

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of the Application :  
Seeking Approval of Ohio Power :  
Company's Proposal to Enter into : Case No.  
an Affiliate Power Purchase : 14-1693-EL-RDR  
Agreement for Inclusion in the :  
Power Purchase Agreement Rider :

In the Matter of the Application :  
of Ohio Power Company for : Case No.  
Approval of Certain Accounting : 14-1694-EL-AAM  
Authority :

- - -

DEPOSITION

of Steven M. Fetter, taken before me, Valerie J.  
Sloas, Registered Professional Reporter and a Notary  
Public in and for the State of Ohio, at the offices  
of American Electric Power, 1 Riverside Plaza, 18th  
Floor Conference Room, Columbus, Ohio, on Wednesday,  
September 16, 2015, at 1:05 p.m.

- - -

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7 On behalf of the Applicant.

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13 On behalf of the Sierra Club.

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20 On behalf of

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On behalf of Ohio Manufacturer's  
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- - -

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On behalf of the Staff of the PUCO.

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STEVEN M. FETTER

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1                               Wednesday Afternoon Session,  
2                               September 16, 2015.

3                               - - -

4                               STEVEN M. FETTER,  
5       being by me first duly sworn, as hereinafter  
6       certified, deposes and says as follows:

7                               CROSS-EXAMINATION

8       BY MR. MENDOZA:

9               Q.     Good afternoon, Mr. Fetter.  I'm  
10     Attorney Mendoza, and I represent Sierra Club in this  
11     proceeding.  Could you please state your full name  
12     for the record.

13            A.     Steven, with a V, M., Fetter, F, as in  
14     Frank, E, double T, as in tom-tom, E-R.

15            Q.     And who is your employer, Mr. Fetter?

16            A.     I have my own energy advisory firm  
17     called Regulation UnFettered, and I serve as  
18     president of that firm.

19            Q.     And could you please state your business  
20     address.

21            A.     1240 West Sims, S-i-m-s, Way, Port  
22     Townsend, that's two words, Port Townsend, Washington  
23     98368.

24            Q.     Thank you.  And have you been deposed

1 before?

2 A. I have been.

3 Q. Okay. So if, at any point today, if you  
4 don't understand a question, would you please let me  
5 know?

6 A. Yes.

7 Q. Okay. And just to help keep things  
8 moving today, I'm going to try to do a couple of  
9 definitions up front that I ask that we work with to  
10 keep things simple. If I refer to the Applicant in  
11 this proceeding, Ohio Power Company, as AEP Ohio,  
12 will you understand what I mean?

13 A. Yes.

14 Q. And if I refer to AEP Generation  
15 Resources, Inc. simply as AEP Generation, will you  
16 understand what I mean?

17 A. Yes.

18 Q. Okay. And if I refer to American  
19 Electric Power Company, Inc. simply as AEP, will you  
20 understand what I mean?

21 A. That would be the corporate entity above  
22 the one you just described?

23 Q. That is correct.

24 A. Yes.

1           Q.    That's my understanding at least.  Are  
2   you familiar with the proposed agreement under which  
3   AEP Generation would sell its capacity, energy, and  
4   ancillary services from certain generation units to  
5   AEP Ohio?

6           A.    Yes.

7           Q.    And if I refer to that proposed  
8   agreement as the proposed affiliate transaction or  
9   the proposed affiliate agreement, will you understand  
10   what I mean?

11          A.    Yes.

12          Q.    Okay.  And if I refer to the generation  
13   assets proposed to be included in that proposed  
14   affiliate transaction as the Affiliate PPA Plants,  
15   will you understand what I mean?

16          A.    Yes.

17          Q.    And the last one, if I refer to the Ohio  
18   Valley Electric Corporation simply as OVEC, O-V-E-C,  
19   will you understand what I mean?

20          A.    Yes.

21               MR. MILLER:  To be clear, if you don't  
22   understand when he asks you a question or you get  
23   confused, because those are a lot of definitions,  
24   make sure you ask him.

1 THE WITNESS: Yes.

2 Q. When did you first become involved in  
3 this proceeding?

4 A. I would have to just estimate, but it  
5 was sometime in mid -- mid-2014, I believe.

6 Q. And if you had to -- could you guess a  
7 month in mid-2014?

8 A. It's been a long time. I'm not sure.

9 Q. Okay. And who contacted you to work on  
10 this case?

11 A. I think it was Steve Nourse.

12 Q. Okay. And what did he ask you to do?

13 A. He had described the situation that was  
14 before AEP Ohio, and if I recall correctly, he asked  
15 me to review maybe some draft documents from the  
16 earlier proceeding, and I did and then indicated a  
17 comfort level with participating in this proceeding.

18 Q. Okay. And do you recall what some of  
19 those draft documents were that you reviewed?

20 A. I believe it would have been -- I think  
21 at that point it was draft testimony of former  
22 Commissioner McDermott and possibly drafts from Pablo  
23 Vegas and Bill -- William Allen.

24 Q. Okay. And then when you say a "comfort



1 level," I take that to mean that you indicated to him  
2 that you'd be willing to participate in this  
3 proceeding on behalf of AEP Ohio; is that right?

4 A. Well, my process is usually, when a  
5 potential client contacts me, they give a relatively  
6 brief overview to make sure I'm not conflicted out  
7 and to get an initial comfort level, meaning I don't  
8 hear anything that would be at odds with my beliefs  
9 or background, and then I get more involved with the  
10 view that if upon more due diligence there is a  
11 conflict or an inconsistency with my views, then I  
12 would step away. That would have been the same  
13 process I used here, and I did not reach a point  
14 where I felt that participating in this proceeding  
15 would be at odds with -- with what I believe.

16 Q. Thank you. And aside from Mr. Nourse,  
17 who else have you spoken with within AEP about this  
18 case?

19 A. Between then and now?

20 Q. Uh-huh.

21 A. Well, I went through witness training a  
22 week ago, and so I interacted with most of the  
23 witnesses in this proceeding, mostly on an informal  
24 level or sitting and watching them do practice.

1           Q.    Okay.  How about we go before this  
2   witness training, who did you -- within AEP, who have  
3   you spoken to before, before that time about this  
4   case?

5           MR. MILLER:  Is there a certain level or  
6   do you want to know who he spoke with across the --  
7   if he talked to staff members and secretaries or --

8           MR. MENDOZA:  If the answer is dozens  
9   and dozens of people, then I don't think we need to  
10  go through all of them.  I'm just curious if Mr.  
11  Nourse was the only --

12          Q.    Up until you attended this witness  
13  training, was Mr. Nourse the only person within AEP  
14  that you spoke to about this case?

15          A.    The other -- another person I interacted  
16  with quite a bit was Shelly Sloan, and I think she's  
17  described as the case manager, so she would be kind  
18  of the traffic cop, making sure things are happening  
19  appropriately, and she would interact with me if  
20  something needed to be done on a certain scheduled  
21  basis.

22                   I did -- I was in Pennsylvania on my  
23  own, I think it was last December, plus or minus a  
24  month, and I offered to come by and discuss, you

1 know, substance and process, and in that meeting  
2 would have been Steve Nourse, Shelly Sloan. I  
3 believe there were a couple of counsel, maybe Matt  
4 Satterwhite, Dan Conway, and there were a couple of  
5 others who -- I don't recall who they were.

6 Q. Okay. And just one last question in  
7 this area, do you know what unit or division within  
8 the company Shelly Sloan is -- works for?

9 A. No. I have no -- no, I don't know.

10 Q. When did you first learn about the  
11 proposed affiliate transaction?

12 A. It would have been sometime in the -- in  
13 the six months I had just described, it would have  
14 been sometime during that period.

15 Q. Okay. Do you remember who first told  
16 you about it?

17 A. I probably would have learned about it  
18 from reviewing some of the filings. As I said,  
19 former Commissioner McDermott was in a predecessor  
20 case, and then it -- at some point I would have  
21 learned about the specifics of the current case, with  
22 the target of filing the initial testimony, which now  
23 has been superseded by the current testimony, so I --  
24 too many balls in the air to pin down a time.

1           Q.    Okay.  And did you -- did you have any  
2    role in developing the terms of the affiliate  
3    transaction?

4           A.    No.

5           Q.    And it's the same answer for the one  
6    that was the -- the one that was filed in the  
7    original application and the terms in the amended  
8    application, you didn't have any involvement in  
9    either of those?

10          A.    Correct.  I did not have any involvement  
11   in structuring terms.

12          Q.    And did you provide any advice on how to  
13   modify the original PPA subsequent to the February  
14   2015 Order in the -- I think what you referred to as  
15   the prior case?

16          A.    No.

17          Q.    Okay.  And you filed direct testimony in  
18   October 2014 in this case; correct?

19          A.    Yes.

20          Q.    And were you given any direction for  
21   your -- for that October 2014 testimony?

22          A.    In -- in the same sense I have in every  
23   case I participate in, where the client indicates the  
24   issues they're interested in having me cover, and

1 then I come up with my views and position with regard  
2 to those issues.

3 Q. And what are the issues that the client  
4 had asked you to cover?

5 A. It was the -- the PPA Rider and then the  
6 underlying supply options that could go into that PPA  
7 Rider.

8 Q. And by "underlying supply options," I  
9 assume you mean the generation plants; is that right?

10 A. Generation plants or OVEC or --

11 Q. And did you -- in terms of those  
12 underlying supply options, did you look at generation  
13 units aside from OVEC and the units that have been  
14 included in the proposed transaction?

15 A. No.

16 Q. Okay. Did anyone help you draft your  
17 October 2014 testimony?

18 A. What I normally do is I would work up a  
19 draft and then share it with Company counsel, and  
20 usually the feedback I get would be either a need to  
21 clarify or add or subtract, and in this case my sense  
22 is the feedback was minimal.

23 Q. And you followed that general practice  
24 in this case, I gather?

1           A.    Yes, and in this case I'd say the  
2 feedback was probably less than in most of my cases.

3           Q.    All right. And then the same question  
4 for the amended testimony, were you given any  
5 direction for your May 2015 amended direct testimony?

6           A.    I was advised to review the -- the  
7 decision, the February decision, and then amend my  
8 testimony as appropriate, and I think the amendments  
9 were pretty small.

10          Q.    Okay. And did anyone -- aside from  
11 sharing a draft with Company counsel, did anyone help  
12 you draft your May 2015 testimony?

13          A.    No.

14          Q.    Okay. So I want to switch gears a  
15 little bit. Let's look at Page 4 of your amended --  
16 and I may a few times forget to say amended  
17 testimony, but I intend to ask only questions about  
18 your amended testimony, and so --

19          A.    Okay. So I'm fine if you just say  
20 testimony, and we're only dealing with the current,  
21 live testimony.

22          Q.    Sounds like a deal. Okay. So let's  
23 look at Page 4, Lines 17 and 18, and do you see where  
24 your testimony states that, "I have reviewed the

1 filings in this proceeding as well as the  
2 Commission's February 25, 20" -- "February 25, 2015,  
3 Order in Case No. 13-2385"?

4 A. Yes, I see that.

5 Q. And I butchered that a little bit, but I  
6 want to ask you about that. Which filings in this  
7 proceeding have you reviewed?

8 A. Well, it's a little complicated, because  
9 we did have a filing of all the -- of all the  
10 testimony prior to the need to refile, so I -- I'd  
11 say the ones I would have focused on with regard to  
12 my testimony would have been the application, Mr.  
13 Allen's testimony, and Dr. Pearce's testimony. Those  
14 would have been the primary ones. I did see Mr.  
15 Bradish's references to the potential need for  
16 transmission upgrades.

17 Q. Aside from Allen, Pearce, and Bradish,  
18 can you think of another witness' testimony that you  
19 read as you were formulating your opinion?

20 A. Mr. Vegas.

21 Q. Any others that come to mind?

22 A. As I said, since there was a complete  
23 filing earlier, my guess is I would have skimmed most  
24 witnesses once the filing was made.

1           Q.    Okay.  And did you read all of the  
2   February 2015 Order from the Commission?

3           A.    When it came out, I would have read it  
4   pretty quickly, and then I -- in the time since I  
5   read it pretty quickly I would have focused on some  
6   aspects more than others --

7           Q.    Do you --

8           A.    -- in that Order.

9           Q.    I apologize for interrupting.  Do you  
10   remember any particular aspect that you focused on?

11          A.    Probably what the Commission was saying  
12   would be needed for a good application of assets to  
13   go into a PPA Rider, and of course I focused on the  
14   approval or the concept of the PPA Rider.

15          Q.    Okay.  As you formed the opinions  
16   reflected in your amended written testimony, did you  
17   review historic cost information for the Affiliate  
18   PPA Plants?  And by "historic," I mean in the last  
19   five years.

20          A.    No.

21          Q.    Okay.  As you formed the opinions  
22   reflected in your amended written testimony, did you  
23   review historic, meaning the last five years,  
24   revenues for the Affiliate PPA Plants?



1           A.    No.

2           Q.    And as you formed your opinions  
3 reflected in your amended written testimony, did you  
4 review cost information for the OVEC Plants over the  
5 last five years?

6           A.    No.

7           Q.    And as you formed the opinions reflected  
8 in your amended written testimony, did you review  
9 historic revenue information for the OVEC Plants?  
10 Again, I'm asking about the last five years.

11          A.    No.

12          Q.    Okay. And did you review capacity  
13 factors for either the OVEC Plants or the Affiliate  
14 PPA Plants over the last five years?

15          A.    No.

16          Q.    I tried to combine that out. Do you  
17 know where the Clifty Creek Power Plant is located?

18          A.    Say it again.

19          Q.    Do you know where the Clifty Creek Power  
20 Plant is located?

21          A.    No.

22          Q.    And have you ever visited the Clifty  
23 Creek Power Plant?

24          A.    No.

1           Q.    Do you know the age of the Clifty Creek  
2   Power Plant?

3           A.    No.

4           Q.    And do you know, when the Clifty Creek  
5   plant was designed, how long in years it was designed  
6   to operate?

7           A.    No.

8           Q.    Do you know how many annual on/off  
9   cycles that plant was designed for?

10          A.    No.

11          Q.    Okay.  Do you know where the Kyger Creek  
12   plant is located?

13          A.    No.

14          Q.    I take it you've never visited the Kyger  
15   Creek Power Plant?

16          A.    No.

17          Q.    Okay.  Do you know the age of the Kyger  
18   Creek Power Plant?

19          A.    No.

20          Q.    And do you know, when the Kyger Creek  
21   plant was designed, how long in years was it designed  
22   to operate?

23          A.    No.

24          Q.    Do you know how many annual on/off

1       cycles the plant was designed for?

2               A.    No.

3               Q.    Do you know where the Cardinal Power  
4       Plant is located?

5               A.    No.

6               Q.    Do you know the age of the Cardinal  
7       Power Plant?

8               A.    No.

9               Q.    Have you ever visited the Cardinal Power  
10      Plant?

11              A.    No.

12              Q.    Do you know, at the time the Cardinal  
13      plant was designed, how long in years was it designed  
14      to operate?

15              A.    No.

16              Q.    Do you know how many annual on/off  
17      cycles the Cardinal plant was designed for?

18              A.    No.

19              Q.    Do you know where the Zimmer Power Plant  
20      is located?

21              A.    No.

22              Q.    And I gather you've never visited the  
23      Zimmer Power Plant; is that correct?

24              A.    I have not.

1 Q. Do you know the age of the Zimmer plant?

2 A. No.

3 Q. And do you know, when the Zimmer plant  
4 was designed, how long in years was it designed to  
5 operate?

6 A. No.

7 Q. And do you know how many annual on/off  
8 cycles the plant was designed for?

9 A. No.

10 Q. Do you know where the Conesville Power  
11 Plant is located?

12 A. No.

13 Q. And I understand you've probably never  
14 visited the Conesville plant; is that correct?

15 A. I have not.

16 Q. Do you know the age of the Conesville  
17 Power Plant?

18 A. No.

19 Q. Do you know when -- do you know, when  
20 the Conesville plant was designed, how long in years  
21 was it designed to operate?

22 A. No.

23 Q. And do you know how many annual on/off  
24 cycles that plant was designed for?

1 A. No.

2 Q. Just two more plants -- or one more  
3 plant. Do you know where the Stuart plant is  
4 located?

5 A. No.

6 Q. Do you know the age of the Stuart plant?

7 A. No.

8 Q. And have you visited the Stuart plant?

9 A. I have not.

10 Q. Do you know, when the Stuart plant was  
11 designed, how long in years was it designed to  
12 operate?

13 A. No.

14 Q. Okay. And do you know how many annual  
15 on/off cycles that plant was designed for?

16 A. No.

17 Q. Switching gears, do you have any  
18 experience with economic development issues in Ohio?

19 A. In Ohio?

20 Q. Yes.

21 A. No.

22 Q. Do you have any experience with economic  
23 impact modeling generally?

24 A. I served six years on the Michigan

1 Commission, and so some of -- I'm sure some of those  
2 type issues would have been in cases I was involved  
3 in deciding in Michigan, but not with regard to Ohio.

4 Q. Okay. And then taking a look at Page 3  
5 of your testimony, I want to ask you about the  
6 sentence that begins on Line 1 of Page 3. "My  
7 clients have included investor-owned and municipal  
8 electric, natural gas and water utilities, state  
9 public utility commissions and consumer advocates,"  
10 and then it goes on to include other types of  
11 clients, and I wanted to ask you about consumer  
12 advocates. Can you identify a consumer advocate that  
13 you had as a client?

14 A. The Vermont -- they call it unusual  
15 names up there, but it's the Vermont public advocate,  
16 and the Maine -- same thing for the State of Maine.

17 Q. And so those would be sort of like Ohio  
18 Consumers' Counsel is here, and they participate in  
19 proceedings in those states on behalf of consumers;  
20 is that right?

21 A. That's my understanding.

22 Q. Okay. And the two states were Vermont  
23 and Maine; is that right?

24 A. Yes.

1 Q. Can you think of any others?

2 A. Those were the only two whoever asked  
3 me, and I agreed to represent them.

4 Q. Okay. And did you file testimony on  
5 behalf of those -- well, did you file testimony on  
6 behalf of the Vermont public advocate?

7 A. I filed testimony on behalf of the  
8 Vermont public advocate and Maine public advocate at  
9 the FERC.

10 Q. Oh, at FERC. Okay. And do you remember  
11 around what years that testimony was filed?

12 A. I believe you have a copy of my cases I  
13 filed. It was Devon Energy, so it would be on that  
14 list.

15 Q. Okay. Have you ever filed testimony  
16 before a state legislature, including a committee  
17 thereof, on the issue of electric market  
18 restructuring?

19 A. Going back how far?

20 Q. I guess those types of issues started  
21 appearing in the 1990s, so back through the 1990s.

22 A. So I'd say -- I was appointed to the  
23 Michigan Commission in '87. During the past 28 years  
24 I would have appeared before state legislatures on

1 issues related to electric restructuring, including  
2 securitization.

3 Q. Can you think of an example of a state  
4 legislature that you appeared in front of?

5 A. Well, with the Michigan one, I'd say  
6 often, especially while I served on the Commission.

7 Q. Okay.

8 A. At Fitch, I was on the securitization  
9 team, which is related to electric restructuring, and  
10 we would have traveled around; so I would have  
11 appeared before, I'd say, a handful of state  
12 legislatures or committees on the issue of  
13 securitization. Since I've gone out on my own, I'd  
14 say less so on -- since I started my consulting in  
15 '02, I'd say either none or maybe once or twice, but  
16 none come distinctly to mind right now.

17 Q. So zeroing in on your time at Fitch,  
18 then, can you think of a time when you appeared  
19 before a state that was considering a transition from  
20 I think what you referred to in your testimony as a  
21 traditional regulated path and switching to, you  
22 know, a restructured market? Do you recall  
23 testifying before a legislature that was considering  
24 that choice?



1           A.    Yes.

2           Q.    Can you think of -- can you identify  
3   that state, please?

4           A.    California.

5           Q.    Okay.  So you testified at the  
6   California legislature; is that right?

7           A.    It might have been -- I believe it was a  
8   Commission-called hearing, so it would have been  
9   before the Commission as opposed to the legislature.

10          Q.    Okay.  And can you think -- aside from  
11   California, can you think of another state that was  
12   considering making that transition in which you --  
13   for which you provided testimony?

14          A.    As I said, I was called down to the  
15   Michigan legislature pretty often, so I -- I don't  
16   recall specifically, but I would have been questioned  
17   on these topics at the Michigan legislature back when  
18   I was a commissioner or chairman in Michigan.

19          Q.    Okay.  Then aside from Michigan and  
20   California, and again focusing on the time when you  
21   were at Fitch, can you think of another state where  
22   you provided testimony on that type of question?

23          A.    As I said, a lot of it was  
24   securitization based.

1           Q.    Okay.

2           A.    And, you know, I vaguely recall going --  
3   I believe I went to Kansas and probably a couple of  
4   others, but it kind of fades.

5           Q.    Do you recall if in your testimony  
6   either -- well, at Michigan, did you -- let's talk  
7   about the Michigan legislature first. Did you  
8   support or oppose the restructuring effort that  
9   Michigan undertook in the '90s?

10          A.    Michigan was actually -- I believe we  
11   were the first state to consider retail wheeling,  
12   which was a very early name for restructuring, and we  
13   came to the view that it would cause more problems  
14   than it would provide solutions, and so we, we as a  
15   Commission, never moved forward with restructuring on  
16   that retail wheeling concept.

17          Q.    Okay. And at California, could you kind  
18   of, like, summarize the advice that you had given the  
19   California Commission?

20          A.    If I recall correctly, it would have  
21   been along the lines of -- of being careful what they  
22   do. I would have testified -- while at Fitch, I  
23   would have testified in support of the concept of  
24   stranded asset recovery, and back then there was talk

1 about freeing up transmission, but the -- I believe  
2 the Commission, California Commission's view was that  
3 that would be too hard to do, so they just moved in  
4 the direction of generation divestment.

5 Q. And could you summarize the advice that  
6 you gave Kansas on these issues?

7 A. Kansas was purely a securitization  
8 discussion, which would have related to stranded  
9 asset recovery over time from customers through a  
10 nonbypassable surcharge on distribution rates.

11 Q. Let's switch gears a little bit. Let's  
12 look at Page 4 of your testimony, Lines 18 through  
13 22.

14 A. Okay.

15 Q. Would you mind just reviewing the  
16 sentence that starts on, "Based on that review"?

17 A. Should I read it or just look at it  
18 myself?

19 Q. You can just review it, and I'll just  
20 ask some questions once you're done.

21 A. Okay. I've reviewed it.

22 Q. Okay. And so in formulating your  
23 testimony, you weighed the potential benefits and  
24 negatives of the proposed PPA and PPA Rider; is that

1 right?

2 A. Yeah. In fact, when I say "approval of  
3 the proposed PPAs," I was thinking in the sense of  
4 the approval of those PPAs flowing through the PPA  
5 Rider.

6 Q. I really am just asking if you did sort  
7 of a cost-benefit analysis in your testimony.

8 A. When I considered these issues, I  
9 indicated to the Company that I would like their  
10 forecasted assessment of the potential burden on  
11 customers versus potential benefits, either financial  
12 or nonfinancial, and that's when they provided me  
13 with Dr. Pearce's range of assumptions with regard to  
14 the impact of the PPAs flowing through the PPA Rider.

15 Q. Okay. You've gotten out ahead of me a  
16 little bit, and that's fine. And so one of the  
17 benefits that you identify is the financial benefit  
18 of the PPA Rider over the forecast period; is that  
19 right?

20 A. Yes.

21 Q. And what is the basis for your opinion  
22 that the PPA Rider would have a financial benefit to  
23 AEP Ohio's customers?

24 A. I reviewed Dr. Pearce's Exhibit KDP-2,

1 which provided a range of assumptions.

2 Q. Did you review any other documents to  
3 support your opinion that the PPA Rider would have a  
4 financial benefit to AEP Ohio customers?

5 A. No. That would be it.

6 Q. Okay. And are you offering any opinions  
7 on the reasonableness of Mr. Pearce's forecasted Ohio  
8 PPA Rider impacts?

9 A. My normal process is that if a company  
10 provides me with information, I'll rely on that  
11 information, but the Company will defend their  
12 forecasted information.

13 Q. So are you offering an opinion on the  
14 reasonableness of Mr. Pearce's forecasted impacts?

15 MR. MILLER: Tony, can you define  
16 "reasonableness" for me?

17 MR. MENDOZA: I don't know how to define  
18 it actually.

19 Q. I'm just wondering if you did anything  
20 to verify Mr. Pearce's forecasted impacts on your  
21 own?

22 A. As far as the reasonableness, I found  
23 his assumptions, doing an up five percent versus a  
24 down five percent as the bounded ranges and then his

1 analysis within those ranges, and I have not verified  
2 his analysis or numbers, but I viewed his assumption  
3 boundaries for his forecast as appropriate.

4 Q. Okay. So your opinion about Mr.  
5 Pearce's forecasted Ohio PPA Rider impacts is that  
6 it's appropriate?

7 A. His assumption range, and I found his  
8 results to be supportive of the PPAs and the PPA  
9 Rider. I have not independently verified the  
10 information.

11 Q. Okay. So let's take a look at KDP-2,  
12 which is -- I think you --

13 A. I have it here, but let me get another  
14 one just in case the one I have ends up not matching  
15 yours.

16 Q. And I'd like to mark that as Fetter  
17 Exhibit 1, please.

18 (EXHIBIT 1 MARKED FOR IDENTIFICATION.)

19 Q. I gather you've seen this document  
20 before, Mr. Fetter; is that right?

21 A. I have.

22 Q. And the dollar figures in Mr. Pearce's  
23 table are presented in nominal terms; is that right?

24 A. Yes.

1           Q.   And do you recommend that the Commission  
2           approve or disapprove investment decisions based on  
3           the summation of the nominal revenue and costs?

4           A.   I believe it's reasonable for the  
5           Company to put forward.

6           Q.   Do you assert that AEP would be  
7           indifferent to nominal revenue whether revenue were  
8           received in 2015 or 2051?

9           MR. MILLER:  I'm going to object.  I  
10          don't know that he knows how the Company would feel  
11          about it.

12          MR. MENDOZA:  Well, I'm asking his  
13          opinion as an expert in the area of utilities.

14          A.   I mean, the Company has put forward this  
15          analysis, so, you know, I can't speak for the  
16          Company, but they feel this information is  
17          appropriate for consideration by the Commission.

18          Q.   Would you be indifferent to being paid  
19          for your services in this case in 2015 as opposed to  
20          2051?

21          A.   I don't understand the question.

22          Q.   If you were given a choice between  
23          receiving your fees for this case in 2015 or,  
24          alternatively, 2051, which one would you choose?

1           A.    I would prefer to get them in 2015 or  
2    2016.

3           Q.    And is that because there's -- money has  
4    a time value?

5           A.    I would say primarily my interest would  
6    be in receiving money from a client while I know they  
7    have the money.

8           Q.    Have you ever been involved in a docket  
9    in which a utility used nominal dollars to justify a  
10   long-term investment decision?

11          A.    I don't recall.

12          Q.    You can't identify any?

13          A.    Not specifically.

14          Q.    When you were Chairman of the Michigan  
15   PSC, I assume people -- utilities had presented  
16   projections of cost and revenues for transmission  
17   projects or generation projects; is that right?

18          A.    Yes.

19          Q.    And do you recall whether those  
20   forecasts were generally in nominal dollars or had  
21   they been adjusted to account for time value of money  
22   and inflation?

23          A.    I can't recall specifically, and that  
24   was a long time ago. My guess is it would have been



1       some combination of -- of those techniques.

2               Q.    Okay.  But you are familiar with the  
3       concept of time value of money; right?

4               A.    Yes.

5               Q.    And you would agree with me that a  
6       dollar today is worth more than a dollar a year from  
7       now; is that right?

8               A.    Likely.

9               Q.    And you also are familiar with the  
10       concept of inflation; right?

11              A.    Yes.

12              Q.    And in general you would agree with me  
13       that in the American economy we've had -- we've had  
14       inflation historically; is that right?

15              A.    Historically.

16              Q.    And so, in general, inflation will work  
17       to reduce the value of a nominal figure over time; is  
18       that right?

19              A.    Generally, yes.

20              Q.    Okay.  And when you reviewed Mr.  
21       Pearce's forecast of the Ohio PPA Rider impacts, were  
22       you concerned that Mr. Pearce's impacts were  
23       presented in nominal dollars?

24              A.    My view was that I would rely on Dr.

1 Pearce's information and Dr. Pearce would defend his  
2 methodology.

3 Q. Did you tell Dr. Pearce that you had  
4 concerns about the use of nominal -- did you tell Dr.  
5 Pearce or anyone else that you had concerns about the  
6 use of nominal figures in that chart?

7 A. No, I did not.

8 Q. Okay. All right. Let's turn to Page 5,  
9 Lines 22 through 23, and then carrying over on to  
10 Page 6, Line 1. Do you see where your amended  
11 testimony states, "There would be a strong  
12 possibility that prices in the PJM western market  
13 would rise during the term of the proposed PPAs"?  
14 I'm just asking you if you see that text.

15 A. I see it.

16 Q. I might have misstated some of it  
17 slightly. And what is the basis for your opinion  
18 that such prices would rise during the term of the  
19 proposed PPAs?

20 A. Well, I viewed the pricing as relatively  
21 low comparatively. I viewed that there would be  
22 plants being retired and the need for new capacity  
23 coming from somewhere, and then potential inflation,  
24 which would have an impact on the cost of providing

1 supply; so it was a combination of those factors.

2 Q. And I think you said that you thought  
3 the prices were relatively low, and what did you  
4 consider in reaching your determination that the  
5 prices were relatively low in western PJM?

6 A. I guess, you know, in my role as a  
7 consultant, I just review industry information on an  
8 ongoing basis, and it seemed like the pricing was low  
9 comparatively to other locals.

10 Q. Okay. And are you offering any opinions  
11 on the reasonableness of Mr. Pearce's market  
12 forecast?

13 A. No.

14 Q. Okay. I don't think we mentioned his  
15 name yet, but are you offering any opinion on the  
16 reasonableness of Mr. Bletzacher's energy price  
17 forecast?

18 A. I'm not, no.

19 Q. And aside from that you thought they  
20 were relatively low, that you expected some  
21 retirement, and that there might be inflation, do you  
22 have any other basis for your opinion that such  
23 prices would rise during the term of the proposed  
24 PPAs?

1           A.    Those are my thoughts right now.

2           Q.    And you can't think of anything else at  
3 the moment?

4           A.    At the moment.

5           Q.    Okay.  So let's turn to Page 8, Lines 25  
6 through 27, and do you see the sentence that states,  
7 "No one can predict how the capacity and energy  
8 markets will progress anywhere in the country, much  
9 less within PJM where conditions and price levels  
10 vary so much between regions"?

11          A.    Yes.

12          Q.    And I want to know what you mean by  
13 "will progress" in this sentence.

14          A.    How -- I'm saying that no one -- no  
15 one -- basically, no one's able to predict the future  
16 with regard to capacity and energy market prices, so  
17 anywhere in the country, whether they go up, down, or  
18 stay the same or go up and down, you know, anyone who  
19 knew that would be in pretty good shape in the  
20 future.

21          Q.    And if no one can predict how capacity  
22 and energy markets will progress, then how can AEP  
23 Ohio reliable forecast the cost and revenues that  
24 will be passed through to customers under the PPA

1 Rider?

2 A. It's just the manner in which rate  
3 setting has been done within the regulated utility  
4 sector, that forecasted data is put forward, opposing  
5 parties can attack that information or propose  
6 different information, and then commissions or  
7 regulators have to use their best judgment to  
8 determine what represents the best public policy for  
9 the jurisdiction within which they serve.

10 Q. And so -- and you would agree with me,  
11 then, that there's significant uncertainty in any  
12 forecast of energy market prices over ten years?

13 A. I would say there would be a certain  
14 degree of uncertainty, depending on what the subject  
15 matter was.

16 Q. Okay. Going back to specifically those  
17 lines that we were just looking at, do you consider  
18 PJM market prices to be especially unpredictable  
19 compared to other ISOs?

20 A. Well, I know that between east and west  
21 there are some differences, so I'd say PJM would have  
22 certain characteristics -- let me amend that.  
23 Each -- each area of the country would have its own  
24 specific characteristics, and PJM east and west have

1       their own.

2               Q.    Okay.  And then -- I'm sorry to make you  
3       flip around here.

4               A.    That's okay.

5               Q.    Let's go back to Page 4, and then Line  
6       20.  We looked at this sentence before, but do you  
7       see where on Line 20 it says "the proposed PPAs"?

8               A.    Yes.

9               Q.    And what proposed PPAs are you referring  
10      to here?

11              A.    This would be -- as I said earlier, I  
12      intended this to mean the -- the PPA based on the  
13      nine plants, and then the OVEC entitlements flowing  
14      through the PPA Rider.

15              Q.    Okay.  And that was what I was getting  
16      at.  So your testimony was not that there is a  
17      proposed OVEC PPA out there?

18              A.    No, just the -- it's not the smoothest  
19      language I've ever drafted.

20              Q.    And do you know the term of the proposed  
21      Affiliate PPA?

22              A.    I believe it's supposed to run the --  
23      the expected life of the plants, and I -- in a quick  
24      review, I think the estimated life could be anywhere

1 from 15 years for some plants, up to 30 years or so.

2 Q. Okay.

3 A. Maybe 35 years on the longest plant.

4 Q. Do you know if the expected life of the  
5 units could be revised, you know, after this  
6 proceeding is concluded to then extend -- extend or  
7 shorten the term of that PPA?

8 A. I don't have an opinion on that.

9 Q. You don't know?

10 A. I have not heard information on that.

11 Q. Okay. And do you know the term of AEP  
12 Ohio's OVEC agreement?

13 A. I might have read it, but I don't recall  
14 it.

15 Q. Okay. And you're aware that Mr. Pearce  
16 and Mr. Bletzacher forecasted prices through 2024;  
17 right?

18 A. Well, it's Dr. Pearce.

19 Q. Dr. Pearce.

20 A. And it would bother him more than it  
21 would bother me for you to say that. I'm sorry, the  
22 question was whether they forecasted prices through  
23 2024?

24 Q. That's right.

1           A.    I believe they -- they have, to put this  
2 data together.

3           Q.    And when utilities are making long-term  
4 investment decisions, do they usually analyze the  
5 financial impacts over the presumed useful life of  
6 the project?

7           A.    Could you say that again?

8           MR. MENDOZA:  Would you mind repeating  
9 it for us?

10                   (Question read back.)

11           A.    I would say they do analysis based on  
12 the presumed useful life, and then they probably do  
13 some stress cases, either shorter or longer.

14           Q.    Okay.  And when you were a Michigan  
15 commissioner, can you remember being involved in a  
16 docket where a utility made investment decisions  
17 based on an economic analysis that looked at 25  
18 percent of the assumed lifespan of the unit?  
19 Actually, scratch that question.

20                   When you were a Michigan commissioner,  
21 can you remember being involved in a docket where a  
22 utility made investment decisions based on an  
23 economic analysis that looked at 25 percent of the  
24 assumed lifespan of the project?



1           A.    When I served in Michigan, we had very  
2           unusual circumstances, with an abandoned nuclear  
3           plant being made into the largest cogeneration plant  
4           at the time, and so I'd say I can't recall a  
5           situation, based on your description, but we dealt  
6           with some highly unusual issues, and so I can't say  
7           that we never considered the situation that you  
8           described.

9           Q.    And what was the name of that nuclear  
10          plant?

11          A.    The Midland nuclear plant.

12          Q.    Okay. Can you think of another  
13          situation when you were a Michigan commissioner where  
14          there might have been an unusual circumstance where a  
15          utility used an economic analysis that looked at 25  
16          percent or 50 percent of the assumed lifespan of the  
17          project?

18          A.    I can't recall either yes or no.

19          Q.    Okay. And I'm happy to keep going, if  
20          you -- we've been going for a while, and I know you  
21          have a flight to make, but if you need a break, we  
22          can --

23          A.    Maybe ten more minutes and then we'll  
24          take a break, if that's okay, unless you want a

1 break.

2 Q. No. I'm happy to keep going. Let's  
3 flip back to Page 12 your testimony, and do you see  
4 where your -- I'm sorry, I didn't wait for you to get  
5 there. And then looking at Lines 8 through 10, do  
6 you see where your amended testimony states, "I  
7 cannot recall any party putting forward evidence of  
8 an expectation that the US or world economy would  
9 suffer a further significant drop going forward"?

10 A. I might take a moment and read the whole  
11 sentence or --

12 Q. Yes.

13 A. Okay. I've read it.

14 Q. Okay. And then -- and you're familiar  
15 with the concept of energy efficiency; right?

16 A. Yes.

17 Q. And if there is increased energy  
18 efficiency over time, can't you have economic growth  
19 without load growth?

20 A. Yes.

21 Q. So a five-percent drop in load does not  
22 necessarily mean there is a corresponding drop in  
23 economic output; right?

24 A. They could be tied to differing factors,

1 and as -- as you undoubtedly know, there are also  
2 ways in which a drop in load, based on energy  
3 efficiency, can be -- there can be policies that  
4 attempt to hold the utility harmless on a margin  
5 basis.

6 Q. But I'm just asking a simpler question,  
7 which is that if there were a five-percent drop in  
8 load, it wouldn't necessarily mean there was a  
9 corresponding five-percent drop in GDP, if we're  
10 looking at the entire --

11 A. I would say there are a lot of factors  
12 that could affect that.

13 Q. Okay. Let's stay on Page 12, looking at  
14 Lines 10 through 12. Do you see where your amended  
15 testimony states, "I place...greater reliance on Dr.  
16 Pearce's average high/low forecast"?

17 A. Well, the whole sentence, "Accordingly,  
18 I place much greater reliance on Dr. Pearce's average  
19 high/low forecast or even the potential that the Ohio  
20 economy would support load growth expanding toward  
21 his five percent upside sensitivity."

22 Q. Yes.

23 A. And the question is?

24 Q. And the question is, can forecasted

1 market prices be 110 percent higher than a base case  
2 assumption of market prices?

3 A. You're saying can they be?

4 Q. Hypothetically.

5 A. Hypothetically, they could be -- you're  
6 saying could they be a hundred percent --

7 Q. 110.

8 A. -- 110 percent higher than what goes  
9 into the forecast?

10 Q. Uh-huh.

11 A. Yes, that's possible.

12 Q. Is it possible that -- market prices  
13 cannot be 110 percent lower than the base case  
14 assumption of market prices; correct?

15 A. They can be lower, but 110 percent lower  
16 would be difficult.

17 Q. It would be impossible, wouldn't it be?

18 A. Yes.

19 Q. And so do you understand that the  
20 distribution of price risk is usually asymmetrical  
21 given these two facts?

22 A. Well, there are other factors, but I  
23 guess --

24 Q. But I'm only asking -- I'm sorry to

1 interrupt.

2 A. I guess I view that there is -- there is  
3 a larger factor than that, but I -- I'll accept on  
4 its face your -- your hypothesis. I think there's a  
5 greater reason why the upside is more volatile than  
6 the downside.

7 Q. And so given this asymmetry in price  
8 distribution, do you understand that a simple average  
9 results in an upward bias?

10 A. From my experience over the last three  
11 decades both in regulation and also working in the  
12 financial community, I find that the volatility in an  
13 upward price swing caused by shortages is usually  
14 multiplied versus downward movement in pricing due to  
15 a glut of supply.

16 Q. Okay. I think we can move on, although  
17 I'm not really asking about volatility, more just the  
18 general level of prices, and if you look at, say, the  
19 capacity prices in PJM over the last few years,  
20 they've gone up and down, but they never went below  
21 zero; right?

22 A. That's correct.

23 Q. And so there's more room for them to  
24 move high than there is for them to move low,

1 assuming people still want to buy electricity; right?

2 A. And I guess what I'm saying is upward  
3 price movement is driven in large part by panic, and  
4 that's not the same situation with downward price  
5 movement.

6 Q. Okay. And going back to -- and you  
7 don't need to refer to it unless you want to, but  
8 going back to what I asked you, if you did sort of a  
9 weighing of positive aspects and negative aspects; so  
10 I want to ask you about, in performing your analysis  
11 of Rider PPA and the Affiliate PPA transaction, what  
12 negatives did you consider?

13 A. The major negative to me would be if  
14 there was a negative burden on customers that  
15 outweighed the -- the positives I see in the  
16 nonfinancial benefits.

17 Q. And when you say negative burden, I  
18 think was the word you used, you're referring to the  
19 actual charge that would show up in their bills; is  
20 that right?

21 A. The additional charge set through the  
22 PPA Rider.

23 Q. Okay. Did you weigh any other -- aside  
24 from that potential negative, did you weigh any other

1 negatives of the, you know, the Rider PPA or the  
2 Affiliate PPA transaction?

3 A. That was the major one I saw. That was  
4 the primary one I looked at.

5 Q. Can you think of a secondary one or is  
6 there any other one, any other negative that you  
7 considered?

8 A. I get -- you know, just from having been  
9 through training last week, I just heard that, you  
10 know, some -- some witnesses will -- will be  
11 discussing the plants and the -- that are in the PPA  
12 or the OVEC entitlements, but as I said with Dr.  
13 Pearce, he'll defend his data and there will be other  
14 witnesses who will defend the structuring of the PPA  
15 Plants.

16 Q. Okay. So I assume those other witnesses  
17 would talk about, you know, positive economic  
18 benefits of those plants, but I'm just trying to  
19 figure out if there were other negatives that you  
20 considered in doing your what I colloquially referred  
21 to as a cost-benefit analysis, and you don't have to  
22 adopt that term, but I'm just wondering if there  
23 was -- aside from the potential financial burden, if  
24 there's any other negatives that you considered for

1 the --

2 A. I viewed the potential insurance aspect  
3 and the various other nonfinancial benefits, economic  
4 development, jobs, tax base, as very significant,  
5 based on my past service in Michigan, that to me the  
6 major potential negative would have been a cost  
7 burden on customers; so that -- I'd say that was the  
8 primary one, and maybe the -- the only one that I  
9 specifically looked at.

10 Q. So it's fair to say you didn't consider  
11 any other negatives from the Rider PPA; is that  
12 right?

13 A. Well, I -- I considered whether the --  
14 the PPA Rider, with its hedge-like aspects, could be  
15 a negative when laid upon the evolving competitive  
16 environment in Ohio, so I considered whether that  
17 could be a negative, and I came to the conclusion  
18 that it was not.

19 Q. You considered -- so let me see if I  
20 understand that. You considered whether the hedge  
21 aspect would negative impact competitive markets in  
22 Ohio; is that right?

23 A. Would -- would be inconsistent with the  
24 evolving competitive market in Ohio, and I concluded



1       that it would not be a negative.

2               Q.    Okay.  So that wasn't actually a  
3       negative that you considered, then.  It was an issue  
4       that you looked into, but then ultimately determined,  
5       in your opinion, not a negative; is that right?

6               A.    It was something that I thought might be  
7       a negative, and I looked at it and found it not to be  
8       a negative and actually served to be a positive with  
9       regard to the insurance-like characteristics of the  
10      PPA Rider.

11              Q.    Okay.  And so aside from your  
12      consideration of that impact on competitive markets,  
13      which you ultimately determined was not a negative,  
14      and the potential burden on customer charges, are  
15      there any other negatives that you considered in  
16      forming your opinions about Rider PPA?

17              A.    Not that come to mind at this time.

18              Q.    Okay.  Let's switch to Page 6, and if  
19      you wouldn't mind, take a look at the sentence on  
20      line -- that starts on Line 10, "Back during my  
21      Commission tenure."

22              A.    Should I read it to myself?

23              Q.    You can, yes.

24              A.    Okay.  Would it be okay to break now or

1 do you want me to answer this question first?

2 Q. I mean, I was just about to start a new  
3 section, so this would be a fine time to stop. Why  
4 don't we take a ten-minute break.

5 A. Okay. Thank you.

6 (Recess taken.)

7 Q. Mr. Fetter, I gather you have something  
8 you'd like to clarify?

9 A. I just want to clarify, I think it was  
10 clear on the last thing you asked about the -- when  
11 you said did I check a negative and I said I looked  
12 at impacts on evolving competitive landscape and I  
13 actually found there to be a positive, I should say  
14 that any of the issues I looked at, I didn't go into  
15 it thinking something might be a positive or  
16 negative. I analyzed it, and some turned out to be  
17 positive and some turned out to be negative.

18 Q. Okay. I think we're all right. I think  
19 the record is fairly clear, so I think we can just  
20 move on.

21 A. Okay.

22 Q. Let's turn to Page 6, Lines 10 through  
23 12, the sentence that says -- starts with, "Back  
24 during my Commission tenure." Have you had a chance

1 to review that sentence, Mr. Fetter?

2 A. Yes.

3 Q. Okay. And what was the regular  
4 action -- excuse me. Scratch that. What was a  
5 regulatory action you ruled at the Michigan PSC in  
6 which you relied on this mind-set?

7 A. Okay. So you're asking what decision I  
8 made where I relied on the mind-set that I wouldn't  
9 want to take an action that would rob the  
10 Commission's ability to respond if problems came up?

11 Q. Right. I'm asking -- so you referred to  
12 a mind-set that you had during your time at the  
13 Michigan PSC, and it's described in that sentence,  
14 and I'm wondering if you can point us to a regulatory  
15 action that you ruled on at the Michigan PSC in which  
16 you relied on that mind-set?

17 A. Well, my mind-set was never to take an  
18 action that was irreversible if it proved to be a  
19 problem, and I would say in most of my decisions I  
20 considered whether I was robbing the Commission of  
21 the ability to react if a problem arose.

22 Q. But I'm -- can you point me to a  
23 specific one?

24 A. I'm saying I was careful not to order

1 something that could not be corrected, so are you  
2 asking me to -- I can't give you an example of  
3 something where -- where I took an irreversible  
4 path --

5 Q. No -- I'm sorry.

6 A. -- and on the opposite it's a mind-set I  
7 had whenever there was a decision before the  
8 Commission.

9 Q. Okay. Well, what's a case that this  
10 mind-set was a particularly important aspect of your  
11 decision-making over a case that was before you when  
12 you were a commissioner?

13 A. Well, I -- I described the abandoned  
14 Midland nuclear plant and the changeover to a  
15 cogeneration plant. That went on during my entire  
16 six years at the Commission, so that would be an  
17 example of a proceeding where we had to be very  
18 careful because of the issues of first impression  
19 that that unusual situation provided.

20 Q. Okay. Can you think of another case  
21 aside from the Midland case in which this mind-set  
22 was especially important in your consideration of a  
23 case?

24 A. Nothing specifically. It was just a

1 mind-set I carried into my service as -- as  
2 commissioner and chairman.

3 Q. Okay. And could you identify an actual  
4 written decision that explicitly reflects this  
5 mind-set?

6 A. No, I can't.

7 Q. Okay. And then staying on Page 6,  
8 looking at those same lines, do you see the word  
9 "control"? And I believe it's on Line 12.

10 A. Yes.

11 Q. And I want to know what you mean by  
12 "control" in this context.

13 A. It was -- it was -- the term is used  
14 as -- that the Commission would continue to play a  
15 role if a problem cropped up following one of our  
16 decisions.

17 Q. Okay. And so thinking about this case,  
18 I mean, how does the proposed agreement under which  
19 AEP Ohio would buy energy capacity and ancillary  
20 services from certain plants and then sell those  
21 things into the PJM market provide the Commission  
22 with control over those plants?

23 A. My -- the banner in which that mind-set  
24 entered into my analysis here was if those plants

1       were to be retired, closed, sold off to other  
2       entities, then it would give the Commission fewer  
3       options if problems were to crop up later.

4               Q.     And how would the sale of those -- of  
5       the plants to third parties affect the Commission's  
6       options?

7               A.     Well, if it's owned by an unregulated  
8       entity, I believe the Commission would have less of a  
9       relationship than it does with a regulated utility  
10      that it's regulated for I would guess over a hundred  
11      years.

12              Q.     But those plants are owned by an  
13      unregulated entity already today; right?

14              A.     It is owned by an unregulated affiliate  
15      of a corporation that also includes the regulated  
16      entity.

17              Q.     Okay. So you're saying that the  
18      corporate affiliation between the utility here, AEP  
19      Ohio, and the owner of the plants provides the  
20      Commission control over the plants?

21              A.     I'm saying that I believe, as with most  
22      regulated utilities and parent holding companies in  
23      the country, there is a public interest aspect of  
24      their operations, as compared to a totally

1       unregulated third party that has no prior and  
2       potentially no future relationship with the  
3       regulatory body.

4               Q.     Okay.  And so then you would agree that  
5       AEP Generation has no public interest obligations to  
6       Ohio; is that right?

7               A.     Only to the extent that they view that  
8       they -- they can have such, I think it -- it resides  
9       more within the regulated utility and also  
10      potentially the parent holding company.

11              Q.     Okay.  And let's take a look at a  
12      discovery response from this case, and I think we're  
13      only up to two, so we'll call this Exhibit 2.

14                     (EXHIBIT 2 MARKED FOR IDENTIFICATION.)

15              Q.     And I'll just give you a second to take  
16      a look at it.  I'm only going to ask you about  
17      Subpart A, so you don't need to read --

18              A.     Okay.

19              Q.     To speed things up.

20                     MS. BLAIR:  Can I have a reference to  
21      it, what it is?

22                     MR. MENDOZA:  I apologize.  Yeah.  I  
23      apologize.  I just handed Mr. Fetter Sierra Club  
24      Interrogatory 2-76.

1 MS. BLAIR: Thank you.

2 A. And I know you may only ask about A, but  
3 I think I continue to discuss the concept of control  
4 throughout.

5 Q. If you'd like to read the whole thing,  
6 then go ahead.

7 MR. MILLER: And just for clarity,  
8 Question Subpart A or Response Subpart A?

9 Q. I was just going to ask you about the  
10 response in Subpart A, but I guess you'll have to  
11 read the question, too, to make sense of the whole  
12 thing.

13 A. Okay. I may have to refer back, but --

14 Q. Okay. Have you seen this document  
15 before, Mr. Fetter?

16 A. Yes.

17 Q. And did you prepare this response?

18 A. Yes.

19 Q. Okay. And do you see under "Response,"  
20 the heading "Response," Subpart A, do you see where  
21 this document states, "Mr. Fetter states that  
22 'control' in" -- the -- "context" -- "in that context  
23 refers to the ability of regulators to take future  
24 actions consistent with the public interest



1 responsibilities of a state utility commission."

2 A. Yes, that's what that response says.

3 Q. And can you -- looking at, in  
4 particular, the phrase "future actions," can you  
5 identify a future action that the Commission might  
6 take with respect to Rider PPA?

7 A. Well, I think that's where you get into  
8 the response to "i." Whether the Commission has  
9 powers under existing Ohio law related to regulation  
10 of utilities, whether that would give them power, or  
11 whether the ability of the utility and other parties  
12 to a proceeding to come to an agreement that could  
13 modify any action taken in the PPA Rider docket,  
14 that's where I view the potential for action if  
15 problems were to occur later.

16 Q. So maybe we'll come back to this. Do  
17 you believe that the Commission would have the  
18 authority to audit AEP Generation's books and  
19 records?

20 A. I'm not sure of the answer to that. I  
21 believe the Commission would -- in doing its review  
22 of the relationship between Gen and the regulated  
23 utility, I believe the Commission will attempt to get  
24 all the information it needs.

1           Q.    So is the answer to my question that you  
2   don't know if the Commission would have authority to  
3   audit AEP Generation?

4           A.    I -- in this -- in this situation, I  
5   don't know where the Commission would -- would be  
6   legally allowed to get the information, but I know  
7   that they'll have continuing oversight through the  
8   regulated entity.

9           MR. MILLER:  Tony, are you asking for a  
10   legal conclusion or what are you asking for?

11          MR. MENDOZA:  I'm just asking if he  
12   knows if there's -- I mean, he's an expert in, you  
13   know, this area and has offered an opinion about how  
14   the Commission might have control over the PPA and  
15   the PPA Rider, and I'm just trying to explore his  
16   basis for that opinion.

17          MR. MILLER:  And so in regards to the  
18   word "authority," if it's a legal conclusion,  
19   obviously I'm going to object, but if he wants to  
20   answer as an expert, his understanding.

21          A.    So is there a question pending?

22          Q.    I'll move onto the next one.  I think  
23   you answered that one.  Do you think that the  
24   Commission would have -- and actually, I should

1 preface this by saying the assumption here is that  
2 the PPA Rider has been approved and it's in  
3 existence, and so in that hypothetical situation,  
4 with the rest of the universe remaining as it is, do  
5 you think that the Commission would have the  
6 authority to require AEP Generation to respond to  
7 discovery from Commission staff regarding any costs?

8 MR. MILLER: So I'm going to object.  
9 Just to clarify, are you asking him whether the PPA  
10 Rider provides the Commission authority or are you  
11 asking him if the Commission has authority lawfully  
12 in Ohio?

13 MR. MENDOZA: Both. I'm asking if the  
14 Commission could require that either under the PPA or  
15 under some other authority.

16 A. Okay.

17 Q. Under the PPA Rider I should say. I  
18 apologize.

19 A. And as I answered, I believe the  
20 Commission will have substantial authority through  
21 its interaction with the regulated entity. I'm not  
22 sure of the answer what power it would have over the  
23 Gen.

24 Q. Okay. And could the Commission disallow

1 recovery -- I apologize. Again, I'm assuming here  
2 that the PPA Rider has been approved.

3 A. Yes, sir.

4 Q. Okay. And could the Commission disallow  
5 recovery under Rider PPA if PJM energy market  
6 revenues are lower for the Affiliated PPA Units than  
7 forecasted by Dr. Pearce and Mr. Bletzacher?

8 A. I believe the Commission's power would  
9 rest on Ohio Power doing something imprudent, so they  
10 could -- they would have to tie potential  
11 disallowance to imprudent behavior.

12 Q. And you would agree with me that lots of  
13 things factor into what the market price of energy is  
14 in PJM aside from, you know, the behavior of the Ohio  
15 Power Company; is that right?

16 A. Many factors factor in.

17 Q. And so it's possible, isn't it, that the  
18 energy market prices would be lower than forecasted  
19 by AEP Ohio in this proceeding even if the Company  
20 acted prudently for the next ten years; isn't that  
21 right?

22 A. Yes, that's possible.

23 Q. So, in that case, where the Company --  
24 where AEP Ohio, excuse me, had taken no imprudent

1     action, but energy market prices were otherwise  
2     significantly lower than the forecast in this  
3     proceeding, would the Commission be able to disallow  
4     cost recovery under Rider PPA?

5             A.     I view Rider PPA as kind of an insurance  
6     policy, very similar to what consumers buy with  
7     regard to life insurance or auto insurance,  
8     homeowner's insurance, with the hope that they never  
9     have to recover on those policies, and so it is Rider  
10    PPA -- PPA Rider provides such protection over an  
11    extended period of time, and so I -- that's a long  
12    answer to say I think there has to be imprudent  
13    behavior for there to be a disallowance.

14            Q.     And again assuming that Rider PPA were  
15    approved, could the Commission disallow recovery  
16    under Rider PPA if operation and maintenance costs  
17    for any of the Affiliate PPA Units are greater than  
18    projected by AEP Ohio?

19            A.     It would be the same answer. There  
20    would have to be imprudent behavior on the part of  
21    the regulated utility for there to be a disallowance.

22            Q.     And just -- I apologize if I jumped in  
23    there. Were you finished with your answer?

24            A.     I believe so.

1           Q.    Okay.  Thank you.

2                   MS. HUSSEY:  I'm sorry.  Could you  
3   reread the response, the question and then the last  
4   response to that question?

5                   (Question and answer read back.)

6           Q.    And just to make sure we're clear, so  
7   the -- an imprudent -- assuming Rider PPA were  
8   approved, the prudence of the behavior of AEP  
9   Generation would be irrelevant to whether any costs,  
10   a particular cost could be recovered through Rider  
11   PPA; is that right?

12                  MR. MILLER:  Again, let me clarify, sir,  
13   are you asking the question about what the details of  
14   the agreement would require?  When you say Rider PPA,  
15   are you assuming there is an underlying agreement  
16   between the parties and the details of that or are  
17   you asking him a question as it relates to whether or  
18   not there's authority, and I'm assuming that's a  
19   legal perspective, an authority in Ohio do so?

20                  MR. MENDOZA:  I'm asking him, you know,  
21   as an expert in this area of electric utility  
22   regulation, what would the Commission consider in  
23   cost recovery and whether those costs would be  
24   recoverable under the approved rider; so, no, I'm not

1 asking about what the contract necessarily says, but  
2 just -- I mean, perhaps that would bear on the  
3 Commission's consideration of those issues, but my  
4 question is about whether -- in this case, operation  
5 and maintenance costs for a plant in, say, 2021.

6 BY MR. MENDOZA:

7 Q. Would those be recoverable -- would the  
8 prudence of AEP Generation's behavior be a relevant  
9 consideration for the Commission?

10 A. And I believe there would have to be a  
11 tie to Ohio Power for there to be a disallowance.

12 Q. Okay.

13 A. A tie to Ohio Power's actions or  
14 judgments for there to be a disallowance.

15 Q. Okay. And could the Commission require  
16 AEP Generation to get approval from the Commission  
17 before undertaking a capital expenditure at one of  
18 the Affiliate PPA Plants?

19 A. I believe that Ohio Power would sit on  
20 some operating committee, so I think there is -- the  
21 Commission is able to exert some influence on through  
22 the regulated utility, I believe.

23 Q. And who -- who describes that -- could  
24 you point me to a witness who describes that

1 committee that you're talking about?

2 A. Maybe I should ask counsel.

3 MR. MILLER: Well, if you can answer the  
4 question, if you --

5 A. No. I mean, I -- I -- this is what I've  
6 heard. I'm not saying -- it's not my testimony that  
7 there is a committee. I'm referring to what I've  
8 heard, that I believe Ohio Power will sit on an  
9 operating committee, but if that's not true, then I  
10 am misinformed.

11 Q. Do you recall who told you that?

12 A. Possibly Pablo Vegas.

13 Q. Okay. And could the Commission require  
14 OVEC to get approval from the Commission prior to  
15 undertaking a capital expenditure at one of the OVEC  
16 Units?

17 A. I don't think they could direct it to  
18 OVEC. I think there may be -- there may be a similar  
19 structure where Ohio Power has some involvement in  
20 the operation of the OVEC entitlement, but, again,  
21 I'm not a witness who is saying that there is such.

22 Q. Okay. Do you know how decisions for  
23 OVEC are made?

24 A. No.



1           Q.    Okay.  Would AEP Ohio continue to  
2   recover costs from its customers through the PPA  
3   Rider during the pendency of any dispute over the  
4   reasonableness or prudence of such costs?

5           A.    I'm not sure.

6           Q.    And so if AEP Ohio recovered costs  
7   through the PPA Rider that the Commission later  
8   disallowed as unreasonable, could the ratepayers  
9   recover those costs?

10          A.    That the Commission found to be --

11          Q.    Unreasonable.

12          A.    Unreasonable, but already collected?  I  
13   would expect there would be some kind of return  
14   with -- with -- a refund with some kind of interest  
15   on that refund.

16          Q.    Do you know -- I think you said you  
17   would expect that that would be the case.  What is  
18   the basis of that expectation?  What is your basis of  
19   that expectation?

20          A.    Just from my 28 years involved in -- 30  
21   years involved in utility regulation.

22          Q.    And can you point me to a witness or  
23   someone else within AEP who has told you about, you  
24   know, this kind of a reimbursement --

1           A.    I think William Allen would be the  
2           witness who would be most closely tied to this issue.

3           Q.    Okay.  And is it possible that the  
4           Commission would disallow the PPA Rider balance in  
5           future electric security plan cases?

6           A.    I think that's a legal question, so I  
7           don't know the answer.

8           Q.    Okay.  Well, is it correct that once  
9           accepted by the Commission, the Affiliate PPA would  
10          be the basis for a FERC-approved wholesale rate?

11          A.    I'm not sure.

12          Q.    Okay.  Is it your understanding, Mr.  
13          Fetter, that AEP Ohio needs the Commission's approval  
14          to enter into the proposed affiliate transaction with  
15          AEP Generation?

16          A.    I don't believe it's required, but I  
17          believe they're not going to sign it until this case  
18          is concluded.

19          Q.    And what is the source of your belief  
20          that they're not going to sign it until this case is  
21          concluded?

22          A.    I believe I saw it in the application.

23          Q.    And assuming the Commission were to  
24          approve the proposed affiliate transaction, could the

1 Commission later rescind its approval for the  
2 proposed affiliate transaction?

3 A. Say that again.

4 Q. Assuming the Commission were to approve  
5 the proposed affiliate transaction --

6 A. Are you talking about the PPA, not the  
7 PPA Rider?

8 Q. That's right. Yeah, let me clear that  
9 up. Assuming the Commission were to approve the  
10 proposed Affiliate PPA, could the Commission rescind  
11 its approval of that PPA?

12 A. I believe if the utility entered into  
13 the PPA, that's a FERC-regulated agreement, so I -- I  
14 don't view that the Commission would be approving the  
15 PPA if the Commission was -- just determined rate  
16 recovery that may tie to the PPA.

17 MR. MILLER: Tony, I'm going to object.  
18 Are you asking him to speculate about what the terms  
19 of a nonexistent contract are? Is that where you're  
20 going?

21 MR. MENDOZA: I'm asking him to offer  
22 his expert opinion on the specific agreement that is  
23 proposed in this case.

24 Q. There's a proposed Affiliate PPA

1 transaction in this case; is that right?

2 A. Yes.

3 Q. And I want to ask about that one, and  
4 the question is, if that were approved, which is a  
5 hypothetical, could the Commission later revoke its  
6 approval or rescind its approval?

7 A. I believe as a wholesale transaction it  
8 would be the FERC that would make a judgment on  
9 approving it, and then the Ohio Commission would  
10 determine how much of those costs would go in to  
11 regulate customer rates.

12 Q. And so just to be clear, so your opinion  
13 as a regulatory expert is that the Commission would  
14 not have authority to revoke or rescind its approval  
15 of the PPA transaction; is that right?

16 A. As I said, I believe the FERC would  
17 determine a wholesale agreement, and the Ohio  
18 Commission would determine rate recovery to regulated  
19 customer.

20 Q. Okay. Let's look at Page 6, Lines 16  
21 through 18. Do you see this sentence that states,  
22 "The Company indicates that, if its proposal here  
23 were to be rejected, many of the plants at issue  
24 could end up being retired early or sold to a third

1 party"?

2 A. Yes.

3 Q. Okay. And do you know which plants  
4 could end up being retired early?

5 A. No.

6 Q. So nobody within the Company has told  
7 you that they intend to retire any of these plants if  
8 the proposal here is rejected?

9 A. I've heard that they might retire  
10 plants.

11 Q. And who told you that?

12 A. It would have been in reviewing the  
13 testimony of either Allen, Pearce, or Vegas.

14 Q. Okay. And which plants could end up  
15 being sold to a third party?

16 A. I don't know.

17 Q. Okay. In your view, is the negative  
18 effect -- scratch that. In your view, is the  
19 potential negative effect regarding reliability to  
20 Ohio the same if these plants are sold to a third  
21 party as opposed to being retired by AEP Generation?

22 A. And you're saying the effect on  
23 reliability if they're retired or if they are sold to  
24 a third party?

1 Q. Yes.

2 A. And you're asking if the impact is the  
3 same?

4 Q. (Nods head.)

5 A. I believe, from reviewing the testimony,  
6 if retired, then certain significant transmission  
7 upgrades would have to occur; so I'd say all things  
8 being equal, if they're sold versus retired and then  
9 the transmission upgrades have not yet been made, I  
10 would expect reliability potentially goes down more  
11 if they're retired than sold to a third party.

12 Q. It's possible, isn't that, that if a  
13 third party were to buy, say, the Zimmer Power Plant,  
14 the third party would continue to operate the Zimmer  
15 Power Plant; isn't that right?

16 A. It's -- it's possible.

17 Q. And so there would then be no need to  
18 upgrade transmission to deal with --

19 (Discussion off the record.)

20 Q. There would be no need to make the  
21 transmission upgrades -- well, actually, scratch  
22 that. Do you think a third party is likely to retire  
23 a plant that it purchased?

24 A. Well, our tax code can be very unusual,

1 but -- I would expect the answer to be no, but in  
2 these days it's hard to predict anything with the way  
3 the tax code operates.

4 Q. And if a third party bought all of these  
5 plants, and putting aside the OVEC Plants, but all of  
6 the Affiliated PPA Plants, do you think it's likely  
7 that that third party would retire all of them?

8 A. I'd give the same answer. In these days  
9 of the tax code that's a thousand pages long, I  
10 wouldn't say it's a certainty that plants might not  
11 be bought and retired for reasons other than whether  
12 they can provide power or not.

13 Q. Okay. So let's -- and again, I  
14 apologize for switching around so much. Let's look  
15 at Page 8, Lines 24 through 25. The first sentence  
16 there that reads, "To me, it all comes down to  
17 preserving optionality to deal with unknown future  
18 developments." Do you see that?

19 A. I see that.

20 Q. Okay. Do you think that the Affiliate  
21 PPA or the PPA Rider could have been structured  
22 differently to allow for more options for the  
23 Commission?

24 A. I don't have an opinion on that.

1           Q.    Okay.  Well, do you think if the  
2   Affiliate PPA and related PPA Rider were for a  
3   shorter duration, such as five years, would that  
4   provide the Commission more options if, for example,  
5   energy and capacity prices are different than AEP  
6   Ohio predicts?

7           A.    It would -- it would operate for a  
8   shorter period, so far out uncertainty might be less,  
9   but at the same time, as structured as it is, it  
10  provides a long-term hedge, the likes of which I  
11  think -- I don't believe are obtainable in the open  
12  market right now.

13          Q.    Do you think that adding a provision to  
14  the Affiliate PPA that required AEP Generation to get  
15  Commission approval before making capital investments  
16  would provide the Commission with more options and  
17  more control?

18          A.    Could you say that question again?

19          Q.    Sure.  Do you think that adding a  
20  provision to the Affiliate PPA that required AEP  
21  Generation to get Commission approval before making  
22  capital investments at a PPA Plant, would that  
23  provision provide the Commission with more options?

24          A.    So you're saying if Gen voluntarily



1       agreed to a provision with an entity that doesn't  
2       regulate it?

3               Q.     (Nods head.)

4               A.     I think it would be very unusual for an  
5       entity that's not regulated to agree to be regulated.

6               Q.     If AEP Generation agreed to -- I mean,  
7       they can decide to agree to a contract or not; right?

8               A.     They can.

9               Q.     And if that -- if they agreed to that  
10      contract term, wouldn't the Commission have more  
11      control over those plants?

12              A.     In the same way as if Gen agreed to let  
13      the Commission manage its company, the Commission  
14      would have greater control over Gen.

15              Q.     Okay. And let's take a look at Page 6,  
16      Lines 16 through 23. "The Company" -- there's a  
17      sentence that starts, "The Company indicates that, if  
18      its proposal here were to be rejected, many of the  
19      plants" -- wait a second. I'm sorry.

20                     Let's just look at the bottom of that  
21      page, Lines 21 through 23, and if you want to refer  
22      up to, you know, get the context, obviously let me  
23      know if you need to do that, but, "Either of these  
24      results" -- and you were -- you were talking about

1 sale or retirement up above, and then I think you go  
2 on to say, "Either of these results would have a  
3 negative effect vis-a-vis the Commission's concerns  
4 about future reliability and supply diversity as  
5 explicitly expressed in its February Order." Do you  
6 see that statement?

7 A. I see that statement.

8 Q. Okay. And I want to ask you about  
9 reliability and supply diversity. Is it correct that  
10 you view one of the benefits of the PPA Rider as  
11 insuring reliability and supply diversity?

12 A. I view those as positives.

13 Q. Okay. And what is the basis of your  
14 opinion that the PPA Rider will positively address  
15 reliability concerns?

16 A. These are -- these are plants that have  
17 been operated long term first on a regulated basis,  
18 now on an affiliate of a -- of a company that  
19 includes the regulated entity, so I would expect many  
20 of the individuals running the generating plants are  
21 the same -- on an unregulated basis are the same  
22 individuals who ran them as regulated entities.  
23 They've long been part of and now connected to AEP's  
24 system, so I view continuation -- certainly

1 continuation of how they've been run in the past  
2 versus retirement would provide continuing  
3 reliability, and if they were to be sold, I think  
4 then the seller can determine whether to operate them  
5 similar to the way they've been operated in the past  
6 or whether they have a different strategy on how to  
7 use that electricity for sale elsewhere.

8 Q. Okay. And then in the -- in terms of  
9 the actual financial impact on reliability, what is  
10 the -- I mean, are you offering an opinion on how  
11 much those sort of reliability upgrades would cost,  
12 for example?

13 A. I'm referring to Mr. Bradish on that  
14 issue.

15 Q. And do you have any opinion on whether  
16 Mr. Bradish's estimates are reasonable?

17 A. Same thing I said before, I'm relying on  
18 his sworn testimony, and Mr. Bradish will defend the  
19 points he's put forward.

20 Q. And so it's fair to say you didn't  
21 review Mr. Bradish's modeling; is that right?

22 A. I did not.

23 Q. Okay. And do you know how many units  
24 Mr. Bradish assumed retired in his forecast?

1           A.    I don't. I don't know if he said it in  
2 his testimony or not.

3           Q.    Okay. Are you familiar with PJM  
4 Reliability Must-Run contracts?

5           A.    No.

6           Q.    Have you ever heard of Reliability  
7 Must-Run contracts?

8           A.    Vaguely.

9           Q.    Do you know if a generation unit owner  
10 must notify PJM if the owner intends to retire a  
11 generation unit?

12          A.    I don't know.

13          Q.    Okay. If the Commission does not  
14 approve inclusion of the Affiliate PPA and the PPA  
15 Rider, would Cardinal Unit 1 retire?

16          A.    I don't know.

17          Q.    If the Commission does not approve  
18 inclusion of the Affiliate PPA and the PPA Rider,  
19 would Zimmer Unit 1 retire?

20          A.    I don't know.

21          Q.    If the Commission does not approve the  
22 inclusion of the Affiliate PPA and the PPA Rider,  
23 would Stuart Unit 1 retire?

24          A.    I'm not sure.

1           Q.    If the Commission does not approve  
2           inclusion of the Affiliate PPA and the PPA Rider,  
3           would Stuart Unit 2 retire?

4           A.    I don't know.

5           Q.    If the Commission does not approve  
6           inclusion of the Affiliate PPA and the PPA Rider,  
7           would Stuart Unit 3 retire?

8           A.    I don't know.

9           Q.    If the Commission does not approve  
10          inclusion of the Affiliate PPA and the PPA Rider,  
11          would Stuart Unit 4 retire?

12          A.    I don't know.

13          Q.    If the Commission does not approve  
14          inclusion of the Affiliate PPA and the PPA Rider,  
15          would Conesville Unit 4 retire?

16          A.    I don't know.

17          Q.    If the Commission does not approve  
18          inclusion of the Affiliate PPA and the PPA Rider,  
19          would Conesville Unit 5 retire?

20          A.    I don't know.

21          Q.    If the Commission does not approve  
22          inclusion of the Affiliate PPA and the PPA Rider,  
23          would Conesville Unit 6 retire?

24          A.    I don't know.

1           Q.    And I think you told me earlier that you  
2   are not familiar with how decisions are made at OVEC;  
3   is that right?

4           A.    I'm not familiar.

5           Q.    Okay.  Do you think that if AEP Ohio  
6   wanted to retire any of the OVEC Units, could -- do  
7   you know if it could make that decision unilaterally?

8           A.    I do not believe it can.

9           Q.    Okay.  And the same for AEP, the holding  
10  company, if AEP, the holding company, wanted to  
11  retire any of the OVEC Units, could AEP make that  
12  decision on its own?

13          A.    I think there are more parties involved  
14  in that.

15          Q.    Okay.  We're still on the same page, and  
16  we're still on those lines where we talked about  
17  reliability and supply diversity.

18          A.    Yes.

19          Q.    And I think you had mentioned you had  
20  reviewed the February 2015 Commission Order that  
21  mentions supply diversity; is that right?

22          A.    Yes.

23          Q.    And what is the geographical scope of  
24  diversity that you think the Commission is trying to

1 maintain?

2 A. I'm not sure.

3 Q. Well, is it to maintain diversity within  
4 the AEP Ohio service area or --

5 A. I would -- if I was to just -- you know,  
6 perhaps in Ohio, perhaps in the PJM West, some --  
7 within that range.

8 Q. Okay. But it's fair to say that you  
9 don't know --

10 A. Yes, which is what I said.

11 Q. All right. And what percentage of  
12 Ohio's generation is coal fired today?

13 A. I don't know.

14 Q. And what percentage of coal is needed in  
15 Ohio's generation fleet to address, you know,  
16 diversity concerns?

17 A. I'm not sure.

18 Q. What percentage of coal is needed in  
19 Ohio's generation fleet to maintain reliability?

20 A. I'm not sure.

21 Q. Okay. And so let's take a look at this  
22 document, which we can call Fetter No. 3.

23 (EXHIBIT 3 MARKED FOR IDENTIFICATION.)

24 Q. And this is a printout from the Public

1 Utilities Commission of Ohio Website. You will see  
2 the URL for where this document was obtained in the  
3 footer of the document, and this document is titled:  
4 "Where does Ohio's electricity come from?" Have you  
5 seen this document before, Mr. Fetter?

6 A. I might have. I don't recall for sure.

7 Q. Do you consider the Public Utility  
8 Commission of Ohio a reliable source of information  
9 about Ohio electric generation?

10 A. I believe if they -- if they put this  
11 out, they believe it accurately portrays the  
12 situation.

13 Q. Okay. But do you see the pie chart  
14 lists various resource types that make up Ohio  
15 generation?

16 A. Yes.

17 Q. Okay. And do you see at the bottom of  
18 the chart it says the initials EIA?

19 A. Yes.

20 Q. And do you understand EIA to mean the  
21 U.S. Energy Information Administration?

22 A. Yes, a federal agency.

23 Q. Okay. And based on the label, would you  
24 agree with me that this chart purports to reflect



1 Ohio generation output in 2014?

2 A. I would say this is EIA's best estimate  
3 of that -- those factors.

4 Q. Okay. And can you see that in 2014  
5 67.67 percent of generation output in Ohio was coal  
6 fired?

7 A. Yes.

8 Q. And 17.59 percent was natural gas fired;  
9 isn't that right?

10 A. Yes.

11 Q. And 12.26 percent was nuclear; right?

12 A. Yes.

13 Q. And do you think that that mix of  
14 generation reflected in that pie chart threatens the  
15 reliability of electric service in Ohio?

16 A. I don't believe so, but I -- I have no  
17 reason to believe it would threaten reliability.

18 Q. And would you have reason to believe  
19 there would be a threat to reliability if coal  
20 generation dropped to 60 percent?

21 A. I would expect -- depending on where the  
22 plants were coming out of service to bring it down to  
23 60 percent could have an impact on reliability, but  
24 on a pure diversity basis, apart from the operational

1 connection basis, I wouldn't say 60/20 coal to gas  
2 would represent diversity problems.

3 Q. Okay. So are you able to put a number  
4 on the percentage of coal-fired generation needed in  
5 Ohio so that there is not a threat to reliability?

6 A. As I said, this does not take into  
7 account the operations of the entities that would go  
8 out of service, and so I think that has more of an  
9 impact on reliability than these pure pie chart  
10 numbers.

11 Q. Okay. And let's -- we'll switch gears a  
12 little bit, and let's go back to your testimony at  
13 Page 6, Lines 18 through 19. Do you see a sentence  
14 that says, "Added to" -- this -- "is AEP Ohio's worry  
15 that there will not exist" -- any -- "easy path ahead  
16 for generation construction, whether by itself or  
17 by" -- a -- "third-party merchant" -- "or by  
18 third-party merchant plant developers"?

19 A. Yes, I said that.

20 Q. Okay. And how did you develop your  
21 opinion that AEP Ohio is worried about new generation  
22 construction?

23 A. As I said, I've been reading filings  
24 dating back a year, and so I would have seen their

1 position during that period of time.

2 Q. Okay. Can you identify a specific  
3 filing where you might have learned about this worry  
4 about generation construction?

5 A. I can't remember whether it would have  
6 been Vegas, Allen, or Pearce. Those were the three I  
7 relied on the most.

8 Q. And so you can't identify a specific  
9 person -- you know, putting aside -- did anyone ever  
10 tell you that AEP Ohio was worried about generation  
11 construction?

12 A. It would have only been reading through  
13 the documents.

14 Q. Okay. And have you personally reviewed  
15 information about generation projects under  
16 construction in Ohio?

17 A. I have not.

18 Q. And have you reviewed information about  
19 generation projects that are otherwise in development  
20 in Ohio but maybe have not yet reached the point of  
21 being under construction?

22 A. No.

23 Q. And so I gather you are not offering any  
24 opinion about whether projects currently in

1 development in Ohio will actually be built?

2 A. Well, I am offering the view that PJM's  
3 three-year planning horizon I don't view is  
4 substantial enough to lead to investment in  
5 generation for the long haul.

6 Q. And you anticipated my question again.  
7 On Line 7 -- or, excuse me, Page 7, Lines 7 through  
8 9, you talk about the three-year planning horizon.  
9 Do you see that?

10 A. Yes.

11 Q. And so why do you say that this planning  
12 horizon is likely insufficient?

13 A. Based on my experience dating back  
14 through regulation, working at a bond rating agency,  
15 and then being a consultant, my experience during  
16 those two to three decades is that a three-year  
17 planning horizon is not enough for a substantial  
18 investment in generation.

19 Q. And a merchant generator doesn't have to  
20 rely solely on PJM market -- you know, PJM's  
21 three-year planning -- excuse me. A merchant  
22 generator doesn't need to rely solely on the PJM  
23 three-year planning period to decide whether it's  
24 going to build a gas plant, for example; is that

1 right?

2 A. They don't have to rely on it, but  
3 that's probably the market they'd be seeking to sell  
4 into.

5 Q. Couldn't they -- couldn't a merchant  
6 generator that was considering building a gas plant  
7 in Ohio, let's say, couldn't they hire someone like  
8 Dr. Pearce and Mr. Bletzacher and have those people  
9 prepare a ten-year market forecast?

10 A. My experience is it's very hard to build  
11 generation without a long-term commitment as to where  
12 that generation will be sold, so you can stretch out  
13 planning horizons, but unless there is an entity that  
14 commits to being the offtaker, it's very difficult to  
15 find financing for such generation.

16 Q. Just so I understand, so why wouldn't a  
17 merchant generator rely on an expert's ten-year  
18 energy market forecast as a basis for making an  
19 investment decision in a new generation plant?

20 A. Because it would be risky. They would  
21 want to find a commitment for someone taking their  
22 supply at an agreed-upon price --

23 Q. And -- I apologize again for jumping in  
24 there. And so why would it be risky to rely on the

1       ten-year forecast, is what I'm trying to understand?

2               A.     Because there's no commitment to the  
3       merchant supply.

4               Q.     But you can always sell power on the  
5       PJM -- you can always bid into the base within -- if  
6       you build a plant, you could -- you would always  
7       be -- you know, assuming PJM continues to operate,  
8       have a base residual auction going forward, which I  
9       think is a reasonable assumption, but we can put that  
10      aside, you can always just bid into the PJM markets;  
11      isn't that right?

12              A.     You can.

13              Q.     So then why wouldn't you hire some  
14      experts to create a ten-year forecast and then rely  
15      on that document or that forecast to make your  
16      generation decision -- investment decision?

17              A.     I'm just saying it's very hard to find  
18      entities that will finance such construction.

19              Q.     And why is that, is what I want to know?

20              A.     Because -- because most big investments  
21      like that have a commitment to offtake the supply, as  
22      opposed to just dealing with the ups and downs of a  
23      market that can be volatile.

24              Q.     And so I gather that it would be your --

1 your prediction that if we looked at people who are  
2 actually building gas plants in PJM, wouldn't we find  
3 that there would be more gas plant construction in --  
4 in, quote-unquote, traditional cost-regulated states;  
5 isn't that right?

6 A. I think it's safer to -- for there to be  
7 construction where there is a committed offtaker, but  
8 I -- I haven't looked at what construction has looked  
9 like in the region.

10 Q. Okay. Are you aware of a planned  
11 natural gas plant called the Middletown Energy Center  
12 proposed to be built in Butler County, Ohio?

13 A. No.

14 Q. And I take you're not offering an  
15 opinion on whether the Middletown Energy Center will  
16 enter operation?

17 A. I'm not offering an opinion.

18 Q. Are you aware of a planned natural gas  
19 plant called the Carroll County Energy Center  
20 proposed to be built in Carroll County, Ohio?

21 A. No.

22 Q. And are you offering an opinion on  
23 whether the Carroll County Energy Center will enter  
24 operation?

1           A.    I am not.

2           Q.    Are you aware of a planned natural gas  
3 plant called the Lordstown Generating Station  
4 proposed to be built near Lordstown, Ohio?

5           A.    I am -- am I aware?  No.

6           Q.    And are you offering any opinion on  
7 whether the Lordstown Station will enter operation?

8           A.    I am not.

9           Q.    And are you aware of a planned natural  
10 gas plant called the Oregon Clean Energy Project  
11 proposed to be built in Lucas County, Ohio?

12          A.    I am not aware.

13          Q.    And I gather you're not offering an  
14 opinion on whether that Oregon plant will enter  
15 operation?

16          A.    I'm not.

17          Q.    Are you aware of a planned wind energy  
18 facility called the Greenwich Windpark proposed to be  
19 built in Huron County, Ohio?

20          A.    I'm not aware.

21          Q.    Okay.  And are you offering any opinion  
22 on whether the Greenwich Windpark will enter  
23 operation?

24          A.    I am not.



1           Q.    Okay.  Let's go to Page 9, Lines 12  
2           through 14.  Do you see on Page 9, starting on Line  
3           12 there's a sentence that reads, "The traditional  
4           cost-based regulatory frameworks in four of Ohio's  
5           neighboring states go far" -- "far toward affording  
6           the certainty that investors require before providing  
7           their funds for infrastructure enhancement."  Again,  
8           I think I misread that slightly, but do you see that  
9           sentence?

10          A.    I see what I have written on the page.

11          Q.    Thank you.  And just to be clear, we  
12          addressed this earlier, but do you know if there is  
13          more generation capacity being built in each of these  
14          four states as compared to Ohio?

15          A.    And as I said, I do not know.

16          Q.    Okay.  And do you know if there have  
17          been fewer, in terms of megawatts, retirements in  
18          those states as opposed to Ohio -- as compared to  
19          Ohio?

20          A.    I don't know.

21          Q.    And then staying on Page 9, but now  
22          looking at Lines 6 through 10, there is a sentence  
23          that reads, "And in my former home state of Michigan,  
24          after access to choice was opened up to all customers

1 in 2000 (fortunately without a utility generation  
2 divestment requirement) the legislature pulled that  
3 policy back significantly in 2008, resulting in most  
4 customers continuing to receive service on a  
5 regulated cost-of-service basis"?

6 A. That's what it says.

7 Q. Okay. I got it right that time, I  
8 think. And looking at that sentence, what do you  
9 mean by pulled back?

10 A. Right now I believe the law sets the  
11 maximum of -- percentage of customers that can buy  
12 outside the traditional framework at ten percent.  
13 Prior to '08, there was not that limit.

14 Q. Ten percent of customers in -- up to ten  
15 percent of customers in Michigan are allowed to buy  
16 outside the traditional cost-of-service framework?

17 A. That's my understanding.

18 Q. And so at least 90 percent of customers  
19 are served under cost based?

20 A. That is my understanding.

21 Q. And then going back to my question,  
22 pulled back -- okay. So before 2008 there was no  
23 limit? It could have been --

24 A. There was not the ten-percent limit.

1           Q.    I understand that.  Okay.  And Michigan,  
2           quote-unquote, pulled back on that policy by an act  
3           of the legislature; is that right?

4           A.    Yes.

5           Q.    And so it was not solely an order of the  
6           PSC that accomplished that pullback; is that right?

7           A.    That is accurate.

8           Q.    Are you aware of any state that has  
9           pulled back from electric market restructuring  
10          without an act of the state's legislature?

11          A.    I'd have to review materials to -- to  
12          come up with the ones who have, but off the top of my  
13          head, I -- I wouldn't offer a specific comment.

14          Q.    Well, can you think of any state at all  
15          that has, aside from Michigan, that has pulled back  
16          on electric market restructuring?

17          A.    At this time -- it would have happened a  
18          while ago, so I'd have to review materials.

19          Q.    Okay.  If the Commission approves the  
20          inclusion of the proposed Affiliate PPA and Rider  
21          PPA, AEP Generation will be guaranteed a zero  
22          position for its ownership of the Affiliate PPA  
23          Units; correct?

24          A.    Say that again.

1           Q.    Sure.  If the Commission approves  
2           inclusion of the proposed Affiliate PPA and Rider  
3           PPA, AEP Generation will be guaranteed a zero  
4           position for its ownership of the Affiliate PPA  
5           Units; isn't that right?

6           A.    I don't understand the question.

7           Q.    Okay.  AEP Generation will not earn --  
8           assuming the PPA Rider is approved as proposed by the  
9           Company and the PPA transaction is entered into, AEP  
10          Generation will not earn a market profit on those  
11          units; is that right?

12          A.    When you say "market profit," how do you  
13          define market profit?

14          Q.    They won't earn a profit at all.  There  
15          will be no profit for -- AEP Generation will not have  
16          the possibility of earning a profit on its  
17          ownership --

18          A.    Other than the terms of the agreement --

19          Q.    Other than the terms, for example, the  
20          return on equity and things like that.

21          A.    Which is included, but you're saying  
22          apart from that, there won't be a market profit?

23          Q.    Apart from the return on equity, there  
24          would not be -- which I don't think we'd refer to

1       that as return on profit, but -- or off profit,  
2       excuse me, AEP Generation would not be earning a  
3       profit?

4             A.     Other than the return on equity?

5             Q.     Other than the return on equity.

6             A.     Okay. I believe what you've described  
7       is accurate.

8             Q.     And it's also true that they will not  
9       face the risk of losses in any given year assuming  
10      the PPA Rider and the PPA transactions are approved;  
11      isn't that right? I'm talking AEP Generation.

12            A.     When you say -- what do you mean by  
13      "losses"?

14            Q.     Their total revenues and their total --  
15      they'll pile up all their revenues and all their  
16      costs for those plants and it will always be the  
17      same; right? They're not going to lose -- losses are  
18      not going to exceed revenues based on -- once this  
19      arrangement is approved; isn't that right?

20            A.     I believe it's cost based, and they'll  
21      receive their costs.

22            Q.     Okay. And then the same question for  
23      AEP Ohio. If the Commission approves inclusion of  
24      the proposed Affiliate PPA and Rider PPA, AEP Ohio

1 will be guaranteed a zero position on that contract;  
2 isn't that right?

3 A. Meaning it will receive everything it  
4 pays out?

5 Q. Yes.

6 A. Well, as I said, if there is imprudent  
7 actions or judgments on the part of the regulated  
8 utility, there could be disallowances.

9 Q. Okay. Let's look at Page 10, Lines 1  
10 through 3, and there's a sentence there that states,  
11 "This is the very definition of 'insurance,' the  
12 likes of which virtually every customer in AEP Ohio's  
13 service territory already subscribes to in the form  
14 of automobile, homeowner, or life insurance"?

15 A. That's what it says.

16 Q. Okay. And AEP Ohio's customers will  
17 have no choice over whether they will be included in  
18 this insurance policy; correct?

19 A. They would not have a choice, similar to  
20 when they're required to have automobile insurance to  
21 register a car.

22 Q. Okay. But just to be clear, they will  
23 not -- well, you answered the question. I'm sorry.  
24 Sticking with the insurance metaphor, what is the

1 premium that AEP Ohio's customers will pay on -- for  
2 this insurance?

3 A. Well, according to Dr. Pearce, it won't  
4 be a premium at all. It will -- they'll actually be  
5 receiving money back in the -- in the final analysis.

6 Q. Okay. And that's a forecast; correct?  
7 So it's not --

8 A. Based on the forecast. If it plays out  
9 as forecasted, there will be no cost to the -- to the  
10 insurance.

11 Q. And so there is no fixed-price premium  
12 for this insurance; correct?

13 A. Correct.

14 Q. And in a traditional insurance  
15 situation, and I think you used the examples of  
16 homeowner, automobile, or life insurance, risk is  
17 shared between the insurance company and the insured;  
18 isn't that right?

19 A. I would say there's some degree of risk  
20 that's shared.

21 Q. Like a hypothetical situation, a  
22 homeowner's insurance -- you know, the homeowner --  
23 the insurance company predicts a certain amount of  
24 fires are going to occur. They set their rates.

1       They sell insurance. People buy it. The insurance  
2       company then bears the risk that there will be more  
3       fires than they've predicted; isn't that right?

4             A.     They bear a degree of risk. I think  
5       it's a situation where the insurance company is in  
6       possession of much greater information than the  
7       insured, and they set rates accordingly.

8             Q.     And so the Affiliate PPA transaction is  
9       unlike traditional insurance because AEP Generation  
10      bears no risk; isn't that right?

11            A.     Say again.

12            MR. MENDOZA: Do you mind reading it  
13      back?

14            A.     I didn't hear, what entity bears no  
15      risk?

16            Q.     AEP Generation.

17            A.     It's a cost-of-service product that AEP  
18      Generation is selling.

19            Q.     And so wouldn't you agree with me that  
20      the Affiliate PPA transaction is, therefore, unlike  
21      traditional insurance because AEP Generation bears no  
22      risk?

23            A.     Well, it's then flowing through the  
24      regulated entity that potentially shares some risk.



1           Q.    Okay.  Just two more topics.  Let's look  
2           at Page 8, Lines 7 through 21, and so do you see in  
3           these lines on Page 8, 7 through 21, you talk  
4           about -- you respond to a question, "Would you  
5           explain what happened in California?"

6           A.    Yes.

7           Q.    And then you quote from a Congressional  
8           Budget Office report, and the first line of the  
9           paragraph that you're quoting says, "Having a large  
10          reserve of generating capacity could ease the  
11          transition from a regulated to a competitive market  
12          structure."  Do you see that sentence?

13          A.    Yes.

14          Q.    Okay.  And I'm wondering, are you  
15          recommending a certain reserve of generation capacity  
16          for Ohio?

17          A.    No.  I am suggesting that retirement of  
18          plants is a -- is a -- something that cannot be  
19          undone.

20          Q.    Okay.  Do you know the current reserve  
21          margin for PJM?

22          A.    No.

23          Q.    And when did California transition to a  
24          competitive market?

1           A.    That was a long time ago.  Mid-'90s to  
2   late '90s.

3           Q.    Okay.  And isn't it correct that the  
4   problems described in this California electric crisis  
5   document that you cite to occurred during  
6   California's transition from the more traditional  
7   cost-based system to the competitive system?

8           A.    Yes.

9           Q.    Okay.  And how long has PJM operated a  
10   wholesale electric market?

11          A.    I'm not sure.

12          Q.    Okay.  And have there been issues with  
13   market manipulation in PJM on the order of the  
14   California experience that you describe in your  
15   testimony?

16          A.    No, not that I know of.

17          Q.    Okay.  And is it your view that PJM is  
18   as vulnerable to market manipulation today as  
19   California was during its transition to a competitive  
20   market?

21          A.    Well, I should say California did it in  
22   such a horrible way that I think it's hard for any  
23   entity to approach how poorly California did it, but  
24   at the same time, I would not say that market

1 manipulation cannot occur within any market.

2 Q. So my question is, is PJM as vulnerable  
3 today as California was in the late '90s and early  
4 2000s?

5 A. I don't -- I don't think so, but I think  
6 any entity that deals with the market is potentially  
7 susceptible to market manipulation.

8 Q. Okay. Thank you. All right. Let's  
9 look at the CBO report. I'll give you the best copy.  
10 My stapling on some of these was not awesome. Okay.  
11 Does the CBO -- and so in your testimony you talked  
12 about this concept of a reserve of generation  
13 capacity.

14 MR. MILLER: Are you marking this?

15 MR. MENDOZA: Yes. I'm sorry. I think  
16 we're up to four.

17 MR. MILLER: Four.

18 MR. MENDOZA: Thank you.

19 (EXHIBIT 4 MARKED FOR IDENTIFICATION.)

20 Q. Does the CBO Paper recommend a large  
21 reserve of capacity as a solution to price  
22 instability?

23 A. I'm not sure.

24 Q. Okay. Let's look at Page 32, and it's

1 the fourth paragraph down on Page 32. Do you see --  
2 the fourth paragraph down, do you see where it says,  
3 "Creating such a reserve as a matter of policy,  
4 however, is an expensive way to ensure price  
5 stability"?

6 A. That's what that sentence says.

7 Q. And so would you take this paper to --  
8 do you believe that this paper is recommending a  
9 large reserve of generation capacity?

10 A. I'm going to have to read some of this.

11 MR. MILLER: Do you need to take time to  
12 read it?

13 A. Should we take a break to read it or --  
14 what's your pleasure?

15 Q. I have no need for a break, but I think  
16 you can just read it as long as --

17 A. Okay. Let me read a few paragraphs and  
18 see where we're at.

19 Okay. I've read it. Depending on the  
20 question, I may be able to answer.

21 Q. Okay. And I can direct you maybe. And  
22 so -- I apologize. I lost my page. So would you --  
23 so looking at Page 32 or anywhere else in the paper  
24 you'd like, would you say that the CBO was

1 recommending a large reserve capacity as a solution  
2 to price instability?

3 A. They're saying that the reserve and the  
4 price stability that comes with it, that the cost of  
5 it is a factor.

6 Q. And didn't they say that it would be --  
7 maintaining a large reserve is an expensive way to  
8 ensure price stability?

9 A. It says "creating"; "Creating such a  
10 reserve as a matter of policy."

11 Q. Okay.

12 A. So it depends what the creation entails.

13 Q. That's right.

14 A. Whether you're starting from an empty  
15 field or not.

16 Q. Well, wouldn't it be the same if some  
17 government report maintained the operation of  
18 generation that would otherwise retire, wouldn't that  
19 be an expensive way to ensure price stability?

20 A. Well, in this case we're faced with a  
21 situation where the price stability comes with a  
22 forecasted positive payoff for customers.

23 Q. Okay. And let's look at the second -- I  
24 want to ask you about the second paragraph, the

1 second sentence in the -- in the second paragraph.  
2 It says, "Letting utilities both enter into long-term  
3 contracts with suppliers at fixed prices and hedge  
4 through the futures market would help protect them  
5 from the financial difficulties that have plagued  
6 California's power distributors." Do you see --

7 A. I see that sentence.

8 Q. -- that sentence?

9 And just to be clear here, this case  
10 does not involve a long-term contract at a fixed  
11 price; is that right?

12 A. It's a, yeah, cost-of-service price, and  
13 it provides a hedge that goes far beyond any that's  
14 available -- a reasonable -- reasonably available on  
15 the futures market.

16 Q. And so just to be clear, there's no  
17 fixed-price contract proposed in this proceeding; is  
18 that right?

19 A. You mean fixed as in set at one price  
20 for the whole time?

21 Q. Uh-huh.

22 A. That's my understanding, that it's not.

23 Q. And there's also no -- as a way to deal  
24 with price instability, there's no proposal in this

1 proceeding to use the futures market as a -- as a  
2 hedge; is that right?

3 A. Well, this is substituting a hedge in  
4 the futures market, which is not obtainable at a  
5 reasonable price at this point, it's substituting the  
6 PPA Rider as a long-term hedge that is available.

7 Q. Okay. And let's see, just one more  
8 question about PJM. Is it your testimony that  
9 reforms are needed in PJM to reduce any threat of  
10 market manipulation?

11 A. I haven't studied that.

12 Q. Okay. Last topic, and we can move on  
13 from California. Can you name AEP Ohio's largest  
14 industrial customer?

15 A. No.

16 Q. And so you -- I take it you don't know  
17 how many people the largest industrial customer  
18 employs; is that right?

19 A. I do not know.

20 Q. And can you name AEP Ohio's largest  
21 commercial customer?

22 A. No.

23 Q. And I take it you don't know how many  
24 people that entity employs?

1           A.    I do not.

2           Q.    Okay.  And what is the median income of  
3   AEP Ohio's residential customers?

4           A.    I don't know.

5           Q.    And how many of AEP Ohio customers are  
6   low income?

7           A.    I don't know.

8           Q.    How much does the average AEP Ohio  
9   customer pay to secure power through the SSO auction?

10          A.    I don't know.

11          Q.    Okay.  And let's assume that the PPA  
12   Rider costs \$2 billion over the first ten years.  How  
13   many jobs would be lost in the industrial sector due  
14   to that added energy cost?

15          A.    Wait a minute.  You're saying that if --  
16   if the charge -- the credit versus charge, that the  
17   charge will be \$2 billion?

18          Q.    Yes.  I'm asking you to assume that  
19   hypothetical.

20          A.    Assume that the worst case -- beyond the  
21   worst case prevails and for the next how many years  
22   there is no positive credit?  Is that what you -- I'm  
23   trying to get the question clear before I answer.

24          Q.    I certainly am not using the words worst



1 case, but I'm just asking you to assume that the PPA  
2 Rider costs \$2 billion over ten years.

3 A. Assume that?

4 Q. Assume that as a hypothetical.

5 A. Okay.

6 Q. In that instance, could you tell me how  
7 many jobs would be lost in the industrial sector?

8 A. No, I can't tell you that.

9 Q. Okay. And could you tell me how long  
10 industrial sector firms would tolerate those energy  
11 prices before relocating to another state?

12 A. I can't tell you how long.

13 Q. Okay. And the same assumption, if the  
14 PPA Rider costs two billion for the next ten years,  
15 how many jobs would be lost in the commercial sector  
16 in Ohio?

17 A. I don't know.

18 Q. And could you tell me how long  
19 commercial sector firms would tolerate those energy  
20 prices before relocating to another state?

21 A. I don't know.

22 Q. Okay. If AEP sold as opposed to  
23 retired -- let's assume the PPA Rider is denied in  
24 this scenario.

1           A.    I'll assume that.

2           Q.    Okay.  And let's also assume that AEP  
3   sells as opposed to retired all of the Affiliate PPA  
4   Units.  The economic benefits of those plants would  
5   continue; isn't that right?

6           A.    You're saying to the buyers?

7           Q.    No.  To the -- to the --

8           A.    You're talking about the financial or  
9   the nonfinancial benefit?

10          Q.    I'm talking about, you know, the Zimmer  
11   coal-fired power plant buys toilet paper and it buys  
12   coal and it buys other things, and it pays salaries.

13          A.    Okay.

14          Q.    And so those economic benefits would  
15   continue if AEP sold as opposed to retired --

16          A.    If the buyer chose to continue operating  
17   it as it always has as opposed to taking some  
18   tax-avoidant steps it might take.

19          Q.    And you -- I mean, you would agree that  
20   it's not likely that a company would buy all of these  
21   units and then immediately retire all of them; isn't  
22   that right?

23          A.    As I said, there's a thousand page tax  
24   code that gives enormous benefits to -- to the

1 entities that own more money in this country, and I  
2 wouldn't put it past them to have tax-avoidance  
3 benefits from buying a plant and then taking steps  
4 inconsistent with the manner in which AEP Generation  
5 would use that plant.

6 Q. But it's unlikely that they would retire  
7 all the units; right?

8 A. I can think of a scenario where they  
9 might. I can also see a scenario where they'll  
10 operate them in a different way than AEP Generation,  
11 and then I see a scenario where they might operate  
12 them similarly to AEP Generation.

13 Q. And if they operated them similarly,  
14 we'll add to our hypothetical, the economic benefits  
15 would be roughly similar as they -- as they are today  
16 for those plants; right?

17 A. Well, I'm not an engineer, so I can't  
18 say if you -- if you disjointed them from AEP Gen,  
19 whether that creates any new issues on operations.

20 MR. MENDOZA: Okay. And then so the  
21 only other questions I have were about the contract,  
22 and it's not marked confidential, but I was wondering  
23 if you would have --

24 MR. MILLER: Yes.

1 MR. MENDOZA: We're fine. Okay. Then  
2 we'll do one last thing. Are we up to four or  
3 five -- we're up to five here.

4 (EXHIBIT 5 MARKED FOR IDENTIFICATION.)

5 MS. BLAIR: Is this the contract or is  
6 this the term sheet?

7 MR. MENDOZA: This is the Professional  
8 Service -- it's titled, "Professional Services  
9 Agreement," and in this case it's been designated  
10 Sierra Club RPD-2-73, Attachment 1.

11 BY MR. MENDOZA:

12 Q. Mr. Fetter, have you seen this document  
13 before?

14 A. I have.

15 Q. I just want to ask you a couple of  
16 questions about it. Would you agree with me that  
17 your hourly rate in this case is \$625 per hour?

18 A. Yes.

19 Q. And would you also agree that you'll be  
20 paid not less than \$40,000 regardless of how many  
21 hours you work?

22 A. That's correct.

23 Q. Okay. And your contract on your end is  
24 with an entity called Regulation UnFettered; is that

1 right?

2 A. That's the name of my energy advisory  
3 firm.

4 Q. And then on the other end the  
5 contracting party is American Electric Power Service  
6 Corporation, as an agent for Ohio Power Company;  
7 isn't that right?

8 A. Yes, I believe that's what it says.

9 Q. And with that, I believe I'm done.  
10 Thank you, Mr. Fetter.

11 A. Thank you.

12 MS. BLAIR: Do you want to move on to me  
13 right now?

14 THE WITNESS: I would like to take a  
15 break.

16 MS. BLAIR: Okay. That's not a problem.

17 (Recess taken.)

18 MR. MILLER: Folks on the phone, I think  
19 we're ready to get back. We're all in here, so we'll  
20 go on the record.

21 CROSS-EXAMINATION

22 BY MS. BLAIR:

23 Q. Good afternoon, Mr. Fetter. My name is  
24 Jodi Blair, and I represent the Office of the Ohio

1 Consumers' Counsel.

2 A. Good afternoon.

3 Q. I would like to ask you about your  
4 testimony. You formerly worked for the Michigan  
5 Public Service Commission?

6 A. I did.

7 Q. And just about your decision-making  
8 there, when you were a member, could you describe how  
9 you would go about as a commissioner or a chair  
10 making a decision? What did you consider?

11 A. I reviewed the -- the record in each  
12 proceeding. I considered our legislative  
13 authorization and mandate. I did view that the role  
14 was one where you -- you took in the -- what would be  
15 the best policy for the State of Michigan as a whole,  
16 and I attempted to, along with my colleagues, to come  
17 to a decision that reflected a reasonable decision on  
18 the record before us that served the public policy of  
19 the state.

20 Q. Did you sit in on any hearings?

21 A. We had a structure -- I think back then  
22 there were 11 administrative law judges. They did  
23 the large bulk of the hearings. In key cases where a  
24 decision would be needed pretty quickly or in major

1 cases of first impression, we would -- we would sit  
2 in, the Commission would sit in with the  
3 administrative law judge still serving as the -- as  
4 the presiding representative.

5 Q. And afterwards did you review briefs of  
6 all parties?

7 A. We had a system where the ALJ would  
8 write an initial decision. The parties would file  
9 exceptions and then response to exceptions, and we  
10 would -- in most cases where we did not sit in, we  
11 would review all of those documents in coming to our  
12 decision, and -- and it was not a structure where, if  
13 the administrative law judge came to a decision  
14 within a reasonable range, that we were foreclosed  
15 from modifying it. It was kind of a recommended  
16 decision that we could either adopt wholly, adopt  
17 partially, or throw out completely without having to  
18 meet any legal standard.

19 Q. So you thought it was, as a  
20 commissioner, important to evaluate all evidence in  
21 the record?

22 A. Yes.

23 Q. And look at the interests of all the  
24 parties?

1           A.    Yes.

2           Q.    Thank you.  Could you please turn to  
3   Page 3 of your testimony, and in your question and  
4   answer on Lines 5 through 12, you're discussing --  
5   "have given me solid insight into the importance of a  
6   regulator's role vis-a-vis regulated utilities."  
7   When you were a commissioner, how did you see your  
8   role with the regulated utilities that you regulated?

9           A.    Our role was to consider the activities  
10  of the regulated entity, and if they did imprudent  
11  things, to disallow the costs of those imprudent  
12  actions or judgments.  I think that, you know, 25  
13  words version is what a regulator would do vis-a-vis  
14  a regulated utility.

15          Q.    So you would agree in that role that you  
16  had authority over the regulated utility and that you  
17  could make a decision that would be adverse to their  
18  request at times?

19          A.    Oh, and we did.  I described earlier the  
20  abandoned Midland nuclear plant, and I think our  
21  final decision ended up disallowing hundreds of  
22  millions of dollars for their actions with regard to  
23  that plant.

24          Q.    So as a -- as a regulator, you were not



1 the partner of the utility company?

2 A. I -- I would say if you -- if you asked  
3 the utilities -- in fact, I'd say if you asked the  
4 utilities and the consumer representatives both --  
5 well, all manufacturing, commercial, residential, I  
6 don't think any of them were thrilled with me because  
7 I attempted to do decisions that struck a fair  
8 balance, and so I'd say in most cases no one went  
9 away very happy.

10 Q. Okay. And speaking still as your role  
11 as a commissioner, what was your relationship with  
12 the legislature at the time?

13 A. I -- I came from a background -- I had  
14 been the General Counsel, Majority General Counsel in  
15 the Michigan Senate, and so I knew most of the  
16 Senators on a first-name basis. When I was  
17 appointed, the Commission -- the Michigan Commission  
18 is a three-member Commission, and for a long time the  
19 Open Meetings Act applied to the Commission, so no  
20 two commissioners could ever discuss all the evidence  
21 I just described to you except in an open session,  
22 and which the Commission never did, and I went back  
23 to the -- my former colleagues in the Senate and I  
24 said it's somewhat ridiculous, the staff is running

1 the place because the commissioners aren't allowed to  
2 talk to each other, and they passed an exemption to  
3 the open meetings act to allow the Commission to  
4 deliberate in private, and that vastly improved the  
5 decision-making process of the Michigan Commission.

6 Q. So in order to change your ability to  
7 operate or work as a commissioner, you had to go to  
8 the legislature to get that changed; correct?

9 A. To have that changed. That was in law,  
10 so we -- we could not work around it. What we did  
11 was have staff shuttle between the three  
12 commissioners. I didn't view that as very effective.

13 Q. So it's the legislature that defined the  
14 PSC policy that you were implementing in Michigan;  
15 right?

16 A. They put into law our authorization, and  
17 we carried out that authorization.

18 Q. Okay. And you would defer to what the  
19 legislation was at the time to carry out the PSC's  
20 mission or policy or --

21 A. We followed the law.

22 Q. If you could please move on to Page 4.

23 A. I'm there.

24 Q. Okay. One of the purposes of your

1 testimony -- there's a long paragraph there, but in  
2 the end you say you "offer an opinion as to whether  
3 the PPAs align with the public interest here in  
4 Ohio," Line 14?

5 A. Yeah. In fact, I noted in my earlier  
6 questioning from Mr. Mendoza that that's supposed to  
7 capture the idea of the PPA and the PPA Rider.

8 Q. How have you -- what is the public  
9 interest in Ohio as it relates to the PPA and the PPA  
10 Rider?

11 A. I view it similarly with what I  
12 described as how I carried out my function in  
13 Michigan, whether considering all factors underlying  
14 the PPA and the PPA Rider, whether it serves a  
15 positive or -- I think I described it as a  
16 constructive regulatory policy. Then after my  
17 review, I come -- came to the opinion that it does.

18 Q. So when you refer to your deposition  
19 with Mr. Mendoza, you're talking about the public  
20 interest that you factored in was the cost that the  
21 customers pay for the PPA Rider?

22 A. I factored in the forecasted costs and  
23 then the nonfinancial benefits, and I found it to be  
24 constructive regulatory policy.

1           Q.    And what are the nonfinancial benefits  
2   for Ohio, for the public interest in Ohio?

3           A.    I believe continuation or approval -- I  
4   should say the PPA Rider was approved, but placing  
5   the PPA and the OVEC entitlement within the PPA Rider  
6   could have a positive impact on jobs, provide  
7   stability that could help attract economic  
8   development, preserve the tax base where the nine  
9   plants are located, and of course it also serves as  
10   the long-term insurance or hedge to damp down  
11   volatility in the -- in the -- in market prices.

12          Q.    So when you refer to those economic  
13   benefits particularly for the community, you're just  
14   relying on the testimony of witness Allen; is that  
15   correct? Or did you do independent analysis?

16          A.    I didn't do independent analysis, but  
17   from my experience, I know that less volatile market  
18   prices is a positive for economic development, so Mr.  
19   Allen discusses it more fully, but my experience is  
20   in no way inconsistent with the concept that economic  
21   development is -- is positively impacted by more  
22   stable energy pricing.

23          Q.    Could you please move on to Page 5 of  
24   your testimony?

1           A.    I'm there.

2           Q.    In that first question and answer you're  
3   agreeing that the Commission approving the PPA Rider,  
4   set at zero that we're talking about here, is  
5   "constructive regulatory policy," and how do you make  
6   the determination, what's your evaluation that allows  
7   you to call it "constructive regulatory policy"?

8           A.    Well, some of the items we just talked  
9   about, and even from a start where nothing was placed  
10   within the PPA Rider, the stabilizing effect it could  
11   have on the market if the PPA and OVEC entitlements  
12   are placed within the rider, it would have a  
13   stabilizing effect on the market. It would act as  
14   insurance or a long-term hedge unlike any that I  
15   believe is obtainable in the current open market; so  
16   it's a unique structure that provides long-term price  
17   stability benefits.

18          Q.    Okay. Let me ask you about some of your  
19   answers further on down, Line 22 --

20          A.    Okay.

21          Q.    -- where you're discussing extremely low  
22   market levels. As a general statement, aren't the  
23   lower prices -- don't customers consider lower prices  
24   a benefit?

1           A.   Well, they're a benefit unless it --  
2       it -- if plants were to be retired and a merchant  
3       generator would have to come in and build a plant  
4       based on those extremely low PJM market levels, that  
5       would be a negative; so, yes, all things considered,  
6       extremely low market price levels are positive for  
7       customers, but if those extremely low price levels  
8       lead to a future shortage of generation capabilities,  
9       as we saw in California -- we had a long discussion  
10      about California. You may remember California had  
11      substantial blackouts and brownouts over the course  
12      of weeks and months, I believe, due to market  
13      manipulation of generation resources; so to the  
14      extent that there's insufficient generation  
15      resources, extremely low prices are not necessarily  
16      a -- always a good thing.

17           Q.   Okay. And I'm going to go on to Page 6,  
18      and I know that we had a lot of discussion about  
19      this, but I'd like for you to focus on Lines 10  
20      through 12.

21           A.   Yes.

22           Q.   And I'm trying to relate it back to the  
23      PPA. What type of regulatory action are you talking  
24      about being ordered here, within the context of this

1 testimony?

2 A. My -- one of my major concerns in this  
3 proceeding is the retirement of those nine -- some or  
4 all of those nine plants or the sale of them to third  
5 parties who may not have the interests of Ohio  
6 customers and citizens foremost in their mind.

7 Q. But when you want regulatory action on  
8 the part of this PPA, you're referring to the  
9 Commission approving the PPA; correct?

10 A. I think that sentence says if the PPAs  
11 and the PPA Rider were to be rejected.

12 Q. That would be -- that would be negative;  
13 right?

14 A. That would be a loss of -- if those  
15 plants were to be retired, I view that as a loss of  
16 Commission involvement in the future with regard to  
17 the -- that lost capacity and energy.

18 Q. And that's what I'm trying to get to, is  
19 the authority of the Commission, is what I understand  
20 you to be saying here, is the Commission you don't  
21 want to see lose authority? And you think that the  
22 PPA gives the Commission authority?

23 A. I view the continuing existence of those  
24 plants provides greater flexibility for the

1 Commission or -- or the Company to operate in the  
2 public interest and to deal with future unknown  
3 events.

4 Q. Okay. But does the Public Utilities  
5 Commission of Ohio have authority over AEP  
6 Generation?

7 A. They do not.

8 Q. So if AEP Generation's costs are  
9 extremely imprudent and they're passed through, the  
10 way that this rider is proposed, what can the PUCO do  
11 about that?

12 A. Well, as I said, I believe there is a --  
13 within the PPA there's an operating committee on  
14 which Ohio Power will have a representative to make  
15 certain decisions related to expenditures at the Gen  
16 level, and so I think there is ability for the  
17 Commission to make judgments about Ohio Power's  
18 actions or decisions apart from what they can do  
19 directly at the Gen level.

20 Q. So the only action that the PUCO can  
21 take is on behalf of AEP Ohio, not AEP Generation?

22 A. Can be directed at AEP Ohio and what  
23 costs will go to its regulated customers.

24 Q. So the PUCO has no authority over AEP



1       Generation?

2               A.     That's my understanding.

3               MR. MILLER:   Jodi, are you asking a  
4       legal conclusion?

5               MS. BLAIR:   No.   I'm asking about what  
6       authority, as the witness looks at this agreement,  
7       the PUCO would have over the generating units.

8               MR. MILLER:   And to clarify, agreement  
9       meaning the PPA between the parties or agreement --  
10      are you inferring, and I don't know, I'm asking the  
11      question just to be clear, or are you suggesting that  
12      the PPA as a rider?

13              MS. BLAIR:   The PPA agreement between  
14      the parties.

15              MR. MILLER:   Okay.

16              A.     And as I said, I believe there's an  
17      operating committee on which Ohio Power will have  
18      representation, and so I believe the Commission will  
19      look at Ohio Power's actions and judgments as a whole  
20      and make a determination with regard to prudence.

21              Q.     For example, if the PUCO wanted to audit  
22      something at the generation facility, they wouldn't  
23      have the jurisdiction independent of this -- anything  
24      created in the PPA to go audit those books, AEP

1       Generation?

2               A.    I don't believe they could go to Gen.

3               Q.    Thank you.  On Page 6, the last line  
4       there, "Far better would be a portfolio of supply  
5       choices, using various types of fuel, spanning the  
6       spectrum from long-term in-ground cost-based  
7       generation...all the way to" -- "that cannot always  
8       be remedied through regulatory channels"?

9               A.    Yep, that's what it says.

10              Q.    And why are you saying that these cannot  
11       be remedied through regulatory channels?

12              A.    Market-based pricing?

13              Q.    Yes.

14              A.    In my experience, once a market is set  
15       up, with its ups and downs, the intent of legislators  
16       and regulators is to let the market operate, and so  
17       when there is shortages or storms or -- I guess like  
18       the polar vortex it was called, where prices got very  
19       volatile, that's what markets do.  They react to  
20       shortages or unknown events as opposed to traditional  
21       cost-based ratemaking.

22              Q.    Thank you.  The next sentence I have a  
23       question about, you said that you cannot "justify  
24       long-term...decisions based upon short-term price

1 signals"?

2 A. That's from my experience working at the  
3 bond rating agency Fitch. In fact, I note that in  
4 the comment. It's very hard to justify major  
5 investment in generation based on short-term price  
6 signals.

7 Q. Could you justify short-term investments  
8 based upon long-term price signals?

9 A. Short-term investments? What would be a  
10 short-term investment?

11 Q. Some type of short-term investment in  
12 generation.

13 A. So a short-term investment meaning the  
14 investment would be totally recouped within a short  
15 term?

16 Q. Yes, based on long-term price signals.

17 A. I think a short-term investment could be  
18 supported almost by short-term price signals.

19 Q. What about long-term price signals?

20 A. Well, that -- for a short -- let's make  
21 sure we're talking about the same thing. You're  
22 talking about a short-term investment, like, for  
23 instance, in generation --

24 Q. Uh-huh.

1           A.    -- where after three years the funder  
2   has all their money back with a return?

3           Q.    No.

4           A.    Then we're not talking about the same  
5   thing.

6           Q.    I'm talking about a short-term -- well,  
7   yeah.  Let's accept that.  Then you're getting all  
8   your money up-front, but it's based on the short  
9   term, but what if it's based on longer term price  
10  signals?

11          A.    But what I'm saying is if I get all my  
12  money back in three years, I don't care what the  
13  long-term price signals are.

14          Q.    Okay.  I'm going to ask you to move on  
15  to Page 9 of your testimony, but I'm starting with  
16  the question and answer that start on Page 8, going  
17  over to Page 9.

18          A.    Okay.  I'm there, wherever you want me  
19  to go.

20          Q.    Let me figure out what I'm trying to ask  
21  here.  You're "much attracted to the aspect of the  
22  PPAs and PPA Rider that continues to arm the  
23  Commission with the ability to react to market  
24  volatility."  If the contract is between AEP

1       Generation and AEP Ohio, how does that give the  
2       Commission the arm and that ability to react?  
3       They've approved the contract that's going. That's  
4       where it is.

5               A.    My view is, and it's based on my years  
6       as a commissioner, is that AEP has been regulated in  
7       some form by this Commission for over a hundred  
8       years. I believe both the Commission and AEP  
9       leadership view there are benefits to operating in  
10      the public interest, and so I would sooner have the  
11      PPA Rider in effect with the potential for parties --  
12      AEP -- the Commission may have legal authority to do  
13      something or the ability to accept a settlement  
14      agreement among AEP and interested parties to modify  
15      something. If unknown future events were to occur, I  
16      would rather have that situation than to have all the  
17      plants retired or sold off, where there is no ability  
18      to remedy a situation that affects the public  
19      interest in a negative way, which both the Commission  
20      and the Company would prefer not to happen.

21              Q.    And you're assuming that the Company has  
22      the public interest at heart? I think that's one of  
23      your assumptions in that?

24              A.    Well, it's based on -- in my time as a

1 regulator, the regulated utilities in Michigan knew  
2 that they'd be coming before that same Commission  
3 three months from now, six months from now, 12 months  
4 now, 15 months from now, and you can continue that  
5 out over the next 50 years, and so everything -- all  
6 rights that a party holds are not necessarily the  
7 rights that they would maintain in a litigated  
8 setting. I think part and parcel of the regulatory  
9 compact is an ability of all parties, including  
10 intervenors to try to work toward carrying out the  
11 public interest here, of the State of Ohio, and so  
12 I -- I don't view that the black letter provisions in  
13 a contract would, under changed circumstances,  
14 necessarily be maintained to the detriment of the  
15 State of Ohio.

16 Q. Okay. Further on down in that paragraph  
17 you have said, "There is value for regulators to  
18 maintain a degree of control in what I would describe  
19 as fail-safe fashion." But you're referring, I  
20 believe, to cost-based regulatory frameworks. Is  
21 that what you're referring to as a "fail-safe" --

22 A. Let me read, if that's okay.

23 Well, I have a discussion of traditional  
24 regulation, but I think that final sentence is a sum

1 up of the entire answer, which ties to what I just  
2 said about if future unknown events accrue to the  
3 detriment of the entire state or all of AEP's  
4 customer base, I don't think -- I think the state is  
5 in a better spot to have those plants existing under  
6 the PPA Rider than for them to no longer exist with  
7 their PPA Rider being rejected.

8 Q. But you're not talking about traditional  
9 cost-based regulatory frameworks, that that's the  
10 only way to create the fail-safe?

11 A. No. I'm saying -- like I said, that  
12 concluding sentence covers the entire -- everything I  
13 said and relates to where I talk about I'm "very much  
14 attracted" and -- of "the Commission with the ability  
15 to react to market volatility or other anomalies,  
16 whatever the cause, as well as take steps if  
17 reliability were to be jeopardized by future events."

18 Q. Thank you. Moving on to Page 10 --

19 A. I'm there.

20 Q. -- you're talking about the PPAs  
21 operating as a hedge, and that this would be  
22 "consistent with the aims of Ohio policymakers"?

23 A. Could you direct me?

24 Q. Starting on --

1           A.    I see it.  I'm sorry.

2           Q.    Line 3 to Line -- the end of seven.

3           A.    Yeah.  I view -- I view limiting market  
4   volatility and lending greater price stability would  
5   be consistent with policymakers who want a more  
6   competitive but still highly reliable electric  
7   system.

8           Q.    And you refer to Ohio's movement to a  
9   more competitive market.  When did that begin?

10          A.    I'm not sure how many years ago it was  
11   put in place.

12          Q.    But you thought that was a movement to a  
13   more competitive market?  Is that what you're  
14   referring to here?

15          A.    Yeah, where customers have choice of  
16   their provider.

17          Q.    When generation became unregulated?

18          A.    When it became unregulated and customers  
19   could either do the SSO or choose to go with a  
20   Competitive Retail Electric Supplier.

21          Q.    Thank you.  When we're talking about AEP  
22   Generation, what is their incentive to keep costs  
23   down?

24          A.    You're saying as opposed to run it



1 efficiently? I guess I would ask what's their  
2 incentive --

3 Q. What creates an incentive for the  
4 operating company -- what creates an incentive for  
5 the generating company to keep costs reasonable,  
6 prudent? What drives that at the generation company  
7 level?

8 A. Well, I think to the extent they want to  
9 be viewed as an entity that operates appropriately  
10 and tries its best to provide good service, I think  
11 that would lead them to try to do the best job they  
12 could.

13 Q. But as a generating company, it would  
14 be -- competition would be what would normally keep  
15 them efficient. Do you agree?

16 A. The -- the -- I think wanting to be  
17 viewed as a good operating company would make them  
18 try to be efficient. So if they decided to add new  
19 capacity or energy and potentially sell it to  
20 entities that are not required to take it, who  
21 would -- who would deal with a company that's viewed  
22 as just lazy on the job and doing a bad job?

23 Q. And you're referring to Dr. -- and  
24 you've referred to throughout the deposition Dr.

1       Pearce's testimony. You just accept that without --  
2       you did no independent analysis on your own of his  
3       forecast?

4               A. Other than looking at the boundaries of  
5       what he studied, he assumed, which I found to be  
6       appropriate, I did not verify his numbers.

7               Q. Okay. Thank you.

8               A. Thank you.

9               MR. MILLER: Becky, you had a couple of  
10       questions?

11               Is anybody on the phone?

12               MR. PRITCHARD: Yeah. Matt Pritchard  
13       here. I have a couple of questions.

14               MR. MILLER: Okay. Matt, why don't you  
15       go ahead and ask yours.

16               MR. PRITCHARD: Okay.

17               CROSS-EXAMINATION

18       BY MR. PRITCHARD:

19               Q. Good afternoon, Mr. Fetter. My name is  
20       Matt Pritchard, and I represent the Industrial Energy  
21       Users of Ohio.

22               A. Good afternoon.

23               Q. I have a couple questions that go back  
24       to a few hours now. Do you recall questions earlier

1 in your deposition regarding your prior testimony  
2 that you had given on stranded asset recovery?

3 A. I remember talking about it with Mr.  
4 Mendoza.

5 Q. And stranded cost recovery is related to  
6 above-market generation costs that were unrecoverable  
7 following electric restructuring; correct?

8 A. Yeah. They were expenditures made and  
9 found to be prudent at the time of investment, and  
10 now, with the movement towards electric restructuring  
11 or competition, they were no longer competitive with  
12 a potential market.

13 Q. And I believe you also had indicated  
14 that you had previously given testimony on  
15 securitizing stranded costs through nonbypassable  
16 distribution charges; is that correct?

17 A. Yeah. Bonds would be issued at the --  
18 at the AAA level to lower the interest as much as  
19 possible, and the way to structure it to get that  
20 lowest interest would be to create the nonbypassable  
21 surcharge on distribution.

22 Q. Do you view the -- strike that. Are you  
23 aware of Ohio law that requires generation in Ohio to  
24 be on its own in the competitive market?

1           A.    Outside the regulated utility, you're  
2           saying?

3           Q.    Just in general.

4           A.    Yeah.  I believe that generation was  
5           moved outside the regulated entity.

6           Q.    And have you done any analysis of that  
7           portion of Ohio law for purposes of your testimony  
8           here today?

9           A.    No, I have not.

10          Q.    Is it fair to say that the PPA, to the  
11          extent that it is a charge to customers, would be  
12          passing through above-market generation costs to  
13          customers?

14          A.    Well, as -- as Dr. Pearce has presented,  
15          they would be above market now with his view that  
16          they would end up being below market for the -- I  
17          think he defined a nine year and three month period.

18          Q.    To the extent that over whatever period  
19          the PPA may or may not be authorized, but if it is  
20          authorized, if it was a net charge to customers, that  
21          would represent the collection of above-market  
22          generation costs from customers; correct?

23          A.    If it was only a charge during however  
24          long the PPA and PPA Rider would run, if it was only

1 a charge and never a credit, it would represent above  
2 market.

3 Q. And in your prior experience testifying  
4 on stranded cost recovery, is one method to calculate  
5 the amount of stranded costs to project -- or, sorry,  
6 to compare the utility's net book value of generation  
7 and compare it to projected future market revenues?

8 A. I believe that's -- that's one means.

9 Q. Thank you. I have no further questions.

10 A. Thank you.

11 MS. HUSSEY: This is Becky Hussey. I'm  
12 sorry, I pushed the wrong button.

13 MR. MILLER: Well, you passed up your  
14 opportunity. Go ahead, Becky.

15 MS. HUSSEY: Should I proceed, then?

16 MR. MILLER: Please.

17 MS. HUSSEY: Okay. Thank you so much.

18 CROSS-EXAMINATION

19 BY MS. HUSSEY:

20 Q. Mr. Fetter, could you turn to Page 3, at  
21 Lines 1 through 4 of your testimony?

22 A. I'm there.

23 Q. Okay. And it appears that you provide a  
24 list of past clients that you've had in that portion

1 of your testimony. I wondered if you've ever had  
2 manufacturing clients?

3 A. I'm thinking. I don't think a  
4 manufacturing client has hired me.

5 Q. Okay. Thank you. And on Page 4, at  
6 Line 21, you state that you weighed the benefits of  
7 Commission approval of the proposed PPAs "against any  
8 potential negatives"?

9 A. What line again?

10 Q. It's Lines 19 through 21.

11 A. Okay. And as I said earlier, when I say  
12 proposed PPAs, it's proposed PPA and OVEC operating  
13 through the PPA Rider.

14 Q. Okay. Great. Thank you for that  
15 clarification. So you weighed the benefits of the  
16 Commission approval of those proposed PPAs and  
17 balanced them against any potential negatives;  
18 correct?

19 A. Yes.

20 Q. And I wondered if you could identify the  
21 potential negative that you refer to in your  
22 testimony?

23 A. Well, the biggest negative to me would  
24 be the -- the cost burden or the rate burden on --

1 potential rate burden on customers, and that's why  
2 I -- I asked the Company if they could provide the  
3 forecasted data that Dr. Pearce ultimately provided.

4 Q. Okay. And aside from the costs, which  
5 you identified as one burden or potential negative,  
6 are there any other potential negatives that you  
7 considered resulting?

8 A. As we discussed earlier, I had a -- I  
9 looked at discrete items not knowing if they'd be  
10 positive or negative. One of them was looking at how  
11 this would affect the evolving competitive market in  
12 Ohio, and I went into it thinking it could be a  
13 negative, and when I looked at the long-term  
14 insurance or hedge operating through the PPA Rider as  
15 either a credit or a charge, and then seeing Dr.  
16 Pearce's forecasted data, I found that rather than  
17 being the negative that I thought it might be, it  
18 ended up providing a degree of price stability that  
19 might make other customers consider the CRES path  
20 rather than the SSO path.

21 Q. Okay. And so in your opinion or  
22 estimation, you don't -- you haven't identified any  
23 other potential negative to the proposed transaction?

24 A. I have not.

1           Q.    Okay.  And then one other line of --  
2   quick line of questioning.  If you could turn to Page  
3   6, Line 10.

4           A.    Okay.

5           Q.    You state that back during your  
6   Commission tenure, your mind-set was that you "never  
7   wanted to order a regulatory action that would rob  
8   the Michigan PSC of control if that policy judgment  
9   later proved to be faulty."  Is that an accurate  
10  reading?

11          A.    Yes.

12          Q.    Okay.  And I believe you've testified a  
13  bit earlier today about whether the proposed PPA  
14  contemplates continued Commission oversight; is that  
15  correct?

16          A.    The -- yeah, the PPA and the PPA Rider.

17          Q.    Okay.  And are you aware of what type of  
18  oversight would be permitted under the term of the  
19  proposed PPA?

20          A.    I believe there's an operating committee  
21  on which the regulated utility would participate, and  
22  then I think there are judgments the Commission will  
23  make with regard to the regulated utility's actions  
24  and judgments.



1           Q.    Okay.  And just to clarify, the  
2           Commission does not have any involvement with the  
3           committee decisions itself, does it?

4           A.    That's my understanding.

5           Q.    Okay.  Do you know what the Company has  
6           proposed regarding the frequency of Commission review  
7           of actions and decisions resulting from the Power  
8           Purchase and sale agreement between Ohio Power  
9           Company and AEP Generation Resources?

10          A.    I'm not sure.

11          Q.    Okay.  And this is kind of an  
12          experiential question, but when you served as  
13          Chairman of the Michigan Public Service Commission,  
14          did you ever encounter a case in which a prohibition  
15          against retroactive ratemaking ultimately prevented  
16          utility-related costs that were determined by a court  
17          to be imprudently incurred from being returned to  
18          customers?

19          A.    I -- I don't -- I -- I don't recall a  
20          court making a decision that what we did was wrong,  
21          then could not be acted upon in the form of refunds  
22          with interest.

23          Q.    Okay.  So, in your experience, if, say,  
24          a court determined that you were wrong, or as the

1 Commission, and costs needed to be refunded to  
2 customers, that they could, in fact, be returned to  
3 customers?

4 A. I don't ever remember a case where it  
5 was found by a court that what we did was wrong and  
6 we were barred from providing the appropriate remedy.

7 Q. Okay. Thank you for that clarification.  
8 In the event that the Commission approves the  
9 recovery of the costs of the proposed PPA  
10 transaction, in your experience, would you consider  
11 it unreasonable for the Commission to condition Ohio  
12 Power Company's recovery of costs through the PPA  
13 Rider as subject to refund in the event that costs  
14 incurred or actions taken are found to be  
15 unreasonable?

16 A. Whether it's conditioned or not, I would  
17 expect that the Commission would have the power to  
18 find imprudency and order appropriate remedy.

19 Q. Okay. That's all my questions. Thank  
20 you very much.

21 A. Thank you.

22 MR. MILLER: And Vern, you're still --

23 MR. MARGARD: I'm still here and still  
24 have no questions. Thank you.

1                   MR. MILLER:   Excellent.   Thank you.  
2   Unless somebody else joined us on the phone, I think  
3   that's everybody.

4                   (Thereupon, the deposition concluded at  
5   6:22 p.m.   Signature not waived.)  
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1 State of Ohio :  
2 County of : SS:  
3 :

4 I, Steven M. Fetter, do hereby certify  
5 that I have read the foregoing transcript of my  
6 deposition given on Wednesday, September 16, 2015;  
7 that together with the correction page attached  
8 hereto noting changes in form or substance, if any,  
9 it is true and correct.

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\_\_\_\_\_  
STEVEN M. FETTER

11 I do hereby certify that the foregoing  
12 transcript of the deposition of Steven M. Fetter was  
13 submitted to the witness for reading and signing;  
14 that after he had stated to the undersigned Notary  
15 Public that he had read and examined his deposition,  
16 he signed the same in my presence on the \_\_\_\_ day of  
17 \_\_\_\_\_, 2015.

18  
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\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_, \_\_\_\_\_.

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## CERTIFICATE

State of Ohio :  
: SS:  
County of Franklin :

I, Valerie J. Sloas, Notary Public in and for the State of Ohio, duly commissioned and qualified, certify that the within named Steven M. Fetter was by me duly sworn to testify to the whole truth in the cause aforesaid; that the testimony was taken down by me in stenotype in the presence of said witness, afterwards transcribed upon a computer; that the foregoing is a true and correct transcript of the testimony given by said witness taken at the time and place in the foregoing caption specified and completed without adjournment.

I certify that I am not a relative, employee, or attorney of any of the parties hereto, or of any attorney or counsel employed by the parties, or financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Columbus, Ohio, on this 19th day of September, 2015.

---

Valerie J. Sloas, Registered  
Professional Reporter and  
Notary Public in and for the  
State of Ohio.

My commission expires June 8, 2016.

(VJS-79220)

**ARMSTRONG & OKEY, INC.**  
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**Columbus, Ohio 43215**  
**614/224-9481**

September 21, 2015

Steven M. Fetter  
c/o Christopher L. Miller  
IceMiller

Re: In the Matter of Ohio Power Company 14-1693-EL-RDR & 14-1694-EL-AAM

Dear Mr. Steven M. Fetter:

Enclosed is the transcript of your deposition taken on September 16, 2015, for examination pursuant to 4901-1-21(K) of the Ohio Rules of Practice before the Public Utilities Commission of Ohio.

The rule requires that your deposition be read by or to you. Any changes in form or substance which you desire to make shall be entered by me with a statement of the reasons given for making them.

If your deposition is not signed within 10 days of its submission to you, I am required to sign it and state the fact of the refusal to sign with the reason, if any, given therefor; and the deposition may then be used as though signed, unless on a motion to suppress the Commission holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part. By copy of this letter I am advising the attorneys in the case of the submission of your deposition.

Please have your deposition signed in the presence of a Notary Public and return to us by certified mail.

Thank you for your promptness in this matter.

Sincerely,

ARMSTRONG & OKEY, INC.

Cc: Mendoza, Darr, Blair

1 State of Ohio :  
2 County of : SS:  
3 :

4 I, Steven M. Fetter, do hereby certify  
5 that I have read the foregoing transcript of my  
6 deposition given on Wednesday, September 16, 2015;  
7 that together with the correction page attached  
8 hereto noting changes in form or substance, if any,  
9 it is true and correct.

10 \_\_\_\_\_  
11 STEVEN M. FETTER

12 I do hereby certify that the foregoing  
13 transcript of the deposition of Steven M. Fetter was  
14 submitted to the witness for reading and signing;  
15 that after he had stated to the undersigned Notary  
16 Public that he had read and examined his deposition,  
17 he signed the same in my presence on the \_\_\_\_\_ day of  
18 \_\_\_\_\_, 2015.

19 \_\_\_\_\_  
20 Notary Public

21 My commission expires \_\_\_\_\_, \_\_\_\_\_.  
22 - - -  
23  
24

## ERRATA SHEET

Please do not write on the transcript. Any changes in form or substance you desire to make should be entered upon this sheet.

### TO THE REPORTER:

I have read the entire transcript of my deposition taken on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, or the same has been read to me. I request that the following changes be entered upon the record for the reasons indicated. I have signed my name to the signature page and authorize you to attach the same to the original transcript.

| Page | Line | Change | Reason |
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Date \_\_\_\_\_ Signature: \_\_\_\_\_



## CERTIFICATE

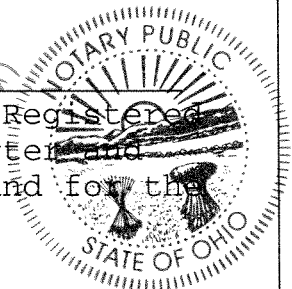
State of Ohio :  
County of Franklin : SS:

I, Valerie J. Sloas, Notary Public in and for the State of Ohio, duly commissioned and qualified, certify that the within named Steven M. Fetter was by me duly sworn to testify to the whole truth in the cause aforesaid; that the testimony was taken down by me in stenotype in the presence of said witness, afterwards transcribed upon a computer; that the foregoing is a true and correct transcript of the testimony given by said witness taken at the time and place in the foregoing caption specified and completed without adjournment.

I certify that I am not a relative, employee, or attorney of any of the parties hereto, or of any attorney or counsel employed by the parties, or financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Columbus, Ohio, on this 19th day of September, 2015.

*Valerie J. Sloas*  
Valerie J. Sloas, Registered  
Professional Reporter and  
Notary Public in and for the  
State of Ohio.



My commission expires June 8, 2016.

(VJS-79220)

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

**Commission of Ohio Docketing Information System on**

**9/23/2015 12:26:07 AM**

**in**

**Case No(s). 14-1693-EL-RDR, 14-1694-EL-AAM**

Summary: Deposition of Steven M. Fetter electronically filed by Mr. Tony G. Mendoza on behalf of Sierra Club