

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of: :
: Case No. 12-1230-EL-SSO
The Application of The :
Ohio Edison Company, :
The Cleveland Electric :
Illuminating Company, :
and The Toledo Edison :
Company for Authority to :
Provide for a Standard :
Service Offer Pursuant to :
R. C. Section 4928.143 in :
the Form of an Electric :
Security Plan. :

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PROCEEDINGS

before Mr. Gregory Price and Ms. Mandy L. Willey,
Hearing Examiners, at the Public Utilities Commission
of Ohio, 180 East Broad Street, Room 11-C, Columbus,
Ohio, on June 8, 2012, called at 9:00 a.m.

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VOLUME IV - Rebuttal

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Friday Morning Session,

June 8, 2012

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EXAMINER PRICE: Let's go on the record.

Good morning. The Public Utilities Commission has set for hearing at this time and this place, Case No. 12-1230-EL-SSO, being In the Matter of the Application of The Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan.

My name is Gregory Price. With me is Mandy Willey. We are the attorney examiners assigned to preside over today's hearing. This is day four of our hearing.

Mr. Kutik.

MR. KUTIK: Your Honor, the companies for their rebuttal witness calls Robert B. Stoddard.

(Witness sworn.)

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

THE WITNESS: My name is Robert B. Stoddard. I'm Vice President and head of the Energy

& Environmental practice at Charles River Associates,
and its principal office is at 200 Clarendon Street,
T-33, Boston, Massachusetts 02116.

EXAMINER PRICE: Please proceed,
Mr. Kutik.

MR. KUTIK: Your Honor, we have provided
to the court reporter and we ask to have marked as
Company Exhibit 14 the Rebuttal Testimony of Robert
B. Stoddard on behalf of the Ohio Edison Company, the
Cleveland Electric Illuminating Company and the
Toledo Edison Company.

EXAMINER PRICE: So marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

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ROBERT STODDARD

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

DIRECT EXAMINATION

By Mr. Kutik:

Q. Mr. Stoddard, do you have before you what
has been marked as Company Exhibit 14?

A. Yes, sir.

Q. What is that?

A. This is the rebuttal testimony I prepared
on behalf of the companies.

1 Q. Do you have any additions or corrections
2 to make to this testimony?

3 A. Yes. There's one very minor correction.
4 On page 4, at line 22, the word "supplier" should be
5 plural, "suppliers."

6 Q. Do you have any other additions or
7 corrections to make at this time?

8 A. No. That's the only correction.

9 Q. If I asked you the questions that appear
10 in Company Exhibit 14 for identification, would your
11 answers be the same as appear in that document as
12 amended by you today?

13 A. Yes.

14 MR. KUTIK: No further questions.

15 Thank you.

16 EXAMINER PRICE: Mr. Howard.

17 MR. PETRICOFF: No questions, your Honor.

18 EXAMINER PRICE: Mr. Kurtz.

19 MR. KURTZ: No questions.

20 EXAMINER PRICE: Mr. Lavanga.

21 MR. LAVANGA: No questions.

22 EXAMINER PRICE: Mr. Kapla.

23 MR. KAPLA: I have a few questions, your
24 Honor.

25 - - -

CROSS-EXAMINATION

By Mr. Kapla:

Q. Good morning, Mr. Stoddard.

A. Good morning.

Q. On page 12, lines 19 through 21 of your testimony, you postulate that incremental auction prices are likely to be higher than the BRA price because the economy may pick up; is that correct?

A. I think that mischaracterizes my testimony slightly. I say there is a growing risk that the incremental auctions will clear. This is in the context that two of the recent incremental auctions PJM actually had to buy back capacity, and, consequently, that lowered the price in those incremental auctions below the base residual auction price.

I think it unlikely, given the direction of the economy, particularly in this part of the world, that they will have that buy-back situation again, and we may, in fact, find if the economy really picks up, there's a growing risk which is different than predicting that that will happen.

Q. Now, will the incremental auction prices be lower than the BRA price solely where PJM has to buy back?

1 A. Not necessarily. I mean, the incremental
2 auction prices could be above or below the base
3 residual auction price. That would depend upon the
4 offers and bids to buy in those auctions, which could
5 depend upon a number of factors.

6 Q. And do you know how often the incremental
7 auction prices have been higher than the BRA price?

8 A. So far there's only been one instance
9 where that has occurred in the first incremental
10 auction for, I believe, planning year '13-'14 in
11 eastern MAAC, the auction cleared above the base
12 residual auction. But I say there have been some
13 material rule changes starting for the auctions held
14 in 2011 that were designed to put those incremental
15 auction clearing prices closer to the base residual
16 auction rather than the chronic discount they had
17 been before 2011.

18 Q. So pre-2011 it was the majority of the
19 time.

20 A. It was, absolutely. It was every time
21 because of the particular form of the auction. That
22 was corrected by the tariff.

23 Q. And have you quantified the economic
24 growth sufficient to produce a higher incremental
25 auction price in the BRA in capacity?

1 A. No, sir.

2 Q. On page 3, line 16 to 18 of your
3 testimony, you say that capacity prices are now known
4 to a high degree of certainty. Do you see that?

5 A. Yes, sir.

6 Q. Does that mean that the 2015-2016 BRA
7 will largely determine the price consumers will have
8 to pay for capacity?

9 A. Yes. Nearly all of the resources that
10 are going to fit into the capacity price have now
11 been procured. Their price is fixed. The
12 incremental auctions clear a small amount one way or
13 the other. The only other factor that remains open
14 are the scaling factors for load variability --
15 excuse me, for load losses and for certain other
16 technical matters, but within -- within a very small
17 band, we know what the prices are for that final
18 year.

19 Q. And that band starts with the 294 per
20 megawatt-day that the consumers will pay in ATSI?

21 A. Correct. The 294 is the beginning part.
22 That's the blended average after the credit for
23 transfer rights in, and then there will be scaling
24 factors up for that and adjustment factors for the
25 incremental auctions.

1 Q. And is it your opinion that the
2 incremental auctions will have a major effect on the
3 price consumers will pay?

4 A. No, sir. I think the incremental
5 auctions will have a very marginal effect.

6 Q. So is it the BRA that sets the clearing
7 price?

8 A. The BRA clearing price is the principal
9 factor in setting the price consumers pay in the
10 final instance.

11 Q. On page 9, line 12 of your testimony, you
12 mention that there were predictions of BRA capacity
13 price for the ATSI zone for 2015-2016 may range as
14 high as \$537 per megawatt -- per megawatt-day; is
15 that correct?

16 A. Yes, sir.

17 Q. Do you have a cite for that price?

18 A. 537 is 1.5 times the net CONE price, so
19 that's the cap price which under the tariff you
20 couldn't go above.

21 Q. That's the maximum for ATSI?

22 A. That's the maximum for ATSI.

23 Q. And do all zones within PJM have a price
24 like that?

25 A. They all have a maximum price. It

1 varies, depending on what the particular net CONE for
2 the region is.

3 Q. And are you aware of any zone that hits
4 the max price?

5 A. No, sir.

6 Q. Are you aware of any zone that got as
7 close to maximum price as the ATSI zone?

8 A. Not in this BRA, but certainly in base
9 residual auctions before, we have seen the clearing
10 prices above the relative position on the curve than
11 this.

12 Q. On lines 6 and 7 also of page 9, you
13 mention that deactivation of capacity may trigger the
14 need for transmission upgrades and/or additional
15 capacity resources; is that correct?

16 A. Yes, sir.

17 Q. And when you say trigger the need, what
18 do you mean by that?

19 A. I mean that there would be a need for
20 additional investment in transmission to bring
21 additional reliable sources of power into the zone or
22 additional investment in planned, as yet unbuilt,
23 capacity resources in the zone.

24 Q. And to have an effect on the BRA capacity
25 price, those resources would have to exist prior to

1 the auction or to be bid into the auction.

2 A. They would have to be bid into the
3 auction.

4 Q. And I believe lines 12 through 16, also
5 on page 9, you say that transmission upgrades
6 implemented by PJM had a material effect on capacity
7 price; is that right?

8 A. Yes, sir.

9 Q. So is it your opinion that these
10 transmission upgrades help lower your predicted or
11 the maximum 537 megawatts-per-day price to the final
12 357 just for capacity within ATSI?

13 MR. KUTIK: May I have the question read,
14 please?

15 EXAMINER PRICE: You may.

16 (Record read.)

17 MR. KUTIK: Your Honor, perhaps counsel
18 misspoke. I don't believe this witness has testified
19 there was -- that he predicted a -- the price over
20 \$500.

21 EXAMINER PRICE: Can you rephrase,
22 Mr. Kapla?

23 Q. You predicted maximum price.

24 A. With that change, let me restate the --
25 my answer in full. The -- one of the contributing

1 factors to the final clearing price for annual
2 resources inside the ATSI zone being 357 rather than
3 a higher price, for instance, the capped price of
4 537, was the additional transmission capacity that
5 was modeled by PJM.

6 Q. Okay. And can you quantify how much
7 effect the transmission has on the price?

8 A. No, sir.

9 Q. But it was a lowering factor?

10 A. It's certainly lower.

11 Q. Do you know exactly which projects and
12 why and how -- not how much, but which projects have
13 a --

14 A. Well, the -- the answer is no, and I
15 don't think anyone outside PJM can parse that out,
16 just to be clear, and I see that I have -- I have an
17 exhibit set beside me, the Transmission Expansion
18 Advisory Committee Recommendations to the PJM Board
19 that's been marked as the Company Exhibit 8, lists a
20 whole range of transmission, part of which was
21 modeled before the auction.

22 All we see externally is a change in the
23 capacity emergency transfer limit and the capacity
24 emergency transfer objective which I discuss in my
25 testimony. We don't know what -- how that parses

1 out, that calculation PJM does internally.

2 Q. On page 13, lines 20 through 22 of your
3 testimony, you mention that the time to bring
4 substantial -- a substantial size new resource to
5 market is before the BRA. Do you see that?

6 A. Yes, sir.

7 Q. And why is that?

8 A. Resources that clear in the base residual
9 auction are guaranteed a capacity payment. Capacity
10 payments for most units represent a significant
11 fraction of the total revenue stream that those
12 plants will earn. If you haven't cleared in the base
13 residual auction, you don't get capacity payments, so
14 you are taking out a big chunk of the economics of
15 why you would be entering.

16 So by coming into the base residual
17 auction, you can market test whether your unit is
18 actually economic, and then if it is economic, earn a
19 stream of revenues from the capacity market to
20 support the new entry.

21 Q. So would it be any substantial new
22 resource, or would it have to be a new resource that,
23 for instance, bid lower than the clearing price?

24 A. I'm not understanding your question.

25 Q. Would a noneconomic substantial size new

1 resource help lower the capacity price?

2 A. Oh, no. Thank you. No. It would have
3 to be an economic unit to have any effect, so there
4 could have been, for instance, demand resources that,
5 although favorable, were very costly. Customers
6 would be required a substantial payment to be able to
7 interrupt. Those -- in fact, we know some of those
8 were in the auction, and they did not clear.

9 Q. And what would -- strike that.

10 What would you consider a substantial
11 size resource?

12 A. In the context of this, larger than about
13 2 percent of the region's requirement, and I say that
14 because the incremental auctions, under the new
15 rules, have been changed to procure a certain amount
16 of the region's requirement in the incremental
17 auctions. So if you're bigger than those buy-backs,
18 you're going to have trouble fitting in the queue.

19 Q. What would 2 percent be in this case?

20 A. As I recall, the region's requirement is
21 on the order of 14,000, and while I hate doing math
22 in public, I think that means about a 280-megawatt
23 unit.

24 Q. So would 300 megawatts count as
25 substantial?

1 A. Yes.

2 Q. On lines 21 to 23 of page 9 of your
3 testimony, you also assert that the demand-side
4 resources prove to be economic means for reliability
5 in ATSI.

6 MR. KUTIK: What was the cite?

7 MR. KAPLA: 21 through 23 on page 9.

8 MR. KUTIK: Page 9.

9 A. Yes, sir.

10 Q. Is it your opinion that these resources
11 also had a material effect on the final BRA capacity
12 price?

13 A. Yes. I don't know how much they
14 affected. They certainly affected the clearing price
15 in some way.

16 Q. And I believe you cite 1,800 megawatt
17 resources were bid into the ATSI zone; is that right?

18 A. That's -- no. 1,808 cleared in the
19 auction. I believe it was more like 2,000 were bid.

20 Q. I thank you for the correction. And you
21 believe that that 1,800 had a lowering effect on the
22 BRA capacity price.

23 A. Yes. Had there not been 1,800 megawatts
24 of demand resources, then we would have had to buy
25 1,800 megawatts of more expensive resources from some

1 other source.

2 Q. And if instead of 1,800 megawatts, a
3 substantial new resource of about 300 megawatts was
4 also bid in as demand-side resource, would that also
5 lower the BRA capacity price?

6 A. It may or may not have. As Mr. Wilson in
7 his testimony discussed, the supply curve in these
8 auctions are not smooth. There are long, flat
9 sections where resources were bidding a block of
10 megawatts, so if we cleared on one of those flats,
11 then bidding in even 300 megawatts may not have moved
12 the price at all.

13 On the other hand, the opposite could be
14 the case. We could have jumped from one flat to
15 another, in which case there could have been a large
16 change, but we don't know.

17 Q. Is it your opinion that a substantial
18 size resource would possibly clear the flat part of
19 the particular price?

20 A. It's entirely possible that a 300
21 megawatt resource could have stayed on a flat created
22 by existing units, so there would have been little or
23 no change in the price.

24 Q. Have you done that analysis for this
25 auction?

1 A. No. There's absolutely no data from
2 which to proceed on such an analysis. PJM has not
3 released, nor do they intend to release, the shape of
4 the demand or the supply in any of the zones.

5 Q. On page 15, on lines 17 through 20, you
6 mention that SSO providers have means to hedge energy
7 price risk. Do you see that?

8 A. Yes, sir.

9 Q. Do you consider FirstEnergy a company
10 capable of taking advantage of those means for
11 hedging risks?

12 A. I consider FirstEnergy a company that has
13 a sophisticated risk management function. I wouldn't
14 say they take advantage of those. I would say they
15 can use those effectively.

16 Q. In general, FirstEnergy is a company
17 capable of hedging risk and managing risk?

18 MR. KUTIK: Your Honor, I'll object.
19 We're talking about FirstEnergy? What are we talking
20 about?

21 MR. KAPLA: The companies, the EDUs.

22 EXAMINER PRICE: The EDUs.

23 MR. KUTIK: Thank you.

24 A. Actually, I have no idea whether the
25 companies retain a risk management function. I'm

1 sure that FES, FirstEnergy Solutions, would maintain
2 such a function. I believe the companies rely on
3 these SSO auctions as the principal risk management
4 technique for managing risk of load.

5 Q. On page 11, line 13 of your testimony,
6 you assert that the final BRA capacity price in the
7 ATSI zone is 342 megawatts per day. I believe you've
8 said that's the price.

9 A. Let me just read the sentence because
10 it's exactly written. "So the weighted average price
11 paid to resources within the ATSI zone is \$342 a
12 megawatt-day." That is the weighted average of the
13 price paid to annual resources, like generation, and
14 the lower prices that are being paid to certain
15 categories of demand response.

16 Q. So is that the average at which a
17 generating resource within the ATSI zone will be paid
18 for capacity?

19 A. No. It's the average that -- it's the
20 average price paid to all of the capacity supply
21 resources in the ATSI zone. A generation resource is
22 an annual resource and will be paid 357.

23 Q. Okay. So the generating resource would
24 be paid 357 per megawatt per day; is that correct?

25 A. That's correct.

1 Q. I understand that the ATSI zone is the
2 new zone for PJM, but do you know how the 357 -- \$357
3 per megawatt per day compares to prior capacity
4 payments for generating in the same area under the
5 MISO capacity auction?

6 A. MISO --

7 Q. Strike that. Are you aware of what
8 generating resources were paid for capacity prior to
9 the 2015-2016 BRA?

10 A. Yes. They were -- ATSI resources were --
11 ATSI zone resources were paid the RTO clearing price
12 in the auctions for the -- will be paid for the years
13 2013-'14 and '14-'15, and before that they were paid
14 the clearing prices in the ATSI auctions which were
15 conducted by PJM, which was \$108 per megawatt-day for
16 '11-'12 and \$20 for '12-'13.

17 Q. So the 357 is a substantial increase from
18 previous capacity payments?

19 A. Yes, it is.

20 Q. And on page 13, lines 11 through 13, you
21 say that substantially all of the existing resources
22 in the ATSI zone participated in and cleared the BRA;
23 is that correct?

24 A. Other than those that announced
25 deactivation, that's correct.

1 Q. So those that bid in and cleared those
2 generators will receive the 357?

3 A. Provided they actually show up in the
4 year and perform as required, yes.

5 Q. Are you aware of whether FirstEnergy
6 Solutions owns generating resources in the ATSI zone?

7 A. Yes, they do.

8 Q. And those resources would receive the
9 357?

10 A. Yes, just like every other resource.

11 Q. On page 8, lines 13 to 14 of your
12 testimony, you state that the ATSI zone
13 requirements -- retirements were not out of line with
14 deactivation elsewhere in the PJM; is that correct?

15 MR. KUTIK: What's the cite, counsel?

16 MR. KAPLA: Page 8, lines 13 to 14.

17 EXAMINER PRICE: Could you read the
18 question back again.

19 Q. On page --

20 EXAMINER PRICE: I was actually asking
21 the reporter. If you want to go ahead.

22 MR. KAPLA: Sorry.

23 EXAMINER PRICE: That's fine.

24 MR. KAPLA: I'll just rephrase the
25 question.

1 EXAMINER PRICE: Okay.

2 Q. On page 8, lines 13 to 14, you state that
3 the ATSI zone retirements were "not out of line."
4 with deactivation elsewhere in PJM; is that correct?

5 A. Yes, that's correct.

6 Q. And you note that deactivation in ATSI
7 totaled one-fifth of generating capacity within that
8 zone; is that right?

9 A. Yes.

10 Q. And the remainder of PJM alleged
11 deactivation of one-tenth of their capacity; is that
12 right?

13 A. Yes. But if you were to look at the mix
14 of units that are being retired, it's a very similar
15 mix of units inside the ATSI zone and outside the
16 ATSI zone. What the ATSI zone had was a higher
17 density of these older subcritical coal units that,
18 frankly, under the new EPA's regulations and the
19 current low price of natural gas just aren't economic
20 to operate and/or retrofit.

21 Q. So the reasons for retirement were
22 similar across the zone.

23 A. Correct.

24 Q. Is that what you mean by that?

25 A. By "out of line," what I mean to say is

1 we see the same forces operating in a similar cause
2 and effect, that I'm not seeing a surprising pattern
3 of retirements in the ATSI zone versus the rest of
4 PJM.

5 Q. Would you say the impact is disparate on
6 the ATSI zone, considering twice or two times as much
7 of its capacity was retired as a fraction of total
8 resources?

9 A. Certainly. Yes, there has been a greater
10 impact on the zone because of the deactivations,
11 that's correct.

12 MR. KAPLA: No further questions, your
13 Honor.

14 EXAMINER PRICE: Thank you.

15 Mr. Dortch.

16 MR. DORTCH: Thank you, your Honor.

17 - - -

18 CROSS-EXAMINATION

19 By Mr. Dortch:

20 Q. Good morning, Mr. Stoddard.

21 A. Good morning, Mr. Dortch.

22 Q. Mr. Stoddard, Charles River & Associates,
23 I looked -- looked it up on the website. You have
24 approximately a dozen or so offices in this country,
25 half a dozen or so in Europe, two in the Mideast, a

1 presence in Asia. Is all that correct?

2 A. Except for the company name is Charles
3 River Associates without the "and" in the middle.

4 Q. No ampersand. I see.

5 A. We're named after the river, not after a
6 guy named Charles River.

7 Q. And I apologize for my error there.

8 A. We get junk mail saying "Dear Chuck," so.

9 Q. The firm professes expertise in
10 approximately two dozen substantive areas.

11 A. Without reference to the website, that
12 sounds approximately right.

13 Q. And, obviously, one of those areas is
14 energy and environment.

15 A. Yes, sir.

16 Q. And you are -- when I looked on the
17 energy/environment page, I get a brief description of
18 your practice and photo, very nice photo, sir.

19 A. Thank you.

20 Q. But I assume from all of that, you are
21 the head of the group on a firm-wide basis, not
22 merely the Boston office.

23 A. That's correct.

24 Q. And, again, clicking through to discern
25 what I could, there are approximately 30 individuals

1 with different titles that are identified as members
2 of the Energy & Environment practice group. Does
3 that sound correct?

4 A. That's probably what's listed on the
5 website. We don't list all the members on the
6 website, only people who are above a certain
7 position.

8 Q. Certain title?

9 A. We have closer to 50 people who are
10 affiliated with the practice.

11 Q. So this is a very significant proportion
12 of Charles Rivers Associates' business activities?

13 A. I believe we are about 7 percent of the
14 total company.

15 Q. And when I read your firm bio, I
16 understand prepared probably by your marketing
17 department, you assist clients in defining,
18 analyzing, and interpreting the economic issues
19 involved with competition and product valuation in
20 energy markets.

21 What do you mean by "product valuation in
22 energy markets", or what is meant by "product
23 valuation in energy markets"?

24 A. "Product valuation" is a fairly broad
25 term, intentionally. It could include looking at a

1 contract, could include looking at an asset. It
2 could include looking at a portfolio of assets and/or
3 financial products, could even be looking at the
4 value of a transmission line or a potential
5 right-of-way.

6 Q. And what does it mean to analyze economic
7 issues in the context of that statement on your
8 website?

9 A. That, again, is a fairly broad term.
10 Could mean for different clients analyzing the effect
11 of building a new generator, building new
12 transmission lines, assessing the impact of changes
13 in fuel costs or environmental regulations. We also
14 do broader evaluations, for instance, studying the
15 impact on jobs and local economy from activity in the
16 energy sector.

17 Q. I'm sorry, I didn't -- you trailed off
18 there at the very end.

19 A. Activity in the energy sector.

20 Q. And what do you mean by "activity in the
21 energy sector"?

22 A. Well, for instance, in Cape Wind
23 Associates, the developer of the 468-megawatt
24 offshore wind farm in Massachusetts, part of my
25 testimony discussed the effect on tourism and job

1 creation and impacts of that new facility being sited
2 off Cape Cod.

3 Q. In advising your clients, do you, or
4 Charles River Associates, develop and use forward
5 curves, price forecasts, et cetera, as analytical
6 tools?

7 A. Yes, we do.

8 Q. Could you, just for my purposes here,
9 edification, could you explain what their -- explain
10 exactly what a forward curve is.

11 A. Sure. A forward curve means the estimate
12 today of what future prices of a commodity will be.
13 I think that summarizes it.

14 Q. And a price forecast is what?

15 A. Price forecast, if we are talking about a
16 commodity price forecast, it would be a particular
17 point on a forward curve.

18 Q. And, once again, from the CRA website, I
19 noted you were described as recently the lead
20 economist for capacity suppliers in developing the
21 New England capacity market; is that correct?

22 A. Yes. I have had a continuing role with
23 that -- the New England Power Generating Association
24 from 2006 to 2000 -- well, it's continuing, 2012.

25 Q. And what's necessary to develop a

1 capacity market? I take it this is from the ground
2 up.

3 A. This was a ground-up effort. In that
4 particular instance, ISO New England had proposed a
5 particular market design to the Commission. The
6 Administrative Law Judge had issued an order, a draft
7 order, accepting it. And there was such a sharp
8 human cry among load-serving entities against that
9 design, that we went into a settlement conference,
10 and my role was representing the generators
11 throughout the settlement conference where myself for
12 generators, and Professor Peter Crampton of the
13 University of Maryland for ISO New England
14 essentially hammered out a blank sheet of paper
15 redesign of a capacity market for New England.

16 Q. What was the concern of the suppliers
17 regarding the original design?

18 A. The original design, which was called
19 LICAP, L-I-C-A-P, was designed to look very much like
20 the New York capacity market, which is to say, it was
21 a short-run market. Every year you ran a market for
22 a prompt year. And there was a downward sloping
23 demand curve, much as we have in PJM.

24 The combination of those two loads didn't
25 like because they felt they could be surprised and

1 they had no opportunity to react. They couldn't have
2 new generation developed. They couldn't have demand
3 resources ready to go and bid in and participate in
4 that auction. It was very much setting a price for
5 whatever happened on the ground that day.

6 So the key change in the auction design
7 was to move the auction three years forward, just as
8 we have in PJM, which allows the competition from
9 proposed new units to come in, and allows for an
10 orderly retirement and replacement of uneconomic
11 older generation.

12 Q. Thank you, Dr. Stoddard. You anticipated
13 my next two questions as well.

14 MR. KUTIK: Well, you have upgraded his
15 credentials. He is not a doctor.

16 Q. Now, you advised the capacity suppliers,
17 correct?

18 A. Yes, sir.

19 Q. And they are the potential bidders in
20 that capacity auction, correct?

21 A. Yes. They are part of the group of
22 potential bidders.

23 Q. You also advise bidders in the PJM RPM
24 auction.

25 A. Yes, sir.

1 Q. And do you advise bidders in default
2 service auctions?

3 A. I have not advised them proactively.
4 However, I worked very closely with two major
5 financial bidders whose bids were part of a broader
6 review by the FERC of whether those bids had been --
7 were competitive. After the fact of the auction,
8 there was some question about whether the auction
9 results were competitive, and so all of the bids went
10 before FERC for review.

11 MR. DORTCH: And, I apologize. I think I
12 failed to follow the response completely. Could I
13 have the answer read back. I could hear you. I
14 just --

15 EXAMINER PRICE: You can have the answer
16 read back.

17 MR. DORTCH: Thank you.

18 (Record read.)

19 Q. What did you mean by a "financial bidder"
20 as compared to some other sort of bidder?

21 A. These are investment houses that have no
22 generation or load position but serve as risk
23 managers.

24 Q. Do you advise entities regarding the
25 risks of providing auction supply?

1 A. Could you clarify your question, please?

2 Q. I will try. This is a very broad
3 question generally. Do you advise entities regarding
4 the risks of providing supply in an auction?

5 A. Well, broadly speaking, yes, but not in
6 the context of these SSO auctions. I've worked on
7 the other side of evaluating offers, but not on
8 developing them.

9 Q. When you evaluate offers, is there any
10 purpose served in trying to evaluate risk premiums
11 that might be contained in those offers?

12 A. No; because that would not be an
13 appropriate function for the bid review. The
14 function is to ensure that we have robust
15 competition, and the competition itself ensures that
16 the risk premium built into those bids reflects the
17 market risk premium rather than an anti-competitively
18 high risk premium.

19 Q. Now, on May 24 of this year, you
20 testified in the AEP Ohio modified ESP plan case,
21 correct?

22 A. That's correct.

23 Q. And on whose behalf did you provide
24 testimony in that cause?

25 A. For FirstEnergy Solutions.

1 Q. And FirstEnergy Solutions is
2 FirstEnergy's generation arm?

3 A. Generation and competitive retail
4 supplier.

5 Q. And did you also testify recently in the
6 AEP Ohio capacity case before this Commission?

7 A. I did.

8 Q. And on whose behalf on that occasion?

9 A. FirstEnergy Solutions.

10 Q. Today you are appearing on behalf of Ohio
11 Edison, Toledo Edison, and CEI, correct?

12 A. That's correct.

13 Q. And these are the EDU subsidiaries of
14 FirstEnergy Corporation.

15 A. That's -- they are three -- they are EDU
16 subsidiaries of FirstEnergy. They have others as
17 well.

18 Q. Now, have you testified on behalf of
19 FirstEnergy entities in any other cases pending
20 before this Commission?

21 A. No, sir.

22 Q. Have you testified on behalf of any
23 FirstEnergy entities in cases pending before other
24 government entities, such as FERC or Congress?

25 A. No, sir.

1 Q. How about before any state regulators?

2 A. I'm sorry. I need to retract that. Yes,
3 I testified in two FERC dockets on behalf of
4 FirstEnergy.

5 EXAMINER PRICE: Which FirstEnergy?

6 Q. When you say FirstEnergy, which
7 FirstEnergy?

8 A. I'm sorry, I don't have my CV here with
9 me. If I could get a copy of my CV that is with my
10 testimony, that would be helpful and I could answer.

11 MR. DORTCH: Your Honor, for the record,
12 and, Mr. Kutik, that does remind me that in
13 Mr. Stoddard's rebuttal testimony, page 2, line 7 and
14 8, he did state a summary of his experience was
15 attached as RBS-1. There was no such attachment, and
16 if we could simply ask that it be made available.

17 Oh, I do have it. Somehow or other I
18 missed it. We do have it.

19 Your Honor, may I approach?

20 EXAMINER PRICE: You may.

21 I don't have a copy of it.

22 MS. YOST: I don't either.

23 MR. DORTCH: I don't either, but my
24 client does. Somehow I missed it.

25 EXAMINER PRICE: If FirstEnergy -- we can

1 continue, but just for the record, if FirstEnergy
2 could file a copy of that as a late-filed exhibit, I
3 would appreciate it.

4 MR. KUTIK: We will.

5 A. So I am in a position to answer your
6 question now.

7 MR. DORTCH: And I will just say that my
8 client explained that was actually filed in the 346
9 case, but if we could have copies made available in
10 this case, we would appreciate it.

11 MR. KUTIK: We will do that shortly, your
12 Honor.

13 THE WITNESS: Could I have the question
14 read back.

15 EXAMINER PRICE: Please.

16 (Record read.)

17 A. And the answer is FirstEnergy Solutions
18 Corporation and Allegheny Supply Company.

19 EXAMINER PRICE: Thank you.

20 Q. And could you explain what those matters
21 were, please.

22 A. Yes. In the first matter, the FERC
23 Docket EL12-19, this was an affidavit supporting the
24 complaint of the companies seeking to fund financial
25 transmission rights solely from day-ahead market

1 settlement surplus. That's seeking a change in the
2 PJM tariff.

3 The other docket is FERC Docket EL12-50.
4 In that matter I provided an affidavit supporting the
5 complaint seeking to acquire allocation of a partial
6 year auction revenue rights. That matter is still
7 pending before the Commission.

8 Q. Sir, have you testified on behalf of the
9 FirstEnergy entities, any one of them or more, before
10 any state legislatures?

11 A. No, sir.

12 Q. Have you represented the views of any
13 FirstEnergy entities in still other contexts, such as
14 before PJM or MISO?

15 A. Only indirectly, inasmuch as I have done
16 work for PJM power providers which represent
17 generation interests overall in the PJM.

18 Q. How about before state commissions?

19 A. Other than the matters we've talked about
20 so far, no.

21 Q. So only -- the only state commissions in
22 which you've appeared on behalf of a FirstEnergy
23 entity is here in Ohio?

24 A. That's correct.

25 Q. Court proceedings?

1 A. None.

2 Q. Would Charles River Associates represent
3 the views of any FirstEnergy entities in other
4 contexts such as those I've identified, even if you
5 personally have not?

6 A. No, not that I can recall. I will note
7 for the record that Dr. Bradley Miller of Charles
8 River Associates is the auction -- leads the auction
9 management for FirstEnergy's SSO auctions. He is a
10 separate department, and there is a firewall between
11 his group and mine on all matters.

12 Q. Sir, you again anticipated my questions.
13 My next question notes that there is a practice here
14 noted as Auctions & Competitive Bidding.

15 A. That's correct; which is led by
16 Dr. Bradley Miller.

17 Q. And Mr. Miller is listed on the Energy &
18 Environment page as well.

19 A. If so, that's an error, and an
20 understandable one. The auctions practice used to be
21 part of the Energy & Environment group. That was
22 spun off, in large part because Dr. Miller began many
23 engagements for operating auctions where we found it
24 important to maintain a very high ethical wall
25 between his group and mine. That was easiest done by

1 removing any linkage.

2 Q. Now, I also understand that Charles River
3 Associates serves as the CBP auction manager for the
4 FirstEnergy entities.

5 A. That's my understanding as well.

6 Q. And is it my understanding then that is
7 Mr. Miller's group?

8 A. Yes. Dr. Miller leads that group.

9 Q. And that's firewalled? There is a
10 firewall between your group and that group?

11 A. That's correct.

12 Q. And Charles River Associates has been the
13 manager since the outset of the CBP processes?

14 A. Yes, sir.

15 Q. Does this mean that CRA -- can I use CRA?

16 A. Yes, please.

17 Q. It will help me avoid the ampersand
18 again.

19 A. Yes, please. That's what we call
20 ourselves, CRA.

21 Q. Does this mean CRA consults with
22 FirstEnergy regarding the original design of the CBP
23 process?

24 A. I don't know. Under the firewalls, I
25 haven't discussed with Dr. Miller what he consulted

1 about.

2 EXAMINER PRICE: And if I could interject
3 real -- very briefly, when you say "since the
4 beginning of the CBP process," you mean those
5 subsequent to the enactment of Senate Bill 221; is
6 that correct?

7 THE WITNESS: Yes, sir.

8 EXAMINER PRICE: Because, actually, prior
9 to the enactment of Senate Bill 221, there were
10 auctions for FirstEnergy's service territory, at
11 which point CRA, I believe, was employed by the
12 Public Utilities Commission as our -- as your -- as
13 our consultant.

14 THE WITNESS: And, again, I show my
15 ignorance and the effectiveness of the firewall that
16 I actually didn't realize there was a change in
17 client.

18 EXAMINER PRICE: I think I'm correct, but
19 that's subject to check. Thank you.

20 Thank you, Mr. Dortch.

21 MR. DORTCH: Thank you, your Honor.

22 Q. (By Mr. Dortch) If you know, did CRA
23 consult with FirstEnergy regarding the original
24 design of the CBP process?

25 A. I don't know.

1 Q. Now, you have, as you testified
2 earlier -- well, strike that.

3 And I take it you also don't know whether
4 Charles River Associates has consulted with
5 FirstEnergy regarding the design of the CB -- the ESP
6 II process, or the ESP II CBP?

7 A. I have a limited understanding that
8 Dr. Miller has been engaged in reviewing and securing
9 the auction documents, but I don't know to what
10 extent, and I don't know what level of strategic
11 advice he provided, if any.

12 Q. Do you know how many CBP auctions have
13 taken place so far?

14 A. No, not as I sit here.

15 Q. And I don't know how Charles River
16 Associates is organized, but do you have someone --
17 is this an individual designated as a relationship
18 manager to a particular client?

19 A. No, sir.

20 Q. Do you have an understanding what it
21 means to manage the CBP process?

22 A. My general understanding is that
23 Dr. Miller's group manages the development of all the
24 bid packages, interfaces with the Commission staff
25 and potential bidders in the auction, eventually

1 receives the bids from the auction, after qualifying
2 those participants, and consults the auction
3 according to the protocols that have been laid out.

4 Q. You are not involved in any of those
5 processes though; is that fair?

6 A. That's correct.

7 Q. Now, there's been some discussion in this
8 case about the fact that the CBP auctions have been
9 successful. Do you have any idea what a -- strike
10 that.

11 Is a successful auction simply one in
12 which there is more supply bid than load?

13 A. I think the evaluative criteria is a
14 little stronger than that. Certainly it's necessary
15 there is robust competition, but robust is more than
16 merely we got enough bids.

17 Furthermore, there is a checkpoint, and I
18 have actually not read the CBP evaluative, but I am
19 familiar with the New Jersey and the Maryland
20 auctions, and those reports look not only at the
21 degree of participation, but also the alignment of
22 the prices to market prices that are advisable and
23 known generally about the reasonableness of the
24 resulting prices from the auction.

25 EXAMINER PRICE: Are you aware of whether

1 in its reports to the Commission CRA provides a
2 checklist or a variety of questions with respect to
3 each auction as to whether it was successful or not?

4 THE WITNESS: I'm not aware of that
5 specifically.

6 Q. So you do understand the bid manager has
7 some responsibility to evaluate issues that might
8 arise with respect to the auction?

9 MR. KUTIK: Your Honor, at this point
10 I'll object. It's beyond the scope of rebuttal. We
11 are now beyond any relation to Mr. Stoddard's
12 qualifications, and it really doesn't touch on any
13 subjects that are in his rebuttal testimony, and I
14 believe the Commission normally limits
15 cross-examination in this phase of the case to
16 discovery of rebuttal testimony.

17 EXAMINER PRICE: Sustained.

18 MR. DORTCH: Your Honor, may I respond?

19 EXAMINER PRICE: No.

20 MR. DORTCH: Very good.

21 Q. (By Mr Dortch) Mr. Stoddard, is
22 FirstEnergy a significant client of CRA?

23 A. Almost any answer is going to get me in
24 trouble here.

25 Q. That's the perfect cross-examination

1 question.

2 A. They are an important client, especially
3 for the auctions in the Competitive Bidding group.
4 Before this year, my group did almost no work with
5 FirstEnergy. I've had the opportunity of working on
6 a number of matters with them so far, but as a total
7 percentage of revenues, no, this is not --
8 FirstEnergy is not a particularly large client of the
9 company's.

10 EXAMINER PRICE: Have you enjoyed your
11 time in Columbus?

12 THE WITNESS: Well, I grew up here so
13 it's nice coming back.

14 MR. DORTCH: May I have the last answer
15 read back, please?

16 EXAMINER PRICE: I think he said he grew
17 up here. If you would like, however, the answer to
18 the previous question.

19 MR. DORTCH: I'm sorry, your Honor. The
20 answer to my question, not yours, because Columbus is
21 a wonderful place to visit and grow up. You can take
22 judicial notice of that.

23 EXAMINER PRICE: We'll go ahead and have
24 the previous question/response.

25 (Record read.)

1 MR. DORTCH: Thank you.

2 Q. (By Mr. Dortch) Dr. Stoddard, page 3,
3 line 13 of your testimony, after stating that you
4 agree with the company's proposal to purchase a
5 portion of its SSO requirement under three-year
6 contracts, you go on to state, "These contracts
7 impose no undue level of risk that potential auction
8 participants will be unable to manage at reasonable
9 cost." Does that accurately quote your testimony?

10 A. Yes, sir.

11 Q. Now, the statement implies that you can
12 recognize unreasonable levels of risk, would you
13 agree?

14 A. I'm not sure it's a black-and-white
15 determination but, yes, as a general matter.

16 Q. And when is a risk undue then?

17 A. A risk would be undue, in the context of
18 this sentence, when the -- the outcomes are so
19 uncertain as to effectively paralyze the ability of
20 the market to respond rationally. The outcomes
21 wander between extremes that are very large, and
22 there is inadequate liquidity in the market to allow
23 for competitively hedged products underneath that.

24 Q. You provide examples of undue risk in the
25 context of your statement.

1 A. Well, the easiest one to point to is
2 trying to manage a risk very far out in time. If we
3 were to try to manage risk out to, say, 2020, there's
4 a lot that can change between now and 2020, and we
5 have no liquidity in robustly-traded products that
6 would allow people to hedge out to 2020.

7 Q. Can you explain how this Commission
8 should recognize the difference between a reasonable
9 and unreasonable risk?

10 A. Yes. I think the short test is whether
11 there is the ability to attract robust participation
12 in auctions to manage that risk. As a general
13 matter, sophisticated financial players will know the
14 edge of what they can do, and they -- the bidders in
15 these auctions, in my experience, are very keen to
16 have hedge portfolios in place that cover that risk.
17 So their willingness to participate is, itself, a
18 signal that there is sufficient liquidity to move
19 forward in authorizing whatever auction we're
20 discussing, in this case a three-year auction.

21 Q. So the Commission may examine
22 participation. Are there other means the Commission
23 may use to recognize when a risk has become
24 unreasonable?

25 A. That's the only metric that comes to my

1 mind as I sit here.

2 Q. Are there any particular analytic tools
3 that can be employed?

4 A. Well, I haven't done this in this matter,
5 but you can certainly look to see what the liquidity
6 of relevant hedge products are in the market.

7 For example, I discuss later here how the
8 PJM West Trading Hub or, in the alternative, the
9 Cinergy Trading Hub, are reasonably good ways of
10 hedging a large amount of the risk that an SSO
11 provider would be taking on, and you can look forward
12 and see how calendar strips are being traded and what
13 volumes are present there and the bids asked for in
14 those markets.

15 Q. Is there anything else that comes to mind
16 other than the liquidity of hedge products?

17 A. Not that I can think of here.

18 Q. Well, if a risk has been recognized by
19 whatever means to be undue, does Charles River &
20 Associates -- well, strike that.

21 Can the Commission respond in some
22 fashion to risks that are found to be undue?

23 A. The challenge before the Commission, as a
24 general matter, when we have a risky situation, is
25 trying to decide who is best able to manage that

1 risk, whether it is customers who should have to bear
2 the risk or suppliers, the concern being whether you
3 can get a risk premium that is consistent with
4 competitive market conditions.

5 That's why I stress the participation
6 point. If we are in a very risky situation, that's
7 exactly when insurance is most valuable. That's
8 exactly when you want to hedge yourself. We don't
9 buy haircut insurance because most of us have to
10 attend the barber at a regular interval, but we do
11 buy insurance in potentially catastrophic situations.

12 Having a very high level of risk doesn't
13 mean you don't want to insure. The question is
14 whether there is an insurance product available from
15 a competitive market that you can buy at a fair
16 price.

17 The presence of a large number of
18 sophisticated bidders in the SSO auctions is the
19 assurance that consumers should take that we are
20 seeing a competitive price for whatever risk is in
21 the market. You can't get rid of risk through these
22 markets. What we can do is allocate it fairly at a
23 fair price.

24 So the concern -- I realize I may not be
25 answering your question directly. If the Commission

1 does -- sees a failure of robust participation, then
2 there would need to be a rethinking of what the
3 auction -- whether the auction should move forward.
4 But that has to be done in the context of the initial
5 evaluation of these auctions of who is interested in
6 bidding, who is asking to be qualified for how many
7 tranches, and could be assessed before the auction
8 trigger is pulled.

9 Q. Well, if I understood your response, the
10 risk is shifted to the bidders or rests with the
11 bidders.

12 A. Well, part of the risk. I mean,
13 obviously, the way the ESP III is designed is that we
14 are gradually, deliberately shifting portions of the
15 future-year risk from customers to suppliers in a
16 measured and timed way.

17 Q. And the bidders would seek a premium for
18 assuming those risks, correct?

19 A. That's an interesting question, and it's
20 an empirical matter because on the one hand, while
21 customers are receiving insurance against a bad
22 outcome of prices rising, the suppliers are receiving
23 a guarantee against a downside risk.

24 So the product has a symmetric risk
25 portfolio. It's not as though it's a call option.

1 What we are doing is guaranteeing revenue, which
2 would be a very valuable guarantee, especially now
3 that we have a lot of generation is having to
4 undertake substantial capital retrofits to comply
5 with EPA regulations. Knowing you can actually fund
6 those from energy revenues is potentially valuable.

7 If your proposition were true, that there
8 is always a premium, then we would expect to see
9 forward prices, on average, above spot prices.
10 Empirically, that's not true. There is not a
11 seller's premium that's baked into the forward curve.

12 Q. So your testimony is that the bidder is
13 exchanging -- I'm sorry. The bidder is accepting the
14 risk in return for its own exchange of risk.

15 A. Correct.

16 Q. So there is no need to ever seek a
17 premium.

18 A. I wouldn't go as far to say that. There
19 are certainly costs of managing the risk and there
20 are -- but the point of the SSO auctions is not to
21 eliminate any premium. It's to ensure whatever risk
22 premium, if it's positive at all, or could be a
23 negative risk premium, is competitively determined.
24 We can't know sitting here whether the premium ought
25 to be positive or negative, which is why we engage in

1 a competitive process to determine the price.

2 Q. Well, with reference to that same
3 sentence, you also state that these risks are not
4 such that auction participants will be able to -- I'm
5 sorry. I misquoted you there. Unable to manage them
6 at reasonable costs. And I was going to ask you how
7 you would determine whether the costs of managing
8 risks are reasonable or unreasonable, and is your
9 answer again simply by whether there are participants
10 in the auction?

11 A. I believe that the degree of robust
12 participation is the best assurance that the price
13 for managing that risk is competitively set and
14 reflect the actual degree of risk in the market.

15 Q. Sir, is there a means of determining
16 whether your -- or quantifying a risk premium -- let
17 me strike that and try to start again.

18 There -- are there means to quantify
19 whether risk premiums are being included in a bid or
20 not?

21 A. Well, that's challenging because there
22 are many components of risk that are being accepted
23 by an SSO provider. Part of them are about the
24 ultimate commodity price, but there's also risks
25 about the level of customers switching, and there are

1 risks about -- customers switching is the primary
2 one. There is risk about load shape within the day
3 and what the timing of power delivered will be.

4 Those certainly require and would
5 normally be expected to have a risk premium built in.
6 So the naive way of looking at what a risk premium
7 might be, for instance, comparing the price against a
8 forward curve, would be -- would miss the fact that
9 there are real risks that are being managed here that
10 are clearly one-sided that would make it challenging
11 to sort out what a risk premium would be.

12 If I were really stretching to find a
13 way, I could compare the results of previous auctions
14 where the risk patterns may be different and how
15 those related to forward prices at the time, versus
16 the forward prices and the auction prices of a
17 subsequent auction where the risks may or may not
18 have been higher to see a pattern of the risk. The
19 gap between the auction price absent forward price is
20 over time.

21 MR. KUTIK: Your Honor, may we go off the
22 record?

23 EXAMINER PRICE: You may.

24 (Discussion off the record.)

25 EXAMINER PRICE: Go back on the record.

1 Q. (By Mr. Dortch) Mr. Stoddard, on pages 5
2 through 8 of your testimony, you appear to justify or
3 offer justification for the unit retirements, and
4 specifically you speak of natural gas and two EPA
5 rules, the Cross-State Air Pollution Rules or
6 C-S-A-P-R, or CSAPR.

7 MR. KUTIK: Your Honor, I'll object to
8 the characterization of his testimony as justifying.

9 EXAMINER PRICE: Would you care to
10 rephrase, Mr. Dortch?

11 Q. Do you at pages 5 through 8 discuss
12 reasons why the FirstEnergy Solutions might choose to
13 retire some units now?

14 A. Yes. In fact, these various causes were
15 mentioned in the previous releases issued by
16 FirstEnergy Solutions at the time of the notice.

17 Q. By any chance did CRA consult with the
18 FirstEnergy entities regarding the retirement of
19 these units?

20 A. No, we did not.

21 Q. Are you aware of the date that CSAPR
22 becomes effective?

23 A. No, not with confidence as I sit here.

24 Q. Are you aware of the date the Mercury and
25 Air Toxic Standard becomes effective?

1 A. That's in 2015.

2 Q. And are you aware of the effective date
3 of FirstEnergy's unit retirements?

4 A. There was some units being retired in
5 2012 and others that will be by June 1, 2015.

6 Q. At least there is a suggestion that those
7 that are by June 1, 2015 -- strike that.

8 Now, until the locational constraint in
9 the ATSI zone is relieved or new generation comes
10 online, you will agree, at least that the short-term
11 effect of the generation retirements is to increase
12 the price in the ATSI zone, correct?

13 A. Yes. That is correct.

14 Q. And to be clear, you anticipate we should
15 anticipate an increase in both capacity and energy
16 within the ATSI zone.

17 A. Retirements certainly on the capacity
18 price, as we discussed earlier with the Sierra Club,
19 the effect on the energy price is to increase from
20 where it would be but for the deactivations. I don't
21 know directionally whether the price will be higher
22 or lower than they are today because we don't know
23 where things like gas prices or coal prices will be
24 in 2015-'16.

25 Q. All else equal, when demand is held

1 steady and supply is decreased, prices will rise.

2 A. I agree with that.

3 Q. So the general effect of the retirement
4 should be to increase relative prices?

5 A. Relative to where they would be but for
6 the retirements, yes.

7 Q. If I understand your testimony, we know
8 what the '15-'16 deliveries of capacity purchased in
9 the auction will cost today as it may be adjusted by
10 the incremental auctions.

11 A. I agree.

12 Q. In your consulting practice, do you have
13 tools that would permit you to project with some
14 accuracy, reasonable accuracy, what the likely
15 increase in energy prices resulting from the
16 retirements will be?

17 A. We do.

18 Q. And what sort of tools are those?

19 A. We use two models. One is the General
20 Electric Multi-Area Production Simulation Model, GE
21 MAPS, which is a highly detailed production
22 simulation that uses the same general dispatching
23 commitment algorithms that PJM uses.

24 We have a simpler model we use called the
25 North American Energy & Environment Model, which

1 looks at energy over longer periods of time but with
2 less detail.

3 Q. And I will not follow in any detail a
4 determined detailed explanation of these models, but
5 can you tell me generally how the models work? What
6 are the inputs and sort of how do they function?

7 A. Generally it operates exactly like the
8 PJM dispatch function. But we don't, of course, have
9 bids from the units, as the PJM does. So we develop
10 assumed bid curves based on the plant
11 characteristics. Those are based on the fuel price,
12 so the -- we take a fuel price for each unit. We now
13 have a bid curve. We have the entire transmission
14 topology of the Eastern interconnection. And with
15 bids and topology and load, based on historic loads
16 updated for expected load growth, we simulate the
17 operation of the grid in realtime for a given
18 calendar year.

19 Q. And are you familiar with -- well, first
20 of all, have you use -- utilized these models to
21 evaluate future energy costs within PJM?

22 MR. KUTIK: Objection. Now, we are
23 beyond the scope, your Honor.

24 EXAMINER PRICE: I'll allow this one.

25 A. Yes, people in my practice have done so;

1 I have not.

2 Q. Are you familiar with the results of that
3 modeling?

4 A. Not with any specificity, and certainly
5 not for the ATSI zone. The areas we have been
6 looking at are on the East Coast.

7 Q. Do you know whether the results of that
8 modeling have been provided to the companies?

9 MR. KUTIK: Objection.

10 EXAMINER PRICE: Grounds?

11 MR. KUTIK: Beyond the scope, your Honor.

12 EXAMINER PRICE: I'm going to allow this
13 one, too, but I need you to come back to the rebuttal
14 testimony after this.

15 MR. DORTCH: Thank you, your Honor.

16 A. I am not aware that the companies have
17 received any forecasts for energy or capacity from
18 Charles River Associates.

19 Q. Mr. Stoddard, page 8, line 15, of your
20 testimony summarizes your response to the question.
21 I think your point is PJM preceded in an orderly
22 manner to address the constraints; is that fair?

23 A. Yes, that's a fair characterization.

24 Q. Does the disparity in clearing prices
25 between the ATSI zone and the zone in which AEP is

1 located demonstrate that PJM's auctions are not yet
2 adequate to fully address the constraint?

3 A. I think this mischaracterizes how markets
4 work. It's not PJM's job to eliminate constraints.
5 It's PJM's job to maintain a reliable system.
6 Markets were to respond to changes in economic
7 conditions. So we had new entry offered and cleared
8 at approximately the cost of new entry because new
9 entry was needed. This is unremarkable.

10 Whether there will be future entry
11 because of the potentially high capacity prices going
12 forward or potentially high energy prices going
13 forward will be a market decision. PJM's decision
14 what transmission are needed -- transmission upgrades
15 are needed to respond to the current round of
16 deactivations is complete, and the system will now be
17 in compliance with new reliability criteria.

18 I would caveat that by saying the report,
19 FE Exhibit 8, does note that there are some
20 additional retirements they are looking at that may
21 require some additional transmission. But, again,
22 this is to meet reliability violations, not for
23 economics.

24 Q. I'm sorry?

25 A. Not for economics.

1 Q. So PJM is not responding to the price at
2 all and has no obligation to respond to the price at
3 all.

4 A. That's a compound question. Let me try
5 to break that apart. The first question is their
6 role. PJM's role in the first instance was to ensure
7 that NERC reliability criteria were met. That's a
8 federally-mandated requirement.

9 As to your second question, under FERC's
10 Order 1000, PJM, like any other RTO, can look at
11 transmission as a way of meeting economic goals. PJM
12 has not yet done that evaluation which is done
13 through the normal annual regional transmission
14 expansion planning process, and that may or may not
15 determine that additional transmission for economics
16 is warranted.

17 Q. And can you identify the source of the
18 economic rules to which you are referring?

19 A. In the first instance, they are in FERC
20 Order 1000, which was issued last year, I believe.
21 More generally, if you were to go to the PJM regional
22 transmission expansion planning process documents,
23 they describe cost/benefit analysis to assess whether
24 new transmission is likely to produce enough benefits
25 with a margin above the expected costs of building

1 the associated transmission.

2 MR. DORTCH: I'm sorry, can I have the
3 answer read back.

4 EXAMINER PRICE: You may.

5 (Record read.)

6 Q. Mr. Stoddard, what did you mean "by
7 enough benefits" above?

8 A. There's a designed set of ratios that PJM
9 uses, and I don't recall those numbers offhand, but
10 they -- they look at economic benefits expected.
11 They look at costs, and because the costs are certain
12 but the benefits are uncertain and subject to
13 volatility in the market, they require that the
14 benefits are not just exactly equal to cost but that
15 there is a margin above that.

16 So, hypothetically, if a new transmission
17 line costs \$200 million, they might be looking to
18 ensure there was at least \$300 million of modeled
19 benefits before they would approve that transmission
20 expansion for economic purposes.

21 Q. Do you agree that the principal factors
22 that led to the disparity in the clearing prices in
23 the ATSI zone that there were retirements of
24 generating units within the zone, and,
25 simultaneously, constraints on the ability to bring

1 in resources from outside the zone because of the
2 transmission interconnections, correct?

3 A. That's generally a fair characterization.
4 The transmission system was, of course, adequate and
5 provided reliable service with the generation in
6 service. As many deactivations as were identified,
7 additional transmission was a consequence to those
8 deactivations.

9 Q. And if I understand your testimony
10 accurately, it is your opinion that new generation
11 units simply won't arrive in time for the 2015-'16
12 delivery year; is that fair?

13 A. Yes, it is. The RPM auction design was
14 set with three years for procurement, not randomly,
15 but because when we worked with developers in
16 choosing a forward period, we learned that three
17 years was about as short as you could economically
18 build new generation from the position where you have
19 your interconnection queue place, your set-up, you
20 control the land, and then you need three years to
21 secure equipment, to build it, and to bring the plant
22 into commercial operation.

23 So we are now within that window. We
24 don't have units that are in the interconnection
25 queue. We don't have units with control of land that

1 are getting into the market. I think it's
2 unreasonable to think, based on the research we did
3 in designing the RPM, that we are going to have
4 people rushing into the market now with major new
5 generation additions between now and June 1, 2016.
6 They might hit a little early, but they are not going
7 to be there for summer 2016. You also know that PJM,
8 as a whole, is not short on capacity, correct?

9 A. Yes, sir.

10 Q. So the answer to the price disparity in
11 ATSI would appear to be new transmission facilities.

12 A. That could be one way of meeting the
13 price disparity.

14 Q. And the other means would be new
15 generation units.

16 A. That's correct; or other new capacity
17 supply resources, such as more demand response or
18 more energy efficiency.

19 Q. Now, I understand in addition to the EPA
20 rules, it's your opinion that a significant cause of
21 the disparity is the shift in fuel sources from coal
22 to gas; is that accurate?

23 A. I think you've drawn a link for me that's
24 ahead of my testimony. I believe that there were two
25 major factors leading people to choose to deactivate

1 resources. And one is the EPA regulations; and the
2 second is the very low gas prices we have currently.
3 The deactivations then lead to the prices varying.

4 Q. Thank you. Now, the proposed Eastlake
5 units -- FirstEnergy Solutions' proposed Eastlake
6 units that did not clear the auction.

7 A. That's correct.

8 Q. And does that necessarily mean that they
9 were bid in at a price above the clearing price?

10 A. No.

11 Q. Could you explain why not?

12 A. Yes. PJM conducts the auctions so as to
13 minimize the total cost of capacity secured. So it
14 is possible to end up in a situation where rather
15 than buying 231 megawatts of a whole unit to meet
16 just that last edge of demand, it was more cost
17 effective overall to buy a couple of megawatts more
18 of energy efficiency at a higher bid price that
19 resulted in a total cost of price times quantity
20 being lower than if they had secured an extra surplus
21 of 228 megawatts.

22 MR. DORTCH: Your Honor, may I have a
23 moment?

24 EXAMINER PRICE: You may.
25

1 MR. KUTIK: Your Honor, are we off the
2 record?

3 EXAMINER PRICE: We are off the record
4 now.

5 (Recess taken.)

6 EXAMINER PRICE: Let's go back on the
7 record.

8 Mr. Dortch.

9 MR. DORTCH: Thank you, your Honor.

10 Q. (By Mr. Dortch) Mr. Stoddard, at page 11
11 of your testimony --

12 EXAMINER PRICE: Can we go off the record
13 one moment?

14 (Discussion off the record.)

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

17 Q. (By Mr. Dortch) Mr. Stoddard, page 11 of
18 your testimony, you were asked the question of
19 whether 357 megawatts per day is the price that ATSI
20 zone customers will pay for capacity. Do you see
21 that question?

22 A. \$357 per megawatt-day, yes.

23 Q. I'm sorry, did I misspeak?

24 A. Slightly.

25 Q. I apologize. You use a \$294 per

1 megawatt-day figure, and you do note that there's
2 scaling factors and -- scaling factors losses that
3 have to be accounted for, correct?

4 A. That's correct.

5 MR. DORTCH: Your Honor, may I approach?

6 EXAMINER PRICE: You may.

7 MR. DORTCH: And then I am going to ask
8 that be marked as Exhibit AEPR 3.

9 EXAMINER PRICE: So marked.

10 (EXHIBIT MARKED FOR IDENTIFICATION.)

11 MR. DORTCH: And, your Honor, I will also
12 ask the court reporter to mark AEP -- I'm sorry --
13 also ask the court reporter to mark AEPR Exhibit 4,
14 which is a multi-page document consisting of two --

15 EXAMINER PRICE: It will be so marked.

16 (EXHIBIT MARKED FOR IDENTIFICATION.)

17 Q. (By Mr. Dortch) Mr. Stoddard, may I ask
18 you to refer to AEPR Exhibit No. 3, sir.

19 A. Is this the exhibit entitled "Capacity
20 Pricing for Load in ATSI Zone"?

21 Q. Correct. And the -- could you explain
22 the calculation that's performed.

23 A. Well, what it says on its face is you
24 have started with the \$294 number --

25 MR. KUTIK: Well, your Honors, I will

1 object. There has been no foundation with respect to
2 this document.

3 EXAMINER PRICE: Sustained.

4 Q. All right. Mr. Stoddard, in your
5 testimony you cite a preliminary zonal capacity price
6 of \$294, correct?

7 A. Yes, sir.

8 Q. And you also -- you also refer to
9 zoning -- or, I'm sorry, to scaling factors, correct?

10 A. Yes, sir.

11 Q. And you also refer to loss factors; is
12 that accurate?

13 A. Yes, sir.

14 Q. And does the Exhibit AEPR No. 3 contain
15 the appropriate formula to scale up the preliminary
16 zonal capacity price to the capacity price for load?

17 A. The formula is correct, and the
18 calculations are correct. I don't know, as I sit
19 here, whether the values in columns 3, 4 -- in
20 columns 3 and 4 are correct.

21 Q. Now, sir, if I can ask you to take a look
22 at AEPR Exhibit No. 4.

23 A. Uh-huh.

24 Q. And the value for column 3, Base Zonal
25 RPM Scaling Factor, is provided by the chart which

1 you see here. That chart is available on the PJM
2 website?

3 A. It is, sir.

4 MR. DORTCH: And that chart is cited in a
5 footnote to -- contained on AEPR No. 3, your Honor.

6 Q. And is the input contained in exhibit --
7 or, I'm sorry, in column 3 the accurate input found
8 for the ATSI zone for base zonal scaling factors?

9 A. For column 3, yes.

10 Q. And then is the input for the forecast
11 pool requirement contained in column 4, also
12 contained on the chart from the PJM website?

13 Upper left-hand corner.

14 A. Thank you. Yes. But I'm not perfectly
15 sure, as I sit here, whether the FPR factor has to be
16 multiplied -- has to be adjusted because of the
17 binding constraint in ATSI.

18 Q. If it would be adjusted, in what way
19 would it be adjusted as a result of a constraint?

20 A. It could be adjusted down because the
21 amount of surplus resources that were purchased for
22 use in the ATSI zone are for a lower fraction than
23 the surplus outside of the ATSI zone.

24 Q. I'm sorry, sir, could you expand your
25 answer? The amount of resources purchased for a

1 surplus within the ATSI zone is --

2 A. Part of what --

3 MR. KUTIK: Excuse me, your Honor. Had
4 counsel finished his question? I'm sorry.

5 MR. DORTCH: I'll strike it.

6 Q. And I'll just ask you, Mr. Stoddard,
7 would you expand on your last answer for me, please.

8 THE WITNESS: Yes. Part of the scaling
9 factors is reflecting the fact that the VRR curve in
10 the base residual auctions results -- may result in
11 an over- or underpurchase of capacity relative to the
12 reliability target. The cost of the surplus
13 resources has to be allocated to a fixed amount of
14 load. Because ATSI was constrained and on its own
15 VRR curve, the factors to calculate the zonal
16 numbers -- zone load of cost may differ on that
17 element than the pool-wide number because we are
18 buying off a different VRR curve at a different
19 clearing point.

20 Q. First, are you certain there would be an
21 adjustment?

22 A. No.

23 Q. And if there was an adjustment, would it
24 make any significant difference?

25 A. I don't know what you mean by

1 "significant" in that question.

2 Q. How large a figure would you anticipate
3 such an adjustment -- how big a change would you
4 anticipate such an adjustment could influence the
5 final results?

6 A. The number in 4 could fall from 1.0859 to
7 a number on the order of 1.02 or so, but I would
8 require further study to give you a definitive answer
9 on that.

10 Q. Fair enough. Now, loss factor is broken
11 out separately here because losses can be built in
12 the price or into the load. Do you see that?

13 A. Yes, sir.

14 Q. And if you will take a look at the second
15 document within AEPR Exhibit No. 4, PJM Open Access
16 Transmission Tariff.

17 A. Yes.

18 Q. There is an exemption from that tariff.
19 If you would look at paragraph 3 on the page
20 identified by 15 -- page 1530, in the last clause of
21 the -- the last clause of that paragraph do you see
22 the lost factor cited was 2.786 percent?

23 A. Well, I do. But as you point out, that
24 is a second clause of a full sentence which has to be
25 read into its entirety. It says, "The transmission

1 loss percentage for load served utilizing both 138 kV
2 and above facilities shall be 1.486 percent, and the
3 transmission loss percentage for load served
4 utilizing both 138 kV and above transmission
5 facilities and 69 kV transmission facilities shall be
6 2.786 percent."

7 Q. So the 2.786 percent is the only
8 appropriate loss factor for use with transmission
9 facilities 69 kV -- that also employ 6199 kV
10 transmission facilities, correct?

11 A. Correct. This is an upper bound on the
12 number of losses on the system as a whole.

13 Q. Now, does that 2.786 and the number 1.486
14 contained in paragraph 3 require conversion via the
15 formula in footnote 2?

16 A. Yes. The formula is right, as a matter
17 of form, where the loss factor has to be processed as
18 shown.

19 Q. So subject to the fact that the loss
20 factor employed here is that associated with the use
21 of 69 kV transmission facilities, would you agree
22 with me that the input factor in column 6 is correct
23 as well?

24 A. With the Court's indulgence I'm actually
25 going to check your math. Yes, for the 2.786 loss

1 factor from the tariff, the loss factor in 6 is
2 correct, subject to the note that is an upper bound,
3 and the actual loss factor will be some blended
4 average below that number but above 1.486 percent.

5 Q. Thank you. And that subject to the
6 blending that you just described, that is the
7 capacity price load will pay in the ATSI zone.

8 A. No. This is the preliminary capacity
9 price for load adjusted for losses. The results of
10 the incremental auctions and any further adjustments
11 made to any of the scaling factors, which can change
12 up to final delivery, will result in a final capacity
13 zonal clearing price.

14 Q. So there are other things that have to be
15 considered, but based on everything known and
16 knowable today, would you agree with me that this is
17 the indicated price for the -- that will be paid by
18 load in the ATSI zone?

19 A. With the reservations I put before on
20 whether factor 4 and factor 6 may overstate the
21 total, this is generally indicative that I would
22 expect to see a final zonal clearing price somewhere
23 between 320 and 350 for load.

24 Q. Now, I would like to touch on a subject
25 Mr. Lavanga touched on.

1 MR. DORTCH: With different questions,
2 your Honor.

3 A. Counsel, are we done with these exhibits.

4 Q. We are, Mr. Stoddard. Thank you.

5 Page 16 of your testimony you talk about
6 risks and insurance and how those risks change
7 prices. What is migration risk?

8 A. Migration risk is the risk that customers
9 who are currently shopping customers will become
10 nonshopping customers or vice versa.

11 Q. Now, is it true in a blended product --
12 I'm sorry. Let me try that again.

13 Is it true that for products that blend
14 multiple periods of time together, either a rising or
15 falling market ensures that a supplier faces
16 migration risk?

17 MR. KUTIK: May I have the question read,
18 please?

19 EXAMINER PRICE: Please.

20 (Record read.)

21 A. All SSO suppliers face migration risk,
22 whether the product is a 12-month product or 36-month
23 product.

24 MR. DORTCH: Your Honor, may I approach?

25 EXAMINER PRICE: You may.

1 MR. DORTCH: I am going to ask the court
2 reporter to mark the next three documents as AEPR
3 Exhibits 5, 6, and 7.

4 EXAMINER PRICE: So marked.

5 (EXHIBITS MARKED FOR IDENTIFICATION.)

6 MR. KUTIK: Your Honor, may we go off the
7 record for a minute?

8 EXAMINER PRICE: Yes.

9 (Discussion off the record.)

10 EXAMINER PRICE: Let's go back on the
11 record.

12 MR. DORTCH: Thank you.

13 Q. (By Mr. Dortch) Mr. Stoddard, I will ask
14 you to review AEPR 2, and I will represent to you
15 that this is the companies' response to an
16 interrogatory served by my client. Do you -- have
17 you seen this document before, sir?

18 A. Yes. I saw it in preparation for my
19 testimony yesterday.

20 Q. And then you understand the purpose of
21 the top box.

22 A. Yes, generally speaking. I didn't
23 prepare this, so.

24 Q. Will you state for the record the result
25 that is depicted in the top box?

1 A. Yes. In the top box we have an analysis
2 of the effect of the ESP with ESP II and ESP III with
3 a forecast of rates based on, primarily, capacity
4 price increases over time that shows relative to
5 ESP I a decline in rates year after year of minus 5
6 minus 9, and minus 8 percent for the years '11-'12,
7 '12-'13, '13-'14; and then under the ESP III period,
8 '14 and '15, we have changes vis-a-vis ESP I of minus
9 4 percent, positive 3 percent.

10 Q. And you also understand the purpose of
11 the box at the bottom of the page, correct?

12 A. Generally speaking, yes. This is an
13 analysis of how instead of an ESP III as proposed, we
14 simply used one-year products to manage customer SSO
15 purchases for the odd years.

16 Q. And in the top box --

17 MR. KUTIK: Your Honor, at this time I'm
18 going to object to this line of questioning. The
19 witness didn't prepare this. This is beyond the
20 scope of rebuttal.

21 EXAMINER PRICE: Mr. Dortch, care to
22 respond?

23 MR. DORTCH: I do, your Honor. Your
24 Honor, the testimony I am eliciting is related to
25 Mr. Stoddard's testimony on page 16 where he talks

1 about risks, in the way that risks -- risks and
2 insurance, on the way that risks shift costs up and
3 down.

4 We have talked about migration risk in
5 this case, and I am using migration risk as an
6 example of this principle that Dr. Stoddard
7 discusses, and it's my intent to show that the risk
8 as to the marketer would increase its bid price in
9 response to the risk of shopping.

10 EXAMINER PRICE: Mr. Kutik.

11 MR. KUTIK: This witness has presented no
12 quantitative analysis with respect to the risks. He
13 has presented no calculations. He is only familiar
14 with the brief review of these numbers. These
15 numbers on AEP -- AEPR 2 show nothing about so-called
16 migration risk, and so all we're trying to do is
17 elicit testimony he could have gotten from
18 Mr. Ridmann and didn't.

19 MR. DORTCH: Your Honor, he does state
20 there is a benefit to hedging, and -- and the benefit
21 to hedging is undermined by migration risk here.

22 EXAMINER PRICE: We'll give you some
23 leeway. We'll see how it goes. Proceed.

24 MR. DORTCH: Thank you, your Honor.

25 Q. (By Mr. Dortch) Mr. Stoddard, if you

1 would then refer now to AEPR Exhibit No. 6. And
2 would you agree that AEPR Exhibit No. 6 accurately
3 borrows from AEPR 2 the companies' response to
4 interrogatory 11.7, the figures that are depicted in
5 lines 1 and 2? I'm sorry. 1, 2 -- I'm sorry, lines
6 2 and 3.

7 A. Lines 2 and 3 of AEPR 6 reproduce the
8 values from the top box and the bottom box of AEPR 2.

9 Q. Thank you. And line 4, you understand
10 that's simply an assumption regarding an amount of
11 load?

12 A. If you tell me that's what I should
13 assume, I will assume it.

14 Q. And subject to check, do lines 5 and 6
15 appear to accurately calculate the revenues derived
16 from serving a static amount -- the static amount of
17 load depicted at the prices depicted?

18 A. Subject to check, yes.

19 Q. Okay. I would like to move to the lower
20 part of AEPR Exhibit 6 then. And, again, in lines 10
21 and 11, we've accurately borrowed from the companies'
22 response to interrogatory 11.7.

23 A. Yes. These values match the company's
24 numbers.

25 Q. Now, line 12 demonstrates shopping; would

1 you agree?

2 MR. KUTIK: Well, I'll object at this
3 point.

4 Q. Line 12 demonstrates an amount of load
5 that could be reflective of shopping; would you
6 agree?

7 EXAMINER PRICE: Counsel has a pending
8 objection. Mr. Kutik.

9 MR. KUTIK: I still object, your Honor.
10 No foundation.

11 EXAMINER PRICE: The Bench understands
12 this is an elaborate hypothetical, and we'll proceed
13 on that basis.

14 MR. DORTCH: Thank you, your Honor.

15 MR. KUTIK: The hypothetical should at
16 least be tied to something in the evidence, your
17 Honor.

18 EXAMINER PRICE: Well, right now, I
19 understand where -- what your objection is, but we're
20 going to proceed.

21 MR. DORTCH: Thank you, your Honor.

22 Q. (By Mr. Dortch) Would you agree,
23 Dr. Stoddard, that lines 14 and 15, subject to check,
24 accurately describe the revenue generated at the
25 depicted loads at the depicted prices?

1 A. Subject to check, the math -- the math
2 appears correct.

3 Q. Now, Mr. Stoddard, the depicted load is
4 the same over the number of years, correct, 9,000
5 gigawatt hours?

6 A. In aggregate, that's correct.

7 Q. But the revenues that assume migration
8 show 2,000 gigawatt hours in your '13-'14 as compared
9 to 3,000 gigawatt hours in '13-'14 that assume -- in
10 the chart that shows no migration, agreed?

11 A. Yes.

12 Q. Now, is that a rational assumption, given
13 that market price is below the standard service offer
14 price in year one?

15 MR. KUTIK: Objection.

16 EXAMINER PRICE: Grounds?

17 MR. KUTIK: Again, he was asked to assume
18 a hypothetical load, to compare it to another
19 hypothetical load, and now he is asked to say whether
20 these assumptions, which he doesn't know what they
21 are based on, are rational.

22 EXAMINER PRICE: Sustained.

23 MR. DORTCH: Let me restate the question,
24 your Honor.

25 Q. Would one anticipate shopping and thus

1 migration to the standard service of these SSO
2 providers in years when the market price is lower
3 than the system SSO price?

4 A. While I agree with you directionally, I
5 don't think we have any information about the
6 magnitude of that shopping. Unlike the AEP zone, the
7 FirstEnergy zone has a long history of competitive
8 retail supply. It has robust entry. It's often
9 thought that the residuals that remain are there
10 for -- they are not likely to move from much of
11 anything, or there are particular pieces of the
12 utility tariff that are attractive that are going to
13 be difficult to match by shopping.

14 Q. So if I understand your response to my
15 last question, you're not accepting the assumptions
16 that are contained in lines 4 and 12 that depict the
17 particular load figures, but you would agree with me
18 that if you do accept the assumption, it is for
19 purposes of simply illustrating the principle that it
20 is fair to say that the revenues assuming migration
21 due depict shopping in year one directionally in
22 favor of the -- in favor of the marketer and off the
23 SSO price?

24 MR. KUTIK: This is the same question
25 slightly restated that I objected to earlier.

1 EXAMINER PRICE: Sustained. He is not
2 accepting your assumptions. So, I mean, he's not --
3 you are not going to get to where you are trying to
4 go, I think, but you could try again, but I will
5 sustain the objection.

6 Q. Directionally, sir, customers are going
7 to leave the SSO provider and flock to or go to a
8 marketer when the marketer's prices are lower than
9 the system SSO load.

10 MR. KUTIK: Objection. Are we talking
11 with FirstEnergy? Are we talking about generally?

12 MR. DORTCH: This is just a very general
13 question.

14 MR. KUTIK: The question is vague.

15 MR. DORTCH: I'm sorry, Mr. Kutik. I
16 thought you were finished.

17 MR. KUTIK: I'm done.

18 EXAMINER PRICE: Very generally?

19 THE WITNESS: Very generally, as a matter
20 of first principles, if the -- if there is more
21 headroom in the market between the SSO price and the
22 market price, that will provide some marginal
23 inducements for more shopping.

24 Q. (By Mr. Dortch) And you would anticipate
25 the opposite to be true, correct?

1 A. Yes.

2 Q. If the SSO price is beneath the market
3 price, you would expect movement in that direction?

4 A. That would provide some marginal
5 incentive to return from shopping to SSO service.
6 You have no idea what the magnitude would be, given
7 the customer base that we have in shopping currently.

8 Q. But that movement by itself is going to
9 shift the revenues recovered by the marketer?

10 MR. KUTIK: Again, your Honor, are we
11 talking generally?

12 EXAMINER PRICE: I believe we are talking
13 generally.

14 A. As a general matter, it will shift. I
15 would also note, though, that just as you have
16 developed a model of -- implicitly of some level of
17 migration, sophisticated market participants who
18 would be bidding on this would also develop these
19 models of what level of retail service they would
20 have. Consequently, they could anticipate some
21 degree of the effect you are putting here and manage
22 that risk internally with fair prices.

23 Q. Thank you, Mr. Ridmann, and that is --

24 MR. KUTIK: Mr. Stoddard.

25 EXAMINER PRICE: Stoddard.

1 MR. KUTIK: Been there.

2 Q. Mr. Stoddard, I apologize. Thank you,
3 Mr. Stoddard. I apologize.

4 The marketers will recognize that there
5 is cost associated with migration risks and will seek
6 to respond to that risk?

7 A. You are contemplating two things. We
8 need to separate that out. What is the cost of
9 migration, and the second is risk premium associated
10 with the uncertainty around that migration.

11 What AEPR 6 shows is the cost of
12 migration and fails to address anywhere the risk
13 associated with migration. You've got to determine
14 the particular migration, and you are showing how
15 that assumes migration will change prices. It's
16 separate and distinct from the risk associated with
17 migration. At some level this is no different --
18 what you have here is no different in nature than the
19 risk of load growth.

20 Q. I'm sorry, was that load drift?

21 A. Load growth.

22 Q. Load growth, I apologize. I couldn't
23 hear you.

24 A. Where you expect that in '15-'16 there
25 will be some degree of load growth and you'll price

1 that in, and you have to buy higher quantities
2 because the load has grown.

3 Q. But in an effort to hold everything
4 equal, hold things static here, simply to illustrate
5 the effect that migration risks have, you would agree
6 with me that this chart does illustrate that there is
7 a cost to migration.

8 A. Accepting your hypotheticals, you know,
9 and as a general matter, I would agree that there
10 are -- if the SSO load increases in periods when
11 there is a delta between the SSO price and market
12 price where the SSO price is lower than market, and
13 if there is a decrease in SSO load when the reverse
14 is true, then the total cost to serve will be higher,
15 but in a way that can be anticipated and modeled by
16 SSO market participants in the bidding process.

17 Q. And that market participant, anticipating
18 that the cost of service will be higher, is going to
19 bid a higher price to provide that service. Would
20 that be a rational response to the higher cost?

21 A. Yes. He will bid a higher price, but
22 that's because he is providing greater value to the
23 customers. To clarify that last question -- I'm
24 sorry -- he's providing more power in the year when
25 power is most expensive, so it's hardly surprising on

1 a blended basis that he is charging a higher price.

2 Q. And would you say he's supplying more
3 power in a year that power is more expensive, that's
4 because he's got more customers to serve, correct?

5 A. That's correct.

6 Q. So he's going to buy that power in the
7 market at that point in time, correct?

8 A. He may have hedged it already, but --

9 Q. And, again --

10 MR. KUTIK: And excuse me. Mr. Stoddard,
11 had you finished your answer?

12 A. He may have hedged that in advance, but
13 as a general matter, he will be buying power to serve
14 that load.

15 Q. So he is buying in the market at a higher
16 price to serve customers that are migrating to him,
17 and he is going to recognize that risk, and a
18 rational marketer should recognize that risk at the
19 time that he submits his bid, correct?

20 MR. KUTIK: Objection. Mischaracterizes
21 his testimony.

22 Excuse me, Mr. Stoddard.

23 EXAMINER PRICE: Don't answer this yet
24 while I mull this over.

25 Mr. Dortch, response?

1 MR. DORTCH: Your Honor, I don't believe
2 I was characterizing his testimony at all. I was
3 asking a follow-up question.

4 MR. KUTIK: The beginning of the
5 question, I believe, attempted to characterize
6 Mr. Stoddard's testimony contrary to Mr. Stoddard's
7 testimony.

8 EXAMINER PRICE: Please rephrase the
9 question, Mr. Dortch.

10 MR. DORTCH: I think I am going to have
11 to ask that the question be reread to me at this
12 points.

13 EXAMINER PRICE: Let's reread the
14 question.

15 (Record read.)

16 MR. KUTIK: Your Honor, I also have an
17 additional objection.

18 EXAMINER PRICE: Yes, sir.

19 MR. KUTIK: Thus far, I had assumed, and
20 I believe the witness had assumed, we were talking
21 about wholesale suppliers into SSO auctions. Now,
22 we're talking about marketers, so at this point are
23 we talking about retail marketers? Are we still
24 talking wholesale marketers?

25 MR. DORTCH: I will definitely rephrase

1 that question, your Honor.

2 EXAMINER PRICE: Go ahead and rephrase.

3 Q. (By Mr. Dortch) Dr. Stoddard --

4 EXAMINER PRICE: Mr. Stoddard.

5 Q. -- a rational supplier will recognize --
6 strike that.

7 Dr.-- Mr. Stoddard, would you take a look
8 at AEPR 7 now. Would you agree with me AEPR 7
9 represents graphically the results that are shown on
10 AEPR 6?

11 MR. KUTIK: Objection.

12 EXAMINER PRICE: Grounds?

13 MR. KUTIK: Your Honor, the witness has
14 no familiarity with any of the numbers on 6. He
15 testified that he disagreed with the concept of the
16 assumptions that were made on 6, and so now we are
17 just being asked to make a comparison of numbers of a
18 graph that has no point or relevance whatsoever.

19 MR. DORTCH: Your Honor, if I may
20 respond.

21 EXAMINER PRICE: You may.

22 MR. DORTCH: The witnesses has -- the
23 witness has confirmed that the information that is
24 depicted in the bar --strike that. Let me try that
25 again.

1 The information -- the witness has
2 confirmed that the dollar figures depicted on Exhibit
3 6 are accurate and reflect the dollar figures that
4 are on AEPR Exhibit No. 2.

5 EXAMINER PRICE: Mr. Dortch, honestly, I
6 understand the point you are trying to make, and I
7 think you've made that point. Ms. Willey understands
8 the point that you are trying to make, and I think
9 the Commission will understand the point, but I think
10 we need to move on.

11 MR. DORTCH: Very well, your Honor.

12 Your Honor, may I have a moment?

13 EXAMINER PRICE: You may.

14 MR. DORTCH: Your Honor, I am finished.

15 Thank you, Mr. Stoddard. I appreciate
16 it.

17 THE WITNESS: You're welcome, Mr. Dortch.

18 EXAMINER PRICE: Consumers' Counsel.

19 - - -

20 CROSS-EXAMINATION

21 By Ms. Yost:

22 Q. Good afternoon, Mr. Stoddard.

23 A. Good afternoon.

24 Q. I'm Melissa Yost -- soon to be afternoon.
25 I'm Melissa Yost with the Office of the Ohio

1 Consumers' Counsel.

2 Do you recall when you were first
3 contacted about your potential testimony in this
4 proceeding today?

5 A. Yes. It was approximately with the
6 testimony I provided in the AEP ESP case.

7 Q. I'm sorry?

8 A. So it was about the same time as I
9 testified in the AEP ESP II case.

10 Q. Do you recall the date?

11 A. The exact date, no. It was approximately
12 a month ago.

13 Q. So it was when you were in Columbus
14 testifying in that case --

15 A. Yes, sir.

16 Q. -- you were approached? And who
17 approached you about testifying?

18 A. Wendy Stark.

19 Q. And in regards to your testimony and
20 presence at this hearing today, is it governed by a
21 written contract or agreement?

22 A. Yes. There is an engagement letter that
23 I sent to Ms. Stark, as our normal form of
24 engagement.

25 Q. So it was a unilateral letter you sent to

1 Ms. Stark?

2 A. Yes.

3 Q. Okay. Do you recall when you sent that
4 to Ms. Stark?

5 A. I believe that was issued, laggard about
6 my paperwork, on Monday.

7 Q. Of this week?

8 A. Of this week.

9 EXAMINER PRICE: Your accountants must
10 love you.

11 Q. Was the letter -- the engagement letter
12 you just spoke of, did you address it to FirstEnergy
13 Solutions or FirstEnergy? Do you recall who that
14 letter was sent to?

15 A. Well, it was sent to Wendy Stark, and I
16 don't recall the corporate title that I used in the
17 letter. It certainly would not have been FirstEnergy
18 Solutions. It is most likely to be FirstEnergy
19 Corp., but the engagement is with the companies.

20 Q. Mr. Stoddard, you do have before you your
21 written testimony in this case, correct?

22 A. I do.

23 Q. If I could have you turn to page 3 and
24 reference lines 1 and 2. And you read the testimony
25 of Mr. James Wilson on behalf of OCC in this

1 proceeding, correct?

2 A. I did.

3 Q. In some of your testimony you address
4 statements in his testimony; is that correct?

5 A. I do.

6 Q. And on the top of page 3, starting at
7 lines 1 and 2, you say, "In particular, I rebut
8 Mr. Wilson's conclusions about the prudence of the
9 Companies' proposal to extend their ESP to include a
10 multi-year procurement in the upcoming auctions."
11 Did I read that correctly?

12 A. Yes, ma'am.

13 Q. And nowhere in Mr. Wilson's testimony
14 does he use the word "prudence" in regards to the
15 three-year auction product, correct?

16 A. That's correct.

17 Q. Now, if I could have you turn to again in
18 regards to your testimony page 12, please, lines 5
19 and 7, there you are referring to the RPM incremental
20 auctions. And, in general, you testify that recent
21 rule changes "have improved the convergence of their
22 clearing prices to the price set in the Base Residual
23 Auction." Do you see that?

24 A. Yes, ma'am.

25 Q. What is the basis for this claim?

1 A. The basis for the claim is the -- my
2 examination of the clearing prices and the report on
3 the auctions and the incremental auctions by the
4 Brattle Group.

5 Q. The -- what report by the Brattle Group?
6 I'm sorry.

7 A. They -- the Brattle Group in late 2011
8 produced a report discussing the operation of the
9 reliability pricing model up to date, which included
10 a discussion of the incremental auctions.

11 Q. Is it the Brattle report? Is that how --

12 A. You can call it the Brattle report.

13 Q. Does the Brattle report conclude that
14 these -- that recent rule changes have improved the
15 convergence of the clearing prices set in the base
16 residual auction? Does that report conclude that?

17 A. I don't recall whether that's an explicit
18 conclusion. It is certainly the thrust of that
19 section.

20 Q. Would you agree that the RPM potentially
21 sets three prices for each zone, one for annual
22 resources, one for extended summer resources, and one
23 for limited resources?

24 THE WITNESS: I'm sorry, could I have
25 that question read back?

1 EXAMINER PRICE: You may.

2 (Record read.)

3 A. I would agree that the base residual
4 auction sets three prices potentially for each
5 constrained zone, as you described.

6 Q. Thank you. And to which of these three
7 prices are you referring to in your testimony in
8 regards to page 12, lines 5 through 7?

9 A. I am referring to annual products.

10 Q. The annual, is that what you said, sir?

11 A. Yes, ma'am.

12 Q. And when you were discussing, again on
13 page 12, lines 5 through 7, the rule changes, are you
14 referring to the rule changes approved by FERC in
15 March, 2009 -- and I'll give you the docket number, I
16 don't know if this helps. ER09-412, et al. -- to
17 implement the short-term resource procurement target,
18 otherwise known as the 2.5 percent holdback?

19 A. That's the correct docket. You described
20 one of the two changes included that was relevant.
21 The other change that was relevant was the -- that
22 the PJM adviser sell on the stump end of the variable
23 resource requirement. So it used to be they just
24 cleared bids and supply, and now if they are buying
25 or selling, they buy and sell based on the available

1 resource requirement curve.

2 Q. Was that in that same docket that I just
3 cited?

4 A. Subject to check, yes.

5 Q. Okay. And are you aware that on
6 January 30, 2012 -- and I'll give you a case number
7 again which may be helpful, ER12-513 -- FERC approved
8 PJM's proposal to eliminate the short-term resource
9 procurement target other -- is it known as STRPT?

10 A. Acronyms get dangerous. I think you
11 mischaracterized that filing, however.

12 Q. I'm sorry.

13 A. Please finish your question.

14 Q. Finish my question. So, again, are you
15 aware on January 30, 2012, in FERC docket ER12-513,
16 FERC approved PJM's proposal to eliminate the
17 short-term resource procurement target from the
18 determination of the minimum annual resource
19 requirement and the minimum extended summer resource
20 requirement?

21 A. Yes, that's correct.

22 Q. And would you agree that this rule change
23 increases the demand for the annual and extended
24 summer resources in the base residual auction by
25 eliminating the STRPT from the calculation?

1 A. Yes, it does.

2 Q. And the increased demand, in turn, tends
3 to raise the price of these resources in the base
4 residual auctions, correct?

5 A. All other things being equal, yes.

6 Q. And this change would also reduce the
7 demand for these prices in the incremental auctions,
8 correct?

9 A. Yes.

10 Q. And the reduced demand for these products
11 and the incremental auctions would, all things being
12 equal, tend to reduce the prices for these products
13 in incremental auctions, correct?

14 A. Yes.

15 Q. Thank you. Suppliers who win tranches in
16 the upcoming SSO auction will be committed to provide
17 full requirement service for a future period,
18 correct?

19 A. Yes.

20 Q. Full requirement service, what does that
21 mean to you?

22 A. Full requirements means they're
23 responsible for a slice-of-system of the bill that
24 the companies would get from PJM, so they would be
25 responsible for a portion of capacity, for the

1 energy, and ancillary services, and all other
2 associated charges from the wholesale side.

3 Q. Thank you. Would you agree out of the
4 services that you just described, the primary costs
5 of that full requirement service would be the energy
6 component?

7 A. Yes, ma'am.

8 Q. And the value and price of energy at each
9 time and location within PJM is indicated by the
10 locational marginal prices which is set by PJM,
11 correct?

12 A. That's correct.

13 Q. And the LPMs vary by locations, sometimes
14 significantly, if there are transmission constraints,
15 correct?

16 A. Yes.

17 Q. And, for example, LPMs within the ATSI
18 zone may be higher than LPMs outside the ATSI zone,
19 for instance, at the points where -- included in the
20 PJM Western Hub at some time in the future, correct?

21 A. That -- that event could occur. I should
22 also clarify for the record that the LMP is the
23 correct acronym throughout this discussion.

24 Q. Sorry. LMP, that's what I meant. Would
25 you agree the results of the recent RPM auctions that

1 were held for the '15-'16 delivery year in which the
2 ATSI zone cleared at a much higher price than
3 surrounding areas suggests that the LMPs in the ATSI
4 zone may often be much higher than in surrounding
5 areas during the years '15-'16?

6 A. No. I don't think I have a basis for
7 that conclusion.

8 Q. Could you explain why?

9 A. Yes. I have not examined the FE zone in
10 particular. I have examined a similar situation very
11 closely in Maine. Maine is a constrained area.
12 Electricity is constrained away. They have trouble
13 moving power out. They also have trouble moving
14 capacity out.

15 The Maine zone has been constrained on a
16 capacity basis for several years. When you look at
17 the energy prices, however, it turns out not to make
18 much difference because constraints modeled on the
19 capacity markets are different in nature than
20 constraints modeled on the energy markets.

21 When they hit, what effect they have, and
22 how they affect prices don't logically track between
23 the two. At least my examination of the case of
24 Maine versus the rest of the ISO New England show
25 there was a very poor correlation between the binding

1 constraints in the capacity markets and the binding
2 constraints in the energy markets, but I have not
3 made a similar analysis for the FirstEnergy zone.

4 Q. Would you agree that the possibility that
5 ATSI's LMP will be higher than LMP in the surrounding
6 areas creates energy price risk for suppliers who win
7 tranches in the companies' SSO auctions?

8 A. Yes. As a general matter, whenever you
9 are responsible for delivering to a particular point,
10 particular zone, there is a basic risk. We see that
11 into New Jersey, into Maine, into Delaware, into
12 D.C., all of which have multi-year ladderred SSO
13 procurements.

14 Q. And, in fact, you refer to what may be
15 significant risk in your testimony, correct?

16 A. That's correct.

17 Q. And suppliers who win tranches in the
18 companies' SSO auction will want to hedge the risk
19 associated with their commitment to serve load in the
20 ATSI zone, correct?

21 A. That seems likely.

22 Q. And in your testimony you state that
23 suppliers can hedge this basic risk using financial
24 transmission rights into the ATSI zone or financial
25 over-the-counter contracts?

1 A. That's correct.

2 Q. Is there any guarantee that the financial
3 over-the-counter contracts would be available to
4 hedge the basic risk between ATSI and, say, the
5 Western Hub? What's the guarantee those will be
6 available, if there is any?

7 MR. KUTIK: Objection. Compound.

8 EXAMINER PRICE: Sustained. Break it up.

9 MS. YOST: Could you read back the first
10 question.

11 EXAMINER PRICE: Please.

12 (Record read.)

13 Q. Thank you. If you could answer that
14 question.

15 A. Counselor, what do you mean by the word
16 "guarantee"?

17 Q. Is there any requirement that would
18 mandate these would be -- that these would be
19 available?

20 A. No. There's no formal requirement, but
21 power markets are a big, robust piece with a lot of
22 professionals who spend a lot of time in New York
23 trying to figure out how to manage power risk, and
24 our experience has been that when there is a demand
25 for product, that product is created and supplied.

1 Q. You note in your testimony that setting
2 the planning parameters for the recent RPM-based
3 residual auction, PJM reflected transmission that had
4 progressed sufficiently far in the review process,
5 correct? I can refer you to lines -- page 10, lines
6 5 through 7 of your testimony, if you would like to
7 look at that.

8 A. Thank you. Yes, that's correct.

9 Q. And further down on page 10 you testified
10 that "It would have been imprudent for PJM to include
11 transmission upgrades that had not yet been properly
12 vetted." Correct?

13 A. Yes, ma'am.

14 MS. YOST: Your Honor, if I may just have
15 a minute to locate an exhibit, I'll move right along.

16 EXAMINER PRICE: You may.

17 MS. YOST: Your Honor, at this time OCC
18 would like to mark the 2015-2016 RPM Base Residual
19 Auction Planning Parameters. It is a four-page
20 document.

21 EXAMINER PRICE: What number are you
22 asking to mark it as?

23 MS. YOST: 14.

24 EXAMINER PRICE: 14. It will be so
25 marked.

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 Q. Mr. Stoddard, take a moment to
3 familiarize yourself with this document, and let me
4 know when you are ready to proceed, please.

5 A. Okay. I'm with you.

6 Q. Thank you. If you could look at OCC
7 Exhibit 14, the third page at the top of the page,
8 you're familiar with the PJM base residual auction
9 planning parameters, correct?

10 A. Yes, as a general matter.

11 Q. On page 3 it indicates its "New Key
12 Transmission Upgrades included for the 2015/2016
13 Model." Do you see that?

14 A. I do.

15 Q. This is the list of transmission upgrades
16 that PJM reflected in the -- with the auction
17 parameters, correct?

18 A. It's the key transmission upgrades. I
19 believe there were some smaller upgrades that are
20 omitted from this list.

21 Q. And in regards to the financial planning,
22 parameters for the RPM-based residual auction were
23 posted on April 6, 2012; is that correct?

24 A. Yes.

25 Q. And the list before you of transmission

1 upgrades that were reflected in the auction planning
2 parameters separately identifies upgrades that were
3 included since the parameters were originally posted
4 on February 1, correct?

5 A. Yes.

6 Q. And are these the transmission upgrades
7 that have been properly vetted at the time of this
8 posting?

9 A. Yes.

10 Q. And can you tell us in what venue PJM
11 vets proposed transmission upgrades?

12 A. That's normally worked through the
13 Transmission Expansion Advisory Committee.

14 Q. Some call it TEAC?

15 A. TEAC.

16 Q. TEAC, yeah. Sorry. No one calls it
17 TEAC, I guess, sorry.

18 And did you participate in the TEAC
19 meeting at which these transmission upgrades were
20 vetted?

21 A. No, ma'am.

22 Q. Have you participated in any TEAC meeting
23 this year?

24 A. No, ma'am.

25 Q. Would you agree that when the PJM vets

1 transmission upgrades to address reliability issues,
2 it presents them to the TEAC in a document typically
3 called Reliability Analysis Update?

4 A. Yes. I think that's the usual operating
5 practice.

6 Q. So I believe that Mr. Wilson cites to two
7 of these in his testimony, if you recall.

8 A. I believe that's correct.

9 Q. And at which TEAC meeting were the
10 transmission upgrades that were reflected in the RPM
11 planning parameters for the 2015-2016 auction vetted?

12 A. I don't recall without referring back to
13 a document.

14 Q. A document that I can provide or a
15 document --

16 A. Well, I have a document which is
17 Companies' Exhibit 8, which is the TEAC
18 recommendations to the board, and --

19 Q. I'll show you a couple of documents.

20 MR. KUTIK: Well, your Honor, if the
21 witness may be allowed to refer to the document
22 counsel asked a question about, the witness should be
23 allowed to answer it if he has a document available
24 to him.

25 EXAMINER PRICE: Go ahead and give your

1 answer to the question, and then you can proceed to
2 those questions after that.

3 THE WITNESS: Okay.

4 A. The transmission upgrades you refer to
5 were presented to the TEAC and discussed at meetings
6 on February 16 and March 15. There was also an April
7 12 meeting.

8 Q. So your answer is the March 15, February
9 16, and the April 12 meeting?

10 A. Yes. And to qualify this, I have not
11 done a cross-check of the lists we have here with
12 what was discussed at exactly which meeting.

13 Q. And the April 12 meeting, we can at least
14 agree that was after the parameters were released on
15 April 6, correct?

16 A. Correct.

17 Q. So that would -- we can exclude April 12
18 as vetting those transmission projects before they
19 were released by the date of the meeting alone,
20 correct?

21 A. I agree.

22 MS. YOST: Your Honor, the OCC now
23 requests that a Transmission Expansion Advisory
24 Committee, PJM, March 15, 2012, document be marked as
25 OCC Exhibit No. 15.

1 EXAMINER PRICE: So marked.

2 (EXHIBIT MARKED FOR IDENTIFICATION.)

3 Q. Mr. Stoddard, if you could familiarize
4 yourself with this document and let me know when you
5 are ready to proceed.

6 A. I am ready to proceed.

7 Q. Mr. Stoddard, if you could take OCC
8 Exhibit 15, this is a document that reflects the TEAC
9 meeting of March 15, 2012, that you just testified to
10 was a meeting where they vetted the transmission
11 projects, correct?

12 A. Yes, ma'am.

13 Q. Could you indicate where in this document
14 it indicates those transmission projects were vetted?

15 A. Are you asking that we go through on a
16 line-by-line basis and examine these?

17 Q. If that's what it takes for you to become
18 comfortable with answering the question.

19 A. I mean --

20 Q. But it's my understanding it wouldn't
21 take that much work, but I want to give the time
22 necessary.

23 A. As a general matter, they are working
24 through each of the zones for what violations they
25 anticipate and what could be done to fix that.

1 Various options listed here, and short of actually
2 trying to do a complete one-on-one analysis to line
3 each of these up to the ones that were listed -- I'm
4 sorry. The difficulty we are running into, there was
5 a separate report before the ATSI zone, which is not
6 contained in this report.

7 EXAMINER PRICE: What kind of a report?

8 THE WITNESS: It's PJM's report of doing
9 a separate study of reliability violations in the
10 ATSI zone and recommended solutions to that.

11 EXAMINER PRICE: And that's not in this
12 document?

13 THE WITNESS: That's not in this
14 document.

15 Q. Was that report presented at the March 15
16 TEAC meeting?

17 A. I don't know.

18 Q. Mr. Stoddard, your answer to my line of
19 questioning previously was that these transmission
20 projects were vetted at the March 15, 2012, meeting
21 and the February 16, 2012, meeting. Right before
22 you, you have an OCC exhibit reflecting what was
23 discussed during the March 15, 2012, meeting and
24 there is no indication those projects were vetted at
25 that meeting, correct?

1 MR. KUTIK: Objection.

2 EXAMINER PRICE: Grounds?

3 MR. KUTIK: This witness has not
4 testified, nor has he agreed to the characterization
5 of this document as "things that were discussed at
6 the meeting."

7 EXAMINER PRICE: Response?

8 MS. YOST: I can ask the witness's
9 understanding of what this represents.

10 EXAMINER PRICE: She will rephrase.
11 Thank you.

12 Q. Mr. Stoddard, OCC Exhibit No. 15 in front
13 of you, what -- you are very familiar with PJM
14 documents, correct?

15 A. As a general matter, yes.

16 Q. So what does OCC Exhibit 15 represent?

17 A. This would be a document for an agenda
18 item on the TEAC committee. There are not,
19 infrequently, several agenda items on a given
20 committee meeting which would have different
21 documents for each one.

22 Q. When's the last TEAC meeting you've
23 attended, Mr. Stoddard?

24 A. I have never attended a TEAC meeting, but
25 I can view the agenda online.

1 Q. Mr. Stoddard, can we agree OCC Exhibit 15
2 does not indicate that the transmission projects were
3 vetted at this meeting?

4 A. We can agree that there are -- the ATSI
5 projects listed are not in this presentation.

6 MS. YOST: Your Honor, at this time OCC
7 would like to mark as OCC Exhibit No. 16, the
8 Transmission Expansion Advisory Committee document
9 from its February 16, 2012, meeting.

10 Q. Again, Mr. --

11 MS. YOST: I'm sorry. Is that so marked,
12 your Honor?

13 EXAMINER PRICE: So marked.

14 (EXHIBIT MARKED FOR IDENTIFICATION.)

15 Q. Mr. Stoddard, again, if I could ask you
16 to take some time to familiarize yourself with OCC
17 Exhibit 16.

18 A. I have done so.

19 Q. And this document does not indicate that
20 any of the transmission upgrades proposed for the
21 ATSI zone were vetted, correct?

22 MR. KUTIK: Objection. No foundation.

23 EXAMINER PRICE: Sustained. You need to
24 lay a better foundation.

25 Q. Mr. Stoddard, could you identify what OCC

1 Exhibit 16 is.

2 A. This appears to be a briefing document
3 from the PJM staff to the Transmission Expansion
4 Advisory Committee summarizing current studies of
5 potential need for transmission projects.

6 Q. And you're generally familiar with these
7 documents produced by the TEAC?

8 A. As a general matter, yes.

9 Q. And you had an opportunity to review this
10 document, correct?

11 A. I have now.

12 Q. And this document does not indicate that
13 any of the proposed transmission upgrades for the
14 ATSI zone were vetted at the February 16, 2012,
15 meeting, correct?

16 MR. KUTIK: Objection.

17 EXAMINER PRICE: Sustained.

18 MS. YOST: What's the grounds, your
19 Honor?

20 EXAMINER PRICE: You are --

21 MR. KUTIK: Assuming facts.

22 EXAMINER PRICE: Thank you. Assuming
23 facts not in evidence. You're mischaracterizing the
24 document, and, again, you haven't really laid a
25 proper foundation for the answers you want to get.

1 MS. YOST: Your Honor, he indicated that
2 these upgrades were vetted at the February 16, 2012,
3 meeting. This reflects what the agenda was for the
4 February 16, 2012, meeting.

5 EXAMINER PRICE: Now, you have not gotten
6 that fact on the record. If you want to ask him does
7 this document reflect the entire agenda from the
8 February 16 meeting, then you might have -- then you
9 might be able to ask your next question, but you
10 haven't asked him that question yet.

11 MS. YOST: Your Honor, this is a --

12 EXAMINER PRICE: Don't testify as to what
13 this is. You need to get it on the record through
14 this witness.

15 Q. (By Ms. Yost) Does this document indicate
16 what was discussed at the February 16, 2012, meeting,
17 TEAC meeting?

18 A. It includes at least part of the agenda,
19 but I do not know whether it includes all of the
20 agenda.

21 Q. And does OCC Exhibit 16 indicate whether
22 the transmission upgrades in the TEAC zone -- the
23 transmission upgrades in the ATSI zone were vetted?

24 A. No. To the contrary, they indicate, for
25 instance, on page 8 that the reliability analysis

1 related to the retirement of some of the major units
2 in the ATSI zone are "underway."

3 Q. You said the retirement is underway?

4 A. No, I'm sorry. Let me let me restate my
5 answer. Page 8 identifies, and a few on bottom of
6 page 7, identifies units that have been identified as
7 retiring, and the status shown in the far right
8 column is "reliability analysis underway."

9 Q. But it does not indicate there was
10 vetting of any proposed transmission upgrades,
11 correct?

12 A. That's correct.

13 Q. Thank you, Mr. Stoddard. So is it still
14 your testimony PJM had vetted the transmission
15 projects for the ATSI zone, including the parameters
16 for the 2015-2016 RPM-based residual auction, before
17 they were released?

18 MR. KUTIK: Could I have the question
19 read, please.

20 EXAMINER PRICE: You may.

21 (Record read.)

22 A. Yes. PJM had established, at least to
23 its own internal satisfaction, that the projects
24 they've listed in the report labeled OCC 14 were
25 sufficiently certain to include in the planning

1 requirements, and there is no tariff requirement that
2 the TEAC be advised or approve of these changes.

3 Q. Is it still your testimony that these
4 proposed project upgrades for the ATSI zone were
5 vetted in the TEAC meetings of March 15, 2012, and
6 February 16, 2012?

7 A. I don't believe I ever testified that
8 each and every one of these were there. I will,
9 however, accept that I do not have certainty that all
10 of these upgrades were reviewed with the TEAC at a
11 committee meeting prior to the April 6 posting.

12 Q. In fact, you do not know if any of the
13 proposed upgrades were ever vetted in the March 15 or
14 the February 16, 2012, meetings, correct?

15 A. There was a separate analysis of --
16 MS. YOST: Your Honor, I would request
17 that the witness be instructed to answer the
18 question. It's a yes or no.

19 EXAMINER PRICE: First of all, he hasn't
20 answered anything yet. After that, then you can make
21 your request.

22 MR. KUTIK: That was my --

23 EXAMINER PRICE: You may proceed.

24 MS. YOST: Thank you, your Honor.

25 A. As I indicated earlier, there was a

1 separate report produced by PJM analyzing the ATSI
2 reliability requirements. I do not recall the date
3 of that meeting -- of that report, and so I accept
4 that I am not certain, as I sit here, that one of the
5 TEAC meetings reviewed that report.

6 MS. YOST: Again, your Honor, I would ask
7 the witness be instructed to answer the question.

8 MR. KUTIK: He did.

9 MS. YOST: Nonresponsive.

10 EXAMINER PRICE: I don't think that you
11 framed it totally as a "yes" or "no" question so I'm
12 going to accept his answer.

13 MS. YOST: Could you read back the
14 question, please.

15 (Record read.)

16 Q. Either you know or you don't know.

17 MR. KUTIK: He gave his answer.

18 EXAMINER PRICE: He gave his answer. If
19 you want to ask a follow-up question and ask for a
20 "yes" or "no" answer, go ahead.

21 Just because you append "correct" to it,
22 doesn't make it a "yes" or "no" answer. If that were
23 the rule, we would have been applying that
24 consistently, and we would have had a much shorter
25 hearing.

1 Q. (By Ms. Yost) You -- Mr. Stoddard, you
2 have no personal knowledge that the proposed
3 transmission upgrades in the ATSI zone were ever
4 vetted in the February 16, 2012, or the March 15,
5 2012, TEAC meetings, correct?

6 A. Yes. I have no direct personal knowledge
7 of that fact.

8 Q. Thank you. And we can agree that, in
9 your opinion, it would have been imprudent for PJM to
10 have included transmission if it had not -- that
11 had -- excuse me, that had not yet been properly
12 vetted, correct? Is that your opinion?

13 A. With the reservation that "properly
14 vetted" does not mean under the PJM tariff, it goes
15 to the TEAC. PJM decides the CTCL and CETO on its
16 own, and the board can review it. It is usually
17 brought to stakeholders when time permits, but they
18 were moving rapidly to try to move and make an
19 expeditious decision. They had to use internal
20 judgment. I do not believe that is imprudent, nor is
21 it relevant to this case.

22 Q. What is the role of the TEAC --

23 MR. KUTIK: Your Honor, had the witness
24 finished his answer?

25 EXAMINER PRICE: Had you finished? I

1 thought you had.

2 THE WITNESS: Yes.

3 EXAMINER PRICE: Please answer the next
4 question.

5 MS. YOST: And I move to strike the
6 witness's statements as irrelevant to the case. It's
7 not his determination; it's the Bench's.

8 EXAMINER PRICE: I'll give him some
9 leeway. Denied.

10 Q. What is the purpose of the TEAC,
11 Mr. Stoddard?

12 A. The TEAC provided a forum that PJM can
13 present potential transmission upgrades to seek the
14 advice of market participants. Unlike other PJM
15 committees, it is not decisional.

16 MS. YOST: You Honor, if we could go off
17 the record for a moment.

18 EXAMINER PRICE: You may.

19 (Discussion off the record.)

20 EXAMINER PRICE: Let's go back on the
21 record.

22 MS. YOST: Could we go back off the
23 record, your Honor?

24 EXAMINER PRICE: Let's go back off the
25 record.

1 (Discussion off the record.)

2 EXAMINER PRICE: Let go back on the
3 record.

4 MS. YOST: Your Honor, at this time I
5 would request that the witness be asked by -- or
6 compelled by the Bench to attempt to identify the
7 agenda that he referenced in his testimony in regards
8 to when the projected transmission upgrades for the
9 ATSI program -- for the ATSI zone were vetted. There
10 was some reference to that in his cross-examination.

11 EXAMINER PRICE: Mr. Kutik.

12 MR. KUTIK: Your Honor, I think asking
13 this witness to go through his files in another town,
14 or that may be in another town, or to go online to
15 search PJM records and filings while he's on the
16 stand is highly inappropriate.

17 If counsel, being supported by her
18 witnesses and her support staff, can't find that
19 document, the witness shouldn't be compelled to do
20 that.

21 EXAMINER PRICE: Response?

22 MS. YOST: Your Honor, it's a document he
23 indicated under oath that exists. He also indicated
24 that he searches the PJM website. He's familiar with
25 where the agendas are. It shouldn't take much time

1 if he can locate it. He should be able to do it in a
2 very short time.

3 EXAMINER PRICE: That's not his
4 responsibility to produce documents for you for
5 cross-examination during his testimony. Denied.

6 MS. YOST: Thank you, your Honor. And
7 with respect to the Bench's ruling, we would request
8 to take a break at this time so that OCC may attempt
9 to locate the document and also to accommodate the
10 lunch schedule.

11 EXAMINER PRICE: No. I think I would
12 like to continue on with your cross-examination.
13 Thank you.

14 Q. (By Ms. Yost) Mr. Stoddard, I was doing
15 some reading last night, and I read some PJM
16 documents and came upon a -- something that's called
17 the reliability must run. Are you -- have you heard
18 of that term before?

19 A. Yes, ma'am.

20 Q. And what is your understanding of what is
21 a reliability must run?

22 A. When PJM determines that there is a
23 potential need for a unit that has requested
24 deactivation to stay in service, PJM may request that
25 the unit enter into a reliability must run contract.

1 The unit may choose not to do so, in which case PJM
2 can't force it to operate.

3 Q. Would you agree that under the structure
4 of PJM, if the transmission upgrades can be put in
5 place prior to the intended deactivation date, then
6 the unit can retire as it requested?

7 A. I don't believe the retirement is
8 dependent upon the transmission being -- upgrades
9 being complete.

10 Q. Because, as you said, PJM cannot compel a
11 generator to remain in service; is that correct?

12 A. That's correct.

13 Q. So is it fair to say the transmission
14 upgrades that are required to maintain reliability
15 that PJM has identified cannot be implemented by the
16 requested deactivation date that's when generation
17 may be needed -- may need to be retained through the
18 reliability must run agreement that you indicated?

19 A. That is a potential outcome of a
20 transmission construction delay.

21 Q. And are you aware that based on the
22 expected in-service date of some of the transmission
23 upgrades included in -- I will indicate the report
24 which has been marked as FE Exhibit 8 -- that PJM is
25 pursuing RMR agreements? Are you aware of that?

1 A. No, actually, I am not aware that they
2 are pursuing RMR markets with any unit.

3 Q. In the pursuit of RMR agreements at this
4 time because of the retirements that have been
5 announced would indicate that PJM is concerned that
6 some of the expected in-service dates of the
7 transmission upgrades would not be in place at the
8 time of any specific retirement?

9 MR. KUTIK: May I have the question read,
10 please.

11 EXAMINER PRICE: Please.

12 MS. YOST: Let's just strike that one.

13 EXAMINER PRICE: Okay.

14 MS. YOST: I'm sorry, could you read back
15 his answer.

16 EXAMINER PRICE: To the previous
17 question?

18 MS. YOST: Yes, please.

19 EXAMINER PRICE: Read back the answer to
20 the previous question, please.

21 (Record read.)

22 Q. Mr. Stoddard, if you could turn to FE
23 Exhibit 8, which is the Transmission Expansion
24 Advisory Committee, it should be -- I placed it up
25 there for you.

1 A. Yes. I have that in front of me.

2 Q. Page 1 of 23, under the executive
3 summary, second paragraph, it reads, "The baseline
4 upgrades related to the generation deactivation study
5 completed as of this time are summarized below. The
6 requested generation deactivation ranges from May
7 2012 to the end of 2015. If the transmission
8 upgrades that are required to maintain reliability
9 cannot be implemented by the requested deactivation
10 date, generation may need to be retained through
11 reliability must run agreements. Based on the
12 expected in-service date of some of the transmission
13 upgrades included in this report, RMR agreements are
14 being pursued."

15 Did I read that correctly?

16 A. You did, ma'am.

17 Q. You indicated you've read Mr. James
18 Wilson's testimony, and in his testimony he states
19 that 20 percent of the generation in the ATSI zone
20 was announced for retirement in the January -- in
21 January/February of this year, correct?

22 A. Yes, he does.

23 Q. And you agree with this assessment,
24 correct?

25 A. Yes.

1 Q. You used the figure --

2 A. I used one-fifth. I didn't actually
3 check to see whether 20 percent is precisely the
4 right number.

5 Q. And the auctions in which the companies
6 propose to acquire three-year products are to be held
7 in October, 2012, and January, 2013, which is less
8 than a year after these announcements, correct?

9 A. Yes.

10 Q. Can you identify another region in Ohio
11 where there was an SSO auction to acquire supply
12 three years into the future for a three-year product
13 less than a year after 20 percent of the zone's
14 generation was announced for retirement?

15 A. That happens to be a unique confluence of
16 events.

17 Q. For Ohio?

18 A. For Ohio.

19 Q. Can you indicate anywhere else in the
20 country where this has occurred?

21 A. If we are looking for 20 percent as a
22 number, then, no. There have been other zones where
23 there have been substantial changes in the generation
24 and transmission network that still conduct
25 three-year forward auctions. I would point to

1 Delaware and New Jersey as examples.

2 Q. But they didn't retire one-fifth of their
3 generation, correct?

4 A. No. But they have other significant
5 changes that introduced potential changes to the
6 market.

7 Q. And I know you indicated that you do work
8 in other countries. Can you identify another country
9 where there was a standard service auction to acquire
10 any supply, whether one, two, or three years and into
11 the future, less than a year after a fifth of the
12 zone's generation was announced for retirement? Are
13 you aware of that in any other country?

14 A. No. But you're acting as though the
15 one-fifth is some magic threshold that changes the
16 risk beyond any way that market participants know how
17 to predict or manage, which I disagree.

18 Q. Do you agree with Mr. Wilson that there
19 is likely to be transmission constraints in the ATSI
20 zone in the future, correct?

21 A. Well, as we had a previous discussion, I
22 think he jumps incorrectly to the conclusion because
23 it's constrained on capacity, it will therefore be
24 constrained on energy. I haven't done the specific
25 analysis about whether the ATSI zone as a whole or

1 whether subzones or whether the energy constraints
2 will, in fact, be relevant. I simply have not done
3 the study, and I don't believe Mr. Wilson has either.

4 MS. YOST: Your Honor, I would like to
5 strike the answer as being nonresponsive.

6 EXAMINER PRICE: Let's have the question
7 and answer again.

8 (Record read.)

9 MS. YOST: It's a "yes" or "no," your
10 Honor. He doesn't have to agree with Mr. Wilson.

11 MR. KUTIK: I don't think that it's a
12 "yes" or "no" at all, your Honor.

13 EXAMINER PRICE: I don't think it's "yes"
14 or "no." You can follow-up with a "yes" or "no" if
15 you would like to, but did you move to strike, or did
16 you object to the response?

17 MR. KUTIK: I think she moved to strike,
18 your Honor.

19 EXAMINER PRICE: To the extent you moved
20 to strike, it's denied. If you would like to follow
21 up with a "yes" or "no," I am sure he would be happy
22 to answer it.

23 Q. I'll just turn you to page 17 of your
24 testimony, lines 22, starting on line 22. You state
25 in your direct testimony, "As in ATSI (in the

1 future), there are transmission constraints into and
2 within New Jersey that can materially affect
3 delivered energy pricing."

4 A. I agree with that statement. I disagree
5 with Mr. Wilson that it will materially affect.

6 EXAMINER PRICE: I think she was really
7 intending to get a "yes" or "no" then.

8 A. Yes. Yes. Yes, ma'am, I agree with that
9 statement.

10 EXAMINER PRICE: To the extent Mr. Kutik
11 would like to elicit further information, he will do
12 so on redirect.

13 THE WITNESS: Thank you, your Honor.

14 Q. And would you agree that -- strike that.

15 Would you agree that the fact that there
16 are likely to be transmission constraints in the ATSI
17 zone is reflected in the results of the recent RPM
18 auction for the 2015-2016?

19 A. May I clarify? When you say
20 "constraints," are you meaning in the capacity market
21 or the energy market?

22 Q. Capacity market.

23 A. Yes. The fact that there were
24 constraints in the capacity market means the capacity
25 prices for 2015-'16 are higher than they would

1 otherwise be.

2 Q. And in that auction, you've discussed
3 this before, you find that the ATSI zone cleared at a
4 weighted average price of 30 -- excuse me -- 342
5 megawatts a day; is that correct?

6 A. 340 -- \$342 per megawatt-day.

7 Q. Yes, per megawatt-day. And while the
8 surrounding rest of the RTO region cleared at \$136
9 per megawatt-day, correct?

10 A. I thought it was 137, but, yes, at a much
11 lower number.

12 Q. And considering the capacity transfer
13 rights into the ATSI zone, the average price to load
14 is \$294 per megawatt-day, correct?

15 A. Yes.

16 Q. So the locational price differential for
17 ATSI based on the weighted average auction clearing
18 price is \$206 per megawatt-day?

19 A. For the capacity market, that's correct.

20 Q. Or using the price to load, the
21 locational price differential is \$158 per
22 megawatt-day?

23 A. Yes, subject to -- that we have not
24 applied scaling and other losses that Mr. Dortch and
25 I discussed.

1 Q. And isn't it your testimony New Jersey
2 faces a similar uncertainty as the ATSI zone does?

3 A. In this particular auction, no, but they
4 have in prior auctions. The PSEG-North zone, in
5 particular, has been highly constrained and subject
6 to substantial changes in the capacity price relative
7 to the rest of the RTR --

8 MR. KUTIK: For the record, could you
9 spell that?

10 THE WITNESS: P-S-E-G North.

11 EXAMINER PRICE: Thank you.

12 Q. And as we just read in your testimony,
13 page 17, you testify that there are transmission
14 constraints into and within New Jersey as in ATSI,
15 correct?

16 A. Yes, ma'am.

17 Q. And New Jersey is not defined as a zone
18 for RPM pricing, correct?

19 A. Not New Jersey as a state. The
20 individual utilities within New Jersey are, and the
21 PSEG-North zone is a separate subzone of the Public
22 Service & Electric and Gas service zone, which is
23 separately modeled and separately priced in some
24 auctions.

25 Q. And PJM defines an eastern MAAC zone that

1 includes New Jersey, Delaware, and part of
2 Pennsylvania; is that correct?

3 A. Yes.

4 Q. And for RPM purposes, PJM also defines a
5 PSEG, a PS-North, and a DP&L South zone and an
6 eastern MAAC, M-A-A-C, correct?

7 A. That's correct.

8 Q. Eastern MAAC is within the mid-Atlantic
9 MAAC zone?

10 A. Correct.

11 Q. What is the locational price differential
12 for the eastern MAAC zone in the recently completed
13 RPM-based residual auction for the 2015-2016 delivery
14 year?

15 A. It's positive but small. I think it's on
16 the order of \$20. I don't remember the numbers as I
17 sit here.

18 Q. How would you determine that?

19 A. I would go back to AEPR Exhibit 4 where
20 it's printed.

21 Q. Could you take a look at that, please.

22 A. Sure. The particular item I am referring
23 to, the page of that earlier exhibit entitled
24 2015/2016 DY BRA Load Pricing Results.

25 Q. And could you walk us through how you

1 determined \$20?

2 A. I spoke in error. It is a \$31.46
3 difference, and that is from the second panel of
4 prices labeled LDA capacity price components, the
5 fourth column, labeled Locational Price Adder
6 Applicable to LDA. And you can see MAAC and eastern
7 MAAC and all the non-RTO region, except ATSI, has a
8 \$31.46 premium.

9 Q. So what is the basis for your testimony
10 there are transmission constraints into and within
11 New Jersey as in ATSI?

12 A. The basis is a review of 10 years of
13 history of the PJM operating system, and although in
14 2015-16 we don't see this, my comparison in my
15 testimony is to discuss the prudence of three-year
16 forward procurement, as is done in New Jersey. It
17 has been done in New Jersey since 2002,
18 notwithstanding during many of those years since 2002
19 when all or part of New Jersey is part of a
20 premium-priced zone, not necessarily distinct from
21 immediately adjacent parts of Pennsylvania, but
22 separated from the RTO zone and parts of New Jersey
23 within as a subzone also being priced out separately.

24 Q. Is that analysis you just described in
25 your testimony?

1 A. No. That was on the basis of general
2 knowledge that I have about the RPM clearing and,
3 again, on the Brattle report from 2011 that
4 summarized the auction clearing results over history.

5 Q. Have you performed any analysis regarding
6 whether under the company's ESP I or ESP II the
7 multiple-year products lowered consumers' cost
8 compared to the cost if the one year products had
9 been auctioned?

10 A. No, I have done no such analysis.

11 Q. Do you have any opinion on whether
12 consumer costs would have been lower had one-year
13 products rather than multiple-year products been
14 acquired in the SSO auctions under ESP I and II?

15 A. No.

16 EXAMINER PRICE: Would it surprise you if
17 two-year products were less expensive than one-year
18 products?

19 THE WITNESS: No, it wouldn't surprise
20 me. I think there are efficiencies of managing a
21 multiple-year risk that can be lost by having a short
22 horizon.

23 MR. DORTCH: Your Honor, I apologize. I
24 didn't hear your question.

25 EXAMINER PRICE: What I asked him, if it

1 would surprise him that some two-year products were
2 cheaper than one-year products.

3 And I guess I should clarify, whether it
4 would change your answer or not in the same auction
5 at the same time.

6 THE WITNESS: Same answer, your Honor.
7 And also to supplement it, the forward curves can
8 sometimes anticipate declines in the average power
9 price so.

10 MR. DORTCH: Thank you.

11 MS. YOST: May I continue, your Honor?

12 EXAMINER PRICE: You may.

13 Q. If I could have you turn to page 9 of
14 your testimony, Mr. Stoddard.

15 MR. KUTIK: That was page 9?

16 MS. YOST: 9, yes, please.

17 Q. Specifically starting line 15, you
18 testified previously that in regards to your
19 statement there was a substantial risk if the ATSI
20 zone would clear at the cap of 537 megawatt --
21 dollars per megawatt-day, and you've indicated during
22 your cross-examination that the \$537 was the cap; is
23 that correct?

24 A. Yes, ma'am.

25 Q. And that was determined by 1.5 times the

1 net CONE price, correct?

2 A. Yes, ma'am.

3 Q. When you say there is a substantial risk,
4 what analysis did you do to determine there was a
5 substantial risk that the auction results would clear
6 at the cap?

7 A. I did not myself perform an analysis on
8 this. I am relying here on analyses we did after the
9 initial ATSI auctions were announced for other
10 commercial clients we did. And for -- and on
11 statements made by investment banks about where they
12 saw the auctions clearing.

13 Q. So you had not determined that there was
14 a substantial risk in the ATSI zone that it would
15 clear at the cap of the 537 until after the auction;
16 is that what you're saying?

17 A. No. I misspoke, if that's what you
18 understood. After the initial CTEL/CETO parameters
19 were released, we, in my shop, looked at the
20 outcomes. If those were the parameters that held,
21 given what we knew about unit activations Genon and
22 FirstEnergy Solutions and other announced changes, we
23 concluded that unless there was a change in the
24 CTEL/CETO, our models were showing that there were --
25 unless there was substantial new capacity coming in

1 that we didn't know about, the auction could clear at
2 the cap.

3 That was consistent with the statements
4 made by other analysts at the time. This was
5 before -- it was in that window after they put out
6 the initial CTEL/CETO and before they released that
7 in April to include additional transmission capacity
8 that had been modeled that we discussed at some
9 length earlier.

10 Q. Would you agree constraints in the
11 transmission -- strike that.

12 Would you agree in regards to the
13 2015-2016 base residual auction results, the only
14 outlier is the ATSI LDA, which experienced a large
15 concentration of generation retirements and resulting
16 transmission constraints with relatively little lead
17 time for new resources to make entry decisions,
18 coupled with the need for retrofits at existing coal
19 units resulting in much higher prices than last year?

20 MR. KUTIK: Objection.

21 EXAMINER PRICE: Grounds?

22 MR. KUTIK: Argumentative. Multiple
23 part, multiple assumption.

24 EXAMINER PRICE: Well, it certainly does
25 have multiple parts. If you could just break that

1 down for us, I would appreciate it.

2 Q. Would you agree that in regards to the
3 2015-2016 RPM-based residual auction, that the only
4 outlier was the ATSI LDA?

5 A. Not entirely. As we discussed, the MAAC
6 region separated by \$31.46, the ATSI zone separated
7 by a markedly higher number at \$186.08 differential.

8 Q. Would you agree that the ATSI zone
9 experienced a large concentration of generation --
10 generator requirements and resulting transmission
11 constraints?

12 A. If you meant to say the word
13 "retirement" --

14 Q. Sorry.

15 A. -- then I would agree with that
16 statement.

17 Q. Would you agree that in regards to the
18 2015-2016 base residual auction, that there was
19 relatively little lead time for new resources to make
20 entry decisions?

21 A. No. I think that the PJM document you
22 are quoting is taking a very narrow view about how
23 markets work. Although the final form of the
24 regulations that I discussed as triggering the
25 generation were not known until the end of December,

1 2011, the fact that they were coming was well known
2 for some time ahead of that, and, in fact, the
3 earlier draft versions of this were even stronger
4 than the final form that would have required even
5 more retirement.

6 EXAMINER PRICE: Which one was stronger,
7 both of them?

8 THE WITNESS: I'm sorry, the MATS, the
9 Mercury and Air Toxic identification, is the
10 controlling problem here. CSAPR is a relatively weak
11 influence on retirement.

12 MS. YOST: Your Honor, at this time OCC
13 would like to have marked --

14 EXAMINER PRICE: He's still answering his
15 question.

16 MS. YOST: I'm sorry.

17 THE WITNESS: Thank you. So I believe
18 that there was a substantially longer lead time. You
19 don't have to wait for a competitor to announce that
20 they're leaving the market before you realize that
21 there might be an opportunity. In fact, quite to the
22 contrary, I have clients who call me up and say,
23 let's work on competing where requirements might
24 occur.

25 So to the extent that retirement could be

1 anticipated by the market, which I think they could,
2 then alternative sources of supply from competitive
3 entry could have been and probably were looking at
4 the potential for entering, and the fact that there
5 are very few offers of new entry, besides a thousand
6 megawatts of new DR that was offered for the first
7 time in the auctions, suggests that it's quite
8 expensive and difficult to build in the ATSI zone.

9 EXAMINER PRICE: Thank you.

10 Please proceed.

11 MS. YOST: Thank you, your Honor.

12 At this time OCC would like to have
13 marked as OCC Exhibit 17 a PJM document reflecting
14 the 2015-2016 RPM base residual auction results.

15 EXAMINER PRICE: So marked.

16 Don't we already have this document?

17 MS. YOST: Has it been entered?

18 MR. KUTIK: May we go off the record,
19 your Honor?

20 EXAMINER PRICE: Let's go off the record.

21 (Discussion off the record.)

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

24 MS. YOST: Has the witness been provided
25 with AEPR 1?

1 A. Yes, ma'am, I have.

2 Q. All right. Thank you. In regard to my
3 line of questioning, if I could have you turn to page
4 28 of what has previously been marked AEPR Exhibit 1.

5 A. I'm with you.

6 Q. And you're familiar with this document,
7 correct?

8 A. Yes, ma'am.

9 Q. And it reflects PJM's overall evaluation
10 of the 2015-2016 RPM-based residual auction results,
11 correct?

12 A. Yes, ma'am.

13 Q. And in regards to under paragraph -- it's
14 the first full paragraph, about the middle of that
15 paragraph, I was questioning you in regards to the
16 statement by PJM that the only out -- outlier in the
17 ATSI LDA which experienced alarming concentration of
18 generator retirements and resulting transmission
19 constraints with relatively little lead time for new
20 resources to make entry decisions, coupled with the
21 need for retrofits at existing coal units resulting
22 in much higher prices than last year. I had a line
23 of questioning previous to this, but you don't
24 disagree that the end result is much higher prices
25 for RPM this year than last year, correct?

1 A. I do not disagree, no.

2 Q. And in regards to the ATSI, it cleared
3 with the RTO last year at \$125.99 per megawatt-day.

4 A. Yes.

5 Q. But it indicates annual resources this
6 year cleared at \$357 per megawatt-day, correct?

7 A. Yes, ma'am.

8 Q. But as you've previously stated, you do
9 not agree with PJM's assessment of the overall
10 effects on the market outcomes, as you just stated?

11 A. My opinions were as I stated them.

12 Q. If I could have you turn to page 8 of
13 your testimony, Mr. Stoddard, specifically lines 13
14 and 14, when you're speaking of the ATSI zone in
15 regards to the one-fifth of the generation slated for
16 deactivation, you indicate it "is relatively harder
17 hit because of the higher proportion of older,
18 sub-critical coal generation in the zone." Do you
19 see that, sir?

20 A. Yes, ma'am.

21 Q. What analysis did you do to determine the
22 ATSI zone has the higher proportion of older,
23 sub-critical coal generation in the zone?

24 A. I did not do a formal analysis, but I
25 reviewed the list of retirements and reviewed the

1 particular technology and age of those particular
2 units and established that the technology types and
3 ages for the ATSI zone were similar to the technology
4 type and ages of retired resources outside of the
5 ATSI zone.

6 Q. So what other zones did you compare ATSI
7 to?

8 A. I compared it generically to all other
9 PJM zones collectively.

10 Q. And you evaluated the technology of each
11 type of generation in the ATSI zone?

12 A. Yes, ma'am. That's information we keep
13 in our databases.

14 Q. And you say it has a higher proportion of
15 the older, sub-critical coal generation. Higher than
16 what?

17 A. Higher than the PJM collectively.

18 Q. So you averaged all the --

19 A. And this was not a formal analysis. It
20 was a -- it was a reviewing and drawing a conclusion.
21 I would also note for the record that there are some
22 zones that have more coal. For instance, Maryland
23 has quite a lot of coal, but they were subject to the
24 Maryland Healthy Air Act that required them to
25 retrofit those units at an earlier date. Having been

1 retrofitted, they now were in compliance, in large
2 part, with the MATS and CSAPR.

3 Q. Would you agree there could be zones in
4 PJM that have a higher proportion of the older,
5 sub-critical coal generation than the ATSI?

6 A. I don't have a basis for disputing your
7 claim, if that's your claim.

8 Q. Thank you.

9 MS. YOST: Your Honor, if I could have
10 just a minute to confer, we may be coming to an end.

11 EXAMINER PRICE: You may. Let's go off
12 the record.

13 (Discussion off the record.)

14 EXAMINER PRICE: Let's go back on the
15 record.

16 MS. YOST: At this time OCC has no more
17 cross-examination for Mr. Stoddard. However, we
18 would like to request that we be permitted to
19 cross-examine Mr. Stoddard on one document we have
20 identified, whether it is the document that he was
21 referencing -- referenced during his
22 cross-examination previously, and any cross would be
23 limited to that, absent any recross in response to
24 redirect.

25 EXAMINER PRICE: Subject to reservation.

1 Mr. Warnock.

2 MR. WARNOCK: No questions, your Honor.

3 EXAMINER PRICE: Mr. McNamee.

4 - - -

5 CROSS-EXAMINATION

6 By Mr. McNamee:

7 Q. What's a scaling factor?

8 A. A scaling factor does two things. First,
9 it lines up the installed capacity number with the un
10 -- with the unforced capacity number. More
11 importantly, it reflects the fact that if we have a
12 15 percent reserve margin, let's say, so we've
13 acquired 115 megawatts of resources for every 100
14 megawatts of load, but we have to pay all 115, the
15 costs have to come down to the 100 megawatts that
16 show up. So the clearing price has to be scaled up
17 to reflect the fact that there are fewer units of
18 load than there is generation because we have reserve
19 margin.

20 MR. McNAMEE: Thank you. Nothing more.

21 EXAMINER PRICE: Mr. Kutik, redirect?

22 MR. KUTIK: May I have a few moments your
23 Honor, or more than a few moments?

24 EXAMINER PRICE: You may.

25 MR. KUTIK: It won't take very long.

1 EXAMINER PRICE: Let's go off the record.

2 (Discussion off the record.)

3 EXAMINER PRICE: Back on the record.

4 I would like to note the -- before the
5 break that OCC had moved on the subject to the
6 reservation of rights to ask the witness a series of
7 questions relating to a potential document.

8 Ms. Yost, are you prepared to ask those
9 questions at this time.

10 MS. YOST: I have no further questions,
11 your Honor. Thank you.

12 EXAMINER PRICE: Thank you.

13 Mr. Kutik, redirect?

14 MR. KUTIK: Yes, your Honor. Thank you.

15 - - -

16 REDIRECT EXAMINATION

17 By Mr. Kutik:

18 Q. Mr. Stoddard, you were asked some
19 questions by counsel for OCC about the convergence of
20 the clearing prices from the incremental auctions and
21 BRA. Do you remember that?

22 A. Yes, sir.

23 Q. And she asked you some questions about
24 changes in the rule for earlier this year and other
25 factors. Is that -- do any of those change your view

1 about -- your opinion about the convergence and
2 the -- and the potential relative relationship
3 between the clearing prices and those two auctions?

4 A. No, they don't. Although the rules do
5 modify the requirements, as I discussed with
6 Ms. Yost, the net effect is still to better align the
7 incremental auction prices with the base residual
8 auction prices, such that I think it would be
9 unreasonable to expect, as a general matter, that it
10 will be effectively riskless as Mr. Wilson suggests,
11 to commit to supplying resources today, and if I
12 can't meet them, why you can sell them back and
13 probably for a profit.

14 I think that is reckless behavior in the
15 market, and the companies would be well advised to
16 bid only resources they have control of.

17 Q. You were also asked a series of questions
18 about the vetting of transmission upgrade projects by
19 PJM. How do you understand PJM to have vetted those
20 upgrades?

21 A. PJM has a very substantial and
22 experienced staff of transmission planners,
23 transmission engineers, who have studied the question
24 and identified for their management the likely
25 solutions. I have worked directly with PJM staff,

1 transmission planning staff, on issues like this, but
2 not for FirstEnergy, and have actually been retained
3 to replicate their CTEL/CETO analysis for a
4 constraint.

5 So I have a clear understanding of how
6 they do it. It is an internal process in the first
7 stance, and time permitting, it's taken to the
8 Transmission Expansion Advisory Commission for their
9 advice. But because of the timing in the tariff,
10 they needed to move expeditiously, which in this case
11 did not allow all of the ATSI zone upgrades to be
12 included in a timely way in the Transmission
13 Expansion Advisory Committee's consideration.

14 Q. You were asked a question and you were
15 referred specifically to language in your testimony,
16 I believe it was on page 3, lines 1 and 2, and
17 particularly regarding the word "prudence." Do you
18 remember that?

19 A. Yes, sir.

20 Q. And you agreed that the word "prudence"
21 doesn't appear in Mr. Wilson's testimony. Do you
22 remember that?

23 A. Yes, I do.

24 Q. Why did you use the word "prudence"?

25 A. I used the word "prudence" because the

1 thrust of the argument is that the company would be
2 unwise -- or the Commission would be imprudent in
3 allowing the companies to move forward with the
4 three-year auction.

5 I disagree with the conclusion that the
6 three-year auction would be imprudent. In fact, to
7 the contrary, it is a standard risk management
8 technique used by many utilities inside and outside
9 of PJM. It is a familiar form of hedging to market
10 participants, and so the concerns that this is either
11 too risky or there won't be sufficient participation
12 are, in my view, without sufficient basis.

13 And to the contrary the -- if there were
14 high risks, then that ought to require a
15 forward-looking risk management strategy to mitigate
16 those risks. I further believe that the prudence of
17 approving the company's proposal is underscored by
18 the success of three-year auctions in many other
19 places in PJM, even though they are, from time to
20 time, historically subject to a high level of
21 uncertainty. Markets manage uncertainty. Markets
22 certainly manage uncertainty better than customers
23 can.

24 Consequently, my conclusion would be that
25 the offer of the company to conduct three-year

1 auctions in October and January is consistent with
2 sound risk management practice and is likely to
3 result in a more -- in a reasonable and competitive
4 outcome from those auctions.

5 MR. KUTIK: I have no further questions.
6 Thank you, your Honor.

7 EXAMINER PRICE: Thank you.

8 Mr. Howard.

9 MR. HOWARD: No, thank you, your Honor.

10 EXAMINER PRICE: Mr. Lavanga.

11 MR. LAVANGA: No questions.

12 EXAMINER PRICE: Mr. Kapla.

13 MR. KAPLA: No questions.

14 EXAMINER PRICE: Mr. Dortch.

15 MR. DORTCH: No questions.

16 EXAMINER PRICE: Ms. Yost.

17 MS. YOST: No questions.

18 EXAMINER PRICE: Mr. Warnock.

19 MR. WARNOCK: No questions

20 EXAMINER PRICE: Mr. McNamee.

21 MR. MCNAMEE: No questions, your Honor.

22 - - -

23 EXAMINATION

24 By Examiner Price:

25 Q. I just have one question. Just to

1 clarify this whole question of TEAC review of these
2 projects or not TEAC review of these projects, in
3 your opinion the fact that TEAC may or may not have
4 vetted these projects had no impact on the end
5 result; is that correct?

6 A. Yes. That's correct. And if there is
7 any concern that PJM violated its tariffs or
8 procedures, the proper forum for that concern would
9 be at the Federal Energy Regulatory Commission and
10 not the Public Utilities Commission of Ohio.

11 Q. Can you explain why you believe it had no
12 impact, just for the record, one more time?

13 A. Yes. The transmission analysis done by
14 the engineers of PJM was based on my direct dealing
15 with them, thoughtfully done, looking to find the
16 right solutions as soon as they could.

17 Had it gone before TEAC, it seems
18 unlikely people could, on the fly, have
19 second-guessed or come up with an alternative in a
20 timely way to be included by the April 9 deadline set
21 by the PJM tariff to modify CTEL/CETO parameters.

22 In the end, what goes into the CTEL/CETO
23 is and always has been a decision made by the PJM
24 staff, in collaboration with their management, rather
25 than a decision by the stakeholders in the process.

1 EXAMINER PRICE: Thank you.

2 Ms. Willey.

3 EXAMINER WILLEY: No questions.

4 Q. (By Examiner Price) I guess I did have
5 one last question. Could you explain for the
6 Commission, maybe in a little more detail, the nature
7 of the firewall between your operations at CRA and
8 Dr. Miller's operations at CRA.

9 A. Yes. We have a signed memorandum where
10 each member of each team agrees they will not discuss
11 any information from a set of projects which are
12 enumerated that Dr. Miller's teamworks on and a set
13 of projects that my team and the other Energy &
14 Environmental practice works on.

15 The auctions themselves are conducted on
16 a separate floor with direct oversight of Boston
17 Pacific. All project files on the computers are
18 maintained under password protection, with excluding
19 each group from being able to review files held in
20 the other matters, and all confidential documents are
21 required by company policy to be held in locked file
22 cabinets so they cannot be reviewed by nonauthorized
23 personnel.

24 EXAMINER PRICE: Thank you. Thank you.
25 You are excused.

1 THE WITNESS: Thank you.

2 MR. KUTIK: Your Honor, at this time I
3 move Company Exhibit 14.

4 EXAMINER PRICE: Any objection to the
5 admission of Company Exhibit 14?

6 EXAMINER PRICE: Seeing none, it will be
7 admitted.

8 (EXHIBIT ADMITTED INTO EVIDENCE.)

9 MR. SAUER: 14A.

10 MR. KUTIK: Yes. Your Honor, at this
11 time we would also, pursuant to the Bench
12 instruction, mark and ask for admission of Company
13 Exhibit 14A, which is Exhibit RBS-1 to Mr. Stoddard's
14 curriculum vitae.

15 EXAMINER PRICE: It will be so marked.

16 (EXHIBIT MARKED FOR IDENTIFICATION.)

17 EXAMINER PRICE: Any objection to the
18 admission of company Exhibit 14A?

19 Seeing none, it will be admitted.

20 (EXHIBIT ADMITTED INTO EVIDENCE.)

21 EXAMINER PRICE: Mr. Dortch.

22 MR. DORTCH: Thank you, your Honor. At
23 this time AEP Retail would move for admission of AEPR
24 Exhibits No. 3, 4, we will withdraw Exhibit 5, and
25 more for admission of Exhibits 6 and 7.

1 EXAMINER PRICE: Let's take these one at
2 a time. Any objection to AEPR 3?

3 MR. KUTIK: No, your Honor.

4 EXAMINER PRICE: It will be admitted.

5 (EXHIBIT ADMITTED INTO EVIDENCE.)

6 EXAMINER PRICE: AEPR 4.

7 MR. KUTIK: No, your Honor.

8 EXAMINER PRICE: It will be admitted.

9 (EXHIBIT ADMITTED INTO EVIDENCE.)

10 EXAMINER PRICE: AEPR Exhibit 6.

11 MR. KUTIK: We do object.

12 EXAMINER PRICE: AEPR 7.

13 MR. KUTIK: We object to that as well.

14 EXAMINER PRICE: Okay. Your objections?

15 MR. KUTIK: Your Honor, there is lack of
16 foundation with respect to these documents. The
17 witness specifically declined to agree to any
18 assumptions that appear in those documents, and,
19 therefore, AEP was unable -- counsel was unable to
20 obtain any information these exhibits might show,
21 and, therefore, not only lack of foundation, but they
22 are irrelevant.

23 EXAMINER PRICE: Mr. Dortch.

24 MR. DORTCH: I'm sorry, Mr. Kutik, your
25 last word was?

1 MR. KUTIK: Irrelevant.

2 MR. DORTCH: Thank you, your Honor.

3 Your Honor, Exhibit 6 and Exhibit 7 are
4 plainly relevant, first of all. Second of all, they
5 are -- the basis that the exhibit -- the witness did
6 not agree with the assumptions stated in the exhibit,
7 in fact, the witness agreed that the prices that are
8 identified in Exhibit 6 were accurately recorded from
9 AEPR No. 2. The witness disagreed with the specific
10 assumptions that were made regarding the static load
11 and the SSO load, but did agree that the exhibit,
12 nonetheless, illustrated the point that -- that
13 obviously the issue was -- or the exhibit was offered
14 to represent the mechanics of how a change in risk is
15 factored into the equation by someone who is
16 attempting to manage that risk.

17 The -- the exhibit was extensively
18 discussed on the record. The objected-to material is
19 plainly nothing but a hypothetical. I'm sorry, the
20 numbers themselves that are included in the exhibit
21 come from the companies' themselves, and we believe
22 the exhibit is properly admissible, your Honor.

23 MR. KUTIK: May I respond?

24 EXAMINER PRICE: No. The Bench finds
25 that the exhibits have no probative value. The only

1 thing they stand for is that the math is correct.
2 The witness was unwilling to or testified that he did
3 not agree with the fundamental assumptions of the
4 point you were trying to make, and the potential for
5 misusing this exhibit for something that it doesn't
6 stand for vastly outweighs the zero probative value
7 that it has, so it will not be admitted at this time.
8 And that applies to AEPR 6 and AEPR 7.

9 Ms. Yost.

10 MS. YOST: Thank you, your Honor.

11 At this time OCC would like to move into
12 evidence OCC Exhibit 14, OCC Exhibit 15, and OCC
13 Exhibit 16.

14 EXAMINER PRICE: I thought that -- any
15 objection to the -- you are moving for 14, 15, and
16 16; is that right?

17 MS. YOST: Yes, that's correct.

18 EXAMINER PRICE: My confusion.

19 Any objection to OCC Exhibits 14, 15, 16?

20 MR. KUTIK: Your Honor, we do not object
21 to the admission of Exhibits 14 and 16. We do object
22 to the admission of Exhibit 15 because there was no
23 foundation laid. The document -- the witness was
24 never asked what this document was. He was shown
25 this document, just asked then questions about TEAC

1 meetings time -- in a specific timeframe.

2 EXAMINER PRICE: Ms. Yost.

3 MS. YOST: Thank you, thank you, your
4 Honor. OCC Exhibit 15 is a public document. It is
5 on the website of PJM. It is -- what is in dispute
6 here is PJM and the auction results, and it's not
7 hearsay because, again, it is a public exception to
8 the hearsay rule, and it would be very relevant to
9 this proceeding and should be presented into the
10 record of evidence for the Commission's
11 consideration.

12 EXAMINER PRICE: I thought we were
13 talking about OCC Exhibit 15.

14 MS. YOST: Yes. Unless, I missed it.

15 EXAMINER PRICE: It's not auction
16 results, is it?

17 MS. YOST: No. I didn't mean to say it
18 was in regards to the auction results.

19 EXAMINER PRICE: Okay.

20 MS. YOST: I misspoke.

21 EXAMINER PRICE: We are going to admit
22 OCC Exhibit 15. I think the witness more than
23 adequately explained what that was and what it was
24 not, so it will be admitted.

25 (EXHIBITS ADMITTED INTO EVIDENCE.)

EXAMINER PRICE: Any other matters before we put the briefing schedule on the record?

At this time we will set the briefing schedule. Initial post hearing briefs will be due on June 22, 2012. Reply briefs will be due on June 29, 2012, at which point this case will be submitted to the Commission on the record.

MR. KUTIK: Your Honor.

EXAMINER PRICE: Yes, sir.

MR. KUTIK: And the Bench will order the parties to serve one another electronically with respect to, at least, briefs on June 22?

EXAMINER PRICE: Absolutely. The parties should serve the briefs electronically on June 22.

Let's go off the record.

(Discussion off the record.)

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

As well as the reply briefs on June 29, both should be served on all parties electronically.

Thank you, all. We're adjourned.

(Therefore, at 1:44 p.m. the hearing was adjourned.)

- - -

1 CERTIFICATE

2 I do hereby certify that the foregoing is a
3 true and correct transcript of the proceedings taken
4 by me in this matter on Friday, June 8, 2012, and
5 carefully compared with my original stenographic
6 notes.

7 _____
8 Karen Sue Gibson,
9 Registered Merit Reporter.

10 (KSG-5541)

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Summary: Transcript of the Application of The Ohio Edison Company, The Cleveland Electric Illuminating Company and the Toledo Edison Company hearing held on 06/08/12 - Volume IV - Rebuttal electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.