

FILE

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**ALBERT E. LANE**

**7200 FAIR OAKS DRIVE CINCINNATI, OHIO 45237-2922**

**(513) 631-6601**

**E-MAIL AELMICTEN@AOL.COM**

**JUNE 3, 2009**

**PUBLIC UTILITIES COMMISSION OF OHIO  
DOCKETING DIVISION  
13<sup>th</sup> FLOOR  
180 EAST BROAD STREET  
COLUMBUS, OHIO 43215-3793**

**PUCO**

**2009 JUN -4 AM 9:40**

**RECEIVED-DOCKETING DIV**

**BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Elec. Distribution Rates ) Case No. 08-709-EL-AIR

In the Matter of the Application of Duke Energy Ohio, Inc. for Tariff Approval Case No. 08-710-EL-ATA

In the Matter of the Application of Duke Energy Ohio, Inc. for Approval to Change Accounting Methods Case No. 08-710-EL-AAM

In the Matter of the Application of Duke Energy Ohio, Inc for Approval of its Rider BDP, Backup Delivery Point Rider Case No. 06-718-EL-ATA

AND----- Case # 05-0732-EL-MER

Intervener, ( Case # 08-0709 EL-AIR ) Albert E. Lane response to PUCO Examiner Staff docket posting of May 29, 2009.

I, Albert E. Lane, intervener, hereby request a PUCO Examiner Staff hearing in reference to the late filing of Schedule A-1 (copy attached) by Duke Energy of Ohio. I formally objected on docket # 08-0709-El-Air to Schedule A-1 late filing on May 12, 2009 and clarifying letter of May 29, 2009.

The hearing with my cross-examination of the witnesses individually will commence at 10:00 a.m. on June 17, 2009, in Hearing Room 11-C, at the offices of the Commission, 180 East Broad Street, Columbus, Ohio 43209.as per staff instructions posted on this Case Docket on May 29, 2009. I ask that Section 4901.22 of the Ohio Revised Code be followed by the PUCO Examiner Staff.

**ALBERT E. LANE, INTERVENER SYNOPSIS**

**Note: Albert E. Lane is not an Attorney.**

Albert E. Lane Duke is a Duke Energy of Ohio residential customer # 7170-0391-20-0.

Albert E. Lane was acknowledged as an intervener by the PUCO Attorney Examiners on 2/5/09.

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 Am Date Processed 6/4/09

On March 31, 2009 Duke Energy of Ohio, The Public Utilities Commission of Ohio staff, & the Office of Consumer Counsel and other interveners signed a stipulation posted that same date of a 55 million dollar compromise annually for residential customers. Duke Energy of Ohio wanted 86 mill dollars annually Albert E. Lane and Time Warner Telecom did not sign the waiver.

It is Albert E. Lane's contention that The Office of Ohio Consumer Counsel signed off its representation of 607,000 Duke Energy of Ohio customers on March 31, 2009, which is contrary to its State Legislature requirement to represent all the people in utility proceedings. The compromise 55 million stipulation was not beneficial (stated as beneficial in press release by OCC of March 31, 2009) to Duke Energy customers of which I am one.

On May 8, 2009 Duke Energy of Ohio filed a motion to file late filed exhibits showing their Accounting numbers requested, PUCO;s & OCCS. (All Different) (Page 4 attached.)

On May 9, 2009, posted on Case docket on May 12, 2009, I stated that I disapprove of Schedule A-1 and would not sign approving it.

I Albert E. Lane have stated on May 30, 2009 (posted June 1, 2009) May 18, 2009, (posted May 19), Feb 28, (posted March 4<sup>th</sup> 2009), Feb 2, (posted Feb 3, 2009. That I want an outside neutral party/auditor to review Duke Energy of Ohio and Cinergy's accounting records back to 1995..

**THEREFORE**

I Albert E. Lane request the following individual witnesses to appear for my cross-examination at 10 AM Jun 17, 2009 in Hearing Room 11-C, at the offices of the Public Utilities Commission, 180 East Broad Street, Columbus, Ohio 43209.as per staff instructions posted on the Case Docket on May 29, 2009.

**PUCO WITNESSES:**

**OFFICE OF OHIO CONSUMERS COUNSEL**

Barbara Bossart  
Carlos Garcia  
Stephen R. Chaney  
Donald Howard  
Edrick J. Richardson  
Taisha J. Smith  
Syeda Achdudhur  
Victor P. Gallin  
Mary Alice Sutton

David J. Effron  
David D. Parcell  
Scott Rubin

Duke Energy of Ohio

Julie Janson, President  
Roger A. Morin  
Donald L. Storck  
Stephen R. Lee  
Todd W. Arnold

William Don Wathen, Jr.  
Richard G. Stevie  
PAUL G. SMITH  
TODD W. ARNOLD

**CERTIFICATE OF SERVICE**

**I CERTIFY THAT A COPY OF THE FOREGOING WAS SERVED  
VIA ORDINARY MAIL OR OVERNIGHT DELIVERY ON THE  
FOLLOWING PARTIES THIS THE 3<sup>RD</sup> DAY OF JUNE 2009.  
VERY TRULY YOURS,**

*Albert E. Lane*

**ALBERT E. LANE, INTERVENER CASE # 08-0709-EL-AIR**

Ohio Consumers' Counsel  
Ann M. Hotz, Counsel of Record  
10 W Broad Street  
Suite 1800  
Columbus, OH 43215-3420

Boehm, Kurtz & Lowry  
David Boehm/ Michael Kurtz  
36 East 7th Street  
URS Building  
Suite 1510  
Cincinnati, OH 45202-4454

Chester, Willcox & Saxbe LLP  
John W. Bentine/ Mark Yurick  
65 E State Street  
Suite 1000  
Columbus, OH 43215-4216

Bricker & Eckler, LLP  
Thomas O'Brien  
100 S. Third Street  
Columbus, OH 43215-4236

Ohio Partners for Affordable Energy  
David Rinebolt/ Colleen Mooney  
231 West Lima Street  
Findaly, OH 45840-3033

People Working Cooperatively, Inc.  
Mary W. Christensen, Esq.  
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Columbus, OH 43235-4679

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Greater Cincinnati Health Council  
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Cincinnati, OH 45202-2852

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Stephen Reilly  
Attorney General's Office  
180 East Broad Street  
9<sup>th</sup> Floor  
Columbus, OH 43215-3707

DUKE ENERGY OHIO, INC.  
CASE NO. 08-709-EL-AIR  
OVERALL FINANCIAL SUMMARY  
FOR THE TWELVE MONTHS ENDED DECEMBER 31, 2008

SCHEDULE A-1  
PAGE 1 OF 1

DESCRIPTION	APPLICANT FILING	STAFF REPORT MID-POINT	OCC	SETTLEMENT <sup>(a)</sup>
Rate Base	\$ 979,490,588	\$ 973,342,332	\$ 938,529,000	\$ 963,787,307
Current Operating Income	\$ 34,900,168	\$ 46,817,587	\$ 52,213,000	\$ 47,759,653
Earned Rate of Return (Line 2 / Line 1)	3.68%	4.81%	5.56%	4.96%
Requested Rate of Return	9.10%	8.81%	8.23%	8.61% <sup>(b)</sup>
Required Operating Income (Line 1 x Line 4)	\$ 89,133,644	\$ 83,756,108	\$ 77,218,000	\$ 82,982,087
Operating Income Deficiency (Line 5 - Line 2)	\$ 54,233,478	\$ 36,938,541	\$ 25,005,000	\$ 35,222,434
Gross Revenue Conversion Factor	1.5784603	1.5700221	1.5700221	1.5700221
Revenue Deficiency (Line 6 x Line 7)	\$ 85,605,382	\$ 57,994,326	\$ 39,258,403	\$ 66,300,000 <sup>(c)</sup>
Revenue Increase Requested / Recommended	\$ 85,604,451	\$ 57,994,326	\$ 39,258,403	\$ 55,299,335 <sup>(c)</sup>
Adjusted Retail Operating Revenues	\$ 310,927,415	\$ 310,927,415	n/a	\$ 310,927,415
Total Retail Distribution Revenue	\$ 396,531,866	\$ 368,921,741	n/a	\$ 366,228,750
Miscellaneous Revenue - Current	\$ 6,677,499	\$ 5,832,542	n/a	\$ 5,832,902
Miscellaneous Revenue - Additional Pole Attachment Fees	\$ 1,206,407	\$ 255,403	n/a	\$ 255,403 <sup>(c)</sup>
Total Revenue Requirement	\$ 403,315,772	\$ 375,009,686 <sup>(c)</sup>	n/a	\$ 372,315,055

Notes for Settlement Column:

- <sup>(a)</sup> The Parties to the Stipulation agreed to the overall revenue increase, the increase in Pole Attachment rental fees and the overall revenue requirement. All other items shown in the "Settlement" column are for illustration only.
- <sup>(b)</sup> The mid-point of the Staff's rate of return range is 8.81% based on a return on equity of 10.63% and a hypothetical equity ratio of 51.59%. The Stipulation specifically indicates that DE-Ohio will use the 10.63% return on equity mid-point but at the actual adjusted equity ratio of 58.28% for purposes of any riders that require a rate of return.
- <sup>(c)</sup> Represents the actual agreed to amounts per the Stipulation.

JUNE 3, 2009  
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Mr Albert E Lane  
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