

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 9:00 a.m. on Thursday, October 15,
2015.

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Stephen J. Baron
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Thursday Morning Session,
October 15, 2015.

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EXAMINER PARROT: This is the
continuation of the hearing in Case No.
14-1693-EL-RDR.

Good morning, everyone. Let's start with
brief appearances, beginning with the company.

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

MR. KURTZ: For the Ohio Energy Group,
Michael Kurtz.

MR. YURICK: Mark Yurick, on behalf of
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MR. PRITCHARD: On behalf of the
Industrial Energy Users of Ohio, Matt Pritchard and
Frank Darr.

MR. MARGARD: On behalf of the staff of
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MS. BAIR: On behalf of the Ohio Office of
Consumers' Counsel, Jodi Bair, Kevin Moore, William
Michael, Dane Stinson.

1 MS. HENRY: On behalf of Sierra Club,
2 Kristen Henry and Christopher Bzdok.

3 MR. SETTINERI: Good morning, your Honor.
4 On behalf of PJM Power Providers Group, Electric
5 Power Supply Association, Constellation NewEnergy,
6 Exelon Generation, and the Retail Energy Supply
7 Association, M. Howard Petricoff and Michael
8 Settineri.

9 MS. GHILONI: On behalf of the Ohio
10 Manufacturers' Association, Danielle L. Ghiloni and
11 Kimberly Bojko.

12 EXAMINER PARROT: Thank you, everyone.

13 I believe Sierra Club has our next
14 witness for the day.

15 MS. HENRY: Before we call our first
16 witness, I just wanted to state for the record that I
17 distributed earlier this morning the errata to
18 Mr. Chernick's deposition that was taken last week,
19 and I believe if anyone wasn't present, we have copy
20 a here if anybody else would like a copy.

21 And we will call Mr. Chernick to the
22 stand.

23 - - -
24
25

1 PAUL L. CHERNICK

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

4 DIRECT EXAMINATION

5 By Ms. Henry:

6 Q. Good morning, Mr. Chernick. By whom are
7 you employed?

8 A. I'm the president of Resource Insight,
9 Inc., 5 Water Street, Arlington, Massachusetts.

10 Q. Can you briefly state your educational
11 background, sir?

12 A. I have Bachelor's and Master's degrees
13 from the Massachusetts Institute of Technology. My
14 Master's is in technology and policy.

15 Q. And have you testified before this
16 Commission before?

17 A. Yes, I have a few times, as listed in my
18 direct testimony.

19 Q. And have you testified before other
20 public service commissions?

21 A. Yes, in approximately 300 proceedings.

22 Q. And have your credentials been accepted
23 by these other commissions?

24 A. Yes.

25 Q. And are you the same Mr. Chernick who

1 submitted direct testimony in this proceeding on
2 September 11, 2015?

3 A. I am.

4 MS. HENRY: Your Honor, I would like to
5 mark Sierra Club Exhibit No. 37, a copy of
6 Mr. Chernick's direct testimony, and I handed it to
7 the court reporter earlier.

8 EXAMINER PARROT: So marked.

9 (EXHIBIT MARKED FOR IDENTIFICATION.)

10 Q. (By Ms. Henry) Mr. Chernick, do you have
11 a copy of what's been marked Sierra Club Exhibit 37
12 in front of you?

13 A. I do electronically.

14 Q. I have one for you as well.

15 A. Yes, I do.

16 Q. Was this document prepared by you or
17 under your direction?

18 A. Yes.

19 Q. And, I want to ask about changes,
20 additions, or corrections, but I want to caveat this
21 with that at the time you filed your testimony on
22 September 11, you were not aware of the 2015
23 fundamental forecast, correct?

24 A. That's correct.

25 Q. So setting aside any updates that you

1 would have regarding the 2015 fundamental forecast,
2 do you have any other additional public corrections
3 or changes to the direct testimony?

4 A. Yes, there are a number of generally
5 minor corrections.

6 Q. And where are those, sir? Hen.

7 MS. HENRY: Can I approach?

8 EXAMINER PARROT: You may.

9 MS. HENRY: These are the public
10 corrections.

11 A. So I have five corrections on page 13 in
12 Table 2. There was one value that I copied over
13 incorrectly from the spreadsheet, which I developed
14 it.

15 And the last two lines of that table
16 inadvertently I included the OVEC plants in the
17 "Simple Sum" column but excluded them from the "Net
18 Present Value" column.

19 And I prepared a corrected table, which
20 is in the confidential documents. It's the
21 numbers -- most of the numbers in this table are
22 confidential that I understand will be introduced as
23 an exhibit.

24 On page 16, line 7, as a clarification,
25 the reference to the values between 127 and

1 283 million through 2004 should have "excluding OVEC"
2 added to the end.

3 Q. And, sir, did you mean to say 2024?

4 A. 2024, excuse me.

5 MR. NOURSE: And I'm sorry, you're really
6 talking about page 18, aren't you?

7 THE WITNESS: That's a very good catch.
8 Thank you.

9 A. That's page 18, line 7, the reference to
10 between 127 and 283 million should be clarified as
11 "excluding OVEC."

12 Q. And your next correction, sir?

13 A. And in footnote 9 there are a couple of
14 typos in the -- it should read "Performance
15 Assessment Hours for 2011-2014," and the date which
16 got garbled here is 3/23/2015.

17 Q. And the next correction, sir.

18 A. On page 24.

19 Q. Page 21, sir?

20 A. Excuse me, on page 21, Table 5, the "CP
21 Penalties" column should read "CP Penalties excluding
22 OVEC."

23 Q. And your last correction, sir?

24 A. On page 25, the last -- excuse me, the
25 first line which reads "and as bilateral directly,"

1 the word "bilateral" should be "bilaterals," with an
2 S. And those are all my corrections.

3 Q. And do you have any confidential
4 corrections or revisions to the testimony?

5 A. Yes. As I mentioned before, Table 2
6 corrections, Table 2 is confidential so the
7 corrections are confidential.

8 MS. HENRY: So I believe we're going to
9 mark as Confidential Sierra Club Exhibit 38 a
10 description of those confidential corrections, which
11 will be distributed to parties but will not be
12 discussed on the record.

13 EXAMINER PARROT: So marked.

14 (EXHIBIT MARKED FOR IDENTIFICATION.)

15 MS. HENRY: May I approach?

16 EXAMINER PARROT: You may.

17 MR. NOURSE: Excuse me, was the public
18 version of the corrections marked as an exhibit, just
19 to facilitate the --

20 MS. HENRY: I did not mark that as an
21 exhibit.

22 MR. NOURSE: Thank you.

23 MS. HENRY: If that was the practice, I
24 can change that. And, for the record, Exhibit 37 was
25 the confidential version of the testimony.

1 MR. NOURSE: So was the public version
2 marked as an exhibit?

3 MS. HENRY: I have to admit that I don't
4 practice here, so am I supposed to mark both?

5 MR. NOURSE: I believe so.

6 EXAMINER PARROT: I think you should.

7 MS. HENRY: So then I'd like to mark
8 we'll make Exhibit 37 can be the public version of
9 Mr. Chernick's testimony, and then we'll make
10 Exhibit 39 the confidential version of Mr. Chernick's
11 testimony.

12 EXAMINER PARROT: So marked.

13 (EXHIBITS MARKED FOR IDENTIFICATION.)

14 Q. (By Ms. Henry) And with the changes and
15 the caveat I mentioned earlier regarding the 2015
16 fundamental forecast, would the answers to your
17 questions in Exhibits 37 and 39 be the same this
18 morning?

19 A. Yes.

20 Q. And are you the same Mr. Chernick who
21 submitted supplemental testimony in this proceeding
22 on September 25, 2015?

23 A. I am.

24 MS. HENRY: And, your Honor, I would like
25 to mark a copy of Sierra Club Exhibit 40 a copy of

1 Mr. Chernick's supplemental testimony that was handed
2 to the court reporter earlier.

3 EXAMINER PARROT: So marked.

4 (EXHIBIT MARKED FOR IDENTIFICATION.)

5 Q. Mr. Chernick, do you have a copy of what
6 has been marked as Sierra Club 40 in front of you?

7 A. Yes.

8 Q. And was this document prepared by you or
9 under your direction?

10 A. Yes.

11 Q. And do you have any corrections or
12 revisions to your supplemental testimony?

13 A. I do not.

14 Q. And would your answers to the questions
15 in Exhibit No. 40 be the same this morning?

16 A. They would all be consistent. I would
17 hope that I would be even clearer if I were asked
18 again, but my answers would basically be the same,
19 yes.

20 MS. HENRY: Thank you, your Honor.

21 I would move for the admission of Sierra
22 Club Exhibits 37, 38, 39, and 40, into the record,
23 subject to cross-examination.

24 EXAMINER PARROT: Thank you, Ms. Henry.

25 MS. HENRY: And I now tender Mr. Chernick

1 for cross.

2 EXAMINER PARROT: Mr. Settineri?

3 MR. SETTINERI: No questions, your Honor.

4 EXAMINER PARROT: Ms. Ghiloni?

5 MS. GHILONI: No questions, your Honor.

6 EXAMINER PARROT: Ms. Bair?

7 MS. BAIR: No questions.

8 EXAMINER PARROT: Mr. Pritchard?

9 MR. PRITCHARD: No questions your Honor.

10 EXAMINER PARROT: Mr. Yurick?

11 MR. YURICK: Nothing, your Honor.

12 EXAMINER PARROT: Mr. Kurtz?

13 MR. KURTZ: Yeah, I do. Thank you, your
14 Honor.

15 - - -

16 CROSS-EXAMINATION

17 By Mr. Kurtz:

18 Q. Is it Dr. Chernick?

19 A. Mr. Chernick.

20 Q. Mr. Chernick, your overall recommendation
21 is the Commission reject the PPA; is that correct?

22 A. Yes.

23 Q. Okay. But on page 49 of your testimony
24 you discuss risk shifting with the PPA. Can you turn
25 to that page, please? Are you there, sir?

1 A. Yes, I have that.

2 Q. You cite to the Commission a requirement
3 that a PPA include an alternative plan to allocate
4 the rider's financial risk between both the company
5 and its ratepayers; is that correct?

6 A. Yes.

7 Q. And you conclude that the PPA would shift
8 almost all the risk to the ratepayers?

9 A. Yes, I do.

10 Q. And then you make a series of fixes or
11 potential fixes that the Commission might consider
12 beginning on page 52; is that correct?

13 A. Yes. These are fixes to the form of the
14 PPA. In addition, they have to be more economical
15 and subjected to a market test.

16 Q. Okay. Let me just go back before going
17 through your list of potential fixes. On page 51 you
18 discuss the return on equity embedded into the PPA;
19 is that correct?

20 A. Yes.

21 Q. You describe it as an extraordinary
22 return.

23 A. Yes.

24 Q. Would the return on equity be more
25 equitable, in your opinion, if it flexed down so that

1 it would reduce costs in the years when the rider was
2 projected to be a charge to consumers? In other
3 words, the utility or AEPGR would earn a lower profit
4 margin, so as to offset PPA rider charges? Would
5 that be a more equitable equity formula?

6 A. My answer here has to do with creating
7 adverse incentives for AEP to keep the plants online,
8 even if they're not economical to ratepayers. To the
9 extent that the return on equity is lower than the
10 cost of raising new capital, that would eliminate
11 that adverse incentive, or, at least, greatly reduce
12 it.

13 But since they'd be earning a return on
14 some costs on which they could get nothing if they
15 retired the plant, I guess it wouldn't really
16 completely solve the problem, but it would, perhaps,
17 mitigate the problem in terms of the specific issue
18 of incentives that I lay out here.

19 Q. Let me give you a specific example. You
20 note that under current bond conditions, the return
21 on equity would be 11.85 percent?

22 A. Yes.

23 Q. Okay. The return on equity embedded into
24 AEP's financial calculations in this case was
25 11.24 percent. Do you recall?

1 A. That sounds about right.

2 Q. If a 1 percent return on equity at
3 11.24 percent equals \$12.2 million in revenue
4 requirements, would this be a more equitable return
5 on equity formula if the PPA was projected to be a
6 \$12.2 million charge in a year, just lower the return
7 on equity by 1 percent point --

8 MS. HENRY: Objection.

9 MR. KURTZ: I'm not finished with my
10 question.

11 Q. -- so as to eliminate the PPA charge in
12 that year?

13 MS. HENRY: Objection. Compound
14 question.

15 MR. KURTZ: If he understands.

16 EXAMINER PARROT: Hang on just a moment.
17 I'm going to allow the question.

18 If you need clarification, Mr. Chernick,
19 let us know.

20 A. Well, without trying to digest the
21 numbers that you just threw out, it would be better
22 if the return were lower, but reducing from 11.85 to
23 11.2 -- was that?

24 Q. No, 10.24 -- excuse me. 11.24 was the
25 number in the return on equity based upon

1 December 2014 Moody's Bond Index plus 650 basis
2 points. Are you with me on that?

3 A. Oh, okay. I'm sorry.

4 Q. And you used a more current Moody's Bond
5 Index to get 11.85 percent?

6 A. Yes.

7 Q. My question, it doesn't make any
8 difference?

9 A. Okay.

10 Q. If the PPA rider was proposed to be a
11 \$10 million charge in the next year, if you lower the
12 return on equity so as to offset that so the PPA
13 would be zero, would that be a more equitable
14 outcome?

15 MS. HENRY: Objection, asked and
16 answered.

17 MR. KURTZ: He didn't understand the
18 other question. He indicated it would be more
19 reasonable, but it's a different hypothetical.

20 EXAMINER PARROT: I'm going to allow the
21 question.

22 A. That would both, I think, reduce the
23 adverse incentives that I'm talking about here, and
24 it would also result in some sharing of the risks --

25 Q. Okay.

1 A. -- and, therefore, would be an
2 improvement.

3 Q. Let's go to page 52 where you list a
4 number of potential improvements. Third from the
5 bottom you indicate "Setting a fixed charge for the
6 PPA, such as five or ten years"; is that correct?

7 A. Yes.

8 Q. As opposed to the 36 years for the useful
9 life of Zimmer?

10 A. Well, there is no fixed term at this
11 point. And if the owners of Zimmer wanted to keep it
12 online for a hundred years, the PPA, under the terms,
13 as I understand it, would continue that long.

14 Q. That's true. But the projected
15 retirement date is 36 years out? If you know.

16 A. Something like that, 2051.

17 Q. Okay. Are you aware of the term that has
18 been recommended by OEG Witness Mr. Baron of 15
19 years?

20 A. Yes, I did see that.

21 Q. Would that be an improvement along the
22 lines of what you're suggesting?

23 A. It would be an improvement. Again, you'd
24 have to improve other things to make it worthwhile.
25 Seeing as how the contract is certainly a loser in

1 the short-term, something shortening the term doesn't
2 solve the problems.

3 But with your proposal that essentially
4 the PPA never be allowed to be a positive charge, the
5 rider would never be allowed to be a positive charge
6 to ratepayers, that would certainly eliminate a lot
7 of the problems, although, perhaps, not all of them.

8 Q. Actually, I just want to clarify. It
9 actually wouldn't guarantee because the equity return
10 is so much dollars, 137 million, at 11.24 percent, so
11 the maximum flex-down would reduce the PPA charge up
12 to 137 million. If it was higher, then there would
13 be a small charge.

14 A. It would be an improvement.

15 Q. Your next proposed improvement, "Allowing
16 the PUCO to order termination of the PPA with some
17 reasonable notice period, such as two years, without
18 the poison pill of requiring AEP Ohio to pay for all
19 net plant and retirement costs," what do you mean by
20 that?

21 A. What do I mean? By the first part or the
22 second part or the whole thing?

23 Q. Just that bullet point.

24 A. Okay. Well, for example, if you had a
25 15-year contract and the plants were not

1 cost-effective to continue operating, under the PPA
2 construct, the company could keep them in operation
3 indefinitely, you know, up to the 15 years, even
4 though it's losing money for the ratepayers year
5 after year after year, and, essentially, the
6 ratepayers, the Commission would have no recourse.

7 If the contract were amended so that
8 AEPGR agreed that the Commission could terminate the
9 contract with two years' notice, and you're seven or
10 eight years in and the contract is wildly uneconomic,
11 as I expect it to be, then the -- and the Commission
12 exercises the notice provision, then, say, at year
13 nine or ten it would end and the ratepayers would
14 stop bleeding.

15 Q. Did you review Mr. Taylor's proposed
16 three-year historic -- three-year forward unit
17 retirement mechanism which would go on a unit-by-unit
18 basis for each of the PPA units, not by station but
19 by individual units?

20 A. I saw that he proposed something. I did
21 not look at it in enough details to reply with a
22 comment.

23 Q. Is that similar, though, in your
24 understanding of what you're proposing? In other
25 words, a mechanism where if the units are continually

1 losing money, they would be dropped from the PPA?

2 A. Again, I'm not -- I haven't really
3 thought through the details of what he was proposing,
4 but in terms of the intent, I think that there's a
5 great deal of similarity and basically gets at one
6 particular problem, which is that AEP has an
7 incentive to continue operating the plants, even if
8 they're not economic, which is not the case under a
9 deregulated market and wouldn't be the case under a
10 regulated -- fully regulated market, because the
11 Commission would be looking at the economics of the
12 plants and would be in a position to disallow further
13 expenditures or otherwise hold the company
14 responsible for improvements.

15 Q. One last question, or maybe a couple, on
16 that bullet point. "The poison pill" requiring AEP
17 Ohio and, I guess, and its customers "to pay for all
18 net plant and retirement costs," is that the
19 provision of the draft PPA where whenever the units
20 retire, consumers would, over the last -- would be
21 required to pay for all the retirement costs?

22 A. Well, I was thinking specifically of the
23 situation under the PPA where the Commission would
24 disallow some cost recovery. Ohio Edison would --
25 excuse me. Ohio Power would terminate the contract

1 with AEPGR, and at that point all of the remaining
2 net plants and the retirement costs would be payable
3 in cash.

4 Q. All right. Bigger poison pill than I
5 suggested.

6 A. Yeah.

7 Q. Remaining net book, plus retirement?

8 A. That's correct.

9 Q. Are you aware that OEG Witness Mr. Kollen
10 directly addressed this issue in his testimony, made
11 specific recommendations?

12 A. I can't say that I recall that, I'm
13 sorry. There was a lot of testimony.

14 Q. Yours included.

15 A. Gets to be a jumble.

16 Q. Yours included.

17 A. Sorry about that.

18 MS. HENRY: Thank you, Mr. Chernick.

19 EXAMINER PARROT: Mr. Nourse.

20 - - -

21 CROSS-EXAMINATION

22 By Mr. Nourse:

23 Q. Good morning, Mr. Chernick.

24 A. Good morning.

25 Q. So you do not have a Ph.D., correct?

1 A. That's correct.

2 Q. You're not an economist?

3 A. I don't have a degree in economics,
4 that's correct.

5 Q. Are you a Sierra Club member?

6 A. No.

7 Q. Do you share the views and positions of
8 the Sierra Club as an organization?

9 MS. HENRY: Objection. Relevance.

10 MR. NOURSE: I think it's relevant, your
11 Honor. It goes to his bias.

12 MS. HENRY: Objection. Vague. We have
13 many different positions. Do you want to ask him?

14 EXAMINER PARROT: I'm going to allow the
15 question.

16 And if you need more specificity, let us
17 know, Mr. Chernick.

18 A. Sort of at the headline level of, as I
19 understand the Sierra Club's principles and
20 objectives, of wanting to preserve natural systems
21 and clean skies and human health and welfare, I
22 certainly sympathize with all of those objectives.

23 Q. But you haven't written a check or joined
24 as a member of the Sierra Club; is that what you're
25 saying?

1 A. I'm certainly not a member now. I was
2 trying to remember whether I had ever donated to
3 them. It's possible that back in the '70s or '80s I
4 did. But since I started working for the
5 environmental groups as a consultant, I work with
6 consumer groups and state advocates and others, I
7 felt that I wound up donating my time, so that cash
8 donations were superfluous.

9 Q. Did you donate your time in this case due
10 to the testimony you're presenting today?

11 A. I suspect that I will wind up absorbing
12 some costs that go over the budget we agreed to.

13 Q. And you are the only Sierra Club witness
14 in this proceeding, correct?

15 A. Yes.

16 Q. And you're presenting not only the
17 quantitative analysis but also addressing policy
18 issues?

19 A. I am.

20 Q. And you've been working on this case for
21 almost a year at this point, correct?

22 A. I think I looked that up when we were
23 doing the deposition. It goes back quite ways,
24 maybe almost a year.

25 Q. Does November 2014 sound correct to you?

1 A. About that, yes.

2 Q. And your main assignment was to come up
3 with an estimate or range of the net cost for the PPA
4 proposal, correct?

5 A. Well, that was part of my assignment. It
6 took a large portion of the time, so in that sense a
7 major part, not necessarily the most part of it.

8 Q. The majority of your written testimony
9 addresses those quantitative issues, correct?

10 A. Yes.

11 Q. And let me just divert for a second and
12 do a couple follow-ups to the questions Mr. Kurtz
13 asked you. And to clarify, I think I want to ask you
14 about two areas that he covered. The first was the
15 ROE flex-down. Do you recall that?

16 A. Yes.

17 Q. And in your opinion, is it just and
18 reasonable for a providing utility service to receive
19 a ROE of zero?

20 A. Well, in a deregulated market, a power
21 supplier may get a return of zero, an equity return
22 of zero, a total return of zero, a negative return.
23 We're not talking about setting just and reasonable
24 rates in the conventional sense of re-restructuring
25 vertically integrated utilities.

1 We're talking about a nonutility entity,
2 AEPGR, which is a participant in the competitive
3 market and which is at risk for its return on equity
4 and even the return to recover its debt.

5 Q. And I understand the context of this
6 case. My question to you is whether it's just and
7 reasonable for a providing utility service to receive
8 a ROE of zero.

9 A. What utility service are you talking
10 about?

11 Q. We're talking about the service in this
12 case.

13 A. You're talking about AEP Ohio's
14 distribution service?

15 Q. No, it's not distribution service. Let
16 me put it this way. So with all the caveats of the
17 circumstances in this case, which everybody's aware
18 of, is it your position that the utility should only
19 receive an ROE of zero if there's going to be a
20 charge for the PPA rider?

21 A. We weren't talking about a utility that
22 is AEP Ohio getting a return of zero. We're talking
23 about AEPGR getting a return of zero through the
24 mechanism of a revised PPA.

25 Q. Is it your understanding that the

1 Commission is going to determine the wholesale
2 compensation that AEPGR gets in the future through
3 this contract?

4 A. Well, if the contract is not amended in a
5 way that either automatically functions to protect
6 the ratepayers, as with a cap on the costs or by
7 having a fixed cost, then in order to make the PPA a
8 reasonable, plausible, prudent instrument for the
9 Commission to enter into, AEP Generation would have
10 to agree, basically, to allow this Commission to make
11 decisions that it would not normally make for a
12 wholesale transaction.

13 Q. But when you talked to Mr. Kurtz, you
14 said the flex-down to zero would make it better, I
15 think was your phrase.

16 A. Yes.

17 Q. And what I'm asking you is from the
18 utility's perspective and from AEP Generation
19 Resource's perspective, is it your opinion that it's
20 reasonable to have a ROE of zero during the
21 circumstances of this case?

22 A. Well, again, I don't see what it has to
23 do with the utility because AEP Ohio, the utility, is
24 simply flowing these costs through. So as long as
25 the agreement is written in such a way that AEP Ohio

1 is not at risk for AEP Generation's inability to
2 provide a valuable service, then I don't see that
3 there's any connection to the utility. The utility's
4 held harmless here, just as if this were an
5 independent power producer offering a contract for
6 wind energy, and if the wind doesn't blow or their
7 plants don't operate well, then the generation owner
8 loses money.

9 And AEP Ohio is not at risk, so the
10 utility really has no skin in the game here, or
11 should have no skin in the game. You don't want to
12 put the Commission in a situation where it has to
13 damage a distribution utility to try and protect the
14 ratepayers if a generation company is unable to
15 perform.

16 In terms of whether it's reasonable, AEP
17 Generation can decide whether or not to enter into a
18 PPA, and if a PPA that protects the ratepayers
19 adequately is not acceptable to AEP Generation, then
20 AEP can continue operating the plants in the
21 competitive market or sell them, which I believe has
22 also been -- the company suggested it's interested in
23 doing.

24 Q. Okay.

25 A. So those are the alternatives.

1 Q. So I didn't ask you about what Generation
2 Resources might think. I didn't ask you about the
3 utility.

4 MR. NOURSE: Can I have my question
5 reread?

6 (Record read.)

7 Q. Let me try to redo it one more time here.
8 What I'm asking you is -- forget about whether it's a
9 utility, and I'm not asking you whether the
10 Commission can force AEPGR to accept the contract.
11 What I'm asking you is to confirm it's your opinion
12 that it's reasonable, under the circumstances of this
13 case, for the seller in the PPA to receive an ROE of
14 zero, given all the other terms and conditions in the
15 contract?

16 A. Well, I have problems with the "other
17 terms and conditions in the contract," but it is
18 reasonable for a generation company offering a
19 long-term contract to a distribution utility for its
20 customers to be at risk for getting no equity return
21 or even a negative equity return in any particular
22 year.

23 Q. A second area Mr. Kurtz asked you about
24 was Section 2.3 of the contract that relates to early
25 termination based on the lack of cost recovery. Do

1 you recall that?

2 A. Yes.

3 Q. And are you familiar with Section 2.4 of
4 the contract?

5 A. I'm not familiar with the sections of the
6 contract by number. I've read through it a number of
7 times and this part in particular.

8 Q. Are you familiar with the concept that's
9 in the contract that there can be early termination
10 of units or the entire contract, if it becomes an
11 uneconomic, and that that, therefore, provides for an
12 exit fee and termination of the contract, either for
13 specific units or the PPA as a whole?

14 A. It's my understanding that that's an
15 option for AEP Generation, but I'd have to look at
16 the specific contract language to talk about it.

17 Q. It's an option for AEP Ohio, the buyer?

18 MS. HENRY: Do you have copy of the
19 contract to show the witness?

20 MR. NOURSE: I'm asking if he understands
21 or recalls Section 2.4.

22 MS. HENRY: You referred to a specific
23 section. I believe if you have document to show
24 him --

25 MR. NOURSE: Your Honor, I'm not asking

1 him to read the document.

2 EXAMINER PARROT: I'll allow him to
3 answer the question on that basis.

4 If you need to refer to the document,
5 we'll start with that as well, but let's start with
6 the conceptual basis of the contract first, please.

7 A. It's my understanding that in the event
8 for the remaining net book of the plant, net book
9 cost of the plant, including the subcosts prior to
10 the signing of the agreement, so that poison pill
11 would remain.

12 Q. Okay.

13 A. And I'd have to check the language of
14 that particular section.

15 Q. Well, let me give you a hypothetical. If
16 we're ten years into the contract and there's a
17 consensus that market rates have gone down and will
18 remain low for an extended period of time, such that
19 there's consensus that it would be better to get out
20 of the contract, including and net of paying the exit
21 fee to customers -- do you understand the
22 hypothetical?

23 A. I understand the hypothetical.

24 Q. So my question is --

25 A. Although I'm not sure what you mean by

1 "consensus" in that regard, since there's a consensus
2 by all the parties in this case, except AEP, that
3 have looked at the economics, as far as I recall,
4 that the costs of the contract would be above the
5 benefits for the foreseeable future already, so we
6 have that consensus, except that AEP doesn't want to
7 recognize the legality, so I'm not sure how you would
8 define a "consensus."

9 Q. Mr. Chernick, that has nothing to do with
10 my hypothetical. You refuse today -- that's not what
11 I'm asking. We'll get to that a minute.

12 A. Then you'll have to define "consensus"
13 for me --

14 Q. Well, again, I'm talking about a future
15 point in time. I just said ten years out, where
16 there's consensus among the Commission and the
17 parties to the contract --

18 A. So AEP Ohio --

19 Q. -- there could be --

20 MS. HENRY: Can you let the witness --

21 MR. NOURSE: He's interrupted my
22 question.

23 MS. HENRY: You interrupted him.

24 Q. (By Mr. Nourse) So, Mr. Chernick, do you
25 understand the hypothetical about a future point in

1 time, ten years out?

2 A. I just need to -- I understand ten years
3 out, but I just need to get clear. The consensus
4 that you're talking about is that the Commission and
5 AEP Ohio and AEP Generation recognize that this
6 contract is a loser and will continue to be a loser?

7 Q. At that point in time.

8 A. Yes.

9 Q. And looking forward at that point in
10 time. So do you believe the Commission would --
11 first of all, do you believe the Commission would
12 continue to allow cost recovery prospectively at that
13 point in time if there's consensus that the contract
14 has become uneconomic?

15 A. So you're asking about a hypothetical in
16 which AEP Ohio and AEP Generation tells the
17 Commission, this contract is uneconomic?

18 Q. No. I said that there's consensus. The
19 Commission can reach its own views, and the staff
20 with the Commission can help inform the Commission in
21 that regard.

22 A. I thought that you said that the parties
23 to the contract, that is, the two AEP subsidiaries,
24 agree that the contract is uneconomic.

25 Q. I defined consensus for you as being the

1 Commission and the parties.

2 A. Okay. So the Commission believes and, in
3 your hypothetical, AEP Generation and AEP Ohio also
4 agree and state to the Commission that the contract
5 is uneconomic. That's your hypothetical?

6 Q. Let's go with that, yeah.

7 A. Okay. Then the Commission would be faced
8 with the question of what to do with the cost of the
9 poison pill and how those would be flowed to the
10 ratepayers, how much damage to AEP Ohio's financials
11 would be incurred under various approaches, what the
12 cost to customers would be of assuming those costs,
13 and then would have to decide whether to deny cost
14 recovery and essentially pull the trigger on finding
15 out what happens to AEP Ohio.

16 And that's all under your hypothetical
17 that AEP Generation tells the Commission that this
18 is, this contract --

19 Q. Mr. Chernick, let me ask you this way.
20 You have your pejorative term "poison pill," which I
21 object to. You use that in your testimony. I
22 believe it's been established that related to Section
23 2.3 where the cost recovery is diminished and the
24 company decides to terminate, correct?

25 MS. HENRY: Your Honor, may I approach?

1 And if he's going refer to numbers, can I at least
2 hand the witness a copy --

3 MR. NOURSE: We don't need to do that,
4 your Honor.

5 Q. (By Mr. Nourse) So did you follow that
6 question?

7 MS. HENRY: May I approach?

8 A. I'm not sure what the question was. I
9 heard the words. I just kind of --

10 EXAMINER PARROT: Let's rephrase it,
11 Mr. Nourse.

12 Q. Your discussion earlier and your
13 testimony reference to "poison pill" relates to the
14 situation where the company does not have cost
15 recovery and decides to cancel under that provision
16 of the contract, correct?

17 A. Yes.

18 Q. And so now what I'm hearing you, among
19 your other statements here, is that you also are now
20 calling the other provision in the contract a poison
21 pill that allows the parties to cancel with respect
22 to a unit or with respect to the whole thing because
23 at some point in the future it becomes uneconomic; is
24 that correct?

25 A. Well, the poison pill part is the balloon

1 payment at the time of cancellation of the contract
2 or amendment of the contract.

3 Q. Okay. So that would apply to both
4 examples, correct?

5 A. Yes.

6 Q. And are you aware of other contracts that
7 have liquidated damages or agreed exit fees in the
8 contracts?

9 A. Yes, some contracts do that. And, those
10 are structured various ways, the various contracts.

11 Q. And do you refer to those as poison
12 pills?

13 A. No, not necessarily.

14 Q. Let me shift gears. I want to talk to
15 you about the discovery process in this case. So you
16 reviewed and received discovery responses from the
17 company, not only for Sierra Club's questions, but
18 other intervenors' questions, correct?

19 A. Yes. I reviewed other intervenors'
20 questions, or, actually, I had an assistant go
21 through as we were drafting the testimony and look
22 for responses that provided information that could be
23 useful in our analysis.

24 And Sierra Club also put together sort of
25 a reference of what kinds of information was in each

1 response that we relied on, and that was basically in
2 the period up through about June or July of this
3 year.

4 Q. You're saying you didn't get discovery
5 after June or July?

6 A. No. But we sort of mothballed the
7 project for a month or so. Since there was no
8 procedural schedule, it wasn't clear when the case
9 was going to pick up again, and then a new schedule
10 was set in August with a September 11 deadline, and
11 at that point we were pretty much just doing updates
12 to our earlier draft and doing cleanup and getting it
13 ready to file.

14 So the process, our review process, was
15 somewhat more limited in that period, although to the
16 extent that there were responses to Sierra Club's
17 questions, we took all of those, but I'm not sure
18 that we had the time to monitor what was coming in in
19 response to the other parties. I'm sure that we
20 looked at some, but we couldn't --

21 Q. Mr. Chernick, I'm asking you some very
22 narrow questions. If we're going to have a long
23 story for each question, we probably won't get
24 finished today if we take that approach.

25 A. Okay.

1 Q. If you could cooperate with me on this,
2 we have questions that should be pretty clear, so
3 we'll talk about your deposition, and if I need to,
4 I'll remind you about that.

5 But when I say "you," I'm referring to
6 Resource Insight, Inc., so I don't need to refer to
7 all the people that worked for you or who did that.

8 A. That simplifies things somewhat.

9 Q. So you were responsible for reviewing
10 discovery responses of the company regarding economic
11 quantitative analysis of the PPA, correct?

12 A. Yes, and inputs that we would find useful
13 in our analysis.

14 Q. And you established a process for
15 monitoring discovery of responses from the company
16 regarding Sierra Club's questions and regarding
17 responses to the other parties' discovery questions,
18 correct?

19 MS. HENRY: Objection. Asked and
20 answered.

21 MR. NOURSE: No, I didn't ask him about
22 the process.

23 MS. HENRY: I believe he described his
24 process in the answer.

25 MR. NOURSE: Your Honor, could he

1 respond?

2 EXAMINER PARROT: I'm going to allow it.

3 A. Yeah, I described that process
4 previously.

5 Q. Well, okay. So did you talk about the
6 website that you used already, because that's part of
7 the process, isn't it?

8 A. Sierra Club maintained a folder on one of
9 the commercial services, box.com, I believe, where
10 they uploaded discovery responses so that we could
11 access them.

12 Q. And you got a response -- you got a
13 notification on your computer every time a response
14 was uploaded to the box.com site, correct?

15 A. Yes. I think it was in the form of
16 somebody added three files to the site.

17 Q. And there were examples, both in the
18 early rounds of discovery and in the later rounds,
19 where you reviewed responses to another party's
20 questions and asked a follow-up question, correct?

21 A. Yes.

22 Q. And am I correct that you had access to
23 the company's 2015 fundamental forecast provided in a
24 discovery response on September 1, 2015?

25 A. It's my understanding that it was

1 provided to Sierra Club on September 1 in some form.
2 I don't know when it was uploaded. I certainly
3 didn't know about it or see it until after the
4 testimony was filed.

5 Q. You would have gotten a notification from
6 the posting in the box.com website, correct?

7 A. Yes, that somebody had uploaded a file.

8 MR. NOURSE: And, your Honor, I'd like to
9 mark an exhibit. It's the Ohio Power Company
10 Response to OCC Discovery, Interrogatory Set 5-184;
11 and Request for Production of Documents, RPD 5-05.

12 May we approach?

13 EXAMINER PARROT: You may.

14 Company Exhibit No. 20.

15 (EXHIBIT MARKED FOR IDENTIFICATION.)

16 Q. (By Mr. Nourse) Mr. Chernick, do you
17 have the exhibit we just marked?

18 A. Yes, I do.

19 Q. And do you see -- is this the format that
20 you used in this case when receiving company
21 responses in discovery?

22 A. Yes.

23 Q. And do you see an indication that there
24 was a response, a supplemental response, on
25 September 1st?

1 A. Yes.

2 Q. And do you see in the RPD on the second
3 page, there is also a response and a document
4 provided on September 1?

5 A. Yes.

6 Q. Do you recognize that file name as being
7 the 2015 fundamental forecast of the company?

8 A. That certainly looks like it, yes.

9 Q. Thank you.

10 Mr. Chernick, let me ask you a few
11 questions about your overall approach and your method
12 that you used in the quantitative portions of your
13 testimony, okay?

14 Now, in your trial testimony you address
15 quantitative analysis in the PPA proposal and offered
16 policy recommendations, correct?

17 A. Yes.

18 Q. On behalf of Sierra Club.

19 A. My testimony is on behalf of Sierra Club,
20 yes.

21 Q. And I'd like to walk through the overall
22 steps of your quantitative analysis. Was the first
23 step to adjust the company's capacity and energy
24 prices downward?

25 A. Are you talking here about as it's laid

1 out in the testimony or chronologically, or doesn't
2 matter? Are we just listing them to get my --

3 Q. Same discussion we had at your
4 deposition, so I'm asking you how you did your
5 quantitative analysis and whether the first step is
6 to adjust the company's capacity and energy prices
7 downward.

8 A. Chronologically, I'm not sure. I think
9 we started with the energy analysis, because that's
10 somewhat more complicated, and then did the capacity.

11 Q. So both of those were done as step one?

12 A. They were done early in the process. At
13 the same time we were looking at other factors,
14 availability, O&M projections, various other things
15 that would affect the analysis.

16 Q. Then at that point you reran the PPA net
17 cost spreadsheet, replacing company's capacity and
18 energy prices with your lower RII forecast prices,
19 correct?

20 A. That's correct.

21 Q. And to be clear, you reran the
22 spreadsheet for net costs using lower revenues
23 without reducing the cost, right?

24 A. Yes. We looked at the various cost
25 items, and they seemed to be consistent with

1 historical or forward prices and didn't see any
2 reason to adjust anything.

3 Q. And am I correct that you did not do any
4 dispatch modeling as part of your analysis or work in
5 this case?

6 A. That's correct. We thought about whether
7 we needed -- would need somebody to do dispatch
8 modeling, but it became clear that at current market
9 conditions, the contract was so wildly uneconomic
10 that the detail that's available through a dispatch
11 model really wouldn't affect the final determination.

12 Q. So is it a fair summary of your
13 quantitative analysis that you reduced the revenues,
14 left the costs in place, and calculated a negative
15 number for the PPA?

16 MS. HENRY: Objection.

17 EXAMINER PARROT: Grounds?

18 MS. HENRY: That's not what the witness
19 said.

20 EXAMINER PARROT: He asked if it was a
21 fair summary, and the witness may disagree if it's
22 not a fair summary.

23 A. Well, the result was that the one cost
24 item that we believe the company had left out was the
25 penalties for capacity performance, and we added that

1 in, but, otherwise, we did not change costs, and we
2 changed revenues. We did change revenues.

3 MR. NOURSE: Your Honor, could we
4 approach?

5 EXAMINER PARROT: You may.

6 Q. I'd like to give you a copy of your
7 deposition transcript, Mr. Chernick. I'm not marking
8 this as an exhibit. I ask you to turn to page 30,
9 and do you see the Q and A at the top of the page?

10 A. Yes.

11 Q. So let me ask you again. Is it fair to
12 say that you reduced the revenues, left the cost in
13 place, the result was a bigger negative number?

14 A. Well, as I said, there was one cost item
15 that we added in, so what I said in the deposition
16 missed that point.

17 Q. So are you changing your testimony?

18 MS. HENRY: Objection. That was referred
19 to later in his deposition.

20 MR. NOURSE: Your Honor, that's not
21 relevant. I asked the exact same question and his
22 answer was, "Yes. That was certainly a fact," in the
23 deposition. So I'm asking the same question today
24 and asking if he can give the same answer or if he's
25 changing his testimony.

1 MS. HENRY: And I believe he's saying
2 that's only a partial answer and you have to look at
3 other portions of the deposition.

4 EXAMINER PARROT: The objection is
5 overruled. He may explain himself. I'll limit him
6 to a "yes" or "no" answer.

7 Go ahead, Mr. Chernick.

8 A. My testimony, my direct testimony, in
9 fact, changed a cost item, added in a category that
10 the company had not included, and, therefore, in the
11 deposition I misspoke. I had -- I was not thinking
12 about that adjustment as being an exception to your
13 statement, that I left the cost in place. I did not
14 adjust other costs, because they seemed to be
15 consistent with, as I said, historical or forward
16 prices.

17 Q. So to clarify what you're saying now, you
18 left all the costs that were in Dr. Pearce's analysis
19 in, but you added the cost of capacity¹ performance
20 penalties?

21 A. That's correct.

22 Q. Now, I'd like to ask you a few sort of
23 directional relationships about the overall economics
24 in the PPA, and these questions should also sound
25 familiar, Mr. Chernick.

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1 So I want to ask you about individual
2 components, but we're going to leave "all else equal"
3 for this series of questions. Do you understand?

4 A. Yes. And I think we can agree that "all
5 else" usually isn't equal, but we're talking about
6 just the mathematics.

7 If you have various lines in a
8 calculation and you move -- you increase or decrease
9 one of those lines, you want to know what's the
10 effect on the net at the bottom.

11 Q. That's correct. So let's take capacity
12 costs first. Well, I'm sorry, let's actually start
13 with revenues. So let's take the capacity prices.
14 And so is it fair to say that, all else being equal,
15 if you increase capacity prices, that would work to
16 the favor of making the PPA more favorable and more
17 economic?

18 A. Yes. If you do that in your calculation,
19 increase that number, the capacity price in your
20 calculation, the PPA value will go up for that year.

21 Q. And if you reduce the capacity price,
22 then the economics of the PPA degrades or diminishes,
23 deteriorates, whatever word you want to use, correct?

24 A. Yes.

25 Q. And that same set of relationships

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1 applies for energy prices as well?

2 A. That's correct.

3 Q. And let's talk about the cost side a
4 little bit. With respect to fuel costs, if you're
5 increasing fuel costs, the economics from the PPA
6 would degrade or diminish; and if you're reducing
7 fuel cost, the economics in the PPA would improve,
8 correct?

9 A. Yes, again, if you're just changing that
10 one line in your calculation.

11 Q. And the same goes for emission allowances
12 and other consumables associated with the fuel?

13 A. Yes. If you increase the amount you have
14 through those things in your calculation, then it
15 will make the PPA less favorable. If you decrease
16 them, it will make it more favorable.

17 Q. Then another category of costs, let's
18 talk about capital and O&M, if we could lump them
19 together, and also include within capital and O&M any
20 investments that could be associated with
21 environmental requirements, okay? Do you understand
22 that category?

23 A. Yes.

24 Q. And so as we increase the capital and O&M
25 on the cost side, that's going to degrade the

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1 economics of the PPA, and if we decrease them, it's
2 going to improve the economics of the PPA, correct?

3 A. Again, that's if you're just changing
4 those particular lines of the calculation, that would
5 be the effect.

6 Q. And capacity performance revenue, back on
7 the revenue side, although you may take this on in
8 the cost side in your answer -- let's just stick with
9 capacity performance, which you agree could include
10 not only function revenue but payments from --
11 payments from incentives if the unit is performing
12 above its UCAP during a performance hour, correct?

13 A. Yes.

14 Q. And so increasing those would improve the
15 economics of the PPA; decreasing them would degrade
16 the economics of the PPA?

17 A. Yes. And the auction revenues would be
18 part of the capacity costs -- or capacity revenues
19 we've already talked about, so you don't want to
20 double count them, but the effect is the same whether
21 it's in the capacity revenues line or in a second
22 line for incentive for overperforming.

23 Q. That's fair. I just forgot to mention it
24 earlier. Okay. And then, I guess, finally, on the
25 capacity performance penalty potential, there would

1 be a penalty during a performance hour, that would
2 essentially be the initial cost and would have the
3 relationship or the impact we talked about earlier
4 for the other costs?

5 A. That would be correct.

6 Q. Now, did your analysis include components
7 that tended to bias the cost upward, your
8 quantitative analysis?

9 A. By "bias" do you mean overstate compared
10 to a reasonable expectation for the future?

11 Q. Yes.

12 A. Not intentionally.

13 Q. Okay. And do any components of your
14 analysis bias toward lowering revenues in the PPA?

15 A. No. I just tried to be realistic about
16 the revenues, even to the side of being
17 conservatively high.

18 Q. If you were convinced there was a net
19 quantitative benefit of the PPA, would you endorse
20 approval of it?

21 A. Well, I think there's still policy
22 problems. For example, if the Commission thought
23 that the PPA would be worth 7 cents over some term
24 and it would cost 6 and a half cents, then the
25 Commission still ought to require a competitive

1 market test to see if somebody else would come in at
2 6 cents or 5 and a half cents.

3 So being an improvement over the status
4 quo would not be enough of a test. There are also
5 the structural problems that even if I thought that
6 the PPA was likely to be cost-effective, but there
7 are these adverse incentives for AEP Generation to
8 continue spending money on plants and earning a
9 return on them, that would still bother me, and I
10 think aspects of the PPA still should be rewritten,
11 but we're so far from that situation that I haven't
12 really looked at just what would be necessary if the
13 PPA actually looked cost-effective.

14 Q. And I appreciate all your explanation.
15 But are you saying that even if you were convinced
16 there was a net quantitative benefit to be realized,
17 you would still not, as you sit here today, recommend
18 approval of the PPA? Is that correct?

19 A. No. There's some improvement to the
20 contract form and some -- and the need for a market
21 test.

22 Q. Do you agree that a properly structured
23 PPA rider could achieve a useful energy price for the
24 benefit of the ratepayers?

25 A. I'm sure that there's some PPA that would

1 provide a useful hedge.

2 Q. Do you agree that customers might be
3 willing to pay a little bit more if they reduce their
4 risk, Mr. Chernick?

5 A. Yes, that having price stability is worth
6 something. The PPA doesn't do that very effectively,
7 but having a PPA that did that would be worth
8 something to customers.

9 Q. I'd like to talk to you a little bit
10 about the types of generation capacity resources that
11 are out there, that are available, and ask for your
12 views regarding a couple questions here.

13 So as we look at the major generation
14 types, nuclear, gas, electric, renewable -- you
15 follow me?

16 A. You've listed "electric" in there.

17 Q. I'm sorry. I apologize. Nuclear, coal,
18 gas-fired electric, and renewable. You with me?

19 A. Yes.

20 Q. Can you rank those in your mind relative
21 to reliability, those four categories?

22 A. What do you mean in terms of reliability?

23 Q. As you look at comparing a nuclear unit
24 to a gas-fired electric generator or a coal unit to a
25 renewable unit, how do they rank in terms of

1 reliability?

2 A. Are you talking about contributing to
3 reducing the loss of load probability for PJM?

4 Q. That would be a factor in reliability.
5 What are the other factors that you consider
6 important for reliability?

7 A. Well, since this PPA is -- I thought was
8 being offered primarily in terms of price
9 stabilization benefits, the reliability of energy
10 generation over the course of a year would be another
11 important factor, if that's what you mean by
12 comparing the reliability.

13 Q. Well, I want you to give your opinion of
14 what you mean by reliability in the rank of types of
15 generation I listed.

16 A. Usually when you're talking about
17 reliability, you're talking about keeping the lights
18 on, of reducing the loss-of-load reliability. If
19 you're just talking about reliability in general, you
20 can be thinking about that. I'm just trying to make
21 sure we're talking about the same thing and not
22 sailing past one another.

23 Q. It's good to be clear. But would you
24 agree that major factors of reliability would be
25 whether a unit could be dispatched during peak-demand

1 period?

2 A. Whether it's operating at times of need,
3 which would tend to be high-load times, but also
4 times when there are other large outages.

5 Q. Whether the unit's available and
6 operating --

7 A. Yes.

8 Q. -- at the time of the peak?

9 And in your experience based on the
10 generation types we're talking about, what would rank
11 first, nuclear, coal, gas, renewables?

12 A. Well, first of all, for some renewables
13 you have to distinguish between the nameplate
14 capacity or installed capacity and the equivalent
15 capacity, because they don't -- they aren't always
16 able to operate due to the resource availability; the
17 wind isn't blowing, the sun isn't shining.

18 Q. So are we putting them at the bottom?

19 A. No. I'm just saying you have to be
20 realistic about what the numbers are. You don't --
21 wouldn't think of a megawatt of installed wind
22 capacity as being equivalent to a megawatt of
23 installed nuclear capacity.

24 Q. I agree.

25 A. PJM adjusts those capacity values down

2718

1 to -- I don't remember exactly what term they used,
2 because different organizations use different terms,
3 but something like firm capacity. And at some time,
4 such as the cold weather this last winter, I know PJM
5 found that wind was overperforming compared to its
6 capacity rate, its firm capacity, now, obviously,
7 operating at less than the maximum capacity but
8 operating well above what had been attributed to
9 them.

10 Q. Okay.

11 A. So whether you consider them to be highly
12 reliable or only 40 or 50 percent reliable depends
13 upon whether you're measuring from their nameplate
14 capacity or the capacity that PJM counts on them for.

15 Q. Okay. Well, going back to our definition
16 of reliability, we talked about the expectation of a
17 particular unit being available, being in operation
18 during the time of the peak. Are you saying that you
19 can predict that during the peak it's going to be
20 very windy and the wind generation will be available
21 every time there's a peak demand?

22 MS. HENRY: Objection. Misstates his
23 testimony.

24 MR. NOURSE: I'm asking him to clarify.
25 What he just gave was a big explanation and didn't

1 answer my question.

2 EXAMINER PARROT: The objection's
3 overruled.

4 A. No, you can't count on any power plant
5 always being available.

6 Q. Okay.

7 A. Reliability is a statistical concept.

8 Q. So are you not willing to say that
9 renewable power is less reliable than nuclear power?

10 A. Again, it depends upon what you -- how
11 you're measuring and if you're looking at the PJM
12 UCAP, unforced capacity values, and asking which of
13 these resources performs best at the times that we
14 need it.

15 Certainly for the winter, wind has been
16 performing well, and that makes sense because your
17 high loads are likely be at times when its windy,
18 because there's increased demands for electric
19 heating. But if you do it per megawatt of installed
20 capacity, you're going to get a different result.

21 Q. So doesn't the fact that renewable has a
22 lower value for installed capacity -- isn't that an
23 indication of lower reliability?

24 A. Well, it's lower reliability per megawatt
25 of installed capacity but not per megawatt of

1 unforced capacity, necessarily.

2 Q. And so you have to install -- for a
3 50-megawatt wind farm, you're going to get a fraction
4 of that in terms of capacity value, correct?

5 A. Yes.

6 Q. And if we compare that to a -- 50
7 megawatts is a bad example. But if we have a
8 300-megawatt wind farm, we compare that to a gas unit
9 or a small coal unit on a megawatt basis, you'd agree
10 the wind would be less reliable in terms of the
11 definition we used at the outset of our questions?

12 A. Yes. You've now clarified that you're
13 talking in terms of installed capacity and per
14 megawatt of installed capacity. Wind will give you
15 less reliability than a nuclear plant under most
16 circumstances or a coal plant or a gas plant.

17 Q. Do you agree that there are situations in
18 which paying more than the market price for renewable
19 resources makes sense and is a good idea?

20 A. Yes.

21 Q. Do you agree that when it comes to the
22 financial need for a generation unit, that if there's
23 something the market's not taking into account that
24 the Commission wants to take into account, you'd be
25 presented with a legitimate decision whether the

1 generation resource needs support?

2 A. Yes; especially if, overall, the factors
3 that aren't being taken into account would make it a
4 valuable resource for Ohio and/or the ratepayers.

5 Q. Okay. And then switching back to
6 renewable, if a renewable project won't happen
7 without financial support, then financial need is
8 relevant, correct?

9 A. You would like to avoid paying more than
10 the project needs to get off ground, and the way you
11 usually determine that is to have alternative
12 projects compete with one another.

13 Q. Okay. But leaving aside the level of
14 support now, which I think is what you're addressing
15 in your answer, that if the Commission wants the
16 project to happen or to be retained and it needs
17 support, then the Sierra Club is willing to provide
18 some level of support, correct?

19 MS. HENRY: Objection. He's our expert
20 witness. This gentleman does not work for Sierra
21 Club. He does not speak for Sierra Club. You can
22 ask him question about his opinion as an expert.

23 Q. Turn to page 40 of your deposition, and
24 you see the Q and A, the last full Q and A, page 40?

25 A. Yes.

1 Q. Have you reviewed it?

2 A. Yes.

3 Q. And I asked you as a Sierra Club witness,
4 same example we just discussed, and you said, if "we
5 want it and it needs support, we're willing to
6 provide some support." Do you see that?

7 A. Yes. I wasn't speaking for the Sierra
8 Club there. And by "we" I meant the consumers, the
9 regulatory community, the public in general.

10 Q. Do you see in the question where I said,
11 "I'm asking you as the Sierra Club witness"? Do you
12 see that, Mr. Chernick?

13 A. Yes.

14 MS. HENRY: Objection. It was clarified
15 earlier in the deposition that he did not work for
16 Sierra Club and that all -- and we can point to those
17 questions, and we can do that on the record.

18 MR. NOURSE: Your Honor --

19 EXAMINER PARROT: I think Mr. Chernick
20 has already explained his response. Let's move on,
21 please.

22 Q. (By Mr. Nourse) And, Mr. Chernick, do
23 you agree that with existing coal plants, like the
24 ones being discussed in this case, the Commission
25 might find other benefits, such as economic

1 development or the reliability benefits, and that
2 would be the basis for considering financial need in
3 the context of the PPA proposal?

4 A. In principle, that is possible. I don't
5 think that's been demonstrated in this case.

6 Q. But you agree with my question?

7 A. In principle, that the Commission could
8 find that there were economic-development benefits or
9 reliability benefits and be willing to support a
10 plant that was otherwise not economic, at least until
11 an alternative came along that provided those
12 benefits and was more economic.

13 Q. Does the Sierra Club support generation
14 electricity through units fueled by natural gas?

15 A. I'm pretty sure that the Sierra Club has
16 endorsed some natural gas-fired projects.

17 MR. NOURSE: Your Honor, I'd like to mark
18 an exhibit as AEP Ohio Exhibit 21.

19 (EXHIBIT MARKED FOR IDENTIFICATION.)

20 Q. Do you have the exhibit in front of you,
21 Mr. Chernick?

22 A. Yes, I do.

23 Q. Does this appear to be a printout from
24 the sierraclub.org website?

25 A. That's what it says it is.

1 Q. Do you see the statement in the second
2 sentence in the body, "It is clear that we cannot
3 transition from one fossil fuel to another and expect
4 to see major climate benefits. We need to move
5 beyond natural gas"? Do you see that?

6 A. Yes.

7 Q. And is this section of the website
8 entitled "Why Move Beyond Natural Gas"?

9 MS. HENRY: Objection. He's already said
10 he doesn't work with Sierra Club. He's not a member
11 of the Sierra Club. There's no foundation laid that
12 he would even have any knowledge. You haven't laid a
13 foundation for this document.

14 MR. NOURSE: Your Honor, I did. I asked
15 him if it appeared to be from Sierra Club and this is
16 relating to --

17 MS. HENRY: I can pull up anything from a
18 website and have a URL. That doesn't establish
19 foundation.

20 MR. NOURSE: Are you done?

21 MS. HENRY: Yes.

22 MR. NOURSE: Your Honor, this is
23 clearly -- he is the Sierra Club witness. He
24 indicated he's the policy witness, and this is from
25 Sierra Club's website. It's a self-authenticating

1 statement of the party, and I'm using it to refresh
2 his recollection, since he couldn't recall whether
3 Sierra Club opposes gas generation.

4 MS. HENRY: Can I ask a question? Are
5 documents from USEPA's website also
6 self-authenticating?

7 MR. NOURSE: They've been entered into
8 this record.

9 EXAMINER PARROT: All right.

10 I would like to know, Mr. Chernick, have
11 you seen this before?

12 THE WITNESS: No.

13 EXAMINER PARROT: Go ahead, Mr. Nourse.

14 I'm sorry. I think we have a question
15 pending, don't we?

16 Can we reread the last question.

17 (Record read.)

18 MS. HENRY: Objection. The witness has
19 said he's never seen this before. He's asking him to
20 read a statement he's never seen before from a
21 document. No foundation laid.

22 MR. NOURSE: Again, your Honor, this is a
23 statement from the Sierra Club's website. They're a
24 party in this case. He's the witness. He's a policy
25 witness. He couldn't answer any question about their

1 position on natural gas. I'm using it to refresh his
2 recollection.

3 EXAMINER PARROT: I'm going to allow the
4 question for that purpose.

5 A. I'm sorry, I was not -- in my previous
6 answer I was not referring to the website. I was
7 referring to proceedings that I've been involved with
8 which involved construction or purchase of natural
9 gas-fired power plants.

10 Q. Well --

11 A. So I'm -- you know, this is not a matter
12 of refreshing my memory. Your question was, does it
13 appear to be from a page labeled "beyond natural gas"
14 or "Why move beyond natural gas," and the answer is
15 that's what the header and the footer seem to
16 indicate.

17 Q. My question was about the sentence -- you
18 saw the sentence, "It is clear we cannot transition
19 from one fossil fuel to another and expect to see
20 major climate benefits. We need to move beyond
21 natural gas."

22 A. Yes.

23 MS. HENRY: Objection, your Honor. He
24 said he's using this document to refresh his memory
25 about the question when he said, Is it true that

1 Sierra Club would oppose a natural gas plant? And I
2 believe Mr. Chernick said no. He used this to
3 refresh his memory, and he said, No, based on my
4 experience, that's not the case.

5 EXAMINER PARROT: I'm not sure we got
6 that far yes, so I'm going to allow this to continue
7 a bit and see where it goes.

8 A. Mr. Nourse, I'm a little confused because
9 this piece seems to be related to natural gas
10 drilling and production and not whether building a
11 new natural gas plant is warranted, and, therefore,
12 it's not really on point because you could certainly
13 support more gas capacity as backup and supplement to
14 renewable energy without advocating for greater
15 annual gas extraction or combustion.

16 Q. Were you aware of the Sierra Club's
17 position that we need to leapfrog over gas whenever
18 possible in favor of truly clean energy?

19 A. Where are you reading from this document?

20 Q. I'm reading from the last bullet on the
21 second page. But if you don't need refreshing, I'm
22 asking you, are you aware of Sierra Club's position?

23 A. I think that I have seen indications
24 previously that Sierra Club would like to go to
25 renewables where that's possible in preference to

1 natural gas.

2 Q. And when people talk, like Sierra Club,
3 and anyone, yourself, talk about clean energy in
4 connection with gas, that doesn't just involve
5 production, it involves burning gas for energy,
6 doesn't it?

7 A. Well, if you're talking about CO2, for
8 example, global-warming issues, climate change, then
9 burning of natural gas is a concern. It may not be
10 your biggest concern in that situation, and it may be
11 the best of your alternatives at some particular
12 point in time and in place.

13 Q. And is it your understanding that the
14 Sierra Club's "Beyond Natural Gas Campaign" is
15 designed to curb gas-fired electric-generation units?

16 MS. HENRY: Objection. What's the
17 relevance? I mean, I've been patient, but what's the
18 relevancy of Sierra Club's -- I mean, to this docket?

19 EXAMINER PARROT: Response, Mr. Nourse?

20 MR. NOURSE: Well, the relevance I think
21 is obvious, your Honor. If we're advocating -- he's
22 up here advocating prices ten years from now that are
23 lower than today's prices, and if we're against coal
24 and if we're against gas, I'm not sure what's left
25 that's going to certainly keep prices low in the

1 long-term, so that's the relevance.

2 And I'm not sure if Sierra Club is
3 ashamed of its website. I mean, there's been tons of
4 documents from AEP that the witnesses had not seen
5 before that have been entered into evidence in this
6 case, and none of them have been objected to.
7 They're self-authenticating from the company's
8 website, in this case, the organization's website.
9 This witness is the policy witness, the only policy
10 witness, in this case for Sierra Club.

11 MS. HENRY: Mr. Nourse, I'm not ashamed
12 to work for Sierra Club. You can look at my computer
13 and see how proud I am to work at the Sierra Club.
14 But I will -- my point was, you know, very irrelevant
15 to this proceeding.

16 EXAMINER PARROT: And I disagree. The
17 objection is overruled.

18 Mr. Chernick, please answer the question.

19 And let's save the basis about the
20 admissibility of documents until we get to that
21 point, please.

22 MR. NOURSE: Thank you.

23 THE WITNESS: I'm sorry, I don't remember
24 the question.

25 (Record read.)

1 A. I don't have any information about the
2 Sierra Club's "Beyond Natural Gas Campaign," other
3 than a little bit that I've seen in the media, so
4 anyone who's concerned about reducing carbon dioxide
5 emissions, global-warming emissions is going to be
6 interested in reducing the amount of gas burned, but
7 not as concerned as they are about reducing the
8 amount of coal burned.

9 Q. So are you saying Sierra Club hates gas
10 less than it hates coal?

11 MS. HENRY: Objection. Misstates his
12 testimony.

13 EXAMINER PARROT: Overruled.

14 A. I don't think "hates" is an appropriate
15 term. I think that the environmental problems from
16 gas combustion are less than those from coal
17 combustion, and so most people involved in
18 environmental protection, climate protection, are
19 more concerned about coal than natural gas.

20 And, again, the issue is not the number
21 of plants that you have but their efficiency of gas
22 burning or how much CO2, at least.

23 Q. And to be clear, Mr. Chernick, I'm not
24 asking what you think most people think. I'm asking
25 you what Sierra Club thinks, and you're representing

1 Sierra Club today. That's what I want to know about.
2 Okay?

3 A. Okay. And I'm trying very hard to tell
4 you what I know, which is very limited because I have
5 never been in a meeting involving the "Beyond Natural
6 Gas" project, or whatever they call it.

7 Q. So is it your understanding that the
8 Sierra Club's position is that we should leave the
9 vast majority of fossil fuels in the ground?

10 A. I think that's the consensus in the
11 scientific community. And I don't know for sure, but
12 I would assume that Sierra Club would have accepted
13 that consensus.

14 Q. Okay. And are you aware of the Dirty
15 Fuels Campaign of Sierra Club?

16 A. That does not ring a bell.

17 MR. NOURSE: Your Honor, may we approach?

18 EXAMINER PARROT: You may.

19 MS. HENRY: Your Honor, if it will speed
20 things along, we'll stipulate that Sierra Club has a
21 "Beyond Natural Gas Campaign." I don't know, we may
22 have a Dirty Fuels Campaign as well.

23 MR. NOURSE: Thanks for the offer. I'd
24 like to cover this with the witness, though.

25 Your Honor, I'd like to mark this as AEP

1 Exhibit No. 22.

2 (EXHIBIT MARKED FOR IDENTIFICATION.)

3 MS. HENRY: Objection. I mean --

4 EXAMINER PARROT: I haven't gotten to
5 that point yet, Ms. Henry. Let's wait a bit, please.

6 Q. (By Mr. Nourse) Okay. And in context of
7 what I just asked you about, the familiarity with the
8 Dirty Fuels Campaign of Sierra Club and the statement
9 that "We should leave the vast majority of fossil
10 fuels in the ground," by Sierra Club Dirty Fuels
11 campaign director, Lena Moffitt, you're not aware of
12 the campaign or those statements, correct,
13 Mr. Chernick?

14 A. That's correct.

15 Q. And is it your understanding -- or do you
16 have an understanding of whether the Sierra Club's
17 position regarding not only coal, but also gas, that
18 it not only means stopping pipelines from being
19 built, but leaving untouched 80 percent of the
20 remaining coal reserve, 50 percent of the remaining
21 gas reserves, 30 percent of the remaining oil
22 reserves?

23 MS. HENRY: Objection, your Honor. We
24 haven't even established if he's seen this document
25 before. You're just reading numbers from an article.

1 I can read an article. That doesn't mean there's a
2 foundation laid.

3 MR. NOURSE: I asked him if he had an
4 understanding of whether Sierra Club's position was
5 as quoted.

6 MS. HENRY: I believe he says he's never
7 even heard of the campaign, so throwing out
8 statistics on a piece of paper that he's never
9 seen -- of course, if he's never heard of the
10 campaign, he's probably not going to know the
11 statistics on it.

12 MR. NOURSE: I disagree because the
13 campaign name has little to do with what the
14 substantive position is.

15 EXAMINER PARROT: The objection is
16 overruled.

17 Mr. Chernick, if you can answer the
18 question, please do so.

19 A. I don't know about the specific
20 percentages for where those came from, but the
21 general point that most of the fossil resources have
22 to stay in the ground if we're going to have a world
23 that looks anything like what we have is, I think, a
24 consensus view in the climate-modeling community.

25 Q. But regardless of whether it's a

1 consensus view in any particular community, is that
2 your understanding of the Sierra Club's position on
3 these issues?

4 A. I told you before, I assume that Sierra
5 Club accepts the science, but I don't have any
6 specific information about that.

7 Q. Well, we haven't talked yet about
8 science, Mr. Chernick. I asked you whether Sierra
9 Club's position is to leave fossil fuels in the
10 ground, including --

11 MS. HENRY: And I believe --

12 Q. -- 80 percent of the remaining coal
13 reserves, 50 percent of the remaining gas reserves,
14 30 percent of the remaining oil reserves.

15 A. I have never seen those numbers from
16 Sierra Club in the past, so I don't know, but we are
17 talking about science here.

18 Q. And you'd agree with that?

19 A. I don't know about the numbers.

20 Q. Okay. But you agree with the overall
21 position, just leave it in the ground?

22 A. A large percentage of the carbon that's
23 grown underground has to stay there, barring some
24 technological breakthrough that would allow us to
25 extract it and store it safely in order to avoid much

1 greater climate change than we're already committed
2 to. That's my understanding of the scientific
3 consensus.

4 And I haven't -- I'm not familiar with
5 the literature on exactly what that comes to in terms
6 of percentages of resources domestically or
7 worldwide.

8 Q. Now, if Sierra Club is successful in the
9 Dirty Fuels Campaign and Beyond Natural Gas Campaign
10 and no more coal or gas units are built in the next
11 ten years, what would you see capacity and energy
12 prices doing in the future?

13 A. I haven't seen anything in here that
14 indicates that either of those campaigns has a
15 position that no new gas plants should be built.

16 Q. Are you saying Sierra Club supports new
17 gas generation?

18 A. Where there's a better alternative --
19 well, you're getting into speculation here on my part
20 because I haven't -- I'm involved in a small number
21 of cases for Sierra Club. But frequently we are
22 advocating for the retirement of coal plants and
23 construction of gas peakers or combined cycle as
24 appropriate to the extent necessary to provide a
25 bridge to a renewable future.

1 Q. To bring it back to the case and your
2 testimony, then, did your capacity and energy
3 forecast envision closure of gas and coal units over
4 the next ten years?

5 A. My energy forecast is based on the
6 forward prices today, which is what AEP Ohio could
7 buy electric energy for today, hedging the deposit of
8 power, and, therefore, it includes the retirements
9 that the market participants include in their
10 expectations when they're deciding what price they'll
11 accept.

12 Q. Does that mean that you think market
13 participants believe Sierra Club's campaigns will
14 fail?

15 MS. HENRY: Objection. He admitted to
16 not even having information about the campaign.

17 MR. NOURSE: Well, my question was about
18 future market prices and whether if coal and gas
19 units closed, what's that going to do, should be
20 pretty obvious, but I'm not sure if he answered that.

21 EXAMINER PARROT: If you can answer the
22 question, please do so.

23 A. No.

24 Q. So if coal and gas units close over the
25 next ten years, you believe energy prices and

1 capacity prices will remain at or below the current
2 level?

3 A. Well, my projection is for rising
4 capacity prices, and I do assume that some new gas
5 plants will continue to be built where needed for
6 reliability. On the energy side, I think I would be
7 shocked if anybody involved in the power-marketing
8 business did not believe that a large number of coal
9 plants were going to retire between now and 2024 and
10 some gas, but not a lot, will retire and other gas
11 plants will be built. I expect that to be the
12 expectation of almost all participants.

13 Q. So your analysis assumes gas plants will
14 be built during that period, even though Sierra Club
15 may oppose them?

16 A. Well, I'm not aware of Sierra Club
17 opposing the construction of gas plants, except where
18 they don't appear to be necessary or there are better
19 alternatives.

20 Q. If we leave it in the ground -- if you
21 leave the gas in the ground, do you expect gas prices
22 to increase?

23 A. Well, in the very long term, gas prices
24 are -- may increase as you reach whatever threshold
25 you set for the amount of gas you're going to take

1 out. In the short term, as energy efficiency and
2 renewables reduce the demand for gas, both for
3 electric generation and directly, that pushes down
4 the price of gas; and so it really depends on how
5 much gas you're producing how fast. And I really
6 haven't looked at it on that level.

7 Q. So is it fair to sum up this area, before
8 we move on, to say that you didn't determine what
9 Sierra Club's position was about future gas units
10 being built, and you didn't incorporate that decision
11 and that position into your assumptions of
12 forward-capacity and energy prices?

13 A. Well, again, I have the experience of
14 working on a number of cases for the Sierra Club, so
15 I have some insight into the positions that they've
16 taken on whether it's sometimes necessary to build
17 gas plant.

18 Q. Okay. Go ahead.

19 A. But no, I did not -- first of all, the
20 forwards are not my judgment. They're the judgment
21 of people who are making financial decisions about
22 the future prices of gas and what prices they're
23 willing to lock in today. So my opinion about what
24 might or might not happen is not all that relevant.

25 Q. Do you think the forward prices -- and

1 we'll get into a whole separate discussion about this
2 later, but do you think the forward prices in this
3 context incorporates Sierra Club's position in their
4 future view or the view of those hedge-contract
5 prices?

6 A. It's my guess that the people who were
7 involved in this process expect some new pipelines to
8 be built and some new gas plants to be built, and
9 they clearly expect gas to continue to be produced
10 for a decade or more in the future.

11 Q. Mr. Chernick, were you aware of the
12 recent announcement by Entergy closing the Pilgrim
13 Nuclear Power Station due, in part, to poor market
14 conditions?

15 A. I think it's probably due to the fact
16 that if the absolute bottom of the NRC's safety
17 ratings were any lower, the NRC would require that it
18 be shut down. It's one of the oldest units. It's a
19 single-unit plant, one of the oldest nuclear units in
20 the country. It's a single unit, and it's a small
21 unit, a little over 600 megawatts, so it has a number
22 of strikes against it, and it's hardly surprising
23 they're shutting down.

24 Q. I gather by your answer the answer is,
25 yes, you were aware of the announcement?

1 A. Yes.

2 Q. Did you view a press release about that?

3 A. I think I've read articles, which are
4 probably based in part on the press release.

5 MR. NOURSE: Your Honor, I'd like to mark
6 AEP Ohio Exhibit 23.

7 (EXHIBIT MARKED FOR IDENTIFICATION.)

8 MR. NOURSE: May we approach?

9 EXAMINER PARROT: You may.

10 Q. Mr. Chernick, as you glance at this press
11 release by Entergy, see if it refreshes your
12 recollection on what the company had indicated on the
13 announcement.

14 MS. HENRY: Is this plant in
15 Massachusetts? I'm going to object to the relevancy.

16 MR. NOURSE: Your Honor, it's a nuclear
17 plant that's announcing closure. I think it's
18 relevant to the things we've just been talking about,
19 what's going to happen in the future, what prices are
20 going to be. He said he was familiar with it.

21 EXAMINER PARROT: I'll allow it.

22 A. This doesn't look like it's exactly the
23 same as the articles I've read, but there's a lot of
24 overlap.

25 Q. But you agree that, and consistent with

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1 your recollection and what you read before, part of
2 the basis for the announced retirement was poor
3 market conditions?

4 A. Yes, that's one of the things they cite.

5 Q. And this particular plant is in the ISO
6 New England RTO, correct?

7 A. Yes.

8 Q. And if you turn to page 2, the second
9 bullet, one of the cited factors to the retirement
10 financial factors was wholesale energy market design
11 flaws, suppression of energy and capacity prices in a
12 region -- which, presumably, refers to the ISO New
13 England, correct?

14 A. That would be the relevant region. I
15 don't think they described any actual market design
16 flaws, other than the fact that they would like to
17 get credit for being carbon free and their -- and,
18 apparently, the benefits of the existing carbon price
19 in New England are not enough to overcome their
20 operation problems.

21 Q. And have you heard those same complaints
22 about the PJM capacity and energy market?

23 A. Exelon has complained vociferously that
24 its nuclear plants need more money.

25 Q. And does Sierra Club believe that nuclear

1 plants should get credit for being carbon free,
2 reliable --

3 A. I haven't any idea what Sierra Club
4 believes.

5 Q. You don't know?

6 A. I don't know.

7 Q. Okay. Mr. Chernick, let me shift gears
8 again --

9 MS. HENRY: It's been two hours. Do you
10 want a break?

11 MR. NOURSE: If you want a break, more
12 than happy.

13 THE WITNESS: Seems like a good time.

14 EXAMINER PARROT: Let's take a ten-minute
15 break.

16 (Recess taken.)

17 EXAMINER PARROT: Go back on the record.

18 Go ahead, Mr. Nourse.

19 MR. NOURSE: Thank you, your Honor.

20 Q. (By Mr. Nourse) Mr. Chernick, we were
21 just shifting gears to a new topic, and I want to
22 talk to you about some of the basic economic
23 considerations that you might look at with respect to
24 an individual generation plant. So do you agree that
25 an important measure of performance is the unit's

1 availability to produce energy and get net energy
2 revenues?

3 A. Availability is significant input, yes.

4 Q. And increasing a unit's capacity factor
5 by running when the market price energy is below your
6 running cost doesn't make sense, right?

7 A. Well, not on a commitment-period basis.
8 And by "commitment period," I mean for the period of
9 time for which you need to warm up the plant, ramp up
10 to generate, cool off, and then be prepared to start
11 up again.

12 You find plants that have to run in some
13 hours, especially coal plants, because if they
14 weren't running then, they wouldn't be available in a
15 later hour when it would be economic to run them.

16 If you have a quick start kind of unit,
17 you only want to run it in the hours for which it's
18 profitable.

19 Q. And so that's a fair clarification, and I
20 wasn't really asking about hours, but if you're an
21 operator of a plant, you're going to start up and run
22 for a period of time where you think the revenues are
23 going to exceed your costs, right?

24 A. Yes. And that's basically the way that
25 the PJM dispatch system works. They dispatch its

1 units based on their bid prices, hopefully so that
2 they're running when they're profitable.

3 Q. And so a decision to run the plant during
4 a period of time would be based on the revenues that
5 are expected during that period of time overall,
6 correct?

7 A. That's correct.

8 Q. And, in other words, the plant operator
9 only incurs incremental or available costs when it
10 can sell energy at prices higher than its costs,
11 correct?

12 A. Correct.

13 Q. Do you agree that an economic analysis
14 would be flawed if it assumes the cost of ruining the
15 unit would be incurred even when the market prices
16 were below the variable costs of running it?

17 A. Well, it's a simplification that may or
18 may not matter, per the situation. So, as I said,
19 there are times when you have to run the unit in
20 order to get revenues in another time period, and you
21 incur losses on an hourly basis for a while.

22 And if you have a base-load plant, and
23 without changing dispatch the reduction, for example,
24 in energy prices and, perhaps, fuel prices results in
25 being wildly uneconomic, it's unlikely that running

1 it less is going to make it economic since such a
2 large portion of the revenues come from energy and
3 since your fixed costs just get spread over fewer
4 lines.

5 Q. Again, I'm not talking about hourly. I'm
6 talking about the operator making a decision based on
7 a chunk of time and a chunk of revenue associated
8 with running during that time, and the operator's not
9 going to run if we're going to lose money, correct?

10 A. That's basically the case, yes.

11 Q. And a model that assumed that the
12 operator would run during that period at a loss would
13 be flawed, correct?

14 A. Well, it would slightly overstate the
15 operating losses from the plant or understate the net
16 energy revenues. It could be slight, if you're
17 assuming that a plant that should be running at
18 5 percent capacity factor, you assume that that runs
19 a hundred percent of the time, then you're going have
20 a major difference in the results.

21 Q. Let me shift gears, Mr. Chernick. I want
22 to talk about the PJM market, get a general idea of
23 your understanding and opinions relating to the
24 structure and features of the PJM market.

25 A. Okay.

1 Q. And this should sound familiar as well.
2 Do you agree that the PJM capacity market is an
3 administrative or regulatory market?

4 A. Yes.

5 Q. Would you agree that historically over
6 80 percent of the offers in the capacity market have
7 been zero?

8 A. I don't know.

9 Q. Why do generators employ that strategy of
10 bidding in at zero?

11 A. If you are -- your generator is going to
12 be viable or expected to be viable without any
13 capacity revenues, then there's no reason for you to
14 bid a capacity price. You want to take whatever the
15 price is, because if you're going to make money just
16 on energy sales, the capacity price is gravy, and you
17 want to just make sure that you clear at whatever
18 that price is, and bidding zero is one way to do it.
19 You can bid at any price, so long as you were sure
20 that it was less than the market clearing price.

21 Q. But would you agree that if the majority
22 of bidders are coming in at zero, that has an effect
23 of suppressing clearing prices?

24 A. No, not if that's the right price for
25 them. If it costs a \$100 million to run your plant

1 for a year and your expectation is that your revenues
2 from energy and, perhaps, from RECs and other
3 benefits are going to be a \$130 million, you
4 basically want to step up and say I'll take whatever
5 the price is for capacity. I'm going to be here,
6 I'll provide capacity.

7 With capacity performance you probably
8 want to bid something more than that, because there's
9 some cost in promising that you're going to be there.
10 But before capacity performance was a big issue, zero
11 was the rational thing.

12 Q. And is it true that PJM caps the auction
13 clearing price at one and a half times the Net CONE?

14 A. Yes. Where Net CONE is the PJM's
15 estimate for a benchmark, power plant cost minus the
16 expected energy and ancillary service revenues.

17 Q. Is that benchmark based on a gas
18 combined-cycle unit?

19 A. Not an actual one. The actual ones come
20 in with much lower costs of new entry. It's a
21 hypothetical construct which has proven to be much
22 higher than reality.

23 Q. And you're familiar with the variable
24 resource requirement or VRR curve?

25 A. Yes.

1 Q. And you agree that PJM administratively
2 establishes that curve?

3 A. That's correct.

4 Q. And that directly influences the clearing
5 price, correct?

6 A. That's correct. It was implemented to
7 keep the price from dropping to zero or near zero in
8 situations where there was excess capacity.

9 Q. You agree that PJM and the market monitor
10 have the ability and the practice of reviewing and
11 approving offers into the auction, capacity auction?

12 A. Yes. They certainly review the
13 qualification of the bid, and there are conditions
14 that are -- situations where they review the price as
15 well.

16 Q. And some restrictions apply, right?

17 A. Yes. In particular, for new resources
18 there's a minimum offer price rule, M-O-P-R, or MOPR
19 that applies to, I believe, just natural-gas combined
20 cycle and combustion turbine and integrated-gas
21 cycle.

22 Q. But you're not stating all the rules and
23 conditions apply. You're just agreeing there are
24 some rules and conditions, and that's an example,
25 correct?

1 A. Yes.

2 Q. Do you know what happens if the auction
3 fails to procure or clear enough capacity?

4 A. Well, there would be incremental auctions
5 to provide additional capacity.

6 Q. And what if those fail?

7 A. I believe that PJM also has the ability
8 to -- well, there are a couple of mechanisms. One is
9 that they have a reliability must-run option of
10 giving a contract to a plant, to a generation
11 resource, to guarantee enough revenue to cover the
12 forward-going costs to keep the plant online. And I
13 believe that PJM also has authority to run subsidiary
14 auctions to bring on short-term resources to bridge
15 the gap.

16 Q. And are you aware of what's referred to
17 as regulatory backstop?

18 A. I haven't looked at it for a while. I
19 know I've seen it.

20 Q. You agree that PJM has the flexibility to
21 provide a cost-based compensation to generators in
22 order to get enough resources online?

23 A. That's what -- I was describing that as
24 reliability must-run, yes.

25 Q. So there's not a separate ability to

1 enter into cost-based contracts beyond the
2 reliability must-run?

3 A. Well, they may divide it into contracts
4 that are justified by a local transmission constraint
5 versus those that are required for a broader region
6 of the RTO. That's a detail I haven't gotten into.

7 Q. Okay. But by your answer, I gather you
8 are agreeing that the RMR option relates to potential
9 retirement of a unit and PJM's view that there would
10 be a reliability gap that has to be addressed by
11 continued operation of that plant?

12 A. Yes.

13 Q. But my question about the auction and the
14 regulatory backstop is whether it's your
15 understanding that if the auctions and the
16 incremental auctions fail, does PJM have the option
17 of contracting with individual generators on a
18 cost-based rate basis to keep adequate resources
19 online?

20 A. I believe so. I haven't looked at that
21 in quite some time.

22 Q. I'd like to ask you some general
23 questions about your understanding of how the PPA
24 rider works, Mr. Chernick. And, first of all, the
25 PPA rider, when I say that, I'm referring to the

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1 retail rate mechanism, not the wholesale purchase
2 power agreement. Do you understand that?

3 A. Yes.

4 Q. And will you agree that without the PPA
5 rider -- actually, let me back up. Let me first ask
6 you a couple questions about Generation Resources,
7 the seller, and under the wholesale contract. Let me
8 ask you a few questions about that before we get into
9 retail provider, okay?

10 So without the PPA, if the wholesale
11 prices rise above the cost of operating PPA units,
12 the difference in margin will be profit to AEPGR,
13 correct?

14 A. If it goes above the operation expenses,
15 plus debt service and depreciation, then I think by
16 definition anything in addition to that would be
17 considered profit.

18 Q. And if you assume with me that under the
19 PPA there are a number of years in the future where
20 that occurs and there's profit above the cost, AEP
21 Generation Resources would retain those profits
22 without the PPA, correct?

23 MS. HENRY: Can we have that question
24 read back?

25 (Record read.)

1 A. If that were to occur in particularly
2 years -- in units or plants, then yes, the AEP
3 Generation would get a return on equity, which would
4 be something higher than zero.

5 Q. And it could be higher than 11.24 for
6 some period of time, under my hypothetical?

7 A. Mathematically that's possible, yes.

8 Q. Now, would you agree that upward-price
9 volatility is greater than downward-price volatility
10 in the PJM market?

11 A. First of all, are you talking about the
12 energy market?

13 Q. Let's start with hourly energy prices.

14 A. Hourly energy prices. As a mathematical
15 fact, or perhaps a real aspect of the market, if your
16 prices are running about, say, 4 cents, you could
17 have an hour in which it's 12 cents, but you're not
18 likely to have -- down by the same amount and be a
19 negative 4 cents. So on an hourly-basis price, the
20 highest prices are higher above the average and the
21 lowest prices are below.

22 Q. And those high price spikes tend to occur
23 during spikes in demand or load, such as those caused
24 by extreme weather, correct?

25 A. That's one thing that can cause a spike.

1 Generation outages can also do it, as can
2 transmission outages.

3 Q. And would you agree in shifting to retail
4 pricing that there's a risk premium in any fixed
5 retail price?

6 A. I'm sorry. Can you be more specific
7 about what kind of retail price you're talking about?

8 Q. Yeah. I want to cover in Ohio. Let's
9 talk about Ohio. So there are standard service offer
10 prices for nonshopping customers. There are
11 competitive retail electric suppliers', CRES,
12 offerings for shopping retail customers. Are you
13 familiar with those options?

14 A. Yes.

15 Q. And so under both of those options, would
16 you agree that there's a risk premium embedded in any
17 fixed retail price?

18 A. Well, you can call it a risk premium. I
19 would expect that the supplier would take into
20 account the probability of having to supply
21 additional energy at high-price, high-load times and,
22 perhaps, to dump some contracted energy into the
23 market in low-load, low-price times following the
24 shape of the customer's load.

25 So unless you have a completely flat load

1 shape, you would expect to have some -- have that
2 factor factored in, and you could think of that as
3 being -- accounting for the risk of higher prices.

4 Q. In other words, if suppliers, retail
5 suppliers, were providing a fixed number of
6 kilowatt-hours, it would be a lower price, wouldn't
7 it?

8 A. If it were a flat block of energy of 100
9 megawatt-hours per hour for a given period of time,
10 that tends to be lower than the cost of serving
11 actual load for, say, the entire residential class.

12 Q. And you would agree that these retail
13 fixed-rate offerings follow the wholesale market
14 trends and pricing levels?

15 A. Yes, they follow the forwards.

16 Q. And those prices would be sufficient to
17 cover either the CRES provider or the auction
18 supplier's costs requiring forward contracts and
19 hedges and compensating them for whatever residual
20 risk is left?

21 A. That's what they're -- they're trying to
22 do that and make a little money on the side, and they
23 would do that with or without the PPA.

24 Q. But retail rates reflect those
25 influences?

1 A. Yes. And they would, with or without the
2 PPA.

3 Q. Okay. Now, let's talk a little bit about
4 the PPA rider. I assume that's what you meant when
5 you said "without the PPA"?

6 A. Correct.

7 Q. The PPA rider, the retail rate mechanism.
8 So would you agree that during the times when market
9 prices are higher than the PPA cost, customers would
10 receive a credit by operation of the PPA rider?

11 A. Well, there may be a time lag, so that
12 if, for example, prices are very high one winter or
13 certain days within a winter, and the PPA units make
14 extra operating profits on those days, then that
15 would show up in, I believe, a reconciliation of the
16 PPA rider down the road.

17 Q. Okay. So depending on how frequently the
18 rider is reconciled, there could be a timing
19 difference there; is that what you're saying?

20 A. Yes, except when you said when this
21 happens at times of high prices. Well, it might not
22 be exactly at the time of the high price. It might
23 be the next summer. It might be the next winter.

24 But the way that the PPA is set up,
25 higher prices would flow through as a benefit to the

1 ratepayers, which may or may not cover the cost of
2 the PPA, but, incrementally, it would either reduce
3 the PPA charge or increase the credit.

4 Q. Again, setting aside the lag issue, that
5 relationship of running counter to the market price
6 trend would relate to the same time period, and the
7 company would account for it that way, regardless of
8 when it's trued up or reconciled; is that your
9 understanding?

10 A. I'm not sure exactly how the company
11 would do its accounting, but I suspect there would be
12 an attempt to coordinate the timing of the costs and
13 the accrual of the liability for a refund to
14 customers, and the additional revenues, that the
15 company would try to coordinate that on its books,
16 but I really haven't seen it.

17 Q. Would you expect when the Commission
18 administers the PPA rider, that there would be a
19 forecast -- there would be two components to updating
20 the rider. One would be a forecast of rejection, and
21 two would be a reconciliation? Is that your
22 expectation?

23 A. Yes.

24 Q. So the reconciliation would capture
25 things that actually happened that were not already

1 captured in the prediction of the forecast of what
2 was expected, correct?

3 A. It would be a different accounting for
4 the actual operation of the plants, the actual market
5 prices, the actual operating costs, and so on.
6 That's my understanding.

7 Q. And let me ask you another general
8 question I forgot to ask you earlier. It's on a
9 different topic.

10 A. Okay.

11 Q. The PPA units, each of those units are
12 actual generating plants that are operating out there
13 in the real world, and they have employees, and
14 they're large businesses in the areas they operate;
15 is that your understanding?

16 A. Well, they certainly have employees and
17 their business is in the areas they operate. I don't
18 know how large they are compared to other businesses
19 in those specific areas, but many of these plants are
20 large enough that I'm sure the municipality pays some
21 attention to them.

22 Q. And so you would agree that there would
23 be adverse economic impacts if any of the individual
24 plants were closed?

25 A. Well, closing a power plant certainly has

1 adverse impacts on, or can have, anyway, on the
2 people who work there and on the people who run the
3 coffee shop right outside the plant's gates and would
4 result in a reduction often in the municipality's tax
5 base.

6 But there are also economic benefits,
7 such as if the alternative is paying for a plant that
8 costs more than its worth, then rates would be lower,
9 people have more disposable income, will spend more
10 of it locally, and so on, businesses will face lower
11 rates, so it's complicated even before you start
12 looking at what would replace that plant. New
13 construction, conservation programs, rooftop PVs, all
14 of those have economic impacts.

15 Q. You haven't studied or incorporated into
16 your analysis, your quantitative analysis, any
17 primary or secondary economic development, economic
18 impacts of plant closures, have you?

19 A. I don't think I really deal with the
20 economic development issues. The company didn't
21 really address the Commission's condition that the
22 rate effects and the economic impacts of the rate
23 effects be studied. I didn't see that there was any
24 real need to weigh in on that.

25 Q. But my question was, you didn't study the

1 economic impacts of plant closure, nor did you
2 include any such analysis in your testimony; am I
3 correct?

4 A. That is correct.

5 Q. Speaking of your testimony, how about if
6 we open it up and talk about it a little bit. If you
7 could turn to page 7 of your direct testimony.

8 And, by the way, I am using the
9 confidential version, but I don't expect during this
10 session that you would need to disclose any
11 confidential data. If you believe that your answer
12 would require that, please indicate without
13 disclosing the confidential data, and we'll save it
14 for a separate session that we are going to need to
15 have about some confidential data, okay?

16 A. Yes.

17 Q. Thank you.

18 Mr. Chernick, on page 7, it's the third
19 bullet from the bottom. You don't have line numbers
20 here, but it's the last sentence I want you to look
21 at there. And that bullet says, "AEP cannot have it
22 both ways, simultaneously arguing that prices will be
23 high enough to render the PPA economic for
24 ratepayers, but the prices would be low enough to
25 make the PPA units uneconomic to operate." Do you

1 see that?

2 A. Yes.

3 Q. And does AEP's analysis, in your
4 understanding, maintain the market prices that remain
5 low for more than a few years?

6 A. No. AEP's projections, even with the
7 2015 update, include unrealistically high market
8 prices.

9 Q. I understand your position on that. But
10 what I'm asking you is about your "both ways"
11 argument here, and I'm trying to clarify what that's
12 premised on.

13 Would you agree that AEP's numbers,
14 setting aside your opinions about them, do not
15 project losses, even under the low case, for more
16 than a couple years in the future?

17 A. I'd have to check that particular value
18 for how many years out they go, but I'll take that,
19 subject to check, and it will be in Dr. Pearce's
20 Exhibit 2.

21 Q. Let me ask you this way. What's your
22 understanding of the company's view of these units
23 being on the bubble economically? Do you recall that
24 term?

25 A. Yes.

1 Q. And what's your recollection about what
2 the company means when it said that?

3 A. It didn't really make much sense to say
4 that the plants would be profitable to the consumers,
5 including some costs that would be uneconomic to run,
6 excluding some costs. Shutting the plants down does
7 get rid of any of the sunk costs, so I was never able
8 to reconcile the company's position on that point.

9 Q. Well, now, under your analysis, you agree
10 that in the company's base case, the units would not
11 recover for sunk costs, right?

12 A. Under the base case, I believe --

13 Q. Sorry. I'm asking under your analysis of
14 the --

15 A. With my assumptions?

16 Q. Yeah.

17 A. They would not -- well, no, they would
18 not recover their sunk costs, true.

19 Q. And using your low market prices, I'll
20 say low relative to the company's, the plants would
21 actually retire, right?

22 A. That would be that -- that appears to be
23 economic for a generator operating in the competitive
24 market.

25 Q. So on one hand, you're saying that plants

1 are already profitable enough to run, but on the
2 other hand, you're saying they're going to retire; is
3 that your position?

4 A. No, no. I would advise AEP Generation to
5 plan on shutting these plants down and start moving
6 in that direction in a timely and well-organized
7 fashion, based upon a realistic view of future
8 prices.

9 And when AEP talks about plants being on
10 the "bubble," one interpretation of that would be
11 when we look at what prices are really going to be,
12 these plants are losers, and we don't think they're
13 worth continuing to run.

14 But that world is inconsistent with the
15 world in which they are so profitable that they are
16 not only profitable to keep running, but they're
17 profitable enough to cover all the sunk costs that
18 AEP Generation wants to dump on the ratepayers.

19 Q. So, again, you're saying they're
20 profitable enough to run, but under your view of the
21 world, they're going to retire or be forced out of
22 the market?

23 MS. HENRY: Objection, misstates his
24 testimony entirely. I believe he said the exact
25 opposite.

1 MR. NOURSE: Did you hear the end of my
2 question?

3 EXAMINER PARROT: I'm going to overrule
4 the objection.

5 And if you need clarification or if you
6 feel it misstates your prior testimony, let us know
7 that, certainly. I think we still need to nail down
8 this point.

9 A. No. What I'm saying is that in the world
10 that I see, that the market projects these plants are
11 not worth operating, and they certainly are not going
12 to pay off their sunk costs.

13 In some of the company's world, at least
14 some of the plants, maybe all the plants, are worth
15 operating in some of those futures, and some of them
16 would even pay for their sunk costs.

17 Q. But under your view, would you agree that
18 the PPA units have a financial need under the
19 Commission's factors that they've outlined in the AEP
20 order?

21 A. Well, before you can talk about a
22 financial need, I think you have to talk about what
23 the purpose is. But if the Commission found that one
24 or more of these units was necessary for some reason,
25 then I think they probably do have a financial need

1 to keep them operating. But that would be only until
2 something less expensive could be implemented to
3 replace them.

4 Q. And on page 8 you talk about your
5 recommendations, which include a competitive
6 procurement option, correct?

7 A. Yes.

8 Q. And you characterize that as being less
9 expensive or likely to be less expensive, correct?

10 A. Yes.

11 Q. And have you done a study or quantitative
12 analysis to support that conclusion?

13 A. Well, if you simply look at the energy
14 forwards, what parties are buying and selling blocks
15 of energy for the future for, those prices are
16 considerably below the cost of the PPA. And if you
17 can buy power for 3-1/2 or 4 cents, I don't see why
18 you would instead want to sign up for a PPA that
19 would cost 6 or 7 cents and could get -- cost a lot
20 more.

21 Q. Is your understanding that one can go out
22 on the futures market and buy 3,100 megawatts of
23 power over 30 years, the next 30 years?

24 A. I don't believe that the PPA involves
25 3,100 megawatts of power for 30 years. It's about

1 3,000 megawatts of capacity, but it's -- the end
2 dates anticipated for the plants are very
3 considerable.

4 Q. Some of them are longer than 30 years,
5 right?

6 A. Zimmer is projecting it would operate
7 until 2051.

8 Q. On page 3 at the bottom of the page, you
9 reference 3,111 megawatts as related to the PPA
10 units. Am I correct?

11 A. Yes.

12 Q. So can you go to the forward market, buy
13 3,100 megawatts of power for a 30-year term?

14 A. Once again, that's not comparable to the
15 PPA. You can't buy through the brokers, through the
16 formal markets, for more than about ten years. And
17 how long you can do a bilateral for, you would have
18 to test the market to find that out. I don't know
19 why you would want to have a 30-year contract.

20 Q. That's a different question. But let me
21 ask you this way, if we took each unit that you have
22 listed on page 3 and used their current retirement
23 date, could we go buy blocks of power to match up
24 with the capacity and the expected life of the unit
25 on your futures market?

1 A. Now, through the futures market you would
2 want to do a bilateral or several bilaterals with
3 various parties. Again, if for some reason you
4 wanted to do that -- and I haven't seen a
5 demonstration that you would want to. I said that
6 the Commission should want to.

7 Q. Okay. Well, if you take your competitive
8 procurement option and try to do the exact same thing
9 through bilateral contracts, what's your basis for
10 saying it would be less expensive?

11 MS. HENRY: Asked and answered.
12 Objection. Asked and answered.

13 MR. NOURSE: His answer was the forwards
14 market. We just examined how that would work, so I'm
15 asking --

16 MS. HENRY: I believe he said it works
17 for ten years, and I believe he said that the time
18 frame, that the 30-year time frame is --

19 EXAMINER PARROT: Overruled.

20 A. I wouldn't advocate that the Commission
21 look for that long of a contract. Although you might
22 get a very good offer with a longer time period, you
23 have to test in the market. You can't just make
24 these things up in your head.

25 Q. And you can't just make up the fact that

1 you're saying it's going to be cheaper without a
2 basis, Mr. Chernick. So are you telling me the
3 Commission --

4 MS. HENRY: Objection. Is that a
5 question?

6 Q. It will be cheaper until they go pursue
7 that option?

8 MS. HENRY: Objection. Testifying.

9 EXAMINER PARROT: Overruled.

10 Answer the question, Mr. Chernick.

11 A. I said that they are likely to be less
12 expensive. As it is, AEP Generation has stated the
13 price at which it would like to sell this power. I
14 said it's not even a price as stated, the terms under
15 which it would like to be able to charge whatever it
16 spends on the plants, plus recover costs that it's
17 already committed to. But it stated its opening bid.
18 In a competitive market you would expect that there
19 would be other bidders who would have resources and
20 would bid closer to their cost or closer to lower
21 cost and would beat that price.

22 You know, I said AEP Generation should be
23 free to compete as long as there is an independent
24 auction manager, and, perhaps, AEP Generation would
25 sharpen its pencil and come up with a real price

1 proposal instead of the nebulous terms of the PPA, a
2 better price, and would actually be the winner. But
3 that's to be determined.

4 Q. I appreciate all your commentary, but,
5 Mr. Chernick, I'm asking you, is it true that the
6 Commission would not know whether your competitive
7 option would be cheaper until they actually pursue it
8 and determine whether it's cheaper?

9 A. Yes. Following competitive procurement,
10 the Commission would know whether AEP was the winner
11 with the current PPA bid if somehow that could be
12 evaluated by the market manager, by the auction
13 manager, and would know whether the anticipated cost
14 of the PPA was higher or lower than the cost of
15 whatever contracts are entered into.

16 We would -- we may never know what the
17 actual PPA would cost since if the Commission acts in
18 the best interest of ratepayers, it will reject the
19 PPA. Some of these units that are not cost-effective
20 to keep running will retire in the near term and
21 others probably before the dates that are specified.

22 And so we'll probably never know what --
23 how much extra it would have cost the ratepayers to
24 go ahead with this. But we will have some measure to
25 compare to the PPA proposal once competitive bids

1 have been solicited.

2 Q. Okay. Mr. Chernick, how long would your
3 recommended RFP process take?

4 A. Well, we walked through that in the
5 deposition. And I think I was -- I came up with a
6 total of something around six months.

7 Q. Well, let's look at page 90-91. I think
8 it was the better part of a year, as I recall. Top
9 of the page 91, Mr. Chernick.

10 A. I said more than six months.

11 Q. More than six months. And possibly
12 closer to a year. Is that where we ended up?

13 A. Let's look back at the middle of page 90.
14 I said you'd want to have two or three months to
15 develop the RFP and have it reviewed by the
16 Commission, then another six weeks or so for bidders
17 to make their proposals, then a few months for the
18 regulatory review. So assuming that that's three and
19 three and one and a half, that would be about seven
20 and a half months.

21 Q. And then I asked you were you
22 recommending that the Commission undertake the
23 decision on all of that before getting input from the
24 Sierra Club, you said no --

25 A. No.

1 Q. -- takes some time to get that input,
2 right?

3 A. No, that's not what I said.

4 Q. All right. So moving on -- pardon me?

5 A. Nothing.

6 Q. So moving on, if the Commission
7 undertakes that RFP option and recommending after
8 rejecting the PPA, as you recommend, there's
9 certainly no guarantee that if they reach the end of
10 that process and don't have a better deal, that the
11 PPA would still be available, correct?

12 A. Well, it's hard to see who AEP Generation
13 can sell this power to at a better price and at more
14 favorable terms than what they proposed.

15 Q. So you believe AEP Generation Resources
16 will just sit on the sidelines and wait for that to
17 happen for several months and reoffer the same offer
18 later?

19 A. Well, I would hope that they would make a
20 really serious offer instead of simply repeating the
21 proposed PPA, which is very badly flawed.

22 Q. I thought you mentioned this earlier, but
23 it's possible that AEP Generation Resources would
24 prevail in your RFP process, correct?

25 A. That's possible.

1 Q. Okay. So it might be the best offer out
2 there, wouldn't you agree?

3 A. AEP might come up with an offer that was
4 the best offer or Dynegy might or AES or any number
5 of other parties.

6 Q. Are there any offers on the table by any
7 party that you're aware of that match up with the
8 time frame and the scope and size of the PPA
9 proposal?

10 A. I don't know of any offers. Nobody's
11 solicited offers, and no rationale has ever been
12 provided for either the scope or the duration of the
13 PPA, so again, I don't know why you keep using that
14 as a benchmark.

15 Q. Well, okay.

16 A. You only do an analysis in 2024. So
17 anything beyond that, there's no justification for
18 the PPA beyond that point.

19 Q. I appreciate your viewpoint,
20 Mr. Chernick.

21 Let me ask you on your NPV, net present
22 value analysis, you do those calculations throughout
23 your testimony, correct?

24 A. Yes.

25 Q. And you use an 8 percent discount for all

1 those NPV calculations?

2 A. I use an 8 percent discount rate, yes.

3 Q. And turning to Table 2 on page 13.

4 Again, let's not get into confidential data, but that
5 would be necessary to answer my questions.

6 A. And this table has been corrected.

7 Q. I understand, but I'm not going to ask
8 you about the numbers.

9 A. That's fine.

10 Q. So the bottom part of the table presents
11 essentially an alternative set of units; is that
12 correct?

13 A. That is correct.

14 Q. So in that alternative set you've
15 excluded units that you consider uneconomic?

16 A. That are uneconomic in AEP's base case
17 but with AEP's own calculations through the PPA
18 mechanism, yes.

19 Q. They were uneconomic if you look at just
20 that plant on a standalone basis?

21 A. Yes. I used Dr. Pearce's unit-by-unit
22 calculations that he built up his Exhibit 2 from and
23 just took those numbers and summarized them that the
24 numbers in the "Simple Sum" column are directed from
25 his workpapers, and the present net -- "Present Value

1 benefit" is my calculation from his workpapers.

2 Q. I understand. Can you turn to page 16,
3 and directing your attention to footnote 8 and the
4 associated text up in the narrative.

5 So am I understanding correctly that you
6 did not update the auction prices that you use based
7 on the known auction results that have occurred, as
8 we sit here today?

9 A. Right. The last ones came in what, 11
10 days and two days before my testimony was due, so I
11 didn't have a chance to incorporate them.

12 Q. Are you talking about your
13 September 11th testimony?

14 A. Yes.

15 Q. And you didn't include them in your
16 September 25th testimony either, did you?

17 A. No. I didn't do another capacity
18 calculation.

19 Q. But you did update your views on energy
20 prices and forward energy values in your supplemental
21 testimony?

22 MS. HENRY: Objection. Misstates his
23 testimony.

24 MR. NOURSE: It's a question, your Honor.

25 EXAMINER PARROT: Overruled.

1 A. I provided updated forward prices which
2 were just a matter of pulling them off the website
3 and dropping them into my table.

4 Q. Okay. So in your section of your
5 testimony, actually begins on page 15 and following
6 that, what you call the omitted performance
7 penalties --

8 A. Yes.

9 Q. -- is the main conclusion here the effect
10 that the capacity performance rules on PPA units that
11 they're likely to incur penalties?

12 A. Yes.

13 Q. And it's certainly possible that the unit
14 could earn additional capacity performance revenues
15 and incentives without any penalties, isn't it?

16 A. It's possible if they're lucky and don't
17 have any outages that happen to coincide with the
18 performance outages.

19 Q. And you would agree that the actual
20 capacity performance penalties, if any, would be
21 driven, in part, by how AEP bids the units in the
22 capacity auction in the future?

23 A. Yes. AEP can reduce its capacity
24 revenues by bidding in a lower UCAP and then having
25 lower penalties when -- that could provide that UCAP.

1 Q. And on page 17, there in the bottom
2 answer under Figure 1, you refer to the capacity
3 performance penalties as "severe." Do you see that?

4 A. Yes.

5 Q. And is it your understanding that the
6 purpose and design of the capacity performance regime
7 was to increase reliability through assessment of
8 severe penalties?

9 A. I would say to improve performance
10 perhaps, also to get bidders to state lower UCAP
11 values that better reflected their reliability and to
12 penalize providers who were performing less well than
13 they had promised.

14 Q. Would you agree that one of the purposes
15 was to increase capacity revenue to reliable
16 resources?

17 A. Yes. I believe that that's one of the
18 things that PJM talked about.

19 Q. Now, starting on page 18, I believe you
20 had a correction about this earlier with the range
21 of -- your predicted range of capacity performance
22 penalties, and I believe in the answer at the top,
23 near the top of page 18, you clarified that that
24 range was excluding OVEC, correct?

25 A. Yes, in the first answer, full answer on

1 that page.

2 Q. And I guess these numbers are public so
3 we should talk about it. So the range that includes
4 OVEC is actually a third of the way down the page,
5 page 19, of 191 million to 425 million?

6 A. Yes.

7 Q. And that's your actual prediction of what
8 the penalties will be?

9 A. That's my estimate.

10 Q. Yeah, okay. Is that a prediction or you
11 take issue with the word "prediction"?

12 A. I don't know. I think of prediction as
13 being more associated with gambling and estimates
14 related to economic analysis.

15 Q. All right. Well, your range that you
16 project is based on compliance hours, ranging from
17 13-1/2, at the least, to 30 hours, at the most; is
18 that right?

19 A. Yes.

20 Q. And the compliance hours is really the
21 driving factor in the range, right?

22 A. Yes.

23 Q. There's nothing else that changes your
24 assumption?

25 A. Yes.

1 Q. And you actually have Table 3 on page 18
2 that gives historic compliance hours, correct?

3 A. Yes.

4 Q. And you calculate an average of 13-1/2
5 hours?

6 A. Yes. And as you can see, the hours go up
7 from an average of 6 in 2011 and '12, to 16 in 2013,
8 26 in 2014, and PJM uses 30 as their projection for
9 the future. So they seem to see an upward trend, and
10 I didn't want to weigh in on that one way or the
11 other.

12 Q. So PJM's 30 is the maximum, isn't it?

13 A. No, no. It was a value that they assumed
14 would be typical when they converted the CONE, the
15 cost of new entry, which is in dollars per
16 megawatt-day into a dollar per megawatt-hour penalty.
17 They took the CONE, expressed it for the year,
18 divided by the number of hours of performance
19 compliance that they expected. They needed a number
20 to do that and they used 30. It's not a maximum.

21 Q. So you -- and you say PJM assumes that 30
22 hours will occur each year of compliance hours?

23 A. I would say that is probably assuming
24 that that would be an average. I'm not sure that
25 they explained exactly what they think the 30 hours

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1 means but they certainly seem to think it's a typical
2 value to use.

3 Q. Well, okay. I'm not going to touch that
4 one. But what I want to ask you is that the
5 objective, I guess, empirical fact is that 30 hours
6 is higher than any of the historical numbers you have
7 listed here, right?

8 A. Yes.

9 Q. And the bottom of your range is actually
10 the average of the historical hours. So wouldn't you
11 agree that the -- that you're actually setting a
12 range of what may happen, that zero would be the
13 bottom or even a negative number would be the bottom
14 of the range since it's possible to yield incentive
15 payments with no capacity performance penalties?

16 A. Let's take the zero. There could be a
17 year in which there were zero performance hours, and
18 so instead of a typical value or an average value,
19 you were asking what could happen in individual years
20 and doing some sort of simulation to do a cash flow
21 analysis for a plant. You could certainly say okay,
22 somewhere between zero, and then try and figure out
23 what it would be if resources were tight, just at the
24 reserve margin, or maybe a little short, or there
25 were lots of imports or various other considerations,

1 and you can do that calculation.

2 Q. Okay.

3 A. And you could come up with a wide range.

4 Q. If we want to talk about the range of
5 expected capacity penalties, the bottom of the range
6 would be zero, wouldn't it?

7 A. Not for expected. In any one year you
8 might have zero, but you haven't had zero compliance
9 hours. In the last four years they had, I think,
10 five hours in the AEP region in February of 2015. I
11 think it was RTO-wide. So it's not clear what the
12 total for this year will be yet, but I certainly
13 wouldn't say that an expectation of zero is
14 reasonable. And I think there's also an expectation
15 that capacity margins are shrinking in PJM and in
16 MISO.

17 Q. Let me get back to my question. So have
18 there been any compliance hours in 2015 as we sit
19 here in mid-October?

20 A. Yes.

21 Q. When were they?

22 A. Well, I know of five in February, I
23 believe. I looked at the PJM report on this winter's
24 performance and that number that -- I don't know
25 whether there have been any since then.

1 Q. You believe there's five compliance hours
2 in February 2015?

3 A. That's my understanding, yes. I can find
4 the document during the lunch break if you want.

5 Q. Now, the Table 3 here that we mentioned
6 the Figure 26 in 2014, that was driven by the polar
7 vortex, correct?

8 A. Yes, that would include the hours during
9 the polar vortex.

10 Q. And using 30 hours is a number that's
11 15 percent above that polar vortex number; is that
12 right?

13 A. Yes, it's about 15 percent.

14 Q. Now, in your estimate of the expected
15 capacity performance penalty, you basically assume
16 that you use the historical forced outage rate and
17 basically apply that to the compliance in the range
18 of 13-1/2 to 30; is that correct?

19 A. Yes. I think I said that was probably
20 conservative given that the plants are old and aging
21 and reliability problems are likely to increase over
22 time.

23 Q. Well, it wouldn't surprise you that I
24 might argue it's aggressive, and I want to ask about
25 that because are you saying the incentive for

1 operators to run during compliance hours is the same
2 as it's always been historically?

3 A. Well, no. The incentive to run, if you
4 can, is higher.

5 Q. It's higher --

6 A. Because, remember, AEP Generation is not
7 going to be on the hook for the performance of these
8 plants, and any performance penalties are going to
9 flow through to ratepayers under the PPA, so I'm not
10 sure that AEP's incentives have really changed as a
11 result of the capacity performance system.

12 Q. Well, so it's your understanding that AEP
13 Ohio, as the buyer of the PPA, will control dispatch
14 of the units?

15 A. Yes, in principle.

16 Q. Is it your understanding that AEP Ohio,
17 as the buyer of the PPA, will either approve or veto
18 capital improvements to these plants, the affiliated
19 PPA plants?

20 A. I don't know whether it has veto power.
21 There's a three-member committee consisting of AEP
22 Generation, AEP Services, and AEP Ohio. Since AEP
23 Ohio gets most of its information from AEP Services,
24 as a practical matter, I don't know what AEP Ohio
25 could do other than ask some questions of AEP

1 Service.

2 Q. So you believe under the PPA major
3 capital improvements are subject to a three-way vote
4 and AEP doesn't have any veto rights?

5 A. I would have to check that. I do not
6 recall that detail. I know that there's a three-part
7 committee. I'm not sure whether they, in fact, have
8 the -- whether the decision has to be unanimous.

9 Q. Is it your understanding that the budgets
10 for the plants, O&M budgets and things like entering
11 into new fuel contracts, would be things that AEP
12 Ohio has some level of control over and
13 decision-making authority under PPA?

14 A. What were the two categories, fuel
15 contracts and --

16 Q. O&M budget, annual budget.

17 A. I believe that the O&M budget would be
18 subject to that committee. I do not recall whether
19 fuel contracts would be, but that certainly is
20 plausible.

21 Q. And AEP's decisions under all those
22 provisions would be part of what the Commission
23 reviews for prudence when the company comes in to
24 recover PPA costs; is that your understanding?

25 MS. HENRY: Objection. Vague. He didn't

1 define which element of AEP. He just referred to
2 AEP. There's different AEP entities involved in
3 this.

4 Q. I'll rephrase. I was talking about AEP
5 Ohio. So AEP Ohio, the buyer under the PPA, has all
6 of these actions and decisions, some of which we just
7 went through. And do you agree that when AEP Ohio
8 comes in for retail cost recovery of the costs
9 associated with the PPA, the Commission will be
10 reviewing AEP Ohio's decisions and actions for
11 prudence when they review retail recovery issues?

12 A. They certainly would have the right to do
13 that. As a practical matter, just how much would get
14 done within the structure of the PPA rider process, I
15 don't know, but the Commission could review those
16 decisions.

17 Q. But it's your belief that in the context
18 of our discussion about capacity -- performance
19 capacities that AEP Ohio and AEPGR can run up the
20 tab, run those costs through the PPA rider with
21 impunity; is that your position?

22 A. Well, if the penalties show up in the
23 contract, the Commission has two choices: It can say
24 well, we don't think those were reasonable and deny
25 recovery, triggering the balloon payment, poison-pill

1 termination of contract, which may be the better
2 option. But the Commission would have to think
3 through just what that does to Ohio Edison and to
4 ratepayers and how that sudden liability could be
5 dealt with in terms of ratepaying.

6 Q. I'm going back to your statement. You
7 believe that the new capacity performance regime and
8 the incentives that apparently everybody else has to
9 operate differently and be online during compliance
10 hours, it's your belief that AEP Ohio under the PPA
11 and AEPGR under the PPA would not have those
12 incentives; am I correct?

13 A. Well, incentives would be greatly
14 diluted by the operation of the PPA. When you say
15 "everybody else," you're talking about competitive
16 generators for fully regulated generators subject to
17 ongoing prudence review and disallowance of
18 generation-related costs from their generation rate
19 base, and I guess consumer-owned utilities,
20 communities. So those three categories all have some
21 incentives, the strongest one probably being in the
22 competitive market.

23 Q. But you agree that others who have
24 ongoing prudence reviews, disallowance, would have
25 that incentive, correct?

1 A. Yes. Because the Virginia commission can
2 tag Dominion for poor performance to the plants, and
3 that comes out of the equity return on the
4 generation. The Ohio Commission would not be able to
5 reduce the return on Ohio generation -- AEP
6 Generation rate base. They would have to -- the only
7 dog they compete with would be AEP Ohio, which is a
8 smaller dog.

9 Q. Well, that's your understanding of the
10 PPA, is that the Commission would not have the
11 ability to, based on prudence or imprudent, exclude
12 capacity performance penalties?

13 A. And have that cost not flow to AEP Ohio,
14 that's my understanding. They could say you can't
15 collect it from ratepayers, which would either
16 degrade the financial condition of AEP Ohio and
17 possibly cause lots of other problems; or trigger the
18 termination of the contract and the balloon payment,
19 which would trigger other problems; or they could
20 just let it go through.

21 Q. How is that different from your example
22 in Virginia or other regulated states?

23 A. The difference is that in Virginia if the
24 Virginia Corporation Commission says this was
25 imprudent and we're docking you \$20 million,

1 \$30 million, that comes out of the return on
2 Dominion's very large generation rate base, and
3 you're not going to put them in financial distress
4 because of that or give a much larger number.

5 In this case, in this situation, you
6 would have to impose that cost on the distribution
7 company, which was not operating the plants and which
8 you're then going to be left with a -- I mean,
9 obviously, it doesn't matter if it's a million
10 dollars or two, but if it's a large disallowance, AEP
11 Ohio is going to be facing financial difficulties
12 that the PUCO is going to have to deal with.

13 I'm not saying it's insurmountable, but
14 it's not something that I think the PUC would want to
15 enter into lightly.

16 Q. So is your analysis in the answer you
17 just gave premised on your conclusion that AEP Ohio,
18 as the buyer in the PPA, cannot influence, through
19 all the things we talked about earlier, cannot
20 influence the level or occurrence of any capacity
21 performance penalty?

22 MS. HENRY: Objection. It
23 mischaracterizes what has been said.

24 MR. NOURSE: I can't hear what she said.

25 MS. HENRY: I said, objection. It

1 mischaracterizes his testimony.

2 MR. NOURSE: Well, I'm clarifying, your
3 Honor. His whole answer is premised on the fact that
4 he thinks AEP Generation Resources will be able to
5 act with impunity, and I want to understand that's
6 his perspective about how the PPA contract would
7 work.

8 MS. HENRY: And it's been asked and
9 answered and been a series of questions.

10 EXAMINER PARROT: I'm not sure it has
11 been. I'm going to overrule the objection.

12 A. And your question was whether AEP Ohio
13 would have any influence, and the answer is, well,
14 they conceivably could have some influence, but it's
15 hard to see how that could be substantial because
16 they rely for their analysis on the same service
17 company that's doing analyses for the generation
18 company.

19 And unless they build up their own
20 analytical ability and essentially their ability to
21 run power plants by proxy and hire a whole bunch of
22 new people and build up a large staff to review all
23 of these things and look for better alternatives,
24 they're going to have very little influence.

25 Then there's the problem of -- if you're

1 talking about the O&M budget, for example, and AEP
2 Generation tables the budget and says, okay, this is
3 what we want, even assuming that AEP Ohio were really
4 an independent actor and could look and say oh, no,
5 no, you're not spending enough money on this or
6 you're spending too much money on that, what are they
7 going do? Assuming that they have veto power, do
8 they just veto it and there's no O&M budget?

9 They can't run the plant on their own.
10 It's being run by the generation company. They're
11 not really an independent party. This is not as
12 though you were dealing with an operating company
13 which consisted of Dynegy, which was running the
14 plants, and AEP Ohio and some third party just
15 advising them. You're talking about one corporation
16 with one set of shareholders that they're serving.

17 Q. Okay. Are you done?

18 A. Yes. You asked me a question.

19 Q. Here's what I want to ask you. Your
20 answers have all been premised on a penalty that the
21 Commission has, what you're characterizing as a
22 Hobson's choice, either disallow and cause financial
23 injury to the utility or allow it, even though it's
24 imprudent. Okay?

25 A. Yes.

1 Q. My question -- my example, it relates to
2 the scenario under the contract where the penalty is
3 avoided to begin with and the incentives that we
4 talked about that have changed for all the rest of
5 the world also apply to this situation.

6 So my question is, is it your opinion
7 that under the PPA contract, AEP Ohio's rights
8 regarding capital, O&M, fuel contracts, and dispatch
9 to the plant have no effect on how -- on whether the
10 capacity performance penalty is incurred? Is that
11 your testimony?

12 A. No, that wasn't my testimony. I wouldn't
13 say it would have no effect. To the extent that you
14 actually have somebody who's from AEP Ohio, who is on
15 that three-person committee and is worrying about how
16 he's going to explain this to the Commission, that
17 person may ask some questions, push in some
18 directions that make things a little better.

19 Q. Does the three-person committee apply to
20 capital investments?

21 MS. HENRY: He already said he wasn't
22 sure what applied to Mr. Nourse. Already asked and
23 answered.

24 MR. NOURSE: Your Honor, I'm responding
25 to his answer. He's pinning it all on the operating

1 committee.

2 MS. HENRY: He's already stated that he's
3 not sure. He'd have to go back and review on which
4 entity makes which decisions. He said he had to go
5 back and look at it.

6 If you want to provide him with the
7 agreement, but he's already stated that he does not
8 remember exactly which entity makes which decisions.

9 Q. (By Mr. Nourse) Let me rephrase. So,
10 Mr. Chernick, your answer relies on the operating
11 committee as a rationale how AEP Ohio's influence
12 would be weak in the outcome of the capacity
13 performance penalty; am I correct?

14 A. Yes, AEP Ohio's --

15 Q. Thank you.

16 A. -- not a separate entity.

17 Q. AEP Ohio's not a separate entity, is that
18 what you just said?

19 A. Right. It's part of AEP. It's a
20 subsidiary of AEP. They have the same shareholders.
21 They have the same corporate management.

22 MR. NOURSE: Your Honor, I was going to
23 move on. I still want to talk capacity performance
24 some more, but this might be a good time to take a
25 lunch break, if you'd like.

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1 EXAMINER PARROT: Let's go off the record
2 for a moment.

3 (Off the record.)

4 EXAMINER PARROT: At this point we're
5 going to break for lunch. We will reconvene at 1:30.

6 (Lunch recess taken.)

7 - - -

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Thursday Afternoon Session,
October 15, 2015.

- - -

EXAMINER PARROT: Go back on the record.
Go ahead, Mr. Nourse.

MR. NOURSE: Thank you, your Honor.

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CROSS-EXAMINATION (Continued)

By Mr. Nourse:

Q. Mr. Chernick, I want to ask you some additional questions about your capacity performance range that you developed we had been discussing before the break, okay?

A. Sure.

Q. And on the bottom of page 18 you're stating the assumptions that you made, and the first one is that you take Net CONE starting from '17-'18 and escalate at 4 percent annually.

A. Yes. Yes, that's correct.

Q. I wanted to show your workpaper, and this is confidential, but I don't think we'll need to disclose any confidential data in discussing this. All the parties at the table are clear so I'm going to hand this out.

But, again, I just want to ask you a

1 couple of questions on the public record, okay?

2 MS. HENRY: Is it an exhibit?

3 Q. Mr. Chernick, do you recognize the
4 two-page confidential document I handed you as part
5 of your confidential workpapers relating to the
6 capacity performance costs?

7 A. Yes.

8 Q. And I want to discuss with you the middle
9 part of the tables. There are two tables, one on
10 each page. It's basically -- sorry, it's basically
11 line 30, "UCAP Net CONE," see that?

12 A. Yes.

13 Q. And, first of all, on the first page this
14 represents your calculation of the 191 million, the
15 bottom end of your range, correct?

16 A. That is correct.

17 Q. And the second page represents your
18 calculation for the top end of 424 million. I think
19 is what you use in your testimony, correct?

20 A. Yes.

21 Q. So with that I'm directing your attention
22 to line 30, UCAP Net CONE RTO, so are these numbers
23 in that row annualized or calendarized?

24 A. I understand what you're asking, whether
25 they're for the capacity or for the calendar year. I

1 believe that they're for the capacity year, but I
2 would have to check that. I'm sorry you didn't ask
3 for it before lunch.

4 Q. I didn't want to hand out confidential
5 documents right before lunch. Let me help refresh
6 you on this.

7 MR. NOURSE: And I would mark this as an
8 exhibit, your Honor, Exhibit 24. Let me just give it
9 to the witness and his counsel and I'll ask a
10 preliminary question to make sure nothing on here is
11 confidential.

12 (EXHIBIT MARKED FOR IDENTIFICATION.)

13 Q. So, Mr. Chernick, there's these numbers,
14 and I'll represent to you they are the PJM planning
15 year Net CONE numbers for the planning years
16 indicated, and then there's a "Calendar Year" column
17 and then there's a "Calendarized Net" CONE column,
18 okay?

19 A. Yes.

20 Q. And none of those numbers would be
21 confidential; am I correct?

22 A. That is correct.

23 Q. So the numbers to the left under
24 "Planning Year," Net CONE, look correct to you as far
25 as the planning years indicated, '15-16, '16-'17?

1 A. Yes.

2 MR. PRITCHARD: Sorry to interrupt,
3 Steve. Were these two documents marked as exhibits?

4 MR. NOURSE: Just the one. The one we're
5 talking about now is an exhibit. The other one is a
6 workpaper. I just was using that to bring in this
7 public exhibit.

8 Q. And so, Mr. Chernick, the numbers in the
9 column entitled "Chernick's Net CONE," a line up with
10 line 30 of your confidential workpaper, capacity
11 performance, correct?

12 A. That is correct.

13 Q. And you, of course, know how to transform
14 a planning year number into a calendar year?

15 A. Yes.

16 Q. And do these calendarized Net CONE in the
17 middle of the table look correct on that basis?

18 A. It would be five months at the earlier
19 planning year, the year ending -- planning year
20 ending in the calendar year, and seven months from
21 the planning year, beginning in the calendar year.

22 Q. So just to use an example -- I'm sorry,
23 go ahead.

24 A. And just eyeballing them, yeah, looks
25 like this is about right.

1 Q. So just to use an example, if we were to
2 use the '15-'16 planning year number of 311.07 and
3 the '16-'17 number of 330.53, we would take 311.07
4 times 7 and add that to 330.53 times 5 and then
5 divide by 12, right?

6 A. I'm sorry, you're doing the '16-'17?

7 Q. No. I'm sorry. What I want to do is
8 transform these planning year numbers into
9 calendarized, so let's use 2016 as an example. Here
10 in the chart it has 322.42.

11 A. So you have 7 months of the 330 and 5
12 months of 311, because the first --

13 Q. It would actually be the other way
14 around, Mr. Chernick.

15 A. In calendar year '16, you have 5 months,
16 January through May, that are at the '15-'16 rate,
17 and then 7 months, June through September, at the
18 higher rate for 2016-17. And, in fact, you're coming
19 up with something above the average of 111 and 230,
20 so it looks like you're doing -- it looks right.

21 Q. Let me ask you, because with all due
22 respect, I think you misstated in your last answer,
23 and we can read it. You can opine on that, but let
24 me try again and see. So for calculating 2016, which
25 would be the middle column, 322.42, that's a

1 calendarized year, and we would be taking 7 months of
2 the '15-'16 number, right, 311.07? That would be 7
3 months, June through December?

4 MS. HENRY: Are you trying to get to the
5 calculation?

6 MR. NOURSE: Your Honor, can I just --

7 MS. HENRY: I'm trying to --

8 A. The '15-'16 year runs from June of 2015
9 through May of 2016.

10 Q. Right.

11 A. Therefore, for 2016 there are 5 months,
12 January through May of the '15-'16 year that are in
13 2016 calendar year.

14 Q. And then 7 months of the '16-'17 year.

15 A. Right.

16 Q. And I apologize if that's what you said
17 before.

18 A. Right.

19 Q. Do you need a calculator?

20 A. No, no. I'm perfectly willing to take
21 these as being accurate.

22 Q. Subject to that math, that's what these
23 calendarized Net CONE numbers in the middle of the
24 table should be; is that correct?

25 A. That looks about right, yes.

1 Q. Then if we go back to your workpaper for
2 a moment, I asked you earlier if the line 30 numbers
3 were calendarized. I believe you indicated that they
4 were.

5 A. I think I told you I didn't know and I'd
6 have to check. But the answer should be that they
7 are -- they're planning year numbers.

8 Q. But you're applying this workpaper,
9 you're applying planning year numbers through the
10 course of calendar years?

11 A. Yes.

12 Q. And based on AEP Ohio Exhibit 24, that
13 would actually overstate the effect of calendar year
14 calculating by not using calendarized numbers,
15 correct?

16 A. Yes. In 2016 and 2017, it's about a
17 2 percent difference, and the difference in 2018-19
18 is because I didn't have the actual value when I was
19 doing this analysis, and I assumed that it would
20 continue to rise, but, in fact, it fell.

21 Q. You're taking us right where I wanted to
22 go. So page 18 in footnote 10, you say that -- in
23 reference to the above calculation, you say, "This
24 may be slightly overstated since Net CONE fell from
25 '17-'18 to '18-'19."

1 A. Uh-huh.

2 Q. Is that based on an actual review of the
3 '18-'19 number?

4 A. Yes.

5 Q. And if you turn to page 43, Table 17,
6 right there we see the '18-'19 number --

7 A. Yes.

8 Q. -- of \$300.57, right?

9 A. Yes.

10 Q. So it wasn't that you actually didn't
11 have the information; you just didn't use it in
12 calculating this number?

13 A. I didn't have it when I was doing this
14 analysis.

15 Q. Which analysis?

16 A. I had it by the time that I finished up
17 the testimony, but I didn't go back and redo this
18 capacity performance analysis with that correction.

19 Q. So when you say it's "slightly
20 overstated" in footnote 10, that's a reference to
21 your use of \$365.44 in 2018 rather than the
22 calendarized 321.75, correct?

23 A. I don't know that I actually did that
24 calculation, but that's what I was referring to.

25 Q. And that's more than slightly overstated,

1 wouldn't you agree?

2 A. That's what? 12 percent for that one
3 year, and, of course, we don't know what will happen
4 after that.

5 Q. Okay. But, again, looking at AEP Ohio
6 Exhibit 24, for '18-'19 you use \$365 instead of
7 \$300.57?

8 A. Uh-huh.

9 Q. That's about 20 percent -- in excess of a
10 20 percent difference, isn't it?

11 A. No. 20 percent would be \$64, so it's
12 under 20 percent. I was guessing that it was 12 or
13 13.

14 Q. It's almost 20 percent on the nose then.

15 A. No.

16 Q. Let me ask you --

17 A. If it were 20 percent, it would be \$62.30
18 or 34 cents, so it's considerably less. It might be
19 15 percent. I guess I can take out my phone and
20 actually do the calculation.

21 Q. Let me ask you again. So you use the
22 \$365.44 --

23 A. Yes.

24 Q. -- instead of what you have in Table 17
25 on page 43, which is \$300 and change, right?

1 A. That is correct.

2 Q. And that's a difference of 65 --
3 approximately \$65?

4 A. Wait a minute. I used -- the value for
5 the calendar year should have been 322, and I used
6 365. That's the difference that you show of \$43.70.

7 Q. On table -- sorry, go ahead.

8 A. And you're right, for the earlier years I
9 got lazy and I used the planning year number rather
10 than the calendar year number, and they were only --
11 they only differed by about 2 percent.

12 Q. Well, I'm talking about '18-'19. That
13 was my question.

14 A. For '18-'19 I didn't look at the updated
15 number. I either did this analysis before the new
16 one came out or it just slipped my mind to look and
17 see if the new CONE had been posted.

18 Q. So the new CONE was in your testimony?

19 A. Oh, yes. And certainly by the time I
20 filed my testimony I had the new CONE. I just didn't
21 go back and redo this analysis.

22 Q. And that inflated number was further
23 inflated in all remaining years of your projection,
24 right?

25 MS. HENRY: Objection. You're testifying

1 about it. Did he notice it was overstated in his
2 testimony? He acknowledged it here. I believe that
3 you're using inflammatory language. It's
4 inappropriate.

5 Q. (By Mr. Nourse) Well, Mr. Chernick, the
6 number that you agreed was too high was used and
7 further inflated throughout the rest of the years in
8 your analysis, correct? And I want you to do the
9 math and try to correct it. You'd add another
10 correction into the record, but I'm asking you a
11 specific question.

12 A. Well, it's not really a correction to the
13 record. I had to make an assumption about what the
14 future CONE would be. And I don't know, they might
15 rise very slowly from the 300. They might jump back
16 up to 350 or higher. You could make other
17 assumptions.

18 Q. But your approach was to take a beginning
19 number and escalate 4 percent; am I correct?

20 A. That is correct.

21 Q. And mechanically you used a higher number
22 than the actual number, and you further inflated it
23 throughout the remaining years in your analysis; am I
24 correct?

25 A. Yes. And if I had been aware that the

1 CONE had dropped in 2018-19, and I had the time to
2 think about what that meant and how to deal with it,
3 I think I probably would have inflated that number
4 for a period of years and then assumed a new reset
5 and used some kind of average from the earlier years,
6 again, assuming some escalation in the CONE from that
7 base. But I would have done a different kind of
8 analysis had I known that the Net CONEs were going to
9 drop in 2018 and '19.

10 MR. NOURSE: Your Honor, I think my
11 question was very clear. And I've been very patient
12 with this witness, but I would move to strike
13 everything after the answer "yes."

14 MS. HENRY: Objection. He's explaining
15 his answer. Every witness that I have seen in this
16 hearing has been allowed that opportunity.

17 MR. NOURSE: I asked him a mechanical
18 question about his analysis, and he went on to defend
19 the substance of why he would have done something
20 different if he had it all to do over again. That's
21 not what I asked him.

22 MS. HENRY: You asked him a mechanical
23 question about his analysis, and he provided the
24 context of that mechanical analysis, how long it
25 takes to do an analysis, when you can incorporate new

1 information, how long it takes to incorporate new
2 information.

3 MR. NOURSE: That would be redirect, your
4 Honor.

5 EXAMINER PARROT: I'm going to deny your
6 motion to strike, Mr. Nourse. I believe it provides
7 a full response.

8 Q. (By Mr. Nourse) Mr. Chernick, shouldn't
9 the prospect of capacity performance penalties raise
10 prices in and of itself?

11 A. Raise the market clearing capacity price?
12 Yes, that's what you would expect, and that's what
13 we've seen.

14 Q. And do your forward prices reflect an
15 additional risk starting in 2021 when a hundred
16 percent of the planning year capacity units must
17 qualify as capacity performance?

18 A. Are you talking about a particular
19 calculation?

20 Q. You have a table showing your energy
21 forecast. I believe it's Table 8. You have a table
22 showing your capacity forecast. Can you show me how
23 those reflect the bump that would be expected between
24 now and 2021?

25 A. I don't believe that it would necessarily

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1 have any direct effect on the capacity -- excuse me,
2 on the energy market. In the capacity market I start
3 with a capacity performance price of 164.77 in 2019.
4 This is in Table 17. And for the year -- the
5 capacity year ending 2019, the actual price was
6 164.77, and I escalate from there.

7 Q. So your escalation is a flat 5 percent,
8 correct?

9 A. That is correct.

10 Q. And so, again, my question, where in your
11 RII capacity price projections, Table 17, does the
12 phase-in of capacity performance from 80 percent and
13 90 percent to 100 percent, inflating your 2021, how
14 is that reflected in your prices?

15 A. 2019, this is the price for capacity
16 performance, so the escalation from that point on
17 includes capacity performance responsibilities.

18 Q. Is it your understanding that all
19 capacity -- all resources clearing in the auction
20 have to be capacity performance starting in '18-'19?

21 A. No. There's separate procurements for
22 base and performance capacity, and this is the
23 performance capacity price.

24 Q. Do you know what level of capacity
25 resources had to clear as capacity performance

1 resources in the '18-'19 auction?

2 A. I believe it was a minimum of 80 percent,
3 and I think a little bit more than that cleared.

4 Q. And in the '19-'20 auction, 90 percent
5 has to clear, correct?

6 A. That is correct.

7 Q. And the '20-'21 auction, 100 percent has
8 to clear, correct?

9 A. Yes.

10 Q. And so each increment as we go up --
11 would you agree that going from 80 percent to
12 90 percent is about 17,000 megawatts?

13 MS. HENRY: Objection. You said you're
14 not going from 80 to 90, that it already cleared
15 above 90 percent calendarized in his testimony.

16 MR. NOURSE: My question is not relating
17 to characterizing his testimony, your Honor.

18 EXAMINER PARROT: I'll allow the
19 question.

20 A. I'm sorry, the question part of the
21 question was what?

22 Q. So in the '18-'19 auction, you agreed
23 that 80 percent of the clearing capacity resources
24 had to be capacity performance resources?

25 A. Right.

1 Q. And so when we jump up to 90 percent in
2 the '19-'20 planning year, do you know how many
3 additional megawatts of capacity that didn't clear as
4 capacity performance resources now have to be cleared
5 as capacity?

6 A. I would have to check.

7 Q. Okay. Does 17,000 megawatts sound about
8 right, 10 percent?

9 A. It's of that order of magnitude, but I
10 don't have all of these numbers in my head.

11 Q. And then an additional 10 percent that
12 didn't clear before has to clear in addition to
13 everybody that already cleared in the '20-'21
14 auction, correct?

15 A. Yes.

16 Q. So the addition of tens of thousands of
17 megawatts to the auction as clearing capacity
18 performance resources should bump the price up,
19 shouldn't it?

20 A. Well, and I do bump the price up, and
21 these prices were high enough to attract new generic
22 gas-fired generation. So it's not clear that you
23 need substantially higher prices in the future to get
24 more of it.

25 And I escalated the price at 5 percent to

1 allow for the possibility that future generation
2 options would be more expensive in terms of needing
3 to look hard to find a good site, although there are
4 actually lots of good sites available. But, anyway,
5 I put in some extra.

6 Q. You put 5 percent?

7 A. Yes.

8 Q. You're saying the 5 percent covers the
9 additional tens of thousands of megawatts that have
10 to clear by 2021 as capacity performance resources?

11 A. Well, it certainly could. For example,
12 from 2017-18 to 2018-19, the capacity performance
13 price went up by from \$151.50 to the \$164.77. And
14 those are actuals, not my projections that I made
15 before I saw the actuals. So that's a \$13 increase
16 on a \$151 base -- excuse me. Let me just do a quick
17 calculation.

18 Q. We're talking about your 5 percent
19 escalator, not your use of actual numbers.

20 A. That's about an 8.8 percent increase, and
21 that's with an increase -- a substantial increase in
22 the amount of capacity that was required as was going
23 to be acquired as capacity performance and with
24 increasing penalties for nonperformance. And, that
25 was an 8.8 increase.

1 Q. Mr. Chernick --

2 A. So saying a 5 percent increase or just
3 another 10 percent increase sounds plausible.

4 Q. So that's the entire reason you escalated
5 by 5 percent, was to account for the bump in capacity
6 performance resources?

7 A. It's a combination of capacity
8 performance and the possibility that the future
9 development might be more expensive than current.

10 Q. Are these numbers in Table 17 under the
11 RII Projection column nominal?

12 A. Yes.

13 Q. As opposed to real?

14 A. Yes.

15 Q. So you didn't account for any inflation
16 separately? That's just -- that's also embedded in
17 your 5 percent, isn't it?

18 A. Right. So I think I said something about
19 this is 5 percent, which is higher than the 2 percent
20 inflation, general inflation, that most people
21 expect, and that would be an allowance for such
22 factors as increased difficulty of finding good sites
23 at some point in the future.

24 Q. So in real terms, your 5 percent
25 escalator is really a 3 percent escalator, correct?

1 A. Correct.

2 Q. And now the 3 percent captures the bump
3 that we talked about going from 80 to 90, 90 to 100?

4 A. It's the same as the 5 percent.

5 Q. And does the 3 percent also capture all
6 the facts of future load growth and the impact on
7 price it might have?

8 A. Again, the only way that future load
9 growth would matter would be if additional capacity
10 additions, the ones that are needed to meet the
11 requirements in 2020 or 2021, are more expensive than
12 the plants being built for '16-'17, '17-'18, '18-'19.

13 Q. Well, my question goes to your whole
14 ten-year forecast here. So your 3 percent escalator,
15 in addition to capturing the bump we talked about,
16 that 80 to 90 to 100 percent, it also covers any
17 future load growth in that entire period in your
18 view, correct?

19 A. Again, I don't understand why you think
20 load growth is relevant.

21 Q. You don't believe load growth drives up
22 the price of supply and demand?

23 A. If there's a set of power plants that are
24 available for construction, they're essentially the
25 same power plant just at different sites. There will

1 be small differences in their costs, and I've got
2 some real escalation to account for that.

3 Q. Does your 3 percent real escalation
4 account for future unit retirements?

5 A. That effect would be exactly the same as
6 for load growth.

7 Q. Does your 3 percent real escalation
8 account for the effects of wage growth over the next
9 ten years?

10 A. That -- I don't think real wages have
11 been growing faster than inflation, but that is
12 included in the -- that would be covered in the
13 5 percent.

14 Q. Would that also include any tax increase
15 over the next decade?

16 A. Increased property taxes?

17 Q. Any taxes.

18 MS. HENRY: Objection. Vague.

19 A. If some --

20 EXAMINER PARROT: Overruled.

21 A. If there were some substantial change in
22 tax structure, that would change the bidding
23 behavior. I don't if anyone would want to put it in
24 the forecast one way or the another. It might go up,
25 might go down.

1 Q. You expect taxes to go down in the next
2 decade?

3 A. Seems possible that marginal corporate
4 taxes go down as part of a tax reform.

5 Q. Is that an assumption you made which you
6 built into your 3 percent real escalation?

7 A. No, I didn't. I picked the 5 percent
8 nominal escalator to allow for some upward pressure.

9 Q. And does your 3 percent real escalator
10 include any effects of PJM market reforms in the next
11 decade?

12 A. PJM market?

13 Q. Reforms.

14 MS. HENRY: Objection to vague, to the
15 extent we've already discussed a number of those
16 reforms.

17 Q. We discussed a number of the features of
18 PJM, but, Mr. Chernick, let me ask you a different
19 question. Do you agree that PJM comes up with
20 different rules every year?

21 A. Yes. There are at least tweaks to the
22 rules just about every year.

23 Q. Now, your capacity projections in Table
24 17 never approach Net CONE, do they?

25 A. Not the estimate that PJM uses. It is

1 based on the actual observed Net CONE.

2 Q. And we talked about Net CONE a fair
3 amount. Can you give me your understanding of what
4 Net CONE is supposed to capture?

5 A. In the PJM market-making concept, they
6 hypothesize some plant -- or, actually, I think
7 plants in various parts of PJM and hypothesize the
8 cost and the construction period and the financing
9 and come up with capital costs, make assumptions
10 about operating costs, annualize the capital costs,
11 come up with a dollar per megawatt-year cost, which
12 would be converted to dollars per megawatt-day, and
13 then net out expected revenues from the energy or net
14 revenue profits from the energy ancillary markets.

15 Q. The concept is as supply is constrained
16 over time, the reserve margin goes down. Then the
17 Net CONE price and capacity auction would help incent
18 construction of new generation, correct?

19 A. Yes, and it has.

20 Q. And does the fact that your capacity
21 prices never approach Net CONE suggest that energy
22 margins are going to sustain the needed level of
23 investment?

24 A. At current energy prices, the current
25 futures market developers are willing to build

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1 combined-cycle plants and I believe also some peaker,
2 but mostly combined cycle, at the kind of prices that
3 we've observed most recently in the 2018-19 auction,
4 the 167,577, and that's the actual Net CONE. The
5 actual net cost of new entry for the actual plants
6 that actually entered the market have been
7 consistently lower than the theoretical concept that
8 PJM uses.

9 Q. And would you agree that's a function of
10 the reserve margin being presently above target level
11 for PJM?

12 A. No, no. The fact that PJM has a high
13 reserve margin doesn't mean that I, as a developer,
14 am willing to operate a plant for less than it cost
15 me to build and run it. I'd be crazy to do that.
16 Why would I do that?

17 No, it has nothing to do with that. If
18 the zero margin were high enough that the clearing
19 price were very low, then it just wouldn't get built.
20 I wouldn't clear in the market, and I wouldn't be
21 building my plant, or I wouldn't have built it.

22 Q. So reserve margin does affect the price,
23 thus affect the development decision, correct?

24 A. Yes, it has.

25 Q. Do your projected capacity prices

1 incorporate implementation of MATS and the Clean
2 Power Plan environmental requirements?

3 A. Yes. The actual prices that we see for
4 2018-19, that covered plants, I believe would all
5 have been under the MATS requirement.

6 Q. How about the Clean Power Plan, when is
7 that expected to go into effect?

8 A. That would go in in -- I believe the
9 first effective year would be 2022, and that the
10 actual performance period is 2022 to '24, so the
11 performance is based on an average in that period.
12 And there may be -- I believe there's options for
13 credits for early reductions. So depending on how
14 you count it, it's somewhere between 2000 -- or maybe
15 something like 2018 through or 2024 sort of the range
16 of where you would say compliance starts or the
17 effects start.

18 Q. Is the cost of Clean Power Plan
19 compliance significant, in your view?

20 A. Not in terms of the capital cost of new
21 units being added, the ones that are setting the
22 clearing price.

23 Q. So does that suggest that units that do
24 need to spend money to comply will all retire?

25 A. No. Some of them will retire, and some

1 of them will be marginal and will clear in the
2 auctions and continue in operation. Many of them, as
3 you see with the MATS compliance, many plants
4 complied and continued to operate and many are
5 shutting down.

6 Q. And can you tell me how your RII
7 projection to capacity price in Table 17 reflects the
8 implementation of the Clean Power Plan in 2022?

9 A. Well, again, the new units don't have to
10 add anything to the plant beyond what's required
11 today under the Clean Power Plan. They have to be
12 efficient.

13 Q. These are the gas units you're talking
14 about?

15 A. Yes.

16 Q. Those are the units that Sierra Club
17 opposes?

18 MS. HENRY: Objection. Mischaracterizes
19 his statement earlier. He already said he worked
20 with Sierra Club on supporting gas plants. I know
21 you really want us to oppose all gas plants, and that
22 hasn't been proven in the record. So, please, keep
23 to the facts.

24 MR. NOURSE: If Ms. Henry is going to
25 testify --

1 EXAMINER PARROT: Everybody, enough.

2 MS. HENRY: Objection. Assumes facts not
3 in evidence.

4 EXAMINER PARROT: Rephrase, Mr. Nourse.

5 Q. (By Mr. Nourse) Mr. Chernick, gas units
6 set all the prices in PJM?

7 A. I believe that new gas units are
8 basically setting the capacity price. The energy
9 prices are set by a combination of coal and gas and,
10 to some extent, other fuels.

11 Q. And so can we agree that off-peak energy
12 prices are driven in large part by coal units?

13 A. Coal is marginal, more often off peak
14 than on peak. I'd have to check on whether I have
15 any data on exactly how much, but coal is certainly a
16 significant contributor to the marginal supply for
17 PJM.

18 Q. Well, let's talk about your energy
19 prices, Mr. Chernick. Your energy forecast is in
20 Table 8 in your testimony, right?

21 A. Sounds right.

22 Q. On page 29.

23 A. Yes.

24 Q. And, first of all, I just want to make
25 sure I understand. Your RII column in Table 8, the

1 prices that began and end with \$35 in a ten-year
2 period, those were based on your calculations that
3 relate or that stem from Table 7; am I correct?

4 A. Yes.

5 Q. And, again, mechanically you took the
6 forward values in the various hubs listed in Table 7.
7 You applied a ratio to the non-AEP zone numbers --

8 A. That is correct.

9 Q. -- and came up with a weighted average
10 price, if you will, for each year based on that
11 mechanical calculation, right?

12 A. Yes. I used the AEP zone through 2018 as
13 far as I found traded values, and then I used the
14 nearby hubs' trading points, which, as I show in
15 figure 3, are very close to the bracket, the AEP
16 price.

17 Q. So I think the first part of your answer,
18 the forwards in Table 7, the AEP zone and AEP/Dayton
19 Hub, both did not have trading prices that went out
20 the full study period, correct?

21 A. That is correct.

22 Q. What does that mean to you? There's no
23 trading in that year as far as part of the forward
24 market?

25 A. There hasn't been enough interest of

1 buyers and sellers in locking in prices out that far
2 for those specific points. There's apparently just
3 further out for other hubs.

4 Q. So the AEP/Dayton Hub only goes out to
5 2021 with any prices; is that correct?

6 A. That is correct.

7 Q. And the AEP zone only goes out to 2018,
8 correct?

9 A. That is correct.

10 Q. And did you use realtime or day-ahead
11 pricing for the forward data you relied on?

12 A. I used day-ahead prices. Most of the
13 energy is traded in the day-ahead market. The
14 generators, I believe, are required to be into the
15 day-ahead market.

16 Q. So the pricing you're trying to achieve
17 in the AEP zone didn't have any forward-pricing data
18 for the period you wanted priced; is that correct?

19 A. Right. I didn't have forwards for the
20 AEP zone or the AEP Generation Hub, and beyond 2021,
21 I didn't have prices specifically for the AEP/Dayton
22 Hub. So those last three years I used the average of
23 the PJM Western Hub, which is to the east and higher
24 priced, and the MISO Indiana Hub, which is to the
25 west and lower priced, but, again, bracket the AEP

1 prices quite closely.

2 Q. You had to rely on those other hubs to
3 even create a price that appear on Table 7, correct?

4 A. Yes.

5 Q. Would you agree that published forward
6 prices reflect bilateral contracts for future
7 delivery of the power at the agreed price?

8 A. Yes.

9 Q. And the agreed contract price is not
10 necessarily the market price that will happen in a
11 future delivery period, right?

12 A. They're actual prices today that you
13 could lock in today.

14 Q. And the market price in that future
15 delivery period may be quite different, correct?

16 A. Yes. In any particular month it probably
17 will be different and different quarters.

18 Q. And are published forward prices intended
19 as a forecast of future market prices?

20 A. No. As I just said, they're actual
21 prices. It's like when you call up an airline and
22 ask them what it would cost to fly to Dallas in
23 December and they give you a price. That's in the
24 forecast of what the spot price will be if you walked
25 in on that day and said I'd like to buy a ticket.

1 It's a price, an actual price, that guarantees you a
2 ticket at that cost.

3 Q. But as we talked about earlier, you can't
4 go in and purchase 3,100 megawatts of capacity over a
5 30-year period from these forward markets, right?

6 A. Nor would you want to.

7 Q. And so even though they're not intended
8 as a future market price, that's the way you're using
9 them in your testimony, right?

10 A. Well, one way of looking at it is that
11 you can compare the cost of over the ten-year period
12 for which we do have forwards, which is the only
13 period that the company has analyzed actually. And
14 so we do have forwards for that period, and you can
15 say that's actually what you can get power for, if
16 you just wanted to go out and get it. And how much
17 extra are you paying for the power if you lock into
18 the PPA and the plants perform as the company
19 predicted?

20 Q. But my question was, you agreed that
21 forward prices are not intended as future market
22 prices?

23 A. They are future prices, but they're not a
24 forecast of a spot price. They're today's forward
25 price. They're a real price.

1 Q. They're not intended as forecast future
2 market prices, but that's how you used them in your
3 testimony, correct?

4 MS. HENRY: I believe the question's been
5 asked, I think the fourth time.

6 MR. NOURSE: Nope, he didn't answer it.
7 He went off on another explanation.

8 MS. HENRY: I believe he said it was
9 better than a forecast. It's reality.

10 MR. NOURSE: Different question.

11 EXAMINER PARROT: Hang on.

12 MR. PRITCHARD: At this time I think I'm
13 going to join in the objection. I think we've asked
14 these questions about the future spot prices this
15 morning, this afternoon, multiple times, and I think
16 I've heard the same question asked four different
17 ways now with three similar answers.

18 MR. NOURSE: First time I asked that
19 question, your Honor.

20 EXAMINER PARROT: I think I'm going to
21 overrule the objections.

22 Let's give you one more shot, Mr. Nourse.

23 Can you answer the question,

24 Mr. Chernick, as it was put to you?

25 A. Could I have it one more time?

1 Q. You agree that the forward prices are not
2 forecast future market prices?

3 A. They're not intended to be forecasts.

4 Q. But that's exactly how you've used them
5 in your testimony, correct?

6 A. And I answered, well, one way you can
7 view my calculation is how much extra are you paying
8 for the energy above what you could buy it for at
9 today's forward prices. So in that sense, no, I'm
10 comparing it to actual prices.

11 And then if you want to ask the secondary
12 question, well, since I put them into a model that
13 Dr. Pearce developed for the purpose of evaluating
14 the PPA against a forecast, perhaps I'm using them
15 like a forecast. If the market participants thought
16 the prices in the day-ahead, month-ahead, year-ahead
17 market out into the 2024 range were going to be very
18 different from the current futures, there would be a
19 lot of trading to bring those two closer to balance,
20 so they're as good a predictor we have of future
21 prices given all of the intelligence and analysis
22 behind all the market

23 Q. Well, you mentioned the volume of trading
24 and your basis for Table 7.

25 MR. NOURSE: I'd like to approach, your

1 Honor, and mark AEP Exhibit 25.

2 (EXHIBIT MARKED FOR IDENTIFICATION.)

3 Q. Mr. Chernick, first of all, I want to ask
4 you about your workpapers related to Table 7.

5 MS. HENRY: Sorry. What was the number
6 on this one, AEP what?

7 MR. NOURSE: 25.

8 Q. Before we get to the exhibit,
9 Mr. Chernick, I'm going to ask you about the
10 workpapers for Table 7. To be clear, what I
11 understand from your workpapers is that you pulled
12 these forward prices from the hubs that you list. I
13 presume you pulled monthly prices?

14 A. It's the form that they're available in,
15 yes.

16 Q. That's the raw data that you used?

17 A. Yes.

18 Q. And there's day-ahead, and there's
19 realtime, correct, available?

20 A. Yes.

21 Q. And there's peak and off peak available?

22 A. Yes.

23 Q. And so you took the raw data of the
24 forward prices, and you created an annual price,
25 potentially around-the-clock price, for each year

1 involved with each of those hubs; is that accurate?

2 A. I believe what I did there was that I
3 weighted on- and off-peak prices for each month by
4 the fraction of the PPA generation that Dr. Pearce
5 forecasted for each month on and off peak. So this
6 is not exactly a standard around-the-clock, which
7 would be a constant, say, 50 megawatt-hours per hour
8 for every hour of the period, but a varied number
9 depending upon when Dr. Pearce expected the plant to
10 be operating.

11 Q. Now, with that background, I've handed
12 you AEP Exhibit 25, which is AEP/Dayton Hub peak
13 data. Does this format look familiar to you?

14 A. Well, not exactly. I don't see these
15 particular screens, but I download daily data that's
16 PDFs from the Intercontinental Exchange.

17 Q. And you see the logo up in the upper
18 right-hand corner?

19 A. Yes.

20 Q. This appears to be ICE or
21 Intercontinental Exchange data that you're familiar
22 with?

23 A. Yes.

24 Q. And the kind of data that you pulled to
25 incorporate into your workpapers as we just

1 discussed?

2 A. That is correct.

3 Q. And I want to ask you about a couple
4 columns in particular. So there's a column --

5 MS. HENRY: Are you going to provide the
6 entire -- I'm sorry. You're only providing the peak,
7 and I believe he's talking about he didn't just look
8 at peak. He looked at off peak.

9 MR. NOURSE: Well, your Honor, I'm not
10 trying to replicate all the data he put in his
11 workpapers for all the hubs and for all the peak and
12 off peak. That's not the purpose of this.

13 MS. HENRY: If you're going to try to do
14 a comparison --

15 EXAMINER PARROT: Let's see where it
16 goes. Proceed.

17 MR. NOURSE: Thank you.

18 Q. (By Mr. Nourse) So, Mr. Chernick, the
19 columns I wanted to ask you about, the settling
20 price, see that?

21 A. Yes. Comes out as S-E-T-T-L on this.

22 Q. Right. And you recognize that, for
23 example, in the January 2016 strip, the price is
24 \$43.85.

25 A. Yes, that's what's shown here.

1 Q. And that's for a megawatt-hour?

2 A. That is correct.

3 MS. HENRY: Objection. Vague. He said
4 it was a peak hour.

5 EXAMINER PARROT: He's already answered
6 the question.

7 MR. NOURSE: Yes, it's already indicated,
8 Ms. Henry. I am just trying to read these tables.

9 Q. The next column is "OI." Do you know
10 what that stands for?

11 A. Yes, that's open interest.

12 Q. And how would you define "open interest"?

13 A. That's the number of standard contracts
14 that are open that have been executed and haven't
15 expired or otherwise been discharged by the parties
16 through this exchange.

17 Q. So for that first line, January 2016, we
18 have an open interest number of 3030, which would be
19 3,000. I'm sorry. What number would you attribute
20 to that in terms of megawatts?

21 A. I believe these are 50-megawatt blocks,
22 but I'd have to check. I'd want to be certain about
23 it.

24 Q. Yeah, okay. Well, I believe they're 1
25 megawatt. That's why this price is also stated in

1 1 megawatt, as we already established, right?

2 MS. HENRY: Objection. He said he didn't
3 know.

4 MR. NOURSE: He said his belief was it
5 was something else, so I want to try to help him
6 remember.

7 EXAMINER PARROT: All right.

8 A. I'm sorry, I would have to check with
9 what units the open interest is stated in.

10 Q. Well, accept, subject to check, for me
11 that these are megawatt numbers. You deal with this
12 ICE data all the time, right?

13 A. Not every day, but I've used it many
14 times, several times. I've often used the NYMEX
15 data, which is a similar trading platform.

16 MR. NOURSE: Your Honor, I'd like to use
17 a document, ICE document, to help refresh
18 Mr. Chernick on the contract size, if I could
19 approach.

20 MS. HENRY: I mean, he said he uses
21 NYMEX.

22 MR. NOURSE: I'll show it to your counsel
23 first. He used ICE in this case.

24 Q. (By Mr. Nourse) I think you've already
25 stated you used ICE data in this case?

1 A. I did, yes.

2 Q. And if you could use the document I've
3 just handed you to refresh your recollection on what
4 the contract size is.

5 A. The contract size is stated in this
6 document as being 1 megawatt.

7 Q. And the number of open interest is the
8 number of contracts. You stated that earlier, right?

9 A. Yes.

10 Q. Thank you. So then on January 16th,
11 the first line you were discussing, you would agree
12 that the open interest column indicates that there
13 are 3,030 megawatts of energy under contract for that
14 period, correct?

15 A. Yes.

16 Q. As we move down the table -- and there
17 are multiple pages, I'm not going to go through each
18 line item -- but you see what you expect to see,
19 correct, that the volumes, that the open interest
20 specifically goes down further out in time you go in
21 the tables?

22 A. Yes.

23 Q. And the numbers go down on the fourth
24 page back. For example, this is January '20-'21
25 where zeros start. The zeros go from that point

1 forward.

2 A. Yes.

3 Q. So I want you to hang on to this for a
4 second.

5 MR. NOURSE: And I'm going to mark AEP
6 26, your Honor, if we can approach.

7 EXAMINER PARROT: You may.

8 (EXHIBIT MARKED FOR IDENTIFICATION.)

9 Q. Mr. Chernick, you can take a moment if
10 you want to check the data exhibit I gave you, but
11 this table represents an illustration of a few
12 different months. It lists the open interest and the
13 1 megawatt per contract. With me so far?

14 A. Yes.

15 Q. And then I should give you one other
16 document to work with here. I don't think we need to
17 mark this as an exhibit, but I'd like to approach and
18 hand out the document to discuss.

19 Mr. Chernick, the next column on AEP 26
20 was the "PJM Forecasted Load," so I wanted to give
21 you this document for reference, as a source. And do
22 you recognize this as the PJM load forecast report
23 dated January 2015?

24 A. Yes.

25 Q. If I could direct your attention to page

1 52. Do you see the AEP/Dayton Hub listed there,
2 Table B2?

3 A. Well, there's the AEP zone and the Dayton
4 zone.

5 Q. Right.

6 A. There is no AEP/Dayton Hub in the PJM
7 forecasting. It's a different concept.

8 Q. Is there a Dayton Hub that's separate
9 from the AEP/Dayton Hub?

10 A. I believe that the AEP/Dayton Hub prices
11 reflect a calculation based on a number of points in
12 AEP and Dayton Power and Light's service territory,
13 so it's not the same as Dayton, the load in Dayton's
14 transmission zone or in AEP's transmission zone.

15 Q. Okay.

16 A. And one is the price measured at certain
17 points, and the other one is load within an area. So
18 they're not -- they don't exactly match up.

19 Q. Are you saying the AEP/Dayton Hub that
20 you have in Table 7 is not the Dayton Hub that's in
21 PJM?

22 A. There is no Dayton Hub in the PJM
23 forecast. It's the Dayton transmission zone.

24 Q. You might want to look at the front page
25 of this document.

1 A. And there you see that they have the
2 Dayton service territory, Dayton Power and Light
3 service territory, which would be -- and may include
4 some municipal and co-op territory as well, but
5 that's the area where the other transmission
6 operates.

7 MR. PRITCHARD: Your Honor, at this time
8 I'd like to interject. We've been handed several
9 documents that we're asking questions about on the
10 record that aren't marked as exhibits, so when we go
11 back for briefing, we're going to have questions.
12 We're asking about the front page of this document.
13 There's no identification on the record of what this
14 document is, who created it, who stores it. It's not
15 marked as an exhibit, so at least for my purposes,
16 even if we don't admit it later, I'd have no way of
17 going back to these questions and figuring out what
18 we're even talking about at that point. So I request
19 that we at least mark this document as an exhibit,
20 and we can take up the admission issue later.

21 MR. NOURSE: I'm happy to mark it, but I
22 did ask him at the outset if he recognized the
23 document. I read the title, and he said he did, so I
24 don't think that's a valid objection at this point.
25 This is obviously an official PJM document, many of

1 which we've used throughout this proceeding.

2 MR. PRITCHARD: I'd clarify, Steve. My
3 objection isn't so much foundation. It's we're
4 asking questions about a document not to refresh his
5 recollection, because we haven't established that.
6 He had it but then lost it, so I don't know how we're
7 introducing exhibits that aren't exhibits. That's
8 just for the questions. I'd prefer that we mark it.

9 MR. NOURSE: I'm happy to mark it, your
10 Honor. Should I mark it as Exhibit 27?

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 EXAMINER SEE: Just so we're clear,
13 that's the PJM load forecast report for January 2015.

14 Q. (By Mr. Nourse) So, Mr. Chernick, the
15 table you're referring to on page 52, these other
16 lines in the table, you recognize those as the load
17 zones?

18 A. Yes, those are load zones.

19 Q. And then so is it your expectation that
20 PJM put this line in without referring to a load zone
21 and all the rest of them are load zones?

22 A. That they put in -- no, I think that's
23 what I was telling you. These are load zones. These
24 are hubs.

25 Q. And so --

1 A. I'm not trying to be difficult. This is
2 just getting confusing because these are not the same
3 things. They're in the same general area.

4 Q. So that's why I went back to Table 7 and
5 asked you what you have listed as the AEP/Dayton Hub
6 is not a load zone.

7 A. I believe that is correct. That's a set
8 of nodes within the AEP and Dayton service territory
9 whose prices are averaged together to define the hub
10 price, and that's used for financial data.

11 Q. Is your pricing data generation-hub data
12 or load-zone data?

13 A. The ones that say "hub" are generation
14 hubs, and the ones that have AEP zone is for a load
15 zone, as I understand it.

16 Q. Wouldn't load zones be higher than
17 generation in all cases?

18 A. Yes. And by using the AEP zone rather
19 than lower AEP hub, as I think I mentioned, I
20 probably overstated the market revenues for these
21 plants for the cost of replacing them.

22 Q. And let me ask you this way. Looking at
23 AEP Ohio Exhibit 26 and looking at the open interest
24 examples here, would you expect that the open
25 interest expressed as a percentage of the load for

1 that same time period would be a very low number?

2 A. Would I expect that open interest as a
3 percentage of peak load?

4 Q. Yeah.

5 A. Yes, I would expect that a relatively
6 small amount would be -- I'm sorry, did you specify a
7 particular time period?

8 Q. I said for the same time period. Each of
9 the loads matching up with the time period in the --

10 A. Well, in the near term, they're higher.
11 As you go out further, they're lower. I would expect
12 that for this January of prompt marketers probably
13 lists SSO marketers, and the SSO providers and the
14 CRES providers have probably locked in quite a bit of
15 energy.

16 Of course, if you're comparing peak load
17 to energy, the peak load is always going to be higher
18 than your average energy anyway. So they'd be
19 different for that reason. But in the near term, it
20 would be a fairly high percentage and would drop off
21 over time because CRESs don't have an expectation,
22 generally, that customers will stay with them in the
23 longer term, and certainly there's no expectation
24 that the SSO that customers will stay, so locking in
25 power too long in advance has risk.

1 Q. So give me an idea, when you say near
2 term could be a fairly high percentage, ballpark that
3 for me.

4 A. Well, the near term would be going into
5 next year, 2016.

6 Q. I know. But the open interest expressed
7 as a percentage of the load in the same time
8 period --

9 A. We're looking here at just the ICE
10 platform, so I don't know how much would be dealt
11 with on ICE, and how much on NYMEX, and how much
12 through other brokers, and how much in bilaterals,
13 which would be their own price reference to these.

14 Q. Well, first of all, you only used ICE in
15 this case, right?

16 A. I used the ICE price. I compared ICE and
17 NYMEX, and the prices are very similar.

18 Q. Over what time period?

19 A. I don't recall exactly, but when I've
20 done that various times, I tend to use the NYMEX
21 because we download the data everyday, and so I go
22 take a look at that, and then if I want a longer
23 term, I get the ICE data, and I haven't noticed any
24 times when the prices are dramatically different.

25 Q. Yeah. Okay. But you only used ICE data.

1 And can you tell me your statement of being fairly
2 high in the short-term, in the near-term, what kind
3 of percentage are you talking about?

4 A. I don't know what you'd see for ICE open
5 interest.

6 Q. That is what you used, ICE contract
7 price?

8 A. I didn't use the open interest.

9 Q. Well, you would agree that as you go out
10 a year or two years, that the open interest expressed
11 as a percentage of the load at that time would be a
12 very small percentage, right?

13 A. It goes down, and I think you see that on
14 any of the exchanges. And the total of the interest
15 is the sum of all of these, plus whatever peak is
16 done in the bilateral market outside the exchange.

17 Q. So at what point, when you go down
18 further in percentages of open interest versus the
19 load for the time period, would you agree that it
20 would no longer be a statistically valid sample of
21 prices?

22 A. We're not talking about statistical
23 validity here. The question is, is it representative
24 of the market. And it's my understanding that NYMEX
25 and ICE and other trading platforms do their best to

1 keep the data up to date using data from brokers and
2 bilaterals where they don't have any trades directly
3 through their market.

4 Working through a broker, you can work
5 out your own contract terms, payments, and how much
6 margin needs to be put into escrow and so on. You're
7 stuck with standard terms if you're dealing with the
8 standard platform.

9 Q. So look at page 4, Exhibit 25, where the
10 zeros start in January 2021. Do you see that?

11 A. Yes, I have that.

12 Q. So how is there still prices in the
13 period beyond which the open interest contracts
14 exist?

15 A. Well, I answered that in my previous
16 answer. They supplement the trades on their platform
17 with data from brokers on transactions, on bilateral
18 transactions, or some of them may be transactions on
19 other platforms.

20 Q. So they make up an administrative price;
21 is that what you're saying?

22 A. They're reporting. It's not an
23 administrative price like PJM prices. Those are real
24 but set by formula. These are prices that are real
25 as best the various exchanges can determine from

1 their work with the participants and the brokers.

2 Q. Okay. But they're making up prices based
3 on data they might look at or talk to people they
4 might talk to. It's still a made-up price, isn't it?

5 MS. HENRY: Objection. You're assuming
6 facts not in evidence. He said it's not a made-up
7 price. It's reflective of a bilateral contract. I
8 don't see how you can structure that as being made
9 up, sir.

10 EXAMINER PARROT: Let's rephrase it,
11 Mr. Nourse.

12 Q. (By Mr. Nourse) Mr. Chernick, these
13 prices with zero open interest, it's a black box,
14 right? You don't have any idea what they've looked
15 at to determine price, and we don't have any way of
16 transparently reviewing what it's based on, do we?

17 A. You don't know how ICE got that number.
18 You compare it to what other exchanges are reporting,
19 and you can go ask brokers, and you can run an RFP.

20 Q. You believe the forward prices you use,
21 the peak and the off peak, respectively, reflect gas
22 pricing on the on peak and coal pricing on the off
23 peak?

24 A. Well, it's more complicated than that.
25 But certainly coal has a bigger role off peak than it

1 does on peak, and gas has a bigger role on peak than
2 this does off peak, and other fuels and excess
3 generation conditions and other factors kick in for
4 various periods.

5 Q. And is it your belief that the
6 forward-pricing data that you used -- I asked you
7 earlier about capacity prices, so for those trying to
8 follow along, we're talking about energy prices now.
9 Do you believe your energy prices based on forward
10 data reflect Clean Power Plan obligations starting in
11 2020?

12 MS. HENRY: Objection, your Honor. Clean
13 Power Plan does not begin until 2022.

14 MR. NOURSE: I misspoke and intended to
15 say 2022.

16 MS. HENRY: And I also note, are you
17 going to talk about the compliance deadline?

18 MR. NOURSE: Your Honor, I'm not having a
19 conversation here. I did hear an objection. I'll
20 ask the --

21 EXAMINER PARROT: Let's answer the
22 question.

23 A. Yes. The market participants are aware
24 of the Clean Power Plan and aware of the effects of
25 the Clean Power Plan on market prices, and that

1 affects their prices that they're willing to pay or
2 accept.

3 Q. So looking at Table 7 and/or Table 8, can
4 you point to any change in the pricing on or around
5 2022 that would confirm what you just said?

6 A. Well, for all three of the hubs for which
7 pricing is available out that far, the price falls
8 from 2020 to 2021 but then rises in 2022. So that
9 may be a reflection of the expectation that the other
10 trends that were driving prices down are going to be
11 counteracted and overwhelmed by the effect of the
12 Clean Power Plan.

13 Q. So you're saying that the less than
14 1 percent price change that you referred to, that
15 captures Clean Power Plan compliance costs?

16 A. That's what the change is, and if the
17 market participants are not taking that into account
18 and power's available at those prices, and AEP Ohio
19 wants a hedge, it would be foolish not to go out and
20 buy up some of this power.

21 Q. So your numbers in Table 8, the RII
22 Energy Forecast, these, like the capacity table we
23 talked about earlier, are nominal dollars, correct?

24 A. These are nominal dollars, yes.

25 Q. So given that your beginning and ending

1 price are almost identical, you would agree that over
2 the ten-year period captured in your study that
3 you're actually proposing a decrease in real dollars
4 in energy price over the decade?

5 A. I'm reporting it, yes.

6 Q. I'd ask you to turn to page 23, Table 6.
7 Now, you've listed what you're referring to as "AEP
8 Energy Price Forecast, (Nominal Dollars)" here.

9 A. Yes.

10 Q. And is it fair to say these are actually
11 realized revenue prices that are -- they're not the
12 around-the-clock prices that Dr. Pearce used?

13 A. Yes. I believe I took this from their --
14 from his calculations.

15 Q. Did Dr. Pearce --

16 A. Excuse me. I'm trying to remember now
17 whether this is -- I believe I originally derived
18 this from a calculation, a calculation of revenues.
19 So it would be the realized energy prices, so we're
20 talking about weighted by generation rather than
21 around the clock.

22 Q. Okay. And realized energy prices are
23 higher than around-the-clock prices?

24 A. Yes, by a little bit.

25 Q. This is the same approach that you took

1 in your supplemental testimony in Table S-1, page 2,
2 correct?

3 A. Yes, I believe so.

4 Q. So in Figure 2 on page 24 of your direct,
5 and Figure S-1 on page 2 of your supplemental, the X
6 axis label of "Around-the-Clock Price" is not
7 actually correct, is it?

8 A. No. You're right. That was a poor
9 choice of label, and the same problem occurs on
10 Figure 3. They're not flat around the clock.
11 They're average annual revenues.

12 Q. Mr. Chernick, I'd like to shift gears and
13 talk about your capacity factors that you calculate,
14 and this is on page 29, to begin with in your direct.
15 And in discussing this topic, I think we can avoid
16 mentioning the actual confidential values and refer
17 to some documents that are confidential without
18 having to go into confidential session, okay?

19 A. Okay.

20 Q. And same request as before, if you think
21 you need to say something confidential, we'll just
22 defer it till later, okay?

23 A. Okay.

24 MR. NOURSE: Bear with me one second. I
25 have to find my documents.

1 Your Honor, can we take like a
2 five-minute break? I can't seem to locate this
3 readily.

4 EXAMINER PARROT: We'll take a short
5 break.

6 (Recess taken.)

7 EXAMINER PARROT: On the record.

8 Q. (By Mr. Nourse) Mr. Chernick, I'd like
9 to talk about your capacity factor calculations.

10 A. Yes.

11 MR. NOURSE: So if I could approach, your
12 Honor.

13 EXAMINER PARROT: You may.

14 MR. NOURSE: We're going to mark as AEP
15 Ohio Exhibit 28 Confidential -- I believe I can use
16 this confidential exhibit without the need to go into
17 confidential session yet.

18 (EXHIBIT MARKED FOR IDENTIFICATION.)

19 Q. Mr. Chernick, I actually want to start on
20 page 2 for this. Page 2 of this exhibit is from your
21 workpapers' file. The file name is listed at the
22 bottom there. Do you recognize those?

23 A. I do.

24 Q. And, again, I'm sorry to be repetitive,
25 but I'll just caution you to not mention numbers in

1 the record. I think we can cover this without doing
2 that, okay?

3 So do the numbers at the bottom right
4 part of page 2 in that table, those three capacity
5 factor calculations, match up with the bottom half of
6 page 29, the three numbers that you've listed for the
7 base low and high case?

8 A. Yes.

9 Q. And I'll ask you to turn to page 3 of the
10 exhibit to look at the formulas that relate to that
11 table. It's actually pages 3 and 4. I blew it up so
12 we could actually read it, at least, so I can read
13 it.

14 And can you tell from those formulas that
15 you used 2,600 megawatts as part of your calculation?

16 A. Yes. It looks like in our updating for
17 the inclusion of the OVEC plants, we did not include
18 the OVEC capacity in this calculation. My apologies.

19 Q. Oh, that's okay. So the first page I
20 just want to run through, see if you agree. So the
21 bottom half is the calculations we just discussed as
22 supported by the workpapers on pages 2 through 4 of
23 this exhibit, and they had numbers you list on page
24 29. And in the top half, the same calculation used,
25 using the same data, except the maximum capacity was

1 increased to 3,113 megawatts. Do you see that?

2 A. Yes.

3 Q. And the capacity factors are listed to
4 the right there. Do you agree that those are correct
5 calculations based on 3,113 megawatts as it relates
6 to the updated PPA?

7 A. They look about right.

8 Q. And then just to be clear, in addition to
9 the numbers on page 29, you have a figure 5 in your
10 testimony, direct testimony, page 30?

11 A. Yes.

12 Q. It would also need to be corrected to
13 reflect the original calculation, correct?

14 A. That is correct.

15 Q. Just before we go into confidential
16 session, I just have a couple questions about your
17 supplemental testimony. Do you have that with you up
18 there on the stand?

19 A. Yes, I do.

20 Q. Can you look at Table S-2 on page 3? Are
21 you there?

22 A. I have that.

23 Q. And this is where you calculate these
24 ratios that you use to extrapolate the net cost as a
25 result of Tables S-4 and S-5, right?

1 A. Yes.

2 Q. And if you look at the column 2013 Base
3 to 2013 Low in Table S-2 -- do you see that?

4 A. Yes.

5 Q. That number in that column ends up being
6 the numerator that calculates your ratio, right?

7 A. Yes.

8 Q. And then the denominators are the next
9 two columns?

10 A. Yes.

11 Q. And in that column titled 2013 Base to
12 2015, that should say "Base," right? It should say
13 "2013 Base to 2015 Base"?

14 A. Well, there is -- as I recall, we got
15 only a single forecast for 2015 from fundamentals,
16 the updated fundamental forecast.

17 Q. Okay, that's fine. Just trying to make
18 sure that we had the math right.

19 A. I assume that's comparable, in AEP's
20 mind, to the 2013 base.

21 Q. So, again, just to be clear, let's look
22 at 2016 as an example. You used the negative 7
23 number divided by the negative 33 to get 4.6?

24 A. Well, dividing into the negative 33 to
25 get 4.6, yes. It's 33 divided by 7 is 4.6.

1 Q. I'm sorry, I said it wrong. So same
2 thing, 28 divided by 7 is 4, but you have 3.9?

3 A. Yes. I used the actual calculations from
4 the values in Table 1, S-1, rather than the
5 rounded-off values I present here.

6 Q. Now, does a drop in energy price always
7 correspond directly and proportionally to a drop in
8 margin?

9 A. Not quite. There is a drop in energy
10 revenue -- in energy prices, say, from the 2013 base
11 to 2013 low, two things happen: One is that
12 sometimes the plants operate the same way, but they
13 just make less money; and the other is that they --
14 there are other times they may not start up at all
15 for one cycle, or they may shut down over the
16 weekend, or they may ramp down to a lower level,
17 something like that. So there's a difference in the
18 generation as well as the difference in prices.

19 Q. So I think you're agreeing, but I want to
20 make sure. So a drop in energy price may have a
21 nonproportional impact on margin, correct?

22 A. That a 10 percent drop in the energy
23 price, can it have an effect on the energy margin of
24 more or less than 10 percent? Yes.

25 Q. So let's use a hypothetical to be clear.

1 Let's assume that the producer's cost is \$35 a
2 megawatt-hour and the market price is \$50, okay?

3 A. Okay. What was the first number again?

4 Q. The producer's cost is \$35.

5 A. 35 and 50, okay.

6 Q. The market price is 50. That's a margin
7 of 15 under this simple example.

8 A. Yep.

9 Q. And if the market price goes down
10 10 percent or \$5, the margin actually goes down by
11 33 percent from 15 to 10, correct?

12 A. Yes.

13 Q. So a small change in price can have a big
14 impact on margins, right?

15 A. In percentage terms, yes.

16 Q. If you go to Figure S-2, page 4, just
17 wanted to clarify this dotted line, which is your
18 forecast. So why is that last part of the blue line
19 not dotted?

20 A. Because that's the actual AEP zone
21 forwards.

22 Q. And during that same period, why are the
23 forwards all higher than AEP's projected price there?

24 A. I don't know. I was surprised that AEP
25 had dropped its price so much in the first -- well,

1 from our -- it's two years, 2016-17.

2 Q. And turn to page 5, Table S-3. This is
3 an update in your forward-pricing data. It's not
4 related to the 2015 fundamental forecast, is it?

5 A. That is correct. And I don't believe I
6 used any other calculations here.

7 Q. And on page 8 down near the bottom of the
8 page you talk about an expected -- I guess an
9 expected coal price reduction around \$5. Do you see
10 that?

11 A. Yes. This is the change between the 2013
12 and 2015 forecasts, which I estimated came out to
13 about a \$5 per megawatt-hour increase.

14 Q. So you, I think, are making what you call
15 an offset to the values that are in Table S-5
16 relating to this coal price reduction, right?

17 A. Yes. I'm recognizing that more than just
18 energy prices had changed in AEP's forecast between
19 2013 and 2015. The other thing that seemed relevant
20 was the change in the coal prices.

21 Q. And so does the \$1.8 billion figure in
22 line 23 represent your finding of the net cost for
23 the PPA?

24 A. Well, I'm not trying to narrow it down
25 that much. I mean, we're talking about a huge

1 number, and for purposes of my recommendation, I
2 don't think there's much difference between a
3 billion-dollar loss and a \$3 billion loss over this
4 time period. In any case, I would recommend the
5 Commission reject the PPA.

6 Q. Okay. But are you saying that the
7 numbers in your tables don't really reflect your
8 views? I mean, are you boiling it down to a number,
9 or are these all ballpark numbers?

10 A. First of all, these don't reflect my
11 views because they're based on AEP's own forecasts
12 for 2015, which is clearly far too high in the out
13 years. And it's also based on AEP's other
14 assumptions, specifically the capacity price, which
15 is too high, so --

16 Q. Mr. Chernick --

17 A. So these are not my -- the important
18 thing here, none of these are my projections. These
19 are my results from doing a simple extrapolation of
20 the company's change in their forecast.

21 Q. Well, I agree its a simple extrapolation,
22 but this Table S-4 and S-5 does not represent AEP's
23 view in any way. This is a result of your view of
24 what the costs are based primarily on your
25 forward-price estimates, right?

1 A. Wrong. This is from the AEP base
2 forecast or load forecast using the 2013 document
3 called the fundamentals forecast and extrapolating
4 from there to the effect with the 2015 AEP forecast.
5 The forwards that I quote don't affect this
6 calculation.

7 Q. Okay. Well, your number that you're
8 mentioning on the bottom of page 8 is a result of the
9 two-step ratio process, right, extrapolation? First
10 you extrapolate a reduction in prices, so essentially
11 reduction in margin, and then you're taking a second
12 step. You're offsetting that on the back end with
13 another extrapolation, another ratio, based on the
14 coal-price reduction. Is that -- do I have that
15 right mechanically?

16 A. The first step mechanically is to take
17 the change from the base to the low forecast from
18 2017, which involves both of the factors we were
19 talking about before. Presumably, in the low case,
20 there were hours where the plants ran the same way
21 but earned less revenue than in the base case. And
22 there would be other hours where they generated less
23 energy and earned less revenue.

24 And I took that change and ratioed it
25 upward to reflect the difference between either the

1 2013 base and the 2015 AEP forecast, or the 2013 low
2 AEP forecast to the 2015 AEP forecast.

3 Q. And none of your analysis, either in your
4 direct or supplemental testimony, is a result of
5 dispatch modeling based on updated information, is
6 it?

7 A. I did not do any dispatch modeling.

8 Q. And you reduced revenue without reducing
9 cost and reached a larger negative number for the net
10 cost, right?

11 A. Wrong. I reduced cost in two ways.
12 First of all, the change -- as I just explained to
13 you, the change from the base to the low 2013
14 forecast in Dr. Pearce's analysis would have involved
15 a change in both prices, revenues and costs, because
16 some of the plants would have run less.

17 I extrapolated that trend to the still
18 lower 2015 forecast, so that would also have both
19 lower revenues per megawatt-hour and lower
20 megawatt-hours and less coal use and, therefore,
21 lower costs.

22 Q. Okay.

23 A. In a second step, which you pointed out,
24 I made a separate adjustment for the lower coal
25 prices, and said ignoring any reduction in the amount

1 of coal you use, even if you use the same -- use the
2 same amount of coal, then your costs would have gone
3 down by about roughly a billion dollars, and that
4 cuts away about 40 percent of the loss going from
5 2013 to 2015.

6 Q. Okay.

7 A. But it doesn't offset all of it.

8 Q. And I should be clear. I was trying to
9 create a transition back to your direct testimony,
10 which I wanted to go into confidential session and
11 talk about. So with your direct testimony, setting
12 aside the ratioing in your supplemental, that's where
13 you used capacity forecast, reduced the revenue, left
14 the cost in place, correct?

15 A. That is correct. I did not -- again, the
16 effects were so large that the small offset for
17 reduced generation probably wouldn't have been very
18 important, and, in particular, it would be very
19 surprising if you could somehow find a way to turn
20 coal plants into cost-effective peaking units.
21 Running them less is not leading to
22 cost-effectiveness.

23 MR. NOURSE: Your Honor, I'd like to take
24 a short break and go into confidential session.

25 EXAMINER PARROT: Before we do that,

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1 Mr. Margard, did you have any questions for the
2 public part of this?

3 MR. MARGARD: Thank you, your Honor. I
4 do not.

5 EXAMINER PARROT: Let's take a short
6 break.

7 (Recess taken.)

8 EXAMINER PARROT: Let's go back on the
9 record.

10 At this point we are entering the
11 confidential portion of the transcript.

12 (CONFIDENTIAL PORTION EXCERPTED.)
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(OPEN RECORD.)

EXAMINER PARROT: Public redirect.

By Ms. Henry:

Q. What did Sierra Club ask you to do when
you were hired?

1 A. I was told the outline of the company's
2 proposal, which I had already read about in the trade
3 press, and I was asked to look at the economics of
4 the PPA and the policy implications, as to whether
5 this was a good way to procure a hedge.

6 Q. And did Sierra Club direct you to
7 consider the goals of the Sierra Club in conducting
8 your analysis?

9 A. No.

10 Q. Did Sierra Club's Beyond Natural Gas or
11 Dirty Fuels Campaign influence your analysis of the
12 PPA in this proceeding in any way?

13 A. No. And I don't think I heard about
14 Sierra Club's Dirty Fuels Campaign until today.

15 Q. Would your analysis of the reasonableness
16 of the PPA rider have been the same regardless of
17 your client?

18 A. Well, yes. A different client may have
19 said, we'd really like you to look at this aspect of
20 the structure of the PPA or the details of the
21 rider's implementation or compliance with individual
22 aspects of the Commission's order, so I might have
23 looked at a different -- or distributed my efforts
24 differently, but the gist of my analysis was going to
25 be the same.

1 Q. If the Commission staff had hired you as
2 an expert, would your analysis and conclusions have
3 been any different?

4 A. Again, only to the extent that they asked
5 me to look at specific issues in greater detail than
6 I did in my testimony, if there were things that I
7 dealt with in a paragraph in this testimony that I
8 could have spent several pages on had the client said
9 that is something we really want to have you look at
10 in more detail.

11 So, again, the emphasis on different
12 parts of the case could be different, but, no, not
13 the conclusions.

14 Q. Mr. Nourse asked you about your
15 understanding regarding whether Sierra Club supports
16 natural gas generation, and you indicated you had
17 some experience from proceedings that Sierra Club had
18 supported it, correct?

19 A. Yes. And these are just cases that I
20 happened to be involved in, since I don't -- I mean,
21 other than, again, monitoring in the trade press, I
22 don't follow the Sierra Club's activities in the
23 regulatory arena particularly.

24 In a Kentucky proceeding I supported the
25 purchase of a peaker, a gas-fired peaker plant by the

1 utilities, and urged the Commission to defer the
2 consideration of the gas combined cycle that the
3 company wanted to build for a more complete analysis
4 of energy efficiency and renewable options, but
5 acknowledged that the combined cycle might be needed
6 but just that more -- a better analysis should be
7 undertaken first of whether there were resources that
8 would reduce the need for it, push it back in time.

9 In Oklahoma with respect to the
10 compliance for various air quality issues, I
11 supported the purchase of existing gas resources and
12 greater utilization of those resources to replace
13 coal plants that should be retired as part of a
14 compliance plan.

15 In Nevada, again, in the discussion of
16 retirement of a coal plant, I discussed with the
17 Commission whether it would be appropriate to replace
18 some of that capacity with a combined cycle. That
19 was my initial proposal to them, that that might be
20 the best bet. The Commission thought that perhaps a
21 combustion turbine would be more effective in
22 following the loads of the renewable, the generation
23 from the renewables, and providing backup. Sierra
24 Club supported that approach.

25 Just a second.

1 MR. NOURSE: Your Honor, I'm sorry, it
2 looks like he's reading from a computer.

3 THE WITNESS: Just to clarify, I'm
4 looking at my list of Sierra Club cases just to
5 remind me of which ones I haven't talked about yet.
6 I'm just looking at the directory of my hard drive,
7 actually.

8 MR. NOURSE: Your Honor, are we able to
9 agree that what he's reading -- can he show us or can
10 he just close the computer?

11 MS. HENRY: I'm happy without the
12 computer.

13 EXAMINER PARROT: I think we have a
14 flavor for it. Were you finished?

15 THE WITNESS: There were a couple more
16 but --

17 Q. (By Ms. Henry) Besides consideration of
18 future environmental compliance costs, did the PPA
19 units' potential impact on the environment influence
20 your testimony in this case in any way?

21 A. No. My analysis has to do with the
22 economics and the effects on ratepayers and on risk.

23 Q. Did you enter a capped price not to
24 exceed contract with Sierra Club for your testimony
25 in this proceeding?

1 A. Yes, the contract has a maximum price.

2 Q. Do you ever enter into capped-price
3 contracts not to exceed a certain cost with other
4 clients?

5 A. That's quite common with a variety of
6 governmental and nonprofit organizations.

7 Q. And what happens when your time spent in
8 the matter exceeds the amount allowed under the
9 fixed-price contract?

10 A. Well, sometimes my clients manage to find
11 a little extra money for me and sometimes they don't,
12 and often I have to write some off.

13 Q. Do you remember Mr. Kurtz discussed with
14 you a number of potential changes to the PPA? Do you
15 recall that?

16 A. Yes.

17 Q. And those included a return on equity
18 flex-down proposal, a 15-year term, and then
19 Mr. Taylor's three-year earlier or later retirement
20 proposal. Do you remember that?

21 A. Yes.

22 Q. If those changes were made, would the PPA
23 and PPA rider be just and reasonable arrangement for
24 ratepayers?

25 A. Well, as I understand it, the first

1 adjustment would be that the PPA rider would either
2 always have to -- would always have to be either a
3 credit or zero and never be a charge, or I guess it
4 could be a charge after the company's return on
5 equity fell to zero.

6 It's difficult for me to determine the
7 magnitude of the protection for ratepayers that that
8 would produce, so I couldn't say at this point that
9 that would be an acceptable package of mitigation.
10 It would certainly be an improvement over what's been
11 proposed, but I don't know whether it would be
12 enough.

13 Q. Mr. Nourse asked whether you were
14 familiar with other liquidated damages or exit-fee
15 clauses in other contracts. Do you remember that
16 discussion?

17 A. Yes.

18 Q. And he asked you whether you called them
19 poison pills, and you said not necessarily, right?

20 A. Yes.

21 Q. What's the difference between the typical
22 liquidated damage or exit-fee clause and what you
23 called the poison pill in this case?

24 A. Well, there would usually be a provision
25 that says if you violate the contract, then you have

1 to make us whole over the term of the contract. If
2 you stop paying in the middle, then you still owe us
3 the money, and even if you're not taking the power,
4 then you have to pay for the difference in cost
5 between what we can get for it and what you had
6 promised us. That would be one kind of liquidated
7 damages.

8 In some cases its just a flat charge, and
9 if at some point you want to get out, you can buy
10 your way out, and that cost is known in advance. So
11 they vary considerably in terms of how predictable
12 they are and the situations in which they can be
13 applied.

14 Q. Mr. Nourse asked you is it a fair summary
15 of your direct testimony that you changed costs but
16 not revenues associated with the PPA.

17 A. Yes.

18 Q. Let me ask you, why did you reduce the
19 revenues in your direct testimony?

20 A. Because the revenues that AEP had assumed
21 were based on forecasts of energy prices and capacity
22 prices that are just unrealistic.

23 Q. And why did you not reduce costs in your
24 direct testimony?

25 A. Well, in contrast to the supplemental, I

1 didn't have a change in the company's fuel price
2 forecast to reflect the coal price forecast. So I
3 didn't have a new number to put in there, and I
4 didn't see that their forecasts were necessarily
5 unrealistic, given the other information available to
6 me, so that seemed to be all right, and I left it as
7 was.

8 And I looked at the possibility of
9 reducing generation to reflect the lower market
10 prices and tried an extrapolation from the low case
11 down to the company's low case to the lower forward
12 prices, and, again, as I think I mentioned before,
13 found the zero capacity factor of being the result of
14 that extrapolation.

15 In other words, with those low fuel
16 prices -- excuse me, the low market prices, the cost
17 of the plants just make them uneconomic.

18 Q. Mr. Nourse asked you a series of
19 questions, directional questions, where holding all
20 else equal, and he would talk about one -- a series
21 of different factors. Do you remember that
22 discussion, sir?

23 A. Yes.

24 Q. Now, you told Mr. Nourse that keeping all
25 else equal, if you decreased energy prices, you'll

1 make the PPA less favorable, correct?

2 A. If you decrease energy prices, yes.

3 Q. How much, relatively?

4 A. Well, energy prices are something like
5 83 percent of the revenues in the company's base
6 case, so it has a very large effect on the net
7 benefits.

8 Q. Would you say it has the most impact?

9 A. Yes. It's a larger effect than any other
10 single factor.

11 Q. And, now, you told Mr. Nourse that
12 keeping all else equal, if you increase capacity
13 prices, you'll make the PPA more favorable. Do you
14 remember that?

15 A. Yes.

16 Q. How much relatively?

17 A. Well, it's much smaller because the
18 capacity revenues the company projects in its base
19 case are most of the remaining revenues, so they're
20 something like 17 percent of the total. So a
21 50 percent reduction in energy use would require
22 tripling or more the capacity prices in order to make
23 up that difference.

24 Q. You told Mr. Nourse that keeping all else
25 equal, if fuel price decreased, it would make the PPA

1 more favorable. How much, relatively?

2 A. Well, fuel costs, I did an escalation of
3 that some place. Hold on a second.

4 MR. NOURSE: Your Honor, he's reading
5 from the computer again. I'd like to ask to look at
6 what he's looking at.

7 MS. HENRY: I would just note that he has
8 been referring to his testimony --

9 MR. NOURSE: He's reading and
10 manipulating the computer. He's obviously looking
11 for something on his computer.

12 THE WITNESS: Yes. I'm looking for where
13 I calculated the total fuel cost for the PPA plants.

14 MR. NOURSE: Well, your Honor --

15 EXAMINER PARROT: Looking at workpapers?
16 Mr. Chernick, what are you looking at?

17 THE WITNESS: I'm trying to figure out
18 which version of Pearce's workpapers I did that
19 calculation in, because I remember having done it,
20 and I think I have it in my computer. It's just a
21 matter of finding the right one.

22 MS. HENRY: If you want, we can talk
23 about it in generalities.

24 EXAMINER PARROT: Or else notify us what
25 you're referring to, please, specifically.

1 THE WITNESS: This would be Pearce's
2 workpaper 1C, Competitively Sensitive Confidential,
3 Weather Normalized Forecast Model. And this would be
4 a version in which I did some calculations
5 calculating sums and present values.

6 Q. (By Ms. Henry) But relatively speaking,
7 when you're talking about a fuel cost change, I mean,
8 comparing to the other factors, relatively speaking,
9 how would you link a change in that one?

10 A. Roughly speaking, the plant's fuel costs
11 are, I believe, less than half of the energy
12 revenues. So if you cut the energy revenues in half,
13 you'd have to double -- you'd have to -- well, if you
14 cut the energy price in half, you'd have to bring the
15 coal price down to zero to have the same energy
16 margin.

17 Q. Now, you talked to Mr. Nourse that
18 keeping all else equal, if we decrease capital and
19 O&M cost, that it will make the PPA more favorable.

20 A. Yes.

21 Q. How much, relatively?

22 A. Well, total capital and O&M costs, the
23 capacity costs are -- again, may I look at my
24 workpapers?

25 MR. NOURSE: She's asking you relatively

1 which.

2 A. They're smaller than the energy revenues
3 by, I believe, a factor of roughly 2. So it's
4 cutting down the capacity costs, it's very difficult
5 to make up much in terms of the loss of energy
6 revenues.

7 Q. Now, you told Mr. Nourse that, keeping
8 all else equal, if we increase capacity performance
9 payments, that you'll make the PPA more favorable,
10 correct?

11 A. Yes.

12 Q. And how much relatively?

13 A. Well, capacity performance is a small
14 part of the total capacity revenue, so it would have
15 to be a very large percentage increase. I said you'd
16 have to roughly triple the capacity price in order to
17 make up for a 50 percent drop in the energy price, so
18 for the capacity performance portion, it would be an
19 even larger percentage.

20 Q. What's the biggest single driver of
21 whether this PPA is economically favorable or
22 unfavorable?

23 A. Well, the largest single driver would be
24 the energy revenues, followed by the capacity
25 revenues.

1 Q. Now, Mr. Nourse asked you if it was
2 worth -- I'm sorry, I'm going to switch to a new
3 topic.

4 And Mr. Nourse asked you if it was worth
5 paying more to reduce risk, and you said having a
6 hedge against risk, meaning stability, would be worth
7 something. Do you remember that?

8 A. Yes.

9 Q. And then you also said, "But the PPA does
10 not do that very well." Do you recall that?

11 A. Yes.

12 Q. And why does the PPA not hedge risk very
13 well?

14 A. Well, first of all, in the short-term it
15 doesn't hedge it at all, and as I mentioned before,
16 the standard service providers or the CRES providers
17 would have to still include the same risk premium
18 whether the PPA was in place or not, so it wouldn't
19 help with hedging the costs of that volatility.

20 In the longer term, it's not a guaranteed
21 amount of power, of energy, and it's not a guaranteed
22 price. So it's a very sloppy hedge that could wind
23 up being much more expensive than the company's
24 projecting and provide less price protection.

25 Q. Are there any types of PPAs that you

1 think -- or other type of hedge projects that would
2 provide a better hedge risk?

3 A. Well, a fixed amount of energy at a fixed
4 price probably under a contract for differences would
5 provide a known and predictable hedge against changes
6 in the future's prices that drive pricing for CRESS
7 and standard service offer.

8 Q. So Mr. Nourse also asked you would an
9 economic analysis be flawed if it assumed units were
10 incurring costs to operate, even if market energy
11 costs were below the dispatch costs. Do you remember
12 that?

13 A. Yes.

14 Q. And you said that was a simplification,
15 correct?

16 A. Yes.

17 Q. Why is it a simplification?

18 A. Well, because in the real world if you're
19 losing money operating in some period of time, if you
20 have the choice, you will stop operating. So plants,
21 including the PPA plants, will shut down at times
22 rather than run and increase their losses for the
23 year.

24 Q. And you also said that a model assuming
25 the units would run at such times could slightly

1 overstate the negative revenue; is that correct?

2 A. Well, the negative net energy revenues,
3 yes, you could cut your losses by running less.

4 Q. Could you cut your losses and make it --
5 and salvage it into becoming an economic situation?
6 And I guess I'm referring to the PPA proposal in this
7 case.

8 A. I don't see how that would be possible.
9 These are coal plants that are fairly expensive to
10 keep in operation, and reducing their operation
11 dramatically to operate them is something more like
12 peaker. It's very unlikely to improve their
13 economics very much. If they were a plant that had
14 very low operating costs, fixed operating costs, and
15 could be run a small amount of the time when it was
16 worth running them, then that might be possible. But
17 you can't usually do that with coal plants.

18 Q. So under the PPA proposal in this case,
19 would AEP Ohio incur costs per unit even when the
20 units were not running?

21 A. Yes. Even if the plant were shut down, a
22 unit were shut down for an entire year because it was
23 uneconomic to run it or because it had a malfunction,
24 AEP Ohio would still be charged for the fixed costs
25 of the plant, the O&M staffing the plant, the capital

1 expenditures, and the sunk costs. So it would
2 continue to cost ratepayers money even though it was
3 producing nothing.

4 Q. So even when it was producing nothing,
5 they were being costs that had to be incurred?

6 A. There would be costs. There would be --
7 some costs that had already been incurred would be
8 passed on to ratepayers, and other costs would
9 continue to be incurred and be passed on to
10 ratepayers.

11 Q. Does your analysis understate the value
12 of the PPA because you did not do dispatch modeling?

13 A. It may slightly understate the value, but
14 the economics of the PPA are so deeply in the hole
15 and so negative, that throwing out some hours when
16 the plants are not economic to operate would not
17 bring them out of the that hole. Might make the hole
18 shallower.

19 Q. If you had done dispatch modeling, in
20 your opinion would that change the outcome of your
21 analysis regarding whether the proposed PPA is
22 economic?

23 A. No. It would change in specific numbers,
24 but it's a real stretch to suppose that a realistic
25 energy and capacity forecast would show this PPA to

1 be cost-effective no matter how you modeled it.

2 Q. So Mr. Nourse asked you about updating
3 energy forwards but not capacity auction results in
4 your supplemental testimony. Do you remember that?

5 A. Yes.

6 Q. Why did you -- what did you update in
7 your supplemental?

8 A. I updated the energy prices and estimated
9 the -- well, what I updated was I updated the
10 company's view from what they filed based on the 2013
11 forecasts to an estimate of what the 2015 forecast
12 would look like, so that was the bulk of my
13 supplemental.

14 Q. And why did you make that -- why did you
15 update that? Why was that important to update?

16 A. Well, because, as I said before, energy
17 revenues are the bulk of the revenues for the PPA,
18 and they're the most critical factor of energy
19 prices, and, hence, energy revenues are the most
20 critical factor in determining whether the PPA is
21 economic.

22 Q. And what did you not update?

23 A. I did not update capacity prices. I used
24 the unrealistically high capacity price forecast that
25 Mr. -- Dr. Pearce filed in May. And I did not update

1 that. I did not update any of the other parameters,
2 except that I did a side calculation of the effect of
3 changing the coal price, which had gone down in AEP's
4 forecast, not as much as the market energy price has
5 gone down, but it had gone down some. And so I
6 looked at that impact. Because it was a smaller
7 change and on a smaller base, it had a much smaller
8 effect, and I discuss that in my supplement.

9 MR. NOURSE: Your Honor, can I clarify to
10 save recross that that answer related exclusively to
11 his supplemental testimony and not in his direct
12 testimony.

13 MS. HENRY: I think I did --

14 THE WITNESS: That's what I was answering
15 about.

16 MR. NOURSE: Thank you.

17 Q. (By Ms. Henry) Based on your analysis and
18 experience, do you believe updating the capacity
19 auction results would have a meaningful impact on
20 your conclusions?

21 A. No. If I had gotten the revised results
22 for the capacity performance for 2016-17 and '17-'18,
23 it would have made a small difference in my
24 projections but would not have changed the magnitude
25 to which the PPA was uneconomic. It still would be

1 in a very deep hole. It would be a little bit
2 higher.

3 Q. And that's because the energy forecast is
4 the main driver of this PPA's --

5 A. Yes. And the change in the price for
6 those two years was not large enough to be very
7 significant in any case. It's a small part of the
8 capacity price, only in two years.

9 Q. Do you recall Mr. Nourse asking you some
10 questions about competitive bidding?

11 A. Yes.

12 Q. And do you recall Mr. Nourse's questions
13 regarding a 30-year contract for a 3,100 megawatt
14 pole? Do you remember that?

15 A. Yes.

16 Q. Or 3,100 megawatts of power.

17 A. Of energy, yes.

18 Q. Do you think that the scope of AEP's
19 proposed PPA in both megawatts and duration is
20 supported by the record?

21 A. No. I think these were units that AEP
22 Generation wanted to get some support for and ask for
23 a lifetime PPA for them. I don't believe that
24 there's any demonstration that 3,100 megawatts is
25 better than 2,000 megawatts or 5,000 megawatts, and

1 it's hard to see why such a long-term hedge would
2 make sense in a world in which everything changes,
3 including legislation.

4 Q. Are there other types of long-term PPAs
5 that would provide a good hedge for AEP Ohio
6 ratepayers?

7 A. Yes. A better long-term contract would
8 be something in -- if you're talking about long term
9 in the -- 10- or 15-year range, a contract with a
10 generator or set of generators for fixed prices, for
11 prices, that are indexed only for things like
12 inflation in their labor costs would be a much more
13 effective hedge.

14 Q. So Mr. Nourse asked you about the basis
15 of your testimony that a competitive bid process
16 could lead to a better outcome. Do you remember
17 that?

18 A. Yes.

19 Q. Has AEP offered any evidence that a
20 better bid process would not lead to a better
21 outcome?

22 A. I haven't seen any.

23 Q. Can you think of a worse outcome than the
24 Commission approving this PPA?

25 A. Well, one can always imagine disasters.

1 But the experience with competitor procurements is
2 that if you ask for it, you'll find that people are
3 willing to provide the service, and since the
4 Commission has a wide range of options for providing
5 a long-term hedge, it's not clear that there's a real
6 need for a long-term hedge, but it might be nice.

7 The option of doing nothing and just
8 staying with the current system would be better than
9 the PPA, and the Commission might find, through a
10 competitive procurement, there was actually an
11 alternative that it preferred that would give a
12 small -- provide a small amount of hedging that would
13 help customers without distorting the market
14 excessively.

15 Q. And in your professional opinion, based
16 on your experience, is it likely that a proposed
17 PPA -- that the proposed PPA units would somehow all
18 be retired or otherwise become unavailable in the
19 time frame it would take to conduct a competitive
20 bidding process?

21 A. That seems pretty farfetched.

22 Q. So in your opinion of Mr. Nourse's "use
23 it or lose it" theme for the PPA and its associated
24 rider in the questioning today, what's your opinion?

25 A. Well, certainly possible that AEP would

1 sell the plants to another party that would not be
2 interested in the long-term contract, that was happy
3 playing the market, and that these specific plants
4 would not be bid into a future RFP.

5 But, again, I don't know that that's
6 particularly a problem since the other owners of some
7 of the same plants may very well bid in, and there
8 are other parties that could bid in. And as I've
9 said, there's no real showing that ratepayers need
10 this kind of hedge, although it might be nice to have
11 one.

12 Q. Let's switch gears and talk about, do you
13 remember when Mr. Nourse asked you some questions
14 about the mathematical principle that the magnitude
15 of energy market spikes can be greater than energy
16 mark dips?

17 A. Do I remember that? Yes.

18 Q. Did you discuss that same mathematical
19 principle in your direct testimony?

20 A. Yes. I think it came up in my dismissing
21 Dr. Pearce's reliance on the average of a high and
22 low case, that you would expect the high case to be
23 further from the expected values on the high side
24 than the low case was below them, and so, therefore,
25 the average of the low and the high would almost

1 always be higher than your expectation, so it's an
2 unrealistically high value.

3 And that if you were going to take high
4 and low expectations into account, you'd have to have
5 a probability of distribution, recognize that most of
6 the probability lies in the middle, giving high
7 weight to say your base case and a smaller weight to
8 the high and low cases.

9 And I have seen that approach used in the
10 past, and that can make some sense. But this idea
11 that you just assume there's 50/50 chance that you'll
12 be at some undefined high price and some undefined
13 low price doesn't -- is not a very rigorous approach.
14 Let's put it that way.

15 Q. Is it mathematically flawed?

16 A. Well, it's bias. Using the average of
17 the high and the low, biases your results compared to
18 the expected value for any reasonable distribution.

19 Q. And given the new 2015 fundamental
20 forecast, where do you think the Commission should
21 put it? Do you think that Mr. Pearce's
22 recommendation to put the emphasis on the AVIT of the
23 high/low is correct?

24 A. No, I don't. I think that your best
25 estimate should be your guidance, and you can look at

1 high and low cases to get a sense of risk and
2 discouragement and various other things.

3 But if you're going use a value from the
4 company, I would use their 2015 energy price
5 forecast, which is enough to sink the PPA by itself,
6 although it's still too high overall.

7 Q. Now do you recall Mr. Nourse asking you
8 about AEP Generation Resources and where they might
9 be giving up in regard to profit by entering the PPA?

10 A. Yes.

11 Q. Now, let me ask you, if the rider creates
12 a lost for ratepayers, would AEP Generation still
13 receive a profit under the proposed rider?

14 A. That's my understanding, yes.

15 Q. And why is that?

16 A. Because all of AEP Generation's costs for
17 these units would be passed through to AEP Ohio and
18 then to the ratepayers.

19 Q. And return on equity is one of those
20 costs that would flow through?

21 A. Yes.

22 Q. And do you think that what AEP has
23 proposed to give up by entering the PPA is
24 significant?

25 A. No, I don't think that there's much

1 chance that these plants would earn more in the
2 competitive market than they would under the PPA.
3 The PPA would be a God-send for them, and the company
4 seems to acknowledge that by saying, well, we don't
5 know that these plants are worth operating, even just
6 with their going-forward costs if we don't have a
7 PPA.

8 Q. Do you recall when Mr. Nourse was asking
9 you some questions about the financial need of the
10 PPA units?

11 A. Yes, at least conceptually about how
12 relevant need was.

13 Q. Yes. And I believe you talked about
14 other factors that were from the ESP III order, too;
15 is that correct?

16 A. Yes.

17 Q. In your opinion, has AEP demonstrated
18 that the Commission ESP III's factor regarding
19 financial need has been met?

20 A. No. The company hasn't done a case --
21 and I tried to do an approximation of one -- hasn't
22 done a case for the operation of the plant in the
23 competitive market -- plants in the competitive
24 market, so we don't know what AEP would say today
25 about the cost-effectiveness of operating the plants

1 with their going-forward costs compared to their
2 revenues that would be expected from them.

3 Q. And I believe that -- so you believe that
4 for financial need, there is something between all of
5 your costs and what you need; is that what you're
6 saying, sir?

7 A. Yes. And I discuss that in my direct,
8 that you might need to -- in order to keep operating,
9 you might need some financial assistance to cover
10 your going-forward costs, fuel, O&M, capital
11 additions going forward, but you wouldn't need to
12 cover your historical costs, your embedded costs
13 recovery of what you already booked for that plant or
14 the costs of retiring the plants because you're going
15 to be paying those whether or not you're -- either
16 you have paid it or you're going to be paying it
17 whether or not you keep running the plant.

18 Q. And do you recall Mr. Nourse asking you
19 about reliability as one of the other ESP III
20 factors?

21 A. Yes.

22 Q. In your opinion, has AEP Ohio
23 demonstrated the necessity of a proposed PPA in light
24 the reliability concerns?

25 A. No, they haven't shown there would be

1 reliability problems, nor the magnitude of those
2 problems if any one or any set of these units were
3 retired. They looked at a much larger set of
4 retirements.

5 Q. And do you think that because they looked
6 at a larger set of retirements, the Commission
7 doesn't have enough information about reliability to
8 adequately consider this approach to the PPA?

9 A. Yes.

10 Q. And why is that?

11 A. Well, because if other plants retire,
12 transmission upgrades may be needed regardless
13 whether the PPA exists or not. And if just these
14 units, some transmission may be required, but we
15 don't know what transmission because we don't know
16 what part of the total costs identified by the
17 company are related to the retirement of these units,
18 certainly not to an individual unit versus the larger
19 universe of plants that they assume would be retired
20 in 2019.

21 Q. Do you recall Mr. Nourse asking you
22 questions regarding the analysis of economic
23 development impacts on the closure of the proposed
24 PPA units?

25 A. Yes.

1 Q. And in your opinion has AEP Ohio
2 adequately addressed the Commission's order in the
3 ESP III regarding economic development impacts?

4 A. No. As I read it, the economic
5 development requirement specifically talked about
6 price effects, rate affects, and I don't believe that
7 AEP has looked at the effect of the PPA costs and how
8 that would discourage -- reduce consumption of other
9 goods, and, hence, economic activity in its service
10 territory and how it would affect the viability of
11 the industrial generators in its service territory,
12 the industrial consumers in its service territory.

13 Q. Do you remember Mr. Nourse was asking you
14 questions regarding AEP's forecasted PPA rider
15 impact, and this was based on -- and then he referred
16 to the low case and he referred to Dr. Pearce's low
17 case, and then you said, subject to check, you would
18 see if that was what, an economic benefit or an
19 economic loss.

20 A. No, I knew it was an economic loss
21 overall. The question was whether it was in every
22 year, and the answer is yes, that's Mr. Pearce's
23 conclusion, and it would be, of course, even worse
24 under the 2015 energy prices and yet worse under
25 forecasted energy prices based on today's forwards.

1 Q. And so what does that tell you about
2 whether you need to do dispatch modeling?

3 A. Well, as I said before, the PPA is deeply
4 in the hole, way out of the money. Its a very bad
5 deal at even the -- well, even the low 2013 forecast
6 price, even more so as the 2015 forecast, and again,
7 much more so with realistic forecast prices. So
8 given how bad a deal it is, the details of dispatch
9 do not seem like they would be -- it's inconceivable
10 that they would affect the Commission's conclusion.

11 MS. HENRY: No further questions.

12 EXAMINER PARROT: Ms. Petrucci?

13 MS. PETRUCCI: No questions.

14 EXAMINER PARROT: Ms. Bojko?

15 MS. BOJKO: No questions.

16 EXAMINER PARROT: Ms. Bair?

17 MS. BAIR: No questions.

18 EXAMINER PARROT: Mr. Pritchard?

19 MR. PRITCHARD: Yes, your Honor.

20 - - -

21 RE CROSS-EXAMINATION

22 By Mr. Pritchard:

23 Q. In redirect you were asked and gave some
24 answers about other possible hedges that could be
25 better. Do you recall those questions?

1 A. Yes.

2 Q. You're not offering any legal opinion
3 about the Commission's authority to authorize other
4 types of hedging proposals, are you?

5 A. I try to avoid legal opinions in general.

6 MR. PRITCHARD: That's all the questions
7 I have, your Honor.

8 EXAMINER PARROT: Mr. Yurick?

9 MR. YURICK: Nothing.

10 EXAMINER PARROT: Mr. Kurtz?

11 MR. KURTZ: No questions.

12 EXAMINER PARROT: Mr. Nourse?

13 MR. NOURSE: Its temping, but no thank
14 you.

15 EXAMINER PARROT: Mr. Margard?

16 MR. MARGARD: No, thank you, your Honor.

17 EXAMINER PARROT: Exhibits, Ms. Henry?

18 MS. HENRY: Yes. I already moved my
19 exhibits into the record I believe in the beginning,
20 and they were, I think, 37, 38, 39, 40.

21 EXAMINER PARROT: Any objections to the
22 admission of Sierra Club Exhibits 37 through 40?

23 MR. NOURSE: No, your Honor.

24 (EXHIBITS ADMITTED INTO EVIDENCE.)

25 MR. NOURSE: Are you ready for my

1 exhibits, your Honor?

2 EXAMINER PARROT: Wait a minute.

3 Mr. Nourse?

4 MR. NOURSE: Your Honor, AEP Ohio would
5 move for the admission of Exhibits 20 through 25,
6 withdrawing 26 and 27, and withdrawing 29
7 Confidential, so I'd also move for Confidential
8 Exhibit 28.

9 MS. HENRY: Wait. Wait. Can you restate
10 the ones you're withdrawing?

11 MR. NOURSE: I'm withdrawing 26, 27, 29.
12 So I'm moving for admission 20 through 25 and
13 confidential Exhibits 28, 30, 31, 32, 33.

14 EXAMINER PARROT: Any objections to the
15 admission of company Exhibits 20, 21, 22, 23, 24, 25,
16 28, and 30 through 33.

17 MS. HENRY: Yes, your Honor, although I
18 did just make a mess. So for Exhibit 22 I object on
19 the grounds of hearsay. It was an article pulled off
20 a website that Mr. Chernick has never seen before.

21 MR. NOURSE: Well, your Honor, I think
22 this was a recorded prior statement of the party, the
23 Sierra Club witness or Sierra Club official, which
24 ties in with the other information that's on the
25 Sierra Club's own website. And we were discussing it

1 in the context of how Mr. Chernick did or did not
2 know about Sierra Club's position or incorporate them
3 into his testimony.

4 MS. HENRY: And, again, its hearsay. I
5 mean, if I want to, I wouldn't object to the Sierra
6 Club's website. If you want to have something from
7 the Sierra Club's website, that would be fine. This
8 is a news article, and I don't know the veracity or
9 the authenticity of anything that's included in this
10 document, and its hearsay. The witness has never
11 seen it. There was not a proper foundation laid.

12 EXAMINER PARROT: I agree with what you
13 said there at the end, Ms. Henry. I don't think that
14 the witness -- I don't even think we had any
15 foundational questions really, with respect to
16 Company Exhibit 22, so I'm going to deny the request
17 to have that admitted it into the record.

18 Did you have any other objections?

19 MS. HENRY: I just wanted to take a
20 second to look at the withdrawn ones, and I don't
21 think so. I have no other further.

22 EXAMINER PARROT: Anybody else?

23 MR. PRITCHARD: With all of Exhibit 27,
24 are we moving to strike the questions and in the
25 record about this document? Because the questions

1 that were asked about this document are in the
2 record. I'm sort of troubled with whether certain
3 parts of this are going to be evidence, or I haven't
4 looked through this entire document.

5 MR. NOURSE: Well, Mr. Pritchard, the
6 only part I discussed was page -- first of all, he
7 did authenticate that document, and the only page I
8 discussed was page 52, and that had to do with the
9 low data that we had a discussion of low zones, and I
10 don't see any reason to strike that exchange. We
11 withdrew the exhibit, so I'm sure what's in the
12 record wouldn't be harmful on that.

13 EXAMINER PARROT: Moving to strike or
14 not, Mr. Pritchard?

15 MR. PRITCHARD: No. I'll withdraw my
16 comments.

17 EXAMINER PARROT: Anything else from
18 anybody? All right. With that we are going to admit
19 Company Exhibits 20, 21, 23, 24, 25, 28, and 30
20 through 33.

21 (EXHIBITS ADMITTED INTO EVIDENCE.)

22 EXAMINER PARROT: Thank you very much,
23 Mr. Chernick.

24 THE WITNESS: Thank you.

25 (Recess taken.)

2911

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

2 Mr. Kurtz, your witness.

3 MR. KURTZ: Yes, call Stephen J. Baron.

4 - - -

5 STEPHEN J. BARON

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

8 DIRECT EXAMINATION

9 By Mr. Kurtz:

10 Q. Mr. Baron, do you have in front of you a
11 document called the Direct Testimony of Stephen J.
12 Baron?

13 A. Yes, I do.

14 Q. Was it prepared by you or under your
15 direct supervision?

16 A. Yes, it was.

17 Q. If I were to ask you the same questions
18 as those contained within, would your answers be the
19 same?

20 A. Yes.

21 Q. Any corrections or additions?

22 A. Not that I'm aware.

23 MR. KURTZ: Your Honor, if we could have
24 this marked as OEG, I think, Exhibit 1, and the
25 witness is available for cross.

2912

1 EXAMINER SEE: Exhibit so marked.

2 (EXHIBIT MARKED FOR IDENTIFICATION.)

3 MS. PETRUCCI: Your Honor, I have a brief
4 motion to strike, if now is a good time.

5 EXAMINER SEE: Yes, it is the appropriate
6 time.

7 MS. PETRUCCI: The motion to strike is
8 with respect to page 2, line 8, and it's the words
9 "as a financial limitation on shopping that will
10 stabilize rates." So the beginning of the sentence
11 would remain, just that clause.

12 And the grounds are because in this
13 sentence Mr. Baron is making a legal conclusion as to
14 what the Commission ruled, and those are not the
15 terms that the Commission used in its decision.

16 EXAMINER SEE: What was that last part?

17 MS. PETRUCCI: It wasn't the grounds that
18 the Commission stated in its decision, page 2, line
19 8.

20 EXAMINER SEE: Is that the only portion,
21 Ms. Petrucci?

22 MS. PETRUCCI: Yes.

23 EXAMINER SEE: Mr. Kurtz?

24 MR. KURTZ: He is summarizing the
25 Commission's order in the original TPA case, and this

1 is precisely what the Commission held. So he's not
2 testifying as a lawyer. He's just merely reciting
3 the Commission's precedent.

4 EXAMINER SEE: And the motion to strike
5 is denied.

6 Cross-examination, Mr. Bzdok?

7 MR. BZDOK: Thank you.

8 - - -

9 CROSS-EXAMINATION

10 By Mr. Bzdok:

11 Q. Good evening, Mr. Baron.

12 A. Good evening.

13 Q. Let's talk first about the preparation of
14 your testimony in this case. We took your deposition
15 last Friday, October the 9th; is that correct?

16 A. Yes.

17 Q. As of last Friday you had not personally
18 reviewed the proposed power agreement between AEP
19 Ohio and AEPGR whose costs and revenues would pass
20 through to customers via its PPA rider; is that
21 correct?

22 A. That is correct.

23 Q. Since last Friday have you reviewed that
24 proposed PPA?

25 A. No.

1 Q. Why not?

2 A. Mr. Kollen, OEG Witness Kollen, really
3 addresses those issues, and so that was not the basis
4 for my testimony, and so I didn't review it.

5 Q. Can you take a look at page 3 of your
6 direct testimony?

7 A. I'm on page 3.

8 Q. Your first recommendation now is that the
9 PPA terms should be fixed for 15 years; is that
10 correct?

11 A. Yes.

12 Q. That's a recommendation concerning the
13 proposed PPA between AEP Ohio and AEPGR, is it not?

14 A. Yes, it would be.

15 Q. Take a look at your second recommendation
16 on page 3, that the Commission should prohibit AEP
17 Ohio from agreeing to any PPA changes without
18 Commission approval. That subject of that
19 recommendation is also the proposed PPA between AEP
20 Ohio and AEPGR, is it not?

21 A. Well, it would be the PPA proposed as
22 modified by the Commission in this case in terms of
23 its order indicating -- assuming that the Commission
24 were to approve the PPA rider subject to conditions,
25 it would be whatever PPA -- assuming AEP accepted

1 that, it would be whatever modifications AEP made to
2 that rider.

3 Q. To the proposed PPA that would be between
4 AEP Ohio and AEPGR, right?

5 A. Right. My only concern on your question
6 was it's not the proposed PPA. OEG is recommending a
7 whole host of modifications.

8 Q. Are you offering any other
9 recommendations in this case, expert recommendations
10 about documents you've not read?

11 A. Not that I'm aware of. I guess my
12 recommendation -- I'm not aware of any as I sit here
13 now.

14 Q. Not that you're -- sitting here, not that
15 you can think of right now?

16 A. As I said, Mr. Kollen addressed the PPA
17 provision. He made a number of proposed recommended
18 changes. Mr. Taylor did as well. My changes were
19 related to in terms of the PPA itself to limit the
20 term to 15 years. That has to do with the economics
21 and other aspects of the terms of risks that parties
22 would bear and so forth, meaning parties like the
23 ratepayers.

24 Q. As of last Friday you had also not
25 personally reviewed the Ohio Valley Electric

1 Corporation agreement, whose costs and revenues would
2 also pass through to AEP Ohio customers via the
3 proposed PPA rider; is that correct?

4 A. That is correct.

5 Q. Have you reviewed that document since
6 last Friday?

7 A. No. There was no reason to.

8 Q. As of last Friday, you had also not
9 reviewed in any substantive way the workpaper for
10 Exhibit KDP-2, which provides the specifics of how
11 the costs and revenues would be calculated and what
12 the company projects the costs and revenues that
13 would flow to customers under the PPA rider would be.

14 A. I indicated --

15 Q. Correct?

16 A. I indicated to you that I had looked at
17 those confidential workpapers. I hadn't reviewed
18 them in detail. I think that was my recollection of
19 my answer. That is what happened.

20 MR. BZDOK: May I approach the witness,
21 your Honors?

22 EXAMINER SEE: Yes.

23 Q. Mr. Baron, I would ask you to turn in
24 your deposition to page 20. Specifically I'm looking
25 at your answer that starts at line 2.

1 Answer: "I have seen the attachment to
2 Dr. Pearce's testimony, which is page 1 of 1, KDP-2 I
3 have seen that. I do recall at some point I may have
4 looked at the Excel spreadsheet that supports it, but
5 I didn't go through it in any substantive way. I may
6 have looked at it."

7 Does that refresh your memory as to
8 whether you have looked at the workpaper for KDP-2 in
9 any substantive way, as I just asked you?

10 A. That's exactly what I just said in answer
11 to your prior question, to the best of my knowledge.
12 We can have the court reporter read it back, if you'd
13 like.

14 Q. No. It will be on the transcript.

15 A. All right.

16 Q. And you've not reviewed that workpaper in
17 any substantive way since last Friday, have you?

18 A. I haven't reviewed it any further since
19 last Friday than I had as of Friday.

20 Q. As of last Friday out of 11 AEP witnesses
21 in this case, you could only identify four whose
22 testimony you actually reviewed; is that correct?

23 A. I accept that.

24 Q. Have you reviewed the testimony of any
25 more AEP witnesses since then?

1 A. I've reviewed testimony since then, and I
2 think I answered your question in the deposition. My
3 intent was in this the week, prior during which I --
4 prior to my appearance here, I intended to review
5 again some of the testimony that I had seen.

6 I don't think I reviewed any testimony
7 this past week since Friday that I had not reviewed
8 before with respect to AEP witnesses. It's possible.
9 I just don't remember. I think my answer to you
10 during the deposition was I was somewhat vague. I
11 recited some of the witnesses that I had reviewed.

12 Q. So am I understanding your testimony
13 correctly that you don't remember what witnesses'
14 testimony you've reviewed since last Friday?

15 A. No. I know which witnesses I've reviewed
16 since last Friday.

17 Q. Who?

18 A. Well, I can grab a stack if you don't
19 mind. I've reviewed again Mr. Allen's testimony,
20 Mr. Vegas' testimony, and to some extent, I looked
21 briefly at Mr. Fetter's testimony, and I reviewed a
22 little bit Mr. Pearce's testimony again, not
23 completely. Probably that would be true for all of
24 them. I just perused them.

25 Q. So, still, four out of 11 AEP witnesses,

1 those are all you can remember that you reviewed?

2 A. I'll accept that.

3 Q. Have you reviewed the testimony of any
4 other -- let me try that again.

5 As of last Friday, you had not reviewed
6 the testimony or exhibits of any witness for any
7 other party in this case besides AEP, and OEG, your
8 own client; is that correct?

9 A. That is correct.

10 Q. You said you had meant to do so, but you
11 hadn't gotten to it; is that correct?

12 A. No. I don't think that's what I said.
13 It's possible I said that. I think what I said I
14 anticipated this current calendar week to do that
15 prior to my appearance. I'd already submitted my
16 testimony before those witnesses submitted theirs, so
17 there was nothing I could do in terms of my direct
18 testimony.

19 And in terms of preparing for my
20 appearance today, I intended to look over some of the
21 testimony of witnesses other than the company, and
22 I've done that.

23 Q. And you have done that?

24 A. Yes. I told you I was going to do that.

25 Q. I'm glad to hear you're catching up with

1 us.

2 A. What was that question? I'm not sure.

3 Q. My question is what other witnesses since
4 then, since last Friday, have you reviewed.

5 A. I reviewed -- I looked at Mr. Chernick's
6 testimony. I looked -- and this I should preface my
7 answer by saying that in reviewing these witnesses'
8 testimony, I may not -- I most likely didn't read all
9 the testimony. I read parts of their testimony. I
10 looked at the testimony of Mr. Lesser. I looked at
11 the staff witnesses' testimony. And I think I may
12 have looked at the testimony of Mr. Haugen,
13 H-a-u-g-e-n.

14 Q. Are you done?

15 A. Yes.

16 Q. As of last Friday, you indicated that if
17 you had reviewed any discovery responses in this
18 case, you didn't know what those responses might have
19 been or what they might have been about; is that
20 correct?

21 A. That was -- at the time you asked me, I
22 believe that was my answer, and that is so, that is
23 my recollection of what I told you.

24 Q. Since last Friday has your memory
25 improved as to the point you can remember anything

1 about any discovery responses you might have reviewed
2 from this case?

3 A. I do recall reading, and I thought I had
4 references, but I definitely had reviewed a
5 confidential response to IEU, Interrogatory 6-1,
6 Supplemental Attachment 1.

7 Q. Are you saying you reviewed that since
8 Friday, or you reviewed that before Friday and you're
9 now remembering that you did so?

10 A. I had reviewed it before Friday.

11 Q. And what was that response about?

12 A. That was the response that provided the
13 amount of capacity that cleared in the capacity
14 performance BRA in the 2018-19, the amount of the
15 megawatts for each of the units at issue in this case
16 under the PPA rider that cleared in the 2018-19 BRA
17 capacity performance resources.

18 Q. Other than that discovery response, since
19 Friday have you been able to remember any other
20 discovery responses that you may have reviewed?

21 A. I haven't, and I haven't attempted to go
22 through other responses.

23 Q. As you understand the PPA rider from the
24 review that you have done, it does not have any
25 impact on the amount of customer shopping that will

1 occur within AEP Ohio; is that correct?

2 A. Yes.

3 Q. You're saying, yes, you agree with me?

4 A. Yes, that's correct.

5 Q. And it doesn't have any impact on the
6 amount, all else being equal, of energy that a
7 customer who shops would obtain from a CRES provider;
8 is that correct?

9 A. That is correct.

10 Q. It's simply an adjustment to the
11 customer's bill; is that correct?

12 A. Correct.

13 Q. Let's talk about the PPA rider bottom
14 line. You would not support the PPA rider if it had
15 a negative net present value; is that correct?

16 A. That is correct. And I should add that
17 OEG has provided the testimony of myself and
18 Mr. Allen Taylor and Mr. Lane Kollen recommending
19 modifications to the entire -- to the economic basis
20 for the PPA rider in terms of some of the issues that
21 we -- I mean, that really ultimately would have to be
22 modifications to the PPA itself, but basically a
23 number of changes which we believe are necessary in
24 order to make the PPA rider a potential benefit to
25 customers.

1 MR. BZDOK: Move to strike everything
2 that starts with "and I should add." The witness
3 gave his answer to a "yes" or "no" question, and I
4 should add, and gave an answer that's multiple,
5 multiple times longer covering other topics. I
6 believe that's appropriate for striking.

7 MR. KURTZ: Your Honor, the answer was
8 responsive to the question. Based upon the precedent
9 that's been established here, I've been in the
10 FirstEnergy a lot, Mr. Chernick was asking very
11 broadly and was allowed to do it. I think
12 Mr. Baron's comments certainly add to the record, add
13 to the Commission's understanding of this issue, and
14 counsel may not like the answer, but it's very
15 appropriate.

16 EXAMINER SEE: And the answer that the
17 witness gave adds context to what he believes would
18 be of benefit to the rider, so its going to stay.

19 MR. BZDOK: You also believe that net
20 present value is the appropriate economic basis to
21 evaluate a proposal like the PPA rider, correct?

22 A. From certainly from an economic
23 standpoint the net present value is appropriate
24 method to compare economic alternatives.

25 Q. And you believe that market prices being

1 lower than forecast presents a potential risk to
2 customers of the PPA rider; is that correct?

3 A. Yes, I think that was in my testimony.

4 Q. And you are aware of the existence of a
5 2015 fundamental forecast by AEP that projects lower
6 energy market prices, and the 2013 fundamental
7 forecast upon which the company's filed testimony and
8 exhibits were based; is that correct?

9 A. I'm aware of that.

10 Q. By as of the time as of last Friday, you
11 had not reviewed that 2015 fundamental forecast for
12 lower economic market prices; is that correct?

13 A. That is correct.

14 Q. Have you reviewed it since then?

15 A. No. I'm aware of it directionally.

16 Q. Directionally it increases that risks
17 does it not?

18 A. All else being equal, I would assume that
19 it would lower the economic benefits. Whenever the
20 market price is lower and market revenues are lower,
21 assuming all else being equal. I don't know what all
22 else is equal, but assuming that, it would be true.

23 Q. Let's talk about the PJM capacity market.
24 I refer you to page 8 of your direct testimony. You
25 have a question and answer that starts on line 11.

1 Question: "Does PJM recognize that its
2 administrative construct for determining market
3 capacity prices is not currently functioning
4 properly?"

5 Answer: "Yes." And then you go on to
6 provide an explanation that carries over on to page
7 9; is that correct?

8 A. Yes.

9 Q. You're not offering any opinion in this
10 case that the PJM capacity market is not functioning
11 properly, are you?

12 A. No.

13 Q. You're not offering any opinion in this
14 case that PJM is taking the position that its
15 capacity market is not functioning properly, correct?

16 A. That is correct. What I'm talking about
17 in this portion of my testimony is my understanding
18 of the reasons that -- or at least one of the reasons
19 why PJM elected to propose the modifications that
20 included the capacity performance modifications.

21 Q. And you agree that the approval of the
22 capacity performance resource product by FERC will
23 improve reliability; is that correct?

24 A. That would be my understanding and it's
25 my belief.

1 Q. And that the results of the PJM capacity
2 auction this past August reinforced the view that
3 reliability of PJM capacity -- that the reliability
4 benefit of the PJM capacity market is improving; is
5 that correct?

6 A. I think that's a fair statement.
7 Certainly in the transitional auctions, for
8 example --

9 (Interruption.)

10 (Record read.)

11 A. For example, the prices, the capacity
12 prices, increased associated with capacity
13 performance resources relative to where they had been
14 for the say the 2016-17 delivery year.

15 Q. If I said to you that to the extent
16 anyone might argue that the PPA rider is justified in
17 whole or in part as necessary to preserve the PPA
18 unit capacity resources, the PJM capacity performance
19 improvements appear to have at least weakened that
20 argument. You don't have a principled basis to
21 disagree with that, do you?

22 A. You're going to have to repeat that
23 question again. I'm not sure I followed all the
24 elements.

25 MR. BZDOK: Can you read that back?

1 (Record read.)

2 Q. And there was an "as" missing, to
3 preserve the PPA units as capacity resources.

4 A. In other words, the argument that you're
5 asking me to comment on one way or the other is that
6 the PPA rider would preserve the benefits of the
7 units as capacity performance resources?

8 MR. BZDOK: Can you read back his
9 question to me?

10 (Record read.)

11 Q. No. Should I be sworn? Go ahead.

12 A. No, no, go ahead.

13 Q. The question is if the reliability
14 benefit -- let me just try it a different way. If
15 the reliability benefit of the PJM capacity market is
16 improving based upon what we've been discussing, and
17 anyone was hypothetically arguing that the PPA rider
18 was necessary to preserve these resources for
19 reliability purposes, that argument is at least
20 weaker based on recent events than it was before
21 recent events, wouldn't you agree?

22 A. I would say, all else being equal, the
23 capacity performance modifications to the PJM tariff
24 increase the reliability of PJM. I don't know --
25 based on the data response that I referred to

1 earlier, the resources -- the PPA resources and OVEC
2 qualified as capacity performance resources.

3 I don't have any basis to equate that
4 result to whether or not the PPA rider is approved or
5 not because it seems to me that that would require an
6 assumption that absent the PPA rider, the units would
7 not be there. I don't have an opinion on that.

8 Q. Take a look at page 18 of your direct
9 testimony. Talk a little bit about the Clean Power
10 Plan.

11 A. Was there a line reference?

12 Q. Sure. Let's look at line 16. Let's look
13 at page 16, line 16.

14 A. Page 16?

15 Q. Yeah.

16 A. Okay.

17 Q. There's a question there about the Clean
18 Power Plan, and then you have an answer that starts
19 on line 16 where you say, "First, there is
20 considerable uncertainty as to whether EPA has
21 exceeded its legal authority under the new rule."

22 Do you see that?

23 A. Yes.

24 Q. The only basis for your belief there's
25 considerable uncertainty in that regard is that

1 someone has made a statement that there will lawsuits
2 regarding that rule; is that correct?

3 A. That's correct.

4 Q. How long have you been doing this work?

5 A. Since about 1974.

6 Q. Can you think of a federal air pollution
7 rule governing fossil fuel electric generating units
8 that was not the subject of lawsuits?

9 A. I don't know.

10 Q. Page 17 of your direct testimony you
11 provide some estimates starting at line 4 concerning
12 percentages of the nation's energy supply that will
13 be coming from coal generation under some different
14 scenarios; is that correct?

15 A. Yes.

16 Q. Under a rate-based approach you say,
17 "EPA's estimate is 27.4 percent of the nation's
18 supply will come from coal." Correct?

19 A. Yes.

20 Q. Under a mass based approach, the
21 percentage is 27.8 percent, right?

22 A. Yes.

23 Q. And in a base case with no Clean Power
24 Plan, the percentage is 32.8 percent; is that
25 correct?

1 A. Correct.

2 Q. As of last Friday, you did not know the
3 proportion of energy that currently comes from coal
4 in Ohio, correct?

5 A. I couldn't value it, that is correct.

6 Q. Have you done any research subsequently?

7 A. Yes, I have.

8 Q. Where do you know sitting here today?

9 A. I think the question was in Ohio?

10 Q. Yep.

11 A. In Ohio I think it was about 60 percent
12 or so. And I think it was a 2012 number, but I
13 think -- give me a moment. I wrote it down
14 somewhere. Here it is. Actually, in 2012 the
15 research that I did was it was about 76 percent, and
16 then based on the EPA analysis I think it was going
17 to go to 65 percent in 2016 and 61 percent in 2030,
18 the same database that I used to develop the other
19 factors for the U.S. as a whole.

20 Q. Did you get -- did you do research on the
21 percentage in PJM as well?

22 A. I did not, no.

23 Q. Let's talk about cost allocation for a
24 minute. One of the recommendations you make in your
25 expert testimony is that the net revenue costs of the

1 PPA rider be allocated 100 percent based upon the
2 contribution of each customer class to peak demand;
3 is that correct?

4 A. In the 4CP for a month.

5 Q. Just so the record's clear, by "4CP" you
6 mean four coincident peaks?

7 A. Yes four coincident peaks.

8 Q. So its each customer class' peak demands
9 over the average of the those four coincident peaks?

10 A. Yes.

11 Q. The your clients in OEG are, by and
12 large, energy-intensive industrial customers of
13 electricity; is that correct?

14 A. That's correct.

15 Q. By and large, they tend to have higher
16 load factors than other customers, correct?

17 A. Yes.

18 Q. Speaking in generalities, without
19 necessarily any specifics by any one particular
20 customer, higher load factor customers like in OEG,
21 their proportion of total energy use relative to the
22 proportion by other customer classes is lower than
23 their -- let me try that a different way.

24 Speaking generally, in allocation for
25 higher load factor customers, an allocation based an

1 100 percent on peak demand results in a lower portion
2 of costs allocated to the high-load factor customers
3 than and allocation that includes a component
4 allocated based on energy use; is that correct?

5 A. Yes. With respect to cost allocation,
6 if -- I'll say under an traditional cost-of-service
7 analysis, there was a cost of a million dollars, and
8 it was allocated on coincident peak or,
9 alternatively, energy, I would agree with what you
10 said.

11 In the case of a credit, it would work
12 the opposite way, so I think your questions, it
13 seemed like they were related to the PPA rider issue
14 that we were talking about, so I wanted -- its
15 important to recognize that to the extent that the
16 PPA rider produces a credit in a year, it has the
17 opposite effect.

18 Q. Sure. So let's just illustrate that a
19 little bit. So I think what you -- so for OEG
20 customers with their high-load factors, in the
21 situation of a cost of the PPA rider, their cost
22 would be less dear 4CP 100 allocation than under
23 allocation that included an energy components.

24 High-load factor rate classes, all else
25 being equal, I would agree that the energy allocator

1 would allocate more to that class than a 4CP
2 allocator. So if it was an -- if the rider produced
3 a net charge, it would have the effect, I think, that
4 you were asking me about.

5 Q. And if the rider were producing a net
6 credit and we were allocating 4CP 100, that would
7 result in OEG members receiving less of the credit
8 than they would receive under an allocation that
9 included an energy component. Is that what you're
10 saying?

11 A. Yes, that's right.

12 Q. So, hypothetically, if one were
13 advocating in the interest of OEG members and one
14 were supporting a PPA rider proposal but concerned it
15 was more likely to have a cost than a credit,
16 recommending a 4CP 100 demand allocation would help
17 hedge that risk for the OEG members, would it not?

18 A. If one believed that there was a
19 likelihood that there were going to be charges. I
20 think we agreed that the arithmetic would show that
21 4CP produces a lower allocation than energy for
22 high-load factor classes. That's not the basis for
23 my recommendation.

24 Q. But it is a bet that this is going to be
25 a cost, not a credit, right?

1 A. It's not a bet. It's based on cost
2 causation. I think it was -- you had asked me about
3 that or one of the parties had asked me about that in
4 my deposition, and I explained why I believe that a
5 cost allocation -- allocation of net PPA rider cost
6 or credit was more appropriately demand based.

7 MR. BZDOK: That concludes MY questions
8 for this witness.

9 EXAMINER SEE: Ms. Bojko?

10 MS. BOJKO: May we go off the record for
11 just a moment.

12 EXAMINER SEE: Sure.

13 (Off the record.)

14 EXAMINER SEE: Let's go back on the
15 record.

16 THE WITNESS: If I could, just before you
17 start, if you could talk loud because my hearing is
18 not great. We don't have microphones.

19 MR. MARGARD: Usually not a problem for
20 Ms. Bojko.

21 THE WITNESS: I give you permission to
22 talk as loud as you like.

23 MS. BOJKO: I take that as a
24 compliment. Pearce

25 - - -

CROSS-EXAMINATION

By Ms. Bojko:

Q. Good evening, Mr. Baron. It's great to see you again.

A. Likewise.

Q. Sir, it's your understanding that Ohio is in a deregulated state; is that correct?

A. It's a deregulated state subject to the statutory provisions of SB3, SB221 that have many different features. So its a deregulated -- its a retail access state, but it's not based on -- my understanding, its not the same statutory provisions as some other retail access states, like Pennsylvania, for example.

Q. It is your understanding that the distribution utilities have either divested or are in the process of divesting their generation functions, and they will no longer own generation; is that correct?

A. Yes.

Q. And it's your understanding that currently AEP Ohio does not own generation.

A. That is correct.

Q. And it's AEP Generation or AEPGR, an unregulated affiliate of AEP Ohio, that owns the

1 plants that are subject to the purchase power
2 agreement rider; is that your understanding?

3 A. They're unregulated by the Public
4 Utilities Commission of Ohio. I think if that's what
5 you meant, then I agree.

6 Q. And your clarification only means that
7 you believe that they would have some form of
8 regulation under the Federal Energy Regulatory
9 Commission.

10 A. That would be my understanding.

11 Q. And if we could turn to page 2 of your
12 testimony, lines 7 and 8, here you state that "the
13 Commission has ruled" and you were referencing the
14 AEP ESP III order; is that correct?

15 A. Correct.

16 Q. And you were a witness in that
17 proceeding; is that correct?

18 A. Yes.

19 Q. And you are not an attorney, sir?

20 A. That's correct.

21 Q. And you're not offering legal opinions
22 here today, correct?

23 A. That is correct.

24 Q. You would also agree with me that rate
25 stability is important for all customers.

1 A. I would agree with that.

2 Q. Looking at line 10 on page 2 of your
3 testimony, you refer to a long-term bilateral cost of
4 service based contract. Do you see that?

5 A. Yes.

6 Q. And here you're referencing the purchase
7 power agreement; is that correct?

8 A. Yes.

9 Q. And that purchase power agreement is
10 between AEP Ohio and AEPGR, an affiliate of AEP; is
11 that correct?

12 A. That's my understanding.

13 Q. And, sir, you understand that if I say
14 AEP that I'm referring to AEP Ohio here tonight?

15 A. I can accept that, yes.

16 Q. Thank you.

17 And is it your understanding that AEP
18 Ohio has proposed that the term of the PPA will be
19 for the life of the unit?

20 A. Yes, that's my understanding.

21 Q. And the later projected retirement of one
22 of those units is 2051; is that correct?

23 A. That is my understanding.

24 Q. So as proposed by AEP, the long-term
25 contract you're referring to could be for 35 years.

1 A. Yes.

2 Q. And AEP is proposing to include in the
3 PPA AEPGR's ownership share of nine units; is that
4 correct?

5 A. Yes.

6 Q. And then AEP is proposing to include in
7 the PPA AEP Ohio's ownership share of 11 units that
8 OVEC units; is that correct?

9 A. Yes.

10 Q. And that's a total of 20 units?

11 A. Yes. I would accept that. I've looked
12 at it more on terms of plants and capacity, but I can
13 accept that.

14 Q. And do you know that whether those 20
15 units or all of the plants are actually coal plants?

16 A. I do.

17 Q. So that they are coal plants; is that
18 correct?

19 A. That's my understanding. Though I'm
20 actually looking at the list. There's one -- and I
21 haven't studied this, but there's one -- yeah, that's
22 my recollection, that they are coal plants, but I'm
23 not a hundred percent certain whether there may be
24 some diesel or small amount. I don't know, but
25 predominantly almost entirely coal.

1 Q. And, sir, you are aware that six of the
2 20 units are located outside of Ohio; is that
3 correct?

4 A. Again, I know that some of the OVEC
5 capacity is located outside of Ohio, if that's what
6 you're referring to.

7 Q. It is. There are six units in Clifty
8 creek -- six units of Clifty Creek that are located
9 in Indiana; is that correct?

10 A. That would be my understanding, yes.

11 Q. And isn't it true that AEP Generation
12 operates or jointly operates only three of the
13 PPA-affiliated units?

14 A. I'm aware that a number of the units are
15 jointly owned, so in case of OVEC, all of them are
16 jointly owned AEP has a share of those, and on some
17 of the other units there is some joint ownership. I
18 don't recall the specifics so I leave it in my
19 answer, if I could.

20 Q. And as far as who operates the plants,
21 AEP Generation only operates three of the
22 PPA-affiliated units which are Conesville units; is
23 that correct?

24 A. I don't know that. I recall reading some
25 information about that. I don't know specifically.

1 Q. Is it your understanding, sir, that the
2 purchase power agreement between AEP Ohio and AEP
3 Generation requires the corresponding energy capacity
4 and ancillary services from those coals units to be
5 sold into PJM?

6 A. That would be any understanding.

7 Q. And the proportionate output from the 20
8 units will not be directly sold or provided to
9 customers in Ohio; is that correct?

10 A. That is correct.

11 Q. And rider PPA will include the difference
12 between the revenues collected from the sale of the
13 energy capacity and ancillaries by AEP Ohio into the
14 PJM market as compared to the costs associated with
15 the proposed purchase power transaction; is that
16 correct?

17 A. That would be my understanding, yes.

18 Q. And its your understanding that the
19 difference could either be a charge or credit to
20 customers?

21 A. That's correct.

22 Q. And, sir, many commercial and industrial
23 customers have entered into some sort of fixed-price
24 contract in order to have known available rates; is
25 that correct?

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1 A. Yes, I'm aware of that. I don't know any
2 specifics of those contracts, but I am generally
3 aware that there are contracts of that nature. I
4 don't know the terms.

5 Q. And if a customer enters into a long-term
6 contract with a supplier, the PPA rider will be
7 either a charge or credit on top or additional to the
8 customers' fixed rate established by the contract; is
9 that correct?

10 A. Well, what I can answer is that all else
11 being equal, since the PPA rider would be a
12 nonbypassable charge, the charge or credit for the
13 PPA rider would be an addition or a subtraction from
14 what the customer's otherwise applicable bill would
15 be, whether they're an SSO customer or shopping
16 customer.

17 Q. And SSO, you're referring to the standard
18 service offer, and its your understanding that some
19 customers take service pursuant to the standard
20 service offer from AEP Ohio?

21 A. Yes.

22 Q. And that offer is competitively bid?

23 A. Yes.

24 Q. So my question about it would be an
25 addition to whatever SSO -- my question regarding if

1 a customer is on an SSO rate, the PPA rider could be
2 a charge or credit on top of that SSO rate.

3 A. Well, it would be if it was approved by
4 the Commission.

5 Q. And you would agree with me, sir, that
6 customers taking service pursuant to the standard
7 service offer also have known and stable rates
8 through the SSO?

9 A. To the extent that the SSO rates reflect
10 competitively bid prices, fixed -- some fixed
11 duration, and I understand that there are overlapping
12 auctions, so to the extent that those prices are
13 fixed, they may change during the ESP, but for some
14 period of time there will be -- they tend to be
15 fixed. They won't vary within the market prices, for
16 example.

17 Q. That's what I was asking. They wouldn't
18 experience volatility of the forward market; is that
19 correct?

20 A. Not on the short-term daily or monthly
21 basis.

22 Q. And as you understand AEP's proposal,
23 rider PPA will be adjusted annually with applicable
24 charge or credit in effect from June 1 through May 31
25 of each year?

1 A. Yes. And I have read that there was some
2 discussions of a quarterly true-up, but the
3 projection, my understanding is the projection for
4 the rider would be an annual projection.

5 Q. And it's your understanding, then, with
6 that if it wasn't adjusted annually, that if a severe
7 weather or high-price event occurred in July, the PPA
8 rider would not be adjusted to reflect any results of
9 the event until the following June; is that correct?

10 A. Well, unless there was a quarterly
11 true-up, in which case it would be adjusted in, say,
12 a three-month period.

13 Q. But if it was an annual adjustment as
14 proposed, then it wouldn't be reflected until the
15 following year?

16 A. If it was an annual adjustment, it would
17 be adjusted annually.

18 Q. And it's your understanding that AEP has
19 projected that rider PPA will be a cost to customers
20 in the near-term; is that correct?

21 A. Based on AEP's projections without the
22 modifications that OEG is proposing.

23 Q. That's a yes?

24 A. Based on -- yes, based on AEP's
25 projections and its proposed rider and PPA

1 arrangement.

2 Q. Turn to page 11 of your testimony. On
3 lines 9 through 11 you state that AEP will either
4 dedicate units to Ohio consumers or sell the units.
5 Do you see that?

6 A. Yes, that's my understanding of what the
7 company has said.

8 Q. And here you use the term "AEP," but just
9 so we're clear, AEP Generation owns the units that
10 you're talking about that could be dedicated to Ohio
11 customers?

12 A. Yes, it would be AEPGR.

13 Q. And that dedication --

14 A. Excuse me. I just don't know whether I
15 can't recall some of this. I can't recall whether
16 the statement was an AEP document, but it certainly
17 concerns the AEP Generation ownership and the
18 resources.

19 Q. And the dedication that you're talking
20 about is with regard to the purchase power agreement?

21 A. Yes, between AEPGR and AEP Ohio.

22 Q. You're not suggesting that the output of
23 the generating unit would be used directly to serve
24 Ohio customers in this statement, are you?

25 A. No. Just to financial adjustments, not

1 to the customer's bill.

2 Q. And you believe if the PPA is not
3 approved, AEP will sell the plants and not retire
4 them?

5 A. I don't necessarily believe it. It's my
6 understanding that AEP has indicated that that
7 would -- that was their intent. I don't have any --
8 I haven't done any analysis, nor do I know what they
9 will or will not do.

10 Q. But the intent, referring to line 11, is
11 to sell the units; is that correct?

12 A. That's what I understand.

13 Q. Turn to page 13, please, lines -- page
14 12, lines 5 and 6. Here you state that the
15 cost-based generation plants fully participate in
16 PJM. Do you see that?

17 A. Yes.

18 Q. And in your testimony you also mention
19 FRR entities. FRR entities are cost-based
20 generators, are they not?

21 A. I'm aware -- I don't know the entirety of
22 the universe of FRR utilities, but the examples that
23 I know of, which were AEP companies in Kentucky and
24 West Virginia that are FRR companies, those are
25 traditional rate-of-return, regulated service

1 stations.

2 Q. And isn't it true that cost-based FRR
3 entities' participation level is capped in the PJM
4 market capacity auction?

5 A. Yes, but that is true, there's a limited
6 amount of capacity. But maybe I better ask a
7 clarification to your question. Are you talking --
8 are you asking whether the unit in my reference on
9 line 5, do these units really participate, are you
10 asking me to assume that all of those units are FRR
11 units?

12 Q. No.

13 A. Or related to FRR companies? Because
14 that's not my testimony.

15 Q. No. Right, you answered my question.
16 Thank you.

17 A. All right.

18 Q. You understand that the FRR, as you just
19 stated, is limited to FRR entities' participation in
20 the capacity auction, is limited to a small amount of
21 megawatts?

22 A. Yes. There are restrictions in the FRR
23 provisions of the PJM tariff that limit the amount of
24 megawatts of excess capacity above their FRR that can
25 be bid into BRA or the incremental auction.

1 Q. Do you know what that limitation level
2 is?

3 A. My recollections it's around
4 1,350 megawatts, but there are some other
5 restrictions, too.

6 Q. Let's go back to page 3 of your
7 testimony, lines 7 to 10. You recognize that AEP's
8 proposal will result in AEP's retail generation
9 pricing being partially market based and partially
10 cost based; is that correct?

11 A. Yes. Excuse me, could you give me the
12 reference again, the page and line?

13 Q. Page 3, the sentence right at the end of
14 line 7 over to 10.

15 A. Okay. I thought the reference -- okay.

16 Q. Here you're recognizing that AEP's
17 proposal will result in AEP's retail generation
18 pricing being partially market based and partially
19 cost based; is that correct?

20 A. That was I think at line 9 here in my
21 copy. That's where I got confused.

22 Q. Sorry, I was just referring the whole
23 sentence.

24 And the cost and revenues of the plants
25 could be higher or lower than what's projected; is

1 that correct?

2 A. Yes, that would be true. I believe that
3 would be true irrespective of whether the OEG
4 adjustments are made or not. Though with the OEG
5 adjustments, it's in my opinion it's not -- it's much
6 less likely that there will be a charge than a
7 credit. But, obviously, depending on market prices,
8 there could be charges or credits.

9 Q. And depending on the costs of the
10 generating units and the operation of those
11 generating units, the costs could be higher as well?

12 A. Yes. And that is the reason OEG has made
13 a number of modifications, which we believe will
14 reduce the likelihood, may reduce completely the
15 chance that there would be a charge, but anything can
16 happen.

17 Q. My question was about costs. You do
18 agree with me that costs to operate the plants could
19 be higher than what's currently projected, correct?

20 A. All else being equal, the costs could be
21 higher, yes.

22 Q. And you did not personally develop your
23 own forecast of revenues or costs of the plants in
24 this case; is that correct?

25 A. That is correct.

1 Q. And you would agree with me that current
2 energy market pricing is low, correct?

3 A. Well, I think it's certainly market
4 revenues, market prices are lower than they had been
5 at other times historically.

6 Q. Well, and as far as the AEP Generation
7 goes, they're lower than the cost to run the plants;
8 is that correct?

9 A. Are you saying for each of the units that
10 are at issue in this case that the market revenues --
11 are you asking me if the market revenues are lower
12 than the cost?

13 Q. Not each, but generally speaking, that's
14 the forecast of the company; is that correct?

15 A. The forecast of the company is that in
16 the first, I guess, couple of years, that in the
17 aggregate the revenues would be lower than the cost
18 based on the proposal that the company is making,
19 assuming no modifications to that proposal.

20 Q. And that's a benefit -- on page 9 you
21 explain that low market prices is a benefit to
22 customers; is that correct?

23 A. All else being equal, low market prices
24 are generally a benefit to customers, and certainly
25 in a retail access environment.

1 Q. And I think counsel for Sierra Club asked
2 you a question about whether you independently ran
3 your own forecasts but I want to know is if you
4 independently reviewed the forecast, actually
5 verified and reviewed the forecast that was conducted
6 by AEP in this case?

7 A. I did not review it.

8 Q. And let's turn to the bottom of page 5
9 and it goes over to page 6. You mention the market
10 development period. Do you see that?

11 A. Yes.

12 Q. It's your understanding that the Ohio
13 utilities were awarded stranded costs or transition
14 costs during the market development period to
15 transition to this deregulated market under Senate
16 Bill 3; isn't that correct?

17 A. That's my recollection.

18 Q. And back to page 3, lines 10 through 12,
19 you state that rider RS will not have an adverse
20 impact on shopping of CRES providers. Do you see
21 that?

22 A. Yes, in the sense that the customers will
23 still be able to shop for 100 percent of their
24 physical requirements.

25 Q. And it's true that some CRES providers

1 own they're own generation, right?

2 A. I understand that that may occur.

3 Q. And isn't it true that AEP's proposal
4 will favor one generator over another generator by
5 providing a guarantee of an affiliate generator's
6 cost plus a return?

7 A. Well, I don't know whether I'd
8 characterize it as a "favor." Certainly under AEP's
9 proposal what it does is it provides a fixed rate of
10 return, whatever that rate of return ultimately turns
11 out to be, but it also has the cap. So to the extent
12 that market prices became much higher in any given
13 year and that would otherwise have produced a rate of
14 return for AEPGR of, let's say, 19 percent, the cap
15 on the proposal would limit them compared to another
16 generation owner in Ohio.

17 So it has effect both ways. It does
18 provide, in effect, a floor, but it also provides a
19 cap, and that's AEP's proposal with OEG
20 modifications. It's an entirely different picture in
21 my view.

22 Q. And it's a guaranteed return,
23 understanding that you believe the proposal has a
24 cap, but that's a guaranteed return that that
25 generator will earn that another generator will not

1 be able to necessarily earn in the market; isn't that
2 correct?

3 A. It would be. Whatever the rate of return
4 that's built into the rate in the agreement, it would
5 provide for that rate of recovery, that rate of
6 return if AEP's proposal as filed were accepted.
7 Now, that's not my testimony, but that's if you're
8 asking me about AEP's proposal, that's their
9 proposal.

10 Q. Isn't it true that you haven't done an
11 analysis as to the impact on the competitive market
12 of favoring one generator over another?

13 A. I haven't done any analysis. I don't --
14 it's not my view that it has adverse effect, and
15 certainly under the OEG recommendations in this case,
16 I don't think one could conclude that AEP Generation
17 would be favored if the OEG recommendations were
18 approved and agreed to by AEPGR. I don't know
19 whether they've ever agreed to them or not.

20 Q. But AEP Generation, under your proposal,
21 under the OEG proposal, AEP generation will get a
22 guaranteed cost recovery and return for the term of
23 15 years; isn't that true?

24 A. No, that's not true.

25 Q. Under your proposal to shorten it to 15

1 years, they will still get a guaranteed cost recovery
2 that will be passed on to ratepayers, true?

3 A. The 15-year term is only one element of
4 OEG's recommendation. It reflects a down ROE as a
5 significant factor, that to the extent that there
6 were charges that were produced by the rider, they
7 would be -- the rate of return could be reduced down
8 to zero, which would be approximately about
9 \$137 million off of the charge.

10 So that's -- there's no guarantee under
11 the OEG proposal that AEP Generation would get any
12 rate of return, depending on the environment, the
13 market cost, the cost of operating the unit, the
14 revenues and so forth.

15 Q. But there's a guarantee that they're
16 going to get cost recovery because they can get that
17 recovery from customers. They don't have to go to
18 the market to get cost recovery for operating their
19 plants.

20 A. When you say "cost recovery," certainly
21 the way AEP defined it as cost recovery under a
22 traditional cost-of-service type revenue requirement
23 model, which would include return on equity. Under
24 the OEG proposal, that return on equity may be zero;
25 and, furthermore, if it gets below that in terms if

1 there's still a charge after that, then the company
2 would have to absorb 20 percent of the costs. So I
3 don't know that that's not a guaranteed rate of
4 return.

5 Q. Well, I didn't say guaranteed rate of
6 return. I'm saying that they -- that under the PPA
7 construct, that customers are paying for the costs to
8 operate the plants regardless of whether the revenues
9 in the market will sustain that level of cost
10 incurred to operate the plant.

11 A. And I'm saying that under the OEG, I
12 think you asked me about if even under the OEG
13 recommendations that would be true, and I'm saying
14 no, that wouldn't be true.

15 Q. Okay.

16 A. The other element that Mr. Taylor
17 addresses, that if a particular unit is not -- is
18 showing losses for three consecutive years and
19 projected to show losses for the next three, that
20 unit would be removed from the PPA. So I think under
21 the OEG recommendations in this case, it's an
22 entirely different set of risk factors that AEPGR
23 would face.

24 Q. And under AEP's proposal, the plant's
25 customers could be responsible for retirement costs;

1 isn't that true?

2 A. Yes, that's my understanding. And,
3 again, Mr. Kollen addresses that, and we're
4 recommending that that not be permitted.

5 Q. And isn't it true that --

6 A. Except to the extent on a pro-rata basis,
7 based on the number of years that customers use the
8 unit. Certainly not if a unit was -- I think someone
9 gave an example if a unit was retired the day after
10 the PPA agreements were all approved, there would be
11 no retirement costs assigned to customers under the
12 OEG proposal.

13 Q. So even under the OEG proposal customers
14 could be exposed to some pro-rata share of the
15 retirement costs, correct?

16 A. If the units were being used for three
17 years and then it was retired, then it would be
18 effective under the OEG. And Mr. Kollen really would
19 be better at explaining this, but it's my
20 understanding that there would be a pro-rata
21 allocation salvage cost, the dismantling cost for
22 those three years, based not a hundred percent, which
23 is what I understand the AEP proposal is.

24 Q. But I'm not sure you answered my
25 question. So it's correct though that those

1 retirement costs, whatever the calculation ends up
2 being, will be passed on to customers; is that
3 correct?

4 A. Yes. Some pro-rata portion of that, yes.

5 Q. And it's true that the independent market
6 monitor for PJM opposes the concept of subsidizing
7 one generator over another, stating that it's
8 inconsistent with the competitive market construct,
9 correct?

10 A. I did not read Mr. Bowring's testimony in
11 this case. I think I did read it in the FirstEnergy
12 case, and assuming it's similar, I recall that was
13 his position.

14 Q. And isn't it also true that staff filed
15 testimony in this case recommending that rider RS be
16 denied as currently proposed?

17 A. As proposed, and the impression -- my
18 interpretation of the staff's testimony, of course
19 they will explain it better than me, is that if there
20 were modifications, then the rider could be
21 acceptable. And in that sense, it's similar to what
22 OEG is recommending.

23 Q. And that's your opinion of the staff's
24 testimony; is that correct?

25 A. Yes. They could speak for themselves.

1 EXAMINER SEE: Ms. Bojko, a couple of
2 times you've made a reference to "rider RS" in your
3 questions.

4 MS. BOJKO: I'm sorry, rider PPA.

5 Q. I think Mr. Baron understood and can
6 appreciate jumping from one hearing to the other,
7 that when I said "rider RS," you understood me to
8 refer to rider PPA?

9 A. Yes, I did. I'm sorry.

10 Q. Thank you. No. My apologies.

11 MS. BOJKO: Thank you, your Honor.

12 Q. Sir, so after reading your testimony,
13 listening to you today, as I understand it, you do
14 not believe that AEP's PPA should be approved as
15 currently proposed; is that correct?

16 A. That is correct, that OEG believes that
17 the modifications that we have proposed need to be
18 made to conform the PPA rider to something that would
19 be reasonable for customers.

20 Q. And as a general matter, you would not
21 support a proposal that, based on expectations, is
22 going to harm customers; is that correct?

23 A. That is correct.

24 MS. BOJKO: Thank you, your Honor. I
25 have no further questions.

1 EXAMINER SEE: Ms. Bair?

2 MS. BAIR: I have no questions.

3 EXAMINER SEE: Ms. Petrucci?

4 MS. PETRUCCI: Yes.

5 - - -

6 CROSS-EXAMINATION

7 By Ms. Petrucci:

8 Q. Good evening.

9 A. Good evening.

10 Q. Would you agree with me that
11 approximately 25 percent of AEP Ohio's sales are
12 attributable to the industrial load?

13 A. That's my recollection.

14 Q. And your recommendation in your testimony
15 is that the Commission should reject the company's
16 PPA proposal if all of OEG's proposed modifications
17 are not accepted by the Commission; isn't that
18 correct?

19 A. I believe that generally that's true.
20 Let me -- perhaps I can -- if you give me a moment, I
21 can try to clarify the position that we do not agree
22 with the PPA rider as filed. We, OEG, have made a
23 number of recommendation -- recommended changes,
24 which we believe are necessary to modify the PPA
25 rider to make it reasonable for customers.

1 Your question was if the Commission were
2 to accept all but one of the adjustments, would
3 that -- as I interpreted your question, does that
4 mean that OEG would oppose it? That would -- I'd
5 have to look, and certainly I wouldn't make that
6 call, anyway. But if you're asking me, I would
7 certainly have to look at what the sum total of what
8 the proposal was and try to understand the
9 materiality of a particular adjustment that OEG is
10 proposing and the significance of that and maybe make
11 that evaluation.

12 Q. Your initial recommendation is that the
13 PPA proposal that's been put forth by the company, is
14 that it be rejected?

15 MR. KURTZ: I'm going to object as a
16 mischaracterization. I'm sorry, Ms. Petrucci. At
17 the very beginning of his testimony he indicates that
18 OEG is not taking a position whether the PPA should
19 be approved, just recommending suggestions for
20 improvements if it is approved.

21 But I apologize for interrupting your
22 cross-examination. I just weigh in with that.

23 MS. PETRUCCI: I don't actually know if
24 it's an objection or not.

25 MR. KURTZ: I apologize a second time.

1 You're right.

2 EXAMINER SEE: Go on with your questions,
3 Ms. Petrucci.

4 MS. PETRUCCI: Can we have reread what I
5 had asked him?

6 (Record read.)

7 A. And as I said -- I guess looking at page
8 3 of my testimony. What I'm saying is that the PPA
9 rider can be an effective mechanism to provide
10 benefits to customers if it is modified, and OEG has
11 proposed a number of modifications. I don't think
12 I've used the word "rejected" one way or the other.

13 Q. Well, let's look at page 2 of your
14 testimony, lines 16 to 19.

15 A. Yes.

16 Q. And there you're referencing that OEG is
17 presenting modifications, and then you also say or a
18 recommendation for an outright rejection of the
19 proposal.

20 A. Yes. And I understand that other parties
21 are -- I think all the other parties or many of the
22 other parties are proposing rejection of the proposal
23 as opposed to modifications that could make the PPA
24 rider acceptable.

25 Now, the staff, I think I interpret the

1 staff's testimony basically similarly to what the OEG
2 testimony is, except I think staff said "rejected as
3 filed," and OEG is saying it should be, if the
4 Commission accepts it, the rider, it should be
5 modified in the following manner.

6 Q. OEG is not supporting the proposed PPA
7 proposal as presented by AEP Ohio, correct?

8 A. That's correct. OEG is making
9 recommendations to modify that proposal if the
10 Commission chooses to adopt our PPA rider.

11 Q. And Ohio Power hasn't provided a forecast
12 of the PPA rider charges or credits for a 15-year
13 term, has it?

14 A. They have not.

15 Q. And your testimony does not include a
16 projection of the PPA rider charges or credits for a
17 15-year term, correct?

18 A. That is correct, though as I indicated, I
19 think, in an earlier response, eliminating the return
20 on equity down to zero, which is sort of an -- it's
21 not even the worst-case scenario under the OEG
22 proposal in terms of the mitigated impact would
23 provide up to \$130 million of benefits, and
24 Mr. Kollen has proposed adjustments to the absolute
25 revenue requirement calculation, which is in the 22

1 or so million dollar adjustment. So those
2 adjustments, plus the other provisions, provide in
3 our view a much more reasonable risk/reward of the
4 proposal.

5 MS. PETRUCCI: Your Honor, I'll move to
6 strike the second portion of his answer after he
7 initially agreed that he had not provided a
8 projection of the rider charges or credits over the
9 15-year term, which was what my question related to.
10 He went on to add a variety of additional
11 information, which is beyond my question.

12 MR. KURTZ: I would simply say he's
13 giving his answer context to help the Commission for
14 the record.

15 MS. PETRUCCI: And I would -- no, he was
16 giving an answer. It is not at all with respect to
17 whether or not he presented a projection, and that's
18 why I'm making my motion to strike.

19 EXAMINER SEE: I'm going to deny the
20 motion to strike and the testimony stands.

21 Q. I'm sorry, OEG did not recommend a
22 15-year PPA when we last looked at AEP Ohio's PPA
23 proposal last year, did it?

24 A. I don't recall that. I didn't address
25 that issue, but I don't believe that was the case.

1 But I honestly don't recall. There's another OEG
2 witness who addressed those issues.

3 Q. And do you recall that one of those
4 witnesses was Mr. Taylor?

5 A. Yes.

6 Q. And do you recall with respect to his
7 testimony that he indicated going too far into the
8 future may expose AEP Ohio's customers to unknown
9 risks?

10 A. I'm not familiar with that.

11 MS. PETRUCCI: May I approach, your
12 Honor?

13 EXAMINER SEE: Yes.

14 MS. PETRUCCI: I am not planning on
15 marking it. If we can turn to page 16. And just for
16 the record, let me reflect that what I've handed to
17 Mr. Baron is a copy of the direct testimony, the
18 public version of Mr. Taylor's testimony in AEP
19 Ohio's ESP III proceeding, Case No. 13-2385-EL-SSO,
20 et al.

21 Q. And if you could look at line 21. And in
22 answering the question regarding the time period for
23 the rider PPA, isn't it correct that Mr. Taylor
24 stated that going too far into the future may expose
25 AEP Ohio's customers to unknown risks?

1 MR. SATTERWHITE: Your Honor, I'll object
2 to this point. Mr. Taylor's going to be a witness in
3 this proceeding. This can obviously be asked of
4 Mr. Taylor. He can provide context to why he stated
5 that. This witness is saying he's not sure what he
6 said. Refreshing his recollection is really just a
7 waste of the hearing time tonight when the witness
8 will be on the stand.

9 MS. PETRUCCI: Your Honor, if I may
10 respond. Mr. Baron is the witness that is
11 recommending a 15-year term for the PPA. The
12 timeframe associated with PPA is his issue, and OEG
13 did opine upon it in a prior proceeding. He was
14 aware of Mr. Taylor having testified in the prior
15 proceeding. I think it's not a waste of time, as
16 Mr. Satterwhite stated.

17 MR. KURTZ: Your Honor, I agree with
18 Ms. Petrucci. I think it's a fine question.

19 MR. SATTERWHITE: Again, your Honors,
20 I'll just reiterate -- I appreciate that they agree
21 with it but Mr. Taylor will be here, and this will
22 just expand on what Mr. Taylor meant with that. I
23 think we should use our hearing time properly.

24 EXAMINER SEE: I'm sorry, was somebody
25 else chiming in?

1 MS. BOJKO: Sorry, your Honor, I would
2 just add that it's an admission by a party-opponent,
3 and if the party with the testimony that it's
4 applicable to, if there's contradictory inconsistent
5 testimony out there of the party, regardless of who
6 gives it, then it is an admission by party-opponents.

7 MR. SATTERWHITE: To that point, your
8 Honor, this is not the same case as was before.
9 There's other things involved in this case that are
10 not the same circumstances.

11 EXAMINER SEE: I'm going to allow
12 Ms. Petrucci to go ahead with the question.

13 Mr. Baron, you can answer the question.
14 Do you need it read back?

15 A. I think I was asked if it was being read
16 properly, and the words say "possible" -- the
17 question is, "Would extending the time period for the
18 PPA stability rider beyond 2024 yield potentially
19 greater benefits?" And the answer that Mr. Taylor
20 gave was, "Possibly, but going too far into the
21 future may expose AEP Ohio's customers to unknown
22 risks." And there's a parenthetical, "such as higher
23 than expected CO2 costs should federal or state
24 legislation be enacted in this area." That is what
25 he said.

1 Q. Are you aware of any term in the PPA term
2 sheet that would prohibit AEP Ohio from selling the
3 output from the PPA units to a third party under a
4 bilateral contract?

5 A. I'm not aware one way or the other.

6 Q. CRES providers can procure energy and
7 capacity under bilateral contracts, correct?

8 A. Yes.

9 Q. And CRES providers can bid into the SSO
10 auctions, correct?

11 A. I assume so.

12 Q. And you're aware that at least one
13 affiliate of AEP Ohio bids into the SSO auction;
14 isn't that correct?

15 A. That's my recollection. I don't recall
16 the specifics but I have a general recollection.

17 Q. And you're not aware that the PPA
18 proposal presented by AEP Ohio would -- let me start
19 again. I'm sorry.

20 It's possible under the PPA proposal
21 presented by AEP Ohio that it could sell some or all
22 of the unit output to its CRES affiliate; isn't that
23 correct?

24 A. I understood, as a general matter, that
25 there was a commitment to selling the capacity energy

1 and ancillary services into the PJM market. That's
2 my understanding. The basis for the PPA rider is
3 that there would be revenues to that effect, but as I
4 indicated in my prior answer, I don't know whether
5 there's some legal provision in the rider -- in the
6 PPA itself that would permit something one way or the
7 other.

8 Q. A little earlier you talked about the SSO
9 auction. Would you agree with me that the SSO
10 auctions are -- the offers that are put into those
11 auctions are considered to be market offers?

12 A. Well, to the extent that the participants
13 all operate in a competitive market, I would
14 characterize them as market offers under the terms of
15 the RFP, or request for bid, I guess.

16 Q. And customers who are taking service from
17 CRES providers are receiving market pricing, isn't
18 that correct, for their generation service?

19 A. Yes, I think that's a fair
20 characterization. And to distinguish -- just to
21 clarify, it doesn't mean that the CRES provider is
22 going to be providing PJM day-ahead pricing or
23 locational reliability charge demand charges. It
24 may, but it doesn't require it. But I would
25 characterize those as market based.

1 Q. And, therefore, today Ohio Power's
2 customers, whether they're taking CRES service
3 from -- or, service from a CRES provider or SSO
4 service are receiving service based on market-priced
5 offers; isn't that correct?

6 A. Yes. And that's exactly -- I think I
7 said that. You asked me about that, that the whole
8 idea of the PPA rider is to provide a cost-of-service
9 component to the overall payments that customers make
10 as opposed to a hundred percent market.

11 Q. And under this proposed PPA Ohio Power
12 customers will continue to receive that CRES service
13 or that SSO service, correct?

14 A. They'll continue to receive it in its
15 entirety, but the bill that the customer pays will
16 have an implicit cost of service and market component
17 based on the workings of the PPA rider, if it were to
18 be approved.

19 Q. Okay. And the PPA rider is going to be a
20 new rider that's added onto either the customer's
21 generation selection through a CRES service or their
22 decision to be an SSO customer, correct?

23 A. Yes. It would either be a charge or a
24 credit to the bill, but it would be something in
25 addition to what is being charged today.

1 Q. And you don't know whether that charge or
2 credit under the PPA rider will represent 44 percent
3 of the customer's generation bill, correct?

4 A. That is correct. In terms of the bill
5 itself, that would be correct. In terms of the
6 energy provided that is subject to the PPA rider, in
7 essence, it's generated by the PPA resources plus
8 OVEC that would be approximately 44 percent of the
9 kilowatt-hours or megawatt-hours.

10 MS. PETRUCCI: Can I have the answer
11 reread, please?

12 (Record read.)

13 Q. By your answer are you stating that
14 44 percent of the energy provided is going to be from
15 the PPA unit?

16 A. No. What I'm saying is that your
17 question was, I think, referring to cost. If the
18 market -- if the total load of AEP Ohio shopping and
19 nonshopping was a thousand megawatt-hours, and you
20 can look and say that the PPA resources plus OVEC
21 produce 440 megawatt-hours, the presumption is that
22 the other 560 is related to market pricing.

23 So on a megawatt-hour basis, the
24 44 percent it has, the PPA rider has the effect on
25 bills that 44 percent of the megawatt-hours are

1 subject to the -- or being affected by the rider and
2 56 percent by the market. However, I think your
3 original question was what is the percentage of the
4 bill that will be affected if the market went up by
5 300 percent. Then that would be a different mix.

6 In other words, the effect of the PPA
7 rider by the total bill would be different than if
8 the market stayed where it is, or something of that
9 nature. That's really what I'm trying to convey,
10 that the 44/56 percent is based on megawatt-hours.
11 It's the --

12 Q. It's not based on pricing?

13 A. Correct. Because the market will be what
14 it is and the PPA rider does change based on market
15 revenues and cost. I think it would be roughly the
16 measurement of the effect, but it's certainly not an
17 exact calculation because it's based on
18 megawatt-hours.

19 Q. So when -- if you could turn to page 10
20 of your testimony, lines 15 through 17.

21 A. Yes.

22 Q. And that's where you refer to the 56 and
23 44 percentages?

24 A. Yes. I explain it beginning of line 13
25 and 14, I think it's just what I just said, it's the

1 affect of results based on megawatt-hours.

2 Q. But you're not claiming that AEP's
3 proposal will result in the rider amounting to
4 44 percent of the customer's bill, generation bill?

5 A. No, I'm not.

6 Q. In your testimony you have not presented
7 any opinion as to whether the PPA rider will be a
8 credit or a charge over the life of the PPA, correct?

9 A. That is correct.

10 Q. And you have not provided an opinion as
11 to whether the rider will be a credit or a charge
12 over your recommended 15-year term, correct?

13 A. I have not done a quantitative analysis.
14 I have an opinion, but I have not done a quantitative
15 analysis.

16 Q. And with respect to the industrial
17 customers on whose behalf you're being presented, the
18 PPA rider will have a significant impact on their
19 bills; isn't that correct?

20 A. Well, depending on --

21 Q. Whichever direction it goes?

22 A. It will have an impact, and depending on
23 the magnitude of the rider charge or credit, it could
24 be significant or not, depending on the balance
25 between costs and revenues.

1 Q. Earlier you stated that the OEG members
2 are energy-intensive electric customers. So this
3 type of rider is going to have a directional effect
4 either positive or negative, that will be significant
5 for these large industrial customers, correct?

6 A. Yes. What I was -- when I answered your
7 question about -- tried your question -- the prior
8 question was significant. If the rider tended to be
9 close to zero because revenues and costs were about
10 equal, then it wouldn't have any affect on anybody.
11 It could have an effect, depending on which way
12 directionally the rider goes, so that's what I was
13 really trying to explain.

14 Q. You're not suggesting, however, that you
15 think it's likely that the projections, the cost
16 projections and the revenue projections, are going to
17 be very close to actual costs and actual revenues
18 over any particular year of the proposed PPA?

19 A. No. I haven't done an analysis, though,
20 as I indicated with the OEG modifications, there's
21 reason to expect that it will produce a credit to
22 customer bills. And certainly under AEP's
23 projections that would be true.

24 In order AEP's forecasts and the OEG
25 modifications, and even with the lower revenue

1 forecast, market revenue forecast, with the OEG
2 modifications there's a significant potential
3 reduction in any detrimental impacts, so it would
4 tend to make the rider a benefit to customers in all
5 the years. But I'm not -- I haven't done a
6 calculation to that. It's just my expectation.

7 Q. And it's accurate to say that one of the
8 reasons that OEG and you in particular are
9 recommending modification to the PPA rider is to
10 lessen the negative impact that it possibly could
11 have on the large industrial customers, correct?

12 A. Yes. Well, the 15-year term does that.
13 Mr. Kollen's proposals do that, and in particular
14 Mr. Taylor's recommendations for an ROE flex-down and
15 the elimination of losing plants from the PPA in the
16 80/20 sharing, all of those are designed to improve
17 the likelihood that the rider would provide benefits
18 to customers, all customers.

19 Q. And at the same time lessen any negative
20 impact that the rider PPA could have on the large
21 industrial customers?

22 A. Yes.

23 Q. Thank you.

24 A. That's the idea.

25 Q. And today large industrial customers can

1 hedge their generation costs by entering into
2 long-term CRES contracts; isn't that correct?

3 A. Yes. But I don't know the -- I'm not
4 aware that they can enter into 15-year contracts with
5 CRES providers. My understanding, though I don't
6 know specifics of any contract, is that they tend to
7 be much shorter, a year, two years maybe, perhaps
8 longer. But I don't know.

9 Q. You're aware that there are -- well,
10 you're aware there are a multi-year CRES contracts
11 available to customers --

12 A. Yes.

13 Q. -- is that accurate?

14 A. But it's my understanding that nothing of
15 the extent a 15-year contract.

16 Q. And industrial customers can also hedge
17 their generation costs by entering into financial
18 hedges; isn't that correct?

19 A. Yes. And I should say, just to clarify,
20 with respect to the -- again, I can't speak to any
21 particular contract with a CRES provider, but just
22 from my general knowledge and understanding of how
23 the market works, I would expect that the contracts
24 would be tied to some expectation by at least the
25 supplier, the CRES supplier, of what that supplier

1 believes market prices to be over some term.

2 It's not -- it's obviously a projection,
3 and there's premiums and other adjustments.

4 Obviously, everyone has their own analyses, but it
5 would tend to still be tied to market, in contrast to
6 the PPA rider, which the revenues are tied to market
7 but the cost side is primarily the fixed costs of a
8 coal unit.

9 So there are really different
10 characteristics of the PPA rider than what a
11 competitor supplier might be willing to enter.

12 Q. For industrial customers who wouldn't
13 want to take the risk associated with the PPA rider,
14 particularly it being a charge, would another form of
15 hedge be the ability for that industrial customer to
16 opt out of the PPA rider?

17 A. What was the beginning of your question?
18 I got the last part, but could you -- I'm not sure.

19 (Record read.)

20 A. That's not my recommendation because in
21 order -- I think in order for this to be a workable
22 construct, I think it has to be nonbypassable.

23 Q. And the company itself hasn't proposed
24 that it be bypassable, correct?

25 A. That is correct. I think the idea of it

1 being nonbypassable is a necessary condition to
2 prevent gaming as between shopping and nonshopping.

3 Q. And by being nonbypassable, then all
4 customers, including the industrial customers, would
5 be subject to the risks, various risks associated
6 with the PPA rider, correct?

7 A. To the extent that there are risks and
8 benefits, they would be subject to those risks and
9 benefits.

10 MS. PETRUCCI: Just one moment, your
11 Honor.

12 A. Just like all other customers.

13 Q. I think I'm all done. Thank you very
14 much, Mr. Baron.

15 A. Thank you.

16 EXAMINER SEE: Mr. Pritchard?

17 MR. PRITCHARD: Thank you, your Honor.

18 - - -

19 CROSS-EXAMINATION

20 By Mr. Pritchard:

21 Q. Good evening, Mr. Baron. My name is
22 Matt's Pritchard. I represent the Industrial Energy
23 Users of Ohio.

24 Questions from counsel for OMA Energy
25 Group, earlier you were asked about the amount of

1 units in the proposal, and the questions and answers
2 were around the PPA unit, the affiliated PPA units
3 and OVEC units. There was 20 units. Do you recall
4 those questions and answers?

5 A. I recall that, and I myself accepted that
6 I look at the plants better than the units. Some of
7 the units I've looked at it, but I've accepted it.

8 Q. And you're aware that AEP Generation
9 Resources owns other generating units that are not
10 proposed to be included in the PPA rider, correct?

11 A. Yes.

12 (Interruption.)

13 Q. At the beginning of your testimony you
14 reference Senate Bill 3, correct?

15 A. Yes.

16 Q. And you're familiar with Senate Bill 3,
17 correct?

18 A. Yes, generally.

19 Q. And you participated in cases at the
20 Public Utilities Commission of Ohio involving Senate
21 Bill 3, correct?

22 A. I recall that, yes.

23 Q. And you submitted testimony involving an
24 electric transition plan proceeding with this
25 Commission, correct?

1 A. Again, I have a recollection of that. I
2 know I was in a number of cases.

3 Q. If we turn to your exhibit to your direct
4 testimony, there's a list of cases you testified and
5 if you turn to the year 1999, it's actually the first
6 case of the year 2000, it's on page 14 of 25.

7 A. Yes.

8 Q. And reading that entry at the bottom, the
9 last entry on page 14 of 25 of this exhibit, is it
10 your recollection that you submitted testimony in
11 Case No. 99-1658-EL-ETP?

12 A. Yes.

13 Q. And in that proceeding you would have
14 offered an opinion that had to do with Cincinnati Gas
15 & Electric Company's electric transition plan case,
16 correct?

17 A. That's my recollection. I haven't read
18 that testimony though in 15 years.

19 Q. And that testimony would have addressed
20 Cincinnati Gas & Electric's request for transition
21 revenue, correct?

22 A. Again, that sounds reasonable.

23 Q. And transition cost is a comparison
24 between what a utility would recover under
25 traditional regulation compared to what they would

1 recover under market-based rates following
2 restructuring, correct?

3 A. Yes. And I think if you look over on
4 that Subject column for that entry, I think I refer
5 to it as stranded cost recovery.

6 Q. So stranded cost recovery and transition
7 costs are synonymous terms, right?

8 MR. SATTERWHITE: Your Honor, I'll object
9 on relevance. It sounds like we're getting into an
10 issue that was raised by IEU in prior proceedings
11 that the Commission dealt with and moved past the
12 stranded cost. We're trying to rebootstrap that onto
13 these cases when the Commission already dealt with
14 this issue.

15 MR. PRITCHARD: Establishing a bit of
16 foundation, and I will hopefully soon get to the
17 impeaching questions here in a minute. But I'm just
18 establishing foundation that he's previously
19 testified on this matter and this is his testimony
20 and we'll get to his recommendations in this case
21 contrasted to his prior testimony, if I might ask the
22 next few questions.

23 EXAMINER SEE: Objection is overruled.
24 Get on with it.

25 MR. PRITCHARD: Well, then to speed

1 things up I'd like to mark an exhibit, your Honor.
2 I'd like to mark a document as IEU Ohio Exhibit 15.

3 May I approach, your Honor?

4 EXAMINER SEE: Yes.

5 (EXHIBIT MARKED FOR IDENTIFICATION.)

6 Q. Mr. Baron, does this document that I've
7 handed you appear to be testimony that you filed in
8 this case 99-1658?

9 A. Yes.

10 Q. And if we look at the top left, case
11 caption on the first page, it indicates that this is
12 the electric transition plan proceeding for
13 Cincinnati Gas & Electric, correct?

14 A. Yes.

15 Q. And in a stranded cost calculation or a
16 transition cost calculation the primary driver of the
17 transition cost is you look at the net book value of
18 a plant, correct?

19 MR. SATTERWHITE: Objection, your Honor.
20 Now we're talking about stranded cost, which is
21 exactly where I predicted we would be going. That is
22 a relic of Senate Bill 3 and how it applies to AEP
23 Ohio in that case.

24 MR. PRITCHARD: However, AEP-Ohio has had
25 stranded cost recovery in past cases, I'm not sure

1 what context that would or what preconclusion that
2 would have in this proceeding given that the statutes
3 speak for themselves.

4 I don't want to get into a debate here
5 about where the statutes continue to prohibit the
6 cost recovery but I have a few background questions
7 on what his testimony sets forth and the conclusions
8 which are impeaching. If I need to skip the
9 foundational questions and go to the impeachment and
10 then come back to the foundation, I'd be happy to do
11 that.

12 MR. SATTERWHITE: I believe my objection
13 was on relevance. He's trying to impeach on
14 something that was under a different statutory
15 framework Senate Bill 3, it's not impeaching if we're
16 under a different regulatory construct under Senate
17 Bill 221. So why he might think he's impeaching with
18 terms from a different statute, that's not applicable
19 and not relevant.

20 MR. BZDOK: May I be heard?

21 EXAMINER SEE: Just a minute.

22 MR. BZDOK: I believe that's an
23 anticipatory objection about questions that have not
24 been asked yet so I would support IEU on this matter
25 that he can lay some background so he can ask his

1 questions.

2 MR. PRITCHARD: That was my next
3 question. He's objected on the relevance of my
4 future questions about whether I'm impeaching him.

5 MR. SATTERWHITE: And, your Honor, my
6 argument was bringing up what we heard a million
7 times over tonight, use the term "stranded cost"
8 trying to reiterate that term from a specific time in
9 the history of the Commission they've dealt with
10 since then. Trying to bring it up in this proceeding
11 is not relevant.

12 EXAMINER SEE: Mr. Kurtz.

13 MR. KURTZ: I have no objection to
14 Mr. Pritchard's questions. In fact he can skip the
15 foundation, go right to the impeachment.

16 EXAMINER SEE: The objection is
17 overruled.

18 Go ahead, Mr. Pritchard.

19 Q. (By Mr. Pritchard) Just rephrase the
20 question so we don't have go back 20 spots and 20
21 lines and reread it.

22 The primary source of transition costs
23 for an electric utility is the difference between the
24 market value, the company's generation assets and its
25 book value, correct?

1 A. Yes. And the transition costs I'm
2 interpreting as stranded costs which is the
3 traditional definition.

4 Q. And if the market value is less than the
5 book value, you would have a stranded cost, correct?

6 A. Yes.

7 Q. And if the market value exceeded the net
8 book value, you would have a stranded benefit,
9 correct?

10 A. Yes.

11 Q. And in this testimony that you previously
12 submitted do you remember opposing Cincinnati Gas &
13 Electric's proposed methodology for calculating
14 stranded costs because they only included the
15 stranded cost of several generating units but did not
16 include the offsetting stranded benefits of the other
17 generating units?

18 A. I honestly don't remember. It's been a
19 long time.

20 Q. Sure. If you turn to page 12, let me
21 know if I'm reading this correctly. I'm starting on
22 line 4. You at page 12, line 4?

23 A. Yes.

24 Q. Let me know if I'm reading this
25 correctly. "By failing to net all the stranded costs

1 and benefits associated with each of the generating
2 units, i.e., its production facilities, CG&E
3 selectively has chosen to charge ratepayers for the
4 assets in which it believes it will face a loss as a
5 result of competition but not provide ratepayers with
6 any benefits for the assets that CG&E anticipates
7 will provide it net benefits as a result of retail
8 competition." Did I read that correctly?

9 A. Yes.

10 Q. And does that refresh your recollection
11 of whether you had an issue with CG&E only including
12 stranded costs of some units but not offsetting
13 stranded benefits of other units?

14 A. It only refreshes my memory to the extent
15 that in reading these sentences I can surmise that
16 that was an issue.

17 Q. And if you turn to page 13, let me know
18 if I'm reading this correctly. "However, it is not
19 fair for an electric utility to use the transition to
20 retail competition as an opportunity to secure a
21 windfall from its ratepayers. This is the result of
22 CG&E's failure to properly net the stranded cost and
23 stranded benefits associated with all of its
24 generating units in developing its other transition
25 costs in GTC."

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

2 Q. And do you recall in this testimony
3 addressing Cincinnati Gas & Electric's provision of a
4 stipulation that would have allowed Cincinnati Gas &
5 Electric to defer purchased power expense cost and
6 recover that through a nonbypassable regulatory
7 transmission charge?

8 A. I don't have any reaction of that.

9 Q. Will you turn to page 71 and briefly or
10 thoroughly read the question that begins on line 9
11 and goes through till the next page.

12 A. Okay, I've read it.

13 Q. And here you were addressing a provision
14 of a proposed stipulation where Cincinnati Gas &
15 Electric would have been permitted to defer purchased
16 power cost associated with providing power to
17 customers who remain CG&E customers during the market
18 development period and how if they deferred those
19 costs they would have been collected through a
20 regulatory transmission charge and that charge would
21 have been collected through all customers including
22 those who shop. Is that your recollection?

23 A. That's what it says. I don't have a
24 recollection. I don't remember the stipulation. I
25 really don't even know what this issue is about.

1 Other than reading the words that are written here I
2 don't have a foundation for knowing what the
3 underlying substance that I was addressing in this
4 testimony from May 2000 which is 15 years ago. I
5 just, I'm sorry, but I just don't know.

6 Q. And if you turn to page 72, line 10, let
7 me know if I read this correctly.

8 MR. KURTZ: Your Honor, given -- I won't
9 make an objection. Given the witness' statements we
10 don't have any objections stipulating the admission
11 of the document but continuing to ask the witness
12 questions about testimony he has no recollection of
13 is not productive.

14 MR. PRITCHARD: If you stipulate to the
15 admission of it, I wouldn't ask any further questions
16 about this document.

17 MR. SATTERWHITE: I believe he's using
18 this for impeachment so I don't think it's a proper
19 document. He doesn't have any idea what the
20 settlement clause was or terms were, I'd be afraid
21 this is prejudice.

22 MR. KURTZ: If this testimony has any
23 affect on the Commission's decision in case, I think
24 we would all be shocked. I mean, this is 2000
25 testimony from a CG&E ETP case.

1 MR. SATTERWHITE: I'm happy to raise my
2 relevance objections because I agree it doesn't apply
3 at all to this case.

4 MR. PRITCHARD: Beyond the debate of
5 whether this transition cost argument is still
6 relevant today, which I disagree with AEP counsel on
7 their interpretation, however, there's other
8 statements in Mr. Baron's prior testimony which
9 conflict with the OEG recommendations in this case.
10 Regardless of whether there's transition cost
11 recovery issues, I'm exploring those.

12 MR. KURTZ: We will stipulate to its
13 admission.

14 MR. PRITCHARD: Happy to stipulate to its
15 admission.

16 EXAMINER SEE: You're willing to
17 stipulate to the admission of Mr. Baron's testimony.

18 MR. KURTZ: From 2000 in the CG&E
19 transition case, yes. Yes, your Honor.

20 EXAMINER SEE: And, Mr. Satterwhite, are
21 you going to make an issue?

22 MR. SATTERWHITE: I think it's completely
23 irrelevant. If it moves things along, if the Bench
24 is willing to point out that the relevance can be
25 waived by the Commission for something that deals

1 with Senate Bill 3, I'm happy to move forward as
2 well, but.

3 MS. HENRY: You can finish.

4 MR. SATTERWHITE: This is irrelevant.

5 EXAMINER SEE: Talk to me. Talk to the
6 Bench.

7 MR. SATTERWHITE: I'm trying, your Honor,
8 but if the Bench is willing to give that instruction
9 and talk about the weight of this, then I guess we
10 can stipulate to it. It's just tough because this is
11 completely irrelevant to --

12 MR. PRITCHARD: I would be opposed to a
13 limiting instruction that this document is
14 irrelevant. That would defeat its purpose.

15 MR. SATTERWHITE: He's using it for
16 impeachment which I objected earlier to relevance, he
17 said I'd like to use it for impeachment. He tried to
18 use it for one thing, he's made the statements he
19 wanted to, now he's trying to use it for impeachment
20 on something the witness said. I have no idea what
21 the settlement involved, I have no idea what it was
22 about. So I don't know why we are going forward with
23 it.

24 MR. PRITCHARD: My response to that if
25 the witness doesn't have a current recollection, I

1 can use the entire document to establish what exactly
2 the facts were to impeach him. I'd rather not have
3 to ask him 70 pages of Q and As to establish exactly
4 what was here.

5 I'm pointing out the relevant sections of
6 Mr. Baron's prior testimony to what I plan to use on
7 brief which I believe without getting into all the
8 legal arguments contradicts or undermines part of
9 OEG's testimony and trying to streamline my process,
10 but I'd be happy, if Mr. Satterwhite requests, to
11 fully go through this document and establish what all
12 the facts are in here.

13 MR. SATTERWHITE: And I'm not asking him
14 to fully go through further irrelevant points, your
15 Honor, I think that's my point. So maybe if he moves
16 it along if we can take notice of the entry on
17 rehearing, the actual opinion in here in this case,
18 then we can move forward so that the Commission could
19 actually get the context of what happened in the case
20 and put it in its framework of where it stood in the
21 evolution of cases here in Ohio.

22 EXAMINER SEE: Mr. Bzdok.

23 MR. BZDOK: Just going to note I believe
24 on general principles just because he denies
25 remembering that he said it does not mean that it

1 does not have weight in impeaching in a prior
2 contrary statement.

3 MR. PRITCHARD: I will accept
4 Mr. Satterwhite's last offer that this document be
5 admitted and we take notice of the Commission's
6 entries and orders in that case.

7 EXAMINER SEE: The opinion and order in
8 this case?

9 MR. PRITCHARD: You can take
10 administrative notice of all the orders in this case.
11 I don't think that they have any bearing on the
12 points I'm trying to make.

13 MR. SATTERWHITE: I think the Bench can
14 just reflect that and say because it's a Commission
15 order so you don't need to take notice of it. But if
16 the Commission can give an instruction that it be
17 admitted with the reflection that their opinion and
18 orders dealing with what the outcome of this case is,
19 then that will give us what we need.

20 EXAMINER SEE: We can accept the document
21 and recognize that there are orders in the case and
22 the reentry on hearing.

23 Q. (By Mr. Pritchard) Mr. Baron, you would
24 define the subsidy to include a payment that is not
25 supported by market revenues that the sale would

1 otherwise receive, correct?

2 A. Well, a subsidy can be broad but in the
3 context of a seller who would otherwise have the
4 option of only receiving market revenues, then the
5 subsidy could be defined as payment that the market
6 revenues -- in excess of market revenues.

7 Q. To the extent that the PPA rider is a
8 charge, that would represent the amount of revenue
9 that AEP Ohio could not obtain in the market to cover
10 the cost that it had to pay AEP Generation Resources
11 under the proposed PPA, correct?

12 A. In that in a particular period say
13 12-month period that would be true, yes.

14 Q. Well, it would be true under -- let me
15 strike that.

16 A. Well, as I understand the rider operates
17 on annual basis so in a particular year if it was a
18 charge, then the statement would be true for that
19 year.

20 MR. PRITCHARD: Thank you, Mr. Baron.

21 Your Honor, I have no further questions.

22 EXAMINER SEE: Mr. Satterwhite?

23 MR. SATTERWHITE: Thank you, your Honor.

24 Just a couple. I think I'll be quick.

25 - - -

CROSS-EXAMINATION

By Mr. Satterwhite:

Q. You heard some questions earlier that Mr. Bzdok raised with you when you were talking about net present value being the appropriate method of -- being an appropriate method to compare economics alternatives?

A. Yes.

Q. And you agree that it may be more appropriate to use the nominal value based on what Dr. Pearce used in this case as well, correct?

MR. BZDOK: Objection, friendly cross.

MR. SATTERWHITE: Not at all, Your Honors. He's saying it's appropriate to use a value that's not used by the AEP witness and I'm trying to determine whether it's appropriate to use that value or not, that valuation basis.

MR. BZDOK: He's asking this witness to agree with his witness.

MR. SATTERWHITE: Perception, your Honor, that was created by Mr. Bzdok is this witness agrees with AEP witness, direct conflict.

EXAMINER SEE: I'll allow the question. Go ahead.

Q. Do you need the question reread? If it

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1 helps I was about to say if you look at page 26 of
2 your deposition, we talked about this before, if it
3 helps to refresh your recollection.

4 A. I've read the -- what I've said and I
5 think in answer to your question in the deposition I
6 think what I was referring to was since Dr. Pearce's
7 analysis was for -- first of all, let's put it in
8 context of the AEP proposal which I think we talked
9 earlier was could go out as far as 35 years for the
10 last plant before it retires, and I think what I said
11 was, well, that since Dr. Pearce did a ten-year
12 analysis, the net present value is over that ten-year
13 period, the nominal information that he presented
14 over that ten-year period is what it is.

15 Generally I agree and believe that a net
16 present value analysis is the appropriate method to
17 evaluate an economic alternative and even if you were
18 to do a shorter term, you can approximate your
19 remaining term of the alternative, in this case the
20 PPA rider using some type of end affects adjustment.

21 With that said, in answer to your
22 specific question today, nominal information is
23 valuable in terms of examining the year-by-year
24 affects of the rider and showing what the expected
25 charges or credits would be in any given year. That

1 has to be a nominal number.

2 Q. And so on page 26 of your testimony you
3 start to discuss this, and correct me if I'm wrong,
4 starting on line 6 you say: "Let me just continue.
5 For Dr. Pearce's exhibit, it may be more appropriate
6 to present the -- to show the values on a nominal
7 basis since it doesn't really cover the full term of
8 the proposal." Correct?

9 MR. KURTZ: This is an improper use of a
10 deposition. You ask him a question and his
11 deposition is inconsistent. You can impeach him but
12 this is not his testimony.

13 MR. SATTERWHITE: Your Honor, this is
14 exactly on point.

15 EXAMINER SEE: What were you referring
16 to?

17 MR. SATTERWHITE: Page 26 of the
18 deposition starting on line 6. I apologize. And my
19 initial question.

20 MR. KURTZ: I'll withdraw the objection.
21 I have no objection. He can just go ahead.

22 Q. Is that a correct reading of what's on
23 26?

24 A. Yes. And I agree with it today, I agreed
25 with it last Friday.

1 Q. So you're not saying Mr. Pearce's
2 analysis is inappropriate, correct?

3 A. It's not inappropriate in the sense of
4 that it is for a ten-year period and it provides
5 year-by-year estimation of the company's belief as to
6 the riders produced for a charge or benefit.

7 Q. Thank you.

8 A. Notwithstanding that it's not an NPV over
9 the term.

10 Q. Let's talk about some of the
11 modifications you talk about in your testimony. Like
12 to talk about retention jurisdiction first.

13 A. Yes.

14 Q. You understand that the PUCO has
15 jurisdiction over the PPA rider, correct?

16 A. Yes.

17 Q. And you understand that the PUCO will be
18 able to review the decisions made by AEP Ohio as
19 outlined in the PPA agreement, correct?

20 A. In its deliberations in this case as to
21 approving the PPA rider, yes, the Commission is
22 reviewing that.

23 Q. I'm really talking about going forward
24 with if this were to be approved the Commission as
25 part of populating the PPA rider can review the

1 decisions made by AEP Ohio, correct?

2 A. I would expect that the Commission has
3 reviewed in its approval of any PPA rider charges
4 would have to -- would review the cost inputs. And
5 as to the extent that those cost inputs and revenue
6 inputs are affected by the PPA agreement, then the
7 Commission would effectively be reviewing the
8 consequences of whatever the PPA agreement says.

9 Q. So that's your guess or do you understand
10 that the request in this case is that AEP Ohio has
11 stated the Commission will be able to review AEP
12 Ohio's decisions as part of the PPA rider?

13 A. I understand the rider, those decisions
14 can be reviewed. I don't know -- well, that's my
15 answer.

16 Q. Now let's talk about the subject to
17 refund modification that you make. You're already
18 aware that in Ohio there's a direct appeal of cases
19 from the Commission to the Ohio Supreme Court,
20 correct?

21 A. Yes.

22 Q. And in other jurisdictions you work in
23 there could be multiple layers of appeals where it
24 goes through a trial court, Common Pleas Court, and
25 Supreme Court, correct?

1 A. Yes.

2 Q. And you've read the Keco decision but you
3 do not know if the refund provision you seek is
4 normal for PUCO decisions, correct?

5 MS. BOJKO: Objection. This clearly
6 calls for a legal opinion. He's asking his opinion
7 on Keco and we all know what Keco is.

8 MS. HENRY: Not all of us.

9 MS. BOJKO: Ohio practicing attorneys on
10 a regular basis, and I think it is inappropriate to
11 ask this witness what Keco means or doesn't mean.

12 MR. SATTERWHITE: You can look at the
13 question I've asked, all I said is he's read the Keco
14 decision but I asked about his opinion about whether
15 this is normal course for a Commission decision, I
16 didn't ask him to do a synopsis of Keco, what Keco
17 was about. I just said he's read that but he doesn't
18 know if the recommendation he's making is normal for
19 PUCO decisions.

20 MS. BOJKO: My objection stands, it's
21 still calling for a legal opinion.

22 EXAMINER SEE: Would you like to
23 rephrase, Mr. Satterwhite.

24 MR. SATTERWHITE: If your Honor would
25 likes me to, I'd be happy to.

1 EXAMINER SEE: Thank you.

2 Q. (By Mr. Satterwhite) Mr. Baron, you would
3 not know if the refund you seek in this case is
4 normal course for PUCO decisions, correct?

5 A. I don't know.

6 Q. And if there was a refund or credit that
7 the Commission were to adopt your modification and
8 approve PPA in this case and there was a refund or
9 credit that later that had to be subject to refund or
10 credit, you with me so far?

11 A. I think so.

12 Q. So if we have to activate that
13 modification that you've made, it's your
14 understanding that the amount that would either be
15 refunded or credited back to the company would just
16 be the difference of what is flowing through the
17 rider between the difference of cost and the
18 revenues, correct?

19 A. Yes. If I understand your question, the
20 amounts that are subject to the refund either
21 positive or negative would be the rider amounts.

22 Q. Let me ask you about our favorite topic,
23 stranded costs that you were talking about with Mr.
24 Pritchard. It's your understanding that the market
25 value for the stranded cost versus benefit test that

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1 you were talking about with him under Senate Bill 3
2 is based on the life of the unit, correct?

3 A. That as a general -- I don't remember all
4 of -- any of the calculations that were done in that
5 Cincinnati Gas & Electric case but as a general I've
6 been involved in a number of stranded cost
7 proceedings over the years though they all took place
8 around the same time, but generally it would be over
9 the remaining life of the asset.

10 Q. Now let's talk about your other
11 modification suggestion, which is limiting the length
12 of the PPA to 15 years, okay?

13 A. Yes.

14 Q. You're aware that the other utilities in
15 other jurisdictions already secure hedges for
16 generation that provide a financial benefit or can
17 result in a charge to customers to secure the hedge,
18 correct?

19 A. Yes, for things like natural gas that's a
20 very common type of hedge referring to a natural gas
21 utility, regulating natural gas utility industry.

22 Q. And in Indiana even for generation it
23 flows to the fuel adjustment classes hedging the
24 company might make, correct?

25 A. I'm not familiar with the Indiana

1 situation, so I don't know.

2 Q. And these are approved even though
3 ultimately there could be a cost to customers to
4 secure the hedge, correct?

5 A. Yes, in general a hedge like that as,
6 say, a typical gas utility would enter or an electric
7 utility if we're trying to hedge a particular cost,
8 there would be a premium paid for a hedge itself.

9 Q. But the value is to have the hedge, it's
10 not necessarily unreasonable if it ends up with a
11 cost to customers, correct?

12 A. That is correct. Typically a natural gas
13 hedge is not designed, for a gas utility is not
14 designed to speculate and try to obtain benefits from
15 guessing correctly on the hedge strike price but
16 rather it's designed to provide stability.

17 Q. And so those others jurisdictions that
18 allow those hedges, they don't prescribe a time limit
19 that a utility can use to enter into a hedge,
20 correct?

21 A. In other words, the term of the hedge?

22 Q. Correct.

23 A. I don't know. It depends, I would expect
24 it depends on the jurisdiction whether there are or
25 are not restrictions on the terms of hedges that

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1 might be allowed for ratemaking purposes. I don't
2 know.

3 Q. So you can't say that there are
4 limitations on the amount of time the company can
5 enter into a hedge, correct?

6 A. I don't know. That is correct.

7 MR. SATTERWHITE: Thank you, your Honor.
8 That's all I have.

9 EXAMINER SEE: Mr. Margard?

10 MR. MARGARD: No questions. Thank you.

11 MR. KURTZ: Your Honor, I just have one
12 redirect. One small line of redirect.

13 EXAMINER SEE: Go ahead.

14 - - -

15 REDIRECT EXAMINATION

16 By Mr. Kurtz:

17 Q. Mr. Baron, you remember questions about
18 the 44 percent cost of service plan --

19 (Interruption.)

20 A. Yes.

21 Q. Let me begin again. Do you remember
22 questions about the 44 percent cost of service,
23 56 percent market end result of the PPA issue here?

24 A. Yes, I do.

25 Q. Let me just ask you to turn to page 10 of

1 your testimony, line 13. I think there was some
2 confusion as to how you calculated that.

3 A. Okay, I'm on page 10.

4 Q. Line 13, let me see if this is the way
5 this works. If the AEP Ohio native load is
6 44 million megawatt hours approximately, of course it
7 changes with weather and load growth and so forth,
8 but if it's 44 million megawatt hours a year, then 44
9 percent of that would be the expected output of the
10 PPA units from the weather normalized standard
11 production run.

12 A. Yes, that's correct.

13 Q. Okay, so the PPA units are expected to
14 produce about 44 percent of the AEP Ohio native load
15 and so financially 44 percent of the pricing would be
16 a cost and 56 percent would be a --

17 A. Yes, that's correct. That's exactly how
18 it works.

19 Q. And the units would dispatch more than
20 that, might dispatch less, but that's a fair
21 approximation.

22 A. I think the confusion arose because the
23 question was on the customer's bill which is a
24 different issue.

25 Q. It's not dollars, it's megawatt hours.

1 A. Correct.

2 MR. KURTZ: Thank you, your Honor. Those
3 are all the questions.

4 EXAMINER SEE: Recross, Mr. Bzdok?

5 MR. BZDOK: No, thank you.

6 EXAMINER SEE: Ms. Bojko?

7 MS. BOJKO: No, thank you.

8 EXAMINER SEE: Ms. Bair?

9 MS. BAIR: No, thanks.

10 EXAMINER SEE: Ms. Petrucci?

11 MS. PETRUCCI: Can I have the last
12 question and answer reread.

13 (Record read.)

14 MS. PETRUCCI: I just need a moment.
15 Sorry, yes, I do have recross.

16 - - -

17 RECROSS-EXAMINATION

18 By Ms. Petrucci:

19 Q. Mr. Baron, the power energy and capacity
20 and ancillary services are under the planned PPA as
21 proposed by AEP Ohio are intended to go to the PJM
22 markets, correct?

23 A. Yes.

24 Q. Not directly to any Ohio consumers.

25 A. Yes.

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1 Q. In your response on page 10 looking again
2 at the same lines, 15 through 17, are you referring
3 to AEP Ohio's consumers?

4 A. Yes, from a financial standpoint. In
5 other words, the key word is on line 15 it says the
6 effective result. We're not talking about sales of
7 physical kilowatt hours but the effective financial
8 result.

9 Q. So are you contending that the power that
10 AEP would be selling into the PJM markets will result
11 in a rider to AEP Ohio's consumers that reflect
12 44 percent of the -- I'm sorry. Let me start that
13 question again.

14 Are you indicating that as a result of
15 the sale of the power from these units under the PPA
16 rider that AEP Ohio's consumers will be charged for
17 generation and 44 percent of that charge for
18 generation will be the cost of the PPA unit's output?

19 A. Not -- no. As we talked earlier in your
20 questions customers will pay 100 percent of either
21 their SSO charges or if they're shopping the CRES
22 provider charges. What I'm saying here is that to
23 understand and sort of order of magnitude, order of
24 impact of the rider, the rider covers the generation
25 output of the PPA units and OVEC represents about

1 44 percent of the total megawatt hours that are
2 consumed by all AEP Ohio customers. And so it
3 gives -- it puts perspective on the portion of the
4 megawatt hours that are really being hedged by the
5 PPA rider. That's what it's really reflecting.

6 It's a way to provide a summary of the
7 order of magnitude affect of the rider. Rider is
8 going to be a dollar number, it's either -- whatever
9 it is, it's either a credit or a charge. But it's
10 the generation that is being from the PPA rider units
11 is about 44 percent of the generation.

12 MR. KURTZ: Did you misspeak, 44 percent
13 of native load.

14 A. Excuse me, native load.

15 Q. And AEP has provided an estimate of what
16 they think the PPA charge will be in the short-term
17 isn't that correct?

18 A. Yes. Mr. Pearce's analysis.

19 Q. Did you see Mr. Allen's estimate of what
20 that charge will be to customers in the short-term?

21 MR. SATTERWHITE: Objection, your Honor,
22 that's beyond the scope of the redirect which was
23 focused on page 10 of his testimony.

24 MS. PETRUCCI: Your Honor, what I was
25 trying to do given the fact that he's explaining the

1 difference between his reference to pricing in the
2 written testimony and his explanation of how the
3 pricing affects customers' charges, I'm following up
4 specifically and making sure the record is clear as
5 to what he is indicating that 44 percent would mean.

6 MR. SATTERWHITE: And was available in
7 his prefiled direct and all these questions could
8 have been asked prior.

9 MR. KURTZ: And I agree with
10 Mr. Satterwhite. I limited it to a very narrow
11 topic.

12 MS. PETRUCCI: I'm trying to make sure
13 the record's very clear.

14 EXAMINER SEE: And I believe this is the
15 same way explained by the witness on cross. Do you
16 have other questions?

17 MS. PETRUCCI: I don't think so. Thank
18 you.

19 EXAMINER SEE: Mr. Pritchard?

20 MR. PRITCHARD: Yes, your Honor.

21 - - -

22 RECROSS-EXAMINATION

23 By Mr. Pritchard:

24 Q. In regards to your clarification you gave
25 on redirect, you agree that you're not saying that

1 44 percent of a customer's bill was going to be based
2 on the PPA rider, correct?

3 A. That is correct.

4 Q. And that 44 percent of their bill is not
5 going to be based on cost of service ratemaking,
6 correct?

7 A. That is correct. It's an order of
8 magnitude measurement of the amount of the total
9 megawatt hours used by customers that is effectively
10 being hedged by this cost of service type PPA rider.

11 Q. Are you aware that Dr. Pearce has
12 testimony in a table in his direct testimony that
13 describes the order of magnitude of what he projects
14 the hedge is as far as the order of magnitude?

15 A. He calculates dollars, if that's what
16 you're referring to.

17 Q. A dollar per megawatt hour, is that your
18 recollection?

19 A. I accept that. I don't remember right
20 now.

21 MR. PRITCHARD: No further questions.

22 EXAMINER SEE: Mr. Kurtz -- I'm sorry.
23 Mr. Satterwhite.

24 MR. SATTERWHITE: No questions, your
25 Honor. Thank you.

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1 EXAMINER SEE: Mr. Margard?

2 MR. MARGARD: No, thank you.

3 EXAMINER SEE: Mr. Kurtz?

4 MR. KURTZ: I could but I think we've all
5 had enough.

6 EXAMINER SEE: We have. Did you move for
7 the admission?

8 MR. KURTZ: Thank you, your Honor. I
9 move for the admission of OEG Exhibit 1.

10 EXAMINER SEE: Are there any objections?

11 MR. SATTERWHITE: No objections.

12 EXAMINER SEE: With that OEG Exhibit 1 is
13 admitted into the record.

14 (EXHIBIT ADMITTED INTO EVIDENCE.)

15 EXAMINER SEE: Thank you for your
16 patience, Mr. Baron.

17 THE WITNESS: Thank you, Your Honors. I
18 appreciate being able to complete my testimony today.

19 MR. PRITCHARD: Your Honor, I have a
20 document I know was discussed earlier but I would,
21 just to be clear, reoffer IEU Exhibit 15.

22 EXAMINER SEE: We already decided.

23 MR. PRITCHARD: Just wanted to be clear
24 that it was admitted.

25 MR. SATTERWHITE: We won't object to the

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1 admission but just reiterate our objections from
2 earlier.

3 EXAMINER SEE: And we've already taken
4 care of what was marked as IEU Exhibit 15 and how
5 we're going to handle it, correct?

6 MR. SATTERWHITE: Thank you.

7 EXAMINER SEE: Is there anything further?

8 Given that, we'll conclude for the
9 evening. We'll reconvene tomorrow at 9:00 a.m.

10 (Thereupon, the hearing was adjourned at
11 8:18 p.m.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Thursday, October 15, 2015, and carefully compared with my original stenographic notes.

Julieanna Hennebert,
Registered Professional
Reporter,
RMR, and Notary Public in and
for
the State of Ohio.

My commission expires February 19, 2018.

Rosemary Foster Anderson,
Registered Professional
Reporter
and Notary Public in and for
the
State of Ohio.

My commission expires April 5, 2019.

(rfa-79513)

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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 10/15/15 - Volume XI electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Anderson, Rosemary Foster Mrs.