

PAGE 1 OF 8 PAGES **ALBERT E. LANE**
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DECEMBER 29, 2008

**THE PUBLIC UTILITIES COMMISSION OF OHIO
ATTENTION DOCKETING DIVISION, Ms. RENEE JENKINS
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13TH FLOOR
COLUMBUS, OHIO 43215-3793**

PUCO

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2008 DEC 31 AM 11:24

DEAR COMMISSIONER SCHRIBER & FELLOW COMMISSIONERS:

- FOR ENTRY INTO DOCKET # 08-709 EL-AIR**
- " " " " **# 08-710 EL-ATA**
- " " " " **# 08-711 EL -AAM**
- " " " " **# 06-718-EL-ATA**

ABOVE DOCKET CASES ARE INCLUDED IN THE COPY OF DUKE ENERGY OF OHIO DECEMBER 22, 2008 PUCO POSTED TRANSMITTAL PAGE ENCLOSED FOR REFERENCE & ENTRY PURPOSES AS PART OF MY COMMENT.

ABOVE DOCKET CASES ARE INCLUDED IN THE COPY OF DUKE ENERGY OF OHIO JULY 25, 2008 PUCO POSTED TRANSMITTAL PAGE ENCLOSED FOR REFERENCE & ENTRY PURPOSES AS PART OF MY COMMENT.

ALSO FOR ENTRY INTO DOCKET # 05-0732-EL-MER

I HEREBY ASK THE PUCO THAT I BE PLACED ON THE SERVICE LIST ENCLOSED, HENCEFORTH AS AN INTERESTED PERSON IN ALL OF THE ABOVE 5 DOCKETS.

THE COMMENTS IN THIS LETTER ARE FROM ME ALBERT E. LANE A DUKE ENERGY OF OHIO CONSUMER CUSTOMER, ACCOUNT #7170-0391-20-0. MY COMMENTS ARE AGAINST THE DUKE ENERGY OF OHIO REQUESTS IN THE ABOVE DOCKETS. THE PUCO MUST NOT ALLOW THE APPROXIMATE 4.73% AVERAGE ELECTRIC RATE INCREASE FOR RESIDENTIAL DISTRIBUTION FOR CUSTOMERS OF DUKE AS REQUESTED JULY 25, 2008. ("The average percentage increase in the total bill of customers under Rate RS, including a firm supply of electric generation, should the increase be granted in full is 4.73%") SOURCE DUKE ENERGY PUCO FILING JULY 25, 2008, VOLUME 3 PUCO.

FURTHER THE DUKE ENERGY REQUEST OF DECEMBER 22, 2008 ASKING THE PUCO FOR SEPARATE ACCOUNTING FOR THE "IKE" WIND STORM OUTAGES EXPENSES, FOLLOWING SEPT 14, 2008 FOR

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MONEY RECOVERY FROM THEIR CUSTOMERS IN THE ESTIMATED AMOUNT OF \$30 MILLION (O & M) AND 1 MIL IN CAPITAL COSTS BE DENIED. MY REASONING FOLLOWS:

BACKGROUND: THE JULY 25, 2008 DUKE ENERGY OF OHIO REQUEST FOR A 4.73% RESIDENTIAL INCREASE AND A RECAPTURING BY DUKE OF THE \$30 MILLION AND ONE MILLION IN CAPITAL COSTS POSTED AT PUCO DECEMBER 22, 2008 WAS REPORTED IN THE CINCINNATI ENQUIRER DECEMBER 24, 2008 BY MIKE BOYER.

I did not have electricity AT MY HOME due to outages for 5 days during the "Ike" windstorm starting SEPT 14, 2008 and for 36 hours starting with the evening of Feb 13, 2007. We stayed at a motel at our expense the night of Feb 14*.

I also was an individual commentator with the PUCO (Case # OS-0732-EL-MER) against the merger of Cinergy, a former Ohio Corporation and Duke Energy of Charlotte, North Carolina, in 2005-(merger not in the public interest-Public U.S. Government documents were enclosed) & in 2006-(I requested a rehearing). The two entities were merged with PUCO approval. The merged parent Corporation headquarters are now located in Charlotte using the name Duke Energy. The Public Utilities Commission of Ohio did not allow Discovery in this case.

Attached below is part copy of the News Release by The Public Utilities Commission of Ohio, Alan Schriber Chairman on Dec 21, 2005 titled: PUCO APPROVES MERGER OF CINERGY AND DUKE ENERGY for PUCO's, review and compliance. Source 05-0732-EL-MER. Attached to my comment of 12/27/07. The information gathered by PUCO per that press release and PUCO'S credo (Plus a formal inquiry of Duke's requests) should allow PUCO to decide fairly (heeding Ohio Consumers Counsel input), plus mine and others) to approve or disapprove the Duke Energy of Ohio request for a 4.73 per-cent electric increase and Duke retrieving the \$30 million and 1 million in capital expense from the windstorm so called "extra work" during the outages following Sept. 14, 2008.

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

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

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

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

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

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

later than Jan. 16, 2007.

- Electric service reliability should not decline as a result of the merger. If service reliability declines, the Commission will continue to have the authority to take appropriate actions. A noticeable decline in service reliability would result in an automatic process to require CG&E to invest \$1.5 million per year on distribution system improvements,
- CG&E must retain company officials in Ohio with the authority to resolve consumer complaints mediated by the Commission and its staff. The Commission must also have the ability to remotely monitor all Ohio-specific customer service calls.
- Within three months after the close of the merger, CG&E should arrange a collaborative workshop to discuss issues related to the company's natural gas choice program.

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

The Public Utilities Commission of Ohio (PUCO) is the sole agency charged with regulating public utility service. The role of the PUCO is to assure residential, business, and industrial consumers have access to adequate, safe, and reliable utility services at fair prices while facilitating an environment that provides competitive choices.

On February 14, 2007, I received the following letter from Paul Duffy of PUCO in response to quoted questions as I as a consumer customer of Duke Energy of Ohio thought that the PUCO would be monitoring Duke as to their service reliability and that under the credo of PUCO above, PUCO would judiciously require service at fair prices. Otherwise the letter of head Commissioner Schriber, 12/21/05 was not being followed by the Commission itself. (source: **05-0732-EL-MER**), Attached to my comments docketed **2/27/07**.

1. "What is the PUCO's monitoring procedure for the Duke Energy call center in southern Indiana?"

Answer-PUCO monitors call centers when customer service audits are conducted every 18 month.

2. "How many calls at the Duke Energy call center in southern Indiana are monitored on a typical day by the PUCO as the calls relate to service, safety, and reliability provided to Ohio customers of Duke Energy? "

Answer, None

3. "Are there still Duke Energy Ohio crews down south performing storm recovery work such that there are insufficient Duke Energy Ohio crews to restore service to Ohio customers of Duke Energy?"

Answer, Commission staff is not aware of any Ohio crews of Duke Energy still performing recovery work in any southern state. Duke Energy has brought in crews from the Carolinas, Tennessee, and Indiana to assist in storm recovery efforts in Ohio.

I hope that the above answers are responsive to your questions. If you need additional information, please let me know. Sincerely, Paul J. Duffy

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MY REASONS AND PUBLIC DOCUMENTS AS TO WHY ALL OF THE ABOVE DUKE ENERGY OF OHIO PRESENT REQUESTS SHOULD BE REJECTED ARE PREVIOUSLY SPELLED OUT IN MY SIX DOCUMENTS ALL WITHIN PUCO DOCKET # 05-0732-EL-MER. DATES OF 7/26/05; 8/19/05; 11/21/05; 1/10/06; 2/27/07; & 3/26/07. BASED ON MY COMMENTS AND DUKE'S PAST PATTERN OF MEGAWATT COSTS BEHAVIOR EXCESSES, IN MY OPINION THE PUCO SHOULD NEVER HAVE ALLOWED THE CINERGY-DUKE ENERGY MERGER.

THE PUBLIC DOCUMENTS REFERRED TO IN THE PREVIOUS PARAGRAPH ARE HEREWITH REFERRED TO: (ALL READERS OF THIS DEC 29, 2008 COMMENTARY BY ME SHOULD KEEP IN MIND THAT THE MERGER OF DUKE ENERGY AND CINERGY WAS FILED WITH THE PUCO ON JUNE 1, 2005.) THE PUCO DID NOT HAVE DISCOVERY IN THIS MERGER CASE. THE DUKE SEC CONSENT SIGNING TOOK PLACE ON JULY 8, 2005 WHICH IS AFTER JUNE 1, 2005.

7/26/05-DUKE ENERGY PAID FERC VIA A CONSENT AGREEMENT A SETTLEMENT AGGREGATE AMOUNT OF \$211,099.00 IN 2003 FOR "PRICE MANIPULATION "AND "WASH TRADES" BY THEIR HOUSTON, TEXAS SUBSIDIARY IN WESTERN MARKETS, (CALIFORNIA ETC.) DURING THE YEARS 2000 AND 2001.

7/26/05- DUKE ENTERED INTO AN AGREEMENT (CONSENT) WITH THE SEC ON JULY 8, 2005, WHERE IT AGREED TO "CEASE AND DESIST" UNDER THE SECURITIES EXCHANGE ACT OF 1934 BECAUE OF THE FOLLOWING: FROM 1997 TO NOVEMBER 2002 DUKE TRADED ELECTRICITY AND NATURAL GAS PRODUCTS. DUKE MAINTAINED SEPARATE "BOOKS". \$56.2 MILLION OF TRADING LOSSES WERE MISCLASSIFIED BY DUKE.

7/26/05 DUKE ENERGY'S BRIAN LAVIELLE (ATTACHED TO DUKE'S FINANCIAL PORTFOLIO MANAGEMENT MANAGEMENT GROUP IN HOUSTON, TEXAS): THE U.S. DEPARTMNT OF JUSTICE, U.S. ATTORNEYS OFFICE FOR THE SOUTHERN DISTRICT OF TEXAS ON FEB 10, 2005 BEFORE JUDGE NANCY ATLAS, LAVIELLE PLEADED GUILTY. HE WAS CHARGED WITH FALSIFYING THE BOOKS OF DUKE ENERGY IN NOVEMBER 2001.

11/18/05-1/9/06 THE ENERGY POLICY ACT OF 2005 (EFFECTIVE AUGUST 8, 2005): DUKE ENERGY GAVE MONEY TO LOBBYIST ANDREW LUNDQUIST WHO WAS PROMOTING THE PASSAGE OF THE ENERGY POLICY ACT OF 2005 IN CONGRESS.

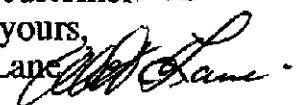
Part of the new Energy Policy Act of 2005 eradicated the Public Utility Holding Act of 1935 to the benefit of Duke Energy, its stockholders and subsequently Cinergy executives and stockholders. (Cinergy is incorporated in Ohio). Duke Energy gave money legally to a lobbyist named Andrew Lundquist so that this new law could be lobbied for by Lundquist with the result that Duke Energy could now keep its non utility real estate investment Company, Crescent Resources when merging with Cinergy. This was accomplished by the simultaneous repeal of the Public Utilities Holding Act of 1935 which had required divestiture of non utility businesses owned holdings by a utility when it formed a utility holding company, which is what is proposed between Duke Energy and Cinergy. This part of the 1935 law was put in place to protect customer consumers. The Ohio Consumer Council did not have funds to counter lobby Duke Energy and others paid for lobbying.

3/26/07-My PUCO comment of 3/26/07 was my request for an expanded formal PUCO inquiry of Duke Energy electric service during the 2/13/07 time frame when there were electric outages from the Cincinnati ice storm that are the same now for the Duke "Ike" windstorm expenses following 9/14/08.

3/26/07-The 3/26/07 comment had a 40 page enclosure copy (format) of the results of an office of regulatory staff, of the South Carolina Electric Department review and hearing of Duke Energy of North Carolinas' South Carolina 2005 Ice storm recovery work. Duke Energy of Ohio customers and the PUCO are entitled to know now by investigation and a formal inquiry (from data obtained from monitoring by PUCO), the following: How many overhead wire direct employed line crew employees and trucks for the three shifts does Duke Energy Ohio have now in 2008? Compared to 2003-4-5-6-7? This would help give the answer as to whether or not the 4.73% increase, plus the 30 million and 1 million capital expense rebate is justified. In my opinion the number of permanent overhead wire employees item surely should have been monitored and records kept since Dec 21, 2005 and requested for 2003 & 04. The way I would count the Duke Energy permanently directly employed overhead wire employees would exclude the traveling sub-contracted "on call" temporary employee repair crews such as Pike, Bowlin, Shaw & McGilbert. These four Companies and their crews and other 3rd party outside temporary employees like these don't count for immediately expected customer service and extra Duke expense towards customers. In the past these crews were rarely needed. All of Cinergy's past prompt service and labor costs must be compared to Duke's service, costs, neglect, accounting and be analyzed.

PUCO should be continuously monitoring and keeping records, of overhead line, transformer, pole repair/replacement and maintenance. Tree trimming schedules and methods should be reviewed. Customer calls and Duke's response behavior should have been always monitored, with records kept by PUCO. Further the PUCO'S charge is to heed The Ohio Consumers Counsel input concerning the 4.73 per-cent proposed residential rate increase while facilitating an environment that provides competitive fair price choices.? Isn't this the PUCO task? I reserve the right to protest the manner, quality, context and scope by which the Ohio Consumers Counsel obtains its Duke Energy service data and other comparisons and information in order to fairly represent me and other residential customers on these Duke Energy of Ohio rate increase proposals,
Encl: 2

Very truly yours,
Albert E. Lane



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FILE

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THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio for an Increase in Electric Distribution Rates)	Case No. 08-709-EL-ATR
)	
In the Matter of the Application of Duke Energy Ohio for Tariff Approval)	Case No. 08-710-EL-ATA
)	
In the Matter of the Application of Duke Energy Ohio for Approval to Change Accounting Methods)	Case No. 08-711-EL-AAM

DUKE ENERGY OHIO'S MOTION FOR APPROVAL TO CHANGE ACCOUNTING METHODS TO DEFER AND CREATE A REGULATORY ASSET FOR STORM RESTORATION COSTS INCURRED DURING THE TEST YEAR AND RECOVERY MECHANISM FOR STORM RESTORATION COSTS

1. Duke Energy Ohio (DE-Ohio or the Company) is an Ohio corporation engaged in the business of supplying electric generation, transmission and distribution service to approximately 690,000 customers in southwestern Ohio, all of whom will be affected by this motion, and is a public utility as defined by R.C. 4905.02 and R.C. 4905.03.
2. Pursuant to Section 4905.13, Revised Code, DE-Ohio moves the Commission for approval to change accounting methods to defer and create a regulatory asset for storm restoration operation and maintenance (O&M) costs incurred during the test year.
3. On or about July 25, 2008, DE-Ohio filed its applications in the above-styled proceedings (Applications) requesting, among other things, an increase in electric distribution rates with a forecasted test year including the twelve months ended December 31, 2008. DE-Ohio also requested tariff approval and approval to change

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of Duke Energy Ohio, Inc. For an Increase in Electric 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

VOLUME 3

SCHEDULE F
SCHEDULE S-1
SCHEDULE S-2
SCHEDULE S-3
SCHEDULE S-4.1

July 25, 2008