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PAGE 1 OF 5 PAGES ALBERT E. LANE

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April 8, 2010 *(CORRECTED SUBSTITUTE FOR A.E. Lane APRIL 8, 2010 FILING this docket)*

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

In the Matter of the Application of Duke ) Case No-09-757-EL-ESS
Energy Ohio, Inc. for Approval of proposed ) Case No-09-1946-EL-ATA
Reliability Standards ) Case No-09-1946-EL-RDR
CASE NO-08-0709-EL-AIR
Case No-05-0732-EL-MER

I ALBERT E. LANE HEREBY FILE A MOTION TO INTERVENE IN PUCO CASE # 09-757-EL-ESS. I FURTHER REQUEST PUCO TO HAVE A PUBLIC INQUIRY OF DUKE ENERGY OF OHIO (A PUBLIC UTILITY), SERVICE, SAFETY AND RELIABILITY PERFORMANCE ON BEHALF OF DEO 650,000 OHIO RESIDENTIAL CUSTOMERS SINCE 2005. THIS PUCO INQUIRY SHALL TAKE PLACE IN VARIOUS DEO FRANCHISED GEO-GRAPHICAL AREAS. OPTIMUM RELIABILITY PERFORMANCE STANDARDS BENEFICIAL TO THE CONSUMER AND APPROVED BY THE OCC, INCLUDING DUKE'S DISTRIBUTION SMART SYSTEM IN PUCO CASE # 09-757-EL-ESS SHALL BE SECONDARY TO THE RESULTS OF A DEO CUSTOMER INQUIRY/HEARING REQUESTED BY A PERSON-PEOPLE OF OHIO WITH A PUBLIC UTILITY BEFORE PUCO. THE COM-BINED RESULTS OF THE INQUIRY TO BE RESTATED BY THE PUCO LAWYER EXAMINERS AS SUGGESTIONS/RECOMMENDATIONS TO THE PUCO.THE U.S. CONSTITUTION AND THE BILL OF RIGHTS GUAR-ANTEES FREEDOM OF SPEECH AND ASSEMBLY TO ITS CITIZENS.

I am an Ohio DEO Residential customer, account # 7170-0391- 20-0. I am not an Attorney.

*Please refer to all of the official PUCO Case Records of 05-0732-EL-MER; Case No. 08-0709-EL-AIR; Case No. 09-1946-EL-ATA/RDR for the chronology index and contents of my previous filings, some of which are re-stated below.*

On March 26, 2007 I came to my own conclusion that **DEO was reacting (their press releases seem to indicate this) to what might be their neglecting overhead electric distribution problems for their 650,000 Ohio residential customers, by implying that Ohio had unusual ice and wind storms, rather then their doing preventative maintenance and replacement beforehand.** This would include their public consumer communication concerning, poles, wires, tree trimming, wind, ice, snow, transformers, turbines, turbine inspection, no. of in-house employees vs "on Call" employees, an implication that DEO is not an autonomous public utility entity in Ohio etc. A PUCO pubic inquiry should clarify these DEO vs Consumer concerns.

I had commented on March 26, 2007 following the February 2007 ice storm where I did not have electric for two days and 122,000 other DEO customers had no electric and suggested within PUCO Case #-05-0732-EL-MER to PUCO my justification for a formal consumer DEO - PUCO inquiry of DEO service, safety & reliability performance during that ice storm.

My PUCO comment of 3/26/07 was my request for an expanded formal PUCO inquiry of Duke Energy electric service during the 2/13/07-2/14/07 time frame when there were electric outages from the Cincinnati ice storm. There were more DEO electric service outages Duke the "Ike" windstorm following 9/14/08. I did not have electricity for five days during the "Ike" windstorm. Source my Dec 31, 2008 filing PUCO Docket # 08-0709-EL-AIR, page 5, asking for an Inquiry. These requested inquiries never happened.

The Cincinnati metropolitan area was very hard hit, with over 927,000 customers losing power in that region.[123] A Duke Energy spokesperson said "We have never seen anything like this. Never. We're talking about 90 percent of our customers without power." There were so many power outages and so few workers available Duke Energy was thinking of sending workers from their base in Charlotte, North Carolina. Source: Hurricane 'Ike", Wikpedia.

I again repeated my request for a formal inquiry of DEO "Ike" windstorm service, safety and reliability performance on page 2 of PUCO Docket # 09-1946-EL-ATA/RDR. This is the Case Docket whereby DEO is asking or $31Mil for Ike.

The public customer inquiry of DEO Service, Safety and Reliability performance during the 2/13/07 ice storm and the 9/14/08 windstorm must take place before DEO receives approval of any of their Reliability Standards from PUCO. If the new Ohio law is ap-

proved with DEO Reliability Standards as submitted within PUCO Case # 09-757-EL-ESS, DEO will be able to blame any inadequacy to the mechanical Smart System, thus eradicating the need for the PUCO for a human consumer prospective,. A public inquiry would surely show and prove if these previous consumer–DEO past & future consumer problems are to ever be resolved. Public PUCO Inquiries must always hold priority to the so-called smart system Reliability Standards in any PUCO Utility case, if Smart Systms Reliability Standards are approved as law. REASON: The U.S. Constitution and the Bill of Rights.

**SYNOPSIS**

Within PUCO Docket # 05-0732-EL-MER on March 26, 2007 I filed a comment about DEO service during the Feb 6th-7th 2007 Ohio Ice Storm when I did not have electric for two days. I asked if DEO service, safety and reliability performance were being monitored as Commissioner Alan R. Schriber said that the PUCO would vigilantly do from then on, (after Dec 21, 2005 when the PUCO approved of the Cinergy-Duke NC merger). 122,000 DEO did not have electric service during that ice storm. I also referred to within the March 26, 2007 filing, a copy of a 45 page report of a S. Carolina electric staff inquiry of DNC Service during a 2005 ice storm. On Page I to III, there were 22 sugestions recommendations for DNC to enhance their storm management activities. I asked in the filing for a PUCO formal inquiry of DEO using the 45 page S. C. report as a prototype/guide.

I had filed comments with the PUCO and was against the merger of Cinergy and DNC because of Duke Energy of NC subsidiary's past pattern of behavior in the U.S. Western States in the wholesale selling of Megawatts. DNC trader Brian Lavielle pleaded guilty in a U.S. Texas District Court for round trip, wash deals and keeping two sets of books 1997 to 2001 for which DNC paid the FERC an aggregate amount of $211,000,000 in three settlements in the fall of 2004. DNC signed a consent decree with the SEC on July 8, 2005. reference: 7/26/2005-Page 3 thru 5 from PUCO Docket Case #-05-0732-EL-MER attached. I stated that the merger of DNC and Cinergy was not in the publics interest on page I , 7/26/2005.

I found out after the ice storm of Feb 2007, that DEO by attrition had lowered since 1995 its combined overhead electric distribution employees in their Ohio and Kentucky franchised areas from 1900 to about 1100 workers. I also started seeing roving bands of out of town 'ON CALL"overhead electric repair crews in Ohio,such as Shaw,McGilbert, Pike & Bowlin. I wondered where were the DEO own elecric overhead in house workers.

During the "Ike" windstorm, starting September 14 2008 I did not have electricity at my residence for 5 days. DEO had filed for a 4.73% electric distribution rate hike on PUCO docket # 08-9709-El-AIR on 6/25/2008. On that same docket on Dec 22, 2008, DEO

asked for $31 mil storm restoration cost refund for their costs for the "Ike" windstorm. On Dec 31, 2008 on docket # 08-9709-EL-AIR, *are* my first comments of my many later comments on the same *Case Record O8-O709-EL-AIR,* about the Duke Energy of Ohio "Ike" windstorm service, safety and reliability performance.

On February 5, 2009 in PUCO *Case Record O8-O709-EL-AIR,* I was ordered to be an intervener by Scott Farkas PUCO Attorney Examiner.

> PUCO *Case Record O8-O709-EL-AIR* 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 *Case Record O8-O709-EL-AIR,* by other Duke Energy of Ohio customers beside myself.

> On a filing within the *Case Record O8-O709-EL-AIR,* 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 *Case Record O8-O709-EL-AIR,* 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. Further myself and other DEO customers will be deprived of our rights if PUCO Case # 09-757-EL-ESS is passed in its present DEO format proposal.

*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 *Case Record O8-O709-EL-AIR, 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.

Continuing on page 7 of the March 31, 2009 signed Stipulation agreement filed by Duke Energy of Ohio, PUCO *Case Record O8-O709-EL-AIR, 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 *Case Record O8-O709-EL-AIR* 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. As an intervener, as I did not sign the March 31, 2010 DEO stipulation. I was permitted to cross examine the Duke Energy's witness in reference to Schedule A-1 on June 17, 2009, posted June 19, 2009 on PUCO Docket # 08-0709-EL-AIR. 126 pages.

## 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.

PUCO Case No-09-EL-ESS should have wording in same as outlined in my motion on Page 1 of this comment.

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