

Large Filing Separator Sheet

Case Number: 08-920-EL-SSO
08-921-EL-AAM
08-922-EL-UNC
08-923-EL-ATA

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Section: 2

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Description of Document: Application Volume II of II

1 Certified Suppliers will not be permitted to physically terminate electric
2 service for nonpayment of Certified Supplier charges.

3 CG&E will not perform any collection activities on behalf of
4 Certified Suppliers. If an end-use customer is delinquent on non-
5 regulated charges, CG&E will not disconnect service to that end-use
6 customer. If CG&E disconnects regulated utility service to an end-use
7 customer, CG&E will notify the end-use customer's Certified Supplier
8 within five business days of processing the disconnect order when the
9 final bill is generated. If CG&E processes a reconnect order within the
10 five-day period, CG&E will not notify the Certified Supplier.

11 **(e) Other Services**

12 Under the Electric Restructuring Bill, Certified Suppliers and other
13 third parties will not be permitted to own meters or provide meter
14 reading services unless these services are declared competitive in a
15 separate proceeding from the Transition Plan proceeding. CG&E will
16 provide metering services as described below.

17 The American National Standards Institute (ANSI) publishes
18 metering standards such as C12 and C57.13 that provide accurate,
19 reliable, and safe metering practices. These standards include
20 specifications for the physical construction, wiring, environmental
21 requirements, mounting, voltage, frequency, test currents, form
22 designations, construction, calibration adjustments, nameplates, sealing
23 and terminal connections for watt-hour meters and instrument

1 transformers. CG&E will follow these ANSI standards. CG&E metering
2 specifications will supplement the ANSI standards with unique
3 operational requirements and functional specifications.

4 CG&E will own, furnish, install, program, calibrate, test and
5 maintain all meters used for retail billing and settlement purposes in
6 CG&E's service areas.

7 For end-use customers who select a Certified Supplier and have a
8 maximum annual peak demand greater than or equal to 100kW or have
9 an interruptible contract with a Certified Supplier, interval meters will be
10 required at the end-use customer's expense. A Certified Supplier or an
11 end-use customer may also request that interval meters be installed for
12 end-use customers who do not meet the 100kW requirement, at the end-
13 use customer's expense. For such requests, the Certified Supplier, on
14 behalf of the end-use customer, should contact its assigned CG&E
15 Account Manager.

16 The end-use customer or Certified Supplier will be responsible for
17 providing communication links to the interval meters pursuant to
18 CG&E's specifications. CG&E must be allowed access to communication
19 links for meter interrogation.

20 The Certified Supplier will be responsible for the incremental cost
21 of the interval meters, plus all incremental costs associated with the
22 installation of required or requested interval metering. If the end-use
23 customer requests interval metering, however, then the end-use

1 customer shall be responsible for all incremental costs. These charges
2 are set forth in CG&E's Certified Supplier Tariff.

3 If CG&E cannot gain access to the meter installation, the
4 communication links are not installed or are not working properly, CG&E
5 may charge the Certified Supplier or the end-use customer for any
6 additional trips to the meter site required due to these conditions.

7 Interval metering installation requests will normally be processed
8 according to the date received. Meter workload is prioritized to address
9 safety, new meter sets, maintenance, and operational efficiency.
10 Additionally, the timing of a meter change out can be affected by:

- 11 • Meter and meter material availability
- 12 • Volume of new business and Certified Suppliers' change out
13 requests
- 14 • Volume of requests in a particular geographic area
- 15 • Weather constraints
- 16 • Installation site constraints
- 17 • Lack of communication links per CG&E specifications

18 CG&E will continue to read all meters in its service area in
19 accordance with the regularly scheduled billing cycles and off-schedule if
20 CG&E deems a read necessary. Effective dates for switching will coincide
21 only with regularly scheduled meter read dates.

1 CG&E will estimate the usage, if metered data is lost due to failure
2 of or damage to the metering equipment. Reads may also be estimated
3 due to conditions such as inaccessibility or inclement weather.

4 CG&E will provide special meter reads as requested by the
5 Certified Suppliers. CG&E will charge a fee for this service provided to
6 the Certified Supplier. These charges are set forth in the Certified
7 Supplier Tariff.

8 Residential end-use customers may continue to read their CG&E
9 meters and forward the meter read information to CG&E by telephone,
10 mail, fax, or Internet. End-use customer meter reads are subject to
11 CG&E's current billing validation process.

12 When an end-use customer has an interval meter, the meter will
13 be read remotely using CG&E's data collection system. CG&E will
14 validate and translate the data, then transfer it to Certified Suppliers, the
15 settlement process and CG&E's billing system, as required.

16 Standard kilowatt-hour meters and kilowatt-hour demand meters
17 will be read, validated and the information passed to CG&E's billing
18 system. CG&E's billing system will transfer data to the settlement
19 process and Certified Suppliers, as required.

20 **(f) Other Requirements**

21 ***(1) Percentage of Income Payment Plan (PIPP) Transition***

22 Those end-use customers who are currently on the Percentage
23 Income Payment Plan (PIPP) will have their bills calculated in the same

1 manner as currently calculated, with the exception of how the PIPP
2 arrears are treated. All current PIPP arrears will be transferred to the
3 Ohio Director of the Department of Development (ODOD) for collection.
4 CG&E will relinquish its responsibility to collect these arrears after they
5 have been transferred.

6 CG&E will collect a Universal Service Rider, which will replace the
7 current PIPP rider, from all end-use customers beginning no later than
8 July 1, 2000.

9 ***(2) Bidding Process for Competitive Retail Electric Service***

10 CG&E's Operational Support Plan does not currently contain any
11 provision for a bidding process for competitive retail electric service,
12 however, a plan for this bidding process will be submitted prior to the
13 completion of the market development period

14 ***(3) Complaint/Dispute Resolution Procedure***

15 Any disputes arising between an end-use customer and a Certified
16 Supplier that cannot be resolved between the end-use customer and the
17 Certified Supplier may be directed to the Public Interest Center of PUCO
18 by any of the parties involved.

19 ***(4) Information Technology (IT) Impacts***

20 CG&E has engaged Ernst & Young to assist in evaluating CG&E's
21 information technology requirements due to Customer Choice. These
22 information technology requirements are classified into four initiatives to
23 align with business process groups:

- 1 • End-use Customer: information systems addressing the end-
2 use customers' direct needs
- 3 • Certified Supplier: information systems addressing the
4 Certified Suppliers' direct needs
- 5 • Retail Supply & Operations: information systems enabling
6 key operational aspects that also overlap end-use customers'
7 and Certified Suppliers' needs
- 8 • Common: information systems, infrastructure, and
9 processes common to all information technology Customer
10 Choice processes

11 **END-USE CUSTOMER INITIATIVE**

12 The end-use customer initiative will have the most significant
13 information technology impacts. The following requirements relate to
14 end-use customer needs.

15 The billing system will be modified to, among other things:

- 16 • Enroll end-use customers with Certified Suppliers;
- 17 • Accept Certified Suppliers' rates for electric commodity
18 usage;
- 19 • Produce unbundled bills to all end-use customers in CG&E's
20 territory;
- 21 • Receive and process Certified Suppliers' requests for end-use
22 customer history; and

- Provide Call Center agents with the appropriate information to answer end-use customer's questions concerning Customer Choice. In addition, changes will be made to the telecommunications infrastructure to manage increased call volumes.

CERTIFIED SUPPLIER INITIATIVE

The following is a list of systems required for information tracking related to Certified Suppliers.

- A Certified Supplier setup, credit, and billing system will be built to track information specific to Certified Suppliers and TSAs and the Certified Supplier to TSA relationship. This system will be able to enroll and subscribe Certified Suppliers and TSAs to CG&E product and service offerings, track credit exposure, and bill Certified Suppliers.
- A Certified Supplier/Customer Enrollment system will be built to process requests from Certified Suppliers to enroll customers.
- An electronic exchange capability will be built allowing Certified Suppliers to send and receive DASRs, to receive end-use customer history and meter information, and to send/receive other required information.

RETAIL SUPPLY & OPERATIONS INITIATIVE

The following is a list of requirements for information systems to enable key operational aspects related to Customer Choice.

- A Settlement and Transmission Billing system will be built to settle and bill for all transmission, ancillary services, and other business services.
- Load forecasting, load profiling and aggregation systems will be built to provide the following capabilities:
 - Produce control area load forecasts, multiple observation points, multi-area forecasts and customer class templates for use in load profiling/load aggregation and settlement.
 - Profile monthly consumption reads into hourly reads using pre-determined templates, apply losses and aggregate hourly usage to the Certified Supplier/TSA level.
- Changes to existing scheduling systems, OASIS, and other operations systems will be made to provide the following:
 - Track increased number of schedules.
 - Record AS/TSA schedules for load within the control area.

- 1 • Automate posting and reservations through OASIS and
2 allow query and response to transmission customer
3 requests.

4 **COMMON INITIATIVE**

5 A common infrastructure will be developed to enable data
6 exchange between systems. This will include servers, networking and
7 appropriate middleware software to facilitate information exchange.

OSP Appendix I, Electronic Project Management Program

OSP Appendix II, Public Utilities Commission of Ohio Financial Certification of Certified Suppliers

I. Financial Qualifications:

- A) The applicant shall execute and maintain a bond issued by a surety company authorized to transact business in the State of Ohio in favor of the People of the State of Ohio in the amount of \$250,000. The bond shall be conditioned upon the full and faithful performance of all duties and obligations of the applicant as a Certified Supplier. The cost of the bond shall be paid by the applicant. The applicant shall provide a copy of this bond as part of its application for certification.
- B) An applicant shall be deemed to possess sufficient financial capabilities to serve retail customers if in addition to meeting the requirement described in section (A), the applicant meets one of the three following criteria:

- 1) The applicant maintains at least two of the following ratings:

Rating Agency or Its Successor	Commercial Paper	Long-Term Bond
Standard & Poor's	A-2 or Higher	BBB- or Higher
Moody's Investors Service	P-2 or Higher	Baa3 or Higher
Duff & Phelps	D-2 or Higher	BBB- or Higher
Fitch IBCA	F-2 or Higher	BBB- or Higher

The applicant shall provide with its application to the Public Utility Commission of Ohio a copy of the ratings reports that present these ratings.

- 2) The obligations of the applicant to the applicable Ohio utility will be unconditionally guaranteed by an affiliate of the applicant that maintains at least two of the following ratings:

Rating Agency or Its Successor	Commercial Paper	Long-Term Bond
Standard & Poor's	A-2 or Higher	BBB- or Higher
Moody's Investors Service	P-2 or Higher	Baa3 or Higher
Duff & Phelps	D-2 or Higher	BBB- or Higher
Fitch IBCA	F-2 or Higher	BBB- or Higher

The guaranty format will be provided to the applicant by the applicable Ohio utility and shall be executed at such time the applicant applies to participate in that Ohio utility's program. The guaranty amount shall be an amount at least equal to a good faith estimate of 120 days of customer usage in the summer season as estimated by the applicable Ohio utility, which is subject to adjustment in the applicable Ohio utility's sole and exclusive judgment. The applicant shall provide a copy of the following with their application to the Public Utility Commission:

- a) The ratings reports that present the ratings of the affiliate; and
 - b) Evidence that the affiliate has the ability and is authorized to issue a guaranty for the applicant.
- 3) The applicant may deliver an irrevocable letter of credit issued by a financial institution with a long-term obligation rating of A- or higher as rated by two out of the four rating agencies previously mentioned in favor of each Ohio utility in whose service territory the applicant will serve retail customers. The letter of credit shall be in an amount equal to a good faith estimate of 120 days of customer usage in the summer season, as estimated by the applicable Ohio utility, which is subject to adjustment in the applicable Ohio utility's sole and exclusive judgment. The initial letter shall be valid for a period of not less than one year after the date on which the applicant begins participating in the Ohio utility's program and shall be renewed annually. The letter of credit format will be provided by the applicable Ohio utility and shall be executed at such time the applicant applies to participate in that Ohio utility's program.

The applicant shall provide a copy of the following with their application to the Public Utility Commission:

- a) The line of credit or revolving credit agreement;
- b) The Standard & Poor's, Moody's Investment Service, Duff & Phelps or Fitch IBCA ratings report that presents the debt security rating of the financial institution extending the credit.

OSP Appendix III, Public Utilities Commission of Ohio Managerial and Technical License Application

Please submit an original, two copies, and a copy on diskette formatted for WordPerfect or Microsoft Word. Please type or print:

1. Legal Name of Applicant:

Doing Business As (DBA):

2. Business Address:

3. If a corporation, association, or partnership:
(a) organized under the laws of which state: _____
(b) date of organization: _____
(c) please attach a copy of articles of incorporation, association, partnership agreement, or other document regarding legal organization
(d) please attach a copy of the by-laws
(e) license to do business in the State of Ohio, if not incorporated in Ohio
4. Name, Title and Business Address of all Officers and Directors, Partners, or other similar Officials:

5. A statement (with appropriate citation to corporate articles or by-laws or other operative documents) that acting as a Competitive Supplier or Electricity Broker is not beyond the scope of the entity:

6. A summary of any history of bankruptcy, dissolution, merger or acquisition of the entity in the two calendar years immediately preceding application:

7. Name, Title and Toll-Free Telephone Number of Customer Service Contact Person:

8. Name, Title and Telephone Number of Regulatory Contact Person:

Fax and Internet Address (Optional)

9. Name and address of Resident Agent for Service of Process:
-
-
-
10. Provide a clear and concise description of the specific services that are to be provided by the Applicant. Include the types of customers to be served and geographic area in which services are to be provided.
11. Provide brief description of the applicant's business.
-
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12. Provide documentation of the appropriate level of legal interest in the supply (i.e., power purchase contract or ownership in generation) necessary to serve the proposed load.
13. Provide documentation of technical ability to generate or otherwise obtain and deliver electricity, or provide other proposed services.
14. Provide documentation of ability to schedule power on transmission lines or contract to have power scheduled.
15. Provide evidence of Applicant's attendance at a training session sponsored by the Ohio distribution companies.
16. Provide a statement where any director, officer, or other similar official has been convicted of a felony or held liable for any antitrust violation.
17. Provide adequate documentation establishing that the signatories to this application are authorized so to act on behalf of the Applicant in filing this application (for example, in the case of a corporate applicant, a vote of the board of directors authorizing the signatories to bind the corporation).

DECLARATION

We, _____ and _____
(print name and title) (print name and title)

declare that I have personally reviewed the above statements and that they are true and correct and complete in all material respects. We further declare that the information contained in this application was prepared and compiled under our supervision and control. We further declare that we are authorized by the Applicant to file this application on its behalf. We acknowledge that we have a positive duty to ascertain the accuracy and completeness of this application and that we sign this declaration under personal pains and penalties of perjury.

Dated this _____ day of _____, _____ at _____.
(day) (month) (year) (place of execution)

Signature: _____

Title: _____

Signature: _____

Title: _____

Signed to and subscribed before me, a notary public for the State of _____ on this the _____ day of _____, _____.

Notary Public

My commission expires: _____

**OSP Appendix IV, Certified Supplier
Registration & Credit Application**

DUKE ENERGY OHIO, INC.

An applicant shall forward this completed and signed application and accompanying information to the following address:

Duke Energy Ohio, Inc.
Certified Supplier Business Center
P. O. Box 960
Mail Location: EY310
Cincinnati, OH 45201-0960

1. Applicant /Contacts

Applicant/Corporate Name: _____
Mailing Address: _____
City, State, Zip: _____
Telephone Number: _____
State of Incorporation: _____ Years in Business: _____
Federal Tax ID: _____ D&B Duns #: _____
Internet Web Site Address: _____

Primary Contact Name: _____
Title: _____
Mailing Address: _____
City, State, Zip: _____
Telephone Number: _____ Fax Number: _____
E-mail Address: _____

Credit/Financial Contact: _____
Title: _____
Mailing Address: _____
City, State, Zip: _____
Telephone Number: _____ Fax Number: _____
E-mail Address: _____

24-hour Operations Contact Telephone Number: _____
Toll Free End-Use Customer Contact Number: _____

Parent Company Name: _____
Mailing Address: _____
City, State, Zip: _____
Telephone Number: _____
State of Incorporation: _____ Years in Business: _____
Federal Tax ID: _____ D&B Duns #: _____
Internet Web Site Address: _____

2. Wiring (Bank) Information

Bank Name: _____ ABA Number: _____
Contact: _____ Account Number: _____
Address: _____ Telephone: _____
City, State, Zip: _____

3. Credit Information

Please provide three (3) most recent credit references:

Company Name: _____	Contact: _____
Telephone No.: _____	
Company Name: _____	Contact: _____
Telephone No.: _____	
Company Name: _____	Contact: _____
Telephone No.: _____	

4. Bank Reference

Bank Name: _____ Account Officer: _____
Address: _____ Account Number: _____
City, State, Zip: _____

5. Supplemental Data

Please provide the following information for you and your parent company:

- A. Two (2) most recent Annual Reports
- B. Most recent SEC Form 10-K and 10-Q; or, if SEC Form 10-K is unavailable substitute with audited annual financial information (including a balance sheet, income statement, and cash flow statement)
- C. Most recent quarterly or monthly financial information (including a balance sheet, income statement, and cash flow statement) accompanied by an attestation by Applicant's Chief Financial Officer that the information submitted is true, correct, and a fair representation of Applicant's financial condition.
- D. Long-term Bond Rating Moody's: _____ S&P: _____
Fitch: _____ Duff & Phelps: _____
- E. Parent Long-term Bond Rating Moody's: _____ S&P: _____
Fitch: _____ Duff & Phelps: _____

Please provide proof of the following:

- F. FERC Power Marketer License No./Date: _____
- G. Date Electronic Data Exchange Capabilities approved: _____
Electronic Data Exchange Testing in process or not yet started: _____
- H. Date Completed Duke Energy Ohio, Inc training for Certified Suppliers: _____
Have not yet attended a Duke Energy Ohio, Inc Supplier Training class: ☐
- I. PUCO Certification Number: _____ Expiration Date: _____
(include copy of certificate)
Certification in process – Certificate and No. to be provided: ☐
- J. Class of Customer to Serve: ☐
Residential: ☐
(check one or both)
Commercial & Industrial: ☐
- K. MISO Market Participant Registration ☐

6. Representations

- | | Applicant | | Parent | |
|---|--------------------------|--------------------------|--------------------------|--------------------------|
| Is the applicant and/or their parent: | Yes | No | Yes | No |
| A. Operating under federal bankruptcy laws? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| B. Subject to pending litigation or regulatory proceedings in state or federal courts and/or agencies which could impact the Applicant's and/or Parent's financial condition? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| C. Subject to collection lawsuits or outstanding judgments which could impact solvency? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| D. Mandatory disclosure of prior bankruptcy declarations: | | | | |

7. Alternative Credit Arrangements

If the Applicant is unable to provide Duke Energy Ohio, Inc with the above-mentioned information, the Applicant must make alternative credit arrangement, which may include:

- A. A guarantee from a creditworthy Guarantor in a format acceptable to Duke Energy Ohio, Inc for an amount covering 90 days of estimated summer usage. The guarantee must be submitted with proof of Guarantor's credit worthiness by including the documents listed in the Supplemental Credit Data section of this application; or
- B. An irrevocable Letter of Credit from a financial institution with an A- or higher rating in a format acceptable to Duke Energy Ohio, Inc covering 90 days of estimated summer usage;
- C. A cash deposit covering 90 days of estimated summer usage.

8. Estimated Peak Load

Estimated Summer Peak Load in
MWs: _____

Estimated Load Factor: _____

9. Certification, Authorization, and Signature:

Duke Energy Ohio, Inc. will treat all financial information and statements provided by Applicant in a confidential manner.

Applicant will notify Duke Energy Ohio, Inc. of any change to the information contained in the application or of any change in financial condition.

Applicant certifies that the information herein is complete and accurate to the best of Applicant's knowledge, information, and belief, and that the individual signing below is an authorized representative of the Applicant.

Applicant hereby authorizes Duke Energy Ohio, Inc. to obtain any information that may be required relative to this Application from any source, including Applicant's financial and trade references. Applicant also hereby authorizes each source to provide such information.

Legal Name of Applicant: _____

Signature of Authorized
Representative: _____

Name (please print or type): _____

Title: _____

Sworn Before: _____

Date: _____

DECLARATION

We, _____ and _____
(print name and title) (print name and title)

declare that I have personally reviewed the above statements and that they are true and correct and complete in all material respects. We further declare that the information contained in this application was prepared and compiled under our supervision and control. We further declare that we are authorized by the Applicant to file this application on its behalf. We acknowledge that we have a positive duty to ascertain the accuracy and completeness of this application and that we sign this declaration under personal pains and penalties of perjury.

Dated this _____ day of _____, _____
(day) (month) (year)

at _____
(place of execution)

Signature: _____

Title: _____

Signature: _____

Title: _____

Signed to and subscribed before me, a notary public for the State of _____ on this the _____ day of _____, _____

Notary Public

My commission expires: _____

OSP Appendix V, Certified Supplier Credit Application

**This page intentionally left blank.
See Appendix IV for combined
Certified Supplier Registration & Credit Application.**

OSP Appendix VI, Certified Supplier Service Agreement

This CERTIFIED SUPPLIER SERVICE AGREEMENT (Agreement) dated as of _____, 200____, is between and among Duke Energy Business Services Inc. on behalf of Duke Energy Ohio, Inc. ("Duke Energy Ohio"), having its principal place of business at 139 East Fourth Street, Cincinnati, Ohio 45202 and ("Certified Supplier"), having its principal place of business at _____.

Duke Energy Ohio and Certified Supplier are collectively the Parties and each individually is a Party to the Agreement.

WHEREAS, Certified Supplier intends to enter into an agreement with Duke Energy Ohio in order to participate in Duke Energy Ohio's Customer Choice Program, in order for Certified Supplier to supply electricity to its customers located within Duke Energy Ohio's service territory, subject to the terms and conditions set forth in Duke Energy Ohio's tariff P.U.C.O. Electric No. 20, as currently in effect and as may be amended from time to time (Certified Supplier Tariff); and

WHEREAS, Duke Energy Ohio intends to provide services to Certified Supplier under the terms and conditions of the Certified Supplier Tariff; and

WHEREAS, the Parties wish to establish the terms and conditions under which the Certified Supplier will participate in Duke Energy Ohio's Customer Choice Program; and

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

ARTICLE I

Definitions

For purposes of interpreting this Agreement, the terms contained herein shall have the same definitions and meanings as those contained within Duke Energy Ohio's Certified Supplier Tariff.

ARTICLE II

Term

This Agreement shall commence on the date it is signed by the Parties and, subject to Certified Supplier's compliance with the terms and conditions of this Agreement and the Certified Supplier Tariff and maintaining certification in good standing with the Commission, shall continue in effect for a primary term of twelve (12) months. This Agreement shall continue in effect month to month thereafter, subject to Certified Supplier's compliance with the terms and conditions of this Agreement and the Certified Supplier Tariff and maintaining certification in good standing with the Commission, unless terminated by either Party upon at least ninety (90) days advance written notice.

ARTICLE III

Requirements for Program Participation

Duke Energy Ohio shall have the right to establish reasonable financial and performance standards for participation in its Customer Choice Program, provided that it does so on a non-discriminatory basis. Certified Supplier agrees, at all times, to comply with Section VI, Credit Requirements, contained in the Certified Supplier Tariff.

If Certified Supplier's participation in Duke Energy Ohio's Customer Choice Program terminates for any reason, Certified Supplier shall maintain any and all financial security instruments that Certified Supplier was required to provide pursuant to Section VI, Credit Requirements, contained in the Certified Supplier Tariff, until such time as both Parties have fully satisfied and discharged all of their claims against each other and obtained a written release from each other of their mutual obligations.

Certified Supplier agrees to fully comply at all times with the terms and conditions of this Agreement and the Certified Supplier Tariff and to maintain certification in good standing with the Commission.

ARTICLE IV

Full Requirements Service

Certified Supplier agrees to supply the full service electrical requirements for its customers in Duke Energy Ohio's Customer Choice Program as required under the Certified Supplier Tariff. In doing so, it is also the responsibility of the Certified Supplier to comply with the requirements of the Midwest ISO's Transmission and Energy Markets Tariff.

ARTICLE V

Transmission Scheduling Agent (TSA)

Certified Supplier shall be entitled to schedule its own power for delivery to End-use Customer if Certified Supplier is an eligible transmission customer and Market Participant under the terms of the MISO TEMT. In all other cases, Certified Supplier shall retain the services of an eligible transmission customer under the MISO TEMT. Whether the Certified Supplier performs scheduling for itself or uses the services of an eligible transmission customer, the Certified Supplier shall be required to complete a Transmission Scheduling Agent Designation Agreement.

The Parties agree that the TSA shall be the sole point of contact for The Midwest ISO and for Duke Energy Ohio on all matters relating to services performed under the MISO TEMT.

Certified Supplier agrees that all actions or inactions of the TSA relating to services performed under the Certified Supplier Tariff and MISO TEMT to serve Certified Supplier's End-use Customers in Duke Energy Ohio's Customer Choice Program shall be imputed to Certified Supplier.

ARTICLE VI

Back-up Generation Service

If the Certified Supplier/TSA relationship is terminated and a new TSA has not begun to perform services under the MISO TEMT for Certified Supplier within the time limits specified in the Certified Supplier Tariff, Duke Energy Ohio agrees to supply and Certified Supplier agrees to take Back-up Generation Service under the terms and conditions of Rate BUG in the Certified Supplier Tariff.

ARTICLE VII

Credit

Duke Energy Ohio reserves the right to review Certified Supplier's credit worthiness at any time. Duke Energy Ohio may require Certified Supplier to post new or additional collateral at any time in order to enhance, restore or maintain Duke Energy Ohio's credit protection due to events including but not limited to market movement in the wholesale cost of power, degradation of a Certified Supplier's credit rating, impairment of a Certified Supplier's ability to pay its obligations, or failure to schedule adequate power to serve the Certified Supplier's End-use Customers. Certified Supplier shall satisfy Duke Energy Ohio's request for adequate security or adequate assurance of payment within three (3) business days of Duke Energy Ohio's request.

ARTICLE VIII

Supply Co-Management

The Parties acknowledge their responsibility to cooperate with each other to assure that Certified Supplier's End-use Customers receive reliable electric energy service. The Parties further agree to cooperate with each other whenever it becomes necessary to switch any of Certified Supplier's End-use Customers to Duke Energy Ohio's standard service offer.

ARTICLE IX

Retail Energy Imbalance Service

The TSA must take service under the MISO TEMT, as a Market Participant, listing the switched load they represent, in Duke Energy Ohio, as an asset. Real time Load Balancing will be a function of the Midwest Market, and will be managed through Market Settlements with the MISO. When registering the aforementioned switched load as a market asset, the TSA will designate Duke Energy Shared Services as their meter Data Management Agent.

ARTICLE X

Billing Services and Obligations

Certified Supplier shall select one of the following billing options for each End-use Customer prior to initiating service to the End-use Customer: (1) separate billing by Duke Energy Ohio and the Certified

Supplier; and (2) Consolidated and Rate Ready Billing by Duke Energy Ohio. Duke Energy Ohio will provide billing services to Certified Supplier in accordance with Section X, Billing Services and Obligations of the Certified Supplier Tariff and will use its best efforts to provide the additional billing services described in the stipulation of settlement in Case No. 99-1658-EL-ETP by the target dates set forth therein.

ARTICLE XI

Payment

Duke Energy Ohio shall submit monthly invoices to Certified Supplier for services rendered under this Agreement and the Certified Supplier Tariff. The invoices shall include charges for services rendered during the preceding month, unpaid charges for services rendered from prior months and late payment charges. Certified Supplier shall pay the invoice within ten (10) days of receipt. Payment shall be made in immediately available funds payable to Duke Energy Ohio or via electronic funds transfer. Duke Energy Ohio shall add a late payment charge of one and one-half (1½%) per month to any past due charges.

If Certified Supplier defaults and is terminated from Duke Energy Ohio's Customer Choice Program and Duke Energy Ohio is performing consolidated billing of Certified Supplier's End-use Customers, Duke Energy Ohio reserves the right to retain (as setoff) payments collected on behalf of the Certified Supplier against Duke Energy Ohio's charges to the Certified Supplier.

ARTICLE XII

Default, Suspension, Cancellation and Termination, Remedies

A Certified Supplier is in default of its obligations under Duke Energy Ohio's Customer Choice Program if any of the following occur, as set forth in Section 20.1(A) of Duke Energy Ohio's Certified Supplier Tariff:

- a) Notice is received that the Certified Supplier/TSA relationship is terminated and either (1) the Certified Supplier fails to designate a new TSA within five (5) business days or (2) the new entity acting as TSA fails to begin scheduling power within ten (10) business days of such new designation;
- b) the Certified Supplier fails to fully pay an invoice from Duke Energy Ohio for services rendered under this Agreement within three (3) business days following the due date of the invoice;

- c) the Certified Supplier's credit exposure exceeds the unsecured credit limit or Duke Energy Ohio's current collateral enhancement requirement by 5% or more and the Certified Supplier has failed to comply with Duke Energy Ohio's request for adequate security or adequate assurance of payment within three (3) business days of Duke Energy Ohio's request;
- d) the Commission has de-certified the Certified Supplier or otherwise declared it ineligible to participate in the Ohio Customer Choice Program or Duke Energy Ohio's Customer Choice Program;
- e) the Certified Supplier's action or inaction has or will jeopardize the operational integrity, safety or reliability of Duke Energy Ohio's transmission or distribution system;
- f) the Certified Supplier voluntarily withdraws from Duke Energy Ohio's Customer Choice Program without providing at least ninety (90) calendar days notice to Duke Energy Ohio;
- g) the Certified Supplier has filed a voluntary petition in bankruptcy, has had an involuntary petition in bankruptcy filed against it, is insolvent, has had a receiver, liquidator or trustee appointed to take charge of its affairs, or the Certified Supplier's liabilities exceeds its assets, or the Certified Supplier is otherwise unable to pay its debts as they become due.

In the event of default pursuant to this Agreement, Duke Energy Ohio shall have the discretion to temporarily suspend or completely terminate this Agreement, in addition to all other remedies available to Duke Energy Ohio. Suspension or termination shall be pursuant to the terms and conditions of Section XX of Duke Energy Ohio 's Certified Supplier Tariff for Default, Suspension and Termination of a Certified Supplier incorporated herein by reference.

In the event of suspension or termination of this Agreement, the Certified Supplier's End-use Customers shall be returned to Duke Energy Ohio's Standard Offer Rate effective on each End-use Customer's next Meter Read Date after the date of termination and shall be subject to any applicable minimum stay requirement, unless the End-use Customer selects another Certified Supplier or rate offered by Duke Energy Ohio as an alternative to the minimum stay.

Duke Energy Ohio shall notify the Certified Supplier, Commission, and Staff in writing in reasonable detail and with a proposed remedy ten

(10) business days in advance of any suspension or termination pursuant to Section 20.1 of the Certified Supplier Tariff, except for a suspension or termination due to non-delivery of power. The notice shall state the reason why Duke Energy Ohio seeks to suspend or terminate the Certified Supplier and propose a remedy to the default. Duke Energy Ohio shall send the notice to the address and fax number provided by the Certified Supplier in its Certified Supplier Service Agreement. Certified Supplier shall be entitled to file a complaint with the Commission regarding any suspension or termination.

Simultaneously or at any time after the written notice of Duke Energy Ohio 's intent to terminate or suspend this Agreement pursuant to Section 20.1 of Duke Energy Ohio 's Certified Supplier Tariff, Duke Energy Ohio shall file a written request with the Commission for authorization to suspend or terminate this Agreement. If the Commission does not act within ten (10) business days upon receipt of the request, the termination or suspension shall be effective on the eleventh (11th) business day after the date of the notice.

Duke Energy Ohio shall notify the Certified Supplier, Commission, and Staff in writing in reasonable detail and with a proposed remedy five (5) business days in advance of any suspension or termination for non-delivery of power pursuant to Section XX of the Certified Supplier Tariff. The notice shall state the reason why Duke Energy Ohio seeks to suspend or terminate the Certified Supplier and propose a remedy to the default. Duke Energy Ohio shall send the notice to the address and fax number provided by the Certified Supplier in its Certified Supplier Service Agreement. Certified Supplier shall be entitled to file a complaint with the Commission regarding any suspension or termination.

Simultaneously, or at any time after the written notice of Duke Energy Ohio 's intent to terminate or suspend this Agreement for non-delivery of power pursuant to Section XX of Duke Energy Ohio 's Certified Supplier Tariff, Duke Energy Ohio shall file a written request with the Commission for authorization suspend or terminate this Agreement. If the Commission does not act within five (5) business days upon receipt of the request, the termination or suspension shall be effective on the sixth (6th) business day after the date of the notice.

If Duke Energy Ohio files a written request with the Commission for authorization to suspend or terminate this Agreement and the Commission takes action, the suspension or termination shall be effective on the date of any Commission Order that authorizes Duke Energy Ohio to suspend or terminate the Agreement.

Suspension or termination of a Certified Supplier to this Agreement for any reason shall not relieve the Company or the Certified Supplier from performing any other obligations under the Certified Supplier Tariff or this Agreement.

Duke Energy Ohio shall also be entitled to suspend or cancel this Agreement if the Commission or any court with authority over Duke Energy Ohio issues any order that either delays the start-up, suspends or terminates Duke Energy Ohio's Customer Choice Program or the Certified Supplier.

Upon cancellation of this Agreement, all amounts due under the Certified Supplier Tariff and this Agreement shall be immediately due and payable. The liquidated damages, termination rights, cancellation rights and payments due under the Certified Supplier Tariff and this Agreement for non-performance shall be Duke Energy Ohio's and Certified Supplier's sole and exclusive remedies for such non-performance. In no event shall either Party be liable for special, incidental, exemplary, punitive, indirect or consequential damages, including but not limited to loss of profit or revenue, cost of capital, cost of substitute products or services, downtime, costs or claims for damages by third parties against Duke Energy Ohio or Certified Supplier. This applies regardless of the legal theory upon which the claims are based, whether the legal theory is breach of contract, breach of warranty, tort (including negligence and strict liability) or any other theory of liability.

ARTICLE XIII

Force Majeure

Neither Party shall be liable in damages to the other, except for the actual delivered costs, plus losses, of replacement supplies, for any act, omission, or circumstance occasioned by or in consequence of any Acts of God, strikes, lockouts, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquake, fires, storms, floods, washouts, civil disturbances, explosions, breakage, or accident to machinery or transmission and distribution systems, the binding order of any court or governmental authority which has been resisted in good faith by all reasonable legal means, and any other cause, whether of the kind herein enumerated or otherwise, not reasonably within the control of the Party claiming suspension and which by the exercise of due diligence such Party is unable to prevent or overcome. Failure to prevent or settle any strike or strikes shall not be considered to be a matter within the control of the Party claiming suspension.

Such causes or contingencies affecting the performance hereunder by either Party hereto, however, shall not relieve it of liability in the event of its concurring negligence or in the event of its failure to use due diligence to remedy the situation and to remove the cause in an adequate manner and with all reasonable dispatch, nor shall such causes or contingencies affecting such performance relieve Certified Supplier from its obligations to make payments of amounts due under the Certified Supplier Tariff or this Agreement.

Failure to purchase power supplies or transmission service for economic reasons shall not be considered force majeure.

ARTICLE XIV

Title to Power

Certified Supplier warrants that it will have good and clear title to all power delivered to Duke Energy Ohio hereunder, and that such power will be free and clear of all liens, encumbrances, and claims whatsoever, and that Certified Supplier will indemnify Duke Energy Ohio, and save it harmless from all suits, actions, debt, accounts, damages, costs, losses and expenses arising from or out of a breach of such warranty.

ARTICLE XV

Limitation of Third Party Rights

This Agreement is entered into solely for the benefit of Duke Energy Ohio and Certified Supplier and is not intended and should not be deemed to vest any rights, privileges or interests of any kind or nature to any third party, including, but not limited to Certified Supplier's End-use Customers.

ARTICLE XVI

Amendment

This Agreement may be amended only by a written agreement signed by the Parties, except that any amendment or revision to the Certified Supplier Tariff shall be automatically incorporated herein, as of the effective date of the amendment or revision to the Certified Supplier Tariff.

ARTICLE XVII

Succession and Assignment

This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the respective Parties hereto. Neither Party may assign this Agreement, however, in whole or in part, without the prior written approval of the non-assigning Party. Written consent to assignment shall not be unreasonably withheld.

ARTICLE XVIII

Applicable Law and Regulations

This Agreement shall be construed under the laws of the State of Ohio and shall be subject to all valid applicable State, Federal and local laws, rules, orders and regulations. Nothing herein shall be construed as divesting or attempting to divest any regulatory body of any of its rights, jurisdiction, powers or authority conferred by law.

ARTICLE XIX

Entire Agreement

This Agreement constitutes the entire agreement between the Parties and all prior discussions and documents exchanged between the Parties concerning the subject matter of this Agreement are merged and incorporated into this Agreement.

ARTICLE XX

Notices and Correspondence

All notices and correspondence provided for under this Agreement, the EDI Trading Partner Agreement, and the TSA Designation Agreement shall be sent to the following:

To the Certified Supplier:

Attn: _____

Title: _____

Telephone: _____

Facsimile: _____

Internet email: _____

To Duke Energy Ohio:

Certified Supplier Business Center

P. O. Box 960

Mail Location: EY310

Cincinnati, OH 45201-0960

Telephone: 513-287-2322

Facsimile: 513-287-2718

Internet e-mail: csbc@duke-energy.com

Either Party may change its address for receiving notices effective upon receipt, by written notice to the other Party.

IN WITNESS WHEREOF, the undersigned Parties have caused this Agreement to be executed in their names by their respective duly authorized officials, as of the _____ day of _____, 200__.

Duke Energy Ohio

By: _____

For the Certified Supplier

By: _____

OSP Appendix VII, EDI Trading Partner Agreement

THIS ELECTRONIC DATA INTERCHANGE ("EDI") TRADING PARTNER AGREEMENT (the "Agreement") is made as of _____, 200__, by and between Duke Energy Ohio, Inc (Duke Energy Ohio), an Ohio corporation and a utility providing delivery services with offices at 139 East Fourth Street, Cincinnati, Ohio, and _____, a _____ corporation and a Certified Supplier of competitive retail electric service (Certified Supplier), with offices at _____, (Duke Energy Ohio and Certified Supplier individually a "Party," and collectively, "Parties").

Recitals

WHEREAS, Duke Energy Ohio and Certified Supplier desire to facilitate the exchange of business electronic transactions by electronically transmitting and receiving data in agreed upon formats and to ensure that such electronic transactions are legally valid, binding and enforceable.

Agreement

NOW THEREFORE, in consideration of mutual promises and covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties, intending to be legally bound hereby, hereto agree as follows:

1. Prerequisites
 - 1.1 Electronic transactions. Each Party may electronically transmit to or receive from the other Party those electronic transactions, which have been approved by the State of Ohio Operational Support Planning Ohio-Electronic Data Exchange (OSPO-EDE) Working Group. The Parties may conduct other electronic transactions, after submission to and approval via the OSPO-EDE Change Control process.
 - 1.2 Scope of the Agreement. This Agreement shall govern and apply only to electronic transactions transmitted from either Party to the other Party in connection with Duke Energy Ohio's Customer Choice Program
 - 1.3 Third-Party Service Providers.
 - 1.3.1 Electronic transactions will be transmitted electronically to each Party either directly or through any third party service provider ("Provider") with which either Party may contract on its own behalf. Either Party may modify its election to use, not use or change its Provider upon 30 days prior written notice.
 - 1.3.2 Each Party shall be responsible for the costs and performance of any Provider with which it contracts. If the Certified Supplier uses a Value Added Network (VAN) different from the VAN used by Duke Energy Ohio, the Certified Supplier shall be responsible for paying all costs arising from the use of a different VAN,

including the costs of communications and transactions between the two different VANs.

- 1.3.3 Each Party shall be liable for the acts or omissions of its Provider while transmitting, receiving, storing or handling documents, or performing related activities, for such Party.
- 1.4 System Operations. Each Party, at its own expense, shall be responsible for and/or provide and maintain the equipment, software, services and testing necessary to effectively and reliably transmit and receive electronic transactions.
- 1.5 Security Procedures. Each Party shall properly use those security procedures which are reasonably sufficient to ensure that all transmissions of an electronic transaction are authorized and to protect its business records and data from improper access.
- 1.6 Freedom from Computer Viruses. Each Party shall use reasonable efforts to ensure that electronic transactions are free of, but not limited to, the following: computer viruses or other computer software code or routine designed to disable, damage, impair or electronically repossess or erase programs or data files which can cause damage to a Party's computer systems and/or operations. Either Party will promptly notify the other if such destructive logic is detected in and/or transmitted from any computer system involving electronic transactions.
- 1.7 Back-up Data. Each Party agrees to maintain adequate back-up files to recreate transmissions as required. Back-up files shall be subject to this Agreement to the same extent as original data. Electronic transactions shall be retained for such periods as required by relevant state and federal requirements.
- 1.8 Testing.
 - 1.8.1 Duke Energy Ohio will only accept electronic transactions in the prescribed format established by the OSPO-EDE Working Group. Electronic transactions will not be authorized by either Party until subjected to reasonable testing to ensure compliance with testing requirements and until each Party is satisfied with the results of such testing.
 - 1.8.2 Following acceptance by each Party for production use, additional testing may be required by a Party in response to a change in the system environments including, but not limited to: installation of a new application system, installation of a new EDI translator, or implementation of a new EDI version.
- 1.9 Change in Electronic Transactions. After the Parties have completed testing, neither Party may make any changes to its electronic transactions without submission to the OSPO-EDE Change Control Coordinator and approval by the OSPO-EDE Working Group. Upon approval, additional testing will be required, and implementation of the change will commence only upon Duke Energy Ohio's approval of the testing results.

2. Transmissions.

- 2.1 Proper Receipt. Electronic transactions shall not be deemed to have been properly received, and no electronic transactions shall give rise to any obligation, until received by the receiving Party and verification confirmed by such Party in accordance with Section 2.2 of this Agreement.
- 2.2 Verification. Upon receipt of any electronic transaction or any information related to the electronic transaction, the receiving Party shall properly transmit a functional acknowledgement ("FA") in return, which FA shall be in standard format as prescribed by American National Standards Institute X12 standards or other agreed upon standards. A FA shall constitute conclusive evidence that an electronic transaction has been properly received but does not constitute an agreement or acceptance to such transaction or a status report. The 997 transaction was adopted by the OSPO Working Group and will be utilized as the standard FA between Duke Energy Ohio and all Trading Partners.
- 2.3 Responses. If a response to an electronic transaction is required, any such electronic transaction which has been properly received shall not give rise to any obligation unless and until the Party initially transmitting such electronic transaction has properly received in return a response transaction.
- 2.4 Garbled Transmissions. If any properly transmitted electronic transaction is received in an unintelligible or garbled form, the receiving Party shall promptly notify the originating Party (if identifiable from the received electronic transaction) in a reasonable manner. In the absence of such a notice, the originating Party's records of the contents of such electronic transaction shall control, unless the identity of the originating Party cannot be determined from the received electronic transaction. Should the originating Party not receive a Functional Acknowledgement indicating the electronic transaction was received, the originating Party shall promptly notify the intended receiving Party and re-send the transaction.

3. Transaction Terms

- 3.1 Terms and Conditions. Any electronic transaction made pursuant to this Agreement, and any related communication shall, in addition to this Agreement, also be subject to the terms and conditions included in Duke Energy Ohio's applicable rates, riders and tariffs that may be approved by the Public Utilities Commission of Ohio ("PUCO") from time to time. The Parties acknowledge that the terms and conditions set forth in Duke Energy Ohio's rates, riders and tariffs may be or may become inconsistent, or in conflict with this Agreement, but agree that any conflict or dispute that arises between the parties in connection with any such electronic transaction will be resolved as if such electronic transaction had been effected through application of the rates, riders and tariffs. Any inconsistency between this Agreement and any rates, riders and tariffs or any PUCO Orders shall be resolved by giving precedence to

applicable rates, riders and tariffs, applicable PUCO Orders and then to this Agreement.

- 3.2 Confidentiality. Electronic transactions and other communications related to electronic transactions under the Agreement shall maintain the same confidential or non-confidential status (whichever is applicable) as they would have in the form of paper records.
- 3.3 Validity; Enforceability.
 - 3.3.1 The Parties have executed this agreement and may agree to add additional transactions regarding the electronic transmission and receipt of electronic transaction information. Such additional agreements will specify the applicable terms of such transactions, regarding Duke Energy Ohio's Customer Choice program.
 - 3.3.2 The Parties agree that correspondence and documents electronically transmitted pursuant to this Agreement shall be construed to be in conformance with all requirements set forth in Duke Energy Ohio's rates, riders and tariffs.
 - 3.3.3 Any electronic transaction and any information related to the electronic transaction, properly transmitted pursuant to this Agreement, shall be considered to be a "writing" or "in writing", and to constitute an "original" when printed from electronic files or records established and maintained in the normal course of business.
 - 3.3.4 The conduct of the Parties pursuant to this Agreement, including the use of electronic transactions properly transmitted pursuant to this Agreement, shall, for all legal purposes, evidence a course of performance accepted by the Parties in furtherance of this Agreement.
 - 3.3.5 The Parties agree not to contest the validity or enforceability of electronic transactions under the provisions of any applicable law relating to whether agreements are in writing and signed by the Party to be bound thereby. Electronic transactions, if introduced as evidence on paper in any judicial, arbitration, mediation or administrative proceedings, will be admissible as between the Parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither Party shall contest the admissibility of copies of electronic transactions on the basis that such copies were not originated or maintained in documentary form.

4. Miscellaneous

- 4.1 Headings. Headings or titles of the provisions hereof are for convenience only and shall have no effect on the provisions of this Agreement.
- 4.2 Termination. This Agreement shall remain in effect until terminated by either Party with not less than thirty (30) days prior written notice, which notice shall specify the effective date of termination; provided, however, that any termination shall not affect the respective obligations or rights of the parties arising under any electronic transaction or otherwise under this Agreement prior to the effective date of termination. Any attempted termination in conflict with any of Duke Energy Ohio's rates, riders or tariffs or any Order of the PUCO shall be deemed ineffective for purposes herein.
- 4.3 Severability. Any provision of this Agreement which is determined to be invalid or unenforceable will be ineffective to the extent of such determination without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such remaining provisions.
- 4.4 Entire Agreement. This Agreement constitutes the complete agreement of the Parties relating to the matters specified in this Agreement and supersedes all prior representations or agreements, whether oral or written, with respect to such matters. This Agreement may not be amended, supplemented, changed or modified in any manner, orally or otherwise, except by an instrument in writing of concurrent or subsequent date, signed by a duly authorized representative of each Party. No oral modification or waiver of any of the provisions of this Agreement shall be binding on either Party. No obligation to enter into any electronic transaction is to be implied from the execution or delivery of this Agreement. This Agreement is for the benefit of, and shall be binding upon, the parties and their respective successors and assigns.
- 4.5 Assignment. This Agreement, or any rights or obligations hereunder, shall not be assigned by either Party without the express written approval of the other Party. Any assignment, which does not comply with the provisions of this section 4.5, shall be null and void.
- 4.6 Non-Waiver. The waiver by either Party of any breach of any term, covenant or condition contained in this Agreement shall not be deemed to be a waiver of any other breach or default of the same or any other term, covenant, condition or obligation.
- 4.7 Governing Law and Tariffs. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio and Duke Energy Ohio's rates, riders and tariffs filed with the PUCO. This Agreement shall at all times be subject to any changes or modifications by the PUCO as said PUCO may, from time to time, direct in the exercise of its jurisdiction.

- 4.8 Force Majeure. No Party shall be liable for any failure to perform its obligations in connection with any electronic transaction where such failure results from any act of God or other cause beyond such Party's reasonable control which prevents such Party from transmitting or receiving any Documents.
- 4.9 EXCLUSION OF DAMAGES. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH THE AGREEMENT, ANY ELECTRONIC TRANSACTION OR ANY DOCUMENT INCLUDING, BUT NOT LIMITED TO, ARISING FROM OR AS A RESULT OF ANY DELAY, OMISSION, OR ERROR IN THE ELECTRONIC TRANSMISSION OR RECEIPT OF ANY DOCUMENTS PURSUANT TO THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 4.10 Resolution of Disputes.
- 4.10.1 Disputes between Duke Energy Ohio and the Certified Supplier that involve the performance, breach, or alleged breach of any obligation under this Agreement may be resolved through alternative dispute resolution as provided in Duke Energy Ohio's Alternative Dispute Resolution Procedure, as contained in Duke Energy Ohio's current rates, riders and tariffs. Nothing herein shall (a) limit or restrict the jurisdiction of the PUCO or of the Federal Energy Regulatory Commission, or (b) require or permit arbitration if any such dispute or controversy is subject to such jurisdiction.
- 4.11 Notices. Unless otherwise provided herein, all notices, demands or other communications hereunder shall be in writing and shall be deemed to have been received when personally delivered, when sent by (i) courier delivery; (ii) Federal Express or similar overnight courier delivery; (iii) U.S. certified mail, return receipt requested to the address and persons specified in this Agreement. Notices or communications shall be deemed given on the date of (a) courier or overnight courier delivery; or (b) in the case of transmittal by U.S. certified mail, return receipt requested, the date the return receipt is signed or delivery is rejected. The primary contacts for all communications related to this Agreement are the same persons designated in the Certified Supplier Service Agreement. In the absence of a Certified Supplier Service Agreement, the primary contacts shall be those listed in section 4.13 of this Agreement
- 4.12 Status of Parties.
- 4.12.1 Each party shall perform its obligations under this Agreement as an independent contractor.
- 4.12.2 Unless specifically stated in this Agreement to be otherwise, the duties, obligations, and liabilities of the Parties are intended to be severable and not joint or collective. Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or to create or impose a trust

or partnership duty, obligation or liability on or with regard to either Party. Without limiting the foregoing, the Parties recognize and agree that the use of the term "Trading Partner" in this Agreement or in connection with this Agreement is merely to conform to industry usage and such use does not and shall not be construed or used to create or imply any partnership agreement or arrangement between the parties or to create or impose any partnership duty, obligation or liability on or with regard to either party. Each Party shall be liable individually and severally for its own obligations under this Agreement.

4.13 Contact Information.

EDI Contact Person: _____

Telephone Number: _____

E-mail Address: _____

Business Contact Person: _____

Telephone Number: _____

E-mail Address: _____

IN WITNESS WHEREOF, the parties have executed the agreement as of the day and year first above written. _____

Duke Energy Ohio

By: _____

Name: _____

Title: _____

Certified Supplier Name: _____

By: _____

Name: _____

Title: _____

OSP Appendix VIII, TSA Designation Agreement

TRANSMISSION SCHEDULING AGENT (TSA) DESIGNATION AGREEMENT

This TRANSMISSION SCHEDULING AGENT DESIGNATION AGREEMENT dated as of _____, 200_, is between and among Duke Energy Ohio, Inc. ("Duke Energy Ohio"), _____ (the "Certified Supplier") and _____ (the "Transmission Scheduling Agent" or "TSA"). Duke Energy Ohio, the Certified Supplier and the TSA are collectively the Parties and each individually is a Party to the Agreement.

WHEREAS, the Certified Supplier desires to designate the TSA to schedule power on its behalf into the Cinergy Balancing Authority (CIN) commencing _____ (hereinafter "effective date of service") so that the Certified Supplier can serve its end-use customers under Duke Energy Ohio's Customer Choice Program;

WHEREAS, the TSA is a Transmission Customer as defined under the applicable Transmission Tariff and desires to perform scheduling services on behalf of the Certified Supplier;

WHEREAS, the Parties wish to establish the terms and conditions under which the TSA will perform power scheduling on behalf of the Certified Supplier in Duke Energy Ohio's Customer Choice Program; and

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

1. Definitions

As used in this Agreement, the following terms have the definitions set forth below.

- 1.1 "Duke Energy Ohio's Customer Choice Program" means a program offered by Duke Energy Ohio under which end-use customers may select a Certified Supplier of competitive retail electric service.
- 1.2 "Transmission Tariff" means the Open Access Transmission Tariff on file with the FERC which sets forth the rates, terms and conditions of transmission service over transmission facilities located in the Cinergy Balancing Authority (CIN), or any successor transmission tariff for similar service.

2. Effective Date of Agreement

- 2.1 The effective date of this Agreement shall be the date it is signed by the Parties and the terms of this Agreement shall be effective as of that date.
- 2.2 The TSA shall not be eligible to perform scheduling services on behalf of the Certified Supplier until: (a) five (5) business days after the effective date of this agreement and (b) the TSA has complied with all credit requirements of Duke Energy Shared Services Inc and the applicable transmission provider.
- 2.3 The applicable provisions of this Agreement shall continue in effect after the Term of the Agreement to the extent necessary to provide for final accounting, final billing, billing adjustments, resolution of billing disputes, resolution of any court, alternative dispute resolution or administrative proceedings arising out of this Agreement and final payment.

3. Appointment of TSA

- 3.1 Certified Supplier hereby appoints TSA and TSA hereby accepts its appointment as the agent of the Certified Supplier to perform all functions as set forth in the applicable Transmission Tariff.

4. Relationship of Parties

- 4.1 The Parties agree that the TSA shall be the sole point of contact for the applicable transmission and ancillary service provider or Duke Energy Ohio on all matters relating to services performed under the applicable Transmission Tariff.
- 4.2 The Certified Supplier shall be responsible for all actions or inactions of the TSA relating to services performed under the applicable Transmission Tariff to serve the Certified Supplier's end-use customers in Duke Energy Ohio's Customer Choice Program.

5. Applicability of Certified Supplier Tariff

- 5.1 The Certified Supplier and its designated TSA agree to comply with all terms and conditions of the Certified Supplier Tariff.

6. Termination of TSA Relationship

6.1 If either the Certified Supplier or the TSA wishes to terminate the Certified Supplier/TSA designation as set forth in this Agreement, then the Party wishing to terminate the designation shall send written notice to Duke Energy Shared Services Inc., or Duke Energy Ohio of the termination of the designation and the date and hour when the TSA will no longer schedule power on behalf of the Certified Supplier.

7. Amendment

7.1 This Agreement may be amended only by a written agreement signed by the Parties.

8. Complete and Full Agreement

8.1 This Agreement constitutes the entire agreement between the Parties.

9. Assignment

9.1 No Party shall assign, pledge or transfer this Agreement without the prior written consent of all the Parties.

10. Notices

10.1 All notices to the TSA, Certified Supplier, and Duke Energy Ohio provided for under this Agreement shall be sent to the following:

To the TSA:

Attn: _____

Title: _____

Telephone: _____

Facsimile: _____

Internet E-mail: _____

To the Certified Supplier:

Attn: _____

Title: _____

Telephone: _____

Facsimile: _____

Internet E-mail: _____

To Duke Energy Ohio

Certified Supplier Business Center

Mail Location: EY310

Cincinnati, OH 45201-0960

Telephone: 513-287-2322

Facsimile: 513-287-2718

Internet E-mail: csbc@duke-energy.com

IN WITNESS WHEREOF, the undersigned Parties have caused this Agreement to be executed in their names by their respective duly _____ authorized officials, as of the day of _____, 200_.

Duke Energy Ohio, Inc.

By:

For the Certified Supplier

By:

For the Transmission Scheduling Agent

By: _____

Amended
Corporate Separation Plan

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AMENDED CORPORATE SEPARATION PLAN

1 Overview

2 Starting at January 1, 2001, The Cincinnati Gas &
3 Electric Company (CG&E) will provide only non-competitive
4 retail electric service. Such service shall consist of
5 Transmission and Distribution service. The FERC shall
6 govern and set rates for Transmission service.

7 Transmission

8 Control of CG&E's transmission assets shall reside
9 with a FERC approved transmission entity, the Midwest
10 Independent System Operator (MISO). The MISO shall
11 control CG&E's transmission assets and shall not have
12 control of any generation assets. The transmission entity
13 shall operate in the public interest by preventing any
14 transmission owner or competitive retail electric market
15 participant from gaining an unfair competitive advantage
16 within the MISO control area and by preventing the abuse of
17 market power.

18 The MISO shall operate in the public interest by
19 implementing efficient operating practices and procedures
20 that prevent pancaking, by improving transmission
21 reliability, by encouraging an open generation market,

1 eliminating barriers to entry in the generation market and by
2 eliminating market control over bottlenecked transmission.
3 The MISO shall be large in scale to increase supply options
4 for consumers and shall maintain a Board of Directors
5 independent of transmission users. The transmission entity
6 shall operate in a manner designed to satisfy the
7 requirements of its customers and shall maintain real-time
8 reliability of the transmission system that it operates.

9 **Distribution**

10 CG&E shall operate its distribution system under the
11 governance and rate authority of the Commission. CG&E
12 shall offer all customers safe and reliable distribution service
13 on a non-discriminatory basis. CG&E's unbundled tariffs
14 shall define rates for all distribution services and products.
15 CG&E shall provide new distribution facilities, or the
16 extension of distribution facilities, at incremental cost
17 pursuant to such unbundled tariffs. CG&E shall transfer all
18 non-tariffed services to non-regulated affiliates, cease
19 offering such services, or tariff such services.

20 **Competitive Retail Electric Affiliate**

21 Cinergy does not operate, and does not currently have
22 plans to operate, a competitive retail electric marketing

1 business. Therefore, CG&E has no competitive electric retail
2 marketing affiliate to favor in the market place. If Cinergy
3 should create such an affiliate, it will have legal separation
4 from CG&E as a separately incorporated legal entity and
5 shall comply with the Commission's corporate separation
6 rules. Additionally, CG&E and such an affiliate shall comply
7 with CG&E's CRES Supplier Tariff, ensuring
8 nondiscriminatory, nonpreferential treatment.

9 **Generation**

10 CG&E shall transfer all of its generation assets to an
11 affiliate Electric Wholesale Generator (EWG). Duke Energy
12 Ohio, formerly known as CG&E, shall not transfer its
13 generating assets prior to the December 31, 2008, expiration
14 of its Rate Stabilization Plan Market-Based Standard Service
15 Offer pursuant to the Public Utilities Commission of Ohio's
16 Opinion and order issued October 24, 2007, in Case No. 03-
17 93-EL-ATA, et al. The transaction shall be a non-taxable
18 event at book value. CG&E shall file an application with the
19 Federal Energy Regulatory Commission (FERC) to form the
20 EWG. The EWG will be prohibited from competing in the
21 retail electric market.

22 CG&E shall enter a Requirements Commodity Service
23 Agreement no later than January 1, 2001. CG&E has

1 attached a draft version of its Requirements Commodity
2 Service Agreement to Leigh J. Pefley's testimony as Exhibit
3 LJP-3 and will file the executed agreement following
4 Commission authorization. Such Requirements Commodity
5 Service Agreement shall, at a minimum, provide CG&E with
6 sufficient power to meet its obligation to serve through its
7 requirement to make available to its firm electric supply
8 customers a non-discriminatory standard offer as supplier of
9 last resort and default service pursuant to such standard
10 offer. CG&E shall purchase power at the frozen generation
11 rate and at the wholesale market rate.

12 **Affiliate Transactions**

13 CG&E, as a utility company held by Cinergy Corp.
14 pursuant to the Public Utilities Holding Company Act,
15 maintains its accounting of affiliate transactions in
16 accordance with Securities and Exchange Commission (SEC)
17 statutes, rules and orders. Such accounting procedures
18 govern all of CG&E's affiliate transactions including charges
19 for inter-company services, products and personnel. The
20 SEC requires adherence to such accounting procedures
21 pursuant to Public Utilities Holding Company Act Sections
22 13 and 15 attached as CG&E's Corporate Separation Plan
23 Attachments 4 and 5. CG&E shall maintain its records of

1 CG&E's SEC accounts for audit, as the Commission requires
2 pursuant to its Affiliate Code of Conduct rules.

3 CG&E's compliance with the SEC's accounting and
4 affiliate transaction mandates shall be *prima facie* evidence
5 of CG&E's compliance with Ohio Revised Code Chapter 4928
6 accounting and transaction requirements. The SEC governs
7 such affiliate transactions through Cinergy Corp.'s Service
8 Agreements recommended for approval by this Commission
9 and approved by the SEC. Such Service Agreements are
10 attached to Paul G. Smith's testimony as Exhibits PGS-1, 2,
11 3. Any competitive retail electric marketing affiliate of
12 CG&E's that may exist now or in the future and CG&E's
13 affiliate EWG shall be parties to Cinergy Corp.'s Nonutility
14 Service Agreement. Additionally, CG&E's relationship with
15 such an affiliate, should one be formed in the future, will be
16 governed by CG&E's CRES Supplier Tariff, to be approved by
17 this Commission. Furthermore, CG&E's relationship with its
18 EWG affiliate will be governed by the Requirements
19 Commodity Service Agreement, to be approved by this
20 Commission and the Federal Energy Regulatory
21 Commission.

22 The Commission Staff will have access to the books
23 and records of CG&E and its affiliates. Such access will be

1 for the purpose of auditing the dissemination of information
2 among affiliates. The audit allows the Commission to
3 confirm the lack of dissemination of information to any
4 certified supplier affiliate, from any CG&E affiliate, that may
5 give such certified supplier affiliate a competitive advantage
6 in the competitive retail electric market. CG&E will maintain
7 such information in the manner proscribed by the
8 Commission.

9 **Complaint Procedure**

10 CG&E hereby adopts the complaint procedure
11 contained in Appendix I. This complaint procedure is to be
12 used to address complaints related to compliance with
13 CG&E's Corporate Separation Plan. A copy of this complaint
14 procedure will be made available upon request to:

15 Associate General Counsel – Regulatory Section

16 Cinergy Corp

17 139 East Fourth Street

18 P. O. Box 960

19 Cincinnati, OH 45202

1 **Corporate Separation/Code of Conduct**
2 **Training**

3 The following Corporate Separation/Code of Conduct
4 Training plan has been designed to ensure that all
5 employees throughout the Cinergy Corp. holding company
6 structure know and can implement the policies and
7 procedures of OAC 4901:1-20-16 – Corporate Separation.

8 **Goal**

9 The goal of the Corporate Separation/Code of Conduct
10 Training is to ensure that those employees that may
11 currently or in the future be affected by the Commission's
12 rules thoroughly understand the policies and are provided
13 with the resources they require to follow the Corporate
14 Separation and Code of Conduct procedures.

15 The training will be provided not only to currently
16 affected employees, but, on an on-going basis, will be
17 provided to those new employees or employees who have
18 become affected through changes in job responsibilities. A
19 process to track changes in employees' job responsibilities,
20 in order to ascertain whether they require this training, will
21 be developed by the Internal Compliance Monitoring
22 Coordinator (see below).

1 ***Target Audience***

2 Generally, the Corporate Separation/Code of Conduct
3 Training will be administered to all employees within the
4 Cinergy Corp. holding company structure who will be
5 affected by compliance with the Commission's rules.
6 Specifically, these employees include:

- 7 1. Those employees having decision-making authority for
8 approving transactions between CG&E and any of its
9 affiliates;
10 2. Those employees who have access to nonpublic electric
11 utility information;
12 3. All general managers and above;
13 4. All management level accounting employees.

14 ***Curriculum***

15 The Corporate Separation/Code of Conduct Training
16 curriculum generally will consist of the following:

- 17 1. Present Overview of Corporate Separation/Code of
18 Conduct;
19 2. Explain Accounting Treatment of Affiliate
20 Transactions, including review of SEC-approved Service
21 Agreements;
22 3. Identify Restrictions on Financial Arrangements;

- 1 4. Discuss CG&E's Affiliate Code of Conduct;
- 2 5. Explain Corporate Separation Complaint Procedures;
- 3 6. Describe Cost Allocation Manual (CAM) and Associated
- 4 Procedures;
- 5 7. Explain Internal Compliance Monitoring, including
- 6 reporting of possible violations.

7 The curriculum will be customized to the target
8 audience. For example, emphasis will be placed on the Cost
9 Allocation Manual in training employees in the accounting
10 department.

11 ***Schedule***

12 The Corporate Separation/Code of Conduct Training
13 will consist of the following steps:

14 **3Q00**

- 15 1. Needs Assessment – determine the specific needs of
- 16 each of the target audience groups;
- 17 2. Refine curriculum and produce training materials;
- 18 3. Create roster of all employees in each target audience
- 19 group.

20 **4Q00**

- 21 1. Schedule training sessions for each target audience
- 22 group;

- 1 2. Conduct training sessions;
- 2 3. Conduct follow-up surveys to ensure all targeted
- 3 employees have received and thoroughly understand the
- 4 Corporate Separation and Code of Conduct rules.

5 Additionally, the training will be repeated on a
6 periodic, as-needed basis, as determined by Internal
7 Compliance Monitoring (see below) to ensure that employees
8 update and maintain their knowledge of Corporate
9 Separation and Code of Conduct issues. Finally, this training
10 curriculum will be built into Cinergy Corp.'s New Employee
11 Orientation training such that targeted new employees will
12 receive the necessary training on Corporate Separation and
13 Code of Conduct policies and procedures as well.

14 **Policy Statement**

15 Each employee who has access to any nonpublic
16 electric utility information will be required to sign the
17 Corporate Separation Policy Statement contained in
18 Appendix II. This will be administered during the training
19 sessions to ensure that all affected employees sign this
20 agreement.

1 **Internal Compliance Monitoring**

2 To ensure that CG&E's Corporate Separation Plan and
3 Affiliate Code of Conduct are properly implemented within
4 the Cinergy Corp. holding company structure, the following
5 internal compliance monitoring process will be followed:

- 6 1. CG&E will ensure that all affected employees receive
7 the Corporate Separation/Code of Conduct Training;
- 8 2. After receiving the training described above, each
9 employee will be required to sign the Policy Statement
10 contained in Appendix II;
- 11 3. CG&E will designate an Internal Compliance
12 Monitoring (ICM) coordinator to whom employees may report
13 possible violations of the Corporate Separation and Code of
14 Conduct Rules;
- 15 4. Possible violations reported to the ICM coordinator will
16 be investigated and documented. Upon completing the
17 investigation, the ICM coordinator will, if appropriate,
18 recommend to senior management a course of action,
19 including refresher training, to correct repeat violations;
- 20 5. Senior management, upon reviewing the investigative
21 report, will determine whether disciplinary action is required.

22

APPENDIX I

CG&E CORPORATE SEPARATION

COMPLAINT PROCEDURES

The following complaint procedure is to be used to address complaints related to compliance with CG&E's Corporate Separation Plan.

1. All complaints, whether written or verbal, shall be referred to Cinergy Corp.'s Associate General Counsel, Regulatory Section.

2. The Associate General Counsel or designee shall orally acknowledge the complaint within five working days of its receipt.

3. The Associate General Counsel or designee shall prepare a written statement of the complaint that shall contain the name of the complainant and a detailed factual report of the complaint, including all relevant dates, companies involved, employees involved, and the specific claim.

4. The Associate General Counsel or designee shall communicate the results of the preliminary investigation to the complainant in writing within thirty days after the

1 complaint was received, including a description of any
2 course of action that was taken.

3 5. The Associate General Counsel or designee shall keep
4 a file in the CAM, in accordance with paragraph (J) of OAC
5 4901:1-20-16, of all such complaint statements for a period
6 of not less than three years.

7 6. This complaint procedure shall not in any way limit
8 the rights of a party to file a complaint with the commission.

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APPENDIX II

CG&E CORPORATE SEPARATION

POLICY STATEMENT

I hereby acknowledge that I am aware of, have read and will adhere to all policies and procedures regarding limitation on the use of nonpublic electric utility information. I also hereby acknowledge that failure to observe these limitations will result in appropriate disciplinary action.

I have also been made aware of CG&E's Cost Allocation Manual (CAM), including the appropriate costs and expenses which must be reported to the person in charge of CG&E's CAM. I have been given the opportunity to ask questions regarding CG&E's Corporate Separation Plan, Affiliate Code of Conduct and CAM and understand the compliance program included therein, including the appropriate method in which complaints are to be handled and the appropriate persons to whom possible violations should be reported. I have attended one or more training sessions offered by CG&E with regard to the implementation and operation of CG&E's Corporate Separation Plan.

Signature

Printed Name

Date

Amended
Corporate Separation Plan

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AMENDED CORPORATE SEPARATION PLAN

1 Overview

2 Starting at January 1, 2001, The Cincinnati Gas &
3 Electric Company (CG&E) will provide only non-competitive
4 retail electric service. Such service shall consist of
5 Transmission and Distribution service. The FERC shall
6 govern and set rates for Transmission service.

7 Transmission

8 Control of CG&E's transmission assets shall reside
9 with a FERC approved transmission entity, the Midwest
10 Independent System Operator (MISO). The MISO shall
11 control CG&E's transmission assets and shall not have
12 control of any generation assets. The transmission entity
13 shall operate in the public interest by preventing any
14 transmission owner or competitive retail electric market
15 participant from gaining an unfair competitive advantage
16 within the MISO control area and by preventing the abuse of
17 market power.

18 The MISO shall operate in the public interest by
19 implementing efficient operating practices and procedures
20 that prevent pancaking, by improving transmission
21 reliability, by encouraging an open generation market,

1 eliminating barriers to entry in the generation market and by
2 eliminating market control over bottlenecked transmission.
3 The MISO shall be large in scale to increase supply options
4 for consumers and shall maintain a Board of Directors
5 independent of transmission users. The transmission entity
6 shall operate in a manner designed to satisfy the
7 requirements of its customers and shall maintain real-time
8 reliability of the transmission system that it operates.

9 **Distribution**

10 CG&E shall operate its distribution system under the
11 governance and rate authority of the Commission. CG&E
12 shall offer all customers safe and reliable distribution service
13 on a non-discriminatory basis. CG&E's unbundled tariffs
14 shall define rates for all distribution services and products.
15 CG&E shall provide new distribution facilities, or the
16 extension of distribution facilities, at incremental cost
17 pursuant to such unbundled tariffs. CG&E shall transfer all
18 non-tariffed services to non-regulated affiliates, cease
19 offering such services, or tariff such services.

20 **Competitive Retail Electric Affiliate**

21 Cinergy does not operate, and does not currently have
22 plans to operate, a competitive retail electric marketing

1 business. Therefore, CG&E has no competitive electric retail
2 marketing affiliate to favor in the market place. If Cinergy
3 should create such an affiliate, it will have legal separation
4 from CG&E as a separately incorporated legal entity and
5 shall comply with the Commission's corporate separation
6 rules. Additionally, CG&E and such an affiliate shall comply
7 with CG&E's CRES Supplier Tariff, ensuring
8 nondiscriminatory, nonpreferential treatment.

9 **Generation**

10 CG&E shall transfer all of its generation assets to an
11 affiliate Electric Wholesale Generator (EWG). Duke Energy
12 Ohio, formerly known as CG&E, shall not transfer its
13 generating assets prior to the December 31, 2008, expiration
14 of its Rate Stabilization Plan Market-Based Standard Service
15 Offer pursuant to the Public Utilities Commission of Ohio's
16 Opinion and order issued October 24, 2007, in Case No. 03-
17 93-EL-ATA, *et al.* The transaction shall be a non-taxable
18 event at book value. CG&E shall file an application with the
19 Federal Energy Regulatory Commission (FERC) to form the
20 EWG. The EWG will be prohibited from competing in the
21 retail electric market.

22 CG&E shall enter a Requirements Commodity Service
23 Agreement no later than January 1, 2001. CG&E has

1 attached a draft version of its Requirements Commodity
2 Service Agreement to Leigh J. Pefley's testimony as Exhibit
3 LJP-3 and will file the executed agreement following
4 Commission authorization. Such Requirements Commodity
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19 for inter-company services, products and personnel. The
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13 affiliate EWG shall be parties to Cinergy Corp.'s Nonutility
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23 and records of CG&E and its affiliates. Such access will be

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2 among affiliates. The audit allows the Commission to
3 confirm the lack of dissemination of information to any
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13 CG&E's Corporate Separation Plan. A copy of this complaint
14 procedure will be made available upon request to:

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16 Cinergy Corp

17 139 East Fourth Street

18 P. O. Box 960

19 Cincinnati, OH 45202

Corporate Separation/Code of Conduct Training

The following Corporate Separation/Code of Conduct Training plan has been designed to ensure that all employees throughout the Cinergy Corp. holding company structure know and can implement the policies and procedures of OAC 4901:1-20-16 – Corporate Separation.

Goal

The goal of the Corporate Separation/Code of Conduct Training is to ensure that those employees that may currently or in the future be affected by the Commission's rules thoroughly understand the policies and are provided with the resources they require to follow the Corporate Separation and Code of Conduct procedures.

The training will be provided not only to currently affected employees, but, on an on-going basis, will be provided to those new employees or employees who have become affected through changes in job responsibilities. A process to track changes in employees' job responsibilities, in order to ascertain whether they require this training, will be developed by the Internal Compliance Monitoring Coordinator (see below).

1 **Target Audience**

2 Generally, the Corporate Separation/Code of Conduct
3 Training will be administered to all employees within the
4 Cinergy Corp. holding company structure who will be
5 affected by compliance with the Commission's rules.
6 Specifically, these employees include:

- 7 1. Those employees having decision-making authority for
8 approving transactions between CG&E and any of its
9 affiliates;
10 2. Those employees who have access to nonpublic electric
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18 Conduct;
19 2. Explain Accounting Treatment of Affiliate
20 Transactions, including review of SEC-approved Service
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22 3. Identify Restrictions on Financial Arrangements;

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- 3 6. Describe Cost Allocation Manual (CAM) and Associated
- 4 Procedures;
- 5 7. Explain Internal Compliance Monitoring, including
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7 The curriculum will be customized to the target
8 audience. For example, emphasis will be placed on the Cost
9 Allocation Manual in training employees in the accounting
10 department.

11 ***Schedule***

12 The Corporate Separation/Code of Conduct Training
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- 16 each of the target audience groups;
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- 18 3. Create roster of all employees in each target audience
- 19 group.

20 **4Q00**

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- 1 2. Conduct training sessions;
- 2 3. Conduct follow-up surveys to ensure all targeted
- 3 employees have received and thoroughly understand the
- 4 Corporate Separation and Code of Conduct rules.

5 Additionally, the training will be repeated on a
6 periodic, as-needed basis, as determined by Internal
7 Compliance Monitoring (see below) to ensure that employees
8 update and maintain their knowledge of Corporate
9 Separation and Code of Conduct issues. Finally, this training
10 curriculum will be built into Cinergy Corp.'s New Employee
11 Orientation training such that targeted new employees will
12 receive the necessary training on Corporate Separation and
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16 electric utility information will be required to sign the
17 Corporate Separation Policy Statement contained in
18 Appendix II. This will be administered during the training
19 sessions to ensure that all affected employees sign this
20 agreement.

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4 the Cinergy Corp. holding company structure, the following
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- 11 3. CG&E will designate an Internal Compliance
12 Monitoring (ICM) coordinator to whom employees may report
13 possible violations of the Corporate Separation and Code of
14 Conduct Rules;
- 15 4. Possible violations reported to the ICM coordinator will
16 be investigated and documented. Upon completing the
17 investigation, the ICM coordinator will, if appropriate,
18 recommend to senior management a course of action,
19 including refresher training, to correct repeat violations;
- 20 5. Senior management, upon reviewing the investigative
21 report, will determine whether disciplinary action is required.

22

1 **APPENDIX I**

2 **CG&E CORPORATE SEPARATION**

3 **COMPLAINT PROCEDURES**

4 The following complaint procedure is to be used to
5 address complaints related to compliance with CG&E's
6 Corporate Separation Plan.

7 1. All complaints, whether written or verbal, shall be
8 referred to Cinergy Corp.'s Associate General Counsel,
9 Regulatory Section.

10 2. The Associate General Counsel or designee shall orally
11 acknowledge the complaint within five working days of its
12 receipt.

13 3. The Associate General Counsel or designee shall
14 prepare a written statement of the complaint that shall
15 contain the name of the complainant and a detailed factual
16 report of the complaint, including all relevant dates,
17 companies involved, employees involved, and the specific
18 claim.

19 4. The Associate General Counsel or designee shall
20 communicate the results of the preliminary investigation to
21 the complainant in writing within thirty days after the

1 complaint was received, including a description of any
2 course of action that was taken.

3 5. The Associate General Counsel or designee shall keep
4 a file in the CAM, in accordance with paragraph (J) of OAC
5 4901:1-20-16, of all such complaint statements for a period
6 of not less than three years.

7 6. This complaint procedure shall not in any way limit
8 the rights of a party to file a complaint with the commission.

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APPENDIX II

CG&E CORPORATE SEPARATION

POLICY STATEMENT

I hereby acknowledge that I am aware of, have read and will adhere to all policies and procedures regarding limitation on the use of nonpublic electric utility information. I also hereby acknowledge that failure to observe these limitations will result in appropriate disciplinary action.

I have also been made aware of CG&E's Cost Allocation Manual (CAM), including the appropriate costs and expenses which must be reported to the person in charge of CG&E's CAM. I have been given the opportunity to ask questions regarding CG&E's Corporate Separation Plan, Affiliate Code of Conduct and CAM and understand the compliance program included therein, including the appropriate method in which complaints are to be handled and the appropriate persons to whom possible violations should be reported. I have attended one or more training sessions offered by CG&E with regard to the implementation and operation of CG&E's Corporate Separation Plan.

Signature

Printed Name

Date

TERM SHEET FOR POWER PURCHASE AGREEMENT

Seller: Duke Energy entity which will directly or indirectly own or have contractual rights to the capacity of the Designated Units

Buyer: DE-Ohio

Base Term: January 1, 2009 through December 31, 2011

Extension Term: January 1, 2012 through December 31, 2017. After the expiration of the Extension Term, the Parties will negotiate additional extensions in good faith.

Product: Seller will supply the Buyer's full requirements for capacity, energy, and ancillary services. Seller will provide to Buyer the capacity required to meet the higher of Buyer's MISO (or successor RTO) or PUCO planning reserve capacity requirements.

Market Participant: Seller will act as Buyer's Market Participant. On behalf of Buyer, Seller will bid in Buyer's load to MISO and receive, settle, and pay Buyer's MISO bills.

Designated Units: Electric generating units shown on the attached Exhibit A, except for units that may be retired during the term.

Base Term Price: During the Base Term, the total amount paid by Buyer to Seller for the Product will be equal to the appropriate amount recovered by DEO under the Riders related to generation and transmission (the "ESP Price").

Extended Term Price: During the Extension Term, the total amount paid by Buyer to Seller for the Product will be equal to either (1) if the ESP is extended in the same or revised form at the end of the Base Term, then the ESP Price under the extended ESP, or (2) if the ESP is not extended at the end of the Base Term, then the sum of the following components:

<u>Year</u>	<u>ESP Price %</u>	<u>Market Rate Offer ("MRO") Price %</u>
2012	90	10
2013	80	20
2014	70	30
2015	60	40
2016	50	50
2017	0	100

Riders: means Riders related to generation and transmission, including but not limited to, PTC-BG, PTC-FPP, PTC-AAC, PTC-CPI, SRA-SRT, SRA-CD, and TCR in the approved ESP

Billing: billing consistent with pricing terms will be provided monthly with appropriate true-ups made on a timely basis

PUCO Audits: Seller agrees to provide cost information relevant to Riders and otherwise cooperate in PUCO audits.

Conditions Precedent: The parties' obligations under the PPA will be conditioned upon any state or federal regulatory approvals which are required.

Purpose of Term Sheet: This Term Sheet is intended to reflect the general intent of the parties and is not intended to be legally binding. The parties will prepare and execute a definitive agreement which will clarify the rights and obligations of the parties.

EXHIBIT A

DESIGNATED UNITS

<u>Unit Name</u>	<u>%</u>	Gross Nameplate Capability (Share MW)
Beckjord 1-5	100	730
Beckjord 6	37.5	163
Beckjord CT 1-4	100	212
Conesville 4	40	315
Dick's Creek 1,3,4,5	100	159
J.M. Stuart 1-4	39	873
Killen 2	33	202
Miami Fort 7, 8	64	656
Miami Fort CT 3-6	100	66
Zimmer 1	46.5	<u>663</u>
		4039

Duke Energy Ohio**Governmental Aggregation "Standby Service" Credit**

Component	Acronym	Projected Price		
		2009	2010	2011
Unavoidable Generation Charges				
System Resource Adequacy (SRA) (POLR)				
Capacity Dedication (formerly IMF)	SRA-CD	\$2.30	\$2.30	\$2.30
Market Capacity Purchases	SRA-SRT	1.10	1.40	1.70
Total		\$3.40	\$3.70	\$4.00
"Standby Service"				
Percentage of SRA-CD + SRA-SRT		5%	5%	5%
Projected "Standby Service" Credit		\$0.17	\$0.19	\$0.20

Note: Projected price stated in \$ / MWh

ADDITIONAL WORKPAPERS

FILED UNDER SEAL

WORKPAPER FOR JUDAH ROSE TESTIMONY
CONFIDENCE INTERVALS ON ROEs

CONFIDENCE INTERVALS ON ROES									
	Required ROE			Mean	Sample Size	Actual ROE			
	Mean	Standard error	High			Low	Alpha	Std Error	High
EEL Highly Regulated Utilities	12.5%	0.09	13.9%	11.0%	36	2.03	0.55%	9.8%	7.6%
Utility Companies with Large Deregulated Share					10	2.26	1.8%	21.6%	13.7%
IPP Merchant ROE	14.8%	0.32	17.0%	12.1%	5	2.78	17.7%	50.5%	-47.9%
Comp Company ROE with IPP Risk					18	2.11	1.7%	21.1%	14.1%
Comp Company ROE with Utility Risk					15	2.14	3.55%	15.6%	0.4%

REQUIRED RATE OF RETURN

	HIGH	LOW
	0.7	17
	0.3	13.9
WA		16.1
		11.8

IPP AND UTILITIES

	without calpine	with calpine
	0.7	43
	0.3	9.8
WA		33.0
		37.9

TWO SETS OF COMPARABLE COMPANIES

	ROE	STD ERROR	HIGH	LOW
	0.7	17.6	1.7	21.1
	0.3	8	3.55	15.6
WA		14.7	2.3	19.5
				10.0

DEREGULATED UTILITIES

	ROE	STD ERROR	HIGH	LOW
		17.7	1.8	21.6
				13.7

AGGREGATE

	Actual Return	Required Return	Aggregate
IPP and Utilities	37.9	16.1	27.0
Two Sets of Comparable Companies	19.5	16.1	17.8
Deregulated Utilities	21.6	16.1	18.8
AVERAGE OF ALL 3 APPROACHES	26.3		21.2