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BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of the	:	
Application of Duke Energy:	:	
Ohio to Modify its	:	Case No. 06-986-EL-UNC
Market-Based Standard	:	
Service Offer.	:	
Consolidated Duke Energy	:	Case Nos. 03-93-EL-ATA
Ohio, Inc. Rate	:	03-2079-EL-AAM
Stabilization Plan Remand	:	03-2081-EL-AAM
and Rider Adjustment	:	03-2080-EL-ATA
Cases.	:	05-724-EL-UNC
	:	05-725-EL-UNC
	:	06-1068-EL-UNC
	:	06-1069-EL-UNC
	:	06-1085-EL-UNC

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DEPOSITION

of Gregory C. Ficke, taken before me, Maria DiPaolo Jones, a Notary Public in and for the State of Ohio, at the offices of Duke Energy, 221 East Fourth Street, 25<sup>th</sup> Floor, Cincinnati, Ohio, on Tuesday, February 20, 2007, at 10:10 a.m.

- - -

ARMSTRONG & OKEY, INC.  
 185 South Fifth Street, Suite 101  
 Columbus, Ohio 43215-5201  
 (614) 224-9481 - (800) 223-9481  
 Fax - (614) 224-5724

COPY

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 Notarized  
 Date Processed 3-16-07

## 1 APPEARANCES:

2 Mr. Paul A. Colbert  
3 and Mr. Rocco O. D'Ascenzo  
4 Duke Energy Corporation  
139 East Fourth Street  
Cincinnati, Ohio 45202

5 On behalf of Duke Energy - Ohio.

6 Kravitz, Brown & Dortch, LLC  
7 By Mr. Michael D. Dortch  
145 East Rich Street  
8 Columbus, Ohio 43215

9 On behalf of Cinergy Corporation.

10 Janine L. Migden-Ostrander  
Ohio Consumers' Counsel  
11 By Mr. Jeffrey L. Small  
Assistant Consumers' Counsel  
12 Ten West Broad Street, Suite 1800  
Columbus, Ohio 43215-3485

13 On behalf of the Ohio Consumers' Counsel.

## 14 ALSO PRESENT:

15 Ms. Beth Hixon;  
16 Ms. Anita Schafer.

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Tuesday Morning Session,  
February 20, 2007.

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STIPULATIONS

It is stipulated by and between counsel for the respective parties that the deposition of Gregory C. Ficke, a witness called by the Office of Consumers' Counsel under the applicable Rules of Civil Procedure, may be reduced to writing in stenotypy by the Notary, whose notes thereafter may be transcribed out of the presence of the witness; and that proof of the official character and qualification of the Notary is waived.

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1 Tuesday Morning Session,  
2 February 20, 2007.

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4 MR. SMALL: This deposition is taken in  
5 case 03-93-EL-ATA and consolidated cases, it is also  
6 taken in 06-986-EL-UNC, an associated case but a  
7 separate case before the Public Utilities Commission  
8 of Ohio.

9 This deposition is taken pursuant to a  
10 subpoena issued February 8<sup>th</sup>, 2007, by agreement  
11 the location of the deposition was moved to Duke  
12 Energy's offices and the notice was given to all  
13 parties. I'm going to mark as Exhibit 1 the subpoena  
14 that was served on Mr. Ficke -- you don't need to  
15 look at them -- but if you would just mark that as  
16 Exhibit 1.

17 (EXHIBIT MARKED FOR IDENTIFICATION.)

18 - - -

19 GREGORY C. FICKE

20 being by me first duly sworn, as hereinafter  
21 certified, deposes and says as follows:

22 EXAMINATION

23 By Mr. Small:

24 Q. Would you please state your name and

1 spell your last name for the court reporter?

2 A. Greg Ficke, spelled F-i-c-k-e.

3 Q. As I mentioned before we just went on the  
4 record, I will be handing you during the deposition a  
5 number of documents and after we're done with it we  
6 will just put them aside and those will be the  
7 attachments to the deposition transcript.

8 A. Fine.

9 Q. I'm sure you know I'm Jeff Small. I  
10 represent the office of the Ohio Consumers' Counsel  
11 in the cases that I just read previously. I'm sure  
12 that you've been deposed and have testified many  
13 times before, so I'll have just a few reminders for  
14 this morning.

15 Please respond audibly so the court  
16 reporter can take down your responses. Let me know  
17 if you don't understand the question, we can have it  
18 reread. I may be able to rephrase the question. Let  
19 me know if you think of something that requires a  
20 revision of one of your previous answers. And let me  
21 know if you need a break.

22 I do expect this deposition to take the  
23 morning, we'll take probably take a lunch break and  
24 we'll go well into the afternoon, so let me know if

1 you need a break at any time.

2 I understand that you're a consultant for  
3 Duke Energy - Ohio; is that correct?

4 A. Yes.

5 Q. I guess I'm a little bit confused about  
6 counsel. Who is counsel for you today? I guess I'm  
7 a little bit confused on why we don't have Duke  
8 Energy counsel defending the deposition.

9 MR. DORTCH: I was going to say I guess  
10 the real question then, Jeff, is in what capacity  
11 have you subpoenaed Mr. Ficke? He is currently a  
12 consultant for Duke Energy - Ohio. Of course, he's  
13 the former president of Cincinnati Gas & Electric  
14 Company and a vice president of Cinergy Corporation.

15 MR. SMALL: Okay. Well, you of course  
16 can have whoever counsel of your choice for defending  
17 it, but at the time when we subpoenaed Mr. Ficke we  
18 didn't know what his capacity was.

19 MR. COLBERT: Just to clarify the  
20 record -- Greg, correct me if I'm wrong -- but I  
21 think you're a consultant for Duke Energy Corp.,  
22 aren't you, not just Duke Energy - Ohio? Or is it  
23 just Duke Energy - Ohio?

24 THE WITNESS: I would have to look at

1 that.

2 MR. COLBERT: Okay.

3 THE WITNESS: But, you know, in broadest  
4 terms I'm a consultant to Duke Energy, not an  
5 employee in any way, and actually am not representing  
6 Duke Energy without, you know, without their  
7 authorization.

8 Q. (By Mr. Small) All right. Please respond  
9 to my questions unless your counsel, and I understand  
10 your counsel is directly to your right, unless your  
11 counsel instructs you otherwise. Do you have any  
12 questions?

13 A. No.

14 Q. I have somewhat of your background from  
15 other materials that you've submitted. You joined  
16 the Cincinnati Gas & Electric Company in 1977; is  
17 that correct?

18 A. Correct.

19 Q. And you were General Manager -  
20 Environmental Services at one point?

21 A. At one point. Not in 1977.

22 Q. I'm not going to be making reference to  
23 particular years at this particular point.

24 Was the General Manager - Environmental

1 Services for Cincinnati Gas & Electric?

2 A. For Cincinnati Gas & Electric and also  
3 for Cinergy Corp. after the merger of Cincinnati  
4 Gas & Electric and PSI Energy.

5 Q. Okay. Who are you employed by as General  
6 Manager - Environmental Services?

7 A. Initially by Cincinnati Gas & Electric  
8 and then after the merger I was employed by Cinergy  
9 Services. The merger took place in 1994.

10 Q. Okay. And later you were Vice  
11 President - Gas Operations; is that correct?

12 A. That's correct.

13 Q. And who was your employer in that  
14 capacity?

15 A. I believe it was Cinergy Services.

16 Q. And that was after you were a general  
17 manager of Environmental Services?

18 A. Yes.

19 Q. And Vice President and Chief Information  
20 Officer - Regulated Business unit, you had that  
21 capacity as well?

22 A. Yes.

23 Q. Was that after you were Vice President of  
24 Gas Operations?



1 A. Yes.

2 Q. And who were you employed by?

3 A. I believe it was Cinergy Services.

4 Q. And following that you were the president  
5 of the Cincinnati Gas & Electric Company?

6 A. That's correct.

7 Q. And who were you employed by in that  
8 capacity?

9 A. Cinergy Services. And I might just add,  
10 at that time I was President of CG&E and also  
11 President of Union Light, Heat & Power, President of  
12 KO Transmission, and also President of Tri-State  
13 Improvement Company employed by Cinergy Services.

14 Q. And all of these corporations that you  
15 just mentioned are affiliates of or were affiliates  
16 of the Cincinnati Gas & Electric Company.

17 A. Yes.

18 Q. What position did you hold in -- we went  
19 over a number of positions. What position did you  
20 hold in 2000?

21 A. I became President of CG&E in 2001, in  
22 October of 2001, so my position prior to that was  
23 Regulated Business unit - Chief Information Officer.

24 Q. This Regulated Business unit, what

1 corporation is the Regulated Business unit part of,  
2 or was it part of?

3 A. The Regulated Business unit had pieces of  
4 a number of different operating companies in it. A  
5 good example would be the Regulated Business unit is  
6 involved with Public Service Indiana as well as  
7 Cincinnati Gas & Electric and as well as Union Light,  
8 Heat & Power. So it cuts across operating companies.

9 Q. And what position did you hold in January  
10 2003?

11 A. President of CG&E and Vice President of  
12 Cinergy Services. Or, I mean Cinergy Corp.; I'm  
13 sorry.

14 Q. When did you become Vice President of  
15 Cinergy Corp.?

16 A. I know it was when I became President of  
17 CG&E. I may have been a vice president of Cinergy  
18 Corp. prior to that, prior to the time that I was  
19 president of CG&E, but I don't know that.

20 Q. So you would have had that title October  
21 2001 or before that.

22 A. Yeah. Or before.

23 Q. Did you hold those same positions in  
24 January 2004?

1 A. Yes.

2 Q. When did you leave as President of  
3 Cincinnati Gas & Electric?

4 A. With the merger that occurred with Duke  
5 Energy which would have been May the 1<sup>st</sup> of 2006.

6 Q. And you are no longer an employee of Duke  
7 Energy - Ohio or its affiliated companies?

8 A. Correct.

9 Q. You are a consultant; is that correct?

10 A. That's correct.

11 Q. What are your duties as a consultant?  
12 What do you do as a consultant?

13 A. Basically it was pretty broadly defined.  
14 My successor in the position, Sandra Myers, has the  
15 ability to assign me on various projects or consult  
16 me for advice. There really aren't many limitations,  
17 but I basically work for her as a consultant. She  
18 has the job that I had prior to my leaving.

19 Q. Does that mean both President of CG&E and  
20 Vice President Cinergy Corp -- I'm sorry, let's take  
21 this a piece at a time. She's the president of CG&E.

22 A. Which is now called Duke Energy - Ohio.

23 Q. Duke Energy - Ohio.

24 A. And Duke Energy - Kentucky would be the

1 ULH&P equivalent.

2 Q. Does she have other positions?

3 A. I don't know.

4 Q. Were there separate tasks between your  
5 work as President of CG&E and Vice President Cinergy  
6 Services during the 2003-2004 period?

7 A. I'm not sure I understand what you mean.

8 Q. You held two titles and the question is  
9 whether there were distinct tasks or whether that's  
10 basically one job.

11 A. No, there were distinct tasks.

12 Q. What were your responsibilities as Vice  
13 President - Cinergy Services?

14 A. At that time I believe that I also had  
15 responsibility for -- the information technology  
16 organization still was a part of my responsibilities.  
17 I believe that I had responsibility for some human  
18 resource functions, some facilities management  
19 functions, they were more corporate in nature.

20 Q. And when you speak of information  
21 technology, human resources, and facility management,  
22 you're speaking of tasks that go outside the area  
23 that Cincinnati Gas & Electric dealt with, that is  
24 information technology that goes outside the confines

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(OPEN RECORD.)

MR. SMALL: Let's go back on the record.

Mr. Ficke, that concludes my questions.

Thank you very much.

THE WITNESS: Thank you.

MR. DORTCH: Mr. Ficke, I'm going to instruct you that we do not waive signature, and what that means is you'll have an opportunity to review the transcript of this deposition. You will be able to make corrections. There won't need to be any in all likelihood, but the potential is there.

(Thereupon, the deposition concluded at


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3:54 p.m.)

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1 State of Ohio :  
2 County of WARREN : SS:

3 I, Gregory C. Ficke, do hereby certify that I  
4 have read the foregoing transcript of my deposition  
5 given on Tuesday, February 20, 2007; that together  
6 with the correction page attached hereto noting  
7 changes in form or substance, if any, it is true and  
8 correct.

  
Gregory C. Ficke

9 I do hereby certify that the foregoing  
10 transcript of the deposition of Gregory C. Ficke was  
11 submitted to the witness for reading and signing;  
12 that after he had stated to the undersigned Notary  
13 Public that he had read and examined his deposition,  
14 he signed the same in my presence on the 28th day  
15 of FEB, 2007.

  
Notary Public

16 My commission expires FEB - 16, 2009.

17  
18 JULIA SCARBOROUGH  
19 Notary Public, State of Ohio  
20 My Commission Expires February 16, 2009  
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# ERRATA SHEET

Please do not write on the transcript. Any changes in form or substance you desire to make should be entered upon this sheet.

## TO THE REPORTER:

I have read the entire transcript of my deposition taken on the 20<sup>th</sup> day of February, 2007, or the same has been read to me. I request that the following changes be entered upon the record for the reasons indicated. I have signed my name to the signature page and authorize you to attach the same to the original transcript.

Page	Line	Change	Reason

Date 2/28/07      Signature Jerry C. Fuhle



FILE

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STATE OF OHIO  
PUBLIC UTILITIES COMMISSION  
180 EAST BROAD STREET  
COLUMBUS, OHIO 43266-0573

Ted Strickland  
GOVERNOR



THE PUBLIC UTILITIES COMMISSION OF OHIO  
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2007 FEB -8 PM 2:14  
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TO: Gregory C. Ficke  
6562 Neville Court  
Mason, Ohio 45040

Upon application of Counsel for the Office of the Ohio Consumers' Counsel ("OCC"), Gregory C. Ficke is hereby required to appear for and submit to oral deposition as on cross-examination on February 16, 2007 at the offices of the OCC (10 W. Broad Street, 18th Floor, Columbus, Ohio 43215) at 11:00 a.m. (or other Ohio location as agreed to by the OCC for that date and time), continuing from day to day until completed, by the OCC regarding Case Nos. 06-986-EL-UNC, 03-93-EL-ATA, 03-2079-EL-AAM, 03-2081-EL-AAM, 03-2080-EL-ATA, 06-1068-EL-UNC, 05-725-EL-UNC, 06-1069-EL-UNC, 05-724-EL-UNC, and 06-1085-EL-UNC, all cases related to Duke Energy Ohio, Inc.'s standard service offer charges. In addition, you are required at 10:00 a.m. on said day and at said place to provide to the OCC i) all documents in the possession or control of Mr. Ficke that contain agreements between any and all companies affiliated with Duke Energy Ohio, Inc. (including Duke Energy Retail Sales, "DERS," and all other Duke-affiliated companies) and any and all parties or former parties in any of the above-captioned cases, if the agreements contain provisions regarding the charges known as

RTC, FPP, RSC, AAC, IMF, SRT, and Insufficient Return Notice Fee in Duke Energy Ohio, Inc. This is to certify that the images appearing on this document are an accurate and complete reproduction of a document delivered in the regular course of business. Technician Ann Date Processed 2/8/07

DEPOSITION  
EXHIBIT  
#1  
FICKE

Ohio, Inc.'s tariffs. (By way of example only, the documents should include any agreements known as Option Agreements between DERS and parties, membership organization parties, individual members of parties' membership organizations, or former parties in the above-captioned cases); ii) all documents in the possession or control of Mr. Ficke containing correspondence related to the agreements referenced in above paragraph (i) involving customers of Duke Energy Ohio, Inc. (or their representatives, including representatives of membership organizations to which the customers belong) and representatives of a Duke-affiliated company; and iii) all documents in the possession or control of Mr. Ficke pertaining to the aforementioned agreements. The period of time covered by the aforementioned materials should begin on December 15, 2003 and continue to the date of the examination.

Dated at Columbus, Ohio, this 8th day of February, 2007.

BY: Scott Finken

TITLE: Attorney Examiner