

Vorys, Sater, Seymour and Pease LLP
Legal Counsel

52 East Gay St.
PO Box 1008
Columbus, OH 43216-1008
614.464.6400 | www.vorys.com
Founded 1909

Stephen M. Howard
Direct Dial (614) 464-6401
Facsimile (614) 719-4772
E-Mail - smhoward@vorys.com

February 23, 2009

Ms. Reneé Jenkins, Secretary
Public Utilities Commission of Ohio
180 East Broad Street, 13th Floor
Columbus, OH 43215

Re: Case No. 08-709-EL-AIR, et al
January 29, 2009 Deposition of David Yelton

RECEIVED-DOCKETING DIV
2009 FEB 23 PM 2:08
PUCO

Dear Ms. Jenkins:

Please find attached a copy of the January 29, 2009 Deposition of David Yelton and the public version of OCTA Deposition Exhibit No. 21 in Case No. 08-709-EL-AIR, et al. Two pages of OCTA Deposition Exhibit No. 21 have been designated as "Confidential Proprietary Trade Secrets" by Duke Energy Ohio. Those two pages have been redacted from this public version but have been submitted under seal.

A Motion for Protective Order seeking to protect the two redacted pages has been filed.

Sincerely yours,

Stephen M. Howard

Stephen M. Howard
Attorneys for The Ohio Cable Telecommunication
Association

SMH/mjm
Enclosure

cc: All Parties of Record (w/enclosure via U.S. Mail)

This is to certify that the images appearing are an
accurate and complete reproduction of a case file
document delivered in the regular course of business.

Technician JM Date Processed 2/23/2009

Columbus | Washington | Cleveland | Cincinnati | Alexandria | Akron | Houston

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke) Case No.
Energy Ohio, Inc., for an Increase in) 08-709-EL-AIR
Electric Distribution Rates.)

In the Matter of the Application of Duke) Case No.
Energy Ohio, Inc., for a Tariff Approval.) 08-710-EL-ATA

In the Matter of the Application of Duke) Case No.
Energy Ohio, Inc., for Approval to Change) 08-711-EL-AAM
Accounting Methods.)

In the Matter of the Application of) Case No.
Cincinnati Gas & Electric Company for) 06-718-EL-ATA
Approval of its Rider BDP, Backup)
Delivery Point.

DEPOSITION OF: DAVID YELTON

January 29, 2009

2:00 p.m.

REPORTED BY:

Kristina L. Pedersen

1 Deposition of DAVID YELTON, a witness herein,
2 taken by the Intervenor as upon cross-examination
3 pursuant to the Ohio Rules of Civil Procedure and notice
4 and stipulations hereinafter set forth, at the offices of
5 Vorys, Sater, Seymour and Pease, LLP, 221 East Fourth
6 Street, Suite 2000, Cincinnati, Ohio, at 2:00 p.m. on
7 Thursday, January 29, 2009, before Kristina Pedersen,
8 Court Reporter and Notary Public within and for the State
9 of Ohio.

10 - - -
11
12
13
14
15
16
17
18
19
20
21
22
23
24

1 APPEARANCES:

2 On behalf of Duke Energy:

3 AMY B. SPILLER, ESQ.

4 Duke Energy

5 139 East Fourth Street

6 Cincinnati, Ohio 45202

7

8 On behalf of Intervenor, Ohio Cable
Telecommunications Association:

9

GARDNER F. GILLESPIE, ESQ.

10

Hogan & Hartson, LLP

11

Columbia Square

12

555 Thirteenth Street, NW

13

Washington, D.C. 20004

14

15

16

17

18

19

20

21

22

23

24

S T I P U L A T I O N S

1
2 It is stipulated by and between counsel for the
3 respective parties that the deposition of DAVID YELTON
4 may be taken at this time by the Intervenor as upon
5 cross-examination pursuant to the Ohio Rules of Civil
6 Procedure and pursuant to notice and agreement of counsel
7 as to the time and place; that the deposition may be
8 taken in stenotype by the court reporter-notary public
9 and transcribed by her out of the presence of the
10 witness; that the deposition is to be submitted to the
11 deponent for his examination and signature, and that the
12 signature may be affixed outside the presence of the
13 notary public-court reporter.

14 - - -
15
16
17
18
19
20
21
22
23
24

1 INDEX

2 WITNESS:

3 DAVID YELTON

4 Page

5 By Mr. Gillespie: 6

6

7 EXHIBITS

8

9 Marked

10 Deposition Exhibit Number OCTA 21 10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

1 DAVID YELTON,
2 of lawful age, as having been duly sworn, as hereinafter
3 certified, was examined and testified as follows:

4 CROSS-EXAMINATION

5 BY MR. GILLESPIE:

6 Q. Okay. Mr. Yelton, I'm Gardner Gillespie. I
7 represent the Ohio Cable Telecommunications
8 Association. Would you state your name and address
9 for the record, please.

10 A. My name is David. Middle initial, B.
11 Yelton, Y-e-l-t-o-n. I live at 427 South Broadway,
12 Lebanon, Ohio.

13 Q. Okay. Mr. Yelton, are you on any
14 medication?

15 A. Yes.

16 Q. Would the medication prevent you from
17 testifying completely, accurately, and truthfully
18 today?

19 A. No.

20 Q. Okay. Is there any other reason why we
21 can't rely on your testimony as being complete,
22 accurate, and truthful?

23 A. No.

24 Q. Have you had your deposition taken before?

1 A. No.

2 Q. Okay. Let me explain this wonderful process
3 for you.

4 A. Thank you.

5 Q. You understand that I'm going to be asking
6 you questions for which I need a verbal response?

7 A. Yes, sir.

8 Q. So shaking your head or nodding your head or
9 things like yep or uh-huh and so on won't do, okay, so
10 please give me a verbal response. And wait until I
11 finish my question so that your counsel has an
12 opportunity to interpose an objection and so we know
13 that the question is clear.

14 And if you answer it, we will expect that
15 you understood it. If you don't understand the
16 question, ask me to rephrase it or explain it and I'll
17 do so, okay?

18 A. Yes, sir.

19 Q. I'm going to refer to Duke Energy Ohio and
20 Cinergy and CG & E generally as Duke unless I
21 otherwise state it.

22 MS. SPILLER: Can I -- if I could just
23 interrupt for a moment. Cinergy -- can that
24 reference to Duke simply be Duke Energy Ohio

1 and CG & E and Cinergy as an operating
2 company, not the utility company.

3 MR. GILLESPIE: Okay. All right.

4 (Noise from phone.)

5 MR. GILLESPIE: Do we have anybody on
6 the line?

7 (No response.)

8 Q. Now, I understand that you've been
9 designated to testify with regard to Question No. 1 in
10 the subjects for examination in our Exhibit 19?

11 A. That is correct.

12 Q. Okay. What did you do to prepare for this
13 deposition?

14 A. I looked at what we had responded and I
15 think you had some interrogatories -- or the Ohio
16 Cable folks had some interrogatories.

17 Q. Right.

18 A. And I looked at what our responses have been
19 relative to accumulated deferred income taxes. So I
20 just refreshed myself by looking at what we had
21 prepared for the rate case. And I met with Amy at one
22 point.

23 Q. Okay. Did you talk to anyone else other
24 than your counsel?

1 A. Regarding this case?

2 Q. Yes.

3 A. No.

4 Q. No. Okay. What's your --

5 A. I'm sorry, I need to...

6 Q. Pardon me?

7 A. I'm sorry. I answered that last question
8 incorrectly. Yes, in preparing for this I had a
9 conversation with Keith Butler.

10 Q. Okay. And what did you talk to him about?

11 A. It was also in regard to preparing for this
12 deposition.

13 Q. Okay. And what did he tell you?

14 A. His -- what we were talking about is just
15 the deferred income taxes, what we had reported and
16 what we had responded to the interrogatories.

17 Q. Okay. Now, what's your position at Duke
18 Energy?

19 A. My position is manager tax accounting.

20 Q. How long have you held that position?

21 A. Five years.

22 Q. And what are your responsibilities as
23 manager tax accounting?

24 A. I'm responsible for reporting the income

1 taxes for Cinergy Corp. and subsidiaries, on which
2 Duke Energy Ohio was one of those companies.

3 Q. And what did you do before you got your
4 current job?

5 A. I had a similar position with NCR
6 Corporation.

7 Q. Okay. So you've only been with Duke and its
8 predecessors for five years?

9 A. Correct.

10 MR. GILLESPIE: Okay. Let me have
11 marked as Exhibit Number 21 Duke's responses
12 to OCTA-Interrogatory-03-022 through 037 --
13 no, excuse me, 046 and production of
14 documents request 03-017 through 03-031.

15 (Whereupon, Deposition Exhibit Number
16 OCTA 21 was marked for identification.)

17 Q. Okay. I would ask, Mr. Yelton, that you
18 take a look at the Response to Interrogatory 03-027.

19 A. (Complies.)

20 Q. Okay. And you see on the third page of that
21 a schedule with regard to accumulated deferred income
22 taxes?

23 A. Yes.

24 Q. Now, if you go back to Page 2 of 3 --

1 actually if you go back to Page 1 of 3 you see at --
2 under -- well, let's look at "C" where you talk about
3 the net investment per bare pole. And you see that
4 there is a number there for the accumulated deferred
5 income taxes for poles --

6 A. Yes, I see.

7 Q. -- in the numerator of that equation; do you
8 see that?

9 A. Yes, sir.

10 Q. And if you go to the next page, you can see
11 that under Input Data "O" there is some reference to
12 accumulated deferred income taxes which refer to a
13 schedule and a worksheet. And then if you go to Page
14 3 I believe that is the worksheet; is that right?

15 A. Yes. I see the same numbers on Page 3 as
16 what was on Page 2 and then carried forward to Page 1.

17 Q. Okay. Now, under the accumulated deferred
18 income taxes, this is Page 3 of 3, it has a number for
19 accumulated deferred income taxes for electric of
20 \$175,764,145; do you see that?

21 A. Yes.

22 Q. Okay. This is a number -- first of all, it
23 is as of March 31, 2008; is that right?

24 A. That is what it states at the top of the

1 page, yes, sir.

2 Q. All right. But is this a number that --
3 does it represent a year's worth of accumulated
4 deferred income taxes?

5 A. No.

6 Q. What does it represent?

7 A. Accumulated deferred income taxes would
8 represent the balance of deferred income taxes
9 accumulated over the life on the underlying assets.

10 Q. Okay. But is that then as of the 31st of
11 March of 2008?

12 A. That is what it states on the page, yes,
13 sir.

14 Q. Well, that's what it states on the page.
15 Can you vouch for that number?

16 A. Yes, sir.

17 Q. You say yes?

18 A. Yes, sir.

19 Q. Okay. Can you tell me why this number is
20 determined as of March 31, 2008, rather than taking a
21 number for the year-end from the FERC form?

22 A. It is my understanding that in submitting
23 information for rate case purposes the regulators
24 request a 12-month period ending on a date certain.

1 In this case I believe that date certain for this rate
2 case was March 31, 2008.

3 Q. Do you know whether in calculating pole
4 attachment rates the FCC looks to FERC data as of
5 year-end?

6 A. No, I do not.

7 Q. Okay. The number that is reflected here
8 purports to be for accumulated deferred income taxes
9 for electric as opposed to accumulated deferred income
10 taxes for total plant?

11 A. Yes, sir.

12 Q. Okay. Can you tell me why there's a
13 reference to electric as opposed to total plant?

14 A. Because in this company, Duke Energy Ohio,
15 they have gas assets as well as electric assets.

16 Q. And does Duke report the accumulated
17 deferred income taxes on its FERC form for electric?

18 A. On the FERC form electric is shown
19 separately from gas. Yes, sir.

20 Q. Including accumulated deferred taxes?

21 A. Accumulated deferred income taxes,
22 specifically there is a page within the FERC form that
23 shows accumulated deferred income taxes in total,
24 accumulated deferred income taxes for electric, and

1 accumulated deferred income taxes for gas.

2 Q. Okay. Does it show accumulated deferred
3 income taxes for distribution plant?

4 A. No, it does not.

5 Q. All right.

6 A. Separate from other electric assets.

7 Q. Okay. Sticking with Page 3 of 3, there is
8 a -- there are references to the distribution plant in
9 service with the total of those -- of three accounts;
10 do you see that, 364, 365, and 369?

11 A. I see a reference to distribution plant in
12 service, total plant, 1,600,000; is that what you're
13 referring to?

14 Q. Yes.

15 A. Okay.

16 Q. Now, is that the distribution electric plant
17 in service?

18 A. I did not prepare this particular schedule.
19 But that's what the schedule says.

20 Q. Can you tell me whether the number here of
21 24,097,264, which -- is that supposed to represent the
22 amount of accumulated deferred income taxes to be
23 allocated to the Pole Account 364?

24 A. Yes. As I understand the formula it is

1 taking the total investment of the poles in Account
2 364 and divided by that total plant in service and
3 multiplying that times the 175,764,145.

4 Q. So the 1,627- -- excuse me, the
5 1,627,000,000-and-so-on number, that is the number for
6 total plant or for distribution plant?

7 A. The way I would read this form that would be
8 distribution plant.

9 (Phone interruption.)

10 Q. I'm sorry, would you say that again?

11 A. According to what it says on this form that
12 is for distribution plant.

13 Q. Can you tell me why this is calculated as a
14 percentage of distribution plant rather than a
15 percentage of total plant?

16 A. No, I cannot.

17 Q. Did you have any involvement in the
18 calculations of accumulated deferred income taxes used
19 by Duke in its initial filings in this case?

20 A. Yes, I did.

21 Q. And do you recall that those calculations
22 were based on year-end numbers from the FERC form?

23 A. In preparation for this case what I
24 submitted was based on as of March 31, '08, from what

1 I recall. I'd have to go back and look at the actual
2 form. But my understanding that it was a date certain
3 as of March 31, '08.

4 Q. Okay. I'm going to show you what's
5 previously been marked as OCTA Exhibit 6. This is the
6 Duke Energy Ohio pole attachment formula that was
7 originally submitted in this case. Now, do you see
8 the reference to the accumulated deferred income taxes
9 there?

10 A. Are you referring to Item R?

11 Q. Yes.

12 A. Yes, I see those numbers.

13 Q. First of all, you see that the only account
14 reflected there was Account 190?

15 A. Yes.

16 Q. Can you tell me why Account 190 was used
17 solely?

18 A. No, I cannot.

19 Q. Okay. And that was corrected to include
20 Accounts 281 through 283, correct, in the latest
21 version?

22 A. Yes.

23 Q. You see that the source of the accumulated
24 deferred income taxes in Exhibit Number 6 was the FERC

1 form?

2 A. Again, you're referring to Item R?

3 Q. "R," yes.

4 A. Yes, I see that that's the reference.

5 Q. Does that refresh your memory about where
6 the figures were taken from in the first go-around?

7 A. As I stated previously I did not prepare
8 this particular schedule.

9 Q. Okay.

10 A. And so I cannot speak to what was actually
11 on -- on that form other than to say as I recognize
12 that number as having come from FERC Form 1 and that
13 page. Because it was the subject of one of the
14 interrogatory questions.

15 Q. Exhibit Number 21, do you see the reference
16 to a Schedule B-6 by Witness W.D. Wathen?

17 A. Yes, I do.

18 Q. Has that schedule been prepared?

19 A. That schedule was prepared by Mr. Wathen.

20 Q. Has that been released to the other parties?

21 MS. SPILLER: I believe you have what's
22 been prepared.

23 MR. GILLESPIE: I have -- you sent me
24 some schedules last week. I don't recall it

1 containing this one.

2 MS. SPILLER: Well, I'll have to look
3 and see exactly.

4 Q. Okay. But as far as you know that schedule
5 has been prepared?

6 A. That schedule, it's one of the schedules
7 that's prepared in the rate case.

8 Q. And it's been provided to the Commission
9 staff?

10 A. Yes.

11 Q. Okay.

12 A. To the best of my knowledge, yes.

13 Q. Okay. In determining the amount of
14 accumulated deferred income taxes that apply to
15 electric plant as opposed to the apply to overall
16 plant, are those numbers derived through any kind of
17 proration or are they derived in some other way?

18 A. With regard to deferred income taxes on
19 plant specifically, which is Account 282, it is based
20 on the actual assets as reported from Form 1 run into
21 an item of software that we use to track our tax
22 attributes associated with those assets so that we can
23 calculate our deferred income taxes. And that is
24 maintained and we have the ability to see electric

1 distribution property accumulated depreciation by
2 class vintage, different from electric transmission
3 assets, different from gas assets.

4 Q. And that's Account 282?

5 A. Account 282 is accumulated deferred income
6 taxes property, which would be all of our property
7 plant and equipment.

8 Q. Is the accumulated deferred income taxes for
9 electric that is listed here as 175,000,000, is that
10 accumulated deferred income taxes for electric
11 distribution plant or for all electric plant?

12 A. That is relating to electric distribution,
13 but it's going to include accumulated deferred income
14 taxes on more than just the property. Account 190
15 tracks different items than Account 282 and 283.

16 Q. But the FERC form, you do not report in the
17 FERC form annually the amount of accumulated deferred
18 income taxes for distribution plant, correct?

19 A. Not separately, no. We -- we provide them
20 for the entire company as I stated before.

21 Q. Right. Okay. And I think you said that
22 Account 282 you track internally the amount for
23 distribution plant, correct?

24 A. Account 282 is used to track all utility

1 property and all property. All property plant and
2 equipment.

3 Q. And to what level do you track accumulated
4 deferred income taxes in Account 282 --

5 A. Down to --

6 Q. -- for --

7 A. -- by tax class vintage.

8 Q. And for which accounts, to distribution
9 plant?

10 A. For all property accounts.

11 Q. For all property accounts. Okay.

12 A. Within the company.

13 Q. Okay. But accumulated deferred income taxes
14 Account 190 at what -- what's the lowest level that
15 you track that?

16 A. That would be tracked by item. 190 is not
17 -- is for deferred tax assets relating to balance --
18 primarily related to balance sheet liabilities; for
19 instance, perhaps a regulatory liability or pension
20 and benefit liabilities.

21 Q. So you don't track that by accounts; is that
22 right?

23 A. Not by property account --

24 Q. Right.

1 A. -- because it's by the account in the
2 general ledger --

3 Q. Right.

4 A. -- that's what pension --

5 Q. Right.

6 A. -- and in the account and other accounts in
7 the general ledger for other types of liabilities.
8 That will present more tax basis differences.

9 Q. Do you track deferred income taxes other
10 Account 283 down to the asset accounts?

11 A. Yes. That would be driven by more tax basis
12 difference between assets other than property.

13 Q. So it's assets other than property?

14 A. Correct.

15 Q. So it's not tracked by asset account?

16 A. Please tell me what you mean by asset
17 account.

18 Q. Well, what I'm -- I'm trying to understand
19 the level down to which the company internally tracks
20 internal accumulated deferred income taxes. And if
21 it's not a property-related item, I assume it's not
22 tracked below the overall companies; is that right?

23 A. I believe I'm confused by your use of the
24 term assets.

1 Q. Okay.

2 A. In accounting terms assets represent a whole
3 listing of items.

4 Q. Fair enough.

5 A. Not just property plant and equipment.

6 Q. Fair enough. Okay.

7 A. So it would help me to know what it is
8 you're specifically referring to when you say asset.

9 Q. Okay. What I'm trying to understand is down
10 to what level the company tracks internally these
11 different accumulated deferred income tax amounts.
12 And let's go through it again.

13 For accumulated deferred income taxes
14 Account 190, does the company track that down to
15 particular property accounts?

16 A. What's in 190 has nothing to do with
17 property accounts.

18 Q. Okay. And so that is not tracked down below
19 the company level; is that right?

20 A. No, that is not correct.

21 Q. Okay. What is the level it's tracked down
22 to?

23 A. It is tracked down to the tax basis
24 difference giving rise to individual accumulated

1 deferred income tax assets.

2 Q. Okay. Is that tracked down to the level
3 then of distribution plant?

4 A. That is one where it is allocated to
5 distribution plant based on the company.

6 Q. And Account 282, okay, that -- is that an
7 allocated account or is that an assigned account?

8 A. As I said before Account 282 is accumulated
9 deferred income taxes on property.

10 Q. Okay.

11 A. And that's all that's tracked in Account
12 282. And that is tracked and maintained tax -- by tax
13 class vintage.

14 Q. Okay. By tax class vintage is that tracked
15 down to the level of distribution plant?

16 A. Distribution plant is going to be one --
17 distribution plant will have a number of tax classes.
18 And it's tracked well below just the tax class.

19 Q. Okay.

20 A. The tax classes that may not -- the
21 distribution plant, it will be by vintage within those
22 tax classes.

23 Q. But if I were to ask you what is the
24 accumulated deferred income taxes for other property

1 Account 282 for a particular year for distribution
2 plant, you have that -- that number is tracked by the
3 company; is that right -- even though it may be
4 tracked even lower than that; is that what you're
5 saying?

6 A. I'm confused by the way you're asking the
7 question. I'm sorry, I don't understand.

8 Q. Okay. Well, you said that you track Account
9 282 down to class and vintage?

10 A. Correct.

11 Q. Okay.

12 A. Maybe it would help if I told you a vintage
13 is when the property was acquired.

14 Q. Right.

15 A. All right.

16 Q. So for Account 282 you would know what the
17 accumulated deferred income taxes are for all the
18 property that was acquired in the year 2000; is that
19 right?

20 A. Correct.

21 Q. But would you know which of that property
22 that was acquired in the year 2000 and the accumulated
23 deferred income taxes that relate to it relates
24 specifically to distribution plant?

1 A. Yes.

2 Q. Okay. And Account 283, is that an allocated
3 or an assigned number?

4 A. (No response.)

5 Q. Or a tracked number? Let's say, is it -- in
6 other words --

7 A. Account 283 is tracked by the individual
8 deferred -- individual tax basis differences
9 liabilities for the company.

10 Q. Company wide?

11 A. Company wide.

12 Q. Okay. And then it could be allocated down
13 to other accounts, right?

14 A. Now, it could be allocated to distribution.

15 Q. Okay. So just to summarize here and, again,
16 on Page 3 of 3 here of the accounts we've been talking
17 about Account 190, the 27,000,000 has been allocated
18 to distribution plant, correct?

19 A. Correct.

20 Q. Account 282 has been tracked to distribution
21 plant or can be tracked to distribution plant, right,
22 so that 197,000,000 is tracked, right --

23 A. Yes.

24 Q. -- internally? It's not recorded in that

1 way on the FERC form, correct?

2 A. Correct.

3 Q. And the Account 283, the 4,752,000, that is
4 allocated?

5 A. Yes.

6 Q. Okay. Take another look at Exhibit Number
7 6, the second page of that, which happens to be
8 numbered Page 1. The reference there to provision
9 for -- no, excuse me. Wait a second.

10 In Line R, accumulated deferred income taxes
11 for 190, where it has a reference to the FERC form,
12 that is accumulated deferred income taxes as of the
13 year-end of 2007, correct?

14 A. Specifically for the Account 190 --

15 Q. Right.

16 A. -- for total company.

17 Q. Total company?

18 A. Yes, sir.

19 Q. Now, when this was redone -- when
20 accumulated deferred income taxes were redone in what
21 is Exhibit Number 21 in 03-027 --

22 A. Uh-huh.

23 Q. -- instead of using deferred income taxes
24 for the company you used deferred income taxes -- or

1 the company used deferred income taxes for
2 distribution plant, right, which gave the company more
3 favorable accumulated deferred income taxes to rely on
4 in the formula; is that right?

5 A. I'm -- I am not that familiar with the
6 formula to know whether that would be more favorable
7 or unfavorable.

8 MR. GILLESPIE: Okay. Well, thank you.

9 I have no further questions.

10 MS. SPILLER: We'll take signature,
11 please.

12 (Deposition concluded at 2:40 p.m.)
13
14
15
16
17
18
19
20
21
22
23
24

A C K N O W L E D G E M E N T

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

STATE OF OHIO :

COUNTY OF HAMILTON :

I, DAVID YELTON, have read the transcript of my
testimony given under oath on January 29, 2009.

Having had the opportunity to note any necessary
corrections of my testimony on the errata page, I hereby
certify that the above-mentioned transcript is a true and
complete record of my testimony.

DAVID YELTON

C E R T I F I C A T E

1
2 STATE OF OHIO :
3 : SS
4 COUNTY OF HAMILTON :

5 I, Kristina L. Pedersen, the undersigned, a duly
6 qualified and commissioned notary public within and
7 for the State of Ohio, do hereby certify that before
8 the giving of his aforesaid deposition, the said DAVID
9 YELTON was by me first duly sworn to depose the truth,
10 the whole truth, and nothing but the truth; that the
11 foregoing is a deposition given at said
12 time and place by DAVID YELTON; that said deposition was
13 taken in all respects pursuant to notice and agreement of
14 counsel as to the time and place; that
15 said deposition was taken by me in stenotypy and
16 transcribed by computer-aided transcription under my
17 supervision, and that the transcribed deposition is
18 to be submitted to the witness for his examination and
19 signature.

20 I further certify that I am neither a relative
21 of nor attorney for any of the parties to this
22 cause, nor relative of nor employee of any of their
23 counsel, and have no interest whatsoever in the
24 result of the action.

1 In witness whereof, I hereunto set my hand and
2 official seal of office at Cincinnati, Ohio, this
3 _____ day of _____, 2009.

4

5

6

7

8

9 My commission expires:
September 8, 2013

Kristina L. Pedersen
Notary Public

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Interrogatories
Date Received: December 20, 2008

OCTA-INT-03-022

REQUEST:

Investment in Account 364

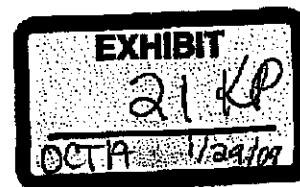
The average investment in the distribution poles in Account 364 is the fundamental element in the pole attachment formula used by the PUCO. One of the key drivers of that average investment is the embedded investment in Account 364. At his deposition on December 15, Mr. Dean indicated that the summary of Duke's continuing property records for Account 364, provided by Duke to the OCTA in response to OCTA request for production of Duke's continuing property records and contained in POD No. 01-004, was incorrect and is being revised by Duke. Also at his deposition, Mr. Dean indicated that Duke is undertaking a review of the assets added to Account 364 for 2007. Please respond fully to the following interrogatories addressing these issues.

Please provide an updated and revised summary of Duke's continuing property records for Account 364 that was provided by Duke in response to POD 01-004. In addition to years 2000-2007, please have the summary cover the entire period 1993-2007.

RESPONSE:

Objection. The unreasonable scope of this interrogatory renders it overly broad and not likely to lead to the discovery of admissible evidence. This interrogatory, as written, further mistakenly implies that the summary, in its entirety, is incorrect. To the extent this interrogatory misinterprets the prior deposition testimony of Mr. Dean, it is objectionable. Without waiving said objection and to the extent discoverable, Attachment OCTA-INT-03-022 contains the revised data for the response to POD 01-004 with the addition of the data requested in OCTA-POD-02-014.

PERSON RESPONSIBLE: James Dean



Summary of CPR - adds and retires for account 364 for the years 1993 through 2007

Case No. 08-709-EL-AIR
 Attach. OCTA-INT-03-022
 Page 1 of 1

Year	Additions		Retirements		Transfers		Transfers		Balance	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
2007	1,234	\$ 52,358,212.53	(2,704)	\$ (2,158,762.76)					235,228	\$ 284,535,121.07
2006	1,148	\$ 10,104,163.59	(1,987)	\$ (1,368,081.67)					236,698	\$ 234,336,671.30
2005	1,566	\$ 17,792,895.45	(2,820)	\$ (2,428,589.12)	(7)	\$ (13,143.80)			237,537	\$ 225,589,589.38
2004	1,283	\$ 8,828,190.00	(2,504)	\$ (1,814,825.48)	(2)	\$ (5,644.06)			238,808	\$ 210,248,426.85
2003	836	\$ 9,027,850.03	(2,160)	\$ (1,564,815.01)	3495	\$ 3,219,162.02			240,031	\$ 203,240,706.39
2002	1,690	\$ 6,075,015.45	(700)	\$ (473,275.31)	(30)	\$ (91,280.93)			237,860	\$ 192,558,709.35
2001	4,990	\$ 2,861,818.52	(2,277)	\$ (1,583,114.44)	7	\$ (15,440.91)			236,900	\$ 187,048,250.14
2000	1,629	\$ 13,298,658.00	(335)	\$ (252,072.20)	1	\$ 932.34			234,180	\$ 185,784,986.87
1999	5,489	\$ 9,477,146.00	(2,394)	\$ (1,454,693.14)	N/A	\$ (70,757.84)			232,885	\$ 172,737,468.73
1998	1,551	\$ 8,205,807.00	(2,607)	\$ (1,433,571.98)	N/A	\$ 8,551.81			229,790	\$ 164,785,773.71
1997	2,358	\$ 8,683,276.00	(1,589)	\$ (658,032.65)	N/A	\$ (38,814.33)			230,846	\$ 158,004,986.88
1996	2,337	\$ 7,539,958.00	(1,939)	\$ (917,331.36)	N/A	\$ 25,462.12			230,077	\$ 150,018,557.86
1995	4,499	\$ 9,192,877.00	(3,198)	\$ (1,484,715.40)	N/A	\$ (41,352.26)			229,679	\$ 143,370,469.10
1994	5,688	\$ 7,107,632.00	(4,000)	\$ (1,449,775.90)	N/A	\$ (131,036.47)			228,378	\$ 135,703,959.76
1993	3,800	\$ 10,972,737.00	(3,047)	\$ (1,104,422.45)	N/A	\$ 193.73			226,690	\$ 130,176,840.13

Note: 2003 The additions for 2003 contain a correcting adjustment for the unitization for 24 projects totaling \$212,065.96. This was required to correct for a processing error on the projects. The additions for 2003 contains a FERC adjustment for (675.00).
 2004 The additions for 2004 contain an adjustment reported in FERC for \$814.
 2000 The additions for 2000 contain an adjustment reported in FERC additions for \$269.39.
 N/A Not Available

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Interrogatories
Date Received: December 20, 2008

OCTA-INT-03-023

REQUEST:

Investment in Account 364

The average investment in the distribution poles in Account 364 is the fundamental element in the pole attachment formula used by the PUCO. One of the key drivers of that average investment is the embedded investment in Account 364. At his deposition on December 15, Mr. Dean indicated that the summary of Duke's continuing property records for Account 364, provided by Duke to the OCTA in response to OCTA request for production of Duke's continuing property records and contained in POD No. 01-004, was incorrect and is being revised by Duke. Also at his deposition, Mr. Dean indicated that Duke is undertaking a review of the assets added to Account 364 for 2007. Please respond fully to the following interrogatories addressing these issues.

Please identify by work order number and page of the CPR Ledger Detailed Asset Report (produced by Duke to OCTA on December 11, 2008 and marked for identification at Mr. Dean's deposition as OCTA Ex. 14) (hereinafter "CPR Ledger") all entries to the Asset Report which have been reviewed by Duke in connection with this case, explain what adjustments, if any, Duke proposes to make to Account 364 as a result of that review, and identify all documents related to each such work order reviewed.

RESPONSE:

Objection. This interrogatory misstates the prior deposition testimony of Mr. Dean by inferring that the summary, in its entirety, is incorrect. Without waiving said objection and to the extent discoverable, Duke has reviewed the Continuing Property Record and has decreased the Continuing Property Record balance for Account 364 by \$61,410,077. The review focused on the GL 106, Completed Construction not Classified work order balance and has provided a 96% review of the GL 106 balance as of the November 2008 balance.

Provided in Attachment OCTA-INT-03-023 is a list of all work orders reviewed and the adjustment made to Account 364 by work order as of the 2007 CPR. These selected work orders were reviewed by the power delivery group and new allocation estimates were provided if necessary.

PERSON RESPONSIBLE: James Dean

List of Work Orders Reviewed
for Account 3640 GL 106

WORK ORDER	Adjustment Amount
20009	
20011	
20016	
20524	
20642	
24949	
25212	
25472	
27033	
32602	
32879	
A1307	-63,191
A1538	-10,375
A1539	-35,342
A3086	-143,117
A3251	-63,683
A3894	
A4208	-23,270
A4310	-66,350
A4685	
A6627	-13,486
A6968	
A6977	
A7881	
A8537	-57,757
A8753	
A8889	
A9119	
A9617	
A9895	
A9896	
B1184	
B1386	
B1970	
B2016	
B2263	
B2449	
B2607	
B2753	10,743
B2918	-91,446
B2919	-66,446
B2946	11,395
B3067	
B3132	
B3582	-45,726
B3784	
B4461	-312,485
B4950	

B6248	
B6408	
B7683	
B7935	
B8376	
B8714	
B9124	
C2258	11,577
C2547	
C4096	
C4916	
C4975	
C5064	
C5230	
C5343	
C6975	
C7344	
C7421	
C7513	
C7637	
C7904	
C8637	
C8732	
C8907	
C8919	
C8985	-334,946
C8986	-1,447,618
C9011	-374,292
C9012	-140,952
C9014	-70,925
C9016	-114,562
C9017	-5,177,700
C9018	-3,973,886
C9019	-6,275,252
C9020	-303,908
C9022	-287,379
C9023	-462,923
C9026	-609,673
C9027	-498,122
C9028	-470,762
C9029	-894,372
C9032	-463,447
C9055	
C9305	
C9600	
D1227	
D1288	
D1489	
D1635	
D2302	
D2475	
D2707	

D2728	
ZA001	-160,489
ZA002	-11,768
ZA004	-24,778
ZG011	769,586
ZH001	107,275
ZH002	-113,802
ZH004	70,456
ZK011	-2,293,441
ZL001	-1,019,835
ZL002	-670,584
ZL004	-1,058,829
ZN001	-2,017,939
ZN002	-9,001,496
ZN004	-14,532,217
ZR001	-2,538,843
ZR002	-3,090,228
ZR004	-112,838
ZS011	-876,136
ZU001	-1,602,937
ZU002	-1,303,033
ZU004	931,454
Total Adjustment	-61,410,077

**Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Interrogatories
Date Received: December 20, 2008**

OCTA-INT-03-024

REQUEST:

Investment in Account 364

The average investment in the distribution poles in Account 364 is the fundamental element in the pole attachment formula used by the PUCO. One of the key drivers of that average investment is the embedded investment in Account 364. At his deposition on December 15, Mr. Dean indicated that the summary of Duke's continuing property records for Account 364, provided by Duke to the OCTA in response to OCTA request for production of Duke's continuing property records and contained in POD No. 01-004, was incorrect and is being revised by Duke. Also at his deposition, Mr. Dean indicated that Duke is undertaking a review of the assets added to Account 364 for 2007. Please respond fully to the following interrogatories addressing these issues.

To the extent that Duke has not yet completed its review addressed in Interrogatory No. 23, identify by page of the CPR Ledger and by work order all additional line item entries that Duke intends to review related to the investment recorded in Account 364.

RESPONSE:

The review is complete.

PERSON RESPONSIBLE: James Dean

**Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Interrogatories
Date Received: December 20, 2008**

OCTA-INT-03-025

REQUEST:

Investment in Account 364

The average investment in the distribution poles in Account 364 is the fundamental element in the pole attachment formula used by the PUCO. One of the key drivers of that average investment is the embedded investment in Account 364. At his deposition on December 15, Mr. Dean indicated that the summary of Duke's continuing property records for Account 364, provided by Duke to the OCTA in response to OCTA request for production of Duke's continuing property records and contained in POD No. 01-004, was incorrect and is being revised by Duke. Also at his deposition, Mr. Dean indicated that Duke is undertaking a review of the assets added to Account 364 for 2007. Please respond fully to the following interrogatories addressing these issues.

Does Duke intend to review items in Duke's CPR Ledger for years other than 2007? If not, explain why not.

RESPONSE:

Duke has reviewed the current Continuing Property Record Ledger. The correction identified in Interrogatory 03 – 023 was driven by GL 106, Completed Construction not Classified, which will continue to be reported in the CPR as GL 106 until unitized to GL101. As the documents are continuing property records, the correction concerned more than 2007.

PERSON RESPONSIBLE: James Dean

**Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Interrogatories
Date Received: December 20, 2008**

OCTA-INT-03-026

REQUEST:

Investment in Account 364

The average investment in the distribution poles in Account 364 is the fundamental element in the pole attachment formula used by the PUCO. One of the key drivers of that average investment is the embedded investment in Account 364. At his deposition on December 15, Mr. Dean indicated that the summary of Duke's continuing property records for Account 364, provided by Duke to the OCTA in response to OCTA request for production of Duke's continuing property records and contained in POD No. 01-004, was incorrect and is being revised by Duke. Also at his deposition, Mr. Dean indicated that Duke is undertaking a review of the assets added to Account 364 for 2007. Please respond fully to the following interrogatories addressing these issues.

Attachment DLS-2 to Mr. Storck's testimony in this proceeding uses an investment of \$284,535,121 in Account 364 in the numerator of the pole rate calculation. Does Duke intend to revise that investment number in this proceeding.

RESPONSE: Yes, see response to STAFF-DR-50-001 Supplemental.

PERSON RESPONSIBLE: Donald Storck

**Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Interrogatories
Date Received: December 20, 2008**

OCTA-INT-03-027

REQUEST:

Investment in Account 364

The average investment in the distribution poles in Account 364 is the fundamental element in the pole attachment formula used by the PUCO. One of the key drivers of that average investment is the embedded investment in Account 364. At his deposition on December 15, Mr. Dean indicated that the summary of Duke's continuing property records for Account 364, provided by Duke to the OCTA in response to OCTA request for production of Duke's continuing property records and contained in POD No. 01-004, was incorrect and is being revised by Duke. Also at his deposition, Mr. Dean indicated that Duke is undertaking a review of the assets added to Account 364 for 2007. Please respond fully to the following interrogatories addressing these issues.

If the answer to Interrogatory No. 26 is affirmative, please supply the number on which Duke intends to rely as representing the embedded investment in Account 364, identify all back-up documents that support such an embedded investment number and identify a witness who can testify knowledgeably about the new number.

RESPONSE:

See Attachment OCTA-INT-03-027.

PERSON RESPONSIBLE: Donald Storck

Duke Energy Ohio

Pole Attachment Formula For
Electric Utility Owners Using FERC Part 191 Accounts (excluding blowdown service)

A. Components

1. Rate of Return

2. Depreciation

3. Tax Exemption

4. Maintenance Expenses

5. Net Depreciation Plant to Service - Accumulated Depreciation - ADIT (Book, 100, 200, 250, 300)

6. Total Expense

7. Net Investment in Account

8. Rate of Return

9. Depreciation

10. Tax Exemption

11. Maintenance Expenses

12. Net Depreciation Plant to Service - Accumulated Depreciation - ADIT (Book, 100, 200, 250, 300)

13. Total Expense

14. Net Investment in Account

15. Rate of Return

16. Depreciation

17. Tax Exemption

18. Maintenance Expenses

19. Net Depreciation Plant to Service - Accumulated Depreciation - ADIT (Book, 100, 200, 250, 300)

20. Total Expense

21. Net Investment in Account

22. Rate of Return

23. Depreciation

24. Tax Exemption

25. Maintenance Expenses

26. Net Depreciation Plant to Service - Accumulated Depreciation - ADIT (Book, 100, 200, 250, 300)

27. Total Expense

28. Net Investment in Account

29. Rate of Return

30. Depreciation

31. Tax Exemption

32. Maintenance Expenses

33. Net Depreciation Plant to Service - Accumulated Depreciation - ADIT (Book, 100, 200, 250, 300)

34. Total Expense

35. Net Investment in Account

36. Rate of Return

Duke Energy Ohio
Pole Attachment Formula
For Electric Utility Pole Owners

<u>FCC Pole Attachment Rate Formula</u>	<u>Amount</u>	<u>Reference/Source</u>
1 Gross Pole Investment	\$223,125,044	A. Below
2 Pole Depreciation Reserve	\$88,084,483	B1 below
3 Crossarm Factor	\$15,139,993	(1.minus 2.minus O1.) times 15 percent
4 Accumulated Deferred Taxes	(\$175,784,145)	O. Below
5 Net Pole Investment	\$100,933,288	1. minus 2.minus O1.
6 Number of Poles	248,901	D. Below
7 Net Investment Per Bare Pole	\$344.88	5. minus 3. divided by 6.
8 Pole Maintenance		
A. Maintenance of Overhead Lines	\$28,170,919	E. Below
B. Total Investment in Poles	\$588,409,021	A. plus F. Plus G.
C. Depreciation Reserve	\$222,982,148	B1+B2+B3
D. Accumulated Deferred Taxes	\$81,378,839	O1+O2+O3
E. Total Investment in Poles - Net	\$284,050,034	BB. minus 8C. Minus 8D.
F. Pole Maintenance Ratio	9.21%	8A. divided by 8E.
9 Depreciation	5.38%	(1. divided by (1. minus 2. minus O1.)) times H.
10 Administration	8.98%	(I. divided by (J. minus K. minus O))
11 Taxes (Normalized)	8.91%	(L. through N.) divided by (J. minus K minus O)
12 Rate of Return	9.10%	T. Below
13 Total Carrying Charge	38.71%	8F. plus (9. through 12.)
14 Allocated Space	7.41%	1 divided by 13.5 (Pole Space Reserved)
15 Maximum Rate	\$9.88	(7. times 13.) times 14.
<u>Input Data</u>		
A. Poles, Towers, & Fixtures (Acctg.384)	\$223,125,044	Per Schedule WPB-2.3b, Witness C.J. Council
B. 1. Accum Depr. for FERC Acctg 384	\$88,084,483	Per Schedule WPB-3.3b, Witness C.J. Council
2. Accum Depr. for FERC Acctg 385	\$80,208,065	Per Schedule WPB-3.3b, Witness C.J. Council
3. Accum Depr. for FERC Acctg 389	\$34,879,590	Per Schedule WPB-3.3d, Witness C.J. Council
C. Distribution Plant	\$1,827,978,822	FERC Form 1, Page 207, Line 78 Column g
D. Number of Distribution Poles	248,901	PD Process Improvement -Nancy Musser
E. Mils of Overhead Lines (Acctg. 523)	\$28,170,919	FERC Form 1, Page 322, Line 149 Column b.
F. Overhead Conductors & Devices (Acctg. 385)	292,887,912	Per Schedule WPB-2.3b, Witness C.J. Council
G. Services (Acctg. 389)	\$2,388,885	Per Schedule WPB-2.3d, Witness C.J. Council
H. Depreciation Rate - Distribution Property	2.44%	Plant Accounting - Kelly Hanson
I. Distribution Admin. & Gen. Exps.	\$78,443,755	Per Schedule C-2, Witness Don Wathen
J. Net Distribution Plant in Service	\$1,783,353,487	Per Schedule B-1, Witness Don Wathen
K. Accum. Depr. - Utility Plant in Service	(\$817,982,998)	Per Schedule B-1, Witness Don Wathen
L. Taxes Other Than Income Taxes	\$81,108,988	Per Schedule C-2, Witness Don Wathen
M. State Income Taxes Expense	\$82,314	Per Schedule C-2, Witness Don Wathen
N. Federal Income Taxes Expense	\$5,782,255	Per Schedule C-2, Witness Don Wathen
O. Accumulated Deferred Inc. Taxes (Acct 190, 255, 281-283)	(\$175,784,145)	Per Schedule B-6, Witness W.D. Wathen
1. ADIT for Poles (Acct 364)	\$24,087,264	Deferred Tax Calculation Worksheet
2. ADIT for Overhead Conductor (Acct 385)	\$31,619,970	Deferred Tax Calculation Worksheet
3. ADIT for Services (Acct 389)	\$5,659,605	Deferred Tax Calculation Worksheet
P. Accum. Def Invest Tax Credits (Acct. 255)	(182,083)	Per Schedule B-6, Witness W.D. Wathen
Q. Accum. Defer Inc Taxes - Accel. Amort. (Acct. 281)	-	Per Schedule B-6, Witness W.D. Wathen
R. Accum. Defer Inc Taxes - Other Property (Acct. 282)	(197,878,639)	Per Schedule B-6, Witness W.D. Wathen
S. Accum. Defer Inc Taxes - Other (Acct. 283)	(4,752,723)	Per Schedule B-6, Witness W.D. Wathen
T. Rate of Return	9.10%	FUCC Case No. 08-708-EL-AJR
U. Space Occupied	1.00	FCC Order Docket 97-151
V. Usable Space	13.5	FCC Order Docket 97-151
X. Pole Height	37.5	FCC Order Docket 97-151

Duke Energy Ohio
 Allocation of Distribution Accumulated Deferred Tax Balances (Acct. 190)
 To Plant Accounts 364, 365 and 369
 As of March 31, 2008

	Allocated ADIT Amounts	FERC Form No. 1 Source
	(\$)	
Accumulated Deferred Taxes (Acct. 190)	27,049,300	Per Schedule B-6, Witness W.D. Wathen
Accum. Deferred Investment Tax Credits (Acct. 255)	(182,083)	Per Schedule B-6, Witness W.D. Wathen
Accum. Deferred Income Taxes - Accel. Amort. (Acct. 281)	-	Per Schedule B-6, Witness W.D. Wathen
Accum. Deferred Income Taxes - Other Property (Acct. 282)	(197,878,639)	Per Schedule B-6, Witness W.D. Wathen
Accum. Deferred Income Taxes - Other (Acct. 283)	(4,752,723)	Per Schedule B-6, Witness W.D. Wathen
Accumulated Deferred Taxes for Electric	<u>(175,764,145)</u>	
	% of Total	
Distribution Electric Plant in Service ¹	(\$)	(\$)
Total Plant	<u>1,827,976,822</u>	<u>100.00%</u>
Poles (Acct. 384)	223,126,044	13.71%
Overhead Conductor (Acct. 365)	292,897,912	17.98%
Services (Acct. 369)	52,386,065	3.22%
Total Accts 364, 365 and 369		<u>61,376,839</u>

¹ Duke Energy 2007 FERC Form No. 1

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Interrogatories
Date Received: December 20, 2008

OCTA-INT-03-028

REQUEST:

Number of Distribution Poles in Account 364

The number of distribution poles in Account 364 is another key driver of the pole attachment rate as it is the denominator for the average investment per pole. See the formula in Attachment DLS-2. In the formula, Duke uses the number 248,901 as the number of poles in Account 364. In the summary of the continuing property records initially provided to OCTA, as a substitute for the continuing property records requested by OCTA in POD 01-004, Duke listed the total number of poles in Account 364 as 234,942. But in his deposition Mr. Dean said that the summary was not correct and is being revised. Please respond fully to the following interrogatories addressing this issue.

Explain fully how Duke determined that it had 248,901 distribution poles in Account 364 as of the end of 2007, including the basis for the number, what back-up exists to support that number, where all such back-up can be found and in what form, and identify a witness who can testify about these matters.

RESPONSE:

Objection. This Interrogatory misinterprets the prior deposition testimony of James Dean and is thus based upon incorrect statements. The pole count information used in the formula is not incorrect as compared to the summary of the continuing property records. As Mr. Dean explained, the quantity information on the continuing property records lags behind field records. This Interrogatory is further objectionable as it is duplicative of prior requests, including those posed to Mr. Dean during his deposition. Without waiving said objections, the quantity of distribution poles used for purposes of the proposed pole attachment rate was derived with reference to Duke Energy Ohio's Small World infrastructure system.

PERSON RESPONSIBLE: N/A

**Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Interrogatories
Date Received: December 20, 2008**

OCTA-INT-03-029

REQUEST:

Number of Distribution Poles in Account 364

The number of distribution poles in Account 364 is another key driver of the pole attachment rate as it is the denominator for the average investment per pole. See the formula in Attachment DLS-2. In the formula, Duke uses the number 248,901 as the number of poles in Account 364. In the summary of the continuing property records initially provided to OCTA, as a substitute for the continuing property records requested by OCTA in POD 01-004, Duke listed the total number of poles in Account 364 as 234,942. But in his deposition Mr. Dean said that the summary was not correct and is being revised. Please respond fully to the following interrogatories addressing this issue.

If Duke now contends that it had some different number of poles in Account 364 as of the end of 2007 than 248,901, explain fully the basis for the different number, and describe all back-up that exists for this different number, where such back-up is to be found and in what form, and identify a witness who can testify about these matters

RESPONSE:

Objection. This Interrogatory misinterprets the prior deposition testimony of James Dean and is thus based upon an incorrect statement. This Interrogatory is further objectionable in that it is duplicative of prior discovery responses, thereby unreasonably exposing Duke Energy Ohio to undue burden and expense. Without waiving said objection, the quantity used in the FCC formula is unchanged.

PERSON RESPONSIBLE: N/A

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Interrogatories
Date Received: December 20, 2008

OCTA-INT-03-030

REQUEST:

Number of Distribution Poles in Account 364

The number of distribution poles in Account 364 is another key driver of the pole attachment rate as it is the denominator for the average investment per pole. See the formula in Attachment DLS-2. In the formula, Duke uses the number 248,901 as the number of poles in Account 364. In the summary of the continuing property records initially provided to OCTA, as a substitute for the continuing property records requested by OCTA in POD 01-004, Duke listed the total number of poles in Account 364 as 234,942. But in his deposition Mr. Dean said that the summary was not correct and is being revised. Please respond fully to the following interrogatories addressing this issue.

In Duke's Summary of CPR provided to OCTA in POD 01-004, it listed the quantity of poles in the balance of its continuing property records as of 2000 as 237,357. To derive that number Duke has apparently started with a balance for 2000 of 236,063, to which Duke added 1,629 "additions" and subtracted 335 "retirements." Explain fully the basis for Duke's starting balance, as of 2000, of 236,063, and identify all documents providing the back-up for that number.

RESPONSE:

Objection. This interrogatory is unduly burdensome and exposes Duke Energy Ohio to duplicative discovery requests as the OCTA previously had the opportunity to depose James Dean on this topic. It further is objectionable in that it improperly infers that the summary, in its entirety, is incorrect. Without waiving said objection and to the extent discoverable, Duke Energy Ohio has provided in response to Interrogatory 03-022 revised information to POD 01-004. The starting balance for 2000 is 232,885. This quantity does not reflex the actual number of field poles accounted for since it contains a quantity associated to the accounting for GL 106, Completed Construction not Classified. Attachment OCTA-INT-03-030 is of the 1999 legacy continuing property record showing a quantity of 232,294 for GL 101 Plant in Service (note the acct on this report was 3540 which equals current acct number 3640). Attachment OCTA-INT-03-030 is of the Power Plant Asset 1115 showing the amount converted for GL 101 of quantity 232, 291 and GL 106 of 'accounting' quantity 595.

PERSON RESPONSIBLE: James Dean

THE CINCINNATI GAS & ELECTRIC COMPANY
 CONTINUING PROPERTY RECORD AS OF DECEMBER 31, 1992
 ACCOUNT 3540 POLES, TOWERS AND FIXTURES-DISTRIBUTION
 RATE AREA OR LINE NO. 9900 MISCELLANEOUS GROUP

PAGE 1204

PROD-UNIT-CODE	YEAR	UNIT	QUANTITY	UNIT COST	ORIGINAL COST
535 0651 0000	1971	0000	0	954.0600	7,632.64
535 0651 0000	1977	0000	1	1,824.2000	1,824.20
		TOTAL	10		15,925.85
535 0701 0000	1956	0000	1	534.2200	534.22
535 0701 0000	1967	0000	1	683.9400	683.94
535 0701 0000	1970	0000	1	897.9500	897.95
535 0701 0000	1971	0000	1	1,214.4500	1,214.45
		TOTAL	4		3,330.56
RATE AREA OR LINE NO. 9900 TOTAL					
ACCOUNT NO. 3540 TOTAL					
232,294					
548,142.66					
167,658,951.45					

Duke Energy

Business Unit	GL Account	Business Segment	Quantity	CPR Balance
Asset Location	Utility Account	Sub Account		
Asset Description	Eng in Service Year			
75023-DE Ohio Power Deliv - Elec	0101000 - Property, Plant, & Equipm Electric			
Woodlawn - Ohio Distribution Lines	36400 - Poles, Towers & Fixtures	3640 - None		
Pole: Wood, 50'		12/1981	2	\$3,608.78
Pole: Wood, 50'		12/1982	1	\$2,086.17
Pole: Wood, 50'		12/1986	2	\$2,418.66
Pole: Wood, 50'		12/1987	2	\$2,675.28
Pole: Wood, 50'		12/1988	3	\$9,189.22
Pole: Wood, 50'		12/1989	1	\$1,747.88
Pole: Wood, 50'		12/1991	1	\$3,179.93
Pole: Wood, 50'		12/1992	1	\$6,175.06
Pole: Wood, 50'		12/1995	4	\$15,356.97
Pole: Wood, 50'		12/1997	2	\$8,411.26
Pole: Wood, 50'		12/1992	1	\$279.36
Pole: Wood, 55'		12/1957	1	\$411.40
Pole: Wood, 55'		12/1967	2	\$1,229.52
Pole: Wood, 55'		12/1970	2	\$1,262.80
Pole: Wood, 55'		12/1995	1	\$18,885.01
Pole: Wood, 55'		12/1997	5	\$19,525.95
Pole: Wood, 60'		12/1953	1	\$364.97
Pole: Wood, 60'		12/1959	1	\$702.22
Pole: Wood, 60'		12/1987	2	\$9,523.12
Pole: Wood, 65'		12/1997	12	\$66,614.96
Pole: Wood, 70'		12/1997	1	\$5,400.04
Pole: Wood, 75'		12/1997	2	\$11,989.86
Location/Utility Account Total				\$613,033.78
Business Unit/ GL Total				232291
Grand Total:				232291
				\$167,858,951.45

06 101

3

✓

Date Energy

Business Unit	GL Account	Business Segment	Eng In Service Year	Quantity	CPR Balance
Asset Location	Utility Account	Sub Account			
Asset Description					
75023-DE Ohio Power Distr - Elec	0108000 - Camp Const Unclassified-Electr	3640 - None			
Ohio Elec Distribution Lines	36400 - Poles, Towers & Fixtures				
Non-utilized		04/1999	17		\$11,944.75
Non-utilized		08/1999	10		\$14,623.48
Non-utilized		08/1999	12		\$78,884.40
Non-utilized		07/1999	14		\$20,167.94
Non-utilized		08/1999	12		\$46,688.04
Non-utilized		09/1999	10		\$19,884.78
Non-utilized		10/1999	14		\$46,459.61
Non-utilized		11/1999	21		\$18,390.32
Non-utilized		12/1999	319		\$3,624,327.81
Location/Utility Account Total				696	\$8,078,511.98
Business Unit GL Total				895	\$8,078,511.98
Grand Total:				895	\$5,076,511.98

GL Vol

**Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Interrogatories
Date Received: December 20, 2008**

OCTA-INT-03-031

REQUEST:

Number of Distribution Poles in Account 364

The number of distribution poles in Account 364 is another key driver of the pole attachment rate as it is the denominator for the average investment per pole. See the formula in Attachment DLS-2. In the formula, Duke uses the number 248,901 as the number of poles in Account 364. In the summary of the continuing property records initially provided to OCTA, as a substitute for the continuing property records requested by OCTA in POD 01-004, Duke listed the total number of poles in Account 364 as 234,942. But in his deposition Mr. Dean said that the summary was not correct and is being revised. Please respond fully to the following interrogatories addressing this issue.

How many distribution poles did Duke have in service as of December 31, 2007, that are not recorded on pages 1-63 of the CPR Ledger? Identify all back-up documentation for your answer.

RESPONSE:

The Continuing Property Records does not have a count of poles in service that are recorded on pages 1-63 of the CPR ledger. Ledger entries made for in service accounting recorded in GL 106 do not reflect a number of poles in service.

PERSON RESPONSIBLE: James Dean

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Interrogatories
Date Received: December 20, 2008

OCTA-INT-03-032

REQUEST:

Number of Distribution Poles in Account 364

The number of distribution poles in Account 364 is another key driver of the pole attachment rate as it is the denominator for the average investment per pole. See the formula in Attachment DLS-2. In the formula, Duke uses the number 248,901 as the number of poles in Account 364. In the summary of the continuing property records initially provided to OCTA, as a substitute for the continuing property records requested by OCTA in POD 01-004, Duke listed the total number of poles in Account 364 as 234,942. But in his deposition Mr. Dean said that the summary was not correct and is being revised. Please respond fully to the following interrogatories addressing this issue.

Reference pages 87 and 88 of Duke's CPR Ledger: For each of the poles on these pages that is listed as replacing a distribution pole, please indicate whether the poles that were added are recorded on some other page(s) of the CPR Ledger. If so, identify the page(s) and identify the back-up documentation demonstrating that they were so recorded.

RESPONSE:

Objection. This interrogatory subjects Duke Energy Ohio to duplicative discovery requests. This information should have been solicited from James Dean in his prior deposition. Without waiving said objection, the pages selected are for GL 106, Completed Construction not Classified, and only will appear on these pages. The 'accounting' quantity associated to these entries does not represent a quantity of poles added.

PERSON RESPONSIBLE: James Dean

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Interrogatories
Date Received: December 20, 2008

OCTA-INT-03-033

REQUEST:

Accumulated Depreciation and Accumulated Deferred Income Taxes

The investment amounts used in the rate formula are reduced by accumulated depreciation and accumulated deferred income taxes.

List the accumulated depreciation for Account 364 for each year from 2000 through 2007.

RESPONSE:

2000	\$ 71,483,188.86
2001	\$ 74,920,100.83
2002	\$ 79,515,741.19
2003	\$ 84,489,697.34
2004	\$ 88,194,252.57
2005	\$ 91,387,770.41
2006	\$ 95,816,744.30
2007	\$100,036,815.50

PERSON RESPONSIBLE: James Dean

**Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Interrogatories
Date Received: December 20, 2008**

OCTA-INT-03-034

REQUEST:

Accumulated Depreciation and Accumulated Deferred Income Taxes

The investment amounts used in the rate formula are reduced by accumulated depreciation and accumulated deferred income taxes.

List the amounts charged to removal of distribution poles and how many such poles were subject to removal costs in each year from 2000 through 2007.

RESPONSE:

Objection. This interrogatory is duplicative of prior discovery requests. Without waiving said objection and to the extent discoverable, as discussed in OCTA-INT-01-006, the cost of removal is not identified by property unit removed when charged to projects therefore the number of poles removed in relationship to cost of removal is not tracked in the system.

PERSON RESPONSIBLE: James Dean

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Interrogatories
Date Received: December 20, 2008

OCTA-INT-03-035

REQUEST:

Accumulated Depreciation and Accumulated Deferred Income Taxes

The investment amounts used in the rate formula are reduced by accumulated depreciation and accumulated deferred income taxes.

Identify all back-up documentation of the removal costs related to poles in Account 364 from 2000 through 2007.

RESPONSE:

Please refer to response given in OCC-POD-01-007.

PERSON RESPONSIBLE: N/A

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Interrogatories
Date Received: December 20, 2008

OCTA-INT-03-036

REQUEST:

Accumulated Depreciation and Accumulated Deferred Income Taxes

The investment amounts used in the rate formula are reduced by accumulated depreciation and accumulated deferred income taxes.

How many poles were "salvaged" and what were the amounts credited for salvage against the depreciation expense for Account 364 in each year from 2000 through 2007?

RESPONSE:

Will supplement.

PERSON RESPONSIBLE: N/A

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Interrogatories
Date Received: December 20, 2008

OCTA-INT-03-037

REQUEST:

Accumulated Depreciation and Accumulated Deferred Income Taxes

The investment amounts used in the rate formula are reduced by accumulated depreciation and accumulated deferred income taxes.

Identify all back-up documentation of the amounts credited to salvage against the depreciation expense for Account 364 in each year from 2000 through 2007?

RESPONSE:

Will supplement.

PERSON RESPONSIBLE: N/A

**Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Interrogatories
Date Received: December 20, 2008**

OCTA-INT-03-038

REQUEST:

Accumulated Depreciation and Accumulated Deferred Income Taxes

The investment amounts used in the rate formula are reduced by accumulated depreciation and accumulated deferred income taxes.

Did Duke make any adjustments to the accumulated depreciation amounts for any accounts it has used in the pole attachment formula in any year from 2000 through 2007? If so, please fully describe all such adjustments by indicating the amounts of the adjustments and the explanation for the adjustments?

RESPONSE:

See Attachment OCTA-INT-03-038 for the excel file downloaded from the depreciation system which provides the entries made manually for depreciation from 2000 – 2007.

The current Duke depreciation process is to catch up depreciation expense for projects that are reported in service outside of the current month of depreciation processing.

PERSON RESPONSIBLE: James Dean

long_description	gl_post_mo_yr	amount	long_description
Depreciation Expense Adjustment	4/1/2005 0:00	16.96	Catch up depreciation expense
Depreciation Expense Adjustment	4/1/2005 0:00	436.53	Catch up depreciation expense
Depreciation Expense Adjustment	9/1/2007 0:00	1,506.58	catch up missed depr
Depreciation Expense Adjustment	11/1/2005 0:00	222.95	Correction for lost depreciation
Depreciation Expense Adjustment	11/1/2005 0:00	520.88	Correction for lost depreciation
Depreciation Expense Adjustment	6/1/2008 0:00	742.01	Deprec catch-up for late in service date
Depreciation Expense Adjustment	5/1/2008 0:00	356.93	Deprec exp catch up for late in-service dat
Depreciation Expense Adjustment	12/1/2007 0:00	1,149.38	Deprec exp catch-up - late in service
Depreciation Expense Adjustment	12/1/2007 0:00	339.40	Deprec exp catch-up - late in service
Depreciation Expense Adjustment	12/1/2007 0:00	19.80	Deprec exp catch-up - late in service
Depreciation Expense Adjustment	2/1/2008 0:00	368.17	Deprec exp catchup for late in service
Depreciation Expense Adjustment	2/1/2008 0:00	153.15	Deprec exp catchup for late in service
Depreciation Expense Adjustment	4/1/2008 0:00	736.29	Deprec exp catchup for late in service date
Depreciation Expense Adjustment	3/1/2008 0:00	401.39	Deprec exp catchup for late in service date
Depreciation Expense Adjustment	7/1/2005 0:00	3,094.45	Depreciation Expense Adjustment
Reserve Transfer Out	4/1/2003 0:00	-22,408,982.00	FAS 143 COR ADJUSTMENT
Cost of Removal Transfer In	4/1/2003 0:00	22,408,982.00	FAS 143 COR ADJUSTMENT
Depreciation Expense Adjustment	1/1/2008 0:00	2,986.62	Late in service date deprec exp catch-up
Depreciation Expense Adjustment	2/1/2007 0:00	3,358.34	Missed depreciation due to I/Is
Depreciation Expense Adjustment	1/1/2007 0:00	4,094.18	Missed depreciation due to I/Is
Depreciation Expense Adjustment	1/1/2007 0:00	646.18	Missed depreciation due to I/Is
Depreciation Expense Adjustment	5/1/2005 0:00	-346.42	overcorrection on depreciation expense in March
Depreciation Expense Adjustment	3/1/2005 0:00	9,470.21	to catch depreciation expense
Depreciation Expense Adjustment	12/1/2006 0:00	2,669.30	to catch up depr exp
Depreciation Expense Adjustment	12/1/2006 0:00	1,532.80	to catch up depr exp
Depreciation Expense Adjustment	8/1/2006 0:00	4,589.48	to catch up depreciation exp
Depreciation Expense Adjustment	10/1/2006 0:00	696.70	To catch up depreciation exp
Depreciation Expense Adjustment	7/1/2006 0:00	517.59	to catch up depreciation expense
Depreciation Expense Adjustment	2/1/2006 0:00	4,091.65	to catch up depreciation expense
Depreciation Expense Adjustment	7/1/2005 0:00	1,941.51	To catch up depreciation expense
Depreciation Expense Adjustment	7/1/2005 0:00	934.49	To catch up depreciation expense
Depreciation Expense Adjustment	7/1/2005 0:00	1,936.04	To catch up depreciation expense
Depreciation Expense Adjustment	7/1/2005 0:00	8,863.38	To catch up depreciation expense
Depreciation Expense Adjustment	7/1/2005 0:00	47.02	To catch up depreciation expense
Depreciation Expense Adjustment	7/1/2005 0:00	1,767.39	To catch up Depreciation Expense
Depreciation Expense Adjustment	10/1/2007 0:00	2,970.10	to catch up missed depr
Depreciation Expense Adjustment	7/1/2007 0:00	3,928.00	to catch up missed depr
Depreciation Expense Adjustment	7/1/2007 0:00	17.66	to catch up missed depr
Depreciation Expense Adjustment	2/1/2007 0:00	2,206.99	to catch up missed depreciation
Depreciation Expense Adjustment	10/1/2008 0:00	1,211.75	To Catch up on Missed Dep
Depreciation Expense Adjustment	11/1/2008 0:00	92.29	To Catch up on missed Dep
Depreciation Expense Adjustment	4/1/2007 0:00	173.50	to catch up on missed depreciation due to I/Is
Depreciation Expense Adjustment	7/1/2006 0:00	1,840.72	TO CATCH UP RESERVE
Depreciation Expense Adjustment	2/1/2005 0:00	301.85	to correct late in service date
Cost of Rembval	6/1/2003 0:00	578.06	To correct Power Plant reserve posting error.
		72,980.18	

**Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Interrogatories
Date Received: December 20, 2008**

OCTA-INT-03-039

REQUEST:

Accumulated Depreciation and Accumulated Deferred Income Taxes

The investment amounts used in the rate formula are reduced by accumulated depreciation and accumulated deferred income taxes.

Explain any relationship of the amounts included by Duke in FERC Accounts 190, 281-283 for 2007.

RESPONSE:

Account 190 - Accumulated Deferred Income Taxes:

This account includes income taxes paid for the year for certain items of income that were included for tax purposes but will not be reflected in the company's reported net income until a subsequent year, and income taxes paid for the year for certain items of expense that were reflected in the company's reported net income but are not allowed for tax purposes until a subsequent year.

Account 281 - Accumulated Deferred Income Taxes – Accelerated Amortization Property:

This account includes tax deferrals related to certain certified pollution control facilities for which the company claimed accelerated (5-year) amortization as permitted by Section 169 of the Internal Revenue Code.

Account 282 - Accumulated Deferred Income Taxes – Other Property:

This account includes tax deferrals related to all property other than property reported under Account 281, Accumulated Deferred Income Taxes—Accelerated Amortization Property.

Account 283 - Accumulated Deferred Income Taxes – Other:

This account includes tax deferrals for all items other than those deferrals which are reported in Accounts 281, Accumulated Deferred Income Taxes—Accelerated Amortization Property or 282, Accumulated Deferred Income Taxes—Other Property.

PERSON RESPONSIBLE: Keith G. Butler

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Interrogatories
Date Received: December 20, 2008

OCTA-INT-03-040

REQUEST:

Accumulated Depreciation and Accumulated Deferred Income Taxes

The investment amounts used in the rate formula are reduced by accumulated depreciation and accumulated deferred income taxes.

Please provide a full explanation of the underlying causes for Duke's Accumulated Deferred Income taxes in Account 190 for Electric going from \$25,432,538 at the beginning of 2007 to minus \$12,076,399 at end of year. (See Page 234 of Duke's 2007 FERC Form 1).

RESPONSE:

The 2007 change in DE-Ohio's Accumulated Deferred Income Taxes in account 190 was primarily caused by:

- a. 2006 tax return to provision true-ups for certain pension and benefit funding payments made subsequent to year-end 2006 but claimed as a deduction on the 2006 Duke Energy federal income tax return, and
- b. additional fair market value purchase accounting adjustments recognized in 2007 as a result of the Duke Energy – Cinergy merger.

PERSON RESPONSIBLE: Keith G. Butler

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Interrogatories
Date Received: December 20, 2008

OCTA-INT-03-041

REQUEST:

Accumulated Depreciation and Accumulated Deferred Income Taxes

The investment amounts used in the rate formula are reduced by accumulated depreciation and accumulated deferred income taxes.

Please fully explain the "adjustments" to Account 283 of -\$55,265,108 in debits and of -\$18,645,168 in credits for 2006.

RESPONSE:

The adjustments to Account 283 for 2006 are related to fair market value adjustments posted to certain non-property related book balance sheet accounts as a result of purchase accounting adjustments for the Duke Energy – Cinergy merger. Those fair market value adjustments to the book basis are not permitted adjustments for income tax purposes (the tax basis) and therefore create timing differences that require the recording of deferred tax credits and debits to Account 283 - Accumulated Deferred Income Taxes – Other. The net of tax effect of those fair market value adjustments was reflected in the goodwill recorded by DE-Ohio as a result of the merger.

PERSON RESPONSIBLE: Keith G. Butler

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Interrogatories
Date Received: December 20, 2008

OCTA-INT-03-042

REQUEST:

Maintenance Expenses

Please provide a specific explanation for the almost 8-fold increase in maintenance expenses charged to Account 593 from 2004 to 2007 (the expenses increased from \$3,279,878 in 2004; to \$16,218,314 in 2005; to \$15,938,079 in 2006; and to \$26,170,919 in 2007). As part of your answer, please describe any differences in Duke's accounting practices related to that account and identify a person who can testify on behalf of Duke regarding the expenses booked to that account and the overhead plant maintenance activities of Duke over that time.

RESPONSE:

The expenses for Account 593 in 2004 were actually \$18,887,847 according to FERC Form 1. As for the increase in 2007, this is mainly due to the ice storm. The costs of the ice storm were \$5.3M in this account. \$4.8M was not budgeted. This was calculated by using the average of the last six years as being built into our budget.

PERSON RESPONSIBLE: James Mehring

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Interrogatories
Date Received: December 20, 2008

OCTA-INT-03-043

REQUEST:

Questions related to Duke's revision of the terms and conditions of its tariff.

Please provide by each year 2000 through 2007 the number of attachments by each separate entity that attached to Duke's poles.

RESPONSE:

Will supplement.

PERSON RESPONSIBLE: N/A

**Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Interrogatories
Date Received: December 20, 2008**

OCTA-INT-03-044

REQUEST:

Questions related to Duke's revision of the terms and conditions of its tariff.

Please provide by each year 2000 through 2007 for each entity that attached to Duke's poles, the amount of revenue received by Duke from annual pole rentals, the number of attachments covered by such revenue and the pole attachment rate applied.

RESPONSE:

Will supplement.

PERSON RESPONSIBLE: N/A

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Interrogatories
Date Received: December 20, 2008

OCTA-INT-03-045

REQUEST:

Questions related to Duke's revision of the terms and conditions of its tariff.

Does Duke have records indicating that the following entities have submitted applications to attach to Duke's drop poles prior to making attachment – Cincinnati Bell, AT&T, Embarq.? If so, please identify such records.

RESPONSE:

Objection. This interrogatory is not reasonably calculated to lead to the discovery of admissible evidence. The tariff at issue does not concern attachments by public utilities, such as Cincinnati Bell, AT&T and Embarq. Furthermore, this interrogatory exposes DE-Ohio to undue expense and burden in having to respond to requests for information that will not have any bearing on the pole attachment tariff proposed under R.C. 4905.71.

PERSON RESPONSIBLE: N/A

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Interrogatories
Date Received: December 20, 2008

OCTA-INT-03-046

REQUEST:

Questions related to Duke's revision of the terms and conditions of its tariff.

Please identify each audit, inspection or inventory conducted by Duke of third party attachments in the period 2000-2007. For each such audit, inspection or inventory, provide the dates it was performed, its scope, its purpose, and the entities whose attachments were reviewed.

RESPONSE:

Objection. This interrogatory seeks information that is not reasonably calculated to lead to the discovery of admissible evidence. The details of prior audits are irrelevant to the terms and conditions proposed in the pole attachment tariff. Without waiving said objection, and to the extent discoverable, please see the following:

Audit/Inventory	Date	Scope	Purpose	Entity
UVC/UVO	2001	All UVC/UVO Attachments	Update UVC/UVO attachment count	UVC/UVO/Frontiervision
Adelphia Cable	2005-2006	All Adelphia Attachments	Update Adelphia Attachments. Check for Safety violations	Adelphia Cable
Time Warner Cable	2005-2007	Limited Time Warner Area	Update Time Warner Attachments. Check for Safety violations	Time Warner Cable

PERSON RESPONSIBLE: Rick Schuler

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Production of Documents
Date Received: December 20, 2008

OCTA-POD-03-017

REQUEST:

Please produce Native Electronic Copies of the continuing property record documents produced in paper form by Duke on December 11, 2008, but going back to beginning of Power Plant system as kept by Duke.

RESPONSE:

Electronic copies of the Additions, Retirements and Continuing Property Record documents provided on December 11, 2008 are on the attached CD. These Addition and Retirement reports cover the period of 2000 – 2007 and the Continuing Property Record is as of 2007. The Power Plant System was installed in 2000. The Power Plant System does not have a readily available method to download a 'snapshot' of the Continuing Property Record for years 2000 – 2006 in the same detail as provided for 2007. The Continuing Property Records for years 2000 – 2006 have been provided electronically based upon a different report, Asset 1115. The extracted data is in a different format and does not provide the same detail level as 2007. The printed copies of this report would be voluminous to print each year. The printed Asset 1115 report for year 2000 has been provided in response to OCTA-POD-3-021.

PERSON RESPONSIBLE: James Dean

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Production of Documents
Date Received: December 20, 2008

OCTA-POD-03-018

REQUEST:

Please produce documents reflecting the amount of investment in Account 364 and the number of poles in Account 364 immediately prior to Duke's prior system for keeping continuing property records of Account 364 being converted to its Power Plant system.

RESPONSE:

The continuing property record for 1999 is stored on microfiche. Account 364 covers 191 pages of microfiche. Only the final page of the continuing property record's 191 pages is attached as Attachment OCTA-INT-03-018. This page provides GL 101 quantity and investment.

See Attachment OCTA-POD-03-018 for the legacy systems printout of the estimated GL 106 values for year-end 1999. No 'accounting' quantity is associated to this number by the legacy system.

Note: the legacy records used a different numbering scheme. The account 3540 is account 3640 since year 2000.

PERSON RESPONSIBLE: James Dean

**Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Production of Documents
Date Received: December 20, 2008**

OCTA-POD-03-019

REQUEST:

Please provide documents backing up in full the number of poles (248,901) used by Duke in its pole attachment calculations in Ex. DLS-2 to Mr. Storck's testimony in this case.

RESPONSE:

Objection. This request is overly broad, unduly burdensome, and exposes Duke Energy Ohio to unnecessary expense. As has been previously explained by Duke Energy Ohio, the documents at issue are quite voluminous in nature and it would impose significant burden upon Duke Energy Ohio to secure those records that may still exist according to established retention periods.

PERSON RESPONSIBLE: N/A

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Production of Documents
Date Received: December 20, 2008

OCTA-POD-03-020

REQUEST:

Please provide all documents that show the breakdown of Duke's investment recorded in Account 364 immediately prior to Duke's conversion to the Power Plant system.

RESPONSE:

See response to OCTA-POD 03-018.

PERSON RESPONSIBLE: James Dean

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Production of Documents
Date Received: December 20, 2008

OCTA-POD-03-021CONFIDENTIAL

REQUEST:

Please provide all documents that show the breakdown of Duke's investment recorded in Account 364 immediately after Duke's conversion to the Power Plant system.

RESPONSE:

CONFIDENTIAL AND PROPRIETARY TRADE SECRET

Duke Energy Ohio, Inc. has designated this response as "Confidential and Proprietary Trade Secret". The response has been redacted; the unredacted response has been submitted under seal.

PERSON RESPONSIBLE: James Dean

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Production of Documents
Date Received: December 20, 2008

OCTA-POD-03-022

REQUEST:

Please provide all documents that show the number of Duke distribution poles in Account 364 immediately prior to Duke's conversion to the Power Plant system. and just afterwards.

RESPONSE:

Objection. This document request is duplicative of OCTA-POD-03-018 and is thus harassing in nature.

PERSON RESPONSIBLE: N/A

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Production of Documents
Date Received: December 20, 2008

OCTA-POD-03-023

REQUEST:

Please provide all documents that show the number of Duke distribution poles in Account 364 immediately after Duke's conversion to the Power Plant system.

RESPONSE:

Objection. This document request is duplicative of OCTA-POD 03-021 and thus harassing in nature.

PERSON RESPONSIBLE: N/A

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Production of Documents
Date Received: December 20, 2008

OCTA-POD-03-024

REQUEST:

Please provide all documents that contain estimates used currently by Duke with telephone companies of the cost for Duke to obtain and install distribution poles.

RESPONSE:

Objection. Arrangements with public utilities (e.g. telephone companies) are irrelevant to the tariff at issue in this proceeding. This interrogatory thus is not reasonably calculated to lead to the discovery of admissible evidence and instead exposes Duke Energy Ohio to unnecessary burden.

PERSON RESPONSIBLE: N/A

**Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Production of Documents
Date Received: December 20, 2008**

OCTA-POD-03-025

REQUEST:

Please provide all documents related to Duke's 2000-0001 audit/inventory/inspection of Time Warner Cable's ("TWC's") attachments, including, but not limited to, any agreements regarding the performance of the audit/inventory/inspection; instructions and/or guidelines; correspondence; summaries of any kind regarding partial or final results of the audit/inventory/inspection; documents related to any consideration of imposing unauthorized attachment charges; documents related to Duke's findings regarding the number of unreported attachments; and documents reflecting billing for the audit/inventory/inspection or based on its results, and documents related to the incorporation of unreported attachments into Duke's records.

RESPONSE:

Will supplement.

PERSON RESPONSIBLE: N/A

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Production of Documents
Date Received: December 20, 2008

OCTA-POD-03-026

REQUEST:

Please provide all documents related to Duke's 2004-2006 audit/inventory/inspection of TWC's attachments, including but not limited to; any agreements regarding the performance of the audit/inventory/inspection; instructions and/or guidelines; correspondence; summaries of any kind regarding partial or final results of the audit/inventory/inspection; documents related to Duke's imposing unauthorized attachment charges; documents related to Duke's findings regarding the number of unreported attachments; documents related to the incorporation of unreported attachments into Duke's records; and documents related to any findings of safety violations by any attaching party, including any documents related to which party caused any of the alleged safety violations.

RESPONSE:

Will supplement.

PERSON RESPONSIBLE: N/A

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Production of Documents
Date Received: December 20, 2008

OCTA-POD-03-027

REQUEST:

As part of the previous document request, please provide Native Electronic Copies of all spreadsheets and computerized data related to the 2004-2006 audit/inventory/inspection of TWC's attachments.

RESPONSE:

Will supplement.

PERSON RESPONSIBLE: N/A

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Production of Documents
Date Received: December 20, 2008

OCTA-POD-03-028

REQUEST:

Please provide all documents related to Duke's implementation of its GIS system for poles, including but not limited to documents reflecting the procedures used in mapping the coordinates of the poles, documents demonstrating the extent to which drop and lift poles were included in the mapping process, any quality controls of the mapping process, any deficiencies noted in the process, any poles found since the process that were not included in the initial mapping, and the current number of Duke distribution poles according to its GIS maps.

RESPONSE:

Will supplement.

PERSON RESPONSIBLE: N/A

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Production of Documents
Date Received: December 20, 2008

OCTA-POD-03-029

REQUEST:

As part of its response to the prior production request, please provide Native Electronic Copies of its GIS maps showing Duke's pole locations.

RESPONSE:

Will supplement.

PERSON RESPONSIBLE: N/A

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Production of Documents
Date Received: December 20, 2008

OCTA-POD-03-030 CONFIDENTIAL

REQUEST:

Please provide all work orders and other documents backing up all entries on pages 108 and 118 of the CPR Ledger Detailed Report (Deposition Ex. 14).

RESPONSE:

CONFIDENTIAL AND PROPRIETARY TRADE SECRET

Duke Energy Ohio, Inc. has designated this response as "Confidential and Proprietary Trade Secret". The response has been redacted; the unredacted response has been submitted under seal.

PERSON RESPONSIBLE: James Dean

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Third Set Production of Documents
Date Received: December 20, 2008

OCTA-POD-03-031

REQUEST:

Please provide Native Electronic Copies of electronic files that provide back-up documentation for maintenance expenses charged to Account 593 for 2004 through 2007.

RESPONSE:

See attached CD for back-up documentation for maintenance expenses charged to Account 593 for 2004 through 2007.

PERSON RESPONSIBLE: James Mehring