

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.)

- - -

DEPOSITION OF KATHY L. HAGANS

THURSDAY, FEBRUARY 21, 2008

10:15 O'CLOCK A.M.

- - -

1 Deposition of Kathy L. Hagans, a witness
2 herein, called by Duke Energy Ohio, Inc. for
3 cross-examination under the statute, taken before
4 us, Deborah J. Holmberg, Registered Merit
5 Reporter, Valerie J. Grubaugh, Registered Merit
6 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 10:16
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.

5 Associate General Counsel

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7 Duke Energy Corporation

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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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20 Public Utilities Section

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1 APPEARANCES (continued):

2
3 ON BEHALF OF THE RESIDENTIAL CONSUMERS OF DUKE
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5 Janine Migden-Ostrander, Esq.

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14
15 ALSO PRESENT:

16 Don Wathen

17 Bob Parsons

18 - - -

1 S T I P U L A T I O N S

2 - - -

3 It is stipulated by and among counsel for
4 the respective parties herein that the deposition
5 of Kathy L. Hagans, a witness herein, called by
6 Duke Energy Ohio, Inc. For cross-examination under
7 the statute, may be taken at this time and reduced
8 to writing in stenotype by the Notaries, whose
9 notes may thereafter be transcribed out of the
10 presence of the witness; that proof of the
11 official character and qualification of the
12 Notaries is waived; that the witness may sign the
13 transcript of her deposition before a Notary other
14 than the Notaries taking her deposition; said
15 deposition to have the same force and effect as
16 though the witness had signed the transcript of
17 her deposition before the Notaries taking it.

18 - - -

1 KATHY L. HAGANS
2 of lawful age, being first duly placed under oath,
3 as prescribed by law, was examined and testified
4 as follows:

5 CROSS-EXAMINATION

6 BY MR. FINNIGAN:

7 Q. Good morning, Ms. Hagans.

8 A. Good morning.

9 Q. Ms. Hagans, I want to ask you about your
10 recommendations around the working capital in the
11 Company's filing.

12 You recommend that customer deposits
13 should be removed from the other elements of
14 working capital and taken out of rate base; isn't
15 that correct?

16 A. I recommend that customer deposits be
17 deducted from rate base.

18 Q. Yes.

19 So what you're proposing is that that
20 should be treated separately from the other
21 elements of working capital.

22 A. Well, in this case, because there were no
23 other elements of working capital, basically.

24 Q. Under one view, but the Company's
25 position is that there were elements of working

1 capital that it should get recovery for; isn't
2 that correct?

3 A. That's right. But under my view and the
4 Staff's view, there are no other elements of
5 working capital, thus the recommendation to move
6 it.

7 Q. Okay. But the Company did show expense
8 for things like material and supplies and gas
9 storage that are typically considered part of
10 working capital; isn't that correct?

11 A. Yes.

12 Q. Okay. Now, you're familiar with the
13 Company's proposal to remove the gas storage from
14 working capital and recover it through the GCR?

15 A. Yes.

16 Q. Do you support that proposal?

17 A. I'm not -- I'm not testifying in support
18 or in opposition to that proposal.

19 Q. Do you have any opinion or recommendation
20 about that proposal?

21 A. Just as it relates to the working capital
22 request that the Company made in this case, it's
23 my opinion that the Company hasn't justified any
24 level of working capital, and so given that in
25 this case in base rates it's not justified, you

1 know, then I question the propriety of moving it
2 into the GCR. If it's not justified here, should
3 it be justified there, I don't know.

4 Q. Okay. Are you saying you don't --
5 Well, strike that.

6 Let me just ask you about the issue of
7 recovering the cost through the GCR.

8 Do you have any objection to the
9 principle of a utility company recovering its gas
10 storage carrying costs through the GCR?

11 A. I'm not an expert in the gas industry, so
12 I hesitate to go real far. I do know that this
13 has been done in Vectren, but it was done, you
14 know, in a settlement. It was done with other
15 things done in conjunction with it.

16 I understand, I believe, the point of
17 view of the marketers in terms of, you know, if
18 this is a totally GCR-related cost, then, you
19 know, possibly it's more appropriate to put it in
20 the GCR; however, I also understand that it may
21 not be a totally GCR-related cost, that, you know,
22 there are system issues, you know, with gas and
23 storage where it helps the whole system, and so
24 it's not just -- may not just be a GCR-related
25 thing.

1 So that's as far as my understanding
2 goes. So I can't -- I can't give you a firm
3 opinion on whether I think it's a good idea to
4 move it to the GCR.

5 Q. Okay. One benefit from moving the gas
6 storage carrying costs to the GCR is that it makes
7 the Company's GCR price more comparable to
8 marketers' gas prices, doesn't it?

9 A. I can't answer that. I'm sorry. I don't
10 know.

11 Q. You mentioned that the same thing had
12 been done in the Vectren case?

13 A. Yes, that's my understanding.

14 Q. And you mentioned that it was as part of
15 a settlement; correct?

16 A. That's my understanding.

17 Q. And in a settlement, do you understand
18 that one of the tests for whether the Commission
19 can and should approve a settlement is whether the
20 settlement complies with established regulatory
21 principles and precedents?

22 A. I believe that's correct.

23 Q. Okay. Do you have any understanding as
24 to whether moving the gas storage carrying costs
25 into the GCR would tend to make the Company's GCR

1 price higher than it otherwise would be without
2 doing that?

3 A. Yes, I believe that's the case.

4 Q. And the fact that the Company's gas --
5 or, GCR price is higher would make marketers more
6 able to compete against that price?

7 A. It's possible, but that's not -- that's
8 not a good -- I mean, to me, that's certainly not
9 the only reason that you would be looking at it in
10 terms of trying to decide whether that was a good
11 idea or not.

12 Q. Well, if the -- Does the gas and storage,
13 on the whole, benefit more GCR customers or more
14 customers on the whole system?

15 A. I don't know the answer to that.

16 Q. Okay. Do you have any opinion as to
17 whether moving the gas storage cost to the GCR
18 would tend to promote competition as compared to
19 leaving the gas storage costs in base rates?

20 A. I don't know the answer to that, either.

21 Q. Okay. Now, your proposal was to use the
22 date certain balance for customer deposits rather
23 than the 13-month average; is that correct?

24 A. Yes.

25 Q. And you cite some Commission cases where

1 the Commission transferred customer deposits from
2 Schedule B-5-1 to B-6; correct?

3 A. Yes.

4 Q. And Schedule B-6 items are usually valued
5 as of the date certain.

6 A. That's my understanding, yes.

7 Q. Okay. Now, in the cases that you cited
8 in your testimony where the Commission did that,
9 did you do any investigation to determine whether
10 in those cases the Commission used the 13-month
11 average value for the customer deposits or the
12 date certain value for the customer deposits?

13 A. In the past, as far as I know, it has
14 been the 13-month average. My recommendation was
15 simply thinking about the difference in the two
16 Schedules and, you know, the fact that B-6 items
17 are valued around the date certain; whereas,
18 working capital items, the Commission has tended
19 to go for some of them, customer deposits being
20 one of them, in terms of -- more in terms of a
21 13-month average as opposed to it being so date
22 certain oriented, and so that's -- But no, in the
23 past, they have been 13-month averages that
24 they've moved generally, as far as I know.

25 Q. In the cases you cited.

1 A. I believe so.

2 Q. So what you're asking the Commission to
3 do is you're asking the Commission to break from
4 past precedent in terms of how it values its
5 customer deposits.

6 A. Yes. To the extent that they're moved to
7 Schedule B-6, yes.

8 Q. And that's just because B-6 is normally
9 valued as of the date certain.

10 A. Yes.

11 Q. Okay. Now, are you familiar with the
12 Commission's standard filing requirements?

13 A. Yes.

14 Q. Do the standard filing requirements
15 indicate whether customer deposits should normally
16 be on Schedule B-5-1 or Schedule B-6?

17 A. I don't know the answer to that.

18 Q. In the other cases that you cited in your
19 testimony where the Commission used a 13-month
20 average for valuing customer deposits, did the OCC
21 object to the use of a 13-month average and say it
22 should be valued as of the date certain?

23 THE WITNESS: Can I have that read back?

24 I was writing. I apologize.

25 BY MR. FINNIGAN:

1 Q. I'll just go ahead and reask it.

2 A. Okay.

3 Q. In the cases that you cited in your
4 testimony around this issue of working capital,
5 did the OCC raise any objection in those cases
6 that the Commission should have used the date
7 certain for valuing customer deposits as opposed
8 to the 13-month average?

9 A. I don't know the answer to that.

10 Q. Now, in this case, the Commission
11 recommended against any recovery of working
12 capital because the Company did not file a
13 lead/lag study; isn't that correct?

14 A. The Staff?

15 Q. The Staff, yes.

16 A. Yes. I believe so.

17 Q. Now, are you familiar with the Suburban
18 Gas case that's currently pending?

19 A. Only to a certain extent.

20 Q. Are you familiar that the Staff approved
21 the use of a one-eighth O&M expense formula for
22 calculating working capital in that case?

23 A. I believe that's correct.

24 Q. Did the OCC make any objection to that?

25 A. I can't answer that. I don't know.

1 Q. Do you see any problem with the
2 recommendation to use a one-eighth O&M formula for
3 calculating working capital in that case?

4 A. I can't answer that because I'm not
5 involved in that case. I have -- I don't -- I
6 don't know enough about Suburban and its
7 circumstances. I can't answer that. I'm sorry.

8 Q. Are you aware that Suburban, while a
9 smaller gas company than Duke Energy, does follow
10 the same types of standard filing requirements in
11 terms of the schedules it's required to file?

12 A. As far as I know, they do.

13 Q. Okay. Do you see any reason why Suburban
14 should be treated differently than Duke Energy
15 Ohio in terms of the formula for calculating
16 working capital that it should be permitted to
17 use?

18 A. Well, I could see a difference being
19 made -- or, a -- I could see different treatments
20 or different opinions about what treatment might
21 be appropriate given a company's size and ability
22 to perform a lead/lag study. I could see that
23 entering into the equation.

24 Q. Are you aware of any Commission precedent
25 that creates a distinction for smaller companies

1 that are allowed to use the one-eighth O&M formula
2 for calculating working capital instead of doing a
3 lead/lag study just because of their size?

4 A. I'm not aware of it. It doesn't mean
5 it's not out there. I just am not -- I'm not
6 aware of any, you know, bright line.

7 Q. Are you aware that the Ohio Commission
8 and Staff formerly used the one-eighth O&M
9 approach for calculating working capital in all
10 cases?

11 A. Yes. That was years and years ago, and
12 since then, you know, you can -- you can see in
13 the Commission's orders how they changed from the
14 formula method to the lead/lag study method and,
15 you know, the Commission specifically says in one
16 of the orders, you know, "We're putting companies
17 on notice that lead/lag studies are basically
18 necessary", and that was a while ago.

19 Q. That was sometime in the 1980s; is that
20 correct?

21 A. I'm thinking it was in the early '90s,
22 but I could be wrong.

23 Q. Okay. Do you have any personal opinion
24 as to whether a company should be permitted to use
25 a one-eighth O&M formula or a lead/lag study, or

1 either one, to calculate working capital?

2 A. I do. Not that I've looked at working
3 capital in, you know, every single rate case
4 that's ever been filed in Ohio, but the ones that
5 I've seen, it appears to me that there is
6 generally a larger lag in the payment of expenses
7 that tends to outweigh the lag that you guys
8 experience when you receive your revenues, and it
9 out- -- it can outweigh -- the expense lag can
10 outweigh the revenue lag to such an extent that
11 other working capital items then, to the extent
12 that you can get a negative cash working capital
13 that outweighs even materials and supplies and
14 that type of thing, and so you end up -- In my
15 opinion, a lead/lag study is important because of
16 the chance of ending up in that situation. And if
17 you don't have one that tells you one way or the
18 other, then it's hard to recommend any working
19 capital allowance, and I think that's where the
20 Staff comes from.

21 Q. Now, are you aware that in recent years
22 there's been a change in the Natural Gas Industry
23 in that there's been a huge increase in natural
24 gas prices?

25 A. I'm aware that there have been increases,

1 fluctuations, generally.

2 Q. Okay. And wouldn't you expect that these
3 increases in natural gas prices would tend to
4 increase the Company's working capital costs, all
5 else equal?

6 A. I don't know that that's -- I don't -- I
7 don't know.

8 Q. Do you know how much the Company has
9 invested or has incurred in expense for gas
10 storage in this case?

11 A. I don't recall.

12 Q. Do you know how much time is involved to
13 prepare a lead/lag study in terms of number of
14 hours?

15 A. No.

16 Q. Or do you know what the expense is in
17 terms of the dollar expense?

18 A. No.

19 Q. If a company comes in for new rate cases
20 within, say, a five-year, six-year period, should
21 it be permitted to use a lead/lag study performed
22 in a prior case?

23 A. I would think that that could be a
24 possibility. I'm sure that there would be things
25 that would need to change, and, of course, it

1 would be applied to the circumstances in the -- in
2 the most current case, and, you know, you'd have
3 to make sure that everything from the last
4 lead/lag study was still appropriate.

5 Q. Are you aware that in the Company's last
6 electric distribution rate case, I believe the OCC
7 made a recommendation that DE-Ohio should use an
8 old lead/lag study to determine working capital in
9 the current case?

10 A. What I recall is that we suggested that
11 that would be an option. I don't have the
12 objection with me, so I don't know.

13 Q. Let me ask you about the amortization
14 period that you proposed in this case.

15 Based on your experience, do you have a
16 sense of what's the most common time period that
17 the Commission uses for an amortization period for
18 expense accounts?

19 A. I don't, because I don't -- I don't have
20 a sense for what they've approved in every given
21 case.

22 Q. Okay. Are you familiar with the
23 FirstEnergy electric distribution case that's
24 currently pending?

25 A. Only small pieces of it.

1 Q. Are you aware that the Commission Staff
2 recommended a three-year amortization period for
3 the expense accounts involved in that case that
4 are being amortized?

5 A. No, I'm not.

6 Q. Any reason you could think of why it
7 would be appropriate to treat FirstEnergy
8 differently than Duke Energy Ohio in terms of
9 those amortization periods?

10 A. Sure. There's different circumstances
11 for -- for every company. Every company's
12 different. You've got gas; you've got electric;
13 you've got companies that come in for different
14 reasons.

15 You know, the electric industry, those
16 are distribution rate cases. The gas industry,
17 those are full. Yeah, I can think of reasons why
18 it would be different.

19 Q. And what are those reasons you could --

20 A. Well, I just stated some of them.

21 Q. So the fact that -- I'm sorry. Go ahead.

22 A. That's okay. I was just going to say
23 also, you know, the past frequency in terms of
24 your -- Duke's particular filing history versus
25 FirstEnergy's particular filing history, those are

1 just some of the -- some of the differences that I
2 could see.

3 Q. Are you suggesting that just the mere
4 fact of a difference between gas service and
5 electric service justifies different amortization
6 periods?

7 A. Well, I think what I was trying to convey
8 was that in the electric industry, those are
9 electric distribution cases, you know, they don't
10 involve the -- they don't involve the transmission
11 anymore, they don't -- Just because the electric
12 industry is set up differently and it's more
13 different recently than the gas industry, so there
14 are differences in what the rate cases are in
15 the -- what's the word I'm looking for? -- in what
16 the rate cases are doing for the companies and
17 what the -- I mean, yours is a full -- full rate
18 case for all of your natural gas costs except for
19 your commodity; whereas, for electric it's just
20 the distribution.

21 So I don't -- I'm just saying that's one
22 difference that I can see. I don't know,
23 necessarily, whether it makes a difference in
24 terms of rate case frequency or not.

25 Q. Ours is just distribution.

1 A. Well, the gas industry is different
2 than -- I'm just saying they're different
3 industries and that may, for some reason, make a
4 difference.

5 Q. And what is it about the fact that the
6 gas industry is different from the electric
7 industry justifies a different amortization period
8 for these expenses?

9 A. Just that it may impact when the Company
10 needs to come in for another rate case.

11 Q. Are you aware of any Commission practice
12 or precedent to generally approve shorter
13 amortization periods in gas rate cases than in
14 electric distribution rate cases?

15 A. No.

16 Q. You mentioned that the frequency with
17 which a company will come in for rate cases is one
18 consideration for deciding the amortization
19 period, and I guess your point there is that if a
20 company is out of rate cases for longer periods of
21 time there be should be a longer amortization
22 period; is that right?

23 A. Yes.

24 Q. Do you know what the Duke Energy Ohio gas
25 practice was in terms of frequency of cases before

1 the current case as compared to FirstEnergy's
2 frequency of cases before its pending case?

3 A. Not as compared to FirstEnergy, no.

4 Q. Now, one of the accounts that you
5 recommend be amortized is the account for 2007
6 curb-to-meter expense; isn't that correct?

7 A. Yes.

8 Q. Now, prior to this rate case, wasn't that
9 curb-to-meter expense usually recovered in
10 one year during the time of each rider AMRP
11 filing?

12 A. I don't know the answer to that.

13 Q. Okay. And if the rider AMRP is
14 reapproved in this case, I take it you don't know
15 whether curb-to-meter expense would continue to be
16 recovered in the same year in which it's incurred?

17 A. I don't -- I'm not involved in the rider
18 aspect, so I can't answer that.

19 Q. Now, one possible resolution of this case
20 involves recovering the deferred curb-to-meter
21 expense from 2007 through the AMRP rider and also
22 recovering the deferred riser expense through the
23 AMRP rider.

24 Do you have any objection to that or any
25 opinion at all on whether that's appropriate?

1 A. I'm not sure I understand what -- what
2 you're referring to, the deferred curb-to-meter
3 and deferred riser.

4 Q. Well, at one point the Company's proposal
5 was to include those items in its base rates. And
6 what I'm suggesting is that one possible solution
7 would be to take those items out of base rates and
8 instead recover them through the rider AMRP. And
9 I was just wondering whether you had any opinion
10 as to whether that was appropriate or not.

11 A. Generally, taking things out of base
12 rates and putting them into riders, I have a
13 problem with, but I mean, I -- I'm not -- Are you
14 talking about the fact that you guys are proposing
15 an AMRP rider that includes riser costs and
16 includes curb-to-meter costs? Is that --

17 Q. No. I'm just talking about the treatment
18 for those riser costs and curb-to-meter costs that
19 were incurred in 2007 and deferred and have to be
20 covered some way, it's just a question of whether
21 they should be recovered through base rates or
22 through the rider.

23 I'm just asking whether you have any
24 opinion as to whether either one is more
25 appropriate or any objections to either approach.

1 A. I guess I don't, but part of my problem
2 is, I'm -- I'm -- just my unawareness of the
3 deferrals for 2007 for those two items.

4 Q. Okay. Well, fair enough.

5 A. Okay.

6 Q. Let me change the topic now and go to the
7 topic of service company allocations. That was
8 another topic that you addressed in your
9 testimony.

10 As I understand this, what you're
11 objecting to is allocating to Duke Energy Ohio's
12 gas service any service company expenses that came
13 from the electric side of the business.

14 A. Well, that came from the four specific
15 categories that appeared to be electric related.

16 Q. Right.

17 A. Yes.

18 Q. And that's just because the four specific
19 categories are different functions that are
20 allocated under the Company's service company cost
21 allocation practices.

22 A. Can you repeat that?

23 Q. Yes.

24 You identified four different areas or
25 functions that were allocated to Duke Energy Ohio

1 gas that you objected to because they appear to
2 come from the electric side of the business.

3 A. Yes.

4 Q. Okay. And as I understand it, the reason
5 for your objection is that in the description of
6 those functions, those functions all had either
7 electric or power associated with their names, the
8 names of the function.

9 A. Right. And you could tell -- It wasn't
10 only the name of the function, it was also the
11 description of the function and the way that the
12 costs for the function were allocated, that it was
13 all electric-based.

14 Q. And I guess you didn't review all the
15 individual charges that were allocated under those
16 functions, did you?

17 A. All which individual charges? You mean
18 for the test year?

19 Q. Yes.

20 A. Yes. Well, to the extent that you guys
21 responded to discovery, "Here's what Duke Natural
22 Gas paid to the service companies during the test
23 year in this, this, this account and in this,
24 this, this category".

25 Q. Okay. But there was no detail that the

1 OCC asked for or the Company provided below that
2 to indicate what the individual services were that
3 were performed, like whether it was drafting, or
4 engineering, or mapping, or meter reading service;
5 right?

6 A. Well, you can somewhat tell, because of
7 which account, what the dollar amount was included
8 in. I mean, you know, there were -- I want to
9 say -- maybe 20, 25 accounts where these
10 different -- the costs of these different
11 functions were included.

12 Q. Okay. But all you have to go on is the
13 name of the account, though.

14 A. That's right.

15 Q. Okay. You don't know what the individual
16 services were that were charged through that
17 account other than by reading the name of the
18 account as a descriptor.

19 A. That's correct.

20 Q. Okay. So if there were services that
21 were charged through those accounts that actually
22 benefitted gas operations, would it be proper for
23 the Company to recover that part of the expense?

24 A. To the extent that the Company could, you
25 know, show that and make it so that it was clear

1 that that's -- that those services did benefit gas
2 customers, then yes.

3 MR. FINNIGAN: That's all the questions I
4 have. Thank you, Ms. Hagans.

5 THE WITNESS: Uh-huh.

6 MR. SERIO: Bill, do you have any
7 questions? Bill?

8 I'm going to assume that Staff's no
9 longer on and that they, therefore, have no
10 questions.

11 We'd like to review the transcript again
12 also.

13 MR. FINNIGAN: Thank you very much.

14 THE WITNESS: Sure.

15 (Signature not waived.)

16 - - -

17 (Thereupon, the deposition was concluded
18 at 10:45 o'clock a.m. on Thursday,
19 February 21, 2008.)

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A F F I D A V I T

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STATE OF _____,)

) SS:

COUNTY OF _____,)

Kathy L. Hagans, 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.

Kathy L. Hagans

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

Notary Public

My Commission Expires: _____.

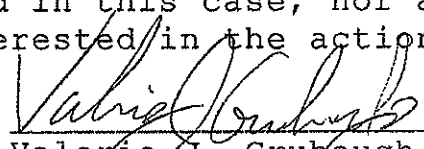
- - -

C E R T I F I C A T E

1
2
3 State of Ohio,)
4) SS:
5 County of Fairfield,
6

7 I, Valerie J. Grubaugh, Registered Merit
8 Reporter, Certified Realtime Reporter and Notary
9 Public in and for the State of Ohio, hereby
10 certify that the foregoing is a true and accurate
11 transcript of the deposition testimony, taken
12 under oath on the date hereinbefore set forth, of
13 Kathy L. Hagans.

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

21 
22 Valerie J. Grubaugh,
23 Registered Merit Reporter,
24 Certified Realtime Reporter and
25 Notary Public in and for the
State of Ohio.

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