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February 5, 2009

VIA FEDERAL EXPRESS

Public Utilities Commission of Ohio
Attention: Renee Jenkins
Docketing Division
180 E. Broad Street, 10th Floor
Columbus, OH 43215

PUCO

2009 FEB -6 AM 10:28

RECEIVED-DOCKETING DIV

RE: DP&L ESP Filing, Case No. 08-1094-EL-SSO 08-1095-EL-ATA,
08-1096-EL-AA'M, 08-1097-EL-UNC

Dear Ms. Jenkins:

Enclosed are: (1) fourteen (14) copies of The Dayton Power and Light's Notice of Filing Depositions; and (2) deposition transcripts of:

- a. Gonzalez, Wilson ✓
- b. Ibrahim, Amr A.
- c. Duann, Daniel J.
- d. Yankel, Anthony J.
- e. McClelland, Barry E.
- f. Pullins, Steven W.
- g. Fein, David I.
- h. Woolridge, J. Randall
- i. Bowser, Joseph G.
- j. Sawmiller, Daniel J.
- k. Murray, Kevin M.
- l. Dickstein, Shelley J. (awaiting transcript)
- m. Frye, Mark R. (awaiting transcript)
- n. Higgins, Kevin C. (awaiting transcript)

Very truly yours,



R. Holtzman Hedrick

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Enclosures



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BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of the :
 Application of The Dayton :
 Power and Light Company : Case No. 08-1094-EL-SSO
 for Approval of Its :
 Electric Security Plan. :

- - -

In the Matter of the :
 Application of The Dayton :
 Power and Light Company : Case No. 08-1095-EL-ATA
 for Approval of Revised :
 Tariffs. :

- - -

In the Matter of the :
 Application of The Dayton :
 Power and Light Company :
 for Approval of Certain : Case No. 08-1096-EL-AAM
 Accounting Authority :
 Pursuant to Ohio Rev. :
 Code §4905.13. :

- - -

In the Matter of the :
 Application of The Dayton :
 Power and Light Company : Case No. 08-1097-EL-UNC
 for Approval of Its :
 Amended Corporate :
 Separation Plan. :

- - -

DEPOSITION

of Wilson Gonzalez, taken before me, Julieanna
 Hennebert, a Notary Public in and for the State of
 Ohio, at the offices of Ohio Consumers' Counsel, Ten
 West Broad Street, Suite 1800, Columbus, Ohio, on
 Friday, January 30, 2009, at 9:30 a.m.

- - -

Page 2

APPEARANCES:

Faruki, Ireland & Cox, P.L.L.
By Mr. Charles J. Faruki
500 Courthouse Plaza, SW
10 North Ludlow Street
Dayton, Ohio 45402
On behalf of the Applicant.
Janine L. Migden-Ostrander,
Ohio Consumers' Counsel
By Mr. Michael Idzkowski
Mr. Gregory J. Poulos
10 West Broad Street, Suite 1800
Columbus, Ohio 43215

On behalf of the Residential Consumers of
The Dayton Power and Light.

Page 5

WILSON GONZALEZ

being by me first duly sworn, as hereinafter
certified, deposes and says as follows:

EXAMINATION

BY MR. FARUKI:

Q. Morning, Mr. Gonzalez, we've met
previously.

A. Morning, Mr. Faruki.

Q. Tell us your full name and where you work
please.

A. My full name is Wilson Gonzalez. I work
for the Office of the Ohio Consumers' Counsel.

Q. How long have you worked for OCC?

A. I've worked since 2004 I believe.

Q. Before that where were you employed?

A. I worked for American Electric Power.

Q. For how long?

A. Since from '96 to 2002.

Q. At the time you left what was your
position?

A. I was I think market research consultant
or something.

Q. In what part of the company?

A. I worked my last stint at the company was
with department of economic development.

Page 3

Friday Morning Session,
January 30, 2009.

STIPULATIONS

It is stipulated by and between counsel for
the respective parties that the deposition of Wilson
Gonzalez, a witness called by the the Applicant
under the applicable Rules of Civil Procedure, may be
reduced to writing in stenotypy by the Notary, whose
notes thereafter may be transcribed out of the
presence of the witness; and that proof of the
official character and qualification of the Notary is
waived.

Page 6

Q. How long did you have that position?

A. I would say about three years.

Q. Before that what was your position?

A. I was a profitability analyst.

Q. What department or group?

A. That was in I would say market, market
services.

Q. How long did you have that?

A. I would say perhaps two years.

Q. Approximate is fine.

A. Yeah.

Q. And before that?

A. I worked with business services part of
the company supporting national accounts, business
accounts.

Q. What were your duties there? Was this a
sales position?

A. No. It was an analytical position. It
started as business services supporting national
accounts and just business services. So a lot of it
was research related.

I also while I was in business services
that's when we worked with other large accounts that
were interested in at that time in procuring power.

They saw the advent of deregulation and I

Page 4

INDEX

DP&L EXHIBIT	IDENTIFIED
51 - Testimony of Mr. Gonzalez	10
52 - Ohio Revised Code 4928.143	94

Page 7

was on the team and we worked for like generation
department to respond to RFPs, and my role there was
at that point we were trying to add value to the
product so we were developing demand side management.

We had relationships with energy service
companies and we were developing value added energy
efficiency products for larger customers.

Q. And how long were you in that position?

A. With business services I said

approximately about around two years.

Q. Going back in time before that what were
you doing?

A. I worked with the Columbia Gas
distribution system.

Q. What did you do for Columbia Gas?

A. I started working in their corporate
planning department, was basically the knowledge base
around energy efficiency at Columbia at that
particular time.

We ended up -- I was the second hired and
we ended up staffing up to undertake demand side
management programs in a number of our states and
respond to initiatives, legislative and regulatory
initiatives.

The one thing is I started at corporate

2 (Pages 2 to 7)

Page 8

1 planning and then moved to once we did the analytical
2 work and justification for the energy efficiency
3 program we were reorganized and were placed in the
4 marketing department because then the programs were
5 going to be implemented, so.

6 Q. How long were you in the marketing
7 department then?

8 A. I would say it was probably two years
9 analytic, three years implementation. Approximately.

10 Q. So this would have been 1990-'91 through
11 '96?

12 A. '92 to '96, yes.

13 Q. Before Columbia Gas what was your
14 position?

15 A. Senior economist at the Connecticut
16 Energy Office, office of policy and management, which
17 was the governor's policy executive office, budget
18 office.

19 Q. So that was related to the governor or
20 the executive, not to the public service commission
21 there?

22 A. Yes. All they -- we intervened in many
23 cases from an energy policy perspective and we were
24 very supportive of the -- we worked with energy,
25 efficiency energy.

Page 9

1 Q. What years were those that you --

2 A. I would say '86 through '92.

3 Q. Did you tell me you left AEP in '02?

4 A. That's correct, the end of '02, last day
5 of '02.

6 Q. And then what did you do between that
7 point and when you joined OCC?

8 A. I did various jobs. I did substitute
9 teaching, I did -- I worked on -- for a research firm
10 very shortly doing sampling research trying to get --
11 survey research, and then I also worked at -- had a
12 very brief stint with the office of I think Children
13 and Family Services at the state. That was a
14 computer position.

15 Q. So from 2002 to 2004 when you joined OCC
16 were you sort of between jobs?

17 A. I would say, yes, until -- yeah, early
18 2004 I did get the -- the job with Family Services
19 was a full-time job.

20 Q. When you -- I'll withdraw that.

21 What is the department that you're in now
22 at OCC?

23 A. I'm in the analytical department.

24 Q. How many people are in that?

25 A. Fifteen maybe, off the top of my head.

Page 10

1 Q. Who heads that department?

2 A. Aster Adams.

3 Q. Is that your boss or do you report to
4 somebody else?

5 A. That's my boss, yes.

6 (Exhibit marked.)

7 Q. You have a copy of your testimony which
8 our reporter has marked as DP&L Exhibit 51 in front
9 of you, right?

10 A. Yes.

11 Q. Let me ask you some general questions if
12 I can.

13 To what extent have you been involved in
14 implementation of DSM or energy efficiency programs
15 as opposed to their design?

16 A. I would say I've had quite a bit of
17 experience. I've had both experience from the
18 outside in terms of being -- in Connecticut we were
19 one of the first states to establish collaborative
20 processes and our office, as I mentioned, was very
21 involved.

22 We sponsored witnesses, we actually
23 sponsored facilitators, we co-shared in a
24 collaborative process, it was a utility driven
25 process, and in that process we worked on hands on

Page 11

1 designing programs and we went through the whole
2 process of designing programs, implementing programs,
3 looking at cost recovery issues, monitoring and
4 evaluation.

5 So the full cycle of demand side
6 management services. So that was a very I would say
7 broad experience but very detailed.

8 For example, on one company I actually --
9 for Electric Illuminating I ran the models, the cost
10 production models to determine the cost-effectiveness
11 for their programs, et cetera.

12 And then obviously during the
13 implementation phase we were very involved in
14 monitoring that, discussing with companies, and just
15 sharing information. And at Columbia Gas I was an
16 implementer.

17 Q. And I want to leave aside design and just
18 focus on implementation.

19 A. Uh-huh.

20 Q. And I want to leave aside what other
21 people did and focus on what you did.

22 Can you tell me your experience in
23 implementing such programs?

24 A. Yeah, I have firsthand experience in
25 implementing programs. When I came to Columbia Gas

Page 12

1 we, like I mentioned earlier, we did some analytical
2 work at corporate planning justifying the economics
3 of the program. And then when I went to the
4 marketing department, I was in charge of a number of
5 programs. We operated in Maryland and Virginia, so.

6 Q. What programs were you in charge of?

7 A. I would say it was -- we had a
8 residential new construction program, we had a
9 residential appliance in the sense of we were
10 promoting efficient appliances such as condensing
11 furnaces, 90 percent efficient furnaces.

12 Q. Was this a rebate program or what kind of
13 program?

14 A. The furnace program was a rebate type
15 program but we offered a rebate to the customers. We
16 also offered some incentive to the HVAC trade allies,
17 the HVAC contractors, worked very closely with them
18 and offered training.

19 Very simply, in Virginia we might have
20 had some other things that we packaged in there, like
21 thermostats, those types of activities. Obviously
22 with the new construction program it was much more
23 sophisticated.

24 I developed a program that had three
25 prongs; we had a prescriptive, a trade-off in terms

Page 13

1 of meeting the goals of the program, the hiring of
2 the efficiency usage, and then I actually developed a
3 performance base where the computer model that I
4 would run and if an architect or a builder would send
5 me the specs of the house and I would model with the
6 particular -- and come out with a determination
7 whether it met the program requirements.

8 Q. From your experience with both the
9 collaborative efforts that you talked about and the
10 implementation of the programs that you described,
11 have you developed any principles that you believe
12 should govern the design of DSM and energy efficiency
13 programs?

14 A. It's a very general question.

15 Q. Some of mine are and some are not.

16 A. Off the top of my head obviously you
17 would want a program that is well managed, I think
18 certain principles are -- all the programs we have we
19 monitor very carefully it both from a prospective,
20 i.e., how is the program being delivered, getting
21 feedback from the different parties even internally
22 within the company.

23 Is a rebate being caught on time in the
24 communications loop, is the cost energy alerted so if
25 they get a call and so forth and working with our

Page 14

Page 17

1 trade allies is the person being responsive to your
2 needs information. Are we providing sufficient
3 training, so.

4 It was very important to -- especially
5 the first time you launch a program, to go through a
6 very strict process evaluation to make sure that the
7 program is operating things that bottleneck that crop
8 up, you look to resolve and make them efficiently.

9 So I think the evaluation process is very
10 important and obviously -- are your questions limited
11 to implementation issues?

12 Q. That one wasn't. What I want to know is
13 if you have developed some general principles that
14 you would apply to the design of energy efficiency or
15 DSM programs. If not, that's fine, we'll go on.

16 A. That's a long discussion. But I would
17 you know, it's obviously we -- with a design program
18 one of the things you look at is what market failure
19 you're trying to address.

20 I mean, that's one of the biggest issues
21 with energy efficiency and why we believe utility
22 intervention is -- that's the case for utility
23 intervention into what we consider a market.

24 I mean, the reason I think the public
25 policy justification for is that it's been pervasive

1 A. That may be one aspect. I think if you
2 were to say generally, it's just sharing of
3 information, you know, these programs have so many
4 parameters that I really think it behooves the
5 company to bring in expertise outside of their -- and
6 to bring in other stakeholders that might have
7 different perspectives and just come to an agreement.

8 Especially when there's -- at least in
9 terms of the overall goal is we want these programs
10 to be successful.

11 Q. Yes.

12 A. So I don't see a collaborative as being
13 necessarily an adversarial proceeding as this has
14 become but more of a gathering of ideas and people,
15 company, and stakeholders wanting to promote.

16 Q. To share ideas.

17 A. To share ideas to make the program
18 successful. I think everybody wants the programs to
19 be successful.

20 Q. That's a common goal to both the utility
21 and anybody else in the collaborative should have.

22 A. Correct.

23 Q. With regard to your testimony in this
24 case, what parts of DP&L's filing did you read for
25 your work in this case?

Page 15

Page 18

1 market barriers that have thwarted customers, you and
2 I, to look at programs.

3 Q. And what are these market barriers you're
4 talking about?

5 A. There's a whole list in the literature.
6 I could name a couple of the -- obviously one would
7 be capital constraints that customers have in terms
8 of being able to put up the incremental costs of a
9 measure, even though the measure is cost-effective,
10 will have a very reasonable payback, but just that
11 first cost hurdle.

12 There's split incentives type of market
13 barrier. You could have -- you could be a renter and
14 you're the one who is paying the bill, yet your
15 landlord is the one who owns the facility. That's a
16 very pervasive one.

17 There's issues with information on
18 reliability of the products, what products are
19 available. Those types of constraints. And so those
20 are some of the major ones.

21 Q. You mentioned collaborative and I wanted
22 to ask a couple of questions about that. Am I
23 correct that you believe that a collaborative process
24 would be useful with regard to Dayton Power and
25 Light?

1 A. I would say I read mainly Book II, Book
2 III. I probably read all the books but I mean in
3 terms of looking at them in more detail, I looked at
4 the -- obviously my testimony deals predominantly
5 with the cost recoveries, I was interested in looking
6 at that section.

7 But I did look at the filings and looked
8 at the some of the discovery that pertained to the
9 cost recovery or demand side management

10 Q. You're not a lawyer; is that correct?

11 A. That is correct.

12 Q. Are you an economist?

13 A. Yes, I am.

14 Q. Are your opinions in this case limited to
15 dealing with the residential customers?

16 A. I would say cost recovery to the extent
17 that all customers -- I think you could say my
18 testimony transcends just residential.

19 Q. And to the extent it transcends
20 residential customers, it is because of your analysis
21 of cost recovery for the programs; is that accurate?

22 A. Yes, I believe some of the cost recovery
23 is not bounded by residential. So my recommendation
24 would likewise not be bounded.

25 Q. With regard to the programs or the set of

Page 16

Page 19

1 A. Yes. I've had extensive experience in
2 different states, in fact, I think in Ohio all the
3 gas companies have developed collaboratives.

4 Also in Duke I thought we had a very
5 successful collaborative process when they made their
6 filing, their original filing in 2006. I thought we
7 dealt with a plethora of issues that DSM filing
8 entails.

9 And then at AEP we started a
10 collaborative process that's been operating for I
11 would say close to two months.

12 I believe in Ohio Dayton Power and Light
13 aside from First Energy, which is another category, I
14 think Dayton Power and Light is the only company that
15 decided not to engage in a collaborative.

16 Q. You're aware DP&L had a collaborative
17 years ago.

18 A. I was told that, yes.

19 Q. With regard to --

20 (Mr. Poulos joins the deposition.)

21 Q. With regard to the collaboratives and the
22 purpose, let me ask a couple of questions. As I
23 understand your view, one of the purposes of the
24 collaborative would be to make recommendations on
25 programs that should be tried or developed?

1 programs that DP&L has proposed in its filing, do you
2 like the programs generally?

3 A. I believe we, you know, I guess Witness
4 Sawmiller has made recommendations on the programs
5 and I would -- I'm in agreement with his
6 recommendations.

7 Q. That didn't quite answer my question
8 though.

9 You said you've read the filing. Are
10 these the types of programs that you believe should
11 be implemented?

12 A. I believe some of the -- I believe the
13 programs that DP&L has filed, you know, generally
14 speaking, are some of the programs that are being
15 implemented in other states and some that have
16 successful records.

17 But we've caveated and there was some
18 programs we thought we would have interest in. I
19 know Witness Sawmiller mentions it.

20 Q. So you're not expressing opinions with
21 regard to individual programs in this case in terms
22 of their desirability?

23 A. In terms of their desirability?

24 Q. Yes.

25 A. Again, my testimony deals with cost

Page 20

1 recovery and actually just some of the cost elements
2 in the programs. So, and I support the testimony of
3 Witness Sawmiller.

4 Q. Didn't answer my question. I don't want
5 to be surprised later if you are offering opinions in
6 this case with regard to the desirability of any of
7 these programs.

8 If you're not, no problem, tell me you're
9 not and then another witness will. But if you have
10 opinions about that, I'd like to know them.

11 MR. IDZKOWSKI: You mean the desirability
12 of the programs specifically as filed or just the
13 types of programs?

14 MR. FARUKI: Either one. I'm just not
15 sure what his opinions are. Given his background I'd
16 like to know what the boundary of his testimony is in
17 this case versus some other witness. Maybe
18 Mr. Sawmiller or maybe somebody else.

19 Q. You understand what I'm asking?

20 A. Yes. And based on the clarification of
21 my attorney, I would say the more general, is more
22 general answer.

23 Q. You have to give me your more general,
24 not his. So go ahead.

25 A. Can you read back what my -- that was on

Page 23

1 base any of its actions on speculation or guesswork.
2 Seems to me an unremarkable proposition,
3 but maybe he'll have a different view.

4 MR. IDZKOWSKI: Company should not base
5 its -- if you have an opinion on that, go ahead and
6 answer.

7 A. Is it specific to program design,
8 implementation? Is it the whole kit and caboodle?

9 Q. Any of those. Don't you agree with me
10 that in making decisions about program design or
11 implementation the company ought not to be making its
12 decisions based upon guesswork?

13 A. As a general proposition, yeah, that
14 would seem to be -- make sense. I would add that in
15 fact when I was at Columbia Gas, we took that
16 principle to heart and when we were going to
17 undertake a program, we actually generated data from
18 our trade allies and very specific to our service
19 territory.

20 So, for example, we might as a first
21 approximation use data from other utilities or the
22 databases and bring in consultants. But in the last
23 instance we also would do some internal data of our
24 service territory and find out -- and usually that
25 was some of the best data. Because it was very

Page 21

1 the record, right?

2 Q. Yes, it's all on the record.

3 THE WITNESS: Can you read back what my
4 attorney mentioned?

5 (Record read.)

6 A. Yes, and my answer would be generally on
7 the types of programs. More general.

8 Q. And what is your opinion in that regard?

9 A. As I -- I am in agreement with the
10 comments made specifically in Witness Sawmiller and I
11 think in terms of some of the programs the company is
12 looking to -- in a general sense looking to implement
13 on residential and some of the other classes, as I
14 said, those are programs that have been filed in
15 other places and I think they would make up what I
16 would think would be a portfolio of programs.

17 Q. A portfolio of programs that should
18 enable the targets in the statute to be met?

19 A. I think they would help. They would help
20 the targets to be met. I mean, I'm not making a
21 blanket statement that no other programs should be in
22 or a program should be taken out.

23 I'm just saying those are the types of
24 programs if you were to look around the country of
25 utilities on taking energy efficiency programs, those

Page 24

1 specific to the whole account.

2 Q. You recognized that DP&L has taken each
3 of the steps you just described in developing these
4 programs?

5 A. I wasn't aware that they actually did
6 internal -- I haven't seen information they were
7 undertaking the type of trade ally analytical data
8 development.

9 Q. So you haven't read the depositions in
10 this case that OCC has taken wherein people talked
11 about doing exactly that?

12 A. I have read --

13 MR. IDZKOWSKI: Can you be more specific
14 what depositions you're talking about?

15 Q. Sure. Maria Bupp for one. There's
16 plenty of testimony in this case, Mr. Gonzalez, about
17 DP&L meeting with vendors and HVAC installers and
18 people like that. You've not read any of that?

19 A. My question is meeting is different than
20 going and working with them to collect back data on
21 their client sales, very detailed information.

22 Q. That's been done too.

23 My question again, have you read the
24 depositions in this case? Don't duck my question,
25 you've read them or you haven't.

Page 22

1 are in the mix.

2 Q. On a different topic, you agree that you
3 should not base any of your opinions on speculation
4 or guesswork, right?

5 A. That's probably not a good principle.
6 Yes.

7 Q. And you also agree that DP&L should not
8 base its actions with regard to these programs on
9 speculation or guesswork. You agree with that?

10 MR. IDZKOWSKI: Can you read that
11 question back please?

12 (Record read.)

13 MR. IDZKOWSKI: Is it clear what actions
14 we're talking about, Charlie?

15 MR. FARUKI: Actions with regard to these
16 programs.

17 MR. IDZKOWSKI: In the future, its future
18 actions or its past actions?

19 MR. FARUKI: Either one.

20 MR. IDZKOWSKI: I don't know if he can
21 speculate on what DP&L's future actions are going to
22 be.

23 MR. FARUKI: It's not the question. I'm
24 asking him if he agrees that in conducting itself
25 with regard to these programs, the company should not

Page 25

1 A. I'm not ducking your question.

2 Q. Have you read it?

3 MR. IDZKOWSKI: Read it or read them.

4 Q. Any of the depositions in this case. I'm
5 not sure why this is such a hard question.

6 A. No, I'm just -- I've read the depositions
7 of Mr. Zabors, and again, since my testimony speaks
8 to the cost recovery, I was interested in the
9 depositions of Seger-Lawson and I haven't received
10 that and I was unable to attend or privy to that
11 particular deposition through the phone.

12 Q. So the two depositions you've read are
13 Mr. Zabors and Ms. Seger-Lawson?

14 A. No, I haven't read Ms. Seger-Lawson
15 because that just happened was that last Friday?

16 Q. So it would be Mr. Zabors?

17 A. I think Mr. Zabors was the one I was able
18 to.

19 Q. Any others?

20 A. I did attend briefly the deposition of
21 Ms. Garrison.

22 Q. On a different subject, were you involved
23 in the process that led to Senate Bill 221?

24 A. What do you mean by involvement?

25 Q. Did you have any involvement in that

Page 26

1 process whatsoever?
 2 A. Internally or externally?
 3 Q. Either one.
 4 A. That was a major bill in Ohio. So our
 5 office was very involved in that particular piece of
 6 legislation.
 7 And we support it, as my testimony
 8 states, we support it on a -- Consumers' Counsel had
 9 testimony before the legislative body.
 10 Q. I wasn't asking about OCC though, I was
 11 asking about you. Were you involved personally?
 12 A. I would say I met with legislators, I
 13 presented energy efficiency testimony before the I
 14 believe it was the House Subcommittee on alternative
 15 energy.
 16 Q. Generally speaking, what was the subject
 17 matter of your testimony?
 18 A. My testimony was in support of energy
 19 efficiency. Because prior to that the bills were
 20 concentrating only on alternative energy and I
 21 believe the energy efficiency was the cheapest
 22 resource that we should -- that the state should
 23 pursue.
 24 Q. Did you testify about targets that should
 25 be set?

Page 27

1 A. I don't recall specifically but I know
 2 when energy efficiency was introduced into the Bill I
 3 made recommendations as to what the targets should be
 4 and I think the end result in the Bill was very close
 5 to the recommendations.
 6 Q. That you made?
 7 A. That's correct. Through our office, that
 8 our office made.
 9 Q. When you made -- you have to keep your
 10 voice up, sir.
 11 A. Yes.
 12 Q. When you made these recommendations as to
 13 the target levels, was that in a piece of testimony
 14 or something else written?
 15 A. I think it was -- was that lawyer/client
 16 privilege?
 17 MR. IDZKOWSKI: Could you repeat the
 18 question please?
 19 Q. Not if you made it outside your office.
 20 In other words, when you talked to the legislator did
 21 you do that orally or was that in a piece of
 22 testimony or a filing?
 23 MR. IDZKOWSKI: Before you answer could
 24 you read the question back please, Julie.
 25 (Record read.)

Page 28

1 MR. IDZKOWSKI: You mean submitted to
 2 the --
 3 MR. FARUKI: I don't know. That's why
 4 I'm asking. For some reason he's reluctant to tell
 5 me what it was.
 6 MR. IDZKOWSKI: He's trying to figure out
 7 if they're attorney/client privilege.
 8 MR. FARUKI: If you went over to the
 9 legislator and spoke there, that's not
 10 attorney/client privilege.
 11 MR. IDZKOWSKI: No, but if he sent a memo
 12 to his attorney on an issue, he received some advice,
 13 it should be.
 14 MR. FARUKI: That's not what I asked him.
 15 MR. IDZKOWSKI: I think your question was
 16 very broad. He's already indicated, Charlie, that
 17 he's trying to answer your question but he's trying
 18 to figure out if it's attorney/client.
 19 MR. FARUKI: What he said was he went
 20 over to the legislature and testified and the
 21 ultimate targets that were adopted were close to what
 22 he recommended.
 23 And what I'm trying to figure out is what
 24 pieces of paper or electronic communication between
 25 him the General Assembly, legislative aids, other

Page 29

1 people, may exist.
 2 I'm not asking about attorney/client
 3 privilege, I'm asking what his relationship with the
 4 legislature was. There's no privilege issue here.
 5 BY MR. FARUKI:
 6 Q. You understand my question?
 7 MR. IDZKOWSKI: I think he can answer
 8 that question.
 9 Do you understand that question, Wilson?
 10 A. Yeah, I'm just trying to -- the whole
 11 process was you would go down to the legislature, I
 12 gave my presentation, first of all, and that was more
 13 general supportive of energy efficiency.
 14 At that particular point we weren't even
 15 talking targets, we were talking we wanted in the
 16 Bill.
 17 So while I'm not certain, I don't recall
 18 particularly, I'm not sure whether a recommendation
 19 on a target was made on my official presentation.
 20 However, in subsequent sessions,
 21 especially on the House side, which is where energy
 22 efficiency was really -- I would say the benchmarks
 23 were introduced as opposed to the original Senate
 24 Bill, we had discussions and back and forth with the
 25 different legislative chairmen as well as the

Page 30

1 utilities there.
 2 Q. Did you give them pieces of paper?
 3 A. I know we talked things orally. My
 4 impression is at the end of the day we probably made
 5 a recommendation as to actual benchmark targets.
 6 And if I recall, we basically
 7 recommended -- we basically recommended what Governor
 8 Strickland has just signed onto in the midwest
 9 governors, they had positive 22 percent, I believe
 10 like 2025.
 11 The only difference between their
 12 recommendations and what happened in our building is
 13 they weren't going to ramp up, they were just going
 14 to come on in later years.
 15 And we felt that ramping up starting at a
 16 small -- at a lower rate, .3 and .5 and ramping up
 17 made a lot more sense to get to these goals, because
 18 otherwise if you're trying to get 1 percent of load
 19 in one year, that's not going to work.
 20 Q. Right.
 21 A. So that was the nature of the discussion.
 22 We brought in what the governors had signed onto and
 23 we tried to rationalize it on the lower end to give
 24 the utilities a chance to ramp up their programs, get
 25 the knowledge developed, the construction and all the

Page 31

1 things that go into.
 2 Q. To use your term, was the ramping up
 3 level, if I can use that term?
 4 A. Right.
 5 Q. Was that idea or were the numbers in the
 6 ramping up level the ones that you suggested?
 7 A. I think those were the ones that our
 8 office suggested. I think technically -- we worked
 9 with consultants in the past so we had an idea of
 10 what type of numbers we were -- had been successful
 11 in other areas and just based on my experience and,
 12 like I said, we wanted to work, we have to -- the
 13 history of the DSM programs is that you ramp up.
 14 Q. Were there types of programs that you had
 15 in mind when you were suggesting this ramping up that
 16 would enable a utility to meet those numbers?
 17 A. I think, generally speaking, it's a
 18 portfolio of programs that have been undertaken in
 19 other jurisdiction.
 20 When I was in Connecticut and we worked
 21 very closely with United Illuminating Utilities, they
 22 had a slate of residential programs, commercial
 23 programs, and industrial programs.
 24 Q. Help me out here, can you be more
 25 specific as to the type of programs for residential

Page 32

1 customers, since that's who your office represents,
2 that you had in mind that would meet these ramped up
3 numbers?

4 A. I think there's a number of market
5 segments within residential that you want to target.
6 So obviously there's the retrofit market, which is
7 existing homes.

8 That's really 40 percent of all energies
9 used in homes. It's a very important market segment
10 and it's one of the largest market segments.

11 So I would think some type of retrofit
12 home performance type program that they go in and
13 undertaking a diagnostic audit and provide incentives
14 and make recommendations.

15 Q. What other segments?

16 A. I would say there's also the replacement
17 market segment where people -- either a piece of
18 appliance or equipment fails.

19 So in that particular point you want to
20 have your trade allies and be able to inform
21 customers that instead of buying the traditional
22 appliance, they can buy a more efficient appliance
23 and you would want to target that market.

24 There's usually some targeting of new
25 construction. You want to build a house first -- you

Page 35

1 service territory occupies.

2 Is it a market that has had a lot of
3 influence or a lot of energy efficiency programs in
4 the past? Is it a market that has been dormant for a
5 while and the infrastructure is not there to develop
6 these programs? Perhaps that's something you have to
7 do before any of these programs take off.

8 Q. Are the types of programs that DP&L is
9 suggesting here ones that would address each of your
10 four market segments; again retrofit, replace, new
11 construction, and low-income?

12 A. If I had -- trying to recall again, my
13 testimony was focused on the cost recovery of the
14 company.

15 I'm trying to recall the programs the
16 company indicated but I know, for example, I know
17 that the company wasn't in -- it's filing didn't make
18 a whole house retrofit program, whole performance
19 program available to all residential customers. That
20 was problematic.

21 Q. Anything else you'd identify that was
22 problematic?

23 A. I would go to the testimony of for the
24 most part Dan Sawmiller has identified some design
25 features that we would want to recommend an

Page 33

1 want to build the house correctly the first time
2 because it's more costly to go into the house later.
3 So you want to make sure that the installation is put
4 in right.

5 So, I mean, you would treat that --
6 there's the low-income population that you also --
7 it's a very important population. Perhaps fixed
8 income is other communities that have been targeted.

9 Q. So far we have retrofit, replacement, new
10 construction, and low-income as market segments. Any
11 others?

12 A. I would say those would be the major
13 segments that produce -- you know, that consume --
14 where customers reduce their bills.

15 Q. Do you have a list of the types of
16 programs that you believe for any of these -- any or
17 all of these segments would meet the targets that
18 you're talking about?

19 A. Do I have any -- I would have the types
20 of programs that I've talked about would go into the
21 mix, would go into a portfolio of programs. It may
22 be the -- we talked about appliance programs, also it
23 could be lighting. Lighting is a program that's also
24 the lighting end use. Sometimes you target an end
25 use.

Page 36

1 alternative course of action.

2 Q. Let me ask you some questions about your
3 prefired -- one more question.

4 Is it accurate that you do not express an
5 opinion in this case as to whether or not you think
6 the programs that DP&L has proposed would meet the
7 targets?

8 A. I express no opinion on that very narrow
9 question.

10 Q. And you have your testimony handy?

11 A. Yes, I do. Can I -- oh, you know, the
12 burden of proof is on the company and the company is
13 the one that has to meet the mandates and the
14 requirements.

15 Q. I'm asking if have you an opinion on
16 that. And I take it you do not.

17 A. What I said was I don't -- I didn't focus
18 on that because I know it's incumbent on the company
19 to meet those targets.

20 So that's a very strong motivation that
21 the company has, so I looked places where the company
22 may have motivations in other areas. So that's why I
23 concentrated on cost recovery in this particular
24 case.

25 Q. But again, my question is, is it accurate

Page 34

1 Q. Maybe my question wasn't clear.

2 A. Okay.

3 Q. I understand these market segments you
4 gave me. Now I'm asking are you able to list for me
5 the types of programs that you believe would meet the
6 targets that you're talking about for any of these
7 categories?

8 A. There are a number of programs that could
9 be used to meet the targets. I mean, there's quite a
10 number of programs that can be conceived, designed,
11 and implemented.

12 Q. And my question is can you list them for
13 me?

14 A. I could list them generally, the types of
15 programs. I would develop programs that target those
16 end uses.

17 So I mentioned -- already mentioned home
18 performance, dealing with the retrofit market,
19 dealing with the replacement market. You might have
20 a rebate program, you may have some type of program
21 to deal with lighting. Could be rebate, could be buy
22 down, could be coupon based. Could be a brochure.

23 There's many ways to -- you know, you
24 have to know the specifics of your service territory
25 and you have to know what stage of the market your

Page 37

1 that you are not expressing an opinion in this case
2 on whether the programs that DP&L has proposed will
3 enable the company to meet the targets?

4 MR. IDZKOWSKI: I'm going to object as
5 asked and answered. I think he's given an answer to
6 this question, Charlie.

7 Q. Are you expressing that opinion or not?
8 If you don't have one on that subject in this case,
9 that's fine.

10 A. You asked me that question already and I
11 answered it.

12 Q. You have to answer it again.

13 MR. IDZKOWSKI: Is this question
14 different than the one he just answered?

15 MR. FARUKI: No, I'm trying to get --

16 MR. IDZKOWSKI: Is this the same
17 question?

18 MR. FARUKI: I'm trying to get a straight
19 answer as to whether he's offering an opinion or
20 whether the qualification he added is disguising some
21 opinion he has.

22 MR. IDZKOWSKI: Well, I think he said in
23 response to your narrow question he gave an opinion.
24 Or gave an answer.

25 MR. FARUKI: He didn't give an opinion.

Page 38

1 MR. IDZKOWSKI: Right. I don't know that
2 he's --
3 THE WITNESS: We can read back the
4 original question.
5 MR. IDZKOWSKI: Can you read back the
6 question.
7 (Record read.)
8 BY MR. FARUKI:
9 Q. See, that response I didn't focus on --
10 that is not a answer to my question.
11 A. Yeah, but I had answered the question
12 before, that's what I'm saying.
13 Q. And again, I want my record to be clear.
14 Is it accurate that you are not offering
15 an opinion in this case as to whether the programs
16 that DP&L has proposed will meet the targets?
17 A. I'll answer the same way, that for that
18 narrow perspective, for that narrow bounds of that
19 question, yes.
20 Q. Okay. Your testimony --
21 A. Yes.
22 Q. If you can turn to page 2, line 18.
23 On line 18 you speak about conducting
24 numerous cost benefit analyses while you were at AEP,
25 do you see that?

Page 39

1 A. Yes, I do.
2 Q. And you agree with me that a cost benefit
3 analysis is a standard analytical tool?
4 A. It is an analytical tool that's used.
5 Q. Widely used?
6 A. I would say it probably is widely used.
7 Q. On page 3, line 6, you refer in that
8 bullet on line 6 to testimony of yours before the
9 Ohio House Alternative Energy Committee in support of
10 energy efficiency. When would that have been?
11 A. It would have been last year I think. I
12 want to say while there was discussions on the Senate
13 end of 221 and the House was -- in parallel was
14 having discussions. So it had to be early 2008.
15 Q. So this was 221 related.
16 A. Correct.
17 Q. And so was the one that begins on line 8.
18 A. Yes. Well -- yes, yes.
19 Q. Was this written testimony or oral
20 testimony?
21 A. It was --
22 Q. Or both.
23 A. It was both. I gave it orally, it was a
24 PowerPoint presentation.
25 Q. And was that true with both the bullet

Page 40

1 that begins on line 6 and the one that begins on line
2 8?
3 A. No. The line 8 is more assisted whereas
4 the first -- line 6 specifically mentions and I went
5 before the body and testified.
6 MR. FARUKI: Mike, I'll send you an
7 e-mail but I'm going to make a request for the
8 testimony there or the PowerPoint presentation, if
9 that's what it was.
10 MR. IDZKOWSKI: Okay.
11 Q. Let me ask that question, was that
12 prefiled testimony that you had for the House? Or
13 was it a PowerPoint without a piece of prefiled
14 testimony?
15 A. I believe there was a document that said
16 "Testimony of."
17 Q. Was that separate from the PowerPoint?
18 A. I don't recall whether the PowerPoint was
19 included within that testimony or whether it just
20 made reference. I'm not sure. I don't recall.
21 Q. That's fine.
22 MR. FARUKI: Mike, I'll ask for both of
23 those if indeed they're separate. I understand they
24 might not be.
25 MR. IDZKOWSKI: Okay. If they exist

Page 41

1 even.
2 Q. Page 4 --
3 A. Let me make a note of that.
4 MR. IDZKOWSKI: You said you would e-mail
5 us that request?
6 MR. FARUKI: Yeah. It will be easier.
7 MR. IDZKOWSKI: Certainly would be.
8 We'll make notes but we'd like -- we'll be glad to
9 cooperate with that.
10 Q. You're on page 4?
11 A. Yes.
12 Q. Let me ask some questions about the
13 renewable energy. Renewable energy questions at the
14 bottom of page 4.
15 A. Yes.
16 Q. First of all, can you tell me what an REC
17 is, R-E-C?
18 A. Yes, REC is usually a renewable energy
19 certificate. And sometimes people say renewable
20 energy credit. But it's usually used -- both titles
21 are used interchangeably. And it's basically a test
22 to the attributes, the non-energy attributes of
23 renewable energy.
24 Q. It's a certificate that can be bought and
25 sold and traded in the marketplace, right?

Page 42

1 A. That's correct. Both voluntary and
2 mandatory markets renewable energy credits.
3 Q. And you agree that a REC generates the
4 renewable attributes of the generation --
5 A. Generally speaking, yes.
6 Q. Are these RECs in certain denominations
7 typically?
8 A. Yes. One megawatt hour.
9 Q. You suggest in line 17 and 18 that "DP&L
10 develop a standard renewable energy credit purchase
11 contract."
12 Tell me what your thought is there.
13 A. My thought is that I understand the DP&L
14 has gone out with the RFPs and so on. My concern and
15 concern of our office is we represent residential
16 customers, we're afraid that residential customers
17 are going to be shut out or it is a possibility they
18 could be shut out of participating in helping the
19 utility meet its renewable energy goals.
20 And we think both from -- obviously we
21 represent the residential class, we've always
22 supported net metering, and to the extent that we
23 want to support the job employment impacts of
24 renewable.
25 So my recommendation is in light of if

Page 43

1 this type of program is not developed, there's a
2 possibility that residential customers will not be
3 part of the renewable energy mandate.
4 Q. So to have them be part of the renewable
5 energy mandate, you're suggesting a standard purchase
6 contract for customer-sited renewable energy.
7 A. Yes.
8 Q. And the customer-sited renewable energy
9 you refer to in line 18 is residential customer-sited
10 I take it, right?
11 A. No, I -- actually I was looking a little
12 broader because I'm looking at the small customer
13 market, so it actually would entail residential and
14 small commercial.
15 Q. Okay, so when you say "customer-sited,"
16 you're talking about residential and small
17 commercial.
18 A. Yes. And I believe there might be a
19 target area, maybe less than a hundred kilowatts or
20 something. I think I might have been specific as to
21 the size of the application. Those are the markets
22 that I think are in danger of being not
23 participating.
24 Q. If a customer, if a residential customer
25 has a small facility, it would be at most how much, a

Page 44

1 kilowatt?
 2 A. No. No, I would say residential
 3 application could be anywhere from 3 to 4.5 kW. 4.5
 4 being --
 5 Q. What is the basis for that statement?
 6 A. Based on the information we've had
 7 discussions with the Ohio Department of Development
 8 and they've had programs in the past that have
 9 offered incentives to residential customers.
 10 Q. Do you know --
 11 A. Site visits. I've actually been on site
 12 visits, Energy Ohio monthly meetings, and we visited
 13 a number of alternative energy facilities,
 14 residential and commercial.
 15 Q. Sorry, you paused and I didn't mean to
 16 cut you off. Sometimes you pause and I think you're
 17 done and I start to ask another question.
 18 Do you know how many DP&L customers have
 19 customer-sited renewable energy?
 20 A. I don't know the exact number. I know
 21 I've been part of the solar tour. There's a solar
 22 tour in every area in Ohio. And Ohio is one of
 23 the -- I've only been to the tours in Central Ohio.
 24 I recall during the 2005 Energy Policy
 25 Act there was one of the areas that was net metering

Page 47

1 could then parcel it out.
 2 So it would just be I put out my system 3
 3 megawatt hours a year and the company remunerates me
 4 for those 3 megawatt hours and the company has
 5 ownership of those 3 megawatt hours of RECs.
 6 Q. And it's your belief then that a single
 7 customer, residential customer could get 3 megawatt
 8 hours in a year?
 9 A. They could, yes, given the siting in Ohio
 10 and depending on the size of their installation and
 11 whether it obviously, if it's wind turbine
 12 versus...
 13 Q. Such a program would have an
 14 administrative cost, wouldn't it?
 15 A. Yes, it would.
 16 Q. And for the program to be worthwhile it
 17 would have to be worth the administrative cost of
 18 running a customer-sited program, wouldn't it?
 19 A. I believe that if the administration of
 20 the program, the program design details would have to
 21 be such so that to try to minimize some of the
 22 administrative burden, yes.
 23 Q. What's the lower limit of this? In other
 24 words let's me ask it this way, are you suggesting
 25 that OCC would recommend that DP&L would have what

Page 45

1 and interim connection was on the items and I recall
 2 that presentations were made by all four vendors'
 3 utilities on solar applications in their territory.
 4 And I would say based on their
 5 application there was a whole city of renewable
 6 energy in most of the utilities, and I think Dayton
 7 was also one.
 8 Q. You said a minute ago you support
 9 renewable -- you support net metering. You're aware
 10 that DP&L has a net metering tariff?
 11 A. Yes, I am.
 12 Q. And are you aware that DP&L provides net
 13 metering service to customers through small renewable
 14 generation projects?
 15 A. Yes, I'm aware of that.
 16 Q. Do you know what the market value is of a
 17 non-solar REC in Ohio?
 18 MR. IDZKOWSKI: Are you saying at the
 19 moment?
 20 Q. Yes.
 21 A. Off the top of my head I don't recall. I
 22 know that there would be a difference when you talk
 23 about RECs between a REC that's determined in the
 24 voluntary market, which is about one-third of total
 25 RECs traded, and a REC traded in the mandatory

Page 48

1 you call a customer-sited renewable energy program
 2 and undertake the administrative costs for it even if
 3 the program did not produce a single \$25 valued REC?
 4 A. You're talking about the value of a REC
 5 now.
 6 Q. Yes, sir.
 7 A. And my earlier discussion the numbers I
 8 gave you were for voluntary market type REC, which is
 9 the -- I'm sorry, voluntary market, I think that's
 10 what I wanted to say.
 11 On a mandatory market the prices are much
 12 higher. So it may not be \$25, it may be \$250 or it
 13 may be some portion of whatever the -- I think when
 14 221 was developed, the legislation, they have an
 15 alternate compliance payment that starts at \$450 and
 16 ramps down \$50 every two years.
 17 I think that was with the knowledge that
 18 the solar carve out REC in a mandatory market is
 19 usually going to affect a higher price.
 20 MR. FARUKI: Read my question back.
 21 (Record read.)
 22 A. See, I would disagree with the
 23 \$25 premise. In my response to your question I
 24 disagree with \$25.
 25 Q. I'll ask you to accept it and answer my

Page 46

1 market.
 2 Q. Do you know the dollar value of either?
 3 A. I'm trying to see if...
 4 I would --
 5 Q. I don't want you to guess.
 6 A. You know what, I'm trying to recall is
 7 the last -- when I was really involved in this was
 8 when we developed the three green pricing programs.
 9 So we were very aware of what the bids
 10 were for the RFPs that AEP put out for the green
 11 pricing program and the RFPs that were put out in the
 12 First Energy and with the Duke program which we
 13 helped develop.
 14 But in the voluntary market with those
 15 programs is a very small -- I would say it's less
 16 than 10,000 megawatt.
 17 Q. So if using that figure, if it was \$10 a
 18 REC or even \$25 for a REC, are you suggesting that --
 19 are you suggesting that a bunch of customers with
 20 small facilities be aggregated to get a 10 or \$25 REC
 21 credit?
 22 A. It could be aggregation is one point but
 23 I believe a system the size that I'm talking about,
 24 if you could get -- you would get perhaps 3 megawatt
 25 hours a year on a residential unit. I think you

Page 49

1 question. I'd ask you to assume \$25 for a REC.
 2 You would agree with me that at that
 3 level the program would not be economical, right?
 4 A. I would have to look at the -- it may be
 5 less economical, I would have to look at the
 6 administrative costs because there are ways that you
 7 could design a program to minimize the administrative
 8 costs to the extent that the administrative cost was
 9 manageable.
 10 I think I couldn't make a determination
 11 based on that hypothetical without having more
 12 information.
 13 Q. Take a look at page 5. On line 5 you
 14 have an answer that states that "DP&L is proposing to
 15 spend \$118.9 million over seven years upon strictly
 16 DSM programs."
 17 Do you see that?
 18 A. Yes, I do.
 19 Q. Are you expressing any opinion about the
 20 adequacy of that dollar amount?
 21 A. No, I'm not.
 22 Q. If you go down to line 15, you have a
 23 statement "I believe that DP&L should be allowed full
 24 recovery for prudently incurred DSM costs..."
 25 A. That's correct.

Page 50

1 Q. That's one of your opinions in this case?
 2 A. Yes, it is.
 3 Q. The end of that answer on line 17 to 20
 4 refers to Witness Sawmiller, and marketing and
 5 administration costs.
 6 A. That's correct.
 7 Q. Is it he or you who is sponsoring
 8 testimony about marketing and administration costs in
 9 this case?
 10 In other words, do I need to cover that
 11 subject with you or is that properly for him?
 12 MR. IDZKOWSKI: If I could just interject
 13 a question, Charlie. I think Wilson's testimony is
 14 filed and speaks for itself as to what his opinions
 15 are.
 16 Now, at some point in this hearing your
 17 questions have been I think trying to determine if
 18 he's going to have any other opinions, and I mean, if
 19 he's asked a hypothetical question in the hearing on
 20 cross or redirect, we can't anticipate what those
 21 questions are at this time.
 22 MR. FARUKI: Well, I understand, but when
 23 somebody sort of gratuitously throws into their
 24 testimony a summary of somebody else's testimony, I
 25 don't know whether I'm then dealing with one witness

Page 51

1 or two.
 2 I'm perfectly content to only examine
 3 Mr. Sawmiller about this subject, but as you can see
 4 on lines 16 through 20, he repeats Sawmiller's
 5 opinions. So do I need to cross him too?
 6 MR. IDZKOWSKI: If he repeats them, I
 7 would think you would.
 8 BY MR. FARUKI:
 9 Q. Okay, in view of that, tell me what you
 10 did to analyze the subject of marketing and
 11 administration costs for testimony in this case.
 12 A. Oh, I reviewed the -- when I was going
 13 through the programs I did notice that what I
 14 believed was higher than expected administrative
 15 costs for this section of the country.
 16 Q. And did you -- what do you mean "this
 17 section of the country"?
 18 A. Well, many of the -- some of the
 19 information that bandies about in the utility are
 20 from the utilities that have been most active in
 21 energy efficiency in one of the regions of the
 22 country.
 23 By and large most the regions of the
 24 country that have undertaken energy efficiency is the
 25 regions of the country that have high electricity

Page 52

1 cost, high cost of living, and higher costs.
 2 So everything else being equal, I would
 3 think there would be an upward bias on those types
 4 of -- that's all I'm saying.
 5 Q. When you talk about your 25 percent in
 6 line 19, sir, let me ask this, should state mandated
 7 reporting costs be in addition to that 25 percent?
 8 A. That's part of administrative program is
 9 meeting whatever reporting requirements, I would say
 10 yes.
 11 Q. And how about the costs of a
 12 collaborative, do you consider that to be an addition
 13 to the 25 percent also?
 14 A. I would say yes. It's part of
 15 administering the program.
 16 Q. Have you tried to analyze the components
 17 of the administrative costs for DP&L's programs?
 18 A. As I mentioned earlier, I've looked at
 19 the programs. I agreed with Sawmiller's independent
 20 study that it was -- they seemed -- appeared
 21 excessive based on my experience with the Duke
 22 collaborative which were very -- I was very much
 23 involved with in terms of in the Columbia
 24 collaborative, which I was also very involved in.
 25 And both those collaboratives that are

Page 53

1 running similar type programs have by and large been
 2 able to administer the programs, market the programs,
 3 and deliver the programs, plus deliver the monitoring
 4 and evaluation of the programs within the guidelines
 5 that I'm recommending.
 6 Q. One of the comparisons you're making with
 7 regard to marketing and administration costs is with
 8 Columbia Gas; is that right?
 9 A. One is with Columbia Gas, and the other
 10 is with I would say Duke, which is the two I have the
 11 most familiarity with.
 12 Q. Do you know whether utilities have
 13 different approaches to classifying the cost
 14 components of marketing and administration costs?
 15 A. There may be some differences but for the
 16 most part the way I'm using it and the way I'm trying
 17 to get a levelized picture all in I would classify it
 18 as administration, marketing, education, and
 19 monitoring evaluation, those components. Just to
 20 make it an apples-to-apples comparison.
 21 Q. Tell me those components again.
 22 A. The administrative cost, marketing of the
 23 programs, education/marketing, sometimes they go
 24 together, and monitoring and verification of the
 25 programs. That's what I'm including in my

Page 54

1 definition.
 2 Q. And do you know whether utilities report
 3 their marketing and administration costs, do all of
 4 them include those elements within marketing and
 5 administration costs?
 6 A. Yes, those are -- we set up the programs
 7 when we look at that budget item in the collaborative
 8 process.
 9 Q. That's not my question.
 10 A. Go ahead.
 11 Q. I'm asking you when you are taking
 12 figures reported by other utilities, is it within
 13 your knowledge as to what components of cost are
 14 included in marketing and administration costs for
 15 any specific utility?
 16 A. I believe that the way we design the
 17 programs through a collaborative process, we define
 18 what those categories were upfront, and upon review
 19 or when the programs are audited, those are the
 20 categories we would look at in that cost category.
 21 Q. So in other words, you're not aware that
 22 the -- that Columbia Gas' methodology for breaking
 23 down program costs is different from the methodology
 24 used for program costs by electric utilities?
 25 MR. IDZKOWSKI: Can you read that

Page 55

1 question back?
 2 (Record read.)
 3 THE WITNESS: Can you just read the first
 4 part of that question.
 5 (Record read.)
 6 A. Well, I am aware of the differences
 7 between the Columbia categorization in that respect
 8 to Duke. Duke explicitly includes monitoring and
 9 evaluation as part of the 25 percent.
 10 The Columbia Gas counts that as a
 11 separate item. But when you look at Columbia Gas'
 12 costs for monitoring evaluation, I believe it's
 13 3 percent of budget, then it still falls below the
 14 25 percent recommendation.
 15 Q. So you're saying Columbia Gas does not
 16 include in the program cost evaluation and Duke does?
 17 A. Correct. But the main point is when you
 18 add the evaluation to Columbia's total, it's still
 19 below the 25 percent.
 20 Q. You agree with me that programs should be
 21 evaluated based on a cost/benefit analysis?
 22 A. That's one of the evaluations, yes.
 23 Q. You also agree with me that some programs
 24 are more labor intensive, such as appliance recycling
 25 or weatherization, than other programs, right?

Page 56

Page 59

1 A. Generally speaking, different programs
2 will have different intensities. I don't agree with
3 your characterization of the recycling program.
4 From the company's perspective there are
5 a number of recycling third parties that make that a
6 business and administratively with the company all
7 you have to do is enter into a contract with them and
8 they do all the...
9 Q. Are there some programs that are more
10 labor intensive than others?
11 A. I would think the more economics the
12 program is perhaps they were more labor intensive.
13 Q. If it takes more administration cost to
14 make energy efficiency happen, do you agree that the
15 program should nevertheless be pursued?
16 A. Yeah, if it takes -- I'm not -- all I'm
17 saying is if there's a program -- we'll get right to
18 the issue.
19 If there's a program that exceeds our
20 recommendations of 25 percent and the program has
21 merit, we would -- that's something that I think the
22 collaborative would consider on its merits and make a
23 determination.
24 This is -- it's a cap subject to
25 reasonable collaborative review. And it's a cap that

1 With regard to energy efficiency and DSM
2 programs, is it accurate that a utility can provide
3 incentives but in order for the targets to be met
4 some changes in customer behavior are going to be
5 required?
6 A. I would say in the early years where
7 you're ramping up in the requirements I would say
8 very manageable, I would think that an incentive,
9 i.e., customer behavior reacting to an incentive, a
10 good deal, I think you could probably get away with
11 that in the early years.
12 I think down the road when benchmarks
13 become more -- larger and more rigorous, I think you
14 always want to contemplate working with customer
15 behavior in educating them and -- yes.
16 Q. Saying that a little bit differently, the
17 meeting the targets that are in the Bill or in the
18 legislation requires actions both by the utility and
19 by the customers, right?
20 A. I would say the utility's the prime mover
21 and the customer, we would hope we would get customer
22 reaction that would help the utility meet their
23 requirements, yes.
24 Q. Well, it's more than hope on behalf of
25 the customers. In order for the targets to be met,

Page 57

Page 60

1 we've used successfully. In fact, it was part of the
2 Columbia program model.
3 MR. FARUKI: Read me the first part of
4 his answer.
5 (Record read.)
6 Q. So just for clarity of my records, is the
7 answer to that question yes with the explanation you
8 gave?
9 A. Your original question when you -- you
10 didn't qualify, you just said "or more." In my
11 answer I qualified what I felt was excessive. So in
12 that regards, my answer -- I would stick with my
13 answer.
14 Q. Well, you're telling me that you think
15 that programs that have an administrative cost that
16 are more than your proposed 25 percent cap would
17 nevertheless be pursued if the administrative cost
18 seems reasonable.
19 Is that what you're saying?
20 A. I'm saying based upon review, a
21 collaborative review, there's merit or there's some
22 consideration for the program, then a determination
23 would be made.
24 And in fact, I would say that my concern
25 was a number of the programs, and this is a concern

1 the utility has to take some actions, I agree with
2 you there.
3 A. Yes.
4 Q. But customers also need to take some
5 actions, right?
6 A. Customers will take action based on their
7 response to the utility offering. I think the
8 customers -- right now customers are taking action
9 now as we speak.
10 The question is is that because of the
11 market barriers we talked about earlier, those
12 actions are not going to meet -- may not necessarily
13 meet the requirements and that's why based on our
14 discussion earlier the mandates were included in the
15 legislation and the utility -- was the ability that
16 the legislators thought place the requirement on so
17 that they can move that particular market.
18 Q. I think you're making my question too
19 hard.
20 All I'm meaning to ask is isn't it true
21 that for the targets to be met, the utility has to
22 take actions and the customer has to take actions
23 too?
24 A. Yes.
25 Q. And part of the actions that the utility

Page 58

Page 61

1 that I raised also with American Electric Power, that
2 if it's one program in isolation or -- then we'll
3 look at it. But if a program has very high admin
4 costs, it then raises a flag.
5 Q. I understand that, but I'm still trying
6 to figure out if I can get a yes to this question.
7 Let me ask it in a negative way.
8 Is it your testimony that no program
9 should be considered if its administrative costs were
10 over 25 percent?
11 A. And my answer, to be consistent with my
12 earlier answer, which I still adhere to, is that if
13 in a collaborative process we review a program that
14 has administrative cost that are higher than
15 25 percent, and as a group we, based on the merits of
16 the program, we decide that that's an acceptable
17 administrative cost, then we would -- there would be
18 grounds to approve it.
19 Q. Okay, thank you.
20 Off the record.
21 (Off the record.)
22 Q. Back on the record.
23 Couple of questions, sir, that don't
24 relate to a particular page of your testimony and
25 then we'll go back to the testimony.

1 has to take are customer education and outreach?
2 A. I would say the utility has to conduct
3 customer education and outreach but I would qualify
4 it as specific to a particular program or particular
5 market segment they're trying address as opposed to
6 just ubiquitous general energy efficiency.
7 Q. That's fine. So what you're saying is
8 the utility has to have education and outreach
9 efforts that are geared toward the specific programs
10 that it's offering.
11 A. Correct.
12 Q. Let me go to the next section of your
13 testimony, which is page 6, sir. With regard to
14 recovery of lost revenues. Do you have that in front
15 of you?
16 A. Yes, I do.
17 Q. Would you agree with me that if a
18 residential customer using 750-kilowatt hours per
19 month implements energy efficiency measures and as a
20 result of those that customer saves say a hundred
21 kilowatt hours per month, that DP&L would lose
22 revenue associated with the hundred kilowatt hour
23 savings?
24 A. Are you saying overall or just in that
25 particular instance?

Page 62

1 Q. For that customer.
 2 A. The answer differs. For that
 3 particular -- if that customer reduced their usage by
 4 a hundred kilowatt hours?
 5 Q. Yes, sir.
 6 A. That's a hundred kilowatt hours from that
 7 customer that the utility would not see. However,
 8 another customer may increase their use by a hundred.
 9 So in that -- it's not clear what the net result
 10 would be.
 11 Q. I understand, but when programs succeed
 12 in causing energy savings, the result or outcome of
 13 each of those instances is that the utility would
 14 lose revenue associated with whatever the amount of
 15 energy is saved; is that right?
 16 A. Again, generally speaking, if you have
 17 that successful efficiency program, you would expect
 18 that kilowatt hours are reduced in usage.
 19 Q. Yes, sir, okay.
 20 Take a look at line 1 I think it begins
 21 actually around line 7.
 22 A. Yes.
 23 Q. Tell you what, go down to line 12 where
 24 you say "DP&L is free to sell in the wholesale
 25 market," do you see that passage?

Page 63

1 A. Yes.
 2 Q. You recognize that there's a difference
 3 between the rate that a utility can sell generation
 4 into the wholesale market and the rate that applies
 5 to retail generation?
 6 A. Yes.
 7 Q. Do you agree that in most hours the
 8 retail prices are higher than wholesale prices?
 9 A. In most hours, so off-peak hours, then
 10 during normal days, probably, yes.
 11 Q. Replacement of retail revenues with
 12 wholesale revenues would act as a disincentive for
 13 utility to offer energy efficiency programs.
 14 Wouldn't you agree?
 15 A. Replacing -- well, the assumption is that
 16 the wholesale revenues -- the market period appears
 17 that the wholesale revenues are lower than the retail
 18 revenues during most hours, as you said.
 19 Q. Not sure if you're done with your answer.
 20 A. No, based on that hypothetical, it could
 21 be a disincentive for the utility.
 22 Q. Do you believe that the legislation was
 23 intended to provide incentives for utilities to offer
 24 energy efficiency programs?
 25 MR. IDZKOWSKI: Can you clarify what you

Page 64

1 mean by an "incentive" there? Economic incentive or
 2 just the policy or how do you mean that, Charlie?
 3 Q. Either one. I mean, don't you agree that
 4 the legislation was intended to offer incentives to
 5 utilities to make sure that they would offer energy
 6 efficiency programs?
 7 A. I think the legislation includes both
 8 carrots and sticks. So it says if you don't meet it,
 9 this consequences. But there are parts of the
 10 legislation that offer utilities I would say loosely
 11 incentives for undertaking the programs.
 12 Q. In implementing Senate Bill 221, do you
 13 think it would be more effective to offer incentives
 14 for utilities to implement programs that would lower
 15 the demand for their products or services?
 16 A. Can you rephrase that? I missed
 17 something there.
 18 MR. FARUKI: Why don't you read it back.
 19 (Record read.)
 20 A. I'm having trouble.
 21 Q. Do you understand my question?
 22 A. Yeah, I'm having trouble. Would you
 23 rephrase it or something?
 24 Q. Sure. Do you think that the best way to
 25 implement Senate Bill 221 is to offer incentives to

Page 65

1 utilities to conduct programs that would reduce
 2 demand for electric service?
 3 A. Like I said earlier, I believe that the
 4 Senate Bill has both carrots and sticks. So you're
 5 talking about in your question you're specifying the
 6 carrot part of the legislation.
 7 And my response too is that when you're
 8 offering incentives, you have to take into account
 9 the customer perspective and in my case the
 10 residential customer perspective, so incentive given
 11 to utilities are not at the cost or on the backs of
 12 residential customers.
 13 Q. Take a look at lines 15 through 18, the
 14 sentence begins "To the extent that."
 15 A. And this is on page?
 16 Q. Is sorry, still on page 6, yes, sir.
 17 Line 15.
 18 A. Yes.
 19 Q. You understand that DP&L has said it will
 20 abide by the PUCO rules?
 21 A. It has to, yes.
 22 Q. Yes, well, you say in your sentence "To
 23 the extent that the PUCO final rules maintain the
 24 existing language cited above, the DP&L lost revenue
 25 recovery mechanism would be in violation of the Ohio

Page 66

1 Administrative Code."
 2 But you also understand, having read the
 3 filing, that DP&L does not intend to adopt a policy
 4 that's in violation of the code, right?
 5 A. Yeah. I would think it would be
 6 foolhardy to do so.
 7 Q. Your position here boils down to the
 8 point that DP&L should and must abide by the Ohio
 9 Administrative Code containing the PUCO rules; is
 10 that right?
 11 A. On that -- I make a number of arguments
 12 concerning this particular area. You're just
 13 specific to that one sentence?
 14 Q. Yes. Because you're suggesting -- yes,
 15 specific to that one sentence.
 16 A. If the PUCO rules fall out in a way that
 17 I'm saying that I think the draft fell out, then the
 18 utility would have to abide by the final rules.
 19 Q. Okay, page 7, on lines 3 and 4 there is
 20 the phrase "variable operation and maintenance
 21 expenses."
 22 A. That's correct.
 23 Q. Can you tell me what you include in
 24 those?
 25 A. Yes. I would say -- and in fact, I

Page 67

1 recall one of your witnesses, perhaps Merrinan when
 2 she was talking about clients, I believe that there
 3 are a number of costs that vary by unit in a coal
 4 plant. So, for example, in your generation is
 5 99 percent coal, according to your testimony.
 6 So therefore, and you also make a point
 7 in your testimony of Merrinan that the company is
 8 switching from lower sulfur fuel to higher sulfur
 9 fuel and the challenges that that brings in and the
 10 increased variable costs that that brings in.
 11 Because it's very clear in her testimony
 12 where she states that some of these costs are going
 13 up per unit per kilowatt hour for generation use.
 14 So I would say she identifies a number of
 15 them, I don't think it would be exhaustive but a lot
 16 of them are chemicals that are required in running a
 17 plant.
 18 So it could be -- and you know, usual
 19 testimony I've read with other companies in my
 20 experience is there's lime, there's stabilizer,
 21 there's ammonia equipment. Some of these chemicals
 22 are for scrubbers or for other type of environmental
 23 equipment. There could be sodium sulfite.
 24 So there's a number of chemicals that
 25 would increase the more you produce, and secondly,

Page 68

1 there's disposal issues, right? The more you
2 produce, the more fly ash you have, the more gypsum
3 you may have.

4 You consume more water and there's more
5 transportation to take to disposal, to the site, and
6 those transportation costs are increasing, according
7 to Merrinan.

8 So I'm saying it's not just fuel that's
9 being deferred by the energy efficiency program, it's
10 also fuel plus a variable.

11 Q. I understand that's what you're saying.
12 I just want your definition of variable operation and
13 maintenance expenses.

14 A. Well, my definition I gave examples of
15 what it might be. My definition of variable would be
16 it varies -- a cost that varies with the production
17 of energy. As opposed to a fixed cost.

18 Q. On lines 9 through 17, roughly, you talk
19 about the lost revenue calculation of two other Ohio
20 utilities. You see that?

21 A. That's correct.

22 Q. You are aware of PUCO orders that
23 approved terms and conditions for one utility that
24 are different than another, right?

25 A. Are you asking me if the Commission can

Page 69

1 rule differently on one utility versus another one?

2 Q. Yes, sir.

3 A. Well, if the set of facts are different,
4 I would think the PUCO could make a varied decision
5 or come out with an order that would fit the
6 circumstances.

7 Q. Taking a look at lines 11 and 12.

8 A. Yes.

9 Q. Are you suggesting there that because AEP
10 did not seek recovery of lost revenues then DP&L
11 should not?

12 A. I think here the reason I use references
13 for the other utilities is illustrative that my whole
14 contention is that as stated in line 10 is that I
15 believe the lost revenue recovery mechanism in the
16 filing is excessive in terms of that.

17 So I'm using the other Ohio utilities to
18 show how they've had -- they've shown more restraint
19 and have been -- and are more sensitive to the cost
20 implications of lost revenue requirement mechanisms,
21 not just on the utility but also on the customers.

22 Q. You do recognize that the statute
23 4928.143(B)(2)(h) allows for utilities recovery of
24 costs including lost revenue.

25 MR. IDZKOWSKI: Objection. That calls

Page 70

1 for a legal conclusion.

2 Q. Go ahead.

3 MR. IDZKOWSKI: Go ahead, if you
4 understand that --

5 A. Yes.

6 MR. IDZKOWSKI: -- code and section.

7 A. I'm aware the language is permissive in
8 both circumstances and the beginning of that and
9 always -- yes. So I believe it's something that the
10 Commission may consider and when a utility proposes
11 its programs.

12 Q. And the statute was not written to say,
13 for example, including X percent of lost revenue, was
14 it?

15 MR. IDZKOWSKI: Objection. Again, legal
16 conclusion.

17 Go ahead if you know.

18 A. It doesn't say every penny either.

19 Q. The answer to my question?

20 A. Is the legislation just says that
21 Commission may. So the Commission will make that
22 determination based on the circumstances of any
23 utility filing; no more, no less.

24 Q. And the statute does not put a numerical
25 or percentage limit on recovery of lost revenue, does

Page 71

1 it?

2 MR. IDZKOWSKI: Objection. Again, this
3 calls for legal conclusion.

4 Go ahead if you can answer the question.

5 A. I don't think it addresses it any more
6 than that they may consider a utility lost revenue
7 recovery proposal.

8 Q. If a customer implements an energy
9 efficiency measure that results in saving, use our
10 example before, hundred kilowatt hours, and that
11 energy efficiency measure whatever it is lasts a
12 number of years, then the utility is losing the
13 revenue associated with that over however many years
14 that measure lasts; is that right?

15 A. Again, we had a part of this discussion
16 earlier in terms of if you're isolating one customer
17 and one measure versus what's going on with all
18 customers in a total utility service territory.

19 So my impression is that in a way lost
20 revenue has been treated in other jurisdictions is
21 that they look at the whole utility service territory
22 to see what's actually happening to utility earnings.

23 Q. Mr. Gonzalez, you're not answering my
24 question. My question is if an energy efficiency
25 measure saved a certain amount of energy and that

Page 72

1 lasted a certain number of years, doesn't the utility
2 for that customer lose the revenue for the period of
3 years in effect?

4 A. It depends. It's not that easy. Let's
5 take the same hypothetical, your customer, this one
6 customer, hundred kilowatt hours a year. Next year,
7 2009 he installs that as part of the utility program.

8 Utility comes back in two years and files
9 a rate case. Load forecasting incorporates that,
10 then the utility hasn't lost revenue for the life of
11 that measure.

12 Q. You're looking for a way to say no to
13 this question. I'm focused on --

14 A. No, that's a very real --

15 Q. Let me finish my question.

16 A. That's a very real condition to your
17 hypothetical.

18 Q. I'm talking about a single customer who
19 implements a single measure that saves a certain
20 number of kilowatt hours over a period of time, isn't
21 the utility losing the revenue associated with that
22 measure for that period of time?

23 MR. IDZKOWSKI: I'm going to object. I
24 think he's answered your question and your question
25 is somewhat vague as to the period of time we're

Page 73

1 talking about because he just gave an example of
2 where the period of time could include a new rate
3 case and another recalculation of revenues.

4 MR. FARUKI: Let's say ten months.

5 MR. IDZKOWSKI: Okay, to that extent can
6 you answer the question in a ten-month period?

7 A. Again, I would caveat it because, for
8 example, I could make a case where that customer is
9 actually adding kilowatt hours.

10 If it's a case of fuel switching where
11 this was a gas customer for a veteran and because of
12 your incentives this customer says they have a
13 straight fixed variable rate design, maybe I want a
14 more efficient and they're going to rebuild the gas
15 system, I see some costs coming up, maybe I'll take
16 advantage of this rebate, and in that particular case
17 one fuel switch on an appliance is equivalent to six
18 or seven energy efficiency appliances installed in
19 customer homes.

20 So it would depend. It's a very nuance
21 question.

22 Q. Take a look at what you say in lines 12
23 to 14. Are you suggesting there that you would
24 assume the energy efficiency savings go away after
25 three years?

Page 74

1 A. In 12 my question -- 12 to 14 years the
2 way that -- and this is my experience both in New
3 England and in different parts of the country, and if
4 you look at the literature is that when people talk
5 about lost revenue recovery or lost margin recovery,
6 it's for a period of time.
7 It's not for the life of the program and
8 it's not because things change over time. And it's
9 tied to the rest of the utility operating company.
10 I give examples where, for example, the
11 utility is over-earning, it's a rate of return, then
12 I think that's something the Commission would take
13 into account in terms of whether the company is being
14 financially harmed.
15 Q. You've wandered far from my question.
16 If a customer installs a new HVAC system
17 that is more efficient, you would not expect the
18 energy efficiency benefits of that to vanish after
19 three years, would you?
20 A. No. I would hope not. Unless it's --
21 yeah, yeah, go ahead.
22 Q. And if the customer has a new HVAC system
23 and that is a more energy efficient system, the
24 utility would lose the revenues associated with the
25 difference between the energy efficiency of the HVAC

Page 77

1 You agree that over the seven-year period
2 that DP&L is talking about for its customer
3 conservation and energy management program the energy
4 efficiency targets grow, or I think to use your term
5 earlier, ramp up from .3 percent in 2009 to
6 5.2 percent in 2015?
7 A. Yes.
8 Q. And subject to check, would you agree
9 that that represents an increase of about
10 1600 percent?
11 A. Subject to check.
12 Q. Would you agree that that increase of
13 approximately 1600 percent is quite large?
14 A. I would say in this context probably --
15 1600 percent in this context is probably, you could
16 consider it large.
17 Q. When you say on page 7, line 17, that the
18 balances of lost revenue can grow quite large, see
19 that?
20 A. Yes.
21 Q. Is it logical that the lost revenue
22 recovery that results from meeting mandated targets
23 would grow in proportion to the targets?
24 A. Can you read that back?
25 (Record read.)

Page 75

1 system and what the customer had before; is that
2 right?
3 A. For a particular -- we're still talking
4 about the ten months?
5 Q. If you like.
6 A. Yeah, I mean, over a shorter period I
7 think your -- it would be easier to answer that
8 question than over the long period of time.
9 Q. Well, the shorter period what's your
10 answer?
11 A. I would think that over a short period,
12 the ten-month period, there's a possibility that,
13 yes, it could lose revenue from that particular
14 customer.
15 Q. Page 7 you reference on line 17 a study
16 by ACEEE. Do you have a copy of that?
17 A. Yes, I do.
18 MR. FARUKI: I'd make a request for that.
19 Q. What is the ACEEE study?
20 A. It's -- let's see where it's cited.
21 It's on the next page. It's called
22 "Aligning utility interest with energy efficiency
23 objectives: A review of recent efforts at decoupling
24 and performance incentives."
25 Q. What is ACEEE?

Page 78

1 A. There is some logic to that.
2 Q. If you look on page 8, starting about
3 line 9, tell me when you've had a chance to read that
4 to yourself.
5 MR. IDZKOWSKI: 9 to where?
6 MR. FARUKI: 9 to 12.
7 MR. IDZKOWSKI: You mean where it starts
8 "Given the . . ."?
9 MR. FARUKI: Yes, "Given the above
10 reasons. . ."
11 A. Yes.
12 Q. You have a quote there in that sentence
13 where you talk about "The impacts of a loss of
14 revenue due to an energy efficiency program be offset
15 by revenue growth from customer growth or by a
16 reduction in costs."
17 Have you taken a look at or done any
18 analysis of revenue growth in the DP&L system? In
19 other words, from its customer base?
20 A. I don't recall recently. I've reviewed
21 in the past DP&L forecast filing which would have an
22 estimate of growth in the customers and growth in the
23 demand for the electricity and energy increase.
24 Q. Focusing on revenue growth from customer
25 growth, do you know what is expected in DP&L's

Page 76

1 A. It's the American Council on Energy
2 Efficiency Economy or -- Energy Efficiency Economy.
3 Q. What is that group, do you know?
4 A. It's energy efficiency advocacy and
5 research organization I believe.
6 Q. Does it focus on one customer class or
7 several customer classes, do you know?
8 A. No, it -- I'm aware they do studies for
9 all customer classes.
10 Q. Is it a consumer group of some sort?
11 A. No.
12 Q. Industry group, what is it?
13 A. I would say it's an advocacy group for
14 energy efficiency.
15 Q. Do you know its membership?
16 A. I know people in ACEEE. I've been to
17 conferences.
18 Q. I didn't mean if you knew individuals but
19 do you know the composition of its membership
20 generally?
21 A. I would say most of the people I've come
22 in contact with are analytical researchers. Or
23 policy driven.
24 Q. Page 8 I believe, sir. Actually it
25 starts on toward the end of 7.

Page 79

1 service area?
2 A. Are you asking me per customer? What the
3 utility --
4 Q. If you know it some other way, that's
5 fine. I wasn't specifying a unit of measurement, I'm
6 really trying to find out --
7 A. My expectations are --
8 MR. IDZKOWSKI: Are you done with your
9 question?
10 MR. FARUKI: No, but that's okay.
11 MR. IDZKOWSKI: I don't mean to
12 interrupt, I just thought I'd facilitate.
13 MR. FARUKI: Thank you.
14 Q. I'm just trying to figure out if you have
15 made any analysis of whether there is to be revenue
16 growth from customer growth in DP&L's service
17 territory.
18 A. I'm trying to recall. I would believe
19 that usage per customer is probably at least --
20 again, I'm talking about a residential customer, so I
21 would have to qualify it, but I would think with all
22 the new electrical devices I would say that uses per
23 customer would probably be increasing slightly.
24 Q. You say "would probably be." Are you
25 guessing? Because my question is have you done any

14 (Pages 74 to 79)

Page 80

Page 83

1 analysis of that.
 2 A. I'm saying I don't recall -- I don't
 3 recollect the numbers I looked at in specific. I'm
 4 trying to recall.
 5 The company does have a positive growth
 6 in energy requirements, so I don't know if it's --
 7 I'm trying to think if it's in the 1 percent range.
 8 Q. You don't remember?
 9 A. I don't remember. But I would believe it
 10 would be in that type of range.
 11 Q. Do you remember that SB-221 contains a
 12 provision that expressly permits the recovery of
 13 revenue that otherwise may be foregone in connection
 14 with implementation of energy efficiency programs?
 15 A. Are you referring to 4928.66(D)?
 16 Q. Do you know if the Bill allows recovery
 17 of revenue that otherwise may be foregone?
 18 A. And I'm asking you whether you're
 19 referring to that provision of the Bill?
 20 Q. That's one of them.
 21 A. Again, I would say that it has -- there's
 22 language in the Bill that's permissive, says the
 23 Commission may, again, allow utilities to implement a
 24 decoupling mechanism.
 25 My impression that the language in 66(D)

Page 81

1 talks about a decoupling mechanism.
 2 Q. Do you believe that degeneration revenues
 3 are foregone by a utility that implements
 4 conservation measures?
 5 A. If you're in a vertically integrated
 6 company in a state that's regulated, fully regulated,
 7 I would say for the most part the company -- even in
 8 that particular case a company would -- could lose
 9 generation revenues.
 10 But to the extent that you have markets
 11 operating in almost every part of the country where
 12 trade's going to be made, I think even in a regulated
 13 state off system sales and wholesale transactions can
 14 take place. So that's a pretty complicated issue.
 15 Q. Take a look at page 9. As I understand
 16 your testimony on shared savings, you do not have or
 17 you do not make a shared savings proposal; is that
 18 right?
 19 A. I think I do.
 20 Q. What is your shared savings proposal?
 21 A. My shared savings proposal is that the
 22 company should not have a shared savings proposal.
 23 Q. Fine. On page 9, line 11, you refer to a
 24 multi-year collaboratively developed DSM portfolio of
 25 programs.

Page 82

1 A. That's correct.
 2 Q. What do you mean "multi-year
 3 collaboratively developed"? You mean it takes --
 4 A. No.
 5 Q. -- a number of years to develop them?
 6 A. The programs were multi-year programs.
 7 They were just poorly written.
 8 Q. Fine. How long, when you talk about a
 9 collaborative, would you expect it to be lasting in
 10 order to perform its functions with regard to energy
 11 efficiency and DSM programs?
 12 A. Obviously it depends on how efficient the
 13 collaborative is. And I think one premise of your
 14 question I would disagree with is almost like
 15 continuous improvement, I would say the collaborative
 16 would be part an ongoing process that would reinvent
 17 itself looking at programs, looking at future years
 18 and convenience.
 19 So I wouldn't necessarily see an end
 20 date, especially if the collaborative is being very
 21 productive.
 22 But in terms of I think your question, if
 23 I'm correct, you're stating how long would it take
 24 for a collaborative to put together programs that
 25 would -- that the utility may consider in

1 implementing?
 2 Again, it could be a crash program, it
 3 could be -- I've seen a program that's more
 4 deliberate, I've seen programs that have accomplished
 5 that in a court, at least getting something out
 6 there.
 7 And obviously the more -- the programs
 8 that are simpler to run and operate which you could
 9 hand off, I think those might be the first ones that
 10 come off the shoot.
 11 The more complicated programs that need
 12 more judicious consideration or need more
 13 information, so on, you might pull those out, develop
 14 those later.
 15 But in the collaboratives that I've been
 16 part of, and I haven't been -- I wasn't part of the
 17 early history of DP&L, so I have no experience with
 18 that particular collaborative, but the collaboratives
 19 that I've been involved in have been very efficient,
 20 very streamline, have been very focused, and move
 21 forward and provide successful programs
 22 Q. So page 9, lines 12 and 13, did you take
 23 a shot at DP&L when you say it "needed the prodding
 24 of Revised Code to undertake energy efficiency" --
 25 MR. IDZKOWSKI: I'm going to object that

Page 84

1 that's a bit argumentative.
 2 MR. FARUKI: Wait till you hear the rest
 3 of the question.
 4 MR. IDZKOWSKI: Okay, go ahead.
 5 Q. What is the basis for that statement that
 6 DP&L needed prodding before we look at the real facts
 7 here?
 8 MR. IDZKOWSKI: Again, I'm going to
 9 object. It's unnecessarily argumentative.
 10 Go ahead and answer the question to the
 11 extent you understand that.
 12 A. When I make that statement, I'm making it
 13 based on an actual fact that prior to the
 14 implementation of that Bill, DP&L had no energy
 15 efficiency programs for its customers aside from
 16 low-income customers.
 17 So, and DP&L is not alone in Ohio. I
 18 mean, AEP is the same situation. So, and I'm aware
 19 that our office has probably had discussions with
 20 DP&L in the past concerning -- as we had with every
 21 other company -- concerning implementation of energy
 22 efficiency programs. That was an important element
 23 in the Consumers' Counsel's vision.
 24 So in that context is where I'm saying
 25 that it's not clear whether -- if that legislation

Page 85

1 had not passed whether DP&L would have been making
 2 this filing.
 3 Q. You agree with me that in 2007 that
 4 legislation was not passed; is that right?
 5 A. That's correct.
 6 Q. And you agree with me that in 2007 there
 7 was not a statutory requirement for DP&L to offer
 8 energy efficiency programs, right?
 9 MR. IDZKOWSKI: Objection. That calls
 10 for a legal conclusion.
 11 To the extent you know based on your
 12 knowledge and experience, you can answer that.
 13 A. That's difficult for me because I know
 14 there's -- 2007 there was still elements in Ohio
 15 Revised Code which promoted energy efficiency, so
 16 it's not like energy efficiency was discarded by the
 17 legislator in 2008 -- 2007.
 18 Q. You're aware that DP&L was working on its
 19 energy efficiency programs in 2007?
 20 A. Honestly, I can't recall.
 21 Q. It's in the DP&L filing. You're not
 22 aware of that?
 23 A. I haven't committed the DP&L filing to
 24 memory.
 25 Q. Well, on page 9 you say unlike Duke

Page 86

Page 89

1 Energy of Ohio, when it filed its proposal, it was in
2 the middle of a rate case, wasn't it?
3 A. No.
4 Q. Didn't have a distribution rate case
5 pending?
6 A. No.
7 Q. When Duke offered what you call a
8 multi-year collaboratively developed set of programs,
9 wasn't that in response to a distribution rate case
10 that Duke had filed in 2006?
11 A. No.
12 Q. Was OCC a signatory party to a settlement
13 with Duke?
14 MR. IDZKOWSKI: In what case?
15 MR. FARUKI: In that rate case.
16 MR. IDZKOWSKI: In the 2006 rate case?
17 MR. FARUKI: Yes.
18 A. We were a signatory party but that case
19 had very limited, if any, dealing with energy
20 efficiency.
21 The only thing it had -- it was made --
22 my recollection is that it made a determination that
23 schools -- I think it carved out some money for
24 schools.
25 Q. Was OCC a signatory party to a settlement

1 taken it on. And in fact, its carbon offsets are
2 trading currently in anticipation of that. So that's
3 what my...
4 Q. I meant to ask you earlier with regard to
5 the energy efficiency rider. I take from your
6 testimony you are not opposed to the concept of an
7 energy efficiency rider?
8 A. No, I'm not.
9 Q. State on page 10, I think lines 9 and 10,
10 that "...no DSM program shared savings should be
11 approved and included. . ."
12 A. What line in particular?
13 Q. 9 and 10, "As argued earlier. . ."
14 A. Yes, yes.
15 Q. You said that because you think that DP&L
16 has included DSM program shared savings in the rider?
17 A. DP&L did not include an exhibit. They
18 have shared savings and it's zero because they say
19 since they haven't had any programs.
20 It wasn't -- there was no dollar amount
21 in the rider but I believe the mechanism of the rider
22 would include when those -- when that shared savings
23 would be taken, it would be collected through a
24 rider, through the rider mechanism.
25 Q. Okay, that's your understanding of how it

Page 87

Page 90

1 that required Duke to offer DSM programs and those
2 programs would be developed by a means of
3 collaborative process?
4 MR. IDZKOWSKI: Again, in what case?
5 MR. FARUKI: Any case in '06 or '07.
6 MR. IDZKOWSKI: With Duke?
7 MR. FARUKI: With Duke, yes, sir.
8 A. We were a signatory party, but I would
9 add that Duke filed these programs -- when they filed
10 their programs originally in January of 2006, it
11 wasn't a settlement. It wasn't a stipulation, it was
12 a pure utility filing.
13 And the only reason that it was
14 stipulated to at the end was because the company did
15 not see any PUCO reaction. It stayed with the PUCO
16 for a long time.
17 But initially it was on their volition,
18 it wasn't part of the settlement. It wasn't part of
19 a stipulation.
20 Q. Take a look at page 10. On page 10, line
21 3, you say -- you recommend DP&L's proposed rider be
22 trued up. How do you suggest that be done?
23 A. Again, I think the mechanisms that
24 utility could use, for example, I know in the Duke
25 case, for example, you have programs, you have cost

1 should work?
2 A. No, that's the way my understanding based
3 on the testimony of Seger-Lawson. It wasn't much --
4 there wasn't much there in terms of shared savings,
5 what type.
6 Q. You saw the schedule.
7 A. It was zero. Yeah, but I'm talking about
8 the mechanism, it was very vague.
9 Q. Page 11, on line 5 you have a sentence
10 that starts out "Third, no other Ohio utility with an
11 aggressive Smart Grid proposal. . ."
12 A. That's correct.
13 Q. Do I take from that that you think DP&L
14 has an aggressive Smart Grid proposal?
15 A. I believe I would say yes. You're
16 looking to change all the meters in all your service
17 territory, I would say that's aggressive.
18 Q. Do you have an opinion of whether that's
19 a good idea?
20 A. That's the testimony of Mr. Pullens, OCC
21 Witness Pullens would address Smart Grid?
22 Q. You're not offering an opinion here in
23 that case?
24 A. I'm offering an opinion on this
25 particular cost recovery aspect.

Page 88

Page 91

1 estimates, and you have savings estimates.
2 And after -- when I say "true up," you
3 obviously want to true up costs, you know, estimated
4 spending versus actual spending, and you also want
5 to, the extent there's any lost revenue or shared
6 savings that are impacted by the metrics that are
7 used in lost revenue, you want to make sure those are
8 based on an actual verification impact analysis or
9 something.
10 So I think that's the way I'm
11 recommending it. And in fact, I cite in the Duke
12 case they came back and the trued up result was
13 credited customers for some of their original
14 collection based on their estimates.
15 Q. On line 6 on page 10 you refer to "white
16 tag energy efficiency or carbon offset revenues."
17 What do you mean by that phrase?
18 A. Okay. We had a good discussion earlier
19 on renewable energy.
20 Q. Yes, sir.
21 A. White tags are the energy efficiency of
22 that. And carbon offsets are in anticipation of
23 mandatory greenhouse gas federal legislation and/or
24 state.
25 I mean, some regions the states have

1 Q. Only.
2 A. That's all my testimony speaks.
3 Q. You said "upon discussion with my
4 counsel, it appears clear that Revised Code Section"
5 such-and-such. Who is this counsel?
6 A. I've talked with the counsel in this
7 case. So I've talked with at different times with
8 Idzkowski, Poulos, and Jackie Roberts.
9 Q. Who is it that gave this advice that
10 you're talking about?
11 MR. IDZKOWSKI: I'm going to object.
12 You're asking for specific advice from a specific
13 counsel?
14 MR. FARUKI: That's right. And the
15 privilege is waived when you put it in testimony. If
16 you want to withdraw the testimony, that's fine. But
17 he says here, "upon discussion with my counsel it
18 appears."
19 You can't hide behind the privilege if
20 you're going to put what the advice is and quote the
21 statute, Mike.
22 MR. IDZKOWSKI: What is he testifying --
23 he's saying it's his understanding but you're asking
24 him a specific statement.
25 MR. FARUKI: Well, I'm asking broader

Page 92

1 than that. He says "upon discussion with my
2 counsel." That's the basis for his opinion.
3 THE WITNESS: No. Let me clarify that.
4 BY MR. FARUKI:
5 Q. Go ahead.
6 A. As we talked earlier, I was involved in
7 this rule making. I was aware of this particular
8 provision in the Bill. Upon knowing that, I had my
9 interpretation of what that understanding was. I
10 wanted to bounce that understanding with my counsel
11 and we talked about it.
12 Q. And who was that?
13 A. I'm trying to recall. We've had so many
14 meetings on this case dealing with different issues.
15 Q. I understand.
16 A. It's one of the counselors that I
17 mentioned.
18 Q. And your understanding was confirmed?
19 A. I would say that my understanding was in
20 line with what the counselor. . .
21 Q. And so your point here is at 143(C)(1)
22 as you opine "would disapprove of such a mechanism."
23 You see line 9?
24 A. That's what the language says. The
25 language says that basically my reading is that the

Page 93

1 legislative wanted those who bore the cost of this
2 new technology to reap the rewards in terms of
3 benefits.
4 Q. When you say such a mechanism is invalid
5 under the statute, what mechanism were you talking
6 about?
7 A. Where do I say it's "invalid"?
8 Q. Well, when you say "would disapprove of
9 such a mechanism." In other words, the mechanism is
10 not allowed under the statute.
11 I'm asking you which mechanism are you
12 referring to by the phrase "such a mechanism"?
13 A. I'm referring to the shared savings
14 proposal of the company where they want a 50 percent
15 shared savings off the operational benefits.
16 Q. And are you aware -- I'm looking at your
17 quotation in the statute, Mr. Gonzalez, on line 11,
18 that the phrase that contains "a surcharge under
19 division (B)(2)(b) or (c) of this section."
20 A. Uh-huh.
21 Q. That that refers to generation? Are you
22 aware of that?
23 MR. IDZKOWSKI: What specifically are you
24 saying refers to generation?
25 MR. FARUKI: I'll tell you in a minute.

Page 94

1 He and you, if you were the one that gave him this
2 advice, are flat wrong. If you look at the statute.
3 Q. And I'm asking you, sir, are you aware
4 that (B)(2)(b) or (c) that you are quoting on line 11
5 refer to new generation facilities?
6 A. Let me refresh my memory.
7 MR. FARUKI: While he's looking, Mike,
8 what you've basically done is stick a legal argument
9 in his testimony. Leaving that aside, it's
10 incorrect.
11 MR. IDZKOWSKI: You have a question
12 pending?
13 MR. FARUKI: No, I'm addressing that to
14 you while he looks up a way to get around this point.
15 (Exhibit marked.)
16 Q. Since some time has gone by,
17 Mr. Gonzalez, without an answer to my question --
18 MR. IDZKOWSKI: What's the question
19 pending?
20 MR. FARUKI: Well, I'll withdraw it
21 because he obviously can't answer it.
22 Q. I'm going to show you the statute, it's
23 OCC -- DP&L Exhibit 52, a copy of the statute, and
24 take a look at the section that you are citing on
25 page 11 of your testimony, which is 143(B)(2)(b) and

Page 95

1 (B)(2)(c), and you see that (B)(2)(b) deals with
2 construction work in progress for an electric
3 generating facility?
4 MR. IDZKOWSKI: Where are you looking?
5 MR. FARUKI: Bottom of the page.
6 (Record read.)
7 Q. Correct?
8 A. That is correct, and I think the way I
9 use this in my testimony is it's an analogous type
10 situation where the company is undertaking Smart
11 Grid, making an investment and the benefits of the
12 investment in the analogous case. So it's more of an
13 analogous type.
14 Q. That's not what your testimony says
15 though, is it?
16 Your testimony says at lines 8 and 9 --
17 let me finish my question -- that "143(C)(1) would
18 disapprove of such a mechanism." And then you as a
19 non-lawyer cite or quote a statute for that, right?
20 A. Yes. It was poorly written. It would be
21 more the intent.
22 Q. It's not poorly written, it's incorrect,
23 isn't it?
24 A. As written it's incorrect.
25 MR. IDZKOWSKI: Let me ask, quoted the

Page 96

1 section incorrectly?
2 MR. FARUKI: No, it's just inapplicable.
3 MR. IDZKOWSKI: So that's your argument,
4 it's inapplicable?
5 MR. FARUKI: I don't think it's an
6 argument, I think it's a fact. (B)(2)(b) is
7 generating facility and then (B)(2)(c) talks about a
8 surcharge for the life of the generating facility
9 sourced through a competitive bid process.
10 I mean, I just think you ought to
11 withdraw this.
12 MR. IDZKOWSKI: We'll consider that, but
13 as to whether or not it's inaccurate based on his
14 understanding, if he cited the statute correctly and
15 he's misunderstood it, which we're not saying he has,
16 he can answer the question or any question factually
17 or his opinion about matters you'd like to ask.
18 But if it's asked him whether or not he's
19 incorrect legally, that's a legal conclusion which
20 he's not -- he's stated he's not giving.
21 MR. FARUKI: I think since he says that
22 it was a quote, upon discussion with my counsel, end
23 of quote, that he got this --
24 MR. IDZKOWSKI: It appears clear to me --
25 MR. FARUKI: Let me finish.

Page 97

1 -- It was his counsel who must have
2 misinformed him. But my point is this is simply flat
3 wrong and I'd ask you to think about withdrawing it.
4 It's way, way off the mark.
5 BY MR. FARUKI:
6 Q. Let me ask you this question: You agree
7 with me that DP&L's CCEM programs are not a new
8 generating facility, right?
9 A. It's a generation of megawatts.
10 Q. Oh, so you're saying that it's your
11 testimony here that DP&L's CCEM programs are to be
12 considered a generation facility because they involve
13 the generation of megawatts? Is that your testimony?
14 A. I was just answering your question that
15 the CCEM to me is generation of megawatts.
16 Q. So what is the answer to my question? Is
17 it your testimony here that DP&L's CCEM programs are
18 a generation facility because they involve the
19 generation of megawatts?
20 A. No.
21 MR. IDZKOWSKI: Are you -- go ahead.
22 A. No.
23 MR. IDZKOWSKI: Okay.
24 Q. Let me ask you about the infrastructure
25 improvement rider which you begin on the bottom of

Page 98

Page 101

1 page 11.
 2 A. Yes.
 3 Q. Starting maybe with line 20, you say "The
 4 company has proposed levelizing" this investment.
 5 Do you understand why they proposed
 6 levelizing the investment?
 7 A. Trying to recall the testimony.
 8 Probably so that you have a uniform cost
 9 and you don't have volatility in the rider.
 10 Q. Do you think that's a good goal; avoiding
 11 volatility in the rider?
 12 A. Again, generally speaking it could be,
 13 but based on my testimony, I would think in this
 14 particular case it doesn't make sense because you're
 15 charging customers more during a period of recession
 16 where customers are least likely to -- it will
 17 present a greater burden and hardship on customers.
 18 Q. On page 12 the basis for what you just
 19 said in lines 1 and 2 is that "the early years will
 20 probably coincide with the worst part of the current
 21 recession."
 22 Do you see that?
 23 A. Yes.
 24 Q. So how long, since you know that or
 25 predict that, how long will the current recession

1 the bottom of 11, infrastructure investment.
 2 MR. IDZKOWSKI: Thank you.
 3 A. I would say generally myself and our
 4 office prefers -- is not inclined towards riders. It
 5 would prefer a rate case where everything is put on
 6 the table and the whole issue of single issue rate
 7 making.
 8 So I think I would still have that
 9 objection with any of the riders. But I would say
 10 that given the peculiarity of Smart Grid and as to
 11 the extent that we would -- and I know this has come
 12 up in different workshops on Smart Grid that the
 13 staff has proposed on net of benefits rider, I think
 14 a rider is a good place to capture a net of benefits
 15 type situation.
 16 Q. As to Smart Grid.
 17 A. Correct.
 18 Q. And when you talked about that I think
 19 you used the phrase "the peculiarity of Smart Grid."
 20 Do you mean the size of the investment required for
 21 it?
 22 A. No, not necessarily. Just that it's --
 23 you're incurring a cost but the cost, a traditional
 24 Smart Grid scope type project will entail cost
 25 savings on the utility side.

Page 99

Page 102

1 last?
 2 A. You're asking me to speculate on how long
 3 it's going to last?
 4 Q. I think your statement on lines 1 and 2,
 5 sir, is speculation when you say "will probably
 6 coincide with the worst part of current recession."
 7 In order to make that as an opinion or
 8 prediction, tell me what you believe will be the
 9 length of the current recession.
 10 A. Based on my readings and discussions and
 11 I would say that the recession, the worst part of the
 12 recession could project to run anywhere from one to
 13 three years, as long as three years.
 14 Q. You're aware that that is a subject that
 15 a lot of economists have differing opinions on.
 16 A. That's correct. But I think there's no
 17 different opinion as to whether we're in a recession
 18 and that it looks like it's going to be an
 19 unprecedented recession and economists talk about it
 20 being a recession as deep as the 1929 Great
 21 Depression.
 22 So it is -- you can argue how many years
 23 this or that. I think the point I wanted to bring up
 24 is this is a very serious recession and it's a
 25 recession that is not -- is unlike the last three or

1 So a rider, in a rider you can take those
 2 cost savings into account and let it out. So that's
 3 why in particular in that sense the -- it's not that
 4 you're making an investment and your costs are
 5 remaining the same. You're making an investment
 6 that's going to reduce the cost of some areas of your
 7 company.
 8 Q. Okay, on page 12, your first
 9 recommendation in your section 5 on residential
 10 demand response is that DP&L utilize more of the AMI
 11 technical capability, lines 13 and 14.
 12 A. Correct.
 13 Q. What does that mean?
 14 A. Well, I was really referencing the
 15 time-of-use program. I think the company's position
 16 is you're going to develop AMI smart system, Smart
 17 Grid, and you can have capability to have very
 18 discrete information on your customer's energy uses,
 19 and to the extent that you apply a broad time of use,
 20 we would -- we like -- I like the peak time rebate
 21 program because I think that uses the capability of
 22 the AMI system.
 23 But I think there should be more
 24 offerings for residential consumers so that -- and we
 25 think a peak pricing program would be something that

Page 100

Page 103

1 four recessions in the country.
 2 Q. But you're only speculating when you try
 3 to predict what will be the worst part of the
 4 recession, isn't that right?
 5 MR. IDZKOWSKI: I'm sorry, you're asking
 6 him a question that's characterizing it as predicting
 7 and speculating. What are you asking him exactly?
 8 MR. FARUKI: Read my question back. This
 9 one didn't include predicting, Mike.
 10 (Record read.)
 11 Q. Isn't it true that your statement
 12 "probably coincide with the worst part of the current
 13 recession" is speculative on your part?
 14 A. I don't really think it's speculative
 15 because we're in a recession now, it's getting worse,
 16 and the company's looking to recover through this
 17 mechanism in these early years.
 18 Q. Similar question to what I asked you on a
 19 different rider with regard to the infrastructure
 20 improvement rider, as DP&L has called it. You don't
 21 have a problem with that as a concept; is that
 22 correct?
 23 MR. IDZKOWSKI: Are you still on page 12,
 24 Charlie?
 25 MR. FARUKI: 11 and 12 really. Starts at

1 would be -- a voluntary peak pricing program would be
 2 offered.
 3 Q. When you recommend that DP&L utilize more
 4 of the AMI technical capability, that really is a
 5 reference to your time-of-use discussion that
 6 follows.
 7 A. Correct.
 8 Q. The study that you quote at the bottom of
 9 page 12 and first line of page 13, where was that
 10 done? In other words, what utilities or what part of
 11 the country?
 12 A. I believe the first part is based on a
 13 survey of 17 utilities and I think they vary from
 14 east/west coast. And there may be a midwest company
 15 in there in the Illinois area.
 16 Q. Do you know if it was -- if the customer
 17 base that was surveyed or that was involved in the
 18 study was similar to DP&L's?
 19 A. Well, there were 17 studies, so.
 20 Q. Oh, this is a survey of different
 21 studies?
 22 A. Correct.
 23 Q. I see. Do you have a copy of that
 24 survey?
 25 A. Yes, I do.

Page 104

Page 107

1 MR. FARUKI: I'll make a request for
2 that.
3 Q. On page 13, line 1 you talk about another
4 study, and the same question there: What was the
5 customer base or part of the country involved in that
6 one?
7 A. Yes, that's actually the Gulf program in
8 Florida I believe. And it's a study that was
9 conducted by the Southern Company but it was
10 conducted in Florida.
11 Brian White actually the company -- the
12 person responsible for the study was -- appeared
13 before the Commission in the 2005 Energy Policy Act
14 proceedings and they were on the panel I think
15 subsequent to the company panel on rate design.
16 So that's the particular study.
17 Q. Do you have a copy of that?
18 A. I have -- it's a PowerPoint. And it's a
19 bunch of PowerPoints on that.
20 MR. FARUKI: I'll make a request for
21 that.
22 Q. That was a summer peak company?
23 A. That's correct. Florida, yes, I would
24 say it's summer peak.
25 MR. IDZKOWSKI: Can we go off the record.

Page 105

Page 108

1 (Off the record.)
2 Q. Back on the record.
3 A. You may have that because they were --
4 you were part of that. They handed that out at the
5 Energy Policy Act at the workshops that were had in
6 1500, 05-1500.
7 Q. I'll just make a request for it if you
8 know you've got it.
9 Go down to line I think it's lines 9, 10,
10 11 where you are making a recommendation about
11 developing these rates through a collaborative
12 process within six months.
13 A. Yes.
14 Q. You're aware that in order to implement
15 these rates, the billing system will need to be
16 changed?
17 A. I'm aware that a lot needs to take place
18 before these types of rates would be operational.
19 I'm talking about getting together designing and --
20 you have the specifications of what the Smart Grid is
21 or what you anticipate the Smart Grid would be. So I
22 think you could design -- start designing and working
23 on some upfront work.
24 Q. I'm just clarifying you're not suggesting
25 though these rates go into affect within six months.

Page 106

Page 109

1 A. No.
2 Q. Okay. With regard to your renewable
3 energy section that begins on line 14, you do not
4 have or are not sponsoring a plan that you say could
5 be used for DP&L to meet these requirements; is that
6 right?
7 A. The only recommendation I'm making in
8 that regard is the discussion we had earlier about
9 residential and small commercial program to --
10 Q. Oh, yes, okay. Other than that.
11 A. No.
12 Q. Page 14, beginning on line 5, I had a
13 couple of questions about the solar requirement that
14 you reference.
15 You suggest that 50 percent of solar
16 requirement should come from within the state of
17 Ohio; is that right?
18 A. That's correct.
19 Q. Keep your voice up for her.
20 A. That's correct.
21 Q. Through all of your research have you
22 calculated how much the solar requirement is for the
23 four Ohio electric distribution utilities for 2009?
24 A. I believe I have. I just don't have -- I
25 believe I've seen those calculations or estimates and

1 so on. Because that also went on through the
2 development of these particular benchmarks there were
3 estimates of -- I'm sure I've reviewed some and had
4 some --
5 Q. So are you aware there are not sufficient
6 solar resources in the state of Ohio to accommodate
7 your interpretation of this Revised Code Section?
8 MR. IDZKOWSKI: I'm going to object that
9 this question contains facts not in evidence in this
10 case. And it appears to be argumentative.
11 MR. FARUKI: Because of your first
12 objection I'll withdraw it.
13 Q. Let me ask it this way. Have you done
14 any analysis to determine whether there is sufficient
15 solar resources in Ohio so that the interpretation
16 you're suggesting on page 14 can be met?
17 A. I would say generally given my
18 understanding of what the megawatt hours per year in
19 a half on -- it's a small half of a percent I think
20 of the total renewable requirement.
21 And based on the development of the solar
22 industry, the incentives that have been recently
23 promulgated in first the recovery, the TARP plan and
24 looking forward on the stimulus package, and I would
25 disagree with your characterization. I think it

1 could be met with 50 percent.
2 Q. For 2009?
3 A. For -- to the extent that programs
4 haven't been developed and are being developed, 2009
5 might be a challenge. But I think going forward it
6 would be less of a challenge.
7 And by that I mean there's other programs
8 that are being developed that would stimulate the
9 solar market in Ohio. There's utilities, there's
10 education programs, there's universities that are
11 developing the technical skill, the installation
12 skill. So there's a lot going on in the solar end in
13 Ohio.
14 Q. But you've not done a calculation that
15 would indicate -- or have you done a calculation that
16 would show or demonstrate that there is enough solar
17 in Ohio to meet your interpretation of the statute?
18 MR. IDZKOWSKI: In what time frame are we
19 talking?
20 MR. FARUKI: Any time frame. I'm asking
21 if he's done a calculation.
22 MR. IDZKOWSKI: Well, any time frame
23 could be in the future which could broaden the
24 question immensely because there could be
25 development.

1 MR. FARUKI: We'll get to that. I know
2 he'd like to speculate about the future federal
3 funding but I'm asking a simple question.
4 BY MR. FARUKI:
5 Q. Have you done a calculation that would
6 demonstrate that what you are suggesting on page 14
7 is realistic for Ohio?
8 MR. IDZKOWSKI: And in particular what
9 are you talking about on page 14?
10 MR. FARUKI: The same subject where he
11 has said that 50 percent of the solar requirement
12 should come from within the state of Ohio.
13 Q. You've either done a calculation or you
14 haven't.
15 A. I'm just trying to recall because a lot
16 of this work was done during last year when we were
17 talking about these particular mandates and what was
18 going on.
19 I believe looking at the amount, the
20 50 percent amount, given an assumption about how many
21 households it would take, how many businesses,
22 commercial businesses and how much we obviously have
23 the area to generate those kind of savings.
24 So it's just a matter of in the future
25 whether the market is going to develop to deliver

Page 110

1 those energies. I mean, that's the question.
 2 Are you asking me whether there is enough
 3 solar installation to do that in Ohio? My answer is
 4 yes.
 5 Q. I'll ask that calculation then.
 6 A. I didn't say I made a calculation. I
 7 said I'm sure I came across calculations when this
 8 was being discussed during the hearing. During the
 9 legislation.
 10 Q. Sir, I'm asking a simple question. I'm
 11 entitled to a yes or no answer. If you want to
 12 explain it, that's fine. But don't dance around with
 13 me.
 14 I asked you twice now and I'll ask you a
 15 third time, have you done a calculation? If you've
 16 done one, tell me that. If you have not done one,
 17 tell me that and I'll move on.
 18 MR. IDZKOWSKI: I'm going to object to
 19 the argumentative tone that's being demonstrated in
 20 this deposition. I think he can -- our witness can
 21 answer the question if he understands it.
 22 But emphasizing an issue I don't think is
 23 going to help him answer it in any way.
 24 MR. FARUKI: Do you need to talk to him,
 25 Mike? This -- I'm asking a simple question, this is

Page 113

1 determination --
 2 Q. Do you have a calculation you can give
 3 me?
 4 A. I don't know if I could retrieve
 5 something. I would have to review what those
 6 estimates were for every year, what that would be,
 7 and then how many homes we talked about earlier, how
 8 many square footage on a Wal-Mart or somebody, some
 9 of these commercial establishments where solar would
 10 be the most likely place where solar would be
 11 installed in Ohio.
 12 There's a lot of exposed rooftop and when
 13 we were pushing this, I'm sure I've seen a lot of
 14 documentation and a lot of during that period
 15 reading, looking at what happened, what was going on
 16 in California and so on.
 17 That's where my general thrust is in this
 18 respect. But is there a specific study that I did?
 19 The answer is no specific study that I can just hand
 20 over to you that shows X amount of this is the
 21 requirement, this is the solar installation in Ohio,
 22 this is the amount of rooftop and area that you would
 23 need, these may be the economics incentives that it
 24 would take to drive that, so on and so forth.
 25 MR. FARUKI: I'll make a request for

Page 111

1 the third time I've done it.
 2 BY MR. FARUKI:
 3 Q. Have you done a calculation, that's all I
 4 want to know.
 5 MR. IDZKOWSKI: He thought he answered it
 6 but then you asked him if you could have a copy of it
 7 and he said he does -- I think he said he's done that
 8 calculation but does he have a document that he can
 9 give you.
 10 We would be glad to provide any documents
 11 you request, but maybe the question and the
 12 disconnect here is can he turn over a document that
 13 he has on this.
 14 Now, I understood him to say he did an
 15 analysis but does he have that, maybe you should ask
 16 him if he has a copy of the document.
 17 MR. FARUKI: I don't think I've gotten a
 18 square answer yet to the answer did he do a
 19 calculation. I asked him that and he stares off for
 20 a while and then he starts telling me about things
 21 he's read. I still need a square, honest answer to
 22 my question.
 23 MR. IDZKOWSKI: We'd be glad to give you
 24 square, honest answers but we can do that without
 25 getting emotional about it.

Page 114

1 these estimates he said he reviewed, whatever those
 2 are.
 3 Q. Take a look at page 15. On page 15 you
 4 begin by quoting from a brief filed by the Ohio
 5 Consumer and Environmental Advocates.
 6 A. That's right.
 7 Q. Did you write that brief or that section
 8 of it that you're quoting here?
 9 A. I had input. I don't know if it's -- I
 10 had input on that particular section because it was
 11 dealing with the third set of rules.
 12 Q. And this was a brief that was filed in
 13 the rule making proceeding.
 14 A. It is in response to the third set of
 15 rules, yes.
 16 Q. And this brief is or the section of the
 17 brief that you quote beginning on line 4 contains the
 18 analysis of what the energy efficiency benchmarks in
 19 the statute require?
 20 A. Yes.
 21 Q. Is this what you are relying on for -- as
 22 the basis for the opinion on pages 14 and 15?
 23 A. This is very specific to one element
 24 of -- 14 and 15 deals with a number of issues. This
 25 just deals with the fact that's more in line with my

Page 112

1 MR. FARUKI: I'm not getting emotional,
 2 I'm being persistent.
 3 MR. IDZKOWSKI: That's fine. That's
 4 certainly fine.
 5 BY MR. FARUKI:
 6 Q. I'll ask my question again.
 7 Have you done a calculation? I'm not
 8 asking whether you have it yet, I'm asking if you've
 9 done a calculation.
 10 A. I believe, and again, I'm not trying to
 11 dance around the question. I really have thought
 12 about this.
 13 And again, based on the solar
 14 installation in the Ohio, based on the number of
 15 customers, based on whatever number of rooftops are
 16 on solar, because I think solar in Ohio would be
 17 mainly distributed generation solar as opposed to out
 18 west big solar farms.
 19 Based on the number of customers, based
 20 the amount of rooftops, based on the solar
 21 installation, 50 percent could -- you have
 22 4.5 million residential customers, you have a lot
 23 of -- so I've -- I want to say I don't have a
 24 rigorous analysis, but based on my reading and
 25 looking and doing the numbers, I recall that the

Page 115

1 second point, which starts at line 19.
 2 Q. Of page?
 3 A. 14. But it says "Second." So it just
 4 deals with lines 19 through line 11 on page 15.
 5 Q. I gotcha.
 6 So the basis for the opinion that starts
 7 on page 14, line 19, then is stated in page 15, lines
 8 2 to 11; is that right?
 9 A. The basis of the opinion is the argument
 10 that's contained in that language.
 11 Q. Yes, sir. Thank you.
 12 MR. IDZKOWSKI: Did you say page 4 or 14?
 13 MR. FARUKI: 14.
 14 THE WITNESS: The bottom of 14.
 15 MR. FARUKI: He and I both said 14.
 16 MR. IDZKOWSKI: Thank you.
 17 Q. Go on to line 13 then.
 18 A. Yes.
 19 Q. Is it your understanding that DP&L has to
 20 physically take delivery of the energy in order to
 21 meet the renewable targets in SB-221?
 22 A. As I state in my testimony, the staff in
 23 the proposed rules have defined the term "deliverable
 24 into the state" as meaning that the electricity
 25 originates from a facility within the states

Page 116

Page 119

1 contiguous to Ohio, and so on and so forth. And that
2 the electricity could be physically delivered into
3 the state.

4 Q. So "could be" means it's possible to do
5 it but it doesn't have to be physically delivered.
6 You agree with that?

7 A. Yeah, let me just. . .

8 So it's clear, that it originates from a
9 facility within the state contiguous to Ohio. May
10 include electricity.

11 Yes, so it is a physical -- they're
12 saying that obviously if it's contiguous to the
13 state, there's a physical. But if it's not
14 physically contiguous to the state, that that
15 electricity could be physically transported. So,
16 yes, that seems to be a requirement.

17 MR. FARUKI: Off the record.

18 (Off the record.)

19 MR. FARUKI: Back on the record.

20 Q. On page 16, lines 1 through 13, you're
21 talking about your recommendation regarding a
22 customer-sited renewable energy program?

23 A. Correct.

24 Q. Do you have a projection of what such a
25 program would cost to administer?

1 comparison. The comparison is we have a mandatory
2 market and we're looking for the cheapest price
3 within the parameters of the mandatory market.

4 Q. On page 17, line 1, you talk about
5 providing for a "stable and long-term revenue
6 stream."

7 What duration are you talking about
8 there?

9 A. Again, I would think in the ten to 15
10 year range.

11 Q. How is the market price set?

12 A. Well, there are a number of items there.
13 You could set out an RFP that has -- that will
14 develop pricing, will ask people to bid on pricing
15 over that term and they're going to have to take --
16 make assumptions on what's going to happen with
17 legislation, what's going to happen with everything.

18 And based on all the information and all
19 the bidders, they'll make a determination on what
20 kind of price -- there may be escalation clauses in
21 the price and so on. So that's one way to do it.

22 Q. Is that what you suggest?

23 A. That may be, yeah, that could be a
24 suggestion.

25 A program -- I'm trying to recall if --

Page 117

Page 120

1 A. As we talked earlier, the design of the
2 program would look to mitigate those costs. So
3 there's ways you can design a program so it's less
4 administrative intensive, so we're very cognizant of
5 that cost and try to minimize that cost.

6 Q. But you don't have an estimate.

7 Farther down the page still on 16, I'm
8 interested in having you explain on lines 14 and 15
9 what you mean by "at no less than the Ohio mandatory
10 market based rate."

11 A. Okay.

12 Q. Can you tell me --

13 A. And I try to -- I have a footnote dealing
14 with that because I know it could be misinterpreted.

15 And basically the idea is that I'm not
16 advocating for some kind of administratively set rate
17 or regulatory set rate. I want to depend on the
18 market to set that rate.

19 But I want to make the distinction
20 between a voluntary market which the prior Ohio
21 prepricing programs were priced at and the new
22 mandatory market that's being developed because of
23 the Ohio solar requirements or renewable
24 requirements.

25 So if you look at states that are

1 let's see if I said it here.

2 This would be another area where we would
3 like to work collaboratively with the company

4 Q. Do you have an opinion as to how the
5 price should be set? Or is that something you think
6 needs to be hashed out in a collaborative?

7 A. I have -- the main opinion is I want the
8 distinction I drew earlier; market price versus
9 administrative price. Just somebody picking out a
10 price.

11 So I think that's -- starting with that
12 fundamental aspect I think that starts the discussion
13 and puts boundaries around the price.

14 MR. FARUKI: Off the record.

15 (Off the record.)

16 MR. FARUKI: I think that's all I have.

17 (Signature not waived.)

18 (Deposition concluded at 12:55 p.m.)

19 ---

Page 118

Page 121

1 mandatory markets, the price of the REC is usually
2 higher, everything else being equal, than the cost of
3 a REC or the price of a REC in voluntary market

4 Q. Do you agree with the area that RECs
5 should be acquired at the least cost possible?

6 A. They should be acquired at the least
7 market cost possible based on the market, that
8 particular market.

9 So I wouldn't agree with you if you meant
10 you could get a REC from California, from Texas or
11 from somewhere or use a voluntary market very cheap,
12 like the Ohio green pricing programs.

13 And so for a green pricing program, that
14 made sense because that was a voluntary market. For
15 a mandatory market like the market we're entering I
16 would say within that market we should try to be in
17 compliance with the definitions and the rules that
18 eventually come out that we should look for the --
19 obviously should be a market price.

20 And by definition I should say
21 competitive market would give you the lowest price.

22 Q. Do you think the mandatory market base
23 rate would be the lowest rate?

24 A. I'm saying it's going to be higher than a
25 voluntary rate. But I'm saying that's not the

1 State of Ohio ;

2 ; SS:

3 County of _____ ;

4 I, Wilson Gonzalez, do hereby certify that I
5 have read the foregoing transcript of my deposition
6 given on Friday, January 30, 2008; that together with
7 the correction page attached hereto noting changes in
8 form or substance, if any, it is true and correct.

9 _____
10 Wilson Gonzalez

11 I do hereby certify that the foregoing
12 transcript of the deposition of Wilson Gonzalez was
13 submitted to the witness for reading and signing;
14 that after he had stated to the undersigned Notary
15 Public that he had read and examined his deposition,
16 he signed the same in my presence on the _____ day
17 of _____, 2008.

18 _____
19 Notary Public

20 My commission expires _____, _____.

21 ---

CERTIFICATE

1
2 State of Ohio : SS:
3 County of Franklin :
4 I, Julieanna Hennebert, Notary Public in and
for the State of Ohio, duly commissioned and
5 qualified, certify that the within named Wilson
Gonzalez was by me duly sworn to testify to the whole
6 truth in the cause aforesaid; that the testimony was
taken down by me in stenotypy in the presence of said
7 witness, afterwards transcribed upon a computer; that
the foregoing is a true and correct transcript of the
8 testimony given by said witness taken at the time and
place in the foregoing caption specified and
9 completed without adjournment.
10 I certify that I am not a relative, employee,
or attorney of any of the parties hereto, or of any
11 attorney or counsel employed by the parties, or
financially interested in the action.
12
13 **IN WITNESS WHEREOF**, I have hereunto set my
hand and affixed my seal of office at Columbus, Ohio,
on this 3rd day of February, 2009.
14
15
16 Julieanna Hennebert, Registered
Professional Reporter, and
Notary Public in and for the
17 State of Ohio.
18 My commission expires February 19, 2013.
19 (Jul-1363) * * *
20
21
22
23
24
25

A				B
<p>abide 65:20 66:8,18 ability 60:15 able 15:8 25:17 32:20 34:4 53:2 accept 48:25 acceptable 58:16 accommodate 107:6 accomplished 83:4 account 24:1 65:8 74:13 102:2 Accounting 1:11 accounts 6:14,15,20,23 accurate 18:21 36:4,25 38:14 59:2 ACEEE 75:16,19,25 76:16 acquired 118:5,6 act 44:25 63:12 104:13 105:5 action 36:1 60:6,8 122:11 actions 22:8,13,15,18 22:18,21 23:1 59:18 60:1,5,12,22,22,25 active 51:20 activities 12:21 actual 30:5 84:13 88:4 88:8 Adams 10:2 add 7:3 23:14 55:18 87:9 added 7:6 37:20 adding 73:9 addition 52:7,12 address 14:19 35:9 61:5 90:21 addresses 71:5 addressing 94:13 adequacy 49:20 adhere 58:12 adjournment 122:9 admin 58:3 administer 53:2 116:25 administrating 52:15 administration 47:19 50:5,8 51:11 53:7,14 53:18 54:3,5,14 56:13 administrative 47:14 47:17,22 48:2 49:6,7 49:8 51:14 52:8,17 53:22 57:15,17 58:9 58:14,17 66:1,9 117:4 120:9 administratively 56:6 117:16</p>	<p>adopt 66:3 adopted 28:21 advantage 73:16 advent 6:25 adversarial 17:13 advice 28:12 91:9,12 91:20 94:2 advocacy 76:4,13 Advocates 114:5 advocating 117:16 AEP 9:3 16:9 38:24 46:10 69:9 84:18 affect 48:19 105:25 affixed 122:13 aforesaid 122:6 afraid 42:16 aggregated 46:20 aggregation 46:22 aggressive 90:11,14,17 ago 16:17 45:8 agree 22:2,7,9 23:9 39:2 42:3 49:2 55:20 55:23 56:2,14 60:1 61:17 63:7,14 64:3 77:1,8,12 85:3,6 97:6 116:6 118:4,9 agreed 52:19 agreement 17:7 19:5 21:9 agrees 22:24 ahead 20:24 23:5 54:10 70:2,3,17 71:4 74:21 84:4,10 92:5 97:21 aids 28:25 alerted 13:24 Aligning 75:22 allies 12:16 14:1 23:18 32:20 allow 80:23 allowed 49:23 93:10 allows 69:23 80:16 ally 24:7 alternate 48:15 alternative 26:14,20 36:1 39:9 44:13 Amended 1:15 American 5:16 58:1 76:1 AMI 102:10,16,22 103:4 ammonia 67:21 amount 49:20 62:14 71:25 89:20 109:19 109:20 112:20 113:20,22 analogous 95:9,12,13 analyses 38:24 analysis</p>	<p>18:20 39:3 55:21 78:18 79:15 80:1 88:8 107:14 111:15 112:24 114:18 analyst 6:4 analytic 8:9 analytical 6:18 8:1 9:23 12:1 24:7 39:3,4 76:22 analyze 51:10 52:16 and/or 88:23 answer 19:7 20:4,22 21:6 23:6 27:23 28:17 29:7 37:5,12 37:19,24 38:10,17 48:25 49:14 50:3 57:4,7,11,12,13 58:11,12 62:2 63:19 70:19 71:4 73:6 75:7 75:10 84:10 85:12 94:17,21 96:16 97:16 110:3,11,21,23 111:18,18,21 113:19 answered 37:5,11,14 38:11 72:24 111:5 answering 71:23 97:14 answers 111:24 anticipate 50:20 105:21 anticipation 88:22 89:2 anybody 17:21 APPEARANCES 2:1 appeared 52:20 104:12 appears 63:16 91:4,18 96:24 107:10 apples-to-apples 53:20 appliance 12:9 32:18 32:22,22 33:22 55:24 73:17 appliances 12:10 73:18 applicable 3:8 Applicant 2:5 3:7 application 1:3,6,9,13 43:21 44:3 45:5 applications 45:3 applies 63:4 apply 14:14 102:19 approaches 53:13 Approval 1:4,7,10,14 approve 58:18 approved 68:23 89:11 Approximate 6:10 approximately 7:10 8:9 77:13 approximation 23:21 architect 13:4 area</p>	<p>43:19 44:22 66:12 79:1 103:15 109:23 113:22 118:4 120:2 areas 31:11 36:22 44:25 102:6 argue 99:22 argued 89:13 argument 94:8 96:3,6 115:9 argumentative 84:1,9 107:10 110:19 arguments 66:11 ash 68:2 aside 11:17,20 16:13 84:15 94:9 asked 28:14 37:5,10 50:19 96:18 100:18 110:14 111:6,19 asking 20:19 22:24 26:10,11 28:4 29:2,3 34:4 36:15 54:11 68:25 79:2 80:18 91:12,23,25 93:11 94:3 99:2 100:5,7 108:20 109:3 110:2 110:10,25 112:8,8 aspect 17:1 90:25 120:12 Assembly 28:25 assisted 40:3 associated 61:22 62:14 71:13 72:21 74:24 assume 49:1 73:24 assumption 63:15 109:20 assumptions 119:16 Aster 10:2 attached 121:4 attend 25:10,20 attorney 20:21 21:4 28:12 122:10,11 attorney/client 28:7,10 28:18 29:2 attributes 41:22,22 42:4 audit 32:13 audited 54:19 Authority 1:11 available 15:19 35:19 avoiding 98:10 aware 16:16 24:5 45:9 45:12,15 46:9 54:21 55:6 68:22 70:7 76:8 84:18 85:18,22 92:7 93:16,22 94:3 99:14 105:14,17 107:5 a.m 1:22 area</p>	<p>b 93:19,19 94:4,4 95:1 95:1,1 96:6,6,7 back 7:11 20:25 21:3 22:11 24:20 27:24 29:24 38:3,5 48:20 55:1 58:22,25 64:18 72:8 77:24 88:12 100:8 105:2 116:19 background 20:15 backs 65:11 balances 77:18 bandies 51:19 barrier 15:13 barriers 15:1,3 60:11 base 7:17 13:3 22:3,8 23:1,4 78:19 103:17 104:5 118:22 based 20:20 23:12 31:11 34:22 44:6 45:4 49:11 52:21 55:21 57:20 58:15 60:6,13 63:20 70:22 84:13 85:11 88:8,14 90:2 96:13 98:13 99:10 103:12 107:21 112:13,14,15,19,19 112:20,24 117:10 118:7 119:18 basically 7:17 30:6,7 41:21 92:25 94:8 117:15 basis 44:5 84:5 92:2 98:18 114:22 115:6,9 beginning 70:8 106:12 114:17 begins 39:17 40:1,1 62:20 65:14 106:3 behalf 2:5,9 59:24 behavior 59:4,9,15 behooves 17:4 belief 47:6 believe 5:14 13:11 14:21 15:23 16:12 18:22 19:3,10,12,12 26:14,21 30:9 33:16 34:5 40:15 43:18 46:23 47:19 49:23 54:16 55:12 63:22 65:3 67:2 69:15 70:9 76:5,24 79:18 80:9 81:2 89:21 90:15 99:8 103:12 104:8 106:24,25 109:19 112:10 believed 51:14 benchmark 30:5</p>

benchmarks 29:22 59:12 107:2 114:18 benefit 38:24 39:2 benefits 74:18 93:3,15 95:11 101:13,14 best 23:25 64:24 bias 52:3 bid 96:9 119:14 bidders 119:19 bids 46:9 big 112:18 biggest 14:20 bill 15:14 25:23 26:4 27:2,4 29:16,24 59:17 64:12,25 65:4 80:16,19,22 84:14 92:8 billing 105:15 bills 26:19 33:14 bit 10:16 59:16 84:1 blanket 21:21 body 26:9 40:5 boils 66:7 Book 18:1,1 books 18:2 bore 93:1 boss 10:3,5 bottleneck 14:7 bottom 41:14 95:5 97:25 101:1 103:8 115:14 bought 41:24 bounce 92:10 boundaries 120:13 boundary 20:16 bounded 18:23,24 bounds 38:18 breaking 54:22 Brian 104:11 brief 9:12 114:4,7,12 114:16,17 briefly 25:20 bring 17:5,6 23:22 99:23 brings 67:9,10 broad 1:21 2:8 11:7 28:16 102:19 broaden 108:23 broader 43:12 91:25 brochure 34:22 brought 30:22 Bubp 24:15 budget 8:17 54:7 55:13 build 32:25 33:1 builder 13:4 building 30:12 bullet 39:8,25 bunch	46:19 104:19 burden 36:12 47:22 98:17 business 6:13,14,19,20 6:22 7:9 56:6 businesses 109:21,22 buy 32:22 34:21 buying 32:21 C c 93:19 94:4 95:1 96:7 caboodle 23:8 calculated 106:22 calculation 68:19 108:14,15,21 109:5 109:13 110:5,6,15 111:3,8,19 112:7,9 113:2 calculations 106:25 110:7 California 113:16 118:10 call 13:25 48:1 86:7 called 3:7 75:21 100:20 calls 69:25 71:3 85:9 cap 56:24,25 57:16 capability 102:11,17 102:21 103:4 capital 15:7 caption 122:8 capture 101:14 carbon 88:16,22 89:1 carefully 13:19 carrot 65:6 carrots 64:8 65:4 carve 48:18 carved 86:23 case 1:4,7,10,14 14:22 17:24,25 18:14 19:21 20:6,17 24:10,16,24 25:4 36:5,24 37:1,8 38:15 50:1,9 51:11 65:9 72:9 73:3,8,10 73:16 81:8 86:2,4,9 86:14,15,16,18 87:4 87:5,25 88:12 90:23 91:7 92:14 95:12 98:14 101:5 107:10 cases 8:23 categories 34:7 54:18 54:20 categorization 55:7 category 16:13 54:20 caught 13:23 cause 122:6 causing 62:12 caveat 73:7 caveated 19:17	CCEM 97:7,11,15,17 Central 44:23 certain 1:10 13:18 29:17 42:6 71:25 72:1,19 certainly 41:7 112:4 certificate 41:19,24 122:1 certified 5:3 certify 121:3,9 122:5 122:10 cetera 11:11 chairmen 29:25 challenge 108:5,6 challenges 67:9 chance 30:24 78:3 change 74:8 90:16 changed 105:16 changes 59:4 121:4 character 3:12 characterization 56:3 107:25 characterizing 100:6 charge 12:4,6 charging 98:15 Charles 2:2 Charlie 22:14 28:16 37:6 50:13 64:2 100:24 cheap 118:11 cheapest 26:21 119:2 check 77:8,11 chemicals 67:16,21,24 Children 9:12 circumstances 69:6 70:8,22 cite 88:11 95:19 cited 65:24 75:20 96:14 citing 94:24 city 45:5 Civil 3:8 clarification 20:20 clarify 63:25 92:3 clarifying 105:24 clarity 57:6 class 42:21 76:6 classes 21:13 76:7,9 classify 53:17 classifying 53:13 clauses 119:20 clear 22:13 34:1 38:13 62:9 67:11 84:25 91:4 96:24 116:8 client 24:21 clients 67:2 close 16:11 27:4 28:21 closely 12:17 31:21 coal	67:3,5 coast 103:14 code 1:12 4:5 66:1,4,9 70:6 83:24 85:15 91:4 107:7 cognizant 117:4 coincide 98:20 99:6 100:12 collaborative 10:19,24 13:9 15:21,23 16:5 16:10,15,16,24 17:12 17:21 52:12,22,24 54:7,17 56:22,25 57:21 58:13 82:9,13 82:15,20,24 83:18 87:3 105:11 120:6 collaboratively 81:24 82:3 86:8 120:3 collaboratives 16:3,21 52:25 83:15,18 collect 24:20 collected 89:23 collection 88:14 Columbia 7:13,15,18 8:13 11:15,25 23:15 52:23 53:8,9 54:22 55:7,10,11,15 57:2 Columbia's 55:18 Columbus 1:21 2:8 122:13 come 13:6 17:7 30:14 69:5 76:21 83:10 101:11 106:16 109:12 118:18 comes 72:8 coming 73:15 comments 21:10 commercial 31:22 43:14,17 44:14 106:9 109:22 113:9 commission 1:1 8:20 68:25 70:10,21,21 74:12 80:23 104:13 121:16 122:18 commissioned 122:4 committed 85:23 Committee 39:9 common 17:20 communication 28:24 communications 13:24 communities 33:8 companies 7:6 11:14 16:3 67:19 company 1:4,7,10,14 5:23,24 6:14 11:8 13:22 16:14 17:5,15 21:11 22:25 23:4,11	35:14,16,17 36:12,12 36:18,21,21 37:3 47:3,4 56:6 67:7 74:9 74:13 80:5 81:6,7,8 81:22 84:21 87:14 93:14 95:10 98:4 102:7 103:14 104:9 104:11,15,22 120:3 company's 56:4 100:16 102:15 comparison 53:20 119:1,1 comparisons 53:6 competitive 96:9 118:21 completed 122:9 compliance 48:15 118:17 complicated 81:14 83:11 components 52:16 53:14,19,21 54:13 composition 76:19 computer 9:14 13:3 122:7 conceived 34:10 concentrated 36:23 concentrating 26:20 concept 89:6 100:21 concern 42:14,15 57:24 57:25 concerning 66:12 84:20,21 concluded 120:18 conclusion 70:1,16 71:3 85:10 96:19 condensing 12:10 condition 72:16 conditions 68:23 conduct 61:2 65:1 conducted 104:9,10 conducting 22:24 38:23 conferences 76:17 confirmed 92:18 Connecticut 8:15 10:18 31:20 connection 45:1 80:13 consequences 64:9 conservation 77:3 81:4 consider 14:23 52:12 56:22 70:10 71:6 77:16 82:25 96:12 consideration 57:22 83:12 considered 58:9 97:12 consistent 58:11 constraints
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15:7,19 construction 12:8,22 30:25 32:25 33:10 35:11 95:2 consultant 5:21 consultants 23:22 31:9 consume 33:13 68:4 consumer 76:10 114:5 consumers 1:20 2:6,9 5:12 26:8 84:23 102:24 contact 76:22 contained 115:10 containing 66:9 contains 80:11 93:18 107:9 114:17 contemplate 59:14 content 51:2 contention 69:14 context 77:14,15 84:24 contiguous 116:1,9,12 116:14 continuous 82:15 contract 42:11 43:6 56:7 contractors 12:17 convenience 82:18 cooperate 41:9 copy 10:7 75:16 94:23 103:23 104:17 111:6 111:16 corporate 1:15 7:16,25 12:2 correct 9:4 15:23 17:22 18:10,11 27:7 39:16 42:1 49:25 50:6 55:17 61:11 66:22 68:21 82:1,23 85:5 90:12 95:7,8 99:16 100:22 101:17 102:12 103:7,22 104:23 106:18,20 116:23 121:5 122:7 correction 121:4 correctly 33:1 96:14 cost 11:3,9 13:24 15:11 18:5,9,16,21,22 19:25 20:1 25:8 35:13 36:23 38:24 39:2 47:14,17 49:8 52:1,1 53:13,22 54:13,20 55:16 56:13 57:15,17 58:14,17 65:11 68:16,17 69:19 87:25 90:25 93:1 98:8 101:23,23,24 102:2,6 116:25 117:5	117:5 118:2,5,7 costly 33:2 costs 15:8 48:2 49:6,8 49:24 50:5,8 51:11 51:15 52:1,7,11,17 53:7,14 54:3,5,14,23 54:24 55:12 58:4,9 67:3,10,12 68:6 69:24 73:15 78:16 88:3 102:4 117:2 cost-effective 15:9 cost-effectiveness 11:10 cost/benefit 55:21 Council 76:1 counsel 1:20 2:6 3:5 5:12 26:8 91:4,5,6,13 91:17 92:2,10 96:22 97:1 122:11 counselor 92:20 counselors 92:16 Counsel's 84:23 country 21:24 51:15,17 51:22,24,25 74:3 81:11 100:1 103:11 104:5 counts 55:10 County 121:2 122:3 couple 15:6,22 16:22 58:23 106:13 coupon 34:22 course 36:1 court 83:5 Courthouse 2:3 cover 50:10 Cox 2:2 co-shared 10:23 crash 83:2 credit 41:20 42:10 46:21 credited 88:13 credits 42:2 crop 14:7 cross 50:20 51:5 current 98:20,25 99:6 99:9 100:12 currently 89:2 customer 43:12,24,24 47:7,7 59:4,9,14,21 59:21 60:22 61:1,3 61:18,20 62:1,3,7,8 65:9,10 71:8,16 72:2 72:5,6,18 73:8,11,12 73:19 74:16,22 75:1 75:14 76:6,7,9 77:2 78:15,19,24 79:2,16 79:19,20,23 103:16	104:5 customers 7:7 12:15 15:1,7 18:15,17,20 32:1,21 33:14 35:19 42:16,16 43:2 44:9 44:18 45:13 46:19 59:19,25 60:4,6,8,8 65:12 69:21 71:18 78:22 84:15,16 88:13 98:15,16,17 112:15 112:19,22 customer's 102:18 customer-sited 43:6,8 43:9,15 44:19 47:18 48:1 116:22 cut 44:16 cycle 11:5 D Dan 35:24 dance 110:12 112:11 danger 43:22 data 23:17,21,23,25 24:7,20 databases 23:22 date 82:20 day 9:4 30:4 121:11 122:13 days 63:10 Dayton 1:3,6,9,13 2:4 2:10 15:24 16:12,14 45:6 deal 34:21 59:10 dealing 18:15 34:18,19 50:25 86:19 92:14 114:11 117:13 deals 18:4 19:25 95:1 114:24,25 115:4 dealt 16:7 decide 58:16 decided 16:15 decision 69:4 decisions 23:10,12 decoupling 75:23 80:24 81:1 deep 99:20 deferred 68:9 define 54:17 defined 115:23 definition 54:1 68:12 68:14,15 118:20 definitions 118:17 degeneration 81:2 deliberate 83:4 deliver 53:3,3 109:25 deliverable 115:23 delivered 13:20 116:2 116:5	delivery 115:20 demand 7:4,21 11:5 18:9 64:15 65:2 78:23 102:10 demonstrate 108:16 109:6 demonstrated 110:19 denominations 42:6 department 5:25 6:5 7:2,17 8:4,7 9:21,23 10:1 12:4 44:7 depend 73:20 117:17 depending 47:10 depends 72:4 82:12 deposes 5:3 deposition 1:17 3:6 16:20 25:11,20 110:20 120:18 121:3 121:9,11 depositions 24:9,14,24 25:4,6,9,12 Depression 99:21 deregulation 6:25 described 13:10 24:3 design 10:15 11:17 13:12 14:14,17 23:7 23:10 35:24 47:20 49:7 54:16 73:13 104:15 105:22 117:1 117:3 designed 34:10 designing 11:1,2 105:19,22 desirability 19:22,23 20:6,11 detail 18:3 detailed 11:7 24:21 details 47:20 determination 13:6 49:10 56:23 57:22 70:22 86:22 113:1 119:19 determine 11:10 50:17 107:14 determined 45:23 develop 34:15 35:5 42:10 46:13 82:5 83:13 102:16 109:25 119:14 developed 12:24 13:2 13:11 14:13 16:3,25 30:25 43:1 46:8 48:14 81:24 82:3 86:8 87:2 108:4,4,8 117:22 developing 7:4,6 24:3 105:11 108:11 development	5:25 24:8 44:7 107:2,21 108:25 devices 79:22 diagnostic 32:13 difference 30:11 45:22 63:2 74:25 differences 53:15 55:6 different 13:21 16:2 17:7 22:2 23:3 24:19 25:22 29:25 37:14 53:13 54:23 56:1,2 68:24 69:3 74:3 91:7 92:14 99:17 100:19 101:12 103:20 differently 59:16 69:1 differing 99:15 differs 62:2 difficult 85:13 disagree 48:22,24 82:14 107:25 disapprove 92:22 93:8 95:18 discarded 85:16 disconnect 111:12 discovery 18:8 discrete 102:18 discussed 110:8 discussing 11:14 discussion 14:16 30:21 48:7 60:14 71:15 88:18 91:3,17 92:1 96:22 103:5 106:8 120:12 discussions 29:24 39:12,14 44:7 84:19 99:10 disguising 37:20 disincentive 63:12,21 disposal 68:1,5 distinction 117:19 120:8 distributed 112:17 distribution 7:14 86:4 86:9 106:23 division 93:19 document 40:15 111:8 111:12,16 documentation 113:14 documents 111:10 doing 7:12 9:10 24:11 112:25 dollar 46:2 49:20 89:20 dormant 35:4 DP&L 4:3 10:8 16:16 19:1,13 22:7 24:2,17 35:8 36:6 37:2 38:16 42:9,13 44:18 45:10
--	---	--	--	--

61:21 62:24 65:19,24 66:3,8 69:10 77:2 78:18,21 83:17,23 84:6,14,17,20 85:1,7 85:18,21,23 89:15,17 90:13 94:23 100:20 102:10 103:3 106:5 115:19 DP&L's 17:24 22:21 52:17 78:25 79:16 87:21 97:7,11,17 103:18 draft 66:17 drew 120:8 drive 113:24 driven 10:24 76:23 DSM 10:14 13:12 14:15 16:7 31:13 49:16,24 59:1 81:24 82:11 87:1 89:10,16 duck 24:24 ducking 25:1 due 78:14 Duke 16:4 46:12 52:21 53:10 55:8,16 85:25 86:7,10,13 87:1,6,7,9,24 88:11 duly 5:2 122:4,5 duration 119:7 duties 6:16	efficiency 7:7,18 8:2,25 10:14 13:2,12 14:14 14:21 21:25 26:13,19 26:21 27:2 29:13,22 35:3 39:10 51:21,24 56:14 59:1 61:6,19 62:17 63:13,24 64:6 68:9 71:9,11,24 73:18,24 74:18,25 75:22 76:2,2,4,14 77:4 78:14 80:14 82:11 83:24 84:15,22 85:8,15,16,19 86:20 88:16,21 89:5,7 114:18 efficient 12:10,11 32:22 73:14 74:17,23 82:12 83:19 efficiently 14:8 efforts 13:9 61:9 75:23 either 20:14 22:19 26:3 32:17 46:2 64:3 70:18 109:13 electric 1:5 5:16 11:9 54:24 58:1 65:2 95:2 106:23 electrical 79:22 electricity 51:25 78:23 115:24 116:2,10,15 electronic 28:24 element 84:22 114:23 elements 20:1 54:4 85:14 else's 50:24 emotional 111:25 112:1 emphasizing 110:22 employed 5:15 122:11 employee 122:10 employment 42:23 enable 21:18 31:16 37:3 ended 7:20,21 energies 32:8 110:1 energy 7:5,6,18 8:2,16 8:23,24,25 10:14 13:12,24 14:14,21 16:13 21:25 26:13,15 26:18,20,21 27:2 29:13,21 35:3 39:9 39:10 41:13,13,18,20 41:23 42:2,10,19 43:3,5,6,8 44:12,13 44:19,24 45:6 46:12 48:1 51:21,24 56:14 59:1 61:6,19 62:12 62:15 63:13,24 64:5	68:9,17 71:8,11,24 71:25 73:18,24 74:18 74:23,25 75:22 76:1 76:2,4,14 77:3,3 78:14,23 80:6,14 82:10 83:24 84:14,21 85:8,15,16,19 86:1 86:19 88:16,19,21 89:5,7 102:18 104:13 105:5 106:3 114:18 115:20 116:22 engage 16:15 England 74:3 entail 43:13 101:24 entails 16:8 enter 56:7 entering 118:15 entitled 110:11 environmental 67:22 114:5 equal 52:2 118:2 equipment 32:18 67:21 67:23 equivalent 73:17 escalation 119:20 especially 14:4 17:8 29:21 82:20 establish 10:19 establishments 113:9 estimate 78:22 117:6 estimated 88:3 estimates 88:1,1,14 106:25 107:3 113:6 114:1 et 11:11 evaluated 55:21 evaluation 11:4 14:6,9 53:4,19 55:9,12,16 55:18 evaluations 55:22 eventually 118:18 everybody 17:18 evidence 107:9 exact 44:20 exactly 24:11 100:7 EXAMINATION 5:4 examine 51:2 examined 121:11 example 11:8 23:20 35:16 67:4 70:13 71:10 73:1,8 74:10 87:24,25 examples 68:14 74:10 exceeds 56:19 excessive 52:21 57:11 69:16 executive 8:17,20 exhaustive	67:15 exhibit 4:3 10:6,8 89:17 94:15,23 exist 29:1 40:25 existing 32:7 65:24 expect 62:17 74:17 82:9 expectations 79:7 expected 51:14 78:25 expenses 66:21 68:13 experience 10:17,17 11:7,22,24 13:8 16:1 31:11 52:21 67:20 74:2 83:17 85:12 expertise 17:5 expires 121:16 122:18 explain 110:12 117:8 explanation 57:7 explicitly 55:8 exposed 113:12 express 36:4,8 expressing 19:20 37:1 37:7 49:19 expressly 80:12 extensive 16:1 extent 10:13 18:16,19 42:22 49:8 65:14,23 73:5 81:10 84:11 85:11 88:5 101:11 102:19 108:3 externally 26:2 e-mail 40:7 41:4	37:15,18,25 38:8 40:6,22 41:6 48:20 50:22 51:8 57:3 64:18 73:4 75:18 78:6,9 79:10,13 84:2 86:15,17 87:5,7 91:14,25 92:4 93:25 94:7,13,20 95:5 96:2 96:5,21,25 97:5 100:8,25 104:1,20 107:11 108:20 109:1 109:4,10 110:24 111:2,17 112:1,5 113:25 115:13,15 116:17,19 120:14,16 features 35:25 February 122:13,18 federal 88:23 109:2 feedback 13:21 fell 66:17 felt 30:15 57:11 Fifteen 9:25 figure 28:6,18,23 46:17 58:6 79:14 figures 54:12 filed 19:13 20:12 21:14 50:14 86:1,10 87:9,9 114:4,12 files 72:8 filing 16:6,6,7 17:24 19:1,9 27:22 35:17 66:3 69:16 70:23 78:21 85:2,21,23 87:12 filings 18:7 final 65:23 66:18 financially 74:14 122:11 find 23:24 79:6 fine 6:10 14:15 37:9 40:21 61:7 79:5 81:23 82:8 91:16 110:12 112:3,4 finish 72:15 95:17 96:25 firm 9:9 first 5:2 10:19 14:5 15:11 16:13 23:20 29:12 32:25 33:1 40:4 41:16 46:12 55:3 57:3 83:9 102:8 103:9,12 107:11,23 firsthand 11:24 fit 69:5 fixed 33:7 68:17 73:13 flag 58:4 flat 94:2 97:2 Florida
---	---	--	--	---

104:8,10,23 fly 68:2 focus 11:18,21 36:17 38:9 76:6 focused 35:13 72:13 83:20 Focusing 78:24 follows 5:3 103:6 foolhardy 66:6 footage 113:8 footnote 117:13 forecast 78:21 forecasting 72:9 foregoing 121:3,9 122:7,8 foregone 80:13,17 81:3 form 121:5 forth 13:25 29:24 113:24 116:1 forward 83:21 107:24 108:5 four 35:10 45:2 100:1 106:23 frame 108:18,20,22 Franklin 122:3 free 62:24 Friday 1:22 3:1 25:15 121:4 front 10:8 61:14 fuel 67:8,9 68:8,10 73:10,17 full 5:9,11 11:5 49:23 fully 81:6 full-time 9:19 functions 82:10 fundamental 120:12 funding 109:3 furnace 12:14 furnaces 12:11,11 future 22:17,17,21 82:17 108:23 109:2 109:24 G Garrison 25:21 gas 7:13,15 8:13 11:15 11:25 16:3 23:15 53:8,9 54:22 55:10 55:11,15 73:11,14 88:23 gathering 17:14 geared 61:9 general 10:11 13:14 14:13 20:21,22,23 21:7,12 23:13 28:25 29:13 61:6 113:17 generally 17:2 19:2,13 21:6 26:16 31:17	34:14 42:5 56:1 62:16 76:20 98:12 101:3 107:17 generate 109:23 generated 23:17 generates 42:3 generating 95:3 96:7,8 97:8 generation 7:1 42:4 45:14 63:3,5 67:4,13 81:9 93:21,24 94:5 97:9,12,13,15,18,19 112:17 getting 13:20 83:5 100:15 105:19 111:25 112:1 give 20:23 30:2,23 37:25 74:10 111:9,23 113:2 118:21 given 20:15 37:5 47:9 65:10 78:8,9 101:10 107:17 109:20 121:4 122:8 giving 96:20 glad 41:8 111:10,23 go 14:5,15 20:24 23:5 29:11 31:1 32:12 33:2,20,21 35:23 49:22 53:23 54:10 58:25 61:12 62:23 70:2,3,17 71:4 73:24 74:21 84:4,10 92:5 97:21 104:25 105:9 105:25 115:17 goal 17:9,20 98:10 goals 13:1 30:17 42:19 going 7:11 8:5 22:21 23:16 24:20 30:13,13 30:19 37:4 40:7 42:17 48:19 50:18 51:12 59:4 60:12 67:12 71:17 72:23 73:14 81:12 83:25 84:8 91:11,20 94:22 99:3,18 102:6,16 107:8 108:5,12 109:18,25 110:18,23 113:15 118:24 119:15,16,17 Gonzalez 1:18 3:7 4:4 5:1,6,11 24:16 71:23 93:17 94:17 121:3,7 121:9 122:5 good 22:5 59:10 88:18 90:19 98:10 101:14 gotcha 115:5 gotten 111:17 govern	13:12 governor 8:19 30:7 governors 30:9,22 governor's 8:17 gratuitously 50:23 Great 99:20 greater 98:17 green 46:8,10 118:12 118:13 greenhouse 88:23 Gregory 2:7 Grid 90:11,14,21 95:11 101:10,12,16,19,24 102:17 105:20,21 grounds 58:18 group 6:5 58:15 76:3 76:10,12,13 grow 77:4,18,23 growth 78:15,15,18,22 78:22,24,25 79:16,16 80:5 guess 19:3 46:5 guessing 79:25 guesswork 22:4,9 23:1 23:12 guidelines 53:4 Gulf 104:7 gypsum 68:2 H half 107:19,19 hand 83:9 113:19 122:13 handed 105:4 hands 10:25 handy 36:10 happen 56:14 119:16 119:17 happened 25:15 30:12 113:15 happening 71:22 hard 25:5 60:19 hardship 98:17 harmed 74:14 hashed 120:6 head 9:25 13:16 45:21 heads 10:1 hear 84:2 hearing 50:16,19 110:8 heart 23:16 help 21:19,19 31:24 59:22 110:23 helped 46:13 helping 42:18 Hennebert 1:19 122:4 122:15 hereinafter 5:2 hereto 121:4 122:10	hereunto 122:12 he'll 23:3 hide 91:19 high 51:25 52:1 58:3 higher 48:12,19 51:14 52:1 58:14 63:8 67:8 118:2,24 hired 7:20 hiring 13:1 history 31:13 83:17 home 32:12 34:17 homes 32:7,9 73:19 113:7 honest 111:21,24 Honestly 85:20 hope 59:21,24 74:20 hour 42:8 61:22 67:13 hours 46:25 47:3,4,5,8 61:18,21 62:4,6,18 63:7,9,9,18 71:10 72:6,20 73:9 107:18 house 13:5 26:14 29:21 32:25 33:1,2 35:18 39:9,13 40:12 households 109:21 hundred 43:19 61:20 61:22 62:4,6,8 71:10 72:6 hurdle 15:11 HVAC 12:16,17 24:17 74:16,22,25 hypothetical 49:11 50:19 63:20 72:5,17 I idea 31:5,9 90:19 117:15 ideas 17:14,16,17 identified 4:3 35:24 identifies 67:14 identify 35:21 Idzkowski 2:7 20:11 22:10,13,17,20 23:4 24:13 25:3 27:17,23 28:1,6,11,15 29:7 37:4,13,16,22 38:1,5 40:10,25 41:4,7 45:18 50:12 51:6 54:25 63:25 69:25 70:3,6,15 71:2 72:23 73:5 78:5,7 79:8,11 83:25 84:4,8 85:9 86:14,16 87:4,6 91:8 91:11,22 93:23 94:11 94:18 95:4,25 96:3 96:12,24 97:21,23 100:5,23 101:2 104:25 107:8 108:18	108:22 109:8 110:18 111:5,23 112:3 115:12,16 II 18:1 III 18:2 Illinois 103:15 Illuminating 11:9 31:21 illustrative 69:13 immensely 108:24 impact 88:8 impacted 88:6 impacts 42:23 78:13 implement 21:12 64:14 64:25 80:23 105:14 implementation 8:9 10:14 11:13,18 13:10 14:11 23:8,11 80:14 84:14,21 implemented 8:5 19:11 19:15 34:11 implementer 11:16 implementing 11:2,23 11:25 64:12 83:1 implements 61:19 71:8 72:19 81:3 implications 69:20 important 14:4,10 32:9 33:7 84:22 impression 30:4 71:19 80:25 improvement 82:15 97:25 100:20 inaccurate 96:13 inapplicable 96:2,4 incentive 12:16 59:8,9 64:1,1 65:10 incentives 15:12 32:13 44:9 59:3 63:23 64:4 64:11,13,25 65:8 73:12 75:24 107:22 113:23 inclined 101:4 include 54:4 55:16 66:23 73:2 89:17,22 100:9 116:10 included 40:19 54:14 60:14 89:11,16 includes 55:8 64:7 including 53:25 69:24 70:13 income 33:8 incorporates 72:9 incorrect 94:10 95:22 95:24 96:19 incorrectly 96:1 increase 62:8 67:25
---	--	---	---	---

77:9,12 78:23 increased 67:10 increasing 68:6 79:23 incremental 15:8 incumbent 36:18 incurred 49:24 incurring 101:23 independent 52:19 INDEX 4:1 indicate 108:15 indicated 28:16 35:16 individual 19:21 individuals 76:18 industrial 31:23 industry 76:12 107:22 influence 35:3 inform 32:20 information 11:15 14:2 15:17 17:3 24:6,21 44:6 49:12 51:19 83:13 102:18 119:18 infrastructure 35:5 97:24 100:19 101:1 initially 87:17 initiatives 7:23,24 input 114:9,10 installation 33:3 47:10 108:11 110:3 112:14 112:21 113:21 installed 73:18 113:11 installers 24:17 installs 72:7 74:16 instance 23:23 61:25 instances 62:13 integrated 81:5 intend 66:3 intended 63:23 64:4 intensities 56:2 intensive 55:24 56:10 56:12 117:4 intent 95:21 interchangeably 41:21 interest 19:18 75:22 interested 6:24 18:5 25:8 117:8 122:11 interim 45:1 interject 50:12 internal 23:23 24:6 internally 13:21 26:2 interpretation 92:9 107:7,15 108:17 interrupt 79:12 intervened 8:22 intervention 14:22,23 introduced 27:2 29:23 invalid 93:4,7 investment 95:11,12	98:4,6 101:1,20 102:4,5 involve 97:12,18 involved 10:13,21 11:13 25:22 26:5,11 46:7 52:23,24 83:19 92:6 103:17 104:5 involvement 25:24,25 Ireland 2:2 isolating 71:16 isolation 58:2 issue 28:12 29:4 56:18 81:14 101:6,6 110:22 issues 11:3 14:11,20 15:17 16:7 68:1 92:14 114:24 item 54:7 55:11 items 45:1 119:12 i.e. 13:20 59:9 J J 2:2,7 Jackie 91:8 Janine 2:6 January 1:22 3:2 87:10 121:4 job 9:18,19 42:23 jobs 9:8,16 joined 9:7,15 joins 16:20 judicious 83:12 Julie 27:24 Julieanna 1:18 122:4 122:15 JUL-1363 122:19 jurisdiction 31:19 jurisdictions 71:20 justification 8:2 14:25 justifying 12:2 K keep 27:9 106:19 kilowatt 44:1 61:21,22 62:4,6,18 67:13 71:10 72:6,20 73:9 kilowatts 43:19 kind 12:12 109:23 117:16 119:20 kit 23:8 knew 76:18 know 14:12,17 17:3 19:3,13,19 20:10,16 22:20 27:1 28:3 30:3 33:13 34:23,24,25 35:16,16 36:11,18 38:1 44:10,18,20,20 45:16,22 46:2,6 50:25 53:12 54:2	67:18 70:17 76:3,7 76:15,16,19 78:25 79:4 80:6,16 85:11 85:13 87:24 88:3 98:24 101:11 103:16 105:8 109:1 111:4 113:4 114:9 117:14 knowing 92:8 knowledge 7:17 30:25 48:17 54:13 85:12 kW 44:3 L L 2:6 labor 55:24 56:10,12 landlord 15:15 language 65:24 70:7 80:22,25 92:24,25 115:10 large 6:23 51:23 53:1 77:13,16,18 larger 7:7 59:13 largest 32:10 lasted 72:1 lasting 82:9 lasts 71:11,14 launch 14:5 lawyer 18:10 lawyer/client 27:15 leave 11:17,20 Leaving 94:9 led 25:23 left 5:19 9:3 legal 70:1,15 71:3 85:10 94:8 96:19 legally 96:19 legislation 26:6 48:14 59:18 60:15 63:22 64:4,7,10 65:6 70:20 84:25 85:4 88:23 110:9 119:17 legislative 7:23 26:9 28:25 29:25 93:1 legislator 27:20 28:9 85:17 legislators 26:12 60:16 legislature 28:20 29:4 29:11 length 99:9 let's 47:24 72:4 73:4 75:20 120:1 level 31:3,6 49:3 levelized 53:17 levelizing 98:4,6 levels 27:13 life 72:10 74:7 96:8 light 1:4,7,10,14 2:10 15:25 16:12,14 42:25	lighting 33:23,23,24 34:21 likewise 18:24 lime 67:20 limit 47:23 70:25 limited 14:10 18:14 86:19 line 38:22,23 39:7,8,17 40:1,1,3,4 42:9 43:9 49:13,22 50:3 52:6 62:20,21,23 65:17 69:14 75:15 77:17 78:3 81:23 87:20 88:15 89:12 90:9 92:20,23 93:17 94:4 98:3 103:9 104:3 105:9 106:3,12 114:17,25 115:1,4,7 115:17 119:4 lines 51:4 65:13 66:19 68:18 69:7 73:22 83:22 89:9 95:16 98:19 99:4 102:11 105:9 115:4,7 116:20 117:8 list 15:5 33:15 34:4,12 34:14 literature 15:5 74:4 little 43:11 59:16 living 52:1 load 30:18 72:9 logic 78:1 logical 77:21 long 5:13,17 6:1,8 7:8 8:6 14:16 75:8 82:8 82:23 87:16 98:24,25 99:2,13 long-term 119:5 look 14:8,18 15:2 18:7 21:24 49:4,5,13 54:7 54:20 55:11 58:3 62:20 65:13 69:7 71:21 73:22 74:4 78:2,17 81:15 84:6 87:20 94:2,24 114:3 117:2,25 118:18 looked 18:3,7 36:21 52:18 80:3 looking 11:3 18:3,5 21:12,12 43:11,12 72:12 82:17,17 90:16 93:16 94:7 95:4 100:16 107:24 109:19 112:25 113:15 119:2 looks 94:14 99:18 loop 13:24 loosely	64:10 lose 61:21 62:14 72:2 74:24 75:13 81:8 losing 71:12 72:21 loss 78:13 lost 61:14 65:24 68:19 69:10,15,20,24 70:13 70:25 71:6,19 72:10 74:5,5 77:18,21 88:5 88:7 lot 6:20 30:17 35:2,3 67:15 99:15 105:17 108:12 109:15 112:22 113:12,13,14 lower 30:16,23 47:23 63:17 64:14 67:8 lowest 118:21,23 low-income 33:6,10 35:11 84:16 Ludlow 2:3 M main 55:17 120:7 maintain 65:23 maintenance 66:20 68:13 major 15:20 26:4 33:12 making 21:20 23:10,11 53:6 60:18 84:12 85:1 92:7 95:11 101:7 102:4,5 105:10 106:7 114:13 manageable 49:9 59:8 managed 13:17 management 7:4,22 8:16 11:6 18:9 77:3 mandate 43:3,5 mandated 52:6 77:22 mandates 36:13 60:14 109:17 mandatory 42:2 45:25 48:11,18 88:23 117:9 117:22 118:1,15,22 119:1,3 margin 74:5 Maria 24:15 mark 97:4 marked 10:6,8 94:15 market 5:21 6:6,6 14:18,23 15:1,3,12 32:4,6,9,10,17,23 33:10 34:3,18,19,25 35:2,4,10 43:13 45:16,24 46:1,14 48:8,9,11,18 53:2 60:11,17 61:5 62:25 63:4,16 108:9 109:25 117:10,18,20,22
--	--	---	---	---

118:3,7,7,8,11,14,15 118:15,16,19,21,22 119:2,3,11 120:8 marketing 8:4,6 12:4 50:4,8 51:10 53:7,14 53:18,22 54:3,4,14 marketplace 41:25 markets 42:2 43:21 81:10 118:1 Maryland 12:5 matter 1:3,6,9,13 26:17 109:24 matters 96:17 mean 14:20,24 18:2 20:11 21:20 25:24 28:1 33:5 34:9 44:15 50:18 51:16 64:1,2,3 75:6 76:18 78:7 79:11 82:2,3 84:18 88:17,25 96:10 101:20 102:13 108:7 110:1 117:9 meaning 60:20 115:24 means 87:2 116:4 meant 89:4 118:9 measure 15:9,9 71:9,11 71:14,17,25 72:11,19 72:22 measurement 79:5 measures 61:19 81:4 mechanism 65:25 69:15 80:24 81:1 89:21,24 90:8 92:22 93:4,5,9,9,11,12 95:18 100:17 mechanisms 69:20 87:23 meet 31:16 32:2 33:17 34:5,9 36:6,13,19 37:3 38:16 42:19 59:22 60:12,13 64:8 106:5 108:17 115:21 meeting 13:1 24:17,19 52:9 59:17 77:22 meetings 44:12 92:14 megawatt 42:8 46:16 46:24 47:3,4,5,7 107:18 megawatts 97:9,13,15 97:19 membership 76:15,19 memo 28:11 memory 85:24 94:6 mentioned 10:20 12:1 15:21 21:4 34:17,17 52:18 92:17 mentions 19:19 40:4 merit	56:21 57:21 merits 56:22 58:15 Merrinan 67:1,7 68:7 met 5:6 13:7 21:18,20 26:12 59:3,25 60:21 107:16 108:1 metering 42:22 44:25 45:9,10,13 meters 90:16 methodology 54:22,23 metries 88:6 Michael 2:7 middle 86:2 midwest 30:8 103:14 Migden-Ostrander 2:6 Mike 40:6,22 91:21 94:7 100:9 110:25 million 49:15 112:22 mind 31:15 32:2 mine 13:15 minimize 47:21 49:7 117:5 minute 45:8 93:25 misinformed 97:2 misinterpreted 117:14 missed 64:16 misunderstood 96:15 mitigate 117:2 mix 22:1 33:21 model 13:3,5 57:2 models 11:9,10 moment 45:19 money 86:23 monitor 13:19 monitoring 11:3,14 53:3,19,24 55:8,12 month 61:19,21 monthly 44:12 months 16:11 73:4 75:4 105:12,25 Morning 3:1 5:6,8 motivation 36:20 motivations 36:22 move 60:17 83:20 110:17 moved 8:1 mover 59:20 multi-year 81:24 82:2 82:6 86:8	82:19 101:22 need 50:10 51:5 60:4 83:11,12 105:15 110:24 111:21 113:23 needed 83:23 84:6 needs 14:2 105:17 120:6 negative 58:7 net 42:22 44:25 45:9,10 45:12 62:9 101:13,14 nevertheless 56:15 57:17 new 12:8,22 32:24 33:9 35:10 73:2 74:2,16 74:22 79:22 93:2 94:5 97:7 117:21 non-energy 41:22 non-lawyer 95:19 non-solar 45:17 normal 63:10 North 2:3 Notary 1:19 3:9,12 121:10,14 122:4,16 note 41:3 notes 3:10 41:8 notice 51:13 noting 121:4 nuance 73:20 number 7:22 12:4 32:4 34:8,10 44:13,20 56:5 57:25 66:11 67:3,14,24 71:12 72:1,20 82:5 112:14 112:15,19 114:24 119:12 numbers 31:5,10,16 32:3 48:7 80:3 112:25 numerical 70:24 numerous 38:24	86:12,25 90:20 94:23 occupies 35:1 offer 63:13,23 64:4,5 64:10,13,25 85:7 87:1 offered 12:15,16,18 44:9 86:7 103:2 offering 20:5 37:19 38:14 60:7 61:10 65:8 90:22,24 offerings 102:24 office 5:12 8:16,16,17 8:18 9:12 10:20 26:5 27:7,8,19 31:8 32:1 42:15 84:19 101:4 122:13 offices 1:20 official 3:12 29:19 offset 78:14 88:16 offsets 88:22 89:1 off-peak 63:9 oh 36:11 51:12 97:10 103:20 106:10 Ohio 1:1,11,20,20,21 2:4,6,8 4:5 5:12 16:2 16:12 26:4 39:9 44:7 44:12,22,22,23 45:17 47:9 65:25 66:8 68:19 69:17 84:17 85:14 86:1 90:10 106:17,23 107:6,15 108:9,13,17 109:7,12 110:3 112:14,16 113:11,21 114:4 116:1,9 117:9,20,23 118:12 121:1 122:2,4 122:13,17 okay 34:2 38:20 40:10 40:25 43:15 51:9 58:19 62:19 66:19 73:5 79:10 84:4 88:18 89:25 97:23 102:8 106:2,10 117:11 once 8:1 ones 15:20 31:6,7 35:9 83:9 one-third 45:24 ongoing 82:16 operate 83:8 operated 12:5 operating 14:7 16:10 74:9 81:11 operation 66:20 68:12 operational 93:15 105:18 opine 92:22 opinion	21:8 23:5 36:5 36:8,15 37:1,7,19,21 37:23,25 38:15 49:19 90:18,22,24 92:2 96:17 99:7,17 114:22 115:6,9 120:4,7 opinions 18:14 19:20 20:5,10,15 22:3 50:1 50:14,18 51:5 99:15 opposed 10:15 29:23 61:5 68:17 89:6 112:17 oral 39:19 orally 27:21 30:3 39:23 order 59:3,25 69:5 82:10 99:7 105:14 115:20 orders 68:22 organization 76:5 original 16:6 29:23 38:4 57:9 88:13 originally 87:10 originates 115:25 116:8 ought 23:11 96:10 outcome 62:12 outreach 61:1,3,8 outside 10:18 17:5 27:19 overall 17:9 61:24 over-earning 74:11 ownership 47:5 owns 15:15
				P
				package 107:24 packaged 12:20 page 38:22 39:7 41:2 41:10,14 49:13 58:24 61:13 65:15,16 66:19 75:15,21 76:24 77:17 78:2 81:15,23 83:22 85:25 87:20,20 88:15 89:9 90:9 94:25 95:5 98:1,18 100:23 102:8 103:9,9 104:3 106:12 107:16 109:6,9 114:3 114:3 115:2,4,7,12 116:20 117:7 119:4 121:4 pages 114:22 panel 104:14,15 paper 28:24 30:2 parallel 39:13 parameters 17:4 119:3 parcel 47:1 part 5:23 6:13 35:24 43:3,4 44:21 52:8,14

<p>53:16 55:4,9 57:1,3 60:25 65:6 71:15 72:7 81:7,11 82:16 83:16,16 87:18,18 98:20 99:6,11 100:3 100:12,13 103:10,12 104:5 105:4 participating 42:18 43:23 particular 7:19 13:6 25:11 26:5 29:14 32:19 36:23 58:24 60:17 61:4,4,25 62:3 66:12 73:16 75:3,13 81:8 83:18 89:12 90:25 92:7 98:14 102:3 104:16 107:2 109:8,17 114:10 118:8 particularly 29:18 parties 3:6 13:21 56:5 122:10,11 parts 17:24 64:9 74:3 party 86:12,18,25 87:8 passage 62:25 passed 85:1,4 pause 44:16 paused 44:15 payback 15:10 paying 15:14 payment 48:15 peak 102:20,25 103:1 104:22,24 peculiarity 101:10,19 pending 86:5 94:12,19 penny 70:18 people 9:24 11:21 17:14 24:10,18 29:1 32:17 41:19 74:4 76:16,21 119:14 percent 12:11 30:9,18 32:8 52:5,7,13 55:9 55:13,14,19 56:20 57:16 58:10,15 67:5 70:13 77:5,6,10,13 77:15 80:7 93:14 106:15 107:19 108:1 109:11,20 112:21 percentage 70:25 perfectly 51:2 perform 82:10 performance 13:3 32:12 34:18 35:18 75:24 period 63:16 72:2,20 72:22,25 73:2,6 74:6 75:6,8,9,11,12 77:1</p>	<p>98:15 113:14 permissive 70:7 80:22 permits 80:12 persistent 112:2 person 14:1 104:12 personally 26:11 perspective 8:23 38:18 56:4 65:9,10 perspectives 17:7 pertained 18:8 pervasive 14:25 15:16 phase 11:13 phone 25:11 phrase 66:20 88:17 93:12,18 101:19 physical 116:11,13 physically 115:20 116:2,5,14,15 picking 120:9 picture 53:17 piece 26:5 27:13,21 32:17 40:13 pieces 28:24 30:2 place 60:16 81:14 101:14 105:17 113:10 122:8 placed 8:3 places 21:15 36:21 plan 1:5,15 106:4 107:23 planning 7:17 8:1 12:2 plant 67:4,17 Plaza 2:3 please 5:10 22:11 27:18 27:24 plenty 24:16 plethora 16:7 plus 53:3 68:10 point 7:3 9:7 29:14 32:19 46:22 50:16 55:17 66:8 67:6 92:21 94:14 97:2 99:23 115:1 policy 8:16,17,23 14:25 44:24 64:2 66:3 76:23 104:13 105:5 poorly 82:7 95:20,22 population 33:6,7 portfolio 21:16,17 31:18 33:21 81:24 portion 48:13 position 5:20 6:1,3,17 6:18 7:8 8:14 9:14 66:7 102:15 positive 30:9 80:5 possibility 42:17 43:2 75:12 possible</p>	<p>116:4 118:5,7 Poulos 2:7 16:20 91:8 power 1:4,7,10,14 2:10 5:16 6:24 15:24 16:12,14 58:1 PowerPoint 39:24 40:8 40:13,17,18 104:18 PowerPoints 104:19 predict 98:25 100:3 predicting 100:6,9 prediction 99:8 predominantly 18:4 prefer 101:5 prefers 101:4 prefiled 36:3 40:12,13 premise 48:23 82:13 prepricing 117:21 prescriptive 12:25 presence 3:11 121:11 122:6 present 98:17 presentation 29:12,19 39:24 40:8 presentations 45:2 presented 26:13 pretty 81:14 previously 5:7 price 48:19 118:1,3,19 118:21 119:2,11,20 119:21 120:5,8,9,10 120:13 priced 117:21 prices 48:11 63:8,8 pricing 46:8,11 102:25 103:1 118:12,13 119:14,14 prime 59:20 principle 22:5 23:16 principles 13:11,18 14:13 prior 26:19 84:13 117:20 privilege 27:16 28:7,10 29:3,4 91:15,19 privy 25:10 probably 8:8 18:2 22:5 30:4 39:6 59:10 63:10 77:14,15 79:19 79:23,24 84:19 98:8 98:20 99:5 100:12 problem 20:8 100:21 problematic 35:20,22 Procedure 3:8 proceeding 17:13 114:13 proceedings 104:14 process 10:24,25,25</p>	<p>11:2 14:6,9 15:23 16:5,10 25:23 26:1 29:11 54:8,17 58:13 82:16 87:3 96:9 105:12 processes 10:20 procuring 6:24 prodding 83:23 84:6 produce 33:13 48:3 67:25 68:2 product 7:4 production 11:10 68:16 productive 82:21 products 7:7 15:18,18 64:15 Professional 122:16 profitability 6:4 program 8:3 12:3,8,12 12:13,14,15,22,24 13:1,7,17,20 14:5,7 14:17 17:17 21:22 23:7,10,17 32:12 33:23 34:20,20 35:18 35:19 43:1 46:11,12 47:13,16,18,20,20 48:1,3 49:3,7 52:8,15 54:23,24 55:16 56:3 56:12,15,17,19,20 57:2,22 58:2,3,8,13 58:16 61:4 62:17 68:9 72:7 74:7 77:3 78:14 83:2,3 89:10 89:16 102:15,21,25 103:1 104:7 106:9 116:22,25 117:2,3 118:13 119:25 programs 7:22 8:4 10:14 11:1,2,2,11,23 11:25 12:5,6 13:10 13:13,18 14:15 15:2 16:25 17:3,9,18 18:21,25 19:1,2,4,10 19:13,14,18,21 20:2 20:7,12,13 21:7,11 21:14,16,17,21,24,25 22:8,16,25 24:4 30:24 31:13,14,18,22 31:23,23,25 33:16,20 33:21,22 34:5,8,10 34:15,15 35:3,6,7,8 35:15 36:6 37:2 38:15 44:8 46:8,15 49:16 51:13 52:17,19 53:1,2,2,3,4,23,25 54:6,17,19 55:20,23 55:25 56:1,9 57:15</p>	<p>57:25 59:2 61:9 62:11 63:13,24 64:6 64:11,14 65:1 70:11 80:14 81:25 82:6,6 82:11,17,24 83:4,7 83:11,21 84:15,22 85:8,19 86:8 87:1,2,9 87:10,25 89:19 97:7 97:11,17 108:3,7,10 117:21 118:12 progress 95:2 project 99:12 101:24 projection 116:24 projects 45:14 promote 17:15 promoted 85:15 promoting 12:10 promulgated 107:23 prongs 12:25 proof 3:11 36:12 properly 50:11 proportion 77:23 proposal 71:7 81:17,20 81:21,22 86:1 90:11 90:14 93:14 proposed 19:1 36:6 37:2 38:16 57:16 87:21 98:4,5 101:13 115:23 proposes 70:10 proposing 49:14 proposition 23:2,13 prospective 13:19 provide 32:13 59:2 63:23 83:21 111:10 provides 45:12 providing 14:2 119:5 provision 80:12,19 92:8 prudently 49:24 public 1:1,19 8:20 14:24 121:11,14 122:4,16 PUCO 65:20,23 66:9 66:16 68:22 69:4 87:15,15 pull 83:13 Pullens 90:20,21 purchase 42:10 43:5 pure 87:12 purpose 16:22 purposes 16:23 Pursuant 1:11 pursue 26:23 pursued 56:15 57:17 pushing 113:13 put 15:8 33:3 46:10,11</p>
---	--	---	--	---

47:2 70:24 82:24 91:15,20 101:5 puts 120:13 P.L.L 2:2 p.m 120:18	rate 30:16 63:3,4 72:9 73:2,13 74:11 86:2,4 86:9,15,16 101:5,6 104:15 117:10,16,17 117:18 118:23,23,25 rates 105:11,15,18,25 rationalize 30:23 reacting 59:9 reaction 59:22 87:15 read 17:24 18:1,2 19:9 20:25 21:3,5 22:10 22:12 24:9,12,18,23 24:25 25:2,3,3,6,12 25:14 27:24,25 38:3 38:5,7 48:20,21 54:25 55:2,3,5 57:3,5 64:18,19 66:2 67:19 77:24,25 78:3 95:6 100:8,10 111:21 121:3,11 reading 92:25 112:24 113:15 121:10 readings 99:10 real 72:14,16 84:6 realistic 109:7 really 17:4 29:22 32:8 46:7 79:6 100:14,25 102:14 103:4 112:11 reap 93:2 reason 14:24 28:4 69:12 87:13 reasonable 15:10 56:25 57:18 reasons 78:10 rebate 12:12,14,15 13:23 34:20,21 73:16 102:20 rebuild 73:14 REC 41:16,18 42:3 45:17,23,25 46:18,18 46:20 48:3,4,8,18 49:1 118:1,3,3,10 recalculation 73:3 recall 27:1 29:17 30:6 35:12,15 40:18,20 44:24 45:1,21 46:6 67:1 78:20 79:18 80:2,4 85:20 92:13 98:7 109:15 112:25 119:25 received 25:9 28:12 recession 98:15,21,25 99:6,9,11,12,17,19 99:20,24,25 100:4,13 100:15 recessions 100:1 recognize 63:2 69:22 recognized	24:2 recollect 80:3 recollection 86:22 recommend 35:25 47:25 87:21 103:3 recommendation 18:23 29:18 30:5 42:25 55:14 102:9 105:10 106:7 116:21 recommendations 16:24 19:4,6 27:3,5 27:12 30:12 32:14 56:20 recommended 28:22 30:7,7 recommending 53:5 88:11 record 21:1,2,5 22:12 27:25 38:7,13 48:21 55:2,5 57:5 58:20,21 58:22 64:19 77:25 95:6 100:10 104:25 105:1,2 116:17,18,19 120:14,15 records 19:16 57:6 recover 100:16 recoveries 18:5 recovery 11:3 18:9,16 18:21,22 20:1 25:8 35:13 36:23 49:24 61:14 65:25 69:10,15 69:23 70:25 71:7 74:5,5 77:22 80:12 80:16 90:25 107:23 RECs 42:6 45:23,25 47:5 118:4 recycling 55:24 56:3,5 redirect 50:20 reduce 33:14 65:1 102:6 reduced 3:9 62:3,18 reduction 78:16 refer 39:7 43:9 81:23 88:15 94:5 reference 40:20 75:15 103:5 106:14 references 69:12 referencing 102:14 referring 80:15,19 93:12,13 refers 50:4 93:21,24 refresh 94:6 regard 15:24 16:19,21 17:23 18:25 19:21 20:6 21:8 22:8,15,25 53:7 59:1 61:13 82:10 89:4 100:19	106:2,8 regarding 116:21 regards 57:12 regions 51:21,23,25 88:25 Registered 122:15 regulated 81:6,6,12 regulatory 7:23 117:17 reinvent 82:16 relate 58:24 related 6:21 8:19 39:15 relationship 29:3 relationships 7:5 relative 122:10 reliability 15:18 reluctant 28:4 relying 114:21 remaining 102:5 remember 80:8,9,11 remunerates 47:3 renewable 41:13,13,18 41:19,23 42:2,4,10 42:19,24 43:3,4,6,8 44:19 45:5,9,13 48:1 88:19 106:2 107:20 115:21 116:22 117:23 renter 15:13 reorganized 8:3 repeat 27:17 repeats 51:4,6 rephrase 64:16,23 replace 35:10 replacement 32:16 33:9 34:19 63:11 Replacing 63:15 report 10:3 54:2 reported 54:12 reporter 10:8 122:16 reporting 52:7,9 represent 42:15,21 represents 32:1 77:9 request 40:7 41:5 75:18 104:1,20 105:7 111:11 113:25 require 114:19 required 59:5 67:16 87:1 101:20 requirement 60:16 69:20 85:7 106:13,16 106:22 107:20 109:11 113:21 116:16 requirements 13:7 36:14 52:9 59:7,23 60:13 80:6 106:5 117:23,24 requires	59:18 research 5:21 6:21 9:9 9:10,11 76:5 106:21 researchers 76:22 residential 2:9 12:8,9 18:15,18,20,23 21:13 31:22,25 32:5 35:19 42:15,16,21 43:2,9 43:13,16,24 44:2,9 44:14 46:25 47:7 61:18 65:10,12 79:20 102:9,24 106:9 112:22 resolve 14:8 resource 26:22 resources 107:6,15 respect 55:7 113:18 respective 3:6 respond 7:2,23 response 37:23 38:9 48:23 60:7 65:7 86:9 102:10 114:14 responsible 104:12 responsive 14:1 rest 74:9 84:2 restraint 69:18 result 27:4 61:20 62:9 62:12 88:12 results 71:9 77:22 retail 63:5,8,11,17 retrieve 113:4 retrofit 32:6,11 33:9 34:18 35:10,18 return 74:11 Rev 1:11 revenue 61:22 62:14 65:24 68:19 69:15,20 69:24 70:13,25 71:6 71:13,20 72:2,10,21 74:5 75:13 77:18,21 78:14,15,18,24 79:15 80:13,17 88:5,7 119:5 revenues 61:14 63:11 63:12,16,17,18 69:10 73:3 74:24 81:2,9 88:16 review 54:18 56:25 57:20,21 58:13 75:23 113:5 reviewed 51:12 78:20 107:3 114:1 Revised 1:7 4:5 83:24 85:15 91:4 107:7 rewards 93:2 RFP 119:13 RFPs 7:2 42:14 46:10
--	--	--	---	---

46:11 rider 87:21 89:5,7,16 89:21,21,24,24 97:25 98:9,11 100:19,20 101:13,14 102:1,1 riders 101:4,9 right 10:9 21:1 22:4 30:20 31:4 33:4 38:1 41:25 43:10 49:3 53:8 55:25 56:17 59:19 60:5,8 62:15 66:4,10 68:1,24 71:14 75:2 81:18 85:4,8 91:14 95:19 97:8 100:4 106:6,17 114:6 115:8 rigorous 59:13 112:24 road 59:12 Roberts 91:8 role 7:2 rooftop 113:12,22 rooftops 112:15,20 roughly 68:18 rule 69:1 92:7 114:13 rules 3:8 65:20,23 66:9 66:16,18 114:11,15 115:23 118:17 run 13:4 83:8 99:12 running 47:18 53:1 67:16 R-E-C 41:17 S sales 6:17 24:21 81:13 sampling 9:10 saved 62:15 71:25 saves 61:20 72:19 saving 71:9 savings 61:23 62:12 73:24 81:16,17,20,21 81:22 88:1,6 89:10 89:16,18,22 90:4 93:13,15 101:25 102:2 109:23 saw 6:25 90:6 Sawmiller 19:4,19 20:3 20:18 21:10 35:24 50:4 51:3 Sawmiller's 51:4 52:19 saying 21:23 38:12 45:18 52:4 55:15 56:17 57:19,20 59:16 61:7,24 66:17 68:8 68:11 80:2 84:24 91:23 93:24 96:15 97:10 116:12 118:24 118:25 says 5:3 64:8 70:20	73:12 80:22 91:17 92:1,24,25 95:14,16 96:21 115:3 SB-221 80:11 115:21 schedule 90:6 schools 86:23,24 scope 101:24 scrubbers 67:22 seal 122:13 second 7:20 115:1,3 secondly 67:25 section 18:6 51:15,17 61:12 70:6 91:4 93:19 94:24 96:1 102:9 106:3 107:7 114:7,10,16 Security 1:5 see 17:12 38:9,25 46:3 48:22 49:17 51:3 62:7,25 68:20 71:22 73:15 75:20 77:18 82:19 87:15 92:23 95:1 98:22 103:23 120:1 seek 69:10 seen 24:6 83:3,4 106:25 113:13 Seger-Lawson 25:9,13 25:14 90:3 segment 32:9,17 61:5 segments 32:5,10,15 33:10,13,17 34:3 35:10 sell 62:24 63:3 Senate 25:23 29:23 39:12 64:12,25 65:4 send 13:4 40:6 Senior 8:15 sense 12:9 21:12 23:14 30:17 98:14 102:3 118:14 sensitive 69:19 sent 28:11 sentence 65:14,22 66:13,15 78:12 90:9 separate 40:17,23 55:11 Separation 1:15 serious 99:24 service 7:5 8:20 23:18 23:24 34:24 35:1 45:13 65:2 71:18,21 79:1,16 90:16 services 6:7,13,19,20 6:22 7:9 9:13,18 11:6 64:15 Session 3:1 sessions	29:20 set 18:25 26:25 54:6 69:3 86:8 114:11,14 117:16,17,18 119:11 119:13 120:5 122:12 settlement 86:12,25 87:11,18 seven 49:15 73:18 seven-year 77:1 share 17:16,17 shared 81:16,17,20,21 81:22 88:5 89:10,16 89:18,22 90:4 93:13 93:15 sharing 11:15 17:2 shoot 83:10 short 75:11 shorter 75:6,9 shortly 9:10 shot 83:23 show 69:18 94:22 108:16 shown 69:18 shows 113:20 shut 42:17,18 side 7:4,21 11:5 18:9 29:21 101:25 signatory 86:12,18,25 87:8 Signature 120:17 signed 30:8,22 121:11 signing 121:10 similar 53:1 100:18 103:18 simple 109:3 110:10,25 simpler 83:8 simply 12:19 97:2 single 47:6 48:3 72:18 72:19 101:6 sir 27:10 48:6 52:6 58:23 61:13 62:5,19 65:16 69:2 76:24 87:7 88:20 94:3 99:5 110:10 115:11 site 44:11,11 68:5 siting 47:9 situation 84:18 95:10 101:15 six 73:17 105:12,25 size 43:21 46:23 47:10 101:20 skill 108:11,12 slate 31:22 slightly 79:23 small 30:16 43:12,14 43:16,25 45:13 46:15 46:20 106:9 107:19 smart	90:11,14,21 95:10 101:10,12,16 101:19,24 102:16,16 105:20,21 sodium 67:23 solar 44:21,21 45:3 48:18 106:13,15,22 107:6,15,21 108:9,12 108:16 109:11 110:3 112:13,16,16,17,18 112:20 113:9,10,21 117:23 sold 41:25 somebody 10:4 20:18 50:23,24 113:8 120:9 somewhat 72:25 sophisticated 12:23 sorry 44:15 48:9 65:16 100:5 sort 9:16 50:23 76:10 sourced 96:9 Southern 104:9 speak 38:23 60:9 speaking 19:14 26:16 31:17 42:5 56:1 62:16 98:12 speaks 25:7 50:14 91:2 specific 23:7,18 24:1,13 31:25 43:20 54:15 61:4,9 66:13,15 80:3 91:12,12,24 113:18 113:19 114:23 specifically 20:12 21:10 27:1 40:4 93:23 specifications 105:20 specifics 34:24 specified 122:8 specifying 65:5 79:5 specs 13:5 speculate 22:21 99:2 109:2 speculating 100:2,7 speculation 22:3,9 23:1 99:5 speculative 100:13,14 spend 49:15 spending 88:4,4 split 15:12 spoke 28:9 sponsored 10:22,23 sponsoring 50:7 106:4 square 111:18,21,24 113:8 SS 121:1 122:2 stabilizer 67:20 stable 119:5 staff	101:13 115:22 staffing 7:21 stage 34:25 stakeholders 17:6,15 standard 39:3 42:10 43:5 stares 111:19 start 44:17 105:22 started 6:19 7:16,25 16:9 starting 30:15 78:2 98:3 120:11 starts 48:15 76:25 78:7 90:10 100:25 111:20 115:1,6 120:12 state 1:19 9:13 26:22 52:6 81:6,13 88:24 89:9 106:16 107:6 109:12 115:22,24 116:3,9,13,14 121:1 122:2,4,17 stated 69:14 96:20 115:7 121:10 statement 21:21 44:5 49:23 84:5,12 91:24 99:4 100:11 states 7:22 10:19 16:2 19:15 26:8 49:14 67:12 88:25 115:25 117:25 stating 82:23 statute 21:18 69:22 70:12,24 91:21 93:5 93:10,17 94:2,22,23 95:19 96:14 108:17 114:19 statutory 85:7 stayed 87:15 stenotypy 3:9 122:6 steps 24:3 stick 57:12 94:8 sticks 64:8 65:4 stimulate 108:8 stimulus 107:24 stint 5:24 9:12 stipulated 3:5 87:14 stipulation 87:11,19 STIPULATIONS 3:4 straight 37:18 73:13 stream 119:6 streamline 83:20 Street 1:21 2:3,8 Strickland 30:8 strict 14:6 strictly 49:15 strong 36:20 studies 76:8 103:19,21 study
---	---	--	---	--

52:20 75:15,19 103:8 103:18 104:4,8,12,16 113:18,19 Subcommittee 26:14 subject 25:22 26:16 37:8 50:11 51:3,10 56:24 77:8,11 99:14 109:10 submitted 28:1 121:10 subsequent 29:20 104:15 substance 121:5 substitute 9:8 succeed 62:11 successful 16:5 17:10 17:18,19 19:16 31:10 62:17 83:21 successfully 57:1 such-and-such 91:5 sufficient 14:2 107:5 107:14 suggest 42:9 87:22 106:15 119:22 suggested 31:6,8 suggesting 31:15 35:9 43:5 46:18,19 47:24 66:14 69:9 73:23 105:24 107:16 109:6 suggestion 119:24 Suite 1:21 2:8 sulfur 67:8,8 sulfite 67:23 summary 50:24 summer 104:22,24 support 20:2 26:7,8,18 39:9 42:23 45:8,9 supported 42:22 supporting 6:14,19 supportive 8:24 29:13 surcharge 93:18 96:8 sure 14:6 20:15 24:15 25:5 29:18 33:3 40:20 63:19 64:5,24 88:7 107:3 110:7 113:13 surprised 20:5 survey 9:11 103:13,20 103:24 surveyed 103:17 SW 2:3 switch 73:17 switching 67:8 73:10 sworn 5:2 122:5 system 7:14 46:23 47:2 73:15 74:16,22,23 75:1 78:18 81:13 102:16,22 105:15	T table 101:6 tag 88:16 tags 88:21 take 35:7 36:16 43:10 49:13 60:1,4,6,22,22 61:1 62:20 65:8,13 68:5 72:5 73:15,22 74:12 81:14,15 82:23 83:22 87:20 89:5 90:13 94:24 102:1 105:17 109:21 113:24 114:3 115:20 119:15 taken 1:18 21:22 24:2 24:10 78:17 89:1,23 122:6,8 takes 56:13,16 82:3 talk 45:22 52:5 68:18 74:4 78:13 82:8 99:19 104:3 110:24 119:4 talked 13:9 24:10 27:20 30:3 33:20,22 60:11 91:6,7 92:6,11 101:18 113:7 117:1 talking 15:4 22:14 24:14 29:15,15 33:18 34:6 43:16 46:23 48:4 65:5 67:2 72:18 73:1 75:3 77:2 79:20 90:7 91:10 93:5 105:19 108:19 109:9 109:17 116:21 119:7 talks 81:1 96:7 target 27:13 29:19 32:5 32:23 33:24 34:15 43:19 targeted 33:8 targeting 32:24 targets 21:18,20 26:24 27:3 28:21 29:15 30:5 33:17 34:6,9 36:7,19 37:3 38:16 59:3,17,25 60:21 77:4,22,23 115:21 tariff 45:10 Tariffs 1:8 TARP 107:23 teaching 9:9 team 7:1 technical 102:11 103:4 108:11 technically 31:8 technology 93:2 tell 5:9 9:3 11:22 20:8 28:4 41:16 42:12	51:9 53:21 62:23 66:23 78:3 93:25 99:8 110:16,17 117:12 telling 57:14 111:20 ten 1:20 73:4 75:4 119:9 ten-month 73:6 75:12 term 31:2,3 77:4 115:23 119:15 terms 10:18 12:25 15:7 17:9 18:3 19:21,23 21:11 52:23 68:23 69:16 71:16 74:13 82:22 90:4 93:2 territory 23:19,24 34:24 35:1 45:3 71:18,21 79:17 90:17 test 41:21 testified 28:20 40:5 testify 26:24 122:5 testifying 91:22 testimony 4:4 10:7 17:23 18:4,18 19:25 20:2,16 24:16 25:7 26:7,9,13,17,18 27:13,22 35:13,23 36:10 38:20 39:8,19 39:20 40:8,12,14,16 40:19 50:8,13,24,24 51:11 58:8,24,25 61:13 67:5,7,11,19 81:16 89:6 90:3,20 91:2,15,16 94:9,25 95:9,14,16 97:11,13 97:17 98:7,13 115:22 122:6,8 Texas 118:10 thank 58:19 79:13 101:2 115:11,16 thermostats 12:21 thing 7:25 86:21 things 12:20 14:7,18 30:3 31:1 74:8 111:20 think 5:21 9:12 13:17 14:9,24 16:2,14 17:1 17:4,18 18:17 21:11 21:15,16,19 25:17 27:4,15 28:15 29:7 31:7,8,17 32:4,11 36:5 37:5,22 39:11 42:20 43:20,22 44:16 45:6 46:25 48:9,13 48:17 49:10 50:13,17 51:7 52:3 56:11,21 57:14 59:8,10,12,13	60:7,18 62:20 64:7 64:13,24 66:5,17 67:15 69:4,12 71:5 72:24 74:12 75:7,11 77:4 79:21 80:7 81:12,19 82:13,22 83:9 86:23 87:23 88:10 89:9,15 90:13 95:8 96:5,6,10,21 97:3 98:10,13 99:4 99:16,23 100:14 101:8,13,18 102:15 102:21,23,25 103:13 104:14 105:9,22 107:19,25 108:5 110:20,22 111:7,17 112:16 118:22 119:9 120:5,11,12,16 third 56:5 90:10 110:15 111:1 114:11 114:14 thought 16:4,6 19:18 42:12,13 60:16 79:12 111:5 112:11 three 6:2 8:9 12:24 46:8 73:25 74:19 99:13,13,25 throws 50:23 thrust 113:17 thwarted 15:1 tied 74:9 till 84:2 time 5:19 6:24 7:11,19 13:23 14:5 33:1 50:21 72:20,22,25 73:2 74:6,8 75:8 87:16 94:16 102:19 102:20 108:18,20,22 110:15 111:1 122:8 times 91:7 time-of-use 102:15 103:5 titles 41:20 told 16:18 tone 110:19 tool 39:3,4 top 9:25 13:16 45:21 topic 22:2 total 45:24 55:18 71:18 107:20 tour 44:21,22 tours 44:23 trade 12:16 14:1 23:18 24:7 32:20 traded 41:25 45:25,25 trade's 81:12 trade-off 12:25 trading	89:2 traditional 32:21 101:23 training 12:18 14:3 transactions 81:13 transcends 18:18,19 transcribed 3:10 122:7 transcript 121:3,9 122:7 transportation 68:5,6 transported 116:15 treat 33:5 treated 71:20 tried 16:25 30:23 52:16 trouble 64:20,22 true 39:25 60:20 88:2,3 100:11 121:5 122:7 trued 87:22 88:12 truth 122:6 try 47:21 100:2 117:5 117:13 118:16 trying 7:3 9:10 14:19 28:6,17,17,23 29:10 30:18 35:12,15 37:15 37:18 46:3,6 50:17 53:16 58:5 61:5 79:6 79:14,18 80:4,7 92:13 98:7 109:15 112:10 119:25 turbine 47:11 turn 38:22 111:12 twice 110:14 two 6:9 7:10 8:8 16:11 25:12 48:16 51:1 53:10 68:19 72:8 type 12:14 15:12 24:7 31:10,25 32:11,12 34:20 43:1 48:8 53:1 67:22 80:10 90:5 95:9,13 101:15,24 types 12:21 15:19 19:10 20:13 21:7,23 31:14 33:15,19 34:5 34:14 35:8 52:3 105:18 typically 42:7
--	---	--	---	--

70:4 81:15 84:11 92:15 98:5 understanding 89:25 90:2 91:23 92:9,10 92:18,19 96:14 107:18 115:19 understands 110:21 understood 111:14 undertake 7:21 23:17 48:2 83:24 undertaken 31:18 51:24 undertaking 24:7 32:13 64:11 95:10 uniform 98:8 unit 46:25 67:3,13 79:5 United 31:21 universities 108:10 unnecessarily 84:9 unprecedented 99:19 unremarkable 23:2 upfront 54:18 105:23 upward 52:3 usage 13:2 62:3,18 79:19 use 23:21 31:2,3 33:24 33:25 62:8 67:13 69:12 71:9 77:4 87:24 95:9 102:19 118:11 useful 15:24 uses 34:16 79:22 102:18,21 usual 67:18 usually 23:24 32:24 41:18,20 48:19 118:1 utilities 1:1 21:25 23:21 30:1,24 31:21 45:3,6 51:20 53:12 54:2,12,24 63:23 64:5,10,14 65:1,11 68:20 69:13,17,23 80:23 103:10,13 106:23 108:9 utility 10:24 14:21,22 17:20 31:16 42:19 51:19 54:15 59:2,18 59:22 60:1,7,15,21 60:25 61:2,8 62:7,13 63:3,13,21 66:18 68:23 69:1,21 70:10 70:23 71:6,12,18,21 71:22 72:1,7,8,10,21 74:9,11,24 75:22 79:3 81:3 82:25 87:12,24 90:10 101:25 utility's	59:20 utilize 102:10 103:3 V vague 72:25 90:8 value 7:3,6 45:16 46:2 48:4 valued 48:3 vanish 74:18 variable 66:20 67:10 68:10,12,15 73:13 varied 69:4 varies 68:16,16 various 9:8 vary 67:3 103:13 vendors 24:17 45:2 verification 53:24 88:8 versus 20:17 47:12 69:1 71:17 88:4 120:8 vertically 81:5 veteran 73:11 view 16:23 23:3 51:9 violation 65:25 66:4 Virginia 12:5,19 vision 84:23 visited 44:12 visits 44:11,12 voice 27:10 106:19 volatility 98:9,11 volition 87:17 voluntary 42:1 45:24 46:14 48:8,9 103:1 117:20 118:3,11,14 118:25 W Wait 84:2 waived 3:13 91:15 120:17 Wal-Mart 113:8 wandered 74:15 want 11:17,20 13:17 14:12 17:9 20:4 32:5 32:19,23,25 33:1,3 35:25 38:13 39:12 42:23 46:5 59:14 68:12 73:13 88:3,4,7 91:16 93:14 110:11 111:4 112:23 117:17 117:19 120:7 wanted 15:21 29:15 31:12 48:10 92:10 93:1 99:23 wanting 17:15 wants 17:18 wasn't 14:12 24:5 26:10 34:1 35:17	79:5 83:16 86:2,9 87:11,11,18,18 89:20 90:3,4 water 68:4 way 38:17 47:24 53:16 53:16 54:16 58:7 64:24 66:16 71:19 72:12 74:2 79:4 88:10 90:2 94:14 95:8 97:4,4 107:13 110:23 119:21 ways 34:23 49:6 117:3 weatherization 55:25 went 11:1 12:3 28:8,19 40:4 107:1 weren't 29:14 30:13 west 1:21 2:8 112:18 we'll 14:15 41:8,8 56:17 58:2,25 96:12 109:1 we're 22:14 42:16 72:25 75:3 96:15 99:17 100:15 117:4 118:15 119:2 we've 5:6 19:17 42:21 44:6 57:1 92:13 whatsoever 26:1 WHEREOF 122:12 white 88:15,21 104:11 wholesale 62:24 63:4,8 63:12,16,17 81:13 widely 39:5,6 Wilson 1:18 3:6 5:1,11 29:9 121:3,7,9 122:5 Wilson's 50:13 wind 47:11 withdraw 9:20 91:16 94:20 96:11 107:12 withdrawing 97:3 witness 3:7,11 19:3,19 20:3,9,17 21:3,10 38:3 50:4,25 55:3 90:21 92:3 110:20 115:14 121:10 122:7 122:8,12 witnesses 10:22 67:1 words 27:20 47:24 50:10 54:21 78:19 93:9 103:10 work 5:9,11 8:2 12:2 17:25 30:19 31:12 90:1 95:2 105:23 109:16 120:3 worked 5:13,14,16,24 6:13,23 7:1,13 8:24 9:9,11 10:25 12:17 31:8,20 working	7:16 13:25 24:20 59:14 85:18 105:22 workshops 101:12 105:5 worse 100:15 worst 98:20 99:6,11 100:3,12 worth 47:17 worthwhile 47:16 wouldn't 47:14,18 63:14 82:19 118:9 write 114:7 writing 3:9 written 27:14 39:19 70:12 82:7 95:20,22 95:24 wrong 94:2 97:3 X X 70:13 113:20 Y yeah 6:11 9:17 11:24 23:13 29:10 38:11 41:6 56:16 64:22 66:5 74:21,21 75:6 90:7 116:7 119:23 year 30:19 39:11 46:25 47:3,8 72:6,6 107:18 109:16 113:6 119:10 years 6:2,9 7:10 8:8,9 9:1 16:17 30:14 48:16 49:15 59:6,11 71:12,13 72:1,3,8 73:25 74:1,19 82:5 82:17 98:19 99:13,13 99:22 100:17 Z Zabors 25:7,13,16,17 zero 89:18 90:7 \$ \$10 46:17 \$118.9 49:15 \$25 46:18,20 48:3,12 48:23,24 49:1 \$250 48:12 \$450 48:15 \$50 48:16 0 02 9:3,4,5 05-1500 105:6 06 87:5 07 87:5 08-1094-EL-SSO 1:4	08-1095-EL-ATA 1:7 08-1096-EL-AAM 1:10 08-1097-EL-UNC 1:14 I I 30:18 80:7 98:19 99:4 104:3 116:20 119:4 10 2:3,8 4:4 46:20 69:14 87:20,20 88:15 89:9,9,13 105:9 10,000 46:16 11 69:7 81:23 90:9 93:17 94:4,25 98:1 100:25 101:1 105:10 115:4,8 12 62:23 69:7 73:22 74:1,1 78:6 83:22 98:18 100:23,25 102:8 103:9 12:55 120:18 13 83:22 102:11 103:9 104:3 115:17 116:20 14 73:23 74:1 102:11 106:3,12 107:16 109:6,9 114:22,24 115:3,7,12,13,14,15 117:8 143(B)(2)(b) 94:25 143(C)(1) 92:21 95:17 15 49:22 65:13,17 114:3,3,22,24 115:4 115:7 117:8 119:9 1500 105:6 16 51:4 116:20 117:7 1600 77:10,13,15 17 42:9 50:3 68:18 75:15 77:17 103:13 103:19 119:4 18 38:22,23 42:9 43:9 65:13 1800 1:21 2:8 19 52:6 115:1,4,7 122:18 1929 99:20 1990 8:10 2 2 38:22 93:19 94:4 95:1 95:1 96:6,7 98:19 99:4 115:8 20 50:3 51:4 98:3 2002 5:18 9:15 2004 5:14 9:15,18 2005 44:24 104:13 2006 16:6 86:10,16 87:10 2007 85:3,6,14,17,19
--	--	--	---	---

2008 39:14 85:17 121:12	9			
2009 1:22 3:2 72:7 77:5 106:23 108:2,4 121:4 122:13	9 68:18 78:3,5,6 81:15 81:23 83:22 85:25 89:9,13 92:23 95:16 105:9			
2013 122:18	9:30 1:22			
2015 77:6	90 12:11			
2025 30:10	91 8:10			
22 30:9	92 8:12 9:2			
221 25:23 39:13,15 48:14 64:12,25	94 4:5			
25 52:5,7,13 55:9,14,19 56:20 57:16 58:10,15	96 5:18 8:11,12 99 67:5			
3				
3 30:16 39:7 44:3 46:24 47:2,4,5,7 55:13 66:19 77:5 87:21				
3rd 122:13				
30 1:22 3:2 121:4				
4				
4 41:2,10,14 66:19 114:17 115:12				
4.5 44:3,3 112:22				
40 32:8				
43215 2:8				
45402 2:4				
4905.13 1:12				
4928.143 4:5				
4928.143(B)(2)(h) 69:23				
4928.66(D) 80:15				
5				
5 30:16 49:13,13 90:9 102:9 106:12				
5.2 77:6				
50 93:14 106:15 108:1 109:11,20 112:21				
500 2:3				
51 4:4 10:8				
52 4:5 94:23				
6				
6 39:7,8 40:1,4 61:13 65:16 88:15				
66(D) 80:25				
7				
7 62:21 66:19 75:15 76:25 77:17				
750-kilowatt 61:18				
8				
8 39:17 40:2,3 76:24 78:2 95:16				
86 9:2				