

FILE

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of:

Case No. 07-478-GA-UNC

The Application of
Columbia Gas of Ohio,
Inc., for Approval of
Tariffs to Recover Through
an Automatic Adjustment
Clause Costs Associated
with the Establishment of
an Infrastructure
Replacement Program and
for Approval of Certain
Accounting Treatment.

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PROCEEDINGS

before Ms. Jeanne Kingery, Attorney Examiner, at the
Public Utilities Commission of Ohio, 180 East Broad
Street, Room 11-C, Columbus, Ohio, called at 9:00
a.m. on Wednesday, October 31, 2007.

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- - -

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22 Utilities Commission of Ohio.

23 - - -
24

INDEX

- - -

WITNESS

PAGE

Carter T. Funk

Direct Examination by Mr. Howard 6

Cross-Examination by Mr. Creekmur 8

Cross-Examination by Ms. Hammerstein 10

Cross-Examination by Mr. Serio 11

Timothy J. Morbitzer

Direct Examination by Mr. Aveni 12

Cross-Examination by Mr. Creekmur 14

Cross-Examination by Mr. Reilly 27

Cross-Examination by Mr. Serio 34

Redirect Examination by Mr. Aveni 36

Recross-Examination by Mr. Creekmur 39

Recross-Examination by Mr. Reilly 40

Bruce M. Hayes

Direct Examination by Mr. Serio 48

Cross-Examination by Mr. Creekmur 49

Cross-Examination by Mr. Reilly 59

Redirect Examination by Mr. Serio 72

Recross-Examination by Mr. Creekmur 74

Recross-Examination by Mr. Aveni 75

- - -

INDEX

- - -

USP EXHIBITS

IDFD ADMTD

4 - Prefiled Testimony of
Carter T. Funk

7 47

ABC EXHIBITS

IDFD ADMTD

3 - Prefiled Testimony of
Timothy Morbitzer

13 47

OCC EXHIBITS

IDFD ADMTD

13- Prefiled Testimony of
Bruce M. Hayes

49 76

- - -

1 Wednesday Morning Session,

2 October 31, 2007.

3 - - -

4 ATTORNEY EXAMINER KINGERY: Let's go on
5 the record. This is the continuation, third day, of
6 Case No. 07-478-GA-UNC. You may call your next
7 witness.

8 MR. HOWARD: Thank you, your Honor.
9 Utility Service Partners would like to call Carter T.
10 Funk to the stand.

11 - - -

12 CARTER T. FUNK
13 being first duly sworn, as prescribed by law, was
14 examined and testified as follows:

15 DIRECT EXAMINATION

16 By Mr. Howard:

17 Q. Would you please state your name and
18 business address, please.

19 A. My name is Carter T. Funk, and I reside
20 at 503 Turnberry Lane.

21 Q. Did Utility Service Partners authorize
22 you to prepare and cause to be filed testimony in
23 this proceeding?

24 A. Yes, they did.

1 MR. HOWARD: Your Honor, I would like to
2 have marked a multi-page document entitled Testimony
3 of Carter T. Funk on Behalf of Utility Service
4 Partners, Inc., as USP Exhibit No. 4.

5 ATTORNEY EXAMINER KINGERY: It will be so
6 marked.

7 (EXHIBIT MARKED FOR IDENTIFICATION.)

8 MR. HOWARD: Does anybody need a copy?

9 Q. Mr. Funk, I am going to hand you now what
10 has been marked as USP Exhibit No. 4 and ask you if
11 you can identify that.

12 A. Yes, I can. That's my prepared
13 testimony.

14 Q. Mr. Funk, do you have any additions or
15 corrections to make to that testimony?

16 A. No.

17 Q. Mr. Funk, if I were to ask you the same
18 questions today while you are under oath, would your
19 answers be the same as therein set forth?

20 A. Yes.

21 MR. HOWARD: Your Honor, we would move
22 the admission of USP Exhibit No. 4 subject to
23 cross-examination, and we would tender the witness
24 for cross-examination.

1 ATTORNEY EXAMINER KINGERY: Thank you
2 very much.

3 You may proceed.

4 MR. CREEKMUR: Thank you, your Honor.

5 - - -

6 CROSS-EXAMINATION

7 By Mr. Creekmur:

8 Q. Good morning, Mr. Funk.

9 A. Good morning.

10 Q. I just have a few questions for you
11 today. If I could direct your attention to page 4 of
12 your testimony, specifically lines 17 and 18. It's
13 true, Mr. Funk, on those lines you admit that the
14 LDC, being the local distribution company, will still
15 have the responsibility to make leaking and damaged
16 customer service lines safe; is that correct?

17 A. Yes, that's what it says.

18 Q. And Mr. Funk, under the current system of
19 repairs, doesn't USP effectuate the physical work
20 necessary for the repair or replacement of customer
21 service lines?

22 A. I'm sorry. Could you repeat that?

23 Q. Certainly. Under the current system of
24 repairs, meaning the current warranties that USP

1 offers, isn't it true USP effectuates the physical
2 work necessary for the repairs or replacements of
3 those customer service lines?

4 A. That's correct.

5 ATTORNEY EXAMINER KINGERY: Let's go off
6 the record for a minute.

7 (Discussion off the record.)

8 ATTORNEY EXAMINER KINGERY: Let's go back
9 on the record.

10 Q. Mr. Funk, is it a fair statement that you
11 believe Columbia currently has the responsibility to
12 make leaking and damaged customer service lines safe?

13 A. Yes.

14 Q. And, Mr. Funk, that is true even if
15 Columbia isn't the person or entity doing the
16 physical work necessary for the repair or replacement
17 of those current customer service lines?

18 A. You said that's true even if they are not
19 the one doing it?

20 Q. Correct.

21 A. Yes.

22 MR. CREEKMUR: Thank you, Mr. Funk.

23 I have no further questions, your Honor.

24 ATTORNEY EXAMINER KINGERY: Thank you

1 very much.

2 Ms. Hammerstein.

3 MS. HAMMERSTEIN: Thank you, your Honor.

4 - - -

5 CROSS-EXAMINATION

6 By Ms. Hammerstein:

7 Q. Good morning.

8 A. Good morning.

9 Q. You live in Florida. What local
10 distribution companies operate down there?

11 A. TECO.

12 Q. Okay. And do they have customer or does
13 the LDC own the service lines, customer service
14 lines?

15 A. You know, I actually live in
16 St. Augustine, and they don't have local service
17 there. TECO has local service in other parts of the
18 state, but I am not exactly sure how it works down
19 there.

20 MS. HAMMERSTEIN: Thank you.

21 That's all I have, your Honor.

22 ATTORNEY EXAMINER KINGERY: Thank you.

23 Mr. Serio.

24 MR. SERIO: Thank you, your Honor.

CROSS-EXAMINATION

By Mr. Serio:

Q. Good morning, Mr. Funk.

A. Good morning, sir.

Q. Are you familiar with the Servi-Sert interchange head that's used to do a partial replacement of a defective riser rather than doing a full replacement?

A. No, I am not.

MR. SERIO: I have nothing then, your Honor.

ATTORNEY EXAMINER KINGERY: Thank you.

Mr. Aveni, I assume you have nothing.

MR. AVENI: That's correct, I have nothing.

ATTORNEY EXAMINER KINGERY: Redirect?

MR. HOWARD: No, your Honor. Thank you very much.

ATTORNEY EXAMINER KINGERY: Thank you very much. You may step down.

Let's go off the record.

(Discussion off the record.)

ATTORNEY EXAMINER KINGERY: Let's go back on the record. Yes, Mr. Aveni, you may call your

1 witness.

2 MR. AVENI: Thank you, your Honor. For
3 ABC Gas's witness we would call Timothy J. Morbitzer
4 to the stand.

5

6

TIMOTHY J. MORBITZER

7 being first duly sworn, as prescribed by law, was
8 examined and testified as follows:

9

DIRECT EXAMINATION

10 By Mr. Aveni:

11 Q. Good morning, Mr. Morbitzer. How are
12 you?

13 A. Goods morning. Fine, thanks.

14 Q. Would you please state your name and
15 business address for the record.

16 A. Timothy J. Morbitzer at 707 South Front
17 Street, Columbus, Ohio.

18 Q. Mr. Morbitzer, on behalf of ABC Gas did
19 you have occasion to prepare certain prefiled
20 testimony that's been filed in this case?

21 A. I did.

22 MR. AVENI: Your Honor, may I approach?

23 ATTORNEY EXAMINER KINGERY: Yes, you may.

24 MR. AVENI: Thank you.

1 Q. Mr. Morbitzer, I am going to hand you a
2 document and ask you if it looks familiar to you.

3 A. It does.

4 Q. What is this document?

5 A. It is a copy of the testimony that I
6 filed.

7 MR. AVENI: Your Honor, I would like to
8 have this document marked as ABC Gas Exhibit 3.

9 ATTORNEY EXAMINER KINGERY: It will be so
10 marked.

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 MR. AVENI: Thank you, your Honor.

13 Q. Now, Mr. Morbitzer, have you had an
14 opportunity to review this prefiled testimony since
15 it was filed?

16 A. I have.

17 Q. Okay. Do you have any additions or
18 corrections you wish to make at this point?

19 A. I do not.

20 Q. If I asked you the same questions today
21 under oath on the stand as represented to you in your
22 prefiled testimony, would your answers be the same?

23 A. I believe so.

24 MR. AVENI: Then with that, your Honor, I

1 move for the admission of ABC Gas Exhibit 3 subject
2 to cross-examination, and I would like to make the
3 witness available for that cross-examination at this
4 time.

5 ATTORNEY EXAMINER KINGERY: Thank you
6 very much.

7 Mr. Creekmur.

8 MR. CREEKMUR: Thank you, your Honor.

9 - - -

10 CROSS-EXAMINATION

11 By Mr. Creekmur:

12 Q. Good morning, Mr. Morbitzer.

13 A. Good morning.

14 Q. Mr. Morbitzer, isn't it true ABC, being
15 ABC Gas Repair, offers warranty coverage on inside
16 and outside water line repairs?

17 A. That is not true.

18 Q. And why is it not true?

19 A. We do not offer warranty coverage repairs
20 on inside water lines.

21 Q. Only outside water lines?

22 A. That is true.

23 Q. Thank you. And what about inside/outside
24 gas line repairs, do you offer warranty coverage on

1 those?

2 A. We do.

3 Q. And is the same true for lines that flow
4 to the gas furnace?

5 A. That is true.

6 Q. And lines that flow to the gas water
7 heater?

8 A. That is true.

9 Q. As well as the air conditioner?

10 A. Gas lines do not flow to the air
11 conditioner.

12 Q. Do you offer any type of warranty for
13 lines that do flow to air conditioners?

14 A. No.

15 Q. Are there any other types of warranties
16 that ABC offers other than, of course, gas line
17 warranties and those previously mentioned?

18 A. No.

19 Q. Isn't it true, Mr. Morbitzer, that the
20 IRP as proposed by Columbia would only assume
21 ownership of outside customer service lines and
22 risers?

23 A. As far as I am aware, yes.

24 Q. It's true, isn't it, that ABC does not

1 currently cover under its gas line warranty program
2 prone-to-fail risers that are not leaking?

3 A. True.

4 Q. And isn't it true that ABC's warranty
5 coverage will pay only for the repair and/or
6 replacement of the line that fails due to normal wear
7 and tear?

8 A. That is true.

9 Q. So I am correct in my understanding that
10 ABC does not cover leaks on plastic customer service
11 lines due to dig ins?

12 A. We don't cover insurable events.

13 MR. REILLY: Excuse me. While we are
14 listening, I didn't -- we didn't pick up. It's blank
15 events over here. We didn't pick what that word was.
16 Could we have that read back?

17 (Answer read.)

18 Q. Mr. Morbitzer, I assume you then contend
19 a dig in on a plastic pipe would be an insurable
20 event?

21 A. I can't speak to nonspecific but, lack of
22 specifics on that question.

23 Q. To clarify though ABC would not cover dig
24 ins on those plastic customer service lines; is that

1 correct?

2 A. That is correct, we would not cover a dig
3 in.

4 Q. Thank you. Mr. Morbitzer, if a customer
5 has a leak in Columbia's service territory, isn't it
6 true that Columbia would inspect that property to
7 determine whether a leak exists and where that leak
8 would exist?

9 A. Not necessarily, no.

10 Q. Is it true, Mr. Morbitzer that Columbia
11 would inspect customer service lines if a leak was
12 reported?

13 A. Yes.

14 Q. Mr. Morbitzer, are ABC customers able to
15 choose the plumber of their choice to do those
16 repairs or replacements under their warranty program?

17 A. Within our company, is that what you are
18 asking?

19 Q. Yes, sir.

20 A. They are.

21 Q. They are?

22 A. Yes, they certainly are.

23 Q. Mr. Morbitzer, are you familiar with your
24 request for information that Columbia has submitted

1 to various DOT OQ plumbers?

2 A. I am.

3 Q. And did ABC submit a response to that
4 RFI?

5 A. The RFI that we received was specifically
6 for risers only.

7 Q. Yes, sir.

8 A. It excluded specifically service lines.

9 Q. That is correct.

10 A. And we did submit the request to the RFI.

11 Q. And am I fair in my assumption then ABC
12 would like to partake in that program should it be
13 offered?

14 A. No, not necessarily.

15 Q. Can you explain that, Mr. Morbitzer?

16 A. I certainly can. The RFI as it was
17 presented to us, the RFI concerning the risers only
18 that we received, indicated that Columbia would be
19 doing such things under their program as providing
20 the material for the contractors, and that's a
21 situation where the material sale on a job is
22 important to covering the costs for our company. And
23 so excluding that that may not make it feasible for
24 us to participate; as well, we don't know the price

1 points Columbia will provide for doing each riser
2 installation.

3 Q. So it is fair to say there is some
4 interest in ABC?

5 A. There could be. We submitted the RFI in
6 order to receive the additional information.

7 Q. Thank you. Mr. Morbitzer, is it a fair
8 assumption steel customer service lines have a
9 greater chance to leak than plastic customer service
10 lines?

11 A. I believe that's a fair assumption.

12 Q. And does ABC distinguish in its
13 advertisements between plastic service line coverage
14 and steel line plastic coverage?

15 A. We do not.

16 Q. Do customers pay a different amount
17 because of the type of customer service line?

18 A. No, they do not. Typically a plastic
19 customer service line would be at a newer home, and
20 what we have found newer homes, because we also cover
21 appliances inside newer homes, will have more
22 advanced, technologically advanced, appliances and
23 that increases our risk so that balances out.

24 Q. And do all customers have the same length

1 of a customer service line?

2 A. They do not.

3 Q. Does ABC charge a different amount for
4 those service lines that are longer or shorter?

5 A. No, because the length of the service
6 line doesn't necessarily indicate an enormous
7 variance in costs. The fixed costs you have in
8 showing up on a job are typically going to be within
9 a steady range and won't vary tremendously depending
10 on the length.

11 Q. Assume there would be a difference if it
12 was a complete replacement, if you had two varying
13 lengths.

14 A. How would you define "complete
15 replacement"?

16 Q. If you replace the customer service line.

17 A. Not necessarily. It would -- it still
18 may vary only by a small amount.

19 Q. Mr. Morbitzer, does a customer pay less
20 if they never experience a leak?

21 A. They do not.

22 Q. Do they pay more if they experience
23 several leaks?

24 A. They do not.

1 Q. And do you find your customers have peace
2 of mind knowing that their gas service line is
3 insured?

4 MR. AVENI: Your Honor, I am going to
5 object to the use of the term "insured" in that
6 question. I think that mischaracterizes the
7 testimony.

8 ATTORNEY EXAMINER KINGERY: Can you
9 rephrase, please?

10 MR. CREEKMUR: Yes, your Honor.

11 Q. Mr. Morbitzer, do you find your customers
12 have peace of mind knowing that their gas service
13 line is covered under an ABC warranty program?

14 A. We have never asked that direct question
15 but feel that their enrollment in our program would
16 indicate so.

17 Q. And do you indicate as such on your -- on
18 your advertisements or your direct mailings?

19 A. I don't understand the question.

20 Q. Do you indicate on your direct mailings
21 that your warranty program could very well provide
22 peace of mind?

23 A. We do.

24 Q. If a customer calls ABC and indicates he

1 or she may have a gas leak, what does ABC instruct
2 the customer to do?

3 A. Contact Columbia Gas.

4 Q. So from there the customer, at least you
5 would hope, would call Columbia Gas and report the
6 gas leak, correct?

7 A. We provide the phone number as well.

8 Q. If ABC inspect -- excuse me. If Columbia
9 inspects the report of a gas leak, determines there
10 is such a leaks mand turns gas off, would the
11 customer then call ABC to report a claim?

12 A. I assume we are still talking about a
13 customer that has warranty coverage with our company?

14 Q. Yes, sir. You can assume that for all
15 the questions unless I specify otherwise.

16 A. Could you repeat the question now?

17 Q. Sure. If Columbia turns the gas off due
18 to a suspected leak, the customer would then call ABC
19 and report a claim; is that correct?

20 A. That is correct.

21 Q. And then, Mr. Morbitzer, would the
22 customer service representative for ABC make a claim
23 to DOT certified plumber from your network who then
24 contacts the customer to schedule an appointment for

1 that repair?

2 A. Our repairs are done internally.

3 Q. So then your DOT certified plumber would
4 contact the customer?

5 A. No. We arrange the appointment at the
6 time of contact.

7 Q. So the customer service representative
8 would schedule that?

9 A. In most cases, yes.

10 Q. Mr. Morbitzer, is it your understanding
11 the LDC, meaning the local distribution company, will
12 have the responsibility of making leaking and damaged
13 customer service lines safe?

14 MR. AVENI: I'm sorry, your Honor. I
15 don't understand the question. Does he mean as the
16 system exists today? As the system exists post-RFP?

17 ATTORNEY EXAMINER KINGERY: Could you
18 clarify.

19 Q. Under the IRP.

20 A. Do you mind repeating?

21 Q. Under the IRP program is it fair to
22 assume that the LDC will still have responsibility to
23 make leaking and damaged customer service lines safe?

24 A. I am only aware that IRP would cover the

1 leaking service lines. I am not totally aware of
2 whether or not the IRP would cover damaged service
3 lines.

4 Q. So then it's fair to assume that the LDC
5 will have responsibility to make leaking customer
6 service lines safe; is that correct?

7 A. As I understand it.

8 Q. And under the current system, meaning as
9 it stands today, ABC effectuates the physical work
10 necessary for those repairs or replacements of
11 customer service lines?

12 A. That's correct.

13 Q. And it's a fair statement, is it not,
14 that Columbia currently has the responsibility to
15 make leaking customer service lines safe?

16 A. I think that's a fair statement.

17 Q. And that is true even if under today's
18 system Columbia does not perform that physical work?

19 A. I believe so.

20 Q. Mr. Morbitzer, if I could direct your
21 attention to page 6 of your testimony, the first line
22 begins with the word "decaying."

23 A. Bear with me one second.

24 Q. Sure.

1 MR. AVENI: I apologize to everyone.
2 Somehow along the way the numbers fell off of the
3 prefiled testimony.

4 THE WITNESS: No, I can count them up. I
5 am just about there.

6 Q. We will make sure you are in the right
7 spot.

8 MR. AVENI: I will accept responsibility
9 for that.

10 A. I am on the decaying page now.

11 Q. Mr. Morbitzer, you state there that:
12 "Decaying steel service lines are not a safety
13 threat" on line 1 of page 6. "Decaying steel service
14 lines are not a safety threat"; is that correct?

15 A. That's correct.

16 Q. And steel service lines cover a pinhole
17 leak; is that correct?

18 A. That is correct.

19 Q. They cover corrosion that might cause
20 some type of damage or leak to that pipe?

21 A. That is correct.

22 Q. Are there any other forms of damage that
23 could occur in steel service lines that might result
24 in a leak?

1 A. Without third-party involvement, not that
2 I can think of right now.

3 Q. And, Mr. Morbitzer, let's include
4 third-party involvement. Are there other types that
5 could include enough damage to result in a leak in
6 the steel service line?

7 A. A third party could cause a steel service
8 line to leak.

9 Q. Without going through 101 examples, could
10 you give me a few examples of how that might occur?

11 A. Excavation without having first contacted
12 appropriate location companies. That's really about
13 it. Is that enough?

14 Q. That is enough.

15 A. Okay.

16 Q. Mr. Morbitzer, isn't it fair to assume
17 that, say, excavation by a third party could result
18 in a public safety condition?

19 A. It could.

20 MR. CREEKMUR: Thank you for your time,
21 Mr. Morbitzer.

22 I have no further questions, your Honor.

23 ATTORNEY EXAMINER KINGERY: Thank you.

24 Ms. Hammerstein? Mr. Reilly?

1 MR. REILLY: Thank you.

2 - - -

3 CROSS-EXAMINATION

4 By Mr. Reilly:

5 Q. Mr. Morbitzer, my name is Steve Reilly.

6 I am with the Attorney General's Office, and I am
7 here on behalf of the staff of the Commission.

8 A. I'm sorry, I can barely hear.

9 Q. I am here on behalf of the staff of the
10 Public Utilities Commission.

11 A. Okay.

12 Q. I would like to talk to you for just a
13 few minutes about the warranty business, if we could.

14 A. Certainly.

15 Q. Are you aware of Utility Service
16 Partners? Have you heard of that company before?

17 A. I have.

18 Q. Before this proceeding?

19 A. I have.

20 Q. Okay. Are they in the same business you
21 are in? I mean by that the warranty business.

22 A. They offer a similar product, but it's
23 not the same.

24 Q. All right. Do you know how it differs?

1 A. I do.

2 Q. Could you tell me how?

3 A. Besides the fact that we offer a more
4 extensive product in terms of what we cover on a
5 single product, we offer one comprehensive, very
6 extensive product. In addition we do not have the
7 same requirements for a 30-day wait period before
8 enrollment, and so our product is offered primarily
9 for real estate closings.

10 Q. I see. And theirs is not?

11 A. Not that I am aware of. I certainly
12 can't speak to what they will and won't sell though.

13 Q. Could you tell me, you have been in the
14 warranty business how long did you say? I know it's
15 in your testimony, but if you could just generally
16 tell me.

17 A. Originally we originated our product in
18 1978.

19 Q. Okay. Almost 30 years then.

20 A. Very nearly.

21 Q. Okay. In the warranty business do
22 companies get together and talk about things? Is
23 there a group -- strike that.

24 Is there any kind of group, any trade

1 group for the warranty business?

2 A. Not that I am aware of.

3 Q. Okay. So there isn't any kind of trade
4 group that sets general standards for the business?

5 A. Not that I am aware of.

6 Q. Okay. And there wouldn't be any trade
7 group that would set general language for warranties;
8 is that correct?

9 A. Not that I am aware of.

10 Q. Now, Mr. Morbitzer, yesterday we had some
11 testimony by Utility Service Partners that the
12 warranty business -- I just want to make sure your
13 understanding is the same, that the warranty business
14 was not regulated on the state level; is that your
15 understanding?

16 A. By regulated we comply with state
17 regulations in terms of the way that we do business.

18 Q. I understand. Do you submit your
19 warranties to any regulatory -- governmental
20 regulatory authority, by that I mean state,
21 municipal, or county regulatory authority, for
22 approval?

23 A. No, we do not.

24 Q. Do you receive prior approval for any of

1 your business endeavors or do you -- from any state,
2 municipal, or county regulatory authority?

3 A. Can you repeat that, please?

4 Q. Do you receive prior approval before
5 taking action from any county, state, or municipal
6 governmental authority?

7 A. We do not.

8 Q. So when -- you follow the standards set
9 by governmental authorities, correct?

10 A. We do and we have also based our coverage
11 on best practices available throughout the industry
12 so we don't necessarily operate in a vacuum as you
13 had implied earlier. We have based it on all of the
14 other companies within our industry.

15 Q. Okay. And how did you make your
16 determination as to what the best practices
17 throughout the industry were?

18 A. It's what fit our business model.

19 Q. What fit your business model?

20 A. Uh-huh.

21 Q. So this would be an individual
22 determination that your company made?

23 A. For our company, yes, based on our
24 business model.

1 Q. So your determination of best practices
2 throughout the industry is based on your company's
3 business model, correct?

4 A. And through customer input.

5 Q. Okay, okay. Is there any publication
6 that identifies the best practices in the warranty
7 industry that you are aware of?

8 A. Not that I am aware of.

9 Q. Now, Mr. Morbitzer, in your testimony you
10 talk about the rate of renewal. Do you recall that
11 that you discussed that in your testimony?

12 A. Did you say the rate of renewal?

13 Q. The rate of renewal.

14 A. Yes.

15 Q. What happens to those that do not renew
16 the coverage from your company? Do you know?

17 A. Do I know what happens to them?

18 Q. Yes.

19 A. If they do not renew the coverage, we
20 send them a notice of cancellation that states
21 clearly that their coverage is being cancelled, gives
22 them the option to renew in case it was not
23 intentional. Beyond that, I do not know.

24 Q. So your company doesn't perform any

1 follow-ups to find out why somebody might not have
2 renewed?

3 A. We do spot-checks with customers to find
4 out.

5 Q. Okay. Are those spot-checks of a
6 sufficient frequency that you are able to develop any
7 statistical projections based on them?

8 A. No.

9 Q. If I could refer to you page 5 of your
10 testimony, line 14. You talk about a renewal rate of
11 someplace between 12 and 15 percent. Do you see
12 that?

13 A. I do.

14 Q. So you don't know what happened to the
15 other 88 to 85 percent of the customers; is that
16 correct?

17 A. That is correct.

18 Q. It is possible that that 88 to 85 percent
19 do not have any warranty coverage for their gas
20 service lines, correct?

21 A. That is a possibility.

22 Q. Okay. A little further down on that page
23 in line 20 there is a sentence that begins "There is
24 a predictable rate of decay across the population."

1 You are talking there in an actuarial sense, aren't
2 you, about a general population as opposed to any
3 specific location?

4 A. I am not sure what you are referring to.

5 Q. Okay. In that sentence beginning on
6 page 20 and running over to page 21, you say, "There
7 is a predictable rate of decay across the population
8 of steel service lines." You are not saying there is
9 a predictable rate of decay -- strike that.

10 You are not saying that the rate -- that
11 the rate of decay on any individual unit can be
12 predicted. You are just saying we can make a
13 determination across the general population; isn't
14 that correct?

15 A. We can make a prediction across the
16 general population that lines will decay.

17 Q. Okay. But you can't make any prediction
18 as to any specific unit when the decay will occur.

19 I'm sorry. Go ahead.

20 A. No, I am not sure I totally understand.

21 Q. We should probably start over.

22 A. Yeah, I'm sorry.

23 Q. I am informed I gave you the wrong
24 reference. On page 5, lines 20 to 21.

1 A. Okay.

2 Q. You say there is a predictable rate of
3 decay across the population of lines.

4 A. I do.

5 Q. Okay. You are not referencing any
6 individual home there, are you?

7 A. I am not referencing an individual home,
8 no, I am not.

9 Q. It was my fault. It was a bad question.

10 A. That's okay.

11 MR. REILLY: Can I have a moment, your
12 Honor?

13 ATTORNEY EXAMINER KINGERY: Yes, you may.

14 MR. REILLY: Thank you, Mr. Morbitzer.
15 That's all, your Honor.

16 ATTORNEY EXAMINER KINGERY: Thank you.
17 Mr. Serio.

18 MR. SERIO: Thank you, your Honor.

19 - - -

20 CROSS-EXAMINATION

21 By Mr. Serio:

22 Q. Good morning.

23 A. Good morning.

24 Q. I have a couple of questions for you.

1 You indicate your company has currently 12 to 15
2 thousand warranties in central Ohio. Those are
3 separate from anything that USP or any other warranty
4 provider has; is that correct?

5 A. Yes.

6 Q. These are your own company's warranties?

7 A. Yes, absolutely.

8 Q. And those warranties cover gas risers,
9 correct?

10 A. They do.

11 Q. If I am a customer with one of your
12 warranties and I have a gas riser that's been
13 identified as prone to leak and it actually leaks,
14 does your warranty cover that riser?

15 A. It does.

16 Q. If I have a prone-to-leak riser that is
17 not actually leaking at the time, does your warranty
18 cover that riser?

19 A. Not until it leaks.

20 Q. Why not?

21 A. Because we only take care of under the
22 terms of our contract issues with leakage at the
23 time.

24 Q. Are you familiar with the Servi-Sert

1 interchange head that's used to make partial
2 replacement for leaking risers rather than full
3 replacement?

4 A. Not beyond what I have heard in this
5 hearing.

6 MR. SERIO: That's all I have, your
7 Honor.

8 ATTORNEY EXAMINER KINGERY: Thank you
9 very much.

10 I assume you have no non-friendly cross.

11 MR. HOWARD: That's correct, your Honor.

12 ATTORNEY EXAMINER KINGERY: Redirect?

13 MR. AVENI: Yes, your Honor, just
14 briefly, if I may.

15 - - -

16 RECROSS-EXAMINATION

17 By Mr. Aveni:

18 Q. Mr. Morbitzer, you were asked some
19 questions by Mr. Creekmur that elicited a response
20 that insurable events are not covered. Do you recall
21 that testimony?

22 A. I do.

23 Q. Why is it that insurable events -- first
24 of all, what is an insurable event? Let's start

1 there.

2 A. By an example?

3 Q. Yes, sir.

4 A. For example, let's say a tree falls on
5 your house and breaks your gas lines.

6 Q. Okay. And why is that not covered?

7 A. The insurance company -- typically
8 homeowners insurance will cover something like that.

9 Q. Okay. What is your -- what is your
10 warranty designed to cover?

11 A. We cover the continued operation of a
12 system and its -- and we will take care of any wear
13 and tear on that outside of insurable events.

14 Q. Is that leaks that arise in the ordinary
15 course of business through wear and tear?

16 A. Absolutely.

17 Q. Okay. Mr. Reilly asked you some
18 questions about the warranty business generally, and
19 you gave some testimony that the best practices that
20 you use are selected by what fits your business
21 model. Do you recall that testimony?

22 A. I do.

23 Q. Were you referring to the best business
24 practices or the best practices on how to repair and

1 replace customer service lines? For clarification,
2 the distinction I am drawing business practices in
3 terms of how many employees to have, how many -- what
4 sort of warranties to provide, what sort of coverage
5 to provide in those warranties, those sorts of
6 things.

7 A. Both really. We have looked at what's
8 worked well customer satisfaction-wise within the
9 industry and we have adopted those practices and also
10 we've made sure that the -- our being able to offer
11 that fits, it fits our business.

12 Q. And the best practices with reference to
13 the standards or techniques you use in your company
14 to repair and replace customer service lines, are
15 those regulated in some way?

16 A. I would say highly regulated.

17 Q. And by whom are they highly regulated?

18 A. Department of Transportation.

19 Q. Okay. Thank you, sir. You were asked
20 some questions about your warranties and the
21 warranties provided by other companies including USP.
22 Would you say that -- does ABC Gas compete with other
23 warranty programs such as the USP warranty program in
24 the marketplace in central Ohio?

1 A. We do.

2 Q. Okay. If the IRP is approved, would
3 Columbia under the IRP have any competition with
4 providing gas service line repairs or replacements in
5 the marketplace?

6 A. Not that I am aware of.

7 MR. AVENI: I have no further questions
8 for you, sir. Thank you.

9 ATTORNEY EXAMINER KINGERY: Thank you.

10 Mr. Creekmur, any recross?

11 MR. CREEKMUR: Just a couple, your Honor,
12 please.

13 - - -

14 RECROSS-EXAMINATION

15 By Mr. Creekmur:

16 Q. Mr. Morbitzer, is it true that in your
17 direct mailings to customers, potential customers of
18 ABC or even current customers, that you state if
19 there are gas leaks, the customer is solely
20 responsible for repairs and the customer is not
21 protected by the gas company, most homeowners
22 insurance, or most other types of home warranties?

23 MR. AVENI: Your Honor, I object. This
24 is outside of the scope of the redirect.

1 MR. CREEKMUR: Your Honor, counsel
2 previously inquired about coverage of insurable
3 events as defined by homeowners insurance.

4 ATTORNEY EXAMINER KINGERY: I am going to
5 allow the question.

6 MR. CREEKMUR: Thank you.

7 MR. AVENI: Thank you.

8 THE WITNESS: Do you mind repeating it?

9 Q. Mr. Morbitzer, is it true in your direct
10 mailings to potential ABC customers or current ABC
11 customers you state that if there is a gas leak, you
12 are solely responsible for repairs, you are not
13 protected by the gas company, most homeowners
14 insurance, or most other types of home warranty?

15 A. I believe we do state that.

16 MR. CREEKMUR: Thank you, Mr. Morbitzer.
17 No further questions, your Honor.

18 ATTORNEY EXAMINER KINGERY: Thank you.
19 Mr. Reilly?

20 MR. REILLY: Thank you, your Honor.

21 - - -

22 RECROSS-EXAMINATION

23 By Mr. Reilly:

24 Q. Just a couple more questions,

1 Mr. Morbitzer, just to try to make things clear. We
2 might be confused about the warranty business. When
3 you talk about your determinations regarding, quote,
4 best practices, those were individual company
5 determinations, your company made the determination
6 as to what the best practice was; am I correct about
7 that?

8 A. Our company made the determination?

9 Q. As to what best practices were.

10 A. Not always.

11 Q. Who else would make it?

12 A. We have been in contact with other
13 companies offering similar products -- that have
14 indicated similar products and they have indicated
15 what has been most well received by customers. And
16 so we have to our best -- to our best ability copied
17 that.

18 Q. And you copied it because your company
19 determined it was the best thing to do, right?

20 A. We copied it because we felt -- because
21 we believed that that was truly -- that those were
22 the best practices.

23 Q. In doing that you were not following any
24 published industry standard; is that correct?

1 A. That is correct.

2 Q. Okay. In doing that you weren't
3 following any edict from any governmental agency; is
4 that correct?

5 A. That is correct.

6 Q. Now, you said that your activities --
7 your repair activities were highly regulated; was
8 that your testimony?

9 A. Yes, I believe so.

10 Q. Regulated by whom?

11 A. Department of Transportation for the
12 repair. I probably wasn't clear. The Department of
13 Transportation is who regulates the service line
14 repairs. And then the interior repairs we follow --
15 Columbia Gas is who adheres to and requires that we
16 adhere to the National Fuel Gas Codes for interior
17 repairs.

18 Q. Okay. And you do that because of a
19 regulation or some kind of edict put down by Columbia
20 Gas, correct? Do I understand your testimony
21 correctly?

22 A. We do that because if we don't, we won't
23 have gas service restored by Columbia Gas.

24 MR. REILLY: Could I have a moment, your

1 Honor?

2 ATTORNEY EXAMINER KINGERY: Yes.

3 Q. So just if I understand your testimony
4 correctly, your company is not regulated by the
5 Department of Transportation; Columbia is. And
6 Columbia requires your company to do certain things
7 because of the Department of Transportation's
8 regulations of them; is that what you are saying?

9 A. Let me make sure I understand it.

10 Q. Let me reask it.

11 A. Okay.

12 Q. You testified, I believe, that you are
13 regulated by the Department of Transportation. Is
14 your company subject to the Department of
15 Transportation -- strike that.

16 Does your company have any
17 responsibilities because of the regulations from U.S.
18 Department of Transportation?

19 A. I'm sorry. I don't believe that I
20 testified that we are regulated by the Department of
21 Transportation, but I believe I testified that we
22 follow Department of Transportation regulations in
23 making sure that the servicemen who perform sensitive
24 tasks are qualified to do so.

1 Q. I'm sorry. I misunderstood. So your
2 company has chosen to follow Department of
3 Transportation regulations in performing its tasks,
4 correct?

5 A. Yes.

6 Q. Okay. If your company did not do that,
7 you wouldn't be looking for a visit from the federal
8 marshals the next day, correct?

9 A. If our company didn't do that, we
10 wouldn't be in business to have that visit from the
11 federal marshals.

12 Q. And that is because why?

13 A. We wouldn't be qualified to do work on
14 customer service lines.

15 Q. Qualified by whom?

16 A. Qualified by the Department of
17 Transportation.

18 Q. Do you receive a prior approval from the
19 Department of Transportation before engaging in
20 business?

21 A. We do not.

22 Q. Okay. I guess I don't understand what
23 you mean that you were qualified by the Department of
24 Transportation. Could you explain that for me?

1 A. Our servicemen undergo training and
2 qualification processes in order to meet the
3 requirements of the Department of Transportation in
4 order to perform the repairs that they do.

5 Q. And who requires them to meet the
6 requirements of the Department of Transportation?

7 MR. AVENI: Objection, your Honor. That
8 calls for a legal conclusion.

9 MR. REILLY: He is testifying as to -- he
10 testified that he -- that his service people are
11 required to meet the requirements of the Department
12 of Transportation, and I am just asking him who
13 requires it.

14 ATTORNEY EXAMINER KINGERY: I don't think
15 that's a legal conclusion. I will allow the
16 question.

17 MR. AVENI: Thank you, your Honor.

18 Q. Who requires it?

19 A. The LDCs.

20 Q. The LDC in this case would be Columbia?

21 A. Not necessarily. There are other LDCs,
22 smaller LDCs that we also work for. It would be
23 multiple.

24 Q. If you work on Columbia's line, who

1 qualifies it?

2 A. If we work on Columbia's line?

3 Q. Yes.

4 A. We are qualified by a third-party testing
5 agency that qualifies us, and then Columbia confirms
6 our qualification.

7 Q. Who is the third-party qualifier, just
8 for the record?

9 A. I apologize. The name escapes me right
10 now. I'm sorry.

11 Q. Have you ever heard of UTI?

12 A. I have, yes.

13 Q. Is that the company -- is that the name
14 of the third-party qualifer?

15 A. I believe that is now the third-party
16 qualifier.

17 MR. SERIO: Your Honor, if UTI stands for
18 something, could we have that spelled out?

19 MS. HENRY: Utility Technologies
20 International.

21 MR. REILLY: Could I have just a moment?
22 Thank you, your Honor. We're done.

23 ATTORNEY EXAMINER KINGERY: Mr. Serio?

24 MR. SERIO: I have nothing, your Honor.

1 Thank you.

2 ATTORNEY EXAMINER KINGERY: I assume you
3 have nothing?

4 MR. HOWARD: That's correct.

5 ATTORNEY EXAMINER KINGERY: Thank you
6 very much. You may step down.

7 (Witness excused.)

8 MR. AVENI: Your Honor, at this time I
9 would move for the admission of ABC Gas Exhibit 3.

10 ATTORNEY EXAMINER KINGERY: And are there
11 any objections?

12 Hearing none, ABC Exhibit No. 3 will be
13 admitted.

14 (EXHIBIT ADMITTED INTO EVIDENCE.)

15 ATTORNEY EXAMINER KINGERY: We also have
16 a pending motion of the testimony of Mr. Funk, USP
17 Exhibit 4. Are there any objections to that?

18 Hearing none, USP Exhibit 4 will be
19 admitted.

20 (EXHIBIT ADMITTED INTO EVIDENCE.)

21 MR. AVENI: Your Honor, may I request a
22 short recess?

23 ATTORNEY EXAMINER KINGERY: I was just
24 about to suggest that. Let's take 10 minutes, come

1 back at 2 or 3 minutes after 10:00.

2 (Recess taken.)

3 MR. SERIO: OCC would call to the stand
4 Bruce Hayes.

5 - - -

6 BRUCE M. HAYES

7 being first duly sworn, as prescribed by law, was
8 examined and testified as follows:

9 DIRECT EXAMINATION

10 By Mr. Serio:

11 Q. Please state your name and your business
12 address for the record.

13 A. My name is Bruce M. Hayes, H-A-Y-E-S.
14 Business address is 10 West Broad Street, Suite 1800,
15 Columbus, Ohio 43215.

16 Q. Do you have with you a multiple page
17 document titled Prepared Testimony of Bruce M. Hayes,
18 Case No. 07-478-GA-UNC, dated October 23, 2007?

19 A. Yes, I do.

20 MR. SERIO: I would like to mark that for
21 purposes of identification as OCC Exhibit 13, your
22 Honor.

23 ATTORNEY EXAMINER KINGERY: It will be so
24 marked.

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 Q. Is that your prepared testimony,
3 Mr. Hayes?

4 A. Yes, it is.

5 Q. Was it prepared by you or under your
6 direction?

7 A. Yes.

8 Q. If I were to ask you the same questions
9 today, would you have the same or similar answers?

10 A. Yes, I would.

11 Q. Do you have any corrections to your
12 testimony that you are aware of?

13 A. I have no corrections.

14 MR. SERIO: Your Honor, Mr. Hayes is
15 available for cross-examination.

16 ATTORNEY EXAMINER KINGERY: Thank you
17 very much.

18 Mr. Creekmur.

19 MR. CREEKMUR: Thank you, your Honor.

20 - - -

21 CROSS-EXAMINATION

22 By Mr. Creekmur:

23 Q. Good morning, Mr. Hayes.

24 A. Good morning.

1 Q. Mr. Hayes, you were present yesterday for
2 Mr. Gary Hebbeler's testimony; is that correct?

3 A. That is correct.

4 Q. And do you remember his testimony that
5 Normac risers have been in place for approximately 15
6 years before leakage was suspected?

7 A. Yes.

8 Q. Would you agree with that statement?

9 A. Yes, I would.

10 Q. And do you recall his testimony that the
11 Servi-Sert risers have only been installed for a few
12 years, approximately?

13 A. Yes.

14 Q. Would you agree with that statement?

15 A. Yes. I would also like to say that the
16 technology that's based on has been in service longer
17 than that.

18 Q. Mr. Hayes, are you familiar with the
19 Commission's study in Case 05-463, the staff report?

20 A. I've read it, yes.

21 Q. And do you recall the findings of that
22 report, specifically where it indicates there have
23 been already 17 leaks and failures reported that
24 relate to Perfection's, meaning Servi-Sert, risers?

1 A. I am not aware of that.

2 MS. HAMMERSTEIN: Your Honor, could I ask
3 that question be read back.

4 ATTORNEY EXAMINER KINGERY: Would you
5 please read back the last question.

6 (Question read.)

7 Q. And, Mr. Hayes, to clarify, I believe I
8 might have mischaracterized that definition or that
9 explanation of leaks and failures. Are you familiar
10 with the staff report, again in Case 05-463, that
11 stated Perfection's with adaptors, which I know as to
12 have the same technology as Servi-Sert risers, there
13 have been 17 reported leaks and failures?

14 MR. SERIO: Your Honor, could I get a
15 clarification of the question? Is he referring to
16 the Servi-Sert interchange head or the Perfection
17 riser?

18 ATTORNEY EXAMINER KINGERY: Can you
19 clarify?

20 MR. CREEKMUR: The riser, your Honor.

21 A. Is that a factory-assembled riser with
22 the Servi-Sert on it or a field assembled?

23 Q. It would be a Perfection field-assembled
24 riser, Mr. Hayes.

1 A. As I said, I am not aware of it.

2 Q. Thank you. Mr. Hayes, have you verified
3 that Duke has or is installing Servi-Sert risers in
4 an approved manner?

5 A. I have contacted Doug Nagy, the
6 manufacturer's rep of Elston Perfection and asked him
7 as we have had some confusion over the installation
8 of the Servi-Sert. And based on his indications, he
9 seemed to feel that the Servi-Sert was being
10 installed correctly.

11 Q. And that is based off of Duke employees;
12 is that correct?

13 A. That is correct.

14 Q. You, yourself, have not verified that
15 outside of confirming with Duke?

16 A. Not other than talking to the
17 manufacturer's rep, yes.

18 Q. Thank you. Mr. Hayes, are you aware of
19 any other utility using this device, as in the
20 Servi-Sert replacement, as a method of replacement
21 for risers?

22 A. No, I am not.

23 Q. Mr. Hayes, would the OCC assume any type
24 of responsibility if the Servi-Sert riser proved to

1 fail?

2 MR. SERIO: Objection, your Honor, calls
3 for a legal conclusion, and OCC is a state agency,
4 couldn't have that kind of responsibility anyways.

5 ATTORNEY EXAMINER KINGERY: I don't think
6 he is asking for a legal conclusion. I will allow
7 the question.

8 A. Would you repeat the question, please?

9 Q. Sure. Would the OCC assume any type of
10 responsibility if the Servi-Sert riser failed?

11 A. I have no idea.

12 Q. Mr. Hayes, do you believe cost is the
13 only consideration necessary in determining a safe
14 and permanent resolution to the riser issue?

15 A. No, I do not.

16 Q. If we can assume cost savings were
17 nominal in using the Servi-Sert riser, would it be
18 better for consumers to have a full riser
19 replacement?

20 A. If indeed the costs were nominal,
21 probably correct. In this case I don't think they
22 are nominal.

23 Q. Mr. Hayes, you have testified that the
24 partial head replacement, meaning the Servi-Sert

1 riser, can be used when there is a minimum of at
2 least 8 inches between the ground point on the riser
3 above -- excuse me -- between the ground and the
4 point on the riser above the ground when the old
5 service head adaptor is cut off; is that correct?

6 A. That is correct. You have to have 8
7 inches clearance of the bracket.

8 Q. Thank you for that clarification.
9 Mr. Hayes, it's fair then to assume that if there is
10 less than 8 inches clearance, the Servi-Sert riser
11 should not be used?

12 A. That is correct.

13 Q. Mr. Hayes, do you have any knowledge of
14 the clearances that typically exist in Columbia's
15 service territory?

16 A. Not without looking it up on the -- your
17 service manual.

18 Q. Thank you. Mr. Hayes, are you proposing
19 in your testimony that based on Duke's estimates
20 Columbia could use these Servi-Sert riser
21 replacements in 75 percent of the cases?

22 A. I'm using the Duke as an example. It
23 could be 50 percent.

24 Q. Mr. Hayes, does it cause you any

1 concern -- let me strike that.

2 Mr. Hayes, you were here this morning for
3 the testimony of Mr. Funk and Mr. Morbitzer; is that
4 correct?

5 A. Yes.

6 Q. And did you hear both Mr. Funk and
7 Mr. Morbitzer to state that they are not familiar
8 with the Servi-Sert riser replacement?

9 A. Yes, I heard that.

10 Q. Mr. Hayes, does it cause you any concern
11 that Mr. Funk and Mr. Morbitzer, both respected
12 experts in their field, are not familiar with this
13 riser replacement?

14 A. It does not surprise me in the sense that
15 Duke as the prone-to-leak riser situation came up,
16 went out and looked for a solution, and this happened
17 in a relatively short period of time and, therefore,
18 I think I understand why they would not be familiar
19 with the technology.

20 Q. Is it fair to assume that this technology
21 is not widespread?

22 A. I really don't know.

23 Q. Mr. Hayes, it's a fair statement, isn't
24 it, prone-to-fail risers can present an imminent

1 public safety danger?

2 A. According to the Commission, that is
3 correct.

4 Q. And it's a fair statement, isn't it, that
5 certain types of customer service line leaks can also
6 present an imminent public safety danger?

7 A. Certain kinds of leaks, yes.

8 Q. Mr. Hayes, are you familiar with the
9 January 2, 2007, Chairman Schriber letter sent to the
10 local distribution companies?

11 A. I'm familiar with the letter.

12 Q. And in that letter, Mr. Hayes, do you
13 recall Mr. Schriber encouraging all parties to begin
14 to take measures in reaction to the investigation
15 findings as soon as possible?

16 MR. SERIO: Objection, your Honor. The
17 Commission speaks through its orders and entries. A
18 letter by the Commissioner is nothing more than a
19 letter by an individual and anything that it did or
20 didn't suggest wasn't an order by the PUCO.

21 ATTORNEY EXAMINER KINGERY: Can you
22 rephrase your question, please?

23 Q. Mr. Hayes, are you familiar with that
24 letter by Chairman Schriber?

1 A. Yes.

2 Q. His personal request was that local
3 distribution companies begin to take measures in
4 reaction to the investigation findings as soon as
5 possible?

6 A. I believe that's what the letter states.

7 Q. And, Mr. Hayes, are you also familiar
8 with the January 23, 2000, letter -- excuse me, 2007
9 letter by again Chairman Schriber?

10 A. I'm sure I read it, yes.

11 Q. And are you familiar with his personal
12 commentary in that letter urging companies,
13 specifically local distribution companies, to deal
14 with the situation immediately?

15 A. I don't have the letter in front of me,
16 but I think that that's probably what it said.

17 MR. CREEKMUR: May I approach the
18 witness, your Honor?

19 ATTORNEY EXAMINER KINGERY: You may.

20 Q. Mr. Hayes, I am handing you what I have
21 characterized as a January 23, 2007, letter of
22 Chairman Schriber. Is that what is in front of you?

23 A. Yes, it is.

24 Q. And the second full paragraph, I believe

1 it's the second sentence, does Mr. Schriber -- excuse
2 me -- Chairman Schriber urge companies to address
3 these concerns immediately?

4 A. It says, "I urge your company to deal
5 with the situation immediately."

6 Q. Thank you, Mr. Hayes. Mr. Hayes, have
7 you conducted an analysis or study that would show
8 the results that the three-year period proposed by
9 Columbia to replace these risers is inappropriate?

10 A. I have not.

11 MR. CREEKMUR: Thank you for your time,
12 Mr. Hayes.

13 No further questions, your Honor.

14 ATTORNEY EXAMINER KINGERY: Thank you.

15 Mr. Howard, do you have any cross?

16 MR. HOWARD: No questions, your Honor.

17 ATTORNEY EXAMINER KINGERY: Mr. Aveni?

18 MR. AVENI: No questions, your Honor.

19 Thank you.

20 ATTORNEY EXAMINER KINGERY: Ms.

21 Hammerstein.

22 MS. HAMMERSTEIN: Mr. Reilly.

23 ATTORNEY EXAMINER KINGERY: Mr. Reilly.

24 MR. REILLY: Thank you, your Honor.

CROSS-EXAMINATION

By Mr. Reilly:

Q. Good morning, Mr. Hayes.

A. Good morning.

Q. I just have a few questions. I was looking over your experience in this field. I would like to talk to you about that for a few minutes, if I could. If you would look to page I think it's 2 -- page 1, to page 1 of your testimony.

A. The Introduction at the top, is that the page?

Q. Yeah, page 1.

A. Okay.

Q. Where you are talking about your experience generally, detailing it. In your experience going all the way back to '73 with Aetna --

A. Yes, sir.

Q. -- Insurance Company, while you were at Aetna did you deal with any gas pipeline safety issues? If you remember.

A. I don't recall dealing with any gas utility issues. I know that I did with electric utilities.

1 Q. When you were with Columbia of Kentucky.

2 A. Yes, sir.

3 Q. Those appear to be chiefly you were in
4 the marketing department, sales --

5 A. That is correct.

6 Q. -- for Columbia of Kentucky?

7 A. Yes.

8 Q. You wouldn't have dealt with gas pipeline
9 safety issues in there, would you?

10 A. Yes, yes, I probably would have.

11 Q. Do you remember any specific cases?

12 A. We would -- or I would provide
13 specifications to industrial accounts, service lines,
14 possibly regulation, in-house regulation, that type
15 of thing.

16 Q. Okay. But you weren't involved with
17 correcting problems in the field at that point in
18 time, correct?

19 A. I actually installed my own -- or
20 repaired my own service line and riser.

21 Q. Other than repairing your own service
22 line and riser in your time with Columbia of Kentucky
23 you weren't involved with varying conditions in the
24 field, correct? If I understand your testimony.

1 A. Not as part of my regular job. However,
2 I was given some training in case of strike and I
3 would be on strike duty, and they perform some of
4 that type of service.

5 Q. Do you recall any specific instances in
6 your career where you have dealt specifically with
7 gas pipeline safety issues in the field?

8 A. There have -- I am trying to think. I
9 know that there's been -- I can't remember the
10 company but there was -- there have been instances
11 when customers have had leaks and the businesses had
12 to be shut down until those leaks were repaired. And
13 that's a tough decision at times, closing down a
14 business while they repair --

15 Q. So you were involved with making the
16 decision whether to cut off service to the business?

17 A. At least in notifying the business.

18 Q. Notifying, you were involved with
19 notifying them their business would be -- the gas was
20 going to be shut off.

21 A. Yes.

22 Q. Okay. Since you have been with the
23 office of Consumers' Counsel have you been involved
24 in any -- other than this one, any gas pipeline

1 safety cases?

2 MR. SERIO: Objection, your Honor. I
3 wasn't aware this was a gas pipeline safety
4 procedure. It's not designated as that.

5 ATTORNEY EXAMINER KINGERY: Would you
6 rephrase your question, please?

7 MR. REILLY: If I might, your Honor, this
8 is not a gas pipeline safety enforcement proceeding,
9 that is correct, but this case is all about gas
10 pipeline safety. That is the whole reason we're here
11 is to talk about a plan to improve the gas pipeline
12 safety in Ohio. That is what the Commission's order
13 is about. That's what this case is about, and I
14 think the witness has presented testimony containing
15 questions -- raising questions and raising issues.
16 The question is ultimately are these issues that are
17 based -- that anybody who was not really familiar
18 with the field would have that which somebody
19 familiar with would have.

20 ATTORNEY EXAMINER KINGERY: No one is
21 evading what it is about. It's just --

22 MR. REILLY: I think it is an appropriate
23 question.

24 ATTORNEY EXAMINER KINGERY: Let me hear

1 the question read back then.

2 MR. REILLY: If the objection is it's not
3 about gas pipeline safety, it is about gas pipeline
4 safety. I think the question is relevant.

5 (Question read.)

6 ATTORNEY EXAMINER KINGERY: This is not a
7 GPS-designated case so it is certainly about gas
8 pipeline safety, no one is debating that, but it is
9 not designated as a GPS case.

10 MR. SERIO: My objection is to the word
11 "other."

12 ATTORNEY EXAMINER KINGERY: Yes, I
13 understand.

14 MR. HOWARD: Your Honor, I just want to
15 say Utility Service Partners respectfully disagrees
16 with the characterization made by Mr. Reilly. That's
17 all I'll say.

18 ATTORNEY EXAMINER KINGERY: Okay. So
19 noted.

20 MR. HOWARD: Thank you.

21 ATTORNEY EXAMINER KINGERY: Can you
22 please rephrase your question?

23 MR. REILLY: Yes.

24 Q. Tell me, Mr. Hayes, since your employment

1 with the Office of Consumers' Counsel, have you had
2 any contact with the Public Utilities Commission's
3 gas pipeline safety section?

4 A. I'm sorry. Somebody coughed. Could you
5 repeat the question?

6 MR. REILLY: Would you read it back.

7 (Question read.)

8 A. I may have. I don't know if -- I am -- I
9 might possibly might have talked to Mr. Steele in the
10 generic riser case, 05-463, I believe it is.

11 Q. If that occurred, would that have been
12 the only instance you can recall?

13 A. That's the only thing I can recall, yes.

14 Q. Now, as I understand your testimony, you
15 are raising questions -- strike that.

16 As I understand your testimony, you have
17 concerns about costs; is that correct?

18 A. That is correct.

19 Q. And you have concerns about the time
20 of -- the time of a project, is that correct, the
21 time involved?

22 A. I think my concern is the rush on this
23 application.

24 Q. Are you taking the position that it is

1 rushed, or you just think that more consideration
2 needs to be given?

3 A. Oh, I think it's rushed until my
4 answers -- or until my questions are answered.

5 Q. Okay. Now, I was looking through your
6 testimony, and the only questions I found were on
7 page 8 at the bottom of the page. I only found two
8 questions, and they ran from roughly lines 27 through
9 30 on page 8. Are there any other questions in your
10 testimony that I missed?

11 A. I think my questions are that there's
12 lack of detail in several areas. What is the answer
13 to those questions or what is the answer to those
14 details? It's lacking.

15 Q. And the purpose of your testimony was to
16 raise those questions, correct?

17 A. That is correct.

18 Q. In your testimony there is a great deal
19 of discussion about the ideas of Duke Energy,
20 correct?

21 A. Yes, there is.

22 Q. Does Duke Energy operate in Columbia's
23 territory?

24 A. Not that I am aware of.

1 Q. Okay. Duke Energy certainly is not the
2 LDC in Columbia's territory, correct?

3 A. That's correct.

4 Q. Does Duke Energy in Ohio -- does Duke
5 Energy - Ohio have as many customers as Columbia Gas,
6 if you know?

7 A. No, they do not.

8 Q. Okay. Does Duke Energy in Ohio cover as
9 large a geographical area as Columbia Ohio, if you
10 know?

11 A. They do not cover as large a geographical
12 area. I am not sure what the customer ratio is per
13 square mile that they cover, but the geographic area
14 is smaller, I will agree with that.

15 Q. Does Duke Energy - Ohio operate in the
16 same portions of Ohio as Columbia of Ohio, if you
17 know?

18 MR. SERIO: Could we get a definition of
19 portions of Ohio?

20 Q. Does Duke Energy - Ohio operate north of
21 Montgomery County?

22 A. I don't know.

23 Q. Does Duke Energy - Ohio operate in
24 northeastern Ohio as far as you know?

1 A. As far as I know, they do not.

2 Q. Does Duke Energy - Ohio operate in
3 northwestern Ohio as far as you know?

4 A. Not as far as I know.

5 Q. Does Duke Energy - Ohio operate in
6 central Ohio as far as you know?

7 A. Not that I am aware of.

8 Q. Are you aware of any geological studies
9 of the state of Ohio that would have discussed the
10 underlying -- the terrain underlying various parts of
11 the state?

12 MR. SERIO: Objection, your Honor. That
13 assumes facts not in evidence in this case. We don't
14 know that there is any geographical differences based
15 on anything in the record.

16 MR. REILLY: It's not important. The
17 important part there, the relevant part here is Duke
18 Energy - Ohio and Columbia Ohio have no known
19 similarities. The witness is -- besides the fact
20 they both provide gas. The witness has based a large
21 part of his testimony on what he learned from Duke.

22 Now, what we already have in evidence is
23 that the total population served by Columbia and Duke
24 are different. The areas served by Columbia and Duke

1 are different and that may lead to very different
2 risk determinations between Columbia and Duke. They
3 might not come up with the same risk determination
4 because the underlying facts on which they base those
5 risk determinations are entirely different. One of
6 those facts goes to how -- how easily they determine
7 there is a pull-out of these risers. That is
8 determined in some part by the underlying soil
9 conditions as I understand the staff report. The
10 soil conditions in northern Ohio may be much
11 different than in southern Ohio.

12 If the witness doesn't know, I think
13 that's relevant to his determination to base a large
14 part of his testimony on Duke. It certainly goes to
15 its credibility.

16 MR. SERIO: That presumes that the soil
17 conditions are different. There is nothing in the
18 record that talks about soil conditions. What we had
19 is Columbia say one is buried underground, one isn't,
20 and that's it. You know, to say that Columbia and
21 Duke have nothing in common except they are gas
22 companies is about as much an understatement as you
23 can make. They are both significant local
24 distribution companies. They both have significant

1 number of risers that are prone to leak and that need
2 to be replaced. So it's not out of the realm of
3 reasonableness that if one utility company is doing
4 it, it would be reasonable for the other to at least
5 consider that as part of its -- as part of its plan
6 to do its work.

7 That's all Mr. Hayes is saying, so to the
8 extent we are going to get into comparisons, the fact
9 that Duke has 300,000 customers versus a million,
10 those are facts that are -- you can take
11 administrative notice of. We are not saying they
12 have to be done identically.

13 ATTORNEY EXAMINER KINGERY: These are, to
14 a large extent, arguments that you can make in your
15 briefs. I am going to allow the question.

16 MR. REILLY: Thank you, your Honor.

17 Would you repeat the question, please.

18 (Question read.)

19 A. Yes, I am. Back in my economic
20 development days there are maps that show various
21 soil conditions for different parts of the state.

22 Q. And did you consult those in the
23 development of your testimony for this case?

24 A. No, I did not.

1 Q. Did you consider those in your evaluation
2 of the Duke -- of the Duke analysis that you relied
3 on in developing your testimony in this case?

4 A. No, I did not.

5 Q. Okay. In studying those maps that you
6 just referred to, do you recall any showing of a
7 movement of the glaciers and where that stopped?

8 A. Interesting question. Yes, I did.

9 Q. Okay. And can you tell us where it
10 stopped, roughly? I mean, I am not expecting you to
11 identify the exact line.

12 A. The glaciers, and I am no expert in this
13 case --

14 Q. I understand that.

15 A. But the glaciers did stop north of
16 Cincinnati.

17 Q. Thank you. And Cincinnati would be the
18 principal operating area of Duke Energy; is that not
19 correct?

20 A. That is correct.

21 Q. Okay. Are you aware -- do you recall
22 from your studies of that map back away's ago -- it is
23 no shame if you don't -- why that's significant?

24 A. That probably has to do with the

1 flattening out of the land and the gravel that's
2 underneath.

3 Q. Right. As the glaciers moved down, they
4 pulled rocks with them, right?

5 A. That's my understanding.

6 Q. Okay. So it would be a reasonable belief
7 that the land which had been covered by the glaciers
8 would have different soil conditions underneath it
9 than the land that was not?

10 MR. SERIO: Mr. Hayes is not a geologist.
11 He is not being presented as a geologist with any
12 expertise --

13 ATTORNEY EXAMINER KINGERY: Sustained.

14 MR. SERIO: -- in that area.

15 MR. REILLY: Could I have a moment, your
16 Honor?

17 ATTORNEY EXAMINER KINGERY: Yes.

18 Q. Mr. Hayes, I could direct you to page 9
19 of your testimony.

20 A. Yes, sir.

21 Q. On the first question and answer you
22 mention in page -- you reference in line 10 "unproven
23 safety benefits."

24 A. Yes, sir.

1 Q. Okay. What are you talking about there?
2 What safety benefits do you think are unproved?

3 A. Well, we don't know what type of riser is
4 going to be used. We don't know whether that's a
5 safe riser or not.

6 MR. REILLY: Thank you, Mr. Hayes.

7 Thank you, your Honor.

8 ATTORNEY EXAMINER KINGERY: Mr. Serio,
9 any redirect?

10 MR. SERIO: Yes, your Honor.

11 - - -

12 REDIRECT EXAMINATION

13 By Mr. Serio:

14 Q. Mr. Hayes, does your testimony say the
15 cost should be the only consideration in whether the
16 partial replacement or full replacement of leaking or
17 prone-to-leak risers in that decision-making process
18 should be considered?

19 A. No, it does not.

20 Q. And you do believe that safety is an
21 important consideration, do you not?

22 A. I believe safety is and that's I think
23 that in this case why I've raised the points about
24 the Duke solution is they've come up with what I

1 believe is a safe and lower cost solution.

2 Q. Mr. Hayes, since the beginning of this
3 year, since January when the Chairman sent out the
4 two letters, are you aware of Columbia going out and
5 replacing prone-to-leak risers that are not actually
6 leaking that are not disturbed by work on either
7 service lines or meter heads occurring?

8 A. I'm sorry. Repeat the question.

9 Q. You have been in the room the last couple
10 of days during cross-examination.

11 A. Yes, yes.

12 Q. And you are aware Columbia testified they
13 are currently replacing prone-to-leak risers that
14 actually leak, correct?

15 A. That is correct.

16 Q. And they also indicated they are
17 replacing prone-to-leak risers that are not
18 necessarily leaking but that might be disturbed if
19 there is work on the service line or the meter head,
20 correct?

21 A. That's correct.

22 Q. Did you hear any testimony from Columbia
23 that they are replacing prone-to-leak but not leaking
24 risers that are not covered by that other category

1 that I previously mentioned --

2 A. I did not hear they were replacing those.

3 MR. SERIO: That's all I have, your
4 Honor.

5 ATTORNEY EXAMINER KINGERY: Thank you.
6 Mr. Creekmur.

7 MR. CREEKMUR: Thank you, your Honor.

8 - - -

9 RECROSS-EXAMINATION

10 By Mr. Creekmur:

11 Q. Mr. Hayes, are you a DOT OQ qualified
12 plumber?

13 A. No, I am not.

14 Q. And, Mr. Hayes, are you aware of any
15 reports or studies that come to the conclusion that
16 Servi-Sert risers are safe?

17 A. No, I am not, other than they have been
18 tested by the manufacturer and by Battelle.

19 MR. CREEKMUR: No further questions, your
20 Honor.

21 ATTORNEY EXAMINER KINGERY: Thank you.
22 Mr. Howard?

23 MR. HOWARD: No, your Honor. Thank you
24 though.

1 ATTORNEY EXAMINER KINGERY: Mr. Aveni?

2 MR. AVENI: Just one or two, your Honor.

3 - - -

4 RECROSS-EXAMINATION

5 By Mr. Aveni:

6 Q. Mr. Hayes, you testified earlier that you
7 performed some work on your own personal customer
8 service line, and I understand from some questioning
9 a moment ago you are not an OQ certified plumber.

10 A. That's correct.

11 Q. The time you performed that work on your
12 customer service line, you were a Columbia Gas
13 employee, were you not?

14 A. In Kentucky, yes.

15 Q. Yes, sir. And did anyone inspect that
16 work that you had done?

17 A. That was done under supervision of the
18 customer service manager of Columbia Gas of Kentucky
19 at that time, yes.

20 MR. AVENI: Thank you, sir.

21 No further questions.

22 ATTORNEY EXAMINER KINGERY: Mr. Reilly?

23 MR. REILLY: No, your Honor, thank you.

24 ATTORNEY EXAMINER KINGERY: Thank you

1 very much. You may step down.

2 (Witness excused.)

3 MR. SERIO: Your Honor, I would move
4 admission of OCC Exhibit 13, Mr. Hayes prepared
5 testimony in the record.

6 ATTORNEY EXAMINER KINGERY: Any
7 objections?

8 It will be admitted.

9 (EXHIBIT ADMITTED INTO EVIDENCE.)

10 ATTORNEY EXAMINER KINGERY: I believe
11 there are no further witnesses. Okay. Let's go off
12 the record.

13 (Discussion off the record.)

14 ATTORNEY EXAMINER KINGERY: While we have
15 been off the record, we have discussed a number of
16 issues. The first one is how to get transcripts to
17 the various parties so that we can proceed with
18 continuing testimony in this proceeding. We do not
19 yet know the time when all parties will have the
20 transcript, so at this point we will set two
21 potential schedules for the remaining of the
22 proceeding.

23 The first, which we will call Schedule A,
24 will have a hearing on November 15 starting at 8

1 o'clock a.m. with a location to be set by Examiner
2 entry. This hearing would cover two issues. One is
3 rebuttal testimony which would be relating to the
4 testimony that we have gotten so far, and second
5 would be the stipulation that has been filed in this
6 case. For that we would require the rebuttal
7 testimony and the testimony in support of the
8 stipulation to be filed by November 6 at the close of
9 business and any surrebuttal testimony and testimony
10 in open session to the stipulation to be filed by
11 November 13 at noon.

12 While filings with the Commission would
13 be made by the standard process, filings to --
14 service to other parties would be done
15 electronically, and I would ask also that the
16 Attorney Examiner be electronically served at the
17 same time as other parties.

18 If it turns out that all parties are not
19 able to get expedited transcripts, then we will have
20 a different schedule covering the same matters. In
21 that event, the hearing would be on December 3 at
22 8:00 a.m. in a location to be set by Examiner entry.
23 Testimony in support of the stipulation and rebuttal
24 testimony would be due by close of business on

1 November 19. Surrebuttal testimony and testimony in
2 opposition to the stipulation would be due on
3 November 28. I would also note that if any party
4 requires a subpoena of a witness for this hearing,
5 that subpoena should be filed here at the Commission
6 by the same date and time that testimony on that
7 issue would be due.

8 Are there any other matters that I have
9 failed to address?

10 MR. SERIO: The 28th, is that noon or
11 close of business?

12 ATTORNEY EXAMINER KINGERY: On the 28th
13 that would be close of business.

14 MR. SERIO: Thank you, your Honor.

15 ATTORNEY EXAMINER KINGERY: Are there any
16 other issues I've missed?

17 MR. SERIO: Can we get your e-mail
18 address?

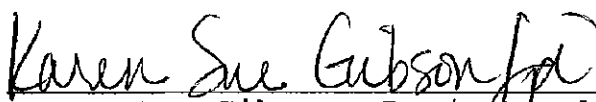
19 ATTORNEY EXAMINER KINGERY: Yes, I will
20 give you my e-mail address.

21 All right. Then at this point we are
22 adjourned.

23 (Thereupon, the hearing was adjourned at
24 11:44 a.m.)

CERTIFICATE

I do hereby certify that the foregoing is
a true and correct transcript of the proceedings
taken by me in this matter on Wednesday, October 31,
2007, and carefully compared with my original
stenographic notes.


Karen Sue Gibson, Registered
Merit Reporter.

(KSG-4794)

- - -

<p>A</p> <p>ABC 2:22 5:5 12:3,18 13:8 14:1,14,15 15:16,24 16:10 16:23 17:14 18:3,11 19:4 19:12 20:3 21:13,24 22:1 22:8,11,18,22 24:9 38:22 39:18 40:10,10 47:9,12</p> <p>ABC's 16:4</p> <p>ability 41:16</p> <p>able 17:14 32:6 38:10 77:19</p> <p>about 14:23 22:12 25:5 26:12 27:13 28:22 31:10 32:10 33:2 37:18 38:20 40:2 41:2,3,6 47:24 59:7,14 62:9,11,13,13 62:21 63:3,3,7 64:17,19 65:19 68:18,22 72:1 72:23</p> <p>above 54:3,4</p> <p>absolutely 35:7 37:16</p> <p>accept 25:8</p> <p>According 56:2</p> <p>Accounting 1:9</p> <p>accounts 60:13</p> <p>across 32:24 33:7,13,15 34:3</p> <p>action 30:5</p> <p>activities 42:6 42:7</p> <p>actually 10:15 35:13,17 60:19 73:5,14</p> <p>actuarial 33:1</p> <p>adaptor 54:5</p> <p>adaptors 51:11</p> <p>addition 28:6</p> <p>additional 19:6</p> <p>additions 7:14 13:17</p> <p>address 6:18 12:15 48:12,14 58:2 78:9,18 78:20</p> <p>adhere 42:16</p> <p>adheres 42:15</p>	<p>adjourned 78:22 78:23</p> <p>Adjustment 1:6</p> <p>administrative 69:11</p> <p>admission 7:22 14:1 47:9 76:4</p> <p>admit 8:13</p> <p>admitted 47:13 47:14,19,20 76:8,9</p> <p>ADMTD 5:3,5,8</p> <p>adopted 38:9</p> <p>advanced 19:22 19:22</p> <p>advertisements 19:13 21:18</p> <p>Aetna 59:17,20</p> <p>Affordable 2:18</p> <p>after 48:1</p> <p>again 51:10 57:9</p> <p>agency 42:3 46:5 53:3</p> <p>ago 70:22 75:9</p> <p>agree 50:8,14 66:14</p> <p>ahead 33:19</p> <p>air 15:9,10,13</p> <p>allow 40:5 45:15 53:6 69:15</p> <p>Almost 28:19</p> <p>along 25:2</p> <p>already 50:23 67:22</p> <p>always 41:10</p> <p>amount 19:16 20:3,18</p> <p>analysis 58:7 70:2</p> <p>and/or 16:5</p> <p>Anne 3:9</p> <p>answer 16:17 65:12,13 71:21</p> <p>answered 65:4</p> <p>answers 7:19 13:22 49:9 65:4</p> <p>anybody 7:8 62:17</p> <p>anyone 75:15</p> <p>anything 35:3 56:19 67:15</p> <p>anyways 53:4</p> <p>apologize 25:1 46:9</p> <p>appear 60:3</p> <p>APPEARANCES 2:1 3:1</p> <p>appliances 19:21 19:22</p>	<p>application 1:4 64:23</p> <p>appointment 22:24 23:5</p> <p>approach 12:22 57:17</p> <p>appropriate 26:12 62:22</p> <p>approval 1:5,9 29:22,24 30:4 44:18</p> <p>approved 39:2 52:4</p> <p>approximately 50:5,12</p> <p>area 66:9,12,13 70:18 71:14</p> <p>areas 65:12 67:24</p> <p>arguments 69:14</p> <p>arise 37:14</p> <p>ARMSTRONG 1:21</p> <p>arrange 23:5</p> <p>asked 13:20 21:14 36:18 37:17 38:19 52:6</p> <p>asking 17:18 45:12 53:6</p> <p>assembled 51:22</p> <p>Assistant 3:4,10 3:11</p> <p>Associated 1:7</p> <p>assume 11:13 15:20 16:18 20:11 22:12,14 23:22 24:4 26:16 36:10 47:2 52:23 53:9,16 54:9 55:20</p> <p>assumes 67:13</p> <p>assumption 18:11 19:8,11</p> <p>attention 8:11 24:21</p> <p>Attorney 1:14 3:7,8,11 6:4 7:5 8:1 9:5,8 9:24 10:22 11:12,16,19,23 12:23 13:9 14:5 21:8 23:17 26:23 27:6 34:13,16 36:8,12 39:9 40:4,18 43:2 45:14 46:23 47:2,5,10,15 47:23 48:23</p>	<p>49:16 51:4,18 53:5 56:21 57:19 58:14,17 58:20,23 62:5 62:20,24 63:6 63:12,18,21 69:13 71:13,17 72:8 74:5,21 75:1,22,24 76:6,10,14 77:16 78:12,15 78:19</p> <p>Augustine 10:16</p> <p>authorities 30:9</p> <p>authority 29:20 29:21 30:2,6</p> <p>authorize 6:21</p> <p>Automatic 1:6</p> <p>available 14:3 30:11 49:15</p> <p>Aveni 2:20 4:7,9 4:14 11:13,14 11:24 12:2,10 12:22,24 13:7 13:12,24 21:4 23:14 25:1,8 36:13,17 39:7 39:23 40:7 45:7,17 47:8 47:21 58:17,18 75:1,2,5,20</p> <p>aware 15:23 23:24 24:1 27:15 28:11 29:2,5,9 31:7 31:8 39:6 49:12 51:1 52:1,18 62:3 65:24 67:7,8 70:21 73:4,12 74:14</p> <p>aways 70:22</p> <p>a.m. 1:17 77:1,22 78:24</p>	<p>52:8,11 54:19 62:17 67:14,20</p> <p>Battelle 74:18</p> <p>Bear 24:23</p> <p>before 1:1,14 27:16,18 28:7 30:4 44:19 50:6</p> <p>begin 56:13 57:3</p> <p>beginning 33:5 73:2</p> <p>begins 24:22 32:23</p> <p>behalf 2:5,10,14 2:18,22 3:6,13 7:3 12:18 27:7 27:9</p> <p>being 6:13 8:14 12:7 14:14 31:21 38:10 48:7 52:9 71:11</p> <p>belief 71:6</p> <p>believe 9:11 13:23 19:11 24:19 40:15 42:9 43:12,19 43:21 46:15 51:7 53:12 57:6,24 64:10 72:20,22 73:1 76:10</p> <p>believed 41:21</p> <p>benefits 71:23 72:2</p> <p>Bentine 2:12</p> <p>besides 28:3 67:19</p> <p>best 30:11,16 31:1,6 37:19 37:23,24 38:12 41:4,6,9,16,16 41:19,22</p> <p>better 53:18</p> <p>between 19:13 32:11 54:2,3 68:2</p> <p>beyond 31:23 36:4</p> <p>blank 16:14</p> <p>both 38:7 55:6 55:11 67:20 68:23,24</p> <p>bottom 65:7</p> <p>Box 2:8,16</p> <p>bracket 54:7</p> <p>breaks 37:5</p> <p>briefly 36:14</p> <p>briefs 69:15</p>
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Broad 1:15 2:20 3:4, 11 48:14 Bruce 4:11 5:9 48:4, 6, 13, 17 buried 68:19 business 6:18 12:15 27:13, 20 27:21 28:14, 21 29:1, 4, 12, 13 29:17 30:1, 18 30:19, 24 31:3 37:15, 18, 20, 23 38:2, 11 41:2 44:10, 20 48:11 48:14 61:14, 16 61:17, 19 77:9 77:24 78:11, 13 businesses 61:11	56:5, 7 certainly 8:23 17:22 18:16 27:14 28:11 63:7 66:1 68:14 CERTIFICATE 79:1 certified 22:23 23:3 75:9 certify 79:2 Chairman 56:9, 24 57:9, 22 58:2 73:3 chance 19:9 characterization 63:16 characterized 57:21 charge 20:3 Chester 2:11 Chief 3:10 chiefly 60:3 choice 17:15 choose 17:15 chosen 44:2 Cincinnati 70:16 70:17 Civic 2:3 claim 22:11, 19 22:22 clarification 38:1 51:15 54:8 clarify 16:23 23:18 51:7, 19 Clause 1:7 clear 41:1 42:12 clearance 54:7 54:10 clearances 54:14 clearly 31:21 close 77:8, 24 78:11, 13 closing 61:13 closings 28:9 Codes 42:16 Columbia 1:5 2:5 9:11, 15 15:20 17:6, 10, 24 18:18 19:1 22:3, 5, 8, 17 24:14, 18 39:3 42:15, 19, 23 43:5, 6 45:20 46:5 54:20 58:9 60:1, 6, 22 66:5, 9, 16 67:18, 23, 24 68:2, 19, 20 73:4, 12, 22	75:12, 18 Columbia's 17:5 45:24 46:2 54:14 65:22 66:2 Columbus 1:16, 22 2:4, 9, 13, 21 3:5, 12 12:17 48:15 come 47:24 68:3 72:24 74:15 commentary 57:12 Commission 1:1 1:15 3:13 27:7 27:10 56:2, 17 77:12 78:5 Commissioner 56:18 Commission's 50:19 62:12 64:2 common 68:21 companies 10:10 26:12 28:22 30:14 38:21 41:13 56:10 57:3, 12, 13 58:2 68:22, 24 company 8:14 17:17 18:22 22:13 23:11 27:16 30:22, 23 31:16, 24 35:1 37:7 38:13 39:21 40:13 41:4, 5, 8, 18 43:4, 6, 14, 16 44:2, 6, 9 46:13 58:4 59:19 61:10 69:3 company's 31:2 35:6 compared 79:5 comparisons 69:8 compete 38:22 competition 39:3 complete 20:12 20:14 comply 29:16 comprehensive 28:5 concern 55:1, 10 64:22 concerning 18:17 concerns 58:3 64:17, 19 conclusion 45:8 45:15 53:3, 6 74:15	condition 26:18 conditioner 15:9 15:11 conditioners 15:13 conditions 60:23 68:9, 10, 17, 18 69:21 71:8 conducted 58:7 confirming 52:15 confirms 46:5 confused 41:2 confusion 52:7 consider 69:5 70:1 consideration 53:13 65:1 72:15, 21 considered 72:18 consult 69:22 consumers 3:2, 4 3:6 53:18 61:23 64:1 contact 22:3 23:4, 6 41:12 64:2 contacted 26:11 52:5 contacts 22:24 containing 62:14 contend 16:18 continuation 6:5 continued 3:1 37:11 continuing 76:18 contract 35:22 contractors 18:20 copied 41:16, 18 41:20 copy 7:8 13:5 correct 8:16 9:4 9:20 11:14 16:9 17:1, 2 18:9 22:6, 19 22:20 24:6, 12 25:14, 15, 17, 18 25:21 29:8 30:9 31:3 32:16, 17, 20 33:14 35:4, 9 36:11 41:6, 24 42:1, 4, 5, 20 44:4, 8 47:4 50:2, 3 52:12 52:13 53:21 54:5, 6, 12 55:4 56:3 60:5, 18 60:24 62:9 64:17, 18, 20	65:16, 17, 20 66:2, 3 70:19 70:20 73:14, 15 73:20, 21 75:10 79:3 correcting 60:17 corrections 7:15 13:18 49:11, 13 correctly 42:21 43:4 52:10 corrosion 25:19 cost 53:12, 16 72:15 73:1 costs 1:7 18:22 20:7, 7 53:20 64:17 coughed 64:4 counsel 3:2, 4 40:1 61:23 64:1 count 25:4 county 29:21 30:2, 5 66:21 couple 34:24 39:11 40:24 73:9 course 15:16 37:15 cover 16:1, 10, 12 16:23 17:2 19:20 23:24 24:2 25:16, 19 28:4 35:8, 14 35:18 37:8, 10 37:11 66:8, 11 66:13 77:2 coverage 14:15 14:19, 24 16:5 19:13, 14 22:13 30:10 31:16, 19 31:21 32:19 38:4 40:2 covered 21:13 36:20 37:6 71:7 73:24 covering 18:22 77:20 credibility 68:15 Creekmur 2:3 4:5 4:8, 10, 12, 14 8:4, 7 9:22 14:7, 8, 11 21:10 26:20 36:19 39:10, 11 39:15 40:1, 6 40:16 49:18, 19 49:22 51:20 57:17 58:11 74:6, 7, 10, 19
--	---	---	--	---

cross 36:10 58:15	debating 63:8	direct 4:4,7,12 6:15 8:11 12:9 21:14,18,20 24:20 39:17 40:9 48:9 71:18	E	evidence 47:14 47:20 67:13,22 76:9
cross-examina... 4:5,5,6,8,8,9 4:12,13 7:23 7:24 8:6 10:5 11:1 14:2,3,10 27:3 34:20 49:15,21 59:1 73:10	decay 32:24 33:7 33:9,11,16,18 34:3	direction 49:6 disagrees 63:15 discussed 31:11 67:9 76:15	E 3:3 each 19:1 earlier 30:13 75:6 easily 68:6 East 1:15 2:8,12 2:20 3:11 economic 69:19 edict 42:3,19 effectuate 8:19 effectuates 9:1 24:9 either 73:6 electric 59:23 electronically 77:15,16 elicited 36:19 Elston 52:6 employee 75:13 employees 38:3 52:11 employment 63:24 encouraging 56:13 endeavors 30:1 Energy 2:18 65:19,22 66:1 66:4,5,8,15,20 66:23 67:2,5 67:18 70:18 enforcement 62:8 engaging 44:19 enormous 20:6 enough 26:5,13 26:14 enrollment 21:15 28:8 entirely 68:5 entitled 7:2 entity 9:15 entries 56:17 entry 77:2,22 escapes 46:9 Establishment 1:7 estate 28:9 estimates 54:19 evading 62:21 evaluation 70:1 even 9:14,18 24:17 39:18 event 16:20 36:24 77:21 events 16:12,15 36:20,23 37:13 40:3 ever 46:11 everyone 25:1	exact 70:11 exactly 10:18 Examination 4:4 4:7,9,12,13 6:15 12:9 48:9 72:12 examined 6:14 12:8 48:8 Examiner 1:14 6:4 7:5 8:1 9:5,8,24 10:22 11:12,16,19,23 12:23 13:9 14:5 21:8 23:17 26:23 34:13,16 36:8 36:12 39:9 40:4,18 43:2 45:14 46:23 47:2,5,10,15 47:23 48:23 49:16 51:4,18 53:5 56:21 57:19 58:14,17 58:20,23 62:5 62:20,24 63:6 63:12,18,21 69:13 71:13,17 72:8 74:5,21 75:1,22,24 76:6,10,14 77:1,16,22 78:12,15,19 example 37:2,4 54:22 examples 26:9,10 excavation 26:11 26:17 except 68:21 excluded 18:8 excluding 18:23 excuse 16:13 22:8 54:3 57:8 58:1 excused 47:7 76:2 Exhibit 7:4,7,10 7:22 13:8,11 14:1 47:9,12 47:14,17,18,20 48:21 49:1 76:4,9 EXHIBITS 5:3,5,8 exist 17:8 54:14 exists 17:7 23:16,16
current 8:18,23 8:24 9:17 24:8 39:18 40:10	decaying 24:22 25:10,12,13	discussion 9:7 11:22 65:19 76:13		
currently 9:11 16:1 24:14 35:1 73:13	December 77:21	distinction 38:2 distinguish 19:12		
customer 8:16,20 9:3,12,17 10:12,13 15:21 16:10,24 17:4 17:11 19:8,9 19:17,19 20:1 20:16,19 21:24 22:2,4,11,13 22:18,22,24 23:4,7,13,23 24:5,11,15 31:4 35:11 38:1,8,14 39:19,20 44:14 56:5 66:12 75:7,12,18	decision 61:13 61:16 decision-making 72:17 defective 11:7 define 20:14 defined 40:3 definition 51:8 66:18 department 38:18 42:11,12 43:5 43:7,13,14,18 43:20,22 44:2 44:16,19,23 45:3,6,11 60:4	document 7:2 13:2,4,8 48:17 doing 9:15,19 11:7 18:19 19:1 41:23 42:2 69:3 done 23:2 46:22 69:12 75:16,17 77:14 DOT 18:1 22:23 23:3 74:11 Doug 52:5 down 10:10,18 11:20 32:22 42:19 47:6 61:12,13 71:3 76:1		
customers 17:14 19:16,24 21:1 21:11 32:3,15 39:17,17,18 40:10,11 41:15 61:11 66:5 69:9	depending 20:9 Deputy 3:8 designated 62:4 63:9 designed 37:10 detail 65:12 detailing 59:15 details 65:14 determination 30:16,22 31:1 33:13 41:5,8 68:3,13 determinations 41:3,5 68:2,5 determine 17:7 68:6 determined 41:19 68:8 determines 22:9 determining 53:13 develop 32:6 developing 70:3 development 69:20,23 device 52:19 difference 20:11 differences 67:14 different 19:16 20:3 67:24 68:1,1,5,11,17 69:21 71:8 77:20 differs 27:24 dig 16:11,19,23 17:2	drawing 38:2 Drive 2:3 Duane 3:8 due 16:6,11 22:17 77:24 78:2,7 Duke 52:3,11,15 54:22 55:15 65:19,22 66:1 66:4,4,8,15,20 66:23 67:2,5 67:17,21,23,24 68:2,14,21 69:9 70:2,2,18 72:24 Duke's 54:19 duly 6:13 12:7 48:7 during 73:10 duty 61:3		
cut 54:5 61:16				
D				
damage 25:20,22 26:5 damaged 8:15 9:12 23:12,23 24:2 danger 56:1,6 Daniel 2:3 Dann 3:7 date 78:6 dated 48:18 David 2:15 day 6:5 44:8 days 69:20 73:10 deal 57:13 58:4 59:20 65:18 dealing 59:22 dealt 60:8 61:6				

expecting 70:10	field-assembled	55:11	72:4 73:4	47:12,18 76:24
expedited 77:19	51:23	furnace 15:4	Good 8:8,9 10:7	77:2,21 78:4
experience 20:20	Fifth 1:21	further 9:23	10:8 11:3,4	78:23
20:22 59:6,15	filed 6:22 12:20	26:22 32:22	12:11 14:12,13	heater 15:7
59:16	13:6,15 77:5,8	39:7 40:17	34:22,23 49:23	Hebbeler's 50:2
expert 70:12	77:10 78:5	58:13 74:19	49:24 59:3,4	HENRY 46:19
expertise 71:12	filings 77:12,13	75:21 76:11	Goods 12:13	highly 38:16,17
experts 55:12	find 21:1,11		gotten 77:4	42:7
explain 18:15	32:1,3	G	governmental	him 45:12 52:6
44:24	findings 50:21	Gary 50:2	29:19 30:6,9	home 19:19 34:6
explanation 51:9	56:15 57:4	gas 1:5 2:5,14	42:3	34:7 39:22
extensive 28:4,6	Findlay 2:17	2:22 12:18	GPS 63:9	40:14
extent 69:8,14	Fine 12:13	13:8 14:1,15	GPS-designated	homeowners 37:8
e-mail 78:17,20	first 6:13 12:7	14:24 15:4,6	63:7	39:21 40:3,13
	24:21 26:11	15:10,16 16:1	gravel 71:1	homes 19:20,21
F	36:23 48:7	21:2,12 22:1,3	great 65:18	Honor 6:8 7:1,21
fact 28:3 67:19	71:21 76:16,23	22:5,6,9,10,17	greater 19:9	8:4 9:23 10:3
69:8	fit 30:18,19	32:19 35:8,12	ground 54:2,3,4	10:21,24 11:11
factory-assem...	fits 37:20 38:11	37:5 38:22	group 28:23,24	11:17 12:2,22
51:21	38:11	39:4,19,21	29:1,4,7	13:7,12,24
facts 67:13 68:4	fixed 20:7	40:11,13 42:15	guess 44:22	14:8 21:4,10
68:6 69:10	flattening 71:1	42:16,20,23,23		23:14 26:22
fail 53:1	Floor 2:16 3:11	47:9 59:20,22	H	34:12,15,18
failed 53:10	Florida 10:9	60:8 61:7,19	Hammerstein 3:9	36:7,11,13
78:9	flow 15:3,6,10	61:24 62:3,8,9	4:5 10:2,3,6	39:11,23 40:1
falls 16:6	15:13	62:11 63:3,3,7	10:20 26:24	40:17,20 43:1
failures 50:23	follow 30:8	64:3 66:5	51:2 58:21,22	45:7,17 46:17
51:9,13	42:14 43:22	67:20 68:21	hand 7:9 13:1	46:22,24 47:8
fair 9:10 18:11	44:2	75:12,18	handing 57:20	47:21 48:22
19:3,7,11	following 41:23	Gas's 12:3	happened 32:14	49:14,19 51:2
23:21 24:4,13	42:3	gave 33:23 37:19	55:16	51:14,20 53:2
24:16 26:16	follows 6:14	Gay 2:8	happens 31:15,17	56:16 57:18
54:9 55:20,23	12:8 48:8	general 3:7,8,11	having 26:11	58:13,16,18,24
56:4	follow-ups 32:1	29:4,7 33:2,13	Hayes 4:11 5:9	62:2,7 63:14
falls 37:4	foregoing 79:2	33:16	48:4,6,13,17	67:12 69:16
familiar 11:5	forms 25:22	generally 28:15	49:3,14,23	71:16 72:7,10
13:2 17:23	forth 7:19	37:18 59:15	50:1,18 51:7	74:4,7,20,23
35:24 50:18	found 19:20 65:6	General's 27:6	51:24 52:2,18	75:2,23 76:3
51:9 55:7,12	65:7	generic 64:10	52:23 53:12,23	78:14
55:18 56:8,11	Fourth 2:16	geographic 66:13	54:9,13,18,24	hope 22:5
56:23 57:7,11	frequency 32:6	geographical	55:2,10,23	house 37:5
62:17,19	from 22:4,23	66:9,11 67:14	56:8,12,23	Howard 2:6,7 4:4
far 15:23 66:24	30:1,5 31:16	geological 67:8	57:7,20 58:6,6	6:8,16 7:1,8
67:1,3,4,6	35:3 42:3	geologist 71:10	58:12 59:3	7:21 11:17
77:4	43:17 44:7,10	71:11	63:24 69:7	36:11 47:4
fault 34:9	44:18 65:8	Gibson 79:8	71:10,18 72:6	58:15,16 63:14
Fax 1:23	67:21 70:22	give 26:10 78:20	72:14 73:2	63:20 74:22,23
feasible 18:23	73:22 75:8	given 61:2 65:2	74:11,14 75:6	H-A-Y-E-S 48:13
federal 44:7,11	front 12:16	gives 31:21	76:4	
feel 21:15 52:9	57:15,22	glaciers 70:7,12	head 11:6 36:1	I
fell 25:2	Fuel 42:16	70:15 71:3,7	51:16 53:24	idea 53:11
felt 41:20	full 11:8 36:2	go 6:4 9:5,8	54:5 73:19	ideas 65:19
few 8:10 26:10	53:18 57:24	11:21,23 33:19	heads 73:7	identically
27:13 50:11	72:16	76:11	hear 27:8 55:6	69:12
59:5,7	Funk 4:4 5:4	goes 68:6,14	62:24 73:22	identification
field 51:22	6:10,12,19 7:3	going 7:9 13:1	74:2	7:7 13:11
55:12 59:6	7:9,14,17 8:8	20:8 21:4 26:9	heard 27:16 36:4	48:21 49:1
60:17,24 61:7	8:13,18 9:10	40:4 59:16	46:11 55:9	identified 35:13
62:18	9:14,22 11:3	61:20 69:8,15	hearing 36:5	identifies 31:6
	47:16 55:3,6			

identify 7:11 70:11 IDFD 5:3, 5, 8 Idzkowski 3:3 II 2:20 III 1:19 immediately 57:14 58:3, 5 imminent 55:24 56:6 implied 30:13 important 18:22 67:16, 17 72:21 improve 62:11 inappropriate 58:9 Inc 1:5, 21 2:10 2:14, 22 7:4 inches 54:2, 7, 10 include 26:3, 5 including 38:21 increases 19:23 indeed 53:20 INDEX 4:1 5:1 indicate 20:6 21:16, 17, 20 35:1 indicated 18:18 41:14, 14 73:16 indicates 21:24 50:22 indications 52:8 individual 30:21 33:11 34:6, 7 41:4 56:19 industrial 60:13 industry 30:11 30:14, 17 31:2 31:7 38:9 41:24 information 17:24 19:6 informed 33:23 Infrastructure 1:8 input 31:4 inquired 40:2 ins 16:11, 24 inside 14:15, 20 19:21 inside/outside 14:23 inspect 17:6, 11 22:8 75:15 inspects 22:9 installation 19:2 52:7 installed 50:11 52:10 60:19	installing 52:3 instance 64:12 instances 61:5 61:10 instruct 22:1 insurable 16:12 16:19 36:20, 23 36:24 37:13 40:2 insurance 37:7, 8 39:22 40:3, 14 59:19 insured 21:3, 5 intentional 31:23 interchange 11:6 36:1 51:16 interest 19:4 Interesting 70:8 interior 42:14 42:16 internally 23:2 International 46:20 Interstate 2:14 Introduction 59:10 investigation 56:14 57:4 involved 60:16 60:23 61:15, 18 61:23 64:21 involvement 26:1 26:4 in-house 60:14 IRP 15:20 23:19 23:21, 24 24:2 39:2, 3 issue 53:14 78:7 issues 35:22 59:21, 23 60:9 61:7 62:15, 16 76:16 77:2 78:16 J J 2:7 4:7 12:3, 6 12:16 Janine 3:2 January 56:9 57:8, 21 73:3 Jeanne 1:14 job 18:21 20:8 61:1 John 2:12 Joseph 3:3 just 8:10 25:5 27:12 28:15 29:12 33:12	36:13 39:11 40:24 41:1 43:3 45:12 46:7, 21 47:23 59:5 62:21 63:14 65:1 70:6 75:2 K Karen 79:8 Kentucky 60:1, 6 60:22 75:14, 18 kind 28:24 29:3 42:19 53:4 kinds 56:7 Kingery 1:14 6:4 7:5 8:1 9:5, 8 9:24 10:22 11:12, 16, 19, 23 12:23 13:9 14:5 21:8 23:17 26:23 34:13, 16 36:8 36:12 39:9 40:4, 18 43:2 45:14 46:23 47:2, 5, 10, 15 47:23 48:23 49:16 51:4, 18 53:5 56:21 57:19 58:14, 17 58:20, 23 62:5 62:20, 24 63:6 63:12, 18, 21 69:13 71:13, 17 72:8 74:5, 21 75:1, 22, 24 76:6, 10, 14 78:12, 15, 19 know 10:15 18:24 27:24 28:14 31:16, 17, 23 32:14 51:11 55:22 59:23 61:9 64:8 66:6 66:10, 17, 22, 24 67:1, 3, 4, 6, 14 68:12, 20 72:3 72:4 76:19 knowing 21:2, 12 knowledge 54:13 known 67:18 KSG-4794 79:10 L L 3:2, 9 lack 16:21 65:12 lacking 65:14 land 71:1, 7, 9	Lane 6:20 language 29:7 large 66:9, 11 67:20 68:13 69:14 last 51:5 73:9 law 6:13 12:7 48:7 LDC 8:14 10:13 23:11, 22 24:4 45:20 66:2 LDCs 45:19, 21, 22 lead 68:1 leak 17:5, 7, 7, 11 19:9 20:20 22:1, 6, 9, 18 25:17, 20, 24 26:5, 8 35:13 40:11 69:1 73:14 leakage 35:22 50:6 leaking 8:15 9:12 16:2 23:12, 23 24:1 24:5, 15 35:17 36:2 72:16 73:6, 18, 23 leaks 16:10 20:23 22:10 35:13, 19 37:14 39:19 50:23 51:9, 13 56:5, 7 61:11, 12 learned 67:21 least 22:4 54:2 61:17 69:4 legal 45:8, 15 53:3, 6 length 19:24 20:5, 10 lengths 20:13 less 20:19 54:10 let 43:9, 10 55:1 62:24 letter 56:9, 11 56:12, 18, 19, 24 57:6, 8, 9, 12, 15 57:21 letters 73:4 let's 6:4 9:5, 8 11:21, 23 26:3 36:24 37:4 47:24 76:11 level 29:14 like 6:9 7:1 13:7 14:2 18:12 27:12 37:8 48:20 50:15 59:7	line 14:16, 24 15:16 16:1, 6 19:13, 14, 17, 19 20:1, 6, 16 21:2 21:13 24:21 25:13 26:6, 8 32:10, 23 39:4 42:13 45:24 46:2 56:5 60:20, 22 70:11 71:22 73:19 75:8, 12 lines 8:12, 13, 16 8:21 9:3, 12, 17 10:13, 14 14:20 14:21 15:3, 6 15:10, 13, 21 16:11, 24 17:11 18:8 19:8, 10 20:4 23:13, 23 24:1, 3, 6, 11, 15 25:12, 14, 16, 23 32:20 33:8, 16 33:24 34:3 37:5 38:1, 14 44:14 60:13 65:8 73:7 listening 16:14 little 32:22 live 10:9, 15 LLP 2:6, 11, 19 local 8:14 10:9 10:16, 17 23:11 56:10 57:2, 13 68:23 location 26:12 33:3 77:1, 22 long 28:14 longer 20:4 50:16 look 59:8 looked 38:7 55:16 looking 44:7 54:16 59:6 65:5 looks 13:2 lower 73:1 Luckey 3:8 M M 2:6, 7 4:11 5:9 48:6, 13, 17 made 30:22 38:10 41:5, 8 63:16 77:13 mailings 21:18 21:20 39:17 40:10
--	--	--	--	---

Main 2:15	meter 73:7,19	most 23:9 39:21	northwestern	12:17 35:2
make 7:15 8:15	method 52:20	39:22 40:13,14	67:3	38:24 48:15
9:12 13:18	Michael 2:7 3:3	41:15	note 78:3	62:12 66:4,5,8
14:2 18:23	Migden-Ostrander	motion 47:16	noted 63:19	66:9,15,16,16
22:22 23:23	3:2	move 7:21 14:1	notes 79:6	66:19,20,23,24
24:5,15 25:6	might 25:19,23	47:9 76:3	nothing 11:10,13	67:2,3,5,6,9
29:12 30:15	26:10 32:1	moved 71:3	11:15 46:24	67:18,18 68:10
33:12,15,17	41:2 51:8 62:7	movement 70:7	47:3 56:18	68:11
36:1 41:1,11	64:9,9 68:3	much 8:2 10:1	68:17,21	okay 10:12 13:17
43:9 68:23	73:18	11:18,20 14:6	notice 31:20	26:15 27:11,20
69:14	mile 66:13	36:9 47:6	69:11	28:19,21 29:3
making 23:12	million 69:9	49:17 68:10,22	notifying 61:17	29:6 30:15
43:23 61:15	mind 21:2,12,22	76:1	61:18,19	31:5,5 32:5,22
manager 75:18	23:20 40:8	multiple 45:23	November 76:24	33:5,17 34:1,5
mand 22:10	minimum 54:1	48:16	77:8,11 78:1,3	34:10 37:6,9
manner 52:4	minute 9:6	multi-page 7:2	number 22:7 69:1	37:17 38:19
manual 54:17	minutes 27:13	municipal 29:21	76:15	39:2 42:2,18
manufacturer	47:24 48:1	30:2,5	numbers 25:2	43:11 44:6,22
74:18	59:7	Murphy 2:19		59:13 60:16
manufacturer's	mischaracterized		O	61:22 63:18
52:6,17	51:8	N	oath 7:18 13:21	65:5 66:1,8
many 38:3,3 66:5	mischaracterizes	Nagy 52:5	object 21:5	70:5,9,21 71:6
map 70:22	21:6	name 6:17,19	39:23	72:1 76:11
maps 69:20 70:5	missed 65:10	12:14 27:5	objection 45:7	OKAY 1:21
mark 3:7 48:20	78:16	46:9,13 48:11	53:2 56:16	old 54:4
marked 7:2,6,7	misunderstood	48:13	62:2 63:2,10	one 9:19 24:23
7:10 13:8,10	44:1	National 42:16	67:12	28:5 35:11
13:11 48:24	model 30:18,19	nearly 28:20	objections 47:11	61:24 62:20
49:1	30:24 31:3	necessarily 17:9	47:17 76:7	63:8 68:5,19
marketing 60:4	37:21	18:14 20:6,17	OCC 5:8 48:3,21	68:19 69:3
marketplace	moment 34:11	30:12 45:21	52:23 53:3,9	75:2 76:16
38:24 39:5	42:24 46:21	73:18	76:4	77:2
marshals 44:8,11	71:15 75:9	necessary 8:20	occasion 12:19	only 14:21 15:20
material 18:20	Montgomery 66:21	9:2,16 24:10	occur 25:23	16:5 18:6,17
18:21	Morbitz 4:7	53:13	26:10 33:18	20:18 23:24
matter 1:3 79:4	5:7 12:3,6,11	need 7:8 69:1	occurred 64:11	35:21 50:11
matters 77:20	12:16,18 13:1	needs 65:2	occurring 73:7	53:13 64:12,13
78:8	13:13 14:12,14	network 22:23	October 1:17 6:2	65:6,7 72:15
may 6:6 8:3	15:19 16:18	never 20:20	48:18 79:4	open 77:10
11:20,24 12:22	17:4,10,14,23	21:14	off 9:5,7 11:21	operate 10:10
12:23 18:23	18:15 19:7	newer 19:19,20	11:22 22:10,17	30:12 65:22
20:18 22:1	20:19 21:11	19:21	25:2 52:11	66:15,20,23
34:13 36:14	22:21 23:10	next 6:6 44:8	54:5 61:16,20	67:2,5
47:6,21 57:17	24:20 25:11	NiSource 2:2	76:11,13,15	operating 70:18
57:19 64:8	26:3,16,21	nominal 53:17,20	offer 14:19,24	operation 37:11
68:1,10 76:1	27:5 29:10	53:22	15:12 27:22	opportunity
mean 23:15 27:21	31:9 34:14	none 47:12,18	28:3,5 38:10	13:14
29:20 44:23	36:18 39:16	nonspecific	offered 18:13	opposed 33:2
70:10	40:9,16 41:1	16:21	28:8	opposition 78:2
meaning 8:24	55:3,7,11	non-friendly	offering 41:13	option 31:22
23:11 24:8	more 19:21 20:22	36:10	offers 9:1 14:15	OQ 18:1 74:11
50:24 53:24	28:3 40:24	noon 77:11 78:10	15:16	75:9
measures 56:14	56:18 65:1	Normac 50:5	office 27:6	order 19:6 45:2
57:3	morning 6:1 8:8	normal 16:6	61:23 64:1	45:4 56:20
meet 45:2,5,11	8:9 10:7,8	north 66:20	Oh 2:17 65:3	62:12
mention 71:22	11:3,4 12:11	70:15	Ohio 1:1,5,15,16	orders 56:17
mentioned 15:17	12:13 14:12,13	northeastern	1:22 2:4,5,9	ordinary 37:14
74:1	34:22,23 49:23	66:24	2:13,18,21 3:2	original 79:5
Merit 79:9	49:24 55:2	northern 68:10	3:5,6,7,12,13	Originally 28:17
	59:3,4			

<p> originated 28:17 other 10:17 15:15,16 25:22 26:4 30:14 32:15 35:3 38:21,22 39:22 40:14 41:12 45:21 52:16,19 60:21 61:24 63:11 65:9 69:4 73:24 74:17 77:14,17 78:8,16 otherwise 22:15 out 19:23 32:1,4 46:18 55:16 69:2 71:1 73:3 73:4 77:18 outside 14:16,21 15:21 37:13 39:24 52:15 over 16:15 33:6 33:21 52:7 59:6 own 10:13 35:6 60:19,20,21 75:7 ownership 15:21 o'clock 77:1 </p> <hr/> <p> P </p> <p> P 3:3 page 4:3 8:11 24:21 25:10,13 32:9,22 33:6,6 33:24 48:16 59:8,9,9,11,12 65:7,7,9 71:18 71:22 paragraph 57:24 part 61:1 67:17 67:17,21 68:8 68:14 69:5,5 partake 18:12 partial 11:6 36:1 53:24 72:16 participate 18:24 parties 56:13 76:17,19 77:14 77:17,18 Partners 2:10,18 6:9,21 7:4 27:16 29:11 63:15 parts 10:17 67:10 69:21 party 26:7,17 </p>	<p> 78:3 Patchen 2:19 pay 16:5 19:16 20:19,22 peace 21:1,12,22 Pease 2:6 pending 47:16 people 45:10 per 66:12 percent 32:11,15 32:18 54:21,23 Perfection 51:16 51:23 52:6 Perfection's 50:24 51:11 perform 24:18 31:24 43:23 45:4 61:3 performed 75:7 75:11 performing 44:3 period 28:7 55:17 58:8 permanent 53:14 person 9:15 personal 57:2,11 75:7 Petricoff 2:6 phone 22:7 physical 8:19 9:1,16 24:9,18 pick 16:14,15 pinhole 25:16 pipe 16:19 25:20 pipeline 59:20 60:8 61:7,24 62:3,8,10,11 63:3,3,8 64:3 place 50:5 plan 62:11 69:5 plastic 16:10,19 16:24 19:9,13 19:14,18 please 6:17,18 12:14 21:9 30:3 39:12 48:11 51:5 53:8 56:22 62:6 63:22 69:17 plumber 17:15 22:23 23:3 74:12 75:9 plumbers 18:1 point 13:18 54:2 54:4 60:17 76:20 78:21 points 19:1 72:23 </p>	<p> population 32:24 33:2,7,13,16 34:3 67:23 portions 66:16 66:19 position 64:24 possibility 32:21 possible 32:18 56:15 57:5 possibly 60:14 64:9 post-RFP 23:16 potential 39:17 40:10 76:21 practice 41:6 practices 30:11 30:16 31:1,6 37:19,24,24 38:2,9,12 41:4 41:9,22 predictable 32:24 33:7,9 34:2 predicted 33:12 prediction 33:15 33:17 prefiled 5:4,6,9 12:19 13:14,22 25:3 prepare 6:22 12:19 prepared 7:12 48:17 49:2,5 76:4 prescribed 6:13 12:7 48:7 present 50:1 55:24 56:6 presented 18:17 62:14 71:11 presumes 68:16 previously 15:17 40:2 74:1 price 18:24 primarily 28:8 principal 70:18 prior 29:24 30:4 44:18 probably 33:21 42:12 53:21 57:16 60:10 70:24 problems 60:17 procedure 62:4 proceed 8:3 76:17 proceeding 6:23 27:18 62:8 76:18,22 </p>	<p> proceedings 1:13 79:3 process 72:17 77:13 processes 45:2 product 27:22 28:4,5,6,8,17 products 41:13 41:14 program 1:8 16:1 17:16 18:12,19 21:13,15,21 23:21 38:23 programs 38:23 project 64:20 projections 32:7 prone 35:13 69:1 prone-to-fail 16:2 55:24 prone-to-leak 35:16 55:15 72:17 73:5,13 73:17,23 property 17:6 proposed 15:20 58:8 proposing 54:18 protected 39:21 40:13 proved 52:24 provide 19:1 21:21 22:7 38:4,5 60:12 67:20 provided 38:21 provider 35:4 providing 18:19 39:4 public 1:1,15 3:9,13 26:18 27:10 56:1,6 64:2 publication 31:5 published 41:24 PUCO 56:20 pulled 71:4 pull-out 68:7 purpose 65:15 purposes 48:21 put 42:19 P.O. 2:8,16 </p> <hr/> <p> Q </p> <p> qualifer 46:14 qualification 45:2 46:6 qualified 43:24 44:13,15,16,23 46:4 74:11 </p>	<p> qualifier 46:7 46:16 qualifies 46:1,5 question 16:22 21:6,14,19 22:16 23:15 34:9 40:5 45:16 51:3,5,6 51:15 53:7,8 56:22 62:6,16 62:23 63:1,4,5 63:22 64:5,7 69:15,17,18 70:8 71:21 73:8 questioning 75:8 questions 7:18 8:10 9:23 13:20 22:15 26:22 34:24 36:19 37:18 38:20 39:7 40:17,24 49:8 58:13,16,18 59:5 62:15,15 64:15 65:4,6,8 65:9,11,13,16 74:19 75:21 quote 41:3 </p> <hr/> <p> R </p> <p> raise 65:16 raised 72:23 raising 62:15,15 64:15 ran 65:8 range 20:9 rate 31:10,12,13 32:10,24 33:7 33:9,10,11 34:2 rather 11:7 36:2 ratio 66:12 reaction 56:14 57:4 read 16:16,17 50:20 51:3,5,6 57:10 63:1,5 64:6,7 69:18 real 28:9 really 26:12 38:7 55:22 62:17 realm 69:2 reask 43:10 reason 62:10 reasonable 69:4 71:6 reasonableness </p>
--	--	---	---	--

69:3	42:24 45:9	39:4 54:21	55:8,13,15	58:1,2
rebuttal 77:3,6	46:21 58:22,23	replacing 73:5	60:20,22 64:10	scope 39:24
77:23	58:24 59:2	73:13,17,23	72:3,5	second 24:23
recall 31:10	62:7,22 63:2	74:2	risers 15:22	57:24 58:1
36:20 37:21	63:16,23 64:6	report 22:5,9,11	16:2 18:6,17	77:4
50:10,21 56:13	67:16 69:16	22:19 50:19,22	35:8 36:2 50:5	section 3:9,10
59:22 61:5	71:15 72:6	51:10 68:9	50:11,24 51:12	64:3
64:12,13 70:6	75:22,23	reported 17:12	52:3,21 55:24	see 28:10 32:11
70:21	relate 50:24	50:23 51:13	58:9 68:7 69:1	seemed 52:9
receive 19:6	relating 77:3	Reporter 79:9	72:17 73:5,13	Seiple 2:2
29:24 30:4	relatively 55:17	reports 74:15	73:17,24 74:16	selected 37:20
44:18	relevant 63:4	representative	risk 19:23 68:2	sell 28:12
received 18:5,18	67:17 68:13	22:22 23:7	68:3,5	send 31:20
41:15	relied 70:2	represented	rocks 71:4	Senior 3:8
recess 47:22	remaining 76:21	13:21	room 1:16 73:9	sense 33:1 55:14
48:2	remember 50:4	request 17:24	roughly 65:8	sensitive 43:23
record 6:5 9:6,7	59:21 60:11	18:10 47:21	70:10	sent 56:9 73:3
9:9 11:21,22	61:9	57:2	running 33:6	sentence 32:23
11:24 12:15	renew 31:15,19	require 77:6	rush 64:22	33:5 58:1
46:8 48:12	31:22	required 45:11	rushed 65:1,3	separate 35:3
67:15 68:18	renewal 31:10,12	requirements		Serio 3:3 4:6,9
76:5,12,13,15	31:13 32:10	28:7 45:3,6,11	S	4:12,13 10:23
Recover 1:6	renewed 32:2	requires 42:15	safe 8:16 9:12	10:24 11:2,10
recross 39:10	rep 52:6,17	43:6 45:5,13	23:13,23 24:6	34:17,18,21
Recross-Exami...	repair 2:22 8:20	45:18 78:4	24:15 53:13	36:6 46:17,23
4:10,10,14,14	9:16 14:15	reside 6:19	72:5 73:1	46:24 48:3,10
36:16 39:14	16:5 23:1	Residential 3:6	74:16	48:20 49:14
40:22 74:9	37:24 38:14	resolution 53:14	safety 25:12,14	51:14 53:2
75:4	42:7,12 61:14	respected 55:11	26:18 56:1,6	56:16 62:2
redirect 4:9,13	repaired 60:20	respectfully	59:20 60:9	63:10 66:18
11:16 36:12	61:12	63:15	61:7 62:1,3,8	67:12 68:16
39:24 72:9,12	repairing 60:21	response 18:3	62:10,12 63:3	71:10,14 72:8
refer 32:9	repairs 8:19,24	36:19	63:4,8 64:3	72:10,13 74:3
reference 33:24	9:2 14:16,19	responsibilities	71:23 72:2,20	76:3 78:10,14
38:12 71:22	14:24 17:16	43:17	72:22	78:17
referencing 34:5	23:2 24:10	responsibility	sale 18:21	served 67:23,24
34:7	39:4,20 40:12	8:15 9:11	sales 60:4	77:16
referred 70:6	42:14,14,17	23:12,22 24:5	same 7:17,19	service 6:9,21
referring 33:4	45:4	24:14 25:8	13:20,22 15:3	7:3 8:16,21
37:23 51:15	repeat 8:22	52:24 53:4,10	19:24 27:20,23	9:3,12,17
regarding 41:3	22:16 30:3	responsible	28:7 29:13	10:13,13,16,17
Registered 79:8	53:8 64:5	39:20 40:12	49:8,9 51:12	15:21 16:10,24
regular 61:1	69:17 73:8	restored 42:23	66:16 68:3	17:5,11 18:8
regulated 29:14	repeating 23:20	result 25:23	77:17,20 78:6	19:8,9,13,17
29:16 38:15,16	40:8	26:5,17	Sater 2:6	19:19 20:1,4,5
38:17 42:7,10	rephrase 21:9	results 58:8	satisfaction-...	20:16 21:2,12
43:4,13,20	56:22 62:6	review 13:14	38:8	22:22 23:7,13
regulates 42:13	63:22	RFI 18:4,5,10,16	savings 53:16	23:23 24:1,2,6
regulation 42:19	replace 20:16	18:17 19:5	Saxbe 2:11	24:11,15 25:12
60:14,14	38:1,14 58:9	right 25:6 26:2	saying 33:8,10	25:13,16,23
regulations	replaced 69:2	27:24 41:19	33:12 43:8	26:6,7 27:15
29:17 43:8,17	replacement 1:8	46:9 71:3,4	69:7,11	29:11 32:20
43:22 44:3	8:20 9:16 11:7	78:21	says 8:17 58:4	33:8 38:1,14
regulatory 29:19	11:8 16:6	Rinebolt 2:15	schedule 22:24	39:4 42:13,23
29:20,21 30:2	20:12,15 36:2	riser 11:7 19:1	23:8 76:23	44:14 45:10
Reilly 3:10 4:8	36:3 52:20,20	35:12,14,16,18	77:20	50:16 54:5,15
4:10,13 16:13	53:19,24 55:8	51:17,20,21,24	schedules 76:21	54:17 56:5
26:24 27:1,4,5	55:13 72:16,16	52:24 53:10,14	Schriber 56:9,13	60:13,20,21
34:11,14 37:17	replacements 9:2	53:17,18 54:1	56:24 57:9,22	61:4,16 63:15
40:19,20,23	17:16 24:10	54:2,4,10,20		73:7,19 75:8

servicemen 43:23 45:1	38:20 42:19 52:7 61:2,3 68:8 75:7,8	67:11 69:21 stated 51:11 statement 9:10 24:13,16 50:8 50:14 55:23 56:4 states 31:20 57:6 statistical 32:7 steady 20:9 steel 19:8,14 25:12,13,16,23 26:6,7 33:8 Steele 64:9 stenographic 79:6 step 11:20 47:6 76:1 Stephen 2:2,7 3:10 Steve 27:5 still 8:14 20:17 22:12 23:22 stipulation 77:5 77:8,10,23 78:2 stop 70:15 stopped 70:7,10 Street 1:16,21 2:8,12,15,20 3:4,11 12:17 48:14 strike 28:23 33:9 43:15 55:1 61:2,3 64:15 studies 67:8 70:22 74:15 study 50:19 58:7 studying 70:5 subject 7:22 14:1 43:14 submit 18:3,10 29:18 submitted 17:24 19:5 subpoena 78:4,5 Sue 79:8 sufficient 32:6 suggest 47:24 56:20 Suite 1:21 2:16 3:4 48:14 supervision 75:17 Supply 2:14 support 77:7,23 sure 10:18 22:17 24:24 25:6 29:12 33:4,20	38:10 43:9,23 53:9 57:10 66:12 surprise 55:14 surrebuttal 77:9 78:1 suspected 22:18 50:6 Sustained 71:13 sworn 6:13 12:7 48:7 system 8:18,23 23:16,16 24:8 24:18 37:12	48:8 53:23 73:12 75:6 testifying 45:9 testimony 5:4,6 5:9 6:22 7:2 7:13,15 8:12 12:20 13:5,14 13:22 21:7 24:21 25:3 28:15 29:11 31:9,11 32:10 36:21 37:19,21 42:8,20 43:3 47:16 48:17 49:2,12 50:2,4 50:10 54:19 55:3 59:9 60:24 62:14 64:14,16 65:6 65:10,15,18 67:21 68:14 69:23 70:3 71:19 72:14 73:22 76:5,18 77:3,4,7,7,9,9 77:23,24 78:1 78:1,6 testing 46:4 thank 6:8 8:1,4 9:22,24 10:3 10:20,22,24 11:12,17,19 12:2,24 13:12 14:5,8,23 17:4 19:7 26:20,23 27:1 34:14,16 34:18 36:8 38:19 39:8,9 40:6,7,16,18 40:20 45:17 46:22 47:1,5 49:16,19 52:2 52:18 54:8,18 58:6,11,14,19 58:24 63:20 69:16 70:17 72:6,7 74:5,7 74:21,23 75:20 75:23,24 78:14 thanks 12:13 their 17:15,16 18:19 21:2,12 21:15 31:21 32:19 55:12 61:19 theirs 28:10 thing 41:19 60:15 64:13 things 18:19 28:22 38:6
---------------------------------	---	---	---	---

41:1 43:6 think 21:6 24:16 26:2 45:14 53:5,21 55:18 57:16 59:8 61:8 62:14,22 63:4 64:22 65:1,3,11 68:12 72:2,22 third 6:5 26:7 26:17 third-party 26:1 26:4 46:4,7,14 46:15 though 16:23 28:12 74:24 thousand 35:2 threat 25:13,14 three-year 58:8 through 1:6 26:9 31:4 37:15 56:17 65:5,8 throughout 30:11 30:17 31:2 time 14:4 23:6 26:20 35:17,23 47:8 55:17 58:11 60:18,22 64:19,20,21 75:11,19 76:19 77:17 78:6 times 61:13 Timothy 4:7 5:7 12:3,6,16 titled 48:17 today 7:18 8:11 13:20 23:16 24:9 49:9 today's 24:17 together 28:22 top 59:10 total 67:23 totally 24:1 33:20 tough 61:13 trade 28:24 29:3 29:6 training 45:1 61:2 transcript 76:20 79:3 transcripts 76:16 77:19 Transportation 38:18 42:11,13 43:5,13,15,18 43:21,22 44:3 44:17,19,24 45:3,6,12	Transportation's 43:7 Treatment 1:9 tree 37:4 tremendously 20:9 true 8:13 9:1,14 9:18 14:14,17 14:18,22 15:3 15:5,8,19,24 16:3,4,8 17:6 17:10 24:17 39:16 40:9 79:3 truly 41:21 try 41:1 trying 61:8 Turnberry 6:20 turns 22:10,17 77:18 two 20:12 65:7 73:4 75:2 76:20 77:2 type 15:12 19:17 25:20 52:23 53:9 60:14 61:4 72:3 types 15:15 26:4 39:22 40:14 56:5 typically 19:18 20:8 37:7 54:14 <hr/> U Uh-huh 30:20 ultimately 62:16 under 7:18 8:18 8:23 13:21 16:1 17:16 18:19 21:13 23:19,21 24:8 24:17 35:21 39:3 49:5 75:17 undergo 45:1 underground 68:19 underlying 67:10 67:10 68:4,8 underneath 71:2 71:8 understand 21:19 23:15 24:7 29:18 33:20 42:20 43:3,9 44:22 55:18 60:24 63:13 64:14,16 68:9	70:14 75:8 understanding 16:9 23:10 29:13,15 71:5 understatement 68:22 unit 33:11,18 unless 22:15 unproved 72:2 unproven 71:22 until 35:19 61:12 65:3,4 urge 58:2,4 urging 57:12 use 21:5 37:20 38:13 54:20 used 11:6 36:1 54:1,11 72:4 using 52:19 53:17 54:22 USP 5:3 7:4,10 7:22 8:19,24 9:1 35:3 38:21 38:23 47:16,18 UTI 46:11,17 utilities 1:1,15 3:9,13 27:10 59:24 64:2 utility 2:10 6:9 6:21 7:3 27:15 29:11 46:19 52:19 59:23 63:15 69:3 U.S 43:17 <hr/> V vacuum 30:12 variance 20:7 various 18:1 67:10 69:20 76:17 vary 20:9,18 varying 20:12 60:23 verified 52:2,14 versus 69:9 very 8:2 10:1 11:18,20 14:6 21:21 28:5,20 36:9 47:6 49:17 68:1 76:1 visit 44:7,10 VOLUME 1:19 Vorys 2:6 <hr/> W W2:12 3:8 wait 28:7	want 29:12 63:14 warranties 8:24 15:15,17 29:7 29:19 35:2,6,8 35:12 38:4,5 38:20,21 39:22 warranty 14:15 14:19,24 15:12 16:1,4 17:16 21:13,21 22:13 27:13,21 28:14 28:21 29:1,12 29:13 31:6 32:19 35:3,14 35:17 37:10,18 38:23,23 40:14 41:2 wasn't 42:12 56:20 62:3 water 14:16,20 14:21 15:6 way 25:2 29:17 38:15 59:16 wear 16:6 37:12 37:15 Wednesday 1:17 6:1 79:4 well 15:9 18:24 21:21 22:7 38:8 41:15 72:3 went 55:16 were 7:17 30:17 36:18 37:23 38:19 41:4,9 41:21,23 42:7 44:23 49:8 50:1 53:16,20 55:2 59:19 60:1,3 61:12 61:15,18 65:6 74:2 75:12,13 weren't 42:2 60:16,23 West 3:4 48:14 we're 46:22 62:10 we've 38:10 while 7:18 16:13 59:19 61:14 76:14 77:12 whole 62:10 widespread 55:21 Willcox 2:11 wish 13:18 witness 4:3 6:7 7:23 12:1,3 14:3 25:4 40:8 47:7 57:18 62:14 67:19,20	68:12 76:2 78:4 witnesses 76:11 word 16:15 24:22 63:10 work 8:19 9:2,16 24:9,18 44:13 45:22,24 46:2 69:6 73:6,19 75:7,11,16 worked 38:8 works 10:18 wouldn't 29:6 44:7,10,13 60:8 wrong 33:23 <hr/> Y Yeah 33:22 59:12 year 73:3 years 28:19 50:6 50:12 yesterday 29:10 50:1 <hr/> O 05-463 50:19 51:10 64:10 07-478-GA-UNC 1:3 6:6 48:18 <hr/> 1 1 25:13 59:9,9 59:12 103:4 4:5 47:24 48:14 71:22 10:00 48:1 1008 2:8 101 1:21 26:9 114:6 11-C 1:16 11:44 78:24 124:7 32:11 35:1 135:6,9 48:21 76:4 77:11 144:8 32:10 1532:11 35:1 50:5 76:24 178:12 50:23 51:13 1793 2:16 188:12 180 1:15 3:11 1800 3:4 48:14 185 1:21 1978:1 1978 28:18
--	--	--	--	--

2	7			
248:1 56:9 59:8	75:4			
2032:23 33:6,24	70712:16			
2002:3	724:13			
200057:8	7359:16			
20071:17 6:2	744:14			
48:18 56:9	754:14 54:21			
57:8,21 79:5	765:9			
2133:6,24				
223-94811:22	8			
224-57241:23	84:5 54:2,6,10			
224-94811:22	65:7,9 76:24			
2348:18 57:8,21	8:00 77:22			
274:8 65:8	8001:22			
2878:3	8532:15,18			
28th78:10,12	8832:15,18			
3	9			
35:6 13:8 14:1	971:18			
47:9,12 48:1	9th3:11			
77:21	9:00 1:16			
3028:19 65:9				
30-day28:7				
300,00069:9				
311:17 6:2 79:4				
3372:15				
344:9				
364:9				
3662:20				
394:10				
4				
45:4 7:4,10,22				
8:11 47:17,18				
404:10				
432152:4,13,21				
48:15				
43215-34853:5				
43215-37933:12				
43215-52011:22				
43216-10082:9				
45839-17932:17				
475:4,6				
484:12				
494:12 5:9				
5				
52:16 32:9				
33:24				
5054:23				
5036:20				
522:8				
594:13				
6				
64:4 24:21				
25:13 77:8				
6141:22,23				
652:12				

EXHIBIT

Case Number 07-478-GA. UNC
Vol III

The following exhibit(s) were prefiled and can be located with the pleadings:

[illegible]