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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 30, 2009 Deposition of James Dean

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PUCO

Dear Ms. Jenkins:

Please find attached a copy of the public version of the January 30, 2009 Deposition of James Dean along with OCTA Deposition Exhibit No. 22 in Case No. 08-709-EL-AIR, et al. OCTA Deposition Exhibit Nos. 23-28 have been designated by Duke Energy Ohio as "Confidential Proprietary Trade Secrets". Page 47, line 6 through page 115, line 15 of the January 30, 2009 Deposition of James Dean relate to OCTA Deposition Exhibits 23-28. OCTA Deposition Exhibits Nos. 23-28 and page 47, line 6 through page 115, line 15 of the Deposition Transcript have been redacted from the public version but have been submitted under seal.

A Motion for Protective Order has also been filed requesting confidential treatment of this redacted information. No signature page or errata sheet was available from the court reporter.

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)

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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: JAMES DEAN (cont.)

January 30, 2009

9:00 a.m.

REPORTED BY:

Kristina L. Pedersen

1 Continued Deposition of JAMES DEAN, a witness
2 herein, 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 9:00 a.m. on
7 Friday, January 30, 2009, before Kristina Pedersen,
8 Court Reporter and Notary Public within and for the State
9 of Ohio.

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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

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9 On behalf of Intervenor, Ohio Cable
Telecommunications Association:

10

GARDNER F. GILLESPIE, ESQ.

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Hogan & Hartson, LLP

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

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2 It is stipulated by and between counsel for the
3 respective parties that the deposition of JAMES DEAN may
4 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.

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1 I N D E X

2 WITNESS:

3 JAMES DEAN

4 Page

5 By Mr. Gillespie: 6

6

7 E X H I B I T S

8 Marked

9 Deposition Exhibit Number OCTA 23 47

10 Deposition Exhibit Number OCTA 24 54

11 Deposition Exhibit Number OCTA 25 58

12 Deposition Exhibit Number OCTA 26 61

13 Deposition Exhibit Number OCTA 27 69

14 Deposition Exhibit Number OCTA 28 113

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1 JAMES DEAN,
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. Good morning, Mr. Dean.

7 A. Good morning.

8 Q. This will be a continuation of your
9 deposition that we took a couple of weeks ago. Can
10 you state your name and address for the record.

11 A. Yes. James E. Dean. And it's Fourth and
12 Main.

13 Q. Okay. Are you under any medication today?

14 A. No.

15 Q. And is there any reason why we can't depend
16 on your testimony as being accurate, complete, and
17 truthful?

18 A. No, there's not.

19 Q. The same basic guidelines that we talked
20 about last time will apply. And I'll use Duke to
21 refer to Duke Energy Ohio and its predecessors, okay?

22 A. Yes.

23 Q. Now, I want to ask some questions that
24 relate to what has previously been marked as Exhibit

1 4, this would be Page 1 of 1 of POD-01-004. So let me
2 give you that.

3 And also have marked as Exhibit Number 22
4 responses to discovery by Duke dated December 23,
5 2008, with a cover letter from Dianne Kuhnell,
6 K-u-h-n-e-l-l, and we'll be talking specifically about
7 Attachment OCTA-INT-02-015, Page 1 of 1.

8 And also an exhibit that we identified
9 yesterday, Exhibit Number 21, OCTA-INT-03-022, Page 1
10 of 1.

11 THE WITNESS: Who's on the phone; PUCO?

12 MR. GILLESPIE: Is anybody on the
13 phone?

14 THE WITNESS: Just curious.

15 MR. GILLESPIE: No.

16 THE WITNESS: I saw the lights on.

17 MR. GILLESPIE: No one is. I guess
18 since they've issued their staff report they
19 don't feel the need.

20 Q. Okay. Now, just to set the context here let
21 me tell you what my records reflect and see if this
22 sounds about right. My records reflect that
23 POD-01-004, which is part of Exhibit 4, was originally
24 supplied to OCTA around November 14 of 2008, and that

1 that was provided in response to a request for
2 production of documents for all documents that relate
3 to the number of distribution poles owned by Duke
4 since 2000, specifically mentioning continuing
5 property records by year. But instead of supplying
6 the continuing property records at that time we were
7 provided with POD-01-004. Then INT-02-015 was
8 supplied about December 23 in response to a request
9 for summary of CPRs, continuing property records,
10 going back to 1993; does that sound about right?

11 MS. SPILLER: I'm going to object to
12 the compound form of that question. Go
13 ahead, if you know.

14 A. There was two submissions I -- I'm aware of
15 the two submissions that we originally did in 2000 to
16 2007. And it was requested a similar form of '99
17 through '93.

18 Q. Okay. Do you have any reason to doubt the
19 dates that I gave?

20 A. No.

21 Q. Okay. And then my records also reflect that
22 INT-03-022, which is Exhibit Number 21, that was
23 supplied to OCTA on or about January 21 in response
24 for a corrected summary of continuing property

1 records; is that right?

2 A. I would believe so, yes.

3 Q. Okay. Now, would you agree that POD-01-004
4 and INT-02-015 contained errors?

5 A. I'm aware of the errors on the POD-04- --
6 the first one, the 2007 through 2000, yes, because I
7 knew we were in the process of adjusting this at our
8 last deposition.

9 Q. Okay. What about INT-02-015; are you aware
10 that that contains errors?

11 A. I believe as we went -- as we started down
12 through this we discovered the change --

13 Q. Well, you can't --

14 A. -- for this one.

15 Q. -- just say "this" when pointing to a
16 document. That's not going to --

17 A. The -- sorry.

18 Q. -- show up on the record.

19 A. Okay. The concatenation documents for the
20 2007 through '93 as we worked our way back through
21 that with the transfers being added to it we made
22 corrections therefor to the INT-02-015.

23 Q. Okay. So 02-015 supplied to us on
24 December 23 also had errors in it, right?

1 A. I would have to compare each number to be
2 sure.

3 Q. All right. Well, we'll give you an
4 opportunity to do that --

5 A. Okay.

6 Q. -- if you're not sure.

7 A. Okay.

8 Q. Can you explain to me for POD-01-004 how the
9 errors occurred in that document?

10 A. I'm sorry. Let me point to this one. This
11 one up here? This one up here --

12 Q. This one up here you're referring to --

13 A. The 01-004.

14 Q. Right. Okay.

15 A. No, I cannot. I believe that when the
16 person in the office worked it up they had not
17 integrated the transfers in. As far as I'm aware that
18 was one of the corrections for it.

19 Q. Okay. That was one of the corrections.
20 Were there other corrections?

21 A. Again, I did not work that one up, that one
22 personally, so I don't know what all the corrections
23 were to it.

24 Q. All right. Let me just do something I

1 should have done at the beginning here which is to
2 refer you to Exhibit Number 19. This is a notice of
3 rescheduling of the deposition dated January 13 and
4 ask you whether you are here to testify about the
5 Subjects for Examination 8 through 14?

6 A. Yes.

7 Q. Okay. Now, in terms of the errors that were
8 contained in 01-004 you mentioned that there were some
9 transfers. Were there any other errors?

10 A. I do see a change in the 2003 number that
11 was recorded here.

12 Q. Which number?

13 A. For the additions.

14 Q. And what was that change?

15 A. (No response.)

16 Q. Well, the numbers will speak for themselves.
17 But there was an increase in the amount for
18 additions --

19 A. Correct.

20 Q. -- specified, right?

21 A. Yes.

22 Q. All right. Do you know what the basis was
23 for the -- is the number that is now contained in
24 Exhibit Number 21 -- is that the correct number for

1 that?

2 A. Is that a question to me?

3 Q. Yes.

4 MS. SPILLER: Is that number accurate I
5 think is the question.

6 A. Yes.

7 Q. The \$9,000,000 number?

8 A. Yes.

9 Q. All right. Is the number also different for
10 the additions for 2004?

11 A. Yes. There seems to be approximately an
12 \$800 difference.

13 Q. And what was the reason for those errors?

14 A. When it was tied back to the FERC, I'm aware
15 of the \$800 error. There was an \$800 adjustment that
16 was on the FERC that had been shifted over -- shifted
17 in the FERC to an adjustment column on the original
18 document that had been included here on the document
19 provided on POD-01-004 in the addition column.

20 Q. Well, there weren't any adjustments shown in
21 POD-01-004, were there?

22 A. No, there was not.

23 Q. And there were no transfers reflected,
24 right?

1 A. That is correct.

2 Q. This document, POD-01-004, that purported to
3 be a summary of the CPRs, correct?

4 A. Correct.

5 Q. Now, in December, around December 23, OCTA
6 was supplied INT-02-015 which purports to be a summary
7 of the CPR as the additions and retirements for
8 Account 364 for the years 1993 through 1999; do you
9 see that?

10 A. Yes.

11 Q. Okay. Were there any errors in that?

12 A. Yes.

13 Q. Who prepared this document, INT-02-015?

14 A. I would have to go back and look in my notes
15 for that to discover that.

16 Q. So you don't know who prepared it?

17 A. It was either -- it could have been Roger
18 Selm or myself at that time.

19 Q. And if you did not prepare it, did you
20 review it before it was submitted to OCTA?

21 A. I do not recall reviewing it before then.

22 Q. But you may have prepared it?

23 A. Yes. I know that I had prepared the
24 INT-03-022.

1 Q. Well, I'm not going to -- I'm not there yet.
2 The quantity numbers reflected in INT-02-015, do you
3 see that they're all different than they -- the
4 quantity numbers that are reflected in INT-03-022?

5 MS. SPILLER: Again, object to the
6 form. Go ahead.

7 A. Yes.

8 Q. Can you tell me why they were -- well, are
9 they correctly stated in 03-022?

10 A. Yes.

11 Q. How do you know that?

12 A. I prepared it. I reviewed it. I tied all
13 the numbers that I could dollar-wise to the FERC.

14 Q. Okay. You tied them to the FERC. Did you
15 tie them --

16 A. Dollar-wise.

17 Q. -- did you tie them dollar-wise to the CPR
18 records?

19 A. Yes.

20 Q. How did you do that?

21 A. By running the Power Plant system, turning
22 it back, looking at all the activity, and asking it
23 for a result of what the additions, what the
24 retirements were, and what the balance was.

1 Q. And when they didn't coincide exactly, were
2 there transfer amounts that reflect that -- those
3 differences?

4 A. There are transfers amounts that have been
5 added to this, yes.

6 Q. And the transfer amounts were placed there
7 to tie the CPRs to the purported FERC numbers?

8 A. The transfers tied to the FERC had to be
9 added there to balance. And the quantities were
10 adjusted for the transfers and also for -- in Power
11 Plant there is quantities that may have a zero value.
12 The Power Plant system does not show those initially.
13 You have to turn on all activities to see that. As I
14 rolled this back I discovered there was a few
15 quantities that had a zero value. That was one reason
16 that the quantities changed.

17 Q. Well, please don't confuse the quantities
18 and the dollar amounts, all right?

19 A. Okay.

20 Q. First of all, let's talk about the dollar
21 amounts. There are transfer amounts reflected on
22 03-022?

23 A. Correct.

24 Q. Are there records that Duke has of the -- or

1 had at the time that you were preparing 03-022 for
2 those transfers?

3 A. Yes.

4 Q. What was the form of those records?

5 A. The form of the record is a report out of
6 Power Plant indicating what the transfers were.

7 Q. Okay. Now, Power Plant was installed in
8 2000, correct?

9 A. That is correct.

10 Q. And so prior to 2000 how did you determine
11 the amount of the transfers?

12 A. Prior to 2000 I used the FERC reports.

13 Q. So you used the transfers to tie the -- to
14 take the year-end CPR number and have it coincide with
15 the number that was reported to FERC?

16 A. Correct.

17 Q. Now, for the years 2000 to 2007 does Duke
18 have -- did Duke have a transfer record in its files
19 or its computer system reflecting the amounts of the
20 transfers that are listed on 03-022?

21 A. From 2000 through 2007, yes.

22 Q. And how were those transfer amounts recorded
23 in the records?

24 A. (No response.)

1 Q. I didn't understand your answer to that.

2 A. And I'm not understanding your question.

3 I'm sorry.

4 Q. Okay. Well, let me --

5 A. Can you -- the transfers --

6 Q. -- well, we'll come back to that.

7 A. Okay.

8 Q. Okay. For the quantity numbers reflected on
9 03-022 from 1993 through 2000, those numbers are all
10 different than they were in INT-02-015 --

11 MS. SPILLER: I'm going to object --

12 Q. -- do you see that?

13 MS. SPILLER: -- to the form. There
14 are three columns of quantity listed here.

15 MR. GILLESPIE: That's fair enough.

16 Q. I'm talking about the quantity column that
17 is the second to last column on the page of 03-022.
18 This is the year-end quantity number, correct?

19 A. The '93 through '99 on 03-022 ties to the
20 historical CPRs, yes.

21 Q. Okay. Can you explain to me why the numbers
22 in the similar column on 02-015 did not also tie to
23 the year-end quantity numbers for the CPR records?

24 A. I would believe that when they created the

1 quantities, they did not go back to the original CPRs
2 to tie back. They had taken the information from the
3 2000 and worked their process down based upon addition
4 and subtraction of the adds and retires.

5 Q. Now, 03-022, both the additions amounts and
6 the final year-end amounts continue to reflect items
7 that were incorrectly recorded in Account 364, GL 106,
8 correct?

9 A. That is correct.

10 Q. Can you tell me why those amounts have not
11 been corrected on this summary?

12 A. The reason these were not corrected is
13 because we made no attempt to stay in sync with the
14 FERC reports. We did not try to go back and change
15 the historical data for this.

16 Q. At the time that 03-022 was prepared you
17 knew that the final balance numbers for Account 364
18 were incorrect as listed on this form, correct?

19 A. I believe so, yes.

20 Q. You see that on -- well, I would ask you to
21 compare POD-01-004, the quantity column that appears
22 just before the -- the quantity under balance to the
23 quantity under balance for 03-022. Do you see that
24 those numbers are also different?

1 A. I do.

2 Q. What's the reason for that difference?

3 A. The reason for the difference is in Power
4 Plant when you run for a quantity, you have to -- if
5 you want a grand total quantity, there is a feature in
6 Power Plant where you have to turn on the zero-based
7 records that may have a quantity.

8 At the time they ran this original report
9 they did not have that turned on. As I worked this
10 issue backwards turning on all activity it was
11 discovered that had not been switched on.

12 Q. Okay. Did that also reflect the -- does
13 that also change the quantity numbers for the
14 additions?

15 A. It could have an impact on them, yes.

16 Q. Would you look at the -- compare the
17 additions column for quantity on 01-004 to the
18 additions column quantity on 03-022. Do you see any
19 differences?

20 A. No, I do not.

21 Q. Can you explain that to me, please, for me?

22 A. When they ran the additions, they
23 conceivably had that switch turned on.

24 Q. Do you know whether they did?

1 A. I would have to assume they did since the
2 balances -- or the quantity, excuse me, did not
3 change.

4 Q. Just so I'm sure I understand your
5 testimony, for the years 1993 through 1999 the
6 transfer amounts that have been added to 03-022, those
7 are plug amounts to make the balance amount for
8 Account 364 in the continuing property records match
9 the amounts that have been reported for year-end for
10 FERC?

11 A. They should have come from -- they are not
12 plug amounts. They are from the FERC reports showing
13 the transfer.

14 Q. Do the FERC reports reflect these transfer
15 amounts for those years?

16 A. Yes.

17 Q. Now, these transfer amounts are the
18 transfers that you described in your last deposition
19 as being extremely rare?

20 A. Yes.

21 Q. Now, let me make sure that I understand the
22 meaning of the word quantity and what those numbers
23 represent here. As I understood your testimony at the
24 end -- toward the end of your last deposition, not

1 necessarily the beginning, but toward the end, you
2 indicated that these quantity amounts would be the
3 number of poles -- the actual number of poles included
4 in Account 364 that have been classified to Account
5 101 to GL 101 as well as the number of times that
6 projects have been costed out for GL 106?

7 A. Correct.

8 Q. Okay. It doesn't represent the number of
9 poles total in Account 364 when you include both GL
10 101 and GL 106?

11 A. Correct.

12 Q. Okay. And when investments are made in
13 Account 364, they are first placed in GL 107 as
14 construction work in progress, right?

15 A. Correct.

16 Q. And then when they are placed in service,
17 they're transferred to GL 106, correct?

18 A. Correct.

19 Q. And that's completed construction not
20 classified?

21 A. Correct.

22 Q. And then later they're classified and placed
23 in Account 101, right?

24 A. Correct.

1 Q. And at least ideally three to six months
2 after that the poles are inventoried, and is that when
3 they become part of the Small World system, the
4 accounted poles?

5 A. The --

6 MS. SPILLER: Object to the form of the
7 question. Go ahead.

8 A. -- Small World will put them in as Small
9 World post. Then we get the information and attempt
10 within three to six months to unitize the normal
11 projects.

12 Q. I believe you indicated that three to six
13 months after they are classified into Account 101
14 they're inventoried?

15 A. That's not correct on the 101.

16 Q. Well, that's what --

17 A. 106.

18 Q. -- I believe your testimony was they're
19 classified in -- aren't they classified in from
20 Account 106 to 101, right?

21 MS. SPILLER: I'm going to object to
22 the extent we're re-deposing Mr. Dean --

23 MR. GILLESPIE: Well --

24 MS. SPILLER: -- on issues that he's

1 already talked about. He here's today to
2 talk about revisions that were made to these
3 accounts, and it seems that we're just
4 rehashing his prior testimony.

5 MR. GILLESPIE: Well, that's fine, that
6 may be your view. I'm trying to be sure
7 that I understand it since there's been so
8 many revisions.

9 Now, your testimony as you stated it
10 will stand, so --

11 MS. SPILLER: It will stand.

12 MR. GILLESPIE: I understand that. I
13 understand that. I'm just trying to -- I'm
14 asking him to clarify this question about
15 classification.

16 MS. SPILLER: And I think there was a
17 time and place for that during his first
18 deposition. To go back and redepose for
19 clarification on those issues I think is
20 improper.

21 MR. GILLESPIE: The reason he's back
22 here is because there have been entirely new
23 numbers that have been submitted. There
24 have been errors that have been recognized

1 by this witness before and now.

2 MS. SPILLER: I understand that. And
3 he's here to talk --

4 MR. GILLESPIE: Yeah --

5 MS. SPILLER: -- about those
6 revisions --

7 MR. GILLESPIE: And that's what --

8 MS. SPILLER: -- that were made, not to
9 reexplain his prior testimony.

10 MR. GILLESPIE: Well, are you refusing
11 to let him answer my last question?

12 MS. SPILLER: I'll allow that one.
13 But, you know, we're -- I'm not going to
14 entertain a redeposition of this witness.
15 I've already expressed that concern to you.

16 MR. GILLESPIE: Well, any time you want
17 to tell him not to answer, you tell him not
18 to answer, okay? I'm going to ask my
19 questions.

20 MS. SPILLER: I understand that. I'm
21 also allowed to state my objection for the
22 record.

23 MR. GILLESPIE: Sure. Absolutely.
24 Do we have a pending question?

THE COURT REPORTER: I believe so.

(The requested portion of the record was read by the reporter.)

MR. GILLESPIE: Let me rephrase the question.

BY MR. GILLESPIE:

Q. When a project is classified from Account 106 to Account 101 --

A. Yes.

Q. -- is that the point at which the poles that are in that project are inventoried?

MS. SPILLER: I'm going to object to the form. Go ahead.

A. Yes.

Q. Okay. And what do you mean by inventory?

A. The field uses their GIS system. They will place the new construction onto that system identifying what the property units are pertinent to that project.

Q. Okay. I don't understand the response that Duke made to request for production; in POD-01-004 OCTA asked that Duke provide a copy of all documents that relate to the number of distribution poles owned by Duke by year since 2000, paren, please include all

1 continuing property records of distribution poles by
2 year, all summaries and counts of poles, and all
3 summaries and counts of poles added, retired, or
4 subtracted.

5 In response there was some objections and
6 then it states without waiving said objection and with
7 reference to a more limited and thus reasonable time
8 frame see Attachment OCTA-POD-01-004. Now, that's one
9 of the documents we have been talking about.

10 There was a supplemental response to that in
11 which Duke said that OCTA should look at Attachment
12 POD-01-004 in addition to the continuing property
13 records in connection with that discovery request.

14 I do understand now that the quantities
15 listed in 01-004 do not, in fact, show the number of
16 distribution poles owned by Duke since 2000; would you
17 agree with that?

18 MS. SPILLER: I'm going to object to
19 the form of the question.

20 MR. GILLESPIE: You can answer.

21 MS. SPILLER: Go ahead.

22 THE WITNESS: I'm sorry, I did not hear
23 that part. Could you please restate the
24 question? Sorry.

1 MR. GILLESPIE: Can I ask the reporter
2 to read it?

3 THE WITNESS: Yes, you may.

4 (The requested portion of the record
5 was read by the reporter.)

6 MS. SPILLER: Just note again the
7 quantity reference that appears three
8 different times in these documents. I'm
9 going to object to the form of the question.
10 Go ahead.

11 Q. Well, let me re-clarify the question that
12 I'm talking about the quantity column that appears
13 just before the amount under balance, all right?

14 A. The quantity under balance contains the 101
15 quantity as classified. It incorporates a quantity as
16 we've discussed which is relative to a 106 accounting
17 quantity not reflecting the number of poles.

18 Q. Those quantity numbers do not, in fact,
19 reflect the number of poles that were owned by Duke at
20 the end of those years, correct?

21 A. Correct.

22 Q. Can you explain to me the reason -- do you
23 have a reason for Duke's responses to POD-01-004,
24 especially the supplemental response?

1 MS. SPILLER: Do you have that
2 information for him to review?

3 MR. GILLESPIE: I'm going to show the
4 witness a copy of OCTA-POD-01-004
5 supplemental confidential.

6 Q. Just so the record reflects this would you
7 read into the record the last sentence that starts
8 without waiving said objection?

9 A. Without waiving said objection and with
10 reference to a more limited and thus reasonable time
11 frame see Attachment OCTA-POD-01-004.

12 MS. SPILLER: There's also a statement
13 after that --

14 A. See --

15 MS. SPILLER: -- referencing --

16 A. -- see also confidential documents attached
17 hereto.

18 Q. Okay. And the confidential documents
19 attached thereto were the continuing property records?

20 MS. SPILLER: If you know.

21 A. I do not know.

22 Q. Well, I know. And your counsel knows. She
23 provided them to me in that response.

24 Can you explain that answer for me?

1 A. No, I could not.

2 Q. Okay. Let's go back and talk about the
3 transfers that are reflected on INT-03-022. Are
4 transfers the same as adjustments?

5 A. I do not consider them the same, no.

6 Q. What's the difference?

7 A. To me a transfer is reclassification of a
8 pole potentially from one function to another
9 function. And adjustment in my opinion would be -- an
10 adjustment to me would be some sort of a correction.

11 Q. On 03-022 I would refer you to the transfer
12 amount for 2003 of \$3,219,162.02; do you see that?

13 A. Yes, I do.

14 Q. And you see that transfer also purports to
15 have a quantity of 3,495; do you see that?

16 A. Yes.

17 Q. What does that quantity consist of; first of
18 all, is that the number of poles?

19 A. Yes.

20 Q. So that's the number of poles and not simply
21 a number of transactions in Account 106?

22 A. That is correct.

23 Q. Okay. And what is the basis for the
24 transfer amount and the transfer quantity there?

1 A. The activity that created this was a
2 transfer, a reclassification, of what I understand to
3 be our 33 kV circuits, which had initially been
4 accounted for as transmission. They were changed to
5 be distribution.

6 Q. And when were they changed?

7 A. In year 2003.

8 Q. Is this transfer amount reflected in the
9 FERC report for year 2003?

10 A. Yes.

11 Q. Are these 3,495 poles now reflected in the
12 continuing property records?

13 A. Yes.

14 Q. And is that transfer amount, the \$3,219,000,
15 is that also reflected in the continuing property
16 records?

17 A. Yes.

18 Q. Is it included in the additions for --
19 recorded for Account 2- -- for year 2003?

20 A. It has increased the balance of that account
21 for 2003.

22 Q. But not as an addition?

23 A. No, this was a transfer.

24 Q. So the continuing property records as of the

1 end of 2003 would show those particular poles and
2 their vintages?

3 A. Yes.

4 Q. And the total amount of the embedded
5 investment for those poles would be reflected as the
6 \$3,219,000?

7 A. Yes.

8 Q. Can you tell me when it was first decided
9 that this transfer amount should be shown in the
10 summary of continuing property records?

11 A. May I clarify the question? Shown on this
12 report or shown in the CPR?

13 Q. Well, when you say this report --

14 A. INT-03-022.

15 Q. -- well, I'm referring also to the first
16 version of this report, which is POD-01-004. It was
17 not reflected on POD-01-004 and it is reflected on
18 INT-03-022, correct?

19 A. Correct.

20 Q. So when was it determined that this transfer
21 amount should be reflected on this report? And by
22 this report I mean both of those documents.

23 A. When we rolled it back and created a total
24 picture of all the additions, retirements, transfers,

1 so that we could have a complete picture for you of
2 the balance.

3 Q. And when was that decided; can you tell me?

4 A. In the preparation of this document.

5 Q. By this document you mean 03-022?

6 A. INT-03-022.

7 Q. Okay. This transfer amount and the
8 transfers quantity for the transfer, the 3,495 poles,
9 are those reflected in GL 101?

10 A. Yes.

11 Q. Okay. Have all the poles that are subject
12 to the transfers as reflected in this exhibit, 03-022,
13 have they all been classified?

14 A. Yes, I believe so.

15 Q. Okay. And by classified we mean classified
16 into Account 101, right?

17 A. That is correct.

18 Q. Look at -- still on Exhibit 4 -- POD-01-005.
19 Okay. That requested that Duke provide a copy of all
20 documents reflecting any adjustments made to Duke's
21 continuing property records for Account 364 since
22 2000; do you see that?

23 A. Yes.

24 Q. And the response is no adjustments have been

1 made?

2 A. Correct.

3 Q. Okay. Do you still believe -- is that a
4 correct answer?

5 A. Yes.

6 Q. And you would not consider a transfer as
7 being an adjustment, right?

8 A. I would not, no.

9 Q. Okay. And the -- well, I won't go further
10 into that. The changes in the summary report speak
11 for themselves when we're talking about them.

12 Look at INT-02-015 again.

13 MS. SPILLER: What exhibit number?

14 THE WITNESS: Let me see. What exhibit
15 number is it?

16 MS. SPILLER: 22.

17 MR. GILLESPIE: This is Exhibit 22.

18 THE WITNESS: Okay.

19 MS. SPILLER: Here's the question.

20 MR. GILLESPIE: Okay. Look at the
21 response. The next page.

22 MS. SPILLER: I think he can read the
23 entire question. Go ahead. Read what you
24 need to read.

1 MR. GILLESPIE: Well, I haven't asked a
2 question yet. I'm just asking him to look
3 at something. I want you to look at the
4 note --

5 MS. SPILLER: Well, but I --

6 MR. GILLESPIE: -- and the response.
7 Now, when I ask a question, if you need to
8 look at the question that this is in
9 response to, go ahead.

10 Q. My question is -- first of all, is there any
11 portion of that note that has been excluded by the
12 printing process here, and I want you to tell me what
13 that is supposed to say in its entirety and then
14 explain it to me, okay?

15 MS. SPILLER: And, again, Mr. Dean, if
16 you need to read this entire question and
17 answer, you can do that.

18 MR. GILLESPIE: Sure.

19 THE WITNESS: Thank you.

20 A. I have read the whole document there,
21 INT-02-015, for the note. I do not know on the very
22 last line what the final few words of that would be.

23 Q. Okay. Well, this says that the
24 implementation of the new capital accounting system

1 Power Plant occurred first quarter 2000?

2 A. Correct.

3 Q. And then it says that data was loaded based
4 on 12/99; what does that mean?

5 A. The December '99 CPR, continuing property
6 record.

7 Q. Okay. And then does it say -- is the next
8 word "the"?

9 A. Yes.

10 Q. And it's supposed to say the CPR was loaded
11 for the first time by FERC utility account for General
12 Ledger 106, completed construction not classified
13 during the conversion of data from 12/31/1999 to
14 1/1/2000?

15 A. Correct.

16 Q. Okay. Then it says the amount loaded was
17 \$5,078,512.05?

18 A. Correct.

19 Q. Now, that's the amount loaded for what, for
20 Account 106?

21 A. That is correct.

22 Q. And then it says a miscellaneous adjustment,
23 what?

24 A. (No response.)

1 Q. You don't know?

2 A. I do not remember what it exactly said
3 detailing to that. It probably was indicating some
4 sort of rounding or small deviation.

5 Q. Would you provide me the rest of that note,
6 please?

7 MS. SPILLER: Well, it was simply I
8 think a copying error.

9 MR. GILLESPIE: I don't think it's a
10 copying error. I think it's a printing
11 error the way they were originally printed.

12 MS. SPILLER: We'll provide it.

13 THE WITNESS: Do you have it? Okay.

14 MR. GILLESPIE: Okay. Let's take a
15 short break.

16 (A brief recess was taken.)

17 BY MR. GILLESPIE:

18 Q. Turning to 03-022, looking at the notes on
19 that page --

20 A. Yes.

21 Q. -- for 2003.

22 A. Yes.

23 Q. It says there's a correcting adjustment for
24 the unitization of 24 projects?

1 A. Correct.

2 Q. I assume that's supposed to say totaling
3 \$202,065.96, right?

4 A. It's 212.

5 Q. Yes.

6 A. I believe you said 202.

7 Q. I'm sorry.

8 A. That's okay.

9 Q. \$212,065.96?

10 A. Correct.

11 Q. Okay. Can you explain what that adjustment
12 was?

13 A. I did not research it from 2003 because of
14 the amount. I know that we had some sort of an error
15 within the process that had damaged the closure of
16 those 24, and that was an adjustment that we had to
17 make to reset the system. What it should have booked
18 it did not book. So all we did was correct the system
19 format.

20 Q. Now, is that an adjustment that was required
21 in the continuing property records or the amount
22 specified in the final FERC number for the year?

23 A. It was a correction of the addition that the
24 system should have recorded. Therefore, we corrected

1 that for the addition because the system had failed on
2 process there. And that addition is reflected in the
3 CPR.

4 Q. So it was a failure in the CPR; is that
5 right?

6 A. The CPR reflects the 212.

7 Q. Right. Okay. So where is this addition --
8 where is this amount of 212,000 reflected?

9 A. I -- it should be in the addition amount for
10 2003.

11 Q. Does that also affect the balance amount for
12 2003?

13 A. It is incorporated in the 2003 amount, yes.

14 Q. That's an adjustment, right?

15 A. That was a correction of the addition cycle,
16 yes.

17 Q. This is an adjustment that we asked about in
18 that other interrogatory and were told there were no
19 adjustments, right?

20 A. There is no adjustment because this was a
21 correction of the process that occurred in the system.

22 Q. What is the process of recordkeeping
23 associated with the installation of the poles?

24 A. Where would you like the explanation to

1 start, at the accounting level or GIS level, field
2 process?

3 Q. Well, why don't you, first of all, go
4 through the accounting process and then the GIS field
5 process.

6 MS. SPILLER: I'm going to just note my
7 objection to the extent this is beyond the
8 scope of this deposition. Go ahead, Jim.

9 A. The accounting process I believe as we've
10 covered starts with the initiation of a project, a
11 work order. Charges go into those work orders during
12 the construction period that's relative to the 107
13 accounting. The project is then placed in service.
14 Upon placing the project the work order in service it
15 has transitioned those charges to General Ledger 106.

16 At that time that enters into the continuing
17 property record. The dollars are entered. There is
18 an accounting quantity as we've already discussed. At
19 such time during the process from GIS Small World we
20 will receive the inventory as we've discussed also
21 upon via poles conductor as an example used in the
22 field on that project. And that will become the bases
23 for 101.

24 Q. Okay. Now --

1 A. To update the CPR.

2 Q. -- does the recordkeeping associated with
3 the work order -- well, let me phrase it this way.
4 Are time sheets kept in connection with the work
5 order?

6 MS. SPILLER: I'm going to object. I
7 think this question is outside the scope of
8 this deposition.

9 MR. GILLESPIE: I don't think so.

10 Q. Can you answer it?

11 MS. SPILLER: No. The specific points
12 that were delineated for this witness have
13 to do primarily with Account 364, not the
14 maintenance of work order business.

15 MR. GILLESPIE: I'm trying to determine
16 the basis for the numbers that are reflected
17 on -- in the CPRs.

18 Q. Can you answer my question?

19 MS. SPILLER: If you know.

20 A. Time sheets are -- are submitted. There is
21 a labor system. I'm not totally familiar with the
22 labor system. But time sheets are used to update and
23 report to the time system.

24 Q. Do they reflect the amount of work done for

1 different accounts?

2 A. On those time sheets the employee is to put
3 the accounting for the work they've done for the
4 various projects or activities be it expense or
5 capital, yes.

6 Q. So it should differentiate between the work
7 done in association with Account 364, for example, and
8 the work done in connection with Account 365?

9 A. No, it would not.

10 Q. It doesn't. Just by project?

11 A. It is by project.

12 Q. Okay. Does a work order reflect the number
13 of poles that are installed?

14 A. Once that information is received from the
15 field, yes.

16 Q. What do you mean once that information is
17 received by the field?

18 A. The inventory of poles --

19 Q. After --

20 A. -- that they used --

21 Q. -- the inventory is done?

22 A. After the inventory is done is where the
23 quantity of poles is determined, yes.

24 Q. Okay. Are costs kept as the project goes

1 forward that specifically show the costs of the
2 installation of poles for a project as opposed to
3 other activities?

4 MS. SPILLER: Again, note my objection.
5 Go ahead.

6 A. We do not account for charges as they come
7 in by utility account.

8 Q. So who determines how to allocate between
9 the different accounts in a project with respect to
10 the costs that relate to different accounts?

11 A. The quantity of poles received we use a
12 standard -- a standard price of what a pole -- or a
13 standard factor of what a pole would be. We take the
14 quantity of the property units received times the
15 standards in the Power Plant system, and that creates
16 the allocation bases.

17 Q. Okay. And this is done in the
18 classification process?

19 A. That is cor- -- in the unitization process,
20 yes.

21 Q. Okay. So there is a standard factor based
22 on the height of a pole or the length of a pole?

23 A. Yes.

24 Q. And are these standard factors reduced to

1 writing?

2 A. Excuse me?

3 Q. Are they reduced to writing?

4 A. Could you define writing?

5 Q. Yes. The standard factor that we're talking
6 about -- let's just be sure we -- I understand what
7 you mean -- there is some estimation process that Duke
8 has for what it cost to install a certain size and
9 type of pole --

10 A. Correct.

11 Q. -- right? Is that the JET system?

12 A. That is -- the JET system is a job
13 estimating tool.

14 Q. And is that what we're talking about here?

15 A. No, it is not.

16 Q. So this is a different tool?

17 A. This is the Power Plant system.

18 Q. Okay. And so if you were to inquire of the
19 Power Plant system, you could tell me what the
20 standard factor was for different size poles that are
21 used at a particular time by the Power Plant system?

22 A. Correct.

23 Q. And you could provide that for different
24 years?

1 A. There is not a differentiation in the years.

2 Q. Well, I mean, has that -- has the standard
3 factor used, let's say for a 40-foot pole, has that
4 changed from 2000 to 2007?

5 A. No, it has not.

6 Q. Okay. So you could pull lists up from the
7 Power Plant system for different size poles?

8 A. Correct.

9 Q. Okay. We talked at your earlier deposition
10 fairly extensively about Exhibit 14.

11 THE WITNESS: Are we done with these?

12 MR. GILLESPIE: For the time being,
13 yes. Thank you.

14 Q. You were going to check to be certain that
15 the CPR ledger that is Exhibit 14 had not been updated
16 past the end of 2007; did you do that?

17 A. It had not.

18 Q. Okay. So this is the continuing property
19 records for Duke as of the end of 2007?

20 A. Yes. Correct.

21 Q. Okay. Let's clean these up now and if you
22 need to refer to them again, just let me know.

23 The amounts that are placed in Account 364
24 on GL 106, what people make the determination of the

1 amounts to be placed in GL 106?

2 A. The determination of the amount is derived
3 based upon the allocation provided to us from the
4 initial setup of the project that the field does in
5 evaluating what they project the utility accounts to
6 be. The Power Plant system will use that allocation
7 then to actually record the dollar amounts by utility
8 account.

9 Q. Okay. This is done by the field; by what
10 group would that be?

11 A. If we're speaking distribution, which we
12 are --

13 Q. Yes.

14 A. -- it would be a distribution operations
15 group.

16 Q. Okay. Are there any instructions, standard
17 operating procedures that Duke has for how to make
18 those estimations?

19 A. I am not aware of any. There may be some in
20 the field ops group.

21 Q. Okay. In terms of the pole cost does the --
22 do the field people use the standard factors for the
23 number of poles in connection with the work order?

24 A. No, they do not.

1 Q. Okay. What do they use to estimate the
2 amount that should be placed in Account 364 then?

3 A. One of the tools that I'm aware of is the
4 JET tool, which is the job estimating tool.

5 Q. And job estimating tool for poles, again, is
6 an estimate for what it cost to install a certain size
7 and type of pole, right?

8 A. That's my understanding what the job
9 estimating tool is, yes.

10 Q. For the JET system?

11 A. For -- yes, the JET system.

12 Q. Do you know whether the construction people
13 keep records of how much is spent on material for
14 poles in connection with different accounts --
15 different projects?

16 A. I do not.

17 Q. Do you know whether they keep records of the
18 different amounts of labor that relate to the
19 installation of poles?

20 A. I do not.

21 MR. GILLESPIE: Okay. I'd like marked
22 as Exhibit Number 23 a work order, which is
23 Page 57 of Duke's response to POD-03-030.

24 (Whereupon, Deposition Exhibit Number

1 23 was marked for identification.)

2 Q. Do you recognize this as one of the work
3 order documents that was supplied to us in response to
4 that document production request?

5 A. This is produced by us, yes.

Page 47, line 6 through page 115, line 15 of the January 30, 2009 Deposition Transcript of James Dean relates to OCTA Deposition Exhibits 23-28 which have been designated as "Confidential Proprietary Trade Secrets" by Duke Energy Ohio. These pages have been redacted but have been submitted under seal.

16 MR. GILLESPIE: Okay. I have no
17 further questions. Thank you.

18 MS. SPILLER: We'll still take
19 signature, please.

20 (Deposition concluded at 12:50 p.m.)

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

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STATE OF OHIO :
COUNTY OF HAMILTON :

I, JAMES DEAN, have read the transcript of my
testimony given under oath on January 30, 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.

JAMES DEAN

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 JAMES
9 DEAN was by me first duly sworn to depose the truth, the
10 whole truth, and nothing but the truth; that the
11 foregoing is a deposition given at said
12 time and place by JAMES DEAN; 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 _____ of _____, 2009.

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9 My commission expires:
September 8, 2013

Kristina L. Pedersen
Notary Public

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Cincinnati, Ohio 45201-0980
Tel: 513-419-1837
Fax: 513-419-1848
dianne.kuhnell@duke-energy.com

Dianne B. Kuhnell
Senior Paralegal

VIA OVERNIGHT MAIL

December 23, 2008

Stephen M. Howard, Esq.
Vorys, Sater, Seymour & Pease LLP
52 East Gay Street, P.O. Box 1008
Columbus, OH 43216-1008

Re: Case No. 08-709-EL-ATA, et al.


Dear Mr. Howard:

Enclosed please find the following documents regarding the above referenced case:

1. Responses to Ohio Cable Telecommunication Association's Second Set of Interrogatories to Duke Energy Ohio;
2. Notice of Deposition of Jonathon McGee and Edward Kozalek;
3. Duke Energy Ohio's Second Set of Interrogatories and Request for Production of Documents propounded to OCTA.

Please contact me or Amy Spiller with any questions.

Sincerely,


Dianne B. Kuhnell
Senior Paralegal

cc: Gardner F. Gillespie w/enclosures

250542



www.duke-energy.com

**Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Second Set Interrogatories
Date Received: December 4, 2008**

OCTA-INT-02-011

REQUEST:

In what year were Duke's distribution poles first included in a geographic information system ("GIS")?

RESPONSE:

Objection. This interrogatory is overly broad and unduly burdensome. Furthermore, this interrogatory is not reasonably calculated to lead to the discovery of admissible evidence insofar as Duke Energy Ohio's proposed pole attachment tariff is concerned. The issue relative to that tariff is whether the terms set forth therein are just and reasonable. See R.C. 4905.71. The locations of Duke Energy Ohio's distribution poles have no significance relative to a resolution of that issue. Without waiving said objection and to the extent discoverable, distribution poles located in Ohio were first included in a GIS system implemented in 2000.

PERSON RESPONSIBLE: N/A

**Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Second Set Interrogatories
Date Received: December 4, 2008**

OCTA-INT-02-012

REQUEST:

Please fully describe the process by which Duke included distribution poles in the GIS, including identifying any contractors or consultants who assisted in any way in the process, the specific role of each such contractor or consultant, how those involved in the project located the distribution poles to be included, and whether any errors have been found in the results of the GIS process at any time.

RESPONSE:

Objection. This interrogatory is overly broad and unduly burdensome, as evident from the fact that it contains no time parameters pursuant to which it is to be answered. Furthermore, this interrogatory is not reasonably calculated to lead to the discovery of admissible evidence insofar as Duke Energy Ohio's proposed pole attachment tariff is concerned. The issue relative to that tariff is whether the terms set forth therein are just and reasonable. See R.C. 4905.71. The locations of Duke Energy Ohio's distribution poles have no significance relative to a resolution of that issue. Without waiving said objection and to the extent discoverable, Distribution poles located in Ohio were placed in the GIS system by means of a data conversion process managed by a consultant and performed by a GIS data firm. As part of the conversion process, existing manual pole record maps were reviewed and poles were placed in the GIS system based on their location on the maps. The data conversion process incorporated a process that insured a 98% accuracy rate.

PERSON RESPONSIBLE: N/A

**Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Second Set Interrogatories
Date Received: December 4, 2008**

OCTA-INT-02-013

REQUEST:

Was the same number of distribution poles found in all GIS surveys conducted by or on behalf of Duke as were listed on Duke's continuing property records at the time of the GIS survey. If not, please explain fully.

RESPONSE:

Objection. This interrogatory is overly broad and unduly burdensome, as evident from the fact that it contains no time parameters pursuant to which it is to be answered. Furthermore, this interrogatory is not reasonably calculated to lead to the discovery of admissible evidence insofar as Duke Energy Ohio's proposed pole attachment tariff is concerned. The issue relative to that tariff is whether the terms set forth therein are just and reasonable. See R.C. 4905.71. The locations of Duke Energy Ohio's distribution poles have no significance relative to a resolution of that issue. Without waiving said objection and to the extent discoverable, no comprehensive GIS survey has been conducted by Duke or on behalf of Duke to compare the number of poles contained in legacy systems to the number of poles contained in the GIS. The QAQC process incorporated during the data conversion process insured that the numbers and data in legacy systems matched the data in the GIS system.

PERSON RESPONSIBLE: N/A

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Second Set Interrogatories
Date Received: December 4, 2008

OCTA-INT-02-014

REQUEST:

Was the number of distribution poles included in Duke's continuing property records affected in any way by the process of including poles in the GIS. If so, please explain fully.

RESPONSE:

Objection. This interrogatory is overly broad and unduly burdensome, as evident from the fact that it contains no time parameters pursuant to which it is to be answered. Furthermore, this interrogatory is not reasonably calculated to lead to the discovery of admissible evidence insofar as Duke Energy Ohio's proposed pole attachment tariff is concerned. The issue relative to that tariff is whether the terms set forth therein are just and reasonable. See R.C. 4905.71. The locations of Duke Energy Ohio's distribution poles have no significance relative to a resolution of that issue. Without waiving said objection and to the extent discoverable, the QAQC process incorporated during the data conversion process insured that the numbers and data in legacy systems matched the data in the GIS system.

PERSON RESPONSIBLE: N/A

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Second Set Interrogatories
Date Received: December 4, 2008

OCTA-INT-02-015

REQUEST:

Provide a summary of CPR – adds and retires for account 364 for the years 1993 through 1999 in the same form as the summary provided by Duke as Attach. OCTA-POD-01-004.

RESPONSE:

See Attachment OCTA-INT-02-015.

PERSON RESPONSIBLE: James E. Dean

Summary of CPR - adds and retirees for account 364 for the years 1993 through 1999

| Year | Additions | | Retirements | | Transfers | | Balance | |
|------|-----------|------------------|-------------|-------------------|-----------------|----------|-------------------|--|
| | Quantity | Amount | Quantity | Amount | Amount | Quantity | Amount | |
| 1999 | 5,489 | \$ 17,008,998.27 | (2,394) | \$ (1,454,693.14) | \$ (70,757.84) | 234,942 | \$ 167,658,951.45 | |
| 1998 | 1,551 | \$ 3,166,776.55 | (2,607) | \$ (1,433,571.98) | \$ 8,551.81 | 231,847 | \$ 152,175,404.16 | |
| 1997 | 2,358 | \$ 5,908,982.00 | (1,589) | \$ (658,032.65) | \$ (38,814.33) | 232,903 | \$ 150,434,847.78 | |
| 1996 | 2,337 | \$ 5,217,151.14 | (1,939) | \$ (917,331.36) | \$ 25,462.12 | 232,134 | \$ 145,224,532.76 | |
| 1995 | 4,499 | \$ 10,188,541.77 | (3,198) | \$ (1,484,715.40) | \$ (41,352.26) | 231,738 | \$ 140,899,250.86 | |
| 1994 | 5,688 | \$ 11,721,476.89 | (4,000) | \$ (1,449,775.90) | \$ (131,038.47) | 230,435 | \$ 132,236,776.75 | |
| 1993 | 3,800 | \$ 7,283,355.56 | (3,047) | \$ (1,104,422.45) | \$ 193.73 | 228,747 | \$ 122,096,112.23 | |

Note: The implementation of the new capital accounting system, Power Plant, occurred 1st qtr 2000. Data was loaded based on 12/1/1999. The CPR was loaded for the first time by FERC utility account for General Ledger 106, Completed Construction not Classified, during the conversion of data from 12/31/1999 to 1/1/2000. The amount loaded was \$5,078,512.05 and a miscellaneous adjustme

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Second Set Interrogatories
Date Received: December 4, 2008

OCTA-INT-02-016

REQUEST:

Identify any Duke employee who can testify knowledgeably about the following (if no single person can testify knowledgeably about an entire matter, but one or more people can testify knowledgeably about an aspect of the matter, please identify each and indicate the extent and limitations of their knowledge):

- a. Duke's GIS system used for its distribution poles, including its initial implementation;
- b. Duke's continuing property records for distribution poles since 1993;
- c. The number of distribution poles owned by Duke since 1993;
- d. Duke's investment in distribution poles since 1993;
- e. Variances in the amount of expenses booked to Account 593 since 2000.
- f. Variances in the amount of expenses booked to Administrative and General Accounts (Acc'ts 920-935) since 2000.
- g. The enforcement and interpretations by Duke of its Joint Use and Pole Attachment Agreements since 2000.

RESPONSE:

- a. Objection. This interrogatory is overly broad and unduly burdensome, as evident from the fact that it contains no time parameters pursuant to which it is to be answered. Furthermore, this interrogatory is not reasonably calculated to lead to the discovery of admissible evidence insofar as Duke Energy Ohio's proposed pole attachment tariff is concerned. The issue relative to that tariff is whether the terms set forth therein are just and reasonable. See R.C. 4905.71. The locations of Duke Energy Ohio's distribution poles have no significance relative to a resolution of that issue. Notwithstanding the objections, Duke Energy Ohio reserves the right to supplement this response.

- b. Objection. As previously stated by Duke Energy Ohio, this interrogatory is overly broad and unduly burdensome. Furthermore, the duplicative nature of this interrogatory suggests that it is intended to harass and inconvenience Duke Energy Ohio. Moreover, this interrogatory cannot be answered without resort to speculation and guesswork. As written, this interrogatory does not provide sufficient clarification as to the particular aspects of the continuing property records about which OCTA seeks an identification of knowledgeable witnesses. Absent that clarification, Duke Energy Ohio cannot reasonably undertake to identify such persons. Finally, OCTA has deposed James Dean relative to the continuing property records and this interrogatory thus seeks information that would or could have been previously obtained by it. Notwithstanding the objections, Duke Energy Ohio reserves the right to supplement this response.
- c. Objection. This interrogatory is overly broad and unduly burdensome, particularly given the time parameters pursuant to which it is to be answered. Moreover, this interrogatory cannot be answered without resort to speculation and guesswork. As written, this interrogatory does not provide sufficient clarification as to the particular aspects of the number of poles owned by Duke Energy Ohio about which OCTA seeks an identification of knowledgeable witnesses. Absent that clarification, Duke Energy Ohio cannot reasonably undertake to identify such persons. Finally, OCTA has deposed James Dean relative to the pole additions and this interrogatory thus seeks information that would or could have been previously obtained by it. Notwithstanding the objections, Duke Energy Ohio reserves the right to supplement this response.
- d. Objection. This interrogatory is overly broad and unduly burdensome, particularly given the time parameters pursuant to which it is to be answered. Moreover, this interrogatory cannot be answered without resort to speculation and guesswork. As written, this interrogatory does not provide sufficient clarification as to the particular aspects of the number of poles owned by Duke Energy Ohio about which OCTA seeks an identification of knowledgeable witnesses. Absent that clarification, Duke Energy Ohio cannot reasonably undertake to identify such persons. Finally, OCTA has deposed James Dean relative to the pole additions and this interrogatory thus seeks information that would or could have been previously obtained by it. Notwithstanding the objections, Duke Energy Ohio reserves the right to supplement this response.
- f. Objection. This interrogatory is overly broad and unduly burdensome. Furthermore, it is not reasonably anticipated to yield the disclosure of relevant or admissible evidence insofar as Duke Energy Ohio's proposed pole attachment tariff is concerned. Moreover, this interrogatory cannot be answered without resort to speculation and guesswork. As written, this interrogatory does not provide sufficient clarification as to the particular aspects of the variances about which OCTA seeks an identification of knowledgeable witnesses. Absent that clarification, Duke Energy Ohio cannot reasonably undertake to identify such persons. Notwithstanding the objections, Duke Energy Ohio reserves the right to supplement this response.

g. Objection. This interrogatory is overly broad and unduly burdensome. Furthermore, its reference to joint use agreements is inappropriate. Joint use agreements between public utilities are not relevant to the issues pertaining to pole attachments under R.C. 4905.71. Thus, this interrogatory is not reasonably calculated to lead to the discovery of admissible evidence. Answering further, as OCTA has previously deposed Ulrich Angleton and Terri Brierly, this interrogatory improperly seeks to elicit information that OCTA did or could have previously obtained. Notwithstanding the objections, Duke Energy Ohio reserves the right to supplement this response.

PERSON RESPONSIBLE: N/A

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Second Set Interrogatories
Date Received: December 4, 2008

OCTA-INT-02-017

REQUEST:

Identify any expert that Duke has retained related to pole attachment issues for this case.

RESPONSE:

Objection. As written, this interrogatory seeks to elicit information protected by the attorney work product doctrine. Notwithstanding this objection, Duke Energy Ohio reserves the right to supplement this interrogatory to identify the name of any expert on pole attachment issues whom it intends to have testify on its behalf relative to the pending matter.

PERSON RESPONSIBLE: N/A

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Second Set Interrogatories
Date Received: December 4, 2008

OCTA-INT-02-018

REQUEST:

Describe fully the broadband pilot in the City of Cincinnati discussed by Mr. Storck during his deposition, including the entities involved, any ownership interest held by Duke or any Duke affiliate, and its present status.

RESPONSE:

See Duke Energy Ohio's prior production relative to OCTA002S-000178- OCTA002S00205. Reference is further made to the agreement that OCTA's counsel presented to Don Storck during his deposition, a document that is a matter of public record and that speaks for itself. Duke Energy Ohio is not an affiliate of Current Communication.

PERSON RESPONSIBLE: N/A

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Second Set Interrogatories
Date Received: December 4, 2008

OCTA-INT-02-019

REQUEST:

Does Duke still serve 628,755 residential customers as per Schedule E-4 attached to the Application? If not, how many residential customers does Duke currently serve?

RESPONSE:

As of October 2008, the Company serves 624,529 customers under Rates RS, ORH, TD, CUR, and RS3P.

PERSON RESPONSIBLE: James E. Ziolkowski

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Second Set Interrogatories
Date Received: December 4, 2008

OCTA-INT-02-020

REQUEST:

List the number of duct feet of conduit owned by Duke for each year from 2000-2007.

RESPONSE:

Below is the number of duct feet of distribution conduit owned by DE-Ohio for years 2000-2007.

| Year | Feet |
|-------------|-------------|
| 2007 | 14,475,063 |
| 2006 | 13,835,398 |
| 2005 | 13,264,139 |
| 2004 | 12,457,945 |
| 2003 | 11,859,779 |
| 2002 | 10,916,229 |
| 2001 | 10,736,167 |
| 2000 | 10,187,292 |

PERSON RESPONSIBLE: James E. Dean

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Second Set Interrogatories
Date Received: December 4, 2008

OCTA-INT-02-021

REQUEST:

List Duke's depreciation rate for conduit for each year from 2000-2007.

RESPONSE:

Shown below are the depreciation rates in effect for each FERC account.

| Year | FERC - 366 | FERC - 369 | FERC - 373 |
|-------------|-------------------|-------------------|-------------------|
| 2007 | 1.85 | 2.00 | 2.63 |
| 2006 | 1.85 | 2.00 | 2.63 |
| 2005 | 2.00 | 2.30 | 3.23 |
| 2004 | 2.00 | 2.30 | 3.23 |
| 2003 | 2.00 | 2.30 | 3.23 |
| 2002 | 2.00 | 2.30 | 3.23 |
| 2001 | 2.00 | 2.30 | 3.23 |
| 2000 | 2.00 | 2.30 | 3.23 |

PERSON RESPONSIBLE: James E. Dean

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Second Set Production of Documents
Date Received: December 4, 2008

OCTA-POD-02-012

REQUEST:

Please produce all documents that relate to any agreements involving the broadband pilot in Cincinnati, referred to by Mr. Storck.

RESPONSE:

Objection. This request is overly burdensome and exposes Duke Energy Ohio to undue expense. Furthermore, it seeks to elicit information that is privileged from disclosure and/or that will not lead to the discovery of admissible evidence. Moreover, OCTA has in its possession those relevant documents pertaining to wireline or cable attachments, which are a matter of public record.

PERSON RESPONSIBLE: N/A

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Second Set Production of Documents
Date Received: December 4, 2008

OCTA-POD-02-013

REQUEST:

Please produce all documents that relate to the placement of Duke's distribution poles in its geographic information system ("GIS").

RESPONSE:

Objection. This request is irrelevant to issue of whether the terms of proposed pole attachment tariff are fair, just, and reasonable. Thus, is unduly burdensome and harassing and would expose Duke Energy Ohio to undue expense. Furthermore, this request is not reasonably calculated to lead to the discovery of relevant, admissible evidence.

PERSON RESPONSIBLE: N/A

**Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Second Set Production of Documents
Date Received: December 4, 2008**

OCTA-POD-02-014

REQUEST:

Please produce all continuing property records for Account 364 for the years 1993-2007.

RESPONSE:

Objection. The time parameters are unreasonable and thus expose DE-Ohio to undue burden and expense. Answering further, DE-Ohio has provided OCTA with records regarding Account 364 from 2000 to 2007.

PERSON RESPONSIBLE: N/A

Duke Energy Ohio, Inc.
Case No. 08-709-EL-AIR
Ohio Cable Telecommunications Association
Second Set Production of Documents
Date Received: December 4, 2008

OCTA-POD-02-015

REQUEST:

Please produce all documents related to pole attachment matters that have reviewed by any witness that Duke will call in this case on pole attachment matters, to the extent that such witness has reviewed the documents in connection with this case.

RESPONSE:

Objection. This interrogatory seeks to elicit documents protected by attorney-client privilege and work product. Notwithstanding objection, reference is made to documents presented to DE-Ohio witnesses during their respective depositions. Answering further, no witness on the issue of wireline/cable pole attachments reviewed pole attachment agreements for the purposes of this proceeding prior to being presented with those agreements in deposition. DE-Ohio reserves the right to supplement this response.

PERSON RESPONSIBLE: N/A

OCTA Deposition Exhibits 23-28 from the January 30, 2009 Deposition of James Dean have been designated as "Confidential Proprietary Trade Secrets" by Duke Energy Ohio. These exhibits have been redacted but have been submitted under seal.