

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of the :
 Application of Suburban :
 Natural Gas Company for an: Case No. 18-1205-GA-AIR
 Increase in Gas :
 Distribution Rates. :
 :

In the Matter of the :
 Application of Suburban : Case No. 18-1206-GA-ATA
 Natural Gas Company for :
 Tariff Approval. :
 :

In the Matter of the :
 Application of Suburban :
 Natural Gas Company for : Case No. 18-1207-GA-AAM
 Approval of Certain :
 Accounting Authority. :

- - -

PROCEEDINGS

before Ms. Anna Sanyal and Ms. Sarah Parrot, Attorney
 Examiners, at the Public Utilities Commission of
 Ohio, 180 East Broad Street, Room 11-C, Columbus,
 Ohio, called at 9:00 a.m. on Friday, July 12, 2019.

- - -

VOLUME IV

- - -

ARMSTRONG & OKEY, INC.
 222 East Town Street, Second Floor
 Columbus, Ohio 43215-5201
 (614) 224-9481 - (800) 223-9481

- - -

APPEARANCES:

Carpenter Lipps & Leland LLP
By Ms. Kimberly W. Bojko
and Mr. Brian W. Dressel
280 North High Street, Suite 1300
Columbus, Ohio 43215

On behalf of the Applicant.

Bruce J. Weston, Ohio Consumers' Counsel
By Mr. Christopher Healey
and Ms. Angela O'Brien
Assistant Consumers' Counsel
65 East State Street, 7th Floor
Columbus, Ohio 43215

On behalf of the Residential Consumers of
Suburban Natural Gas Company.

Ohio Partners for Affordable Energy
By Ms. Colleen Mooney
P.O. Box 12451
Columbus, Ohio 43212

On behalf of the Ohio Partners for
Affordable Energy.

Dave Yost, Ohio Attorney General
By Mr. Werner L. Margard, III
and Mr. Robert Eubanks,
Assistant Attorneys General
30 East Broad Street, 16th Floor
Columbus, Ohio 43215

On behalf of the Staff of the PUCO.

- - -

1	INDEX		
2	- - -		
3	WITNESS	PAGE	
4	Tornain Matthews		
	Direct Examination by Mr. Eubanks		291
5	Cross-Examination by Mr. Healey		693
	Redirect Examination by Mr. Eubanks		697
6	Carla Swami		
7	Direct Examination by Mr. Eubanks		699
	Cross-Examination by Mr. Healey		700
8	Joseph P. Buckley		
9	Direct Examination by Mr. Eubanks		704
	Cross-Examination by Ms. O'Brien		705
10	Roger L. Sarver		
11	Direct Examination by Mr. Eubanks		713
	Cross-Examination by Mr. Healey		715
12	David M. Lipthratt		
13	Direct Examination by Mr. Eubanks		735
	Cross-Examination by Mr. Healey		736
14	- - -		
15	STAFF EXHIBIT	IDENTIFIED ADMITTED	
16	2 Prefiled Testimony in Response		
	to Objections to the Staff		
17	Report of Jonathan J. Borer	690	691
18	3 Prefiled Testimony in Response		
	to Objections to the Staff		
19	Report of Stephanie Gonya	690	691
20	4 Prefiled Testimony in Response		
	to Objections to the Staff		
21	Report of Craig Smith	690	691
22	5 Prefiled Testimony in Response		
	to Objections to the Staff		
23	Report of Tornain Matthews	691	698
24	6 Prefiled Testimony in Response		
	to Objections to the Staff		
25	Report of Carla Swami	698	703

INDEX (Continued)

- - -

STAFF EXHIBIT

IDENTIFIED ADMITTED

7	Prefiled Testimony in Response to Objections to the Staff Report of Joseph P. Buckley	703	711
8	Prefiled Testimony in Response to Objections to the Staff Report of Roger L. Sarver	713	734
9	Prefiled Testimony in Response to Objections to the Staff Report of David M. Lipthratt	735	755

- - -

1 Friday Morning Session,
2 July 12, 2019.

3 - - -

4 EXAMINER PARROT: Let's go back on the
5 record in the continuation of the hearing in Case No.
6 18-1205-GA-AIR, et al., being captioned in the Matter
7 of the Application of Suburban Natural Gas Company
8 for Approval of an Increase in Rates.

9 Good morning, everyone. My name is Sarah
10 Parrot. My Co-Attorney Examiner, Ms. Sanyal, hopes
11 to join us later today. Let's just take brief
12 appearances, names only and on whose behalf you
13 appear today.

14 Ms. Bojko.

15 MS. BOJKO: Thank you, your Honor. On
16 behalf of Suburban Natural Gas Company, Kimberly W.
17 Bojko, Brian W. Dressel, and I have the president and
18 COO of Suburban with me, Andy Sonderman.

19 EXAMINER PARROT: Thank you.

20 Mr. Healey.

21 MR. HEALEY: Good morning, your Honor.
22 On behalf of the Consumers' Counsel, Christopher
23 Healey and Angela O'Brien. Thank you.

24 EXAMINER PARROT: Thank you.

25 Mr. Eubanks.

1 MR. EUBANKS: Good morning, your Honor.
2 On behalf of Staff, Robert Eubanks.

3 EXAMINER PARROT: Thank you. I would
4 just note that counsel for OPAC is not with us this
5 morning.

6 Mr. Eubanks, I believe you have some
7 exhibits you would like to mark. Start with that.

8 MR. EUBANKS: Thank you, your Honor. I
9 have already premarked as Staff's Exhibit 2 the
10 prefiled testimony of Jonathan Borer. I've also
11 premarked as Staff's Exhibit 3 the prefiled testimony
12 of Stephanie Gonya. And I have premarked the Staff's
13 Exhibit 4 the prefiled testimony of Craig Smith.
14 They are with the court reporter.

15 I would like to have, as stipulated to by
16 the parties, all of those documents moved into
17 evidence -- admitted into evidence, I should say.

18 EXAMINER PARROT: All right. The
19 exhibits have been so marked.

20 (EXHIBITS MARKED FOR IDENTIFICATION.)

21 EXAMINER PARROT: And the other parties
22 have no objections, I assume, to the admission of
23 those exhibits?

24 MR. HEALEY: No objection, your Honor.

25 EXAMINER PARROT: All right. Hearing

1 none, Staff Exhibits 2 through 4 are admitted into
2 the record.

3 (EXHIBITS ADMITTED INTO EVIDENCE.)

4 EXAMINER PARROT: Mr. Eubanks, whenever
5 you are ready.

6 MR. EUBANKS: At this time I would like
7 to call to the stand Tornain Matthews.

8 (Witness sworn.)

9 EXAMINER PARROT: Please have a seat.

10 MR. EUBANKS: May I approach the witness?

11 EXAMINER PARROT: You may.

12 MR. EUBANKS: I would like to have the
13 document I passed around and handed to the witness
14 and to the court reporter marked as Staff's Exhibit
15 5.

16 EXAMINER PARROT: So marked.

17 (EXHIBIT MARKED FOR IDENTIFICATION.)

18 - - -

19 TORNAIN MATTHEWS

20 being first duly sworn, as prescribed by law, was
21 examined and testified as follows:

22 DIRECT EXAMINATION

23 By Mr. Eubanks:

24 Q. Good morning, Mr. Matthews.

25 A. Good morning.

1 Q. If you could, would you identify the
2 document that is before you.

3 A. Yes. This is my testimony.

4 Q. Was it prepared by you or under your
5 direction?

6 A. Yes, I was. I prepared it.

7 Q. Is it a true and accurate copy?

8 A. Yes.

9 Q. Are there any corrections that you would
10 like to make to your testimony?

11 A. No.

12 Q. If you were to be asked the same
13 questions that are posed in that document, in your
14 prefiled testimony, again, would you provide the same
15 answers?

16 A. I would.

17 MR. EUBANKS: I have no further questions
18 of the witness, and at this time I would like to
19 tender the witness for cross-examination.

20 EXAMINER PARROT: Thank you.

21 Ms. Bojko, any questions for this
22 witness?

23 MS. BOJKO: Thank you, your Honor. No, I
24 do not have any questions.

25 EXAMINER PARROT: Mr. Healey?

1 MR. HEALEY: Yes, your Honor.

2 - - -

3 CROSS-EXAMINATION

4 By Mr. Healey:

5 Q. Mr. Matthews, can you please turn to page
6 4 of your testimony.

7 A. Yes. Okay.

8 Q. And on line 11, you state "Staff has
9 determined that the Del-Mar extension is used and
10 useful and included it in plant-in-service." Do you
11 see that?

12 A. Yes, I do.

13 Q. And what was the basis for Staff's
14 determination that the Del-Mar station was used and
15 useful?

16 A. Having worked on just the property tax
17 portion, I didn't work on the actual plant
18 valuations, so I can't really speak to how they
19 determined that.

20 Q. And so someone else on Staff made that
21 determination, and you are only testifying as to the
22 property taxes expense associated with it; is that
23 right?

24 A. That's correct.

25 Q. Thank you. And can you explain to me how

1 you calculated the associated property tax expense
2 for the Del-Mar extension.

3 A. Yes. I -- using the annual reports and
4 the valuation notices from the -- filed with the
5 Department of Taxation and from the Ohio Department
6 of Taxation, I came up with an estimated valuation
7 percentage for the Suburban property and for the
8 Del-Mar pipeline, the existing Del-Mar Pipeline.

9 I applied that to the plant-in-service
10 that Staff approved or came up with. And then from
11 that, after getting an estimated valuation from that
12 property, then I applied the property tax rate per
13 1,000, the average property tax rate per 1,000.

14 The way I calculated that, I used the
15 payments that the Company had made as well as the
16 valuation notices from the Department of Taxation.
17 That's how I came up with that to calculate the
18 average property tax rate per 1,000. Applied that to
19 the estimated valuation to come up with a property
20 tax expense.

21 Q. And how did you determine the valuation
22 of the 4.9 mile pipeline extension specifically?

23 A. The 4.9 mile extension, I didn't value
24 that. That was a part of the plant value that was --
25 or balance that was coming over from the plant

1 schedules so that I applied the actual property tax
2 rate that I applied to everything else to that.

3 The way the property tax calculation
4 works, the balance from the B schedules comes over
5 into -- comes over into the property tax calculation,
6 so I didn't specifically do a valuation on the 4.9,
7 but with it being in the plant balance or plant
8 amount, it was applied to my property tax
9 calculation.

10 Q. Now, you understand that the pipeline
11 extension is under the Stipulation going to be phased
12 in to rate base, correct?

13 A. Yes.

14 Q. And so in the first year, if the
15 Stipulation is approved, only 50 percent of the value
16 will be included in rate base, correct?

17 A. Yes.

18 Q. And so you applied property taxes only to
19 50 percent of that value for the first year?

20 A. I calculated the property tax on one
21 schedule. I believe later on in another schedule it
22 was -- the 50 percent was applied to my balance from
23 my property tax calculation. That calculation I did
24 not do.

25 Q. And did you use 2018 tax rates to

1 calculate the property taxes for the Del-Mar
2 extension?

3 A. I did -- I used 2018 rates to calculate
4 property taxes for the plant balance that we had,
5 particularly the 4.9. But as that being in part
6 of -- part of the plant amount, yes, I used the 2018.

7 Q. So you did -- so you did a property tax
8 calculation for the entire plant amount; you didn't
9 do separate calculations for the 4.9 mile extension.

10 A. No, I did not.

11 Q. And under the Stipulation additional
12 amounts of plant will be added in years two and
13 three. Did you do separate calculations for property
14 taxes in years two and three under the Stipulation
15 for the extension?

16 A. I did not do those calculations, no.

17 Q. And you would agree that if the 4.9 mile
18 extension were excluded entirely from rate base, then
19 the associated property taxes should also be
20 excluded, correct?

21 A. I would agree -- yes, if Staff determined
22 that that should not -- that should be excluded,
23 then, yes, I would recommend that it be excluded from
24 the property taxes.

25 Q. And are you aware of other cases in which

1 the Commission phased in plant over a period of time
2 similar to what's done in the Stipulation?

3 A. I am not aware of any, no.

4 MR. HEALEY: Thank you. Nothing else,
5 your Honor.

6 EXAMINER PARROT: Any redirect?

7 MR. EUBANKS: Yes, short.

8 - - -

9 REDIRECT EXAMINATION

10 By Mr. Eubanks:

11 Q. You were asked questions about how you
12 applied the phase-in to your calculation, and I think
13 you said you were not in charge of that; is that
14 correct?

15 A. That's correct, yes.

16 Q. Do you know who was?

17 A. I would have to say David, I would say.
18 I'm not 100 percent certain but, yes.

19 MR. EUBANKS: Okay. That's all. I have
20 no further questions.

21 EXAMINER PARROT: Any recross?

22 MS. BOJKO: No, thank you, your Honor.

23 EXAMINER PARROT: Mr. Healey?

24 MR. HEALEY: No, thank you, your Honor.

25 EXAMINER PARROT: Thank you,

1 Mr. Matthews.

2 Mr. Eubanks. Mr. Eubanks, I assume you
3 are moving Staff Exhibit 5.

4 MR. EUBANKS: Yes. At this time I would
5 like to move Staff's Exhibit 5 into evidence.

6 EXAMINER PARROT: Is there any
7 objections?

8 MR. HEALEY: No, your Honor.

9 EXAMINER PARROT: All right. Staff
10 Exhibit 5 is admitted.

11 (EXHIBIT ADMITTED INTO EVIDENCE.)

12 MR. EUBANKS: I would like to call my
13 next witness to the stand, Carla Swami.

14 (Witness sworn.)

15 MR. EUBANKS: May I approach?

16 EXAMINER PARROT: You may.

17 MR. EUBANKS: I would like to have the
18 prefiled testimony of Carla -- of Carla Swami marked
19 as Staff's Exhibit 6.

20 EXAMINER PARROT: So marked.

21 (EXHIBIT MARKED FOR IDENTIFICATION.)

22 - - -

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CARLA SWAMI

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

DIRECT EXAMINATION

By Mr. Eubanks:

Q. Good morning.

A. Good morning.

Q. Could you state your name for the record.

A. Carla Swami.

Q. And do you have before you what has been
marked as Staff's Exhibit 6?

A. Yes.

Q. Could you identify the document.

A. Prefiled testimony in response to
objections to the Staff Report.

Q. I'm sorry. Did you say it was your
prefiled testimony?

A. Yes, my prefiled testimony.

Q. Was it prepared by you --

A. Yeah.

Q. -- or under your direction?

A. Yes, it was.

Q. Is it a true and accurate copy?

A. Yes.

Q. Are there any corrections that you would

1 like to make?

2 A. No.

3 Q. Okay. And if you were to be asked the
4 same questions that are in your prefiled testimony
5 again here today, would you provide the same answers?

6 A. Yes.

7 MR. EUBANKS: At this time I have no more
8 questions. I would like to ask for Staff's Exhibit 6
9 to be moved into evidence, subject to cross, and I
10 tender the witness for cross-examination.

11 EXAMINER PARROT: Thank you, Mr. Eubanks.
12 Ms. Bojko, anything?

13 MS. BOJKO: No, thank you, your Honor.

14 EXAMINER PARROT: Mr. Healey?

15 MR. HEALEY: Yes, your Honor.

16 - - -

17 CROSS-EXAMINATION

18 By Mr. Healey:

19 Q. Could you please turn to page 3 of your
20 testimony.

21 A. Certainly.

22 Q. And in response to question 8 on line
23 19 -- well, I guess, first of all, let's take a step
24 back. You reference OCC Objection 14. OCC Objection
25 14 relates to the calculation of depreciation expense

1 associated with both the Del-Mar Pipeline and the
2 pipeline extension; is that correct?

3 A. Yes.

4 Q. And you did not personally make the
5 determination that the pipeline extension is used and
6 useful on behalf of Staff, correct?

7 A. No, I did not. My area of purview is
8 simply the depreciation expense, regulatory
9 depreciation calculations.

10 Q. And starting at line 19, you refer to
11 calculations on depreciation related to the phase-in
12 in the Stipulation; is that correct?

13 A. That's correct.

14 Q. And can you tell me how would those
15 flow-through calculations change if the extension
16 were excluded entirely from rate base?

17 A. Certainly. You have a plant-in-service
18 dollar amount that would in your scenario exclude the
19 whole extension. Then how expense is calculated is
20 the accrual rate that's assigned the account, and I
21 believe that's mains. You would multiply the plant
22 dollars times the accrual rate set, the depreciation
23 of accrual rate for the expense, so any plant dollars
24 excluded, that expense obviously would be reduced by
25 that. And in this case in the phase-ins then it

1 would titrate, I guess is the word, for the next
2 three years.

3 Q. And have you done the property
4 calculations for each of the years in the phase-in,
5 first year, second year, third year?

6 A. This first inclusion, okay, was the only
7 thing that would flow through. Obviously in the
8 subsequent years the partition of dollars that would
9 be flowing in would, you know, increase the expense,
10 you know, but exactly what it would be, how -- I
11 don't have the partitions here, but it would flow
12 through plant dollars times the accrual rate which if
13 I can -- you need that, I can get it for you. It's
14 on my Schedule B3.2 in the Staff Report. So the
15 accrual rate is 2.27 percent.

16 Q. So when the new rates go into effect in
17 the Stipulation should it be approved, in year two
18 and three you will have to do a new calculation of
19 the depreciation expense at that time?

20 A. It will be the plant included dollars,
21 the plant total, okay, times that accrual rate so
22 whatever the additional pieces are, it's a flow
23 through so it would be dollars times the rate, and
24 those rates are set for -- until the next rate case
25 so my depreciation rate won't change.

1 MR. HEALEY: That's all I have, your
2 Honor.

3 EXAMINER PARROT: Redirect?

4 MR. EUBANKS: I have no redirect.

5 EXAMINER PARROT: Thank you, Ms. Swami.

6 Mr. Eubanks has already moved for the
7 admission of Staff Exhibit 6. Are there any
8 objections?

9 MR. HEALEY: No, your Honor.

10 EXAMINER PARROT: Okay. Hearing none,
11 Staff Exhibit 6 is admitted.

12 (EXHIBIT ADMITTED INTO EVIDENCE.)

13 MR. EUBANKS: At this time I would like
14 to call to the stand Joseph Buckley.

15 (Witness sworn.)

16 EXAMINER PARROT: Have a seat.

17 MR. EUBANKS: May I approach?

18 EXAMINER PARROT: You may.

19 MR. EUBANKS: I would like to have
20 premarked the prefiled testimony of Joseph Buckley as
21 Staff's Exhibit 7.

22 EXAMINER PARROT: So marked.

23 (EXHIBIT MARKED FOR IDENTIFICATION.)

24 MS. O'BRIEN: Good morning, Mr. Buckley.

25 Oh, no. I thought you were ready for me.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JOSEPH P. BUCKLEY

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

DIRECT EXAMINATION

By Mr. Eubanks:

Q. Good morning, Mr. Buckley.

A. Good morning.

Q. Do you have before you what has been
premarked as Staff's Exhibit 7?

A. I do.

Q. Could you identify the document.

A. It's my prefiled testimony.

Q. Is it a true and accurate copy?

A. I believe it is.

Q. It was prepared by you or under your
direction?

A. It was.

Q. Are there any corrections that you would
like to make?

A. Not at this time.

Q. And if you were asked the same questions
that are posed in your prefiled testimony again here
today, would you provide the same answers?

A. I would.

MR. EUBANKS: I have no further questions

1 for the witness. At this time I would like to move
2 for Staff's Exhibit 7 to be admitted into the
3 evidence, subject to cross-examination, and I tender
4 the witness for cross-examination.

5 EXAMINER PARROT: Thank you.

6 Ms. Bojko?

7 MS. BOJKO: No, I don't, thank you.

8 EXAMINER PARROT: Ms. O'Brien?

9 MS. O'BRIEN: Okay.

10 - - -

11 CROSS-EXAMINATION

12 By Ms. O'Brien:

13 Q. Now good morning, Mr. Buckley.

14 A. Good morning.

15 Q. If you could turn to page 4 of your
16 testimony, please. Okay. Now, here you testify
17 about Staff's use of a 20-year average of the return
18 on equities granted to U.S. gas utilities with rate
19 bases under \$100 million. Are you aware of any other
20 jurisdictions that's used this methodology to
21 determine cost of equity?

22 A. I am not aware specifically of that exact
23 formula being used by other jurisdictions, but I
24 don't know specifically what all the other
25 jurisdictions do. So without doing any additional

1 research, I wouldn't -- I can't really comment on
2 that.

3 Q. Okay. Has Staff ever used this
4 methodology before?

5 A. We have not used a 20-year average that I
6 know of. But in this case since I've been doing rate
7 of return, we also haven't had as much uncertainty
8 surrounding the economic climate at the time. That's
9 one of the reasons we expanded the averages to 20
10 years because it captured multiple business cycles.
11 That's why the 20-year was -- was used in this case
12 and instead of a shorter time frame. We would
13 typically need more on a shorter time frame, but it
14 was the uncertainty that caused the expended -- the
15 expanded time frame to be used.

16 Q. Okay. And when you talk about economic
17 uncertainty, what specifically are you referring to?

18 A. At the time of the Staff Report we
19 weren't really sure where interest rates were
20 heading, where they were going. And usually you have
21 more certainty whether they are going to trend
22 upwards or downwards or kind of the range which way
23 they might go. Like if we were to write the Staff
24 Report now, we would probably lean more towards a
25 situation of lower interest rates because it appears

1 that a cut may be coming or at least they -- interest
2 rates probably would not be raised.

3 At the time I was just unsure which way
4 it was going to go. There was a lot of uncertainty.
5 And due to the lag of when the staff report is
6 published and when an order is granted, I just didn't
7 know which way it was going and wanted to give the
8 Commission as much leeway as I could.

9 Q. Okay. Thank you. Now, if you can turn
10 to page 5 of your testimony. And beginning at line
11 4, you testify regarding the Staff's Report
12 recommended a rate of return range of 6.72 percent to
13 7.72 percent. Do you see that?

14 A. Yes.

15 Q. And in the Staff Report -- do you have a
16 copy of the Staff Report?

17 A. I do.

18 Q. If you could turn to page 16 of the Staff
19 Report.

20 A. Yeah. Just to be clear, I only have my
21 section. Is that enough?

22 Q. Oh, wait.

23 A. I've got 16, yeah.

24 Q. You do have 16.

25 A. Yeah.

1 Q. Okay. And I guess starting at page 15,
2 you state -- you state that -- or the Staff Report
3 states that Staff believes that a 50 basis point
4 range of reasonableness is appropriate; therefore,
5 the recommended rate of return range is 6.72 percent
6 to 7.72 percent.

7 A. Correct.

8 Q. Okay. But that range really isn't a 50
9 basis point range, is it?

10 A. No, it's not.

11 Q. Okay. So is that just a mistake?

12 A. It was.

13 Q. Okay. So moving on to lines 9 to 10 of
14 your testimony, you state here that "Staff agrees
15 with OCC that the range of 6.97 percent to 7.47
16 percent is more appropriate at this time." Do you
17 see that?

18 A. Could you repeat the numbers again?

19 Q. I'm sorry. It's your testimony, page 5,
20 lines 9 to 10.

21 A. Yes. Then the numbers you referenced as
22 part of that.

23 Q. Yes, yeah. And just so the record is
24 clear, you're not suggesting that OCC agrees with
25 this range of 6.97 percent to 7.47 percent, are you?

1 A. No, no, just the contracted range.

2 Q. Okay. And -- well, you agree that OCC
3 doesn't agree with the rate of return falling within
4 this range.

5 A. Correct.

6 Q. Okay. And do you recall what OCC's
7 recommended rate of return is?

8 A. I don't have that up here, and I don't
9 recall offhand.

10 Q. Okay. That's fine. And, let's see, we
11 just spoke about the economic climate and the
12 economic uncertainty, and you testified here that at
13 the time of the Staff Report, you believed that the
14 wider range was more appropriate given the economic
15 uncertainty at the time?

16 A. Not only the wider range but also the
17 expanded time frame.

18 Q. Okay. And so OCC's recommended rate of
19 return in 6. -- 6.95 percent is within that wider
20 range initially recommended by Staff; is that
21 correct?

22 A. It is.

23 Q. Okay. And, in fact, it's just short of
24 the revised recommended range of rate of returns that
25 you recommend, right?

1 MS. BOJKO: Objection. I think it
2 mischaracterizes his testimony. I didn't hear him
3 say he is recommending a revised range.

4 Q. Okay. I can rephrase. I mean, I didn't
5 phrase it correctly the first time. Okay. So in
6 your testimony here at lines 9 and 10 you say that
7 "Staff agrees...that the range of 6.97 percent to
8 7.47 percent is more appropriate," correct?

9 A. Correct.

10 Q. And that range is different from the
11 range that you recommended in the Staff Report,
12 correct?

13 A. Correct.

14 Q. Okay. And OCC's recommended rate of
15 return of 6.95 percent is just short of the lower
16 bound of the range you recommend in your testimony;
17 is that correct?

18 MS. BOJKO: Objection.

19 EXAMINER PARROT: Overruled.

20 A. It is short. I hesitate to use the word
21 just short. It is mathematically .2 percent short.
22 So I don't know if it's -- I wouldn't say just short.
23 I would just say that it's that much short if
24 that's -- if you --

25 Q. Okay. It's -- it's short by .2.

1 A. .02, yes.

2 MS. O'BRIEN: Or .02, thank you for
3 correcting.

4 I think that's all I have. Thank you
5 very much, Mr. Buckley.

6 THE WITNESS: Thank you.

7 EXAMINER PARROT: Any redirect?

8 MR. EUBANKS: I have no redirect for the
9 witness.

10 EXAMINER PARROT: Thank you, Mr. Buckley.

11 THE WITNESS: Thanks.

12 EXAMINER PARROT: Mr. Eubanks has already
13 moved for the admission of Staff Exhibit 7. Are
14 there any objections?

15 Hearing none, Staff Exhibit 7 is admitted
16 into the record.

17 (EXHIBIT ADMITTED INTO EVIDENCE.)

18 EXAMINER PARROT: All right. At this
19 time I think we are going to take a short recess, or
20 relatively short recess, and reconvene at 12:00 p.m.;
21 is that correct?

22 MR. HEALEY: Yes.

23 EXAMINER PARROT: Parties have agreed to
24 that, and we will pick up with Staff's next witness
25 at that time.

1 All right. With that we are off the
2 record.

3 (Thereupon, at 9:37 a.m., a recess was
4 taken.)

5 - - -
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 Friday Afternoon Session,
2 July 12, 2019.

3 - - -

4 EXAMINER SANYAL: Let's go on the record.
5 Mr. Eubanks, the floor is yours.

6 MR. EUBANKS: I would like to call to the
7 stand Roger Sarver.

8 (Witness sworn.)

9 EXAMINER SANYAL: And you may be seated.
10 And you may proceed.

11 MR. EUBANKS: I would like to have the
12 prefiled testimony of Roger Sarver marked as, I
13 believe, Staff's Exhibit 9 -- I mean 8.

14 EXAMINER SANYAL: I believe it's been
15 previously marked so.

16 (EXHIBIT MARKED FOR IDENTIFICATION.)

17 - - -

18 ROGER L. SARVER
19 being first duly sworn, as prescribed by law, was
20 examined and testified as follows:

21 DIRECT EXAMINATION

22 By Mr. Eubanks:

23 Q. Good morning.

24 A. Good afternoon.

25 Q. Yeah, it is. Could you state your name

1 for the record.

2 A. Roger Sarver.

3 Q. And do you see the exhibit before you
4 that has been marked Staff's Exhibit 8?

5 A. Yes, sir.

6 Q. Could you identify it.

7 A. That is my prefiled testimony.

8 Q. Is it a true and accurate copy?

9 A. It appears to be, yes.

10 Q. Was it prepared by you or under your
11 direction?

12 A. Yes.

13 Q. Do you have any corrections that you
14 would like to make?

15 A. No, sir.

16 Q. And if I were to ask you the same
17 questions that are in your prefiled testimony again
18 here today, would you provide the same answers?

19 A. Yes.

20 MR. EUBANKS: At this time I have no
21 further questions for the witness, and I would like
22 to move to have Staff's Exhibit 8 placed -- admitted
23 into evidence, subject to cross, and I tender the
24 witness for cross-examination.

25 EXAMINER SANYAL: Thank you.

1 Whoever. Either/or.

2 MS. BOJKO: I have no questions, your
3 Honor. Thank you.

4 EXAMINER SANYAL: Mr. Healey, you may
5 proceed.

6 MR. HEALEY: Yes.

7 - - -

8 CROSS-EXAMINATION

9 By Mr. Healey:

10 Q. Mr. Sarver, could you turn to page 3 of
11 your testimony, please.

12 A. Yes.

13 Q. On line 7 there you note that the Del-Mar
14 Pipeline extension was placed into service on
15 February 22, 2019, correct?

16 A. Correct.

17 EXAMINER SANYAL: I'm sorry. What page
18 are you on?

19 MR. HEALEY: 3.

20 THE WITNESS: Page 3, line 7.

21 MR. HEALEY: Page 3, line 7.

22 EXAMINER SANYAL: I'm on the wrong.
23 Sorry. Go on.

24 MR. HEALEY: Thank you.

25 Q. (By Mr. Healey) And you are aware that

1 the Staff Report in this case was filed on February
2 6, 2019, correct?

3 A. That is correct.

4 Q. And so at the time of the Staff Report,
5 the Staff had not completed its investigation
6 regarding the 4.9 mile pipeline extension; is that
7 correct?

8 A. That's correct.

9 Q. Could you describe for me what Staff
10 found in its investigation of the 4.9 mile pipeline
11 extension after the Staff Report was issued.

12 A. Shortly after the plant was placed into
13 service, I think early March to mid-March, a group of
14 Staff went in to the field to verify that the pipe
15 was in place and the gas was flowing in the pipe.

16 Q. Did Staff do anything else other than
17 what you just described?

18 A. That was for the used part of the used
19 and useful. The useful portion Staff relied heavily
20 upon its discussions with the Company, along with the
21 engineers, along with regulatory experience.

22 Q. And you note that Staff -- you stated
23 Staff made field visits in early to mid-March of
24 2018; is that right?

25 A. That's my understanding, yes.

1 Q. Did anyone at Staff do a physical
2 inspection of the pipeline extension on or before
3 February 28, 2019?

4 A. I'm not aware of any.

5 Q. And so I can't personally confirm that
6 the -- that there was, in fact, gas flowing through
7 the pipeline on February 28, 2019, correct?

8 A. I think it -- not on that specific date.

9 Q. You mentioned with respect to the
10 usefulness analysis, you said you relied in part on
11 Suburban's engineers; is that correct?

12 A. Yes.

13 Q. As well as I believe you said a
14 regulatory experience?

15 A. Yes.

16 Q. And whose regulatory experience would
17 that be?

18 A. That would be mine.

19 Q. Yours. And based on your regulatory
20 experience, did you have any concerns about the
21 length of the pipeline extension?

22 A. No, I did not question that.

23 Q. Did you have any concerns that the
24 pipeline extension was placed into service just six
25 days before the date certain in this case?

1 A. No.

2 Q. Have you heard the phrase gold plating as
3 its used in the context of utility regulation?

4 A. Yes.

5 Q. Can you tell me what that is.

6 A. Taking pipe or plant and instead of
7 meeting the bare minimum or meeting an acceptable
8 level would be to go over the top or make it much
9 more costly than it would need to be to serve the
10 needs of either the utility or its customers.

11 Q. And you would agree that should this gold
12 plating occur, customers should not be charged for
13 the additional costs that result from the gold
14 plating, correct?

15 A. I think that's the part of the review
16 process that Staff would look at in determining if it
17 was complete.

18 Q. And, for example, if Staff did find gold
19 plating, you would conclude that the portion that was
20 gold plated is not useful under the used and useful
21 standard, correct?

22 A. I don't know if I would go to that point
23 or not.

24 Q. Do you have a copy of the Staff Report in
25 front of you?

1 A. No.

2 MR. HEALEY: Your Honor, may I approach?

3 EXAMINER SANYAL: Yes, you may.

4 MR. HEALEY: I've handed the witness a
5 copy of the Staff Report from this case which has
6 already been marked as Staff Exhibit 1.

7 Q. (By Mr. Healey) Could you please turn to
8 page 8 of the Staff Report.

9 A. Okay.

10 Q. And under -- yes. Okay. So near the end
11 of the first paragraph under "Scope of
12 Investigation," the second to last sentence says
13 "Staff verified the existence and used and useful
14 nature of the assets through physical inspections."
15 Do you see that?

16 A. Yes.

17 Q. Did you do any of these physical
18 inspections yourself?

19 A. No.

20 Q. What was your role in the Staff's
21 investigation prior to the issuance of the Staff
22 Report?

23 A. I had a limited participation as related
24 to some of the expenses associated with the rate case
25 itself.

1 Q. And were any of those expenses related to
2 the Del-Mar Pipeline extension?

3 A. No.

4 Q. Did you interview anyone at Suburban
5 prior to the Staff Report being issued?

6 A. As it relates to?

7 Q. As it relates to the Del-Mar Pipeline
8 extension.

9 A. No.

10 Q. Did you interview anyone at Suburban
11 prior to the Staff Report being issued as it relates
12 to anything in this Staff Report?

13 A. No.

14 Q. Did you prepare any of the Data Requests
15 that Staff sent to Suburban?

16 A. As it related to this?

17 Q. As it relates to anything in the Staff
18 Report.

19 A. Yes.

20 Q. Did you prepare any Staff Data Requests
21 that were sent to Suburban prior to the issuance of
22 the Staff Report?

23 A. Yes.

24 Q. Did you prepare any Staff Data Requests
25 that were sent to Suburban related to the Del-Mar

1 Pipeline extension prior to the issuance of the Staff
2 Report?

3 A. No.

4 Q. Did you review any of Suburban's
5 responses to Staff Data Requests before the Staff
6 Report was issued?

7 A. Yes.

8 Q. And of those you reviewed, were any
9 related to the Del-Mar Pipeline extension?

10 A. I don't know specifically what Data
11 Request I reviewed.

12 Q. Prior to this case, how many natural gas
13 base rate cases have you testified in?

14 A. None.

15 Q. And prior to this case, it's true,
16 therefore, that you have never testified as to the
17 used and usefulness of a pipeline in a base rate
18 case, correct?

19 A. That is correct.

20 Q. And, in fact, you have never testified in
21 any PUCO base rate case regarding used and usefulness
22 generally, correct?

23 A. Correct.

24 Q. You worked on the Power Siting Board case
25 regarding the pipeline extension, Case No. 18-54,

1 correct?

2 A. I was aware of it. I participated in
3 development of some of the questions and talked with
4 some of the Staff members as it related to the
5 responses, but I did not write or contribute to the
6 report itself.

7 Q. Have you reviewed these Staff Reports
8 from that case?

9 A. Yes.

10 Q. And you are familiar with it?

11 A. Yes.

12 MR. HEALEY: Your Honor, may I approach
13 the witness, please?

14 EXAMINER SANYAL: Yes, you may.

15 MS. BOJKO: Mr. Healey, could you remind
16 us --

17 MR. HEALEY: Yes. I am handing the copy
18 of what's already been admitted as Suburban Exhibit
19 6.

20 MS. BOJKO: Thank you.

21 Q. (By Mr. Healey) Mr. Sarver, can you
22 please turn to page 2 of this document.

23 A. Okay.

24 Q. And the second paragraph. I'll direct
25 you to the third line which reads "However, Suburban

1 has not necessarily established that the full size
 2 and pressure of the planned pipeline are needed to
 3 serve current and anticipated loads in the area." It
 4 continues "The primary negative consequence of
 5 installing a pipeline of greater capacity than
 6 necessary would be that additional cost would be
 7 associated with the additional size increment." The
 8 phrase used here is "greater capacity than
 9 necessary." You would agree that that could mean a
 10 pipeline that has a greater diameter than necessary,
 11 correct?

12 A. It could.

13 Q. And it could also mean a pipeline that is
 14 longer than necessary, correct?

15 A. It could.

16 Q. And you would agree that in the Power
 17 Siting case the Staff took no position on whether the
 18 pipeline was potentially too long, correct?

19 A. I think the words are not necessarily
 20 established where the Staff has placed what I will
 21 say some wiggle room as it relates to that question.

22 Q. Sure.

23 A. But --

24 Q. I apologize.

25 A. They have not been definitive with

1 their -- what I will say their review or their
2 assessment.

3 Q. And that would be because that assessment
4 would need to be made in this current rate case,
5 correct?

6 A. Yes.

7 Q. You would agree that if a utility builds
8 a pipeline that is too long for its current needs,
9 customers should not be charged for the full amount
10 of that pipeline, correct?

11 A. I don't think I will agree with that
12 statement. I think that the pipeline in question was
13 built to serve the existing customers but also to
14 recognize the future needs of Suburban's system.

15 Q. Sure. I understand that's your view
16 based on the Stipulation. My question was more
17 general that as an expert witness who works on Staff
18 on these type -- with Staff on these types of issues,
19 if Staff were to find in some situation that a gas
20 utility built a pipeline that was too long, Staff
21 wouldn't believe the customers should still pay for
22 it, correct?

23 A. I think it would depend upon the
24 circumstances and the particular issues that were
25 brought up during the case. I don't want to make a

1 blanket statement that says across the board that's
2 universal.

3 Q. Sure. When Staff is reviewing and
4 investigating pipelines in a gas distribution rate
5 case, they at least consider whether the length of
6 the pipeline is correct, don't they?

7 A. Yes.

8 Q. And so part of Staff's role is to
9 determine whether the utility built pipelines of the
10 proper length; isn't that right?

11 A. It's -- it's Staff's reliance upon the
12 Company along with the engineers as to what is the
13 best solution to address not only the issue with
14 pressure but also the future needs of the Company.

15 MR. HEALEY: Can I have that question
16 reread, please.

17 (Record read.)

18 Q. In your response you use the phrase the
19 "best solution." In arriving at what that best
20 solution is --

21 A. Yes.

22 Q. -- one factor would be whether the length
23 of the pipeline is correct; isn't that true?

24 A. That is one issue but also it's looking
25 at that in context with all the other associated

1 considerations that the utility needs to consider
2 when making a decision.

3 Q. You based on your experience are familiar
4 with the phrase "used and useful," correct?

5 A. I'm becoming more familiar with it every
6 day.

7 Q. On page 3 of your testimony, line 10, you
8 state "Suburban's Extension was in use and useful to
9 Suburban's current customers at date certain." I
10 apologize for being nitpicky, but you use the phrase
11 "in use." Is that different than used?

12 A. It's intended to be used and useful.

13 Q. You would agree that something can be
14 useful but not used, correct?

15 A. I think we went through this discussion
16 with Commissioner -- with Company Witness Sonderman.

17 Q. Yes. And I am asking you what your view
18 is and whether the word -- whether something can be
19 useful but not used.

20 A. Not that I'm -- in this instance I
21 believe used and useful are synonymous with what took
22 place with the extension.

23 Q. I understand that's your view. My
24 question is more general. You testified that you are
25 familiar with the concept of used and useful based on

1 your experience and many years at the Commission
2 Staff. I'm asking you generally is it possible for
3 something to be useful but not to be used?

4 MR. EUBANKS: I object. Calls for
5 speculation about a hypothetical that has no defined
6 parameters.

7 EXAMINER SANYAL: Overruled.

8 A. I think it goes back to the Company's
9 answer is if it's related to the knife and it sits in
10 a drawer, is it used and useful. If you sharpen it,
11 it's useful and used. So I'll just repeat what the
12 Company said in that instance. It's -- it's
13 splitting hairs that I don't seem to make any
14 distinguishing difference between them.

15 Q. Maybe let's try a different example since
16 nobody likes my knife example. Let's say the Company
17 buys -- let's consider a computer. You would agree a
18 computer is a useful tool for a business, correct?

19 A. Correct.

20 Q. Let's say a company buys 20 computers.

21 A. Okay.

22 Q. Let's say they only have 10 employees,
23 and the extra 10 computers sit in boxes for eternity.
24 Those computers, as you just acknowledged, are
25 useful, but they are not, in fact, used, correct?

1 A. In that example, that's correct.

2 Q. So that would be an example of something
3 that is useful but not used?

4 A. Yes.

5 Q. And, likewise, you would agree that
6 something can be used but not be useful, correct?

7 MR. EUBANKS: Objection. Whatever this
8 something is it has not -- no foundation has been
9 made to make it relevant to a pipeline.

10 A. Well, I guess I am trying to distinguish
11 if you are using it --

12 EXAMINER SANYAL: Mr. Sarver, there is an
13 objection pending.

14 I am going to overrule your objection,
15 but can you clarify your question --

16 MR. HEALEY: Sure.

17 EXAMINER SANYAL: -- somewhat than just
18 something?

19 MR. HEALEY: Sure.

20 Q. (By Mr. Healey) Maybe let's try another
21 example. Let's suppose that I have a calculator, a
22 handheld calculator, and let's suppose every time I
23 enter 2 plus 2 the calculator tells me the answer is
24 73. Fair? We are setting up the grounds of the
25 hypothetical. Do you understand so far? Do you?

1 A. There's a fundamental disconnect with
2 your math but, yes.

3 Q. So that's what I am getting at. Let's
4 suppose despite this I continue to use this
5 calculator in calculating utility rates.

6 A. I don't see that to be the calculator's
7 problem.

8 Q. But my point is I'm using it, but it's
9 not very useful, is it?

10 A. That would beg the question why are you
11 using it.

12 Q. That's a separate question. My question
13 is I am using this calculator. Would you agree it is
14 not useful?

15 MS. BOJKO: Objection, your Honor. It
16 might be in the eye of the beholder. It might be
17 useful to the Company.

18 EXAMINER SANYAL: Overruled.

19 A. It depends on what you obtain from the
20 use of it. And if you were -- your use of that
21 calculator is simply to plug in numbers and not look
22 at the results, then it would be used and useful in
23 your instance.

24 Q. Do you agree that a pipeline should not
25 be deemed used and useful solely because there is gas

1 flowing through it?

2 A. I don't think in this instance that that
3 is what the case is. Are we talking about
4 hypothetical?

5 Q. Yes.

6 A. You are sitting there with a pipe and it
7 has gas in it and the gas is not flowing; is that the
8 question? Or is it the instance where the gas is
9 actually flowing? Which one is it?

10 Q. I will reask. I believe I said flowing,
11 but I will reask the question. Is it your expert
12 opinion that any and all pipelines with gas flowing
13 through them are necessarily used and useful?

14 MR. EUBANKS: I object. The purpose of
15 the witness's testimony here today as defined by his
16 prefiled testimony is to make a determination as to
17 whether the Del-Mar extension was used and useful.
18 It's not to testify on the behalf of Staff about what
19 Staff -- what position Staff would take in future
20 cases and future hypothetical situations. Therefore,
21 this line of questioning is outside of the scope of
22 his prefiled testimony.

23 EXAMINER SANYAL: Overruled.

24 A. Your question is if the gas is flowing,
25 then the gas is obviously going somewhere because

1 it's got an outlet somewhere. So either it's going
2 to a customer or going into another pipe or you got
3 unaccounted for gas on your system. Unaccounted for
4 gas in that symptom would not be useful, but in other
5 instances, yes, everything else would be useful.

6 Q. Let's say Suburban built a 100 mile
7 pipeline that just goes around and around in a circle
8 like a coil and then that gas eventually gets to a
9 customer. Under your theory then because there is
10 gas flowing and because it gets to a customer, it's
11 used and useful?

12 MR. EUBANKS: Objection. That
13 mischaracterizes the witness's testimony.

14 EXAMINER SANYAL: Overruled.

15 A. In that instance I would find that would
16 be hard to believe that the Company would put that
17 kind of 100 miles worth of pipe in the ground to
18 serve one customer and in a loop fashion. So
19 hypothetically, yes; in reality, no.

20 Q. Sure. You are challenging the basis of
21 the hypothetical?

22 A. Correct.

23 Q. That's the point of the hypothetical. I
24 give you a set of conditions, and then you tell me
25 what result is spit out. The point is you would

1 agree that you cannot simply look at a pipeline and
2 say there is gas flowing, therefore, QED, end of
3 story, it's used and useful, correct?

4 A. You can always come up with a
5 hypothetical to disprove that.

6 Q. Did you do anything to determine whether
7 a pipeline shorter than 4.9 miles would have been
8 sufficient to maintain pressure at Lazelle Road on
9 date certain?

10 A. No.

11 Q. So you relied entirely on Suburban for
12 that question?

13 A. I relied heavily upon UTI.

14 Q. And you are aware that UTI did not test
15 whether, for example, a 1 mile pipeline would have
16 been sufficient; is that right?

17 A. From the testimony that I heard from the
18 engineer on Wednesday, they looked at more than one
19 scenario. The 5 mile and 4.95 is what ultimately was
20 decided upon but there was more than one
21 consideration as to the length of pipe.

22 Q. And you heard Mr. Grupenhof testify he
23 can run that model with any length he wants, correct?

24 A. That is correct. But also he followed
25 that statement up with as soon as we put X pipe

1 length of pipe in the ground, we are going to be back
2 in here doing the process over and over again. So do
3 you want to do it in increments of a mile? Do you
4 want to do it in increments of 2 miles? What is the
5 decision that the Company needs to make so that it
6 doesn't continually spend time assessing pressures at
7 the south end of the system? That point he did bring
8 up.

9 Q. And as part of Staff's investigation, did
10 you ask UTI, since you were relying on them to run
11 different scenarios on different lengths, to
12 determine what the appropriate length would be?

13 A. No.

14 MR. HEALEY: Thank you, your Honor.
15 Nothing further.

16 EXAMINER SANYAL: No questions?

17 MS. BOJKO: No, your Honor.

18 EXAMINER SANYAL: Redirect?

19 MR. EUBANKS: Your Honor, we have no
20 redirect.

21 EXAMINER SANYAL: You may step down,
22 Mr. Sarver.

23 Mr. Eubanks?

24 MS. BOJKO: May we go off the record for
25 a minute? Oh, please.

1 (Discussion off the record.)

2 EXAMINER SANYAL: Okay. Let's go back on
3 the record. Are we admitting this exhibit?

4 MR. EUBANKS: Yes. I requested that we
5 move it in before.

6 EXAMINER SANYAL: Any objections?

7 MR. HEALEY: No objections.

8 MS. BOJKO: No, your Honor.

9 EXAMINER SANYAL: Exhibit 8 is admitted.

10 (EXHIBIT ADMITTED INTO EVIDENCE.)

11 EXAMINER SANYAL: And then let's go off
12 the record.

13 (Discussion off the record.)

14 EXAMINER SANYAL: Let's go back on the
15 record.

16 And, Mr. Eubanks, are you ready to
17 proceed?

18 MR. EUBANKS: I am, your Honor. At this
19 time I would like to call to the stand David
20 Lipthratt.

21 EXAMINER SANYAL: Mr. Lipthratt, am I
22 pronouncing your name correctly?

23 THE WITNESS: Close enough.

24 EXAMINER SANYAL: What is it?

25 THE WITNESS: Lipthratt.

1 EXAMINER SANYAL: Would you please raise
2 your right hand.

3 (Witness sworn.)

4 EXAMINER SANYAL: You may be seated.

5 THE WITNESS: Thank you.

6 (EXHIBIT MARKED FOR IDENTIFICATION.)

7 - - -

8 DAVID M. LIPTHRATT

9 being first duly sworn, as prescribed by law, was
10 examined and testified as follows:

11 DIRECT EXAMINATION

12 By Mr. Eubanks:

13 Q. Please state your name for the record.

14 A. David Lipthrott.

15 Q. Do you have what has been marked Staff's
16 Exhibit 9 in front of you?

17 A. I do.

18 Q. Could you identify it.

19 A. This is my prefled testimony in this
20 case.

21 Q. Was it prepared by you or under your
22 direction?

23 A. Yes, sir.

24 Q. Are there any corrections you would like
25 to make to the document?

1 A. No, sir.

2 Q. Is it a true and accurate copy?

3 A. Yes, sir.

4 Q. And if I were to ask you the same
5 questions that are in your prefiled testimony here
6 today, would you provide the same answers?

7 A. I would.

8 MR. EUBANKS: I have no further questions
9 of the witness. At this time I would like to move to
10 have Staff's Exhibit 9 admitted into evidence,
11 subject to cross, and I tender the witness for
12 cross-examination.

13 EXAMINER SANYAL: Thank you, Mr. Eubanks.
14 Ms. Bojko, do you have any questions?

15 MS. BOJKO: Oh, no. Thank you, your
16 Honor.

17 EXAMINER SANYAL: Okay. You may proceed,
18 Mr. Healey.

19 MR. HEALEY: Thank you, your Honor.

20 - - -

21 CROSS-EXAMINATION

22 By Mr. Healey:

23 Q. On page 4 to 5 of your testimony, you can
24 direct to it, if you want, I'm just noting that you
25 generally summarize in the Stipulation as it pertains

1 to the phase-in, correct?

2 A. Yes, sir.

3 Q. Why does Staff support a phase-in in this
4 case?

5 A. Staff supports a phase-in as in an
6 agreement among the parties that were signatory
7 parties of the Stipulation. It was viewed as
8 benefits to ratepayers in that the Company was
9 willing to compromise and to phase in used and useful
10 plant. It seemed to be a fair compromise that the
11 Company was willing to live with and work with while
12 yet passing benefits on to customers.

13 Q. Now, Mr. Sarver just testified during the
14 course of Staff's investigation he had no concerns
15 with the length of the pipeline, so if Staff had no
16 concerns, then why would --

17 MR. EUBANKS: Objection.

18 MR. HEALEY: Can I finish my question,
19 your Honor?

20 MR. EUBANKS: Mischaracterizes Roger
21 Sarver's testimony.

22 EXAMINER SANYAL: I will let you finish
23 the question.

24 MR. HEALEY: Thank you.

25 EXAMINER SANYAL: And then I will rule on

1 the objection.

2 MR. HEALEY: Thank you.

3 EXAMINER SANYAL: Did you complete your
4 question?

5 MR. HEALEY: I did not complete my
6 question. I am trying to regain my train of thought
7 after being interrupted.

8 EXAMINER SANYAL: We can have it read
9 back.

10 MR. HEALEY: That's okay.

11 Q. (By Mr. Healey) Mr. Sarver testified
12 earlier today that he did not have any concerns with
13 the length of the pipeline extension during Staff's
14 investigation, so my question is if Staff did not
15 have any concerns with the length, then why is Staff
16 supporting a phase-in of the pipeline extension?

17 EXAMINER SANYAL: And don't answer.

18 MR. EUBANKS: I renew my position.

19 EXAMINER SANYAL: And your objection is
20 overruled.

21 And now you may answer.

22 A. I just sat through Mr. Roger Sarver's
23 testimony. That is not my understanding of his
24 testimony. Having worked with him on this case, I do
25 believe and my understanding is that Staff -- perhaps

1 Mr. Sarver at the conclusion of the Stipulation, we
2 had no concerns with the length of the pipe. I can
3 guarantee you during the course of the investigation,
4 there were calls, there were questions, there was a
5 lot of conversation on the length of that pipe. So
6 to say there was no concerns, I am not sure, you
7 know, that's entirely accurate.

8 Q. So is it your testimony that Staff did
9 have concerns with the length of the pipeline?

10 A. I am not going to use the word
11 "concerns." I am going to say we questioned it, and
12 we attempted to verify the used and useful nature of
13 it.

14 Q. Sure. My question though relates to
15 whether you had concerns, so either you did or you
16 didn't.

17 MR. EUBANKS: Objection, asked and
18 answered.

19 EXAMINER SANYAL: Overruled.

20 A. Again, I am not going to say "concerns."
21 Concerns indicate that there may be a problem. Our
22 job is to investigate and verify and that's what we
23 did here.

24 Q. And you investigated to determine whether
25 there was a problem with the length, correct?

1 A. We investigated to determine the
2 reasonableness of the length and that's what we did.

3 Q. So you took -- in determining whether or
4 not Staff believed that the pipeline was used and
5 useful, you considered whether it was too long or
6 not, correct?

7 A. Exactly.

8 Q. Let's turn to page 9 of your testimony,
9 please. And starting on line 17 there is a bullet
10 point there that reads "The phase in of the Del-Mar
11 Extension results in the recognition of consistent
12 customer growth while ensuring existing customers
13 continue to be reliably served"; do you see that?

14 A. I do.

15 Q. Can you explain to me what "recognition
16 of consistent customer growth" means?

17 A. Again, another area of compromise on the
18 part of the Company in part to get to a global
19 settlement, that unfortunately didn't happen, was to
20 try to negotiate and to come up with a fair -- fair
21 arrangements, one of those being recognition of
22 additional customer counts in the future. So outside
23 of a rate case, which is typically when that occurs,
24 the Company will at the end of year one, at the end
25 of year two will recalculate the customer count and

1 basically lower the customer charge which again is a
2 benefit to customers.

3 Q. You said that will be done outside of a
4 rate case?

5 A. Yes, that will be done outside of a rate
6 case.

7 Q. And will it be done on a different type
8 of a case?

9 A. I'm not sure what type of filing that
10 will occur in; but, yes, at the end of each year not
11 only will the plant be phased in, there will be
12 future recognition of the customer counts at that
13 time.

14 Q. So the Staff and Company have agreed to
15 do this in the future, but you haven't figured out
16 what type of case it will be when it gets filed?

17 A. The specifics I am not sure of. At this
18 point there is a framework this will occur and
19 procedurally I think that's easily addressable on a
20 going-forward basis.

21 Q. And you testified that you believe that
22 the customer charge will go down; is that correct?

23 A. Most likely.

24 Q. Most likely. What is the proposed
25 customer charge under the Stipulation upon initial

1 approval?

2 A. 33.84.

3 Q. 33.84. And a year after approval, should
4 the Stipulation be approved, another 30 percent of
5 the book value of the Del-Mar Pipeline extension will
6 be added to the revenue result, correct?

7 A. That's correct.

8 Q. And that's somewhere in the vicinity of
9 2.7 million, give or take?

10 A. It sounds right.

11 Q. And so you believe that adding 2.7
12 million to rate base and then taking the new
13 customers will make that customer charge be lower
14 than 33.84?

15 A. All else being equal, customer charge
16 will be lower -- first off, the plant under normal
17 situations without the compromise and the recognition
18 of the benefits that the parties have agreed to, all
19 of that plant could have been, one could argue, and
20 should have been recognized in year one. So the
21 Company is foregoing revenue requirement that they
22 are entitled to and delaying recognition of that
23 revenue requirement.

24 So, yes, the revenue requirement will go
25 up to what it should have probably been, in part, in

1 year one. It would be delayed and, furthermore,
2 there's going to be further recognition of those
3 customers on the system at that time that will lower
4 the customer count.

5 Q. My question was a year -- when the second
6 year goes into place and the additional 30 percent is
7 added, you believe that the customer charge will be
8 lower than 33.84?

9 A. It is possible depending on the number of
10 customers on the system at that time.

11 Q. And do you know how many customers would
12 have to be added for the charge to be below 33.84?

13 A. I do not at this time.

14 Q. And you haven't done that calculation?

15 A. No.

16 Q. And same question with respect to the
17 next year when the additional 20 percent goes in?

18 A. That is correct.

19 Q. And this is all assuming that Suburban's
20 customer base continues to grow, correct?

21 A. Which it has experienced significant
22 growth over the years but, yes, it is an assumption.

23 Q. And should something change and the
24 customer count goes down, the Stipulation would still
25 provide for recalculating rates based on that new

1 lower customer counts?

2 A. Yes.

3 Q. In that case the rate would certainly go
4 up, correct?

5 A. That the rate will go up and -- yes.

6 Q. Can you -- do you have a copy of the
7 Staff Report in front of you?

8 A. I do.

9 Q. Can you turn to page 12 of the Staff
10 Report, please.

11 A. I'm there.

12 Q. And under the heading "Test Year
13 Revenues," there's a sentence about the targets on
14 the fourth line under that heading, starts with
15 "Staff applied." Do you see that?

16 A. I do.

17 Q. And "Staff applied the average yearly
18 rate of growth between January 2015 and February 2018
19 to forecast a February 2020 SGS customer count
20 17,946." Do you see that?

21 A. Yes, sir.

22 Q. And can you tell me why Staff applied
23 this growth rate to forecast February 2020 SGS count
24 a year after the date certain?

25 A. Kind of going back to the previous line

1 of questioning in regards to the customer count, the
2 Company has been experiencing significant customer
3 growth over the years. So, again, the reason Staff
4 assumed that the customer charge impacts may be lower
5 because of those customer growths that have
6 historically been experienced. At the time we
7 prepared the Staff Report, we also wanted to take
8 that into count and try to forecast out some of that
9 customer growth.

10 Q. Did -- did the installation of the
11 pipeline extension inform your decision to project
12 out the customer count to 2020?

13 A. There is some language in the Staff
14 Report that one could argue or interpret it was
15 associated with. That really wasn't Staff's intent.
16 It was merely the fact that, you know, on occasion
17 Staff -- depending on the growth factors, Staff may
18 forecast -- forecast out some revenues. We thought
19 it was appropriate to do here at the time of the
20 Staff Report so that's -- that's the reason for that.

21 Q. I would like to go back to the phase-in a
22 little bit. I think we already covered this, but
23 maybe I'll just do a refresher so we have the right
24 foundation for the questions. Under the phase-in 50
25 percent of the value of the pipeline extension goes

1 into rate base immediately upon approval in the
2 Stipulation, correct?

3 A. It would be the -- the value in addition
4 to associated property taxes and depreciation but,
5 yes.

6 Q. Sure. And then another 30 percent goes
7 in the year after that?

8 A. Yes, yes, sir.

9 Q. And then another 20 percent the year
10 after that?

11 A. Yes, sir.

12 Q. But it's your intention the entire
13 100 percent is used and useful as of the date
14 certain?

15 A. Absolutely.

16 Q. And you are familiar with the concept of
17 the date certain, correct?

18 A. Yes, sir.

19 Q. So is it your contention then that upon
20 approval of the Stipulation, rates will be based on
21 rate base that is different than what is used and
22 useful as of the date certain?

23 A. Maybe I am not understanding your
24 question, but I don't think it will be. The rates
25 will be based upon plant-in-service that was used and

1 useful as of date certain.

2 Q. So the rates in the first section --
3 sorry, the first part of the phase-in will be based
4 on 50 percent, correct? And that's less than the
5 total used and useful value of plant as of date
6 certain, correct?

7 A. I apologize. I misunderstood. What I
8 intended to say or what I meant to say was that the
9 plant-in-service would not be overstated. Customers
10 are getting a benefit in that the Company was willing
11 to compromise and negotiate and recognize for rate
12 purposes a value lower than what they are entitled
13 to.

14 Q. Sure. You understand given your
15 experience that there's a regulatory principle that
16 we value plant as of date certain. We don't value
17 less than plant; we don't value more than plant,
18 correct?

19 A. In any negotiation the Company -- or any
20 intervening party may believe there's
21 plant-in-service that is appropriate for recovery,
22 and another party may disagree. Under your scenario
23 it sounds like that party is ineligible for
24 negotiation purposes not to recognize that plant
25 for -- for ratemaking purposes. The Company is

1 entitled to -- based on Staff's analysis to 100
2 percent of that pipeline. You know, as a benefit to
3 customers, they are willing to forego some of that
4 revenue requirement for two years. Again, a benefit,
5 a benefit to their customers and an attempt to
6 compromise and avoid litigation costs, so I don't see
7 any violation of regulatory principles in play here.

8 Q. Sure. My question wasn't about the
9 settlement process or the negotiations. My question
10 is there is a regulatory principle that the
11 Commission has to follow in determining what the rate
12 base is and that is that the rate base that sets the
13 rates for customers is whatever was used and useful
14 on date certain, correct?

15 A. I think this is a legal question that the
16 Commission has the authority to ascertain and figure
17 out if it's appropriate, reasonable, and the correct
18 thing to do.

19 Q. So it being a legal conclusion, you have
20 no opinion on whether or not it passes the third
21 prong of the three-prong test, for example, correct?

22 MS. BOJKO: Objection. I am now going to
23 object. Counsel is mixing the regulatory principle
24 of the regulatory -- what I think he is calling the
25 regulatory compact with settlement which is also

1 regulatory principle. So I would ask that he
2 rephrase his question to clarify which regulatory
3 principle because now he is mixing settlement test
4 with the regulatory compact.

5 EXAMINER SANYAL: Mr. Healey.

6 MR. HEALEY: Can I have my question
7 reread, please.

8 EXAMINER SANYAL: Sure.

9 (Record read.)

10 MR. HEALEY: Your Honor, I am not mixing
11 anything. I asked him if he has any opinion on
12 whether the phase-in does or does not violate the
13 third prong of the test, and he is the witness
14 testifying on that issue.

15 EXAMINER SANYAL: Your objection is
16 overruled. You may answer.

17 A. I do not believe it violates the
18 three-prong -- any part of the three-prong test.

19 Q. Do you believe that the three-prong test
20 requires the Commission to follow the law?

21 MS. BOJKO: Objection, argumentative and
22 he already said he isn't a lawyer.

23 MR. HEALEY: With all due respect, your
24 Honor, I am asking him what his interpretation of the
25 three-prong test is. I am not asking him to

1 interpret any law. I am asking him if violations of
2 the law are part of the third prong in his view.

3 EXAMINER SANYAL: Overruled. You may
4 answer to the extent you can.

5 THE WITNESS: May I have the question
6 reread.

7 (Record read.)

8 A. Yes, and I think the Commission is
9 mindful of following the law and is not in any way
10 attempting to not be in accordance with the law.

11 Q. And you believe that the three-prong
12 test -- let me take a step back.

13 You agree that the third prong related to
14 regulatory principles and practices would include
15 valuing property as of date certain, correct?

16 A. Again, you know, Staff -- Staff, I am
17 speaking for Staff as part of the schedules in rate
18 base calculation, applied regulatory standards to
19 value to verify plant-in-service as of date certain.
20 In the case of order in gas utilities, they have the
21 option or the ability to forecast their date certain.
22 It's within their rights. They exercise that right.

23 The Staff acted appropriately in
24 verifying that plant-in-service as of date certain.
25 Again, 100 percent of that plant is used and useful

1 as of date certain. Now, for settlement purposes, I
 2 cannot speak to is the Company prohibited from taking
 3 less than they are entitled to and their willingness
 4 to do so as being a violation against the law or
 5 anything of those lines. If for some reason we're
 6 wrong, I am sure the Commission will work that out.

7 Q. Now, you mentioned that the -- you
 8 understand that Suburban was allowed to forecast some
 9 of the data because it's a natural gas company,
 10 correct?

11 A. Yes, sir.

12 Q. And the -- you would agree that Staff
 13 isn't bound by their forecasted data, correct?

14 A. That is correct.

15 Q. And since the date certain has now come
 16 and gone, we have the actual data through date
 17 certain, correct?

18 A. Correct.

19 Q. And we should use that data and not the
 20 forecasted data, correct?

21 MS. BOJKO: Objection. My objection is
 22 based on he is asking for a legal conclusion. He
 23 said we should use, and Mr. Lipthratt already
 24 explained that the statute allows projected data.

25 EXAMINER SANYAL: Overruled. You may

1 answer.

2 A. In this case we use the actual data. We
3 verified it. It was like 8.9 million for the
4 Del-Mar. We verified the financial records, the
5 receipts. We did a physical inspection. I don't
6 care what -- you know, setting aside the fact that
7 it's forecasted or an earlier period within the test
8 year, we exercise the same review process to ensure
9 that plant was paid for, that was recorded correctly,
10 was used and useful, despite the fact that when the
11 Company filed their Application it was forecasted, we
12 did an audit after the fact to ensure that ratepayers
13 are only paying for the plant that was put into
14 service by date certain and, yes, that plant was used
15 and useful.

16 Q. And so you determined in your opinion
17 that the used and usefulness question should be based
18 on the actual data as of date certain.

19 A. Yes, and I think that's what we did here.

20 Q. You wouldn't conclude it was used and
21 useful based solely on the projected data, correct?

22 A. That -- that is correct. That is why we
23 did -- that is why you see that section in the Staff
24 Report. I can refer you to the page where Staff,
25 while we issued the Staff Report, we wanted to ensure

1 it was being used and useful and that it will be
2 recognized appropriately for financial purposes; and,
3 therefore, I'm trying to cite you to the page. It's
4 page 10. It's under "Projected Plant In Service."
5 The Staff Report states that we were going to do that
6 verification at a later date.

7 Q. Can you turn to page 9 of your testimony,
8 please.

9 A. I'm there.

10 Q. And starting at the bottom of page 9,
11 there's some bullet points which you identify as some
12 of the key benefits of the Stipulation, and it
13 continues on to page 10, correct?

14 A. Yes.

15 Q. And I notice you don't identify there
16 anything related to the Tax Cuts and Jobs Act,
17 correct?

18 A. This is a limited list but, yes, I have
19 not listed any of that.

20 Q. And you are familiar with the
21 Commission's tax investigation in Case No. 18-47,
22 correct?

23 A. All too well.

24 Q. And you are aware the Commission ordered
25 all utilities with at least 10,000 customers to file

1 a case to pass the tax savings back to customers,
2 correct?

3 A. That is correct.

4 Q. And so, therefore, any provision in the
5 Stipulation requiring the same thing would not be an
6 additional benefit of the Stipulation, correct?

7 A. The only thing I would comment on is the
8 carrying charges being brought up earlier. There's
9 nothing requiring carrying charges or how they should
10 be calculated. The Company has committed to that. I
11 would view that as a benefit.

12 Q. And you're aware -- are you aware of any
13 cases so far for other utilities where the Commission
14 has approved tax treatment that did not include
15 carrying charges?

16 A. Well, there are only a couple cases where
17 the Commission has an approval out on the tax case,
18 so of the one or two cases, yes, they include
19 carrying charges.

20 Q. And Staff has been consistent insisting
21 on those carrying charges in all other cases,
22 correct?

23 A. That's correct.

24 MR. HEALEY: Thank you. Nothing further,
25 your Honor.

1 EXAMINER SANYAL: Any cross at this
2 point?

3 MS. BOJKO: No, your Honor.

4 EXAMINER SANYAL: Redirect?

5 MR. EUBANKS: I have no redirect for this
6 witness.

7 EXAMINER SANYAL: You may step down.

8 THE WITNESS: Thank you.

9 MR. EUBANKS: I renew my proposal to have
10 admitted Staff's Exhibit 9.

11 EXAMINER SANYAL: Any objections?

12 MS. BOJKO: No, your Honor.

13 MR. HEALEY: No, your Honor.

14 EXAMINER SANYAL: Exhibit 9 is admitted
15 into the record.

16 (EXHIBIT ADMITTED INTO EVIDENCE.)

17 (Discussion off the record.)

18 EXAMINER SANYAL: Let's get back on the
19 record.

20 We will be reconvening on Monday at 10:00
21 a.m. Thank you very much.

22 Let's go off the record.

23 (Thereupon, at 12:58 p.m., the hearing
24 was adjourned.)

25 - - -

CERTIFICATE

I do hereby certify that the foregoing is
a true and correct transcript of the proceedings
taken by me in this matter on Friday, July 12, 2019,
and carefully compared with my original stenographic
notes.

Karen Sue Gibson, Registered
Merit Reporter.

(KSG-6777)

- - -

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

7/22/2019 9:15:41 AM

in

Case No(s). 18-1205-GA-AIR, 18-1206-GA-ATA, 18-1207-GA-AAM

Summary: Transcript in the matter of the Suburban Natural Gas Company hearing held on 07/12/19 - Volume IV electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.