

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the	:	
Complaint of Federal	:	
Insurance Company, as	:	
Subrogee of Genesis	:	
Healthcare System,	:	
	:	
Complainant,	:	
	:	
vs.	:	Case No. 12-1750-EL-CSS
	:	
Ohio Power Company,	:	
	:	
Respondent.	:	

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PROCEEDINGS

before Mr. L. Douglas Jennings, Attorney Examiner, at the Public Utilities Commission of Ohio, 180 East Broad Street, Room 11-C, Columbus, Ohio, called at 10 a.m. on Thursday, October 24, 2013.

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6 On behalf of the Complainant.

7 American Electric Power Service Corporation  
8 By Mr. Steven T. Nourse  
9 and Mr. Yazen Alami  
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16 On behalf of the Respondent.

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1 Thursday Morning Session,  
2 October 24, 2013.

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4 EXAMINER JENNINGS: The Public Utilities  
5 Commission has assigned for hearing at this date and  
6 time a hearing in the Complaint of Federal Insurance  
7 Company, as Subrogee of Genesis Healthcare System,  
8 versus Ohio Power Company.

9 My name is Doug Jennings. I am an  
10 Attorney Examiner, and I will be presiding over the  
11 hearing.

12 At this point in the proceeding I would  
13 request that the parties enter appearances on the  
14 record. Let's begin with an appearance on behalf of  
15 Federal Insurance Company.

16 MR. THEVENY: Yes. My name is Daniel C.  
17 Theveny, T-H-E-V-E-N-Y, with the law firm of Cozen  
18 O'Connor representing the Complainant Federal  
19 Insurance Company and Subrogee Genesis Healthcare  
20 System. In attendance today with me on behalf of  
21 Genesis Healthcare System is their risk manager  
22 Deborah Trimble, T-R-I-M-B-L-E, and their director of  
23 plant operations Charles Thomas Williams. I also  
24 have in attendance with me an engineer Jeff Paulus  
25 who assisted us in our investigation.

1 EXAMINER JENNINGS: Thank you.

2 And may I have an appearance on behalf of  
3 Ohio Power Company.

4 MR. ALAMI: Thank you, your Honor. On  
5 behalf of Ohio Power Company, Steven T. Nourse, Yazen  
6 Alami, American Electric Power Service Corporation,  
7 One Riverside Plaza, 29th Floor, Columbus, Ohio  
8 43215, and Christen Blend, Porter, Wright, Morris &  
9 Arthur, 41 South High Street, 30th Floor, Columbus,  
10 Ohio 43215.

11 EXAMINER JENNINGS: Thank you. At this  
12 point I will allow the parties to make opening  
13 statements beginning with the Complainant.

14 MR. THEVENY: Thank you, Mr. Attorney  
15 Examiner. Good morning, all. Thank you for the  
16 opportunity to appear before the Public Utilities  
17 Commission of Ohio today to present our complaint  
18 with regard to improper service on the part of Ohio  
19 Power Company and the opportunity to fully vet that  
20 issue before the Commission. Genesis Healthcare  
21 System is interested in this issue as well, and they  
22 are here today as well in order to assist me in that  
23 endeavor.

24 I'll lay out what evidence -- what the  
25 evidence will show, in fact, what evidence is already



1 of record in the proceeding. I would like to move  
2 through that pretty quickly, summarize the filed  
3 testimony that's already of record, and then we'll  
4 proceed from there.

5 As everyone knows, I believe, we are here  
6 because of an overvoltage condition from the Ohio  
7 Power Company Linden Avenue Substation in Zanesville,  
8 Ohio, which occurred on June 14 and 15, 2010. This  
9 Ohio Power Company Linden Avenue Substation provides  
10 service to Genesis Healthcare System. In fact, at  
11 that time it provided service to two Genesis  
12 Healthcare System Hospital and Healthcare Treatment  
13 Facilities. Both are operated on a 24-hour-a-day,  
14 7-day-a-week basis.

15 The overvoltage condition resulted as a  
16 failure of a control panel for a tap changer at the  
17 substation. The tap changer -- I'm sorry, the  
18 control panel failure caused the tap changer to fail  
19 in that it malfunctioned and went into an overvoltage  
20 condition.

21 This overvoltage condition shut down the  
22 chiller unit on the HVAC on the Genesis Healthcare  
23 hospital resulting in an increase in temperature and  
24 humidity in a medical and surgical supply storage  
25 room. It destroyed those sterile medical and

1 surgical supplies, and the damage was \$439,405.45.

2 MR. ALAMI: Your Honor, at this point --  
3 and I understand the Bench has asked for opening  
4 statements, but Mr. Theveny, his opening statement  
5 would be about 45 minutes. We don't believe that  
6 that's appropriate here. Mr. Theveny is reciting  
7 facts that are within the record and the filed  
8 testimony and pleadings that have been filed in this  
9 case.

10 Mr. Theveny isn't available for  
11 cross-examination. And to the extent that he is  
12 making factual representations and without the  
13 company being able to test the validity of those  
14 factual representations, I believe it's inappropriate  
15 for Mr. Theveny to proceed in this manner. Much of  
16 the information that he's just laid out here is  
17 available in the record in this case, and the company  
18 is under the impression that an opening statement  
19 should briefly lay out the iss -- the issues and not  
20 go into any factual allegations or theories of the  
21 case.

22 For those reasons, your Honor, I would  
23 object to the extent that Mr. Theveny's opening  
24 statement is to be construed as testimony in this  
25 case.

1 MR. THEVENY: May I address that,  
2 Attorney Examiner?

3 EXAMINER JENNINGS: Yes.

4 MR. THEVENY: It's not intended to be  
5 testimony. It's intended to be the Complainant's  
6 right to assert a summary of the evidence of what we  
7 believe it will show and how it bears on our burden  
8 of proof, nothing more, nothing else. And every case  
9 I have ever been involved in the statements of  
10 attorneys, as the Attorney Examiner well knows, are  
11 not to be construed as evidence and are in no way to  
12 be considered evidence, but I am merely trying to lay  
13 out the facts as of the record so that we can present  
14 our case consistent with those facts and there will  
15 be an understanding with regard to the inferences  
16 that we will draw and the arguments we will make at  
17 the closing of the proceeding.

18 MR. ALAMI: And if I may just real  
19 quickly, your Honor, the record already contains the  
20 facts as Mr. Theveny indicated, and the Commission  
21 and your Honor can draw inferences that it will and  
22 it may from the record.

23 To the extent Mr. Theveny is -- is  
24 reciting facts or testimony of witnesses who aren't  
25 here for cross-examination, that again is improper.

1 MR. THEVENY: I haven't -- I am really --  
 2 I have not done anything of the sort. I am not  
 3 misrepresenting what any witnesses said. These are  
 4 facts of record. I should be entitled on behalf of  
 5 the Complainant and Genesis Healthcare System to lay  
 6 out the facts that are important to our case and the  
 7 complaint we brought before this Commission.

8 MR. ALAMI: Your Honor, I didn't say he  
 9 was misrepresenting. I just said to the extent he is  
 10 presenting and, you know, with all due respect the  
 11 facts again are in the record and unnecessary for  
 12 Mr. Theveny to recite them here today with his biased  
 13 slant is all I am saying. Thank you, your Honor.

14 EXAMINER JENNINGS: I will allow a  
 15 summary of the evidence that you intend to show.  
 16 However, it should be brief, and we can discuss the  
 17 filing of a brief after the hearing which will give  
 18 you an opportunity to make factual assertions and  
 19 arguments which may take some of the load off the  
 20 opening statement. But typically opening statements  
 21 are brief. So if --

22 MR. THEVENY: I will try to truncate it  
 23 in that fashion. I certainly will limit it to the  
 24 facts. Perhaps in this manner there are certain  
 25 facts which are not in dispute which can help to

1 expedite this hearing a great deal. First, that the  
 2 control panel failed; as a result, the tap changer  
 3 went into full boost. This overvoltage condition  
 4 created by the tap changer going into full boost shut  
 5 down the chiller unit on the HVAC system. The  
 6 shutdown was due to the protection device on the  
 7 chiller unit which is to prevent damage to it. It  
 8 shut down, of course, as I already stated, caused a  
 9 rise in temperature and humidity with a result in the  
 10 damage to the sterile supply system.

11 Important to understand for purposes of  
 12 what's not contested for the evidence that is  
 13 available to be considered here today that Ohio Power  
 14 Company has conducted no investigation nor determined  
 15 why the tap changer went into full boost.

16 MR. ALAMI: Objection, your Honor. He is  
 17 mischaracterizing Ohio Power Company's witnesses'  
 18 testimony. He is going beyond just recitation of the  
 19 facts. His characterization of these facts are  
 20 undisputed is false, and the company objects to that  
 21 characterization of these facts as such. Mr. Hall's  
 22 testimony, as will be shown later today through the  
 23 witness, clearly indicates he has undertaken an  
 24 investigation with respect to the control panel  
 25 failure.

1 EXAMINER JENNINGS: Mr. Theveny, if you  
2 could limit your opening statement to what you intend  
3 to produce as evidence, that would be helpful in  
4 expediting.

5 MR. THEVENY: I will do that. We will  
6 present as evidence in this proceeding the -- as  
7 already of record, I believe -- I just want to make  
8 sure there is no objection with regard to what is of  
9 record. One of the reasons why I took the time to  
10 carefully lay out an opening statement was because I  
11 want to make certain that by filing of record what we  
12 did with regard to the direct testimony of the  
13 witnesses of both Genesis Healthcare System and the  
14 direct testimony I elicited during the deposition  
15 testimony of the Genesis Healthcare -- I'm sorry, of  
16 the Ohio Power Company employees, that that is of  
17 record for purposes of the disposition of this  
18 proceeding.

19 In reviewing the rules that apply to  
20 these hearings, it was not clear to me whether or not  
21 that would be accepted as part of the evidence of  
22 record to be considered by the Commission in  
23 reviewing this matter so I think it's important for  
24 the Complainant to go over these facts precisely for  
25 this reason because apparently there is some issue

1 concerning what is of record in this matter already,  
2 and I do not want to have to face that problem of not  
3 having to get before this Commission the proper  
4 evidence for its full consideration of the matter.

5 MR. ALAMI: And, your Honor, I would just  
6 point out that's why we are here today at this  
7 evidentiary hearing is to develop the record for the  
8 Commission to review in making its decision in this  
9 case. You know, the company recognizes that Genesis  
10 Healthcare, and Mr. Theveny in particular, may not be  
11 necessarily that familiar with the Commission's  
12 proceeding. And the fact that the company has  
13 allowed Federal and Mr. Theveny, when it will,  
14 irrespective of the Commission and the Attorney  
15 Examiner's entries in this case as to how the  
16 procedural schedule should proceed, is indicative of  
17 the fact that the company recognizes that some leeway  
18 should be provided.

19 However, Mr. Theveny's misunderstanding  
20 or unsure or not clear as to what the rules will and  
21 won't allow in a hearing shouldn't alleviate his  
22 burden as the Complainant to demonstrate its case in  
23 this evidentiary hearing and to demonstrate the  
24 evidence that it feels should be of record in this  
25 case here today.

1 MR. THEVENY: What -- that's -- it's not  
2 an excuse. What possible --

3 EXAMINER JENNINGS: Let me see if this  
4 addresses your issue. If you're concerned that -- if  
5 it's your understanding that the opening statement  
6 may be used as evidence upon which a decision is  
7 based, it will not be.

8 MR. THEVENY: I understand that. But I  
9 want to make sure that -- I don't see any harm to  
10 Ohio Power Company in allowing me to recite what is  
11 key facts with regard to what's on the record for  
12 purposes of the opening statement.

13 MR. ALAMI: Well, your Honor, to the  
14 extent the company disputes the key facts that  
15 Mr. Theveny is reciting, it is harm to the company,  
16 and I would just point out as an example the  
17 Complainant obviously misunderstanding the process of  
18 the Commission proceedings has filed direct testimony  
19 on behalf of the company's witnesses. That's  
20 improper. The company gets to determine what is its  
21 direct testimony.

22 The Complainant has taken discovery  
23 depositions of company personnel, but he can't label  
24 them as direct testimony and determine that they  
25 stand on the record as the word of the company's



1 witnesses in this case. That's why the company is  
2 objecting to his characterization of making sure that  
3 the direct testimony of the company witnesses that  
4 Complainant filed is record evidence.

5 That is improper, your Honor, and the  
6 company objects to that.

7 MR. THEVENY: So here we are for the  
8 first time this issue being raised. This is  
9 incredibly prejudicial to the Complainant. That  
10 direct testimony was filed back in June. They should  
11 have raised that issue much sooner than that.

12 But not only that more fundamentally when  
13 your witness, your employee, your client provides  
14 testimony that's an admission against interest, an  
15 admission against the company, a Complainant is  
16 absolutely entitled to present that testimony adverse  
17 to your position. You cannot shield adverse facts  
18 under the guise that they are your employees that you  
19 can control and manipulate the way you see fit.  
20 That's an outrage.

21 EXAMINER JENNINGS: Let's go off the  
22 record for a moment.

23 (Discussion off the record.)

24 EXAMINER JENNINGS: Let's go back on the  
25 record.

1                   MR. ALAMI: Thank you, your Honor. In  
2 response to Mr. Theveny's previous statement the  
3 company would just note after Federal filed direct  
4 testimony of company witnesses, the parties did get  
5 together with the Attorney Examiner, discussed a  
6 revised procedural schedule to expressly delineate  
7 the way the procedure would flow in this proceeding  
8 and expressly delineated when direct testimony of the  
9 company would be due, when direct testimony of the  
10 Complainant would be due to absolve any  
11 misunderstanding what would be labeled as direct  
12 testimony or rebuttal testimony on behalf of either  
13 party in this case.

14                   Thank you, your Honor.

15                   MR. THEVENY: And just briefly after that  
16 hearing, that adjustment, we again refiled direct  
17 testimony of witnesses of Ohio Power Company because  
18 that testimony constituted admissions adverse to  
19 their position in this proceeding in a question and  
20 answer format which happened to be in a deposition  
21 transcript. That is simply form over substance.

22                   There would be no way for us -- the whole  
23 crux of this proceeding is such that they hold all  
24 the cards. They won't deal the cards. We have no  
25 choice but to elicit testimony directly from their

1 witnesses and file it in a direct fashion in support  
2 of our case.

3 EXAMINER JENNINGS: Let's continue with  
4 your opening statement.

5 MR. THEVENY: Thank you.

6 All right. The evidence is established  
7 that the control panel for the tap changer was thrown  
8 away. There was no documentation of its condition,  
9 no photographs, no written summary of its condition.  
10 These are through answers to interrogatories which  
11 are of record. The answers to requests for  
12 admissions which are now of record by way of the  
13 hearing brief and the exhibits filed to where the  
14 hearing brief was filed on October 17 established  
15 there are no written records which document testing  
16 of dialectic strength for the tap changer, no records  
17 for inspection of the tap changer, arcing contacts,  
18 no written records for lubrication of the tap changer  
19 motor drive bearings, no written records for dynamic  
20 braking adjustments, no written records for  
21 inspection of relays.

22 The requests for admissions, answers to  
23 interrogatories again have been filed of record, will  
24 be cited hereinafter. Ohio Power Company does not  
25 include in the service it provides to Genesis

1 Healthcare or any of its customers information about  
2 why tap changers go into full boost. Again, through  
3 what's of record Ohio Power Company does not include  
4 in the service it provides to Genesis Healthcare or  
5 any of its customers information about why control  
6 panels for tap changers fail.

7 It's admitted through discovery that's  
8 now been filed of record that Ohio Power Company did  
9 not know the tap changer had gone into full boost  
10 until it was notified by Genesis Healthcare System of  
11 the overvoltage condition, and it has been admitted  
12 for written discovery which is now of record that the  
13 Ohio Power Company has no equipment, computer  
14 program, control panel programs, alarm systems, or  
15 any other devices for monitoring or determining when  
16 a tap changer goes into full boost.

17 These are included in Ohio Power  
18 Company's objections and responses to Complainant's  
19 first set of requests for admission, fourth set of  
20 requests for production, and fifth set of requests  
21 for interrogatories which is Exhibit D to  
22 Complainant's hearing brief filed on October 17.

23 These uncontested facts are also with  
24 regard to the malfunction of the -- failure of the  
25 control panel causing the tap changer to go into full

1 boost is found in Ohio Power Company's answers to  
2 Complainant's first set of interrogatories and  
3 requests for production at interrogatory No. 4 which  
4 is Exhibit E as in Edward to Complainant's hearing  
5 brief, "Ohio Power Company's disposal of the control  
6 panel was pursuant to business practices but there  
7 are no written standards" is Ohio Power Company's  
8 responses to Complainant's second set of requests for  
9 production which is Exhibit F to the hearing brief.

10 Ohio Power Company did not know that the  
11 tap changer went into full boost. It was notified by  
12 Genesis Healthcare System. That is in Ohio Power  
13 Company's responses to Complainant's fourth set of  
14 interrogatories answer to interrogatory No. 1 which  
15 is Exhibit H to the hearing brief and that Ohio Power  
16 Company has no equipment or way to monitor when a tap  
17 changer goes into full boost is of record in Ohio  
18 Power Company's answers to Complainant's fourth set  
19 of interrogatories at answer to No. 5 which is also  
20 Exhibit H to the hearing brief.

21 To the extent necessary we will  
22 separately mark or move those into evidence as  
23 exhibits, but I'm not sure if it's necessary because  
24 they are of record by way of the citation to the  
25 exhibits to the hearing brief.

1 EXAMINER JENNINGS: We will address that  
2 issue.

3 MR. THEVENY: All right. And then I just  
4 want to briefly, very briefly, direct -- the direct  
5 testimony issue with regard to the filing of the  
6 direct testimony of Ohio Power Company employees.  
7 There was simply no procedure provided for with  
8 regard to -- there was a requirement to file direct  
9 testimony. The depositions were taken. And they  
10 speak for themselves with regard to the need to  
11 inspect the tap changer contacts for thickness, the  
12 need to enter tap changer maintenance as required by  
13 the manufacturer, need to be entered into the Ohio  
14 Power Company ISIS maintenance software program, the  
15 fact that there is no such information in those  
16 records.

17 This testimony was elicited by way of  
18 deposition taken by myself of these witnesses. It's  
19 included in the direct testimony of station manager  
20 Eugene Campbell --

21 MR. ALAMI: Your Honor, I would object at  
22 this point.

23 MR. THEVENY: Very briefly --

24 MR. ALAMI: Mr. Theveny is introducing  
25 deposition transcripts and statements made therein as

1       purported to be evidence in this record of witnesses  
2       that aren't here to testify. If Mr. Theveny wanted  
3       Mr. Campbell here, he should have subpoena him. If  
4       Mr. Theveny wanted to introduce these deposition  
5       transcripts of Ohio Power Company witnesses that  
6       aren't here as evidence, he should have made a  
7       filing, requested leave to do so, just in a similar  
8       manner that he did with his own witness, Mr. Paulus.

9               It is inappropriate to proceed in this  
10       manner. I would just note the objection, and I  
11       would, you know, ask that the Bench instruct  
12       Mr. Theveny to quit trying to introduce direct  
13       testimony of company witnesses who aren't here and  
14       who have not filed direct testimony in this case.

15              EXAMINER JENNINGS: As I understand  
16       Mr. Theveny's argument, he's not necessarily  
17       referring to testimony but the process for getting  
18       the testimony. To that extent I will allow him to  
19       proceed.

20              MR. ALAMI: Thank you, your Honor.

21              EXAMINER JENNINGS: Objection overruled.

22              MR. THEVENY: It was also in the direct  
23       testimony of station manager Carlos Brewer, senior  
24       equipment specialist Robert Hall, senior station  
25       service technician Gary Parker, and engineering

1 technician David Sullivan, all of these were filed of  
2 record on June 17, 2013, as per the requirements of  
3 the scheduling order in this matter.

4 I don't -- this -- these are raised now  
5 because -- this should not be a hearing by ambush.  
6 If anybody is being ambushed, it's the Complainant by  
7 this really nonprejudicial objection to introducing  
8 direct testimony. They knew it was out there. They  
9 knew we intended to reply upon it. They had every  
10 obligation to bring these employees here if they felt  
11 it was important.

12 We've met our burden by bringing this  
13 testimony before the Commission by way of a filing of  
14 its direct testimony. Clearly the filing of the  
15 direct testimony was not a nullity. If they thought  
16 it was defective at that time, they should have  
17 raised the issue then, certainly not on the day of  
18 the hearing. They knew the fact we filed it as  
19 direct testimony on behalf of the Complainant. They  
20 clearly knew back in June we had every intention of  
21 relying upon it.

22 With regard to direct testimony they are  
23 here. Certainly Tom Williams is here today, Charles  
24 Thomas Williams but he goes by Tom Williams. He is  
25 the manager of the plant operations. He has



1 established the issues with respect to the  
 2 overvoltage condition, the fact that the chiller unit  
 3 has a sensor on it which protects it from damage in  
 4 the event of an overvoltage condition, that it was  
 5 due to a problem at the Linden Avenue Substation,  
 6 that the hospital complied with all applicable code  
 7 and requirements with regard to emergency backup  
 8 systems, what was required to be on it. The chiller  
 9 unit was not. There wasn't an alarm in place.  
 10 That's been established.

11 Certainly it's been established that with  
 12 regard to what they were supposed to be doing and not  
 13 doing, they did everything they were supposed to be  
 14 doing. So that's here today as well.

15 At the end of the proceeding in order to  
 16 truncate this thing at the request of the Attorney  
 17 Examiner, I will go through this again in my closing  
 18 to make sure that we mark, if necessary, as directed  
 19 by the Attorney Examiner, any exhibits. That's if  
 20 it's necessary to also do that, although it's already  
 21 of record and I can cite the docket date that it was  
 22 filed.

23 Because so much of this is of record  
 24 already I have asked Ms. Trimble, Mr. Williams, and  
 25 Mr. Paulus to come here today to answer any questions

1 that the Attorney Examiner might have but our -- my  
2 opening statement is such that the record is there.  
3 We've already established the record which we believe  
4 will satisfy the burden of proof to show improper  
5 service, violation of its obligations to provide  
6 proper service.

7 I would reserve time for closing to make  
8 those arguments in a closing, but other than the  
9 right to recall rebuttal witnesses, if necessary, or  
10 unless the Attorney Examiner has questions, at this  
11 point we will rest subject to that reservation of the  
12 right for a closing and any rebuttal, if necessary.

13 EXAMINER JENNINGS: Thank you.

14 MR. ALAMI: Thank you, your Honor. I  
15 would initially note the company has a pending motion  
16 to dismiss the complaint. The arguments made in that  
17 motion to dismiss just briefly are and essentially  
18 are still the issue -- still the case. There was  
19 nothing more that the company could have done to  
20 prevent the damage to the Genesis Healthcare supplies  
21 in this case.

22 On the contrary Genesis Healthcare could  
23 have taken numerous steps to prevent its damages.  
24 Pursuant to the company Commission-approved tariff,  
25 the company's tariff, the company is not responsible

1 for damages resulting from outages caused by damaged  
2 equipment.

3 In addition, pursuant to the company's  
4 tariff the customer, in this case Genesis Healthcare  
5 System, is required to provide and have and maintain  
6 suitable protective devices to avoid any damages that  
7 may result in fluctuations in voltages or energy  
8 supply.

9 In response to Mr. Theveny's opening  
10 argument, your Honor, and -- and we've already had  
11 this discussion before, I would note that to the  
12 extent Mr. Theveny assumes that he could file direct  
13 testimony on behalf of his witnesses but deprive the  
14 company the due process right that it has to  
15 cross-examine those witnesses here at the hearing on  
16 the record would be a fundamental deprivation of the  
17 company's due process rights. Not only is it  
18 completely outside the realm of any Commission  
19 proceeding or the way that these complaint  
20 proceedings operate.

21 The company has and pursuant to the  
22 Attorney Examiner's order will address the issues  
23 that it has with Complainant's record evidence when  
24 Complainant moves to move those documents or whatever  
25 they may be into the record. The company would note

1     that discovery requests aren't record evidence until  
2     so moved in at the hearing pursuant to the  
3     Commission's rules.

4             The direct testimony issue that we've  
5     discussed previously, again, fundamental lack of due  
6     process rights for the company not to be able to put  
7     on its own direct witnesses. Again, we've said that  
8     Complainants -- and we've given Complainant a lot of  
9     leeway and haven't objected or moved to strike much  
10    of the documents that Complainant has filed in this  
11    case under the theory that there was a hearing and we  
12    could address the way that the record is going to be  
13    established at the hearing and under the theory that  
14    Complainant should necessarily get some leeway.

15            We've had discussions as to the proper  
16    procedure in the way that this case should proceed,  
17    and the Attorney Examiner has issued several entries  
18    on that. But, again, I would say at bottom the  
19    company feels that the Complainant -- and not only  
20    the company feels but it is the law that the  
21    Complainant has the burden in this case. And the  
22    company could have done nothing more to prevent the  
23    damages, but Complainant could have done a number of  
24    things to prevent their damages in this case.

25            And I would just note in closing, your

1 Honor, the company does have cross-examination of  
2 Complainant's witnesses and would feel it is very  
3 inappropriate if the Attorney Examiner would rule  
4 that the Complainant did not need to put their -- be  
5 cross-examined on their filed direct testimony.

6 MR. THEVENY: If I may, Attorney  
7 Examiner, address that very quickly?

8 EXAMINER JENNINGS: Proceed.

9 MR. THEVENY: Tell you what, we are more  
10 than happy to withdraw we are here and now the direct  
11 testimony of Steve Minosky. You can have at it with  
12 cross-examination with Tom Williams who is here today  
13 so there is no prejudice to you there at all. Knock  
14 yourselves out.

15 MR. ALAMI: Your Honor, the company would  
16 like to, as the Attorney Examiner has indicated, when  
17 Complainant moves to put their documents or whatever  
18 testimony, whatever documents they need to move into  
19 the record, the company would propose handling the  
20 objections to any admission at that time or whenever  
21 the Attorney Examiner feels it appropriate, but the  
22 company would note it has objections to the admission  
23 of more than just Mr. Minosky's testimony.

24 EXAMINER JENNINGS: Let's go off the  
25 record for a moment.

1 (Discussion off the record.)

2 EXAMINER JENNINGS: Let's go back on the  
3 record.

4 Off the record counsel and the Attorney  
5 Examiner discussed a procedure and there has been a  
6 stipulation in terms of depositions and testimony and  
7 witnesses. The stipulation as I understand it,  
8 please, counsel, correct me if I'm wrong, there is an  
9 agreement between the parties that the depositions of  
10 Eugene Campbell, Gary Parker, and David Sullivan will  
11 be admitted into the record as depositions but there  
12 will be no objection to the admission of those  
13 depositions on the part of counsel for Ohio Power; is  
14 that correct?

15 MR. ALAMI: Correct, your Honor.

16 EXAMINER JENNINGS: Okay. It has also  
17 been decided that the Complainant -- oh, let me make  
18 an addition to that. There is the deposition of  
19 Mr. Minosky or Ms. Minosky?

20 MR. THEVENY: Minosky, M-I-N-O-S-K-Y,  
21 Steven Minosky.

22 EXAMINER JENNINGS: That deposition by  
23 stipulation will also be admitted into the record.  
24 And Ohio Power has no objection to that nor does  
25 counsel for the Complainant.

1 MR. ALAMI: Correct, your Honor. Would  
2 it be appropriate to identify them by a number, those  
3 four deposition transcripts?

4 EXAMINER JENNINGS: Yes. If those could  
5 be identified -- marked --

6 MR. ALAMI: Your Honor, the company has  
7 clean deposition transcripts.

8 MR. THEVENY: I have them as well.

9 MR. ALAMI: David Sullivan, Gary Parker,  
10 and Eugene Campbell we could use as the exhibit copy.

11 EXAMINER JENNINGS: Okay.

12 MR. THEVENY: I have them right here.  
13 The only one --

14 MR. ALAMI: We just don't have Minosky.

15 MR. THEVENY: I don't have it either. I  
16 think we can just supplement the record. I have his  
17 direct testimony, but I don't have the transcript, I  
18 don't believe. You are going to hand them up?

19 EXAMINER JENNINGS: Mr. Alami has those.  
20 Are these going to be company exhibits or joint  
21 exhibits?

22 MR. ALAMI: They would be stipulation  
23 exhibits as we are stipulating to --

24 MR. THEVENY: Call them Exhibits 1, 2, 3,  
25 and that's those generic and when we get to AEP --

1 MR. ALAMI: How about Mr. Parker Exhibit  
2 1.

3 MR. THEVENY: Let me mark that down.

4 MR. ALAMI: Mr. Sullivan Exhibit 2,  
5 Mr. Campbell Exhibit 3.

6 MR. THEVENY: Who is 2 again?

7 EXAMINER JENNINGS: David Sullivan.  
8 Okay. The stip --

9 MR. THEVENY: And we can also -- I  
10 apologize. I actually do have a copy of the  
11 deposition of Steven Minosky so we can make that  
12 Exhibit 4.

13 EXAMINER JENNINGS: Yes.

14 MR. THEVENY: I only have the one copy,  
15 however.

16 EXAMINER JENNINGS: By agreement of the  
17 parties Stipulation Exhibit 1 the deposition of Gary  
18 Parker, Stipulation Exhibit 2 the deposition of David  
19 Sullivan, Stipulation Exhibit 3 the deposition of  
20 Eugene Campbell, and Stipulation Exhibit 4 the  
21 deposition of --

22 MR. THEVENY: Steven Minosky.

23 EXAMINER JENNINGS: -- Steven Minosky  
24 will be admitted into the record.

25 (EXHIBITS ADMITTED INTO EVIDENCE.)



1 EXAMINER JENNINGS: Okay. At this point  
2 I believe we are ready to have Complainant's first  
3 witness.

4 MR. THEVENY: All right. I will call to  
5 the stand Charles Thomas Williams.

6 (Witness sworn.)

7 EXAMINER JENNINGS: Thank you. Please be  
8 seated.

9 - - -

10 CHARLES THOMAS WILLIAMS  
11 being first duly sworn, as prescribed by law, was  
12 examined and testified as follows:

13 DIRECT EXAMINATION

14 By Mr. Theveny:

15 Q. Good morning, Mr. Williams.

16 A. Good morning.

17 Q. Would you state your full name for the  
18 record, please.

19 A. Charles Thomas Williams.

20 Q. And can you state your current employer.

21 A. Genesis Healthcare System.

22 Q. And what is your position with Genesis  
23 Healthcare System?

24 A. Manager of plant operations -- I  
25 apologize. I actually do not work for Genesis. I

1 have to always remember that it's Sodexo.

2 Q. My understanding is that although  
3 employed by Sodexo you perform services for Genesis  
4 Healthcare System in connection with your employment  
5 with Sodexo; is that right?

6 A. Correct.

7 Q. And what position do you hold relative to  
8 your responsibilities at Genesis Healthcare System?

9 A. Manager of the plant operations  
10 department and responsible for day-to-day operations.

11 Q. And you're familiar with this proceeding,  
12 are you not?

13 A. Somewhat.

14 Q. You gave prior deposition testimony in  
15 this matter?

16 A. Yes.

17 Q. And you have also provided myself with  
18 direct testimony on behalf of the Complainant in  
19 connection with this proceeding?

20 A. Yes.

21 Q. I'll show you what we'll hand up to you  
22 as a document titled "Direct Testimony of Charles  
23 Thomas Williams on behalf of Complainant Federal  
24 Insurance Company, Subrogee of Genesis Healthcare  
25 System." Can you look at that and let me know if

1 that's the direct testimony that you previously  
2 provided to me which has been filed in this matter?

3 A. Yes, this is it.

4 MR. THEVENY: All right. At this time,  
5 Mr. Attorney Examiner, we would move into evidence  
6 the prefiled deposition testimony of Charles Thomas  
7 William as Complainant Exhibit 5.

8 EXAMINER JENNINGS: So moved, subject to  
9 cross-examination.

10 MR. ALAMI: Thank you, your Honor.

11 Ms. Blend.

12 MS. BLEND: Thank you, your Honor.

13 - - -

14 CROSS-EXAMINATION

15 By Ms. Blend:

16 Q. Good morning, Mr. Williams. How are you?

17 A. Good morning. Fine, thank you.

18 Q. Mr. Williams, could you please just  
19 briefly describe your educational and -- your  
20 educational background and any relevant  
21 certifications relevant to your position at Sodexo  
22 and Genesis Healthcare.

23 THE WITNESS: Can I ask a question then?

24 MR. THEVENY: Sure.

25 THE WITNESS: Are we going to review

1 everything we did in the deposition?

2 MR. THEVENY: Well, I don't know that we  
3 will or not. But why don't you answer the questions.

4 EXAMINER JENNINGS: Yes. Please answer  
5 the questions.

6 A. So, I'm sorry, would you please ask one  
7 more time?

8 Q. Sure. I can break it down into smaller  
9 questions. You are a high school graduate and  
10 currently taking college classes, correct?

11 A. Correct, correct.

12 Q. And your -- you have an electrical safety  
13 inspector certification?

14 A. Yes.

15 Q. And you are an elect -- also have an  
16 electrical contractor certification?

17 A. State of Ohio, yes.

18 Q. And you are a certified healthcare  
19 facilities manager?

20 A. Yes.

21 Q. In your role as -- at Genesis Healthcare  
22 with Sodexo -- and just for clarity as we go forward,  
23 I'm just going to refer to you as being employed by  
24 Genesis Healthcare, if that's okay with you.

25 A. That's fine.

1           Q.    In your role at Genesis Healthcare, are  
2 you familiar with how Genesis Healthcare's systems  
3 receive electricity?

4           A.    Yes.

5           Q.    Including the HVAC system?

6           A.    Yes.

7           Q.    And in June, 2010, power was delivered to  
8 the HVAC system at the Genesis Healthcare Bethesda  
9 facility from the Linden Avenue Substation from AEP  
10 Ohio's Linden Avenue Substation, correct?

11          A.    Yes.

12          Q.    Can you please describe for the record  
13 how -- how electricity is then directed throughout  
14 the hospital to the chiller unit that is at issue in  
15 this case.

16          A.    At the time of the incident it was  
17 distributed to the chiller unit. From that point  
18 where the substation from Linden Avenue came in, then  
19 it goes to a distribution board that is transforming  
20 the voltage, is reduced down then into 480 volt, and  
21 then it's distributed again to distribution panels  
22 and then power is run out from that distribution  
23 panel to that chiller.

24          Q.    What amount of voltage is required to  
25 operate the chiller or what amount of voltage runs to

1 the chiller typically?

2 A. Typically we refer to it in nominal  
3 voltages, 480, 480 volts.

4 Q. On the date of the incident there was  
5 overvoltage protection on the chiller unit, correct?

6 A. Yes.

7 Q. And that was located on the physical  
8 chiller unit itself?

9 A. It's built into the -- Trane builds the  
10 chiller and it's put -- it's built into the chiller  
11 itself.

12 Q. So it's on the actual piece of equipment.  
13 It's not like some type of overvoltage that would  
14 trip before the current got to the equipment,  
15 correct?

16 A. It's not an individual piece in between  
17 the distribution to the chiller, no.

18 Q. At what voltage was the chiller set to  
19 trip on the date of the incident?

20 A. With an overvoltage condition, I don't  
21 know of -- I don't know the exact voltage that it was  
22 set to trip at. I didn't actually even know that  
23 this chiller had that capability at the time. We  
24 actually discovered that that was built into the  
25 chiller by the manufacturer.

1           Q.    And the purpose of the chiller unit is to  
2 maintain the temperature and humidity for the part of  
3 the hospital that it serves; is that correct?

4           A.    It's part of the system to maintain  
5 temperature and humidity. There is also an air  
6 handler associated with the chiller.

7           Q.    And that chiller unit and air handler  
8 serve a number of surgical suites and also the  
9 surgical sterile supply room that is at issue in this  
10 case?

11          A.    That's correct.

12          Q.    And for the areas that the chiller unit  
13 serves, Genesis Healthcare tries to maintain a  
14 temperature range between 68 and 74 degrees, correct?

15          A.    Correct.

16          Q.    And for that area Genesis Healthcare  
17 tries to maintain a humidity between 30 and  
18 60 percent; is that correct?

19          A.    That's correct.

20          Q.    Does the chiller unit at issue -- let me  
21 start over.

22                   On the date of the incident at issue  
23 here, did the chiller unit have to be manually reset  
24 after an overvoltage condition, or did it  
25 automatically reset once --

1           A.    I found out later that it -- I didn't  
2           know at the time of the deposition that it did -- it  
3           will actually reset on its own.

4           Q.    So as soon as --

5           A.    As soon as the voltage comes back within  
6           range, it will -- it will automatically reset. That  
7           was at least described to me by the trained  
8           technician that was in later.

9           Q.    And at the time of the incident the air  
10          handler component of the HVAC system was on a  
11          separate circuit from the chiller unit; is that  
12          correct?

13          A.    That's correct.

14          Q.    Was either connected to an emergency  
15          power source?

16          A.    The chiller was not connected to an  
17          emergency power source. The air handler was  
18          connected to an emergency power source.

19          Q.    Now, if an overvoltage event had shut  
20          down the -- let me back up.

21                   Does the air handler have overvoltage  
22          protection?

23          A.    Not that I am aware of.

24          Q.    When did you personally become aware of  
25          the issue with condensation on the supplies in that



1 sterile supply room?

2 A. That morning of the -- was it the 15th?  
3 Is that -- I think it was the 15th; is that correct?

4 Q. Correct. So the incident at issue -- the  
5 incident at issue took place -- or Genesis Healthcare  
6 became aware of the incident at issue on June 15,  
7 2010?

8 A. Yes.

9 Q. And you just testified you became aware  
10 of the incident the morning of June 15, 2010,  
11 correct?

12 A. Yes.

13 MS. BLEND: May we approach, your Honor?

14 EXAMINER JENNINGS: Yes.

15 MS. BLEND: I would like to mark AEP  
16 Exhibit 1, please.

17 (EXHIBIT MARKED FOR IDENTIFICATION.)

18 MR. THEVENY: I thought we were going to  
19 go in sequence. I think we should -- we have got  
20 exhibits that are stipulated to, exhibits that will  
21 be introduced by me and by you.

22 MS. BLEND: That's fine.

23 MR. THEVENY: 6, so it would be AEP  
24 Exhibit 6? Is that okay? Unless you prefer  
25 otherwise.

1 EXAMINER JENNINGS: Let's keep those  
2 separate because we have the depositions marked as  
3 stipulation exhibits and these will be AEP exhibits  
4 and let's start the numerical sequence with 1.

5 MR. THEVENY: That's fine. The only  
6 thing I should correct the first Complainant's  
7 exhibit has been marked as Exhibit 5. It was  
8 Mr. Williams' prefiled testimony. That's why I  
9 suggested but we can certainly remark that as  
10 Complainant's 1.

11 EXAMINER JENNINGS: Yes. Let's do that.

12 MR. THEVENY: All right. I'm sorry.

13 (EXHIBIT MARKED FOR IDENTIFICATION.)

14 EXAMINER JENNINGS: Sorry for the  
15 interruption.

16 MS. BLEND: No problem at all, your  
17 Honor.

18 MR. THEVENY: May I ask? I have been  
19 referring to you as "Mr. Attorney Examiner." Is it  
20 more appropriate to address you as "your Honor"?

21 EXAMINER JENNINGS: Yes. That would be  
22 fine.

23 MR. THEVENY: I'm sorry. I didn't know  
24 that.

25 EXAMINER JENNINGS: I will respond to

1       either.

2                       Please proceed.

3                       MS. BLEND:   Thank you.

4               Q.     (By Ms. Blend) Mr. Williams, do you  
5       recognize the document I placed before you as AEP  
6       Exhibit 1?

7               A.     Yes.

8               Q.     And this is an incident report for  
9       Genesis Healthcare System prepared June 16, 2010,  
10      correct?

11              A.     That's the date, yes.

12              Q.     And are you -- are these reports, reports  
13      like this report, kept in the normal course of  
14      Genesis Healthcare's business?

15              A.     I'm sorry?

16              Q.     Are these types of reports kept regularly  
17      by Genesis Healthcare?

18              A.     Yes.

19              Q.     And would it be the employee's who made  
20      this report regular practice to make this report,  
21      this type of report?

22                      MR. THEVENY:   Objection, foundation.

23                      EXAMINER JENNINGS:   I'll allow the  
24      question.

25                      MR. THEVENY:   You might want to ask him

1 if he knows.

2 Q. Do you know whether it would be the  
3 normal practice for an employee to make this type of  
4 report when they found condensation or water?

5 A. That would be normal, yes.

6 Q. Thank you. And if you could turn or  
7 look, rather, on the first page of the document --  
8 the document states an incident date of June 15,  
9 2010, and a time of 6:30, correct?

10 A. Yes.

11 Q. And if you look at the fourth page of the  
12 document, the last page of the document, that also  
13 reflects the date of 6-15-10 and the time of 6:30 and  
14 that would be 6:30 in the morning?

15 A. Yes. I would assume that's what.

16 Q. Thank you. Genesis Healthcare System has  
17 two hospitals or two facilities in Zanesville,  
18 correct?

19 A. Correct.

20 Q. One is the Bethesda facility at issue  
21 here, and the other is the Good Samaritan facility?

22 A. That's correct.

23 Q. And the substation at issue here, the  
24 Linden Avenue Substation, on the date of the incident  
25 served both Genesis Healthcare facilities, correct?

1           A.    To the best of my knowledge it did, yes.

2           Q.    Okay.

3                   MS. BLEND:  I would like to mark AEP  
4   Exhibit 2.

5                   (EXHIBIT MARKED FOR IDENTIFICATION.)

6           Q.    Mr. Williams, do you recognize this  
7   exhibit?

8           A.    Yes, I do.

9           Q.    And is it a system failure report that an  
10   employee named Rob Bell prepared on June 14 -- I'm  
11   sorry, June 14 to June 15, 2010?

12          A.    Yes.

13          Q.    And you've seen this document before?  
14   You have seen this document before?

15          A.    Yes.

16          Q.    And would this type of document have been  
17   prepared as part of Mr. Bell's job responsibilities?

18          A.    Yes.

19          Q.    Okay.  And is it a regular practice to  
20   keep these types of reports?

21          A.    Yes.

22          Q.    If you'll look at the top third of the  
23   page, there is a space to describe the problem.

24          A.    Yes.

25          Q.    This report states that AEP supplied

1 overvoltage to both campuses, correct?

2 A. That's what it says, yes.

3 Q. Would the reference to campuses be the  
4 two facilities, the Genesis Healthcare facilities?

5 A. Yes. I'm assuming that's what he  
6 intended.

7 Q. And this document -- where it says on  
8 this document "What equipment/activities were  
9 affected and for how long," the document states  
10 "Looks like by the surgery trend it started after  
11 1201 hours on 12-14-2010," correct?

12 A. Correct.

13 Q. What is the surgery trend?

14 A. There is a -- I think you have it from  
15 the deposition, that sheet that I provided you that  
16 had the trending for that period of time.

17 Q. Could you describe it for the Attorney  
18 Examiner.

19 A. It's -- it's a trend report. I forget if  
20 it's 15 minutes or there is some interval that it's  
21 looking at data for temperature and humidity in  
22 specific areas of the surgery central sterile at  
23 Bethesda Hospital.

24 Q. And did you inspect that trend report for  
25 the area at issue on the date of the incident,

1 June 15, 2010?

2 A. On the date of the incident I don't  
3 believe I did.

4 Q. Did you inspect the actual chiller unit  
5 itself on the date of the incident?

6 A. I went to that campus and looked at that  
7 chiller unit later in the day, yes, after -- after  
8 the conditions of overvoltage had been corrected.

9 Q. But you've seen -- you've seen and are  
10 familiar with the standard trend report for the  
11 humidity?

12 A. I'm not sure I understand the question.

13 Q. I would like to mark AEP Exhibit 3, and  
14 then I will ask you that question again,  
15 Mr. Williams.

16 (EXHIBIT MARKED FOR IDENTIFICATION.)

17 Q. Is this document a copy of the trend  
18 report we were just discussing?

19 A. Yes.

20 Q. Now, someone prior to this document being  
21 produced in discovery marked "start of event" and  
22 "end of event" on this report, correct?

23 A. Correct.

24 Q. When does this report indicate that the  
25 event, the event being the overvoltage condition --

1 or rather the event being the humidity event, in the  
2 sterile supply room began?

3 A. Around 12:15 a.m. on the 15th.

4 Q. And it's marked that event ended between  
5 7 and 7:15 on the 16th -- I'm sorry, on the 15th?

6 A. Correct.

7 Q. A.m., 7:15 a.m.

8 A. A.m., yes.

9 Q. Now, you testified a moment ago, I  
10 believe, that you -- when you visited the chiller  
11 unit or went to inspect the chiller unit that was  
12 later in the afternoon of the 15th?

13 A. Yes.

14 Q. And the chiller unit was operating again  
15 at that point?

16 A. Yes.

17 Q. Do you know how if the chiller unit was  
18 out of service due to overvoltage the humidity  
19 dropped back within a normal range at 7:30 in the  
20 morning?

21 A. Do I know? I'm sorry.

22 Q. How that could have happened?

23 MR. THEVENY: Objection. I didn't  
24 understand the question.

25 Q. Sure.



1 MR. THEVENY: It was argumentative, I  
2 think.

3 Q. I'll back up. Ms. Kline in the document  
4 marked AEP Exhibit 1, we discussed that the person  
5 who found the incident or found the issue in the  
6 sterile supply room found that issue at 6:30 in the  
7 morning on June 15, 2010, correct?

8 A. Correct.

9 Q. Now, we've just discussed that this  
10 document AEP Exhibit 3 reflects that humidity in the  
11 surgical suites, in the sterile supply room went back  
12 to within the normal range which is below 60 percent  
13 between it looks to me 7 and 7:15 in the morning,  
14 correct?

15 A. According to this report, yes.

16 Q. Do you know how it would have been  
17 possible for the humidity in that area to have gone  
18 back down to within normal range?

19 MR. THEVENY: Objection. Calls for  
20 speculation, lacks foundation. I can elaborate but  
21 she -- she's asking the witness to speculate on a  
22 time in one document, a document which he did not  
23 prepare, which says 6:30 a.m. with regard to a time  
24 reflected in another document which is computer  
25 generated for a program that he is not responsible

1 for. To the extent the witness is capable of  
2 answering it, I guess, but it calls for speculation  
3 at this point. There needs to be some more  
4 foundation whether he is in a position to answer that  
5 question so it's argumentative. It's assuming that  
6 he is capable of knowing what the times were.

7 EXAMINER JENNINGS: I'll allow the  
8 question. If the witness knows, then he knows.

9 A. So the question is?

10 Q. Do you know what step -- how -- do you  
11 know how the humidity came to be within the normal  
12 range --

13 A. No.

14 Q. -- that morning?

15 A. Not at this time, no, I don't.

16 Q. Okay. Do you know when the -- do you  
17 know when the chiller unit was reset?

18 A. I don't know the exact time. I was not  
19 actually at that campus during that.

20 Q. Is it possible that the chiller unit came  
21 back on by 7:15, 7:30 that morning?

22 MR. THEVENY: Objection.

23 EXAMINER JENNINGS: Overruled.

24 A. I don't know.

25 Q. Okay. Now, of the equipment in Genesis

1 Healthcare facility -- Genesis Healthcare System's  
2 Bethesda facility, are there other pieces of  
3 equipment that have overvoltage protection besides  
4 the chiller unit at issue here?

5 A. That I'm aware of, no.

6 Q. So this was the only piece of equipment  
7 in the entire hospital that had overvoltage  
8 protection that you are aware of?

9 A. That I am aware of.

10 Q. Do you know whether there is -- are any  
11 pieces of equipment in the other facility, the Good  
12 Sam facility, that have overvoltage protection?

13 A. I don't know that either for sure.

14 Q. Now, you contacted AEP on -- on June 15  
15 about the issue, correct?

16 A. I contacted John Roberts, yes, which was  
17 our customer representative at the time for AEP.

18 MS. BLEND: I would like to mark AEP  
19 Exhibit 4.

20 (EXHIBIT MARKED FOR IDENTIFICATION.)

21 Q. Mr. Williams, you e-mailed Mr. Roberts  
22 from AEP about the issue on June 15?

23 A. Yes.

24 Q. Is AEP Exhibit 4 a -- an accurate copy of  
25 your June 15, 2010, e-mail to Mr. Roberts?

1 A. Yes.

2 Q. And you sent that e-mail at 12:13 p.m.  
3 that day?

4 A. That's what it says, yes.

5 Q. Could you please read the text of the  
6 e-mail message that you sent to Mr. Roberts aloud.

7 A. "John, could you please give us a summary  
8 of what occurred with this problem?

9 "We had some issues with certain  
10 equipment shutting down on over voltage condition.  
11 This led to some humidity and temperature problems  
12 for our facilities."

13 Q. Thank you. Do you recall whether you  
14 sent this e-mail to Mr. Roberts before or after you  
15 inspected the chiller unit?

16 A. I don't think I -- I'm almost positive I  
17 was not -- had not checked the chiller unit at that  
18 point.

19 Q. To your knowledge did anyone else from  
20 Genesis Healthcare System contact AEP on June 15,  
21 2010, about the issue?

22 A. Not that I'm aware of.

23 Q. Did you receive a response from  
24 Mr. Roberts to your e-mail?

25 A. Yes, I did.

1 MS. BLEND: I would like to mark AEP  
2 Exhibit 5.

3 (EXHIBIT MARKED FOR IDENTIFICATION.)

4 Q. Is AEP Exhibit 5 an accurate copy of  
5 Mr. Roberts' e-mail to you in the center of the page?

6 A. Yes.

7 Q. And he sent that e-mail to you on  
8 June 15, 2010, at 4:50 p.m., correct?

9 A. Correct.

10 Q. And could you read the text of  
11 Mr. Roberts' e-mail message to you aloud.

12 A. Yes. "Tom, we had a tap changer at the  
13 Linden Avenue station go into full boost. Our  
14 station people went to the station and ran the  
15 voltage back to normal manually, and left it in that  
16 position. They think the main control board failed  
17 and are ordering a replacement.

18 "You shouldn't have any more problems."

19 Q. Thank you. And you didn't send any  
20 additional questions to Mr. Roberts about the issue  
21 after this e-mail was received, correct?

22 A. Not that I -- I can't think if I did.

23 Q. So you don't think you did or you don't  
24 know?

25 A. I don't believe I did.

1           Q.    You never sent him an e-mail asking him  
2           about the replacement of the control panel that this  
3           e-mail references?

4                   MR. THEVENY:  Objection, argumentative.

5                   EXAMINER JENNINGS:  Overruled.

6           A.    I don't recall.  I don't recall having  
7           any follow-up conversation -- or follow-up e-mail  
8           with John about it.  I may have had some  
9           conversation, but I don't believe it was an e-mail.

10          Q.    Okay.  Do you recall ever asking him  
11          about the control panel that was replaced?

12          A.    You mean after this?

13          Q.    Yes.

14          A.    No, I don't.

15          Q.    And you didn't ask him to keep the  
16          control panel so that Genesis Healthcare System could  
17          inspect it?

18          A.    I did not ask him that.

19          Q.    To your knowledge did anyone else from  
20          Genesis Healthcare ever make such a request?

21          A.    Not to my knowledge.

22                   MS. BLEND:  I would like to mark AEP  
23          Exhibit 6.

24                   (EXHIBIT MARKED FOR IDENTIFICATION.)

25          Q.    Mr. Williams, do you recognize the

1 document that I have marked AEP Exhibit 6?

2 A. Yes, I do.

3 Q. And this is a report prepared by Steven  
4 Minosky on June 15, 2010, correct?

5 A. It doesn't have a date of when it was  
6 done. It has a date of the failure, yes, of June 15.

7 Q. Thank you for that correction. And would  
8 Mr. Minosky attach this type of report as part of his  
9 job responsibility as Genesis Healthcare System?

10 A. Yes. Steve and -- Steve Minosky,  
11 coordinator; Robb Bell is also a coordinator.

12 Q. If you look at the bottom of this --  
13 towards the bottom of this document, there's a  
14 question "What actions were taken to prevent a  
15 recurrence" and the response states "Genesis has  
16 installed new humidity gauges in the ORs and are in  
17 the process of installing alarm monitoring at the  
18 PBX." Do you see that?

19 A. Yes.

20 Q. What is the PBX?

21 MR. THEVENY: Objection, your Honor. If  
22 I may at this point for the record note that this  
23 line of questioning deals with post-incident remedial  
24 action taken by Ohio Power -- taken by Genesis  
25 Healthcare System and post-remedial action undertaken

1 in this case by Genesis Healthcare System or any  
2 customer is not relevant to the disposition of the  
3 question of whether there was inadequate or improper  
4 service by Ohio Power Company on the date of the  
5 incident itself.

6 So I would interpose an objection on the  
7 basis of relevance. It's prejudicial. Its probative  
8 value outweighs any -- its prejudicial effect  
9 outweighs any probative value before the Commission.

10 MS. BLEND: May I respond, your Honor?

11 EXAMINER JENNINGS: I'll overrule the  
12 objection.

13 MS. BLEND: Thank you.

14 A. PBX, I am not exactly -- public broadcast  
15 but it's actually -- the location is intended to mean  
16 it's our switchboard location where we have manned 24  
17 hours.

18 Q. Was the humidity and temperature in the  
19 stairwell monitored in June, 2010?

20 A. It was monitored by reference to the  
21 trend anal -- trend report monitored through the  
22 building, automation system.

23 Q. Okay. And where would those reports  
24 have -- let me back up.

25 Those reports were sent to a computer?



1 A. Yes.

2 Q. Where was that computer located?

3 A. In the plant operations department.

4 Q. And that's different from the PBX?

5 A. It is.

6 Q. It's in a different part of the hospital?

7 A. Yes.

8 Q. And the computer in the operations  
9 department, how often was it checked?

10 A. I'm not sure I understand your question.  
11 You mean checked for what?

12 Q. Checked for any issues with --

13 A. Daily. Daily it would have information  
14 about multiple systems.

15 Q. Okay. So of the systems that the  
16 computer showed reports for, it showed reports for  
17 humidity and temperature in the sterile supply area,  
18 correct?

19 A. I'm sorry?

20 Q. Other than -- among other reports the  
21 computer in the operations department showed reports  
22 for the sterile supply room at issue here, humidity  
23 and temperature, right?

24 A. It did. This doesn't display on it  
25 constantly. We had to go back in and pull this --

1     you go back in and you pull this data out of the  
2     system.

3             Q.     But there was an alarm for humidity and  
4     temperature events outside of the normal range we  
5     discussed earlier, was there not?

6             A.     It would report to that -- to that  
7     system, but it is not manned 24/7.

8             Q.     Okay. Now, the alarm was only checked  
9     once a day or that system is only checked once a day?

10            A.     You are talking about --

11            Q.     That computer.

12            A.     You mean those rooms?

13            Q.     Yes.

14            A.     The rooms themselves would be checked  
15    once a day by us but also once a day by staff for --  
16    for the area.

17            Q.     What about the actual computer itself  
18    with the alarm?

19            A.     It would be checked at least once per  
20    day.

21            Q.     Okay.

22            A.     There's no -- wouldn't be a standard time  
23    it would be checked either.

24            Q.     Was there a requirement it be checked at  
25    least once a day?

1           A.    There's a daily round that would ask  
2           someone to do that and check off on some temperatures  
3           and humidity to make sure everything was in range.

4           Q.    But conceivably someone could go in first  
5           thing in the morning and check that computer screen,  
6           see there was no alarm, and then no one could check  
7           it again until the following day at the end of the  
8           workday?

9           A.    That could very well happen, yes.

10          Q.    Was the sterile supply room monitored on  
11          the PBX in June, 2010?

12          A.    No.

13          Q.    Is it feasible it would have been? Was  
14          it possible?

15          A.    Possible, could it have been done?

16          Q.    Yes.

17          A.    Absolutely.

18          Q.    And what steps would have been required  
19          in order for it to have been done?

20          A.    Some wiring run and tied into a system.

21          Q.    About how much time would it take to do  
22          that?

23          A.    I guess I don't know.

24          Q.    Well, do you think more than a day?

25          A.    I don't -- I really don't know, more than

1 one step to that. That system that we -- that it's  
2 looked at through -- is through the fire alarm system  
3 so it would have involved the vendor and things like  
4 that.

5 Q. Is the humidity and temperature for the  
6 sterile supply room now monitored on the PBX?

7 A. It is monitored in a location that's  
8 manned 24 hours/7 days a week.

9 Q. Genesis Healthcare System receives  
10 alternate feed service from AEP Ohio, correct?

11 A. Correct.

12 Q. Can you just describe your understanding  
13 of how that alternate feed service works?

14 A. Two sources, two different substations  
15 converge on one transfer switch, automatic transfer  
16 switch. One source has failed, it switches to the  
17 other source, feeds the distribution back to the  
18 hospital.

19 Q. And Genesis Healthcare receives that  
20 service through a contract with Ohio Power Company?

21 A. Yes.

22 MS. BLEND: I would like to mark AEP  
23 Exhibit 7.

24 (EXHIBIT MARKED FOR IDENTIFICATION.)

25 Q. Do you recognize what we have marked AEP

1 Exhibit 7?

2 A. I'm sorry?

3 Q. Do you recognize what's been marked as  
4 AEP Exhibit 7?

5 A. I think I have seen it before. I have  
6 not read it in detail, but I recognize it, yes.

7 Q. And do you recognize it as the contract  
8 between Ohio Power Company and Genesis Healthcare  
9 System for standard service offer electricity and  
10 also alternate feed service?

11 A. Yes.

12 Q. And Genesis Healthcare can manually  
13 switch between its primary and alternate feeds,  
14 correct?

15 A. It can manually -- we can manually  
16 switch.

17 Q. So if, for instance, there is some issue  
18 with the -- if there is a power outage or an  
19 overcurrent condition or an overvoltage condition  
20 that Genesis Healthcare System is aware of --

21 MR. THEVENY: Objection. I'm sorry.

22 Q. Genesis Healthcare system can turn to the  
23 alternate feed and continue to receive electric  
24 service despite that issue?

25 MR. THEVENY: Objection, your Honor.

1 Compound, confusing. Which condition do you want him  
2 to answer? Do you need the question, I guess? I'm  
3 sorry.

4 A. I think I understand the question. She  
5 is simply asking can the -- can we switch manually  
6 from one source to the other?

7 Q. Yeah. I'll say it differently. If there  
8 is a problem with your primary feed and you know  
9 about the problem, can you switch to your alternate  
10 feed?

11 A. Yes.

12 Q. Was it feasible for Genesis Healthcare  
13 System to have had a backup generator connected to  
14 the chiller unit at issue in June, 2010?

15 A. I don't know what's feasible. I guess I  
16 am not sure exactly what you are asking me.

17 Q. Sure. I'll restate. Could Genesis  
18 Healthcare, if it chose, have had a backup generator  
19 attached to the chiller unit or serving the chiller  
20 unit at issue?

21 A. Yes, yes. As a matter of fact, it is  
22 now.

23 Q. If an overvoltage event occurs now, can  
24 the chiller be run from the generator?

25 A. Could it be, yes, if it -- if we know to

1 do that.

2 Q. Mr. Williams, is it possible that -- let  
3 me ask a different question.

4 Does Genesis Healthcare System have any  
5 type of equipment in place that monitors the voltage  
6 of electricity coming into the hospital?

7 A. The voltage -- let me make sure. How it  
8 happen our transfer switches are set up so if there  
9 is no voltage, they will automatically switch over.  
10 So those -- those automatic transfer switches that we  
11 have to have for the different systems, equipment  
12 branch, life, safety, and critical, they are sensing  
13 voltage all the time on the normal source, okay? If  
14 we lose the normal source of voltage, then they  
15 automatically will switch over, but we're not looking  
16 at voltage and monitoring voltage at any point or  
17 location.

18 Q. So you are not keeping records of what  
19 the voltage record is coming into the hospital.

20 A. No.

21 Q. You are looking at whether or not there  
22 is voltage at all.

23 A. There's places I can go and look, yes,  
24 but I don't monitor.

25 Q. Okay. Is it possible that the chiller

1 unit that tripped in this case was set to trip at a  
2 voltage that was too low?

3 A. I'm sorry?

4 Q. Is it possible that the chiller unit that  
5 tripped here causing Genesis Healthcare's damages was  
6 calibrated or set to trip at too low a voltage?

7 A. That would be set up by the manufacturer  
8 so I don't know if -- I mean, I just don't know the  
9 answer to that question. Those -- those settings are  
10 put in by the manufacturer.

11 MS. BLEND: Thank you, Mr. Williams. I  
12 have no further questions.

13 MR. THEVENY: A few redirect, if I may?

14 EXAMINER JENNINGS: Yes.

15 MR. THEVENY: Thank you.

16 - - -

17 REDIRECT EXAMINATION

18 By Mr. Theveny:

19 Q. Mr. Williams, just a few questions. Did  
20 the chiller unit need to be connected to an emergency  
21 power source?

22 A. Did the chiller unit need to be  
23 connected?

24 Q. At the time of the incident.

25 A. It's not required to be connected to the



1 equipment branch of the generator system, no.

2 Q. What is NFPA 99?

3 A. It's the healthcare facility's -- you  
4 asked me too fast, is a document from the National  
5 Fire Protection Association on healthcare facilities.

6 Q. Does it provide regulations for how  
7 hospitals are to conduct their business and, in fact,  
8 deal with electrical supply?

9 A. It sets standards that we are to comply  
10 with, yes.

11 Q. Is it adopted by code in Ohio?

12 A. Not that I'm aware of.

13 Q. All right. But it's the standard you are  
14 required to follow.

15 A. Yes.

16 Q. Did NFPA require the chiller to be on an  
17 emergency power supply line?

18 A. Did the -- I'm sorry?

19 Q. Does the NFPA 99 require the chiller unit  
20 to be on an emergency supply line?

21 A. No.

22 Q. Do you understand AEP to be the Ohio  
23 Power Company?

24 A. Yes.

25 Q. Okay. At the time of this incident based

1 on the records we were shown of -- where would most  
2 of the staff be located at the hospital?

3 A. Where would?

4 Q. Most of the staff be located?

5 A. They are split pretty well. I mean,  
6 there would -- potentially there's 20, 25 guys. Half  
7 would be at each campus roughly.

8 Q. Is it fair to say if you don't know Ohio  
9 Power Company is supplying overvoltage, that you  
10 wouldn't know to switch to alternate power?

11 A. I'm sorry. I want to make sure I  
12 understand that question.

13 Q. If you don't know that supply of power  
14 you are receiving from Ohio Power Company is in an  
15 overvoltage condition, would it be fair to say you  
16 wouldn't know to switch to an emergency power line?

17 A. I would not know.

18 Q. Is that something that you rely upon Ohio  
19 Power Company to tell you, that is, when it's in an  
20 overvoltage condition with regard to its supply of  
21 power?

22 A. I would -- I mean, when we couldn't  
23 figure out what was going on, that's who we called.

24 MR. THEVENY: Right. That's all I have.  
25 Thank you.

1 EXAMINER JENNINGS: Any further  
2 questions?

3 MS. BLEND: If I could have just one  
4 moment, your Honor.

5 I have no further questions, thank you.

6 EXAMINER JENNINGS: You are excused.

7 MR. THEVENY: Next witness? Call the  
8 next witness?

9 EXAMINER JENNINGS: Yes.

10 MR. THEVENY: I'll call Deb Trimble to  
11 the stand.

12 (Witness sworn.)

13 EXAMINER JENNINGS: Thank you.

14 MR. THEVENY: May I approach the witness,  
15 your Honor?

16 EXAMINER JENNINGS: Yes.

17 - - -

18 DEBORAH A. TRIMBLE

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

21 DIRECT EXAMINATION

22 By Mr. Theveny:

23 Q. Could you state your full name for the  
24 record, please.

25 A. It's Deborah, D-E-B-O-R-A-H, Ann and the

1 last name is Trimble, T-R-I-M-B-L-E.

2 Q. And, Ms. Trimble, are you currently  
3 employed?

4 A. Yes.

5 Q. By whom?

6 A. Genesis Healthcare System.

7 Q. And what is your position with Genesis  
8 Healthcare System?

9 A. Risk management consultant.

10 Q. Are you aware of the issues that are at  
11 dispute in connection with this proceeding that's  
12 brought us here today?

13 A. Yes, I am.

14 Q. Were you asked to file the direct  
15 testimony or assist me in preparing direct testimony  
16 so that I could file it here with the Commission?

17 A. Yes.

18 Q. I placed in front of you the direct  
19 testimony of Deborah A. Trimble filed with the Public  
20 Utilities Commission of Ohio. Is that your direct  
21 testimony?

22 A. Yes, it is.

23 MR. THEVENY: At this time I would move  
24 into evidence as Complainant's Exhibit 2 the filed  
25 direct testimony of Deborah Trimble.

1 EXAMINER JENNINGS: So moved, subject to  
2 cross-examination.

3 (EXHIBIT MARKED FOR IDENTIFICATION.)

4 MR. THEVENY: Any cross?

5 MR. ALAMI: Thank you, your Honor, a few  
6 questions.

7 - - -

8 CROSS-EXAMINATION

9 By Mr. Alami:

10 Q. Good morning, I think still, Ms. Trimble.  
11 How are you?

12 A. I'm good.

13 Q. I just want to ask you a few questions on  
14 your direct testimony here.

15 A. Okay.

16 Q. Now, you were the risk management  
17 consultant for Genesis Healthcare on the date of the  
18 incident, correct?

19 A. Yes, sir.

20 Q. And you are currently and you were in  
21 that same position at that time?

22 A. Yes.

23 Q. Okay. And you assessed the damaged  
24 supplies after the incident?

25 A. Yes.

1 Q. Is that correct?

2 A. Yes, I did.

3 Q. Now, if I can have you turn to your  
4 testimony page 4, it's actually on numbered page 4.  
5 I'm looking at on line 12 states "I notified our  
6 insurance carrier of the potential claim for  
7 damages."

8 A. Yes.

9 Q. Do you see that?

10 A. Yes.

11 Q. And who is -- who is your insurance  
12 carrier that you notified?

13 A. Well, actually what I do I call our  
14 agent. It's Rankin & Rankin. They are our agent for  
15 Chubb. It's our carrier for the property coverage.

16 Q. Okay. And when did you notify them?

17 A. It would have been that morning. I don't  
18 know the exact time. I received a call that this had  
19 happened, and I needed to go over and look at all the  
20 supplies and to see if there was damages, but I  
21 always call them to let them know there is a  
22 potential claim so it would have been the morning of  
23 the 15th.

24 Q. Before or after your assessment of the --  
25 of the supplies?

1           A.    I would have called them before.  I'm at  
2   the Good Samaritan campus so I would have called them  
3   and said, hey, we have a potential issue.  I am going  
4   to go over and check it out, but I like to let them  
5   know so they can notify the carrier we may have  
6   something --

7           Q.    And after you --

8           A.    -- to report.

9           Q.    I'm sorry.

10          A.    Something to report.

11          Q.    After your assessment, did you follow up  
12   with them?

13          A.    Yes.  I always let them know what I  
14   found, and I follow up with a report of -- from the  
15   plant operations people also to get them a little  
16   more information, a summary of what I had found out.

17          Q.    Did you notify anybody at Ohio Power  
18   Company?

19          A.    No.

20          Q.    How long did it take for the supplies to  
21   go bad?

22          A.    We really don't know what time this --  
23   you know, when the humidity actually started  
24   gathering down the walls, the water was running down  
25   the walls, and so sometime through that period.  When

1 they found it in the morning at 6:30, everything was  
2 already wet so sometime through that period through  
3 the night.

4 Q. Did you have any communications with Ohio  
5 Power Company relating to the incident?

6 A. No.

7 Q. Did you ever request that Ohio Power  
8 Company keep the control panel?

9 A. No.

10 Q. Do you know of anyone at Genesis that  
11 requested that Ohio Power Company keep the control  
12 panel?

13 A. Not that I am aware of.

14 MR. ALAMI: I think that's all the  
15 questions I have. Thank you very much.

16 EXAMINER JENNINGS: Redirect?

17 MR. THEVENY: None.

18 EXAMINER JENNINGS: Thank you,  
19 Ms. Trimble.

20 MR. THEVENY: Your Honor, before I would  
21 call the next witness can I ask a couple of things?  
22 Quick break?

23 EXAMINER JENNINGS: Yes. We are at about  
24 the two-hour mark.

25 MR. THEVENY: And also I would like --



1 Genesis Healthcare has a hospital and healthcare  
2 facility to run so can I ask -- ask the witnesses be  
3 excused?

4 MS. BLEND: That's fine with us, your  
5 Honor.

6 MR. THEVENY: They have a two-hour drive  
7 ahead of them.

8 EXAMINER JENNINGS: No, I have no  
9 questions so you're excused. Thank you.

10 MR. THEVENY: Can we take a --

11 EXAMINER JENNINGS: 10-minute break or  
12 lunch?

13 MR. ALAMI: 5 minute, I would propose  
14 just a short break. I don't think we have.

15 MR. THEVENY: No, that's fine.  
16 Mr. Paulus has to run to the bathroom.

17 MR. ALAMI: I do too, at least 5 minutes.

18 MR. THEVENY: I don't want to put him on  
19 the stand, have him drilled while he has to go.

20 (Recess taken.)

21 EXAMINER JENNINGS: Let's go back on the  
22 record. You may call your next witness.

23 MR. THEVENY: Thank you, your Honor.  
24 Call Jeff Paulus to the stand.

25 (Witness sworn.)

1 EXAMINER JENNINGS: Thank you.

2 - - -

3 JEFF R. PAULUS

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

6 DIRECT EXAMINATION

7 By Mr. Theveny:

8 Q. Good afternoon, Mr. Paulus. Can you  
9 state your full name for the record, please.

10 A. Jeff Robert Paulus, P-A-U-L-U-S.

11 Q. Can you describe for the record your  
12 current job duties and a description of your  
13 employment.

14 A. The principal of Paulus Engineering,  
15 Incorporated. I'm the sole engineer at the company.  
16 I investigate things that fail, specifically  
17 electrical, and I do origin and causations as well as  
18 water losses.

19 Q. Were you retained on behalf of the  
20 Complainant in this matter to investigate the  
21 circumstances of an overvoltage condition that  
22 damaged some property at the Genesis Healthcare  
23 facility in Zanesville, Ohio?

24 A. Yes, I was.

25 Q. And as part of that investigation, did

1     you review information in this lawsuit including  
2     depositions, discovery responses, and documents  
3     produced by Ohio Power Company?

4             A.     Yes, I did.

5             Q.     Did you also work with me in preparing  
6     both the direct testimony to be filed in this  
7     proceeding and also rebuttal testimony to be filed in  
8     this proceeding?

9             A.     Yes, I did.

10            Q.     I am handing what we'll mark  
11    Complainant's Exhibits 3 and 4. Would you let me  
12    know if those are true and correct copies of your  
13    prefiled direct testimony and prefiled rebuttal  
14    testimony?

15            A.     Yes, it is.

16            MR. THEVENY: At this time I move into  
17    evidence as Complainant's Exhibit 3 the prefiled  
18    direct testimony of Jeff Paulus, and I move into  
19    evidence as Exhibit 4 the prefiled rebuttal testimony  
20    of Jeff Paulus.

21                   (EXHIBITS MARKED FOR IDENTIFICATION.)

22            EXAMINER JENNINGS: Is there cross?

23                                 - - -

24

25

CROSS-EXAMINATION

By Ms. Blend:

Q. Good afternoon, Mr. Paulus.

A. Good afternoon.

MR. THEVENY: Hold on a second. No, I'm sorry. I apologize. I was going to ask him one more thing but I can wait.

MS. BLEND: No problem.

Q. (By Ms. Blend) Mr. Paulus, most of your experience has involved fire investigations; is that correct?

A. Most of my experience, since 1969, I have been investigating fires and product liability cases and things that fail, correct. Prior to that I was an engineer in other respects, yes.

Q. And you have never investigated transmission equipment of the type in the substation at issue in this case before, correct?

A. I have looked at equipment for transmission stations, yes, but not that have failed. I used to work at the utility but go ahead.

Q. You worked on the distribution side of things for CEI.

A. Yes.

Q. Cleveland Electric Illuminating, correct?

1           A.    Correct.

2           Q.    So your -- your testimony is that you  
3 have inspected substation equipment?

4           A.    I've looked at it, yes. I know how it  
5 operates.

6           Q.    Have you ever -- let me rephrase.

7                    You have never inspected the specific  
8 make and model of the control panel and sub -- and  
9 tap changer at issue in this case though, correct?

10          A.    Correct. I have not inspected it.

11          Q.    And you've never taken apart a control  
12 panel to examine its inner workings to determine a  
13 cause for its failure.

14          A.    No, I haven't.

15          Q.    And you didn't inspect the substation at  
16 issue in this case, correct?

17          A.    That's correct.

18          Q.    And you didn't inspect the chiller unit  
19 that failed -- I'm sorry, that tripped at Genesis  
20 Healthcare System either, correct?

21          A.    It went into an overvoltage condition and  
22 shut it down because of the overvoltage. I wouldn't  
23 characterize it as a trip.

24          Q.    So let me rephrase. You didn't inspect  
25 that chiller unit either.

1           A.    No, I did not.

2           Q.    And you didn't inspect any other  
3 equipment at Genesis Healthcare System, correct?

4           A.    No, I did not.  Everything is changed.

5           Q.    On page 6 of your direct testimony, you  
6 opine that the tap changer at issue -- the tap  
7 changer in the Linden Avenue Substation's maintenance  
8 was not completed per the manufacturer's  
9 recommendations and operating instructions.

10          A.    Correct.

11          Q.    Those are recommendations as your  
12 testimony states, not requirements, correct?

13          A.    Correct.  That's the manufacturer  
14 recommendation to be done to that tap changer, yes.

15          Q.    The tap changer at issue in this case is  
16 still in service as far as you know, correct?

17          A.    As far as I know, yes.

18          Q.    And you agree that the specific component  
19 piece that failed was the control panel not the tap  
20 changer?

21          A.    As we discussed in my deposition, yes,  
22 that's -- the control panel that failed is the brain  
23 of the operation and controls the tap changer itself.  
24 They are interlinked electronically and mechanically  
25 as well.

1           Q.    There was no mechanical failure of -- no  
2           internal mechanical failure of the tap changer itself  
3           though, correct?

4           A.    That's what the records indicate,  
5           correct.

6           Q.    And you agree that the manufacturer's  
7           literature for the control panel that AEP Ohio  
8           produced in discovery and that you testified in your  
9           direct testimony you reviewed contained no  
10          recommended maintenance for that component part,  
11          correct?

12          A.    That's my understanding, correct.

13          Q.    And you agree that technology with  
14          respect to substation equipment has improved since  
15          the equipment at issue here was placed in service in  
16          the 1960s, correct?

17          A.    I agree with that.  However, nothing in  
18          this substation has changed other than an oil filter  
19          being installed according to the records.  So the  
20          technology that was installed in 1970 is still  
21          present in this system today other than a new control  
22          board which would have been manufactured to operate  
23          this 1970s technology.

24          Q.    What is -- what's the purpose of checking  
25          the dielectric strength of oil?

1           A.    To make sure the oil is not breaking down  
2           and still -- and still completing its intended  
3           operation to cool the equipment.

4           Q.    You agree -- so is that a test to see how  
5           much longer the oil is going to be useful to run  
6           whatever component it's running?

7           A.    To cool, basically oil is there to cool  
8           the equipment so it doesn't overheat so the dielectric  
9           strength is that measure of the ability of it to  
10          cool. So if it's degrading over time, they can tell  
11          that by testing it at a certain interval.

12          Q.    And does that tell -- what does that --  
13          what does the dielectric strength indicate?

14          A.    Just tells you that your oil is going bad  
15          and it should be changed.

16          Q.    You agree that the use of an oil filter  
17          on the tap changer at issue here will extend the life  
18          of the oil cooling that tap changer.

19          A.    If the -- yes, if the oil filter is  
20          changed periodically, it will continue to clean the  
21          oil and extend its life, correct.

22          Q.    So if the oil's life is extended using  
23          the filter, would you agree that a requirement to  
24          yearly check the dielectric strength of the oil might  
25          not be -- I'm sorry, recommendation to yearly check



1 the dielectric strength of the oil might not be  
2 necessary but?

3 A. I think I understand your question. If  
4 you install an oil filter on the system, you do  
5 extend the life of the oil, and the yearly  
6 recommended practice by the manufacturer could be  
7 extended out due to the installation of that filter.

8 Q. Thank you. You said that much more  
9 concisely and clearly than I did.

10 Can you please explain how maintenance on  
11 the tap changer itself could affect the operation of  
12 the control panel.

13 A. I'm not understanding your question, I'm  
14 sorry.

15 Q. Sure. Your opinion in this case is that  
16 a failed -- AEP Ohio's alleged improper maintenance  
17 of the tap changer caused the control panel to fail,  
18 is it not?

19 A. Yes.

20 Q. Can you please explain how maintenance on  
21 the tap changer could affect operation of the control  
22 panel?

23 A. The tap changer operates to regulate the  
24 voltage based on whatever the voltage is at the  
25 output of the tap changer. Excessive operation of

1 the tap changer directly affects how many times the  
2 control panel has to operate to control the tap  
3 changer, so if a tap changer is excessively changing  
4 taps, then that directly affects the number of  
5 operations that occurred on the control panel thus  
6 affecting its mean time to failure. It will fail  
7 faster if it excessively changes taps.

8 Q. Do you know whether the number of  
9 operations of the tap changer is something that AEP  
10 Ohio regularly inspects and records on a monthly  
11 basis?

12 A. They do record that, yes.

13 Q. So would you agree that one could look at  
14 those monthly records to determine whether the tap  
15 changer was operating an excessive number of times?

16 A. That could be done, yes.

17 Q. And if -- if one were to look at those  
18 records and see that the tap changer, in fact, had  
19 operated relatively normally and had not been  
20 operating an excessive number of times, do you have  
21 any other opinions as to what about the maintenance  
22 on the tap changer could have caused the control  
23 panel to fail? Is there anything else that would  
24 cause the control panel to fail besides the number of  
25 operations?

1           A.     Sitting here I can't think of any others  
2     that would affect it other than the number of  
3     operations.

4           Q.     So if you were to inspect -- if you were  
5     to inspect the monthly records of maintenance at the  
6     service -- at the substation and verified that the  
7     number of operations on the tap changer was not  
8     excessive, you would agree that then the maintenance  
9     on the tap changer could not have caused the failure  
10    of the control panel?

11           MR. THEVENY:   Objection, calls for  
12    speculation.

13           MS. BLEND:   I am asking him for his  
14    opinion as an expert.

15           MR. THEVENY:   I didn't hear an opinion  
16    form.

17           EXAMINER JENNINGS:   Overruled.

18           A.     Can you repeat the question? I'm not  
19    understanding it.

20           Q.     Sure. Let's assume -- I would like your  
21    opinion on the following: Let's assume you were to  
22    inspect AEP Ohio's monthly records kept of its  
23    maintenance at the substation and the number of  
24    operations on the tap changer had been normal. There  
25    was no -- there were not excessive operations on the

1 tap changer, okay?

2 A. Okay.

3 Q. With that -- living in that world with  
4 that assumption, would you agree that maintenance on  
5 the tap changer could not have caused the failure of  
6 the -- or could not cause the failure of the control  
7 panel?

8 A. I would not agree with that.

9 Q. Okay. Then I'll ask again what could --  
10 what else could cause the failure of the control  
11 panel? Because I believe you just testified that  
12 nothing else could.

13 A. I'll restate what I testified to since I  
14 don't recall exactly my words, but the simple fact is  
15 that a control board/tap changer have a mean time to  
16 failure meaning there's only so many operations these  
17 devices will operate before they fail. I don't know  
18 what that number is. That number has never been  
19 provided.

20 The control board only has -- it has  
21 certain components on it. They have only a certain  
22 amount of operations that they'll complete within an  
23 engineering property that they will continue to  
24 survive. It's called mean time to failure. At some  
25 point one of those components is going to fail, and

1       apparently one of these components failed allowing  
2       the tap changer to go into a full boost -- full boost  
3       mode providing overvoltage to our facility at Genesis  
4       Healthcare.

5               So something occurred to cause this  
6       control board to fail. I never got to examine the  
7       control board so I can't tell you what failed on the  
8       control board or how that directly ties into the tap  
9       changer so I never got an opportunity to look at it.  
10      It was discarded.

11             Q.    You would agree -- would you agree that I  
12      could place a control panel and tap changer in  
13      service tomorrow, and the control panel could  
14      malfunction or break the next day?

15             MR. THEVENY:  Objection, argumentative.

16             EXAMINER JENNINGS:  Overruled.

17             A.    Yes, you can get bad components, and  
18      they'll fail the next day, yes.

19             Q.    So you agree that components can exceed  
20      their -- their mean lifespan?

21             A.    I would agree that there is a lifespan,  
22      and some of the components exceed it, yes.

23             Q.    And others don't; others fail before the  
24      mean lifespan is reached.

25             A.    Yes, they do.

1           Q.    The overvoltage event in this case only  
2           affected one piece of equipment, correct, the chiller  
3           unit at Genesis Healthcare System?

4           A.    I would -- your definition of a fact is  
5           pretty broad. It affected everything that was on  
6           that line. All the lights that would have been  
7           connected to that line, everything in that facility  
8           experienced an overvoltage condition. The chiller  
9           had a device on it to catch when that voltage was  
10          exceeded, and it basically turned itself off to  
11          protect itself. So when you say "affect," all the  
12          lights in the facility would have been a little  
13          brighter on that circuit. All the motors would have  
14          experienced an overvoltage. Everything that was  
15          connected on that line would have experienced an  
16          overvoltage.

17          Q.    To your knowledge there were no other  
18          pieces of equipment or systems damaged by that event,  
19          correct?

20          A.    It depends on your definition of damage.  
21          If you put too much voltage on a piece of equipment,  
22          it will shorten its life just by putting too much  
23          voltage on it. The belt is subjected to a certain  
24          amount of voltage. If you put excessive voltage on  
25          it, it will shorten its life potentially.

1           Q.    Do you know the voltage at which the  
2           chiller unit at issue in this case was set to go into  
3           an overvoltage condition?

4           A.    No, I do not.

5           Q.    Is it possible that the chiller unit  
6           could have been programmed to go into an overvoltage  
7           condition at a voltage that is maybe higher than the  
8           average voltage coming into the unit but still within  
9           the normal range of voltage?

10          A.    Are you asking me to assume that the  
11          manufacturer set the voltage of the chiller unit at a  
12          voltage that would not be nominal voltage? I don't  
13          think they would do that but.

14          Q.    I was asking whether it was possible.

15          A.    It would be highly improbable.

16          Q.    And because you haven't inspected the  
17          chiller unit at issue here, you don't know whether  
18          that manufacturer setting could have been changed by  
19          Genesis Healthcare System, do you?

20          A.    Based on the testimony today, he didn't  
21          even know it had that overvoltage sensor on it so I  
22          would doubt that they changed it.

23          Q.    That wasn't my question, sir.

24               MR. THEVENY:  Objection.  That's -- you  
25          are arguing.  He answered it but -- I'm sorry,

1 objection.

2 EXAMINER JENNINGS: Overruled.

3 A. Can you repeat the question then, please?

4 MS. BLEND: Would you mind reading the  
5 question back, ma'am.

6 (Record read.)

7 MR. THEVENY: Could you repeat the answer  
8 as well. I'm sorry I lost the thread.

9 (Record read.)

10 A. The answer would be it would be unlikely  
11 that the Genesis Healthcare employees would change an  
12 overvoltage sensor on a chiller unit so the  
13 manufacturer setting would be what it was set at.

14 Q. But you don't know what it actually was  
15 set at.

16 A. No, I don't.

17 Q. In your rebuttal testimony, you note that  
18 AEP Ohio doesn't have external warnings or monitoring  
19 which would tell it if substation equipment goes into  
20 an overvoltage condition. To your knowledge are  
21 there any statutory, regulatory, or other  
22 requirements that such monitoring and warnings be  
23 used by electric distribution utilities in Ohio?

24 A. Your question is do I know if there is a  
25 legal document --



1           Q.    Do you know of any requirement, whether  
2           it be legal, regulatory, you know, some industry  
3           requirement or an industrial best practice?

4           A.    I don't -- I did not look up any legal  
5           documentation that specifies that, but you are  
6           required to put out a certain voltage from your  
7           substations.

8           Q.    What about, you know, industry --  
9           industry guidance or industry literature that -- do  
10          you know of any of that that -- that either  
11          recommends or requires, suggests that such warnings  
12          or monitoring be used?

13          A.    Specifically I did not look that up, no.

14          Q.    Do you know -- you don't know whether  
15          such monitoring or warning systems are used by any  
16          utility in Ohio, right?

17          A.    I have not looked into that, no.

18          Q.    And do you know sitting here whether such  
19          warning or monitoring systems even exist, whether --  
20          whether such warnings or monitoring systems even  
21          exist for this type of substation equipment?

22          A.    You are asking me do you have the  
23          capability of putting a voltage sensor on the output  
24          to tell whether voltage existed at the substation?

25          Q.    I am asking whether you know of any --

1 whether you know of it being sold or marketed or --

2 A. I don't know specifically, but I will  
3 assume that there is equipment out there to measure  
4 voltage at the output of your substation.

5 MS. BLEND: I have no further questions.  
6 Thank you.

7 MR. THEVENY: Just a few follow-up, if I  
8 may, your Honor.

9 EXAMINER JENNINGS: Yes.

10 MR. THEVENY: Thank you.

11 - - -

12 REDIRECT EXAMINATION

13 By Mr. Theveny:

14 Q. You were asked a number of questions by  
15 counsel about information concerning supply of  
16 overvoltage, what -- monitoring overvoltage  
17 conditions, the number of tap changers -- or number  
18 of functions of a tap changer in a given month or  
19 given cycle or given year. I want to take -- take a  
20 look, first of all, at Exhibit -- I'm sorry, yeah,  
21 Exhibits A and B to your filed rebuttal testimony.  
22 And if you could identify for the record what Exhibit  
23 A is to your filed rebuttal testimony.

24 A. It's not actually attached here.

25 Q. Maybe it's -- no, it is, okay. So what

1 was attached to the Exhibit A -- as Exhibit A to your  
2 filed rebuttal testimony?

3 A. Exhibit A is Ohio Power Company's  
4 objections and response to Complainant's fourth set  
5 of interrogatories. Exhibit B is Respondent Ohio  
6 Power Company's objections and responses to  
7 Complainant's first set of requests for production,  
8 fourth set of requests for production, and fifth set  
9 of interrogatories.

10 Q. Was that first set of requests for  
11 admission for Exhibit B?

12 A. Yes.

13 Q. Did you review those written discovery  
14 responses in reaching your findings in this matter?

15 A. Yes, I did.

16 Q. Did you find any information in there in  
17 connection with monitoring the overvoltage -- I'm  
18 sorry, monitoring the output of voltage from the  
19 Linden Avenue Substation or any information or  
20 documents relative to the number of operations to the  
21 tap changer?

22 MS. BLEND: Objection, compound.

23 MR. THEVENY: He can answer. I don't  
24 know if he can answer or not. Deposition habit, I  
25 apologize. I can break it down.

1 EXAMINER JENNINGS: Yes, please.

2 Q. Did you find any information in there in  
3 connection with the monitoring of the voltage output  
4 from the Linden Avenue Substation?

5 A. There were no documentation of the output  
6 voltage.

7 Q. Did you find any information in those  
8 items you reviewed in reaching your findings in this  
9 matter about the monitoring of the number of  
10 functions for the tap changer during any given time  
11 period?

12 A. Yes. They were recorded.

13 Q. Okay. Also I wanted to show you what --  
14 well, did you review written discovery responses of  
15 Ohio Power Company in connection with your work in  
16 this matter?

17 A. Yes, I did.

18 Q. Did you review written discovery  
19 responses of Ohio Power Company in connection with  
20 your findings in this matter?

21 A. Yes, I did.

22 Q. And that's part of what you relied upon  
23 as an expert witness in reaching findings or opinions  
24 in connection with the matter?

25 A. Yes, I did.

1           Q.    All right. Did you review the automatic  
2   status control for the load tap changer equipment  
3   which was produced by AEP -- by Ohio Power Company as  
4   AEP 087 through AEP 094? I'll show that to you.

5           A.    Yes, I did.

6           Q.    Did you review the field notes of one  
7   witness, one Ohio Power Company employee, David  
8   Sullivan which I have now handed to you?

9           A.    Yes, I did.

10           MS. BLEND: Your Honor, if I could, if we  
11   are going to start looking at documents, could I  
12   request we mark those as exhibits?

13           MR. THEVENY: I will and these are all  
14   produced by Ohio Power Company. Well, here.

15           EXAMINER JENNINGS: And also if you could  
16   give opposing counsel an opportunity to review those  
17   before.

18           MR. THEVENY: It's nothing they haven't  
19   seen.

20           MS. BLEND: I still would just like to  
21   know what he is looking at.

22           MR. THEVENY: Sure.

23           MS. BLEND: Would your Honor like a copy?

24           Q.    The first one I showed you was behind tab  
25   A which is a document identified as produced by Ohio

1 Power Company with the AEP number designation. The  
2 second document was behind tab B which are the field  
3 notes of David Sullivan. You indicated you reviewed  
4 those in connection with your work and findings in  
5 this matter?

6 A. Yes, I did.

7 Q. And the next document that I want to show  
8 you is the document behind tab D which is Respondent  
9 Ohio Power Company's objections and responses to  
10 Complainant's first set of requests for admission,  
11 fourth set of production, and fifth set of  
12 interrogatories, and I believe you said you reviewed  
13 and considered those as well; is that right?

14 A. Yes, I did.

15 Q. The next document I want to show you is  
16 the exhibit behind tab E which is Respondent's  
17 responses to Complainant's first set of  
18 interrogatories and requests for production. Did you  
19 review those as well?

20 EXAMINER JENNINGS: Mr. Theveny, let's  
21 mark these.

22 MR. THEVENY: I was going -- you want me  
23 to mark them now? I was going to finish the sequence  
24 and mark them all.

25 EXAMINER JENNINGS: Okay.

1 MR. THEVENY: I thought it might be  
2 easier.

3 EXAMINER JENNINGS: Okay. That's fine.

4 Q. The next document I will show you -- I'm  
5 almost done -- is Respondent Ohio Power Company's  
6 responses to Complainant's second set of requests for  
7 production. Did you review those?

8 A. Yes, I did.

9 Q. It was behind tab F. And tab G is  
10 Respondent Ohio Power Company's objections and  
11 responses to Complainant's second set of  
12 interrogatories and third set of requests for  
13 production. Did you review those as well?

14 A. Yes, I did.

15 Q. And then last is Respondent Ohio Power  
16 Company's objections and responses to Complainant's  
17 fourth set of interrogatories. Did you review those  
18 as well?

19 A. Yes, I did.

20 MR. THEVENY: All right. If I may, I  
21 would like to mark as AEP -- I'm sorry, Complainant's  
22 Exhibit 5 the automatic static control for tap  
23 changer equipment, document produced by Ohio Power  
24 Company as AEP 087. I would like to mark as  
25 Complainant's Exhibit 6 the field notes of Daniel

1 Sullivan or is it David? I would like to mark as  
2 Complainant's Exhibit 7 Respondent Ohio Power  
3 Company's objections and responses to Complainant's  
4 first set of requests for admission, fourth set of  
5 requests for production, and fifth set of  
6 interrogatories. I would like to mark as --

7 EXAMINER JENNINGS: Excuse me. That last  
8 document, was that marked as Exhibit D in the?

9 MR. THEVENY: Yes, right here.

10 EXAMINER JENNINGS: Okay.

11 MR. THEVENY: I would like to mark as  
12 Exhibit -- Complainant's Exhibit 8 Respondent Ohio  
13 Power Company's objections and responses to  
14 Complainant's first set of interrogatories and  
15 requests for production, and I would like to mark as  
16 Complainant's Exhibit 9 Respondent Ohio Power  
17 Company's responses to Complainant's second set of  
18 requests for production.

19 I would like to mark as Complainant's  
20 Exhibit 10 Respondent Ohio Power Company's objections  
21 and responses to Complainant's second set of  
22 interrogatories, third set of requests for  
23 production. And I would like to mark as  
24 Complainant's Exhibit 11 Respondent Ohio Power  
25 Company's objections and responses to Complainant's



1 fourth set of interrogatories.

2 (EXHIBITS MARKED FOR IDENTIFICATION.)

3 Q. And, Mr. Paulus, could you review  
4 exhibits -- what have now been marked as  
5 Complainant's Exhibits 5 through 11. Let me know if  
6 they are all documents and information you reviewed  
7 in connection with your work in this matter and your  
8 findings.

9 A. Yes, they are.

10 MR. THEVENY: I would move into evidence  
11 at this time Complainant's Exhibits 5 through 11.

12 MS. BLEND: May I ask a question, your  
13 Honor?

14 EXAMINER JENNINGS: Yes.

15 MS. BLEND: Would you like my response to  
16 that motion now, or would you prefer to wait until  
17 the end of the hearing to address the admission of  
18 exhibits?

19 EXAMINER JENNINGS: We have further  
20 questions of this witness?

21 MR. THEVENY: Just one or two more, a few  
22 more, three or four.

23 EXAMINER JENNINGS: Let's let him finish  
24 his questioning and then we will go to that.

25 Q. (By Mr. Theveny) You were asked questions

1 about inspection of the control panel and the tap  
2 changer at the Ohio Power Company Linden Avenue  
3 Substation. Do you remember that?

4 A. Yes.

5 Q. Did you review deposition testimony or  
6 information that the tap changer had been reset just  
7 after the incident?

8 A. Yes, I did. It was manually reset.

9 Q. And did you also review information that  
10 the control panel had been replaced I believe on  
11 June 15 or within a day or two after the incident?

12 A. That's my understanding, it was replaced  
13 almost immediately.

14 Q. Would it have -- would you have been able  
15 to determine the condition of the tap changer which  
16 might have caused it to go into an overvoltage  
17 condition if you had gone out after it had been reset  
18 by Ohio Power Company employees?

19 A. Can you describe that again? I'm sorry.

20 Q. Yeah. Would you have been able to make  
21 any determination about why the tab changer might  
22 have been -- might -- let me ask it this way, did you  
23 understand that Ohio Power Company had altered the  
24 tap changer by resetting after the incident?

25 A. They moved it into a better voltage

1 condition for the line that it was controlling, yes.

2 Q. You don't know what other work they did  
3 at that time?

4 A. They -- I don't know exactly what they  
5 did at that time. They manually adjusted it and set  
6 it in a manual mode. I don't know when they pulled  
7 the actual control board, but they manually backed  
8 down the voltage on the tap changer.

9 Q. Did you see any information where they  
10 had documented the condition of the tap changer  
11 before they did that work in resetting it as you've  
12 described?

13 A. Sitting here I don't remember  
14 specifically, but I think they wrote down that it was  
15 an overvoltage condition. It was at max voltage.

16 Q. Did you see anything at all about the  
17 condition of the contacts for the tap changer?

18 A. No.

19 Q. Any condition about any of its other  
20 component parts, the relay, resistor, anything like  
21 that?

22 A. No. Nothing was documented on the  
23 control panel or the tap changer.

24 EXAMINER JENNINGS: Proceed, sorry.

25 Q. And, of course, you never had a chance to

1 view the control panel at all?

2 A. No, I did not.

3 Q. As part of your work in this matter, did  
4 you also review the deposition testimony of the  
5 witnesses?

6 A. Yes, I did.

7 Q. All the witnesses deposed by Ohio Power  
8 Company?

9 A. They were all -- every -- well, I don't  
10 know all the witnesses they deposed, but I reviewed  
11 quite a few depositions, yes.

12 Q. Do you recall reviewing the deposition  
13 testimony of Eugene Campbell?

14 A. Yes, I do.

15 Q. Do you recall reviewing the deposition  
16 testimony of Robert Hall?

17 A. Yes, I do.

18 Q. Do you recall reviewing the deposition of  
19 Carlos Brewer?

20 A. Yes.

21 Q. Do you recall reviewing the deposition  
22 testimony of Gary Parker?

23 A. Yes.

24 Q. Do you recall reviewing the deposition  
25 testimony of David Sullivan?

1 A. Yes.

2 Q. Did you also review the filed direct  
3 testimony of the Ohio Power Company employees, that  
4 is, the filed direct testimony filed on behalf of  
5 Complainant?

6 A. Yes, I did.

7 Q. And that was important for your work and  
8 findings in this matter?

9 A. Yes, it was.

10 MR. THEVENY: At this time I would again  
11 also move for the admission of the filed direct  
12 testimony of the Ohio Power Company employees on the  
13 additional basis that it was information reviewed by  
14 Complainant's expert in reaching his findings in this  
15 matter and would also move for the admission of the  
16 deposition testimony of the Ohio Power Company  
17 employees on that basis as well.

18 MR. ALAMI: Your Honor, I believe we  
19 already stipulated.

20 MR. THEVENY: I think we have.

21 MR. ALAMI: I'm sorry.

22 EXAMINER JENNINGS: Okay. Let's have  
23 cross-examination and we'll discuss admission of  
24 exhibits afterwards.

25 MS. BLEND: Okay. Thank you, your Honor.

RECROSS-EXAMINATION

By Ms. Blend:

Q. Mr. Paulus, the document that's been marked Complainant's Exhibit 5, the automatic static control load tap changer equipment, I am not going to ask you any questions about its substance, but you agree this is not the manufacturer's recommendations for the control panel which we spoke about earlier. This is for the load tap changer, correct?

I'll rephrase. Let me rephrase.

MR. THEVENY: Yeah.

Q. Let me rephrase. I'm confused.

A. Okay.

MR. THEVENY: The question has been withdrawn.

Q. I will withdraw that question.

A. Oh.

Q. Complainant's Exhibit 5, Mr. Paulus, upon looking through it would you agree this is -- this is the manufacturer's recommendations for the control panel which we spoke about earlier?

A. Yes, it is.

Q. Thank you. And, Mr. Paulus, the document that's been marked Complainant's Exhibit 6 which are -- which counsel represented are field notes of

1 David Sullivan, you didn't prepare those notes,  
2 correct?

3 A. Your question was I didn't?

4 Q. You didn't prepare the notes.

5 A. No, I did not.

6 MS. BLEND: I have no further questions.  
7 Thank you.

8 EXAMINER JENNINGS: Okay.

9 MR. THEVENY: So again I would move those  
10 into evidence as Complainant's Exhibits 5 through 11.

11 EXAMINER JENNINGS: Let's work through  
12 the exhibits and determine their admissibility.

13 MS. BLEND: If we could, your Honor, go  
14 through them one by one? We went a little fast for  
15 us. We want to make sure which exhibit is which.

16 MR. THEVENY: Can I -- you want me to run  
17 through them as I understand it? You want me to do  
18 that, your Honor?

19 EXAMINER JENNINGS: Let me walk through  
20 them.

21 MS. BLEND: Thank you.

22 MR. THEVENY: And I'll verify.

23 EXAMINER JENNINGS: First is  
24 Complainant's Exhibit -- back up. Complainant's  
25 Exhibit 5 is the first exhibit for this witness.

1 MR. THEVENY: Yes. No. We are not  
2 counting his direct?

3 EXAMINER JENNINGS: Well, 3 and 4.

4 MR. THEVENY: 3 and 4. And 5 would be  
5 the automatic static control for the load tap  
6 changer, right? Everybody got that?

7 EXAMINER JENNINGS: Let's start with  
8 Exhibit -- Complainant's Exhibits 3 and 4. Any  
9 objection to their admission?

10 MS. BLEND: No, your Honor.

11 (EXHIBITS ADMITTED INTO EVIDENCE.)

12 EXAMINER JENNINGS: Complainant's Exhibit  
13 5 is the automatic static control for the load tap  
14 changer equipment. Any objection to its admission?

15 MS. BLEND: No, your Honor.

16 EXAMINER JENNINGS: It will be admitted.

17 (EXHIBIT ADMITTED INTO EVIDENCE.)

18 EXAMINER JENNINGS: Exhibit --  
19 Complainant's Exhibit 6 are field notes of I believe  
20 David Sullivan?

21 MR. THEVENY: Correct.

22 EXAMINER JENNINGS: Any objection?

23 MS. BLEND: We do object to the admission  
24 of this document, your Honor. Although Mr. Paulus  
25 may have reviewed this excerpt of Mr. Sullivan's



1 field journal he can't provide a proper foundation  
2 for it. And as I just mentioned, this is an excerpt  
3 of the field journal. It's not the entire field  
4 journal itself. Simply put he couldn't authenticate  
5 it.

6 MR. THEVENY: May I address the  
7 objection?

8 EXAMINER JENNINGS: Yes.

9 MR. THEVENY: These were produced by Ohio  
10 Power Company during the deposition of David  
11 Sullivan. If you'll -- I believe he testified he  
12 kept his own notes, and I asked for copies of those.  
13 And that's what was produced to me in response to  
14 that inquiry. They were relied upon for that part of  
15 the evidence which says that there were prior  
16 problems with the tap changer.

17 I am more than happy to have all the  
18 field journal notes admitted if that will address  
19 your objection and solve the problem for the Attorney  
20 Examiner but that's the foundation for it was these  
21 were identified by Mr. Sullivan during his deposition  
22 testimony, produced to me, and I sent them to  
23 Mr. Paulus for his consideration.

24 I mean, I am aware there is 100 and some  
25 pages of field notes, but I thought -- I believe his

1 testimony was he kept his own notes.

2 MS. BLEND: Our concern is that not  
3 having a very extremely fresh recollection of  
4 Mr. Sullivan's deposition transcript, I can't say  
5 sitting here today whether or not he authenticated  
6 these. And so I still would object to foundation and  
7 they can't be authenticated and they certainly can't  
8 be authenticated by Mr. Paulus.

9 MR. THEVENY: May I address the solution,  
10 perhaps?

11 EXAMINER JENNINGS: Yes.

12 MR. THEVENY: I am more than happy to go  
13 back to the deposition testimony. I can submit a  
14 supplemental letter to you. This is where he  
15 identified them, and I believe it was an e-mail  
16 communication. It might have been back from your  
17 predecessor, I can't remember now, where she sent it  
18 to me and said these are his notes identified in his  
19 deposition, and you can go from there.

20 But that's -- I think that's a proper  
21 foundation if he identifies them, and you consulted  
22 with him and then represented -- not you necessarily,  
23 but your predecessor represented those were the notes  
24 he identified, then I don't know what more I can do  
25 other than ask your Honor to rule.

1 MS. BLEND: And I feel we are back at  
2 the -- to the beginning of our arguments again, your  
3 Honor, so I won't rehash them again, but if  
4 Mr. Theveny wanted to establish an -- authenticate  
5 Mr. Sullivan's field journal notes, he could have  
6 subpoenaed his attendance at this hearing. He knew  
7 based on Ohio Power Company's prefiled testimony that  
8 Ohio Power Company did not plan to call Mr. Sullivan  
9 as a witness and so.

10 MR. THEVENY: My basis for introducing  
11 them it was documents produced by Ohio Power Company  
12 which was sent to an expert upon which that expert  
13 relied. If you are representing they are not his  
14 notes, that's a different issue, but I think that's  
15 not accurate at all.

16 MS. BLEND: I'm objecting I think more  
17 generally to the dumping into the record of every  
18 document that Mr. Paulus -- upon which Mr. Paulus  
19 relied to form his expert opinion.

20 MR. THEVENY: They are one of the  
21 documents he relied upon. I'm certainly willing to  
22 go back and establish how they came into our  
23 possession.

24 MS. BLEND: The chain of custody is not  
25 the issue. It's the authentication of the documents.

1 How the documents came into the possession of Federal  
2 Insurance Company isn't the issue here. It's that  
3 the person who prepared these who can establish the  
4 foundation for them and authenticate them isn't here  
5 to do so.

6 MR. THEVENY: Are you saying it's Ohio  
7 Power Company saying to me that notes that were sent  
8 to me in response to a request for notes identified  
9 by David Sullivan are not his notes?

10 EXAMINER JENNINGS: I'll issue a ruling.  
11 I am going to exclude this for lack of foundation and  
12 lack of completeness. I don't know what outside of  
13 these notes affects what's in the notes itself. I am  
14 reluctant to admit those into the record so  
15 Complainant's Exhibit 6 will be excluded.

16 Complainant's Exhibit 7.

17 MR. THEVENY: That is Respondent Ohio  
18 Power Company's objections and responses to  
19 Complainant's first set of requests for admission,  
20 fourth set of requests for production, and fifth set  
21 of interrogatories.

22 EXAMINER JENNINGS: Any objection to  
23 their admission?

24 MS. BLEND: Yes, your Honor. And this  
25 objection applies to all of the discovery responses

1 that have been marked as exhibits. And we ran into  
2 some problems keeping track of them all so I can't  
3 state to them exactly by exhibit number; but, again,  
4 I object to dumping into the record of documents that  
5 Mr. Paulus relied upon as being improper and --

6 MR. THEVENY: Improper on what basis?

7 MS. BLEND: He didn't prepare them so the  
8 fact that he reviewed them, you know, I understand  
9 and can appreciate but he --

10 MR. THEVENY: Who prepared the document?

11 MS. BLEND: Counsel for Ohio Power  
12 Company did.

13 MR. THEVENY: Whose admissions are they?  
14 Whose admissions are they?

15 MR. ALAMI: Your Honor, he is  
16 cross-examining.

17 EXAMINER JENNINGS: Right, right.

18 MR. ALAMI: Come on.

19 MR. THEVENY: How can you -- may I  
20 address the objection?

21 MR. ALAMI: Discovery responses --

22 EXAMINER JENNINGS: Let's go off the  
23 record for a moment.

24 (Discussion off the record.)

25 EXAMINER JENNINGS: After discussion off

1 the record, the Bench will sustain Ohio Power's  
2 objection. Complainant's Exhibits 7 through 11 will  
3 not be admitted for the record.

4 MR. THEVENY: I don't -- 7 is -- what is  
5 7?

6 MS. BLEND: 7 was the fifth set of  
7 interrogatories, first set of requests for admission.

8 EXAMINER JENNINGS: Perhaps should I -- I  
9 can walk you through these and identify them more  
10 specifically, if you wish.

11 MR. THEVENY: What was 7 again?

12 EXAMINER JENNINGS: It's the Respondent  
13 Ohio Power Company's objections and responses to  
14 Complainant's first set of requests for admission.

15 MR. THEVENY: Okay. I have that. I know  
16 I do. But that is being admitted with regard to the  
17 specific unqualified admissions.

18 EXAMINER JENNINGS: No. I took  
19 Exhibits 7 through 11 collectively.

20 MR. THEVENY: And I thought Exhibit 7 was  
21 Ohio Power company's responses to, among other  
22 things, Complainant's first set of requests for  
23 admission. Am I wrong about that?

24 MR. ALAMI: And we objected to the  
25 admission of that exhibit.

1 MR. THEVENY: But I thought there was an  
2 agreement among us -- wait. There was an agreement  
3 among us that you would allow that in to the extent  
4 you would agree to allow that in to the extent it was  
5 an unqualified admission. Are you backtracking?

6 EXAMINER JENNINGS: If you can come to  
7 that stipulation, the Bench would favor it.

8 MS. BLEND: That's fine, your Honor, as  
9 to the unqualified admissions to which -- that are  
10 contained in Exhibit 7.

11 EXAMINER JENNINGS: Okay. So with  
12 respect to Complainant's Exhibit 7 it will be  
13 admitted into the record only to the extent that  
14 responses to requests for admission are not  
15 conditioned.

16 MR. THEVENY: My understanding is that  
17 relevance is your only argument there. See, I  
18 can't -- I cannot believe that requests -- responses  
19 to requests for admission cannot be utilized at this  
20 proceeding when it is directly designed to streamline  
21 the evidentiary need with regard to the amount of  
22 witnesses and the amount of evidence that has to be  
23 put on.

24 Instead it's being turned on its head to  
25 suggest we are unfairly dumping into the record. By

1 this hearing brief we have precisely identified those  
2 requests for admission that go to critical pieces of  
3 evidence relied upon by an expert in formulating his  
4 opinion. It just is beyond the pale to believe that  
5 cannot be considered relevant and somehow it is  
6 unfairly being dumped into these records.

7 These are admissions by this utility  
8 company with respect to how it conducts business or  
9 doesn't conduct business. The qualifications are  
10 just that, they are smarmy ways to try and get away  
11 from an unqualified admission. You may not think  
12 it's relevant and that may be a fair consideration.  
13 It simply is not fair and not right to not allow  
14 unqualified admissions in, notwithstanding legalese  
15 with regard to relevance because I have to put a  
16 witness up there to confirm that which you have  
17 already admitted to.

18 EXAMINER JENNINGS: Mr. Theveny, what I  
19 will do is allow -- there will probably be some  
20 contention about what is unqualified and what is not.  
21 An answer response may have unqualified responses and  
22 qualified responses. I'll entertain arguments on  
23 what is what on brief.

24 MR. THEVENY: Thank you, your Honor.

25 EXAMINER JENNINGS: So Complainant's



1 Exhibit 7 with that caveat will be admitted into the  
2 record.

3 (EXHIBIT ADMITTED INTO EVIDENCE.)

4 EXAMINER JENNINGS: Complainant's  
5 Exhibits 8 through 11 will not be admitted.

6 Are there any further questions of this  
7 witness?

8 MR. THEVENY: None, your Honor, thank  
9 you.

10 EXAMINER JENNINGS: Okay.

11 MR. THEVENY: I think you are done. I'm  
12 not sure.

13 - - -

14 EXAMINATION

15 By Examiner Jennings:

16 Q. A few questions. Mr. Paulus, on page --

17 MR. THEVENY: Hold on. I have to give  
18 back the testimony.

19 Q. I will be looking at Complainant's  
20 Exhibit 3.

21 A. Okay.

22 EXAMINER JENNINGS: It is Mr. Paulus's  
23 direct testimony.

24 THE WITNESS: Okay. The direct  
25 testimony?

1 MR. THEVENY: Yes.

2 Q. You can probably answer these questions  
3 without reference to your testimony.

4 A. Okay.

5 Q. You make reference to oil dielectric  
6 strength. Is that a function of viscosity or some  
7 other element?

8 A. The honest answer is I'm pretty sure it  
9 has to do with how strong the oil is. The viscosity  
10 is one component of it, but the strength of it is how  
11 cooling -- much cooling effect it has, whether it is  
12 broken down or not.

13 Q. Okay. Do you know the process for making  
14 that determination?

15 A. Specifically, no. I know they run it  
16 through a specific test to show whether it's got  
17 its -- still maintains that dielectric strength.

18 Q. So you wouldn't know if that's something  
19 that could be determined at the substation --

20 A. No. It would be sent out for testing.

21 Q. So it would require some lab testing.

22 A. Correct.

23 Q. Okay. The arcing contacts, according to  
24 your testimony they should have been -- should have  
25 been inspected within two years and every 25,000

1 hours of operation. Is the -- is that inspection  
2 something that can be completed at the substation or  
3 do the -- does the device have to be removed and  
4 tested elsewhere?

5 A. I believe it's done at the substation.  
6 They go in and measure the physical contact size.

7 Q. Do you have any idea how long it would  
8 take to determine the oil dielectric strength?

9 A. You mean period of time?

10 Q. Yes. You indicated that a sample would  
11 have to be taken and given to a lab.

12 A. They would be able to tell pretty  
13 quickly. The lab would just run a test on it, and  
14 you would know what it is.

15 Q. Would that mean a week? Two weeks?  
16 Month? Or just a day?

17 A. It would be relatively quick. I couldn't  
18 put a timeframe on it, but it would be less than a  
19 week. You submit it to them; they test it.

20 Q. Okay. What are dynamic braking  
21 adjustments?

22 A. That's the starting and stopping of the  
23 load tap changer, how far it moves into position.  
24 It's the control; it's the mechanical control of how  
25 the tap moves to change positions on the actual

1 transformer.

2 Q. Okay. So that would determine how  
3 quickly it responds to a voltage increase or  
4 decrease?

5 A. It's more the other way around, how fast  
6 it gets it into position for the -- before it's  
7 changed.

8 Q. How quickly it makes the adjustment?

9 A. Correct.

10 Q. What are relays that you make reference  
11 to? You say they should have -- should be maintained  
12 and inspected.

13 A. Relays are on the control board itself.  
14 Maintaining them is more towards how long they last.  
15 There's really no maintenance formula. You replace  
16 the control board if you thought it was going to  
17 fail.

18 Q. Okay. Does that infer that they should  
19 be changed either -- over a certain amount of time?

20 A. Well, in this case you wouldn't change  
21 the -- you wouldn't change an individual relay. You  
22 would change the whole board if you thought the relay  
23 was failing.

24 Q. The whole control board?

25 A. The whole control board. It's just a

1 series of relays and little transformers on it that  
2 measure -- compare voltages from the input, from the  
3 actual output of the transformer. It's a control  
4 that -- it's the brain basically of the tap changer.

5 Q. Is the control board any different than  
6 the control panel or the tap changer?

7 A. Well, that's the same.

8 Q. The same thing.

9 A. You are talking the same thing.

10 Q. Okay. It's your testimony if you had --  
11 if you could have seen the control panel, you would  
12 have determined -- been able to determine its  
13 failure. What -- what kind of evidence does a  
14 control panel provide that would be an indication of  
15 its cause for failure?

16 A. Well, it would have been any one of the  
17 components on the board that failed. In looking at  
18 it you could determine how the tap changer failed,  
19 why it went into the overvoltage condition, what  
20 component specifically on it failed that resulted in  
21 the tap changer going to the highest position  
22 voltage-wise.

23 Q. Are there certain components that are  
24 more likely to fail than others such that -- well,  
25 let me answer that question first.

1           A.    Simple answer is yes, there are  
2 components that are more likely to fail.

3           Q.    Are there components that are predictably  
4 more likely to fail than others?

5           A.    Yes.  That calculation is done, you could  
6 easily tell which one would be the most likely to  
7 fail.

8           Q.    Is there a component that is typically  
9 likely to fail?

10          A.    Depends on the environmental conditions,  
11 typically relays have the lowest mean time to failure  
12 meaning most likely to fail.

13          Q.    Okay.  Given that relays are more likely  
14 to fail than most other components within the control  
15 panel, what are the -- do you know the manufacturer's  
16 recommendations with respect to when they should be  
17 checked?

18          A.    I don't know specifically on this matter,  
19 on this particular control board, but that should be  
20 provided or Ohio Power should request that from the  
21 manufacturer when they purchase it so they can set an  
22 end of life for that piece of equipment since it is  
23 providing power to all its customers.  They would  
24 like to know when I should cycle that board out  
25 proactively versus in response to a failure.

1 Q. Okay. Obviously some control panels last  
2 longer than others. Are there control panels that  
3 last for, let's say, 10 years?

4 A. Yes.

5 Q. 20 years?

6 A. I would say yes, depending on the number  
7 of operation, yes.

8 Q. Okay. Are you aware of any control  
9 panels that have lasted beyond 30 years?

10 A. It's my understanding that this panel was  
11 installed in the early '70s so it didn't meet -- it  
12 did exceed that.

13 EXAMINER JENNINGS: Okay. I have no  
14 further questions. I will allow any redirect and  
15 cross.

16 MR. THEVENY: None for me, your Honor,  
17 thank you.

18 MS. BLEND: Not for me either, your  
19 Honor. Thank you.

20 EXAMINER JENNINGS: Thank you.  
21 Mr. Theveny, are those all your witnesses?

22 MR. THEVENY: Yes, they are, your Honor.

23 EXAMINER JENNINGS: We do have the matter  
24 of two exhibits, Complainant's Exhibits 1 and 2, the  
25 testimony of Thomas Williams and Deborah Trimble.

1 MR. THEVENY: Right. Did I move those  
2 for admission?

3 EXAMINER JENNINGS: Let's do that now.

4 MR. THEVENY: Okay. I would move for  
5 admission as well of Complainant's Exhibit 1 and  
6 Complainant's Exhibit 2, the direct -- filed direct  
7 testimony of Charles Thomas Williams and Deborah  
8 Trimble.

9 EXAMINER JENNINGS: Is there any  
10 objection?

11 MS. BLEND: No, your Honor.

12 EXAMINER JENNINGS: Complainant's  
13 Exhibits 1 and 2 will be admitted.

14 (EXHIBITS ADMITTED INTO EVIDENCE.)

15 EXAMINER JENNINGS: Let's go off the  
16 record.

17 (Discussion off the record.)

18 (Recess taken.)

19 EXAMINER JENNINGS: Let's go back on the  
20 record. We've completed the Complainant's case.  
21 Let's start with Ohio Power.

22 MR. ALAMI: Thank you, your Honor. The  
23 company calls Robert A. Hall to the stand. And we  
24 have extra copies of Mr. Hall's testimony if you  
25 would need a copy or if the court reporter would need



1 one.

2 EXAMINER JENNINGS: I have a copy.

3 MR. ALAMI: Okay.

4 - - -

5 CHARLES THOMAS WILLIAMS

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

8 DIRECT EXAMINATION

9 By Mr. Alami:

10 Q. How are you doing this afternoon,  
11 Mr. Hall?

12 A. Fine, thank you.

13 Q. Did you cause to be filed and prepared in  
14 this case testimony --

15 A. Yes.

16 Q. -- consisting of seven pages of questions  
17 and answers?

18 A. Yes, sir.

19 Q. And if I asked you the questions that are  
20 contained within your testimony here today, would you  
21 give me substantially the same answers?

22 A. Yes.

23 Q. And do you adopt this testimony as your  
24 testimony in this case?

25 A. Yes, I do.

1 MR. ALAMI: Your Honor, if I could have  
2 marked for identification as AEP Exhibit No. 8.

3 EXAMINER JENNINGS: 8, yes.

4 MR. ALAMI: Mr. Hall's testimony.

5 EXAMINER JENNINGS: It shall be so  
6 marked.

7 (EXHIBIT MARKED FOR IDENTIFICATION.)

8 Q. Mr. Hall, were you in the room when  
9 Mr. Paulus was on the stand just a moment ago?

10 A. Yes.

11 Q. And were you also here when the Attorney  
12 Examiner was asking questions relating to dielectric  
13 strength oil pressure?

14 A. Yes.

15 Q. If you could just kind of explain the  
16 purpose of dielectric strength oil pressure and the  
17 testing of that to your understanding as it relates  
18 to the discussion Mr. Paulus had with the Attorney  
19 Examiner.

20 MR. THEVENY: Objection, your Honor. The  
21 no showing this witness is qualified to offer  
22 testimony in this area. As a result, they are asking  
23 for inappropriate expert opinion from so far a lay  
24 witness as far as we know.

25 MR. ALAMI: Your Honor.

1 EXAMINER JENNINGS: Yes.

2 MR. ALAMI: I would just refer to  
 3 Mr. Hall's prefiled direct testimony at page 2, lines  
 4 4 through 10. Mr. Hall is an expert witness --  
 5 excuse me, lines 4 through 17. There it states  
 6 Mr. Hall's qualifications. He has been an equipment  
 7 specialist since 2004 and has over 32 years with the  
 8 company. He is responsible for testing and  
 9 inspecting load tap changers, control panels, the  
 10 exact equipment that we're discussing here at issue  
 11 in this case. I would submit that Mr. Hall is  
 12 experienced and has a technical knowledge to discuss  
 13 and answer the questions here today related to load  
 14 tap changers and control panels.

15 MR. THEVENY: Your Honor, that was not  
 16 the question. I would like the opportunity to voir  
 17 dire the witness on his qualifications with regard to  
 18 dielectric strength of oil as it relates to the  
 19 function of a tap changer which I believe was the  
 20 question posed to him.

21 MR. ALAMI: Your Honor, I was just asking  
 22 a general question as to the witness's --

23 EXAMINER JENNINGS: I will overrule the  
 24 objection.

25 Q. Do you need the question read back,

1 Mr. Hall?

2 A. Yeah, yes, please. Go ahead.

3 Q. I just want to make sure we're clear for  
4 the record. There was a conversation related to  
5 dielectric strength oil pressure and I wanted to make  
6 sure that everyone is on the same page when we're  
7 speaking about dielectric strength oil pressure. Am  
8 I saying that phrase correctly?

9 A. Yes, I believe you are.

10 Q. And what is dielectric strength --

11 A. The dielec --

12 MR. THEVENY: Same objection. Now, he is  
13 asking a very specific question of a witness. There  
14 has been no demonstrative qualifications that this  
15 witness is capable of explaining in any competent  
16 fashion what is meant by the dielectric strength of  
17 oil pressure other than worked 32 years for a public  
18 utility company dealing with electricity.

19 MR. ALAMI: Your Honor, maybe I can get  
20 at it another way if we can move things along.

21 Q. Mr. Hall, if I can refer you to your  
22 testimony at page 2, lines 10 -- 9 through 10.

23 A. Yes.

24 Q. And you are responsible for, are you not,  
25 the inspection and testing of load tap changers and

1 control panels?

2 A. Yes, I am.

3 Q. Including the type of equipment, load tap  
4 changer and control panels, that was installed and is  
5 installed at the Linden Avenue Substation?

6 A. At the Linden Avenue Substation, yes.

7 Q. And is dielectric strength oil pressure a  
8 component or related to a load tap changer?

9 A. Dielectric strength test of oil, it is  
10 not -- it is not a pressure test.

11 Q. But it's related to an --

12 A. The quality -- the insulating quality of  
13 oil is its ability to withstand voltage.

14 Q. And we're talking about an oil in the tap  
15 changer.

16 A. Yes, oil within the load tap changer  
17 component itself.

18 Q. And you were explaining just a minute ago  
19 what it actually was, and you corrected me.

20 A. The dielectric strength of an oil, I  
21 wouldn't call it a pressure. I don't understand when  
22 you use the term pressure, okay, with a dielectric  
23 strength. When we do dielectric strength, it is a  
24 component's ability to withstand current, current  
25 flow, to withstanding a certain voltage. So within

1 the LTC itself, the voltage within that LTC, there's  
2 12,000 volts between phases, okay? And the tap  
3 changer changes taps within that tap changer to  
4 adjust the voltage -- the load voltage of the  
5 customer's voltage, okay? And the oil's ability to  
6 withstand that high voltage to ground and to insulate  
7 between when that tap changer changes taps is what we  
8 call the dielectric strength of oil.

9 And we test it by putting it in a cup,  
10 and we apply a voltage across it to see when it  
11 breaks down which helps us -- which will tell us, you  
12 know -- it may not tell us exactly what's in the oil  
13 to break down at a certain level, but it helps us  
14 know when we may have to do some oil filtering, okay?  
15 The filter that we put on -- the external filter we  
16 put on the tap changer on all of those type of --  
17 type of tap changers and many other types of tap  
18 changers is to extend the life of the oil which, in  
19 turn, extends the life of the contacts that are  
20 inside there that are changing taps and are subject  
21 to wear and tear that -- from the work that a tap  
22 changer does.

23 Q. Thank you, Mr. Hall. And the Attorney  
24 Examiner had mentioned the word viscosity earlier.  
25 Does that make sense to you?

1 MR. THEVENY: Objection.

2 EXAMINER JENNINGS: Overruled.

3 A. Not on a -- if you're talking a  
4 dielectric test, no. Dielectric test to me is just  
5 simply that component's ability to withstand that  
6 voltage.

7 Q. Okay.

8 A. I mean, you know, I'm not arguing the  
9 point the oil has -- has a job in cooling or anything  
10 like that. It's just that it's just the term  
11 dielectric strength and the test we do, dielectric  
12 test on it.

13 Q. And is that a test that can be performed  
14 at the substation?

15 A. We have a dielectric test set, yes, we  
16 can take to the station and pull a sample, put it in  
17 the cup, subject it to the voltage, and it will give  
18 us a number and we can decide from there where to go  
19 if we believe that number is too low.

20 MR. ALAMI: Thank you, Mr. Hall.

21 Your Honor, the witness is available for  
22 cross-examination.

23 MR. THEVENY: May I, your Honor?

24 EXAMINER JENNINGS: Yes.

25 - - -

CROSS-EXAMINATION

By Mr. Theveny:

Q. Good afternoon, Mr. Hall. Good to see you again. It's been a while since we have been in the conference room -- no, I was on T.V.

A. Yeah. You was on T.V.

Q. This -- refresh my recollection on your background. I think you said you were a high school graduate; is that right?

A. Graduated high school in 1977, that is correct.

Q. And college course work, college degree?

A. I have no college degrees.

Q. Any training in chemical properties of oil or viscosity or how it reacts to current, anything like that?

A. No formal training, no.

Q. Ohio Power Company ever give you any training on exactly what it is that -- and how it works, the dielectric testing, what components are necessary to properly conduct the test as far as reading the results or how do you go about -- how do you know that?

A. We've had training as far as how to run the test set --



1 Q. Okay.

2 A. -- if that's what you're asking.

3 Q. Exactly how it works you wouldn't know  
4 that, right?

5 A. Exactly how the test set functions?

6 Q. Right.

7 A. I did not design the test set so, no, I  
8 can't go through everything how the test set works.

9 Q. Just so I'm clear my understanding of  
10 your prior testimony in deposition was that you never  
11 conducted a dielectric strength oil test on the tap  
12 changer at the Linden Avenue Substation.

13 A. At the time of this occurrence?

14 Q. Right.

15 A. At this overvoltage event, no, we did not  
16 do a dielectric test on the oil of the LTC but that  
17 would not affect how the control panel or equipment  
18 would work.

19 Q. I understand that. You do understand  
20 that the tap -- the control panel for the tap changer  
21 failed; is that right?

22 A. That is correct.

23 Q. It's also, you agree, do you not, that  
24 when the control panel failed, the tap changer went  
25 into an overvoltage condition; is that right?

1           A.    When the control panel failed calling for  
2   a raise and basically it's telling the tap changer  
3   you keep raising until I tell you to stop and the  
4   control panel never told it to stop so, yes, it ran  
5   to a full raised condition.

6           Q.    Would you agree with me at the time of  
7   the incident based on circumstances then in  
8   existence, the tap changer should not have been into  
9   a full boost condition at that time but for the  
10  failure of the control panel?

11          A.    Say that one more time, please.

12          Q.    Sure.  Should the tap changer have gone  
13  into full boost on the date of the incident?

14          A.    No, not unless the voltage required it  
15  to.

16          Q.    Right.  There was no indication the  
17  voltage required it, right?

18          A.    No.

19          Q.    So you would agree with me, would you  
20  not, that the fact that the tap changer went into an  
21  overvoltage condition at that time was a failure of  
22  the tap changer because there was no need for it to  
23  go into an overvoltage situation, a full boost  
24  situation?

25          A.    It was a failure of the control panel

1 component, not the tap changer itself.

2 Q. I understand that but you would agree  
3 with me, would you not, as a result of the control  
4 panel failure, the tap changer went into full boost?

5 A. Yes, I can agree with that.

6 Q. They are tied together; isn't that right?

7 A. Yes. The control panel tells the tap  
8 changer what to do.

9 Q. Right. And the tap changer should not  
10 have gone into full boost at that time; is that  
11 right?

12 MR. ALAMI: Your Honor, I object. He  
13 asked and answered; he's asked and Mr. Hall has  
14 answered.

15 A. I don't know what the voltage -- specific  
16 voltage was at that time so I cannot say at that  
17 instant that -- I cannot guarantee at that instant  
18 something didn't happen on the system or some load  
19 problem happened that the tap changer -- that the  
20 voltage did go that low, I am going to say it's  
21 unlikely, but I can't say that for sure.

22 Q. You understood there was an overvoltage,  
23 and the overvoltage condition caused the chiller unit  
24 to shut down at the Genesis Healthcare Center. You  
25 learned that through the course of this proceeding,

1 did you not?

2 A. Yes.

3 Q. Did you also learn during the course of  
4 this proceeding that the chiller units shut down  
5 because of the high voltage as a result of the tap  
6 changer going into full boost at the Linden Avenue  
7 Substation?

8 A. Yeah.

9 Q. And you agree that because of that  
10 overvoltage condition that damaged Genesis Healthcare  
11 System's property?

12 MR. ALAMI: Objection, your Honor.

13 A. I can't --

14 EXAMINER JENNINGS: Overruled.

15 Q. If he knows, he knows. Go ahead. You  
16 can answer.

17 A. Answer? I can't say specifically that  
18 that caused Genesis's equipment to fail, no.

19 Q. All right. But you understood the  
20 chiller unit shut down in response to an overvoltage  
21 condition?

22 A. That's what I was told, yes.

23 Q. And given that we are in the middle of  
24 June of 2010, you agree that a chiller unit on an  
25 HVAC unit should not shut down?

1 MR. ALAMI: Objection, your Honor.

2 Q. You can answer.

3 EXAMINER JENNINGS: Overruled.

4 A. I have no idea what hospital equipment  
5 should do in any kind of weather.

6 Q. And your role in your employment at Ohio  
7 Power Company with regard to your knowledge of the  
8 Linden Avenue Substation in 2010, did you understand  
9 that it was supplying power to both Genesis  
10 Healthcare facilities in Zanesville?

11 A. I didn't know that for sure at the time,  
12 no, sir.

13 Q. Okay. Did you know it was at least  
14 supplying power to the Genesis Healthcare System that  
15 has brought us here today?

16 A. Yes, sir.

17 Q. Okay. And you understood, did you not,  
18 that the hospital was a 24-hour --  
19 24-hour-a-day/7-day-a-week operation, right?

20 A. Absolutely.

21 Q. What other commercial -- large  
22 commercial -- would you agree that Genesis Healthcare  
23 System was a larger commercial client of Ohio Power  
24 Company?

25 A. I don't have any way of knowing who is a

1 big customer of AEP.

2 Q. Okay.

3 A. I don't deal with that part of it.

4 Q. And my question was more precise. With  
5 regard to -- I didn't word it artfully. Let me try  
6 again.

7 With regard to the properties being  
8 serviced by the Linden Avenue Substation did you have  
9 an understanding whether or not Genesis Healthcare --  
10 Genesis Healthcare's facilities was one of the larger  
11 properties being serviced from that Linden Avenue  
12 Substation?

13 A. Yes.

14 Q. Okay. So would it be fair to say that  
15 Ohio Power Company knew that the Linden Avenue  
16 Substation was, in fact, supplying power to one of  
17 the larger customers through the Linden Avenue  
18 Substation, that is, Genesis Healthcare?

19 A. We knew that Linden Avenue serviced  
20 Genesis hospital.

21 Q. You were called out to respond to this  
22 incident after it happened; isn't that right?

23 A. That's correct.

24 Q. And you would agree with me, would you  
25 not, that Ohio Power Company had no way of knowing

1 that the tap changer had gone into a full boost as a  
2 result of the control panel failure; is that right?  
3 Not until you were told by Genesis Healthcare?

4 A. At that time that is correct, yes.

5 Q. Okay. Have you since now acquired a way  
6 in which you can determine if the control panel fails  
7 and a tap changer goes into full boost at the Linden  
8 Avenue Substation? Is there a way now where that's  
9 monitored by Ohio Power Company?

10 MR. ALAMI: Objection, your Honor,  
11 relevance.

12 EXAMINER JENNINGS: Overruled. You may  
13 answer.

14 THE WITNESS: Answer?

15 A. No. Nothing has been installed there  
16 to -- at this time.

17 Q. Okay. Nothing at all despite your  
18 understanding that that substation supplies a  
19 24-hour-a-day/7-day-a-week hospital which -- whose  
20 operating facilities and facilities that care for the  
21 sick? Nothing at all has been done in that regard?

22 MR. ALAMI: Objection, your Honor.  
23 Mr. Hall has indicated he has no idea or can't  
24 speculate as to the operations of the hospital.  
25 There is no basis for him to give an opinion as to

1 that. If Mr. Theveny wants to rephrase.

2 MR. THEVENY: I'll be happy to rephrase.

3 EXAMINER JENNINGS: Please do.

4 Q. Okay. You understood that Genesis  
5 Healthcare System operates a hospital, right?

6 A. Yes.

7 Q. Is it fair to say as a layperson you have  
8 a general understanding what goes on in a hospital,  
9 operating rooms, sick wards, and so forth, right?

10 A. Yes.

11 Q. Have you ever been in a hospital?

12 A. Yes.

13 Q. Ever been in the Genesis Healthcare  
14 hospital?

15 A. Yes.

16 Q. The one at issue in this case, right?

17 A. Yeah.

18 Q. Okay. And you understood at the time of  
19 this 2010 incident and after that that this Linden  
20 Avenue Substation was supplying the Genesis  
21 Healthcare System hospital with power.

22 A. Yes.

23 Q. And despite this incident and despite  
24 your admission that Genesis Health -- I mean, Ohio  
25 Power Company had no way of monitoring the substation



1 to know if a control panel fails and a tap changer  
2 goes into full boost, that nothing has been done to  
3 address that issue, that that's still the case today.

4 A. I cannot say that people way above my pay  
5 grade are not looking into it. I can't address that  
6 either way. I can say nothing has been changed in  
7 there.

8 Q. So if we are sitting here right now and  
9 that control panel were to fail, another control  
10 panel would fail and tap changer would go into full  
11 boost, Ohio Power Company wouldn't know of it unless  
12 customers such as Genesis Healthcare System called  
13 them to tell them.

14 A. That is my understanding.

15 Q. You responded to the incident after  
16 Genesis Healthcare System notified Ohio Power Company  
17 of the overvoltage condition. Who was with you?

18 A. No one was with me when I was called.

19 Q. And then I think you went a second time  
20 to replace the control panel; is that right? Strike  
21 that.

22 I missed -- I walked over your answer.  
23 You received a call informing you that there was a  
24 need to go out to the Linden Avenue Substation  
25 because the hospital had reported an overvoltage

1 condition; is that right?

2 A. Yes. Carlos gave me a call, asked me how  
3 far I was away.

4 Q. Carlos Brewer?

5 A. Carlos Brewer.

6 Q. Is he here today?

7 A. Yes, sir.

8 Q. He is sitting across from you right now?

9 A. Yes.

10 Q. Okay. Did you and Carlos Brewer then  
11 respond to the Linden Avenue Substation?

12 A. Carlos -- the purpose for calling me was  
13 asking me if I could go and how far away. My  
14 response to him, I can't remember the exact time, how  
15 long I would take to get there. It was not  
16 satisfactory to Carlos so Carlos in turn went to the  
17 station on his own.

18 Q. Right. Eventually you went out there  
19 with someone else to replace the control panel; is  
20 that right?

21 A. When I got to the station, the voltage  
22 had been manually run back to correct voltage within  
23 our bands.

24 Q. When you say the voltage, you mean had  
25 been run down -- the tap changer had been adjusted

1 back downward; is that what you are saying?

2 A. Yes, correct. The voltage can be  
3 corrected by manually running the tap changer several  
4 positions until the voltage got within the band.

5 Q. And then just so I'm clear, you did this  
6 in your deposition testimony as well, when you say  
7 LTC, you mean load tap changer?

8 A. That is correct. I'm sorry.

9 Q. My question is more precise. You did go  
10 out there though to replace the control panel; is  
11 that right?

12 A. What I did that day, okay, after the  
13 voltage was corrected and I got there, what we did is  
14 we isolated -- we wanted to find out why -- what  
15 caused it to go to 16 rigs because obviously we  
16 weren't going to walk away and let the condition  
17 happen again.

18 All right. So what I did at that point I  
19 isolated the control panel from the load tap changer  
20 electrically, okay? So I could input a -- an  
21 external electric source into it and I could change  
22 that voltage and I would know by the output of that  
23 control whether it was telling the tap changer to  
24 raise, lower, or do nothing. And what the tap  
25 changer was telling me at that point no matter

1     what -- how I manipulated that voltage up or down the  
2     tap changer -- or the control, I'm sorry, continued  
3     to call for a raised condition, okay? I could -- I  
4     could raise the external voltage to where it should  
5     be saying, no, it's too high, I want you to lower,  
6     but the control still stayed in the state that it was  
7     saying raise, okay?

8                 So at that point that's telling me that  
9     the control part of all the tap changer components  
10    had failed.

11                Q.    So you agree with me, do you not, the  
12    control panel is one of the component parts of the  
13    tap changer?

14                MR. ALAMI:  Objection.  That's a  
15    mischaracterization of Mr. Hall's testimony.  It  
16    clearly states on page 3, line 10, of his testimony  
17    what -- whether or not he believes that a control  
18    panel in a load tap changer are separate components.

19                EXAMINER JENNINGS:  I'll overrule the  
20    objection.  I don't think there was a reference to  
21    Mr. Paulus's testimony.

22                MR. ALAMI:  Paulus, I'm sorry, I said  
23    Hall.

24                MR. THEVENY:  I was going to say can I  
25    have -- your Honor, may I ask the court reporter to

1 read back his prior answer?

2 EXAMINER JENNINGS: Okay. Yeah, yes.

3 (Record read.)

4 Q. Did you not say the control panel was  
5 part of the components?

6 A. The control --

7 Q. Is that your prior answer?

8 MR. ALAMI: Your Honor, he is  
9 interrupting.

10 A. The control panel and the tap changer,  
11 one is not going to work without the other.

12 Q. Right.

13 A. I mean, if say -- if the tap changer, the  
14 mechanical parts of the tap changer, inside the  
15 transformer can fail and you can replace parts in  
16 there and it -- you don't have to replace the control  
17 panel. I mean, it's part -- I guess I'm -- I'm not  
18 totally understanding this question.

19 Q. All I am asking is that the control panel  
20 works in conjunction with the tap changer; isn't that  
21 right?

22 A. Yes, yes. The control panel is the boss.

23 Q. In your prior answer you've characterized  
24 it as one of the components of the tap changer; isn't  
25 that right?

1           A.    Yes.

2           Q.    To the extent you filed direct testimony  
3 that might say otherwise, would it be fair to say you  
4 are qualifying your prior direct testimony?

5           MR. ALAMI:  Objection, your Honor.

6           MR. THEVENY:  He can answer but.

7           MR. ALAMI:  Mr. Hall is being exactly  
8 consistent with what he is saying here on the stand  
9 and his prefiled direct testimony.  There is no need  
10 for him to --

11           MR. THEVENY:  May I address that, your  
12 Honor?  Now, they are doing exactly what they  
13 complained that I did which is somehow spinning the  
14 direct testimony as filed.  His direct testimony  
15 speaks for itself and what he said here today speaks  
16 for itself.  That's all I am asking is whether or not  
17 he's qualifying what he said earlier based on his  
18 testimony as it was filed based on versus what he  
19 said here today.

20           EXAMINER JENNINGS:  From reading the  
21 testimony I understand that there is a close nexus  
22 between the control panel and the tap changer and how  
23 closely they work is subject to interpretation.

24           MR. ALAMI:  I will withdraw the  
25 objection.

1 EXAMINER JENNINGS: All right.

2 Q. (By Mr. Theveny) Are you telling me that  
3 you did conduct an investigation into what caused the  
4 failure of the tap changer and the load -- I'm sorry,  
5 the failure of the control panel and the tap changer  
6 to go into full boost?

7 A. I conducted an investigation on why the  
8 tap changer at that point ran to full raise, okay?  
9 And the investigation led me to say the control panel  
10 failed, and so at that point the voltage was -- the  
11 tap changer controls were left in the manual position  
12 so that the control would not let it run -- or call  
13 for it to run in a runaway condition.

14 Q. Do you remember giving prior deposition  
15 testimony in this matter?

16 A. Yes.

17 Q. And you -- and that prior deposition  
18 testimony you remember you were put under oath?

19 A. Yes.

20 Q. Do you remember you were asked to testify  
21 truthfully to the best of your knowledge and belief?

22 A. Uh-huh.

23 Q. Did you testify truthfully in my  
24 questions in that deposition?

25 A. Yes, I did.

1           Q.    Do you recall the following question  
2   being posed to you: "Question: Did you or Carlos  
3   Brewer or anyone at Ohio Power Company undertake any  
4   attempt to determine exactly what it was about this  
5   control -- which component might have failed and the  
6   manner in which it was still requiring the tap  
7   changer to go into full voltage," and your answer was  
8   "No"? Do you remember that question and answer?

9           A.    Yes, but the way I'm saying that is --  
10   the way I am answering that question is I did not  
11   investigate the components inside the control, okay,  
12   the specific control. All I investigated was why the  
13   tap changer went to a full raise. I didn't  
14   investigate and try to find out what made that  
15   control part fail.

16          Q.    I gave you an opportunity, did I not,  
17   during your prior deposition testimony to tell me  
18   exactly what you did when you responded out there in  
19   order to replace this control panel? Do you remember  
20   that?

21          A.    I believe you gave me an opportunity,  
22   yes.

23          Q.    Did you share this information with me at  
24   that time?

25               MR. ALAMI: Your Honor, that presupposes



1       there was a question during the deposition on --

2               A.     It --

3               MR. THEVENY:   I'm sorry.   You are talking  
4       over each other.

5               EXAMINER JENNINGS:   Mr. Alami, let's hear  
6       your objection.

7               MR. ALAMI:   Mr. Theveny questioned -- I  
8       think it was a question that presupposes he asked him  
9       this particular question during the deposition, and  
10      if Mr. Theveny wants to direct Mr. Hall to a copy of  
11      his deposition transcript to point him to where he  
12      asked him that, I can provide Mr. Hall a copy of  
13      that.   But, again, I would, you know, refer  
14      Mr. Theveny to Mr. Hall's prefiled direct testimony  
15      which has been filed since July.

16              A.     It may have been worded in that we  
17      determined that the control panel --

18              EXAMINER JENNINGS:   Mr. Hall, excuse me.

19              THE WITNESS:   Sorry.

20              EXAMINER JENNINGS:   If you want to make a  
21      reference to the deposition, I would like to have the  
22      witness --

23              MR. THEVENY:   Let me rephrase the  
24      question.   Maybe I can address the objection.

25              Q.     (By Mr. Theveny) Have you shared this

1 information with anyone on behalf of the Complainant  
2 prior to today?

3 MR. ALAMI: Objection. It's unclear what  
4 information.

5 Q. The information with respect to how you  
6 undertook to again operate the tap changer in  
7 conjunction with this control panel that you went out  
8 there to re -- that you eventually did replace.

9 A. I don't believe I was specifically asked  
10 how I did any kind of troubleshooting. The only  
11 question was asked -- well, I have to see the  
12 deposition. I'm sorry. I don't know -- remember  
13 what that specific question was.

14 Q. All right. Let me ask you this, tell us  
15 what you did to investigate what caused the control  
16 panel to fail.

17 A. I did not investigate what caused --  
18 after the determination was made that the control  
19 panel failed causing the load tap changer to run to  
20 its full boost position, I did not do any test or  
21 anything to try to determine what inside the control  
22 panel failed to cause that to happen.

23 Q. So you maybe did not undertake any  
24 investigation at all as to what might have caused the  
25 control panel to fail.

1           A.    The specific control panel, no, I did  
2   not.

3           Q.    Okay. Did you document in any way the  
4   condition of the control panel that failed when you  
5   went out there to replace it?

6           A.    Did I document -- say that again, please.

7           Q.    Sure. Did you document in any fashion  
8   the condition of the control panel that you went out  
9   there to replace, the control panel that failed?

10          A.    At the time of the incident -- incident I  
11   did not go to replace the control panel. I went to  
12   try to investigate why the LTC ran to its full raised  
13   position.

14          Q.    Let me reask the question then in a  
15   manner you can answer perhaps. Did you eventually  
16   determine that the control panel failed, the control  
17   panel for this tap changer?

18          A.    Yes.

19          Q.    Did you undertake any investigation to  
20   document the condition -- sorry. Did you  
21   undertake -- you already told me you took --  
22   undertook no investigation to determine why that  
23   control panel failed, correct?

24          A.    That's correct.

25          Q.    Did you undertake any effort to document

1 the condition of the control panel which failed once  
2 you determined that it did fail?

3 A. No.

4 Q. Did you take any photographs of it?

5 A. No.

6 Q. Did you take any measurements of it?

7 A. No.

8 Q. Take any notes with respect to the  
9 condition you found it in?

10 A. No.

11 Q. Instead am I correct you simply threw it  
12 away after you were finished out there; is that  
13 right?

14 A. We do not have a policy to keep --

15 Q. Can you answer my question "yes" or "no"  
16 first?

17 MR. ALAMI: He is interrupting the  
18 witness when he is trying to give an answer to his  
19 question.

20 Q. I am happy to have you explain, Mr. Hall,  
21 but first answer my question, if you can. Instead of  
22 making any determination of why it failed and instead  
23 of documenting its condition in any fashion is it  
24 correct you simply threw it away?

25 A. After it was replaced, yes, we threw it

1 away.

2 Q. Is it correct you simply threw it away  
3 that same day?

4 A. The day of this instance?

5 Q. No, the date you replaced it.

6 A. I don't even remember if I specifically  
7 threw it away, but I am going to say, yes, it was  
8 probably thrown away the day we took it out.

9 Q. Did you reach out to anybody else at Ohio  
10 Power Company with regard to somehow making any type  
11 of determination about why that control panel failed?

12 A. No.

13 Q. Did you reach out to anybody at Ohio  
14 Power Company to come out and prepare some type of  
15 written report on the condition of the control panel  
16 before you threw it away?

17 A. No, I did not.

18 Q. Did you contact anybody else at Ohio  
19 Power Company to come out to take any photographs of  
20 the control panel before you threw it away?

21 A. No, I did not.

22 Q. At the point you were out there to  
23 replace this control panel, did you understand at  
24 that time that Genesis Healthcare System had already  
25 contacted Ohio Power Company to say they had a

1 problem because of an overvoltage condition?

2 A. When I went to replace it, yes, because  
3 it was several days or four days after because we did  
4 not have a control panel. At the time I got there we  
5 did not have a control panel so it was not replaced  
6 that evening.

7 Q. Had you ever performed any maintenance or  
8 service work on this Linden Avenue -- I'm sorry, on  
9 the tap changer out at the Linden Avenue Substation?

10 A. I don't specifically recall.

11 Q. As part of your job duties and  
12 responsibilities over the course of the 32 years you  
13 have been with Ohio Power Company, have you been  
14 assigned that type of work, that is, to go out and  
15 inspect load tap changers and control panels and to  
16 perform --

17 A. Yes.

18 Q. What is required for maintenance items on  
19 the load tap changer?

20 A. On the load tap changer when we do a --  
21 we call it transformer minor maintenance with  
22 regulation so at that point we would bring in a  
23 mobile unit which is a temporary transformer and take  
24 this transformer out of service. We would do -- take  
25 oil samples of the main tap changer tank, send them

1 away to a lab for analysis. Dielectric would be part  
 2 of that analysis. With the newer technology they  
 3 have a check for metals and check for other stuff  
 4 that's in the oil we may not be able to see visually  
 5 if we just get in there to look, if there is  
 6 overheating in there.

7 Q. What else is required?

8 A. We'll get in there, we'll drain the oil  
 9 out of the LTC tank, we'll open the LTC tank and  
 10 physically take measurements of contacts, visually  
 11 look at contacts, make sure there's no -- not a lot  
 12 of carbon in there. We will look -- visually look at  
 13 connections to make sure they are not discolored from  
 14 heat.

15 Q. You don't recall though whether you have  
 16 ever done this type of work on this particular load  
 17 tap changer out at the Linden Avenue Substation; is  
 18 that right?

19 A. I don't -- the time frequency in there I  
 20 don't remember specifically what I would have done on  
 21 the last inspection date, no.

22 Q. Okay. You don't remember the last time  
 23 you were out there prior to this replacement of  
 24 the -- prior to the date of going out there to  
 25 replace the control panel; is that right?

1           A.     That's correct.

2           Q.     What interaction did you have with  
3     Genesis Healthcare System at the time of this  
4     incident, if any?

5           A.     None.

6           Q.     What steps did you undertake to -- what  
7     steps did you undertake, if any, to make sure this  
8     type of event did not happen again?

9           A.     Replaced the control panel.

10          Q.     Did you do anything else other than  
11     replace the control panel?

12          A.     Not -- as far as to prevent this from  
13     happening again?

14          Q.     Yes.

15          A.     Not that I can think of.

16          Q.     Did you ever contact Genesis Healthcare  
17     System and say, hey, maybe you might want to do  
18     something going forward with regard to overvoltage  
19     conditions that might result in a tap changer going  
20     into full boost?

21          A.     I don't remember specifically, no.

22          Q.     Let me ask you this, Mr. Hall, if you  
23     don't know why the control panel failed in the first  
24     place, how do you know that replacing the control  
25     panel is going to solve the problem that led to the



1 tap changer going into full boost?

2 A. I don't know what caused the control  
3 panel to fail. At the point when we check and the  
4 control panel is the indication that is the reason --  
5 the failure of the control panel -- I have to try to  
6 say this. When it's determined that the control  
7 panel is what caused the failure, what caused the  
8 voltage to go to full raise, okay, the control panel  
9 is left in the off or manual position so it will not  
10 try to run automatically, okay? We get a new control  
11 panel, and the only answer I can give you is when we  
12 replaced the control panel and put a new one in, the  
13 problem doesn't exist any more.

14 Q. What's the problem?

15 A. The control panel.

16 Q. What was the problem with the control  
17 panel? Can you tell me that?

18 A. No, I cannot.

19 Q. Because you didn't investigate it, did  
20 you?

21 MR. ALAMI: Objection, your Honor,  
22 argumentative.

23 Q. (By Mr. Theveny) You can answer.

24 MR. THEVENY: I really apologize.

25 EXAMINER JENNINGS: Overruled.

1 Q. You didn't investigate it, right?

2 A. I did not investigate that particular  
3 control panel, no.

4 MR. THEVENY: I have no further  
5 questions.

6 MR. ALAMI: Thank you, your Honor. Just  
7 a few redirect. I promise I will be brief.

8 - - -

9 REDIRECT EXAMINATION

10 By Mr. Alami:

11 Q. Mr. Hall, the tap changer that was at the  
12 Linden Avenue Substation on the date of the incident  
13 is still there, correct?

14 A. Yes.

15 Q. And hasn't been changed out; it's still  
16 the same tap changer that was there, correct?

17 A. That's correct.

18 Q. When did you become aware that Genesis  
19 Healthcare was suing Ohio Power Company?

20 A. I don't know a specific date. It was  
21 several years, I believe, later. I don't even --  
22 yeah, it was a long time afterwards.

23 Q. A long time after the event at issue?

24 A. Yes.

25 Q. Did you ever receive notice of a claim

1       that Genesis was suing Ohio Power Company?

2               A.     Nope.

3               Q.     Mr. Hall, you've indicated in your  
4       testimony that you experienced in your -- just for a  
5       timeframe of reference 10 to 15 years you've seen an  
6       average of one control panel fail about a year; is  
7       that correct?

8                     MR. THEVENY:  Objection, relevance.  I  
9       mean, this is -- we are not here about other control  
10      panel failures.  I don't see the relevance of this  
11      questioning at all.

12                    EXAMINER JENNINGS:  Overrule the  
13      objection.

14                    You may answer.

15               A.     Ask again, please.

16               Q.     I could refer you to page 3, lines 18  
17      through 20, of your testimony.  Do you see that  
18      there, Mr. Hall?

19               A.     Yes.

20               Q.     Have you been involved in replacing  
21      control panels out before?

22               A.     Yes.

23               Q.     Have you been involved in replacing other  
24      failed equipment, other equipment that fails at  
25      substations?  Have you been involved in replacing

1       them with new equipment before?

2               A.    At other sites, yes.

3               Q.    Just in general.

4               A.    Yes.

5               Q.    Do you contact anybody before you replace  
6 a failed piece of equipment?

7               A.    Just the people I need to contact to get  
8 something purchased.

9               Q.    Do you know of any requirements to  
10 document?

11              A.    No.   AEP doesn't -- doesn't have any  
12 written policies that I know of to keep every piece  
13 of failed equipment.

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

16                       MR. THEVENY:  Just one follow-up, if I  
17 may.

18                       EXAMINER JENNINGS:  Yes.

19                                       - - -

20                                       RECROSS-EXAMINATION

21       By Mr. Theveny:

22               Q.    I believe the record would show that you  
23 replaced that control panel maybe three or four days  
24 after the incident.  What was -- excuse me.  I didn't  
25 get an audible response to your last question.

1           A.    Yes, the panel was actually replaced  
2           three or four days after the incident because we did  
3           not have one in stock.

4           Q.    What was Ohio Power Company doing to  
5           regulate the power supply to Genesis Healthcare  
6           System during this time period between the failure of  
7           the control panel before it was replaced?

8           A.    It wouldn't have been automatically  
9           regulated.  People would have went out to the station  
10          and you would have to ask Carlos how often or, but  
11          people actually drove to the station and physically  
12          checked the voltage on that tap changer and if it  
13          would have been slightly out or they would have ran  
14          it manually to recreate -- correct that voltage  
15          level.

16          Q.    Would you agree with me that a customer  
17          such as Genesis Healthcare System's hospital facility  
18          should be informed by its power company when there is  
19          an overvoltage condition?

20          A.    I don't determine who gets -- in those  
21          conditions I don't determine who gets a response or  
22          contacted.  That's not my.

23          Q.    You were asked a series of questions  
24          about when you became aware of a potential claim or  
25          lawsuit.  Do you remember those lines of questions

1 from your counsel; is that right?

2 A. Yes.

3 Q. Okay. You would agree with me, would you  
4 not, that with regard to the tap changer and the  
5 load -- the tap changer and the control panel, those  
6 are property of Ohio Power Company, right?

7 A. Yes.

8 Q. And they were in the exclusive control of  
9 Ohio Power Company, right?

10 A. The tap changer, yes.

11 MR. THEVENY: All right. That's all I  
12 have. Thank you.

13 EXAMINER JENNINGS: Nothing further?

14 MR. ALAMI: Nothing further, your Honor.  
15 Thank you.

16 EXAMINER JENNINGS: You may be excused.

17 MR. ALAMI: Thank you, your Honor.

18 EXAMINER JENNINGS: Next witness.

19 MS. BLEND: Ohio Power Company calls  
20 Carlos Brewer.

21 (Witness sworn.)

22 EXAMINER JENNINGS: Thank you. Please be  
23 seated.

24 - - -

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CARLOS E. BREWER

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

DIRECT EXAMINATION

By Ms. Blend:

Q. Mr. Brewer, would you please state your  
name for the record.

A. Carlos Edward Brewer.

Q. And, Mr. Brewer, by whom are you  
employed?

A. AEP.

Q. Ohio Power Company?

A. Ohio Power.

Q. And do you have before you a copy of the  
direct testimony that Ohio Power Company filed on  
your behalf --

A. Yes, I do.

Q. -- in this case?

MS. BLEND: I would like to mark Exhibit  
9.

EXAMINER JENNINGS: It shall be so  
marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

Q. Mr. Brewer, is this a copy of the  
testimony that was filed on your behalf?

1 A. Yes.

2 Q. And if I asked you the questions in this  
3 testimony verbally today, would your answers be the  
4 same?

5 A. I would assume, yes. I would have to  
6 read back to make sure but.

7 MS. BLEND: At this point I move for the  
8 admission of AEP Exhibit 9, subject to cross.

9 EXAMINER JENNINGS: Okay. Mr. Theveny.

10 MR. THEVENY: May I cross-examine?

11 EXAMINER JENNINGS: Yes.

12 - - -

13 CROSS-EXAMINATION

14 By Mr. Theveny:

15 Q. Good afternoon, Mr. Brewer.

16 A. Hi.

17 Q. Good to see you again. It's been a  
18 while.

19 A. Uh-huh.

20 Q. I am sure you were looking forward to  
21 this.

22 A. Oh, yeah. I have been sitting anxiously  
23 waiting.

24 Q. I won't be too long. Were you the first  
25 Ohio Power Company employee to respond to the



1 incident by being the first employee to go out to  
2 this Linden Avenue Substation after there was notice  
3 received of the overvoltage at Genesis Healthcare?

4 A. No.

5 Q. Who was the first employee? I forget.

6 A. Gary Parker.

7 Q. Gary Parker, I do remember that now. Did  
8 you go out there at some point after the incident  
9 before this control panel was replaced?

10 A. Yes.

11 Q. How long -- do you remember when that  
12 Ohio Power Company got notice of this overvoltage  
13 condition from Genesis Healthcare System?

14 A. No. I don't have a clue.

15 Q. Do you know how long you were out there  
16 after Gary Parker went out there?

17 A. Shortly after he arrived.

18 Q. Do you know how many days it was prior to  
19 the control panel being replaced by Mr. Hall? Just  
20 trying to put a timeframe together.

21 A. From the incident until it was replaced?

22 Q. Yeah.

23 A. Either two or three days, I think.

24 Q. Right. Did you undertake any  
25 investigation to determine why the tap changer had

1       gone into -- went into full boost out there at the  
2       Linden Avenue Substation?

3               A.    Not at that time I didn't.

4               Q.    Did you ever undertake any investigation  
5       to that effect?

6               A.    No.  I was more concerned on getting the  
7       voltage down at that time.

8               Q.    So do you know whether anybody at Ohio  
9       Power Company conducted any investigation into why  
10      this tap changer went into full boost?

11              A.    Well, it was pretty evident.

12              Q.    Is that because the control panel failed?

13              A.    The control panel failed.  It wouldn't  
14      lower it.

15              Q.    Did you take any -- did you undertake any  
16      investigation to determine why the control panel  
17      failed?

18              A.    No.  Not me, no.

19              Q.    Do you know whether anybody at Ohio Power  
20      Company undertook any investigation into why the  
21      control panel failed?

22              A.    No, I don't know that.

23              Q.    All right.  Would it be fair to state  
24      that no one undertook any such investigation because  
25      it was disposed of before anybody examined it for

1 that purpose?

2 A. We examined it in the field.

3 Q. When you say we examined it in the field,  
4 who are you referring to?

5 A. I did. Gary Parker did. It was  
6 determined right then it wouldn't work.

7 Q. Did you make a determination as to why it  
8 wouldn't work?

9 A. No, I did not.

10 Q. Did you take any photographs of this  
11 control panel that failed?

12 A. It's not a common practice.

13 Q. I didn't ask whether it was a common  
14 practice. I asked you whether you took any  
15 photographs.

16 A. No, I did not take any photographs.

17 Q. Okay. Did you undertake any written  
18 report of the condition you observed this control  
19 panel?

20 A. I wrote in the logbook because when I  
21 examined the logbook two years later, it looked like  
22 I wrote in it.

23 Q. Did it say control panel failed?

24 A. I don't think I put that.

25 Q. What did you put? Do you remember?

1           A.    I think the best I can remember it said  
2           where I found the voltage and position of the LTC and  
3           what we did to lower it.

4           Q.    Right.  So your entry did not include any  
5           statement or indication of why the control panel  
6           failed?

7           A.    No.

8           Q.    All right.  So despite this examination  
9           by you and Mr. Parker and your acknowledgment that  
10          you didn't take any photographs and you didn't  
11          prepare any written report at that time, all you had  
12          were these field entries, as far as you know, no one  
13          else at Ohio Power Company examined that control  
14          panel that failed.

15          A.    Bob and David Sullivan, you know, they  
16          were the ones that replaced it so.

17          Q.    Right.  We've heard from Mr. Hall today.

18          A.    Yes.

19          Q.    And he said he didn't investigate it, why  
20          it failed, right?

21          A.    That's what I understood him to say.

22          Q.    And you would agree with me, would you  
23          not, Mr. Sullivan has not indicated any reason why  
24          this control panel failed?

25          A.    Not to me.

1 Q. Okay. And you don't know why the tap  
2 changer went into full boost, right?

3 A. Yeah, I know why it went into full boost.

4 Q. Because the control panel failed, right?

5 A. Because it said, hey, my voltage is low  
6 and you got to run so that's what it did.

7 Q. Let me clarify for the record, when you  
8 say -- when you say, hey, it said to run high, you  
9 mean the control panel told it to run high; is that  
10 right?

11 A. Yeah. It said I need to raise so it  
12 raised.

13 Q. All I am saying I need to raise, you are  
14 referring to the control panel telling it to raise?

15 A. The control panel told the LTC to raise.

16 Q. And you knew that at the time you first  
17 responded to this incident that the control panel had  
18 somehow failed and told the tap changer to go into  
19 full boost, right?

20 A. Yeah, because it wouldn't run and I put  
21 it in manual and ran it back down so.

22 Q. And you knew that an overvoltage  
23 condition was not -- could be a problem for  
24 customers; in fact, it was a problem for Genesis  
25 Healthcare System because they called you, right?

1           A.    No, they didn't call me.

2           Q.    You understood they had called to report  
3 a problem with the overvoltage condition.

4           A.    I couldn't -- I think the line guy come  
5 and told me, said, hey, we got problems out there;  
6 can you look at it.

7           Q.    So you were aware there were problems out  
8 there with regard to the overvoltage condition  
9 because the tap was in full boost, right?

10          A.    When I got there and looked at it.

11          Q.    And knowing that and knowing in your mind  
12 it was due to the control panel failure, you still  
13 made no attempt to determine why the control panel  
14 failed?

15          A.    No, I did not personally, no.

16          Q.    Right. And as far as you know, no one at  
17 Ohio Power Company did because you just told me that,  
18 right?

19          A.    If you say so.

20          Q.    I am not saying if you say so. Do you  
21 know if anybody else --

22          A.    I do not know of anybody else that did  
23 it, no.

24          Q.    Let me finish the question so the record  
25 is clear. Do you know if anybody else at Ohio Power

1 Company investigated why that control panel failed?

2 A. No, I do not.

3 Q. And yet you were aware that there were  
4 problems out there. Does that mean customers were  
5 having problems with overvoltage conditions?

6 A. I'm sure everybody did that was on the  
7 line.

8 Q. All right. Are you aware of a program  
9 called ISIS, all caps I-S-I-S?

10 A. ISIS, yes, I am.

11 Q. You would agree that ISIS is a software  
12 database program utilized by Ohio Power Company to  
13 record work done during maintenance and inspections  
14 of Ohio Power Company equipment?

15 A. Yes.

16 Q. You utilize it, right?

17 A. Yes.

18 Q. You would agree, would you not, that Ohio  
19 Power Company employees are required to inspect oil  
20 levels on load tap changers when they are out there  
21 inspecting it?

22 A. Oil level, yes.

23 Q. Would you agree that they are required to  
24 inspect the contacts on the load tap changers when  
25 they are out there performing a routine inspection?

1           A.    No.

2           Q.    Okay.  How often is that done?

3           A.    Different intervals for different pieces  
4 of equipment.

5           Q.    What -- have you conducted inspections of  
6 load tap changers and control panels at substations  
7 over the years?

8           A.    Have I personally, yes.

9           Q.    Yeah.  Have you ever done it at the  
10 Linden Avenue Substation?

11          A.    I have not personally done that.

12          Q.    Okay.  So you really didn't know anything  
13 about the history of this particular load tap changer  
14 and this control panel that failed until you went out  
15 there in response to this incident; is that right?

16          A.    Prior to, that's right.

17          Q.    Okay.  For this ISIS program that's  
18 utilized by Ohio Power Company employees including by  
19 yourself for those substations where you have  
20 conducted inspections and where you performed  
21 maintenance on load tap changers and control panels,  
22 do you input into the ISIS system an indication that  
23 you tested the dielectric strength of the oil for the  
24 load tap changer when you do it?

25          A.    No, I don't.



1           Q.    Do you input into the ISIS system any  
2   record or documentation that you inspected the tap  
3   changer arcing contacts when, in fact, that work is  
4   performed in connection with your inspection?

5           A.    No, I don't.

6           Q.    Do you put into ISIS any indication that  
7   you checked the lubrication of the tap changer motor  
8   drive bearings as required by the manufacturer when  
9   you perform that type of work when you are out there  
10   inspecting these load tap changers?

11          A.    I don't.

12          Q.    Do you know whether anybody puts that  
13   type of information into ISIS?

14          A.    They would put in there they have done an  
15   inspection. All the details, no, they wouldn't put  
16   all that in there.

17          Q.    Would you agree then you do not -- that  
18   you and other Ohio Power Company employees also do  
19   not put into ISIS or record or document when you make  
20   dynamic braking adjustments for the tap changers that  
21   you inspect?

22          A.    As far as I know, no.

23          Q.    How about if you inspect the relays when  
24   you are out there performing one of these load tap  
25   changer inspections, do you put into ISIS that you

1 have done that?

2 A. I don't know that there is any test of  
3 those.

4 Q. You are not aware of any manufacturer  
5 requirement with testing relays --

6 A. On that particular piece of equipment,  
7 no.

8 Q. -- on that model of equipment?

9 A. No, I am not.

10 Q. Are you aware of whether or not there are  
11 any requirements for dynamic braking adjustments on  
12 this particular type of load tap changer out at the  
13 Linden Avenue Substation?

14 A. Not that I am aware.

15 Q. Do you know if there is any requirement  
16 for lubrication of the motor drive bearings for the  
17 type of load tap changer out there?

18 A. No, I'm not.

19 Q. Are you aware of what the requirements  
20 were for inspecting the tap changer arcing contacts  
21 on a load tap changer of this type?

22 A. During internal inspection or?

23 Q. Yes, at any time.

24 A. Only time you would do that is like  
25 Mr. Hall said, when you take it out of service.

1           Q.   All right.  How about the testing of the  
2   dielectric strength, do you know what the requires  
3   are for how often that should be done or when it  
4   should be done?

5           A.   It's different intervals for different  
6   types of equipment.

7           Q.   But none of these items are recorded in  
8   ISIS as far as you know.

9           A.   The dielectric strength, yeah, it would  
10   be recorded.

11          Q.   Okay.  That's the dielectric strength.  
12   Neither the inspection of the tap changer, arcing  
13   contacts, lubrication of the tap changer motor drive  
14   bearings, dynamic braking adjustments, or inspection  
15   of relays are recorded in the ISIS database; is that  
16   right?

17          A.   The inspection sheet is.

18          Q.   But not those items being attended to; is  
19   that correct?

20          A.   Some of them you mentioned are; some of  
21   them not.

22          Q.   Which ones aren't?  I thought you told me  
23   they were not.

24          A.   No.  I am saying I -- you asked me did I  
25   put that in there.

1 Q. All right.

2 A. I don't. Someone else enters that stuff.

3 Q. Have you ever seen any written documents  
4 in connection with this case which indicate that the  
5 items that I've described were, in fact, performed on  
6 that load tap changer out at the Linden Avenue  
7 substation?

8 A. Not all of them but some of them since I  
9 have been looking back through the records.

10 Q. So you have looked back through the  
11 records.

12 A. Somewhat.

13 Q. Okay. Would it surprise you to learn  
14 that Ohio Power Company has admitted that it has no  
15 written records for the testing of the dielectric  
16 strength of this load tap changer at the Linden  
17 Avenue Substation?

18 A. I don't know if it tested dielectrics.  
19 When you get the sample, whatever the lab puts in  
20 there, you know.

21 Q. My question was would it surprise you to  
22 learn that Ohio Power Company has no records that  
23 that was done for this load tap changer?

24 A. No.

25 Q. Would it surprise you to learn that Ohio

1 Power Company has no written records for any  
2 inspection of the arcing contacts on this load tap  
3 changer out at the Linden Avenue Substation?

4 A. No.

5 Q. Would it surprise you to learn that Ohio  
6 Power Company has no records indicating that there  
7 was lubrication of the tap changer motor drive  
8 bearings as required by the manufacturer?

9 A. No.

10 Q. Would it surprise you to learn that Ohio  
11 Power Company has no records of dynamic braking  
12 adjustments for this tap changer?

13 A. No.

14 Q. Would it surprise you to learn that Ohio  
15 Power Company has no written records for inspection  
16 of the relays?

17 A. No.

18 Q. Would it be your practice to record some  
19 of those items in ISIS?

20 A. I'm trying to think all of them you asked  
21 me.

22 Q. I will go through the list again.  
23 Dielectric strength of the oil?

24 A. No, I wouldn't enter that into.

25 Q. Inspection of the tap changer arcing

1 contacts?

2 A. I wouldn't enter that into.

3 Q. Lubrication of the tap changer motor  
4 drive bearings?

5 A. No, I wouldn't do that.

6 Q. Lubrication of the dynamic -- I'm sorry,  
7 documentation of the dynamic braking adjustment?

8 A. No.

9 Q. How about inspection of relays?

10 A. No.

11 Q. Is it your understanding that there are  
12 some Ohio Power Company employees who do make that  
13 notation in the ISIS database?

14 A. I'm sure there's somebody somewhere.

15 Q. Do you know whether or not a load tap  
16 changer will fail in that it will go into full boost  
17 if there -- the arcing contacts become worn?

18 A. I wouldn't think it would cause it to do  
19 that.

20 Q. You are aware there are contacts on --  
21 there are arcing contacts on a load tap changer.

22 A. Yes.

23 Q. Are you aware that they are required to  
24 maintain a certain level of thickness with regard to  
25 the composition of the contact itself?

1           A.    Yes.

2           Q.    Your understanding is that there has to  
3   be a measurement to make sure that a minimum level of  
4   thickness is maintained on those arcing contacts?

5           A.    Yeah, visual.

6           Q.    And what is your understanding of what  
7   happens if the minimum level of thickness for the  
8   surface of the arcing contact drops below what is  
9   required?  What happens?

10          A.    Wear more.

11          Q.    What happens to the operation of the load  
12   tap changer?

13          A.    I don't understand your question what  
14   happens to the operation.  It's going to continue to  
15   operate.

16          Q.    Will it go into the full boost mode?

17          A.    Not because of any contacts.

18          Q.    What will happen then?

19          A.    Again, I don't understand what you are  
20   asking me what would happen.

21          Q.    And I'll try and rephrase it.  I'm not  
22   trying to be inartful -- inartfully worded question.  
23   If the arcing contacts for a load tap changer do not  
24   have the minimum level of required thickness for the  
25   surface of the contact, can you tell me what effect

1 that would have on the operation of the load tap  
2 changer?

3 A. It would have no effect on the operation.

4 Q. Okay. Would it cause the load tap  
5 changer to go into full boost when it isn't required  
6 to do so?

7 A. No.

8 Q. It's your testimony that worn arcing  
9 contacts will not cause a load tap changer to  
10 malfunction by way of going into full boost when it's  
11 not required to go into full boost?

12 A. To the best of my knowledge, the only  
13 thing that causes that is the control.

14 Q. When you went out there after this  
15 incident was reported by Genesis Healthcare System,  
16 did you measure the contacts on the -- did you  
17 measure the arcing contacts on that load tap changer?

18 A. No.

19 MR. THEVENY: All right. That's all I  
20 have.

21 EXAMINER JENNINGS: Any redirect?

22 MS. BLEND: Yes, thank you, your Honor.

23 MR. THEVENY: Hold on a second. I may  
24 have forgotten something. May I?

25 EXAMINER JENNINGS: Yes.



1 MR. THEVENY: I forgot to check a note.

2 It wasn't because of anything.

3 That's all I have. Thanks.

4 - - -

5 REDIRECT EXAMINATION

6 By Ms. Blend:

7 Q. Mr. Brewer, the last question -- or one  
8 of the last questions that Mr. Theveny asked you was  
9 whether you measured the arcing contacts on the load  
10 tap changer -- in the load tap changer on the date of  
11 the incident at issue here. Do you recall that  
12 question?

13 A. Yes.

14 Q. Would you have had any reason to measure  
15 those arcing contacts at that time?

16 A. No. I don't know if you don't understand  
17 how it works or what but there's no way possible to  
18 do that without taking the transformer out of  
19 service. That has nothing to do with what was wrong  
20 that day.

21 Q. And when a transformer is taken out of  
22 service, how long does that process take? How long  
23 does it take to take it down and then bring it back  
24 up?

25 A. That particular station it's going to

1 take you two or three days to pull a mobile in. You  
2 parallel them with that and you put all the load on  
3 the mobile and you got that transformer isolated and  
4 then that's where you do all your tests and that's  
5 when you would drain the oil and then you would look  
6 at the contents in the load tap changer.

7 Q. And is that what's done during what's  
8 called -- I believe referred to as a transformer  
9 minor maintenance?

10 A. Yes.

11 Q. And what else is done during the  
12 transformer minor maintenance besides those things  
13 you just described?

14 A. Well, you test the complete transformer.  
15 Bob does all the electrical tests. We take the oil  
16 out of the LTC. We do get in there then, and we go  
17 by the measurements that he was referring to. We run  
18 it, make sure, you know, it works up and down. You  
19 do do a dielectric oil test then. And then we -- if  
20 everything is good, you know, we put it back and you  
21 operate it and it's good for another so many years.

22 Q. And do you know whether that transformer  
23 minor maintenance was performed on the Linden Avenue  
24 Substation prior to June 15, 2010?

25 A. I do now.

1 Q. And was it?

2 A. Yes.

3 Q. Do you know whether -- what the results  
4 of that transfer minor maintenance were?

5 A. I did not look all that up. I just  
6 looked for the last date, and I'm not for sure about  
7 that. I would have to go back and look.

8 Q. And is that transformer minor  
9 maintenance, the information gathered during the  
10 transformer minor maintenance, that inputted into the  
11 ISIS system?

12 A. I've got to say yes and no. It's put  
13 into another program that's linked to ISIS. It's not  
14 put into ISIS.

15 Q. And so there are other -- am I correct  
16 there are other databases and other places where Ohio  
17 Power Company records information about its  
18 maintenance and inspection besides the ISIS database?

19 A. Yes.

20 Q. And earlier Mr. Theveny asked you about a  
21 number of items on the load tap changer itself, the  
22 relays, the arcing contacts, you know, dynamic  
23 braking adjustments, and some other things. Do you  
24 recall all those questions?

25 A. Yes, I do.

1           Q.    Is it your understanding that those  
2 things about which Mr. Theveny asked you are  
3 requirements or manufacturer's recommendations?

4           A.    I do not know for sure all those that he  
5 asked. We try to go by the manufacturer's  
6 recommendations. I don't think it's a requirement to  
7 test relays. If it is, I've never done it, put it  
8 that way.

9           Q.    And can you describe the document that's  
10 attached to your direct testimony as Exhibit DEB-1.

11          A.    DEB-1, okay. Any particular page or?

12          Q.    Well, just generally what are these --  
13 what is this document?

14          A.    It's -- this is in ISIS. It's a station  
15 inspection that we do monthly -- well, one of my  
16 servicers does.

17          Q.    Okay. So these are records of monthly  
18 inspections taken at the Linden Avenue Substation?

19          A.    Yes.

20          Q.    And at the time you prepared your  
21 testimony or your testimony was prepared, did you  
22 review the inspection sheets?

23          A.    Did I review them when?

24          Q.    Have you reviewed the -- these inspection  
25 sheets that are attached as Exhibit 1?

1           A.    Yes.

2           Q.    And do these inspection sheets reflect  
3 the number of operations -- the number of times the  
4 load tap changer operated in a month?

5           A.    Yes.  It's -- it goes from month to month  
6 and there will be a place in there for how many  
7 operations, whether it be 20 or 400 or 1,000.  It  
8 goes from month to month and that's how you check.

9           Q.    Okay.  Now, in your view of these  
10 documents did any of the -- did you ever -- I'll  
11 start again.

12                   Did the load tap changer operate an  
13 excessive number of times or more times than it  
14 should have in any of these -- on any of these  
15 sheets?

16           A.    Not -- not in my opinion, no.  It looked  
17 normal to me.

18           Q.    Mr. Theveny asked you earlier about the  
19 maintenance on the tap changer.  Is it your  
20 understanding that there are -- that there are  
21 maintenance requirements for the control panel?

22           A.    Not that I know of.

23           Q.    In your opinion could the number of times  
24 the tap changer operates affect or cause the failure  
25 of the control panel?

1           A.    I don't think so.

2           MS. BLEND:   Thank you.   I have no further  
3   questions.

4           MR. THEVENY:   Can I follow up with just a  
5   few more?

6           EXAMINER JENNINGS:   Yes.

7           MR. THEVENY:   Thank you, your Honor.

8                               - - -

9                               RECROSS-EXAMINATION

10          By Mr. Theveny:

11               Q.    Following up on that last question, I'm  
12   correct that you never found out why the control  
13   panel failed, right?

14               A.    No, I didn't, sir.

15               Q.    And you only know that the tap changer  
16   went into full boost because the control panel  
17   failed, right?

18               A.    Yes.

19               Q.    How can you make -- how can you make a  
20   determination then that there wasn't a problem with  
21   the tap changer if you didn't determine why the  
22   control panel for the tap changer failed?

23               A.    Well, because after the new control was  
24   put in there, it's ran fine.

25               Q.    Yeah.   But you never --

1           A.    Haven't had any problems.

2           Q.    But you never identified the problem that  
3 caused the control panel to fail in the first  
4 instance, correct?

5           A.    That's right.

6           Q.    All right. Did you undertake any steps  
7 during this period of time between the report of the  
8 incident up until the time the control panel was  
9 replaced to find out why it had gone into full boost  
10 other than just saying the control panel failed?

11          A.    There was no other reason.

12          Q.    And you didn't take -- undertake any  
13 steps to take the tap changer and look at it in a way  
14 which might have allowed you to make some type of  
15 determination as to why that control panel failed in  
16 relation to what the tap changer was doing at that  
17 time?

18          A.    I don't understand.

19          Q.    What I am saying -- let me ask it this  
20 way, when you went out there, you have no written  
21 report on the condition of the control panel other  
22 than -- right?

23          A.    True.

24          Q.    And you have no written report on the  
25 condition of the tap changer as you found it on that

1 date when you went out there when the control panel  
2 had failed and it was in full boost.

3 A. I have what was wrote in the logbook as  
4 the condition as found.

5 Q. Yeah. Other than what's in that logbook  
6 you didn't make any determination there's no written  
7 notations about whether the arcing contacts had worn,  
8 whether the resistors were performing, no problems  
9 with the relays, nothing like that, right?

10 A. No.

11 Q. And you knew at that point there had been  
12 a problem with customers, right?

13 A. I assume we had some problems, yeah.

14 Q. Did you also know at that time that the  
15 Linden Avenue Substation serviced the Genesis  
16 Healthcare facilities?

17 A. I didn't know at that time, no, I didn't.

18 Q. You were aware that Ohio Power Company  
19 employees knew that including you heard Mr. Hall's  
20 testimony, right?

21 A. At that time I didn't have a clue what  
22 Bob knew.

23 Q. So at some point you now know Genesis  
24 Healthcare System is serviced by that Linden Avenue  
25 Substation.



1           A.    Yes.  I was told.

2           Q.    Based on your years of experience with  
3   Ohio Power Company, would it be fair to say that  
4   others at Ohio Power Company certainly knew the  
5   Genesis Health was serviced off that Linden Avenue  
6   Substation back in 2010?

7           A.    I am sure John Roberts did.

8           Q.    Sure.  People knew, right?

9           A.    I didn't because that wasn't my job.

10          Q.    But you would be sure that other Ohio  
11   Power Company employees didn't know that, right?

12          A.    I am sure some of them did, yes.

13          Q.    So you're not telling us here today that  
14   because -- there was testimony that was elicited from  
15   you that -- what it would take -- because of what it  
16   would take to do a further diagnostic test on the  
17   tap -- on the tap changer would be taking out of  
18   service, you're not saying that wasn't done simply  
19   because it was inconvenient or would take two or  
20   three days?  It was too much to do?  Did I hear you  
21   testify to that earlier?

22          A.    Are you asking me why we didn't take the  
23   transformer out of service?

24          Q.    Yes, yes.

25          A.    Because there was no reason to.

1 Q. Well, you didn't know the reason for the  
2 control panel failure, right?

3 A. You keep asking me that, and I've told  
4 you several times, no, I don't know.

5 Q. So during this three- or four-day period,  
6 if I'm correct, before this control panel failed, am  
7 I correct that Ohio Power Company was not monitoring  
8 the voltage regulation -- the voltage output into the  
9 hospital during that time period?

10 A. I don't know what they was monitoring at  
11 the hospital.

12 Q. Do you think a customer like Genesis  
13 Healthcare System given their business should be --  
14 should be afforded more information with regard to  
15 why that incident occurred, in particular why that  
16 control panel failed?

17 A. Are you asking my opinion?

18 Q. Yes.

19 A. I don't know of any of them that we tell  
20 each customer, hey, this happened. I'm sure the  
21 customer service people talk to them. I don't get  
22 involved in that end of the business.

23 MR. THEVENY: Right. That's all I have.

24 MS. BLEND: Your Honor?

25 EXAMINER JENNINGS: Yes.

1 MS. BLEND: I would like to ask a couple  
2 of follow-up questions to clarify a misunderstanding  
3 or some ambiguity in the record.

4 EXAMINER JENNINGS: I do have just one  
5 question.

6 - - -

7 EXAMINATION

8 By Examiner Jennings:

9 Q. I don't know if it's been answered yet or  
10 not, but between the time that the control panel  
11 failed and the time that it was -- that it was  
12 replaced, two or three days?

13 A. Yeah. I'm not too sure, but I'm thinking  
14 it was two or three days.

15 Q. Okay. What was done to regulate the  
16 voltage during that time?

17 A. We had them go out and check the voltage,  
18 and if it was high, we would run it down. If it was  
19 low, we would run it up.

20 Q. So it was manually adjusted --

21 A. Yes.

22 Q. -- for two or three days?

23 A. Yes. That's common practice.

24 Q. Okay. And what was done to ensure the  
25 voltage did not exceed the desired levels at that

1 time between the inspections?

2 A. Between when we replaced the control?

3 Q. No. You said that somebody would go --

4 A. Nothing. It was turned off so it  
5 couldn't offer it. And it would stay that way until  
6 you come out there and manually run it. If the  
7 voltage got high, we would lower it down. As load  
8 goes up, your voltage would go down and vice versa.

9 Q. I'm envisioning a tap changer without a  
10 control panel; is that basically what you have?

11 A. Yeah.

12 Q. And it's human intervention that replaced  
13 the control panel.

14 A. Yes.

15 Q. Is that correct?

16 A. Yeah.

17 Q. Okay. And the -- someone will come out  
18 and make adjustments to the tap changer --

19 A. If needed.

20 Q. How often was that done?

21 A. A couple times a day.

22 Q. A couple of times a day? So if voltage  
23 extended to certainly levels when no one was  
24 monitoring, what was in place to prevent --

25 A. Nothing. Just somebody calling in and

1 saying, hey, I got high voltage or low voltage. I  
2 didn't have someone standing by there monitoring the  
3 voltage all the time because you've got -- we try to  
4 keep it at 125; and, of course, I'm sure it's a  
5 little different when it comes to the customer, you  
6 know, out on the line but that's our standard. If  
7 it's between 124 and 126, then that's where we kind  
8 of want our voltage at the station.

9 EXAMINER JENNINGS: Okay. Did you have  
10 any questions?

11 MS. BLEND: Yes, your Honor, thank you.

12 - - -

13 FURTHER REDIRECT EXAMINATION

14 By Ms. Blend:

15 Q. Mr. Brewer, when we spoke earlier about  
16 the transformer minor maintenance and then  
17 Mr. Theveny asked you some questions about that  
18 process as well, you testified it takes a couple of  
19 days to conduct the maintenance. Is -- how long does  
20 it take to schedule that maintenance?

21 A. That's according to your voltage levels.  
22 Some you have to get a request a month in advance.  
23 Some may be six months in advance. It's just  
24 according with the voltage level of the equipment.  
25 You don't just call and say, hey, I want to take that

1 out tomorrow. That don't happen.

2 Q. Is a transformer minor maintenance  
3 something that Ohio Power Company would do in  
4 response to a piece of substation equipment failing,  
5 or is it just a part of regular maintenance  
6 procedures?

7 A. We do the transformer minor  
8 maintenance -- I would say each -- each piece of  
9 equipment is different. But say that it happened  
10 every four years. You would do it every four years  
11 unless you found something when you were doing the  
12 minor maintenance that, hey, we need to do it every  
13 two years instead of four or just according to what  
14 condition you find when you are out there doing your  
15 minor maintenance.

16 Q. Do you know how often the transformer --  
17 transformer minor maintenance is required for this  
18 substation?

19 A. For that transformer?

20 Q. Uh-huh.

21 A. I'm thinking that's maybe every six  
22 years. Some of them is 10 years, some's 6, some's 4.  
23 I would have to look to make sure but I'm thinking 6  
24 years.

25 Q. Is it important for a transformer to

1 run -- or a load tap changer to run within a normal  
2 voltage range without a control panel for a period of  
3 time? Obviously not forever but for a day or two  
4 days or three days?

5 A. It's possible.

6 Q. And in the two or three days between when  
7 the control panel at issue here failed and the new  
8 control panel was installed to replace it, were there  
9 any issues with the voltage being too high or too low  
10 at that substation?

11 MR. THEVENY: Objection.

12 EXAMINER JENNINGS: Overruled.

13 MR. THEVENY: Foundation. He didn't say  
14 he really knew much about problems. He said they  
15 were reported to him by others.

16 EXAMINER JENNINGS: Overruled. You may  
17 answer.

18 A. Not that I know of.

19 MS. BLEND: I have no further questions.

20 - - -

21 FURTHER RECROSS-EXAMINATION

22 By Mr. Theveny:

23 Q. Just one follow-up.

24 A. Yes.

25 Q. If the control panel is not in place, how

1 do you know if it's running -- how do you know what  
2 voltage condition it's running in? Whether it's  
3 over? Under? How do you know unless you are out  
4 there looking?

5 A. That's how we know, we go out there and  
6 check it.

7 Q. If you're not out there looking, you just  
8 don't know, right?

9 A. Right.

10 MR. THEVENY: All right. That's all I  
11 have.

12 A. People calls in and says their voltage,  
13 that's how you know.

14 MR. THEVENY: Thank you.

15 EXAMINER JENNINGS: Thank you.

16 THE WITNESS: Thank you.

17 EXAMINER JENNINGS: Call your next  
18 witness.

19 MR. ALAMI: Yes, your Honor. The company  
20 calls Michele Jeunelot. If possible, if we could  
21 have a 5-minute break. I promise it will be the last  
22 one.

23 EXAMINER JENNINGS: Yes.

24 (Recess taken.)

25 - - -



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MICHELE JEUNELOT

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

DIRECT EXAMINATION

By Mr. Alami:

Q. Good afternoon, Ms. Jeunelot.

A. Good afternoon.

Q. If you could please spell your name.

Notice I didn't ask Mr. Hall to spell his name or  
Mr. Brewer to spell his name for the record but if  
you could spell your name for the record.

A. Sure. My name is Michele Jeunelot.

That's actually Michele with one L, M-I-C-H-E-L-E,  
last name J-E-U-N-E-L-O-T.

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

A. I'm employed by AEP Ohio or its legally  
known as the Ohio Power Company. I am manager of  
regulatory operations for AEP Ohio.

Q. And did you cause to be prepared prefilled  
direct testimony in this case?

A. Yes.

Q. Consisting of six pages of questions and  
answers?

A. Yes.

1           Q.    And if I asked you those same questions  
2 here today, would your answers be the same or  
3 substantially the same?

4           A.    Yes, they would be.

5           Q.    Do you have any corrections, deletions to  
6 make to this testimony?

7           A.    No, I do not.

8           Q.    Do you adopt this testimony as your  
9 testimony here in this proceeding?

10          A.    Yes, that is correct.

11               MR. ALAMI: Your Honor, if I could have  
12 marked as AEP Exhibit 11 -- 10, excuse me.

13               EXAMINER JENNINGS: 10, yes.

14               MR. ALAMI: Ms. Jeunelot's prefiled  
15 direct testimony.

16               (EXHIBIT MARKED FOR IDENTIFICATION.)

17          Q.    Ms. Jeunelot, you indicated just a moment  
18 ago you are manager of regulatory operations?

19          A.    Yes.

20          Q.    Okay. And in that capacity you  
21 investigate formal complaints filed at the  
22 Commission.

23          A.    That is one of my job duties, yes.

24          Q.    And what is -- what other job duties do  
25 you have?

1           A.    My role is to ensure that we are  
2           compliant with all Ohio Administrative Code rules,  
3           that we follow through with any rule changes that  
4           might be introduced through Commission proceedings.  
5           My group handles both informal and formal PUCO  
6           complaints that come through. And my group also does  
7           various audits with the PUCO helping coordinate those  
8           audits in time with PUCO staff to be sure we are  
9           compliant with the rules.

10          Q.    Are you also responsible for determining  
11          compliance with the company's tariffs?

12          A.    Yes, that is correct.

13          Q.    I don't know if you said that or not.

14          A.    I apologize. I left that out.

15               MR. ALAMI: May I approach, your Honor?

16               EXAMINER JENNINGS: Yes.

17          Q.    And, Ms. Jeunelot, you actually have  
18          reprinted in part in your testimony section 10 of the  
19          company's tariff that was in effect on the date of  
20          the incident here, but I just handed you a full copy  
21          and printed out. Can you identify what I've just  
22          handed you as the tariff?

23          A.    Yes. You just provided me a section of  
24          our terms and conditions of service, section 10,  
25          which is in reference to the company's liability.

1 MR. ALAMI: Thank you. And, your Honor,  
2 if I could just have that marked for identification  
3 as AEP Exhibit 11.

4 (EXHIBIT MARKED FOR IDENTIFICATION.)

5 Q. Now, Ms. Jeunelot, did you investigate  
6 the complaint brought by the Complainant in this  
7 proceeding?

8 A. Yes, I have.

9 MR. ALAMI: Your Honor, may I approach?

10 EXAMINER JENNINGS: Yes.

11 Q. Ms. Jeunelot, in connection with your  
12 investigation of your complaint, did you review the  
13 document that I have just handed you?

14 A. Yes, I have seen it and reviewed it.

15 Q. And can you please identify it?

16 A. This is a letter to a Mr. John Roberts  
17 dated August 13 of 2010 advising him that there's a  
18 complaint or a proceeding which will occur because of  
19 the current occurrence which occurred on June 15,  
20 2010.

21 Q. And to your knowledge did Ohio Power  
22 Company receive any prior notice of a claim being  
23 brought by Genesis Healthcare or Federal Insurance  
24 Company?

25 A. Not that I am aware of.

1           Q.    You stated a minute ago that your role --  
2           in your role you're responsible for ensuring  
3           compliance with the Commission rules; is that  
4           correct?

5           A.    That is correct.

6           Q.    And to your knowledge are there any rules  
7           or regulations regarding the treatment of failed  
8           pieces of equipment like control panels?

9           A.    Not to my knowledge.

10          Q.    Are there any rules or regulations to  
11          your knowledge of any -- any notice to customers that  
12          the company must provide in the event of an  
13          overvoltage situation?

14          A.    In the event of an overvoltage situation,  
15          not to my knowledge.

16          Q.    Do you know how many -- approximately how  
17          many customers are served off of the load tap changer  
18          at issue in this proceeding?

19          A.    There are three 12 kV circuits which are  
20          served off this transformer and load tap changer.  
21          It's approximately over 4,000 customers in total  
22          which are served off of this at the time of this  
23          instance.

24          Q.    And in your investigation of this  
25          complaint have you received or do you know of any

1 other customers who have complained to the company  
2 formally or informally of similar equipment  
3 failure -- failure or damage as a result of the  
4 incident on June 15, 2010?

5 A. Of the 4,000 or so, no, I have only been  
6 aware of the one.

7 Q. To your knowledge are there any rules or  
8 regulations requiring the company to document or  
9 inventory failed pieces of equipment like control  
10 panels?

11 A. No. And to do so would be very costly to  
12 our ratepayers, you know. You think of what would be  
13 involved in something like that. You would not only  
14 have to remove the piece of equipment, tag it,  
15 catalog it, figure out how long do you keep this  
16 equipment for, store it in a centralized location.  
17 It's not something we do -- it's not something I  
18 believe that would be cost effective to our  
19 ratepayers.

20 MR. ALAMI: Your Honor, Ms. Jeunelot is  
21 available for cross-examination. Thank you.

22 MR. THEVENY: Are you going to move her  
23 testimony?

24 MR. ALAMI: Thank you. I would move for  
25 the admission --

1 MR. THEVENY: I want to put an objection  
2 if you are going to.

3 MR. ALAMI: -- of Exhibit 10, subject to  
4 cross-examination.

5 EXAMINER JENNINGS: Just a minute.  
6 The --

7 MR. THEVENY: Filed direct testimony is  
8 10, right --

9 MR. ALAMI: Absolutely.

10 MR. THEVENY: -- of Michele?

11 EXAMINER JENNINGS: The filed direct  
12 testimony is 10 and then there is the terms and  
13 conditions as 11 and then you introduced one other  
14 document. Did you want that marked as well?

15 MR. ALAMI: Yes, I'm sorry, your Honor.

16 MR. THEVENY: That was 11.

17 MR. ALAMI: The August 13, 2010, if I  
18 could identify that as AEP Exhibit 12, I believe.

19 EXAMINER JENNINGS: Yes.

20 MR. ALAMI: I was going to wait until the  
21 end of Ms. Jeunelot's cross-examination, but I could  
22 move for admission of exhibits -- all the exhibits at  
23 this time, if you would like, your Honor, or we can  
24 proceed as you would like.

25 EXAMINER JENNINGS: Let's allow

1 cross-examination and then we will get to that.

2 MR. ALAMI: Thank you.

3 EXAMINER JENNINGS: I don't think I have  
4 admitted any of the exhibits for AEP so we will do  
5 that.

6 MS. BLEND: That's correct.

7 MR. THEVENY: I will get a chance to  
8 comment on 10 at some point. You are not moving it  
9 at this point.

10 MR. ALAMI: I think now is your chance.

11 MR. THEVENY: You are moving 10 into  
12 evidence.

13 EXAMINER JENNINGS: Subject to your  
14 cross-examination.

15 MR. THEVENY: My objection is important,  
16 but it needs to be noted. I would object to that  
17 part of the direct testimony to the extent that it  
18 does call for a legal conclusion which really is not  
19 appropriate for this witness to testify to. And I  
20 refer particularly to only -- I am objecting to only  
21 that part of the direct testimony, the filed direct  
22 testimony, that begins on page 3 at line 18, although  
23 I do not -- the terms and conditions of the tariff  
24 speak for themselves.

25 In particular, continuing on, even though



1 this is qualifying language to the question on pages  
2 5 and 6 about whether Ms. Jeunelot's assessment Ohio  
3 Power Company was negligent or not, I don't think  
4 that question can be answered other than in a legal  
5 context and it's not appropriate for this witness and  
6 the same would be true with regard to the answers to  
7 questions on page 6 of 6 concerning the assessment  
8 about customer responsibilities for protecting their  
9 own equipment.

10 I think there are legal conclusions that  
11 are either within the province of your Honor or  
12 Common Pleas -- Court of Common Pleas action but not  
13 appropriate for a lay witness.

14 MR. ALAMI: Your Honor, may I briefly  
15 respond to that? It's clear on Ms. Jeunelot's  
16 testimony at page 3, lines 8 through 9, that she's  
17 not an attorney, and she is not attempting to provide  
18 a legal opinion as to the issues within her  
19 testimony. She was merely stating her lay opinion  
20 and, in fact, merely pointing to statements within  
21 the tariff with which she is familiar and not drawing  
22 any legal conclusions to that.

23 The Commission can afford Ms. Jeunelot's  
24 opinions the weight that they will. The company  
25 acknowledges that she is not giving a legal opinion

1 here on those issues identified by Mr. Theveny.

2 MR. THEVENY: In light of that  
3 qualification, your Honor, really the testimony has  
4 no value then because it's really up -- it's in your  
5 province to decide so the objection stands, but I  
6 appreciate the qualification being further made by  
7 Ohio Power Company's attorney here today.

8 EXAMINER JENNINGS: Okay. I believe  
9 there are three areas of the testimony that you were  
10 attempting to -- objecting to. First was page 3 of 6  
11 starting with line 18.

12 MR. THEVENY: Correct. Ends up being a  
13 set-up for the reiteration of the applicable terms  
14 and conditions of the tariff. And then continuing on  
15 there, page 5 of 6, the question beginning at line 23  
16 asks for her assessments of negligence. And then the  
17 question on page 6 of 6, beginning at line 1, the  
18 answer goes through line 9 with regard to her opinion  
19 about the tariff and as it might apply to customer  
20 responsibilities in this situation.

21 MR. ALAMI: And I would just note that  
22 every question that Mr. Theveny has indicated on 5  
23 and on page 6 prefaced the question with recognizing  
24 that you are not giving a legal opinion or offering  
25 any legal conclusions. I think she's able to state

1 in her lay opinion her assessments and investigations  
2 of the complaint and her familiarity with the  
3 company's tariff both within her role of manager of  
4 regulatory operations.

5 MR. THEVENY: My last comment would be I  
6 still think the testimony should be stricken. We  
7 stipulate to the language of the tariff in terms of  
8 conditions, and it applies to the facts that your  
9 Honor is going to find them apart from what this  
10 witness says or doesn't say.

11 EXAMINER JENNINGS: I will overrule the  
12 objection, and looking at the questions and answers  
13 it's -- appears to be within the scope of her duties  
14 to interpret the tariff that she is, in fact, doing  
15 so.

16 MR. ALAMI: Thank you, your Honor.

17 MR. THEVENY: Oh, I have to cross. I  
18 forgot. I got lost in that.

19 - - -

20 CROSS-EXAMINATION

21 By Mr. Theveny:

22 Q. Good afternoon, Ms. Jeunelot.

23 A. Good afternoon.

24 Q. You have been patient all day long, and I  
25 think you were on the video on the other side as

1 well.

2 A. That's correct.

3 Q. I don't think I asked you any questions,  
4 and I don't have much for cross-examination. You  
5 testified in your filed direct testimony in response  
6 to counsel's question that you investigated this  
7 complaint; is that right?

8 A. That is correct.

9 Q. As part of that investigation, did you  
10 inspect the tap changer?

11 A. No.

12 Q. Did you inspect the control panel?

13 A. No, I did not.

14 Q. Did you go to the substation?

15 A. No.

16 Q. Did you interview any of the parties --  
17 any of the employees that were involved, Gary Parker,  
18 Eugene Campbell, Carlos Brewer, or Robert Hall?

19 A. I spoke to --

20 MR. ALAMI: Your Honor, I object to this  
21 line of questioning to the extent it calls for  
22 privileged and confidential work product.

23 Ms. Jeunelot's investigation as she has indicated  
24 initiated after a formal complaint was filed at the  
25 Commission; and, therefore, after Ms. Jeunelot was

1     aware that the company was -- had a claim against it,  
2     it was being sued. So to the extent her  
3     investigation -- what she did to the extent  
4     Mr. Theveny is asking for privileged or confidential  
5     work product, I would object on that ground. To the  
6     extent that he states generally, I have no objection.

7             MR. THEVENY: I can't -- I don't know  
8     what general means or doesn't mean, and I don't need  
9     counsel to tell me what general does mean. But  
10    here's the problem with that, they've offered her  
11    testimony and you've allowed it appropriately with  
12    the regard to the findings following her  
13    investigation that Ohio Power Company wasn't  
14    negligent, that complied with the tariff. She's  
15    indicated she conducted an investigation in order to  
16    reach the opinions expressed in that testimony -- let  
17    me finish -- but, now, I am being told I can't probe  
18    into the basis, into the details of the investigation  
19    which led to that testimony.

20            So the testimony needs to be stricken, or  
21    I should be allowed to question the witness about  
22    what she did or didn't do in her investigation.

23            MR. ALAMI: I just want to clarify, your  
24    Honor, the objection was -- to the extent it was an  
25    instruction or reminder to the witness that some of

1 the information revealed during investigation may be  
2 privileged or confidential and protected by various  
3 privilege. With that clarification I have no problem  
4 with Mr. Theveny continuing his cross-examination.

5 EXAMINER JENNINGS: Okay. You may  
6 continue.

7 Q. (By Mr. Theveny) Did you interview them  
8 about the particulars of the type of work they did  
9 when they responded to the incident out there?

10 A. To the extent I am not sure what you mean  
11 by interview, I did speak with Mr. Brewer and  
12 Mr. Hall to learn a little bit more about the  
13 situation which occurred and the actions that they  
14 took regarding it.

15 Q. Did they tell you anything differently  
16 than what you heard today?

17 A. No.

18 Q. All right. Did you ever go contact  
19 anybody at Genesis Healthcare System to interview  
20 them about the circumstances of the situation?

21 A. Personally, no.

22 Q. Okay. You are overall responsible for  
23 customer relations with regard to complaints made by  
24 customers?

25 A. For formal complaints that come in

1 through the PUCO and my direct report is responsible  
2 for handling the informal complaints for the PUCO.

3 Q. Would you consider a part of good  
4 customer service to reply to customers' inquiries  
5 about problems they have had with service?

6 A. Do I think it's good customer service to  
7 respond to a customer's questions on service, yes.

8 Q. How about a customer complaint?

9 A. Or customer complaint.

10 Q. How about a representative of the  
11 insurance company for a customer, if they make an  
12 inquiry, do you think it's appropriate to respond?

13 A. Depending on who it goes to in the  
14 company. There's a lot of different personnel who  
15 handle customer communications.

16 MR. THEVENY: All right. May I approach  
17 the witness, your Honor?

18 EXAMINER JENNINGS: Yes.

19 MR. THEVENY: Thank you.

20 Q. You were shown Exhibit 12 which is this  
21 letter that was sent by my now deceased partner Mike  
22 Izzo to John Roberts at American Electric Power. You  
23 told me actually that letter came to your attention.

24 A. Yes.

25 Q. Okay. I will tell you that no one ever

1       responded to that letter. Do you know why?

2           A.     From what I recall from early on this  
3       complaint has been quite lengthy in time. I believe  
4       Mr. Roberts was switching jobs or there was some  
5       movement. I am not sure if he had left the company  
6       or was going to transition into leaving the company.  
7       That's the best recollection I have on the -- this.

8           Q.     But you understood at this point at least  
9       upon receipt of this letter that American -- that  
10      there was an allegation being made by a  
11      representative of the insurance carrier for the  
12      healthcare facility that American Electric --  
13      "American Electric Power's equipment, in particular a  
14      tap changer at the Linden Avenue Station, went into  
15      full boost which increased the voltage and shut down  
16      the hospital's operating room HVAC system and that  
17      this was a potential claim against AEP as a result of  
18      that."

19          A.     Once the formal complaint was filed, I  
20      did look at this letter and that is my understanding,  
21      yes.

22          Q.     And you can't tell me whether or not  
23      anybody responded to the letter.

24          A.     To my knowledge, no.

25          Q.     And I will tell you no one did respond to



1 the letter because it was written by my partner, and  
2 I have worked with him on the file. Do you consider  
3 that poor customer service in not responding to a  
4 letter placing American Electric Power on notice of a  
5 potential claim here in the context of this lawsuit  
6 or this proceeding?

7 MR. ALAMI: Objection. It's irrelevant.  
8 She is not in the customer service department as she  
9 has indicated.

10 MR. THEVENY: Well, she told me she was  
11 responsible for investigating formal complaints  
12 against the Public Utility Commission, and I would  
13 submit that formal complaint required a response  
14 given the job duties and the responsibilities she has  
15 given so I think it is relevant.

16 EXAMINER JENNINGS: I will allow the  
17 question.

18 A. I was not able to speak with Mr. Roberts.  
19 I believe from my understanding he has left the  
20 company so I have not been able to ask him what  
21 happened to this letter, if anyone did receive it,  
22 where he was in his transition at the time this  
23 letter was written.

24 Q. As far as you know, no one ever responded  
25 on behalf of Ohio Power Company?

1           A.    As far as I know, that is correct.

2           Q.    All right.  And you do acknowledge that  
3           there are no written rules or regulations on how to  
4           handle or what the disposition should be for failed  
5           pieces of equipment.

6           A.    To my knowledge of the rules and  
7           regulations, that is correct.

8           Q.    Should there be rules and regulations,  
9           written rules and regulations, that employees should  
10          follow with regard to failed pieces of equipment?

11          MR. ALAMI:  Objection.

12          EXAMINER JENNINGS:  Sustained.

13          Q.    You have no -- never mind.  I was told  
14          not to ask it so I better not ask it a different way.  
15          I'll get the same slam.

16          Okay.  And you acknowledge there are no  
17          written rules or regulations on notice to customers  
18          with regard to like overvoltage conditions and that  
19          sort of thing?

20          A.    For overvoltage conditions that is  
21          correct.

22          Q.    Right.  With regard to the customers'  
23          emergency power supply systems you heard testimony  
24          today about the hospitals, but other customers have  
25          generators and so forth.  I assume you know that

1 based on your experience.

2 A. Yes.

3 Q. If Ohio Power Company is not providing  
4 notice of overvoltage conditions that might be a  
5 result of some problem at a substation, would you  
6 agree an overvoltage condition isn't necessarily  
7 going to have the same effect on the customer's  
8 supply of electric power versus a power outage?

9 A. Can you restate that question, please?

10 Q. Yeah. If there is a problem with the  
11 supply of power at a substation and the substation is  
12 no longer supplying power, you would agree that's a  
13 power outage, right?

14 A. That is correct, if they do not have a  
15 backup generator.

16 Q. And a customer is going to know that  
17 relatively quickly because their lights, T.V., radios  
18 in the hospital, things are going to shut down,  
19 right?

20 A. They are also paying their bills, that is  
21 correct.

22 Q. But if there is an overvoltage condition  
23 and if Ohio Power Company isn't notifying customers  
24 of the overvoltage condition, would you agree that an  
25 overvoltage condition is not going to manifest itself

1 on the customer's side of the supply of power the  
2 same as a power outage?

3 A. In my experience there are different  
4 pieces of equipment which will indicate overvoltage  
5 situations on customers' -- on the customers' ends  
6 when you have protection so at times customers have  
7 protection devices that will alarm or beep or will  
8 make some kind of sound on an overvoltage event so  
9 sometimes there will be signals to customers, not  
10 always.

11 Q. You would agree it's more -- much more  
12 dramatic in the event of a power outage. More  
13 customers are going to know right away this is an  
14 outage versus an overvoltage condition?

15 A. That is correct.

16 Q. And you still don't think it's necessary  
17 for Ohio Power Company to have anything in place to  
18 notify customers when there is an overvoltage  
19 condition?

20 A. Ohio Power doesn't expect that  
21 overvoltage condition to continue. The first  
22 priority is to fix it and get that back into line.  
23 It's not expected that overvoltage is to continue for  
24 long term.

25 Q. Do you agree that Ohio Power Company does

1 not know why that control panel out at the Linden  
2 Avenue Substation failed?

3 A. That is correct.

4 Q. Do you agree that Ohio Power Company does  
5 not know why the control panel failure caused that  
6 tap changer to go into full boost?

7 MR. ALAMI: Your Honor, I object. It's  
8 outside the scope of her testimony with respect to  
9 the failure of the particular pieces of equipment and  
10 the reasons as to why they failed. Ms. Jeunelot is  
11 not the expert in that area and that's outside the  
12 scope of her testimony.

13 MR. THEVENY: Your Honor, if I may, I am  
14 just asking her in her role as being responsible for  
15 investigating formal complaints once they are made  
16 against Ohio Power Company, and in particular with  
17 this formal complaint being related to the control  
18 panel failure and tap changer going into full boost,  
19 whether or not she is aware of whether Ohio Power  
20 Company made some kind of determination with respect  
21 to why the failure of the control panel caused the  
22 tap changer to go into full boost, not what it was  
23 but just whether or not that determination was made  
24 by others.

25 EXAMINER JENNINGS: I will allow the

1 question.

2 You may answer.

3 A. I apologize. Could you have that reread  
4 or read it to me?

5 Q. Did Ohio Power Company make any  
6 determination about why the control panel failure  
7 caused the control -- why the control panel failure  
8 caused the load tap changer to go into full boost?

9 A. As far as I understand, we determined  
10 that the control panel failed. Because of that  
11 failure it caused the LTC, load tap changer, to go  
12 into full boost.

13 Q. But in the absence of finding out why the  
14 control panel failed you can't really state other  
15 than the fact that the load tap changer went into  
16 full boost what it was about that control panel  
17 failure that might have led the load tap changer to  
18 go into that full boost mode?

19 A. It is correct we did not determine what  
20 went wrong with the load tap changer control panel.

21 Q. Okay. You are familiar with the terms  
22 and conditions of the tariff that apply to Ohio Power  
23 Company?

24 A. That is correct.

25 Q. Are you aware of the following additional

1 provision within the Ohio Power Company tariff --

2 MR. ALAMI: Is there a particular  
3 exhibit?

4 MR. THEVENY: It's in that exhibit so I  
5 assume you introduced the whole thing. I don't have  
6 an extra copy. But it's a public utility company,  
7 PUCO No. 19, terms and conditions of service. It  
8 should be included in the sheets you've included.  
9 It's sheet 3-9. I thought you gave that to her.  
10 I'll show it to her. I only have the one copy of it.  
11 I assume we are stipulating to the fact that the PUCO  
12 No. 19, terms and conditions of a service, apply  
13 here, right?

14 MR. ALAMI: As long as --

15 EXAMINER JENNINGS: That's marked as AEP  
16 Exhibit 11.

17 MR. ALAMI: Correct.

18 MS. BLEND: I believe the page  
19 Mr. Theveny is referring to is not part of our  
20 exhibit.

21 MR. THEVENY: I thought it was, but I  
22 would assume you could stipulate to the fact that the  
23 entire terms and conditions of a service apply here.

24 MR. ALAMI: Well, I mean, so long as they  
25 are the ones that were in effect.

1 MR. THEVENY: Effective December 9, 2009.

2 MR. ALAMI: That's the same one we've  
3 got.

4 MR. THEVENY: If we have got a problem  
5 there, my head is really going to start spinning  
6 about these evidentiary rules here.

7 Can I -- is it okay if I approach the  
8 witness?

9 EXAMINER JENNINGS: Yes.

10 Q. (By Mr. Theveny) Is it okay if I hang  
11 over your shoulder a little?

12 A. That's fine.

13 Q. PUCO No. 19, terms and conditions of  
14 services, this is the December 9, 2009, edition,  
15 sheet 3 of 9. It says -- I want to ask you if you  
16 are aware of this following language: "Approval of  
17 the above schedule language by the Commission does  
18 not constitute a determination by the Commission that  
19 the limitation of liability imposed by the company  
20 should be upheld in a court of law. Approval by the  
21 Commission merely recognizes that since it is a  
22 court's responsibility to adjudicate negligence and  
23 consequent damage claims, it is also the court's  
24 responsibility to determine the validity of the  
25 exculpatory clause." Do you see that?



1 A. Yes.

2 Q. You are aware of that?

3 A. Yes, I am.

4 Q. You are not offering any opinion at all  
5 about the legal consequences affect the validity of  
6 these other provisions of the terms and conditions of  
7 the tariff.

8 A. No. I am just offering my opinion on my  
9 role.

10 MR. THEVENY: That is all I have.

11 MR. ALAMI: Just briefly, your Honor.

12 EXAMINER JENNINGS: Okay.

13 MR. ALAMI: And I understand and  
14 appreciate everyone's patience today.

15 - - -

16 REDIRECT EXAMINATION

17 By Mr. Alami:

18 Q. Ms. Jeunelot, in response to some  
19 questions from Mr. Theveny regarding notification to  
20 customers about power outages, overvoltage events, is  
21 it correct that it's the company's policy not to  
22 notify its customers in the event of those  
23 occurrences?

24 A. There are rules around outage  
25 notification. If we know that there is an extended

1       lengthy outage which we can't correct, we are to  
2       notify customers as well as we give notification to  
3       the PUCO at various levels and lengths of times  
4       customers will have an outage.

5               Q.     Did that occur with respect to the  
6       incident involved here?

7               A.     As far as I know, no outage occurred.  It  
8       was just an overvoltage.

9               Q.     So focusing the question on the  
10       overvoltage condition, I should say did the -- would  
11       there be an additional burden for the company to  
12       notify just for this load tap changer 4,000 customers  
13       who are serviced by it, to notify customers of the  
14       overvoltage event?

15              A.     I believe it would.  We would have had to  
16       do it after the fact.  Again, our first priority was  
17       to get it under control and to get the overvoltage in  
18       line so most likely it would have been an  
19       after-the-fact-type notification.

20                     MR. ALAMI:  That is all the questions.

21                     MR. THEVENY:  Just a couple of follow-up  
22       on that last line.  I know it's late but it's  
23       important.

24                     EXAMINER JENNINGS:  Yes.

25                               - - -

RECROSS-EXAMINATION

By Mr. Theveny:

Q. How about under the circumstances here Ohio Power Company was noticed -- notified of the overvoltage condition, discovered the tap changer had gone into full boost because the control panel failed, and it was three or four days before that control panel was replaced. Is it still the position of Ohio Power Company it had no obligation to notify its customer of potential overvoltage conditions in that context?

A. As far as I know, there are no rules or regulations regarding notifying customers of that condition.

Q. Of the 4,000 customers that are serviced out of this Linden Avenue Substation how many are hospitals?

A. I know at least two are and there are several medical offices around that area.

Q. Any attempt -- any rules or regulations that should apply notifying hospitals given the nature of the business they are in when there is an overvoltage condition?

A. You are asking me if there should be rules around that?

1 Q. I am just asking you are there.

2 A. Not that I know of.

3 Q. How about should there?

4 MR. ALAMI: Objection.

5 EXAMINER JENNINGS: Sustained.

6 MR. THEVENY: That's all I have.

7 MR. ALAMI: That's all we have, your  
8 Honor, for Ms. Jeunelot. Thank you.

9 EXAMINER JENNINGS: Thank you.

10 MS. BLEND: Your Honor, at this time --

11 MR. ALAMI: Your Honor, we move for the  
12 admission of AEP Exhibits 1 through 12.

13 MR. THEVENY: You have my objection on  
14 the record with regard to the, yeah, 10. And I  
15 move -- I moved all my exhibits into admission as  
16 well, subject to your ruling disallowing certain of  
17 them, but it was 1, 2, 3, 4, 5, 6, and 7, I believe.

18 MS. BLEND: 7 with the --

19 MR. THEVENY: Again --

20 EXAMINER JENNINGS: Complainant's  
21 Exhibits 1 through 5 were admitted into the record,  
22 and Complainant's Exhibit 6 was eliminated. Exhibit  
23 7 was conditional, and 8 through 11 were disallowed.

24 MR. THEVENY: 6 was the notice -- oh, no.  
25 Oh, yeah, 6 were those notes, were they not?

1 MS. BLEND: Yes. 6, you disallowed  
2 Exhibit 6 which are the unauthenticated field notes?

3 MR. THEVENY: I think we have all these.

4 EXAMINER JENNINGS: They were the field  
5 notes, yes, and those were excluded?

6 MS. BLEND: Correct.

7 EXAMINER JENNINGS: That's what I have.  
8 Okay. Going to AEP Exhibits 1 through 12, I can walk  
9 through those for you, if that helps.

10 MR. THEVENY: Briefly, I guess. Thank  
11 you, your Honor. I would appreciate that.

12 EXAMINER JENNINGS: Okay. Exhibit No. 1  
13 was an incident report.

14 MR. THEVENY: I am fine with that. I  
15 remember that.

16 EXAMINER JENNINGS: Okay. Exhibit No. 2  
17 was a system failure report.

18 MR. THEVENY: I see it here, no  
19 objection.

20 EXAMINER JENNINGS: Okay. Exhibit 3 was  
21 a trend report.

22 MR. THEVENY: No objection.

23 EXAMINER JENNINGS: Exhibit 4 was a  
24 letter from Thomas Williams to John Roberts.

25 MR. THEVENY: No objection.

1 EXAMINER JENNINGS: Exhibit 5 was a  
2 letter from John Roberts to Thomas Williams.

3 MR. THEVENY: Even though -- no, Tom  
4 Williams, that's fine, no objection.

5 EXAMINER JENNINGS: Exhibit 6 was a  
6 system failure report for the Bethesda campus.

7 MR. THEVENY: No objection.

8 EXAMINER JENNINGS: Exhibit 7 was a  
9 contract between AEP and the hospital.

10 MR. THEVENY: Only objection I would have  
11 would be the same with regard to any interpretation  
12 of the contract by any lay witness here with regard  
13 to its legal effect or any determination about  
14 whether there was a breach of contract or whether one  
15 party didn't honor the contract or not. That to me  
16 is within the legal province of the Commission or  
17 court of law but other than that I have no -- I  
18 reserve that objection only which, I assume, you will  
19 overrule.

20 EXAMINER JENNINGS: Okay.

21 MR. THEVENY: Maybe not.

22 EXAMINER JENNINGS: I will admit that  
23 into the record in addition to the previous exhibits,  
24 1 through 6.

25 (EXHIBITS ADMITTED INTO EVIDENCE.)

1 MR. THEVENY: Yeah. I wanted to make  
2 sure for the record.

3 EXAMINER JENNINGS: So far we have 1  
4 through 7 admitted into the record.

5 Exhibit No. 8 was the testimony of Robert  
6 Hall.

7 MR. THEVENY: No objection.

8 EXAMINER JENNINGS: Exhibit No. 9 was the  
9 testimony of Carlos Brewer.

10 MR. THEVENY: No objection.

11 EXAMINER JENNINGS: Exhibit No. 9 was  
12 Michele Jeunelot's testimony.

13 MR. ALAMI: 10.

14 EXAMINER JENNINGS: Oh, sorry, sorry.  
15 Exhibit No. 11 was the tariff terms and conditions  
16 that the company presented in Ms. Jeunelot's  
17 testimony, I believe.

18 MR. THEVENY: Right.

19 EXAMINER JENNINGS: And Exhibit 12 was  
20 the letter to John Roberts from your firm.

21 MR. THEVENY: Correct, no objection.

22 EXAMINER JENNINGS: So AEP Exhibits 1  
23 through 12 will be admitted into the record.

24 (EXHIBITS ADMITTED INTO EVIDENCE.)

25 EXAMINER JENNINGS: And I believe we have

1 taken care of the stipulation -- Stipulated Exhibits  
2 1 through 4.

3 MR. ALAMI: We have 4.

4 MR. THEVENY: What were they again?

5 MS. BLEND: The depositions of Gary  
6 Parker, David Sullivan, Eugene Campbell, Steven  
7 Minosky.

8 MR. THEVENY: Right. Clearly no  
9 objection, we stipulate to it so.

10 EXAMINER JENNINGS: Okay. So I think  
11 that completes the record.

12 You have no further witnesses?

13 MR. ALAMI: We have no further witnesses,  
14 your Honor. We have a procedural question, I should  
15 say.

16 EXAMINER JENNINGS: Okay.

17 MR. ALAMI: But we can address that at  
18 your convenience.

19 EXAMINER JENNINGS: Okay. If there are  
20 no other matters, we can deal with that now.

21 MR. ALAMI: Your Honor, we just --  
22 Mr. Theveny, Complainant, has filed on October 17 a  
23 quote-unquote hearing brief and, you know, we aren't  
24 entirely sure what to make of that filing, and from  
25 our perspective it's not part of the record that's



1     been established here today and it's been established  
2     through what we have just gone through and checked  
3     yes or no on. So we don't understand -- is the  
4     Attorney Examiner expecting a response to that? Is  
5     that going to be construed as Complainant's post  
6     hearing brief? There was no procedural requirement  
7     or deadline to file a hearing brief in the Attorney  
8     Examiner's most recent scheduling entry.

9                 EXAMINER JENNINGS: Yeah. That was not  
10    contemplated by the May 17 filing. What was your  
11    intent with that?

12                MR. THEVENY: My intention was to make it  
13    of record which, you know, it's certainly important  
14    for the Complainant to establish that record so it is  
15    filed in the record of the matter. But my intention  
16    was to act similar to a trial brief for the position  
17    of the Complainant with regard to the evidence and  
18    what it shows and, you know, to aide the court in  
19    considering the matter in this case, the Attorney  
20    Examiner considering the matter.

21                It's common practice in most  
22    jurisdictions, I guess it's not in the Public  
23    Utilities Commission of Ohio, but I don't see why  
24    it's prejudicial in any way, shape, or form. You are  
25    certainly free to respond to it, and I did see

1 somewhere in the rule hearing briefs are perhaps  
 2 contemplated afterwards so I would probably just  
 3 refile it anyway as a post hearing brief, perhaps add  
 4 to it now anyway. I would probably incorporate  
 5 references and look at the transcript here and, you  
 6 know, make additional comments so I don't have any  
 7 objection if you want to give a full bore blast to  
 8 it, which I am sure you would, whatever time you want  
 9 to do it.

10 MR. ALAMI: Well, the problem is, your  
 11 Honor, that hearing brief quote-unquote that was  
 12 filed on October 17 relies and contains documents and  
 13 discusses documents that the Attorney Examiner has  
 14 ruled here today should be excluded from the record.

15 So to that extent it would make more  
 16 sense if -- and this is just a proposal for  
 17 Complainant to follow the normal procedure and submit  
 18 a post hearing brief and then that October 17 hearing  
 19 brief just be, you know -- he can incorporate the  
 20 same Roman numerals or whatever parts of the  
 21 document, but to the extent it relies on evidentiary  
 22 material that has been excluded today, your Honor,  
 23 the company feels that it's improper to be included  
 24 in the record.

25 MR. THEVENY: Can I be heard very

1       briefly, your Honor?

2                   EXAMINER JENNINGS:   Yes.

3                   MR. THEVENY:   I mean, in light of the  
4       rulings here today, and I'm not at all telegraphing  
5       anything at all, it is of record for purposes of  
6       pursuing a further appeal in the matter, if that  
7       becomes necessary, it may not, I am not telegraphing,  
8       but I have certainly at this point established a  
9       record here today as well as to why I do believe -- I  
10      expect fully the ruling of your Honor why I believe  
11      that evidence should be heard.

12                   So at some point or another I intend to  
13      keep it on the record so, I mean, you can strike it  
14      because that's within your power to do it, but I  
15      don't see the purpose in withdrawing it; and, in  
16      fact, even though many of the documents may have been  
17      excluded by your Honor, the testimony that now has  
18      been elicited has ended up getting the evidence in  
19      any way.

20                   So what I would propose to do is simply  
21      ask your Honor respectfully to defer -- allow me the  
22      opportunity to consider these proceedings here today  
23      and to refine that brief, and at that point if you  
24      still -- I would reserve the right -- I clearly would  
25      say still have the right to ask you to strike that

1 hearing brief but let me get the opportunity to look  
2 at what happened here today to see if I can address  
3 it more fully in the context of once I had a chance  
4 to digest.

5 EXAMINER JENNINGS: Well, as counsel  
6 indicated, a hearing brief prior to the actual  
7 hearing is not common practice at the Commission.

8 MR. THEVENY: I didn't see any  
9 prohibition against it either.

10 MR. ALAMI: The prohibition was the  
11 scheduling entry that your Honor --

12 MR. THEVENY: It was silent. It didn't  
13 address it one way or the other.

14 EXAMINER JENNINGS: As far as the record  
15 with respect to what's filed in the case and then  
16 there is the record that --

17 MR. THEVENY: No, I understand that.

18 EXAMINER JENNINGS: The transcript in  
19 which the Commission can base its decision and that  
20 record it would not be included in so. So for  
21 practical purposes it's a nullity, but if the parties  
22 wish, we can have briefs in lieu of closing argument,  
23 and if you want to use the substance of that hearing  
24 brief, that's fine.

25 MR. THEVENY: It's been a long day. I am

1 more than happy if you guys --

2 MR. ALAMI: Yes.

3 MR. THEVENY: -- want to make closing  
4 arguments by way of briefing, and I can address that  
5 with this hearing brief because I think much of what  
6 I was attempting to establish got established anyway.

7 MR. ALAMI: Your Honor, post hearing  
8 briefs as well as reply briefs, you know, either -- a  
9 30-day period for post hearing and a 15-day period  
10 for reply, that's just our proposal. Obviously we  
11 need to look at schedules to confirm.

12 MR. THEVENY: It's up to the convenience  
13 of your Honor, 30 days and we would each get a chance  
14 to reply 15 days thereafter, that puts us up to --  
15 your Honor, where does that put us in the holidays?

16 MS. BLEND: It puts us a couple of weeks  
17 before Christmas.

18 MR. ALAMI: We would be okay with perhaps  
19 initially today saying that we would work out the  
20 exact dates.

21 EXAMINER JENNINGS: Yeah. We can work  
22 out briefing schedules, put that on the record, and  
23 go from there. There are two ways to go about this,  
24 pros and cons. One is simultaneous filing of briefs  
25 and then simultaneous filing of rebuttal briefs, or

1 you can file a brief, rebuttal brief, and last word  
2 reply.

3 MR. THEVENY: I like having the last  
4 word. The burden of proof is on me in some ways or  
5 on my client so.

6 MR. ALAMI: Yeah. I mean --

7 MR. THEVENY: I am happy to go first.  
8 You already kind of know what I am going to say  
9 anyway, I have a few more things, so you have got the  
10 advantage.

11 MR. ALAMI: We just think that  
12 simultaneous initial and simultaneous reply.

13 MR. THEVENY: My only thing is burden of  
14 proof is clearly on us. I have seen that.  
15 Everything I've read and seen that's the one thing I  
16 do fully understand, as the plaintiff anyway in any  
17 case, so I would like the opportunity to have the  
18 last word.

19 EXAMINER JENNINGS: You would what?

20 MR. THEVENY: I would like to have the  
21 opportunity to have the last word.

22 MR. ALAMI: Well, that's the point of  
23 simultaneous initial and simultaneous reply is in  
24 effect that everyone has the opportunity to have the  
25 last word.

1 EXAMINER JENNINGS: Since there is a  
2 conflict I will just resolve it with the ruling. We  
3 will have simultaneous briefs and go from there.

4 MR. ALAMI: Thank you, your Honor.

5 MR. THEVENY: And simultaneous replies?

6 EXAMINER JENNINGS: Yes. We are looking  
7 at a time period of 30 days from -- I guess we need  
8 to figure out when the transcript will be available.

9 MR. THEVENY: Yeah. I need the  
10 transcript.

11 MR. ALAMI: So we can clarify one point  
12 you have now addressed that hearing brief of  
13 October 1 is, in fact, a nullity. Is your Honor  
14 expecting a reply from the company on that, or would  
15 your Honor just expect the company to proceed as?

16 EXAMINER JENNINGS: No, no need for a  
17 reply.

18 MR. THEVENY: Yeah. Just so I'm clear  
19 for the record, I understand your Honor's nullity for  
20 purposes of ruling you would make based on the  
21 hearing today, but it is of record. You are not  
22 striking it from the record.

23 EXAMINER JENNINGS: No, not from the  
24 docketing record.

25 MR. THEVENY: That's what I meant. It's

1 not being stricken from the docketing record. It's  
2 not going to be considered for purposes of today.

3 EXAMINER JENNINGS: Correct.

4 MR. THEVENY: I understand that.

5 THE NOTARY: Two weeks from today for the  
6 transcript so November 7.

7 MR. THEVENY: For the transcript?  
8 December 7, I don't know what day of the week that  
9 is.

10 EXAMINER JENNINGS: That's a Thursday.

11 MR. THEVENY: Make it Friday, the 8th?

12 MR. ALAMI: That's for the transcript.

13 MR. THEVENY: December 8, 30 days was a  
14 Thursday.

15 MR. ALAMI: Well, December 8 is a Sunday.

16 MS. BLEND: Do you want to say  
17 December 6?

18 Your Honor, should we go off the record  
19 to discuss scheduling?

20 EXAMINER JENNINGS: Pardon?

21 MS. BLEND: Should we go off the record  
22 to discuss scheduling?

23 EXAMINER JENNINGS: Oh, yes.

24 (Discussion off the record.)

25 EXAMINER JENNINGS: Off the record we



1 discussed the filing of post hearing briefs. The  
2 initial briefs will be due December 6. The reply  
3 briefs will be due December 20.

4 MR. THEVENY: Will an order follow on  
5 that or should we note it for ourselves?

6 EXAMINER JENNINGS: Yes. Just make a  
7 note of that. And, let's see, if there's nothing  
8 further --

9 MR. ALAMI: No, your Honor.

10 EXAMINER JENNINGS: -- I will consider  
11 this matter submitted on the record. That is all.  
12 Thank you.

13 (Thereupon, the hearing was concluded at  
14 3:44 p.m.)

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CERTIFICATE

I do hereby certify that the foregoing is  
a true and correct transcript of the proceedings  
taken by me in this matter on Thursday, October 24,  
2013, and carefully compared with my original  
stenographic notes.

---

Karen Sue Gibson, Registered  
Merit Reporter.

(KSG-5770)

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**Case No(s). 12-1750-EL-CSS**

Summary: Transcript in the matter of the Federal Insurance Company as Subrogee of Genesis HealthCare System hearing held on 10/24/13 electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.