

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of: :
 : Case No. 07-1080-GA-AIR
The Application of Vectren: :
Energy Delivery of Ohio, :
Inc., for Authority to :
Amend its Filed Tariffs to: :
Increase the Rates and :
Charges for Gas Services :
and Related Matters. : :

In the Matter of: :
 : Case No. 07-1081-GA-ALT
The Application of Vectren:
Energy Delivery of Ohio, :
Inc., for Approval of an :
Alternative Rate Plan for :
a Distribution Replacement:
Rider to Recover the Costs:
of a Program for the :
Accelerated Replacement of:
Cast Iron Mains and Bare :
Steel Mains and Service :
Lines, a Sales :
Reconciliation Rider to :
Collect Difference Between:
Actual and Approved :
Revenues, and Inclusion in:
Operating Expense of the :
Costs of Certain :
Reliability Programs. :

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PROCEEDINGS

VOLUME VI

before Mr. Gregory Price, Attorney Examiner, at the Public Utilities Commission of Ohio, 180 East Broad Street, Room 11-F, 10:00 a.m. on Thursday, August 28, 2008.

1 APPEARANCES:

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10 and

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15 On behalf of the Company.

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10 By Ms. Maureen R. Grady
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By Mr. Werner L. Margard III
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19 On behalf of the Staff of the Public
20 Utilities Commission.

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1 Thursday Morning Session,
2 August 28, 2008.

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4 ATTORNEY EXAMINER: Let's go on the
5 record. Good morning. The Public Utilities
6 Commission has set for hearing at this time and place
7 Case No. 07-1080-GA-AIR, in the Matter of the
8 Application of Vectren Energy Delivery of Ohio, Inc.,
9 for Authority to Amend its Filed Tariffs to Increase
10 the Rates and Charges for Gas Services and Related
11 Matters. My name Gregory Price. I am the Attorney
12 Examiner assigned to preside over today's hearing
13 which is our sixth day of hearing in this proceeding.

14 Let's begin again by taking abbreviated
15 appearances from the parties starting with the
16 company.

17 MS. HUMMEL: Thank you, your Honor.
18 Samuel C. Randazzo and Gretchen J. Hummel from
19 McNees, Wallace & Nurick and Lawrence K. Friedeman
20 from Vectren on behalf of the company.

21 ATTORNEY EXAMINER: Consumers' Counsel.

22 MR. SERIO: Thank you, your Honor. On
23 behalf of the residential utility customers of
24 Vectren of Ohio, Janine L. Migden-Ostrander,

1 Consumers' Counsel, by Maureen Grady, Joseph Serio,
2 and Michael Idzkowski.

3 ATTORNEY EXAMINER: And staff.

4 MR. MARGARD: Thank you, your Honor. On
5 behalf of the Commission staff Werner L. Margard and
6 Anne L. Hammerstein, Assistant Attorneys General.

7 ATTORNEY EXAMINER: Thank you. Let's go
8 off the record for one minute, please.

9 (Discussion off the record.)

10 ATTORNEY EXAMINER: Let's go back on the
11 record. Let's take our first witness.

12 MR. SERIO: OCC would call Hal Novak,
13 your Honor.

14 (Witness sworn.)

15 ATTORNEY EXAMINER: Please be seated and
16 state your name and business address for the record.

17 THE WITNESS: My name is William H.
18 Novak. My business address is 19 Morning Arbor Place
19 in The Woodlands, Texas 77381.

20 ATTORNEY EXAMINER: Please proceed,
21 Mr. Serio.

22 MR. SERIO: Thank you, your Honor.

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24

1 WILLIAM H. NOVAK

2 being first duly sworn, as prescribed by law, was
3 examined and testified as follows:

4 DIRECT EXAMINATION

5 By Mr. Serio:

6 Q. Mr. Novak, do you have in front of what
7 what's been marked for identification purposes as OCC
8 Exhibit 3?

9 A. I'm not sure if -- what specific item you
10 are talking about, OCC.

11 Q. Your prefiled direct testimony.

12 A. Yes, I do.

13 Q. And was that prepared by you or under
14 your direction?

15 A. Yes, it was.

16 Q. Do you have any changes or corrections to
17 make to that testimony?

18 A. None that I know of.

19 Q. And if I was to ask you the same
20 questions that appear in the testimony, would your
21 answers be the same or similar?

22 A. Yes, they would.

23 MR. SERIO: Your Honor, I have a copy of
24 Mr. Novak's testimony for the court reporter. Would

1 anybody else need a copy? Your Honor?

2 ATTORNEY EXAMINER: I have a copy.

3 MR. SERIO: With that, your Honor,

4 Mr. Novak is available for cross-examination.

5 ATTORNEY EXAMINER: The record will
6 reflect, I am not sure we actually marked this, the
7 exhibit will be marked as OCC 3.

8 (EXHIBIT MARKED FOR IDENTIFICATION.)

9 MR. SERIO: Thank you, your Honor.

10 ATTORNEY EXAMINER: Mr. Randazzo.

11 MR. RANDAZZO: Motion to strike, first,
12 your Honor, if you would like.

13 ATTORNEY EXAMINER: Sure.

14 MR. RANDAZZO: Page 28 and the top of
15 page 29 of the witness's prefiled testimony beginning
16 on line 17 on page 28 the answer and then carrying
17 over to lines 1 and 2. The witness is there
18 articulating conclusions that a certain aspect of the
19 company's proposal is unreasonable and unlawful and
20 articulating his -- the position reflects what OCC is
21 doing in another case, and consistent with rulings
22 that have already been made in this case and the fact
23 that I believe this is a legal conclusion for which
24 this witness has not offered any credentials, I would

1 move to strike beginning on page 28, lines 17 through
2 20, and then on page 29, lines 1 and 2.

3 ATTORNEY EXAMINER: Mr. Serio, response?

4 MR. SERIO: Your Honor, it is my
5 understanding that this proceeding is the first
6 opportunity OCC has had to contest the deferrals from
7 the 05-1444 proceeding, and as such, we think it's an
8 appropriate component of this case where OCC should
9 have the opportunity to challenge those deferrals
10 because the company is asking for recovery of those
11 deferrals in this proceeding and we think it's
12 absolutely appropriate that Mr. Novak be permitted to
13 testify regarding the recovery of those dollars.

14 MR. RANDAZZO: Your Honor, if I might, I
15 did not move to strike on page 29, lines 4 through 9,
16 in which the witness talks about his particular view
17 on how the deferral should be recovered.

18 ATTORNEY EXAMINER: Granted.

19 MR. SERIO: Your Honor, we would like to
20 proffer line 16 through -- on page 28 to page -- line
21 2 on page 29 into the record.

22 ATTORNEY EXAMINER: Mr. Serio, you want
23 to proffer the entire thing or the entire thing
24 without the words "and lawful"? You can't -- he is

1 in no manner qualified to testify as to whether it's
2 lawful.

3 MR. SERIO: Yes, your Honor. We would
4 drop "and unlawful."

5 ATTORNEY EXAMINER: We will note the
6 proffer at this time. Thank you.

7 MR. RANDAZZO: Well, now, we are
8 proffering something the witness didn't say, your
9 Honor, but I'll be quiet.

10 ATTORNEY EXAMINER: Thank you.

11 MR. RANDAZZO: May I proceed with my
12 cross at this point?

13 ATTORNEY EXAMINER: You know, I have a
14 question about the same page, line 17, just for
15 consistency.

16 MR. SERIO: Page 28 or page 29?

17 ATTORNEY EXAMINER: Page 29.

18 What is your basis, Mr. Novak, for your
19 understanding that appropriate procedures have been
20 followed in this case?

21 THE WITNESS: If I could just to
22 refamiliarize myself with the context of the
23 paragraph.

24 ATTORNEY EXAMINER: Sure. I'm focusing

1 on the phrase -- it doesn't make any sense. I focus
2 on the phrase "appropriate procedures have been
3 followed in this proceeding related to the filing of
4 the SRR-B proposal, and." What is your basis for
5 your understanding?

6 THE WITNESS: It was the review of the
7 requirements for an SRR filing of that type to be
8 filed.

9 ATTORNEY EXAMINER: You are familiar with
10 the procedural requirements for filing SRR in the
11 state of Ohio?

12 THE WITNESS: No. I don't want to say
13 I'm completely familiar with it, no, but to the
14 pieces that were pointed out to me, yes.

15 ATTORNEY EXAMINER: I am going to strike
16 on my own motion beginning with "appropriate
17 procedures" and ending with "and that." I don't
18 think this witness is in any sense qualified to make
19 a legal conclusion like that. Trying to be
20 consistent with our previous ruling.

21 MR. SERIO: Your Honor, if I might ask a
22 question to try to clarify that.

23 ATTORNEY EXAMINER: Uh-huh.

24 MR. SERIO: Mr. Novak, was your

1 understanding based on your discussions with counsel
2 from OCC?

3 THE WITNESS: Yes, it was.

4 MR. SERIO: Your Honor, it's my
5 understanding in these proceedings we often allow
6 nonattorneys that are --

7 ATTORNEY EXAMINER: As to regulatory
8 matters, you are totally correct but this is not a
9 regulatory matter. This is a legal procedural matter
10 that he is testifying to and his sole -- his sole
11 understanding is having talked to you. Now, how can
12 Mr. Randazzo cross-examine him on that topic?

13 MR. RANDAZZO: Actually I think I could
14 have. It wouldn't have been much fun.

15 If I might, your Honor, this is something
16 that could be briefed. If it's a legal point, it can
17 be briefed by the parties without regard to what this
18 witness's views may be.

19 ATTORNEY EXAMINER: Thank you. That's a
20 very good point. So, Mr. Serio, I am going to stick
21 with my motion to strike that language.

22 MR. SERIO: Thank you, your Honor.

23 ATTORNEY EXAMINER: Thank you.

24 Mr. Randazzo, please proceed.

1 CROSS-EXAMINATION

2 By Mr. Randazzo:

3 Q. Mr. Novak, the -- you list on page 2 of
4 your testimony at the bottom of the page the issues
5 that you are testifying to; is that correct, the
6 areas that you are testifying to?

7 A. That is correct.

8 Q. And some of those issues have to do with
9 revenue requirements and some of them have to do with
10 rate design; is that correct?

11 A. That is correct.

12 Q. And on page 3 you indicate in response to
13 a question what documents you have reviewed in
14 preparation for your testimony. Did you review the
15 testimony of Mr. Colton?

16 A. I don't recall. I don't believe so.

17 Q. Can you identify the testimony of OCC
18 witnesses that you did review?

19 A. Oh, I'm sorry. I reviewed the testimony
20 of the revenue requirements' witness. I don't recall
21 his name just right now, Ralph, but I don't -- that
22 was the testimony I reviewed.

23 Q. Okay.

24 ATTORNEY EXAMINER: Mr. Novak, we have a

1 very loud heating and cooling system in this
2 building. If you could do your best to project your
3 voice so that everybody in the room can hear, I would
4 appreciate it. Thank you.

5 THE WITNESS: Thank you.

6 ATTORNEY EXAMINER: Thank you,
7 Mr. Randazzo.

8 MR. RANDAZZO: Sure.

9 Q. (By Mr. Randazzo) But you don't recall
10 reviewing Mr. Colton's testimony; is that correct?

11 A. No, I don't.

12 Q. On pages -- on page 3 you begin to talk
13 about the fascinating subject of normal weather. Do
14 we ever really have normal weather?

15 A. Over the average, yes, we do.

16 Q. But from year to year by definition you
17 really never have a normal period of weather.

18 A. By definition normal weather is a 30-year
19 average, so it's the difference. From what is actual
20 weather experience would just be a fluke if the
21 actual weather turned out to be the exact normal.

22 Q. Right. So we have these proceedings --
23 regulatory proceedings from time to time in a
24 ratemaking context where we have fierce debate what

1 normal weather really is, correct?

2 A. From time to time.

3 Q. And part of the reason for that debate is
4 the -- is a relationship to the way the rates are
5 set. To the extent that you have revenues collected
6 volumetrically, the argument over what normal weather
7 is or the discussion about what normal weather is
8 will have a more significant effect on how the case
9 turns out, correct?

10 A. That's correct.

11 Q. You talk about on page 6 your
12 observations regarding the weather trend line and I
13 am -- you are essentially saying here the weather
14 pattern that's observable from observing a 30-year
15 average is indicative of what normal weather is,
16 correct?

17 A. I believe what I am saying is that the
18 National Oceanic and Atmospheric Administration who
19 publishes the actual weather data uses a 30-year
20 average as their benchmark for normal weather.

21 Q. Right. I am just curious, I mean, are
22 you aware of any sort of discussions about this thing
23 they call global warming?

24 A. Yes, I've heard of global warming.

1 Q. Right. Okay. Now, on page 11 of your
2 testimony you talk about at line 5 the things that
3 impact residential sales. Do you see that? And you
4 have some descriptors in between the parentheses?

5 A. Uh-huh, yes.

6 Q. You have "et cetera." Are there any
7 other anomalies that you would like to call to our
8 attention there that may have a specific impact?

9 A. Well, certainly. What we are talking
10 about are residential sales. The companies
11 distribution line expansion program, are they
12 spending more -- significantly more or significantly
13 less dollars on expanding their distribution system?
14 That can have a very large impact.

15 Q. Well, here we are talking about sales
16 presented on page 33 so and what I would like to hear
17 from you is whether or not there are any things that
18 impact residential sales other than the things that
19 you have listed there.

20 MR. SERIO: Excuse me, your Honor. Did
21 you say page 33?

22 MR. RANDAZZO: Well, the question directs
23 him to page 33 of the staff report.

24 MR. SERIO: Okay.

1 Q. I will withdraw the question. You say on
2 page 13 that "99 percent of total residential sales
3 can be explained by changes in weather."

4 A. That's correct.

5 Q. Okay. And, again, you haven't read
6 Mr. Colton's testimony, I take it?

7 A. That's correct.

8 ATTORNEY EXAMINER: Excuse me,
9 Mr. Randazzo.

10 MR. RANDAZZO: Yes.

11 ATTORNEY EXAMINER: On -- as Mr. Randazzo
12 pointed out in his withdrawing question, you point
13 out other factors that can impact residential sales,
14 conservation, smaller houses, et cetera. And you are
15 saying that 99 percent of the impact is weather and 1
16 percent then consists of conservation, smaller
17 houses, et cetera?

18 THE WITNESS: What we are talking about
19 on this 99 percent is sales per customer so when you
20 look at the total sales -- weather-normalized sales
21 divided by the number of customers the company has
22 from year to year, you see that 99 percent of the
23 volatility of those sales per customer is impacted by
24 weather. Weather explains 99 percent of the

1 volatility in usage.

2 ATTORNEY EXAMINER: So all the remaining
3 volatility would encompass all these other factors.

4 THE WITNESS: On a sales per customer
5 basis.

6 ATTORNEY EXAMINER: On a sales per
7 customer basis.

8 Thank you, Mr. Randazzo, apology.

9 MR. RANDAZZO: Not a problem.

10 Q. (By Mr. Randazzo) On page 14 there is
11 another place in your testimony at lines 7 through 9
12 you indicate that you are going to have some other
13 recommendations that are going to be submitted in
14 supplemental testimony. Do you see that?

15 A. Yes, I do.

16 Q. You didn't file anything, did you?

17 A. No, we didn't.

18 Q. Okay. And, again, a similar kind of
19 observation on the top of -- in the answer that's on
20 the top of page 16, you refer to supplemental
21 testimony in lines 1 and 2 there. You didn't file
22 anything, correct?

23 A. No, we didn't.

24 Q. And I take it you've read the staff

1 testimony in this case that's been filed?

2 A. Yes.

3 Q. On page 19 beginning at line 15, you say
4 that "the distribution charge is relatively minor in
5 comparison to a customer's total bill that includes
6 gas costs which fluctuate monthly and other
7 surcharges." Do you have -- can you give me a
8 percentage relationship?

9 A. I do not have a percentage relationship
10 at hand.

11 Q. But it's relatively minor compared to the
12 total bill as --

13 A. Yes, it is.

14 Q. Okay, okay. Do you understand that the
15 company has proposed -- strike that.

16 Have you done any -- strike that.

17 You do not present in your testimony any
18 empirical analysis of the relationship between
19 natural gas usage and income, do you?

20 A. No, I do not.

21 Q. On page 23 at line 3, you have a price
22 for Ccf that you describe as "a single volumetric
23 rate." Do you see that, sir?

24 A. Yes, I do.

1 Q. And is that based on the requested
2 increase -- the amount of the requested increase that
3 the company is submitting?

4 A. No, it's not.

5 Q. What is it based on?

6 A. That -- that amount is based on the
7 revenue requirements that OCC proposed.

8 Q. Okay. All right. Thank you. Now, you
9 say on line 4 through 6 that "a single volumetric
10 rate should help create greater conservation
11 incentives." But you are also saying in your
12 testimony that the distribution portion of the rate
13 is a minor portion of the total bill. Do I
14 understand your testimony correctly?

15 A. That is correct.

16 Q. Okay. And on page 25, lines 10 through
17 12, the sentence that begins "I have been advised,"
18 you are there relying on an informational legal
19 conclusion that's been given to you from the Office
20 of Consumers' Counsel, correct?

21 A. That is correct.

22 Q. And are you aware of any changes in Ohio
23 law that have taken place since this case commenced?

24 A. No, I am not.

1 Q. If I mention to you Senate Bill 221,
2 would -- would that ring a bell by any chance?

3 A. I am vaguely familiar with that. I
4 understand it -- my understanding was it applied to
5 electric utilities.

6 Q. Pardon?

7 A. I understood it applied to electric
8 utilities. I don't know that -- but I am not
9 intimately familiar with that.

10 Q. Okay. All right.

11 ATTORNEY EXAMINER: Are you aware of any
12 provisions in there that applies to gas utilities?

13 THE WITNESS: No, I am not.

14 MR. RANDAZZO: All right. Thank you,
15 sir. I have no further cross for this witness.

16 ATTORNEY EXAMINER: Mr. Margard.

17 MR. MARGARD: I have no questions for
18 Mr. Novak. Thank you.

19 ATTORNEY EXAMINER: Mr. Serio, redirect.

20 MR. SERIO: None, your Honor, thank you.

21 ATTORNEY EXAMINER: I have no questions.
22 Thank you. You are excused.

23 MR. SERIO: Your Honor, I would move
24 admission of OCC Exhibit 3.

1 ATTORNEY EXAMINER: Any objections to
2 admission of OCC Exhibit 3?

3 MR. RANDAZZO: No, your Honor.

4 ATTORNEY EXAMINER: Mr. Margard?

5 MR. MARGARD: None, your Honor.

6 ATTORNEY EXAMINER: That exhibit will be
7 admitted.

8 (EXHIBIT ADMITTED INTO EVIDENCE.)

9 ATTORNEY EXAMINER: Let's go off the
10 record.

11 (Discussion off the record.)

12 ATTORNEY EXAMINER: Let's go back on the
13 record.

14 Mr. Margard.

15 MR. MARGARD: Thank you, your Honor.

16 Commission staff would like to call Mr. Stephen
17 Puican to the stand, please.

18 (Witness sworn.)

19 ATTORNEY EXAMINER: Please be seated and
20 state your name and business address for the record.

21 THE WITNESS: Stephen E. Puican, 180 East
22 Broad Street, Columbus, Ohio.

23 - - -

24

1 STEPHEN E. PUICAN

2 being first duly sworn, as prescribed by law, was
3 examined and testified as follows:

4 DIRECT EXAMINATION

5 By Mr. Margard:

6 Q. Mr. Puican, do you have before you a
7 document that has been previously marked in this
8 proceeding as Staff Exhibit No. 1?

9 A. Yes, I do.

10 Q. And that's the staff report of
11 investigation in this case?

12 A. Yes.

13 Q. You also have before you what has been
14 marked for purposes of identification as Staff
15 Exhibit No. 3?

16 A. Would that be my testimony?

17 Q. That would be your testimony.

18 A. Yes, I do.

19 Q. Do you have any changes to your
20 testimony, Staff Exhibit No. 3?

21 A. No, I don't.

22 Q. Can you tell me what responsibility you
23 had for the staff report of investigation in this
24 case?

1 A. I was responsible for the preparation of
2 several of the sections.

3 Q. Can you identify which sections those
4 were?

5 A. The sales reconciliation rider, the DRR
6 rider, certain tariff sections, and general oversight
7 of the DSM issues.

8 Q. Mr. Puican, if I were to ask you the
9 questions that are contained in your prefiled
10 testimony in Staff Exhibit No. 3, would your
11 responses today be the same?

12 A. Yes.

13 MR. MARGARD: Your Honor, I will
14 respectfully move for the admission of Staff Exhibit
15 No. 3 and tender Mr. Puican for cross-examination.

16 ATTORNEY EXAMINER: We will defer ruling
17 on admission of Staff Exhibit 3 until the conclusion
18 of cross-examination.

19 Mr. Serio.

20 MR. SERIO: Thank you, your Honor.

21 - - -

22 CROSS-EXAMINATION

23 By Mr. Serio:

24 Q. Good morning, Mr. Puican.

1 A. Good morning.

2 Q. In your testimony you indicate the
3 customers will always achieve the full value of gas
4 cost savings regardless of the distribution rate.
5 It's on page 3 of your testimony.

6 A. Yes.

7 Q. Would you agree with me that to the
8 extent that the fixed portion of the customer charge
9 is smaller, any conservation efforts on a customer's
10 part would cover a larger percentage of their bill?

11 MR. RANDAZZO: Object.

12 ATTORNEY EXAMINER: Grounds?

13 MR. RANDAZZO: As I understand the
14 position of OCC, OCC wishes to have a reconciliation
15 mechanism. Are we assuming there is no
16 reconciliation mechanism? No reconciliation rider?

17 ATTORNEY EXAMINER: Mr. Serio, can you
18 rephrase it to clarify what exactly -- whether it
19 does or does not include a reconciliation rider?

20 Q. Mr. Puican, on page 3 of your testimony,
21 lines 21 and 22, your comment about customers there,
22 does that take into account whether there is a
23 reconciliation rider or not in place?

24 A. I'm sorry. Where is the reference again?

1 I didn't look in the beginning.

2 Q. Page 3, lines 21 and 22. The sentence
3 beginning "customers will always."

4 A. I believe that's true whether we are
5 talking about an SFV rate design or a traditional
6 rate design with a decoupling mechanism.

7 Q. So if I was to ask you my question again
8 with that in mind, to the extent that the fixed
9 portion of the customer charge is smaller and the
10 volumetric piece is larger, would conservation
11 efforts that a customer makes include a larger
12 portion of their bill?

13 MR. RANDAZZO: I restate my objection.

14 ATTORNEY EXAMINER: Overruled.

15 A. Technically, yes, but that's where you
16 get into my position on straight fixed variable, and
17 you are sending incorrect price signals when you
18 artificially inflate that volumetric rate. It
19 technically may cause more conservation or quicker
20 paybacks, but it's an incorrect price signal.

21 Q. And to the extent you are talking about
22 artificial volumetric rate, is that what you are
23 referencing at the bottom of page 4 of your
24 testimony?

1 A. Yes.

2 Q. Okay. Now, you indicate there at the
3 bottom of page 4 that "artificially inflating the
4 volumetric rate beyond its cost basis skews the
5 analysis and will cause an over-investment in
6 conservation." Is it your belief that the current
7 rates artificially inflate the volumetric rate?

8 A. I believe that the volumetric rate should
9 be set so that it recovers the equivalent of the
10 avoided cost so that if a customer conserves, for
11 example, they would not -- that conservation would
12 not cause an undue burden on the utility in terms of
13 recovering their fixed costs and, again, that's where
14 you get into what I would characterize as uneconomic
15 investment and conservation.

16 Q. Okay. But my question to you under the
17 current rate the company has today does the
18 volumetric rate in those rates cause -- are they
19 artificially inflated to the extent that it would
20 skew the analysis and cause an over-investment in
21 conservation by customers?

22 A. I can't say that they are artificially
23 inflated because those rates were set during the time
24 when we believe that that was the appropriate way to

1 set rates with a small customer charge and a large
2 volumetric, so I wouldn't say it was artificial. Now
3 that we are talking about which is a better way to
4 align customers' interests and remove disincentives
5 for the company to promote conservation and you are
6 given a choice between SFV rate design which
7 appropriately calculates fixed and variable costs as
8 opposed to the traditional rate design with a
9 decoupling mechanism, I believe that faced with that
10 decision to choose the traditional rate design is
11 artificially inflating the variable rate.

12 Q. And the rates that we have right now were
13 set in Case 04-571-GA-AIR, correct?

14 A. It was an '04 case. I don't know the
15 number.

16 Q. So that means it was four years ago,
17 roughly?

18 Now, on page 8 of your testimony your
19 answer to question 9, it says "it is unnecessarily
20 punitive to impose arbitrary conditions to that cost
21 recovery that would cause the utility to earn less
22 than fixed costs they were authorized to recover."
23 Is it your testimony that the current rates are
24 unnecessarily punitive and impose arbitrary

1 conditions on a company?

2 A. If I could have a minute.

3 MR. RANDAZZO: Your Honor, could I
4 inquire of counsel is your question based on rate
5 design or rate level?

6 MR. SERIO: Well, your Honor, to --

7 MR. RANDAZZO: I object to the extent you
8 are asking this witness if the rate level is
9 punitive.

10 MR. SERIO: No. I understood his
11 response to be regarding rate design as indicated in
12 line 8 of his answer so that's --

13 ATTORNEY EXAMINER: So the clarification
14 he is discussing rate design.

15 MR. SERIO: I am assuming that was what
16 Mr. Puican was referring to so that was the way my
17 question was asked.

18 Q. (By Mr. Serio) I suppose the question
19 should be you are talking about rate design in answer
20 to line -- to question 9, correct?

21 A. No. It's not really focused on rate
22 design. It's focused on this specific objection
23 which says whatever you do in this regard there
24 should be some restrictions imposed on either an SFV

1 or an SRR.

2 Q. Okay. So you are saying that to the
3 extent that you put restrictions on fixed cost
4 recovery, then it would be unnecessarily punitive
5 because that would be arbitrary conditions?

6 A. That was my interpretation of the
7 objection where OPAE was saying no matter which one
8 you choose there should be restrictions on that
9 recovery. And that's what I am commenting that I
10 believe is unnecessarily punitive.

11 Q. Okay. Do the current rates as designed
12 in the last rate case un -- are they unnecessarily
13 punitive and do they impose arbitrary conditions?

14 MR. RANDAZZO: I object, your Honor.
15 Nobody has proposed a rate design that maintains the
16 current rate design, nobody in this case.

17 ATTORNEY EXAMINER: I am going to let him
18 answer the question. Overruled.

19 A. Could you ask it again, please, or have
20 it reread?

21 Q. Sure. The current rates that are in
22 place today, is it your opinion that those rates are
23 unnecessarily punitive or impose arbitrary conditions
24 on cost recovery?

1 A. Not within the context of that answer.

2 That answer, once again, looks in a going forward
3 basis that it really -- the objection basically says
4 we want to restrict overall cost recovery. I don't
5 believe current rates do that. They may do it
6 inefficiently, but I don't believe I would
7 characterize those as punitive.

8 Q. Okay. And you call them inefficient
9 because you believe that recovery of a large portion
10 of the costs in the volumetric portion rather than
11 the fixed portion sends the wrong price signals that
12 you referenced earlier in our discussion?

13 MR. RANDAZZO: Your Honor, if I may, the
14 record is going to be very troubling here. I object.
15 The current rates include a decoupling mechanism.

16 ATTORNEY EXAMINER: I am not sure what
17 your grounds are. I understand the current rate
18 includes a decoupling mechanism.

19 MR. RANDAZZO: When Mr. Serio is
20 referring to current rate design, he's omitting
21 pieces and parts of the current rates, and I -- the
22 relative distribution between the fixed component in
23 the rate and the variable component in the rate that
24 he is referring to is omitting other variable

1 components and so you have got apples and oranges
2 being developed through this cross-examination and
3 it's going to be misleading. I object.

4 ATTORNEY EXAMINER: I think Mr. Puican
5 has made it clear that this response relates
6 specifically to the objection filed by OP&E, and so I
7 don't think the record is going to be confusing at
8 all so overruled.

9 MR. SERIO: Your Honor, to the extent I
10 indicate to current rates and the witness is confused
11 by what constitutes current rates, he's got the
12 opportunity to clarify that. I mean, current rates
13 are whatever current rates are today.

14 ATTORNEY EXAMINER: I understand that,
15 Mr. Serio, but the one point that I think
16 Mr. Randazzo makes a good point is current rates were
17 actually set in the base rate case, and then a
18 decoupling mechanism was added later, so I think you
19 do need to speak very precisely about what you mean
20 when you say current rates.

21 MR. SERIO: Well, your Honor, to the
22 extent the rates set in the base rate case are
23 modified and those are current rates today, my
24 question current rates are current rates. I am not

1 trying to be evasive. It --

2 ATTORNEY EXAMINER: But the decoupling
3 mechanism wasn't set in an arbitrary or punitive
4 manner. The company agreed to the decoupling
5 mechanism and agreed to whatever restrictions went
6 along with that, did they not? That was an agreed
7 upon -- that was a stipulated case.

8 MR. SERIO: The record in the 1544 -- or
9 the 1444 case is the record. Your Honor, I am not
10 trying to -- pretending to say what that case did or
11 didn't do. The rates as filed today are the
12 company's current rates.

13 ATTORNEY EXAMINER: I understand that.

14 MR. SERIO: And that's all my question
15 went to, current rates.

16 ATTORNEY EXAMINER: Okay.

17 Q. (By Mr. Serio) Mr. Puican, on page 4 of
18 your testimony you give some examples of a natural
19 gas price volatility. Is the kind of volatility that
20 you demonstrate here something that is unique to this
21 seven-month period, or have we seen that kind of gas
22 volatility over the last seven- to eight-year period?

23 A. I think this is an exaggerated look at
24 volatility during that time period. I think it's a

1 little extraordinary even by recent standards.

2 Q. But we have seen volatility, perhaps not
3 to this extent, the \$1.79 per month. We have seen
4 that kind of volatility over the last seven to eight
5 years, correct?

6 A. We have seen some volatility, again, not
7 quite to this degree.

8 Q. And to the extent that customers have
9 been conserving, cutting down on their usage per
10 customer, that's something we have seen over the last
11 seven-, eight-year period; it's not anything that's
12 new to the last two- or three-year period, is it?

13 A. I would agree with that.

14 Q. Now, on page 6 of your testimony you
15 indicate on your answer beginning on line 16 that
16 "the shift to the SFV rate design will result in
17 low-usage customers seeing a higher total bill and
18 high-usage customers seeing a lower total bill"
19 rather than what is occurring during continuation in
20 the current rate design. I'm correct that the more a
21 customer moves away from average usage, whether it's
22 low usage or high usage, then the impact on that
23 customer would be greater the more they move away
24 from the average usage, correct?

1 A. Yes. The impact of the rate design
2 change increases the further away you get from the
3 average, yeah.

4 Q. So that the lowest low use customer is
5 going to see the largest impact as will the highest
6 high use customer?

7 A. I think mathematically that's correct.

8 Q. On page 7 of your testimony you indicate
9 that PIPP customer usage is the best readily
10 available proxy for non-PIPP customers.

11 A. The best readily available proxy as a
12 proxy for the low income population.

13 Q. Did you do any analysis to try to
14 determine what low usage customer consumption
15 actually is?

16 A. No. As the question implies, that
17 information is not readily available.

18 ATTORNEY EXAMINER: Could I have the
19 question read back, please.

20 (Record read.)

21 Q. I misspoke. The question should be low
22 income customers, not low usage customers.

23 A. I understood you to mean low income
24 customers.

1 MR. SERIO: Okay. Thank you, your Honor.

2 ATTORNEY EXAMINER: It's obvious you two
3 have rehearsed this in other proceedings.

4 MR. SERIO: Just like Bob and Bing.

5 A. Who am I?

6 Q. On page 9 of your testimony you talk
7 about gradualism. Is there a formal policy that you
8 use with regards to how you apply gradualism?

9 A. There is no formula that defines
10 gradualism.

11 Q. Is it safe to say that as gradualism is
12 applied by the staff, it varies from case to case,
13 company to company, issue to issue?

14 A. It well could.

15 Q. Is there any overriding principle that
16 would apply in any application when the staff applies
17 gradualism?

18 A. I would say it's on a case-by-case basis.

19 Q. So there is not any set criteria that you
20 look at first and then apply the gradualism to it to
21 get what the specific impact would be in that case or
22 company or issue?

23 A. As I said, there is no formula that
24 defines gradualism.

1 Q. Now, you indicated you hadn't done any
2 studies regarding low income customer usage, correct?

3 A. Correct.

4 Q. So if I was to give you factors such as
5 housing unit size or household size, you didn't look
6 at any of those kind of factors either, correct?

7 A. In terms of what?

8 Q. In terms of low income customer usage.

9 A. Are you asking me have I looked at
10 housing size, for example?

11 Q. Yes.

12 A. And the impact that has on low income
13 customers' consumptions?

14 Q. Yes.

15 A. I have not.

16 Q. On page 7 of your testimony you talk
17 about reductions in usage per customer in recent
18 years as a response to increase in commodity prices.
19 Your reference to recent years, does that go back
20 over the last seven- to eight-year period?

21 A. In my mind the runup started in the
22 winter of 2000, 2001.

23 Q. Okay. On page 5 you talk about the
24 annual true-ups required by an SRR approach.

1 ATTORNEY EXAMINER: Which page number?

2 MR. SERIO: 5, bottom of page 5.

3 Q. Do you see that?

4 A. Yes.

5 Q. The true-ups that are required under the
6 SRR approach work in both direction, correct? If the
7 weather is colder than normal, they would work in one
8 direction; warmer than normal it would go in the
9 other direction, correct?

10 A. Depending how -- how it was set up,
11 whether or not you weather normalize, yes, it would
12 work in both directions.

13 Q. And under the SFV rate design there is no
14 annual true-up of any type, correct?

15 A. That's correct.

16 MR. SERIO: That's all I have, your
17 Honor.

18 Thank you, Mr. Puican.

19 ATTORNEY EXAMINER: Mr. Randazzo.

20 - - -

21 CROSS-EXAMINATION

22 By Mr. Randazzo:

23 Q. Just one question. Mr. Puican, the
24 testimony that has been marked as Staff Exhibit 3 was

1 written in conjunction with the as filed application
2 of the company and the staff report and the
3 objections that have been submitted to this point to
4 the staff report; is that correct?

5 A. That's correct.

6 MR. RANDAZZO: Thank you. That's all I
7 have.

8 ATTORNEY EXAMINER: Mr. Margard.

9 MR. MARGARD: No redirect, your Honor,
10 and I would renew my motion for admission of the
11 exhibit.

12 ATTORNEY EXAMINER: I have a question
13 before we rule on that. I'm sorry.

14 - - -

15 EXAMINATION

16 By Attorney Examiner:

17 Q. Mr. Puican, Mr. Serio asked you about the
18 need to do annual true-ups and the discussion about
19 whether it can work both ways because of weather
20 normalization. Is it the case that everybody agrees
21 exactly how to calculate weather normalization, or is
22 that something where there's dispute between the
23 parties on?

24 A. Oh, there is definitely disputes among

1 the parties, what's the appropriate time frame, for
2 example, to weather normalize, 10-year normal versus
3 30-year normal or something in between so, yeah,
4 those issues are not resolved.

5 Q. And so if the -- one of the advantages of
6 moving straight fixed variable is the Commission
7 doesn't have to reach resolution on those issues?

8 A. On that issue or any other issue that
9 anybody would bring to the table given the
10 opportunity that the annual reconciliation presents.

11 ATTORNEY EXAMINER: Thank you. You are
12 excused.

13 MR. MARGARD: Your Honor, I will once
14 again renew my motion for admission.

15 ATTORNEY EXAMINER: Any objections to the
16 admission of Staff Exhibit 3 at this time?

17 Hearing none it will be admitted.

18 (EXHIBIT ADMITTED INTO EVIDENCE.)

19 ATTORNEY EXAMINER: Let's go off the
20 record.

21 (Discussion off the record.)

22 ATTORNEY EXAMINER: This concludes the
23 proceedings today. We will commence again at 10 a.m.
24 on Tuesday, September 2.

1 Thank you all.

2 (Thereupon, the hearing was adjourned at

3 12:03 p.m.)

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CERTIFICATE

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I do hereby certify that the foregoing is
a true and correct transcript of the proceedings
taken by me in this matter on Thursday, August 28,
2008, and carefully compared with my original
stenographic notes.

Karen Sue Gibson, Registered
Merit Reporter.

(KSG-4963)

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