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RECEIVED

AUG 30 2005

PUBLIC SERVICE
COMMISSION

John J. Finnigan, Jr.
Senior Counsel

VIA HAND DELIVERY

August 30, 2005

Ms. Elizabeth O'Donnell
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, Kentucky 40602-0615

Re: Joint Application of Duke Energy Corporation, Duke Energy Holding 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

Dear Ms. O'Donnell:

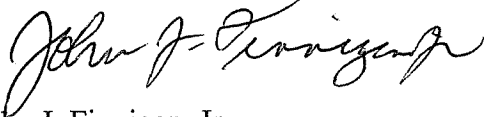
Today we are delivering to you by courier the original and eight copies of the Joint Applicants' responses to the Commission's first set of discovery requests in the above-referenced case. We are also delivering the original and eight copies of the Joint Applicants' responses to the Attorney General's first set of discovery requests.

I have enclosed the original and twelve copies of Joint Applicants' Petition for Confidential Treatment of Information. The following data requests seek confidential information: CS 1.17, and AG 1.4, 1.19 through 1.21, and 1.27 through 1.31. The Joint Applicants have filed their responses to these data requests under seal. Joint Applicants note that they are in the process of making arrangements with the other parties for them to inspect these documents immediately, subject to confidentiality agreements.

Joint Applicants were unable to provide all of the requested due diligence reports as of today's date. Joint Applicants have filed under seal all of the due diligence reports which they were able to obtain. Additionally, Joint Applicants were unable to finish redacting all of the due diligence reports. Finally, the Joint Applicants responded to AG 1.3 by stating they will supplement a portion of their response. Joint Applicants will use their best efforts to file these documents and information as quickly as possible. Joint Applicants anticipate that they may be able to supply this information as soon as tomorrow.

If you have any questions regarding either of these filings, please call me at (513) 287-3601. Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "John J. Finnigan, Jr.", written in black ink.

John J. Finnigan, Jr.
Senior Counsel

JJF/sew

cc: All Parties of Record (with enclosures)

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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AUG 30 2005

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)

JOINT APPLICANTS' PETITION OF
FOR CONFIDENTIAL TREATMENT OF INFORMATION

Pursuant to 807 KAR 5:001, Section 7, Duke Energy Corporation, Duke Energy Holding Company, Deer Acquisition Corp., Cougar Acquisition Corp., Cinergy Corp., The Cincinnati Gas & Electric Company, and The Union Light, Heat and Power Company (collectively "Joint Applicants") request the Commission to classify and protect as confidential certain information (hereinafter "Confidential Information") which Joint Applicants provided in response to the Commission Staff's first set of discovery requests and the Attorney General's first set of information requests in this proceeding. In support, the Joint Applicants state:

1. Joint Applicants are filing responses to the initial information requests of the Commission Staff and the Attorney General on August 30, 2005. These responses contain the following Confidential Information:

(a.) Commission Staff Request 1.17 – Confidential Coal Pricing

- (b.) AG Request 1.4 – Reports/Engagement Letters with Outside Advisors
- (c.) AG Request 1.19 – Due Diligence Reports
- (d.) AG Request 1.20 – Engagement Letter with Cinergy’s Financial Advisor
- (e.) AG Request 1.21 – Engagement Letter with Duke’s Financial Advisor
- (f.) AG Request 1.27 – Lazard Fairness Opinion
- (g.) AG Request 1.28 – Merrill Lynch Fairness Opinion
- (h.) AG Request 1.29 – Duke Board of Directors Minutes
- (i.) AG Request 1.30 – Cinergy Board of Directors Minutes
- (j.) AG Request 1.31 – Hart-Scott-Rodino filing

2. The Kentucky Open Records Act exempts from disclosure certain confidential commercial information. KRS 61.878(1)(c). To qualify for this exemption, a party must establish that the material is generally recognized as confidential, and that disclosure of the confidential information would permit an unfair advantage to competitors of that party. Additionally, the Kentucky Open Records Act exempts from disclosure all public records or information the disclosure of which is prohibited under federal law or regulation. KRS 61.878(1)(k).

3. The Confidential Information described above contains sensitive, confidential information, the disclosure of which could harm Joint Applicants and would provide unfair advantages for their competitors. The Confidential Information contains the terms and conditions of Joint Applicants’ coal contracts. A potential seller of coal to Joint Applicants could use this information to negotiate higher prices than the seller might otherwise be able to negotiate. This could lead to higher costs for Joint Applicants, and put them at a disadvantage with respect to other providers of power and alternative fuels.

The Confidential Information would reveal the methodologies used and the information reviewed in the due diligence and financial fairness reviews, which is not generally known to the public. The Confidential Information would reveal the prices charged by Duke's and Cinergy's advisors for due diligence and/or financial fairness reviews, which is not generally known. The Confidential Information includes Duke's and Cinergy's Board of Directors minutes, which contain sensitive discussions relating to the merger transaction, which would reveal the Joint Applicants' Board of Directors' deliberations and decision-making process, and which are highly confidential. Public disclosure of this Confidential Information could harm the parties and provide an unfair advantage to competitors. Additionally, other companies which Joint Applicants may seek to acquire could use this information to manipulate the information they supply to Joint Applicants in due diligence reviews for future merger transactions, which could lead Joint Applicants to either acquire another company which they otherwise might not have acquired, or pay a higher price than they otherwise would have paid, to the Joint Applicants' competitive disadvantage.

Additionally, the Attorney General requested the Joint Applicants' Hart-Scott-Rodino filing in AG Request 1.31. Pursuant to 15 U.S.C. Section 18a (h), the entirety of a Hart-Scott Rodino filing is considered confidential, and is exempt from disclosure under the Freedom of Information Act. As a result, the Hart-Scott Rodino filing is exempt from disclosure under the Kentucky Open Records Act, pursuant to KRS 61.878(1)(k).

4. The disclosure of the Confidential Information would harm Joint Applicants and would provide an unfair advantage to their competitors unless the Commission

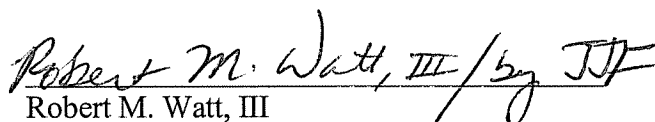
accords confidential treatment of the Confidential Information pursuant to 807 KAR 5:001, Section 7.

5. Joint Applicants have filed one set of the Confidential Information under seal, in unredacted format, except for redacting privileged and confidential attorney-client communications, and also redacting information from Board of Directors minutes unrelated to these information requests. Joint Applicants agree to make the Confidential Information available to the Attorney General's office and any other non-competitive intervenor in this case upon the execution of an appropriate confidentiality agreement by such party or parties. Finally, Joint Applicants have filed redacted versions of the non-confidential material covered by this petition, except that they have not completed redacting all of the due diligence reports. Joint Applicants will complete redacting these due diligence reports, and will provide the redacted version in a supplemental filing.

WHEREFORE, Joint Applicants respectfully request that the Commission classify and protect as confidential the Confidential Information described herein.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Joint Applicants' Petition for Confidential Treatment of Information was served on the following parties, by hand delivery, this 30th day of August, 2005.



John J. Finnigan, Jr.

Hon. Dennis G. Howard, II
Acting Director
Office of Rate Intervention
Hon. David E. Spenard
Assistant Attorney General
Office of Rate Intervention
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