

1 BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

2 - - -

3 In the Matter of the :  
 4 Application of Columbus :  
 5 Southern Power Company :  
 6 and Ohio Power Company, :Case No.11-351-EL-AIR  
 7 Individually and, if :Case No.11-352-EL-AIR  
 8 Their Proposed Merger is :  
 9 Approved, as a Merged :  
 10 Company (collectively AEP :  
 11 Ohio) for an Increase in :  
 12 Electric Distribution :  
 13 Rates. :

14 - - -

15 In the Matter of the :  
 16 Application of Columbus :  
 17 Southern Power Company :  
 18 and Ohio Power Company, :Case No.11-353-EL-ATA  
 19 Individually and, if :Case No.11-354-EL-ATA  
 20 Their Proposed Merger is :  
 21 Approved, as a Merged :  
 22 Company (collectively AEP :  
 23 Ohio) for Tariff Approval.:

24 - - -

25 In the Matter of the :  
 Application of Columbus :  
 Southern Power Company :  
 and Ohio Power Company, :Case No.11-356-EL-AAM  
 Individually and, if :Case No.11-358-EL-AAM  
 Their Proposed Merger is :  
 Approved, as a Merged :  
 Company (collectively AEP :  
 Ohio) for Change to :  
 Accounting Methods. :

26 - - -

## 27 PROCEEDINGS

28 Before Gregory Price and Mandy L. Willey,  
 29 Attorney Examiners, at the Public Utilities  
 30 Commission of Ohio, 180 East Broad Street,  
 31 Columbus, Ohio, Hearing Room 11D, on Wednesday,  
 32 November 30, 2011, commencing at 2:00 p.m.

APPEARANCES:

American Electric Power  
By Mr. Matthew J. Satterwhite  
Mr. Steven T. Nourse  
Ms. Anne M. Vogel  
One Riverside Plaza  
Columbus, Ohio 43215-2373

On behalf of the Companies.

Bruce J. Weston, Interim Ohio Consumers'  
Counsel  
By Ms. Maureen R. Grady and  
Mr. Larry S. Sauer  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215-3485

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

Williams, Allwein & Moser, LLC  
By Mr. Christopher J. Allwein  
1373 Grandview Avenue, Suite 212  
Columbus, Ohio 43215

On behalf of the Natural Resources  
Defense Council.

Bell & Royer Co., LPA  
By Mr. Barth Royer  
33 South Grant Avenue  
Columbus, Ohio 43215

On behalf of the Ohio Department of  
Development.

Bricker & Eckler  
By Ms. Lisa G. McAlister  
Matthew W. Warnock  
100 South Third Street  
Columbus, Ohio 43215-4291

On behalf of the OMA Energy Group.

APPEARANCES - continued:

Ohio Hospital Association  
By Mr. Richard L. Sites  
155 East Broad Street, 15th Floor  
Columbus, Ohio 43215-3620

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

On behalf of the Ohio Hospital  
Association.

Boehm, Kurtz & Lowry  
By Mr. Michael L. Kurtz  
36 East Seventh Street, Suite 1510  
Cincinnati, Ohio 45202-4454

On behalf of the Ohio Energy Group.

Eckhart Law Offices  
By Mr. Henry W. Eckhart  
1200 Chambers Road, Suite 106  
Columbus, Ohio 43212-1703

On behalf of the Sierra Club.

McNees, Wallace & Nurick  
By Mr. Joseph E. Olikier  
Mr. Matthew Pritchard  
Mr. Samuel C. Randazzo  
Mr. Frank P. Darr  
Fifth Third Center, Suite 1700  
21 East State Street  
Columbus, Ohio 43215

On behalf of the Industrial Energy  
Users of Ohio.

Ms. Colleen Mooney  
231 East Lima Street  
P.O. Box 1793  
Findlay, Ohio 45839-1793

On behalf of Ohio Partners for  
Affordable Energy.

APPEARANCES - continued:

FirstEnergy Corp.  
By Mr. Mark A. Hayden  
76 South Main Street  
Akron, Ohio 44308

and

Calfee, Halter & Griswold, LLP  
By Mr. Alexander M. Trevor  
1100 Fifth Third Center  
21 East State Street  
Columbus, Ohio 43215-4243

and

Calfee, Halter & Griswold, LLP  
By Mr. James F. Lang  
Ms. Laura McBride  
1400 Key Bank Center  
800 Superior Avenue East  
Cleveland, Ohio 44114

On behalf of FirstEnergy Solutions  
Corporation.

Mike DeWine, Ohio Attorney General  
William L. Wright, Section Chief  
By Mr. Werner L. Margard, III  
Mr. Stephen A. Reilly  
Mr. Devin D. Parram  
180 East Broad Street, Sixth Floor  
Columbus, Ohio 43215-3793

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

Bricker & Eckler, LLP  
By Ms. Benita Kahn  
100 South Third Street  
Columbus, Ohio 43215-4291

and

Hogan Lovells, US, LLP  
By Mr. John Davidson Thomas  
Columbia Square  
555 Thirteenth Street, NW  
Washington, DC 20004

On behalf of the Ohio Cable  
Telecommunications Association.

APPEARANCES - continued:

Ohio Poverty Law Center  
By Mr. Michael R. Smalz  
Mr. Joseph V. Maskovyak  
555 Buttles Avenue  
Columbus, Ohio 43215

On behalf of the Appalachian Peace  
and Justice Network.

- - -

INDEX TO WITNESSES

- - -

NRDC	PAGE
Dylan Sullivan	
Direct by Mr. Allwein	12
Examination by Examiner Price	13

- - -

OCC	PAGE
Wilson Gonzalez	
Direct by Ms. Grady	29
Examination by Examiner Price	30

- - -

1	INDEX TO EXHIBITS		
2	- - -		
3	JOINT	ID'd	AD'd
4	1 - Stipulation and Recommendation		
5	filed November 23, 2011	10	11
6	- - -		
7	COMPANY	ID'd	AD'd
8	1 - Columbus Southern Power and Ohio		
9	Power Company Applications filed		
10	January 27, 2011	10	11
11	2 - Proofs of Publication of		
12	Application	10	11
13	3 - Proofs of Publication for		
14	Hearings	10	11
15	4 - Selwyn Dias Testimony in Support		
16	of Stipulation	10	11
17	5 - David Roush Testimony in Support		
18	of Stipulation	10	11
19	- - -		
20	NRDC	ID'd	AD'd
21	1 - Direct Testimony of Dylan		
22	Sullivan on behalf of the NRDC	13	27
23	- - -		
24	OCC	ID'd	AD'd
25	1 - Direct Testimony of Wilson		
	Gonzalez in Support of the		
	Stipulation on behalf of OCC	28	42
	- - -		

1 Wednesday Afternoon Session,  
2 November 30, 2011.

3 - - -

4 EXAMINER PRICE: Good afternoon.  
5 The Public Utilities Commission of Ohio has set  
6 for hearing at this time and place Case Nos.  
7 11-351-EL-AIR, et al., being in the Matter of  
8 the Application of Columbus Southern Power  
9 Company and Ohio Power Company, individually,  
10 and if their Proposed Merger is Approved, as a  
11 Merged Company (collectively AEP Ohio) for an  
12 Increase in Electric Distribution Rates.

13 My name is Gregory Price. With me is  
14 Mandy Willey. We are the Attorney Examiners  
15 assigned to preside over today's hearing.

16 Let's go ahead and take any  
17 additional appearances from parties who did not  
18 have an opportunity to make an appearance last  
19 time we were on the record.

20 MR. ROYER: Thank you, Your Honor.  
21 On behalf of the Ohio Department of Development,  
22 Barth Royer, Bell & Royer Co., LPA, 33 South  
23 Grant Avenue, Columbus, Ohio.

24 EXAMINER PRICE: Thank you. Anybody  
25 else? Mr. Allwein?



1                   MR. ALLWEIN: Christopher Allwein  
2 with Williams, Allwein & Moser on behalf of  
3 NRDC, 1373 Grandview Avenue, Suite 212,  
4 Columbus, Ohio 43212.

5                   EXAMINER PRICE: Thank you.

6                   MR. O'BRIEN: Mr. Examiner, I wasn't  
7 -- I believe Mr. Sites entered the appearance  
8 for the Ohio Hospital Association previously. I  
9 can't recall, because I wasn't here, whether or  
10 not Lisa McAlister appeared on behalf of the OMA  
11 Energy Group. So out of abundance of caution,  
12 may I enter that appearance?

13                  EXAMINER PRICE: Yes.

14                  MR. O'BRIEN: On behalf of the OMA  
15 Energy Group, Lisa G. McAlister, Bricker &  
16 Eckler, LLP, 100 South Third Street, Columbus,  
17 Ohio 43215. Thank you.

18                  EXAMINER PRICE: Thank you. Mr.  
19 Satterwhite, would you like to proceed?

20                  MR. SATTERWHITE: Yes, Your Honor. I  
21 talked with the parties, and it's my  
22 understanding there is no cross-examination of  
23 the company witnesses. But at this time, I'd  
24 like to mark some of the exhibits that were  
25 referenced in the Stipulation as well as the

1 testimony.

2 EXAMINER PRICE: Please proceed.

3 MR. SATTERWHITE: I provided copies  
4 ahead of time to the Court Reporter. First is  
5 Joint Exhibit 1, which will be the Stipulation  
6 and Recommendation filed on November 23, 2011.

7 And then Company Exhibit 1 will be,  
8 as referred to in the Stipulation, the Columbus  
9 Southern Power and Ohio Power Company  
10 Applications filed January 27, 2011. We didn't  
11 reproduce the over 2000 pages of that, and hope  
12 we can cite to the record the docket for that  
13 one.

14 Company Exhibit 2 is the Proofs of  
15 Publication for the Application. I provided a  
16 copy of that to the Court Reporter.

17 Company Exhibit 3 is the Proofs of  
18 Publications for the Hearings. I also provided  
19 the Court Reporter a copy of that.

20 Company Exhibit No. 4 is the  
21 Testimony in Support of the Stipulation of  
22 Selwyn Dias filed on November 29, 2011.

23 And Company Exhibit 5 is the  
24 Testimony of David Roush in Support of the  
25 Stipulation.

And at this time, if my understanding is correct, there are no questions and I would move those for admission.

EXAMINER PRICE: Any objections to the admission of Joint Exhibit 1 and Company Exhibits 1 through 5? Hearing none, they will be admitted.

(EXHIBITS HEREBY ADMITTED.)

EXAMINER PRICE: Any other witnesses  
for us today? Mr. Allwein, do you want to take  
Mr. Sullivan now?

MR. ALLWEIN: Yes. Thank you, Your Honor.

— — —

called as a witness on behalf of the NRDC, being first duly sworn, testified as follows:

EXAMINER PRICE: Please state your  
name and business address for the record.

THE WITNESS: Dylan Sullivan, Staff  
Scientist, Natural Resources Defense Council, 2  
North Riverside Plaza, Chicago, Illinois, Suite  
2250, 60606.

EXAMINER PRICE: Proceed, Mr.  
Allwein.

1 MR. ALLWEIN: Thank you, Your Honor.  
2 May I approach the witness?

3 EXAMINER PRICE: You may.

4 - - -

5 DIRECT EXAMINATION

6 By Mr. Allwein:

7 Q. Mr. Sullivan, can you identify the  
8 document that I just handed you?

9 A. In front of me is my direct testimony  
10 and the Electricity Journal article I wrote, or  
11 co-wrote, which is attached to it.

12 Q. And was this document produced by you  
13 or under your direction and supervision?

14 A. Yes, it was.

15 Q. And do you have any changes that you  
16 need to make to this document today?

17 A. I do not.

18 Q. And the document, if you were asked  
19 the same questions today that were asked in the  
20 document, would your responses be the same as  
21 those in the document?

22 A. Yes.

23 MR. ALLWEIN: With that I offer this  
24 witness for cross-examination.

25 EXAMINER PRICE: You want to mark

1 that first?

2 MR. ALLWEIN: Sorry. Yes. I would  
3 like to mark the document as NRDC Stipulation  
4 Exhibit 1.

5 EXAMINER PRICE: So marked.

6 (EXHIBIT HEREBY MARKED.)

7 MR. ALLWEIN: Thank you.

8 EXAMINER PRICE: Any questions for  
9 Mr. Sullivan on cross? I have a couple. I  
10 appreciate you hanging around. I understand you  
11 were in town but waiting to get on a plane, so  
12 I'll try to be brief.

13 - - -

14 EXAMINATION

15 By Examiner Price:

16 Q. My first question relates to the 3  
17 percent cost cap in the decoupling rider.

18 A. Yes.

19 Q. Do you consider that to be a benefit  
20 to the public interest?

21 A. I consider the cost cap to be a  
22 feature of the mechanism that makes it -- that  
23 makes parties in the case more comfortable with,  
24 you know, the application of something that's  
25 new to Ohio.

1           Q.    I guess I don't think that's  
2 responsive. Do you think that's a benefit to  
3 ratepayers? The test the Commission has to  
4 review is whether the stipulation as a package  
5 provides a benefit to ratepayers in the public  
6 interest. What I'm asking is do you consider  
7 the 3 percent cost cap to be a benefit to  
8 ratepayers in the public interest?

9           A.    Yes.

10          Q.    Okay. Now, you have testified  
11 before at the Commission, have you not?

12          A.    I have.

13          Q.    In fact, you testified in Case No.  
14 10-388-EL-SSO; is that correct?

15          A.    Yes, I did. That's the First Energy  
16 ESP case?

17          Q.    Yes, it is. And you were asked a  
18 question, "Using that rate adjustment method can  
19 result in percentage adjustments to base rates  
20 of more than 2 percent, correct?"

21               And you responded, "That's correct.  
22 But since the year 2000 and the twelve rate  
23 adjustments that Miss Lesh identifies in her  
24 paper, no decoupling adjustment has been larger  
25 than 3 percent, either a refund or a surcharge."

1 That was your testimony; is that correct?

2 A. That was my testimony.

3 Q. So ultimately you went on to say  
4 that the 3 percent would only represent special  
5 cases that would receive 3 percent; is that  
6 right?

7 A. I think so, yes.

8 Q. So if historically they have never  
9 gone above 3 percent, isn't the benefit to the  
10 public by the 3 percent cap illusory? You're  
11 hedging your risk against something that has  
12 never happened or has not happened in twelve  
13 cases since 2000?

14 A. I don't think that the prevention of  
15 the mechanism of unnecessary volatility or  
16 volatility in general is an illusory benefit, so  
17 I disagree. And, of course, the mechanisms that  
18 have been operating, as I testified to back in  
19 10-388, haven't produced that level of  
20 volatility, but I think it's -- you know, of  
21 course, we can't predict the future here and,  
22 you know, preventing, you know, a bad outcome is  
23 what we're trying to do here.

24 Q. Now, is there anything about AEP  
25 Ohio's rate structure or demographics that led

1 you to believe this is a special case, one that  
2 would be outside of the norm that we've seen so  
3 far?

4 A. No.

5 Q. And the 3 percent cap, just in  
6 general, it simply delays the ultimate  
7 reconciliation. AEP is not foregoing anything  
8 over 3 percent for one given year; it simply is  
9 delaying it to the future.

10 A. Well, that's true.

11 Q. It may be offset by lowering.

12 A. Exactly, that's my point.

13 Q. But ultimately AEP will collect.

14 A. In the next year, of course, it could  
15 be offset by a rate decrease under the mechanism.

16 Q. Or could not.

17 A. Or could not, yeah.

18 Q. You write a blog.

19 A. I do write a blog.

20 Q. I like lengthy paper trails. You  
21 wrote a posting on November 19, 2009.  
22 "Decoupling: Shelling out fewer Buckeye State  
23 bucks for energy," and in that you wrote, "The  
24 Public Utilities Commission of Ohio regulates  
25 the gas and electric utilities in the state. It



1 has already deployed in Ohio's gas utilities one  
 2 imperfect option for addressing the problems  
 3 described above: moving all fixed costs to a  
 4 fixed charge that doesn't vary with usage. This  
 5 makes a utility indifferent to lower energy  
 6 consumption, but it reduces customer incentives  
 7 to use less energy because their energy bill  
 8 doesn't change as much when they use less  
 9 energy. It also punishes customers who already  
 10 use less energy than average." Is that correct?

11 A. That's correct.

12 Q. Does that sound familiar?

13 A. Yes.

14 Q. So basically you believe that what  
 15 this Commission did in the gas cases is  
 16 imperfect for two reasons: it reduces the  
 17 customer incentives and punishes customers who  
 18 use less energy.

19 A. Yes

20 Q. Straight fixed variables have been in  
 21 effect for the gas cases for the winters of  
 22 2009-2010 and 2010 through 2011; is that  
 23 correct?

24 A. I don't know the details of that.

25 Q. Have you performed any study to

1 determine whether the factors that you believe  
2 in 2009 were a problem with straight fixed  
3 variables actually turned out to be problems in  
4 practice across the gas utilities in the two  
5 years that we have had straight fixed variables?

6 A. I haven't done that in the case of  
7 the gas utilities in Ohio.

8 Q. So the answer to my question would be  
9 no?

10 A. So the answer is no; but in recent,  
11 in a recent case in Illinois, which I didn't  
12 testify in but I did analysis that helped inform  
13 the testimony of Mr. Galvanon who testified, I  
14 did look at the impact on payback periods of  
15 energy efficiency investments from a movement to  
16 higher fixed charges in the electric context.  
17 And, you know, ComEd is a utility like AEP that  
18 we're just talking distribution only, and as you  
19 would expect, it did lengthy payback periods,  
20 and I don't have the testimony right in front of  
21 me, but it was a real effect.

22 Q. Well, certainly it would have a real  
23 effect because distribution rates are covering  
24 fixed charges, are they not? You wouldn't  
25 expect the distribution portion to be

1 contributing to energy efficiency projects  
2 because it's covering fixed charges, right?

3 Well, we'll get to that.

4 As I understand it from some of the  
5 things you have written, decoupling has three  
6 factors: impacts the throughput incentive, it  
7 preserves customers' incentives to conserve, and  
8 it shifts costs, and it may shift costs within  
9 and between intraclass. Some forms of  
10 decoupling will shift costs.

11 A. Yes, they will.

12 Q. Let's take those factors. With  
13 respect to preserving customers' incentives to  
14 conserve, getting back to what I was saying  
15 about the fixed distribution costs, if  
16 distribution costs are fixed, doesn't the  
17 decoupling adjustment rider provide a false  
18 signal to customers to conserve?

19 A. You know, to the extent that it does,  
20 it preserves the existing --

21 Q. Answer my question first, yes or no,  
22 and you can tell me to the extent.

23 A. Can you repeat the question, please?

24 (Question read.)

25 Q. Assuming the distribution costs are,

1 in fact, fixed.

2 A. I disagree that it's a false signal.

3 Q. Why not?

4 A. I don't think that it's a false  
5 signal because we have customer charges that are  
6 designed to collect customer-related costs.

7 Q. What makes you say that?

8 A. That that's what the staff does --  
9 when the staff, in my understanding, reviews the  
10 company's cost studies they --

11 Q. You're saying the customer charge  
12 itself, the monthly customer charge itself is  
13 only designed to collect customer-related costs,  
14 or is designed to collect all customer-related  
15 costs?

16 A. It's designed to collect  
17 customer-related costs, and so there are costs  
18 provided distribution service that are  
19 definitely customer-related, and there are other  
20 costs that are demand-related. That's basically  
21 how costs are allocated.

22 Q. I understand. I'm thinking through  
23 what you're saying.

24 A. So, you know, unless we put a demand  
25 meter on, you know, every customer premise.

1           Q.    Do you believe that as the  
2   residential customers within that class itself,  
3   utilities provide different facilities based  
4   upon different demands, or do you believe that  
5   residential customers, the facilities are  
6   basically -- the demand is the same across all  
7   residential customers?

8                   Let's stay away from the interclass  
9   question, just the intraclass question for  
10   residential consumers. Do you have any  
11   knowledge as to whether or not utilities  
12   differentiate amongst residential customers on a  
13   demand basis in the type of facility they put  
14   in, or do they put the same facility in every  
15   residence?

16           A.    I think there's some distribution  
17   facilities that are based upon how much demand  
18   is on the system, and that's why they're  
19   classified as demand-related. So it sounds to  
20   me like what you are referring to are things  
21   like line drops to the customer's house,  
22   billing, billing systems, the meters.

23           Q.    In the beginning of this I said  
24   assume all costs are fixed, the costs to  
25   residential customers are all the same. You're

1 getting to the argument, no, the costs to  
2 residential customers are different; is that  
3 right? You're arguing it is not a false signal  
4 because customers' demand is different, right?

5 You're arguing the decoupling rider  
6 does not provide a false signal because demand  
7 to customers is different; is that correct?

8 A. I'm arguing that decoupling doesn't  
9 present a false signal because the aggregate  
10 impact of customer demand influences the need  
11 for investment in the system.

12 Q. But for an individual customer that's  
13 been allocated in a Commission rate case, the  
14 residential customer is going to get X costs in  
15 the revenue requirement for an individual  
16 customer. They have got their portion they have  
17 got to recover, and if they go out there and  
18 implement some energy efficiency measure and  
19 lower their usage, their bill is going to go up  
20 the next year to account, to allow the utility  
21 to get it up to the authorized rate of return?

22 A. Well, their bill is going to go up.  
23 If everybody -- if everybody in the -- sorry.  
24 Can you repeat what you just said?

25 EXAMINER PRICE: I'm not sure I can.

1 We'll have her read it back.

2 (Question read.)

3 A. So, basically, an individual customer  
4 who installs a CFL under this proposal, under  
5 the Throughput Balancing Adjustment Rider, and  
6 they're not going to be on an individual  
7 customer basis having to make up for the fact  
8 that they installed that CFL, if everybody in  
9 the service territory does it, then yes, they  
10 will; but so the answer is no.

11 Q. Okay. Well, that's fair. So  
12 basically, those costs will be shifted. The  
13 costs will be shifted from the customer that's  
14 participating in energy efficiency to the  
15 customer that's not participating in energy  
16 efficiency; is that right?

17 A. That's right, but it's going to be a  
18 small shift.

19 Q. I'm just asking if that's correct.  
20 The costs are going to shift. Your criticism of  
21 the straight fixed variable is that it shifts  
22 costs to customers, to low use customers, right?

23 A. Yes.

24 Q. In fact, you say it punishes low use  
25 customers. So even if it's just a small shift,

1 it's still a small punishment. So I'm saying,  
2 the alternative is true too.

3 A. But the alternative would be a larger  
4 punishment, right? That the impact of going to  
5 straight fixed variable on a low use customer is  
6 going to be more than the 3 percent.

7 Q. It depends on the usage. It may.  
8 For an average customer, it wouldn't have any  
9 effect, would it? For an average customer, it  
10 would have no impact?

11 A. No.

12 Q. So we're having a cost shift. With  
13 straight fixed variable it may shift it from low  
14 use customer to low use customer, but what  
15 you're proposing would shift the costs to  
16 non-participating customers in energy  
17 efficiency. Is that fair?

18 A. I think you have to look at the  
19 totality of what this is doing and I think in  
20 context, in the context of the other benefits of  
21 the rider, but yes, that is fair.

22 Q. Isn't it a regulatory principle that  
23 costs should go to the cost causer?

24 A. That is a regulatory principle.  
25 There's a lot of other regulatory principles as



1 well.

2 Q. Yes. Another one is gradus?

3 A. Yes.

4 Q. Now, does the TBA do anything to  
5 gradually move costs to the cost causer or does  
6 it perpetuate the current system of volumetric  
7 user pays more?

8 A. It really says nothing about that,  
9 actually.

10 Q. So it doesn't accomplish anything in  
11 terms of gradus?

12 A. What it does, it prevents a  
13 non-gradual outcome like what you're talking  
14 about. If the Commission were to adopt straight  
15 fixed variable overnight, that would be a  
16 non-gradual outcome. But, you know, decoupling  
17 is being instituted in the context of this  
18 settlement, and it could easily be instituted in  
19 part of a settlement that moves to, you know, a  
20 full cost customer charge or that puts -- that  
21 puts more charges into monthly fixed charges. I  
22 mean, this alone isn't saying anything about  
23 proper rate design.

24 Q. Okay. That's good. Have you done  
25 any study to determine participation in energy

1 efficiency programs by income?

2 A. No, I haven't.

3 Q. So you don't know whether low income  
4 customers participate disproportionately low,  
5 disproportionately high, the same as any other  
6 customer?

7 A. I don't know that. I do know, of  
8 course, that there are programs that are  
9 specifically targeted to low income customers  
10 and that AEP is making a very big effort to do  
11 that.

12 Q. But you have not studied  
13 participation rates?

14 A. No, but also in the residential  
15 context, the largest source of savings is  
16 lighting programs and everybody buys lighting,  
17 so everybody is able to participate in those  
18 programs.

19 Q. That's true. But many other  
20 conservation measures, energy efficiency  
21 measures require a more significant cash layout,  
22 cash investment up front?

23 A. That's true.

24 Q. Doesn't that disadvantage low income  
25 customers who may not have the ability to make

1 those up-front payments?

2 A. I think the way energy efficiency  
3 programs are designed now, low income customers  
4 have various easy avenues to participate in the  
5 programs, such as buying discounted light bulbs  
6 at Home Depot, participating in home-based  
7 weatherization programs. But in terms of doing  
8 a whole home retrofit, you're right.

9 EXAMINER PRICE: That's all I've got.  
10 Ms. Willey?

11 EXAMINER WILLEY: I don't have any  
12 questions.

13 EXAMINER PRICE: Thanks for sticking  
14 around. You're excused.

15 MR. ALLWEIN: Your Honor, I would  
16 move for admission of NRDC Exhibit 1 into the  
17 record.

18 EXAMINER PRICE: Any objection to the  
19 admission of NRDC Exhibit 1? Seeing none, it  
20 will be admitted.

21 (EXHIBIT HEREBY ADMITTED.

22 EXAMINER PRICE: Let's go off the  
23 record.

24 (Off the record.)

25 EXAMINER PRICE: Back on the record.

1 Mr. Sauer or Ms. Grady?

2 MS. GRADY: Ms. Grady.

3 EXAMINER PRICE: Next witness?

4 MS GRADY: Yes, Your Honor. Thank  
5 you. OCC would call to the witness stand Wilson  
6 Gonzalez.

7 - - -

8 WILSON GONZALEZ

9 called as a witness on behalf of OCC, being  
10 first duly sworn, testified as follows:

11 EXAMINER PRICE: Please provide and  
12 state your name and business address for the  
13 record.

14 THE WITNESS: Wilson Gonzalez, 10  
15 West Broad Street, Columbus, Ohio 43215.

16 EXAMINER PRICE: Ms. Grady, please  
17 proceed.

18 MS. GRADY: Thank you, Your Honor.  
19 Your Honor, at this point in time I would like  
20 to have marked as OCC Exhibit No. 1 the Direct  
21 Testimony in Support of the Stipulation of  
22 Wilson Gonzalez on behalf of the Office of  
23 Consumers' Counsel dated November 29, 2011.

24 EXAMINER PRICE: So marked.

25 (EXHIBIT HEREBY MARKED.)

1 DIRECT EXAMINATION

2 By Ms. Grady:

3 Q. Mr. Gonzalez, do you have before  
4 you what has been preliminarily marked as OCC  
5 Exhibit No. 1?

6 A. Yes, I do.

7 Q. Can you identify that document,  
8 please?

9 A. The Direct Testimony in Support of  
10 the Stipulation of Wilson Gonzalez.

11 Q. And Mr. Gonzalez, was this document  
12 prepared by you or under your direct  
13 supervision?

14 A. Yes, it was.

15 Q. And if I asked you today the  
16 questions that are posed in that document, would  
17 your answers be the same?

18 A. Yes, they would.

19 Q. Do you have any additions,  
20 corrections, deletions, or modifications to the  
21 testimony?

22 A. No, I don't.

23 MS. GRADY: Your Honor, at this time  
24 I would like to move for the admission of OCC  
25 Exhibit No. 1 subject to the cross-examination

1 by the parties.

2 EXAMINER PRICE: Thank you. Any  
3 cross-examination for Mr. Gonzalez?

4 - - -

5 EXAMINATION

6 By Examiner Price:

7 Q. Mr. Gonzalez, if you could turn to  
8 page 7 of your testimony, line 7 beginning with  
9 the word "Fourth." You testified, "Fourth, as a  
10 result of the implementation of the Throughput  
11 Balancing Adjustment Rider, AEP-Ohio will not  
12 automatically collect from customers an  
13 estimated \$45 million in net lost distribution  
14 revenues associated with its 2012-2014 energy  
15 efficiency/peak demand reduction plans." Is  
16 that correct?

17 A. That's correct.

18 Q. What makes you say that they would  
19 have automatically collected \$45 million in lost  
20 distribution revenues? Has the Commission  
21 authorized them to collect lost distribution  
22 revenues for 2012-2014?

23 A. The Commission has not because the  
24 case was just filed yesterday, but I was basing  
25 my answer on the previous three portfolios where

1 the Commission did authorize recovery for one  
2 year in that particular case and then modified  
3 the earlier settlement stipulation asking the  
4 company to basically file the rate case so that  
5 you could establish what distribution revenues  
6 are more up-to-date distribution.

7 Q. I was considering your answer with  
8 the phrase "automatically collect."

9 A. Yeah.

10 Q. That's okay. I'm going to give you a  
11 copy of the stipulation filed in 11-5568 EL-POR  
12 which was filed November 29. Can you show me in  
13 there where AEP will be permitted to collect  
14 lost distribution revenues?

15 A. There is no place in this settlement,  
16 I believe, where AEP would collect any lost  
17 revenues because this particular case and the  
18 distribution rate case had a certain  
19 relationship with respect to the collection of  
20 lost revenues. So to the extent --

21 Q. So if the Commission doesn't adopt  
22 the Throughput Balancing adjustment Rider, AEP,  
23 somehow through that stipulation, will get lost  
24 distribution revenues?

25 A. I'm looking to see if there's

1 different iterations. I appreciate your  
2 patience here.

3 Q. No problem. You can't be expecting  
4 to anticipate my questions.

5 A. There doesn't seem to be any  
6 provision for the collection of lost revenues.

7 Q. So when you cite in your testimony  
8 that there is a benefit to the public because  
9 AEP will not automatically collect \$45 million  
10 in net lost distribution revenues, that actually  
11 doesn't exist; that really is not a benefit.  
12 There's no provision for them to collect lost  
13 distribution revenues in the absence of this  
14 TBA; is that right?

15 A. No. I would go backward. I would  
16 say if the decoupling mechanism was not approved  
17 in this case, I think that would be a material  
18 change which may lead parties to withdraw,  
19 terminate, blow up the stipulation.

20 Q. That's not what I asked you, though.  
21 I said in the absence that you point as one of  
22 the benefits of the stipulation that otherwise  
23 AEP would collect \$45 million in lost  
24 distribution revenues, but there actually is no  
25 provision for them to collect lost distribution



1 revenues, so that's not a benefit at all. It's  
2 illusory.

3 A. That's not a benefit. The one thing  
4 I would say is that we've gone through four  
5 portfolios from different major Ohio IOUs and  
6 all of them have recovered lost distribution  
7 revenues, and AEP is the only one where those  
8 revenues were truncated because of particular  
9 circumstances; but, you know, the history, you  
10 know, in Ohio prior to these new portfolios is  
11 that the companies are entitled to --

12 Q. Don't you think Chairman Snitchler  
13 sent a very strong signal not long after he  
14 became Chairman that we would not be  
15 automatically -- the Commission would not be  
16 viewing with favor lost distribution revenue  
17 provision?

18 A. I said it in my testimony the first  
19 time.

20 Q. I know.

21 A. I think what the Commission, my  
22 interpretation of the Commission's concurrent  
23 opinion was that the traditional lost  
24 distribution mechanism that had been used in the  
25 past was going to be frowned upon.

1           Q.    Exactly.  And that's my point.  You  
2   said in the past we have approved it four times,  
3   and I'm saying but the new Chairman has said no,  
4   we need to do things differently.

5           A.    Yes, and this is the way to do it  
6   differently.  The other thing I would say, if  
7   you look at the Commission rules that were  
8   promulgated after Senate Bill 221 there is a  
9   provision that states the utilities may recover.

10          Q.    May collect.

11          A.    May collect.  It's permissive.

12          Q.    May.  Let's talk about the 3 percent  
13   cap.  Are you aware when you wrote your  
14   testimony citing the 3 percent cap, were you  
15   aware that according to Mr. Sullivan's study or  
16   the study cited by Mr. Sullivan no utility since  
17   2000 in twelve instances ever exceeded 3  
18   percent?

19          A.    I was familiar with that particular  
20   study, yes.  I had recorded it, quoted it,  
21   actually, in my testimony, my original  
22   testimony.

23          Q.    Don't you think that would have been  
24   worthwhile to point out to the Commission here,  
25   that this is a small benefit that is unlikely to

1 actually be triggered?

2 A. Well, the only thing I would say is I  
3 was in New England before the 2000 and I think  
4 the first decoupling experiments took place in  
5 Maine, and in that particular case, the  
6 balancing adjustment did exceed 3 percent. So  
7 there's some history to that, and it has  
8 happened, and depending on conditions --

9 Q. So the study cited by Mr. Sullivan is  
10 problematic in the sense that it sets it off; a  
11 larger time frame would have had probably more  
12 instances where it exceeds 3 percent?

13 A. Right. Yes

14 Q. Can you tell me how the rider  
15 proposed to be adopted in this case is different  
16 from the rider adopted by the Commission in the  
17 Vectren decoupling case 05-1444-GA-UNC?

18 A. I would have to search my memory for  
19 that one, but I would think that my recollection  
20 is that it was, the approved customer type  
21 decoupling mechanism in that respect was similar  
22 to this particular provision.

23 Q. So there is really no reason you can  
24 think of to distinguish the two; is that right?

25 A. Besides one was gas industry and the

1 other was electric industry.

2 Q. Well, that is a fair point. I was  
3 going to get into that later. From a  
4 distribution service perspective, is there  
5 really any reason to distinguish from electric?  
6 Both involve meters, correct?

7 A. Yes.

8 Q. Both involve billing.

9 A. Both have billings.

10 Q. They have intrastructure to the local  
11 commodity?

12 A. Yes. I would say the electric  
13 industry has more particular intrastructure in  
14 terms of transformers and so on.

15 Q. But the basics are similar?

16 A. Some of the basics, especially the  
17 customer charges, yes; customer specific  
18 charges, yes.

19 Q. Okay.

20 A. Metering, billing.

21 Q. Do you know Martin Kushler; Martin G.  
22 Kushler?

23 A. Yes, I do.

24 Q. Are you aware he offered testimony in  
25 05-1444-GA-UNC?

1           A.    Yes.

2           Q.    Are you aware that he answered the  
3 following to this question: "In your opinion, is  
4 it in the public interest to grant utilities a  
5 ratemaking decoupling mechanism if there is only  
6 very limited energy efficiency programs for  
7 customers?"

8                   Answer: "From a ratepayer advocacy  
9 perspective, decoupling can be seen as a policy  
10 that provides utilities with some downside  
11 protection against declining overall sales,  
12 which can be particularly helpful to natural gas  
13 utilities due to the widespread occurrence of  
14 stagnant or declining sales in recent years. In  
15 some cases, this can be an especially powerful  
16 and beneficial tool for utilities and can reduce  
17 or eliminate the risks associated with declining  
18 sales. I understand that the decoupling  
19 represents a break from traditional regulation  
20 in Ohio, as Staff witness Puican testified, and  
21 Vectren executive Niel Ellerbrook admits." Do  
22 you agree with that answer, that this provides  
23 the benefits to utilities?

24           A.    I believe in that particular  
25 circumstance, given that history in that

1 particular case, the facts before that case, I  
2 would say it's probably a true statement.

3 Q. He actually recommended three things  
4 to improve the stipulation that was entered in  
5 that case. One was increased company funding  
6 for efficiency programs; second was a cap on the  
7 amount of decoupling generated revenues the  
8 company can collect; and third was an adjustment  
9 on the company's rate of return to account for  
10 the company's reduced revenue shortfall risk.  
11 Is there an adjustment in this case to account  
12 for AEP's reduced risk?

13 A. Without disclosing settlement  
14 discussions that took place, I think there was  
15 an issue that came up and was, you know, that  
16 something -- that was an area where the  
17 stipulation as a whole reached an agreement  
18 landing on returns that the companies have in  
19 this particular case. So it was, you know, a  
20 negotiation, a settlement. It was a compromised  
21 document, and rates and returns on equity that  
22 were filed in that settlement is a composite of  
23 all the discussions that took place.

24 Q. So implicitly there's a downside  
25 adjustment. It's certainly not explicitly, but

1 implicitly there's a downside adjustment to the  
2 rate of return?

3 A. I would just say it was discussed and  
4 we landed at a certain rate of return. There  
5 was an issue. It was discussed along with a  
6 number of other issues related to that.

7 Q. If the decoupling rider is a benefit  
8 to the utility, where is the corresponding  
9 benefit to the customers?

10 A. I stated in my testimony a number of  
11 reasons why I thought there was a benefit, and I  
12 think Dylan also in his testimony discussed the  
13 throughput incentive that is very important in  
14 supporting what I understand is state energy  
15 policy in terms of promoting energy efficiency  
16 and mitigating pollution and so on.

17 Q. Okay. Fair enough. Let's talk about  
18 the three-prong. You testified that the  
19 settlement meets the Commission's three-prong  
20 test because it does not violate any important  
21 regulatory principal or practice; is that  
22 correct?

23 A. Yes.

24 Q. Would you agree that Commission  
25 precedence represents important regulatory

1 principles or practices?

2 A. Not being an attorney, I think the  
3 Commission precedence would be something  
4 effected when talking about regulatory  
5 practices.

6 Q. From a non-legal perspective, a  
7 policy perspective, would you consider adherence  
8 to Commission precedence to be a regulatory  
9 principle and practice? I'm not asking for a  
10 legal opinion.

11 A. I think in a particular case for a  
12 particular industry, yes.

13 Q. Would you say that's especially true  
14 after a Commission decision is affirmed by the  
15 Supreme Court?

16 A. Again, it is a non-legal opinion. I  
17 think to the extent that the decision is  
18 challenged at the Supreme Court and prevails, I  
19 think it has more veracity.

20 Q. Isn't it true that on four prior  
21 occasions the Commission has looked at balancing  
22 adjustment riders like the one proposed in this  
23 case, and opted for straight fixed variable rate  
24 design in lieu of that?

25 A. Again, that was the natural gas -- in



1 the natural gas industry, that was the case, yes.

2 Q. And in fact, in three of those cases  
3 those Commission decisions were appealed to take  
4 to the Supreme Court and the Commission was  
5 affirmed.

6 A. That's right.

7 Q. But you don't believe that that's a  
8 precedent that the Commission needs to follow in  
9 this case?

10 A. I believe the electric utility  
11 industry has, you know, has its -- is different  
12 enough that I think you would look at -- you  
13 should give the electric industry a fresh look  
14 in terms of --

15 Q. In what respect isn't it?

16 A. I think that things happen. For  
17 example, in the discussion you had with Dylan, I  
18 believe, for example, with the electric, the  
19 electrification of transport can really change.  
20 I know utilities, for example, are now looking  
21 at recycling transformers. You put in a  
22 rechargeable station in your house, one of these  
23 quick charge, you may be pulling 19 kV of power  
24 which is twice as much as a normal house. And  
25 if you have anything else on, it has

1 implications on the distribution system. I  
2 think that change is going on in the  
3 distribution system, that that can play into a  
4 reconsideration of rate design.

5 EXAMINER PRICE: Okay. Fair enough.  
6 I think that covers all my questions.  
7 Ms. Willey?

8 EXAMINER WILLEY: I have no questions.

9 EXAMINER PRICE: You're excused.

10 MS. GRADY: At this time I would move  
11 for the admission of OCC Exhibit 1.

12 EXAMINER PRICE: Any objection to OCC  
13 Exhibit 1? Hearing none, it will be admitted.

14 (EXHIBIT HEREBY ADMITTED.)

15 EXAMINER PRICE: Anything further  
16 for the bench?

17 MR. SATTERWHITE: Can I verify Joint  
18 Exhibit 1 and Company Exhibits 1 through 5 were  
19 admitted? I think you said that.

20 EXAMINER PRICE: I intended to. To  
21 the extent I didn't, Company Exhibits 1 through  
22 5 and Joint Exhibit 1 are admitted.

23 Let's go off the record.

24 (Off the record.)

25 EXAMINER PRICE: Back on the record.

1 Would any of the parties who are non-signatory  
2 parties care to state their position with  
3 respect to the stipulation? Mr. Alexander?

4 MR. ALEXANDER: Thank you. Trevor  
5 Alexander on behalf of FES. FES does not object  
6 to the partial stipulation.

7 EXAMINER PRICE: Mr. Olier?

8 MR. OLIKER: On behalf of Industrial  
9 Energy Users of Ohio, we take no position for or  
10 against the stipulation.

11 EXAMINER PRICE: Thank you. At this  
12 time, the case will be submitted to the  
13 Commission on the record and we are adjourned.

14 - - -

15 Thereupon, at 2:50 p.m. the hearing  
16 was concluded.

17 - - -

18

19

20

21

22

23

24

25

CERTIFICATE

I do hereby certify that the foregoing  
is a true and correct transcript of the  
proceedings taken by me in this matter before  
the Public Utilities Commission of Ohio on  
Wednesday, November 30, 2011.

\_\_\_\_\_  
Iris I. Dillion  
Registered Professional  
Reporter.

- - -

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**12/13/2011 12:18:50 PM**

**in**

**Case No(s). 11-0351-EL-AIR, 11-0352-EL-AIR, 11-0353-EL-ATA, 11-0354-EL-ATA, 11-0356-EL-AAM, 1**

Summary: Transcript Transcript of the Columbus Southern Power Company and Ohio Power  
Comany hearing held on 11/30/11 electronically filed by Mrs. Jennifer Duffer on behalf of  
Armstrong & Okey, Inc. and Dillion, Iris I. Mrs.