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PAGE 1 OF 3 PAGES + 12 PAGE ENCL.

ALBERT E. LANE

PUCO

RESIDENCE: 7200 FAIR OAKS DRIVE-CINCINNATI, OHIO 45237-2922 (513)-631-6601 E-MAIL: <u>AELMICTEN@AOL.COM</u>

Feb 27, 2010

The Public Utilities Commission of Ohio (via Fed Ex this date) Attention Docketing Division, Ms. Renee Jenkins 80 East Broad Street 13th Floor Columbus, Ohio 43215-3793

In the Matter of the Application of Duke) Case No-09-1946-EL-ATA Energy Ohio, Inc. to Establish and Adjust) Case No-09-1946-EL-RDR The initial Level of its Distribution Rate) Case No-05-0732-EL-MER RIDER DR) CASE NO-08-0709-EL-AIR

REQUEST PUCO TO REACTIVATE AND MERGE ALL OF PUCO DOCKET # 08-0709-EL AIR WITH PUCO DOCKET # 09-1946-EL-ATA/RDR.
REQUEST AS ABOVE, OBJECTION, COMMENTS AND ASK TO BE
REINSTATED AS AN INTERVENER BY ALBERT E. LANE, DUKE
ENERGY OF OHIO RESIDENTIAL CONSUMER CUSTOMER,
Duke Energy of Ohio Residential account # 7170-0391-20-0

Feb 27, 2010

I object to the Duke Energy of Ohio Inc. "Ike" money request from its consumer customers as submitted by their attorneys Kravitz, Brown & Dortch LLC in new docket No-09-1946-EL-ATA/RDR, filed 12/11/2009 to establish and adjust the initial level of Rider DR. I AM NOT AN ATTORNEY.

Please refer to all of the official PUCO <u>Case Record O8-O709-EL-AIR</u> for the chronology index and aftermath of the same original Duke Energy of Ohio request recorded within PUCO docket 08-0709-EL-AIR (12 pages enclosed-Exhibit #1).

SYNOPSIS

Duke Energy of Ohio originally filed a motion for approval of change in accounting methods to defer and create a regulatory asset for storm restoration costs incurred during the test year and recovery mechanism for storm restoration costs on Dec 22, 2008 (Exhibit # 2-from PUCO <u>Case Record O8-O709-EL-AIR</u>, 10 pages)

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 rechnician _______ Date Processed MAR 01 2010

Within said Case Record <u>O8-O709-EL-AIR are</u> my first comments of my many later comments on the same <u>Case Record O8-O709-EL-AIR</u>, about the Duke Energy of Ohio "Ike" windstorm service, safety and reliability performance. I also requested a formal "inquiry" of Duke Energy of Ohio with <u>Case Record O8-O709-EL-AIR</u>, (Exhibit # 3, on December 31, 2008-8 pages)

On February 5, 2009 in PUCO <u>Case Record O8-O709-EL-AIR</u> (Exhibit # 4, 5 pages), I was ordered to be an intervener by Scott Farkas PUCO Attorney Examiner.

PUCO <u>Case Record O8-O709-EL-AIR</u> included the Dec 22, 2008 Duke Energy of Ohio first consumer customer request before the PUCO by Duke Ohio for "Ike" money. There were many negative comments against the Duke Ohio "Ike" request made in PUCO <u>Case Record O8-O709-EL-AIR</u>, by other Duke Energy of Ohio customers beside myself.

On a filing within the <u>Case Record O8-O709-EL-AIR</u>. Exhibit # 5, on October 26, 2009, 3 pages), Shirley Hayes, a Duke Energy of Ohio customer, stated that she had filed 1,399 signatures of Duke Ohio customers of the Franklin, Ohio, Duke Energy of Ohio service area against paying for Duke Energy of Ohio "windstorm costs".

In a February 23, 2010 filing (33 pages), with the PUCO (exhibit # 6) on PUCO Docket # 09-1946 EL-ATA/RDR, the Ohio Office of Consumer Counsel comments and refers to petitions within that new Duke Energy of Ohio windstorm money request to Shirley Hayes and her 1,399 petition signatures in a footnote on Page 15.

I Albert E. Lane, an intervener in the original "Ike" windstorm PUCO <u>Case Record</u> <u>O8-O709-EL-AIR</u>, have been ignored and by passed by Duke Energy of Ohio legal Maneuverings (ploy) in its/their new filing for "Ike" windstorm money in the new PUCO Case # 09-1946-EL-ATA/RDR, in concert with PUCO staff and the OCC.

Let it be noted here that I did not attend (although invited) the so-called private Meeting between Duke Energy of Ohio, PUCO and OCC of March 31, 2009 where stipulations were agreed upon by the parties/interveners attending. Ref: PUCO <u>Case</u> Record O8-O709-EL-A1, March 31, 2009--- 35 pages)

The PUCO staff & the Ohio Office of Consumer Counsel and other intervener attendees at this meeting assented (signed) to all of the stipulations, (prepared by and also signed by Duke Energy of Ohio). These stipulations included a settled \$55.3 million amount for a DEO electric distribution rate hike, rather then the higher DEO \$86 Mil. "required" amount of money (Per DEO testimony 8/8/08- Case Record O8- O709-EL-AIR.), that DEO originally asked to receive. This disturbs me. The Ohio Office of Consumer Counsel, supposedly the DEO customer consumer advocate, said in reference

Page 3 OF 3 PAGES + 12 PAGE ENCL.

to the \$55.3 million settlement, rather then the \$86 Million DEO required, in the Office of Consumer Counsel press release of Marh 31, 2009, that---

-- "Duke Energy's residential consumers to benefit from agreement in electric distribution rate case". That sentence behooves me.

Continuing on page 7 of the March 31, 2009 signed Stipulation agreement filed by Duke Energy of Ohio, PUCO <u>Case Record O8-O709-EL-AIR</u>, March 31, 2009--- 35 pages). The manner by which 650,000 Ohio Duke Energy customer consumers rate increase was supposedly scientifically neutrally audited, researched and settled by the PUCO staff in this entire Duke Energy elecric utility increase process, and the simutaneous new docket procedure request for "Ike" windstorm money by DEO and the PUCO response (see next paragraph) is a conundrum to me, the DEO customer. These two items were on on the same PUCO <u>Case Record O8-O709-EL-AIR</u> per Duke Energy of Ohio's filing.

The PUCO Commissioners staff, the OCC and other interveners who signed the DEO electric dist. stipulation settlement on March 31, 2009 also included on page 7 under Item No 5. RIDER DR (DISTRIBUTION RELIABILITY RIDER) which contained the following, allowing DEO "to file a separate application to establish the intial level." FORTWITH:

"The Rider shall be set at zero in this proceeding. Upon approval of this Stipulation, DE-Ohio may file a separate application to establish the initial level of Rider DR and shall docket with its Rider DR application all supporting documentation." I strongly object to a separate application.

CONCLUSION

In my opinion, with that signing of the stipulation contents the supposedly neutral PUCO staff and the OCC, the consumer advocate, sold the 650,000 Duke Energy of Ohio Consumer customers and myself, an intervener in PUCO Case # 08-0709-EL-AIR, "down-the river". One year and a half years later from when the Duke Energy of Ohio "Ike" windstorm happened the commenters and I have to file all over again on another docket. As an intervener I was disenfranchised. I object. I should be reinstated as an intervener in case No.-09-1946-EL-ATA/RDR.

The 1,399 individual petitions obtained by Shirley Hayes (PUCO Case Record O8-O709-EL-AIR) have been by passed by Duke Energy of Ohio in creating a new PUCO Docket #09-1946-EL-ATA/RDR for their same original request stated in case # 08-0709-EL-AIR.

I THEREFORE FORMALLY REQUEST PUCO TO REACTIVATE, REVIVE AND MERGE ALL OF PUCO DOCKET # 08-0709-EL-AIR WITH PUCO DOCKET # 09-1946-EL-ATA/RDR. THIS WILL ELIMINATE THE HARDSHIP AND COST OF MYSELF AN INTERVENER IN CASE DOCKET # 08- 0709-EL-AIR AND OTHER CONSUMER COMMENTERS IN THE SAME DOCKET FROM REWRITING AND COPYING AGAIN OUR COMMENTS FROM PUCO DOCKET NO -08-0709-EL-AIR TO PUCO DOCKET # 09-1946-EL-ATA/RDR.

ALBERT E. LANE CON & Jan-

RES: 7200 FAIR OAKS DRIVE-CINCINNATI, OHIO 5237-2922

(513)-631-6601 E-MAIL: <u>AELMICTEN@AOL.COM</u>

ENCL: CASE RECORD INDEX, (12 PAGES) FOR 08-0709-EL-AIR CC: SHIRLEY HAYES

Cincinnati Enquirer

Ohio.gov Public Utilities Commission

EXHIBIT # 1-(12 pages) Albert E. Lane-Feb 27, 2010

Case Record For 08-0709-EL-AIR

Case Title:

DUKE ENERGY OHIO INC

Status:

OPEN-OPEN

Industry Code:

EL-ELECTRIC

Purpose Code:

AIR-Application to increase rates

Date Opened:

6/25/2008

Date Closed:

Case Documents | Parties of Record | Related Cases

Printable Do	ocket Card Service List	• • • • • • • • • • • • • • • • • • • •
	View p	er page
Date Filed	Summary	Pages
1/13/2009	Service Notice.	7
11/13/2009	Entry ordering OCTA's motion for protective order be granted. (KLS)	3
	Signed petition from local citizens regarding the request of Duke Energy, Ohio for the rate increase filed by S. Hayes.	3
09/24/2009	Signed petition from local citizens regarding the request of Duke Energy, Ohio for the rate increase filed by S. Hayes.	3
08/12/2009	Service Notice	7
08/12/2009	Entry on rehearing stating that Albert E. Lane's application be denied.	4
08/03/2009	Correspondence letter regarding rate increase filed by S. Hayes, consumer.	4
	Memorandum contra the application for rehearing of Albert E. Lane by the Office of the Ohio Consumers' Counsel filed by A. Hotz.	9
07/31/2009	Memorandum contra application of Albert E. Lane for rehearing filed by E. Watts on behalf of Duke Energy Ohio.	9
07/29/2009	Notice of withdrawal of counsel filed by A. Hotz on behalf of OCC.	3
)7/21/2 0 09	Application for rehearing filed by A. Lane, intervenor and customer.	23
7/14/2009	Correspondence letter regarding rate increase filed by R. Williams, consumer.	2
07/10/2009	Revised tariff pages, PUCO Tariff No. 19, filed by D. Storck on behalf of Duke Energy Ohio, Inc.	130
07/08/2009	Opinion and order stating that the stipulation be adopted in its entirety; the application of Duke for authority to increase its rates and charges for electric distribution service, and related applications considered herein, be granted to the extent provided in this opinion and order.	20
07/08/2009	Service notice.	7
	Exhibits for transcript docketed electronically for hearing held on June 17, 2009 before A.E. Scott Farkas.	20
06/19/2009	Transcript for Duke Energy hearing on June 17, 2009 before A.E. Soctt Farkas electronically filed by Jennifer Duffer on behalf of Armstrong & Okey, Inc.and V. Solas.	126
JO/ 15/2UU9	Second supplemental testimony of William Don Wathen Jr., filed on behalf of Duke Energy Ohio, Inc.	7
06/10/2009	Duke Energy Ohio's motion and memorandum in support to strike and motion in limine to limit cross examination of Duke Energy Ohio's witness filed by E. Watts.	7
06/10/2009	Memorandum, statement pro retaining all of Albert E. Lane's Correspondence filed by A. Lane.	5
06/10/2009	Letter updating the synopsis of the filing of June 6, 2008 and March 31, 2009 News Release by OCC, filed by A. Lane, intervenor.	3
<u> </u>	Updated update to synopsis filed June 6, 2009 and copy of OCC's news release of 3/31/2009 filed	-

	on behalf of Albert E. Lane. (FAX)	
<u>06/09/2009</u>	Motion to strike and motion to limine and memorandum in support to limit cross examination of Duke Energy Ohio's witness filed on behalf of Duke Energy Ohio by E. Watts. (FAX)	9
06/08/2009	Updated synopsis of intervener, Albert E. Lane.	6
	Request for a hearing in reference to the late-filing of Schedule A-1 filed by Duke Energy and request for the listed witnesses to appear at the hearing on June 17, 2009 filed by A. Lane, intervenor.	4
06/03/2009	Service Notice	7
06/03/2009	Entry ordered that any party may request the opportunity to cross-examine witnesses concerning the schedule A-1, filed May 8, 2009, or the clarifying letter, filed on May 29, 2009. (SEF)	4
06/02/2009	Exhibit Attachment 1 to Duke Energy Ohio's Memorandum Contra Mr. Albert Lane's Correspondence and Motion to Strike electronically filed by Ms. Elizabeth H Watts on behalf of Duke Energy Ohio, Inc.	5
06/02/2009	Memorandum contra Mr. Albert Lane's correspondence and Motion to Strike electronically filed by Ms. Elizabeth H Watts on behalf of Duke Energy Ohio, Inc.	8
	Letter stating that OCC will not oppose the May 29th letter for the specific purpose of the Commissions' reliance, in its order on the numbers included in the A-1 Schedule that were not identified in the Stipulation filed by A. Hotz.	3
06/01/2009	Motion requesting delay on the deadline of June 4, 2009 hearing and request that the previously requested formal questions be answered before the hearing is set filed by A. Lane, intervenor.	11
	Entry ordering that any party may request the opportunity to cross-examine witnesses concerning the Schedule A-1 filed on May 8, 2009, or the clarifying letter filed on May 29, 2009, as set forth in this entry. (SF)	3
05/29/2009	Service Notice	7
05/29/2009	Memorandum stating clarification on late filed exhibit docketed May 8, 2009, the settlement numbers represent the actual agreed to dollar amounts for rate base, current operating income, rate of return, etc. filed on behalf of Attorney General Staff by S. Reilly.	6
05/27/2009	Letter and petitions expressing concern over the rate increase sought by Duke Energy filed by S. Hayes.	5
	Correspondence regarding Duke Energy of North Carolina 49% owned subsidiary Crescent Resources & intervenor opponent position on Duke Energy of Ohio request for electric distribution rate increase filed by A. Lane.	4
05/13/2009	Correspondence letter objecting to Duke Energy Ohio's recent rate increase filed by L. Robbins.	1
	Response of A. Lane to the motion for admission of late filed exhibits by E, Watts on behalf of Duke Energy.	1
<u>05/08/2009</u>	Motion for admission of late filed exhibits and memorandum in support filed by E. Watts on behalf of Duke Energy Ohio, Inc.	5
05/05/2009	Transcript of public hearing held March 24, 2009, in Liberty Township, Ohio before Commissioner V. Lemmie and AE S. Farkas.	58
	Proof of publication. (Hamilton County)	2
	Correspondence objecting to rate increase filed by Mrs. Wells.	2
	Correspondence letter filed by A. Lane.	1
	Correspondence filed by A.Lane.	4
05/01/2009	Proof of publication and affidavits filed by A. Schafer on behalf of Duke Energy. (Hamilton County)	5
	Motion for admission of late filed exhibit and memorandum in support of Duke Energy Ohio filed by E. Watts.	33
04/29/2009	Correspondence and signature petition protesting Duke Energy rate increase filed by Shirley Hayes.	4
04/22/2009	Letter in opposition to the proposed Duke Energy rate hike filed by consumer R. Carlson.	3
	Transcript of hearing held on March 31, 2009 before AE's J. Kingery and S. Farkas, electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Anderson, Rosemary Foster Mrs.	22
	Letter and petition expressing concern regarding Duke Energy rates increase request filed by S.	5
0-7) 10/2003	Hayes and various consumers.	

04/07/2009 04/07/2009 04/03/2009	Letter with attached petition expressing concern regarding Duke Energy rates increase filed by S. Hayes. Public Hearing held before AEs J. Kingery and J. Lynn on Thursday, March 19, 2009 in Cincinnati, Ohio. Letter expressing concern over the rate increase sought by Duke Energy filed by D. Luers.	4 106
04/07/2009 04/03/2009	Public Hearing held before AEs J. Kingery and J. Lynn on Thursday, March 19, 2009 in Cincinnati, Ohio.	
04/03/2008	letter expressing concern over the rate increase sought by Duke Energy filed by D. Luers	
		2
0.4/00/0000	Letter expressing concern over the Duke Energy distribution charge filed by R. Ludeke.	1
04/02/2009	Letter expressing concern over the Duke Energy rate increase filed by C. Arnold.	2
04/01/2009	Letter expressing concern over the Duke's request for an increase filed by W. Blair.	2
	Letter from consumer regarding laws and authority to allow DP& L and Duke Energy of Ohio to recover storm costs from customers filed by C. Henthorn.	1
03/31/2009	Entry ordered that any party not present on March 31, 2009, may request the opportunity to cross- examine witnesses in support of the stipulation. (JWK)	3
03/31/2009	Transcript for hearing held March 16, 2009, at the Union Township Civic Center Hall in Cincinnati, Ohio before Chairman Alan Schriber.	79
03/31/2009	Testimony in support of settlement of Paul G. Smith on behalf of Duke Energy Ohio, Inc.	13
03/31/2009	Prepared testimony of David R. Hodgden Capital Recovery and Financial Analysis Division, Utilities Department, PUCO, filed by S. Reilly.	8
03/31/2009	Stipulation and recommendation filed by R. D'Ascenzo on behalf of Duke Energy Ohio, Inc; S. Reilly on behalf of Staff; A. Hotz on behalf of the Office of the Ohio Consumers' Counsel; M. Christensen on behalf of the People Working Cooperatively, Inc.; D. Hart on behalf of the Greater Cincinnati Health Council; C. Mooney on behalf of Ohio Partners for Affordable Energy; T. O'Brien on behalf of the City of Cincinnati; M. Yurick on behalf of the Kroger Company; D. Boehm on behalf of the Ohio Energy Group and S. Howard on behalf of the Ohio Cable Telecommunications Association.	35
03/31/2009	Service Notice	7
03/31/2009	Notice of service filed by M. Dortch on behalf of Duke Energy Ohio.	5
03/31/2009	Twelve-month actual data report, Schedules C-2 and E-4.3 filed by R. D'Ascenzo on behalf of Duke Energy Ohio.	4
03/30/2009	Letter expressing concern over the rate increase being sought by Duke Energy filed by T. Miller.	1
03/30/2009	Letter expressing concern over the rate increase the Duke Energy is seeking filed by L. Hodges.	3
03/30/2009	Letter expressing concern over the proposed increase by Duke Energy filed by the Chadwicks.	3
	Prepared testimony of Peter K. Baker, Reliability and Service Analysis Division, Service Monitoring and Enforcement Department, PUCO, filed by S. Reilly.	11
	Prepared testimony of Jeffery P. Hecker, Capital Recovery & Financial Analysis Division, Utilities Department, PUCO, filed by S. Reilly.	5
03/30/2009	Prepared testimony of Judy Sarver Capital Recovery & Financial Analysis Division, Utilities Department, PUCO, filed by S. Reilly.	6
03/30/2009	Prepared testimony of Mary Alice Sutton, Accounting and Electricity Division, Utilities Department, PUCO, filed by S. Reilly.	5
03/30/2009	Prepared testimony of Victor P. Gallina, Rates and Tariffs/Energy and Water Division, PUCO, filed by S. Reilly.	9
03/30/2009	Prepared testimony of Syeda A. Choudhury, Accounting and Electricity Division, Utilities Department, PUCO, filed by S. Reilly.	7
03/30/2009	Proposed testimony of Tricks I. Smith Accounting and Electricity Division Hallities Department	5
03/30/2009	TIPUCO, TIIBO DY S. REIIIV.	8
03/30/2009	Prepared testimony of Edrick J. Richardson, Accounting and Electricity Division, Utilities Department, PUCO, filed by S. Reilly.	6
	Description (D. M. M. Description (D. M. M. Description (D. M. M. M. Description (D. M.	
03/30/2009	Prepared testimony of Donald L. Howard, Rates and Tariff Division of the Utilities Department, PUCO, filed by S. Reilly.	10
03/30/2009 03/30/2009		10 6

03/30/2009	Prepared testimony of Carlos J. Garcia, Accounting and Electricity Division of the Utilities Department, PUCO, filed by S. Reilly.	6
03/30/2009	Prepared testimony of Barbara Bossart, Capitol Recovery and Financial Analysis Division, Utilities Department, PUCO, filed by S. Reilly.	7
03/30/2009	Prepared testimony of Lowell K. Miller, Facilities Operations Field Division, Service Monitoring and Enforcement Department, PUCO, filed by S. Reilly.	11
03/30/2009	Prepared testimony of Joseph F. Buckley, Capital Recovery and Financial Analysis Division, Utilities Department, PUCO, filed by S. Reilly.	9
03/27/2009	Correspondence letter objecting to Duke Energy Ohio's proposed rate increase filed by W. and R. Butts.	1
03/26/2009	Service Notice.	7
03/26/2009	Entry ordering that staff's motion for an extension of time and a request for an expedited ruling be granted. It is further ordered that staff file its testimony and electronically serve a copy of its testimony on all parties by no later than 5:00 p.m. on March 30 2009. (SF)	3
03/26/2009	Correspondence requesting 27 opponent questions are answered from correspondence docketed on March 3, 2009 in this case, filed by A. Lane. (FAX)	2
03/26/2009	Correspondence letter expressing concern regarding Duke Energy Ohio's proposed rate increase filed by M. Reilly.	1
03/26/2009	Correspondence letter protesting Duke Energy Ohio's proposed rate increase filed by A. Aleshire.	1
03/26/2009	Correspondence letter expressing concern regarding Duke Energy Ohio's proposed rate increase filed by Mrs. Conn.	1
03/26/2009	Correspondence letter expressing concern regarding Duke Energy Ohio's proposed increase filed by P. Denney.	1
03/26/2009	Correspondence opposing Duke Energy Ohio's proposed rate increase filed by M. Hollenbeck.	3
03/25/2009	Motion of the Staff of the Public Utilities Commission of Ohio for an extension of time for filing its testimony and memorandum in support filed by S. Reilly.	7
03/25/2009	Correspondence opposing Duke Energy Ohio's proposed rate increase filed by R. Lierman.	2
	Correspondence expressing concern regarding Duke Energy Ohio's proposed rate increase filed by G. Ross.	2
	Correspondence letter expressing concern regarding Duke Energy Ohio's proposed rate increase filed by R. Shaw.	1
03/25/2009	Correspondence expressing concern regarding Duke Energy Ohio's proposed rate increase filed by F. and A. Taylor.	1
03/25/2009	Correspondence letter expressing concern regarding Duke Energy Ohio's proposed rate increase filed by M. Karaus.	2
03/25/2009	Correspondence letter expressing concern regarding Duke Energy Ohio's proposed rate increase filed by V. Dawson.	2
	Correspondence opposing Duke Energy Ohio's proposed rate increase filed by C. Haity.	1
	Correspondence opposing Duke Energy Ohio's proposed rate increase filed by B. Brown.	2
	Correspondence opposing Duke Energy Ohio's proposed rate increase filed by Dr. Comrey.	1
	Correspondence regarding Duke Energy Ohio's proposed rate increase filed by Mr. Noelker.	2
03/24/2009	Correspondence letter opposing Duke Energy Ohio's proposed rate increase filed by L. Hartman.	2
***********************	Correspondence letter expressing concern regarding Duke Energy Ohio's proposed rate increase filed by J. Shapiro.	1
	Correspondence letter expressing concern over Duke Energy Ohio's proposed rate increase and requesting public hearings be scheduled in the western part of Hamilton County filed by T. and M. Nicholl.	1
03/23/2009	IMCHUAN.	1
03/23/2009	Correspondence letter expressing concerns regarding Duke Energy Ohio's proposed rate increase filed by C. Burns.	1
03/23/2009	Correspondence letter expressing concerns regarding Duke Energy Ohio's proposed rate increase	1

03/23/2009	Correspondence expressing concern regarding Duke Epergy Objo's proposed rate increase filed by I	
	Correspondence expressing concern regarding Duke Energy Ohio's proposed rate increase filed by Ms. Hillenmeyer.	i
03/23/2009	Correspondence opposing Duke Energy Ohio's proposed rate increase filed by B. Dunne.	
03/23/2009	Correspondence opposing Duke Energy Ohio's proposed rate increase filed by L. Gentry.	
03/23/2009	Correspondence opposing Duke Energy Ohio's proposed rate increase filed by R. Pace.	
03/23/2009	Correspondence letter opposing Duke Energy Ohio's proposed rate increase filed by J. Reckers.	
03/20/2009	Correspondence letter opposing Duke Energy Ohio's proposed rate increase filed by K. Farrell.	
03/19/2009	Correspondence opposing Duke Energy Ohio's proposed rate increase filed by L. Barry.	
03/19/2009	Correspondence opposing Duke Energy Ohio's proposed rate increase filed by R. and J. Strickley.	
	Correspondence letter opposing Duke Energy Ohio's proposed rate increase filed by M. Perry.	
	Notice of deposition of Patricia Kravtin filed on behalf of Duke Energy Ohio by A. Spiller.	
	Notice of deposition of David C. Parcell filed on behalf of Duke Energy Ohio by A. Spiller.	
	Revised notice of deposition of Neal Hensley filed on behalf of Duke Energy Ohio by A. Spiller.	
	Petition opposing Duke Energy Ohio's proposed rate increase filed by S. Hayes.	
03/18/2009	Deposition signature pages and errata sheets for depositions filed on February 23 for Richard Harrell, Steve Adams, Donald Stork and James Dean filed on behalf of the Ohio Cable Telecommunications Association by S. Howard.	1
03/10/2009	Correspondence letter expressing concern over Duke Energy Ohio's proposed rate increase filed by C. and M Frederick.	
03/18/2009	Correspondence letter expressing concern over Duke Energy Ohio's proposed rate increase filed by R. Fecke.	
73/10/2009	Correspondence expressing strong opposition to Duke Energy Ohio's proposed rate increase filed by L. Barry.	
3/18/2009	Correspondence letter opposing Duke Energy Ohio's proposed rate increase filed by D. Hastings on behalf of Community Land Cooperative of Cincinnatí.	
コンド ログくいしきじ	Correspondence expressing concern over Duke Energy Ohio's proposed rate increase filed by R. Hall.	
	Correspondence protesting Duke Energy Ohio's proposed rate increase filed by F. Bonniwelt.	
3/18/2009	Correspondence letter opposing Duke Energy Ohio's proposed rate increase filed by D. Jones.	
3/18/2009	Correspondence letter opposing Duke Energy Ohio's proposed rate increase filed by E. Davis.	
3/18/2009	Correspondence opposing Duke Energy Ohio's proposed rate increase filed by Mr. Freels.	
3/18/2009	Correspondence opposing Duke Energy Ohio's proposed rate increase filed by J. Beebe.	
	Correspondence opposing Duke Energy Ohio's proposed rate increase filed by R. Seibel.	
	Correspondence opposing Duke Energy Ohio's proposed rate increase filed by J. Hardy.	
	Correspondence expressing concern over Duke Energy Ohio's proposed rate increase filed by R.	
<i>いい</i> 10120091	Jones.	
	Revised notice of deposition of David J. Effron filed on behalf of Duke Energy Ohio by E. Watts.	
	Notice of deposition of Neal Hensley filed on behalf of Duke Energy Ohio by E. Watts.	
3/18/2009	Correspondence letter objecting to Duke Energy Ohio's proposed rate increase filed by E. Crutchfield.	
3/18/2009	Correspondence expressing opposition to Duke Energy Ohio's proposed rate increase filed by T. Hunley.	
The second secon	Correspondence letter protesting Duke Energy Ohio's proposed rate increase filed by S. Spiller.	
	Correspondence letter objecting to Duke Energy Ohio's proposed rate increase filed by C. Rundo.	
	Correspondence letter protesting Duke Energy Ohio's proposed rate increase filed by T. Parker.	
	Correspondence objecting to Duke Energy Ohio's proposed rate increase filed by K. Garcia.	
SI TIIZUUS	Correspondence bujecting to buke Energy Onio's proposed rate increase filed by N. Garcia.	
	Correspondence letter opposing Duke Energy Ohio's proposed rate increase filed on behalf of C. and P. Cope.	
3/16/2009	Correspondence letter opposing Duke Energy Ohio's proposed rate increase filed by R. Buxton. Correspondence expressing concern of Duke Energy Ohio's proposed rate increase filed by T.	

Manual and a second		
 	of deposition of David J. Effron filed by A. Spiller on behalf of Duke Energy.	3
	spondence objecting Duke rate increase filed by S. Souder.	1
	spondence objecting Duke rate increase filed by K. Hacker.	1
	spondence opposing Duke Energy rate increase filed by S. Mortenson.	1
	of Publications. (Hamilton County)	7
03/10/2009 Service		7
03/10/2009 Entry	on rehearing stating that OCC's application for rehearing be denied.	5
ii Uπice	e to take depositions upon oral examination and request for production of documents by the of the Ohio Consumers' Counsel filed by A. Hotz.	4
II 10V A.	posing twenty seven (27) questions regarding the rate increase of Duke Energy Ohio, filed Lane.	9
03/03/2009 Corres	spondence in opposition to Duke Energy's request for rate increase filed on behalf of rned consumer, M. Rice.	1
03/03/2009 Service	e Notice	7
03/02/2009 Entry notice	ordering that local public hearings in these proceedings be held as set forth in finding 7; that of the local public hearings be published by by applicant. (SF)	4
	spondence opposing Duke Energy Ohio's request for rate increase filed on behalf of rned consumer, J. Anzalone.	2
03/02/2009 Corres	spondence opposing the Duke Energy rate increase filed by C. Stone, Sr.	2
02/26/2009 Direct	testimony of Kevin C. Higgins on behalf of the Kroger Company.	46
i illea d	nary of the major issues and objections to the Staff Report submitted by the Kroger Company by M. White.	8
02/26/2009 Letter R. Hu	in opposition to Duke charging customers for repairs due to storm damage filed by consumer, ghes.	2
02/26/2009 Suppli	emental direct testimony of Paul G. Smith on behalf of Duke Energy Ohio, Inc.	10
02/26/2009 Object	tions to the staff report of investigation submitted by Duke Energy Ohio, Inc. filed by E. Watts.	12
02/26/2009 Supple	emental direct testimony of William Don Wathen Jr. on behalf of Duke Energy Ohio.	40
02/26/2009 Supple	emental direct testimony of James E. Ziolkowski on behalf of Duke Energy Ohio.	7
02/26/2009 Supple	emental direct testimony of Roger A. Morin filed on behalf of Duke Energy Ohio, Inc.	14
02/26/2009 Duke	Energy Ohio's list of major issues filed by E. Watts.	4
02/26/2009 Supple	emental direct testimony of Donald L. Storck filed on behalf of Duke Energy Ohio, Inc.	14
02/26/2009 Object	tions to Staff Report and statement of major issues of the Greater Cincinnati Health Council by D. Hart.	9
101:	tions to the Staff Report of Investigation of Ohio Partners for Affordable Energy and summary jor issues filed by C. Mooney.	10
02/26/2009 Direct	testimony of Scott J. Rubin on behalf of the Office of the Ohio Consumers' Counsel.	48
02/26/2009 Direct	testimony of David C. Parcell on behalf of The Office of the Ohio Consumers' Counsel.	90
02/26/2009 Objec	tions to the Staff Report and summary of issues by People Working Cooperatively, Inc. filed Christensen.	3
the O	dential document target: Objections to Staff Report Exhibit 8 filed by S. Howard on behalf of hio Cable Telecommunication Association. (17 pages)	1
Object	tions to the Staff Report in investigation and summary of major issues by the Office of the Consumers' Counsel filed by A. Hotz.	16
	testimony of David J. Effron on behalf of The Office of the Ohio Consumers' Counsel.	72
02/26/2009 Direct	testimony of Patricia Kravtin submitted on behalf of The Ohio Cable Telecommunications	185
I PASSUC	testimony of Edward Kozelek submitted on behalf of The Ohio Cable Telecommunications iation. (part 2 of 2)	61
02/26/2009 Direct	testimony of Edward Kozelek submitted on behalf of The Ohio Cable Telecommunications liation. (part 1 of 2)	180
}	Cable Telecommunications Association's summary of major issues filed by S. Howard.	4
Discort	testimony of Neal Hensley submitted on behalf of The Ohio Cable Telecommunications	
02/26/2009 Assoc	1	100

02/26/2009	Motion for protective order and memorandum in support filed by S. Howard on behalf of The Ohio Cable Telecommunications Association.	8
02/26/2009	Certificate of service filed by S. Howard on behalf of OCTA.	3
	Objections to the Staff Report by the Ohio Cable Telecommunications Association filed by S. Howard.	67
02/25/2009	Letter with corrections to previously filed documents filed by A. Lane.(FAX)	6
02/24/2009	Duke Energy Ohio's memorandum contra OCC's application for rehearing filed by E. Watts.	34
02/23/2009	Deposition of Donald Storck filed by S. Howard on behalf of The Ohio Cable Telecommunication Association. (part 2 of 2)	129
02/23/2009	Deposition of Donald Storck filed by S. Howard on behalf of The Ohio Cable Telecommunication Association. (part 1 of 2)	181
02/23/2009	Deposition of Richard Harrell filed by S. Howard on behalf of The Ohio Cable Telecommunication Association.	68
02/23/2009	Deposition of Donald Storck (cont.) filed by S. Howard on behalf of The Ohio Cable Telecommunication Association.	26
02/23/2009	Deposition of David Yelton filed by S. Howard on behalf of The Ohio Cable Telecommunication Association.	83
02/23/2009	Deposition of James Dean filed by S. Howard on behalf of The Ohio Cable Telecommunication Association.	99
02/23/2009	Deposition of James Dean (cont.) filed by S. Howard on behalf of The Ohio Cable Telecommunication Association.	73
02/23/2009	Deposition of Teresa Briefly filed by S. Howard on behalf of The Ohio Cable Telecommunication Association.	52
96	Motion for protective order and memorandum in support filed by S. Howard on behalf of The Ohio Cable Telecommunications Association.	8
02/23/2009	Confidential document target: Deposition transcript with exhibits of James Dean and Richard Harrell filed by S. Howard on behalf of Duke Energy Ohio, Inc.(480 pages)	1
02/23/2009	Deposition of Ulrich Angleton along with OCTA Deposition Exhibit Nos. 15-18 filed by S. Howard on behalf of The Ohio Cable Telecommunication Association.	150
02/23/2009	IASSOCIATION :	33
02/23/2009	Letter from consumer in opposition to Duke Energy's attempt to collect repair bills for the 08' windstorm filed by M. Guinn.	2
02/23/2009	Duke Energy Ohio's memorandum contra OCC's application for rehearing filed by E. Watts. (FAX)	34
02/18/2009	Letter from consumer regarding Duke Energy trying to recover the costs incurred as a result of the September 14, 2008 windstorm filed by B. Wair.	3
02/13/2009	Letter expressing displeasure over the cost of the Sept.14th wind storm being passed on to the consumers filed by J. Clark.	2
02/13/2009	Application for rehearing and memorandum in support by the Office of the Ohio Consumers' Counsel filed by A. Hotz.	8
02/09/2009	Notice to take depositions upon oral examination and request for production of documents by The Office of the Ohio Consumer's Counsel filed by A. Hotz.	4
02/09/2009	Correspondence letters protesting the decision to allow Duke Energy to bill its customers for the damage from the wind storm of 2008 filed by various consumers.	33
02/06/2009	Deposition and exhibits of Jonathan McGee filed on behalf of Duke Energy Ohio by A. Spiller.	114
	Deposition and exhibits of Edward F. Kozelek filed on behalf of Duke Energy Ohio by A. Spiller.	142
	Service Notice	6
	Notice of the substitution of counsel by The Office of the Ohio Consumers' Counsel filed by Staff.	3
02/06/2009	Letters from various consumers regarding the proposed Duke rate increase.	16
02/06/2009	Motion for admission pro hac vice of Paul A. Werner filed by S. Howard on behalf of the Ohio Cable Telecommunications Association.	4
02/05/2009	Entry ordered that the prehearing conference in these proceedings be scheduled on March 17, 2009, at 10:00 A.M. at the offices of the Commission, Hearing Room 11-C, 180 East Broad Street, Columbus, Ohio 43215, ordered that the evidentiary hearing in these proceedings commence at	5

	10:00 A.M. on March 31, 2009, at the offices of the Commission. (SH)	
	Letters expressing concern over Duke Energy passing on the cost of September wind storms to customers filed by concern citizens.	4
02/04/2009	Letters stating that Duke Energy should not be allowed to pass on cost to consumers from the Windstorm of '08 filed by concern citizens.	28
02/03/2009	Objections to the entire staff report filed by Albert E. Lane.	7
02/03/2009	Letters opposed to the the decision to allow Duke Energy to charge back the cost of last years wind storms filed by concerned consumers.	18
02/02/2009	Letters expressing concern over the riders provided by Duke Energy filed by Concern Citizens.	23
02/02/2009	Reply to DE-Ohio's memorandum in opposition filed by P. Sherwood on behalf of tw telecom of ohio llc,	7
01/30/2009	Correspondence letters expressing concern over Duke to put riders on customers bill to pay for September post wind storm power restoration filed by Concern Citizens.	20
01/29/2009	Green card return mail.	3
01/29/2009	Green card return mail.	2
01/29/2009	Notice of rescheduling of deposition to Duke Energy Ohio filed on behalf of The Ohio Cable Telecommunications Association by S. Howard.	6
0 112812008	consumers.	23
01/28/2009	Correspondence letters opposing Duke Energy Ohio's proposed rate increase filed on behalf of various consumers.	27
01/27/2009	Accounting report filed on behalf of Duke Energy Ohio, Inc. by A. Schafer.	2
01/27/2009	Service Notice.	19
01/27/2009	Correspondence letters opposing Duke Energy Ohio's proposed rate increase filed by various consumers.	55
01/27/2009	Staff Report filed.	153
01/26/2009	Memorandum in opposition to the motion to intervene of tw telecom of ohio, llc filed on behalf of Duke Energy Ohio by E. Watts.	17
01/26/2009	Correspondence letter opposing Duke Energy Ohio's proposed rate increase filed by various consumers.	65
P	Revised notice of deposition duces tecum of Edward Kozelek filed on behalf of Duke Energy Ohio by A. Spiller.	6
01/26/2009	Revised notice of deposition duces tecum of Jonathon McGee filed on behalf of Duke Energy Ohio by A. Spiller.	6
01/23/2009	Correspondence letter opposing Duke Energy Ohio's proposed rate increase filed by various consumers.	53
01/22/2009	Correspondence letters in opposition of Duke Energy's proposed rate increase filed on behalf of various consumers.	39
01/21/2009	Correspondence letters opposing Duke Energy Ohio's proposed rate increase filed by various consumers.	5
01/20/2009	Correspondence letters opposing Duke Energy Ohio's proposed rate increase filed by various consumers.	30
	Correspondence opposing the electric rate increase filed by various customers.	35
	Correction of page 1 for filing submitted on January 13, 2009 by A. Lane. (FAX)	1
01/14/2009	Service Notice	5
	Finding ordering that the application by DEO-Ohio to modify accounting procedures to defer incremental O&M costs related to the September 14, 2008, wind storm service restoration expenses, with carrying costs, as set forth in findings (7) thru (12) is approved.	4
01/13/2009	Comments, motion to intervene and memorandum in support of A. Lane, a consumer residential customer of Duke Energy of Ohio.	9
01/13/2009	Notice of rescheduling of deposition to Duke Energy Ohio filed by S. Howard on behalf of The Ohio Cable Telecommunications Association.	7
01/09/2009	Motion to intervene and memorandum in support filed by P. Sherwood on behalf of tw telecom of ohio, Ilc.	7 5

01/09/2009	Motion for admission pro hac vice of Pamela H. Sherwood and memorandum in support filed by T. O'Brien on behalf of tw telecom of ohio, Ilc.	4
	Memorandum contra Duke Energy Ohio's motion for approval to change accounting methods to defer and create a regulatory asset for collecting storm restoration costs from Ohio customers filed on behalf of the Office of the Ohio Consumers' Counsel by J. Small.	9
12/31/2008	Comments of A. Lane.	8
12/24/2008	Notice of withdrawal filed by J. Clark on behalf of Industrial Energy Users-Ohio.	4
12/24/2008	Notice of deposition duces tecum of Jonathon McGee filed by A. Spiller on behalf of Duke Energy Ohio.	6
12/24/2008	Notice of deposition duces tecum of Edward Kozelek filed by A. Spiller on behalf of Duke Energy Ohio.	6
12/23/2008	Notice of deposition to Duke Energy Ohio filed by S. Howard on behalf of the Ohio Cable Telecommunication Association.	6
	Duke Energy Ohio's motion for approval to change accounting methods to defer and create a regulatory asset for storm restoration costs incurred during the test year and recovery mechanism for storm restoration costs filed by E. Watts.	10
12/05/2008	Notice of The Ohio Cable Telecommunications Association to take depositions of Duke Energy Ohio representatives filed by S. Howard.	4
12/02/2000	Motion to intervene and memorandum in support of the Greater Cincinnati Health Council filed by D. Hart	7
il	Motion for admission pro hac vice of Gardner F. Gillespie filed on behalf of The Ohio Cable Telecommunications Association by S. Howard.	4
H	Notice to deposition of Donald L. Storck filed on behalf of the Ohio Cable Telecommunications Association by S. Howard.	6
10/31/2008	Notice of withdrawal of counsel of Daniel J. Neilsen filed by J. Clark on behalf of Industrial Energy Users-Ohio.	2
10/29/2008	Correspondence opposing Duke Energy's rate increase filed by E. Dimarzio.	2
10/23/2008	Letter opposing the proposed rate increase of Duke Energy filed by G. Volkart.	1
lk	Motion to intervene and memorandum in support filed by S. Howard on behalf of The Ohio Cable Telecommunications Association.	5
10/10/2008	Correspondence opposing Duke Energy Company's request to increase rates filed on behalf of concerned consumer, W. Hopfensperger.	1
10/06/2008	Correspondence opposing Duke Energy proposed rate increase filed by R. George.	2
09/19/2008	Letter expressing displeasure with Duke Energy's lack of concern in correcting the problem that has arisen filed by J. Ripke.	2
09/15/2008	Service Notice	4
09/12/2008	Entry ordering that the motion for consolidation, filed by Duke Energy Ohio, Inc. be granted and that Case No. 06-718-EL-ATA be consolidated with Case Nos. 08-709-EL-AIR, 08-710-EL-ATA, and 08-711-EL-AAM. (JK)	2
09/10/2008	Service Notice	4
09/10/2008	Entry ordering that the application of Duke Energy Ohio, Inc. be accepted for filings as of July 25, 2008 and that the proposed newspaper notice submitted be approved.	3
09/03/2008	Motion to intervene and memorandum in support filed on behalf of People Working Cooperatively, Inc. by M. Christensen.	5
08/20/2008	Correspondence opposing Duke Energy rate increase filed by G. Smith.	1
08/13/2008	Motion to intervene and memorandum in support filed by T. O'Brien on behalf of The City of Cincinnati	4
08/12/2008	Service Notice	3
00/43/2000	Entry ordering that a technical conference be held on August 21, 2008, at 2:00 p.m., at the offices of the Commission, 180 E. Broad St. 11th Floor, Hearing Room 11-E, Columbus, Ohio 43215. (JK)	2
	Direct testimony of James E. Mehring on behalf of Duke Energy Ohio.	18
08/08/2008	Confidential document: Direct testimony of C. Kiergan filed by R. D'Ascenzo on behalf of Duke Energy Ohio. (22 pgs)	1
	Confidential document: Project Financial Model Report filed by R. D'Ascenzo on behalf of Duke	

<u> </u>	Energy Ohio. (48 pgs)	1
08/08/2008	Mation for a protective and management in compact field by D. Calbert on baball of Duke	5
08/08/2008	Direct testimony of Christopher D. Kiergan on behalf of Duke Energy Ohio.	23
08/08/2008	Direct testimony of John J. Spanos on behalf of Duke Energy Ohio.	17
08/08/2008	Direct testimony of Richard G. Stevie on behalf of Duke Energy Ohio.	14
08/08/2008	Direct testimony of Donald L. Storck on behalf of Duke Energy Ohio.	20
08/08/2008	Direct testimony of William Don Wathen, Jr. on behalf of Duke Energy Ohio.	42
08/08/2008	Direct testimony of James E. Ziolkowski on behalf of Duke Energy Ohio.	27
08/08/2008	Direct testimony of Sandra P. Meyer on behalf of Duke Energy Ohio.	15
08/08/2008	Direct testimony of Roger A. Morin on behalf of Duke Energy Ohio.	126
	Direct testimony of Paul G. Smith on behalf of Duke Energy Ohio.	17
08/08/2008	Direct testimony of Peggy A. Laub on behalf of Duke Energy Ohio.	82
	Direct testimony of Stephen R. Lee on behalf of Duke Energy Ohio.	8
·	Direct testimony of Todd W. Arnold on behalf of Duke Energy Ohio.	23
	Direct Testimony of Keith G. Butler on behalf of Duke Energy Ohio.	7
	Direct testimony of Carl J. Council, Jr. on behalf of Duke Energy Ohio.	12
	Direct testimony of Stephen G. De May on behalf of Duke Energy Ohio.	18
08/05/2008	Motion to intervene and memorandum in support filed by A. Hotz on behalf of Ohio Consumers' Counsel.	8
07/25/2008	Application, Volume 8, Supplemental Information (C) (5) filed by R. D'Ascenzo on behalf of Duke Energy Ohio. (Section 2 of 3)	125
07/25/2008	Application, Volume 8, Supplemental Information (C) (5) filed by R. D'Ascenzo on behalf of Duke Energy Ohio. (Section 1 of 3)	147
07/25/2008	Application, Volume 8, Supplemental Information (C) (5) filed by R. D'Ascenzo on behalf of Duke Energy Ohio. (Section 3 of 3)	135
07/25/2008	Application, Volume 4, 5 & 6, Schedule S-4.2 filed by R. D'Ascenzo on behalf of Duke Energy Ohio. (Section 3 of 6)	190
07/25/2008	Application, Volume 4, 5, & 6, Schedule S-4.2 filed by R. D'Ascenzo on behalf of Duke Energy Ohio. (Section 2 of 6)	201
<u>0112312000</u>	Application, Volume 9, Supplemental information (C) (6) filed by R. D' Ascenzo on behalf of Duke Energy Ohio. (Section 2 of 4)	194
07/25/2008	Application, Volume 9, Supplemental information (C) (6) filed by R. D' Ascenzo on behalf of Duke Energy Ohio. (Section 3 of 4)	141
07/25/2008	Application, Volume 9, Supplemental information (C) (6) filed by R. D'Ascenzo on behalf of Duke Energy Ohio. (Section 4 of 4)	122
07/25/2008	Application, Volume 9, Supplemental information (C) (6) filed by R. D'Ascenzo on behalf of Duke Energy Ohio. (Section 1 of 4)	179
07/25/2008	Application, Volume 10, Supplemental information (C) (7) through (C) (25) filed by R. D'Ascenzo on behalf of Duke Energy Ohio. (Section 4 of 4)	156
	Application, Volume 10, Supplemental information (C) (7) through (C) (25) filed by R. D'Ascenzo on behalf of Duke Energy Ohio. (Section 3 of 4)	182
	Application, Volume 10, Supplemental information (C) (7) through (C) (25) filed by R. D'Ascenzo on behalf of Duke Energy Ohio. (Section 2 of 4)	175
	Application, Volume 10, Supplemental information (C) (7) through (C) (25) filed by R. D'Ascenzo on behalf of Duke Energy Ohio. (Section 1 of 4)	175
07/25/2008	Application, Volume 4, 5, & 6, Schedule S-4.2, part 1 of 3; filed by R. D'Ascenzo on behalf of Duke Energy Ohio. (section 6 of 6)	104
0772372006	Application, Volume 4, 5, & 6, Schedule S-4.2, part 1 of 3; filed by R. D'Ascenzo on behalf of Duke Energy Ohio. (section 5 of 6)	151
<u> </u>	Application, Volume 4, 5, & 6, Schedule S-4.2, part 1 of 3; filed by R. D'Ascenzo on behalf of Duke Energy Ohio. (section 1 of 6)	200
07/25/2008	Application, Volume 4, 5, & 6, Schedule S-4.2, part 1 of 3; filed by R. D'Ascenzo on behalf of Duke Energy Ohio. (section 4 of 6)	200

	Application, Volume 7, Supplemental information (C) (1) through (C) (4) filed by R. D'Ascenzo on behalf of Duke Energy Ohio. (Part 3 of 3)	152
l	Application, Volume 7, Supplemental information (C) (1) through (C) (4) filed by R. D'Ascenzo on behalf of Duke Energy Ohio. (Part 2 of 2)	150
07/25/2008	Application, Volume 7, Supplemental information (C) (1) through (C) (4) filed by R. D'Ascenzo on behalf of Duke Energy Ohio. (Part 1 of 3)	200
07/25/2008	13)	154
<u>07/25/2008</u>	Application; Volume 3; Schedule F; Schedule S-1; Schedule S-2; Schedule S-3; Schedule S-4.1 filed by R. D'Ascenzo on behalf of Duke Energy Ohio.	146
07/25/2008	13)	150
07/25/2008	Application, Volume 2, Schedule E filed by R. D'Ascenzo on behalf of Duke Energy Ohio. (Part 1 of 3)	200
07/25/2008	General application, Volume 1, Schedules A through D filed on behalf of Duke Energy Ohio by R. D'Ascenzo.	144
07/25/2008	Application of Duke Energy Ohio, Inc. filed by R. D'Ascenzo.	14
07/25/2008	ieneray Onio.	4
07/25/2008	Motion to approve form of notice and Schedule S-3 filed by R. D'Ascenzo on behalf of Duke Energy Ohio.	44
07/24/2008	Service notice.	3
07/23/2008	Entry ordering the test period of the applicant, Duke Energy Ohio, Inc., shall begin January 1, 2008, and end December 31, 2008, and that the date certain shall be March 31, 2008; that the appropriate method for making any changes to the date certain or test period shall be the filing of a new notice of intent to file an application for an increase in rates and withdrawal of the pending application; that the request for waivers made by Duke are granted as set forth in this entry.	4
07/18/2008	Motion for intervention and memorandum in support of the Kroger Company, Inc. filed by M.S. Yurick, Esq.	6
07/09/2008	ipractice Pro Hac vice before the Commission filed by D. Kinebolt.	8
07/01/2008	Motion for leave to intervene and memorandum in support filed by D. Boehm on behalf of the Ohio Energy Group.	5
06/30/2008	IEnergy Onio by A. Scharer, (Onginal)	2
06/27/2008	PFN tariff page PUCO No. 19, original sheet No. 70 which was omitted filed on behalf of Duke Energy Ohio by A. Schafer. (FAX)	2
06/25/2008	Motion to set test period under R.C. 4909.15(C) and for waiver of certain filing requirements under OAC 4907-7-01 and memorandum in support filed on behalf of Duke Energy Ohio, Inc. by A. Spiller.	9
06/25/2008	Prefiling notice continued. (Part 2 of 2)	180
06/25/2008	Prefiling notice of Duke Energy Ohio, Inc. for an increase in electric distribution rates. (Part 1 of 2)	201
00/05/0000	In the matter of the application of Duke Energy Ohio, Inc. for an increase in electric distribution	1

Attorney General:

Reilly, Stephen Wright, William

Attorney Examiner:

Farkas, Scott Kingery, Jeanne Staff Contact: