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DOCKETING DIVISION
Public Utilities Commission of Ohio

-----Original Message-----

From: aelmicten@aol.com

To: mchristensen@columbuslaw.org; dboehm@bkllawfirm.com; Stephen R. Remick

Sent: Mon, 23 Mar 2009 5:01 am

Subject: Fwd: March 22, 2009 re-edited e-mail question response to Duke Energy of Ohio, PUCO- PUCO staff & OCC, from intervenor Albert E. Lane, PUCO case # 08-709-EL-AIR settlem

-----Original Message-----

From: aelmicten@aol.com

To: elizabeth.watts@duke-energy.com; mchristensen@columbuslaw.com; myurick@cwslaw.com;
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carl_boeckman@hotmail.com; erichter@middletownjournalnews.com

Sent: Sun, 22 Mar 2009 9:44 pm

Subject: March 22, 2009 re-edited e-mail question response to Duke Energy of Ohio, PUCO- PUCO staff & OCC, from intervenor Albert E. Lane, PUCO case # 08-709-EL-AIR settlem

March 22, 2009: (1) As an individual Duke Energy of Ohio customer (7170-0391-20-0) intervenor in PUCO case # 08-709-EL-AIR am I not entitled to receive and the PUCO*, PUCO staff* and the OCC* are obligated to answer the 27 opponent questions I formally asked (Elec. distribution rate requested increase/residential of 4.73%) that are posted on PUCO 08-709-EL-AIR docket on March 3, 2009. before a a settlement, if any is discussed? (2) I also herewith protest the non presence of a PUCO Commissioner at the public hearing on March 19, 2009 at Cincinnati City Hall Council chamber. Was this non presence a violation of PUCO courtesy? (3) I also protest settlement discussions being held by the PUCO staff, OCC and Duke Energy of Ohio before the Duke Energy of Ohio customer opponents have stated or filed their protests at the legal public advertised PUCO hearings all of which haven't been held as yet. Today is March 22, 2009 and the Butler County hearing for Case # 08-709-EL-Air under auspices of the PUCO is on March 24, 2009. Is this compromise electric distribution rate increase/negotiation taking place before that public hearing against Ohio/PUCO rules and laws? (4) The customer consumers in the DUKE Energy of OHIO franchised territory are also not being told or shown in the public private media arena now, what has and is transpiring concerning the existing dockets PUCO 08-709-EL-AIR via PUCO 05-0732-EL-Mer? How come? (5) This calls for immediate paid for public advertisements by the Duke Energy, PUCO, PUCO Staff and the OCC in the written, oral or visual widely circulated private and public media, before any increased electric distribution rate decision is made by the PUCO. Isn't the Duke customer public "right to know" before a PUCO rate decision is made interpreted by Article 1, bill of Rights, U.S. Constitution 1791? Article 1=Freedom of speech, Religion, the press and Assembly. Please note that in my comment filed=20 on PUCO docket 08-709-EL-AIR on Dec 31, 2008 I reserved that right to proceed individually, if the OCC was not in my opinion fairly representing me. I herewith state that this is the fact today as the OCC is now discussing compromise with the PUCO staff, (hence

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PUCO) and Duke Ohio, supposedly on Duke Ohio customers behalf and the public hearings are still taking place. (6) Again, how come my 27 opponent questions haven't been answered by Duke Energy of Ohio,=2 OPUCO Staff and the OCC?

My overlying question on the March 3, 2009 docket filing that must be answered by the 5 Ohio sworn in PUCO Commissioners: (7) Does the present PUCO staff* & PUCO* have a conflict of interest in Case # PUCO 08-709-EL-AIR because they **both allowed the merger of Cinergy and Duke Energy on Dec 21, 2005 without having discovery?** Because of their votes in favor of the merger, I question their open mindedness to make a fair decision on a Duke requested Ohio rate increase now. These paid20for OHIO PUCO- PUCO staff & OCC ads should state that the merger of Cinergy and Duke Energy took place ion Dec 21, 2005 without Discovery being allowed by the PUCO, even though Duke energy at that time had two fresh Federal consent decrees (that I wrote to the PUCO as a commentor on Docket # 05-0732-EL-MER on July 26, 2005) for faulty accounting at the time of the Enron 2001 scandal in the western U.S. Duke energy paid as a settlement \$212,0 00 million dollars to the FERC in 2004 for round trip & wash deals and signed a cease and desist order with the Federal Securites and Exchange Commission (SEC) on July 8, 2005 for keeping two sets of books in accounting.=2 0The Duke head of a Houston Texas subsidiary selling (Bryan Lavielle) energy wholesale had pleaded guilty in a Federal Court in southern Texas on Feb 10, 2005. These two **accounting caused** consent decrees still exist. The Cinergy/Duke Energy merger papers were filed with PUCO on June 1, 2005. (8) How come the PUCO Commissioners would not allow Discovery during the Cinergy/Duke Energy comment period where I wrote on the docket as a commentor and filed on Aug 19, 2005 within case # 05-0732-El-Mer stating "It is my belief that the PUCO would want to know what Cinergy as a public utility knew about Duke's **settlement with FERC, S.E.C** and the Lavielle guilty plea and when did they know it? I called that the Baker question. I communicated with the staff of the OCC and their Board and they would not bring up this prior pattern of accounting as a representative of Cinergy Ohio customers with PUCO and Duke Energy during the merger period comment timeframe where there was no discovery by PUCO. (8)According to my current presumption (all) of the Duke Ohio accounting (income, expenses and wages etc. in house and out of house and out of Ohio workers wage annualization, applicable to Ohio elec.distribution rules,laws,i.e.monitoring, safety, service and reliability) from Indiana, Kentucky and North Carolina have not been gone over in depth by an outside disinterested CPA for the PUCO staff and hence the Duke residential customers, (part of my 27 questions to compare overhead electric wages and number of in house vs the number of out of house employees from 1995 to 2008, and years in between. The question in my letter posted on the docket of March 3, 2009 concerning how much existing cheaper space Duke Energy of Ohio has at its Cincinnati 4th Street location (thus eliminating travel back and forth to Charlotte by employees) has not been answered, nor has the question of how much back room Cincinnati Duke electric distribution service area activiites is taking place in the 500,000 sq ft building just leased by the parent in Charlotte , North Carolina and chargeable to my proposed rate hike/ present bill. These Ohio backroom activities were suppose to be in the Duke Ohio territory as I recall OCC 05-0732 merger questions, especially in the empty 4th Street, Cincinnati space. I look for a different PUCO staff20and PUCO to make any of these decisions because of conflicts of interest in case # 08-709-El-AIR. as it is an offspring of the merger case. I request the OCC to go back to its Board of Directors and inquire if they are carrying out their legislative mandate correctly in proposing a settlement when all of their constituents haven't had a chance to go to as public legal hearing and be heard concerning the Duke Oh. 709 elec. dist. rate increase. I look for paid for by PUCO, PUCO staff & OCC and the State of Ohio of public advertising/mailings of the (opponents of Case # 08-709) complaints, questions and suggestions which are not now being stated, written or shown in the private public media. "THE PUBLIC HAS A RIGHT TO KNOW". It is my belief that the merger was poorly reviewed by PUCO, PUCO staff and the OCC. The Cinergy merger of Dec 21, 2005 with Duke Energy should be reopened, restructured and Greater Cincinnati should have its own Electric utility again. Very truly yours, Albert E. Lane, I am not a lawyer and did not take legal training, otherwise I would place this E-mail on the PUCO docket (case # 08-709-EL-AIR.) P.S. cc: public media, press, Govt. (Governor Strickland)

Ms. Hotz, kindly forward copies of this e-mail to all members of the OCC Board & to Ms. Kingery at PUCO staff.

Ms. Kingery, kindly forward copies of this e-mail to the five PUCO Commissioners & Atty Gen Asst Mr. Reilly

Albert E. Lane, intervenor 08-709-El-AIR, Duke Energy of Ohio residential customer: account # 7170-0391-20-0
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