BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of Columbus Southern Power Company for Approval of an Electric Security Plan; an Amendment to Its Corporate Separation Plan; and the Sale or Transfer of Certain Generating Assets.	:	Case No. 08-917-EL-SSO
In the Matter of the Application of Ohio Power Company for Approval of Its Electric Security Plan; and an Amendment to Its Corporate Separation Plan.	:	Case No. 08-918-EL-SSO

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PROCEEDINGS

before Ms. Greta See and Ms. Sarah Parrot, Attorney Examiners, at the Public Utilities Commission of Ohio, 180 East Broad Street, Room 11-A, Columbus, Ohio, called at 9 a.m. on Thursday, July 21, 2011.

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VOLUME IV

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On behalf of the Ohio Hospital Association.

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Thursday Morning Session,
July 21, 2011.

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EXAMINER SEE: Scheduled for hearing today at this time is Case Nos. 08-917-EL-SSO and 08-918-EL-SSO. Assigned by the Commission to hear these proceedings are myself, Greta See, and Sarah Parrot.

At this time I'd like to take brief appearances of the parties present today starting with the company and going around the room.

MR. NOURSE: Thank you, your Honor, on behalf of the company, Steven T. Nourse, Matthew J. Satterwhite, and Daniel R. Conway.

MS. GRADY: On behalf of the residential customers of OCC, Maureen R. Grady and Jeffrey L. Small.

MS. KYLER: On behalf of Ohio Energy Group, Jody M. Kyler.

MS. MOONEY: On behalf of Ohio Partners for Affordable Energy, Colleen Mooney.

MR. DARR: On behalf of IEU-Ohio, Frank Darr and Joe Oliker.

MR. JONES: On behalf of the Commission staff, Vern Margard and John Jones.

MS. KALEPS-CLARK: On behalf of Constellation NewEnergy and Constellation Energy Commodities Group, Lija Kaleps-Clark from the law firm of Vorys, Sater, Seymour & Pease.

MS. HAND: On behalf of Ormet Primary Aluminum Corporation, Emma F. Hand.

MR. YURICK: On behalf of the Kroger Company, Mark Yurick, your Honors.

MR. CONWAY: Couldn't hear that.

EXAMINER SEE: Yes, you're going to have to speak up, Mr. Yurick.

MR. YURICK: Sorry, your Honor. I apologize.

EXAMINER SEE: Ms. Grady.

MS. GRADY: Thank you, your Honor. Your Honor, at this time the Office of Consumers' Counsel calls Mack A. Thompson to the stand.

EXAMINER SEE: Mr. Thompson, if you'd please raise your right hand.

(Witness sworn.)

EXAMINER SEE: Ms. Grady.

MS. GRADY: Thank you.

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MACK A. THOMPSON

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

DIRECT EXAMINATION

By Ms. Grady:

Q. Good morning, Mr. Thompson.

A. Good morning.

Q. Can you say for the record by whom you are employed and in what capacity, please?

A. The Office of the Ohio Consumers' Counsel as a senior energy policy analyst.

Q. Mr. Thompson --

MS. GRADY: Your Honor, at this time I would like marked as OCC Remand Exhibit No. 1 the direct testimony on remand of Mack A. Thompson filed June 30th, 2011.

(EXHIBIT MARKED FOR IDENTIFICATION.)

Q. Mr. Thompson, do you have what has been marked for identification purposes as OCC Exhibit 1?

A. Yes.

Q. Can you identify that document for me, please?

A. That is my prefiled testimony in this case.

Q. Mr. Thompson, was that document prepared by you or under your direct supervision?

A. Yes.

Q. Do you have any additions, corrections, or deletions to that document?

A. No.

Q. Mr. Thompson, if I were to ask you the questions that are posed in OCC Remand Exhibit No. 1 today, would your answers be the same?

A. Yes.

MS. GRADY: Your Honor, at this time I would offer Mr. Thompson up for cross-examination and move for the admission of OCC Remand Exhibit No. 1.

EXAMINER SEE: We're going to start on this side of the room.

MR. YURICK: No questions at this time, your Honor.

MS. HAND: No questions, your Honor.

MS. KALEPS-CLARK: No questions, your Honor.

MR. JONES: No questions, your Honor.

MR. DARR: No, your Honor.

MS. MOONEY: No questions.

MS. KYLER: No questions, your Honor.

EXAMINER SEE: And on behalf of the company, Mr. Conway?

MR. CONWAY: Thank you, your Honor.

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CROSS-EXAMINATION

By Mr. Conway:

Q. Good morning, Mr. Thompson.

A. Good morning.

Q. We spoke before at your deposition, I'm Dan Conway. I'm representing the AEP-Ohio companies. I do have a number of questions for you. If you don't understand the question or can't hear me, please let me know.

At the outset, Mr. Thompson, could you turn to page 8 of your testimony at question and answer No. 11.

A. Yes.

Q. And at this point in your testimony you're describing the company's provider-of-last-resort obligation, how it derives from state statutes, and then you make several statements about the nature of the POLR obligation based on your reading of those statutes; is that a fair recap of what you're doing here?

A. Yes.

Q. And your conclusion that an EDU's POLR obligation is not statutorily linked to the rights of customers to switch to a CRES provider, that is not a legal conclusion that you're offering here, is it?

A. That is correct.

Q. And it's just your lay understanding or opinion based on your reading of the statutory language; is that right?

A. Yes, it is.

Q. And is it also based on the advice of your counsel?

A. I read the statute, drew my own conclusions, and they were confirmed by counsel.

Q. Just to sum it up, you're not attempting to provide a legal opinion about what the nature of the POLR obligation is, are you?

A. I'm not offering a legal opinion.

Q. A few questions about your views of migration risk, Mr. Thompson. And specifically, as a matter of reference, question and answer No. 15, page 11.

A. I'm there.

Q. You state on page 11 in the last sentence of that full answer, answer No. 15, that "The revenue lost due to switching is a consequence of operating in a competitive market," and that "It is not a risk that is unique to a distribution company providing

POLR service." Do you see that?

A. Yes, I do.

Q. And your position is that the EDU is a competitor in the market for retail generation service just like the CRES provider is a competitor in that market; is that right?

A. Yes.

Q. And as competitors, in your view, they stand on an equal footing with regard to the migration risk, right?

A. I believe their migration risk is comparable. I don't know that it's exactly equal, but I believe they are comparable.

Q. And just so we understand each other, and the record understands us, by "migration risk" you are referring to the risk that an existing customer may leave the supplier's generation service and then obtain that service from some competitive alternative, right?

A. Yes.

Q. And, again, your position is that as far as the EDU is concerned that migration risk is not a POLR risk, right?

A. That's correct.

Q. Now, a CRES provider, the nature of their obligations and opportunities, the CRES provider doesn't have an obligation to provide generation service to all customers who take wire service from AEP-Ohio, does it?

A. No. Nor do they have the advantage that goes with being the EDU and starting with a customer base.

Q. And the CRES is not required to serve all customers of AEP-Ohio that have not switched away from AEP-Ohio standard service offer generation service; is that right?

A. Can you rephrase the question?

Q. The CRES isn't required to serve all the customers that AEP-Ohio is serving that have not already switched away from AEP-Ohio's standard service offer.

A. An individual CRES is not required to serve all the customers. In aggregate I believe all the CRESs would in aggregate serve those customers.

Q. Well, maybe I didn't make myself clear. My point is simply that all the customers that are with the EDU's standard service offer at a point in time, any CRES provider -- the CRES provider is not required, doesn't have an obligation to serve those customers, does it?

A. No.

Q. And if customers have switched from the SSO service of the EDU, AEP-Ohio for example, other CRES providers don't have an obligation to serve any of the customers that have switched if those customers would like to switch to another supplier.

A. That's true, they do not have POLR responsibility.

Q. And, in fact, the CRES provider can choose which of AEP-Ohio's customers it will offer to serve or not serve, right?

A. Yes.

Q. And for the customers that it does choose to serve, the CRES provider may also choose the term for which it will provide that service, right?

A. The term would be negotiated between the CRES and the customer.

Q. But it may choose what it will offer to provide; is that right?

A. Yes. Just similar to the manner in which the EDU, in this case AEP, chose a three-year ESP term instead of, say, choosing a one-year ESP term.

Q. You think those two aspects are similar.

A. I think they're comparable.

Q. Okay. But the CRES provider, it can

choose a term of one year, two years, or three years or something shorter or longer, right?

A. The CRES provider can?

Q. Yes. To the customers it chooses to make an offer to serve.

A. They can offer to serve those lengths with the customer and that would be subject to the customer and the CRES provider reaching agreement.

Q. And a CRES provider doesn't have to begin offering service in the EDU's service area at the outset of an ESP, does it?

A. No, it does not.

Q. Okay. You can come in at some later time, if it chooses, or it can stay out if it chooses, correct?

A. That's correct.

Q. And the price at which the CRES provider offers generation service, it's not regulated by the PUCO, is it?

A. The price itself, no.

Q. They're not -- the CRES provider isn't required to offer generation service at a specific price, is it?

A. No, it is not.

Q. Now, AEP-Ohio does have an obligation to provide standard service offer generation service to all of its distribution customers; isn't that right?

A. Yes, that's true.

Q. And it has that obligation throughout the term of its ESP, right?

A. That's true.

Q. And for all customers who are taking standard service offer generation service from AEP-Ohio at the outset of its ESP, AEP-Ohio must make that service available to them at the ESP price for the duration of the ESP, right?

A. Can you repeat that question back, please?

(Record read.)

A. That's true.

Q. And for all customers who have switched already at the outset of the ESP, AEP-Ohio must be prepared to serve them at the ESP price if they return, putting aside customers that may have waived the POLR charge.

A. Yes. True.

Q. And AEP-Ohio may not choose the price at which it will serve standard service offer -- excuse me, will offer service offer generation service; is that right?

A. No, that's not correct.

Q. Okay. They can select the price that they'll charge?

A. AEP files an ESP plan and proposes that price.

Q. They propose a price, but they don't determine what the price is going to be, do they? It's a regulated price by the PUCO.

A. It's a regulated price, but the company can reject any modifications made to that price by the Commission.

MR. CONWAY: I'm sorry. Could you read that answer back for me.

(Record read.)

Q. And then it can reject the price that the Commission approves and then it can go ahead and charge whatever price it wants -- it would like to charge?

A. No. The company withdraws the ESP and would have to refile.

Q. Okay. So they can't simply charge the ESP price that they would prefer to charge; isn't that right?

MS. GRADY: Objection. Asked and answered.

EXAMINER SEE: I'll allow the witness to answer the question.

THE WITNESS: Could you repeat the question?

(Record read.)

A. Well, similar to a CRES provider can't simply charge the price that it wishes to charge.

Q. You think that's similar to the situation a CRES provider is in.

A. A CRES provider has to negotiate a rate with the customer.

Q. But it's not required to provide any rate, right?

A. That's true.

Q. Okay. Columbus Southern Power and Ohio Power, they are required to provide a price to customers who like to buy generation service from them, right?

A. Yes.

Q. And that's a regulated price, right?

A. As described before, my understanding is that the company would file an ESP, an ESP with the price, with the design in terms of base price, the riders, and subject that to Commission review.

Q. And approval.

A. And if modifications are made by the Commission, the company can resubmit -- withdraw and resubmit an ESP. So it's not quite as simple as it's just Commission approval. There is an iteration.

Q. Okay. That's fair enough. Thank you.

You discuss your view that the Black model doesn't quantify the true cost of the POLR obligation in your testimony; is that right?

A. Can you direct me to where in my testimony you're referring to?

Q. Well, I think one spot would be page 21. I think it's part C under, I'm not sure which Roman numeral that is but it starts at line 14 on page 21. The heading of that section is your view that the Black model doesn't accurately estimate the company's true cost to provide the POLR service.

A. That's true.

Q. Okay. And in your view the true cost of POLR only includes costs caused by returning customers, right?

A. That's true.

Q. It does not include, in your view, the cost of migration risk, right?

A. That is true.

Q. And your view of the POLR costs for those returning customers is that it would only take into account or should only take into account the incremental cost of capacity and energy incurred to serve the returning customers; is that right?

A. That's correct.

Q. And by "cost of capacity," are you measuring that cost in your view here that you're espousing by reference to the PJM capacity price, the prices that you list, for example, for the company's ESP on your Exhibit MAT-6?

A. I am referencing that to the appropriate comparison determining the cost of returning customers to look at any incremental costs which may exist over and above the existing SSO rates. And if that would be a potential cost, which in my estimation is currently -- if there is any incremental cost, it would be recovered through the FAC.

Q. And my question is a threshold question. Do you have a specific standard or measure for cost that you have in mind here? Is it the PJM capacity price or is it not any particular PJM-related price?

A. It would be the company's, what has traditionally been referred to as its embedded cost.

Q. Okay. I reviewed your testimony

regarding the numerical example of how -- that you provide, that in your view illustrates how the Black model produces counterintuitive results. And I'm referring to the example that you illustrate on page 23. Could you turn to that.

A. I'm there. Thank you.

Q. And in your example you analyze an option whose price is calculated by the Black model, and I assume it's the unconstrained version of the model that the companies used originally in this proceeding; is that right?

A. Yes, that's what I tried to indicate on lines 7 and 8, the company's unconstrained Black model.

Q. Okay. And so you priced, in your example you've priced an option in the manner that the companies priced the options that they looked at using a three-year term, which is consistent with the ESP term; is that right?

A. Yes.

Q. And in your example that you looked at you used the market price of $89.60, which I think is similar to what the market price is that was used in the ESP; is that right?

A. Yes. It was -- the inputs to the model that I used were the input assumptions that the company used for the Ohio Power residential customers.

Q. And then what you did is you looked to see how the model priced the option based on either a $66.40 ESP price or, alternatively, a $46.40 ESP price, right?

A. Yes.

Q. Okay. Now, if we were to use the model as the companies used it, we would have run it before the ESP actually began, right?

A. Yes.

Q. Okay. And in your example on page 23 in your illustration you calculate what the Black model estimates the three-year option cost would be if the ESP were at $66.40 per megawatt-hour as well as $46.40 per megawatt-hour, right?

A. Yes.

Q. And at the beginning of the three-year electric security plan where the market price is $89.60 and the ESP price is $46.40, where does the Black model that the companies used assume that the customer's getting his or her generation service at that point in time?

THE WITNESS: Could you read the question back?

(Record read.)

A. Where does the Black model assume the customer is getting the generation service?

Q. The Black model that the companies used.

A. I don't think there is any assumption with regard to where -- who is serving that customer. The Black model, you're simply inputting prices into the model and getting results. There's no assumption regarding who's serving the customer.

Q. Wouldn't you agree with me that the Black model that the companies ran back in July of 2008 that looked at the price of the option that reflected their ESP proposal assumed that at an $89.60 price customers are not actually at that point taking service from a competitive supplier but, rather, they're taking the ESP price from the companies?

A. That may have been an assumption that the company made. The model itself doesn't make any assumption about who's taking service from whom. The model is simply reporting the results of a calculation.

Q. Well, the assumption that you make in your example, as I understand it, is that customers are taking service at the $89.60 rate at the time you're looking at valuing the price of the option; isn't that right?

A. I'm making no assumption about who's serving the customer.

Q. Well, you -- you look at the difference in the price of the option based on whether or not the ESP price is the $46.40 price or the $66.40 price, right?

A. Yes.

Q. And then you state at lines 13 and 14 in this example increasing the SSO price from $46.40 to $66.40, then you have in parentheses, the price that a customer would return to, increasing that by $20 per megawatt-hour would increase the POLR charge to the customer by $5.81. Do you see that?

A. Yes, I do.

Q. So in that example aren't you assuming that what the tool is -- the Black model or the option tool is looking at is a scenario where customers are making a choice to return to the SSO from an alternative supplier supply which is priced at $89.60?

MS. GRADY: May I have that question reread, please?

(Record read.)

MS. GRADY: I'm going to object.

EXAMINER SEE: On what grounds, Ms. Grady?

MS. GRADY: Your Honor, he already testified that the model makes no assumption about -- he's testified several times now that the model makes no assumption about who is supplying the generation. And, again, this is the same question disguised in another form. He's asking -- it's asking about the assumption with respect to the Black model, so he's asked and answered this several times now.

MR. CONWAY: Your Honors, I'm asking what his assumption was, not what the Black model's assumption was at this point.

EXAMINER SEE: The objection is overruled.

You can answer the question, Mr. Thompson.

A. What I'm demonstrating here is that the company is proposing and has charged customers for return rights regardless of whether they're served by the company or someone else. What I'm pointing out here is that the charge calculated for return rights, and if you think about this, the model is not appropriately reflecting the value of the return rights because if I'm having to return to the higher rate, I'm getting less value and paying more for it.

So I'm not making any assumption about who's serving the customer. I am saying this calculation which the company's making which is charged to all customers regardless of who's being served makes no sense.

Q. And if you're returning, you were served by somebody else, right?

A. Yes.

Q. And is it your understanding that when using the Black model to estimate POLR costs, the companies do not rerun the model and figure out a new POLR charge whenever market prices change? In other words, they set the POLR charge at the outset of the ESP based on the conditions that exist at that time, right?

A. They set the POLR charge at the outset of the ESP, I think, you know, you're talking about the conditions. There's some discrepancy about the assumptions regarding the conditions, but --

Q. But they don't rerun, whatever you think about the discrepancies of the assumptions that the companies make, they don't rerun the model at subsequent points in time to reflect changes in market prices, do they?

A. Not until the next ESP.

Q. POLR charge is fixed at the outset before the ESP starts, right?

A. That is how it has been done, yes.

Q. Okay. And at the outset of an ESP where the market price is $89.60 and the ESP price is $64 -- $66.40, would it be reasonable to assume that at that point in time the customers are being served by the SSO?

A. If you're going back to the assumption related to this example, I have to go back and state this example is not dependent on who is serving the customer.

Q. I'm just asking the question, and is your answer "Yes" or "No"?

A. My answer is in the context of this example that you're citing to, the assumption regarding who is serving the customer is irrelevant. All customers are being charged for the right to return at an SSO rate. If the SSO rate is increased in the model, the charge would go up so you're getting less value for more cost.

Q. Let me disconnect from your example for just a moment, okay? If at the beginning of an ESP the market price is $89.60 per megawatt-hour and the ESP price is $66.40, would it be reasonable to conclude or assume that customers would pick and would be on the SSO?

A. If the only thing you were looking at is comparison to retail price, perhaps. But there could be nonprice factors, as I've pointed out in the rest of my testimony, that could influence that decision.

Q. You also have a discussion in your testimony, Mr. Thompson, regarding the components of the competitive benchmark price and the volatility of those components, do you not?

A. Yes, I do.

Q. And one of the components of the competitive benchmark price is the ATC simple swap; is that right?

A. Yes, it is.

Q. And it makes up about two-thirds of the market price; is that right?

A. Two-thirds of the market price that the company estimated, yes.

Q. And the volatility of that component based on the companies' analysis for the ESP is that it was 33-1/3 percent?

A. Yes.

Q. And the companies, did they compute the volatility of the single swap using annual average prices?

A. That's my understanding.

Q. Could you explain for me what your understanding is of how they computed that value for the simple swap?

A. Can you be more specific?

Q. Can you explain for me what your understanding is of how the companies computed the volatility value for the simple swap?

A. My understanding is that the company looked at historic variation in future price strips and computed the volatility from there.

Q. And they did that on an average annual basis?

A. I believe that's how the company has described it.

Q. Do you know whether they could have alternatively done it on a monthly average basis?

A. Could they have physically computed it? Yes.

Q. Do you know what the result would have been if they had used that approach to calculate the value?

A. I don't believe it would be internally consistent within the model to use monthly volatilities with the other inputs.

Q. But do you know what the impact would have been if they had?

A. Incorrect.

Q. I understand that you think that that would be incorrect. My question is as far as the value outputted by the calculation, what would have been the impact? If you don't know, that's fine.

A. I don't know, I haven't run it.

Q. Okay. Mr. Thompson, you also discuss the capacity component of the competitive benchmark price; do you not?

A. Yes, I do.

Q. And I believe you characterize that component as a fixed annual cost; is that right?

A. Yes, I do.

Q. And then it's administered via a PJM capacity auction held in advance of the delivery year; is that your testimony?

A. Yes, it is.

Q. And the PJM-administered capacity auction prices to which you refer, are they the ones listed on the Attachment MAT-6 to your testimony?

A. Yes, they are.
Q. So the PJM-administered auction that you reference is the residual base auction that PJM conducts; is that right?
A. That's correct.
Q. And that auction sets a capacity price for the, is it the planning year or the delivery year three years in advance?
A. I think those terms can be used interchangeably.
Q. Okay. So at any rate the residual base auction that PJM administers, it sets the capacity price for the planning year three years down the road; is that right?
A. Yes.
Q. And when is that residual base auction conducted during the year?
A. I think it's essentially three calendar years ahead of time. For example, back in 2008 I think the auction was conducted in -- the May 2008 auction would have covered the 2011-2012 planning or delivery year.
Q. When is the -- and so the residual base auction is conducted during May?
A. I believe so.

Q. Okay. And at the residual base auction does PJM also establish a reserve margin percentage for the people who buy the capacity in the future?

A. I believe so.

Q. Okay. And so a CRES provider purchasing capacity for its customers' load would then have to buy enough to cover the reserve margin percentage as well as the actual load; is that the way it works?

A. Can you explain --

Q. CRES provider, the people who buy the capacity for which the price is set, they buy capacity sufficient to serve whatever load that they're serving as well as a percentage reserve margin associated with the load; is that right?

A. Yes, that's true.

Q. But after the residual base auction and before the planning or delivery year covered by the auction are there other auctions that PJM conducts that might further affect the capacity price that applies to that planning or delivery year?

A. Yeah. There are some incremental auctions, but the way that works is essentially up to 2 -- well, somewhere around 2 percent of the capacity cost will be cleared -- or, of the capacity will be cleared in an incremental auction. So if you take, for example, let's say it cleared at zero cost, so you roll 2 percent of nothing into the rest of the base residual auction cost, so, you know, you would expect that to maybe at most drop the capacity cost 2 percent which that's less variation than you would expect in the ESP SSO price which I believe the company has referred to as substantially fixed.

Q. So when the supplemental or incremental auction occurs, it does change the capacity price for the planning or delivery year?

A. Slightly.

Q. And during the --

A. But during the planning year it is fixed within the year once it is fixed by what happens in the base residual auctions and the incremental auctions, the process that I just described.

Q. And in those incremental auctions is the reserve margin percentage subject to change also?

A. I don't know.

Q. So in any event, there is some variation, some change in the capacity price for the planning or delivery year that results from the conduct of the residual auctions, right?

A. There is a change prior to the delivery year, a slight potential change prior to the delivery year, but within the delivery year there is no change.

Q. And if there is a change from these incremental auctions, it would then change the capacity price and the cost to the customers of capacity; would it not?

A. There's a potential for a slight change, but it's nowhere near the volatility that the company assumed for the simple swap and it might not change at all.

Q. And do you know sitting here today to what extent the incremental auctions change the capacity price for the planning and delivery years within the ESP?

A. I cannot give an example of what I think is a reasonable estimation.

Q. Okay. And if there were changes in the reserve margin percentage that also could happen at the time of the incremental auction, that would then also have an impact on the cost to the purchaser of capacity; would it not?

A. Possibly. You're assuming it's in isolation of other changes, the incremental, I mean there could be a byplay where it offsets.

Q. I accept that, but I'm focusing on in

isolation. It would have an impact on the cost; would it not?
A. I don't know that the reserve margin would change.
EXAMINER SEE: Mr. Thompson, you're going to need to speak up. You're trailing off at the end of your answers.
THE WITNESS: I'm sorry.
Q. And you're familiar, I think, with the company's FRR filing which has been discussed at the state level in the 10-2929 case, are you not?
A. If by "FRR filing" you mean the cost which would be provided to a CRES provider, yes.
Q. And if that were accepted, that would have a significant change on the capacity price that purchasers of that capacity would be paying; would it not?
A. Yes. In this instance I believe that would drive the calculated POLR cost down.
Q. Getting back to the -- thank you.
Getting back to the various price components of the competitive benchmark price, Mr. Thompson, I believe that you state in your testimony, I think it's at page 29 that other than the administrative cost components, excuse me, other

than the administrative cost component of the competitive benchmark price, the remaining components likely exhibit some degree of volatility. Do you recall that statement in your testimony?

A. I believe other than the administrative costs and the capacity cost which we just discussed.

Q. Thank you for that correction.

I thought maybe I had brought you along a little bit here after this last discussion so that maybe you'd see some flexibility in some variation in the capacity price also. So we're down to just the administrative cost, huh? Have I brought you along that far?

A. No. We're talking about volatility within the year. And I think you're also confusing uncertainty and volatility, but...

Q. In any event, putting capacity and administrative costs aside, putting those two cost components aside, at page 29 of your testimony, lines 20 through 21 you state that other than those cost components, the remaining components likely exhibit some degree of volatility. Do you see that?

A. Yes.

Q. Or do you see that and do you agree you said that in your testimony?

A. The remaining components likely exhibit some degree of market volatility.

Q. Okay. Thank you.

A. Would you like me to read the rest of the sentence?

Q. No. That's okay. Thank you.

You also criticized the company's implementation of the model, and I think I'm referring to the unconstrained model at this point, but you correct me if I've become -- if I'm distanced from that context, you contend that the companies made two date-related errors in their implementation of the model, right?

A. I'm referring to the unconstrained model, one of the date-related errors I believe still exists in the constrained model, but you can take those separately if you'd like.

Q. And that first criticism you have has to do with the length or term of the option that the companies used in the unconstrained model; is that right?

A. Yes.

Q. And you have concluded you believe that the companies priced the option using the unconstrained model using a 41-month term, not a

36-month term, right?

A. Yes.

Q. And the sole basis for your understanding is the reference in the "today" row of one of the companies' workpapers, today, quote/unquote today, row of one of the companies' workpapers which has the July 2008 date in it, right?

A. Well, it's not the sole reason. The reason I believe that statement is true is because we asked the company for a copy of the constrained model, the company gave us what was reported to be the unconstrained model, and there are only two dates that can be entered into the formula, and there's nothing in there to indicate there's any change to the term -- let me rephrase it.

The two dates that are entered into the formula determine the term of the option, and using that formula and plugging the company's assumed information into it I can almost replicate the calculation that -- the calculated value that the company came up with. There appears to be some rounding error or something going on.

Q. And that's the extent of your understanding that the company's term is different than the 36 months; is that right?

A. Yes, it is.

Q. Another of your criticisms is that in the unconstrained Black model the companies used a European option instead of an American option to calculate POLR output values, right?

A. Yeah. The issue there is the European option has a fixed strike date and if you charge the customer for a European option, let's say you calculate the value, a three-year European option and charge the customer that value in the midst of the ESP period, theoretically his return rights or exercise rights are outside the term of the ESP period. So that's the date issue I'm referring to there.

Q. So the date issue is that you think that the companies in the unconstrained model, by using a European option, have created an output that assumes that the option will be exercised outside of the ESP term.

A. Well, let's put this in context. I believe that the Black-Scholes model and calculation is inappropriate for various reasons that I list in my testimony. What I tried to do in this section of my testimony is say if the model is to be used, it needs to be used in a reasonably consistent manner in which the model was developed and designed, and if you're going to calculate a three-year -- an option with a three-year term that can be exercised only at the end of the term, and then you charge customers that value every month of the ESP period, you're breaking the logic of option calculations because you're charging for a right which extends beyond -- outside the ESP period.

Q. Let me narrow the context or specify the context. Let's limit the conversation to the unconstrained model, all right?

A. All right.

Q. And the question is, first question is, and I'll preface this with you don't think, do you, so I'm leading you a little bit. You don't think, do you, that the option that the companies used in the unconstrained model had an exercise date outside of the three-year term of the ESP? Do you?

THE WITNESS: Can you repeat the question, please?

(Record read.)

A. I don't know what you mean by "used in the model."

Q. Well, I'm referencing it in the same manner that you just, I think you just described, that the use of the European option, I thought you said, one of the problems that results from it is that it assumes that there's an exercise date that extends past the end date of the ESP term. And I'm just asking you here would you agree with me that there's no exercise date outside of the ESP term at least with regard to the way the companies ran the unconstrained model?

A. No.

Q. Okay.

A. The companies ran the unconstrained model by putting in dates which result in an effective term. You could put in January 1, 2000, till the end of 2002 and get a three-year term out of the model. You know, you can put any set of dates into the model and get, effectively, a three-year term that you're calculating. So you're calculating value of an option with a three-year term.

Q. If you run -- would you agree that a European option, everything else being held the same, produces a less-costly result than an American option when it's run through the model?

A. Well, first of all, I don't -- I believe you had a witness that testified yesterday, you can't really run an American option through, quote/unquote, the model or the formula.

Q. Let me ask you about that. In your testimony you indicate that you went to the Chicago Board of Options Exchange and found a tool there, I think you mention it at page 34 of your testimony, Q and A No. 56; is that right? I mean not the page reference, but the fact that you went to the Chicago Board of Options Exchange website and found an options tool that you then used.

A. Yes, I did.

Q. Okay. And the tool that you found at the Chicago Board of Exchange website allowed you to price a European and American option and compare them; is that right?

A. That's true.

Q. Okay. And you did that; did you not?

A. Yes, I did.

Q. And you plugged in a set of values that you got from Ms. Thomas's workpapers in your analysis; did you not?

A. Yes, I did.

Q. Okay. And then you essentially made your own calculation of POLR output values using those inputs and the Chicago Board of Exchange tool, right?

A. Strictly speaking, they weren't POLR

output values. They were option values.

Q. Okay, I'll accept that correction.

And then you flipped the switch from use of the American option to use of a European option and compared what the result was, correct?

A. Correct.

Q. And what you found is that the numbers don't -- the results, the outputs don't change much depending on which type of option you selected, right?

A. The American option had a slight premium relative to the European option, but the difference is the company is calculating the value of a European option and charging that value every month. With an American option you would pay for that option and have the right to strike at any time during the term of that option. So you're paying for one option up front, or you could, you know, spread it over months by dividing it, versus paying for several different European options. So, effectively, the American option would result in a lower value.

Q. You think that the companies, when they ran the Black-Scholes or the unconstrained option model, that they ran it using a series of European options as opposed to a single European option.

A. I don't think they ran a series of European options. I think what they did was calculate the value of, nominally, a three-year term European option and then are charging that value every month during the ESP period resulting in customers paying for exercise rights that fall outside of the ESP period.

Q. What is the difference between the output value that you developed using the Chicago Board of Exchange option tool between the European option run and the American option run?

A. The American option will typically have some sort of premium, it's typically slight is my understanding, relative to the European option, but you only pay for it once for the entire term of the option.

Q. And you think and it's your understanding that what the companies have done using the European option in the unconstrained model is to charge 36 times what the European -- the single European option would have produced?

A. They are charging every month for a European option with a three-year term.

Q. And every month that they charge for a European option with a 36-month term they're charging a price which is just a little bit less than what one American option for a 36-year term would have produced, right?

A. For a 36-month term?

Q. For a 36-month term, yes.

A. Yes.

Q. So, roughly speaking, your understanding is that the companies, by running the calculations the way they did, the model the way they did, are charging roughly 36 times more by using a European option approach than they would charge if they used an American option approach; is that what you're saying?

A. If we are going to use this model, we should use it in a model that is logically consistent and the European option approach has a logical problem associated with charging for something that doesn't -- is not exercisable within the ESP period.

Q. Can you answer my question? And if you can't, that's fine.

THE WITNESS: Can you reread the question?

(Record read.)

A. Approximately 36 times, yes.

MR. CONWAY: Thank you, Mr. Thompson.

Your Honor, I'm finished.

EXAMINER SEE: Thank you.

Ms. Grady?

MS. GRADY: Yes, your Honor, may we have a few minutes to confer?

EXAMINER SEE: Sure. We'll go back on the record at 15 after.

MS. GRADY: Thank you.

(Recess taken.)

EXAMINER SEE: Let's go back on the record.

Ms. Grady.

MS. GRADY: Thank you, your Honor. We have no redirect and at this time we would move for the admission of OCC -- re-move for the admission of OCC Remand Exhibit 1.

EXAMINER SEE: Are there any objections to the admission of OCC Remand Exhibit 1?

MR. CONWAY: No. Thank you.

EXAMINER SEE: Then OCC Remand Exhibit 1 shall admitted into the record.

(EXHIBIT ADMITTED INTO EVIDENCE.)

EXAMINER SEE: Thank you, you're excused, Mr. Thompson.

THE WITNESS: Thank you.

EXAMINER SEE: Ms. Grady, your next witness, please.

MS. GRADY: Yes, your Honor, the OCC calls to the witness stand Daniel J. Duann.

EXAMINER SEE: Mr. Duann, if you'd raise your right hand, please.

(Witness sworn.)

EXAMINER SEE: Thank you.

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DANIEL J. DUANN, Ph.D., CRRA

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

DIRECT EXAMINATION

By Ms. Grady:

Q. Good morning, Mr. Duann.

A. Good morning.

Q. Could you please state your name and business address for the record?

A. Daniel J. Duann, 10 West Broad Street, Columbus, Ohio, Suite 1800.

Q. And by whom are you employed and in what capacity?

A. I'm employed by the Office of the Ohio Consumers' Counsel, and I am a senior regulatory analyst.

MS. GRADY: At this time, your Honor, I would ask that the direct testimony on remand of Daniel J. Duann filed June 30th, 2011, in this proceeding be marked as OCC Remand Exhibit No. 2.

EXAMINER SEE: The exhibit is so marked.

MS. GRADY: Thank you, your Honors.

(EXHIBIT MARKED FOR IDENTIFICATION.)

Q. Dr. Duann, do you have in front of you what has now been marked for identification purposes as OCC Remand Exhibit No. 2?

A. Yes.

Q. And can you identify that exhibit for me, please?

A. That's my direct testimony on remand.

Q. And, sir, was this document filed or was this document prepared by you or under your direct supervision and control?

A. Yes.

Q. Dr. Duann, if I were to ask you the questions that are posed in that exhibit, OCC Remand Exhibit No. 2, would your answers today be the same?

A. Yes.

Q. Did you have any additional corrections, modifications, or deletions to this testimony?

A. No, I do not.

MS. GRADY: Your Honor, at this time OCC would move for the admission of Remand Exhibit No. 2 and offer Mr. Duann up for cross-examination.

EXAMINER SEE: Okay. Mr. O'Brien.

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

EXAMINER SEE: Mr. Yurick?

MR. YURICK: No questions, your Honor, thank you.

EXAMINER SEE: Ms. Hand?

MS. HAND: No questions, your Honor.

EXAMINER SEE: Ms. Clark?

MS. KALEPS-CLARK: No questions, your Honor.

EXAMINER SEE: Mr. Margard?

MR. MARGARD: No, thank you, your Honor.

EXAMINER SEE: Mr. Darr?

MR. DARR: No, thank you, your Honor.

EXAMINER SEE: Ms. Mooney?

MS. MOONEY: No questions, your Honor.

EXAMINER SEE: Ms. Kyler?

MS. KYLER: No questions, your Honor.

EXAMINER SEE: Mr. Satterwhite?

MR. SATTERWHITE: Yes, just 37 questions. I'm kidding.

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CROSS-EXAMINATION

By Mr. Satterwhite:

Q. Good morning, Dr. Duann. How are you doing today?

A. Pretty good.

Q. My name is Matthew Satterwhite, I'm with the companies, I'm going to ask you a couple of questions today. I've been told by our court reporter that I speak a little fast sometimes, so if I go too fast, you don't understand a question, just ask me to repeat it, and I promise to try to talk slower.

EXAMINER SEE: And I hope you will speak up, Mr. Satterwhite.

Q. I'd like to start with your background a little bit. Looking at page 1 of your testimony that you filed I see the answer to the question on line 10 through 17 you give a little bit of history of where you went to school. Do you see that area?

A. Yes.

Q. And at the end of that around line 15 you discuss where you're a certified rate of return analyst conferred recently, in 2011?

A. Yes.

Q. Do you see that?

A. Yes.

Q. What does that entail? What was that process?

A. The certified rate of return analyst is an education and certification program by the Society of the Utility and Regulatory Financial Analysts.

Q. So is that a class you go to? Is that an ongoing process you go through? How do you get that certification?

A. It is a certification that you need to have certain years of experience, certain educational background, and you also need to pass a written examination.

Q. What kind of issues are on that examination?

A. There's a lot of issues on that examination and they are primarily in the area of utility rate of return.

Q. So the classic elements of rate of return, essentially?

A. Also the utility regulation.

Q. Turn to page 5 of your testimony. At line 14 you make a statement that's in quotes, the "actual POLR costs." What are you referring to?

What's your definition of "actual POLR costs"? How are you using that term?

A. The actual POLR costs, this term was used in the Supreme Court remand decision and my understanding is what is the actual cost the EDU incurred to provide POLR service.

Q. So, essentially, it's looking after the fact, the after-the-fact cost that can be applied to the carrying out of POLR?

A. Not necessarily.

Q. What's the difference between what I said and what you think it is?

A. Well, the actual cost is the cost that the company incurred. So sometimes, for example, like you go and enter a forward contract with those kinds of things, you incur a cost, and that cost -- but that's a forward contract so that contract has not been consumed.

Q. So it's something essentially that's auditable after the fact, you can sort of add up the columns of the after-the-fact cost whether it was a contract or --

A. Yes.

Q. -- actual spending?

A. Yes.

Q. So the difference is all after-the-fact costs would be something that could be audited; is that fair to describe it that way?

A. Yes.

Q. Let's go to page 7 of your testimony. A couple places before this, and it starts right here at lines 4 to 7, you talked about being "advised by counsel." You get the obligatory question every other witness gets when you have the "as advised by counsel" in your testimony. You're not testifying as an attorney, correct?

A. No.

Q. Are you using the "advised by counsel" as a base of an understanding to make recommendations upon?

A. Yes.

Q. Lines 4 to 7 there you talk about a prospective reduction in the FAC and say that's not a retroactive change to rates. Do you see that?

A. Yes.

Q. Why is it that, in your opinion, a retroactive change would not be an appropriate action?

A. I was advised by counsel, said it's not -- it's not a retroactive ratemaking.

Q. Right. But you have no opinion as to why that's important? Why it's inappropriate to do a retroactive change.

THE WITNESS: Can I have the question reread, please.

(Record read.)

A. Actually, I don't quite understand the question.

Q. No problem. Let me restate it then. I apologize.

You rely on counsel to say, to make sure that it's understood that what you're proposing is not a retroactive change, correct?

A. No. It's not -- it's not a retroactive change.

Q. Right. You want to make perfectly clear to the Commission that you're not proposing a retroactive change and that's why you state that there.

A. Yes. Based on advice of the counsel, yes.

Q. Right. I guess my question is why is it important that it's not a retroactive change? What would the connotation be if it was a retroactive change?

A. It is my understanding that in Ohio you are not allowed to make a retroactive -- you are not allowed to do retroactive ratemaking.

Q. So if it was determined by the Commission that your proposal was a retroactive change, the Commission should not take into account your consideration.

MS. GRADY: Can I have that question reread?

(Record read.)

A. Can you be more specific what do you mean by the proposal? What are you referring to?

Q. Sure. You talk about -- in your testimony you make a number of recommendations based on this understanding that's not a retroactive change in the Commission but you ask for a prospective change is how you describe it, so my question is if you look at that in the context of what the Commission has to look at, does the Commission have to accept that what you've described is not a retroactive change to adopt?

A. I made this recommendation in my testimony based on the advice of the counsel to say that my proposal is not retroactive ratemaking.

Q. Right. And specifically we're talking right now on line 7, excuse me, page 7, lines 4 through 7 when you talk about the prospective reduction in the FAC phase-in. Just to make sure I have the --

A. Yes.

Q. -- process right, so we're on the same page.

A. Yes.

Q. And the point of what you were saying earlier is that it's not a retroactive change because, if it were, it would be inappropriate.

A. If it is a retroactive ratemaking, I believe the Commission would not allow it.

Q. Okay. Let's go down to line 13 where you talk about, you have in quotes "the entire POLR charge."

A. Yes.

Q. Do you see that area?

A. Yes.

Q. How do you -- what do you consider the entire POLR charge?

A. The POLR charge in effect right now.

Q. And your recommendation of what should be returned to customers, you're asking the Commission to not just provide back to customers what's in effect now, but what was collected all along or is to be collected all along?

A. Yes, my recommendation is the POLR charge is not justified, and I recommend to the Commission to order AEP to return the POLR charge that has been collected and then to refund the POLR charge that it collected since May 2011 and after the Commission made a decision they make adjustment to the rate.

Q. Back to the beginning.

A. To return the POLR charge that has been collected.

Q. Back to the beginning of the ESP period.

A. The POLR charge collected since April 2009 should be returned to the customer.

Q. Okay. I just want to make sure we're talking about the same thing.

A. Uh-huh.

Q. So what you're proposing then, if the Commission were to adopt your point of view, is that the SSO rate should reflect a zero value for POLR.

A. The SSO rate that approve under the FAC that has been in effect since April 2009, that should not reflect the POLR charge.

Q. Right. And that's the entirety of the POLR charge that makes up part of the SSO rate, correct?

A. There's only one POLR charge.

Q. Right. So the effect of what you're proposing is to have the SSO reflect a zero balance for POLR throughout the entire ESP period.

A. You know, I do not understand what you mean, zero balance. We are talking about a POLR charge, a rider.

Q. Okay. All right. So if there's a POLR charge now collected, and that's what you want to subtract away, what's the level or what's the value of the POLR charge that would be in there if the Commission adopted your proposition?

A. There would be no POLR charge.

Q. So it would be zero dollars.

A. Yes.

Q. Are you aware of what in AEP the AEP-Ohio companies collected a POLR charge before the ESP?

MR. DARR: Objection.

EXAMINER SEE: On what grounds, Mr. Darr?

MR. DARR: It's a fact not in evidence.

MR. SATTERWHITE: That's why I'm asking, to see if he knows.

EXAMINER SEE: I'll allow it.

A. Are you asking whether AEP-Ohio was

collecting the POLR charge before January 2009?

Q. Sure. Yes.

A. Yes.

Q. And do you know what that was based on?

A. Yes.

Q. What was that?

A. I think that's the result of a rate stabilization plan approved by the Commission.

Q. And do you think it was appropriate for the companies to recover a POLR charge?

A. I don't understand the question.

Q. Was it appropriate ratemaking on the Commission's part to allow AEP prior to the ESP to recover that POLR charge?

A. In the rate stabilization the Commission approved a POLR charge.

Q. And you're not arguing that that was a wrong decision by the Commission.

A. My testimony does not talk about the prior case.

Q. Right, I'm just trying to get your perspective overall because you talk about POLR and the zero balance that should be collected by the company now, I'm just trying to probe what you thought of the POLR charge before.

A. I'm not familiar with that case and I have no opinion on whether at that time that POLR charge approved in that case was appropriate or not. I do not have an opinion on that.

Q. But you don't challenge the fact that the Commission approved one and there was one in rates.

A. The Commission approved one in the ESP and that POLR charge was no longer in the rate charged by AEP-Ohio in the ESP case.

Q. Because there was a new plan that it was not timely determined to be for the new plan going forward. It was time to look to see if there should be a change or not.

A. I don't know whether that's true or not. What I know is the company, the AEP-Ohio proposed a POLR in the first ESP.

Q. In your professional opinion, is there an economic risk to AEP associated with the obligation to be a provider of last resort?

A. Under the current regulatory framework I don't think there's a risk to AEP-Ohio.

Q. There's no risk at all.

A. No.

Q. So the requirement to stand ready to serve as a provider of last resort provides no economic risk to an EDU?

A. No economic risk to AEP-Ohio.

Q. I probably shouldn't ask this, but why is that?

A. Well, it is my understanding that based on statute, based on the Supreme Court's decision, based on prior Commission decision regarding the ESP, the risk of POLR is strictly limited to the risk of return, that is the customers leave the AEP system and come back so the AEP has the legal obligation to provide generation service for those type of customer.

And I think, you know, OCC Witness Thompson and other witnesses have established that any additional cost, capacity or energy cost, you need to serve those return customers are already recovered by AEP-Ohio, primarily through the fuel adjustment clause.

So in that sense I do not believe there's additional risk to AEP-Ohio.

Q. So there could be risk if -- you view POLR as only an obligation to be ready to serve customers if they come back after shopping and there could be risk, but that's taken care of by what's already in place so there's zero risk associated with the obligation.

A. Yes.

Q. Let's go to page 9 of your testimony, please. On line 3 you talk about the position of OCC confirmed by the Supreme Court. Do you see that?

A. Yes.

Q. Now, is this whole answer background provided by your attorney or are some of these statements your statements relying on what the attorney said?

A. That's my statement. I read the Supreme Court decision and I discussed the issue with my attorney, that the counsel at OCC -- the counsels at OCC so that's my statement, yes. That's my understanding.

Q. Right. But, again, we established earlier you're not testifying as legal counsel defining the construct of the Supreme Court's opinion, this is just, again, a basis for you to make recommendations based off of; is that correct?

A. Yes. I already say that in line 1 that I had been advised by counsel, yes.

Q. Right. You switched to it's the position of OCC, so I wanted to make sure that was still under the advisement of legal counsel versus you stepping out to a policy consideration.

A. No. This is not a policy consideration. And I'm not making a legal opinion. I'm just, you know, I read the Supreme Court decision and I find that the Supreme Court agree with OCC in this particular issue say that the statute permit an ESP will be include only list item -- list in statute, not list items.

Q. Right, and in lines 8 through 10 you sort of make a characterization of application of law. You're making that from an economist's point of view.

A. I'm making that as a common sense reading of what's said in the statute.

Q. So you were making a distinction between the legal point of view and a common sense point of view? Which is fine.

A. Yeah. As I say, I'm not attorney.

Q. Okay.

A. And I'm not offering legal opinion.

Q. That's fine.

A. But I can read what a legal decision says.

Q. That's fine, I just wanted to establish that was your point of view.

On page 11, line 5, this is along the

same vein, your point of view versus what you're relying upon. You used the word "reversed." It's your understanding that the court reversed the provisions of the ESP order.

A. I think that's the word used in the Supreme Court decision, the word "reversed."

Q. So if the decision said something different, you'd let the decision speak for itself?

A. Definitely.

Q. Okay. Not to beat a dead horse here but you've got a lot of "advised by counsel." If you look on page 12, lines 8 through 14, the description of the Commission's entry is also just background for your explanation beyond that that was advised to you by counsel; is that correct?

A. Yes. I read the entry and I discussed this with the counsel.

Q. But your characterization of what the Commission was discussing in its entry, that was provided to you by counsel.

A. And it also my own understanding, yes.

Q. Go to page 13, lines 7 to 8, where you talk about POLR should be cost based. Do you see that?

A. Which line you referring to?

Q. Lines 7 and 8 on page 13.
A. Yes.
Q. Besides an after-the-fact audit that we discussed earlier is there any other way to determine costs?
A. I don't quite understand the question. When you say determine the cost, you mean determine whether that cost actually be incurred, you are determining the amount of the cost, or -- of the cost? I just, you know, it's a really general question so can you be more specific?
Q. Sure. I'm trying to understand the general statement on page 13, lines 7 to 8 where you say "Rather, the POLR charge should be cost-based." So now I'm trying to figure out the universe of how we can get there. We discussed earlier an after-the-fact audit of things you can touch, taste, and feel, I guess, is there anything else, is that the only way to go with a cost?
A. If there's an entry or a record in the company's book, that, you know, you can determine the cost.
Q. But from your economic background and your education the only way that you know of determining a cost is solely based on an

after-the-fact audit of an entry or some document.

A. Once again, I just want to be specific, is like in economics, in finance when you talk about cost like the concept of cost of capital, for that concept, that concept sometime the cost of capital to a company cannot readily observe. So in that sense you will have, you know, use a proxy or entity to come to a measurement of that cost, so the cost of capital is an economic concept which cannot be observed.

But in regulation you will have another concept that is rate of return which is easily observable. So my question -- my answer to you is if you are talking about very general economics or, yeah, there are some costs that you cannot readily observe.

Q. And you can get there, you can determine a cost, without needing a balance sheet or a receipt to figure out exactly what the cost is.

A. No, you cannot do that. As I indicated, for instance, the cost of capital which is not readily observable but you will use some measure to measure that cost, you have to either estimate or -- but you still need some data to verify that cost does exist and what's the reasonable approximation of that cost.

Q. Okay.

A. So you cannot just say this is cost.

Q. But you can reasonably estimate what the cost is going to be. It's not a foreign concept.

A. Yeah.

Q. Okay. If a cost is not directly observable, then you have to estimate.

A. Yes.

Q. And does that happen in typical rate regulation in some areas?

A. In utility regulation it's generally based on the actual cost of the original cost, after-the-fact costs and, as I mention in the rate of return we try to measure the cost of capital, yeah, sometimes we use the estimate. Yes.

MR. SATTERWHITE: I'm sorry, can you reread that answer?

(Record read.)

Q. Are there other examples within rate of return that you would use an estimate?

A. No.

Q. What about the pension cost of a company when determining rates?

A. I don't think pension cost has anything to do with a rate of return.

Q. Right. But when determining rates, I was talking generally in figuring a rate. We're building it now going back to the rate school you were certified in.

A. In a utility rate case we try to determine the expense or the cost of the tax year, so we look at the, you know, the company -- the utility accounting book and we can determine that. As for the pension cost, pension cost is a liability into the future so you will have some actual model to estimate that cost, yes.

Q. And that's normal.

A. That's one way -- I mean, that's the way to measure the cost of pension, yes.

Q. What about the cost of equity, is that an out-of-pocket cost?

A. I already say that, I say the cost of equity is not, you know, just like the cost of capital is not directly observable, but we still need to, you know, there's a lot of model that you can use to measure the cost, yes.

Q. And you yourself in past Commission cases have testified to different levels of cost of equity using a forward-looking model, correct?

A. I don't know exactly what you mean by "forward-looking model."

Q. Well, let me ask this, have you used -- have you testified in past proceedings before the Commission where you helped determine the cost of equity?

A. Yes.

Q. And what did you do to determine that?

A. I use different models to estimate the cost.

Q. What models did you use?

A. I used a discount cash flow model, I used the capital asset pricing model, that's the two models I use primarily.

Q. And, in fact, you applied both of those models in some cases and came out with different levels.

MS. GRADY: Different levels of what?

MR. SATTERWHITE: Cost of equity.

A. You apply the model and each model may give you a different result.

Q. Okay. And that's in line with what you were recently certified with -- I'll get the right term now -- as a certified rate of return analyst?

A. I don't know what you mean by "in line."

I don't understand the question.

Q. That's a normal -- that's a normal process. Your previous testimony followed normal process.

A. The approach that I use in my testimony filed before the Commission regarding the rate of return, I use the CAPM model and the discount cash flow model and those models are widely used in determining a proper rate of return on equity.

Q. So if you applied two different models in the same case and have two different levels, two different outputs, are they still reasonable, both of them?

MS. GRADY: Objection.

EXAMINER SEE: On what basis, Ms. Grady?

MS. GRADY: Your Honor, I think it's a very vague question. I don't know what kind of models we're talking about. Are we talking about rate of return? There's no context to his question.

EXAMINER SEE: Rephrase your question, Mr. Satterwhite.

Q. The models that you described earlier that you used in previous cases before the Commission, the CAPM and DCF, would come out -- you said that would come out with different outputs and my question was -- you understand that? Do you remember that testimony?

A. Yes.

Q. So if that came out with different outputs, was part of your testimony wrong and part of your testimony right, or were you using both to show both were reasonable?

A. I don't think that my testimony was wrong, but to answer your question is what you are doing, try to determine the return on equity and you apply different model. So the question is not really is model A reasonable, is model B reasonable. That's not a question. The question is you look at the result of these two models and maybe you will look at other factors, then you come to, as an expert, come to your own conclusion and the reasonable or unreasonable is only applied to the conclusion you make. It does not apply to whether the model itself is reasonable or unreasonable.

Q. Okay. Thank you.

On page 19 of your testimony, lines 10 through 20, you discuss the value based pricing and the maximizing of profits. Do you see that?

A. Yes.

Q. Is it your testimony that the

Black-Scholes model contains an element to raise its price based on the monopoly standing of the EDU?

THE WITNESS: Can I have the question read back, please?

(Record read.)

A. First of all, the Black-Scholes model itself has nothing to do with the monopoly profit or not.

Q. Thank you.

A. What I'm saying here is the Black-Scholes model, the Black model used by the company, which -- which is intended, even though, you know, there's already a lot of problem pointed out that it's not a good measure for the -- good measurement for the value to the customer, but it was intended to measure the value of the option to the customer.

And if we allow AEP-Ohio, the EDU, as a monopoly provider that -- as a monopoly provider not to catch all the value, the value to the customer, that is essentially allowing the AEP-Ohio to exercise its monopoly power and that will result in a price that will be higher than if the POLR service provided -- that will be higher than the price result in a competitive market for POLR service.

MR. SATTERWHITE: Your Honor, I'll move

to strike everything after the original answer about whether there was an element within the Black-Scholes model to deal with monopoly.

MS. GRADY: Your Honor, if I may respond. I think the question was rather nonsensical. Black-Scholes contains an element to rates. Its price -- I'm not sure what the question was. He's trying to respond to this is what his proposal is. The question was based on this testimony. I think it's responsive. I think it was a very difficult question to respond to. It was a nonsensical question.

MR. SATTERWHITE: If I may, your Honor, if you look at the transcript, I believe he answered it directly right away and I said "thank you" and then everything after that sort of went off on I believe it was things already put on the record, his opinion of the model overall, when really we were dealing with what were the elements within the model.

EXAMINER SEE: I'm going to grant the motion to strike everything after the witness's initial answer.

MR. SATTERWHITE: Thank you, your Honor.

Q. Let's move to page 21 of your testimony, please. On line 13 you talk about precedent in Ohio for establishing POLR on a cost basis. Do you see that?

A. Yes.

Q. And you're referring to FirstEnergy as your example of that precedent; is that correct?

A. Yes.

Q. Are you aware if FirstEnergy owned generation at the time that that was established?

A. I believe FirstEnergy, the parent company, owns FirstEnergy Solution which owns generation.

Q. But -- I'm sorry. But the EDU that had the POLR obligation, is it your understanding that they did not own the generation that was with FirstEnergy Solutions?

A. No, they do not own -- the EDUs do not own.

Q. Okay. And do you know, since you used it as precedent, how FirstEnergy manages the risk of default by FirstEnergy Solutions?

A. I remember in Ms. Thomas's testimony she referred to this on a contractual or tariff arrangement to deal with the default by those providers.

Q. So in that situation FirstEnergy still has the ultimate responsibility and they have a tariff that governs what happens if there's a default?

A. I don't understand the question.

Q. I was trying to understand what you said. Were you saying that it's your understanding that FirstEnergy, the EDU, still has the ultimate obligation to provide provider of last resort service and if they have a tariff that governs if there were a default on a contract, that that would pick up the cost associated with that?

A. The EDU's POLR obligation, I believe, is defined by statute so I will say the FirstEnergy EDU will still have the obligation.

Q. Right. And I'm just trying to understand, so we have the context of what you're using as an example for the Commission, if you know how FirstEnergy continues to pick up that obligation, functionally what they do.

A. I do not know the detail, but as I say, I read in Ms. Thomas's testimony, she referred to the tariff or contract that deals with that issue.

Q. Okay. Let's go back to page 19, footnote 35. You cite a couple of books there, the first one being the "Price Theory and Applications." Do you see that?

A. Yes.

Q. Can you explain what that book is and how you relied upon it?

A. Well, this book is the -- the earlier version of this book is a textbook I used when I was in graduate school.

Q. And is that the same with the second book you have there. The "Microeconomic Analysis"?

A. Yes. I believe that's exactly the same textbook, the same edition I used when I went to graduate school.

Q. And the first book really is premised on a number of vignettes or a number of small case examples from every possible scenario that they can maybe think of how to apply theories on educational or in an educational setting; is that correct?

A. The first book is a textbook for graduate economic students.

Q. Right, and it's filled with hundreds of little examples of how you can explain different theories.

A. Yeah. It deal with the microeconomics theory, yes.

Q. So both of these are books used to

explain general economic theories.

A. To provide you with the training you need to do economic analysis.

Q. But they're not electric utility POLR focused books, it's just general economics.

A. I will say this is the book, the first book, the "Price Theory and Applications" and especially chapter 8 deal with the monopoly competition and the regulation, and that the theory developed or present in that chapter was a well recognized and was the foundation of the public utility regulation in the United States.

Q. In 1978 for the second one and the reprint in 2005 for the first?

A. The book? Price Theory and Applications," and in that chapter, chapter 8, those discussions, those presentations are well known, they have been known for seven, eight decades, they lay out the foundation of why we have public utility regulation in the United States right now, yeah.

Q. But the books weren't about public utility regulation as much as they were about microeconomics.

A. That's correct.

Q. Okay. That's all.

And would you say that the regulation of the utility industry prevents the natural monopolist from extracting the monopoly profits you describe in your testimony?

MS. GRADY: Can I have that question reread?

MR. SATTERWHITE: That would be good.

(Record read.)

A. In theory I think the reason we have public utility commission, reason we set just and reasonable rate based largely on cost is because there's no regulation in public utility then the monopoly will extract monopolistic profit from the customer.

Q. So absent a regulator, a monopoly is different versus if there's a regulator in place and you say there's monopolistic tendencies or attributes, there's a check in place from the regulator.

A. With the regulation the price and the term of service need to be approved by the regulator and at that price a service then will be different from those would occur if there's no regulations.

Q. So to shortcut it, a discussion of monopoly or economic theory is different depending on

whether it's regulated or not regulated.
A. I didn't understand the question.
Q. You have two potential companies that you've identified as having a monopoly, one's regulated, one operates unfettered without regulation. There will be different assumptions, different ways you describe it, different ways you look at those between the one regulated and one unregulated.
A. Their behavior will be different, yes.
Q. On page 24 of your testimony I'd like to talk to you about lines 14 through 17.
MS. GRADY: I'm sorry. What page was that?
MR. SATTERWHITE: Sure, page 24, lines 14 through 17.
Q. In there you're discussing the 2009 FAC audit as an example that the Commission is already adjusting deferrals; is that correct?
A. You said the Commission already or --
Q. I'm trying to figure out the purpose of why you're including this in your testimony. Is it to show that the Commission already had the ability to change the level of the deferrals?
A. Well, as I say here, I say "The value of

the phase-in FAC deferral balance should be adjusted based on the results of the remand proceeding" as well as there may be other proceedings and the Commission can take those into consideration.

Q. So what you're proposing here is just having other proceedings for the Commission to apply your theory of flowing through the impacts of this case?

A. No. Actually, it is my belief that the -- once again, these are based on the discussion with the counsel, is under the FAC audit case I believe the Commission have even a stronger hand in adjusting the FAC and deferral values because that's directly related to the fuel cost in the ESP period and it's also an audit case so if the Commission find the costs are not prudent, I think the Commission can just order the company to reduce that.

Q. All right. But what I'm trying to figure out is the purpose of you incorporating the reference to the 2009 FAC and I was asking if you were incorporating that to show an example of where the Commission can change the deferral balances of the companies.

A. Yeah, it is my understanding that the Commission should order this phase-in FAC deferral balance be reduced.

Q. And is that why you included this as an example in your testimony, to show -- to provide support for your proposal that the Commission should change deferrals based on this case?

A. The Commission should reduce the phase-in deferral balance because the POLR charge and the carrying charge were improperly collected and that as a result of that we have a FAC deferral balance that is larger than it should be. So my recommendation to the Commission is they should reduce that. And I put another example is -- I put an example of another case is that that proceeding may also have an impact on the FAC deferral balance.

Q. Okay. So really the last sentence there was really the answer to my question, you included that as an example of another place where the Commission might change the deferral balance.

A. Yes.

Q. Okay, good. On that basis is it your understanding that the Commission can change the deferral balance in the FAC because that's the mechanism that was approved as part of the ESP?

MS. GRADY: Can I have a clarification? Are you talking about the FAC proceeding, the 2009

FAC proceeding and audit, or are you talking about the ESP approval of the FAC in concept without the annual proceedings?

MR. SATTERWHITE: We can see if the witness needs clarification.

A. I don't -- really, I don't understand the question.

Q. All right. What are you using when you mention the 2009 AEP-Ohio FAC audit case that deferrals could change in your testimony on lines 13 through 17? What are you considering?

A. I think the question here is should the value of the phase-in FAC deferral balance be adjusted to account for your proposed adjustment for environmental carrying charge and POLR charge, and my answer is yes, they should be adjusted.

And I go on to say it should be noted that there may be other proceedings. So I am just pointing out there's other proceedings.

Q. Right. And I apologize if I'm the only one in the room not getting this, but what I heard you say earlier was that the second half, I understand the first point so all I'm talking about is your intention of using a reference to the 2009 FAC. That was to show that there's a mechanism already in place where the deferrals may change at the Commission as support for what you're proposing, a different change in the FAC deferral?

A. No. I'm just pointing out there's other proceedings.

Q. Okay. And this other proceeding -- was the basis of the other proceeding the ability for the deferral to change based on the mechanism that was established in the ESP that we're discussing now, when the FAC was set up?

THE WITNESS: Can you reread the question, please?

(Record read.)

A. My recommendation say -- indicate that the deferral balance can be reduced in the ESP is not based on what happened in other cases. I merely point out this other proceeding pending before the Commission and in that proceeding the result of that proceeding will also affect the phase-in deferral balance.

Q. Okay. Right, and the ability, the authorization for that is part of how that whole mechanism was set up, the FAC. It was set up to have these audits to then be figured each year.

A. When the Commission approve the FAC

mechanism in the first ESP, they have two mechanisms, they also have an audit mechanism in place, yeah.

Q. All right. So that's a distinction from what you're proposing. You're proposing something that wasn't set up in the ESP. You're proposing to add a new mechanism to change the deferral.

A. This is not a new mechanism. This is a recommendation.

Q. Fair enough.

A. Say that because of this POLR charge and the environmental carrying charge improperly collected, so one way to return this to the customer is to reduce prospectively the FAC deferral balance that would be collected from 2012 to 2018.

Q. So they're different.

A. The FAC audit proceeding is an FAC proceeding and this is an ESP regarding POLR and environmental carrying charge.

Q. Right. And the basis of it, I'll stop beating a dead horse, it's a recommendation you're making now for the Commission to think about adopting going forward.

A. Because the collection of the phase-in deferral balance has not started yet, it starts in January of 2012.

Q. So yes. If you say "yes," I'll stop.

(Laughter.)

MR. DARR: I didn't know we were bribing today.

MR. SATTERWHITE: That's fine, you don't even have to answer. I'll stop anyway, on that.

Q. On page 27 of your testimony can you look at lines 1 through 4 for me. This is sort of discussing where you were taking the last conversation, I think, about a prospective reduction in the balance of the FAC.

A. Yes.

Q. And there you state what I believe you just stated again, you're not proposing a retroactive change. You're proposing a prospective reduction, correct?

A. My proposal is that we are not going back to change the rate that has been in effect during that period.

Q. And for that you're using the amount that was determined previously under the authorized rates of the ESP that were then deferred to be collected at a later date, correct?

THE WITNESS: Can I have the question read back?

(Record read.)

A. The amount you are referring to, the number on that page, the 674 million, is that what you're referring to?

Q. Yes. All of the numbers you're considering about offsetting the deferral prospectively.

A. Yeah. I have estimated the amount. The amount of the environmental carrying charge that is embedded in the base generation rate and the amount of POLR rider that have been collected from April 2009 to May 2011.

Q. And you estimate it based on the rates that were previously approved to be collected by the AEP-Ohio companies; is that right?

A. Based on the rate in AEP's tariff.

Q. The approved rate by the Commission.

A. Approved at that time, yes.

Q. And the scope of that is carrying all the way back to the start of the ESP, correct?

A. April 2009.

Q. We're close, don't worry.

Move on to page 29 of your testimony. You recommend that 10.93 rate. Do you see that?

A. Yes.

Q. What all did you consider when deciding to do a 10.93 as your recommendation?

A. What I consider is what is fair to the customer of AEP-Ohio and what is fair to AEP.

Q. And I guess my question was more did you consider other rates? Is this rate where you started? Or did you lay out a bunch of rates and consider which would be the best one for your recommendation?

A. My starting point is to look at what AEP has been charging the customer for any deferral balance, and my point is simply if there's a revenue shortfall, then AEP charge 11 percent. For example, 11 percent. Then, if the customer are providing more, then the customer should receive interest similar to that.

Q. So you just started here. You just went right to 10.93 to decide what your recommendation was going to be. You didn't consider interest rates?

A. I consider what is the fair rate to the customer of AEP-Ohio.

Q. Right. But your analysis was short and sweet, you started right there and that's what you went with?

A. My analysis, I look at what AEP has been charging then -- the customer for any shortfall and I think if the customer provide more, then the customer should return interest that is similar to that rate. And I'm essentially using the same methodology so that 10.93 is using a similar methodology and I also explain and say that alternatively if the company can come in and say, oh, we didn't charge that much, you know, we using the methodology that for the second quarter of 2011 we charge whatever percentage, then that percentage can be used.

Q. So how does that -- you also give an alternative suggestion that starts on line 13. Do you see that?

A. Yes.

Q. How is that different from what you suggested up top? Are there different levels for different deferrals?

A. No. The difference is because the carrying costs that are charged on the deferral balance and they change it every month depending on the actual cost of AEP-Ohio's debt, and the 10.93 percentage that I propose is based on a long-term debt of 5.34 percent so if a rate is different than, you know, than the interest rate charged by AEP-Ohio could be different.

Q. Give me one second. I'm seeing if I can wrap up.

In your testimony you mention the Commission rule that Company Witness Nelson mentions and the 3 percent interest rate. Do you see that?

A. Yes.

Q. Do you disagree that the Commission's approved a reasonable level of interest rates for the purpose of that rule of 3 percent?

MS. GRADY: Objection.

EXAMINER PARROT: Grounds?

MS. GRADY: That's a mischaracterization of the rule. The rule does not state that it is an interest rate of 3 percent.

MR. SATTERWHITE: I'll rephrase then. That's fair.

Q. Are you familiar with that rule?

A. I read that rule, yes.

Q. Do you disagree with the Commission's basis of that rule of whatever the percentage it has in there as a proper percent to be used?

MS. GRADY: Objection, your Honor. I believe it's still a mischaracterization of the rule.

MR. SATTERWHITE: If I may, I'm just asking whatever the rule says, does he agree with it.

MR. DARR: Relevance, your Honor.

EXAMINER PARROT: I'll allow it.

Did you understand the last phrasing of the question there, Dr. Duann?

Can you try that one more time, Mr. Satterwhite, as you just --

MR. SATTERWHITE: Reread what I said last as a quick review.

(Record read.)

A. My understanding is the rule apply to deposit made by a customer and later that deposit was returned to the customer, and I don't believe it is applicable in this circumstance.

Q. Right. But earlier you described about what you would look at in terms of what a proper interest rate should be, so you didn't consider this rule at all when you were trying to figure out what a proper interest rate would be?

A. When I try to develop my position on the proper interest rate, my starting point is what is fair and what has been charged by AEP and what should be returned to the customer. And I also read Mr. Nelson's testimony regarding this.

Q. Right. So my question was, you didn't consider the Commission's existing rule as in this rule that had a level in it as being fair to customers to make a recommendation.

A. I can say --

MS. GRADY: Objection. Mischaracterization. The rule doesn't say that it's a fair level. The rule says -- that's a total mischaracterization.

MR. SATTERWHITE: Your Honor, I was asking what in his mind was making a recommendation. He keeps saying, his answer is he has to determine what is fair. I'm simply seeing if he used the basis of other Commission rules to determine what's fair.

EXAMINER PARROT: Can you put it that way, Mr. Satterwhite?

Q. When you were looking at the proper interest rate to recommend to the Commission, did you look at other Commission rules where the Commission expresses an interest rate to see what would be fair to customers?

A. Other than this 4901:1-7-05, or are you talking about other or you are talking about this one?

Q. That and others. I'm trying to get the universe of what you looked at.

A. As I say, I look at it and I find this rule does not apply in this circumstance.

Q. So you did -- because originally you said you started with the 10.9 and didn't look at other things.

A. No, I didn't say that.

Q. I'm sorry.

A. I didn't say that.

Q. So now you did look at other Commission rules and consider what the Commission has in its rules as far as interest rates for customers and you still ended up on the 10.9 as your final recommendation.

A. I only look at this particular rule, yes.

MR. SATTERWHITE: I thank the Bench for clarifying my question. That's all I have right now.

EXAMINER PARROT: Thank you, Mr. Satterwhite.

Ms. Grady, redirect?

MS. GRADY: Your Honor, if I could have a short break to confer with Mr. Duann.

EXAMINER PARROT: Sure. Let's take a five-minute break.

MS. GRADY: Thank you.

(Recess taken.)

EXAMINER SEE: Ms. Grady.

MS. GRADY: Thank you, your Honor, we have no questions on redirect. At this time I would re-move for the admission of OCC Remand Exhibit No. 2.

EXAMINER SEE: Are there any objections to the admission of OCC Remand Exhibit 2?

MR. SATTERWHITE: No, your Honor.

EXAMINER SEE: With that, the exhibit is admitted into the record.

(EXHIBIT ADMITTED INTO EVIDENCE.)

EXAMINER SEE: And you're dismissed, Dr. Duann.

Let's go off the record for a minute.

(Discussion off the record.)

EXAMINER SEE: Let's go back on the record.

Mr. Darr.

MR. DARR: Thank you, your Honor. IEU-Ohio calls Kevin Murray, please.

EXAMINER PARROT: Please raise your right hand.

(Witness sworn.)

EXAMINER PARROT: Please be seated.

MR. DARR: Before proceeding can we have the direct testimony of Kevin Murray on behalf of IEU which was filed June 30th marked as IEU Remand Exhibit 2, I believe?

EXAMINER PARROT: It shall be so marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

- - -

KEVIN M. MURRAY

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

DIRECT EXAMINATION

By Mr. Darr:

Q. Please state your name.

A. Kevin M. Murry.

Q. By whom are you employed?

A. McNees, Wallace & Nurick.

Q. Do you have in front of you what's been marked as IEU Remand Exhibit No. 2?

A. Yes, I do.

Q. Would you identify that for us, please?

A. That's my direct testimony filed in this proceeding on June 30th.

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

A. No, I do not.

Q. If I asked you the questions today that are contained in your testimony, would your answers be the same?

A. Yes.

MR. DARR: I move the exhibit and offer Mr. Murray for cross-examination.

EXAMINER PARROT: Thank you, Mr. Darr.

Mr. O'Brien?

MR. O'BRIEN: No.

EXAMINER PARROT: Mr. Kravitz?

MR. KRAVITZ: No, your Honor.

EXAMINER PARROT: Ms. Hand?

MS. HAND: No.

EXAMINER PARROT: Ms. Clark?

MS. KALEPS-CLARK: No, thank you.

EXAMINER PARROT: Mr. Margard?

MR. MARGARD: No, thank you.

EXAMINER SEE: Ms. Kyler?

MS. KYLER: No questions.

EXAMINER PARROT: Mr. Small?

MR. SMALL: No questions.

EXAMINER PARROT: Mr. Nourse?

MR. NOURSE: Thank you, your Honor.

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CROSS-EXAMINATION

By Mr. Nourse:

Q. Good morning, Mr. Murray.

A. Good morning.

Q. You testified regarding the POLR charge and the company's Black-Scholes option or I'll call it the Black model.

A. Yes.

Q. Did you do any of your own quantitative analysis of the POLR charge for AEP-Ohio's cost associated with the POLR obligation?

A. No.

MR. DARR: Mr. Nourse, I apologize for interrupting. A, I can't hear you. B, we also have a confidential exhibit associated with Mr. Murray's testimony and just to advise the Bench that if that issue comes up, we'll probably need to do some careful stepping.

EXAMINER PARROT: Yes. So if we tread into those waters, please let the Bench know.

MR. NOURSE: Certainly. And I'm not going to ask you about it.

I think it's been filed under seal, so I presume it would be admitted under seal as well.

Q. Okay. So, Mr. Murray, you didn't perform any modeling on your own, correct?

A. That's correct.

Q. Do you believe the POLR obligation

imposes costs on AEP-Ohio?

A. It may or may not.

Q. Do you believe it does?

A. It may or may not. I think that depends on what assumptions you make.

Q. Do you believe during the term of the current ESP that it has imposed costs on AEP-Ohio?

A. I don't believe companies have identified any actual costs that they've incurred.

Q. That's not my question. I'm asking you if you believe that the POLR obligation has imposed costs on AEP-Ohio during the term of the ESP.

A. And my answer is no, I don't believe the companies have incurred any actual costs.

Q. Thank you.

Regarding the POLR obligation, do you agree that there are two components of risk associated with that obligation being migration, or leaving customers, and returning customers who come back from shopping during the term of the ESP?

A. I understand that that's how the companies characterized it. I don't characterize the risk of the customer leaving as part of the POLR risk.

Q. But you do believe the return risk is part of the POLR risk?

A. I recognize that that's -- you can characterize it that way.

Q. And wasn't that your testimony in the earlier portion of this proceeding, that you recognized the return risk as part of the POLR obligation?

A. Yes.

Q. Okay. And that's still your position.

A. I recognize that.

Q. Okay. Was your position that only the one risk exists, was that adopted by the Commission in the ESP decision?

A. No.

Q. Now, is it your understanding that that issue of whether there's one risk or two risks for POLR, was that part of the appeal that we're sitting here today about?

MR. DARR: Objection. Relevance.

EXAMINER PARROT: I'll allow the question.

A. I don't know.

Q. Is it your understanding that the question of whether two risks or one risk exists part of the scope of the remand proceeding we're sitting here today in?

A. I think you're asking for a legal conclusion.

MR. SMALL: Your Honor, I'll state it as an objection. I think he's asking for a legal conclusion.

MR. NOURSE: Your Honor, I'm not asking for a legal conclusion. He's got testimony about the POLR risk in particular, you know, focusing on the one risk versus the two. I want to understand if that is his recommendation that the scope be narrowed in this remand.

A. My understanding, my layman's understanding of the Supreme Court decision is the entirety of the POLR charge is remanded to the Commission with a question as to whether or not it's appropriate at all. So that would include both the risk of leaving as well as the risk of returning.

Q. So your understanding is that anything associated with the POLR charge, the scope and nature of the POLR obligation, the bypassability of the charge, the level of the charge, whether there is a charge, any other issue is fair game in the remand?

A. That's my understanding.

Q. Okay. Let me ask you about the -- let me kind of do a compare and contrast, you've heard other witnesses go through this routine, but I believe you've been here for at least part of the hearing, correct?

A. I was here earlier today, that's the extent.

Q. Have you reviewed any of the transcripts from the other days' hearing?

A. Very briefly, I had a chance to skim through I think volume I and volume II.

Q. Okay. Well, when we talk about -- let me just, I want to compare an EDU's obligations or situation with that of a CRES provider on a couple different points and ask for your understanding of those points.

A. Okay.

Q. Now, when it comes to the price of generation service, would you agree that an EDU -- EDU's generation price is established through regulation and approved by the PUCO and a CRES provider can select their own price when offering it to customers?

A. Yes.

Q. Okay. And an EDU, by virtue of the standard service obligation -- standard service offer has to provide that offer to all customers, whereas CRES providers select the customers they'd like to make offers to; is that correct?

A. An EDU is statutorily obligated to act as a provider of last resort.

Q. Okay. So would you agree or disagree with my question?

A. Yes.

Q. Okay. Yes, you would agree, right?

A. I believe I answered the question.

Q. You said yes, you would agree or disagree. So I just wanted to make sure the record's clear. Do you agree?

A. I agree that the EDU has to act as a provider of last resort and the CRES does not have that obligation.

Q. Okay. Now, with respect to the term of the rate, generation rate, the EDU has to provide their SSO rate during the term of their SSO plan, whereas a CRES provider can select their own term; is that correct?

A. Subject to the qualification of if the EDU has accepted the plan.

Q. Correct. For an effective plan like an electric security plan.

A. For a plan that's been accepted by the EDU.

Q. Okay. Do you agree that the EDU also has to serve customers if a CRES supplier defaults on their service obligations?

A. That would depend on the specifics of the electric security plan. That would be the case as I understand the company's current electric security plan.

Q. So you don't believe that's a statutory obligation, it's just a provision in an ESP?

A. There's a statutory obligation. What I'm trying to recognize is there is and there has been the ability to transfer the statutory obligation to another party through contract.

Q. Okay. But the obligation rests with the EDU?

A. That's correct.

Q. By virtue of the statute. That's your understanding.

A. That's correct.

Q. Okay. And the CRES supplier, no other CRES suppliers have any kind of obligation like that, do they?

A. CRES providers don't have any

provider-of-last-resort obligation.

Q. Thank you.

Now, do you agree that the standard service offer includes a firm supply of generation?

A. Yes.

Q. Okay. And the standard service offer is where the POLR obligation comes from, those are essentially synonymous; would you agree?

A. No.

Q. Okay. Explain why you don't agree.

THE WITNESS: Could I have his original question read back, please?

(Record read.)

A. I'm trying to make sure I don't confuse terms here, but the obligation to provide a standard service offer as existed since 2001 when Ohio implemented retail Choice, and in that context there has been a continuing obligation on the electric distribution utility either through transition plans, rate stabilization plans, or now electric security plans to act as the provider of last resort.

Q. Well, we'll get to that in a minute. But what my question is, is the POLR obligation arises from the standard service obligation -- offer, excuse me. Do you agree with that?

A. Yes.

Q. Yeah, okay. Now, is the POLR obligation, fulfilling the POLR obligation providing that service is a generation related service, correct?

A. In the initial phase of this proceeding I testified that it was a generation related service. The company characterized it as a distribution related service. My understanding of the Commission's order is it also characterized it as a distribution related service.

Q. And you're saying that because it's a charge that the distribution utility renders.

A. It's associated with an obligation incurred, that rests upon the electric distribution utility.

Q. And are you suggesting that EDUs only have distribution services and functions by that answer?

A. No.

Q. So the name "distribution utility" doesn't limit the scope of the services rendered by the EDU, does it?

A. EDUs are required to provide or satisfy the standard service offer obligations which includes, as we've identified, a firm supply of generation service.

Q. Correct. And you agree that the POLR service arises by virtue of the standard service offer.

A. Yes.

Q. Okay. Now, on page 3 of your testimony in lines 16 through 18 here it just makes a similar statement to what you just did in your prior answer where you said that the standard service offer has existed since Senate Bill 3 was enacted, correct?

A. Correct.

Q. And just for clarification, you say here in line 18 that Senate Bill 3 was enacted in 1999, but the standard service offer obligation actually commenced the beginning of 2001, correct?

A. That's my understanding.

Q. Okay. Now, I want to refer you to another statement you make back in your testimony and then ask you a series of questions, I think the two statements are related. So look back on page 10 and lines 14 through 18, you state that the business and financial risks related to migration from and return to SSO were already reflected in pre-ESP rates. Is that a fair characterization?

A. That's a paraphrasing but it's what I stated.

Q. Okay. So I want to talk to you about the differences in the last decade, if there are any in your opinion, that -- with respect to the SSO. Would you agree that business and financial risks associated with the standard service offer have changed over the last decade from the ETP case to the RSP case to the ESP case?

A. Yes.

Q. And under Senate Bill 3 there was a market development period for five years and the design of Senate Bill 3 was such that utilities were to begin charging market prices starting in 2006; is that your understanding?

A. That's my recollection.

Q. Okay. And then did that happen in 2006 as designed?

A. No.

Q. What happened?

A. All of the -- rephrase that.

The majority of the electric utilities in Ohio with the exception of Monongahela Power elected to propose rate stabilization plans which were filed at the Commission and ultimately approved in one form or another.

Q. Okay. And is it fair to say, we'll leave Mon Power off to the side, that's a good idea, is it fair to say those rate stabilization plans adopted rates that were generally below market rates at that time?

A. The rate stabilization plans were, to some degree, negotiated, to some degree litigated is my recollection. I believe the prevailing expectation at the time was that the rates, the rate stabilization rates at the time they were approved would be below the expected market rates for the duration of the rate stabilization plans.

Q. And that was also true specifically for AEP-Ohio companies, correct?

A. Yes.

Q. Is it also your recollection that under Senate Bill 3 the EDUs were able to freely transfer their generation assets without PUCO approval?

A. My recollection is they had the option, not the obligation.

Q. Right. So they didn't have to get PUCO approval under Senate Bill 3 to transfer generation assets.

A. I honestly don't recall whether or not PUCO approval was required or not. My recollection is they had the opportunity but not the obligation.

Q. Okay. And do you recall whether that changed with the enactment of Senate Bill 221 such that now under Senate Bill 221 PUCO approval is required to transfer generation assets?

A. That's my recollection for generation. I'd have to refer to the statute. I don't recall specifically if there's a date certain associated with that or not.

Q. What do you mean by "a date certain"?

A. If a particular generating asset was owned by the electric distribution company as of a date certain, whether or not that triggered the approval, or if it had come into ownership after a date certain that they didn't have to seek Commission approval. I just don't recall. I know that there is an approval process in the statute.

Q. Well, if you recall, is the date certain you're talking about in conjunction with the effective date of Senate Bill 221 or some other time in the past?

A. I don't recall. I'd have to refer to the statute.

Q. Okay. Under the regime for pricing of standard service offers that was enacted under Senate

Bill 3, is it your understanding that that was supposed to be a market-based price that's essentially the standard under Senate Bill 3?

A. For what period of time are you referring to?

Q. Well, between 2001 and 2006.

THE WITNESS: Could I have the question reread?

(Record read.)

A. The pricing during what was called the transition period under Senate Bill 3 was the result of outcomes of transition plan proceedings, and the transition plan proceedings required utilities to unbundle their rates as well as separate their generation rates into components that were associated with their expectation or claims as to whether or not they had any regulatory assets or stranded generation assets.

So in that respect I think you could characterize the rates from 2001 through 2005 involving regulated rates. In 2006 as Senate Bill 3 was originally enacted the expectation, my recollection is the statutory provision is the expectation was we would move to market-based generation rates. So -- and I think as we've previously identified, that didn't actually transpire as a result of the option of rate stabilization plans.

Q. Okay. And if you recall, did the standard service offer provision within Senate Bill 3 have a list, either an all-inclusive list or exclusive list, of rate adjustments that were permissible under the standard service offer?

A. I don't recall. You're testing a ten-year-old memory at this point.

Q. Okay. Would you agree that's a fair characterization of the ESP statute under Senate Bill 221?

MR. DARR: Objection. That question is unclear. What is being characterized.

EXAMINER PARROT: Mr. Nourse, would you --

MR. NOURSE: Your Honor, I can rephrase that.

EXAMINER PARROT: Yes. Please do.

Q. Do you agree that under Senate Bill 221 the ESP statute delineates a number of rate adjustments that are permissible as part of an electric security plan?

A. That's my understanding.

Q. And you don't recall whether that's the case under Senate Bill 3?

A. I would have to go back and refresh my memory by reviewing the statutory language.

Q. All right. Now, can you recall any other market conditions affecting wholesale and retail electric prices that have changed over the period of 2001 to 2011?

THE WITNESS: Could I have that question reread?

(Record read.)

A. There's been a wide variety of influences that have affected both wholesale and retail prices over the last decade.

Q. Correct. Thank you.

Are you aware of any other aspects of AEP-Ohio's cost structure for supporting an SSO that would have changed during the past decade?

A. In various regulatory proceedings here at the Commission the company has represented at times the elements of its cost structure have changed, but we, to my recollection, have not had a proceeding over the last decade that looks at the totality of the company's cost structure and whether or not that's changed in that time period.

Q. So individual cost components may have changed but you're not sure about the totality?

MR. DARR: Objection. That clearly is a mischaracterization of the answer that was just given.

MR. NOURSE: There was a question there, your Honor. He can disagree if he doesn't think I stated it --

MR. DARR: The question was premised on a characterization, your Honor, and that was a mischaracterization.

EXAMINER PARROT: I'll allow the question. Would you like it reread?

THE WITNESS: Yes, please.

(Record read.)

A. As I believe I stated, we've had proceedings in which the company has represented and the Commission has accepted that individual components of cost for such things as fuel have changed, but I don't believe we've had a proceeding that's looked at whether or not the company's costs in total have changed up or down over the last decade.

Q. Okay. A couple more questions about comparing the Senate Bill 3 SSO and the Senate Bill

221 SSO. Was there a significantly excessive earnings test under Senate Bill 3 that applied to the provision of the SSO?

A. No.

Q. Okay. Was there a market rate offer test as a constraint on the SSO under Senate Bill 3?

A. I'm not clear what you mean by the market rate offer test.

Q. Sure. Is it your understanding under the ESP statute under 221 that the Commission has to determine, as an over-arching matter in approving an electric security plan that the results are more favorable in the aggregate than the expected results under market rate offer?

A. That's my understanding.

Q. Was that the case under Senate Bill 3 SSO?

A. No.

Q. Was participation in a regional transmission organization by an EDU, was that required under Senate Bill 3?

A. Yes.

Q. Nothing about that has changed with Senate Bill 221?

A. I'd have to go back and compare the

statutes. I believe the requirements to participate still exist, but I think there may have been some tweaking in some of the wording.

Q. All right. Can you turn to page 5 of your testimony. Starting on line 11 you make a statement that AEP-Ohio can mitigate POLR risks by encouraging customers to waive POLR charges and return to market. Do you see that?

A. Yes.

Q. So do you agree that the return to market option is a good solution for managing return risk?

A. I recommended it initially in my testimony, so, yeah, I think it's a good option.

Q. Okay. And on lines 20 and 21, same page, you state that the SSO does not impose a risk on EDUs with regard to the obligation to physically provide generation supply. Do you see that?

A. Yes.

Q. And then you go on on page 6 to say essentially that this is because PJM manages physical supply; is that correct?

A. Yes.

Q. Okay. Now, are you saying that the PJM's operational control already binds AEP-Ohio to provide POLR service independent of the SSO obligation?

THE WITNESS: Could I have the question reread?

(Record read.)

A. I don't understand the question.

Q. I don't understand your testimony, I'm trying to clarify that. So, again, you're starting on page 5 and you're saying the SSO obligation does not impose a risk with regard to the physical generation supply, and, again, that's because PJM -- because of the PJM market and the fact that AEP's a member; that's your testimony, correct?

A. As part of its tariff PJM has mechanisms in place to try to assure that there's adequate generation and demand response resources to serve load and it physically dispatches those assets on a day-to-day basis as demand arises in the marketplace. So what I'm trying to point out is that even if AEP-Ohio owned no generation assets, PJM would still exist and physically dispatch resources in the region to serve load.

Q. And when you mentioned the tariff just now, you were talking about the RAA or the PJM tariff, is that what you're talking about?

A. I was talking in broader terms in the totality of PJM's tariff.

Q. But you weren't referring to a PUCO tariff.

A. Yes.

Q. Does PJM, membership in PJM or the PJM tariff as we've referred to it, does that require capacity and energy and ancillary services to be provided by an LSE?

MR. DARR: For the record, can we define LSE?

MR. NOURSE: Load-serving entity. Thank you.

A. I'm not sure what you mean by "provided" in that context.

Q. Well, okay.

A. Can you clarify, are you talking about does that require an entity to physically own and dispatch assets?

Q. Yeah, why don't you explain your understanding of what it requires relative to capacity, energy, ancillary services by an LSE.

A. And I don't understand your question.

MR. DARR: I need to interject. A, the question is confusing, as can you tell by the witness's response. B, it's not only confusing but the PJM tariff, as I understand it, is some 2,000 pages long. I'm having a little difficult -- and that's only one of them. I'm having a little difficulty trying to figure out what Mr. Nourse is going after here.

MR. NOURSE: Well, your Honor, I think --

MR. DARR: I object to the question as being vague.

MR. NOURSE: Yeah.

EXAMINER PARROT: Could you try to rephrase it one more time, Mr. Nourse?

MR. NOURSE: Okay.

Q. (By Mr. Nourse) Are you saying that the PJM tariff obligations mirror or displace the SSO obligations under Ohio law?

A. No. The two are distinct. The SSO obligation under Ohio is a statutory obligation that requires an electric distribution utility to make available a firm supply of generation service. It doesn't define or limit how the distribution utility's obligated to do that, and I think what I'm trying to distinguish is it doesn't attach an obligation to a distribution utility to own and control physical distribution assets.

What I'm trying to distinguish and point out is the PJM Interconnection, PJM has, broadly speaking, oversight authority over whether or not there's adequate resources in the region to serve expected demand and assumes day-to-day responsibility to dispatch those resources to meet load.

Q. Does the PJM membership or tariff require AEP-Ohio to supply firm supply of generation service to all its retail customers?

A. Does the PJM tariff require AEP to do that?

Q. Yes.

A. I don't believe so.

Q. Does the PJM tariff or membership require AEP-Ohio to be a default supplier for retail customers?

MR. DARR: Again, same concern. There are multiple provisions of the PJM tariffs and if we're talking about something specific, maybe this question makes some sense, but right now I'm having trouble following it. I'm sure the witness is having trouble following it too.

EXAMINER PARROT: Mr. Nourse.

MR. NOURSE: Your Honor, he just answered the question relative to providing a firm supply, I'm simply asking him about defaulting. It's the same kind of question.

EXAMINER PARROT: Mr. Murray, you may answer the question if you know.

THE WITNESS: Can I have the question read?

(Record read.)

A. I don't understand your question. You've -- it's too broad in context to frame a response because if you're referring to both the AEP as well as simply membership of PJM.

Q. Are you aware of any aspect of PJM membership or the tariff that requires AEP Ohio to be a default supplier for retail customers?

A. Again, I think your question is too broad to be able to respond to.

Q. I asked you if you're aware.

A. Your question is referring both to AEP who has several -- I think you said AEP-Ohio.

Q. Correct.

A. So I'm presuming you're referring to the two distribution companies who are load-serving entities under PJM's tariff. You're also referring to membership in PJM, and membership can and at times is distinct from being a load-serving entity. So you're mixing apples and oranges and that doesn't allow me to respond to your question.

Q. Well, I didn't mix. I said either-or. Are you aware of any provision in the tariff or by virtue of being a member of Columbus Southern Power or Ohio Power Company to provide default service to retail customers in Ohio?

A. No, because PJM's tariff doesn't deal with retail customers. PJM's tariff operates at the wholesale level.

Q. Okay. Now, would you agree that physical supply is not the only aspect of providing the standard service offer?

MR. DARR: Objection. The question is vague.

EXAMINER PARROT: You may answer the question.

A. There's both a physical supply as well as the pricing of the service. So yes.

Q. And would you agree that also a utility or a load-serving entity's management of its risk would also manifest through hedging, bilateral financial transactions, you know, forward sales, things like that in addition to physical supply?

A. It could.

Q. And are those things that are -- are any of the things I just listed required of an LSE under

PJM's tariff or by virtue of membership?

A. Would you repeat the things you listed?

Q. Hedging, bilateral financial transactions, forward sales.

A. I don't believe any of those are required.

Q. Okay. Now, you mentioned earlier that FirstEnergy, I belief you mentioned FirstEnergy operating companies fulfill the POLR obligation without generation asset ownership; is that your understanding?

A. I was referring to the distribution companies, but yes, that's my understanding.

Q. Okay. And I meant the same thing by "operating companies."

Do you believe that switching to a competitive bidding format for AEP-Ohio is fair game or within the scope of this remand proceeding?

A. The companies have not proposed it as part of the remand proceeding, but my understanding of the Supreme Court remand was it was -- the case was remanded to the Commission for the purposes of identifying the actual -- the actual cost of the companies providing POLR or some other basis by which to justify it.

And there's certain -- in that context there's certainly nothing that would have foreclosed the companies from providing -- from proposing a competitive bidding process to transfer the POLR risk to another company and point to the results of that as their actual cost of providing POLR service.

MR. NOURSE: Can I have the answer reread, please?

(Record read.)

Q. Okay. And do you think, well, let me ask you this, under that scenario you just described it's your belief that AEP-Ohio, while owning its own generation assets as they do today, could implement an approach that sets those generation assets aside and go out and purchase power in the market; is that what you're talking about, to bid out the SSO?

A. No. We weren't talking about bidding out the SSO. We were talking about bidding out the POLR obligation. The two are distinct.

Q. And can you explain that, how would bidding out the POLR obligation discretely, how would that work?

A. As I've characterized it in my testimony, I've limited the POLR obligation to the obligation to provide a firm supply of generation under those circumstances in which a customer leaves and goes to a competitive electric retail supplier and for whatever reason subsequently returns and informs the company they want to obtain standard service offer generation.

There's nothing that would foreclose the company from bidding out the obligation for some other entity to step up and be willing to fulfill that role. Particularly in circumstances where we have market prices that, at least on some rate schedules are below ESP prices, there may be lots of people willing to step up and assume that type of responsibility.

Q. Okay. So your answer related, first of all, to the return risk only, correct?

A. That's correct.

Q. And you're saying -- would it require a waiver like we've talked about for parties to -- customers that would shop to waive the POLR charge to be able to come back at market and then we would farm that out through a bid? Is that what you're saying?

THE WITNESS: Could I have the question reread?

(Record read.)

A. I don't believe so. If a customer were to elect to waive the POLR charge, they would be, in this example, foregoing their right to return. What I'm suggesting is you could test the market by seeing if there were any suppliers that would be willing to say "I'll step up and I will provide generation service at a rate, equal rate that's reflected in the ESP price. And in exchange for that, I've agreed to do that, but in exchange for assuming that responsibility I want you to pay me something up front." And that payment would be a payment for assuming the POLR risk.

Q. Okay. Well, it's late-July as we sit here. Is that something that could be done relative to the remand and implemented in any meaningful way with the remainder of 2011?

A. I've identified that it's a -- an option. I'm not trying to comment on whether or not people think it's very practical at this point.

Q. Okay. And to clarify, your example there that we've been talking about, that does not apply to the SSO as a whole. You're talking about managing the return risk only for customers who leave and then would come back during the term of the ESP.

A. That's correct.

Q. Okay. Let me ask you to turn back to

page 8 of your testimony. Now, I think here starting at line 7 where you say one option is to bid out the entire generation supply, that's a different example than we just talked about, right?

A. That's my understanding of what the company witness was discussing in her testimony.

Q. Okay. But you're presenting that here as an option to identify actual POLR cost, in your words?

A. I think what I'm trying to identify is the example that appears here in my testimony is slightly different than the example we just discussed during my cross-examination because it talks about bidding out the entire SSO supply obligation including the POLR risk, whereas we were previously just discussing bidding out the POLR risk.

Q. Right. So in this example you say down on line 13 that this would be a better apples-to-apples comparison. Do you see that?

A. Yes.

Q. Okay. And you're saying rather than comparing a base generation rate and a POLR -- a separate nonbypassable POLR rate to a rate offered by a CRES supplier, the apples-to-apples would be the fact that a bidding context like this would have a bundled price that already reflects the premium for migration risk?

MR. DARR: May I make an inquiry here? In Mr. Nourse's question he talked about a nonbypassable charge. I'm a bit buffaloed by that. A nonbypassable POLR I believe he mentioned.

MR. NOURSE: I didn't hear the last sentence. What did you say?

MR. DARR: I believe the question that Mr. Nourse posed talked about a nonbypassable POLR rate. We've had an extensive amount of discussion about this already.

MR. NOURSE: That's fine.

MR. DARR: I'm trying to understand his question because --

MR. NOURSE: That's fine. I can remove that word or try to rephrase it without that word. It's not critical.

Q. (By Mr. Nourse) Mr. Murray, what I'm asking is to clarify your point here about apples to apples, and you're comparing, you're saying it would be better, you're saying one price that reflects the POLR risk, if you will, already is better than two prices being a base generation charge and a POLR charge, two separate charges. Is that your point here?

A. What I'm trying to point out is that by including the POLR risk in price that bidders bid on, it allows customers to make better informed decisions about whether or not switching to a competitive retail electric supplier makes economic sense.

Q. Now, first of all, you're agreeing, are you not, that in such an example where the supply is bid out, the SSO supply is bid out, that the resulting auction clearing prices do reflect the incremental premium for -- associated with the POLR obligation that's transferred?

A. That depends on the structure of the auction and to the extent the bidders would successfully reflect that in their clearing prices.

Q. Well, I'm not sure what you mean by "successfully reflect," but in your experience and in the context of your statement here about a better apples-to-apples comparison were you assuming that the price premium associated with the POLR obligation is transferred through the auction, as you state here, that would be part of the auction clearing price?

A. Subject to the caveat that the price premium may be zero.

Q. Okay. Now, does it matter to you, when you say it's a better apples-to-apples comparison, whether the resulting price for the customer is higher?

MR. DARR: Objection. The price of what? Again, the question is vague. I'm struggling here.

MR. NOURSE: I don't think it's unclear, your Honor. He's saying apples-to-apples comparison, so if he doesn't understand the question, he can so indicate.

A. I don't understand the question, and I don't believe this section of my testimony is talking about whether or not prices are higher or lower.

Q. I know it's not, but I'm asking you about that. Is it better to have an apples-to-apples comparison that collapses two rates into one and maybe better apples to apples in your view, does that matter whether the resulting price paid by a customer -- customers ultimately is higher or not?

A. I'm not following your question. Better compared to what?

Q. You didn't consider the resulting price in your analysis here?

MR. DARR: Objection.

EXAMINER PARROT: Mr. Murray, you may

answer the question.

THE WITNESS: Could I have the question reread?

(Record read.)

A. No. My analysis here is a theoretical example.

Q. If the resulting price were higher, would you still say that it's a better apples-to-apples comparison?

MR. DARR: Objection. Price of what?

MR. NOURSE: I said the resulting price to customers under this option.

EXAMINER PARROT: The objection is overruled.

You can answer.

THE WITNESS: Could I have that question reread, please?

(Record read.)

A. What my testimony is trying to discuss is a better way to measure actual POLR cost. If you conducted a bid, it's possible the prices may be higher or lower than some other outcome. What I'm trying to identify is this is a better way of measuring what's been characterized as the POLR risk.

Q. Okay. And this answer 14, you say in the first line of the answer there are several ways that actual POLR costs could be measured, and then I believe you go on to mention two ways. Am I missing something there?

A. That's correct.

Q. Okay. So in the second -- we talked about the first option. The second option starts on line 16; is that correct?

A. Yes.

Q. And this is really the option we talked about earlier of the more narrow option for returning customers?

A. No. I would characterize this as a third option.

Q. Okay. Go ahead. Can you explain this option, how it differs?

A. In this option, the third option, we're not bidding out anything at all. We're leaving the POLR obligation with the electric distribution companies and setting up a mechanism where we would measure and allow their actual incremental cost of providing that service to be collected.

Q. Okay. And would that kind of purchased power go through the FAC as you say at the top of page 9, right?

A. It would under the current market security plan.

Q. Okay. And costs including purchased power that flow through the FAC are subject to a prudence review, correct?

A. That's my understanding.

Q. Would IEU object if AEP-Ohio took that approach when market prices were high relative to the cost of the company's generation?

MR. DARR: Objection. Relevance.

MR. NOURSE: I'm sorry?

MR. DARR: Relevance.

EXAMINER PARROT: Overruled.

A. I haven't discussed that with IEU so I have no way of knowing what the response would be.

Q. Would it be, in your opinion, prudent for a utility to purchase power when they've got their own generation, and under this example it would be lower cost to utilize the generation it owns?

MR. DARR: I'm sorry, I missed the end of that question, could I have that read, please?

MR. NOURSE: To utilize the generation that it owns.

A. Your question doesn't make much sense to me because in my example what I am suggesting is the electric distribution utility would go to the market and buy power. It's not discriminatory in terms of where the generation would be sourced. So if the company's affiliate owned generation, it wasn't precommitted to some other use and was the most economical option on the market, there's nothing that would foreclose the distribution utility from simply buying from the affiliate. And you would do that logically as a prudent purchase. So you're going to purchase from wherever the most appropriate source is in the market.

Q. Okay. So in your answer just now you mentioned two constraints, that it would -- that the existing generation is not available, and that the purchase would be the most economical. Those would be restrictions on this kind of approach, would they not?

A. If you're purchasing from the market at the time a customer returns, you're making purchasing decisions based upon a set of facts and circumstances at that particular moment in time.

Q. Yeah, but under this option are you saying that the companies would not be obligated to serve the returning customers but for purchases through the market without regard to whether those are most economical or whether their existing generation is available?

A. What I am suggesting is if the Commission were to approve this type of mechanism, it would be with the expectation that the companies are not obligated to supply generation in the event a customer returns. At the same time, it would be the expectation that the companies are not foreclosed from supplying generation as well.

MR. NOURSE: That's all the questions I have. Thank you, your Honor.

Thank you, Mr. Murray.

EXAMINER PARROT: Thank you. Any redirect, Mr. Darr?

MR. DARR: If I could have just a couple minutes, I don't think this will take very long.

EXAMINER PARROT: Okay. Let's take a five-minute break.

(Recess taken.)

EXAMINER PARROT: Let's go back on the record.

Mr. Darr?

MR. DARR: Thank you. I believe I can do this in two questions, but please don't hold me to that magic number.

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REDIRECT EXAMINATION

By Mr. Darr:

Q. During your cross-examination, Mr. Murray, you were asked whether or not there was an obligation to provide firm service as developed through the PJM market prices. Do you remember that question and answer?

A. Yeah, I believe the question was whether or not there was an obligation under PJM's tariff.

Q. And you answered that question "No." Do you recall that?

A. Yes.

Q. What was the basis for your answering that "No"?

A. The question was being posed, as I understood it, in the context of whether or not there was a similar obligation under PJM's tariff as to what exists relative to the Ohio statutory obligation of an electric distribution utility to provide a firm supply of generation service as part of the standard service offer.

When you look at service at the retail level, there are rate schedules that define the quality of service. You have rate schedules that are firm. You have rate schedules that are interruptible as where the customers agree to interrupt service for a lower price that reflects a lower quality of service.

Because PJM operates at a wholesale level there's kind of a disconnect between the wholesale and retail market in that respect. PJM assembles the resources that it thinks are needed in total to meet the region's peak demand and dispatches them accordingly. Those resources are a combination of generation resources as well as demand response resources that are willing to be interruptible under emergency conditions.

When it gets hot, not unlike the conditions that we're facing this week, PJM will dispatch up the stack, dispatch all the generation resources that are available that day, eventually the interruptible loads if it gets that far. But if conditions are such that at that point in time you don't have enough general resources to serve load, PJM will direct load-serving entities to curtail load on a pro rata basis throughout the system.

So I was trying to make that distinction in terms of recognizing that there's a difference between the way PJM physically operates and how the statute speaks to and characterizes service at the retail level in Ohio.

MR. DARR: Thank you. That's all I have.

EXAMINER PARROT: Thank you, Mr. Darr. Mr. O'Brien?

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

EXAMINER PARROT: Mr. Yurick?

MR. YURICK: No.

EXAMINER PARROT: Ms. Hand?

MS. HAND: No questions.

EXAMINER PARROT: Ms. Clark?

MS. KALEPS-CLARK: No.

EXAMINER PARROT: Mr. Margard?

MR. MARGARD: No, thank you.

EXAMINER PARROT: Ms. Mooney?

MS. MOONEY: No questions.

EXAMINER PARROT: Ms. Kyler?

MS. KYLER: No questions.

EXAMINER PARROT: Mr. Small?

MR. SMALL: No questions, your Honor.

EXAMINER PARROT: Mr. Nourse?

MR. NOURSE: No questions, thank you.

EXAMINER PARROT: Thank you very much, Mr. Murray. You are excused.

MR. DARR: Move IEU Exhibit 2 and also request that we keep the KMM-3 under seal.

EXAMINER PARROT: Are there any objections to the admission of IEU-Ohio Remand Exhibit No. 2?

MR. NOURSE: No.

EXAMINER PARROT: Seeing none, IEU-Ohio Remand Exhibit 2 is admitted into the record and specifically KMM Exhibit 3 is admitted under seal pursuant to the protective order that was granted on Friday, July 15th.

(EXHIBIT ADMITTED INTO EVIDENCE.)

EXAMINER PARROT: Let's go off the record.

(Discussion off the record.)

EXAMINER PARROT: Let's go back on the record. At this point we're going to take a lunch break and we will reconvene at 2 o'clock. Thank you.

(Thereupon, at 12:52 p.m., a lunch recess was taken.)

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Thursday Afternoon Session,
July 21, 2011.

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EXAMINER PARROT: Let's go back on the record.

Mr. Darr.

MR. DARR: Yes, ma'am. IEU-Ohio calls Joseph Bowser.

EXAMINER PARROT: Please raise your right hand.

(Witness sworn.)

EXAMINER PARROT: Very good. Please proceed.

MR. DARR: Thank you, your Honor. For purposes of this I would like to have IEU Remand Exhibit No. 3 marked which is the prefiled testimony of Mr. Bowser.

EXAMINER PARROT: So marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

MR. DARR: As a preliminary matter, the copy that I gave to the court reporter is identical to the one that was filed with the Commission on June 30th. Pursuant to the attorney examiners' entry earlier this week certain portions of that I know have been ordered to be stricken and we are proffering those for purposes of any subsequent proceedings that might arise out of this matter.

EXAMINER PARROT: Very good. Thank you, Mr. Darr.

MR. DARR: Thank you.

MR. SATTERWHITE: If I could make a suggestion on that. Sorry.

EXAMINER PARROT: Mr. Satterwhite.

MR. SATTERWHITE: Thank you. I think, having some inside knowledge about how records are viewed like if something should move beyond the Commission, I think it might be good to put something in parentheses such as "stricken from the record" or a cite to the attorney entry citing that because I think if someone were to pull this, they would be drawn to that saying this must be important testimony without seeing that other order. So I think something handwritten in the official document would be appropriate like "proffered but not admitted" or something like that.

MR. DARR: You saw what my suggestion was this morning, that we do a mark-up which I prepared. I had some discussion as to the procedural steps that should be taken. At this point I don't care how we mark it, obviously we have the AE's entry which designates certain items which have been taken out, but if you want, I have no objection to having the document that becomes part of the record which would -- to have those portions marked as having been stricken pursuant to Monday's entry.

EXAMINER PARROT: Mr. Satterwhite, I believe we can just read into the record right now for purposes of doing this what the portions are that have been stricken pursuant to the entry. Or are you suggesting that's not sufficient?

MR. SATTERWHITE: Yeah, I'm saying actually physically mark on the document because I think if someone were to pull the document later in like reviewing this record for whatever purpose they might be doing that for, they wouldn't have that part when they actually are just pulling the transcripts or the testimony to look at.

EXAMINER SEE: Which is the case if they have pulled it at this point already.

MR. SATTERWHITE: Right, but we've now moved to highlight it, essentially.

EXAMINER SEE: Why not --

MR. SATTERWHITE: You were not going to highlight it, that was just for ease of the Bench?

EXAMINER PARROT: No, we were not going

to do that.

MR. DARR: That was my suggestion earlier today. What I have done basically is submitted the original as filed, it does not have any markings on it indicating the page and line numbers that have been stricken.

MR. SATTERWHITE: Okay.

EXAMINER PARROT: So we would be relying on the ruling to designate those portions were stricken by the examiner.

MR. SATTERWHITE: I thought it was elevating it. Sorry, I didn't mean to talk over you.

EXAMINER SEE: And just so we're clear, the court reporters do not submit attached to the transcript testimony that has already been docketed. So the only version in the record at this point is the testimony that was filed June 30th along with the Commission's entry for July 19th striking those portions.

MR. DARR: That helps clear up the situation that I thought might be emerging here because we have been submitting copies to the court reporter for whatever reason, it's interesting how this conversation is developing, but we've been submitting them, I've been submitting them over the last few days quite honestly under the working assumption that would become part of the moving -- part of the record here. So if that's not the case, then I think we're going to be fine.

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JOSEPH G. BOWSER

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

DIRECT EXAMINATION

By Mr. Darr:

Q. Having waddled through that, Mr. Bowser, can you state your name for the record?

A. Joseph G. Bowser.

Q. By whom are you employed?

A. I'm employed by McNees, Wallace & Nurick.

Q. In what capacity?

A. As a technical specialist.

Q. Do you have in front of you what's been marked as IEU Remand Exhibit No. 3?

A. Yes, I do.

Q. Could you identify that for us, please?

A. Yes. That's my prefiled testimony that was filed in this case on June 30th, 2011.

Q. Do you have any additions or corrections to that? Do you have any additions or corrections to that testimony?

A. No, I do not, other than the item that you just mentioned a minute ago for purposes of the motion to strike. I don't know if that's a needed correction or not.

Q. Turning your attention to page 12, do you have a correction to that page?

A. Actually, it's --

Q. Is it page 14?

A. Yes, page 14.

Q. Okay. Do you have a correction to page 14?

A. Yes, I do.

Q. Could you identify what that correction is, please?

A. Yes. Starting at line 20 there's a sentence that says "Again, these amounts do not include any recognition of interest that should be added to these amounts." It should be corrected to strike the word "again" and then say "These amounts and any reduction in revenues deferred for future collection for the pre-2009 component do not include any recognition of interest that should be added to these amounts."

Q. Could you explain to the --

MR. SATTERWHITE: Sorry. If you could repeat it one more time.

EXAMINER PARROT: Let's go through it one more time, please.

THE WITNESS: Okay. The word "again" would be stricken and then where it says "These amounts," "these" would begin the sentence and then actually it would be to inserted after the word "amounts" these words: "and any reduction in revenues deferred for future collection for the pre-2009 component."

Q. Why are you suggesting that that correction be made?

A. Yes. Because on page 12, lines 3 through 5, that language that was stricken actually applied to both the post-2008 component and the pre-2009 component. And so, therefore, to have all the information necessary here I'd need to make that change.

Q. Are there any additional corrections that you need to make?

A. No, I don't.

Q. If I asked you today the questions that are contained in that testimony, would your answers be the same as set out in IEU Remand Exhibit No. 3?

A. Yes, they would.

MR. DARR: Move the admission of that exhibit and submit the witness for cross-examination.

EXAMINER PARROT: Thank you, Mr. Darr.

Mr. Yurick?

MR. YURICK: No questions, your Honor, huh.

EXAMINER PARROT: Ms. Hand?

MS. HAND: No questions your Honor.

EXAMINER PARROT: Ms. Clark?

MS. KALEPS-CLARK: No questions, your Honor.

EXAMINER PARROT: Mr. Margard?

MR. MARGARD: No questions, your Honor.

EXAMINER PARROT: Ms. Kyler?

MS. KYLER: No questions, your Honor.

EXAMINER PARROT: Ms. Grady?

MS. GRADY: No questions, your Honor.

EXAMINER PARROT: Mr. Satterwhite?

MR. SATTERWHITE: The bad guy. Yes.

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CROSS-EXAMINATION

By Mr. Satterwhite:

Q. Good afternoon, Mr. Bowser. Good to see you again.

A. Good afternoon.

Q. Matthew Satterwhite from the company. Try to be brief. Please turn to page 10 of your testimony, please.

A. Okay.

Q. Do you see in lines 1 through 7 where you're discussing what the Commission authorized for the ESP on top there?

A. Yes, I do.

Q. Is it your understanding that the PUCO canceled its authorization of those rates for that time period as a result of the case we're in now?

A. Could you say that again?

Q. Sure. Is it your understanding that the PUCO canceled its authorization of the rates that you say are authorized there as a result of this ESP remand?

A. No. They did not.

Q. Okay. Look down on lines 7 through 10 where you talk about the fact that to the extent the amount of the revenue collected, you say it's not properly includable in an ESP, you characterize that as an overcollection. Do you see that?

MR. DARR: Objection, that misrepresents the nature of what's in that quotation.

Q. Can you look at page 10, lines 7 through 10.

MR. SATTERWHITE: I just want to get him to where it is. I apologize if I mischaracterized it.

A. Yes. Actually, that's addressing the impacts on the revenues deferred for future collection.

Q. Is it your intention that that has been overstated because it's not properly includable in an ESP?

A. What's overstated?

Q. I'm asking. Is it your contention that that is overstated?

A. It's my contention that the deferred revenue balance is overstated, correct.

Q. And that is due to the fact that because of the remand proceeding it's your belief that something was not properly included in the ESP?

A. The POLR revenues that I address later as well as the environmental carrying charges on the 2001 to 2008 environmental expenditures, for those two items I'm saying that the postponed or deferred revenues that the company is entitled to collect under the ESP, that those are overstated.

Q. Right. Maybe I started in the wrong place on this, and I apologize. You're relying on your representation from your counsel that that's the effect of the Supreme Court case to state that -- that has this impact on this, correct?

A. Well, narrowly speaking the part that I'm relying on counsel for is that the Supreme Court basically said that these charges were not appropriate, but I'm not saying that I'm relying on counsel for the part about the deferred revenues discussions.

Q. Right. I understand the impact of that is your testimony, but the crux of it which are based on it to carry that out, that's the part that you're relying on counsel. I think we said the same thing.

A. Yes.

Q. Okay. And then on lines 10 through 16 you discuss how to reduce the total authorized revenue by amounts not properly collectible. Do you see that?

A. Yes, I do.

Q. And the not properly collectible, is that referring back to what you stated up above as what's been overstated on line 10?

A. Yes. That's correct.

Q. Let's go to page 12 of your testimony, please.

A. Okay.

Q. Lines 7 through 15 you discuss Columbus Southern Power's situation and the lack of deferral recovery that is limited to Ohio Power. Do you see that?

A. Yes.

Q. So are you saying it's inappropriate to recover these amounts that you're sponsoring that need to be recovered in this case with the deferrals unless there's an ongoing deferral where they can be grabbed from?

THE WITNESS: Could I have the question read back?

(Record read.)

A. I guess I don't fully understand your question.

Q. Let me start and break it down, the assumptions I made. You present the facts -- the two companies, Columbus Southern Power and Ohio Power, you show that Ohio Power still has deferrals remaining, Columbus Southern Power does not have expected deferrals, so, therefore, you can only adjust the deferrals facing Ohio Power, correct?

A. Based on where the dollars are today and, you know, maybe I need to back up a minute and just say that, you know, the revenue phase-in that the company has here which, you know, basically is under 4928-144, when the Commission allowed that, they basically said that -- there was an allowable revenue requirement, there was a revenue requirement in the case.

And, you know, just generally speaking that revenue requirement for like the first year of the ESP would have been where you started with the 2008 rates, you would add in the various ESP components to that such as the environmental carrying charges, the POLR, there was a component for incremental fuel, and then there's, of course, other components as well. When you add all of those up, you come up with, in effect, a 2009 revenue requirement.

Then the billing caps come into play, so for Ohio Power I think the 2009 billing cap was 8 percent, so you would take that revenue requirement number, you would apply the billing cap and then that balance left over is what I'm referring to as deferred revenues or postponed revenues.

And under my understanding of the

phase-in, now the way that the company then is recognizing those deferred revenues, if you will, is by deferral expenses. The Commission order allowed those expenses to be deferred as well.

So, you know, that's the background on that. And then getting maybe to the bottom line to your question --

Q. Thank you.

A. -- yes, yes, it appears today -- it appears today that Ohio Power would likely have a larger balance of those deferred revenues when we get to the end of the ESP than Columbus & Southern would.

Q. And, in fact, if you look at your answer on lines 9 through 13, you really limit the opportunity to Ohio Power.

A. In this part of the discussion, that's correct, but I do talk about Columbus Southern later in the testimony of a possible, you know, option that the Commission could consider.

Q. Right. But as far as the deferrals that are at issue and discussed in this case, we'll get to the other stuff later, you're limiting it to Ohio Power just by effect from what's been deferred.

A. Well, that's what the deferrals reflect today, but I wouldn't say I'm limiting to Ohio Power because that rate scenario that I laid out for you of how I understand the rates were set in the proceeding, that applies to Columbus Southern as well. So, you know, things could happen on Columbus Southern that could change -- that could cause a deferral to get greater or cause a deferral to get smaller.

Q. So your testimony on line 12 to 13 saying it's limited to Ohio Power is inaccurate?

A. Well, with the facts of where those are today, of where those deferral balances are today and are expected to be absent other things happening, then that's true. But I'm just saying there are other things that could happen, but we don't know what those are today.

Q. Okay. So that's still a true statement. You're just saying anything could happen so something else could change.

A. Yes.

Q. Back to my original question, then, thank you for the background, are you stating that the issues that you said have been overcollected or over -- what's the term? Overstated in this case are only properly collected in a situation when there is a deferral as opposed to some other way from the company?

A. When you say "only properly collected when there's a deferral," what do you mean by that?

Q. Well, you stated in here that you'd like to restate and refigure the deferrals.

A. Okay.

Q. Correct?

A. The deferred revenues, yes.

Q. Okay. I'm asking if that is the only appropriate way to adjust for what you're trying to adjust for.

A. Under my understanding of, you know, the way the phase-in was designed, I believe that that is the way to do it, yes.

Q. Okay. And that's the only appropriate way that you know of in your expertise and experience.

A. Well, I'm just basing it on, you know, how the phase-in was designed and I think, you know, we have to recognize how it was set up and follow that.

Q. For example, and I think you state also in your testimony the Commission couldn't just order a refund of those.

A. Right. They couldn't order a refund of those amounts because that would be retroactive ratemaking.

Q. Because, as you said earlier -- I'm sorry. I didn't mean to cut you off.

A. No. Go ahead.

Q. As you said earlier on page 10, the Commission authorized those rates to be collected.

A. Well, I think you have to distinguish between what's been collected and what's collectible. In this case, yes, it would be retroactive ratemaking to go back and give those amounts back to customers; however, you know, what those deferred revenue balances ultimately become, that number is going to change over time and it's really not until the end of the ESP that whatever that deferred balance is is going to be collectible from customers by way of a phase-in rider.

Q. And isn't it true that the mechanism to change items within that number were defined by the ESP when the Commission approved the ESP?

A. When you say "within that number," what number do you mean?

Q. Well, you're talking about the overall deferral. You said there could be changes to a deferral over time so you really don't know the final number until you get there. And so my question is, is that governed by the scope, the four corners, the Commission's approval of the ESP?

MR. DARR: Objection. Asks for a legal conclusion.

MR. SATTERWHITE: If I can respond, he's the one who said it can change. I'm just trying to see his understanding of how that could change.

EXAMINER PARROT: If you could qualify that you're not seeking a legal conclusion, that would get us a little further maybe.

Q. In your -- I'm sorry. Go ahead.

A. Can I paraphrase? Are you saying what kinds of things could make the deferral change? Is that your question?

Q. Yeah. You refer to changes that could occur in the deferrals so that we don't know a final number yet.

A. Yes.

Q. So in your capacity as, not as an attorney, but are the mechanisms to change that final deferral defined by the scope of the ESP?

A. Under the phase-in and the way the rates were set, you know, a couple of the examples I gave earlier such as the POLR charge, the environmental charges, incremental fuel cost, those are all items where that deferred revenue balance could change. For instance, if the recommendations I'm making in this case on POLR and the environmental charges were agreed to by the Commission, then that should change that deferred revenue balance.

Another example would be in the company's I believe 2009 fuel audit there are issues that are still outstanding from that case, depending on what happens there, if there was some kind of disallowance, then that also could have an effect on the deferred revenues under the way the phase-in is designed in this case.

Q. But it's your understanding, let's take the fuel clause as a good example, it's your understanding that that would set up as part of the overall ESP and those audits will contemplate it at the time that that was set up?

A. I do not remember that. I don't remember if that was the case or not. But I know that incremental fuel costs were a definite component of the ESP.

Q. Okay. Thank you.

MR. SATTERWHITE: Sorry. Can I have one second?

Q. Would you agree that in order to -- for a regulatory asset under FAS 71 be established there would need to be a deferral of costs or expenses as opposed to a deferral of revenue?

A. Could you ask that again?

Q. Sure. Would you agree that in order for a regulatory asset under FAS 71 to be established, there would need to be a deferral of costs or expenses as opposed to a deferral of revenue? Before you were saying "revenue."

MR. DARR: May I have a clarification on that? As I understand it, FAS 71 has been encompassed in a new accounting standard which I believe was like accounting standard 980 or something like that. Is that what you're referring to?

MR. SATTERWHITE: We can let the witness testify and clarify.

MR. DARR: I'm trying to make sure that we're all on the same page here.

A. There has, yeah, there's been in the last couple years, it's been called a codification of the accounting standards and basically the old FASB numbers that many of us who have been around for a while are familiar with like FAS 71 have been now encompassed in other standards.

I don't remember the exact number of that standard, but --

Q. Let me make it easier then. Forget all that. Did the Commission authorize a deferral of expenses or of revenues?

A. They authorized a deferral of revenues in my mind, but then what they also did was they said in the phase-in and in the order that the company could defer expenses to recognize those revenues. That's the mechanism for how you would recognize those deferred revenues. But it's important that, you know, it's deferred revenues that are really at issue here because the company doesn't know what that number is going to be that it's going to be able to collect until it gets out to the end of the ESP period.

Q. Right. But -- sorry. Go ahead.

A. That's it.

Q. Just to be clear, the deferral is of expense, not of revenues, that's what was authorized.

A. No. I believe it was an authorization of deferred revenues. But for accounting purposes the way the companies reflected that was deferring expenses on their books.

Q. And was that difference, that distinction you're making, was that authorized by the Commission or was that just done by the utility?

A. That was authorized by the Commission.

Q. Okay. So is your proposal that we go back and change the fuel rate that was applied overall at this time?

A. Well, depending what happens at points in time with the deferred revenues, the fuel adjustment clause rate may go up or down depending on the operation of the billing caps.

Q. Right. So are you asking if the Commission were to adopt your testimony and your position, that the Commission go back and change the rates over time, the fuel rates over time?

A. No. This would be, again, this is a -- how can I say it? A postponed revenue, if you will. This is an amount that the company will ultimately -- will ultimately be determined at the end of the ESP and then the company will be able to collect through a phase-in rider. So the adjustment is a prospective adjustment. It's not going back. That's why it's not retroactive ratemaking.

Q. And you're saying that not as a legal opinion but that's your understanding of how everything works.

A. Yes. That's correct.
Q. Okay. Let me ask you a question about your position on the universal service fund. Make sure I've got the right page here. I believe it's on page 13.
A. Okay.
Q. You discuss the need to flow through changes to the universal service fund rider. Do you see that?
A. Yes.
Q. Is that something that would need to -- let me ask this -- strike that. I'll try to be clear.
What's your understanding of who oversees the universal service fund?
A. I believe it's overseen by the Department of Development.
Q. Is it correct that it's collected by utilities but controlled by the Department of Development?
A. Well, I believe the Department of Development administers the program, but the utilities collect USF riders, collect, you know, the difference between the PIPP customers' tariff rates and what they actually pay, collect that through the

USF rider from other -- from customers.

Q. But aren't the funds essentially collected by the utilities but provided to the Department of Development to handle?

A. I believe that's correct.

Q. So if the Commission were to find the need to do this flow-through that you've described in your testimony, the Department of Development would have to be involved as well?

A. Well, I don't think they'd have to be involved. I think, you know, just through their involvement annually with the setting of the USF riders, I mean I think that's the only involvement they would need to have. I mean, you know, basically what the companies would do is when you provided your information to the Department of Development for setting the rates for the next year, in effect you would recognize these adjustments that I've proposed.

Q. But it's something that definitely the Department of Development might want to have a say in?

A. Well, I can't speak for them. So I don't know.

Q. But definitely as a party that oversees the fund, would it be logical to involve them in the decision of how to do that?

A. I don't know. I don't know if that's the case or not.

Q. You have no opinion on that?

A. No.

Q. Okay. Let's go to pages 15 and 16 of your testimony. I believe you were referring to this earlier, the other opportunities of deferrals when you were talking about Columbus Southern Power and Ohio Power.

A. What line are you on?

Q. Specifically if you look on 16, page 16, lines 6 through 9 you discuss a downward adjustment to these other regulatory assets that are eligible for future recovery.

A. Yes.

Q. Is that what you were speaking about earlier when we were talking about opportunity to recover or offset versus Ohio Power and Columbus Southern Power's deferrals?

A. This is the distinction that I was making for Columbus Southern Power, that's right.

Q. Okay. Thank you.

Now, you mention on lines 5 to 6 here that it's your understanding that customers will not be able to secure a refund of what you're calling the unlawful amounts. Do you see?

A. Yes.

Q. Is that a legal conclusion or is that in your expertise just what you're used to for ratemaking?

A. That's my understanding of retroactive ratemaking.

Q. Okay.

A. So, therefore, that -- customers wouldn't be able to get a refund.

Q. So instead you imposed this alternative of offsetting other deferrals that aren't related to this case; is that correct?

A. Yes. Basically what I was trying to do here was to, you know, if there's nothing in ESP to do an offset, then if the Commission decided that it wanted to do something, it would probably have to look outside the ESP if it wanted to strike, as I refer to in my testimony, a just and reasonable result.

Q. So you're not representing that there's a traditional mechanism for the Commission to apply something unrelated to a deferral and attach it to that deferral to offset it?

A. In this case, no, I'm not.

MR. SATTERWHITE: That's all I have. Thank you.

EXAMINER PARROT: Any redirect, Mr. Darr?

MR. DARR: No, your Honor.

EXAMINER PARROT: Very good. Thank you.

You're excused, Mr. Bowser. Thank you.

MR. DARR: Move IEU Remand Exhibit No. 3.

EXAMINER PARROT: Are there any objections to the admission of IEU Remand Exhibit No. 3?

MR. SATTERWHITE: No objection.

EXAMINER PARROT: IEU Remand Exhibit 3 is admitted into the record subject to the portions that were stricken by the attorney examiner pursuant to her ruling of July 19th. And just for clarity of the record I will identify that those are the portions at page 6, lines 5 through 12; page 11, lines 5 through 23; and page 12 at lines 1 through 5, and, again, for clarity Mr. Darr has proffered that testimony today.

MR. DARR: Thank you, your Honor.

(EXHIBIT ADMITTED INTO EVIDENCE.)

EXAMINER PARROT: Let's go off the record.

(Discussion off the record.)

EXAMINER SEE: Let's go back on the record. For purposes of scheduling rebuttal testimony, AEP-Ohio's rebuttal testimony will be due by the end of business on Monday, July 25th. We will reconvene for the companies' rebuttal testimony on Thursday, July 28th, 10 a.m., in this room.

Let's go back off the record.

(Discussion off the record.)

EXAMINER PARROT: Let's go back on the record. We've agreed to a briefing schedule with simultaneous initial and reply briefs to be filed. The initial briefs are to be filed by August 4th, and the reply briefs by August 12th. And those briefs are to be served electrically on the parties as well as the attorney examiners and filed with the Commission in the usual manner.

Is there anything else that we need to discuss today?

MR. NOURSE: No, thank you, your Honor.

EXAMINER PARROT: Seeing none, we are adjourned until next week. We will reconvene on Thursday, July 28th, at 10 a.m. in this room, 11-A. Thank you.

(Thereupon, the hearing was adjourned at 2:58 p.m.)

CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Thursday, July 21, 2011, and carefully compared with my original stenographic notes.

____
Maria DiPaolo Jones, Registered Diplomate Reporter and CRR and Notary Public in and for the State of Ohio.

My commission expires June 19, 2016.

(MDJ-3873)

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