

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of the :  
Application of Columbia :  
Gas of Ohio, Inc., for :  
Approval of a General :  
Exemption of Certain :  
Natural Gas Commodity :  
Sales Services or :  
Ancillary Services from : Case No. 08-1344-GA-EXM  
Chapters 4905, 4909, and :  
4935, Except Sections :  
4905.10, 4935.01, and :  
4935.03, and from :  
Specified Sections of :  
Chapter 4933 of the :  
Revised Code. :

- - -

PROCEEDINGS

before Ms. Mandy L. Willey and Ms. Christine M.T.  
Pirik, Attorney Examiners, at the Public Utilities  
Commission of Ohio, 180 East Broad Street, Room 11-A,  
Columbus, Ohio, called at 9 a.m. on Monday, July 18,  
2011.

- - -

VOLUME II

- - -

ARMSTRONG & OKEY, INC.  
222 East Town Street, Second Floor  
Columbus, Ohio 43215-5201  
(614) 224-9481 - (800) 223-9481  
Fax - (614) 224-5724

- - -



1 APPEARANCES:

2 NiSource Corporate Services Company  
3 By Mr. Stephen B. Seiple  
4 and Ms. Brooke E. Leslie  
5 200 Civic Center Drive  
6 Columbus, Ohio 43215

7 On behalf of Columbia Gas of Ohio,  
8 Inc.

9 Mike DeWine, Ohio Attorney General  
10 By Mr. William Wright,  
11 Section Chief  
12 Mr. Stephen Reilly  
13 Assistant Attorney General  
14 180 East Broad Street, 6th Floor  
15 Columbus, Ohio 43215

16 On behalf of the Staff of the Public  
17 Utilities Commission of Ohio.

18 Bricker & Eckler, LLP  
19 By Mr. Matthew W. Warnock  
20 100 South Third Street  
21 Columbus, Ohio 43215-4291

22 On behalf of the Northeast Ohio Public  
23 Energy Council.

24 Bricker & Eckler, LLP  
25 By Mr. Thomas J. O'Brien  
100 South Third Street  
Columbus, Ohio 43215-4291

On behalf of the DTE Energy Trading, Inc.

Vorys, Sater, Seymour & Pease, LLP  
By Mr. M. Howard Petricoff  
and Ms. Lija Kaleps-Clark  
52 East Gay Street  
P.O. Box 1008  
Columbus, Ohio 43216-1008

On behalf of the Ohio Gas Marketers  
Group.



1 APPEARANCES: (Continued)

2 Vorys, Sater, Seymour & Pease, LLP  
3 By Mr. Gregory D. Russell  
4 52 East Gay Street  
5 Columbus, Ohio 43216-1008

6 On behalf of the North Coast Gas  
7 Transmission, LLC.

8 Bell & Royer Co., LPA  
9 By Mr. Barth E. Royer  
10 33 South Grant Avenue  
11 Columbus, Ohio 43215-3900

12 On behalf of Dominion Retail, Inc.

13 Janine L. Migden-Ostrander,  
14 Ohio Consumers' Counsel  
15 By Mr. Joseph P. Serio,  
16 Ms. Kyle L. Verrett,  
17 and Mr. Larry S. Sauer  
18 Assistant Consumers' Counsel  
19 10 West Broad Street, Suite 1800  
20 Columbus, Ohio 43215-3485

21 On behalf of the Residential Consumers of  
22 Columbia Gas of Ohio, Inc.

23 Ohio Partners for Affordable Energy  
24 By Mr. David C. Rinebolt  
25 231 West Lima Street  
Findlay, Ohio 45840-1793

On behalf of the Ohio Partners for  
Affordable Energy.

- - -



1	INDEX		
2	- - -		
3	WITNESSES		PAGE
4	STEPHEN E. PUICAN		
	Cross-Examination (Continued) by Mr. Sauer		234
5	Cross-Examination by Mr. Rinebolt		256
	Redirect Examination by Mr. Reilly		272
6	Recross-Examination by Mr. Petricoff		278
	Recross-Examination by Mr. Sauer		279
7	Recross-Examination by Rinebolt		281
	Examination by Examiner Pirik		283
8			
	BRUCE M. HAYES		
9	Direct Examination by Ms. Verrett		288
	Cross-Examination by Ms. Leslie		289
10	Cross-Examination by Mr. Petricoff		296
	Redirect Examination by Ms. Verrett		322
11			
	GREGORY SLONE		
12	Direct Examination by Mr. Serio		325
	Cross-Examination by Ms. Leslie		341
13	Cross-Examination by Mr. Petricoff		344
	Cross-Examination by Mr. Royer		349
14	Cross-Examination by Mr. Reilly		352
	Redirect Examination by Mr. Serio		353
15	Recross-Examination by Mr. Royer		325
16	GREGORY SLONE - REBUTTAL		
	Direct Examination by Mr. Serio		364
17	Cross-Examination by Mr. Petricoff		376
	Cross-Examination by Mr. Royer		389
18	Redirect Examination by Mr. Serio		395
19	- - -		
20	EXHIBITS	ID'D	ADMT'D
21	OCC:		
	1 - Standard Service Offer Program Data	19	--
22			
	2 - Excerpt of the Management and	128	--
23	Performance Audit of Gas Purchasing		
	Practices and Policies of Columbia		
24	Gas of Ohio, 11/18/10		
25	3 - Cover Letters/Winning Bidders	140	287



1	EXHIBITS	ID'D	ADMT'D
2	4 - Columbia Gas of Ohio Post-Auction Report, 2/23/10	195	287
3	5 - Post-Auction Report on Dominion East Ohio Phase 1 Supply Auction, 8/29/06	195	287
4	6 - Vectren Energy Delivery of Ohio Standard Service Offer Post-Auction Report, 8/19/08	195	287
5	7 - Staff Report, 12/8/10	240	287
6	8 - Staff Report, 10/1/10	255	287
7	9 - Direct Testimony of Bruce M. Hayes	287	325
8	10 - Direct Testimony of Gregory Slone	325	356
9	11 - Rebuttal Testimony of Gregory Slone	365	396
10			
11	OGMG:		
12	3 - SCO/SSO Auction Attribute Comparison	343	356
13	4 - Summary of Ohio Oil and Gas Activities, 2010	383	396
14			
15	STAFF:		
16	2 - SEP-2, SSO/SCO Auction Participation	189	286
17			
18	- - -		
19			
20			
21			
22			
23			
24			
25			



Monday Morning Session,

July 18, 2011.

- - -

EXAMINER WILLEY: The Public Utilities Commission of Ohio has called for hearing at this time and place Case No. 08-1344-GA-EXM, being in the Matter of the Application of Columbia Gas of Ohio, Inc., for Approval of a General Exemption of Certain Natural Gas Commodity Services or Ancillary Services.

My name is Mandy Willey and with me is Christine Pirik and we are the Attorney Examiners assigned by the Commission to hear this case. I would also note for the record this is the second day of hearing.

I would like to begin by taking appearances of the parties. Let's begin with the company and proceed around the table.

MS. LESLIE: Brooke Leslie on behalf of Columbia Gas of Ohio, 200 Civic Center Drive.

MR. PETRICOFF: On behalf of the Ohio Gas Marketers Group, Howard Petricoff and Lija Kaleps-Clark, Vorys, Sater, Seymour & Pease.

MR. ROYER: The law firm of Bell & Royer Co., LPA, by Barth Royer, 33 South Grant Avenue, Columbus, Ohio, on behalf of Dominion Retail.



1 MR. REILLY: On behalf of the staff of  
2 the Public Utilities Commission of Ohio, Michael  
3 DeWine, Ohio Attorney General, William Wright,  
4 Section Chief, Stephen Reilly, Assistant Attorney  
5 General, 180 East Broad Street Columbus, Ohio 43215.

6 MR. SERIO: Thank you, your Honor. On  
7 behalf of the residential utility customers of  
8 Columbia Gas of Ohio, Inc., Janine Migden Ostrander,  
9 Consumers' Counsel, by Joseph P. Serio, Larry S.  
10 Sauer, and Kyle Verrett.

11 MR. RINEBOLT: And on behalf of the Ohio  
12 Partners for Affordable Energy, David C. Rinebolt,  
13 231 West Lima Street, Findlay, Ohio.

14 EXAMINER WILLEY: Thank you.

15 I believe we left off on Thursday with  
16 OCC's cross-examination of Mr. Puican. Is OCC ready  
17 to proceed?

18 MR. SAUER: Yes, your Honor.

19 EXAMINER WILLEY: You may proceed.

20 MR. SAUER: Thank you, your Honor.

21 - - -  
22  
23  
24  
25



1 STEPHEN E. PUICAN

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

4 CROSS-EXAMINATION

5 By Mr. Sauer:

6 Q. Good morning, Mr. Puican.

7 A. Good morning.

8 Q. Looking at your testimony on page 3, you  
9 are discussing the timing of certain Dominion/Vectren  
10 auctions and market conditions that resulted in some  
11 anomalies in the auction results that led you to a  
12 decision to exclude those results from your analysis,  
13 correct?

14 A. Yes.

15 Q. In your opinion are the auction bid  
16 prices extremely sensitive to the marketing  
17 conditions at the time of the auction?

18 A. I would not argue that they are extremely  
19 sensitive.

20 Q. Were you in the hearing room on Thursday  
21 when Mr. Parisi testified?

22 A. Yes.

23 Q. And do you recall his testimony that the  
24 gas portfolio and transportation costs were  
25 significant factors in establishing the marketers'



1 bid?

2 A. You went through that too fast.

3 Q. Okay, I'm sorry. When Mr. Parisi was  
4 testifying, do you recall that he made a statement  
5 that gas supply portfolio and transportation costs  
6 were significant factors in establishing marketers'  
7 bid?

8 A. Yes.

9 Q. And do you recall Mr. Parisi discussing  
10 local products and which he classified as Ohio gas  
11 and how that could make up to 5 percent of a  
12 marketer's supply portfolio?

13 A. Yes.

14 Q. And that the price of that Ohio gas could  
15 be less than the NYMEX, do you recall that?

16 A. Yes.

17 Q. And do you recall Mr. Parisi discussing  
18 Appalachian gas and that could be part of a  
19 marketer's portfolio and it could also cost less than  
20 the NYMEX?

21 A. I don't specifically recall that  
22 Appalachian, but I accept if that's what he testified  
23 to.

24 Q. And do you recall Mr. Parisi's testimony  
25 that generally the closer the supply sources to the



1 city gate the lower the transportation costs are?

2 A. Yes, that's generally true.

3 Q. And would you agree a marketer with local  
4 production and or Appalachian gas with lower  
5 transportation costs that could enable a marketer to  
6 bid a lower RPA relating to marketers that do not  
7 have local production of Appalachian gas as part of  
8 their supply portfolio?

9 A. If a marketer has a lower price  
10 portfolio, then that would enable them to bid a lower  
11 retail price adder.

12 Q. And do you recall Mr. Parisi testifying  
13 to the fact that on the Dominion system there has  
14 been a loss of industrial load?

15 A. Yes.

16 Q. And that Dominion has been shedding  
17 capacity?

18 A. Yes.

19 Q. And that marketers could be getting  
20 capacity at a discount off the tariff firm capacity  
21 rate?

22 A. Yes.

23 Q. And if marketers are able to contract  
24 with capacity to discount, that could contribute to a  
25 lower incremental cost to deliver, correct?



1           A.     The lower the cost of the capacity  
2 portfolio the lower the retail price adder they would  
3 be able to bid.

4           Q.     And did our analysis attempt to quantify  
5 any of these market conditions and the impact on the  
6 RPAs from the various auctions you reviewed?

7           A.     No, because as Mr. Slone pointed out in  
8 his testimony, that's extremely difficult to do  
9 without detailed information on the specifics of the  
10 supply portfolio of each and every marketer and we do  
11 not have access to that information nor would I  
12 expect that we would ever have access to that  
13 information.

14          Q.     Marketers have that information.

15          A.     The marketers know their own portfolios,  
16 yes.

17          Q.     If you turn to page 8 of your testimony,  
18 lines 7 to 18.

19          A.     Okay.

20          Q.     In that section of your testimony you  
21 conclude that the auction results to date put the SCO  
22 premium at between 44 cents and 15 cents. Do you see  
23 that specifically on lines 16 to 18?

24          A.     Yes.

25          Q.     And to be clear, your analysis is



1 comparing the 2010 and 2011 auction results for  
2 Dominion, Vectren, and Columbia, correct?

3 A. I'm sorry, you went through that too  
4 fast.

5 Q. The analysis is comparing the 2010 and  
6 2011 auction results for Dominion, Vectren, and  
7 Columbia?

8 A. The 15 cents was calculated based on the  
9 2011, yes, you are correct.

10 Q. Okay.

11 A. The difference between the 2010 and 2011  
12 auction results for all three companies.

13 Q. Okay. And in this testimony you have,  
14 what, six data points that are two auctions for each  
15 of the three companies that you focused on, correct?

16 A. For the 2010 and '11, yes.

17 Q. 2010 and '11. And is it your testimony  
18 that decreases in RPA for Dominion and Vectren in  
19 excess of the decrease in the RPA that Columbia  
20 experienced is due to the fact that Dominion and  
21 Vectren conducted SCO auctions?

22 A. The point of doing that analysis was to  
23 correct for the fact that as the OCC witnesses have  
24 pointed out there may be market influences that  
25 affect the RPA, and so when I did basically what I



1 would call a cross-sectional analysis based on two  
2 auctions and the differential between those two  
3 auctions, that's a way of neutralizing any market  
4 impacts because the market for all three auctions  
5 would have been exactly the same at the time of each  
6 of those two auctions so it corrects for any affects  
7 that the market might have had that might have  
8 influenced the auction results comparing one year to  
9 another in strictly absolute terms.

10 Q. However, the current market conditions  
11 won't affect the participating marketers and  
12 specifically the marketers who won bids in those  
13 auctions identically, will they?

14 A. If I understand your question, the  
15 specific capacity portfolio, for example, would  
16 impact the RPA but, again, I think it's significant  
17 that you ended up with an identical result for the  
18 two SCO auctions and a significantly lower result for  
19 the SSO auction.

20 Q. But, again, different marketers, one  
21 tranche in each of those three auctions, correct?

22 A. At the same RPA, yes.

23 MR. ROYER: Could we have the last answer  
24 read back, please.

25 (Record read.)



1           A.     Could I make sure I was clear on my  
2 answer?

3                     What I was referring to was the  
4 differential between 2010 and '11 was a much lower  
5 differential for Columbia's SSO auction than the  
6 differential for the two SCO auctions.

7           MR. SAUER:   May I approach the witness,  
8 your Honor?

9           EXAMINER WILLEY:   You may.

10          MR. SAUER:   I would like to have marked a  
11 four-page document dated December 8, 2010, marked as  
12 OCC Exhibit No. 7.

13          EXAMINER WILLEY:   It will be so marked.

14                     (EXHIBIT MARKED FOR IDENTIFICATION.)

15          Q.     Mr. Puican, I have handed you a document  
16 that, as I said, was dated December 8, 2010. Are you  
17 familiar with this document?

18          A.     Yes.

19          Q.     And that's your signature on page 1?

20          A.     Yes.

21          Q.     And if you could turn to page 2 -- I'm  
22 sorry, it's on page 1 and the second paragraph. And  
23 you described the parties that won the tranches. Do  
24 you see that?

25          A.     Yes.



1           Q.    It says there were five winning bidders  
2 for the nine available tranches, two bidders three  
3 tranches each and three bidders with one tranche  
4 each. Do you see that?

5           A.    Yes.

6           Q.    And if you look at the third paragraph,  
7 the second sentence, it says that "Of the nine  
8 tranches of customers that were included in the SCO  
9 auction, six are being supplied by marketers that do  
10 not solicit or serve Choice customers outside of the  
11 SCO." Do you see that?

12          A.    Yes.

13          Q.    And do you still have at the witness  
14 table OCC Exhibit No. 3?

15          A.    Can you tell me what that is?

16          Q.    It is the 20-page document that had the  
17 various winners of the bids from all the auctions.

18          A.    Yes, I have it.

19          Q.    You have it up there?

20          A.    Exhibit 3?

21          Q.    OCC Exhibit No. 3.

22          A.    Yes.

23          Q.    And I think if you turn to page 8 of that  
24 document, 7 is the cover page that was filed on  
25 March 29 of 2010, and page 8 is the listing of the



1 winning bidders. Do you see that?

2 A. Yes.

3 Q. And if you look at the winning bidders  
4 under the Standard Choice Offer Suppliers, those  
5 five, do you happen to know offhand which of the two  
6 marketers that won the three tranches each?

7 A. No. I can't recall.

8 Q. Do you know that Interstate Gas Supply,  
9 do they serve Choice customers outside of the SCO?

10 A. Yes.

11 Q. Does Hess Corporation serve Choice  
12 customers outside of the SCO?

13 A. I don't know offhand.

14 Q. How about Lake Shore Energy Services, do  
15 you know if they serve?

16 A. Yeah, I don't know, and I don't know for  
17 DTE either.

18 Q. Okay. Are you familiar with the  
19 footnotes in the stipulation to Case No. 08-1344,  
20 footnotes 9 and 10, I believe, on page 9 of the  
21 stipulation?

22 Could you read footnotes 9 and 10 of the  
23 stipulation into the record?

24 MR. REILLY: Objection. There is no  
25 reason to read them into the record. These -- they



1 are in the context of the stipulation which underlies  
2 this case. There is no -- relevance would be one  
3 thing. It's duplicative. There is just no reason to  
4 do it except to get it out of context.

5 EXAMINER WILLEY: Overruled. You may  
6 continue.

7 A. DTE, OPAE, and OCC stated that while they  
8 support the stipulation that, of course, should not  
9 interpreted as support for SCO auctions in general or  
10 in this stipulation. Footnote 10, Hess states while  
11 it supports the stipulation as a whole it does not  
12 support the proposed SCO auction.

13 Q. Is that your recollection that DTE  
14 specifically -- and Hess were two marketers  
15 specifically that were opposed to moving to an SCO?

16 A. Back two years ago when that stipulation  
17 was signed, yes, but they both have been certified  
18 since to serve as SCO customers.

19 Q. Is it possible that they are the two  
20 marketers that you are discussing in what was marked  
21 OCC Exhibit 7 as two marketers who have won the six  
22 tranches that aren't serving Choice customers outside  
23 the SCO?

24 A. I just don't know.

25 Q. Is it possible?



1 MR. REILLY: Objection. It's  
2 speculative. It's irrelevant.

3 MR. SAUER: It's not irrelevant, your  
4 Honor. It goes directly to what is taking -- to be  
5 decided in this case. Marketers opposed to the SCO  
6 are bidding on tranches in the SCO.

7 EXAMINER WILLEY: Your objection is  
8 sustained. I think he answered the best that he can.

9 Q. (By Mr. Sauer) Mr. Puican, to the extent  
10 that a marketer was certified as a tranche supplier  
11 does not necessarily mean that they are actively  
12 serving Choice customers, does it?

13 A. Not necessarily.

14 Q. And if DTE and Hess were to be such  
15 marketers that were interested in the auction but not  
16 interested in serving Choice customers, would that  
17 impact your analysis in terms of comparing an SSO and  
18 an SCO auction that's conducted on the same day?

19 MR. REILLY: Objection. It asks the  
20 witness to assume facts not in evidence.

21 EXAMINER WILLEY: Do you have a response?

22 MR. SAUER: I will rephrase the question.

23 Q. So, Mr. Puican, if DTE and Hess continued  
24 to oppose the SCO today as they did at the time of  
25 this stipulation, would that demonstrate to you still



1 a clear preference for the S -- SSO on their part?

2 MR. REILLY: Objection. Asking the  
3 witness to speculate. It's just not in evidence what  
4 Hess -- and who is the other one?

5 MR. SAUER: DTE.

6 MR. REILLY: DTE, it's not in evidence --  
7 let me back up. The evidence from the witness is  
8 that Hess and DTE participated in the last auction --  
9 in the last auction as -- I believe in the last  
10 Choice auction. Therefore, he is asking him to  
11 assume things that are contradicted by the record.

12 Regardless of that being true or not, he  
13 is still asking him to assume things that are not in  
14 evidence with regard to specific marketers. It's  
15 irrelevant for one thing.

16 MR. SAUER: It's not contrary to the  
17 record. The December 8, 2010, report indicates there  
18 are at least two marketers who serve -- who won --  
19 six of the nine tranches in the SCO auction --

20 EXAMINER WILLEY: Thank you. Your  
21 objection is sustained.

22 MR. REILLY: Thank you.

23 Q. (By Mr. Sauer) Mr. Puican, there is  
24 nothing in Dominion's auction rules, are there, that  
25 would prevent the RPA from the SCO auction that was



1 conducted on the same day as the SSO auction from  
2 coming out higher than the SSO, is there?

3 A. No.

4 Q. In your testimony on page 9, lines 2 to  
5 4, you state "It's simply not reasonable to assume  
6 that the SSO result would have been the same had it  
7 been a stand-alone auction." Do you see that?

8 A. Yes.

9 Q. Yet, in the Dominion auction conducted in  
10 2010, we know that there were tranches won by two  
11 marketers that were not serving Choice customers,  
12 correct? Looking at your OCC Exhibit 7 on page 1,  
13 third paragraph.

14 A. I'm sorry, your question again?

15 MR. SAUER: Could I have it reread,  
16 please.

17 (Record read.)

18 A. I'm only hesitating because it says six  
19 tranches are being supplied by marketers. I don't  
20 know that that necessarily implies that is two  
21 marketers.

22 Q. Well, there were nine tranches in total,  
23 correct?

24 A. Uh-huh.

25 Q. And if two marketers each won three



1 tranches, that would be six and the remaining three  
2 marketers would have got one tranche each, correct?

3 A. I agree with your math.

4 Q. Okay. So do you agree then with the  
5 statement that I posed to you?

6 A. That six tranches are served by two  
7 marketers that do not otherwise serve Choice  
8 customers?

9 Q. Yes.

10 A. Yes.

11 Q. Mr. Puican, if the DEO and VEDO 2011  
12 auctions had been SSO only, do you know for a fact  
13 the resulting RPA would have been different than the  
14 achieved results?

15 A. I think it's a reasonable conclusion that  
16 the result would have been higher than the result we  
17 would have gotten because of the fact that we simply  
18 don't see the same interest in SSO only auctions that  
19 we do in stand-alone SCO or combined SCO/SSO  
20 auctions, so I think it's a reasonable supposition.

21 Q. But the Dominion SSO auction did achieve  
22 the same result as the SCO, correct, in 2011?

23 A. I am arguing that you would have gotten a  
24 different result, or if that was an SSO only auction,  
25 you would not have seen a \$1 RPA.



1 Q. You don't know that for a fact, do you?

2 A. I think it's a reasonable supposition  
3 because the SSO only auction never took place so  
4 that's all I can do is look at the interest in the  
5 various auctions and reach reasonable conclusions  
6 based on the participation.

7 Q. Can you look at what I think was marked  
8 Staff Exhibit 2, which was you -- I think, was it  
9 SEP-3 or SEP-2 redone to remove the shading?

10 A. Yes, I have it.

11 Q. Okay. Isn't it true that Dominion's SSO  
12 auction conducted in 2011 had an equal number or  
13 greater number of participants in the two premium  
14 Dominion SCO auctions?

15 A. I'm sorry, run that by me again.

16 Q. If you look at 2011-'12 --

17 A. Okay.

18 Q. -- SSO auction for Dominion.

19 A. Yes.

20 Q. I think if you count the participants, if  
21 I counted right, there are 12?

22 A. Yes.

23 Q. And that is equal to or greater than  
24 the -- isn't it greater than in 2009 and '10, the  
25 number of SCO participants?



1           A.    I have in 2009 there were 10 SCO and 2010  
2   I have 12.

3           Q.    So it's either greater than or equal to  
4   the participation in the two Dominion SCO auctions?

5           A.    Yes, but that wasn't the point I was  
6   making. The point I was making is it's the existence  
7   of the SCO auction that is bringing these additional  
8   SSO participants, because if you are going to be at  
9   the table participating in the SCO, there's simply no  
10   additional cost to participate in an SSO auction.

11                  It's just another amount of gas that's  
12   added to the tranche that you are awarded for all  
13   intents and purposes. It's no more costly to bid  
14   on -- it's no more costly to administer.

15                  So my point is it's the SCO auction that  
16   brings additional participants to the table that then  
17   also participate in the SSO auction, and once again,  
18   were it not for the existence of the SCO, you would  
19   not see that interest in the SSO auction.

20           Q.    Back in the auction of 2006-2008, weren't  
21   there 13 participants in the SSO only?

22           A.    Yes.

23           Q.    And again in 2008-2009, weren't there 13  
24   participants in the SSO auction only for that year?

25           A.    I have 14.



1           Q.    So the participation in an SSO auction is  
2 just about as robust as the participation you are  
3 seeing in the SCO auctions, isn't it?

4           A.    I would argue because we know as an SCO  
5 auction was coming and the participants likely would  
6 have wanted to have some experience in the auction  
7 and the administering of the SSO as background for  
8 when we went to the SCO.

9           Q.    And if you look at the 2010-'11 Columbia  
10 auction, how many participants did you have in the  
11 2010-'11 auction?

12          A.    14 and 15.

13          Q.    So, again, significant participation in  
14 SSO auctions, correct?

15          A.    Again, that's in anticipation of next  
16 year going to an SCO auction. Columbia, as we know,  
17 is a much more complicated system to operate on with  
18 an order of magnitude of more delivery points than  
19 Vectren or Dominion, so I think if I was a marketer,  
20 it would behoove me to participate in the SSO auction  
21 to get some experience in operating on that system in  
22 anticipation of the SCO auction that would take place  
23 next year.

24          Q.    If you turn to page 9 of your testimony,  
25 lines 13 to 16, you conclude that the SCO auctions



1 have been successful and we should not go backwards.

2 Do you see that?

3 EXAMINER WILLEY: Mr. Sauer, I'm going to  
4 stop you there. We need to take a short break for  
5 the court reporter.

6 MR. SAUER: Okay.

7 (Recess taken.)

8 EXAMINER WILLEY: You may proceed. Thank  
9 you.

10 Q. Mr. Puican, did you -- have you conducted  
11 any survey of participating marketers to find out if  
12 they prefer an SSO auction versus an SCO auction?

13 A. Not on a scientific survey but I have  
14 talked to numerous, numerous marketers over the years  
15 that have expressed that preference to me.

16 Q. Does that include non-CRNGS certified  
17 wholesale marketers?

18 A. I can think of two that a couple years  
19 ago expressed just what we were talking about, at the  
20 time of that stipulation expressed reservations about  
21 the SCO and whether or not it was necessary that have  
22 since come around and decided that they're no longer  
23 opposed to the SCO. And that is not a scientific  
24 survey but that's based on my personal conversations  
25 with folks.



1           Q.    And to the extent they have come around  
2   and they don't oppose the SCO, that doesn't mean they  
3   are actively pursuing Choice customers outside of the  
4   SCO, does it?

5           A.    Not necessarily.

6           Q.    If that's the case, would it be your  
7   assumption that they wouldn't place any more of a  
8   premium on the SCO than the SSO?

9           A.    I don't know. It may be a way to get a  
10   couple of Choice customers and then figure out a  
11   marketing plan to expand. It's just at the time they  
12   won those tranches, the SCO tranches, at that point  
13   in time they were not serving or soliciting other  
14   Choice customers.

15                   The reports that were written that you  
16   referenced, they were written in a couple of months.  
17   There was very little time between the April auction  
18   implementation and my collection of the data because  
19   I had a deadline for producing those reports. It was  
20   really just a matter of a few months, so I don't know  
21   that I would extrapolate that few months of data, you  
22   know, indefinitely into the future.

23           Q.    But for the auction results you were  
24   looking at at the time you prepared OCC Exhibit No.  
25   7, there were at least two SCO marketers -- I'm



1     sorry, two marketers that bid for SCO tranches that  
2     weren't actively trying to solicit Choice customers,  
3     correct?

4             A.     At that time, yes.

5             Q.     And at that time would you have any  
6     expectation that there -- what premium that -- do you  
7     have any expectation that they would put a premium on  
8     the SCO auction versus the SSO?

9             A.     Again, I would assume they did so in  
10    anticipation of more fully participating in the  
11    Choice program.

12            Q.     But you have nothing to base that  
13    presumption on? They today could still be winning  
14    tranches in an SCO auction and not be soliciting  
15    Choice customers outside of the SCO, correct?

16            MR. REILLY:  Objection.  It's  
17    argumentative.  The witness has already answered the  
18    question.

19            EXAMINER WILLEY:  Do you have a reply?

20            MR. SAUER:  I don't think he answered  
21    that specific question.

22            EXAMINER WILLEY:  Your objection is  
23    sustained.

24            Q.     Mr. Puican, was the analysis you  
25    performed in your testimony for this case shared with



1 any other parties prior to its filing?

2 A. No.

3 Q. Do you recall when Mr. Parisi --

4 A. Let me clarify the reason I was  
5 hesitating, I did have a discussion about the general  
6 methodology that I was pursuing but I didn't share  
7 any results.

8 Q. Who were you having that discussion with?

9 A. With OGMG.

10 Q. You had no similar discussion with OCC on  
11 what your methodology was going to be?

12 A. No. And to be clear, this was a casual  
13 discussion about what witnesses might testify to and  
14 this -- and I gave a general overview of this is the  
15 kind of thing I was looking at pursuing.

16 Q. And but OCC didn't get a general overview  
17 or casual conversation about your testimony prior to  
18 it being filed?

19 A. You never called.

20 Q. Do you recall Mr. Parisi's testimony,  
21 sir, when he was discussing the concurring opinion of  
22 Commissioner Centolella in the 08-1344 opinion and  
23 order that was dated December 2, 2009?

24 A. I don't have the discussion.

25 Q. Do you recall Mr. Centolella's concurring



1 opinion where he had a list of six questions?

2 A. Oh, yes, yes.

3 Q. And Mr. Parisi made a statement that IGS  
4 provided to staff responses to those questions?

5 A. IGS and the other SCO tranche winners  
6 responded to a data request that I sent out asking  
7 for information to get at those questions.

8 Q. And what did you do with the data that  
9 you assembled from that request?

10 A. That resulted in the two reports, OCC  
11 Exhibit 7 and a similar one that was done for  
12 Vectren.

13 MR. SAUER: May I approach, your Honor?

14 EXAMINER WILLEY: You may.

15 MR. SAUER: A 5-page document that's  
16 dated October 1, 2010, I would like to have marked as  
17 OCC Exhibit No. 8.

18 EXAMINER WILLEY: It will be so marked.

19 (EXHIBIT MARKED FOR IDENTIFICATION.)

20 Q. Mr. Puican, the document I just handed  
21 you dated October 1, 2010, is that the Vectren report  
22 that was similar to the Dominion report you were just  
23 speaking to?

24 A. Yes.

25 Q. And that's your signature on that



1 document as well?

2 A. Yes.

3 Q. And besides preparing the two reports did  
4 you do anything else with that data?

5 A. No.

6 Q. Was the raw data that was used to compile  
7 these two reports provided to Commissioner Centolella  
8 or any of the other Commissioners?

9 A. No.

10 MR. SAUER: If I might just have a  
11 second, your Honor?

12 EXAMINER WILLEY: You may.

13 MR. SAUER: I have no further questions.

14 EXAMINER WILLEY: Thank you.

15 Mr. Rinebolt.

16 MR. RINEBOLT: Thank you, your Honor.

17 - - -

18 CROSS-EXAMINATION

19 By Mr. Rinebolt:

20 Q. Good morning, Mr. Puican.

21 A. Good morning.

22 Q. In your capacity as a specialist at  
23 Public Utilities Commission, are you familiar with  
24 the NYMEX market?

25 A. Yes.



1           Q.    And it will provide you prices updated  
2 constantly throughout the day you can see on your  
3 computer screen or your T.V. screen.

4           A.    Yes.

5           Q.    Would you consider that a transparent  
6 wholesale market?

7           A.    Yes, I would.

8           Q.    Now, are you familiar with the  
9 over-the-counter market?

10          A.    Somewhat.

11          Q.    Okay. Are prices in the over-the-counter  
12 market readily visible to customers? Can you find  
13 them on a computer screen daily?

14          A.    No. It's not like -- they are not posted  
15 like NYMEX.

16          Q.    Okay. Now, do you know what percentage  
17 of natural gas moves through over-the-counter market  
18 versus NYMEX markets?

19          A.    I don't.

20          Q.    Now, to your knowledge are there  
21 wholesale providers that have participated in SSO  
22 auctions that have their own production? They are  
23 essentially wholesale distribution arms of producing  
24 companies?

25          A.    If I am understanding your question, Hess



1 would be an example, yes.

2 Q. Okay. Now, you noted in the attachment  
3 to your testimony, and I'm referring to the SSO  
4 auction results chart SEP-1.

5 A. Yes.

6 Q. Now, you calculated maximum GCR adders  
7 to -- to the NYMEX prices of the three companies. Do  
8 you believe that those adders represent the overhead  
9 costs associated with providing service under a  
10 pricing -- monthly pricing regime that's based on the  
11 NYMEX?

12 A. For the LDCs?

13 Q. For the LDCs.

14 A. No, I wouldn't agree with that.

15 Q. Well, the LDC -- is it true that LDCs are  
16 permitted to make profits on natural gas in Ohio?

17 A. No.

18 Q. All right. And so they were selling --  
19 under the last iteration of the GCR they were selling  
20 natural gas at the NYMEX price plus this adder,  
21 correct?

22 A. Not technically. They were selling the  
23 gas for whatever it cost them to buy the gas and to  
24 transport it to the city gate. The maximum adder is  
25 simply a calculation done after the fact to determine



1 the relationship between that price and the NYMEX.

2 Q. Okay. Well, then let's look at the  
3 auction adders. The initial Dominion auction  
4 resulted in an adder of \$1.44. To your knowledge  
5 does \$1.44 cover the overhead costs of a marketer  
6 over the NYMEX price to provide gas to -- to  
7 customers of Dominion?

8 A. I don't know what percentage of the  
9 overhead that covers.

10 Q. Okay. Now, in the '08-'09 auction that  
11 adder raised to \$2.33. Can you explain the  
12 differential between the previous auction and the  
13 results of the '08-'09 auction?

14 A. As I explained in my testimony, that was  
15 a function of the fact that for that particular  
16 auction it was held after the injection season had  
17 started, which meant that the two LDCs were injecting  
18 gas into storage and that winning bidders were  
19 required to purchase that gas at the price that the  
20 LDCs paid to inject it.

21 That fact combined with the fact that  
22 there was a significant run-up in prices during the  
23 injection season that resulted in very high priced  
24 gas going into storage coupled with a projected NYMEX  
25 that showed a continuing decline in NYMEX from those



1 extreme highs.

2 The result being that over the subsequent  
3 winter the SCO providers would be withdrawing gas out  
4 of storage at a very high price, higher than the  
5 NYMEX price that they would be selling it at, so that  
6 difference had to be incorporated into the adder and  
7 that's why we saw such an extreme increase.

8 Q. So that then is one of the factors that  
9 can cause a bid price to vary, the requirement to  
10 purchase storage?

11 A. The timing of that particular auction  
12 required the winning bidders to purchase gas in  
13 storage. The way the auctions -- every other auction  
14 is set up, the auction occurs prior to the injection  
15 season so you never again have this issue. This was  
16 a one-time anomaly.

17 Q. Well, but let's say, for instance,  
18 transportation, would -- do Vectren and Dominion and  
19 Columbia have different requirements regarding the  
20 capacity that a marketer must buy from them in order  
21 to serve retail customers?

22 A. The LDCs all have different capacity  
23 portfolios which are largely assigned to the SSO and  
24 SCO providers.

25 Q. But to an extent that a marketer could



1 self-supply transportation, that would give them an  
2 opportunity to reduce that adder when it bids in the  
3 auction.

4 A. If they can obtain capacity at cheaper  
5 than the LDC could have, yes. That's supposition.

6 Q. And then clearly if they could procure  
7 the commodity at prices below the NYMEX, that would  
8 also result in a lower adder, would it not?

9 A. No, I don't think that necessarily  
10 follows.

11 Q. Well, let's pause it just as a  
12 theoretical concept. If you as a marketer could  
13 purchase natural gas at a price below the NYMEX, yet  
14 you're bidding for a product that's based -- that you  
15 will sell based on the NYMEX close for that month,  
16 could that differential between the cost of your  
17 supply and the NYMEX close, could that in a bidding  
18 process contribute to a lower adder?

19 MR. REILLY: I am going -- I am going to  
20 object to this. None of those facts are in evidence.  
21 I mean, he is asking the witness to -- he is asking  
22 the witness to presume a scenario that's not in  
23 evidence, that there is no indication that anybody is  
24 going to know.

25 I don't see how it can conceivably be



1 relevant. The witness can't possibly testify what's  
2 going to happen and what's not going to happen.

3 EXAMINER WILLEY: Do you have a response?

4 MR. RINEBOLT: Yes, your Honor. The  
5 factors that produce the bid price for an individual  
6 auction participant are very important in the context  
7 of determining whether those factors are in an SSO  
8 auction, those factors are at play at an SCO auction  
9 and so how the opportunity for price savings varies  
10 between the SSO and the SCO auction.

11 So I am attempting to explore the factors  
12 that make up that adder which constitutes the factors  
13 that win you the auction.

14 MR. REILLY: Your Honor, if I might, he  
15 is asking the witness to -- to get about what --  
16 about how individual companies -- other private  
17 individual companies weigh factors to determine their  
18 bids without any -- without any evidence as to  
19 what -- what any one company or group of companies,  
20 how they -- what they might weigh or how they might  
21 weigh it.

22 EXAMINER WILLEY: Your objection is  
23 sustained.

24 MR. REILLY: Thank you.

25 Q. (By Mr. Rinebolt) Well, let's talk, if we



1 may for a second, Mr. Puican, about the difference  
2 between the adders produced by the various auctions.

3 Can you tell me what factor would cause  
4 the Vectren adder in the 4-11 auction to be \$1.35  
5 while the Dominion was only a dollar?

6 A. I can only respond in terms of why do I  
7 believe the Vectren adder was higher than Dominion.  
8 Is that what you are asking?

9 Q. That will answer my question, thank you  
10 very much.

11 A. I think that one of the deciding factors  
12 is that Vectren is simply a smaller company and they  
13 have typically been attracting fewer bidders.

14 Q. All right. And what -- strike that.

15 Do you view the current retail market in  
16 Ohio as transparent to retail customers?

17 A. I have no idea what you mean by that.

18 Q. Are the prices -- if I'm shopping for  
19 natural gas in March, in the middle of March, do I  
20 know what the prices are going to be -- what price I  
21 would actually pay in April if I was, for example, on  
22 a -- looking for a variable rate product?

23 A. No more so than you would when you were a  
24 GCR customer.

25 Q. That's true, but in a retail marketplace,



1 all right, I have options to shop and procure my gas  
2 from someone other than the LDCs; is that correct?

3 A. Correct.

4 Q. Now, what types of information do you  
5 believe that I need to make such a choice?

6 MR. PETRICOFF: Your Honor, I am going to  
7 object. This is a question about -- about buying gas  
8 in the Choice market. That's not what we are here  
9 for today.

10 The scope of this hearing is on SCO or  
11 SSO auction and what a customer may or may not know  
12 or how they decide to buy a Choice product is just  
13 irrelevant.

14 EXAMINER WILLEY: Thank you. Your  
15 objection is sustained.

16 Q. Do you believe, Mr. Puican, that retail  
17 natural -- that residential and small commercial  
18 customers of Vectren, Dominion, and Columbia are well  
19 informed about the natural gas market?

20 MR. REILLY: Objection, no foundation.  
21 There is no indication he knows what any individual  
22 customers might believe or not believe.

23 EXAMINER WILLEY: Your response?

24 MR. RINEBOLT: Your Honor, the witness is  
25 a specialist in natural gas and natural gas markets.



1 He is a member of the Commission's staff who oversees  
2 the activities of marketers. We are in a retail  
3 environment in Ohio.

4 It is important whether -- to know  
5 whether he believes the customers have an  
6 understanding of that retail marketplace whether it  
7 occurs through an auction process or whether they are  
8 shopping for natural gas.

9 EXAMINER WILLEY: Can you just try and  
10 lay more of a foundation?

11 Q. (By Mr. Rinebolt) Ohio customers of  
12 Dominion, Vectren, and Columbia currently have the  
13 option of being served under, shall we say, a default  
14 service with the price set by an SSO auction or an  
15 SCO auction or by shopping in the retail marketplace;  
16 is that correct?

17 A. That's correct.

18 Q. And a substantial number of Columbia's  
19 customers have chosen to remain on that default  
20 service, correct?

21 A. Correct. There are more people on the  
22 default service than Choice.

23 Q. Okay. Now, do you believe -- based on  
24 your expert knowledge, do you believe that customers  
25 who have chosen to remain on default service have



1 done so because they understand the retail natural  
2 gas marketplace?

3 MR. REILLY: Objection. The witness --  
4 it's a lack of foundation, does he have any knowledge  
5 of what customers know or don't know about the retail  
6 gas marketplace.

7 MR. RINEBOLT: Your Honor, a sizable  
8 percentage of customers in Columbia have chosen not  
9 to go shop with retail suppliers, have chosen to  
10 receive default service. Simply trying to understand  
11 based on the knowledge of this witness whether he  
12 believes that customers have adequate information to  
13 make that choice.

14 EXAMINER WILLEY: Your objection is  
15 sustained.

16 Q. (By Mr. Rinebolt) Mr. Puican, the current  
17 SCO and SSO auctions provide a variable rate to  
18 customers, varies by month based on the NYMEX close,  
19 correct?

20 A. Yes.

21 Q. Is it the opinion of staff that a  
22 variable rate is more beneficial to consumers than a  
23 fixed price contract?

24 A. The answer to that question is largely a  
25 function of the risk aversion of individual



1 customers.

2 Q. So one of the reasons that a customer  
3 might pick a default service option would be because  
4 they were risk averse?

5 A. No. If someone did not want to be on a  
6 variable plan, they would choose a fixed price choice  
7 plan in order to minimize their risk.

8 Q. So they would understand the difference  
9 between a variable rate option and a fixed price  
10 option?

11 A. I have no idea in general what customers  
12 understand or don't understand, but I think it's a  
13 pretty fair bet to say that most people understand  
14 the difference between a fixed price offering on any  
15 product versus a variable price offering.

16 Q. Marketers have indicated that they like  
17 the SCO in Mr. Parisi's testimony and others and are  
18 obviously supportive of approval of a move to an SCO  
19 in Columbia; would that be a fair assessment?

20 A. That's their testimony, yes.

21 Q. All right. Now, the data indicates that  
22 not a large percentage of SCO customers have moved to  
23 Choice; is that correct?

24 A. I think that was the conclusion -- the  
25 conclusion from my reports was that not a lot have



1 moved to fixed price Choice offerings, which was the  
2 concern of Commissioner Centolella and which was the  
3 basis of those irrespective of those reports, not so  
4 much whether they are going to Choice but whether  
5 they are going to Choice under fixed price contracts.

6 Q. I understand that. But do you recall the  
7 marketers saying that they -- one of the reasons they  
8 liked an SCO auction is because it gave them a direct  
9 relationship with the customer?

10 A. Yes.

11 Q. Now, but that relationship with the  
12 customer appears to not cause many SCO customers to  
13 move into the Choice market with the marketer that's  
14 serving them under the auction; is that correct?

15 MR. REILLY: Objection. It assumes facts  
16 not in evidence. There is no evidence as to why  
17 anybody does or does not purchase -- go into the  
18 Choice market or did not go into the Choice market.

19 MR. RINEBOLT: Your Honor, I am  
20 attempting to explore why marketers prefer the SCO  
21 market so much, and we've had extensive testimony  
22 that marketers prefer an SCO -- an SCO auction for a  
23 whole host of meanings.

24 I am simply trying to understand if -- if  
25 one of the reasons that they prefer it is because a



1 number of customers migrate as a result of that  
2 direct relationship from SCO default service to a  
3 retail contract.

4 EXAMINER WILLEY: Mr. Petricoff?

5 MR. PETRICOFF: Your Honor, I would join  
6 in the objection and point out that if the questions  
7 were about what marketers want or what marketers  
8 believe, those questions should have been addressed  
9 with Mr. Parisi who is a marketer and was there for  
10 the marketer positions, and to examine this witness  
11 on those questions I think is -- is improper.

12 EXAMINER WILLEY: Thank you. The  
13 objection is sustained.

14 Q. (By Mr. Rinebolt) Mr. Puican, as a  
15 specialist in natural gas regulation, is there a  
16 regulatory approach that moves closer to a retail  
17 relationship between customers and their supplier  
18 than an SCO auction?

19 A. Is there an alternative to the SCO that  
20 achieves the same result as the SCO?

21 Q. Well, that enhances competition by  
22 creating a stronger retail relationship between the  
23 customer and the provider than an SCO option.

24 A. The Choice program provides the same  
25 opportunities.



1                   Maybe I am not understanding your  
2 question.

3           Q.     Currently we have customers being served  
4 on a retail basis on competitive contracts from  
5 certified marketers, correct?

6           A.     Yes.

7           Q.     And then we have in Dominion and Vectren  
8 a pool of customers that are being served under an  
9 SCO contract, a direct retail relationship with the  
10 supplier. But the price is set through an auction.

11                   My question is is there any other  
12 regulatory approach that would result in a different  
13 type of retail relationship between a customer and a  
14 marketer than an SCO?

15                   MR. REILLY: Objection. The question is  
16 vague. What is meant by "different"? Are we talking  
17 about a direct relationship or some sort of indirect  
18 relationship or a more direct relationship? I mean,  
19 I don't understand the question.

20                   MR. RINEBOLT: Your Honor, there are a  
21 number of academic scholarly regulatory journals that  
22 have discussed various regulatory structures and  
23 options. There are various regulatory structures  
24 that promote retail relationships between customers  
25 and suppliers across the country.



1 I'm simply asking Mr. Puican as a  
2 specialist in regulation if there is another  
3 regulatory approach to creating that retail  
4 relationship between customers and a supplier.

5 EXAMINER WILLEY: Mr. Royer.

6 MR. ROYER: Your Honor, it is simply not  
7 relevant because none of those other potential  
8 structures are before us. We are here talking about  
9 an SSO auction or an SCO auction. Whether there is  
10 something else out there that's different is not  
11 before the Commission at this time.

12 MR. REILLY: I would add, your Honor, if  
13 I might, if I understand the basis of the question,  
14 is academic journals have proposed various -- various  
15 systems, whatever they might be; there is no  
16 indication that the witness knows -- knows them.

17 There is no indication they have been  
18 implemented anywhere in the country and there is no  
19 indication they have been successful anywhere in the  
20 country.

21 We are talking about what somebody may  
22 have written about in some journal rather than some  
23 specific program. There is no way for the -- for the  
24 witness to answer this question I would add too in  
25 addition to relevance.



1 MR. RINEBOLT: Your Honor, if I may  
2 respond, the witness and I and many people in this  
3 room have sat in a number of collaboratives and  
4 discussed a number of regulatory schemes that could  
5 operate in this state.

6 EXAMINER WILLEY: Thank you. The  
7 objection is sustained.

8 MR. RINEBOLT: No further questions.

9 EXAMINER WILLEY: Mr. Reilly, is there  
10 any redirect?

11 MR. REILLY: Yes, your Honor, just a few  
12 things.

13 - - -

14 REDIRECT EXAMINATION

15 By Mr. Reilly:

16 Q. Good morning, Mr. Puican.

17 A. Good morning.

18 Q. I would like to -- I would like to talk  
19 to you for just a little bit, Mr. Puican, about local  
20 gas supplies, locally obtained gas. You might recall  
21 that Mr. Sauer talked to you about that.

22 A. Yes.

23 Q. And I was wondering if you would just  
24 generally describe for us, if you will, what local  
25 gas supplies are, just to start with that.



1           A.    Local gas is gas that can reach local LDC  
2 city gates without entering -- let me pull back.

3                   It's gas that is available without  
4 necessarily entering the interstate pipeline system.  
5 It can be an alternative to interstate pipeline gas.

6           Q.    Okay. Do you have any information on how  
7 this gas is actually provide -- delivered to city  
8 gates? Have you ever seen any information on how  
9 it's actually delivered to city gates?

10           A.    There are a variety of ways. It could be  
11 interstate pipelines. It's most often through  
12 gathering lines.

13           Q.    "Gathering lines" mean what?

14           A.    Gathering lines are lines that basically  
15 connect wells and aggregate that gas and transport it  
16 typically to an interstate pipeline.

17           Q.    So -- so local gas is also delivered  
18 through interstate pipelines.

19           A.    It is delivered generally to interstate  
20 pipelines for delivery.

21           Q.    So it is delivered to interstate for  
22 delivery to a city gate.

23           A.    Yes.

24           Q.    Correct. So it -- so it travels to a  
25 city gate. In those instances in which it's



1 delivered by an interstate pipeline, it is delivered  
2 to a city gate in the same fashion that gas coming  
3 interstate would be delivered; is that correct?

4 A. Correct.

5 Q. Okay. Do you have any -- do you have any  
6 knowledge of the proportion of gas delivered in at  
7 any time in Ohio that would be delivered by means  
8 other than interstate pipeline to a city gate?

9 A. I don't know. I can't give you a  
10 specific number, but I would suspect that the  
11 majority of local gas is transported on the  
12 interstate system.

13 Q. Why would you say that?

14 A. Because most LDCs don't have geographic  
15 access to local production.

16 Q. Okay. Just so we're clear, Mr. Puican,  
17 the -- what we have been calling -- let me back up.

18 The term "SCO" has been thrown around  
19 here. Do you remember that?

20 A. Yes.

21 Q. What do you understand that term to mean?

22 A. SCO is a retail program in which winning  
23 auction bidders are assigned actual customers that  
24 become customers of those winning bidders as opposed  
25 to an SSO program which is a wholesale program in



1 which winning bidders supply tranches of gas to the  
2 LDC for resale to end-use customers.

3 Q. I believe Mr. Sauer and Mr. Rinebolt also  
4 talked to you about a Choice Program. The term  
5 "Choice Program," are you familiar with that term?

6 A. Yes.

7 Q. Could you tell us what that is?

8 A. Certified marketers are allowed to  
9 solicit customers to become customers and have their  
10 gas delivered by those marketers at prices determined  
11 by the marketers.

12 Q. Okay. And that's -- that's different  
13 than the SCO?

14 A. The SCO is also marketers are assigned to  
15 individual customers but those customers are served  
16 at the auction RPA.

17 Q. Now, what is -- what is the  
18 distinction -- just for us generally what is the  
19 basic distinction between an SSO auction and an SCO  
20 auction?

21 A. Again, the SSO is a wholesale auction in  
22 which gas is provided to the LDC for retail to  
23 end-use customers. The SCO -- under the SCO program  
24 customers are directly served by the winning SCO  
25 bidders.



1           Q.    Okay.  So the SCO auction puts the  
2 marketers in a retail relationship with a customer?

3           A.    Correct.

4           Q.    Is that considered to be the more  
5 competitive alternative?

6           A.    I would say so, yes.

7           Q.    Mr. Puican, you have been involved in  
8 this area for a long time, as Mr. Rinebolt noted.  Do  
9 you happen to know if the General Assembly of Ohio  
10 has ever indicated a preference for competitive --  
11 for competitive alternatives?

12           MR. RINEBOLT:  Objection, your Honor.  
13 The witness is a regulatory expert but is not a  
14 legislative expert.  We are all aware of Section  
15 4929.02 which establishes in law the policies of the  
16 state of Ohio regarding natural gas regulation.  The  
17 witness's testimony would be a legal conclusion from  
18 someone who is not a lawyer.

19           EXAMINER WILLEY:  Do you have any  
20 response?

21           MR. REILLY:  I suggest to you that what I  
22 am asking Mr. Puican is certainly within -- within  
23 the level of his expertise that has been recognized  
24 here.

25           Mr. Rinebolt went on for some time about



1    how long he has been involved and he certainly has in  
2    the natural gas system and that he is an expert.  The  
3    Ohio General Assembly's preference for competition is  
4    a matter that I suggest does not require a legal  
5    conclusion.

6                   EXAMINER WILLEY:  Thank you.  The  
7    objection is overruled.

8                   Q.    (By Mr. Reilly) You may answer.  Would  
9    you like the question reread?

10                  A.    In the -- one of the criteria in the  
11    Commission granting an exemption from the GCR, which  
12    is what happened when these three auction regimes  
13    were set up, one of the considerations is the energy  
14    policy of the state which includes provisions that  
15    deal with the promotion of competition in the state  
16    retail competition.

17                  Q.    And that means the General Assembly had  
18    a -- do you have an opinion -- back up.  Strike that.

19                       MR. REILLY:  I have nothing further.  
20    Thank you, Mr. Puican.

21                       EXAMINER WILLEY:  Thank you.

22                       Ms. Leslie, do you have any recross?

23                       MS. KOVACIK:  No, your Honor.

24                       EXAMINER WILLEY:  Mr. Petricoff?

25                       MR. PETRICOFF:  Just one or two



1 questions, thank you, your Honor.

2 - - -

3 RECROSS-EXAMINATION

4 By Mr. Petricoff:

5 Q. Mr. Puican, if -- do -- to your knowledge  
6 do local producers sell their -- their gas under  
7 different types of contracts?

8 A. Oh, yes.

9 Q. Is one type of contract life of the well?

10 A. Yes.

11 Q. And what does that mean?

12 A. It was basically a fixed price contract  
13 for literally as long as gas was produced from that  
14 well would be sold to the purchaser at the fixed  
15 price, at a predetermined price.

16 Q. And generally do you know how long does  
17 an Ohio Clinton well run? What's the average life?

18 A. I don't know.

19 Q. Are they also sold for periods of time  
20 greater than a year?

21 A. Oh, yes.

22 Q. And are they sold sometimes based on  
23 index prices where the price would change based on  
24 something like NYMEX or another -- another indices?

25 A. That's very common. In fact, I believe



1 that's the most common pricing.

2 Q. Okay. So if you knew the location of a  
3 well, if you knew the source was a local well, would  
4 you be able to identify what the price would be?

5 A. No.

6 Q. And relatively speaking, could you say  
7 what the price of a local gas would be with  
8 interstate gas or gas from another -- another  
9 producing region?

10 A. No.

11 MR. PETRICOFF: No further questions.

12 Thank you.

13 EXAMINER WILLEY: Mr. Royer?

14 Mr. Sauer?

15 MR. SAUER: Thank you, your Honor.

16 - - -

17 RECROSS-EXAMINATION

18 By Mr. Sauer:

19 Q. Mr. Puican, do you recall some questions  
20 asked you regarding local production?

21 A. Yes.

22 Q. And is it true Columbia and Dominion have  
23 significant local production delivered on these  
24 systems currently?

25 A. I know Dominion in particular has



1 typically traditionally had a lot of local  
2 production.

3 Q. And to your knowledge is that local  
4 production increasing or is it decreasing?

5 A. I understand from Mr. Slone's rebuttal  
6 testimony that he's determined that it is -- it has  
7 been increasing.

8 Q. And would you expect that if indeed --  
9 well, let me ask you this, would you anticipate that  
10 the local production that's increasing, is that the  
11 result of shale gas that's being produced in Ohio?

12 A. I don't know. To my knowledge there is  
13 not a lot of the so-called shale gas in development  
14 yet.

15 Q. To the extent that there is greater local  
16 production delivered in the future than there is  
17 currently, would that have more of an effect on  
18 future RPAs?

19 A. It depends what it's priced at. If it's  
20 local product that goes into the interstate system,  
21 then that is generally indexed price and could very  
22 commonly be a NYMEX plus price.

23 Q. To the extent that it is local production  
24 that doesn't go into the interstate system, that  
25 could very easily be priced at a NYMEX minus price,



1     couldn't it?

2             A.     I'm not sure that that's a very common  
3     situation in the case of Vectren and Dominion and  
4     Columbia.  That's more typically the case with some  
5     of the smaller LDCs that are more geographically  
6     located on top of the production.

7             Q.     But it is possible, isn't it?

8             A.     In my opinion that's a very small amount.

9             MR. SAUER:  I have no further questions.

10            EXAMINER WILLEY:  Thank you.

11            Mr. Rinebolt?

12                                 - - -

13                                 REXCROSS-EXAMINATION

14     By Mr. Rinebolt:

15            Q.     Mr. Puican, as Mr. Reilly established,  
16     you are an expert in state policy on natural gas,  
17     correct?

18            MR. REILLY:  Objection.  That's -- that's  
19     not -- I don't believe that was the foundation.

20            MR. RINEBOLT:  Your Honor, he indicated  
21     that the witness was very familiar with natural gas  
22     and legislature of natural gas and understood what  
23     state policy was and how an SCO furthered state  
24     policy.  Simply was a preamble for a series of  
25     questions based on his knowledge.



1                   EXAMINER WILLEY: The objection is  
2                   sustained.

3                   Q.     (By Mr. Rinebolt) You believe,  
4                   Mr. Puican, that an SCO enhances state policy?

5                   A.     It could.

6                   Q.     Okay. And that policy is to promote  
7                   competition in the marketplace.

8                   A.     Correct.

9                   Q.     Could you explain to me then how the  
10                  improvement or how the promotion of competition in  
11                  which you subscribe caused by the SCO, how does that  
12                  benefit ultimately if you're new to retail customers?

13                  A.     It makes Ohio an extremely attractive  
14                  market for multiple participants which enhances  
15                  options to customers and in my opinion the existence  
16                  of the Choice program for so many years leading up to  
17                  the auctions and the experience that marketers have  
18                  had operating in Ohio has greatly enhanced the  
19                  attractiveness of the SCO auctions as a way of  
20                  accumulating a lot of customers in a very low  
21                  acquisition cost.

22                  Q.     And how does that benefit customers?

23                  A.     The attractiveness of the SCO has  
24                  resulted in my opinion in a clearly much lower retail  
25                  price adder than we've seen historically with the



1 GCR, and my Exhibit SEP-1, I think, clearly  
2 demonstrates that.

3 MR. RINEBOLT: Thank you, Mr. Puican.

4 EXAMINER WILLEY: Thank you.

5 Examiner Pirik?

6 - - -

7 EXAMINATION

8 By Examiner Pirik:

9 Q. I just have a couple of questions.

10 I just want to clarify one thing. First  
11 of all, I would like to say there has been a lot of  
12 reference to Mr. Centolella's 08-1344, and I think  
13 it's admirable that staff did a review and has asked  
14 questions and made some inquiries into those  
15 questions.

16 But isn't it true that the language in --  
17 I don't know if you have that before you. Do you  
18 have that in front of you?

19 A. I don't.

20 Q. If I read it to you, I want to be sure  
21 that the record is clear, isn't it true that his  
22 concurring opinion basically says, "Some parties have  
23 indicated that their support for the stipulation  
24 should not be interpreted as a support for an SCO  
25 auction.



1            "These parties have reserved the right to  
2 seek further review. To the extent parties pursue  
3 further review, I would encourage them to provide  
4 data and address -- and address the questions that  
5 are listed in the concurring opinion."

6            Isn't it true that that's really directed  
7 at those parties that may perhaps seek further review  
8 of an SCO auction and is not necessarily staff or the  
9 company or any of the parties that supported an SCO  
10 auction?

11           A.    When we -- when that entry came out,  
12 we -- I don't know to what extent I can testify to  
13 this.

14           Q.    I am just saying isn't that true what  
15 that says? You don't have to go forward and talk  
16 about necessarily -- like I said, I think it's  
17 admirable staff has gone forward and actually pursued  
18 some of these, but to the extent there was some  
19 directive or some Commission order saying, staff, do  
20 this, or company, do this, or marketers, do this,  
21 that really wasn't what this concurring opinion was  
22 saying.

23           It was showing an interest in these types  
24 of questions and perhaps information that would  
25 comport if these questions were answered by those



1 parties concerned about the SCO auction.

2 A. And it's possible I'm confusing things,  
3 but in both Dominion and Vectren staff was  
4 specifically directed to come up -- to prepare a  
5 report by a specific date which was intended to be  
6 used as information going into the next auction as to  
7 whether the SCO was basically causing customers to be  
8 directed to fixed price contracts to their  
9 disadvantage and that was the clarification that we  
10 got as to what was really wanted by the Commissioners  
11 in order to help them make a decision as to how valid  
12 some of the opponents of the SCO were, how valid some  
13 of their concerns were.

14 Q. Certainly. But in this case in reference  
15 to the concurring opinion, this concurring opinion  
16 that has been referenced so far in this case, wasn't  
17 a directive by the Commission. It was an inquiry  
18 by -- by Commissioner Centolella in particular  
19 wanting to make sure certain information was brought  
20 forth.

21 A. Yes.

22 Q. There's also been some question with  
23 regard to reasons why customers may or may not opt to  
24 have the default in a Choice environment, to pick the  
25 default. Couldn't it just be that customers could be



1 educated and could be very well educated and, in  
2 fact, just choose not to choose?

3 I mean, isn't that an option perhaps? It  
4 might not be because they are necessarily not  
5 educated.

6 A. It's not necessarily because they are not  
7 aware of Choice and the SCO. They may simply be very  
8 comfortable with where they are.

9 EXAMINER PIRIK: That's all I had.

10 EXAMINER WILLEY: Thank you. You may be  
11 excused.

12 I would just like to let the record  
13 reflect that Mr. O'Brien is now present.

14 MR. O'BRIEN: Thank you.

15 EXAMINER WILLEY: Is OCC ready to  
16 proceed?

17 MR. REILLY: Your Honor, we would move  
18 the introduction of Staff Exhibit 2.

19 EXAMINER WILLEY: I apologize, is there  
20 any objection to the admission of this exhibit?

21 MR. SAUER: No objection.

22 EXAMINER WILLEY: Hearing none, it will  
23 be admitted.

24 (EXHIBIT ADMITTED INTO EVIDENCE.)

25 MR. SAUER: OCC would move the Exhibits



1 3, 4, 5, 6, 7, and 8.

2 EXAMINER WILLEY: Are there any  
3 objections to the admission of these exhibits?

4 Hearing none, these exhibits will be  
5 admitted.

6 (EXHIBITS ADMITTED INTO EVIDENCE.)

7 MR. REILLY: Just on Exhibit 3, was that  
8 an issue -- were 3 and 4 moved yesterday? Because I  
9 think one of them was rejected.

10 EXAMINER WILLEY: I'm sorry, Exhibit 3  
11 was -- Exhibit 3 was not admitted under the previous  
12 witness because there was no foundation. However, we  
13 find under Mr. Puican there was proper foundation  
14 laid so it will be admitted at this time.

15 MR. REILLY: Thank you, your Honor.

16 EXAMINER WILLEY: Thank you.

17 MS. VERRETT: OCC calls Bruce Hayes to  
18 the stand and would like his direct testimony marked  
19 as OCC Exhibit 9.

20 EXAMINER WILLEY: It will be so marked.

21 (EXHIBIT MARKED FOR IDENTIFICATION.)

22 EXAMINER WILLEY: Actually before we do  
23 that let's take a short break for the court reporter.

24 (Recess taken.)

25 EXAMINER WILLEY: Let's go ahead and go



1 back on the record.

2 - - -

3 BRUCE M. HAYES

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

6 DIRECT EXAMINATION

7 By Ms. Verrett:

8 Q. Please state your full name and your  
9 business address for the record.

10 A. Bruce M. Hayes. I work for the Ohio  
11 Consumers' Counsel, 10 West Broad Street, Suite 1800,  
12 Columbus, Ohio.

13 Q. Are you the same Bruce Hayes whose direct  
14 testimony was filed in this case?

15 A. Yes, I am.

16 Q. On whose behalf do you appear?

17 A. The Ohio Consumers' Counsel.

18 Q. Do you have your prepared testimony with  
19 you on the stand?

20 A. Yes, I do.

21 Q. Did you prepare the testimony or have it  
22 prepared at your direction?

23 A. Yes, I did.

24 Q. Do you have any changes or corrections to  
25 your direct testimony?



1           A.    I have no changes.

2           Q.    If I asked you today the same questions  
3 found in your direct testimony in OCC Exhibit 9,  
4 would your answers be the same?

5           A.    Yes, they would.

6           MS. VERRETT: The OCC moves for the  
7 admission of OCC Exhibit 9 and tenders the witness  
8 for cross-examination.

9           EXAMINER WILLEY: Are there any  
10 objections to the admission of this exhibit?

11           We are going to make the decision about  
12 admission after the end of his cross-examination.  
13 Thank you.

14           Okay. The witness is available for  
15 cross-examination.

16           Ms. Leslie.

17           MS. LESLIE: Thank you, your Honor.

18                               - - -

19                               CROSS-EXAMINATION

20 By Ms. Leslie:

21           Q.    Mr. Hayes, on page 8 of your testimony  
22 that was filed on July 8, 2011, you state that  
23 customers will have to pay an additional 6.8 million  
24 annually in higher sales tax as a result of having to  
25 purchase gas through the SCO auction instead of the



1 wholesale SSO auction. Is that an accurate  
2 description of your testimony?

3 A. It is accurate.

4 Q. And this 6.8 million differential you  
5 came up with assumes the adder as a result of an  
6 auction is \$1.88; is that correct?

7 A. I believe that is correct. Let me look  
8 at my workpaper.

9 That is correct.

10 Q. Okay. And did you have a chance to  
11 review Mr. Puican's prefiled testimony?

12 A. Yes, I did.

13 Q. And have you been present during his  
14 lengthy cross-examination both yesterday and today?

15 A. Yes.

16 Q. I'm sorry, Friday and today.

17 And isn't it true according to that --  
18 Mr. Puican's testimony that the adder as a result of  
19 the SCO option for the previous two Dominion and  
20 Vectren auctions has been lower than the \$1.88 adder?

21 A. Yes, that's correct.

22 Q. And isn't it true that he also testified  
23 that he expects the same trend to occur with  
24 Columbia?

25 A. That's his assumption, yes.



1           Q.    Okay.  So based on those assumptions and  
2   Mr. Puican's testimony, isn't it true with a lower  
3   SCO rate the actual sales tax impact would be much  
4   lower than the 6.8 million?

5           A.    That could be if market conditions stay  
6   the same.

7           Q.    In your testimony you list that there are  
8   a -- there will be about a \$1.3 million in IT costs  
9   and \$380,000 in customer costs related to outreach?

10          A.    Yes.

11          Q.    Okay.  And you characterize those as  
12   additional costs that have to be borne by the  
13   customer?

14          A.    Yes.

15          Q.    Okay.  Are you aware what the impact of  
16   those costs are to the actual customer?

17          A.    I haven't calculated it, no.

18          Q.    Would you accept, subject to check, that  
19   the customer impact would be a one-time charge of  
20   one/tenth of 1 percent per ccf?

21          A.    Subject to check, yes.

22          Q.    And assuming that is correct, would you  
23   characterize that as a significant impact to the  
24   customer?

25          A.    It's over a million dollars.



1           Q.    But it's one/tenth of 1 cent per ccf per  
2 customer.

3           A.    That's a small impact, yes.

4           Q.    Okay.  And essentially since that's a  
5 one-time charge, it's not an annual charge; is that  
6 correct?

7           A.    We don't know if it's a one-time or not.  
8 It could happen each auction.

9           Q.    Had a --

10          A.    I don't know if any changes have been  
11 made.

12          Q.    Is there anything contained in Columbia's  
13 program outline that would indicate IT costs would  
14 need to occur in each additional auction?

15          A.    No.

16          Q.    Is there anything in Columbia's program  
17 outline that -- that indicates there would be  
18 customer -- more customer outreach costs for  
19 additional auctions?

20          A.    There is not but it doesn't mean that it  
21 won't occur.  You have a lot of questions from the  
22 public.  Education expenses could go up dramatically.

23          Q.    Okay.  Let's talk about that for a  
24 second.  In the opinion of the OCC was there customer  
25 confusion associated with Dominion's or Vectren's SCO



1 transitions?

2 A. I think there was.

3 Q. Okay. Was the OCC involved in developing  
4 the customer education programs for Vectren or  
5 Dominion?

6 A. They had input.

7 Q. Okay.

8 A. OCC had input, yes.

9 Q. And based on the OCC experience with the  
10 customers' education and Dominion and the Vectren SCO  
11 auctions, does the OCC have any ideas about how to  
12 best educate customers or how customer education  
13 programs should look?

14 A. I don't know.

15 Q. So you could not have any additions or  
16 they are just not fully developed yet?

17 A. That's not what I deal with, so.

18 Q. Okay. All right. Are you aware that  
19 Columbia's revised program outline provides for a  
20 stakeholder group approach to the development of  
21 customer education programs for the SCO?

22 A. Yes.

23 Q. Okay. And the OCC is part of the  
24 stakeholder group, isn't it?

25 A. Yes.



1 Q. And to the best of your knowledge, the  
2 OCC will offer the benefit of its own experience and  
3 expertise with the previous SCOs in order to help  
4 Columbia develop the customer program outreach?

5 A. I think it will be limited to the  
6 reduction of our communications people.

7 Q. But the OCC will still continue to be a  
8 stakeholder in the SCO auction process, will it not?

9 A. Yes.

10 Q. Okay.

11 A. Let me go back on that. I think we will.  
12 There's not a final decision on that yet.

13 Q. All right. I want to direct you to page  
14 12 of your testimony, lines 8 through 12.

15 A. What page?

16 Q. Page 12.

17 A. Yes.

18 Q. Okay. And you indicate that certain  
19 suppliers may not want to participate in an SCO  
20 because of the additional certification requirements  
21 set forth by the Commission; is that correct?

22 A. That is correct.

23 Q. Okay. Isn't this assertion contemporary  
24 to the evidence of the other LDCs in Ohio who have,  
25 in fact, conducted an SCO?



1           A.    I don't think so. Let me explain that.  
2   Big -- big players tend to make -- make it to the  
3   lower rounds and here I don't think it's quantity  
4   versus quality. If you look I think you'll find that  
5   the winners, winning bids there's a large percentage  
6   of large customers -- or of wholesale suppliers.

7           Q.    Would you dispute Mr. Puican's testimony  
8   that in Dominion's 2011 SCO auction there were 16  
9   suppliers that participated?

10          A.    I agree there was 16 suppliers. Again,  
11   quantity doesn't mean quality.

12          Q.    The adder in Dominion's 2000 auction was  
13   not any greater than Dominion's SSO auction, was it?

14          A.    It couldn't be. No, I'm sorry. That is  
15   correct.

16                MS. LESLIE: I have nothing else at this  
17   time, your Honor.

18                EXAMINER WILLEY: Thank you.

19                Mr. O'Brien.

20                MR. O'BRIEN: No questions, your Honor.

21                EXAMINER WILLEY: Mr. Petricoff.

22                MR. PETRICOFF: Yes, thank you, your  
23   Honor.

24                               - - -

25



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

CROSS-EXAMINATION

By Mr. Petricoff:

Q. Good morning, Mr. Hayes.

A. Good morning.

Q. If you could let me draw your attention to page 4 of your testimony, question and answers No. 6, this is where you are talking about your preparation for preparing your testimony in this proceeding today. In preparation for your testimony did you interview any wholesale -- any wholesale suppliers?

A. I did not.

Q. Did you interview any retail suppliers?

A. I did not.

Q. Did you consult any tax experts?

A. No.

Q. I would like to draw your attention down a few more lines on page 4 to lines 17 to 19. And there you state that "Columbia's failed to demonstrate in its filing that there are any objective, tangible and/or quantifiable benefits...." Let me stop there.

Where did that standard of objective, tangible and/or quantifiable benefits come from?

A. I think that's a term we've used for some



1 time. They were used during the discussions in  
2 Columbia's SCO case in terms of the exit when we came  
3 up with the stipulation for this. Stipulation in the  
4 GCR case -- or I'm sorry, yes -- was it GCR? Yes,  
5 that led to the auction.

6 Q. In this proceeding, are you familiar with  
7 both the stipulation that led to this proceeding and  
8 the Commission's order that set up this hearing?

9 A. Yes.

10 Q. And do you recall whether the Commission,  
11 when setting up this hearing, used the criteria of  
12 objective, tangible, or quantifiable?

13 A. That is something that we've used  
14 throughout these discussions. OCC has mentioned time  
15 after time.

16 Q. So this is -- this test of -- of  
17 objective, tangible, and quantifiable is an OCC  
18 criteria, not necessarily the criteria that the  
19 Commission used for this proceeding.

20 A. I believe it was in the stipulation.

21 MR. PETRICOFF: Your Honor, may I  
22 approach the witness?

23 EXAMINER WILLEY: You may.

24 Q. I show what has -- this is just a copy of  
25 page 9, Section 8. I want to draw your attention to



1 the -- to the last paragraph. And it says here in  
2 the last paragraph "In the event that the parties  
3 file an objection to an SCO auction, the parties  
4 supporting the SCO auction agree to present evidence  
5 intended to demonstrate that the --" there is key  
6 language -- "anticipated benefits to be derived from  
7 an SCO auction." Do you see that language?

8 A. Yes, I do.

9 Q. Okay. Will you agree with me now that  
10 the -- that the standard then from the stipulation is  
11 anticipated benefits?

12 A. Well, that's the way that sentence reads.

13 Q. Okay.

14 A. But I thought -- well, we always referred  
15 to it in our -- in the negotiations in the terms I've  
16 expressed.

17 Q. Okay. How about are you familiar with  
18 the Commission's opinion and order in this proceeding  
19 that was issued on, let's see, December 2, 2009?

20 A. I've read it.

21 Q. Okay. Would you agree with me that  
22 the -- would you agree with me that the Commission  
23 has picked up that language as well in its order in  
24 paragraph No. 9 on page 9 -- I can show this to you  
25 if you wish -- that the standard is -- is, in fact,



1 anticipated benefits?

2 A. I'll take your word for it.

3 Q. Would you agree with me that it would be  
4 difficult if not impossible to have tangible benefits  
5 for an occurrence that's going to take place in the  
6 future?

7 A. I'm an engineer. I kind of look at facts  
8 and make assumptions and do calculations. I would  
9 try to -- try to show that if I could.

10 Q. And a good engineer, I might add, from  
11 the work you have -- we've done together but I'm  
12 exploring the linguistics question here and basically  
13 in your mind doesn't -- does "tangible" mean  
14 something other than what has occurred and can be  
15 proven with existing facts? Do you have a different  
16 understanding for the word "tangible" than that?

17 A. I view "tangible" as capable of being  
18 precisely identified.

19 Q. And can we precisely identify what's  
20 going to happen in the future?

21 A. I can't.

22 Q. I'm sorry, you can?

23 A. I can't.

24 Q. I thought if you could I was going to  
25 come talk about my 401-K. I need help. Okay. Well,



1 let's -- let's move on a bit then.

2 I want to talk to you a bit with -- about  
3 taxes. On page 8, lines 7 to 12, you talk about  
4 the -- about the tax rates for -- for sales tax. Do  
5 you see where I'm referring to in your testimony?

6 A. Generally, yes.

7 Q. Okay. And would you agree with me that  
8 one of the major differences between the gross  
9 receipts tax and the sales tax is that counties in  
10 the sales tax are allowed to put on an adder,  
11 counties do not have a right to put an adder on the  
12 gross receipts tax?

13 A. That's correct.

14 Q. And that county adder is really from a  
15 dollar standpoint the major difference between the  
16 gross receipts tax and the sales tax?

17 A. Yes, I agree with that.

18 Q. Okay. What does the county do with the  
19 revenue that it gets from its adder?

20 A. In the case of Franklin you have COTA  
21 gets a piece of that. I'm sure there's other -- each  
22 county has their own programs that they dedicate it  
23 to.

24 Q. And do the people of Franklin County, did  
25 they vote on having this adder?



1           A.    Yes, they did.  At least some of them  
2    did.

3           Q.    Well, we could say that the majority  
4    voted on it the time the election was held then.

5                   And were you here earlier on Friday when  
6    Mr. Cahaan testified on the value of -- of tax  
7    revenue?

8           A.    If you are talking about societal  
9    benefits.

10          Q.    Societal benefits.

11          A.    I feel like I am paying enough right now.  
12    I have more societal benefits than I am willing to  
13    pay for.

14          Q.    But I want to focus in more --

15          A.    And as an SSO customer of Columbia's I  
16    feel it's a tax increase.

17          Q.    Do you recall when Mr. Cahaan said that  
18    he thought that from a societal standpoint citizens  
19    got at least a dollar's worth of value out of every  
20    dollar of tax that was assessed?

21          A.    I have no comment on that.  Yes, I heard  
22    it but.  I'm not sure I believe it.

23          Q.    Okay.  But now I am asking for your  
24    opinion.  Do you believe that citizens get less than  
25    a dollar's worth of value for a dollar's worth of



1 county sales tax that's assessed -- yes, county sales  
2 tax that's assessed?

3 A. Again, without giving my political  
4 affiliation, I don't think so.

5 Q. Okay. How about the Office of the  
6 Consumers' Counsel, is it the position of the Office  
7 of Consumers' Counsel that Franklin County should not  
8 get the additional revenue from its adder because of  
9 the citizens who pay more on their natural gas bill?

10 A. I think OCC views this as an increase to  
11 consumers and regardless of where the money goes it's  
12 an increase and I don't think that we can argue for  
13 an increase that we don't feel like provides value in  
14 the SCO.

15 Q. Would it make a difference to the OCC if  
16 instead of putting a sales tax on -- on SCO natural  
17 gas that the county raise the same amount of money  
18 with a sales tax on soda?

19 A. The county can -- can raise the taxes  
20 however they feel they need to in these type things,  
21 but representing utility customers, no, I don't think  
22 we can -- can advocate for a tax increase regardless  
23 of where the taxes go.

24 Q. I want -- I want to focus in on this  
25 point because I think it's a terribly important one.



1 So the objection of the Office of Consumers' Counsel  
2 is not that there will be a tax by the county or that  
3 revenue will be collected by the county or that  
4 revenue will be spent by the county. It is the form  
5 of the tax that the county is going to collect the  
6 revenue that the OCC objects to.

7 A. OCC objects to the utility taxes going up  
8 without benefit.

9 Q. And so the presentation that you are --  
10 the suggestion that the OCC is making to the  
11 Commission is that the Commission ought to alter its  
12 program for utilities procuring natural gas so that  
13 it will reduce the tax that customers will pay to the  
14 county?

15 A. We will pay the tax if we feel like we  
16 can get an incremental benefit in the utility rate.  
17 I'm not saying we don't disagree with the tax. We  
18 don't disagree with it because we don't think we get  
19 any benefit from having an SCO auction over an SSO  
20 auction.

21 Q. Isn't the effect of the proposal from the  
22 OCC going to be that Franklin County gets less money  
23 for COTA?

24 A. They have other avenues of doing it.  
25 They can find -- they can put a referendum up to the



1 voters.

2 Q. So the objection is not with the county  
3 raising the taxes or spending the revenue. It is the  
4 method in which the county is -- is raising revenue  
5 the OCC objects to.

6 A. Yes. Yes.

7 Q. Does the OCC take the same position for  
8 Cuyahoga County?

9 A. Again, we oppose the tax because it's a  
10 utility rate increase or it's an increase to the  
11 consumer.

12 Q. You would agree with me --

13 A. Without benefit.

14 Q. You would agree with me that Cuyahoga  
15 County is now collecting its state sales -- I'm  
16 sorry, sales tax adder because the East Ohio Gas  
17 Company is using an SCO auction?

18 A. The county is benefiting from that SCO  
19 auction.

20 Q. And logically I can take it then that the  
21 position of the Office of the Consumers' Counsel is  
22 that that revenue should be rolled back in Cuyahoga  
23 County because an SCO auction is not more valuable  
24 than an SSO auction?

25 A. I didn't say anything about rolling it



1 back.

2 Q. So is it your position then that Franklin  
3 County and Cuyahoga County should be treated  
4 differently?

5 A. The SCO in the Dominion case was a  
6 settlement and overall stipulation that covered  
7 several areas and it just wasn't agreed to just  
8 because of the tax issues.

9 Q. I am going to switch subjects with you --  
10 with you now. I would like you to turn to page 12 of  
11 your testimony. And take a look at your answer  
12 from -- in 21, which is lines 4 to 14.

13 A. I'm sorry, page 12.

14 Q. Page 12, lines 4 to 14.

15 A. Okay.

16 Q. So I asked you earlier if you had talked  
17 to any -- any wholesale or retail suppliers and you  
18 had indicated you didn't, so I assume that you have  
19 not talked to BP Energy, Virginia Power Energy  
20 Marketing, and JP Morgan Ventures Energy about SSO  
21 and SCO auctions?

22 A. I have not.

23 Q. So in that case I assume on line 10 that  
24 it -- that these three companies may be willing to  
25 participate in a certificate process and may be



1 willing to participate in an SCO auction?

2 A. Correct, but they haven't at this point.

3 Q. I want to take you down just to lines 13  
4 and 14 and there you say that -- here you are talking  
5 about bidders bidding in or bidding out. Is it  
6 universally true in your opinion that -- that the  
7 more bidders the more robust the auction, the lower  
8 the closing price?

9 A. In this case I don't think that's true.  
10 Generally more bidders you would think would lead to  
11 lower prices. In this case if you start eliminating  
12 the traditional wholesale bidders, those non-grant  
13 certified I think you are taking away the heavy  
14 hitters or the bidders that participate most heavily.

15 Q. Have there been any wholesale suppliers  
16 that have intervened in this proceeding or filed a  
17 letter with the Commission that indicate that they  
18 would not produce -- they were -- they would not  
19 participate in an SCO auction?

20 A. You are talking about other than DTE's  
21 not signing the -- supporting the stipulation?

22 Q. Yes. I am talking about the proceeding  
23 here today.

24 A. No.

25 MR. PETRICOFF: Your Honor, I have no



1 further questions.

2 Thank you, Mr. Hayes.

3 EXAMINER WILLEY: Thank you.

4 Mr. Royer.

5 MR. ROYER: Good afternoon -- good  
6 morning, Mr. Hayes.

7 A. Good morning.

8 Q. Let me take you back to page 5 of your  
9 testimony. And -- and you in your discussion with  
10 Mr. Petricoff indicated that your definition of  
11 "tangible" as used in the OCC test was capable of  
12 being precisely identified; is that correct?

13 A. Yes.

14 Q. And I'm -- it's not clear to me with  
15 respect to your answer to Mr. Petricoff's question,  
16 but how are you proposing to precisely identify a  
17 benefit associated with something that hasn't  
18 occurred yet?

19 A. That's not my obligation to calculate  
20 that.

21 Q. Well, you proposed the test. How would  
22 you suggest to a party that you believe should  
23 satisfy that test should do so?

24 A. I don't have an answer for that. I don't  
25 have any idea.



1           Q.    That's because the test is incapable of  
2 being satisfied, isn't it?

3           A.    I don't know.

4           Q.    And when you say a "quantifiable  
5 benefit," I take it that means something that can be  
6 calculated with mathematical precision?

7           A.    That's something to, yes, measure the  
8 exact quantity.

9           Q.    And I take it you are using benefit -- in  
10 using the term "benefit" you're using that in a  
11 comparative sense, that is, benefit of an SCO auction  
12 versus an SSO auction; would that be correct?

13          A.    Yes.

14          Q.    And so if I wanted to quantify -- I  
15 wanted to quantify the benefit using that definition,  
16 I would have to -- I would have to know the results  
17 of two -- two auctions -- of the two auctions,  
18 correct?

19          A.    Yes.

20          Q.    And those auctions have not yet occurred,  
21 correct?

22          A.    That is correct.

23          Q.    And in fact they won't simultaneously  
24 occur in this case regardless of where the Commission  
25 comes out on which auction should be -- which form of



1 auction should be used, correct?

2 A. Correct.

3 Q. So this test -- so this part of the test  
4 is also incapable of being applied; isn't that  
5 correct?

6 A. I don't know.

7 Q. How would you suggest that marketers or  
8 Columbia or staff show quantify of a benefit for  
9 something that has -- that has not yet occurred?

10 A. It's not up to me to come up --

11 Q. You're applying the test and I think we  
12 are entitled -- if we don't do what we were supposed  
13 to do I want to know what we should have done. So  
14 can you tell me how this test can be applied?

15 A. You somehow need to show what the savings  
16 will be.

17 Q. But you don't have any idea how we should  
18 do that, right?

19 A. No.

20 Q. Okay. Page 8 of your testimony, you talk  
21 about in lines -- sentence beginning on line 15 you  
22 say that "...SCO customers will be forced to pay an  
23 additional 6.8 million annually in higher annual  
24 sales taxes as a result of having to purchase natural  
25 gas through the retail SCO auction instead of through



1 the wholesale SSO auction."

2 What is the additional 6.8 million  
3 compared to?

4 A. It's compared to what it would be under  
5 the SSO.

6 Q. But we don't know what it would be under  
7 the SSO, correct?

8 A. I think we do, don't we?

9 Q. Well, this is -- I take it then that  
10 you're -- that this -- this calculation on BMH-2  
11 purports to show an additional 6.8 million in tax  
12 obligations earned in sales tax assumes that the  
13 price in the SSO auction and the SCO auction would be  
14 the same, correct?

15 A. That's correct.

16 Q. Okay. And what is your basis for your  
17 assumption that those two prices would be the same?

18 A. My assumptions are there on the  
19 spreadsheet. Attachment BMH-2.

20 Q. Well, you've taken -- you've taken -- as  
21 I understand it, you've taken 2 percentages, applied  
22 them to the same number, and lo and behold, produced  
23 a result the higher tax rate will produce a higher --  
24 higher dollar cost, correct?

25 A. That's correct.



1           Q.    And if the -- if the -- but tax rates are  
2 by definition percentages that are applied to some  
3 dollar base, correct?

4           A.    Yes.

5           Q.    And you can't know the total dollar  
6 impact unless you know the dollar base, correct?

7           A.    That's --

8           Q.    And we don't know the dollar base of  
9 either the SCO auction or the SSO auction, right?

10          A.    Well, we have made some assumptions to  
11 it.

12          Q.    Yes, you made an assumption they have  
13 been the same but we don't know what they are  
14 actually going to be; is that correct?

15          A.    That's correct.

16          Q.    And if I take a higher percentage tax  
17 rate and apply it to a lower number, I could get a  
18 lower dollar result in taking a lower tax rate and  
19 applying it to a higher number, correct?

20          A.    It could also go the other way.

21          Q.    And but it could go that way, correct?

22          A.    Yes.

23          Q.    So the important input is not the tax  
24 rate, the important input is know what the price is,  
25 right?



1           A.    Yes.

2           Q.    And we can't know that, right?

3           A.    That's correct.

4           Q.    All right.  Now, on page 9 of your  
5 testimony you talk about -- you refer to this 1.3  
6 million in additional IT costs related to moving to  
7 the SSO to the -- from the SSO to the SCO.

8           A.    Yes.

9           Q.    And I believe you agreed with counsel of  
10 the company that these are actually one-time costs;  
11 is that right?

12          A.    These are probably one-time costs.

13          Q.    Okay.  And did Columbia incur one-time  
14 costs, IT costs in -- in preparing to move to the SSO  
15 auction from the GCR?

16          A.    Yes, they did.

17          Q.    And those costs -- and those costs would  
18 have, in fact, been -- ultimately been paid by the  
19 customers, right?

20          A.    This 1.3 is an incremental cost.  The  
21 cost for the IT and the SSO was resulted in -- or the  
22 SSO resulted in a benefit to customers.  I'm not  
23 seeing -- we make this incremental investments, I'm  
24 not seeing any kind of idea of --

25          Q.    Okay.  First of all, let's get that.



1 First of all, this one -- this staff proposal as I  
2 understand Mr. Puican's testimony is that the  
3 Commission should -- should authorize the SCO auction  
4 for next year and then it should continue until the  
5 Commission should order otherwise, correct?

6 A. Correct.

7 Q. And so to the extent you are trying to  
8 factor in one-time IT costs associated with a change,  
9 those costs will also actually be of benefit to  
10 customers over a period that spreads it out over the  
11 number of years we would actually have SCO auction.  
12 Would you agree with that?

13 A. No, I don't, because I don't think the  
14 SCO auction is going to provide a benefit.

15 Q. And your -- and the basis for your  
16 conclusion that the SCO auction will not provide the  
17 benefit is again what?

18 A. I think the SSO and SCO will be the same.  
19 I don't --

20 Q. Okay. And have you reviewed Mr. Puican's  
21 testimony in this regard?

22 A. Yes.

23 Q. And Mr. Puican, in fact, did show a  
24 tangible quantifiable benefit based on historical  
25 numbers for the SCO over the SSO; isn't that right?



1           A.    I don't agree with that at all.  I think  
2   his -- his analysis was flawed and did not  
3   consider -- take into consideration any effect of  
4   market effects on it other than the two that he  
5   kicked out.

6           Q.    Market effects and probably local  
7   production too; is that right?

8           A.    Local production could be a factor.

9           Q.    Okay.  And both those factors would apply  
10   equally to an SSO rate and SCO or an SSO and SCO  
11   auction, wouldn't they?

12          A.    Could.

13          Q.    Isn't it -- in fact, isn't that what  
14   Mr. Slone testifies to in his rebuttal testimony,  
15   that they apply to both?

16          A.    I believe that's what he says.

17          Q.    So whether he took those factors into  
18   account or not wouldn't have any bearing on which  
19   form of auction was to be preferred, would it?

20          A.    Well, you are talking about local  
21   production, and I am talking about other things.

22          Q.    Well, that's what I'm -- that's -- you  
23   are the one who just said you disagreed with  
24   Mr. Puican.  Let's go back.

25                My original premise was that Mr. Puican



1 had shown tangible quantifiable benefits based on  
2 actual historical data between an SCO -- an SCO  
3 auction over an SSO auction. You just agreed.

4 A. Yes, I did.

5 Q. You disagreed and I asked you and you  
6 said he didn't take into account these factors and  
7 now my question is wouldn't those factors apply  
8 equally to either form of auction which leaves us  
9 with the same question as to whether an SCO auction  
10 is better than an SSO auction?

11 A. I think Mr. Puican's differences are not  
12 just due to an SCO or an SSO auction. I think they  
13 are due to market conditions. The bids are affected  
14 by market conditions.

15 Q. How would the market conditions be  
16 different in -- with respect to how they would affect  
17 the price result or SCO and the price resulting under  
18 an SSO auction?

19 A. If they were held at the same time and in  
20 the same market conditions, there wouldn't be a  
21 difference.

22 Q. Right, and Mr. Slone says that in his  
23 testimony, doesn't he?

24 A. I believe so.

25 Q. Okay. On page 11 of your testimony, and



1 I guess this isn't really a question but, it's the  
2 heading at the top of the page, did you have input  
3 into that?

4 A. Did I have any input into that?

5 MS. VERRETT: Objection, your Honor. I'm  
6 not sure what the question, input as to what?

7 MR. ROYER: All right, I will do it  
8 another way, I apologize.

9 MS. VERRETT: Thank you.

10 Q. Is it -- is it the OCC's position that  
11 the SCO auction is confusing to unaware customers  
12 which lead to poor customer decisions that in turn  
13 may lead to additional costs to be borne by Columbia  
14 residential customers? Is that the position?

15 A. That's kind of poorly written. Sorry  
16 about that. I think that the SCO auction is  
17 confusing to customers that don't pay attention to  
18 their bills, don't read the fliers, and once they  
19 become an SCO customer they then could be subject to  
20 some kind of direct offer by the marketer to switch  
21 them to something that they don't even know why they  
22 are being talked about.

23 Q. Sorry, I didn't mean to interrupt. Are  
24 you finished? I guess I am still -- I would agree  
25 with you this is less than artfully written, but I am



1     trying to get to -- I am trying to get to the concept  
2     that the relationship of the SCO auction being  
3     confusing that would lead to poor customer decisions,  
4     okay, if the --

5             A.     Go ahead with your question.

6             Q.     -- if the customer does not -- okay.

7                     A customer may be confused if he all of a  
8     sudden sees a marketer's name on a bill for the first  
9     time.

10            A.     Yes.

11            Q.     May be confused, correct?

12            A.     Yes.

13            Q.     Will that of itself have any consequence  
14     to the customer though in terms of what -- in terms  
15     of what he pays for a commodity service?

16            A.     Not at that time.

17            Q.     Okay. So, in other words, he still gets  
18     the bill, still has to pay the bill, and even though  
19     he's confused, he is going to pay the same price for  
20     commodity service as all other default customers,  
21     right?

22            A.     Right.

23            Q.     We agree on that?

24            A.     Yes.

25            Q.     Okay. So -- so how -- what is the



1 customer's decision that's involved?

2 A. Well, at that point not understanding his  
3 bill he may try to take action to figure out what's  
4 going on and who knows where he is going to end up  
5 with that. He may not -- he may not take any action  
6 or he may think he has to choose another supplier or  
7 doesn't want to be with that supplier. I mean --

8 Q. Well, isn't it -- I mean, as I understand  
9 it -- it's your understanding there hasn't been --  
10 the promotional materials that were -- that will go  
11 with the SCO auction have not yet been developed for  
12 Columbia; is that right?

13 A. I don't know.

14 Q. Well, in the prior auctions one of the  
15 principle messages to the customers was that you  
16 don't have to do -- that you are not required to do  
17 anything, right? This is -- this is going to be --  
18 this is the price you are going to pay, right?

19 A. That's the one they ignore.

20 Q. Yeah. Well, how did they ignore it?

21 A. People don't read the messages.

22 Q. But how did that adversely affect them is  
23 what I am trying to get at?

24 A. What I am saying is down the road when  
25 they finally realized that something has changed on



1 their bill or somebody has contacted them and they  
2 realize that -- that they are no longer the utility's  
3 customer, they don't know, they see a marketer's name  
4 on the bill, they may want to shop around at that  
5 point or something. They may not know what to do.

6 Q. Well, isn't that a good thing? Isn't  
7 that promoting competition? Isn't that precisely the  
8 point that Mr. Parisi was making?

9 A. Not if they get talked into something  
10 they don't want.

11 Q. Well, that's -- that's a possibility  
12 under -- under a GCR or an SSO, isn't it?

13 A. Yes, it is.

14 Q. So you're saying that we should -- we  
15 should limit this -- this exposure to the fact that  
16 there are other sources of supply out there in order  
17 to protect customers from making bad decisions; is  
18 that it?

19 A. I'm just saying customers will be  
20 confused.

21 Q. I appreciate that. But I'm still -- I'm  
22 still struggling to try to understand what decision  
23 the customer makes that will adversely affect them as  
24 a result of the possibility that they would be  
25 confused by seeing a marketer's name on the bill.



1 MS. VERRETT: Objection, your Honor. I  
2 think he has already answered the question to the  
3 best of his ability. His testimony speaks for  
4 itself.

5 MR. ROYER: I'll withdraw it.

6 EXAMINER WILLEY: Okay.

7 Q. Now, I think you -- in your conversation  
8 earlier with Mr. Petricoff I think you expressed the  
9 view that -- maybe it was with counsel from Columbia,  
10 that you expressed the view that customers simply did  
11 not understand their options; is that correct?

12 A. I don't recall the question.

13 Q. Okay. Well, let me put it this way, let  
14 me put it this way, would you agree that customers  
15 may have elected to stay with default service for a  
16 variety of reasons?

17 A. Yes.

18 Q. One of which might just be inertia?  
19 Some -- some may not, you know, may not want to be  
20 bombarded with offers from marketers, they resent it  
21 so they pitch it when it come in the mail, that sort  
22 of thing?

23 A. Yes.

24 Q. Others may, in fact, have had a bad  
25 experience with a marketer and decided to go back to



1 either GCR choice -- GCR or SSO service or whatever  
2 it may have been at the time.

3 A. Correct.

4 Q. Okay. But none of that would affect the  
5 fact that if the SSO -- if an SCO default rate is  
6 better than the other -- than any other default rate  
7 that might be available to them, that the customer  
8 would still be better off with SCO service, correct?

9 A. If the customer didn't want to take the  
10 effort to try to find something else, then, yes, the  
11 SCO would be the best -- the only default that he  
12 has.

13 Q. Correct.

14 MR. ROYER: Okay. That's all I have.  
15 Thank you.

16 EXAMINER WILLEY: Thank you.

17 Mr. Rinebolt?

18 MR. RINEBOLT: No questions, your Honor.

19 EXAMINER WILLEY: Mr. Reilly?

20 MR. REILLY: No questions, your Honor.

21 EXAMINER WILLEY: Ms. Verrett, do you  
22 have any redirect?

23 MS. VERRETT: Just a moment, your Honor.

24 Could we have a few minutes for a quick  
25 break?



1 EXAMINER WILLEY: Let's take a short  
2 2-minute break.

3 (Recess taken.)

4 MS. VERRETT: Just a few questions, your  
5 Honor.

6 - - -

7 REDIRECT EXAMINATION

8 By Ms. Verrett:

9 Q. Mr. Hayes, in the course of the Columbia  
10 collaboratives that discussed the SCO and SSO  
11 auctions, did the marketers ever claim it was  
12 impossible to quantify SCO benefits?

13 MR. REILLY: Objection, relevance.

14 EXAMINER WILLEY: Response?

15 MS. VERRETT: Your Honor, it's not  
16 irrelevant because he was asked questions about  
17 quantifying the benefit of an SCO auction, and I am  
18 simply asking if he ever recalled that it was  
19 impossible to do so.

20 MR. PETRICOFF: I am going to join in the  
21 objection. The collaborative is supposed to have a  
22 settlement. It's supposed to be confidential, open  
23 to discussion. It's not something that's supposed to  
24 show up in a hearing.

25 The idea of the collaborative is to be



1 frank and this violates that.

2 MR. ROYER: Plus the purpose of the  
3 question is not clear at all to me. It's like he is  
4 trying to impeach my line of questioning, but it's  
5 something that somebody said somewhere else.

6 EXAMINER WILLEY: Thank you. Your  
7 objection is sustained.

8 MR. ROYER: All right.

9 Q. (By Ms. Verrett) Mr. Hayes, have you ever  
10 heard any of the marketers prior to today state that  
11 it was impossible to quantify the benefits of an SCO  
12 auction?

13 MR. REILLY: Objection.

14 MR. ROYER: Same objection.

15 EXAMINER WILLEY: Your objection is  
16 sustained.

17 Q. Mr. Royer asked you about the DEO, three  
18 DEO auctions. Do you recall that?

19 A. Yes.

20 Q. And in two of the three auctions the SSO  
21 and SCO rates were the same. Is that your  
22 recollection?

23 A. Yes.

24 Q. So if the rates were the same for the SSO  
25 and SCO and you applied a higher tax rate, then



1 ultimately the costs would be higher to customers in  
2 an SCO auction; is that correct?

3 A. Correct.

4 MS. VERRETT: No other questions.

5 EXAMINER WILLEY: Thank you.

6 Ms. Leslie, do you have any recross?

7 MS. LESLIE: No, none, your Honor.

8 EXAMINER WILLEY: Mr. O'Brien?

9 Mr. Petricoff?

10 MR. PETRICOFF: No questions, your Honor.

11 EXAMINER WILLEY: Mr. Royer?

12 MR. ROYER: No questions.

13 EXAMINER WILLEY: Mr. Rinebolt?

14 MR. RINEBOLT: No, your Honor.

15 EXAMINER WILLEY: Mr. Reilly?

16 MR. REILLY: No questions your Honor.

17 EXAMINER WILLEY: Thank you.

18 Any questions?

19 I don't have any questions. You are  
20 excused. Thank you.

21 MS. VERRETT: OCC would move for the  
22 admission of OCC Exhibit 9.

23 EXAMINER WILLEY: Are there any  
24 objections to the admission of this exhibit?

25 Hearing none, the exhibit will be



1 admitted.

2 (EXHIBIT ADMITTED INTO EVIDENCE.)

3 EXAMINER WILLEY: Let's go off the record  
4 for a moment.

5 (Discussion off the record.)

6 EXAMINER WILLEY: We are going to go  
7 forward with this witness and take the motions to  
8 strike as well.

9 MR. SERIO: Call Mr. Slone to the stand.

10 EXAMINER WILLEY: And then we are going  
11 to take a break for lunch.

12 (Witness sworn.)

13 - - -

14 GREGORY SLONE

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

17 DIRECT EXAMINATION

18 By Mr. Serio:

19 Q. State your name and business address for  
20 the record.

21 A. Gregory Slone, 10 West Broad Street,  
22 Columbus, Ohio.

23 (EXHIBIT MARKED FOR IDENTIFICATION.)

24 Q. Do you have before you multiple-paged  
25 document marked for purposes of identification as OCC



1 Exhibit No. 10, the Direct Testimony of Greg Slone,  
2 submitted July 8, 2011, in Case No. 08-1344-GA-EXM?

3 A. Yes, I do.

4 Q. And is that your prepared direct  
5 testimony?

6 A. Yes, it is.

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

9 A. It was.

10 Q. If I asked you the same questions today  
11 would I get the same or similar answers?

12 A. Yes, you would.

13 Q. Do you have any typos or errors in the  
14 testimony that you are aware that you would like to  
15 correct?

16 A. Not that I am aware of.

17 MR. SERIO: Mr. Slone is available for  
18 cross-examination, your Honor.

19 EXAMINER WILLEY: I will entertain any  
20 motions to strike.

21 MR. PETRICOFF: Yes, your Honor, I have  
22 several motions to strike. I would begin on pages 14  
23 and 15, questions 24, 25, and 26. These are  
24 questions having to do with Columbia exiting the  
25 merchant function, what happened in Georgia when the



1 provider in Georgia exited the merchant function.

2 Today's hearing has nothing to do with  
3 exiting the merchant function. It only has to do  
4 with whether we are going to have an SCO or an SSO  
5 auction. Either way, Columbia will still be the  
6 provider of last report; therefore, I move that these  
7 three questions be struck.

8 EXAMINER WILLEY: Your objection is  
9 noted. We prefer to have you go through every  
10 objection or every motion to strike you have at one  
11 time.

12 MR. SERIO: Your Honor, could I suggest  
13 if there is going to be multiple parties, can we get  
14 each party on each objection once instead of -- would  
15 that make sense?

16 EXAMINER WILLEY: That's fine.

17 MR. ROYER: I am happy to go that route,  
18 and I would join Mr. Petricoff in moving to strike  
19 the indicated questions and answers.

20 MS. LESLIE: Columbia would like to join  
21 in that motion as well.

22 EXAMINER WILLEY: Thank you.

23 MR. REILLY: Staff would join as well.

24 MR. PETRICOFF: Okay. The next is page  
25 13, question 23, "Is the current Choice Program



1 experiencing increased competition among marketers to  
2 acquire additional residential Choice customers?"

3 Completely outside the scope of the  
4 hearing as to whether an SSO or SCO hearing,  
5 therefore, it should be -- it should be struck.

6 MR. ROYER: Dominion Retail joins in that  
7 motion as well.

8 MS. LESLIE: Columbia would like to join  
9 in that motion as well.

10 MR. REILLY: As would staff.

11 EXAMINER WILLEY: Thank you.

12 MR. PETRICOFF: The next, your Honor, is  
13 page -- page 7, questions 11, 12, and 13. These have  
14 to do with comparison of marketer offers to the  
15 Columbia SSO rate. Once again, that whatever the  
16 Choice offers that are out there, assuming the  
17 quantification is correct, it is irrelevant in terms  
18 of choosing between an SCO and SSO auction.

19 In choosing, I think there is a pattern  
20 in all of these. The pattern is to raise another  
21 issue in this case which is an attack on the -- on  
22 the Choice Program.

23 Certainly the Consumers' Counsel is  
24 entitled to their view as the success or lack of  
25 success of the Choice Program as are the other



1 participants, but that is not the scope of this  
2 hearing and, therefore, these items have to do more  
3 with either exiting the merchant function or an  
4 attack on the Choice Program or are to be excluded  
5 from today's proceedings.

6 EXAMINER WILLEY: Thank you. Any other  
7 party wish to join the motion to strike?

8 MR. ROYER: I wasn't clear exactly what  
9 was the questions and answer you were asking for.

10 MR. PETRICOFF: I'm sorry, yeah, the  
11 third set were questions 11, "What timeframe did you  
12 use to compare the SSO price and the marketer  
13 offers," question No. 12, "Did you compare all  
14 marketer offers to the SSO rate," question 13, "What  
15 were your observations of the comparison between  
16 marketer offers and Columbia's SSO rate?"

17 Clearly have nothing to do with comparing  
18 the two auctions. It's just questions about the  
19 Choice Program.

20 MR. REILLY: Staff would join in that  
21 objection.

22 MR. ROYER: As does Dominion Retail  
23 Company.

24 MS. LESLIE: Columbia would like to join  
25 in that motion as well.



1 EXAMINER WILLEY: Thank you.

2 Does that conclude your motions to  
3 strike?

4 MR. PETRICOFF: That concludes my motions  
5 to strike.

6 EXAMINER WILLEY: Thank you.

7 Are there any other motions to strike  
8 among the parties?

9 MR. ROYER: Yes, your Honor. Beginning  
10 on page 8, line 5, through page 11, line 4, basically  
11 I think this is in the same campus as the last branch  
12 of Mr. Petricoff's motion, this is talking about how  
13 the -- how the SSO rate has affected market rate  
14 offers.

15 I don't see what that has to do with  
16 whether an SSO rate or SCO rate is -- is preferred  
17 because plainly if an SCO rate is the default rate,  
18 that would also affect marketer rate offers. I don't  
19 think it advances the inquiry at all.

20 EXAMINER WILLEY: Any other party wish to  
21 join that motion to strike?

22 MR. PETRICOFF: I will join with that  
23 motion.

24 MR. REILLY: Staff would join with that  
25 motion also.



1 MS. LESLIE: Columbia will join in that  
2 motion as well, also specifically objecting to on  
3 page 8, lines in particular 8 through 14, that again  
4 tried to compare the utility rate in Georgia.

5 EXAMINER WILLEY: Thank you.

6 Do you have any other motions to strike,  
7 Mr. Royer?

8 MR. ROYER: No, thank you.

9 EXAMINER WILLEY: Are there any other  
10 parties that have motions to strike?

11 MS. LESLIE: No, your Honor.

12 EXAMINER WILLEY: Okay. Thank you.

13 OCC?

14 MR. SERIO: Thank you, your Honor. I  
15 will take them in the order they were made. The  
16 first one as I understand it is pages 14 and 15,  
17 questions and answers 24, 25, and 26. The marketer's  
18 own witness indicated that the SCO is just a step;  
19 the SCO is not a stopping point.

20 I understand that the inquiry in this  
21 case is SSO versus SCO, but we can't ignore the fact  
22 that that's not what the marketers view the SCO to  
23 be.

24 Mr. Slone in his testimony is indicating  
25 that based on the one situation where we saw that the



1 value of looking at how the resulting prices impacted  
2 the customers.

3 The inquiry here is how does the SSO  
4 impact customers? How does the SCO impact customers?  
5 The only other example we have got where it happened  
6 is Georgia and that's why he is using the Georgia  
7 example.

8 What he is showing in questions 24, 25,  
9 and 26 is that the impact of moving from one type of  
10 acquisition plan to another did have significant  
11 impact on gas rates and something the Commission  
12 should be aware of as they're evaluating the SSO  
13 versus the SCO.

14 The second one had to do with question 23  
15 on page 13. And it indicates whether the current  
16 Choice Program is experiencing increased competition  
17 to acquire additional customers.

18 To the extent we have a limited number of  
19 marketers that are touting the benefits of the SCO  
20 versus the SSO, it's worth noting, as Mr. Slone does  
21 in his testimony here, that the marketers that are --  
22 at least one of the marketers supporting the move to  
23 the SCO is if you look at the percentage of Choice  
24 customers served, there is an exceedingly large  
25 percentage of customers served by very few marketers.



1 So you have few marketers that serve most customers  
2 that want to see the continuation of the SSO going to  
3 the SCO and eventually a full exit.

4 To the extent that you've got a lot of  
5 participants in the market, which is one of the  
6 arguments made in support of an SCO, if you look at  
7 the Choice market, the fact that you've got 18  
8 marketers that barely have any of the market shows  
9 that numbers in and of themselves don't necessarily  
10 mean that you are not going to get a limited number  
11 of marketers or suppliers dominating a large  
12 percentage of the market which would have a direct --  
13 which could have a direct impact on pricing.

14 The third objection was page 7, lines 11,  
15 12, and 13 or questions 11, 12, and 13. Questions  
16 11, 12, and 13 compare what we have in Columbia  
17 today, an SSO, to the Choice offers to show the value  
18 that customers get from the SSO.

19 If you don't have a comparison of the SSO  
20 to what is out there in Choice, you don't get a full  
21 picture of the value of the SSO as an alternative or  
22 default service to customers.

23 Now, if it was an SCO, we could make the  
24 comparison between Choice offers and the SCO, but we  
25 don't have an SCO today. So the comparison is made



1 to the only default service that we have which is the  
2 SSO. That shows actual quantifiable benefits for  
3 customers of the existing SSO auction that won't  
4 necessarily be there with an SCO.

5 The final one was page 8, line 5 through  
6 page 11, line 4. And, again, it talks about the  
7 benchmark and the comparisons between the SSO rate  
8 and others, and that testimony directly goes to the  
9 value of the SSO that customers have today.

10 If the Commission is going to look at the  
11 comparison between the SSO and the SCO, the  
12 Commission should understand the full value that the  
13 SSO has to customers today versus the value that the  
14 SCO might have to customers in the future.

15 This testimony shows the value of the SSO  
16 today and does make quantification and comparisons to  
17 the offers out there in showing how it provides a  
18 direct benefit to customers.

19 EXAMINER WILLEY: Thank you. We'll take  
20 responses to Mr. Serio's response at this time.  
21 Let's begin with the company.

22 Do you have any response to Mr. Serio's  
23 argument?

24 MS. LESLIE: Yes, your Honor. The  
25 questioning regarding the exiting the merchant



1 functions, and I believe that is the questions that  
2 are on page 14, questions 24, 25, and 26, that goes  
3 directly against the stipulation at issue in this  
4 case.

5 On page 9 of the stipulation it  
6 specifically states that "Columbia has not expressed  
7 a present intent nor does this agreement contemplate  
8 that Columbia seeks to exit the merchant function."  
9 I think based on this alone, the question is  
10 improper.

11 Further, based -- In addition to that  
12 Mr. Serio indicates that the only comparison where  
13 there has been an SSO and the SCO is the Atlanta Gas  
14 case, which is simply not true. We have two LDCs in  
15 Ohio who have completed an SSO along with an SCO who  
16 have produced very telling results, yet the OCC has  
17 chosen not to include that in the testimony and that  
18 would be more appropriate than Atlanta Gas and Light.

19 EXAMINER WILLEY: Thank you.

20 Mr. Petricoff?

21 MR. PETRICOFF: Just one point, your  
22 Honor, and that is the -- it would make no difference  
23 whether you were looking at an SSO or SCO in terms of  
24 comparing that to what the Choice market prices are.

25 The -- especially the question here is



1 whether the SCO or the SSO will give us substantial  
2 benefits, anticipated benefits are better, and it  
3 makes no difference what the current market prices  
4 are and the Choice -- Choice market at the moment to  
5 answer that question.

6 That's the only question we are here for.  
7 This is just a peripheral issue. It's tangential and  
8 it should not be explored in this proceeding.

9 EXAMINER WILLEY: Thank you.

10 Mr. Royer?

11 MR. ROYER: I would just echo what  
12 Mr. Petricoff said with respect to the latest issue  
13 he addressed, comparing the SSO to -- to anything  
14 other than SCO doesn't do anything to advance the  
15 ball in this case.

16 What we are looking for here is how --  
17 how is an SCO better or not better than an SSO.  
18 Comparing the SSO to anything else tells us nothing  
19 about that point.

20 EXAMINER WILLEY: Thank you.

21 Mr. Reilly?

22 MR. REILLY: I would fundamentally just  
23 echo everything that's been said. I would object  
24 also that if what's really going on here is a  
25 discussion about the benefits of a regulated program



1 versus a competitive program, just the general  
2 regulation of exiting the merchant function. The  
3 issue of the -- of whether that is a wise idea or not  
4 has already been answered, I would submit to you to  
5 consider has already been answered by the General  
6 Assembly.

7 It is not only beyond the scope of  
8 this -- this proceeding because -- because of the  
9 defined scope of this proceeding but also because the  
10 General Assembly has taken that out of everybody's  
11 hands and decided that it wants the promotion of the  
12 competitive alternative.

13 For that reason also I would submit these  
14 questions are irrelevant and should be stricken.

15 EXAMINER WILLEY: Thank you.

16 Mr. Rinebolt?

17 MR. RINEBOLT: May I respond briefly to  
18 Mr. Reilly?

19 EXAMINER WILLEY: If you make it brief.

20 MR. RINEBOLT: Very brief. Ultimately in  
21 this proceeding we're attempting to judge whether the  
22 SSO or the SCO is superior. Choice in Ohio has  
23 evolved over the time from a GCR to a GCR with a  
24 Choice Program to a monthly NYMEX base price, and the  
25 only way that we can understand or comprehend the



1 anticipated advantages of an SSO and an SCO which  
2 we've had is to understand the historical context and  
3 the evolution of the market.

4 In my mind, and I have not seen the  
5 legislature say that an SCO is what we have to have  
6 to have competition in the state, they want to  
7 promote competition, it's important we understand the  
8 evolution of competition to make that decision.

9 EXAMINER WILLEY: Thank you.

10 Mr. Serio, do you have a response?

11 MR. SERIO: I guess my point, this is  
12 especially to the pages 7 and 8 through page 11,  
13 questions 11, 12, and 13 through question 20, the  
14 Commission is evaluating in this case SSO versus SCO.  
15 Those questions go to showing the value of the SSO.

16 If we're precluded from showing the value  
17 of the SSO, then it's very difficult for us to  
18 compare the SSO to the SCO. This has absolutely  
19 nothing to do with an exit or a criticism of Choice.  
20 It simply shows the value that the SSO has compared  
21 to the other alternative that customers have which is  
22 the Choice Program.

23 EXAMINER WILLEY: Thank you. We are  
24 going to reserve our ruling on the motions to strike  
25 until after lunch. We will break for lunch at this



1 point. We want to take an hour and 10 minute lunch  
2 break just to give the court reporters a chance to  
3 catch up.

4 MR. SERIO: Your Honor, before that there  
5 is going to be the questions of rebuttal testimony  
6 and I guess for purposes of efficiency, it would make  
7 sense that if you are going to consider whether the  
8 rebuttal testimony should come in or not, you might  
9 want to do that over lunch as well instead of us  
10 coming back and then potentially having to take  
11 another break.

12 EXAMINER WILLEY: I don't think we will  
13 have to take another break before ruling.

14 MR. SERIO: Just trying to help, your  
15 Honor.

16 EXAMINER WILLEY: We will reconvene at  
17 1:35. Thank you.

18 (A lunch recess was taken at 12:22 p.m.)

19 - - -  
20  
21  
22  
23  
24  
25



Monday Afternoon Session,  
July 18, 2011.

- - -

EXAMINER WILLEY: Let's go on the record.

As we were speaking about before we broke for lunch, company, there are multiple outstanding motions to strike by the Dominion Retail, or Dominion Retail, OGMG, and staff as to Mr. Slone's testimony. The Attorney Examiners have decided to grant the motion to strike as to pages 14 and 15 of Mr. Slone's testimony. Specifically that is questions and answers 24, 25, and 26, that's lines 1 through 19 on page 14 and lines 1 through 8 on page 15.

Additionally the Attorney Examiners will grant the motion to strike as to page 8 that is inside the answer to question 14, specifically lines 12 through 14, with the sentence beginning at "The loss" and ending with "testimony."

The remainder of the motion to strike is denied on the basis that the entry to finding the scope of this hearing allowed for presentation of evidence of the parties' positions regarding the benefits of SCO and SSO. Additionally, the Commission is capable of assigning his testimony its appropriate weight.



1 All right, I believe we left off with  
2 Ms. Verrett -- Mr. Serio.

3 MR. SERIO: I presented the witness.

4 EXAMINER WILLEY: Okay. I apologize.

5 MR. SERIO: I thought we were done  
6 presenting the witness when Mr. Petricoff started the  
7 motions to strike, so he is available for cross.

8 EXAMINER WILLEY: Thank you. All right.

9 Ms. Leslie.

10 MS. LESLIE: Thank you.

11 - - -

12 CROSS-EXAMINATION

13 By Ms. Leslie:

14 Q. Just a few questions.

15 Mr. Slone, you testified without having  
16 the SSO rate options that customers would be forced  
17 to pay the higher SCO retail rate; is that correct?

18 A. That's correct.

19 Q. Okay. Is it your belief that the SCO  
20 rate will necessarily be higher than Columbia's  
21 current SSO rate?

22 A. Yes, it is.

23 Q. Okay. And you've come to that conclusion  
24 just by the fact in the case of both Dominion and  
25 Vectren none of their SCO retail price adjustments



1 have been higher than their retail price adjustments?

2 A. No. The rates the last two years have  
3 been the same, last two years of the auction, and I'm  
4 basing the fact that the SCO will be higher because  
5 of the tax effect of the higher sales tax rate versus  
6 the excise rate.

7 Q. But the actual adder itself would, do you  
8 dispute, would be lower than the SSO rate?

9 A. I believe the adder itself will be the  
10 same for the SSO or SCO.

11 Q. So just so I'm clear, you're basing your  
12 assertion that the rate will be higher based on the  
13 tax differential; is that correct?

14 A. For the -- for the current SSO customers,  
15 that's correct. However, I think it will also  
16 increase the rates for Choice customers like myself  
17 if you eliminate the SSO rate or go to an SCO rate.

18 Q. Okay. But my question is, is it your  
19 belief that the SCO rate will be higher than  
20 Columbia's current SSO rate?

21 A. No. I think it will be the same.

22 Q. You testified that the SSO provides a  
23 tangible benefit for residential customers in the  
24 form of a lower cost alternative to Choice, and  
25 that's contained on page 5, lines 3 through 4, of



1 your testimony.

2 A. Yes.

3 Q. Okay. The SCO rate can provide that same  
4 kind of tangible benefit, couldn't it?

5 A. The SCO rate will provide the same  
6 benefit except for the higher tax rate for SCO --  
7 current SSO customers, but it is going to increase  
8 current Choice customers' rates who are on a variable  
9 rate that is generally tied to what the companies'  
10 SSO rate is.

11 Q. But the SCO rate could be the lower cost  
12 alternative than the Choice rate?

13 A. The SCO rate could be lower than -- than  
14 some of the offered Choice rates; that's correct.

15 MS. LESLIE: I have nothing else.

16 EXAMINER WILLEY: Thank you.

17 Mr. O'Brien?

18 MR. O'BRIEN: No questions, your Honor.

19 EXAMINER WILLEY: Mr. Petricoff?

20 MR. PETRICOFF: Yes, your Honor, thank  
21 you. Your Honor, at this time I would like to have  
22 an exhibit marked as OGMG Exhibit 3.

23 EXAMINER WILLEY: It will be so marked.

24 (EXHIBIT MARKED FOR IDENTIFICATION.)

25 - - -



## CROSS-EXAMINATION

By Mr. Petricoff:

Q. Mr. Slone, are you familiar with the mechanics of how the SCO and the SSO auctions work?

A. For the most part. I've never actually attended one of the auctions, but I think I have an understanding of how they work.

Q. Okay. I want to take you through a brief list and to facilitate that, I've just printed them out on this Exhibit 3. What I am looking for is to compare the difference -- contrast the difference between the SCO auction and the SSO auction.

So would you agree with me that in both the SSO auctions, this is the one that Columbia is doing now, and the SCO auction, which Columbia has applied for in the program outlined, they are going to use a descending clock-type auction?

A. Yes.

Q. And that the participants will have to post a bid bond.

A. I believe so.

Q. And that's both for the SSO and the SCO and that in terms of winners, that is, bidders will actually win tranches that they have to supply, there will have to be multiple suppliers because of the



1 limit on the number of tranches a supplier can win.

2 A. Yes.

3 Q. And that limit is the same whether it's  
4 SSO or SCO?

5 A. I believe so.

6 Q. Will these auctions be conducted by a  
7 third-party auctioneer?

8 A. Yes.

9 Q. Both the SSO and SCO?

10 A. Yes.

11 Q. And the results of the auction, they will  
12 have to be approved by the Commission before they'll  
13 go into effect?

14 A. That's correct.

15 Q. Both for the SSO and the SCO?

16 A. Yes.

17 Q. And the Commission will have continuing  
18 oversight of the -- of the operation of the  
19 procurement under either the SSO or the SCO?

20 A. I believe so.

21 Q. And both the SSO and the SCO will use a  
22 master supply agreement?

23 A. I believe so.

24 Q. Have you looked at the master supply  
25 agreement for either the SSO that was used in the



1 past or the SCO that is proposed?

2 A. I haven't gone through that in detail at  
3 all.

4 Q. Okay. And is it true that in both the  
5 SSO and the SCO auction that the commodity portion of  
6 the price for the gas procured will be the NYMEX  
7 closing price?

8 A. Yes.

9 Q. In order of magnitude in the price that  
10 the customer is going to pay for gas, how much of  
11 that price is the NYMEX closing price versus the what  
12 I will call the basis?

13 A. I think it depends on the market  
14 conditions at that point in time. I mean, if NYMEX  
15 is \$8, it's a lot more than if NYMEX is \$4. So it  
16 varies. If I understand things correctly, the adder  
17 stays fixed for that period of time but the NYMEX  
18 close will change every month.

19 Q. Order of magnitude where is NYMEX right  
20 now?

21 A. 4.50 to 5 dollars, in that range.

22 Q. And the adder in the SSO is a dollar?

23 A. We're talking Dominion?

24 Q. I'm sorry, Dominion. What is the adder  
25 in the SSO now for Columbia?



1           A.    I think at the \$1.88, subject to check.

2           Q.    Okay.  So basically we would expect that,  
3           oh, somewhere between 60 and 90 percent of the price  
4           is going to be -- that NYMEX closing price depending  
5           on where -- where the NYMEX is.

6           A.    It will change, but somewhere in there.

7           Q.    But order of magnitude, the NYMEX is  
8           going to be the largest cost component that the  
9           customers are going to have to pay for natural gas?

10          A.    Unless there is a whole lot of shale gas.

11          Q.    Okay, okay.

12                And the -- now, the retail price  
13           adjustment, that's everything else that's going to go  
14           to the supplier on top of the NYMEX; is that correct?

15          A.    Correct.

16          Q.    Okay.  And that's the same whether it's  
17           the SSO or the SCO?

18          A.    That's my understanding.

19          Q.    Now, let's take a look at the bottom two  
20           items I have here on my list, 11 and 12.  In the SSO  
21           auction will the suppliers have to be certificated by  
22           the Commission?

23          A.    Yes.  I'm sorry, in the SSO?

24          Q.    I'm sorry, in the SSO.

25          A.    No.



1           Q.    Okay.  And will they have to have a  
2   facility in Ohio or Ohio employees?

3           A.    I don't believe so.

4           Q.    Okay.  How about in the SCO, if the  
5   Commission goes to the SCO, will the bid winning  
6   suppliers have to be certificated by the Commission?

7           A.    Yes.

8           Q.    And will they have to have an Ohio office  
9   and Ohio employees?

10          A.    I am not sure if it has to be in Ohio but  
11   it's possible.

12          Q.    So that -- so to your knowledge that may  
13   be different then?

14          A.    Yes.

15          Q.    And then the last item are the tax rates,  
16   the same on the SSO and the SCO procurement plans?

17          A.    They are not the same.

18          Q.    So basically in sum total, the really big  
19   difference between the SSO and the SCO is  
20   certification and Ohio facilities and the tax rates.

21          A.    Yes.  That's why my best guess is the SCO  
22   and the SSO will come out virtually the same.

23          Q.    Well, to assume that then you have to  
24   assume that the basis bid is going to come out the  
25   same.  And it's possible that -- that the bid may



1       come out different depending on the auction  
2       structure.

3               A.    I'm not sure.  If you can explain that  
4       for me a little bit.

5               Q.    We're going to have a retail price  
6       adjustment, item 10 on my list.

7               A.    Yes.

8               Q.    Regardless of whether we have an SSO or  
9       SCO.

10              A.    Yes.

11              Q.    And, in fact, one of the items we are  
12       going -- we are exploring today in this hearing is  
13       which of the two auctions is likely to produce the  
14       lower price.

15              A.    Yes.

16                   MR. PETRICOFF:  Your Honor, I have no  
17       further questions on this witness's direct testimony.

18                   EXAMINER WILLEY:  Thank you.

19                   Mr. Royer?

20                   MR. ROYER:  Thank you.

21                               - - -

22                               CROSS-EXAMINATION

23       By Mr. Royer

24               Q.    Just one.  Page 8.

25               MR. ROYER:  Just so I am clear, your



1 Honor, you left the first half of this answer in; is  
2 that right, and it was just the --

3 EXAMINER WILLEY: We granted the motion  
4 to strike as to the sentence beginning with "The" and  
5 ending "testimony" in lines 4 through 13.

6 MR. ROYER: I didn't want to be asking  
7 questions on something that was no longer there.

8 EXAMINER WILLEY: Thank you.

9 Q. (By Mr. Royer) You talk about the  
10 concept of the SSO rate being a benchmark price for  
11 Choice offers. I take it by that you mean that  
12 marketers are typically -- or to secure additional  
13 customers, marketers are competing against the SSO  
14 offer, correct -- or the SSO price, right?

15 A. If the marketer is making -- has a  
16 variable rate monthly offer, there is strong  
17 evidence, I think, to show that they are paying  
18 attention to where the SSO price is and they are  
19 trying to compete with that.

20 Q. Right. And that wouldn't be any  
21 different if it was an SCO established price, would  
22 it?

23 A. It would to me if I was taking gas, which  
24 I am taking gas under a variable rate with a supplier  
25 in the Choice program. It will make a difference to



1 me.

2 Q. Maybe you didn't get my question.

3 The SCO rate would still represent the  
4 rate against which marketers would have to compete to  
5 attract customers and retain customers, would it not?

6 A. I believe it will be the benchmark rate.  
7 However, the price that I get from my supplier is  
8 going to go up if it's an SCO rate versus an SSO  
9 rate.

10 Q. What was the first part of your answer?

11 MR. ROYER: Would you read it back?

12 (Record read.)

13 Q. The price you receive as a Choice  
14 customer.

15 A. Correct.

16 Q. My question still is, is not the default  
17 rate, whatever it is, SSO, SCO, isn't that the price  
18 that marketers have to compete against in order to  
19 attract and retain customers?

20 A. I think that -- I think I actually say in  
21 here that the SCO will be the benchmark if the SSO  
22 rate goes away.

23 MR. ROYER: Okay. So that's all I have.

24 Thank you.

25 EXAMINER WILLEY: Thank you.



1                   Mr. Rinebolt?

2                   MR. RINEBOLT: No questions, your Honor.

3                   Thank you.

4                   EXAMINER WILLEY: Mr. Reilly?

5                   MR. REILLY: Thank you, your Honor.

6                                   - - -

7                                   CROSS-EXAMINATION

8                   By Mr. Reilly:

9                   Q.     Just a few. Mr. Slone, throughout your  
10                   testimony in various places you talk about customer  
11                   decisions, at one point customer confusion. In  
12                   talking about customer decisions did you -- or  
13                   customer confusion, customer mental activity, did you  
14                   conduct any surveys to reach those conclusions?

15                   A.     Just my own conversations with customers  
16                   over the years, of which there have been hundreds or  
17                   maybe thousands.

18                   Q.     Okay. So your -- so your testimony is  
19                   based on your recollection of those anecdotal  
20                   experiences?

21                   A.     Based on what the customers told me.

22                   MR. REILLY: We have nothing further,  
23                   your Honor.

24                   EXAMINER WILLEY: Thank you.

25                   Mr. Serio, did you have any redirect?



1 MR. SERIO: Just one, your Honor.

2 - - -

3 REDIRECT EXAMINATION

4 By Mr. Serio:

5 Q. OGMG Exhibit 3, do you know if that  
6 comparison is exhaustive of everything that goes into  
7 an SSO or SCO auction?

8 A. I don't know what all goes into a  
9 marketer's pricing that helps them come up with how  
10 low they can go with their adder price and still make  
11 a profit.

12 Q. Let me ask the question this way, in an  
13 SSO auction does a marketer name appear on a customer  
14 bill?

15 A. No, in an SSO auction the marketer's name  
16 would not. In an SCO the marketer's name would show.

17 Q. If you were listing and there was a 13  
18 that said "marketer name," that would also have a  
19 "no" under the SSO auction and a "Y" under the SCO  
20 auction?

21 MR. PETRICOFF: Your Honor, I want to  
22 object at this time. The question is just about the  
23 auction not about -- this is a list of just the  
24 auction, not about the bill.

25 It's perfectly fine to ask him the



1 question, you know, is there something else outside  
2 the auction that's different, but this is just a list  
3 of the -- of the auction mechanics.

4 EXAMINER WILLEY: Do you have a response?

5 MR. SERIO: Well, I guess from the  
6 heading SSO/SCO Auction Attribute Comparison, I don't  
7 see that it makes that clear a distinction and I just  
8 wanted to know if the witness knew that that was an  
9 additional distinction between the two.

10 EXAMINER WILLEY: I think with that  
11 clarification, you can go ahead and answer the  
12 question.

13 A. The -- under an SSO auction the  
14 customer's -- or the supplier's name would not appear  
15 on the bill, and under an SCO auction the supplier's  
16 name would appear on the bill.

17 MR. SERIO: That's all I have, your  
18 Honor. Thank you.

19 EXAMINER WILLEY: Thank you.

20 Do you have any questions?

21 All right, Ms. Leslie, do you have any  
22 recross?

23 MS. LESLIE: No, your Honor.

24 EXAMINER WILLEY: Mr. O'Brien?

25 MR. O'BRIEN: No, your Honor.



1 EXAMINER WILLEY: Mr. Petricoff?

2 MR. PETRICOFF: No, your Honor.

3 EXAMINER WILLEY: Mr. Royer?

4 MR. ROYER: Yes, briefly.

5 - - -

6 RECROSS-EXAMINATION

7 By Mr. Royer:

8 Q. If we are going to start adding items to  
9 the list then, along those lines, another difference  
10 would be, would it not, that the -- that in the SSO  
11 auction customers would be subject to the gross  
12 receipts tax whereas under the SCO auction they would  
13 not; is that correct?

14 A. That's correct.

15 MR. ROYER: Okay. That's all.

16 EXAMINER WILLEY: Thank you.

17 Mr. Rinebolt?

18 MR. RINEBOLT: No questions, your Honor.

19 EXAMINER WILLEY: Mr. Reilly?

20 MR. REILLY: No questions, your Honor.

21 EXAMINER WILLEY: Thank you. You may be  
22 excused.

23 MR. SERIO: Your Honor, I would move for  
24 admission of OCC Exhibit 10?

25 EXAMINER WILLEY: Are there any



1 objections to the admission of these into evidence?

2 Hearing none, it will be admitted.

3 (EXHIBIT ADMITTED INTO EVIDENCE.)

4 MR. PETRICOFF: Your Honor, I would move  
5 for admission of OM -- OGMG Exhibit 3.

6 EXAMINER WILLEY: Are there any  
7 objections to the admission of OGMG Exhibit 3?

8 MR. SERIO: No, your Honor.

9 EXAMINER WILLEY: Hearing none, it will  
10 be admitted.

11 (EXHIBIT ADMITTED INTO EVIDENCE.)

12 EXAMINER WILLEY: Okay. Does that  
13 conclude everyone's case in chief?

14 At this point we are just going to take a  
15 few minutes to decide OCC's outstanding motion for  
16 leave to file rebuttal testimony.

17 Mr. Serio, could we have you make your  
18 motion for rebuttal testimony and take objections?

19 MR. SERIO: In addition to what we  
20 stated in the written motion for rebuttal testimony,  
21 I think what it comes down to is one simple factor,  
22 Mr. Puican acknowledged on the stand that the study  
23 or analysis he did was something that none of the  
24 other parties saw prior to his filing testimony.

25 So OCC could not have known that he was



1 going to do that type of analysis so we couldn't have  
2 responded to it in our direct testimony. Therefore,  
3 we need the rebuttal testimony to respond to  
4 something that we had not seen previously, we saw for  
5 the first time, and we attempted to put testimony  
6 together as quickly as we could to respond to it.

7 I believe that's the appropriate  
8 definition of "rebuttal testimony," something that  
9 you couldn't have responded to previously, and  
10 because we hadn't seen that analysis previously, we  
11 couldn't have responded to it.

12 EXAMINER WILLEY: Thank you.

13 Are there any objections to OCC's motion?

14 MR. REILLY: Yes.

15 MS. LESLIE: Yes.

16 EXAMINER WILLEY: We will begin with  
17 company.

18 MS. LESLIE: Yes, Columbia would object  
19 to OCC's motion for leave to file testimony as  
20 Mr. Serio stated. The reason is that they hadn't --  
21 they had no idea that Mr. Puican was going to do that  
22 sort of analysis and didn't have the opportunity to  
23 see it prior to it.

24 However, there is nothing that would have  
25 prevented the OCC from conducting its own analysis of



1 the only other two LDCs in Ohio that have performed  
2 an SSO and an SCO and it's somewhat just ingenuous to  
3 argue that they had no knowledge something like that  
4 would occur. They had ample opportunity to present  
5 evidence analyzing those two cases, however, have  
6 chosen not to.

7 Secondly, there was ample opportunity to  
8 cross-examine Mr. Puican. In fact, that occurred for  
9 almost three hours and I think that they did an  
10 excellent job of exploring Mr. Puican's methodology  
11 and, therefore, rebuttal testimony is not necessary.

12 EXAMINER WILLEY: Thank you.

13 Mr. Petricoff.

14 MR. PETRICOFF: We would join with the  
15 company on this and just indicate the burden of proof  
16 is on the company and I guess it exposes the company  
17 position, therefore, rebuttal is usually given to the  
18 applicant to come back in terms of the -- of the  
19 issue of whether this was foreseeable or not, which  
20 is sort of the crux of the position presented by the  
21 OCC.

22 The study that Mr. Puican has done is  
23 largely based on reports that were done at the end of  
24 each auction. Those have been available publicly for  
25 months, in some cases years. So it was foreseeable



1 and could have been addressed at the time that  
2 testimony was filed.

3 EXAMINER WILLEY: Thank you.

4 Mr. Royer?

5 MR. ROYER: Thank you, your Honor. We  
6 would also oppose the motion to file rebuttal  
7 testimony for the grounds stated by Mr. Petricoff,  
8 but I want to add with respect to the question of  
9 whether this was foreseeable, that this is the very  
10 analysis that OCC was expecting the party --  
11 expecting the parties to do in order to support the  
12 choice of an SCO auction as opposed to an SCO  
13 auction.

14 I agree with Mr. Petricoff also from a  
15 procedural standpoint if -- if the parties supporting  
16 the SCO have the burden of proof, the logical flow is  
17 that -- that while they might be able to present  
18 rebuttal to OCC testimony, I am not sure why OCC  
19 would be able to present rebuttal to the marketer  
20 testimony since the marketers have already done what  
21 they were asked to do pursuant to the Commission's  
22 order.

23 EXAMINER WILLEY: Thank you.

24 Mr. Reilly?

25 MR. REILLY: Thank you, your Honor. We



1 join with everybody else and object -- in objecting  
2 to OCC's rebuttal testimony. In addition to what  
3 else has been said, let me observe that the Bench  
4 laid out a process, what you all know, state the  
5 obvious.

6 The Bench laid out a process to be  
7 followed by everybody that allowed the -- called for  
8 simultaneous filing of testimony. That's not a new  
9 type of process. It's done a lot -- in a lot of  
10 proceedings here at the Commission. It's a fair  
11 process. Everybody gets to provide their -- their  
12 view of things, the testimony to support their view  
13 of things.

14 What OCC is asking is to have an extra  
15 bite of the apple. They are asking to have an  
16 additional opportunity above that which was called  
17 for by the Bench originally and which gives them an  
18 advantage to respond.

19 As everybody else has talked about, they  
20 should have anticipated this. I am sure they did  
21 anticipate this. Dominion and Vectren are the other  
22 two LDCs that have these programs. The idea that  
23 there wouldn't be a comparison is something you would  
24 look at.

25 So I would submit to you that the fair



1 process is to deny the motion and continue with the  
2 process the Bench originally proposed or established  
3 and that if it would go any other way, if this would  
4 be granted, then the question is going to come up  
5 about surrebuttal testimony and it will go on. The  
6 question here is who gets the last word?

7 The Bench has established a system where  
8 the last word is spread evenly, everybody gets the  
9 last word. It's put to examination. That was a fair  
10 process. It ought to be followed to the end. Thank  
11 you.

12 EXAMINER WILLEY: Thank you.

13 Mr. Rinebolt?

14 MR. RINEBOLT: I would support the  
15 motion. Not every party to this case objects to the  
16 motion to add additional testimony. I would just  
17 like that noted for the record, your Honor.

18 EXAMINER WILLEY: It will be so noted.  
19 Thank you.

20 Mr. Serio, do you have a final response  
21 to the objections?

22 MR. SERIO: Yes, your Honor, a couple of  
23 points. First of all, if we are going to hold that  
24 the strict burden is on the company and not all the  
25 parties supporting the company, then we should have



1     been done when Mr. Creekmur filed testimony that had  
2     no support whatsoever. The support came in the form  
3     of testimony provided by the marketers and by the  
4     staff.

5                 So if we're going to have that burden  
6     narrowed to just Columbia, then Columbia's witness  
7     didn't carry the burden of making that proof, I think  
8     we're done.

9                 More importantly, although there have  
10    been other auctions in the past, no one has ever  
11    compared one rate for one company and one auction and  
12    said that's indicative of what another company would  
13    get in another auction at another time.

14                In fact, if you look at all the staff  
15    reports that they've done, the staff never compared  
16    the auction result in one company's auction to the  
17    results that any other company got. They only  
18    compared them to the previous auction result that  
19    that particular company got.

20                So to say that we had ample knowledge  
21    that we were going to take this comparison from one  
22    company auction to the next company auction and go  
23    cross auction, cross companies, and cross time  
24    periods, that's not the case. We've asked the -- we  
25    made it clear to the marketers two and a half years



1       ago that we wanted to see proof.

2               We've gotten nothing since then and  
3       Mr. Puican at least attempted to put an analysis  
4       together and we hadn't seen it prior to his testimony  
5       being filed. That was the first time we saw it, so I  
6       think it's appropriate to allow us to respond to it.

7               EXAMINER WILLEY: Thank you. We'll take  
8       responses one more time beginning with the company,  
9       if you have a response.

10              MS. LESLIE: Your Honor, just quickly, I  
11       mean, I would like to point out that Columbia does  
12       not believe we are the only ones with the burden of  
13       proof.

14              If you look at the Commission's opinion  
15       and order adopting the stipulation, it clearly states  
16       "in the event that a party files an objection to the  
17       SCO auction, the parties supporting the auction agree  
18       to present evidence intended to demonstrate the  
19       anticipated benefits. I think that clearly  
20       demonstrates the party supporting the SCO, not just  
21       Columbia, have -- contain the burden of proof."

22              EXAMINER WILLEY: Thank you.

23              Mr. Petricoff?

24              MR. PETRICOFF: Nothing further, your  
25       Honor.



1 EXAMINER WILLEY: Mr. Royer?

2 MR. ROYER: Nothing further.

3 EXAMINER WILLEY: Mr. Reilly?

4 MR. REILLY: I would just emphasize  
5 what's already been said, if the point here -- if the  
6 point of all this is to -- is to test the credibility  
7 of Mr. Puican's calculations, that's the function of  
8 cross and that was accomplished. The additional  
9 testimony, that's just trying to pile on.

10 That's all I had. That's all I would  
11 note in addition.

12 EXAMINER WILLEY: Thank you.

13 The motion of the late-filed testimony  
14 shall be granted, so at this time OCC may present its  
15 witness.

16 MR. SERIO: Thank you, your Honor. We  
17 would like to recall Mr. Slone to the stand.

18 - - -

19 GREGORY SLONE

20 REBUTTAL

21 being previously duly sworn, as prescribed by law,  
22 was examined and testified further as follows:

23 DIRECT EXAMINATION

24 By Mr. Serio

25 Q. Mr. Slone, are you the same Greg Slone



1       that previously provided and testified in this  
2       proceeding?

3               A.     I am.

4               Q.     And do you have in front of you -- in  
5       front of you a multiple-page document I would like  
6       you to mark for purposes of identification as OCC  
7       Exhibit 11, Rebuttal Testimony of Gregory Slone,  
8       filed July 14, 2011, in this docket?

9                       (EXHIBIT MARKED FOR IDENTIFICATION.)

10              A.     Yes, I have that.

11              Q.     And was this testimony prepared by you or  
12       under your direction?

13              A.     It was prepared by me.

14              Q.     And if I were to ask you the same  
15       questions, would your answers be the same or similar?

16              A.     They would.

17              Q.     Do you have any corrections or edits to  
18       this testimony?

19              A.     No, I do not.

20                       MR. SERIO: Your Honor, Mr. Slone is  
21       available for cross-examination.

22                       Does anybody need copies?

23                       EXAMINER WILLEY: Mr. Petricoff?

24                       MR. PETRICOFF: Yes, your Honor, I have a  
25       motion to strike. I would like to strike the



1 question and answer on page 5, lines 14 to 21. This  
2 in lines -- basically in lines 17 to 21 a statement  
3 from Exeter Associates is being proffered for the  
4 record for the truth of the statement.

5 That makes it hearsay, so the next  
6 question becomes does this fit into one of the  
7 exemptions for hearsay? I think the answer to that  
8 is no for the following reasons:

9 First is it is just -- it's not a  
10 Commission order. It's not a finding of the  
11 Commission. It is just a -- basically a report that  
12 was done by the -- by Exeter.

13 It was done in the 07-219 case which is  
14 not an SSO/SCO, EXM. It's basically an old-fashioned  
15 gas cost recovery case. It covers the period 2005 to  
16 2006 which is before the first auction.

17 It basically is irrelevant and has no  
18 bearing and, therefore, can't be used as a statement  
19 in a proceeding about an SSO/SCO proceeding, EXM  
20 proceeding.

21 Finally, I will note that this case  
22 was -- ended on a stipulation which is why we don't  
23 have a regular Commission opinion and order on this.  
24 It was done by a -- it was done by stipulation. OCC  
25 did not join in the stipulation but it did not oppose



1 it. So this is not to be given the same kind of test  
2 it would get if we were having a full -- a full  
3 hearing.

4 For those reasons I think it fails the  
5 hearsay exemption and is hearsay. It should be taken  
6 out of the record.

7 EXAMINER WILLEY: Okay. Does any other  
8 party wish to join this specific motion to strike?

9 MR. ROYER: I have a motion that  
10 encompasses, but I would join in that ground for  
11 striking the identified piece.

12 EXAMINER WILLEY: Okay. Thank you.

13 MR. REILLY: Staff would join in that  
14 motion also and has -- has a motion of its own.

15 EXAMINER WILLEY: Okay.

16 MS. LESLIE: Columbia joins in that  
17 motion as well.

18 EXAMINER WILLEY: Okay. Thank you.

19 Mr. Royer?

20 MR. ROYER: Thank you, your Honor. Move  
21 to strike the testimony beginning at page 2, line 5,  
22 through page 8, line 2, on the grounds of relevance.  
23 This is a discussion of the factors that affect the  
24 retail price adjustment, but as Mr. Slone  
25 acknowledges, see specifically the sentence at the



1 bottom of page 3 and the sentence and the question  
2 and answer at line 10 on page 7, the factors that he  
3 has discussed will impact an SSO or an SCO auction  
4 result equally. So this has nothing to do with any  
5 issue in the case.

6 MR. SERIO: I'm sorry, can I get that  
7 specific reference again?

8 MR. ROYER: Yes, question and answer  
9 starting at line -- line 10 on page 7 as well as --  
10 as well as the sentence at the end of page 3.

11 MR. SERIO: The last sentence that would  
12 be beginning on line 17?

13 MR. ROYER: Yes.

14 MR. SERIO: I need that. Thank you.

15 EXAMINER WILLEY: Does any other party  
16 wish to join in that specific objection?

17 MR. PETRICOFF: We will join, your Honor.

18 MR. REILLY: Staff would also join, your  
19 Honor.

20 MS. LESLIE: Columbia will join as well.

21 EXAMINER WILLEY: Thank you. Does that  
22 conclude your motions to strike, Mr. Royer?

23 MR. ROYER: Yes, thank you.

24 EXAMINER WILLEY: Mr. Reilly?

25 MR. REILLY: Your Honor, we would move to



1 strike the answer to question 9. This would be  
2 answer 9 beginning on page 50, line 7 through line  
3 12, on the basis that it's hearsay, very similar to  
4 the objection Mr. Petricoff raised only this one I  
5 don't know that it's even taken from a credible  
6 source.

7 It's taken from a website. We have no  
8 idea who put it on the website. I understand the  
9 Ohio Oil and Gas Association is the sponsor of the  
10 website but we have no idea of the conditions under  
11 which it was put on. We know nothing about it except  
12 it's a statement from the website.

13 There isn't, therefore, any indicia of  
14 liability, I would suggest to the Bench, and that  
15 also although the hearsay rule is not strictly  
16 enforced in these proceedings, it does have some  
17 application.

18 And we would submit this is unreliable  
19 evidence that should not be submitted without  
20 cross-examination or the -- and that it should be  
21 stricken as hearsay.

22 EXAMINER WILLEY: Thank you. Did your  
23 motion to strike also encompass GS-2 and attachment  
24 GS-3?

25 MR. REILLY: Yes, yes.



1 EXAMINER WILLEY: Thank you.

2 Does any other party wish to join in this  
3 motion to strike?

4 Okay. Any other parties have a motion to  
5 strike?

6 Okay, Mr. Serio, do you have a response?

7 MR. SERIO: Yes, your Honor, I will take  
8 them one at a time again. The first one as I have it  
9 is on page 5, lines 17 through 21. Mr. Petricoff  
10 moved to strike arguing that's hearsay.

11 Mr. Slone is pointing out here that it's  
12 his belief that the bid price is sensitive to the  
13 marketing conditions at the time of the auction.  
14 He's pointing to the MP audit from an independent  
15 auditor that confirms that fact.

16 To the extent that it might be considered  
17 hearsay, it is a regular record retained by the  
18 Commission. It's part of the regular Commission  
19 proceedings. Parties had ample opportunity to  
20 challenge it if they wanted to.

21 And most importantly, I don't think that  
22 we've had evidence in the record the two days we have  
23 been in hearing that contradict the point that bid  
24 prices are sensitive to the market conditions so this  
25 is just further support for the position he's taking.



1           The second motion to strike, I believe,  
2     started on page 2, line 5, and went through page 8,  
3     line 2, which is essentially striking the entire bulk  
4     of the testimony itself. They are making the  
5     argument based on relevance, and obviously it's very  
6     relevant because these are the factors that Mr. Slone  
7     has identified as factors that could have and should  
8     have been included in the staff analysis in comparing  
9     one -- one auction for one company at one time with a  
10    different auction with a different company at a  
11    different time.

12           Even to the extent that you are making  
13    the comparison in 2011 between Dominion, Vectren, and  
14    Columbia, the auctions are intentionally held two to  
15    four weeks apart so that they don't run into each  
16    other, and the market conditions at different times  
17    can affect different auction results.

18           Moreover, Rule 703 states the facts or  
19    data in a particular case upon which an expert bases  
20    an opinion or inference may be those perceived by the  
21    expert or admitted into evidence at the hearing. So  
22    to the extent Mr. Slone relied on these items, they  
23    are relevant for the purposes of the analysis he did.

24           I think the third motion to strike was  
25    page 50, lines 7 through 12, and that has to do with



1 the information in the Ohio Oil and Gas Association  
2 website. Again, Mr. Slone here is identifying where  
3 he got the information that he got and he's  
4 indicating that he had the belief that local gas  
5 production was a factor that should have been  
6 included.

7 When Mr. Parisi was asked about it, he  
8 acknowledged that local production could be a factor.  
9 Mr. Parisi did not dispute that local production  
10 would be a factor.

11 There was some question as to how much  
12 local production there is. And what Mr. Slone is  
13 indicating here is there is potentially more local  
14 production as time goes on which would have a direct  
15 impact on the availability of local production in  
16 later auctions that may not have been available in  
17 earlier auctions which could again impact the result  
18 of any RPA that came out of those cases.

19 Thank you.

20 EXAMINER WILLEY: Thank you.

21 We'll take responses to Mr. Serio's  
22 reply. Let's begin with Ms. Leslie.

23 MS. LESLIE: The company has no response  
24 at this time.

25 EXAMINER WILLEY: Mr. Petricoff?



1 MR. PETRICOFF: Yes, your Honor, just one  
2 point. Going to the page 5, lines 14 to 21,  
3 certainly Mr. Slone could have offered his testimony  
4 if he cared to that says in my belief a bid price is  
5 extremely sensitive to market conditions and that --  
6 that was his testimony he made himself, that's fine.  
7 The reason we are moving to strike is because this is  
8 Exeter's testimony, not Mr. Slone's testimony. And  
9 the test for an exemption of the hearsay rule is not  
10 has it been filed with the Commission. There are  
11 hundreds of thousands of pages that are filed with  
12 the Commission.

13 The question for hearsay is that is it a  
14 report that's generally issued by governmental  
15 agencies that they are supposed to be doing. It's  
16 not issued by the Commission. This is just -- this  
17 is a -- a piece that has been -- has been filed and  
18 it's not accorded the same weight.

19 Finally, if it does make that, the fact  
20 that it is a GCR, talking about GCR price, makes it  
21 irrelevant because we are not talking about GCR  
22 pricing.

23 EXAMINER WILLEY: Thank you.

24 Mr. Royer?

25 MR. ROYER: Yes. Again, the basis of my



1 motion is that the witness's own testimony says  
2 that -- that these factors that he's raised,  
3 increased local production and market conditions, the  
4 witness acknowledges would be the same for SS --  
5 would affect the SSO retail price adjustment just as  
6 it would affect the SCO retail price adjustment.

7 Now, Mr. Puican's testimony is there was  
8 between a 44 -- or 15 cents and 44 premium on the --  
9 on the SSO or for -- in favor of the SSO -- SCO,  
10 excuse me.

11 If you reduce both of them as the witness  
12 would have -- have us do, if you would reduce both  
13 those numbers to account for the same factors, they  
14 are going to move in lock step, and we have done  
15 nothing to advance the inquiry as to whether -- as to  
16 whether an SCO is better than an SSO.

17 EXAMINER WILLEY: Thank you.

18 Mr. Reilly?

19 MR. REILLY: I would -- I don't think  
20 anything Mr. Serio said spoke any more for the  
21 reliability of the information that he -- they base  
22 their testimony on than that was apparent from the  
23 testimony.

24 EXAMINER WILLEY: All right. Thank you.

25 Mr. Serio, do you have a final response?



1           MR. SERIO: Well, your Honor, in response  
2 of question 10, the witness indicates that -- he says  
3 yes, there are other factors and then points to the  
4 Exeter report as an example of it. So he's stating  
5 that that's his opinion and giving another example of  
6 it.

7           With respect to Mr. Royer's part  
8 regarding the SSO versus the SCO, the point that  
9 Mr. Slone is making and that OCC has attempted to  
10 make is that the market condition for any auction,  
11 whether it's an SSO or SCO, is different for each  
12 company at that time.

13           If there were two identical auctions that  
14 occurred on the same date as we had with Dominion in  
15 two of the three instances, the result was identical  
16 between the SSO and the SCO, it's only in the first  
17 auction there was a difference and that was the  
18 \$1.49 million difference.

19           EXAMINER WILLEY: Thank you.

20           The Attorney Examiners will grant the  
21 motion to strike as to question 10 that is page 5,  
22 lines 14 to 21.

23           The Attorney Examiners will also grant  
24 the motion to strike as to question 9 on page 5 that  
25 is lines 7 through 12. And the remainder of the



1 motion is denied.

2 MR. SERIO: Your Honor, could I get a  
3 clarification?

4 EXAMINER WILLEY: Yes.

5 MR. SERIO: On line 17 is the word "yes"  
6 also stricken or does his answer of "yes" get to  
7 stay?

8 EXAMINER WILLEY: I think the motion  
9 included the entire question and answer, so we will  
10 strike the entire question and answer.

11 The witness is available for cross.  
12 Let's begin with Ms. Leslie.

13 MS. LESLIE: I have no cross-examination  
14 at this time.

15 EXAMINER WILLEY: Mr. O'Brien?

16 MR. O'BRIEN: No questions, your Honor.

17 EXAMINER WILLEY: Mr. Petricoff?

18 MR. PETRICOFF: Yes, I have a few  
19 questions, thank you, your Honor.

20 - - -

21 CROSS-EXAMINATION

22 By Mr. Petricoff:

23 Q. Good afternoon again, Mr. Slone. I want  
24 to talk to you a little bit about local production.

25 When you use the term "local production"



1 in your testimony, are you referring to Ohio  
2 production?

3 A. Yes. Yes, I am referring to Ohio  
4 production.

5 Q. And to drill a well in Ohio do you have  
6 to get a permit?

7 A. I believe you do.

8 Q. And who do you get this permit from?

9 A. I'm not sure. I've never gotten a  
10 permit. Department of Natural Resources maybe.

11 Q. Well, let's assume you have to get one  
12 from the Department of -- of Natural Resources  
13 Division of Mineral Resources Management.

14 MR. PETRICOFF: And with that I ask the  
15 Bench to take judicial notice of Revised Code Section  
16 1509 which lays out the process.

17 Q. Basically to get a -- to get a permit do  
18 you know what kind of information you have to show to  
19 get a permit?

20 A. If I recall, you'd have to show ownership  
21 or control over I think it's 10 acres, it could be 20  
22 acres of continuing property. That's one of the  
23 requirements, I believe.

24 Q. You have to show where you are drilling  
25 and where you are going to produce from?



1           A.    I would assume.

2           Q.    And does the state keep track of what  
3 production is?

4           A.    Again, I would assume they keep track of  
5 it.

6           Q.    Are you aware whether the state taxes  
7 production?

8           A.    Am I aware if the state taxes production?

9           Q.    State of Ohio, does it have a severance  
10 tax on natural gas and oil that's removed from the  
11 subsurface of Ohio?

12          A.    I would say probably so.

13          Q.    Your Honor -- let me ask another  
14 question.  If I understand the local gas production  
15 issue correctly, let me summarize your point and you  
16 tell me if I have got this right.

17                Your concern with Mr. Puican's testimony  
18 is that there -- there is one factor he did consider  
19 that might explain why the prices have gone down  
20 since the first SSO auction in 2006, correct?

21          A.    My concern was that there was virtually  
22 no analysis at all.

23          Q.    But focusing on the local gas issue and  
24 one of those concerns is that -- that local gas could  
25 be a reason that the price of gas fell in auctions



1       that were subsequent to the 2006 or 2008 auction.

2             A.    I believe that's one factor that could --  
3       could contribute to the lower prices.

4             Q.    And if we are talking about local  
5       production, that was the reason you brought local  
6       production up in your testimony, because you think  
7       that an increase in local production could -- could  
8       account for lower prices?

9             A.    I believe it could.

10            Q.    Okay. And if that was the case of local  
11       production was going to account for lower prices in  
12       the auctions subsequent to 2008, wouldn't you agree  
13       with me that they -- would have to be some evidence  
14       that the Ohio gas is a lower price?

15            A.    I think if the Ohio gas was a higher  
16       price than NYMEX overall including -- and we are  
17       talking about delivered to the system, so including  
18       transportation, capacity, and everything else, it  
19       would act just the opposite and drive the price up.

20            Q.    All right. And at this point there is  
21       nothing in your testimony that you are offering today  
22       that shows that, in fact, from the period of 2008 for  
23       the first SCO auction on that the price of Ohio gas  
24       has fallen.

25            A.    No. There was one day to do the analysis



1 and I didn't get that in depth. What I was really  
2 showing was the fact that it was a potential  
3 contributing factor to what happens with the SSO  
4 rate, what would drive the SSO rate or the SCO rate  
5 down, and it wasn't considered in the testimony.

6 Q. And the other factor besides a lower rate  
7 if, in fact, Ohio production is going to bring the  
8 bid prices down is that there would have to be an  
9 increase in Ohio gas.

10 A. No. I think there would have to be an  
11 increase in the amount of Ohio gas that a particular  
12 marketer could bring to -- to the bid. Not that  
13 there would be an increase overall but if one  
14 particular marketer was able to get a sufficient  
15 enough quantity of local gas compared to what they  
16 had the previous auction, I think it could have the  
17 effect of that particular marketer having a lower  
18 offer price.

19 Q. Right, but to bring down the overall  
20 price, wouldn't there have to be -- have to be enough  
21 Ohio gas out there to bring the bids down if Ohio gas  
22 is going to be a reason for bringing the bids down?

23 A. Based on what I looked at, and granted,  
24 it was a quick analysis, I saw 12 percent as what the  
25 Ohio Oil and Gas Association was saying that Ohio



1 production makes up of the total gas being sold to  
2 suppliers. 30 years ago that number was more like  
3 5 percent.

4 Based upon that quick analysis, my first  
5 thought was gas production in the state has gone up,  
6 but I don't know that that's the case over the last  
7 four or five years that the actual production has  
8 gone up.

9 Over the last 15, 20 years the percent of  
10 gas that is being produced or that's available for  
11 customers' usage versus gas from out of state, I  
12 think there is a higher percentage from Ohio  
13 available for consumption by customers. There is a  
14 lot of factors that's gone in here.

15 The usage in Dominion for customers has  
16 gone down. I think that's fairly well established  
17 over a period of time, although I didn't actually  
18 cite to what those numbers were. But as that volume  
19 drops, if Ohio production just stays steady, it would  
20 be potentially a greater effect on the overall effect  
21 of Ohio gas to southwest gas.

22 Q. But if we are looking at Mr. Puican's  
23 study, and that's what we are looking for in this  
24 rebuttal, in order for him to have taken this into  
25 account that Ohio gas is going to lower the overall



1 bid price, there would have to be a substantial  
2 increase in Ohio gas and it would have to be at a  
3 lower price. Otherwise the bid prices aren't coming  
4 down because of local production.

5 MR. SERIO: Objection, your Honor. He's  
6 asked it twice. The witness indicated twice wouldn't  
7 necessarily be an increase in the total volume. It's  
8 whether it was an increase in the volume that was  
9 available in that particular bid.

10 MR. PETRICOFF: Your Honor, that's not an  
11 objection, that's testimony.

12 EXAMINER WILLEY: It's overruled.

13 A. I'm sorry, are you waiting on an answer  
14 from me?

15 MR. PETRICOFF: Could the reporter repeat  
16 the question?

17 (Record read.)

18 A. More than that, he didn't look at it or  
19 it wasn't discussed. Now, granted, it would have  
20 been difficult to quantify that. It would have taken  
21 some time and analysis, that's true.

22 But I think that along with a couple  
23 other factors it says more to what happened or what's  
24 driving that price down. The analysis itself, and we  
25 have got two data points from one case, three data



1 points, and the direction was down. So, therefore,  
2 it must go down. I couldn't accept that -- that  
3 testimony as -- as proving anything.

4 Q. That testimony is Mr. Puican's testimony.

5 A. That's right.

6 Q. And I understand that you have a  
7 disagreement with his methodology. But -- well, let  
8 me try something else.

9 MR. PETRICOFF: Your Honor, I would like  
10 to get an exhibit marked at OGMG Exhibit 4.

11 EXAMINER WILLEY: It will be so marked.

12 (EXHIBIT MARKED FOR IDENTIFICATION.)

13 Q. Mr. Slone, have you seen this report  
14 before?

15 A. Yes, I have.

16 Q. And can you tell me what it is?

17 A. Well, to the best of my understanding it  
18 was a report for -- that the Oil and Gas Association  
19 put out for activities in 2010.

20 Q. Is this from the Oil and Gas Association  
21 or is this from the Division of Mineral Resources,  
22 Ohio Department of Natural Resources?

23 A. I'm -- I'm not sure. I looked at this  
24 specific report. I'm not sure what -- where the  
25 website was.



1 MR. PETRICOFF: Well, your Honor, this  
2 comes from the -- from the Department of Natural  
3 Resources and it is available on their -- on their  
4 website.

5 Q. And I would like to focus your attention  
6 on page 9 of the report.

7 A. I'm there.

8 MR. SERIO: Your Honor, I am going to  
9 object. If the management performance audit is  
10 hearsay because we don't have the management  
11 performance auditor here, then the summary of Ohio  
12 Oil and Gas activities is also hearsay because we  
13 don't have anybody from the Division of Mineral  
14 Resources Management here to testify about it.

15 EXAMINER WILLEY: Mr. Petricoff?

16 MR. PETRICOFF: Your Honor, this one does  
17 fall under the hearsay exemption. The annual report  
18 from the Department of Natural Resources is a  
19 regularly kept report on what production is and they  
20 are required to keep this under Revised Code Section  
21 Chapter 1509.

22 MR. SERIO: Well, your Honor, the  
23 management performance audit required under 4905.302  
24 and the Commission's administrative rules so they are  
25 required to have MP audits in any proceeding where



1     there is a GCR so there is a statute that requires it  
2     similar to this is required here.

3             But to the extent we are going to say  
4     that it's hearsay if the auditor -- if the author of  
5     the report isn't available, the author of this report  
6     isn't available either.

7             EXAMINER WILLEY:   Okay.   Thank you,  
8     overruled.

9             Q.     (By Mr. Petricoff) Mr. Slone, when you  
10    look at the report, is it fair to say that oil and  
11    gas production in Ohio as recorded by the Ohio  
12    Department of Natural Resources shows basically from  
13    2001 to 2010 the production has been level or slowly  
14    declining?

15            A.     That's what this chart shows.

16            Q.     Okay.   Before you indicated that -- that  
17    your understanding was that Ohio production was --  
18    basically accounted for 12 percent of the -- of the  
19    gas consumed in Ohio.

20            A.     Correct.

21            Q.     Is it fair to say then that if that's the  
22    blend, in order to bring the price of gas down one  
23    Mcf statewide, Ohio gas would have to drop \$8?  12  
24    percent, one-eighth?  To get a \$1 drop in price, you  
25    would have to have an \$8 drop in Ohio gas?



1           A.    Your math is probably correct.

2           Q.    That's better than I did with my eighth  
3 grade math teacher.

4                   The -- so basically if Ohio gas was going  
5 to be the reason for lower prices, wouldn't we have  
6 to see greatly lower Ohio prices and greatly higher  
7 Ohio production in the period from 2007 to the  
8 present if that's going to account for a drop in --  
9 in bid prices?

10           A.    Not necessarily. I looked at this when I  
11 was trying to do my quick analysis and I saw the  
12 production was relatively flat and there could be a  
13 number of reasons. It doesn't mean that the gas  
14 isn't available and wouldn't be available in the next  
15 year.

16                   Consumption has been down. A lot of  
17 local production could be going into markets that are  
18 constrained because the load in that market has been  
19 low -- would have been low, certainly lower in the  
20 last couple of years and others.

21                   Also I can't tell from looking at this if  
22 one or two marketers have a higher percentage of  
23 this. I did find some information, although you have  
24 struck it from my testimony, I think, that -- so I  
25 don't even know if I can talk about it.



1           Q.    Let me ask about shale gas.  Are you  
2 familiar with how shale gas is produced?

3           A.    Very -- very vague.

4           Q.    What's the difference between production  
5 from shale gas and production from conventional  
6 producing sands?

7           A.    My assumption was that the horizontal  
8 drilling into shale had opened that up.  I don't know  
9 if it has to do with different chemicals or different  
10 pressures that the sand and water, chemical solution  
11 is under.

12                   But it's my understanding that the  
13 geologists have been aware that the gas was there for  
14 a long time.  They just didn't know how to  
15 economically produce it.  And with the advent of  
16 nutrition techniques and maybe some other technology  
17 which I am not aware of, they now feel like they --  
18 that this gas is commercially producible.

19           Q.    One of the things you mentioned is  
20 horizontal drilling.  That is something that is a  
21 factor in preparing shale gas.  Is the cost the same  
22 to go horizontally as it is to go vertically?

23           A.    I can't tell you.

24           Q.    How about fractionalization?  Does the  
25 shale have to be broken up in order to produce



1       this -- the gas?

2               A.     Again, I haven't studied this. I would  
3     assume you have got to increase the permeability and  
4     porosity in there somehow, but relatively new.

5               It's not -- although I have been out at a  
6     drilling site before and I have seen wells  
7     reconditioned and, you know, I am certainly not up to  
8     date on the current costs or the technology behind  
9     shale gas, only that it exists and there is a lot of  
10    potential being placed on it by the oil and gas  
11    industry.

12              Q.     Do you know offhand whether there are  
13    moratoriums in Pennsylvania and New York for shale  
14    production?

15              A.     I have been reading there are some --  
16    some concerns out there and maybe a lawsuit or two.  
17    But, again, I have not been paying real close  
18    attention to how that's going to limit future  
19    production.

20              Q.     And I take it you have no idea about what  
21    the magnitude of cost is to produce shale well as  
22    opposed to a conventional sand well?

23              A.     My guess is it is getting closer, that at  
24    one time it was prohibitive and that the prices are  
25    getting closer to produce from the shale. That's



1       about as far as I know.

2                   MR. PETRICOFF: I have no further  
3       questions. Thank you very much.

4                   EXAMINER WILLEY: Thank you.

5                   Mr. Royer?

6                   MR. ROYER: Thank you.

7                               - - -

8                               CROSS-EXAMINATION

9       By Mr. Royer:

10               Q.     Just so I understand what it is you are  
11       rebutting, you are not presenting any -- any evidence  
12       here that -- that increased production, increased  
13       local production or I think as you put it  
14       increased -- of production as an increased percentage  
15       of total gas delivered, local production is increased  
16       percentage local gas delivered or the price of local  
17       production versus the -- versus the cost of gas  
18       that's moved from out of state through pipelines.

19                   You are not saying -- you are not giving  
20       us any number. You are not putting any numbers to  
21       those factors; is that correct?

22               A.     I am saying the factors should have been  
23       considered. I am not putting a number to it.

24               Q.     Right. You have not done any analysis of  
25       that, right?



1           A.    I've not done any detailed analysis.

2           Q.    You don't know what the price is --

3                   MR. SERIO:  Objection.  Could the witness  
4 finish answering?

5                   MR. ROYER:  I'm sorry, I apologize.

6           Q.    Please.

7           A.    I am saying I don't know the amount of  
8 the movement but I believe with further analysis we  
9 could -- we do at least show that, you know, it has  
10 an effect and I put a few examples, price  
11 differentials between summer and winter, basically  
12 the spread on NYMEX would have an effect.

13                   If you had a marketer or two that had a  
14 substantial amount of local gas that was below NYMEX  
15 could have an effect.  I'm just saying that the  
16 analysis that was done to show that the SSO or the  
17 SCO is -- is lower producing and that the SSO was  
18 not.

19           Q.    Okay.  Get back to my question, my  
20 question is you don't know any of those numbers,  
21 right, that we have discussed?

22           A.    No.

23           Q.    You are suggesting that this could  
24 have -- if all those assumptions were true, if the  
25 assumptions were true that the gas -- the all in



1 delivered cost the local production was less than the  
2 all in cost of delivered gas from other sources, if  
3 local production is a bigger percentage of the gas  
4 delivered than it was in the past, and so on, then  
5 that could have an effect -- that could have an  
6 effect on -- on the -- on the SCO price, right?

7 A. Well, there was one -- one piece of this  
8 that was obviously that had an affect and that was  
9 the shrink --

10 Q. I don't believe my question had anything  
11 to do with shrink, so would you answer my question?

12 A. Would you repeat it for me one more time,  
13 I apologize.

14 MR. ROYER: Would you read it, please.

15 (Record read.)

16 A. Yeah, it could have an effect.

17 Q. Now, what did -- what was it that  
18 Mr. Puican failed to do that rendered -- rendered --  
19 in this regard that rendered his analysis flawed?

20 Are you suggesting that he should have  
21 gone to every potential supplier, asked to see their  
22 portfolios, asked to find out if they thought their  
23 local production would increase, asked the price of  
24 the local production in their portfolio, done some  
25 sort of analysis by guesswork as to how that might



1 have affected their bid in some future SCO option and  
2 presented that to justify his conclusion?

3 Is that what he should have done?

4 A. I think he should have -- he didn't have  
5 the information to present a detailed analysis, and  
6 the marketers should have presented it.

7 Q. The marketers should have disclosed all  
8 their -- makeup of all their portfolio and marketing  
9 strategy about where they would elect to deliver the  
10 gas?

11 MR. SERIO: Your Honor, again, could we  
12 let the witness finish one answer before?

13 A. That goes to my point that the  
14 marketers -- do I expect them to -- to give up  
15 competitive information, no, not really. I don't  
16 know that -- I don't know what information they have  
17 that they could put out there that wouldn't reveal  
18 competitive information.

19 My point really is neither I nor  
20 Mr. Puican have enough information to put forth an  
21 analysis showing the SCO is going to produce a  
22 cheaper price than the SSO and that's what's in the  
23 testimony.

24 Q. I believe Mr. Puican's analysis where he  
25 shows the cross-sectional study of the impact on



1 the -- on the drop in the SCO for Columbia versus the  
2 impact and the drop in -- the drop in SSO for  
3 Columbia versus the impact of the drop of the SCO  
4 over those -- over the period for Vectren and  
5 Dominion; isn't that the kind of analysis you were  
6 looking for?

7 A. No. I think you've got -- you are  
8 looking at three different companies. If you want to  
9 include Vectren as well, you have gone different time  
10 periods, I can't even tell you why Columbia's rates  
11 are so much higher but those systems are obviously  
12 different.

13 Q. So, okay. Looking directly at -- looking  
14 strictly and saying Columbia, what difference -- am I  
15 correct that it's your opinion that this -- that  
16 whatever the impact of these factors were, more local  
17 production, market conditions, shrink, would all --  
18 would have had the same effect on an SCO price as an  
19 SSO price?

20 A. That's right. I think that if you look  
21 at Columbia specifically and there was about a 5  
22 cents drop, I think, from the auction in 2010 to  
23 2011, if you look at the commodity price itself on  
24 the NYMEX, this was about a 90 cent drop, I think  
25 that could -- the shrinkage issue itself could have



1       accounted for that decrease.

2               I am just saying there are real reasons  
3       when the price goes down, and while I don't  
4       necessarily know what all those reasons are, I don't  
5       think any of those reasons were presented in the  
6       testimony of Mr. Puican.

7               Q.     Again, my question was but that would  
8       affect -- it's your testimony those would affect the  
9       SCO -- an SCO price and an SSO price equally,  
10      correct?

11              A.     I think they would.

12              MR. ROYER:   Okay.   That's all I have.

13              EXAMINER WILLEY:   Thank you.

14              Mr. Rinebolt?

15              MR. RINEBOLT:   No questions, your Honor.

16      Thank you.

17              EXAMINER WILLEY:   Mr. Reilly?

18              MR. REILLY:   We have nothing further,  
19      your Honor, beyond what's already been asked.

20              EXAMINER WILLEY:   Thank you.

21              Mr. Serio, do you have any redirect?

22              MR. SERIO:   Just a second, your Honor.

23              One or two, your Honor.

24                      - - -



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

REDIRECT EXAMINATION

By Mr. Serio:

Q. Mr. Slone, Mr. Royer just asked you about if those other factors would impact an SCO auction as well as an SSO auction. Do you recall that?

A. Yes.

Q. So to the extent that Dominion had auctions where they did an SSO auction in the morning and an SCO auction in the afternoon, those factors would have impacted both auctions?

A. I would think so.

Q. And in the last two Dominion auctions, is it your understanding that the SSO rate and the SCO rate were identical?

A. That's my understanding.

MR. SERIO: That's all, your Honor.  
Thank you.

EXAMINER WILLEY: Okay.

Ms. Leslie, do you have any recross?

MS. LESLIE: Not at this time.

EXAMINER WILLEY: Mr. O'Brien?

MR. O'BRIEN: No, thank you, your Honor.

EXAMINER WILLEY: Mr. Petricoff?

MR. PETRICOFF: Nothing, your Honor.

EXAMINER WILLEY: Mr. Royer?



1 MR. ROYER: No questions, your Honor.

2 EXAMINER WILLEY: Mr. Rinebolt?

3 MR. RINEBOLT: None, your Honor.

4 EXAMINER WILLEY: Mr. Reilly?

5 MR. REILLY: No questions, your Honor.

6 EXAMINER WILLEY: We have no questions.

7 Thank you. You are excused.

8 MR. SERIO: Your Honor, I would move for  
9 admission of OCC Exhibit 11?

10 EXAMINER WILLEY: Are there any  
11 objections to OCC Exhibit 11?

12 Hearing none, this exhibit will be  
13 admitted.

14 (EXHIBIT ADMITTED INTO EVIDENCE.)

15 MR. PETRICOFF: Your Honor, I move for  
16 OGMG Exhibit 4.

17 EXAMINER WILLEY: Are there any  
18 objections to the admission of OGMG Exhibit 4?

19 Hearing none, this exhibit will be  
20 admitted.

21 (EXHIBIT ADMITTED INTO EVIDENCE.)

22 EXAMINER WILLEY: Let's go off the record  
23 for a minute.

24 (Discussion off the record.)

25 (Recess taken.)



1                   EXAMINER WILLEY: We can go back on the  
2 record.

3                   MR. SERIO: This case is about options  
4 for residential customers. This case is about  
5 whether residential customers will get the  
6 opportunity to retain the low tax low cost option of  
7 the SSO or whether they will be forced to take the  
8 high taxed -- higher cost SCO.

9                   This case is about whether objective  
10 evidence is the basis for a decision or whether it's  
11 enough to simply claim that a benefit exists even if  
12 that benefit cannot be calculated. This case is  
13 about how to fulfill the state policy under  
14 4929.02(A)(1) to provide consumers reasonably priced  
15 natural gas services. And to give consumers  
16 effective choices for suppliers -- supplies and  
17 suppliers.

18                   OCC believes that because the SSO  
19 provides a lower cost option as a result of the lower  
20 tax that it provides the reasonably priced natural  
21 gas service.

22                   The October 7 joint stipulation in this  
23 case indicated that the parties supporting the SCO  
24 agreed to present evidence intended to demonstrate  
25 the anticipated benefits. Evidence is more than



1 claims or beliefs. Evidence is tangible, objective  
2 facts. The proof or demonstration has to come in  
3 that form and it doesn't exist in this case. Nothing  
4 in 4929 precludes the SSO.

5 The marketers have had ample time to  
6 prepare and provide studies that would document or  
7 prove the SCO benefits. Instead of presenting any  
8 kind of study or analysis the marketers submitted a  
9 self-survey of like minded CRNGS certified pro SCO  
10 marketers and not surprisingly enough, the survey  
11 said we like what we like. The survey lacked  
12 objectivity, statistical validity, and probative  
13 value.

14 In fact, Mr. Cahaan acknowledged it  
15 didn't have statistical validity and no scientific  
16 fact behind it. The marketers' survey ignored the  
17 presence of any non-CRNGS marketers that do not  
18 prefer the SCO. It ignored there are large wholesale  
19 marketers that don't want a retail relationship  
20 because they weren't asked their opinion.

21 It ignores the preferences of many of the  
22 marketers that have bid an SCO -- SSO auctions and  
23 have been successful bidders. Instead it relies on  
24 what the seven marketers in this case, eight if you  
25 include Dominion Retail, would prefer to have.



1           The marketers claim that their plan has  
2           benefits for customers but none of the claims that  
3           Mr. Parisi listed in his testimony were quantifiable  
4           at all.

5           The staff attempted to put some analysis  
6           into the record. But that analysis lacks objective  
7           factual support and it's flawed. The study compares  
8           different auction results that occurred at different  
9           times for different utilities and it involved  
10          different marketers. And it says that all the  
11          downward pressure in the RPA is the exist -- is  
12          because there was an SCO auction instead of an SSO  
13          auction.

14          If that was the case, then in the two  
15          Dominion auctions where they did an SSO auction in  
16          the morning and an SCO auction in the afternoon, you  
17          would have gotten a different price but Dominion has  
18          done those dual auctions three times, twice the price  
19          has been identical. Only in the first auction did  
20          the SCO result in a better price, and then it was  
21          only \$1.49 million.

22          Now, we don't want to make it sound as if  
23          \$1.49 million isn't a significant amount of money,  
24          but when you compare it to the higher taxes that the  
25          SCO would result in, the higher taxes more than would



1 offset that level of savings so the net result for  
2 customers is that they are paying more for the same  
3 service.

4 Mr. Slone pointed out that there is a  
5 number of factors that could impact why an RPA in  
6 different auctions at different times for different  
7 companies comes up with a different result.

8 Mr. Parisi, who's participated in making  
9 bids, acknowledged that those factors including the  
10 mix of transportation capacity, the mix of commodity  
11 gas, the shrink rate, and market conditions, the  
12 winter/summer differential, all those factors could  
13 have a significant impact on the way a marketer  
14 prepares their bid and the resulting RPA.

15 Mr. Puican has observed the auctions but  
16 he's never prepared a bid, and he has dismissed those  
17 factors as having significant impact on the resulting  
18 RPA.

19 If the SCO is the only reason that the  
20 resulting RPA is lower than, again, why did the SSO  
21 rate for those two Dominion auctions produce an  
22 identical result before the SCO auction occurred?

23 It's not that the SCO auction occurred  
24 first and parties realized we have to bid as much on  
25 the SSO. The SSO auction occurred first during the



1 day and the SCO auction afterwards.

2 So if the -- if the SCO really has the  
3 downward pressure, it would have produced a  
4 significantly better result in each of the three  
5 Dominion auctions. That didn't happen.

6 There's no dispute that the tax rate  
7 under the SCO is going to be the sales tax and the  
8 sales tax rate is a higher rate than the alternative  
9 gross receipts tax that's paid for by SSO customers.

10 Mr. Puican estimated that cost to be  
11 \$10.2 million. Mr. Hayes estimated that cost to be  
12 6.8 million for residential customers only, so their  
13 numbers are not that far off inasmuch as Mr. Puican's  
14 number is encompassing all customers.

15 Mr. Hayes also identified the additional  
16 IT costs and the additional customer notification  
17 costs. Again, those are real costs that customers  
18 have to pay.

19 If we just take the IT and the customer  
20 notification costs, the \$1.3 million is almost  
21 sufficient to offset the benefit that Dominion  
22 recognized in the first SSO/SCO auction of  
23 1.49 million and then that leaves the entire tax  
24 impact that hasn't been addressed.

25 For residential customers the higher tax



1 is not a theory, it's a fact. It hits their  
2 pocketbook. What a residential customer is going to  
3 see under an SCO is that they have to pay the higher  
4 tax rate versus the lower rate that they paid in an  
5 SSO.

6 Now, there has been argument presented  
7 that we don't know what a future SCO rate is going to  
8 be. No, we don't, and that's exactly the point. But  
9 we do know the tax rate will be higher when it's  
10 applied to whatever RPA comes out of that SCO  
11 auction.

12 So unless that RPA is significantly lower  
13 than what an SSO auction would give us, there's no  
14 net benefit to customers. If there is no net benefit  
15 to customers, then how did customers benefit from a  
16 state policy that says reasonably priced service. In  
17 order for it to be reasonably priced, it has got to  
18 be the lower price from a customer prospective.

19 The SCO retail auction will force a  
20 higher tax rate. There was argument that the  
21 legislature sets the taxes and the Commission does  
22 not. That's true. However, we can't get around the  
23 fact that if the Commission decides to go to an SCO,  
24 it will require customers to pay the sales tax rate  
25 which is higher than the alternative gross receipts



1 tax rate.

2 The SCO retail auction will also require  
3 the customers to pay those incremental costs, costs  
4 that are not necessary if we don't go to an SCO  
5 auction but we still do an SSO auction. Those costs  
6 are only needed if we take the next step.

7 Now, Columbia presented virtually no  
8 evidence in this case to the extent that the burden  
9 is on. Columbia, they failed miserably because the  
10 crux of their case is Mr. Creekmur's testimony that  
11 says marketers prefer the SCO.

12 If that's the gist of the Columbia case,  
13 that marketers prefer it, that has nothing to do with  
14 the impact on customers, has nothing to do with the  
15 state policy of providing reasonably priced gas for  
16 customers.

17 The marketer claims are just that, they  
18 are claims and beliefs that are not quantified in any  
19 way whatsoever despite the fact that we've asked and  
20 begged them to provide us proof that the SCO was  
21 superior to the SSO.

22 Staff evidence fails to take into account  
23 all the market factors and all the conditions and,  
24 therefore, is -- is overly restrictive to be  
25 considered a study that encompasses all those market



1 conditions.

2 For all these reasons the company, the  
3 marketers, and the staff have failed to meet the  
4 burden of proof that they had in this proceeding for  
5 justifying the move to the retail auction. The state  
6 policy for natural gas service requiring reasonably  
7 priced effective choices for consumers is best  
8 fulfilled by continuing the SSO wholesale auction.

9 Thank you, your Honors.

10 EXAMINER WILLEY: Thank you.

11 OPAE.

12 MR. RINEBOLT: The Ohio Revised Code  
13 Section 4905.03(A)(5) defines a public utility as  
14 engaged in the business of supplying natural gas for  
15 lighting, power, or heating purposes to consumers  
16 within this state.

17 The SCO option that is before us today  
18 maintains the -- will keep Columbia Gas of Ohio which  
19 that definition of a natural gas public utility  
20 because while an SCO bid will set the price for  
21 non-Choice eligible customers and low-income  
22 customers, they will be served on a wholesale basis.

23 So indeed Columbia Gas will be continuing  
24 to supply natural gas for lighting, power, or  
25 heating. Fortunately those payment-troubled



1 customers, those most vulnerable to price increase,  
2 will be paying a gross receipts tax rather than a  
3 sales tax. So that will somehow help compensate them  
4 and make energy more affordable to them.

5 I think if you look at the evolution of  
6 the Choice market in Ohio, obviously we began  
7 allowing companies, large users, to go to market back  
8 in the 1970s. But for residential and small  
9 commercial customers it's been a relatively short  
10 period.

11 Choice was introduced in 1998, and it  
12 immediately became apparent that the impact of retail  
13 competition exposed that the Ohio utilities had not  
14 been the sharpest tacks in the drawer when it came to  
15 buying natural gas.

16 A prudency review is not a substitute for  
17 the market and the market produced prices far lower  
18 than the GCR offerings of those companies.

19 Unfortunately that impact of retail  
20 opportunities on GCR was short lived. Natural gas  
21 utilities soon improved their purchasing techniques  
22 undoubtedly with an eye towards ensuring they could  
23 pass a prudency review and the option or the price  
24 advantage between retail choice and a GCR regime  
25 narrowed.



1           The Commission, to enhance reliability,  
2       then moved local distribution companies to pricing  
3       their default service on a monthly variable rate  
4       based on the NYMEX. And we proceeded down that path  
5       for a while until Dominion East Ohio filed an  
6       application to exit the merchant function through a  
7       series of steps.

8           Ultimately the first step was an SSO  
9       auction, a wholesale auction, and that eventually  
10      morphed into an SCO auction. Those two auction  
11      approaches clearly produced the lowest prices for  
12      customers given the prices of natural gas in the  
13      marketplace wholesale. That establishes beyond a  
14      doubt that bidding large aggregated groups of  
15      customers clearly produces a very low cost for  
16      residential and small commercial customers.

17           So customers have benefited by the  
18      auction process that's been used to produce SSO and  
19      SCO.

20           My colleague from the Consumers' Counsel  
21      pointed out there are no indications in this record  
22      that an SCO will produce a more favorable price than  
23      an SSO, and the track record in the most recent  
24      auctions indicates that is not the case.

25           We believe that an SSO enhances



1 transparency in the marketplace. It produces a price  
2 that is readily available to customers by which they  
3 can judge the various offers of marketers.

4 As I just indicated, the pricing of the  
5 SSO versus retail rates indicates that it is probably  
6 the optimal approach to producing for ensuring that  
7 the results of the competitive market are maximized  
8 to inure to residential and small commercial  
9 customers. Absent a clear demonstration by Columbia  
10 and the marketers that an SCO will somehow produce a  
11 lower price for customers, and I should point out  
12 that in the world of economics, customers are assumed  
13 to be rational individuals who seek the lowest price.  
14 So for residential, for customers generally, the fact  
15 that a marketer likes an SCO auction better than an  
16 SSO auction is irrelevant. It's ultimately the price  
17 that makes the most difference to a rational actor  
18 and at this point all other things being equal, an  
19 SSO rate is the lowest rate.

20 Regulators have retained oversight over  
21 the SSO and SCO processes. That was the genesis of  
22 the provision in the settlement with Columbia Gas  
23 that is before us today. At that time we had two  
24 recently approved SCO auctions that were going to  
25 commence and move forward.



1 Columbia moved into the SSO auction and  
2 several parties found value in that stipulation in  
3 providing for a future hearing to evaluate the  
4 operation of the SCOs in Vectren and Dominion prior  
5 to determining -- determining the efficacy of moving  
6 forward with an SCO auction in the case of Columbia.

7 This hearing is evidence of the value  
8 that we placed on that provision and the fact that it  
9 has come through today.

10 Section 4929.02 establishes the policy of  
11 the state of Ohio regarding natural gas services and  
12 goods. 4929.02.1(A)(1) is that state policy is to  
13 promote the availability of consumers of adequate,  
14 reliable, and reasonably priced natural gas services  
15 and goods. And SSO accomplishes this.

16 Sub 2 is that the policy of the state  
17 promotes the availability of unbundled and comparable  
18 gas services and goods that provide wholesale and  
19 retail consumers with price terms and conditions that  
20 they need. The SSO satisfies that requirement.

21 Sub 3, it's the policy of state to  
22 promote diversity of natural gas suppliers --  
23 supplies and suppliers. The SSO clearly does that.  
24 We have both CRNGS certified suppliers in the -- in  
25 the markets and we have as well wholesale providers



1     who -- who regularly move large volumes of gas  
2     that -- and those wholesale suppliers promote  
3     diversity of the various resources.

4             Sub 4, encourage innovation and market  
5     access for cost effective supply side resources. If  
6     this Commission moves to an SCO, we will have  
7     eliminated market access for wholesale providers. So  
8     moving forward to an SCO will violate the policy of  
9     the state of Ohio.

10            I would move to 7 and indicate that that  
11     goal is that we should expeditiously transition to  
12     the provision of natural gas services and goods in a  
13     manner that achieves effective competition and  
14     transactions between willing buyers and willing  
15     sellers.

16            I think it's clear from recent auction  
17     results that effective competition occurs under the  
18     SSO regime and under the SCO regime. But more  
19     importantly, number -- a majority of customers in  
20     Columbia have chosen not to move to an SCO or move to  
21     a marketer, but it preferred an SSO. That's the  
22     willing -- the purchase that they are willing to  
23     make.

24            The final analysis customers are  
25     receiving the service they need now at a reasonable



1 price. No compelling reason has been presented in  
2 the record in this case to indicate that an SCO will  
3 provide any better option for customers and in any  
4 way advantages those who must pay the bill.

5 We would ask that the Commission order  
6 that an SSO auction be held when the next auction  
7 occurs.

8 EXAMINER WILLEY: Thank you.

9 Mr. Petricoff?

10 MR. PETRICOFF: Yes. Thank you, your  
11 Honor.

12 The issue before us today is simple and  
13 straightforward; select between the SCO auction and  
14 the SSO auction. Let's take this in the usual review  
15 that we look at opinions before the Commission.

16 Let's first look to the findings of  
17 fact -- the findings of law that you will have to  
18 make as the Attorney Examiner. There is one issue --  
19 one legal issue before the -- before the Bench, and  
20 that is what should be the standard that we measure  
21 the benefits between the SSO and the SCO auction.

22 I think that is answered in the  
23 Commission's December 2, 2009, opinion and order,  
24 page 9, paragraph 11, and it's basically to look at  
25 anticipated benefits, look at the anticipated



1 benefits from both the SCO and the SSO and decide  
2 which is preferable for the public.

3 The Office of Consumers' Counsel has come  
4 up with their own test; objective, tangible, and  
5 quantifiable benefits. I think it's clear after you  
6 spend any time thinking about the philosophy of that,  
7 it is impossible to come up with a tangible,  
8 quantifiable benefit on -- on an event that has not  
9 occurred yet.

10 That's probably why the Commission gave  
11 us the test of anticipated benefits. So I think that  
12 the finding of law should be that -- that the test is  
13 anticipated benefits.

14 Now, how we anticipated benefits as a  
15 test. What are the findings of fact? Well, there  
16 are a number of benefits that I think are uncontested  
17 here that I will call nonmonetary. The first is  
18 uniformity.

19 The Commission in their November 2, 2009,  
20 order basically said we would move to an SCO auction  
21 in 2012 for Columbia that would put us in line with  
22 the SCO auctions in Vectren and in Dominion East  
23 Ohio. In other words, everyone conducting -- every  
24 major gas utility company conducting an auction would  
25 have an SCO-type auction.



1           There's a great benefit in uniformity,  
2 particularly for the bidders, because it means that  
3 it's -- in preparation your teams would have to go in  
4 to prepare bids, always approach it the same way.  
5 Also means there is best practices that can be shared  
6 among the utilities who are using the same  
7 methodology.

8           Second part, second nonmonetary benefit  
9 is that in the SCO all the suppliers have to be  
10 certificated by the Commission. And that means under  
11 the, what do we call CRNGS, competitive retail  
12 natural gas supplier, standards, they have to have a  
13 call center, they have to be located in Ohio, they  
14 have to have Ohio employees.

15           That's really a benefit to have that kind  
16 of local connection and it means that there is  
17 ongoing supervision by the Commission. Because if  
18 you have a CRNGS license, you have to report any  
19 changes in your financial wherewithal. That's --  
20 that's clearly a benefit.

21           And finally we have the issue of is it in  
22 line with state policy? And I would like to read you  
23 paragraph 7, subsection 7, that's 4929.02(A)(7). It  
24 says, "promote expeditious transition to the  
25 provision of natural gas services and goods in a



1 manner that achieves effective competition and  
2 transactions between willing buyers and willing  
3 sellers to reduce or eliminate the need for  
4 regulation of natural gas services and goods under  
5 Chapter 4905 and 4909 of the Revised Code."

6 Clearly the SCO is superior there.

7 Now, let's look at the monetary benefits.  
8 Are there monetary benefits? We start with the  
9 testimony of Mr. Parisi.

10 Mr. Parisi speaking for the -- for the  
11 marketers basically said he found the SCO to be -- he  
12 is speaking for all seven members of the Ohio Gas  
13 Marketers Group, to be more efficient. That's the  
14 way they are set up now to handle customers.

15 So rather than have separate pools, they  
16 can have a single pool and it was more efficient.  
17 And then also the contact with the customer had --  
18 had a value, a monetary value, that they would  
19 incorporate in a bid, "they" being the bidders.

20 The OCC throughout here has been  
21 mentioning that there are some unnamed wholesale  
22 suppliers that may not like it. But I think the more  
23 important thing is to look around the room today and  
24 the most compelling fact here is that there are no  
25 such wholesale suppliers that have come forward and



1 written to the Commission, that have intervened in  
2 the Commission when the process started a couple of  
3 years ago.

4 There were some suppliers that had  
5 hesitations. That is not evident in this hearing  
6 today. And maybe it's the experience of having these  
7 other SCO auctions that have led the market.

8 What's important though is what's in the  
9 record, and you have got basically eight or nine  
10 suppliers that have intervened and said we prefer the  
11 SCO.

12 Now, we come to the -- the quantification  
13 studies. Remember we are looking for anticipated  
14 benefits. While you can't look at the future and say  
15 definitively what the future will be, certainly what  
16 is past may be prolonged and it's worth looking at.

17 The staff has done a study. The staff  
18 has looked at these factors and has done a  
19 quantification and has come up in the past, it  
20 appears, that the SCO has produced lower prices and  
21 certainly has attracted more bidders.

22 That's compelling evidence if we are  
23 looking to see what the anticipated -- which is going  
24 to have the anticipated benefits which will have the  
25 better ones, SCO or SSO.



1                   Now, that study has been attacked and  
2                   I -- in thinking about this I think of poor  
3                   Mr. Puican as Sisyphus, rolls the boulder up the hill  
4                   only to have it roll back down again.

5                   He looked at all the reports that were  
6                   out there. He did his quantification, he put his  
7                   reports in, and what comes back is you didn't look at  
8                   these other factors. Roll the boulder down, let's  
9                   start over again.

10                  And what were the -- what were the other  
11                  factors? Well, the one they spent the most time on,  
12                  the OCC spent the most time on, was Ohio gas. Ohio  
13                  gas is cheap Ohio gas out there from shale gas and  
14                  that's going to bring it in but the record is clear  
15                  there is no evidence there is more Ohio gas out  
16                  there.

17                  There is evidence that there is less Ohio  
18                  gas out there since we started the -- the SCO  
19                  auctions. There is no evidence that the gas is --  
20                  Ohio gas is less expensive and, in fact, in the  
21                  discussion of shale gas when you look about the  
22                  problems with fracking, what you do with all the  
23                  frac, water could well be higher.

24                  Basically there is nothing in this record  
25                  to indicate that the study that was done by the staff



1 is inadequate.

2 That brings us to the last two issues  
3 which I will label as red herring issues because I  
4 have done, I think, the essential findings of law and  
5 essential findings of fact. Here are red herring  
6 issues that should not be considered.

7 Taxes, the testimony of Mr. Cahaan, I  
8 think, was great policy testimony for the Commission.  
9 You should judge the benefit based on the price at  
10 the auction, based on the pretax not the post-tax,  
11 the gross receipts tax and the sales tax are levied  
12 after the sale.

13 Go and buy anything at Costco, you will  
14 see the price and later on the tax will be -- will be  
15 added and the tax is different on different products,  
16 and that includes natural gas.

17 Where do these taxes come from? They  
18 come from us. We the citizens vote them in, and we  
19 vote in the legislature -- legislature -- regulators  
20 who -- who devise our tax systems.

21 And what happens to that tax money? It  
22 becomes services. If you don't pay these taxes, what  
23 will the counties do? If the counties don't get the  
24 sales tax money, they have one of two choices; they  
25 can raise another tax somewhere else or they can cut



1 the services. It's a zero sum gain. I think the  
2 advice from -- from Witness Cahaan is the best one.

3 I think the Commission should assume that  
4 a dollar's worth of tax buys a dollar's worth of  
5 service, and there is certainly nothing in this  
6 record to show that it should be anything other than  
7 that.

8 Taxes are a red herring issue. And the  
9 final thing is that if you really get into trying  
10 to -- to manage the post tax, the post-purchase  
11 taxes, then you run into the problems that we have  
12 right now if, in fact, you, you followed the advice  
13 of the OCC. You would have money that is flowing on  
14 SCO auctions to some counties and not to others with  
15 no -- no plausible explanation for that difference.

16 I think uniformity and tax policy is such  
17 that taxes ought to be considered a red herring  
18 issue. Taxes are the -- are basically the arena for  
19 the General Assembly, not the Public Utilities  
20 Commission. Find the lowest cost gas pretax.

21 The other issue is customer confusion,  
22 and the customer confusion issue comes down to one  
23 factor; if there is a name on the bill that tells you  
24 where the supply is coming from, the Consumers'  
25 Counsel's concerned that will cause confusion.



1           Isn't it just as likely to say won't  
2     there be confusion if you get a bill and you don't  
3     know where the gas is coming from? How can the  
4     information of where the supply is coming from be  
5     confusing?

6           In sum, the test is simple, which --  
7     which system, SCO or SSO, provides anticipated  
8     benefits when you look at both the monetary and  
9     nonmonetary benefits that will flow? The answer is  
10    clearly the SCO. Thank you.

11           EXAMINER WILLEY: Thank you.

12           Mr. Royer?

13           MR. ROYER: Thank you, your Honor.

14           As Mr. Petricoff has eloquently pointed  
15    out, OCC has proposed a standard for judging SSOs  
16    versus SCOs that has no basis in the statute, in the  
17    Commission's rules, or any Commission order.

18           The statute they propose is incapable of  
19    being satisfied and I believe Mr. -- I believe my  
20    cross-examination of Mr. -- of Mr. Hayes showed even  
21    OCC's witnesses don't have any idea of how one would  
22    apply it.

23           Mr. Petricoff pointed out that you can't  
24    quantify a future -- a future event, that's true, but  
25    that's only part of the problem with the standard.



1           The second part is you can't -- you  
2 cannot analyze comparative benefits when you don't  
3 have both outcomes before you. So not only can't you  
4 quantify what will happen under an SCO auction, you  
5 cannot -- you have nothing to compare it to because  
6 you don't know what would happen under a  
7 contemporaneous SCO auction, and that's going to be  
8 true -- that would be true no matter which one you  
9 pick.

10           The other -- the other result won't be  
11 there. So this test is simply impossible to apply.  
12 So what -- so what should the marketers, the staff,  
13 and the company have -- what did they show the  
14 Commission?

15           Well, the Commission says we want to see  
16 what the -- we want -- it's incumbent upon you to  
17 show the anticipated benefits to be derived from an  
18 SCO auction, and that's been shown. Can you quantify  
19 them? No. And that shouldn't be the question.

20           The question should be should the various  
21 factors cited by Mr. Parisi, for example, as to why  
22 he believes that -- that the SCO approach has  
23 benefit, is that likely to translate into -- into a  
24 lower alternate price for the customer and we  
25 think -- I think it's clear that the record shows and



1     that that's the case, that is the very reasonable  
2     expectation and there is no reason to believe it  
3     would transfer into a higher -- higher price for the  
4     customer. That is clearly not the case.

5             With respect to the -- and I agree  
6     totally with Mr. Petricoff, we have two red herring  
7     issues in this case. The tax issues I will come at  
8     differently.

9             I know that Mr. Cahaan is well known for  
10    waxing eloquent on these -- on these subjects of  
11    societal benefit but let's just look at the dollars  
12    and cents.

13            Obviously if you have -- if you -- the  
14    assumption the tax paid by the customer will be  
15    higher under an SSO is based on the premise that you  
16    have the same price out of an SSO auction as you have  
17    at an SCO auction. We dispute that. That's the  
18    fundamental issue here.

19            As Mr. Puican points out, the SCO only  
20    needs to meet the SSO I believe he said by 13 cents  
21    for that -- for that issue to go away. And we think  
22    that the record shows that's what's going to happen  
23    so -- so these claims about the higher tax rate  
24    really have nothing to do with the issue involved.

25            The question is how much will the



1 customers pay the dollars -- the dollars in taxes  
2 will be determined by both the tax rate and by the  
3 base to which they are applied. And we can't know  
4 that number now because there is reason to believe  
5 that the SCO number will be lower.

6 Now, Mr. -- also with respect to the  
7 customer confusion, red herring. I think that's  
8 also -- also totally clear that even if customers are  
9 confused, they don't care when -- they are  
10 indifferent between whether they have an SSO or SCO  
11 auction as long as they get the best at the deal, and  
12 that's the objective here is to give the customer the  
13 best deal so -- so the fact they may be confused  
14 doesn't have anything to do with the fact of the  
15 price they'll pay which hopefully will be the lowest  
16 price available.

17 Now, the final point I would like to make  
18 is that -- is OCC's continued reference to the prices  
19 under the two scenario -- the two occasions in the  
20 Dominion East Ohio scenarios where the SCO RPA  
21 equaled the SSO RPA.

22 What we don't have is -- is information  
23 as to what the SSO RPA would have been if there were  
24 no SCO auction conducted at the same time.  
25 Mr. Puican -- as Mr. Puican explained, he believes it



1 was the fact that those two events -- those two  
2 auctions were held at the same time is what drove the  
3 SSO price lower than it otherwise would have been.

4 We can't prove that. Can we prove it  
5 going forward? No, we can't prove it. That that's  
6 what will happen or that that's, you know -- we can't  
7 prove that that's what happened then and we can't  
8 prove going forward that the SCO will -- will be --  
9 will definitely be lower than the SSO, but we can say  
10 that based on the evidence in this record, those are  
11 reasonable assumptions for the Commission to make.

12 Thank you.

13 EXAMINER WILLEY: Thank you.

14 Mr. Reilly?

15 MR. REILLY: Thank you, your Honor.

16 I'm not going to repeat what  
17 Mr. Petricoff and Mr. Royer said. Staff would agree  
18 with all of it and it's the reason staff -- and those  
19 are the reasons the staff are recommending the  
20 Commission proceed with an SSO -- SCO auction, that  
21 the Commission proceed with Columbia -- that Columbia  
22 proceed with an SCO auction beginning in 2012.

23 The record as it's been said very clearly  
24 identified the benefits to the extent they could be  
25 identified by anyone.



1           You have the opinion of at least four  
2 experts attesting to the benefits of the SCO auction  
3 and opining essentially that the SCO auction is -- is  
4 superior to the SSO auction. I think that gives the  
5 Commission more than enough basis to find that the  
6 SCO auction should proceed.

7           I would like to focus for a second on  
8 Mr. -- Mr. Puican's study which has been the subject  
9 of some debate. I would say that with the  
10 qualification that quantification is not the standard  
11 here. Staff does not believe it is. But Mr. Puican  
12 performed the only quantification that exists in this  
13 case and it is -- it was a well thought out and very  
14 rational quantification and I would like to go over  
15 it with you for just a moment.

16           There's been a lot of talk here  
17 particularly by OCC about market factors. Mr.  
18 Puican's study accounted for those market facts or  
19 market factors. He recognized market factors can  
20 vary. But he did not try to analyze each specific  
21 factor, I'm not sure -- it wasn't practically  
22 possible.

23           But by the way he conducted the study he  
24 had -- he accounted for them as he testified. And  
25 what he did, he created a -- just to go over it



1 again, a cross-sectional study across three  
2 companies.

3 What it did was to determine in each --  
4 in 2010 what the drop was between 2010 and 2011 in  
5 rates. In -- and then it compared that drop. What  
6 it did in effect was normalize the market conditions  
7 over time and the differences between companies  
8 because the differences between companies he was  
9 looking for -- at the year 2010 versus 2011 within  
10 each company. And he was looking at the amount of  
11 the decrease in the rate.

12 The differences in the companies didn't  
13 matter. Because he was just looking at the decrease  
14 in the rate and then comparing that decrease across  
15 years that normalized market conditions and it  
16 normalized the differences in companies.

17 In short, it provided a method, it  
18 provided the only testimony and the only study on the  
19 effect of the SCO and the SSO and it showed the SCO  
20 was superior.

21 The complaints against that study are  
22 that it did not consider enough. There was no  
23 alternatives. To state the obvious, there were no  
24 alternative studies provided. There was not even an  
25 alternative study suggested.



1           It was just a statement you could have  
2       looked at these various other factors, and as  
3       Mr. Royer's cross pointed out, they couldn't look at  
4       these other factors.

5           In short, Mr. Puican's study produced the  
6       only -- the only quantifiable method possible,  
7       certainly the only qualifiable method -- it was  
8       certainly a legitimate quantifiable method to  
9       identify the differences between the -- the potential  
10      differences between the SSO and the SCO as things  
11      stand now.

12           I would like to also talk about just for  
13      a second about the tax -- tax difference. You, of  
14      course, can't look at any item in a vacuum. You have  
15      to look at the whole -- the whole potential effect.  
16      Mr. Puican did that as everybody here knows. And he  
17      considered that even with the tax differential the  
18      SCO is -- is superior to the SSO.

19           I believe his tax call -- his calculation  
20      with regard to the -- to the amount of the tax of 12  
21      cents is unrebutted. His 15 cents benefit of the SCO  
22      over the SSO comes right out of the study that I just  
23      discussed which shows a clear benefit to the SCO.  
24      The 15 cents difference, as he says, is a  
25      conservative estimate of the added market value of



1 the SCO.

2 Where we are at the end is that you have  
3 four experts opining for the S -- for the SCO. You  
4 have the only quantified study showing the SCO to be  
5 superior. The only -- the only attack on those  
6 positions are really it isn't enough. There hasn't  
7 even been rebuttal as to that.

8 There is more than enough evidence, as a  
9 matter of fact, the weight of the evidence is on the  
10 basis that the Commission should allow -- should  
11 order Columbia to proceed with the SCO and that's  
12 what the staff recommends. Thank you.

13 EXAMINER WILLEY: Thank you.

14 Ms. Leslie?

15 MS. LESLIE: Thank you. The Commission  
16 should authorize Columbia to proceed with the SCO  
17 auction pursuant to the joint stipulation filed in  
18 this docket on October 7, 2009, for several reasons.

19 First, the SCO is that key component of  
20 the stipulation signed by a wide array of parties,  
21 including marketers, staff, and representatives of a  
22 diverse cross-section of Columbia customers.

23 Second, Columbia and the other proponents  
24 of the SCO have articulated the anticipated benefits  
25 of an SCO auction which include a more competitive



1 and saturated group of marketers which results in a  
2 lower price for customers. These anticipated  
3 benefits outweigh any perceived tax consequences.

4 Finally, transition to the SCO promotes  
5 the state energy policy by enhancing competition in  
6 Ohio.

7 The parties to this case entered into a  
8 stipulation in October of 2009 and the Commission  
9 approved that stipulation in December, 2009. The  
10 stipulation provided for two SSO auctions followed by  
11 an SCO auction.

12 The Commission approved the stipulation  
13 as a whole, including that transition to an SCO  
14 auction. The Commission did provide, however, that  
15 any party objecting to the transition may do so at  
16 the time of the transition, thus requiring the  
17 proponents of the SCO to articulate anticipated  
18 benefits of an SCO.

19 The OCC has asserted that the proponents  
20 of the auction have not articulated an objective,  
21 quantifiable, tangible benefits; however, this is the  
22 standard that the OCC itself, as pointed out by my  
23 colleague, has imposed on Columbia and the other  
24 proponents of the SCO.

25 This is a standard that none of the OCC



1 witnesses themselves could describe with any clarity  
2 or any certainty. This is not the standard  
3 articulated by this Commission in its opinion and  
4 order adopting the stipulation.

5 Again, the Commission ordered Columbia  
6 and the proponents of the SCO to articulate the  
7 anticipated benefits. Despite the OCC's effort to  
8 muddy the waters with its own standards, the  
9 proponents of the SCO have, in fact, demonstrated  
10 through the prefiled testimony and the testimony  
11 elicited during these two days of this proceeding the  
12 anticipate benefits of an SCO.

13 I think the testimony of Mr. Puican  
14 highlights the benefits of an SCO most clearly and  
15 most quantifiable, and Mr. Puican's testimony is  
16 based on his experience and analysis with the other  
17 two Ohio LDCs that have actually already implemented  
18 SCO auctions.

19 One of the benefits of the SCO auction  
20 that is -- that has produced variable results is that  
21 there's a heightened interest by marketers to  
22 participate in a program that gives a direct retail  
23 relationship with a customer.

24 The OCC has discredited this as a benefit  
25 but it's important to know why -- to understand the



1 benefit of having a heightened interest by marketers.

2 In the last SCO auction by Dominion which  
3 produced a \$1 adder, there were 16 bidders so  
4 obviously the more marketers that participate in the  
5 auction the lower the price is likely to be. So the  
6 marketer interest is an extremely important aspect  
7 and benefit of an SCO auction.

8 Mr. Puican also testified that, in fact,  
9 the RPA adder has decreased and the two companies  
10 that have implemented an SCO auction and expects the  
11 same thing to happen for Columbia.

12 Now, the OCC has tried to argue that  
13 there are lots of marketers who don't support the SCO  
14 auction. But as Mr. Petricoff so aptly pointed out,  
15 none of those people are sitting here today and if  
16 there was such an opposition by different marketers  
17 and suppliers to a transition to the SCO auction,  
18 they would be here stating their objections.

19 Mr. Slone attempted to discredit  
20 Mr. Puican's testimony that the implementation of an  
21 SCO auction has caused the decrease in the adder for  
22 both an SCO and SSO by stating that there are other  
23 factors that could have caused the decrease in price.

24 However, he didn't provide any evidence  
25 that those other factors have, in fact, played a role



1 in the amount of marketers that are willing to bid on  
2 natural gas.

3 Mr. Parisi testified on behalf of OGMG  
4 that marketers are indeed more attracted to a company  
5 that has an SCO because it is more effective and  
6 efficient and it's more attractive for a marketer to  
7 have a direct retail relationship.

8 The OCC offered nothing to rebut the  
9 testimony that marketers are the proponents of an  
10 SCO. Again, the more marketers that are attracted to  
11 an LDC that has an SCO, the lower the RPA adder is  
12 likely to be. OCC did not present any credible  
13 evidence that the SCO has produced an adder that is  
14 lower than that of an SSO.

15 On cross-examination Mr. Slone admitted  
16 that his only basis for asserting that an SCO could  
17 potentially produce a higher rate is the tax  
18 differential issue. And I would like to point out as  
19 Mr. Puican -- as Mr. Petricoff pointed out, that this  
20 is -- this tax differential is being paid by the  
21 folks of Cuyahoga County who are customers of  
22 Dominion East Ohio.

23 There is no reason why the customers of  
24 Columbia Gas and those in Franklin County cannot  
25 continue to pay the sales tax. Further, according to



1 Mr. Hayes it isn't necessarily the tax increase that  
2 OCC disputes. It's the vehicle by which his tax is  
3 collected which in this case just happens to be a  
4 sales tax on the SCO price.

5 Notwithstanding that fact just because  
6 the sales tax rate is higher with the SCO than the  
7 gross receipts tax of an SSO this does not mean that  
8 the overall cost of the customer is going to be  
9 higher.

10 Mr. Puican presented ample testimony in  
11 order to offset the tax differential the auction  
12 results would need to produce a 13 percent premium.  
13 Mr. Puican's expertise and experience with the other  
14 two LDCs' SCO auctions, pursuant that experience he  
15 opines that COH's SCO auction results will likely  
16 more than make up the tax differential.

17 There are other benefits to Columbia to  
18 Columbia's SCO auction and transitioning to that.  
19 There is Commission oversight. The Commission must  
20 certify those who are participating in the SCO  
21 auction. The Commission also must approve the final  
22 price.

23 Finally, the SCO auction promotes the  
24 state energy policy. It encourages competition. You  
25 had a representative of the marketers state



1        emphatically that they are more attracted to  
2        companies that have an SCO.

3                OCC did nothing to rebut this notion and  
4        has made blanket assertions that wholesale  
5        retailers -- wholesale suppliers are against this  
6        without offering any testimony.

7                And I will just briefly touch on the  
8        issue of customer confusion. The OCC has provided no  
9        evidence there had been any sort of customer  
10       confusion with a transition to an SCO.

11               Further, the OCC is a stakeholder in  
12       Columbia's auction -- auction process and will have  
13       input into the customer education that Columbia plans  
14       on spending the \$380,000, they will have input how  
15       that customer education is pursued.

16               The staff and OCC have already been  
17       through this customer education process with the  
18       other two LDCs, and based on that experience the  
19       staff and the OCC can help minimize any customer  
20       confusion in this case.

21               The Commission should reaffirm its  
22       rendition to the SCO that it approved in the  
23       stipulation in this case. This is a proven model  
24       that is producing savings of customers of the other  
25       LDCs.



1           Since the implementation of the SCO  
2     Dominion's adder has gone down 60 percent of the GCR  
3     and the dollar adder. Columbia cannot understand why  
4     the OCC would be against such an opportunity to -- to  
5     receive that low of a price for its customers.

6           Columbia requests the Commission to  
7     proceed with the SCO auction beginning in 2012 and  
8     continuing each year thereafter unless otherwise  
9     ordered by this Commission.

10           EXAMINER WILLEY: Thank you.

11           Mr. Serio?

12           MR. SERIO: Thank you, your Honor. OCC  
13     has been criticized because we have subjected --  
14     we've suggested the standard of objective, tangible,  
15     or quantifiable benefits.

16           When we look at it, what's so bad about  
17     an objective standard? One that's fact based instead  
18     of one that's based on opinion?

19           We would like to see a tangible or  
20     quantifiable benefit so that it can actually be  
21     quantified so that instead of looking at an amorphous  
22     claim we are looking at an actual fact.

23           Mr. Parisi was -- it's indicated he  
24     pointed out these benefits that were not quantified  
25     by the marketers and more efficiency and greater



1 customer contact.

2 If we look at those at -- as benefits to  
3 the marketer, then, again, in the two Dominion  
4 auctions the marketers benefited from greater  
5 efficiency and from greater customer contact, but the  
6 end result was that the SSO price was the same as the  
7 SCO price.

8 There has been a lot of criticism of  
9 other marketers that aren't here today but it's worth  
10 noting of the nine marketers that are here today,  
11 they dominate the Columbia Choice Program. And if  
12 they can -- if they get the Commission to agree to go  
13 to an SCO market, they can keep other marketers that  
14 don't want to be CRNGS certified or that don't have a  
15 business plan that takes into account a retail  
16 relationship.

17 It would force them out of the market  
18 they dominate. Clearly the intent is to keep the  
19 market for themselves.

20 The tax issue has been called a red  
21 herring. Taxpayers call taxes a lot of things, but  
22 the bottom line is they have to be paid, and  
23 customers under an SCO are going to pay a higher tax  
24 rate than under an SSO.

25 It's noteworthy that in the Dominion



1 situation where you've got the two auctions that  
2 occur, PIPP customers and non-Choice eligible  
3 customers are guaranteed the lower tax rate but that  
4 customers that are Choice eligible have to pay the  
5 higher tax rate.

6 The message that this sends to customers  
7 is if you want to pay the lower tax rate, get on the  
8 plan so you are non-Choice eligible and you get to  
9 pay the lower tax rate.

10 Absolutely a ridiculous turn of events  
11 but if you are a customer that doesn't want to pay  
12 the higher tax rate, that's the only avenue you would  
13 have left.

14 There's been discussion that there's no  
15 customer confusion, and even if there is customer  
16 confusion, if they get a better deal, what does it  
17 matter?

18 Well, there is a lot of customers that  
19 are not Choice customers and have preferred to stay  
20 at the default service. Some of those customers have  
21 done so because they have had bad experiences with  
22 Choice. They've looked at Choice, they don't like  
23 Choice, they don't want Choice.

24 If you end up in an SCO, those customers  
25 that made that decision are going to see a marketer



1 name on their bill and the message they get, even  
2 though I didn't want this, even though I don't like  
3 it, somehow I've been forced to do this. Those  
4 customers end up confused as to what's going on.

5 To the extent there has been customer  
6 confusion in the Vectren and Dominion case, that's a  
7 matter of the record and it's clear that if customers  
8 don't understand what's going on, customers can end  
9 up making bad decisions for the wrong reasons.

10 And to the extent the customers then end  
11 up making bad decisions for wrong reasons, customers  
12 end up paying more than they should otherwise have to  
13 pay and, again, that would violate the intent of  
14 providing reasonably priced service to customers.

15 Mr. Puican's study essentially says this  
16 is a 20 cent drop in the rate in the RPA with  
17 Dominion and Vectren and only a 5 cent drop for  
18 Columbia, therefore, we should compare that 20 cents  
19 to the 5 cents and conclude that because the 20 cents  
20 is greater, that's a benefit to the SCO.

21 That ignores the fact that there are  
22 factors that impact Columbia that may not impact the  
23 other companies that would keep the Columbia RPA from  
24 dropping as much as happened with Vectren and  
25 Dominion.



1           For example, Columbia requires cash  
2 collateral that may be different from what the other  
3 companies do. Mr. Puican acknowledged that that was  
4 a cost that the marketers have to factor into their  
5 bidding.

6           To the extent that is a factor that does  
7 not exist for Dominion and Vectren then at a cost  
8 that is factored into Columbia, so it eats up some of  
9 that differential.

10           If the tax difference is 3 cents, then  
11 there is only a -- the difference between 7 cents and  
12 the nickel that Columbia dropped. OCC points out the  
13 numerous factors that could impact a marketer's bid.

14           Mr. Parisi acknowledged that all those  
15 factors could impact the bid and to say that those  
16 factors will not have an impact of 5 to an additional  
17 10 to 15 cents ignores the fact that those are real  
18 factors that impact customers and need to be taken  
19 into account.

20           The SCO does not provide additional  
21 benefits. The Commission shall retain the SSO.  
22 Thank you.

23           EXAMINER WILLEY: Thank you.

24           Mr. Rinebolt?

25           MR. RINEBOLT: It's been interesting,



1 your Honor, to sit here and listen to the staff and  
2 the marketers and the company attack OCC for its  
3 positions.

4 I was have emerged from this oral  
5 argument relatively unscathed, so I would like to  
6 assume that that's just because all the parties agree  
7 with us.

8 That being said, I do appreciate  
9 Mr. Petricoff bringing up section 4929.02(A)(7) of  
10 the state policies of the state of Ohio regarding  
11 natural gas. Because I think it's such an important  
12 provision let me mention it one more time.

13 7, "promote the expeditious transition to  
14 the provision of natural gas services and goods in a  
15 manner that achieves effective competition in  
16 transactions between willing buyers and willing  
17 sellers to reduce or eliminate the need for  
18 regulation of natural gas services and goods under  
19 Chapters 4905 and 4909 of the Revised Code."

20 Now, it's undisputed in this proceeding  
21 that an SSO produces effective competition in  
22 determining a retail price for natural gas services  
23 for customers who have chosen not to choose. It has  
24 eliminated the need for regulation of that price.

25 The Commission has suspended the



1 traditional GCR audit. The price produced by the  
2 auction which the Commission oversees is the price  
3 and that's what customers pay and clearly affective  
4 competition has occurred in these auctions.

5 Now, the one part of the phrase though  
6 that's -- that's curious is the transactions between  
7 willing buyers and willing sellers. When Mr. Parisi  
8 was on the stand, I asked him at the end of my  
9 questioning whether a marketer could serve a customer  
10 in a Choice Program without that customer's  
11 authorization, without that customer signing a  
12 contract or talking on the phone and acknowledging  
13 that they would enter into a retail relationship.

14 He said obviously they can't serve a  
15 customer unless you do that. And so that means that  
16 follows the requirements of willing buyers and  
17 willing sellers.

18 In this case we are essentially going to  
19 administratively substitute judgment for that of a  
20 purchaser who has chosen not to have a retail  
21 relationship with a customer or with a marketer and  
22 we are going to substitute administratively a  
23 determination that somehow a customer who does not  
24 want to shop is a willing customer of a willing buyer  
25 who wins this auction.



1           That's administrative slamming. This  
2 state shouldn't stand for that. And I urge you to  
3 reject the SCO auction.

4           EXAMINER WILLEY: Thank you.

5           Mr. Petricoff?

6           MR. PETRICOFF: Yes, thank you.

7           Well, I certainly don't want Mr. Rinebolt  
8 to go away and think he has not been fully heard and  
9 there is no response to his positions.

10          Since this is rebuttal I am just going to  
11 focus on three or four issues that were made in the  
12 comments that I think deserve rebuttal.

13          The first one is Mr. Rinebolt and his --  
14 in his opening remarks indicated that 4929.02(A)(2)  
15 somehow promoted both wholesale and retail offers to  
16 customers. I think that's incorrect.

17          A precise reading indicates that  
18 subsection (A)(2) basically says that those who buy  
19 wholesale should -- should have available services  
20 and goods and those who buy retail should be able to  
21 buy wholesale and I think this -- this section was  
22 decided to promote a robust wholesale market to  
23 supply those who are supplying retail.

24          And it shouldn't be confused with  
25 creating some type of right to -- if you're retail to



1 buy wholesale.

2 The second is on paragraph 7, the idea is  
3 to when you read this is to reduce or eliminate the  
4 need for regulation to the degree we move from having  
5 the company award undivided portions of the demand  
6 every day to the suppliers, to having the suppliers  
7 take those customers and track them, reducing the  
8 portion that is going to be subject to -- to  
9 regulation because the utility is subjected to  
10 regulation, so I think it is very much in line, SCO  
11 is very much in line in paragraph 7.

12 In terms of Mr. Serio's comment about the  
13 only people here are the ones who participate in this  
14 and dominate the market, I guess my advice to you is  
15 if you are designing a system, the people you should  
16 ask their opinion for are the people who participate  
17 because they are the ones who are likely to come  
18 back. You certainly should listen to those who would  
19 as participate as opposed to listening to those who  
20 don't participate.

21 And the last thing is just on -- on the  
22 idea of the taxes. And I want to point out again  
23 what a slippery slope you are taking the Commission  
24 down if you say we need to consider the efficiency in  
25 buying -- I am using "efficiency" in the economic



1     sense to post-tax considerations as opposed to  
2     pretax.

3                 This is the Public Utilities Commission.  
4     The job should be to find out how natural gas can be  
5     procured at the lowest price at the time of the  
6     transaction, at the time of the transaction is -- is  
7     purchasing either at the end of the SCO auction or  
8     the SSO auction.

9                 If you wait and try to do it post-tax,  
10    then you have to sit there and think about all the  
11    taxes that will happen if we do this, and we do a  
12    quantification and say right now it's 15 cents, the  
13    savings here, 3 cents tax, it's going to be cheaper.

14                What if tomorrow the good people of  
15    Franklin County decide instead of a half a mill it  
16    should be three quarters of a mill to COTA? That  
17    reverses it. Should we go back and reverse how we  
18    procure gas? No.

19                The subject of taxing should be left to  
20    the General Assembly, should be left to people who  
21    are elected by the public or in the case of most  
22    sales taxes, by the public themselves how they are  
23    going to be taxed.

24                The Commission ought to concentrate on  
25    what is the most efficient means of procurement and



1 that is done at the end of the auction, not after  
2 consideration of all the post-purchase taxes. Thank  
3 you.

4 EXAMINER WILLEY: Thank you.

5 Mr. Royer?

6 MR. ROYER: Yes, just very briefly,  
7 Mr. Rinebolt, there is another tale to consider,  
8 there is another reason why nobody may have responded  
9 to anything you said, but he and I will talk about  
10 that over cocktails later.

11 MR. RINEBOLT: And I'll look forward to  
12 that.

13 MR. ROYER: There were two points I  
14 wanted to make. First, in sort of in reverse order  
15 Mr. Serio, again, raised this notion that customer  
16 confusion over seeing the marketer's name on their  
17 bill as their SSO.

18 Supplier will result in customers  
19 making -- may result in customers making poor  
20 decisions. But I think as we -- as we discussed with  
21 the OCC witnesses, the customers don't make any  
22 decisions in terms of who their supplier is going to  
23 be if they are going to be a default customer, and  
24 that's true whether it's an SCO customer or an SSO  
25 customer. So again, that's a total red herring.



1           Second, OCC, where are the facts? Where  
2           is the evidence of the benefit? And I think it's  
3           just wrong to say that there is no facts in this  
4           record that show that there -- show their benefits.

5           The problem is you can't quantify the  
6           benefits with the degree of mathematical certainty  
7           that apparently the OCC witnesses believe is  
8           required, but there are facts.

9           The fact is that in the SCO auction it  
10          proved -- it drew a whole slew of participants, more  
11          than the SSO auction has drawn, and if you believe --  
12          if you believe those that study auction behavior,  
13          that should translate in direct -- the more  
14          participants the more competition and the lower the  
15          price that should result.

16          So that's -- that's a very important  
17          fact. So other than that, I would basically stand on  
18          what we have said all along. The Commission asked us  
19          to show the benefits anticipated under an SCO. Those  
20          have been shown.

21          OCC wants us to quantify the benefits,  
22          can't be done. They couldn't tell us even how to do  
23          it. So they put up an impossible test and then  
24          accused us of not meeting it, and I think that's  
25          wrong. It should be rejected, and the Commission



1 should follow the stipulation. Thank you.

2 EXAMINER WILLEY: Thank you.

3 Mr. Reilly?

4 MR. REILLY: Thank you, your Honor. I  
5 would just like to highlight one or two things.  
6 First, there was discussion with Mr. Serio about the  
7 Columbia cash bond. Now, I want -- what I was  
8 talking about before, which is probably almost the  
9 brilliance of Mr. Puican's study.

10 This was a study, a cross-sectional  
11 study, to eliminate those types of problems. The  
12 cash bond was required -- Columbia required in 2010  
13 and 2011 the cash bond, therefore, it was the same  
14 cash bond. It had nothing to do with the decrease  
15 that -- that was seen in 2010 and 2011. It was the  
16 same cash bond.

17 So he -- when he was comparing the  
18 decrease, which is what his study did, comparing the  
19 decrease across -- across companies, he eliminated  
20 the cash bond as a factor.

21 The other point I would make is that  
22 Mr. Serio's -- Mr. Serio -- Mr. Puican's study was by  
23 his own statement an attempt to -- he developed what  
24 he called a conservative estimate of the added value  
25 of the SCO.



1           It was not a -- it was a conservative  
2       estimate designed to -- to obtain a degree of  
3       certainty as to the SCO would be of benefit even  
4       considering the tax -- the tax factors. That we hope  
5       that clarifies -- clarifies things with regard to the  
6       study. Thank you.

7           EXAMINER WILLEY: Thank you.

8           Ms. Leslie?

9           MS. LESLIE: Just a few more points. I  
10      just want to address the concern that Mr. Serio had  
11      about the incremental IT costs and customer education  
12      costs.

13           Mr. Serio indicated that the IT costs  
14      would offset any savings that could be withstood from  
15      an SCO auction, and I did want to point out, as the  
16      testimony had indicated, that IT costs is a one-time  
17      cost of one tenth of one cent per ccf per customer.  
18      That's a one-time cost, and the second is the  
19      customer education cost.

20           Well, that's another one-time cost of  
21      \$380,000 and the customer education costs are  
22      something that the OCC would opine are somewhat  
23      important in this case given their focus on customer  
24      confusion in this case, and Columbia would suggest  
25      that the OCC remain an active participant -- active



1 participant in advising Columbia on how best to spend  
2 those customer education costs.

3 The bottom line is that Dominion and  
4 Vectren have seen a decrease in its RPA adder with  
5 the implementation with the SCO auction. It's  
6 impossible to know the exact reasons for this  
7 decrease.

8 Yes, there could have been other factors  
9 but it's also very reasonable to decrease because of  
10 the SCO auction, because of that transition to the  
11 SCO auction.

12 Dominion's adder is now 60 percent lower  
13 than its GCR average, and Columbia simply urges this  
14 Commission to allow its customers to recognize those  
15 similar savings.

16 EXAMINER WILLEY: Thank you.

17 Is there anything further to come before  
18 us today?

19 Hearing nothing, we are adjourned. Thank  
20 you.

21 (The hearing was adjourned at 4:44 p.m.)

22 - - -  
23  
24  
25



CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Monday, July 18, 2011, and carefully compared with my original stenographic notes.

---

Karen Sue Gibson, Registered  
Merit Reporter.

(KSG-5386)

- - -



**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**7/19/2011 9:07:59 AM**

**in**

**Case No(s). 08-1344-GA-EXM**

Summary: Transcript Transcript of proceedings, VOL II from 7/18/11 electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.