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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Gas Rates.	)	Case No. 07-589-GA-AIR
	)	
In the Matter of the Application of Duke Energy Ohio, Inc. for approval of an Alternative Rate Plan for its Gas Distribution Service	)	Case No. 07-590-GA-ALT
	)	
In the Matter of the Application of Duke Energy Ohio, Inc. for Approval to Change Accounting Methods	)	Case No. 07-591-GA-AAM
	)	

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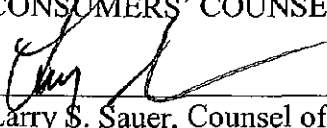
**NOTICE OF FILING DEPOSITION BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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Pursuant to Ohio Adm. Code 4901-1-21, The Office of the Ohio Consumers' Counsel gives notice of filing the deposition of Paul Smith, which was taken on February 19, 2008.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER  
CONSUMERS' COUNSEL

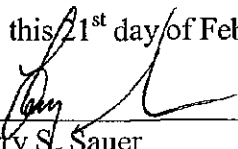
  
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## CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing *Ohio Consumers' Counsel's Notice of Filing deposition*, was served via Electronic Mail, this 21<sup>st</sup> day of February, 2008.

  
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BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the :  
Application of Duke Energy: Case No. 07-589-GA-AIR  
Ohio, Inc. for an Increase:  
in Gas Rates. :

In the Matter of the :  
Application of Duke Energy: Case No. 07-590-GA-ALT  
Ohio, Inc. for Approval, :  
of an Alternative Rate :  
Plan for its Gas :  
Distribution Service. :

In the Matter of the :  
Application of Duke Energy: Case No. 07-591-GA-AAM  
Ohio, Inc. for a Approval :  
to Change Accounting :  
Methods. :

DEPOSITION

of Paul G. Smith, taken before me, Rosemary F.  
Anderson, a Notary Public in and for the State of  
Ohio, at the offices of Duke Energy Corporation, 139  
East Fourth Street, Room 2500, Cincinnati, Ohio, on  
Tuesday, February 19, 2008 at 3:00 p.m.

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**ORIGINAL**

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6 On behalf of the Company.

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22 On behalf of the Staff of the Public  
23 Utilities Commission.

24 - - -

1 PAUL G. SMITH

2 being by me first duly sworn, as hereinafter  
3 certified, deposes and says as follows:

4 EXAMINATION

5 By Mr. Sauer:

6 Q. Mr. Smith, my name is Larry Sauer. I'm  
7 an attorney with the Office of Ohio Consumers'  
8 Counsel. With me here today is Joe Serio who is also  
9 an attorney in the office.

10 Anyone else on the phone?

11 MS. PARROT: Yes, Sarah Parrot  
12 representing the staff.

13 MR. SAUER: Is that it?

14 MR. FINNIGAN: John Finnigan.

15 Q. Mr. Smith, have you had your deposition  
16 taken before?

17 A. Yes, I have.

18 Q. So you're familiar with the ground rules  
19 of a deposition. As you can see, there's a court  
20 reporter to take down what you say. I'll ask  
21 questions. You answer as best you can. If you would  
22 answer yes or no, and if you need to elaborate on  
23 your answer, please do so. If you need me to clarify  
24 if you don't understand a question, I'll try to

1 rephrase or reask so it is clarified for you. If you  
2 want to take a break at some point, just let me know,  
3 and I'll ask if there's a question pending, respond  
4 to the question and then we can take a break. Do you  
5 have any questions?

6 A. Not yet.

7 Q. Okay. What materials do you have with  
8 you today?

9 A. I've got a summary of the case. I've got  
10 various settlement documents. I've got the order  
11 from the 2001 case.

12 Q. And you have your testimony?

13 A. I do.

14 MR. SAUER: John, do you have a copy of  
15 Mr. Smith's testimony?

16 MR. FINNIGAN: He does.

17 MR. SAUER: Oh, he does. I thought he  
18 said no.

19 MR. FINNIGAN: He said "I do."

20 MR. SAUER: I'm sorry, I misunderstood.

21 Q. Mr. Smith, could you kind of go through  
22 your educational background since high school?

23 A. Gladly. I graduated from Purdue  
24 University with a Bachelor of Science in industrial

1 management and computer science; graduated from the  
2 University of Chicago with a Master's in business  
3 administration; and I'm a certified public  
4 accountant.

5 Q. And since graduating from Purdue, can you  
6 run through the various employment opportunities  
7 you've had?

8 A. Yes. I've been employed with the public  
9 accounting with firms of Touche, Roche & Company in  
10 Chicago, and the firm of Crowe Chizek in Minneapolis,  
11 and been employed by PSI, Cinergy or Duke Energy  
12 since 1987.

13 Q. What positions have you held since  
14 joining PSI or Duke in 1987?

15 A. A variety of roles in the financial  
16 organization, specifically the budgeting and  
17 forecasting, rates and regulation, investor  
18 relations, corporate development and the  
19 international business unit.

20 Q. What's your current position, sir?

21 A. I'm the vice president of rates for Duke  
22 Energy Ohio and Duke Energy Kentucky.

23 Q. And for how long have you held that  
24 position?

1 A. Since April of 2006.

2 Q. And what are your responsibilities as the  
3 vice president of rates?

4 A. I'm responsible for regulatory filings,  
5 applications, strategy and analysis.

6 Q. Did you participate in Duke's 2001  
7 natural gas rate case?

8 A. Yes, I did.

9 Q. What role did you play in that case?

10 A. I was the manager of revenue requirement  
11 and designed the Rider AMRP.

12 Q. If you look at page 3 of your testimony,  
13 line 15, there's a question and answer regarding what  
14 you call the primary drivers for the earnings  
15 attrition. Do you see that?

16 A. I do.

17 Q. You have in your answer, you said there  
18 is a total investment of approximately 255 million  
19 that relates to AMRP and approximately 208 million  
20 that relates to other plant investments. Do you see  
21 that?

22 A. I do. That's the gross plant investment.

23 Q. Okay. If we turn the page to page 4,  
24 line 2, it says: "Approximately 15 million, or



1 nearly one-half, of the Company's revenue deficiency  
2 is attributable to the revenue requirement on  
3 incremental plant investment." Would that be the  
4 same plant investment from the prior page, the 255  
5 and the 208?

6 A. Correct.

7 Q. Okay. The 208 relates to other plant  
8 investments. What other plant investments are we  
9 talking about?

10 A. Those would be any type of system  
11 investments, new meters, new pipes, new extensions.  
12 It would be common plant. It could be any number of  
13 investments in plant to serve our gas operations.

14 Q. Is the \$15 million revenue requirement on  
15 page 4, is it proportionally related to the total of  
16 the 255 and the 208?

17 A. No.

18 Q. It's not?

19 A. It is not.

20 Q. Okay. So of the 255 million AMRP, how  
21 much of that contributes to the revenue requirements?

22 A. Approximately 3.

23 Q. 3 million?

24 A. Correct.

1 Q. And the 208 is completely unrelated to  
2 AMRP investment?

3 A. That's correct.

4 Q. And the balance of that 15, 12 million --  
5 the difference between the 15 million and the  
6 3 million is 12 million, correct?

7 A. Correct.

8 Q. And does that 12 million relate to the  
9 208 million in investment in other plant?

10 A. Yes, it does.

11 Q. And can you explain why that's not a  
12 proportional relationship?

13 A. Yes. The company currently recovers much  
14 of the investment in the AMRP program.

15 Q. And dollars that are included in the 255  
16 would include, for example, the company labor,  
17 contractor time, materials; is that correct?

18 A. Yes.

19 Q. And the 208 contains similar company  
20 labor, contractor, materials? What I'm asking, are  
21 there differences in what's contained in the 255 or  
22 the 208?

23 A. No, I do not believe there's any  
24 difference.

1 Q. So it's the same type of investment.

2 A. Correct.

3 Q. Okay. And do you know offhand what Duke  
4 collected through the AMRP rider between 2002 and  
5 2007?

6 A. No, I do not.

7 Q. Do you have kind an order of magnitude  
8 what might have been collected?

9 A. I know in the test period the equivalent  
10 is somewhere in the neighborhood of \$40 million on an  
11 annual basis.

12 Q. Okay. And while that number grew between  
13 year one of the AMRP and year six of the AMRP, it was  
14 somewhere between 5 and 40 each year; is that  
15 correct?

16 A. It started at zero and would have grown  
17 to -- 40 being the test period, I'm not sure it ever  
18 reached that in any one year, but that would have  
19 been the equivalent test period amount.

20 Q. And there wasn't a comparable revenue  
21 stream for the company related to the other plant  
22 investments, was there?

23 A. Such as PIPP and GCR mechanisms, or what  
24 are you referring to?

1 Q. Right, such as the AMRP rider, was there  
2 any type of recovery mechanism for those type of  
3 costs that this company was recovering through the  
4 MRP?

5 A. Sure.

6 Q. Other plant investments.

7 A. Sure. The GCR recovers \$400 million a  
8 year, at least. PIPP recovers probably 10 to 15  
9 million dollars a year, excise tax rider, several  
10 million dollars a year.

11 Q. But do any of those relate to the  
12 208 million in other plant investments?

13 A. They relate to costs and cost increases  
14 incurred by the company. They do not relate to plant  
15 investment.

16 Q. So for the test year you were saying that  
17 through the AMRP the company recovered \$40 million.

18 A. The annualized equivalent during the test  
19 period was approximately 40 million.

20 Q. Okay. And there was no similar recovery  
21 mechanism -- let me ask you this. What did that  
22 \$40 million -- what was the company recovering  
23 through the rider? What did that \$40 million  
24 represent recovery of?

1           A.    The 40 would have included a return on  
2 the investment plus a depreciation, taxes, operating  
3 costs, which would have been netted against  
4 operational savings, and then the fuel clause that  
5 GCR or fuel savings would have passed through, Rider  
6 GCR.

7           Q.    You mean for the lost and unaccounted for  
8 gas?

9           A.    Correct.

10          Q.    And for the \$208 million investment in  
11 other plant, what happened to the return -- during  
12 the period in time between the last gas rate case in  
13 2001 and the current case that's pending related to  
14 that 208 million in other plant investments, was  
15 there any recovery for return on investment of that  
16 plant?

17          A.    No, there would not be.

18          Q.    Would there be any recovery on  
19 depreciation on that plant?

20          A.    It depends on how you look at  
21 depreciation levels that were approved in the prior  
22 case. I mean, once you have a retirement, the  
23 depreciation level perhaps is not equivalent to the  
24 ongoing level so depreciation on that plant certainly

1 could have been recovered, not all of it but a  
2 portion.

3 Q. But through the AMRP you were recovering  
4 all of it, all depreciation?

5 A. No, we were not.

6 Q. Are they comparable recoveries?

7 A. Some portion of both were being  
8 recovered.

9 Q. Were there operating costs relative to  
10 the 208 million in other plant investments?

11 A. Could be.

12 Q. But you don't know.

13 A. None specifically come to mind.

14 Q. And taxes on the other plant.

15 A. What about the taxes?

16 Q. Were they being recovered between the  
17 last case and the current case that's pending on the  
18 208 million in other plant investments?

19 A. To the extent there were retirements and  
20 taxes no longer assessed on the retirements, then  
21 yes, taxes on those investments were being recovered.

22 Q. Subject to check, would it be possible  
23 that the residential revenue recovery through the  
24 AMRP through the first six years of the program

1 approximated \$98 million?

2 A. I don't know.

3 Q. Does that order of magnitude sound  
4 unreasonable?

5 A. I don't have an opinion.

6 Q. Mr. Smith, if you don't know for sure,  
7 can you tell me how you would calculate what the  
8 stream of revenues would have been through the AMRP  
9 during the first six years of the program?

10 A. It was a fixed per customer charge, so I  
11 would take the number of customers each month times  
12 the charge each month and cumulate that across  
13 approximately 72 months.

14 Q. And having done that, you could come up  
15 with an answer. The number of customers is what,  
16 approximately 400,000?

17 A. Correct, just slightly under 400.

18 Q. Slightly under 400, okay. Doing the math  
19 here fairly quickly, we came up with \$100 million.  
20 Does that sound like it's within the order of  
21 magnitude you might have expected?

22 A. Again, I haven't done the math. I don't  
23 know. I'm sure you and Joe are good calculators, but  
24 I haven't done the math.

1 Q. Okay. Now, when this case comes and is  
2 filed, you have 255 million in plant investment  
3 related to the AMRP, correct?

4 A. Yes.

5 Q. And that contributes -- there's  
6 \$3 million of revenue requirement related to that  
7 investment that consumers are paying.

8 A. Well, to clarify, there's \$43 million of  
9 revenue associated with it, 40 which was --

10 Q. How do you get 43.

11 A. Well, 40 that we recover in the rider and  
12 3 million which was due to the various rate caps we  
13 weren't collecting so I would say there's \$43 million  
14 associated with that.

15 Q. I thought the rider went to zero.

16 A. It does. You're asking for the revenue  
17 requirement associated with the 255 million. That  
18 would be 40 million. I think that's what the  
19 annualized AMRP rider was generating. Therefore, the  
20 revenue requirement on that 255 million must be  
21 40 million.

22 Q. Maybe there's a disconnect here. You're  
23 attributing 15 million of the 34 million rate  
24 increase associated with the plant investment,



1 correct?

2 A. Right. So that would be a total of --  
3 we're currently collecting 40 million on the AMRP, so  
4 the sum of the AMRP investment plus the non-AMRP  
5 investment, less the amount we're currently  
6 collecting of 40, tells me it must be 55 million in  
7 total.

8 Q. Let me make sure I understand. The  
9 40 million you're talking about is test year AMRP  
10 rider revenues.

11 A. Correct.

12 Q. And when the rates go into effect, that  
13 rider goes to zero. Where is the 40 million?

14 A. The way to look at it, what's the total  
15 revenue requirement -- what's the total revenue  
16 requirement on all costs, investments, O&M, taxes,  
17 return, and what's the total revenue currently  
18 recovered, and then the difference between those two  
19 becomes the delta of the rate case, which is  
20 \$34 million. Since AMRP was previously recovering  
21 \$40 million, we don't have an increase due to that  
22 40. It's effectively being recovered today.

23 Q. And so if you take -- if I understand  
24 what you're telling me, then the cost to consumers

1 for the 255 AMRP investment is 43 million, and the  
2 revenue requirement for the \$208 million investment  
3 is \$12 million. Is that correct?

4 A. Correct.

5 Q. What I'm struggling here with is the  
6 customer benefit to the AMRP program. It seems like  
7 the cost is significantly higher to run that program,  
8 and then when you roll it into rate base, the cost  
9 remains higher than -- comparatively higher than to  
10 the other plant investment.

11 A. Well, the AMRP investment includes  
12 depreciation, O&M, net of savings, so that AMRP  
13 revenue requirement is not just on the plant  
14 investment itself. The \$40 million goes to cover the  
15 whole cost of the program.

16 Q. But I thought you had told me that other  
17 plant investments may have had similar recoveries in  
18 depreciation and taxes depending on how the  
19 retirement were treated or whatnot.

20 A. Some portion of them, that's correct.

21 Q. This is not an apples to apples  
22 comparison, is that the problem?

23 A. I would say that's a problem.

24 Q. And is there a way to make adjustments so

1 you can do an apples to apples comparison?

2 A. Undoubtedly there's a way. I haven't  
3 given that any thought. I don't see there's an  
4 apples to apples comparison. I wouldn't make that  
5 comparison, but someone else may.

6 Q. Mr. Smith, could you turn to page 4,  
7 line 17 through 20.

8 A. Yes.

9 Q. You're talking in your response to the  
10 answer at line 9 regarding a reduction in financing  
11 costs between the last rate case and this case as  
12 contributing to there being a primary factor in  
13 contributing to the decrease in the rate of return.  
14 Do you see that?

15 A. Yes.

16 Q. And the 8.73 percent is the company's  
17 requested rate of return in this case; is that  
18 correct?

19 A. Correct.

20 Q. So there's no reduction here for any  
21 reduction in risk associated with a rider for the  
22 utility of the future expenditures; is that right?

23 MR. FINNIGAN: I'm sorry, no reduction  
24 from what, Larry? Could you clarify?

1 Q. Well, the rate at 9.27 percent, was that  
2 the last authorized rate of return in the 2001 case?

3 A. Yes, it was.

4 Q. And the 8.73 is your current requested  
5 rate of return, correct?

6 A. Correct.

7 Q. The company's requesting in this case a  
8 rider AU for a utility of the future expenditures,  
9 right?

10 A. Yes, that's correct.

11 Q. And if that rider is implemented, would  
12 you agree that reduces the company's risk associated  
13 with the recovery of those type of costs?

14 A. No. I would say the program increases  
15 the company's risk profile, and the recovery of it,  
16 the timely recovery, mitigates the risk associated  
17 with the program.

18 Q. And similarly the decoupling mechanism,  
19 is that a mechanism that would a reduce the company's  
20 risk of generating revenue?

21 A. No, absolutely not.

22 Q. The mechanism doesn't benefit the company  
23 at all?

24 A. I thought we were talking about risk, not

1 benefit.

2 Q. Well, to the extent that -- let's talk  
3 about the decoupling mechanism. What is that?

4 A. It's a mechanism to allow the company the  
5 opportunity to earn its allowed return. In the prior  
6 case it would be the opportunity to earn 9.27. In  
7 this case it's trying to allow the company the  
8 opportunity to earn 8.73 percent. Absent that  
9 tracker, absent that rider, the company would not  
10 have an opportunity to earn 9.27 in the last case or  
11 8.73 in this case so that tracker does nothing to  
12 risk other than it allows the opportunity to earn the  
13 approved return.

14 Q. Didn't the company have the opportunity  
15 to earn the rate of return in the last case?

16 A. No. Starting day one it does not.

17 Q. And why is that?

18 A. The declining average use per residential  
19 customer being one of the primary reasons.

20 Q. But average usage didn't decline every  
21 year between 2001 and 2006, did it?

22 A. On average it certainly decreased every  
23 year, and it's certainly lower than it was six years  
24 ago.

1 Q. Weren't there incremental years where the  
2 average use actually went up?

3 A. Could have been.

4 Q. Would the company's opportunity to earn a  
5 return have increased if usage increased?

6 A. Yes. And the decoupling rider would have  
7 then passed the benefit back to customers,  
8 appropriately.

9 Q. Okay.

10 A. Thus the company would have continued to  
11 earn its allowed return, nothing more, nothing less.

12 Q. The decoupling mechanism doesn't mitigate  
13 the company's weather risk, does it?

14 A. No, it does not.

15 Q. If you know, does the company prefer a  
16 decoupling mechanism to a straight fixed variable  
17 rate design?

18 A. A fully straight fixed variable rate  
19 design and a decoupling mechanism will result in  
20 effectively the same outcome for the company. So I  
21 think the company is indifferent to either of those.

22 Q. I guess that was my question. Did you  
23 have a preference, and if so, what was the  
24 preference?

1           A.    As long as it's a fully straight fixed  
2 variable, in this case somewhere north of \$30 per  
3 residential customer per month, I think that or a  
4 decoupling mechanism of any fixed charge of less than  
5 \$30 per month to cover the volumetric risk there, I  
6 think the company might be indifferent.

7           Q.    And what does the \$30 a month that you're  
8 talking about represent?

9           A.    The total fixed cost to serve a  
10 residential customer each and every month of the  
11 year.

12          Q.    And is that a marginal cost?

13          A.    No. No, it's a fixed cost.

14          Q.    And how does the company's marginal cost  
15 to serve a residential customer each month of the  
16 year, how does that compare to the total fixed cost?

17          A.    I'm not aware of any marginal cost to  
18 serve a customer during the month. I apologize. We  
19 do have one variable expense item. It's odorization  
20 chemicals. I think it's a couple hundred dollars a  
21 year spread across 400,000 customers, so maybe a  
22 penny a month for residential customers each month.

23          Q.    And as you install more pipe in the  
24 ground and the cost to read meters to provide

1 customer service, are those costs generally  
2 decreasing over time or generally increasing over  
3 time?

4 A. No; generally increasing.

5 Q. If you look at page 9 of your testimony,  
6 line 9, are you there?

7 A. I am.

8 Q. There's a discussion of eliminating the  
9 existing arbitrary rate caps that were placed on the  
10 Rider AMRP in the last case. Do you see that?

11 A. Yes.

12 Q. "Such caps deter the timely recovery of  
13 the AMRP-related investment and allow certain  
14 nonresidential customers to avoid paying their  
15 proportionate share of the program cost despite  
16 receiving the program benefits." Do you see that?

17 A. I do.

18 Q. Let me ask you this. From that  
19 statement, the residential customers were paying  
20 their proportionate share of the program; is that the  
21 case?

22 A. No. I believe the residential customers  
23 hit their cap one or more years as well.

24 Q. Which customer classes didn't pay their



1 proportionate share?

2 A. I think if the cap impacted any customer,  
3 that means they didn't pay their proportionate share,  
4 so I think that all customers at one time or another  
5 did not pay their appropriate share.

6 Q. In your statement who are you referring  
7 to?

8 A. Which statement?

9 Q. "Such caps deter the timely recovery of  
10 the AMRP- related investment and allow certain  
11 nonresidential customers to avoid paying their  
12 proportionate share of the program cost despite  
13 receiving the program benefits."

14 A. That particular statement addressed  
15 nonresidential. I'm saying there were certainly as  
16 well residential customers that it applied to, but  
17 that particular statement only identifies  
18 nonresidential.

19 Q. Nonresidential would have been  
20 commercial, commercial customers?

21 A. Correct.

22 Q. And do you know how much of their  
23 proportionate share they did not pay during the  
24 program years you're talking about?

1           A.    I believe nonresidential totaled  
2 \$3 million.

3           Q.    And how did you calculate a \$3 million?

4           A.    I think I grabbed it from the last AMRP  
5 filing, and it once again quantified the revenues  
6 received or the revenues allocated or assigned to  
7 those customers.

8           Q.    And somewhere between commercial and  
9 industrial customers they underpaid by \$3 million.

10          A.    That's correct.

11          Q.    And did that include industrial for  
12 commercial interruptible customers?

13          A.    Yes. Keep in mind that gets cleaned up  
14 in that rate case filing because once we go through  
15 the cost-of-service study, those pipes and mains now  
16 are assigned to those customers in base rates, so the  
17 problem identified here addresses a tracker-related  
18 issue, not base rate recovery of the prior  
19 investment.

20          Q.    Well, let me take it back to the  
21 43 million number we were talking about earlier when  
22 we were talking about the 255 and plant in service;  
23 do you remember that?

24          A.    Yes, I do.

1           Q.    This cleans up the whole \$43 million  
2 problem you're talking about?

3           A.    I believe so.

4           Q.    Because \$3 million of that pertained to  
5 that investment going into plant in service, but the  
6 \$40 million was related to the revenue you were  
7 recovering through the rider, correct?

8           A.    Correct.

9           Q.    And how did that piece of it get  
10 corrected?

11          A.    By being assigned to those customers, so  
12 in the cost-of-service study the \$255 million of cost  
13 of investment would have been allocated out to the  
14 customer classes, and the cost-of-service study would  
15 have assigned them to rate GS as opposed to rate RS  
16 or the equivalent transportation tariffs.

17                The way I look at this particular item,  
18 the \$3 million of AMRP revenues not being recovered  
19 from commercial and industrial is analogous to the  
20 \$10 million decline in the residential volume in base  
21 rates, but both are corrected in this case in the  
22 base rate setting.

23          Q.    And the \$10 million you're referring to,  
24 is that in your testimony somewhere?

1           A.    It's identified as a revenue, again, the  
2 reduction in average throughput which led to a  
3 decline in revenues, so the net number is \$6 million.  
4 So in this particular case we had a reduction in  
5 residential throughput. We have had an increase in  
6 the commercial and industrial that mitigates that.  
7 The net number is \$6 million.

8           Q.    So you're back on page 4 of your  
9 testimony, is that correct, line 4?

10          A.    Correct.

11          Q.    Okay. I see the \$6 million revenue  
12 deficiency as due to a decline in average throughput  
13 for customer. I see that offset by customer growth.  
14 Do you know how much the offset is for customer  
15 growth?

16          A.    Residential, the reduction in volumes is  
17 about 10 million. The increase in residential  
18 customer growth is about 2 million. So net  
19 residential customers were not bearing their full  
20 load, their full share, by approximately \$8 million.

21          Q.    And the \$6 million described on line 4,  
22 is that for all customers?

23          A.    Correct.

24          Q.    So some customers didn't have a

1 deficiency due to a decline in average throughput for  
2 customers.

3 A. Correct. The nonresidential actually  
4 grew in volume and customers to a net of about  
5 \$2 million. So in base rates residential underfunded  
6 approximately \$8 million. Commercial/industrial were  
7 overpaying approximately \$2 million. Conversely on  
8 the AMRP rider, nonresidential were underfunded  
9 approximately \$3 million.

10 Q. I'm sorry, who was underfunded by  
11 \$3 million, which class was that?

12 A. The nonresidential.

13 Q. I'm missing something in what you're  
14 telling me. You're telling me the residential  
15 volumes decreased by \$10 million. It was offset by  
16 the growth of 2 million and that was 8 million.

17 A. Correct.

18 Q. The nonresidential had a growth of  
19 2 million, which between the two, res and non-res,  
20 would result in the 6 million.

21 A. Correct. And as you were alluding to on  
22 page 9 --

23 Q. The \$6 million in your testimony.

24 A. Correct. As you were alluding to on

1 page 9, the AMRP caps were contributing \$3 million,  
2 and that was primarily attributable to  
3 nonresidential, so overall nonresidential was about  
4 \$1 million short, and residential was approximately  
5 \$8 million short on an annual ongoing level.

6 Q. Okay. Now I'm with you. And the  
7 6 million you're talking about on page 4 is this the  
8 revenue subsidy excess issue or a different issue?

9 A. No. At that point it hadn't been cost  
10 assigned so that is on the total revenue requirement.

11 Q. Okay. Mr. Smith, do you know how many  
12 low income households are using -- I'm using the  
13 150 percent of below poverty as the threshold. Do  
14 you know how many low income households there are in  
15 Duke service territory?

16 A. I know there are approximately 10,000  
17 Percentage of Income Payment Plan customers that take  
18 gas service from Duke Energy Ohio.

19 Q. But there can be low income customers who  
20 aren't on PIPP, correct?

21 A. Certainly.

22 Q. And you don't know how many of those  
23 there might be.

24 A. We don't pursue customers or categorize

1 customers based on income levels, so, no, we don't  
2 know.

3 Q. You don't have any statistics on that at  
4 all.

5 A. That's correct.

6 Q. And do you know the average consumption  
7 of Duke's PIPP customers?

8 A. I want to say approximately 1,000 Ccf a  
9 year.

10 Q. Do you know if there are PIPP accounts  
11 that are master metered accounts?

12 A. There are.

13 Q. There are. Do you know how many of those  
14 there are?

15 A. I do not.

16 Q. Are you looking at something?

17 A. Well, I had seen a schedule that had  
18 that, but I don't have it with me.

19 Q. Has Duke conducted any analysis of gas  
20 consumption by income level in its service territory?

21 A. Not other than the PIPP.

22 Q. PIPP only, okay.

23 A. Correct.

24 Q. In your opinion is the company's original

1 decoupling mechanism proposed in this application  
2 better for the majority of low income customers than  
3 the SFV approach proposed by the staff?

4 A. I think they would get as close to the  
5 same. I change that. PIPP is above average so  
6 decoupling versus -- again, it's not a fully fixed  
7 straight variable. It's partial. There might be a  
8 slight benefit to the company's proposal to PIPP  
9 customers, to the average PIPP customer.

10 Q. And on an average cost per Ccf per  
11 customer, would the company's decoupling mechanism be  
12 better for the lower usage customers than the staff's  
13 straight fixed variable proposal?

14 A. Can you repeat that?

15 MR. SAUER: Maybe we should have that  
16 reread.

17 (Record read.)

18 A. I think it would result in a lower total  
19 price. I don't know that I would call it better  
20 because there are benefits to low income customers of  
21 a straight fixed -- a higher fixed charge rate  
22 design.

23 Q. Well, just looking at the company's  
24 proposal, the \$15 customer charge in the variable



1 piece of that proposal, would a customer using say  
2 750 Ccf be on an average cost basis be charged more  
3 or less than a customer using say 1200 Ccf?

4 A. I apologize. The higher fixed charge  
5 benefits those customers that take above average,  
6 PIPP customers on average take above the average;  
7 therefore, the higher fixed charge benefits PIPP  
8 customers more so than the lower charge, lower fixed  
9 charge, higher volumetric rate that the company  
10 proposed. Those two rate designs produce exactly the  
11 same result for the average customer. Since PIPP  
12 takes above average volume, they prefer the higher  
13 fixed charge.

14 Q. Because the larger the volume, you're  
15 spreading that higher fixed charge over more Ccf.

16 A. No; because their total bill would be  
17 lower.

18 Q. Not on an average cost basis; you're  
19 looking at it from a total cost basis.

20 A. Hopefully no customer looks at average  
21 cost, and they only look at total cost.

22 Q. Within any rate designs there will be  
23 customers who will be better off and worse off.

24 A. Correct. And those above the average

1 usage level would be better off under a higher  
2 fixed charge rate design.

3 Q. And the lower usage customers would  
4 therefore be worse off.

5 A. Correct.

6 MR. SAUER: Can we go off the record and  
7 let me look at my notes. I may be just about  
8 finished.

9 MR. FINNIGAN: Sure.

10 (Recess taken.)

11 MR. SAUER: Mr. Smith, I have no further  
12 questions. I appreciate your participation.

13 THE WITNESS: Your too kind, Larry.

14 MR. SAUER: Does the staff have any  
15 questions, if you are still there?

16 MS. PARROT: I have no questions.

17 MR. FINNIGAN: The witness will reserve  
18 the right to read.

19 (The deposition concluded at 4:05 p.m.)

20 - - -

21

22

23

24

1 State of Ohio :  
2 County of \_\_\_\_\_ : SS:

3 I, Paul G. Smith, do hereby certify that I  
4 have read the foregoing transcript of my deposition  
5 given on Tuesday, February 19, 2008; that together  
6 with the correction page attached hereto noting  
7 changes in form or substance, if any, it is true and  
8 correct.

9 \_\_\_\_\_  
10 Paul G. Smith

11 I do hereby certify that the foregoing  
12 transcript of the deposition of Paul G. Smith was  
13 submitted to the witness for reading and signing;  
14 that after he had stated to the undersigned Notary  
15 Public that he had read and examined his deposition,  
16 he signed the same in my presence on the \_\_\_\_\_ day  
17 of \_\_\_\_\_, 2008.

18 \_\_\_\_\_  
19 Notary Public

20 My commission expires \_\_\_\_\_, \_\_\_\_\_.  
21  
22  
23  
24

## 1 CERTIFICATE

2 State of Ohio :  
3 County of Franklin : SS:

4 I, Rosemary F. Anderson, Notary Public in and  
5 for the State of Ohio, duly commissioned and  
6 qualified, certify that the within named Paul G.  
7 Smith was by me duly sworn to testify to the whole  
8 truth in the cause aforesaid; that the testimony was  
9 taken down by me in stenotypy in the presence of said  
10 witness, afterwards transcribed upon a computer; that  
11 the foregoing is a true and correct transcript of the  
12 testimony given by said witness taken at the time and  
13 place in the foregoing caption specified and  
14 completed without adjournment.

15 I certify that I am not a relative, employee,  
16 or attorney of any of the parties hereto, or of any  
17 attorney or counsel employed by the parties, or  
18 financially interested in the action.

19 IN WITNESS WHEREOF, I have hereunto set my  
20 hand and affixed my seal of office at Columbus, Ohio,  
21 on this 20th day of February, 2008.

22 Rosemary F. Anderson  
23 Rosemary F. Anderson,  
24 Professional Reporter, and  
Notary Public in and for the  
State of Ohio.

My commission expires April 5, 2009.

(RFA-8103-3)

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