

2. If the Adviser recommends that the Board approve an Affiliated Protection Arrangement, the Adviser must provide the Board with an explanation of the basis for its recommendation and a summary of the material terms of any bids that were rejected.

3. The Fund's Board, including a majority of Independent Trustees, must approve the acceptance of a bid involving an Affiliated Protection Arrangement, as well as the general terms of the proposed Protection Agreement. In evaluating the final bids and the recommendations from the Adviser, the Board will consider, among other things: (i) The fee rate to be charged by a potential Protection Provider; (ii) the structure and potential limitations of the proposed Principal Protection arrangement and any legal, regulatory or tax implications of such arrangement; (iii) the credit rating (if any) and financial condition of the potential Protection Provider (and, if applicable, its parent guarantor), including any ratings assigned by any NRSRO; and (iv) the experience of the potential Protection Provider in providing Principal Protection, including in particular to registered investment companies. If the Affiliated Protection Arrangement approved by the Board does not reflect the lowest fee submitted in a proposal to provide the Principal Protection, the Board will reflect in its minutes the reasons why the higher cost option was selected.

4. Upon the conclusion of the Adviser's negotiations of the Affiliated Protection Arrangement, including the Protection Agreement, the Fund's Board, including a majority of Independent Trustees, must approve the final Protection Agreement and determine that the terms of the final Affiliated Protection Arrangement, as so finalized, are not materially different from the terms of the accepted bid. The Board, including a majority of its Independent Trustees, will also determine that entering into the Affiliated Protection Arrangement is in the best interests of the Fund and its shareholders and meets the standards specified in section 17(b) of the Act. The Board will reflect these findings and their basis in its minutes.

5. If an AIG Affiliate is chosen as the Protection Provider or Hedging Counterparty, it will not charge a higher fee for its Protection Agreement or Hedging Transaction than it would charge for similar agreements or transactions for unaffiliated parties that are similarly situated to the Fund. Any AIG Affiliate acting as Hedging Counterparty will not be directly compensated by the Fund and the Fund

will not be a party to any Hedging Transaction.

6. In the event the Fund enters into an Affiliated Protection Arrangement, the Board will establish a Committee, a majority of whose members will be Independent Trustees, to represent the Fund in any negotiations relating to a Protection Event. If a Protection Event occurs under the Protection Agreement or if the Adviser decides to attempt to cure the circumstances leading to a Protection Event pursuant to the terms of the Protection Agreement, the Adviser will notify the Committee as soon as practicable, and, absent special circumstances, before a decision is reached by the Protection Provider and the Adviser as to how to effect any cure. All Protection Events will be brought to the attention of the full Board at the next regularly scheduled Board meeting.

7. The Adviser will present a report to the Board, at least quarterly, comparing the actual asset allocation of the Fund's portfolio with the allocation required under the Protection Agreement, describing any Protection Events, and summarizing any negotiations that were the subject of the previous condition.

8. At the conclusion of the Protection Period, the Adviser of a Fund will report to the Fund's Board any Shortfall Amount potentially covered under an Affiliated Protection Arrangement (including, for this purpose, the amount of any required Adviser Payment). The Board, including a majority of Independent Trustees, will evaluate the Shortfall Amount and will determine the amount of the Approved Shortfall Amount under the Protection Agreement to be submitted to the Protection Provider. The Fund will not settle any claim under the Protection Agreement for less than the full Approved Shortfall Amount determined by the Board without obtaining a further exemptive order from the Commission.

9. Prior to a Fund's reliance on the order, the Fund's Board will satisfy the fund governance standards as defined in rule 0-1(a)(7) under the Act, except that the Independent Trustees must be represented by independent legal counsel within the meaning of rule 0-1 under the Act.

10. The Adviser, under the supervision of the Board, will maintain sufficient records to verify compliance with the conditions of the order. Such records will include, without limitation: (i) An explanation of the basis upon which the Adviser selected prospective bidders; (ii) a list of all bidders to whom a bid invitation letter was sent and copies of the bid invitation letters and accompanying materials; (iii) copies of

all initial and final bids received, including the winning bid; (iv) records of the negotiations with bidders between their initial and final bids; (v) the materials provided to the Board in connection with the Adviser's recommendation regarding the Protection Agreement; (vi) the final price and terms of the Protection Agreement with an explanation of the reason the arrangement is considered an Affiliated Protection Arrangement; and (vii) records of any negotiations with the Protection Providers related to the occurrence of a Protection Event and the satisfaction of any obligations under a Protection Agreement. All such records will be maintained for a period ending not less than six years after the conclusion of the Protection Period, the first two years in an easily accessible place, and will be available for inspection by the staff of the Commission.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E5-310 Filed 1-26-05; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of January 31, 2005:

A Closed Meeting will be held on Thursday, February 3, 2005, at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (9)(B), and (10) and 17 CFR 200.402(a)(3), (5), (6), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Campos, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the Closed Meeting scheduled for Thursday, February 3, 2005, will be:

Formal orders of investigations;  
Institution and settlement of  
injunctive actions; and

Institution and settlement of  
administrative proceedings of an  
enforcement nature.

At times, changes in Commission  
priorities require alterations in the  
scheduling of meeting items. For further  
information and to ascertain what, if  
any, matters have been added, deleted  
or postponed, please contact: The Office  
of the Secretary at (202) 942-7070.

Dated: January 25, 2005.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 05-1579 Filed 1-25-05; 11:46 am]

**BILLING CODE 8010-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 35-27940]**

### **Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")**

January 21, 2005.

Notice is hereby given that the  
following filing(s) has/have been made  
with the Commission pursuant to  
provisions of the Act and rules  
promulgated under the Act. All  
interested persons are referred to the  
application(s) and/or declaration(s) for  
complete statements of the proposed  
transaction(s) summarized below. The  
application(s) and/or declaration(s) and  
any amendment(s) is/are available for  
public inspection through the  
Commission's Branch of Public  
Reference.

Interested persons wishing to  
comment or request a hearing on the  
application(s) and/or declaration(s)  
should submit their views in writing by  
February 15, 2005, to the Secretary,  
Securities and Exchange Commission,  
Washington, DC 20549-0609, and serve  
a copy on the relevant applicant(s) and/  
or declarant(s) at the address(es)  
specified below. Proof of service (by  
affidavit or, in the case of an attorney at  
law, by certificate) should be filed with  
the request. Any request for hearing  
should identify specifically the issues of  
facts or law that are disputed. A person  
who so requests will be notified of any  
hearing, if ordered, and will receive a  
copy of any notice or order issued in the  
matter. After February 15, 2005, the  
application(s) and/or declaration(s), as  
filed or as amended, may be granted  
and/or permitted to become effective.

### **Cinergy Corporation (70-10254)**

Cinergy Corp., a registered holding  
company ("Cinergy"), and its subsidiary  
The Cincinnati Gas & Electric Company,  
an exempt public utility holding  
company ("CG&E"; and together with  
Cinergy, "Declarants"), both at 139 East  
Fourth Street, Cincinnati, OH 45202,  
have jointly filed a declaration  
("Declaration") pursuant to Sections  
12(b), 12(d) and 12(f) of the Act and  
rules 43, 44, 45 and 54 under the Act.

CG&E proposes to transfer to its  
subsidiary, The Union Light, Heat and  
Power Company ("ULH&P"), CG&E's  
ownership interest in three electric  
generating facilities, including certain  
realty and other improvements,  
equipment, assets, properties, facilities  
and rights (collectively, the "Plants")  
(the "Transfer").

#### *I. Background*

Cinergy, through CG&E, ULH&P and  
PSI Energy, Inc. ("PSI"), provides retail  
electric and natural gas service to  
customers in southwestern Ohio,  
northern Kentucky and most of Indiana.  
In addition, Cinergy has numerous non-  
utility subsidiaries. As of June 30, 2004,  
Cinergy reported consolidated total  
assets of approximately \$14.0 billion  
and consolidated total operating  
revenues of approximately \$2.3 billion.  
Cinergy directly holds all the  
outstanding common stock of CG&E.

CG&E is a combination electric and  
gas public utility holding company  
formed under Ohio law. CG&E claims an  
exemption from the provisions of the  
Act under Section 3(a)(2) pursuant to  
rule 2. CG&E is engaged in the  
production, transmission, distribution  
and sale of electric energy and the sale  
and transportation of natural gas in the  
southwestern portion of Ohio and,  
through ULH&P, northern Kentucky.  
The area served with electricity, gas, or  
both is approximately 3,200 square  
miles, has an estimated population of  
two million people, and includes the  
cities of Cincinnati and Middletown in  
Ohio and Covington and Newport in  
Kentucky.

The Public Utilities Commission of  
Ohio ("PUCO") regulates CG&E's retail  
sales of electricity and natural gas.  
CG&E's wholesale power sales and  
transmission services are regulated by  
the Federal Energy Regulatory  
Commission ("FERC") under the  
Federal Power Act. CG&E currently  
provides ULH&P full requirements  
electric service under a long-term power  
sales agreement, FERC Rate Schedule  
No. 56. As of June 30, 2004, CG&E  
reported consolidated total operating  
revenues of approximately \$1.3 billion

and consolidated total assets of  
approximately \$5.9 billion.

ULH&P, formed under Kentucky law,  
is a direct wholly-owned subsidiary of  
CG&E. ULH&P is engaged in the  
transmission, distribution, and sale of  
electric energy and the sale and  
transportation of natural gas in northern  
Kentucky. The area it serves with  
electricity and gas covers approximately  
500 square miles, has an estimated  
population of 330,000 people, and  
includes the cities of Covington and  
Newport, Kentucky. ULH&P owns no  
electric generating facilities. It  
historically has relied on CG&E for its  
full requirements of electric supply to  
serve its retail customers. ULH&P's  
retail sales of electricity and of natural  
gas are regulated by the Kentucky Public  
Service Commission ("KPSC"). ULH&P  
has no wholesale customers. As of June  
30, 2004, ULH&P reported total  
operating revenues of approximately  
\$187 million and total assets of  
approximately \$444 million.

The KPSC has issued an order  
approving the acquisitions by ULH&P.  
Declarants state that, pursuant to Ohio's  
electric customer choice legislation  
which went into effect in January 2001,  
PUCO has no approval authority over  
the sale of the Plants by CG&E or  
otherwise with respect to the Transfer.

#### *II. Proposed Transfer*

The three electric generating stations  
that are the subject of the Transfer are:  
East Bend Generating Station ("East  
Bend"); the Miami Fort Unit 6 ("Miami  
Fort 6"); and Woodsdale Generating  
Station ("Woodsdale").

East Bend is a 648 MW coal-fired base  
load station located in Rabbit Hash,  
Kentucky. East Bend is jointly owned by  
CG&E (69 percent) and The Dayton  
Power & Light Company ("DP&L") (31  
percent). CG&E proposes to transfer its  
entire ownership share (447 MW  
nameplate rating). At June 30, 2004, the  
net book value of CG&E's ownership  
interest in East Bend was approximately  
\$200 million (including construction-  
work-in-progress ("CWIP") costs of  
approximately \$4.6 million).

Miami Fort 6 is a 168 MW coal-fired  
intermediate load generating unit  
located in North Bend, Ohio. Miami  
Fort 6 is wholly-owned by CG&E, but is  
part of the larger Miami Fort Generating  
Station, which is jointly owned by  
CG&E and DP&L. At June 30, 2004,  
Miami Fort 6 had a net book value of  
approximately \$21 million (including  
CWIP of approximately \$4.6 million).

Woodsdale is a 490 MW dual-fuel  
combustion-turbine peaking station that  
operates on either natural gas or  
propane and is located in Trenton,