

FILE

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application :
 of The East Ohio Gas Company :
 d/b/a Dominion East Ohio for : Case No.
 Authority to Increase Rates for : 07-829-GA-AIR
 its Gas Distribution Service. :

In the Matter of the Application :
 of The East Ohio Gas Company :
 d/b/a Dominion East Ohio for : Case No.
 Approval of an Alternative Rate : 07-830-GA-ALT
 Plan for its Gas Distribution :
 Service. :

In the Matter of the Application :
 of The East Ohio Gas Company :
 d/b/a Dominion East Ohio for : Case No.
 Approval to Change Accounting : 07-831-GA-AAM
 Methods. :

In the Matter of the Application :
 of The East Ohio Gas Company :
 d/b/a Dominion East Ohio for :
 Approval of Tariffs to Recover :
 Certain Costs Associated with a : Case No.
 Pipeline Infrastructure : 08-169-GA-ALT
 Replacement Program Through an :
 Automatic Adjustment Clause, and :
 for Certain Accounting Treatment. :

In the Matter of the Application :
 of The East Ohio Gas Company :
 d/b/a Dominion East Ohio for :
 Approval of Tariffs to Recover :
 Certain Costs Associated with : Case No.
 Automated Meter Reading : 06-1453-GA-UNC
 Deployment Through an Automatic :
 Adjustment Clause, and for :
 Certain Accounting Treatment. :

DEPOSITION of DANIEL M. IVES

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1 taken before me, Rosemary Foster Anderson, a Notary
2 Public in and for the State of Ohio, at the offices
3 of Jones Day, North Point, 901 Lakeside Avenue,
4 Cleveland, Ohio, on Tuesday, July 22, 2008, at 10:00
5 a.m.

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1 APPEARANCES:

2 Jones Day
3 By Mr. David Kutik
4 North Point
5 901 Lakeside Avenue
6 Cleveland, Ohio 44114

7 On behalf of the Dominion East Ohio.

8 Janine L. Migden-Ostrander, Ohio Consumers'
9 Counsel
10 By Mr. Joseph P. Serio
11 Assistant Consumers' Counsel
12 Ten West Broad Street, Suite 1800
13 Columbus, Ohio 43215-3485

14 On behalf of the Office of Consumers'
15 Counsel.

16 ALSO PRESENT:

17 Ms. Beth Hixon.
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WITNESS

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DEPOSITION EXHIBITS

IDENTIFIED

1 - Miscellaneous Deferred Debits, Acct 186 8

- - -

DANIEL M. IVES

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

EXAMINATION

By Mr. Serio:

Q. Good morning, Mr. Ives.

A. Good morning, Mr. Serio.

Q. We have your name. Can you give me your
business address and your title, please?

A. My business address is 5319 A Feagan
Street, F-E-A-G-A-N, Street, Houston, Texas 77707.
My title is consultant.

Q. And I understand you have been retained
by Dominion East Ohio to act as an expert in this
proceeding.

A. I was.

Q. And can you briefly explain the purpose
of your being hired by Dominion in the proceeding?

A. I was retained by Dominion in this
proceeding to address the regulatory treatment of its
pension expense.

Q. And when we say "this proceeding," we're
talking about the rate case that Dominion filed in
Ohio before the Public Utilities Commission, correct?

1 A. Yes. It was a case that was filed in
2 2007.

3 Q. And I don't want to go through all your
4 educational background. I saw that you have your
5 attachments there. Just some questions, have you
6 ever participated as an expert testifying on pension
7 matters for anybody other than a utility company?

8 A. No.

9 Q. And specifically can you describe to me
10 the purpose of your testimony in this proceeding?

11 A. My testimony describes Dominion East
12 Ohio's pension expense, which was negative during the
13 test period. I think it was 47.7 million negative,
14 and my testimony addresses the reasons why the
15 pension expense should be set to zero in this
16 proceeding rather than being allowed to flow through
17 the cost of service at a negative 47.7 million.

18 Q. And in this proceeding you submitted one
19 piece of testimony, correct?

20 A. Yes.

21 Q. And that was the direct testimony of
22 Daniel M. Ives on behalf of Dominion East Ohio,
23 correct?

24 A. Yes.

1 Q. And when you submitted your testimony,
2 was your testimony specifically in response to
3 anything that was in the Staff Report?

4 A. No.

5 Q. But you are familiar with the Staff
6 Report that was filed by the staff of the Public
7 Utilities Commission?

8 A. I've seen the Staff Report, at least the
9 portion of it that pertains to pension.

10 Q. So you are familiar with how the PUCO is
11 recommending that the pension expense be treated in
12 this case?

13 A. Yes, I am.

14 MR. SERIO: We can put on the record that
15 we have not heard from staff of the Public Utilities
16 Commission as to whether they wanted to participate
17 in this deposition via phone. We did make a phone
18 call to Anne Hammerstein, attorney for the Public
19 Utilities Commission staff, and indicated that if she
20 was interested in participating, she could contact us
21 and we would make a phone bridge available. As yet,
22 we have not heard from the staff.

23 Q. Do you have a copy of your testimony with
24 you, Mr. Ives?

1 A. I do not.

2 Q. I will hand you a clean copy of your
3 testimony. If you could look at it and make sure it
4 is a copy of the testimony you filed in this
5 proceeding.

6 A. Yes.

7 Q. It is, okay. Could you turn to page 4 of
8 your testimony, please.

9 A. Yes.

10 Q. Now, I think about line 10 of your
11 testimony there's a table below that and you indicate
12 that that's the DEO pension asset as of December 31,
13 2006, and I believe the amount is \$650 million. Do
14 you see that?

15 A. Yes, 615 million, 6-1-5.

16 Q. Can you tell me which FERC account on the
17 company's book the pension asset is contained in?

18 A. I believe it's account 129. I don't know
19 Dominion East Ohio's book numbers.

20 Q. Okay.

21 MR. SERIO: I'm going to ask you to mark
22 this as Deposition Exhibit No. 1.

23 (EXHIBIT MARKED FOR IDENTIFICATION.)

24 Q. I'm handing you a one-page document from

1 East Ohio's tariffs -- are you familiar with the
2 annual reports that Dominion submits to the PUCO?

3 A. I'm aware they submit them, but I haven't
4 looked at them.

5 Q. Okay. If you want to accept that,
6 subject to check, this is page 42 of Dominion's 2006
7 Annual Report to the Public Utilities Commission. I
8 believe you see at the bottom of the page it's
9 page 42.

10 A. Yes.

11 Q. The title is Miscellaneous Deferred
12 Debits, Account 186.

13 A. I see that.

14 Q. If you look at the Balance, Pension Asset
15 under the description about the eighth line down, do
16 you see that?

17 A. Yes.

18 Q. And if you go to the far right hand under
19 Balance End of Year, you see the \$615,199,106.

20 A. Yes.

21 Q. Is that the same amount as what you have
22 listed on your testimony on your table under Pension
23 Asset as of 12/31/06?

24 A. I believe that is.

1 Q. And on Deposition Exhibit 1 that
2 indicates it's for the period ending 12/31/06,
3 correct?

4 A. That is the balance as of 12/31/06. I'm
5 looking at Deposition Exhibit No. 1. It's titled
6 East Ohio Gas Company, The; Period Ending 12/31/2006.
7 It's Account 186, Miscellaneous Deferred Debits. The
8 line entitled Pension Asset, the Balance End of Year,
9 Column E, is \$615,199,106.

10 Q. Okay. Now, the Dominion pension asset as
11 of March 31, do you know what that amount was, 2007?

12 A. I do not.

13 Q. I hand you a copy of the Staff Report by
14 the Public Utilities Commission of Ohio in the East
15 Ohio rate in case Nos. 07-829-GA-AIR, et al. I did
16 just hand you the Staff Report. That's the report
17 you indicated previously you reviewed parts of.

18 A. Can you repeat the question, please.

19 Q. I'm just trying to establish that is the
20 Staff Report you did review as part of this rate
21 proceeding, correct?

22 A. I did not review this as part of
23 preparing my testimony. I told you that I had seen
24 pages from the Staff Report that dealt with pension

1 expense, but I have never seen this document before.

2 Q. Okay. So you saw pages from the Staff
3 Report, but you never saw --

4 A. I assume they were from this document,
5 but I don't know that to be a fact.

6 Q. Okay. Would you turn to Schedule B-6 in
7 the Staff Report there. Are you familiar with that
8 schedule at all? Is that one of the items you
9 reviewed as part of your analysis?

10 A. I did not review this page as part of my
11 analysis, but I do see that it does have deferred
12 income taxes and balances appear to be what I've seen
13 before.

14 Q. Specifically line 6, the pension, you see
15 the total is approximately \$629 million.

16 A. Line 6, the Adjusted Jurisdictional is
17 \$629,243,511.

18 Q. Now, did you review -- are you familiar
19 with the company's application regarding the pension
20 expense?

21 A. I don't know what you mean by the
22 company's application.

23 Q. Are you familiar that the company filed
24 an application to initiate the rate proceeding?

1 A. Yes.

2 Q. And in part of your review of the pension
3 asset, were you involved in looking at any of the
4 schedules that were in the pension, either before it
5 was filed -- before it was filed?

6 A. No.

7 Q. Did you review any of the application,
8 any of the schedules after it was filed when you were
9 retained to review the pension asset issue?

10 MR. KUTIK: Objection.

11 You can answer the question.

12 A. Mr. Serio, I thought I heard an
13 objection.

14 MR. KUTIK: I did object.

15 Q. Not a problem, I'll try to ask it again.
16 After you were employed by Dominion, did you have an
17 opportunity to review the application or any of the
18 schedules from the application as part of your review
19 of the pension asset issue?

20 A. No. I was not furnished schedules to
21 review. I was not asked to review the schedules in
22 the application.

23 Q. Okay. Now, you're generally familiar
24 with the accumulated deferred income taxes.

1 A. Yes.

2 Q. The account for accumulated deferred
3 income taxes?

4 A. Yes.

5 Q. Is it your understanding in this
6 proceeding account 283 is the accumulated deferred
7 income tax for Dominion?

8 A. That's correct, 283 and there's a
9 subaccount which I, frankly, don't remember.

10 Q. And you're familiar that the account 283,
11 the deferred income taxes is approximately
12 \$220 million in this proceeding.

13 A. Yes.

14 Q. And that \$220 million would serve the
15 purpose of reducing Dominion's rate base in this
16 proceeding, correct?

17 A. Well, that depends upon how the
18 Commission rules on the issue in this proceeding, but
19 the \$220 million of accumulated deferred income taxes
20 is an offset to rate base as currently filed, but
21 should the Commission accept, for example, our
22 proposal, the deferred income taxes would come out of
23 rate base along with the pension asset, and the
24 expense would be set to zero.

1 Q. Now, generally speaking, I think you
2 indicated that account 283 under normal circumstances
3 serves as an offset, a reduction to base rates,
4 correct?

5 A. It typically is offset -- it typically is
6 an offset to rate base.

7 Q. And are you familiar with why generally
8 the account 283, the accumulated deferred income
9 taxes, serves as an offset to rate base in a rate
10 proceeding?

11 A. Well, for ratemaking purposes the account
12 283 is typically a credit balance so it serves to
13 reduce the rate base and other rate base items
14 because it's netted against them in the calculation
15 of rate base so it serves to reduce it. Then when
16 you calculate a return on taxes on the rate base, it
17 effectively serves to reduce the rate.

18 Q. And when you're talking about ratemaking
19 and you say it generally serves as an offset, that
20 would be similar as to how other deferred taxes serve
21 as an offset to rate base also, correct?

22 MR. KUTIK: Objection.

23 A. Well, other deferred taxes can serve as
24 an offset to rate base.

1 Q. And you're familiar with deferred taxes
2 the concept of what deferred taxes are.

3 A. Generally.

4 Q. And what is your understanding why
5 generally deferred taxes serve as an offset to rate
6 base?

7 A. Well, deferred taxes serve as an offset
8 to rate base in the regulatory realm based on
9 regulatory convention in the applicable jurisdiction.
10 There's not an accounting -- there's not a FASB,
11 Financial Accounting Standards Board, convention that
12 mandates deduction from rate base. It doesn't speak
13 to that.

14 Q. You've testified in Ohio and other
15 proceedings in regulatory matters?

16 A. In Ohio?

17 Q. Let me reask the question.

18 A. No, I have not testified in Ohio.

19 Q. In preparation for your testimony in this
20 proceeding, did you familiarize yourself, at least
21 generally, with the Ohio regulatory process and the
22 ratemaking process that the Public Utilities
23 Commission of Ohio uses in rate cases?

24 A. I did no special inquiry or study of

1 that. I relied on the company to follow Ohio
2 ratemaking convention or to deviate from Ohio
3 ratemaking convention.

4 Q. So when you indicated there's no FASB
5 requirements on the deferred taxes but it's generally
6 the ratemaking -- I don't want to put the word in
7 your mouth. I can't remember the word you used --
8 the process or convention you used.

9 A. I used the word "convention."

10 Q. So that's based on your general
11 understanding of how utility regulation operates,
12 correct?

13 A. Yes. I mean, FASB does speak to
14 provision for deferred income taxes. FAS 87, I think
15 it's paragraph 37, speaks to providing for deferred
16 income taxes related to the pension asset to
17 recognize timing differences and recognition, but
18 FASB doesn't tell the state of Ohio that you have to
19 follow FASB. That's the point I guess I'm trying to
20 make.

21 Q. Right. And you're not aware of anything
22 in Ohio that would lead you to believe that Ohio
23 isn't following the general understanding on deferred
24 taxes or accumulated deferred income taxes, correct?

1 MR. KUTIK: Objection. The witness
2 hasn't talked -- there's nothing in this record to
3 indicate what the, quote, general understanding, end
4 quote, is with respect to deferred income taxes.

5 A. You used the word that Ohio uses. I'm a
6 little -- I got a little lost in your question, sir.

7 Q. A couple of questions ago I think you
8 indicated it was your general understanding under the
9 regulatory convention that deferred taxes serve as an
10 offset to rate base.

11 A. Yes.

12 Q. And you have no reason to believe that
13 Ohio operates contrary to that general understanding.

14 A. I don't.

15 Q. Okay. That's all I was trying to say.

16 A. Okay.

17 Q. You're familiar with noninvestor supplied
18 funds, correct?

19 A. I am.

20 Q. And what is your understanding of what
21 noninvestor supplied funds are?

22 A. Well, my understanding of that as applied
23 in this context is because of the timing differences
24 and payment of federal tax. We collect federal

1 income taxes at the statutory rate in the case at
2 35 percent; however, the company's actual periodic
3 tax expense may be less than 35 percent due to
4 different timing differences for recognition of
5 expenses. So the difference is essentially the
6 amount of deferred income taxes, and they are
7 referred to as noninvestor supplied funds that were
8 provided -- that are provided to the company through
9 the operation of deferred taxes.

10 Q. Are you familiar with noninvestor
11 supplied funds other than as related to just deferred
12 taxes?

13 A. Yes.

14 Q. And your understanding of noninvestor
15 supplied funds when it's not in the context of taxes
16 is what?

17 A. It could be several things. It could be,
18 for example, contributions in aid of construction.
19 It could be customer deposits and advances.

20 Q. But, generally speaking, it is exactly
21 what the name says. It's funds that this company has
22 available that were not provided by investors but
23 came from a different source, correct?

24 A. That's correct. They could have come

1 from investors.

2 Q. How could a noninvestor supplied fund
3 come from investors?

4 A. To the extent if an investor is a
5 customer and provides --

6 Q. Okay.

7 A. -- funds for the company to extend a main
8 out to their house or something.

9 Q. Okay. That would be a very discrete type
10 of funding that would come in only the form where an
11 investor was also a customer of that same company.

12 A. That's correct.

13 Q. You're not aware of any other situation
14 where a noninvestor supplied fund would come from an
15 investor, are you?

16 A. No.

17 Q. And noninvestor supplied funds would also
18 serve as an offset to reduce rate base, correct?

19 A. Yes. I'm not sure of that in Ohio, but
20 I'm familiar in many jurisdictions that's correct.

21 Q. You indicated you're not aware of
22 anything that would tell you that Ohio is different.
23 You weren't made aware that Ohio operates different
24 than other jurisdictions with regard to that, were

1 you?

2 A. I was not; nor was I asked to opine on
3 the treatment of noninvestor supplied funds.

4 Q. Is it your understanding in this
5 proceeding that the company eliminated the
6 pension-related accumulated deferred income taxes
7 from other rate base items?

8 A. Yes.

9 Q. Now, can you explain to me the difference
10 between Dominion's book accounting treatment and
11 Dominion's tax treatment of the pension that resulted
12 in the pension-related accumulated deferred income
13 tax?

14 MR. KUTIK: Can I have the question read,
15 please.

16 (Record read.)

17 A. Yes. Dominion's book pension expense is
18 measured periodically, annually to determine the
19 extent to which the pension funds exceed the
20 projected benefit obligation, and the difference, the
21 change in that Delta annually will drive whether the
22 expense is debit or credit, a positive or negative
23 expense, and in the test period the expense was a
24 credit, a negative expense, if you will. But pension

1 income is not treated as income for federal income
2 tax purposes, so deferred income taxes are provided
3 such that if there's a turnaround in those expenses
4 in future periods, all that gets run against the
5 deferred tax account and not against the current
6 income tax payable.

7 Q. Now, in that setting what -- can you
8 explain to me what the allowable tax expense is for
9 the pension?

10 A. Well, the allowable tax expense for IRS
11 purposes is based on contributions, actual
12 contributions actually made.

13 Q. Would that be cash contributions?

14 A. Generally, yes.

15 Q. And when we say cash contributions, what
16 do we mean by a cash contribution?

17 A. Well, typically it's the company making
18 direct contributions to the pension fund; however,
19 there could be contributions from employees. I don't
20 believe in Dominion's case there are any contributing
21 employees.

22 Q. So when we talk about the cash
23 contribution, where does the company get the cash
24 that they make this contribution with?

1 MR. KUTIK: When there are contributions.

2 Q. When there are contributions, yes.

3 A. I don't know if they take it out of their
4 checking account, or borrow it from banks, or if they
5 sell stock to generate it, or if it's just simply
6 cash that's on hand. I don't know the source of the
7 cash, but presumably it's from company accounts.

8 Q. Okay. When the company gets revenues or
9 gets cash, that can come from customers, correct?

10 A. It can.

11 Q. The other source of revenues or cash can
12 come in the form of borrowing money, correct?

13 A. Yes.

14 Q. And a third source would be shareholder
15 contributions, correct?

16 A. That could be.

17 Q. Are there other sources that you're aware
18 of where the company can get revenues or cash
19 contributions to use in the course of providing
20 service?

21 A. I don't know. I haven't studied Dominion
22 East Ohio's accounts or their activities, but,
23 obviously, you could have other sources of cash that
24 are not related to the provision of utility service.

1 You could have nonutility operations. You could
2 have, for example, an unregulated marketing arm
3 generates cash that gets rolled up to the parent. So
4 there could be numerous sources. There could be
5 rental income from rental of utility property that's
6 no longer used or not currently needed to provide
7 service. There could be a lot of sources of cash.

8 Q. Okay. If the cash or the revenues are
9 generated from customers, you would agree with me
10 that's not an investor-provided source of cash unless
11 the investor happens to be a customer, correct?

12 A. Yes, I would agree with that.

13 Q. And when you identified those other types
14 of services that could generate income, for example,
15 nonjurisdictional businesses or the rental, unless a
16 shareholder happened to be the person involved in
17 that transaction, you would agree with me also there
18 that any of those revenues or cash generated would
19 not come from investors in that case, correct?

20 A. If they were not involved in the
21 transaction and they were not paying the rent on the
22 property, for example, I would agree that the cash
23 came from a third party that may or may not be a
24 customer or an investor.

1 Q. Okay. And I think the third general area
2 that I identified for you was borrowing money, and an
3 instance where the company borrowed money, unless
4 they were borrowing from a shareholder, then you
5 would agree with me that would also be a noninvestor
6 source of money for the company, correct?

7 A. That could be.

8 Q. You indicated it could be. Are there
9 instances, unless the shareholder was actually making
10 a loan to the company, where borrowing money would be
11 considered an investor.

12 A. We don't offset rate base for borrowed
13 funds. We offset rate base for certain noninvestor
14 supplied funds. I think we talked about those,
15 including accumulated deferred income taxes, but we
16 don't treat proceeds from borrowing as noninvestor
17 supplied funds because the investors are at risk for
18 payment of those funds, repayment of those funds.

19 Q. When you indicate that in an instance
20 where the company reimburses funds that the
21 shareholders are at risk, that's generally reflected
22 in the rate of return that a commission applies to a
23 company in a rate proceeding, correct?

24 MR. KUTIK: Objection.

1 A. Well, in developing an overall rate of
2 return in a rate proceeding, the Commission generally
3 looks at the rate of return as comprising two
4 elements, a debt component and an equity component,
5 and they typically recognize the borrowing cost
6 associated with the debt component as part of the
7 overall return. The other component to the overall
8 return is the return on shareholder equity, and the
9 Commission looks at many different factors in
10 developing a return on equity for the company.

11 Q. And the ultimate rate of return that a
12 Commission determines is appropriate would then be
13 used in determining the revenue requirement that
14 would be used to set rates that customers pay,
15 correct?

16 MR. KUTIK: Objection.

17 A. That depends upon how the Commission
18 develops its order in a case. If the case is
19 settled, for example, it may be what's called,
20 referred to generically as a black box settlement
21 that simply develops an overall cost of service and
22 you provide it by the billing determinates and you
23 get a rate.

24 Q. Okay.

1 A. So the Commission may or may not opine on
2 the return on equity.

3 Q. In an instance where it's not a black box
4 type settlement but actually goes to order to the
5 Commission, generally speaking, then your
6 understanding is that the Commission will look at the
7 rate of return, apply it to what they think is the
8 appropriate rate base to determine a revenue
9 requirement, and then that's used to determine the
10 rates that customers should pay, correct?

11 A. That's very generally a description of
12 the process.

13 Q. Going back to your testimony, on page 4,
14 lines 15 and 16 you indicate that Dominion has
15 accumulated deferred income taxes on its books
16 related to its long history of pension expense
17 credits. Do you see that?

18 A. Yes.

19 Q. Are you saying that the accumulated
20 deferred taxes was a result of the pension credits?

21 A. The pension credits are really a result
22 of the change in the pension asset itself over time,
23 and the pension asset has grown, which caused the
24 pension credits to be born, and the accumulated

1 deferred taxes are related to that pension asset. In
2 fact, if you look mathematically they're 35 percent
3 times \$615 million pension asset.

4 MR. SERIO: Off the record for a minute.
5 (Discussion off record.)

6 Q. (By Mr. Serio) Again, on page 4 of your
7 testimony in the table after line 12, you've
8 indicated that on 12/31/06 the pension asset for the
9 Dominion union plan was approximately \$420 million,
10 correct?

11 A. Yes.

12 Q. And the 2006 pension expense of
13 negative -- and that it had a 2006 pension expense of
14 negative \$31.3 million, correct?

15 A. Yes.

16 Q. Now, the calculation for both of those
17 amounts are referenced in your attachments
18 DMI-8.1 and DMI-8.2, correct?

19 A. Yes.

20 Q. Now, you did not provide a calculation
21 for the pension asset for the DEO management plan; is
22 that correct?

23 A. That's correct.

24 Q. And you did not provide the calculation

1 for the pension expense for the DEO management plan,
2 correct?

3 A. That's correct.

4 Q. Can you explain to me why you did not
5 provide the calculation for the pension asset for the
6 DEO management plan?

7 A. The DEO management plan is a
8 multi-company plan that covers more than just
9 Dominion East Ohio and the 195 billion as an
10 aggregate allocation of the management plan
11 representing costs applicable or attributable to
12 Dominion East Ohio, but I did not have -- the Watson
13 Wyatt report is not broken down. It breaks down the
14 single employer union plans for Dominion East Ohio
15 River Gas, West Ohio, but it did not break out the
16 Dominion corporate overall plan under which Dominion
17 East Ohio's employees are covered.

18 Q. If I were to ask you the same question as
19 why you did not provide a calculation for the pension
20 expense for the DEO management plan, is your answer
21 going to be the same?

22 A. Essentially, yes.

23 Q. So essentially instead of a calculation,
24 those are just an allocated amount that the company

1 provided to you.

2 A. Those were provided to me by the company.

3 Q. Now, in your calculation of pension asset
4 and pension expense that you did in your attachments,
5 you list various subcomponents. Would those same
6 subcomponents be a part of the pension asset and the
7 pension expense for the DEO management plan?

8 A. I will say generally yes. I'm not
9 positive that each of the elements listed on DMI-8
10 for each of the union plans is, in fact, applicable
11 to Dominion corporate. Generally it would be.

12 Q. And no one has made you aware of any
13 differences when you were provided the allocation,
14 correct?

15 A. No. I mean it is correct that nobody
16 provided me the differences.

17 Q. So you have no reason to believe that
18 they are different; it's just possible that they
19 could be.

20 A. That's correct.

21 Q. Now, on page 5 of your testimony you
22 indicate that the pension has grown since Dominion's
23 last case in 1994, and the 1994 case that you are
24 referring to was the company's case actually filed in

1 1993, correct?

2 A. I'm accept that.

3 Q. 93-2006-GA-AIR.

4 MR. KUTIK: It is whatever it is.

5 A. I'm not familiar with the case number.

6 Q. Okay. And you indicate in your testimony
7 that the growth in the pension asset is a due to
8 favorable performance of the pension plan's
9 investments coupled with the company's ongoing labor
10 management efforts. Do you see that?

11 A. Yes.

12 Q. Now, are you referring to growth of the
13 DEO union plan and DEO management plan?

14 A. Yes.

15 Q. Do you know who manages the investments
16 of the DEO union and DEO management plans?

17 A. I believe Dominion corporation manages
18 the plans. Now, I don't know who they use to
19 actually manage the investments.

20 Q. Do you know how long Dominion has used
21 the managers that they use right now?

22 A. I do not.

23 Q. Do you know how that particular asset
24 manager was selected by Dominion?

1 A. I do not.

2 Q. Okay. Now, on footnote 3 on page 5,
3 there you indicate that Attachment DMI-8.3 has the
4 overall performance of Dominion's pension fund,
5 correct?

6 A. Yes.

7 Q. Now, on DMI-8.3 is the investment
8 performance for both DEO union and DEO management
9 plans included?

10 A. That's my understanding, they're included
11 in the \$5 billion total.

12 Q. Now, can you explain what the annualized
13 rates of return for one year represents.

14 A. My understanding that's the annual rate
15 of return on the investment over one year.

16 Q. Is that the return that was actually
17 generated by it, is that what it means?

18 A. Yes.

19 Q. Okay. So then for three years the
20 annualized rate of return indicates what actual
21 return was achieved over the three-year period.

22 A. That would be the average -- the
23 annualized average over a three-year horizon.

24 Q. For the five and ten years would be the

1 same answer only for that five- and ten-year period,
2 correct?

3 A. Yes.

4 Q. So is that rate of return for the plan's
5 previous year? I guess if you -- for calendar
6 year --

7 A. If you look --

8 MR. KUTIK: Let him ask his question.

9 Q. For the calendar year, is the rate of
10 return for that calendar year or the prior calendar
11 year?

12 A. The rate of return for one year is for
13 year ended December 31, 2006.

14 Q. And then for the three years, is it the
15 three years prior and then ending 12/31/06?

16 A. My understanding it would be 2006, 2005,
17 and 2004.

18 Q. So for each of those periods it ends
19 12/31/06; it just goes back earlier in time indicated
20 by the three, five, or ten years.

21 A. That's my understanding.

22 Q. So the \$5.008 billion represents a
23 14.1 percent return on the pension fund for 2006,
24 correct?

1 MR. KUTIK: Objection.

2 A. No. The \$5 billion is the market value
3 of the fund. The one year ended December 31, 2006
4 had a 14 percent rate of return on the assets.

5 Q. On page 5 again you indicated since the
6 growth is not due to, I think you call it, ratepayer
7 contributions but due to favorable performance of the
8 pension plan investments, that, therefore, ratepayers
9 shouldn't benefit from that favorable performance,
10 correct?

11 A. I think I point out in the testimony that
12 ratepayers have benefited from the favorable
13 performance of the plan because starting in 1994
14 there was a \$6.2 million pension expense credit that
15 ultimately was, I'm told, included in the overall
16 cost of service in the settlement, and ratepayers
17 have been enjoying that \$6.2 million credit for some
18 12-1/2 years.

19 Q. So you're not saying that ratepayers
20 should not benefit from pension plan investment
21 growth if it was a result of -- get the words
22 right -- if it was a result of favorable performance
23 of the pension plan investments?

24 A. I'm saying that ratepayers have benefited

1 and do benefit from favorable pension plan growth
2 because the amount of pension expense that's flowed
3 through to ratepayers is reflective of the
4 performance of the plan and the company's management
5 of labor costs.

6 Q. In the course of your experience, is it
7 normal to see a pension plan achieve the kind of
8 favorable performance that we have with Dominion's
9 pension plan in this case?

10 MR. KUTIK: Objection.

11 A. I have not compared the performance of
12 Dominion's plan to other companies, but a number of
13 companies have developed pension assets as a result
14 of favorable performance of pension plans,
15 particularly during the late '90s, early 2000 era.

16 Q. Would you say that it's generally the
17 case with a utility that they would have an
18 overfunded pension, or is it generally the case that
19 utilities have to make regular cash contributions to
20 pension funds?

21 MR. KUTIK: Objection.

22 A. I haven't done that study, but based on
23 the number of cases that I've looked at, I would say
24 that the preponderance of utilities do not have as

1 favorable performance and do not have pension assets.
2 They have pension liabilities instead.

3 Q. Now, under your understanding of the way
4 the regulatory process works, if Dominion had not
5 been able to achieve the favorable growth or the
6 favorable performance in the pension plan investments
7 and instead of an excess there was a deficiency, then
8 in this case the company would be looking to make a
9 contribution to the pension expense, correct?

10 A. I don't know that. The determination of
11 the cash contribution to pension fund is governed by
12 various rules under ERISA that establish minimums for
13 the funding of the plan so I don't know that Dominion
14 would be funding under the hypothetical that you've
15 described.

16 Q. What you're describing that the pension
17 plan could be underfunded, but if it was not
18 underfunded by a large enough amount, there would not
19 necessarily be a requirement that a contribution be
20 made; is that correct?

21 A. Yes.

22 Q. Okay. So unless the deficiency is
23 sufficiently large enough, a company doesn't
24 necessarily have to make a cash contribution to an

1 underfunded pension asset.

2 A. I would agree with that.

3 Q. To the extent a pension asset were
4 sufficiently underfunded that ERISA required the
5 company to make a cash contribution and the company
6 had to make that cash contribution, is it your
7 understanding that that's the type of expense that
8 the company would in a rate proceeding apply for
9 flow-through or to be made part of the rate that
10 would come out of a proceeding with the Public
11 Utilities Commission?

12 MR. KUTIK: Objection.

13 A. Well, the measurement of the pension
14 expense that would be reported on the company's books
15 and presumably included in the base period would
16 reflect not only any contributions that the company
17 made into the plan, but it would reflect a number of
18 other factors, the growth in the plan assets, because
19 as you recall, the pension asset measures the
20 difference between how funded the plan is versus its
21 projected benefit obligation. So there's a number of
22 components. It's not just a cash contribution that
23 determines the level of the expense.

24 Q. But to the extent a cash contribution was

1 necessary after all those other factors are looked
2 at, there's still a requirement for cash. Are you
3 following me so far?

4 A. I'm not sure that's a question.

5 Q. Okay. You indicated there are other
6 things that would contribute to whether there was a
7 need for a cash contribution. How the investment
8 grew, other factors that you indicated.

9 A. Right.

10 Q. If after looking at those factors there
11 was still a deficiency, then it would be normal
12 course of business for a utility to make a cash
13 contribution in order to bring the pension asset up
14 to the appropriate level required, correct?

15 A. If it is not sufficiently funded to meet
16 ERISA pension law requirements, the company would
17 make a cash contribution.

18 Q. To the extent the company made a cash
19 contribution, is that cash contribution then
20 reflected in rates that are charged to customers?

21 MR. KUTIK: Objection.

22 A. Not necessarily. It would be reflected
23 in the measurements of the pension expense for the
24 period, which could still be a negative expense.

1 Q. So it just depends on how the level of
2 the negative expense is factored into the calculation
3 of determining a working capital need, correct?

4 MR. KUTIK: Objection.

5 A. The company's payment to the pension fund
6 would be a component of pension expense, a component
7 of the overall valuation of the pension asset and the
8 change in the pension asset and the resulting income
9 statement and expense, whether it is positive or
10 negative.

11 MR. SERIO: Can we take a five-minute
12 break.

13 (Recess taken.)

14 Q. (By Mr. Serio) Mr. Ives, if Dominion's
15 pension plant investment had not grown or declined
16 sufficiently to require an increase due to ERISA
17 requirements, is it your belief that then ratepayers
18 should not have to pay higher rates due to
19 unfavorable performance of the pension plan
20 investments?

21 MR. KUTIK: Objection.

22 A. No.

23 Q. So it would be your position that
24 ratepayers would be required to pay an increase as a

1 result of that unfavorable performance.

2 A. I don't know

3 Q. Back to page 5 of your testimony, at the
4 bottom of the page I think around line 18 you
5 indicate that Dominion has not made a cash
6 contribution to its pension plan since 1992; is that
7 correct?

8 A. Yes.

9 Q. Do you know what the amount of cash
10 contribution was made by DEO in 1992?

11 A. I don't.

12 Q. Do you know in fact if Dominion made a
13 cash contribution to the pension plan in 1992?

14 A. I do not.

15 Q. So when you indicate that they've made no
16 cash contributions since 1992, what was the basis for
17 you picking 1992 there?

18 A. The company personnel told me that.

19 Q. Can you tell me who told you that?

20 A. It may have been Mr. Murphy.

21 Q. Now, on page 5 of your testimony you also
22 indicated that in addition to the investment
23 performance, the results of the pension asset being
24 overfunded was also as a result of the company's

1 ongoing labor management efforts; is that correct?

2 A. Their ongoing labor cost management
3 efforts.

4 Q. Cost, thank you. Can you explain to me
5 what you mean by the ongoing labor cost management
6 efforts?

7 A. Dominion informed me that they had been
8 right-sizing their workforce; in other words,
9 evaluating all the areas of the company and
10 determining correct labor staffing in an ongoing
11 process.

12 Q. Do you know chronologically when the
13 company engaged in those right-sizing efforts?

14 A. I don't know the precise period.

15 Q. Do you know if generally they occurred
16 prior to the last rate case?

17 A. I do not.

18 Q. Do you know if they occurred after the
19 last rate case?

20 A. I don't know that.

21 Q. So when you're talking about -- when you
22 reference the ongoing labor cost management efforts,
23 you're just talking about in general efforts that the
24 company undergoes to ensure right-sizing.

1 A. The company told me that they had been
2 engaged in right-sizing over a period of years, but
3 they didn't specify the years.

4 Q. And, again, was that Mr. Murphy that
5 informed you of that?

6 A. Yes.

7 Q. Now, based on your review of the pension
8 asset, when do you anticipate that Dominion would
9 have to make a cash contribution to its pension plan?

10 A. I don't know.

11 Q. Now, you indicated in your testimony you
12 believe, that you didn't anticipate that there would
13 be any cash contributions for the next five-year
14 period, correct?

15 A. That's correct.

16 Q. And is that projection based on any
17 anticipated level of pension asset growth, or is that
18 just based on the amount of overfunding that exists
19 in the pension asset today?

20 MR. KUTIK: Objection, assumes it
21 couldn't be something else.

22 A. I don't know.

23 Q. So then what was the basis of you
24 indicating you didn't think the company would have to

1 make a cash contribution for at least a five-year
2 period?

3 A. Could you refer me to the part of the
4 testimony?

5 Q. I think page 13 of your testimony,
6 line 15 and 16, you indicate there there's no year
7 among the company's most recent five-year forecast
8 where cash payment to the pension trust would be
9 necessary.

10 A. I see that. I was informed that that was
11 the case by company personnel.

12 Q. So you didn't do any independent analysis
13 to confirm that.

14 A. I did not.

15 Q. Was that again Mr. Murphy that informed
16 you of that?

17 A. I believe it was.

18 Q. Now, prior to 1992, what was the history
19 of Dominion's contribution to its pension plan?

20 A. I don't know.

21 Q. On page 6 of your testimony, I think
22 right around line 8, you indicate that in theory
23 customers have received a windfall of \$77.5 million
24 over a 12-1/2 year period since Dominion's last rate

1 case because in that case Dominion filed a pension
2 expense credit of \$6.2 million. Correct?

3 A. Well, that is what they did.

4 Q. And it's your belief that as a result of
5 the company filing the credit of \$6.2 million in the
6 last case, that's how customers have received what
7 you termed as the windfall profit of \$77.5 million.

8 A. Yes.

9 MR. KUTIK: I object. He didn't testify
10 about profit. He said windfall.

11 MR. SERIO: I'm sorry, windfall.

12 Q. I believe you indicated previously you
13 were somewhat familiar with the company's last rate
14 case, the 1993 rate case.

15 MR. KUTIK: Objection, I don't believe
16 that's his testimony.

17 Q. Are you familiar at all with the
18 company's last rate case in 1993?

19 A. No.

20 Q. Do you know if that case was determined
21 by the Commission or if it was determined as a result
22 of settlement?

23 A. I was told that it was a settlement. I
24 believe I testified to that on lines 3 and 4.

1 Q. Was that Mr. Murphy that informed you of
2 that?

3 A. Yes.

4 Q. You indicated previously this morning
5 that you're familiar with the term of "black box
6 settlement."

7 A. Generally, yes.

8 Q. Generally. Is it your understanding that
9 the 1993 case was settled in a black box settlement?

10 A. My understanding is outlined on lines
11 3 and 4.

12 Q. And that's line 3 and 4 on page 6.

13 A. Yes.

14 Q. The sentence where it says "company
15 personnel informed me"?

16 A. Yes.

17 Q. So your only understanding is based on
18 Mr. Murphy informing you of that information.

19 A. I believe Mr. Murphy was the company
20 personnel that informed me, yes.

21 Q. Now, in your calculation you attribute to
22 customers a windfall for the amount by which the
23 annual negative \$6.2 million pension expense that
24 Dominion filed was less than the actual zero dollars

1 DEO cash contribution made by the company over the
2 last 12-1/2 years, correct?

3 MR. KUTIK: May I have the question read
4 please.

5 (Record read.)

6 A. I testified that the \$7.5 million
7 windfall was the cumulative result of \$6.2 million
8 credit over 12-1/2 years. I made no attempt to
9 relate that to any pension contribution.

10 Q. Is that simply a calculation of
11 6.2 million times 12-1/2 years?

12 A. Yes.

13 Q. Okay. I probably should have asked the
14 easy way.

15 In your calculation of a windfall to
16 customers, did you consider any other expense items
17 that Dominion filed in that rate case that were
18 greater than the actual cost to Dominion over those
19 12-1/2 years?

20 A. No.

21 Q. So, for example, if labor costs were
22 greater than the actual cost, that didn't factor into
23 your calculation at all.

24 A. I did not consider that.

1 Q. Why did you not consider any of those
2 other expense items as part of your calculation?

3 A. I simply -- my calculation simply points
4 out that by receiving the \$6.2 million credit over
5 12-1/2 years, that customers essentially got what I
6 consider to be a windfall.

7 Q. In your calculation of the windfall, did
8 you consider any revenues that Dominion filed in the
9 last rate case that were less than actual revenues
10 that Dominion earned over the 12-1/2 year period?

11 A. I'm not aware of any.

12 Q. And if I asked you why, your answer would
13 be the same, that you simply did the calculation
14 based on the 6.2 million?

15 A. I simply did the \$77.5 million
16 calculation based on the \$6.2 million credit for
17 12-1/2 years.

18 Q. And, again, in your calculation of the
19 windfall you did not consider the impact of the
20 difference between the rate of return granted by the
21 Commission in the last case compared to the actual
22 rate of return earned by the company over the 12-1/2
23 year period.

24 A. No.

1 Q. And you did not look at the actual level
2 of other -- let me rephrase that. So you did not
3 look at the actual level of other expenses, revenues,
4 or rate of return because you were just looking at
5 that one specific expense item, correct?

6 A. I simply looked at the \$6.2 million
7 pension credit.

8 Q. Now, on page 6, I think on footnote 4,
9 you indicate that DEO's pension asset as of
10 December 31, 1993 was 24.9 million.

11 A. That's what footnote 4 says.

12 Q. And the December 31, 1993 date, the
13 24.9 million, was that before Dominion's last rate
14 case was decided, if you know?

15 A. Well, my understanding, as I set forth on
16 lines 2 and 3, I believe their last rate case was in
17 1994.

18 Q. Okay. So then the 24.9 million reflects
19 the pension asset prior to the last rate case.

20 MR. KUTIK: Objection, asked and
21 answered.

22 A. I don't know what the base period, when
23 it ended in the last case.

24 Q. Do you know what the ratepayer

1 contribution to pension expense authorized in
2 Dominion's rates was prior to the rates set in the
3 case that was decided in 1994?

4 A. I do not.

5 Q. Now, on page 5, lines 11 through 13 of
6 your testimony, you indicate that in the prior case
7 to the last rate case. So that I make sure I'm
8 getting this chronologically correct, you're talking
9 about the case that preceded the 1993 rate case that
10 was determined in 1994, correct?

11 A. Could I hear that question again, please.

12 Q. When you say the case prior to the last
13 rate case, the last rate case you are referring to is
14 the 1993 rate case, correct?

15 A. I don't know what line we're on.

16 Q. On page 5 of your testimony, lines
17 11 through 13, you indicate: "Costs were an expense
18 rather than a credit prior to DEO's last rate case."
19 Do you see that?

20 A. Yes.

21 Q. The last rate case you're referring to is
22 the 1993 case, correct?

23 A. I think we called it the 1994 case.

24 Q. The 1994 case. So the case prior to

1 expense rather than a credit prior to that? Is that
2 what you're referring to?

3 A. I'm not referring to any prior case
4 before the 1994 case.

5 Q. In cases prior to the last rate case, the
6 rates paid by customers included positive test year
7 expenses, correct?

8 A. I don't know.

9 Q. Now, do you know when Dominion began
10 using FAS 87 for financial reporting purposes?

11 A. I do not, except to the extent there was
12 an implementation date in FAS 87. I don't recall
13 that date.

14 Q. Now, you're familiar with FAS 158 also,
15 correct?

16 A. Generally.

17 Q. Is the Dominion union plan a single
18 employer plan for purposes of FAS 158?

19 A. My understanding there are three Dominion
20 union plans that are single employer plans.

21 Q. When say three, what are you referring
22 to? Maybe I can help you. Would it be the fact
23 there is Dominion East Ohio, West Ohio and River?

24 A. I was looking for the precise names, but

1 yes, yes, East Ohio Gas, River Gas Division and West
2 Ohio Gas Division of East Ohio.

3 Q. Now, under FAS 158 the pension asset for
4 Dominion's union plan represents the fair value of
5 plan assets in excess of the projected benefit
6 obligation, correct?

7 A. Yes.

8 Q. Now, on footnote 5 of your testimony,
9 page 8, you indicate that FAS 158 does not apply to
10 DEO's management plan, a multi-employer plan, and
11 that you related the pension asset representing
12 funding in excess of recognized expenses. Can you
13 tell me what you mean by the term "funding"?

14 A. Yeah. That would be contributions in
15 excess of recognized expenses.

16 Q. What might that be? What would
17 constitute contributions in excess of recognized
18 expenses?

19 A. Well, to the extent the funding exceeds
20 recognized expenses would generate an asset.

21 Q. So essentially by funding you mean the
22 contribution.

23 A. Yes.

24 Q. Okay. Now, what do you mean by the term

1 "recognized expenses" in that footnote?

2 A. Expenses that have been recorded.

3 Q. Like the FAS '87 pension expense?

4 A. Yes.

5 Q. Now, does the amount of the pension
6 expense recognized in rates by the Commission affect
7 Dominion's treatment of pension expenses for
8 financial reporting purposes?

9 MR. KUTIK: Objection.

10 May I have the question read please.

11 (Record read.)

12 A. No.

13 Q. Can you explain to me why not?

14 A. Well, Dominion's pension expenses are
15 calculated in accordance with various financial
16 accounting standards, and the rate treatment of
17 Dominion's pension expenses does not drive the book
18 accounting for those expenses.

19 Q. Do you know what the impact or effect
20 would be for financial reporting purposes if
21 Dominion's determination of pension expenses under
22 FAS 87 differed from that allowable for ratemaking
23 purposes?

24 A. Could you repeat the question?

1 Q. Do you know what the impact would be for
2 financial reporting purposes of Dominion's
3 determination of pension expense under FAS 87
4 differing from that for allowable ratemaking
5 purposes?

6 A. No.

7 Q. Now, if the Commission were to adopt the
8 company's proposal for zero pension expense rather
9 than the FAS 87 negative test year expense amount,
10 what accounting entries would Dominion have to make
11 as a result of that?

12 A. I don't know.

13 Q. On page 11 of your testimony, line 10,
14 you indicate that it's appropriate to remove the
15 pension asset from Dominion's rate base. Can you
16 explain in what adjustment in the company's
17 application Dominion removed the pension asset from
18 rate base?

19 A. No.

20 Q. On line 8 of your testimony you indicate
21 that your recommendation is --

22 MR. KUTIK: I'm sorry, what line?

23 MR. SERIO: Line 8.

24 MR. KUTIK: Of page 11?

1 MR. SERIO: Page 11.

2 Q. You indicate that your recommendation is
3 appropriate in order to preclude Dominion's
4 collection of less than its full cash cost of
5 service. Do you believe that a state regulatory
6 commission should base rates on the cash cost of
7 service for all elements of expense?

8 MR. KUTIK: Objection.

9 A. I don't understand the question.

10 Q. Okay. Let me break it down. You
11 indicate on your testimony there that in order to
12 preclude Dominion's collection of less than its full
13 cash cost of service, then your recommendation is
14 appropriate, correct?

15 A. I recommend that's appropriate to adjust
16 DEO's negative pension expense to zero for ratemaking
17 purposes and remove the pension asset in this
18 proceeding accumulated deferred income taxes from
19 DEO's rate base.

20 Q. Right. But in line 8, the beginning of
21 your answer you say: "In order to preclude
22 Dominion's collection of less than its full cash cost
23 of service." My question to you is, do you believe
24 that a state regulatory commission should base rates

1 on the cash cost of service for all elements of
2 expenses?

3 A. No.

4 Q. But you do think it's appropriate for a
5 regulatory commission to base rates on the cash cost
6 for the pension expense rather than accounting under
7 FAS 87, correct?

8 MR. KUTIK: Objection, misstates his
9 testimony.

10 A. I didn't state that in my testimony.

11 Q. I'm asking you that.

12 THE WITNESS: Could we have the question
13 repeated, please.

14 (Record read.)

15 A. That is an alternate treatment I offered
16 in my testimony.

17 Q. Are there any other expenses other than
18 the pension expense that you would recommend that a
19 state commission base on the cash cost of service
20 rather than the accounting under FAS 87?

21 A. Yeah.

22 MR. KUTIK: Off the record.

23 (Discussion off record.)

24 MR. SERIO: Please read the last question

1 back.

2 (Record read.)

3 A. Yes.

4 Q. And what would those expenses be?

5 A. Well, I've recommended that -- I've
6 stated in my testimony that the company has informed
7 me that it's willing to adopt a cash basis for OPEBs,
8 other post employment benefits, but they are not
9 governed by FAS 87 as your question posited.

10 Q. Okay. I'm not sure that I got an answer
11 to my question. You indicate in your response that
12 the company indicated they were willing to do that
13 accounting for OPEBs, correct?

14 A. The company, as I testified and outlined
15 in footnote 7 on page 14.

16 Q. My question to you --

17 MR. KUTIK: Have you finished your
18 answer?

19 A. I simply cite my testimony on footnote 7
20 on page 14.

21 Q. My question to you had been, would you
22 recommend to a state commission that any other
23 expenses other than the pension expense be treated in
24 the manner that you're recommending for the pension

1 asset in this proceeding?

2 A. I don't know. I don't know. Your
3 hypothetical is too broad. I don't know.

4 Q. Have you ever made a recommendation that
5 any other expense items, other than pension expense,
6 be treated in that manner?

7 A. Other than as cited in my testimony on
8 page 14 in the footnote, no.

9 Q. And you're not aware of any others other
10 than what is cited in your testimony, instances where
11 any other expense item would be treated that way.

12 A. No.

13 Q. Now, on page 13, line 9 of your testimony
14 you indicate that: The pension credit will likely
15 continue in part due to DEO's reduced service cost
16 obligations. Do you see that?

17 A. What line are we on?

18 Q. Page 13, line 9.

19 MR. KUTIK: The sentence begins on
20 line 7.

21 Q. Do you see that?

22 A. I see that.

23 Q. Okay. What I'm asking for is how has
24 Dominion reduced its service cost obligations?

1 A. I believe I testified earlier that it's
2 been through their right-sizing efforts.

3 Q. Okay. A few more follow-up questions, if
4 you go back to page 5 of your testimony, please.

5 A. Yes.

6 Q. Now, from line 6 to 9 there you talk
7 about the funding related to the 1994 case, and
8 you're not familiar with how the pension was funded
9 prior to the 1994 case; is that correct?

10 MR. KUTIK: I'll object to the
11 characterization of the testimony, but the witness
12 can answer the question.

13 A. No.

14 Q. So specifically you don't know if it was
15 ratepayer funded or shareholder funded.

16 A. No. That no was in response to prior to
17 1994.

18 Q. Right. On page 7 of your testimony, your
19 question 14 and answer, are there any FAS rules that
20 would prohibit reducing the cost of service revenue
21 requirement for the pension expense?

22 MR. KUTIK: Can I have the question read.

23 (Record read.)

24 A. I'm sorry, I'm a slow reader. I'm

1 reading question 14 and answer 14.

2 Q. Sure.

3 A. I'm not aware of any FAS rules that
4 prohibit that.

5 MR. SERIO: Mr. Ives, I think that's
6 everything I have. Thank you for your cooperation.

7 MR. KUTIK: Thank you.

8 We will review and sign the deposition.

9 (The deposition concluded at 11:48 a.m.)

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1 State of Ohio :
2 County of _____ : SS:

3 I, Daniel M. Ives, do hereby certify that I
4 have read the foregoing transcript of my deposition
5 given on Tuesday, July 22, 8; that together with the
6 correction page attached hereto noting changes in
7 form or substance, if any, it is true and correct.

8 _____
9 Daniel M. Ives

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

17 _____
18 Notary Public

19 My commission expires _____, _____.
20
21
22
23
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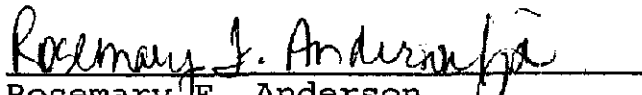
CERTIFICATE

State of Ohio :
County of Franklin : SS:

I, Rosemary F. Anderson, Notary Public in and for the State of Ohio, duly commissioned and qualified, certify that the within named Daniel M. Ives was by me duly sworn to testify to the whole truth in the cause aforesaid; that the testimony was taken down by me in stenotypy in the presence of said witness, afterwards transcribed upon a computer; that the foregoing is a true and correct transcript of the testimony given by said witness taken at the time and place in the foregoing caption specified and completed without adjournment.

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Columbus, Ohio, on this 28th day of July, 8.


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

My commission expires April 5, 2009.

(RFA-8175)