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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 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)

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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.

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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

7

8 On behalf of Intervenor, Ohio Cable
Telecommunications Association:

9

GARDNER F. GILLESPIE, ESQ.

10

Hogan & Hartson, LLP

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Columbia Square

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555 Thirteenth Street, NW

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Washington, D.C. 20004

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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.)

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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.

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My commission expires:
September 8, 2013

Kristina L. Pedersen
Notary Public