

FEDERAL ENERGY REGULATORY COMMISSION
Office of Market Oversight and Investigations
Washington, D.C. 20426

January 31, 2005

No Action Letter
Docket No. NL06-1-000
Cinergy Services, Inc., The Cincinatti Gas & Electric Company
PSI Energy, Inc., and Union Light, Heat and Power Company

Mary Margaret Farren, Esq.
Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Avenue, N.W.
Washington, D.C. 20005

Dear Ms. Farren:

This letter is in response to your December 14, 2005 filing on behalf of Cinergy Services, Inc., The Cincinnati Gas & Electric Company (CG&E), PSI Energy, Inc. and the Union Light Heat and Power Company (ULH&P) collectively¹ pursuant to section 388.104(a) of the Commission's regulations² regarding the consistency of proposed operations and practices with Cinergy's Codes of Conduct arising from CG&E's transfer of all or part of its interest in three Kentucky generation plants to its affiliate ULH&P.³

Specifically, Cinergy asks Commission staff not to recommend an enforcement action with regard to: sharing of employees between CG&E and ULH&P at Miami Fort Generation Unit 6 after CG&E transfers that unit to ULH&P; purchasing certain non-power goods and services for both itself and ULH&P to service Miami Fort Generation Unit 6 and East Bend Generation Station following CG&E's transfer of its interest in those facilities to ULH&P;⁴ and not simultaneously making available to the public the price of the jointly purchased non-power goods and services.

The Codes of Conduct provisions applicable to CG&E and ULH&P that are relevant to Cinergy's request are the independent functioning requirement, the information sharing prohibitions and the requirements for the sales of non-power goods

¹ For convenience, this letter refers collectively to these entities as Cinergy.

² 18 C.F.R. § 388.104(a) (2005).

³ Cinergy revised its initial letter in response to staff requests for clarification. The attached letter is the final revised version of Cinergy's request.

⁴ Dayton Power & Light Company, a non-affiliate, retains a 31% interest in the East Bend Generation Station.

and services to affiliates.⁵

Based upon the facts and representations made in Cinergy's December 14, 2005 letter, as subsequently revised, staff will not recommend an enforcement action against Cinergy regarding: (1) the sharing of employees between CG&E and ULH&P at Miami Fort Generation Unit 6; (2) CG&E's joint purchases of certain non-power goods and services for both itself and ULH&P to service Miami Fort Generation Unit 6 and East Bend Generation Station, and (3) not simultaneously making available to the public the price of the jointly purchased non-power goods and services for CG&E and ULH&P to supply the Miami Fort Unit 6 and East Bend Generation Station.

Staff's position is based on the facts presented and the representations Cinergy has made, and any different facts, including any change in the job duties and responsibilities of the shared employees at Miami Fort Unit 6, might require a different response. Furthermore, this response only expresses the staff's position on enforcement action and does not express any legal conclusions on the questions presented. This response is not binding on the Commission and Cinergy may seek a declaratory order if it desires greater certainty on these issues.

Sincerely,



Cynthia Marlette
Principal Deputy General Counsel
Office of General Counsel



Susan J. Court
Director
Office of Market Oversight and
Investigations

⁵ The Cincinnati Gas and Electric Company FERC Electric Tariff, Original Volume No. 1, Original Sheet No. 11, Effective January 1, 2006. The Union, Light, Heat and Power Company, FERC Electric Tariff, Original Volume No. 1, Original Sheet No. 5, Effective January 1, 2006.