

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 Friday, October 16,
2015.

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VOLUME XII

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Friday Morning Session,

October 16, 2015.

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EXAMINER PARROT: Let's go on the record.

Good morning, everyone. This is a
continuation of the hearing in Case No.
14-1693-EL-RDR.

Let's take brief appearances, starting
with the company.

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

MR. KURTZ: Good morning, your Honors.
For OEG, Michael Kurtz --

MR. DARR: On behalf of IEU Ohio, Frank
Darr.

MR. SETTINERI: Good morning, your
Honors. On behalf of PJM Power Providers Group,
Electric Power Supply Association, Constellation
NewEnergy, and Exelon Generation, LLC, and the Retail
Energy Supply Association, M. Howard Petricoff,
Michael Settineri, and Gretchen Petrucci.

MR. MAYES: I'm Jeffrey Mayes, general
counsel for Monitor Analytics for PJM.

1 MR. MARGARD: On behalf of the staff of
2 the Public Utilities Commission, Steven L. Beeler,
3 Werner L. Margard, assistant attorneys general.

4 MR. MICHAEL: Good morning, your Honors.
5 On behalf of AEP Ohio's Residential Utility
6 Consumers, Office of the Ohio Consumers' Counsel,
7 William J. Michael, Kevin Moore, Jodi Bair, and as
8 outside counsel, Dane Stinson.

9 MS. WILLIAMS: Good morning, your Honors.
10 Laurie Williams on behalf of Sierra Club.

11 MR. DOUGHERTY: Good morning, your
12 Honors. On behalf of the Ohio Environmental Council
13 and the Environmental Defense Fund, Trent Dougherty.

14 EXAMINER PARROT: Anyone else I missed in
15 the back? Very good.

16 I believe we have our first witness
17 today. Mr. Mayes.

18 MR. MAYES: Your Honor, the Market
19 Monitor presents --

20 MR. CONWAY: Your Honor, I --

21 EXAMINER PARROT: You have a matter you
22 wish to address, Mr. Conway?

23 MR. CONWAY: Yes. Thank you. Yesterday
24 afternoon, sometime after 3:00, counsel for the
25 company received material revisions to OCC Witness

1 Mr. Wilson's testimony. Mr. Wilson, as you know, is
2 scheduled to testify today this afternoon.

3 What we received in the mail, an email
4 last night, was a revised exhibit, JFW-2 and Figure
5 23 to the testimony, which, in our view, capture the
6 central points of Mr. Wilson's most significant
7 criticisms and OCC's in this case most significant
8 criticisms of our proposals.

9 There was no mention from OCC's counsel
10 that these revisions were coming and no notice was
11 provided, and, apparently, OCC intends to present the
12 revisions as supplemental testimony as errata today
13 when Mr. Wilson takes the stand.

14 I would just point out that in
15 conjunction with the Revised Exhibit JFW-2, as well
16 as Figure 2, OCC supplied five separate emails with
17 zip files connected to them that provide all of the
18 revised data and support, allegedly, that's necessary
19 to show what happened in these exhibits to change the
20 bottom line from \$1.4 billion reported cost of the
21 PPA rider to \$1.6 billion.

22 So the revisions that OCC is attempting
23 to shoehorn into the record at the last minute amount
24 to a \$200 million change in its position from what it
25 filed in Mr. Wilson's testimony. As I mentioned,

1 it's not errata. It's a supplement. It's an
2 expansion of OCC's position. It's essentially a new
3 exhibit. It's essentially new testimony, and on the
4 eve of the witness taking the stand, we get this
5 revision, over two months after the testimony was
6 required to be prefiled by OCC, after discovery has
7 run its course, and it's over and two and a half
8 weeks after the hearing commenced. We're being
9 ambushed, frankly, your Honor, and we object to it.

10 We don't know, as we stand here today,
11 what OCC has done to change its position by
12 \$200 million, and we have no way of finding out and
13 adequately preparing to address it by the time
14 Mr. Wilson is scheduled to take the stand today.

15 It's not errata. This is not changing
16 typos or bad grammar in the testimony. It's not
17 correcting a simple arithmetic error. It took five
18 zip files of information to support the changes that
19 are being proposed.

20 Presenting at hearing a different,
21 previously unseen version of an exhibit or testimony
22 is prejudicial to the party that stands in opposition
23 to it. The proper course is to exclude the new
24 exhibit and testimony and allow OCC and Mr. Wilson to
25 proceed with their existing testimony and exhibits.

1 Anything else would prejudice us.

2 We are not prepared, again, and cannot be
3 prepared, again, to address this new testimony. We
4 are prepared to address the testimony that was
5 prefiled that we did conduct discovery on. Today is
6 our opportunity to conduct cross-examination of the
7 witnesses who oppose our position. It's not an
8 opportunity for those witnesses or the parties that
9 they represent to revise or supplement their
10 positions.

11 So we would -- particularly without even
12 asking for permission, your Honor. So we object to
13 it, and we request that you rule on it as soon as
14 possible that its improper, and I imagine, your
15 Honors, that you haven't even seen it.

16 EXAMINER PARROT: We haven't seen it,
17 Mr. Conway, so I can't rule on anything just yet.

18 MR. CONWAY: So there's another flaw in
19 the process. They haven't even notified the Bench
20 what they propose to do, nor have they asked
21 permission to do it from the Bench, so its contrary
22 to your pretrial scheduling orders.

23 Thank you.

24 EXAMINER PARROT: Mr. Michael?

25 MR. MICHAEL: Your Honor, despite the

1 implications of Mr. Conway's discussion, OCC was made
2 aware of some arithmetical errors in Mr. Wilson's
3 testimony yesterday. We addressed it as soon as we
4 were made aware of it and sent it to counsel for AEP
5 Ohio as soon as we were able to do so, and that was
6 about mid-afternoon. It wasn't last night. So as
7 soon as we were made aware of the errors, we
8 addressed it, and we sent it off to counsel for AEP
9 Ohio.

10 As Mr. Conway did get one thing right, it
11 basically changes the cost that Mr. Wilson arrived
12 at, a dollar figure. There's no conceptual
13 difference. There's no substantive difference.
14 Directionally, it's the same as it was in his direct
15 testimony that was filed originally. And if the
16 issue is accurate information and a full and complete
17 record, then OCC believes it is important to allow
18 Mr. Wilson to make arithmetical corrections to his
19 testimony.

20 And he's subject to cross-examination. I
21 mean, AEP Ohio has a number of very well-trained and
22 experienced lawyers, and Mr. Wilson is going to have
23 to defend what his numbers are. So it wasn't ambush.
24 It wasn't intentional. As soon as we got it, we sent
25 it to him, and, quite frankly, I'm surprised he would

1 even imply anything else.

2 MR. CONWAY: Your Honor, there were five
3 zip files of workpapers that were submitted along
4 with the changes. There's no narrative explanation
5 even in the email about what it was about. It
6 absolutely is an ambush at the last minute, what OCC
7 and Mr. Wilson are attempting to do.

8 There is absolutely no way that we could
9 figure out what he did to increase his conceptual
10 position by \$200 million. If it is just a conceptual
11 point that Mr. Wilson has made, then he should be
12 happy with just relying upon the testimony, and OCC
13 should be happy about relying on the testimony that
14 he's already supplied, and if he wants to reduce his
15 number by \$200 million, we'd have no objection to
16 changes that he's making.

17 I'm sure that's not going to be something
18 that's going to be offered up by OCC, but I think its
19 disingenuous on Mr. Michael's part to suggest that
20 this is no big deal, that this is simply some simple
21 matter that needs to be corrected at the last second.
22 It's not.

23 It's time for us to do our
24 cross-examination, and we're entitled to
25 cross-examine the testimony and the version of OCC's

1 position we got two months ago that we discovered,
2 did discovery on, and that we are prepared to
3 cross-examine on. We should not be forced to deal
4 with this new supplemental revised testimony that
5 they've come up with.

6 MR. MICHAEL: And just to affirm for your
7 Honors, it's not supplemental testimony. Its Table 2
8 in his direct testimony with revised numbers. It is
9 an exhibit to his testimony with revised numbers. So
10 to say that it's testimony just isn't accurate. Its
11 revisions to numbers that appear in his tables.

12 I fully agree that he's subject to
13 cross-examination, vigorous cross-examination, about
14 it. But it's about numbers in his tables. It's not
15 testimony.

16 MR. CONWAY: This is not just about
17 numbers. The table and the figures in his testimony,
18 Figure 2, is the ultimate point of his testimony, his
19 view about the impact of the PPA rider on customers.
20 So it is actually the summit of his testimony. It's
21 the point of it.

22 The exhibit isn't even an expanded
23 version of Figure 2. It is also the summit, the
24 point of his testimony, so this is absolutely a
25 revision, a supplement to his previous position.

1 And, your Honors, I'd like to distribute
2 to you a few citations to support my argument and my
3 position. The courts in Ohio have routinely agreed
4 that providing revised testimony, new exhibits, on
5 the eve of trial is unacceptable and should be
6 precluded.

7 MR. SETTINERI: Your Honors, if I may, I
8 would just note AEP Witness Allen also revised his
9 numbers prior to going into cross-examination. If I
10 recall, the numbers in that paragraph were
11 essentially his testimony as well as to the impacts
12 to customers.

13 MR. CONWAY: And, your Honor, the
14 difference is those numbers, first of all, were the
15 result of cross-examination of Mr. Bradish, but prior
16 to Mr. Allen, concerning allocations regarding
17 transmission costs that the company contends the
18 customers would save if its proposals -- would
19 potentially save it its proposal is adopted.

20 I would also note that the direction of
21 the changes were the company's position on what it
22 would cost -- the cost saved by customers through the
23 adoption of its proposal were less than what
24 Mr. Allen had included in his original testimony, so
25 directionally it went exactly the opposite way, and

1 if there was an objection to it, it could have been
2 made at the time.

3 And it wasn't our main point, as this is
4 the main point of Mr. Wilson and it wasn't
5 Mr. Bradish's main point, as is the case here.

6 And I would just point out that with
7 regard to the only comparable situation in this case
8 truly, which is Mr. Chernick's supplemental
9 testimony, at least Sierra Club prefiled his revised
10 testimony in advance of the hearing and in advance of
11 his cross-examination, about two and a half weeks,
12 with a motion, and discovery was permitted to be
13 conducted on it before the cross-examination. So
14 there is nothing in this case that compares to what
15 we are facing with what OCC is attempting to do with
16 Mr. Wilson's testimony.

17 MR. MICHAEL: I just want to reiterate
18 for your Honors, once again, that to the degree that
19 Mr. Conway is trying to imply that in any way, shape,
20 or form that we held on to this information or didn't
21 produce it as soon as we knew about it, he's
22 flat-out, absolutely wrong. As soon as we knew about
23 it, we sent it over to him mid-afternoon yesterday,
24 and had we had it two weeks beforehand, we would have
25 sent it two weeks beforehand, but we sent it as soon

1 as we had it.

2 Mr. Wilson's going to be subject to
3 cross-examination and, again, it's numbers in a table
4 that are directionally the same as his original
5 testimony.

6 MR. CONWAY: One last point, your Honor,
7 which is Mr. Michael's comment about not
8 intentionally trying to sandbag us is, frankly,
9 beside the point, because that's inevitably, in any
10 case, the result of what's happening here. The point
11 of the rule about precluding such testimony and
12 exhibits is to avoid, prevent the prejudice, the
13 undue surprise to the party who's being affected, and
14 that's us. It doesn't matter what the intention was
15 of the party who did it.

16 Thank you.

17 MR. DARR: Your Honor?

18 EXAMINER PARROT: Mr. Darr.

19 MR. DARR: One other possibility here,
20 which neither side of this debate would want to have
21 to require Mr. Wilson to have to come back, but the
22 third possibility, to assure that the record is
23 complete, is to afford AEP sufficient time to review
24 the testimony and require Mr. Wilson to come back at
25 a later time. And I know that's probably not

1 acceptable to either party, but it would assure that
2 the record is fairly developed.

3 MR. CONWAY: And, your Honor, we were
4 prepared to go forward with the cross-examination
5 today, and I think it is not an adequate alternative
6 to simply allowing us to go forward today according
7 to the schedule that's already been set. I don't
8 think that's an appropriate alternative, although I
9 will say that at least Mr. Darr's recognizing the
10 problem that we face.

11 EXAMINER PARROT: Mr. Michael, did you
12 have a response to Mr. Darr's suggestion?

13 MR. MICHAEL: That would be acceptable to
14 us, your Honor. Reiterating what I indicated
15 earlier, our initial position is that it's not
16 necessary, and to the degree Mr. Conway feels that
17 OCC sandbagged is beside the point. He shouldn't
18 have implied it in his arguments, quite frankly,
19 which he did do.

20 But, in any event, if your Honors feel in
21 the interest of justice and in the interest of the
22 public and in the interest of full record to give AEP
23 Ohio more time to look at the numbers and bring
24 Mr. Wilson back, we would not object to that.

25 EXAMINER PARROT: Mr. Michael, to whom

1 did you circulate this information yesterday?

2 MR. MICHAEL: I circulated it to all
3 counsel for AEP Ohio. There were, if I'm not
4 mistaken, one, if not two, confidential pieces that
5 consistent with our agreement with counsel for AEP
6 Ohio, I sent to just them, and they were going to
7 review it and circulate it to the rest of the
8 parties.

9 MR. CONWAY: That is not accurate. We
10 never agreed to review it and circulate it to any
11 parties. We are still in shock here, your Honors,
12 about what we got yesterday evening, still trying to
13 come to grips with it, and where we are right now is
14 at the point where we're objecting to it, and we have
15 no interest in furthering OCC's plan, Mr. Wilson's
16 plan, to revise and supplement his testimony.

17 MR. MICHAEL: And just the bottom line
18 is, your Honor, AEP Ohio's counsel has all the
19 documents.

20 EXAMINER PARROT: Do the other
21 intervenors or the staff have the document?

22 MR. MICHAEL: The public table -- Table
23 2, which is in Mr. Wilson's public testimony, has
24 been sent to all the parties. There was a
25 confidential JFW-2 exhibit and workpapers that were

1 sent to only AEP Ohio's counsel, and I consulted with
2 my co-counsel in this case, Ms. Bair, who's been kind
3 of quarterbacking the production of confidential
4 information, and she confirmed for me that the
5 pattern and practice has been consistent with
6 discussions with Mr. Nourse that we will produce
7 confidential documentation to the company first, and
8 then they would resend it out, which is what we did
9 in this case.

10 EXAMINER PARROT: Did you send it to the
11 Bench, any of it?

12 MR. MICHAEL: No, your Honor. I did not.

13 EXAMINER PARROT: We're going to defer
14 ruling on this issue until a further point in our
15 process today.

16 Mr. Conway, thank you for bringing the
17 issue to our attention.

18 MR. CONWAY: Thank you, your Honor.

19 EXAMINER PARROT: Thank you for your
20 patience, Mr. Mayes. I'll turn it over to you.

21 MR. MAYES: The market monitor calls its
22 witness, Dr. Joseph E. Bowring. He's the president
23 of Monitoring Analytics and the market monitor for
24 PJM.

25 - - -

1 JOSEPH E. BOWRING

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

4 DIRECT EXAMINATION

5 By Mr. Mayes:

6 Q. Dr. Bowring, do you have a copy of the
7 document filed by the market monitor in this
8 proceeding?

9 A. Yes.

10 Q. On September 11, 2015, the direct
11 testimony of Joseph E. Bowring on behalf of the
12 independent market monitor for PJM?

13 A. Yes.

14 Q. And is this testimony prepared by you?

15 A. Yes.

16 Q. And is this testimony the same testimony
17 that you would make today as you would when it was
18 filed?

19 A. Yes.

20 Q. Do you have any corrections to the
21 testimony?

22 A. No.

23 MR. MAYES: Your Honor, I would ask that
24 this document be marked as IMM 1.

25 EXAMINER PARROT: So marked.

3035

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 MR. MAYES: Your Honor, I would like to
3 make Dr. Bowring available for cross-examination.

4 EXAMINER PARROT: Thank you, Mr. Mayes.
5 Mr. Dougherty?

6 MR. DOUGHERTY: No questions.

7 EXAMINER PARROT: Ms. Williams?

8 MS. WILLIAMS: No questions, your Honor.
9 Thank you.

10 EXAMINER PARROT: Mr. Michael?

11 MR. MICHAEL: No questions, your Honor.

12 EXAMINER PARROT: Mr. Settineri?

13 MR. SETTINERI: No questions, your Honor.

14 EXAMINER PARROT: Mr. Darr?

15 MR. DARR: No questions, your Honor.

16 EXAMINER PARROT: Mr. Kurtz?

17 MR. KURTZ: Thank you, your Honor.

18 - - -

19 CROSS-EXAMINATION

20 By Mr. Kurtz:

21 Q. Good morning, Dr. Bowring.

22 A. Good morning.

23 Q. Just by way of very brief foundation,
24 it's obvious your position is that the PPA rider
25 would constitute a subsidy that's inconsistent with

1 competition in PJM wholesale markets, and, therefore,
2 the Commission should deny it; is that correct?

3 A. Yes.

4 Q. Would your conclusion be the same even if
5 the Commission knew, with certainty, that the PPA
6 rider would help consumers in the AEP Ohio service
7 territory?

8 A. Can you just --

9 MR. MAYES: Your Honor, we object. That
10 includes an assumption.

11 MR. KURTZ: It was a hypothetical
12 question.

13 MR. MAYES: It's not a hypothetical
14 question. It includes an assumption about the
15 results of a determination, when, in fact, the
16 testimony is contrary to the proposition it is in the
17 public interest to have subsidies in a regime where
18 there is a competitive market paradigm for
19 regulation.

20 MR. KURTZ: Can I rephrase?

21 EXAMINER PARROT: Yes, go ahead.

22 Q. (By Mr. Kurtz) If you knew, with
23 certainty, that the PPA rider over its term would be
24 a credit to consumers, would your position still be
25 the same?

1 A. Yes.

2 Q. If you knew, with certainty, that the PPA
3 rider would avoid additional transmission costs,
4 would your position still be the same?

5 A. Yes.

6 Q. And I take it it would be the same even
7 if -- well, that's fine.

8 Let me ask you to turn to page 4 of your
9 testimony, line 4. Just to read very briefly, "AEP
10 is requesting that the plants and the contract be
11 returned to the cost of service regime that predated
12 the introduction of competitive wholesale power
13 markets."

14 When you use the word "predated," does
15 that assume that the cost-of-service regulation
16 regime no longer exists in PJM?

17 A. Certainly some areas and some entities in
18 PJM are still subject to cost-of-service regulation.

19 Q. Within Ohio -- excuse me. Buckeye Rural
20 Electric Cooperative, is that a member of PJM?

21 A. Yes.

22 Q. Do they have cost-of-service regulation?

23 A. Yes. I think, without exception, munis
24 and co-ops in PJM use, as we would characterize it,
25 cost-of-service regulation.

1 Q. And that would include AMP Ohio within
2 Ohio?

3 A. Yes.

4 Q. Do cost-of-service munis, municipal
5 utilities, and cooperative utilities exist throughout
6 the 13 states that come across PJM?

7 A. Yes.

8 Q. Now, with respect to investor-owned
9 utilities, the investor-owned utilities still have
10 cost-of-service regulation within the PJM footprint,
11 correct?

12 A. Some do, yes.

13 Q. That would include utilities in Virginia?

14 A. Yes.

15 Q. I'll just list them: Virginia, West
16 Virginia, Kentucky, Indiana, North Carolina,
17 Tennessee, and Michigan.

18 A. Yes.

19 Q. And do renewable portfolio standards
20 exist throughout the PJM footprint, in some of the
21 states, at least?

22 A. Yes.

23 Q. And those RPS standards require the
24 construction or require the utilization of certain
25 types of generation?

1 A. They require load-serving entities to
2 purchase defined portions of renewable energy.

3 Q. Do you consider the RPS standards that
4 exist, in at least some of the PJM states, to be a
5 subsidy?

6 A. Yes.

7 Q. Same page, line 17, "Such subsidies would
8 negatively affect the incentives to build new
9 generation would likely result in a situation where
10 only subsidized units would ever rebuild."

11 It's true, isn't it, that merchant
12 generation is being built within the PJM footprint
13 that is not subsidized?

14 A. Yes.

15 Q. And that exists even within Ohio?

16 A. Yes.

17 Q. So is it, at least, a slight
18 overstatement to say that only subsidized units would
19 be built?

20 A. That's not what I said.

21 Q. Would likely result in a situation?

22 A. I believe my sentence is not an
23 overstatement.

24 Q. On pages 4 through 5, at the end you
25 describe two paradigms that could result, at least

1 two broad paradigms that could result in sustainable
2 market design, that being, the market paradigm and
3 the quasi-market paradigm?

4 A. Yes.

5 Q. And would you agree that the states that
6 we named earlier that have cost-of-service generation
7 for investor-owned utilities and municipal utilities
8 and cooperative utilities comprise a quasi-market
9 paradigm, that being, Virginia, West Virginia,
10 Kentucky, Indiana, North Carolina, Tennessee, and
11 Michigan.

12 A. To the extent that's -- and it's almost
13 complete. To the extent that those entities are
14 using cost-of-service regulation, the answer is yes.

15 Q. So what would be the market-paradigm
16 states, in your opinion, within PJM?

17 A. The rest of the states all are
18 predominantly market paradigm, although, as you
19 pointed out, almost every state has some
20 municipalities and co-ops exceptions.

21 Q. Before you filed your testimony, did you
22 review the ESP statute, 4928.143?

23 A. No.

24 Q. So at the time you filed your testimony,
25 you did not know that investor-owned utilities under

1 an ESP could get a cost-of-service surcharge for a
2 new power plant that they were -- that they own or
3 operate?

4 A. Certainly been made aware of it, but I
5 don't think I was aware of it at the time I filed
6 this direct.

7 Q. Did you know before you filed your
8 testimony that investor-owned utilities under an ESP
9 could get a construction-work-in-progress surcharge
10 for the construction of a new power plant?

11 A. No.

12 Q. Same question, that investor-owned
13 utilities could implement a fuel adjustment charge?

14 A. No.

15 Q. Did you know that under an ESP the
16 Commission could put limitations on shopping?

17 A. No.

18 Q. I'm going to ask you the ultimate
19 question, I'd like to hear you. You, I guess,
20 believed when you filed your testimony that Ohio was
21 in the market paradigm and not the quasi-market
22 paradigm, hence, the cost-of-service PPA was
23 inconsistent with PJM practices?

24 A. I think -- I did think and continue to
25 think that Ohio's predominantly in a market-paradigm

1 state. There's retail access. There's market-based
2 generation, merchant-based generation being built,
3 yes.

4 Q. If the Commission concluded or a court of
5 law concluded that Ohio, under an ESP, was, in fact,
6 a quasi-market paradigm state, would the PPA be
7 inconsistent with PJM's markets?

8 MR. MAYES: Objection. Vague.

9 EXAMINER PARROT: The witness may answer
10 the question if he's able to.

11 If you need clarification, Mr. Bowring,
12 please let us know.

13 THE WITNESS: Sorry, could we have the
14 question again?

15 (Record read.)

16 A. And so I'm not sure I ever heard of a
17 commission or court concluding anything about whether
18 someone was a market state, so I'm not sure exactly
19 what you mean. But if the Commission ruled that the
20 proposal was acceptable, it would continue to be an
21 issue for me. I continue to believe it's a subsidy,
22 yes.

23 MR. KURTZ: Okay. Thank you,
24 Dr. Bowring.

25 THE WITNESS: Thank you.

1 EXAMINER PARROT: Mr. McKenzie?

2 MR. McKENZIE: Yes, your Honor.

3 - - -

4 CROSS-EXAMINATION

5 By Mr. McKenzie:

6 Q. Hello again, Dr. Bowring.

7 A. Hello.

8 Q. Welcome back to Ohio.

9 A. Thank you.

10 Q. Now, you submitted testimony in the
11 FirstEnergy case that's proceeding concurrently to
12 this one, correct?

13 A. Yes.

14 Q. And you were deposed both in that case
15 and in this case, correct?

16 A. Yes.

17 Q. So I acknowledge that some of this will
18 be repetitive to you, but I just ask you to bear with
19 me.

20 First of all, the testimony that you
21 submitted in the FirstEnergy case was almost
22 identical to the testimony you submitted here; is
23 that correct?

24 A. The point was the same, yes.

25 Q. And when you testified in the FirstEnergy

1 hearing, that was the first time you had testified
2 for the Public Utilities Commission of Ohio, correct?

3 A. Yes.

4 Q. And other than this case and the
5 FirstEnergy case, you've never intervened in any
6 proceeding before this Commission, correct?

7 A. I believe that is correct, yes.

8 Q. Let's turn to your testimony, page 2,
9 lines 20 through 21. You say here, "AEP does not
10 believe that the units are profitable and does not
11 appear to believe that current and expected market
12 conditions will make the units profitable."

13 Did I read that correctly?

14 A. Yes.

15 Q. And then starting on line 22, you quote
16 statements from AEP Ohio witness testimony; is that
17 correct?

18 A. Yes.

19 Q. Now, your statement on lines 20 and 21
20 about what AEP believes, that's based entirely on
21 your reading of the testimony of AEP Ohio witnesses
22 in this case, correct?

23 A. Testimony and the filing, yes.

24 Q. Fair enough. So my question is, your
25 statement about what AEP Ohio believes, that does not

1 rely on any sources other than the sources in this
2 case, correct?

3 A. Yes.

4 Q. Let's go to line 4 of page 2 of your
5 testimony. You say, "The proposed PPA rider would
6 transfer from AEP (AEPGR) to the ratepayers of AEP on
7 a nonbypassable basis, all responsibility for paying
8 to AEP all costs associated with the PPA Units
9 through the retirement dates of each and any
10 post-retirement period for each, including paying
11 retirement costs and any residual value"?

12 Do you see that?

13 A. Yes.

14 Q. When you say ratepayers will be
15 responsible "for paying to AEP all costs associated
16 with the PPA Units," you mean that ratepayers will
17 pay costs net of PJM market revenues, correct?

18 A. I mean, the sentence as it is, it is
19 correct; nonetheless, ratepayers, customers of AEP,
20 will be paying the gross costs net of any market net
21 revenues, yes.

22 Q. So if the revenues from selling the PPA
23 units' energy, capacity, and ancillary services
24 exceed the PPA costs, ratepayers will actually
25 receive a credit, correct?

1 A. Yes.

2 Q. And they won't be paying anything for the
3 plants at that point, correct?

4 A. Yes.

5 Q. And just to be clear, you haven't done
6 any analysis or modeling that calls into question AEP
7 Ohio's projection of a net credit to ratepayers,
8 correct?

9 A. I felt that the actions of AEP were more
10 important than the actual decisions to transfer
11 responsibility to the customers, was more critical
12 than evaluating forecasts. I did not do any separate
13 forecast myself or evaluate the forecasts.

14 That was a long way of answering, sorry.

15 Q. Let me ask you about OVEC. You're
16 familiar with OVEC, correct?

17 A. Yes.

18 Q. Now, you don't know how many OVEC members
19 include the net cost of their OVEC entitlement in
20 retail rates, correct?

21 A. Correct.

22 Q. And you've never intervened in any state
23 commission proceeding to seek to exclude net OVEC
24 costs and retail rates, correct?

25 A. Correct.

1 Q. Your testimony page 2, line 10, you say,
2 "In addition, the proposed PPA rider would transfer
3 from AEP (AEPGR) to the ratepayers of AEP all
4 responsibility for paying AEP's share of the two
5 generation plants owned and operated by the Ohio
6 Valley Electric Corporation ('OVEC')."

7 Did I read that correctly?

8 A. Yes.

9 Q. Is it fair to say you don't know which
10 AEP entity owns the OVEC entitlement at issue here?

11 A. Yes.

12 Q. And one of the things you do as market
13 monitor is you monitor retirements of generation
14 units in PJM, correct?

15 A. Yes.

16 Q. You also monitor the additions of new
17 generating units in PJM?

18 A. Yes.

19 Q. Would you agree with me that a large
20 percentage of the retirements in the last four or
21 five years have been coal-fired units?

22 A. Yes.

23 Q. And you would also agree that the
24 overwhelming percentage of additions in PJM in the
25 last four or five years have been natural gas-fired

1 units, correct?

2 A. Yes.

3 Q. Let me ask you some questions about the
4 PJM rules. First of all, you would agree that PJM
5 capacity market rules are not perfect, correct?

6 A. Yes.

7 Q. For example, capacity prices have been
8 suppressed by a number of market-design features,
9 correct?

10 A. Yes. It is important to note, as I do in
11 the testimony, and I'm sure you're aware that the
12 rules recently changed, so much of my former
13 criticism is no longer correct, but I would still
14 agree.

15 Q. Do you no longer think that capacity
16 prices will be suppressed by the market-design
17 features?

18 A. There are still market-design features,
19 one in particular which will continue to have a
20 suppressing effect. We're in the middle of doing an
21 analysis of the most recent BRA rate to determine the
22 exact extent, but, yes, there will continue to be
23 some price suppressive effect from market-design
24 features under capacity performance, both words
25 capitalized.

1 Q. What is that one particular design
2 feature that will have a suppressing event?

3 A. It's the inclusion of demand-side
4 resources, subject to a Supreme Court ruling, based
5 on yesterday's discussion.

6 Q. It would be your opinion that the recent
7 changes in the PJM market have alleviated some of the
8 price-suppressive conditions; is that correct?

9 A. Yes.

10 Q. So would you expect that, based on those
11 changes, capacity prices will tend to go up in future
12 years?

13 A. Well, they did for '18-'19, for the first
14 auction under capacity performance. I try to stay
15 away from projecting.

16 Q. Can you speak in a general manner? Since
17 you don't think there's going to be price-suppressive
18 effects, do you believe that prices will continue to
19 go up compared to what they've been under the old
20 regime?

21 A. They certainly have so far, and all else
22 held constant, I would expect they would be higher,
23 yes.

24 Q. Is it fair to say that when the capacity
25 performance rules were announced, that you predicted

1 the capacity prices would roughly triple under the
2 new capacity performance regime?

3 A. I don't believe so, but...

4 Q. Do you have any specific projection about
5 what the capacity prices will be under the new
6 capacity performance regime?

7 A. No. We don't project prices. We did do
8 a sensitivity analysis in PJM prior to capacity
9 performance being made final, but that was not a
10 projection.

11 MR. McKENZIE: Your Honor, may we
12 approach?

13 EXAMINER PARROT: You may.

14 MR. McKENZIE: I'd like to have this
15 document marked as AEP Exhibit 34, please.

16 (EXHIBIT MARKED FOR IDENTIFICATION.)

17 Q. Take your time, Dr. Bowring, and tell me
18 when you're ready.

19 A. I'm ready.

20 Q. Do you recall you were interviewed by
21 Bernstein Research, Mr. Hugh Wynne?

22 A. Yes.

23 Q. And in that interview did you predict
24 that new capacity market architecture would triple
25 capacity prices in PJM?

1 A. Can you point me to where you're
2 referring to?

3 Q. Sure. The headline.

4 A. Well, I didn't speak the headline. The
5 headline is not a quote from me. If there's
6 something else in my actual words I could look at,
7 but I didn't say that as far as I know.

8 MR. SETTINERI: Your Honors, at this time
9 I'll object to the use of this document. There has
10 been no foundation laid that the witness is familiar
11 with this exact document, which is not an official
12 transcript. It's a typed transcript from a research
13 facility. Until the witness has said he's familiar
14 with the document, there should be no reference or
15 use of this document.

16 MR. McKENZIE: I haven't moved the
17 admission of the document yet, your Honor, and I will
18 ask my questions precisely so as not to do that.

19 MR. SETTINERI: Your Honors, I think the
20 last question referred him to the document.

21 MR. McKENZIE: Fair enough. I won't do
22 that.

23 Q. (By Mr. McKenzie) So first let me ask
24 you this, Dr. Bowring, do you recall in the interview
25 with Mr. Wynne that you predicted that the capacity

1 performance proposal could drive up capacity prices
2 to over \$300?

3 A. Are you referring to something?

4 Q. No, don't look at the document. Do you
5 recall that you did that?

6 A. No.

7 Q. Would looking at his report of your
8 interview refresh your recollection?

9 A. Yes.

10 Q. Could you look at the first bullet under
11 highlights, please?

12 MR. SETTINERI: Your Honor, again, at
13 this time I would renew the objection. The witness
14 is not familiar with this document, it's now being
15 apparently used to refresh. If the witness is not
16 familiar with the document and has never seen the
17 document, it should not be used for this purpose.

18 The questioning is fine to ask him about
19 his recollection of the interview, but it should stop
20 there, and to have him have the document in front of
21 him to flip through it and read it into the record is
22 not proper.

23 MR. MCKENZIE: Your Honor, my
24 understanding, that's not an accurate statement of
25 the rules of evidence. I can use anything to refresh

1 the witness' recollection. I asked him if this would
2 refresh his recollection. He said yes, so I'm
3 directing him to it.

4 EXAMINER PARROT: And I'm going to
5 overrule the objection. Let's proceed, please.

6 Q. (By Mr. McKenzie) So if you look at the
7 first bullet under "Highlights," does that refresh
8 your recollection that you predicted that future
9 capacity prices would go up from 315 to 375 dollars
10 per megawatt-day?

11 A. No.

12 MR. DARR: Objection, your Honor. That's
13 an improper use of the document for refreshing
14 recollection. There's no foundation using it on that
15 basis.

16 MR. SETTINERI: As well as reading the
17 document into the record in the question.

18 MR. McKENZIE: I'm not admitting the
19 document in the record. I'm using it to refresh his
20 recollection, and he can answer if it does or it
21 doesn't.

22 EXAMINER PARROT: I'm going to overrule
23 the objection. Proceed, please.

24 A. Okay. I'm quite sure that I never gave
25 anyone -- I never do give people specific forecasts

1 about what a capacity price is going to be.

2 Q. Do you recall in this interview that you
3 predicted the capacity prices would be substantially
4 higher on a sustained basis in the capacity market?

5 A. I don't recall.

6 Q. I'm going to move on.

7 I'm sorry, Dr. Bowring if I could ask one
8 important question. Could you turn to page 4,
9 please, of this document?

10 MR. SETTINERI: Your Honors, again,
11 objection. I'm sorry to delay the process here, but
12 there's been no question that requires refreshing his
13 recollection. Now we're turning to a document that
14 he's not identified.

15 MR. DARR: We also object.

16 MR. MAYES: Your Honor, I'm also going to
17 object to the extent there's an assumption in the
18 question that the statement is a prediction. I think
19 the witness has repeatedly made it clear that he does
20 not make statements as predictions and explained
21 himself, the nature of the statements.

22 MR. MCKENZIE: Your Honor, he asked to be
23 pointed to something where he said that, so I'm
24 pointing it to him. The fact that if he was quoted
25 in saying this, that is the point of the impeachment.

1 MR. DARR: Now we've completely changed
2 the format of this, your Honor. He's being impeached
3 by a document that there's no indication, at this
4 point, of the provenance. I don't know how we get
5 from A to B.

6 MR. McKENZIE: Your Honor, he is saying
7 that he did not make the statements in this document.
8 I think that's a fairly incredible claim.

9 MR. MAYES: Your Honor, I object. He's
10 not making the statement he didn't make the
11 statements in this document. The objection is to the
12 characterization of the statements. The witness can
13 explain his statements. If you want to allow the
14 witness to explain what he means, that's fine. If
15 you're going to phrase the question in a way you
16 presume what the meaning of the statement is, then I
17 object to that.

18 EXAMINER PARROT: I don't think we have a
19 question pending, do we?

20 MR. McKENZIE: I don't think we do.

21 MR. MAYES: We've had repeated questions
22 that said, Is this a prediction of prices? That's
23 not a statement that the witness has made in this
24 document. If the witness is allowed to explain,
25 that's fine, but there's no basis to include in the

1 question a characterization of the meaning of these
2 statements.

3 MR. SETTINERI: Your Honors, there was no
4 question, but he was directing the witness to page 4
5 of the document, and the witness --

6 EXAMINER PARROT: I'd like to hear his
7 question before we object to it, please.

8 MR. McKENZIE: Your Honor, what I'm going
9 to do, he's quoted on page 4. I'm going to read it
10 and ask him if he's properly quoted.

11 EXAMINER PARROT: Let's do that please,
12 I'm fine with that.

13 Q. (By Mr. McKenzie) Page 4, if you go down
14 to the fifth paragraph, begins "Joseph Bowring," then
15 the word "Right." You say, "I do believe that if we
16 get the design right, the price will be substantially
17 higher on a sustained basis in the capacity market."

18 And then if you go to the last two
19 sentences, "So, our view is that the offer caps
20 should be set at net CONE and this view is adopted in
21 PJM's latest proposal. And net CONE these days is in
22 the mid-\$300 range."

23 Were you accurately quoted there?

24 A. I don't have any way to verify whether I
25 was, but I believe that the statements are correct.

1 Q. If you'll bear with me, I just want to
2 make sure I don't ask you questions that Mr. Kurtz
3 already asked.

4 I believe as foundation you discussed
5 with Mr. Kurtz that Virginia, West Virginia,
6 Kentucky, Indiana, and Michigan all have
7 cost-of-service regulation for generation; is that
8 correct?

9 A. Yes.

10 Q. You believe that cost-of-service
11 regulation for costs that would otherwise be
12 recovered in the wholesale market is inconsistent
13 with competition at the wholesale level; is that
14 correct?

15 A. As I pointed out, there were two possible
16 paradigms, but, yes, the quasi-market approach
17 cost-of-service regulation is inconsistent with
18 completely competitive markets, yes.

19 Q. You're familiar with a utility called
20 Dominion in Virginia; is that correct?

21 A. Yes.

22 Q. And Dominion owns approximately
23 18,000 megawatts of generation capacity, correct?

24 A. Approximately, yes.

25 Q. And Dominion's approximately

1 18,000 megawatts is roughly 10 percent of the total
2 capacity in PJM, correct?

3 A. Roughly, yes.

4 Q. Now, Dominion bids its generators into
5 both the PJM energy and capacity markets, correct?

6 A. Yes.

7 Q. And being in Virginia, Dominion receives
8 cost-based generation rates from retail customers,
9 correct?

10 A. Yes.

11 Q. Would you agree that Dominion, through
12 its cost-based rates transfers to its ratepayers all
13 responsibility for paying the cost of generation?

14 A. Without looking at the -- without
15 understanding the exact details of regulatory
16 construct there, I can't answer a hundred percent,
17 but certainly the large majority of the risk is
18 transferred to customers.

19 Q. And you'd agree that Dominion's
20 cost-based retail generation rates are a subsidy,
21 correct?

22 A. No. What I would say is that the
23 requirement that customers pay for all the costs of
24 capacity in a cost-of-service regime constitutes a
25 subsidy. The impact of that subsidy depends on how

1 Dominion actually offers the units into the capacity
2 market.

3 Q. As we went over earlier, you were deposed
4 in this proceeding, correct?

5 A. Yes.

6 Q. And were you under oath in that
7 deposition?

8 A. Yes.

9 MR. McKENZIE: May we approach your
10 Honor?

11 EXAMINER PARROT: You may.

12 Q. Dr. Bowring, I've handed you a copy of
13 the transcript of your deposition. Could you please
14 turn to page 43, line 4?

15 A. Yes.

16 Q. Question: "And you would" -- excuse me.
17 I'll start over.

18 Question: "And would you say that
19 Dominion's cost-based retail generation rates are a
20 subsidy?"

21 Answer: "Yes."

22 That was your testimony, correct?

23 MR. DARR: Objection, your Honor.

24 EXAMINER PARROT: Grounds?

25 MR. DARR: At this point it would be

1 appropriate to also include the question and answer
2 that follows to make sure that the record is complete
3 and fairly represented.

4 MR. McKENZIE: I disagree, your Honor.
5 This question is about subsidies. The next question
6 is about anticompetitive suppressive effects.
7 They're different questions. I asked him exactly the
8 same question. He said no.

9 EXAMINER PARROT: I believe that
10 Mr. Mayes may need to revisit this issue during
11 redirect. We can do that. The witness has already
12 answered the question as it was posed.

13 Next question, please.

14 Q. (By Mr. McKenzie) Just to be clear, the
15 receipt of cost-based generation rates from retail
16 customers is not inconsistent with PJM rules,
17 correct?

18 A. Correct.

19 Q. Now, you're aware that Dominion has
20 recently built and put into service a number of new
21 generation facilities, correct?

22 A. Yes.

23 Q. For example, Dominion has recently built
24 and put into service the Bear Garden Plant, correct?

25 A. Yes.

1 Q. And that's a 589-megawatt natural gas
2 combined-cycle plant, correct?

3 A. Right.

4 Q. Another Dominion plant that has recently
5 been built and put into service is the Virginia City
6 Hybrid Energy Center, correct?

7 A. Yes.

8 Q. And another Dominion plant recently built
9 and put into service is the Warren County Power
10 Station, correct?

11 A. Yes.

12 Q. And that's a natural gas combined-cycle
13 plant, correct?

14 A. Yes.

15 Q. Now, Dominion is also planning to build a
16 plant called the Brunswick County Power Station,
17 correct?

18 A. Yes.

19 Q. And that's planned to be a 1,300 megawatt
20 combined-cycle plant, correct?

21 A. Yes.

22 Q. Dominion is also planning to build a
23 plant called the Greenville Power Station; is that
24 correct?

25 A. Yes.

1 Q. And that's planned to be a 1,585-megawatt
2 natural gas combined-cycle plant, correct?

3 A. Yes.

4 Q. Now, you didn't intervene in any Virginia
5 Commission proceeding relating to any of the Dominion
6 plants we discussed, correct?

7 A. Yes.

8 Q. I believe Mr. Kurtz asked you about
9 cooperatives in PJM. One of the cooperatives in PJM
10 is the Eastern Kentucky Power Cooperative, correct?

11 A. Yes.

12 Q. And it owns four generators totaling
13 approximately 3,000 megawatts, correct?

14 A. Yes.

15 Q. And that cooperative bids its plants in
16 both of the PJM energy and capacity markets, correct?

17 A. Yes.

18 Q. But as a cooperative, it recovers the net
19 cost of its generation through cost-based rates,
20 correct?

21 A. Yes.

22 Q. So is it fair to say that Eastern
23 Kentucky Power Cooperative transfers to ratepayers
24 all responsibility for paying the net costs of its
25 generation?

1 A. Again, the same caveat I gave before. I
2 don't know the exact details of ratemaking, but by
3 and large, the answer is yes.

4 Q. Now, as the market monitor, you have
5 access and get to see the offers that entities make
6 in the PJM capacity markets, correct?

7 A. Yes.

8 Q. So you're aware of how Eastern Kentucky
9 Power Cooperative bids its plants; is that correct?

10 A. Yes.

11 Q. You've never brought a complaint to PJM
12 or FERC about the way that Eastern Kentucky Power
13 Cooperative bids its plants, correct?

14 A. Yes.

15 Q. Now, you're aware of an entity called
16 American Municipal Power or AMP. I believe Mr. Kurtz
17 asked you about AMP?

18 A. Yes.

19 Q. That was a compound question. You're
20 aware of AMP, correct?

21 A. Yes and yes.

22 Q. And as market monitor, you know how AMP
23 bids its plants in the capacity auction, correct?

24 A. Yes.

25 Q. You've never brought a complaint to PJM

1 or FERC regarding AMP's behavior in the bid
2 processing, correct?

3 A. Yes.

4 Q. You're familiar with PJM's minimum offer
5 price rule; is that right?

6 A. Yes.

7 Q. That's also called the MOPR sometimes?

8 A. Yes.

9 Q. So the MOPR does not now and never has
10 applied to existing generation, correct?

11 A. Yes.

12 Q. So the MOPR does not currently apply to
13 the PPA units; is that right?

14 A. Yes.

15 Q. And it will not apply to the PPA units if
16 the PPA proposal is approved, correct?

17 A. Yes.

18 Q. Now, the new Dominion plants that we
19 discussed earlier, are they or will they be subject
20 to the MOPR?

21 A. Yes.

22 Q. Now, as market monitor, you previously
23 argued that all of Dominion should be subject to the
24 MOPR; is that correct?

25 A. No. I argued that Dominion should be

1 subject to MOPR as a general matter, and in the most
2 recent revision, the MOPR rules gave Dominion the
3 option to meet certain requirements of the MOPR
4 different than other entities. I did not argue that
5 the entirety of Dominion should be subject to MOPR.

6 MR. MAYES: I have an objection to the
7 question that's mainly a clarification. I don't want
8 to object to the whole line of questioning, but that
9 is, when you say "subject to the MOPR," that can be a
10 bit vague because the MOPR is a multi-prong rule that
11 in many ways could be subject to the MOPR, and we
12 need to be specific about what that means.

13 MR. McKENZIE: Your Honor, there's been a
14 question and he's answered it.

15 EXAMINER PARROT: Yeah. So let's ask
16 another question. If we face this issue again, let's
17 object before we get the answer and deal with it at
18 that point.

19 Q. (By Mr. McKenzie) The settlement that
20 allowed Dominion to fulfill the MOPR rules in a
21 different way than other entities, you did not
22 support that part of the settlement; is that correct?

23 A. That is correct.

24 Q. You're, in a general way, familiar with
25 the information that PJM releases about the RPM

1 capacity auctions; is that correct?

2 A. Yes.

3 MR. McKENZIE: May we approach, your
4 Honor?

5 EXAMINER PARROT: You may.

6 MR. McKENZIE: First of all, your Honor,
7 I would like to have two documents marked. The first
8 document is entitled "Capacity Resource Offer Prices
9 for 2016/17 Delivery Year," and I would like to have
10 that marked as AEP Ohio Exhibit 35.

11 EXAMINER PARROT: So marked.

12 (EXHIBIT MARKED FOR IDENTIFICATION.)

13 MR. McKENZIE: Thank you.

14 And the second document is entitled
15 "Capacity Resource Offer Prices for 2017/18 Delivery
16 Year." I would like that marked AEP Ohio Exhibit 36,
17 please.

18 EXAMINER PARROT: So marked.

19 (EXHIBIT MARKED FOR IDENTIFICATION.)

20 EXAMINER PARROT: But the Bench needs
21 copies of that one, please.

22 MR. NOURSE: I'm sorry.

23 Q. (By Mr. McKenzie) Dr. Bowring, you've
24 seen these two slides before, correct?

25 A. Yes.

1 Q. You recognize these as slides that are
2 published by PJM, correct?

3 A. Yes.

4 Q. And the first one, AEP Ohio Exhibit 35,
5 this one represents bids in the 2016-17 year delivery
6 BRAs; is that correct?

7 A. Yes.

8 Q. And if you go down to the first column on
9 the left, that's showing the amount of megawatts that
10 was bid at zero; is that correct?

11 A. Yes.

12 Q. And then the next column over shows the
13 amount of megawatts or the number of megawatts bid
14 between zero and \$100, correct?

15 A. Yes.

16 Q. The next column is between 100 and 200,
17 and the last column is greater than 200; is that
18 correct?

19 A. Yes.

20 Q. And is it fair to say that AEP Ohio
21 Exhibit 36 displays the same information, but for the
22 2017-188 delivery year?

23 A. Yes.

24 Q. Thank you. You can set those aside.
25 It's fair to say, is it not, that zero

1 offers in the capacity auction can be consistent with
2 competitive offers?

3 A. Yes.

4 Q. And there is no PJM rule that prohibits
5 generators from offering at zero, correct?

6 A. Yes.

7 Q. I'd like to switch to the topic of
8 renewable PPAs. Excuse me. I'm sorry. I'm crossing
9 off questions that Mr. Kurtz asked.

10 One question he didn't ask you, you're
11 opposed to state renewable mandates, correct?

12 A. No. What I would say is I'm opposed to
13 subsidies. To the extent that those translate into
14 subsidies, then I'm opposed to them.

15 Q. Well -- go ahead.

16 A. As a general matter, the way that the
17 requirements are implemented through the sale of RECs
18 does constitute subsidy, and to that extent, I
19 believe they're inconsistent with competition in the
20 wholesale power markets.

21 Q. Now, when you prepared your testimony for
22 this proceeding, you were not aware of and did not
23 consider AEP Ohio's 20-year, 99-megawatt PPA with the
24 Timber Road 2 Wind Farm; is that correct?

25 A. Yes.

1 Q. And same question, when you prepared for
2 your testimony, you were not aware of and did not
3 consider AEP Ohio's 20-year, 100-megawatt PPA with
4 the Fowler Ridge Wind Farm, correct?

5 A. Yes.

6 Q. But you would agree that it's relatively
7 common for utilities in PJM to purchase renewable
8 generation supply through PPAs, correct?

9 A. It certainly happens. I'm not sure what
10 you mean by "relatively common," but it certainly
11 happens.

12 Q. Could you turn to page 66 of your
13 deposition, please, line 20?

14 Question: "Is it fair to say that it is
15 relatively common for utilities in PJM to purchase
16 renewable generation supply through PPAs?"

17 Answer: "Yes."

18 That was your testimony, correct?

19 A. Yes.

20 Q. When you prepared for your testimony, you
21 were not aware of and did not consider the fact that
22 AEP Ohio previously purchased power from the
23 Lawrenceburg plant by means of a PPA, correct?

24 A. Yes.

25 Q. And you don't know whether the net costs

1 of the Lawrenceburg PPA were recovered by AEP Ohio in
2 its retail rates, correct?

3 A. Correct.

4 Q. I'd like to ask you about some other
5 PPAs. I just ask you bear with me here.

6 When you prepared your testimony, you
7 were not aware of and did not consider the current
8 PPA in which Virginia Electric and Power Company
9 purchases 242.2 megawatts of contracted capacity from
10 the Birchwood Power Plant, which is a coal facility,
11 correct?

12 A. Yes.

13 Q. And when you prepared your testimony, you
14 were not aware of and did not consider the PPA in
15 which Atlantic City Electric Company and others
16 purchased 224 megawatts of contracted capacity from
17 the Chambers Cogeneration facility, which is a coal
18 facility, correct?

19 A. Yes.

20 Q. And when you prepared your testimony, you
21 were not aware of and did not consider the PPA in
22 which Pennsylvania Electric Company purchases
23 110 megawatts of contracted capacity from the Culver
24 Power Plant, which is in Culver City, correct?

25 A. Yes.

1 Q. When you prepared your testimony, you
2 were not aware of and did not consider the PPA in
3 which Monongahela Power Company purchases
4 50 megawatts of contracted capacity from the
5 Morgantown Energy Facility, coal plant, correct.

6 A. Yes.

7 Q. And when you prepared your testimony, you
8 did not consider the current PPA in which Virginia
9 Electric and Power Company and others purchase 115.6
10 megawatts of contracted capacity from the Edgecombe
11 GenCo facility, a coal facility, correct?

12 A. Yes.

13 Q. And when you prepared your testimony, you
14 did not consider the current PPA in which Monongahela
15 Power Company purchases 80 megawatts of contracted
16 capacity from Grant Town GenCo facility, correct?

17 A. Yes.

18 Q. You are at least aware generally of the
19 current PPA in which Northern Virginia Electric
20 Cooperative purchases 92.6 megawatts of contracted
21 capacity from the James River GenCo facility,
22 correct?

23 A. Generally.

24 Q. But you don't know if this PPA is a
25 cost-based rate or some other kind of rate, correct?

1 A. Correct.

2 Q. And you did not consider this PPA in
3 developing your testimony, correct?

4 A. Yes.

5 Q. Again, you're at least generally aware of
6 the current PPA in which Atlantic City Electric
7 Company purchases 229 megawatts of contracted
8 capacity from the Logan plant, a coal plant, correct?

9 A. Yes.

10 Q. But you don't know if this PPA is a
11 cost-based rate or some other kind of rate, correct?

12 A. Yes.

13 Q. And you did not consider this PPA in
14 developing your testimony, correct?

15 A. Yes.

16 Q. Again, you are at least generally aware
17 of the current PPA in which Metropolitan Edison
18 Company purchases 112 megawatts of contracted
19 capacity from the North Hamilton plant, which is a
20 coal plant, correct?

21 A. Yes.

22 Q. You don't know if this PPA is a
23 cost-based rate or some other kind of rate, correct?

24 A. Yeah.

25 Q. And you did not consider this PPA in

1 developing your testimony, correct?

2 A. Yes.

3 Q. Two more. You were at least generally
4 aware of the current PPA in which the Virginia
5 Electric and Power Company purchases 167.2 megawatts
6 of contracted capacity from the Roanoke Valley 1 unit
7 and 45.1 megawatts of contracted capacity from the
8 Roanoke Valley 2 unit, which are both coal units,
9 correct?

10 A. Yes.

11 Q. But you do not know if this PPA is a
12 cost-based rate or some other kind of rate, correct?

13 A. Yes.

14 Q. And did you not consider this PPA in
15 developing your testimony, correct?

16 A. Yes.

17 Q. You were at least generally aware of the
18 current PPA in which the Virginia Electric and Power
19 Company purchases 190 megawatts of contracted
20 capacity from the Spruance GenCo, a coal facility,
21 correct?

22 A. Yes.

23 Q. But you do not know if this PPA is a
24 cost-based rate or some other kind of rate, correct?

25 A. Yes.

1 Q. And you did not consider this PPA in
2 developing your testimony, correct?

3 A. Yes.

4 Q. Now, you're familiar with what we call
5 the Commission's AEP ESP III order, in which the
6 Commission approved AEP Ohio's PPA rider as a
7 placeholder and established some factors to consider
8 the PPA proposal, correct?

9 A. Generally, yes.

10 Q. And you don't have an opinion one way or
11 the other about whether that order was correctly
12 decided, correct?

13 A. Yes.

14 Q. So let me ask you about the Commission's
15 factors. You believe that the "financial need of the
16 generating plant" is an appropriate factor for the
17 Commission to consider in evaluating this PPA
18 proposal, correct?

19 A. Yes.

20 Q. You believe that supply diversity is an
21 appropriate factor for the Commission to consider?

22 A. Yes.

23 Q. You believe that compliance with
24 environmental regulations is an appropriate factor,
25 correct?

1 A. Yes.

2 Q. And you believe that impact of closure of
3 generation plants on electric prices and economic
4 development within the state is an appropriate factor
5 for the Commission to consider, correct?

6 A. Yes.

7 Q. Is it true that PJM just filed a request
8 to raise the maximum offer price from \$1,000 per
9 megawatt to \$2,000 per megawatt?

10 A. Yes, subject to all the relevant details.

11 Q. Fair enough. Would you say that that
12 indicates that PJM is concerned that they're going to
13 need to rely on some of the most expensive resources
14 in constrained locations this winter?

15 A. No.

16 Q. Okay. Do you know why it was requested
17 to be raised?

18 A. Yes.

19 Q. Why?

20 A. Because there was concern that the cost
21 of gas in January 2014 and February of 2015 exceeded
22 levels consistent with \$1,000 per megawatt offers
23 from certain gas-fired units, and it was -- the goal
24 was if gas costs were to get to that level, to permit
25 those gas costs to set the price of energy at a level

1 consistent with those costs but not above the level
2 of those costs.

3 Q. Let me turn you to your testimony, page
4 3, line 19, please.

5 You say here, "If AEP's proposal remains
6 internally consistent, I would expect that the
7 proposed PPA rider would require ratepayers to pay
8 any performance penalties associated with assets
9 included in the PPA rider. I would also expect that
10 AEP would retain any performance payments at other
11 AEP units not included in the PPA rider, even if paid
12 for, in part, by these ratepayer penalties."

13 Do you see that?

14 A. Yes.

15 Q. Just to be clear, you're not implying
16 that you think AEP will somehow manipulate the
17 capacity performance bonus/penalties, correct?

18 A. Correct.

19 Q. You're of the opinion in your testimony
20 that AEP Ohio will have an incentive to bid the PPA
21 units in the capacity auction at a price of zero; is
22 that correct?

23 A. Yes.

24 Q. Now, the only way that a bid of zero by
25 the PPA units could change the capacity price in

1 their locational area would be if without the PPA the
2 units would have bid at or above the clearing price,
3 correct?

4 A. Yes.

5 Q. Now, some have speculated that the PPA
6 proposal, if approved, will cause AEP Ohio to bid the
7 PPA units higher than they otherwise would because of
8 the PPA. You do not find that to be a plausible
9 scenario, correct?

10 A. Correct.

11 Q. And as market monitor, you pay very close
12 attention to generators' bids to see whether they are
13 manipulating the market through high capacity bids,
14 correct?

15 A. Yes.

16 Q. And you have various avenues and
17 procedures you could follow if you believe that a
18 generator is manipulating the market through high
19 bids; is that correct?

20 A. Yes.

21 Q. I think Mr. Kurtz asked you about Senate
22 Bill 221, which is the ESP -- at least the ESP
23 statute, RC 4928.143. Do you remember that he asked
24 you those questions?

25 A. Yes.

1 Q. And I believe he asked you whether you
2 reviewed that ESP statute before you filed your
3 testimony, and you did not; is that correct?

4 A. Yes.

5 Q. And again, I think we went over this with
6 Mr. Kurtz, if you'll just bear with me. Senate Bill
7 221, the ESP statute, allows AEP Ohio and other
8 utilities to include as part of an SSO a
9 nonbypassable charge recovering cost of building new
10 generation, correct?

11 A. Yes.

12 Q. Now, in your testimony you distinguish
13 between the market paradigm and the quasi-market
14 paradigm, correct?

15 A. Yes.

16 Q. And you favor the market paradigm,
17 correct?

18 A. Yes.

19 Q. Let's go to your testimony, page 5, line
20 4. You say, "In the quasi-market paradigm, customers
21 absorb the risks associated with investment in and
22 ownership of generation assets through guaranteed
23 payments under either guaranteed long-term contracts
24 or the cost-of-service approach." Do you see that?

25 A. Yes.

1 Q. Now, assuming that, as we discussed,
2 Senate Bill 221 and, in particular, the ESP statute
3 4928.143, allows a utility to include in SSO rates a
4 nonbypassable charge recovering the cost of new
5 generation. Would you agree that this part of Senate
6 Bill 221, the ESP statute, represents the
7 quasi-market paradigm?

8 A. Yes. That outcome would be consistent
9 with the quasi-market paradigm, yes.

10 MR. DARR: Can I have that question and
11 answer read back, please?

12 (Record read.)

13 MR. DARR: Thank you, your Honor. I
14 apologize for interrupting.

15 Q. And the statute is consistent with the
16 quasi-market paradigm.

17 MR. DARR: Objection.

18 EXAMINER PARROT: Can you rephrase,
19 please.

20 Q. Your understanding of the statute is,
21 that it represents the quasi-market paradigm.

22 MR. DARR: Same objection, your Honor.
23 Actually, the problem with the question is one of
24 form, and it's the reference to statute. Are you
25 talking about all of the 143, talking about just a

1 part of 143. Thank you.

2 EXAMINER PARROT: Try it one more time.

3 MR. McKENZIE: I thought we covered it.

4 Q. (By Mr. McKenzie) Senate Bill 221,
5 particularly, the ESP statute 4928.143, in your
6 understanding that represents the quasi-market
7 paradigm, correct?

8 MR. SETTINERI: Objection.

9 EXAMINER PARROT: Mr. McKenzie, are you
10 talking about the statute overall, or any particular
11 section of it?

12 MR. McKENZIE: Let me talk about the
13 statute overall first.

14 EXAMINER PARROT: Let's answer that
15 question.

16 A. The outcome of the statute if it were
17 implemented would be consistent with the quasi-market
18 paradigm.

19 MR. McKENZIE: I'm fine with that.

20 No further questions, your Honor.

21 EXAMINER PARROT: Thank you,
22 Mr. McKenzie.

23 Mr. Margard.

24 MR. MARGARD: No questions. Thank you,
25 your Honor.

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1 EXAMINER PARROT: Would you like a moment
2 to see if you have any redirect?

3 MR. MAYES: Yes, your Honor.

4 EXAMINER PARROT: Go off the record for a
5 few minutes.

6 (Recess taken.)

7 EXAMINER PARROT: Let's go back on the
8 records.

9 Any redirect?

10 MR. MAYES: Yes, your Honor.

11 - - -

12 REDIRECT EXAMINATION

13 By Mr. Mayes:

14 Q. First question, Dr. Bowring, you received
15 some questions about the effects of offer caps on
16 markets. Do you have a general opinion on the
17 effects of offer caps on markets?

18 A. Yes. The fact that offer caps were
19 increased, and, in fact, they were increased not to
20 Net CONE, but to B times Net CONE, where B is a
21 number less than 1. In fact, the current B is .85.
22 The fact that offer caps are raised to .85, that's
23 Net CONE, does not mean that clearing prices will go
24 to that level. That determines how high they can go,
25 but it's not the indicative that prices in the

1 auction will go to that level.

2 Q. You were asked about the compatibility of
3 zero-dollar offers with competition. Are all
4 zero-dollar offers noncompetitive?

5 A. No. In the prior capacity market
6 paradigm, that is, before capacity performance, zero
7 offers could be consistent with competitive offers,
8 in fact, required as competitive offers when net
9 revenues exceeded the going-forward cost of those
10 units. So in some cases zero offers were actually
11 the offer caps and were required and were, by
12 definition, the competitive offer.

13 Q. You were shown some charts that
14 indicated --

15 A. I'm sorry. But under the capacity
16 performance paradigm, that's no longer true, and the
17 offer cap is no longer set by avoidable cost minus
18 net revenues, but is set, as I just indicated, by B
19 times Net CONE. So the probability of the
20 requirement of zero offers has gone away with the
21 change in the capacity market design.

22 Q. So you were also shown some charts that
23 related to prior base residual auctions in PJM, and
24 they showed the level of zero-dollar offers. Do you
25 have an opinion on whether those levels should be

1 assumed to continue on to the new capacity
2 performance design from future auctions?

3 A. Exhibit 35 and 36 covered 2016-17 base
4 residual auction and 2017-18 base residual auction.
5 The 2018-19 base residual auction was the first under
6 capacity performance, and going forward, capacity
7 performance rules will be the binding rules.

8 And as I just indicated, zero offers are
9 no longer required under the capacity performance set
10 of rules, and, in addition, zero offers are much less
11 likely to be consistent with a competitive offer than
12 under the prior set of rules

13 Q. Dr. Bowring, we had a number of questions
14 about the fuel types of units. Is fuel diversity a
15 good reason to subsidize units?

16 A. From a market and economist's
17 perspective, if a unit is uneconomic, it does not
18 make sense to subsidize it for the sake of what have
19 been termed "fuel diversity." Markets produce the
20 cheapest way to produce power, and it's in the
21 interest of all to let the market work and to let the
22 market choose the most profitable, lowest-cost option
23 for producing power. So fuel diversity, if fuel
24 diversity means keeping uneconomic units in service,
25 it is not a rational goal in a market environment.

1 Q. Do you have a view on whether PPAs
2 generally are consistent with competition?

3 A. A PPA is just a contract. There's
4 nothing inconsistent with competition that are
5 long-term contracts. PPAs can be designed in any
6 number of ways. PPAs can simply be arm's-length
7 commercial contracts, or they can be, as in this
8 case, a vehicle for providing subsidy. So the simple
9 fact of the existence of a PPA does not imply
10 anything necessary about its contents.

11 Q. Dr. Bowring, can you please explain how
12 the situation of Dominion in Virginia differs from
13 Ohio?

14 A. On a very high level, Dominion is, as
15 we've discussed, a full cost-of-service, regulated,
16 vertically integrated utility, and when power plants
17 are built in that paradigm, in that model, they are
18 built and operated for the entire life under the
19 cost-of-service regime, and retail rates are set by
20 that regime.

21 The difference in Ohio clearly is that
22 units were at one point in the cost-of-service --
23 under the cost-of-service paradigm, were shifted to
24 markets, and now are proposed to be shifted back. In
25 addition, of course, in Ohio there is retail choice,

1 so that's really the fundamental difference.

2 Q. Can you describe any participation of the
3 market monitor in Ohio regulatory affairs in addition
4 to this proceeding and the related FE proceeding?

5 A. As market monitor, we interact regularly
6 with all state commissions. The state commissions
7 belong to an organization called OPSI, with whom we
8 regularly act. There was an OPSI annual meeting
9 earlier this week, which I spoke at several times.
10 In addition, I was invited by legislature of Ohio to
11 come testify about energy matters about six or eight
12 months ago.

13 Q. And, finally, Dr. Bowring, to your
14 knowledge, has anything happened that would change
15 your general understanding and opinion that Ohio is a
16 market-paradigm state?

17 A. No.

18 MR. MAYES: Thank you, your Honor. That
19 concludes redirect.

20 EXAMINER PARROT: Thank you, Mr. Mayes.
21 Mr. Dougherty?

22 MR. DOUGHERTY: No questions, your Honor.

23 EXAMINER PARROT: Mr. Michael?

24 MR. MICHAEL: No questions, your Honor.

25 EXAMINER PARROT: Mr. Settineri?

1 MR. SETTINERI: No questions

2 EXAMINER PARROT: Mr. Darr?

3 MR. Darr: No questions.

4 EXAMINER PARROT: Mr. Yurick?

5 MR. YURICK: Nothing.

6 EXAMINER PARROT: Mr. Kurtz?

7 MR. KURTZ: Very briefly.

8 - - -

9 RECROSS-EXAMINATION

10 By Mr. Kurtz:

11 Q. Dr. Bowring, fuel diversity is not
12 consistent with an efficient market and, therefore,
13 it's not a good reason to subsidize a unit or favor
14 one type of generation over another. Is that more or
15 less what you testified to on redirect?

16 A. I believe what I said is that units that
17 are noneconomic, they're losing money, requiring
18 companies to subsidize them for the sake of what is
19 termed "fuel diversity" is not reasonable. It's not
20 consistent with wholesale -- with competitive
21 markets.

22 Q. Shouldn't a regulator, this Commission,
23 or any commission, also have engineering efficiency
24 in mind in addition to economic efficiency?

25 A. I think to the extent they affect market

1 is entirely consistent. The reason the gas-fired
2 power plants are currently the lowest-cost option is
3 the combination of engineering efficiency and
4 lower-cost inputs. So it's a combination of
5 engineering and economic efficiency.

6 Q. I guess I want to ask if the economic
7 efficiency, to the fullest extent, located all the
8 generation in PJM on the East Coast and none in Ohio,
9 would it be appropriate for this Commission or any
10 Commission to be concerned about that?

11 A. Not if that provided the lowest cost of
12 power to customers.

13 Q. You were contrasting Dominion versus
14 Ohio, and one of the issues is Dominion has been and
15 still is fully regulated, and Ohio was, and then it
16 was deregulated, and we had Senate Bill 221; is that
17 fair?

18 MR. DARR: Objection, misstates the
19 redirect examination.

20 MR. KURTZ: I'm asking him if I misstated
21 it, please correct me.

22 EXAMINER PARROT: On that basis, I'm
23 going to allow it.

24 A. I would -- for clarification, I would
25 stand on my earlier answer. I covered those general

1 topics.

2 Q. If the legislature in Ohio wanted to
3 amend the state statutory structure and completely
4 reregulate Ohio's generation, would that be allowed
5 under the PJM rules?

6 A. PJM has no say in Ohio legislative
7 matters, nor do I, for that matter.

8 Q. Could Ohio completely reregulate,
9 hypothetically, and be consistent with the PJM
10 competitive market?

11 A. It could continue to be in the PJM market
12 if it is completely reregulated, yes.

13 Q. But to the extent that ESP is a partial
14 reregulation, that is prohibited?

15 A. I don't think it requires anything,
16 doesn't require partial reregulation, but there are a
17 range of options, as we've discussed today, a range
18 of options on the market to quasi-market scale, and
19 most of them are consistent with the PJM rules.

20 MR. KURTZ: Thank you, Doctor.

21 EXAMINER PARROT: Mr. McKenzie?

22 MR. McKENZIE: Just a couple of
23 questions.

24 - - -

25 RECROSS-EXAMINATION

1 By Mr. McKenzie:

2 Q. Just to be clear, zero offers are still
3 allowed under the capacity performance construct,
4 correct?

5 A. Yes.

6 Q. And PJM hasn't published an update to any
7 of these charts for the 2018-19 delivery year, to
8 your knowledge, has it?

9 A. I don't know, but we will be coming out
10 with a report fairly soon.

11 Q. And you know how generators bid in the
12 2018-19 auction, right, but that's confidential, so
13 you can't tell us today?

14 A. Yes.

15 Q. There were some questions about fuel
16 diversity. To be clear, you agree that fuel
17 diversity is a factor that the Commission -- that's
18 appropriate for the Commission to consider in this
19 proceeding, correct?

20 MR. DARR: Objection, asked and answered.

21 EXAMINER PARROT: Overruled.

22 A. Yes.

23 Q. I just want to make sure I understand.
24 Are you saying there are no reliability issues
25 related to fuel diversity?

1 A. Yes. Fuel diversity is typically the
2 term used when people really mean reliability, and
3 there are no issues about reliability in this case,
4 as far as I can tell.

5 Q. So you don't think that having a mix of
6 fuel types on the PJM system adds to the reliability
7 of the PJM system?

8 A. Well, think about the reverse. Think
9 about five or ten years ago when it was much more
10 predominantly coal than gas. There were no concerns
11 about fuel diversity then. So it's really about the
12 reliability of supply. So simply having different
13 fuels is not a basis for or requirement of
14 reliability.

15 Q. You're aware that there have been
16 gas-supply constraints, especially during winter
17 periods, in PJM, correct?

18 A. All fuels have issues. Coal has issues.
19 Gas has issues. Oil has issues.

20 Q. You're saying there are coal-supply
21 issues that are the same as gas-supply issues in PJM?

22 A. Not the same, but they parallel. There
23 are frozen coal piles. There are issues with trains,
24 issue withs barge traffic. There are issues with oil
25 in terms of delivery, getting delivery by trucks, and

1 in the case of gas, there are certainly pipeline
2 constraints, so there are issues.

3 Q. Just so I have your precise opinion,
4 you're saying you do not believe that having a mix of
5 different fuel types has any reliability benefit for
6 the PJM system?

7 A. What I'm saying is that market outcomes
8 are the rational way to provide whatever the
9 appropriate level of fuel diversity is, and imposing
10 that is really not consistent with competitive
11 wholesale power markets.

12 Q. So the answer to my question is, no, you
13 don't believe there are any reliability benefits from
14 having diverse fuels on the PJM system?

15 MR. MAYES: Objection. The witness has
16 answered the question. The attorney doesn't need to
17 answer the question.

18 MR. McKENZIE: He actually didn't.

19 EXAMINER PARROT: Overruled.

20 THE WITNESS: I was going say I thought I
21 answered it, but I'll try again.

22 EXAMINER PARROT: One more time, please.

23 THE WITNESS: Sure, of course.

24 Sorry, ask me again.

25 Q. (By Mr. McKenzie) So the answer is no,

1 you do not believe that fuel diversity will improve
2 reliability on the PJM system?

3 A. That's not what I said. I said it's not
4 appropriate to impose arbitrary fuel diversity rules
5 on a competitive market which will result in other
6 competitive markets.

7 Q. So let me ask you, do you believe that
8 fuel diversity will have reliability improvement on
9 the PJM system?

10 A. I don't know what that means.

11 Q. Do you believe that having a mix of
12 different generators that are fueled by different
13 fuels will improve the reliability of generation
14 supply in PJM?

15 A. Entirely depends on the certainty of
16 supply and whether there's any difference in
17 certainty supply among the various fuel types.

18 Q. And there are differences between fuel
19 types in terms of certainty in supply, correct?

20 A. I'm not sure that's been demonstrated.
21 There are difficulties with the delivery of all types
22 of fuel.

23 Q. I'm asking your opinion, do you think
24 there are differences?

25 A. There are differences, but whether one

1 is -- one can be proven more to be reliable in
2 delivery than another I don't think has been
3 demonstrated.

4 Q. And as PJM market monitor, you pay
5 attention to fuel-supply issues in PJM?

6 A. Yes.

7 Q. Given what you know about fuel supply in
8 PJM, do you believe that having a diverse set of fuel
9 types for generators in PJM will improve reliability
10 in PJM?

11 A. Not other than diversity which results
12 from market incentives, so I don't believe it's
13 appropriate to impose it. And its -- I don't know.
14 I have not evaluated whether the relationship between
15 coal deliverability and gas deliverability matters.
16 As I said, there's difficulties, so my answer is I
17 don't think it's appropriate to impose fuel-diversity
18 rules on the market.

19 Q. And I know you don't think it's
20 appropriate to impose fuel-diversity rules on the
21 market. My question is, do you think fuel diversity
22 would improve reliability?

23 MR. MAYES: I renew the objection.
24 That's already been answered.

25 EXAMINER PARROT: I'm not sure it had

1 been. Overruled.

2 A. I don't think there's any evidence to
3 that.

4 Q. Do you believe that natural gas-fired
5 plants are more, less, or the same in terms of
6 reliability when compared to coal plants?

7 A. It depends on the nature of the fuel
8 delivery system for the individual plant. So if you
9 have a coal plant on a river that depends on barge
10 traffic that can freeze, that doesn't look as good as
11 a gas unit which is on an interstate pipeline which
12 has very reliable service.

13 Q. Is it fair to say that you cannot think
14 of any action that the Commission could take that
15 would improve system reliability yet be inconsistent
16 with competitive markets?

17 A. I have to think about that for a second.
18 So I'm going to repeat it. So you asked me if I can
19 think of any action the Commission would take that
20 would improve reliability but be inconsistent with
21 competitive markets?

22 Q. Let me break it down.

23 A. Okay. Thank you.

24 Q. We'll have two variables, reliability,
25 improve or --

1 A. Disimprove.

2 Q. Thank you, disimprove reliability. And
3 the other variable is consistent with competition or
4 inconsistent with competition. I believe you've
5 testified that you think that most things that are
6 consistent with competition will also improve
7 reliability; is that fair to say?

8 A. Yes. But we have to remember that these
9 markets are -- this has been pointed out -- heavily
10 ruled, and one of the rules has to do with how much
11 capacity has to be purchased, so that's what the
12 market is all about, the requirements of how much
13 capacity.

14 So the market -- I'm not saying that the
15 market by itself would produce a reliable outcome,
16 but the market under the PJM rules will because it's
17 required to purchase the level of capacity consistent
18 with reliability.

19 Q. Can you --

20 A. You could buy more than enough capacity.
21 You could buy 50 percent more capacity than you
22 needed. That would improve reliability but be
23 inconsistent with the competitive outcome.

24 Q. Now, you were asked some questions about
25 the PPAs that we went over, and I believe you said

1 something along the lines of -- correct me if I'm
2 wrong -- the simple fact that PPAs exist doesn't
3 necessarily imply anything about them; is that
4 correct?

5 A. Yes.

6 Q. Now, of the PPAs we discussed, you don't
7 know whether any of them are cost-based rates or some
8 other kind of rate, correct?

9 A. Yes.

10 Q. And you don't know whether any of the
11 utilities that are the purchaser in those PPAs
12 include them in retail rates, correct?

13 A. Yes.

14 Q. I believe you distinguished that Dominion
15 situation because those plants were built under
16 cost-of-service rates and have continued to be under
17 cost-of-service rates; is that correct?

18 A. Yes.

19 Q. To be clear, the PPA units were all built
20 under cost-of-service rates, correct?

21 A. They were taken out of cost-of-service
22 rates, yes.

23 Q. And you didn't review Senate Bill 221
24 before submitting your testimony, correct?

25 A. Yes.

1 MR. McKENZIE: No further questions.

2 EXAMINER PARROT: Mr. Margard?

3 MR. MARGARD: No. Thank you, your Honor.

4 EXAMINER PARROT: Mr. Mayes, would you
5 like to move your exhibit into the record?

6 MR. MAYES: Yes, your Honor. I would
7 move the exhibit, the direct testimony of Joseph E.
8 Bowring, on behalf of the Independent Market Monitor
9 marked as IMM-1 and entered into the record.

10 EXAMINER PARROT: Are there any
11 objections to the admission of IMM Exhibit No. 1?

12 MR. McKENZIE: No, your Honor.

13 EXAMINER PARROT: Hearing none, it is
14 admitted.

15 (EXHIBIT ADMITTED INTO EVIDENCE.)

16 EXAMINER PARROT: Thank you very much,
17 Dr. Bowring.

18 MR. McKENZIE: Your Honor, we would move
19 the admission of AEP Ohio Exhibits 34, 35, 36.

20 EXAMINER PARROT: Any objection?

21 MR. DARR: Objection to 34, your Honor.
22 First of all, the provenance has never been
23 established; second, it was used for the purpose of
24 refreshing recollection almost exclusively until
25 counsel for AEP decided to try to use it for

1 impeachment, improperly.

2 Given all of those things -- first of
3 all, the document for purposes of refreshing
4 recollection is not generally accepted as an exhibit.
5 It's simply used for the purpose of refreshing
6 recollection. I believe counsel for AEP indicated
7 that when he first offered the witness the document.

8 Second of all, there was never any
9 attempt to establish the provenance of the document
10 whatsoever.

11 Third, obviously, while it contains what
12 are purported to be the statements of Dr. Bowring,
13 the statements were never, in fact, identified as his
14 with one exception, which has already been read into
15 the record; thus, it is neither proper nor necessary
16 for this document to be included as part of the
17 record in this case.

18 EXAMINER PARROT: Hang on just a minute.
19 Anyone else on this side want to weigh
20 in?

21 MR. SETTINERI: I will join that motion,
22 your Honor.

23 MS. WILLIAMS: I support that motion as
24 well, your Honor.

25 EXAMINER PARROT: Mr. McKenzie?

1 MR. McKENZIE: Your Honor, yes, I did
2 begin to use it to refresh his recollection, but when
3 he verified the quote, he gave the document its
4 proper authenticity. He also gave the background
5 saying he remembered being interviewed, so when he
6 verified the quote, it was used to impeach his prior
7 statement that he doesn't make predictions, and it's
8 a prior inconsistent statement of the witness, so
9 also an opponent-party admission.

10 MR. MAYES: Your Honor, I haven't
11 objected, but just to clarify, this isn't a
12 deposition transcript. This is a press article that
13 would have the accuracy of any press article, and I
14 think we all can evaluate how accurate press articles
15 are for what it is. It is what it is.

16 The witness spoke to the specific passage
17 in the present time, but I would not want to see this
18 document be treated as though it were a formal
19 deposition.

20 MR. McKENZIE: If I may, your Honor, I
21 think it is telling that Dr. Bowring's counsel has
22 not objected, as he just confirmed. When Dr. Bowring
23 confirmed the quote, it gave the document its
24 evidentiary foundation, and I think the Commission is
25 well aware this is not a deposition under oath and

1 can give it the appropriate weight that it should
2 have.

3 MS. WILLIAMS: Your Honor, may I respond
4 to that?

5 EXAMINER PARROT: Yes.

6 MS. WILLIAMS: He keeps saying
7 Dr. Bowring confirmed the quote, and I believe what
8 Dr. Bowring testified was that he didn't remember
9 saying that, but he confirmed the belief of the
10 statement, which I think is different.

11 EXAMINER PARROT: That's my recollection
12 as well, Ms. Williams.

13 MR. DARR: Additionally, your Honor, I
14 believe one of Dr. Bowring's statements was that the
15 caption of this article didn't accurately represent
16 his position, and yet it was represented as such by
17 counsel for AEP. There are a whole lot of problems
18 with putting this document wholesale into the record.

19 To the extent that he's asked for
20 comments and gotten a response on those comments,
21 that's in the record, and there's no reason to add
22 the document to the mess.

23 MR. MCKENZIE: Your Honor, if I may, I'm
24 reading from the transcript. I asked, "Were you
25 accurately quoted here?" The answer was, "I don't

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1 have any way to verify whether I was, but I believe
2 that the statements are correct."

3 EXAMINER PARROT: He talks about the
4 statements and the document itself. That doesn't do
5 anything to really speak to the document,
6 Mr. McKenzie.

7 With that, we're going to leave the
8 record as it stands, but I see no need to admit
9 Company Exhibit No. 34.

10 We will admit Company Exhibit No. 35 and
11 36 into the record.

12 (EXHIBITS ADMITTED INTO EVIDENCE.)

13 EXAMINER SEE: Mr. Dougherty, your next
14 witness.

15 MR. DOUGHERTY: Ohio Environment Counsel
16 and Environment Defense Fund calls Diane Munns.

17 - - -

18 DIANE MUNNS

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

21 DIRECT EXAMINATION

22 By Mr. Dougherty:

23 Q. Ms. Munns, can you state your name and
24 address for the record, please?

25 A. My name is Diane Munns. My business

1 address is 257 Park Avenue South, 17th Floor, New
2 York, New York.

3 Q. And did you file direct testimony in this
4 proceeding?

5 A. I did.

6 MR. DOUGHERTY: Your Honor, I'd like
7 marked as OEC/EDF Exhibit 2 the direct testimony of
8 Diane Munns, reserving Exhibit 1 for Mr. Finnigan's
9 testimony.

10 EXAMINER SEE: The exhibit will be so
11 marked.

12 (EXHIBIT WAS MARKED FOR IDENTIFICATION.)

13 Q. (By Mr. Dougherty) Ms. Munns, do you have
14 in front of you what has just been marked as OEC/EDF
15 Exhibit 2?

16 A. I do.

17 Q. Is that your direct testimony in this
18 proceeding?

19 A. It is.

20 MR. DOUGHERTY: And, your Honors, before
21 I ask her the question whether she has any
22 corrections I would like to make a correction. When
23 the attorney has to play the role of legal assistant
24 and legal secretary, sometimes issues come up.

25 Attachments DM-2 and DM-3 have been

1 transposed on the filing. It's obvious in her
2 testimony what she is referring to so I would like to
3 make the changes to what is referenced as DM-2 should
4 be DM-3 and DM-3 should be DM-2.

5 Q. And, Ms. Munns, do you have any
6 corrections you would like to make to the testimony?

7 A. I do. On page 1 of my testimony, line
8 12, I'd like to strike the word "reduce." It should
9 read "it claims will be needed to improve reliability
10 and price stability."

11 Q. And notwithstanding that correction, if I
12 asked you the same questions today, would your
13 answers be the same?

14 A. They would.

15 MR. DOUGHERTY: Your Honors, I would like
16 to move for the admission of OEC/EDF Exhibit 2
17 pending cross-examination.

18 EXAMINER PARROT: Any cross for this
19 witness, Ms. Williams?

20 MS. WILLIAMS: No, your Honor.

21 EXAMINER PARROT: Mr. Michael?

22 MR. MICHAEL: No, your Honor.

23 EXAMINER SEE: Mr. Darr?

24 MR. DARR: Just a couple questions, your
25 Honor.

1 - - -

2 CROSS-EXAMINATION

3 By Mr. Darr:

4 Q. Ms. Munns, I take it from your testimony
5 that it is the position of the EDF that the rider
6 should not be approved, correct?

7 A. Yes, that's correct.

8 Q. And your proposal that there be costs
9 incurred associated with system improvements for
10 Volt/Var and CVR additions is premised only on the
11 assumption that the PPA would be -- or, PPA proposal
12 would be approved, correct?

13 A. Yes, that's correct.

14 Q. Now, the EDF has taken a position in
15 other proceedings that the company should adopt some
16 sort of Volt/Var optimization, correct, other
17 proceedings associated with AEP-Ohio?

18 A. I am not personally aware of that, but it
19 wouldn't surprise me.

20 Q. So you're not --

21 A. I have not done that.

22 Q. You're not familiar with the other
23 proceedings where EDF or others may have sought to
24 encourage AEP Ohio to engage in Volt/Var
25 optimization?

1 A. I'm not pursuing it.

2 MR. DARR: No further questions, your
3 Honor.

4 EXAMINER SEE: Mr. Yurick?

5 MR. YURICK: Nothing.

6 EXAMINER SEE: Mr. Miller?

7 MR. MILLER: I do have some questions.

8 EXAMINER SEE: Let's go off the record
9 for a second.

10 (Off the record.)

11 EXAMINER SEE: Let's go back on the
12 record.

13 Mr. Kurtz, do you have any
14 cross-examination for this witness?

15 MR. KURTZ: No, your Honor. Sorry for
16 the delay.

17 EXAMINER SEE: Mr. Miller?

18 MR. MILLER: Yes, I have some questions,
19 your Honor.

20 EXAMINER SEE: Go ahead, please.

21 - - -

22 CROSS-EXAMINATION

23 By Mr. Miller:

24 Q. Ms. Munns, feel free to stop me if I talk
25 too fast or ask me to talk louder. I'm accused of

1 low talking in this room.

2 You are currently employed by the
3 Environmental Defense Fund; is that correct?

4 A. I am, correct.

5 Q. And you served, as I understand it, as
6 the senior director for external affairs and
7 regulatory policy?

8 A. Yes.

9 Q. And I guess your title is Clean Energy
10 Program. Is that a separate program in the EDF?

11 A. It is a separate program within EDF.

12 Q. And your position primarily focuses on
13 policy issues for the EDF in the area of clean
14 energy?

15 A. External affairs and the clean energy
16 policy.

17 Q. You have a Bachelor's degree from the
18 University of Iowa?

19 A. Yes.

20 Q. In what course of study, ma'am?

21 A. It was in social work.

22 Q. And you don't have an undergraduate
23 degree in economics?

24 A. No.

25 Q. Or any post-secondary education in

1 economics?

2 A. No.

3 Q. Do you have an undergraduate degree in
4 electrical engineering?

5 A. I do not.

6 Q. And there's no post-secondary education
7 in electrical engineering?

8 A. No.

9 Q. You've spent the majority of your career,
10 I think if I read your CV correctly, in one capacity
11 or another at the Iowa Utilities Board?

12 A. I did.

13 Q. And you haven't been deposed by any of
14 the parties in this proceeding in regards to this
15 matter?

16 A. I have not.

17 Q. And is this the first time you've
18 appeared in front of this Commission?

19 A. It is.

20 Q. And you indicate in your testimony you
21 previously submitted testimony in Illinois, North
22 Carolina, and Hawaii?

23 A. And in Kansas.

24 Q. And in Kansas.

25 A. Yes.

1 Q. Can you tell me, first of all, based on
2 your experience in Iowa, is Iowa a deregulated state
3 with regards to electric service?

4 A. No, it's fully regulated.

5 Q. And then North Carolina?

6 A. Regulated.

7 Q. Hawaii?

8 A. I believe it's fully regulated.

9 Q. Illinois?

10 A. Illinois is deregulated.

11 Q. And Kansas?

12 A. I believe Kansas is regulated.

13 Q. And are you sure or --

14 A. I'm pretty sure.

15 Q. So Illinois is.

16 A. Illinois is deregulated.

17 Q. And then so of all those jurisdictions we
18 just discussed, only Illinois is a deregulated state.

19 A. That is correct.

20 Q. Is this the first time you've ever
21 submitted testimony in any regulatory proceeding
22 regarding a PPA rider?

23 A. Yes.

24 Q. And in the course of preparing your
25 testimony for this case, did you review the PUCO's

1 orders and entries in what is commonly referred to as
2 the AEP Ohio ESP III proceeding?

3 A. I did not.

4 Q. And so you didn't review the February 25
5 order in that case?

6 A. I did not.

7 Q. You didn't review the entry on rehearing
8 in that case on April 22?

9 A. I did not.

10 Q. You didn't review the second entry on
11 rehearing on May 28 this year?

12 A. I did not.

13 Q. And it sounds like you certainly didn't
14 review the third entry on rehearing in July of this
15 year?

16 A. I did not.

17 Q. Are you aware that AEP Ohio proposed a
18 PPA rider in that ESP III case?

19 A. Yes.

20 Q. Do you know if the PUCO approved the ESP
21 proposed by AEP in that case?

22 A. I know generally what was done. I don't
23 believe it was, but I'm not sure. My testimony
24 doesn't go particularly to whether or not the PPA
25 rider should be included. If you read it, it says if

1 the Commission determines that it is appropriate,
2 then conditions should be put on.

3 Q. But, to your knowledge, you're not
4 certain whether they approved it or denied it.

5 A. I'm not.

6 Q. And so you wouldn't have any idea what
7 factors the Commission may have instructed the
8 company to review if they wanted to have a future PPA
9 rider?

10 A. No, my testimony doesn't purport to go to
11 the merits of that issue.

12 Q. In the course of your preparing your
13 testimony for this, case did you review AEP Ohio's
14 amended application for the PPA, which would be the
15 documents the company filed in regards to this
16 proceeding?

17 A. I did not. Again, my testimony doesn't
18 go to that issue.

19 Q. So you didn't review any of the testimony
20 that's been provided in the record in regards to the
21 witnesses the company's put on?

22 A. I did not.

23 Q. Is it your testimony that the PUCO should
24 approve AEP's proposed rider?

25 A. No.

1 Q. Is your testimony that they should
2 disapprove the proposed rider?

3 A. It's not my testimony. We have another
4 witness, John Finnigan, who will testify to that
5 issue for EDF.

6 Q. Your testimony talks a lot about -- I'm
7 going to use the acronyms. Stop me, there's a lot of
8 acronyms. The VVO and the CVR.

9 A. Yes.

10 Q. And you discuss significant discussions
11 here in your testimony about VVO and CVR with regards
12 to how it works. Are VVO and CVR alternatives to the
13 PPA rider as proposed by the company in this case?

14 A. We're not putting them forward as
15 alternatives. We are saying if the Commission
16 determines that these plants should be included, then
17 it should require conditions that the company do a
18 cost-benefit analysis, a potential study to determine
19 those circuits and those places where it should be
20 deployed.

21 Q. And so is fair to say that to get to a
22 study, perhaps such as deployment of VVO and CVR, the
23 Commission would have to approve the rider?

24 A. Yes.

25 Q. So when considering the PPA rider with

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1 the concept -- I guess let's say concept because you
2 didn't read the details of the rider itself -- did
3 you personally perform any analysis regarding the
4 financial need of the affiliate PPA plants that have
5 been proposed?

6 A. I did not.

7 Q. And you didn't perform any analysis
8 regarding the necessity of those plants in light of
9 reliability concerns or supply diversity?

10 A. I did not. It's my understanding they
11 were put forward as necessary for reliability and
12 price stability.

13 Q. When considering the concept of the PPA
14 in this case, you didn't perform any analysis
15 regarding how the affiliate plants that have been
16 proposed would comply with environmental regulations?

17 A. I did not. Again, my testimony doesn't
18 go to the merits of that issue.

19 Q. And then same question but sort of a
20 little bit different scenario. You didn't take a
21 look at what impact or effect the inclusion of those
22 plants and continued operation of those plants as
23 proposed by the company have on electric prices in
24 the state?

25 A. I did not.

1 Q. And same question, economics development,
2 you don't know any impacts?

3 A. I did not.

4 Q. So you didn't consider any of the
5 factorings the Commission previously recommended be
6 reviewed and studied by the company included in its
7 proposal when it proposed a PPA?

8 A. I did not.

9 Q. Have you compared any costs of proposed
10 PPA rider to the cost of the deployment that you're
11 sort of suggesting in regards to the VVO and CVR?

12 A. I have not done a specific analysis.

13 Q. I think in your testimony -- and I want
14 to ask you. Is it your testimony if the Commission
15 approves that PPA proposal, then the Commission
16 should require the company to install all
17 cost-effective VVO and CVR throughout the entire
18 service territory?

19 A. It is.

20 Q. Are you aware that should the company
21 implement VVO and CVR, under those circumstances that
22 the cost of the implementation would be recovered
23 from ratepayers?

24 A. Yes.

25 Q. And is it your testimony that the amount

1 of VVO and CVR investment which would be
2 cost-effective depends upon the characteristics of a
3 utility's service territory?

4 A. Yes. I'm familiar with that, which is
5 why I recommended that a potential study be done in
6 advance of deployment.

7 Q. In your testimony, I think in regards to
8 those characteristics, you list a number of factors
9 such as circuits and substations, length of circuits,
10 numbers of customers on the circuit, deployment of
11 AMI meters; is that a fair representation?

12 A. Yes.

13 Q. Do you happen to know how many
14 substations AEP Ohio has in its service territory?

15 A. I do not.

16 Q. Do you happen to know how many circuits
17 they would have in their service territory?

18 A. I do not.

19 Q. Do you know how many different types of
20 circuits they would have, characteristics, length?

21 A. I do not, no.

22 Q. Do you know how many customers are served
23 by those circuits?

24 A. I do not.

25 Q. Do you know if AEP has deployed any AMI

1 meters in the service territory?

2 A. I do not.

3 Q. Do you have any sense of assuming that
4 they deploy them how long those meters would take to
5 deploy?

6 A. I don't.

7 Q. And so you haven't researched the system
8 architecture of AEP's distribution system in its
9 circuit territory at all.

10 A. I have not. I would like to clarify,
11 that this technology can be deployed without
12 deployment of AMI.

13 Q. Okay. You haven't researched or
14 performed any independent analysis regarding the
15 impact of AEP's rates in regards to deployment of
16 this VVO and CVR system you're suggesting?

17 A. I haven't done any independent analysis.
18 I relied on, I believe, what is included as
19 attachment DM-2 which is a presentation. I'm not
20 sure I have the right one.

21 Q. Are you referring to the Volt/Var
22 Optimization --

23 A. Yes, yes.

24 Q. -- American Electric Power by Mr. Tom
25 Weaver?

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1 A. Yes.

2 Q. In regards to this presentation do you
3 have any idea how broad, in other words, how much of
4 AEP's system this covers?

5 A. I believe that was a pilot but I also
6 believe that representations that were made in here
7 show multiple benefits from deployment of this
8 technology.

9 Q. And so you believe it shows benefits to
10 the technologies VVOs and CVR, but you don't have any
11 idea how large a portion of the system it covered for
12 AEP?

13 A. No. Which is why I made a recommendation
14 that a potential study be done to see how extensive
15 the deployment should be.

16 Q. Your testimony indicates that AEP should
17 perform that comprehensive cost-benefit analysis to
18 determine if VVO and CVR would be cost-effective,
19 correct?

20 A. Correct.

21 Q. Do you have any knowledge of whether or
22 not AEP has ever performed such a cost analysis with
23 regards to those products?

24 A. I don't.

25 Q. And you haven't performed that analysis?

1 A. I have not.

2 Q. You don't have any idea, do you, what VVO
3 and CVR deployment would cost the company?

4 A. I don't, which is why I recommended that
5 a potential study be done in advance.

6 Q. And you talk a lot about
7 cost-effectiveness, and I think you indicate that
8 these opportunities are based -- the effectiveness of
9 these opportunities are based on the
10 cost-effectiveness of the actual deployment?

11 A. Uh-huh. Yes.

12 Q. And so you haven't -- we talked about
13 this. You haven't looked at size or scope and
14 architecture and things like that. Do you have any
15 idea how large deployment would be cost-effective?

16 A. Again, I don't, which is why I recommend
17 that a potential study be done.

18 Q. And do you have any sense of in regards
19 to cost-effectiveness whether portions of system
20 installations of VVO and CVR are more effective
21 cost-wise than would be a total system-wide
22 deployment?

23 A. Can you repeat the question?

24 MR. MILLER: Can it be read back.

25 (Record read.)

1 A. I don't, until a potential study.

2 Q. So, in summary, a study needs to be done
3 to make any determinations at all whether this is
4 cost-effective?

5 A. I think a system-wide study needs to be
6 done. I think, and this is demonstrated by the AEP
7 pilot, that the circuit level results averaged across
8 11 circuits showed that the energy reduction initial
9 results from AEP Ohio project 2.9 percent, peak
10 demand reduction 2 to 3 percent. This is from page 6
11 of Exhibit, let's see, DM-2.

12 Q. I'm sorry.

13 A. It's from page 6 of DM-2. So it isn't
14 like I have -- like there's no evidence that there's
15 any application or benefit from this. There has been
16 a pilot study done, and I'm saying take that pilot,
17 do a technical potential study across the rest of the
18 circuits to determine where those kinds of savings
19 could be achieved.

20 Q. Is it reasonable to assume that -- strike
21 that. Let me ask this question differently.

22 Would it be appropriate to say that
23 circuits in AEP's system differ in size, length,
24 performance?

25 A. Yes. And I think I acknowledge that

1 that's why you do a study, to determine where it is
2 cost-effective, but on the 11 circuits where the
3 pilot was done, there were significant benefits.

4 Q. And do you have any idea from your review
5 of the report or the presentation, I guess I should
6 call it, do you have any idea whether those 11
7 circuits are representative of the majority of
8 circuits in the company's service territory?

9 A. I do not.

10 Q. And so is it reasonable to believe that
11 different circuits would require different costs in
12 regards to deploying these products?

13 A. As I have testified, you need to do a
14 potential study across your circuits. I don't know
15 whether or not you can group circuits, whether there
16 are representative circuits or how specifically those
17 are done, but there are firms that do such potential
18 studies.

19 Q. And so, just to sum up, you have no idea
20 and you have no thoughts on and have done no analysis
21 on what the specifics are of the circuits in the
22 system, but you believe that the company should
23 deploy a comprehensive study to be able to make a
24 determination as to whether these products are
25 cost-effective at all?

1 A. I wouldn't say I have no idea because I'm
2 relying on the pilot that was done by AEP that show
3 that there are, based on 11 circuits where they did
4 this, it says testing demonstrates 2 to 4 percent
5 energy and demand reduction is achievable. That's
6 from the AEP from Mr. Weaver's.

7 Q. So on those circuits those were the
8 results?

9 A. Yes.

10 Q. I think in your testimony you had a
11 little bit of a swap on the numbering for the
12 exhibits but on DM-3, which is the final exhibit, you
13 describe and talk a little bit about SmartGrid
14 Modernization Project that was deployed by
15 FirstEnergy?

16 A. Yes.

17 Q. That project, did it include VVO?

18 A. I believe there was a conservation
19 component to it.

20 Q. Did it include CVR, do you know?

21 A. That would be the conservation.

22 Q. So it did include CVR but it didn't
23 include VVO?

24 A. VVO is a technology. CVR is a something
25 you can turn on within the technology. The

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1 technology has several different functionalities that
2 can be used. Conservation voltage reduction is one
3 of them.

4 Q. And so are VVO and CVR ever used
5 interchangeably?

6 A. I know these are confusing acronyms. VVO
7 is the technology and CVR is the function. I think
8 sometimes people do use them, but as I said, the
9 technology really has to do with information and
10 intelligence on the -- about what's going on on your
11 distribution system. Conservation voltage
12 optimization is one of the things that you can do
13 with that information.

14 Q. In regards to the FirstEnergy project
15 that you describe or talk about in accordance with
16 the exhibit, how much did that project cost, do you
17 know?

18 A. Here we go. I believe this is DM-3. It
19 looks like it went across specific -- across several
20 different states. Says on page 1 of that exhibit, at
21 a glance, total project cost 114,940,274, total
22 project cost. There was a federal share of
23 approximately 57 million.

24 Q. So that project cost almost \$115 million?

25 A. Yes.

1 Q. And I think you indicated there was a
2 federal share of 57 million?

3 A. Yes.

4 Q. That would be 50 percent was paid by the
5 American Recovery and Reinvestment Act?

6 A. Looks to be approximately.

7 Q. And I think you talk about other ARRA
8 funded studies across the country, you refer to
9 those.

10 A. Yes.

11 Q. And I think you indicated there are a
12 number of them. Do you know how many?

13 A. 26.

14 Q. 26 of them?

15 A. Yes.

16 Q. Of those 26, do you have any knowledge
17 about the breadth of those deployments in the service
18 territory of the companies?

19 A. I believe they were all done on a pilot
20 basis.

21 Q. None of them were full-service-territory
22 deployments to your knowledge?

23 A. Not to my knowledge.

24 Q. Do you have any idea what percentage of
25 service-territory-wide VVO or CVR projects have been

1 deployed or how many have been deployed across the
2 United States?

3 A. I do not.

4 Q. Do you happen to know what percentage of
5 VVO and CVR deployments have been funded by ARRA
6 money?

7 A. Well, I believe there were those 26
8 pilots that I made reference to. I believe that I
9 also testified that it has been, that this technology
10 has been deployed in states where part of the share
11 was not picked up.

12 Q. Just to clarify, when you say "part of
13 the share was not picked up," those projects were
14 funded by the company at issue or some other entity?

15 A. By the company. By customers.

16 Q. But you don't know how many.

17 A. I don't.

18 Q. Are you aware of any companies that have
19 system-wide deployment of these products?

20 A. I'm not certain. I believe BG&E may have
21 done system-wide. I also believe that there are
22 companies that are in the process of deploying.

23 Q. Do you know, would FirstEnergy have
24 deployed this project without those ARRA funds?

25 A. I do not know.

1 Q. And you don't have any idea whether they
2 would have found the project to be cost-effective
3 without having a \$57 million influx of money from the
4 federal government?

5 A. I do not know.

6 Q. In your opinion, would a
7 full-service-territory VVO and CVR implementation
8 ever fail to be cost-effective?

9 A. I don't believe that there has been any
10 evidence of that. If you go to page 8 of my
11 testimony, and this is information from DOE, it shows
12 that this particular technology deployment CVR, that
13 the levelized cost of energy of this comes in
14 mid-range in energy efficiency. I believe that's the
15 Department of Energy's. It is 3 cents. I think the
16 only thing that is more cost-effective is possibly
17 L.E.D. lighting, and this is from their review of the
18 studies to date.

19 Q. And when we talk about
20 cost-effectiveness, is it fair to say that the
21 reference to cost-effective means that the cost to
22 put it in is at least immediately or shortly
23 thereafter outweighed by the benefits of the product?

24 A. Yes; the benefits outweigh the cost.

25 Q. Your testimony indicates that VVO and CVR

1 can be used as a compliance option under the Clean
2 Power Plan.

3 A. That's my testimony, and I believe that
4 is also AEP, what they had in their slides. Again,
5 Mr. Weaver's. Let me find it for you. Yes, page 11,
6 future application of VVO helped meet EPA 111(d)
7 reductions on page 11. That's one, two, three --
8 fourth bullet.

9 Q. And it looks like this presentation was
10 given on December 3, that's at least the date, 2014?

11 A. Yes.

12 Q. And of course the 111(d) rules weren't
13 final then.

14 A. No.

15 Q. And so would it be fair to say that
16 Mr. Weaver was most likely indicating that that was a
17 possibility, not a certainty?

18 A. He didn't indicate that it was a
19 possibility but it has been -- come to pass in the
20 rules that were issued. On page 10 of my testimony I
21 make reference to the final version of the rules and
22 where the EPA...

23 Q. Let's talk a little bit about the rules.
24 Is it your understanding that when the rule gets
25 promulgated, published, that the states will have an

1 opportunity to involve themselves with part of the
2 process?

3 A. Correct, there will be state plans.

4 Q. And the states will in the planning
5 process, make determinations about compliance and
6 perhaps timing and some other things?

7 A. Yes.

8 Q. So the CPP sets certain goals and
9 objectives regarding required performance under the
10 plan, correct?

11 A. Correct.

12 Q. And it allows individual states to choose
13 how they will meet those set goals?

14 A. Correct.

15 Q. Has the state of Ohio -- do you know, has
16 the state of Ohio implemented its plan yet?

17 A. No. No, the rules haven't been -- the
18 final rules have not yet been published. There's a
19 period of time for putting a plan together after
20 that.

21 Q. Is there any opportunity to change the
22 rules between now and publication date?

23 A. No.

24 Q. But the state would be formulating a plan
25 subject to the publication of those rules.

1 A. Yes.

2 Q. And the state has implemented its plan,
3 has it? Do you know anything about what the state's
4 doing with regards to developing a plan to aid its
5 participation in CPP?

6 A. I do not.

7 Q. So isn't it true that an Ohio plan, when
8 its developed and implemented, that could have an
9 impact on exactly how and when the VVO and CVR are
10 used to develop the options under the CPP?

11 A. It will look at all of the options. I
12 would hope it would look at the most cost-effective
13 options for the sake of customers.

14 Q. When you say "it," ma'am.

15 A. The state.

16 Q. But the state would possibly look at all
17 the options and determine for whatever reason that
18 VVO and CVR are not appropriate.

19 A. I would hope that it would look at all
20 the options. Certainly a potential study would give
21 them the information that they need as to how many --
22 how much, how many circuits and what place it would
23 make sense to deploy technology such that it would be
24 a cost-effective compliance measure under 111(d)
25 compared to other options.

1 Q. Would the state be required to allow VVO
2 and CVR to be applied to meet those tests --

3 A. You mean under the EPA rules? The EPA
4 rules are not directive on which technologies or how
5 to meet the reduction requirement.

6 Q. And so the state -- let's start again.

7 Because the rule hasn't been published
8 and the state hasn't formulated its plan, it hasn't
9 implemented its plan, we don't know whether or not
10 VVO and CVR will actually be items in that plan that
11 would count towards reduction, do we?

12 A. We don't know whether or not they will be
13 in the Ohio plan. We do know that under the final
14 rules that they will be eligible for inclusion and as
15 a means in which to meet those, and we do know that
16 AEP, through Mr. Weaver's presentation, have at least
17 thought about it or are thinking about it as a means
18 for 111(d) compliance.

19 Q. And so it's your testimony that VVO and
20 CVR would be ideal in the plan, but at this point in
21 time we have no guarantee that they will be.

22 A. We have no guarantee, but I would think
23 again that a forward-looking state would look at the
24 opportunity, understanding from the numerous pilots
25 that were done under the ARRA study, that there is

1 significant potential for both cost savings, energy
2 savings, and emission reduction such that it would
3 take the steps at this time to be in a position to
4 understand where it would be cost-effective to make
5 those deployments.

6 Q. But until that plan's deployed,
7 formulated, instituted in the state of Ohio, the
8 company cannot be certain that these types of
9 deployments are contributory towards reduction?

10 A. I would think that with the evidence that
11 has been gathered as to the potential for this study,
12 they can know that this is the right place to look
13 for emission reductions and to, as a prudent matter,
14 go ahead and do the -- look at the potential so that
15 it would be in the position to do those things that
16 are most cost-effective for its customers in coming
17 up with the plan.

18 Q. But we can't be certain that the state
19 will count CVO -- CVR and VVO.

20 A. We know that CVR and VVO are eligible
21 under the EPA rules. We know from the numerous
22 studies that have taken place that significant
23 potential consists. We know that the way to go about
24 determining what that potential is is through a
25 potential study, that there are firms that do those

1 studies.

2 So it would be -- we do know that the
3 prudent course of action is to go ahead and get in a
4 position where you can do the most cost beneficial
5 thing for customers within the state of Ohio.

6 Q. And you said "prudent." Are you using
7 "prudent" as legal term of art? Or is it prudent as
8 a good idea?

9 A. I think prudent goes beyond a good idea
10 to a way of managing your resources compared to other
11 options.

12 Q. So are you saying that "we," meaning the
13 company, have an obligation to look at VVO and CVR?

14 A. I'm saying, and why it's in this
15 proceeding, that I believe it is prudent. I believe
16 it's the best practice at this point to do that. If
17 the company doesn't do it, then I believe that the
18 regulators should ask the company to go ahead and do
19 that.

20 MR. MILLER: Nothing further.

21 EXAMINER SEE: Mr. Beeler?

22 MR. BEELEER: Nothing, your Honor. Thank
23 you.

24 EXAMINER SEE: Any redirect,
25 Mr. Dougherty?

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1 MR. DOUGHERTY: Can I have a very brief,
2 don't need to jump out of the room, but very brief?

3 EXAMINER SEE: Opportunity with your
4 witness? Yes.

5 MR. DOUGHERTY: Thank you.

6 (Off the record.)

7 MR. DOUGHERTY: No redirect, your Honor.

8 EXAMINER SEE: Thank you.

9 Thank you, Ms. Munns.

10 THE WITNESS: Thank you.

11 MR. DOUGHERTY: I will re-move for
12 OEC/EDF Exhibit 2 to be admitted into the record.

13 EXAMINER SEE: Are there any objections
14 to the admission of OEC/EDF Exhibit 2?

15 Hearing none, OEC/EDF Exhibit 2 is
16 admitted into the record.

17 (EXHIBIT ADMITTED INTO EVIDENCE.)

18 EXAMINER PARROT: You may call your next
19 witness.

20 MR. DOUGHERTY: Yes. OEC/EDF would like
21 to call John Finnigan.

22 - - -

23 JOHN FINNIGAN

24 being first duly sworn, as prescribed by law, was
25 examined and testified as follows:

DIRECT EXAMINATION

By Mr. Dougherty:

Q. Mr. Finnigan, can you state your name and business address for the record please?

A. John Finnigan, 128 Winding Brook Avenue, Terrace Park, Ohio, 45174.

Q. And did you file testimony in this proceeding?

A. Yes.

MR. DOUGHERTY: Your Honors, I would like marked OEC/EDF Exhibit 1, the direct testimony of John Finnigan.

EXAMINER PARROT: So marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

Q. Mr. Finnigan, do you have in front of you what's been marked OEC/EDF Exhibit 1?

A. Yes.

Q. And is that your direct testimony?

A. Yes.

Q. Do you have any changes to make to this testimony?

A. No.

Q. You are an attorney, correct?

A. Yes.

Q. However, your testimony is not to provide

1 legal conclusions; is that correct?

2 A. Yes, that's correct. My testimony is
3 directed towards questions of energy policy which are
4 at issue in this case.

5 Q. And if I asked you the same questions
6 today, would your answers be the same?

7 A. Yes.

8 MR. DOUGHERTY: Your Honor, I'd like to
9 move for the admission of OEC/EDF Exhibit 1, pending
10 cross-examination.

11 EXAMINER PARROT: Thank you,
12 Mr. Dougherty.

13 Any questions, Ms. Williams?

14 MS. WILLIAMS: No, your Honor.

15 EXAMINER PARROT: Mr. Michael?

16 MR. MICHAEL: No, your Honor.

17 EXAMINER PARROT: Mr. Darr?

18 MR. DARR: No, ma'am.

19 EXAMINER PARROT: Mr. Yurick?

20 MR. YURICK: Nothing.

21 EXAMINER PARROT: Ms. Cohn?

22 MS. COHN: No, your Honor.

23 EXAMINER PARROT: Mr. Nourse?

24 MR. NOURSE: Thank you, your Honor.

25 - - -

CROSS-EXAMINATION

By Mr. Nourse:

Q. Good morning, almost afternoon.

Hello, John, how are you -- Mr. Finnigan, excuse me. You're with the Clean Energy Program?

A. Yes.

Q. And can you describe what the general goal or purpose of the Clean Energy Program, part of EDF, would be?

A. Yes. The Clean Energy Program is intended to promote greater deployment of clean energy across the country. We focus primarily on state proceedings, like in this case. We operate primarily in nine states across the country. These are more larger states and also states where they have higher levels of greenhouse gas emissions, and we advocate for policies like renewable energy, energy efficiency, demand response, grid modernization, financing programs, and so forth, that would lead to greater deployment of clean energy.

Q. Okay. And would it be a goal or an accurate statement of the Clean Energy Program that you want to convert the power grid from a system of centralized fossil fuel power plants to an intelligent, efficient, connected network that

1 integrates vastly increased amounts of renewable
2 energy and energy efficiency?

3 A. Yes.

4 Q. And would EDF/OEC and the Clean Energy
5 Program be happy to see these coal plants retire that
6 we're talking about today?

7 A. No, they would be ecstatic to see that.

8 Q. And do those organizations support gas,
9 natural gas-fired electric generation?

10 A. As compared to coal, yes, because the
11 greenhouse gas emissions are much less, about half as
12 compared to gas -- or as compared to coal, I should
13 say.

14 Q. So does EDF support deployment of natural
15 gas generation?

16 A. As compared to coal, yes, that's correct.
17 However, EDF generally supports clean energy, so
18 there are other resources that have even lower
19 greenhouse gas emissions than gas, so those are the
20 ones that we generally advocate for.

21 We do have a separate gas program that
22 addresses different issues associated with the
23 deployment of natural gas units. This program mostly
24 has to do with the ways in which gas is drilled from
25 the ground in terms of reducing methane emissions and

1 also with replacement of cast iron bare steal
2 pipelines that are currently used in natural gas
3 distribution systems.

4 Q. Is it fair to say, from EDF's standpoint,
5 between gas-fired generation and coal generation, gas
6 is the lesser of two evils?

7 A. Yes.

8 Q. But gas is still an evil?

9 A. Well, it depends on the circumstances. I
10 wouldn't say that gas is an evil, period. I think
11 it's clear that we need gas generation to meet our
12 reliability needs in this country, so I would not say
13 gas is an evil.

14 Q. Are you saying that the country does not
15 need coal generation?

16 A. I think the long-term prospects of the
17 country are that coal generation can be avoided, yes,
18 and I think that's the trend that we're seeing right
19 now. In fact, I think that's one of the underlying
20 premises for this case, is that the company
21 apparently is having trouble recovering revenues for
22 these coal plants in the competitive market, and the
23 company itself has suggested that there might be a
24 need to retire these coal plants at some point some
25 years in the future, so I think we're certainly

1 trending that way in terms of our country's energy
2 market.

3 Q. Well, the need you talked about in your
4 prior answer, that's an economic need, correct?

5 A. Yes.

6 Q. Have you testified in other regulatory
7 proceedings?

8 A. No.

9 Q. And just to be clear, page 1 of your
10 testimony, line 14, says, "John worked for Duke." It
11 sounds like a third-party reference there. That's
12 talking about you?

13 A. Yes. You could substitute "I" and say,
14 "I worked for Duke." I worked for Duke Energy for
15 about 15 years, yes, that's right.

16 Q. All right. Now, the primary purpose of
17 your testimony is to talk about the factors from the
18 Commission's, PUCO's, ESP III order involving AEP
19 Ohio, correct?

20 A. Yes.

21 Q. So you're very familiar with the order in
22 its context of a decision in that case?

23 A. As far as it concerns those four factors,
24 yes.

25 Q. Now, does that mean you read the Opinion

1 and Order and formed your opinion based on that, or
2 did you --

3 A. I didn't read the -- I'm sorry. I didn't
4 mean to interrupt you.

5 Q. Did you familiarize yourself with the
6 record, evidentiary record or anything else in that
7 proceeding?

8 A. I'm familiar with some parts of the
9 evidentiary record. In fact, we appeared and filed
10 testimony in that case. I didn't exhaustively review
11 the record. What I focused on in terms of that case
12 was the Commission's opinion where it went through
13 and discussed all the evidence that was offered by
14 all the parties in the case and then concluded that
15 it would approve the PPA rider at a zero-cost basis
16 in that proceeding and then allow AEP the opportunity
17 to do what they're doing here and propose to include
18 costs.

19 Q. Do you have the order with you?

20 A. No.

21 Q. I'm going to provide you with a copy. I
22 don't think we need to mark this as an exhibit. So
23 I've got a full copy as well as an excerpt which has
24 a little larger print on it.

25 A. I'll take the one with the larger print.

1 Q. The excerpt has the entire section, the
2 PPA conclusion section, of the Opinion and Order.

3 Mr. Finnigan, let me ask you first --

4 MR. DOUGHERTY: Can I get a copy just to
5 make sure what you're talking about?

6 MR. NOURSE: Sure. We're good.

7 MR. DOUGHERTY: Thank you.

8 Q. (By Mr. Nourse) Okay. Mr. Finnigan, you
9 have a copy of the Opinion and Order. That's the
10 same Opinion and Order you reviewed in addressing
11 your testimony, correct?

12 A. Well, this is an excerpt.

13 Q. And I gave you a full copy in case you
14 wanted to check any of that. As the front page
15 indicates, it's the Opinion and Order and gave the
16 date and docket number.

17 A. Right. I don't see the date on here.
18 Can you direct me to that?

19 Q. Look at the full copy. Look at the
20 signature page. I'll represent to you that the
21 excerpt is just a larger print of the same document.

22 A. I understand. Okay. Thank you.

23 Q. So if you turn to page 22 --

24 A. Okay.

25 Q. -- and the first full paragraph, is it

1 your understanding that the Commission found that the
2 ESP statute "authorizes electric utilities to
3 include, in an ESP, terms related to 'bypassability'
4 of charges to the extent such charges have the effect
5 of stabilizing or providing certainty regarding
6 retail electric service?"

7 A. Yes.

8 Q. And then the Commission cites the DP&L
9 case, and then goes on to say that "both shopping and
10 SSO customers may benefit from the PPA rider because
11 it would have a stabilizing effect on the price of
12 retail electric service, irrespective of whether
13 customer is served by a CRES provider or the SSO."

14 MR. DARR: Objection, your Honor.

15 A. I would agree with anything the
16 Commission said in this order is what they said.

17 Q. That's a foundation for my next question.
18 So I read that correctly?

19 A. Yes.

20 Q. And you agree with that?

21 A. No.

22 Q. Now --

23 A. I mean, I agree that they said that, but
24 I don't personally agree that that's a sound policy
25 conclusion or that's appropriate.

1 Q. Correct, thank you. So turn to page 25.
2 And in the first full paragraph, the first half of
3 the paragraph, the Commission said they're not
4 persuaded about the benefits in the OVEC proposal,
5 and they go on, "Nevertheless, the Commission does
6 believe that a PPA rider proposal, if properly
7 conceived, has the potential to supplement the
8 benefits derived from the staggering and laddering of
9 the SSO auctions, and to protect customers from price
10 volatility in the wholesale market."

11 Then there's another sentence that says,
12 "We recognize that there may be value for consumers
13 in a reasonable PPA rider proposal that provides for
14 a significant financial hedge that truly stabilizes
15 rates, particularly during periods of extreme
16 weather."

17 Do you see that? Did I read that
18 correctly?

19 A. Yes.

20 Q. Do you agree with that conclusion?

21 A. I don't agree with that conclusion.

22 Q. And in the same paragraph the Commission
23 goes on to say, "rate stability is an essential
24 component of the ESP." Do you see that?

25 A. Yes, I see that.

1 Q. Do you agree with that?

2 A. I think yes, rate stability is an
3 essential component of an ESP.

4 Q. Okay. Thank you. Now, and so before we
5 go on, I'll just note that the bottom of that page
6 and the following page, page 26, is the section that
7 goes on to list the factors that you -- is the
8 primary purpose of your testimony discusses, correct?

9 A. Yes.

10 Q. Okay. So let's go through those briefly,
11 Mr. Finnigan. You start discussing the first factor
12 in your testimony bottom of page 3, and that's the
13 "Financial Need of the Generating Plant," correct?

14 A. Yes, that's correct.

15 Q. And would you agree -- if you need to
16 refer to the Commission's order, feel free -- that
17 the first factor is specific to the generating plant?

18 A. Can you point me to where in the order
19 you would like to reference me?

20 Q. Sure. Its about two-thirds,
21 three-quarters of the way down page 25, and the exact
22 language says "financial need of --

23 A. Is it the first paragraph or the second?

24 Q. No, it's in the second paragraph. These
25 are the factors that you're addressing in your

1 testimony, right?

2 A. Right.

3 Q. They begin three-quarters of the way down
4 the page, and there's the first factor, "financial
5 need of the generating plant."

6 A. Yes. Okay. So does that factor relate
7 to the financial capabilities of the utility or the
8 company's parent that owns the generating plant? It
9 says the generating plant, as you mentioned, but the
10 Commission has never really applied this before. And
11 in my testimony I conclude that the appropriate way
12 to address this for the Commission would be to
13 consider the financial condition of the parent
14 company as a whole, because AEP is a large company
15 with a huge amount of shareholders' equity, and they
16 clearly are not in financial need of any subsidy to
17 keep this plant going.

18 And so I am simply saying that regardless
19 of this phrase in the order, when the Commission
20 actually applies this in practice to determine how
21 these four factors should be applied, it ought to
22 consider the financial condition of the parent
23 company.

24 Q. Okay. And I'll quote your last answer.
25 You're saying that's your opinion "regardless of the

1 phrase in the order."

2 A. Yes, that's right.

3 Q. And I think your answer confirms this,
4 but let me make it clear. Doesn't that
5 interpretation or application of the test create a
6 self-defeating outcome?

7 A. Well, I don't know what you mean by
8 "self-defeating," but I think, as applied to the
9 circumstances of this case, it might be different if
10 there were a utility that didn't have the same amount
11 of net worth that AEP has.

12 But I just think that under the
13 circumstances of this case, it's simply a matter if
14 you consider the financial condition of the parent
15 company, that there is no financial need for a
16 subsidy for these units.

17 Q. So your position is that AEP Corporation
18 should use profits from other operations to keep
19 these coal plants open?

20 A. I think they -- if they want to, yes.
21 And I think that that's certainly their decision to
22 make. But I'm not going to what AEP as a corporation
23 should or should not do in terms of how they run
24 their business. I'm simply stating, very narrowly,
25 that the parent company does not have financial need,

1 and that's the test that should be applied by the
2 Commission.

3 Q. Now, on page 5 you're still talking about
4 the first factor. At the top of the page there in 1
5 through 5, you're referencing Pablo Vegas' testimony
6 and the capacity market prices listed in his
7 testimony, correct?

8 A. Yes. Yes, that's correct.

9 Q. Are you criticizing the company for not
10 updating its testimony when the capacity prices came
11 out after it was filed?

12 A. Well, I don't know if I would call it
13 "criticizing," but I think if the purpose is to
14 develop a full and fair record in this case, then the
15 most recent prices should be used.

16 Q. And, first of all, do you know if the
17 recent prices are in the record in this case?

18 A. Yes, in my testimony.

19 Q. Well, your testimony's not in the record
20 yet.

21 A. No, not yet.

22 Q. So do you know if its in the record
23 already?

24 A. Well, yes, because I think they were
25 referenced in the questions asked of Mr. Bowring. In

1 fact, I think they might have been AEP exhibits in
2 connection with his testimony. But aside from that,
3 I have not participated in the rest of the hearing,
4 so I don't know.

5 Q. You answered my next question. And I'm a
6 little bit confused about your criticism. That's why
7 I wanted to clarify. On the immediate following
8 page, page 6, you seem to set out at the bottom,
9 starting on line 17, sort of a strong-end argument
10 that if the company tries to supplement its
11 testimony, it should be prohibited from doing that.
12 You even make a due-process argument there, and
13 you're kind of addressing the remedy for what could
14 happen if that occurs.

15 A. Could you point me to where I say they
16 should be prohibited from doing that?

17 Q. You're saying if AEP tries to supplement
18 its testimony, that would be unfair to intervenors'
19 due process. Is that an endorsement of that or is
20 that in opposition?

21 A. No. It takes no opinion on it. What I
22 simply say in the following sentences is that if they
23 do attempt to do that, then to respect the other
24 parties' due process rights, that they should be
25 allowed time to do their own analysis incorporating

1 these new prices. But I don't say here that the
2 company should be prohibited from doing it.

3 Q. Okay. Well, in any event, is this
4 paragraph moot as we sit here today --

5 A. No.

6 Q. -- in the middle of the hearing?

7 A. No, I don't believe it's moot. I still
8 hold this opinion.

9 Q. Now, with respect to this whole issue of
10 updating capacity prices, is that a major driver in
11 your opinion of the outcome of your recommended
12 outcome in the case?

13 A. It's one major driver, but I don't know
14 that I've ranked what the most important drivers are.
15 I think all of the things I talk about in my
16 testimony are important considerations, and this is
17 one of several important considerations.

18 Q. You spend multiple pages on this. I'm
19 trying to understand. Do you think if capacity
20 prices go up, does that make you want to support the
21 PPA?

22 A. No. I just think that it's one question
23 that the Commission should take into account in terms
24 of determining the financial need of the plants, that
25 since these newer prices, Mr. Vegas testified in his

1 testimony that the new capacity performance rules
2 would account for 85 percent of the capacity in PJM
3 going forward, and these new prices are of an order
4 of magnitude of maybe 30 percent higher than the
5 prices that he cited for the ten-year average in his
6 testimony.

7 But that's such a significant difference
8 that I think that's something that should be taken
9 into account in determining the financial need of
10 these plants.

11 Q. Have you done any analysis yourself on
12 the financial need of the plants?

13 A. No.

14 Q. You really don't know how relevant or
15 whether there's any significant impact of these
16 numbers you're quoting, do you?

17 A. Well, yes, I think so, because he said
18 that the ten-year average price was \$93 a
19 megawatt-hour, and these new prices are of an order
20 of magnitude much greater than this, and this is the
21 paradigm that's going to be used going forward, so I
22 think that information tells me that that's a
23 material difference in the prices that that would be
24 likely to have a significant impact on any
25 calculation of the financial need of these plants.

1 Q. You haven't done an analysis of capacity
2 prices or the overall economics of the PPA, correct?

3 A. I have not.

4 Q. At the top of page 6 you make some
5 references to Attachment JF-4, which is an investor
6 relations presentation from AEP.

7 A. Yes.

8 Q. And let me try to understand what you're
9 saying here. You're saying -- correct me if I'm
10 wrong. You're saying because AEP Ohio's financial
11 presentation did not include a statement that there's
12 going to be a write-off associated with the PPA
13 units, that that must be that they're not uneconomic.
14 Is that what you're saying?

15 A. No, that's not what I'm saying. What I'm
16 saying simply is that the fact that this financial
17 presentation did not reference any impending plans to
18 retire the plants and incur a write-off, that that's
19 an indication that the company doesn't have any plans
20 to do it during the period of time covered by this
21 financial presentation, which is 2015 through 2017.

22 However, I did notice in reviewing the
23 testimony that the company filed, and this is the
24 testimony of Mr. Toby Thomas, that he said that the
25 company doesn't plan to retire the plants within the

1 next few years, so I think his testimony is
2 consistent with the fact that there's nothing in this
3 financial presentation indicating that the company
4 intends to do a write-off.

5 Q. Mr. Finnigan, are you aware whether this
6 presentation contains a discussion of the PPA filing
7 in this case?

8 A. Yes.

9 Q. And so are you also aware that AEP has
10 publicly talked about its current consideration of
11 selling, transferring, or otherwise disposing of
12 these PPA units?

13 A. Yes, I've heard that.

14 Q. And would either of those things require
15 us to do any kind of a disclosure in financial
16 statements?

17 A. I'm not an SEC attorney, so I don't have
18 any opinion on it.

19 Q. But you see the PPA rider in that, and it
20 was totally discussed as a pending case in that
21 document?

22 A. Yes, it was.

23 Q. So do you think AEP would announce a
24 retirement of a unit that they're pursuing --
25 actively pursuing an agreement about?

1 MR. DARR: Objection, your Honor.
2 Requires speculation.

3 EXAMINER PARROT: I'll allow the
4 question.

5 A. My understanding is that if the company
6 had any plans to retire the plants in the time
7 horizon covered by this financial presentation, 2015
8 to 2017, that that would be a material factor that
9 they would be required to disclose.

10 Q. So do you think we would be here talking
11 about this case if we planned to retire the units,
12 Mr. Finnigan?

13 A. I don't know what the company's plans are
14 or would be under that circumstance.

15 Q. In line 14 you conclude from all this
16 there's no imminent risk of retirement. Is that the
17 standard the Commission used in its order, imminent
18 risk of retirement?

19 A. The standard that the Commission talked
20 about is financial need, and I simply concluded from
21 this presentation that the company does not appear to
22 have any imminent plans to retire the plants in the
23 time horizon covered by this presentation, which runs
24 through 2017, so there would appear to be no
25 financial need for the plants to receive subsidy

1 during that period of time.

2 Q. Mr. Finnigan, on page 6, line 14 you say,
3 "These plants are not at imminent risk of retirement,
4 as demonstrated by AEP's financial presentation to
5 investors. AEP therefore failed to meet its burden
6 of proof on this first factor."

7 Did I read that correctly?

8 A. Yes. You have read that correctly.

9 Q. So is this another example where you're
10 coming up with your own test regardless of the
11 language that's in the order?

12 A. No, not at all. This is perfectly
13 consistent with what's in the order, and that's the
14 factor of financial need. And what I'm suggesting is
15 that there's no financial need at the present time,
16 and if the company really does intend to retire these
17 plants at some point in the future after 2017, then
18 it could come back and apply for approval of the PPA
19 rider at this time.

20 But my point is that it's premature to do
21 so at this time because the company does not appear
22 to have any plans to retire the plants in the
23 immediate future, and that's also consistent with
24 what the company witness said, Mr. Toby Thomas.

25 Q. Yes. And you agreed that you didn't do

1 any analysis of financial need, correct?

2 A. I didn't do any economic analysis.

3 Q. So you're relying on the lack of a
4 write-off disclosure in the financial report as your
5 basis to say that there's no imminent risk of
6 retirement; therefore, the first factor fails, right?

7 A. Well, that's one factor, but I discuss
8 other factors.

9 Q. Let's turn to page 7. We're going to
10 discuss the second factor, "Necessity of generating
11 facility in light of future reliability concerns
12 including supply diversity." Do you see that?

13 A. Yes.

14 Q. And do you address supply diversity in
15 your testimony?

16 A. Do you want to point me to a particular
17 line?

18 Q. Well, actually, I'll withdraw that
19 question. What I wanted to ask you was down in line
20 7 through 9, page 7, where you're saying the
21 reliability issue is a red herring; see that?

22 A. I see that.

23 Q. And is this another example where you
24 disagree with the Commission's factor as stated in
25 the order, that future reliability concerns should be

1 considered?

2 A. Well, I think you have to read that
3 answer in its entire context, but the Commission
4 mentioned that as a factor, reliability. As I
5 mentioned, I disagree with the Commission's order
6 that was issued that we discussed earlier. But I go
7 on in my testimony to explain that there are two
8 different considerations of reliability. One is
9 reliability of the electric delivery, and that's
10 something that the company clearly is responsible
11 for, and that's something that the Commission ought
12 to be concerned about.

13 But the issue of reliability in terms of
14 resource adequacy is something that the Commission
15 does not need to be concerned about because that's
16 determined at the wholesale market level, and that's
17 PJM's responsibility. And PJM has a very strong,
18 well-operating market construct to ensure that there
19 is resource adequacy and reliability for the entire
20 footprint served by PJM and to do so at the most
21 economic prices which benefits Ohio consumers.

22 Q. So you're saying the only reliability
23 issue that the Commission should be concerned with is
24 electric delivery?

25 A. No, I'm not saying that's the only issue.

1 I'm saying that they should defer to PJM on resource
2 adequacy because they approved -- when they approved
3 AEP's original ESP plan, they authorized AEP to go
4 into PJM with the understanding that PJM would be the
5 entity that would manage resource adequacy.

6 So this is the construct that the
7 Commission has already approved and passed ESP
8 orders, and since they've done that, they should
9 allow PJM to do their role which is to manage the
10 adequacy of resource -- of the resources and to
11 manage reliability from that perspective.

12 Q. I want to clarify your testimony on this,
13 Mr. Finnigan. So on line 7 through 9 you say, "The
14 issue of reliability is a red herring because the AEP
15 is not responsible for resource adequacy. Instead,
16 PJM has this responsibility." Do you see that?

17 A. Yes.

18 Q. I'm not sure why it says "the AEP," but
19 would you still agree with that sentence that it is
20 what you intended if we change that to "the
21 Commission"?

22 A. Yes.

23 Q. Now, let's talk about supply diversity.
24 On line 16 you start your discussion of supply
25 diversity. Now, are you suggesting that the state of

1 Ohio has no interest in supply diversity?

2 A. No, I'm not saying they have no interest
3 but I'm saying that they approve the market construct
4 where this would be managed at the regional level,
5 and they should allow PJM to do their job and manage
6 it on the regional level and not interfere with the
7 wholesale market in terms of the supply diversity
8 that its rules will engender.

9 Q. Do you believe PJM considers the
10 Commission's consideration on reliability to be
11 interference?

12 A. I don't know.

13 Q. Are you aware that this General Assembly
14 in Ohio has adopted alternative energy portfolio
15 standards?

16 A. Yes.

17 Q. And does that mandate supply diversity by
18 law?

19 A. Yes, for those types of resources.

20 Q. Do you think that's unlawful?

21 A. No.

22 Q. Do you think it's interference with PJM's
23 reliability function?

24 A. I have no opinion on that topic.

25 Q. Let's talk about a third factor that

1 starts on page 8. Third factor is whether the
2 generating plants comply with environmental
3 regulations. Do you see that?

4 A. Yes.

5 Q. Down in line 18 you say "It's
6 questionable whether AEP will make the necessary
7 investment to meet current and future environmental
8 laws and regulations. The Commission therefore
9 should not approve AEP's proposal based on this
10 factor," the third factor, right?

11 A. Yes.

12 Q. And what's your basis for saying it's
13 questionable whether AEP would make environmental
14 investments?

15 A. I think it really depends on what type of
16 PPA rider the Commission might approve in this
17 proceeding. I think that if the Commission were to
18 approve the proposals submitted by AEP in its
19 entirety, I do not expect that it would be
20 questionable that AEP would make these investments
21 because under that construct the company would get
22 full cost-of-service recovery for these investments
23 for the life of the plant and there would be no
24 ongoing prudence review, just the upfront review in
25 approving this proposal.

1 So the company would have no reason not
2 to make investments under that outcome. However,
3 there's been some discussion, some witnesses,
4 including the staff's witness, have proposed shorter
5 duration PPAs, and if a shorter duration PPA is
6 approved by the Commission as the outcome in this
7 proceeding, then I do think it's in doubt that the
8 company would make the needed investments.

9 In fact, I think there have been news
10 reports or interviews that Mr. Vegas has given saying
11 that himself. So I think it all depends on what the
12 outcome is in terms of what proposal the Commission
13 approves.

14 Q. So first of all, if there's an
15 environmental regulation that exists or is passed in
16 the future, that would have to be met in order to run
17 compliance, correct?

18 A. Yes, unless the company wanted to be
19 filing, that's right.

20 Q. Okay.

21 A. Or there might be some paradigm where
22 they didn't buy allowances to offset emissions in
23 lieu of doing an environmental investment.

24 Q. But that would be one form of the
25 compliance, correct?

1 A. That would be one form of compliance but
2 it would be doing so without making a long-term
3 capital investment where they've got to recover the
4 costs over 40 years. It would be a matter of doing
5 it on a more short-term basis, give the company more
6 flexibility in its operations.

7 Q. Let's talk about you say current and
8 future environmental laws and regulations. Let's
9 talk about the current part of that. So is your
10 belief that you don't think investments that will be
11 made relate to any specific environmental rules that
12 exist today, in other words, CSAPR, MATS? Does it
13 relate it anything specific?

14 A. No, I don't relate this to any specific
15 regulation.

16 Q. Do you have any knowledge of whether the
17 company has already submitted evidence in this case
18 suggesting that the PPA units are either compliant
19 already or that funded programs are already in
20 progress to comply with all existing environmental
21 laws?

22 A. My understanding is that the company has
23 made that representation in their testimony.

24 Q. Let's talk about the fourth factor
25 starting on page 9 of your testimony. Fourth factor

1 as you state here is the impact that the plant's
2 closure would have on electric prices and resulting
3 effect on economic development in the state, correct?

4 A. Yes.

5 Q. With respect to the first part about the
6 effect on electric prices, has your analysis
7 considered the price tag associated with transmission
8 improvements that would need to be made if these
9 plants were closed?

10 A. I'm aware that the company claims that
11 there would need to be a \$1.6 billion investment in
12 transmission improvements if the plants did close.
13 However, I did not perform an economic analysis to
14 weigh all the costs and benefits in terms of economic
15 development. I'm simply citing some factors that the
16 company did not take into account in performing their
17 analysis of the economic factors. So those are the
18 ones that I describe in my testimony.

19 Q. Well, what you just referenced is
20 actually relating to economic development in the
21 second part of this factor.

22 A. Right.

23 Q. So let's talk about that then. On lines
24 14 through 21, page 9, you list three categories that
25 you believe are not addressed. Do you see that?

1 A. Yes.

2 Q. And so let me ask you about that. Actual
3 direct impact of closing the plants on economic
4 development, okay? You agree that there will be
5 adverse economic impacts of closing the plants on the
6 Ohio economy.

7 A. Not on a net basis I don't agree with
8 that.

9 Q. So are you suggesting that these three
10 factors you mention have been quantified or you've
11 done some quantitative analysis about those?

12 A. I haven't done any quantitative analysis
13 of these factors. I'm simply stating that I reviewed
14 the company's testimony in terms of the economic
15 benefits that they rely on to prove this fourth
16 factor, and I'm simply saying that these are
17 important factors that the company didn't take into
18 account in performing their analysis and that they
19 would likely be material factors.

20 So I'm saying that the company's
21 representation that it's met this fourth prong of the
22 test is not -- should not be relied on by the
23 Commission.

24 Q. Well, you just stated though that it's
25 not on a net basis, that's why I asked you about your

1 quantitative analysis. You don't have any basis to
2 say what the net of anything is when it comes to
3 these factors, do you?

4 A. No. I'm simply saying that the company
5 should have accounted for these factors in doing
6 their economic analysis, and by not doing so, their
7 economic analysis should not be relied on.

8 Q. And finally, Mr. Finnigan, on page 11 you
9 have this last Q and A, last substantive Q and A
10 about Ms. Munns' testimony we just heard. So does
11 this suggest that if the company did the study that
12 Ms. Munns advocates that EDF would endorse the PPA
13 proposal?

14 A. No, it doesn't suggest that at all. We
15 oppose the PPA proposal. We're simply saying that if
16 the Commission decides to approve it contrary to our
17 recommendations, then this is a condition that the
18 Commission should attach to its approval.

19 MR. NOURSE: Thank you, Mr. Finnigan.

20 EXAMINER PARROT: Mr. Beeler?

21 MR. BEELER: No questions, your Honor.

22 Thank you.

23 EXAMINER PARROT: Would you like a
24 moment, Mr. Dougherty?

25 MR. DOUGHERTY: No redirect.

1 EXAMINER PARROT: Would you like to move
2 your exhibit?

3 MR. DOUGHERTY: Yes, I would. I'd like
4 to admit OEC/EDF Exhibit 1.

5 MR. NOURSE: No objection.

6 EXAMINER PARROT: Very good, OEC/EDF
7 Exhibit 1 admitted.

8 Thank you very much, Mr. Finnigan.

9 THE WITNESS: Thank you, your Honor.

10 (EXHIBIT ADMITTED INTO EVIDENCE.)

11 EXAMINER SEE: Mr. Conway?

12 MR. CONWAY: Yes, your Honor, I would
13 like on the record to report that I have been
14 informed by the company that they have been looking
15 at what Mr. Wilson did in his revised or supplemental
16 Exhibit JFW-2 and Table 2, and I can report back to
17 you that we are not able to find in his workpapers
18 either the ultimate spreadsheet Exhibit JFW-2 or how
19 the values in the revised JFW-2 tie back to the
20 source information in the workpapers, which is not
21 necessarily to say they aren't in there somewhere but
22 we have not been able to find it.

23 And my report to you is that this
24 highlights the concern that underlays the objection
25 that I made at the outset of the hearing, which is

1 that this amounts to an unfair surprise, and we are
2 not going to be in a position to figure out what he's
3 done, what we think about what he's done, or what we
4 might do to cross-examine him about what he's done in
5 these revisions. And that's the basis of the
6 objection. Thank you.

7 EXAMINER SEE: Did you want to respond,
8 Mr. Michael?

9 MR. MICHAEL: I'd only respond, your
10 Honor, Mr. Conway has the opportunity to ask each and
11 every question that he wants to about Mr. Wilson's
12 Table 2, and to the degree he's unable to find out
13 prior to the cross-examination of Mr. Wilson, perhaps
14 he can do so during his cross-examination.

15 MR. CONWAY: That is a completely
16 inadequate response, on the opportunity to conduct
17 cross-examination, your Honor, for reasons I already
18 outlined in some detail.

19 EXAMINER SEE: Mr. Michael.

20 MR. MICHAEL: Yes, your Honor.

21 EXAMINER SEE: Mr. Wilson is present?

22 MR. MICHAEL: Yes, your Honor, he is.

23 EXAMINER SEE: Do you want to inquire
24 with your witness what his availability is for next
25 week?

1 MR. MICHAEL: I'd be happy to, your
2 Honor. May I have a moment off the record with him?

3 EXAMINER SEE: Yes, you may.

4 MR. MICHAEL: Thank you, your Honor.

5 EXAMINER SEE: We're off the record.

6 (Off the record.)

7 EXAMINER SEE: Let's go back on.

8 I think, Mr. Conway, you indicated that
9 you required an opportunity to explore the source of
10 the revisions to Mr. Wilson's testimony; is that
11 correct?

12 MR. CONWAY: What I indicated, your
13 Honor, is that we have been unable to make the
14 connection between the values in the revised JFW-2
15 and source information through the review of the
16 workpapers, the electronic workpapers we were
17 provided, and we would like to take his deposition to
18 find out what he did in a narrative fashion.

19 We'd also like to have produced to us the
20 actual spreadsheet, the live spreadsheet that is
21 Exhibit JFW-2, as well as any other intermediate
22 spreadsheets that go from more -- other electronic
23 links that go between JFW-2 and source information.
24 That's what we'd like to have.

25 And we'd like to have a ruling on that on

1 the primary request that his testimony be -- his
2 revised testimony be -- and just I point out again
3 they didn't file a motion, didn't ask for leave to do
4 it, and I think it's inappropriate, which is the
5 basis for the objection or slash motion I made
6 earlier. So I'd like a ruling on the
7 objection/motion.

8 EXAMINER SEE: And your response,
9 Mr. Michael?

10 MR. MICHAEL: I don't think I have
11 anything further to add, your Honor, than the
12 discussion that we had this morning. Mr. Wilson has
13 some arithmetic alterations to a table in his direct
14 testimony and exhibit to his testimony. Updated
15 versions of both were provided to counsel for AEP
16 Ohio as soon as we were able to produce them.

17 Mr. Conway has every right and will have
18 every opportunity to cross-examine Mr. Wilson based
19 on his updated table and I think in the interest of a
20 full and accurate record our focus should be on
21 accurate numbers and let AEP Ohio ask questions of
22 Mr. Wilson about it.

23 EXAMINER SEE: To that end the Bench has
24 determined that like previously in this proceeding,
25 we're going to give the company an opportunity to

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1 depose Mr. Wilson on the revisions to his testimony
2 and we will reschedule Mr. Wilson for next Wednesday,
3 October 21st to follow the witness that is
4 currently scheduled on that day.

5 With that, is there anything further?

6 Then we are adjourned for today and we
7 will reconvene Monday at 9:00 a.m.

8 MR. MICHAEL: Thank you, your Honor.

9 MR. CONWAY: Thank you, your Honor.

10 EXAMINER SEE: Just to be clear, it is
11 expected that the OCC witness will provide the
12 underlying core spreadsheets necessary to get to his
13 new JFW Table 2.

14 MR. CONWAY: And I'd like to have those
15 before the deposition starts.

16 EXAMINER SEE: Yes, before it starts.

17 We are now off the record.

18 (Thereupon, the hearing adjourned at
19 12:47 p.m.)

20 - - -

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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 Friday, October 16, 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-79515)

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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 10/16/15 - Volume XII electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Anderson, Rosemary Foster Mrs.