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December 7, 2006

Ms Renee Jenkins
Director Docketing Division
180 East Broad Street, 13th Floor
Columbus, Ohio 43215-3793

Re: Case No. 03-93-EL-ATA.

Dear Ms Jenkins:

On November 22, 2006, the Ohio Supreme Court issued its opinion in the Ohio Consumers' Counsel's appeal of the above referenced proceeding. The Court remanded to the Commission with an order that the Commission should "compel disclosure" of certain side agreements through the discovery process in Case No. 03-93-EL-ATA.

On November 29, 2006, the Attorney Examiner issued an Entry relative to the Court's remand order and Directed that Duke Energy Ohio, formerly known as The Cincinnati Gas & Electric Company (CG&E), "disclose to OCC the information requested with regard to side agreements."

The only discovery request made in the proceeding regarding side agreements was made by OCC in its request for production of documents, seventh set dated May 18, 2004, and on the record at hearing. Specifically, OCC's request states "[p]lease provide copies of all agreements between CG&E and a party to these consolidated cases (and all agreements between CG&E and an entity that was at any time a party to these consolidated cases) that were entered into on or after January 26, 2004."

In response to the Court's order and this Commission's entry, Duke Energy Ohio hereby notifies the Commission and the parties that there is

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only one agreement—between CG&E and the City of Cincinnati—that is responsive to the OCC's specific document request. Duke Energy Ohio will provide a copy of this agreement to OCC and all parties to Case No. 03-93-EL-ATA.

Although Duke Energy Ohio is aware that certain of its affiliates, none of whom are parties to Case No. 03-93-EL-ATA *et. al.*, entered into agreements with certain customers, or prospective customers, those agreements are confidential business transactions with counter parties who—for the most part—were not parties to these proceedings, and who are not regulated by the Commission. Duke Energy Ohio views any such agreements as outside of the scope of this proceeding and specifically outside the scope of the OCC's document request. Thus, disclosure of Duke Energy Ohio's agreement with the City of Cincinnati represents full compliance with the Court's remand and the Commission's entry of November 29.

Very truly yours,

A handwritten signature in black ink, appearing to read "P.A. Colbert", written in a cursive style.

Paul A. Colbert