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held before Hearing Examiner
Gregory A. Price, hearing held
March 28, 2007.

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of the :
 Application of Vectren Energy:
 Delivery of Ohio, Inc., for :
 Approval, Pursuant to Revised:
 Code Section 4929.11, of :
 Tariffs to Recover :
 Conservation Expenses and : Case No. 05-1444-GA-UNC
 Decoupling Revenues Pursuant :
 to Automatic Adjustment :
 Mechanisms and for Such :
 Accounting Authority as may :
 be Required to Defer Such :
 Expenses and Revenues for :
 Future Recovery Through Such :
 Adjustment Mechanisms. :

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PROCEEDINGS

Before Gregory A. Price, Hearing Examiner, at the
 Public Utilities Commission of Ohio, 180 East Broad
 Street, Room 11-F, Columbus, Ohio, called at
 10:00 a.m. on Wednesday, March 28, 2007.

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On behalf of the Ohio Partners for
Affordable Energy.

- - -

INDEX

- - -

WITNESSES

PAGE

JERROLD L. ULREY

Direct Examination by Ms. Hummel

9

Cross-Examination by Ms. Grady

14

Examination by The Examiner

90

PAUL L. CHERNICK

Direct Examination by Ms. Roberts

93

Cross-Examination by Mr. Randazzo

98

Cross-Examination by Mr. Rinebolt

105

Cross-Examination by Mr. Jones

113

Redirect Examination by Ms. Roberts

115

Recross-Examination by Mr. Randazzo

124

Examination by The Examiner

128

MARTIN G. KUSHLER, Ph.D.

Direct Examination by Ms. Roberts

130

Cross-Examination by Mr. Randazzo

133

Cross-Examination by Mr. Rinebolt

139

Redirect Examination by Ms. Roberts

149

Recross-Examination by Mr. Randazzo

152

Recross-Examination by Mr. Rinebolt

155

Redirect Examination by Ms. Roberts

156

Recross-Examination by Mr. Randazzo

158

Redirect Examination by Ms. Roberts

159

Examination by The Examiner

160

STEPHEN E. PUICAN

Direct Examination by Mr. Jones

162

Cross-Examination by Ms. Grady

164

Redirect Examination by Ms. Hammerstein

235

Examination by The Examiner

236

- - -

1	COMPANY EXHIBITS	ID'D	REC'D
2	2C - Testimony of Jerrold L. Ulrey	8	91
3	7 - Errata Sheet, Deposition of	8	91
4	Mr. Ulrey, March 13, 2007		
5	Joint 2 - Amended Stipulation and	8	91
6	Recommendation		
7	OCC EXHIBITS		
8	A - 2007 Gas Utility Margin Growth	51	91
9	B - Response to Interrogatory by OCC,	53	91
10	First Set, February 6, 2007		
11	C - 2007 Utility Outlook	67	91
12	D - Vectren Actual SRR Variance,	79	91
13	October 2006 through February 2007		
14	E - Testimony of Paul L. Chernick	94	129
15	F - Testimony of Martin G. Kushler	130	161
16	STAFF EXHIBITS		
17	3 - Testimony of Stephen E. Puican	162	237
18			
19			
20			
21			
22			
23			
24			

1 Wednesday Morning Session,
2 March 28, 2007.

3 - - -

4 THE EXAMINER: Good morning. The Public
5 Utilities Commission set for this time and this place
6 in the Matter of the Application of Vectren Energy
7 Delivery of Ohio, Inc., for Approval, Pursuant to
8 Revised Code Section 4929.11, of Tariffs to Recover
9 Conservation Expenses and Decoupling Revenues Pursuant
10 to Automatic Adjustment Mechanisms and for such
11 Accounting Authority as may be Required to Defer Such
12 Expenses and Revenues for Future Recovery Through Such
13 Adjustment Mechanisms, Case No. 05-1444-GA-UNC.

14 My name is Gregory Price. I'm the
15 Attorney Examiner assigned to preside over this
16 matter. May I have appearances, beginning with the
17 Company.

18 MS. HUMMEL: Thank you, Your Honor. On
19 behalf of Vectren Energy Delivery of Ohio, Inc.,
20 McNees, Wallace & Nurick, by Samuel C. Randazzo and
21 Gretchen J. Hummel, 21 East State Street, Columbus,
22 Ohio 43215.

23 MS. GRADY: Thank you, Your Honor. On
24 behalf of Vectren's approximately 300,000 residential

1 consumers or customers, the Office of the Consumers'
2 Counsel, Janine L. Migden-Ostrander, Consumers'
3 Counsel, by Maureen R. Grady and Jacqueline L. Roberts,
4 10 West Broad Street, Suite 1800, Columbus, Ohio
5 43215.

6 MR. RINEBOLT: On behalf of nonprofit
7 organizations headquartered in the Vectren service
8 territory and the low-income customers they serve,
9 David C. Rinebolt, Counsel, Ohio Partners for
10 Affordable Energy, 321 West -- 231 West Lima Street,
11 P.O. Box 1793, Findlay, Ohio 45840.

12 MS. HAMMERSTEIN: Thank you, Your Honor.
13 On behalf of the Public Utilities Commission of Ohio
14 Staff, the Office of the Attorney General, Marc Dann,
15 by Anne L. Hammerstein and John H. Jones, 180 East
16 Broad Street, 9th Floor, Columbus, Ohio 43215.

17 THE EXAMINER: Thank you. We have one
18 motion pending before us before we begin. On February
19 5th, 2007, Staff filed a motion to incorporate Staff
20 report investigation and updated Schedule A1 attached
21 to the Stipulation from rate case and memorandum in
22 support. OCC filed a motion to counter that
23 application. Staff motion to incorporate the Staff
24 report will be granted. Just let me note that OCC can

1 still make its arguments that the Staff report doesn't
2 meet the Staff report requirements, but as an
3 evidentiary matter, the motion to incorporate will be
4 granted.

5 Do we have any other preliminary matters
6 we need to discuss before we begin taking witnesses?

7 MS. GRADY: Your Honor, I just might note
8 for the record, I have had contact with the attorney
9 for the concerned citizens, Joseph Meissner. He is
10 unable to be present at this proceeding due to a number
11 of existing conflicts, but he had asked that I make the
12 representation and inform this Commission that he
13 intends to actively participate in the filing of briefs
14 in this section, in this phase of the hearing.

15 THE EXAMINER: Thank you.

16 MS. HUMMEL: Your Honor, as a preliminary
17 matter, I thought it would be efficient if we were to
18 premark the exhibits that the Company intends to seek
19 admission -- for which the Company intends to seek
20 admission today. I have distributed to all the
21 parties, yourself, and the court reporter, a
22 supplemental exhibit list indicating three exhibits. I
23 have provided copies to the court reporter and other
24 parties, and the Examiner has copies by virtue of the

1 fact that all of these documents have been filed in the
2 docket in this proceeding.

3 For the record, the Company would like to
4 mark as Company Exhibit 2C the testimony of Jerrold L.
5 Ulrey regarding the Amended Stipulation which was filed
6 on February 21st, 2007. The Company would like to mark
7 as Company Exhibit 7 the Errata Sheet for the March 13,
8 2007, deposition of Jerrold L. Ulrey filed in this
9 docket on March 26th, 2007. Parenthetically, I would
10 note that we have mailed the original of the Errata
11 Sheet to the court reporter by certified mail, as is
12 required, for redelivery to the Office of the Consumers
13 Counsel, but in the interest of having that available
14 for the hearing today, we filed an accurate copy of
15 that in the record yesterday. Finally, I would like to
16 mark as Joint Exhibit 2 the Amended Stipulation and
17 Recommendation filed in this proceeding by the Company,
18 Ohio Partners for Affordable Energy, the Staff, and the
19 Commission on January 12th, 2007.

20 THE EXAMINER: Thank you. Those three
21 exhibits will be so marked.

22 MS. HUMMEL: Thank you.

23 THE EXAMINER: The Company may call its
24 first witness.

1 MS. HUMMEL: Thank you, Your Honor. The
2 Company calls Jerrold L. Ulrey.

3 JERROLD L. ULREY,
4 being by The Examiner first duly sworn, as hereinafter
5 certified, testifies and says as follow:

6 THE EXAMINER: Please be seated and state
7 your name and business address for the record.

8 THE WITNESS: My name is Jerrold L. Ulrey.
9 My business address is One Vectren Square, Evansville,
10 Indiana 47708.

11 THE EXAMINER: Ms. Hummel.

12 MS. HUMMEL: Thank you, Your Honor.

13 DIRECT EXAMINATION

14 By Ms. Hummel:

15 Q. Mr. Ulrey, by whom are you employed and in
16 what capacity?

17 A. I am employed by Vectren Utility Holding,
18 Inc., which is the parent company of Vectren Energy
19 Delivery of Ohio, as its Vice-President of Regulatory
20 Affairs and Fuels.

21 Q. For purposes of this particular hearing,
22 did you cause to be prepared testimony that was
23 prefiled on February 21, 2007, in this case?

24 A. I did.

1 Q. And am I correct that that testimony has
2 been marked for identification purposes as Company
3 Exhibit 2C?

4 A. That is correct.

5 Q. Do you have a copy of Company Exhibit 2C
6 before you?

7 A. I do.

8 Q. Do you have any changes or corrections to
9 that you would like to make to -- I'm sorry. Do you
10 have any changes or corrections you'd like to make to
11 Company Exhibit 2C?

12 A. I do not.

13 Q. Thank you. If you were asked the
14 questions contained in Company Exhibit 2C today, would
15 your answers be the same?

16 A. They would.

17 MS. HUMMEL: Your Honor, I move for the
18 admission of Company Exhibit 2C, and I make Mr. Ulrey
19 available for cross-examination.

20 MS. GRADY: Your Honor, would this be the
21 appropriate time for motions to strike Mr. Ulrey's
22 testimony?

23 THE EXAMINER: That would be fine.

24 MS. GRADY: Your Honor, my first motion to

1 strike is with respect to the testimony, his direct
2 testimony filed February 21st. I believe that's been
3 labeled Company Exhibit 2C. I would move to strike,
4 beginning with Question 9 and the answer, and that
5 would be starting on Page 5, going through Question 10
6 and the full answer, ending on Page 5; so the motion to
7 strike goes to Lines 3 through Lines 23 of Page 5 of
8 Mr. Ulrey's testimony, Company Exhibit 2C.

9 Your Honor, we make this motion to strike
10 on the basis of Federal Rule of Evidence 702. 702 is
11 the Rule of Evidence that applies to expert testimony.
12 Under that Rule of Evidence, if scientific, technical,
13 or other specialized knowledge will assist the trier of
14 fact to understand the evidence or determine a fact in
15 issue, then expert testimony should be permitted. Mr.
16 Ulrey's testimony here does not draw upon his special
17 skill, knowledge, or expertise. The 6th Circuit Court
18 has held that an expert's qualifications must provide a
19 foundation for a witness to answer a specific
20 question. Here his testimony is merely based upon his
21 reciting of Commission finding. Mr. Ulrey testified at
22 his deposition that the Commission finding was the
23 basis for his statements to which he testifies here.
24 The testimony is not helpful and borders on issues of

1 law. The general rule is that expert testimony on
2 issues of law is inadmissible. Cites to that would be,
3 Your Honor, U.S. versus Stewart, 433 Federal 3rd 273,
4 311 through 312, a 2nd Circuit 2006 holding, and
5 Bammerlin versus Navistar International Transport
6 Corporation, 30 Federal 3rd 898, 900 through 901, a 7th
7 Circuit 1994 Opinion.

8 THE EXAMINER: Miss Hummel.

9 MS. HUMMEL: Your Honor, Mr. Ulrey has
10 been in the utility business for many, many years, and
11 in his capacity as the Vice-President of rates for a
12 major utility that has more than a million and a half
13 customers in two states, I think he's more than
14 qualified to offer an opinion as to whether the result
15 of a Commission's Opinion and Order in the State of
16 Ohio, in his opinion, is consistent with or does not
17 violate important regulatory principles and, as a
18 package, benefits ratepayers and the public interest.
19 So I fail to see where Mr. Ulrey's credentials do not
20 support his ability to render an opinion on the
21 Commission's Order -- in his opinion, render an opinion
22 on the Commission's Order that was issued on September
23 13 in a case for which a large part he was
24 responsible.

1 THE EXAMINER: This Commission has
2 consistently allowed witnesses to testify as to
3 regulatory issues and separated those from legal
4 issues. The motion to strike is overruled.

5 MS. GRADY: Thank you, Your Honor. Our
6 second motion to strike would be with respect to the
7 portion of Mr. Ulrey's testimony where the Stipulation
8 is attached, the Amended Stipulation and Recommendation
9 filed on 1-12-07, and because that document is
10 contained in his testimony as well as a separate
11 exhibit, that motion to strike would go to the same
12 portion of each of those exhibits.

13 Your Honor, we would move to strike
14 Footnote No. 2 on Page 3 under the Amended Stipulation
15 and Recommendation. Your Honor, that is clearly
16 hearsay. It's an out-of-court statement made by -- it
17 is clearly hearsay, Your Honor. It does not do any
18 specific purpose to be brought to this Court's
19 attention. It's not an exception to hearsay. It
20 should not be allowed.

21 THE EXAMINER: Why is it not a statement
22 against -- a party against -- you're here to testify.
23 You've got witnesses to testify against it. I'm not
24 even sure it's offered for the truth of the matter --

1 MS. GRADY: Your Honor, I don't --

2 THE EXAMINER: -- asserted, but beyond
3 that --

4 MS. GRADY: I'm sorry.

5 THE EXAMINER: Even with that aside, why
6 couldn't you testify --

7 MS. GRADY: It's not a statement against
8 interest. I am objecting to the form that this is
9 coming in. It's a press release. It is not a
10 statement by a witness. Our witnesses have testimony.
11 That's the type of statements that this Court should
12 rely upon, not upon press releases.

13 THE EXAMINER: I don't think it's offered
14 for the truth of the matter asserted. The motion is
15 overruled.

16 MS. GRADY: Thank you, Your Honor.

17 THE EXAMINER: Anything further?

18 MS. GRADY: No, Your Honor.

19 THE EXAMINER: Please proceed with
20 cross-examination.

21 MS. GRADY: Thank you.

22 CROSS-EXAMINATION

23 By Ms. Grady:

24 Q. Good morning, Mr. Ulrey.

1 A. Good morning.

2 Q. Mr. Ulrey, I'm going to direct your
3 attention to Page 3 of your testimony. Specifically,
4 I'm directing your attention to Lines 9 through 11. Do
5 you see that reference?

6 A. I do.

7 Q. What is currently preventing the Company
8 from moving forward with the implementation of the
9 conservation program?

10 A. The DSM Collaborative has decided to
11 suspend the programs until the proceedings in this case
12 are concluded or until they otherwise decide to
13 initiate the programs.

14 Q. I understand that, but my question really
15 goes to what is preventing the Company from moving
16 forward with the implementation?

17 A. The Collaborative operates on a consensus
18 basis, and the Company is in consensus with the
19 Collaborative that they not proceed until the confusion
20 around this proceeding has been resolved.

21 Q. And when, in your opinion, will the
22 confusion about this proceeding be resolved?

23 A. When there is either a settlement amongst
24 all the parties that resolve the issue or the

1 Commission issues a final rule or order in the
2 proceeding.

3 Q. And if the Commission issues a final order
4 in the proceeding that doesn't adopt the Amended
5 Stipulation that you are proposing, will the confusion
6 remain?

7 MS. HUMMEL: Objection, Your Honor.

8 THE EXAMINER: Grounds?

9 MS. HUMMEL: Speculative.

10 THE EXAMINER: Sustained.

11 By Ms. Grady:

12 Q. Now, on Page 3, Lines 18 through 20, you
13 indicate that the Amended Stipulation is supported by
14 the same adequate data and information on the record
15 that was previously relied upon under the Commission's
16 evaluation of the prior Stipulation. Do you see that
17 reference?

18 A. I do.

19 Q. Can you tell me what data and information
20 on the record supported the establishment of a
21 Company-funded, \$2 million low-income weatherization
22 program?

23 A. The Commission, in its September 13th
24 Order -- Opinion, relied upon the direct testimonies of

1 Vectren witnesses as well as the direct testimonies of
2 the OCC and the Staff in making the determination that
3 a \$2 million program funded by the Company was
4 appropriate and in the public interest.

5 Q. Now, you mentioned that the Commission
6 relied upon the direct testimony of Vectren, OCC, and
7 the Staff in your response. Are you aware of whether
8 or not their direct testimony of Vectren, OCC, or the
9 Staff made a recommendation that the Company should
10 fund \$2 million in low-income weatherization?

11 A. The testimonies supporting the
12 Stipulation, which was actually filed on rebuttal,
13 supported the Stipulation which included approximately
14 \$960,000 of a Company contribution, along with some
15 funds that were otherwise to be refunded by the Company
16 to customers in the amount of approximately \$2 million
17 additional.

18 Q. But that was not low-income weatherization
19 funding? It was not directed at low-income
20 weatherization, was it?

21 A. It certainly could be applicable to
22 customers that would be considered low income.

23 Q. Along with other residential and
24 commercial customers; isn't that correct?

1 A. Along with other customers that may not
2 fall into the low-income category.

3 Q. And that's the extent of the data and
4 information that you would -- let me strike that. Can
5 you tell me whether there was any net economic benefit
6 information provided on the record with respect to the
7 \$2 million low-income program?

8 MS. HUMMEL: I'm going to object, Your
9 Honor.

10 THE EXAMINER: Grounds?

11 MS. HUMMEL: Well, the Amended Stipulation
12 and Recommendation simply seeks to implement the
13 Commission's September 13th Opinion and Order which was
14 based on, in the Commission's own findings, the record
15 that was presented to it prior to September 13th. The
16 Order speaks for itself. The record is all filed in
17 the docket. Regardless of whether Mr. Ulrey remembers
18 all of the details of everybody's testimony filed or
19 not, the Commission said that that which is in its
20 September 13th Opinion and Order and, hence, that which
21 is in the Amended Stipulation and Recommendation was
22 based on that record. So I don't know where we get in
23 this particular hearing by pursuing how good Mr.
24 Ulrey's memory is with respect to the myriad of filings

1 that have been made in the record which the Commission
2 said it considered in the September 13th Opinion and
3 Order, which is repeated in the Amended Stipulation and
4 Recommendation.

5 THE EXAMINER: Miss Grady.

6 MS. GRADY: Yes, Your Honor. He
7 specifically has testimony that says, on Page 3, Lines
8 18 through 20, that the Stipulation is supported by the
9 same adequate data and information on the record that
10 was previously relied upon under the Commission's
11 evaluation of the prior Stipulation. Now, if, in fact,
12 I am not permitted to cross Mr. Ulrey on that, then I
13 would suspect that this should be subject to a motion
14 to strike at this point.

15 THE EXAMINER: Miss Hummel.

16 MS. HUMMEL: Ms. Grady's representation of
17 the sentence in Mr. Ulrey's testimony to which she
18 refers ignores the first part of that sentence, which
19 says, "Because the Amended Stipulation does not raise
20 any new issues that were not already contemplated by
21 the September 13 Opinion and Order and November 8 Entry
22 on Rehearing, it is supported by the same adequate data
23 and information on the record that was previously
24 relied upon for the Commission's evaluation of the

1 Stipulation and Recommendation filed on April 10,
2 2006," which is precisely the point I was making in my
3 earlier objection. There is no difference between the
4 two documents. The record is the same. The Commission
5 has already spoken on the record.

6 THE EXAMINER: I'm going to give Miss
7 Grady some leeway here, but let's make our point, and
8 we'll move on.

9 MS. GRADY: Was there a question pending?
10 (Question read back.)

11 THE WITNESS: Miss Grady, what do you mean
12 by "net economic benefit information"?
13 By Ms. Grady:

14 Q. Let me put it this way, Mr. Ulrey, was
15 there any information about the cost effectiveness of
16 the low-income -- \$2 million low-income, Company-funded
17 program presented by any parties to this proceeding?

18 MS. HUMMEL: I'll object. Just for the
19 record, it's irrelevant to the subject matter of this
20 proceeding.

21 THE EXAMINER: Overruled.

22 THE WITNESS: The September 13th Opinion
23 relied upon the testimony filed by OCC and Vectren
24 related to the conservation programs. That

1 testimony -- I did not file that testimony. That
2 testimony was filed by Douglas Karl on behalf of
3 Vectren and by, I believe, Wilson Gonzalez on behalf of
4 the OCC. So if there were net economic benefit
5 information, if there was, that information related to
6 the low-income programs. It would have been in those
7 testimonies.

8 By Ms. Grady:

9 Q. Let's go to Page 4 of your testimony, Mr.
10 Ulrey. On Line 1, you say that, "The same parties that
11 have been participating in this proceeding since its
12 inception were involved in the preparation of the
13 Amended Stipulation." Do you see that reference?

14 A. Yes, I do.

15 Q. You would agree that OCC was not involved
16 in the preparation of the Amended Stipulation; is that
17 correct?

18 A. That is correct. They were invited, and
19 they elected to not join in.

20 Q. Neither was the Concerned Citizens'
21 representative involved in the preparation of the
22 Amended Stipulation, were they?

23 A. They were not.

24 Q. And were they invited to be involved in

1 the preparation of the Amended Stipulation, if you
2 know?

3 A. I do not know.

4 Q. Were there any large general service
5 customers involved in the preparation of the Amended
6 Stipulation, if you know?

7 MS. HUMMEL: Objection.

8 THE EXAMINER: Grounds?

9 MS. HUMMEL: I think we've exhausted the
10 parties in this proceeding, Your Honor. I think the
11 question is irrelevant.

12 THE EXAMINER: Overruled.

13 THE WITNESS: The parties that prepared
14 the Amended Stipulation were VEDO, OPAE, and the
15 Staff. It did not include any other parties, to my
16 knowledge.

17 THE EXAMINER: Miss Grady, just for my
18 information, because I was not involved in the previous
19 phase of this, were there any large general service
20 customers that were parties in the proceeding?

21 MS. GRADY: No, there were not.

22 By Ms. Grady:

23 Q. Did the parties, Mr. Ulrey, if you know,
24 meet or engage in discussion, excluding OCC and

1 Concerned Citizens, in order to prepare the Amended
2 Stipulation?

3 THE EXAMINER: Miss Grady, can you
4 rephrase that question? I think the word "excluding"
5 can have a different connotation.

6 MS. GRADY: I'm sorry. I don't mean to be
7 obsequious.

8 By Ms. Grady:

9 Q. Mr. Ulrey, did the parties, and when I say
10 parties, I'm referencing OP&E, Vectren, and the Staff,
11 meet or engage in discussion in order to prepare the
12 Amended Stipulation, if you know?

13 A. They did.

14 Q. And would you characterize those
15 discussions, related specifically to the Amended
16 Stipulation, as involving lengthy, serious bargaining?

17 A. The parties involved had been in serious,
18 lengthy negotiations since almost -- before the
19 application was filed in this case, and the
20 negotiations continued through the original Stipulation
21 that was filed and continued in the preparation of the
22 Amended Stipulation; so I would say yes.

23 Q. Perhaps I didn't understand your answer.
24 My question was limited to negotiations that would have

1 occurred specifically related to the Amended
2 Stipulation and not prior negotiations leading up to
3 the filing of the previous Stipulation.

4 A. And your question is, were they extended
5 negotiations?

6 Q. Were they -- would you characterize them
7 as lengthy and serious bargaining?

8 MS. HUMMEL: Your Honor, I'm going to
9 object.

10 THE EXAMINER: Grounds?

11 MS. HUMMEL: Mr. Ulrey's testimony
12 contains a discussion of this, and it's already in the
13 record -- or it's already before Ms. Grady.

14 THE EXAMINER: He testifies that this is
15 the product of serious bargaining among capable and
16 knowledgeable parties. She's entitled to cross-examine
17 him on that issue. Overruled.

18 THE WITNESS: They were definitely serious
19 negotiations, yes.

20 By Ms. Grady:

21 Q. Were they lengthy?

22 A. They were the length of time necessary to
23 reflect the Commission's September 13th Order, and it
24 involved a number of meetings --

1 Q. If you know --

2 A. -- it's my understanding.

3 Q. If you know, approximately how long
4 negotiations went on? Do you know that?

5 A. Well, certainly the topics have been
6 discussed since prior to November 28th, 2005.

7 Q. Mr. Ulrey, my question is going to
8 specifically the negotiations that went on for the
9 Amended Stipulation, how long, if you know, the
10 negotiations occurred, hours, days, weeks, months? Can
11 you give me an estimate?

12 A. Well, the discussions actually initiated
13 shortly after the September 13th Order, when VEDO met
14 with the OCC to discuss what to do next, and the
15 discussions with the other parties ensued after that.
16 The Order on rehearing came out November 8th. The OCC
17 withdrew from the settlement. All during that time
18 there were discussions about what to do next. So it
19 lasted, in the general sense, for months.

20 Q. Let me ask you this, and perhaps I'm not
21 being direct enough, the Amended Stipulation only
22 became an issue, Mr. Ulrey, after OCC filed its notice
23 of withdrawal and termination. Is that your opinion?

24 MS. HAMMERSTEIN: Can I have that read

1 back, Your Honor, please?

2 (Question read back.)

3 MS. GRADY: Let me try to rephrase that.

4 By Ms. Grady:

5 Q. Mr. Ulrey, the discussions that would have
6 centered upon an Amended Stimulation and putting
7 together an Amended Stipulation really would have been
8 occurring not until after the filing of OCC's notice of
9 withdrawal and termination; is that correct?

10 A. I think it might be more correct to say
11 that the document wasn't finalized until after that
12 point. Again, the discussion about what to do next
13 started immediately after the Commission's original
14 Order on September 13th.

15 Q. And those would have been discussions with
16 OPAE and Vectren and Staff; is that correct? Are those
17 the type of discussions you're talking about?

18 A. Well, certainly OPAE, I believe, was a
19 participant in the discussions we had at your offices
20 right after the Order was issued. I don't know that
21 Staff was in that particular meeting. The attorneys
22 involved were the ones thereafter doing most of the
23 negotiations, and I'm not exactly sure what meetings or
24 what combination of parties were involved as the

1 continuing negotiations took place.

2 Q. Now, I'm going to focus again on the
3 Amended Stipulation and the negotiations that were
4 going on associated with that Amended Stipulation. Can
5 you tell me, was there actually bargaining going on at
6 those negotiations?

7 MS. HUMMEL: I object.

8 THE EXAMINER: Grounds?

9 MS. HUMMEL: The witness has just
10 testified that the discussions occurred between
11 attorneys to the parties in this proceeding and he is
12 not exactly sure what discussions occurred. He's been
13 asked that. He's answered that. I'm going to object.

14 THE EXAMINER: Sustained.

15 I think you made your point. Move on.

16 By Ms. Grady:

17 Q. Now, on Page 4, Line 17 through 20, you
18 answer a question about the willingness of some of the
19 parties to accept the Commission's guidance. Do you
20 see that reference?

21 A. Yes.

22 Q. Are you equating the modifications to the
23 April 10th, 2006, Stipulation as the Commission's
24 guidance? Are those one and the same?

1 A. Yes.

2 Q. Now, on Page 4 through 5 --

3 A. I'm sorry, Miss Grady --

4 Q. I'm sorry. I misspoke. Mr. Ulrey, would
5 you agree that the objective of the negotiations, and
6 I'm referencing your testimony on Page 4, carrying over
7 onto 5, beginning at Lines 21, was to adopt the
8 Commission's Order?

9 A. Yes. The Amended Stipulation was meant to
10 implement the Commission's Order.

11 Q. Moving along, Mr. Ulrey, to a question on
12 Page 5, Question 9, you indicate that the Amended
13 Stipulation does not violate an important regulatory
14 principle. Do you see that reference?

15 A. Yes.

16 Q. Now, this conclusion is based on the
17 Commission's Opinion and Order finding that the April
18 10th Stipulation did not violate any important
19 regulatory principles?

20 A. Did you say that the April 10th
21 Stipulation did not violate any regulatory principles?

22 Q. Yes.

23 A. The Commission found that the plan that
24 they approved did not violate any regulatory

1 principles.

2 Q. Thank you for that clarification. Is your
3 opinion based on anything else besides the Commission's
4 conclusion?

5 A. No. The Commission's conclusion is good
6 enough for me.

7 Q. Mr. Ulrey, do you have an understanding of
8 traditional rate-making in Ohio as well as an
9 understanding of the alternative rate plan process in
10 Ohio?

11 A. Generally, yes.

12 Q. Are you familiar with the formula for
13 traditional rate-making found in Ohio?

14 A. I'm not sure I know, Miss Grady, what you
15 mean by a "formula for traditional rate-making."

16 Q. Are you familiar with the formula found in
17 Chapter 4909 -- Section 4909.15, which -- let me strike
18 that. Are you familiar with the rate-making formula
19 found in Section 4909.15 of the Revised Code?

20 A. I don't know that cite by heart. I may
21 know what it says, but I don't know that cite.

22 Q. You're in charge of government and
23 regulatory affairs, are you not?

24 A. Regulatory Affairs and Fuels.

1 Q. So you would oversee the filing of rate
2 cases in Ohio?

3 A. I do.

4 Q. So I would assume you know the formula.

5 A. Well, the formula that I'm --

6 THE EXAMINER: Miss Grady, he answered
7 that question. He didn't know the cite off the top of
8 his head.

9 MS. GRADY: I'm sorry. I didn't catch
10 that in his response.

11 By Ms. Grady:

12 Q. Are you familiar with the test period
13 concept?

14 A. I may be. Can you tell me what you mean
15 by that?

16 Q. By test period concept, I mean the fact
17 that under Ohio regulation, the expenses and revenues
18 of the company are measured over a specific time period
19 called the test year.

20 A. I'm familiar generally with the test year
21 concept, yes.

22 Q. And are you familiar with the fact that
23 one element in determining rates under the Ohio
24 Rate-making Statute is the cost to the utility of

1 rendering service for the test period?

2 MS. HUMMEL: I have to object, Your
3 Honor. That is not an accurate representation of the
4 law.

5 THE EXAMINER: What would you say an
6 accurate representation is?

7 MS. HUMMEL: I would say that 4909.15 of
8 Revised Code includes the specifications for the
9 determination of revenue requirements. It contains no
10 specifications for rate design, nor are there any
11 specifications for rate design found anywhere in
12 Chapter 4909.

13 THE EXAMINER: Miss Grady.

14 MS. GRADY: Your Honor, I don't think
15 we're even talking about rate design. My question went
16 to is the cost of rendering service an element that is
17 looked at, not rate design, and cost of service is
18 certainly an element of 4909.15.

19 MS. HUMMEL: I'd like to have the question
20 read back, please.

21 THE EXAMINER: Why don't you rephrase your
22 question, and we can dispense with this. As long as
23 you don't use the word rate design, I'm sure Miss
24 Hummel will be happy.

1 MS. GRADY: I don't think I used it
2 before, but I'll make sure that I don't use it.

3 By Ms. Grady:

4 Q. Under the rate formula, one element in
5 Ohio is the cost to the utility of rendering service
6 for the test period?

7 A. Again, I'm not familiar with the formula
8 that you're describing. I know the standard filing
9 requirements do include schedules that represent the
10 cost of service for the company for a given period of
11 time.

12 Q. And the standard filing requirements
13 support the application for the increase, do they not?

14 A. Standard filing requirements are required
15 as part of the filing for an application for increase
16 in rates.

17 Q. Now, Mr. Ulrey, do you know whether or not
18 another element of rate-making is the fair and
19 reasonable rate of return applied to evaluation of rate
20 base?

21 A. That's an important regulatory principle,
22 yes.

23 Q. And, Mr. Ulrey, are you familiar with the
24 date certain concept of Ohio's rate-making formula as

1 pertaining to the evaluation of rate base?

2 A. I'm familiar with a rate base cutoff date
3 associated with rate base.

4 Q. And the cutoff date you're talking about
5 is the same thing I'm calling date certain; is that
6 right?

7 A. I don't know, but I -- yeah.

8 Q. Now, we've been discussing a number of
9 elements of traditional rate-making in Ohio and whether
10 you're familiar with those or not. I want to ask you,
11 Mr. Ulrey, does the Amended Stipulation violate any of
12 those regulatory concepts or principles we've been
13 discussing, if you know?

14 A. The Amended Stipulation implements the
15 Commission's September 13th Opinion, and in that
16 Opinion, the Commission indicated that their plan did
17 not violate any important regulatory principles.

18 Q. Independent of the Commission's finding,
19 do you have an opinion whether or not the alternative
20 rate -- let me strike that. Independent of the
21 Commission's Opinion as shown in the September 13th
22 Order, do you have an opinion as to whether the Amended
23 Stipulation violates any regulatory principles in Ohio?

24 A. Are you talking about specifically the

1 three that you just mentioned to me?

2 Q. We can start with that, sure.

3 A. I don't believe that it does violate any
4 regulatory principles, as the Commission also found in
5 their Order.

6 Q. And what is your basis, the basis of your
7 belief beyond the fact that the Commission found in its
8 Order that it did not?

9 A. Well, certainly the SRR, which is the
10 Sales Reconciliation Rider, provides VEDO the
11 opportunity to earn a fair rate of return. It's not
12 guaranteed, but it's an opportunity, so the SRR
13 actually helps achieve that regulatory principle.

14 Q. Is that the extent of your answer?

15 A. I'm thinking. The test period concept,
16 I'm not sure how that applies in an Alt. Reg.
17 proceeding, which the Commission indicated this
18 application should be considered. I believe in an Alt.
19 Reg. proceeding, the Commission can approve
20 nontraditional types of arrangements; so I'm not sure
21 that there's a violation of a principle if those
22 principles aren't applicable in an Alt. Reg. situation.

23 Q. And you use the word "nontraditional."
24 Are you characterizing the SRR as a nontraditional

1 approach to traditional rate-making?

2 A. It's an alternative regulatory approach.

3 Q. And when you use the words "alternative
4 regulatory approach," are you equating those with the
5 words that are used in the alternative regulatory
6 statute that governs gas companies in Ohio?

7 A. Yes.

8 Q. And you are familiar with that law, are
9 you not?

10 A. Again, generally, yes.

11 Q. Now, you testify on Page 5 of your
12 stipulation, in the Question and Answer 10, that the
13 Amended Stipulation, considered as a package, benefits
14 ratepayers and the public interest. Do you see that
15 reference?

16 A. I do.

17 MS. HUMMEL: May I have the reference
18 again, please, Your Honor? I believe she said in his
19 stipulation, first of all, so may I hear the question
20 back again, please?

21 THE EXAMINER: Read the question back.

22 (Question read back.)

23 MS. GRADY: Let me withdraw that and
24 rephrase.

1 THE EXAMINER: Thank you.

2 MS. GRADY: Thank you for bringing that to
3 my attention.

4 By Ms. Grady:

5 Q. You testify on Page 5 of your testimony,
6 in response to Question 10, that the Commission found
7 that with its modifications, the Stipulation and
8 Recommendation filed on April 10th benefits ratepayers
9 and the public interest. Do you see that reference?

10 A. Yes.

11 Q. You go on to conclude, Mr. Ulrey, that --
12 you say the Amended Stipulation reports that three of
13 the four parties in the proceeding are willing to move
14 forward and implement the Commission's Order; and, "For
15 this reason, the Amended Stipulation must be regarded
16 as benefiting ratepayers and being in the public
17 interest." Do you see that?

18 A. Yes, I do.

19 Q. Do you have any independent knowledge
20 or -- let me strike that. Do you have an independent
21 opinion, and when I say independent, independent of the
22 Commission's Opinion and Order, as to whether not the
23 Amended Stipulation, as a package, benefits ratepayers
24 and the public interest?

1 A. I think the Commission's Order indicates
2 that it is in the public interest and benefits
3 ratepayers, which is a determination they need to make,
4 but -- and that determination is fine for me, but I do
5 believe it does provide benefits to ratepayers.

6 Q. And on what do you base that opinion on?

7 A. The access to information related to
8 conservation programs should be beneficial to all of
9 our customers, and based on the DSM Collaborative's
10 efforts to define low income, approximately 60 percent
11 of our residential customers will have access to the
12 rebate programs and weatherization programs as well.

13 Q. Does that conclude your answer?

14 A. It does.

15 Q. You mention that customers will have
16 access to information related to conservation as one of
17 the factors, in your opinion, as to whether the
18 Stipulation benefits the public. Don't customers
19 already have benefits -- or access to information
20 related to conservation through a number of sources?

21 A. Customers do have access to information.
22 The Company, though, is offering a Nexus tool that
23 allows the customer to see, based on each customer's
24 individual usage characteristics, what types of

1 elements of conservation they could pursue to reduce
2 their usage; so the Nexus tool is very specific, and I
3 doubt that that information is readily available from
4 other sources.

5 Q. Is the Nexus tool something that was
6 implemented under the Amended Stipulation or was it
7 something that the Company determined on its own to
8 offer?

9 A. I have not been involved in the DSM
10 Collaborative, so I don't know if the Nexus tool has
11 been discussed specifically as one of the programs
12 associated with the Amended Stipulation, but it is a
13 program tool that is being offered today to VEDO's
14 customers so that they can reduce their usage and avoid
15 the high cost of commodity gas costs.

16 Q. The Amended Stipulation, the only
17 weatherization program -- or the only -- strike that.
18 In the Amended Stipulation, the only conservation or
19 energy efficiency program is a \$2 million low-income
20 program; is that correct?

21 A. The Amended Stipulation implements the
22 September 13th Order which required a \$2 million
23 low-income program, which, as I mentioned a bit ago, we
24 defined as 300 percent of the poverty level, reaches 60

1 percent of Vectren's residential customers.

2 Q. And the Nexus online audit tool is not a
3 low-income program, is it?

4 A. Yes. It can be used by low-income
5 customers as well as any other customer.

6 Q. If they have a computer or access to a
7 computer; correct?

8 A. No. They can also call Vectren's Call
9 Center and receive assistance from a call center
10 representative to populate the data in the Nexus tool
11 and achieve the same information results.

12 Q. How long has the Nexus online audit tool
13 been available to low-income customers?

14 A. I don't know exactly when it was
15 implemented. It is implemented now, though.

16 Q. Would you accept, subject to check, that
17 it was implemented January 2007?

18 A. I can't accept that. I just don't know.

19 Q. Now, you also mentioned, Mr. Ulrey, in
20 going back a couple of responses ago, that one of the
21 benefits that you rely upon, in your opinion, that the
22 Stipulation provides benefits to ratepayers and is in
23 the public interest is the definition of low-income
24 customers and the fact that under the Amended

1 Stipulation low income -- 60 percent of Vectren's
2 customers will have access to the low-income program.

3 Do you remember that reference?

4 A. Yes.

5 Q. Now, the 60 percent of low income -- or 60
6 percent of Vectren's customers is the amount of
7 customers that would be eligible for low income -- the
8 low-income program under the Amended Stipulation; is
9 that correct?

10 A. That's correct.

11 Q. And what -- do you know, Mr. Ulrey, how
12 many customers would be able to participate within that
13 low-income segment that you've identified?

14 MS. HUMMEL: Just for the record, Your
15 Honor, I would make an objection on the basis of scope
16 of this proceeding. There are no programs defined in
17 the Amended Stipulation, and implementation of the
18 Amended Stipulation is outside of the scope of this
19 proceeding.

20 THE EXAMINER: I think she's following up
21 on a response that he made. He phrased the 60 percent
22 figure. We'll allow her to ask that question.
23 Overruled.

24 MS. HUMMEL: Thank you, Your Honor.

1 THE WITNESS: I'm sorry, Miss Grady, I
2 forgot the question.

3 By Ms. Grady:

4 Q. I knew you were going to do that to me.

5 A. Unintentional, I assure you.

6 Q. Mr. Ulrey, earlier in your responses you
7 talked about one of the benefits associated with the
8 Stipulation, the Amended Stipulation, is the fact that
9 the Stipulation permits the Company to define
10 low-income customers in a more broad sense. Is that an
11 accurate characterization of your testimony?

12 A. It is.

13 Q. And the broader sense that you're
14 referring to is the fact that the current low-income
15 customers receive weatherization -- let me strike
16 that. Can you explain why that is a broader definition
17 under the Amended Stipulation?

18 A. Again, I'm not part of the DSM
19 Collaborative, but my understanding of the low-income
20 program that was previously and is currently in effect
21 pursuant to the base rate proceeding is that the
22 definition was not at 300 percent of poverty level. It
23 was some lower level, either 200 or 150 percent, I
24 don't know for sure, but I do know that it's been

1 broadened by movement to 300 percent of poverty level.

2 Q. Thank you.

3 A. You're welcome.

4 Q. Now, the broadening to the 300 percent of
5 the poverty level, that means that that group of
6 customers which we're calling low income would be
7 eligible to participate in the programs?

8 A. That's correct.

9 Q. It's not actual participation?

10 A. Not yet.

11 Q. Do you know, Mr. Ulrey, given a \$2 million
12 low-income program, what the estimate is of the number
13 of customers who will be able to benefit directly from
14 the weatherization program, i.e., receive
15 weatherization services under that \$2 million funding
16 level approved or recommended in the Amended
17 Stipulation?

18 A. I don't know the number of customers who
19 would have direct benefits from the programs that the
20 DSM Collaborative is pursuing.

21 Q. Now, while we're on this area related to
22 the low-income funding, do you know, under the Amended
23 Stipulation, Mr. Ulrey, if the \$2 million in funding is
24 not spent -- let me strike that. Do you know, Mr.

1 Ulrey, if there's a period of time over which the \$2
2 million low-income funding must be spent under the
3 Amended Stipulation?

4 A. The Amended Stipulation called for a
5 two-year program, which is suspended right now because
6 of this proceeding. So I don't really know what the
7 time frame may be other than it will be a two-year
8 program.

9 Q. And if the entire \$2 million is not used
10 up over the two-year period, what happens to the
11 funding, if you know, under the Amended Stipulation?

12 A. Miss Grady, I don't know. I do know that
13 Vectren is committed to its \$2 million of funding.

14 Q. Do you know, Mr. Ulrey, and certainly if
15 you don't know, you can certainly advise me, do you
16 know if -- of that \$2 million, what portion of the
17 funding will go to administrative fees to agencies such
18 as OP&E agencies?

19 A. I do not know.

20 Q. Would you expect that some portion of the
21 \$2 million will go to administrative fees paid to
22 various agencies who implement the low-income
23 weatherization program?

24 MS. HUMMEL: I object. He's already

1 testified to this, Your Honor.

2 THE EXAMINER: Sustained.

3 By Ms. Grady:

4 Q. Do you know, Mr. Ulrey, how long it may
5 take to expend the \$2 million in low-income
6 weatherization funding given the low-income agencies in
7 Vectren's territory?

8 A. No. I've not been part of the DSM
9 Collaborative. There are experts that are part of that
10 group, including those from your office, that would
11 know better what the timing might be on that, but,
12 again, it is a two-year program.

13 Q. Now, Mr. Ulrey, several questions ago, and
14 I apologize for jumping around, but several questions
15 ago you indicated -- or you made a distinction between
16 the low-income weatherization funding associated with
17 this Amended Stipulation and the present low-income
18 weatherization funding. Do you recall that
19 distinction?

20 A. I think I made a distinction about the
21 low-income definition, if you will, yes.

22 Q. Now, the existing low-income
23 weatherization funding, is that shareholder funding or
24 is that ratepayer funding, if you know?

1 A. The existing low-income program is, I
2 believe, \$1.2 million per year, if my recollection is
3 correct. A million of that is in base rates recovered
4 from all customers, and I believe 200,000 of it is
5 Company, shareholder provided. I believe those numbers
6 are correct.

7 Q. Do you know, Mr. Ulrey, if the -- and if
8 you don't know, certainly let me know. Do you know,
9 Mr. Ulrey, if the weatherization agencies in Ohio have
10 been able to expend the \$1.1 million that's being
11 collected -- excuse me, \$1.2 million, \$1 million being
12 collected in base rates and funded by ratepayers?

13 A. The question is have they been able to
14 expend those dollars?

15 Q. Yes.

16 A. I do not know.

17 Q. Now, does the -- is it envisioned that the
18 Amended Stipulation in this case, with the \$2 million
19 worth of shareholder low-income funding, would have any
20 impact on the \$1.1 million -- excuse me, \$1.0 million
21 of ratepayer base rate funded weatherization?

22 A. By "impact," I'm not sure what you mean.

23 Q. Will residential ratepayers continue to
24 pay \$1 million in rate base -- in base rates for the

1 low-income programs authorized in the Company's last
2 rate case?

3 A. Yes. The Company will provide the
4 \$1 million represented in the base rate case.

5 Q. And that base rate case funding would
6 continue, would it not, until you have, in effect, new
7 base rates?

8 A. That's my understanding, yes.

9 Q. Mr. Ulrey, now I'm going back to your
10 testimony, Question 10, Answer 10, where you're talking
11 about again the package. You're talking about the
12 Amended Stipulation, whether as a package it benefits
13 ratepayers and is in the public interest. Do you see
14 that reference?

15 A. Yes.

16 Q. Would you agree with me that cost is a
17 component that needs to be considered when determining
18 whether or not something is in the public interest?

19 A. Do you mean cost of the programs?

20 Q. I'm defining costs in relation to
21 ratepayers' costs and company costs. Are those
22 components that need to be considered when you're
23 making a determination of whether something is in the
24 public interest?

1 A. I believe the Commission took both of
2 those types of costs into account when it issued its
3 September 13th Opinion.

4 Q. And since you believe that the
5 Commission's Opinion and Order was appropriate, then
6 you also would believe that it would be appropriate to
7 take into account the cost to ratepayers and the costs
8 to the Company when determining whether the
9 Stipulation, as a package, benefits ratepayers and is
10 in the public interest; is that correct?

11 A. Yes, along with all the benefits derived,
12 as well as the costs.

13 Q. That was my next question. Now, I want to
14 take a look, Mr. Ulrey, at the costs and benefits to
15 the Company. We're going to first focus on the
16 Company, the costs and benefits to the Company under
17 the Amended Stipulation. On the cost side, the utility
18 spends \$1.6 million net of tax on the weatherization
19 program; is that correct?

20 A. Miss Grady, you said the weatherization
21 program?

22 Q. Yes, the \$2 million worth of shareholder
23 funding weatherization.

24 A. I know it's a \$2 million commitment. I

1 don't know what the after tax number might be. It
2 would be reduced from the \$2 million.

3 Q. Would you accept, subject to check, that
4 the \$2 million net of tax represents a \$1.3 million
5 expenditure by the Company?

6 A. No. Again, I just -- I know it would be
7 less, but I don't know what the tax calculation would
8 be.

9 Q. Would you accept, subject to check, that
10 the Company responded in discovery to OCC that -- and I
11 can get that reference for you perhaps during a
12 break -- that the net-of-tax effect of the \$2 million
13 expenditure would be 1.3? Do you want me to --

14 A. That number seems too low, so I don't
15 think I can accept it. I'll have to see the --

16 Q. And, Mr. Ulrey, certainly when we get a
17 break --

18 MS. GRADY: I've been handed that
19 discovery, so if I may approach the witness, Your
20 Honor?

21 THE EXAMINER: You may.

22 MS. HUMMEL: Miss Grady (indicating).

23 THE EXAMINER: May I see it?

24 MS. GRADY: I'm sorry.

1 THE EXAMINER: That's okay.

2 (Discussion off the record.)

3 By Ms. Grady:

4 Q. Mr. Ulrey, I'm going to show you, which
5 I've shown your counsel, Interrogatory No. 45 from OCC
6 and ask if you can read that, not into the record, but
7 if you would take a moment to read that.

8 A. I've read it.

9 Q. Now, would it be your understanding that a
10 \$2 million weatherization expenditure by the Company
11 net of tax is a \$1.3 million figure?

12 A. According to the data request response
13 from our CFO, that would be correct.

14 Q. And you certainly would agree with your
15 CFO?

16 A. Yes, I would. He is my boss.

17 Q. Thank you, Mr. Ulrey.

18 A. You're welcome.

19 Q. Are there any other costs to the Company
20 that derive solely from the commitments encompassed
21 under the Amended Stipulation?

22 A. The Company will have its own internal
23 administrative costs associated with implementing the
24 settlement, and some of those could very well be

1 incremental costs.

2 Q. By "incremental," what do you mean?

3 A. Not currently reflected, if you will, in
4 existing employees or on expenditures already reflected
5 in base rates.

6 Q. Now, on the benefits -- I want to move now
7 from the cost side to the benefit side. Are you
8 familiar with gas margins, Mr. Ulrey?

9 A. Yes.

10 Q. Would you agree with me that gas margins
11 are gas utilities less cost of gas sold, that that's an
12 accurate definition?

13 MS. HUMMEL: Could we hear that reread?

14 MS. GRADY: I can rephrase it.

15 By Ms. Grady:

16 Q. Would you agree with me, Mr. Ulrey, that
17 gas margins are cost utility revenue less cost of gas
18 sold?

19 A. That is the common definition of margins
20 for utility business, yes.

21 Q. Now, Mr. Ulrey, the gas margins affect
22 earnings associated with Vectren's utility business and
23 thus have an effect on the earnings per share at the
24 corporate level; is that correct?

1 A. Yes.

2 Q. And all other things being equal, Mr.
3 Ulrey, the higher the gas margins -- let me strike
4 that. All other things being equal, Mr. Ulrey, higher
5 gas margins would result in higher earnings?

6 A. Yes. If those higher margins are not
7 accompanied by higher expenses and everything else is
8 equal, tax rates and everything, then the answer is
9 yes.

10 MS. GRADY: Your Honor, may I approach the
11 witness?

12 THE EXAMINER: Yes.

13 MS. GRADY: Your Honor, I would like
14 marked for identification purposes as OCC Exhibit A a
15 document that I am now handing out to counsel and will
16 be handing to Mr. Ulrey as well as yourself.

17 THE EXAMINER: So marked.

18 By Ms. Grady:

19 Q. Now, Mr. Ulrey, have you seen that
20 document before?

21 A. I've seen the document that these excerpts
22 were taken from.

23 Q. Yes. It is part of a larger package; is
24 that correct?

1 A. That's correct.

2 Q. Are you familiar with -- and we'll go
3 beyond the cover sheet to the second page of that
4 document, which is entitled, "2007 Gas Utility Margin
5 Growth." Do you see that?

6 A. Yes.

7 Q. Now, that document reflects that Vectren
8 is anticipating gas utility margin growth from the Ohio
9 decoupling; is that correct?

10 A. Yes.

11 Q. And that slide was part of a presentation,
12 is that correct, the 2006 and 2007 Earnings Guidance
13 presentation?

14 A. That's correct.

15 Q. Just for the record, Mr. Ulrey, it would
16 have been December 14th, 2006, instead of 2007 as
17 indicated on that cover sheet?

18 A. That's correct.

19 MS. GRADY: May I approach the witness,
20 Your Honor?

21 THE EXAMINER: Yes.

22 MS. GRADY: Your Honor, I would like
23 marked for identification as OCC Exhibit B the document
24 that I am now handing out to the parties and will hand

1 to Mr. Ulrey.

2 THE EXAMINER: So marked.

3 By Ms. Grady:

4 Q. Mr. Ulrey, I would like you to take a look
5 at that document, if you would.

6 A. Okay. I've read it.

7 Q. Could you identify that document?

8 A. It is an excerpt of one data request and
9 response from the first set of data requests from OCC
10 in this case.

11 Q. Now, when you say it's an excerpt, the
12 entire response is there, correct, just not the entire
13 set of questions; is that correct?

14 A. The entire question and response to
15 Interrogatory 9-f are here.

16 Q. Now, according to the Company's response
17 to Interrogatory 9-f, there will be a \$3 million to \$4
18 million margin increase in 2007 over 2006 Ohio margins
19 related to the Ohio decoupling; is that correct?

20 A. According to this response, that is
21 correct.

22 Q. Would you think that that number would
23 actually increase based upon the actual -- let me
24 strike that. Would you expect that the margin

1 increase -- strike that. Third time is a charm. Mr.
2 Ulrey, would you expect that that \$3 million to \$4
3 million margin increase in 2007 over 2006 would
4 actually be increased, based upon the actual experience
5 of the Company, in relation to the customer usage?

6 A. Well, in fact, the data request response
7 indicates that the actual SRR is a function of use
8 decline compared to rate order margins and its level
9 will be dictated by actual customer usage that occurs.

10 Q. So, Mr. Ulrey, if the actual customer
11 usage is less than the customer usage that was
12 calculated in coming up with these gas margins, that
13 there will be an even greater positive effect to the
14 margins due to the Ohio decoupling?

15 A. Well, the margin variance or the SRR
16 variance will be larger, but it's all in reference to
17 the rate order margins, and those will not change.
18 Those were established in the base rate case.

19 Q. But if customers use less, then the SRR
20 increases; correct?

21 A. The SRR variance will increase if
22 customers use less, lesser volumes, as compared to
23 increasing -- I'm sorry, decreasing when they use more.

24 Q. The SRR has a dollar-for-dollar impact on

1 the overall gas margins of the Company, doesn't it?

2 A. Did you say the SRR has an impact?

3 Q. Yes.

4 A. The SRR variance will have an impact on
5 the margins reported by the Company, but, again, they
6 will just be equal to the amount authorized in the last
7 rate case.

8 MS. GRADY: May I have that answer read
9 back, Your Honor?

10 THE EXAMINER: Please.

11 (Answer read back.)

12 MS. GRADY: I'm sorry, may I have a
13 moment, Your Honor? I'm trying to find the reference.

14 THE EXAMINER: Yes.

15 MS. HUMMEL: Mr. Ulrey -- off the record,
16 please.

17 (Discussion off the record.)

18 THE EXAMINER: Let's take 10 minutes.
19 We'll be back at 11:35, according to this clock.

20 (Recess taken.)

21 THE EXAMINER: Let's go back on the
22 record.

23 MS. GRADY: Your Honor, as a matter of
24 recordkeeping, there were a series of questions about

1 the online audit tool and when it had been
2 implemented. The Company has offered to stipulate that
3 it was implemented January 2007.

4 MR. RANDAZZO: Yes, Your Honor, we would
5 stipulate that the online audit tool, otherwise known
6 as Nexus, as part of the larger conservation program
7 effort, went into effect January 2007.

8 THE EXAMINER: Thank you.

9 MS. GRADY: May I approach the witness,
10 Your Honor?

11 THE EXAMINER: Yes.

12 By Ms. Grady:

13 Q. Mr. Ulrey, I'm going to show you a copy of
14 the deposition transcript of March 13th, 2007. Do you
15 recall being deposed by OCC at that point?

16 A. Yes, I do.

17 Q. Specifically, Mr. Ulrey, I'm going to
18 direct your attention to Page 136 and 137 and the
19 question and answer posed at the very bottom, beginning
20 with Lines 21 through 24, carrying over to the end of
21 the response on Page 137, Line 5, and ask you to take a
22 look at that, if you will.

23 A. I see that.

24 Q. Would you agree with me, Mr. Ulrey, that

1 the SRR has a dollar-for-dollar impact on the overall
2 margins for the Company?

3 A. The SRR variance would be added or
4 subtracted to the actual margins of the Company to get
5 a net overall margin of the Company amount.

6 Q. Now, you testified at the deposition, did
7 you not, Mr. Ulrey, in response to the question,
8 "Yeah. And I guess my question was really going to
9 the SRC impact on gas margins, not necessarily the SRC
10 from the ratepayer perspective." And your response
11 was, "Well, to clarify for you, it's the same thing. I
12 mean, the SRR, and I'm not sure why it's labeled SRC
13 here, is a margin, and the margin being referred to in
14 the various documents you've shown me is actually
15 referring to the SRR margins; so it's a
16 dollar-for-dollar impact on the overall margins." Did
17 I read that correctly?

18 A. Yes.

19 Q. Would you agree with me, Mr. Ulrey, that
20 100 percent of the residential gas margins are covered
21 in Ohio by decoupling?

22 A. One hundred percent of the residential gas
23 margins in Ohio are subject to the decoupling mechanism
24 which we are calling the SRR, yes.

1 Q. Now, is 100 percent of the general service
2 customer margins also subject or covered in Ohio by
3 decoupling?

4 A. The general service margins are also
5 subject to decoupling.

6 Q. So 100 percent of those margins as well
7 would be covered in Ohio?

8 A. I'm just struggling with covered by
9 decoupling. All of the customers and their usages
10 associated with that rate class are subject to the SRR.

11 Q. Now, Mr. Ulrey, the large general
12 transport customers are not subject to decoupling; is
13 that correct?

14 A. They are not subject to the SRR, that's
15 correct.

16 Q. Now, would you agree with me, Mr. Ulrey,
17 that as soon as you get a rate order, that the margins
18 are higher because it's based on use per customer at
19 the rate case level, and as soon as the order issues,
20 the average use per customer drops and your margin goes
21 down and decoupling would restore it back to the level
22 approved in the last rate case?

23 MS. HUMMEL: Your Honor, just for
24 clarification purposes, I believe that's a direct quote

1 from the deposition to which we filed an Errata
2 yesterday.

3 MS. GRADY: Oh, I'm sorry. Is there an
4 Errata that goes specifically to that?

5 MS. HUMMEL: Yes.

6 MS. GRADY: If you could be so kind as to
7 provide that?

8 MS. HUMMEL: For the record, Your Honor,
9 this Errata Sheet was distributed to the parties
10 electronically on Monday and filed in the docket
11 yesterday.

12 THE EXAMINER: Thank you.

13 By Ms. Grady:

14 Q. Let me go back to my quote, Mr. Ulrey.
15 Would you agree with me, Mr. Ulrey, that in the months
16 after a rate Order, margins are higher because it's
17 based on use per customer at the rate case level, and
18 as soon as the Order issues, average use per customer
19 drops and your margin goes down and decoupling restores
20 it back to the level approved in the last rate case?

21 A. Actually, the Errata goes to the second
22 reference to the Order. What we were -- what I recall
23 responding to there was how does the margin growth
24 aspect work, and essentially, margins for the

1 residential general service rate classes are
2 established in a base rate case.

3 Q. Yes.

4 A. So when the Order issues approving the
5 base rates in a base rate case, it establishes the
6 Order-granted margins that will be used for purposes of
7 calculating SRR variances in the future.

8 Q. Yes.

9 A. Any variances from those Order-granted
10 margins from actual weather-normalized margins for
11 those rate classes in the future equal the SRR
12 variance, and that quote is where I was describing that
13 there is initially established in the base rate case,
14 and assuming customers use less in the future, then
15 margins will begin to fall from that Order-granted
16 margin amount.

17 Q. And is it a safe assumption to say that,
18 in the current environment, customers are using less?

19 A. That's certainly correct. Today customers
20 are using it looks like about 14 Mcf less per customer,
21 residential customer, today than they were for a test
22 year that's barely two years old.

23 Q. And the test year you're referring to is
24 the 05-451, the last rate case?

1 A. The last general rate case, yes.

2 Q. That was a 2004 test year?

3 A. It was.

4 Q. Now, would you -- and you answered it
5 initially, but I just want to make sure --

6 THE EXAMINER: I'm sorry, I have a
7 follow-up to that. Is that on a weather-normalized
8 basis, that 14 Mcf?

9 THE WITNESS: Yes.

10 MS. GRADY: I do have a number of
11 questions later on that, so I do appreciate that.

12 THE EXAMINER: Thank you.

13 By Ms. Grady:

14 Q. A decoupling mechanism would restore the
15 revenues back to the level approved in the last rate
16 case; isn't that correct?

17 A. Yes, with the qualification that it is
18 comparing to weather-normalized actuals, and the
19 Company is still at risk for abnormal weather, which
20 would also impact margins.

21 Q. Do you know how much abnormal weather --
22 let me strike that. Now, in the Company's last rate
23 case, there was no mechanism for restoring the margins
24 to the base revenue level; is that correct?

1 A. There was no SSR approved in the last rate
2 case, that's correct.

3 Q. And there wasn't any ESA approved either,
4 ESA being Equalized Sales Adjustment that you had
5 proposed in that proceeding?

6 A. That's correct.

7 Q. And the ESA was the same as the SRR in
8 this proceeding; is that correct?

9 A. That's correct, the same mechanism.

10 Q. Would you agree that, in your opinion,
11 that there are deficiencies in rate design, volumetric
12 rate design, and that because of the deficiencies,
13 decoupling is entirely appropriate regardless of other
14 programs that may be in effect?

15 MS. HUMMEL: Objection.

16 THE EXAMINER: Grounds?

17 MS. HUMMEL: I tried to be patient, but
18 the Examiners were clear in the discovery conference
19 that we had that the scope of this proceeding is
20 limited to new issues that were not raised --

21 (Discussion off the record.)

22 MS. HUMMEL: The Examiners in this
23 proceeding were clear in the discovery conference that
24 we had in this proceeding that the scope of all future

1 aspects of this proceeding is limited to new issues
2 raised by the January 12th, 2007, Amended Stipulation
3 and Recommendation not already contemplated or could
4 have been contemplated in the Company's application.
5 Furthermore, in the February 12 entry issued by the
6 Examiner in this proceeding relative to discovery, it
7 was -- the Examiner indicated that all of the discovery
8 related to the SRR should have been completed by that
9 time, limiting the scope of discovery consistent with
10 the limitation to the future aspects of the proceeding
11 in this case. The SRR was indeed in the initial
12 application, was the subject of testimony by all
13 parties in this proceeding, including OCC's witness
14 Gonzalez, prior to the filing of the April 10th
15 Stipulation, was considered by the Commission. There
16 are no issues raised by the SRR that were not already
17 contemplated or could have been contemplated in the
18 Company's application, so I'm going to object to this,
19 continuing this line of questioning about the SRR
20 mechanism.

21 THE EXAMINER: Miss Grady.

22 MS. GRADY: Thank you, Your Honor. This
23 line of questioning, Your Honor, number one, is almost
24 over, and, number two, Your Honor, this goes to one of

1 the prongs of the Stipulation. The Stipulation prong
2 that Mr. Ulrey testified to is, does the Amended
3 Stipulation, considered as a package, benefit
4 ratepayers and is it in the public interest. Now, even
5 the Company admits that the three-prong standard is
6 what should be applied here. I've got the cite to the
7 discovery conference where Mr. Randazzo agreed that the
8 three-prong test is relevant here and should be
9 discussed. Mr. Ulrey has talked about -- has agreed
10 that the costs and the benefits to the Company as well
11 as the costs and benefits to ratepayers should be
12 looked at in determining whether it, as a package,
13 benefits ratepayers. So this is a question that is
14 going to determining his understanding of the third
15 prong and whether it benefits ratepayers and is in the
16 public interest.

17 THE EXAMINER: Well, I will -- although I
18 agree Miss Hummel's contention is correct, I'm going to
19 accept your representation that this line of
20 questioning is almost over and grant you enough leeway
21 to finish up, accepting your representation that you're
22 almost done.

23 MS. GRADY: I appreciate that, Your
24 Honor. On this matter, I am almost done.

1 By Ms. Grady:

2 Q. Now, Mr. Ulrey, would you agree with me
3 that one of the benefits that should be considered in
4 balancing the interests under the three prongs is the
5 benefit related to decoupling, whereby there's a
6 reduced risk associated with using volumetric rate
7 design in a period of decreasing average customer
8 usage?

9 A. Miss Grady, did you say one of the
10 benefits of the Stipulation?

11 Q. Of the Amended Stipulation.

12 MS. HUMMEL: Could we hear the question
13 again?

14 THE EXAMINER: Read the question back,
15 please.

16 (Question read back.)

17 MS. HUMMEL: I'll object. If for no other
18 reason, Your Honor, it assumes facts not in evidence.

19 THE EXAMINER: Miss Grady.

20 MS. GRADY: I'm not sure what facts in
21 evidence it's assuming. Mr. Ulrey testified that since
22 the last rate case there's certainly been a reduction
23 in average customer usage.

24 THE EXAMINER: Miss Hummel.

1 MS. HUMMEL: I don't believe I heard any
2 testimony related to any reduction of risk.

3 THE EXAMINER: Overruled. Go ahead and
4 answer the question.

5 THE WITNESS: I have a tough time agreeing
6 because of your reference to the reduction in risk
7 related to the volumetric rate design. I agree that
8 volumetric rate design has problems that the SRR
9 solves, but risk is such a tough term to define, and I
10 don't even know what kind of risk you're talking about;
11 so it's hard to say yes to your question.

12 By Ms. Grady:

13 Q. Would you agree, Mr. Ulrey, that the Ohio
14 conservation decoupling order stabilizes earnings and
15 reduces risks because gas margins are a component of
16 revenue?

17 A. I agree that it stabilizes revenues. I
18 still have trouble with the reduced risk portion.

19 MS. GRADY: May I approach the witness,
20 Your Honor?

21 THE EXAMINER: Yes.

22 MS. GRADY: Your Honor, I would like
23 marked for identification purposes as OCC Exhibit C my
24 third exhibit.

1 THE EXAMINER: So marked.

2 By Ms. Grady:

3 Q. I'd ask you to take a look at that, and if
4 you can identify that document for me?

5 A. It is Slide 8 of the presentation
6 referenced earlier in this cross-examination that was
7 provided by Vectren and labeled 2006 and 2007 Earnings
8 Guidance.

9 Q. And, Mr. Ulrey, does it not state on that
10 document that I just handed you that,
11 "Conservation/decoupling orders stabilize earnings and
12 reduce risk"?

13 A. It does say that as one of the bullet
14 points on this slide.

15 Q. Do you have any disagreement with that
16 slide?

17 A. Well, this slide was prepared by the
18 Investor Relations Group and the Accounting Group. I
19 couldn't verify the numbers on this slide, for
20 instance.

21 Q. Do you have any reason to believe that
22 those numbers are inappropriate?

23 MS. HUMMEL: I'm going to object, Your
24 Honor.

1 MS. GRADY: I can strike that.

2 By Ms. Grady:

3 Q. Mr. Ulrey, you said that you were
4 uncertain about the numbers. Are you uncertain about
5 the phrase, "Conservation/decoupling orders stabilize
6 earnings and reduce risk"?

7 MS. HUMMEL: Your Honor, I'm going to
8 object again. Mr. Ulrey already indicated that he
9 didn't prepare this document. It's not a VEDO
10 document, and it's not relevant.

11 THE EXAMINER: Sustained. Let me clarify
12 that I was sustaining the objection on the grounds that
13 he didn't prepare it. I was not ruling on the
14 relevance issue.

15 MS. HUMMEL: Thank you, Your Honor.

16 By Ms. Grady:

17 Q. Mr. Ulrey, in your position with VEDO as
18 Director of Regulatory Affairs, do you agree with that
19 statement that, "Conservation/decoupling orders
20 stabilize earnings and reduce risk"?

21 MS. HUMMEL: Objection. Asked and
22 answered.

23 THE EXAMINER: Go ahead and answer the
24 question.

1 THE WITNESS: Decoupling is meant to
2 reduce the adverse impacts of declining use per
3 customer on the Company's margins. The unprecedented
4 gas cost increases that occurred shortly after our base
5 rates were approved resulted in unprecedented average
6 use per customer reductions, significantly increasing
7 the risk that the Company wouldn't recover its recently
8 approved Order-granted margins. To the extent
9 decoupling, which it's intended to do, reduces that
10 increased risk -- decoupling does reduce that increased
11 risk, but it does not reduce risk from where it was
12 when the Order was granted -- or the margins were
13 granted in the first place.

14 By Ms. Grady:

15 Q. I appreciate that clarification.

16 A. So I don't agree with that statement
17 unless it was otherwise modified.

18 Q. Thank you. Let's focus for a moment, Mr.
19 Ulrey, on the cost to ratepayers associated with the
20 decoupling mechanism in the Amended Stipulation. I'm
21 going to refer you to the Amended Stipulation,
22 Paragraph 5 of your testimony -- let me strike that.
23 In Paragraph 5 of the Amended Stipulation, is it true
24 that whatever variance there is between

1 weather-normalized actual base revenues and base
2 revenues approved in the most recent rate case --

3 (Discussion off the record.)

4 By Ms. Grady:

5 Q. Under the Amended Stipulation, Paragraph
6 5, whatever the variance is between weather-normalized
7 actual base revenues and the base revenues approved in
8 the most recent rate case, as adjusted for customer
9 additions, is collected from ratepayers in the SRR
10 starting in November of 2007?

11 MS. HUMMEL: I object, Your Honor.

12 THE EXAMINER: Grounds?

13 MS. HUMMEL: I understand your leeway that
14 you granted earlier, but now we're talking about a
15 sentence that is verbatim from the April 10th
16 Stipulation that was executed by OCC, clearly beyond
17 the scope of this proceeding. The sentence to which
18 Ms. Grady just referred is verbatim from the April 10th
19 Stipulation that was filed by the parties, with the
20 exception of Staff, to this proceeding.

21 THE EXAMINER: Miss Grady.

22 MS. GRADY: Well, Your Honor, this is
23 again going to the prong of the Stipulation -- or the
24 prong of the Commission's three-prong test, which we

1 all would agree would be an appropriate test to apply
2 to the Amended Stipulation. The SRR in the present
3 Stipulation will have an impact on residential
4 customers. Residential customers are picking up the
5 bill for the SRR. I think it's appropriate for the
6 Commission to know how the SRR works and what the cost
7 to ratepayers are in determining whether or not this is
8 a benefit to the ratepayers.

9 THE EXAMINER: Miss Hummel.

10 MS. HUMMEL: The function and the purpose
11 of the SRR are no different from what has been before
12 the Commission prior to its September 13th Order and
13 has been considered all throughout the proceeding in
14 this case. It is not a new issue. It is precluded
15 from the scope of this hearing by virtue of the
16 Examiner's Order made at the discovery hearing on Page
17 72 of that transcript, Your Honor. I submit that we
18 now need to be done with this line of questioning.

19 THE EXAMINER: Well, I understand what
20 you're saying about the Amended Stipulation, about
21 being in the previous Stipulation. I don't think that
22 that was our intent in the scope of our ruling to
23 preclude testimony simply because it was something in
24 the Stipulation. If you can show that it was in the

1 actual application, that's unchanged in the
2 application, then let's discuss that.

3 Mr. Randazzo is nodding, so he has a cite
4 for us, I'm sure.

5 MR. RANDAZZO: Well, it was in the
6 application. In fact, it was addressed in OCC's
7 comments and motion to intervene in which they
8 specifically describe the functionality of the SRR,
9 which, at that point, was called the SRC. The name has
10 changed. The functionality has not. It's exactly the
11 same as was filed in the application, and OCC described
12 it in its intervention and comments on the application
13 as permitting the Company to recover the base rate
14 revenue, weather adjusted, adjusted for sales
15 additions, customer additions, that was authorized by
16 the Commission in the most recent rate case. To the
17 extent that there's anything about the SRR that has
18 changed, we would have no objection to cross on that
19 basis, but it's exactly the same animal that has been
20 in place since day one November 2005.

21 MS. GRADY: Yes, Your Honor, in response
22 to counsel's remarks, the application featured a
23 two-part proposal, a conservation funding component and
24 a decoupling sales component. The Stipulation features

1 one component, the SRR with no conservation funding
2 collected through base rates, as was proposed under the
3 application. That's one distinction. Your Honor,
4 there's another distinction, the distinction being that
5 the application featured a DSC component that had no
6 definitive time period or limit at the termination of
7 the DSC and no rollover in the uncollectable expense
8 rider as present in the Amended Stipulation. The
9 Stipulation versus the application, there was a
10 one-year period in the application versus in the
11 amended -- one-year review period in the application
12 versus the Amended Stipulation with a different review
13 period.

14 I think we're talking about a whole
15 different thing here, and I think it's appropriate and
16 I think it's reasonable to be able to determine what
17 impact this is going to have on residential customers.
18 Residential customers are being asked to pick up a
19 significant amount of money here, and they ought to
20 know how much it's going to cost them, and the
21 Commission ought to know, when it's determining whether
22 or not the Stipulation is in the public interest, what
23 the cost to ratepayers is.

24 THE EXAMINER: Miss Grady's distinction is

1 enough for my purposes. I'll go ahead and overrule the
2 objection.

3 You can answer the question.

4 THE WITNESS: Miss Grady, I think you were
5 just reading the language. I forget what the question
6 was.

7 By Ms. Grady:

8 Q. Does the SRR start in November 2007?

9 A. The first update to the SRR would be
10 November of 2007, and that's when the deferred SRR
11 variances would be recovered from customers.

12 Q. So customers, in November of 2007, will
13 see a rider on their bill reflecting the variance; is
14 that correct?

15 A. Well, the customers, in November of 2007,
16 will not see a line item representing the SRR. They
17 won't see a rider reflecting the SSR -- SRR. What
18 they'll see is a bill that reflects, on average, 14 Mcf
19 reduction from the base rate case, with also a
20 reduction in commodity costs associated with that 14
21 Mcf reduction, and the SRR will add back only the
22 margin portion of that impact on the bill.

23 Q. Is the explanation that you just gave me
24 consistent with the tariff filing that the Company made

1 in October of 2006 seeking tariff approval?

2 MS. HUMMEL: Just for clarification, Your
3 Honor, I believe that filing was made in September of
4 2006.

5 MS. GRADY: Thank you for that
6 clarification.

7 THE EXAMINER: Do you have a copy of the
8 tariff filing to show him? I think it's difficult to
9 ask him off the top of his head if that's consistent.

10 THE WITNESS: Well, I believe I can
11 answer.

12 THE EXAMINER: Okay. Thank you.

13 THE WITNESS: Certainly the SRR will
14 reflect on the customer's bill any variance from
15 Order-granted margins, you know, as spread amongst all
16 the customers, and that's exactly what the SRR was
17 meant to do, starting from the application filing all
18 the way through the initial Stipulation and into the
19 Amended Stipulation. It's always meant to recover from
20 customers the Order-granted margins that were approved
21 in the last rate case. It's not an increase. It's not
22 an additional charge to customers. It's just
23 recovering what the Commission had previously approved
24 in its -- in the 2005 rate order.

1 By Ms. Grady:

2 Q. Is your answer complete?

3 A. Yes.

4 MS. GRADY: Your Honor, I would move to
5 strike the last sentence of that answer, beginning
6 with, "It's not an increase." It's not -- it was
7 unresponsive. My specific question was --

8 THE EXAMINER: Overruled.

9 MS. GRADY: Thank you, Your Honor.

10 By Ms. Grady:

11 Q. So it's not going to be a line item on a
12 customer's bill. So a customer couldn't say, aha,
13 here's an SRR variance that I'm paying for; is that
14 correct?

15 A. That -- the SRR will not be a line item on
16 the bill, and that was agreed to by all the parties,
17 including the OCC when we did the first Stipulation as
18 well.

19 Q. And that was carried over into the Amended
20 Stipulation, I take it?

21 A. Although not specifically referenced as
22 such, that would be the intent of the Company, not to
23 include it as a separate line item. In fact, the
24 Company doesn't include any riders as separate line

1 items. It's just gas service and gas supply.

2 Q. Now, because the SRR is based on actual
3 usage per customer, as we sit here today, you cannot
4 tell me, can you, what the cost to ratepayers is
5 associated with the decoupling proposal under the
6 Amended Stipulation; is that correct?

7 A. No. There will be no additional cost.
8 Customers will only pay what the Commission approved to
9 recover from each of those classes in the last rate
10 case.

11 Q. Now you have me confused, Mr. Ulrey. If
12 there's no additional cost to ratepayers, then why do
13 we need a rider to collect something from ratepayers?

14 A. The rider, starting with the language you
15 read to me, recovers from customers the difference
16 between Order-granted and actual weather-normalized
17 margins. It's not an increase over what the Commission
18 approved. It is to ensure that what the Commission
19 approved is what customers pay, which is the entire
20 basis behind decoupling. It de-links volumetric usage
21 from margin recovery, and the Commission found that
22 very important in removing the disincentive to provide
23 conservation measures.

24 Q. It becomes a cost to customers; isn't that

1 correct?

2 MS. HUMMEL: I'm going to object now.
3 That's the third time that he will have answered it, if
4 you require him to answer it.

5 THE EXAMINER: Objection sustained.
6 By Ms. Grady:

7 Q. At this point in time, can you estimate
8 the cost to customers associated with the decoupling
9 implemented under the Amended Stipulation?

10 MS. HUMMEL: May I hear that again,
11 please?

12 (Question read back.)

13 MS. HUMMEL: I'm going to object again.
14 May I state my basis?

15 THE EXAMINER: Overruled.

16 THE WITNESS: The cost to customers will
17 be the Order-granted margins approved in the last rate
18 case. For the residential class, that's \$56.9
19 million. For the general service class, it's \$17.2
20 million per year. And during the two-year program,
21 subject to abnormal weather and customer additions,
22 those margins will be the -- which represent fixed cost
23 recovery, will be the cost to customers as a class.

24

1 By Ms. Grady:

2 Q. Mr. Ulrey, at this point in time, can you
3 estimate the SRR revenues to be collected from
4 customers associated with the decoupling implemented
5 under the Amended Stipulation?

6 A. We do not, I believe, have an estimate
7 that would cover the full two-year period of the amount
8 of SRR variance.

9 Q. Now, at this point, the Company has five
10 months of actual data, does it not, reflecting
11 residential and general service usage and has
12 calculated the SRR variance for October 2006 through
13 February 2007?

14 A. That is correct.

15 MS. GRADY: May I approach the witness,
16 Your Honor?

17 THE EXAMINER: Yes.

18 MS. GRADY: I would like marked for
19 identification purposes as OCC Exhibit D the
20 single-page document that I will distribute to the
21 parties.

22 By Ms. Grady:

23 Q. I ask to you look at that, Mr. Ulrey, and
24 ask you if you can identify that for me, please?

1 A. This is Vectren's response to an informal
2 data request that took place during the deposition on
3 the 13th of March and is the five months to date
4 calculation of the SRR variances.

5 Q. Are you familiar with that document, Mr.
6 Ulrey?

7 A. Yes.

8 Q. Was it prepared by you or under your
9 supervision?

10 A. No.

11 Q. Line 18, labeled, "SRR Amount - Gross,"
12 would that be the actual SRR amount to be collected
13 from customers beginning in November 2007?

14 A. The sum of the "total" columns would be a
15 portion of the SRR variances that would be recovered
16 starting in November. There will be additional months
17 up until August 31st or thereabouts that would also be
18 included in the first SRR update.

19 Q. Would you accept, subject to check, that
20 if I totaled the actual SRR amounts to be collected
21 from customers, based on actual customer usage from
22 October of 2006 to February of 2007, for five months,
23 by adding Line 18 for residential customers, it would
24 be \$1.826570 million?

1 A. I'm sorry, I had not done the residential
2 subtotal, but I can do that. I total to \$1.7 million,
3 but I'll accept, subject to check.

4 Q. And for general service customers, it
5 would be a little over 300,000?

6 A. That's correct.

7 Q. Now, actuals are generated once the
8 previous month is booked, which is usually on the 13th
9 of the next month; is that correct?

10 A. That is correct, on or about the 13th of
11 the month.

12 Q. Now, the Company has at least made some
13 projections for the SRR variance based on its 2007 Ohio
14 budget data; is that correct?

15 A. That's correct.

16 Q. And what is the average use per
17 consumption figure associated with the 2007 budget
18 data?

19 A. The 2007 budget data reflected an
20 assumption of residential use per customer of 76.6 Mcf,
21 which is a reduction of 17 1/2 decatherms from the rate
22 case of average use per customer a couple years ago.

23 Q. And that SRR variance, based on the 2007
24 Ohio budget data, is calculated by the Company to be

1 \$7.6 million; is that correct?

2 A. That was the estimated SRR variance
3 calculated in September 2006 when the 2007 budget was
4 initially developed.

5 Q. Yes. Now, does that figure represent, if
6 you know, the combined variance of residential and
7 general service customers or is that just a general
8 service customer number?

9 A. That represents both the residential and
10 general service SRR variances that were estimated last
11 year for this year.

12 Q. Thank you. And is that figure with gross
13 receipts tax and thus comparable to the Request for
14 Production 5 Supplement, Line 18 figures?

15 A. I don't know if it is or not. The gross
16 receipts tax would be a five-percent impact if it's
17 not.

18 Q. And the gross receipts tax would be
19 recovered from customers, would it not, in the SRR
20 variance calculations?

21 A. Gross receipts tax is recovered on all
22 sales, all margins and riders billed to customers,
23 including gas costs.

24 Q. Now, at this time, the Company has not

1 prepared a revised projection of the cost of the SRR
2 variance to residential customers other than the
3 variance projected in the 2007 budget of \$7.6 million?

4 A. We have not yet done an official
5 recalculation of our estimate for 2007. The average
6 use per customer based on actuals so far in 2007,
7 unfortunately, have not been reduced as much as we
8 projected. So there will be a revision forthcoming.
9 My understanding is the Revenue Accounting Group wanted
10 to wait to get through March to see what the full
11 winter looks like before they did it. They had
12 actually budgeted a fairly large drop for 2007. If
13 none of the drop that they projected in 2007 occurs,
14 their estimate is \$3.8 million for both residential and
15 general service. If all of it occurs per the budget,
16 it would be the \$7.6 million, and it may end up
17 somewhere in between, but they have not yet done that
18 calculation, and that won't be done until next month.

19 Q. The one thing we do know, though, Mr.
20 Ulrey, is that there's been an actual variance in the
21 January and February 2007 budget, being that the
22 budget -- the actual variance is below the budget by
23 \$1.1 million; is that correct?

24 A. That's correct. The budget for those two

1 months showed an SRR variance of, I believe, \$2 million
2 or \$2.1 million, and only 800,000 has been booked for
3 those two months per this schedule.

4 Q. Now, I'm still trying to get a handle on
5 what an estimate of the cost of the SRR variance will
6 be to ratepayers. If we use the three months actual
7 for October and November and December and use the 2007
8 \$7.6 million budget figure, would you then want to
9 subtract \$1.1 million budget variance?

10 THE EXAMINER: Miss Grady, I'm not going
11 to allow that question. I'm not going to wait for the
12 interruption. I mean, you're starting, I think, to
13 mix -- it's confusing to me to mix estimates and
14 actuals, and then there's this potential \$1.1 million
15 drop. I'm not going to allow that question. Let's try
16 not to mix estimates and actuals here if we can at all
17 avoid it.

18 MS. GRADY: Unfortunately, I think that's
19 the nature of this mechanism, Your Honor.

20 THE EXAMINER: You have every right to put
21 on your own witnesses and to make your own estimates.
22 By Ms. Grady:

23 Q. Does the Company still hold the
24 expectation, Mr. Ulrey, that the average customer usage

1 will continue to decrease as time progresses?

2 A. We certainly hope so. I mean, that's the
3 purpose behind this whole exercise, is to try to get
4 customer usage as low as possible to avoid the
5 commodity cost to gas, so -- and everything that we
6 want to be about is to ensure that customers have the
7 tools they need to reduce their usage. So that's what
8 we hope to do, and we think that can be facilitated by
9 getting started as soon as possible on the previously
10 Commission-approved conservation programs.

11 Q. Now, as the average use per customer
12 decreases, the variance collected from the SRR would
13 increase; is that correct?

14 A. The SRR variance will increase as average
15 use per customer decreases, but it will never allocate
16 the customers any more than was approved by the
17 Commission in the previous rate Order when it approved
18 the Order-granted margins.

19 Q. Now, the actual reductions in average use
20 per customer -- let me strike that. I'm wrapping up,
21 Mr. Ulrey, soon.

22 MR. RANDAZZO: Is that estimate or
23 actual?

24 MS. GRADY: It's a combination.

1 MR. RANDAZZO: That's what I thought.

2 By Ms. Grady:

3 Q. You'll be happy to know I'm starting to
4 cross out. Under the Stipulation, Mr. Ulrey, after 24
5 months of the SRR, there's a 12-month extension period,
6 is that correct, as referenced on Page 9, Paragraph 6
7 of the Amended Stipulation?

8 A. I think it's in Paragraph 5, but it is on
9 Page 9.

10 Q. Okay.

11 A. And it is correct that the SRR, as a
12 separate rider, would continue for twelve months after
13 the initial running of the two-year recovery period to
14 recover or pass back any reconciliation differences
15 based on estimates and actuals not being equal, plus
16 maybe the last couple months of the two-year SRR
17 period.

18 Q. Now, there's an additional period, is
19 there not, beyond the extension period where amounts
20 not recovered through the rider will be rolled into an
21 uncollectable expense rider; is that correct?

22 A. Any remaining balance after the SRR is
23 dismantled, the SSR rider is dismantled, would be
24 recovered through the uncollectable expense rider.

1 Q. So potentially, Mr. Ulrey, customers could
2 see -- could be experiencing the impact of the SRR for
3 three or more years?

4 A. The SRR would be applied to customers for
5 three years at least.

6 Q. Under the provisions of the Stipulation,
7 Mr. Ulrey, and I'm going to refer you to Page 12,
8 Paragraph 10, if the Stipulation is not adopted without
9 material modification or the Commission does not affirm
10 the Order, the Company would cease booking deferrals.
11 Do you see that reference?

12 THE EXAMINER: Can I have that reference
13 again, please?

14 MS. GRADY: I have Page 12 of the
15 Stipulation, Paragraph 10.

16 THE WITNESS: I don't see -- I don't see
17 the words "cease" -- the word "cease" in there.

18 MS. GRADY: If I may have a moment, Your
19 Honor. This was late last night.

20 By Ms. Grady:

21 Q. Let me ask it this way -- I believe the
22 cite was correct. Paragraph 10, Page 11, going on to
23 Page 12, do you see the reference there that says -- it
24 starts at the very bottom line, "In the event" -- or

1 second to the bottom line on 11, "In the event the
2 Amended Stipulation is not adopted without material
3 modification, the Commission does not" -- "or the
4 Commission does not otherwise affirm the September
5 Order, the parties agree and recommend that the
6 Commission should, nonetheless, provide VEDO with such
7 accounting authority as VEDO may require to maintain
8 any deferred balances which VEDO may have recorded in
9 reliance on the September Order and to seek
10 amortization of such deferred balance in" -- the next
11 base rate proceeding. Do you see that?

12 A. I see that.

13 Q. At this time, given that the Company has
14 booked five months of deferred balances, that amount
15 would be \$2,148,665?

16 A. That's the amount to date that we've
17 booked in reliance upon the Commission's Order, but
18 that is updated the 13th of each month with the prior
19 month's continuing deferrals.

20 Q. So if the Commission issues the Order and
21 in three months you may have additional costs, that
22 VEDO would request accounting authority to maintain its
23 deferred balances for?

24 A. Yes. We would have additional deferrals

1 that would be subject to this provision.

2 MS. GRADY: If I may have a moment, Your
3 Honor, I believe that may be it.

4 THE EXAMINER: Absolutely. Let's go off
5 the record, please.

6 (Discussion off the record.)

7 MS. GRADY: Your Honor, I believe that's
8 all the questions that I have for Mr. Ulrey, but prior
9 to Mr. Ulrey getting off the stand, I would move for
10 the admission of OCC Exhibits A, B, C, and D.

11 THE EXAMINER: We'll deal with all the
12 exhibits when we're done with cross and redirect.

13 Mr. Rinebolt.

14 MS. GRADY: I'm sorry. Thank you, Mr.
15 Ulrey.

16 THE WITNESS: You're welcome.

17 MR. RINEBOLT: No questions, Your Honor.

18 THE EXAMINER: Staff.

19 MS. HAMMERSTEIN: No questions, Your
20 Honor.

21 THE EXAMINER: Redirect.

22 MR. RANDAZZO: None.

23 THE EXAMINER: I have one question --
24 actually, I may have more than one.

1 Mr. Ulrey, the Sales Reconciliation Rider
2 that's in the Amended Stipulation, does that differ
3 substantially from the Sales Reconciliation Rider
4 agreed to in the April 2006 Stipulation?

5 THE WITNESS: No, Your Honor, it does not
6 differ hardly at all.

7 THE EXAMINER: And the Sales
8 Reconciliation Rider 2006, April 2006 Stipulation, was
9 agreed to by the Office of Consumers Counsel?

10 THE WITNESS: It was.

11 THE EXAMINER: Thank you. That's all I
12 have.

13 MR. RANDAZZO: Your Honor, with the
14 Benches' indulgence and with the circumstances
15 previously explained, would it be okay for Mr. Ulrey to
16 leave the hearing room?

17 THE EXAMINER: Absolutely. You're
18 excused.

19 (Witness excused.)

20 THE EXAMINER: Motions for admission.
21 Vectren.

22 MS. HUMMEL: We have no objections, Your
23 Honor.

24 THE EXAMINER: You have no objections to?

1 MS. HUMMEL: OCC Exhibits A, B, C, or D.

2 THE EXAMINER: Those exhibits will be
3 admitted.

4 (EXHIBITS ADMITTED INTO EVIDENCE.)

5 THE EXAMINER: Miss Hummel, you had moved
6 the admission of Company Exhibit 2C; is that correct?

7 MS. HUMMEL: That's correct.

8 THE EXAMINER: And that will be admitted.
9 Company 7; is that correct? That will be admitted.
10 And Joint Exhibit 2, did you move --

11 MS. HUMMEL: Yes, I did.

12 THE EXAMINER: That, too, will be
13 admitted.

14 (EXHIBITS ADMITTED INTO EVIDENCE.)

15 MS. HUMMEL: Which I think I failed to
16 state for the record, and just so it is in the record
17 somewhere, it is identical to the attachment to Mr.
18 Ulrey's Exhibit 2C, which is designated as JLU Exhibit
19 A.

20 THE EXAMINER: Thank you.

21 MS. HUMMEL: Thank you.

22 THE EXAMINER: Thank you very much.

23 (Discussion off the record.)

24 THE EXAMINER: Does the Company have any

1 other witnesses?

2 MR. RANDAZZO: No, Your Honor. That would
3 be the end of our second direct case, I guess, if we
4 can refer to it that way.

5 THE EXAMINER: Staff -- yes, Miss Grady?

6 MS. GRADY: Your Honor, it would be OCC's
7 desire, as communicated to the parties previously, that
8 it be permitted to present at least its one witness,
9 Mr. Chernick, who has alternative travel arrangements,
10 at this time, prior to the Staff presenting their
11 witness.

12 THE EXAMINER: Staff, objection?

13 MS. HAMMERSTEIN: That's fine, Your
14 Honor.

15 THE EXAMINER: Company.

16 MS. HUMMEL: No objection, Your Honor.

17 THE EXAMINER: Thank you. Please
18 proceed.

19 MS. ROBERTS: The OCC calls Mr. Chernick
20 to the stand.

21 PAUL L. CHERNICK,
22 being by The Examiner first duly sworn, as hereinafter
23 certified, testifies and says as follow:

24 THE EXAMINER: Please be seated. State

1 your name and business address for the record.

2 THE WITNESS: My name is Paul Chernick.
3 I'm President of Resource Insight, 5 Water Street,
4 Arlington, Massachusetts.

5 THE EXAMINER: Please proceed.

6 MS. ROBERTS: Thank you, Your Honor.

7 DIRECT EXAMINATION

8 By Ms. Roberts:

9 Q. Mr. Chernick, did you cause to be filed in
10 this case direct testimony?

11 A. I did.

12 Q. And was that filed, to the best of your
13 recollection, on February 21st, 2007?

14 A. Yes.

15 Q. Do you have in front of you that file
16 testimony?

17 A. Yes, I do.

18 Q. Mr. Chernick, is that prepared by you or
19 under your direct supervision and control?

20 A. Yes.

21 Q. Is it true and accurate, to the best of
22 your knowledge, information, and belief?

23 A. Yes.

24 MS. ROBERTS: I would ask that this be

1 marked as OCC Exhibit E for identification.

2 THE EXAMINER: So marked.

3 MS. ROBERTS: Mr. Chernick is available
4 for cross-examination.

5 THE EXAMINER: Company.

6 MR. RANDAZZO: Yes, Your Honor. We would
7 like to make a motion to strike at this point or an
8 objection to the admission, however you --

9 THE EXAMINER: Let's call it a motion to
10 strike.

11 MR. RANDAZZO: Okay. It would go to the
12 entirety of OCC Exhibit E. The grounds are that if you
13 look at the face of the testimony, and specifically at
14 Page 7, Lines 13 through 15, Mr. Chernick indicates
15 that the September 13th Order adopted by the Commission
16 appears to reflect the views expressed by the Staff,
17 which were views previously offered in this record.
18 Page 7, Lines 14 through 18, he says he's going to
19 comment on the assertions of the prior Staff testimony,
20 since those assertions appear to be the basis of the
21 9-13 Order; so, in effect, what he's really doing is
22 rebutting Staff. And in the summary and conclusions,
23 again at Page 7, he makes it clear that he's offering
24 new testimony in favor of the April Stipulation that

1 OCC joined in and has withdrawn from. Therefore, Your
2 Honor, I would object to the admission or consideration
3 of this testimony as being outside the scope as Your
4 Honors have defined it, which is limited to new issues
5 relative to the issues that were either raised by the
6 application or those issues that could have been
7 contemplated as a result of filing the application. I
8 see no purpose to this testimony if it isn't
9 essentially to rehash the deliberations that the
10 Commission engaged in previously.

11 THE EXAMINER: Miss Roberts.

12 MS. ROBERTS: Thank you, Your Honor. Mr.
13 Chernick's testimony addresses Joint Exhibit 2, the
14 January 12th Stipulation, regarding whether it
15 implements stated PUCO policy as expressed in the
16 Commission's September 13th Order and the Order and
17 rehearing. He also specifically addresses whether
18 there is a credible basis that the DSM program results
19 in economic benefit and whether there are benefits to
20 those participants -- whether there are benefits to
21 others that don't participate in DSM response.

22 Mr. Chernick is addressing in his
23 testimony issues that relate to the test the Commission
24 has announced it will use in determining whether to

1 adopt a Stipulation. The Stipulation itself is silent
2 on what the basis of the Stipulation is or whether it's
3 in the public interest, for example, or a departure
4 from traditional regulation. Mr. Chernick is
5 addressing whether the Stipulation is in the public
6 interest. He is addressing whether it benefits
7 ratepayers. He does discuss the previous statements as
8 a way of extrapolating what the positions could have
9 been in addressing whether this Stipulation meets the
10 public interest, because the Stipulation is silent. No
11 testimony was filed with the Stipulation, but it still
12 needs to meet the public interest test and it still
13 needs to meet the benefit ratepayers test. He
14 addresses that, and the rest of his testimony supports
15 his reasons for his conclusions in that regard, and if
16 the Hearing Examiner would like, I could establish that
17 from Mr. Chernick by voir dire.

18 THE EXAMINER: Mr. Randazzo.

19 MR. RANDAZZO: Your Honor, it's always
20 interesting to hear explanations of things that --
21 where people are trying to help the Commission grapple
22 policy issues, but if you look at the testimony, on the
23 base of it, at Page 7, where I previously directed your
24 attention, the witness is saying that he's commenting

1 on the testimony offered by the Staff since that
2 testimony seems to be the basis upon which the
3 Commission issued the September 13th Order. By the
4 way, the Commission already addressed some of these
5 arguments in the application for rehearing process and
6 the Entry on Rehearing. At the bottom of Page 7, the
7 witness, on behalf of OCC, who was withdrawn from the
8 Stipulation, is advocating that the programs in the
9 April Stipulation were cost effective and should be
10 approved by the Commission. It just seems to me to be
11 sort of a circular condition that's presented, where
12 OCC wants to not have -- wants to withdraw from the
13 Stipulation and yet advocate in favor of it; so we're
14 also struck significantly by the contradictions
15 presented by that circumstance. But this is, at best,
16 rebuttal testimony directed at the Staff witness' prior
17 testimony. It is untimely, and it is certainly outside
18 the scope of the proceeding.

19 THE EXAMINER: I understand that the
20 convoluted nature of this particular proceeding has led
21 to some odd things, and the fact is that he is
22 basically rebutting Mr. Puican's testimony and --
23 you'll get to the spelling of Mr. Puican in a little
24 bit -- I understand he is basically rebutting it, but

1 we're going to go ahead and deny the motion to strike
2 and allow the testimony.

3 MS. ROBERTS: Thank you.

4 THE EXAMINER: You may proceed, Mr.
5 Randazzo.

6 CROSS-EXAMINATION

7 By Mr. Randazzo:

8 Q. Mr. Chernick, my name is Sam Randazzo, and
9 I'm here on behalf of Vectren Energy Delivery of Ohio.
10 If you have any confusion about my questions -- I will
11 not be long with you, you will perhaps be happy to
12 know, and we'll get you out of here and on your way.

13 A. Thank you.

14 Q. You indicate in your testimony that, at
15 Page 5, that OCC asked you to address issues raised by
16 the January 12, 2007, Stipulation; is that correct?

17 A. Yes.

18 Q. And when did OCC ask you to do that?

19 A. I would have to check my -- basically, my
20 e-mail records back at the office. There was a
21 general --

22 Q. It's okay if you don't recall.

23 A. And it would be a complicated answer
24 anyway because of the evolving nature of this case.

1 Q. Were you in consultation or in discussions
2 with OCC about the proposal in this case, about
3 Vectren's application in this case prior to the
4 engagement which brings you here today?

5 A. You've confused me. I'm not sure what
6 time frame you're talking about.

7 Q. Well, since November of 2005, when Vectren
8 filed the application in this proceeding, have you been
9 in discussion with OCC regarding the issues in this
10 proceeding?

11 MS. ROBERTS: Your Honor, we'll stipulate
12 that he wasn't.

13 MR. RANDAZZO: That's fine if you want to
14 stipulate, but I'm asking the witness.

15 THE EXAMINER: Go ahead and answer the
16 question.

17 THE WITNESS: I'm trying to recall exactly
18 what activity I was involved in. I believe prior to
19 the negotiation of the original Stipulation, I provided
20 some assistance to OCC through Mr. Gonzalez on the cost
21 effectiveness of DSM programs that were under
22 discussion and some other aspects. I don't think that
23 I was involved between the time that the Stipulation
24 was reached and the -- sometime after the September

1 opinion.

2 By Mr. Randazzo:

3 Q. Okay. So when you say that you were
4 involved in some discussions with Mr. Gonzalez
5 regarding cost effectiveness prior to the Stipulation,
6 that would have been the April 2006 Stipulation?

7 A. Yes.

8 Q. And did you have occasion to look at the
9 April 2006 Stipulation? Did OCC show you the
10 Stipulation or did you look at it on your own?

11 A. Yes, I have -- I have seen it. I have not
12 committed it to memory.

13 Q. All right. You're a wise man, probably
14 for many reasons.

15 May I approach the witness?

16 THE EXAMINER: Yes.

17 MS. ROBERTS: Which Stipulation would that
18 be?

19 MR. RANDAZZO: April, the one you signed.

20 MS. ROBERTS: Your Honor, I think that was
21 ruled as not part of the scope of this hearing because
22 it's no longer valid.

23 THE EXAMINER: It's in the record in this
24 case. He certainly can ask the witness questions about

1 it.

2 MR. RANDAZZO: And the witness actually
3 talks about it.

4 THE EXAMINER: That, too.

5 MR. RANDAZZO: And I tried to avoid this.
6 By Mr. Randazzo:

7 Q. So, Mr. Chernick, I'm going to show you a
8 document which is -- I've copied it two pages to a page
9 to save some paper here.

10 A. The trees thank you.

11 Q. Yes. Part of our conservation effort, you
12 know. I'd like to show you that document. Does that
13 look to you to be the Stipulation, the April
14 Stipulation that was filed in this case, April 2006?

15 A. Yes.

16 Q. Now, I've sort of highlighted some
17 language on the bottom of Page 9 and carrying over to
18 Page 10. I'd like you to read that language, and I'm
19 going to ask you a question.

20 A. Yes.

21 Q. Would it be fair to say, sir, that the
22 language to which I've just directed you obligated the
23 parties to attempt to work in good faith to fulfill the
24 intent of the Commission's Order in the event that the

1 Commission did not adopt the April 2006 Stipulation in
2 its entirety?

3 A. I need to read a little further up to
4 understand the context of the part you highlighted.

5 Q. Sure.

6 MS. ROBERTS: Your Honor, I believe this
7 is outside the scope of the witness' testimony. He
8 testifies to the ratepayer benefits and the cost
9 effectiveness of the program and how -- how the
10 April -- or Joint Exhibit 2 relates to stated
11 Commission policies, not as it relates to any other
12 terms of the Stipulation.

13 MR. RANDAZZO: Your Honor, if I may, at
14 Page 5, in response to Question 9, the witness
15 indicates that the January 12th Stipulation discards
16 the energy-efficiency portfolio proposed by Vectren,
17 OP&A, and OCC through the April 7, 2006, Stipulation,
18 and I'm going to inquire of this gentleman just exactly
19 what the January 12th Stipulation discards.

20 THE EXAMINER: Objection is overruled.
21 Please answer the question.

22 THE WITNESS: Okay. Now, can you refresh
23 my memory as to what the --

24

1 By Mr. Randazzo:

2 Q. Yes. The question was, sir, the language
3 to which I've directed you in the April 2006
4 Stipulation, does it appear to you to require the
5 parties to work in good faith, to act upon the intent
6 of a Commission Order which does not adopt the April
7 2006 Stipulation?

8 A. Well, it requires the parties to convene
9 immediately to work in good faith to achieve an outcome
10 that substantially satisfies the intent of the
11 Commission or proposes a reasonable alternative
12 thereto.

13 Q. Okay. In your testimony -- as I
14 understand your testimony at the top of Page 6, it is
15 your view that the January 12th Stipulation converts
16 the Commission's September 30th -- or September 13th
17 Opinion and Order into a Stipulation? Is that a
18 correct understanding, at the top of Page 6, beginning
19 at Line 3?

20 A. Did you basically just read what I said
21 about it in there?

22 Q. Yes. It is my understanding of your
23 testimony, and I'm asking you to tell me if my
24 understanding is correct, it's my understanding of your

1 testimony that you view the January 12th Stipulation as
2 converting the conclusions of the Commission's
3 September 13th Opinion and Order into a Stipulation.
4 Do I correctly understand your testimony?

5 A. Yes. That's what it says it's trying to
6 do.

7 Q. And, in fact, on Line 15, you say that the
8 January 12th, 2007, Stipulation is inextricably linked
9 to the conclusions in the Commission's September 13th
10 Opinion and Order; is that correct?

11 A. That's correct.

12 Q. And, in fact, linked to the Commission's
13 November Entry on Rehearing as well; is that correct?

14 A. Yes.

15 Q. And from them -- from that point in your
16 testimony, you go on, as you describe at Page 7, to
17 address some of the views that were previously
18 expressed in this proceeding by the Commission Staff;
19 is that correct?

20 A. Well, some are in the Order and some are
21 Staff opinions that the Order seemed to be relying on,
22 yes.

23 Q. All right. And the testimony that you --
24 the Staff testimony that you attempt to address in your

1 testimony is the testimony that was previously filed in
2 this proceeding; correct?

3 A. That is correct.

4 Q. And it was testimony that was submitted
5 prior to the Commission's September 13th, 2006, Order;
6 correct?

7 A. That's correct.

8 Q. And it's testimony that was submitted,
9 Staff testimony that was submitted in this proceeding
10 after you had consulted with Mr. Gonzalez with regard
11 to cost effectiveness; is that correct?

12 A. That's correct.

13 MR. RANDAZZO: I have no further
14 cross-examination.

15 THE EXAMINER: Mr. Rinebolt.

16 MR. RINEBOLT: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 By Mr. Rinebolt:

19 Q. Mr. Chernick, I'm Dave Rinebolt with Ohio
20 Partners for Affordable Energy, and no one ever has any
21 problems hearing me, so -- but let me know. You have
22 reviewed both the original Stipulation and the
23 Commission's subsequent Order and the subsequent
24 Stipulation embodying that Order. Is the new program,

1 the \$2 million program funded differently than the
2 program in the original Stipulation?

3 A. Yes. It's my recollection that the
4 program in the original Stipulation would have been
5 funded largely through a charge on the -- that would be
6 recovered from the consumers as opposed to a
7 shareholder contribution.

8 Q. All right. Now, your testimony indicates
9 that you believe that the Commission found, and
10 incorrectly in our view as well, that the original,
11 larger DSM proposal was not economically justified. Do
12 you think a \$2 million program paid for by shareholders
13 is economically justified?

14 A. I don't have any objection to the
15 shareholders spending \$2 million on benefits to
16 low-income customers. I think it's a wonderful and
17 civic-minded thing to do, and I certainly wouldn't want
18 to stop them.

19 Q. I'm glad to hear that. Mr. Chernick, does
20 it really matter that all customers are eligible for a
21 DSM program if there's inadequate funding to serve all
22 customers?

23 Let me give you a hypothetical.

24 A. Thank you.

1 Q. If there's enough money to do -- to
2 weatherize a thousand units, providing Demand-Side
3 Management services to a thousand units, and there are
4 20,000 eligible units, would it matter whether you put
5 in an income eligibility criteria that dropped that
6 down to 10,000 units? I mean, so only half are
7 eligible, but you can still only do a thousand units.
8 Is there any intrinsic value in making the universe of
9 residential customers eligible for services when there
10 isn't enough money?

11 MS. ROBERTS: Your Honor, that assumes
12 facts not in evidence. He's asking for a hypothetical
13 response, and it's speculation.

14 MR. RINEBOLT: Your Honor, there is only a
15 limited amount of money whether you look at \$4.65
16 million or \$2 million.

17 THE EXAMINER: I think that the -- it's
18 clear that what Mr. Rinebolt says is correct. You
19 can't weatherize every 300,000 potential customers,
20 residents. The objection is overruled.

21 THE WITNESS: Well, it matters in two
22 respects; first, the cost-benefit ratios for
23 non-low-income programs tend to be higher than for
24 low-income programs. Low-income customers tend to be

1 harder to address. They have greater needs, and in
2 terms of using the utilities -- what you're talking
3 about here in terms of a budget is a utility budget.
4 With non-low-income customers, you can often get the
5 customers to put in a substantial percentage of the
6 capital investment, multiplying the limited budget, so
7 you get bigger benefits per dollar spent and you get
8 more dollars spent, and because the program is larger,
9 you tend to spread the administrative costs over
10 greater savings; so, yes, in that sense, it does matter
11 if your objective is to generate economic benefits in
12 the conventional sense. If your objective is to allow
13 the poorest people to be able to stay in their homes
14 without shivering all winter and that's where you're
15 going to spend your money and that's your objective,
16 then it may not make any difference. And your question
17 also assumes a limit on the amount of money. If it's
18 cost effective, there's no reason why a general purpose
19 energy conservation program wouldn't be much larger and
20 grow over time.

21 By Mr. Rinebolt:

22 Q. Did you, in your preparation of your
23 testimony, analyze the relative efficacy of the target
24 energy efficiency, the Team Program, which is the same

1 program model as the Warm Choice Program operated by
2 Colombia Gas currently delivered to low-income
3 customers of the Vectren service territory, did you
4 analyze the relative efficacy of that program as
5 compared to the DSM proposal that were a part of the
6 initial Stipulation?

7 A. I didn't -- I don't recall having seen a
8 description of the programs that you just described.
9 My recollection is, when I was looking at this material
10 a couple years ago now, the low-income programs had
11 much worse cost-benefit ratio, much higher cost per
12 therm saved, but that's -- that's what I know about
13 this particular situation. My statement about
14 low-income programs is based in large part on my
15 general experience with conservation programs in many
16 places in the Northeast. In many cases, Commissions
17 and utilities create set-asides for low-income
18 programs, because if you allocated funds based solely
19 on cost effectiveness, you wouldn't be serving that
20 population, which certainly needs the help.

21 Q. I'm glad that you have such a broad
22 familiarity. Have you ever analyzed programs in a
23 state which has a Percentage Income Payment Plan, the
24 relative cost effectiveness of low-income programs?

1 A. I -- I'm sorry, I don't -- I don't
2 recall. I don't tend to deal directly with the PIP
3 programs, and so while I certainly run across them in
4 various cases, I couldn't tell you offhand which of the
5 states I've worked in have them and which don't. I
6 haven't seen any direct connection to the cost -- I
7 mean, I don't believe there is any direct connection to
8 the cost effectiveness.

9 Q. Have you ever analyzed the efficacy of the
10 cost effectiveness of either low-income or DSM programs
11 in a state that has a winter reconnect order similar to
12 Ohio, which allows a customer to be reconnected if they
13 have a disconnection notice or have been disconnected
14 by paying a big flat fee and then rolling over the
15 arrearage for recovery over some time? Have you looked
16 at the impact of DSM or low-income programs in that
17 kind of context?

18 A. Again, I don't recall there having been a
19 connection directly to the DSM programs. I believe
20 most of the states I've work in have -- prohibit
21 disconnection of customers during the heating season.
22 So I suspect that I have, but it hasn't been directly
23 relevant to the DSM evaluation.

24 Q. Okay. You note on Page 16 of your

1 testimony and carrying over that natural gas DSM
2 programs benefit nonparticipating customers by
3 reduced -- by the reduction in gas usage that allow you
4 to cut back expensive resources, reduce usage that
5 allows Vectren to avoid local costs and reduce demand,
6 free up pipeline capacity. Do all these benefits occur
7 when the homes that are subjected to demand-side
8 measures are low-income homes or high-income homes?
9 Does it matter? Isn't the energy savings what matters?

10 A. The energy savings matter. More of the
11 effect, I believe, for low-income customers is to allow
12 them to afford a reasonable level of heating and
13 reasonable comfort level, and, therefore, less of the
14 investment winds up translating into reductions in
15 therms delivered, and so these effects for other
16 customers would be reduced to that extent, but to the
17 extent that there's less gas flowing to a low-income
18 home, it has the same effect as less gas flowing to a
19 commercial building.

20 Q. So you'd get these three, the three
21 impacts of Demand-Side Management would accrue, that --

22 A. Again, the magnitude would tend to be
23 smaller, but there would be some spillover.

24 Q. But as you said, you haven't done a lot of

1 analysis in states that have a Percentage Income
2 Payment Plan, have you?

3 A. Again, I haven't done a lot of analysis --
4 I haven't done any analysis that directly related the
5 PIP program to the DSM program.

6 Q. Just one last question for you. Page 19,
7 in your conclusion, you indicate that essentially by
8 discarding the \$4.65 million conservation portfolio in
9 the April Stipulation, the PUCO is not supporting
10 conservation and energy efficiency as part of the
11 natural gas policy. Am I paraphrasing that correctly?

12 A. Yes. I think you may be quoting it.

13 Q. Yeah. Well, pretty close. Is a \$2
14 million program that provokes conservation and
15 efficiency consistent with state policy goals?

16 A. If it came at no other cost and just
17 dropped out of the sky.

18 Q. Well, in fact, this one is paid for by
19 ratepayers and does -- or shareholders and does just
20 that. I have no more questions. Thank you.

21 MS. ROBERTS: Can we strike that last
22 question that --

23 MR. RINEBOLT: Oh, you can strike my
24 last -- my editorial comment, but I think the question

1 should stay.

2 (Discussion off the record.)

3 THE EXAMINER: Mr. Rinebolt, have you
4 completed your cross?

5 MR. RINEBOLT: I have completed my cross,
6 Your Honor. Thank you.

7 THE EXAMINER: Staff.

8 MR. JONES: Yes, Your Honor, just a few
9 questions.

10 CROSS-EXAMINATION

11 By Mr. Jones:

12 Q. Good afternoon, Mr. Chernick. My name is
13 John Jones. I'm one of the attorneys for the Staff of
14 the Public Utilities Commission of Ohio.

15 A. Good afternoon.

16 Q. Good afternoon. Mr. Chernick, I'm going
17 to refer your attention to your testimony on Page 15,
18 specifically the question asked you at Line 6 and 7
19 where you discuss avoided costs as being both supply
20 costs and utility costs; is that correct?

21 A. Yes.

22 Q. And then the answer to the question, to
23 No. 30, you go on to list some of those supply cost
24 savings; is that correct?

1 A. Yes.

2 Q. You itemize those on the rest of Page 15
3 and some on 16?

4 A. Yes.

5 Q. Did VEDO include any of those specific
6 avoided costs in its cost analysis that you itemized
7 here?

8 A. The avoided cost was estimated in a
9 somewhat simplified way to approximate the purchase of
10 a combination of these factors. It was based on the
11 Company's cost of gas, which would involve various
12 combinations of these factors.

13 Q. How about for the answer you gave to
14 Question 31, about the utility costs? Is that the same
15 question -- same answer?

16 A. No, I don't believe they include that at
17 all. I don't think they included anything for that.

18 MR. JONES: No other questions, Your
19 Honor. Thank you.

20 THE EXAMINER: Thank you.

21 Redirect.

22 MS. ROBERTS: Thank you, Your Honor.

23

24

REDIRECT EXAMINATION

By Ms. Roberts:

Q. Mr. Chernick, do you recall Mr. Rinebolt's questions of you concerning the benefits of the \$2 million program, specifically where he asks if a \$2 million program was better than no program?

A. Yes.

Q. Mr. Chernick, in the proposal before the Commission as represented in Joint Exhibit 2, the January 12th Stipulation, is there a cost to the \$2 million program to ratepayers in the form of decoupling?

A. Well, yes. The decoupling in this case --

MR. RANDAZZO: I object and move to strike. This is way beyond the scope of the witness' testimony and way beyond the scope of cross.

THE EXAMINER: Sustained.

MS. ROBERTS: It was the last question of Mr. Rinebolt, where he assumed there was no cost associated to ratepayers for this \$2 million program.

MR. RANDAZZO: We've already agreed that Mr. Rinebolt's last editorial comment would be struck.

MS. ROBERTS: That was the question, though. That wasn't the editorial comment. He asked

1 that question of the witness and the witness answered
2 it.

3 THE EXAMINER: Go back and read the
4 question, Mr. Rinebolt's last question.

5 (Question read back.)

6 THE EXAMINER: I did not hear any
7 reference to decoupling program. Objection sustained.
8 By Ms. Roberts:

9 Q. Mr. Rinebolt referred to your testimony
10 when he said that in your testimony you didn't object
11 to shareholders spending \$2 million on conservation
12 programs. Do you recall that question?

13 A. I recall that question.

14 Q. But you did have an objection to the way,
15 didn't you, in your testimony, that the \$2 million was
16 coupled with other provisions of the Stipulation?

17 MR. RANDAZZO: I object. Leading.

18 THE EXAMINER: Sustained.

19 By Ms. Roberts:

20 Q. What was the basis of your -- was the
21 basis of your objection related to the amount of money
22 spent on conservation programs in the Stipulation or
23 some other factors that you addressed?

24 MR. RANDAZZO: Objection. Leading.

1 THE EXAMINER: We'll overrule this time.
2 It's less of a lead.

3 THE WITNESS: The Stipulation, the January
4 Stipulation and, before that, the April '06 Stipulation
5 each offered some kind of balance between benefits and
6 costs to the Company, benefits and costs to
7 ratepayers. There's a large benefit to the Company
8 under current circumstances of having the decoupling
9 mechanism, because sales per customer are falling.
10 It's not a revenue-neutral or an expectation-neutral
11 mechanism, and it's not limited to recovering the
12 revenue losses due to energy conservation to DSM
13 programs. So there's -- so that part is a substantial
14 cost to ratepayers. On the other side, there is a
15 shareholder contribution to low-income weatherization,
16 which is in and of itself unobjectionable and a
17 praiseworthy thing, but it's a very small
18 contribution. There's no commitment to doing any other
19 conservation and certainly not to pursuing the economic
20 level of conservation. So my objection to the
21 Stipulation is not that it includes the \$2 million in
22 terms of the social benefits, but that that's the limit
23 of it and a much larger benefit flows to the Company in
24 the form of the decoupling mechanism, which is, in

1 terms of the Commission change in policy, change in
2 rate-making, is sort of a one-shot deal. There is a
3 lost opportunity here to get a package that reduces
4 costs, minimizes costs for Ohio ratepayers and for the
5 Ohio economy, and that's being lost in this version of
6 the Stipulation.

7 MR. RANDAZZO: I move to strike. If
8 counsel is going to be allowed to lead, the witness
9 ought to be required to follow. The answer went well
10 beyond the scope of the question. I move to strike.

11 THE EXAMINER: Overruled.

12 By Ms. Roberts:

13 Q. Do you recall, Mr. Chernick, whether the
14 April 19th Stipulation included any low-income
15 conservation programs?

16 MR. RANDAZZO: Object. Which April 19th
17 Stipulation?

18 MS. ROBERTS: The April 19th, 2006,
19 Stipulation between the parties in this case.

20 MR. RANDAZZO: There is no April 19th
21 Stipulation.

22 THE EXAMINER: Can I ask where you're
23 going with this question?

24 MS. ROBERTS: I'm sorry, April 7th.

1 MR. RANDAZZO: Also referred to as the
2 April 7th Stipulation.

3 MS. ROBERTS: Thank you, Mr. Randazzo. I
4 was only off by 12 days.

5 Mr. Rinebolt asked questions about a
6 low-income program, and I was just following up that
7 this is a change and this is a new element to the
8 program.

9 THE EXAMINER: Thank you.

10 THE WITNESS: I didn't review the
11 low-income provisions in the April Stipulation in any
12 great detail, so I'm not aware of any changes in the
13 low-income provisions.

14 By Ms. Roberts:

15 Q. Mr. Chernick, were you engaged by OCC to
16 consult and assist with it in the last Vectren rate
17 case?

18 A. Yes.

19 Q. And in that case, were conservation
20 programs considered?

21 A. Yes.

22 Q. And did you provide advice to the OCC
23 regarding conservation programs being considered in
24 that case?

1 A. Yes, I did.

2 Q. And did that engagement come to an end?

3 A. Yes.

4 Q. And can you tell me about when that
5 engagement came to an end, approximately, to the best
6 of your recollection?

7 A. About the time that the OCC filed its
8 testimony in that case. I don't recall having really
9 been involved after OCC's testimony was filed.

10 Q. In the prior rate case?

11 A. Right. I may have gotten an occasional
12 e-mail telling me about what was going on, but I had a
13 very limited role then.

14 Q. And did there come to be a time when you
15 were engaged to provide consultation and advice in this
16 case?

17 A. Yes.

18 Q. And was that engagement subsequent to the
19 September 13th Commission Order?

20 A. Yes.

21 Q. Was it subsequent to the Commission Entry
22 on Rehearing in November?

23 A. I'm a little fuzzy on the exact dates. As
24 I recall, Mr. Gonzalez contacted me and told me about

1 things that were going on, and we had some
2 conversations. I wasn't under contract or authorized
3 to do any work until considerably later, and exactly
4 how all of these time periods fall into place, I'm --
5 I'm not sure, but I don't believe I started work until
6 at least December in this current proceeding.

7 Q. And am I understanding in your response
8 that part of your fuzziness is that you had an
9 engagement to the last Vectren rate case that ended,
10 subsequently you had several informal conversations
11 with Mr. Gonzalez about conservation issues, and then
12 there came to be a time much more recently where you
13 were engaged to provide advice and consultation to --

14 A. That's why I --

15 MR. RANDAZZO: I object. We have the
16 witness saying he's fuzzy, and we have counsel saying
17 as part of your fuzziness, you can't remember this,
18 this, and this. That's not appropriate
19 cross-examination.

20 THE EXAMINER: Sustained. Let's go off
21 the record one moment.

22 (Discussion off the record.)

23 THE EXAMINER: We're going to break for
24 lunch. Be back at 2:30.

1 (Lunch recess taken.)

2 THE EXAMINER: Let's go back on the
3 record. Please continue.

4 By Ms. Roberts:

5 Q. Mr. Chernick, when we recessed, I was
6 asking about your engagement with the OCC for this
7 case.

8 A. Yes.

9 Q. Prior to your engagement in this case, did
10 you have any conversations with personnel at OCC, prior
11 to your --

12 A. Prior to the engagement in this case, did
13 I have conversations in relationship to this case, is
14 that the question?

15 Q. Yes.

16 A. Yes, I recall that Mr. Gonzalez contacted
17 me and told me something about what was going on
18 procedurally and that my assistance might be needed,
19 and I think there was a considerable delay before I was
20 retained or certainly before I was given authorization
21 to start with.

22 Q. Thank you. Mr. Randazzo asked you
23 questions about statements you made on Page 6 and Page
24 7 of your testimony. Do you recall those?

1 A. Yes.

2 Q. On Page 6 and Page 7, why did you make the
3 statements he questioned you about?

4 A. Well, I was asked to comment on whether
5 the January 12th Stipulation was in the public
6 interest, and in order to do that I had to address the
7 basis for the January 12th Stipulation, and since the
8 Stipulation didn't have much of a rationale attached to
9 it directly and it just sort of stated the rationale
10 was the Commission Opinion which cited the Staff's
11 position, and so I looked back at those earlier
12 documents for what could possibly have been the
13 motivation for this Stipulation and does that in any
14 way demonstrate that the Stipulation is in the public
15 interest, and as I say in my testimony, it isn't and
16 that the -- the basis for it as stated in the
17 Stipulation doesn't really lead to the conclusion the
18 Stipulation is beneficial.

19 Q. Thank you.

20 THE EXAMINER: Mr. Randazzo, recross.

21 MR. RANDAZZO: Just a couple of
22 questions.
23
24

1 RECROSS-EXAMINATION

2 By Mr. Randazzo:

3 Q. Mr. Chernick, did you provide a draft
4 version of your testimony to the OCC prior to
5 finalization?

6 A. Yes.

7 Q. Did they ask you to modify anything that's
8 currently on Page 6 or Page 7 for that matter?9 A. Well, there was a lot of back and forth on
10 wording. I think, at this point, I had cited
11 particular parts of witness Puican's testimony, and I
12 believe the OCC thought that was unnecessarily
13 detailed, and we simplified it to -- to the
14 parenthetical that's in there. And I think that the
15 clause that starts on Line 14 and runs over to 15 was a
16 detail that the OCC thought I should add for clarity
17 about the Staff not being a signatory to the April
18 Stipulation.

19 Q. Okay.

20 A. And there may have been some other edits.
21 As I recall, I pulled those quotes out and put in some
22 introductory and conclusory language just to bracket
23 and explain the relevance, and then there was some back
24 and forth about style.

1 Q. So if I understand the point you just
2 covered with your counsel is essentially this, your
3 testimony essentially goes like this, that based upon
4 your review of the September 13th Opinion and Order, it
5 appears to you that that Order was influenced by the
6 testimony offered by Staff witness Puican?

7 A. That's correct.

8 Q. Is that a fair statement? And that the --
9 regardless of what rationale the Commission may have
10 had for adopting that September 13th Opinion and Order,
11 that the January 12th Stipulation is designed to accept
12 that Opinion and Order and implement that Opinion and
13 Order, is that your understanding of where we are right
14 now?

15 A. That's what the Stipulation says it's
16 going to do.

17 Q. So your testimony is largely focused on
18 attacking whether or not the Commission's Opinion and
19 Order was appropriate; is that correct?

20 A. Well, I didn't -- I didn't really think
21 about it that way. I was --

22 Q. Well, I'm asking you to.

23 A. Okay. I mean, I guess you can -- I mean,
24 given the way that all these things are interrelated,

1 you can sort of turn the package around and look at it
2 from various corners and see it different ways, and
3 the -- and so much of my testimony points out errors in
4 fact that were in the September Order that were then
5 turned into a program proposal in the -- in the January
6 Stipulation.

7 Q. So is that a yes to my question? In other
8 words, you can't -- you can't --

9 MS. ROBERTS: Could the witness answer,
10 please?

11 THE EXAMINER: Only to the extent he gives
12 a yes or no answer.

13 MS. ROBERTS: If he can.

14 THE WITNESS: I think I answered it as
15 clearly as I can. I don't think a yes or no really
16 fits there.

17 By Mr. Randazzo:

18 Q. Well, let's go through the numbers again.
19 Your testimony, as you've given it today, here, both
20 during your original presentation and on redirect, is
21 that the January 12th Stipulation is implementing the
22 September 13th Opinion and Order; is that correct?

23 A. That's correct.

24 Q. And --

1 A. That's what it's supposed to do.

2 Q. The question I asked you, paraphrased, is
3 that in order to attack the January 12th Stipulation,
4 don't you also need to, therefore, attack the September
5 13th Opinion and Order?

6 MS. ROBERTS: Objection. Asked and
7 answered.

8 THE EXAMINER: Overruled.

9 THE WITNESS: I guess it has that
10 collateral effect, yes.
11 By Mr. Randazzo:

12 Q. And that is why -- and it is for that
13 purpose that you have focused on the Staff testimony
14 that was previously offered in this proceeding; is that
15 correct?

16 A. It's for the purpose of trying to
17 understand what the basis was for the -- what the
18 conceptual basis, what the rationale could be for the
19 January filing for the Stipulation and to look back and
20 see whether that rationale makes any sense and whether
21 the resulting proposal is in the public interest.

22 Q. All right. But it's your view that the
23 Commission -- the Commission's September 13th, 2006,
24 Order reflects the views of the Commission's Staff; is

1 that correct?

2 A. That seems to be where some of these
3 concepts came from, yes.

4 Q. That's all I have. Thank you.

5 THE EXAMINER: Thank you.

6 Mr. Rinebolt.

7 MR. RINEBOLT: No questions, Your Honor.

8 THE EXAMINER: Mr. Jones.

9 MR. JONES: No questions, Your Honor.

10 THE EXAMINER: Redirect.

11 MS. ROBERTS: No.

12 THE EXAMINER: I have two questions.

13 Actually, I think it's three. You testified earlier
14 that you were asked as to whether or not the January
15 Stipulation is in the public interest?

16 THE WITNESS: (Witness nods head.)

17 THE EXAMINER: Do I -- I understand that
18 to be the case, then -- am I incorrect in assuming that
19 you're stating no opinion as to whether the January
20 Stipulation is the product of serious bargaining among
21 capable and knowledgeable parties?

22 THE WITNESS: I wasn't involved, and I
23 don't have any opinion.

24 THE EXAMINER: Am I also correct to

1 understand that you're stating no opinion as to whether
2 the January Stipulation violates any important
3 regulatory principles?

4 THE WITNESS: I haven't looked at that
5 directly, no.

6 THE EXAMINER: Thank you. You're
7 excused.

8 (Witness excused.)

9 THE EXAMINER: Let's go off the record one
10 moment, please.

11 (Discussion off the record.)

12 THE EXAMINER: Let's go back on the
13 record. Miss Roberts.

14 MS. ROBERTS: I would move that OCC
15 Exhibit E be admitted.

16 THE EXAMINER: Mr. Randazzo, any
17 objections?

18 MR. RANDAZZO: Other than the objections
19 I've already made and had overruled.

20 THE EXAMINER: Thank you. The exhibit
21 will be admitted.

22 (EXHIBIT ADMITTED INTO EVIDENCE.)

23 THE EXAMINER: Call your next witness.

24 MS. ROBERTS: Mr. Kushler.

1 MARTIN G. KUSHLER, Ph.D.,
2 being by The Examiner first duly sworn, as hereinafter
3 certified, testifies and says as follow:

4 THE EXAMINER: Please be seated and state
5 your name and business address for the record.

6 THE WITNESS: My name is Martin Kushler.
7 My business address is 1751 Brookshire Court,
8 Williamston, Michigan.

9 THE EXAMINER: Thank you.
10 Please proceed.

11 MS. ROBERTS: Thank you.

12 DIRECT EXAMINATION

13 By Ms. Roberts:

14 Q. Mr. Kushler, did you cause to be prefiled
15 in this case direct testimony on February 21st, 2007?

16 A. Yes.

17 Q. And do you have that before you?

18 A. Yes, I do.

19 Q. Was that prepared by you or under your
20 direct supervision and control?

21 A. Yes.

22 Q. Is it true and accurate, to the best of
23 your knowledge, information, and belief?

24 A. Yes.

1 Q. Do you have any additions or corrections
2 you wish to make to your testimony?

3 A. No.

4 MS. ROBERTS: We would make the witness
5 available. Thank you.

6 THE EXAMINER: Mr. Randazzo.

7 MR. RANDAZZO: Yes, Your Honor. For the
8 reasons stated previously with regard to Mr. Chernick's
9 testimony, I would object to the admission or
10 consideration of the testimony that has just been
11 identified as being beyond the scope of the
12 proceeding. Much of the testimony references documents
13 which were previously referenced by OCC witnesses -- or
14 the witness that previously testified in this
15 proceeding. For example, Dr. Kushler's work is
16 specifically referenced in Wilson Gonzalez' testimony
17 that was filed bearing the date March 20th, 2006. At
18 Page 7, there are quotes directly attributed to this
19 witness of Mr. Gonzalez' testimony. I'd also say that
20 the subject of the testimony with regard to decoupling
21 is specifically beyond the scope of this proceeding, as
22 the evidence in this record demonstrates as well as the
23 documents that have been filed, and the structure of
24 the decoupling mechanism has not change since this

1 happened, the application in this case was filed.

2 THE EXAMINER: Can you direct my attention
3 to the discussion of the decoupling?

4 MR. RANDAZZO: It starts on Page 11, "What
5 is your opinion about the use of decoupling as a
6 mechanism to encourage utility energy efficiency
7 programs?" So we have this generic discussion about
8 decoupling mechanisms, should have been, could have
9 been, in fact was previously addressed in this
10 proceeding and addressed by OCC, including Mr.
11 Gonzalez. So it's beyond the scope, irrelevant to this
12 phase of the proceeding, cumulative, because the
13 subject was previously addressed by OCC's witnesses,
14 and, quite frankly, something we ought not to be
15 dealing with again.

16 The ACEEE documents that are in --
17 attached to the witness' testimony were previously
18 referenced during this proceeding and have been before
19 the Commission in other proceedings. Quite frankly,
20 ought not to be the subject of further inquiry.

21 THE EXAMINER: Miss Roberts.

22 MS. ROBERTS: Thank you. Mr. Kushler's
23 testimony addresses one of the prongs of the
24 Commission's Stipulation test, which is whether the

1 Stipulation is in the interest of the public and
2 benefits ratepayers and also addresses whether it's a
3 regulatory change for the state. I understand that Mr.
4 Randazzo believes that the decoupling is separate from
5 the conservation program, but all of the OCC witnesses
6 have taken the view, as does Mr. Kushler, that these
7 programs are intricately linked and cannot be evaluated
8 alone. The level and breadth of the decoupling allowed
9 must be considered together with the level and breadth
10 of the conservation program, and it is in that way,
11 that balancing, that analysis and evaluation that will
12 permit Mr. Kushler to determine whether this
13 Stipulation is in the public interest and benefits
14 ratepayers. So that's --

15 THE EXAMINER: Thank you. Mr. Randazzo, I
16 believe, is making a motion to strike the entirety, and
17 it is overruled. Thank you.

18 CROSS-EXAMINATION

19 By Mr. Randazzo:

20 Q. Dr. Kushler, am I pronouncing that
21 correctly?

22 A. Kushler.

23 Q. Kushler?

24 A. (Witness nods head.)

1 Q. When were you first spoken to by
2 representatives from the Office of Consumers Counsel
3 regarding this proceeding?

4 A. Regarding this particular case?

5 Q. This proceeding, yes.

6 A. It must have been late last fall. I don't
7 recall exactly when it was.

8 Q. Have you worked with OCC with regard to
9 conservation programs outside this proceeding?

10 A. I've presented informational workshops to
11 OCC staff and also to some PUCO staff, and I've had
12 informal interactions over the years.

13 Q. And going back how far?

14 A. I would say at least a couple, two, three
15 years at least.

16 Q. Were you aware -- or are you aware that
17 OCC's witness in this proceeding, Wilson Gonzalez,
18 referenced your work?

19 A. I'm aware of that. Yes, I saw that.

20 Q. How did you become aware?

21 A. When I agreed to get involved in this,
22 they sent me a bunch of background documents on the
23 case.

24 Q. And some of the background documents that

1 you reviewed referenced some of the work that you've
2 been involved with over the years; is that correct?

3 A. Yes, correct.

4 Q. And some of that work is attached to the
5 testimony that you filed?

6 A. Yes. Other than a couple of reports, yes.

7 Q. Anything new that you've attached to your
8 testimony in this proceeding?

9 A. "Anything new," do you mean is there
10 anything in my attachments that wasn't talked about
11 before? Is that --

12 Q. That's correct.

13 A. I don't know. I haven't -- I mean, I just
14 glanced and noticed that there were a couple of
15 references made. I don't know if there was any new
16 material or not.

17 Q. Okay. Did you review Mr. Gonzalez'
18 testimony in this proceeding?

19 A. I have read it, yeah.

20 Q. Do you know whether or not he addressed
21 decoupling mechanisms and their usefulness in his
22 testimony?

23 A. I don't recall offhand. If you have a
24 reference, I could take a look at it, but --

1 Q. If there is a difference between the views
2 you expressed in your testimony and the views expressed
3 in Mr. Gonzalez' testimony, do you have an
4 understanding as to whether your views or Mr. Gonzalez'
5 views should control?

6 A. Well, I would stand behind my testimony,
7 so --

8 Q. That's not quite what I asked you.

9 A. Should control in what respect?

10 Q. Well, if OCC is expressing views that are
11 different between the witnesses, which should we pay
12 attention to, Mr. Gonzalez' views or yours?

13 A. Well, I suppose that will be for the eye
14 of the beholder. I don't --

15 Q. So you'd leave it up to the Commission to
16 sort of make that call?

17 A. Yeah. I'll stand by my testimony.

18 Q. Likewise, if there are differences of
19 opinion between the various experts who have offered
20 testimony in this case, it would be your understanding
21 that the Commission would address that as well?

22 A. That's -- yes. I worked for ten years for
23 a commission. I understand how commissions work, yes.

24 Q. And I would tell you that you don't need

1 to work for a commission in order to appreciate that,
2 but --

3 A. I suspect that's true.

4 Q. Now, are you aware of the dollar amount of
5 funding that would have been provided by Vectren Energy
6 Delivery of Ohio had the Commission approved the April
7 2006 Stipulation as it was submitted to the
8 Commission? How much of that funding would have been
9 provided by Vectren?

10 A. Do you mean by shareholders?

11 Q. Yes.

12 A. I don't recall offhand that there was a
13 shareholder component in there. I'd have to check now.

14 Q. Were you here earlier today when Mr. Ulrey
15 testified?

16 A. For most of that.

17 Q. Well, I'd like you to assume that there
18 was a shareholder contribution on the order of \$950,000
19 or \$960,000 in the April 2006 settlement.

20 A. Okay.

21 Q. Okay?

22 MS. ROBERTS: I object. I don't recall
23 Mr. Ulrey testifying to that.

24 MR. RANDAZZO: I've asked him to assume

1 it. The record -- as a hypothetical. The record will
2 support whatever the number is.

3 By Mr. Randazzo:

4 Q. Are you willing to accept that?

5 A. For purposes of assumption.

6 Q. And do you know the level of shareholder
7 contribution that is associated with the January 12th,
8 2007, settlement?

9 A. Well, I believe we're talking about the \$2
10 million for the low-income program prior to netting out
11 tax effects and so forth.

12 Q. So it's clear to you, if my -- the
13 assumption I asked you to accept about the shareholder
14 funding embedded in the April 2006 settlement is
15 correct, it's clear to you that the January 12th
16 Stipulation contains a higher level of shareholder
17 contribution, comparing the approximate \$2 million --

18 A. If you compare A to B, yes, that would be
19 true.

20 Q. It's just math; right?

21 A. Uh-huh.

22 Q. Did you review the application that was
23 filed by Vectren in this proceeding in November of
24 2005?

1 A. I doubt it. It's possible, but I don't
2 recall offhand.

3 Q. Do you know whether or not the decoupling
4 mechanism that was proposed in that application is
5 essentially the same decoupling mechanism that is
6 embedded in the January 12th, 2007, Stipulation?

7 A. Not with respect to that document, I
8 don't.

9 Q. How about compared to the April 2006
10 settlement, the same decoupling mechanism?

11 A. I think conceptually it's basically the
12 same. I don't know if there may be variations in
13 anything else.

14 Q. Fair enough. That's all I have. Thank
15 you.

16 THE EXAMINER: Mr. Rinebolt.

17 MR. RINEBOLT: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 By Mr. Rinebolt:

20 Q. Dr. Kushler, good afternoon.

21 A. Good afternoon.

22 Q. At Page 2 of your testimony, you state the
23 conclusion that this Stipulation provides such a small
24 energy efficiency program that it doesn't sufficiently

1 benefit customers as a whole; correct?

2 A. Essentially, yes.

3 Q. And would it be your testimony, then, that
4 a \$4.65 million two-year program does provide adequate
5 benefits?

6 A. I think that would reach a level that
7 would be a good, solid, midpoint level of effort, if
8 you will.

9 Q. Okay. So what would be the low end of an
10 acceptable sized program to provide sufficient benefits
11 to justify this two-year pilot?

12 A. Well, if I said that, I did not intend to
13 say that that was the midpoint of an acceptable level.
14 It's a midpoint relative to other states that have
15 utility natural gas energy efficiency efforts. I would
16 say that -- I would tend to characterize that level as
17 pretty close to a minimum acceptable level in exchange
18 for granting the decoupling mechanism that's been
19 requested.

20 Q. And I note, then, that on -- let's see --
21 on Page 3, you indicate that VEDO is going to collect
22 \$7.2 million, and that's what we're kind of comparing
23 here. They're going to get \$7.2 million in the Sales
24 Reconciliation Rider, and customers are going to get --

1 well, under the Commission's Order is inadequate,
2 energy efficiency program, but I want to ask you about
3 the \$7.2 million. Is that \$7.2 million net of tax or
4 does that include tax?

5 A. I don't know. I would -- I should say
6 based on a conversation I've heard earlier today,
7 there's probably some uncertainty or a range around
8 that figure, because there seems to be a lot of
9 discussion as to what exactly that figure is going to
10 be. It potentially could be substantially higher.

11 THE EXAMINER: Is it your understanding
12 from today's discussion it could be lower?

13 THE WITNESS: From what I heard, I would
14 say not likely, but, obviously, if we're -- the future
15 has yet to unfold.

16 THE EXAMINER: We're dealing with
17 projections?

18 THE WITNESS: Exactly, yes.

19 THE EXAMINER: Sorry.

20 MR. RINEBOLT: No problem.

21 By Mr. Rinebolt:

22 Q. Do you share the opinion of the first
23 expert OCC called, Mr. Chernick, that low-income
24 programs, low-income weatherization programs are

1 generally a good idea?

2 A. Yes.

3 Q. And that you've seen plenty of low-income
4 programs that are cost effective?

5 A. Yes.

6 Q. And you have not -- have you reviewed any
7 information to indicate that the low-income program
8 currently operating in the Vectren service territory is
9 not cost effective?

10 A. I have no information like that.

11 Q. Okay. If you had a house -- this is a
12 hypothetical -- if you had a house, like the average
13 Ohio house, built in 1946, around 1,500 square foot,
14 and you insulated the walls and you put in a good
15 furnace and you sealed the ducts and you saved X amount
16 of decatherms of gas, would the impact of that savings
17 be any different if the householder had an income of
18 \$100,000 a year or \$25,000 a year?

19 A. In terms of quantifying the savings?

20 Q. In terms of quantifying the savings.

21 A. That is a function of the engineering
22 circumstances, pre and post insulation levels and so
23 forth.

24 Q. Okay. And so some of the other attributes

1 of DSM that you list, like dollars going to local
2 program employees and local retailers and contractors
3 who sell and install equipment rather than flowing out
4 of state to purchase more gas, all those kind of
5 benefits in your -- whether it's a low-income targeted
6 program or not?

7 A. The low-income type programs would have
8 some of those types of benefits.

9 Q. Which ones wouldn't they have?

10 A. Well, the particular market actors that
11 would be involved in a low-income program are different
12 than the market actors that might be involved in other
13 types of programs for other customer segments.

14 Q. Well, it's true that low-income programs
15 are normally delivered by nonprofit organizations, but
16 would, say, the HVAC subcontractors be the same whether
17 it was low income and or non-low income?

18 A. Could potentially. Depends on the
19 configuration of the program.

20 Q. And, of course, the fact that those
21 dollars aren't flowing out of state to pay for gas that
22 comes from the Gulf, that's pretty universal regardless
23 of the income of the person who's saving those?

24 A. That would not depend on the income of the

1 person, that's true.

2 Q. You note on Page -- I believe it's 8, that
3 energy efficiency programs operated by gas utilities
4 can save natural gas at a cost of \$2 to \$3 per Mcf. Is
5 that statement also applicable to programs targeted to
6 low-income customers?

7 A. Generally speaking, if you looked at the
8 range of costs to save an Mcf, programs for low-income
9 customers will tend to be at the higher end of the
10 range, and I think witness Chernick explained some of
11 the factors underlying that. You have to pay, in most
12 cases, the full cost of the measure, because a
13 low-income customer does not have capital of their own,
14 whereas more of a middle class or upper middle class
15 customer, you might only have to pay a portion through
16 a rebate; so I think, in general, if you look at
17 portfolios of programs, low-income will tend to be on
18 the lesser cost effective end of the range, but
19 certainly have still been found to be cost effective in
20 many instances.

21 Q. Have you actually ever studied any of the
22 Ohio low-income programs?

23 A. I probably did. I've been -- I've done
24 work in the low-income weatherization sector since

1 about 1981, so I think over the years I have had an
2 opportunity to review some of the programs in Ohio, but
3 it's probably been a while.

4 Q. Okay. Say you had a program that targeted
5 some payment troubled customers.

6 MS. ROBERTS: Is this a hypothetical, Your
7 Honor?

8 MR. RINEBOLT: This is a hypothetical.
9 By Mr. Rinebolt:

10 Q. Imagine you had a program that targeted
11 payment troubled customers regardless of income, just
12 people who don't pay their bills, and so your
13 weatherization program, your Demand-Side Management
14 program had the effect, when delivered to those
15 customers, of making their bill payment habits better,
16 they paid more of their bills, they paid on time. That
17 would be an advantage to all customers, then, wouldn't
18 it?

19 A. Yes, that can be a benefit to all
20 customers.

21 Q. Okay. On Page 10, you cite a number of
22 states having exemplary programs in one of your
23 studies, America's Best Natural Gas Energy Efficiency
24 Programs. Where are those programs, the best programs

1 to be found?

2 A. In the appendix to our report.

3 Q. In terms of states, where would you see
4 the geographic groupings of those programs?

5 A. I think there's a pretty good distribution
6 actually. Certainly, the New England area has been --
7 in terms of regions, has been a leader in energy
8 efficiency programs. There are some from the Midwest
9 and there are some from Pacific Northwest. There's
10 really a pretty good geographic range in there
11 actually.

12 Q. Are the best programs that you identified
13 in states where there have been a long-term commitment
14 to DSM?

15 A. It tends to be that way. I think there is
16 some advantage to the experience factor, but it's
17 probably also a combination of experience and
18 commitment. You have to have a policy commitment to
19 adequately fund good programming.

20 Q. And if you had that level of commitment
21 and continued to fund those programs over time, you
22 would, by definition, build up an infrastructure in a
23 state necessary to deliver high-quality programs?

24 A. Yes. There's some positive effects over

1 time that way in terms of building infrastructure,
2 that's certainly true.

3 Q. Now, to your knowledge, has there ever
4 been a large-scale DSM program in the Vectren service
5 territory?

6 A. Not that I'm aware.

7 Q. Nor really has there been any in Ohio,
8 outside of the long-term programs in Cincinnati?

9 A. I would say Ohio generally ranks in the
10 lower end of states historically in terms of energy
11 efficiency efforts.

12 Q. Now, we do, however -- would you agree
13 that Ohio has one of the larger programs designed to
14 serve low-income customers in the country?

15 A. I would say Ohio is well represented in
16 the low-income weatherization area.

17 Q. Okay. Now, the decoupling program and
18 conservation program contemplated in the Stipulation
19 for us today, that's a two-year pilot program; right?
20 You've reviewed it, and it's two years?

21 A. Yes.

22 Q. And as a pilot, it will be reviewed by the
23 Commission and must receive approval to continue?

24 A. Presumably.

1 Q. So would it be reasonable to presume,
2 then, that there will be an opportunity to address the
3 expansion of DSM funding in the next proceeding?

4 A. Well, I think that one of the problems, as
5 I perceive it, is they're not really piloting any
6 non-low-income programs, so I think your logic would
7 apply if they were indeed fielding some broader
8 efficiency programs in addition to low income. Then
9 you would be using this time to gather some experience
10 and do some evaluation, and that would make a better
11 informed decision at that point in time, but I don't --
12 I don't see that under the current Stipulation.

13 Q. Do low-income programs commonly define
14 their income qualification level at 300 percent of the
15 poverty line?

16 A. No, they don't commonly define it there.

17 Q. All right. I have no other questions.
18 Thank you very much, Doctor.

19 THE EXAMINER: Thank you.

20 Mr. Jones.

21 MR. JONES: No questions, Your Honor.

22 THE EXAMINER: Redirect.

23 MS. ROBERTS: Thank you.

24

REDIRECT EXAMINATION

By Ms. Roberts:

Q. Mr. Kushler, you reviewed Joint Exhibit 2, the January 12th Stipulation; is that correct?

A. Yes.

Q. And does that Stipulation provide that the low-income program will serve up to 300 percent of the poverty level?

A. Quite honestly, I don't recall seeing that, but it may be in there. I've heard it discussed today, but that didn't catch my eye.

Q. Okay. Do you recall also Mr. Rinebolt's questions regarding building up the conservation program infrastructure over time?

A. Yes.

Q. And since we're at the -- would you -- would it be your opinion that we're kind of at the beginning of building a conservation program in Ohio for gas utilities?

A. I think with the exception of the low-income program, which, as I mentioned, I think Ohio has done certainly a much better job than in other areas, yes. I mean, I think there's a -- that's one of the reasons why I think it's a real missed opportunity