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ALBERT E. LANE
RES: 7200 FAIR OAKS DRIVE CINCINNATI, OHIO, 45237
(513) 631-6601— E-MAIL: AELMICTEN@AOL.COM

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PUCO

THE PUBLIC UTILITIES COMMISSION OP OHIO
ATTENTION DOCKETING DIVISION, MS. RENEE JENKINS
80 EAST BROAD STREET
13TH FLOOR
COLUMBUS, OffIO 43215-3793

DEAR COMMISSIONER SCHRIBER AND FELLOW COMMISSIONERS:
BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO
In the Matter of the Application of Duke Energy
Ohio, Inc. for an Increase in Electric Distribution Rates.- Case No. 08-709-EL-AIR
In the Matter of the Application of Duke Energy
Ohio, Inc. for Tariff Approval................................ Case No. 08-710-EL-ATA
In the Matter of the Application of Duke Energy
Ohio, Inc. for Approval to Change Accounting Methods.. Case No. 08-711-EL-AAM
In the Matter of the merger application between
Duke Energy of Charlotte North Carolina &
Cinergy of Cincinnati, Ohio .... CASE NO. 05-0732-EL-MER

As an Ohio residential customer of Duke Energy of Ohio at the above address, (Account # 7170-0391-20-0) **I OBJECT to the entire staff report of the PUCO in reference to Case No.08-709-El-AIR, et al. posted on PUCO docket Jan 27, 2009, to wit: Various items and alternatives were not reviewed. Per example, the bottom of page 9, wage annualization of payroll** and continuing_with the top two paragraphs of page 10 of this staff report are incomplete. The Duke Energy of Ohio filings for an increase in electric Distribution Rates, Parts I & II, filed June 25, 2008 are incomplete as to existing "in house" verses "Sub-Contractor, on call" electric distribution labor rates annualization comparisons. The PUCO staff report and Duke Energy of Ohio did not show all contract costs with sub-contractors supplying, "on call" workers vehicles, insurance & temporary help, caused by natural disaster, replacing poles and wires where street patterns are changed, or_neglect of overhead wire infrastructure by Duke Energy of Ohio.

Neither the PUCO staff nor Duke Energy of Ohio showed comparison costs to adhere to other PUCO requirements for prompt compliance as to Service, Safety, Reliability at fair prices to the consumer. Please read on page 4 & 5 of this objection letter as to the formal requirements for Duke Energy complying with PUCO objectives. This is stated in the PUCO Chairman's written Docket press release of Dec 21, 2005, where he states that the "merger of Duke Energy and Cinergy would be beneficial to Cincinnati." My request is for PUCO to compare and study Duke Energy of Ohio Wage Annualization tables with the following guidelines. Duke Energy of Ohio would have more of its own "in house" employees and vehicles for overhead wire maintenance, thus preventing future neglect and service (with "in house"overtime, if necessary). Duke Energy of Ohio would have more "in house" employees available when a natural disaster occurs or for pole and wire change because of change in street patterns? All of these should eliminate the additional costs of many "on call" sub contractors and their workmen and be a saving to customer consumers This would enable adherence to the words of the Chairman of the PUCO. Thus the PUCO merger decision allowing for Duke Energy of Ohio to supply electric at "fair competitive prices doesn't mean and should not be interpreted as meaning "on call" sub contractor workers to be used randomly all the time.

Why are these Duke Filings incomplete with omissions and ambiguities? Why doesn't Duke Energy of Ohio hire more "in house" permanent overhead wire electric distribution employees.? Wouldn't that be cheaper to the consumer customer, faster and in accordance with the Chairman of the PUCO's letter of Dec 21, 2005 instead of bringing in "on call" sub-contractor workers from the Carolinas or other parts of the U.S.? It is my opinion as a customer that all of these items including service, safety, reliability and fair rates are connected and therefore must be addressed by Duke Energy of Ohio and required to be addressed by PUCO staff fairly in comparing electric distribution overhead wire rates for their consumer customers. "Annualization"! A PUCO formal inquiry as previously requested by me would open all of these unanswered questions to the consumer public.

I mentioned the following "on call" labor sub-contractors with vehicles and equipment used within Duke Energy of Ohio franchised Ohio area in my Jan 12, 2009 case # 08-709-El-Air letter: Pike, Bowlin, Shaw & McGilbert and probably others.

It is general knowledge that Cinergy had around **1950** full time employees in the **mid 1990's** (PUCO should check with Cinergy's books), and that now this has been cut down by so called attrition to approximately **1,050** full time "in house" overhead wire electric distribution employees. Where did the Cinergy/Duke Energy of Ohio money go to that formerly paid these 900 "in house" employees working three shifts at the electric distribution rates of Cinergy at that time? PUCO must find out the answer to that question?

I do not know how many of the **900** workers were Ohio workers. The PUCO staff report on **Wage Annualization** should compare the costs provided by Duke Energy of Ohio, taking into consideration that if Duke Energy of Ohio would have 100-200-300-400-500-900 more in-house employees again as it relates to service, safety, reliability and fair prices. Thus less need by Duke Energy of Ohio needing more "on call" contract employees all the time, and at various times, when "in house" overhead crews could do the work promptly with no waiting for "on call"contractors workers travel time, etc., all costly to consumer customers. An inquiry should show that there would be less neglect with more "in house" permanent Duke Energy of Ohio employees along with faster, safer repair time.

James E. Rogers is now listed as Exec Chairman, Chief Exec. Officer and President of Duke Energy of Charlotte, North Carolina, parent of Duke Energy of Ohio. He was Exe V. President of PSI when it merged with Cincinnati Gas & Electric in 1994. **In 1994,** Mr Rogers became Chairman, President and Chief Executive officer of the merged new Company called Cinergy.

Has the PUCO staff studied Duke Energy of Ohio hiring and training more full time "in house" Ohioans now for Duke Energy of Ohio overhead electric distribution work. At the same time placing more vehicles in service. Would that be more effective then bringing in "On call" workers? I have noticed "on call" workers doing pole and wire replacement where streets in Duke's Cincinnati territory are being widened.? Why doesn't Duke use its employees like Cinergy did up to the mid 1990's? Has this new proposed Distribution cost been compared in the PUCO staff report, which should also consider the accounting which should have been shown by Cinergy on the merger in 2005 of having about 1950 overhead wire employees in 1994.? Why wasn't this omission questioned by the PUCO staff at that time? At that time the prerequisites for an electric Company from PUCO were the same as they are now, and as stated in this objection document.

I have previously filed six documents against the merger of Duke Energy of Charlotte North Carolina with Cinergy of Ohio. (all six are posted on PUCO Docket # 05-0732-El-Mer.) My July 26, 2005 comment on that docket included excerpts from the S.E.C of the U. S. consent decree file # 3-11974 dated July 8, 2005. "Duke Energy was ordered to "cease and desist" under Section 21C of the Securities exchange Act of 1934" "Duke maintained separate "books"....i.e **<u>Accounting</u>**. The PUCO staff is hereby requested to read the objections to its staff report on the Duke Energy of Ohio-Cinergy merger filed by Partners for Affordable Energy dated 12/01/2005, also on 12/01/05 by the Formica Corporation and by the Office of Ohio Consumer Counsel on 12/8/05. All four opponents to the Duke Energy-Cinergy merger filings have many consumer/customer questions, still valid, pertinent, applicable and unanswered in the PUCO staff report in reference to the Duke Energy of Ohio original electric distribution rate requests that I am objecting to now that are also in Case # 05-709-El-Air. Could it be that Albert E. Lane, Partners for Affordable Energy, Formica and the Office of Consumer Council and other opponents were right and the PUCO staff and Commission were wrong in not heeding the request of the four and therefore not permitting the Duke Energy-Cinergy merger in the first place.?

The following is the conclusion from Docket # 05-0732-El-Mer OF the **PUCO staff report on the Duke Energy and Cinergy merger dated November 14, 2005.**

"CONCLUSION
In summary, it appears to the staff that the proposed transaction, with the alterations and clarifications noted above will promote the public convenience and will result in the provision of adequate service at reasonable rates. Staff recommends that the application, with the conditions noted should be approved."

Is it possible that at the time of the PUCO staff conclusion on the merger that the staff did not consider that Cinergy did not provide all of the necessary <u>accounting</u> history of electric distribution annualization rates of the past in order to satisfy Cinergy's and Duke Energy's stockholders?

I have also previously filed two documents with the PUCO as an opponent of the Duke Energy of Ohio Electric distribution rate increase request concerning Case # 08-709-EL-Air et al to wit:

(1) Dec. 31, 2008, (Filed by me on that docket Dec 31, 2008) includes the following PUCO press release filed on PUCO Docket, case # 05-0732-El-Mer Dec. 21, 2005.

Alan R. Schriber, Chairman
PUCO Approves Merger of Cinergy and Duke Energy

COLUMBUS, OHIO Dec.21. 2005) - The Public Utilities Commission of Ohio (PUCO) today approved the merger of Cinergy Corp. and Duke Energy Corp. The Commission approved the merger application with modifications and conditions that included substantially increased credits for Ohio ratepayers and additional commitments by the companies.

The merger would result in a change of control transaction in which Duke Energy would acquire Cinergy and, as a result, its Ohio's subsidiary, Cincinnati Gas & Electric (CG&E) in an all-stock exchange.

"After thoroughly reviewing the application, staff recommendations and comments received in this proceeding, we believe that the merger of Cinergy and Duke Energy will result in benefits to Cincinnati Gas and Electric's customers," PUCO Chairman Alan R. Schriber stated. "Cincinnati Gas and Electric will be financially stronger and the Commission will continue to vigilantly monitor the customer service, safety and reliability performance of the company."

In approving the merger application, the Commission included the following modifications and conditions:

• The total rate credit for Ohio retail customers is $35,785,700. The amount of rate credits distributed to retail customers from merger savings will be subject to true up after Dec. 31, 2006. CG&E must submit an accounting of all rate credits actually distributed to customers no later than Jan 16, 2007.

• Electric service reliability should not decline as a result of the merger. If service reliability declines, the Commission will continue to have the authority to take appropriate actions. A noticeable decline in service reliability would result in an automatic process to require CG&E to invest SI.5 million per year on distribution system improvements,

• CG&E must retain company officials in Ohio with the authority to resolve consumer

complaints mediated bv the Commission and its staff. The
Commission must also have the ability to remotely monitor all Ohio-specific customer service calls.

• Within three months after the close of the merger, CG&E should arrange a collaborative workshop to discuss issues related to the company.y natural gas program.

CG&E also filed an application for authority to modify its accounting procedures to defer costs incurred with the merger. The Commission denied that application today.

I included in my Dec 31,2008 PUCO comment, posted on Docket # 08-709-El -Air
The CREDO OF PUCO: The Public Utilities Commission of Ohio (PUCO) is the sole agency charged with regulating public utility service. The role of the PUCO is to assure residential, business, and industrial consumers have access to adequate, safe, and reliable utility services at fair prices while facilitating an environment that provides competitive choices.

(2) Jan 13, 2009 (Filed on PUCO docket 08-709-El-Air) where I asked to become an intervenor, among other requests, I asked that there be a PUCO complete formal inquiry as to all of Duke Energy of Ohio's permanent "in house" electric distribution labor costs between 2004-2008. That comment letter requested a comparison of all temporary "on call" contractor labor costs (including travel time, equipment, vehicle cost, billet costs, fees, insurance, customer lost service and licenses. Not to forget service, safety and reliability of the non permanent on call overhead wire contractor employees and the PUCO CREDO of fair prices (rates) adherence and monitoring..

The PUCO Staff should re-read the motion and request to intervene filed by Partners for Affordable Energy on July 9, 2008. Many of the items in that filing were not answered in the staff report - Case # 08-709-el-air.

The OCC filing of 8/5/2008 to intervene and other different topics were not answered in full by the staff report that is the subject of my objection

Why can't Duke Energy of Ohio and the PUCO staff give a full and complete expense report on the following question which PUCO staff should interpret using the PUCO competitive cost credo and the words of their Chairman Schriber which is," PUCO WILL VIGIILANTLY MONITOR THE CUSTOMER, SERVICE, SAFETY AND RELIABiLITY OF THE COMPANY"?. My response to this question is Wouldn't Duke Energy of Ohio get better reliable overhead fair wire service prices if it hired its own crews for overtime? Wouldn't their own crews be more familiar with the area and finish the work faster? Has Duke Energy compared these in-house overtime costs to "on call" costs taking into consideration the service, safety and reliability factor? Meaning time spent by "on call" wire contractors's workers when an "in house" worker is home from work at Duke after working their eight hour shift and is available to go back to work to fix the problem with expediency in overtime.?

Unanswered questions in my Duke Energy of Ohio consumer customer mind are, am I, Partners for Affordable Energy, Formica and the office of Consumer Counsel (4 unrelated consumers), clairvoyant, smart, when reading the contents of my/their comments on the Duke Energy and Cinergy merger., Docket # 05-0732-El-MER – from 2005?

Put another way, could it be that the staff report (**conclusion**) recommending the merger of Duke Energy and Cinergy Case # 05-0732-El-Mer, had a staff allegiance to that conclusion which complicates a neutral process when arriving at questions, comparisons and interpretations now of the Duke Energy of Ohio request for a residential electric distribution rate increase Case # 08-709-El-Air.

The PUCO staff should rewrite that part of their report on the Duke Electric distribution rate increase request that includes and addresses mine and other opponents, consumer questions in reference to total Wage Annualization comparisons going back to 1995, if need be.

It may be that an another impartial electric rate distribution authoritive PUCO staff should discuss and rewrite the entire PUCO staff report on Duke Energy of Ohio's request for an electric distribution rate increase. Case # 08-709-El-Air addressing all objections and comments. It seems to me that the PUCO staff report, especially on Wage Annualization has obvious omissions and because of this it shows in my mind a **conflict of interest** on the staffs part verses the opponents rights in reference to the Duke Energy of Ohio electric distribution requested rate increase and all of its components.

Lastly I requested the amount of money that the Office of Consumer Counsel be allowed by the State of Ohio to have expert testimony in case # 08-709-El-Air et al., should be increased from $40,000.00 to $200,000.00 to research parent Duke Energy, Duke Energy of Ohio and previous owners Cinergy's internal accounting books. I haven't received an answer to that request.

Albert E. Lane is not an Attorney
Encl: Service list

Very truly yours,
Albert E. Lane
Albert E. Lane

SERVICE LIST

Ohio Consumers' Counsel PUCO
10 W. Broad Street
Suite 1800
Columbus, OH 43215-3707

People Working Cooperatively, Inc.
Mary W. Christensen, Esq.
100 E. Campus View Blvd.
Columbus, OH 43235-4679

Ann M. Hotz, Counsel of Record
10 W Broad Street
Suite 1800
Columbus, OH 43215-3420

Mike Boyer c/o Cincinnati Enquirer
312 Elm Street
Cincinnati, Ohio 45202

Boehm, Kurtz & Lowry
David Boehm/ Michael Kurtz
36 East 7th Street
URS Building
Suite 1510
Cincinnati, OH 45202-4454

Chester, Willcox & Saxbe LLP
John W. Bentine/ Mark Yurick
65 E State Street
Suite 1000
Columbus, OH 43215-4216

Bricker & Eckler, LLP
Sally Bloomfield/ Thomas O'Brien
100 S. Third Street
Columbus, OH 43215-4236

Ohio Partners for Affordable Energy
David Rinebolt/ Colleen Mooney
231 West Lima Street
Findlay, OH 45840-3033

McNees, Wallace & Nurick LLC
Joseph M. Clark
21 East State St.
17th floor
Columbus, OH 43215-4225

Greater Cincinnati Health Council
Douglas E. Hart
441 Vine Street
Suite 4192
Cincinnati, OH 45202-2852

Vorys, Safer, Seymour & Pease
Steven M. Howard/ Gardner F. Gillespie
52 E Gay Street
P.O. Box 1008
Columbus, OH 43215-3108

PUCO
Stephen Reilly
Attorney General's Office
180 East Broad Street
9* Floor
Columbus, OH 43215-3707

ALBERT E. LANE
7200 FAIR OAKS DRIVE
CINCINNATI, OHIO 45237

Paul A. Colbert
Duke Energy of Ohio Inc.
P.O. Box 960
Cincinnati, Oh. 45201-0960

Ohio Farm Bureau Federation
Dale Arnold
Director Energy Services
P.O. Box 182383
Columbus, Ohio 43218