISION OF ANY SUCH SERVICES. THE PARTIES FURTHER AGREE THAT THE REMEDIES STATED HEREIN ARE EXCLUSIVE AND SHALL CONSTITUTE THE SOLE AND EXCLUSIVE REMEDY OF ANY PARTY HERETO FOR A FAILURE BY ANY OTHER PARTY HERETO TO COMPLY WITH ITS WARRANTY OBLIGATIONS.

Section 4.4 Indemnification.

(a) Indemnification In Respect of Services Provided by Operating Company.

(i) In circumstances where Operating Company is a Service Provider: (x) subject to subparagraph (ii) of this Section 4.4(a), Service Provider shall release, defend, indemnify and hold harmless each Client Company, including any officer, director, employee or agent thereof, from and against, and shall pay the full amount of, any loss, liability, claim, damage, expense (including costs of investigation and defense and reasonable attorneys' fees), whether or not involving a third-party claim (collectively, "Damages"), incurred or sustained by or against Service Provider or any such Client Company arising, directly or indirectly, from or in connection with Service Provider's negligence or willful misconduct in the performance of the Services, and (y) each Nonutility Company that is a Client Company with respect to such Services shall release, defend, indemnify and hold harmless Service Provider, including any officer, director, employee or agent thereof, from and against, and shall pay the full amount of, any Damages incurred or sustained by or against Service Provider or any such Client Company arising, directly or indirectly, from or in connection with Service Provider's negligence or willful misconduct in the performance of the Services, to the extent such Damages are not covered by Service Provider's indemnification obligation as provided in the preceding clause (x) or exceed the liability limits provided in subparagraph (ii) of this Section 4.4(a).

(ii) Notwithstanding any other provision hereof, in circumstances where Operating Company is a Service Provider: (x) Service Provider's total liability hereunder with respect to any specific Services shall be limited to the amount actually paid to Service Provider for its performance of the specific Services for which the liability arises, and (y) under no circumstances shall Service Provider be liable for consequential, incidental, punitive, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or contract, under any indemnity provision or otherwise (it being the intent of the parties that the indemnification obligations in this Agreement shall cover only actual damages and accordingly, without limitation of the foregoing, shall be net of any insurance proceeds actually received in respect of any such damages).

(b) Indemnification In Respect of Services Provided by Any Nonutility Company.

(i) In circumstances where a Nonutility Company is a Service Provider (*i.e.*, where Operating Company is the Client Company): (x) subject to subparagraph (ii) of this Section 4.4(b), Service Provider shall release, defend, indemnify and hold harmless the Client Company, including any officer, director, employee or agent thereof, from and against, and shall pay the full amount of, any Damages incurred or sustained by or against Client Company arising, directly or indirectly, from or in connection with Service Provider's negligence or willful misconduct in the performance of the Services.

(ii) Notwithstanding any other provision hereof, in circumstances where a Nonutility Company is a Service Provider (*i.e.*, where Operating Company is the Client Company), under no circumstances shall Service Provider be liable for consequential, incidental, punitive, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or contract, under any indemnity provision or otherwise (it being the intent of the parties that the indemnification obligations in this Agreement shall cover only actual damages and accordingly, without limitation of

the foregoing, shall be net of any insurance proceeds actually received in respect of any such damages).

Section 4.5 Procedure for Indemnification. Within 15 business days after receipt by any Client Company of notice of any claim or the commencement of any action, suit, litigation or other proceeding against it (a "Proceeding") with respect to which it is eligible for indemnification hereunder, such Client Company shall notify Service Provider thereof in writing (it being understood that failure so to notify Service Provider shall not relieve the latter of its indemnification obligation, unless Service Provider establishes that defense thereof has been prejudiced by such failure). Thereafter, Service Provider shall be entitled to participate in such Proceeding and, at its election upon notice to such Client Company and at its expense, to assume the defense of such Proceeding. Without the prior written consent of such Client Company, Service Provider shall not enter into any settlement of any third-party claim that would lead to liability or create any financial or other obligation on the part of such Client Company for which it such Client Company is not entitled to indemnification hereunder. If such Client Company has given timely notice to Service Provider of the commencement of such Proceeding, but Service Provider has not, within 15 business days after receipt of such notice, given notice to Client Company of its election to assume the defense thereof, Service Provider shall be bound by any determination made in such Proceeding or any compromise or settlement made by Client Company. A claim for indemnification for any matter not involving a third-party claim may be asserted by notice from the applicable Client Company to Service Provider.

ARTICLE 5. MISCELLANEOUS

Section 5.1 Amendments. Any amendments to this Agreement shall be in writing executed by each of the parties hereto. To the extent that applicable state law or regulation or other binding obligation requires that any such amendment be filed with the Kentucky Public Service Commission for its review or otherwise, Operating Company shall comply in all respects with any such requirements.

Section 5.2 Effective Date; Term. This Agreement shall become effective on the Effective Date and shall continue in full force and effect as to each party until terminated by any party, as to itself only, upon not less than 30 days prior written notice to the other parties hereto. Any such termination of parties shall not be deemed an amendment hereto. This Agreement may be terminated and thereafter be of no further force and effect upon the mutual consent of all of the parties hereto.

Section 5.3 Additional Parties. After the effective date of this Agreement, additional Nonutility Companies may become parties to this Agreement by executing appropriate signature pages, whereupon any such additional signatory shall be deemed a "party" hereto all purposes hereof and shall thereupon become bound by the terms and conditions of this Agreement as if an original party hereto. The addition of any such further signatories, in the absence of any changes to the terms of this Agreement, shall not be deemed an amendment hereto.

Section 5.4 Entire Agreement. This Agreement contains the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes any prior or contemporaneous contracts, agreements, understandings or arrangements, whether written or oral, with respect thereto

(including that certain Services Agreement between Operating Company and certain nonutility subsidiaries of Cinergy Corp. dated May 14, 1999). Any oral or written statements, representations, promises, negotiations or agreements, whether prior hereto or concurrently herewith, are superseded by and merged into this Agreement.

Section 5.5 Severability. If any provision of this Agreement or any application thereof shall be determined to be invalid or unenforceable, the remainder of this Agreement and any other application thereof shall not be affected thereby.

Section 5.6 Assignment. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned, in whole or in part, by operation of law or otherwise by any of the parties hereto without the prior written consent of each of the other parties. Any attempted or purported assignment in violation of the preceding sentence shall be null and void and of no effect whatsoever. Subject to the preceding two sentences, this Agreement shall be binding upon, inure to the benefit of, and be enforceable by, the parties and their respective successors and assigns.

Section 5.7 Governing Law. This Agreement shall be construed and enforced under and in accordance with the laws of the State of Kentucky, without regard to conflicts of laws principles.

Section 5.8 Captions, etc. The captions and headings used in this Agreement are for convenience of reference only and shall not affect the construction to be accorded any of the provisions hereof. As used in this Agreement, "hereof," "hereunder," "herein," "hereto," and words of like import refer to this Agreement as a whole and not to any particular section or other paragraph or subparagraph thereof.

Section 5.9 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed a duplicate original hereof, but all of which shall be deemed one and the same Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed on its behalf by an appropriate officer thereunto duly authorized.

The Union Light, Heat and Power Company

By: _____

Name:

Title:

[Duke Energy Applicable Non-Regulated Affiliates]

FORM OF SERVICE REQUEST

<u>Client Company:</u>	<u>Approved By:</u> Name: Title:
<u>Proposed Service Provider/ Description of Proposed Services:</u>	
<u>Estimated Costs:</u>	
<u>Scheduled Start Date:</u>	<u>Scheduled Completion Date:</u>
<u>Service Provider:</u>	<u>Approved By:</u> Name: Title:

OPERATING COMPANIES SERVICE AGREEMENT

This Operating Companies Service Agreement (this "Agreement") is made and entered into as of _____ (the "Effective Date") by and among Duke Power Company LLC, a North Carolina limited liability company ("Duke Power"), The Cincinnati Gas & Electric Company, an Ohio corporation ("CG&E"), PSI Energy, Inc., an Indiana corporation ("PSI"), The Union Light, Heat and Power Company, a Kentucky corporation ("ULH&P"), and Miami Power Corporation, an Indiana corporation ("Miami;" and collectively with Duke Power, CG&E, PSI and ULH&P, the "Operating Companies" and, individually, an "Operating Company").

WITNESSETH:

WHEREAS, Duke Energy Corporation ("Duke Energy") is a Delaware corporation;

WHEREAS, each Operating Company is a subsidiary of Duke Energy and a public utility company;

WHEREAS, in the ordinary course of their businesses, Operating Companies maintain organizations of employees with technical expertise in matters affecting public utility companies and related businesses and own or acquire related equipment, facilities, properties and other resources; and

WHEREAS, subject to the terms and conditions herein set forth, and taking into consideration the parties' utility responsibilities or primary business operations, as the case may be, the parties hereto are willing, upon request from time to time, to perform such services, and in connection therewith to make available such equipment, facilities, properties and other resources, as they shall request from each other;

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties agree as follows:

ARTICLE 1. PROVISION OF SERVICES; LOANED EMPLOYEES

Section 1.1 Provision of Services.

(a) Upon receipt by a party hereto (in such capacity, a "Service Provider") of a written request in substantially the form attached hereto as Exhibit A (a "Service Request") from another party hereto (in such capacity, a "Client Company") for the provision to such Client Company of such services as are specified therein, including if applicable use of any related equipment, facilities, properties or other resources (collectively, "Services"), the Service Provider, if in its sole discretion it has available the personnel or other resources needed to perform the Service Request without impairment of its utility responsibilities or business operations, as the case may be, shall furnish such Services to the Client Company at such times, for such periods and in such manner as the Client Company shall have so requested and otherwise in accordance with the provisions hereof.

(b) For purposes of this Agreement, "Services" may include, but shall not be limited to, services in such areas as engineering and construction; operations and maintenance; installation services; equipment testing; generation technical support; environmental, health and safety; and procurement services.

(c) For the avoidance of doubt, affiliate transactions involving sales or other transfers of assets, goods, energy commodities (including electricity, natural gas, coal and other combustible fuels) or thermal energy products are outside the scope of this Agreement.

Section 1.2 Loaned Employees.

(a) If specifically requested in connection with the provision of Services, Service Provider shall loan one or more of its employees to such Client Company, provided that such loan shall not, in the sole discretion of Service Provider, interfere with or impair Service Provider's utility responsibilities or business operations, as the case may be. After the commencement thereof, any such loaned employees may be withdrawn by Service Provider from tasks duly assigned by Client Company, prior to completion thereof as contemplated in the associated Service Request, only with the consent of Client Company (which shall not be unreasonably withheld or delayed), except in the event of a demonstrable emergency requiring the use of any such employees in another capacity for Service Provider.

(b) While performing work on behalf of Client Company, any such loaned employees shall be under its supervision and control, and Client Company shall be responsible for their actions to the same extent as though such persons were its employees (it being understood that such persons shall nevertheless remain employees of Service Provider and nothing herein shall be construed as creating an employer-employee relationship between any Client Company and any loaned employees). Accordingly, for the duration of any such loan, Service Provider shall continue to provide its loaned employees with the same payroll, pension, savings, tax withholding, unemployment, bookkeeping and other personnel support services then being provided by Service Provider to its other employees.

ARTICLE 2. SERVICE REQUESTS

Section 2.1 Procedure. All Services (including any loans of employees) (i) shall be performed in accordance with Service Requests issued by or on behalf of Client Company and accepted by Service Provider and (ii) shall be assigned to applicable activities, processes, projects, responsibility centers or on other appropriate bases to enable specific work to be properly assigned. Service Requests shall be as specific as practicable in defining the Services requested. Client Company shall have the right from time to time to amend or rescind any Service Request, *provided* that (a) Service Provider consents to any amendment that results in a material change in the scope of Services to be provided, (b) the costs associated with an amended or rescinded Service Request shall include the costs incurred by Service Provider as a result of such amendment or rescission, and (c) no amendment or rescission of a Service Request shall release Client Company from any liability for costs already incurred or contracted for by Service Provider pursuant to the original Service Request, regardless of whether any labor or the furnishing of any property or other resources has been commenced or completed.

ARTICLE 3. COMPENSATION FOR SERVICES

Section 3.1 Cost of Services. As compensation for any Services rendered to it pursuant to this Agreement, Client Company shall pay to Service Provider the fully embedded cost thereof (i.e., the sum of (i) direct costs, (ii) indirect costs and (iii) costs of capital), except to the extent otherwise required by Section 482 of the Internal Revenue Code. As soon as practicable after the close of each month, Service Provider shall render to each Client Company a statement reflecting the billing information necessary to identify the costs charged for that month. By the last day of each month, Client Company shall remit to Service Provider all charges billed to it.

ARTICLE 4. LIMITATION OF LIABILITY; INDEMNIFICATION

Section 4.1 Limitation of Liability/Services. In performing Services pursuant to Section 1.1 hereof, Service Provider will exercise due care to assure that the Services are performed in a workmanlike manner in accordance with the specifications set forth in the applicable Service Request and consistent with any applicable legal standards. The sole and exclusive responsibility of Service Provider for any deficiency therein shall be promptly to correct or repair such deficiency or to re-perform such Services, in either case at no additional cost to Client Company, so that the Services fully conform to the standards described in the first sentence of this Section 4.1. No Service Provider makes any other warranty with respect to the provision of Services, and each Client Company agrees to accept any Services without further warranty of any nature.

Section 4.2 Limitation of Liability/Loaned Employees. In furnishing Services under Section 1.2 hereof (i.e., involving loaned employees), neither the Service Provider, nor any officer, director, employee or agent thereof, shall have any responsibility whatever to any Client Company receiving such Services, and Client Company specifically releases Service Provider and such persons, on account of any claims, liabilities, injuries, damages or other consequences arising in connection with the provision of such Services under any theory of liability, whether in contract, tort (including negligence or strict liability) or otherwise, it being understood and agreed that any such loaned employees are made available without warranty as to their suitability or expertise.

Section 4.3 Disclaimer. WITH RESPECT TO ANY SERVICES PROVIDED UNDER THIS AGREEMENT, THE SERVICE PROVIDER THEREOF MAKES NO WARRANTY OR REPRESENTATION OTHER THAN AS SET FORTH IN SECTION 4.1, AND THE PARTIES HERETO HEREBY AGREE THAT NO OTHER WARRANTY, WHETHER STATUTORY, EXPRESS OR IMPLIED (INCLUDING BUT NOT LIMITED TO ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE), SHALL BE APPLICABLE TO THE PROVISION OF ANY SUCH SERVICES. THE PARTIES FURTHER AGREE THAT THE REMEDIES STATED HEREIN ARE EXCLUSIVE AND SHALL CONSTITUTE THE SOLE AND EXCLUSIVE REMEDY OF ANY PARTY HERETO FOR A FAILURE BY ANY OTHER PARTY HERETO TO COMPLY WITH ITS WARRANTY OBLIGATIONS.

Section 4.4 Indemnification.

(a) Subject to subparagraph (b) of this Section 4.4, Service Provider shall release, defend, indemnify and hold harmless each Client Company, including any officer, director, employee or agent thereof, from and against, and shall pay the full amount of, any loss, liability, claim, damage, expense (including costs of investigation and defense and reasonable attorneys' fees), whether or not involving a third-party claim, incurred or sustained by or against any such Client Company arising, directly or indirectly, from or in connection with Service Provider's negligence or willful misconduct in the performance of the Services.

(b) Notwithstanding any other provision hereof, Service Provider's total liability hereunder with respect to any specific Services shall be limited to the amount actually paid to Service Provider for its performance of the specific Services for which the liability arises, and under no circumstances shall Service Provider be liable for consequential, incidental, punitive, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or contract, under any indemnity provision or otherwise (it being the intent of the parties that the indemnification obligations in this Agreement shall cover only actual damages and accordingly, without limitation of the foregoing, shall be net of any insurance proceeds actually received in respect of any such damages).

Section 4.5 Procedure for Indemnification. Within 15 business days after receipt by any Client Company of notice of any claim or the commencement of any action, suit, litigation or other proceeding against it (a "Proceeding") with respect to which it is eligible for indemnification hereunder, such Client Company shall notify Service Provider thereof in writing (it being understood that failure so to notify Service Provider shall not relieve the latter of its indemnification obligation, unless Service Provider establishes that defense thereof has been prejudiced by such failure). Thereafter, Service Provider shall be entitled to participate in such Proceeding and, at its election upon notice to such Client Company and at its expense, to assume the defense of such Proceeding. Without the prior written consent of such Client Company, Service Provider shall not enter into any settlement of any third-party claim that would lead to liability or create any financial or other obligation on the part of such Client Company for which it such Client Company is not entitled to indemnification hereunder. If such Client Company has given timely notice to Service Provider of the commencement of such Proceeding, but Service Provider has not, within 15 business days after receipt of such notice, given notice to Client Company of its election to assume the defense thereof, Service Provider shall be bound by any determination made in such Proceeding or any compromise or settlement made by Client Company. A claim for indemnification for any matter not involving a third-party claim may be asserted by notice from the applicable Client Company to Service Provider.

ARTICLE 5. RATEMAKING; MISCELLANEOUS

Section 5.1 Amendments. Any amendments to this Agreement shall be in writing executed by each of the parties hereto. To the extent that applicable state law or regulation or other binding obligation requires that any such amendment be filed with any affected state public utility commission for its review or otherwise, each Operating Company shall comply in all respects with any such requirements.

Section 5.2 Effective Date; Term. This Agreement shall become effective on the Effective Date and shall continue in full force and effect as to each party until terminated by any party, as to itself only, upon not less than 30 days prior written notice to the other parties hereto. Any such termination of parties shall not be deemed an amendment hereto. This Agreement may be terminated and thereafter be of no further force and effect upon the mutual consent of all of the parties hereto.

Section 5.3 Entire Agreement. This Agreement contains the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes any prior or contemporaneous contracts, agreements, understandings or arrangements, whether written or oral, with respect thereto. Any oral or written statements, representations, promises, negotiations or agreements, whether prior hereto or concurrently herewith, are superseded by and merged into this Agreement.

Section 5.4 Severability. If any provision of this Agreement or any application thereof shall be determined to be invalid or unenforceable, the remainder of this Agreement and any other application thereof shall not be affected thereby.

Section 5.5 Assignment. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned, in whole or in part, by operation of law or otherwise by any of the parties hereto without the prior written consent of each of the other parties. Any attempted or purported assignment in violation of the preceding sentence shall be null and void and of no effect whatsoever. Subject to the preceding two sentences, this Agreement shall be binding upon, inure to the benefit of, and be enforceable by, the parties and their respective successors and assigns.

Section 5.6 Governing Law. This Agreement shall be construed and enforced under and in accordance with the laws of the State of New York, without regard to conflicts of laws principles.

Section 5.7 Captions, etc. The captions and headings used in this Agreement are for convenience of reference only and shall not affect the construction to be accorded any of the provisions hereof. As used in this Agreement, "hereof," "hereunder," "herein," "hereto," and words of like import refer to this Agreement as a whole and not to any particular section or other paragraph or subparagraph thereof.

Section 5.8 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed a duplicate original hereof, but all of which shall be deemed one and the same Agreement.

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed on its behalf by an appropriate officer thereunto duly authorized.

Duke Power Company LLC

By: _____
Name:
Title:

The Cincinnati Gas & Electric Company

By: _____
Name:
Title:

PSI Energy, Inc.

By: _____
Name:
Title:

The Union Light, Heat and Power Company

By: _____
Name:
Title:

Miami Power Corporation

By: _____
Name:
Title:

FORM OF SERVICE REQUEST

<u>Client Company:</u>	<u>Approved By:</u> Name: Title:
<u>Proposed Service Provider/ Description of Proposed Services:</u>	
<u>Estimated Costs:</u>	
<u>Scheduled Start Date:</u>	<u>Scheduled Completion Date:</u>
<u>Service Provider:</u>	<u>Approved By:</u> Name: Title:

**New Duke Energy
Allocation Factors by Category**

Functional Category	Allocation Method
<u>Labor Savings</u>	
Executive Management	Weighted-Average: Gross Margin, Labor and PP&E
Legal	Weighted-Average: Employee, Customer and Construction
External Relations	Number of Customers
Finance and Accounting	Weighted-Average: Gross Margin, Labor and PP&E
Human Resources	Number of Employees
Information Systems	Weighted-Average: Gross Margin, Labor and PP&E
Administration & Support	Weighted-Average: Gross Margin, Labor and PP&E
Retail Marketing & Sales	Sales
Customer Service	Number of Customers
Purchasing and Materials Management	Weighted-Average: Revenue/Sales and Construction
Electric Transmission	Peak Load
Electric Distribution	Circuit Miles
Gas Operations	N/A
Fossil Power Supply	Peak Load
Electric System Tech Support	Sales
Hydro Power Generation	N/A
Nuclear Power Supply	N/A
<u>Non-Labor Savings</u>	
Professional Services	Weighted-Average: Gross Margin, Labor and PP&E
Benefits	Allocated based on Labor Savings
Insurance	Weighted-Average: Gross Margin, Labor and PP&E
Facilities	Weighted-Average: Gross Margin, Labor and PP&E
A&G Overhead	Allocated on Corporate Labor Savings
Shareholder Services	Weighted-Average: Gross Margin, Labor and PP&E
Inventory	Transmission and Distribution Inventory Levels
Directors' Fees	Weighted-Average: Gross Margin, Labor and PP&E
Dues	
EEI	Actual Formula
EPRI	Actual Formula
Transportation	Weighted-Average: Gross Margin, Labor and PP&E
Information Technology	Weighted-Average: Gross Margin, Labor and PP&E
Supply Chain	
Contract Services	Allocated on Proportion of Total Spend
Materials and Supplies	Allocated on Proportion of Total Spend
<u>Cost To Achieve</u>	
Separation Costs	Allocated on Total Labor Savings
Retention Costs	Weighted-Average: Gross Margin, Labor and PP&E
Relocation Cost	Weighted-Average: Gross Margin, Labor and PP&E
System Integration Costs	Allocation Base applied to Specific Projects
Directors & Officers Liability Tail	Weighted-Average: Gross Margin, Labor and PP&E
Regulatory Process Costs	Weighted-Average: Gross Margin, Labor and PP&E
Facilities Integration Costs	Weighted-Average: Gross Margin, Labor and PP&E
Internal / External Communication Costs	Weighted-Average: Gross Margin, Labor and PP&E
Transition Costs	Weighted-Average: Gross Margin, Labor and PP&E
Transaction Costs	Weighted-Average: Gross Margin, Labor and PP&E
Pre-Merger Initiatives	Weighted-Average: Gross Margin, Labor and PP&E

New Duke Energy
Allocation of Merger Savings / Costs Between ULHP and Other Duke Energy Companies
2006 - 2010
(\$ in 000's)

	2006					2007					2008				
	ULHP Gas	ULHP Electric	Asset Transfer	ULHP	Other New Duke Energy	ULHP Gas	ULHP Electric	Asset Transfer	ULHP	Other New Duke Energy	ULHP Gas	ULHP Electric	Asset Transfer	ULHP	Other New Duke Energy
Non-Labor Savings	\$ 44.6	\$ 78.9	\$ 121.0	\$ 242.5	\$ 9,707.0	\$ 106.6	\$ 121.8	\$ 191.5	\$ 383.9	\$ 15,393.2	\$ 74.1	\$ 127.8	\$ 201.0	\$ 402.9	\$ 16,124.2
Executive Management	18.4	27.4	14.2	60.0	1,858.3	32.1	82.8	24.9	382.8	2,988.7	33.8	50.2	20.0	110.0	3,022.6
Legal	46.4	68.3	10.4	218.7	2,173.3	44.4	66.9	118.2	382.8	2,105.5	51.1	73.1	122.2	3,022.6	2,408.1
External Relations	28.4	88.3	10.4	153.0	6,578.2	70.4	121.4	191.0	382.8	15,319.7	78.8	135.9	428.4	17,146.4	17,574.8
Finance and Accounting	28.4	88.3	10.4	153.0	6,578.2	70.4	121.4	191.0	382.8	15,319.7	78.8	135.9	428.4	17,146.4	17,574.8
Human Resources	22.9	39.6	82.4	4,850.0	4,874.8	22.9	39.6	82.4	4,850.0	4,874.8	22.9	39.6	82.4	4,850.0	4,874.8
Information Systems Support	20.0	34.5	54.2	1,008.6	4,455.1	20.0	34.5	54.2	1,008.6	4,455.1	20.0	34.5	54.2	1,008.6	4,455.1
Retail Marketing & Sales	153.9	142.8	-	298.5	5,297.5	161.5	149.7	-	311.2	4,524.4	169.5	157.1	-	328.6	5,508.6
Customer Service	50.3	122.3	-	115.9	2,948.8	106.6	192.4	-	259.0	5,249.4	149.8	214.2	-	364.0	6,142.8
Purchasing and Materials Management	23.6	21.1	71.2	3,832.0	3,072.1	24.8	22.1	74.7	121.6	4,143.9	26.0	23.2	76.4	127.6	4,388.7
Electric Transmission	61.1	81.1	-	1,944.0	1,944.0	-	126.6	-	128.6	3,901.1	-	137.9	-	4,250.8	4,388.7
Gas Distribution	3,000.4	78.7	-	78.7	3,078.1	-	197.4	-	197.4	7,722.5	-	215.2	-	7,722.5	8,417.5
Gas Operations	-	-	286.2	286.2	4,109.9	-	6.8	479.1	479.1	7,397.2	-	7.2	521.9	521.9	8,057.8
Fossil Power Supply	-	4.5	-	4.5	505.7	-	-	-	6.8	750.8	-	-	-	-	817.4
Electric System Tech Support	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Hydro Power Generation	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Nuclear Power Generation	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Labor Savings	\$ 440.3	\$ 756.5	\$ 759.2	\$ 1,956.0	\$ 57,459.0	\$ 615.7	\$ 1,226.0	\$ 1,244.2	\$ 3,085.9	\$ 93,093.4	\$ 712.8	\$ 1,403.8	\$ 1,403.1	\$ 3,519.7	\$ 106,791.6
Non-Labor Savings	\$ 180.3	\$ 311.2	\$ 489.3	\$ 980.8	\$ 39,257.4	\$ 189.3	\$ 324.9	\$ 510.9	\$ 1,024.0	\$ 40,994.6	\$ 198.5	\$ 339.2	\$ 533.4	\$ 1,058.1	\$ 42,787.9
Professional Services	24.9	42.9	67.5	133.3	5,412.4	46.6	82.8	115.6	255.0	7,872.2	51.2	100.8	126.0	275.0	8,684.0
Benefits	14.3	28.8	39.1	78.2	3,035.0	25.4	43.9	68.0	138.3	5,676.3	25.0	44.9	70.6	141.5	5,666.5
Insurance	31.2	55.3	62.0	148.6	5,317.7	20.8	35.9	56.6	113.2	4,395.1	23.6	40.6	64.1	128.3	5,111.5
A&C Overhead	8.1	14.0	22.0	44.1	1,791.3	4.2	7.9	91.7	210.5	7,705.4	4.0	8.4	104.7	237.3	8,975.2
Inventory	3.8	4.0	-	7.7	2,145.3	8.3	14.3	22.5	45.1	1,847.3	8.5	14.6	23.0	46.1	1,840.0
Supplier Services	3.6	7.5	9.7	19.4	775.4	3.6	6.3	9.9	19.8	1,090.0	3.7	6.4	10.1	20.3	1,086.1
Directors Fees	-	10.3	-	10.3	394.5	-	10.5	-	10.5	374.0	-	10.8	-	10.8	382.4
EET	-	5.7	15.4	15.4	355.6	-	5.8	15.8	15.8	393.8	-	6.0	-	6.0	322.2
Transportation	3.3	127.3	200.9	402.0	16,001.4	13.1	229.7	367.5	725.4	28,188.6	3.5	35.0	53.1	1,108.9	44,094.2
Information Technology	43.9	75.8	184.3	304.0	16,812.7	50.7	87.8	213.0	351.3	19,193.7	57.7	99.6	292.9	399.6	21,834.7
Supply Chain	11.8	20.4	205.3	238.5	8,733.3	14.5	25.1	254.0	293.8	12,279.5	17.3	29.9	302.9	359.2	14,250.5
Contract Services	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Malware and Supplies	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Non-Labor Savings	\$ 389.0	\$ 697.8	\$ 1,305.5	\$ 2,402.3	\$ 101,919.9	\$ 539.6	\$ 954.7	\$ 1,736.7	\$ 3,225.0	\$ 130,993.9	\$ 641.0	\$ 1,130.1	\$ 2,055.8	\$ 3,827.0	\$ 155,111.1
Total Labor and Non-Labor Savings	\$ 829.3	\$ 1,454.2	\$ 2,064.7	\$ 4,358.3	\$ 158,559.9	\$ 1,155.3	\$ 2,180.8	\$ 2,981.9	\$ 6,310.8	\$ 224,092.4	\$ 1,353.8	\$ 2,533.9	\$ 3,458.9	\$ 7,346.6	\$ 281,902.8
Cost To Achieve	\$ 499.2	\$ 861.5	\$ 863.2	\$ 2,223.9	\$ 65,328.5	\$ 223.2	\$ 385.1	\$ 411.0	\$ 1,019.3	\$ 30,741.6	\$ 63.0	\$ 108.7	\$ 113.8	\$ 285.4	\$ 8,659.9
Separation Costs	61.3	91.4	152.0	304.7	12,195.3	61.3	91.4	152.0	304.7	12,195.3	61.3	91.4	152.0	304.7	12,195.3
Retention Costs	25.4	38.4	61.6	4,939.1	5,082.5	25.4	38.4	61.6	4,939.1	5,082.5	25.4	38.4	61.6	4,939.1	5,082.5
Relocation Costs	243.0	651.5	419.6	1,314.1	38,440.6	639.4	1,359.8	620.1	2,819.3	66,577.3	814.9	955.1	306.9	2,076.9	47,305.7
System Integration Costs	34.9	104.3	139.6	277.9	11,122.1	-	-	-	-	-	-	-	-	-	-
Directors & Officers Liability Tail	163.9	282.9	444.8	891.6	35,698.4	-	-	-	-	-	-	-	-	-	-
Regulatory Process Costs	23.0	39.8	62.7	125.5	4,874.5	23.0	39.8	62.7	125.5	4,874.5	-	-	-	-	-
Facilities Integration Costs	144.9	134.3	277.9	557.0	22,850.0	-	-	-	-	-	-	-	-	-	-
Internal / External Communication Costs	94.8	135.6	229.4	459.8	18,402.6	16.7	23.9	40.5	81.2	3,247.5	-	-	-	-	-
Transaction Costs	285.1	288.9	499.9	1,001.8	41,100.0	-	-	-	-	-	-	-	-	-	-
Total Cost To Achieve	\$ 1,555.6	\$ 2,574.6	\$ 3,149.8	\$ 7,279.8	\$ 253,389.2	\$ 989.1	\$ 1,936.5	\$ 1,347.9	\$ 4,273.4	\$ 119,958.0	\$ 877.8	\$ 1,863.8	\$ 420.7	\$ 2,382.3	\$ 55,965.6
Net Savings and Cost To Achieve	\$ (726.2)	\$ (1,120.4)	\$ (1,084.8)	\$ (2,921.5)	\$ (94,929.3)	\$ 166.2	\$ 244.2	\$ 1,627.0	\$ 2,037.4	\$ 104,100.4	\$ 476.0	\$ 1,470.1	\$ 3,038.2	\$ 4,964.3	\$ 210,921.5
Pre-Merger Initiatives	\$ (8.8)	\$ (14.8)	\$ (23.3)	\$ (46.7)	\$ (1,956.4)	\$ (8.8)	\$ (15.1)	\$ (23.8)	\$ (47.7)	\$ (1,998.7)	\$ (9.0)	\$ (15.5)	\$ (24.4)	\$ (48.9)	\$ (2,001.8)
Total Net Savings and Cost To Achieve	\$ (735.0)	\$ (1,135.2)	\$ (1,108.1)	\$ (2,968.2)	\$ (96,885.7)	\$ 157.4	\$ 229.0	\$ 1,603.2	\$ 1,989.7	\$ 102,101.7	\$ 467.0	\$ 1,454.6	\$ 3,013.8	\$ 4,915.4	\$ 208,919.7

	2009				2010				2006-2010			
	ULHP	ULHP	Asset Transfer	Total	ULHP	ULHP	Asset Transfer	Total	ULHP	ULHP	Asset Transfer	Total
	Electric	Electric		Duke Energy	Electric	Electric		Duke Energy	Electric	Electric		Duke Energy
Executive Savings	\$ 77.7	\$ 134.1	\$ 210.9	\$ 427.7	\$ 163.0	\$ 173.4	\$ 173.4	\$ 510.0	\$ 163.0	\$ 173.4	\$ 173.4	\$ 510.0
Legal	35.3	52.7	21.3	113.3	31.8	34.6	34.6	101.0	31.8	34.6	34.6	101.0
External Relations	33.8	70.7	11.0	115.5	10.2	11.0	11.0	33.0	10.2	11.0	11.0	33.0
Finance and Accounting	32.6	44.9	63.7	141.2	14.9	16.6	16.6	46.5	14.9	16.6	16.6	46.5
Human Resources	31.2	93.3	87.1	211.6	7.3	8.0	8.0	22.3	7.3	8.0	8.0	22.3
Information Systems	21.2	141.7	223.5	466.4	17.3	18.8	18.8	54.9	17.3	18.8	18.8	54.9
Administration & Support	23.1	39.8	6.6	125.5	5.0	5.5	5.5	15.5	5.0	5.5	5.5	15.5
Retail Marketing & Sales	17.8	184.8	342.6	545.2	18.5	20.0	20.0	60.5	18.5	20.0	20.0	60.5
Customer Service	17.8	232.9	395.7	806.4	17.8	19.3	19.3	59.4	17.8	19.3	19.3	59.4
Purchasing and Materials Management	27.3	24.4	82.2	133.9	26.6	28.9	28.9	86.5	26.6	28.9	28.9	86.5
Electric Transmission	149.8	149.8	-	299.6	162.1	162.1	162.1	324.2	162.1	162.1	162.1	324.2
Electric Distribution	-	233.7	-	233.7	253.1	253.1	253.1	506.2	253.1	253.1	253.1	506.2
Gas Operations	-	-	-	-	-	-	-	-	-	-	-	-
Electric System Tech Support	-	-	-	-	-	-	-	-	-	-	-	-
Hydro Power Generation	-	-	-	-	-	-	-	-	-	-	-	-
Nuclear Power Generation	-	-	-	-	-	-	-	-	-	-	-	-
Total Labor Savings	\$ 759.6	\$ 1,494.3	\$ 1,491.1	\$ 3,739.0	\$ 1,133.6	\$ 1,183.2	\$ 1,183.2	\$ 3,500.0	\$ 1,133.6	\$ 1,183.2	\$ 1,183.2	\$ 3,500.0
Non-Labor Savings	\$ 205.2	\$ 354.1	\$ 559.9	\$ 1,119.2	\$ 467.0	\$ 457.7	\$ 457.7	\$ 1,381.7	\$ 467.0	\$ 457.7	\$ 457.7	\$ 1,381.7
Professional Services	55.5	110.1	137.4	303.1	60.3	63.0	63.0	186.3	60.3	63.0	63.0	186.3
Business	28.8	48.0	72.3	149.1	27.2	28.7	28.7	84.9	27.2	28.7	28.7	84.9
Insurance	24.1	41.6	65.6	131.3	24.7	26.2	26.2	77.9	24.7	26.2	26.2	77.9
Facilities	49.1	86.6	107.2	242.9	42.6	45.1	45.1	135.7	42.6	45.1	45.1	135.7
AGS Overhead	6.7	15.0	23.5	47.1	6.8	7.3	7.3	22.1	6.8	7.3	7.3	22.1
Shareholder Services	1.9	2.0	-	3.9	2.0	2.0	2.0	6.0	2.0	2.0	2.0	6.0
Inventory	3.8	6.6	10.4	20.8	6.7	7.1	7.1	21.2	6.7	7.1	7.1	21.2
Directors' Fees	-	-	-	-	-	-	-	-	-	-	-	-
Dues	-	-	-	-	-	-	-	-	-	-	-	-
EI/EPRI	-	11.0	-	11.0	11.3	11.3	11.3	34.6	11.3	11.3	11.3	34.6
Transportation	3.5	6.1	18.5	16.5	6.3	6.8	6.8	20.4	6.3	6.8	6.8	20.4
Information Technology	27.1	48.7	73.9	149.7	33.6	35.1	35.1	107.7	33.6	35.1	35.1	107.7
Supply Chain	64.9	111.9	272.2	449.0	72.2	76.5	76.5	231.2	72.2	76.5	76.5	231.2
Contract Services	20.2	34.9	52.9	108.0	23.1	24.6	24.6	75.7	23.1	24.6	24.6	75.7
Materials and Supplies	-	-	-	-	-	-	-	-	-	-	-	-
Total Non-Labor Savings	\$ 735.1	\$ 1,294.6	\$ 2,384.0	\$ 4,393.7	\$ 1,177.6	\$ 1,182.2	\$ 1,182.2	\$ 3,565.3	\$ 1,177.6	\$ 1,182.2	\$ 1,182.2	\$ 3,565.3
Total Labor and Non-Labor Savings	\$ 1,494.7	\$ 2,788.9	\$ 3,875.1	\$ 8,132.7	\$ 2,311.2	\$ 2,365.4	\$ 2,365.4	\$ 7,065.3	\$ 2,311.2	\$ 2,365.4	\$ 2,365.4	\$ 7,065.3
Cost To Achieve	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Retention Costs	-	-	-	-	-	-	-	-	-	-	-	-
Relocation Costs	-	-	-	-	-	-	-	-	-	-	-	-
System Integration Costs	407.8	659.4	288.9	1,356.1	659.5	288.2	1,356.5	33,387.3	659.5	288.2	1,356.5	33,387.3
Directors & Officers Liability Tail	-	-	-	-	-	-	-	-	-	-	-	-
Regulatory Process Costs	-	-	-	-	-	-	-	-	-	-	-	-
Facilities Integration Costs	-	-	-	-	-	-	-	-	-	-	-	-
Internal / External Communication Costs	-	-	-	-	-	-	-	-	-	-	-	-
Transition Costs	-	-	-	-	-	-	-	-	-	-	-	-
Total Cost To Achieve	\$ 407.8	\$ 659.4	\$ 288.9	\$ 1,356.1	\$ 659.5	\$ 288.2	\$ 1,356.5	\$ 33,387.3	\$ 659.5	\$ 288.2	\$ 1,356.5	\$ 33,387.3
Net Savings and Cost To Achieve	\$ 1,086.9	\$ 2,129.5	\$ 3,586.2	\$ 6,776.6	\$ 2,651.7	\$ 2,677.2	\$ 2,677.2	\$ 7,000.0	\$ 2,651.7	\$ 2,677.2	\$ 2,677.2	\$ 7,000.0
Pre-Merger Initiatives	\$ (9.2)	\$ (15.8)	\$ (24.8)	\$ (49.8)	\$ (8.2)	\$ (15.2)	\$ (25.5)	\$ (50.4)	\$ (8.2)	\$ (15.2)	\$ (25.5)	\$ (50.4)
Total Net Savings and Cost To Achieve	\$ 1,077.7	\$ 2,113.7	\$ 3,561.4	\$ 6,726.8	\$ 2,643.5	\$ 2,662.0	\$ 2,651.7	\$ 6,949.6	\$ 2,643.5	\$ 2,662.0	\$ 2,651.7	\$ 6,949.6

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Joint Application of Duke Energy Corporation,)
Duke Energy Holding Corp., Deer Acquisition)
Corp., Cougar Acquisition Corp., Cinergy Corp.,)
The Cincinnati Gas & Electric Company, and)
The Union Light, Heat and Power Company for)
Approval of a Transfer and Acquisition)
of Control)

Case No. 2005-00228

DIRECT TESTIMONY OF

JOHN P. STEFFEN

ON BEHALF OF

JOINT APPLICANTS

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ATTACHMENT JPS-5 -	Rider MSR-G Merger Savings Credit Rider – Gas
ATTACHMENT JPS-6 -	Rider MSR-E Merger Savings Credit Rider - Electric

I. INTRODUCTION AND PURPOSE

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is John P. Steffen. My business address is 139 East Fourth Street,
3 Cincinnati, Ohio 45202.

4 **Q. WHAT IS YOUR CURRENT POSITION?**

5 A. I am Vice President, Rates, for Cinergy Services, Inc. ("Services"), which
6 provides various administrative services to The Union Light, Heat and Power
7 Company ("ULH&P") and other affiliated companies.

8 **Q. PLEASE SUMMARIZE YOUR EDUCATION AND PROFESSIONAL
9 QUALIFICATIONS.**

10 A. I received a Bachelor of Business Administration degree with a major in
11 accounting from Thomas More College and a Master of Business Administration
12 degree with a major in accounting from The University of Cincinnati. I am a
13 Certified Public Accountant in the State of Ohio.

14 **Q. PLEASE SUMMARIZE YOUR BUSINESS EXPERIENCE.**

15 A. After graduation from Thomas More College in 1974, I was employed by The
16 Cincinnati Gas Electric Company ("CG&E") as a Financial Staff Assistant in the
17 Tax Division. In 1978, I transferred to the Payroll Division where I progressed
18 through various job classifications to Director of the Payroll Division. On March
19 1, 1987, I became Manager of the General and Payroll Accounting Department.
20 On May 1, 1991, I was appointed Assistant Controller with responsibility for the
21 General and Payroll Accounting Department. In October, 1994, at the time of the
22 merger of CG&E and PSI Resources, Inc., I became the Assistant Comptroller of

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1 Cinergy Corp. (“Cinergy”). On August 11, 1997, I was named to the position of
2 Comptroller of Cinergy, and in January 1998, I was appointed Vice President and
3 Comptroller of Cinergy. On March 1, 1999, I was named to my current position
4 of Vice President, Rates.

5 **Q. ARE YOU A MEMBER OF ANY PROFESSIONAL ORGANIZATIONS?**

6 A. Yes. I am a member of the American Institute of Certified Public Accountants
7 and the Ohio Society of Certified Public Accountants. While Assistant
8 Comptroller, I participated on the Edison Electric Institute (“EEI”) Accounting
9 Standards Committee. While in both the Comptroller and Vice President and
10 Comptroller positions, I participated on the EEI and American Gas Association
11 (“AGA”) Chief Accounting Officers Committees. I am currently a member of the
12 EEI Economic Regulation and Research Committee, the AGA Rate and Strategic
13 Issues Committee, and the Indiana Electric Association Rates and Tariffs Work
14 Group.

15 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**
16 **PROCEEDING?**

17 A. I discuss ULH&P’s existing rates as approved by the Commission. I also describe
18 how ULH&P will share with customers the savings expected from the merger of
19 Duke Energy Corporation (“Duke”) and Cinergy. Finally, I describe how the
20 Company will treat for ratemaking purposes services provided to and from
21 ULH&P under the various service agreements discussed in the testimony of Mr.
22 Barry F. Blackwell.

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II. ULH&P'S PRESENT RATES

1 **Q. WHEN WERE ULH&P'S PRESENT GAS RATES APPROVED BY THIS**
2 **COMMISSION?**

3 A. ULH&P's current gas rates were approved by this Commission pursuant to its
4 Order dated January 31, 2002, and its subsequent orders issued February 15, 2002,
5 and March 13, 2002, in Case No. 2001-00092. The test period in that proceeding
6 was the actual twelve months ended September 30, 2000. ULH&P has an
7 application to increase its gas rates pending, in Case No. 2005-00042. The test
8 period in that proceeding is the forecasted twelve months ending September 30,
9 2006. The hearing in that case is scheduled to begin on August 15, 2005.

10 **Q. WHEN WERE ULH&P'S PRESENT ELECTRIC RATES APPROVED BY**
11 **THIS COMMISSION?**

12 A. ULH&P's current electric base rates were approved by this Commission pursuant
13 to its Order dated May 5, 1992, and its subsequent orders issued June 11, 1992,
14 August 19, 1992, and October 29, 1992, in Case No. 91-370. The test period in
15 that proceeding was the actual twelve months ended July 31, 1991. In its Order
16 dated July 5, 1996 in Case No. 96-195, the Commission approved a reduction in
17 wholesale purchase power cost through a reduction to the Fuel Adjustment
18 Clause. In its Order dated May 11, 2001 in Case No. 2001-00058, the
19 Commission approved the current wholesale power contract between ULH&P and
20 CG&E, and also approved a retail electric rate freeze, with certain exceptions,
21 through December 31, 2006. The Commission conditionally approved the
22 transfer of three generating stations from CG&E to ULH&P in its Order dated

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1 December 5, 2003 in Case No. 2003-00252.¹ Paragraph no. 15 of that Order
2 requires ULH&P to file its next general application to adjust retail electric rates
3 such that the effective date of the new rates, following the Commission's
4 suspension period, will be January 1, 2007.

III. MERGER SAVINGS AND COSTS

5 **Q. WHAT COST SAVINGS WILL THE MERGER PRODUCE?**

6 A. The merger will generate savings in the following areas: (1) labor reductions due
7 to redundancies in corporate and administrative functions, such as finance,
8 accounting, human resources, executives and information technology, among
9 others; (2) labor reductions in operating areas, such as asset management,
10 operations planning, business unit support, and others; (3) cost savings resulting
11 from economies of scale and elimination of duplication in areas such as insurance
12 and shareholder services; (4) information technology savings due to consolidation
13 of networks and moving to single operating platforms; (5) supply chain savings
14 due to vendor consolidation, aggregation, economies of scale; and (6) coal supply
15 savings from alignment of sources and new supply strategy. Mr. Thomas J.
16 Flaherty discusses the estimated merger savings, how the areas of savings were
17 identified and how the estimate was developed in more detail. As supported by
18 Mr. Flaherty, the estimated annual merger savings by the fifth year after the
19 merger are expected to be approximately \$500 million.

20 **Q. WHAT COSTS ARE ASSOCIATED WITH THE MERGER, AND HOW**
21 **WILL THESE COSTS BE TREATED?**

¹ The Commission granted final approval for the transfer of the plants in its June 17, 2005 Order in
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1 A. The merger-related costs include costs such as: separation, retention, relocation,
2 system integration, Directors' and Officers insurance coverage, regulatory process
3 and compliance, facilities integration, internal and external communications,
4 transition costs, and transaction costs. Mr. Flaherty explains how these areas of
5 merger costs were identified and estimated. As Mr. Flaherty indicates, the overall
6 transaction costs and costs to achieve merger savings are expected to total
7 approximately \$757 million by the end of the fifth year after the merger.

8 **Q. HOW WERE THE MERGER COSTS AND SAVINGS ARISING FROM**
9 **THE NEW COMPANY'S REGULATED OPERATIONS ALLOCATED**
10 **AMONG THE VARIOUS OPERATING COMPANIES?**

11 A. Mr. Barry F. Blackwell explains how these merger savings and costs were
12 allocated among ULH&P, CG&E, PSI, and Duke Power, LLC, as well as across
13 all of the Cinergy and Duke Energy companies that will comprise New Duke
14 Energy after the merger is consummated. As supported by Mr. Blackwell, the
15 merger savings and costs attributable to ULH&P's gas operations for the five
16 years after the merger are detailed on Attachment JPS-1, and the merger savings
17 and costs attributable to ULH&P's electric operations for the five years after the
18 merger are detailed on Attachment JPS-2.

19 **Q. DO YOU HAVE AN OPINION AS TO WHETHER THESE ESTIMATES**
20 **OF THE JURISDICTIONAL ALLOCATIONS OF THE MERGER**
21 **SAVINGS AND COSTS ARE REASONABLE?**

the same proceeding.

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1 A. Yes. I reviewed the methodology used by Mr. Blackwell to allocate the merger
2 savings and costs to the jurisdictional operating companies, and his allocation of
3 these jurisdictional merger savings and costs between gas operations and electric
4 operations. In my opinion, Mr. Blackwell has used well-established
5 methodologies for allocating the merger savings and costs to the operating
6 companies, and for splitting out the jurisdictional merger savings and costs
7 between retail gas and electric operations.

IV. SHARING MECHANISM FOR MERGER SAVINGS

8 **Q. DOES ULH&P REQUEST ANY ACCOUNTING AUTHORITY FROM**
9 **THE COMMISSION RELATED TO ULH&P'S PROPOSAL FOR**
10 **SHARING MERGER SAVING WITH CUSTOMERS?**

11 A. Yes. As discussed more fully by Ms. Lynn J. Good, the Company's accounting
12 procedures are governed by Generally Accepted Accounting Principles ("GAAP")
13 and the Uniform System of Accounts ("USofA"), published by the Federal Energy
14 Regulatory Commission ("FERC") and adopted by this Commission at KRS
15 278.220. Costs that normally would be expensed can be deferred pursuant to an
16 Order of a regulatory commission.

17 ULH&P requests authority to defer the transaction costs and costs to
18 achieve merger savings, and to amortize these costs in equal amounts over a five-
19 year period. These costs primarily arise during the first two years after the merger
20 closing, yet they will produce merger savings which continue indefinitely. The
21 five-year amortization of these costs will smooth the impact of these costs and
22 provide better matching of the costs to the merger savings produced by these

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1 costs. To the extent that such deferrals are not fully amortized at the time of
2 ULH&P's next retail base rate cases, ULH&P will make a proposal in those cases
3 for the recovery of any remaining balance.

4 **Q. PLEASE DESCRIBE ULH&P'S PROPOSED ACCOUNTING FOR THESE**
5 **COST DEFERRALS.**

6 A. ULH&P will initially record merger costs in the appropriate FERC primary
7 account for each cost. Concurrently, the deferral of expenses would be recorded
8 by a charge to Account 182.3, Other Regulatory Assets, and a corresponding
9 credit to Account 407.4, Regulatory Credits. The five-year amortization would be
10 recorded each month by a credit to Account 182.3, and a charge to Account 407.3,
11 Regulatory Debits.

12 **Q. HOW WILL ULH&P PASS THROUGH THE JURISDICTIONAL SHARE**
13 **OF MERGER SAVINGS TO CUSTOMERS?**

14 A. ULH&P will provide a portion of the merger savings, net of merger costs, to
15 customers in increasing increments over a five-year period, as detailed on
16 Attachments JPS-1 and JPS-2. In summary, the mechanism will return the
17 estimated merger savings, net of merger costs, to customers in increments that
18 approximate the following: Year 1: 10% of net merger savings; Year 2: 20% of
19 net merger savings; Year 3: 30% of net merger savings; Year 4: 40% of net
20 merger savings; Year 5: 50% of net merger savings. The merger savings will be
21 flowed to customers through a Merger Savings Credit Rider. Any additional
22 savings in the actual costs for fuel and gas resulting from the merger will be

1 automatically flowed through to customers via ULH&P's fuel adjustment clause,
2 after it becomes operational, and purchased gas adjustment clause, respectively.

3 **Q. PLEASE EXPLAIN HOW THE MERGER SAVINGS CREDIT RIDER**
4 **WILL OPERATE.**

5 A. ULH&P will implement the Merger Savings Credit Rider at the first billing cycle
6 which occurs 30 or more days following the merger closing. ULH&P needs this
7 30-day lag to allow adequate time to implement the rider on customer bills after
8 the merger closing. We will use the merger savings and cost estimates and
9 jurisdictional allocations developed by Mr. Flaherty and Mr. Blackwell, and
10 amortize the costs over a five-year period as detailed on Attachments JPS-1 and
11 JPS-2.

12 **Q. PLEASE EXPLAIN THE ALLOCATION OF THE MERGER SAVINGS**
13 **TO RATE CLASSES.**

14 A. The merger savings, net of merger costs, applicable to retail customers will be
15 allocated to rate classes based on the proportion of operation and maintenance
16 expense in the cost of service study (excluding fuel, purchased power and gas
17 commodity expense) approved in the Company's most recent electric base rate
18 case, and as filed in the Company's current gas rate Case No. 2005-00042. These
19 allocations are detailed on Attachments JPS-3 and JPS-4 for gas and electric,
20 respectively.

21 **Q. PLEASE EXPLAIN THE RATE DESIGN FOR MERGER SAVINGS.**

22 A. A Merger Savings Credit Rider rate will be calculated for each rate schedule and
23 will be applied as a reduction to the stated commodity and energy charges on the

1 respective gas and electric tariffs. Attachments JPS-3 and JPS-4 are schedules
2 that will be used to allocate the proposed annual merger savings credit amounts
3 applicable to gas and electric service, in order to determine the Merger Savings
4 Credit Rider rates. Attachments JPS-5 and JPS-6 are the proposed Merger
5 Savings Credit Rider tariff riders for gas and electric customers, respectively,
6 including the proposed rates for Year 1 after the merger.

7 **Q. WILL YOU NEED TO CHANGE OTHER ULH&P TARIFF SCHEDULES**
8 **AS A RESULT OF ADDING THE MERGER SAVINGS CREDIT RIDER?**

9 A. Yes. ULH&P's gas and electric tariffs include cross-references to applicable
10 riders on the appropriate tariff schedules. Within 30 days after the merger closing,
11 ULH&P will file revised gas and electric tariffs to address these changes.

12 **Q. HOW LONG WILL THE MERGER SAVINGS CREDIT RIDER REMAIN**
13 **IN EFFECT?**

14 A. The Merger Savings Credit Rider will remain in effect until the day before rates
15 are effective pursuant to the Company's next gas and electric base rate cases, as
16 appropriate. If base rates are not revised within five years after the merger, the
17 year five Merger Savings Credit Rider will remain in effect until revised base
18 rates are set. ULH&P currently plans to file its next electric base rate case for new
19 rates to become effective January 1, 2007. Assuming that the test period for that
20 case will not include any merger savings, ULH&P will continue the Merger
21 Savings Credit Rider until the subsequent electric base rate case, as previously
22 described. If merger savings are included in the case to set rates effective January

1 1, 2007, ULH&P will make a proposal in that case regarding coordination of the
2 Rider and the rates set in that case.

3 **Q. WHAT EFFECT WILL THE MERGER HAVE ON ULH&P'S RATES?**

4 A. Without this merger and the implementation of the proposed Merger Savings
5 Credit Rider, ULH&P's retail gas and electric customers will not experience the
6 cost savings described by Mr. Flaherty. Consequently, the merger will cause
7 ULH&P's rates to be less than they would have been in the absence of the merger.

8 **Q. DO YOU HAVE AN ESTIMATE OF THE IMPACT OF THE MERGER
9 ON CUSTOMER RATES?**

10 A. Yes, I do. I have estimated the rate impact isolating solely on the impact of the
11 merger savings on rates, at the end of year five, after all costs have been amortized
12 and the full estimated merger savings are realized. The estimate assumes that a
13 base rate case is completed, and that all of the merger benefits are included in the
14 calculation of the revenue requirement. Under these assumptions, customer bills
15 will be approximately 1.3% lower on average for ULH&P's retail gas customers,
16 and approximately 3.2% lower for ULH&P's retail electric customers.

17 **Q. MR. JAMES E. ROGERS' TESTIMONY STATES THAT CINERGY
18 SHAREHOLDERS WILL RECEIVE A 13.4% PREMIUM FOR THEIR
19 COMMON STOCK BASED UPON THE DUKE AND CINERGY STOCK
20 PRICES IMMEDIATELY PRIOR TO THE DATE OF THE MERGER
21 ANNOUNCEMENT. WILL THIS ACQUISITION PREMIUM IMPACT
22 ULH&P'S RETAIL RATES?**

JOHN P. STEFFEN DIRECT

1 A. No. ULH&P commits that it will not seek a return on or a return of any
2 acquisition premium associated with the merger.

3 **Q. MS. GOOD DESCRIBES THE FINANCIAL STATEMENT IMPACTS OF**
4 **“PUSH DOWN ACCOUNTING”. DOES ULH&P INTEND TO UTILIZE**
5 **“PUSH DOWN ACCOUNTING” FOR RATEMAKING PURPOSES?**

6 A. As supported by Ms. Good, ULH&P currently believes that it will not be required
7 to use “push down accounting”. However, even if ULH&P is required to do so
8 for financial statement purposes, it will not attempt to adopt “push down
9 accounting” for retail ratemaking purposes.

10 **V. RATEMAKING TREATMENT OF AFFILIATE SERVICES**

11 **Q. MR. BLACKWELL DESCRIBES VARIOUS SERVICE AGREEMENTS**
12 **WITH ULH&P AFFILIATES AND THE PRICING OF SERVICES UNDER**
13 **THOSE AGREEMENTS. HOW WILL SERVICES UNDER THE**
14 **VARIOUS SERVICE AGREEMENTS DESCRIBED BY MR.**
15 **BLACKWELL BE TREATED FOR RATEMAKING PURPOSES?**

16 A. As explained by Mr. Blackwell, under those agreements, services will be provided
17 to and from ULH&P and its affiliates at cost, unless tax rules require a different
18 pricing (*e.g.*, competitive pricing at fair market value). For ratemaking purposes,
19 we are proposing that all services provided to and from ULH&P be reflected in
20 rates at cost, with any IRS-required difference in pricing and the associated
21 income tax impact reflected “below-the-line.”

1 **VI. CONCLUSION**

2 **Q. DO YOU HAVE AN OPINION AS TO WHETHER THE MERGER IS IN**
3 **THE PUBLIC INTEREST, BASED ON THE COST SHARING**
4 **MECHANISM AND THE RATE IMPACTS YOU DISCUSS IN YOUR**
5 **TESTIMONY?**

6 A. Yes. In my opinion, the merger is in the public interest because ULH&P's
7 customers will experience ongoing benefits in the form of lower gas and electric
8 rates than the rates customers would experience without the merger. Additionally,
9 the Merger Savings Credit Rider will allow customers to receive the benefits of a
10 portion of the merger savings immediately, without waiting for new rates to take
11 effect in a future base rate case proceeding.

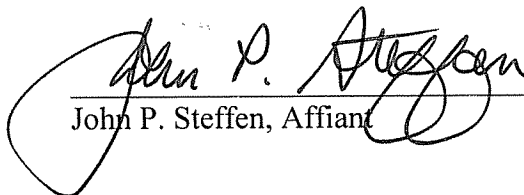
12 **Q. DOES THIS CONCLUDE YOUR PRE-FILED DIRECT TESTIMONY?**

13 A. Yes.

VERIFICATION

State of Ohio)
) SS:
County of Hamilton)

The undersigned, John P. Steffen, being duly sworn, deposes and says that he is the Vice President, Rates, for Cinergy Services, Inc. (Services) that he has personal knowledge of the matters set forth in the foregoing testimony, and that the answers contained therein are true and correct to the best of his information, knowledge and belief.



John P. Steffen, Affiant

Subscribed and sworn to before me by John P. Steffen on this 7th day of July, 2005.



NOTARY PUBLIC

My Commission Expires:



ANITA M. SCHAFER
Notary Public, State of Ohio
My Commission Expires
November 4, 2009

The Union Light Heat and Power Company
Case Number 2005-00228

Sharing of Merger Savings
(\$ 000's)
(Gas Service)

Line No.	Year 1 (A)	Year 2 (B)	Year 3 (C)	Year 4 (D)	Year 5 (E)	Five Year Total (F)	Annual Average (G)
1	Estimated Savings	\$ 830.8	\$ 1,146.5	\$ 1,344.8	\$ 1,479.5	\$ 1,610.6	\$ 1,282.4
2	Estimated Costs	\$ 1,555.6	\$ 989.1	\$ 877.8	\$ 407.8	\$ 4,238.1	\$ 847.6
3	Estimated Net Savings	\$ (724.8)	\$ 157.4	\$ 467.0	\$ 1,071.7	\$ 1,202.8	\$ 434.8
4	Gross Savings Returned to Customers	\$ 891.0	\$ 934.6	\$ 978.0	\$ 1,021.5	\$ 1,064.9	\$ 4,890.1
5	Amortization of Costs Collected from Customers	\$ (847.6)	\$ (847.6)	\$ (847.6)	\$ (847.6)	\$ (847.6)	\$ (4,238.0)
6	Net Savings to Customers	\$ 43.4	\$ 87.0	\$ 130.4	\$ 173.9	\$ 217.3	\$ 652.1

The Union Light Heat and Power Company
Case No. 2005-00228

Sharing of Merger Savings
(\$ 000's)
(Electric)

Line No.	Year 1 (A)	Year 2 (B)	Year 3 (C)	Year 4 (D)	Year 5 (E)	Five Year Total (F)	Annual Average (G)	
1	Estimated Savings	\$ 3,480.8	\$ 5,116.6	\$ 5,952.9	\$ 6,603.3	\$ 7,238.8	\$ 28,392.4	\$ 5,678.5
2	Estimated Costs	\$ 5,724.2	\$ 3,284.4	\$ 1,484.5	\$ 948.3	\$ 948.7	\$ 12,390.1	\$ 2,478.0
3	Estimated Net Savings	\$ (2,243.4)	\$ 1,832.2	\$ 4,468.4	\$ 5,655.0	\$ 6,290.1	\$ 16,002.3	\$ 3,200.5
4	Gross Savings Returned to Customers	\$ 2,797.8	\$ 3,118.1	\$ 3,438.1	\$ 3,758.2	\$ 4,078.2	\$ 17,190.4	
5	Amortization of Costs Collected from Customers	\$ (2,478.0)	\$ (2,478.0)	\$ (2,478.0)	\$ (2,478.0)	\$ (2,478.0)	\$ (12,390.0)	
6	Net Savings to Customers	\$ 319.8	\$ 640.1	\$ 960.1	\$ 1,280.2	\$ 1,600.2	\$ 4,800.4	

The Union Light, Heat & Power Company
Case No. 2005-00228

Allocation of Merger Savings to Retail Rate Groups Based
 On the Allocated Operation and Maintenance Expenses from
 The ULH&P Gas Case No: 2005-00042

Line No.	Customer Groups	Operation and Maintenance Expense (A)	Commodity Related Expense (B)	Operation and Maintenance Exp. Excluding Commodity Related Expense (C)	Percentage of Total (D)	Merger Savings (E)	Mcf Sales (F)	Merger Savings Credit Rider Rate (\$ / CCF) (G)
1	Total	\$ 111,090,622	\$ 92,262,921	\$ 18,827,701	100.00%	\$ 43,439	13,359,869	
2	Residential	\$ 74,021,618	\$ 59,588,148	\$ 14,433,470	76.66%	\$ 33,300	7,151,018	0.0005
3	General Service	36,011,896	32,674,773	3,337,123	17.72%	\$ 7,697	3,921,664	0.0002
4	Firm Transportation	671,457	-	671,457	3.57%	\$ 1,551	1,001,111	0.0002
5	Interruptible Transportation	385,651	-	385,651	2.05%	\$ 891	1,286,076	0.0001
6	Total	\$ 111,090,622	\$ 92,262,921	\$ 18,827,701	100.00%	\$ 43,439	13,359,869	

The Union Light, Heat & Power Company
Case No. 2005-00228

Allocation of Merger Savings to Retail Rate Groups Based
 On the Allocated Operation and Maintenance Expenses from
 The ULH&P Electric Case No: 91-370

Line No.	Customer Groups	Operation and Maintenance Expense (A)	Fuel and Purchased Power (B)	Operation and Maintenance Exp. Excluding Fuel and Purchased Power (C)	Percentage of Total (D)	Merger Savings (E)	kWh Sales (F)	Merger Savings Credit Rider Rate c / kWh (G) (E * 100) / (F)
1	Total	\$ 152,839,033	\$ 132,604,022	\$ 20,235,011	100.000%	\$ 319,800	2,690,016,751	
2	Residential	\$ 68,366,736	\$ 52,703,671	\$ 15,663,065	77.404%	\$ 247,537	1,052,991,246	0.0235
3	Distribution Service - Secondary	37,497,287	35,055,594	2,441,693	12.067%	38,590	726,476,770	0.0053
4	Distribution Service - Primary	997,175	932,243	64,932	0.321%	1,027	19,323,693	0.0053
5	Distribution Service - Time of Day	27,423,328	25,637,618	1,785,710	8.825%	28,222	531,292,755	0.0053
6	Distribution Service - Electric Heating	1,179,397	1,102,599	76,798	0.380%	1,215	22,844,966	0.0053
7	General Service - Fixed Load	118,343	110,637	7,706	0.038%	122	2,288,933	0.0053
8	General Service - Seasonal Sports Rate	24,879	23,259	1,620	0.008%	26	485,898	0.0054
9	Lighting	829,207	712,675	116,532	0.576%	1,842	16,045,597	0.0115
10	Transmission Service - Time of Day	16,062,054	16,012,519	49,535	0.245%	784	311,342,323	0.0003
11	Other	340,627	313,207	27,420	0.136%	435	6,924,570	0.0063
12	Total	\$ 152,839,033	\$ 132,604,022	\$ 20,235,011	100.000%	\$ 319,800	2,690,016,751	

The Union Light, Heat and Power Company
1697-A Monmouth Street
Newport, Kentucky 41071

Ky.P.S.C. Gas No. 5
Original Sheet No. 64
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RIDER MSR-G

MERGER SAVINGS CREDIT RIDER – GAS

APPLICABILITY

Applicable to all customers receiving gas service under the Company's sales service and transportation schedules excluding Interdepartmental sales.

MERGER SAVINGS RIDER CREDIT FACTORS

The applicable commodity charges for gas service shall be decreased monthly on a volumetric basis to reflect the sharing of the net merger savings, per the net merger cost sharing plan approved by the Commission in Case No. 2005-00228. The Merger Savings Credit Rider rates shall be adjusted annually for up to five (5) years beginning _____. This Rider shall remain in effect until the Company's next general rate proceeding. The Merger Savings Credit Rider rates shall be calculated to the nearest \$0.0001/CCF.

<u>Rate Groups</u>	<u>Rate</u> \$/CCF
Rate RS, Residential Service	0.0005
Rate GS, General Service	0.0002
Rate DGS, Distributed Generation Service	0.0000
Rate FT-L, Firm Transportation Service	0.0002
Rate IT, Interruptible Transportation Service	0.0001
Rate SSIT, Spark Spread Interruptible Transportation Rate	0.0000

SERVICE REGULATIONS

The supplying of, and billing for, service and all conditions applying thereto are subject to the jurisdiction of the Kentucky Public Service Commission, and to Company's Service Regulations currently in effect, as filed with the Kentucky Public Service Commission as provided by law.

Issued by authority of an Order of the Kentucky Public Service Commission dated _____ in Case No. _____

Issued:

Effective:

Issued by Gregory C. Ficke, President

The Union Light, Heat and Power Company
1697-A Monmouth Street
Newport, Kentucky 41071

Ky.P.S.C. Electric No. 4
Original Sheet No. 81
Page 1 of 1

RIDER MSR-E

MERGER SAVINGS CREDIT RIDER – ELECTRIC

APPLICABILITY

Applicable to all retail sales in the Company electric service area excluding Interdepartmental sales.

MERGER SAVINGS CREDIT RIDER FACTORS

The applicable energy charges for electric service shall be decreased monthly to reflect the sharing of the net merger savings, per the net merger savings sharing plan approved by the Commission in Case No. 2005-00228. The Merger Savings Credit Rider rates shall be adjusted annually for up to five (5) years beginning _____. This Rider shall remain in effect until the Company's next general rate proceeding. The Merger Savings Credit Rider rates shall be calculated to the nearest \$0.000001/kWh.

<u>Rate Group</u>	<u>Rate</u> (¢/ kWh)
Rate RS, Residential Service	0.0235
Rate DS, Service at Secondary Distribution Voltage	0.0053
Rate DP, Service at Primary Distribution Voltage	0.0053
Rate DT, Time-of-Day Rate for Service at Distribution Voltage	0.0053
Rate EH, Optional Rate for Electric Space Heating	0.0053
Rate GS-FL, General Service Rate for Small Fixed Loads	0.0053
Rate SP, Seasonal Sports Service	0.0054
Rate SL, Street Lighting Service	0.0115
Rate TL, Traffic Lighting Service	0.0115
Rate UOLS, Unmetered Outdoor Lighting	0.0115
Rate OL, Outdoor Lighting Service	0.0115
Rate NSU, Street Lighting Service for Non-Standard Units	0.0115
Rate SC, Street Lighting Service – Customer Owned	0.0115
Rate SE, Street Lighting Service – Overhead Equivalent	0.0115
Rate TT, Time-of-Day Rate for Service at Transmission Voltage	0.0003
Other	0.0063

SERVICE REGULATIONS

The supplying of, and billing for, service and all conditions applying thereto are subject to the jurisdiction of the Kentucky Public Service Commission, and to Company's Service Regulations currently in effect, as filed with the Kentucky Public Service Commission as provided by law.

Issued by authority of an Order of the Kentucky Public Service Commission dated _____ in Case No. _____

Issued:

Effective:

Issued by Gregory C. Ficke, President