BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

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

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

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DEPOSITION OF WILSON GONZALEZ

THURSDAY, FEBRUARY 21, 2008

3:04 O'CLOCK P.M.

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Deposition of Wilson Gonzalez, a witness herein, called by Duke Energy Ohio, Inc. for cross-examination under the statute, taken before us, Deborah J. Holmberg, Registered Merit Reporter, Valerie J. Grubaugh, Registered Merit Reporter, Certified Realtime Reporter, and Notaries Public in and for the State of Ohio, pursuant to notice and stipulations of counsel hereinafter set forth, at the offices of The Office of The Ohio Consumers' Counsel, 10 West Broad Street, 18th Floor, Columbus, Ohio, on Thursday, February 21, 2008, beginning at 3:04 o'clock p.m. and concluding on the same day.

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APPEARANCES:

ON BEHALF OF DUKE ENERGY OHIO, INC.:

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APPEARANCES (continued):

ALSO PRESENT:

Steve Puican

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

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

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WILSON GONZALEZ

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

CROSS-EXAMINATION

BY MR. FINNIGAN:

Q. Good afternoon, Mr. Gonzalez.

A. Good afternoon, Mr. Finnigan.

Q. Sir, the first thing I want to ask you about is the Commission's Smart Metering Workshop proceedings. Are you familiar with that case? I believe it's Case No. 07-646-EL-UNC.

A. Yes, I am familiar with that.

Q. Have you followed that case in any way?

A. I've attended most of the workshops.

Q. And what is the information that was conveyed at those workshops?

A. Well, there's -- there's been a number of workshops and, you know, sometimes the vendors, they've had vendor workshops, where they've talked about their products. They've had -- Staff has given presentations. They've got people from the Modern Grid coming in to give presentations. So it basically has been a lot of information sharing on the particular topic of meters.

Q. Okay. And the general topic is Smart Metering and SmartGrid systems?

A. Yes. But I would point out that it is -- you know, my interest in it, it's mainly been dedicated to the electric side.

Q. Right.

And Duke Energy Ohio is one of the participants?

A. That's correct.

Q. And Duke Energy Ohio made presentations regarding its plans for a SmartGrid system?

A. That's correct.

Q. And the person who made that presentation was Matt Smith?

A. Yes, I recall it's Mr. Smith.

Q. And these workshop meetings have been happening over several months during the summer and fall of this year?

A. That's correct.

Q. Actually, of 2007, I meant to say.

A. You did say last.... Yeah.

Q. Okay. Now, do you have any views on whether utilities should install a SmartGrid system?

A. Like I said earlier, you know, from --

we're very interested in this from the electric utility point of view. I think there's a lot of -- You know, it seems that there's possibilities to capture some of the operational savings, plus demand response and other societal savings.

So yes, we're, you know, very interested in the technology on the electric side. And that's basically what I've been following, you know, the Company's proposals and -- and the analysis being done on the electric side.

Q. Okay. So would you support deployment of a SmartGrid system for an electric utility as long as they did the proper cost-benefit analysis and showed that the utility costs and benefits, along with the societal benefits and customer benefits, justified such deployment?

A. I think on the electric side, you know, that's the process that we've just started in Ohio, and if we were looking at -- You know, the different cost benefits, some that are tangible costs, some that are maybe qualitative costs, I mean, we'd have to look at all that to make a determination whether we would support it.

Obviously, there's, you know, whatever

the bill is going to be for consumers. You know, we'd have to be convinced that the benefits, again, operational benefits, demand-side management type benefits, plus any other environmental qualitative type benefits, you know, would exceed the cost. So yeah.

I mean, in the 05-1500 case, you know, our comments were that we were interested in looking at Smart Metering as opposed to....

Q. Okay. Now, what about a combination utility like Duke Energy Ohio, we provide gas and electric service, would it be your recommendation that the Company should only install a SmartGrid system for its electric service provided that the benefits outweigh the cost?

MR. SAUER: I'm going to object at this point. This is outside the scope of his testimony.

You can answer if you know.

THE WITNESS: Like I mentioned earlier, looking at the electric side, you present a different issue because you're a combination company. So, you know, we would look -- have been looking at the electric side, per se, and I would think that -- I know we had a witness who dealt with the gas side, who was looking at it. I don't think I could share more, you know, in terms of....

BY MR. FINNIGAN:

Q. Okay. Would you agree with me that just as a general concept if a combination utility like Duke Energy Ohio installed SmartGrid and it only applied to electric service, then it would cause gas service costs to go up because now you would still have to do meter reading manually or other than on the Smart Grid system, and you wouldn't be able to allocate the current metering costs between gas and electric service, they'd have to be allocated all to gas service?

MR. SAUER: Again, a continuing objection to this line of questioning.

You can answer if you know.

THE WITNESS: I haven't seen -- We've made some of the information available. I haven't gotten around to reviewing it. You know, it may be plausible. I haven't looked at the information.

BY MR. FINNIGAN:

Q. Okay. Let me change the topic now and I want to ask you about the proposals in this case to modify the fixed customer charge and, in particular, the Company's proposal and the Staff's proposal.

You mention on Page 5, Line 9 of your testimony, that the Company's proposal is to increase the fixed customer charge from $6 a month to $15 a month; correct?

A. Yes.

Q. Now, are you aware of whether the Company is -- Well, strike that.

The $6 that you cite, that's in the monthly customer charge for Rate RS, or residential service; correct?

A. Yes.

Q. Are you aware of whether the Company is recovering any fixed charge through its Rider AMRP program?

A. While I -- While I haven't been, you know, monitoring, or evaluating, or looking at the AMRP, I am aware of that.

Q. What is your understanding of how much the Company is currently collecting as a fixed monthly charge through the AMRP program?

A. Subject to check, $6 range, $5, that range.

Q. All right. So currently, as you understand it, the Company is collecting $12 per month in fixed customer charges, whether through Rate RS or the AMRP rider; correct?

A. That's correct.

Q. What's your understanding of what would happen to the fixed customer charge collected through the AMRP as a result of this rate case?

A. My understanding is that it would be folded into base rates, so that it would be zero.

Q. Okay. So currently, customers pay $12 per month in fixed charges; right?

A. Total, currently they do, but post, I guess, when the rates go into effect, they wouldn't.

Q. Right. And I'm just talking about the Company's proposal at this point. I'll talk about the Staff's proposal in a minute.

But under the Company's proposal, the fixed monthly charges would go from $12 per month, whether collected under RS or AMRP, to $15 in Year 1; is that correct?

A. Again, like I said, per the proposal, that fixed charge for AMRP would be blended into the rate, so it wouldn't be a fixed charge anymore, so I think that you would be going from zero to 15, not from 12 to 15 starting that new year.

Q. Well, no. I'm just asking you how much the customer currently pays in fixed charges now, before the rate case has been decided, and that's currently $12, and what would happen if the Company's proposal were approved, that fixed charge would be $15; right?

A. Yes. It would go from zero to 15.

Q. Okay. Well, not zero. I'm talking about what customers are paying today. They're not paying zero in fixed customer charges, are they?

A. No. Like we said, they're paying $12 fixed cost, but that -- that would become zero --

Q. Right.

A. -- if the Company's proposal were accepted, and then the $15 fixed charge would be fully a customer fixed charge.

Q. Right. And we may be kind of talking past each other on this point, but what I'm trying to get at is that on Page 5, Line 9, you state that the amount of increase in the fixed customer charge from --

A. I'm sorry. I didn't want to interrupt you, but I'm pretty clear that it's just the customer charge that I'm referring to on that line. I didn't say fixed charge.

Q. Okay. And your statement is that the customer charge increases from 6- to $15, and I want to suggest to you that, in fact, the customer charge increases from 12- to $15 under our proposal.

A. That's not a -- The AMRP is not a customer charge as defined in the tariff. It's a fixed charge, but it's not the customer service charge.

Q. Right.

But I want to talk about fixed charges that the customer pays. And if you look at the fixed charges that the customers pay, right now they're paying $12 in fixed charges. Under our proposal, that would change to $15 in fixed charges in Year 1 that our new rates would be in effect; correct?

A. The customer charge would be $15 and they would --

Q. Right.

A. -- they would have been paying $12, but at the beginning of the period they would have been paying no AMRP fixed charge. So, you know, I still would contend that as a consumer I would be expecting, as per the Company's proposal, a zero charge. You're going from zero -- I'm sorry -- from the 6 to the 15.

Q. Okay. I'm not focusing just on Rate RS, I'm focusing on total fixed charges that the customer pays on their bill. And I guess the way I'm looking at it is that today, when a customer gets a bill, on our system it has $12 in fixed charges for Rate RS and the AMRP.

If our new proposal is accepted, in Year 1 they would get a bill that would have $15 in fixed charges, and that would consist of zero under AMRP and $15 under Rate RS.

Do you understand what I'm saying?

A. I understand. But to me, it seems it's almost like if I have a tax break the beginning of the year, all of a sudden -- you know, I'm expecting some kind of a tax break, and all of a sudden it's taken away. And granted, I was paying taxes prior to that, but as a consumer I'm still having to pay or missing out on that -- on that particular tax break.

Q. The amount of fixed charges consumers pay on our system are $12 today under our current rates. The amount that they would pay in Year 1 under our proposed rates is total fixed charges of $15; right?

A. That's correct.

Q. What's the percent of increase from $12 to $15? It's a lot less than the percent increase from $6 to $15, isn't it?

A. Yes. As I mentioned earlier, my reference was strictly to the customer charge. So, I mean, the statement is correct as it's on Line 9 because I wasn't addressing the fixed charge portion.

Q. Why would you not address the fixed charge portion that consumers pay under the Rider AMRP in evaluating what the customer charges are that are recovered through fixed versus volumetric rates?

MR. SAUER: I'm sorry. Could I have that question reread?

MR. FINNIGAN: I'll reask it.

BY MR. FINNIGAN:

Q. Why did you not consider the fixed charges that are recovered through Rider AMRP when you were trying to characterize how much the increase in customer charges will be under our new rate proposal?

A. I didn't because, as I mentioned earlier, per the Company's proposal, that value was going to be zero, so that was my starting point.

Q. I'm just wondering when you were trying to look at the impact on the customer in total fixed charges you say it's an increase from 6 to 15, I'm just wondering why you didn't consider the $6 fixed charge recovered through the AMRP in your analysis.

A. I think if it would have been kept -- if it would have been -- if part of your proposal was to keep the $6 in and move forward, then I would have taken it into account. To the extent that it was going to be zero, I mean, that's the real state as of that time, so that's why I didn't take it into account.

Q. Why did the fact that it changed from 6 to zero not factor into your calculation of how much of an increase there is in customer charges?

A. Because that's -- the customer charge would go from 6 to 15. Do you mean fixed charges?

Q. Right.

A. I'm talking about the customer charge.

You mentioned customer charge.

Q. What's the difference? I mean, aren't we talking about charges to a customer that are either a fixed monthly amount versus a volumetric amount? I mean, what is the difference that we're talking about?

A. I think a customer charge has -- a customer charge has been on a customer's bill for as long as I can remember, so it's something that has a lot of history and its permanency, so on and so forth.

Another charge that may be a fixed charge, perfect example, the AMRP, was going to go to zero. So it wasn't going to disappear as a fixed charge.

So I think there's -- you can't really lump them together that way. At least in my mind, I can't -- I can't associate complementarity between customer charges and other fixed charges that the Company may -- may have.

Q. Can I direct your attention to Page 9 of your testimony, please? Do you see a chart there about "History of LDC Customer Charge in Ohio"?

A. Yes.

Q. You have the different companies shown there and you have Duke's proposed charge going upward. Is that under the Staff's proposal or the Company's proposal that you're showing on this chart?

A. This is the Company's proposal. As you see, it stops at 15. So it's kind of like an outlier.

Q. And the other companies' proposals that you show --

A. Yeah. Columbia --

Q. -- or, strike that.

The other companies' customer charges that you show on this chart, are those their current customer charges or the amounts of customer charges they're proposing in pending rate cases?

A. I think that's correct.

Q. Which one? I asked you either/or.

A. I think the latter.

Q. Okay.

A. Because it goes through 2000- -- Hold on one second. Let me check something.

(Pause.)

I would change my answer. I think it was the former, not the latter, to your question.

What I'm looking at here, and I'm looking at, for example, Vectren is proposing on average 13.37, and if I look at the Vectren line, there's nothing else that's in that ballpark. So this is actual -- Like it states, it's a history, so it's not looking forward. It's the history of LDC customer charges.

Q. But isn't it true that both Vectren and Dominion have pending rate cases before the Commission?

A. Yes.

Q. And in those pending rate cases they've proposed changes to their customer charge.

A. Well, what's interesting is that Vectren has proposed increases, but Dominion has actually maintained their customer service charge for one part of their service territory and brought the customer -- increased slightly the customer service charge for the other part to have a unified customer service charge. But like I said, it's only at the $5.70 range.

Q. Okay. But by showing the other companies' existing proposals and comparing that about -- against Duke Energy's proposed customer charge, that's not an apples-to-apples comparison,

is it?
A. The purpose of this particular graph is to show what the history, the trajectory of customer charges are in Ohio historically. I'm just trying to make the point that if you compare Duke's proposed rate, which is very clearly marked, it seems to be an outlier based on the history of customer service charges in Ohio. So that's the only reason. Yeah, that's what the -- the graph is demonstrating.
Q. Why wouldn't you include Vectren's proposed increase in the customer charge in this graph?
A. Because this is the -- this is the -- If I were to submit testimony in the Vectren case, then I would think that perhaps I may have a similar table in Vectren.
Q. Okay. But it's not really an apples-to-apples comparison where you're comparing all the data available to us now, whether it's historical or proposed changes in customer charges, you just selected out past data for the other Ohio utilities in terms of their customer charge information in this table and compared it against Duke Energy's proposed customer charge.

A. Well, I looked at -- I did a little more, because I did look at Duke's historical rate also, and then I did compare the proposed rate.

On the other hand, I'll direct you to Page 6 where I do have all the proposed rates. It's not something that is not evident in my testimony. It's very clear on Page 6. I have the Vectren proposed charges and the Dominion proposed charges.

So this table has -- You know, it's -- The only -- The purpose of this particular table is to show how Duke's proposed charge compares with the historical trend in Ohio.

Q. Do you know the last time that these other companies have been in for a rate case?

A. Yes. I know -- For example, I know Vectren, they were in for a rate case 2004, 2005. So it was very recent.

Q. What about Dominion and Columbia?

A. I know they haven't come in for some time.

Q. Sometime meaning -- What's your estimate?

A. I would Columbia -- I used to work for Columbia, and I still think I'm in their books, and I left in 1996. So I think it's been quite a

long time.
Q. Sometime before '96?
A. I would think so.
Q. Have there been any changes in market conditions in the natural gas industry over the last few years that may have caused companies to seek higher customer charges?
A. I think there's been quite a bit of discussion given the volatility and increases in commodity charges.
Q. Isn't it true that the commodity charge has increased from about $2 to $10 over the past few years?
A. That type of movement has taken place, yes.
Q. Have you studied whether there's been any trend of declining customer usage or declining usage per customer that gas utilities are experiencing perhaps as a result of the increased commodity charges?
A. Yes, I'm familiar with some of the information.
Q. Okay. And what does that information reveal that you're familiar with?
A. If there's declining usage per customer?

General statement, if there's declining usage for customers, and if the Company doesn't come in for a rate case more frequently, they could -- you know, without taking into account weather, you know, they could have some revenue erosion.

Q. Okay. Now, do you have any opinion as to whether it's appropriate for a gas utility to recover its fixed costs through a fixed customer charge?

A. The basis of my testimony, I would say is, that my testimony was critical of moving to a straight-fixed variable rate design. As I state in my testimony, there are other ways for the Company to mitigate the erosion, and as the Company proposed in its original filing, a decoupling, for example, a per customer decoupling mechanism.

Q. Okay. So you support the idea of a company addressing declining customer usage or revenue erosion through a decoupling mechanism as long as it has the appropriate safeguards you identified, but you do not support the idea of a company recovering its fixed costs through a fixed charge?

A. And the reason is -- As I state in my testimony, I give numerous reasons. If you have two design mechanisms and both of them work and we remove the disincentive for the utility to promote energy efficiency, yet one -- one is a -- gives the correct pricing so that you get conservation on the customer side of the meter and one doesn't, I would go with the one -- my recommendation is to go with the decoupling with safeguards that maintains -- that removes the disincentive for energy efficiency from the Company, but at the same time doesn't remove the incentive for the customer to be more -- use the energy more efficiently, the pricing.

Q. As between sales decoupling and a straight-fixed variable charge, which one of those two sends a more accurate price signal to the consumer?

A. I would argue, and I've argued in my testimony, and I've shown exhibits that a decoupling mechanism would maintain the price signal to the customer in a clearer way than a straight-fixed variable.

Q. Let's assume that all of the customers on the Company's system were Choice customers and were served by marketers, which perhaps could happen if the Company did some kind of wholesale auction process.

If that were true and the Company was only providing pure distribution service, what would provide a more accurate price signal to consumers for the Company's distribution service, straight-fixed variable or decoupling?

A. I think either.

Q. Either one would provide an equally accurate price signal?

A. Well, I would argue that, again, the decoupling mechanism would maintain from the customer perspective a truer price signal on the cost of natural gas.

Q. No, I'm not asking you about from the customer's perspective on the price signal for natural gas, I'm asking you on the Company's gas distribution service, what would provide a more accurate signal for the Company's natural gas distribution service?

A. I would argue that a straight-fixed variable really translates into a decreasing -- It's really a decreasing block rate if you look at -- based on usage. The more somebody uses, the less their effective rate is.

So I think that unless your marginal costs on the fixed side or on the distribution Company side is decreasing, I think it's an incorrect price signal.

If cement is -- You know, the cement, the asphalt, all of that, all the costs of running a business is decreasing, then you might have an argument, but if it's -- if you're not dealing with a decrease in marginal costs and you're pricing that decrease in marginal costs effectively because of a straight-fixed variable, I think it's incorrect pricing.

Q. Well, to the extent that we're in the distribution business and, you know, continuously adding new customers, wouldn't you expect a monopoly business like a natural gas distribution utility to have declining marginal costs over time?

A. I think given the state now in terms of this materials cost and costs of -- You're comparison is versus -- monopoly versus a competitive -- or, I'm sorry, other companies serving as distribution providers.

I'm just talking about what actual costs are you facing when you go out there. Is cement getting cheaper? Is asphalt getting keeper? Is labor getting cheaper? You know, to run your business, is your business getting cheaper?

You may be able to operate because of your natural monopoly cheaper than another firm, but that's not the question. The question is whether your firm is experiencing high or low costs.

Q. Isn't it generally accepted that companies that are regulated monopolies, like a natural gas distribution company, have declining marginal costs?

A. I would say in a theoretical model, and -- and the whole development of -- of regulation, you know, if you looked at an economic textbook, you know, for that. The point again being that it's a natural monopoly, it could experience decreasing marginal costs, and, therefore, you need regulation so that -- to substitute a competitive and protect customers from a monopolistic price discrimination type....

Q. Okay. Now, on Page 11, Line 1 -- let me direct your attention to that part of your testimony -- you state you object to decoupling because it's a form of single issue ratemaking.

Now, is there anything wrong with single issue ratemaking by itself?

A. I believe that in a regulatory compact, where you come in for a rate case, and at that particular point you open your books and we look at what costs went up, what costs went down, and the Commission then makes the determination.

Q. Well, let me ask --

A. So I think for consumer advocates, that's a very strong taboo, single issue ratemaking.

Q. I'm sorry. That was a poorly worded question.

Wouldn't you agree that what you call single issue ratemaking is simply taking one area of the Company's revenues or expenses for, you know, periodic adjustment through a rider? That's what the Rider SD is, isn't it?

A. The Rider SD. Sales decoupling, yes.

Q. Aren't there many other examples where the Commission has approved taking one area of a company's expenses or revenues and adjusting them periodically through a rider?

A. I believe that's true, but we've objected. I wouldn't be surprised if we haven't objected every time.

Q. What are the other rate case components that could impact the decoupling effect that you mention here?

A. Generally, all the accounts. I mean, you would look at everything. Labor. You would look at the cost of materials. The full -- The full -- You know, any cost that you could be losing -- having revenue erosion because the sales are declining -- declining use per customer, but at the same time, you could have costs that are decreasing by more than that revenue erosion and, therefore, your revenues may actually be going, you know, higher on net. So it's just to be able to look at all the accounts that the Company has and the rate case gives you the opportunity to do that.

Q. Okay. So what you're objecting to is just the principle of focusing solely on the Company's sales and making an adjustment to the test year level of sales through this decoupling rider without considering other areas of the Company's revenues or expenses that might change from the time of the last rate case.

A. Correct.

Q. Okay. Now, you make a statement in your

testimony that decoupling is more guaranteed cost recovery. Do you recall that?
A. No, I don't. Can you point to it in my testimony?
Q. Page 11, Line 4.
A. Yes. I agree with my statement on Page 4 -- or, on Line 4, Page 11.
Q. Okay. How is the Company's cost recovery guaranteed with a decoupling proposal?
A. I'm saying -- I didn't say guaranteed. I said more. There's less risk, you know, from a revenue perspective. Everything else being equal, if you can recover lost revenues, then there's less risk.
Q. Now, if we have situation where a natural gas utility is facing steadily declining usage per customer, and the utility could address that either of two ways, one would be to come in for frequent rate case filings, or to have a decoupling proposal or a decoupling rider, with all else equal, what would your recommendation be in terms of how to best address that? Would it be through the frequent rate case filings or through decoupling?
A. I believe I would be indifferent between

both.

Q. Okay.

A. As long as -- Every time we talk about decoupling, I would add that, you know, as long as the decoupling mechanism had consumer safeguards as I stated. That's a condition I would hold throughout.

Q. Okay. Now, at the bottom of Page 11, you talk about the states where decoupling has been approved, or rejected, or proposals are pending.

Is that the most recent data you're available -- or, you're aware of?

A. I think at the time of my filing, it was the information that I had.

Q. Are you aware of any more recent data?

A. I was scouring for it and I haven't -- I haven't gone back to update anything else that has -- that has come about.

Q. I guess the conclusion you would draw from your statement is that decoupling has not either been widely accepted or widely rejected, that it's in balance, it's an equal balance. Half the states that have ruled on it have approved and half the states have rejected the proposals.

A. That's what my -- the information that I had. And again, I footnote Frederick Butler for the information that I came across.

Q. And this Frederick Butler article was in what publication?

A. It was a NARUC presentation, I believe.

Q. Do you have that available to you?

A. I don't have it here, no. But I have it somewhere in my -- in my files.

Q. Now, please turn to Page 12, Line 7 of your testimony. You talk about decoupling as being an opportunity to shift risk from shareholders to customers.

Now, if you consider that the declining usage per customer is a relatively new phenomenon, why is it that shareholders should bear that risk as opposed to customers?

A. As I mentioned earlier, the regulatory compact, that was one of the risks that the utilities would -- was fostered on the utility, was the sales -- the sales risk.

Q. If --

MR. SERIO: Excuse me. John, due to the time, Mr. Sauer needs to leave to get to the local public hearing. I'll be taking over for him, as long as that's all right with you, so that we can

finish Mr. Gonzalez's deposition.
MR. FINNIGAN: Sure. That's fine. Thank you.
BY MR. FINNIGAN:
Q. If the declining customer usage is a new phenomenon and if it's not addressed through a straight-fixed variable charge or a decoupling rider, should the Company receive a higher return on equity to account for the fact that this is a new risk that's developed in the past few years that shareholders face?
A. Are you talking generally, or are you --
Q. Yes.
A. -- talking specifically.
Q. Generally.
A. So for a Company -- When you look at a Company and you're assessing the risk -- And again, I'm not the cost-of-service witness in this particular case. Like I state in my testimony, I'm referring to Witness Adams to deal with the risk.
But as a general statement, you would have to assess all the -- you couldn't just look at and reduce that particular risk, you have to look at all the risks for the Company and make a

determination, and I haven't done that for the Company.

Q. I'm simply asking you, if this phenomenon of declining usage per customer is a new phenomenon that is occurring in the industry, wouldn't you expect state commissions to take this into account when evaluating a utility's return on equity and consider that as one factor that should lead to a higher return on equity in consideration with all the other factors?

A. Again, like I mentioned, you know, I didn't look at the cost of capital or risk. I'm not the OCC witness. So I -- I would feel uncomfortable making a statement. You could -- We had a witness with that testimony regarding the Company's risks, return on equity recommendations, and so on. I would defer to that witness.

Q. Let me change the subject a bit here, and I want to talk now about the consumer safeguards that you recommend for decoupling.

Are you familiar with the Vectren decoupling rider?

A. Yes.

Q. Which of the consumer safeguards that you recommend for Duke Energy Ohio are present in the

Vectren decoupling rider?

A. My understanding is that based on PUCO's decision, none of the cap safeguards. Although, in my testimony in that case, I did recommend -- I did recommend the caps in the consumer safeguards. I was consistent in that sense.

Q. But those were rejected by the Commission ultimately?

A. Well, the way it transpired and it was -- you know, the case had a lot of history and went to a lot of -- there was a lot of paper generated, but my understanding is that we now have a rate case where we're going to actually look at it again in the recovery and all that.

So it kind of merged into this rate case where it's going to be handled in the rate case. That's my understanding. So the Commission, you know, based on its decision, says, "Let's look at it in the rate case".

Q. But at the time it was originally approved, the Commission rejected your recommendation to adopt any of the safeguards that you're recommending here for Duke Energy Ohio; isn't that correct?

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

Q. And of the 11 states you cited earlier that have adopted decoupling proposals, which of these consumer safeguards have been adopted in any of those decoupling proposals?

A. I think my understanding would be that the decoupled revenues would be recovered at less than 100 percent. So I believe, for example, Vectren in Indiana is at lower that 100 percent.

Q. What percent of its revenues does Vectren collect through its decoupling proposal there?

A. I don't recall the exact number, but it's less than 100 percent. I know in Washington State, I guess, Northwest Natural Gas also had a less than 100 percent recovery when it was first implemented.

Q. Is that still the case now?

A. I'm not clear on their latest filing.

Q. And are you aware of any other consumer safeguards that you've identified in your testimony here that have been adopted in any other states where decoupling has been approved besides those two you just mentioned?

A. I just don't recall. I've read information, but I just don't have it on the top of my -- Those are the two that I still remember, but there could have been more.

Q. Okay. Now, let me direct your attention to the testimony -- Well, strike that.

Let me direct your attention to Recommendation No. 2 of your consumer safeguards on Page 13.

One of the recommendations you mentioned would be a -- a cap, either a dollar cap on decoupled revenues, or a cap on the percentage increase for the rider.

If the rider is intended to compare actual sales to test year sales during every annual adjustment, how would that dollar cap on decoupled revenues operate?

A. It would simply -- When, I guess, year to year adjustments are made, if the adjustments would increase beyond the recommendations of the cap, whatever the cap is, then that's what the -- that's what the Company would be able to recover as part of its decoupling mechanism. The cap idea there is more as a rate shock type avoidance.

So from a customer perspective, you don't want customers angry and seeing large -- you know, angry at volatile rates, you know. So that's why a cap on decoupling, a percentage cap would be something, I think, would help sell the program and make it more viable within customer acceptance, total customer acceptance is what I mean.

Q. What type of dollar cap would you propose for such a cap on decoupled revenues?

A. I have no recommendation in this particular case. I've said in the past a decoupling -- Yeah, I have no recommendation in this case.

Q. What would be an appropriate method for determining how much the cap should be on decoupled revenues?

A. You'd have to look at what -- you know, what would be interpreted as an increase in rates that would be problematic for the consumer, and so it would be -- I would say it's more art.

Q. Now, let me direct your attention to Item No. 4 of your consumer safeguards for decoupling.

You recommend there a downward adjustment in the Company's return on equity if decoupling adopted; is that correct?

A. That's what I state on 4, and I defer or yield to -- I know our return on equity witness, Aster, addressed this issue in his testimony.

Q. Okay. Now, let's assume that some of the companies that Mr. Adams uses for his discounted cash flow and capital asset pricing model analysis already have decoupling mechanisms, so in determining the cost of equity, he's comparing Duke Energy to companies, some of which already have decoupling.

Now, if that -- if decoupling has already been determined or factored in in arriving at that initial determination of what's the appropriate cost of equity, why should there be a second or double factoring of decoupling into the equation?

A. Again, I haven't looked at that closely. I would -- I would defer to Mr. Adams. I don't know what companies he compared.

Q. Now, let me direct your attention to your testimony regarding the straight-fixed variable rate design that the Staff proposed, and this begins at Page 14 of your testimony.

Under the Staff's proposal, do you know how much of the -- of the customer's total bill for an average customer would be recovered through fixed charges versus volumetric charges?

A. I'm just searching for it. I think I've made some statement in that regard. I know it's a preponderance of the collection. I can't put my finger on it, but I believe it's a preponderance of the cost.

Q. Are recovered through what?

A. Through a fixed charge.

Q. Okay. The total bill cost?

A. The total distribution bill cost, yes.

Q. Okay. Including commodity charges?

A. No; that's why I said distribution bill cost.

Q. Let me ask about total bill, including commodity charges.

Under the Staff's proposal, what is your understanding of what would be the proportion of costs recovered through a fixed charge as opposed to a volumetric charge for an average customer?

A. I think that's what I was trying to get to with my Exhibit No. 2, that the Staff's proposal would lead to a very high distribution dollar per CCF when compared to a $6 fixed charge or even the Company's $15 customer charge proposal.

Q. Let me direct your attention to Page 16, Line 11 of your testimony, where you state that the straight-fixed variable rate design is regressive on low usage customers.

Do you know whether the straight-fixed variable rate design is regressive on low income customers on the whole?

A. That's been a question in this particular case based on the information that the Company provided.

The Company solely provided PIPP information based on the PIPP information that -- I was very careful the way I stated this, but if you look at -- I think the PIPP customers have an upward bias of usage, and if you look at, there was -- there were only, I guess in the data request to the Staff, there were about 10,000 -- roughly 10,000 PIPP accounts, and if you look at census data, you know that there's -- at least just in Hamilton County, there's at least 66,000 low income households, at least 149 percent of the poverty level, because that's the data.

So I would think that low income customers, if you believe that they are the PIPP customers, would have a bias for high usage, I would think that low income customers would be -- would not be served well with the straight-fixed variable rate design.

Q. Well, aren't higher usage customers going to benefit from straight-fixed variable rate design?

A. Yes.

Q. Okay. And do you have an understanding or a belief as to whether low income customers on the whole tend to be higher usage or lower usage customers?

A. What I just stated was that based on your information on PIPP customers, it seems like it was a 50/50 -- you know, 50 would be better off, 50 would be worse off.

But the PIPP customers only accounted for either 10 to -- 10 percent to 20 percent of your low income customers. So there's something missing there.

We have been trying to get the information to make a determination, but if you -- if -- my hypothesis would be that low income customers, nonPIPP low income customers are probably, on average, using less than PIPP low income customers.

Q. And what is the basis for your belief?

A. Because if you have high uses, that's where you're going to have PIPP, more -- more trouble paying your bill and, therefore, going to avail yourself to a PIPP type of program. But if you're a low -- if you're low income, but you're low usage, you can pay the bill.

Q. Okay. But what is it by virtue of the fact that a customer is low income? What is it about that characteristic would lead you to believe that, on the whole, low income customers tend to be lower users as opposed to high users?

A. I was just basing my observations on -- based on the exhibit you provided and some of the census data that I looked at.

Q. Well, the census data you looked at doesn't have any statistics on usage of energy, does it?

A. I think it was simply households, low income households. Number of low income households in the company's service territory. This is information we have tried to -- obviously requested from the Company.

Q. We don't have that information on household statistics. I mean, you don't tell your gas company how much you make a year, do you?

A. Are you asking me whether I --

Q. I know I don't. And what I'm suggesting to you is that the Company doesn't have income data for its customers other than PIPP customers.

A. I understand that. But I'm saying there may be other ways to capture in that type of information, if the Company thought that information was useful.

Q. And what would those ways be?

A. I think census data, there's useful -- sensitive data by usage. It would require some work, but you're a pretty condensed service territory, so....

Q. Now, on Page 18 of your testimony, you mention on Line 3 that straight-fixed variable rates penalize customers who have undertaken energy efficiency investments because, as I understand it, you're saying they don't get the same payback as they would have gotten if the same rate design would have remained in effect at the time of their purchase.

A. Yes.

Q. Now --

A. Not just payback. Payback is one of them. You know, just savings. They would be able to save more because they can -- they can -- you know, they can defer -- they have more choice in terms of what part of the bill they have to pay as opposed to having it, you know, do a straight-fixed variable, just being hit with a large fixed charge that they -- whatever they do, they can't get around.

Q. But I mean, if you follow that logic, wouldn't you say that it's unfair for a company to propose new energy efficiency programs, or it's unfair for a company to ever increase its rates if the increase involved an increase in the customer charge, because that would also penalize investors in energy efficiency appliances?

A. I don't think so. If you increase your rates and somebody made an efficiency investment, their return is higher because your rate was higher, they are saving. So it actually works to favor their investment.

Q. No, I'm saying if in a rate case you increase the customer charge by any amount, you're saying that's an unfair penalty on energy efficiency investors. Isn't that what you're saying?

A. This is all in terms of -- I'm trying to balance this. Increasing the customer charge by $1 in a rate case and what kind of impact that will have, versus going 150 percent increase as the Duke case. You know, that's a different magnitude and it will have a bigger impact.

Q. Didn't energy efficiency investors pay $12 in fixed costs before the current proposal that's on the table?

A. It depends on when they implemented their program. I don't know the history of the AMRP and when -- I'm sure it wasn't $6 at all times, it probably increased over time.

Q. Is straight-fixed variable design -- rate design consistent with any generally accepted principles of utility rate design?

A. I would think at least two; one would be revenue stability, and another one would be ease of administration, perhaps.

But I think, as my testimony points out, you are trading that off for a lot of other problems that we believe pose problems for customers.

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

MR. SERIO: Is there anyone on the phone from Staff?

MR. PUICAN: We're still here.

MR. SERIO: Do you guys have any questions?

MR. PUICAN: No, we don't.

MR. FINNIGAN: Okay. Well, thank you very much.

(Signature not waived.)

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(Thereupon, the deposition was concluded at 4:06 o'clock p.m. on Thursday, February 21, 2008.)

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A F F I D A V I T

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STATE OF ____________,)

) SS:

COUNTY OF ____________,)

Wilson Gonzalez, having been duly placed under oath, deposes and says that:

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

____

Wilson Gonzalez

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

____

Notary Public

My Commission Expires: ________________________.

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C E R T I F I C A T E

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

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

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

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

My Commission Expires: August 10, 2011.

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

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I, Deborah J. Holmberg, Registered Merit Reporter and Notary Public in and for the State of Ohio, hereby certify that the foregoing is a true and accurate transcript of the deposition testimony, taken under oath on the date hereinbefore set forth, of Wilson Gonzalez.

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

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

My Commission Expires: October 7, 2011.

*** CAUTION ***

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