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DE-OHIO EXHIBIT _____

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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

SUPPLEMENTAL DIRECT TESTIMONY OF

DONALD L. STORCK

ON BEHALF OF

DUKE ENERGY OHIO, INC.

_____	Management policies, practices, and organization
_____	Operating income
_____	Rate Base
_____	Allocations
_____	Rate of return
<u> X </u>	Rates and tariffs
<u> X </u>	Other: Cost-of-Service Study

February 26, 2009

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Supplemental direct testimony supporting cost-of-service studies and changes in pole attachment / conduit occupancy tariff.

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Attachments:

Supplemental Attachment DLS-3: Revised Pole Attachment Calculation

I. INTRODUCTION AND PURPOSE

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Donald L. Storck, and my business address is 139 East Fourth Street,
3 Cincinnati, Ohio 45202.

4 **Q. ARE YOU THE SAME DONALD L. STORCK WHO PREVIOUSLY**
5 **SUBMITTED DIRECT TESTIMONY IN THESE PROCEEDINGS?**

6 A. Yes, I am.

7 **Q. DID YOU FILE DIRECT TESTIMONY IN THIS PROCEEDING ON**
8 **BEHALF OF DUKE ENERGY OHIO, INC. ("DE-OHIO" OR**
9 **"COMPANY")?**

10 A. Yes.

11 **Q. WHAT IS THE PURPOSE OF THIS SUPPLEMENTAL TESTIMONY?**

12 A. I sponsor revisions to DE-Ohio's Pole Attachment / Conduit Occupancy Tariff. I
13 also support Objections Nos. 12, 13, 14, and 15 in DE-Ohio's Objections to Staff
14 Report of Investigation, filed January 27, 2009.

II. REVISIONS TO POLE ATTACHMENT TARIFF

15 **Q. HAS THE COMPANY MADE ANY REVISIONS TO ITS PROPOSED**
16 **POLE ATTACHMENT / CONDUIT OCCUPANCY TARIFF SINCE ITS**
17 **INITIAL FILING IN THIS PROCEEDING?**

18 A. Yes.

19 **Q. PLEASE BRIEFLY SUMMARIZE THE REVISIONS TO DE-OHIO'S**
20 **POLE ATTACHMENT / CONDUIT OCCUPANCY TARIFF.**

21 A. DE-Ohio's pole attachment / conduit occupancy tariff has been revised to reflect

1 deferred income tax accounts 255, 281, 282, and 283 as of March 31, 2008; plant
2 and accumulated depreciation balances as of March 31, 2008; proposed pole
3 depreciation rate of 2.24%; and, expense data from the 2008 test period and
4 allocation of tax and administrative expenses to poles based on distribution
5 expenses per this case as compared to using total company amounts. The revised
6 calculation uses the rate of return requested in this rate case as opposed to the rate
7 of return approved in the last electric distribution rate case. The revised pole
8 attachment annual rate is \$10.26 per attachment. A revised calculation has been
9 attached as Supplemental Attachment DLS-3.

III. OBJECTION NO. 15

10 **Q. PLEASE BRIEFLY SUMMARIZE DE-OHIO'S OBJECTION NO. 15 TO**
11 **THE STAFF REPORT.**

12 A. The Company objects to Staff's recommendation to change the language
13 contained in the terms and conditions of the pole attachment / conduit occupancy
14 tariff rate.

15 **Q. THE STAFF REPORT RECOMMENDS DELETING THE SECOND**
16 **PARAGRAPH UNDER THE APPLICABILITY SECTION OF THE POLE**
17 **ATTACHMNT / CONDUIT OCCUPANCY TARIFF, WHICH GIVES DE-**
18 **OHIO SOLE DISCRETION TO EXCLUDE NON-WIRELINE**
19 **ATTACHMENTS. DO YOU AGREE?**

20 A. No. Non-wireline attachments vary significantly and can include such items as
21 antennas, WiFi equipment and overlash of existing attachments. Due to the
22 unique nature of these attachments, they must be addressed individually versus

1 wireline attachments, which are homogeneous. DE-Ohio needs the right to refuse
2 any attachment that impedes the delivery of electricity, impedes repair of electric
3 facilities, creates a safety hazard or causes the incurrence of costs that are not
4 reimbursed by the licensee. The size, type and placement of a non-wireline
5 attachment or occupancy may compromise the integrity of a pole, cause
6 complications in making routine or emergency repairs that can endanger the line
7 professionals making repairs. The right to refuse a non-wireline attachment helps
8 maintain the integrity of the electric system and keeps DE-Ohio employees safe
9 when working in hazardous conditions. Utilities should not be compelled to add
10 non-wireline attachments to its system. Furthermore, DE-Ohio should not be
11 required to expend funds to accommodate non-wireline attachments without
12 reimbursement from the licensee causing such expenditure. Otherwise, the retail
13 ratepayer will be required to further subsidize pole attachments. It should be
14 noted that DE-Ohio has this discretion under the Terms and Conditions section of
15 the current tariff, which states "[t]he Company shall have the sole right to
16 determine the availability of such pole / conduit for joint use and shall be under
17 no obligation to grant permission for its use by licensee."

18 **Q. PLEASE ADDRESS THE STAFF'S CONCERNS ABOUT THE COMPANY**
19 **POTENTIALLY ABUSING ITS DISCRETIONARY POWERS UNDER**
20 **THIS PARAGRAPH.**

21 **A.** The Staff is concerned that allowing DE-Ohio the right to exclude non-wireline
22 attachments and occupancies at DE-Ohio's sole discretion vests too much power
23 with DE-Ohio. Again, I believe DE-Ohio should not be compelled to add non-

1 wireline attachments to its system. Furthermore, DE-Ohio historically has the
2 discretion to determine the availability of its poles and conduits for joint use. The
3 Terms and Conditions section of the current tariff states, "[t]he Company shall
4 have the sole right to determine the availability of such pole / conduit for joint use
5 and shall be under no obligation to grant permission for its use by licensee." The
6 Staff Report states, "[w]hile this provision is largely unchanged from the current
7 tariff, and Staff is unaware of any abuses of the discretion afforded the Applicant
8 by such provision, Staff nonetheless believes an attacher would have no recourse
9 should the Applicant discriminatorily exercise this provision." I disagree with the
10 Staff that an attacher has no recourse. An attacher can file a complaint with the
11 Public Utilities Commission of Ohio ("Commission") if it believes DE-Ohio has
12 acted improperly by discriminating against it. DE-Ohio has this discretion today,
13 the Staff states it is unaware of any abuses of such discretion and there is recourse
14 if DE-Ohio abuses its discretionary authority. More importantly, the ability to
15 refuse an attachment arises out of the overwhelming need to maintain the integrity
16 of the electric delivery system and ensure the safety of not only the Company's
17 employees, but for all customers. Therefore, I believe DE-Ohio should continue
18 to retain this discretionary authority in both the Applicability and Terms and
19 Conditions sections of the new tariff.

20 **Q. WHY DO YOU BELIEVE IT IS NECESSARY TO BE ABLE TO IMPOSE**
21 **PENALTIES FOR UNAUTHORIZED ATTACHMENTS AND SAFETY**
22 **VIOLATIONS?**

23 **A.** As the Staff correctly observed, penalties are intended to have a deterring effect.

1 Thus, in order for DE-Ohio to guard against unauthorized or unsafe attachments
2 to its system, it needs the ability to impose penalties. DE-Ohio's current pole
3 attachment tariff does not include a penalty provision but it does require the
4 licensee and DE-Ohio to enter into a pole attachment agreement. Neither the
5 tariff nor the agreements have penalties. DE-Ohio has experienced a significant
6 number of unauthorized pole attachments and safety issues in a recent audit.
7 Without penalty provisions in the tariff, it will continue to be difficult for DE-
8 Ohio to enforce the terms of the tariff, maintain system integrity and provide a
9 safe working environment for employees.

10 **Q. ARE YOU AWARE OF ANY OTHER OHIO ELECTRIC UTILITIES**
11 **THAT HAVE TARIFFS ALLOWING PENALTIES FOR**
12 **UNAUTHORIZED ATTACHMENTS OR SAFETY VIOLATIONS?**

13 A. Yes, I am aware that Toledo Edison and Ohio Edison have penalties for
14 unauthorized attachments.

15 **Q. DE-OHIO REQUESTED 45 DAYS TO APPROVE ANY NEW POLE**
16 **ATTACHMENTS WHEREAS THE STAFF RECOMMENDS 30 DAYS**
17 **FOR WIRELINE ATTACHMENTS AND 45 DAYS FOR SPECIAL**
18 **EQUIPMENT. DO YOU AGREE WITH THE STAFF'S**
19 **RECOMMENDATION?**

20 A. I believe a reasonable compromise is appropriate as it provides additional time for
21 DE-Ohio to analyze special equipment pole attachments while retaining the
22 current 30 days for wireline attachments, providing DE-Ohio will not be obligated
23 to include non-wireline attachments within the scope of its pole attachment /

1 conduit occupancy tariff.

2 **Q. WHO DOES THE REVISED TARIFF APPLY TO?**

A. The revised tariff only applies to entities other than public utilities.

IV. OBJECTION NO. 14

3 **Q. PLEASE BRIEFLY SUMMARIZE DE-OHIO'S OBJECTION NO. 14 TO**
4 **THE STAFF REPORT.**

5 A. The Company objects to Staff's recommendation to establish the pole attachment
6 / conduit occupancy tariff rate at less than the fully-allocated cost of service.

7 **Q. PLEASE SUMMARIZE THE DIFFERENCES BETWEEN DE-OHIO'S**
8 **REVISED POLE ATTACHMENT / CONDUIT OCCUPANCY TARIFF**
9 **RATE CALCULATION AND THE STAFF'S CALCULATION.**

10 A. The Staff's calculation utilizes an 8.61% rate of return (the Staff's mid-point rate
11 of return) as opposed to DE-Ohio's requested rate of return of 9.10%. The Staff's
12 calculation utilizes a 2.23% depreciation rate for Account 364 (Poles, Towers and
13 Fixtures) which reflects different average service life and net salvage assumptions
14 as opposed to the 2.24% pursuant to the depreciation study sponsored by DE-
15 Ohio. The Staff used state income tax expense of \$123,152 from the "At Current
16 Rates – Adjusted Distribution" column of the original Schedule C-4 versus the
17 \$392,143 from the "Proforma Revenue & Expenses" column of the revised
18 Schedule C-1. The Staff used Federal income taxes of \$9,973,405, which appear
19 to be from the "At Current Rates – Adjusted Distribution" column of the original
20 Schedule C-4 with some adjustments versus using Federal income taxes of
21 \$35,063,857 from the "Proforma Revenue & Expenses" column from the revised

1 Schedule C-1. The Staff used taxes other than income taxes of \$59,641,946 from
2 Schedule C-2 versus \$61,394,396 from the "Proforma Revenue & Expenses"
3 column from the revised Schedule C-1. The Staff used total company electric
4 distribution plant of \$1,644,636,777 from Schedule B-2.1 versus the adjusted total
5 company electric distribution plant of \$1,644,616,547 from Schedule B-2.1.

6 **Q. DO YOU AGREE WITH THE STAFF'S PROPOSED POLE**
7 **ATTACHMENT RATE OF \$6.40?**

8 A. No. The Staff calculated a pole attachment rate of \$9.25. It stated in the Staff
9 Report that it believes the "118% increase was too significant to impose in a
10 single increase." (Staff Report page 24) Therefore, it proposed to increase the
11 existing rate only 50% which it rounded to \$6.40. This proposed rate requires
12 retail rate payers to continue subsidizing pole attachments. The current rate of
13 \$4.25 has not been increased for sixteen years when it was last changed in Case
14 No. 92-1464-EL-AIR.

15 **Q. WHAT IS YOUR SUGGESTED POLE ATTACHMENT RATE?**

16 A. I believe DE-Ohio's maximum pole attachment rate of \$10.26, as shown in
17 Supplemental Attachment DLS-3, should be implemented. This rate will
18 eliminate any subsidization by retail rate payers and represents an annual
19 compound growth rate of approximately 5% since the last increase sixteen years
20 ago in Case No. 92-1464-EL-AIR. If the Commission finds this is too great of an
21 increase, it can eliminate 75% of the subsidy consistent with Staff's
22 recommendation for eliminating subsidies among retail tariffs. The new rate
23 would be $\$8.76 = (\$4.25 + ((\$10.26 - \$4.25) * 75\%))$.

V. OBJECTION NO. 13

1 **Q. PLEASE BRIEFLY SUMMARIZE DE-OHIO'S OBJECTION NO. 13 TO**
2 **THE STAFF REPORT.**

3 A. The Company objects to the Staff's proposed customer charge for residential
4 customers. The Company's cost of service and rate design calculations fully
5 support its originally proposed residential customer charge.

6 **Q. PLEASE SUMMARIZE YOUR COMMENTS ON THE STAFF'S**
7 **PROPOSED \$5.71 RESIDENTIAL CUSTOMER CHARGE.**

8 A. I object to the Staff's proposed \$5.71 residential customer charge. The
9 Company's proposed \$10.00 residential customer charge allows the recovery of
10 more fixed customer-related costs through the customer charge instead of a
11 volumetric rate. In the Staff Report for the First Energy Ohio Edison ("FE")
12 electric Case No. 07-551-EL-AIR, the Staff recommended approval of FE's
13 proposed \$4.00 customer charge "...but puts the Industry on notice that, in future
14 proceedings, a higher Service Charge will probably be supported by Staff to better
15 represent the fixed costs of distribution rate schedules." However, in DE-Ohio's
16 current case, the Staff's \$5.71 customer charge calculation is missing important
17 fixed costs of distribution related to serving the customer. Although the Staff
18 included transformers in rate base, it did not include transformer operating and
19 maintenance cost. DE-Ohio also included allocated common plant, general plant,
20 and other distribution, other customer accounting, other customer service &
21 information and administrative and general expenses. These expenses were
22 included by DE-Ohio and are all valid "fixed costs of distribution" and support a

1 residential customer charge of \$10.00.

VI. OBJECTION NO. 12

2 **Q. PLEASE BRIEFLY SUMMARIZE DE-OHIO'S OBJECTION NO. 12 TO**
3 **THE STAFF REPORT.**

4 A. The Company objects to the Staff's recommendation to eliminate only 75% of the
5 subsidy / excess among the rate classes. The Staff's recommendation perpetuates
6 an already unfair situation requiring certain groups of rate classes to subsidize
7 other groups of rate classes.

8 **Q. PLEASE SUMMARIZE YOUR COMMENTS ON THE STAFF'S**
9 **RECOMMENDED 75% MOVEMENT TO EQUAL RATES OF RETURN.**

10 A. As a general tenet of ratemaking, all classes of customer should, to the extent
11 practicable, pay the cost of providing service to that class. The Company's
12 proposal to eliminate 100% of the interclass subsidies provides each class with an
13 accurate price signal and restores the basic ratemaking principles of cost
14 causation. Not eliminating all the interclass subsidies will only serve to
15 perpetuate, or even worsen the problem as changes in sales among classes could
16 exaggerate the interclass subsidy situation. In the last retail electric distribution
17 rate case, 50% of the interclass subsidy was eliminated. But a significant subsidy
18 continues to exist. I propose that 100% of the interclass subsidy be eliminated,
19 consistent with my direct testimony.

VII. CONCLUSION

1 **Q. DOES THIS CONCLUDE YOUR SUPPLEMENTAL DIRECT**
2 **TESTIMONY?**

3 **A. Yes.**

Duke Energy Ohio, Inc
Pole Attachment Calculation

A. Components

1	Rate of Return		= 9.10%
2	Depreciation		
	Depreciation Rate X	$\frac{\text{Gross Pole Investment}}{\text{Net Pole Investment}}$	
	2.24%	X $\frac{\$225,327,638}{\$225,327,638 - \$99,069,463 - \$24,079,688}$	= 4.94%
3	Tax Expense		
		$\frac{\text{Tax Expense}}{\text{Net Distribution Plant in Service - Accumulated Depreciation - ADIT (Acct. 190, 255, 281-283)}}$	
		$\frac{61,394,396 + 392,143 + 35,063,857}{1,763,333,257 - (617,643,899) - (175,764,145)}$	= 9.99%
4	Maintenance Expense		
		$\frac{\text{FERC Account 593}}{(\text{Investment in Accounts 364} + 365 + 369) - (\text{Depreciation in 364} + 365 + 369) - (\text{ADIT in 364} + 365 + 367)}$	
		$\frac{21,709,094}{225,327,638 + 294,779,890 + 52,769,440 - 99,069,463 + 91,548,321 + 34,957,076 - 24,079,688 + 31,496,935 + 5,642,029}$	= 7.59%
5	Administrative Expense		
		$\frac{\text{Distribution Administrative and General Expense}}{\text{Net Distribution Plant in Service - Accumulated Depreciation - ADIT (Acct 190, 255, 281-283)}}$	
		$\frac{78,443,755}{1,763,333,257 - (617,643,899) - (175,764,145)}$	= 8.09%

B. Distribution Pole Carrying Charge Rate % of Net Bare Pole Cost per Year

Rate of Return	9.10%
Depreciation Expense	4.94%
Federal, State, and Other Taxes	9.99%
Maintenance Expense	7.59%
Administrative Expense	8.09%
Total Annual Carrying Charge Rate	39.70%

C. Net Investment Per Bare Pole

$\frac{85.0\% (\text{Gross Pole Investment} - \text{Pole Depreciation Reserve}) - \text{ADIT for Poles}}{\text{Number of Poles in Service}}$	
$\frac{0.85 (225,327,638 - 99,069,463 - 24,079,688)}{248,901}$	= \$348.94

D. Rate Calculation

1. Net Investment per Bare Pole x Annual Carrying Charge = Annual Pole Cost	
\$348.94 x 39.70%	= \$138.54
2. Annual Pole Cost x Attachment Percentage of Usable Pole Space = Attachment Rate for CATV	
\$138.54 x 7.41%	= \$10.26