

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

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

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

- - -

PROCEEDINGS

before Ms. Greta See and Ms. Sarah Parrot, Attorney
Examiners, at the Public Utilities Commission of
Ohio, 180 East Broad Street, Room 11-D, Columbus,
Ohio, called at 9 a.m. on Wednesday, October 7, 2015.

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VOLUME VIII

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1 Wednesday Morning Session,
2 October 7, 2015.

3 - - -

4 EXAMINER SEE: Let's go on the record.

5 Let's start with brief appearances by the
6 parties. Start with the company, go around the room.

7 MR. NOURSE: Thank you, your Honor. On
8 behalf of the Ohio Power Company, Steven T. Nourse,
9 Matthew J. Satterwhite, Matthew S. McKenzie, Daniel
10 R. Conway, Christopher L. Miller.

11 MS. COHN: Good morning. On behalf of the
12 Ohio Energy Group, Michael Kurtz, Kurt Boehm, and
13 Jody Kyler Cohn.

14 MR. YURICK: On behalf of the Kroger
15 Company, Mark Yurick.

16 MR. DARR: On behalf of Industrial Users
17 of Ohio, Frank Darr.

18 MR. SETTINERI: On behalf of the PJM Power
19 Providers Group, Electric Power Supply Association,
20 Retail Energy Supply Association, Constellation
21 NewEnergy, Inc., Exelon Generation Company, M. Howard
22 Petricoff, Michael Settineri, and Gretchen Petrucci.

23 MR. BEELEER: Steven Beeler and Werner
24 Margard, on behalf of the staff of the Public
25 Utilities Commission of Ohio.

1 MR. MICHAEL: On behalf of AEP Ohio's
2 residential utility consumers, the Office of the Ohio
3 Consumers' Counsel, William J. Michael, Jodi Bair,
4 Kevin Moore, and as outside counsel, Dane Stinson,
5 from the office of Bricker & Eckler.

6 MR. MENDOZA: On behalf of the Sierra
7 Club, Tony Mendoza, Kristin Henry, and Christopher
8 Bzdok.

9 MR. DOUGHERTY: On behalf of the Ohio
10 Environmental Council and the Environmental Defense
11 Fund, Trent Dougherty.

12 MS. FLEISHER: Good morning, your Honors.
13 On behalf of the Environmental Law and Policy Center,
14 Madeline Fleshier and Justine Vickers.

15 EXAMINER SEE: Okay. Mr. Darr.

16 MR. DARR: Thank you, your Honor. Two
17 things. One, at the request of the Bench, I
18 distributed, this morning, the cover page to IEU
19 Exhibit 12, and all the parties should have a copy of
20 that at this point.

21 The second item I would like to raise is a
22 concern about the administrative notice taken of a
23 document yesterday. As I recall, and I haven't gone
24 back to check the transcript, but as I recall, I
25 believe the Attorney Examiner said, in effect, we are

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1 taking administrative notice of the document. And
2 what was intended was -- or what I had requested was
3 administrative notice of the prices contained in the
4 document for the 2012-2013 -- excuse me, 2015-2016
5 PJM delivery year. And specifically, administrative
6 notice of the rest of RTO price of \$136 per
7 megawatt-day and the ATSI separation price of \$357
8 per megawatt-day.

9 And I just wanted to make sure the record
10 was clear that we were taking administrative notice
11 of those prices rather than the document. I realize
12 the document contained that information, but it's the
13 fact contained in the document, not the existence of
14 the document, which is what we were seeking.

15 MR. SATTERWHITE: If I may, your Honor. I
16 believe he was taking administrative notice of an
17 exhibit that was used in the prior case, so that was
18 AEP had presented this to the Commission, yes, there
19 were numbers in there. And so, we were, I think,
20 under the same understanding with the Bench that it
21 was the exhibit that was put in that included those,
22 and didn't see any harm in the Bench's ruling to take
23 administrative notice of the entire document that was
24 the exhibit from that case.

25 MR. DARR: I specifically asked for

1 administrative notice of the two prices and used the
2 document as the source so the Bench would be assured
3 that information was available and ascertainable so
4 that there was no doubt about the legitimacy of
5 the -- of taking administrative notice.

6 MR. SATTERWHITE: We agreed to it
7 yesterday, your Honor. It was the entire document.
8 If you want to take it as we had requested,
9 administrative notice of the entire thing, you can
10 take it that way and I believe you ruled that the
11 entire document would be taken administrative notice
12 of, so.

13 MR. DARR: The other solution of this
14 would be to simply recognize it as a joint exhibit
15 and include that in the record. One way or the
16 other, though, the number has to be included in the
17 record. That was the intent.

18 EXAMINER SEE: Mr. Darr, you are referring
19 to the exhibit pulled from ESP II Case No. 346?

20 MR. DARR: Yes, ma'am, AEP Exhibit 106,
21 which I assume the company has no problem with
22 authenticating or stating that contents of that
23 document are accurate since they submitted it, which
24 is why I asked for the administrative notice. That
25 was the starting point. If the company is okay with

1 using the exhibit in this docket, then marking it as
2 a joint exhibit and accepting it on that basis would
3 be workable as well.

4 MR. SATTERWHITE: Your Honor, I'm sorry.
5 I didn't mean to cut you guys off in discussion, but
6 if the understanding going forward, you know, that we
7 have in this hearing is that administrative notice,
8 if something is taken administrative notice of and it
9 can't be used as evidence, if that's the ruling from
10 the Bench, I think that's what Mr. Darr is saying he
11 is concerned that the numbers he wanted
12 administrative notice of he wouldn't be able to use
13 as evidence on a brief, then we can say those numbers
14 are allowed to be admitted. I guess I am trying to
15 address the concern that he has.

16 EXAMINER SEE: We'll review that issue and
17 return to it after we have taken a break later today.

18 Is there anything further?

19 Okay. AEP, call your next witness.

20 MR. MCKENZIE: Thank you, your Honor. AEP
21 calls Mr. Eric Wittine.

22 (Witness sworn.)

23 EXAMINER SEE: Okay. Go ahead.

24 - - -
25

1 ERIC J. WITTINE

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

4 DIRECT EXAMINATION

5 By Mr. McKenzie:

6 Q. Mr. Wittine, could you please state your
7 full name and business address for the record.

8 A. Eric Wittine, 1 Riverside Plaza, Columbus,
9 Ohio 43215.

10 Q. By whom are you employed and what is your
11 position?

12 A. I'm employed by the American Electric
13 Power Service Corporation and my title is manager of
14 regulatory research and issues analysis.

15 Q. Did you have testimony filed in this
16 docket that was prepared by you or at your direction?

17 A. I did.

18 MR. MCKENZIE: I have placed before you
19 what I would like to have marked as AEP Ohio Exhibit
20 11, your Honor.

21 EXAMINER SEE: So marked.

22 (EXHIBIT MARKED FOR IDENTIFICATION.)

23 MR. MCKENZIE: Thank you.

24 Q. Is AEP Ohio Exhibit 11 your direct
25 testimony in this case?

1 A. It is.

2 Q. Do you have any corrections to your
3 testimony?

4 A. I have one minor correction on page 10.
5 The correction is to footnote 14 and it is to the
6 date. The "11" should be changed to a "12." So the
7 end of that footnote 14 should read "Letter filed
8 November 12, 2014."

9 Q. Thank you.

10 Were your answers true and correct at the
11 time you filed your testimony?

12 A. They were.

13 Q. Do you adopt your testimony -- I'm sorry,
14 do you adopt AEP Ohio 11 as your testimony in this
15 case?

16 A. I do.

17 MR. MCKENZIE: Your Honor, I would move
18 the admission of AEP Exhibit 11, and tender the
19 witness for cross-examination.

20 EXAMINER SEE: Okay. Mr. Mendoza.

21 MR. MENDOZA: Thank you, your Honor.

22 - - -

23 CROSS-EXAMINATION

24 By Mr. Mendoza:

25 Q. Good morning, Mr. Wittine.

1 A. Good morning, Mr. Mendoza.

2 Q. Before we get started, I would like to get
3 some definitions for us to work with today to keep
4 things moving. If I refer to the applicant in this
5 proceeding, Ohio Power Company, simply as "AEP Ohio,"
6 would you understand what I mean?

7 A. I do.

8 Q. Great. And if I refer to AEP Generation
9 Resources, Inc. simply as "AEP Generation," would you
10 understand what I mean?

11 A. We'll try. That one could get a little
12 tricky as previous witnesses have discussed.

13 Q. Okay. If there is any point you don't
14 understand, please ask for clarification.

15 A. Okay.

16 Q. And if I refer to American Electric Power
17 Company, Inc. simply as "AEP," will you understand
18 what I mean?

19 A. I will.

20 Q. Okay. Great. And I believe you just told
21 your counsel that your employer is AEP Service
22 Corporation; is that right?

23 A. That's correct.

24 Q. Okay. And what's your title again?

25 A. Manager of regulatory research and issues

1 analysis.

2 Q. Okay. Thank you.

3 And as manager of regulatory research and
4 issues analysis, your responsibilities include
5 providing research and analyzing issues related to
6 regulatory topics, right?

7 A. That's correct.

8 Q. You provide support for all AEP operating
9 companies, right?

10 A. That's correct.

11 Q. Okay. Switching gears a little bit. Are
12 you familiar with the proposed affiliate PPA
13 transaction between AEP Ohio and AEP Generation?

14 A. I am.

15 Q. Okay. And you were not involved in
16 developing the term sheet for the proposed affiliate
17 PPA, right?

18 A. No, I was not.

19 Q. And you were not involved in any way in
20 negotiating that proposed affiliate PPA, right?

21 A. That's correct.

22 Q. Okay. And then if we turn to page 2 of
23 your testimony, do you see on lines 16 and 17 where
24 your testimony states that you are providing "a
25 general outlook for electric power generation in

1 Ohio"?

2 A. I do.

3 Q. Okay. And in deciding whether to go
4 forward with a generation project, a developer would
5 consider future assumptions around revenue and risk,
6 right?

7 A. Very generally speaking, yes.

8 Q. And an assumption that a developer would
9 consider would be revenues that it would receive from
10 the sale of energy, capacity, and ancillary services,
11 right?

12 A. Those would be some of the revenues they
13 would receive.

14 Q. So the answer to that question is
15 "correct," yes? They would consider that assumption?

16 A. Yes.

17 Q. Okay. Thank you.

18 And in deciding whether to build a
19 generation project, the price of fuel is a factor
20 that a developer would consider, right?

21 A. One factor they would consider, that's
22 correct.

23 Q. Okay. And specifically when deciding
24 whether to build a natural gas-fired power plant, the
25 price of natural gas would affect that decision,

1 right?

2 A. Yes.

3 Q. Okay. And all else equal, lower gas
4 prices would favor natural gas plant construction,
5 right?

6 A. So with the understanding that all else is
7 never equal, and it's certainly not a one-to-one
8 correlation between changes in gas prices and
9 revenues that a gas plant may receive, there's
10 certainly some correlation there. I just can't tell
11 you what it is, and it may not be, like I said, a
12 one-to-one correlation.

13 Q. And so, just so the record is clear,
14 assuming all else is equal, which I can agree with
15 you is a hypothetical assumption, lower gas prices
16 would favor natural gas construction, right?

17 MR. McKENZIE: Objection, your Honor.
18 It's the same question he just asked and the witness
19 gave an answer.

20 MR. MENDOZA: And I just wanted to make
21 sure the witness is clear. I don't think the
22 witness's answer was directly to my question.

23 MR. McKENZIE: He may not like the answer,
24 but the witness answered fully, including by agreeing
25 there was a correlation.

1 EXAMINER SEE: The objection is overruled.

2 Answer the question, Mr. Wittine.

3 A. So there is a positive correlation between
4 the two, but it may not be a one-to-one positive
5 correlation.

6 Q. Okay. And all else equal, higher gas
7 prices would disfavor natural gas plant construction,
8 right?

9 A. Very generally speaking, and with the
10 understanding all else is never equal, I will agree
11 to that.

12 Q. Okay. And you don't know whether load
13 growth would encourage generation development, right?

14 A. It depends on the developer.

15 MR. DARR: Can I have that question and
16 answer back, please?

17 (Record read.)

18 MR. DARR: Thank you.

19 MR. MENDOZA: Your Honor, may we approach?

20 EXAMINER SEE: Yes.

21 Q. Mr. Wittine, do you recall being deposed
22 in this proceeding?

23 A. I do.

24 Q. And is the document you have in front of
25 you -- and do you recall that a deposition occurred

1 on September 18 of last month or September 8, 2015?

2 A. Sounds right to me.

3 Q. And does the document we have just handed
4 you look like a copy of the transcript of your
5 deposition?

6 A. It does.

7 Q. Okay. And would you please turn to page
8 20.

9 A. The deposition page 20 or page 20?

10 Q. I'm sorry?

11 A. Is it page 20 of the deposition you are
12 looking at or page 20 of the document you gave me?

13 Q. Page 20 of the deposition.

14 A. There are four on the page.

15 Q. Page 20 of the deposition. So I think
16 that's actually page 5 of the document. And do you
17 see where, at line 3, the question read: "And do you
18 think load growth would impact whether a merchant
19 developer would build a power plant?"

20 And you said "I don't know."

21 Did I read that correctly, Mr. Wittine?

22 A. That's at line 13.

23 Q. I'm sorry. Line 13 through 16.

24 A. Yeah, that's correct. I did say that.

25 Q. Okay. And then you aren't sure if a

1 growing economy would encourage development of new
2 generation, right?

3 A. No, I'm not sure. It really depends on
4 the developer.

5 Q. Okay. And you don't have an opinion on
6 whether a recession would discourage development of
7 new generation, right?

8 A. No, I don't think I have an opinion on
9 that.

10 Q. Okay. Would you please turn to page 5 of
11 your testimony. And do you see in -- on lines 1
12 through 18 on this page, you discuss a historical
13 analysis of PJM's generation queue?

14 A. That's correct.

15 Q. Okay. And on page 5 of your testimony
16 there is a Table 2 titled "2000 to 2014 PJM New
17 Capacity" performance "By Phase." Do you see that?

18 A. It says "New Capacity Progression by
19 Phase."

20 Q. Oh, thank you for the correction. Do you
21 see the table I am referring to?

22 A. I do.

23 Q. And you took the figures for that table
24 from a PJM presentation, right?

25 A. I did.

1 MR. MENDOZA: Okay. Your Honor, may we
2 approach?

3 EXAMINER SEE: Yes.

4 MR. MENDOZA: Your Honor, I ask this
5 document be marked as Sierra Club Exhibit 32.

6 (EXHIBIT MARKED FOR IDENTIFICATION.)

7 Q. Mr. Wittine, have you seen this document
8 before?

9 A. I have.

10 Q. And this is the same presentation from
11 which you took information that appears in Table 2 in
12 your testimony, right?

13 A. That's correct. It appears to be.

14 Q. And specifically the information that
15 appears in Table 2 of your testimony comes from
16 page 6 of this presentation; isn't that right?

17 A. It does.

18 Q. And the figures in the PJM presentation
19 are PJM-wide, right?

20 A. That's correct.

21 Q. So it's not Ohio-specific information.

22 A. That's correct.

23 Q. Okay. And the odds for a generation plant
24 going into service are better the further a project
25 progresses through the queue milestones, right?

1 A. I don't know if I would call it "odds,"
2 but yeah, effectively what this shows is historical
3 analysis of the PJM generation queue. It looks at
4 all the megawatts that have gone through the queue
5 between 2000 and 2014 and have either been placed in
6 service or withdrawn. It shows that approximately
7 14 megawatts going into the queue resulted in one
8 megawatt coming out of the queue.

9 Q. Okay. And so just to use an example, a
10 plant with an executed interconnection agreement has
11 better odds of going into service than a plant that
12 just has, for example, a feasibility study; isn't
13 that right?

14 A. That's historically been the case, but as
15 I stated further down in my testimony on page 5, it's
16 interesting to look at when those megawatts were
17 withdrawn from the queue, even at a very late stage
18 in the game, like, having an executed interconnection
19 agreement, it was only about a 50/50 proposition for
20 those plants that received an executed
21 interconnection agreement to be placed in service.

22 MR. MENDOZA: Your Honor, I would move to
23 strike his answer after "that's historically been the
24 case."

25 MR. MCKENZIE: Your Honor, the question

1 was asking about the odds of an executed
2 interconnection agreement making a plant go into
3 service and the witness gave a full response to that,
4 including by explaining that it's a 50/50 proposition
5 once you have an interconnection agreement. That's a
6 full and relevant response.

7 EXAMINER SEE: And I will allow the answer
8 to stand.

9 MR. MENDOZA: Thank you, your Honor.

10 Q. And so you anticipated my next question.
11 The majority of -- more than 50 percent of facilities
12 with an interconnection agreement end up going into
13 service, right?

14 A. It's about half.

15 Q. But in terms of a precise answer to my
16 question, it's more than 50 percent, right?

17 A. Let me just get my calculator out. It's
18 52.9 percent.

19 Q. So you could round that up to 53 percent,
20 right? Strike that.

21 A. If you want to.

22 Q. I will withdraw that question.

23 A. We can round it down to 50 percent too.

24 Q. And I apologize for speaking over you.

25 Moving on. Looking back at the

1 presentation, do you see where it says 15,093 --
2 strike that question.

3 Do you see where it says "Excludes Active
4 Projects" at the top?

5 A. I do.

6 Q. And so these figures by definition don't
7 include projects that are currently being developed
8 right -- right now; isn't that right?

9 A. Yeah. I think I stated that in earlier
10 response. It's only projects that have either been
11 placed in service or withdrawn.

12 Q. Okay. Moving on, let's take a look at
13 page 3 of your testimony and carrying over to page 4.
14 On line 11 of page 3, do you see the sentence that
15 starts "There is" and then it continues on to the
16 next page for the first two lines. "There is
17 certainty that these plants, and the plants listed in
18 Table 1, will not be available this summer to support
19 the reliability of Ohio's electric supply." Do you
20 see that sentence in your testimony, Mr. Wittine?

21 A. I see that.

22 Q. And the "summer" you are referring to is
23 summer of 2015, right?

24 A. That's correct.

25 Q. And summer 2015 has ended, right?

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1 A. It has.

2 Q. And you don't know if any reliability
3 problems resulted from the retirements of these
4 units, right?

5 A. I haven't studied the summer reliability
6 in PJM, no.

7 Q. And so the answer to my question is you
8 don't know, right?

9 A. Yeah. I haven't studied the summer
10 reliability in PJM.

11 Q. But aside from studying it, you don't know
12 otherwise, right?

13 A. I think I would need to study it to know.

14 Q. Okay. And switching to a different topic,
15 you aren't aware of any analysis that shows that any
16 of Ohio's neighboring states have more planned
17 capacity additions than does Ohio, right?

18 A. You are asking me if I know about a study
19 that shows if other states are building more
20 generation than Ohio?

21 MR. MENDOZA: Karen, would you mind
22 rereading my question?

23 (Record read.)

24 A. I don't know if I am aware of a study that
25 looks exactly across state lines, but I am aware of a

1 study that evaluated regulated versus unregulated
2 generation development. That would be the American
3 Public Power Association. They published a study in
4 2013 that looked at that issue, which effectively,
5 when you think about state by state, you have got
6 deregulated states and regulated states, and states
7 that have generators that are supported by PPAs, and
8 that study showed that in 2013, only 2.4 percent of
9 the generation that was placed in service was done
10 purely for a market-serving standpoint. All the rest
11 was done to serve regulated customers or PPAs.

12 MR. MENDOZA: And, your Honor, I would
13 move to strike that whole answer. I asked him if he
14 was aware of a study.

15 MR. MCKENZIE: Your Honor, he asked if he
16 was aware of a study and he explained a study that
17 answered the question. I think that's a fair
18 response.

19 EXAMINER SEE: And your motion to strike
20 the answer is denied.

21 Q. Mr. Wittine, do you have your deposition
22 transcript in front of you?

23 A. I do.

24 Q. Would you turn to page 51, please.

25 A. Sure.

1 Q. And on page 51, would you look at lines 1
2 through 6. Around starting after the comma on line
3 1, the question reads: "...but are you aware of any
4 data or evaluation or any analysis at all that shows
5 that any of those states, any of the neighboring
6 states that have regulated cost recovery have more
7 planned capacity additions than Ohio?"

8 And the answer: "Not as I sit here
9 today." Did I read that correctly?

10 A. You did. As I sat there in my deposition,
11 I couldn't think of anything over the preceding
12 weeks. And given your interest in that, I went back
13 in my memory and recalled an AP Pennsylvania study,
14 the American Public Power study, and got the data for
15 you that I just provided in my last response.

16 Q. Okay. Mr. Wittine, on pages 8 through 13
17 of your testimony, you describe a status update for
18 six projects that are being developed in Ohio, right?

19 A. That's correct, and the associated exhibit
20 also kind of goes along with that.

21 Q. Going back to the previous topic. Just to
22 be clear, are you -- I'm sorry.

23 On pages 8 through 13 of your testimony
24 you describe a status update for six projects that
25 are being developed in Ohio, right?

1 A. That's correct.

2 Q. Okay. And let's talk about some of those
3 projects. On page 11 you refer to the Carroll County
4 Energy generation facility, right?

5 A. I do.

6 Q. And construction of the Carroll County
7 project has already begun, right?

8 A. That's correct. It began this spring.

9 Q. It began in April of 2015; isn't that
10 right?

11 A. That's correct.

12 Q. Okay. And Carroll County project has an
13 executed PJM interconnection agreement, right?

14 A. That's correct.

15 Q. Okay. And then let's talk about the
16 Lordstown energy center -- excuse me. You refer to a
17 Lordstown energy center on page 12 of your testimony,
18 right?

19 A. I do.

20 Q. And in September, 2015, the Ohio Power
21 Siting Board granted the application for
22 construction, operation and maintenance of the
23 Lordstown plant, right?

24 A. Yes, they did.

25 Q. And the developer of the Lordstown project

1 has proposed to increase the generation capacity of
2 that facility from 800 megawatts to 940 megawatts,
3 right?

4 A. I haven't reviewed that.

5 MR. MENDOZA: Your Honor, may we approach?

6 EXAMINER SEE: Yes.

7 MR. MENDOZA: Your Honor, I would ask that
8 this document be marked as Sierra Club Exhibit --

9 EXAMINER SEE: 33.

10 MR. MENDOZA: -- 33.

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 Q. Have you seen this document before,
13 Mr. Wittine?

14 A. I saw it in my deposition.

15 Q. And it was filed in a Lordstown docket
16 that you refer to in your testimony; isn't that
17 right?

18 A. It appears to be filed in that docket,
19 that's correct.

20 Q. And the document is titled the "Direct
21 Testimony of William Siderewicz on behalf of Clean
22 Energy Future-Lordstown LLC," right?

23 A. That's correct.

24 Q. Okay. And I would like to direct your
25 attention to page 5, the numbered question 8. And

1 would you mind reviewing that answer for me,
2 Mr. Wittine.

3 A. I've reviewed it.

4 Q. Okay. So now that you have this document
5 in front of you, could you tell me, you would agree
6 that the developer has proposed to increase the
7 generation capacity of this facility from
8 800 megawatts to 940 megawatts, right?

9 A. I don't know that they've proposed to do
10 it. They made an application to PJM.

11 Q. Okay. Let's turn -- or staying on page 12
12 of your direct testimony, you refer to a Middletown
13 Energy Center, right?

14 A. Sorry. Can you give me that page again?

15 Q. Page 12.

16 A. Okay. I'm there.

17 MR. MENDOZA: Okay. Your Honor, may we
18 approach?

19 EXAMINER SEE: Yes.

20 MR. MENDOZA: Mr. Wittine, have you seen
21 this document before?

22 A. Not all of it.

23 MR. MENDOZA: Your Honor, I apologize. I
24 would like to have this document marked Sierra Club
25 Exhibit 34.

1 EXAMINER SEE: So marked.

2 (EXHIBIT MARKED FOR IDENTIFICATION.)

3 Q. Would you agree with me, Mr. Wittine, that
4 the cover letter to this document references a Ohio
5 Power Siting Board docket that you cite in footnote
6 24 of your testimony when you are discussing the
7 Middletown Energy Center?

8 A. Yes.

9 Q. And the cover letter of this document is
10 dated September 29, 2015, right?

11 A. It is.

12 Q. And the cover letter states that this --
13 that the project developer is providing an executed
14 PJM interconnection agreement to the Siting Board;
15 isn't that right?

16 A. That's correct.

17 Q. And, in fact, the cover letter attaches
18 what appears to be the executed interconnection
19 agreement for that plant; isn't that right?

20 A. It appears to.

21 Q. And it was sent to the Public Utilities
22 Commission of Ohio, right?

23 A. That's what appears to have happened, yes.

24 Q. Okay. And do you know -- the Middletown
25 project has commenced construction, right?

1 A. So I saw they filed a letter yesterday
2 saying they were going to start construction this
3 week or they had started construction this week.

4 Q. Doesn't the letter, in fact, say they have
5 started construction?

6 A. I think it said they had started on
7 Monday.

8 MR. MENDOZA: Your Honor, may we approach?

9 EXAMINER SEE: Yes.

10 MR. MENDOZA: I would like to have this
11 document marked Sierra Club Exhibit 35.

12 (EXHIBIT MARKED FOR IDENTIFICATION.)

13 Q. And, Mr. Wittine, have you seen this
14 document before?

15 A. I have.

16 Q. And it's dated October 5, 2015, and this
17 is another letter from the project developer of the
18 Middletown Energy Center to the Public Utilities
19 Commission of Ohio; isn't that right?

20 A. That's correct.

21 Q. And do you see the sentence that states
22 "As approved by Staff, construction of the facility
23 commenced today, October 5, 2015"? Do you see that
24 statement?

25 A. Yes. This facility appears to have

1 started construction two days ago.

2 Q. Okay. And then let's --

3 A. So they have got about a three-year
4 construction horizon according to their application.
5 So best-case scenario, it looks like this plant may
6 actually be on the ground, generating megawatts,
7 three years from now.

8 MR. MENDOZA: Your Honor, I move to strike
9 that answer. There wasn't even a pending question.

10 MR. MCKENZIE: Your Honor, he was just
11 providing context to this document. Counsel
12 cherrypicked one sentence out of here and the witness
13 was giving the fuller context of what "beginning
14 construction" means which means there is a three-year
15 process now, at the minimum, before the plant goes
16 into service.

17 MR. DARR: Your Honor, I don't know how
18 you could cherrypick anything else out of this. All
19 it says is the construction starts on October 5. The
20 gratuitous remark at the end offered by Mr. Wittine
21 had nothing to do with the question.

22 MR. MCKENZIE: I mean, he cherrypicked
23 this from the entire Ohio Power Siting docket, that
24 docket is what Mr. Wittine referenced when he said
25 three-year projected construction time.

1 MR. SETTINERI: Your Honors, I think that
2 answer should be stricken. That's a question and
3 answer that can be done on redirect. He was
4 referencing the application which is much earlier in
5 a proceeding versus commencement of construction.
6 The letter is a simple letter. The question was a
7 simple question. And redirect can be used, if
8 necessary, to address any concerns they have about
9 his answer.

10 MR. McKENZIE: I can respond if you want
11 me to, your Honor.

12 EXAMINER SEE: Go ahead, Mr. McKenzie.

13 MR. McKENZIE: The test is not if it could
14 be asked on redirect; therefore, the answer is not
15 appropriate. It is inefficient to use redirect to
16 ask questions where the witness has given necessary
17 and appropriate context to answer the question,
18 that's what he did here, and to use redirect would be
19 a waste.

20 MR. SETTINERI: Your witness -- your
21 Honors, if I may?

22 EXAMINER SEE: Thank you, Mr. Settineri.

23 MR. SETTINERI: You're welcome.

24 EXAMINER SEE: I am going to allow the
25 witness's answer to stand.

1 MR. MENDOZA: Your Honor, I just want to
2 double-check that I asked that this document be
3 marked Sierra Club Exhibit 35, the October 5 letter?

4 EXAMINER SEE: Yes. It is marked Sierra
5 Club Exhibit 35.

6 MR. MENDOZA: Thank you, your Honor.

7 Q. (By Mr. Mendoza) Okay. Moving on to the
8 Oregon Clean Energy Center. Do you see on page 10 of
9 your direct testimony, Mr. Wittine, where you begin
10 to discuss that facility, that proposed facility?

11 A. I do.

12 Q. And construction of this project began in
13 November, 2014, right?

14 A. That's correct.

15 Q. Around the Oregon Clean Energy Center has
16 an executed PJM interconnection -- interconnection
17 agreement, right?

18 A. That's correct.

19 Q. Okay. And in September, 2015, the
20 developer of the Oregon project received a permit to
21 develop the gas turbine for that plant to the site,
22 right?

23 A. That's correct.

24 Q. Okay. And in drafting your testimony on
25 pages 8 through 13, you reviewed the PJM active

1 generation queue, right?

2 A. As part of my review of those six plants,
3 I did look at the PJM generation queue information,
4 that's correct.

5 Q. And the generation queue is essentially a
6 database on PJM's website, right?

7 A. Essentially.

8 MR. MENDOZA: Okay. Your Honor, may we
9 approach?

10 EXAMINER SEE: Yes.

11 MR. MENDOZA: I would like to have this
12 marked Sierra Club Exhibit 36.

13 EXAMINER SEE: So marked.

14 (EXHIBIT MARKED FOR IDENTIFICATION.)

15 Q. Mr. Wittine, do you recognize this as
16 the -- as a printout of the PJM active generation
17 queue?

18 A. It appears to be, yes.

19 Q. And do you see it has the same URL on the
20 bottom left as appears in footnote 10 of your
21 testimony?

22 A. Yes, it does.

23 Q. And it may be a little difficult to see,
24 but do you see in the top left it says October 5,
25 2015?

1 A. I see that.

2 Q. Okay. So let's find the Carroll County
3 queue. Turn to footnote 22 on page 11 of your
4 testimony, please.

5 A. Sure. I'm there.

6 Q. And do you see that the Carroll County
7 queue as referenced in footnote 22 of your testimony
8 is Y2-050?

9 A. I see that.

10 Q. Okay. So now let's turn to page 43 of
11 Sierra Club Exhibit 36, and on page 43 of Sierra Club
12 Exhibit 36, do you see the queue Y2-050?

13 A. I see that.

14 Q. And you would recognize that as the queue
15 for the Carroll County project, correct?

16 A. That's correct.

17 Q. And do you see that the projected
18 in-service date for that project is 20 -- is the
19 fourth quarter of 2017?

20 A. That's what the queue says. The queue
21 in-service dates are fairly unreliable from -- from
22 my opinion. You could look at Meigs County in here,
23 and it's going to say that it's going to have a plant
24 on that site in the second quarter of 2016. When I
25 went down to the site to review it, it was an empty

1 field.

2 Rolling Hills, in the PJM queue, either
3 says 2016 or 2017. I think it's 2017. We could
4 confirm that, though, if you would like. And the
5 Rolling Hills developer is not even proposing to have
6 it on service -- in service until 2018 at the
7 earliest. That's assuming they decide to move
8 forward with the project.

9 So, you know, you have got to be careful
10 when you look at these queue dates. It's not an
11 accurate single source of information. That's why I
12 provided all this testimony to give context around
13 what's going on with each of these plants.

14 MR. MENDOZA: Your Honor, I move to strike
15 the answer except for the first clause in which he
16 provided the affirmative response. I didn't ask him
17 about Meigs County or Rolling Hills or, you know,
18 anything else except for whether the PJM projects an
19 in-service date for that project of fourth quarter
20 2017.

21 MR. MCKENZIE: Your Honor, the motions to
22 strike are now getting repetitive. For every motion
23 to strike, it's the same response. He is giving
24 context. It's relevant. Counsel asked if the
25 in-service date was 2017. And this, you know, based

1 on this document and the witness gave appropriate
2 context that the in-service date on this document is
3 not always accurate. He did that with this plant and
4 he illustrated his answer with another plant.

5 MR. MENDOZA: I'd like to be clear. He
6 did not do it with respect to the plant I was asking
7 about, the Carroll County plant. My question was
8 does PJM project that this plant will be in service
9 2017 fourth quarter. He answered affirmatively and
10 then went on to talk about other plants.

11 MR. MCKENZIE: But Counsel's point,
12 Counsel is trying to infer this is the in-service
13 date, and the witness is providing helpful context
14 saying that PJM in-service dates are not necessarily
15 reliable. And I apologize if he didn't talk about
16 this plant, but he illustrated it with other plants.
17 That's perfectly fair testimony and helpful to the
18 Commission.

19 MR. MENDOZA: And, your Honor, I would
20 like to correct one thing that Counsel said. I was
21 not inferring anything. I was asking if PJM had an
22 in-service date of this project of a certain date.

23 EXAMINER SEE: Thank you, both. Thank
24 you, both.

25 I am going to grant the request to strike

1 that portion of the witness's answer where he refers
2 to "Meigs County" down to, you know, you have to --
3 "you know, you have got to be careful when you look
4 at these queue dates. It's not an accurate single
5 source of information." That will -- that sentence
6 and after will remain.

7 MR. MENDOZA: Thank you, your Honor.

8 Q. (By Mr. Mendoza) Okay. Let's move on to
9 the Middletown plant. Do you see on footnote 27,
10 page 12, that you provide the queue for the
11 Middletown plant?

12 EXAMINER SEE: I'm sorry, Mr. Mendoza,
13 repeat that reference, please.

14 MR. MENDOZA: I would be happy to. It's
15 page 12 of Mr. Wittine's testimony in footnote 27.

16 Q. Mr. Wittine, could you confirm for me the
17 queue for the Middletown plant is Z1-079?

18 A. That's correct.

19 Q. And then going back to Sierra Club Exhibit
20 36, will you turn to page 46 of that document. And
21 on page 46 of Sierra Club Exhibit 36, could you find
22 for me the queue Z1-079?

23 A. I see that.

24 Q. And do you see that the projected
25 in-service date, at least according to PJM, for the

1 Middletown project is the second quarter of 2018?

2 A. I see that but it's wrong.

3 MR. MENDOZA: Your Honor, I would move to
4 strike his -- the nonresponsive part of his answer
5 after "I see that."

6 MR. MCKENZIE: Your Honor, I think the
7 witness was trying to accord to your previous ruling
8 which allowed him to say that he doesn't think the
9 number is reliable. He did not go on to talk about
10 other plants. He acknowledged that that's what's
11 there and he provided his testimony which is that the
12 number is not accurate.

13 EXAMINER SEE: And I will allow the answer
14 to stand.

15 MR. MENDOZA: Thank you, your Honor.

16 Q. Okay. Let's look for the Lordstown queue.
17 On footnote -- in footnote 29 on page 12 of your
18 testimony. Do you see that the queue for the
19 Lordstown project is Z2-028?

20 A. I see that.

21 Q. And then let's turn to page 48 of the PJM
22 queue document. And do you see Z2-028?

23 A. I do.

24 Q. And do you see that this project connects
25 to a substation called Highland-Sammis 345 kV and

1 Highland-Mansfield 345 kV?

2 A. I do.

3 Q. And just so we know, that means that this
4 project intends to interconnect at that -- or to
5 connect to that PJM substation, right?

6 A. That's my understanding.

7 Q. And so that would be electrically close to
8 the Sammis facility, right?

9 A. I'm not sure.

10 Q. Okay. And the projected in-service date
11 for this Lordstown project is the second quarter of
12 2019, right?

13 A. Again, that's what this document says. I
14 can't confirm the accuracy of that one.

15 Q. Thank you, Mr. Wittine.

16 A. It's too far out in the future.

17 Q. I apologize for interrupting. Are you
18 done?

19 A. I'm done.

20 Q. And so just two more. The Oregon plant,
21 so footnote -- on page 10, footnote 16 of your
22 testimony, do you see that the queue for the Oregon
23 plant is Y1-069?

24 A. I do.

25 Q. And then turn back to the PJM queue

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1 document on page 42, let's see if we can find Y1-069.

2 Are you there, Mr. Wittine?

3 A. I am.

4 Q. And according to PJM, the projected
5 in-service date for the Oregon plant is second
6 quarter 2017, right?

7 MR. McKENZIE: Could I have the previous
8 question read back, please.

9 (Record read.)

10 MR. McKENZIE: Thank you.

11 A. Yeah, that's correct. Although, as I
12 stated on page 10 of my testimony, I'm not sure if
13 that is still the in-service date that the developer
14 is shooting for.

15 Q. Okay. And just one more, if you could get
16 the testimony, the Lordstown testimony that I
17 provided to you, Sierra Club Exhibit 33. And if you
18 look at page 5 of Sierra Club Exhibit 33 --

19 A. One moment, if you don't mind. Okay. You
20 said page 5?

21 Q. Yeah. Looking back at that same answer we
22 had looked at previously, do you see where the
23 Lordstown -- the person who filed testimony in the
24 past for the Lordstown facility represents "We have
25 made application to PJM for an additional

1 140 megawatts and have a queue position #AB1-017"?

2 A. I see that statement.

3 Q. Okay. So let's turn to page 11 of the
4 queue document. Around on page 11 of the queue
5 document, do you see the queue AB1-017?

6 A. I see that. And if I may be allowed to
7 provide a bit of additional context, on the queue
8 document, one of the things that's a little difficult
9 to interpret with this if you are not familiar with
10 it is these little circles off to the right, they are
11 in black and white here, but they are colored on the
12 PJM queue, and you can actually click on them and
13 view the documents themselves. If they are
14 colored-in or shaded on this black and white
15 document, it means they are green which means that
16 they've received that agreement.

17 On the one you just pointed me to, the
18 AB1-017, which is presumably the Lordstown upgrade,
19 which I would guess is a duct-firing upgrade,
20 simple-cycle, lower-efficiency, higher-heat rate
21 upgrade, they have only made application. So that
22 initial feasibility study hasn't been granted yet.

23 And to bring that back to the context of
24 my testimony, that would fall into that 14-to-1
25 historical probability of success --

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1 MR. MENDOZA: Your Honor, I'm sorry. I
2 move to strike the answer to my entire question. My
3 question was do you see AB1-017 queue, and I haven't
4 asked a substantive question at all. And again, if
5 counsel for the company would like to pursue this on
6 redirect, they would, of course, have all that
7 opportunity to do that.

8 MR. MCKENZIE: Your Honor, we're not going
9 to oppose the admission of this document, so Sierra
10 Club will have it in the record and can cite in its
11 brief these specific numbers that they are picking
12 out. The only reason to have the witness here is to
13 provide helpful context to the Commission. That's
14 what he is trying to do on a very technical PJM
15 document.

16 MS. HENRY: There has to be a question
17 pending.

18 EXAMINER SEE: Ms. Henry, no tag-teaming.
19 Mr. Mendoza is handling this witness. And I am going
20 to direct the witness to answer the question posed to
21 him.

22 Do you know -- do you need it read back?

23 THE WITNESS: No, I do not.

24 A. The date for AB1-017 on the PJM
25 interconnection queue appears to be 2018, quarter 2.

1 Q. Okay. My question was going to be -- I
2 just wanted to confirm as they -- as the Lordstown
3 project had represented to the Commission, they have,
4 in fact, established a queue to upgrade that project
5 by 140 megawatts; isn't that right?

6 A. It looks like they have applied for the
7 first-step feasibility study and they haven't even
8 received a completed feasibility study yet.

9 Q. Okay. I think we can move on.

10 Let's -- just one last question. Let's
11 refer to page 4, lines 9 through 12 of your
12 testimony. On page 4, lines 9 through 12,
13 Mr. Wittine, do you see where your testimony states
14 "Even outside of these normal activities that must be
15 navigated by every large project, legal challenges
16 can be represented by campaigns such as the Sierra
17 Club's 'Beyond Natural Gas' campaign which can make
18 project execution even more difficult." Do you see
19 that statement?

20 A. Yes. I think it's the "Beyond Natural
21 Gas" campaign that you guys have.

22 Q. Thank you.

23 And you aren't aware of any legal
24 challenges that Sierra Club has brought to any of the
25 six projects you discuss in your testimony, right?

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1 A. I don't know that they have brought any
2 legal challenges as of yet.

3 Q. And you don't know if any environmental
4 group has filed challenges to any of those six
5 projects, right?

6 A. That's not correct.

7 Q. And which project is that that you have in
8 mind, Mr. Wittine?

9 A. Well, at least the Meigs County project.

10 MR. MENDOZA: Okay. Your Honor, I have no
11 further questions.

12 EXAMINER SEE: Okay. Ms. Bojko.

13 MS. BOJKO: Thank you, your Honor.

14 - - -

15 CROSS-EXAMINATION

16 By Ms. Bojko:

17 Q. Good morning, Mr. Wittine. I just have a
18 few questions from prior witnesses that have punted
19 them to you, the last witness.

20 A. Good morning.

21 MS. BOJKO: Your Honor, may I approach?

22 EXAMINER SEE: Yes.

23 MS. BOJKO: At this time, your Honor, I
24 would like to have marked -- I would like to have
25 marked as OMAEG Exhibit --

1 EXAMINER SEE: 18.

2 MS. BOJKO: -- 18, yes. Thank you. And
3 for the record, I am having marked OMAEG Exhibit 18,
4 Table 10, "Supply and Disposition of Electricity in
5 1990 through 2013," that is from the U.S. Energy
6 Information Administration Form EIA-923.

7 (EXHIBIT MARKED FOR IDENTIFICATION.)

8 Q. Mr. Wittine, do you have in front of you
9 what's been previously marked as OMAEG Exhibit 18?

10 A. I do. I think it's been labeled that. I
11 will take your word for it. I have the document you
12 just handed me.

13 Q. And if you look at the bottom of the
14 document in the footnotes, it says "Sources" and it
15 says "U.S. Energy Information Administration Form,
16 EIA-923, 'Power Plant Operations Report' and
17 predecessor forms." Do you see that?

18 A. Yes. If I might just be allowed to read
19 the full footnote to myself.

20 Q. Of course.

21 A. Okay.

22 Q. Does it appear to you this is a document
23 compiled by Government Agency EIA, regarding energy
24 information, annual electric power industry reports,
25 and plant operation reports?

1 A. That's effectively what that footnote
2 says.

3 Q. And from this document it's your
4 understanding, sir, that Ohio is a net importer of
5 electricity; is that correct?

6 MR. MCKENZIE: Your Honor, I would just
7 object. I don't think appropriate foundation has
8 been laid to authenticate this document. I have
9 never seen this before. The witness hasn't been
10 asked if he has seen it before. He has just read a
11 footnote.

12 MS. BOJKO: I can ask some additional
13 questions, your Honor.

14 EXAMINER SEE: Go ahead.

15 Q. You're familiar with the EIA; is that
16 correct?

17 A. I am.

18 Q. And I'm told from your predecessor
19 witnesses, specifically Company Witness Vegas and
20 Company Witness Pearce stated that you are familiar
21 with the electricity imports in the State of Ohio and
22 exports; is that accurate?

23 A. That's accurate.

24 Q. And have you had an opportunity to review
25 reports in this fashion from EIA?

1 A. I haven't reviewed this specific report,
2 but --

3 Q. Go ahead.

4 A. -- I have seen information on energy
5 imports and exports in Ohio.

6 Q. And you've often reviewed EIA-type reports
7 in your daily job activities in order to gather
8 information or confirm information; is that correct?

9 A. I have referenced the EIA data in the
10 past.

11 Q. You consider the EIA a reliable source?

12 A. To some degree, yes.

13 Q. And prior witnesses have, in fact,
14 referenced EIA as source documentation; is that fair?

15 A. They may have.

16 Q. Given that you've stated that you -- you
17 are familiar with the EIA and the reporting and you
18 are familiar with the information regarding Ohio's
19 imports and exports, can you tell from this document
20 that Ohio is a net importer of electricity?

21 A. This document can't be used to determine
22 that, no.

23 Q. Actually, if you look at the line called
24 "Net Interstate Trade" and it's a negative number and
25 if you look at the total -- they are not numbered, so

1 I apologize, but if you look at the top portion of
2 the document, it says "Total Supply" and if we just
3 take 2013, for example, to use numbers for ease of
4 flowing through this document, it says
5 137,284,000,189 megawatt-hours of electricity is
6 supplied in Ohio; is that correct?

7 A. That's correct. The previous question was
8 a little different than that. You asked if we are a
9 net importer of energy. This shows if we have been.
10 It does state that we historically have been a net
11 importer of energy, sales. This is megawatt-hours.

12 Since 2013, the situation has gotten much
13 worse than what this document shows. We've lost
14 6,000 megawatts of capacity in the 2012 to 2015
15 timeframe. Most of that just occurred this past
16 June 1. So, yeah, it's gotten significantly worse
17 than this. I would -- I would assume that based on
18 these energy import numbers that we are now an even
19 larger net energy importer than we have been in the
20 past. But your question as of today.

21 Q. Thank you for clarifying that. This
22 report, the most recent EIA data that I could find
23 was -- is available in this report was from 2013 to
24 1990.

25 A. Right.

1 Q. Is that --

2 A. That's why I tried to provide that
3 context. We've retired a heck of a lot of generation
4 in Ohio lately that wouldn't be reflected yet in this
5 and we haven't built anything.

6 Q. Thank you for the -- well, I think there
7 are people that disagree with the last statement of
8 yours. But as for this EIA report, it reflects that
9 Ohio has, in fact, been a net importer of electricity
10 for decades from 1990 to 2013; is that correct?

11 MR. MCKENZIE: Your Honor, I would just
12 object to the term "electricity" as vague. As we all
13 know, there is energy and capacity, so "electricity"
14 is vague.

15 THE WITNESS: This shows energy imports.

16 EXAMINER SEE: Just a minute. And if the
17 witness needs to explain his answer for
18 clarification, he can do so.

19 Q. Let's look at the footnotes again and if
20 you look at the one, two, three, fourth footnote
21 down, to help counsel and yourself, it says "A
22 negative Net Interstate Trade value indicates a net
23 import of electric power"; is that correct?

24 A. Yeah. "Power" is being used as a
25 substitute for what we usually refer to as "energy."

1 Q. Okay.

2 A. The units are megawatt-hours on this
3 table.

4 Q. So if you go up to the line that says "Net
5 Interstate Trade, am I correct again that from the
6 EIA's definition, Ohio is a net importer of electric
7 power from 1993 -- from 1900, excuse me, to 2013; is
8 that correct?

9 A. That's what the data shows, and my
10 testimony shows that it's gotten worse since the end
11 of this data.

12 Q. Meaning Ohio is still a net importer of
13 electricity; is that correct?

14 A. Just a much larger one.

15 Q. And isn't it true, sir, that generation
16 resource additions in the capacity market from 2007
17 to 2008 BRA until the 2017-'18 BRA, have equaled
18 30,040 megawatts?

19 A. I don't know that number off the top of my
20 head.

21 Q. Isn't it true, sir, if you know, that from
22 the 2009-'10 BRA auction through the 2017-'18 BRA
23 auction, 2,922 megawatts of new generation and
24 upgrades were offered into the PJM capacity auctions,
25 and 2,012 megawatts were committed; is that correct?

1 A. I don't know that number off the top of my
2 head.

3 Q. You are aware, sir, that during those
4 timeframes, megawatts of new generation and upgrades
5 have been offered into the PJM capacity market and
6 have been committed; is that correct?

7 A. I'm aware of that, yes.

8 Q. Okay. And then similarly, even though you
9 don't know the actual megawatt number, you are aware,
10 sir, that, generation resource additions in the
11 capacity market from 2007-'8 BRA through the 2017-'18
12 BRA have actually occurred; is that correct?

13 A. I think I lost your question somewhere.
14 May I have that reread, please.

15 (Record read.)

16 A. So is your question has generation been
17 added to PJM since 2007?

18 Q. In the period from 2007 to the 2017-'18
19 BRA, yes.

20 A. Yes, generation has been added to PJM
21 during that timeframe.

22 MS. BOJKO: Thank you.

23 Your Honor, I have no further questions.

24 Thank you.

25 Thank you for your time, Mr. Wittine.

1 EXAMINER SEE: Mr. Stinson.

2 - - -

3 CROSS-EXAMINATION

4 By Mr. Stinson:

5 Q. Good morning, Mr. Wittine. My name is
6 Dane Stinson. I am representing the Ohio Consumers'
7 Counsel today.

8 A. Good morning, Mr. Stinson.

9 Q. Just a few questions. Earlier in answers
10 to Mr. Mendoza's questions you indicated you are
11 generally familiar with the purchase power agreement
12 in this proceeding?

13 A. I am.

14 Q. And would you agree that the generating
15 units included in that agreement are the Cardinal
16 unit 1, Conesville units 4 through 6, Stuart units 1
17 through 4, and Zimmer unit 1?

18 A. That sounds correct.

19 Q. And you have no role in determining
20 whether those units should be retired, correct?

21 A. That's correct.

22 Q. And no one at AEPGR has told you that the
23 plants will be retired, correct?

24 A. That's correct.

25 Q. Let's go to your testimony at page 2 and

1 line 2. You indicate that from 2004 through 2008,
2 you were employed with the AEP system in "activities
3 surrounding a number of new generation projects,"
4 right?

5 A. That's correct.

6 Q. And what projects were those?

7 A. Those would have been the three IGCCs
8 projects that the company was developing as well as
9 three generation projects in our western footprint.

10 Q. Which ones in Ohio?

11 A. Great Bend IGCC project was in Ohio.

12 Q. And where is that located?

13 A. In Meigs County.

14 Q. And what were your responsibilities with
15 respect to Great Bend?

16 A. I was an engineer so I was generally
17 responsible for the design and development work in
18 conjunction with our -- our contract of engineers at
19 GB and Bechtel to ensure that the plant was properly
20 designed.

21 Q. Did you have any responsibilities with
22 respect to permitting of that plant?

23 A. I had some.

24 Q. Which were?

25 A. I provided technical information to our

1 environmental folks who synthesize that information
2 into the permit.

3 Q. And did you have any duties with respect
4 to the financing of the plant?

5 A. Not explicitly.

6 Q. Well, implicitly?

7 A. I was responsible for some aspects of
8 engineering which has a big impact on the cost of the
9 plant, but, no, I wasn't going out and looking for
10 financing for the project.

11 Q. And did you have any responsibility with
12 respect to commissioning for the plant?

13 A. That plant was never commissioned.

14 Q. And what about construction?

15 A. To some degree, yes.

16 Q. And what would be those responsibilities?

17 A. As part of the engineering and design work
18 that's done at the beginning of the plant,
19 constructability is a key aspect of that, and looking
20 at the construction schedule, understanding how all
21 the various components will be going together on the
22 site, so, you know, engineering involves keeping an
23 eye towards constructability.

24 Q. Page 2, line 6 of your testimony it is
25 indicated that you returned to AEP in 2011; is that

1 correct?

2 A. That's correct.

3 Q. And what was your title when you returned?

4 A. I think it was regulatory consultant.

5 Q. And what were your duties as a regulatory
6 consultant?

7 A. To assist in the development and execution
8 of the company's regulatory filings with respect to
9 generation and environmental filings.

10 Q. Would that be limited to Ohio or other
11 states as well?

12 A. That would be all of AEP operating
13 companies.

14 Q. Did you support any new generation
15 construction since 2011?

16 A. I was involved in regulatory filings
17 involving new generation construction, commissioning,
18 placing units in service around ultimately getting
19 cost recovery for those plants.

20 Q. Any in Ohio?

21 A. None in Ohio.

22 Q. At page 4, lines 12 to 13 of your
23 testimony, you indicate "Still more challenges can
24 exist outside of the plant fence line with respect to
25 bringing water, fuel, and transmission lines through

1 nearby properties." Is that your testimony?

2 A. It is.

3 Q. And would those challenges include
4 obtaining right-of-ways?

5 A. It would.

6 Q. Any other challenges?

7 A. Yes.

8 Q. What would those be?

9 A. Well, water is more than just obtaining a
10 right-of-way. So, for example, the Rolling Hills
11 project has a very long gas pipeline that they would
12 need to acquire land for and develop for that
13 project; that's one aspect of it.

14 The other one is obtaining water rights
15 for the project. So they would need to have
16 permission to draw water from the water source such
17 as the Ohio River or another river nearby. So
18 there's probably two key aspects to water which is
19 pipelines, sometimes perhaps even intake structures,
20 and in developing those you may need permits for
21 those. And then the water rights themselves, so are
22 slightly more complex.

23 Q. And the water rights would be an EPA
24 issue?

25 A. Not necessarily.

1 Q. Are you familiar with the term "eminent
2 domain"?

3 A. Very generally.

4 Q. And what's your understanding of that
5 term?

6 A. Eminent domain would be something that
7 would be used by, I believe, by a governmental agency
8 to acquire right-of-way or land for compensation that
9 the landowner might not otherwise agree to.

10 Q. Do you know if utilities have a right of
11 eminent domain?

12 A. "Utilities" meaning vertically-integrated
13 utilities or merchant development?

14 Q. Start with that, vertically-integrated.

15 A. So on the vertically-integrated, I am not
16 sure. On merchant developers, I would be shocked to
17 find they had power of eminent domain.

18 Q. Turn to page 4, line 7 to 9.

19 A. I'm sorry. What page was that?

20 Q. Page 4, line 7 to 9.

21 A. I'm there.

22 Q. You indicate that "Any number of project
23 development challenges related to permitting,
24 financing, interconnection, construction, and
25 commissioning can derail these projects," correct?

1 A. Correct.

2 Q. Do you have any examples of any permitting
3 challenges that derailed a project?

4 A. Yes. So the Dresden plant had some
5 permitting issues related to water intake or water
6 rights, as I was talking about, and I think the Corp.
7 of Engineers permit caused a delay in the Dresden
8 plant which is an Ohio plant. That was -- that would
9 have been incurred by the merchant developer prior to
10 it being completed by regulated entity.

11 The Turk project certainly had some
12 permitting issues that I was involved with. They
13 were related to delineation of wetlands. There was
14 also a lot of intervention from environmental groups
15 associated with the air permit.

16 Those are the two that come to mind right
17 away but permitting issues are pretty common. It's
18 something that's outside the developer's control and
19 there are a lot of environmental intervenors who
20 typically participate in those filings.

21 Q. The Dresden plant was placed in service,
22 correct?

23 A. After 12 years, yes.

24 Q. And where was the Turk plant?

25 A. The Turk plant is in Arkansas. I'm sorry,

1 did you ask me where was the Turk plant?

2 Q. Yes.

3 A. That's correct.

4 Q. On line 2, page 20 of your testimony --
5 let me back up.

6 Do you have your deposition before you,
7 Mr. Wittine?

8 A. I do.

9 Q. And if I could direct your attention to
10 page 131, line 12.

11 A. I'm there.

12 Q. And it states, the question beginning on
13 line 12: "Let's start then with the challenge of
14 permitting. Are you aware of an instance where a
15 challenge of permitting derailed a certain project?"

16 "Answer: I think I'd have to do some
17 research on that. I don't know that I am able to
18 come up with specific examples as I sit here right
19 now." Is that your testimony in your deposition?

20 MR. McKENZIE: Objection, your Honor. It
21 is improper use of a deposition. A deposition can
22 only be used for prior inconsistent statements. This
23 is not at all inconsistent with what he just said.

24 EXAMINER SEE: Did you want to respond,
25 Mr. Stinson?

1 MR. STINSON: Well, your Honor, he
2 indicated that he didn't -- his answer at the time
3 indicated that he didn't have information. Now he
4 indicates that he does.

5 MR. MCKENZIE: His answer at the time said
6 he would have to do some research and he couldn't
7 come up with one now. I think it's pretty clear he
8 has done that and he can come up with one now.
9 That's just not inconsistent.

10 EXAMINER SEE: The objection is overruled.

11 THE WITNESS: Can we have the question
12 read back, please?

13 EXAMINER SEE: Mr. Stinson.

14 I'm sorry, was there a question? Hold on.
15 Let's go get the question read back for Mr. Wittine.

16 (Record read.)

17 A. Yes, that's what my deposition says, and I
18 have since done research on that, and I think I gave
19 you a couple of examples that I have come up with
20 since then, in Turk and Dresden, on permitting
21 issues.

22 Q. Let's move to page 5 of your testimony and
23 Table 2 -- table 5, line 5.

24 A. I'm there.

25 Q. And you state that "As can be seen above,

1 only 19,039 megawatts out of 261,428 megawatts
2 (7 percent) of capacity applied for between 2000 and
3 2014 were ultimately placed in-service"; is that
4 correct?

5 A. That's correct.

6 Q. Does your -- does your testimony break
7 down the megawatts applied for each year?

8 A. It does not.

9 Q. Now, in Table 2, the megawatt capacity
10 progression considers all types of generation
11 resources, does it not?

12 A. It does.

13 Q. That would include coal, nuclear, wind,
14 and natural gas?

15 A. Among others, yes.

16 Q. Did you conduct any kind of analysis
17 regarding progression rates based on
18 generation-resource type?

19 A. I did not.

20 Q. Isn't it true that different types of
21 generation may progress through the PJM queue phases
22 at a different rate?

23 A. It may be true the different types of
24 generation progress at different rates. I can tell
25 you it is true larger generation projects have --

1 have historically had a lower probability of being
2 placed in service.

3 Q. You presented no analysis of the numbers
4 of applications represented by the megawatts listed
5 on Table 2, correct?

6 A. No. But you can easily arrive at that
7 with the PJM presentation that I provided -- or that
8 Sierra Club counsel provided.

9 Q. That's not included in your testimony,
10 correct?

11 A. It was not included in my written
12 testimony.

13 Q. And you have done no analysis to break
14 down the megawatt capacity applied for, per state,
15 correct?

16 A. Well, I certainly looked at historical
17 generation applied for and constructed in the State
18 of Ohio.

19 Q. But you've made no analysis of the new
20 capacity progression by phase just for the Ohio
21 plants that will be listed on the PJM data, correct?

22 A. Not that I can recall.

23 Q. And you've made no attempt to break down
24 the Table 2 information to represent the period from
25 2000 through 2015, correct? Let me strike that.

1 From -- okay. From 2000 to 2015; is that
2 correct?

3 A. So you are asking me if I have added a
4 year to PJM's analysis summarized in Table 2?

5 Q. Well, we will back up to 2014. Did you do
6 any analysis -- let me just start over.

7 You made no attempt to break down the
8 Table 2 to represent the period from 2007 through
9 2014, correct?

10 A. I'm sorry. I have got to ask you if you
11 could speak just a little bit louder --

12 Q. Okay. Sorry.

13 A. -- and at me, I would appreciate it. I am
14 having a hard time picking it up.

15 Q. You made no attempt to break down Table 2
16 to represent the period from 2007 to 2014, correct?

17 A. That's correct.

18 Q. Or from 2012 to 2014, correct?

19 A. That's correct. I didn't perform an
20 analysis by year.

21 Q. Or even from 2012 to 2015, correct?

22 A. I think I provided some data on those
23 years, especially as I found it to be pertinent to
24 this case. And that was specifically related to all
25 the Ohio generation data that I provided in my

1 testimony, but, no, I didn't -- I didn't provide all
2 those analyses that you described.

3 MR. MENDOZA: Your Honor, I move to strike
4 that entire answer. The question is about this PJM
5 "New Capacity Progression by Phase" document. It was
6 a pretty clear question about whether he had broken
7 down the data by certain years, and the answer had
8 nothing to do with the PJM queue progression document
9 at all; in fact, it referred to other parts of his
10 testimony.

11 MR. MCKENZIE: Your Honor, if I may
12 respond. The question couldn't have been about the
13 PJM document because the date range was 2012 to 2015.
14 So when counsel goes outside the date range of the
15 document, it's entirely fair for this witness to
16 explain the data he did provide that went beyond the
17 PJM document.

18 EXAMINER SEE: And I am going to allow the
19 witness's answer to stand.

20 Q. (By Mr. Stinson) And, Mr. Wittine, you did
21 no analysis as to why the approximate
22 240,000-megawatt capacity applied for in Table 2 was
23 not placed in service, correct?

24 A. No, and I don't think that analysis is
25 even possible.

1 Q. Dr. Wittine, are you generally familiar
2 with the natural gas production in the Marcellus
3 shale region in eastern Ohio and western
4 Pennsylvania?

5 A. Very generally familiar.

6 Q. Would you agree that there has been
7 increased natural gas production in that area
8 commencing around 2010?

9 A. My understanding is it's between 2010 and
10 2015, there has been more natural gas production in
11 Ohio.

12 Q. Have you considered the effect this
13 increased Ohio production would have on gas prices in
14 Ohio?

15 A. Not in my testimony.

16 Q. I am not limiting it to your testimony.
17 But you have considered the effect this increase in
18 production would have on gas prices in Ohio?

19 A. You are asking me if I ever thought about
20 gas prices going down in Ohio?

21 Q. Have you -- the question is have you
22 considered the effect the increased shale production
23 would have on natural gas prices in Ohio?

24 A. Considered in what sense?

25 Q. Considered. Have you ever thought of it?

1 Contemplated it?

2 A. Yes, I've thought about gas prices in
3 Ohio.

4 Q. And would you agree that the increased gas
5 production would have a tendency to decrease the
6 natural gas prices in Ohio?

7 A. I think Witness Bletzacker is really our
8 fundamentals and commodities forecasting witness, so
9 I'm not by no means an expert on what happens with
10 gas prices, but what you are describing is sort of a
11 supply-and-demand question and I'm generally familiar
12 with supply and demand.

13 Q. And would -- pardon me? Were you
14 finished?

15 A. No, I am finished.

16 Q. Okay. As a matter of supply and demand
17 then, would an increase in production of natural gas
18 in eastern Ohio and western Pennsylvania tend to
19 decrease the price of natural gas in Ohio?

20 A. I think it depends on the demand and if
21 more usage shows up.

22 Q. And isn't it true you did no study to
23 consider the effect of the shale natural gas
24 production, whether it would encourage the siting of
25 natural gas generation in Ohio?

1 A. I didn't do any analysis on that, no.

2 Q. Let's turn to Table 1 on page 3. And from
3 that table am I correct that AEPGR had a 100-percent
4 interest in the Conesville 3 facility?

5 A. I think that's correct.

6 Q. And a 100-percent interest in the
7 Muskingum River 1 through 5 facilities?

8 A. That's correct.

9 Q. And also the Pickaway 5 facility?

10 A. That's correct.

11 Q. And am I correct that AEP had a shared
12 interest in the Beckjord 1 through 6 facility?

13 A. I think it was in Beckjord 6.

14 Q. And what was AEPGR's percentage of
15 interest in Beckjord 6?

16 A. Off the top of my head, I don't know.

17 Q. Do you know whether it was majority
18 interest or minority interest?

19 A. I don't.

20 Q. Do you know that Beckjord was operated by
21 Duke Energy?

22 A. I can't remember if it was Duke or Dayton
23 Power and Light, one of those two.

24 Q. On page 3, line 10, you also referenced
25 Kammer and Sporn plants, correct?

1 A. I do.

2 Q. And those are both located in West
3 Virginia?

4 A. They are.

5 Q. And the analysis you give in this
6 proceeding does not consider the megawatts of new
7 generation that came online throughout the PJM
8 footprint since 2007, correct?

9 A. No. I considered the generation that came
10 online in Ohio during that timeframe, but not the
11 stuff that's happened in areas like New Jersey and
12 eastern Pennsylvania and Maryland and Virginia.

13 Q. And for purposes of your testimony you did
14 not analyze the generating facilities that were
15 placed in service in Ohio prior to 2007?

16 A. No. I focused on what's transpired since
17 2007 because that's when the PJM RPM construct began.
18 And that's the construct we are living in today.

19 Q. Now, isn't it true that nowhere in your
20 testimony do you indicate -- or do you state that the
21 Ohio projects listed on pages 8 through 13 will not
22 be placed in service?

23 A. I never state that those plants will never
24 be placed in service. I just tried to provide
25 context around what's happened in recent history in

1 PJM, and tried to give my best status update on where
2 those plants currently are in their development.

3 Q. Attached to your testimony are photographs
4 of the sites for six of the six generating projects
5 you cite in your testimony, correct?

6 A. I wouldn't describe them as "generating
7 projects." Some of them are empty fields and some of
8 them are early construction sites but, yes, there are
9 six -- they are photos of the six projects I
10 discussed in my testimony.

11 Q. Well, each of those sites have been
12 certified by the Ohio Power Siting Board, correct?

13 A. That doesn't make them a generating plant.

14 Q. But they are a generating project,
15 wouldn't they be, if they obtain certification from
16 the Ohio Power Siting Board?

17 A. They may be a project.

18 Q. Thank you.

19 And you visited those sites?

20 A. I did.

21 Q. And when did you do that?

22 A. Early May of 2015.

23 Q. And you took the photos?

24 A. I did.

25 Q. And those photos were taken on the same

1 day?

2 A. They were over two days. We responded in
3 a discovery list, it was May 7th and 8th. So Oregon,
4 Carroll, and Lordstown were on the 7th, and Meigs
5 County Rolling Hills and Middletown were on the 8th.

6 Q. How long did you remain at the sites?

7 A. It didn't take long to take a few photos
8 of an empty field.

9 Q. Well, not all --

10 A. 10, 20 minutes.

11 Q. Not all of the photos were of empty
12 fields, correct?

13 A. Some of them were, some of them weren't,
14 that's correct. There were some construction sites.

15 Q. On page 6 of your testimony you've
16 referenced two wind projects. What are those wind
17 projects, the names of those wind projects?

18 A. You said on page 6?

19 Q. Yes.

20 A. That would be --

21 Q. Line 9.

22 A. Line 9. So the Timber Road II Wind Farm
23 was one of them and the Blue Creek Wind Farm would
24 have been the other one.

25 Q. You mentioned also on line 5, the 4,600 --

1 I'm sorry, 4,069 megawatts of new merchant generation
2 approved by the Ohio Power Siting Board. Are there
3 any other wind projects other than the two mentioned,
4 the 500 megawatts, that are included in that figure?

5 A. I believe there are.

6 Q. And what would those be?

7 A. Off the top of my head, I don't know. I
8 provided it in a workpaper in May.

9 Q. Do you know what the megawatts of those
10 are?

11 A. Not off the top of my head. It is in the
12 workpapers we provided. I think it was May 20.

13 MR. STINSON: No further questions, your
14 Honor.

15 EXAMINER SEE: Mr. Settineri.

16 MR. SETTINERI: Thank you, your Honor.

17 - - -

18 CROSS-EXAMINATION

19 By Mr. Settineri:

20 Q. Good morning, Mr. Wittine. Did I
21 pronounce that correctly?

22 A. You did. Thank you, Mr. Settineri. Good
23 morning.

24 Q. Good morning. I represent certain clients
25 including Retail Energy Supply Association and 3P --

1 P3, I should say, and Electric Power Supply
2 Association.

3 EXAMINER SEE: Mr. Settineri, you are
4 going to need to speak up.

5 MR. SETTINERI: I should go back in the
6 back corner again, shouldn't I?

7 Q. All right. Let's try this again. In
8 preparing your testimony, you reviewed dockets
9 related to Power Siting Board proceedings, correct?

10 A. I did.

11 Q. And just for the record, am I correct that
12 the Public Utilities Commission of Ohio and the Power
13 Siting Board of Ohio share the same docket?

14 A. They do.

15 Q. Okay. And your status update, I think is
16 the phrase you used with Mr. Stinson, a minute ago,
17 in regards to your testimony, that status update was
18 up-to-date as of May 15, 2015, the day your testimony
19 was filed, correct?

20 A. That's correct.

21 Q. All right. And other than any testimony
22 you give today as a result of cross-examination, your
23 direct testimony is not providing any status updates
24 after May 15, 2015, correct?

25 A. That's correct. The written direct

1 testimony was done accurate as of May 15.

2 Q. And you relied on the Power Siting Board
3 docket generating cases to pull together your status
4 update, correct?

5 A. That's correct.

6 Q. Okay.

7 A. One of my sources, I should say.

8 Q. Thank you for that clarification.

9 Are you familiar with the South Field
10 Energy electric generation facility that was recently
11 announced in Ohio?

12 A. I am not.

13 MR. SETTINERI: Okay. Your Honor, at this
14 time I would like to mark an exhibit, P3 Exhibit 3.

15 EXAMINER SEE: Okay.

16 (EXHIBIT MARKED FOR IDENTIFICATION.)

17 Q. Mr. Wittine, you have -- you find the
18 Power Siting Board document to be a reliable source
19 for your testimony; is that correct?

20 A. It's accurate to the extent that
21 statements made by developers are accurate. You have
22 to rely that they're doing that. So, yes, it's one
23 of the only sources of information you can get for a
24 merchant generation development in Ohio, so.

25 Q. Are you familiar with the Power Siting

1 Board application process?

2 A. Generally familiar.

3 Q. Okay. Are you familiar that one of the
4 first steps in the Power Siting Board generation
5 project is to file a pre-application notification
6 letter?

7 A. Generally familiar, yeah.

8 Q. And does this appear to be a
9 pre-application notification letter filed in Case No.
10 docket 15-1716-EL-BGN?

11 A. If looks like it was filed two days ago,
12 on October 5, yes.

13 Q. Okay. And do you agree that the letter
14 indicates that the South Field Energy electric
15 generation facility will be a natural-gas powered
16 1,100 megawatt combined-cycle electric generating
17 facility located in Yellow Creek Township, Columbiana
18 County, Ohio, correct?

19 A. That's what it says. I am not sure that
20 "will be" is -- has so much certainty as this
21 document states, as I tried to provide context around
22 that in my testimony, but that's certainly what the
23 letter states.

24 Q. Okay. And you also would agree that the
25 letter states that it will be a -- I should say the

1 turbines for the project will have dual-fuel
2 capabilities, meaning they're operable with both
3 natural gas and ultra-low sulfur diesel, correct?

4 A. That's what it states. My understanding
5 is that dual-fuel capability is not all that
6 uncommon.

7 Q. Okay. And you would agree with me that if
8 you would have seen this pre-application letter
9 before you filed your prefiled testimony, you would
10 have added it to your testimony to be considered,
11 correct?

12 A. If this were filed prior to May, 2015, I
13 believe I would have said something about it. I
14 probably would have said that they just crossed the
15 first early step in filing a letter and perhaps
16 having a public meeting. They haven't filed an
17 application yet. They certainly haven't gone through
18 the permitting process yet. They haven't began
19 construction and started that long complicated
20 process as well. So I would have tried to provide
21 some more context than just the thought of a project
22 exists.

23 Q. Thank you.

24 When you refer to "permitting," you are
25 referring to the Ohio Power Siting Board certificate

1 of environmental compatibility and public need?

2 A. Among others, yes.

3 Q. Okay. All right. Now, in developing your
4 testimony, you did not have any conversations with
5 the developer of the Carroll County Energy facility,
6 correct?

7 A. That's correct.

8 Q. And to save time, if I asked you that
9 question in regards to the Oregon Clean Energy
10 Center, the Lordstown facility, the Middletown NTE
11 facility, and the South Field -- strike the South
12 Field facility, you didn't have any conversations
13 with new those developers before filing your
14 testimony, correct?

15 A. So I wouldn't characterize them as
16 "facilities projects" but I didn't have any
17 conversations with the folks developing those
18 projects.

19 Q. And as of today, you have not either,
20 correct?

21 A. That's correct.

22 Q. Okay. And you consider yourself an
23 engineer, Mr. Wittine?

24 A. I do.

25 Q. Okay. And in regards to the Carroll

1 County Energy facility, who is the developer for that
2 project?

3 A. I think it's something like Carroll County
4 Energy, LLC, or something to that effect.

5 Q. Okay. Same question with Oregon Clean
6 Energy Center.

7 A. I think that's something similar like
8 Oregon Energy, LLC.

9 Q. Did you do any research to look at the
10 capability of the developers for these projects? And
11 when I say "these projects," I refer specifically to
12 the Carroll County and Oregon Clean Energy facility.

13 A. What do you mean by "capabilities"?

14 Q. Financial wherewithal for starters.

15 A. No, I didn't. I don't know where I would
16 go to find that information on an LLC merchant
17 developer.

18 Q. Okay. And that answer would apply also to
19 the Lordstown facility, the Middletown NTE, and the
20 South Field Facility as well, correct?

21 A. Yeah. Information on merchant developers
22 is pretty difficult to find. They don't necessarily
23 speak publicly about their projects, so that's why I
24 relied on publicly-available information from the
25 Power Siting Board, PJM filings, to the extent they

1 disclosed it publicly, or made announcements on their
2 websites, stuff like that.

3 Q. So you didn't look at any of the
4 developer's history of completing electric-generation
5 plants?

6 A. I don't know that they've made that
7 history public.

8 Q. Did you look at their websites?

9 A. Some of them, yes.

10 Q. But not all.

11 A. No. Well, some of them don't have
12 websites to my knowledge.

13 Q. Let me ask you that. Did you look at all
14 the websites?

15 A. I looked for websites for all of them,
16 certainly.

17 Q. Okay.

18 A. I don't know that they all have websites
19 though. Some of them.

20 Q. And who owns Carroll County Energy, LLC?

21 A. I think that one's owned by a Swiss firm.

22 Q. If I told you Advanced Power?

23 A. That sounds right.

24 Q. Did you look at Advanced Power's site to
25 see what their history was of developing projects?

1 A. I don't believe I did.

2 Q. Okay. Thank you.

3 Now, you don't have any experience in
4 developing merchant generation projects, correct?

5 A. Not specifically merchant generation
6 projects, but regulated generation projects
7 certainly.

8 MR. SETTINERI: I have to move to strike
9 the reference to "regulated projects." I only asked
10 about merchant projects, your Honors. And if I may,
11 your Honor, we're talking two different animals here,
12 that's why I would like to see the answer struck.

13 MR. MCKENZIE: Now counsel is testifying.

14 EXAMINER SEE: I am going to allow it to
15 stand. And if you want to ask a follow-up question,
16 go ahead.

17 Q. You haven't worked on any financing for a
18 generation plant, have you?

19 A. As I discussed earlier, not directly.

20 Q. Okay. And your role has been an
21 engineering support, correct?

22 A. Primarily and regulatory support.

23 Q. Okay. And when you were an engineer on
24 the Great Bend project, did you have any direct
25 reports?

1 A. I did not.

2 Q. Who did you report to?

3 A. I reported to Mary Zando.

4 Q. Okay. And what was your title in that
5 position?

6 A. I was an engineer of some flavor. I'm not
7 exactly sure --

8 Q. Okay.

9 A. -- which level.

10 Q. Fair to say you were a staff engineer on
11 that project?

12 A. Something like that.

13 Q. Okay. Now, you referenced that you
14 supplied some technical data to the team that was
15 developing a permit for the Great Bend IGCC project.
16 Do you remember that answer?

17 A. I do.

18 Q. Okay. And the permit that you reference
19 in that answer, would that be an Ohio Power Siting
20 Board application?

21 A. It would have been an Ohio Power Siting
22 Board application and at least an air permit, perhaps
23 others.

24 Q. Okay. So going back to the Great Bend
25 IGCC project, that's the extent of your Ohio Power

1 Siting Board experience, correct?

2 A. In terms of direct involvement with cases
3 at the Ohio Power Siting Board, yes, but I've
4 certainly accessed the docket cards of dozens, maybe
5 hundreds of cases in Ohio, accessed docket cards in
6 Ohio Power Siting Board websites. I have the
7 technical knowledge to be able to tabulate that
8 information from a Power Siting Board application.

9 Q. Right. So you've looked and researched
10 the dockets, but in regards to being an active member
11 of an Ohio Power Siting Board application team, at
12 the most it would be the Great Bend IGCC project,
13 correct?

14 A. That's correct. It would have been the
15 Great Bend IGCC project that I had direct involvement
16 in.

17 Q. And you have not been involved in any
18 transmission-line-related projects, correct?

19 A. I think to some degree on the Great Bend
20 project I was involved in the transmission
21 interconnection process from a site layout standpoint
22 and interfacing with our transmission engineers and
23 understanding how that would -- how that would
24 interconnect.

25 Q. Okay. And that was on the engineering

1 component of the project, correct?

2 A. Yes, that's correct.

3 Q. And you've not been involved in natural
4 gas pipeline projects, correct?

5 A. Not that I can specifically recall.

6 Q. Okay. And you have never been responsible
7 for the development of a combined-cycle natural gas
8 generation plant, correct? I'll clarify.

9 A. I think I was responsible for aspects of
10 gas plant development projects or a project, I should
11 say, but, yes, I was.

12 Q. Okay. Let me just clarify. You've never
13 had overall responsibility for the development of a
14 combined-cycle natural gas plant, correct? The key
15 phrase is "overall responsibility."

16 A. From an engineering aspect, I had
17 responsibility for gas combined-cycle plant.

18 Q. Where was that plant located?

19 A. It would have been in our western
20 footprint.

21 Q. Okay. And you --

22 A. In Oklahoma.

23 Q. Did you say overall responsibility for
24 engineering?

25 A. Yes.

1 Q. Okay. And engineering that related to the
2 design of the facility, correct?

3 A. Yes.

4 Q. Okay. But when I -- now, when I put all
5 the components of developing a project together,
6 permitting, financing, design, right-of-ways, you
7 have never had overall responsibility to bring a
8 project from an empty field to an operating plant,
9 correct?

10 A. That's correct.

11 Q. Okay. What size of generating unit is
12 required to get an Ohio Power Siting Board
13 certificate, if you know?

14 A. It's 50 megawatts, I believe.

15 Q. Okay. So with the exception of
16 certain-sized wind turbine farms, would you agree
17 with me generating units below 50 megawatts do not
18 need to obtain an Ohio Power Siting certificate?

19 A. That's my understanding.

20 Q. Are you familiar with the Middletown Coke
21 plant cogeneration unit?

22 A. The name is familiar. I think I likely
23 looked into that at one point, but.

24 Q. If I told you -- let me ask this: Are you
25 aware that that plant is operating under 50 megawatts

1 today?

2 A. I am not aware of that.

3 Q. Okay. You didn't consider any generating
4 units below 50 megawatts in your testimony, did you?

5 A. No. And the reason I didn't is we've got
6 a significant hole, essentially, to climb out of. We
7 had, like, 6,000 or so megawatts of generation that
8 just retired in 2012 through 2016, so we can do the
9 math on 49-megawatt projects that just come in so
10 they don't have to file at the Power Siting Board.

11 But it's going to take a heck of a lot of
12 projects that kind of "fly in under the radar" so to
13 speak in order to make any difference and move the
14 needle in terms of how the Commission should assess
15 the generating capacity in the State of Ohio.

16 Q. Now, you mentioned earlier that the Oregon
17 Clean Energy Center is under construction, correct?

18 A. That's correct.

19 Q. Okay. And you took some pictures, I
20 believe, in early May of that facility, correct?

21 A. That's correct.

22 Q. All right. Do you know the status of that
23 construction today?

24 A. From my review of filings in the Ohio
25 Power Siting Board, my understanding is it's

1 advancing through construction. I think they are
2 still looking at a 2017 in-service, at the earliest,
3 of course. A lot can happen between now and then,
4 but that's sort of my understanding where it's at
5 today.

6 Q. Now, just to be clear though, you haven't
7 spoken to the developers of that project regarding
8 that schedule, correct?

9 A. I am relying on their public statements,
10 that's correct.

11 Q. And what public statements are you relying
12 on recently as to that statement?

13 A. Well, they have made some filings at the
14 Power Siting Board certainly.

15 Q. Okay.

16 A. Those would be the recent what I consider
17 to be a public statement. They are filing letters to
18 a regulatory agency.

19 Q. And any references to "schedule," you
20 would be referencing the initial application that was
21 filed with the Power Siting Board sometime ago,
22 correct?

23 A. It wouldn't just be the initial
24 application. It would be other documents that they
25 filed since then. Updates they may have filed or PJM

1 interconnection requests, those types of things.

2 Q. Okay. Are you aware that that project
3 either has or is very close to having its gas
4 turbines delivered to the site?

5 A. I am aware of that.

6 Q. All right. Gas turbines aren't cheap, are
7 they?

8 A. No, but they are resellable.

9 Q. Okay. That's a significant capital cost
10 for this project, correct? To the extent you know.

11 A. It is, but like I said, it's not a -- it's
12 not a "no-going back situation." There is, what they
13 call, a "gray market" for used or uninstalled
14 combustion turbines, steam turbines, those types of
15 things, heat recovery steam generators. The large
16 equipment can be used again, provided that the
17 developer takes good care of it while it's in
18 there --

19 Q. Okay.

20 A. -- in their possession.

21 MR. SETTINERI: Your Honor, at this time I
22 would like to mark P3 4. Thank you.

23 EXAMINER SEE: The exhibit is so marked.

24 (EXHIBIT MARKED FOR IDENTIFICATION.)

25 MR. SETTINERI: While I am handing out the

1 document to the rest of the parties, I apologize for
2 my printing -- lack of printing skills and stapling
3 skills, but I would clarify for the record that page
4 1 of the document is on the right-hand side of this
5 double -- of this two-page print.

6 Q. (By Mr. Settineri) Are you familiar with
7 this document, Mr. Wittine?

8 A. I have seen it.

9 Q. Okay. Where did you see it?

10 A. On the docket for the Oregon facility in
11 the Ohio Power Siting Board.

12 Q. Okay. You would agree with me this is the
13 first page and -- of a document which I have not
14 printed well, but to the right it identifies -- shows
15 a letter dated July 23, 2015, to the Power Siting
16 Board; is that correct?

17 A. That's correct.

18 Q. Okay. And the letter states that the
19 attached photographs are being provided to inform
20 staff and the Ohio Power Siting Board of the progress
21 that's being made on the construction of the Oregon
22 Clean Energy plant, and I paraphrased, but is that
23 generally accurate, sir?

24 A. Generally accurate, yes.

25 Q. Okay. And so these pictures that are

1 attached, would you agree with me these are pictures
2 of the Oregon Clean Energy facility under
3 construction?

4 A. That's what they represent themselves as.

5 Q. Okay. And if you look at the dates on
6 this letter, April 11 it states they are pouring the
7 steam turbine foundation, correct?

8 A. Correct.

9 Q. And turn the page to the second page.
10 There are two pictures, one from June showing the
11 steam turbine pedestal and then there's a photo from
12 the top of the turbine pedestal looking at the
13 foundation of the combustion turbines and the heat
14 recovery steam generators, correct?

15 A. Yes, the foundations for those.

16 Q. And this project is continuing in
17 construction, correct?

18 A. It appears to be, yes.

19 Q. Okay. And you would assume from the April
20 and June timeframe that there has most likely been
21 significant construction done on this site,
22 especially with the turbines being delivered to the
23 site soon, correct?

24 A. I would agree that it's progressing in
25 construction.

1 Q. Now, in regards to your testimony, I
2 believe you also mentioned that there was a citizen's
3 group that was I believe your phrase was something
4 like "recently announced it was opposed to the
5 project." Do you recall that?

6 A. I do.

7 Q. Okay. Do you know the name of that group?

8 A. Not off the top of my head.

9 Q. Okay. Are you aware -- well, if I told
10 you the name of that group was the Oregon Lateral
11 Citizens Coalition, would that ring a bell?

12 A. I'm not sure of the name of it.

13 Q. And you reviewed the docket in the Oregon
14 Clean Energy proceeding before filing your testimony,
15 correct?

16 A. I did.

17 Q. Did you review the Board's decision -- or
18 I should say the Board's entry dated April 6, 2015,
19 in regards to a ruling on two applications for
20 rehearing in that proceeding?

21 And I am going to strike that question. I
22 am going down the wrong path. Let me get this right.

23 Are you familiar with the docket for the
24 natural gas pipeline that's going to serve the Oregon
25 Clean Energy facility?

1 A. I'm aware there was a challenge to it.

2 Q. Okay.

3 A. There may still be a challenge to it.

4 Q. And backing up to my poorly-asked question
5 previously. In regards to your testimony, I believe
6 you had stated there was a citizen's group that had
7 opposed a natural gas pipeline to the plant, correct?

8 A. That's my understanding, yes.

9 Q. And are you aware that the Power Siting
10 Board, on April 6, 2015, denied that -- the Oregon
11 Lateral Citizens Coalition's application for
12 rehearing in the North Coast proceeding regarding the
13 natural gas pipeline?

14 A. I vaguely recall that. My understanding
15 is there's still a challenge in front of the Supreme
16 Court related to that pipeline.

17 Q. Okay.

18 A. In state Supreme Court.

19 Q. Okay. And that challenge is not being
20 brought by the Citizens Coalition, correct?

21 A. I believe it's being brought by a
22 landowner in the area.

23 Q. That's correct. Michael Tiller, correct?

24 A. That name sounds vaguely familiar.

25 Q. Are you aware that there has been a motion

1 to dismiss to file that proceeding at the Supreme
2 Court?

3 A. I'm not aware of that legal motion.

4 Q. Okay. In reference to the Carroll County
5 Energy facility, you are aware that construction has
6 commenced on that facility, correct?

7 A. That's correct.

8 Q. Are you also aware that construction has
9 commenced on the transmission line that would have
10 been used to move electricity from the facility to
11 the grid?

12 A. I'm not certain.

13 Q. Okay. Are you aware that construction on
14 the natural gas pipeline to serve that facility has
15 or will start in the near future?

16 A. I'm not aware of that.

17 Q. Okay. Did you review the dockets for both
18 the transmission line and natural gas pipeline for
19 the Carroll County Energy facility?

20 A. I don't know if I reviewed the natural gas
21 pipeline docket actually. I focused most of my
22 energy on the -- on the proposed power plant.

23 Q. Okay. Are you aware that transmission
24 lines are required to have separate docket numbers
25 versus the generating facilities?

1 A. I am.

2 Q. Are you aware of the generating facility
3 uses a "BGN" suffix at the end?

4 A. I am.

5 Q. And transmission line would be a "BTX"?

6 A. That sounds about right.

7 Q. If you are not certain, that's fine.

8 A. There is another one for gas pipelines.

9 MR. SETTINERI: Okay. At this time, your
10 Honor, let's go ahead and mark two exhibits and we
11 are on P3 --

12 EXAMINER SEE: 5.

13 MR. SETTINERI: -- 5 and P3 6.

14 MR. MCKENZIE: Your Honor, could we go off
15 the record for a second?

16 EXAMINER SEE: Yes.

17 (Recess taken.)

18 EXAMINER SEE: Let's go back on the
19 record.

20 Mr. Settineri.

21 MR. SETTINERI: Thank you, your Honor.

22 Just for the record, I have marked two
23 documents and to make sure I've handed them out and
24 everyone understands which one is which, P3 5, that
25 should be a letter dated September 30, 2015. P3 6

1 should be a letter dated August 17, 2015.

2 MR. MCKENZIE: I'm not sure I got P3 6.

3 Q. (By Mr. Settineri) And just so we don't
4 get confused, Mr. Wittine, if you have a pen, I don't
5 believe I marked your documents, but if you could
6 mark the September 30 document as P3 5, and then the
7 August 17 as P3 6. That way if I refer to them that
8 way, you and I don't get confused.

9 EXAMINER SEE: The exhibits are so marked.

10 (EXHIBITS MARKED FOR IDENTIFICATION.)

11 MR. SETTINERI: Thank you, your Honor.

12 Q. Mr. Wittine, I believe you stated earlier
13 that in the course of preparing your testimony you
14 reviewed the OPS dockets, correct?

15 A. That's correct.

16 Q. And I also believe you indicated that in
17 preparing your testimony, you relied on
18 correspondence on the dockets from developers,
19 correct?

20 A. That's correct.

21 Q. Okay. Let's start first with P3 5. Have
22 you reviewed the docket in Case No. 14-0591 which
23 relates to a transmission line for the Carroll County
24 Energy facility?

25 A. I don't believe I have.

1 Q. Okay. And if you turn to the last page of
2 P3 5, would you agree with me that page indicates the
3 document was filed with the PUCO's docketing system
4 on September 30?

5 A. I do.

6 Q. Okay. And P3 5, would you agree with me
7 that document indicates that Carroll County Energy
8 anticipates commencing construction on Phase II of
9 the transmission line to the facility, and "the
10 facility" I refer to is the Carroll County Energy
11 generation facility, correct?

12 A. That's correct.

13 Q. Okay. And you would agree with me, to the
14 extent you know, that facility is connecting to an
15 American Electric Power transmission system, correct?

16 A. I believe that's correct, yes.

17 Q. And fair to say that AEP transmission
18 would be involved in that project, correct?

19 A. Yes.

20 Q. Okay. And you didn't consider in your
21 testimony that the transmission line would be under
22 construction soon for this facility, correct?

23 A. I didn't make any assumptions about the
24 transmission line or whether or not it will be built.

25 Q. Okay. Fair to say that when you start

1 construction on a transmission line, you would have
2 all of your right-of-ways procured?

3 A. I think that's a fair assumption.

4 Q. Let's turn to P3 6.

5 A. Although that doesn't --

6 Q. Go ahead.

7 A. Yeah. So in my experience there are --
8 there can be issues with transmission line
9 construction. At the Turk plant we ran into an issue
10 with a river crossing and a delay in receiving a
11 permit associated with that river crossing of the
12 transmission line so --

13 Q. The Carroll County Energy facility
14 transmission line is not crossing a river, is it?

15 A. I am not sure. I haven't looked at the
16 route.

17 Q. Okay. And you have never worked on a
18 transmission line project, correct?

19 A. Not directly, but on the regulatory
20 filings of power plants, I have had transmission
21 interconnection issues with them.

22 Q. Let's look at P3 6, that letter is dated
23 August 17. Would you agree with me that letter has a
24 docketing stamp on the front of it?

25 A. I see that.

1 Q. And that would be a PUCO docketing stamp,
2 correct?

3 A. That's correct.

4 Q. And that stamp is August 17, 2015?

5 A. That's correct.

6 Q. All right. If you look at the end of the
7 first paragraph in this letter, would you agree with
8 me that it is advising the letter's recipient,
9 Mr. Jim O'Dell at the Ohio Power Siting Board, that
10 Carroll County Energy anticipates construction --
11 commencing construction of Phase I of the natural gas
12 pipeline to the facility on August 17, 2015, correct?

13 A. Yes, that's what it says.

14 Q. Okay. And, in fact, it also indicates
15 that on August 14, Carroll County Energy conducted
16 its Phase I preconstruction conference for the
17 pipeline with the Power Siting Board staff, correct?

18 A. That's what the document says.

19 Q. And you are familiar with -- are you
20 familiar with the preconstruction conference for Ohio
21 Power Siting Board projects?

22 A. Generally familiar.

23 Q. And you are aware that conference has to
24 occur before you start turning over dirt on the
25 project?

1 A. Yes. It's my understanding.

2 Q. Okay. Now, you mentioned earlier that you
3 had looked at the websites for the developers,
4 correct? You had indicated earlier that you had
5 looked at the websites for the developers to the
6 extent you could find them, correct?

7 A. That's correct.

8 Q. And did you look at the Carroll County
9 Energy website?

10 A. At one time I did, yes.

11 MR. SETTINERI: I would like to mark one
12 more exhibit, P3 7, please.

13 EXAMINER SEE: The exhibit is so marked.

14 (EXHIBIT MARKED FOR IDENTIFICATION.)

15 Q. Do you recall seeing this document or this
16 information on the Carroll County Energy website,
17 Mr. Wittine?

18 A. I think within the last couple of weeks I
19 did see this in my recent review.

20 Q. Okay. And if we look at the bottom of P3
21 7, the first page, we see that the developer has
22 indicated on its website that startup and
23 commissioning is to go from December, '16, to
24 December, '17, correct?

25 A. That's what the document says. I guess

1 that indicates that it would be the very end of '17,
2 perhaps '18 in-service date.

3 Q. Okay. In fact, the language at the bottom
4 of the document or where it says "Startup &
5 Commissioning," there is a sentence that reads
6 "Testing all major systems and interconnections.
7 After completion of testing, start of commercial
8 operations," correct?

9 A. That's what the document says.

10 Q. Okay.

11 A. So I don't know if that means after
12 December, 2017, the start of commercial operations
13 will commence, or if in December of 2017, it would be
14 the tail end of that startup and commissioning phase
15 at any rate. So figure December or January as of
16 now.

17 Q. Thank you.

18 Going back, if you have in front of you
19 still, Sierra Club Exhibit 32, I believe.

20 A. Which one was that?

21 Q. I think it is the document that has the
22 title "2014 PJM Interconnection Queue Statistics
23 Update."

24 A. Sure.

25 Q. And I believe this document was reviewed

1 at your deposition. Is this the document that you
2 utilized to prepare Table 2 in your testimony?

3 A. It is.

4 Q. Okay. And is this a complete copy of that
5 document to the extent you know?

6 A. It appears to be.

7 Q. Okay. Do you know who David Egan is?

8 A. I don't.

9 Q. Okay. Never met him?

10 A. No. The title here is manager of
11 interconnection projects for PJM.

12 Q. Okay. And this is the presentation by
13 Mr. Egan, as far as you know, correct?

14 A. Yeah. It's slides summarizing their
15 analysis.

16 Q. Okay. And did you attend a presentation
17 by Mr. Egan regarding this document?

18 A. No. I don't know if this was -- well, it
19 does say "Presented by David Egan." I did not attend
20 that presentation, but the PJM posted this to their
21 website.

22 Q. And just to be clear for the record, there
23 is a reference on, if you turn to the back of page 1,
24 and throughout the document, it states that it
25 "Excludes Active Projects." Do you see that phrase?

1 A. I do.

2 Q. Okay. And "active projects," what does
3 that mean to you?

4 A. It means projects that are still in the
5 active queue, haven't been withdrawn or placed in
6 service.

7 Q. Okay. Thank you.

8 Let me ask you this question: Other than
9 OPS permit status, you don't know the permitting
10 status of the Oregon Clean Energy facility, correct?

11 A. What do you mean by "permitting status"?

12 Q. You don't know the status of the rest of
13 the permits required for construction and operation
14 of the Oregon Clean Energy Facility, do you, correct?

15 A. Certainly not all of them. There are
16 dozens, maybe hundreds of permits that need to be
17 received for a generating facility. That's one of
18 the complications that a developer has to face and
19 work through.

20 Q. And to move things along, your answer to
21 that question would also apply to the Carroll County
22 Energy facility, Lordstown facility, and the
23 Middletown facility, correct?

24 A. Yeah, the same answer applies. I don't
25 know the status of all dozens or hundreds of permits.

1 Q. Okay. In fact, the only status you know
2 is as to the Ohio Power Siting Board certificate for
3 each facility, correct?

4 A. It's not necessarily true. I think I
5 reference some air permits. That's another major
6 permit that needs to be received early on in the
7 project development, so I reference that in a couple
8 of places in my testimony when a developer has
9 received an air permit. There is obviously a lot of
10 other permits that need to be received.

11 Q. Why don't you point that out to me,
12 please, in regard to these specific plants we
13 mentioned, the Oregon Clean Energy, Carroll County
14 Energy, Lordstown, and Middletown facilities.

15 A. On page 11, line 14, I noted that Carroll
16 had received an air permit.

17 Q. Okay.

18 A. On page 12, I noted that Middletown had
19 received an air permit on line 4. It looks like
20 that's all I noted in my testimony, but I believe
21 Oregon has received an air permit as well.

22 Q. All right. Thank you.

23 Now, you don't know the status of the
24 water supply to the Oregon Clean Energy plant as
25 well, correct?

1 A. I am not aware of the current status. I
2 believe they are using some municipal water source,
3 not a river or lake.

4 Q. They are using a municipal water source,
5 that's what you think, right?

6 A. That's what I think.

7 Q. And a municipal water source could be a
8 public utility, correct?

9 A. It could.

10 Q. Could have the power of eminent domain,
11 correct?

12 A. I'm not sure.

13 Q. You are not a lawyer.

14 A. That's correct.

15 Q. But going back to my initial question when
16 I asked you about the status of the Oregon Clean
17 Energy, Carroll County Energy, Lordstown, and
18 Middletown, you don't know as of today what the
19 status is of ensuring that supply, correct?

20 A. I am not sure of the status, but as I
21 discussed earlier, gaining water rights and routing a
22 water pipeline can be a serious complication in
23 projects and it was certainly for Dresden.

24 Q. Okay.

25 A. So it's something to consider. I am just

1 not sure if they've completed all those phases yet.
2 They are all still relatively early in their
3 development.

4 Q. Just for the record, bottom line, you
5 don't know the status.

6 MR. MCKENZIE: Objection. Asked and
7 answered.

8 EXAMINER SEE: Overruled.

9 Answer the question, Mr. Wittine.

10 A. I am not aware of the status of all of the
11 projects' water issues.

12 Q. Okay. And you don't -- also don't know
13 the status of any right-of-ways that are necessary
14 for the construction of the Oregon Clean Energy,
15 Carroll County Energy, Lordstown, and Middletown
16 projects as well, correct?

17 A. I am not aware of the developer disclosing
18 issues as of yet.

19 Q. And again, same question for the record,
20 you are not aware of the status of the right-of-way
21 procurement of those projects, correct?

22 A. Yeah, same answer.

23 Q. Now, a merchant gas natural gas -- I
24 should say a merchant generation plant that uses
25 natural gas as the fuel can receive that natural gas

1 from a public utility, correct?

2 A. Yes.

3 Q. Okay. And a merchant generation plant can
4 also receive transmission service, if they would,
5 from a public utility, correct?

6 A. I don't know -- I consider PJM is really
7 the one facilitating that transaction. I wouldn't
8 consider them a public utility.

9 Q. But the transmission line that is required
10 to connect to the grid could be owned by a public
11 utility, correct?

12 A. There's no transmission line until one is
13 built. There's a substation that they would
14 interconnect into or some kind of development.
15 That -- that piece would be owned by a public
16 utility. PJM facilitates the connection between that
17 piece that may be owned by a public utility and what
18 the developer is doing.

19 Q. So we will call it a radial tie line from
20 the facility to the PJM grid, correct? Do you know
21 what a radial tie line is?

22 A. Yeah. It's a transmission interconnection
23 to me.

24 Q. Okay.

25 A. Yeah.

1 MR. SETTINERI: Okay. If I may have a
2 moment, your Honors?

3 EXAMINER SEE: Yes.

4 MR. SETTINERI: Thank you.

5 Q. Do you know how far the Carroll County
6 Energy generation plant is to its transmission
7 interconnect?

8 A. Not off the top of my head.

9 Q. If I told you less than a mile, would that
10 surprise you?

11 MR. McKENZIE: Objection, calls for
12 speculation. He already answered that he can't say
13 off the top of his head.

14 MR. SETTINERI: I will withdraw the
15 question.

16 Thank you, Mr. Wittine,
17 no further questions, your Honor.

18 EXAMINER SEE: Mr. Darr.

19 MR. DARR: Thank you, your Honor.

20 - - -

21 CROSS-EXAMINATION

22 By Mr. Darr:

23 Q. I want to direct your attention to pages 3
24 and 4 of your testimony.

25 A. I'm there.

1 Q. And beginning at the bottom of page 3 and
2 going on to 4, you indicate "There is a certainty
3 that these plants," referring to Kammer, Sporn, "and
4 the plants listed in Table 1, will not be available
5 this summer to support the reliability of Ohio's
6 electric supply." Now, I would like to start there,
7 and is it fair to say that you have not assessed
8 whether there have been reliability problems in 2015
9 or 2014, apart from the voltage reduction in January
10 of 2014 with reliability in the State of Ohio?

11 A. I haven't done that analysis. Witness
12 Bradish would be able to answer more questions on the
13 reliability of the grid in Ohio.

14 Q. Is it also fair to say that AEP and the
15 facilities served by AEP Ohio are part of the PJM
16 system?

17 A. Yes.

18 Q. And that's been true since 2004, correct?

19 A. I don't know the exact date, but that
20 sounds about right.

21 Q. And PJM serves as the regional
22 transmission organization that operates the
23 transmission system in a multistate area, correct?

24 A. Correct.

25 Q. And that multistate area includes portions

1 of Kentucky, Indiana, Michigan, Pennsylvania, West
2 Virginia, several states to the east, correct?

3 A. As well as one more to the west. I think
4 there is a portion of Illinois.

5 Q. And as part of the activities at PJM, it
6 undertakes to advance the development of a
7 competitive wholesale power market or markets,
8 correct?

9 A. Correct.

10 Q. And are you aware that the PJM RTO has
11 been fully functioning since 2001?

12 A. I am not exactly sure what is meant by
13 "fully functioning," but it's been around before
14 2001.

15 Q. In fact, it operated as an independent
16 system operator for several years before it was
17 authorized by FERC as an RTO, correct?

18 A. FERC would have authorized PJM to operate
19 as an RTO, but I can't attest to all the history of
20 how they have operated.

21 Q. And I believe it's your testimony that PJM
22 relies on RPM construct -- the RPM construct to
23 address capacity needs, correct?

24 A. That's correct.

25 Q. And additionally, PJM relies on the

1 ability to issue reliability must-run contracts to
2 assure the availability of capacity, correct?

3 A. PJM has the opportunity to issue an RMR
4 contract; that's one of their tools that they can use
5 to "keep the lights on," so to speak.

6 Q. And other than RPM and RMR contracts, you
7 are not aware of any other mechanisms by which PJM
8 can secure additional capacity to meet system needs,
9 correct?

10 A. That's all I am aware of. Well, Witness
11 Pearce may be aware of others to the extent they
12 exist, but those are the two tools that I understand
13 PJM to be able to use.

14 Q. Now, in Table 1 and in the discussion that
15 follows that on pages 3 and 4, you note that several
16 plants in Ohio have been deactivated, correct?

17 A. That's correct.

18 Q. And the source for that are what are
19 called "generator deactivation summary sheets"; is
20 that correct?

21 A. That's correct.

22 Q. And the summary sheets are available on
23 the PJM website, correct?

24 A. That's correct.

25 Q. And they are available on that website,

1 generation deactivations that have already taken
2 place, correct?

3 A. That's correct.

4 Q. And there are also lists of future
5 deactivation requests, correct?

6 A. That's correct.

7 MR. DARR: I would like to have marked as
8 IEU Exhibit 13, a multi-page document, a very large
9 multi-page document.

10 (EXHIBIT MARKED FOR IDENTIFICATION.)

11 Q. Do you have what's been marked as IEU
12 Exhibit 13 in front of you?

13 A. It's not marked as that, but I'll add it.

14 Q. Okay. Now, is this an example of the
15 generator deactivation worksheets that you reviewed?

16 A. It's an example that's dated as of
17 September 11, 2015.

18 Q. And the one you reviewed was dated what?

19 A. April 16, 2015.

20 Q. And if, at any time, you want to refer
21 back to make sure that they are consistent with one
22 another, let me know, okay?

23 A. Okay.

24 Q. You have the other one in front of you,
25 correct?

1 A. I don't.

2 Q. Okay. You have the date of the other one
3 in front of you based on your testimony?

4 A. Yeah, I do.

5 Q. I'm sorry?

6 A. I do have that date in front of me. It's
7 below Table 1 in my testimony.

8 Q. Right. Okay. Well, let's take these in
9 chronological order. You indicate in your testimony
10 that the Sporn units have been closed. If we turn to
11 Page 2 of 7, the first line, there is a reference to
12 Sporn unit 5. Do you see that?

13 A. I see that.

14 Q. And that indicates that this is a unit
15 with a capacity of 440 megawatts located in the AEP
16 transmission zone, correct?

17 A. That's correct.

18 Q. And as we read across the columns, it
19 appears that the owner request was made on October 1,
20 2010, to deactivate the unit, correct?

21 A. That's correct.

22 Q. And the deactivation date requested was
23 December 31, 2010, correct?

24 A. That's correct.

25 Q. The actual deactivation date was

1 February 13, 2012, correct?

2 A. That's correct.

3 Q. Now, as part of the deactivation process,
4 the first step is for the owner of the unit to make a
5 request to deactivate the unit, correct?

6 A. That's my understanding.

7 Q. And then once that request is made, PJM
8 will undergo a study to determine whether or not
9 there are any reliability effects; is that correct?

10 A. That's correct.

11 Q. If it determines that there is a
12 reliability effect, PJM can request that
13 modifications of the transmission system be made or
14 can request a reliability must-run contract or take
15 other action, correct?

16 A. That's correct. And it's important to
17 view this within the context of a timeline that can
18 happen so. It takes around 90 days for a generator
19 to notice PJM that the generator is planning on
20 deactivating. Within that 90-day period, PJM can do
21 a study, offer an RMR contract, like I said. The
22 generators are under no obligation to take that RMR
23 contract. And a transmission fix, according to
24 Witness Bradish, can take years.

25 So this is kind of the situation that you

1 may run into and has happened within PJM in the past
2 where a generator deactivates. An RMR is offered,
3 the generator turns down that RMR contract, and --
4 and PJM is left attempting to fix the problem.

5 Q. Well, let's look at what happened with --
6 specifically with regard to the Sporn 5 unit. It
7 appears that PJM conducted a reliability analysis and
8 no impacts were identified, correct?

9 A. That's correct.

10 Q. And then AEP received approval from the
11 Public Utilities Commission to deactivate the unit
12 and the unit was deactivated on February 13, 2013,
13 correct?

14 A. That's correct.

15 Q. Now, if we go to page 3 of 7, seventh
16 line, we see a reference to the Conesville 3 unit,
17 correct?

18 A. I see that.

19 Q. And this was a unit with a capacity of
20 165 megawatts located in the AEP transmission zone
21 that reached the ripe old age of 49, and was
22 requested by the owner to be retired on March 22,
23 2012, with a deactivation date of December 31, 2012,
24 correct?

25 A. That's correct.

1 Q. And, again, PJM apparently went through a
2 reliability analysis and in this case identified that
3 there would be reliability impacts, correct?

4 A. That's correct.

5 Q. Then there's a notation here that upgrades
6 are scheduled to be completed in June, 2014. This
7 would have been after the proposed deactivation date,
8 correct?

9 A. Correct. This is one of those situations
10 I was discussing earlier where it may take years for
11 a transmission fix to be put in place.

12 Q. And yet, the plant is noticed to be
13 actually deactivated on the date requested of
14 December 31, 2012, correct?

15 A. Correct.

16 Q. Now, I would ask you to turn your
17 attention to page 6 of 7 and 7 of 7. If we look at
18 the bottom of the page, the last two lines, we see
19 references to Kammer 1, Kammer 2, and if we turn over
20 to the next page, Kammer 3, correct?

21 A. Correct.

22 Q. And Kammer 1, 2, and 3 are each
23 200-megawatt units operating in the AEP zone, each
24 having reached the ripe old age of 53, and a request
25 to close those units or deactivate those units was

1 presented by the owner on March 22, 2012, correct?

2 A. Correct.

3 Q. And the proposed deactivation date for
4 these units was June 1, 2015, in each case, correct?

5 A. Correct.

6 Q. And, again, PJM notes that there was a
7 reliability analysis done, impacts were identified,
8 and upgrades were scheduled to be completed by June,
9 2015, correct?

10 A. Correct. In this case this was
11 essentially three years' notice provided.

12 Q. And, in fact, the utilities were
13 deactivated on June 1, 2015, correct?

14 A. Correct.

15 Q. Now, if we turn to the Muskingum River
16 units which are noted in Table 1 of your testimony,
17 we see on IEU Exhibit 13, page 7 of 7, deactivation
18 requests for these units was provided to PJM on
19 March 22, 2012, correct? I am speaking now of units
20 1 through 4.

21 A. Correct.

22 Q. And these units are two 190-megawatt
23 units, and two 205-megawatt units, all operating in
24 the AEP transmission zone, aged 53 to 58 years of
25 service, correct?

1 A. We are still talking about Sporn plants?

2 Q. No. Muskingum 1, 2, 3, 4.

3 A. Muskingum, okay.

4 Q. Are you with me so far?

5 A. I am now.

6 Q. Okay.

7 A. That's correct.

8 Q. And in this instance, again, PJM
9 identified issues with regard to reliability impacts.
10 Upgrades were scheduled to be completed by June 1,
11 and the unit was deactivated, as requested, on
12 June 1, 2015, correct?

13 A. Correct.

14 Q. Picway 5 is also listed on your Table 1 as
15 a unit that was deactivated, correct?

16 A. Correct.

17 Q. And if we look at page 7 of 7, Picway 5 is
18 listed there as a unit with a capacity of 95
19 megawatts operating in the AEP zone and of a unit age
20 of 56 years, correct?

21 A. Correct.

22 Q. And the request to deactivate occurred on,
23 not surprisingly, March 22, 2012, and the requested
24 of deactivation date of June 1, 2015, correct?

25 A. Correct.

1 Q. And, again, there were reliability impacts
2 identified, these were addressed, and that unit was
3 deactivated, as requested, on June 1, 2015, correct?

4 A. Correct.

5 Q. You also list the Sporn units 1 through 4
6 in your exhibit, correct? Your Table 1 -- excuse me.
7 You list that as part of the discussion.

8 A. Yes. Below Table 1, Kammer and Sporn is
9 listed.

10 Q. Each one of these 145-megawatt units
11 operating in the AEP transmission zone with a unit
12 age of 60 to 62 years, correct?

13 A. That's correct.

14 Q. A request was made to deactivate these
15 units on March 22, 2012, with a deactivation date of
16 June 1, 2015, correct?

17 A. Correct.

18 Q. And in each one of these instances there
19 was a reliability impact identified, upgrades were
20 scheduled, and the unit deactivated as scheduled,
21 correct?

22 A. Correct.

23 Q. And finally with regard to Muskingum River
24 5, this was a 600-megawatt unit operating in the AEP
25 zone that was 45 years old, correct?

1 A. Correct.

2 Q. And that unit was scheduled for
3 deactivation on June 1, 2015, through a request that
4 was issued on October 11, 2013, correct?

5 A. That's correct.

6 Q. Again, reliability impacts were
7 identified, addressed, and the unit was deactivated
8 on June 1, 2015, correct?

9 A. Correct.

10 Q. Now, with regard to all of these
11 deactivation requests and the responses to them, that
12 all occurred through the PJM process, correct?

13 A. Correct. It just so happened that in this
14 case, AEP was able to provide years' notice that
15 those units would be retiring. It didn't necessarily
16 wait until 90 days before.

17 Q. Now, the other document that you -- that
18 we discussed a few minutes ago is the future
19 deactivation request, correct, that's also published
20 on the PJM website?

21 A. It is published on the PJM website, that's
22 correct.

23 Q. And as part of your preparation for this
24 case, did you review the future deactivations
25 posting?

1 A. I believe I did.

2 MR. DARR: I would like to have marked a
3 document as IEU Exhibit 14.

4 EXAMINER SEE: So marked.

5 (EXHIBIT MARKED FOR IDENTIFICATION.)

6 Q. Do you have in front of you what has been
7 marked as IEU Exhibit 14?

8 A. I do.

9 Q. And is this the "Future Deactivations"
10 summary sheet that's contained on the PJM website
11 that you reviewed or a version of it?

12 A. It looks similar. It's dated September
13 11, 2015.

14 Q. And you would have looked at it when?

15 A. Sometime in the spring of 2015.

16 Q. Okay. And this is consistent with the
17 document you reviewed in the spring, correct?

18 A. I'm familiar with this document.

19 Q. And this one is dated September 11, 2015,
20 correct?

21 A. That's correct.

22 Q. And as of September 11, 2015, has AEP
23 noticed any unit to PJM for deactivation that's
24 listed here on the "Future Deactivations" sheet?

25 A. The question was since, since this date?

1 Q. No. Based on this document is there any
2 AEP unit listed for deactivation?

3 A. There doesn't appear to be.

4 MR. DARR: I have nothing further. Thank
5 you.

6 EXAMINER SEE: Ms. Cohn?

7 MS. COHN: No questions, your Honor.

8 EXAMINER SEE: Mr. Dougherty?

9 MR. DOUGHERTY: Just a couple, yes.

10 - - -

11 CROSS-EXAMINATION

12 By Mr. Dougherty:

13 Q. In response to one of Counsel Mendoza's
14 questions, you had answered that the Meigs County
15 facility, the one you have referenced on page 8 and 9
16 of your testimony, was the subject of legal action by
17 an environmental group; is that correct?

18 A. That's my understanding, yes.

19 Q. And that facility was proposed initially
20 as a coal plant, correct?

21 A. That's correct.

22 Q. And that litigation -- that legal action,
23 that occurred while that plant was proposed as a coal
24 plant, correct?

25 A. What legal action are you speaking about?

1 Q. I am speaking of the legal action that you
2 answered the question that was raised by Counsel
3 Mendoza about environmental groups.

4 A. I am aware that environmental groups
5 protested that plant or intervened in that plant.
6 That docket, to my knowledge, is still open and those
7 intervenors are still parties to the docket.

8 Q. And that docket you were speaking of was
9 the docket of the Ohio Power Siting Board?

10 A. That's correct.

11 Q. And that was around 2006 when it was
12 opened?

13 A. It's still open today; but, yeah, I
14 believe it was sometime in that range, 2006, it was
15 opened.

16 Q. And 2006, that plant was proposed as a
17 coal plant, correct?

18 A. That's correct. It's been through a
19 number of iterations at this point.

20 MR. DOUGHERTY: No further questions.

21 EXAMINER SEE: Mr. Sites?

22 MR. SITES: No questions, your Honor.

23 EXAMINER SEE: Mr. Beeler?

24 MR. BEELER: No questions. Thank you.

25 EXAMINER SEE: Any redirect?

1 MR. McKENZIE: Could we have one moment,
2 your Honor?

3 EXAMINER SEE: Certainly.

4 (Discussion off the record.)

5 EXAMINER SEE: Let's go back on the
6 record.

7 - - -

8 REDIRECT-EXAMINATION

9 By Mr. McKenzie:

10 Q. Mr. Wittine, just a couple of redirect
11 questions. Could you please turn to IEU Exhibit 13,
12 please.

13 A. I'm there.

14 Q. Page 7 of 7. Okay. I'll direct you to
15 the Miami Fort 6 unit.

16 A. I see it.

17 Q. Under "Official Owner Request" what is the
18 date requested?

19 A. It is December 19, 2014.

20 Q. And then what is the deactivation
21 requested and the actual dates in the next two
22 columns?

23 A. June 1, 2014, for both.

24 Q. And if you go to "PJM Reliability Status,"
25 does this say that impacts were identified?

1 A. It does.

2 Q. And does it further say that upgrades are
3 not expected to be complete until the second quarter
4 of 2017?

5 A. Yes, it does.

6 Q. Does this provide an example where a plant
7 shutdown where --

8 MR. DARR: One moment, your Honor. Under
9 what would be Rule 106 under the Ohio rules, I think
10 I'm entitled to have the rest of this read into the
11 record beginning with interim measures -- or "Interim
12 operating measures."

13 MR. MCKENZIE: Well, your Honor, I would
14 have expected that for recross, rather than redirect,
15 but I am happy to read the whole thing.

16 Q. Mr. Wittine, could you just read the whole
17 thing into the record, please.

18 A. Sure. It says "Reliability analysis
19 complete. Impacts identified and upgrades expected
20 to be completed by 2nd quarter of 2017. Interim
21 operating measures will be utilized in the interim
22 period. Unit deactivated on 6/1/2015."

23 Q. Mr. Wittine, is this an example of a
24 generating unit that was deactivated where upgrades
25 to address impacts identified will not be completed

1 until almost a year after the deactivation -- I'm
2 sorry, almost two years after the deactivation?

3 A. That's correct.

4 Q. Okay. I would now like to turn your
5 attention to P3 Exhibit 5.

6 A. Okay.

7 MR. MCKENZIE: And, your Honor, may we
8 approach?

9 EXAMINER SEE: Yes.

10 MR. DARR: Give us a moment here.

11 MR. MCKENZIE: Your Honor, I would like to
12 have what Mr. Nourse is handing out marked as AEP
13 Ohio Exhibit 12, please.

14 EXAMINER SEE: Mr. Nourse? Another copy.

15 MR. NOURSE: I'm sorry. I was wanting to
16 give Mr. Settineri one.

17 MR. SETTINERI: Thank you.

18 EXAMINER SEE: AEP Ohio Exhibit 12 is so
19 marked.

20 (EXHIBIT MARKED FOR IDENTIFICATION.)

21 Q. Mr. Wittine, do you recognize AEP Ohio
22 Exhibit 12 as the staff report from docket
23 14-0591-EL-BLN which is the same docket as in P3
24 Exhibit 5?

25 A. Yes, that what it appears to be.

1 Q. Okay. If you could turn to P3 Exhibit 5.

2 MR. SETTINERI: Your Honor, at this time I
3 would just object in that the cross-examination did
4 not ask questions about the staff report. If there
5 is a foundation laid, perhaps, where this redirect is
6 going, then that may help solve that problem, but to
7 just jump into the staff report without tying it to
8 the cross-examination I don't think is appropriate.

9 MR. McKENZIE: Well, I am going to tie it
10 to the cross-examination. If you will allow me to
11 proffer, what I am going show is in the letter which
12 is P3 --

13 EXAMINER SEE: Just a moment. Go ahead,
14 Mr. McKenzie. Let's see where it's going. Go ahead.

15 MR. McKENZIE: Thank you.

16 MR. SETTINERI: Thank you. I just wanted
17 to make sure the objection was ruled on.

18 Q. (By Mr. McKenzie) If you look at P3
19 Exhibit 5, Mr. Wittine, what date does this state
20 that the transmission line will be -- construction
21 will commence on?

22 A. On page 1, it says construction is
23 expected to begin in February of 2015.

24 MR. SETTINERI: I'm sorry. Could we have
25 the question reread, please?

1 MR. McKENZIE: I will withdraw the
2 question and ask it again.

3 Q. If you could look at Exhibit P3 5, which
4 is the September 30, 2015 letter.

5 A. Okay.

6 Q. And what is the construction date listed
7 here?

8 A. October 1, 2015.

9 Q. Okay. If you could now please go to the
10 staff report, Exhibit AEP Ohio 12.

11 A. I'm there.

12 Q. If you could turn to page 1 of the
13 document which is actually page 2 of what I have
14 handed you.

15 A. Okay.

16 Q. I would direct you to the paragraph
17 beginning "Project Description." Do you see that?

18 A. I'm there.

19 Q. And if you could go to the final sentence
20 in that paragraph, what is the construction date
21 expected for the transmission line listed here?

22 A. At that time it was expected to begin in
23 February of 2015.

24 Q. And as we just saw, that expected date was
25 not met, correct?

1 A. That's correct.

2 Q. Does this underscore your general thesis
3 that there are unexpected delays in power plant
4 development?

5 A. Yes.

6 MR. MCKENZIE: No further questions, your
7 Honor.

8 EXAMINER SEE: Recross, Mr.-- I'm sorry.
9 Let's go with Sierra Club. Mr. Mendoza?

10 MR. MENDOZA: No questions, your Honor.

11 EXAMINER SEE: Mr. Michael?

12 MR. MICHAEL: No questions, your Honor.
13 Thank you.

14 EXAMINER SEE: Mr. Settineri?

15 MR. SETTINERI: Yes, your Honor. Thank
16 you.

17 - - -

18 RE CROSS-EXAMINATION

19 By Mr. Settineri:

20 Q. Mr. Wittine, let's look at what's been
21 marked as Company Exhibit 12, sir. Let's look at
22 page 1. Do you see how long this transmission line
23 is, sir?

24 A. .45 miles.

25 Q. That's a pretty short transmission line,

1 isn't it?

2 MR. MCKENZIE: Objection, vague.

3 EXAMINER SEE: Mr. Settineri, do you want
4 to rephrase your question?

5 MR. SETTINERI: Sure.

6 Q. Do you consider a .45-mile transmission
7 line to be a short transmission line?

8 A. Relatively speaking, yes.

9 Q. And you are an engineer, correct?

10 A. Correct.

11 Q. All right. And you've done some
12 engineering work related to transmission lines,
13 correct?

14 A. Some.

15 Q. You would agree with me that the timeframe
16 to construct a .45-mile transmission line is not
17 significant compared to the timeline to construct an
18 electric generation plant, correct?

19 A. This document shows about a year and a
20 half to construct this transmission line.

21 Q. Where does it say that, sir?

22 A. It says "Construction is expected to begin
23 in January of 2015, and the line is scheduled to be
24 in-service June 2016." About a year and a half.

25 Q. The line wouldn't be in service if the

1 plant is not running, right?

2 A. I would rephrase and say the line better
3 be in service if the plant plans to run.

4 Q. Okay. Right. And in regards -- which
5 would be the more critical milestone in the
6 construction scheduling, it would be getting the
7 plant operational versus constructing the T-line,
8 correct?

9 A. Well, I don't know if I can agree to that.
10 We certainly ran into some things with the Turk
11 project with the relatively short construction line
12 and -- I'm sorry, relatively short transmission line
13 and ran into some pretty serious hurdles that
14 threatened the in-service date of the project.

15 Q. Okay. How long --

16 A. We were wondering if we would be able to
17 energize the plant and begin commissioning if the
18 transmission lines weren't going to be there. So
19 there are issues. I wouldn't trivialize the
20 complication there.

21 Q. Okay. You think -- let me think.

22 How long he was the transmission line in
23 the project you just referenced?

24 A. I am not sure but it wasn't very long.

25 Q. Okay. You don't know how long.

1 A. Not off the top of my head.

2 Q. Okay. All right. And you also mentioned
3 that, I think your counsel mentioned that, you felt
4 that this exhibit underscored your thesis, correct?
5 Do you remember that question?

6 A. I do.

7 Q. And your thesis, again, was -- is based
8 primarily on Sierra Club 32 and the information
9 contained there, correct, the data that you used to
10 create Table 2?

11 A. No.

12 Q. That's not what you base your testimony
13 on?

14 A. I would.

15 Q. Regarding the uncertainty of these plants?

16 A. That was one analysis that I looked at --

17 Q. Okay.

18 A. -- and considered, but my thesis, I would
19 say, is pretty close to what's said on line 4, pages
20 6 and 7, that building a large, new power plant is a
21 long, complicated process, with many potential
22 opportunities for delay and cancellation. That's the
23 overarching context that I am trying to adhere.

24 Q. And Sierra Club Exhibit 32 is used in --
25 to develop part of your thesis, correct?

1 A. I would say that statement's more based on
2 experience. The PJM analysis was a document that's
3 used as evidence to support that.

4 Q. Is used, okay, to support that.

5 A. Sure.

6 Q. Okay. Looking at Sierra Club 32, let me
7 start first with your Table 2 at page 5. You give a
8 timeframe there of 2000-2014, correct?

9 MR. MCKENZIE: Objection, your Honor.
10 This is outside the scope of redirect. I asked this
11 very limited, one example, in AEP Ohio Exhibit 12,
12 that underscored his general thesis. That did not
13 open the door to all questions about his thesis; only
14 questions about this one example.

15 MR. SETTINERI: Your Honor, if I may, when
16 you are ready?

17 EXAMINER SEE: Go ahead.

18 MR. SETTINERI: Okay. They did open the
19 door when they asked about his thesis. He just
20 admitted that the information in this was used to
21 help him develop his thesis, and I am paraphrasing.
22 So they have opened the door, and they come in with a
23 new document, after direct, and they've opened the
24 door.

25 And I am allowed to look at this document

1 and ask questions about it and in regards to their
2 new exhibit with that conclusion sentence about
3 "underscoring your thesis," that completely opened
4 the door wide open and I am allowed to go back in and
5 ask about some of the information that underlied that
6 thesis.

7 MR. McKENZIE: Your Honor, if I may
8 respond?

9 EXAMINER SEE: Sure. Go ahead.

10 MR. McKENZIE: Mr. Settineri's view seems
11 to be that we've opened the door to literally any
12 questions about his testimony. That's clearly not
13 what we did. We have one limited exhibit. He can
14 ask questions about that exhibit. He cannot ask
15 questions about his entire thesis; only how this one
16 example in this exhibit affects that thesis.

17 EXAMINER SEE: And I would agree, recross
18 is limited to the information that was presented on
19 redirect. You may follow-up on that information and
20 that's all.

21 MR. SETTINERI: One moment then, your
22 Honor, please. Your Honor, I just want to take a
23 minute to fully review this document, if I can, for a
24 few minutes. I would appreciate that.

25 EXAMINER SEE: Okay.

1 MR. McKENZIE: Your Honor, could we go off
2 the record so I could go to the restroom?

3 EXAMINER SEE: Yes.

4 (Discussion off the record.)

5 EXAMINER SEE: Let's go back on the
6 record.

7 Q. (By Mr. Settineri) Turning back to Company
8 Exhibit 12, and that is the staff report, correct?

9 A. Yes.

10 Q. I want to make sure I got the right one.
11 Let's look at page 2, shall we? "Nature of Impacts,"
12 do you see that, sir?

13 A. I do.

14 Q. All right. And do you see -- why don't --
15 if you could just read for me under the word
16 "Social," the sentence -- the two sentences
17 immediately under the heading "social."

18 A. Would you just like me to read the
19 document?

20 Q. Yeah.

21 A. Okay. "A Phase I archaeological
22 investigation identified three cultural finds, none
23 of which possessed significant archeological value.
24 The Applicant would avoid all archaeological
25 resources during construction."

1 Q. Okay. And am I correct that the next
2 paragraph states "A Historic Architecture Survey was
3 also conducted. No landmarks or historic structures
4 are located within the study area of this project and
5 the project would not significantly influence the
6 overall viewscape of historical structures within
7 five miles of the project area." Did I read that
8 correctly?

9 A. I believe you did.

10 Q. Let's look at "Surface Waters." Let's
11 just read that section. I'll read it. "The electric
12 transmission line right-of-way contains four primary
13 headwater streams. No pole structures would be
14 located within the 100-year flood zones of these
15 streams. The right-of-way also contains three
16 wetlands. None of these wetlands were scored as high
17 quality wetlands (Category 2/3 or Category 3). All
18 wetlands would be clearly staked prior to the
19 commencement of any clearing in order to minimize
20 incidental impacts. Stream and wetland impacts would
21 be avoided by accessing pole locations from either
22 side of the streams and/or wetlands where
23 practicable. No ponds are located within the project
24 right-of-way, and the project will not traverse any
25 conservation areas, scenic rivers, or recreation

1 lands." Did I read that correctly?

2 A. I believe you did.

3 Q. All right. And you agree with me this is
4 the staff report of investigation for the
5 transmission line that will service the Carroll
6 County Energy generation facility, correct?

7 A. Correct.

8 Q. Okay. Let's go to the last page, page 3.
9 Under "Conclusion." "With the following conditions,
10 the construction of this project should pose only
11 minimal negative social and ecological impacts.
12 Staff recommends automatic approval of this case on
13 May 16, 2014." Did I read that correctly?

14 A. I believe you did.

15 Q. Okay. And let's look at "Conditions."
16 No. 1. "Prior to construction, the Applicant shall
17 obtain all applicable permits and authorizations as
18 required by federal and state entities for any
19 activities where such permit or authorization is
20 required." Did I read that correctly?

21 A. I believe you did.

22 MR. MCKENZIE: Your Honor, I would just
23 object to the extent Counsel continues to read from
24 this document. I'm going to move this document into
25 evidence so he can cite it in his brief. Under the

1 orderly-and-speedy progress of this hearing, I don't
2 think we need to fill the transcript with a
3 word-by-word reading of this document.

4 EXAMINER SEE: Did you want to respond,
5 Mr. Settineri?

6 MR. SETTINERI: Yes, your Honor. I
7 believe the witness, on my initial recross, had gave
8 some answers about the issues with transmission
9 lines, and I am using this document to show that this
10 project, per the staff, did not have certain issues.
11 And so I've gone through this document with him, and
12 I am ready -- now that I have read the condition on
13 permits, I was going to ask him a question about this
14 as well.

15 EXAMINER SEE: Well, please ask the
16 witness some questions about the document.

17 MR. SETTINERI: Yes, ma'am.

18 Q. Mr. Wittine, if construction of the
19 transmission line has commenced, you would assume
20 then that the applicant for Carroll County Energy
21 here would have complied with Condition 1. of its --
22 of the staff report, correct?

23 A. Correct. That doesn't mean the
24 transmission line won't will be finished.

25 Q. That's fine. And I think earlier you had

1 mentioned you weren't certain if the Carroll County
2 Energy transmission line traversed any rivers.
3 According to the staff report, it does not traverse
4 any rivers, correct?

5 A. That's correct. But it does traverse some
6 wetlands, it says, and other surface waters.

7 MR. SETTINERI: No further questions, your
8 Honor. Thank you.

9 EXAMINER SEE: Mr. Darr?

10 MR. DARR: No questions, your Honor.

11 EXAMINER SEE: Ms. Cohn?

12 MS. COHN: No questions, your Honor.

13 EXAMINER SEE: Ms. Fleisher, recross?

14 MS. FLEISHER: No questions, your Honor.

15 EXAMINER SEE: Thank you.

16 AEP has already moved for the admission of
17 AEP Exhibit 11. Mr. McKenzie?

18 Oh, I'm sorry. Mr. Beeler.

19 MR. BEELER: Nothing, your Honor. Thank
20 you.

21 EXAMINER SEE: Mr. McKenzie.

22 MR. MCKENZIE: Your Honor, we would also
23 move the admission of AEP Ohio Exhibit 12.

24 EXAMINER SEE: Are there any -- are there
25 any objections to the admission of AEP Ohio Exhibit

1 11 or 12?

2 MR. SETTINERI: Yes, your Honor. I have
3 an objection to portions of Company Exhibit 11 or is
4 it AEP Exhibit 11?

5 EXAMINER SEE: AEP Exhibit.

6 MR. SETTINERI: Regarding the direct,
7 prefiled testimony, Exhibit 11.

8 EXAMINER SEE: Okay.

9 MR. SETTINERI: I would like to seek to
10 strike and not put into the record the portion of the
11 prefiled testimony on page 5, lines 1 through 18,
12 which relate to the -- his Table 2, and also, just
13 for the record, I will -- there are some other
14 references in that table. Page 11, the sentence at
15 line 15 that starts "As shown above in Table 2, only
16 one out of every two megawatts reaching this phase
17 was ultimately placed in-service," ending at line 16.

18 EXAMINER SEE: Mr. Settineri, repeat that
19 one.

20 MR. SETTINERI: Sure.

21 EXAMINER SEE: Line 11 -- I mean, page 11.

22 MR. SETTINERI: I'm sorry. Page 11, line
23 15. "As shown above in Table 2...."

24 EXAMINER SEE: Okay.

25 MR. SETTINERI: And that sentence ends at

1 line 16.

2 On page 12, the line 6, the sentence that
3 starts with "Based on PJM's historical analysis" and
4 that sentence ends on line 8. Also strike the
5 following sentence that ends on line 9.

6 And then page 13, line 6, starting "As
7 shown earlier in Table 2" and ending with the phrase
8 "Feasibility Study."

9 And if I may proceed, your Honor?

10 EXAMINER SEE: Yes.

11 MR. SETTINERI: Move to strike that
12 language as hearsay and lack of foundation. For
13 starters, in the direct testimony there is no
14 citation to the historical analysis.

15 There was some information on
16 cross-examination where the witness testified the
17 basis for that Table 2 was from a presentation that
18 Sierra Club -- has been marked as Sierra Club Exhibit
19 32. He did not know David Egan who's listed as the
20 presenter of that presentation, did not attend the
21 presentation, did not speak to him as well.

22 I would also note that his direct
23 testimony, Table 2, gives a timeframe of 2000-2014,
24 but nowhere in Sierra Club Exhibit 32 is there a
25 reference of any timeframe.

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1 What he has done with this presentation is
2 compiled it into a table and he's using that table to
3 reinforce his claim that projects in Ohio, under
4 construction, will not be built. He uses it
5 specifically in his testimony to undercut the Carroll
6 County Energy project at page 11, he uses it to
7 undercut the Middletown project at page 12, and in
8 his conclusion.

9 So he is trying to use the information
10 from Mr. Egan's presentation, if that's who did it,
11 to demonstrate that there is an uncertainty whether
12 projects approved by the Ohio Power Siting Board will
13 be placed into service consistent with their proposed
14 schedules, if at all. And I am quoting from his
15 direct testimony where, at line 2, he says "I will
16 also demonstrate that there is uncertainty regarding
17 whether projects approved by the Ohio Power Siting
18 Board will be placed into service consistent with
19 their proposed schedules, if at all."

20 I would also note that it's prejudicial to
21 allow this testimony to come in. He claims it's
22 based -- his testimony is based on 2000-2014. The
23 document he relied on doesn't show any timeframe at
24 all. So that could be prejudicial to the Commission
25 and to the record in terms of developing a good

1 record.

2 So, with that, I would move to strike the
3 portions of the testimony as I have listed.

4 EXAMINER SEE: Any of the intervenors
5 present wish to join that motion by Mr. Settineri?

6 Mr. McKenzie.

7 MR. McKENZIE: Yes, your Honor. I have
8 several responses.

9 First of all, this motion to strike was
10 waived by not being raised when I moved for the
11 admission of the testimony at the beginning. We have
12 now had lots and lots of cross about exactly what
13 he's hoping to strike here, including Sierra Club who
14 has introduced, as Sierra Club Exhibit 32, the PJM
15 document that forms the basis of all the testimony
16 that counsel would like to strike. He can't unring
17 the bell at this point. The proper time to raise
18 that motion was before we got into cross-examination.
19 It's now been waived.

20 Even if your Honor were to consider it
21 now, which I don't think you should, but even if you
22 were to consider it, let me respond to the points.

23 First of all, hearsay. I find it
24 remarkable that an intervenor would claim testimony
25 based on PJM documents are hearsay. We have

1 introduced numerous PJM documents in this proceeding
2 from intervenors. You know, what's good for the
3 goose is good for the gander. The idea that they can
4 rely on PJM documents but we cannot is, you know, has
5 no merit. I would also say that PJM documents can be
6 admitted under Ohio Rule of Evidence 8038, the
7 government records citation or exception.

8 In terms of whether or not the PJM study
9 was cited in his testimony, he makes clear in his
10 testimony page 5, line 1, this is based on a PJM
11 historical analysis. The specific analysis was then
12 identified -- identified in his workpapers in
13 discovery. Counsel have had absolutely no trouble
14 locating it. It was brought up in his deposition as
15 you can see on Sierra Club Exhibit 32; and then, of
16 course, it's been made an exhibit by one of the
17 intervenors here. There was no -- yeah. As I said,
18 yeah, it was provided in workpapers to the parties.
19 There is no notice or other kind of impropriety issue
20 here with citing this particular PJM study.

21 The points about their being no timeline,
22 your Honor, that's grounds for cross-examination
23 which the intervenors have had ample opportunity to
24 pursue at this point. That is not grounds to strike
25 testimony. So in sum it's waived.

1 As for hearsay, that's absurd given PJM
2 documents have been brought into the record numerous
3 times by intervenors. And in terms of notice and
4 timeline, they clearly had notice, and the timeline
5 issue is for cross, not for striking the document.

6 MR. SETTINERI: And, your Honors, if you
7 would like to hear me, I am willing to offer more.

8 EXAMINER SEE: No, thank you,
9 Mr. Settineri.

10 The motion to strike the requested
11 portions of Mr. Wittine's direct testimony is denied.
12 The parties have raised -- the intervenors have
13 raised enough -- were made aware of the basis of his
14 testimony, have explored it, and we have already put
15 documents -- presented documents to cross-examine the
16 witness on the information that's presented in his
17 testimony.

18 MR. SETTINERI: Thank you, your Honor.

19 EXAMINER SEE: Are there any other
20 objections to the admission of AEP Ohio Exhibits 11
21 and 12?

22 Hearing none, AEP Exhibits 11 and 12 are
23 admitted into the record.

24 (EXHIBITS ADMITTED INTO EVIDENCE.)

25 EXAMINER SEE: Mr. Mendoza?

1 MR. MENDOZA: I would move Sierra Club
2 Exhibits 32, 33, 34, 35, and 36 be admitted into the
3 record as well as OMAEG Exhibit 18.

4 MR. McKENZIE: No objection, your Honor.

5 EXAMINER SEE: Sierra Club Exhibits 32
6 through 36 are admitted into the record.

7 (EXHIBITS ADMITTED INTO EVIDENCE.)

8 EXAMINER SEE: As well as OMAEG Exhibit
9 18.

10 (EXHIBIT ADMITTED INTO EVIDENCE.)

11 EXAMINER SEE: Mr. Settineri?

12 MR. SETTINERI: Yes, your Honor. At this
13 time we would move for P3 Exhibits 3, 4, 5, 6, and 7.

14 EXAMINER SEE: Any objections?

15 MR. McKENZIE: No objection, your Honor.

16 (EXHIBITS ADMITTED INTO EVIDENCE.)

17 EXAMINER SEE: Mr. Darr?

18 MR. DARR: Thank you, your Honor. Move
19 the admission of IEU Exhibits 13 and 14.

20 MR. McKENZIE: No objection, your Honor.

21 EXAMINER SEE: IEU Exhibits 13 and 14 are
22 admitted into the record.

23 (EXHIBITS ADMITTED INTO EVIDENCE.)

24 MR. DARR: There was a matter you were
25 going to rule on after the break regarding the

1 treatment of requests for administrative notice.

2 EXAMINER SEE: Mr. Nourse, is there any
3 intention to move the amended application into the
4 record?

5 MR. NOURSE: Not unless you would like me
6 to.

7 EXAMINER PARROT: We would.

8 EXAMINER SEE: Yes.

9 MR. NOURSE: I will mark it as Company
10 Exhibit 13, move for the admission.

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 MR. DARR: Objection, your Honor. No
13 sponsoring witness has presented that application.

14 MR. NOURSE: I think Mr. Vegas indicated
15 that he was responsible in sponsoring the application
16 even though we didn't mark it as an exhibit, and he
17 was available to answer any questions about it.

18 EXAMINER SEE: Any other objections?

19 The amended application that has been
20 marked as AEP Exhibit 13 is admitted into the record.

21 (EXHIBIT ADMITTED INTO EVIDENCE.)

22 MR. NOURSE: With that the company rests
23 its direct case and reserves the potential
24 opportunity to submit rebuttal upon completion of the
25 intervenor testimony.

1 EXAMINER PARROT: Okay. Turn to your
2 issue, Mr. Darr, you raised with respect to the PJM
3 press release dated May 18, 2012, which was also
4 identified as AEP Exhibit 106 in the ESP II
5 proceeding in Case No. 11-346-EL-SSO, et al. I did
6 review the transcript from yesterday of the Bench's
7 ruling, did want to confirm it was that we were
8 taking administrative notice of the entire document
9 and that includes the contents of the document, you
10 know, including the two prices that you were
11 specifically referring to yesterday. That was the
12 ruling. You accepted the ruling also on the record
13 yesterday so.

14 I'm not sure if that addresses the issue
15 you raised this morning or not. That is what the
16 transcript reflects.

17 MR. DARR: That's why I am trying to
18 clarify it, your Honor. Are we to treat the document
19 as part of the record of this case at this point?

20 EXAMINER PARROT: Yes. That's the point
21 of taking administrative notice of the document
22 including all of its contents.

23 MR. DARR: Including all of its contents
24 meaning the assertions contained in that document.

25 EXAMINER PARROT: Yes. Not the fact that

1 the press release was issued. I am taking
2 administrative notice of all of the contents of the
3 document itself which are considered part of the
4 record now in this proceeding.

5 MR. DARR: That solves the problem. Thank
6 you, your Honor.

7 EXAMINER PARROT: Okay.

8 EXAMINER SEE: I'm sorry, Mr. Wittine.
9 You can step down.

10 MR. NOURSE: Your Honor, just on that
11 discussion, I mean, you know, I don't believe
12 administrative notice should be used to substitute
13 for evidence on any factually disputed matters. And
14 I don't think that's the purpose of taking
15 administrative notice. It normally involves a
16 decision or a governmental action or something,
17 not -- not a best evidence of anything relating to a
18 factual dispute.

19 I know there have been other documents
20 admitted -- well, taken administrative notice of in
21 lieu of presenting evidence so, you know, I think to
22 be clear, it's not evidence. It's just -- you are
23 bringing it into the record as an external decision
24 or a government document that exists. I don't think
25 we should be giving evidentiary weight if there is

1 any contesting factual matters that are in a document
2 like that. For example, some of the ELPC exhibits
3 involve a notice of probable noncompliance for EPA
4 issues that do not reflect any kind of final outcome
5 or the company's viewpoint or anything else on those
6 items.

7 So, you know, I guess if this is a ruling
8 that administrative notice is being taken as -- as
9 evidence or in lieu of circumventing the Rules of
10 Evidence, I would certainly object to that. And so,
11 you know, if that's what you are saying, I would like
12 to get a clarification of that.

13 MR. DARR: Your Honor, may I respond to
14 that?

15 EXAMINER PARROT: Yes.

16 MR. DARR: That is a remarkable statement
17 made by counsel.

18 MR. NOURSE: Thank you.

19 MR. DARR: Administrative notice -- I
20 wouldn't take it as a compliment, counsel.
21 Administrative notice is the acceptance of fact which
22 is defined as an adjudicated fact. That's what the
23 rule says. For purposes of the proceeding the
24 adjudicated fact is taken as true. Now, at no point
25 has counsel for AEP Ohio indicated that the statement

1 that the ATSI area separated at a price of \$357 per
2 megawatt-day in the relevant year. At no point has
3 counsel for the company indicated that the clearing
4 price for the rest of the RTO was not \$136 per
5 megawatt-day. Those facts are not disputed and
6 that's the point of taking administrative notice, and
7 primarily my concern with the -- with the statements
8 made by the Bench yesterday was with regard to
9 whether or not the document was -- whether the Bench
10 was simply taking administrative notice of the
11 existence of the document, not the operative facts.
12 The operative facts are what are critical and the
13 point of my requesting the clarification.

14 The suggestion by counsel that these are
15 not adjudicated facts for purposes once the Bench has
16 taken administrative notice is completely contrary to
17 the Rules of Evidence which apparently he has -- is
18 trying to represent to you which is not correct. I'm
19 flabbergasted by that objection and ask you to make
20 sure that it's clarified for the record.

21 MR. NOURSE: Well, your Honor, first of
22 all, what I said was administrative notice should not
23 be used to accept facts that are in dispute. And it
24 shouldn't be used to circumvent the Rules of
25 Evidence, and I mentioned the ELPC exhibits on a --

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1 you know, a notice that begins what could be a long
2 process and by no means indicates the outcome.

3 So if you're taking administrative notice
4 of items like that to indicate that such action has
5 been taken, not the truth of the ultimate matter that
6 is not only contested but would be prejudicial to the
7 outcome, especially in a proceeding that hasn't even
8 occurred in that parallel development, so I think
9 that's the context in which you are ruling today that
10 now everything has been admitted or been taken
11 administrative notice of means that you are accepting
12 all the facts in those documents as the best
13 evidence, then I have a big problem with that.

14 I didn't say anything about Mr. Darr's
15 exhibits or that we were contesting those. My point
16 is if that's what you're explaining it means now,
17 then I think that's what I am objecting to. I
18 wasn't -- I didn't say anything about the content of
19 Mr. Darr's documents. And if -- you know, if we want
20 to contest them, we will, but we haven't so that was
21 the purpose of my clarification.

22 EXAMINER PARROT: And your objection is
23 noted. It sounds like we have a difference of
24 opinion as to what it means when the -- in a
25 Commission proceeding we take administrative notice

1 of a document including its contents, and I think
2 that's an issue you are going to have to preserve for
3 your briefing.

4 MR. NOURSE: So you're saying the ELPC
5 exhibits that alleged violations of -- EPA
6 regulations were admitted for the truth of the matter
7 asserted in that notice?

8 EXAMINER PARROT: I am saying that the
9 Bench has taken administrative notice of certain
10 documents in this proceeding, and I think you are
11 correct, those were some of those documents.

12 MR. NOURSE: Regardless --

13 EXAMINER PARROT: What it means when we do
14 that, let's save it for briefing.

15 MR. NOURSE: For briefing?

16 EXAMINER PARROT: It's been the
17 Commission's practice to take administrative notice
18 of documents.

19 MR. NOURSE: Not if it's prejudicial or
20 contested.

21 EXAMINER PARROT: Well, I think the ship
22 has sort of sailed on this already with respect to
23 any of the documents we are talking about now, and on
24 a going-forward basis, if this comes up again, we can
25 address it at that point, but the Bench has already

1 taken administrative notice of those documents that
2 we are talking about now. We are not going to
3 revisit our ruling on those at this point in the
4 proceeding.

5 MR. NOURSE: Well, in effect today you
6 have. That's my concern because I had no idea that
7 taking administrative notice of that kind of document
8 would somehow say the facts that were in that
9 document which are subject to a whole separate
10 process of contesting and resolving would be accepted
11 by such a ruling so that's the only reason I raised
12 it. That's my objection. So I guess we'll have to
13 leave it at that.

14 EXAMINER PARROT: And, again, it's noted
15 on the record.

16 Anything else?

17 MR. NOURSE: Your Honor, I sent out the
18 updated schedule to the parties and to the Bench,
19 waiting to hear from Mr. Settineri.

20 MR. SETTINERI: Are we on the record
21 still?

22 EXAMINER SEE: Yes, we are.

23 MR. SETTINERI: I don't think we need to
24 be on the record to talk about this. I would like to
25 go off the record to talk about scheduling, yes.

2223

1 MR. NOURSE: Go ahead.

2 EXAMINER PARROT: We can do that but let's
3 wrap things up for today. I think our intention is
4 to, correct me if I am wrong, but we will be picking
5 up on Tuesday at 9 o'clock I believe with OCC Witness
6 Duann; is that correct? Is that your proposed?

7 EXAMINER SEE: Duann, Hixon, and Dormandy.

8 EXAMINER PARROT: Duann, Hixon, and
9 Dormandy. With that we will close things for today
10 and reconvene next Tuesday.

11 We are off the record.

12 (Thereupon, at 1:05 p.m., the hearing was
13 adjourned.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Wednesday, October 7, 2015, and carefully compared with my original stenographic notes.

Karen Sue Gibson, Registered
Merit Reporter.

My commission expires August 14, 2020.

Carolyn M. Burke, Registered
Professional Reporter.

My commission expires July 17, 2018.

(KSG-6100)

- - -

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in

Case No(s). 14-1693-EL-RDR, 14-1694-EL-AAM

Summary: Transcript In the Matter of the application of Ohio Power Company hearing held on 10/07/15 - Volume VIII electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.