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Before Todd A. Snitchler, Chairman, and Steven D. Lesser, M. Beth Trombold, and Asim Z. Haque, Commissioners, at the Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio, Hearing Room 11A-B, on Wednesday, December 11, 2013, commencing at 10:00 a.m.

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Wednesday Morning Session,
December 11, 2013.

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CHAIRMAN SNITCHLER: Well, good morning. I've either got a reputation for starting on time or you all just conspicuously got quiet right at 10:00. So thank you for taking the time for being with us today. I'd like to thank each of you for taking the time to be here, including many of our panelists who traveled from some distance and got here, maybe late but they got here in a timely fashion and so we're glad to have you.

Before we start our hearing today on the retail market investigation that we have had on-going now for just about a year, I thought it to be helpful for us to recap how we got here and what it is that we're working on. In light of Ohio's electric utilities transition from the regulated environment to a restructured market, the Commission opened an investigation, as many of you know, on the state of our marketplace to identify barriers to growth of the marketplace, and to highlight the positive things that are already being done so we don't have any

1 unintended consequence and change something that
2 might actually be working well.

3 Our order last December identified
4 specific questions that we had with relation to
5 market designs and corporate separation and we
6 received, solicited and received comments from a
7 wide range of stakeholders. And as all of you
8 are probably aware, we also had some additional
9 questions that were raised in early June and we
10 received as many responses, I think, from those
11 as we did from our initial set of questions.

12 Subsequent to those questions, the
13 Commission scheduled a series of workshops to
14 further encourage stakeholder collaboration in
15 developing our marketplace, and Commission staff
16 and stakeholders were encouraged to use those
17 workshops as a means to identify and overcome
18 market constraints, existing issues that impact
19 the relationship between competitive providers
20 and electric distribution utilities, existing
21 issues regarding market access, and any other
22 issues that may have come up that would help to
23 further Ohio's retail electric marketplace.

24 And there have been a number of those
25 meetings, the first of which was held in June

1 and that discussed creating consistency in
2 operations support across the state and also
3 solicited feedback for possible changes to the
4 Apples-to-Apples shopping comparison tool.

5 At the second workshop, presenters
6 addressed possible barriers to entry, and
7 further group discussion touched on topics
8 including SSOs and default service, ESPs or
9 electric security plans, other competitive
10 states, smart meters and data access, generation
11 subsidies and finally customer engagement. So
12 there was a long list of topics that were
13 addressed at that second workshop.

14 The third workshop had presenters and
15 discussions that focused on corporate separation
16 issues. And much of the discussion involved
17 information sharing between affiliates,
18 affiliate transactions and shared costs, and
19 return on equity and business risk.

20 Throughout the workshops
21 subcommittees were assigned to further discuss
22 various topics, including market evaluations,
23 customer data and billing, and lastly consumer
24 education. And this allowed the groups to
25 separately assess particular areas of the retail

1 market and then bring the discussion back to the
2 group as a whole in what we hoped was a more
3 efficient way for us to break down some of the
4 issues.

5 The fourth workshop focused on the
6 subcommittee work that was done in the market
7 evaluation and consumer education subcommittees.
8 And after hearing prepared remarks from several
9 presenters, the discussion really recapped the
10 work of the subcommittees which focused on
11 several issues including customer choice,
12 definitions and metrics used to describe
13 functional markets, and customer engagement and
14 participation.

15 At the fifth workshop, several topics
16 were covered that related to customer data and
17 billing, and panels were held to discuss
18 customer enrollment, contract portability,
19 electronic data interchange, and bill formatting
20 and messaging.

21 And I have to say, I'm pleased with
22 the level of involvement throughout the
23 stakeholder workshop process. I think that those
24 exercises provided a very worthwhile forum to
25 focus on issues that have been a source of

1 discussion and sometimes vigorous debate. And
 2 Commission staff has made available on our
 3 website recaps of each of the workshops, in
 4 addition to other helpful information that
 5 surrounds this on-going case, and a link is
 6 front and center on our homepage where you can
 7 simply search for "retail market investigation"
 8 to get access to that information if you haven't
 9 already done so.

10 I think it's safe to say that I can
 11 speak for all of the Commissioners in thanking
 12 each of those who participated in the workshops,
 13 and we think your input and involvement have
 14 been integral to the process and are truly very
 15 much appreciated. I'd also like to specifically
 16 thank all of the Commission staff, especially
 17 Patrick Donlon and Dave Lipthratt -- I always
 18 struggle with that -- for coordinating our
 19 workshops. And they have done a terrific job of
 20 trying to make sure that we move through some of
 21 the stickier issues, we'll call them.

22 In addition to our investigation, I'd
 23 like to point out the concurrent Commission
 24 activities that are related to the retail
 25 market. In October the Commission adopted

1 administrative rules pertaining to electric
2 companies, and we have also received comments on
3 proposed rules to both the competitive retail
4 electric and natural gas suppliers.

5 And with that, we have summarized how
6 we got here today. Today's en banc hearing, and
7 for those of you who don't speak legalese, that
8 means it is a hearing before all the
9 Commissioners, it will serve as a wrap-up of
10 sorts for the workshop process.

11 We're also webcasting today's hearing
12 live, so I'll ask for all of our speakers ahead
13 of time to please speak clearly in your
14 microphones. I'm sure Commissioner Powelson,
15 the Chairman from Pennsylvania, is listening and
16 watching. He assured me he had some interest in
17 our hearing today, so that probably doesn't come
18 as a surprise to those of you that know Rob at
19 all. We'll also get a recording on the web up
20 shortly after we complete this so there will be
21 access to our meeting today as we go forward.

22 As a housekeeping item, just so
23 you're aware, we'll hear from a number of
24 presenters today on the Ohio market, where it's
25 heading, as well as consumer education efforts,

1 and we'll break just about noon for lunch, and
 2 then we'll also allow the Commission to hold our
 3 regularly-scheduled meeting at 1:30 and then
 4 we'll resume our hearing here between 1:45 and
 5 2:00 or so, and then hopefully we'll get you all
 6 on your way by 4 or shortly thereafter this
 7 afternoon.

8 So with that, if there's any other
 9 comments from any of the other Commissioners?
 10 Seeing none, I'd like to welcome our panelists
 11 for our first panel. I think Pat may be the one
 12 who wins the award for furthest. So I'm going
 13 to do a brief introduction of each of our three
 14 panelists so you know who you're hearing from.
 15 The idea behind this panel was really to talk
 16 about what is being done nationally, what the
 17 view is about how restructured and competitive
 18 markets are functioning, where Ohio may sit
 19 within that spectrum, and any suggestions that
 20 may exist about things that we could be doing
 21 from their perspective as they see the market
 22 across the country. Also, just so that you
 23 know, we have asked the panelists in each of our
 24 discussions today to offer presentations and
 25 there will be Q and A from each of the

Commissioners, or those that wish to participate in those conversations. We'll try our level best not to interrupt this morning, but this afternoon I can assure you we'll probably be jumping in because there's a lot of information to cover and time for some of the panels is shorter than perhaps would be optimal, so we may want to get right to the heart of the issue. But this morning we'll defer to our august panel.

Our first panelist is Bill Massey. He's a partner at Covington and Burling in Washington, D.C. where he focuses on energy regulation and government affairs. He has extensive experience with regulatory issues before FERC and with regard to legislative matters before Congress and numerous state general assemblies. Most recently he served as a commissioner at FERC for more than ten years, and Bill advises investment firms, utilities, independent power producers, pipelines, project developers, customers, marketers, and energy companies on a wide variety of energy matters including mergers and acquisitions, market structure, competition policy, which is near and

1 dear to my heart, transmission and
2 infrastructure investment, enforcement
3 investigations and legislative strategy.

4 Our second presenter today, and they
5 worked out their own order of presentation so if
6 I've gotten it out of order, I apologize in
7 advance, is Phil O'Connor. He is the President
8 of PROactive Strategies, a provider of policy
9 analysis and advice on insurance and regulation.

10 Until November of 2008 he served as
11 vice-president of Constellation New Energy,
12 Inc., a provider of competitive retail
13 electricity. From March of 2007 to 2008 he
14 served at the U.S. Embassy in Baghdad, Iraq as
15 an advisor to the Iraqi Ministry of Electricity.
16 Dr. O'Connor served as the Illinois Director of
17 Insurance from 1979 to 1982, and from '83 to '85
18 Dr. O'Connor was the Chairman of the Illinois
19 Commerce Commission, the utility regulatory body
20 of Illinois, and he served on the Illinois State
21 Board of Elections from 1998 until April of
22 2004. After 1985 he formed the Palmer Bellevue
23 Corporation, an energy and insurance consulting
24 firm that became part of Coopers & Lybrand in
25 1993, and he also serves as a board member of

1 the Big Shoulders Foundation for the Schools of
2 the Archdiocese of Chicago, and is a member of
3 the Board of Haymarket Center in Chicago.

4 And lastly but certainly not least is
5 Pat Wood. Pat serves as the principal of Wood
6 III Resources, energy infrastructure developers,
7 since July of 2005. From 2001 to 2005 Mr. Wood
8 served as the Chairman of the Federal Energy
9 Regulatory Commission. From 1995 to 2001 he
10 chaired the Public Utility Commission of Texas.
11 And prior to '95 Pat was an attorney at Baker &
12 Botts Company, as well as a company in Jakarta.
13 And Pat currently serves on the Board of
14 Directors of Quanta Services, Inc., SunPower
15 Corp., and Dynegy.

16 And with that, gentlemen, I'll turn
17 it over to our first speaker, and it looks like
18 Bill, you're going to be first this morning. So
19 thank you very much, and we look forward to your
20 comments.

21 MR. MASSEY: Mr. Chairman and
22 Commissioners, thank you for that very gracious,
23 introduction. I see that my PowerPoint is
24 posted for all to see. Thank you for inviting
25 me to speak here. The movement to competitive

1 markets is something I have been involved with
 2 for 20 years now, and for me personally it's, I
 3 think, a labor of love because I believe it's
 4 the right thing to do. I believe it's the way
 5 to capture the greatest efficiency in customer
 6 benefit around the country, and so I am
 7 fortunate to be here today on behalf of the
 8 COMPETE Coalition. I serve as counsel to the
 9 Coalition. I left FERC in December of 2003 to
 10 start a law practice and helped organize the
 11 Coalition in 2005. We began with seven members
 12 and it's organized around a very simple
 13 principle, and that is that competitive
 14 electricity markets at both the wholesale and
 15 retail levels are the best way to achieve the
 16 maximum customer value. That is where we stand.

17 We now have more than -- if I could
 18 flip. Do I need to do this myself? There we
 19 go. Great. We have now more than 740 members.
 20 It is a diverse coalition. We have almost 200
 21 large customer members that support competitive
 22 electricity markets. Virtually all the demand
 23 response providers are, well, not all, but a
 24 number of them are members of the COMPETE
 25 Coalition. We have renewable companies,

1 technology companies, SmartGrid companies,
2 utilities, power producers, and transmission
3 companies that are members of the organization.
4 So it's a very diverse coalition of stakeholders
5 that participate in the debates in Congress, at
6 FERC, and in state capitals around the country.

7 We have 57 customer members with more
8 than 3,600 facilities in Ohio. Here are the
9 customer members of COMPETE Coalition that
10 actually have their headquarters in Ohio. You
11 can see the list here including Big Lots,
12 Macy's, National Church Residences. We're
13 pleased that the Divine is interested in
14 competitive markets. And there on the next
15 slide, if I can go there, are the customer
16 members with facilities in Ohio and there are
17 actually three of these slides to get all of
18 them on here. Just for your reading, I don't
19 want to go through all of this right now, but I
20 wanted you to understand that we have a lot of
21 members that do business in Ohio and support
22 competitive electricity markets. So there are
23 actually two slides or three slides with those
24 members.

25 I have some Ohio customer member

1 quotes, a quote from Russell Subinske, I hope I
2 haven't botched his name, Senior Director of
3 Energy at Wendy's: "Electricity competition
4 delivers lower prices, better service, and a
5 variety of pricing options that are tailored to
6 our specific needs and electricity usage."

7 Alan Mileti with National Church
8 Residences: "Our organization greatly benefits
9 from the energy cost savings we achieve through
10 participation in competitive electricity
11 markets. We get better service and innovative
12 products."

13 And Steve Elsea with Lowe's
14 Companies: "Competitive electricity markets
15 promote greater efficiency and reliability in
16 electricity supply that enables customers like
17 Lowe's with the ability to better control our
18 energy cost while maintaining a comfortable,
19 well-lit environment for our customers."

20 And these sorts of statements abound
21 within the COMPETE Coalition. Our customer
22 members are quite bold in their support for
23 competitive electricity markets and their
24 preference for markets, their preference over
25 the choices in markets rather than a

one-size-fits-all.

Why do they support competitive markets for electricity? Here is some data from the Energy Information Administration of the U.S. Department of Energy, and this goes back a 16-year period from 1997 through 2012, so during that 16-year period the data show that in all sectors at retail, the competition states, the 17 states of the District of Columbia that have competitive retail electricity markets, the rate of change for electricity prices in those markets is significantly lower than it is in the monopoly states. You can see in all sectors there's an 11 percent difference. When adjusted for inflation in the restructured states that have competitive markets, prices actually decline by 4 percent when adjusted for inflation over the 16-year period. They went up 7 percent in the other states. So that's an 11 percent difference, and you can see it's broken down by sector below on the slide, but there's between a 10 percent and 13.3 percent difference in the price, in the rate of change in the prices in all sectors with competitive markets winning that battle by 10 to 13 percent across the

country. I think that is very significant as you consider next steps. Competitive markets are a way to keep cost for customers as low as possible.

Some other points our customer members tell us, and these positions are simply taken from what we have heard our customer members say and write about the value of competitive markets. They like the fact that in competitive markets the risk of bad business decisions falls on the suppliers, not on the consumers. So a whole bunch of costs aren't just shoved in rate base. If the supplier makes a bad business investment, that supplier bears the risk of that investment. This lowers the consumers' financial risk, and our customer members very much like the fact that in the competition states the suppliers are really focused on the needs of the customers. They want to craft products and services that the customers want rather than simply a one-size-fits-all. They like flexible contract lengths and other contract terms that are flexible. They can purchase risk management products to hedge their risks. They like the

1 diverse generation portfolio mix that they can
2 get in the competition states, and they like the
3 on-site services that suppliers are willing to
4 provide them. So they generally like the
5 flexibility; they like the customer focus in the
6 markets.

7 My next slide, Innovation. If you
8 think about it, it just makes sense that an open
9 platform where all providers of services can
10 meet in an open market to provide their services
11 is really the best way to get the kind of
12 innovation in the electric power industry that
13 we want to see. And in fact, innovation may
14 transform this industry over the next 10 to 15,
15 20 years with distributed generation resources
16 such as rooftop solar, in storage advances that
17 innovators are working on, with the concept of
18 prices-to-devices, which is basically the system
19 operator being able to see all sorts of
20 appliances on its system. I've heard the PJM
21 representatives talk about this concept and how
22 PJM would be capable of seeing millions of
23 devices in homes and businesses across the PJM
24 footprint, and these devices would then become
25 storage devices and ways to follow load and

1 adjust consumption in real time.

2 Consumers get more alternatives to
3 meet their energy needs, and they like the fact
4 that the suppliers and other service providers
5 want to be innovative in meeting their needs.

6 We believe that innovation is best
7 served by level platform, by markets, by
8 non-discriminatory rules, and we believe that
9 customers ought to get to choose the products
10 and services that they want. So innovation is a
11 very big theme within our discussions of the
12 COMPETE Coalition. Our members very much like
13 the innovative demand response providers that
14 flourish in markets, and they believe markets
15 provide a superior level platform for the
16 advance of SmartGrid technologies as well.

17 Environmental goals. A few years
18 back the COMPETE Coalition and the Environmental
19 Defense Fund negotiated a policy statement that
20 recommended, quote, market-based mechanisms both
21 to encourage the efficient operation and use of
22 existing and new resources and to achieve
23 environmental improvements through conservation
24 and biddable demand response. Our members
25 believe that the best way to achieve our

1 nation's and state's environmental goals is
2 through competitive markets, and retail
3 competition can be structured in an efficient
4 way to attain renewable energy goals as well.

5 One more. In Pennsylvania, just a
6 couple of examples, the American Lung
7 Association is advocating that customers switch
8 to competitive suppliers offering clean wind
9 energy. In New Hampshire, Empower NH, a
10 coalition promoting shopping, advocates
11 switching because it helps support cleaner
12 resources, quote, creating a virtuous circle.
13 More competition leads to cheaper electric
14 bills, leads to less energy coming from
15 polluting coal plants. And now stealing some of
16 Phil O'Connor's data: competitive providers
17 supply 68 percent of eligible non-residential
18 demand and 31 percent of residential demand in
19 the 17 states and the District of Columbia that
20 allow retail competition.

21 From 2008 to 2011, a time of flat
22 demand growth, it's amazing, electricity load
23 service competitively grew by 40 percent, and
24 customer accounts served under recent retail
25 choice grew over 53 percent across the country.

1 So the message is when you give customers a
2 choice, they take it. They like shopping and
3 want to be able to choose their supplier.

4 Here's another study. For the second
5 year running JD Power & Associates found a
6 higher level satisfaction among customers in
7 Texas with choice; electric choice, quote,
8 opened the doors to healthy price competition
9 and also focused residential customers on
10 finding the cost savings and service programs
11 that match their needs. There's similar data
12 from New England about support for competitive
13 choice.

14 And let me also say that Ohio is in
15 the enviable position by being served by one of
16 the most robust, well-structured regional power
17 markets in the world: PJM Interconnection. We
18 all know that an excellent wholesale market
19 platform provides the foundation for a good
20 retail market and so I believe Ohio is well
21 positioned to move forward at the state level to
22 implement the choice programs that you want to,
23 because you get these timely price signals in
24 PJM: an independent administration, a level
25 playing field where all services can compete, a

1 large regional scope, 180,000 megawatts across
2 the region, and an independent marketing to make
3 sure that everybody plays fair and everybody
4 plays by the rules.

5 Just in closing, COMPETE adopted some
6 customer principles that we urge both the state
7 and federal levels to guide decision making.
8 They're general but they're important. The
9 first one, accurate and transparent price
10 signals are absolutely critical. So federal and
11 state policies to achieve that goal are
12 critical. Open the markets to all market
13 participants. A 10 percent cap in Michigan
14 makes absolutely no sense at all. Make sure
15 your markets are open to all. Make sure the
16 rules are non-discriminatory. Our members have
17 concern about non-bypassable charges to pay for
18 legacy generation costs. But we have concerns
19 about subsidized resources, and this was brought
20 into focus by the New Jersey and Maryland plans
21 to choose favored generators, give them 15-year
22 contracts, subsidize them, and distort the
23 prices in the capacity markets, and COMPETE is
24 very concerned about those price distortions.
25 Open the markets to all resources. Don't limit

1 them to certain vintages. And we believe in
2 long-term resource adequacy. Texas is debating
3 this now. It's being debated many different
4 places. It ought to be a market-based system
5 and where it's appropriate, the COMPETE members
6 support a capacity market. They have been
7 supporting PJM capacity market for a number of
8 years. And then competitive markets must have
9 clear and transparent rules. Effective
10 independent oversight is also one of our
11 principles.

12 I think it's important to point out
13 as you move forward, restructure doesn't mean
14 deregulate. The term deregulated is thrown
15 around, but in our view it is a misnomer because
16 there remain in place in all competitive markets
17 market rules that all market participants have
18 to abide by. The prices charged must be in line
19 with regulatory policies and ensure against
20 market power. There are independent monitors
21 watching the market participants with
22 substantial penalties for violations.
23 Regulators ensure that adequate resources are in
24 place. The bulk power system is subject to
25 comprehensive reliability regulation; and for

1 changes of control, disposing of assets, in
2 general regulatory or approvals are required. A
3 lot of financial transparency. So even in the
4 marketplaces, there remain in place clear market
5 rules.

6 So in our view restructuring is a
7 good term to use because there remain in place
8 market rules that ensure good behavior and
9 ensure the kind of standards that will promote
10 pro-consumer outcomes.

11 So in conclusion, our point here
12 today is that competitive markets are the best
13 way to move forward. Our message to the Ohio
14 Commission is keep moving forward. You're
15 headed in the right direction. We know you have
16 some technical issues you want to resolve in
17 this hearing; we urge you to do that and
18 continue to move forward because it's the best
19 way to provide the customer value that you're
20 looking for.

21 Thank you Mr. Chairman and
22 Commissioners.

23 CHAIRMAN SNITCHLER: Great. Thank
24 you. We'll hold our questions until all three
25 panelists have gone, so Dr. O'Connor, the floor

1 is yours.

2 MR. O'CONNOR: Mr. Chairman and
3 members of the Commission, thank you very much
4 for inviting me to suit up one more time with my
5 dotage. I should note that we don't want to
6 mislead you by thinking that the order of
7 appearance in this panel has anything to do with
8 content. We decided in ascending order of hair
9 length we would go. I've distributed copies of
10 the slides and related paper, so I'm not going
11 to belabor these slides in detail. I also have
12 40 copies over here on the tables for anyone who
13 might want them. And if I'm so fortunate as to
14 run out of them, then I'm happy to E-mail them
15 to people if they catch me afterwards.

16 Even though this slide says that we
17 have some lessons from more than a decade,
18 really a decade and a half of development and
19 customer choice, my perspective on this is sort
20 of a 30-year one. It was when I was dealing
21 with the Commerce Commission in the mid '80s we
22 actually, as a commission, delivered what many
23 think to be the first paper advocating the
24 movement toward competition, and we did so on
25 the basis of experience that we'd already been

1 having in natural gas in Telecom where we saw
2 customers taking to choice, as Bill says, very
3 quickly.

4 So what are some of these key
5 lessons? Particularly you want to think of them
6 as rules in the road as any state, particularly
7 Ohio, you know, moves toward more complete
8 customer choice. The first is that be wary of
9 half measures. I think one of the things we
10 learned is that, you know, back in the mid to
11 late '90s as we got into this, it was a case of
12 first impression. The electricity, it was new,
13 so there were a lot of belts and suspenders and
14 safety nets and so forth and so on. But I think
15 as a general matter those have proven either to
16 be pretty much unneeded, but worse, they often
17 proved to simply delay the delivery of
18 competitive benefits to customers, particularly
19 smaller customers.

20 The other lesson is that, and we
21 still have this debate going on, I know, in
22 Michigan, these four concerns that are on this
23 slide here have been presented as fact, which is
24 the prices are more volatile in retail
25 competitive states; that the price trends in

1 retail competitive states are less favorable to
 2 customers or disadvantageous; there's the claim
 3 that in customer choice jurisdictions that there
 4 will not be adequate certainty for investment in
 5 generation, therefore, there will be reliability
 6 problems; and the utility credits will be
 7 damaged. A little bit later on I address all
 8 four of those. So we've addressed them all in
 9 an empirical way and all failed empirical tests
 10 rather dramatically.

11 The other thing is that when we talk
 12 about retail, small retail customers, small
 13 business and residential, I think what we found,
 14 and I should have known this as somebody that
 15 lives in Chicago even though I went to
 16 Northwestern for graduate school, is that the
 17 University of Chicago, School of Economics tells
 18 us that transaction costs are quite significant
 19 in such matters, and I think we've learned that
 20 but we have also learned how to deal with those.

21 And finally, and I think this is
 22 terribly important, is that when we look at
 23 states that have moved into robust competition,
 24 what we find is that the advocates of customer
 25 choice and the utilities have found common

1 ground. And one of the ways of finding common
2 ground is to really bend over backwards to give
3 as much flexibility as possible to utilities in
4 their efforts to reorganize, to participate in a
5 competitive market, and to devast or otherwise
6 spin off, I call it jumping the wall, of their
7 generation to affiliates. The more degrees of
8 freedom that they have in that regard, I think
9 the faster this will move.

10 The other thing is, you know, this is
11 not to blow smoke at you, but I thought your
12 process here is timely for two reasons. One is
13 that you fully recognize that customers are
14 showing an appetite in Ohio for more choice and
15 you want to move things along, and you recognize
16 the importance of bringing some certainty and
17 order and uniformity to all of this. And to say
18 that there's not adequate uniformity now is not
19 a criticism, because basically in every state
20 this has always been a utility-by-utility
21 phenomena and that's just the way regulation is
22 set up. It's the way things are played out.
23 And only over time do you get to the level of
24 standardization and uniformity that is most
25 conducive to choice and I think you recognize

1 that you're probably on the cusp of needing to
2 do that.

3 The other big thing is that, and this
4 is just Phil talking here, is I think we are on
5 the verge of another wave of restructuring. The
6 reasons, I think, are fairly obvious. The shale
7 gas revolution has up-ended all of the old cost
8 formulas. You know, a lot of capital, cheap
9 fuel. Well, things aren't working out quite
10 that way anymore. It turns out to be almost in
11 the inverse. The other thing is traditionally
12 regulated states are rapidly losing what they
13 regard as has been a long-term price advantage.
14 Just look at Indiana. Indiana lost its position
15 as the lowest price state in the upper midwest.
16 Ohio is hot on Indiana's heels. The other thing
17 is that because of the shale gas revolution and
18 other things, such as the age of the coal
19 plants, you know, we're on the verge of some
20 very big investment decisions, and the
21 fundamental choice is do you deal with these
22 investments in the traditional way, which is
23 have customers bear an awful lot of the business
24 risks, or do you have investors and plant owners
25 and operators bear that risk as we do in most

1 other industries?

2 Bill's already spoken to this, and
 3 you see it yourselves, is that when customers
 4 get the chance to choose they do. Now, I use a
 5 somewhat more narrow database than COMPETE does.
 6 We focus on 14 jurisdictions that have robust
 7 competition. We treat as hybrids California,
 8 Michigan which, you know, everyone knows that
 9 they don't really have robust competition, but
 10 what we see is, so far, it's been a regional
 11 phenomena. If we take Texas out of the mix,
 12 this has been in the northeastern quadrant of
 13 the United States, that competition has
 14 developed in a robust way, but that still counts
 15 for one-third of all the electricity usage in
 16 the country, and within those 20 states, if we
 17 look across the nation, about 20 percent of the
 18 nation's electricity usage is handled through
 19 non-utility providers, the various kind of
 20 contracts, whether it's municipal aggregation or
 21 bilateral contracts.

22 The other thing is that in this
 23 period of economic softness, 2008 on, while
 24 electricity usage remained relatively flat, the
 25 amount of electricity served by non-utility

1 providers has grown by more than 50 percent,
 2 and that's really quite a story. So these are
 3 just, I hope, pretty pictures that kind of
 4 indicate the concentration which, I think, is
 5 interesting because what it shows is that an
 6 entire region of the country, with the exception
 7 of a few states, is operating on the basis of an
 8 open market. We see the rather dramatic upsurge
 9 in customers moving to choice. Now, we have
 10 gone from about 488 terawatt hours to -- I'm
 11 sorry, yeah, terawatt hours to now about 740,
 12 which is very substantial. We see that in the
 13 various sectors of residential, commercial,
 14 industrial. It's been an upward trend line on
 15 all of them. And when we look in some other
 16 states, my favorite of course being Illinois, we
 17 see that more than 90 percent of the load is now
 18 being served by non-utility suppliers. Even our
 19 default service is serving a relatively small
 20 portion of the overall market and a minority of
 21 the residential customers in the state. The
 22 entire City of Chicago, for example, is on
 23 Muni-Ag, although at my house we actually buy
 24 on, you know, a bilateral basis from a provider.

25 Actually, these trend lines don't

1 include another 7 or 8 percent of load which is
2 accounted for by hourly; that's of the
3 industrial-commercial. So counting hourly load,
4 which is really not utility supply, we're up to
5 about 93 percent of all the load in Illinois
6 being served on, you know, on the basis of
7 non-utility suppliers.

8 I'd like to focus very quickly on
9 these four key arguments, and let me state these
10 more in the affirmative, which is that there is
11 no statistically significant difference in price
12 volatility at the retail level between choice
13 and monopoly states except for one period of
14 time, and that is '08 to '13 where we find
15 statistically significant lower retail price
16 volatility in the 14 competitive states. And if
17 you want to look at this next slide, I'll go
18 back to this other one. Look over to the
19 right-hand corner at the numbers with the
20 asterisks. This is the coefficient of variation
21 for the weight of the price volatility. In
22 other words, we take all the kilowatt hours of
23 the 14 competitive states, all the kilowatt
24 hours of the 30 noncompetitive or traditional,
25 and then all the kilowatt hours of the five

1 hybrids. And we do find statistically
2 significant lower coefficient of variation in
3 the 14 jurisdictions.

4 So what you get, unfortunately, and
5 this has been particularly the case with the
6 utilities in Michigan, they show the
7 Commissioners wholesale volatility. They say
8 see, look at that. That means that these poor
9 residential and other retail customers are
10 suffering this volatility. Well, of course,
11 they're not. We all know that people buy mainly
12 fixed price products and they hedge out that
13 volatility, and it turns out by doing so they
14 have had statistically significant lower price
15 volatility than in the traditional states.

16 Let me go back. The second thing is
17 that choice state price increases in the period
18 '97 to '13 were lower than inflation, while
19 monopoly states were higher than inflation.
20 That's a somewhat different way of commenting
21 on what Bill said, and I'll get on to that
22 thought in just a second. The other thing is
23 competitive states have attracted substantial
24 generation investment and have done so where
25 it's warranted. And if we look at the upper

1 midwest as a case study, we're going to see
2 that. In fact, people have been pointing at
3 Texas, saying, oh, my goodness, there's going to
4 be this reliability there, they don't have
5 enough generation. It's interesting to note
6 that since '97 Texas has added, added more
7 generation than the entire State of Michigan has
8 in place today. So I mean, these things fail in
9 the face of actual data.

10 And then finally, the differences in
11 utility credit ratings between choice and
12 monopoly states are not significantly different
13 from the statistical basis. So let me just move
14 very quickly. I'm going to move to this price
15 slide. If you look in the upper left-hand
16 corner at the numbers, I think that sort of
17 tells the tale. There's a 23 percentage point
18 difference between the nominal percentage
19 increase in the period of '97 to '13 in the
20 competitive states. That's 35 and a half
21 percent compared to the more than 58 percent
22 nominal increase in the 30 traditional states.
23 And that comes to about a 15 to 16 percent swing
24 difference when you go to real deflated
25 numbers. So actually, about a negative 8

1 percent price increase in that period of time in
2 the competitive states versus about the 7 and a
3 half percent real increase in the 30
4 competitiveness, in the competitiveness -- I'm sorry,
5 in the traditional. So the traditional states
6 are not really helped out, particularly if you
7 add in the five hybrids. So again, if you go to
8 the real data, you see a different story than
9 the contention.

10 These next four slides are just a
11 quick illustration of what this looks like. If
12 you look at the blue line, that is the all
13 sector line. So you can see that up until about
14 '08, all of the states in the national average
15 had moved up pretty much in tandem. As we get
16 to this shale gas revolution and the fall-off in
17 demand, the electricity in the competitive
18 states behave like a real market, right? If you
19 have less demand for something, the price comes
20 down. Traditionally, of course, in utility
21 regulation, if the demand falls, what do we do?
22 We raise the prices. I used to tell people that
23 as a regulator my day was not complete until I
24 distorted some prices. And we see the same
25 thing with the residential line.

1 Well, if we look in the upper
2 midwest, it gets very interesting. Ohio is that
3 middle purple line, and this is cumulative
4 percent increase, okay. So ever since Ohio has
5 sort of determinedly gotten into advancing
6 customer choice, your price increases have
7 basically gone away. They have flattened out.
8 If you look at Illinois where we have more
9 robust competition for a longer period, you see
10 that the prices have been coming down. Our
11 friends in the region, Indiana, Wisconsin, and
12 Michigan, all have seen substantial rate
13 increases on a percentage basis and on a nominal
14 basis. And again, we see our friends in
15 Michigan, prices are going through the roof, and
16 we see where Wisconsin has been going up. I
17 mean, it's not been a pretty picture.

18 One of the ways I have tried to help
19 our policymakers in Illinois get a feel for the
20 value of choice, and I'm not attributing all of
21 this change to choice, but it is at least
22 coincidental, which is that Illinois was always
23 well above the national average prior to 1997
24 when we instituted choice. Since choice
25 actually kicked in in the middle of '98 and the

price effect, if we compare our actual prices in the state, which is that red line, the average price, these are all EIA numbers so Phil hasn't monkeyed with them, and we look at that blue line, which would have been the prices if we had had the traditional relationship to the national average, about 9 percent, 10 percent premium, that's about a 36 to 37 billion dollar delta as we sit here today.

Now again, I'm not attributing all of this there, but nobody else has come up with a better explanation to drive those kinds of numbers than competitive choice. Well, what about adding generation? And again, I'm not going to belabor this, but we can see that all the states in the region between '97 and '11 have added fairly substantial amounts to their generation base. Ohio about 25 percent, Illinois 30 percent, so there's no disinvestment going on in generation during this period of time where you have different states following different regulatory models.

But one of the interesting things that has happened in Illinois, where again we've had a choice in more robust competition for a

1 longer period, the generation that has been
2 added has proven to be considerably more
3 efficient. So it's beginning to take a lot of
4 market share away in the region, and you can see
5 that the capacity factors have changed
6 considerably. So Illinois is actually the only
7 one where it's gone up.

8 Now, I'm not attributing that to
9 competition. What I am saying here is that the
10 claim that if you have customer choice there
11 won't be investment in generation and you will
12 have inefficient deployment of capital, if we
13 look at the case study, we see that that claim
14 does not hold up. So this is more a case of a
15 null hypothesis. In some ways it may not matter
16 what kind of regulatory regime you have, you
17 will have investment and generation if it's
18 needed, but it's certainly not the case that you
19 see generation investment go away. And the
20 other thing is Illinois has become a major
21 exporter producing over 40 percent more than it
22 needs.

23 Utility credit ratings, they are what
24 they are. It turns out they don't differ really
25 from one place to the other. The only

1 interesting thing to note on this, in the right
 2 hand, in those states that are regarded by the
 3 rating agencies as less credit supportive, in
 4 the competitive states we have higher credit
 5 ratings for the utilities than you do in the
 6 more credit supportive states that are
 7 competitive. Very interesting.

8 So what does all this suggest about
 9 Ohio at this point? Well, the first thing is
 10 have as clear a statement of your philosophy as
 11 you can. You know, one of the frustrations in
 12 being a commissioner and, you know, you already
 13 have the lawyers telling you don't do this and
 14 don't do that; my advice is don't listen to
 15 them. State your philosophy. You aren't just
 16 judges; you are experts, and as experts you're
 17 in a position to chart a pathway. You know,
 18 you shouldn't do it in an egotistical way, you
 19 should do it as you're doing, checking with
 20 people, testing out your ideas; but you really
 21 want to state a clear policy where you think you
 22 need to go. People will get in line once you do
 23 that. So clarity of purpose is important, and
 24 above all, you know, you do want to make clear,
 25 and I think you are really starting to do this,

1 this dichotomy between the ESP and the MROs has
2 got to go. It's just too confusing. It's
3 always holding out this possibility that it
4 might turn around and go the other direction.

5 As I said earlier, you want to
6 facilitate both the investment and evolution of
7 generation and corporate reorg. You want to try
8 to get rid of cross-subsidies in the
9 cross-classes to the extent they still exist.
10 And by the way, we should all acknowledge that
11 the big beneficiaries here when we get rid of
12 these cross-subsidies are going to be the
13 commercial customers. They have always been the
14 ones who have gotten the short end of the deal.
15 And it's important to get away from the notion
16 of a regulated price for default service. We'll
17 turn that over to the market. We have done it
18 in Illinois. It's been done other places. It's
19 quite doable, and I mean, the devil is in the
20 details, of course, but you just have to pay
21 attention to what the lessons have been.

22 At the more specific level, you know,
23 my preference is for, you know, auctions where
24 you're doing tranches of classload that let the
25 wholesale price translate directly into a retail

1 price under a formula rather than, frankly,
 2 having the temptation to monkey with it. You
 3 want to make sure customer data is timely and
 4 accurate, that utilities can provide the
 5 customers who can, of course, make it available
 6 to competitive suppliers, and that really works
 7 for the utilities as well. You want as much
 8 seamless enrollment as possible, particularly at
 9 the residential level with internet sign-up and
 10 so forth. I think contract portability is
 11 interesting.

12 I think one of the things to make
 13 sure, though, is that the alternative suppliers
 14 are not the obstacle here as well. You know,
 15 you have all heard this as Commissioners,
 16 whenever you want to do something, utilities
 17 say, well, we'd love to but our billing system
 18 won't let us. Well, you may get some of that
 19 from the competitive suppliers as well. And
 20 again, it's a question of your philosophy. Once
 21 you make your philosophy clear and what it is
 22 you think you want to do, as long as you have
 23 some knowledge of the practical problems, these
 24 things will get done. And purchase or
 25 receivables I think has proven to be important,

1 but it has to be compensatory. You can't have
2 an unrealistic discount level.

3 So let me thank you again, and I'll
4 stop here and turn it over to the man with the
5 hair.

6 CHAIRMAN SNITCHLER: Pat, I believe
7 that means you're next up.

8 MR. WOOD: All right. Great. I'm
9 thrilled to be here, Chairman and Commissioners.
10 I have not been in these hallowed halls before
11 but I have virtually many times. Your
12 predecessors here were probably, along with the
13 New York and California Commission, the people I
14 looked up to the most in helping me do my job as
15 a Texas commissioner. Our comradery with the
16 mid '90s and the early double naughts team from
17 Ohio and Mid-American Regional Commissioners
18 were some of the closest and best friends that I
19 have got, and I really am honored to see what
20 you all have done with the legacy they laid back
21 in the days, and with the 2001 statute what you
22 all have been able to do with what is admittedly
23 a tough-to-work-with statute. I know that was
24 written in a caldron of the western energy
25 markets aflame. The fact that Ohio passed a

1 section at all I considered, when I was up close
2 and looking at it from afar, sort of a
3 miraculous event; but understandably, I remember
4 talking to Craig Grazner in the early 2000s
5 saying, hey, look, with marginal cost of
6 electricity higher than embedded cost of
7 electricity, why in your crazy mind would you
8 ever contemplate going retail competition? For
9 the points that particularly Phil just talked
10 about, that's flipped.

11 Marginal cost, the cost of adding a
12 new unit of electricity, is less than the
13 embedded cost and is getting more and more so as
14 the embedded cost in our neighboring states are
15 going up. You're at the right time to do it.
16 You're doing it the right way. You're doing it
17 thoughtfully. I was blown away. And I met the
18 Chairman of the Commission, I met the Chairman
19 back in Donna Nelson's office, the Chairman of
20 the PUC of Texas, about three years ago and we
21 hit it off and got to talking about markets and
22 structure and continued that over dinner. But I
23 had no idea. I hadn't kept up with the detail
24 level until I was invited to come today. I had
25 no idea the type of progress you had made in the

1 state, the collaborative nature of the people in
 2 this room. It just reminded me so much of the
 3 halcion days in Texas; that you're asking a lot
 4 of questions, you're engaging, you got a vision
 5 of where you want to go, you got a governor
 6 who's backing you up. All those recipes; and
 7 you have got a hell of a lot of gas underneath
 8 your ground and the states next door which bodes
 9 for a very comfortable market to be making the
 10 marginal cost less than embedded cost bet, which
 11 opening up competitive markets is all about.

12 A reminder. I think Phil put it
 13 best. What's the reason you're doing this? Say
 14 it to yourself often. Say it to the people in
 15 this room and beyond often. Why are you doing
 16 it is the same reason that a certain governor of
 17 Texas told me 17 or 18 years ago in his office
 18 with a nicer looking pair of cowboy boots
 19 propped on his desk than I was having on my
 20 feet. The reason we're doing this, Pat, is
 21 better prices, yeah, better customer service,
 22 yeah, better technological innovation, yeah. He
 23 said I've heard that, I believe that, that's why
 24 we're doing this, but we're doing telephone and
 25 electric at the same time, so it was a little

1 busy and it was the telephone activity that
 2 brought me probably in the closest contact with
 3 the Ohio Commissioners at the time. He said but
 4 the real reason we got to do this, Pat, is those
 5 people, the utilities, the people you regulate
 6 care more about what we in this building,
 7 meaning the state capital, think than what their
 8 customers think. And that's wrong. And you're
 9 going to change that. It's all about the
 10 customer. I think as long as you remember the
 11 first word of your name on the back of that wall
 12 which is the same one that was on my wall is the
 13 Public. It's not maternalistic to do things
 14 that the public is not clamoring for, but by
 15 looking down the road you're doing the right
 16 thing.

17 You've got to have three things to
 18 make that restructured market work, though, and
 19 these are the ones that was on my board six
 20 years in Texas and four at the FERC: robust
 21 infrastructure, balanced market rule, and
 22 vigilant market oversight. What's great for you
 23 all is you have a wonderful partner in that
 24 effort with PJM. I think very highly of the
 25 efforts that have been done. I'm thrilled that

1 FE, you know, not that there's anything wrong
2 with MISO, but that FE was able to unify for
3 Ohio by their switch back to PJM even though
4 they helped start MISO which was something the
5 lawyers praised them for doing, but to really
6 join up here and allow this state to be under
7 the aegis of one RTO is very important. So you
8 have got a great ally in the infrastructure,
9 market rules, and oversight function that are
10 really critical to making competition work for
11 customers.

12 I do think in my experience, and I'm
13 just going to lay out some thoughts, a page and
14 a half of thoughts real quick and jump into what
15 I hope are some questions from you all, whatever
16 questions to help. We're apostles for the
17 future market and we want to be able to help you
18 folks that are on the front ground of it doing
19 better. And I should say, I was so discouraged
20 and disappointed by what happened in Arizona
21 last month, but, hey, in Ohio take advantage of
22 that because you're the best-looking girl at the
23 dance. There's nobody else -- no one else is
24 paying attention anywhere except for here, and
25 I'm thrilled at how far you folks have come in

1 opening up the market. And so, therefore, I
 2 think it's time to really think about what's
 3 next. A lot of the ground blocking and tackling
 4 has been done and you ought to celebrate that.
 5 It's a great season to celebrate a lot of
 6 things, but celebrate that and think about where
 7 you're going.

8 I'm going to throw out a couple of
 9 thoughts on that. Structural fixes are much
 10 better than behavioral ones. Disaggregation of
 11 companies are a lot better than codes of
 12 conduct that have to be policed. Affiliate
 13 rules are okay if you have to. We had to make
 14 some compromises in Texas because we're not a
 15 state that likes the word divestiture. It
 16 doesn't synchronize with the color of red too
 17 well, so it was one we had to work around.
 18 Curiously enough, the utility saw how bristling
 19 the affiliate rules were and decided they can
 20 go ahead and structure the move anyway. So they
 21 chose to do it. When they choose to do things
 22 it works out a whole lot better than when it's
 23 shoved down their throat. I think we all know
 24 that lesson. It's definitely the way it works
 25 here in America a lot better.

1 A relentless push on a technology
2 platform to reduce the cost of doing business
3 for a competitive retailer, and that's a
4 comprehensive type thing and I suggested to the
5 chairman ahead of time that, and if my buddy
6 Powelson is listening on the phone, I think it's
7 past time for Ohio, Pennsylvania, Illinois, and
8 Michigan to get together and say, with the
9 retailers and utilities, let's get a common set
10 of protocols that work across the competitive
11 states of PJM and whoever else, that would be
12 Jersey and the others as well, but PJM and MISO.
13 Let's get a common billing interface, a common
14 EDI interface, a common set of protocols for
15 transfer of information so that the wholesale
16 settlements and the retail settlements are
17 relatively seamless.

18 I'm not one to ever promote the Texas
19 model but we've kind of broken a lot of pencils
20 and stuff on this effort trying to figure it
21 out. A lot of those people in those markets are
22 in these markets. I would suggest there's
23 probably some pioneers out there who pioneers
24 get shot and the settlers get the land. Be a
25 settler. I think we've learned some of this

1 stuff the hard way.

2 And I would standardize everything
3 under the sun. We started off that way with the
4 Texas Big Bang and I notice that in your July 30
5 comments from these proceedings that we're told
6 to be weary of the Texas model. I think the
7 typo was interesting but, and you're past that.
8 Had you chosen to do the Big Bang, which we're
9 going to do with all the utilities, not one by
10 one but do it across the board with a
11 standardized approach, but your statute didn't
12 allow that. We're past that. We're beyond
13 that.

14 However, it's still not a bad time to
15 consider how do you get to the next end game
16 because if you're going to just be rebranding
17 the utility service and you're going to have
18 skirmishes about, my lord, did I get a quarter
19 of an inch or a fifth of an inch on a logo on
20 somebody else's bill, you have lost the war.
21 You've got to plant that flag deeper in the next
22 territory which is, you know, the residential
23 service providers send you a bill with his name
24 on it. It's got the wire company's phone number
25 there. If you like you can call them, but if

1 you get advanced meter support, there's always
2 utilities people who are dying to go in your
3 state because that's the only way to grow their
4 rate base. They'll know it before you even
5 call. So you don't even need to call anymore,
6 so that kind of thing becomes less and less an
7 issue. But the end game is not a consolidated
8 bill. The end game is a direct retail customer
9 presence with the retail customer.

10 Now, you all had done some phenomenal
11 things that I wish we had thought about in the
12 day because it ended up being a more costly
13 transfer in Texas than it has been here so far.
14 The type of things that ease that transfer away
15 from the vertical market power of the vertically
16 integrated utilities to a competitive model,
17 such as municipal aggregation opt-out, we looked
18 at that and considered not to do it. But
19 looking at how it's worked here with Amron, with
20 our industry for an acquisition of Amron retail
21 business last week in Illinois, we learned a lot
22 about how EDI works there. My gosh, what a
23 great way to start getting the market opened up.
24 It looks like you all have taken advantage of
25 that process here as well on the residential

1 side. It probably doesn't make a lot of sense
2 on the larger customer side. Those folks like to
3 do aggregate billing across the state; they like
4 to do single management of their energy across
5 multiple premises and those type of things. It
6 works different for a bigger customer than it
7 does for a smaller.

8 But I notice some of the things
9 you're talking about this afternoon, the
10 purchase of receivables, I share Bill's point
11 that that's a service that can be offered. As
12 long as you have got a consolidated bill, that
13 probably makes a lot of sense. Again, that's
14 small ball. That's today's game. It's good.
15 You have all done great, better than we ever did
16 on doing things that kind of get that market
17 going.

18 The next game is the harder one and I
19 would, I think in parallel, do those things well
20 which you're doing now to open the market and
21 then be planning, however, on the big game,
22 which is moving to where the customer
23 relationship is, the big competitive service,
24 because that's how you lock in competition and
25 make it last forever when people have that

1 direct relationship with multiple companies that
2 are competing on price, service, and
3 technological innovation, on everything across
4 the board.

5 I would just, again, suggest getting
6 the EDUs, as we call them here, out of the
7 retail business altogether. I think once they
8 become purely focused on wireless business they
9 serve everybody equally and fairly, they start
10 to think about how can they innovate, how can
11 they grow their rate base, and as a regulator
12 they're going to ask you to do that. You
13 should want them to do that because there's a
14 lot of innovation to move to the grid enabled
15 future that we call, I think it's kind of silly
16 now, SmartGrids, but those basket of issues that
17 fall under the SmartGrid moniker are what
18 unbundled distribution utilities do and do well,
19 and we're seeing a lot of it in Texas.

20 It's exciting to see not only that we
21 got SmartGrid deployment across the state now,
22 but what is being done with it. The type of
23 things that Bill laid out in his comments are
24 really not too much tomorrow things; they're
25 today things. So I think this state with it's

1 wonderful history of manufacturing, you know,
 2 heart of the nation could certainly be that in
 3 the new economy as well. And it's going to be
 4 enabled, however, by the foundation that you
 5 lay. That's a big responsibility as economic
 6 developers of this state. That's really what
 7 this Commission is about: economic development.
 8 So if you're laying that groundwork through the
 9 foundations that you're building here with the
 10 new electric grid and unbundled wireless company
 11 that's relentlessly focused on what it can do to
 12 do that, it's an exciting future for a utility.
 13 They're happy, I think in fact they were more
 14 than happy to get the generation behind them out
 15 in somebody's else's hands, that retailing and
 16 all those wonderful but crazy customers over in
 17 somebody else's hands who like that and like to
 18 handle that, and let me focus on infracture and
 19 grid. It is a good job, it's got good returns
 20 as you all know and you people should want to do
 21 that.

22 So I do look at -- and again, reward
 23 that, reward that through the way you do rate
 24 designs to reward a wireless company for
 25 splitting apart and innovating that way. I

1 think that certainly the carrot is better than
2 the stick here.

3 On education, I know we're talking
4 about that here on the next panel. Your web
5 portal looked good. I think there's a lot of
6 good portals across the country. Again, I live
7 on the Texas one so people call me all the time
8 to talk about competitive offering. I kind of
9 think you're beyond this Price-to-Compare era,
10 and in reading the notes and in reading all the
11 discussion here, I think Phil alluded to it here
12 just a minute ago, it seems like last year's
13 issue. With the kind of penetrations and
14 removal from the incumbent team that you all
15 have already got, it seems like -- and again,
16 you're bound by your statute, and I'm not
17 advocating that you read your statute as
18 flexibly as our president is reading the federal
19 statutes because I don't know if you can, but I
20 would push it because I think you need to save
21 your limited regulatory dollars for the type of
22 things that are going to take a lot of grunt
23 work from staff, from Commissioners, from
24 parties on setting up this kind of new market
25 where the stand-alone thing happens.

1 So in looking at our statute in
2 Texas, it did say if it was over 40 percent then
3 certain deregulatory type things happen with
4 regard to the default rate. So it looks like
5 for most of your territories based on March
6 data, which is now almost a year old, it looks
7 like you're there in all but one or two. So I
8 would just say it seems like the market should
9 be setting the rate that customers are paying
10 here. You have got enough disaggregation here
11 and enough competition and certainly it's a
12 supportive wholesome market structure to allow
13 that to be effective.

14 I mentioned the great ideas you all
15 had in transition that were much better than we
16 had. In migrating the TDU, the transmission and
17 distribution utility, from protector which is
18 old model to enabler is kind of the word I want
19 you to take away with my suggestions on that.
20 As to your statute, if there is some opening of
21 it, I understand there's some statute that's
22 trying to alter other parts of the law with
23 energy efficiency and with renewables and the
24 like, if that's the case then I would certainly
25 use that opportunity to get the wiggle room to

1 standardize, to get uniform time lines across
2 all your Ohio utilities so you don't have these
3 individual rate cases that are inefficient for
4 utilities to prosecute and certainly inefficient
5 for the parties and Commission to deal with, and
6 you can deal with that on a rulemaking basis.

7 And then finally no back sliding. I
8 think the statute does allow for, as Phil
9 alluded to, I read it the same way, does allow
10 for some ability to kind of try to glue Humpty
11 Dumpty back together again in some dark future
12 that may never rise, but as you saw in Arizona,
13 the empire sometimes strikes back. So you want
14 to make sure that that empire is out of business
15 and we're going forward with a clean model that
16 leaves utility customers, generators, investors
17 with a lot of certainty about the Ohio model and
18 this is a great place to invest. We know what
19 the future is going to look like here, and I
20 think to me is a real attractive message in the
21 state that's relatively purple with people on
22 both sides that care a lot about economic
23 development.

24 True thorough cost unbundling, I
25 think, has to happen. That was really what a

1 lot of people tell me in Texas was our best
 2 thing, other than having the retailer, having
 3 the direct customer relationship and putting the
 4 TDU out of business. The second thing was that
 5 we set the TDU in our case, what we call EDUs
 6 here, we put the transmission and distribution
 7 utility rate clearly though a clear unbundling
 8 rate case and anything that was not related to
 9 transmission or distribution function, i.e.,
 10 generation, retail, energy services, et cetera,
 11 was out of the regulated tariff rate. It was
 12 out and it never came back. That was hard to
 13 do, because even if you come up with a
 14 development offer, all these people want to get
 15 back in the rate base. We just said no, that
 16 falls on the competitive side of the fence, it
 17 doesn't belong here. What goes in the tariff is
 18 here. If there are social calls like for energy
 19 efficiency, low income, et cetera, tariff those
 20 out, put them on the surcharge. We got a few on
 21 our bill broken out separately here. Customers
 22 can see what they are. We have a special
 23 surcharge for the hurricane restoration efforts
 24 with Hurricane Isaac in Houston, for example.
 25 So there are breakouts that are allowed and

1 permitted and people understand that. They
2 understand actually better on the electric side
3 than they do on the telephone side. I've never
4 gotten the difference. I never can figure out
5 why people scream about 19 cents on the phone
6 bill but \$9 goes through on the electric bill
7 and you never get any call. But that's for
8 another day.

9 Again, the bigger picture, keep
10 competitive entry easy for your creditors. They
11 are your avatars for your future. You want to
12 keep their cost of business low. You don't want
13 to be -- you don't want to subsidize it to where
14 you have an inefficient entry, but you do want
15 to minimize the various entries that either
16 maliciously, which I hope not, or exist kind of
17 inadvertently being put in place by the existing
18 incumbents. I think you've got to be
19 respectful, however, of the century of great
20 service that the incumbents have done. So I
21 think the Ohio way has always seemed to me to be
22 pretty balanced between both the old guys and
23 the new guys and I just say keep that up.

24 We did a centralized switch info for
25 when people switch from one customer to another.

1 We had a centralized database that we housed at
 2 ERCOT. It didn't have to be at ERCOT. I was
 3 just kind of the guy that was standing in the
 4 room when the legislature decided to start
 5 allocating things around, but that made
 6 switching easy for us. I know there's been an
 7 issue here with portability of contracts and
 8 what have you. These just have a little card
 9 that goes out to the person when they sign up
 10 with supplier A. They get a card from ERCOT
 11 that says we've got a switch order here. Just
 12 making sure you're okay with that. If you're
 13 okay with that, don't call back; if you aren't
 14 okay with that, call back. And so they'll get
 15 and catch people from being slammed around, but
 16 that was more in the early days of the
 17 competition when you had some of that telephone
 18 tactic kind of show up on the power side.

19 Shutting off for non-payment. That's
 20 a tricky one. I've been round and round with
 21 that for ten years. I finally got out of it
 22 because I wasn't a regulator anymore but that is
 23 a toughy, particularly in this consolidated
 24 billing format. It's probably a slightly
 25 different issue we got with the independent

1 format, but if somebody doesn't pay a bill what
2 do you do? I can address any questions about
3 that, but I can argue both sides passionately
4 well, but I always enjoy hearing what other
5 states do about that one because you all get a
6 lot colder here than we do and we get a lot
7 hotter here than you all do, so it's kind of one
8 of those things that whatever time of year it
9 is, that's when this issue comes up the most.

10 Your suppliers are key here and you
11 should give them all the info and support they
12 need to do their job. I think both my
13 colleagues are saying they should pay for it.
14 We learned that on Telecom. If you discount it
15 too low you get inefficient entry, but if you
16 tariff it and make the cost of a
17 utility-provided service, whether that's in a
18 billing or some sort of credit support, what
19 have you, if it's done at a market rate then
20 there should be no skin off anybody's back.

21 And I think one issue that we also
22 had to worry about was a little bit of a red
23 herring. I don't know if that's come here with
24 the municipal opt-out thing; keep everybody in
25 the boat together which I think actually was a

1 good thing for social policy. But the utilities
 2 have always been great about making sure
 3 everybody, whether they're rich or poor, kind of
 4 gets access to the resource. We want to make
 5 sure the competitive market does not
 6 disadvantage the poor, either the poor with
 7 dollars or the poor with information. So your
 8 education effort is addressed at getting the
 9 poor of information out. The poor of dollars
 10 part is either with the direct subsidy that's
 11 billed over everybody on the retail electric
 12 bill, or it comes from the legislature from
 13 another pot of dollars, but I'm not sure, it
 14 wasn't clear to me from my research what Ohio
 15 does on low income support for utility bills,
 16 but that should not be ignored, and it could
 17 fall on the wayside if it is not consciously
 18 looked at.

19 And enrollment, I did notice about
 20 the deal not being able to do it from, I think
 21 it said your wallet. Is that the word here? My
 22 wallet just carries around another 20 digit ESI
 23 ID. I know that's not the nice answer that all
 24 the retailers want, but I do have it here on the
 25 notepad, or the I-pad, that next to my credit

1 card number is that damn little 20 digit ESI ID
 2 that I use in Texas. Now, I haven't switched
 3 retailers for quite awhile since I got involved
 4 with the current one, but I do carry my ESI ID
 5 around for outages because I do sometimes need
 6 that to link to my -- I think I was able to link
 7 it to my driver's license or something, but I
 8 don't think Texas has the best answer for you
 9 all on that one there, but I will at least say
 10 we have an answer, just not one that anybody
 11 with an I.Q. short of Einstein can walk around
 12 and pull out of their wallet unless their wallet
 13 has the notepad already in there. So wish I had
 14 a better answer on that for you all. Sorry.

15 Portability. Again, we have not
 16 really faced that issue because of the retailer
 17 being the port of call. So when you move from
 18 this residence to that town, you just tell them
 19 you're moving and they'll handle that for you.
 20 So it actually works nice if you're moving
 21 between utilities. Now, I don't know that many
 22 people do that too often in their lifetime but
 23 at least it works that way. And I have to say
 24 when I hear about the POR discount that was
 25 equal to the uncollectable rate of the EDU,

1 hell, I'd take that deal. I look at, you know,
 2 my dad's cost of running a retail pharmacy
 3 business to charging credit business there,
 4 you're paying 3 percent to AmEx already. If you
 5 run your own charge business it's probably 4 to
 6 5 to be able to render an independent bill like
 7 that. So, you know, my thought is as long as
 8 the consolidated bill structure is around here,
 9 you know, that ought to be happening; but again,
 10 as you know, that to me is like an easy --
 11 that's a nice little oasis of life. You need to
 12 get them out there in the ocean and swimming.
 13 That's your end game that locks and loads all
 14 the best gains of competition.

15 So my grandfather was born near East
 16 Liverpool, Ohio, so I have my roots, despite
 17 this accent, I have good roots in Ohio and I'm
 18 glad to be back.

19 CHAIRMAN SNITCHLER: Thank you Pat,
 20 and thank you to each of the panelists for your
 21 presentation. I found that to be incredibly
 22 helpful. We, like you, or unlike you, didn't
 23 put together our order of questions so I'm going
 24 to turn to Commissioner Haque, and if you want
 25 to start, I'll bring up the rear as I typically

1 do on these. So I'll let the other
 2 Commissioners ask their questions first and then
 3 I will bring it to a close. If you want to
 4 contribute an answer, feel free. If you don't
 5 have anything to add, feel free to pass.
 6 There's certainly no obligation that each of you
 7 answer, but certainly answer if you can. So
 8 Commissioner Haque, with that the floor is
 9 yours.

10 COMMISSIONER HAQUE: So before I sort
 11 of get into the weeds with some of the
 12 questions, especially based on the agenda today
 13 and the panels that we have later in the day, I
 14 just want to, Mr. Wood -- first of all, thanks
 15 to all three of you for your excellent
 16 commentary. We greatly appreciate it and thank
 17 you for making the trek out here. What I don't
 18 want to do today is sort of lose the forest for
 19 the trees. We have some very specific panels
 20 that we're dealing with this afternoon; things
 21 like customer enrollment, things like contract
 22 portability, purchase of receivables, et cetera.
 23 With your knowledge base, your general knowledge
 24 base and then your understanding of the Ohio
 25 market, there's certain things that we can do

1 based on what our statute says and certain
 2 things we can't do. But sort of sitting in our
 3 shoes with the expertise that's here right now,
 4 what would you say to us that are, in terms of
 5 the forest, right, what are some of the real big
 6 ticket -- I don't know if there's an agreement
 7 among the three of you, but in looking at what
 8 Ohio is doing right now, from the forest
 9 perspective, what are really sort of the big
 10 ticket things that you think that this
 11 Commission needs to accomplish, whether it's
 12 with this current Commission or a philosophy or
 13 a policy that we need to set, kind of get in
 14 motion for future Commissions?

15 MR. WOOD: Well, in brief, I think
 16 this multi-state effort to really standardize
 17 and uniform the business behind the bill that
 18 the customer doesn't see, so that the cost of
 19 entry into Ohio, into the upper midwest is low
 20 and your welcome mat is big for retailers. That
 21 collaborative effort that I recommended, I
 22 think, would be one big, big issue,
 23 Commissioner.

24 MR. O'CONNOR: First of all, I don't
 25 want to be trumped on this who was born where

1 thing, but my granddaughter who turned 6
2 yesterday, even though she lives near Detroit,
3 was born in Cleveland. So I just want to make
4 sure you know that.

5 CHAIRMAN SNITCHLER: So noted.

6 MR. O'CONNOR: I don't want to be
7 left behind Wood.

8 MR. WOOD: That's all the cards I
9 got.

10 MR. O'CONNOR: The three big things
11 are things that you are already on course for.
12 The issue is whether you accelerate, and whether
13 you try in a sense to simplify by not recreating
14 the wheel. You know, look out around and go
15 visit the other states and find out how they did
16 it, and that's easing the movement of generation
17 out of the utilities and then they make a
18 business decision to do that. Now, some will
19 want to take a risk and hold on to it, you know.
20 They're big boys and girls, they do it, I don't
21 advise it but they do it.

22 The second thing is this. You have
23 to try to have a foot in the past and the
24 future, ESP and MRO. You really want to make it
25 clear that you're getting out and not going

1 back.

2 And the other is to simplify the
3 default service procurement as much as you can,
4 and probably to make it as uniform as possible
5 across the utilities. Now, I'm not advising you
6 go as far as Illinois did, which was to actually
7 set up a state agency to do that, but what we
8 have seen is that in Illinois the utilities have
9 embraced getting out of the business of being at
10 risk on supply. So I say those are the three
11 things. I know you're on course to do these
12 things. It's just really a question of how fast
13 you want to push it along and the extent to
14 which you take advantage of the experience in
15 other places in the way in which they have done
16 similar kinds of things.

17 COMMISSIONER HAQUE: And just to
18 follow up, when you say simplify procurement for
19 the default, with respect to Ohio, what are we
20 doing wrong? What can we do in that regard?

21 MR. O'CONNOR: Well, for starters,
22 one way to do it is to say, look, we may be
23 experts here at the Commission but we're not
24 know-it-alls, and we want everybody to go in
25 that room and come out in a few days and tell us

1 that you pretty much got things worked out,
2 because if you don't, we will. And you will get
3 an enormous amount of agreement on these things
4 once you make it clear that you're going to move
5 ahead and that you are going to resolve the
6 differences one way or the other. You've all
7 been in government long enough where the guy
8 says to you, you know, I'm going to the governor
9 and you say fine, but just so you know, if the
10 governor says it's my call, you lose. And here
11 it's a question of saying we're not going to
12 agonize over this stuff, we're going to resolve
13 whatever the remaining issues are. And if you
14 can't come to an agreement, then, you know, you
15 run the risk of being on the short end of this.
16 So I would say that's the thing you want to do
17 is try to set as reasonably near a time frame as
18 you can for getting some of these things largely
19 resolved in terms of agreement on principle.
20 And then you can work out some of the details,
21 but you don't want to let these proceedings of
22 that nature drag on and on and on because it's
23 not worth it. You can fix small problems later.

24 MR. MASSEY: And, you know, I'm here
25 representing a client with 740 members and so

1 it's sort of like earning cash too. Once we
2 drop down from the 30,000 foot level and talk
3 about specific issues, we have robust debates
4 within the coalition. So there would be varying
5 points of view about certain down-in-the-weeds
6 customer design issues but no difference on two
7 or three points.

8 First of all, as both Pat and Phil
9 said, tell the world you're really committed to
10 this. Make sure everybody knows it. Make sure
11 they know you're going to go forward. Focus on
12 getting the rules right from the start. If you
13 have the political momentum to do things in a
14 bold way, I would recommend doing it. On the
15 other hand, you've got to be politically
16 astute. Pat and I were at FERC at the same
17 time. We tried to do standard market design at
18 wholesale, and it was a great idea, still a
19 great idea. We couldn't get it done because of
20 politics. So, you know, I think you need to
21 make sure you have got the oomph, the momentum
22 to move forward but once you do, do it, and make
23 sure everybody knows you're committed to it,
24 you're not going to turn back, and be very
25 transparent about what you're doing. Everybody

1 has an opinion. You get a lot of opinions
2 ultimately. Why you make the big bucks is
3 because you're the ones that have to decide the
4 course you're charting here in Ohio moving
5 forward.

6 I think to the extent you can rely on
7 structural changes rather than complex market
8 behavioral rules, you're probably better off in
9 the long term. And my only regulatory
10 experience is at FERC, but what we struggled
11 with the whole ten years I was there is how to
12 get the structural rules right so that we didn't
13 have to have very complex behavioral rules to
14 make sure there was separation. There's still
15 complex behavioral rules at the federal level
16 but to the extent you could avoid that, I think
17 that's a good idea as well.

18 COMMISSIONER HAQUE: So another sort
19 of big picture follow-up question, and this sort
20 of corresponds with what you gentlemen just
21 discussed. Mr. Massey, I think you called these
22 markets restructured not fully deregulated,
23 okay, and so from a philosophical standpoint
24 what should this Commission's charge or what
25 should this Commission's, I guess, authority be

1 in the competitive retail electric market?

2 MR. MASSEY: The reason I shy away
3 from the term deregulated, because it just
4 sounds like a frontier, the wild, wild west
5 where anything goes. That's not true. I think
6 the PJM tariff is about 2,000 pages long of
7 frontier in, you know, the restructured
8 wholesale market. You certainly want to allow
9 competitive forces to bloom, but you want to
10 make sure you have rules and principles in place
11 that everybody has to abide by, and you want to
12 make sure you have transparency, and maybe you
13 have to require that. If there's change of
14 control of importance assets, maybe you want to
15 be able to have a say there as FERC does. Maybe
16 there are rules that suppliers have to follow
17 and you want to make sure that they follow those
18 rules and you want to have good oversight so
19 it's not the wild, wild west. It is a
20 restructured market that allows the forces of
21 competition to bloom and provide the customers
22 out there. I just think deregulation is a
23 loaded term. You know, I sometimes use it
24 myself, but I think restructuring is really what
25 you're doing. You're restructuring the industry

1 in Ohio to achieve maximum customer value, and
2 that's the way I would characterize it.

3 MR. WOOD: Competition is a predicate
4 for deregulation, and so, you know, the
5 utilities obviously want that promise of getting
6 less or more light-handed regulation and we're
7 happy to provide it but here's the price. The
8 price is get a fully-competitive market. And I
9 know you'll have a debate for a year on
10 fully-functioning market. Looks great. The
11 answers to that on all sides of the industry are
12 pretty much down the line on that, and I would
13 say that's your report card. If you get that,
14 you can call it whatever you want, you know.
15 Until it's deregulated, it's not the end game.
16 Really, the end game will garner benefits for
17 customers. We have learned from multiple
18 industries that less regulated markets, not
19 unregulated markets, not deregulated markets,
20 but more lightly regulated markets yield more
21 efficient results and, therefore, a growing pot
22 of customers. So I think that's clearly what we
23 have seen in my own state with this effort that
24 you're all undertaking here is that if you get a
25 competitive market first, then the deregulation

1 that follows comes pretty naturally.

2 There will still be people that want
3 to keep their hands in and keep doing a little
4 more than maybe you want. That's your job as
5 the regulators is to make that balanced call.
6 You really don't regulate unless you need to.
7 That's kind of my impulse is to come from that
8 side of the angle. It's a philosophical one,
9 though, and I think restructured is kind of a
10 neutral word that has been pretty well accepted
11 in the parlance. We like competitive markets
12 down in Texas. I think the word deregulate lost
13 its cachet with both the red and blue states,
14 with California totally. So it's kind of either
15 competitive or deregulated -- I mean, it's
16 either competitive or restructured that we tend
17 to use when we're talking about what we're
18 talking about here today.

19 MR. O'CONNOR: You've actually got a
20 pretty good model elsewhere in state government
21 for this with the insurance department. The
22 insurance department spends very little of its
23 energy in the business of trying to regulate the
24 prices and the premiums of homeowners and auto
25 insurance which are commodity products

1 fundamentally, but they spend an enormous amount
2 of time regulating financial solvency, making
3 sure that the policies or the contracts of
4 insurance don't fall outside the boundaries of
5 state law and things of that nature. So it's
6 actually a pretty good model about where to aim
7 your regulatory resources.

8 MR. WOOD: Do you qualify the
9 retailers, the creditors that come in here? Do
10 they have financial and operational expertise?
11 Our standards for that were pretty low in Texas
12 I think, before Donna and Barry Smitherman,
13 they raised them up a bit, because there's 54
14 different providers in the Houston market so
15 it's not like it really had a deleterious
16 impact. I do think you'll see foundation there
17 as we will in other markets of the country, but
18 in those type of roles, the education role for
19 the Commission was extremely important. We got
20 underfunded on that right in 2003 when we needed
21 it the most, a major error in Texas. Please
22 don't make that here. Keep using the resources
23 of the state to help in a balanced way present
24 the information to customers as a really useful
25 role.

1 COMMISSIONER HAQUE: So those are
2 some big pictures.

3 CHAIRMAN SNITCHLER: If you have one
4 more, one more, because then we can all get
5 through.

6 COMMISSIONER HAQUE: Appreciate it.
7 Mr. O'Connor, we talked about the concept of
8 generation investment, and I know that we are
9 concerned here in Ohio, especially with
10 potential EPA rules, about the concept of
11 investment and generation. I think it's
12 something we hear pretty frequently. I know
13 that the data shows that a competitive retail
14 market does not yield generation disinvestment,
15 I suppose. Do you have -- or does the panel
16 have specific guidance as this market develops
17 to ensure that we do not have a generation
18 investment issue?

19 MR. O'CONNOR: First of all, your
20 question is exactly the right one at this point
21 in time. Just because we had investment in the
22 past doesn't always mean we'll have it in the
23 future, so you have to look at what the rules of
24 the game are. Now, as Bill Massey pointed out,
25 of course, your utilities are part of PJM and

1 there is a reliability pricing model and
 2 capacity auction. And, you know, that's
 3 something that I know that you and the staff pay
 4 attention to and you participate in in various
 5 ways with your organization and PJM states. I
 6 would say that's where the focus ought to be.
 7 There's no reason to believe that sitting as a
 8 body, hearing a bunch of evidence about a
 9 utility wanting to make a particular kind of
 10 investment in either scrubbers on the one hand
 11 or a new gas-fired plant, let's say, on the
 12 other will make any better decision than would
 13 be made if that decision-making process was
 14 subjected to what falls out of the reliability
 15 pricing models. That doesn't mean that the PJM
 16 won't change how it does these things because
 17 it's been adjusting as time goes on, but I would
 18 say that's the place to focus because we have
 19 seen that that model has been able to elicit not
 20 only new generation within the PJM boundaries
 21 but has actually be attracting capacities from
 22 outside the boundaries of PJM. So like most
 23 things in life, it's a question of price. And I
 24 say that as somebody who is not at all convinced
 25 that the reliability of pricing model was the

1 way to go when it started but I have been
2 converted.

3 MR. MASSEY: The members of the
4 COMPETE Coalition believe that the reliability
5 pricing model in PJM is working fairly well.
6 It's keeping the lights on; it's attracting
7 investment; it's attracting demand resource, and
8 there's continuous effort to perfect it and make
9 it better. I think what you ought to be
10 concerned about in Ohio is perhaps other states.
11 Although well meaning, maybe they'll be those
12 advocating this in Ohio as well, doing what New
13 Jersey and Maryland did, which is thinking they
14 had a problem, choosing favored generators,
15 offering them 15-year contracts and subsidies
16 which has a very deleterious impact on the
17 market. It encourages subsidy-seeking behavior
18 and I think you ought to be very wary of that,
19 you know, in Ohio and across the PJM footprint
20 and fight back, because if other states are
21 doing like what New Jersey did, for example,
22 it's got to have a deleterious impact on the PJM
23 marketplace and ultimately on Ohio because it's
24 going to drive suppliers out of the market.

25 You want suppliers to believe that

1 the market is structured so that they can come
 2 into the market, take a reasonable risk, and
 3 make money in their business. And so you need,
 4 as I said, to state your philosophy, tell the
 5 market you're going to stick with it, this is
 6 what you're are going to do. They won't invest
 7 if they think Ohio is going to turn back next
 8 year or two years from now or three years from
 9 now. They're not going to make investments, so
 10 they need some level of reasonable certainty;
 11 this is the way we're going, this is the way the
 12 market is going to look. We can invest here and
 13 make a reasonable return.

14 MR. WOOD: Do you all have a
 15 responsibility over the siting of generation
 16 here? Because that's one area, and I have not
 17 heard this has ever been a problem in Ohio, I'm
 18 just saying generically. We actually removed
 19 that from our own or recommended that we no
 20 longer do that in '95 when I first got on the
 21 Commission, so that all you need is the permit
 22 from the environmental agency for your air,
 23 water, or soil impact, and then landowner
 24 consent, and then interconnection with the
 25 utility which was, of course, standard. That

1 ease of entry for generation certainly is one
2 issue that, as I know from my experiences in
3 California, it can be dramatically different
4 depending on the state. So I haven't heard,
5 again, that this has ever been an issue with
6 generators in Ohio, but I would just be mindful
7 of that as you all move to disaggregate and
8 divest in generation.

9 CHAIRMAN SNITCHLER: Thank you.
10 We'll discuss the benefits of the Ohio Power
11 Siting Board for a later discussion.
12 Commissioner Trombold, with that, we'll turn it
13 over to you.

14 COMMISSIONER TROMBOLD: Thank you,
15 Mr. Chairman. Mr. Wood, you said a phrase that
16 keeps running through my head, your analogy of
17 pioneers get shot and settlers get land and be a
18 settler. And you talked about that, I think, in
19 the context of setting protocols with other
20 states. Could you talk about, are there any
21 other things you or the panelists think we
22 should do to be settlers in this case?

23 MR. WOOD: Well, I mean, I listed a
24 few. One is how to move into the fully
25 disaggregated business. I think you all have

1 actually been pioneers, at least with Illinois
 2 or the midwest, have been pioneers on thoughtful
 3 ways to move quickly from a fully-integrated
 4 market to a more disaggregated, chunked-up one
 5 on the retail side with things like EDI, using
 6 the consolidated bill, et cetera. But I think
 7 there are other examples; again, Texas probably
 8 being one good one; other industries, I think
 9 natural gas in Georgia, those type of things,
 10 where you have got the full migration to direct
 11 relationship between the retailer and the
 12 customer. So that to me, that structural remedy
 13 solves a lot of ills. Again, you're all close
 14 to this, closer than I certainly am. If you
 15 don't think you need to do that in Ohio, don't;
 16 but I do sense from reading comments and your
 17 docket and et cetera, that everybody knows that
 18 the end game is going to be the wireless
 19 business out of serving customers at retail;
 20 they're out of the generation business already
 21 so far it looks like. They're going to be
 22 stand-alone in this state even though they may
 23 have affiliates in other states that are
 24 vertically integrated.

25 You're going to have to deal with

1 those cost allocation issues, but that's one
 2 thing regulators can do right is allocate
 3 overhead cost, and utilities uniformly don't
 4 like the way you do it but it can be done.
 5 That's a settler thing. I think other states
 6 have figured out how to do that and learned and
 7 spent the money and done the hard lessons. Just
 8 poach from them like we did on poaching the day
 9 two market design at ERCOT from PJM. It took
 10 eight years to poach, that's a pretty slow
 11 poach, but they finally did it and did the nodal
 12 market down in Texas by copying a lot of what
 13 you have up here. So again, I kind of encourage
 14 everybody to learn from other people's mistakes.
 15 But to me it seems like your transitions have
 16 all been that way. Commissioner, it doesn't
 17 seem like -- I mean, you work within your
 18 statute, but I would say to me those are
 19 squeezing around major principles that are
 20 common to other neighboring states, so the more
 21 you all can stay engaged with what they're doing
 22 next door in Pennsylvania and what they're doing
 23 in Illinois, learn from what they did here. We
 24 learned from Pennsylvania about the
 25 Price-to-Compare. It didn't have a little

1 rachet to reflect that gas is volatile. Well,
2 we stuck that in ours and it saved the state but
3 they were stuck with it and their competitive
4 market got pushed off for about five years
5 because it was a hard freeze. So little things
6 like that you just learn on the edge by just
7 being alert.

8 And I honestly can't recommend
9 specific ones to you but I think you will know
10 them when you see them. You all seem to be very
11 hands-on here and the people in this room, I
12 know, are pretty -- they're not too shy. So I
13 expect you will know what those are and I'm
14 sorry I don't have a longer list of recommended
15 settler items. I'll think about it and send an
16 E-mail.

17 MR. MASSEY: In the Arizona debates
18 recently, incumbents pointed to California and
19 said look what happened when they deregulated in
20 California, and so they were trying to scare the
21 Commission. I think what that overlooks is
22 there has been a lot of learning over the past
23 13 years about how to do this and do it well.
24 You have got other states, as Pat points out,
25 you got other states you can look to. Each

1 state's done it a little different but there is
 2 a chronology of changes that states adopt, some
 3 fundamental ones, and then progressively more
 4 down in the weeds. So there is a lot of
 5 learning about how to structure retail markets
 6 and wholesale markets, for that matter, to
 7 achieve maximum customer value. Take advantage
 8 of that learning from around the country is my
 9 recommendation. Do it your own way because
 10 you've got your own unique statute and your own
 11 unique perspective, but learn from what's
 12 happening in other states that have gone before
 13 you and have gotten some of the bugs out.

14 MR. O'CONNOR: And just to beat the
 15 analogy to death, you know, you're well into the
 16 settler phase here. If your decision is whether
 17 to keep adding on to the log cabin or to send
 18 away to Sears for a nice clapboard home kit, you
 19 know.

20 MR. MASSEY: Can I quote you on that?

21 COMMISSIONER TROMBOLD: Thank you,
 22 Mr. Chairman.

23 CHAIRMAN SNITCHLER: Commissioner
 24 Lesser?

25 COMMISSIONER LESSER: How are you?

1 Thanks again for coming. My first question is
2 investment generation. If you look at the
3 performance standards for new coal plants, it's
4 going to require sequestration. If you take a
5 look at the investment in nuclear, well, my
6 question is how do you, without going to a
7 20-year out capacity including CWIP, how do you
8 get nuclear or new coal built in a reconstructed
9 state? And when I say built I mean financed.

10 MR. WOOD: Well, when you're sitting
11 on top of, you know, 20 years of CGAP and I'm
12 not sure of the fact whether it has long pay-out
13 curves and short pay-out curves, and Todd knows
14 a lot more about this probably than I do, but.

15 COMMISSIONER LESSER: Well, let's
16 suppose the gas will not meet future carbon
17 and/or greenhouse gas emission standards.

18 MR. WOOD: Well, then you all better
19 head off that change to your environmental
20 statutes. I mean, if you don't have gas, you
21 don't have nuclear; nuclear is probably, I
22 guess, of the three the only one that would
23 work. I mean, sequestered coal, I'm thinking,
24 is way down the road. I know AEP is trying it
25 here, has tried it here. I just don't see that

1 that's really within the realm of reason in this
 2 gas price environment that we got for the next
 3 ten years. And I honestly, Commissioner, I
 4 don't sense that any reasonable federal policy
 5 is going to exclude or discourage gas at all in
 6 light of what we have gotten despite what may
 7 come out of the environment and will never be
 8 enacted at all. We will not have an anti-gas
 9 approach for probably our professional lifetime.

10 So I can answer that in the abstract
 11 about what you could do to make a nuclear plant
 12 go into thin rate and that would be to figure a
 13 competitive market regime here. And you do have
 14 one that's sturdy and solid here in PJM and it's
 15 being edited and modified over time because they
 16 were the pioneers on this one so they're going
 17 to have to take some bullets, but I think gas
 18 future is very likely here. I think your next
 19 round of investment in Ohio is going to be
 20 exclusively gas. If you can get some wind in
 21 there, I think your statute requires a little
 22 bit of that as well.

23 MR. MASSEY: You know, my perspective
 24 and COMPETE's perspective is in the future
 25 you're going to be looking at a variety of

1 resources to meet the need. You're probably
2 going to be facing an era of fairly flat demand
3 which provides some good opportunities and the
4 shale gas revolution provides some wonderful
5 opportunities for you because as Pat points out
6 the marginal cost of the next unit is now below
7 the rolled-in rate. It's the same way at FERC
8 when we did Order 888. The marginal cost for
9 the next unit was down here, and the average
10 rolled-in rate was up here so it made sense to
11 move to market. You've got to sort of seize the
12 day and do it when you can get it done
13 politically. It makes the most sense.

14 But what you want is a variety of
15 resources to meet the needs of consumers. You
16 want consumers to tell suppliers what they want,
17 and for that to drive up investment. And in our
18 view the best way to do that is an open market
19 with a level playing field so that all resources
20 can come in and serve as customers. What kind
21 of generation will they choose to build? I don't
22 know. My hunch is natural gas is becoming fuel
23 of choice. There will also be renewables.
24 There will be demand resources coming into an
25 open level playing field market. Lots of ways

1 to meet these needs.

2 Also under Section 111(d) of the
 3 Clean Air Act, the door, I hope, is open for EPA
 4 to work with the states under Section 111(d),
 5 it is a federal-state partnership, to give the
 6 states a good deal of flexibility about how to
 7 meet whatever caps are existing for a generation
 8 are in place. You might be able to meet those
 9 caps through demand response, efficiency
 10 products, renewables, a whole host of
 11 technologies that can come into an open market
 12 and meet your needs with respect to emissions
 13 reductions going forward.

14 MR. O'CONNOR: My focus on this, and
 15 let me go back to the answer I gave Commissioner
 16 Haque, which is to focus in on what's changed in
 17 information in our world. It's all around
 18 pricing, I think, and the two things we're
 19 seeing is that we'll probably see the length of
 20 forward and future market price signals in gas
 21 lengthen out a bit, so it's going to gradually
 22 go out father and farther and farther. And the
 23 other thing is we'll probably see capacity
 24 markets as they mature, go out a little bit
 25 farther and farther, so that they are, to some

1 degree, coincident with the various capacity
2 alternatives that are out there technologically
3 and environmental from a regulatory
4 standpoint.

5 So I think it is fair to say we're
6 not going to be seeing coal plants, new ones for
7 quite sometime, you know, both because of the
8 impending types of regulations as well as
9 technology. On the other hand, if we look at
10 gas, I mean, you have this talk about up-ending
11 the world. I mean, gas prices are actually
12 lower now in the northeast than they are at
13 Henry Hub, you know, because of the glut. Now,
14 that will resolve itself over time with more
15 piping and the like so you have more of a
16 national price. So I think it's really the
17 price signals that will let us figure out how to
18 do a lot of these things.

19 And we must not discount the value
20 that's going to come from things like advanced
21 metering where the price signals to customers
22 for adjusting their utilization at a given point
23 in time will change significantly. And I think
24 it will change things such as the termination
25 issues. People are going to be able to prepay.

1 They'll get a discount for prepaying electricity
2 bills. It's going to reduce cost to turn off
3 and turn on and so forth.

4 So one of the things you have to be
5 mindful of as we make these rules of the game
6 and structure is you just have to realize that
7 we don't want to make them so detailed that the
8 changes in technology and the availability of
9 information will lose the value of those things
10 because we had rules that are so detailed we'll
11 always be about two years behind the
12 developments in the marketplace.

13 COMMISSIONER LESSER: Phil, I assume
14 you're an opt-out-go-back from the City of
15 Chicago?

16 MR. O'CONNOR: Yes. Actually, in our
17 house we went to a bilateral contract before the
18 municipalization. We stayed with it.

19 COMMISSIONER LESSER: Okay. It seems
20 like I was hearing a general tone that
21 government aggregation does have a place in
22 competitive markets. Is that the general
23 feeling of the panelists?

24 MR. O'CONNOR: I have no problem with
25 it at all. I think it actually eases the

1 residential and small customers into the
2 marketplace so they begin to take for granted
3 the reality that this commodity is priced in the
4 marketplace.

5 MR. WOOD: It's one we considered and
6 chose not to do because we went kind of to the
7 Big Bang model, but it seems to me from the
8 experiences in Illinois particularly and what I
9 have heard about and read here, that that was a
10 very thoughtful way to migrate away from the
11 incumbency of the century-old utility. I think
12 the only caution would be you don't want to
13 recreate little subincumbents by these
14 structures. They need to be a pathway toward
15 ultimate totally open markets. But as long as
16 customers have the choice and they're educated
17 about what their choice means, they're the
18 people who we're doing this for. So if they
19 like being a part of the team in their city or
20 town, that's their call, but just avoid creating
21 little subbureaucracies that swipe away the
22 value to customers to have a choice, in other
23 words, that cost too much.

24 MR. MASSEY: The COMPETE Coalition
25 doesn't have a specific position on municipal

1 aggregation but I would say what we favor is
2 maximum customer choice. Let the customers tell
3 you what they want.

4 COMMISSIONER LESSER: Okay. Speaking
5 of customers, as we move into the reconstructed
6 market and let's say we're getting, whether
7 through Big Bang or through our transition, it's
8 what happens next. You talked about recreation
9 of incumbents, you get market power occurring,
10 predatory practices, discriminatory. If you're
11 moving, though, into a fully competitive market
12 do you believe that these regulations, whether
13 it's a market power or a consumer, should they
14 stay at a PUC, or like you said, Pat, you move
15 siting out. Is this something that should some
16 of these regulations be moving outside of the
17 agency or are they best left within the old
18 regulatory regime?

19 MR. WOOD: If they're oversight of
20 the wholesale market, they're at FERC and PJM,
21 but you all through ORMET-- or not ORMET but the
22 PJM stakeholders.

23 COMMISSIONER LESSER: OPSB.

24 MR. WOOD: Through that group clearly
25 have an eyesight into what's going on there. I

1 don't know that there's a lot of legal room to
2 add to that here or if you'd want to, but I
3 think certainly I have never seen an RTO that
4 didn't respond to a cranky state when they had
5 issues that they knew need to be addressed.

6 COMMISSIONER LESSER: I'm talking
7 about more retail.

8 MR. WOOD: Correct. On the retail
9 side, retail market power issues have just not
10 popped up. They could. If you have a huge
11 reaggregation going on, a lot of mergers or et
12 cetera going on, you might want to reserve for
13 yourself the ability to look at that. There's a
14 broad statute under market power in the Texas
15 statute that we put in there in '99 that would
16 allow that to be looked at. It has not been
17 triggered at all. In the 56 providers in
18 Houston, the largest being the historic
19 incumbent having now less than 50 percent of the
20 mass market residential, it's not really
21 triggered any sort of national HHI; or nobody
22 with any sort of common sense, nobody with any
23 common sense would think that there's a market
24 power going on. And keep various entries low,
25 keep various entries low but not so low that

1 you get bottom crawlers, but low, then you can
2 keep a robust market going there, and again that
3 governs itself and will preclude a lot of this
4 other need for the litany of those five items
5 that you just laid out, Commissioner, but it
6 doesn't mean that they can't pop up in the
7 future, so therefore statute probably ought to
8 have the ability for that to be resurrected, but
9 you don't want to have it be there on front and
10 center so that you scare people off but you do
11 need them.

12 I think in a market you've got to
13 have pretty wide numbers to allow things to
14 happen and be responsive but not overly
15 responsive in a way that squelches competitive
16 ideas.

17 MR. O'CONNOR: I'd just say supply
18 pricing becomes much more market based both here
19 and elsewhere, and I think also that delivery
20 rate regulation will gravitate toward more in
21 the way of formula ratemaking. And I think I
22 would bet that 20 years from now, when you're
23 all done, you will have something that looks
24 more like the insurance department. You'll
25 probably have a single head of the agency. Then

1 you all feel like you might not be the only one.

2 CHAIRMAN SNITCHLER: Don't we now.

3 MR. O'CONNOR: Right. And you're
4 going to spend, the agency will spend much more
5 time looking at financial issues and customer
6 fairness issues, things of that nature, and
7 really big and pending issues such as cyber
8 security in the electrical system which is a
9 huge issue, which is so bizarre because everyone
10 classes it as a national security issue, and yet
11 it's the only national security issue that
12 resides, for the most part, with the states and
13 with private companies and yet we don't have a
14 very good way of dealing with that yet. So
15 those things are going to evolve what it is
16 these agencies do.

17 COMMISSIONER LESSER: I better be
18 done.

19 CHAIRMAN SNITCHLER: In the interest
20 of time, I'll just keep my questions to a
21 couple, but because you have answered a couple
22 of things that I had thought we would end up
23 discussing you have answered fairly clearly.
24 You have each kind of addressed the ESP-MRO
25 question and said you either fish or cut bait.

1 At this point you decide what you want to do and
2 that would require a legislative fix in Ohio.
3 But clearly you have viewed the market as ready
4 for that type of a decision to exist.

5 Pat, I guess the first question I
6 have is for you. We talked a little bit about
7 economic growth and I think you say that's part
8 of what we do here is be an economic growth
9 engine. Texas has had a resoundingly strong,
10 long period of economic growth and you've done
11 so without the existence of subsidies or what we
12 would call reasonable rate arrangements as they
13 were authorized in 2008.

14 I'm curious for your thoughts on
15 whether or not continued use of subsidies or
16 reasonable rate arrangements is an appropriate
17 mechanism in a competitive marketplace, or if
18 Texas's example is the one to follow which said
19 we're not going to use those and yet you have
20 had robust economic growth for the better part
21 of 20 years consecutively. So your thoughts.

22 MR. WOOD: Challenging issue. My
23 hardest vote is my personal which was to, and I
24 got a second vote for it although they were
25 surprised it came, but we would not do special

1 contract rates in the Houston ship channel which
 2 is a huge industrial area in the country, that
 3 we would not do that. I said you either do
 4 retail competition or I'm not going to do
 5 that. But if you want to do let the big dogs
 6 eat, then all dogs get to eat, so there's a real
 7 popular feeling, which I feel was probably
 8 pretty common in this state as well, that if you
 9 got to cut a deal for a big guy, how come all
 10 the little guys and girls can't get it too? So
 11 that's kind of what drove our philosophy there
 12 which was if it's good for one, it's good for
 13 all. So we did have subsidized rates.

14 I think Phil may have pointed out
 15 that the commercial -- the industrial, it's in
 16 their interest to pay the money to have people
 17 sitting in the chamber. Consumers are
 18 represented by both, I guess, Commission staff
 19 and by public counsel. They're well
 20 represented. The guys not in the room are the
 21 folks in the middle who are the commercials who
 22 get everything shuffled on top of them. They
 23 were delighted to have competitive markets,
 24 obviously. But industrials were as well because
 25 they wanted that freedom to co-generate, do

1 things with their power.

2 But the special contract prices that
 3 were basically done at the cost of somebody
 4 else's payment, if the legislature wants to
 5 enable that, do that in a transparency way
 6 through public money, that can be done, but to
 7 bury it inside rates, we're past that. This is
 8 all about transparency and unbundling. So the
 9 wireless costs are large costs, and if the large
 10 industrial customer can obtain a good generation
 11 rate from his or her direct negotiation with the
 12 supplier, good luck. If they want to build
 13 their own generation, have some co-generation,
 14 they're offered a demand response market, that's
 15 where our industrials have really cleaned the
 16 clock. The ability to play in that relatively
 17 ungrown demand market in Texas is way behind
 18 what you have here in PJM. But even in that
 19 market you can get a lot of value back and keep
 20 your costs down.

21 So again, market gives you so many
 22 more tools to manage cost but one tool it
 23 doesn't give you is the ability to go in
 24 somebody's else's pocket and take the money away
 25 from them. That's over. and I would recommend

1 that it be over here as well. That doesn't
2 serve anybody well.

3 MR. O'CONNOR: The thing about
4 special contract rates is they only mean one of
5 two things: either the overall regulated rates
6 are too high or the rate design in that context
7 is out of whack; or if you're at market rates,
8 that means you're levying a tax on everybody
9 else's market rate. This is the reality.

10 MR. MASSEY: I mean, our view is
11 customers are best served if you do your best to
12 create a level playing field where all resources
13 can come in. You're like the Iphone with all
14 the apps coming in to compete on this level
15 playing field, this platform that you have
16 created, and in the long-term that will achieve
17 the most customer value.

18 CHAIRMAN SNITCHLER: Great. Well, I
19 have probably a longer list of questions that
20 would take us another hour to go through. In
21 the interest of both your time and the rest of
22 our agenda, I'm going to hold my questions
23 although I may yet submit some of them to you in
24 writing. If you'd be willing to respond to them
25 that way, I think that would perhaps be helpful.

1 So I want to thank you for
2 presenting this morning. This has been very
3 helpful from my perspective. It's given us a
4 window on what's going on around the country and
5 what the views are from members and utilities in
6 general. And Dr. O'Connor, I didn't realize
7 that you and I had quite as much in common as we
8 do given that my prior life before becoming a
9 lawyer was in the insurance industry and I have
10 the CPCU and CIC designations, or used to, and
11 seeing you as a former Illinois Director of
12 Insurance --

13 MR. O'CONNOR: It's a very dubious
14 distinction.

15 CHAIRMAN SNITCHLER: -- I think we
16 could bore people to tears. So we'll try not to
17 do that today. So thank you for that and I will
18 ask Holly Karg, our Director of our Office of
19 Public Affairs, if she would make her way to the
20 front so that she can give her presentation and
21 I will not restrict your time, Holly. You can
22 go over if you need to based on our calendar, so
23 that we can talk a little bit about consumer
24 education and what the Office of Public Affairs
25 has been doing and where we are headed in 2014

1 and beyond, so thank you again to the panelists.
 2 It's very much appreciated. And Holly, I can
 3 assure you, you may get questions.

4 MS. KARG: Okay. Chairman,
 5 Commissioners, thank you for this opportunity to
 6 present before you today. Recognizing the need
 7 for more focused and frequent consumer education
 8 on the issue of electric and natural gas choice,
 9 the Commission created the Office of Retail
 10 Competition in 2012. The Office of Retail
 11 Competition is housed within the Office of
 12 Public Affairs and consists of a chief and three
 13 public information officers. The team was
 14 originally made up of four public information
 15 officers.

16 Our current structure is we have
 17 divided the state within three territories.
 18 When we originally started a little over a year
 19 ago we had four territories.

20 The original four public information
 21 officers joined the PUCO in July of last year.
 22 They immediately embarked on a very lengthy and
 23 focused training, and within a month they were
 24 on the road talking with and presenting to
 25 groups and individuals all across the State of

1 Ohio.

2 I'm going to spend the next several
 3 minutes updating you on the progress of our
 4 consumer education outreach efforts, and I'll
 5 end with a sneak peak at our
 6 soon-to-be-released energy choice consumer
 7 information web site. The first year of the
 8 Office of Retail Competition was a huge
 9 success. Within the first 15 months our public
 10 information officers conducted 698 presentations
 11 and meetings focused on educating Ohioans about
 12 electric and natural gas choice. The audiences
 13 for these presentations are very broad. Our
 14 team reaches out to and presents to all sorts of
 15 groups. Our team regularly presents to senior
 16 citizen groups, veterans groups, local churches
 17 and jobs and family services groups, from local
 18 chambers of commerce to farm bureau groups.
 19 They have even engaged in all sorts of earned
 20 media from print, radio and several on-air
 21 discussions through public access television
 22 programs.

23 The Office of Retail Competition team
 24 has presented during city council meetings, at
 25 community action agencies and as keynote

1 speakers for networking breakfasts. In addition
2 to the many groups across the state that our
3 public information officers present to, they
4 also put on self-generated workshops. Usually
5 they reserve space free of charge at a local
6 library. Some of these workshops have resulted
7 in standing-room-only crowds.

8 In the first five years -- or in the
9 first year of the Office of Retail Competition
10 we visited all 88 counties, many of those
11 counties multiple times. Our team has traveled
12 over 95,000 miles across the state talking with
13 thousands of Ohioans about energy choice, what
14 they need to know and be aware of, and where to
15 find more information to compare offers and feel
16 confident in making a choice that is best for
17 them, their household and business.

18 A moment ago I mentioned that since
19 the inception of the Office of Retail
20 Competition in July of 2012, our public
21 information officers have delivered 698
22 presentations about electric and natural gas
23 choice. To put that into context I took stock
24 of some historical numbers regarding outreach
25 activity of the Commission as a whole over the

1 last couple of years. In 2011 the PUCO
 2 conducted or participated in 157 outreach
 3 events. Of that 157 total, only four were
 4 related to electric or natural gas choice. In
 5 the first six months of 2012, before the launch
 6 of the Office of Retail Competition, only three
 7 presentations were conducted regarding energy
 8 choice. For the entire year of 2012, excluding
 9 the Office of Retail Competition's outreach
 10 efforts, the PUCO outreach activities totaled
 11 150. In contrast, in the second half of 2012,
 12 in the first six months of the start of the
 13 Office of Retail Competition, our public
 14 information officers conducted 292 presentations
 15 regarding energy choice in Ohio. I give you
 16 these figures in order that you not only see the
 17 impact we've made in educating Ohioans about
 18 energy choice, but to demonstrate the enormous
 19 increase of the presence PUCO has across the
 20 state.

21 I am sure it comes as no surprise,
 22 however, that while our representatives show up
 23 to each event to present and educate on energy
 24 choice, they field all sorts of questions from
 25 all the attendees, and they regularly bring back

1 consumer concerns and questions to the
2 Commission and are very diligent about following
3 up with these individuals to ensure they receive
4 answers to the questions that they have asked
5 and the appropriate assistance needed. While
6 the focus of these presentations is to educate
7 energy consumers on what electric and national
8 gas choice is in Ohio, providing them with tools
9 to help make the best choice for their
10 individual needs is our top priority.

11 Shown here are a couple examples of
12 printed materials that we leave behind and we
13 give at our presentations. Chairman and
14 Commissioners, you have hard copies of each of
15 these in the folders that I put together for
16 you. With the printed material, we continue to
17 focus on ensuring consumers are informed about
18 what energy choice is and that information they
19 have at hand will help them when they're
20 comparing their offers or receiving
21 advertisements from different suppliers.

22 Additionally, we're almost ready to
23 launch our new web site which focuses solely on
24 electric and natural gas choice in Ohio. The
25 main objective of this new web site is to

1 educate consumers about energy choice in Ohio.
 2 We have purposely dedicated page after page of
 3 this site to information about or related to
 4 energy choice. As you can see in this
 5 screenshot of the footer which is accessible on
 6 every page for ease of navigation, the topics we
 7 cover are focused on consumer education. For
 8 example, refer to the section titled About
 9 Choice. Within that section, the consumer will
 10 learn about what energy choice is in Ohio and
 11 how it came about. Under this section you will
 12 also find information pertaining to aggregation,
 13 what aggregation is, what the difference is
 14 between opt-in and opt-out, and what the
 15 consumer is responsible for knowing such as
 16 deadlines and such to opt-out. We also have
 17 included links to the PUCO's information
 18 regarding electric and natural gas consumers,
 19 civil rights, along with information on how to
 20 save energy, how to file consumer complaints,
 21 and an interactive forum to request one of our
 22 public information officers to come and be a
 23 speaker.

24 Two sections that we expect to
 25 garnish a lot of attention are FAQs and our

1 guidelines on what to ask suppliers before
2 signing a contract. These recourses are easily
3 accessible throughout the site as we have placed
4 this helpful recourses box on just about every
5 page.

6 And lastly, our revamped and much
7 improved Apples-to-Apples comparison charts.
8 While the site is not yet 100 percent live, I
9 cannot give you a click-through demonstration at
10 this time, however, I can share with you the
11 highlights of the new offer comparison chart.
12 We have created a filtering system that allows
13 users to specify in more detail the offers they
14 would like to be able to compare. Additionally,
15 as the retail market continues to grow and
16 evolve, we anticipate more offers being made to
17 consumers. In an attempt to help consumers pare
18 down the list of what they would like to
19 compare, we created an option that allows users
20 to select various offers as they browse the
21 chart and then populate just those offers to
22 compare.

23 Our new web site offers comparison
24 charts for both residential and small commercial
25 consumers while offering a listing of suppliers

1 in Ohio serving large commercial and industrial
2 consumers as well. We have simplified the
3 charts, keeping the electric and natural gas
4 charts uniform, clean, and easier to read.

5 In closing, I acknowledge that I am
6 sure the enhancements of the Apples-to-Apples
7 charts are likely to get a lot of attention and
8 praise. As we prepare to go live with the new
9 web site, it is important to point out that the
10 energy choice Ohio web site is about educating
11 consumers, ensuring that they have as much
12 information as possible to help them make
13 choices that are best for them regarding their
14 electric or natural gas supply, and we built it
15 in such a way that as changes occur in the
16 competitive market we can change existing
17 information or add new information to be sure
18 consumers always have a go-to source.

19 So we have created both the Office of
20 Retail Competition and this new web site solely
21 to focus on education outreach about energy
22 choice in Ohio. Thank you

23 CHAIRMAN SNITCHLER: Thank you,
24 Holly. Commissioner Haque, I guess we'll resume
25 the same order of questions and I will encourage

1 you to be mindful you have about a minute.

2 COMMISSIONER HAQUE: Holly, what does
3 the rollout in terms of the time frame for the
4 web site look like right now?

5 MS. KARG: We should have a live web
6 site within the next 30 to 45 days.

7 COMMISSIONER HAQUE: Is there any,
8 and maybe the question is do we have money with
9 respect to testing of just the consumer base,
10 is that going to occur or, I guess, has that
11 occurred internally?

12 MS. KARG: Yes. We've had a lot of
13 testing internally and there will be a period of
14 time, the suppliers will have time to enter
15 their offers live and then we will internally
16 continue testing.

17 COMMISSIONER HAQUE: She just
18 answered my third question. I'm done.

19 CHAIRMAN SNITCHLER: Excellent.
20 Commissioner Haque, I think it's important for
21 you and everyone to know that perhaps the timing
22 of our rollout was fortuitous given the rather
23 unpleasant rollout of another large web site
24 that is still going through some testing issues
25 and other things. We have tried to forestall

1 issues of that nature.

2 COMMISSIONER HAQUE: I wasn't
3 pressuring her; just general public information.

4 CHAIRMAN SNITCHLER: Commissioner
5 Trombold?

6 COMMISSIONER TROMBOLD: Holly,
7 thanks. I appreciate all the hard work of you
8 and your team in getting all this going and
9 getting out there in the state and talking with
10 people. I was just curious, is there -- I know
11 you have FAQs that talk about the questions you
12 probably hear the most on the road, but is there
13 any theme or what kinds of questions do you
14 typically hear the most that's out there that
15 you need to educate, that you need to educate
16 more on?

17 MS. KARG: I touched on the two we
18 get the most, the two concerns we get the most
19 in our presentations. One is there's confusion
20 on aggregation as more communities are voting to
21 aggregate, so we make sure we always provide
22 information on that. But the second is just
23 they don't know where to go to compare offers or
24 whether of not the offer they're receiving is
25 legit. So we're making sure that they have a

1 go-to source which is also part of the reason we
2 created a different web site as opposed to just
3 updating charts on our PUCO web site. We wanted
4 to provide them with a place to go that they'll
5 find all the information that they need and not
6 be confused by other things.

7 CHAIRMAN TROMBOLD: Thank you.

8 COMMISSIONER LESSER: Holly, could
9 you also just explain how this all feeds into
10 the bill format to make it easier for customers
11 to be able to go to Apples and Apples and be
12 able to understand what's on their bill in a
13 comparison of the Apples and Apples?

14 MS. KARG: Yeah. So our public
15 information officers always take samples of
16 bills and they go over it with the consumers
17 there. As time has gone on and word has got out
18 more people show up with their bills to ask our
19 public information officers what exactly they
20 need to be looking for; what is it that they're
21 comparing.

22 CHAIRMAN SNITCHLER: And I'll follow
23 up with my own comment, not a question, which is
24 why those who may have been troubled by my
25 request that we look at standardized formatting

1 on bills would understand why that request may
 2 have been made. It's not to inconvenience you,
 3 it's simply to make sure that the consumer
 4 experience is more easily understandable. And
 5 based on the comments from our first panelists
 6 it seems that a regional approach addressing
 7 some of those questions might allow for a
 8 one-time expense to be incurred, to then have a
 9 platform under which utilities could operate
 10 across their footprint, and so perhaps that's
 11 one of the things that we may be able to take
 12 away from this discussion today. Commissioner
 13 Haque, I saw you reach for your microphone.

14 COMMISSIONER HAQUE: No.

15 CHAIRMAN SNITCHLER: All right.
 16 Holly, with that, I'm not going to trouble you
 17 with another question. I will thank you
 18 publicly as I have tried to do privately. Holly
 19 has done an enormous amount of lifting on this
 20 project. I kind of set it in her lap and said
 21 this is what I would like and go, and she has
 22 done a masterful job of managing resources,
 23 time, and staff both internal and external, and
 24 I could not be more pleased with where we are
 25 and I'm delighted with where we're going to be

1 when we make this rollout and I think the public
2 and the users, both utility, CRES suppliers, and
3 others, will find that this is a useful tool
4 that all will come to appreciate after they have
5 had a chance to work with it. So Holly, thank
6 you very much for your effort.

7 With that we will recess until 1:30
8 when the regularly-scheduled Commission meeting
9 will take place and then we will resume our
10 retail markets information panel discussion at
11 approximately 1:45, 2:00. Thank you.

12 - - -

13 Thereupon, at 12:15 p.m. a lunch
14 recess was taken until 1:45 p.m.

15 - - -

1 Wednesday Afternoon Session,
2 December 11, 2013.

3 - - -

4 CHAIRMAN SNITCHLER: Welcome back.
5 It appears that we have completed our
6 administrative duties and we have the required
7 Commissioners and staff present so with that,
8 the Court Reporter is at her station and I think
9 we are ready to go. So we apologize for
10 starting a few minutes late. That will not
11 infringe on your time. We'll just move everyone
12 back 15 minutes or so if we have to. I don't
13 think that will inconvenience anyone too greatly
14 and if it will, I apologize but that's how we're
15 going do it.

16 So with that, the next panel today is
17 dealing with customer enrollment options and we
18 have three participants on our panel, as you'll
19 see three or four on all of our panels going
20 forward, and we've done that with a deliberate
21 intent to get a broad perspective and to get
22 different points of view on the questions that
23 have been raised and to elucidate for the
24 Commissioners what some of the sticking points
25 are or things that are at a point for a decision

1 to be made or where things are going well. We
 2 certainly want to hear those also. As I
 3 mentioned this morning we don't want to
 4 unintentionally make things more complicated or
 5 hinder what is a working piece of operation here
 6 at the Commission.

7 So with that we have Theresa
 8 Rigenbach from Direct Energy. We have Michele,
 9 and I'm going to absolutely get it wrong because
 10 that's just the way it is so I'll let you give
 11 your last name, from AEP who's here on behalf of
 12 the EDU; and Jim Williams who is here from the
 13 Office of the Ohio Consumers' Counsel. And so
 14 with that, I don't know if you have pre-arranged
 15 with a coin flip or otherwise done
 16 rock-paper-scissors but it looks like Theresa is
 17 first. So with that, Theresa, I will turn the
 18 floor over to you and I will offer a reminder to
 19 the panelists that unlike the morning sessions
 20 where we had a rather significant amount of
 21 time, which turned out not to be near as much as
 22 I hoped, this will be more like a hot bench, so
 23 if questions come up from any of the
 24 Commissioners they are not even going to look to
 25 me, they're going to stop you and ask questions

1 as appropriate. So don't be put off if they do
2 that, but we will make sure that each of the
3 three of you have the opportunity to deliver the
4 comments that you want to deliver, but be
5 prepared for questions. Ready to go.

6 MS. RIGENBACH: Well, first of all,
7 thank you to the Chairman and the Commissioners
8 not only for the opportunity to present today
9 but also for the workshop. Just broadly,
10 overall, I think all the suppliers, the OCC, and
11 the utilities have learned a lot from each
12 other, including some things that we didn't even
13 know existed, in these workshops so it was a
14 great way for all of us to learn a little bit
15 more about ways to handle our business better.

16 My presentation today is really going
17 to focus on enroll from your wallet. While I
18 appreciate Pat Wood's comment about putting
19 something in his wallet, frankly I have a lot in
20 my wallet and I'm kind of the George Costanza of
21 wallets right now. So ultimately what we'd
22 really like to do is allow customers to enroll
23 without having to seek out a 20-digit account
24 number or under existing rules contact the
25 utility first to give the utility permission.

1 CHAIRMAN SNITCHLER: Theresa, if I
2 could jump in with just a quick question as you
3 start. That's a great stepping-off point for
4 us. If we're looking at the state switching
5 numbers already, are we a solution in search for
6 a problem, or do you see this as a future step
7 that we ought to address now before things get
8 too complicated because we've got fairly
9 substantial switching and we don't have an
10 enroll from your wallet procedure today, or
11 certainly not one that you would say is your
12 recommendation. So I'm curious to know is this
13 a current issue or are you doing some three to
14 five year down-the-road issue to make sure that
15 there aren't hiccups in the future?

16 MS. RIGENBACH: I would say it's
17 both. One, I would argue that the reason we
18 have such large amount of switching is because
19 of opt-out aggregation which does not require
20 the customer to give their account number. So I
21 would say there's a solution that exists that
22 has contributed to a large amount of switching
23 that doesn't require account numbers today.

24 In addition to that, we're looking
25 down the road. Ohio has become a very

1 competitive market and from a supplier's
2 perspective we're not only just --

3 COMMISSIONER LESSER: Theresa, a
4 quick question. I'm sorry. If somebody
5 terminates and leaves the government aggregation
6 to switch, do they need that number?

7 MS. RIGENBACH: Yes.

8 COMMISSIONER LESSER: So it's just
9 the original movement into the Gov Ag that
10 doesn't require it?

11 MS. RIGENBACH: Yes. So under
12 opt-out government aggregation you need
13 permission to give that chosen supplier the
14 customers' account numbers. You threw me off
15 for a minute. So from that perspective today,
16 outside of opt-out aggregation, another way a
17 customer can enroll without their account number
18 is to contact the utility and say I want to
19 enroll with Direct Energy and give the utility
20 written confirmation of that and then the
21 supplier can go to the utility. So it's
22 basically a step in between. What we would like
23 to do is change that and allow the customer to
24 give their supplier the authority, and I think
25 that's key. We're not suggesting anything here

1 that doesn't have the customer affirmatively
2 consenting to the supplier saying I give you
3 permission to either look up or enroll me
4 without my account number. So that would be
5 part of the normal enrollment process and would
6 require that consent.

7 So the next question is how do we go
8 about doing that? And Direct Energy, through
9 the workshops, has put forward three different
10 options. One was something we could do
11 immediately and that's already done in
12 Pennsylvania, which is add the customer's
13 account number to the customer lists that are
14 produced at the utility. This is an easy and
15 immediate solution. However, the one sticking
16 point with this is not all customers are on that
17 customer list. Remember, customers have the
18 option, to avoid getting a bunch of mailers and
19 phone calls, to opt off of that customer
20 enrollment list, which means someone could come
21 to me and say I want to enroll. I don't have my
22 account number. I don't want to deal with going
23 and looking it up. You do need permission to do
24 that. I go back and try to pull up that
25 customer list but they're not on there, which

1 means I have to go back to the customer again
2 and say, well, it's not on there, go find your
3 account number. And more likely the customer
4 will say I don't want to deal with you and just
5 go away.

6 Another solution was something that
7 again Pat Wood didn't bring up but in Texas
8 there's actually a web site and we as a supplier
9 can look you up. So by having your name and
10 your address we can actually --

11 CHAIRMAN SNITCHLER: Who administers
12 that web site?

13 MS. RIGENBACH: It's ERCOT.

14 CHAIRMAN SNITCHLER: So not easily
15 replicable here in Ohio because we're not a
16 single state RTO, or is that, as Pat indicated
17 on some other things, just because they happened
18 to be the last one to leave the table they got
19 assigned the obligation?

20 MS. RIGENBACH: I think because in
21 Texas everything runs through ERCOT. I don't
22 think it's impossible.

23 CHAIRMAN SNITCHLER: Who pays?

24 MS. RIGENBACH: I believe it was
25 billed by a customers' funding app but don't

1 quote me on that. I can look it up for you.

2 CHAIRMAN SNITCHLER: Okay. Cost,
3 relative cost, do you know about what it cost to
4 construct and continue to operate?

5 MS. RIGENBACH: I don't know.

6 CHAIRMAN SNITCHLER: If you could get
7 that to us, that would be helpful.

8 MS. RIGENBACH: Okay. The third
9 option that we put forward was actually allowing
10 us to submit the EDI enrollment with the account
11 number blank or some other unique identifier to
12 the customer, whether it was what we all know
13 which is the customer's social security number
14 or something else that they would know. Our
15 preference would be to just leave it blank,
16 submit it to the utility and when the utility
17 sends the enroll to confirm EDI file back, it
18 would be populated with the account number. So
19 those were the three options that were put out
20 there.

21 The key behind this, which has been
22 presented in different ways, is to allow us to
23 allow the customer to enroll at any time from
24 anywhere. My company, and I'm not representing
25 all companies, I'm representing Direct Energy,

1 has put forth that this should not be allowed
 2 for a door-to-door sale. You're on somebody's
 3 doorstep, they likely have their billing or some
 4 other information. This is allowed for a lot of
 5 other places where a customer could enroll,
 6 whether it's a mall kiosk, inside app, or just
 7 simply from your phone. Scanning on something,
 8 it takes you to our company's web site and you
 9 enter your information and you're done.

10 Speaking from my own perspective,
 11 there's a lot of things that I do that way today
 12 and I think there's a lot of customers who do
 13 things like that today. They do it through an
 14 app or whatever because it's easy when you're
 15 sitting at the doctor's office waiting for your
 16 turn, wherever you're at, to think, okay, I'm
 17 going to take care of this on-line banking,
 18 whatever it is, at this point in time because I
 19 have the time to do it.

20 COMMISSIONER HAQUE: Theresa, can I
 21 ask you a question about that sort of looking at
 22 this from the business logistical perspective.
 23 So when we're talking about enroll with your
 24 wallet, so presumably if you enroll via the
 25 Internet, then you're probably doing it from

1 home, probably have your bill in front of you
2 so you got your account number there. Maybe?
3 Maybe not?

4 MS. RIGENBACH: I can't tell you how
5 often I actually log onto the Internet from
6 home. I typically do it from my phone while I'm
7 watching an 8-year old go ice skating.

8 COMMISSIONER HAQUE: Fair enough.
9 That's beside the point that I wanted to make
10 anyway. I think you mentioned sort of carving
11 out the direct door-to-door solicitation from
12 this, okay, and I think in playing the sort
13 of -- and Jim, I'm sure we'll get to you here
14 shortly, but in playing sort of the consumer
15 role, the concern is, is that with potentially
16 increased slamming numbers, stories of slamming,
17 obviously there are penalties that are set forth
18 in the admin code to deal with that but we want
19 to prevent them from the front end, right. And
20 so when we're talking about the concept of
21 enroll with your wallet, allay my fears about
22 suppliers sort of, whether it be dishonestly or
23 otherwise obtaining the consent from, you know,
24 grandma and grandpa down the street to enroll
25 with a particular supplier.

1 MS. RIGENBACH: So there's several
2 ways you can deal with that. First, I would
3 point out that we have had these account numbers
4 dealing with customers in Pennsylvania for a
5 number of years and haven't seen these types of
6 issues.

7 Second, I would say there are actual
8 companies out there who can verify your
9 identity. There's credit reporting agencies who
10 offer a service that basically would, by taking
11 your name and your address, and I don't know if
12 you've ever done this or not, but they will
13 offer you three questions and three options to
14 each question. So it might be something like
15 one of these addresses where you lived in the
16 past five years, and you answer yes or no to
17 whichever address it was, right. Is this where
18 you were born, right, and it would give you
19 different cities and you have to pick the city.
20 So there's ways to identify people and their
21 identity and confirm that and they are out there
22 as services that could be used through the
23 Internet or through third-party verification
24 over the phone which is another reason why my
25 company would rather not allow this for

1 door-to-door sales because we view that we can
2 use these services to verify identity, and
3 therefore, protect us in the event of a slamming
4 complaint.

5 COMMISSIONER HAQUE: Okay. And a
6 follow-up, the account number requirement, where
7 does that come from?

8 MS. RIGENBACH: I have no idea.

9 COMMISSIONER HAQUE: If you look at
10 the admin code, actually, it's required for, I
11 believe, telephone and Internet, okay. So when
12 we're talking about this concept of requiring
13 the account number, you know, I guess I didn't
14 know if it was a logistical requirement between
15 you guys and the EDUs because, based on my
16 reading, it is not a legal requirement and so
17 that's why for me there was a little confusion
18 in this space.

19 MS. RIGENBACH: I think there is,
20 just because the way the market has developed
21 for EDI right now and the way things are
22 programmed, there is a requirement. So it would
23 take some changes to the EDI programming if we
24 didn't have the look-up ability, right. If we
25 had the look-up ability, then there's no EDI

1 changes necessary because we would have the
2 account number and submit our enrollments like
3 we normally do.

4 CHAIRMAN SNITCHLER: Michele, do you
5 have a view on that as well? I'm watching the
6 clock to try to make sure we're actually moving
7 down the panel so that everybody gets their
8 opportunity. We scheduled for you so this might
9 be a good time for you to chime in.

10 MS. JEUNELOT: Well, I think when it
11 comes through from the CRES, we wouldn't know
12 whether it was Internet or door-to-door
13 solicitation so we require, AEP Ohio requires
14 the SDI number not an account number to come
15 through to validate that that customer is a
16 person who is registered and a correct customer
17 to switch and has given them a safeguard piece
18 of information so that customer is not slammed.

19 COMMISSIONER LESSER: Can I ask a
20 question for both Michele and Theresa. If one
21 of your customers just calls in and they want
22 certain account information, or let's say for
23 Theresa's purposes they want to go from a fixed
24 to a variable plan, what information do you
25 require to identify that that person calling in

1 is your customer?

2 MS. RIGENBACH: If they're calling in
3 just to switch between accounts, we still ask
4 them to verify their account number with us,
5 whether it's the Direct Energy account number
6 that's printed on their bill or their SDI
7 number, whatever, just to verify that that's the
8 right person so the name and everything will
9 match up. We can reverse that.

10 COMMISSIONER LESSER: So you do ask
11 for the account number even if they're your own
12 customer?

13 MS. RIGENBACH: We typically do.

14 COMMISSIONER LESSER: And Michele?

15 MS. JEUNELLOT: Yeah, we will
16 typically ask for a name. We could ask for a
17 Social Security number. Not all customers,
18 they're not required to give a Social Security
19 number. We'll ask for an account number, or if
20 they don't have their bill at hand, let's say
21 they have an outage and they're at somebody
22 else's house calling, we may even ask them what
23 the last amount of the last bill was and verify
24 that person is that person. I believe that to
25 be accurate, so don't quote me on that, but.

1 CHAIRMAN SNITCHLER: Michele, if you
2 want to jump in, the floor is yours until we
3 take it away and give it to Jim.

4 MS. JEUNELOT: Thank you, Chairman
5 and Commissioners. My name is Michele Jeunelot.
6 My name looks very difficult but it's not. I
7 had to date my husband for three months before
8 he told me how to pronounce it. I'm AEP Ohio's
9 Manager of Regulatory Operations and I want to
10 thank staff for the great job they have done
11 bringing these subcommittee meetings together.
12 They have provided great communication in
13 helping to move things along.

14 So again, customers are required to
15 provide either an account number or again for
16 AEP Ohio an SDI number, and we feel that's a
17 safeguard for customers so they are not slammed.
18 In one of the subcommittee meetings we did ask
19 staff how many slamming complaints they had, and
20 at that time they weren't aware of any verified
21 slamming complaints in the State of Ohio which,
22 I think, speaks to that protection in place.
23 We have seen other states where slamming has
24 been an issue with various other causes, but we
25 think that slamming, it gives the customer a bad

1 feel for choice. It also puts a lot of burden
2 on staff and on the utility if that were to
3 happen. So we feel that, you know, currently
4 the practice used to enroll using an SDI number
5 or account number is something that should be
6 kept in place and actually provides more
7 benefits than, you know -- the benefits far
8 outway anything else you get from that.

9 COMMISSIONER HAQUE: Can you address
10 the three proposals that Theresa set forth and
11 what AEP's position would be, and I can rattle
12 them off for you.

13 MS. JEUNELOT: I'll start with the
14 one, if we were to just carte blanche give the
15 account number with the customer information,
16 there may be CRES providers, you know, and they
17 may not even be registered CRES providers in the
18 state, would take that information and start
19 slamming customers. So they would be given
20 everything that they need to go ahead and enroll
21 that customer and, you know, some customers
22 won't even know. They don't open that
23 rescission letter. They think it might be junk
24 mail. They may throw it out and may be switched
25 and not have the opportunity to rescind it. So

1 I think that doesn't offer a lot of protection.

2 CHAIRMAN SNITCHLER: Do you see that
3 as a Commission function then to deal with
4 slamming complaints? We have not dealt with
5 that issue on the electric side because we
6 haven't had active choice really to the degree
7 we have now and where we see we're headed. Is
8 that something you would expect the Commission
9 to be vigilant, and really to carry a bigger
10 stick and not be afraid to use it in the event
11 we saw that type of activity, and if there is a
12 remedy you see for us, what do you see that
13 being?

14 MS. JEUNELOT: Absolutely. I believe
15 that the Commission, you know, I think the admin
16 code does say that there are consequences to
17 slamming.

18 CHAIRMAN SNITCHLER: Are they
19 satisfactory or are they not enough to prevent
20 it from happening? Because I agree with you on
21 the concern about a bad shopping experience, and
22 I say that every time I'm asked. Bad shopping
23 experience is bad for what we're trying to do;
24 good shopping experience is helpful.

25 MS. JEUNELOT: Right.

1 CHAIRMAN SNITCHLER: So we want to
2 make sure that doesn't happen.

3 MS. JEUNELOT: And so I'll share a
4 story from AEP Ohio's perspective. We have
5 customers and get a lot of calls about slamming
6 complaints where they believe it hasn't been
7 represented -- you know, people will show up at
8 the door wearing AEP Ohio logos and saying that
9 if they want discounts, they'll sign a paper
10 saying okay, I'm to get my discount and they
11 don't know what that means, but the customer did
12 sign for that. Is that slamming or is that
13 not? So we do feel that there are rules in
14 place but they have to be -- you know, I think
15 you have to look at the customer's perspective
16 of what was presented to that customer too, and
17 that's AEP Ohio's perspective.

18 CHAIRMAN SNITCHLER: Jim, do you have
19 any thoughts on that?

20 MR. WILLIAMS: Yes. Thank you,
21 Mr. Chairman, Commissioners. Again, I'd like to
22 thank both the Commission and the staff for the
23 different workshops and opportunity to
24 participate in this case.

25 What I'd like to add is a couple

1 different things. We started with the
 2 discussion of whether or not there's really a
 3 need for enrollment from the wallet concept. I
 4 think the high numbers of switching indicate
 5 that there's not much need. I think the fact
 6 that there hasn't been much slamming indicates
 7 that the rules as currently structured seem to
 8 be working just fine to prevent the slamming.
 9 And I would also mention that the Commission
 10 rules also have a process for addressing
 11 slamming complaints. Use of the account number
 12 as being protected information between the
 13 customer and the utility that's obtained by the
 14 supplier from the customer as part of an
 15 enrollment helps ensure the validity of that
 16 process in terms of looking into slamming
 17 complaints, whether or not there's validity to
 18 it, that type of thing. Without the account
 19 number, I think that would be a much more
 20 cumbersome process. It would take a lot more
 21 time and effort from the Commission, the
 22 companies, as well as customers. So again, we
 23 sort of see this whole concept as a solution
 24 looking for a problem.

25 CHAIRMAN SNITCHLER: Jim, I'll start

1 with you but I'd like to hear from all three of
 2 our panelists. There was some data that was put
 3 together as part of workshop that talked about
 4 the enrollment error rate and it seemed to be
 5 that there was wrong data provided or entered
 6 somewhere along the way, and I don't think there
 7 was ever really a determination as to where it
 8 was. So is the error rate, if we can track that
 9 to the switching rate, are they related in any
 10 way, or is this, you know, an operator error
 11 where I should have put in 1, 2, 3, 4 and I put
 12 in 1, 3, 2, 4 and my fingers were moving faster
 13 than my brain was, and that is human error and
 14 we may never be able to resolve that. So how do
 15 you look at those error rates? It's not
 16 slamming, and trying to get to Theresa's issues
 17 but also with the utility in the middle and I'm
 18 curious for each of your perspectives on how
 19 those numbers correlate.

20 MR. WILLIAMS: I suspect that the
 21 numbers that we talked about at the subcommittee
 22 level didn't seem to be that significant to
 23 where this again warranted a problem. I suspect
 24 that there's always going to be some level of
 25 human error. Even if the account number's

1 available, there still could be errors with
2 other data. So I don't know that that
3 necessarily addresses that issue.

4 MS. JEUNELOT: This is Michele
5 Jeunelot. I believe a lot of things we see as
6 human error where somebody reads a number off
7 incorrectly or maybe they just moved and pulled
8 out their last bill and didn't know that the SDI
9 number changed with their address, so I think a
10 lot of it has been human error from what I have
11 seen.

12 MS. RIGENBACH: I would agree with
13 Michele. I think part of it also is it's a very
14 long number. I don't know of any utility that
15 has a fairly short number that the customer can
16 quickly verify, whether it's them reading it off
17 to us or the customer actually typing it in
18 somewhere. It's a pretty long number. So while
19 I agree it's human error, I think part of it is
20 also related to the length of the number or
21 finding the right number in order to enter it.

22 COMMISSIONER HAQUE: So look,
23 Michele, if I ask you about Theresa's second and
24 third options, I would imagine that it would be
25 a combination of slamming concerns and maybe

1 logistical issues. Would that be right?

2 MS. JEUNELOT: I believe, what was
3 the second and third options?

4 COMMISSIONER HAQUE: Supplier can
5 look up on the web site, second option. Third
6 option, submit EDI enrollment with the account
7 number blank.

8 MS. JEUNELOT: You know, I think
9 there's a slight concern with all of them only
10 because I think people see additional slamming
11 complaints from CRES providers who may not be in
12 this room today, that they could take advantage
13 of the system. So we do still have concern over
14 each one of those.

15 COMMISSIONER HAQUE: So from our
16 perspective, it's a challenge, right?

17 MS. JEUNELOT: It's a challenge.

18 COMMISSIONER HAQUE: Everything that
19 we try and do today, right, the response can be
20 we're concerned about slamming. I mean, there's
21 got to be a medium here to both address consumer
22 concerns as well as create robust competitive
23 market with some of this low-hanging fruit that
24 we got today. So of those three options that
25 have been presented, what is the most palatable

1 to both AEP and the OCC?

2 MS. JEUNELOT: So I think for AEP, I
3 think the best one, and I think it was the
4 third-party verification where you have a third
5 party verify that the customer was the one who
6 made the choice, only because that does have the
7 customer having to go and provide that, and he
8 may be on vacation when that rescission letter
9 comes otherwise and missed that window of, hey,
10 what happened here. So for AEP I think that's
11 the most palatable.

12 COMMISSIONER HAQUE: Having a third
13 party verify the identity of the customer that
14 has signed up?

15 MS. JEUNELOT: Yes. So if they
16 leave that blank or do try to go out there, it
17 would be a third-party verification on that
18 customer.

19 COMMISSIONER HAQUE: Jim?

20 MR. WILLIAMS: Well, I like the
21 current rule as it's structured, Commissioners,
22 and I think that's the appropriate rule.
23 However, enrollment rules also support
24 third-party verifications, and depending upon
25 the method of enrollment determines the amount

1 of third party that needs be required. And the
2 third party, there needs to be some level of a
3 third party to make sure that the customer's
4 actually affirming the enrollment.

5 CHAIRMAN SNITCHLER: I think,
6 Michele, if you have more of your prepared
7 comments, questions seem to have abated for a
8 moment. Jim, if you have prepared comments that
9 you want to offer, we've still got time on the
10 clock, I'm sure questions to follow, but I want
11 to make sure you've got a chance to do that.

12 MR. WILLIAMS: Just one thing I would
13 like to add, Mr. Chairman, is that while we
14 talked about the account number today, because
15 customers may not have the bill but there's
16 other venues where they're being marketed by
17 CRES providers, there are very legitimate
18 reasons why customers should have their bill at
19 hand when they're performing enrolling. I mean,
20 after all, the bill is the location where
21 customers have the Price-to-Compare, it's the
22 location where they have the historic and usage
23 information, it's the location where the
24 customers have the rate schedule that they're
25 on, and other information that should be used as

1 part of enrolling with the CRES supplier. So I
2 think to the extent that customers don't always
3 have their account number with them, I think
4 that the account number's properly located on
5 the bill and the bill should generally be used
6 by customers when they're performing enrollment.

7 CHAIRMAN SNITCHLER: And while I'm
8 sympathetic to your concern that we want to make
9 sure the consumers get what they ask for,
10 ultimately if I'm the consumer and I decide I
11 want to switch and I don't have my account
12 number with me and I made a bad choice,
13 ultimately as the consumer I bear some
14 responsibility of making a bad choice, if I
15 remember my Price-to-Compare wrong. So I think
16 that's where Commissioner Haque, we're trying to
17 figure out where's the breaking line, dividing
18 line between freedom for consumers to engage in
19 commerce and make a good deal or make a bad deal
20 but at the same time not hinder the ability for
21 a supplier to deliver multiple product
22 offerings, and so I think that's really what
23 we're trying to get at.

24 And my follow-up to that is you have
25 engaged to some degree with Holly's team and

1 what we're trying to do with our soon-to-be
2 released web site, consumer education, and the
3 ability to look at multiple offers and have a
4 more dynamic rather than a static
5 Apples-to-Apples chart, do you see -- and you've
6 seen what Texas and Pennsylvania and other
7 states have done. Do you see that as a way to
8 help prevent problems like that from occurring
9 and as a way to facilitate market development,
10 or do you see that as having no value or a
11 detrimental value, and I'd be surprised if you
12 said that but certainly that's an option. And
13 I'll hear all three of you for your view on
14 that.

15 MS. JEUNELOT: Well, I think the
16 Apples-to-Apples will help. I think we get a
17 lot of calls. Being a utility who talks to
18 customers, they call us with confusion. They
19 look to us for advice, so I think having that
20 redesigned will help customers and give us -- we
21 send them there now for any questions, so I
22 think it will definitely help.

23 MS. RIGENBACH: I think that the new
24 web site is beautiful, well laid out. It's not
25 overly filled with too much information like

1 some other versions in other states. I think
2 this enroll without your account number could be
3 added to that because a customer would be able
4 to side by side check everything and go straight
5 from there to the provider's web site and
6 enroll, so they would have a lot of that
7 information there in front of them and make
8 their decision and then go straight and enroll
9 from there.

10 MR. WILLIAMS: I believe also the
11 Apples-to-Apples is definitely an improvement,
12 and we shared some different ideas from time to
13 time on ways that it could be enhanced even
14 more, and we continue to welcome the opportunity
15 to work with the Commission and staff to be able
16 to enhance it even more.

17 COMMISSIONER TROMBOLD: Question. We
18 mentioned Texas and what they used as far as a
19 customer identification number. What do other
20 states use? Is this pretty much -- is there any
21 rule of thumb what other states have used or do
22 they typically require the account number like
23 we're talking about here?

24 MS. RIGENBACH: So in all the other
25 states you have to still have the account

1 number. It's whether or not you can get it from
 2 someone other than the customer. So if you look
 3 at Pennsylvania, it's on their electric customer
 4 list that you get from the utility. The account
 5 number is printed on there. In Illinois, ComEd,
 6 the customer can give you, as the supplier,
 7 permission, and then you can get that account
 8 number from the utility. So there's different
 9 ways that you can get it, and I believe it's one
 10 of the utilities in New York has like a version
 11 of a look-up function so you can sort of flag
 12 into it and get the customer's account number.
 13 So in terms of enrollment they all require an
 14 account number or a version of an account
 15 number, but it's whether or not you as the
 16 supplier can get permission from the customer to
 17 get it on your own without have to take it from
 18 the customer.

19 COMMISSIONER TROMBOLD: Are there
 20 instances of slamming or are there any
 21 statistics that you know of regarding slamming
 22 and the extent of it in other states too?

23 MS. RIGENBACH: I know percentages of
 24 slamming in different states but I can't tell
 25 you if it's directly tied, and I did ask if

1 there was anything statistically directly tied
2 to us obtaining the account number versus just
3 normal ability of people to gather information
4 and slam customers, and there was nothing
5 directly tied to the look-up function.

6 COMMISSIONER TROMBOLD: Okay.

7 COMMISSIONER HAQUE: The 7-day
8 rescission period, a safeguard for potential
9 enrollment without your account number or not
10 enough time?

11 MS. JEUNELOT: From AEP Ohio's
12 perspective we have had customers who will get
13 that letter when they're on a vacation, they may
14 be on a 14-day cruise and they miss that. I
15 think it is a good protection. I wouldn't want
16 that to go away because there would be an
17 additional protection or maybe a postcard so
18 it's not in a sealed envelope that looks like
19 junk mail. I don't know. There could be
20 something additional put in place for that
21 possibly.

22 COMMISSIONER LESSER: I'm going to
23 ask a question. Todd and I were just talking
24 and I'm not sure if we're on topic but you seem
25 to be the best panel to ask. Early termination

1 fees which is part of enrollment, I would ask
2 you what your opinion is on early termination
3 fees, and specifically in three areas: one, Gov
4 Ag; No. 2, variable contracts; and third,
5 fixed-term contracts.

6 MS. RIGENBACH: You're looking at me,
7 so I'll go first.

8 COMMISSIONER LESSER: Yes, I am.

9 MS. RIGENBACH: Let me say my company
10 is probably not the best one to speak to that
11 because we do not charge them to our small
12 commercial and residential customers. Bigger
13 customers obviously take a lot more power so
14 there's a cashout provision in the contract. We
15 have not charged them for the municipal
16 aggregation programs both here or in other
17 states. And at one point we did charge them for
18 residential fixed contracts but we sort of moved
19 away from that just because it wasn't the
20 greatest customer experience.

21 Slightly off topic but my personal
22 opinion on that --

23 COMMISSIONER LESSER: That's why I
24 looked at you.

25 MS. RIGENBACH: -- my mom lives in

1 Toledo and she signed up for something and when
 2 she tried to switch to my company, she noticed
 3 that she had an early termination fee that was
 4 quite high and she wasn't happy about it. So
 5 it's one of those things that I think could be
 6 an impediment to shopping. If we're going to
 7 let customers shop and choose, they should be
 8 able to do it whenever they want. And if you as
 9 a company begin that pricing, that's how you
 10 recover that potential for the customer to
 11 leave.

12 MS. JEUNELLOT: I can address this
 13 from the complaint side only. We do get
 14 complaints on early termination fees. Some
 15 customers don't understand what their contract
 16 limits are. So if they sign up January 1st,
 17 their meter reads on January 5th, they don't
 18 actually switch until, let's say, February and
 19 they see the twelve months starting the January
 20 1st and they sign up with a new supplier the
 21 next January and they get an early termination
 22 fee because of that. They don't understand the
 23 term limits and when they actually start to when
 24 they end, so we do get a lot of complaints on
 25 early termination fees from customers.

1 MR. WILLIAMS: Commissioner, we have
2 filed comments concerning early termination fees
3 in Case 12-1924-EL-ORD, the CRES rules, and the
4 concern about the early termination fees was
5 just, reasonableness, and the disclosure of
6 those early termination fees. But in our
7 comment the concern we had with disclosure was
8 not just the termination fee, but the disclosure
9 of the contract language and the customers
10 properly understanding these contracts,
11 including the termination fees.

12 COMMISSIONER LESSER: With the
13 Chairman's permission I would ask that if any
14 CRES providers who are coming up on subsequent
15 panels, if they have different opinions I would
16 ask them to offer it.

17 CHAIRMAN SNITCHLER: That's fine.
18 And with that we are at our allotted time even
19 moving forward, and I will reserve the same
20 opportunity that we mentioned to our panel this
21 morning. If there are other questions that
22 remain from the Commissioners that we didn't
23 have time to get to or that come up subsequent
24 to the conclusion of our hearing today, we may
25 submit those to you in writing and ask that you

1 respond if you have an opinion that you want to
2 share on those and we'll, of course, put that
3 out in the appropriate medium but wanted to make
4 you aware we might ask you to do that. But
5 thank you very much and appreciate your
6 comments.

7 With that we're going to change over
8 to our panel on contract portability, and with
9 that we have, it appears, four panelists. We
10 have, I can't believe I'm saying this, Dwayne
11 Pickett from Integrays and RESA who is here, our
12 former staffer, so Dwayne it's good to have you
13 back; Sharon --

14 MS. NOEWER: Noewer.

15 CHAIRMAN SNITCHLER: -- Noewer, okay,
16 I was going to guess that, who will also be on
17 the panel; Dan Jones who is here from Duke; and
18 Tad Berger is also here.

19 MR. BERGER: Berger.

20 CHAIRMAN SNITCHLER: Okay. Great.
21 I've got everybody here. So with that, you've
22 seen how we ran through the first panel and I
23 suspect with four of you on this panel and the
24 amount of time we have allotted, you might get
25 out your name before questions start getting

1 fired at you, but you are welcome to start.
2 Since we went from left to right before from the
3 dais, Tad, we'll start with you and go the
4 opposite way but I would expect questions to be
5 immediately forthcoming, so have at it.

6 MR. BERGER: Thank you, Mr. Chairman,
7 Commissioners. OCC thanks staff, Barb, for
8 organizing the work of this subcommittee and
9 providing the opportunity to discuss these
10 issues with the suppliers and the utilities.
11 There's several questions related to contract
12 portability that are important.

13 First of all, does it make economic
14 sense to port the contract? One of the
15 utilities, DP& L, told us during the
16 subcommittee that in a typical year they only
17 have approximately 1400 customers that would
18 have a service where you would have essentially
19 what's called a seamless transfer where the
20 customer would be moving from one residence to
21 the next on the same day. If you don't have a
22 seamless transfer, then there's a question
23 whether you really have portability, and so it's
24 a definitional question. If there's
25 interruption of the service or if there's an

1 overlap of the service, there's a real question
2 as to whether you could actually port a
3 contract.

4 In the circumstance of an overlap in
5 particular, it's been noted that you essentially
6 have two services from the same customer at the
7 same time, and therefore, it would be difficult
8 to port the contract because you essentially
9 have two contracts. In the case of interruption
10 of service --

11 COMMISSIONER LESSER: Could I ask
12 you again, you seem to focus in that the only
13 real seamless one was same day changes of
14 service, and that if there was any interruption
15 or any overlap you're saying that it's not
16 seamless but are you saying that by definition
17 it should not be ported?

18 MR. BERGER: Well, I think that the
19 definitional issues, especially for
20 interruptions of service, would have to be
21 worked on to determine, well, is it one week or
22 two weeks, or if the customer is not clear at
23 the time they move whether they're moving to a
24 new residence, are they just staying with the
25 parents and that they don't have a forecasted

1 time when they're going to actually move and are
2 they actually moving into the same service
3 territory, that these are definitional issues
4 that would have to be worked on.

5 I think in the case of an overlap, I
6 think there actually is fairly general agreement
7 among the subcommittee participants that, in
8 fact, you can't really have, you can't port a
9 contract when you have two services at the same
10 time. The customer actually has to enter into a
11 new contract at the new residence even though
12 they haven't -- because they haven't moved yet,
13 and they're still receiving electric service at
14 the old residence even when they have already
15 started one at the new residence. So you really
16 can't have it in that circumstance. So yes, I
17 think there's definitional issues that have to
18 be worked on. I'm not saying OCC is not willing
19 to work on those definitional issues and, you
20 know, we tried to talk some of those things
21 out. OCC put a contract portability procedure
22 on the table at the subcommittee that was
23 circulated and we're certainly open to
24 discussion in terms of the context of the
25 interruption issue.

1 A third issue, of course, is customer
2 protection, our customer protection issue.
3 There's a number of customer protection issues.
4 First of all, some of these contracts are fairly
5 complex and one of the things that we asked
6 during the course of the workshop is that some
7 of these contracts be reviewed so that there's a
8 greater understanding of what they provide, and
9 that the contracts are fairly clear and concise
10 so the customers can see these provisions, so
11 they know what portability is when they sign it.

12 COMMISSIONER TROMBOLD: Excuse me,
13 are you saying in the contract it would speak to
14 portability or not? Is that what you're
15 referring to? I'm not sure I'm following you.

16 MR. BERGER: Yes, Commissioner.
17 Typically, the contracts do address portability
18 if it's provided for. So yes, the contract
19 would have to provide for portability if the
20 customer were actually going to be held to a
21 responsibility or to an obligation to move their
22 contract should they meet the conditions for a
23 transfer, for a portable contract transfer.

24 COMMISSIONER TROMBOLD: And what if
25 the Commission would choose to have a statewide

1 kind of plan regarding portability that would
2 apply everywhere?

3 MR. BERGER: I would imagine that
4 that would have to be reflected in the contract
5 terms, so that the customer understood that. I
6 understand that there's a rule about that and if
7 the Commission said that the rule does not have
8 to be set forth in the contract, perhaps that
9 could be binding in the absence of something set
10 forth specifically in the contract.

11 COMMISSIONER TROMBOLD: And how would
12 OCC feel about a statewide kind of concept of
13 portability that was consistent?

14 MR. BERGER: Certainly, we proposed a
15 procedure that would be applicable, we think, to
16 all the utilities so we certainly see a
17 procedure being consistent across all the
18 utilities as being beneficial, and that's what
19 we have essentially proposed in this
20 subcommittee.

21 COMMISSIONER HAQUE: And that
22 procedure is the additional affirmative consent?
23 Is that the gist?

24 MR. BERGER: Yes. That's the gist of
25 what we have proposed, an informed affirmative

1 consent at the time the customer moves. We
 2 think it's important to realize it could be six
 3 months, a year, it could be five years before a
 4 customer moves, and if that provision is in
 5 there they may not even recall that they signed
 6 up for that provision. They may not recall --
 7 they may not know that the terms of their
 8 contract have changed because of automatic
 9 renewal provisions in the contract. So we think
 10 it's important to remind the customer here is
 11 what the deal was when you signed up. Here's
 12 what your renewal terms have been and what
 13 you're paying currently, and they should receive
 14 a cover letter with a copy of their contract at
 15 the time that they move.

16 CHAIRMAN SNITCHLER: We have three
 17 suppliers over here. What's your view of both
 18 OCC's proposal but also how you're presently
 19 handling this and what you see as a workable
 20 solution to the portability question? So Dan, I
 21 guess if we're moving this way.

22 MR. JONES: I'm with Duke Energy
 23 Ohio. I'm not a supplier. I do have opinions
 24 but we can wait on those.

25 CHAIRMAN SNITCHLER: We'll move

1 along.

2 MS. NOEWER: Thank you. I'm Sharon
3 Noewer, Director of Competitive Market Policies
4 for First Energy Solutions. So with respect to
5 OCC's proposal with using EDI as the method, our
6 belief is that a better method for customers in
7 terms of communicating with the customer and
8 making sure that they have the best shopping
9 experience is, when they call the utility
10 regarding their pending move, that they're
11 actually transferred to the supplier that they
12 have existing with them, so there's no worry
13 with respect to EDI, no concern about making
14 sure that anyone tracks what contract
15 portability clause is in any contract. It's
16 really not necessary if, in fact, when they call
17 the utility they're transferred over to their
18 supplier, and at that point whatever affirmative
19 consent is required, if it is required, it could
20 take effect at that time.

21 MR. PICKETT: Thank you,
22 Mr. Chairman, Commissioners. Before I start, I
23 just wanted to echo the comments of the other
24 panelists who said really great job and really
25 appreciate the opportunity to speak to this

1 panel and echo Pat Wood's comments that you guys
2 definitely are the prettiest girls at the
3 dance.

4 I disagree with a lot of the points
5 with OCC's proposal that I think I'll get a
6 chance to address at a later time when I have my
7 prepared remarks but --

8 CHAIRMAN SNITCHLER: If I were you,
9 I'd do them now. Time is passing. Take your
10 opportunity when you can get it.

11 MR. PICKETT: I'll go ahead and go
12 forward. So the basic difference between RESA
13 and Integrys's proposal and the basic difference
14 between the way we view contract portability is
15 we want to extract the maximum amount of
16 customer benefit. For us, the less we have of
17 phone interactions with a customer, the less we
18 make the customer do, the better that
19 conversation is. So OCC's program has this idea
20 of affirmative consent, and we completely agree
21 that there should be affirmative consent. We
22 just differ on how we view affirmative consent.

23 The way I view affirmative consent
24 is give the customer an opportunity to think
25 about contract portability. If the customer is

1 sitting down, they're looking at their contract,
 2 and I propose there be even a separate line item
 3 where you have to initial or check a box for
 4 contract portability, that's your opportunity.
 5 You can sit there and think, hey, am I going to
 6 move at some point. And if I do, would I like
 7 the opportunity, not the obligation but the
 8 opportunity to take my contract with me? That's
 9 something we should afford our customers.

10 With FES's proposal, I think she'll
 11 talk about it later, but it's mostly a warm
 12 transfer over the phone from supplier to
 13 utility. We deal out that same functionality in
 14 my proposal but the difference with our proposal
 15 is we're not requiring the customer to transfer
 16 the information. We're not saying, okay, take
 17 down your 20-digit SDI from the utility, carry
 18 it over to the phone with your supplier and then
 19 transfer that supplier. We think you should
 20 make the investment to allow that information
 21 communication between utility and the CRES so
 22 we're holding the customer harmless.

23 When we talked about contract
 24 portability in the subcommittee I gave a story
 25 about when I used to live in downtown Columbus

1 and my then fiancée and I moved to Reynoldsburg,
 2 and it was a nightmare. Thegroupon got lost,
 3 we had to pack things, there was a lot going on
 4 and the last thing I wanted to do on that day
 5 was take down my SDI number and give it to a
 6 supplier. So to me that's what we should
 7 definitely look at when we're trying to
 8 implement a program, and I think it's worth it
 9 if we have to do an FDP file, that utility has
 10 to send an E-mail; whatever we have to do to get
 11 that new account number, we should do it as long
 12 as we have that affirmative consent.

13 CHAIRMAN SNITCHLER: I agree with at
 14 least part of what everyone has said which is
 15 simplicity works best, and I think that will
 16 benefit consumers, and I would also agree with
 17 what you said, Dwayne, is that people don't want
 18 to trip over all kinds of details. And I wonder
 19 if we add a provision which requires you to
 20 initial a portability provision of a contract,
 21 if we're asking John Q. Public to all of a
 22 sudden go to law school in order to buy utility
 23 service, that, I think, is going in the wrong
 24 direction. I think we want to simplify how we
 25 do that.

1 And if I could step back even
2 further, depending on the offer that you may
3 select, I may move from one service territory of
4 a utility to another to the wireless company,
5 and Dan, I'm going to pitch this question to
6 you, I don't much care necessarily where your
7 supply comes from, at least I shouldn't based on
8 our corporate separation rules, so all I care
9 about is knowing that power and a bill needs to
10 be generated from some supplier. So the
11 portability question is not just within one
12 service territory, hey, I moved three streets
13 over. If I lived in Cincinnati and now I'm
14 moving to Cleveland and I want to keep my
15 contract with Integrys, I've gone from a Duke
16 wire to an FE wire at CEI and so how does that
17 impact you as the utility side of the equation
18 not just the supplier side? I guess I'm trying
19 to marry the two together because it's broader
20 than just moving from Akron to Canton or from
21 Akron to, you know, Fairlawn. It could be a
22 much broader question. Otherwise, you're never
23 going to get to speak so I've got to draw you in
24 somehow.

25 MR. JONES: All right. Well, thank

1 you. I appreciate it. Mr. Chairman,
2 Commissioners, and staff, once again, I echo the
3 same appreciation that the others have of
4 allowing Duke Energy Ohio to be here today to
5 present its comments and also the workshop you
6 had here today as well as all the subcommittee
7 meetings that we've had on various topics.

8 You know, with regard to,
9 Mr. Chairman, with regard to the idea of a
10 customer, say, moving from Akron to Cincinnati,
11 they would have to apply with Duke Energy Ohio
12 to even have an account number. So that would
13 be the first step that the customer would take
14 is to get themselves an account number by
15 applying for service with Duke Energy Ohio.
16 Once they have that account number, now they're
17 free to go shopping. Our web site shows all the
18 suppliers registered in our territory. Your
19 web site shows the same thing, the prices and so
20 forth. So I see that as being a little bit
21 different situation than a contract portability
22 situation.

23 If I could speak to the portability
24 we're talking about within Duke Energy Ohio, if
25 I could. I think the simplest way is that the

1 customer, or actually the supplier, if they
 2 needed to know the account number of the new
 3 location, now you're asking the utility company
 4 to provide that account number of the new
 5 location for the customer, and I guess that's my
 6 first caution is we got a rule that says the
 7 utility company can't do that. You know, I need
 8 a signed document from a customer that says I
 9 realize that I don't have to sign this and give
 10 permission to give out my account number, and
 11 there's very specific language in that rule. So
 12 we would need that first before we could even
 13 release an account number to a supplier. So we
 14 do have that, a rule problem there in terms of
 15 release of account number.

16 COMMISSIONER HAQUE: Where does that
 17 rule come from? I should probably know, but
 18 I've been on the job for a few months. Tell me
 19 where does that come from? Is that from the
 20 admin code? I don't think it is.

21 MR. JONES: It's either in the
 22 electric service and safety standards or in the
 23 CRES rules, and may have been mentioned in both
 24 of those, but yes, there is definitely a rule
 25 that requires a utility company to receive

1 written authorization, that the utility company
2 must hold that authorization. We can't believe
3 a supplier has that authorization. We have to
4 have that in front of us to release the account
5 number. That's current day rule.

6 MR. PICKETT: Mr. Chairman, if I
7 could address a couple misnomers, I don't want
8 to get too off track with our discussion. The
9 way that RESA and FES too, the way we're trying
10 to accomplish contract portability is add a new
11 enrollment so that rule wouldn't apply. It
12 would be the same as you're picking up a new
13 customer. The other thing we said in the
14 subcommittee is that it wouldn't be a seamless
15 move as Tad suggested. We'd have to have one
16 billing cycle in between. We tried a lot. We
17 couldn't figure out how we could do exactly a
18 seamless move just within the subcommittee
19 ourselves. It would take a lot more work before
20 we get to that. So it would be one billing
21 cycle back to the utility and then contract port
22 back to the CRES.

23 COMMISSIONER LESSER: Does your
24 portability involve, your proposal, is it
25 basically by default if the customer initials

1 that clause in the original contract, or does it
2 require any affirmative act by the customer at
3 the time of the port?

4 MR. PICKETT: At the time of the
5 port, the customer would be establishing new
6 service just like they would under the system
7 today. They call the utility. They set up the
8 new service with the utility and then the
9 utility would prompt the transfer and the
10 opportunity to speak with the CRES, just like
11 they would in Sharon's proposal. The only
12 difference between is they could also send in
13 the information.

14 CHAIRMAN SNITCHLER: The difficulty
15 we have is if you look at the Texas model, ERCOT
16 is the clearinghouse and they could basically
17 switch you over in a matter of a couple hours.
18 Now, we're not in the ERCOT setting, we don't
19 have the same access information that they do
20 and as I think Pat Wood said it doesn't have to
21 be ERCOT. They just happened to be the one left
22 standing when they assigned duties as to who
23 would be responsible for establishing that
24 clearinghouse, but I think ultimately if we're
25 trying to improve the customer experience, and I

1 feel like I'm quoting Pat all the time right
 2 now, but if the whole objective is to have a
 3 good customer experience, then we ought to be
 4 working on trying to achieve that objective in
 5 order to make it go as quickly and as seamlessly
 6 as possible. I will tell you as a customer, if
 7 you're telling me to switch, I'm going to have
 8 to do 30 days here, I got to go back to them and
 9 then come back; you know what, maybe I'll just
 10 pass. That's not an effective development of
 11 the competitive marketplace. I think we have to
 12 solve that nut in order to get to where we are
 13 truly able to make that kind of switching work
 14 because that makes a lot more sense to me than
 15 having to bounce back and forth over 60 days,
 16 and who am I paying this month and why. That to
 17 me is a cumbersome process and I think one that
 18 is not long for the world if we're going to be
 19 truly competitive.

20 MS. NOEWER: On that perspective,
 21 though, one of the things I think that is a
 22 benefit from the warm transfer process is when
 23 the customer actually calls the utility, granted
 24 there are circumstances when people are running
 25 around but that's probably the best motivation

1 for us to immediately transfer, while the
2 customer has just written down that account
3 number, to the supplier to talk to that supplier
4 about what options there are at their new
5 location, whether they're in Toledo or
6 Cincinnati from where they are today, in the
7 absence of having the EDI system set up to do
8 that at some point later in the future.

9 The one other topic that you did ask,
10 and since I am here and I am a CRES, that
11 Commissioner Lesser asked about was with respect
12 to the early termination fees. In our
13 experience, I think we've been in the Ohio
14 market since the inception, and I will tell you
15 that it depends on the product, it depends on
16 the community when it comes to government
17 aggregation. And with respect to protecting
18 those customers, there's two thresholds and two
19 gates. The first is that through legislative
20 vote they actually provide their affirmative
21 consent to their mayors and their city council
22 to look out for them with respect to whatever
23 offer is being presented, whether it has an ETF
24 in it or not. And then the second gate is
25 through the opt-out notices to those particular

1 customers as long as there's proper disclosure.

2 And I think what I will tell you from
3 my experience there in Ohio is that the
4 competitive market will dictate what products
5 actually can be served to customers and how
6 receptive they are. If customers do not want a
7 particular product, whether it's percent off,
8 fixed price, with an ETF or without an ETF they
9 will move on to a different supplier in another
10 town. So I think it's perfectly appropriate and
11 I think in a competitive market the market ought
12 to dictate what those products are.

13 COMMISSIONER LESSER: So Sharon, you
14 are saying you have early termination fees for
15 people leaving a Gov Ag?

16 MS. NOEWER: In some cases, not in
17 all; and again, it depends upon the community.

18 COMMISSIONER LESSER: Dwayne?

19 MR. PICKETT: For the early
20 termination question we do have an early
21 termination fee with most of our posted prices;
22 it's \$25. Our view really, though, is it's not
23 that important of a hedge for us with our
24 residential customers. It's a bigger deal with
25 CNI. When you're making a larger investment,

1 you got a lot of other money you're booking in
2 the future; but for a residential customer it's
3 something that we post as, you know, don't jump
4 out of your contract but it's not something that
5 is imperative.

6 I did want to make a comment back to
7 contract portability towards Tad's comments on
8 whether or not contract portability is a big
9 deal. I think he mentioned some statistics at
10 DP&L throughout that, hey, not a lot of people
11 are moving on the same day and signing on the
12 same day. And I think the first point is that
13 doesn't cover contract portability as we're
14 talking about it today. There's a really small
15 subset. And I actually came back with numbers
16 this time for what we think would be the
17 eligible customers for contract portability in
18 Ohio, if you don't mind.

19 CHAIRMAN SNITCHLER: We're all ears.

20 MR. PICKETT: I'd love to share that
21 with you after as well. In 2012 the Census
22 Bureau updated its rolling five-year estimate of
23 the residential mobility by asking the following
24 question: "Did this person live in this house
25 or apartment one year ago?" In Ohio, a whopping

1 14.7 percent answered no, indicating that 14.7
2 percent of Ohioans had moved within each of the
3 five previous years. So each year about 15
4 percent of people moved in Ohio. Further, for
5 Columbus it was 23.4 percent indicating to me
6 that in denser populations where we typically
7 have EDU coverage, it's more portability, more
8 residential mobility. We're talking about a lot
9 of customers.

10 What folks would say to me next
11 probably is, well, you don't really know where
12 those folks are moving to. They could move to
13 Canada, Fiji, you know. And the Census Bureau
14 had an answer to that too. They did a study in
15 2012 using a sample group of 11.1 million
16 Americans, and out of that sample 13.7 percent
17 of the respondents moved in that calendar year
18 answering the same question. And they also gave
19 data about where they moved. 9 percent moved
20 within the same county; 9 percent out of that
21 11.1 million, roughly one million 56 thousand
22 individuals. And also 3 percent of that same 11
23 million moved within the same state and only a
24 small percent, I think another 2 percent left
25 that moved outside of the state or outside of

1 the country. So we're talking about a lot of
2 folks. If you wanted to apply that to the 5.1
3 million households in Ohio, that would be over,
4 that would be roughly half a million customers
5 in Ohio. So we're talking about half a million
6 Ohioans that moved within their county every
7 year.

8 So I think contract portability is
9 actually a big deal. There's a relevant amount
10 of customers. I'd love to share this with the
11 panel and with the Commissioners and, Mr.
12 Commissioner, you talk about contract
13 portability as a statewide program. I think
14 RESA and Integrys are extremely in favor of that
15 and we'd like a wider, a broader approach to
16 contract portability as well. I think we
17 offered this program just as a compromise in
18 the subcommittee.

19 MR. BERGER: If I could just respond
20 to Dwayne on some of these statistics. We don't
21 know if these customers are moving back to mom's
22 house or moving back in with another person. We
23 don't know a whole lot about these statistics.
24 One of OCC's biggest concerns is that a customer
25 is moving from an apartment to a much larger

1 home or vice versa, and their circumstances are
2 changing significantly. And when they signed
3 the contract one year or two years or five years
4 ago, the concerns that they had when they did
5 that and checked off this box, if they even have
6 to do that, simply aren't relevant to their
7 lives anymore, and I think we have to be
8 cognizant of some of the consumer issues.

9 Also, I don't know that you can
10 actually transfer a supplier's rate from one EDU
11 service territory to another. Currently the
12 rates that suppliers offer in different service
13 territories are different, so I don't think that
14 we can necessarily look at that in a uniform
15 way.

16 COMMISSIONER HAQUE: So let me, Tad,
17 if you don't mind. With respect to the concern
18 if an individual who signed a CRES contract goes
19 and moves in with more roommates or with mom and
20 dad, logistically, if that household already has
21 service or a contract with a supplier default
22 service, and we're talking specifically about
23 contract portability, what's the result? When I
24 think of this concept I think of moving from a
25 place that the resident or member is currently

1 residing in to a place that's currently dark,
2 okay. I don't look at this from the -- so
3 address this for me, please, the concept of if
4 you move to mom and dad what's the thought,
5 what's the thinking behind it?

6 MR. PICKETT: Mr. Commissioner, it
7 sounds like that we're contemplating much
8 broader contract portability, so we could make
9 the rules around that quite simple. We're
10 talking about service from -- we could even
11 define the program as a program where you're
12 moving from a utility, distribution utility with
13 the lights on to another large distribution
14 utility without service and you're establishing
15 new service. It could be that simple. You
16 could say if you're moving to mom's house it
17 doesn't count.

18 COMMISSIONER HAQUE: Secondly, so,
19 Tad, we just went through, we just had another
20 panel where we talked about enrollment, okay,
21 and presently you need your account number to
22 enroll. And so the presumption behind that is
23 that if you went to get your account number, you
24 were fully educated about what you're doing and
25 you have gone though not only sort of looking at

1 what your new deal will look like, but you also
 2 made an effort to go get your account number and
 3 sign up, okay. Now, as a consumer advocate
 4 you're telling us you entered into this
 5 contract, and contract law aside and what the
 6 actual terms of the contract would be, but
 7 philosophically they've gone through all of this
 8 to find a deal that they're happy with. And now
 9 as a consumer advocate you're saying, well, now
 10 that they're moving we need to go through this
 11 process again. Is that fair to the supplier?
 12 Is that doing justice to the market that we're
 13 trying to create here? I mean, address that for
 14 me.

15 MR. BERGER: Well, Commissioner,
 16 thank you. I think we're transitioning,
 17 Commissioner, to a whole new realm for consumers
 18 where they have been under the protection of
 19 this Public Utilities Commission and they're
 20 operating with the assumption that the choices
 21 they're making are somewhat guided by the
 22 oversight of this Commission. And that when
 23 they make -- when they decide to move in two,
 24 three, or five years there's not really going to
 25 be that long of a contract that they really have

1 to be that concerned about. A lot of people
 2 look at that as the boilerplate. They may not
 3 realize, and I think in a lot of cases or even
 4 in most cases, they don't go and read those
 5 detail provisions, and a lot of these contracts
 6 are one, two pages long with very fine print.
 7 So I think we have to be cognizant of that when
 8 we decide, well, what can be included in a
 9 contract and what things are beyond the scope of
 10 what should be included in a contract.

11 And so when we're talking about
 12 contract portability, I think we should have
 13 limits for how long it is that a contract can be
 14 ported. I certainly don't think a contract
 15 should be ported after, you know, two years or
 16 something, that's my personal opinion, because
 17 of the customer's memory of the circumstances
 18 and the continuation of those circumstances. If
 19 their usage is much greater or reflects new
 20 family members, then, you know, the
 21 circumstances under which they signed that
 22 contract simply have changed and that should be
 23 taken into consideration in this Commission's
 24 determination of whether to proceed forward with
 25 enforcing the terms of contracts.

1 COMMISSIONER HAQUE: Do you think it
2 is fair for a consumer who signed a contract to
3 be able to sort of, and I guess I call it a
4 moving loophole, get out of their contract just
5 by moving? I mean, whether the deal that they
6 signed two years ago or one year ago or three
7 years ago was a deal that they regret, okay,
8 it's a decision that they made.

9 MR. BERGER: Well, I'm an attorney so
10 I certainly believe in the enforceability of
11 contracts. The question is, is it good public
12 policy in this Commission's determination in its
13 oversight of those contracting procedures to
14 have contracts that have that length and that
15 comparability.

16 MR. PICKETT: So I think --

17 CHAIRMAN SNITCHLER: I would ask you
18 to be brief because I'm going to reserve the
19 executive privilege of asking the last question
20 as we are at our time limit, so Dwayne, you can
21 have your comment, and then Sharon, I've got a
22 question for you but anyone is welcome to
23 answer, so go ahead.

24 MR. PICKETT: Very briefly. I think
25 I have to disagree. I say that we shouldn't

1 make a policy of limiting customer choice; that
 2 we shouldn't make a policy of regulating
 3 unregulated prices. As we move forward at the
 4 end of this month, by the end of December, all
 5 the utilities in the State of Pennsylvania have
 6 to file contract portability plans on how they
 7 intend to move forward with contract
 8 portability, and that's something that the
 9 Pennsylvania Commission is going to look at. I
 10 think that would be a great place to look at
 11 ideas on how we can implement the same process
 12 here. I think it's a great way forward having
 13 utilities step up and actually offer a plan.

14 CHAIRMAN SNITCHLER: Thank you. I'm
 15 going to ask a rhetorical question first and
 16 then a direct question. My rhetorical question
 17 is on the question we have just been having.
 18 I'm not aware of anyone that's advocated that if
 19 you terminate service and two years later you
 20 reinitiate service, you're trying to port your
 21 contract over. That sounds to me like
 22 termination of service and a new contract, but I
 23 might have missed that in the comments to the
 24 question. But that being said, Sharon, we
 25 talked a little bit about warm transfer. That

1 kind of got glossed over a little bit.

2 From my perspective, as I reviewed
3 the discussion and tried to get up to speed on
4 where the subcommittees and the workshops have
5 gotten, this seems to put the power in the hands
6 of the consumer, and from my chair that is also
7 ultimately where I think that power belongs;
8 and so we don't want to have any undue influence
9 either from the CRES supplier or the EDU. I
10 mean, ultimately I want the consumer to be able
11 to make the best choice that they think makes
12 sense for them. And isn't the warm transfer the
13 model that seems to offer the greatest chance
14 for consumers to be the most empowered, or am I
15 misunderstanding that? And I don't mean to
16 throw you a softball but as I go through it,
17 you're the only one who's mentioned it. It
18 seems to me that's the way to go.

19 MS. NOEWER: No, I absolutely agree.
20 What happens today is if a customer calls the
21 utility and tells them they're moving, all the
22 supplier sees is a drop. You don't get any
23 other information other than that. And really,
24 if you can then get ahold of the customer weeks,
25 months, if ever later, then you're already past

1 the point where the customer's contract, where
2 they were saving, that that opportunity is lost.

3 So in the case where, in a warm
4 transfer, where the customer would call the
5 utility service representative, get their
6 account number and then be immediately
7 transferred to that supplier, they could then
8 make the choice; listen to the supply options,
9 whether it's continuing on with their contract
10 or even if it's in a different service
11 territory, perhaps there would be an opportunity
12 there as well. So all of the empowerment is in
13 the hands of the customer at that point. And
14 beyond that, you know, FES and other suppliers,
15 we value our relationship with the customer and
16 you want an opportunity, since you have
17 developed that existing relationship, to
18 continue it. It doesn't have any of the same
19 detractors, if you will. There's no, you know,
20 EDI to build in, there's minimum utility
21 involvement, and not much cost, in fact, to be
22 able to implement something like this.

23 So I think, again, I agree with you a
24 hundred percent that putting the power in the
25 hands of the customer and making sure the

1 customer has a good experience with shopping, at
2 least they understand what's happening.

3 CHAIRMAN SNITCHLER: Great.

4 COMMISSIONER LESSER: Just very
5 quickly. Sharon, how would the customer know
6 that they could choose the port or not if
7 they're being just transferred to their current
8 supplier?

9 MS. NOEWER: If you're a supplier
10 answering the phone and you have a contract with
11 that customer, if the customer is moving, there
12 is nothing that would keep that customer in that
13 contract unless there was some sort of customer
14 portability clause which we're saying was
15 something we don't need. Clearly, if the
16 customer says I don't want to take this contract
17 to the new location, you wouldn't do it.

18 MR. PICKETT: So I guess the only
19 problem that was brought up with the FES
20 proposal is that the customer wouldn't have the
21 new account number for the new residence, so
22 they couldn't sign up. On the warm transfer the
23 utility tells the customer, hey, this is your
24 new account number, write it down, you're going
25 to be on the phone to the supplier in a couple

1 seconds, then tell them that number; and our
2 concern is that's doing too much. If we could
3 get the account number, then the warm transfer
4 is fine. We're on the warm transfer, we have
5 the number. As long as they have that consent
6 with us, then we can process the new one.

7 MS. NOEWER: But every utility in the
8 state doesn't have the same rules for
9 availability of account numbers either. I
10 apologize for wrapping up.

11 CHAIRMAN SNITCHLER: No, you're good.

12 MS. NOEWER: So, for example, Michele
13 Jeunelot mentioned that they do it by SDI which
14 is tied to the premise, so if you call, if you
15 know what your new premise is, you could get
16 that number right away. In the case of Duke
17 that may not be the same. So that may be
18 something that we would need to work on further
19 to make sure that, you know, in certain
20 circumstance, I think the FE utilities and
21 Dayton would have the account number available.
22 So it's something I think we could continue to
23 work on.

24 CHAIRMAN SNITCHLER: And I think we
25 probably will. So with that, I will thank you

1 for your participation. Those who would say I'm
2 not kind are wrong. I will take a break until
3 3:15. That gives you 4 minutes to do what you
4 need to do and then we'll reconvene the next
5 panel on POR at 3:15. So thank you.

6 (Break taken.)

7 CHAIRMAN SNITCHLER: It is 3:15 so
8 we will reconvene our meeting and we'll poke fun
9 at Commissioner Lesser when he arrives for being
10 late at getting started again. With that, our
11 next panel this afternoon is going to discuss
12 purchase of receivables and we have what appear
13 to be four members of this panel. Oh, nice to
14 see you could make it.

15 So we have four members. We have
16 Stephen Bennett who is here on behalf of RESA;
17 Matt White is here representing IGS; Carrie Dunn
18 is here on behalf of First Energy, and Joe Serio
19 is here from the Ohio Consumers' Counsel; and
20 Joe, we're going to let you go first. Since we
21 have gone left to right, right to left, we're
22 going to hit the center and we'll work out from
23 there and try to be equal-opportunity offenders.
24 The same groundrules apply. If you get started,
25 expect questions. And those of you who are also

1 on the panel, feel free to contribute answers if
 2 you have something that you want to chime in
 3 with. As you can tell, waiting until the end
 4 might get you short-tripped so you might as well
 5 get in there and not be shy, and given this
 6 panel, I'm not expecting anyone to be shy. So
 7 with that, Joe, the floor is yours.

8 MR. SERIO: Thank you, Mr. Chairman.
 9 Thank you for the opportunity to be here.
 10 Generally speaking, once you have a program like
 11 electric retail competition or electric choice
 12 and you put it in place, we think it's best to
 13 let the program, give it time to develop before
 14 you start making structural changes. In this
 15 case we only got two EDUs in this state, First
 16 Energy and Duke, that are currently delivering
 17 the benefits of 100 percent market-based rate to
 18 customers. So we think it's premature to judge
 19 the overall success or lack of success of
 20 electric choice until all the utilities have an
 21 opportunity to get to that point and we can see
 22 what we have in the way of shopping.

23 Now, having said that, if you look at
 24 the shopping numbers, it's our view that
 25 shopping in Ohio is incredibly robust, it's

1 healthy, and to quote you, it looks to us like
 2 the purchase of receivables is perhaps a
 3 solution looking for a problem. We also believe
 4 that, you know, before you're going to make
 5 significant changes to a program, you need to
 6 know that the alternatives or the things that
 7 you're looking at are going to have a definitive
 8 benefit for customers and that there's going to
 9 be an improvement. Again, we don't have that
 10 with purchase of receivables. What we got is a
 11 lot of anecdotal evidence. We got a lot of
 12 people saying it will work better, it will make
 13 it work better, but we don't have anything
 14 concrete to show that that's going to be the
 15 case.

16 Finally, if you're going to make
 17 changes to a program, we think you need to have
 18 the cost of those changes weighed against
 19 potential benefit. Now, we know for a fact that
 20 if you institute purchase of receivables,
 21 there's going to be a known quantitative
 22 definitive cost that customers are going to have
 23 to pay. We know that there's going to be a
 24 quantifiable benefit that marketers are going to
 25 get because their costs are going to go down.

1 And when it comes to the customers that paid the
2 additional cost, any benefit that you get is
3 going to be indirect, and it's not going to be
4 quantifiable and it's not going to be measurable
5 because you only get to get it if, in fact,
6 those marketers decide to pass those cost
7 savings along. There's no guarantee they're
8 going to do it, there's no requirement they're
9 going to do it. So what you have is the
10 customer who pays the known quantifiable cost at
11 the mercy of someone who gets a quantifiable
12 benefit by this program, but there's no
13 directive or requirement for them to pass it
14 along.

15 So when we look at this we say we've
16 got robust market, there's no definitive proof
17 that purchase of receivables is going to make it
18 better, there's a known definitive cost, and any
19 benefit I'm going to get isn't direct. So from
20 a customer's standpoint we just don't see the
21 benefit of changing what we have right now until
22 we have better evidence to show that, in fact,
23 we need those changes.

24 COMMISSIONER LESSER: Joe, do you
25 really see that much of a dramatic difference

1 between POR and the current payment priority
2 plan?

3 MR. SERIO: I don't know that we see
4 that much difference. It's just, you know, a
5 million dollars here, a million dollars there.
6 These are all costs that customers end up
7 getting.

8 COMMISSIONER LESSER: Have you
9 quantified it?

10 MR. SERIO: Well, in the subcommittee
11 meetings we asked the EDUs how much it was going
12 to cost, and a couple of them identified numbers
13 of over a million dollars. Not everybody came
14 forward with concrete numbers which makes it
15 kind of difficult. You know, before we buy
16 something we'd like to know definitively what
17 it's going to cost us because the last thing we
18 want to do is say we're going to go there; oh,
19 it's not going to be much of a cost, and then
20 you get a rate case down the road and you find
21 out, oh, it's 5, 6, 7 million dollars. We'd
22 like to know up front and then is there a way to
23 determine if I'm going to pay that additional
24 cost, what am I getting in the way of a benefit.

25 COMMISSIONER LESSER: Can I just ask

1 you quickly, Joe, would you then support on the
2 other side supplier having disconnection rights?

3 MR. SERIO: I think if you had the
4 same protection that you've got with the utility
5 then, you know, that it provides the same
6 opportunities across the board, but I think then
7 you open the door to a lot more problems that
8 either this Commission or somebody else is going
9 to have to deal with, because right now
10 utilities have to adhere to strict rules before
11 they can go through disconnection, and those
12 include the Commission generally having the
13 winter disconnect rules that prohibit
14 disconnection at certain times of the year. So
15 there's a lot of logistical problems that would
16 have to be worked out if we were going to go
17 down that path.

18 MS. DUNN: Commissioners, I'd like to
19 jump on that question as well if I may. Carrie
20 Dunn, I'm here on behalf of Ohio Edison Company,
21 The Cleveland Electric Illuminating Company, and
22 the Toledo Edison Company. One of the comments
23 the Chairman made earlier today regarding the
24 workshop process was that it was worthwhile and
25 also a topic of debate and obviously this is one

1 of those areas, but I would like to point out
2 that this topic of POR has actually been decided
3 in certain other forums specifically as relates
4 to the First Energy EDU.

5 In a 2002 case in lieu of POR the
6 First Energy EDUs had a stipulation that
7 approved partial payment priority. Thus far
8 that's been the system that we have used thus
9 far. And what that means is that no matter what
10 the customer pays, every dollar that comes in if
11 there is supplier arrears, they get paid first.
12 So it is a system that is currently in effect
13 right now. And as recently as the last ESP the
14 Commission confirmed that stipulation and
15 decided that the stipulation was good as it
16 stands. As far as we're here asking which works
17 better, there's no evidence that circumstances
18 since last year have changed.

19 And I would echo also just quickly,
20 because it's part of my prepared comments, Joe's
21 comments regarding shopping statistics.
22 You're looking at in CEI 85 percent, you're
23 looking at 76 percent -- or excuse me, 79 in
24 Ohio Edison, 78 in Toledo Edison. The state as
25 a whole, no one is less than 60 percent of total

1 sales, and as the panelists before pointed out,
2 we're heading in the right direction. And
3 again, Joe stole my thunder but this is a
4 solution in search of a problem. It's simply
5 not there.

6 CHAIRMAN SNITCHLER: Can I confirm
7 that First Energy is agreeing with the Ohio
8 Consumers' Counsel on an issue? I just want to
9 be sure I hear that correctly. I'm sure that
10 makes you both a little uncomfortable.

11 I guess as I listen to that, I guess
12 I need to take a step back and ask the question
13 that says does the Commission not have the
14 authority, if we deemed it to be in the interest
15 of the competitive marketplace, to make a more
16 uniform approach than doing it on an ESP-by-ESP
17 basis, because we have done it in some service
18 territories; we have not done it in others. And
19 it seems to me if we're trying, as the first
20 panel this morning seemed to indicate to us that
21 system uniformity is a better standardization,
22 is a better approach, that we ought to at least
23 consider how or what the appropriate standard is
24 in order so that we have a completely level
25 playing field that is fair for all market

1 participants. Would you agree with that or am I
2 off base?

3 MS. DUNN: Chairman, I actually would
4 not agree with that, as obviously I'm counsel
5 for the EDUs. I believe the Commission does
6 have legal authority under certain compelling
7 circumstances to change its policy and/or modify
8 stipulations and things that have been entered
9 into. As I indicated in the last ESP the
10 Commission found based on evidence of record in
11 that case, that there wasn't any circumstances
12 found there.

13 CHAIRMAN SNITCHLER: But there could
14 be another ESP in the future, correct?

15 MS. DUNN: There could be, yes; there
16 will be, yes.

17 CHAIRMAN SNITCHLER: Well, we'll see.

18 MS. DUNN: Yes. And the next point I
19 would want to point out is uniformity is a
20 challenge. I don't think the point has gotten
21 out from the other EDUs today is that each one
22 of us have different billing systems, so from a
23 technical standpoint how that would work, you
24 would have a problem.

25 Also in my research in looking at the

1 uniformity issue I took a look at the docket in
 2 Massachusetts that has actually a proceeding
 3 open that has been open since 2010 trying to
 4 achieve that uniformity. They actually issued
 5 standard terms and conditions and tried to use a
 6 formula or algorithm of sorts to decide what
 7 would the discount rate be, and to this day
 8 there isn't an answer. It's been five years.
 9 And what the ultimate thing that ended up
 10 happening is each supplier negotiated it with
 11 each individual utility in Massachusetts. Just
 12 an example of, as our panelists explained
 13 before, looking at lessons learned from other
 14 states and seeing what is right.

15 But to answer your question, I think
 16 under certain circumstances the Commission does
 17 have legal authority.

18 CHAIRMAN SNITCHLER: I just saw
 19 Mr. Bennett pull his microphone down, and the
 20 only comment I'll make is that Dr. O'Connor also
 21 gave us a different remedy which was we could
 22 put you all in a room and say either figure it
 23 out or we'll do it for you. So there are
 24 multiple avenues for us to get there. But
 25 Mr. Bennett, I assume you have things you'd like

1 to add?

2 MR. BENNETT: A few and I'm sorry, I
3 must apologize, the weather seems to have gotten
4 the best of me, so I apologize for my voice, and
5 I hope the staff doesn't get tired of being
6 thanked for all the efforts that they put into
7 it because some of the workshops, especially the
8 subcommittee meetings were long and a lot of
9 things were discussed and the staff was always
10 focused and kept us focused, so thank you for
11 that.

12 A lot of things have been said here
13 about POR, and the first thing I'm going to say
14 is please do not take Massachusetts as a good
15 representation of how POR is implemented. RESA
16 and several RESA members are involved very
17 deeply in Massachusetts to get POR, and I can
18 tell you flat out that is simply the outcome of
19 utilities using delay tactics, because they have
20 no interest in implementing POR. So
21 Massachusetts is not the place to look at.

22 I would say instead look to
23 Pennsylvania or Illinois or Connecticut or New
24 York or Maryland, or look to Duke Energy Ohio or
25 look to your gas utilities here because

1 functioning non-recourse POR programs have all
 2 been implemented and implemented in all of those
 3 jurisdictions, and to my knowledge they're not
 4 really controversial in any way, shape, or form.
 5 I know that you participate in several, you
 6 know, organizations like NARUC and MACRUC, and
 7 other organizations like that and I ask you,
 8 have you ever heard a commissioner say, man, I
 9 really wish we hadn't put that POR in. It's
 10 causing all sorts of problems. Customers are
 11 complaining; utilities are out of sorts;
 12 suppliers are not benefited at all; customers
 13 are not benefited at all. I think probably not
 14 because the reality is, and Joe talks about
 15 having no benefits, no demonstrable benefits,
 16 but the reality is POR improves the customer
 17 experience because you get away from duplicative
 18 collections; you get rid of duplicative
 19 arrearages; you put the customer situation where
 20 billing and collection and arrearages and
 21 payment are with one entity all the time under
 22 all circumstances. And that's a benefit,
 23 because if I'm a customer that has arrearages,
 24 that's probably indicative of something else
 25 going on in my life and I probably would rather

1 deal with one entity, the utility who has all of
2 the information about my account, all of the
3 information about what I do, from what I paid,
4 what I haven't, what my bill is. That's a
5 concrete benefit. That's an improvement in
6 customer experience.

7 So when we talk about kind of the
8 idea if it ain't broke don't fix it, I think
9 that's too folksy for this. I think that
10 customers in Ohio deserve innovation and deserve
11 improvement. So I don't think that this is a
12 solution looking for a problem; I think this is
13 a solution that brings benefits to the customer
14 experience.

15 COMMISSIONER LESSER: Stephen, could
16 you tell us in those other jurisdictions how is
17 the discount rate and administrative fee set?

18 MR. BENNETT: It varies very widely
19 and I would say that conceptually the main thing
20 that I would ask that you think about from a POR
21 perspective is that it is not a risk transfer
22 mechanism. What POR does if it's structured
23 properly, just make sure that nobody is double
24 charged or double collects for the risk. So in
25 a situation where a utility has rate recovery

1 for all bad debt, so it doesn't matter if the
2 bad debt comes from suppliers, it doesn't matter
3 if the bad debt comes from their own default
4 service customers, they're going to recover a
5 hundred percent of that bad debt risk, it would
6 be inappropriate to then have them also collect
7 a bad debt risk from suppliers. That's double
8 counting.

9 So in those situations where a rider
10 or something like that already exists,
11 oftentimes the discount rate is set to zero,
12 what's associated with bad debt is set to zero.
13 If that's not the case, if the utility is not
14 already completely made whole, nobody expects a
15 utility to do this as an altruistic thing, you
16 don't expect the utilities not to be made whole,
17 and in those cases you most often take the
18 historic bad debt experience of the utility for
19 that customer class and you apply that at the
20 discount rate for the suppliers. So now the
21 suppliers are taking on that risk of the bad
22 debt in that discount rate. They're only
23 getting paid 99, 98, 97 cents on the dollar, and
24 again, the reason that it's appropriate there is
25 because it's not a double collection scenario.

1 As far as program costs, again that
 2 varies fairly widely. There have been
 3 situations where the program costs have been
 4 borne as a socialized fee to all customers.
 5 There are other situations where the program fee
 6 is collected on a per bill basis from suppliers
 7 or through an additional discount rate or
 8 separate discount rate. So you set a discount
 9 rate, again, where you're collecting 99, 98, 97
 10 cents on the dollar and the money there goes to
 11 pay for program implementation and program
 12 maintenance. And again, I think the important
 13 thing there is to make sure that the
 14 implementation and maintenance costs are
 15 verified, justifiable, and amortized over a
 16 proper period.

17 COMMISSIONER TROMBOLD: Stephen, one
 18 quick question. I understand the Duke POR, in
 19 their territory the marketers can elect to have
 20 a POR or not; is that correct?

21 MR. BENNETT: I believe so, yes.

22 COMMISSIONER TROMBOLD: Do you know
 23 how many of them have elected not to?

24 MR. BENNETT: I don't.

25 COMMISSIONER TROMBOLD: You're not

1 aware?

2 MR. BENNETT: Sorry.

3 MR. WHITE: Can I just add to
4 Stephen's comments? I'd just like to say from
5 IGS's perspective -- and again, thank you,
6 Commission, for having us here and allowing us
7 to have a thorough debate on these topics. I
8 think it's very worthwhile. From IGS's
9 perspective we agree with the gentleman from
10 Texas earlier today who said the end game should
11 be the retail supplier having the retail
12 relationship with the customer and we're sending
13 out the bill, we're billing the utility charge.
14 That is a desirable end game.

15 But that being said, we currently
16 operate in a system that's kind of in flux, and
17 right now this proceeding is to find out things
18 that can be improved immediately to our current
19 system to make the experience better for
20 customers. POR is one of those things because
21 in a situation where the bill is currently being
22 issued by the utility, to Stephen's point it
23 makes sense to have the whole collection
24 experience through and through be done by the
25 utility and not have too many entities

1 involved.

2 So I think a lot of the issues raised
3 today, the question is if you snap your fingers
4 today, could you get it done? Of course not.
5 There are going to be issues that you have to
6 work through to get these things done. But the
7 bottom line is these things have been done in
8 other markets. These things have been done in
9 Ohio. These things can be done and a lot of the
10 reasons why they're not to be done is not
11 necessarily -- does not necessarily mean they
12 can't be done and they're not good for
13 customers.

14 COMMISSIONER LESSER: Larry, I want
15 to make sure you understand --

16 COMMISSIONER HAQUE: Matt.

17 COMMISSIONER LESSER: I'm sorry. I
18 was so -- I know Larry but I was so focused on
19 the tag.

20 MR. WHITE: Larry is about 25 years
21 older than me.

22 COMMISSIONER LESSER: Yeah, yeah, I
23 know. He's a contemporary, that's the problem.
24 You were describing basically supplier billing,
25 and were you also describing consolidated

1 supplier billing?

2 MR. WHITE: Yes. Again, I think
3 supplier consolidated billing would be a very
4 positive step. It would enable the competitive
5 markets to truly, truly work.

6 COMMISSIONER LESSER: So you would do
7 POR for the utility charges and transmission
8 charges and everything else then?

9 MR. WHITE: That's what we do in
10 Texas. We think the Texas model is the best
11 model. That being said, the current -- one of
12 the issues right now is that in the default
13 rate, in the distribution rate, the cost of
14 collections and all that for the default rate is
15 recovered through distribution rates which are
16 paid for by all customers. So by not having a
17 POR in the current system where there is a
18 default rate that all the billing and
19 collections is recovered through distribution
20 rates, then you do put the default rate in a
21 better position than in other competitive
22 markets out there that the cost of the
23 collections has to be recovered through their
24 own prices.

25 COMMISSIONER LESSER: So in the Texas

1 model you have the power to disconnect solely?

2 MR. WHITE: Well, there's obviously
3 consumer protection rules that we must apply and
4 they're very similar to the consumer protection
5 rules that currently apply to the facility to
6 disconnect, but ultimately we can order a
7 disconnect given that we supply -- or we meet
8 all those consumer protection requirements in
9 Texas.

10 COMMISSIONER HAQUE: Joe, is the OCC
11 philosophically opposed to POR or is it just
12 that we're developing, we don't know what's
13 coming, and we don't want residential to pay for
14 it?

15 MR. WHITE: I think our preference is
16 that we would prefer not to have POR across the
17 board. You're looking at gas versus electric.
18 I guess the biggest difference is on the gas
19 side POR was necessary to get it jump-started
20 and at the time it appeared that the benefits of
21 going to choice would outweigh those potential
22 costs. That doesn't seem to be the case here.

23 The other thing we see and if we're
24 going to look to the gas market for how it's
25 worked out, you know, not everyone looks at the

1 gas market and says that it's working to benefit
2 customers. You know, last year The Dispatch did
3 the article that showed that customers in gas
4 choice had lost almost a billion dollars versus
5 the alternative standard offers.

6 CHAIRMAN SNITCHLER: I would dispute
7 the numbers that were out there, and I don't
8 think this is the appropriate forum for us to
9 debate the number, but I can't let that go
10 unresponded to. So if you want to continue to
11 answer the question, we can debate that at a
12 different setting but I think that number is
13 certainly subject to a vigorous argument, and
14 this is the wrong venue.

15 COMMISSIONER HAQUE: Gas aside,
16 conceptually the POR piece, so if I look at this
17 just conceptually, okay, the CRES providers,
18 they have uncollectable debt rate that they need
19 to recover, and so when I look at the OCC's
20 position with respect to POR, I'm just trying to
21 understand whether you are philosophically
22 opposed to POR or just right now you just can't
23 see the benefits, you might five years from now,
24 you might ten years from now, but I'm just
25 trying to understand your position.

1 MR. SERIO: I think the best way to
2 respond to it is that you're trying to put
3 regulatory certainty into an unregulated market.
4 And if you want regulatory certainty then you
5 have to have regulatory controls, and if you're
6 going to have deregulation in choice, then there
7 are certain business risks associated with it.
8 I don't know of any other business that has
9 guaranteed that they're going to recover their
10 cost like that.

11 COMMISSIONER HAQUE: So that's an
12 important philosophical piece from the OCC then,
13 which is your opinion is that CRES suppliers
14 basically take on the risk of not recovering by
15 entering into the market.

16 MR. SERIO: That is a market risk,
17 yes.

18 MR. BENNETT: And I will say I know
19 of no other industry that bills on a
20 post-delivery basis that has no termination
21 rights. So, in fact, I can get a magazine
22 subscription and if I don't pay that, they stop
23 sending it to me; whereas, as a CRES provider, I
24 provide electricity, I bill on a post-service
25 basis, and if I don't get paid, I have no

1 termination rights. So one of the things, you
 2 know, one of the things about POR that is often
 3 misquoted is that it's simply a jump-start
 4 mechanism. It's not a jump-start mechanism. It
 5 can be used for that, and was very successfully
 6 in Illinois, but that's not the only purpose to
 7 put a POR in. POR, again, is to lessen customer
 8 confusion, it's to level the playing field on
 9 collections, it's to give the customer better
 10 experience dealing with one collection process
 11 instead of multiple collection processes.

12 I mean, I would point out when you're
 13 in the committee meetings, in the workshops and
 14 talking about this, there was a lot of
 15 confusion. I mean, CRES suppliers brought in
 16 their operations personnel, utilities brought in
 17 their operations personnel. There was confusion
 18 about this. Where was the information for the
 19 utilities and the tariffs on how the payment
 20 priority worked? There was confusion on how it
 21 actually worked. There was confusion about what
 22 happened when the customer was put on a payment
 23 plan and how that affected the information
 24 transfer back and forth. I mean, the only
 25 person, the only utility that didn't have any of

1 that confusion going on in those meetings was
2 Duke. Duke just said, yeah, we don't have that
3 problem because we have POR and we don't have
4 the problem of the difficulty in communicating
5 and making sure the data goes back and forth.
6 So again, POR is not necessarily just to
7 jump-start a market, it's to actually improve
8 the market, make the market more sustainable.
9 It brings in market efficiencies, it can bring
10 in supply diversity, it can bring in product
11 diversity.

12 The other thing that we hear in these
13 meetings that was talked about a lot, and my
14 panelist from First Energy brought this up, is
15 shopping statistics. Well, shopping statistics
16 alone are not really the only marker of a robust
17 marketplace. It is one of them, but you have to
18 look at what are the products being offered in
19 that market? What does the supplier diversity
20 look like? Do you have one supplier? Do you
21 have five? Do you have ten? Do you have people
22 seeking to enter that market? Do you have
23 people thinking that they even have an
24 opportunity to enter that market? And if you
25 look at what the subcommittee on the definition

1 of what a robust market was, they didn't say
 2 shopping statistics alone. We came up with
 3 additional markers and I'm not sure that
 4 everywhere in Ohio you really have robust
 5 shopping outside of simply those statistics.

6 COMMISSIONER HAQUE: Let me ask you
 7 about Duke's POR program. Mr. Serio said a few
 8 times there's no evidence that POR is needed.
 9 There's evidence that you just mentioned the
 10 switching numbers; switching numbers are not
 11 necessarily a great metric for determining
 12 whether this is a necessity or isn't. Talk to
 13 us a little bit about Duke. One item that has
 14 been brought to our attention just statistically
 15 is that the switching numbers post the POR have
 16 not been, they haven't been as great as expected
 17 within the Duke territory as a result of the
 18 POR, and that could be a number of different
 19 reasons, right; but talk to us a little bit
 20 about the Duke POR and whether you think it's
 21 going well, what are the successes, what are the
 22 failures?

23 MR. BENNETT: So that I'm very clear,
 24 I want to say that, you know, shopping
 25 statistics are not necessarily a bad marker of

1 market successes, it's just not the only one.
 2 You know, I think the POR program as it's
 3 structured in Duke is a very good one. It
 4 follows similar structures to the other
 5 jurisdictions I mentioned. Again, I don't think
 6 you hear complaints from customers or from Duke
 7 or from the suppliers that operate in the Duke
 8 territory; but I also don't want to paint POR as
 9 a pure panacea. Just putting POR in place
 10 doesn't suddenly mean that everybody on
 11 residential supply is going to choose a CRES
 12 provider. What it does, though, what I would
 13 say is to look at Duke and say what does the
 14 supplier diversity look like there? How many
 15 suppliers are operating in Duke? Contrast that
 16 with an area that doesn't have POR. Look at the
 17 number of products that are on the very -- and I
 18 want to say that the new Apples-to-Apples site
 19 that we're about to see is spectacular, so when
 20 that comes out, look at the product offerings
 21 that are out there. There are a lot of
 22 different diverse product offerings in Duke for
 23 the residential customers versus in the
 24 territory that doesn't have POR.

25 So you're right. There are a lot of

1 things that can influence whether a customer
2 shops or not. POR simply makes the market more
3 efficient so that when they do shop they have
4 more choices.

5 MS. DUNN: Mr. Chairman, if I could
6 have an opportunity --

7 CHAIRMAN SNITCHLER: Please.

8 MS. DUNN: -- to respond to the
9 supplier diversity? Again, this is anecdotal, I
10 apologize, but recently in the First Energy
11 territory as recently as October and November
12 two competitive suppliers did announce that they
13 began offers in the residential market in First
14 Energy as recently as this month or -- yeah,
15 November, and so supplier diversity is happening
16 regardless of POR. I think, Commissioner, your
17 question was a good one. There are a number of
18 factors you do look at. But traditionally and
19 historically in almost all the states cited, it
20 was a mechanism to jump-start the market. When
21 you get past that point, as I think we all know,
22 those numbers aren't going up.

23 There are other means that you can
24 use to provide the suppliers with some of the
25 risk mitigation, and I would be remiss if I

1 didn't point out some of the positive aspects
2 that came out of the RMI. Mr. Bennett alluded
3 to positive aspects. When POR looked to be not
4 an option as far as uniformity, we did spend a
5 majority of the time discussing what information
6 are the suppliers lacking that we don't already
7 give them. Do they understand what we already
8 give them?

9 For example, in First Energy's
10 territory we give monthly reports that indicate
11 whether the customer is on an installment plan,
12 what the supplier arrears are. Certain items on
13 those reports could be expanded cautioning,
14 though, there are certain consumer privacy
15 rights. We would obviously want Commission
16 approval to release some of that information;
17 for example, what the customer pays per month.
18 It's an item that, at least in our legal view,
19 we can't currently just give out, but it's
20 something that could be enhanced and that would
21 enhance their ability to collect from
22 customers.

23 In addition, you're never going to
24 100 percent eliminate the CRES suppliers' risk
25 of coming into the market. That's where partial

1 payment comes in. It helps mitigate that risk.
 2 Some of that risk should be borne into or baked
 3 into the price they provide customers. What I
 4 think Joe is alluding to as well is if we
 5 provide them that advantage of having POR, it's
 6 not guaranteed that that will, in turn, benefit
 7 customers, and the customers ultimately do bear
 8 the risk even with a discount rate. That's been
 9 shown to be difficult in certain circumstances
 10 deciding what that is.

11 COMMISSIONER HAQUE: And I guess my
 12 retort to that is we keep talking about there's
 13 no guarantee, there's no evidence. I really do
 14 think that the only evidence is what exists
 15 outside of the state's boundaries. I mean, you
 16 can't honestly tell me that if we did implement
 17 a POR, the retail market wouldn't get better. I
 18 mean, you can't legitimately tell me that.
 19 That's a future-looking-crystal-ball kind of
 20 thing, right; so I just wanted to pause you a
 21 second because the other thing that I wanted to
 22 ask you is, so from the intel that we received
 23 at the subcommittee level, FE was the utility
 24 that was most opposed to POR. You're
 25 vociferously arguing against POR here. Outside

1 of what you have done in your stipulation, in
2 your ESPs, can you tell why?

3 MS. DUNN: Sure. The First Energy
4 EDUs have been the fastest growing area with
5 territories where competitive suppliers have
6 entered the market. We were first to
7 corporately separate. We believe in
8 competition. We have supported competition. We
9 have done that for a long time. Fundamentally,
10 we believe there are legal issues as well as
11 philosophical issues in relation to POR. One is
12 providing cross-subsidies. We do believe that
13 POR subsidy from the regulated side to the
14 competitive side is counteractive to state
15 policy. That's one of the philosophical
16 reasons.

17 There's other reasons as well.
18 Functionally; functionally you're asking for a
19 change and you're asking ultimately the
20 utilities and then the customers to bear certain
21 functional changes without a need for those.
22 That is cost to the customers that the customers
23 ultimately may or may not see the benefit of.

24 COMMISSIONER HAQUE: Who floats the
25 bill for this?

1 MR. WHITE: To answer that question,
2 the cost of collection activity generally comes
3 out of distribution rates, so if you want to
4 talk about subsidies, I would argue it's the
5 exact opposite where, you know, the distribution
6 rates are subsidizing the cost of collections
7 for the SSO rate. If you have an uncollectable
8 expense rider now, that's just recovered from
9 everybody; but in a discount rate, the discount
10 costs are also recovered from, on the
11 uncollectable expense, is also recovered from
12 distribution rates in a utility without
13 uncollectable expense rider. So you really are
14 getting a lot of current subsidies right now
15 flowing from the distribution rates to the SSO
16 which is harmful to competition, and it is
17 contrary to state policy.

18 Going back to the gentleman from
19 Texas, because I really like that guy, talking
20 about making a market that lowers the
21 transaction cost for CRES, for competitive
22 suppliers, POR is one of those things that you
23 can do to lower the transaction cost to
24 competitive suppliers. And the evidence is
25 clear that if you bring that into a market,

1 you're going to bring in more competitive
2 suppliers, you're going to have more offers on
3 the table and you will eliminate the subsidies
4 that are currently occurring from the
5 distribution rates to the SSO.

6 COMMISSIONER HAQUE: Okay. So I
7 didn't mean to cut you off. So you mentioned
8 cross-subsidy; you mentioned functionality.

9 MS. DUNN: Yes, and also legal
10 ramification as it relates to current rules
11 relating to disconnection of customers for CRES
12 charges. The last thing I wanted to point
13 out --

14 COMMISSIONER HAQUE: What is your
15 understanding of legal ramifications?

16 MS. DUNN: The cross-subsidy that I
17 mentioned which is in the statute. I can cite
18 that for you later. That's one.

19 COMMISSIONER HAQUE: But it doesn't
20 have anything to do with your previous ESP.

21 MS. DUNN: What, the state policy of
22 avoiding --

23 COMMISSIONER HAQUE: No, no, the
24 legal ramifications, because initially when you
25 opened your comments you said in our ESP we did

1 X, and then Todd cited one of the gentlemen that
2 was here earlier in our panel. Does that weigh,
3 is that part of your legal ramifications
4 argument or not?

5 MS. DUNN: I believe that is part of
6 the legal ramifications as well. I believe also
7 in that case that the Commission determined that
8 there was no evidence that there was a legal
9 obligation for the companies to provide it as
10 well in that circumstance.

11 The last thing, you know, as far as
12 regulated, you know, SSO rates that my colleague
13 brought up, is that the difference between a
14 regulated and competitive is, on its face,
15 regulated companies have a strict rate of
16 return, rate of equity from the Commission. If
17 they received certain expenses recouped through
18 that, it's because of the nature of the
19 regulated business versus competitive. I don't
20 know of any competitive business that wouldn't
21 want their credit risk eliminated, and that's
22 where we philosophically disagree on that issue.

23 And I do want to point out that that
24 is the, you know, personally that's the EDU,
25 First Energy EDU's position. I believe the only

1 position that has been brought up by other EDUs
2 is they just believe it should be EDU by EDU,
3 and that's the response behind why we take the
4 position that we do.

5 CHAIRMAN SNITCHLER: And we are at
6 our time limit for this panel. I think this is
7 case in point why this is such a challenging
8 issue. Very strong opinions on all sides and I
9 think certainly helpful in engaging the
10 Commissioners as we look at how we might address
11 these issues going forward; and certainly it
12 seems to raise some of the questions raised by
13 this morning's panel about structural versus
14 behavioral separation as well. So we may yet
15 return to that discussion. So I want to thank
16 you for participation on the panel.

17 And with that we'll move on to our
18 next panel, which is a favorite subject of mine,
19 bill formatting, bill messaging and CRES logos
20 summary, and while we're changing I will talk
21 about who is going to be participating. It
22 seems like we're having round 2 of a couple of
23 our guests which is great because they may end
24 up with questions from the first go-round, so
25 Tad will be back representing the Ohio

1 Consumers' Counsel. Dan Jones is making his
2 second appearance for the EDUs here at Duke.
3 And looks like Barth Royer is going to be here
4 representing Dominion Retail from the CRES
5 supplier side of the house. And we are slightly
6 behind schedule, but I thought that was
7 worthwhile time to invest on that POR
8 discussion, so I appreciate you bearing with me
9 as we extend it a little bit. We'll try to give
10 you a fair shake on this panel and not cut you
11 off early.

12 So with that, Dan, we'll resume our,
13 from my seat, left to right presentation and the
14 firing line will begin about as soon as you
15 start, so have at it.

16 MR. JONES: Thank you, Mr. Chairman,
17 once again. I think the last time when we had
18 this discussion back on November 5th, I think it
19 was Tad had gone first and presented a sample
20 kind of standard format for a bill and we were
21 kind of commenting on that, but just to give a
22 few comments up front with regard to that bill.
23 The first point that I made at that meeting was
24 that all utilities are not created equal. And
25 what I meant by that is that Duke Energy Ohio is

1 a combination gas and electric utility. 70
 2 percent of our residential customers we bill
 3 them for both gas and electric on the same
 4 invoice, so for us to, you know, conform to an
 5 invoice, there is just not a way to make it look
 6 exactly like, you know, the sample invoice
 7 looked like because we have to have --

8 CHAIRMAN SNITCHLER: And by the
 9 sample you mean the one that Barb had presented
 10 to each of you --

11 MR. JONES: Right.

12 CHAIRMAN SNITCHLER: -- which should
 13 look shockingly familiar to Barth because I
 14 think it was loosely based off of the Dominion
 15 bill, and I guess I only want to interrupt to
 16 ask the question and get the feedback from each
 17 of you. I think it was Pat Wood that mentioned
 18 kind of a Great Lakes approach where the region
 19 would try to say if you're basically
 20 Pennsylvania, Ohio, Indiana, Michigan, maybe
 21 Illinois and you made your bills look similar
 22 and meet certain requirements, that might be one
 23 way to approach this. Does that give anyone
 24 heartburn or does that cause anyone to say that
 25 is something we hadn't considered and maybe we

1 should, or is that a non-starter across the
2 board? I'm curious. That's the first that I
3 heard someone mention that, and it's kind of
4 rolling around in my head this afternoon as
5 maybe that's a workable option, but I'm curious
6 about your thoughts.

7 MR. JONES: My thoughts on it are
8 with regard to are there customer complaints out
9 there with regard to not being able to
10 understand the bill? There are bill messages
11 each utility has that says this is your
12 Price-to-Compare, so they have that number to
13 use to look at various web sites and so forth;
14 and, you know, if there are problems with each
15 of the individual EDU bills, we would suggest
16 that we look at the individual utility and try
17 to make revisions there versus, you know, the
18 standard format.

19 CHAIRMAN SNITCHLER: Put it in their
20 shopping. If customers are going to be shopping
21 across the footprint and may have portable
22 contracts across the state for the better part
23 of a decade, it seems, in some instances, it
24 seems that some standardization would make sense
25 because then you're consistent regardless of

1 where I live and where I move to. If I move
2 within the state, I'm going to see the same kind
3 of product. Is that not at least a laudable
4 goal that we should be working towards?

5 MR. JONES: I think when we look at
6 all the things that the workshops addressed,
7 that would be much lower on the list. I think
8 there are other things that would be a higher
9 priority than if -- you know, if the objective
10 of these workshops was to create more informed
11 customers and more switching, there may be other
12 ways of doing that versus totally redesigning
13 all the utilities' bills and having customers
14 once again incur the expense in their rates for
15 that redesign.

16 MR. ROYER: I would only add that
17 imposing significant additional expense on the
18 utilities, on EDUs simply for the sake of making
19 bills look alike across the state doesn't seem
20 to me to be the best policy. I think the
21 important thing from suppliers' perspective is
22 that the information presented on the bill is
23 clear, that it's understandable, and that the
24 customer can make necessary calculations from
25 the bill to see, A, that the bill is right and,

1 B, to assess whether it's making savings. So we
2 don't really have a dog in this fight, I guess,
3 from that perspective, but not in favor of just
4 imposing significant additional expense for
5 this.

6 CHAIRMAN SNITCHLER: Sure. At a
7 minimum wouldn't you agree that, and I'm
8 thinking from the gas perspective now, that gas
9 customers, some customers receive a bill based
10 on CCF, others receive it on Mcf. If I move
11 from one territory to another, I could get what
12 appeared to be a shock but might not actually be
13 one when I actually figure out that this is just
14 one-tenth percent times what I was getting
15 before. Some of those basic fundamental
16 consistencies seem to me that they wouldn't be a
17 substantial O&M expense, and even I went to law
18 school, I'm not a math guy, but can multiply by
19 ten and get to my answer. So maybe some of
20 those fundamental basics are things we can agree
21 on as we move down the road.

22 MR. ROYER: Right. And that part I'm
23 totally on board with, where you can make minor
24 changes that don't require substantial
25 reprogramming costs that you would visit on

1 customers, yes, we should do it, and I think
 2 that the subcommittee, we came to a lot of
 3 agreements about stuff like that in terms of
 4 nomenclature on the bills. It should be called
 5 delivery charges and supply charges so that
 6 everybody understands what they mean; and yes, I
 7 would agree with that 100 percent, that to the
 8 extent you can do it without being concerned
 9 about what color the bill is and, you know, how
 10 it looks on the page. As long as it's
 11 understandable, I'm certainly in support of
 12 that.

13 CHAIRMAN SNITCHLER: Tad, what's the
 14 OCC think about it?

15 MR. BERGER: Mr. Chairman, I think
 16 we're pretty much on the same page with you
 17 about standardized billing, that it's a good
 18 idea; that the bill format itself is perhaps the
 19 most important customer education piece that a
 20 customer sees, and a lot of customers don't see
 21 a whole lot of other education. It's an
 22 opportunity to communicate with the customer
 23 from the utility, from the supplier to provide
 24 the necessary information for them to understand
 25 the electric supply market, to be able to

1 contact their supplier, to see what the
2 Price-to-Compare is and what they're paying
3 relative to it, and as you know we designed a
4 bill format that we think can be fairly
5 standardized.

6 Obviously, there has to be some
7 assessment of is this really that costly? There
8 has been a lot of statements during the course
9 of the subcommittee about how costly it is to
10 change bills. I'm not a programmer, but
11 certainly the information on the bill, whether
12 it's usage information, meter information, it's
13 fairly standard across every bill and it's hard
14 to imagine that the cost would be that dramatic.

15 CHAIRMAN SNITCHLER: I asked
16 rhetorically only, if the cost would be
17 different if shareholders were paying as opposed
18 to ratepayers were paying. I simply throw that
19 out there for consideration. I suspect there
20 may be other questions from other Commissioners.
21 Commissioner Haque?

22 COMMISSIONER HAQUE: Well, I don't
23 really have any questions. I don't have answers
24 either. Well, I might have answers. I always
25 think I have answers. So I would just comment

1 that when I was preparing for this, I just took
2 out my bill and looked at it, and I should think
3 that I'm a moderately well-educated person, and
4 I think that they are difficult to understand.
5 On the messaging side of the bill, I think that
6 the message of your Price-to-Compare and what
7 exactly that means can be conveyed in a much --
8 it's difficult because I know you got a certain
9 amount of space, but it can be conveyed in a
10 more thorough and more, at the same time, more
11 concise manner, and I will just read to you what
12 I sketched out in about 30 seconds.

13 "You have a default service provider
14 that bills you for generation services. You
15 have the ability, however, to shop and receive
16 these services from another supplier.
17 Price-to-Compare below reflects what your
18 default service provider would bill you for
19 generation services per kilowatt hour. In order
20 to save on these services, a different
21 supplier's price must be lower than this price.
22 If you're receiving service from another
23 supplier, that supplier's name and rate will be
24 reflected in this bill."

25 So I did that in a very short period

1 of time, and it makes a whole heck of a lot more
2 sense than what is currently on my bill. It
3 explains basically what this concept of default
4 service is and it explains you can take from
5 another supplier. So that is one thing.

6 And I think the other thing is I
7 think the Price-to-Compare, at least on my bill,
8 the Price-to-Compare is listed; but when you
9 look at the actual, I guess the charges in the
10 math part of the bill, that same sort of look is
11 not there. And when I say that same look, the
12 decimal place is moved over, okay, and there are
13 no units. And so you have to, by deduction,
14 figure out what your cents per kilowatt hour
15 number is from that piece of math and then
16 compare it to the Price-to-Compare in the bill
17 messaging on the left side of the bill. And I
18 just think for the average consumer it is just
19 too confusing, and I don't think that we're --
20 well, I hope it's not intentionally confusing,
21 okay.

22 So I just hope that in order to do
23 this justice, we need to, at least at the very
24 least, if we're not going to standardize the
25 messaging, make it clear.

1 MR. ROYER: I would definitely agree
2 the Price-to-Compare language itself should be
3 uniform across the utilities. There's actually
4 two problems here. It is not uniform because
5 not all the utilities use the same calculation.
6 For example, Duke does annual calculation, so
7 it's not strictly correct to say, well, you
8 would save in this month if you were with
9 another supplier, and it's also not consistent
10 because the instructions of what the customer
11 could do to determine the saving isn't really,
12 they're not really accurate. In fact, I agree
13 with everything you said, and it looks a lot
14 like what I handed out in terms of what I
15 thought it ought to look like for customers,
16 except that you say you will save in the future
17 if the price is lower and that is not
18 necessarily true. What you need to tell the
19 customer is what would have happened in the
20 service month for which the bill is being
21 rendered if you were -- if you had a different
22 supplier, and this would apply to both, either
23 way you're going, with shopping customer or
24 non-shopping customer; but with that I'm
25 absolutely in agreement with what you're

1 saying.

2 There's one other thing. I gave an
3 example here of AEP's Price-to-Compare language.
4 I'm not picking on them, but as you note,
5 they're using the same message for shoppers and
6 non-shoppers, and frankly, it doesn't make sense
7 for the shopping customer the way it's worded,
8 so we had suggested some other language. And in
9 the committee meeting I don't think there was
10 any fundamental disagreement that we do need
11 some changes here.

12 CHAIRMAN SNITCHLER: Go ahead, Steve.

13 COMMISSIONER LESSER: Dan, if we had
14 supplier consolidated billing, would you require
15 any EDU logo information on the bill?

16 MR. JONES: I don't know that we're
17 that far along in the process to know what the
18 requirements would be for supplier consolidated
19 billing. I know that they have it in Illinois
20 and some of my comrades with Amron and so forth
21 tell me the suppliers are purchasing the
22 utilities' receivables, so at that point I guess
23 the supplier becomes the collection agent in
24 that scenario. So, you know, it totally just
25 turns around how we operate currently, who's

1 purchasing what receivable and so forth.

2 So I guess my concerns would have to
3 do with, once again, like I said, about
4 reprogramming the whole bill and the layout of
5 it and so forth. It would be kind of like
6 turning things inside out as far as how our
7 systems currently operate. So that's kind of
8 the concern, I guess, is just the cost that
9 would be associated with that.

10 COMMISSIONER LESSER: Actually, you
11 wouldn't be billing so I'm not sure what your
12 cost would be, other than sending your bill
13 information to the supplier.

14 MR. JONES: Right. The cost would
15 have to do with getting the information out.
16 It's kind of like reverse bill-ready billing, if
17 you will. We just installed bill-ready billing
18 for suppliers in our service territory where we
19 send out the usage to the supplier, they send
20 back the charges for that usage. And, you know,
21 in the supplier consolidated billing scenario I
22 think we would be sending out both the usage and
23 our charges for that usage to be placed onto the
24 supplier's bill. So it's truly the expense
25 associated with turning our systems around as

1 far as how information flows.

2 And I wanted to comment on the
 3 Price-to-Compare as well, because on the sample
 4 bill it had on there, you know, your
 5 Price-to-Compare is this number, you are paying
 6 that number. And it's really important how
 7 Price-to-Compare is calculated. And we came to
 8 an agreement in the subcommittee meetings that,
 9 yeah, that's right, it could be misleading
 10 depending on whether it's a summer month, a
 11 winter month, a shorter month because utility
 12 companies have those stepped rates where it
 13 might be more expensive in the summer over a
 14 thousand kilowatt hours or less expensive over a
 15 thousand kilowatt hours in the winter time. So
 16 the Price-to-Compare, as you go throughout the
 17 year, varies, and it seems to us that, you know,
 18 to calculate on an annualized basis is the only
 19 way to do that. But even still, when you
 20 calculate on an annualized basis, if you're
 21 using today's charges for the utility's riders,
 22 those things could change three months down the
 23 road, six months down the road, nine months down
 24 the road. So there's always that risk being
 25 there no matter what the Price-to-Compare number

1 is that it could be different when you actually
2 get there to that point with the offer that
3 you're accepting from a supplier, so there's
4 always customer risk.

5 CHAIRMAN SNITCHLER: Well, the good
6 news is on the soon-to-be-released web site that
7 you can update your information every day. So
8 as things are changing, we can have real-time
9 numbers changed effective overnight and the next
10 morning they would become live, and that would
11 be what you would be bound to for a whole 24
12 hours.

13 COMMISSIONER HAQUE: I know that the
14 Apples-to-Apples web site is referenced on at
15 least my bill, so maybe that concept needs to be
16 referenced as well.

17 COMMISSIONER TROMBOLD: I was going
18 to go on to a new subject.

19 CHAIRMAN SNITCHLER: As was I, so I
20 defer to you.

21 COMMISSIONER TROMBOLD: I know there
22 has been some discussion about riders on bills
23 and how that looks, and whether or not you go to
24 a web site. Can anyone talk to me a little bit
25 more about that?

1 MR. BERGER: Sure. OCC has taken
2 the position over a long period of time that the
3 riders really need to be delineated on the
4 bill. Some utilities put them on the first page
5 of the bill and a lot of companies have a lot of
6 riders so they do have to go or continue on to
7 the second page of the bill. I think there are
8 a number of rules that address the specification
9 of charges and the fact that the customer needs
10 to be able to recalculate the bill from the
11 information provided on the bill. So I know
12 there has been discussion throughout the
13 subcommittee meetings about the Commission's or
14 some folks' desire to consolidate some of the
15 riders. I'm not sure how that will be done,
16 but, you know, I think it's a basic principle
17 that customers have a right to know what they're
18 paying for, and that's an important goal that
19 OCC has in communicating to customers so that
20 they know what they're paying for.

21 On the back of a lot of the bills
22 there are definitions of each of the charges as
23 you probably know. That should continue and
24 there should be a specification of the charges.
25 Did that answer your question?

1 COMMISSIONER TROMBOLD: Wasn't there
2 some discussion about going to a web site? Is
3 that what you were referring to, that you want
4 it just to be on the bill, period?

5 MR. BERGER: OCC wants it on the
6 bill. Yes, there was some discussion during
7 subcommittee meetings about there was some
8 suggestions that customers could be referred to
9 a web site for details on the charges.

10 COMMISSIONER TROMBOLD: Okay.

11 CHAIRMAN SNITCHLER: We have seven
12 minutes and I have at least two topics that
13 might generate some discussion. I guess
14 Commissioner Haque already brought this up to
15 some degree, the bill messaging and the fact
16 that we can put all kinds of messages onto the
17 bill. I'm also a consumer in addition to
18 filling this chair, and I get my bill and I see
19 ten thousand words in fine print and I do what I
20 think 99 percent of the customers do, I
21 disregard it and I don't read it. So I think we
22 need to be looking at different ways to make
23 sure we're communicating that same information.

24 And Commissioner Trombold mentioned a
25 different instance, but perhaps use of E-mail or

1 voluntary E-mail or a web site that can be gone
 2 to or the use of social media. I know most
 3 utilities are using social media now to, either
 4 facebook or even more so twitter, to push
 5 information out to customers. Links can be
 6 included in those messages and embedded that can
 7 take you to a certain location that might be a
 8 more effective way or certainly another
 9 communications channel. Have we looked at or
 10 thought about how information like that could be
 11 included on a printed bill or in some other
 12 fashion to give the, let's say, and I don't mean
 13 to be derogatory in any way because I'm in the
 14 first category which is the over 40 or the under
 15 40 category, who use more or less paper or more
 16 or less electronic means to communicate and do
 17 business?

18 I think Theresa mentioned about half
 19 a dozen times she does everything from her Smart
 20 phone. So should we be looking at different
 21 avenues to do a more effective job communicating
 22 what's on the bill messages?

23 MR. ROYER: I would say yeah, from
 24 the supplier perspective, but I think that the
 25 bill message space is up to the supplier to

1 figure out what the most effective means to
2 communicate will be, and I'm sure that there
3 would be those that would use that message. And
4 one of the issues we had starting now is whether
5 there was enough room, and I think we resolved
6 that there is, to do whatever they wanted to do.
7 And if the supplier does a poor job of
8 communicating, that's on him. Their customers
9 won't be happy.

10 MR. JONES: And just to address it
11 from the EDU perspective, when I mentioned
12 bill-ready billing, that's part of bill-ready
13 billing. There's a certain number of characters
14 available. For instance, in Duke Energy Ohio
15 there's, like, three lines of 70 characters that
16 are available on our bill for bill messaging for
17 the supplier and it goes in the supplier area of
18 the bill where their charges are. But as far
19 as, you know, suppliers doing other things,
20 sure, they're free to do that. They've got the
21 E-mail addresses of the customers and provide
22 messages that way.

23 CHAIRMAN SNITCHLER: And if they do
24 that, do you see that dropping off the bill,
25 having the potential to reduce expense in some

1 fashion; or do you see it being a two-channel
2 communication tool for at least the foreseeable
3 future?

4 MR. ROYER: I would think we'd want
5 to retain that opportunity to communicate with
6 the customer in any way we can, so I would say
7 reserve both.

8 CHAIRMAN SNITCHLER: Okay. Fair
9 enough. Now, the issue that brings a smile to
10 my face only because I'm trying to figure out
11 why we're having an argument about it but that's
12 okay, we'll have the discussion, which is about
13 CRES or competitive supplier logos on the bill
14 and where they go and where they'll be. And I'm
15 willing to assume it to be next to the CRES
16 supplier charge in the box so I can guarantee
17 you it's about the size of a period, and no one
18 will know who the supplier is, which from my
19 perspective, based on the conversations we had
20 all day today, we ought to be emphasizing the
21 CRES suppliers and making sure customers know
22 who they are, at least equally if not to the
23 forefront of who the EDU is, because if I reside
24 in a certain geographic territory that a
25 monopoly services, you're going to be their

1 customer regardless.

2 The CRES supplier is the one who is
3 perhaps more interested in how sticky that
4 customer gets. So I'm curious for your thoughts
5 on just where, how large, what color, what all
6 these very odd issues that seem to have caused a
7 whole bunch of discussion are for bill-related
8 issues. So Dan, we'll start with you.

9 MR. JONES: Well, I'll start with the
10 utility response of the expense that's involved
11 in this. First of all, logos are not stored in
12 our billing system, not even the Duke Energy
13 logo. The Duke Energy logo is on the paperstock
14 that the bill is printed on. So we would
15 basically be starting from scratch to put, you
16 know, bill logos in our system.

17 And it gets just back to my previous
18 point about, you know, where do we -- what makes
19 the most sense in terms of where we should be
20 spending the money to, you know, improve
21 customer education and, you know, increasing and
22 so forth. So I think this would be another
23 lower priority item on the list of things that
24 money could be spent on.

25 CHAIRMAN SNITCHLER: I'll let

1 everyone else answer. That strikes me as we're
 2 viewing this from the opposite side of the coin
 3 because I think this is a low-hanging fruit item
 4 that ought to almost be so simple, I don't know
 5 why we're even talking about it, but I
 6 appreciate your concern. So do the other
 7 panelists have any opinion on that?

8 MR. ROYER: Yeah. It's important
 9 that the customer recognize, and that he be
 10 reminded and that it be highlighted, he is a
 11 customer of the CRES supplier for supply
 12 service. We had some discussions in the
 13 subcommittee and it sounds like some folks can
 14 put it at a reasonable size with the supplier
 15 charge block. From Dominion Retail's
 16 perspective that would be fine. Other CRES
 17 suppliers feel more strongly that it ought to be
 18 at the top of the bill. I'm sympathetic to that
 19 argument if there's not going to be a POR
 20 because they need to know that this is a bill
 21 from the supplier as well as a bill from the
 22 utility, and I'm glad somebody was wise enough
 23 to put me on the POR panel.

24 But again, as you point out, it is
 25 important that the customer recognize that this

1 is a bill, actually a bill from two entities.

2 CHAIRMAN SNITCHLER: Tad?

3 MR. BERGER: Mr. Chairman, the bill
4 we presented obviously provides a prominent
5 display of the utility and the supplier's name,
6 their information, their contact information,
7 their 800 numbers. Whether it has a logo, you
8 know, we have heard these arguments too. It's a
9 little difficult to believe that in this day and
10 age it's so difficult to put a logo on a bill.
11 Most utilities have indicated they're willing to
12 do it if the charges are paid. And we're not
13 concerned about it to the extent there's a
14 prominent display of the supplier's name, that
15 should be adequate; but if the suppliers want
16 it, great.

17 CHAIRMAN SNITCHLER: Any last second
18 questions as we are now at our time limit.
19 Ms. Trombold will have the final question to
20 this panel.

21 COMMISSIONER TROMBOLD: I was just
22 curious. Does Duke, can you tell me like a
23 percentage of your customers that use electronic
24 bill they receive as opposed to a paper bill,
25 just because I would think that maybe the logo

1 issue and maybe some of the other automated IT
2 issues might be less, I don't know, I'm just
3 guessing here, when it comes to issuing E-bills
4 versus a paper bill. Is that the case and do
5 you know kind of what the percentage is?

6 MR. JONES: I'm not prepared to
7 answer that question in terms of how many we
8 have on E-billing. I don't know what the
9 numbers are. There's, you know, 700,000
10 accounts in the Duke Energy Ohio service
11 territory. We got 372,000 accounts that are
12 currently switched. And, you know, there's a
13 total of, like, 580,000 residential customers.
14 About half of those are switched. And how many
15 of the choice customers, the switched customers
16 are receiving E-bill, I don't have that
17 information, but if that's important, we can
18 certainly get that for you.

19 COMMISSIONER TROMBOLD: If you can,
20 that would be great. Thank you.

21 CHAIRMAN SNITCHLER: With that we
22 thank you for participating. Those of you that
23 had double duty today, we certainly thank you
24 for taking your second swing at the pitch. And
25 we're down to our final panel today which is an

1 enviable and unenviable position at the same
2 time. So I would ask our electronic data
3 interchange panel to please come forward and we
4 will change out the name tags, and we'll have on
5 this panel today Sharon Hillman, Stacey
6 Gabbard -- got it right. Good. It was one or
7 the other -- and Jim Williams is up for a second
8 swing for the Ohio Consumers' Counsel.

9 And with that, we will kick off.
10 Stacey, you get the pleasure of going first only
11 because we have done left to right, now we're
12 going to go back to right to left.

13 MR. GABBARD: Actually, we did
14 scissors-paper-rock.

15 CHAIRMAN SNITCHLER: Excellent.
16 You've already sorted it out then. Excellent.
17 I couldn't take any decision away from you, so
18 the floor is yours.

19 MR. GABBARD: We sorted that out. We
20 decided not to go with hair length or color, but
21 this seemed to be fair. That might actually
22 work next year; but beyond, scissors-paper-rock.

23 For sake of time, I want to boil this
24 down to a handful of boilerplate. I had
25 prepared remarks but I think we can just go

1 right into following some of the previous
2 panels. It might be more effective this way.
3 I'd also like to point out this is probably one
4 of the least controversial panels you'll have.
5 Most of us are probably on the same page which
6 is good news.

7 First of all EDI is critical. If you
8 look at any of the markets, choice markets, EDI
9 is what holds it all together. So we have all
10 the stats. Another thing is the Ohio EDI
11 working group is working, and what we discovered
12 in some of these panels was some of the things
13 that were presented in some of the working
14 groups was they hadn't been presented to the EDI
15 working group. Once they were, some have since
16 been approved, and so we strongly encourage that
17 the EDI working group be utilized, the OEWG, and
18 it be used to the best benefit of the market.

19 It is important if you look at any
20 other markets, such as Pennsylvania, Texas,
21 Illinois, they all have EDI working group
22 standards. There must be standards, and this is
23 one of the only, this is the only working group
24 that we have in Ohio so it's important we use
25 it. With that said, the OEWG cannot and should

1 not set policy, and it's probably a reason why
2 we're here today. A lot of the things that have
3 been presented to the working group they can't
4 necessarily solve and they have to be defined
5 and hammered out in larger forums, in some type
6 of policy working group. And if you look at
7 other markets, it's done different ways.

8 Texas clearly has very structured
9 working groups. Pennsylvania has working groups
10 on policy. In the Texas market they give that
11 authority to five or six different working
12 groups that all have voting rights.
13 Pennsylvania is more tied to the Commission. So
14 it is important that there is a forum for policy
15 to be hammered out. So what comes of these
16 workshops is you will probably submit an order
17 next year. What we don't want to be is back
18 here again in two years saying, well, now what.
19 This isn't working. We want this; we don't want
20 this. That needs to be hammered out where the
21 utilities and the advocate groups and the CRESs
22 get together and provide some input to help
23 hammer out that policy.

24 To your point earlier, rather than be
25 told what to do, I think it's better for us if

1 we're put together and we're told we need to do
2 this; let us hammer that out rather than us
3 being told what to do.

4 And finally, in terms of escalation
5 methodology for the working group, so right now
6 in terms of how it's working, you know, it works
7 very well with a couple exceptions, policy and
8 having some mechanism to escalate policy.

9 So that's kind of a quick summary of
10 my prepared remarks and I'll hand it over to my
11 colleagues.

12 CHAIRMAN SNITCHLER: Sharon, I think
13 that's you.

14 MS. HILLMAN: I represent RESA's
15 position here today, just to clarify. And one,
16 we do want to thank everybody. These were long,
17 gory, detailed working sessions. They were very
18 educational. For staff, for suppliers, for
19 utilities, this was a long, gory, detailed
20 process and I'm really primarily thankful for
21 Pat Wood for making this sexy this morning. And
22 really, the core of RESA's position around EDI
23 and now also utility web portals for suppliers
24 is a standardization across the state. I have
25 to admit I hadn't thought about it across PJM

1 which would be, looking at Pat's analogy, it
2 would have to be across PJM, but RESA's position
3 is a standardization across the state. Some of
4 the best practice standards that RESA has
5 introduced via ESP case litigation on web portal
6 and EDI issues come from surrounding states,
7 primarily Illinois and Pennsylvania who have
8 markets that are a little bit more advanced. So
9 we have some that reflect that, and I think it
10 was a very positive process.

11 The other thing that I wanted to
12 clarify today, and is the first time we talked
13 about it in these sessions, was it's important
14 for, I think, utility and staffers to understand
15 and for all the suppliers to be on the same
16 page, is what do you use EDI for and what do you
17 use a web portal for? And just so you know,
18 currently Duke has a web portal which is going
19 to have some additional enhancements in June
20 that were litigated in their ESP case. AEP will
21 have a web portal around June of 2014. DP&L,
22 there's a web portal address in their ESP case
23 order. And FE does not have a web portal at
24 this point.

25 So the first thing we talked about is

1 what's EDI? What's web portal? What's
2 important to understand is, I think, there's a
3 general agreement EDI is for transactions: the
4 data that's going on a customer bill, the data
5 that's going to supplier about the customer's
6 usage, or the data going back to the utility
7 from the supplier in the case of a consolidated
8 bill. So EDI is about transactions.

9 Web portals are about getting
10 historical customer usage and relevant customer
11 information so that the supplier can price
12 develop and recommend products to customers, and
13 that's a more efficient and less expensive way
14 of doing it, once implemented, than doing all
15 that via EDI. And so there's two separate
16 buckets here right now: the working group really
17 solely addressing the EDI, but part of what this
18 workshop was about was web portals because
19 actually, as Stacey mentioned, when we got
20 through the big long EDI lists, we narrowed it
21 down to a few number of open EDI issues. But as
22 Stacey mentioned, those will evolve.

23 RESA doesn't have an official
24 position on how policy should be handled going
25 forward, but we're open to discussing that at

1 this point because, frankly, and this is some of
 2 my own opinion but probably also a RESA opinion,
 3 it's probably not effective to litigate EDI
 4 standards and web portal standards in ESD cases.
 5 It's good for Howard, it's not necessarily good
 6 for the industry or the customers. Sorry,
 7 Howard.

8 And one of the open areas on EDI is
 9 net metering. As we know, there's an open
 10 Commission docket on that. We do need to get
 11 that resolved because right now there's a
 12 barrier to customers with net metering switching
 13 and it is a growing area.

14 MR. GABBARD: I'd like to point out
 15 that's a perfect example of an area where the
 16 utilities were really wanting to identify what
 17 is the policy on net metering, because it's far
 18 sweeping. I mean, you're talking about PJM
 19 settlement, you're talking about a process that
 20 interfaces with the customer that, if not done
 21 properly, can give both the CRES and the utility
 22 a black eye. So we try to raise that through
 23 the working group. It has policy implications
 24 and that's why it got kicked over to the
 25 Commission.

1 MS. HILLMAN: So what is the state of
2 web portals right now? The RESA list has 21
3 standards. They're largely based on the Duke
4 standard that was negotiated which is similar to
5 what we expect to see at AEP and hopefully also
6 DP&L. We'd like to see that standardization
7 across all the utilities including having a web
8 portal at First Energy, and we really feel that
9 these workshops were constructive, but we do
10 have to continue to evolve. This stuff is not
11 static. It changes as the market changes.

12 And with that what's really coming
13 next is SmartGrid data and SmartMeter data. The
14 next wave of data innovation will be
15 interrelated for residential and small
16 commercial customers. You're just starting to
17 deal with MC issues now. SmartMeters will
18 provide information not available now for small
19 customers and allow them to be more efficient in
20 their use of energy which is a big policy draw.
21 But the promise of SmartMeters to small
22 customers can only be realized if the customers
23 can receive the data efficiently. Suppliers
24 want to provide these products and we look
25 forward to working with the stakeholders on

1 that. That's another example of evolving in
2 terms of how we handle those processes going
3 forward.

4 CHAIRMAN SNITCHLER: Jim?

5 MR. WILLIAMS: Yes, Mr. Chairman.

6 Thank you very much for the opportunity to
7 provide a few comments on the EDI process. As
8 part of the customer data and billing
9 subcommittee there was some concern initially
10 when RESA first came in and had a laundry list
11 of items that it wanted to address as part of
12 that subcommittee, or at least that's what was
13 thought at the time. I think what we found just
14 in the process of going through the list, better
15 understanding the list, and having
16 communications between all the different
17 stakeholders, there was an opportunity to
18 understand where their requirements were coming
19 from, the uniqueness of each of the EDU
20 platforms, different systems that can operate
21 within, and basically work through a process of
22 compromise.

23 For myself, I felt very confident at
24 the end of all of this that the Ohio EDI working
25 group is functioning just fine in terms of

1 trying to coordinate these certain things
2 between the different CRES providers and EDU.
3 It seems to be a very effective process and
4 there's a means in place to address the policy
5 issues with the Commission when policy issues
6 need to be addressed.

7 CHAIRMAN SNITCHLER: Great. You've
8 either worn us out or done a very good job of
9 providing information, since nobody jumped in
10 during the middle of your presentation.
11 Commissioner Haque, you have been a lion at
12 asking questions. Are you good on this panel?
13 Could be?

14 COMMISSIONER HAQUE: No, I'm going
15 to ask a question.

16 CHAIRMAN SNITCHLER: All right.

17 COMMISSIONER HAQUE: Sorry. So
18 Stacey, you said the biggest concerns right now
19 are policy and escalation, okay, and so is
20 that -- so for the most part it seems like you
21 guys are in agreement. The EDI group works well
22 together. This is like the most cohesive
23 hand-holding group that we've had up here all
24 afternoon. And so from a policy/escalation
25 piece what specific guidance are you looking for

1 from us?

2 MR. GABBARD: Well, the EDI working
3 group is very good at defining how we're going
4 to do something, and if we're going to implement
5 something. We talked a lot about different
6 programs here today and all of those have EDI
7 implications --

8 COMMISSIONER HAQUE: Right.

9 MR. GABBARD: -- that you have to
10 shuffle that around to the different parties.
11 So a perfect example is contract portability
12 that has sweeping EDI transaction.

13 COMMISSIONER HAQUE: Sure.

14 MR. GABBARD: The working group, if
15 they said we're going to implement this, it's a
16 technical group, and don't get us wrong, there
17 are disagreements. If you've ever sat in on any
18 of the calls, you will know that not everybody
19 agreed with everything, but they've done a
20 pretty good job of shepherding the conversation
21 and getting an end result. But there are times
22 when there does need to be an escalation process
23 where, using some examples we talked about
24 earlier, some systems may not yet be as mature
25 as other utility systems and implementing within

1 a pre-defined time line is not acceptable for a
 2 utility and for perfectly good reasons. They
 3 may be implementing other choice systems at that
 4 time and those IT resources are focused on
 5 implementing those and so that's why having more
 6 structure in terms of what we're going to see in
 7 the next two years, five years and not have kind
 8 of a reactionary approach to our policy, allows
 9 EDUs to really focus how we're going to spend
 10 our capital, because that has been the fear in
 11 the working groups all along is, from this,
 12 what's going to happen? Are we going to be
 13 asked to implement about \$3 million worth of
 14 programs and be expected to do it in about six
 15 to twelve months? That's very difficult to do.

16 MS. HILLMAN: And I think what the
 17 EDU -- what the working group does right now is
 18 they develop standards, and if someone doesn't
 19 implement them, there's a document but they
 20 aren't implementing them, there's no enforcement
 21 other than the enforcement, say, coming from the
 22 Commission that it has to be done and it has to
 23 be done within a certain time line and how the
 24 cost is going to be recovered. RESA fully
 25 understands that there are costs and that those

1 costs do need to be recovered and the policy
2 goal is this is worth doing. So the challenge
3 is, outside of litigating these in ESP cases,
4 how do you move policy forward and address those
5 issues, and we're open to discussing that.

6 Stacey mentioned Texas which has a
7 formal voting process, as I understand it, among
8 stakeholders and stakeholders are represented.

9 COMMISSIONER HAQUE: So effectively,
10 of course based upon this, you need marching
11 orders at the end of the day and you need sort
12 of structure and process, and then you guys are
13 sort of the technical implementation people.

14 MS. HILLMAN: Architect versus
15 electrician. The working group, the
16 electrician, they need an architect to tell them
17 how to put it, what the design of the building
18 is.

19 COMMISSIONER HAQUE: I understand.

20 CHAIRMAN SNITCHLER: You have either
21 gotten lucky or are very, very, effective.
22 There appear to be no other questions.

23 MR. GABBARD: We were more than happy
24 to go last.

25 CHAIRMAN SNITCHLER: Well, thank you

1 very much for that, and you're certainly free to
2 go. I have just a couple of closing comments
3 that I will make. I know there are Nut Cracker
4 ballets to get to and other very important
5 things this evening and so we want to make sure
6 we're mindful of everyone's time.

7 This has been an incredibly
8 productive day. I have found each of the panels
9 to be very important to have addressed many of
10 the important issues that we're wrestling with
11 as we try to figure out what steps need to be
12 done. I think our morning panel really
13 broadened the horizons of the discussion that
14 may yet need to occur as to what can be done,
15 and I think each of the afternoon sessions that
16 was really down into the weeds also gives us
17 some direction and some indication of some
18 strongly-held views that may ultimately require
19 difficult decisions to be made but certainly we
20 understand that we need to move forward in order
21 to be successful in doing that.

22 I do want to thank all of the
23 panelists, some of whom have already departed,
24 but certainly appreciate your time in preparing
25 and delivering your comments and being very

1 thoughtful in trying to educate us so that we
2 can make informed decisions, which I think is
3 what we strive to do on every occasion and
4 that's why we took the opportunity to have this
5 hearing today.

6 I want to thank staff. Patrick and
7 David have done just, and Barb, yes, that's
8 correct, forgive me for omitting that, have done
9 yeomen's work in trying to run these meetings
10 and trying to herd cats and report back what's
11 happening and how we are to move forward, and I
12 know they're still working on a report that will
13 ultimately be issued when this moves forward and
14 so their work is not yet done, but again, as I
15 complimented our staff this morning, I wanted to
16 make a point to do that this afternoon because
17 we wouldn't be where we are without your
18 efforts, and certainly that is appreciated.
19 Oftentimes employees of the Commission hear
20 complaints not gratitude, so we'd like to make
21 sure we recognize folks for doing great work.

22 The inevitable question that will
23 come up is we'll adjourn our meeting and
24 everyone will say, gee, what's going to come of
25 this? Well, the good news is we know what will

1 come of it. We just don't know when necessarily
2 that will be, but we will ultimately issue an
3 order that will close this docket and hopefully
4 make some recommendations on policy decisions
5 that need to be made as we move forward. I
6 don't have a deadline; I don't know when that
7 date will be, and I'm not playing hide the ball,
8 I actually don't, so save all the questions you
9 may ask yourselves and others for later, but we
10 are working towards a resolution of this matter
11 because I think it's critically important that
12 we try to work very diligently to bring it to a
13 conclusion and not leave it under open docket,
14 so you'll see that in the coming months as we
15 move forward.

16 With fear and trepidation I open the
17 floor to closing comments from other
18 Commissioners. Seeing none, I thank you for
19 your participation and I will adjourn our
20 meeting and wish everyone a very good evening.
21 Thank you.

22 - - -

23 Thereupon, at 4:35 p.m. the workshop
24 was concluded.

25 - - -

CERTIFICATE

I do hereby certify that the foregoing
is a true and correct transcript of the workshop
proceedings taken by me in this matter before
the Public Utilities Commission of Ohio on
Wednesday, December 11, 2013.

Iris I. Dillion
Registered Professional
Reporter.

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Summary: Transcript in the matter of the Ohio Retail Electric Service Market Workshop hearing held on 12/11/13 electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Dillion, Iris I. Mrs.