

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of the :
 Application of Ohio Power :
 Company and Columbus :
 Southern Power Company :
 for Authority to Merge and: Case No. 10-2376-EL-UNC
 Related Approvals. :

In the Matter of the :
 Application of Columbus :
 Southern Power Company :
 and Ohio Power Company :
 for Authority to Establish:
 a Standard Service Offer : Case No. 11-346-EL-SSO
 Pursuant to §4928.143, : Case No. 11-348-EL-SSO
 Ohio Rev. Code, in the :
 Form of an Electric :
 Security Plan. :

In the Matter of the :
 Application of Columbus :
 Southern Power Company : Case No. 11-349-EL-AAM
 and Ohio Power Company : Case No. 11-350-EL-AAM
 for Approval of Certain :
 Accounting Authority. :

In the Matter of the :
 Application of Columbus :
 Southern Power Company to : Case No. 10-343-EL-ATA
 Amend its Emergency :
 Curtailment Service :
 Riders. :

In the Matter of the :
 Application of Ohio Power :
 Company to Amend its : Case No. 10-344-EL-ATA
 Emergency Curtailment :
 Service Riders. :

In the Matter of the :
 Commission Review of the :
 Capacity Charges of Ohio : Case No. 10-2929-EL-UNC
 Power Company and Columbus:
 Southern Power Company. :

1951

1 In the Matter of the :
Application of Columbus :
2 Southern Power Company for:
Approval of a Mechanism to: Case No. 11-4920-EL-RDR
3 Recover Deferred Fuel :
Costs Ordered Under Ohio :
4 Revised Code 4928.144. :
:

5 In the Matter of the :
Application of Ohio Power :
6 Company for Approval of a :
Mechanism to Recover : Case No. 11-4921-EL-RDR
7 Deferred Fuel Costs :
Ordered Under Ohio Revised:
8 Code 4928.144. :
:

9 - - -

10 PROCEEDINGS

11 before Ms. Greta See and Mr. Jonathan Tauber,
12 Attorney Examiners, at the Public Utilities
13 Commission of Ohio, 180 East Broad Street, Room 11-A,
14 Columbus, Ohio, called at 9:00 a.m. on Wednesday,
15 October 26, 2011.

16 - - -

17 VOLUME XII

18 - - -

19
20
21 ARMSTRONG & OKEY, INC.
22 222 East Town Street, Second Floor
Columbus, Ohio 43215-5201
23 (614) 224-9481 - (800) 223-9481
Fax - (614) 224-5724
24
25

- - -

1 APPEARANCES:

2 American Electric Power
3 By Mr. Steven T. Nourse
4 Mr. Matthew J. Satterwhite
5 1 Riverside Plaza
6 Columbus, Ohio 43215-2373

7 Porter, Wright, Morris & Arthur, LLP
8 By Mr. Daniel R. Conway
9 41 South High Street
10 Columbus, Ohio 43215-6194

11 On behalf of the Applicants.

12 FirstEnergy Service Company
13 By Mr. Mark A. Hayden
14 76 South Main Street
15 Akron, Ohio 44308

16 Jones Day
17 By Mr. David A. Kutik
18 Ms. Allison Haedt
19 North Point
20 901 Lakeside Avenue
21 Cleveland, Ohio 44114

22 Calfee, Halter & Griswold, LLP
23 By Mr. James F. Lang
24 1400 KeyBank Center
25 800 Superior Avenue
Cleveland, Ohio 44114

Calfee, Halter & Griswold, LLP
By Mr. N. Trevor Alexander
Ms. Laura McBride
Fifth Third Center
21 East State Street
Columbus, Ohio 43215

On behalf of FirstEnergy Solutions
Corporation.

- - -

1953

1 APPEARANCES: (Continued)

2 McNeese, Wallace & Nurick, LLC
3 By Mr. Frank P. Darr
4 Mr. Samuel P. Randazzo
5 Mr. Joseph Oliker
6 Ms. Gretchen Hummel
7 Fifth Third Center, Suite 1700
8 21 East State Street
9 Columbus, Ohio 43215-4288

10 On behalf of Industrial Energy Users.

11 Chester, Willcox & Saxbe, LLP
12 By Mr. Mark S. Yurick
13 Mr. John Bentine
14 Mr. Zach Kravitz
15 65 East State Street, Suite 1000
16 Columbus, Ohio 43215-4213

17 On behalf of the Kroger Company.

18 Janine L. Migden-Ostrander
19 Ohio Consumers' Counsel
20 By Mr. Terry L. Etter
21 Ms. Maureen R. Grady
22 Assistant Consumers' Counsel
23 10 West Broad Street, Suite 1800
24 Columbus, Ohio 43215-3485

25 On behalf of the Residential Ratepayers
of Columbus Southern Power Company and
Ohio Power Company.

Mike DeWine, Ohio Attorney General
By William Wright, Section Chief
Public Utilities Section
Mr. Werner L. Margard, III
Mr. Steven Beeler
Mr. John Jones
Mr. Thomas McNamee
Assistant Attorneys General
180 East Broad Street, 6th Floor
Columbus, Ohio 43215-3793

On behalf of the staff of the Public
Utilities Commission of Ohio.

- - -

1954

1 APPEARANCES: (Continued)

2 Ohio Partners for Affordable Energy
3 By Ms. Colleen L. Mooney
4 Mr. David C. Rinebolt
231 West Lima Street
Findlay, Ohio 45840

5 On behalf of Ohio Partners for Affordable
6 Energy.

7 Schottenstein, Zox & Dunn Co., LPA
8 By Mr. Christopher L. Miller
Mr. Gregory J. Dunn
Mr. Asim Z. Haque
250 West Street
9 Columbus, Ohio 43215

10 On behalf of the Association of
11 Individual Colleges and Universities,
City of Hilliard, City of Grove City.

12 Boehm, Kurtz & Lowry
13 By Mr. David Boehm
Mr. Michael L. Kurtz
Mr. Kurt Boehm
14 36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202

15 On behalf of Ohio Energy Group.

16 Ohio Environmental Council
17 By Mr. Nolan Moser
Mr. Trent A. Dougherty
18 1207 Grandview Avenue, Suite 201
Columbus, Ohio 43212-3449

19 On behalf of the Ohio Environmental
20 Council.

21 Thompson Hine, LLP
22 By Mr. Philip B. Sineneng
Mr. Terrence A. Mebane
41 South High Street, Suite 1700
23 Columbus, Ohio 43215

24 On behalf of Duke Energy Retail.
25

1 APPEARANCES: (Continued)

2 Covington & Burling
3 By Mr. William Massey
4 1201 Pennsylvania Avenue
5 Washington, D.C. 20004

6 On behalf of The Compete Coalition.

7 Ohio Hospital Association
8 By Mr. Richard L. Sites
9 155 East Broad Street, 15th Floor
10 Columbus, Ohio 43215

11 Bricker & Eckler, LLP
12 By Mr. Thomas J. O'Brien
13 Mr. Matthew W. Warnock
14 100 South Third Street
15 Columbus, Ohio 43215-4291

16 On behalf of Ohio Hospital Association.

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

22 On behalf of Ohio Manufacturers
23 Association.

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

On behalf of Exelon Generation
Company, LLC, Constellation NewEnergy,
Inc., Constellation Energy Commodities
Group, Inc., Retail Energy Supply
Association, The Compete Coalition,
PJM Power Providers Group, and Direct
Energy.

1 APPEARANCES: (Continued)

2 Exelon Generation Company, LLC
3 By Ms. Sandy Grace
4 101 Constitution Avenue NW
5 Washington, D.C. 20001

6 Eimer, Stahl, Klevorn & Solberg, LLP
7 By Mr. David M. Stahl
8 Mr. Scott Solberg
9 224 South Michigan Avenue, Suite 1100
10 Chicago, Illinois 60604

11 On behalf of Exelon Generation Company,
12 LLC.

13 Mr. Henry W. Eckhart
14 1200 Chambers Road, Suite 106
15 Columbus, Ohio 43212

16 On behalf of the Sierra Club and Natural
17 Resources Defense Council.

18 Ohio Poverty Law Center
19 By Mr. Joseph V. Maskovyak
20 Mr. Michael Smalz
21 555 Buttles Avenue
22 Columbus, Ohio 43215

23 On behalf of Appalachian Peace and
24 Justice Network.

25 Keating, Muething & Klekamp PLL
By Mr. Kenneth P. Kreider
One East Fourth Street, Suite 1400
Cincinnati, Ohio 45202

Ms. Holly Rachel Smith
HITT Business Center
3803 Rectortown Road
Marshall, VA 20115

On behalf of Wal-Mart Stores East, LP,
and Sam's East, Inc.

- - -

1957

1 APPEARANCES: (Continued)

2 Bell & Royer Co., LPA
3 By Mr. Barth E. Royer
4 33 South Grant Avenue
5 Columbus, Ohio 43215

6 On behalf of Dominion Retail, Inc.

7 Bricker & Eckler, LLP
8 By Mr. Christopher L. Montgomery
9 Mr. Terrence O'Donnell
10 100 South Third Street
11 Columbus, Ohio 43215

12 On behalf of Paulding Wind Farm, II.

13 Environmental Law & Policy Center
14 By Ms. Tara C. Santarelli
15 1207 Grandview Avenue, Suite 201
16 Columbus, Ohio 43212-3449

17 on behalf of the Environmental Law &
18 Policy Center.

19 SNR Denton US, LLP
20 By Ms. Emma F. Hand
21 Mr. Douglas G. Bonner
22 1301 K Street NW
23 Suite 600 East Tower
24 Washington, D.C. 20005

25 On behalf of Ormet Primary Aluminum
Corporation.

EnerNOC, Inc.
By Mr. Gregory J. Poulos
101 Federal Street, Suite 1100
Boston, Massachusetts 02110

On behalf of EnerNOC.

- - -

1958

1 APPEARANCES: (Continued)

2 Vorys, Sater, Seymour & Pease, LLP
3 By Ms. Lija Kaleps-Clark
4 Ms. Benita A. Kahn
5 P.O. Box 1008
6 52 East Gay Street
7 Columbus, Ohio 43216-1008

8 On behalf of the Cable Telecommunications
9 Association.

10 - - -

1959

INDEX

- - -

1	Witnesses	Page
2	Joseph Hamrock	
3	Direct Examination by Mr. Satterwhite	1970
4	Cross-Examination by Mr. Maskovyak	1991
5	Cross-Examination by Ms. Grady	2000
6	Cross-Examination by Mr. Lang	2037
7	Redirect Examination by Mr. Satterwhite	2038
8	Recross-Examination by Ms. Grady	2043
9	William A. Allen	
10	Direct Examination by Mr. Nourse	2047
11	Cross-Examination by Mr. Darr	2049
12	Cross-Examination by Mr. Kutik	2066
13	Cross-Examination by Ms. Grady	2139
14	Cross-Examination by Mr. Maskovyak	2147
15	Cross-Examination (Cont.) by Mr. Kutik	2157
16	Redirect Examination by Nourse	2162
17	Philip J. Nelson	
18	Direct Examination by Mr. Nourse	2172
19	Cross-Examination by Mr. Lang	2174
20	Cross-Examination by Mr. Randazzo	2229
21	Redirect Examination by Mr. Nourse	2269
22	- - -	
23	Company Exhibits	Identified Admitted
24	19 Rebuttal Testimony of Joseph Hamrock	1970 2045
25	20A Rebuttal Testimony of William A. Allen, Confidential Version	2047 2165
26	20B Rebuttal Testimony of William A. Allen, Public Version	2047 2165
27	21 Rebuttal Testimony of Philip J. Nelson	2173 2276
28	- - -	

1960

INDEX (Continued)

- - -

OCC Exhibits	Identified	Admitted
9 CSP and OPC's Response OCC's Discovery Request in PUCO Case Nos. 11-346-EL-SSO and 11-348-EL-SSO Int-200, Eighth Set	2009	2046
10 CSP and OPC's Response OCC's Discovery Request in PUCO Case Nos. 11-346-EL-SSO and 11-348-EL-SSO RPD-114, Eighth Set	2015	2046
11 Stipulation and Recommendation, Case No. 09-756-EL-ESS	2026	2046

- - -

IEU-Ohio Exhibits	Identified	Admitted
15 Direct Testimony of Andrea E. Moore	2053	--
16 Direct Testimony of J. Craig Baker	2236	2272
17 CSP and OPC' Ormet-Related 2007 Generation Market Price Submission	2242	2272
18 CSP and OPC's Responses to FES's Discovery, Fourth Set	2246	2272
19 AEP 2Q11 Earnings Release Presentation	2251	2272

- - -

1961

INDEX (Continued)

- - -

FES Exhibits Identified Admitted

18	Email, AEP Ohio RPM Set Aide Update, 10/21/2011	2072	2168
19	Available Data Table	2075	2168
20	CSP and OPC's Response to PUCO's Data Requests in PUCO Case Nos. 11-346-EL-SSO and 11-348-EL-SSO, Twenty-Eighth Set	2105	2168
21	Aggregation Cities in AEP Service Territory, Workpaper WAA WP-1	2125	2168
22	City Officials Letters in Case 11-346-EL-SSO	2135	2168
23	Service Territory Map	2164	2168

- - -

1962

1 Wednesday Morning Session,

2 October 26, 2011.

3 - - -

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

5 Let's take brief appearances of the
6 parties starting with the company.

7 MR. NOURSE: Thank you, your Honor. On
8 behalf of Columbus Southern Power Company, Ohio Power
9 Company, Steven T. Nourse, Matthew J. Satterwhite,
10 and Daniel R. Conway.

11 EXAMINER SEE: Ms. Grady.

12 MS. GRADY: Yes, your Honor. On behalf
13 of the residential customers of the companies,
14 Maureen R. Grady, Associate Consumers' Counsel,
15 Office of Consumers' Counsel.

16 MR. HAYDEN: Good morning, your Honors.
17 On behalf of FES, Mark Hayden, Jim Lang, and David
18 Kutik.

19 MS. KALEPS-CLARK: On behalf of Exelon,
20 P3, RESA, and the Compete Coalition, M. Howard
21 Petricoff and Lija Kaleps-Clark, and on behalf of CTA
22 Benita Kahn and Lija Kaleps-Clark.

23 MR. DARR: Good morning, your Honors. On
24 behalf of the Industrial Energy Users - Ohio, Sam
25 Randazzo, Frank Darr, and Joe Olikier.

1963

1 MS. HAND: Good morning, your Honors. On
2 behalf of Ormet Primary Aluminum Corporation, Emma F.
3 Hand and Douglas G. Bonner.

4 MS. MOONEY: On behalf of Ohio Partners
5 for Affordable Energy, Colleen Mooney and David
6 Rinebolt.

7 MR. KURTZ: For Ohio Energy Group, Mike
8 Kurtz.

9 MR. MARGARD: On behalf of the staff of
10 the Commission, Assistant Attorneys General Vern
11 Margard, John Jones, Steven Beeler, Thomas McNamee.

12 EXAMINER SEE: Are there any other
13 counsel present?

14 MR. O'BRIEN: On behalf of the Ohio
15 Hospital Association, Thomas J. O'Brien.

16 EXAMINER SEE: I understand there is some
17 preliminary matters that need to be discussed before
18 we get started.

19 Mr. Kutik.

20 MR. KUTIK: Yes, your Honor. Your Honor,
21 our motion at this time is directed to Ms. Thomas's
22 testimony, and I want to bring it up at this time to
23 give the company adequate time to respond, should the
24 Bench grant our motion.

25 As the Bench will recall with respect to

1964

1 both Ms. -- Mr. -- Ms. Thomas's testimony as well as
2 Mr. Allen and Mr. Hamrock's testimony during the
3 direct phase, the Bench ordered that calculations be
4 done or testimony be revised to reflect zero POLR
5 charges in the current ESP charges. Ms. Thomas's
6 rebuttal testimony reflects only the company's
7 position that there remains a POLR charge of about
8 \$1.12.

9 And at this time we move, similar to what
10 the Bench did earlier, for the Bench to order
11 Ms. Thomas to provide exhibits which show no POLR
12 charges in the current ESP charge. And, of course,
13 that that be done before she takes the stand.

14 MR. NOURSE: Your Honor.

15 EXAMINER SEE: Yes, Mr. Nourse.

16 MR. NOURSE: The testimony that was filed
17 Friday indicates at the bottom of page 4 in the
18 question and answers beginning on line 16 that the --
19 that addresses where all POLR charges are excluded
20 from base ESP G rate shown on LJT R-1, Ms. Thomas's
21 Exhibit R-1. So it does address the all POLR
22 excluded in the scenario.

23 MR. KUTIK: We do not have exhibits, your
24 Honor, which show the exclusion of the POLR charges.
25 All we have are calculations and exhibits which show

1965

1 \$1.12 POLR charge in the current ESP.

2 MR. NOURSE: Yes, your Honor. In
3 addition to the statement in the testimony and the
4 conclusion that's stated explicitly in the testimony
5 about the all-POLR-exclusion scenario, those
6 calculations were also set forth in the workpapers
7 for the testimony that were also provided on Friday
8 to support the specific calculations and allow
9 cross-examination or questioning about the
10 conclusion.

11 EXAMINER SEE: Are there any other issues
12 to be raised in regards to Ms. Thomas's testimony?

13 MR. DARR: Your Honor, I would also join
14 in the request for the updated, but since what we
15 have got is what we have got, move to strike starting
16 at page 14, line 5, continuing through page 15, line
17 10, and all of LJT R-3 starting with the point that
18 it hasn't been properly updated as Mr. Kutik pointed
19 out and further pointing out this was information
20 that was available to the company as indicated by
21 Ms. Thomas's testimony.

22 MR. NOURSE: Mr. Darr, could I get the
23 reference to your number.

24 MR. DARR: Page 14, line 5, through page
25 15, line 10, which was information that was

1966

1 available. AEP was clearly on notice by the Bench's
2 prior orders with regard to updating. Mr. Nourse has
3 explained to us it's not been provided except in
4 workpapers.

5 And, in fact, the exhibit that's LJT-5 --
6 excuse me, LJT R-3 is an expansion of a workpaper
7 that was made available to the parties several weeks
8 ago. So it was available to them and, now, it's
9 being offered to fill a hole which we identified in
10 our testimony that should have been filled in the
11 first place, which is provide the information on a
12 company-specific basis.

13 That's what they were required to do as
14 applicants. They didn't do it. And, now, they are
15 trying to backfill and this sort of backfilling is
16 inappropriate.

17 MR. NOURSE: Your Honor, if I could
18 respond to that one. First of all, in the text of
19 the section reference on pages 14 and 15, this is
20 clearly directly in rebuttal to Mr. Murray's claim
21 that the companies did not do the comparison.

22 Mr. Darr has -- has admitted that the --
23 the information in Exhibit R-3 was provided a long
24 time ago to the parties, and he's correct that that
25 information does show and always showed that there

1967

1 were separate calculations done for Ohio Power and
2 Columbus Southern Power.

3 You know, again, our primary position as
4 set forth in our direct testimony is that this
5 settlement contemplates the merger of these two
6 companies and that that's a premise that would apply
7 throughout the term of the ESP, so the exercise of
8 doing the MRO test analysis need only be done on a
9 combined basis because that's the only way this ESP
10 happens is if the merger also gets approved.

11 So that's -- that's why this is coming
12 out in rebuttal and in direct response to
13 Mr. Murray's indirect claim that the separate
14 analysis wasn't done.

15 EXAMINER SEE: Are there any other issues
16 with regards to Ms. Thomas's testimony?

17 MR. KUTIK: Well, your Honor, there are,
18 but I will address them when she takes the stand. I
19 don't want --

20 EXAMINER SEE: Motions to strike, let me
21 be clear.

22 MR. KUTIK: Exactly, exactly.

23 EXAMINER SEE: Okay. The Bench will
24 consider the motions to strike Ms. Thomas's testimony
25 and give our ruling at some point during the day. We

1968

1 will, however, proceed with the other procedural
2 issues that have come to our attention.

3 First, we'll start with there is a motion
4 to intervene in this matter by IGS. That motion was
5 filed after the hearing had begun second week. The
6 hearing -- the motion to intervene is denied.

7 We note that AEP Ohio has a motion for a
8 protective order in regards to AEP Witness Allen's
9 testimony. In light of our ruling on similar
10 information submitted in this case, the motion to
11 protect -- for protective treatment shall be granted.

12 And FES's motion to strike the testimony
13 of AEP Witness Hamrock and Staff Witness Baker after
14 considering FES's motion, as well as the -- the
15 memorandums contra filed, we are going to deny the
16 motion to strike the testimony of Mr. Hamrock and
17 Mr. Baker.

18 MR. KUTIK: Your Honor, just so I can be
19 clear with respect to the first thing you said, there
20 were actually two motions before you with respect to
21 Ms. Thomas. One was my motion to have her update,
22 and the other was Mr. Darr's motion to strike. And
23 is it our understanding that you will rule on both of
24 those later today?

25 EXAMINER SEE: Yes.

1969

1 MR. KUTIK: Thank you.

2 MS. GRADY: And, your Honor, if I may
3 inquire as to if there are additional grounds on
4 the -- with respect to striking Mr. Hamrock's
5 testimony, those are not precluded from being raised
6 by your ruling.

7 EXAMINER SEE: If there are additional
8 grounds, you can raise them now. They are not
9 foreclosed. Let's hear them.

10 MS. GRADY: Yes, your Honor. They are
11 specifically -- it is not the entirety of the
12 testimony that I seek to strike but specific
13 portions. Would you like for me to go through those
14 portions at this point?

15 EXAMINER SEE: Yes. Well --

16 MS. GRADY: Perhaps Mr. Hamrock could
17 take the stand.

18 EXAMINER SEE: It's my understanding the
19 company is calling Hamrock first?

20 MR. SATTERWHITE: Yes, your Honor.

21 EXAMINER TAUBER: Mr. Hamrock, I want to
22 remind you are you are still under oath.

23 THE WITNESS: Yes, your Honor.

24 EXAMINER TAUBER: Thank you.

25 EXAMINER SEE: Mr. Satterwhite.

1970

1 MR. SATTERWHITE: Yes.

2 - - -

3 JOSEPH HAMROCK

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

6 DIRECT EXAMINATION

7 By Mr. Satterwhite:

8 Q. Mr. Hamrock, can you please state your
9 name and business address for the record?

10 A. Joseph Hamrock, 850 Tech Center Drive,
11 Gahanna, Ohio.

12 Q. And you previously testified sponsoring
13 your direct testimony in this hearing in support of
14 the stipulation, correct?

15 A. Yes, that's correct.

16 Q. And did you cause on October 21, 2011,
17 rebuttal testimony to be filed in this case?

18 A. Yes.

19 MR. SATTERWHITE: Your Honor, I would
20 like to mark, I believe it's AEP Exhibit 19 we are
21 on, rebuttal testimony of Joseph Hamrock filed
22 October 21, 2011.

23 EXAMINER SEE: Okay.

24 (EXHIBIT MARKED FOR IDENTIFICATION.)

25 Q. Mr. Hamrock, do you have a copy of that

1971

1 rebuttal testimony in front of you?

2 A. I do.

3 Q. And was this testimony written by you and
4 under your direction?

5 A. Yes.

6 Q. If I were to ask you all the questions in
7 this testimony today, would your answers be the same?

8 A. They would.

9 MR. SATTERWHITE: Your Honor, at this
10 time I turn the witness over for cross-examination.

11 EXAMINER SEE: Ms. Grady.

12 MS. GRADY: Thank you, your Honor. OCC
13 would move to strike -- we have actually separate
14 motions to strike, and I'll just go through the basis
15 of each after I specify the portions of the testimony
16 to be struck.

17 The first motion to strike begins on page
18 3, line 5, and runs through line 13. Line 5 begins
19 with "First and foremost, I have been advised by
20 counsel," and running through the end of line 13.

21 There are three bases for this motion to
22 strike. First -- the first basis is that Mr. Hamrock
23 is offering a legal opinion that the DIR is
24 permissible to include in the ESP under a specific
25 statute. He is not qualified to offer that legal

1972

1 opinion.

2 Second, your Honor, we believe that
3 counsel's advice is hearsay.

4 And third, your Honor, we believe there
5 is a duty to supplement and that the company failed
6 to reasonably supplement responses to OCC
7 Interrogatory 200 of the eighth set which is directly
8 related to the specific issue.

9 If I can quickly briefly go through
10 the -- the grounds, with respect to the legal opinion
11 that's offered by Mr. Hamrock, your Honor, the expert
12 opinion testimony is allowed under Rule 702 to aide
13 and assist in the understanding of evidence
14 presented. An expert witness, however, is not
15 permitted to give an opinion related to the law in a
16 trial court that allows such opinion because in its
17 discretion an expert's interpretation of the law
18 should not be permitted as that's within the sole
19 province of this Commission.

20 The authorities for that citation, your
21 Honor, is State v. Walsh, 66 Ohio Appellate 2d 85,
22 Witzman v. Adam, 2011 Ohio 379 and others. Under
23 Rule 704, although a witness may give an opinion on
24 ultimate fact, the ultimate fact must embrace an
25 issue of fact and not a legal opinion. The citation

1973

1 for that being Berry versus City of Detroit, 25
2 Federal 3d 1342.

3 With respect to the hearsay grounds, your
4 Honor, we believe this is hearsay and there is no
5 exception to the hearsay rule here. Hearsay may not
6 be the basis of expert opinion under Drumm versus
7 Blue Cross, 40 Ohio Appellate 2d 421, 429, an expert
8 may not base his opinion solely on the opinions or
9 the conclusions of another expert. Another citation,
10 Cusmano versus Pepsi-Cola Bottling Company, 9 Ohio
11 Appellate 2d 105, 113.

12 Rule 703 creates a presumption against
13 the expert's disclosure of inadmissible hearsay on
14 direct examination. Citation Turner versus
15 Burlington Northern Santa Fe Railroad Co., 338
16 Federal 3d 1058. The statement was made by Mr.
17 Hamrock's counsel, not by Mr. Hamrock. It is offered
18 in evidence to prove the truth of the matter
19 asserted.

20 The statement causes OCC to be denied the
21 opportunity to cross-examine the declarant whose
22 counsel whose out-of-court statement is sought to be
23 introduced into evidence. Counsel's statements were
24 not made under oath and it's -- his credibility
25 cannot be evaluated at this hearing and he cannot be

1974

1 cross-examined. The absence of an opportunity to
2 cross-examine the source of the information makes it
3 unreliable and, therefore, patently and clearly
4 hearsay.

5 With respect to the duty to supplement,
6 your Honor, the third argument, under Rule
7 4901-1-16(D) (2) a party is under a duty to supplement
8 when the responding party later learns that the
9 response was incorrect or materially deficient.

10 In response to -- OCC served
11 Interrogatory 200 in the eighth set. In that
12 interrogatory we asked "Under what statutory
13 authority does the company seek approval of the DIR?"

14 The companies' response was as follows:
15 "The companies explained the basis for the DIR in the
16 application at page 17, paragraph I.D.1 and the
17 connection to the distribution rate case filing
18 pending in Case Nos. 11-351-EL-AIR, et al. as
19 authorized under 4928.143(B) (2) (h), no -- no citation
20 as to the other -- the other statute
21 4928.143(B) (2) (d), "and as allowed by the
22 Commission." Notably there was no reliance on
23 4928.143(B) (2) (d) .

24 The company should have supplemented its
25 response to OCC's discovery and because they did not,

1975

1 the company should be estopped from relying on this
2 argument and its testimony because of its failure to
3 supplement.

4 And the fact that OCC and others relied
5 upon the companies' original response identifying
6 solely as the basis of its -- of the support for the
7 DIR 4982-814(B) (2) (h). And that is the extent of my
8 argument, your Honor. Thank you.

9 EXAMINER SEE: Okay.

10 MS. GRADY: The next motion to strike,
11 your Honor, would you like to --

12 MR. SATTERWHITE: May I respond to that
13 one?

14 MS. GRADY: Before I begin the next one?

15 EXAMINER SEE: Yes, that's fine.

16 MR. SATTERWHITE: Your Honor, to the
17 first basis for the motion of offering a legal
18 opinion, I think throughout the paragraph it's purely
19 shown in context that the witness provides on the
20 advice of counsel. I think every piece of testimony
21 by the nonsignatory parties has had this exact type
22 of information.

23 I believe Mr. Nourse even moved to strike
24 some of Mr. Murray's testimony which was denied
25 because it gave the contextual basis for Mr. Murray's

1976

1 understanding. And if you look at the testimony
2 filed by the nonsignatory parties, they sort of
3 create the impression with their contextual matters
4 that there is just a single possibility for the
5 Commission to approve this under the statutory
6 framework and this gives the context to correct the,
7 we believe, mischaracterization of the record, and so
8 we believe that's appropriate and if this were the
9 ruling today that you couldn't provide this kind of
10 background, I think a lot of the testimony in this
11 case would have to change.

12 Secondly, that the counsel's advice is
13 hearsay, again, it's context only. You know, just as
14 we discussed earlier, you can ask the witness if he
15 is relying on every sentence on counsel. He
16 understands this.

17 It's something for the Commission to
18 decide. And it's not something that the witness is
19 testifying to for the truth of the matter asserted in
20 this matter, just relying on that to offer the
21 response to what the nonparticipatory parties put in
22 their testimony that he is responding to today.

23 And, finally, the update to the discovery
24 response, I would just point out that on October 3
25 when -- the day before this hearing started is when

1977

1 the Commission actually issued a ruling in the remand
2 decision where they did rely on D for a similar
3 fashion, sort of update the law that the Commission
4 has done recently, and these -- you know, what the
5 companies' put in their discovery certainly doesn't
6 bind the Commission, what the Commission can rule
7 upon.

8 The argument was made subsequent matters
9 occurred, and the opportunity for the Commission to
10 rule on this case and the flexibility that the
11 Commission has is still present, and clearly the
12 response from one of the signatory parties in a
13 discovery response that's later expanded because a --
14 subsequent rulings by the Commission really shouldn't
15 be cause to strike something.

16 MS. GRADY: If I could briefly respond.

17 MR. KURTZ: Your Honor, could I be heard
18 on this?

19 EXAMINER SEE: Mr. Kurtz.

20 MR. KURTZ: In support of the company and
21 opposition to the motions to strike, first of all,
22 the Commission is not bound by the Rules of Civil
23 Procedure. The Commission has wide discretion on
24 evidentiary matters. And the reason for that is
25 obvious, the Rules of Civil Procedure are intended to

1978

1 protect lay jurors who have no legal background at
2 all from being tricked or fooled or being misled.

3 That has no application at all to any
4 Public Utilities Commission hearing because your
5 Honors are qualified lawyers and the Commission is a
6 qualified body and there is no risk of misleading you
7 or the Commission. So all these citations to cases
8 have no application here at all.

9 No. 2, on the failure to update, it's a
10 circular argument because that's exactly what this
11 rebuttal testimony is doing. They couldn't have
12 provided this in a discovery response. It's being
13 provided as rebuttal testimony.

14 EXAMINER SEE: Ms. Clark.

15 MS. KALEPS-CLARK: Your Honor, Exelon,
16 RESA, Constellation will join in OEG and AEP Ohio's
17 arguments.

18 EXAMINER SEE: Ms. Grady, you want to
19 respond?

20 MS. GRADY: Yes, just very brief
21 response, the -- there are rules that bind the
22 Commission. One of those rules is the rule that you
23 must reasonably supplement your response if you
24 determine your response is materially deficient or
25 changes. The company clearly did not do that here.

1979

1 And you've heard no argument as to why it wasn't done
2 nor an argument that that rule doesn't apply.

3 That is a rule that applies and we ask
4 that the Commission enforce that rule and -- and on
5 that basis disallow this testimony to -- disallow
6 this testimony from coming in. We relied on the
7 companies' responses to discovery to prepare our
8 case, and now all of a sudden we've got an additional
9 statutory ground which was nowhere to be found when
10 the original response was provided in discovery.

11 The company had a duty to supplement. It
12 failed to supplement. It should be estopped from
13 presenting this information.

14 MR. SATTERWHITE: Real quick, your Honor.

15 EXAMINER SEE: Very quickly.

16 MR. SATTERWHITE: And obviously in this
17 case I am sure your Honors are aware there were
18 thousands of discovery requests issued upon the
19 company that we responded to, and for the argument
20 that the companies are required to show the full
21 legal arguments through discovery, I believe
22 discovery is based on discovering factual arguments,
23 not complete exposure of every possible legal
24 argument that could take place in a case.

25 MS. GRADY: And there was no objection

1980

1 made on that basis to OCC's discovery.

2 EXAMINER SEE: Ms. Grady, you had other
3 portions of the testimony you wanted to --

4 MS. GRADY: Yes, your Honor.

5 EXAMINER SEE: -- make a motion to
6 strike?

7 MS. GRADY: Yes. Beginning on page 3,
8 lines 18 through 22, we move to strike beginning with
9 the sentence, "In fact, on September 8, 2010,"
10 flowing through the end of line 22. There are two
11 grounds for this motion to strike.

12 First, your Honor, the company cites to a
13 stipulation and the stipulation cannot be used or
14 cited as precedent by its very terms and the parties'
15 agreement to those terms.

16 Second, your Honor, we would cite to the
17 fact that we believe that this is not relevant under
18 the standards of Evidence Rule 401. If we would
19 specifically go to the stipulation which is
20 referenced filed September 8, 2010, in Case No.
21 09-756-EL-ESS, the stipulation contains the following
22 language, and I quote, "Except for purposes of
23 enforcement of the terms of this Stipulation, this
24 Stipulation, the information and data contained
25 therein or attached, and any Commission rulings

1 adopting it, shall not be cited as precedent in any
2 future proceeding for or against any party or the
3 Commission itself. The parties' agreement to this
4 Stipulation in its entirety shall not be interpreted
5 in a future proceeding before the Commission as
6 agreement to any isolated provision of this
7 Stipulation.

8 More specifically, no specific element or
9 item contained in or supporting this Stipulation
10 shall be construed or applied to attribute the
11 results set forth in the Stipulation as the results
12 that any party might support or seek but for this
13 Stipulation."

14 The information or data that was
15 contained in the stipulation included the SAIFI and
16 the CAIDI indices that were agreed to related to the
17 circuit performance of the distribution system, and
18 this is exactly what Mr. Hamrock refers to in his
19 testimony on page 3.

20 Indeed, your Honor, if parties are able
21 to use stipulations against parties in future
22 proceedings, it will have a chilling affect upon a
23 party's willingness to enter into a stipulation.

24 Indeed, the Commission in the remand orde
25 itself questioned whether information presented in

1982

1 the companies' brief related to charges that were
2 determined in the context of the stipulation could be
3 properly used.

4 Under Rule 401 -- I am moving on now to
5 the relevance argument. Under Rule 401, evidence
6 having any tendency to make the existence of any fact
7 that is of consequence to the determination of the
8 action more probable or less probable is relevant.

9 The fact that there was a stipulation
10 agreeing to reliability standards that OCC and the
11 staff signed has no bearing on the determination of
12 any issue in this case. The fact that Mr. Hamrock is
13 trying to address is whether the statutory
14 requirements of 4928.143(B)(2)(h) have been met.
15 That statute requires as part of the determination as
16 to whether to allow in an ESP plan provisions
17 regarding distribution, the PUCO must examine the
18 reliability of the system.

19 The standards adopted in 2009 have no
20 relation to whether the PUCO has, within the context
21 of this proceeding, examined the reliability of the
22 companies' distribution system.

23 MR. SATTERWHITE: If I can respond, your
24 Honor.

25 EXAMINER SEE: Yes.

1983

1 MR. SATTERWHITE: It looks like we have a
2 couple of arguments here that were kind of connected,
3 that we cannot rely on settlement and not relevant, I
4 think, were the first two arguments.

5 I think if you look on lines 21 to 22, it
6 clearly states it resulted from a settlement
7 agreement, so that's fully understood within the
8 testimony.

9 And if you look on lines 16 to 17, the
10 sentence is "The Commission's staff take an active
11 role interacting with utilities and enforcing these
12 rules by monitoring the level of reliability for each
13 electric distribution utility."

14 The motion to strike lines 18 to 22
15 simply provides context that the staff does interact.
16 The Commission or the companies are not trying to
17 rely on what's within the stipulation. Within the
18 stipulation of the testimony we are not relying on
19 the SAIFI or CAIDI or anything in there. It's simply
20 an example of the interaction that goes on every day
21 here at the Commission.

22 This one was even more public. It was
23 under Rule 150, Section 10, the electric security
24 rules. It was a process that the Commission could
25 take notice of if it needs to, and doesn't really

1984

1 need to, that there is a process for setting
2 standards. There is a relationship.

3 OCC and others did -- were involved in
4 that case. It's a matter that can be taken
5 administrative notice up from the docket that these
6 parties were involved in a case. So we are not
7 trying to rely on the matters within the stipulation,
8 only that the subject matter is something that the
9 Commission deals with every day.

10 The argument about the cite to the remand
11 order that stated that the Commission previously
12 didn't allow citations to past cases, I believe OCC
13 and others in that case argued that that was on brief
14 and it should have been brought up during the
15 hearing.

16 That's exactly what's happening now, your
17 Honor. This is in the remand proceeding where the
18 parties have the opportunity to cross-examine the
19 witness and ask him questions about it. So obviously
20 I think it provides the basis that the Bench has
21 already ruled that it's relevant rebuttal testimony
22 and this just gives the context of what goes on every
23 day between the staff, the companies, and even
24 parties dealing with reliability.

25 EXAMINER SEE: Mr. Kurtz.

1985

1 MR. KURTZ: Your Honor, very briefly.
2 All of the OCC's arguments go to weight, not
3 admissibility. And I think what we should not lose
4 track of here is the purpose of this hearing is to
5 provide the Commissioners with an adequate record to
6 decide this very important case. And we should
7 certainly err on the side of allowing evidence in
8 rather than striking it.

9 EXAMINER SEE: Ms. Clark.

10 MS. KALEPS-CLARK: Your Honor, again,
11 Exelon, RESA, and Constellation will join in OEG and
12 AEP Ohio's arguments.

13 MS. GRADY: If I may briefly respond,
14 your Honor.

15 EXAMINER SEE: Briefly, Ms. Grady.

16 MS. GRADY: Counsel for AEP keeps
17 bringing up this magical word "context," it's used
18 for the context. I've yet to see a citation to a
19 rule or practice or Commission policy that would
20 suggest that context is -- is more important than the
21 rules of admissibility and the rules of fairness.

22 And I would object to his
23 characterization that this testimony just talks about
24 what happens every day at the Commission. This is
25 not what happens every day at the Commission. This

1986

1 is a stipulation. By its terms it was not supposed
2 to be used and the parties agreed, the parties being
3 the staff and the company, agreed not to use this
4 stipulation against any party to a proceeding.

5 The Commission approved that stipulation
6 in the opinion and order. It should be upheld and
7 the company should be prohibited from bringing this
8 information in.

9 MR. SATTERWHITE: Just quickly, your
10 Honor, we are not citing for precedent or OCC
11 committed an error. It's solely the subject matter
12 what was being discussed regardless of what the
13 result was.

14 EXAMINER SEE: Did you have any other
15 motions to strike portions of Mr. Hamrock's
16 testimony?

17 MS. GRADY: Yes, your Honor. The next
18 motion to strike begins on page 4, starting at line
19 15, with the words "our customer survey" running
20 through line 21 at the end with the ending "21
21 percent." The basis for this motion to strike is
22 two.

23 First of all, your Honor, it's hearsay.
24 It's out-of-court statements made by one other than
25 the declarant; and secondly, there's been no

1987

1 foundation laid that this -- this witness is familiar
2 with the survey or responsible for the survey. And
3 foundation is required under Rule 901 and
4 authentication of writings is also required under
5 Rule 1001.

6 In terms of the hearsay, your Honor,
7 these are out-of-court statements made by someone
8 other than the declarant offered to prove the truth
9 of the matter asserted, and the hearsay does not fall
10 within the public records exception. It is not
11 records of a public agency. It is -- it is the
12 records that were submitted by third parties who are
13 not acting as agencies for the government and,
14 therefore, it is not -- does not fall within the
15 public records exception to hearsay. There are no
16 other exceptions to hearsay that this would fall
17 under.

18 Your Honor, in terms of the arguments on
19 lack of foundation, under Rule 901 the witness's
20 testimony must be made with knowledge of the
21 information within the testimony. The party
22 proffering the testimony has the burden of proving
23 that the survey itself is sufficiently reliable.
24 There is nothing in this testimony of Mr. Hamrock
25 that shows or meets that burden of showing the survey

1988

1 is reliable and should be part of the record in this
2 proceeding.

3 And that's the extent of my argument,
4 your Honor. We would move to strike that on those
5 two bases, being hearsay and that there has not been
6 proper foundation laid for this testimony to be
7 presented.

8 EXAMINER SEE: Okay. Mr. Lang.

9 MR. LANG: Your Honor, FES joins, agrees
10 that it is hearsay. Would also add the following
11 sentence starting at page 21 running on to the top of
12 page 5 at line 2 because that statement is based on
13 hearsay in the section cited by Ms. Grady.

14 MR. SATTERWHITE: If I may, your Honor.

15 EXAMINER SEE: Yes.

16 MR. SATTERWHITE: First to the argument
17 on hearsay, these customer surveys are something
18 that's contemplated within the Commission's rules,
19 same rule we talked about earlier, 4901-10-10,
20 electric security routes. The companies are required
21 to do surveys of their customers presenting those
22 standards. It's a business record of AEP Ohio
23 companies.

24 On behalf of the president of AEP Ohio,
25 Columbus Southern Power, Ohio Power on the stand can

1 be asked questions about these. They are done
2 quarterly. He's available for cross-examination on
3 those matters. It's an official business record as
4 required under Commission rules. Therefore, that's
5 in response to that hearsay.

6 The same with the no foundation, again,
7 these are business records of the company. This is
8 the president of the companies on the stand who can
9 be asked questions about these.

10 The case we talked about earlier in the
11 last stipulation all of the cases that set the SAIFI
12 and CAIDI standard rely upon the customer surveys.

13 Staff is involved with what goes into
14 those surveys as well. There is ongoing discussions
15 with staff about those surveys so there is the
16 reliability that staff is involved in those for
17 proper foundation as well. And the witness can be
18 asked questions about that.

19 And also as is pointed out multiple times
20 today, again, the purpose of this proceeding is to
21 establish a record for the Commission to decide.
22 It's not strictly bound by the Civil Rules, and the
23 comments made by OCC's counsel we would ask that the
24 Bench respect the Commission's rules that require
25 these and cross-examine the witness to the extent

1990

1 there needs to be.

2 And with the addition of page 4 to 5 that
3 FES's counsel added, that's simply a statement that I
4 believe the president of the companies can make about
5 the expectations about what could happen in the
6 future. It's not directly related to the content of
7 what the responses were in the surveys but what he
8 expects to happen in the future in his position as
9 president of the companies.

10 EXAMINER SEE: Are there any other
11 motions to strike portions of Mr. Hamrock's
12 testimony?

13 Okay. The Bench is going to take a few
14 minutes to consider the motions to strike
15 Mr. Hamrock's testimony, and we'll reconvene in
16 approximately 7 to 10 minutes.

17 (Recess taken.)

18 EXAMINER SEE: The Bench has considered
19 OCC's motion to strike lines 5 through 21 -- I'm
20 sorry, through -- through line 3 of page 3 of
21 Mr. Hamrock's testimony and has determined that that
22 motion should be denied.

23 We've also considered OCC's motion to
24 strike lines 18 through 22 of page 3 and determined
25 that that motion should also be denied. We note that

1991

1 the Commission respects stipulations but is
2 considering the CAIDI and the SAIFI established in
3 that stipulation in this case and finds it to be
4 appropriate.

5 Likewise, the motion to strike on page 4
6 starting at lines 15 through 21 is denied, as is
7 FES's motion to strike page 4, line 22 through page
8 5, line 2.

9 So let's begin with cross-examination of
10 Mr. Hamrock.

11 Mr. Maskovyak?

12 MR. MASKOVYAK: Thank you, your Honor.

13 - - -

14 CROSS-EXAMINATION

15 By Mr. Maskovyak:

16 Q. Good morning, Mr. Hamrock.

17 A. Good morning, Mr. Maskovyak.

18 Q. I would like you to turn to page 4 of
19 your testimony, if you would. And I'm looking at the
20 second sentence that begins on line 2, but I'm really
21 concerned about the specific language about the
22 proactive replacement strategy on line 5.

23 Do you see where I am?

24 A. I do.

25 Q. Do we have that proactive strategy?

1992

1 A. We at AEP Ohio anticipate under the DIR
2 program, the programs enabled by the DIR, the
3 opportunity to accelerate replacement of key assets
4 that improve reliability such as station circuit
5 breakers, reclosers, pole inspection programs,
6 underground cable replacement programs. So many of
7 those programs that are in place today could be
8 accelerated under this proactive approach.

9 Q. Do either the signatory parties or
10 nonsignatory parties have this replacement strategy?
11 Has it been presented to them?

12 A. In terms of the specific programs and
13 details?

14 Q. That would be allowed by using the DIR.

15 A. The detailed programs have not been
16 presented to the signatory parties. There is a
17 procedure set up in the stipulation that the -- the
18 annual filing would require a prudency review of the
19 program.

20 Q. But that would be a look back not a look
21 forward?

22 A. A look back at the time of the
23 authorization of the annual revenue.

24 Q. So does AEP know when this replacement
25 strategy will start?

1993

1 A. That depends on the ultimate approval of
2 the stipulation, but we would anticipate that it
3 would start in 2012.

4 Q. Do we know where replacements will start
5 occurring?

6 A. Throughout the service territory,
7 throughout -- yes, throughout AEP Ohio's service
8 territory based on assessment, the diagnostic
9 assessments of circuit performance and reliability
10 indicators.

11 Q. Have those assessments been done?

12 A. They are done on a continuing basis.

13 Q. Do we have those assessments? "We," the
14 signatory parties and the nonsignatory parties.

15 A. We have not provided those assessments to
16 the signatory parties, although we do work
17 collaboratively with the staff on an ongoing basis to
18 assess reliability performance.

19 Q. And do we have any idea of the specific
20 costs associated with this proactive replacement
21 strategy?

22 A. The cost of each program is variable
23 depending on the number of assets targeted in a given
24 year and what we would anticipate is increased
25 spending today, and looking back over the past few

1994

1 years, AEP Ohio has spent on the order of 140 million
2 or so per year in capital on programs like this and
3 we would expect to see that level of investment
4 increase.

5 Q. When you say "programs like this," do any
6 of the parties, again, have examples of what
7 "programs like this" you are referring to?

8 A. Yes. Again, we collaborate with staff
9 routinely on looking at those programs and the
10 expected effect of those programs.

11 Q. Other than staff would any of the other
12 parties in the room have that information regarding
13 what specific programs you are talking about?

14 A. Again, we haven't -- we haven't provided
15 detailed implementation plans to the signatory
16 parties, although the process calls for an annual
17 look at the programs and the prudence of the
18 programs.

19 Q. But, again, that's a look-back review,
20 correct, not a look-forward review?

21 A. That's correct.

22 Q. Okay. I would like to move a little
23 further down the page at line 8, starting with "It is
24 AEP's Ohio intention to conduct analyses." I
25 assume -- do you see where I am?

1995

1 A. I do, yes, I see that.

2 Q. I assume since it's your intention to
3 conduct that, the inspections have not yet taken
4 place?

5 A. These inspections are ongoing.
6 Underground cable inspection programs, pole
7 inspection, electromagnetic interference, assessment
8 of overhead lines all happen on a routine and
9 recurring basis.

10 What I am referring to here is a
11 refreshed analysis of the results of those
12 inspections and the most recent inspections including
13 trends to properly prioritize the programs that would
14 be funded by the DIR.

15 Q. So the analysis has not taken place yet?

16 A. That's correct.

17 Q. So you do not know yet what you will be
18 fixing as a result?

19 A. We know it will be some combination of
20 the types of programs I've already referred to. The
21 exact specific mix of those programs will depend on
22 the results of these analyses.

23 Q. So you could not give me a projection of
24 cost yet?

25 A. Not a specific projection of cost, no.

1996

1 Q. Okay. I am going to move further down
2 the page to line 16 and the information that goes
3 down to the end of the page that was the subject of
4 the last motion to strike starting with "Our
5 surveys."

6 A. Yes.

7 Q. Do you see where I am?

8 A. Yes. I am with you.

9 Q. Do we have those survey instruments? We
10 again the signatory and nonsignatory parties.

11 A. Similar to the earlier question, we have
12 collaborated with staff over the years to ensure that
13 those surveys meet expectations and that they ask the
14 appropriate questions, especially in this area given
15 the emphasis on reliability.

16 Q. With the exception of staff, again, would
17 anyone else that's a signatory party or nonsignatory
18 party here in the room have that information?

19 A. I don't know.

20 Q. Have you provided it in this case?

21 A. As a -- as a matter of the stipulation
22 and the negotiations, I don't recall providing it.
23 But I don't know if other parties have been privy to
24 those surveys. They are certainly not confidential
25 in any way.

1997

1 Q. So when you say that "16 percent of
2 residential respondents and 19 percent of commercial
3 respondents believe their future reliability
4 expectations will increase," the form of the question
5 that's being asked, is it a form that says "Do you
6 agree or do you disagree?" "Do you agree or strongly
7 agree?" Do you know the form of the question?

8 A. Yes. This -- this survey has a series of
9 multiple-choice type questions. This specific
10 question to my recollection asks the respondent to
11 think about the future and anticipate whether they
12 expect service reliability to stay the same.
13 Multiple choice would be to increase, stay the same,
14 to decrease over time, and we've seen over the last
15 several years a pretty steady increase in the number
16 of respondents who indicate that they expect in the
17 future reliability to be better than it has been in
18 the past.

19 Q. So in the form of the question when you
20 ask them if they -- if their expectations will
21 increase, is it -- do they only have one response to
22 choose from in terms of whether their expectations
23 increase or are there multiple levels of expectation?

24 A. It's a multiple-choice format, and to my
25 recollection one of the responses would be that

1998

1 they -- they would expect reliability to increase in
2 the future. Another would be to stay the same.
3 Another would be to -- to be less, reliability
4 expectations would decrease over time. Those are
5 examples. I don't know that there are three or five
6 degrees of separation in the responses but that's the
7 nature of the question.

8 Q. It's the degree of separation is where I
9 am going exactly. So can you tell me when you, say,
10 cite numbers like 16 percent or 19 percent, whether
11 those numbers are the result of a compilation of,
12 say, agreeing and strongly agreeing or merely an
13 answer to one problem of that question?

14 A. Because I don't recall if there's a
15 separation between agreeing and strongly agreeing, I
16 believe there is, but these are the respondents who
17 indicate some level of increased reliability
18 expectations in the future.

19 Q. Thank you. I think I have just one final
20 set of questions.

21 Turning to the bottom of the page
22 starting at line 21.

23 A. Page 4?

24 Q. I'm sorry, yes, page 4 still. You state
25 that "with the increased level of technology." What

1999

1 are you referring to when you talk about "the
2 increased level of technology"?

3 A. We've seen in day-to-day, month-to-month,
4 year-to-year operations increased proliferation of
5 digital technology in consumers' households which has
6 corresponded to decreasing tolerance for
7 interruptions, even momentary interruptions. So it's
8 the classic reset-the-clock syndrome. We've seen
9 with the advent and the adoption of more and more
10 technology that customers are more sensitive to
11 service reliability issues.

12 Q. As part of your thinking on the increased
13 level of technology, would you include gridSMART as
14 part of that question?

15 A. No. This specifically refers to
16 customers' use of technology, not our use of
17 technology.

18 Q. Well, isn't it anticipated gridSMART will
19 allow greater customer use of technology as well?

20 A. Greater use of -- yes, greater use of
21 customer technology to manage their energy
22 consumption. This is a much broader context
23 referring to all forms of technology, electric
24 technologies, that customers use.

25 MR. MASKOVYAK: I have no further

2000

1 questions, your Honor.

2 Thank you, Mr. Hamrock.

3 EXAMINER SEE: Ms. Grady.

4 MS. GRADY: Thank you, your Honor.

5 - - -

6 CROSS-EXAMINATION

7 By Ms. Grady:

8 Q. Good morning, Mr. Hamrock.

9 A. Good morning.

10 Q. Mr. Hamrock, you are familiar, are you
11 not, with the first ESP filing of the company in Case
12 No. 08-917-EL-SSO?

13 A. I am.

14 Q. And you testified in that proceeding, did
15 you not?

16 A. I did.

17 Q. Is it your understanding that as part of
18 the companies -- that ESP 08-917 that the companies
19 sought to implement annual distribution rate
20 increases of 7 percent for CSP and 6.5 percent for
21 OP?

22 A. I don't recall specific distribution
23 increases with those levels. Could you be more
24 specific what you are referring to in the part of
25 that plan?

2001

1 Q. Do you have the copy of the opinion and
2 order in 08-917 and 08-918?

3 A. No, I don't have that with me.

4 MS. GRADY: If I may have a moment, your
5 Honor?

6 EXAMINER SEE: Yes.

7 Q. Now, Mr. Hamrock, I am going to show you
8 my copy of the opinion and order in 08-917 and
9 08-918, and I am going to refer you to page 30
10 entitled distribution -- "Annual Distribution
11 Increases," and have you take a look at that because
12 I have got some questions generally about that.

13 A. This is the rehearing?

14 Q. No, that is the original opinion and
15 order.

16 A. Original opinion and order, okay, thank
17 you.

18 Q. Now, the question that I asked you was
19 was it part of the application of the company to
20 request annual distribution rate increases of
21 7 percent for CSP and 6.5 percent for OP? Does that
22 writing refresh your recollection?

23 A. I don't see any reference to those
24 percentages in this. Oh, okay, I do see it now, in
25 the first paragraph. Yeah, and this is referring to

2002

1 the enhanced service reliability plan.

2 Q. Yes.

3 A. That was a part of the original ESP --
4 the last ESP filing, yes.

5 Q. And those 7 percent increases and the 6.5
6 percent increases would have been sought through
7 that -- the enhanced service reliability rider; is
8 that correct?

9 A. That's correct.

10 Q. And was it your understanding,
11 Mr. Hamrock, that the justification for that rider
12 and for those annual distribution rate increases at
13 the time was that the customers' service reliability
14 expectations were increasing and that in order to
15 maintain and enhance reliability the distribution
16 rate increases should be made through the rider?

17 A. That is my recollection of the original
18 filing, that that enhanced service reliability plan
19 had a number of different programs that were
20 similarly based in customers' growing expectation of
21 reliability, although the final implementation
22 whittled that down to just the vegetation management
23 portion of that original request.

24 Q. Thank you.

25 And you -- it was your understanding that

2003

1 Mr. Boyd's testimony would -- Mr. Boyd of AEP Ohio
2 would have submitted testimony specifically on the
3 customer service reliability expectations and the
4 fact that they were increasing and that that would be
5 the basis for seeking the rider?

6 A. Yes, and at that time Carl Boyd was the
7 vice president of distribution operations and would
8 have sponsored that testimony, similar to Tom
9 Kirkpatrick who sponsored similar testimony in the
10 most recent SSO filing.

11 Q. Now, are you -- is it your
12 understanding -- or is it your understanding that
13 Mr. Boyd testified at that time that 24 percent of
14 residential customers and 33 percent of commercial
15 customers believe their future reliability
16 expectations would increase over the next five years?

17 A. I don't recall that -- those numbers,
18 although he was probably looking back at earlier time
19 periods.

20 MS. GRADY: May I approach the witness,
21 your Honor?

22 EXAMINER SEE: Yes.

23 Q. Mr. Hamrock, I am going to show you the
24 direct testimony of Carl G. Boyd on behalf of the
25 Columbus Southern Power and Ohio Power Company that

2004

1 was filed in 08-917 and ask you to take a look at
2 page 15, the testimony of Mr. Boyd starting on
3 page 15 and carrying over to page 16.

4 I'm sorry, the reference is wrong. Can
5 you go to Mr. Boyd's testimony on page 13 where the
6 company has posed "Are customers' service reliability
7 expectations increasing," and let me pose my
8 question, then did Mr. Boyd testify at that time that
9 24 percent of the residential customers and 33
10 percent of commercial customers believed their future
11 reliability expectations would increase over the next
12 five years?

13 A. Yes. He is specifically referring to a
14 single data point for the first half of 2008. These
15 are quarterly surveys so that's apparently what the
16 respondents had indicated during that time period.

17 Q. Now, Mr. Hamrock, are you familiar with
18 Mr. Boyd's testimony that AEP would not be able to
19 maintain its current service reliability at the
20 current level of spending on the distribution system?
21 And I refer you to Mr. Boyd's testimony at page 8,
22 lines 13 through 16.

23 A. Page 8?

24 Q. Yes.

25 A. Give me a moment.

2005

1 Yes. He is specifically referring to the
2 effects of inflation on our ability to invest at a
3 rate that supports and sustains reliability
4 performance.

5 Q. So at that time it's your understanding
6 Mr. Boyd testified that AEP Ohio would not be able to
7 maintain its level of reliability at the current
8 level of spending at that particular point in time;
9 is that a fair characterization of his testimony?

10 A. Yes, in general.

11 Q. And, Mr. Hamrock, as you mentioned, the
12 rider of -- the enhanced service reliability rider
13 was not approved by the PUCO except for the
14 collection of vegetation management initiative costs;
15 is that correct?

16 A. The proposed rider was modified by the
17 Commission to only include the vegetation, and that's
18 become a very successful program. We've seen the
19 impact of that program on reliability even though we
20 are only a couple of years into moving to a
21 cycle-based program.

22 We've seen tree-related outages decline,
23 and now equipment-failure related outages have moved
24 up as one of the highest causes of outages for us and
25 that's the underlying basis for the renewed request

2006

1 for the DIR.

2 Q. But the -- the renewed request for the
3 DIR does not refer to -- did not contain moneys for
4 vegetation management initiatives, does it, because
5 that's already covered under the current ESP?

6 A. I'm sorry, yes, it does not include the
7 vegetation program, that's separately included in the
8 stipulation.

9 Q. Let's talk for a moment about your
10 counsel's advice, and I am going to go to page 3 of
11 your testimony, beginning on lines 5 through 13. You
12 indicate there that you were advised by counsel that
13 there is another basis for collecting the
14 distribution investment rider and that that basis is
15 4928.143(B) (2) (d); is that your testimony?

16 A. That's correct.

17 Q. When were you advised by counsel that
18 this -- there existed another basis for collecting
19 the distribution investment rider?

20 A. I don't recall the first time we might
21 have talked about that. Certainly as we put together
22 the original filing we looked at all of the
23 different -- counsel looked at all the different
24 statutory bases for different elements of the plan,
25 and I recall having conversations about multiple

2007

1 options most likely including 4928.143(B)(2)(d) at
2 that time, which would have been early this year.

3 Q. And when you say the "original filing,"
4 are you talking about the -- the ESP application?

5 A. Yes.

6 Q. That at the time of the ESP application
7 you were advised by counsel that there was another
8 basis for collecting the distribution investment
9 rider besides 4928.143(B)(2)(h); is that correct?

10 MR. SATTERWHITE: Your Honor, I am going
11 to go ahead and object. I'm trying to give some
12 leeway. Again, this was provided for context as we
13 discussed earlier for the witness to base his
14 testimony upon. To the extent we are getting into
15 conversations between counsel and the witness, I
16 would pose is privileged.

17 MS. GRADY: Your Honor, if I may respond
18 to that, by submission of testimony giving the advice
19 of counsel he has waived any privilege he has to the
20 content of that information. And we haven't even
21 begun to get into the content.

22 MR. SATTERWHITE: Your Honor, if I may,
23 the witness is simply saying he is understanding --
24 here is an interpretation of law that is this and
25 applies to facts underneath it. He certainly hasn't

2008

1 waived any discussions he had with his counsel on
2 legal ramifications of the entire case.

3 EXAMINER SEE: The Bench disagrees there
4 is any waiver of privilege between client and
5 attorney, but I am going to overrule the objection.

6 Can we reread the question back.

7 THE WITNESS: Can you reread the
8 question, please? Thank you.

9 (Record read.)

10 A. No, that's not correct. I am not saying
11 I was advised that there was a basis. What I am
12 saying is I recall conversations about all of the
13 different elements of Senate Bill 221 and how they
14 might support different aspects of the plan.

15 Q. When did you receive the specific advice
16 that you referred to on lines 8 through 21?

17 MR. SATTERWHITE: Objection, asked and
18 answered. I think he said -- he talked about --
19 multiple times about this and doesn't remember the
20 exact date when he first recalled this.

21 EXAMINER SEE: Sustained.

22 MS. GRADY: Your Honor, may I approach?

23 EXAMINER SEE: Yes.

24 MS. GRADY: At this time, your Honor, I
25 would like marked as OCC Exhibit I believe it's No. 9

2009

1 a single-page document entitled the "Columbus
2 Southern Power Company and Ohio Power Company's
3 Response to the Office of Consumers' Counsel
4 Discovery Request, Eighth Set," Interrogatory 200.

5 (EXHIBIT MARKED FOR IDENTIFICATION.)

6 Q. Can you take a look at that, Mr. Hamrock.

7 A. You gave me two copies. They appear to
8 be the same.

9 Q. Yes. It's doubly good so I thought you
10 could read it twice.

11 A. Yes, I've read it.

12 Q. And is it your understanding that at the
13 time that this interrogatory was discovered or at the
14 time this interrogatory was responded to by the
15 company, the company indicated only one basis for the
16 DIR application, that is, 4928.143(B)(2)(h)?

17 MR. SATTERWHITE: Objection. I believe
18 if you read the question, it says "Under what
19 statutory authority does the company seek approval,"
20 and I think the question asked by OCC counsel was
21 overall what's the basis, and I believe if you read
22 the answer, it's responding to the application and
23 basis upon (B)(2)(h) versus global options for the
24 Commission that the Commission could possibly find
25 authority for the DIR and is also prepared by

2010

1 counsel, not this witness.

2 EXAMINER SEE: All of which appears to be
3 true from OCC Exhibit 9, appears to be correct.

4 MS. GRADY: Is there a pending question?
5 (Record read.)

6 EXAMINER SEE: And then there was an
7 outstanding objection by Mr. Satterwhite which is
8 being sustained.

9 Q. Mr. Hamrock, is it your understanding
10 that Interrogatory 200 asked for what statutory
11 authority the company seeks approval of the DIR
12 under?

13 A. Yes.

14 MR. SATTERWHITE: Your Honor, I object as
15 this is argumentative. This was prepared by counsel,
16 not this witness, and I believe that OCC is trying to
17 argue with the witness about the legal standards for
18 something versus the factual matters this witness was
19 put on the stand to testify to.

20 MS. GRADY: Your Honor, this is the
21 problem with allowing this kind of evidence in. We
22 have no right to cross-examine counsel on it.
23 Because it was let in, the objections on hearsay were
24 not sustained or were not granted, and so this is the
25 very problem that we raised in our motion to strike,

2011

1 and I will renew my motion to strike on this basis if
2 I'm not permitted to inquire into this information.

3 And obviously it appears that the company
4 knew or had this statutory basis well in advance
5 of -- of replying to this interrogatory. As
6 Mr. Hamrock indicated, the company had discussions
7 early on when the application was filed, so I would
8 renew my motion to strike on the basis of the
9 witness's answers.

10 MR. SATTERWHITE: And, your Honor, I
11 think it's inappropriate for her to characterize --
12 it's obvious the company -- characterizations what
13 the company knew and didn't know. I believe this
14 was -- in response was provided before the
15 stipulation.

16 We're here litigating the stipulation in
17 this case, and also I believe the answers I gave
18 before the motion to dismiss was denied were based on
19 this was provided for context for the witness so to
20 show the -- or to show the context of what statutes
21 could apply in this case.

22 The testimony provided by other than
23 nonsignatory parties gave the impression of a single
24 possible basis for the Commission, and we have become
25 aware since the October 3 remand hearing there are

2012

1 other bases the Commission could rely upon so this is
2 a contextual legal argument that they are trying to
3 make briefing argument with this witness on the
4 stand. This witness didn't even prepare this
5 interrogatory response. It's inappropriate.

6 EXAMINER SEE: Ms. Grady, your renewed
7 motion to strike is again denied. The objection is
8 sustained.

9 Q. (By Ms. Grady) Are you familiar with this
10 response, Mr. Hamrock?

11 A. I do not recall seeing this response
12 before.

13 Q. Does it appear to be a true and accurate
14 response?

15 MR. SATTERWHITE: Objection, your Honor.
16 He responded he wasn't aware of this before. Trying
17 to establish foundation after the witness has
18 established that he isn't aware of it. It's
19 inappropriate.

20 EXAMINER SEE: The objection is
21 sustained.

22 Q. When you received your advice by counsel,
23 did you receive it in the form of an oral -- oral
24 conversation or was it in the form of writing?

25 A. Could you be more specific? Advice

2013

1 related to this testimony?

2 Q. Yes. You indicate on line 7 that you
3 were advised that RC 4928.143(B)(2)(d) also allows
4 for Commission approval of hearing costs. How was
5 that advice conveyed to you?

6 MR. SATTERWHITE: I will again object,
7 your Honor. We are now getting into how testimony
8 was prepared, trial preparation. I think that's
9 inappropriate. It gets into attorney-client again.

10 EXAMINER SEE: The objection is
11 sustained.

12 Q. Now, when you testify on page 3, lines 12
13 through 13, that "These factors are all satisfied
14 presently by the September 7, 2011, Stipulation and
15 by AEP Ohio," is that your opinion or is that based
16 on advice of counsel?

17 A. It's my opinion that AEP Ohio's practices
18 and programs certainly align with customers'
19 expectations and would under this proposal and that
20 we have an ongoing program of examination and
21 reliability of the distribution system. The
22 underlying basis in the statute is certainly advice
23 of counsel.

24 Q. Let's move on to the survey results. You
25 begin to talk about the survey on page 4, lines 15

2014

1 through 16. And you state that the customer survey
2 results show that the customers have expectations of
3 improved service. Do you see that reference?

4 A. I do.

5 Q. And you indicate that your surveys, and
6 you have plural, "surveys." Is that intentionally
7 plural, your surveys, or is it one survey?

8 A. It's intentionally plural because we
9 repeat this survey over time, so it's a longitudinal
10 study I am referring to.

11 Q. And so you say -- you say in your
12 testimony that "Our surveys show for 2009, 16 percent
13 of residential respondents and 19 percent of
14 commercial respondents believe their future
15 reliability expectations will increase over the next
16 five years." Do you see that?

17 A. I do.

18 MS. GRADY: May I approach the witness,
19 your Honor?

20 EXAMINER SEE: Yes.

21 MS. GRADY: Your Honor, at this time I
22 would like to have marked as OCC No. 10 a multi-page
23 document "Columbus Southern Power Company and Ohio
24 Power Company's Discovery Response to the OCC
25 Discovery Request, Eighth Set," RPD-114.

2015

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 Q. Do you have that document before you?

3 A. I do.

4 Q. Can you take a look at that document?

5 A. I've looked at it.

6 Q. Now, is this document to your
7 understanding, is this document the 2009 year end
8 results for the survey that you referred to on
9 page -- on page 4, lines 17 and 18, that shows for
10 2009, 16 percent of residential respondents and 19
11 percent of commercial respondents believe their
12 future reliability expectations will increase over
13 the next five years?

14 A. It appears to be, yes.

15 Q. Are you familiar with this particular
16 document?

17 A. The -- the interrogatory?

18 Q. Yes.

19 A. No. I don't recall seeing this before.
20 This was prepared by a different witness.

21 Q. And that was prepared by Mr. Kirkpatrick,
22 correct?

23 A. Kirkpatrick, that's correct.

24 Q. And he provided original testimony on the
25 DIR, correct?

2016

1 A. In the original filing, he did, yes.

2 Q. And he is not testifying on the DIR in
3 this rebuttal phase, is he?

4 A. That's correct.

5 Q. Now, let's focus on page 2 of that
6 document, Mr. Hamrock. And let me get your
7 understanding, if you will, of the survey results
8 that are shown here and how they relate to the survey
9 results you testified to in your testimony.

10 In the 2009 year-end study there were 500
11 residential customers surveyed and 300 commercial
12 customers surveyed; is that correct?

13 A. That's correct. That's -- that's the
14 count of responses. There may have been more surveys
15 sent but that's the number of responses we had for
16 each of those customer classes.

17 Q. And this would have been the service
18 reliability expectations for the next five years that
19 would have been 2009 through 2014?

20 A. Yeah. From the point in time forward
21 these surveys are done, I believe in 2009 we did them
22 quarterly, so they would be looking forward from
23 whatever point in time the survey was done 2010
24 through '14.

25 Q. And when this exhibit shows a reference

2017

1 to under the question "Service reliability
2 expectation next five years (Q150B)" does that refer
3 to the question on the survey?

4 A. I believe it does, yes.

5 Q. And you already testified earlier that
6 you did not know exactly how that question was
7 phrased, didn't you?

8 A. When Mr. Maskovyak asked the question, I
9 didn't recall if there were three, four, five, six
10 different responses available to each customer.

11 Q. Now, Mr. Hamrock, these highlighted lines
12 depict the fact that 16 percent of the residential
13 respondents believe their future reliability
14 expectations also increase over the next five years;
15 is that correct?

16 A. Yes, that's correct.

17 Q. And we would get that if we added the two
18 lines that say "increased somewhat" and "increased
19 significantly."

20 A. Yes, it's actually 16.6 percent for the
21 residential.

22 Q. It is also your understanding of this
23 document of the survey results, the 2009 survey
24 results that you report in your testimony, that
25 66 percent of the customers indicated that their

2018

1 service reliability expectations will stay about the
2 same, and 11 percent indicated that their service
3 reliability expectations will decrease over the next
4 five years?

5 A. If you are referring to the residential?

6 Q. Yes.

7 A. That appears to be right, yes.

8 Q. And similarly if we look at the
9 commercial survey, this indicates that 19 percent of
10 the commercial customers surveyed indicated their
11 service reliability expectations in the next five
12 years will increase somewhat or increase
13 significantly?

14 A. Yes, 19.3 percent.

15 Q. And would it be your understanding as
16 well that 64 percent of the commercial customers
17 surveyed believed that their reliability expectations
18 will remain about the same with 14 percent indicating
19 that their service reliability expectations will
20 decrease or decrease significantly in the next five
21 years?

22 A. Yes, I would agree with that.

23 Q. Now, at page 4, lines 18 through 19, you
24 indicate that -- you say "Those numbers," and I
25 assume you are talking about the 2009 year-end

2019

1 numbers that we spoke of; is that a correct
2 assumption?

3 A. The number of customers or the percentage
4 of customers who project that their expectations will
5 increase somewhat or increase significantly, that's
6 what -- that's what I am referring to.

7 Q. And that those numbers would have been
8 the 2009 year-end results that we have been
9 discussing?

10 A. Well, no. The statement is "Those
11 numbers increased to 20 percent for residential and
12 remained at 19 percent for commercial," means those
13 responses but not specifically the 2009 responses.
14 It's referring to the 2010 responses in that
15 statement.

16 Q. Okay. So you also did a survey in 2010;
17 is that correct?

18 A. That's correct.

19 Q. And the numbers that you report on
20 lines -- line 19 are from the 2010 survey and not
21 from the 2009 survey; is that correct?

22 A. I'm sorry. Could you repeat that for me?

23 Q. I'm sorry. The results that you indicate
24 on line 19 where it shows that the "numbers increased
25 to 20 percent for residential and remained at 19

2020

1 percent for commercial in 2010," those are from the
2 surveys done in 2010, correct?

3 A. That's correct.

4 Q. Do you know for residential -- for the
5 survey -- let me strike that.

6 For the 2010 survey, do you know how many
7 residential indicated they believed their future
8 reliability expectations will remain about the same
9 or decrease?

10 A. I don't know the specific number but the
11 general distribution has remained fairly consistent
12 over time with most customers projecting that their
13 expectations would stay about the same.

14 What we have seen and what's conveyed in
15 this part of my testimony is that there has been an
16 increase year on year in the number of customers
17 expecting their reliability expectations to increase
18 in the future.

19 Q. Do you recall the cross-examination of
20 several minutes ago about Mr. Boyd and Mr. Boyd's
21 numbers that he testified to with regard to
22 customers' expectations?

23 A. I do.

24 Q. Can you -- can you refresh your memory
25 and tell me whether or not those customer

2021

1 expectations were higher in 2008 than they are in the
2 numbers that you report for 2009, 2010, and 2011?

3 A. Without finding that again, I closed that
4 up, but that was for the first half of 2008. It was
5 a narrower data set. We have seen across time the
6 responses change.

7 You are looking at annualized results in
8 this interrogatory as well as in what's in my
9 testimony, so there could be a slight distinction
10 there with maybe the first half of that year
11 customers' expectations being higher.

12 More importantly, I believe that we've
13 improved reliability as a result of the enhanced
14 service reliability programs, specifically the
15 vegetation management programming, and we have seen
16 customers' expectations shift as a result of
17 improving the reliability.

18 Q. Now, I -- my question was specifically
19 for residential customers in 2010. Now, I'm going to
20 switch to customers for the 2010 timeframe for
21 commercial customers. Do you know how many
22 commercial customers in that survey indicate that
23 their future reliability expectations would remain
24 about the same or decrease?

25 A. In the 2010 survey?

2022

1 Q. Yes.

2 A. I don't have that data readily available
3 or committed to memory, but I would again respond
4 that over time we've seen the majority of customers
5 indicate their expectations would stay about the
6 same. That hasn't changed. What we have seen is an
7 increase in the fraction to show increasing
8 expectations of improved reliability.

9 Q. Can we assume, based upon the format of
10 the information contained in OCC Exhibit No. 10, that
11 the -- the -- if we took 100 percent and subtracted
12 out the customers who indicated that their future
13 reliability expectations would increase, the 19
14 percent, that we would be left with 71 percent who
15 believe that the expect -- the service reliability
16 expectation either stayed about the same or decreased
17 significantly?

18 A. It would be 81 percent, not 71 percent,
19 but.

20 Q. Thank you.

21 A. Subject to that change I would agree.

22 Q. And can we make the same assumption for
23 the residential customers in 2010 that if we took out
24 the 20 percent who had indicated their reliability
25 expectations would increase in the next five years,

2023

1 that that would -- then could be read to produce the
2 result that 80 percent believe that their future
3 service reliability expectations will be about the
4 same or decrease?

5 A. Yes. That's the way the math would work.

6 MR. SATTERWHITE: One objection or
7 clarification, you are just referring to the columns
8 that are not highlighted, right? Because "don't
9 know" is also a category within there.

10 MS. GRADY: Your Honor, if that's a -- if
11 that's an objection, then I will object to -- that
12 motion for clarification is an objection, I would --

13 MR. SATTERWHITE: I was trying to object
14 to the question.

15 MS. GRADY: -- object and move to strike.
16 I think he is coaching the witness at this point.

17 MR. SATTERWHITE: I was trying to object
18 to the basis of the question.

19 MS. GRADY: Then you could have said
20 "form."

21 EXAMINER SEE: Okay. We can -- the
22 objection is overruled. Clear that up later.

23 Move on, Ms. Grady.

24 Q. (By Ms. Grady) Yes. Now, on page 4 for
25 2011, you indicate that "the 2011 data shows that

2024

1 residential expectations of increased service
2 remained at 20 percent while the commercial
3 expectations rose to 21 percent."

4 For residentials in 2011, can we assume
5 that the residentials that indicated that their
6 future reliability expectations will remain the same
7 or decrease would have -- would have been, again,
8 80 percent?

9 MR. SATTERWHITE: Objection, your Honor.
10 With my recent coaching I would like to say form.

11 A. This -- I'm sorry.

12 EXAMINER SEE: The objection is -- the
13 objection is sustained.

14 MR. SATTERWHITE: Thank you, your Honor.

15 Q. Mr. Hamrock, do you know for the -- for
16 the 2011 survey results that you -- you present in
17 your testimony, do you know how many residentials
18 believe their future reliability expectations would
19 remain about the same?

20 A. I do not have that specific data.

21 Q. Would it be your understanding that the
22 majority of the residentials who were -- or the
23 majority of customers that were surveyed in 2011
24 would have believed that their future reliability
25 expectations for the next five years would remain the

2025

1 same or decrease?

2 A. That's generally been the trend. Again,
3 same answer as I gave for the 2010 data, and I don't
4 believe it has changed. I would point out this is
5 the 2011 data to date. It's not a complete year of
6 data, so this is a quarterly survey. There will be
7 additional data that would be more comparable to the
8 prior annualized data that's reflected there.

9 Q. Now, for the commercial customers in
10 2011, do you know how many indicated that their
11 future reliability expectations will either remain
12 about the same or decrease?

13 A. No, same answer. I expect it's probably
14 the majority, but I don't know the specific number.

15 Q. Now, on page 4 of your testimony, lines
16 21 through 23, you say that "With the increased level
17 of technology AEP Ohio expects that number to
18 increase year to year." Can you tell me what number
19 you are referring to?

20 A. The number of customers who indicate that
21 they expect their reliability to improve in the
22 future.

23 Q. And are you referring there to
24 residential customers or commercial customers or both
25 customers?

1 A. It's both.

2 Q. Now, on page 3, lines 18 through 22, you
3 discuss Case No. 09-756-EL-ESS and you reference a
4 settlement agreement there between the PUCO staff,
5 OCC, and AEP Ohio, do you not?

6 A. Yes.

7 MS. GRADY: May I approach the witness,
8 your Honor?

9 EXAMINER SEE: Yes.

10 Q. Mr. Hamrock, I am going to hand you what
11 I will have marked for identification purposes as OCC
12 Exhibit No. 11, the Stipulation and Recommendation in
13 09756-EL-CSS -- or ESS.

14 (EXHIBIT MARKED FOR IDENTIFICATION.)

15 Q. Can you look at that document,
16 Mr. Hamrock?

17 A. Yes, I can.

18 Q. Are you familiar with that document?

19 A. Yes.

20 Q. Did you authorize the signature on that
21 document?

22 A. I don't recall authorizing that
23 signature.

24 Q. But it is -- it is a Stipulation and
25 Recommendation signed by your counsel?

2027

1 A. Yes.

2 Q. And was your counsel authorized to sign
3 that on your behalf?

4 A. Yes.

5 Q. And this is the stipulation that you
6 referred to in your testimony, correct?

7 MR. SATTERWHITE: Objection, your Honor.
8 The testimony refers to the order of the Commission.

9 Q. Let me withdraw the question.

10 You indicate that on lines 21 and 22 that
11 this is -- there was a settlement agreement between
12 Commission staff, the OCC, and AEP Ohio, do you not?

13 A. Yes, I do.

14 Q. And is this the settlement agreement to
15 which you are referring?

16 A. It is.

17 Q. Now, Mr. Hamrock, this stipulation
18 adopted performance standards that were more
19 stringent than those proposed in the companies'
20 application; is that correct? And by "application" I
21 mean the application filed in 09-756.

22 A. That's my recollection, yes.

23 Q. And was it the company's expectation that
24 at the time it signed the stipulation, that it would
25 be able to meet those performance standards agreed to

1 for 2011 and from there -- thereafter until those
2 standards were changed?

3 A. It was -- was it our expectation that we
4 would be able to meet these standards? Was that the
5 question?

6 Q. Yes.

7 A. Yes, it was and is.

8 Q. And is it your understanding that -- that
9 these standards are in play until June 30, 2012?

10 A. It's my understanding that we are
11 required to file an updated application no later than
12 June 30, 2012. So I guess as an extension of that,
13 these would be in place until then, that's my
14 understanding.

15 Q. Is it your understanding that in 2012,
16 you would -- your application would contain new
17 performance standards?

18 A. They would certainly be updated based on
19 current data, current experience, the effect of the
20 programs that have been in place and any changes in
21 historical performance, I would expect that to be the
22 case.

23 Q. Now, is it your understanding that this
24 Stipulation and Recommendation was filed -- was
25 signed the 21st day of July, 2010?

2029

1 A. I see that it was filed on the it 21st of
2 July, 2010.

3 Q. And if you go to the signature page, does
4 it not state "the undersigned parties hereby
5 stipulate and agree and each represents that it is
6 authorized to enter into the stipulation and
7 recommendation this 21st day of July, 2010"?

8 A. Yes, I see that.

9 Q. Now, at the time the stipulation was
10 signed there was no distribution investment rider in
11 the companies' tariffs now, was there?

12 A. There was the enhanced service
13 reliability required that was reflected in and
14 factored into the standards that were set in this
15 agreement or agreed to, but the distribution
16 investment rider as is currently proposed by the
17 stipulation was not in place at the time.

18 Q. So when we refer to the enhanced service
19 reliability rider, we are talking about the
20 vegetation management piece that was approved in
21 08-917?

22 A. That's correct.

23 Q. And at the time that the stipulation was
24 reached, there was no filed ESP case; is that
25 correct, requesting a distribution investment rider?

1 A. That's correct.

2 Q. And at the time the stipulation was
3 reached, there was no distribution rate case filed
4 requesting a distribution investment rider or an
5 increase in distribution rates; is that correct?

6 A. That's correct.

7 Q. Both the ESP case and the distribution
8 case were filed approximately six months later in
9 January of 2011?

10 A. Yes.

11 Q. Now, Mr. Hamrock, would you agree that
12 aging and deteriorating infrastructure is funded at a
13 certain level under the current regulatory recovery
14 mechanisms?

15 A. I would agree that the current rate plan
16 provides funding for replacement of aging and
17 deteriorating infrastructure, if that's what you
18 mean.

19 Q. And when you say "current rate plan," are
20 you talking about the ESP?

21 A. Current distribution rates.

22 Q. And when were those current distribution
23 rates set, if you know?

24 A. In my opinion they are an amalgamation of
25 a number of different rate mechanisms that have been

1 implemented over time, so I don't know that I could
2 trace back to the -- you know, through all of the
3 different pieces. The enhanced service reliability
4 mechanism, for example, is part of the 2009 through
5 '11 ESP.

6 Q. Was the last time you were in for a
7 distribution rate case pre-2000?

8 A. The last base case --

9 Q. Yes.

10 A. -- was pre-2000. Base rate case, yes.

11 Q. Do you have an understanding of the level
12 of funding that is in place for the aging and
13 deter -- deteriorating infrastructure replacement
14 under the current rate plans of the company?

15 A. As I indicated previously, we -- we have
16 spent on the order of 140 million or so per year in
17 capital associated with these types of programs that
18 we believe reliability can be improved consistent
19 with customers' expectations by increasing that
20 funding and increasing that spending as would be
21 contemplated by the DIR.

22 Q. Are you familiar with the term "life
23 cycle analysis" and "field diagnostics"?

24 A. In general, yes.

25 Q. Is it your understanding that life cycle

1 analysis and field diagnostics are used to determine
2 if assets need to be replaced?

3 A. Yes. We use a number of different
4 techniques including diagnostic technical diagnostics
5 as well as life cycle management of different asset
6 classes.

7 Q. Now, is that the type of analysis that
8 you refer to in your testimony where you say on
9 page 4, lines 9 through 10, it's AEP's intention to
10 conduct analyses of its inspection programming?

11 A. Those would be examples of the types of
12 programs. Others would be failure rates, experienced
13 failure rates of different asset classes.

14 Q. Now, you testify on page 4, line 5, that
15 AEP has not determined what plants -- what plant or
16 assets it would select for pro -- for its proactive
17 replacement program, do you not?

18 A. Could you repeat the question for me?

19 Q. I can rephrase it.

20 Mr. Hamrock, AEP has not determined what
21 plant or assets it would select for its proactive
22 replacement program that it refers to on line 5, page
23 4 of your testimony; is that correct?

24 A. If you are referring to my answer to
25 Mr. Maskovyak earlier, we haven't laid out precise

1 plans based on each asset class. What we have is a
2 number of programs we know are successful, and as we
3 would analyze the most recently available data from
4 the diagnostic programs and the life cycle programs,
5 we would formulate specific plans for each asset
6 class for next year and the future years.

7 Q. And, in fact, that's what you testified
8 to, you say that you have to collect and analyze the
9 data and then use that to develop a strategy for
10 targeting assets for replacement; isn't that correct?

11 A. That's correct.

12 Q. Would you agree that there are internal
13 and external drivers that can affect the amount of
14 capital expenditures that AEP Ohio would devote to
15 the proactive replacement of its aging assets?

16 A. Could you be more specific what type of
17 drivers you are referring to?

18 Q. When I use the term "internal or external
19 drivers," do you understand those terms?

20 A. I'm not sure I understand what you mean
21 by that.

22 Q. Would you agree with me that an internal
23 driver that would affect the amount of capital
24 expenditures that AEP Ohio would devote to
25 proactively replacing would be capital projects

1 identified and scheduled for construction on an
2 annual basis?

3 A. That sounds like a fair characterization.

4 Q. And would you agree with me that an
5 example of an external driver that would affect the
6 amount of capital expenditures that AEP Ohio would
7 devote to proactive replacement would be the economy
8 or the availability of capital funding?

9 A. The ability to raise capital would
10 certainly be an external driver. Weather itself is
11 an external driver. We could have abnormally adverse
12 weather conditions in a given year that cause us to
13 divert more resources to storm restoration
14 initiatives. So there are a number of factors that
15 ultimately affect our ability to manage these
16 programs.

17 Q. Would you agree that in an economic
18 downturn that projects associated with asset
19 improvement will decrease?

20 A. No, no. More likely what we see is
21 capital investments that serve new load and new
22 customer growth is what decreases, but the asset
23 management programs typically are sustained through
24 different economic cycles.

25 Q. Would you agree then in an economic

1 downturn projects associated with asset improvements
2 should decrease?

3 A. No, not necessarily.

4 MS. GRADY: If I may have a moment, your
5 Honor, I may be finished.

6 EXAMINER SEE: Sure.

7 Q. Mr. Hamrock, are you familiar with the
8 company's filing in 09-756-EL-ESS, the case you refer
9 to in your testimony?

10 A. That's the reliability standards?

11 Q. Yes.

12 A. Yes, I am familiar with that filing.

13 Q. Are you familiar with the workpapers that
14 were filed at the Commission to support their
15 application to establish the minimum reliability
16 performance standards?

17 A. I recall looking at those at the time
18 that case was filed, I believe more than a year ago.
19 I haven't looked at those workpapers in some time, if
20 I looked at them at all.

21 Q. Do you know whether or not the workpapers
22 would have indicated annualized results from the
23 surveys that were conducted?

24 A. The customer surveys?

25 Q. Yes.

1 A. I don't recall if that was a part of the
2 workpapers that were submitted in that filing.
3 Certainly might have been.

4 Q. Would you be familiar with the service
5 reliability expectation results that were reported
6 within the workpapers showing annualized results from
7 2004 through 2009?

8 MR. SATTERWHITE: Objection, your Honor.
9 The witness has said multiple times he is not sure
10 what was in there, if he even reviewed them. We seem
11 to be getting the same questions, different parts of
12 what was in there. He said he doesn't know.

13 EXAMINER SEE: Sustained.

14 Q. Mr. Hamrock, when you testified that it
15 was your understanding that the -- that there were
16 trends showing that customers expected increased
17 reliability, did you -- were -- did you review the
18 filing that was made in 09-756 showing the annualized
19 returns from 2004 through 2009?

20 A. When I testified in rebuttal testimony?

21 Q. Yes.

22 A. I did not look back at the prior years.

23 Q. So when you testified that there -- that
24 there are trends -- when you testified that it
25 appears to you that there are trends with respect to

1 customer expectations into the future, you didn't
2 look back, you were looking at 2009 through 2011?

3 A. I think the testimony speaks for itself.
4 I looked at 2009, '10, '11 to prepare this testimony.

5 Q. And based on the period 2009 through
6 2011, you determined that there was a trend showing
7 customers' expectations with regard to service
8 reliability will increase over the next year; is that
9 correct?

10 A. Yeah, and the time period that's stated
11 in the question is a five-year look into the future,
12 so looking back -- back more than five years wouldn't
13 make sense to me anyways.

14 MS. GRADY: That's all the questions I
15 have.

16 Thank you, Mr. Hamrock.

17 EXAMINER SEE: Mr. Lang.

18 MR. LANG: Thank you, your Honor.

19 - - -

20 CROSS-EXAMINATION

21 By Mr. Lang:

22 Q. Mr. Hamrock, a carry cost, as the name
23 implies, is the cost of carrying an asset or
24 investment on the companies' books, correct?

25 A. That's one way to describe it.

1 MR. LANG: That's all the questions I
2 have, your Honor.

3 EXAMINER SEE: Mr. Darr.

4 MR. DARR: No questions, your Honor.

5 EXAMINER SEE: Ms. Hand.

6 MS. HAND: No questions, your Honor.

7 EXAMINER SEE: Ms. Mooney.

8 MS. MOONEY: Ms. Mooney has no questions.

9 EXAMINER SEE: Mr. Satterwhite.

10 MR. SATTERWHITE: Take a quick break
11 first, your Honor?

12 EXAMINER SEE: Sure. About 5 minutes?

13 MR. SATTERWHITE: Thanks.

14 (Recess taken.)

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

17 Redirect, Mr. Satterwhite?

18 MR. SATTERWHITE: Thank you, your Honor.

19 - - -

20 REDIRECT EXAMINATION

21 By Mr. Satterwhite:

22 Q. Mr. Hamrock, do you recall the questions
23 from the Appalachian Peace and Justice Council
24 regarding to what parties were aware of before
25 signing the stipulation related to the distribution

1 programs of the companies?

2 A. I do.

3 Q. And are you aware of any testimony that
4 was filed prior to the stipulation that was in the
5 record that detailed some of the programs of the
6 companies?

7 A. Yes. Witness Kirkpatrick had provided
8 testimony in the original application that talked
9 about the number of different programs and asset
10 types that we would invest in under the proposed DIR.

11 MR. DARR: Objection, move to strike.

12 EXAMINER SEE: I'm sorry?

13 MR. DARR: Objection and move to strike,
14 your Honor.

15 EXAMINER SEE: I am going to need you to
16 speak up a little, Mr. Darr.

17 MR. DARR: I will try to keep my voice
18 up, your Honor, but the fact that there has been
19 testimony previously filed is, A, not a part of this
20 record, B, not relevant at this point because it's
21 not part of this record. And any attempt at this
22 point to try to backdoor it in would be such a
23 fundamental violation of fairness, I don't even know
24 where to start. So before this goes any further, I
25 am going to impose this objection.

2040

1 MS. GRADY: OCC would join. In addition,
2 it's hearsay.

3 MR. SATTERWHITE: May I respond, your
4 Honor?

5 EXAMINER SEE: Yes.

6 MR. SATTERWHITE: That was the extent of
7 my questions on it. I believe the line of questions
8 from the counsel related to what parties may have
9 known about the companies' distribution, and I was
10 simply trying to establish that there was something
11 in the public record that did describe that that the
12 parties had the ability to read.

13 We are not trying -- we are not going to
14 move to admit that evidence. We are not going to ask
15 a series of questions from that testimony, as
16 nonsignatory parties have, trying to get prior
17 testimony that wasn't sponsored into this record.
18 It's simply to establish this point that that was
19 in -- available for people to rely upon.

20 EXAMINER SEE: Let me hear the question
21 posed to Mr. -- let me hear the question posed to
22 Mr. Hamrock initially.

23 (Record read.)

24 MR. DARR: Earlier I had an objection as
25 to form and further adding -- add to my objection

1 that it assumes facts that clearly are not in
2 evidence.

3 MR. SATTERWHITE: Your Honor, these
4 questions weren't raised after the questions. They
5 are raised after the answers now.

6 EXAMINER SEE: At this point the
7 objection is overruled.

8 Q. (By Mr. Satterwhite) Mr. Hamrock, do you
9 recall some questions related to OCC Exhibit No. 10
10 that had a listing of the survey results for 2009?

11 A. I do.

12 Q. And you were asked a series of questions,
13 you gave an answer based on customer expectations
14 increasing versus customer expectations staying the
15 same or decreasing. Do you remember that?

16 A. I do.

17 Q. Is there also a category on there for
18 "don't know"?

19 A. There is a response available that
20 indicates the respondent does not know and that was
21 included in the residual number that was presented in
22 the question.

23 Q. And there was some questions about --
24 strike that.

25 There was some discussion and questions

2042

1 from OCC counsel about the percentage of customers
2 that expect reliability expectations to stay the same
3 over the next five years. Do you remember that?

4 A. I do.

5 Q. What's your understanding of how the DIR
6 impacts that in combination with customers that have
7 increased expectations?

8 MS. GRADY: Objection.

9 MR. DARR: Objection.

10 EXAMINER SEE: Basis?

11 MS. GRADY: Form.

12 MR. DARR: Beyond the scope of the
13 cross-examination.

14 MR. SATTERWHITE: May I respond?

15 EXAMINER SEE: Yes.

16 MR. SATTERWHITE: Your Honor, I think
17 counsel for OCC was trying to make a distinction
18 between customers having increased expectations and
19 the other customers that are left leaving out --
20 leaving the connotation that the DIR wouldn't be
21 related to those other customers in that subset, and
22 I am simply trying to clarify the record how this
23 mechanism that she spent an hour and a half
24 questioning on is affected and how the table exhibit
25 they introduced is affected by that mechanism.

1 EXAMINER SEE: The objection is
2 overruled. Both objections are overruled.

3 You can answer the question, Mr. Hamrock.

4 A. As indicated in my testimony, the DIR
5 programs would be essential to maintaining the
6 current level of reliability as well as to improve
7 reliability in the future.

8 MR. SATTERWHITE: That's all I have, your
9 Honor. Thank you.

10 EXAMINER SEE: Recross?

11 MS. GRADY: Yes, your Honor.

12 EXAMINER SEE: Ms. Grady.

13 MS. GRADY: Thank you.

14 - - -

15 RE CROSS-EXAMINATION

16 By Ms. Grady:

17 Q. Mr. Hamrock, you answered a question from
18 your counsel about a response under the survey of
19 "don't know." Do you recall that?

20 A. I do, yes.

21 Q. What specifically does that represent?
22 What does "don't know" mean with regard to service
23 reliability?

24 A. In the context of the question, the
25 question asks the respondent whether they believe

1 their expectations will increase in the next five
2 years -- or over the next five years, and the
3 response is "I don't know." "I don't know if they
4 will increase or decrease or stay the same."

5 Q. So those customers would not have any --
6 would not know of any -- of their reliability
7 expectations; is that correct?

8 A. They don't know at that point in time
9 what their expectations will be in the future is the
10 way I interpret that response.

11 Q. Would you also interpret that as meaning
12 these customers did not indicate that their service
13 reliability expectations would increase or increase
14 significantly in the next five years?

15 A. I would interpret it they simply don't
16 know.

17 MS. GRADY: Thank you, your Honor.
18 That's all the questions.

19 EXAMINER SEE: Thank you.

20 Mr. Maskovyak.

21 MR. MASKOVYAK: No questions, your Honor.

22 EXAMINER SEE: Mr. Lang.

23 MR. LANG: No questions.

24 EXAMINER SEE: Mr. Darr.

25 MR. DARR: No questions.

1 EXAMINER SEE: Ms. Hand.

2 MS. HAND: No questions, your Honor.

3 EXAMINER SEE: Thank you, Mr. Hamrock.

4 THE WITNESS: Thank you, your Honor.

5 MR. SATTERWHITE: Your Honor, at this
6 time the companies would move for the admission of
7 Exhibit 19, the rebuttal testimony of Joseph Hamrock.

8 MS. GRADY: We would renew our motions to
9 strike, your Honor.

10 EXAMINER SEE: Okay. Any other
11 objections to the admission of AEP Exhibit 19?

12 MR. DARR: We join in the general motion
13 to strike that was filed on behalf of FES yesterday
14 and renew that as well.

15 MR. LANG: Same on behalf of FES, your
16 Honor.

17 EXAMINER SEE: And those objections are
18 noted, and AEP Exhibit 19 is admitted into the
19 record.

20 (EXHIBIT ADMITTED INTO EVIDENCE.)

21 MS. GRADY: Your Honor, at this time OCC
22 would move for the admission of Exhibits 9, 10, and
23 11, I believe.

24 EXAMINER SEE: Are there any objections
25 to the admission of OCC Exhibits 9, 10, and 11?

1 MR. SATTERWHITE: The only clarification
2 I have, your Honor, is on Exhibit 11 take
3 administrative notice of the order which was actually
4 mentioned in the testimony if we are going to have
5 the settlement as well and that we get a clean copy
6 of the settlement. It has some highlights and
7 writing on it, the actual exhibit that was provided
8 today. With that we have no objection to anything
9 else.

10 EXAMINER SEE: Ms. Grady, you'll provide
11 a clean copy?

12 MS. GRADY: Yes, your Honor. That would
13 be after lunch.

14 EXAMINER SEE: And that will be fine.

15 With that Exhibits 9 -- OCC Exhibits 9,
16 10, and 11 are admitted into the record, and the
17 Commission will take administrative notice of the
18 opinion and order issued in this case, issued in
19 09-756.

20 (EXHIBITS ADMITTED INTO EVIDENCE.)

21 EXAMINER SEE: We'll take a brief recess
22 before moving on to AEP Ohio's next witness. We'll
23 reconvene at 11:35.

24 (Recess taken.)

25 EXAMINER SEE: Let's go back on the

2047

1 record.

2 Mr. Nourse, your next witness.

3 MR. NOURSE: Thank you, your Honor. The
4 companies call William Allen to the stand.

5 EXAMINER TAUBER: Mr. Allen, the Bench
6 reminds you you are still under oath.

7 EXAMINER SEE: Mr. Nourse.

8 MR. NOURSE: Your Honor, I would like to
9 mark as AEP Exhibit No. 20 I guess A and B. We'll do
10 20A as the confidential version.

11 EXAMINER SEE: I'm sorry, 20A is the
12 confidential version?

13 MR. NOURSE: Yes, 20A, confidential
14 version, 20B, public version of Mr. Allen's rebuttal.

15 (EXHIBITS MARKED FOR IDENTIFICATION.)

16 - - -

17 WILLIAM A. ALLEN

18 being previously duly sworn, as prescribed by law,
19 was examined and testified on rebuttal as follows:

20 DIRECT EXAMINATION

21 By Mr. Nourse:

22 Q. Mr. Allen, do you have the documents we
23 just marked as 20A and 20B?

24 A. Yes, I do.

25 Q. And -- okay. And do those reflect

2048

1 confidential and public versions respectively of your
2 rebuttal testimony?

3 A. Yes, they do.

4 Q. And did you cause that testimony to be
5 prepared?

6 A. Yes, I did.

7 Q. Okay. Let's use the confidential version
8 and I will ask you if you have any corrections that
9 would apply to both the confidential and the public.

10 A. Yes, I do. On page 2, line 14, the word
11 "the" needs to be inserted between "that" and
12 "return," so that the sentence reads "His testimony
13 also appears to recommend that the return component
14 of the DIR should be based on the Companies' cost of
15 long-term debt."

16 Q. Thank you.

17 A. The second correction I have is on --

18 EXAMINER SEE: Mr. Allen, I'm sorry, can
19 you go back to the first correction, repeat that?

20 THE WITNESS: Yes. The first correction
21 is on line 14 of page 2, the word "the" should be
22 inserted between the word "that" and the word
23 "return."

24 EXAMINER SEE: Okay.

25 A. On page 4, line 7, the word "a" should be

1 replaced by the word "to," such as that it states
2 "were seeking to recover."

3 And the final correction is on line 14 of
4 page 4, the word "no" should be replaced with the
5 word "not," such that the sentence reads "it is,
6 therefore, not appropriate."

7 Q. Thank you, Mr. Allen. With those
8 corrections if we were to ask you the same questions
9 today under oath, would your answers be the same?

10 A. Yes, they would.

11 MR. NOURSE: Thank you, your Honor. I
12 would move for admission of Companies' Exhibits 20A
13 and 20B subject to cross-examination. I would also
14 move that the confidential version be admitted under
15 seal consistent with the motion for protection and th
16 ruling earlier this morning.

17 EXAMINER SEE: Ms. Hand, any
18 cross-examination for Mr. Allen?

19 MS. HAND: No, your Honor, thank you.

20 EXAMINER SEE: Mr. Darr?

21 MR. DARR: Thank you, your Honor.

22 - - -

23 CROSS-EXAMINATION

24 By Mr. Darr:

25 Q. Turn to page 6 of your testimony,

1 Mr. Allen. You make a statement with regard to the
2 appropriateness of the DIR being included in the MRO
3 calculation. Is it fair to say you are not offering
4 a legal opinion as to whether or not -- as to what
5 the MRO-ESP price comparison should be?

6 A. That's correct. I am offering my opinion
7 as a lay witness.

8 Q. Turning to page 11 you have some
9 discussion there with regard to the phase-in recovery
10 rider. And I believe at one point you state
11 something to the affect of -- or you state the
12 conclusion that you could not have obtained during
13 the period that the deferrals were collected a rate
14 at the level suggested by Mr. Bowser; is that
15 correct?

16 A. Can you point me to where you are
17 referring to?

18 Q. Sure. Starting at line 5 going through
19 line 13 on page 11.

20 A. My testimony is that the company could
21 not have obtained bonds at the rate that Witness
22 Bowser has stated, that's correct.

23 Q. And that would have been in the period
24 around 2009, correct?

25 A. The period 2009, '10, and '11. The

1 deferrals were created over a numbers of years.

2 Q. Right. And is it -- would you agree with
3 that what we are looking at is the carrying cost rate
4 on the deferrals once the amortization period begins?

5 A. Yes, and those deferrals would have been
6 funded with bonds that were issued during the time
7 that the deferrals were created.

8 Q. Going back to my question, are we looking
9 at the interest rate on the deferrals as they are
10 being amortized?

11 A. My testimony relates to the carrying
12 charge that would be applied during the amortization
13 period.

14 Q. Okay. And that's the period starting in
15 2012 and going forward, assuming the stipulation is
16 approved, correct?

17 A. Yes, the carrying charges that would be
18 applied beginning in 2012 through 2018.

19 Q. So what we are talking about, again, is
20 the amortization rate that would apply for the period
21 2012 through whenever the amortization is completed?

22 A. It's referring to the carrying charge
23 rate over that amortization period.

24 Q. Thank you for that correction.

25 We are talking about the interest rate

1 that would be applied for the period going forward,
2 correct?

3 A. Yes.

4 Q. Thank you.

5 Now, turning to page 5 in your testimony,
6 lines 24 through 27, you make a statement that "there
7 is no double recovery as a result of the adoption of
8 the DIR." Am I summarizing that correctly?

9 A. That's correct, there will be no double
10 recovery through the DIR.

11 Q. You are aware that the companies have
12 filed testimony in the distribution rate case 11-351
13 on October 24, 2011?

14 A. Yes.

15 Q. And you are also aware, I assume, that
16 the testimony reflects the companies' positions with
17 regard to the objections that were filed regarding
18 the Staff Report issued in that case and the related
19 cases?

20 A. Yes, I am.

21 Q. And are you -- you are aware that
22 Ms. Moore, Andrea Moore, has testified on behalf of
23 the companies in those cases, correct?

24 A. Yes, I am.

25 Q. And she provides testimony concerning the

1 operation of the DIR in the distribution case as it
2 relates to what might be approved in the ESP
3 stipulation case?

4 A. That's correct. And her testimony
5 indicates that there will be no double recovery
6 through those two mechanisms.

7 Q. Do you have her testimony in front of
8 you?

9 A. No, I do not.

10 MR. DARR: May I approach?

11 EXAMINER SEE: Yes.

12 MR. DARR: For purposes of understanding
13 can we have this marked as IEU --

14 MS. GRADY: 13?

15 MR. DARR: I believe it's 15.

16 (EXHIBIT MARKED FOR IDENTIFICATION.)

17 Q. Do you recognize this, Mr. Allen?

18 A. Yes, I do.

19 Q. Could you identify this for us, please?

20 A. It appears to be the prefiled
21 supplemental direct testimony of Andrea E. Moore.

22 Q. And if you would, would you turn to page
23 13.

24 A. Okay.

25 Q. And this appears to be, if I'm -- correct

1 me if I'm wrong, the testimony that says for -- or
2 provides the information with regard to the treatment
3 of the two relative DIR mechanisms, correct?

4 A. That's correct.

5 Q. And if we turn to the answer that begins
6 on 13 and continues to the end of page -- continues
7 on to page 14, could you read for the record the
8 sentence that begins on line 4 on page 14.

9 A. Question: "Do you agree with staff's
10 recommendation?"

11 Answer: "No. There is no guarantee that
12 the Companies' proposal in the SSO case will be
13 approved as filed. The Companies have recommended
14 that the DIR begin with the 2010 net plant in the
15 event the distribution rates approved in this case
16 are not effective by January 1, 2012. This allows
17 the Companies to begin collecting dollars while
18 awaiting implementation of the distribution rates.
19 The net plant as of 2000 is an appropriate start date
20 due to the Companies not collecting any incremental
21 distribution base rates from that point to the
22 present. The 2000 net plant represents the
23 Companies' recalculation of distribution rates
24 related to unbundling the rates at that time. This
25 starting point takes the last distribution rate

1 change and begins the collection of the return on and
2 of any new assets until such time that the
3 distribution rates are in effect."

4 There's a footnote that goes along with
5 that answer relating to the incremental distribution
6 base rates. That footnote states "Other than the
7 increase approved in Case Nos. 05-842 and 05-843,"
8 which were cases that resulted in no net increase in
9 revenues for the company but was simply a toggle
10 between transmission rates and distribution rates.

11 Q. And then if we go to the next question
12 and answer beginning on line 16 and going over to the
13 next page, does not that answer conclude if the DIR
14 proposed in the ESP is approved without modification,
15 a revenue credit may be appropriate in this case?

16 A. Yes, that's correct. A revenue credit in
17 the distribution case would be appropriate such that
18 only incremental distribution investments after the
19 date certain would be excluded from the DIR cap, so
20 as an example, the cap for 2012 is \$86 million.

21 If the net investment post date certain
22 created \$18 million of incremental revenue related to
23 the DIR, then in the distribution case a revenue
24 credit of \$68 million would be appropriate.

25 Q. And that's because it's being recovered

1 someplace else, correct?

2 A. That's correct. And that's why the
3 statements in both Ms. Moore's testimony and my
4 testimony state that the company is not seeking to
5 double recover revenues through the DIR and the
6 distribution rate case.

7 Q. Turning to your testimony with regard to
8 the updated information, with regard to CRES
9 providers, is it correct that at this point the
10 industrial unallocated allotments as of October 14
11 are 54,357,000 megawatts?

12 A. Can you point me to where in my testimony
13 you are referring?

14 Q. Well, I am asking you that question.

15 A. Can you repeat the question, please?

16 Q. Megawatt hours, excuse me. Sure. The
17 question is correct that as of October 14, 2011, the
18 unallocated allotments at this point for industrial
19 customers are 54 million 357 million --
20 357,000-megawatt hours.

21 A. As of October 14, 2011, the unallocated
22 allotments for the industrial class are 54,357,000
23 megawatt hours.

24 Q. And with regard to the unallocated
25 portions of the residential, you provided that

1 information in your testimony, correct?

2 A. That's correct.

3 Q. Now, with regard to the treatment of
4 accumulated deferred income taxes within the DIR,
5 would you agree with me that for investment there is
6 a timing difference in the amount of taxes paid due
7 to accelerated depreciation and the amount of taxes
8 recovered through rates based on straight-line
9 depreciation use for those rates?

10 A. Can you repeat the question?

11 Q. Sure. Would you agree with me that for
12 investment there is a timing difference in the amount
13 of taxes paid due to accelerated depreciation and the
14 amount of taxes recovered through rates based on
15 straight-line depreciation?

16 A. No, I won't agree with your
17 characterization. What I would agree with is that
18 there is a difference in accelerated depreciation for
19 tax purposes and depreciation expense that the
20 companies record on their books. That number can be
21 either greater for tax purposes or less for tax
22 purposes depending --

23 Q. I didn't ask you whether or not -- I
24 didn't ask you whether there was a difference. There
25 is a difference, correct?

1 A. I can't agree with your characterization
2 of the question. It has several elements, some of
3 which are false, so I was trying to answer the part
4 that I could.

5 Q. You would agree with me that the amount
6 of taxes paid by the company is not only likely but
7 probably different than the amount that's recognized
8 in rates at any particular point in time, correct?

9 A. There's a difference between the amount
10 of taxes paid by the company in any given year and
11 the tax expense that's included in the
12 cost-of-service study associated with a rate case.

13 Q. And the reason for that difference is
14 that one is done on an accelerated basis, in
15 particular, for federal or state income tax purposes;
16 and the other is done on a different basis, typically
17 straight line, correct?

18 A. You're narrowly focusing on just
19 depreciation. There is an impact.

20 Q. I am narrowly focusing on taxes,
21 Mr. Allen. I want you to focus on taxes.

22 MR. NOURSE: Your Honor, can he let the
23 witness finish?

24 THE WITNESS: Can you repeat the
25 question, please?

1 (Record read.)

2 A. I don't know there is a question there
3 that I can answer. If you can rephrase it.

4 Q. A different -- is it correct that a
5 difference is created between the amount of taxes
6 recognized for income tax purposes for depreciation?
7 There is a tax effect caused by depreciation,
8 correct?

9 A. There is a tax effect due to
10 depreciation, due to tax depreciation.

11 Q. And similarly there is in rates an effect
12 on rates recognizing the expenses related to
13 depreciation.

14 A. That's correct.

15 Q. And those numbers are not the same.

16 A. No, they are not the same. The
17 depreciation used for tax purposes in some cases may
18 be greater than that used for rates, and in other
19 cases it could be less.

20 Q. And leaving -- and leaving aside
21 direction at this point, you recognize, "you" being
22 AEP, recognize that difference on your books as
23 either an addition or a subtraction from the value of
24 assets related to those -- related to the
25 depreciate -- the depreciated assets.

1 A. We don't recognize it as a difference in
2 the assets. We reflect it as a difference in the
3 ADIT balance.

4 Q. Which is -- and what do you do with the
5 ADIT balance, Mr. Allen?

6 A. We record it on the companies' books.

7 Q. In addition to income?

8 A. ADIT is a balance sheet account.

9 Q. Thank you. Now, we are all on the same
10 page.

11 With regard to your reliance on the
12 FES -- excuse me, not FES, the FirstEnergy order in
13 10-388, you understand that that order was the result
14 of a stipulation, correct?

15 A. That's correct.

16 Q. And do you have that stipulation in front
17 of you?

18 A. I don't have it in front of me.

19 MR. DARR: May I approach, your Honor?

20 EXAMINER SEE: Yes.

21 Q. Mr. Allen, do you recognize that?

22 A. It appears to be the application in case
23 10-0388-EL-SSO.

24 Q. And, yeah, if you flip back a few pages,
25 do you recognize the stipulation attached to that?

1 A. Yes, I see the stipulation.

2 Q. Would you turn to page 34 of the
3 stipulation, please.

4 A. I'm there.

5 Q. And looking at the first complete
6 paragraph, am I correct that the stipulation reads as
7 follows: "This stipulation is submitted for the
8 purposes of this proceeding only and is not deemed
9 binding in any other proceeding and excepted as
10 otherwise provided herein, nor is it offered or
11 relied upon in any other proceedings except as
12 necessary to enforce the terms of this stipulation."

13 A. It says that.

14 Q. Now, I would like to turn your attention
15 to page 14 of the stipulation.

16 A. I see that.

17 Q. And I turn your attention to the second
18 full sentence on that page, and am I correct that it
19 states as follows: "The net capital additions
20 included for recognition under rider DCR will reflect
21 gross plant in service not approved in the Companies'
22 last distribution rate case less growth and
23 accumulated depreciation reserve and accumulated
24 deferred income taxes associated with plant in
25 service since the Companies' last distribution rate

1 case."

2 A. I see that, and I would like to note my
3 reliance is on the Commission order related to the
4 stipulation, not the stipulation itself. My
5 recollection of the Commission order is that it does
6 not include the same language that you've referred to
7 related to accumulated deferred income taxes.

8 And I would also note that this appears
9 to be the initial Stipulation and Recommendation.
10 There was several supplemental stipulations in the
11 case, as I have relied on the Commission order in the
12 case.

13 Q. I would like to turn your attention to
14 page 8 in your testimony.

15 A. I'm there.

16 Q. Now, in determination -- in making your
17 determination of the headroom, you indicated that you
18 removed the transaction risk adder and the retail
19 administration charge; is that correct?

20 A. Yes, that's correct.

21 Q. Now, you are aware that Ms. Thomas has
22 previously testified that a competitive benchmark
23 price is determined using components that would be
24 expected in pricing retail generation supply in a
25 competitive market.

1 A. Can you repeat the question, again?

2 Q. Sure. Are you -- you are aware that
3 Ms. Thomas has previously testified that a
4 competitive benchmark price is determined using
5 components that would be expected in pricing retail
6 generation supply in a competitive market?

7 A. I generally recall that, yes.

8 Q. And she included this transaction risk
9 adder and the retail administration charge as part of
10 her 10 component competitive benchmark price,
11 correct?

12 A. Yes, that's correct. And these are --
13 these two components are components that are specific
14 to a provider. They include items such as profit,
15 contribution to overheads, and as such excluding
16 those from the total rate that Ms. Thomas includes
17 provides the headroom that a CRES supplier can use to
18 cover those overheads and the profit margin that they
19 need.

20 Q. So essentially what you are saying is
21 these are two items that the company has some
22 flexibility on; is that fair?

23 A. A CRES supplier would have or -- or
24 someone bidding into an auction would have the -- a
25 unique set of costs associated with providing each of

1 these and there's a profit margin built into that and
2 that's a determination of each one of those bidders
3 of how much profit margin they have depending on the
4 type of transaction, the contribution to overheads.
5 You know, those overheads may be fixed. Once they
6 already have a large number of customers there is
7 smaller components associated with serving that next
8 customer in line.

9 Q. Well, by that then a CRES supplier could
10 make a decision to discount another of the 10
11 components, could it not?

12 A. They could and, in fact, a CRES supplier
13 that had native generation could bid below market
14 based upon the cost of their own generation, their
15 own fuel costs and the like.

16 Q. So based on your reasoning they could
17 basically give it away and they would have like \$66
18 worth of headroom, correct?

19 A. If a CRES supplier's costs are below the
20 market costs that I've indicated here, in fact, they
21 would have larger headroom at which to attract
22 customers and that's, I think, fundamentally what I
23 am stating here in my testimony is there is headroom
24 for suppliers.

25 Q. So basically if they could agree to take

1 a loss, assuming Ms. Thomas has correctly stated what
2 the cost structures are, if a CRES provider was
3 willing to take a loss, they could create even
4 greater headroom, correct?

5 A. No, that's not what I'm stating here at
6 all. What I'm stating is that, for one, a CRES
7 provider could determine the appropriate level of
8 profit margin that they need above what the market
9 costs are.

10 They could evaluate their own cost
11 structure related to their overheads and based on
12 those costs that they have could compete with the
13 bundled rates that the company has proposed or the
14 generation rates that the company has proposed even
15 at the \$255 megawatt-day capacity rate.

16 And for CRES providers that have their
17 own generation they could -- they could offer below
18 the -- at the \$255 megawatt price they could make
19 profits that are very profitable.

20 So if a CRES supplier had an energy price
21 of, say, \$33 a megawatt hour for fuel, as opposed to
22 a market energy rate that was \$55, for instance, they
23 would have \$20 of additional headroom that they could
24 make offers.

25 Q. So basically we're to ignore the

1 competitive price that's been offered by Ms. Thomas
2 to establish the MRO-ESP test; either yes or no.

3 A. No, that's not what I am testifying to at
4 all. What I am testifying to that's an appropriate
5 market price. There's a difference between a market
6 price and what an individual CRES provider could
7 choose to offer based upon their individual cost
8 structure. What Ms. Thomas has testified to is what
9 the market price would be. What I'm testifying to is
10 what an individual CRES provider could offer.

11 Q. You know who Mr. Busby is, right, Todd
12 Busby?

13 A. I do know Mr. Busby.

14 Q. Have you discussed with him your
15 willingness to have him give up his profit margin to
16 get into this market in -- never mind. You don't
17 have to answer that question.

18 MR. NOURSE: I object, your Honor.

19 MR. DARR: Nothing further. Thank you.

20 EXAMINER SEE: Mr. Kutik.

21 - - -

22 CROSS-EXAMINATION

23 By Mr. Kutik:

24 Q. Mr. Allen, would it be fair to say when a
25 customer shops, AEP Ohio knows the customer is

2067

1 shopping?

2 A. The company knows when a customer
3 switches, yes.

4 Q. Okay. And the customer -- the company
5 knows if a customer is in a certain customer class,
6 correct?

7 A. Residential, commercial, or industrial,
8 yes.

9 Q. Now, you attached to your testimony as
10 WAA R-1 a document that was prepared on or about
11 August 23, 2011, correct?

12 A. Yes.

13 Q. And as of August 23, 2011, the company
14 knew how much of the 5,784,607 megawatts -- megawatt
15 hours of shopping load was for commercial customers,
16 correct?

17 A. That information would have been
18 available.

19 Q. Okay. And they knew how much of that
20 load would have been for industrial customers,
21 correct?

22 A. I want to clarify the difference between
23 we knew and the data was available. I don't know
24 that we -- you know, the data that I have available
25 to me here today is on a total basis. The company

1 does know how much of that -- does have information
2 that would indicate how much of that was for
3 residential, commercial, or industrial. Whether
4 anybody sorted the data in that way at that point in
5 time, I don't know.

6 Q. All right. So the data was available to
7 the company, correct?

8 A. Information to create that was available.

9 Q. Okay. And information was available to
10 display of the, let's say, \$5.8 million megawatt
11 hours, how much of that was commercial and how much
12 of that was industrial and how much of that was
13 residential, correct?

14 A. That's correct, and we provided this data
15 in response to a specific data request of the staff,
16 so we pulled together. That was responsive to the
17 staff's request.

18 Q. Now, this does not show, does it, a
19 breakdown of the 5.8 million megawatt hours by
20 customer class, correct?

21 A. That's correct.

22 Q. And in your testimony you have not
23 provided anything with respect to what the cus --
24 what the company had available to it as of August 23
25 about how much of the 5.8 million megawatt hours was

1 commercial, industrial, or residential, correct?

2 A. That's correct. What we provided at that
3 point in time was that there was 14 percent shopping
4 and that the caps proposed in the stipulation were
5 21 percent. So there was a significant amount of
6 room between the data provided here and the 21
7 percent, and that was the information that the --
8 that was requested as part of the discovery process.

9 Q. You have not provided in your testimony,
10 have you, sir, any breakdown of how much of the 5.8
11 million megawatt hours that was reported as shopping
12 load in August of 20 -- in August 23 was residential,
13 industrial, or commercial; isn't that correct?

14 A. That's correct.

15 Q. All right. Now, you say that the company
16 had information available to display the amount of
17 shopping load that was represented by commercial
18 customers, correct?

19 A. The -- the fundamental data that the
20 company has would have allowed the company to perform
21 such a calculation if that calculation had been
22 requested.

23 Q. All right. So the -- so if you wanted
24 to -- to show how -- what the company had available
25 to it in terms of whether any particular customer

2070

1 class was going to exceed shopping -- exceed the
2 set-asides as of August 23, the company had that
3 information available, correct?

4 A. The company had information available to
5 perform such a calculation had it been requested.

6 Q. And that information, in fact, is
7 available today, correct?

8 A. I don't know that the company archives
9 that information.

10 Q. All right. So if the company does, in
11 fact, archive it, it would be available, correct?

12 A. It's possible.

13 Q. All right. And I assume by the fact that
14 you say that it may be archived or it may not be
15 archived, that you didn't go and request a breakdown
16 of the 5.8 million megawatt hours reported on August
17 23 by customer class?

18 A. That's correct. What I was doing was
19 presenting the information that had been provided to
20 the other signatory parties prior to signing the
21 stipulation.

22 Q. My question simply was you didn't ask
23 that to be done, correct?

24 A. No. I didn't think it was necessary.

25 Q. Okay. Now, the company has provided data

1 on shopping load versus the set-aside amounts,
2 correct?

3 A. Yes, the company has performed those
4 calculations and provided that information on the
5 companies' Customer Choice website.

6 Q. Now, one such breakdown was -- appeared
7 already in this case as OCC Exhibit 1 and Exhibit
8 TCB-1 to Mr. Banks' testimony from FES. Do you
9 remember that?

10 A. I do.

11 Q. And do you have that with you today?

12 A. I didn't bring that with me today.

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

14 EXAMINER SEE: Yes.

15 MR. KUTIK: Unfortunately, your Honor, I
16 only have a few copies.

17 Q. Mr. -- Mr. Allen, what I just showed you,
18 do you recognize that as what had been marked as OCC
19 Exhibit 5 and Exhibit TCB-1 to Mr. Banks' testimony?

20 A. I do.

21 MR. KUTIK: Your Honor, at this time I
22 would also like to have marked as Exhibit 18, FES
23 Exhibit 18, a one-page document. May I have it
24 marked?

25 EXAMINER SEE: Yes.

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 Q. Do you recognize that document?

3 A. Yes, I do.

4 Q. And this was an e-mail sent out by AEP
5 Ohio, correct?

6 A. I don't recognize the e-mail, but I
7 recognize the content of it, and it appears to be an
8 e-mail from AEP Customer Choice.

9 Q. And this was an e-mail that was issued or
10 information that was being provided on October 21,
11 2011?

12 A. Yes, that's correct.

13 Q. And this, in essence, updates the
14 information that appeared on OCC Exhibit 5, correct?

15 A. That's correct. The company has over
16 time -- as we are going through the process, we will
17 be updating that information on the website to keep
18 CRES providers and customers aware of the status of
19 the RPM set-asides.

20 Q. Now, Exhibit 5, OCC Exhibit 5, that was
21 data as of September 23, correct?

22 A. It was prepared September 23 based upon
23 customer shopping as of September 7.

24 Q. Okay. So OCC Exhibit 5 was prepared on
25 or around September 23, correct?

1 A. That's correct.

2 Q. And FES Exhibit 18, that was prepared on
3 or around October 21, correct?

4 A. That's correct.

5 Q. Now, there -- turning your attention to
6 FES Exhibit 18, it has a footnote, does it not, the
7 table?

8 A. There's an asterisk, yes.

9 Q. And that asterisk says the allotments
10 awarded as of October 14, 2011, included all
11 customers classified per Appendix C of the
12 stipulation as Group 1, Group 2, and Group 4,
13 correct?

14 A. That's essentially what it says, yes.

15 Q. Okay. Well, did I misread it?

16 A. You did.

17 Q. All right. So it says "the
18 allotments" -- "allotments awarded as of October 14,
19 2011, include all customers classified per Appendix C
20 of the stipulation as Group 1, 2, and 4."

21 A. You've read it correctly.

22 Q. Thank you. And would it be correct to
23 say then that the data that appears on FES Exhibit 18
24 includes only those customers that are in Groups 1,
25 2, and 4?

1 A. No, that's not correct. There are
2 Group 5 customers included in that -- in there.

3 Q. So would it be fair to say that one of
4 the differences between the data that was prepared on
5 or around September 23 and the data that was prepared
6 on or around October 21 is that the latter includes
7 some Group 5 customers?

8 A. The reason I hesitate is I'm trying to
9 recall if there are any Group 5 customers in the data
10 that was presented on September 23, but the
11 difference is increased levels of Group 5 customers
12 between September 7 and October 14. That's one of
13 the differences. There is additionally a difference
14 related to some data validation that occurred.

15 Q. So the differences that appear in
16 Exhibit 18 over the data that was in October -- on
17 OCC Exhibit 5 is, one, the FES Exhibit 18 data
18 includes Group 5 -- or more Group 5 customers and it
19 also includes some updated data that the company may
20 have had as of September 7, in other words, updating
21 data for Groups 1, 2, and 4.

22 A. That's correct.

23 MR. KUTIK: Your Honor, may I approach?

24 EXAMINER SEE: Yes.

25 MR. KUTIK: Your Honor, I would like to

2075

1 have marked the following document as FES Exhibit 19.

2 It is a table.

3 EXAMINER SEE: FES Exhibit 19 is so
4 marked.

5 (EXHIBIT MARKED FOR IDENTIFICATION.)

6 Q. Mr. Allen, I would like you to take a
7 moment to look at Exhibit FES Exhibit 19.

8 A. Okay.

9 Q. And my question to you, sir, do you
10 recognize that the data on October -- on the FES
11 Exhibit 19 is -- pulls data from OCC Exhibit 5 and
12 OCC Exhibit -- and FES Exhibit 18?

13 A. Could you give me a second to validate
14 the data?

15 Q. Sure.

16 MR. NOURSE: Could I inquire as to
17 whether this document is something FES created?

18 MR. KUTIK: Yes. I created it.

19 MR. NOURSE: Thank you.

20 A. It appears to be a table that includes
21 certain columns from both of those two exhibits we
22 have been discussing.

23 Q. Now, you were responsible for preparing
24 the data that was published on or about September 23,
25 correct?

1 A. I reviewed the data, and I worked with
2 the individuals that were preparing the data at my
3 request.

4 Q. Okay. Didn't you say under oath in
5 cross-examination by Ms. Grady when you testified in
6 your direct case that you were responsible for the
7 data?

8 A. I don't recall.

9 Q. All right. Did you play the same role
10 with -- that you did with respect to the data on
11 September 23 regarding the data on October 21?

12 A. Yes. In both cases I reviewed the data
13 and requested -- requested that it be posted to the
14 companies' website.

15 Q. Now, would it also be fair to say whether
16 we are looking at the data published on September 23
17 or the data published on October 21, the amount of
18 allotments awarded to the commercial class exceeded
19 21 percent of the commercial load?

20 A. It exceeded its pro rata allocation of
21 the RPM set-aside.

22 Q. Which was 21 percent.

23 A. It's 21 percent but it's 21 percent of
24 the projected commercial load.

25 Q. So in both cases the allotments awarded

2077

1 exceeded 21 percent, correct?

2 A. That's correct.

3 Q. Now, in looking at the differences in the
4 data that was published on September 23 versus
5 October 21, it would be fair to say there is over 1
6 million megawatt hours of additional allotments that
7 have been allocated?

8 A. That's correct.

9 Q. And the initial set-asides increased for
10 commercial customers.

11 A. Yes, as indicated on both Exhibit OCC 5
12 and FES 18, it's indicated that the above values may
13 change as a result of financial data validation, and
14 so that number has changed slightly.

15 Q. And the initial set-asides for
16 residential went down.

17 A. As a result of the data validation, the
18 initial RPM set-aside for the residential class went
19 down slightly.

20 Q. And the initial set-asides for industrial
21 went down.

22 A. Yes, similar to the residential class,
23 the industrial initial RPM set-aside went down
24 slightly.

25 Q. The amount of unallocated allotments for

1 residential customers went down over 500,000 megawatt
2 hours.

3 A. As a result of allotments being awarded
4 to the residential class of 500,000 megawatt hours,
5 that resulted in a reduction of the unallocated
6 allotments of a comparable amount.

7 Q. Okay. That would be in the -- in the
8 neighborhood of 500,000 megawatt hours, correct?

9 A. That's correct, residential customers are
10 taking advantage of the allotments that are available
11 under the stipulation.

12 Q. And what would be left for the remaining
13 residential customers has decreased by 500 megawatt
14 hours, correct?

15 A. Yeah, that's correct.

16 Q. Okay. And it would be fair to say
17 that -- that one would expect that the amount of
18 unallocated allotments that you show as of
19 October 14, 2011, would decrease for each customer
20 class, correct?

21 A. I'm sorry, I am not sure that was a
22 complete question. Can you reread it?

23 Q. Sure. Let me try again. If we could
24 magically do this today and have you punch in the
25 computer and print out the as-of-today data, would

1 you expect that -- you would expect, would you not,
2 that the unallocated allotments for each customer
3 class would go down from the data as -- the data
4 published on October 21?

5 A. No, I wouldn't. First of all, the
6 commercial class is already at zero so it can't go
7 down. I don't expect the industrial class would be
8 reduced. The unallocated allotments for the
9 residential class would go down if additional
10 allotments were awarded to the residential class.
11 That's kind of how the process works. We award
12 allotments to a class; the unallocated allotments
13 would go down correspondingly.

14 Q. You wouldn't expect that residential --
15 industrial customers would be able to take advantage
16 of the 54,000 megawatt hours that are still available
17 as of October 14?

18 A. That's correct, because there's a --
19 there -- based on this data, this is a large
20 industrial customer that would be over the allotment
21 such that their -- such that their needed allotment
22 would be greater than 54,000.

23 Q. So you don't think any industrial
24 customer could take advantage of that additional
25 unallocated allotment; is that your testimony?

1 A. Based upon the stipulation rules and the
2 RPM set-aside process, until that next industrial
3 customer in line, until there is enough unallocated
4 allotments to serve that next customer in line,
5 nobody else can jump ahead of them in line.

6 Q. What you are saying is the one that's
7 currently first in line needs more than 54,000
8 megawatt hours.

9 A. That's correct.

10 Q. Now, in your testimony on page 9, lines 7
11 through 10, you mention 1,500 customers who have
12 switched since September 7, correct?

13 A. That's correct.

14 Q. And these are customers who have actually
15 switched, not just customers who have provided notice
16 of switching?

17 A. That's correct.

18 Q. And when you use the word "customer" with
19 respect to these 1,500 -- or the number 1,500, are
20 you using "customer" in the same way that the
21 appendix defines the word "customer," Appendix C?

22 A. When I refer to "customers" here, these
23 are individual SDIs which are discussed in
24 Appendix C.

25 Q. So that this is the same definition that

1 would be in Appendix C.

2 A. Yes.

3 Q. And would it be fair to say that these
4 1,500 customers would be all Group 5 customers under
5 Appendix C?

6 A. That's correct. What my testimony is
7 showing here is there are 1,500 customers and
8 actually they wouldn't be Group 5 because they don't
9 have allotments yet -- I'm sorry, they are Group 5
10 customers but this is 1,500 customers that have
11 switched without having allotments to get the
12 RPM-priced capacity. So what I am showing is that
13 customers are shopping at the \$255 megawatt day
14 capacity price.

15 Q. Well, you don't know these customers
16 aren't eligible for allotments, do you?

17 A. They haven't currently been awarded an
18 allotment so, for instance, there are a number of
19 commercial customers that have switched suppliers
20 that are in this 1,500. Those customers have not
21 been awarded allotments. They know they have not
22 been awarded allotments because they switched after
23 September 7.

24 They have signed contracts with CRES
25 providers and actually switched so that's evidence to

1 me that there are customers and CRES providers that
2 are doing deals in anticipation of \$255 capacity
3 price in 2012.

4 Q. So it would be fair to say then that none
5 of the data from this 1,500 appears in the numbers
6 that are shown in FES Exhibit 18.

7 A. That's correct. And I will put a caveat
8 there, the one industrial customer would be in both.

9 Q. Okay.

10 A. It would show up in that 54,000.

11 Q. In terms of these 1,500 customers, you
12 have not provided us, have you, with any indication
13 as to the load represented by these customers?

14 A. No. I intentionally chose not to provide
15 specific data on those customers because in my view
16 and I am sure in the view of many of the CRES
17 providers here, that would be highly confidential
18 data they wouldn't want shared with other CRES
19 providers.

20 Q. So, again, on an aggregate basis you have
21 not given us any information with respect to the load
22 represented by these 1,500 customers, correct?

23 A. No, I have not, but that's data that the
24 company could compile.

25 Q. And you have not given us any data with

1 respect to these 1,500 broken down by load and
2 customer class; isn't that correct?

3 A. That's correct. My review of the data
4 though indicates that the vast majority of these
5 customers are commercial customers. There are a few
6 industrial customers and there are -- by virtue of
7 the set-aside process there are no residential
8 customers.

9 Q. In terms of these customers who have
10 switched, would it be fair to say that AEP Ohio would
11 not know the terms of the contracts with respect to
12 these customers?

13 A. That's correct, that's information that's
14 the property of the customer and the CRES.

15 Q. So we don't know whether these contracts
16 would terminated as of December 31, correct?

17 A. That's a potential. I would be surprised
18 if a customer were switching after September 7 for a
19 four-month contract with the expectation that when
20 they came back, they would have a 12-month minimum
21 stay per the tariff. So based upon my understanding
22 of the tariffs, I wouldn't suspect that there are
23 customers that are doing that but there may.

24 Q. Okay. And you don't know whether these
25 contracts are contingent on the customer getting the

1 RPM capacity price going forward from January 1,
2 2012, correct?

3 A. That's correct. As I indicated, these
4 are contracts between the CRES and the customer that
5 the company does not have access to.

6 Q. Right. And we don't know whether any of
7 these contracts would prevent the customers from
8 returning to AEP Ohio if they didn't get the RPM
9 capacity price, correct?

10 A. That's correct, and those customers, if
11 they came back, would be subject to a 12-month
12 minimum stay which is a -- I would be surprised they
13 would do that because they would forego the
14 opportunity to get an RPM set-aside in 2013.

15 Based upon data that I presented in my
16 testimony, you know, I can envision these contracts
17 may be blended contracts that look at \$255 capacity
18 for 2012, RPM-priced capacities for 2013 and 2014.
19 These are still profitable contracts for the CRES
20 provider.

21 MR. KUTIK: Your Honor, I move to strike
22 everything after based on my review. I didn't ask
23 him anything about additional contracts. I just
24 asked him about with respect to these contracts was
25 there anything to prevent the customer from

1 returning.

2 MR. NOURSE: Your Honor, I think he is
3 being asked for his opinion, and he explained his
4 opinion and his basis for his opinion.

5 MR. KUTIK: I said we don't know of
6 anything in these contracts that prevents the
7 customer from returning.

8 EXAMINER SEE: The motion to strike is
9 denied.

10 Q. (By Mr. Kutik) Now, as of January 1,
11 2012, the allotments will no longer have a
12 class-specific nature to them, correct?

13 A. That's correct.

14 Q. And there would be, for example, no
15 residential allotments as of January 1, 2012?

16 A. Residential customers would have received
17 allotments. There wouldn't be an unallocated
18 allotment category associated with the residential
19 class though.

20 Q. As of January 1, 2012?

21 A. That's correct.

22 Q. And as of January 1, 2012, any allotments
23 that have not been awarded to a residential customer
24 would be combined with all other unallocated
25 allotments, correct?

1 A. That's correct.

2 Q. And those allotments would then be
3 provided to the first customers, be they residential,
4 commercial, or industrial, that are in the queue?

5 A. That's correct.

6 Q. So these 1,500 customers that we have
7 been talking about who have switched since
8 September 7 would have priority over customers
9 seeking to switch after January 1, 2012, correct?

10 A. Can you repeat the question?

11 Q. Sure.

12 MR. KUTIK: Could you read it, please.

13 (Record read.)

14 A. That's correct.

15 Q. And the same would be true for any
16 customer who switched before December 31, 2011, they
17 would have priority over customers who switched after
18 January 1, 2012?

19 A. Customers that switch earlier always have
20 priority over customers that switch later.

21 Q. So the answer to my question is "yes."

22 A. Yes.

23 Q. Now, you have no experience working for a
24 CRES provider, do you?

25 A. No.

1 Q. And prior to this case you had no
2 involvement in dealing with CRES providers, correct?

3 A. That's correct.

4 Q. So would it be fair to say that as
5 between you and Ms. Ringenbach or Mr. Fein or
6 Mr. Dominguez, that they -- that each one of them
7 would have more experience in dealing with CRES
8 issues than you would?

9 A. That's correct, and I think
10 Ms. Ringenbach confirmed what I've stated in my
11 testimony that her CRES supplier was actually serving
12 customers at the \$255 per megawatt hour price.

13 MR. KUTIK: Your Honor, I move to strike.

14 MS. GRADY: Join.

15 MR. KUTIK: Also that's a
16 mischaracterization of her testimony.

17 MR. NOURSE: Your Honor, the premise of
18 his question is argumentative and just seeking to
19 compare credibility essentially to other witnesses,
20 so I think he deserves whatever answer he gets with
21 that kind of question.

22 MR. KUTIK: Well, there was no objection
23 to the question. And the witness responded and the
24 witness then went beyond the response and that's the
25 point of the motion.

1 EXAMINER SEE: And the motion to strike
2 the witness's testimony is denied.

3 Q. Isn't it true Ms. Ringenbach said she
4 believed that the R -- the -- that Appendix C and an
5 R -- and a capacity price of 255 would tend to limit
6 shopping?

7 A. I don't recall that piece of her
8 testimony.

9 Q. Okay. You don't recall that, but you
10 recall the other one, right?

11 A. That's correct.

12 Q. But let me go back to my question which
13 is as between Ms. Ringenach, Mr. Fein, Mr. Dominguez
14 on the one hand, and they would have more experience
15 dealing with CRES issues, correct?

16 A. I would assume so.

17 Q. And each one of them would have more
18 expertise in CRES providers' behavior.

19 MR. NOURSE: Object to the form of the
20 question.

21 EXAMINER SEE: The objection was as to
22 form, okay. The objection is overruled.

23 A. Potentially, I don't have a clear
24 recollection of exactly what Witness Fein's
25 background was exactly. But Ms. Ringenbach, I think

1 she works for a CRES. I am not sure what the
2 others -- who they work for.

3 Q. So you don't know whether Mr. Fein works
4 for a CRES provider or represents a CRES provider?

5 A. He represents CRES providers, I know
6 that. I don't know if he -- what his involvement is
7 with the CRES provider other than --

8 Q. Do you know what RESA is?

9 A. I know what the acronym stands for.

10 Q. Okay. What does it stand for?

11 A. The Retail Electric Supply Association.

12 Q. Are those CRES providers?

13 A. I assume their members are.

14 Q. Okay. Are you aware that Mr. Fein is the
15 president of RESA?

16 A. I think I recall that, but I can't swear
17 to it.

18 Q. If Mr. Fein is -- is, in fact, the
19 president of RESA, would you think he would have more
20 expertise in dealing with CRES providers' behavior
21 than you would?

22 MR. NOURSE: Your Honor, I object to this
23 going further down this line of questioning. It's
24 argumentative. He's trying to use other signatory
25 party's expertise against -- against the companies'

2090

1 witness. You know, you can make these arguments on
2 brief.

3 EXAMINER SEE: The objection is
4 sustained.

5 Q. Do you recall Ms. Ringenbach testifying
6 as follows: Question: "And do you believe that the
7 255 could limit or constrain shopping, correct?"

8 Answer: "Yes, it could."

9 Question: "Because increased capacity
10 price would have the effect of reducing the amount of
11 headroom that a CRES provider might be looking at in
12 attempting to make a profitable offer to a customer,
13 correct?"

14 Answer: "Correct."

15 Do you remember her testifying that way?

16 MR. NOURSE: Mr. Kutik, can you give us a
17 reference?

18 MR. KUTIK: Page 544 of Volume IV.

19 A. I was here for her testimony. I don't
20 know if you are repeating it word for word. I don't
21 recall every piece of her testimony. We were here
22 for two weeks with lots of witnesses testifying, so I
23 don't recall what every witness testified to.

24 MR. KUTIK: May I approach, your Honor?

25 EXAMINER SEE: Yes.

1 Q. Mr. Allen, let me show you page 544 of
2 Volume IV of the transcript from these hearings
3 starting at line 7 and finishing at line 15. Did I
4 accurately characterize her testimony, sir?

5 A. Yes, you did, and I think that's
6 consistent with what my testimony describes is that
7 the headroom would be reduced but that there is still
8 headroom available, and that's not contrary to what
9 she testified to there.

10 Q. I asked you whether Ms. Ring -- whether
11 you recalled Ms. Ringenbach testifying that it would
12 limit or constrain shopping and she agreed, correct?

13 A. I saw the transcript that you provided to
14 me, and you read it correctly.

15 Q. Now, would it be fair to say that you
16 don't know what margins would be acceptable to a CRES
17 provider?

18 A. That's correct. That would vary based
19 upon each CRES provider. The margin would have to be
20 greater than zero. It may be below zero actually, as
21 we heard I think Witness Murray testify last week
22 that CRES providers may have a lost leader, so I
23 don't know what profit margins they would need.

24 Q. So, again, you don't know what margins
25 would be acceptable to a CRES provider, correct?

1 A. That's correct. But my testimony
2 indicates there would be margin. Whether that was
3 sufficient for an individual CRES or not, I don't
4 know.

5 MR. KUTIK: Move to strike after the word
6 and including the word "but."

7 MR. NOURSE: Your Honor, could I have the
8 question and answer read back, please?

9 EXAMINER SEE: Yes.

10 (Record read.)

11 MR. NOURSE: Your Honor, I think it's a
12 fair answer to the question given that he is giving
13 his reasoning for the answer.

14 MR. KUTIK: Your Honor, all I asked was
15 whether he knew about what would be acceptable to a
16 CRES provider, not what margins they would be.

17 EXAMINER SEE: And your motion to strike
18 is denied.

19 Q. Would it be correct to say that AEP
20 Ohio's business has sought to achieve margins in
21 excess of 5 percent?

22 A. I don't know -- let me put this in
23 context. We are dealing with two different issues.
24 There's margin and there's a return on equity. They
25 are very different things.

1 Q. I just asked you about margins, sir.
2 Would --

3 A. AEP does not typically on a retail side
4 look at margins.

5 Q. Okay. So you -- your testimony is then
6 that AEP Ohio in its business would be satisfied if
7 it had a margin of less than 5 percent?

8 A. No, that's not my testimony. What my
9 testimony is that --

10 Q. Well, would AEP -- would AEP Ohio be
11 satisfied with a margin of less than 5 percent?

12 EXAMINER SEE: Allow the witness to
13 finish his response, Mr. Kutik.

14 THE WITNESS: Can I have the beginning of
15 my response read back, please?

16 EXAMINER SEE: Yes.

17 (Record read.)

18 A. That in evaluating earnings, AEP looks at
19 return on equity. The company does not look at
20 margins in the sense of a margin on revenue.

21 Q. Would AEP Ohio be satisfied with a margin
22 of 5 percent?

23 A. I think I've answered your question, the
24 company does not look at margins on revenue. The
25 company looks on -- looks at return on equity and the

1 return on equity of 5 percent the company would not
2 consider sufficient. But that's very different than
3 margin.

4 Q. All right. Well, certainly the return on
5 equity would be one component of the margin, correct?

6 A. Return on equity would be the result of
7 gross margins less operations of maintenance
8 expenses, taxes, depreciation, interest, a variety of
9 other costs. The result would be a return on equity.

10 Different companies have different
11 capital structures, so a margin of 5 percent could
12 produce significantly different return on equities
13 depending upon the equity thickness of that company.

14 Q. Well, as far as AEP Ohio is concerned,
15 would it be fair to say that return on equity would
16 be a subset of the margin as you've just described
17 it?

18 A. I think I described how we calculate a
19 return on equity, which would be the net income but
20 you would take gross margin and subtract a set of
21 costs from that.

22 Q. So -- so, again, return on equity would
23 be a subset or a part of the margin, correct?

24 A. Margin is one factor that creates a
25 return on equity.

1 Q. Well, that's not an answer to my
2 question. One would normally expect to use your term
3 the gross margin to be greater than the return on
4 equity, correct?

5 A. Assuming that the items below gross
6 margin were -- were positive expenses and there were
7 no credits there.

8 Q. Now, would it be fair to say that AEP
9 Ohio would not be satisfied with having a return on
10 equity of 5 percent?

11 A. That's correct, I would agree with that.

12 Q. So with respect to a gross margin, it
13 would not -- AEP Ohio would not be satisfied with a
14 gross margin of 5 percent?

15 A. You are going to have to clarify what
16 you're -- that 5 percent for gross margin, what are
17 you comparing -- what's the denominator in your
18 calculation?

19 Q. Well, I was just using it as you had
20 understood my questions before, sir. Is a 5 percent
21 gross margin something the company would be -- would
22 be satisfied with?

23 A. Is a gross margin of 5 percent, 5 percent
24 of what?

25 Q. Again, you used the term "gross margin,"

1 sir.

2 A. I did use the term "gross margin."

3 Q. So you have an understanding what the
4 term "gross margin" means, don't you?

5 A. Yes, I do.

6 Q. Would or can you answer the question as
7 to whether AEP Ohio would accept or find acceptable a
8 gross margin of 5 percent?

9 A. And this is where I struggle. Gross
10 margin is reported in dollars, so to come up with a
11 percentage I have to have a denominator to get to a
12 percent gross margin as a dollar amount.

13 Q. So you can't -- you can't determine what
14 the -- that percentage would be in your head, whether
15 that would be good or bad?

16 A. It's a nonsensical question the way you
17 phrased it. The company as a regulated utility looks
18 at return on equity.

19 Q. Now, is it your testimony that you
20 believe that in most cases business concerns would
21 find a margin of 1 percent or less to be attractive?

22 A. There are businesses that operate with
23 margin of less than -- you know, approximately 1
24 percent of sales.

25 Q. So I asked you in the majority of cases

1 would you find or you believe that businesses would
2 find a margin of 1 percent or less to be attractive?
3 Your testimony is that they would?

4 A. High volume businesses can operate on
5 very low profit -- very low margins compared to their
6 revenues if they have low fixed costs.

7 Q. So I just want to make sure, in the
8 majority of cases you believe that business entities
9 would find a margin of 1 percent or less to be
10 acceptable; is that your testimony?

11 A. My testimony is that there -- that high
12 volume businesses could see those kind of margins as
13 profitable.

14 Q. My question wasn't limited to high volume
15 business, sir. I said in the majority of businesses,
16 any industry, do you believe that businesses would
17 accept a margin of 1 percent or less?

18 A. Without you providing more specificity I
19 can't answer that question for all companies.

20 Q. All right. So you think that a majority
21 of companies could find it to be acceptable to have a
22 margin of 1 percent or less; is that your testimony?

23 A. No, that wasn't my testimony at all.

24 Q. All right. So, sir, did you -- what you
25 are saying is you can't say whether businesses -- a

1 majority of businesses would find a margin of 1
2 percent or less to be attractive, fair to say?

3 A. I can say that there are some companies
4 that could see a 1 percent margin as acceptable.
5 Whether a majority would see that as acceptable or
6 not, I can't say as I sit here today.

7 Q. Okay. That doesn't seem small to you, 1
8 percent of a margin?

9 A. I am going back to like the grocery
10 business. The grocery business operates on very thin
11 margins, 1 to 2 percent. Those are very profitable
12 businesses. And they cover their fixed costs with
13 that and there is a lot of grocery stores around so.

14 Q. So would AEP accept the 1 percent return
15 on equity?

16 A. Once again, Mr. Kutik, you're mixing
17 return on equity --

18 Q. Sir, if you could just answer my
19 question. Would AEP Ohio find a 1 percent return on
20 equity to be acceptable?

21 A. If you'll allow me to finish this time.

22 Q. No. Why don't you answer my question.

23 MR. NOURSE: Your Honor, it's turned into
24 a heated argument here.

25 MR. KUTIK: It's not a heated argument.

2099

1 I would just like an answer to my question.

2 EXAMINER SEE: Just a minute. You owe us
3 all some respect here, me, the witness, and counsel.

4 MR. KUTIK: I respect the Bench entirely,
5 but I would like an answer to my question.

6 EXAMINER SEE: I heard you the first
7 time.

8 MR. KUTIK: Thank you.

9 EXAMINER SEE: I think maybe we all need
10 to take a brief recess. Five minutes.

11 (Recess taken.)

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

14 Could you read back the last question,
15 please.

16 (Record read.)

17 EXAMINER SEE: I believe that the last
18 question outstanding was -- would you read the
19 question.

20 (Record read.)

21 A. No, the company would not find a 1
22 percent return on equity acceptable.

23 Q. Thank you.

24 Is it your testimony that AEP Ohio does
25 not evaluate its business based upon gross margin?

1 A. Gross margin is one of the considerations
2 that AEP Ohio would look at in developing their
3 spending plans and their forecast of earnings and the
4 like.

5 Q. So in terms of -- of financial success,
6 gross margin is something that AEP Ohio looks at,
7 correct?

8 A. Gross margin is one of the things that
9 AEP Ohio looks at.

10 Q. And AEP generally looks at gross margin
11 and reports its gross margin on a quarterly basis,
12 does it not?

13 A. The company reports its gross margin as
14 well as the expenses that occur below the gross
15 margin.

16 Q. And would it be fair to say that AEP Ohio
17 would not consider a 1 percent gross margin to be
18 acceptable if we are looking at gross margin over
19 total revenues?

20 A. Without doing the numbers here on the
21 stand, I'm not sure exactly what number would be
22 acceptable, but 1 percent gross margin would be below
23 a level the company would deem to be acceptable.

24 MR. KUTIK: Now, your Honor, while we
25 were off the record I asked the Bench about how I

2101

1 should proceed. I am not yet at the point where I am
2 going to be getting into what may be some
3 confidential information, but I did want to inquire
4 in terms of how the Bench wanted to order the
5 examination, whether you would want me to place these
6 questions at the end of my examination or whether you
7 want me to wait until the end of all the
8 cross-examination.

9 EXAMINER SEE: First, let me inquire of
10 other counsel that is going to be cross-examining
11 this witness whether or not they have confidential
12 matters that they are going to be exploring.

13 Ms. Hand.

14 MS. HAND: No your Honor.

15 EXAMINER SEE: Mr. Darr.

16 MR. DARR: No, ma'am.

17 EXAMINER SEE: Ms. Grady.

18 MS. GRADY: No.

19 EXAMINER SEE: Mr. Maskovyak.

20 MR. MASKOVYAK: No, your Honor.

21 EXAMINER SEE: So it's only Mr. Kutik, so
22 let's hold those until the end of your -- let's hold
23 them to the end the entire cross-examination, we'll
24 close to only those parties that should be in the
25 room during that portion of the testimony, add it as

1 a part of the lunch break, and then proceed.

2 MR. KUTIK: Thank you, your Honor.

3 Q. (By Mr. Kutik) I want to direct your
4 attention to table 1, the tables on your testimony,
5 tables 1 and 2.

6 A. I see those.

7 Q. And I'm going to try to ask you some
8 questions that hopefully won't get into confidential
9 information, but I want to talk about -- I want to
10 describe or let's discuss how you did certain things.

11 Would it be fair to say that what you did
12 was to compare certain components of the ESP price
13 calculated by Mr. Schnitzer with certain components
14 of the competitive benchmark price calculated by
15 Ms. Thomas?

16 A. Yes, that's correct.

17 Q. And for the ESP price you took out
18 Mr. Schnitzer's calculations with respect to the GRR?

19 A. That's my recollection.

20 Q. And you took out Mr. Schnitzer's
21 calculation with respect to the pool termination
22 rider?

23 A. That's my recollection.

24 Q. And as I think you said in response to
25 some questions from Mr. Darr, for the market price

1 you took out the transaction risk adder and the
2 retail administration cost portions of Ms. Thomas's
3 competitive benchmark price, correct?

4 A. That's correct.

5 Q. And the transaction risk rider was
6 5 percent, correct?

7 A. I don't recall the percent that the
8 transaction risk adder is, but in my exhibit I show
9 what the transaction risk adder is.

10 Q. Okay. And what was that?

11 A. Under the RPM scenario for 2012 it was --
12 let me make sure I'm sticking with the public data.
13 It was \$2.72 per megawatt hour and at \$255 a megawatt
14 day the transaction risk adder was \$3.36 per megawatt
15 hour, and in 2013 and '14, the values rise from those
16 levels.

17 Q. So we could say that the transaction risk
18 adder would be roughly \$3?

19 A. That's a reasonable approximation, sure.

20 Q. And the retail administration costs, that
21 would be about \$5?

22 A. Yes, that's \$5 in all cases.

23 Q. Now, with respect to the numbers that
24 Ms. Thomas used for the transaction risk adder and
25 the retail administration costs, would it be fair to

1 say that both of those figures were figures that AEP
2 thought were reasonable to represent as a charge to
3 recover those types of costs?

4 A. Since the company wouldn't be actually
5 charging those, I think the testimony is that those
6 were reasonable charges that a CRES provider or a
7 market participant would include for an average set
8 of transactions.

9 Q. Okay, fair enough. And you are aware,
10 are you not, that Ms. Thomas believed that all of the
11 costs that were in her competitive benchmark price
12 would be applicable to both a wholesale supplier of
13 POLR load and a CRES supplier of retail supply?

14 A. I think you'll have to ask Ms. Thomas
15 what she believed.

16 Q. Well, do you believe that's reasonable to
17 think that they would be the same?

18 A. Can you reread your entire question?

19 Q. Sure. Let me try it a different way.

20 MR. KUTIK: Your Honor, may I approach?

21 EXAMINER SEE: Yes.

22 MR. KUTIK: Your Honor, I would like to
23 have marked as FES Exhibit 20, Response to
24 Interrogatory, response to I think it's FES set
25 28-001.

1 EXAMINER SEE: FES Exhibit 20 is so
2 marked.

3 (EXHIBIT MARKED FOR IDENTIFICATION.)

4 Q. Would it be fair to say, Mr. Allen, that
5 one of the questions that are asked in this
6 interrogatory is is the MRO benchmark quantified by
7 Ms. Thomas the same as the price that would be
8 offered to a CRES provider?

9 A. It's a rather lengthy question but I
10 think that's part of the question.

11 Q. Okay. And is it also true to say that
12 the response says the same price and components would
13 apply in either situation with certain exceptions?

14 A. Yes, and then it goes on to list the two
15 exceptions.

16 Q. And those exceptions are, one, that a
17 CRES provider's price would likely include additional
18 customer acquisition costs and a supplier would under
19 an MRO include POLR costs, correct?

20 A. That's correct.

21 Q. And so you would believe that would be a
22 reasonable way to look at trying to compare an MRO or
23 what a competitive bench -- what a CRES provider
24 would -- would price its product versus a wholesale
25 supplier of POLR load? This states a reasonable

1 comparison of the two, correct?

2 A. This is Ms. Thomas's comparison of the
3 two and I think she presents an accurate reflection.

4 Q. And so it would be fair to say that both
5 with respect to the transaction risk adder and a
6 retail administration cost factor, that both of these
7 would be the type of costs that would be something
8 that a CRES provider would try to include in its
9 prices to customers?

10 A. Yes. I think I indicated when I spoke
11 with Mr. Darr those may vary based upon the CRES
12 provider's underlying costs of providing those
13 services.

14 Q. And both of these things would be part of
15 the margin that a CRES provider would try to achieve,
16 correct?

17 A. In this case you are talking about a
18 gross margin, so it would be total revenue, less fuel
19 and purchased power, that would be the -- you would
20 have that gross margin and that gross margin would be
21 available to cover these two types of costs.

22 Q. Or market price versus the price that the
23 cus -- that the CRES provider charged, correct?

24 A. Not necessarily market price. It would
25 be the price that that CRES provider incurred to

1 acquire that energy which may be at a different cost
2 than market, may be below market if they have lower
3 cost generation.

4 Q. Now, did I understand you to say to -- in
5 response to Mr. Darr's question that you believe that
6 it would be a likely scenario that a -- a CRES
7 provider having costs below market would offer its
8 services below market?

9 A. A CRES provider could do that.

10 Q. Okay. So having the opportunity to
11 charge a market price, you believe that a CRES
12 provider would likely forego that opportunity to
13 charge a lower price, correct?

14 A. No. It depends on a variety of factors.
15 I am going to give you an example. A CRES provider
16 may value a longer-term deal, say a three-year deal
17 with a customer that would provide a predictable
18 revenue string and a predictable profit margin as
19 opposed to relying on the market.

20 You know, most companies like to fix some
21 of their profits over time and not have everything at
22 the whim of the markets. That's why people enter
23 into bilateral contracts and the like.

24 Q. So you, again, think it's likely that a
25 company would forego charging market prices to charge

1 lower prices; is that what you said?

2 A. A CRES provider could do that.

3 Q. Okay. And I asked you whether you
4 thought it would be likely. And your testimony is
5 that they could. That would be likely.

6 A. My testimony wasn't that would be likely.
7 There are business models --

8 Q. That's my --

9 A. -- that would encourage that type of
10 behavior.

11 Q. Well, again, my question is -- is about
12 likelihood. Do you believe that it is likely that a
13 firm would forego charging market prices to charge a
14 lower price?

15 A. And I think I described the scenario when
16 that would be in the best interest of a firm so there
17 are firms that would do that.

18 Q. That is not the answer to my question.
19 Is it likely that a firm would do that?

20 A. Without sitting in the shoes of that --
21 without sitting in the shoes of that company and
22 looking at their business model, I can't answer your
23 question whether it would be likely or not. What I
24 can testify to though is that there are scenarios
25 where that makes sense.

1 Q. Okay. And there are some scenarios that
2 don't make sense.

3 A. There may be some companies that want to
4 put all of their energy into the market, take
5 significant risk, but having that kind of risk would
6 decrease their stock price because it's a much
7 riskier company. Their future profits are much
8 riskier.

9 As an example, the RPM market is a great
10 example of companies that are relying on that market.
11 If they are only selling into that market, their
12 profit margins can drop significantly over time, so
13 in that case a company would prefer, as AEP has
14 preferred, to use cost-base capacity so that in years
15 when capacity prices are high, the company doesn't
16 receive those in the market, and when capacity prices
17 are low, the company doesn't receive those either.

18 Q. So, again, my question is about
19 likelihood, and I think your question is you don't
20 know, correct? You don't know whether it's likely
21 that a firm would offer prices at below market?

22 MR. NOURSE: Your Honor, I just object
23 because he is asking the same question over and over.
24 Mr. Allen's given his answer. He has given examples
25 supporting his reason. And he's not wording it

1 exactly like Mr. Kutik wants but he is giving --

2 MR. KUTIK: Your Honor, I'll move on.

3 I'll move on.

4 EXAMINER SEE: Thank you.

5 Q. (By Mr. Kutik) Per -- per the figures on
6 your table -- strike that.

7 I assume, Mr. Allen, that you have made a
8 great study of the types of contracts that CRES
9 providers offer in AEP Ohio.

10 A. I've seen a couple of the contracts that
11 CRES providers in AEP Ohio -- the offers are
12 generally posted on the Commission's website.

13 Q. But with -- so you have made a great
14 study of the different types of contracts available
15 in AEP Ohio, have you or have you not?

16 MR. NOURSE: Object to the form of the
17 question, your Honor. I am not sure what "great
18 study" means.

19 MR. KUTIK: Well, again, if the witness
20 had a problem with the question not being coached by
21 his lawyer, he could say so.

22 MR. NOURSE: Your Honor, I object to
23 derisive remarks.

24 MR. KUTIK: That's not derisive. You are
25 making improper objections.

2111

1 MR. NOURSE: Speak --

2 MR. KUTIK: Note that --

3 MR. NOURSE: I am allowed to object to
4 the form of the question.

5 MR. KUTIK: Object to the form of the
6 question.

7 EXAMINER SEE: Mr. Kutik, just a minute.
8 When -- when you guys talk over each other, the Bench
9 doesn't hear either one. So let me hear your
10 objection, Mr. Nourse. And, Mr. Kutik, you can
11 respond after he's finished.

12 MR. NOURSE: Your Honor, I believe I
13 objected to the form of the question and the use of
14 the term "great study" which has no general accepted
15 meaning.

16 EXAMINER SEE: And you wanted to respond?

17 MR. KUTIK: Yes, your Honor. And I
18 object, first, to the form of the objection. That's
19 totally done for the purpose of coaching the witness,
20 No. 1.

21 No. 2, if this witness had a problem with
22 the question, this witness doesn't -- isn't shy about
23 throwing questions back in the questioner's face or
24 not answering the question and answering questions he
25 wants to answer.

2112

1 So this witness is more than able to take
2 care of himself on the stand and doesn't need
3 coaching from the witness -- from the lawyer. And
4 it's an improper objection. I think my question is
5 proper. This witness didn't have any problem with
6 it.

7 EXAMINER SEE: The objection is
8 overruled.

9 Mr. Allen, answer the question.

10 A. In response to your question, Mr. Kutik,
11 I've seen some contracts between CRES suppliers and
12 customers. The vast majority of contracts that CRES
13 providers have for commercial and industrial
14 customers are private transactions between the CRES
15 and that customer, and the company does not review
16 those as regular course of business. It's not our
17 contract to review.

18 Q. (By Mr. Kutik) And since the company
19 doesn't have that, you don't have it, right?

20 A. That's correct. As I indicated, those
21 that are publicly available on the Commission's
22 website, I have looked at those where they show that
23 generally a 5 to 6 percent discount, in some cases
24 maybe 3, are the type of transactions that CRES
25 providers are offering.

1 Q. Well, I wasn't really asking you yet
2 about the terms of the contract. I was just asking
3 you about your familiarity with them and, again,
4 since you don't -- since the company doesn't have
5 these contracts, you don't have them, correct?

6 A. I think my testimony is that I've seen
7 the contracts that are publicly available.

8 Q. All right. But you haven't seen a large
9 majority of the contracts, correct?

10 A. That's correct. Those are transactions
11 between the customer and the CRES.

12 Q. So would it be fair to say with respect
13 to the typical term of a contract, you haven't been
14 able to see enough contracts to form an opinion about
15 that, correct? And by term I mean length.

16 A. That's correct.

17 Q. So you wouldn't be able to say, would
18 you, that a term of 24 months or more would be an
19 unusual contract?

20 A. My recollection is that some of the
21 public offers are of that kind of term. They are
22 greater than a year.

23 Q. All right. Greater than a year wasn't
24 my -- wasn't my question. Greater than 24 months,
25 since you haven't seen a large majority of contracts,

1 you wouldn't be able to know whether it's more likely
2 than not that CRES providers would be offering those
3 type of contracts to customers?

4 A. That's correct.

5 Q. Now, you mentioned before that you
6 thought that a contract of a couple of years or three
7 years might change the risk associated with a
8 contract from between a CRES provider and a customer,
9 correct?

10 A. I don't think I testified to that.

11 Q. All right. Well, didn't you say earlier
12 that you thought that a company might want to provide
13 the below market prices to take -- to take advantage
14 of a longer-term deal because they would think that
15 that would be "less risky"? Didn't you say that?

16 A. Related to what you asked previously was
17 my recollection is would a CRES provider sell to a
18 customer at below market for a longer term and, you
19 know, forego the market opportunity. I think that's
20 true. A CRES provider could provide power for
21 guaranteed revenue stream at a level below the
22 predicted future market price which may or may not
23 occur.

24 Q. Well, my prior questions had nothing to
25 do with term but this one does. And so my question

2115

1 is do you believe that the longer a contract is it
2 provides a different type of risk for the CRES
3 provider?

4 A. Yeah. I think as you add to the term, it
5 changes the risk for the CRES. It may make -- it
6 will add some risks, and it will reduce other risks.

7 Q. Right, and so depending upon how
8 comfortable the CRES provider is about markets and
9 how volatile the CRES provider thinks markets might
10 be over the potential term of the contract, the CRES
11 provider might think it's more risky or less risky to
12 have a longer contract, fair to say?

13 A. A CRES may think that a longer-term
14 contract may be more or less risky. Market is not
15 the only consideration. It depends on whether they
16 have generation and the like. But there is several
17 things that could change the risk for a CRES provider
18 and one of them is term.

19 Q. Okay. And to the extent that the length
20 of a contract affected its perceived risks by the
21 CRES provider, that would be a factor that the CRES
22 provider would take into account in determining the
23 price under the contract, correct?

24 A. I would assume that's one of the factors
25 that a CRES would take into account.

1 Q. Now, would it also be fair to say that
2 with respect to a CRES provider that enters into a
3 contract after January 1 of 2012, that CRES provider
4 has no guarantee of getting RPM-priced capacity,
5 correct?

6 A. No, I don't think that's correct. It
7 depends, first of all, if they signed up with a
8 customer that already had an RPM set-aside. They
9 would be guaranteed to get that allotment. Because
10 as we indicated the RPM set-aside goes along with the
11 customer so they could sign up with a customer that
12 already has a set-aside and that CRES provider could
13 know based upon the status of the queue whether or
14 not they were going to receive an RPM set-aside.

15 Q. Well, isn't it true that not every CRES
16 provider that signs up a contract after January 1,
17 2012, is guaranteed to get RPM-priced capacity?

18 A. There's no guarantee that every customer
19 that switches to a CRES provider after January 1,
20 2012, would get RPM-priced capacity because of the
21 set-aside rules that are out there.

22 Q. Right. And so that if a CRES provider
23 signs up a customer that's outside the 21, 31, or 41
24 percent of the set-asides, that CRES provider is
25 going to have to pay capacity at 255, right? At

1 least for that year.

2 A. If it's above the 21 percent, into 21 and
3 they get an RPM allotment, they would pay the 255 in
4 that year, but they could receive RPM-priced capacity
5 in future years.

6 Q. Or they might not.

7 A. It would depend on where that customer
8 resided within the queue.

9 Q. Right. So there is no guarantee with
10 respect to a customer being signed up that's outside
11 the 21 percent that that customer might ever get
12 RPM-based capacity before June of 2015, correct?

13 A. There's sufficient -- there's sufficient
14 information that will be available for the CRES
15 provider to make an informed decision about whether
16 that customer would get some of the 31 percent or
17 some of the 41 percent. So there's -- there's no
18 guarantee they would get it but there's enough
19 information they could make an informed decision of
20 the likelihood of that customer to receive RPM-priced
21 capacity in the future.

22 Q. There is no guarantee they would get it,
23 correct?

24 A. I think I've indicated it before, there
25 is no guarantee all customers will receive RPM-priced

1 capacities.

2 Q. All right. Now, let me ask you a couple
3 of questions about PIPP customers. Do you consider
4 yourself an expert on how PIPP customers or the PIPP
5 program works?

6 A. I would consider myself fairly
7 knowledgeable about the PIPP program. I've done
8 quite a bit of work on the PIPP program in some
9 filings we've done recently.

10 Q. That's good to hear.

11 So would it be fair to say then that
12 there are scenarios under which a PIPP customer can
13 have responsibility for that customer's entire
14 arrearage?

15 A. The arrearage occurs before the customer
16 becomes a PIPP customer.

17 Q. Well, isn't it true that arrearages that
18 accrue during the time that a customer is a PIPP
19 customer may become the responsibility of the PIPP
20 customer at some point?

21 A. Any incremental arrearages that would
22 occur would be related to the percentage of income
23 payment that customer is making. Percentage of
24 income payment plan customers pay a bill based upon a
25 percent of their income. What they pay isn't related

1 to the actual tariff bill so the arrearage that would
2 be created would be based upon just that PIPP
3 contribution.

4 Q. So your view is that an arrearage beyond
5 what the customer pays does not accrue during the
6 time a customer is a PIPP customer; is that your
7 testimony?

8 A. While the customer is a PIPP customer
9 they would not accrue additional arrearages above
10 their percentage of income monthly payment.

11 Q. So that if a customer graduated off of
12 the PIPP program, that customer would under no
13 scenario be responsible for the arrearage that has
14 accrued during the time that the customer is a PIPP
15 customer?

16 A. I think it's only related to the monthly
17 payment that that PIPP customer is responsible to
18 make which is the PIPP plus installment amount is how
19 they refer to it.

20 Q. Right. But in terms of a customer who
21 graduates off of PIPP, again, let me ask the
22 question -- well, back up.

23 So it's your view that there is not any
24 arrearage that a customer accrues above what the
25 customer pays on a percentage of income plan during

1 the time a customer is a PIPP customer, correct?

2 A. If a PIPP customer pays their bill
3 monthly, pays their -- for instance, if it's a, you
4 know, customer that has gas heat for their electric
5 bill, they would pay 6 percent of their monthly
6 income. That would be the amount they pay every
7 month. As long as they pay that, they would not be
8 creating additional arrearages while they were PIPP
9 customers.

10 Q. So the amount that the customer actually
11 uses above the PIPP for payment would not be accrued
12 as arrearage, correct?

13 A. That's correct.

14 Q. And so because of that, there is no
15 additional amount that a customer has on their bill,
16 the customer would never be responsible for that
17 amount if the customer graduated off of the PIPP
18 program, correct?

19 A. The arrearages that would accrue while
20 they were PIPP customers would not accrue when
21 they -- and they would not be responsible for it
22 after they graduated off PIPP.

23 PIPP customers, their bill is independent
24 of their usage or the tariff rates that they are
25 charged, and their arrearages that accrue while they

1 are PIPP customers would be independent of their
2 usage or the tariff rates.

3 Q. Well, certainly the amount of the usage
4 that's above the payment is an arrears -- an
5 arrearage that somebody keeps track of, correct?

6 A. That difference is an amount that DOD
7 provides to the company to compensate the company for
8 the discount that customer is receiving.

9 Q. Right. And certainly there is a
10 universal service rider, correct?

11 A. There is a universal service fund rider,
12 yes.

13 Q. Right. And that rider is in place to
14 recover the bad debts and arrearages that PIPP
15 customers don't pay, correct?

16 A. No, that's not correct. What the USF
17 fund collects is the difference between what the
18 customer pays the company and what the charges are.
19 But bad debts associated with PIPP customers as a
20 result of the changes to the PIPP plus program are
21 now the responsibility of the companies and are not
22 included in the USF fund rider.

23 Q. So the difference between the amount used
24 and the payment, that's recovered through the rider,
25 correct?

2122

1 A. The difference between the amount charged
2 at the full tariff rate and what the customer is
3 required to pay under the PIPP program would be
4 checked through the USF fund.

5 Q. And other customers pay that fund,
6 correct?

7 A. That's correct.

8 Q. And so to the extent that that fund can
9 be reduced somehow other customers would receive a
10 benefit, correct?

11 A. Yes. You are under the assumption that
12 we could somehow reduce that payment.

13 Q. Okay. Now, on page 11 of your testimony
14 you talk about how AEP Ohio has seen additional
15 government aggregation, particularly at line 22. Do
16 you see that?

17 A. What line number was that?

18 Q. 22.

19 A. Yes, I see that.

20 Q. And would that include activity in the
21 25 communities that you mention on page 12 on lines
22 5 and 6?

23 A. Yes. That's referring to those 25
24 communities.

25 Q. All right. And these 25 communities,

1 they already have ordinances authorizing them to act
2 as governmental aggregators, correct?

3 A. Yes, that's correct.

4 Q. And as far as you know, there is activity
5 moving forward on government aggregation in at least
6 some of those 25 communities, correct?

7 A. Yes, that's correct.

8 Q. And that was what you meant when you were
9 talking about you've seen additional government
10 aggregation?

11 A. Yes, that the level of governmental
12 aggregation has increased over time since the
13 stipulation was signed.

14 Q. But I'm -- my question is when you're
15 talking about governmental aggregation increasing,
16 you are talking about activities in part in those
17 communities that already have ordinances, correct?

18 A. Partly, but the company's also seeing in
19 some communities, Mount Vernon, for example, that
20 brokers are approaching the cities with opt-in
21 aggregation programs. So we are seeing that
22 additional aggregation activity occurring today.

23 Q. Okay. Well, Mount Vernon, that's one of
24 the cities that is -- has a government aggregation
25 ordinance on the ballot this November, correct?

1 A. Yes. And I think that's one reason that
2 opt-in aggregation may be something that communities
3 are looking at is that opt-in aggregation can happen
4 more quickly than opt-out aggregation.

5 Opt-in aggregation doesn't require the
6 ballot to be passed, so a community like Mount Vernon
7 now has the ability to use opt-in aggregation, and
8 they may be able to get that done quickly enough to
9 take advantage of the set-aside capacity available
10 for residential customers. And I think that the same
11 could be said for those other communities that have
12 opt-out aggregation on the ballot for November.

13 MR. KUTIK: Your Honor, I move to strike.
14 All I asked was whether Mount Vernon was one of the
15 communities that has a government aggregation on the
16 ballot. I move to strike everything after "yes."

17 MR. NOURSE: Your Honor, I think he was
18 indicating his knowledge what was going on in Mount
19 Vernon and his understanding why they are looking at
20 those options.

21 MR. KUTIK: My question was a very narrow
22 question.

23 EXAMINER SEE: Motion to strike is
24 granted, everything after "yes."

25 Q. Now, to the extent -- well, let me back

1 up.

2 MR. KUTIK: Your Honor, may I approach
3 the witness?

4 EXAMINER SEE: Yes.

5 MR. KUTIK: Your Honor, at this time I
6 would like to have marked as FES Exhibit 21 a
7 document entitled "Aggregation Cities in AEP Ohio
8 Service Territory," Workpaper WAA WP-1.

9 EXAMINER SEE: FES Exhibit 21 is so
10 marked.

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 Q. Mr. Allen, do you recognize that
13 document?

14 A. It appears to be my workpaper -- one of
15 my workpapers in this case.

16 Q. And does this seek to display the
17 communities that currently have government
18 aggregation ordinances on their ballot for this
19 November?

20 A. Yes, that's correct.

21 Q. And this also reflects the estimate, I
22 guess, of additional -- residential load represented
23 by each one of these communities.

24 A. That's correct.

25 Q. And would it be fair to say your

1 compilation of this was done by you?

2 A. The data was provided to me, and I did
3 the compilation, that's correct.

4 Q. And so this would be representative of
5 the typical care that you use in compiling data.

6 A. This was prepared by me.

7 Q. So the answer to my question is "yes"?

8 A. Yes.

9 Q. Now, isn't it true that there are some
10 communities that have ordinances that you have not
11 included?

12 A. Not that I'm aware of.

13 Q. Okay. Is Hardin, H-A-R-D-I-N, is Hardin
14 County part of AEP Ohio service territories?

15 A. Yes, and I think it's indicated on this
16 workpaper that the City of Kenton in Hardin County is
17 included there.

18 MR. KUTIK: Your Honor, may I approach?

19 EXAMINER SEE: Yes.

20 MR. KUTIK: I don't know if I am going to
21 mark this yet.

22 Q. Mr. Allen, I want to show you a document
23 that I will represent to you comes from a website
24 from the Hardin County Board of Elections. Do you
25 see that?

1 A. I see that.

2 Q. And this purports to list races for
3 various offices. It appears for offices and
4 initiatives.

5 A. Okay.

6 Q. And this is for the general election of
7 2011, correct?

8 A. Yes. It doesn't indicate whether it's
9 the May election or the November election.

10 Q. Okay. So you think that the general
11 election could refer to the May election?

12 A. I don't know. I know there was a May
13 election and there was some communities that had
14 governmental aggregation in May. This document
15 doesn't tell me which of those we have here.

16 Q. Well, it says at the top, does it not,
17 "Hardin County Board of Elections November, 2011,
18 Candidates and Issues," correct?

19 A. It says that in the print header, yes.

20 Q. Okay. And let me refer you now to pages
21 9, 10, and 11, correct? Are you there?

22 A. I see that.

23 Q. And this part of the web page lists
24 various issues that are on the ballot, correct?

25 A. Yes, it does.

1 Q. And we see, for example, an issue -- or
2 electric aggregation in Blanchard Township, correct?

3 A. Yes.

4 Q. And in Buck Township on the next page.

5 A. Yes, it shows that.

6 Q. And in Cessna, C-E-S-S-N-A, Township.

7 A. Yes, shows that.

8 Q. And Goshen Township?

9 A. It shows that.

10 Q. And Hale Township?

11 A. Yes, says that.

12 Q. And Lynn Township?

13 A. Yes, I see that.

14 Q. And would it be fair to say that you have
15 not listed on your workpaper all of these communities
16 as having ballot and issues, correct?

17 A. That's correct. I don't know that these
18 communities are actually served by AEP Ohio so I --

19 Q. Well, that's why I asked you whether
20 Hardin County was in your service territory.

21 A. Well, Hardin County, as is the case in --
22 with I would suspect every county in Ohio based on
23 looking at the maps of service territories are served
24 by a variety of suppliers. The service territories
25 of the companies interlays quite a bit.

1 I don't know if these communities within
2 Hardin County are served by AEP Ohio, Ohio Power, or
3 CSP. The company in creating this list went out and
4 on a best-efforts basis evaluated which electric
5 aggregation initiatives were out on the ballots for
6 November.

7 That's not data that is reported that
8 says Cessna Township has a governmental aggregation
9 initiative on the ballot for AEP or for FirstEnergy.
10 That's not something that is a general record that's
11 kept or produced by any governmental agency. So the
12 company went out and looked to try to identify all
13 those communities that were out there.

14 Q. And certainly one of the things that the
15 company could have done would be to go to the Board
16 of Elections website for each of the counties in its
17 service territory, correct?

18 A. That would be the first step. The second
19 step though would be to look for each one of those
20 communities to see if AEP service territory covered
21 each one of those communities.

22 Q. Now, isn't it part of AEP Ohio's or I
23 should say the company that make -- the companies
24 that make up AEP Ohio's tariffs that list the
25 communities that AEP serves?

1 A. The communities that AEP serves is in the
2 tariff book, that's correct.

3 Q. And that's available at AEP Ohio, isn't
4 it?

5 A. Yes, it is.

6 Q. Now, this workpaper was used by you to
7 come up with your figure of basically over a million
8 megawatts that you referred to in your testimony,
9 correct?

10 A. A million megawatt hours, that's correct.

11 Q. Okay. thank you.

12 And for Canton, the City of Canton, you
13 show on your workpaper a residential load of
14 67 million megawatt hours.

15 A. That's correct.

16 Q. Does AEP Ohio have a figure that it
17 regularly uses for the average residential usage?

18 A. Typically I would assume about 12
19 megawatt hours a year.

20 MR. KUTIK: Your Honor, may I approach?

21 EXAMINER SEE: Yes.

22 MR. KUTIK: May we go off the record?

23 (Discussion off the record.)

24 EXAMINER SEE: Let's go off the record
25 for a second.

1 (Discussion off the record.)

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

4 Q. Mr. Allen, I would like to show you a
5 quick facts from the U.S. Census Bureau --

6 A. I see that.

7 Q. -- for Canton, Ohio. And this indicates,
8 does it not, that there are about 35,000 households
9 and about 32,000 housing units in Canton?

10 MR. NOURSE: I'm sorry, Mr. Kutik, which
11 time period are you referring to?

12 MR. KUTIK: What's reflected in this
13 document.

14 A. Can you point me to a page?

15 Q. About page 3.

16 A. Okay.

17 Q. Okay. My question is this reflects, does
18 it not, about 35,000 households and about 32,000
19 housing units -- or I have it the other way, 35,000
20 housing units, 32,000 households.

21 A. Says there's 35,502 housing units as of
22 2000 and the households are 32,489.

23 Q. So if we used a figure of about 35,000
24 and for 32,000 and divided it into the figure, you
25 have for 67 million, that would be about 2,000

1 megawatt hours?

2 A. Yes.

3 Q. Now --

4 A. And I think I want to make sure we're
5 clear because I don't want the record to reflect
6 something that's inaccurate. These are individuals
7 within the City of Canton. It doesn't necessarily
8 reflect the customers served by AEP in the City of
9 Canton, so comparing those two numbers may produce a
10 nonsensical result.

11 Q. Now, the -- these ballot initiatives
12 would -- there would have to be some notice provided
13 to the communities that these initiatives were, in
14 fact, on the ballot. You are aware of that, right?

15 A. I'm not an expert on election law.

16 Q. Okay. Well, not being an expert on
17 election law, you can still appreciate that there
18 would have to be some notice provided that these
19 initiatives were on the ballot, correct?

20 A. Based upon my experience in the
21 regulatory world, notice has a very specific meaning.
22 I don't know if they have to notice those customers
23 or those individuals in those communities.

24 Q. Okay. Well, that's not what I am talking
25 about. Letting people know generally, not in any

1 specific way, that certain things are on the ballot.

2 A. And the individual could go to the
3 website of the county to look to see what's on the
4 ballot.

5 Q. You saw that for Hardin County, did you
6 not?

7 A. We did, and I personally did myself to
8 see what's on the ballot.

9 Q. Sure. And it would be fair to say then
10 you couldn't say, A, Mr. -- well, first, you couldn't
11 say whether that notice is a requirement.

12 A. That's correct.

13 Q. And you couldn't say then when such
14 notice would have to be provided, I am talking about
15 notice of the governmental aggregation ordinance
16 being on the ballot?

17 A. I think I indicated I don't know whether
18 there is any requirement for a notice, so I wouldn't
19 know what the timing associated with that -- with
20 that would be or how the customer -- or the
21 residential would need to be notified.

22 MR. KUTIK: May I have one moment, your
23 Honor?

24 EXAMINER SEE: Yes.

25 MR. KUTIK: May I proceed?

1 EXAMINER SEE: Yes.

2 Q. Now, it is true, is it not, that there
3 have been public officials in the various county --
4 various communities that AEP serves that have
5 registered a negative reaction to the stipulation and
6 its affect on governmental aggregation?

7 A. I have not reviewed any specific comments
8 from any community leaders in that regard.

9 Q. Well, one of the things that you are is a
10 case manager of case managers, correct?

11 A. Director of rate case management, that's
12 correct.

13 Q. And so these case managers that you are
14 responsible for, they would be people who would be
15 monitoring the docket in the cases that AEP Ohio is
16 involved in, correct?

17 A. We monitor the docket. We don't
18 necessarily monitor every complaint. We monitor all
19 of the substantive filings. There are a number of
20 complaints from individual customers related to any
21 rate case increase so we don't necessarily review
22 each and every one of those that come in the door, at
23 least in my -- my group.

24 Q. All right. But your group would be
25 responsible for reviewing things that would be filed,

1 for example, in the docket in this case, correct?

2 A. Not necessarily. My group reviews some
3 of the information filed in the docket in the case.
4 There are individuals within AEP Ohio that do not
5 report to me that may be reviewing other information
6 in the docket. We typically in my group deal with
7 things that are filed by intervening parties in the
8 case.

9 Q. All right. So that if something was
10 filed in the docket, folks in your group would ignore
11 it.

12 MR. NOURSE: Your Honor.

13 A. No, that's not what I said.

14 MR. KUTIK: Okay. May I approach, your
15 Honor?

16 EXAMINER SEE: Yes.

17 MR. KUTIK: Your Honor, we would like to
18 have the next document marked as OCC exhibit -- FES
19 exhibit, sorry.

20 MS. GRADY: You can call it OCC.

21 MR. KUTIK: I am looking at OCC.

22 EXAMINER SEE: 22.

23 MR. KUTIK: FES 22.

24 (EXHIBIT MARKED FOR IDENTIFICATION.)

25 Q. Mr. Allen, I have handed you what's been

1 marked as OCC Exhibit -- FES Exhibit 22, correct?

2 A. I see that.

3 Q. Okay. And it's a multi-page document, is
4 it not?

5 A. It appears to be a 10-page document.

6 Q. And would it be fair to say that this
7 document reflects a series of documents that have
8 been filed in this case?

9 A. I don't know that they have been filed in
10 this case.

11 Q. All right. Well, each document bears a
12 PUCO stamp, number stamp, correct?

13 A. Yes, I see that now.

14 Q. And so would it be fair to say, again,
15 that these documents reflect materials that have been
16 filed in the docket in this case?

17 A. They appear to be, yes.

18 Q. And these documents are documents that
19 are from various city or county officials, correct?

20 A. Yes. Some of them -- at least one of
21 them appears to be a form letter from the City of
22 Bucyrus. A couple of them appear to be form letters,
23 but they seem to come from community officers.

24 Q. Okay. For example, they come from the
25 City of Delphos, from the City of Fremont?

1 A. You'll have to slow down so I can find
2 where it talks about Fremont.

3 Okay. I see that.

4 Q. From the Mayor of Bucyrus?

5 A. I think that's one of the form letters,
6 yeah.

7 Q. From the County Commissioners of Allen
8 County?

9 A. I see that.

10 Q. From the Parish Township Fiscal Officer?

11 A. Yeah. That appears to be another form
12 letter.

13 Q. From the Mayor of the City of Findlay?

14 A. I see that.

15 Q. From the Mayor of the City of Toronto?

16 A. That appears to be a form letter as well.

17 Q. And from the County Commissioners of Van
18 Wert County, correct?

19 A. I see that.

20 Q. And, in fact, the second document in
21 Exhibit 22 is a resolution that was passed by City
22 Council of the City of Fremont, correct?

23 A. It appears to be.

24 Q. And these are all critical, are they not,
25 of the stipulation and its effect on government

1 aggregation?

2 A. I haven't read through all of them to
3 know if they are critical or not.

4 Q. Okay. And would it be fair to say though
5 in coming up with your testimony, in preparing your
6 testimony, you didn't consider these letters or
7 the -- or the resolution?

8 A. I did not. And I think each one of these
9 communities could do opt-in aggregation if they so
10 chose.

11 MR. KUTIK: Your Honor, subject to my
12 additional questions with respect to the confidential
13 material, that concludes my examination at this time.

14 EXAMINER SEE: We are going to take a
15 lunch break until 3 o'clock.

16 (Thereupon, at 2:01 p.m., a lunch recess
17 was taken.)

18 - - -

19

20

21

22

23

24

25

2139

Wednesday Afternoon Session,
October 26, 2011.

- - -

EXAMINER SEE: Let's go back on the
record and continue with cross-examination of
Mr. Allen.

Ms. Grady?

MS. GRADY: Thank you, your Honor.

- - -

WILLIAM A. ALLEN

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

CROSS-EXAMINATION

By Ms. Grady:

Q. Good afternoon, Mr. Allen.

A. Good afternoon.

Q. I want to focus on page 3 of your
testimony. On lines 1 through 3 you testify that the
prudence review creates a recovery for the company
that is similar to the risk faced by companies in a
base rate case. Do you see that reference?

A. Yes, I do.

Q. And on that basis you conclude it would
be unreasonable to limit the conformity of the DIR to
the cost of long-term debt?

1 A. That's correct.

2 Q. Do you recall that I cross-examined you
3 on October 6, 2011, in this evidentiary proceeding?

4 A. Yes, I do.

5 Q. And you recall that your statements were
6 made under oath?

7 A. Yes, they were.

8 Q. And those statements were recorded on the
9 transcripts by the court reporter, were they not?

10 A. Yes, they were.

11 Q. And do you recall, Mr. Allen, the
12 cross-examination questions where we discussed the
13 scenario that could exist under the stipulation where
14 AEP Ohio could collect carrying charges through the
15 DIR on incremental distribution plant referred to
16 under the stipulation without making any additional
17 distribution plant investments?

18 A. I recall those questions that you asked.

19 Q. And do you recall the cross-examination
20 where we discussed what the prudence review would
21 look like in the scenario where the companies made no
22 new distribution investment and just sought carrying
23 charges on the incremental 2000 post-plant
24 investment?

25 A. I don't recall those specific questions.

1 Q. Let's talk for a moment about a second
2 prudence review, one that comes after the first
3 prudence review. Are you following me so far?

4 A. This would be the 2013 prudence review?

5 Q. Yes, if that is the second one.

6 A. Okay.

7 Q. Let's go for a moment to the scenario
8 where we are in a second prudence review and there's
9 been no incremental -- additional incremental
10 distribution investment made and the companies
11 collected their carrying charges. Would you agree
12 with me that there wouldn't be any investments to do
13 a prudence review on?

14 A. I don't think it's a reasonable scenario
15 but if the company had no new investments, there
16 would be no investments to do a prudence review on.

17 Q. Were you here during the testimony of
18 Staff Witness Fortney?

19 A. I was.

20 Q. And -- strike that.

21 Now, you indicate on lines 26 through 27
22 of page 5, that any cost recovered through the
23 company's base distribution rates would not be
24 recovered by the DIR in the ESP. Do you see that
25 claim?

1 A. Yes, I do.

2 Q. Can you point to any language within the
3 stipulation that conveys this commitment? That cost
4 collected through the base distribution rates would
5 not be recovered by the DIR in the ESP?

6 A. The language in the stipulation on page 9
7 which is paragraph IV.N.

8 Q. Yes.

9 A. That states capital additions recovered
10 through riders authorized by the Commission to
11 recover distribution capital additions will be
12 identified and excluded from the rider in the annual
13 cap. The intent of that is just convey the concept
14 that the company isn't seeking to recover a carrying
15 charge on the same asset twice. Here it refers just
16 to riders but the intent was of the company was that
17 we would only seek recovery of a carrying cost on an
18 investment once.

19 Q. So what you're offering now is an
20 amendment to the language which would clarify that
21 capital additions recovered through riders or base
22 rate cases authorized by the Commission would be
23 identified and excluded, is that your modification?

24 A. I'm not modifying the stipulation, I was
25 just pointing you to some language in the stipulation

1 that I think conveyed the company's intent that we'd
2 only seek recovery once. But there's been testimony
3 filed in the distribution case that states that those
4 companies are only seeking to recover these dollars
5 once and that's included in my testimony here as
6 well.

7 Q. And that testimony was filed in the
8 distribution case and not the ESP case; is that
9 correct?

10 A. I filed my testimony in this case, the
11 rebuttal testimony that I filed on Friday and Andrea
12 Moore filed testimony that we discussed earlier
13 today. She filed that in the distribution case.

14 Q. Now let's talk about your testimony on
15 aggregation for a moment going to pages 11 through
16 13. In pages 11 through 13 you discuss residential
17 aggregation and the effect of the stipulation on
18 governmental aggregation. Do you see that reference
19 in general?

20 A. Yes, I do.

21 Q. Now, earlier this morning Mr. Kutik
22 identified or marked and had -- had marked for
23 identification purposes your workpaper WAA WP-1, and
24 marked it as FES 21. Do you have that exhibit before
25 you?

1 A. Yes, I do.

2 Q. Can you tell me with respect to FES 21
3 what these communities would have to do to obtain the
4 current unallocated allotments for the residential
5 class for 2012?

6 A. The first choice these communities would
7 have is if they passed their aggregation initiatives
8 that are on the November ballot, and then they could
9 go through working with the CRES provider to get a
10 contract set up and switch those customers. I think
11 FirstEnergy Witness Banks discusses that.

12 The other alternative these communities
13 would have would be to enter into opt-in aggregation
14 programs. Those programs could be entered into today
15 based upon a resolution of council, a vote of
16 council. Opt in doesn't require ballot initiative,
17 so those communities could have already done opt in
18 after the stipulation was signed.

19 So these communities here, if they feel
20 that there's a challenge in achieving the December 31
21 date where there's a set-aside for residential
22 aggregation, these communities could endeavor to seek
23 opt-in aggregation and start switching customers very
24 quickly.

25 Q. It would be your understanding that there

2145

1 are a number of these communities that do see this as
2 a challenge as evidenced by the exhibit this morning
3 shown to you by FES where letters were filed by in
4 fact by some of the communities on FES 21 saying that
5 the stipulation would adversely impact their
6 aggregation efforts.

7 A. The stipulation would adversely impact I
8 think their opt-out aggregation programs. These
9 communities still could do the opt-in aggregation and
10 provide the same benefits they're seeking for their
11 customers. And it would just require those customers
12 to agree to switch, which I think we would all agree
13 is a reasonable approach.

14 One of the things we've seen with opt-out
15 governmental aggregation is a number of customers are
16 objecting to those switches. We've seen nearly
17 10,000 objections so far this year. And so those are
18 customers that receive a letter from the company that
19 they're being switched to a new supplier, and they
20 notify the company that they do not wish to be
21 switched in that manner.

22 MS. GRADY: Your Honor, could I have my
23 question reread and then the answer reread? I
24 believe that the response is nonresponsive.

25 EXAMINER SEE: Certainly.

1 (Record read.)

2 MS. GRADY: Your Honor, I would move to
3 strike that entire response of Mr. Allen as
4 nonresponsive. First, he started out in some tangent
5 to my question and then he started talking about opt
6 out and I don't even understand the answer.
7 Certainly wasn't an answer to something that I asked.

8 MR. NOURSE: Your Honor, I disagree.
9 Ms. Grady asked about making reference to the number
10 of communities that were referenced in FES Exhibit,
11 I'm not sure what the number is, the list of letters
12 in the docket, and about the challenges that they've
13 articulated by getting their aggregation efforts
14 frustrated.

15 So I think it's fair for Mr. Allen to
16 talk about the options that are available as well as
17 other these other-related issues about overcoming
18 challenges to aggregation being that there's also
19 challenges from the customer side. And he's speaking
20 directly to his knowledge about these objections,
21 numerous objections that have been filed.

22 EXAMINER SEE: Motion to strike his
23 response is overruled.

24 THE WITNESS: Your Honor, if I may, in
25 hearing the response reread, I made have misstated

1 the beginning of my statement. I want to clarify
2 that the -- that my statement that governmental
3 aggregation may be impacted by the stipulation was in
4 relationship to the statements of these communities,
5 not my belief.

6 MS. GRADY: That's all the questions I
7 have, your Honor.

8 EXAMINER SEE: Mr. Maskovyak?

9 MR. MASKOVYAK: Just a few questions,
10 your Honor.

11 - - -

12 CROSS-EXAMINATION

13 By Mr. Maskovyak:

14 Q. Good afternoon, Mr. Allen.

15 A. Good afternoon.

16 Q. I'd like you to turn to page 10 of your
17 testimony where we're talking about the PIPP program
18 and your response to the question that appears at
19 line 1. At the end of your answer you conclude, "As
20 such, the benefit to low-income customers purported
21 in the testimony of FES Witness Banks is
22 non-existent." Do you see?

23 A. Yes, I do.

24 Q. I assume your answer there was focused
25 on, when you say non-existent, the fact that there is

1 no specific reduction on that customer's monthly bill
2 at that time.

3 A. It's related to PIPP customers and those
4 PIPP customers receive no benefit.

5 Q. No benefit whatsoever.

6 A. That's correct.

7 Q. So would you agree that there's a benefit
8 to the universal service fund in that it would be
9 billed less as a result of a 5 percent discount?

10 A. Under the scenario that Witness Banks
11 presented and in light of the fuel clause provision
12 that AEP Ohio has, actually implementing his proposal
13 would raise rates to all customers and in fact would
14 make the USF charge higher. And let me explain.

15 The fuel cost today in AEP's fuel cost
16 rider is in the \$30 a megawatt hour range. The
17 purchase power contract that Witness Banks discusses
18 would be in the \$50 range. Bringing in that higher
19 priced contract into AEP's fuel clause would actually
20 increase cost to customers because the weighted
21 average of the new contract with the old fuel rates
22 or fuel costs would actually drive up fuel costs to
23 all customers.

24 Q. So there is no mechanism by which one
25 could offer a discount to the PIPP load and result in

1 an actual reduction in costs? Is that what I
2 understand?

3 A. The proposal that FES Witness Banks has
4 put in front of the Commission would not result in a
5 reduction to the USF fund.

6 Q. I understand. My question was is there
7 no way we can get to a discount to the actual bill or
8 the actual charge to the USF by doing a discount on
9 the G rate for the PIPP load by anyone?

10 MR. NOURSE: Your Honor, I just object
11 for relevance. I'm not sure how this relates to the
12 stipulation proposal.

13 MR. MASKOVYAK: Your Honor, it relates in
14 the same way they're saying there's no benefit. I'm
15 exploring whether there in fact is benefits.

16 EXAMINER SEE: The objection is
17 overruled.

18 Answer the question, Mr. Allen.

19 A. What I looked at here was the specific
20 example put in front of me. I don't know if there's
21 another proposal someone could develop that may
22 produce that savings. If you could give me an
23 example, I might be able to help you understand if
24 there was a benefit, but I don't have an example to
25 look at as we speak here today.

1 Q. That's fair enough. If there was a
2 5 percent discount, the 5 percent discount would
3 appear on the customer's bill, it would just appear
4 in that portion that would form the new arrearage
5 portion, is that not correct?

6 A. Yes, that's correct.

7 Q. So there would be a benefit in the fact
8 that the ongoing arrearage, essentially the delta
9 amount that is covered by the rider, would in fact be
10 reduced. Is that not correct?

11 A. I wouldn't call it an arrearage. I think
12 under the PIPP program "arrearage" has a specific
13 definition but the unpaid portion of the PIPP
14 customer's bill would be less if the generation rate
15 charged to those customers was less. But I don't
16 think we have that proposal here in front of us
17 today.

18 Q. The delta amount -- let's call it the
19 delta amount, that would be less. That in fact would
20 form -- that would not be arrearage if they timely
21 paid. A point I think you made earlier. Is that not
22 correct?

23 A. That's correct. The PIPP customer that
24 stayed on the PIPP program.

25 Q. Are you suggesting if they don't make the

1 payment timely they get taken off the PIPP program?

2 A. Customers can be taken out of the PIPP
3 program, that's correct.

4 Q. For simply failing to pay late? Is that
5 what I understand?

6 MR. NOURSE: Can I have that question
7 reread, please?

8 (Record read.)

9 A. I think that's a nuance of the -- which
10 steps have to happen for a customer to get taken out
11 of the PIPP program, a nuance of the program that I
12 haven't reviewed for my testimony here today.

13 Q. If -- would you believe me if I told you
14 that if they paid late and it's still accepted, that
15 the delta amount becomes new arrearage for that
16 particular PIPP customer?

17 THE WITNESS: Can you reread that
18 question.

19 (Record read.)

20 A. I don't know that it's a new arrearage
21 for that customer.

22 Q. Is it your understanding that they have
23 to timely pay in order to benefit from the arrearage
24 crediting program?

25 A. Yes, that arrearage crediting program is

1 credit to the arrearage they have at the time they
2 enter the PIPP program. And that's reduced every
3 month that they're on the PIPP program to make a
4 timely payment.

5 Q. And if they are on the PIPP program and
6 do not make timely payment do you know what happens
7 then?

8 A. At a certain point they can be removed
9 from the PIPP program.

10 Q. At a certain point.

11 A. I'm not sure if they just make a -- if
12 they're three days late on their payment, I don't
13 know what happens to that PIPP customer.

14 Q. So you don't know if that becomes new
15 arrearage or not. The delta portion I'm referring to
16 again.

17 A. That's correct.

18 Q. And you do not know then if they would
19 have to start all over again in order to fully
20 forgive their arrearage.

21 A. They do have to start over if they missed
22 their payments, their 1/24th of the arrearage gets
23 reduced each month their timely payment starts over.

24 Q. So they would have to go 24 consecutive
25 months in making timely payments before the full

1 arrearage is forgiven. Is that your understanding?

2 A. That's correct.

3 Q. So if they failed to make a timely
4 payment, the clock starts all over again.

5 A. The clock starts all over again but I
6 don't know that the delta PIPP payment, that delta
7 that we're talking about gets added to the arrearage
8 balance. I don't think it does.

9 Q. Where do you think it goes?

10 A. That's collected through the USF fund.
11 That's what happens with that delta.

12 Q. So -- strike that.

13 But if they don't make a timely payment,
14 they're not allowed to be excused for the delta
15 payment; isn't that correct?

16 A. If they just make a payment that's a
17 couple days late, I don't think that delta is added
18 to their old arrearage. I think it just restarts the
19 24 months for their past arrearage.

20 Q. But the USF is not allowed to pay for the
21 amount of the new arrearage when the customer does
22 not timely pay.

23 A. I'm sorry. I don't quite understand your
24 question.

25 Q. I'm simply saying that the USF only

1 rewards or the PIPP plus program only rewards
2 customers who timely pay. The reward is twofold:
3 You forgive the old arrearage and you forgive the
4 delta amount attached to the current bill.

5 A. I think maybe the distinction we're
6 running into is the difference between timely pay and
7 pay at all. If the customer is a couple days late I
8 don't think that that arrearage gets tacked on for
9 the month that they paid a couple days late.

10 Q. Do you think they start all over again on
11 the clock?

12 A. On the 24 months related to the previous
13 arrearage, yes, they do.

14 Q. So you think it's bifurcated in terms of
15 how it's incentivized to pay on time. They do get
16 the incentive of having the delta amount forgiven but
17 they're required to return to the new 24-month cycle.
18 Is that what I understand?

19 A. That the delayed payment or the late
20 payment only impacts the breakdown of the previous
21 arrearage. That 1/24 they start over again.

22 Q. And if I -- did you hold yourself out as
23 an expert on the PIPP program?

24 A. I'm familiar with the PIPP program.

25 Q. Would this be considered a detail with

1 which you are familiar?

2 A. The detail around what happens if a
3 customer pays a couple of days late?

4 Q. Yes.

5 A. Is a detail that one of our
6 administrative people would take care of. I'm not
7 familiar with each and every minor nuance of the PIPP
8 program. It's a fairly complex program that includes
9 several different pieces, graduated PIPP, things of
10 that nature.

11 Q. Do you think there are customers who
12 would find value in having a discount to their
13 arrearages?

14 A. I don't know that the program that we're
15 discussing here would reduce that arrearage. And I
16 recall the testimony of Donald Skaggs for the
17 Department of Development that actually manages the
18 PIPP program in the most recent PIPP case and he
19 makes statements to the effect that changes in tariff
20 rates for customers do not change the level of PIPP
21 customer payments at all. So he has testified that
22 changing the tariff rates doesn't impact what the
23 PIPP customers pay in any meaningful way.

24 MR. KUTIK: Your Honor, I move to strike,
25 hearsay. Especially the reference to testimony of a

1 witness who's not here and not a party to the case.

2 EXAMINER SEE: I'm sorry? Go ahead,
3 Mr. Maskovyak.

4 MR. MASKOVYAK: Same motion Mr. Kutik
5 made.

6 MR. NOURSE: Your Honor, I think the
7 examination has proceeded under a number of
8 statements that Mr. Maskovyak has put to the witness
9 and asking him to accept them. I think the reference
10 to his understanding of the program including
11 testimony that's been submitted by experts that
12 represent the and administer the USF is appropriate
13 to indicate the same principle that he's saying in
14 his own testimony.

15 MR. MASKOVYAK: Your Honor, he's holding
16 out the testimony of a witness -- of another expert
17 witness in a case that's not before us today and we
18 have no idea whatsoever whether he's accurately
19 quoting that witness for the purpose here or the
20 context in which that information was provided.

21 EXAMINER SEE: And the motion to -- FES
22 and APJN's motion to strike that portion of
23 Mr. Allen's testimony is granted.

24 MR. MASKOVYAK: I have no further
25 questions, your Honor.

2157

1 EXAMINER SEE: Redirect?

2 MR. NOURSE: Can I have a brief recess,
3 your Honor?

4 EXAMINER SEE: Yes.

5 (Recess taken.)

6 EXAMINER SEE: Let's go back on the
7 record. We're going to do a confidential portion of
8 Mr. Kutik's cross-examination and counsel for the
9 companies have verified that only those individuals
10 who have entered into a confidentiality agreement are
11 in the room.

12 Mr. Kutik, go ahead and proceed.

13 MR. KUTIK: Thank you, your Honor.

14 (The following portion is under seal.)
15
16
17
18
19
20
21
22
23
24
25

2161

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

(The preceding portion is under seal.)

MR. NOURSE: Redirect, your Honor?

1 EXAMINER SEE: Yes.

2 MR. NOURSE: Thank you.

3 - - -

4 REDIRECT EXAMINATION

5 By Mr. Nourse:

6 Q. Mr. Allen, do you recall some questions
7 earlier from counsel about Census Bureau information
8 relating to Canton, Ohio?

9 A. Yes, I do.

10 Q. And that was vintage 2000, the year 2000
11 I believe?

12 A. Yes, that's my recollection.

13 Q. And there was some questions about
14 whether the numbers relative to the census results
15 for household units in Canton were reflected or
16 consistent with the workpaper you have regarding
17 aggregation associated load in Canton; is that
18 correct?

19 A. Yes, that's correct.

20 Q. Okay. Now, in your experience do
21 political boundaries such as the boundaries for the
22 City of Canton correspond to AEP Ohio's service
23 territory boundaries?

24 A. No, they do not. In many cases
25 communities are divided between multiple providers

1 and as an example, one of the communities that has
2 governmental aggregation on the ballot this November
3 is the City of Loudenville. And in researching the
4 amount of load that AEP Ohio serves in Loudenville,
5 it was determined that even though we serve the
6 community of Loudenville, our service territory only
7 covers actually a small part of some farmland with
8 actually no citizens in it.

9 So we serve the community of Loudenville
10 which would have some population if you looked at a
11 Census Bureau data, but the actual number of
12 customers we serve in that community is in fact zero.

13 So there can be some pretty significant
14 differences between the amount of customers in a
15 community and the number of customers that AEP Ohio
16 actually serves in that community.

17 Q. And in fact on your workpaper that's been
18 labeled FES Exhibit 21, you show a lack of any value
19 under Loudenville for the associated residential
20 load, correct?

21 MR. KUTIK: May I have the question read
22 please?

23 EXAMINER SEE: Yes.

24 A. Yes, that's correct, and for the reasons
25 I just described.

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

3 EXAMINER SEE: Recross, Ms. Hand?

4 MS. HAND: No, your Honor.

5 EXAMINER SEE: Mr. Darr?

6 MR. DARR: No, your Honor.

7 EXAMINER SEE: Mr. Kutik?

8 MR. KUTIK: Yes, your Honor. May I
9 approach?

10 EXAMINER SEE: Yes.

11 MR. KUTIK: I'd like to have marked as
12 FES Exhibit 23 a map.

13 (EXHIBIT MARKED FOR IDENTIFICATION.)

14 MR. KUTIK: Your Honor.

15 Q. Mr. Allen, do you recognize this as a map
16 of the City of Canton and environs.

17 A. I see that the City of Canton is labeled
18 on this map.

19 Q. And do you see on the lower left-hand
20 corner reference to Public Utilities Commission?

21 A. I do. It says "Public Utilities
22 Commission of Ohio 2009."

23 Q. And is it the case that the Public
24 Utilities Commission has part of its records and made
25 available to the public maps that delineate the

1 service territories of various utilities?

2 A. Yes, they do.

3 Q. And does this map indicate the service
4 territory of Ohio Power in Stark County?

5 A. It does. What it doesn't appear to show
6 though are any city boundaries on the map.

7 MR. KUTIK: No further questions.

8 EXAMINER SEE: Ms. Grady?

9 MS. GRADY: No questions, your Honor.

10 EXAMINER SEE: Mr. Maskovyak?

11 MR. MASKOVYAK: No questions, your Honor.

12 EXAMINER SEE: Are there any -- I think
13 Mr. Nourse previously moved for the admission of
14 confidential --

15 MR. NOURSE: Exhibit 20A and 20B, your
16 Honor.

17 EXAMINER SEE: Exhibit 20A is the
18 confidential?

19 MR. NOURSE: Yes.

20 EXAMINER SEE: Are there any objections
21 to the admission of AEP Ohio Exhibit 20A or 20B?

22 (No response.)

23 EXAMINER SEE: 20A and 20B are admitted
24 into the record.

25 (EXHIBITS ADMITTED INTO EVIDENCE.)

1 MR. KUTIK: Your Honor, at this time we
2 move for the admission of FES Exhibits 18 through 23.

3 EXAMINER SEE: Are there any objections
4 to the admission of FES Exhibits 18 through 23?

5 MR. NOURSE: Yes, your Honor. First of
6 all, could we clarify, not sure, could we identify
7 each of those exhibits so we have it clear?

8 MR. KUTIK: FES Exhibit 18 was an e-mail
9 dated October 21, 2012, that was a posting to the
10 Ohio AEP Ohio web page indicating notification being
11 issued as of October 21, 2011, regarding information
12 as of October 15, 2011.

13 MR. NOURSE: I have no objection to that
14 one.

15 MR. KUTIK: Exhibit 19 was a table
16 comparing data available as of November -- excuse me,
17 September 23, to information available as of
18 October 14.

19 MR. NOURSE: No objection.

20 MR. KUTIK: Exhibit FES 20 was the
21 response to FES Interrogatory 28-001.

22 MR. NOURSE: No objection.

23 MR. KUTIK: FES Exhibit 21 was
24 Mr. Allen's workpaper WAA WP-1, the aggregation
25 cities in AEP Ohio service territory.

1 MR. NOURSE: No objection.

2 MR. KUTIK: FES Exhibit 22 was a
3 collection of documents on the Commission docket in
4 this case from city officials in AEP Ohio's
5 territory.

6 MR. NOURSE: Yeah, in this one, your
7 Honor, I do object to this being admitted as
8 evidence. I think it was fine to use as a cross
9 exhibit. But these are matters that are docketed as
10 part of a larger record in the case and I don't think
11 it reflects other comments that may have been made or
12 will be made in the docket for or against the
13 stipulation.

14 So I don't see -- I don't think it should
15 be admitted as evidence for the truth of anything
16 asserted in here. And I don't think it facilitates
17 the record to admit it as evidence since it is the
18 correspondence matters that Mr. Allen answered to the
19 best of his knowledge the questions that were posed.

20 EXAMINER SEE: Go ahead. Did you have
21 any objections to FES Exhibit 23, the map of Stark
22 County electric service area?

23 MR. NOURSE: This was marked, I didn't
24 hear that one.

25 EXAMINER SEE: Yes, 23.

1 MR. NOURSE: I don't have any objections
2 for that.

3 EXAMINER SEE: With that, FES Exhibits
4 18, 19, 20, 21, and 23 are admitted into the record.
5 (EXHIBITS ADMITTED INTO EVIDENCE.)

6 EXAMINER SEE: As to FES Exhibit 22, FES
7 Exhibit 22 shall also be admitted into the record.
8 (EXHIBIT ADMITTED INTO EVIDENCE.)

9 EXAMINER SEE: Thank you, Mr. Allen.

10 MR. DARR: One additional matter, your
11 Honor.

12 EXAMINER SEE: I'm sorry, Mr. Darr.

13 MR. DARR: One additional matter. There
14 was reference earlier today during my
15 cross-examination to the decision -- excuse me, the
16 stipulation in 10-388. That is a record of the
17 Commission's and we'd ask that that be
18 administratively noticed for purposes of this
19 hearing.

20 EXAMINER SEE: You asked for
21 administrative notice. Are you marking it as an
22 exhibit, Mr. Darr?

23 MR. DARR: I'm sorry?

24 EXAMINER SEE: You had it marked as IEU
25 Exhibit 15.

1 MR. DARR: I am not asking for it to be
2 as an exhibit if the Bench is willing to do it on the
3 basis of administrative notice as a record in this
4 Commission.

5 MR. NOURSE: I'm sorry, your Honor, I may
6 be confused here. I have 15 Andrea Moore's testimony
7 from the AIR case?

8 MR. DARR: I'm sorry, we're working at
9 cross purposes here. I'm not asking for the
10 admission of 15. Portions that I was interested in
11 were read into the record and I don't feel that it's
12 appropriate at this point.

13 EXAMINER SEE: Okay.

14 MR. DARR: Okay, I'm sorry.

15 EXAMINER SEE: So you're not asking for
16 admission.

17 MR. DARR: I do have an inquiry for the
18 Bench though. There's kind of an ongoing discussion
19 about how to treat decisions of the Commission.
20 During the cross-examination of Mr. Allen today he
21 indicated that he felt that there had been some
22 revisions to the stipulation as a result of
23 subsequent decisions by the Commission with regard to
24 the treatment of the accumulated deferred income
25 taxes.

1 Over the lunch hour we took some time and
2 looked to see whether or not Commission decision said
3 anything about that. It was our impression that it
4 does not. The Commission has said nothing that would
5 modify or otherwise change the treatment that was
6 provided for in the stipulation on the basis of
7 10-388.

8 Obviously we would like to argue that at
9 some point down the road. Given that there's some
10 ambiguity as to how the Commission will be treating
11 that, I'm betwixt and between as to whether to ask
12 the Commission to recognize the whole file in 10-388
13 or the opinions and orders in 10-388. And the reason
14 I do that is because of issues that have been raised
15 in a number of pleadings that have popped up in this
16 case as to the propriety of arguing for prior
17 Commission decisions.

18 My inclination is that it's not necessary
19 or that it shouldn't be necessary, but given that
20 there is that ambiguity, I raise this issue right now
21 because we fully intend to use the record the
22 Commission's decisions and opinions and orders and
23 the entries on rehearing to buttress our view that
24 the Commission did somewhat different than what was
25 in the FE case is somewhat different than what was

1 testified to on the stand here today.

2 So I raise this issue before you because
3 I don't want it to come back in brief to say that we
4 are somehow improperly using the decisions of the
5 Commission.

6 MR. NOURSE: Your Honor, I actually agree
7 with Mr. Darr. I think the opinions and orders
8 should be permitted to be discussed and used on brief
9 to the extent they contain information that's
10 pertinent to the arguments being argued. I will say
11 it's my understanding that both the stipulation in
12 the 10-388 and the opinion and order have already
13 been I believe taken administrative notice of already
14 in this proceeding. So the stipulation I believe was
15 done while Mr. Bowser was on the stand and I think it
16 was the same day we asked for the opinion and order
17 to be noticed as well.

18 MR. DARR: If that's the case, then my
19 request is duplicative of that but I wanted to make
20 sure that that record is where it is. I don't recall
21 that.

22 EXAMINER SEE: Well, the Bench will take
23 some time to verify where the record stands on
24 10-388.

25 MR. DARR: Thank you.

1 MR. KUTIK: Can we go off the record,
2 your Honor?

3 EXAMINER SEE: Yes, Mr. Kutik.
4 (Off the record.)

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

7 MR. NOURSE: Ready for the next witness,
8 your Honor?

9 EXAMINER TAUBER: Yes.

10 MR. NOURSE: Companies call Philip J.
11 Nelson.

12 EXAMINER TAUBER: Mr. Nelson, you're
13 reminded that you're under oath in this proceeding.

14 - - -

15 PHILIP J. NELSON
16 being previously duly sworn, as prescribed by law,
17 was examined and testified on rebuttal as follows:

18 DIRECT EXAMINATION

19 By Mr. Nourse:

20 Q. Good afternoon, Mr. Nelson. Can you
21 state your full name and list your business address
22 for the record?

23 A. Yes, Philip James Nelson, One Riverside,
24 Columbus, Ohio.

25 Q. And did you cause to be filed rebuttal

1 testimony on October 21 in these dockets?

2 A. I did.

3 MR. NOURSE: Your Honor, I'd like to mark
4 the prefiled rebuttal testimony of Philip J. Nelson
5 as AEP Exhibit 21.

6 (EXHIBIT MARKED FOR IDENTIFICATION.)

7 EXAMINER SEE: Give the Bench just a
8 second.

9 EXAMINER TAUBER: Go ahead, Mr. Nourse.

10 Q. (By Mr. Nourse) Mr. Nelson, do you have
11 the document that was just marked AEP Exhibit 21?

12 A. Yes.

13 Q. And this was your rebuttal testimony that
14 was prepared under your direction?

15 A. Yes, it was.

16 Q. Do you have any corrections to make this
17 afternoon?

18 A. Yes. On page 4, insert before the
19 question mark "do you agree." And I need a period
20 after the parens, 7 parens; do you agree.

21 EXAMINER TAUBER: What line was that?

22 THE WITNESS: I'm sorry, it's on line 2.

23 EXAMINER TAUBER: Could you just repeat
24 all of that?

25 THE WITNESS: Page 4, line 2, put a

1 period after the paren -- parentheses before the
2 question mark. And then I'd like to insert "do you
3 agree" with a question mark at the end.

4 Q. Do you have any other corrections at this
5 time, Mr. Nelson?

6 A. No.

7 Q. With that correction if we were to ask
8 you the same questions under oath this afternoon,
9 would your answers be the same?

10 A. They would.

11 MR. NOURSE: Thank you, your Honor. I
12 would move for the admission of AEP Exhibit 21
13 subject to cross-examination.

14 EXAMINER TAUBER: Mr. Maskovyak, do you
15 have any questions on cross-examination?

16 MR. MASKOVYAK: No questions, your Honor.

17 EXAMINER TAUBER: Ms. Grady?

18 MS. GRADY: No questions, your Honor.

19 EXAMINER TAUBER: Mr. Lang?

20 MR. LANG: Thank you, your Honor.

21 - - -

22 CROSS-EXAMINATION

23 By Mr. Lang:

24 Q. Good afternoon, Mr. Nelson.

25 A. Good afternoon.

1 Q. I'm going to jump around a little but I'd
2 like to start at page 2 of your testimony, lines 19
3 and 20. Here you state that the Commission has not
4 excluded any significant generation plant costs from
5 AEP Ohio's retail SSO rates since the year 2000.

6 Has the Commission excluded any
7 insignificant generation plant costs of which you are
8 aware?

9 A. Off the top of my head I can't think of
10 anything, but it's possible that in one of the
11 proceedings there may have been a tweak of something.
12 For example, the EICCR, we make a filing and the
13 Commission staff audits it and there might be
14 adjustments to the plant balances but nothing
15 significant.

16 Q. Are you including the Darby and the
17 Waterford plants in this analysis or in this
18 statement?

19 A. Yes, I would include those.

20 Q. And the Commission in the first ESP case
21 excluded plant costs for Darby and Waterford for the
22 retail SSO rates, correct?

23 A. I don't believe that's a fair
24 characterization. They didn't allow us to transfer
25 those plants. We also asked for a return in lieu of

1 that. But they didn't specifically exclude those
2 costs, they said actually they where covered under
3 our existing ROA.

4 Q. So you asked for an additional return and
5 the additional return for Waterford and Darby was
6 denied, correct?

7 A. Yes, as I recall on the basis that they
8 felt we were already earning an adequate return I
9 believe on those costs.

10 Q. And when AEP Ohio purchased Darby and
11 Waterford post Senate Bill 3, it accepted the risk of
12 cost recovery for those plants through market
13 pricing, correct?

14 A. Not necessarily. I'm not sure what you
15 mean by accepted the risk of market pricing for those
16 plants. I guess if you could be a little more
17 specific on that.

18 Q. Well, Darby and Waterford were acquired
19 after Senate Bill 3 became effective, correct?

20 A. After Senate Bill 3 but during the term
21 of the SB 221.

22 Q. And there's nothing in SB 221 that
23 guaranteed cost recovery of those plants, correct?

24 A. That's traditional to any ratemaking
25 never guaranteed cost recovery of any investment even

1 in fully regulated jurisdiction.

2 Q. When AEP purchased those plants, it
3 was -- its cost recovery was subject to risk of
4 market pricing, correct?

5 A. No, I think it was we have SSO rates so I
6 don't know how you would isolate those particular
7 units and say that those were subject to market cost
8 recovery. If we actually got approval to transfer
9 them out then I would probably agree with your
10 statement then they would be subject to the market.

11 Q. Are those units dedicated to serving SSO
12 customers?

13 A. Yes, they would be part of the dispatch
14 order to serve native load customers.

15 Q. So all of the capacity in generation from
16 those plants is always serving standard service offer
17 customers, is that your understanding?

18 A. No, that's no different than any other
19 generating plant we have where we would first
20 dedicate the lowest cost units to native load and
21 then we do a cost reconstruction of highest cost
22 plants to off-system sales. So any plant that fits
23 in that category any of our existing AEP Ohio
24 generating assets.

25 Q. So you refer to several billion dollars

1 of environmental generation investment AEP Ohio has
2 made since year 2000. Is it fair to say that those
3 investments were made because federal law required
4 that they be made?

5 A. They were done to comply with federal
6 law, yes.

7 Q. When AEP Ohio made the environmental
8 investment post-Senate Bill 3, so after 1999, AEP
9 Ohio also accepted the risk of cost recovery of those
10 investments through market pricing, did it not?

11 A. No, again, I characterize it the same
12 way. We have quite a bit of retail revenues coming
13 in. We don't look at -- assign part of a plant is
14 subject to market, part of a plant is subject to
15 retail rate recovery. We just don't look at it that
16 way, so that's a real stretch for me to go there.

17 Q. Are the environmental investments that
18 you're referring to that are made at various AEP Ohio
19 plants, are those investments contributing to AEP
20 Ohio earning market revenue either from the sale of
21 capacity or energy?

22 A. Again, all our plants may contribute to
23 off-system sales at some point.

24 Q. And with regard to any particular plant
25 you can't say at any particular point in time whether

1 it's serving SSO load or it's being used for
2 off-system sales and receiving revenues from
3 off-system sales; is that correct?

4 A. No, they're all part of the fleet that
5 serves our native load. Of course we've had an
6 obligation to serve our retail customers so we
7 haven't during any of this time given up that
8 obligation to serve retail customers.

9 Q. Now is it also fair to say that the first
10 electric security plan, the one that's in place now,
11 authorized cost recovery of environmental investments
12 from SSO customers contingent upon the ESP pricing
13 being better than market pricing?

14 A. I don't recall that specific requirement.

15 Q. For the first electric security plan to
16 have been approved by the Commission you are aware,
17 are you not, that the Commission had to determine
18 that the ESP pricing was more favorable than market
19 pricing where that's one of the determinations that
20 the Commission made?

21 A. I understand that's one of the
22 determinations.

23 Q. AEP Ohio has elected not to separate --
24 AEP Ohio has elected not to separate its generation
25 assets from it's T and D assets, correct?

1 A. Well, I don't know that we call it fully
2 our election. We have asked in the previous ESP to
3 separate some generating assets for review and
4 approval of this Commission to do that.

5 Q. You referred to the previous ESP. Are
6 you referring to Darby and Waterford again?

7 A. Yes. That was the request we made.

8 Q. So you're not referring to the request to
9 separate generation assets that goes back to the
10 original electric transition plan case.

11 THE WITNESS: Could I have that prior
12 question read?

13 (Record read.)

14 A. I'm sorry, could you?

15 Q. And then there was my question after that
16 I was asking when you were referring to the previous
17 ESP and separation of assets, you did not have in
18 mind corporate separation that was approved in the
19 original electric transition plan of Columbus
20 Southern and Ohio Power.

21 A. Yeah, I don't think we talked about that.

22 Q. Are you aware that the Commission
23 approved full corporate separation in the original
24 electric transition plan case?

25 A. Yes, I believe they approved our

1 corporate separation plan in the ETP case.

2 Q. And obviously that corporate separation,
3 that full corporate separation did not occur,
4 correct?

5 A. Yes.

6 Q. And prior to 2008, AEP Ohio has continued
7 in its operations combining it's T and D assets with
8 its generation assets, correct?

9 A. Yes. We've continued as a bundled
10 entity. We had of course the RSP proceeding which
11 begun in 2006. That took us up to the prior ESP
12 which began in 2009. And of course the rate
13 stabilization plan was the idea that the market
14 wasn't ready, market prices were very high and of
15 course we were encouraged to come in and file a rate
16 stabilization plan. And of course what happened also
17 was Senate Bill 221 subsequently became law and
18 forced us to seek Commission approval to transfer
19 assets.

20 Q. Now, in 2008 when Ohio Power and Columbus
21 Southern filed their first electric security plan,
22 those companies elected at that time not to file an
23 MRO application, correct?

24 A. That's correct.

25 Q. Now, if I could take you to the bottom of

1 the page 9 of your testimony. This is starting at
2 line 21 where you state that RPM prices for some
3 recent years for some projected years are above the
4 stipulated blended capacity charge. With regard to
5 that stipulated blended capacity charge, do you agree
6 that no customer will pay the stipulated blended
7 capacity charge?

8 A. Well, I believe the charge would be to a
9 CRES supplier.

10 Q. So there will be a CRES provider that
11 will pay the stipulated blended capacity charge?

12 A. They could end up paying a blended rate
13 by having some load at the RPM rate and some load at
14 the 255.

15 Q. That's a calculation, that's a blending
16 that you're performing. What the CRES providers will
17 pay is either the RPM market price or the 255 --
18 \$255 stipulation price, correct?

19 A. Well, they could end up paying both of
20 those things, yes.

21 Q. When you refer to the RPM price or RPM
22 prices in this statement, you are not referring to
23 the auction clearing price; is that correct?

24 A. I'll be referring to the scaled up RPM
25 prices. And in this instance I'm referring both to

1 the constrained areas and non-constrained areas of
2 PJM.

3 Q. So with regard to the RTO unconstrained
4 region clearing price that we typically discuss here
5 as the RPM price, that's not what you're referring
6 to, correct?

7 A. That's part of it but I'm including the
8 whole PJM region.

9 Q. So you're including constrained pricing
10 from PJM East, is that what you're doing?

11 A. Yes.

12 Q. Is it fair to say that at no time since
13 the beginning of RPM, since RPM came into effect
14 through May of 2015, has the RPM price been at or
15 above \$255 per megawatt day in the RTO unconstrained
16 region?

17 A. I think that's correct. The highest was
18 \$220 as I recall.

19 Q. Now that \$220, that's not the auction
20 clearing price, that's with the scalers that are
21 added on, correct?

22 A. That's the actual charge to the CRES
23 provider. So they wouldn't pay the actual auction
24 price. It would have to be scaled up.

25 Q. Now, in the paragraph that you have here

1 at the bottom of page 9 going over the top of page
2 10, are you arguing that AEP Ohio's capacity costs
3 are not stranded when compared to RPM pricing over
4 the long term?

5 A. Well, I'd say yeah, that's a factor we
6 don't know what the RPM pricing is over long term.
7 You know, when you usually do a stranded cost
8 calculation you're looking at multi-year projections,
9 and so yeah, I would say that that's a fact that we
10 really don't know if anything is stranded. And of
11 course we wouldn't characterize this interim period
12 with RPM as having anything to do with stranded
13 costs.

14 Q. Now, I'm going to jump around a little.
15 I want to go back to page 2, in particular lines 16
16 and 17, where you state that the ETP cases were
17 retail cases and have no bearing on the wholesale
18 rate charged to CRES providers. With this statement
19 you're making here are you going back to AEP Ohio's
20 argument, I think we had talked about this in direct
21 testimony, that the FERC has exclusive jurisdiction
22 over the price to be charged to CRES providers as a
23 wholesale price?

24 A. Yes, that would be one aspect of it.

25 Q. So in that argument the impact of that

1 argument is that the Public Utilities Commission of
2 Ohio cannot set a capacity price to be charged to
3 CRES providers because that's within the FERC
4 authority, not within the State Commission authority,
5 correct?

6 A. I'm not sure I'd go quite that far.

7 Q. If I could take you back to page 9. And
8 now we'll be at page 9, lines 7 through 9 I believe
9 is where you say that AEP Ohio has avoided the
10 volatile and uncertain RPM market for capacity
11 through its election of the FRR entity.

12 Now, it's true, is it not, that the
13 volatility uncertainty of the RPM market has resulted
14 in capacity pricing that has always been a fraction
15 of AEP Ohio's claimed capacity costs of the \$355 per
16 megawatt day?

17 A. Well, the statement made in here is when
18 the expectation was made back in 2007 there would
19 have been no way to know what the RPM would have
20 cleared at. And you know, for these years beyond
21 three years. And we of course left at FRR by the
22 Public Utilities Commission to make an election.
23 There was a lot of concern at the time that RPM
24 prices would get very high. And in fact they can be
25 even one and a half times net cost is the cap on them

1 but they can get that high. Which I think in the
2 latest year would be \$600.

3 So you have to step back into 2007 and
4 there we elected FRR because we had bundled load at
5 that point. Remember, everybody else in PJM
6 unbundled generation. So FRR was really created for
7 AEP Ohio.

8 And the fact of the matter is that really
9 what probably has driven down the RPM price
10 subsequent to that was a massive recession. We lost
11 and every other utility in the country lost a lot of
12 load during the recession.

13 So this is more of a statement of what
14 the expectations were at the time and I think in fact
15 we know our customers have gotten a good deal through
16 all this time knowing we have very low rates from
17 2006, well, 2001 clear through to today we still got
18 good rates, very competitive rates.

19 So our customers of course benefited from
20 us keeping a bundled company together, serving them
21 at retail and we didn't have any switching because
22 our rates were so competitive. So I think everything
23 worked out for the good with our election of FRR.

24 MR. LANG: Your Honor, I would move to
25 strike the entire answer and then also ask for a

1 direction to Mr. Nelson to answer my question because
2 I patiently waited throughout his entire description
3 and there wasn't an answer anywhere to my question
4 which was simply comparing the RPM market price to
5 AEP Ohio's claimed capacity costs of \$355 per
6 megawatt day.

7 MR. NOURSE: Your Honor, he's directing
8 him to the statement that Mr. Nelson made on page 9,
9 line 7, and asking him to reconcile or explain that
10 vis-à-vis the current cost base capacity charge
11 proposal. I think Mr. Nelson's entitled to explain
12 it as he did.

13 MR. LANG: And if Mr. Nourse would like
14 him to explain that on redirect, he certainly can do
15 that. But I can guarantee you I did not ask him to
16 explain that. What I asked him to do was to simply
17 say yes or no, as to whether the RPM market prices
18 that have resulted for the last several years have
19 always been a fraction of AEP Ohio's claim capacity
20 costs. He can answer yes to that if he knows or he
21 can say he doesn't know.

22 MR. NOURSE: Again, your Honor, he's
23 referring to the statement and asking for a Monday
24 morning quarterback conclusion and Mr. Nelson
25 explained the intention of the statement in the

1 testimony.

2 EXAMINER TAUBER: The motion to strike is
3 denied.

4 Q. (By Mr. Lang) Could I have an answer to
5 my question? And without the five minutes of
6 explanation. Can I have an answer to my question?

7 MR. NOURSE: Your Honor, I object to the
8 badgering of the witness here.

9 EXAMINER TAUBER: Mr. Nelson, please
10 answer the question. If you need it repeated.

11 A. Are you referring to these lines now? I
12 thought you were asking -- asked me that question
13 before and you were asking in the unconstrained area
14 and the RPM price exceeded our cost base price during
15 this limited time period, right?

16 Q. It has always been a fraction of your
17 claimed capacity costs of \$355 per megawatt day;
18 isn't that correct?

19 A. Well, as I pointed out, yeah, it's varied
20 because it's been very volatile. And of course the
21 highest would have been, as I mentioned, 220. So I
22 don't know what fraction you're talking about but 220
23 in comparison to the blended rate is --

24 Q. So your answer is Yes?

25 A. It's been less than our cost base rate.

1 Yes, I think I said that before.

2 Q. The answer is Yes.

3 A. In the unstrained area.

4 Q. The answer is Yes. Are you able to say?

5 A. I said yes in the unconstrained area.

6 MR. NOURSE: Your Honor.

7 Q. Thank you. Now, is it fair to say that
8 AEP Ohio has consistently recovered more of its
9 capacity costs from SSO customers than it would have
10 recovered through the RPM market?

11 A. I can't say that. You have to lay some
12 foundation for that. Are you assuming that we had
13 gone to markets in 2006?

14 Q. I'm assuming that under the state of AEP
15 Ohio as it has existed since 2007 with the FRR
16 election, is it fair to say under the current state
17 of affairs is it your understanding that AEP Ohio has
18 consistently recovered more of its capacity costs
19 from SSO customers than it would have if it had had
20 participated in the RPM market and not made the FRR
21 election?

22 A. Well, we would have done a lot of
23 different things with our generation if we were an
24 unbundled entity so I can't really answer that. I
25 would think that 2007 was a very good market. First

1 half of 2008 was a very strong market. So we may
2 have made more money had our generation been freed up
3 to sell into that market. But obviously we had an
4 obligation to serve a retail load. And as I've said
5 we provided that service at a reasonable price to our
6 customers. So that's my answer.

7 Q. When you're referring to the favorable
8 energy prices in 2008, is it fair to say that in 2008
9 with the energy sales alone AEP Ohio would have fully
10 recovered its fixed costs?

11 A. I don't know. I haven't done that
12 calculation.

13 Q. Did you review Mr. Schnitzer's
14 calculation that demonstrated that?

15 A. Yes, I had quite a bit of rebuttal on Mr.
16 Schnitzers' calculation. And I would to say that he
17 hasn't done it right. So I would not agree that you
18 can use that as a basis for making the determination.

19 Q. Now you responded to his -- your rebuttal
20 addresses his testimony that uses a 2010 --
21 essentially a 2010 test year, correct?

22 A. That's correct.

23 Q. Now, at page 9 of your testimony, line 4,
24 you refer to the fact that a generation asset or
25 fleet of assets was found to be -- was not found to

1 be stranded investment under SB 3's opportunity for
2 receipt of transition -- for receipt of transition
3 revenues.

4 By stating this fact at page 9, line 4,
5 are you suggesting that AEP Ohio did not have
6 stranded investment?

7 A. Under -- when we made our ETP filing in
8 2000 or 1999, we did not include any stranded costs
9 calculation or at least I think we settled with no
10 stranded cost calculation. I'm not sure what we had
11 in our filing. I don't recall.

12 Q. If I told you that AEP Ohio's claimed
13 stranded costs in the ETP case were approximately
14 \$900 million, would that refresh your memory?

15 A. You'd have to be more specific what it
16 related to. We did have regulatory assets which was
17 part of the I guess transition charge as part of that
18 case.

19 Q. If the generation transition assets --
20 generation transition costs, are you familiar with
21 the testimony filed in that case showing that the
22 generation transition cost, not the regulatory, were
23 approximately \$900 million?

24 A. No. That's been too long ago. I
25 testified to some of the regulatory assets.

1 Q. But as you said, the AEP Ohio waived
2 recovery of those stranded generation costs as part
3 of the stipulation that was filed in the ETP case,
4 correct?

5 A. Yes, I believe that's correct.

6 Q. Now, at page 10 of your testimony, lines
7 11 and 12, you state here AEP Ohio's generation costs
8 has been well below market for the period 2001 up
9 through May of 2016.

10 Is it, thus, fair to say that AEP Ohio
11 has recovered and will recover all its generations
12 costs plus a substantial margin for this entire
13 period that you're describing?

14 A. I'm sorry, could you give me that
15 reference again?

16 Q. Page 10, lines 11 through 12. Actually I
17 think it starts at line 10.

18 A. Okay. Well, of course we didn't have our
19 generation at market so it's more of a hypothetical.
20 We were serving our retail load during those years.
21 And we got retail revenues for that.

22 Q. Now, for the period 2012 through
23 May 2015, for the upcoming, the first 41 months of
24 the new ESP period, do you agree that all witnesses
25 that have testified in this proceeding agree that the

1 ESP pricing is higher than market pricing over that
2 period?

3 A. Well, I haven't heard all witnesses
4 testify so I can't verify that. But I would doubt
5 that that statement was made.

6 Q. And that do you remember Mr. Allen's
7 testimony that the quantification of the ESP price
8 benefit is negative \$22 million?

9 A. No, I don't.

10 Q. Are you familiar -- you're not familiar
11 with that testimony?

12 A. No. I'm sorry. I paid more attention to
13 my own testimony.

14 Q. Now, also at page 10, lines 13 and 14,
15 you're referring to another what you believe is an
16 important distinction, and you say that stranded
17 generation provisions of Senate Bill 3 applied to
18 retail -- applied only to retail charges.

19 So do you agree that stranded generation
20 costs cannot be recovered from SSO customers except
21 through market base pricing?

22 A. No. But I see it as being a moot issue
23 because we're not asking for stranded costs in this
24 proceeding.

25 Q. Now, I want to take you back to page 4.

1 And at lines 11 through 13 you state that
2 Mr. Schnitzer and Dr. Lesser erred by not removing
3 fuel deferrals from the fuel costs used in their
4 calculation, correct?

5 A. That's correct.

6 Q. And at page -- I'm sorry, on page 4, line
7 14, you say "The Company can attest to the fact that
8 contained in account 501 for 2010 were deferrals,"
9 were these fuel deferrals.

10 Again, is this something that you can
11 attest to that the fuel deferrals are in account 501?

12 A. Yes.

13 Q. And how do you come by that information?

14 A. I look at account 501, the detail.

15 Q. What you see in account 501 for 2010 are
16 fuel deferrals you describe on a combined basis
17 netted to \$13 million; is that right?

18 A. Yes.

19 Q. If Mr. Schnitzer removed the fuel
20 deferrals from his calculation, this would increase
21 his calculation of total fuel costs, correct?

22 A. That's correct.

23 Q. Because the deferred fuel in account 501
24 is a negative number.

25 A. Yes. On a combined basis. And actually

1 was a different sign between Ohio Power and Columbus
2 Southern.

3 Q. Fair enough. Now, is it fair to say that
4 AEP's accountants removed the \$130 million in fuel
5 costs from account 501 and booked it separately as a
6 regulatory asset?

7 A. No, that's not the way it works.

8 Q. Well, on the FERC books --

9 A. You're talking income statement items and
10 balance sheet items.

11 Q. Well, on the -- what is reported on the
12 FERC books, on account 501 in the FERC books, this
13 \$130 million of deferred fuel costs is not considered
14 to be a 2010 fuel cost, correct?

15 A. Yes. Maybe we're at cross purposes here.
16 I don't want to get too deep into the way we're
17 interpreting statements, but what you would do with
18 the deferral is you would, in this instance if you're
19 undercollecting fuel, which Ohio Power was, we will
20 use Ohio Power as an example in 2010, then you would
21 have a credit to fuel costs in 501 and you would also
22 set up a regulatory asset for that amount because
23 we're going to get recovery.

24 That's what allows us to defer it under
25 the phase-in recovery rider. And that would be a

1 balance sheet item.

2 Q. What account is the regulatory asset set
3 up?

4 A. It's probably a 182 account.

5 Q. Now, if the \$130 million of fuel deferral
6 costs were included in Mr. Schnitzer's maximum above
7 market calculation as you suggest, the result would
8 be that a CRES provider being charged at capacity
9 rate would be required to pay for the 2010 deferred
10 fuel cost, correct?

11 A. I think that's a mischaracterization of
12 where I'm going with this adjustment. What Mr.
13 Schnitzer was doing was calculating the energy credit
14 against the capacity costs, and what I'm
15 demonstrating is that he calculated the wrong energy
16 credit by understating fuel costs which increased his
17 energy margin, thus reducing his what he calls the
18 maximum capacity charge.

19 And Mr. Schnitzer admitted on the record
20 that if there was in fact deferrals in this account,
21 that it should be fixed, and I think he estimated
22 that that adjustment would take his number up over
23 \$200 per megawatt day.

24 We confirmed that he was pretty darn
25 accurate in his estimate. And you can see on my

1 table on page 6 that that does add about \$43 to his
2 calculation by making that correction.

3 MR. LANG: Your Honor, I would move to
4 strike that the answer starting with "and
5 Mr. Schnitzer confirmed," I don't believe it's an
6 accurate description of Mr. Schnitzer's testimony
7 earlier in the record. I certainly don't want this
8 testimony being clouded with that misrepresentation.

9 MR. NOURSE: Your Honor, I think
10 Mr. Nelson's explanation as he ended up referring to
11 his table explained the basis for his \$43 adjustment
12 that's in the table on page 6 as it ties in with the
13 transcript reference that's listed there for
14 Mr. Schnitzer.

15 EXAMINER TAUBER: The motion to strike is
16 denied.

17 Q. (By Mr. Lang) Mr. Nelson, we were talking
18 about Mr. Schnitzer's maximum above market
19 calculation. What Mr. Schnitzer was doing was
20 calculating the -- what he believed was the maximum
21 capacity charge that could be made to a CRES provider
22 given AEP Ohio's FERC Form 1 reporting of expenses
23 and revenues, correct?

24 A. Yes, I assume he was expressing his
25 opinion of what it was.

1 Q. We'll certainly agree it was his opinion.
2 I'm not asking you to accept it was your opinion.
3 But that's his opinion of what could be charged to a
4 CRES provider for capacity, correct?

5 MR. RANDAZZO: Could I have the question
6 read back, please?

7 (Record read.)

8 Q. And to clarify, it's his opinion of the
9 maximum that could be charged, correct?

10 A. He used that term "maximum."

11 Q. And --

12 A. What I'm rebutting is his calculation of
13 that maximum.

14 Q. And by --

15 A. And I'm not agreeing with the fact that
16 he states that that's the maximum that can be
17 charged. For example, as we talked about in PJM, the
18 RPM rate could go up one and a half times net cost.
19 Could be a much larger number.

20 Q. So the maximum amount that could be
21 charged to a CRES provider is based on 2010 costs,
22 correct? That's what --

23 A. No, again, I'm not agreeing with the
24 concept of that's a maximum. That was a way Mr.
25 Schnitzer characterized it. What I'm doing is --

1 Q. Thank you. I'm asking you if you
2 understand what he did. Is my description of --

3 A. I understand what he did in his
4 calculation and that's what I'm here --

5 Q. Is my description of what he did
6 accurate, that he's calculating the maximum amount
7 that could be charged to a CRES provider based on
8 2010 costs?

9 A. I don't have his testimony in front of me
10 and I don't want to --

11 Q. So you don't know.

12 A. I don't want to represent what he was
13 stating. I can tell you that his calculation is in
14 error. That's what I'm rebutting.

15 Q. So you're rebutting his calculation even
16 though you don't know what he did.

17 A. I know what he did to calculate it. I
18 don't know how he's characterized it. And I know he
19 put the label "maximum" on it. But that's as far as
20 I want to go with that.

21 Q. So you don't know what the purpose of his
22 calculation was; is that fair?

23 A. Well, the purpose was to -- there was
24 quite a bit of debate in this case, in the 2929 case,
25 about what cost base rate should be. We had made a

2200

1 filing and we had a cost base rate that we propose --

2 Q. Are you willing to answer what the
3 purpose of his question was?

4 A. You asked me what I thought the purpose
5 of his calculation was --

6 Q. And you're going off in a diverse --

7 MR. NOURSE: I object. The witness
8 should be able to finish his answer.

9 EXAMINER TAUBER: Mr. Nelson, if you
10 could just answer the question, please.

11 THE WITNESS: Could I have it read?

12 (Record read.)

13 A. I know what the purpose was with respect
14 to a cost-based calculation. He was trying to
15 demonstrate that the cost-based rate should have an
16 energy credit component in it and he did a
17 calculation to develop that energy component and my
18 rebuttal of course is around did he do that energy
19 component correctly.

20 And also the purpose of my rebuttal is to
21 show once you correct his errors that it compares
22 very favorably to a blended rate. In fact it
23 compares very favorably to the 255 rate above the
24 set-aside amounts.

25 Q. Does this relate to the capacity charge

1 to be charged to a CRES provider?

2 MR. NOURSE: Object to the form of the
3 question.

4 EXAMINER TAUBER: Objection's overruled.

5 A. I think it relates. I mean we've been
6 arguing about what the capacity charge should be and
7 obviously we felt in our litigated position that the
8 capacity charge should be a cost-based charge and we
9 made a filing with FERC as well as before this
10 Commission. So it does relate to that.

11 And I think what he's done is his
12 litigated position, Mr. Schnitzer, is that if you're
13 going to have a cost-based charge, you should have an
14 energy credit against the fixed capacity costs. And
15 so he's done a calculation to calculate that and then
16 of course I'm telling you that he's done that
17 calculation incorrectly.

18 We're not going to sit here and litigate
19 the 2929 case, obviously. What I'm -- all's I'm
20 demonstrating is that once you make these pretty
21 straightforward corrections to his number, that it's
22 in support of the stipulated capacity charge.

23 Q. Let's me try again. The capacity charge
24 in the 10-2929 case was a charge to a CRES provider.
25 Do you agree with that?

1 A. I do.

2 Q. Now, if all customers were shopping and
3 CRES providers are paying the capacity charge based
4 on these 2010 costs, including the \$130 million of
5 deferred fuel costs, then the \$130 million of
6 deferred fuel costs would be recovered from the CRES
7 providers by AEP Ohio, correct?

8 A. Not unless you made some adjustment to
9 the rate. If you're going to charge them a rate that
10 doesn't have that in there, it's too low, \$162, and
11 it should have been 204. No, you wouldn't be
12 collecting anything from them.

13 Q. And I think we're on the same page. So
14 if you included the \$130 million of deferred fuel
15 costs in that capacity charge and all customers were
16 shopping, AEP would be recovering that \$130 million
17 from the shopping customers through that capacity
18 charge to the CRES providers, correct?

19 THE WITNESS: Could I have that read,
20 please?

21 (Record read.)

22 A. Well, it's kind of an absurd
23 hypothetical. The deferral is on retail customers
24 and you're -- they're on the hook for nonbypassable
25 charge. It's under the PIRR.

1 No, we wouldn't want to -- what we want
2 is proper fuel cost. If you're going to do an energy
3 credit, it has to be calculated correctly. And the
4 proper credit would not include this \$42 million.
5 You need to add that.

6 Q. So I agree, you said it would be absurd
7 since the \$130 million in deferred fuel costs is
8 going to be covered through the PIRR from retail
9 customers it would be absurd to include that in a
10 capacity charge that is paid by CRES providers,
11 correct?

12 A. The fact is that what we're trying to
13 determine is the proper capacity charge to CRES
14 providers in this proceeding. And you would not
15 credit that. And he's admitted that.

16 First off, we don't agree with the energy
17 credit calculation. And what he's calculating is an
18 energy margin that --

19 MR. LANG: I'm sorry, your Honor.

20 EXAMINER TAUBER: Mr. Lang, could you let
21 him?

22 MR. LANG: I'm sorry, I forgot what my
23 question was.

24 EXAMINER TAUBER: Yes, but could you let
25 the witness answer the questions?

1 MR. LANG: Could I hear the question
2 first, because I'm actually not sure what he's
3 answering right now.

4 EXAMINER TAUBER: Yes.
5 (Record read.)

6 MR. NOURSE: Could you read his answer up
7 to the point he was interrupted?

8 (Record read.)

9 A. Yes, what we're trying do in this
10 proceeding of course is develop a proper capacity
11 rate. And remember the stipulation is set out a
12 capacity charge of blended rate of \$201.

13 And we're not specifically saying that
14 when you do a capacity charge we of course took the
15 litigated position there shouldn't be any energy
16 credit. And of course FirstEnergy's litigating
17 position is there should be an energy credit and
18 Mr. Schnitzer has attempted to calculate that.

19 The fact of the matter is that I could
20 sit here and argue we're entitled to as an FRR entity
21 to recover our cost-based capacity charge. What I'm
22 demonstrating through my rebuttal testimony is the
23 fact that once you start to look at what a cost-based
24 capacity credit is and take out all timing
25 differences, which I think you would do, because next

1 year, for example, when the deferral would turn
2 around, that would reduce the -- or increase the fuel
3 deferral.

4 So this is purely a timing issue. So if
5 you're going to calculate an energy credit, you want
6 to make sure you exclude things like deferrals.

7 Q. AEP Ohio will recover its 2010 deferred
8 fuel costs through the PIRR, correct?

9 A. Yes, we should recover through PIRR.

10 Q. And the PIRR is a nonbypassable rider,
11 correct?

12 A. It is a nonbypassable rider.

13 Q. So under the stipulation, all customers,
14 both SSO customers and shopping customers, will pay
15 AEP Ohio for deferred fuel costs incurred during the
16 current ESP through the PIRR, correct?

17 A. That's correct.

18 Q. And that includes the deferred fuel costs
19 for 2010, correct?

20 A. It includes -- yes, for 2010.

21 Q. Now, if AEP Ohio were allowed to recover
22 a cost-based capacity rate that you calculate with
23 your corrections of \$303 per megawatt day, and that
24 recovers the \$130 million in 2010 deferred fuel costs
25 that are also recovered through the PIRR, you would

1 have double recovery of deferred fuel costs, correct?

2 A. No, I don't think so. It would be a
3 timing difference. Again, of course when you did the
4 same calculation performing a base rate next year
5 following year in 2012, you would be amortizing that
6 reversing it and over time it would be zero. So no,
7 I don't agree with that.

8 Q. So the timing difference is that under
9 the capacity charge you could recover it now and then
10 under the PIRR you recover it later.

11 A. No. That's not what I said. The CRES
12 rate you would have if he was consistent, next year
13 he would add if he let his calculation stand, which
14 again he I think on the record said it needed to be
15 removed, you would be reversed next year in 2012.

16 So you can't just -- it's a timing
17 difference and it needs to be removed from the energy
18 calculation. And it's not related to CRES wholesale
19 charges. It's purely a retail issue.

20 Q. Under an MRO the company AEP Ohio would
21 also be entitled to recover the 2010 deferred fuel
22 costs through the PIRR, correct?

23 A. I'm not the witness on any MRO issues.

24 Q. Well, you're testifying here with regard
25 to the impact of these deferred fuel costs. Do you

1 agree that the deferred fuel costs -- and these are
2 deferred fuel costs from the current ESP, correct?

3 That you know?

4 A. Yes.

5 Q. And if the companies, instead of having a
6 second ESP had an MRO, those fuel costs would still
7 be recovered through the PIRR, correct? Because
8 they've already been authorized in the current ESP,
9 correct?

10 A. Yes, they're nonbypassable, under any
11 scenario we would recover those deferred fuel costs.

12 Q. Is the 2010 maximum capacity charge that
13 you calculate, \$303 per megawatt day, is that
14 indicative of future capacity prices during the
15 stipulation ESP period or is it based on the 2010
16 historic test-year period?

17 A. I haven't calculated a maximum. I used
18 the term "maximum" to align with and tie into
19 Mr. Schnitzer's testimony. But I wouldn't
20 characterize my calculation as maximum.

21 THE WITNESS: Could you read the rest of
22 that question?

23 Q. I can restate. And perhaps I can help
24 you out.

25 The \$303 per megawatt day that you

1 calculate just talking about that number, is that
2 indicative of future capacity prices during the
3 stipulation ESP period or is it based on the 2010
4 historic test year?

5 A. The calculation was based on a 2010 FERC
6 Form 1. By the way, that's using Mr. Schnitzer's
7 rest of his data. We don't necessarily agree with
8 all his other calculations. He may have picked up
9 some items that we might not have done the same way
10 but we just fixed his major errors.

11 So 303 does represent using 2010 data as
12 Mr. Schnitzer has done with corrections for those two
13 errors, the fuel and the deferred fuel and of course
14 we found that he used the wrong peaks, which actually
15 would have taken his rate down.

16 Q. And we'll get to that, but are you aware
17 of whether future energy margins are expected to be
18 higher or lower than 2010 energy margins?

19 A. I don't know whether they're going to be
20 higher or lower than 2010.

21 Q. Do you know whether future energy prices
22 will be higher or lower than the 2010 energy prices?

23 A. I don't think anyone knows at this point.
24 Obviously the company would have forecasts of such.

25 Q. And certainly the future energy prices

1 that Ms. Thomas uses in her testimony are higher than
2 the 2010 energy prices; is that fair?

3 A. That's fair. But when you're doing an
4 energy credit, you have to also look at the cost side
5 of things. So you can't just look at the revenue
6 side and say, well, prices are going up, I'm making
7 more of a margin because also our fuel costs could
8 have gone up and offset and we could actually have
9 lower margins and less of an energy credit.

10 The other side of the equation is also
11 remember, the energy credit is just a reduction to
12 the capacity fixed charge and those fix charges could
13 go up as well.

14 So when you're doing a cost-based
15 calculation, there's a lot of variables involved and
16 so just saying that energy prices are higher doesn't
17 necessarily drive the completion that your maximum
18 rate might be higher.

19 Q. Let me ask you, if all else equal, would
20 higher energy margins increase or decrease the
21 maximum above market capacity rate?

22 A. Again, we're getting into kind of
23 litigated position. We're not -- our position is --

24 Q. I'm just asking your understanding.

25 A. Okay. Based on Mr. Schnitzer's

1 calculation where you have an energy credit and you
2 calculate it and the price of energy's higher as
3 costs haven't changed either on the fixed capacity
4 cost or on the variable costs of those sales, all
5 other things being equal, then you would have a
6 bigger energy credit.

7 But I don't know, in my experience
8 nothing stays the same from year to year, so that's a
9 real hypothetical.

10 Q. At page 5 of your testimony, lines 7
11 through 9, you have the statement that Mr. Schnitzer
12 erred by crediting the full capacity payments from
13 the other pool members of \$400 million. Did you make
14 any adjustments to his calculation for this error
15 that you describe?

16 A. Let's put that sentence in context. We
17 also -- I have to put it in context because I think
18 your question is --

19 MR. LANG: Your Honors, could I have the
20 witness instructed to answer the question? I asked
21 him simply did he make any adjustments to
22 Mr. Schnitzer's calculation for this error that he
23 describes in his testimony. It's a simple yes or no
24 question. I just want to know whether he made the
25 adjustment. I don't care about the context.

2211

1 EXAMINER TAUBER: Mr. Nelson.

2 A. I think you do need the context because
3 he's saying that he's reading this as he made an
4 error in the \$400 million credit.

5 EXAMINER TAUBER: Provide your answer.

6 A. And in fact that's coupled with the fact
7 that he didn't treat the other part of the pool
8 correctly. He took the credit of 400 million which
9 we did in our calculation as well, our cost-based
10 calculation we had the same credit, but then he went
11 ahead and did an energy margin without reflecting a
12 prime piece of the pool and that is the MLR of
13 on-system sales that share with other members of the
14 pool.

15 So coupled those two things together,
16 yes, I did make the correction. That correction is
17 shown on the table on page 6. That's the
18 \$112 million that -- and I want to be clear that we
19 don't take issue with the fact that he's credited
20 400 million. We take issue with he only reflected
21 the part of the pool that brought the rate down.

22 He didn't reflect the part of the pool
23 that's in operation that would have reduced this
24 energy credit. So that's the correction I'm making.

25 Q. So the answer is no, you didn't make any

1 correction with regard to the capacity.

2 A. With regard to the 400 million capacity
3 credit, we did not correct, that's correct.

4 Q. Thanks. That wasn't that hard, was it?

5 A. No, but I was trying to put it in the
6 right context. And I think you were reading that
7 line out of place because it was much more.

8 Q. We're going to talk about that. We'll
9 pick through this. If you could just answer my
10 questions, please.

11 Under the pool agreement as it exists
12 today, capacity payments from other pool members are
13 not affected by shopping in AEP Ohio's territory,
14 correct?

15 A. Yes. Capacity payments are not affected
16 by shopping because we don't allow it to affect the
17 peak because AEP Ohio is responsible for that
18 capacity itself.

19 Q. And when Mr. Pearce calculated a
20 cost-based capacity price he did not reduce at the
21 time annual production costs by the full capacity
22 payments from other pool members. I'd say he did use
23 the full capacity payments from other pool members,
24 correct?

25 A. Yes, he had the same credit.

1 Q. Now, at page 5, lines 5 through 7, you
2 state that Mr. Schnitzer's calculation assumes, I
3 think it's just Columbus Southern here, yeah, assumes
4 Columbus Southern can still purchase energy at costs
5 from the pool and sell it at market and retain the
6 margins. Is that a correct description of what
7 you're describing here in your testimony?

8 A. No, I say he did this. That's
9 Mr. Schnitzer.

10 Q. Absolutely. Mr. Schnitzer assumed that
11 in his calculation.

12 A. Yes, he's saying that Columbus Southern
13 could buy power from the other pool members at cost,
14 turn around and sell it at a profit in the market and
15 not share that with other pool members. Which is
16 contrary to the intent of the pool agreement,
17 wouldn't happen.

18 Q. So what Mr. Schnitzer analyzed was the
19 net energy sales by both Columbus Southern and Ohio
20 Power, correct?

21 A. What do you mean by "net"?

22 Q. Well, let me ask you, if the company sold
23 more energy than it purchased, it would be a net
24 seller, correct?

25 A. Into the pool?

1 Q. Yes.

2 A. Yes.

3 Q. And if the company bought more energy
4 than it sold, it would be a net buyer from the pool,
5 correct?

6 A. Yes.

7 Q. And in 2010 Columbus Southern was a net
8 buyer and Ohio Power was a net seller of energy into
9 the pool, correct?

10 A. That's correct.

11 Q. So AEP Ohio, the two companies combined,
12 was a net seller of energy, correct?

13 A. Yes.

14 Q. Now, these purchases and sales of energy
15 in the pool were largely conducted at the cost that's
16 determined under the pool definitions, correct?

17 A. Yes. Energy sales are under the primary
18 energy rate.

19 Q. And these costs on average for energy
20 were below market prices certainly during 2010,
21 correct?

22 A. That's correct.

23 Q. Now, so relative to market prices being a
24 net buyer of energy, that cost could be considered a
25 benefit of being a member of the pool. Is that fair?

1 A. Yes. It's one of the benefits of the
2 overall pool agreement.

3 Q. Because you can buy energy at below
4 market prices.

5 A. Yes. It's a cost-based agreement.

6 Q. And conversely, relative to market
7 prices, being a net seller of energy at costs could
8 be considered a cost of being a member of the pool.

9 A. A cost but it also is offset by other
10 provisions of the policy that ultimately benefit
11 other members. Not only AEP Ohio, you have to
12 consider this is a five-member pool.

13 Q. Now, given that AEP Ohio was a net seller
14 of energy and sold that energy at cost, at below
15 market prices, that is an overall cost of being a
16 member of the pool with respect to energy sales,
17 correct?

18 A. If you can assume that they'd sell that
19 energy at the market and not have to sell it at
20 costs. The market was higher than the cost, then
21 that would be cost of being in the pool -- I'm sorry.
22 Was your question with the long company or was it
23 short?

24 Q. Net seller.

25 A. Net seller.

1 Q. Because AEP Ohio again was a net seller,
2 correct?

3 A. Yeah. The total company would have been
4 a net seller. Of course, there was transactions
5 between the two that you eliminate in consolidation.

6 Q. Now, Mr. Schnitzer's analysis considered
7 that Columbus Southern was a net buyer and that Ohio
8 Power was a net seller of energy in the pool. He
9 counted both the benefit and the cost of being a
10 member of the pool, correct?

11 A. He attempted to do the primary energy
12 calculation correctly. I think he made some
13 progress. I think the only thing I take issue with
14 there is the fact that he had Columbus Southern
15 buying from the pool and turning around and selling
16 that in the market, which wouldn't be permitted under
17 the pool. You buy primary energy for your native
18 load obligation.

19 Q. Now, in this part of your testimony
20 because of your criticism of Mr. Schnitzer that we've
21 been discussing here for the last few minutes, you
22 have a correction that I believe is included in the
23 \$112 per megawatt day number on page 6; is that
24 correct?

25 A. I'm sorry, is your question whether I

1 have a correction related to the pool?

2 Q. No, a correction with regard to your
3 criticism of Mr. Schnitzer assuming that CSP could
4 still purchase energy at cost from other members just
5 to flip the energy and make off-system sales and keep
6 the resulting margins.

7 A. Yeah, that's -- it's kind of buried in
8 our overall merger view of the combined company when
9 and we did correct that. Such that we eliminated
10 transaction between the two high companies. So this
11 is a merged view.

12 So you wouldn't have on the merged view
13 obviously CSP buying energy any longer under the
14 pool. The merged company would be the net seller.

15 Q. And what you did in your corrections to
16 his analysis was you zeroed out the purchases of
17 energy made by Columbus Southern and Ohio Power.

18 A. That's correct.

19 Q. Is that correct? Yes.

20 Now, do you know what the effect was of
21 that single adjustment?

22 A. I did do a sensitivity analysis and I
23 think the number of 303 would come down to if you
24 eliminated all the intercompany and they were net,
25 just the net seller into the pool, they become 288 I

1 believe.

2 Q. Now, what you --

3 A. However, that being said, I don't
4 recommend that.

5 Q. What you zeroed out was approximately
6 \$366 million in energy purchases from the pool by
7 both Columbus Southern and Ohio Power, correct?

8 A. That's correct.

9 Q. And that was a cost which Mr. Schnitzer
10 excluded in his analysis as a cost to AEP Ohio,
11 correct?

12 A. I'm not sure I'd characterize it that
13 way. Again, what he did is AEP -- you have to look
14 at each individual company and what he did was for
15 the Ohio Power Company he -- wherever you bought
16 energy he then sold that. He calculated the rate
17 that the energy was bought under the pool, they came
18 out to 25 mils. Then he turned around and he then
19 sold that energy in the market at say 36 mils and
20 created a margin on it and didn't MLR that.

21 But you know, beyond the -- he did
22 exclude it from the total generation sales in the
23 first instance.

24 Q. So both with the purchases and the sales
25 we had discussed, one is a cost, one is a benefit.

1 Your correction is that you zeroed out what
2 Mr. Schnitzer considered to be a cost to AEP -- AEP
3 Ohio.

4 A. Well, we --

5 Q. Is that right? Let me ask, did
6 Mr. Schnitzer consider that to be a cost to AEP Ohio?
7 The number, the \$366 million that you zeroed out?

8 A. Yeah, he would have considered both cost
9 and revenue in the sense that he resold it.

10 Q. If you just make that adjustment, the
11 impact of that correction itself lowers the capacity
12 revenue requirement in his analysis from 497 million
13 to 131 million, correct? Because that 366 million in
14 costs is reducing that number; is that right?

15 A. No, I can't agree with that.

16 Q. So you don't know?

17 A. No, I didn't do it that way. And what I
18 did was corrected his flaws. And what he's really
19 failed to do is reflect the fact, as he said on the
20 stand he did a modified pool. He didn't really
21 reflect the pool as it exists.

22 And he failed to MLR any energy margins
23 that would go to the other members of the pool. And
24 that's a major correction I made here.

25 And we can quibble about whether this

1 number should be 303 or 290 or 323, but the fact of
2 the matter is, you're not going to get to anything
3 around his number if you make -- if you treat the
4 pool as the way it's constructed today.

5 It can't be that sort of energy credit
6 because in fact the MLR for these two companies is
7 only 40 percent. So any reasonable calculation of
8 energy margin his number has to be reduced by
9 60 percent.

10 Q. And actually if you just make this
11 correction that we're talking about, if you pull out
12 his \$366 million in costs, his capacity rate goes
13 from \$162 per megawatt day to \$42 per megawatt day.
14 Do you understand that impact?

15 A. No, I don't understand that impact. I
16 don't know what you're talking about.

17 Q. Well, Mr. Schnitzer included both the
18 energy revenues from sales and the energy costs from
19 purchases and through your corrections you're only
20 including the energy revenues, correct?

21 A. No. We fixed his calculations as best we
22 could. We didn't correct everything. But we did fix
23 for the two major errors he had and I don't see any
24 way, shape, or form that you can come up with the
25 sort of numbers that you're suggesting. And that he

1 has another error in that. If you want to --

2 Q. We'll get there. I'm asking about this
3 one, \$366 million of costs that you pulled out
4 because that's a cost --

5 A. I pulled out of the revenues as well so I
6 wouldn't say that that's -- that's an issue on
7 consolidation between the two. And I don't agree
8 with the characterization of just pulling that out
9 and reduce it -- I'm sorry, what number did you say
10 it would reduce it to?

11 Q. Reduce his number to \$42 per megawatt
12 day.

13 A. Okay. Well, I can't agree with that.

14 Q. Well, it's because, as you said, you
15 haven't run the calculation.

16 A. I've run the calculation to correct his
17 errors and I would stand by my 303 as opposed to \$42.

18 Q. Well --

19 A. You'd have to show me his calculation and
20 I'd review it and tell you what's wrong. But I can't
21 sit here and tell you pulling out costs is a little
22 more complex than that.

23 Q. If you pull out \$366 million of costs but
24 don't change the revenue side, then --

25 A. I told you what we did is on

1 consolidation we eliminated that amount --

2 EXAMINER TAUBER: Let's just stop. I
3 understand it's late in the day at this point in time
4 but if you could answer the questions as they're
5 posed and if you could allow him to answer the
6 questions, I think both of you are talking over each
7 other and it's difficult for the Bench to hear and I
8 think for other parties to hear. So if we could try
9 to be conscious on both ends.

10 MR. LANG: Yes, your Honor.

11 EXAMINER TAUBER: Thank you. So now in
12 light of that we probably will redo the question.
13 Mr. Lang, you want to ask the question?

14 Q. Well, if you pull out \$366 million of
15 costs and don't change the revenue side, I understand
16 you made other adjustments having different things to
17 do with what we're not talking about here, but if you
18 pull out the \$366 million of costs and don't touch
19 the revenue side, then the energy revenues that you
20 calculate are going to be higher than those
21 calculated by Mr. Schnitzer. That's just math,
22 right?

23 A. It's math but it doesn't make any sense
24 to me.

25 Q. Fair enough.

1 Now, the MLR adjustment, do you agree
2 that the most significant correction you make on page
3 6 is the inclusion of the member load ratio and the
4 effect that it has on AEP Ohio's retained energy
5 margins?

6 A. Yes, in terms of magnitude that's
7 probably the biggest adjustment.

8 Q. So if the Commission did not accept the
9 MLR adjustment, but did accept all of your other
10 adjustments, the capacity rate that you show on page
11 6 of your rebuttal testimony would be much lower,
12 wouldn't it?

13 A. You're talking about the 303 would come
14 down?

15 Q. Yes.

16 A. Correct.

17 Q. Now, isn't it true that the maximum above
18 market capacity rate, again, if the Commission did
19 not accept the MLR adjustment but accepted all your
20 other adjustments, then the capacity rate would
21 likely be even lower than the \$162 calculated by
22 Mr. Schnitzer?

23 THE WITNESS: Could you repeat?

24 (Record read.)

25 A. No, I don't see that because I've got 162

1 plus 43 minus 14 for my other adjustments.

2 Q. But that also does not include pulling
3 out the energy sales that is part of that
4 \$112 number, correct? Which we talked about --

5 A. No, that's not one of my adjustments so I
6 wouldn't characterize that.

7 Q. The MLR adjustment that you say should be
8 made, what is the impact of that on the other pool
9 members other than Columbus Southern and Ohio Power?

10 A. This is a hypothetical calculation for
11 charging getting a proper energy credit so I'm not
12 sure in a sense it has any impact at this time.

13 Obviously we do have some switching
14 customers and when those customers switch, it frees
15 up energy to sell to market and the other members of
16 the pool get their share of the off-system sales
17 energy sale.

18 Q. I'm asking you're making an adjustment,
19 an MLR adjustment to Mr. Schnitzer's energy revenue
20 and that adjustment is to take approximately
21 41 percent of that energy revenue; is that correct?

22 A. Yes. The energy credit that would stay
23 with the AEP Ohio companies would be about
24 41 percent.

25 Q. What happens to the other 59 percent?

1 A. It goes to the other members.

2 Q. Now, at page 5, lines 9 through 10, I
3 think you briefly referenced that, you're referring
4 to you believe that Mr. Schnitzer used a 2009 peak
5 instead of the 2010 peaks.

6 A. It appears that way, yes.

7 Q. Now, between the peak load contribution
8 for AEP Ohio and 2009 and 2010, which was higher?

9 A. 2010 was higher.

10 Q. So using the 2010 peak, all else equal,
11 lowers the maximum above market capacity price,
12 correct?

13 A. Yes, and that's shown on my table 6 as
14 the \$14 credit.

15 Q. Also at page 5, now lines 11 through 13,
16 you state that an adjustment for losses is also
17 required in order to compare Mr. Schnitzer's
18 corrected calculations in the stipulated capacity
19 charge. Is this something that you made an
20 adjustment for or not?

21 A. We did when we calculated the rate to get
22 apples to apples. The blended rate is \$201 after
23 losses. That's the charge to the CRES. We didn't
24 see where Mr. Schnitzer had done the loss
25 calculation, the 1.03 or the 3.4 percent loss factor,

1 so we added that in.

2 Q. And that was my question. Is that a
3 correction that you made to -- is that a correction
4 that's shown on your -- on page 6 of your testimony
5 with regard to losses?

6 A. Yes. And it's stated there says
7 correction from 2009 to 2010 CSP and Ohio Power peaks
8 and losses. So it's netted in that 14 million.

9 Q. So the 14 million, that includes both the
10 peak adjustment and your losses adjustment.

11 A. That's correct.

12 Q. Now, are you aware that Ms. Thomas
13 treated the \$255 per megawatt day rate identical to
14 Dr. Pearce's \$343.98 per megawatt day rate?

15 A. You'd have to ask Ms. Thomas about that.

16 Q. Are you aware of whether Ms. Thomas
17 adjusted for losses?

18 A. In what rate, I'm sorry?

19 Q. Well, when she's using capacity prices
20 that would compare to the \$255 per megawatt day in
21 her testimony, is she adjusting for losses?

22 A. You could ask her.

23 Q. Do you know?

24 A. Well, if she's comparing the 255, that's
25 an after-loss number. I mean it's just a stipulated

1 number but that's the number we would charge CRES
2 providers, and if there's a valid comparison of what
3 CRES providers are being charged to that number, both
4 should have losses.

5 Q. So you said the 255 is a stipulated
6 number. So it doesn't have a cost basis, correct?

7 A. That's correct.

8 Q. But you're still making a losses
9 adjustment to it or you're --

10 A. No, I'm saying it's the same thing in
11 there. But there's no additional charge. We don't
12 gross up to 255 for losses.

13 Q. So that's an assumption that you're
14 making that there are losses in the 255.

15 A. My assumption is that's what we're
16 actually charging CRES providers. That's another way
17 of saying it. There's no additional adjustments to
18 that number if that's what we agreed to in the
19 stipulation. So there won't be any further
20 adjustment to that number.

21 Q. Mr. Nelson, is it fair to say that
22 Mr. Schnitzer's testimony, first of all, other than
23 the corrections that you show in your testimony to
24 Exhibit MMS-5, did you review Mr. Schnitzer's
25 testimony?

1 A. I reviewed it at one point. I'm not sure
2 I read it from page to page. But I did obviously
3 when I rebutted just a limited part of
4 Mr. Schnitzer's testimony.

5 Q. Are you aware that his testimony does not
6 in any way rely upon the maximum above market
7 capacity rate to support his conclusion that the
8 stipulation ESP price is not more favorable than the
9 price under an MRO?

10 A. I don't know what his claim is there. I
11 suspect this wasn't the full extent of his testimony.
12 I would agree that he's probably made some other
13 claims.

14 Q. So you don't know one way or the other?

15 A. I know I believe he is recommending RPM
16 as the proper way, if that helps.

17 MR. LANG: That's all the questions I
18 have, your Honor.

19 EXAMINER TAUBER: Thank you.

20 Mr. Darr? Mr. Randazzo?

21 MR. NOURSE: Your Honor, could we inquire
22 or go off the record?

23 EXAMINER TAUBER: Let's go off the
24 record.

25 (Off the record.)

2229

1 (Recess taken.)

2 EXAMINER TAUBER: Let's go back on the
3 record.

4 Mr. Randazzo?

5 - - -

6 CROSS-EXAMINATION

7 By Mr. Randazzo:

8 Q. Mr. Nelson, we're making great progress
9 here; one of us talking so far.

10 Let's start with your testimony at page
11 2, and if you have any trouble hearing me or if I go
12 too fast, let me know. Or if I don't go fast enough.

13 Page 2, on line 17, you say there that
14 "the ETP cases were retail cases and they have no
15 bearing on wholesale rates charged to CRES
16 providers."

17 The ETP cases dealt with wholesale
18 issues, didn't they?

19 A. I'm sorry, could you give me the
20 reference again?

21 Q. Page 2, line 17, well, actually 16
22 through 18.

23 A. Thank you.

24 Q. You say there that "the ETP cases were
25 retail cases and have no bearing on the wholesale

1 rate charged to a CRES provider." See that?

2 A. Yes.

3 Q. Isn't it true that the ETP cases did deal
4 with wholesale issues?

5 A. Could you be more specific?

6 Q. Sure. RTO participation, regional
7 transmission organization participation.

8 A. Yes, but wholesale rate charged to CRES
9 providers I don't think they dealt with.

10 Q. Was there a supplier tariff approved in
11 the ETP?

12 A. Don't recall.

13 Q. You don't recall. You don't know whether
14 or not AEP Ohio, Columbus Southern Power and Ohio
15 Power have a supplier tariff that deals with the
16 relationship between the CRES supplier and the
17 electric distribution utility, you don't know that?

18 A. They may have a retail tariff dealing
19 with that but what I'm getting at here is they didn't
20 deal with the price charge for sale for resale.

21 Q. Okay, so when you're using wholesale
22 rate, you're talking there about sale for resale?

23 A. That's correct.

24 Q. And in the language that distinguishes
25 the jurisdiction of this Commission between the

1 jurisdiction of the Federal Energy Regulatory
2 Commission, the wholesale rate is sale for resale,
3 correct?

4 A. That's correct.

5 Q. Now, did the ETP cases deal with any
6 obligations that the electric distribution utility
7 might have to CRES suppliers? For example, to ensure
8 that the CRES suppliers were not exposed to
9 non-comparable or undiscriminatory rates? If you
10 know.

11 A. I don't know. I don't recall that.

12 Q. Did you go back and look at the ETP case
13 to look at what issues were addressed in the ETP
14 case?

15 A. No, I did not do that.

16 Q. And what was the scope of your
17 responsibility in the ETP or electric transition
18 proceeding?

19 A. Primarily with respect to unbundled fuel
20 clause as well as regulatory assets associated with
21 the affiliate mines.

22 Q. And in the ETP cases, am I correct or
23 actually had the original restructuring legislation,
24 otherwise known as Senate Bill 3, the fuel clause was
25 eliminated, right?

1 A. That's correct.

2 Q. Is there anything that -- if you're
3 aware, are you aware of any provisions in the state
4 policy, Section 4928.02, that refers to the
5 relationship between the EDU or electric distribution
6 utility and CRES suppliers?

7 A. No. I haven't looked at that provision.

8 Q. Do you know if the state policy is
9 designed to encourage diversity of suppliers?

10 A. No. I can't cite anything specific on
11 that. I don't recall anything specific. I wouldn't
12 be surprised.

13 Q. So you didn't go back and look at the
14 state policy that was adopted as part of the original
15 restructuring legislation, otherwise known as Senate
16 Bill 3, to determine whether or not there's anything
17 in the state policy that might deal with the
18 treatment of CRES suppliers; is that a fair
19 statement?

20 A. No. My rebuttal testimony is much more
21 narrow. It's on the issue of proper charge for CRES
22 providers at wholesale and that's the basis of my
23 statement on page 2 and elsewhere in my testimony.

24 Q. Okay. Now, on page 3, line 9, you
25 describe the -- you indicate there that you

1 participated in the ETP cases, correct?

2 A. Correct.

3 Q. And we just talked about the scope of
4 that participation, correct?

5 A. Correct.

6 Q. And the RSP cases, what was your
7 participation in the RSP or rate stabilization plan
8 cases? Do you remember?

9 A. I offered testimony on environmental
10 matters and identified some environmental costs to
11 help support the automatic increases that were
12 approved in that proceeding.

13 I may have covered some other topics but
14 I don't recall all the issues, but obviously the 4
15 percent cases characterized, the 4 percent cases grew
16 out of that RSP case and also dealt with
17 environmental recovery.

18 Q. And you say at line 9 continuing on to
19 line 10, that in these cases the Commission clearly
20 supported specific recovery of environmental
21 investments. Are you talking there about the RSP
22 cases or the ETP cases or both?

23 A. Yeah, both.

24 Q. Where in the ETP case --

25 A. I'm sorry, I thought you said RSP and

1 ESP.

2 Q. I asked about either of them and both.
3 Is the Commission's specific or support for specific
4 recovery of environmental investments reflected as
5 best you can recall in the ETP cases?

6 A. I don't remember anything specific around
7 environment for the ETP cases. I do remember
8 specifics for the RSP, the ESP, and the remand, et
9 cetera.

10 Q. And with regard to your recollection of
11 what the Commission did with environmental
12 investments in the rate stabilization plan case, was
13 there any specific environmental investment that was
14 identified in the rate stabilization plan cases that
15 the Commission authorized -- for which the Commission
16 authorized recovery? If you recall.

17 A. We did -- I think one of the other things
18 we requested in that case was we had some deferred
19 carrying costs on environmental, might have been
20 2003-2004, and we asked for recovery of that. We did
21 not get specific recovery of those deferrals but we
22 did get a POLR charge equal to that request.

23 And of course the RSP as I recall allowed
24 to us come back in for changes in rules and
25 regulations. And one of the rules and regulations

1 that we used was called the 4 percent provision was
2 the pure camera investment.

3 And the Commission approved automatic
4 increases for those and that was part of RSP. And
5 then of course as I mentioned we supported the -- I
6 think they were 7 percent per year for Ohio Power and
7 3 percent per year I supported that with showing how
8 much we were going to be spending on environmental.
9 I think that contributed to our getting those
10 particular increases.

11 Q. Okay. What portion of the rate that
12 emerged from the rate stabilization plan was
13 bypassable?

14 A. Mr. Randazzo, I can answer another way; I
15 don't recall anything specific being nonbypassable in
16 that, but. At least in the topics I dealt with.

17 Q. You indicated a couple of times, at least
18 my sense of your testimony is that the rates that AEP
19 was authorized to collect as a result of the rate
20 stabilization plan case were not market-based rates.
21 Did I fairly understand your testimony or the thrust
22 of your testimony?

23 A. Could you give me a reference?

24 Q. We'll get to it. Well, let me just ask
25 you, do you believe that the rates that the

1 Commission set in the rate stabilization plan case
2 authorized Columbus Southern and Ohio Power to
3 collect as a result of that rate stabilization plan
4 case for market-based rates?

5 A. I don't think it was -- the rates were
6 based on any look at the market. If that answers
7 your question.

8 Q. Would Mr. Craig Baker have been the one
9 to testify in that case with regard to relationship
10 between rates and markets, if you recall?

11 A. Mr. Baker was a witness in that case. He
12 may have testified to that.

13 MR. RANDAZZO: Your Honor, I'm handing
14 out what I'd like to have marked as IEU Exhibit 16, I
15 believe.

16 (EXHIBIT MARKED FOR IDENTIFICATION.)

17 Q. Mr. Nelson, do you have what has been
18 marked as IEU No. 16 for identification purposes
19 before you?

20 A. Yes.

21 Q. And would you accept, subject to check,
22 that that's the direct testimony of Mr. Baker in the
23 rate stabilization plan case, PUCO Case No.
24 04-169-EL-UNC?

25 A. Yes.

1 Q. Could you turn to page 14 of that
2 testimony? And would you read beginning at line 3 on
3 page 14, with the word "while." You can read
4 anything else you want, but from line 3 through line
5 11. Let me know when you're done.

6 A. Okay.

7 Q. Now, having seen Mr. Baker's testimony
8 from the rate stabilization plan case, otherwise
9 marked for identification as IEU Exhibit No. 16, and
10 on page 14, do you recall now that Columbus Southern
11 and Ohio Power took the position that the rates that
12 they proposed in the rate stabilization plan case
13 were reasonable substitute for market-based rates?

14 A. That's what Mr. Baker says here.

15 Q. And do you know whether or not the
16 Commission approved the proposed rates of Columbus
17 Southern and Ohio Power in the rate stabilization
18 plan case?

19 A. They approved some aspects of it. Other
20 parts of it may have not been approved.

21 Q. Well, with regard to the generation rates
22 that were proposed by Columbus Southern and Ohio
23 Power, and the increases in those generation rates
24 during the rate stabilization plan period, do you
25 know whether the Commission approved the proposal by

1 Columbus Southern and Ohio Power?

2 A. As I mentioned, they modified some
3 things. For example, I just talked about the
4 environmental deferral that they substituted that
5 POLR charge for. As far as are you specifically
6 thinking of the 7 percent increase suggested by Ohio
7 Power and 3 percent by Columbus Southern? I believe
8 they did approve that part of it.

9 Q. Now, in the next sentence after the one I
10 asked you to focus on, the one that begins on line 5,
11 is it fair to say that at the time during the rate
12 stabilization plan process Columbus Southern and Ohio
13 Power believed that one of the advantages of their
14 proposal was that if a CRES supplier could offer a
15 lower price, customers would be free to switch and
16 take advantage of the lower price?

17 A. Yes.

18 Q. Now, how many times has Columbus &
19 Southern and Ohio Power come to the Commission with
20 market-based pricing proposals that relied upon, at
21 least in part, measuring the capacity component
22 relative to PJM's RPM auction price, do you know?

23 THE WITNESS: Could you read that
24 question?

25 (Record read.)

1 Q. A simpler way to ask the question would
2 be, how many times has Columbus Southern or Ohio
3 Power advocated the use of RPM reliability pricing
4 model for purposes of establishing the capacity
5 component of a market-based price?

6 A. I don't know.

7 Q. Were you here earlier during the
8 cross-examination -- my cross-examination of
9 Mr. Hamrock?

10 A. This morning?

11 Q. No, this was a while ago in this
12 proceeding.

13 Let me just ask you directly: In the
14 electric security plan case that established the
15 rates that are presently in effect, did Columbus &
16 Southern and Ohio Power advocate the use of the
17 reliability pricing model capacity price for purposes
18 of computing a market-based price?

19 A. I'm not sure that we advocated it.

20 Q. Did you look at Mr. Baker's testimony
21 from that case?

22 A. I think you may have actually shown it to
23 me in one of the other proceedings somewhere along
24 the line.

25 Q. I'm very fond of it. Technically in

1 circumstances like this.

2 A. I think in the table we may have used
3 that as the capacity price.

4 Q. So any other --

5 A. Because of course at that point we hadn't
6 filed under the ROA for cost-based capacity price.
7 And in fact, yeah, I don't think we had filed our
8 cost-based capacity rate at that time so we would
9 have been using billing CRES providers RPM.

10 Q. Well, separate and apart from what you're
11 billing CRES providers, what I'm talking about now is
12 advocacy from Columbus Southern and Ohio Power in
13 favor of using RPM as the basis for computing a
14 market-based price.

15 A. I don't recall any advocacy. I think
16 your questions are better directed to Company Witness
17 Thomas. She would have been the one to review
18 whatever Mr. Baker did.

19 Q. Well, we have directed the questions to
20 Ms. Thomas and Mr. Hamrock and others, but you're
21 here --

22 A. They would be much more helpful.

23 Q. You're here talking about RPM, your
24 testimony is talking about RPM and how it's an
25 inappropriate thing to use and what I'm trying to get

1 from you, sir, is if you're aware --

2 A. I don't think in this rebuttal testimony
3 he mentioned RPM.

4 Q. Could I finish my question?

5 A. Yeah.

6 Q. Because we're falling into that nasty
7 thing that we didn't want to fall into. Okay?

8 How many times has Columbus Southern or
9 Ohio Power advocated in favor of the use of RPM for
10 purposes of determining a market-based price in
11 proceedings before the Commission in which the
12 Commission was focused on determining an appropriate
13 market-based price?

14 A. I don't know.

15 Q. Are you aware of any?

16 A. No, I'm not aware of any.

17 Q. Did you talk to any other people within
18 the, I think Mr. Hamrock called it the matrix, the
19 AEP matrix, did you talk to anybody else about the
20 extent to which Columbus Southern and Ohio Power
21 previously advocated in favor of relying on RPM for
22 purposes of determining a market-based price?

23 A. No, I didn't specifically ask that
24 question of anybody.

25 Q. If Columbus Southern and Ohio Power had

1 relied upon -- strike that.

2 MR. RANDAZZO: At this point I would like
3 to have marked for identification purposes as IEU
4 Exhibit No. 17, a document that is titled "Columbus
5 Southern Power Company's and Ohio Power Company's
6 Ormet related 2007 generation market price
7 submission."

8 (EXHIBIT MARKED FOR IDENTIFICATION.)

9 Q. Do you have what's been marked for
10 identification purposes, Mr. Nelson, as IEU
11 Exhibit No. 17?

12 A. Yes. Could you give me the
13 exhibit number?

14 Q. Seventeen.

15 A. And I take it your previous one with
16 Mr. Baker's testimony was 16?

17 Q. Sixteen, that's correct. Sometimes I
18 jump around though, so you're good to ask.

19 Would you accept, subject to check, that
20 this is a filing that was made by Columbus Southern
21 and Ohio Power to establish a market-based price
22 related to the implementation of a reasonable
23 arrangement with Ormet?

24 A. The caption says "market-priced
25 submission."

1 Q. Would you accept, subject to check, that
2 this document is what I described it is?

3 A. Yes.

4 Q. Would you -- have you seen this document
5 before, IEU Exhibit No. 17?

6 A. I don't recall seeing this.

7 Q. You're familiar with the fact that there
8 was a reasonable arrangement that was approved by the
9 Commission with Ormet that called for a determination
10 of a market-based price for purposes of determining
11 the amount of delta revenue that might be subject to
12 recovery from other customers, right?

13 A. I'm familiar with that.

14 Q. Yeah. And would you turn to Attachment
15 1? And the pages on Attachment 1 are not numbered,
16 but underneath the -- on the second page of
17 Attachment 1 under the -- in the paragraph titled
18 "Capacity Cost," you see that?

19 A. Yes.

20 Q. You can read it if you like, but does
21 this document refresh your recollection as to
22 Columbus Southern and Ohio Power having advocated in
23 favor of using RPM for purposes of establishing a
24 market-based capacity charge?

25 A. We used this RPM, appears for the purpose

1 of this particular calculation. I wouldn't
2 necessarily put more weight than it deserves.

3 Q. So from the document that I've shown you,
4 it's clear to you now that AEP Ohio or Columbus
5 Southern and Ohio Power have advocated in favor of
6 using RPM for purposes of determining the capacity
7 cost that was folded into the determination of a
8 market-based price in the Ormet context, correct?

9 A. Yes. In the Ormet context it appears to
10 be the case.

11 Q. Any other -- now that we've jogged your
12 memory here a little bit, any other examples that you
13 recall where Columbus Southern and Ohio Power have
14 advocated in favor of using a -- using RPM for
15 purposes of establishing the capacity component of a
16 market-based price?

17 A. 6 o'clock in the evening you're going to
18 have to jog it a lot harder. I don't recall anything
19 else.

20 Q. I can do that.

21 A. I was afraid you would.

22 Q. But you don't recall sitting here any
23 other examples.

24 A. Nothing comes to mind.

25 Q. Now, there's been a lot of discussion in

1 this case about how to determine a capacity charge
2 that applies to a CRES supplier. Do you believe that
3 the capacity charge that is provided to a customer
4 that is not receiving generation supply from a CRES
5 supplier should be cost based?

6 THE WITNESS: Could you please read the
7 question?

8 (Record read.)

9 A. Mr. Randazzo, are you talking about other
10 wholesale customers?

11 Q. No.

12 A. Retail customers?

13 Q. No.

14 A. I'm not sure.

15 Q. You understand that there's CRES
16 suppliers who provide generation supply to customers
17 that have switched and that if the customers have not
18 switched that Ohio Power and Columbus Southern
19 provide generation supply as default supply, correct?

20 A. Correct, under the SSO rates.

21 Q. Now, is it your view that the capacity
22 component of the generation supply price that is
23 charged customers that have not switched to a CRES
24 supplier should be cost based?

25 A. We don't have cost of service ratemaking

1 in Ohio any longer. Obviously we have our SSO rates
2 produce a reasonable rate of return. So what we'd
3 want to do with our SSO rates is recover our costs in
4 our decent return. But we don't necessarily have to
5 get into calculating specific capacity charge. And
6 we typically wouldn't have in general rate-making
7 proceedings. Only for those type of tariffs that
8 have a kW charge.

9 Q. So in your opinion you don't think it's
10 necessary for the capacity charge that is applied to
11 a CRES supplier to be developed in a comparable
12 fashion to the capacity charge that's embedded in the
13 default generation supplier; is that correct?

14 A. I don't know if it would be my choice.
15 Obviously we're stuck with the regimen we have here
16 in Ohio and it's not a cost-based supply or
17 cost-based generation calculation for the SSO
18 customers.

19 MR. RANDAZZO: Your Honors, I would ask
20 at this point in time a multi-page document
21 containing Columbus Southern Ohio Power responses to
22 various interrogatories be marked as IEU Exhibit No.
23 18.

24 (EXHIBIT MARKED FOR IDENTIFICATION.)

25 Q. Mr. Nelson, do you have before you --

1 this is No. 18. Do you have before you what's been
2 marked as IEU Exhibit No. 18?

3 A. Yes.

4 Q. And would you accept, subject to check,
5 that these are responses to the interrogatories that
6 were given to Ohio Power and Columbus & Southern by
7 FirstEnergy Solutions in the fourth set with the
8 interrogatories and requests for production of
9 documents listed on the top page of IEU Exhibit No.
10 18?

11 A. I'm sorry, Mr. Randazzo.

12 Q. Sirens. Lawyers get excited when they
13 hear sirens too.

14 Would you accept, subject to check, that
15 what has been marked for identification purposes as
16 IEU Exhibit No. 18 is a set of answers to
17 interrogatories from FirstEnergy Solutions in
18 FirstEnergy Solutions' fourth set of discovery and
19 the interrogatories and requests for production of
20 documents to which this document pertains is listed
21 on the top sheet? Would you accept that, subject to
22 check?

23 A. Yes.

24 Q. Now, we can look at any one of these.
25 Some of the responses are from Ms. Thomas. You

1 happen to be the author of one response in the pack.
2 But I'm going to ask you, is it your understanding
3 that Senate Bill 221 does not require rates for
4 generation service including capacity and energy to
5 be based on cost?

6 A. I would agree with that.

7 Q. Okay. And from the responses it's clear
8 that AEP Ohio has not conducted a cost-of-service
9 study for the unbundled generation service to retail
10 customers; is that correct?

11 A. That's correct.

12 Q. So if Senate Bill 221 doesn't require
13 generation service prices -- step back just a second.

14 Do you regard the provision of capacity
15 to be a generation-related function?

16 A. Yeah, generating capacity would be a
17 generation-related function.

18 Q. And now, if Senate Bill 221 does not
19 require that the generation prices and the capacity
20 and energy components of those prices be set based
21 upon costs, what -- is there a citation to some law
22 someplace that Columbus & Southern and Ohio Power
23 believe gives the Commission the ability to establish
24 a cost-based capacity charge?

25 MR. NOURSE: Your Honor, I object to the

1 extent it seeks a legal opinion.

2 Q. Well, Mr. Nelson, so we're clear, I'm not
3 asking you a legal opinion, I'm asking you about the
4 responses that were provided by non-lawyers in these
5 interrogatories. Okay?

6 As best you understand it is there some
7 provision in Senate Bill 221 that gives the
8 Commission the authority to establish a cost-based
9 capacity charge?

10 A. Mr. Randazzo, can you give me a reference
11 in my rebuttal testimony?

12 Q. You talk about a cost-based capacity
13 charge in your rebuttal testimony?

14 A. Yes, a wholesale cost-based capacity
15 charge. Senate Bill 221 wouldn't have dealt with a
16 wholesale capacity charge.

17 Q. Okay. But your -- the proposal that is
18 embedded in the settlement with regard to a capacity
19 charge is a proposal to have the Commission approve a
20 capacity charge, right?

21 A. It's a proposal to have the stipulation
22 accepted which resolves the 2929 case as part of that
23 stipulation. 2929 case would have addressed a
24 wholesale capacity charge for CRES providers.
25 However, as you know, we also, we would believe that

1 that's also a FERC jurisdictional issue. But the
2 stipulation takes us out of all that mess because
3 we've gone on board with the signing parties that
4 said that's a fair compromise on that case as well as
5 the ESP case.

6 Q. Well, given the time that you spent
7 before regulatory agencies, I'm sure you would agree
8 that before regulatory authority can approve a
9 charge, it has to have the authority to do so, right?

10 A. Well, if it's not challenged. I'm not
11 sure that's a true statement. For example, we've
12 agreed to withdraw our complaint at FERC. We've
13 agreed to -- or suspend it at this point.

14 If the stipulation is approved, we'll
15 actually withdraw our request for rehearing as well
16 as our 206 complaint and resolve the matter. So
17 that's the way I'd answer that.

18 Q. All right. The --

19 A. I don't know that we can have -- I can
20 tell you who has -- the Commission's giving up
21 jurisdiction or we're giving up jurisdiction. If
22 we're able to do that. But as long as we reach a
23 resolution to the matter that we're satisfied with,
24 we're not going to pursue the FERC.

25 Q. Okay. So in other words, you think that

1 the settlement that's been submitted in this case can
2 empower the Commission to do things that even the
3 Commission may not have statutory authority to do.

4 MR. NOURSE: I object.

5 MR. RANDAZZO: I'll withdraw the
6 question.

7 Your Honor, at this time I would like to
8 have marked for identification purposes IEU
9 Exhibit No. 19, I believe it is.

10 (EXHIBIT MARKED FOR IDENTIFICATION.)

11 Q. IEU Exhibit 19 has got the beautiful AEP
12 logo, "Second Quarter 2Q11 Earnings Release
13 Presentation, July 29, 2011."

14 Mr. Nelson, do you have IEU Exhibit No.
15 19 before you?

16 A. I do.

17 Q. And do you recognize these as the slides
18 that typically accompany the earnings -- quarterly
19 earnings call presentations with these slides being
20 associated with the 2011 second quarter earnings
21 release from American Electric Power?

22 A. Yes.

23 Q. Will you turn to page 11. Now, is it
24 correct that on a quarterly basis, at least on
25 quarterly basis, AEP reports information showing the

1 gross margin from various lines of business?

2 MR. NOURSE: Your Honor, I just object to
3 there's no relationship been established to his
4 rebuttal testimony.

5 EXAMINER TAUBER: Mr. Randazzo?

6 MR. RANDAZZO: Yes, your Honor. The
7 relationship will be shown in a few questions. I
8 believe there is a mismatch between the claim that a
9 CRES supplier has to pay in so-called cost-based
10 capacity charge and the notion that somehow we can
11 come up with a non-cost based charge that applies to
12 generation supply for default customers. I only have
13 a few questions in this area and I'll tie it together
14 very quickly.

15 EXAMINER TAUBER: Please continue,
16 Mr. Randazzo.

17 Q. (By Mr. Randazzo) Do you recall my last
18 question, Mr. Nelson?

19 A. No.

20 Q. Let me ask it again.

21 Am I correct that on a quarterly basis in
22 conjunction with earnings calls AEP provides
23 information to the investment community identifying
24 the gross margin earned from various lines of
25 business?

1 A. Yes.

2 Q. And in AEP vernacular, "gross margin"
3 would be essentially revenue exclusive of fuel
4 revenue and consumables; is that correct?

5 A. Generally the definition of "gross
6 margin" is revenue less cost of goods sold.

7 Q. In this case primarily fuel, correct?

8 A. That's the largest component. There
9 would be other variables, costs of production.

10 Q. Well, does AEP have a definition of
11 "gross margin" that it uses?

12 A. Yeah, I think it would be generation
13 revenue minus cost of goods sold which could be
14 defined as variable costs of production. But you've
15 got wires in here, wires business and so forth, so
16 it's a consolidated, it's not just generation.

17 Q. The major components of gross margin are
18 revenue and then you do a reduction for the direct
19 cost of fuel including consumption of chemicals,
20 emission allowances, and purchased power, right?

21 A. I think all those things would be
22 included, Mr. Randazzo. I don't know if that's the
23 total list.

24 Q. Okay. Let's go back to IEU Exhibit 19.
25 You see a line, line 2 for the Ohio companies?

1 A. You're on page 11?

2 Q. Yes, sir.

3 A. Yes.

4 Q. Now, the Ohio companies there would be
5 Columbus Southern and Ohio Power, right?

6 A. That's correct.

7 Q. And the East Regulated Integrated
8 Utilities would be the other operating utilities in
9 the AEP East side of the business, right?

10 A. That's correct.

11 Q. And the other utilities in the East
12 Regulated Integrated Utilities are for the most part
13 regulated based upon traditional cost-based rates,
14 right?

15 A. That's correct.

16 Q. Do you see the gross margin number that's
17 indicated on line 2 as being \$61 a megawatt hour?

18 A. I do.

19 Q. How much capacity cost is being recovered
20 by that gross margin?

21 A. I'd have no way of knowing just by
22 looking at this document.

23 Q. Well, is capacity cost being recovered
24 within that gross margin number?

25 A. Capacity costs are not included in the

1 gross margin number unless you consider purchased
2 power capacity.

3 Q. Well, the gross margin would provide the
4 contribution to recover fixed costs including
5 capacity costs, correct?

6 A. Well, it recovered the cost beginning on
7 line 9 through 15 -- or through 14.

8 Q. Well, the gross margin is the revenue
9 that's available to cover all fixed costs including
10 capacity costs, right?

11 A. Well, yeah, I'd say that's a fair
12 characterization. These other costs would -- there's
13 a little question about operation and maintenance
14 expense, sometimes that's considered variable, for
15 example, in pool we use one/half of that as variable.
16 So it's going to include your fixed costs, you can
17 see depreciation there. Earning a return in total
18 here for AEP.

19 Q. Right.

20 A. So it would be including most of your
21 fixed costs, yes.

22 Q. And you mentioned return. You're
23 referring to the return on equity component?

24 A. Yeah, in this instance it's net income.
25 But we could convert it to a return.

1 Q. So return on common equity would be a
2 portion of the fixed costs.

3 A. Yeah, that would be your cost to capital
4 particularly the equity to capital.

5 Q. Now, let's go back, how much contribution
6 to capacity costs was provided by the \$61 a megawatt
7 hour?

8 A. Well, the gross margin produced on an
9 actual basis is \$693 million.

10 Q. So there's some capacity costs being
11 addressed or covered by the gross margin from the
12 Ohio companies here, right?

13 A. Yes. And I think I recall that if you
14 look at AEP Ohio together they might be earning
15 11 percent return on equity total.

16 Q. And since you like to put them together,
17 I like to separate them, and one of them happens to
18 have significantly excessive earnings from time to
19 time.

20 A. And one significantly underearning.

21 Q. Let's turn to page 13 of IEU Exhibit No.
22 19, same line, Ohio companies line again, that would
23 be Columbus Southern and Ohio Power, right?

24 A. Yes.

25 Q. Now, the difference between page 13 and

1 page 11 is page 11 shows results for the second
2 quarter of 2011 versus second quarter of 2010,
3 whereas 13 shows year-to-date 2011 versus 2010
4 actual, right?

5 A. Yes.

6 Q. Again, East Regulated Utilities would be
7 primarily cost-based regulation with the rates and
8 charges established.

9 A. That's correct.

10 Q. And the Ohio companies' gross margin, as
11 we've discussed earlier, is a function of Ohio's
12 non-cost base rate setting.

13 A. It's a function of several things. It
14 would be a function of the retail rates, Ohio Power
15 also has wholesale sales. So it's a combination of
16 things. It's just not the SSO rates.

17 Q. But we don't know how much contribution
18 to overall capacity costs is being provided by that
19 gross margin number, at least as we sit here today;
20 is that correct? For the Ohio companies.

21 A. Could you be a little more specific on
22 that?

23 Q. No.

24 A. No?

25 Q. No. Can you answer that question?

1 A. I'll try.

2 (Record read.)

3 Q. For the Ohio companies.

4 A. Well, again, we don't know treatment of
5 O&M here, whether anything's considered variable.
6 You have to do cost of service to determine
7 specifically capacity costs.

8 What I can say is that that gross margin
9 would contribute to recovery of all the other items
10 on the line could produce a net income. But you
11 know, we don't in this instance have an income
12 statement just for the Ohio companies. So we don't
13 have the breakdown of the other all the numbers in
14 lines 9 through 14 for Ohio.

15 Q. Well, Mr. Nelson, you said you don't have
16 an income statement for the Ohio companies. You file
17 an income statement for the Ohio companies, Ohio
18 Power and Columbus & Southern, on an annual basis,
19 don't you?

20 A. Yes, I mean in this document we don't
21 have the income statement.

22 Q. So you have information within Ohio Power
23 and Columbus & Southern that you could identify the
24 extent to which the gross margin number that we just
25 talked about is providing contribution to recover the

1 capacity costs for Columbus & Southern and Ohio
2 Power, right? That could be done, you could identify
3 it.

4 A. Yeah, you can do it.

5 Q. Now, earlier you indicated that it was
6 your recollection that Ohio Power and Columbus &
7 Southern -- and I may have misunderstood the line of
8 examination, but I thought you said that Ohio Power
9 and Columbus & Southern didn't request transition
10 revenue for uneconomic generation plan in the
11 electric transition plan process. Did I
12 misunderstand you?

13 A. I don't remember that specific wording.

14 Q. Well, let's go at it directly.

15 Is it correct that Columbus Southern and
16 Ohio Power did request transition revenue for
17 generation -- uneconomic generation assets? Separate
18 and distinct from regulatory assets.

19 A. Our initial filing may have had it, a
20 request.

21 Q. Did you go back and look at it?

22 A. No, I didn't.

23 Q. And if I were to tell you that William
24 Forester was the witness in that case, would that jog
25 your memory at all?

1 A. I don't remember the specifics of that
2 request, Mr. Randazzo.

3 Q. Did you go back and take a look and see
4 what AEP, Columbus Southern and Ohio Power had agreed
5 to for purposes of resolving the issues in that case,
6 the ETP case?

7 A. I remember some of the provisions of the
8 stipulation which was a rate freeze for the
9 transition period. And we would amortize regulatory
10 assets against that, things like that. I don't
11 remember all the particulars in the stipulations
12 sitting here today.

13 Q. Do you recall whether or not Columbus
14 Southern and Ohio Power agreed in that ETP case to
15 not impose any lost revenue charges on any switching
16 customers?

17 A. I don't recall that specifically. But
18 are you talking during the term of that settlement
19 agreement?

20 Q. I'm talking about the stipulation and
21 recommendation that was filed on May the 8th, 2000,
22 in the ETP cases, Case Nos. 99-1729 and 99-1730.

23 A. Yeah, that stipulation was for the
24 transition period, 2001 through 2005. And then of
25 course we had a lot of changes since that time. The

1 stipulation only applied to that period.

2 Q. Okay. Interesting.

3 Would you agree that the -- that in order
4 to resolve the issues in that case, Columbus Southern
5 and Ohio Power agreed that neither of them would
6 impose any lost revenue charge on a switching
7 customer? Would you accept that, subject to check?

8 A. Yes, Mr. Randazzo.

9 Q. Thank you.

10 A. Again, I think that was during the 2001
11 through 2005.

12 Q. In your testimony you say that ETP case
13 was 2000 vintage, making me feel even older than I
14 am. Did Columbus & Southern and Ohio Power propose
15 to identify uneconomic generation-related costs based
16 upon 2000 vintage information?

17 A. Again, I don't recall how we did the
18 stranded cost calculation.

19 Q. So you don't recall whether or not the
20 Columbus & Southern and Ohio Power actually proposed
21 to update the calculation on an annual basis during
22 the period 2001 through 2005?

23 A. No, I don't.

24 Q. Now, at several places in your testimony
25 you refer to "market." Page 7, line 9, you have

1 "free market"; page 10, line 12, "below market."

2 When you use the word "market," what are you

3 referring to?

4 A. Well, on page 7 I'm referring to the fact
5 that we had elected FRR and our generation was not in
6 a competitive market. Generation plants we were
7 serving SSO load with those assets. That's what I'm
8 referring to as the free market.

9 Q. Okay, I understood that part of your
10 testimony. What I'm trying to get you to talk to me
11 about is how you would define what a market is. What
12 is "market"?

13 A. Lots of different definitions of
14 "market."

15 Q. What definition do you want us to use?

16 A. Well, it depends on the context of my
17 testimony.

18 Q. Well, that's a naughty word, "context."

19 A. I mean I like to be talking about going
20 to the North Market for dinner, but.

21 Q. In due time.

22 Okay, page 10, line 12. When you say --
23 when you use the word "market" there, what are you
24 referring to? Are you talking about retail market?
25 Are you talking about the wholesale market? Are you

1 talking about North Market?

2 A. Generally would be talking about the
3 wholesale market.

4 Q. So there's no question in your mind as to
5 whether or not there's a market.

6 A. Yeah, but market can mean a lot of
7 different things. For example, bilateral contracts,
8 I consider market-based contracts in the exception
9 that you got full -- you're negotiating with someone
10 on a price and that is market. Now PJM's RPM market,
11 I'm a little more skeptical that's a market.

12 Q. Well, today you are.

13 A. That's administratively determined
14 market, not a true market as I would define it.

15 Q. Today AEP is a little skeptical about RPM
16 but what I want you to talk to me about is you are,
17 on page 10, for example, line 12, you're making the
18 affirmative representation to this Commission that
19 the generation cost would be well below market, and
20 what I'm asking you to tell me is what definition of
21 market were you using to make the affirmative
22 representation?

23 A. Well, I'd be making the determination
24 that wholesale market in one instance but of course
25 that would translate into retail rates if a market

1 rate was charged to retail customers.

2 Q. So you're comfortable with the notion
3 that there is a wholesale market.

4 A. There is a wholesale market.

5 Q. And in fact in your testimony you invite
6 us to compare things relative to the wholesale
7 market, right?

8 A. Invite to compare?

9 Q. Strike the question.

10 EXAMINER TAUBER: Let's go off the
11 record.

12 (Off the record.)

13 EXAMINER TAUBER: Let's go back on the
14 record.

15 Q. Now, page 11, preliminary question,
16 Mr. Nelson, have you read the testimony of
17 Ms. Thomas?

18 A. Her rebuttal testimony?

19 Q. Any of her testimony. Let's start with
20 that.

21 A. I've read some of her testimony. I don't
22 think I specifically read her rebuttal testimony.

23 Q. Now, you say at page 11, line 7 --

24 THE WITNESS: Sorry, Laura.

25 Q. Huh?

1 A. I was just saying "sorry, Laura."

2 Q. If I had the luxury of not reading it I
3 might go there as well. I'm tortured by the fact
4 that we have to read all this stuff.

5 Page 11, line 7, and there you talk about
6 the MRO option, right?

7 A. Yes, I do talk about the MRO option.

8 Q. Thank you. Now, was the answer, the
9 sentence that starts "Even an MRO option," was that
10 sentence based on advice of counsel?

11 A. Counsel reviewed that sentence. I
12 believe, to correct myself.

13 Q. Okay. So there you say that the MRO
14 option under Senate Bill 221 involves a transition
15 period -- additional transition period of between six
16 to ten years before you get to a full market, right?

17 A. Yes.

18 Q. And that's your opinion.

19 A. My opinion based on reading the Duke
20 order.

21 Q. Thank you.

22 MR. RANDAZZO: Your Honors, if you would
23 be kind enough to take administrative notice of the
24 direct testimony of William Forester, Edward P. Kahn,
25 and John H. Landon, L-A-N-D-O-N, in Case Nos. 99-1729

1 and 99-1930, filed on December 30, 1999, I believe I
2 am done with the exception of one question.

3 MR. NOURSE: Let me respond to the
4 administrative notice request, your Honor?

5 EXAMINER TAUBER: Yes, please.

6 MR. RANDAZZO: If I may suggest, I have
7 one clarifying question of the witness and we can
8 deal with the administrative notice business.

9 EXAMINER TAUBER: Let's do this first
10 then.

11 Q. (By Mr. Randazzo) Mr. Nelson, when you
12 referred to the Duke order, you were referring to
13 the order the Commission issued in response to
14 Duke's application to establish to elect the MRO
15 option; is that correct?

16 A. That's correct.

17 MR. RANDAZZO: Thank you. I'm finished
18 with that question. I'm finished with my cross and
19 we can talk about administrative notice.

20 EXAMINER TAUBER: Thank you.

21 Mr. Nourse?

22 MR. NOURSE: The companies would not
23 object to Mr. Randazzo's proposal provided we also
24 take administrative notice of the opinion and order
25 in entry and rehearing in those cases?

1 MR. RANDAZZO: If we're bargaining here?

2 MR. NOURSE: That's my conditional

3 objection. So accept it they can rule.

4 MR. RANDAZZO: And for the Bench's --

5 EXAMINER SEE: For clarification.

6 MR. RANDAZZO: Yeah, for the Bench's
7 knowledge the witnesses I identified were the
8 witnesses that sponsored the transition cost request
9 that was submitted by Columbus Southern and Ohio
10 Power in the ETP case.

11 And rather than -- since this witness
12 talked about the ETP case but was not familiar with
13 it, I think the easiest thing to do is to take
14 administrative notice of what the companies actually
15 proposed in that case as explained in the testimony
16 that I just referenced.

17 EXAMINER TAUBER: We'll take
18 administrative notice of that at this time.

19 MR. RANDAZZO: And with that, your
20 Honors, I would move the admission of IEU -- what
21 have been marked for identification purposes as IEU
22 Exhibits 16 through 19: 16 being the prior testimony
23 of Mr. Baker; the Columbus Southern Ohio Power Ormet
24 market-based pricing filing; 18 being the
25 interrogatory responses to the fourth set of FES's

1 discovery; and the earnings call materials for the
2 second quarter of 2011 being IEU Exhibit No. 19.

3 MR. NOURSE: Your Honor, first can I
4 clarify your ruling on the administrative notice?
5 Does that include the opinion and order and entry of
6 rehearing?

7 EXAMINER TAUBER: Yes, we'll also take
8 administrative notice. I'm sorry, I did not clarify.

9 MR. NOURSE: With respect to the IEU
10 exhibits, no objection to 15 through -- I'm sorry, 16
11 through 18.

12 19 I believe there were only two slides
13 that were discussed. I would propose to have an
14 amended exhibit that would just involve those two
15 slides. I believe they were pages 13 and 11.

16 EXAMINER TAUBER: We'll note that. We
17 still have to finish cross-examination.

18 Ms. Hand?

19 MS. HAND: None, your Honor. Thank you.

20 EXAMINER TAUBER: Thank you.

21 Mr. Nourse, on redirect?

22 MR. NOURSE: Can I just have a two-minute
23 break, your Honor?

24 EXAMINER TAUBER: Sure. Let's go off the
25 record.

1 (Off the record.)

2 EXAMINER TAUBER: Let's go back on the
3 record.

4 Mr. Nourse, on redirect?

5 MR. NOURSE: Thank you, your Honor,
6 brief.

7 - - -

8 REDIRECT EXAMINATION

9 By Mr. Nourse:

10 Q. Mr. Nelson, earlier you had a discussion
11 with Mr. Lang I believe of the deferred fuel capacity
12 calculation. Do you recall that?

13 A. Yes.

14 Q. Does your adjustment to Witness
15 Schnitzer's calculation remove the effect of the
16 deferred fuel?

17 A. Yes, it does.

18 Q. You also had some questions from Mr. Lang
19 concerning Mr. Schnitzer's -- your corrections to
20 Mr. Schnitzer's energy offset calculation as
21 summarized in your table on page 6 of your testimony.
22 Do you recall that?

23 A. Yes.

24 Q. And if you took out the \$366 million of
25 purchases from Mr. Schnitzer's calculation, would you

1 also have to remove the revenues that were created by
2 those purchases?

3 A. Yes, you would.

4 Q. Thank you.

5 And finally, can you tell me in
6 connection with the discussion of off-system sales
7 margins to other member companies in the pool other
8 than AEP Ohio, are those margins retained or credited
9 to the customers?

10 A. For the other companies there's a sharing
11 provision. APCO in West Virginia passes through
12 100 percent. In Virginia they pass through about
13 75 percent of those margins. And then there's also
14 sharing provisions in Indiana, Kentucky, and in
15 Michigan.

16 MR. NOURSE: Thank you. That's all I
17 have, your Honor.

18 EXAMINER TAUBER: Thank you.

19 Mr. Maskovyak, any questions on recross?

20 MR. MASKOVYAK: No, your Honor.

21 EXAMINER TAUBER: Ms. Grady?

22 MS. GRADY: No, your Honor.

23 EXAMINER TAUBER: Mr. Lang?

24 MR. LANG: No, your Honors.

25 EXAMINER TAUBER: Mr. Randazzo?

1 MR. RANDAZZO: No, your Honor.

2 EXAMINER TAUBER: Ms. Hand?

3 Mr. Nelson, you may be excused. Thank
4 you.

5 So I understand there are no objections
6 to IEU 16, 17, and 18, and there's a proposal
7 regarding IEU Exhibit 19, Mr. Nourse?

8 MR. NOURSE: Yes. I believe there are
9 only two slides discussed and those are the only ones
10 that have a basis to be entered into the record I
11 believe.

12 EXAMINER TAUBER: Mr. Randazzo?

13 MR. RANDAZZO: Your Honors, this is one
14 of those things if I would have taken two pages out
15 of the document we would have been talking about the
16 context, so "context" seems to be a dominant
17 consideration.

18 I, quite frankly, don't care one way or
19 the other, but I don't see why given everything else
20 that's come in in the context of this case that you
21 should be bothered by separating individual pages of
22 an exhibit that's been marked and identified and
23 authenticated by the witness.

24 MR. NOURSE: Your Honor, these were
25 discrete items and the other slides don't provide any

1 context, they address different matters, so hence my
2 proposal. Sounds like Mr. Randazzo's agreeing to
3 that.

4 MR. RANDAZZO: If I may, your Honors.

5 EXAMINER TAUBER: Yes.

6 MR. RANDAZZO: The detail that may be of
7 use to the Commission is in here to help provide some
8 context is related to the off-system sales gross
9 margin and sharing, the last two pages of the
10 exhibit.

11 MR. NOURSE: That was already discussed
12 on redirect and no cross-examination questions were
13 asked.

14 EXAMINER TAUBER: At this time noting the
15 objections we'll admit IEU Exhibit No. 19. And
16 there's no objections to IEU Exhibit Nos. 16, 17, 18
17 so those will be admitted into the record as well.

18 (EXHIBITS ADMITTED INTO EVIDENCE.)

19 MR. RANDAZZO: Thank you, your Honor.

20 EXAMINER TAUBER: We have two outstanding
21 matters. The first one is FES's request to direct
22 the companies regarding Ms. Thomas's rebuttal
23 testimony, and we're going to direct them, direct the
24 companies to follow the same procedure as with the
25 testimony, as with the revised testimony.

1 MR. NOURSE: Okay. Your Honor, just so
2 I'm clear, earlier I think I referenced an answer in
3 the testimony --

4 EXAMINER SEE: You referenced page 4?

5 MR. NOURSE: Page 4.

6 EXAMINER SEE: And also indicated that
7 there were some workpapers that included that
8 reflected zero POLR from Ms. Thomas's testimony?

9 MR. NOURSE: Right. So you want us to
10 make that an exhibit?

11 EXAMINER SEE: Let's make that an exhibit
12 so that the record's clear.

13 MR. NOURSE: Okay. And we'd be happy to
14 do that on direct examination. Would you like us --
15 I mean parties already have that exhibit -- that
16 workpaper, excuse me. If there's anything else we
17 need to do besides do that on redirect?

18 EXAMINER TAUBER: I don't believe so.

19 MR. KUTIK: How about the other exhibits,
20 your Honor? That's only one exhibit.

21 MR. NOURSE: Sorry?

22 MR. KUTIK: That's only one exhibit. How
23 about the other exhibits?

24 MR. NOURSE: Again, I'm trying to clarify
25 because I thought the question was the context of

1 POLR which is what the answer on the bottom of page 4
2 addresses.

3 EXAMINER SEE: What other exhibits were
4 you referring to, Mr. Kutik?

5 MR. KUTIK: Well, there are three
6 exhibits.

7 EXAMINER SEE: Attached to Ms. Thomas's
8 testimony?

9 MR. KUTIK: LJT R-1, 2, 3. And we would
10 ask all those exhibits be modified to the extent they
11 need to be to reflect zero POLR charges.

12 MR. NOURSE: Can Ms. Thomas just indicate
13 on direct -- that additional direct that Exhibits 1
14 and 2 were not changed by zero POLR? And then do the
15 workpaper as Exhibit R-3A or whatever?

16 I'm sorry, I stated that wrong. The R-1
17 is the one she could make the exhibit. The workpaper
18 as a page 2 of R-2 to reflect zero POLR, as
19 referenced in the existing testimony.

20 So I guess my point is on Exhibit 2, the
21 zero's not going to change the bottom but you want us
22 to change numbers up above.

23 MR. RANDAZZO: Mr. Nourse, if I may, it
24 appears to us that if the 2516 number that's on
25 Ms. Thomas's LJT-3 has POLR in it, then the 2516

1 number on line 1 of R-1 is 2516 as well.

2 MR. NOURSE: I think I covered R-1 but we
3 were getting to R-3. So I guess again, pending
4 question on R-2, zero at the bottom's not going to
5 change. You want us to change the numbers at the
6 bottom.

7 MR. KUTIK: I think the request was
8 simple: To the extent there are calculations in
9 exhibits that reflect a POLR charge of \$1.12, those
10 should reflect a POLR charge to zero. And I
11 understand that's the Bench's ruling.

12 EXAMINER SEE: Bench requested that the
13 direct testimony of witnesses be revised to
14 incorporate their decision in the remand case.

15 Were you about to further explain,
16 Mr. Nourse?

17 MR. NOURSE: Well, I honestly can't agree
18 that other witnesses have been directed to do that
19 even under motions. But we are trying to do that and
20 I'm trying to clarify what needs to be done at this
21 late hour for the hearing first thing in the morning.
22 So do you want us just to undertake and do that,
23 we'll do that.

24 EXAMINER SEE: Yes. If the rebuttal
25 testimony could be revised to reflect the decision in

1 the remand case to totally eliminate POLR, then let's
2 also revise Ms. Thomas's to the extent that it
3 doesn't to eliminate POLR from the current ESP
4 charges.

5 EXAMINER TAUBER: We'll also rule on the
6 IEU motion to strike tomorrow morning as well before
7 we go into the testimony.

8 So with that said, we will adjourn for
9 today and reconvene tomorrow morning at 10 a.m.
10 Thank you. Let's go off the record.

11 (Discussion off the record.)

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

14 Mr. Nourse?

15 MR. NOURSE: Your Honor, I just renew my
16 motion for admission of AEP Exhibit 21.

17 EXAMINER TAUBER: Are there any
18 objections to AEP Ohio Exhibit 21, the revised
19 testimony, rebuttal testimony of Mr. Nelson?

20 Hearing none, AEP Ohio Exhibit 21
21 rebuttal testimony of Mr. Nelson shall be admitted.

22 (EXHIBIT ADMITTED INTO EVIDENCE.)

23 EXAMINER TAUBER: Let's go off the
24 record.

25 (Thereupon, the hearing was adjourned at

2277

1 6:58 p.m.)

2 - - -

3 CERTIFICATE

4 I do hereby certify that the foregoing is
5 a true and correct transcript of the proceedings
6 taken by me in this matter on Wednesday, October 26,
7 2011, and carefully compared with my original
8 stenographic notes.

9
10
11 Karen Sue Gibson, Registered
12 Merit Reporter.

13 Julieanna Hennebert, Registered
14 Merit Reporter.

15 (KSG-5435)

16 - - -
17
18
19
20
21
22
23
24
25

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

10/28/2011 10:42:43 AM

in

Case No(s). 10-2376-EL-UNC, 11-0346-EL-SSO, 11-0348-EL-SSO, 11-0349-EL-AAM, 11-0350-EL-AAM

Summary: Transcript Transcript of Columbus Southern Power Company and Ohio Power Company hearing held on 10/26/11 - Vol XII electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.