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Dianne B. Kuhnell  
Senior Paralegal

VIA OVERNIGHT MAIL DELIVERY

December 23, 2008

Docketing Division  
Public Utilities Commission of Ohio  
180 East Broad Street  
Columbus, Ohio 43215

Re: Case No. 08-709-EL-AIR

Dear Docketing Division:

Enclosed please find for filing an original and twenty-two copies each of the Notice of Deposition of Jonathon McGee and the Notice of Deposition of Edward Kozalek.

Please file-stamp and return two copies of each in the envelope provided.

Should you have any questions, please contact me at (513) 419-1837.

Very truly yours,

  
Dianne Kuhnell  
Senior Paralegal

Enclosure

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  
rechnician \_\_\_\_\_ Date Processed DEC 24 2008

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**


In The Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Electric Distribution Rates	) ) )	Case No. 08-709-EL-AIR
In the Matter of the Application of Duke Energy Ohio, Inc. for Tariff Approval	) ) )	Case No. 08-710-EL-ATA
In the Matter of the Application of Duke Energy Ohio, Inc. for Approval to Change Accounting Methods	) ) )	Case No. 08-711-EL-AAM
In the Matter of the Application of Cincinnati Gas & Electric Company for Approval of its Rider BDP, Backup Delivery Point.	) ) )	Case No. 06-718-EL-ATA

**NOTICE OF DEPOSITION DUCES TECUM OF EDWARD KOZELEK**

Please take notice that pursuant to Rule 4901-1-2(F) of the Ohio Administrative Code (OAC), and by its counsel, Petitioner, Duke Energy Ohio will take the deposition of Edward Kozelek on January 16, 2009, beginning at 1:30 p.m. and continuing thereafter until completed. The deposition will take place at the offices of Duke Energy Ohio, 155 E. Broad Street, 21st Floor, Columbus, Ohio 43215, and will be recorded by a court stenographer authorized to issue oaths. Said deposition will be taken as if on cross-examination for purposes of discovery, use at the trial and or hearing, and all other uses permitted under the Ohio Rules of Civil Procedure and Evidence.

The deponent is requested to bring to the deposition the documents identified in the attached Exhibit A.

Respectfully submitted,

  
\_\_\_\_\_  
Amy B. Spiller (0047277)

Associate General Counsel

Elizabeth Watts (0031092)

Associate General Counsel

Duke Energy Ohio

139 East Fourth Street, Rm. EA025

P.O. Box 960

Cincinnati, Ohio 45201

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E-mail: [amy.spiller@duke-energy.com](mailto:amy.spiller@duke-energy.com)

## CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was delivered on this the 23<sup>rd</sup> day of December, 2008, via electronic mail or ordinary US mail delivery, postage prepaid, to the following:

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

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

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

Bricker & Eckler, LLP  
Sally Bloomfield/ Thomas O'Brien  
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Columbus, OH 43215-4236

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

McNees, Wallace & Nurick LLC  
Joseph M. Clark  
21 East State St., 17<sup>th</sup> Floor  
Columbus, OH 43215-4225

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

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

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180 East Broad Street, 9<sup>th</sup> Floor  
Columbus, OH 43215-3707

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

  
Amy E. Spiller

## EXHIBIT A

### NOTICE OF DEPOSITION DUCES TECUM

The term "Documents" means documents as that term is used in Rule 34 of the Federal Rules of Civil Procedure, including without limitation, any written, printed, electronic, recorded or photographic matter or sound reproduction, and specifically including but not limited to contracts, agreement, letters, correspondence, e-mail, memoranda, telegrams, handwritten notes, books, records, reports, orders, security agreements, financing statements, mortgages, checks, drafts, sales records, invoices, bills, working papers, diaries, charts, papers, notes, indices, lists, inventories, computer printouts, accounting records, ledger sheets, statements, analyses, forecasts, instructions, manuals, pamphlets, brochures, flyers, announcements, schedules, written memorials of personal or telephone conversations or meetings or conferences and all other interoffice and intraoffice communications, teletypes, correspondence, worksheets, minutes, data processing cards, photographs, films, or any other writing however produced or reproduced or any computer file, server, tape, computer disk, or electronic sound recording. In the event that the original or non-identical copy of a document is not available, "documents" means an identical copy of an original or a copy of a non-identical copy. Any document bearing notations, markings or writing of any kind differing from the original shall be treated as an original document.

The items to be produced by the deponent at this deposition are as follows:

1. All documents evidencing or confirming payment made by Time Warner Cable ("TWC") to Duke Energy Ohio and its predecessors, for attachments made by TWC to Duke Energy Ohio's poles. For purposes of this request, documents include, but are not limited to, invoices, cancelled checks, and accounts payable ledgers.
2. All documents regarding all audits of TWC's attachments to Duke Energy Ohio's poles from 1999 to the present.
3. All documents concerning the work performed by or on behalf of TWC from 2000 to the present to install anchors for its attachments to Duke Energy Ohio's poles. For purposes of this request, documents include, but are not limited to, work orders, drawings, bills of lading or purchase, time sheets, contracts with third parties, and invoices.
4. All documents concerning the work performed by or on behalf of TWC from 2000 to the present to complete the guying of its attachments to Duke Energy Ohio's poles. For purposes of this request, documents include, but are not limited to, work orders, drawings, bills of lading or purchase, time sheets, contracts with third parties, and invoices.

5. All documents concerning the work performed by or on behalf of TWC from 2000 to the present to reduce the size of TWC's cable bundles attached to Duke Energy Ohio's poles. For purposes of this request, documents include, but are not limited to, work orders, drawings, bills of lading or purchase, time sheets, contracts with third parties, and invoices.
6. All documents concerning the work performed by or on behalf of TWC from 2000 to the present in response to the violations identified in any audit of TWC's attachments to Duke Energy Ohio's poles. For purposes of this request, documents include, but are not limited to, work orders, drawings, bills of lading or purchase, time sheets, contracts with third parties, and invoices.
7. All documents concerning meetings between TWC and Duke Energy Ohio representatives from 2000 to the present; said meetings at which any audit of TWC's attachments to Duke Energy Ohio's poles were discussed.
8. All agreements in effect from 2000 to the present between TWC and Time Warner Telecomm ("TWTC") pursuant to which TWTC attached or overlashed to TWC's attachments to Duke Energy Ohio's poles.
9. All agreements in effect from 2000 to the present between TWC and any Ohio public utility concerning attachments by TWC to each such utility's poles.
10. All documents corroborating any and all written notice provided by TWC to Duke Energy Ohio of safety violations observed by TWC. For purposes of this request, a "safety violation" means a violation of the National Electric Safety Code.
11. All documents concerning the work performed by TWC from 2000 to the present to correct safety violations that TWC representatives observed in the field and in Duke Energy Ohio's service territory. For purposes of this request, a "safety violation" means a violation of the National Electric Safety Code.
12. All internal corporate documents showing how much is allocated by TWC to line maintenance and safety.
13. Documents showing pole attachment agreement disputes between TWC and any other utility to which it attaches.