

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

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

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

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

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DEPOSITION OF STEVEN HINES

THURSDAY, FEBRUARY 21, 2008

9:15 O'CLOCK A.M.

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1           Deposition of Steven Hines, a witness  
2 herein, called by Duke Energy Ohio for  
3 cross-examination under the statute, taken before  
4 us, Deborah J. Holmberg, Registered Merit  
5 Reporter, and Valerie J. Grubaugh, Registered  
6 Merit Reporter, Certified Realtime Reporter, and  
7 Notaries Public in and for the State of Ohio,  
8 pursuant to notice and stipulations of counsel  
9 hereinafter set forth, at the offices of The  
10 Office of The Ohio Consumers' Counsel, 10 West  
11 Broad Street, 18th Floor, Columbus, Ohio, on  
12 Thursday, February 21, 2008, beginning at 9:15  
13 o'clock a.m. and concluding on the same day.

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1 APPEARANCES:

2  
3 ON BEHALF OF DUKE ENERGY OHIO, INC.:

4 John J. Finnigan, Jr., Esq.

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13  
14 ON BEHALF OF THE STAFF OF THE PUBLIC UTILITIES  
15 COMMISSION OF OHIO:

16 Marc Dann, Esq.

17 Attorney General of Ohio

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1 APPEARANCES (continued):

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3 ON BEHALF OF THE RESIDENTIAL CONSUMERS OF DUKE  
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14  
15 ALSO PRESENT:

16 Kathy Hagans

17 Don Wathen

18 Bob Parsons

19  
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24  
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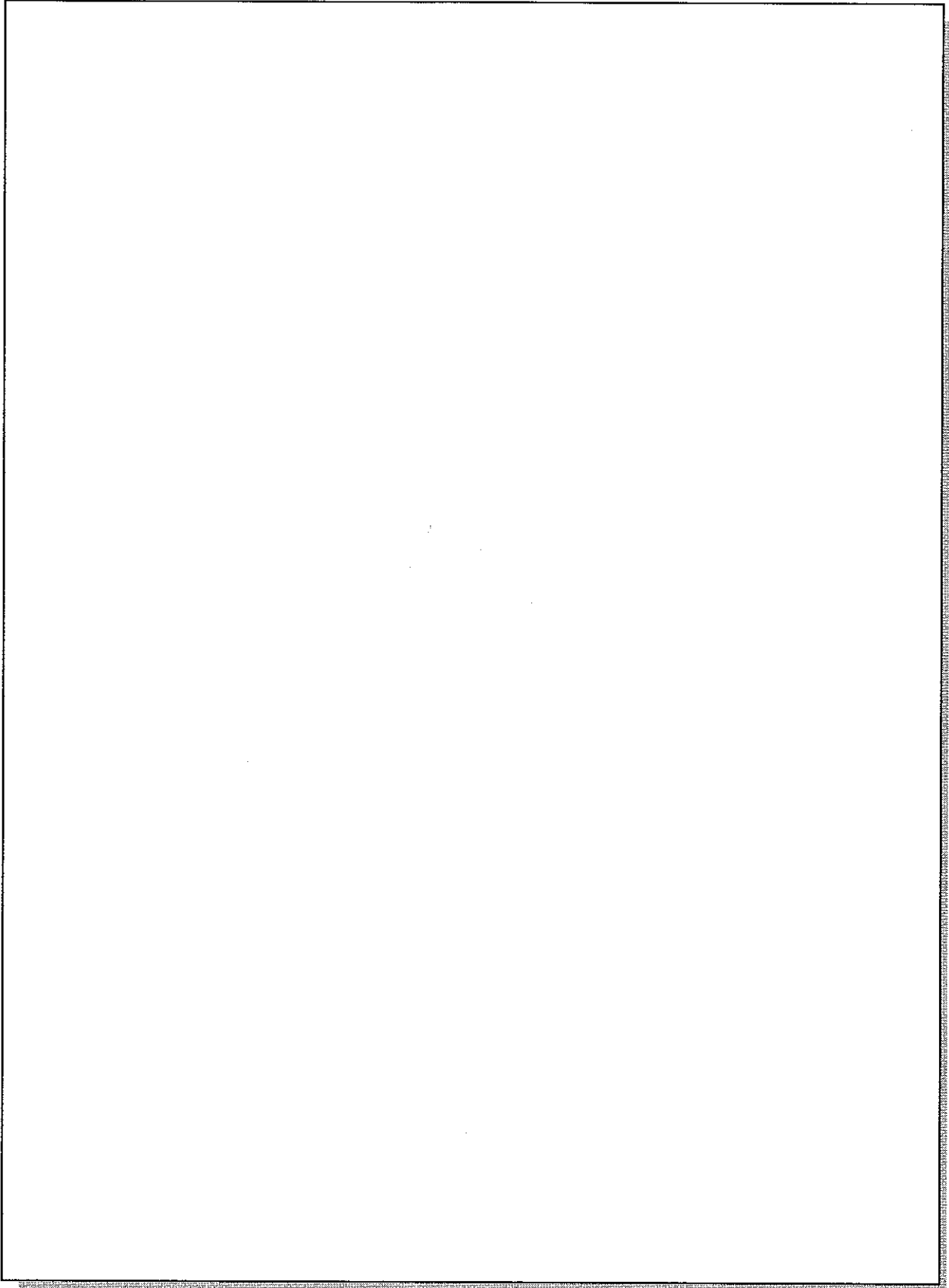
S T I P U L A T I O N S

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It is stipulated by and among counsel for the respective parties herein that the deposition of Steven Hines, a witness herein, called by Duke Energy Ohio for cross-examination under the statute, may be taken at this time and reduced to writing in stenotype by the Notary, whose notes may thereafter be transcribed out of the presence of the witness; that proof of the official character and qualification of the Notary is waived; that the witness may sign the transcript of his deposition before a Notary other than the Notary taking his deposition; said deposition to have the same force and effect as though the witness had signed the transcript of his deposition before the Notary taking it.

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1 STEVEN HINES

2 of lawful age, being by me first duly placed under  
3 oath, as prescribed by law, was examined and  
4 testified as follows:

5 CROSS-EXAMINATION

6 BY MR. FINNIGAN:

7 Q. Good morning, Mr. Hines.

8 A. Good morning, Mr. Finnigan.

9 Q. How are you this morning?

10 A. I'm doing fine. Thank you.

11 Q. Let me ask you about your conclusion with  
12 regard to the delay in recording retired plant.

13 As I understand, you object to the  
14 Company's filing because there was a delay in  
15 recording the retired plant after the date certain  
16 that should have been recorded prior to the date  
17 certain, and the result of that was the test year  
18 plant in service and depreciation expense were  
19 higher in our filing than they should have been.

20 A. I'm really objecting to the Staff Report  
21 that didn't adopt the Blue Ridge Consulting  
22 recommendations, really. I mean, that's the  
23 whole -- in a nutshell.

24 Q. And have I accurately summarized what the  
25 Blue Ridge recommendation was on that issue in

1 terms of nonrecorded retired plant?

2 A. I think I have that contained in my  
3 testimony. I'll find it here. I know I set forth  
4 the Blue Ridge -- Yeah, I believe it's on my  
5 Page 5, Line 18, where it really sets forth what  
6 ECR says. They say -- Well, I could read it  
7 through here.

8 Q. That's okay.

9 A. That's where I believe I state their  
10 recommendation --

11 Q. Okay.

12 A. -- in my testimony.

13 Q. And to kind of summarize, is it an issue  
14 where the retirements of the Company's gas mains  
15 lag behind the time at which the new mains were  
16 placed in service? Isn't that the essence of the  
17 issue here?

18 A. Pretty much. It's the lag in time  
19 between when the retirements are recorded in the  
20 continuing property records versus the associated  
21 additions. That's pretty much it.

22 Q. Okay. And the PUCO Staff did not accept  
23 that recommendation from Blue Ridge; isn't that  
24 correct?

25 A. Yes. It wasn't contained in their



1 report.

2 Q. What's your understanding of why that was  
3 not contained in the PUCO Staff Report?

4 A. There was no -- nothing in the Staff  
5 Report indicating -- I mean, I don't know.

6 Q. Did you see any responses to data  
7 requests that the Company sent out that explained  
8 the reason why the retired plant was recorded in  
9 the way it was?

10 A. I believe I saw something after my  
11 testimony was filed. But that's the Company's  
12 explanation. I didn't see anything from the Staff  
13 in terms of why they did what they did in the last  
14 Staff Report.

15 Q. What is it that you understand is the  
16 Company's explanation for this delay in recording  
17 retirements after the new mains were placed in  
18 service?

19 A. I don't -- I don't recall. I mean, I  
20 recall reading the explanation, but I just  
21 don't -- don't think I remember. It seemed like  
22 it was a lengthy explanation. I just don't  
23 recall --

24 Q. Did you accept or reject the Company's  
25 explanation?

1 A. I'm going with what's in my testimony.  
2 Again, I don't know why the Staff did what they  
3 did in the last case.

4 Q. But --

5 A. It's --

6 Q. I understood you to say the Company's  
7 explanation came out after you filed your  
8 testimony, or you saw it after you filed your  
9 testimony?

10 A. Yes. I believe so.

11 Q. And what I'm asking is, where did you see  
12 the Company's response? What kind of document was  
13 it in? Was it in an answer to a data request or  
14 in somebody's testimony?

15 A. I think it was in a response to one of  
16 our data requests.

17 Q. Do you recall which one it was?

18 A. No, I don't.

19 Q. And did -- did you accept or reject the  
20 Company's explanation in the response to the data  
21 request?

22 A. Well, I didn't do either.

23 Q. So you have --

24 A. I mean, I'm going with my -- Right.

25 Q. How much did Blue Ridge indicate was

1 added to the mains account since the last rate  
2 case?

3 A. Added to the mains account?

4 Q. Yes. The new plant in service.

5 A. Offhand, I don't recall. I don't think I  
6 have that number in the testimony.

7 Q. And what methodology did Blue Ridge use  
8 to calculate how much of the mains should have  
9 been retired?

10 A. They used -- There's a worksheet which  
11 Blue Ridge had, and I looked at in preparing my  
12 testimony, that showed they basically took a  
13 series of years and did like a -- kind of like a  
14 trending of that, and then they -- I think I  
15 explained the process here in my testimony exactly  
16 how they calculated that.

17 Let me see if I can find it here. Yeah,  
18 I believe it's on my Page 8, Lines 6 through 12.  
19 It kind of -- It gives a synopsis of what the Blue  
20 Ridge worksheet was -- how they arrived at  
21 the \$356,000 number for the Account 376 - Mains.

22 Q. Okay. That's the correct number for that  
23 account, according to their recommendation?

24 A. According to their recommendation, I  
25 believe it is, subject to check. I mean, I could

1 check that against -- It should be the number in  
2 the Blue Ridge report. I can check the page for  
3 you, if you want.

4 Q. Okay. And what amount did Blue Ridge  
5 calculate should have been retired from the  
6 Company's mains account, if the company were  
7 following proper retirement procedures?

8 A. I think that's in my testimony here. It  
9 looks like the BRCS used a number of 13.7 --  
10 roughly 13.7 million to derive the depreciation  
11 expense of the 356,000.

12 There's a line in my testimony that says,  
13 "BCRS" -- Reading from Lines 8 through 10 of my  
14 testimony, Page 8, "BCRS then applied this ratio  
15 to the amount of AMRP work orders in Account 106  
16 to arrive at an estimated retirement figure  
17 of 3.7, or 13,749 to four accounts, 376 - Mains".

18 MR. SERIO: If I could -- I think you  
19 meant BRCS, and I think he's referring to the Blue  
20 Ridge Consulting Service. That's what BRCS means.

21 THE WITNESS: Sorry about that.

22 BY MR. FINNIGAN:

23 Q. Now, you've been involved in the  
24 Company's annual AMRP filings, have you not?

25 A. That's correct.

1 Q. And in those filings, isn't it true that  
2 the Company files annual update data in February  
3 of each year where the Company summarizes the  
4 amounts of -- in the mains account for plant in  
5 service and the amount of new mains added and the  
6 amount of retirements?

7 A. Yes, they do file an update, and I  
8 believe that information is in there that you  
9 mentioned.

10 Q. And did you look at the most recent AMRP  
11 update to compare the plant in service and  
12 retirements for the mains account in that filing,  
13 as compared to the amount that Blue Ridge  
14 indicated should have been retired per this  
15 calculation that they made?

16 A. Point of clarification. Are you talking  
17 about the update that was filed last February?

18 Q. Yes.

19 A. The con- -- I don't believe I did when I  
20 went through my testimony.

21 Q. Okay. So you don't know whether the  
22 amounts of retirements in that filing that was  
23 made in February 2007 corresponds to the amount  
24 Blue Ridge says should have been retired, do you?

25 A. Well, that filing was made in February,

1 and I believe that the date certain in this case  
2 was the end of March. So I think that's really  
3 what I was going by. I mean, that --

4 Q. But my question is, you know --

5 MR. SERIO: Excuse me. Could we go off  
6 the record for a second? I believe Staff wants to  
7 join us by phone.

8 (Discussion held off the record.)

9 MR. FINNIGAN: Let's go back on the  
10 record.

11 Could you read my last question?

12 MR. SERIO: John, before you do that, I'd  
13 like to indicate that Bill Wright representing the  
14 PUCO Staff has joined via telephone conference.

15 (Record read back as requested.)

16 BY MR. FINNIGAN:

17 Q. Okay. So I guess you're not sure how the  
18 amount of retirements contained in the February  
19 2007 AMRP update filing compare to the amount of  
20 retirements that Blue Ridge said should have been  
21 retired from the mains account?

22 A. I don't believe I did that comparison.

23 Q. If that amount corresponded with the  
24 amount that Blue Ridge said should have been  
25 retired, would you withdraw this objection?

1 A. I don't know. I mean, you know --

2 Q. Well --

3 A. I mean, I'm going by my testimony.

4 Q. Okay. But if the filing shows that the  
5 Company retired the amount Blue Ridge said should  
6 have been retired, why would you not withdraw your  
7 objection?

8 THE WITNESS: Can I have the question  
9 read back, please?

10 (Question read back as requested.)

11 THE WITNESS: Well, I'd like to see,  
12 first, some proof of that occurring, if I -- You  
13 know, I mean, I'm not saying I would withdraw the  
14 objection, just that I would need to have further  
15 information to make any kind of determination.

16 BY MR. FINNIGAN:

17 Q. Well, let me ask you to assume that  
18 that's true, that the amount reflected in the --

19 MR. FINNIGAN: Let's go off the record.

20 (Discussion held off the record.)

21 MR. FINNIGAN: Let's go back on the  
22 record.

23 Joining us now on the phone are Don  
24 Wathen and Bob Parsons, two employees of Duke  
25 Energy.

1 BY MR. FINNIGAN:

2 Q. Okay. Mr. Hines, let me ask you to  
3 assume that the amount shown in the February 2007  
4 AMRP filing for plant retirements for mains  
5 corresponds with the amount that Blue Ridge  
6 calculated should have been retired. Assume that  
7 to be true.

8 If that were true, would you withdraw  
9 your objection relating to nonrecorded retired  
10 plant?

11 A. You know, again, that's a hypothetical,  
12 and I'd have to say that I need information to  
13 make a determination as to whether that's true or  
14 not.

15 Q. I'm asking you to assume it's true.

16 A. Can I have the question repeated, please?

17 MR. FINNIGAN: Hold on one second.

18 Don, or Bob, or Bill, somebody is  
19 shuffling some papers and it's hard for us to hear  
20 each other here. If you could perhaps put your  
21 phones on mute.

22 UNIDENTIFIED SPEAKER: We were on mute,  
23 so it wouldn't have been us.

24 MR. FINNIGAN: Bill, maybe if you would  
25 put your phone on mute, that would help.



1 MR. WRIGHT: Guilty as charged.

2 (Question read back as requested.)

3 THE WITNESS: If the retirement is  
4 reflected in the rate case -- I mean, if it's  
5 reflected in the rate case and the depreciation  
6 expense is correctly reflected like it should be,  
7 I mean, I don't -- as long as it comports with  
8 what I'm trying to get through my testimony, you  
9 know -- as long as the retirements are reflected  
10 correctly in the rate case against what the  
11 additions are and the depreciation expense, I  
12 shouldn't have any problem with that.

13 BY MR. FINNIGAN:

14 Q. And wouldn't that also be true if the  
15 retirements are reflected correctly in that  
16 February 2007 AMRP update filing?

17 A. Well, see, that's where I'm having a  
18 little difficulty here, because that 2007 update  
19 filing is not -- it's not at the date certain in  
20 this case, so I was going by, pretty much, the  
21 date certain.

22 The update filing, if -- you know, if I  
23 remember correctly, those are as of the year  
24 ending December 31st, 2006.

25 Q. Well, you said --

1 A. So there's a little bit of -- you know,  
2 three months' play within there --

3 Q. You said that -- I'm sorry.

4 A. No. I'm sorry.

5 Q. You said that Blue Ridge calculated  
6 that 13 million should have been retired. How  
7 much did the Company reflect in its retirements  
8 for the mains account in the rate case filing?

9 A. I don't know. I'd have to go back and  
10 check.

11 Q. Would you expect that it would be normal  
12 that there would be at least some delay from the  
13 time at which new mains are placed in service  
14 versus when the old mains are taken out of  
15 service?

16 A. Well, I believe Blue Ridge acknowledges  
17 that there would be some delay, but again, in  
18 their -- I think their conclusion -- and I think I  
19 have it in my testimony somewhere -- they say  
20 that -- I don't want to -- I want to use the words  
21 that they used.

22 I can't seem to find it. But not saying  
23 these are Blue Ridge's exact words, but they seem  
24 to find that this was -- the delay was more than  
25 what they would find normally, I guess. So --

1 Q. What would you expect to be a normal  
2 delay?

3 A. I don't know.

4 Q. Okay. Would you agree as a general  
5 principle that new mains should be placed in  
6 service when the mains are used and useful?

7 A. I'm sorry. Can you repeat the question?

8 Q. Let me reask it. Would you agree, as a  
9 general proposition, that the Company should  
10 record new mains in its plant in service accounts  
11 when the new mains are used and useful in  
12 rendering gas service to the Company's customers?

13 A. When you talk about new mains, which are  
14 basically additions, as long as gas is flowing  
15 through them, they would be used and useful, they  
16 should be includable for ratemaking purposes.

17 Q. And they should be included in the plant  
18 in service account?

19 A. Yes.

20 Q. And included in the Company's rate base;  
21 right?

22 A. Correct.

23 Q. Then would you agree that when new mains  
24 are installed, they are going to be installed near  
25 the old mains that have to be taken out of

1 service; correct?

2 A. In the past, the Company has given that  
3 explanation to me. Whether that's true in all  
4 cases, I don't know.

5 Q. Would you agree as a general proposition  
6 that when a new main is placed in service, and  
7 it's serving one customer, there still may be  
8 other customers served on the old main such that  
9 the old main cannot be taken out of service at the  
10 same time the new main is placed in service?

11 A. I mean, I don't know. I mean, it --

12 Q. Wouldn't you logically assume that to be  
13 the case, though?

14 A. Logically, yes.

15 Q. And that would lead to some delay between  
16 when new mains are placed in service and old mains  
17 are retired from service, wouldn't it?

18 A. I don't know.

19 Q. Well, think about it for a minute. You  
20 just said that a new main that you place down a  
21 street --

22 A. Right.

23 Q. -- you can put it in service and record  
24 it in rate base as long as it's pressurized,  
25 flowing gas and serving one customer; right?

1 A. Repeat that again.

2 Q. Let's say you've got ten customers on a  
3 street.

4 A. Right. Okay.

5 Q. You put in a new main.

6 A. Right.

7 Q. You hook up one customer. You turn on  
8 the gas. You're flowing gas to that one customer.  
9 At that point it's okay to place the new main in  
10 service because it's used and useful in rendering  
11 gas service to that new customer; right?

12 A. Wait a minute. I mean, this -- the  
13 line -- You say there's ten customers on a line.

14 Q. Right. On an old gas main.

15 A. And you're serving one of those  
16 customers, but you're talking about an old gas  
17 main?

18 Q. Say there was an old gas --

19 A. An old gas main.

20 Q. -- main running down a street.

21 A. Okay.

22 Q. The old gas main --

23 A. Served ten customers.

24 Q. -- served ten customers. It's cast-iron  
25 and bare steel, and we need to replace it as part

1 of the AMRP program because we're going to replace  
2 it with new plastic main.

3 Now, in the process of doing that  
4 replacement, let's assume that we install the new  
5 main and we hook up the first of the ten  
6 customers.

7 On the day that that new main is hooked  
8 up and serving the first customer, it can go into  
9 the plant in service account; right?

10 A. There's ten other customers on that line,  
11 and I don't -- Engineering-wise, I don't know. I  
12 don't know.

13 Q. Well, if the new line is used and useful  
14 in rendering gas service to the one customer,  
15 shouldn't it go in plant in service?

16 A. I'd have to say the portion that is  
17 serving that customer. I don't know where the  
18 other ten -- or, nine customers are. I don't --

19 Q. Well, it's one main that you have to  
20 install. And you have to -- Are you saying that  
21 you should divide the main in half and only part  
22 of it goes in service even though the whole main  
23 is used to render the service to the new customer?

24 A. I'm not saying that at all. I'm saying I  
25 don't -- I don't know -- You know, all I can say

1 is that it's used and useful serving that one  
2 customer --

3 Q. Okay. And then --

4 A. -- okay? I don't know what happens to  
5 the other ten, if they are not getting gas.

6 Q. Well, the other ten are served in the old  
7 main. The other main remains in service because  
8 we can't take the other nine customers out of  
9 service; right?

10 A. That's true.

11 Q. Okay. So in my hypothetical, you've got  
12 two mains that are on the Company's plant in  
13 service accounts and they are both used and useful  
14 in rendering gas service to customers; right?

15 A. Parts of them are, yes.

16 Q. And since they are both used and useful  
17 in rendering gas service, it's proper to reflect  
18 them in the Company's plant in service account for  
19 ratemaking purposes?

20 MR. SERIO: I'd like to get a  
21 clarification. When you say, "ratemaking  
22 purposes", are you talking about if there's a rate  
23 case pending, or are you talking about a time  
24 period between rate cases?

25 MR. FINNIGAN: When there's a rate case

1 pending.

2 THE WITNESS: There's sections of the old  
3 main that are still providing service. There are  
4 sections of the newer main that are still  
5 providing service.

6 The entire length of the old main and the  
7 new main -- I mean, only the parts that are  
8 providing service of those two mains would go  
9 into -- on the books for ratemaking purposes.

10 BY MR. FINNIGAN:

11 Q. Well --

12 A. I mean, that --

13 Q. The section of main that we're talking  
14 about is one unit of property; right?

15 A. Are you talking about the old main?

16 Q. Either one. Either the old main or the  
17 new main. The main on the street, it's a unit of  
18 property that you were installing or taking out of  
19 service, right, in this hypothetical I'm talking  
20 about?

21 A. Right.

22 Q. Okay. Now, in this hypothetical  
23 situation, when would you retire the old main from  
24 service? Would you do that after the last  
25 customer on the street, the tenth customer in my



1 example, is disconnected from the old main and  
2 connected to the new main?

3 A. It should -- Once the new pipe or new  
4 main is providing service to a customer, then the  
5 old main -- that portion of the old main should be  
6 retired. I mean, that --

7 Q. Well, wait a minute. The new main is  
8 providing service when one customer is attached to  
9 it. The old main is still serving nine customers.

10 Are you saying you would take the old  
11 main out of service even though it's still serving  
12 those nine customers?

13 A. I'm not talking about taking it out of  
14 service. You asked me if it was retired, should  
15 be retired or not.

16 Q. Yeah. Well, you wouldn't reflect --

17 A. I mean, on the books -- Are you talking  
18 about physical retirement, or on the books? What  
19 are you talking about?

20 Q. I'm talking about both. And what I'm  
21 suggesting to you is that normally there's going  
22 to be a lag between the time when a new main is  
23 installed and placed in service, and serving one  
24 or more customers, as compared to when an old main  
25 is taken out of service because there's going to

1 be a portion of time when the new mains are both  
2 providing some service to gas customers; isn't  
3 that correct?

4 MR. SERIO: I'm going to object. If  
5 you're asking him about what's booked, that's what  
6 his testimony refers to. If you're asking him  
7 about the physical aspects of it, Mr. Hines  
8 indicated he's not an engineer, he doesn't have  
9 any -- any expertise in that matter, and his  
10 testimony doesn't talk about what physically is  
11 done.

12 MR. FINNIGAN: I'm just asking about what  
13 is booked.

14 MR. SERIO: Well, you indicated in your  
15 question what is booked and what's physically  
16 done.

17 MR. FINNIGAN: I'll limit my question to  
18 what's booked.

19 THE WITNESS: Is there a question out  
20 there?

21 BY MR. FINNIGAN:

22 Q. Let me ask you one.

23 Wouldn't you expect in the normal course  
24 of the Company's bookkeeping practices that there  
25 would be some delay between the time when a new

1 main is placed in service and the old main that's  
2 being taken out of service that corresponds to the  
3 new main, is actually retired from the Company's  
4 books?

5 A. I believe Blue Ridge said that in their  
6 report, that there is some delay. And I accepted  
7 that, what Blue Ridge said. And you asked me some  
8 other questioning before that. So that's my  
9 answer.

10 Q. Okay. And do you know what a normal  
11 delay period would be?

12 A. I believe I said I don't know.

13 Q. Okay. Then how can you say that the  
14 Company's process is too long if you don't know  
15 what a normal and acceptable delay period is?

16 A. I'm accepting Blue Ridge's observations  
17 in the fact that the Staff did not accept those.

18 Q. But you don't have any independent  
19 opinion of what a normal delay is for booking  
20 those retirements, you're just going by what Blue  
21 Ridge said; is that correct?

22 A. Yes.

23 Q. Now, when a new main is placed in  
24 service, isn't it true that that would occur  
25 throughout the course of the year? It could

1 happen at any time during the year?

2 MR. SERIO: Are you talking about a  
3 normal year, or are you talking about the test  
4 year?

5 MR. FINNIGAN: Any year. The test year.  
6 Normal year.

7 THE WITNESS: I suppose that could  
8 happen, yes.

9 BY MR. FINNIGAN:

10 Q. In other words, when we're installing new  
11 mains --

12 A. Depends.

13 Q. We're not going to install them all on  
14 January 1st, it's going to happen throughout the  
15 course of the year?

16 A. That seems logical.

17 Q. Okay. And when Blue Ridge calculated the  
18 amount of depreciation expense that should be  
19 removed from the Company's test year expense, was  
20 there any assumption made with regard to whether  
21 the full year's depreciation expense should be  
22 removed, or just a partial year of the  
23 depreciation expense?

24 A. I don't recall. I'd have to go back and  
25 check the calculation that Blue Ridge used.

1 Q. What do you think would be the proper  
2 approach to take?

3 A. Offhand, I don't know.

4 Q. Okay. In other words, what I'm asking  
5 is, would you expect that the proper approach to  
6 be that the depreciation expense is removed from  
7 the Company's books at the point in time of the  
8 year when the main is taken out of service, not  
9 retroactive to January 1st of the year, if the  
10 main is installed at July 1st?

11 MR. SERIO: When you say, "proper",  
12 you're referring to legally under accounting  
13 rules? Is there a basis for what you mean by  
14 proper?

15 MR. FINNIGAN: Yes, that's what I'm  
16 asking.

17 MR. SERIO: So is it under a legal rule  
18 or under --

19 MR. FINNIGAN: Well, let me ask, Joe, the  
20 witness hasn't indicated that he's confused about  
21 the question. So if the witness has any concern  
22 about the question please, Mr. Hines, tell me, and  
23 I'll try to clarify.

24 If your attorney is confused, I don't  
25 think what you're doing, Joe, to try to insert

1 yourself in my questions -- if Mr. Hines appears  
2 to understand them -- is a proper kind of  
3 objection.

4 MR. SERIO: Well, if it's legal -- if  
5 you're asking what's proper under legal, I'm going  
6 to object. He's not an attorney.

7 MR. FINNIGAN: Feel free to object to the  
8 form of the question.

9 MR. SERIO: Yes.

10 MR. FINNIGAN: And would ask that you  
11 refrain from speaking type objections. If you  
12 want to object to the form, you're free to  
13 register an objection to form.

14 Please read back the last question.

15 (Question read back as requested.)

16 THE WITNESS: I'm thinking I answered --  
17 I don't know.

18 BY MR. FINNIGAN:

19 Q. Okay. Let me turn to the other topic you  
20 addressed in your testimony; incentive  
21 compensation.

22 You recommended that the company should  
23 take out of its test year expense the amount of  
24 incentive compensation attributable to company  
25 profits; isn't that correct?

1 A. Yes, that's correct.

2 Q. Let's assume that the Company's  
3 compensation package includes both base pay and  
4 incentive compensation for employees, and when  
5 both of those components of pay are added  
6 together, that that puts the Company in the 50th  
7 percentile of other companies in the industry,  
8 okay? Do you understand what I'm asking you to  
9 assume there?

10 A. Can you elaborate on what you mean  
11 by 50th percentile?

12 Q. Well, I'm talking about the rankings of  
13 where the Company's total compensation fits as  
14 compared to other utility companies in its peer  
15 group.

16 A. Okay.

17 Q. So when you add -- And what I'm asking  
18 you to assume is assume that when base pay and  
19 incentive pay is added together, that that package  
20 as a whole equates to the 50th percentile of peer  
21 companies, okay?

22 A. Okay.

23 Q. I'll ask you to make that assumption.

24 Now, under that assumption, if the  
25 Company removed incentive pay from its payment

1 policies, the Company would no longer be at  
2 the 50th percentile of peer companies, would it?

3 A. No -- I don't know. I didn't address  
4 that in my testimony.

5 Q. Well, I'm just asking you to assume that.  
6 I mean, under my assumption, if both added  
7 together put the Company at 50 percent of peer  
8 companies, if you take out part, it's no longer  
9 at 50 percent, right, it's at some lower  
10 percentile?

11 A. It would appear to be that way.

12 Q. And if the Company's at a lower  
13 percentile of total compensation compared to other  
14 peer companies, wouldn't you expect that Duke  
15 Energy might have a harder time attracting  
16 qualified employees as opposed to other companies  
17 that are paying higher total compensation?

18 A. I don't know that.

19 Q. Wouldn't you logically expect that to be  
20 true?

21 A. I don't know.

22 Q. But wouldn't it make sense that that  
23 would be the case?

24 A. Depends on what other factors there are.  
25 I don't know.



1 Q. All else equal, wouldn't you expect that  
2 to be the case?

3 A. What do you mean by "all else equal"?

4 Q. All other factors related to compensation  
5 pay and employment opportunities.

6 A. In terms of the other companies, too?

7 Q. Yes.

8 A. I mean, I -- I don't know. I mean, there  
9 may be other things that the employee may  
10 consider.

11 Q. Well, I asked you to assume that all  
12 those other factors are equal.

13 A. Can I have the question read back,  
14 please?

15 Q. I'll reask the question. My question --

16 A. Can I have the question read back,  
17 please?

18 Q. I'll ask a new question. I'll withdraw  
19 the old question.

20 A. All right.

21 Q. My question is: If the Company is paying  
22 a lower total compensation package such that it's  
23 no longer at the 50th percentile of peer  
24 companies, and all other factors relating to  
25 employment opportunities and practices are equal,

1 wouldn't you expect the Company to have a more  
2 difficult time attracting qualified employees as  
3 compared to other companies that are paying higher  
4 total compensation?

5 A. I'm saying I don't know, because I don't  
6 know if the employee wants to live in Cincinnati.

7 Q. I'm asking you --

8 A. I mean, that could be a factor right  
9 there. I mean, there's other companies in  
10 California. I'm saying I don't know because  
11 there's other factors other than compensation.

12 Q. I'm asking you to assume that those other  
13 factors are all equal --

14 A. Well, they can't be equal.

15 Q. -- in my hypothetical.

16 A. It can't be equal. I mean, if you've got  
17 a company out in San Francisco, how can you move  
18 them to Cincinnati? I just don't understand what  
19 you're asking me, I guess.

20 Q. Okay.

21 A. My answer is I don't know.

22 Q. All right. Fair enough. Let's move on.

23 The incentive compensation relating to  
24 company profitability, would you agree with me  
25 that for the company to be profitable it has to

1 stay on budget? In other words, if it has budget  
2 overruns, it's less likely to be profitable;  
3 correct?

4 A. I don't know.

5 Q. Would the fact that the company can stay  
6 on its budget be a factor that would benefit the  
7 utility's customers?

8 A. Could be a factor, yes.

9 Q. Okay. Now, if the company is profitable,  
10 wouldn't you expect it to have a higher stock  
11 price than if it's not profitable?

12 A. It would seem that would be the case.

13 Q. Yes?

14 A. Yes.

15 Q. And would you expect its borrowing cost  
16 to be lower if it's a profitable company as  
17 opposed to an unprofitable company?

18 A. I don't know.

19 Q. Well, wouldn't you logically assume that  
20 if a company's losing money, it would have higher  
21 borrowing costs than a company that's profitable?

22 A. Possibly.

23 Q. Okay. And if the company has a higher  
24 stock price and lower borrowing cost, wouldn't  
25 that ultimately translate to a lower cost of

1 capital in utility ratemaking proceedings?

2 A. I'm not a cost of capital witness. I  
3 don't know.

4 Q. Okay.

5 A. I can't answer that question.

6 MR. FINNIGAN: That's all the questions I  
7 have. Thank you, Mr. Hines.

8 THE WITNESS: Thank you, Mr. Finnigan.

9 MR. SERIO: Bill, do you have any  
10 questions?

11 MR. WRIGHT: No, I don't, Joe.

12 MR. SERIO: Is there any other party on  
13 the line?

14 MR. FINNIGAN: Just Don and Bob.

15 UNIDENTIFIED SPEAKER: I'm on the line.  
16 No questions.

17 MR. SERIO: I meant any other  
18 intervenors. We would like the opportunity to  
19 review the transcript.

20 (Signature not waived.)

21 - - -

22 (Thereupon, the deposition was concluded  
23 at 10:01 o'clock a.m. on Thursday,  
24 February 21, 2008.)

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STATE OF \_\_\_\_\_, )

) SS:

COUNTY OF \_\_\_\_\_, )

Steven Hines, having been duly placed  
under oath, deposes and says that:

I have read the transcript of my  
deposition taken on Thursday, February 21, 2008,  
and made all necessary changes and/or corrections  
as noted on the attached correction sheet, if any.

\_\_\_\_\_

Steven Hines

Placed under oath before me and  
subscribed in my presence this \_\_\_\_\_ day of  
\_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_

Notary Public

My Commission Expires: \_\_\_\_\_.

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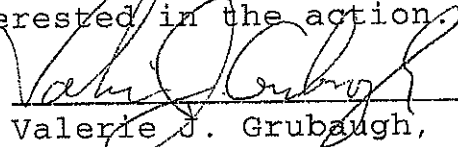
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State of Ohio, )  
)  
) SS:  
County of Fairfield,

- - -

I, Valerie J. Grubaugh, Registered Merit Reporter, Certified Realtime Reporter and Notary Public in and for the State of Ohio, hereby certify that the foregoing is a true and accurate transcript of the deposition testimony, taken under oath on the date hereinbefore set forth, of Steven Hines.

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action in which the deposition was taken, and further that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in the action.



\_\_\_\_\_  
Valerie J. Grubaugh,  
Registered Merit Reporter,  
Certified Realtime Reporter and  
Notary Public in and for the  
State of Ohio.

My Commission Expires:  
August 10, 2011.

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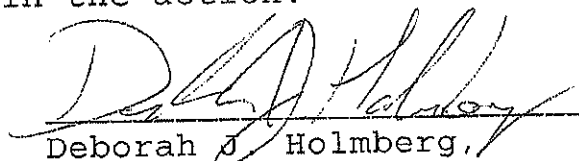
3 County of Delaware ) SS:

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5 I, Deborah J. Holmberg, Registered Merit  
6 Reporter and Notary Public in and for the State of  
7 Ohio, hereby certify that the foregoing is a true  
8 and accurate transcript of the deposition  
9 testimony, taken under oath on the date  
10 hereinbefore set forth, of Steven Hines.

11 I further certify that I am neither  
12 attorney or counsel for, nor related to or  
13 employed by any of the parties to the action in  
14 which the deposition was taken, and further that I  
15 am not a relative or employee of any attorney or  
16 counsel employed in this case, nor am I  
17 financially interested in the action.



Deborah J. Holmberg,  
Registered Merit Reporter  
and Notary Public in and  
for the State of Ohio

My Commission Expires: October 7, 2011.

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