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COMMISSION

Mark David Goss
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mgoss@fbtlaw.com

July 1, 2011

VIA HAND-DELIVERY

Mr. Jeff Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40601

RE: *The Joint Application of Duke Energy Corporation, Cinergy Corp., Duke Energy Ohio, Inc., Duke Energy Kentucky, Inc., Diamond Acquisition Corporation and Progress Energy, Inc. for Approval of the Indirect Transfer of Control of Duke Energy Kentucky, Inc., Case No. 2011-00124*

Dear Mr. Derouen,

Enclosed, please find for filing in the above-captioned case an original and ten copies of the following:

- Original Verification from William D. Johnson for his Supplemental Direct Testimony previously filed with the Commission on June 27, 2011. This original verification is meant to support and/or replace the photocopied verification previously filed;
- Addendum to the Stipulation and Settlement Agreement which was previously filed with the Commission on June 24, 2011;
- Joint Applicants' Responses to Commission Staff's Third Information Request.

I am providing a copy of this letter and filings to the Kentucky Attorney General's office.

Sincerely,



Mark David Goss

cc: Dennis Howard, II
Lawrence Cook

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VERIFICATION

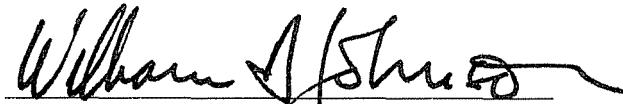
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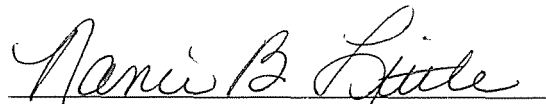
PUBLIC SERVICE
COMMISSION

State of North Carolina)
) SS:
County of Wake)

The undersigned, William D. Johnson, being duly sworn, deposes and says that he is the Chairman, President and Chief Executive Officer of Progress Energy, Inc., and that the matters set forth in the foregoing testimony are true and correct to the best of his information, knowledge and belief.


William D. Johnson, Affiant

Subscribed and sworn to before me by William D. Johnson on this 27 day of June, 2011.


NOTARY PUBLIC

My Commission expires: July 1, 2015

ADDENDUM TO STIPULATION
AND SETTLEMENT AGREEMENT

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PUBLIC SERVICE
COMMISSION

This Addendum to Stipulation and Settlement Agreement entered into and effective as of this 1st day of July, 2011 ("Addendum"), by and between JACK CONWAY, Attorney General of the Commonwealth of Kentucky, by and through his duly authorized representatives in the Office of the Attorney General's Division of Rate Intervention (the "Attorney General"), and DUKE ENERGY CORPORATION ("Duke Energy"), CENERGY CORP. ("Cinergy"), DUKE ENERGY OHIO, INC. ("Duke Energy Ohio"), DUKE ENERGY KENTUCKY, INC. ("Duke Energy Kentucky"), DIAMOND ACQUISITION CORPORATION ("Diamond") and PROGRESS ENERGY, INC. ("Progress Energy") (collectively, the "Joint Applicants"). The Attorney General and Joint Applicants are collectively referred to herein as the "Parties."

WITNESSETH:

WHEREAS, in Sections 2.01 and 3.01 of the Stipulation and Settlement Agreement entered into by the parties and filed of record with the Kentucky Public Service Commission in Case No. 2011-00124 on June 24, 2011, the Joint Applicants agreed to make annual shareholder contributions for Low Income Weatherization Support and Local Economic Development Support for the next five years with the contributions to be made by the Duke Energy Foundation; and

WHEREAS, due to the potential interpretation of Internal Revenue Service rules prohibiting self-dealing with respect to tax exempt organizations such as the Duke Energy Foundation organized and operated pursuant to §501(c)(3) of the Internal Revenue Code, and in order to avoid any potential conflict with such rules;

NOW, THEREFORE, the parties hereby desire and agree to delete any reference to the aforementioned annual contributions being made by the Duke Energy Foundation, and further desire and agree that Sections 2.01 and 3.01 of the Stipulation and Settlement Agreement shall hereafter be amended to read as follows:

“2.01 Low Income Weatherization Support. Duke Energy Kentucky currently supports low income weatherization programs within its service territory. As a supplement to this existing program, the Joint Applicants agree to make five (5) equal, annual shareholder contributions of \$115,000.00 (total of \$575,000.00) to support weatherization efforts within the service territory of Duke Energy Kentucky. The contributions shall be made to People Working Cooperatively (“PWC”) or to another entity to be mutually determined by Duke Energy Kentucky and the Attorney General. The annual contribution shall be made on or before March 31 of each year. Duke Energy Kentucky shall take reasonable steps to assure that PWC or any other entity receiving funds hereunder will administer the funds using the same guidelines and program parameters that are currently used to administer Duke Energy Kentucky’s existing low income weatherization program with the goal of maximizing the impact of the annual contributions.

....

3.01 Local Economic Development Support. Duke Energy Kentucky currently supports economic development programs within its service territory. As a supplement to its existing support, the Joint Applicants agree to make five (5) equal, annual shareholder contributions of \$50,000.00 (total of \$250,000.00) to support economic development opportunities within the service territory of Duke Energy Kentucky. The contributions will be

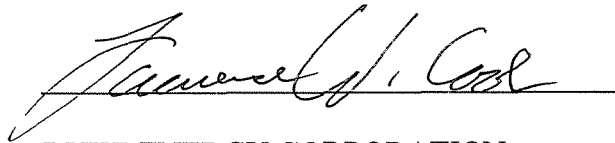
made to one or more non-profit recipients as shall be agreed upon by the Attorney General and Duke Energy Kentucky.”

The parties further desire and agree that all other sections of the Stipulation and Settlement Agreement dated June 24, 2011 not amended herein shall remain as originally written and shall continue in full force and effect.

The parties further desire and agree that this Addendum to Stipulation and Settlement Agreement may be executed in multiple counterparts.

IN WITNESS WHEREOF, the Parties have affixed their signatures hereunto.

JACK CONWAY, ATTORNEY GENERAL

BY: 

DUKE ENERGY CORPORATION

BY: _____

CINERGY CORP.

BY: _____

DUKE ENERGY OHIO, INC.

BY: _____

DUKE ENERGY KENTUCKY, INC.

BY: _____

made to one or more non-profit recipients as shall be agreed upon by the Attorney General and Duke Energy Kentucky.”

The parties further desire and agree that all other sections of the Stipulation and Settlement Agreement dated June 24, 2011 not amended herein shall remain as originally written and shall continue in full force and effect.

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IN WITNESS WHEREOF, the Parties have affixed their signatures hereunto.

JACK CONWAY, ATTORNEY GENERAL

BY: _____

DUKE ENERGY CORPORATION

BY: *Maule D. Gon*

CINERGY CORP.

BY: *Maule D. Gon*

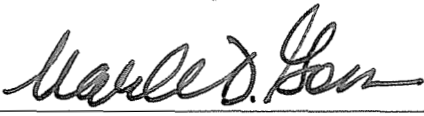
DUKE ENERGY OHIO, INC.

BY: *Maule D. Gon*

DUKE ENERGY KENTUCKY, INC.

BY: *Maule D. Gon*

DIAMOND ACQUISITION CORPORATION

BY: 

PROGRESS ENERGY, INC.

BY: 

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COMMISSION

Duke Energy Kentucky
Case No. 2011-124
Staff Third Set Data Requests
Date Received: June 28, 2011

STAFF-DR-03-001

REQUEST:

Explain in detail any legal impediments to jointly dispatching the generating units owned by the following entities:

- a. Duke Kentucky and Duke Ohio;
- b. Duke Kentucky and Duke Energy Indiana, Inc. (“Duke Indiana”);
- c. Duke Kentucky, Duke Ohio and Duke Indiana.

The explanation should identify any legal impediments by citing to the applicable statutes, regulations, rules, and judicial and administrative decisions.

RESPONSE:

The Regional Transmission Organization (RTO) already jointly dispatches all of the generating units of all of its members according to the terms of the respective RTO tariffs, thereby obtaining the same result as the question infers, but on a much larger scale. Joint Applicants note that prior to 2006 Duke Energy Ohio and Duke Energy Indiana (through their predecessor companies) were parties to a Joint Generation Dispatch Agreement (JGDA). Duke Energy Kentucky was not a party to the JGDA because it did not own its own generation prior to the creation of the JGDA. The parties terminated the JGDA effective January 1, 2006 following the advent of the MISO Day 2 market. In a March 16, 2006 order accepting the termination, FERC noted that “the JGDA became unnecessary with the advent of the Midwest Independent Transmission System Operator, Inc.’s Day 2 electric energy markets, which allowed for joint dispatch of all resources in the region, including Duke Energy Indiana and Duke Energy Ohio generation.” See Staff-DR-03-001 Attachment. Although this Order does not preclude the creation of a new JGDA as a matter of law, it recognizes that such an action is practically infeasible.

Depending upon the exact nature of the joint dispatch arrangement that is contemplated by the question, it is likely that an arrangement allowing somehow for the joint dispatching of a select number assets to the exclusion of others in the RTO would not even be possible in an RTO and may require withdrawal. In addition, even if such an arrangement is possible, the cost implications are not quantifiable at this time. It would likely create additional costs to the extent it could create inefficiency in the respective RTO's dispatching of all assets across its footprint. The arrangement very likely would require an agreement between the parties which would constitute a power purchase agreement because the requisite capacity would no longer be available for dispatch within the RTO. This would have implications for the companies' duties and obligations within their respective RTOs. At a minimum, any such power purchase agreement between Duke Energy Kentucky and either Duke Energy Indiana or Duke Energy Ohio would require prior FERC approval. 18 CFR 35.39 (b). The joint dispatch arrangement may also require the approval of the relevant state commissions.

Currently, all Duke Energy Kentucky, Duke Energy Ohio, and Duke Energy Indiana generating units are participating in the energy and operating reserves market facilitated by the Midwest ISO. As such, generating units owned by these entities are already being jointly committed and dispatched along with every generating unit in the Midwest ISO Day-Ahead and Real-Time Markets. Commitment and dispatch is security-constrained, meaning that transmission congestion and losses are considered when making decisions related to economic commitment and dispatch.

On January 1, 2012 Duke Energy Kentucky and Duke Energy Ohio generating units will begin jointly committing and dispatching with every generating unit in PJM while Duke Energy Indiana generating units will continue to be jointly committed and dispatch with generating units in the Midwest ISO. PJM will perform the same function, jointly dispatching all units in its footprint, including Duke Energy Ohio and Duke Energy Kentucky's generation resources to provide the optimum in reliability and resource mix within the entire footprint.

PERSON RESPONSIBLE: John Swez

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

To: Cinergy Services, Inc. Docket Nos. ER06-546-000
ER06-547-000
ER04-1248-002

March 16, 2006

Re: Withdrawal of Purchase, Sale and Operation Agreement and Cancellation of
Related Rate Schedules

Cinergy Services, Inc., filed to: (1) withdraw the Purchase, Sale and Operation Agreement (PSOA) between Cincinnati Gas & Electric Company (Cincinnati) and Union Light, Heat and Power Company (Union) and (2) reflect the cancellation of two related rate schedules which implemented the Joint Generation Dispatch Agreement (JGDA) between Cincinnati and PSI Energy, Inc. (PSI) since the parties agreed to terminate the JGDA effective January 1, 2006. Pursuant to authority delegated to the Director, Division of Tariffs and Market Development - Central, under 18 C.F.R. 375.307, the submittals in the above referenced dockets are accepted for filing.¹

The PSOA provided for the continued integration of Union's and Cincinnati's generating plants with PSI's generating plants in light of the transfer of three of Cincinnati's generating plants to Union, including the terms and conditions pursuant to which the plants transferred to Union would continue to be dispatched as Cincinnati resources. The PSOA tracked the terms of the JGDA under which Cinergy Corp., the parent company of Cincinnati and PSI, dispatches the Cincinnati and PSI generation fleets (including Union's plants). Although the Commission accepted the PSOA,² the PSOA never went into effect, *i.e.*, no transactions occurred under the PSOA. In addition, the JGDA became unnecessary with the advent of the Midwest Independent Transmission System Operator, Inc.'s Day 2 electric energy markets, which allowed for joint dispatch of all resources in the region, including PSI and Cincinnati generation. Therefore, withdrawal of the PSOA and termination of the JGDA and the corresponding rate schedules is appropriate, and the proceeding in Docket No. ER04-1248-002 is hereby

¹ We note that the correct designations are First Revised Sheet No. 1 under Original Rate Schedule FERC No. 57 and First Revised Sheet No. 1 under Original Rate Schedule FERC No. 269. Order No. 614 specifies that a revised sheet no. 1 be filed when canceling a rate schedule. *Designation of Electric Rate Schedule Sheets*, Order No. 614, 65 Fed. Reg. 18,221 (March 31, 2000) FERC Stats. and Regs. ¶ 31,096 at 31,511 and 31,513.

² *Union Light, Heat and Power Co.*, 110 FERC ¶ 61,212 (2005); *Union Light, Heat and Power Co.*, 111 FERC ¶ 61,341 (2005).

20060316-3002 Issued by FERC OSEC 03/16/2006 in Docket#: ER06-546-000

Docket No. ER06-546-000, *et al.*

2

terminated.

Under 18 C.F.R. 385.210, interventions are timely if made within the time prescribed by the Secretary. Under 18 C.F.R. 385.214, the filing of a timely motion to intervene makes the movant a party to the proceeding, if no answer in opposition is filed within fifteen days. The filing of a timely notice of intervention makes a State Commission a party to the proceeding. No motion to intervene was received.

This action does not constitute approval of any service, rate, charge, classification, or any rule, regulation, contract, or practice affecting such rate or service provided for in the filed documents; nor shall such action be deemed as recognition of any claimed contractual right or obligation affecting or relating to such service or rate; and such action is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against any of the applicant(s).

This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. 385.713.

Sincerely,

Michael C. McLaughlin, Director
Division of Tariffs and Market
Development – Central

**Duke Energy Kentucky
Case No. 2011-124
Staff Third Set Data Requests
Date Received: June 28, 2011**

STAFF-DR-03-002

REQUEST:

Explain in detail any impediments, other than those of a legal nature identified in response to Item 1. Above, to jointly dispatching the generating units owned by the following entities:

- a. Duke Kentucky and Duke Ohio;
- b. Duke Kentucky and Duke Indiana;
- c. Duke Kentucky, Duke Ohio and Duke Indiana.

RESPONSE:

The current joint dispatch arrangements within the RTOs and under the respective tariffs allow for a more efficient dispatch of generation than any trilateral or bilateral joint dispatch agreement that the Midwest operating companies could enter into. The generating units owned by these entities are already being jointly committed and dispatched along with every generating unit in the Midwest ISO Day-Ahead and Real-Time Markets. The same is true in PJM. Thus, there are no impediments as, in effect, these units are already being jointly committed and dispatched through the participation in the Midwest ISO markets. Joint dispatching of Duke Energy Kentucky and Duke Energy Ohio's generating units will continue through the eventual participation in PJM markets.

PERSON RESPONSIBLE: John Swez

**Duke Energy Kentucky
Case No. 2011-124
Staff Third Set Data Requests
Date Received: June 28, 2011**

STAFF-DR-03-003

REQUEST:

Explain in detail whether Duke Kentucky's and Duke Indiana's membership in different Regional Transmission Organizations creates an impediment to jointly dispatching their respective generating units.

RESPONSE:

On January 1, 2012 Duke Energy Kentucky and Duke Energy Ohio generating units will begin jointly committing and dispatching with generating units in PJM while Duke Energy Indiana generating units will continue to be jointly committed and dispatched with generating units in the Midwest ISO. With participation in two different RTO markets, the respective generating units of Duke Energy Kentucky, Duke Energy Ohio (PJM) and Duke Energy Indiana (Midwest ISO) cannot be jointly committed and dispatched in the same market. Such an arrangement, at a minimum, would require membership of the companies in both RTOs which would impose additional costs associated with dual RTO membership.

PERSON RESPONSIBLE: John Swez

**Duke Energy Kentucky
Case No. 2011-124
Staff Third Set Data Requests
Date Received: June 28, 2011**

STAFF-DR-03-004

REQUEST:

Explain in detail whether Duke Ohio's ownership of the transmission assets physically located in Kentucky and needed by Duke Kentucky to serve its retail customers is an impediment to jointly dispatching the generating units owned by Duke Kentucky and Duke Indiana.

RESPONSE:

The only transmission facilities greater than 69 kV owned by Duke Energy Kentucky consist of the eighteen "high side" 138 kV Connections. Other than the "high side" connections, Duke Energy Ohio owns the transmission delivery facilities located in Kentucky necessary to serve Duke Energy Kentucky's customers. The fact that Duke Energy Kentucky doesn't own these transmission assets does not serve as an impediment to any joint commitment and dispatch in either Midwest ISO or PJM's respective footprints. The generating units are committed and dispatched in the respective RTO, along with all other resources in the footprint, in the exact same manner regardless of whether or not Duke Energy Kentucky owned these transmission assets. The decision to add additional transmission facilities or expand existing transmission facilities by any utility would, however, have small effects on the commitment and dispatch of Duke Energy Kentucky's generating units thru changes in congestion and losses. Since both congestion and losses effect the locational marginal price (LMP) for each generating unit, changes to a units LMP could have an effect on the commitment and dispatch of a generating unit.

PERSON RESPONSIBLE: John Swez

**Duke Energy Kentucky
Case No. 2011-124
Staff Third Set Data Requests
Date Received: June 28, 2011**

STAFF-DR-03-005

REQUEST:

Explain in detail any discussions that have taken place over the past five years related to Duke Ohio selling its transmission assets physically located in Kentucky to Duke Kentucky.

RESPONSE:

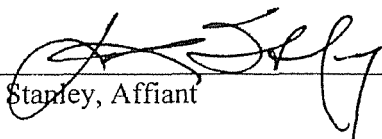
No discussions concerning the sale of Duke Energy Ohio transmission assets to Duke Energy Kentucky have taken place in the last five years.

PERSON RESPONSIBLE: Jim Stanley

VERIFICATION

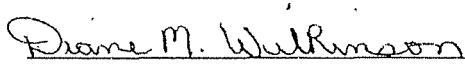
State of North Carolina)
)
County of Mecklenburg) SS:

The undersigned, Jim Stanley, being duly sworn, deposes and says that he is the Senior Vice President of Power Delivery, that he has supervised the preparation of the responses to the foregoing information requests; and that the matters set forth in the foregoing responses to information requests are true and accurate to the best of his knowledge, information and belief, after reasonable inquiry.



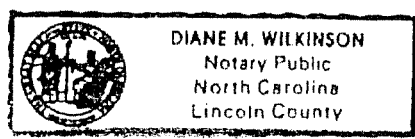
Jim Stanley, Affiant

Subscribed and sworn to before me by Jim Stanley on this 29th day of June 2011.



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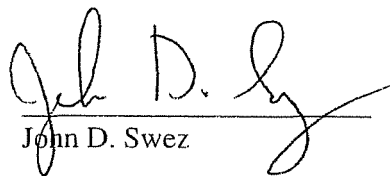
My Commission Expires:



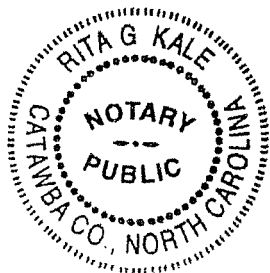
VERIFICATION


STATE OF NORTH CAROLINA)
) SS:
COUNTY OF MECKLENBERG)

The undersigned, John D. Swez, being duly sworn, deposes and says that he is employed by the Duke Energy Corporation affiliated companies as Director, Generation Dispatch and Operations for Duke Energy Business Services, LLC; that on behalf of Duke Energy Kentucky, Inc., he has supervised the preparation of the responses to the foregoing information requests; and that the matters set forth in the foregoing response to information requests are true and accurate to the best of his knowledge, information and belief after reasonable inquiry.


John D. Swez

Subscribed and sworn to before me by John D. Swez on this 29 day of June 2011.




NOTARY PUBLIC

My Commission Expires: 6/17/12