

Stephen M. Howard  
Direct Dial (614) 464-5401  
Facsimile (614) 719-4772  
E-Mail - smhoward@vorys.com

RECEIVED-DOCKETING DIV  
2009 FEB 23 PM 2:07  
PUCO

February 23, 2009

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

Re: Case No. 08-709-EL-AIR, et al  
January 29, 2009 Continued Deposition of Donald Storck

Dear Ms. Jenkins:

Please find attached a copy of the January 29, 2009 Continued Deposition of Donald Storck in Case No. 08-709-EL-AIR, et al. 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)

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.  
Technician Tm Date Processed 2/23/2009

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: DONALD STORCK (cont.)

January 29, 2009

2:50 p.m.

REPORTED BY:

Kristina L. Pedersen

1 Continued Deposition of DONALD STORCK, 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 2:50 p.m. on  
7 Thursday, January 29, 2009, before Kristina Pedersen,  
8 Court Reporter and Notary Public within and for the State  
9 of Ohio.

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

1 APPEARANCES:

2 On behalf of Duke Energy:

3 AMY B. SPILLER, ESQ.

4 Duke Energy

5 139 East Fourth Street

6 Cincinnati, Ohio 45202

7

8 On behalf of Intervenor, Ohio Cable  
Telecommunications Association:

9

GARDNER F. GILLESPIE, ESQ.

10

Hogan & Hartson, LLP

11

Columbia Square

12

555 Thirteenth Street, NW

13

Washington, D.C. 20004

14

15

16

17

18

19

20

21

22

23

24



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

I N D E X

WITNESS:

DONALD STORCK

Page

By Mr. Gillespie:

6

E X H I B I T S

(NO EXHIBITS PROFFERED)

1 DONALD STORCK,  
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. Mr. Storck, this will be a continuation of  
7 your prior deposition. The same ground rules will  
8 apply.

9 A. Okay.

10 Q. Remember that I need a verbal response and  
11 so on?

12 A. Yes.

13 Q. Is there any reason why we cannot count on  
14 your testimony today being accurate and complete and  
15 truthful?

16 A. No.

17 Q. Okay. Since we last spoke Duke has revised  
18 its pole attachment rate calculations, correct?

19 A. Correct.

20 Q. And you are responsible for that?

21 A. Yes, I am.

22 Q. Okay. Would it be fair to say that you were  
23 making an effort to get closer to the FCC formula?

24 A. Yes. We were correcting several things and

1 using the FCC formula.

2 Q. Okay. So your intention is to use the FCC  
3 formula?

4 A. My intention is use the FCC formula as a  
5 guideline.

6 Q. What do you mean by that?

7 A. If you look at the FCC formula, for  
8 instance, it does not take into account investment tax  
9 credit. But here in the State of Ohio in ratemaking  
10 we do use investment tax credit. So I put investment  
11 tax credit in there, where the FCC formula as I  
12 understand it does not include it.

13 Q. Okay. Investment tax credit is which  
14 account?

15 A. 255.

16 Q. Okay. Now, when talking about accumulated  
17 deferred income taxes last time, you counted only  
18 Account 190 and you did not include Accounts 281, 282,  
19 and 283, correct?

20 A. Correct.

21 Q. The FCC does include those accounts,  
22 correct?

23 A. Correct.

24 Q. Okay. Other than your addition of Account

1 255 was there any other place in which you decided to  
2 improve on the FCC formula or to not to follow it?

3 MS. SPILLER: I'm going to object to  
4 the form of that question. Go ahead.

5 A. The only part is the rate return. I'm not  
6 quite sure what the FCC requires for a rate of return.  
7 I used the requested rate return in this rate case.

8 Q. Okay. Now, the first time around you did  
9 not use the requested rate of return in this rate  
10 case, correct?

11 A. Correct.

12 Q. What did you use the first time around?

13 A. I used the approved rate of return in the  
14 last retail distribution rate case in Ohio.

15 Q. Okay. Any other ways in which you intended  
16 to change the FCC formula or depart from the FCC  
17 formula?

18 A. Not that I can think of.

19 Q. Okay. Take a look at Exhibit Number 21,  
20 Response to Interrogatory 03-027.

21 A. I found it.

22 Q. Okay. This is the pole attachment rate  
23 calculation on which Duke is relying, correct?

24 A. Yes.

1 Q. And this has been revised since the prior  
2 version that we spoke about at your last deposition?

3 A. Yes.

4 Q. Okay. First of all, let's look at gross  
5 pole investment, which is reflected on -- well, it's  
6 reflected several places here, but I guess we can turn  
7 to Page 2 of 3. It's listed there at the top.

8 Okay. Now, this is -- how is this number  
9 derived?

10 A. This is Account 364 from the plant  
11 accounting records.

12 Q. Okay. And this includes the revisions that  
13 have been made through Mr. Dean; is that right?

14 A. That is correct.

15 Q. Okay. So this is as of year-end of 2007 as  
16 adjusted per Mr. Dean?

17 A. No. This is as of March 31, 2008.

18 Q. I don't think so.

19 A. Okay.

20 Q. I believe that according to other schedules  
21 that the company has determined that as of March 2008  
22 the number is 225,000,000?

23 A. I -- I believe that is correct.

24 Q. So the 223,000,000 that you're relying on

1 here is -- year-end 2007 is adjusted?

2 A. Yes.

3 Q. Okay. Would you agree that if there were  
4 any other appropriate adjustments to be made that this  
5 number should reflect them?

6 A. Yes, if there's an appropriate adjustment.

7 Q. Okay. Now, let's look at the pole  
8 depreciation reserve. Are you familiar with the  
9 changes that have been made in the pole depreciation  
10 reserve from the number used in your last calculation?

11 A. I know there has been a change. But I'm  
12 not -- not familiar with the actual calculation.

13 Q. Okay. That's something I should talk to  
14 Mr. Dean about, I assume, correct?

15 A. Yes.

16 Q. Okay. But this is also a year-end 2007  
17 number, right --

18 A. Correct.

19 Q. -- that you're relying on here? Okay. Now,  
20 in the accumulated deferred income tax number to be  
21 applied to poles here would you agree that the FCC  
22 uses accounts -- adds together essentially Accounts  
23 190, 281, 282, and 283?

24 A. Yes.

1 Q. And it takes those numbers from the reported  
2 FERC form numbers for year-end; is that right?

3 A. That's my understanding.

4 Q. Okay. Now, here instead of that what you  
5 have done is to use accumulated deferred income taxes  
6 that have been either assigned or allocated to  
7 distribution electric plant and then allocated them  
8 down to the different property accounts, right?

9 A. Correct.

10 Q. And instead of -- so those are not FERC  
11 numbers, right?

12 A. Well, they're a component of the FERC  
13 numbers.

14 Q. Right. But they're not actually the  
15 reported numbers in the annual report form?

16 A. That is correct.

17 Q. And instead of using year-end '07 you used  
18 numbers as of March 31, 2008?

19 A. Correct.

20 Q. All right. So in figuring out the net pole  
21 cost going down to the net investment per bare pole  
22 under "C" on Page 1 of 3; do you see that?

23 A. Yes.

24 Q. All right. What you've used is -- well, let

1 me ask you this. The pole number that is the  
2 denominator there, the 248,901 poles; do you see that?

3 A. Yes.

4 Q. That's a number that purports to be as of  
5 year-end 2007, correct?

6 A. I'd have to verify where that came from. I  
7 believe it is, but I need to -- subject to check.

8 Q. What would you use to check?

9 A. I received an e-mail which gave me that  
10 number from the Small World system.

11 Q. Who did that come from?

12 A. Nancy Musser.

13 Q. Okay. You're aware that I've asked for all  
14 documents on derivation of the pole number?

15 A. (No response.)

16 Q. Do you have any other documents other than  
17 an e-mail that relates to that pole number?

18 A. Nope. That's the only document I have.

19 Q. Okay. But you believe that is a year-end  
20 number subject to check?

21 A. Yes.

22 Q. Okay. So under "C" here what we have is we  
23 have a year-end number for a pole investment of  
24 223,000,000. We have a year-end number for

1 depreciation reserve of 98,000,000. And we have a  
2 March 31 number of allocated and assigned down through  
3 distribution plant for accumulated deferred income  
4 taxes, right?

5 A. Correct.

6 Q. And we divide by year-end number?

7 A. Yes.

8 Q. Can you explain for me the reason for using  
9 a March '08 number for accumulated deferred income  
10 taxes when all the other numbers here are year-end?

11 A. We had the deferred income tax number as of  
12 March 31 for distribution only versus trying to use a  
13 total company number.

14 Q. The FCC uses a total company number, does it  
15 not?

16 A. It does.

17 Q. In looking at the rate of return number, the  
18 9.1 is the requested rate -- overall rate of return  
19 here; is that right?

20 A. Yes.

21 Q. And that would include both return on equity  
22 and debt?

23 A. Yes.

24 Q. It's a blended number?

1 A. Yes, it is.

2 Q. Did the company request a range or did the  
3 company request a particular percentage rate of  
4 return?

5 A. It requested this number here.

6 Q. Okay. And would you agree that if the  
7 Commission were to decide that the rate of return  
8 should be different than 9.1, that the rate of return  
9 number should be changed to reflect that number  
10 assigned by the Commission?

11 A. Yes.

12 Q. Okay. So this is a placeholder until the  
13 Commission decides what the rate of return number  
14 should be?

15 A. Yes.

16 Q. Okay. Let's look at the depreciation rate.  
17 The depreciation rate that you've selected is  
18 2.44 percent. This is for to apply to poles?

19 A. Yes.

20 Q. Now, that's the same number that was used in  
21 your prior calculations, correct?

22 A. Correct.

23 Q. And what's the origin of that number?

24 A. That is the current depreciation rate for

1 Account 364.

2 Q. What number has the company sought to use in  
3 this case?

4 A. It has requested 2.24 percent, is my  
5 recollection subject to check.

6 Q. Wouldn't you agree that if you were going to  
7 use the rate of return number that was requested and  
8 ultimately decided by the Commission in this case, you  
9 should use the depreciation number that is ultimately  
10 decided in this case?

11 A. Yes, I think that would be fair.

12 Q. Okay. Looking at the tax expense, the tax  
13 expense number is a year-end number; is that right?

14 A. Yes.

15 Q. And the net distribution plan in service,  
16 that's a year-end number, right?

17 A. Correct.

18 Q. Accumulated depreciation is a year-end  
19 number, right?

20 A. Correct.

21 Q. Accumulated deferred income taxes is a March  
22 '08 number, right?

23 A. Correct.

24 Q. Let's look at the maintenance expense.

1 Well, let me just say, but the accumulated deferred  
2 income tax number for year-end '07 is available from  
3 the FERC form, right?

4 A. The total company year-end number is  
5 available from the FERC form.

6 Q. And that's the way that the FCC does its  
7 calculations, correct?

8 A. That's my understanding.

9 Q. Okay. The maintenance component, FERC  
10 Account 593 here, this is a year-end number, right?

11 A. Correct.

12 Q. And the investment numbers are year-end,  
13 correct?

14 A. Correct.

15 Q. Depreciation numbers are year-end, correct?

16 A. Correct.

17 Q. And the tax numbers are, again, as of 3/08,  
18 right?

19 A. Yes.

20 Q. Okay. Under maintenance expense you have  
21 listed the accumulated deferred income taxes in  
22 Account 364, 365, and 367. I assume that's a typo?

23 A. That is correct.

24 Q. It should be 369, correct?

1 A. Yes.

2 Q. Okay. And, in fact, you've used Account 369  
3 in calculations, did you not?

4 A. I did.

5 Q. Okay. The administrative expense, the first  
6 set of calculations that you did used an  
7 administrative expense for year-end for electric  
8 plant, correct?

9 A. Correct. I'm sorry, could you please repeat  
10 that?

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

13 A. Yes, for electric.

14 Q. All right. And you divided that by year-end  
15 gross electric plant investment minus electric  
16 year-end depreciation reserve minus accumulated  
17 deferred income taxes for year-end --

18 A. Correct.

19 Q. -- right? Now, in this time around on Page  
20 1 of 3 of Deposition Exhibit 21 you have used  
21 distribution administrative and general expense,  
22 correct?

23 A. Correct.

24 Q. And where does that number come from?

1           A.    That comes from the -- I'm drawing a blank  
2           on the schedule number.  It's filed in the case.  It's  
3           one of the things that's derived in the case.  It's  
4           under the revenue requirements.

5           Q.    Has this schedule now been filed with the  
6           case?

7           A.    Yes.

8           Q.    Was that same number available to you when  
9           you first did your calculations?

10          A.    No.

11          Q.    And is that a derived number?

12          A.    Yes.

13          Q.    Is it an allocated number?

14          A.    I'm not really familiar exactly how they  
15          calculate that number.

16          Q.    Okay.  But it's a calculated number in some  
17          way and it's not a number that's reported on the FERC  
18          form, correct?

19          A.    That is correct.

20          Q.    And did anybody tell you to perform your  
21          administrative component calculation this time in that  
22          way?

23          A.    I decided to do it.

24          Q.    And that's not the way the FCC does it, is

1 it?

2 A. No, it's not.

3 Q. Why did you decide to do it that way?

4 A. I think this is a more accurate method than  
5 the FCC.

6 Q. It reaches a higher result for you, doesn't  
7 it?

8 A. I don't know. I would have to go back and  
9 calculate that.

10 Q. Did you perform any sensitivity analysis on  
11 that number?

12 A. No, I did not.

13 Q. You calculated it last time and you got  
14 6 percent, didn't you?

15 A. I don't recall what the number was.

16 Q. Well, let me show you Exhibit Number 6.  
17 Exhibit Number 6 are your prior calculations, right?

18 A. Yes, it is.

19 Q. And the administrative expense component  
20 calculated at that time was 5.22 percent, right?

21 A. That is correct.

22 Q. Now, by calculating it in this way you get  
23 an administrative component of 8.09 percent, right?

24 A. Correct.

1 Q. And, again, what you have -- is the  
2 distribution administrative and general expense that  
3 you've used here is that a year-end number?

4 A. No.

5 Q. That's a number for March of '08?

6 A. It's a calendar year 2008.

7 Q. Oh, okay. Calendar year 2008?

8 A. Correct.

9 Q. And you divided it by a net distribution  
10 plant for year-end, right?

11 A. Yes.

12 Q. Less accumulated depreciation for year-end,  
13 right?

14 A. Yes.

15 Q. Less accumulated deferred income taxes as of  
16 March of '08, right?

17 A. Correct.

18 Q. Do you think it is proper to use -- to  
19 subtract numbers developed as of March '08 from  
20 numbers developed as of year-end?

21 A. I think it's reasonable in this case.

22 Q. And why is that?

23 A. I don't think it would have a material  
24 difference whether you use March numbers in both or

1 December numbers in both.

2 Q. Wouldn't it be better to use numbers that  
3 were consistent, consistently derived?

4 A. I -- yes.

5 Q. Okay. Are you aware of the FCC or any other  
6 regulatory agency using an administrative expense  
7 factor based on a determination of distribution  
8 administrative and general expense?

9 MS. SPILLER: I'm going to object to  
10 the reference to any other regulatory agency.  
11 Go ahead.

12 A. Other than the Ohio Public Utilities  
13 Commission, no. But, again, I have very little  
14 knowledge of what's going on with any other agencies.

15 Q. Has the Ohio Public Utilities Commission  
16 used an administrative expense founded on a worksheet  
17 calculation of distribution administrative and general  
18 expense in a pole attachment case?

19 A. Not that I'm aware of.

20 MR. GILLESPIE: Okay. I have no  
21 further questions. Thank you.

22 THE WITNESS: Okay.

23 MS. SPILLER: We'll take signature,  
24 please.

(Deposition concluded at 3:20 p.m.)

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

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

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

STATE OF OHIO :  
COUNTY OF HAMILTON :

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

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

---

DONALD STORCK

## C E R T I F I C A T E

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

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

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

23

24

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

4

5

6

7

8

9 My commission expires:  
September 8, 2013

---

Kristina L. Pedersen  
Notary Public

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24