

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 Monday, October 19,
2015.

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VOLUME XIII

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Monday Morning Session,

October 19, 2015.

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EXAMINER SEE: Let's go on the record.

Scheduled for hearing at this time before the Public
Utilities Commission is Case No. 14-1693-EL-RDR and
Case No. 14-1694-EL-AAM.

Let's take brief appearances of the
parties starting with the companies.

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

MR. KURTZ: Good morning, your Honors.
For OEG, Mike Kurtz, Kurt Boehm, and Jody Cohn.

MR. DARR: On behalf of Industrial Energy
Users, Frank Darr, and Matt Pritchard.

MR. O'DONNELL: Your Honor, on behalf of
the Mid-Atlantic Renewable Energy Coalition, Terrence
O'Donnell.

MR. BEELER: On behalf of the staff of
the Public Utilities Commission of Ohio, Steven
Beeler and Werner Margard.

MS. BAIR: On behalf of the OCC, Jodi
Bair, Bill Michael, Kevin Moore, and Dane Stinson.

1 MS. BOJKO: Good morning, your Honors.
2 On behalf of the Ohio Manufacturers' Association
3 Energy Group, Kim Bojko and Danielle Ghiloni.

4 MS. PETRUCCI: Good morning. On behalf
5 of the Retail Energy Supply Association, the PJM
6 Power Providers Group, the Electric Power Supply
7 Association, Exelon Generation, and Constellation
8 NewEnergy, M. Howard Petricoff, Michael Settineri,
9 and Gretchen Petrucci.

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

13 EXAMINER SEE: Mr. O'Donnell, would you
14 like to call your witness?

15 MR. O'DONNELL: Yes. I'd like to call
16 Bruce Burcat with Mid-Atlantic Renewable Energy
17 Coalition. Thank you.

18 EXAMINER SEE: Before I swear you in --
19 would you like to put in a brief appearance?

20 MR. MENDOZA: Yes, I would. Tony Mendoza
21 on behalf of Sierra Club.

22 EXAMINER SEE: Mr. Burcat, if you'd raise
23 your right hand.

24 (Witness sworn.)

25 EXAMINER SEE: Thank you. Have a seat.

1 Mr. O'Donnell.

2 MR. O'DONNELL: Thank you, your Honor.

3 - - -

4 BRUCE BURCAT

5 being first duly sworn, as prescribed by law, was
6 examined and testified as follows:

7 DIRECT EXAMINATION

8 By Mr. O'Donnell:

9 Q. Mr. Burcat, who are you testifying on
10 behalf of today?

11 A. Mid-Atlantic Renewable Energy Coalition.

12 Q. Who is the Mid-Atlantic Renewable Energy
13 Coalition?

14 A. It's an association of wind energy
15 developers, turbine manufacturers, some public
16 interest groups, service companies, and a
17 transmission company; and the purpose behind the
18 group is to facilitate primarily wind energy
19 development in the region through fair rules and
20 regulations and laws throughout the region.

21 Q. Thank you.

22 And you filed testimony in this case
23 dated September 14th, 2015?

24 A. I did.

25 Q. And do you have any supplements,

1 additions to your testimony; in other words, if you
2 were to file the same today, would you file it as is?

3 A. Yes.

4 MR. O'DONNELL: Thank you.

5 Your Honors, at this time if it's
6 acceptable, I'd like to move to admit Mr. Burcat's
7 testimony as Mid-Atlantic Regional Energy Coalition
8 1.

9 EXAMINER SEE: Okay. So marked.

10 (EXHIBIT MARKED FOR IDENTIFICATION.)

11 Q. Mr. Burcat, what is the purpose of your
12 testimony in this case?

13 A. Well, first, let me say it's not to
14 determine or not to review the application to
15 determine if it's in the public interest. What we
16 really were looking to do is to improve the
17 application by adding a thousand megawatts of
18 fixed-price renewable energy, and for several
19 reasons. One, it was --

20 Q. If I may, so your purpose was to offer
21 how the application could be improved?

22 A. Yes.

23 Q. And how could the application be
24 improved?

25 A. Well, by adding a thousand megawatts of

1 renewable energy, it would significantly improve the
2 hedge or the price stability of the proposal since
3 wind energy and other renewables, certain other
4 renewables like solar, are fixed price and would stay
5 stable through the whole term of the project or the
6 whole term of the application of the purchased power
7 agreements.

8 It would provide a significant avenue
9 towards compliance towards the Clean Power Plan,
10 which is now finalized, so that's important because
11 one of the Commission's standards for allowing these
12 types of agreements in its previous order was to have
13 that type of -- was to make sure that it would be
14 potentially compliant with pending rules and
15 regulations, environmental rules and regulations,
16 which were just finalized on August the 3rd.

17 And, finally, fuel diversity, which was
18 another important factor in that order, would be
19 significantly improved by this proposal as it's --
20 the proposal's primarily focused at coal resources,
21 and this would add some significant renewable energy
22 and, as I said, fixed price renewable energy to the
23 proposal.

24 MR. O'DONNELL: Thank you.

25 I don't have any further questions.

1 EXAMINER SEE: Mr. Mendoza?

2 MR. MENDOZA: No questions, your Honor.

3 EXAMINER SEE: Ms. Bojko?

4 MS. BOJKO: No questions, your Honor.

5 Thank you.

6 EXAMINER SEE: Ms. Bair?

7 MS. BAIR: No questions, thank you.

8 EXAMINER SEE: Mr. Darr?

9 MR. DARR: Briefly, your Honor.

10 - - -

11 CROSS-EXAMINATION

12 BY Mr. Darr:

13 Q. The contract that you're proposing that
14 AEP enter into would be a wholesale contract; is that
15 correct?

16 A. That's correct.

17 Q. And that wholesale contract would be
18 subject to whatever review is available under the
19 Federal Energy Regulatory Commission, is that also
20 correct, if you know?

21 A. I don't think it is.

22 Q. Do you think that this is a retail
23 contract that's subject to the Commission's
24 jurisdiction?

25 A. Yeah. This is clearly subject to the

1 Commission's jurisdiction.

2 Q. Let me ask you --

3 A. This would be for the standard offer
4 service customers.

5 Q. So you're talking about replacing the
6 standard offer with generation provided by the
7 proposal that's being offered here; is that correct?

8 A. Well, not replacing it; supplementing it.

9 Q. Some portion of it?

10 A. Yes.

11 Q. So going back to my original question,
12 what essentially you're proposing here is a retail
13 contract to supplement or replace power that's
14 currently being purchased through the auction
15 process; is that correct?

16 A. That's correct.

17 Q. Now, with regard to your proposal, if I
18 understand it correctly, you are not indicating that
19 any of the generation currently proposed to be
20 provided under the purchased power agreement
21 contained in the application would be displaced by
22 the power that would be subject to this agreement
23 that you're proposing; is that correct?

24 A. That's correct.

25 Q. Now, in your testimony, beginning at

1 pages 9 and 10, you identify that there will be
2 requirements associated with compliance with the
3 Clean Power Plan; is that correct?

4 A. Yes. In Ohio, yes.

5 Q. And the final rule would require either
6 rate or mass reductions of carbon dioxide emissions,
7 correct?

8 A. Correct.

9 Q. And at page 10, starting at line 17, you
10 describe in your testimony a method of addressing the
11 carbon emissions from the AEPGR plants that are
12 subject to the PPA agreement, correct?

13 A. That's correct.

14 Q. And then in Attachment 1 you provide some
15 aggregate and individual plant calculations regarding
16 the amount of wind capacity that would be needed to
17 meet the various CO2 requirements; is that right?

18 A. Yes.

19 Q. In Attachment 1 you're addressing the
20 total generation changes needed such that the
21 combined, coal and wind electricity production, meets
22 the final EPA rate base goal for Ohio; is that fair?

23 A. That is correct.

24 Q. Let's take page A2 of your exhibit. In
25 this exhibit you assume that the plant continues to

1 operate at the existing level, and then you calculate
2 the additional zero emissions production that would
3 be necessary to reach an average emission level
4 1,190 pounds per megawatt-hour, correct?

5 A. Yes.

6 Q. And that ends up being 2.407 million
7 megawatt-hours; is that correct?

8 A. That is correct.

9 Q. So then if we go through each of the
10 attachment pages starting with A1 through A5, you've
11 done basically the same calculation on either an
12 individual plant basis or on an aggregate basis; is
13 that right?

14 A. That is correct.

15 Q. Now, to reach the conclusion that the
16 additional power provided under your proposal would
17 satisfy the emission rate levels contained in the EPA
18 rule for the state of Ohio, you divide the existing
19 output, which is 6.99 billion pounds, by the
20 aggregate hours of the existing plant and the
21 additional wind generation that you're proposing to
22 add, correct?

23 A. Are you talking about A2?

24 Q. I'm talking about Cardinal.

25 A. Cardinal, okay. And could you repeat the

1 question?

2 Q. Sure. To reach the conclusion that the
3 additional generation would meet the requirements of
4 the EPA rate-based emissions requirement for Ohio of
5 1,190 pounds per megawatt-hour, you take the existing
6 generation carbon emissions of 6.9 billion pounds and
7 divide that by the total of the Cardinal generation
8 plus the additional emissions-free generation,
9 correct?

10 A. That's correct.

11 Q. And so the calculation would be
12 6.29 billion pounds divided by 5.874 million
13 megawatt-hours to reach the 1,190 calculation,
14 correct?

15 A. Can you repeat that once more? I'm not
16 sure I --

17 Q. Sure.

18 A. I'm not sure I agree with one of those.

19 Q. The numerator would be, for the
20 calculation that we're talking about, would be the
21 6.99 billion pounds of emissions, correct?

22 A. Yes.

23 Q. The denominator, or the divider, would be
24 the aggregate megawatt-hours of both Cardinal 1 and
25 the generation that you identify in the

1 next-to-the-last line of 2.407 additional
2 megawatt-hours from the wind source, correct?

3 A. Yes.

4 Q. And then if we add those two numbers
5 together, those work out to about 5.874 million
6 megawatt-hours, correct?

7 A. Correct.

8 Q. And if you divide that number into the
9 pounds of carbon generated by Cardinal 1 of
10 6.99 billion pounds, you end up with 1,190, correct?

11 A. That's correct.

12 Q. Okay. And you also make a calculation of
13 the wind capacity equivalent that would be necessary
14 to produce the additional megawatt-hours, and that's
15 designated on line -- on the last line of the table
16 on page A2, correct?

17 A. That's correct.

18 Q. And in this case, for Cardinal 1 it would
19 be an additional 785 megawatts of wind capacity.

20 A. Yes.

21 Q. Am I correct the capacity factor that you
22 use pretty consistently across these examples is
23 between 34 and 35 percent?

24 A. That's right.

25 Q. Now, you're familiar with the technical

1 documents in support of the EPA rule?

2 A. "Familiar with" is I guess a good way to
3 put it, yes.

4 Q. Are you familiar with the manner in which
5 the EPA calculated what ends up being for Ohio the
6 1,190 figure?

7 A. No. I primarily used their output. I
8 didn't go into the specifics of how they got to the
9 1,190.

10 Q. Let's talk about it more generally, then.
11 You're familiar with the fact that the EPA used a
12 three building-block approach, correct?

13 A. Correct.

14 Q. The first building block consisted of
15 heat rate reductions or heat rate improvements
16 associated with what the EPA defined as steam
17 generation, correct?

18 A. Correct.

19 Q. Steam generation consisted of generation
20 that was coal-fired and oil-fired, correct?

21 A. Correct.

22 Q. The second block is generation provided
23 by natural gas combined-cycle units, correct?

24 A. Yes.

25 Q. And the third block was the addition of

1 renewables, correct?

2 A. That's correct.

3 Q. Now, the calculation process itself was
4 to take, first, an estimate of the amount of
5 generation that would be necessary to produce the
6 same amount of generation along a baseline with an
7 improved heat rate, correct?

8 A. Yes.

9 Q. And generation then was stepped down to
10 reflect that improved heat rate, correct? There was
11 a deduction?

12 A. Yes.

13 Q. The second step in making the calculation
14 was to look at the available renewables that could be
15 brought online to displace generation from steam,
16 correct?

17 A. That's right.

18 Q. And then the third step was to fill in
19 any remaining additional generation that could be
20 produced by increasing the production from natural
21 gas combined-cycle units, correct?

22 A. I'll accept that, subject to check.

23 Q. Now, each one of these calculations had
24 the effect of reducing the amount of generation that
25 could be -- that would be allowed from the

1 steam-based resources, correct?

2 A. I'll accept that, subject to check.

3 MR. DARR: May I approach, your Honor?

4 EXAMINER SEE: Yes.

5 MR. DARR: There may be a way to firm
6 this up a little bit.

7 I'd like to have a document marked as IEU
8 Exhibit 16.

9 (EXHIBIT MARKED FOR IDENTIFICATION.)

10 Q. Do you have in front of you what's been
11 marked as IEU Exhibit 16?

12 A. I do.

13 Q. Are you familiar with this document?

14 A. I am not.

15 Q. For purposes of this, what I'd like to do
16 is simply provide you a basis to confirm some of the
17 calculations that we were just walking through.
18 Could you turn to Table 4, please? And this is on
19 page 11.

20 Now, Mr. Burcat, do you see that on
21 column I, fossil steam generation listed in this
22 example shows for the eastern interconnection
23 1.3 million gigawatt-hours of production?

24 A. I see that on the table.

25 Q. Okay.

1 MR. O'DONNELL: Your Honor, I'm just
2 going to object in that the witness was just handed a
3 50-page document with which he said he wasn't
4 familiar. I'm not sure that there's even been a
5 foundation laid for what this is, and now we're sort
6 of delving into a table on page 11 that he hasn't
7 seen before.

8 MR. DARR: Your Honor, I agree with
9 Mr. O'Donnell that there's a problem here. The
10 problem here, however, is the witness has indicated
11 he's agreeing, subject to check, and I'm offering him
12 an opportunity to confirm his understanding. And if
13 I may be given a little bit of leeway, I think I can
14 do this without, A) having to introduce the document
15 or, B) requiring him to review this on an extended
16 basis.

17 EXAMINER SEE: Okay. I'll give you a
18 little bit of leeway, let's see where it goes for
19 now.

20 MR. DARR: I appreciate that, your Honor.

21 Q. Just to confirm, Mr. Burcat, you
22 described the basic calculation that the EPA is
23 making is to take an existing baseline and then to
24 move that baseline based on the additions of block 2
25 and 3.

1 A. Correct.

2 Q. Okay. And, in addition, adjust it for
3 block 1, which is the heat rate reduction.

4 A. That's correct.

5 Q. Or heat rate improvements. Darn, I said
6 it wrong again.

7 Okay. Now, as those calculations take
8 place, would you agree with me that the amount of
9 emissions associated with steam generation, which the
10 EPA has defined as both coal- and oil-based
11 generation, at each one of those steps the amount of
12 steam-based generation is reduced?

13 A. I mean, I'm assuming, because that's part
14 of the building blocks, that that's the case, but I
15 can't tell from this document what that is. I have
16 not looked at this document before.

17 Q. You're willing to accept that as the
18 effect of what happens of going through the building
19 blocks; is that correct?

20 A. Yes.

21 Q. Let's move on, then.

22 Now, at page 12 of your testimony you
23 indicated that there are 11 permitted wind farms; is
24 that correct?

25 A. That's correct.

1 Q. And am I correct that none of these has
2 been constructed or is under construction at the
3 current time?

4 A. As far as I know, that's correct.

5 Q. They have received their permits from the
6 Ohio Power Siting Board; is that correct?

7 A. Yes.

8 Q. So in each case we're talking about a new
9 addition of wind generation, correct?

10 A. That is correct.

11 Q. Now, I believe it's your understanding
12 that PJM uses a capacity factor that's different than
13 the one that you proposed in your Attachment 1; is
14 that correct?

15 A. No, that's not correct.

16 Q. Am I correct that PJM uses a capacity
17 factor, a class average capacity factor, of
18 13 percent for wind resources?

19 A. That's not correct. Well, I think it
20 needs an explanation.

21 Q. Well, let's answer my question first and
22 then your counsel can ask you questions to clarify.
23 Am I correct that the class average capacity factor
24 for a wind resource is 13 percent?

25 A. No, that's not correct.

1 Q. Are you familiar with the PJM manual,
2 sir?

3 A. I've looked at it at times, but not
4 terribly familiar with it. I've worked on specific
5 pieces of it during FERC Order 1000 proceedings and
6 other various stakeholder processes at PJM.

7 MR. DARR: If I could have just a second,
8 your Honor. I've misplaced the citation.

9 EXAMINER SEE: Are you ready to proceed,
10 Mr. Darr?

11 MR. DARR: Yes. Thank you. My
12 apologies, your Honor. Usually I have these
13 highlighted and, unfortunately, the page number I had
14 in my notes was incorrect.

15 Q. (By Mr. Darr) Mr. Burcat, you were a
16 witness in the FE case, in Case No. 14-1297-EL-SSO;
17 is that correct?

18 A. That's correct.

19 Q. For purposes of the RPM auctions
20 conducted by PJM, PJM uses an average capacity factor
21 for wind of 13 percent, correct?

22 A. For purposes of the RPM auction, which is
23 quite a bit different than the question you asked me.

24 Q. So the answer to my question is that for
25 the purposes of the capacity auction, they use a

1 13 percent capacity factor, correct?

2 A. For the purpose of the capacity auction,
3 but that's a lot different, as I said, than -- it's
4 usually somewhere -- when you look at this, when you
5 look at a capacity factor for wind, you have to look
6 at the total for the year and divide by the number of
7 hours in the year and come up with the average
8 capacity factor.

9 There's the reliability pricing model,
10 which is the capacity market, in PJM is strictly on
11 that peak day in the summer. That's when there's a
12 13 percent capacity factor. That's not the average
13 capacity factor that anybody uses for wind for that
14 purpose, but for the RPM that's what they use because
15 it's a whole different type of market.

16 Q. So the answer to my question is yes?

17 A. Yes, to the RPM question, but that's not
18 the same as the question you asked me before.

19 MR. DARR: Thank you. That's all I
20 have.

21 EXAMINER SEE: Mr. Kurtz?

22 MR. KURTZ: Thank you, your Honor, very
23 briefly.

24 - - -

25

CROSS-EXAMINATION

By Mr. Kurtz:

Q. Good morning, sir.

A. Good morning.

Q. I'm unclear from your verbal summary at the beginning what is AEP supposed to do with a thousand megawatts of wind power if the Commission accepts your proposal? Is it to be used to supply SSO customers?

A. It would be competitively sourced for SSO customers.

Q. SSO, standard service offer?

A. Yep.

Q. Why wouldn't the wind generation just compete in the SSO auctions like everyone else?

A. Because, as my testimony states, we're looking at long-term commitments here so that the generation will get built. I mean, the purpose of purchased power agreements -- and this would be competitively sourced so it's still a market-based type of process. But this would be -- provide developers the opportunity for financing and would also provide the long-term hedge that I talked about at the beginning of my testimony today.

Q. So what do the other bidders in the SSO

1 auctions do? I mean, they have to -- they assume --
2 they don't know how much SSO load there will be,
3 correct, so that they can shop or come back during
4 the term of their competitive bid?

5 A. I'm not sure I understand your question.

6 Q. The people who bid in the SSO auctions
7 don't actually -- they bid on tranches, but they
8 don't know how many megawatt-hours they'll have to
9 serve?

10 A. That's correct.

11 Q. Because they don't know how large the SSO
12 load would be, right?

13 A. Yes. This would be a reduction to that
14 load over the term of the contract.

15 Q. Well, it wouldn't be a reduction to load.
16 Load is what it is.

17 A. To what needs to be supplied to load.

18 Q. And so the other auction bidders would
19 have to make an assumption about how much wind
20 generation would be provided, correct?

21 A. Yeah. I mean, they make a number of
22 assumptions, and that would be a number -- that would
23 be an assumption as well, but, you know, it would be
24 relatively consistent. I mean, there's certainly
25 forecasts and things that are fairly sophisticated

1 today.

2 Q. Well, that's my point. This would add
3 another assumption that the bidders have to factor
4 into their bids increasing the risk for their own
5 purposes?

6 A. I don't see that. It would just be a
7 reduced number, a reduced load, reduced sales for
8 that particular purpose.

9 Q. Well, except for when the wind's not
10 blowing, the other auction providers would have to
11 provide more power than when the wind is blowing
12 because it would be a thousand megawatts pumping into
13 the system when the wind's blowing and less than a
14 thousand when the wind is not. So the other auction
15 bidders would have more uncertainty as to how much
16 and when they have to provide power; don't you agree?

17 A. No, I disagree with that.

18 Q. You disagree. Do you know how the SSO
19 auctions work?

20 A. Yes.

21 Q. Okay. Let me ask you to turn to page 10
22 of your testimony, line 17. You list two benefits, I
23 guess, of your proposal. The second is renewable
24 energy sources can effectively offset carbon
25 emissions from the AEPGR plants.

1 A. Yes.

2 Q. And that's reducing the CO2 emissions
3 rate that you were discussing with Mr. Darr?

4 A. Correct.

5 Q. Now, you understand that the state EPA
6 will issue its initial state implementation plan in
7 September of 2016, correct?

8 A. That's correct.

9 Q. And you don't know that the state of Ohio
10 is going to go with a rate-based approach as opposed
11 to a mass-based approach, correct?

12 A. I don't know, but this is certainly a
13 very strong option for -- renewable energy is, even
14 with the EPA's studies and EIA's studies is --
15 especially wind energy is one of the lowest-cost
16 options, if not the lowest-cost option, for reducing.

17 MR. KURTZ: Could I have the question and
18 answer read back, please?

19 (Record read.)

20 MR. KURTZ: Your Honor, I'm going to stop
21 right there. I'm going to move to strike everything
22 after the first sentence because it's beyond the --
23 it's not answering the question. It's opining as to
24 the virtues of wind power, et cetera.

25 EXAMINER SEE: Did you want to reply,

1 Mr. O'Donnell?

2 MR. O'DONNELL: Well, we don't object to
3 that, your Honor. That's fine.

4 EXAMINER SEE: Then it will be, after "I
5 don't know," will be stricken.

6 Q. (By Mr. Kurtz) If you don't know what
7 compliance approach the state of Ohio will propose in
8 its state implementation plan in September of 2016,
9 why should the Commission obligate AEP to a thousand
10 megawatts of wind power at this time?

11 A. Because this gets them a long way, this
12 would get them 50 percent of the way for these
13 particular plants towards compliance.

14 Q. If a rate-based approach is adopted. And
15 we don't know whether Ohio is going to go for a
16 rate-based approach, correct?

17 A. Well, I mean, I just disagree with the
18 premise of that.

19 MR. KURTZ: Thank you, your Honor. No
20 more questions.

21 EXAMINER SEE: Mr. Nourse. I'm sorry.
22 Hold on just a second.

23 Ms. Petrucci?

24 MS. PETRUCCI: No questions.

25 EXAMINER SEE: Mr. Dougherty?

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1 MR. DOUGHERTY: No questions.

2 EXAMINER SEE: Now, Mr. Satterwhite.

3 MR. SATTERWHITE: Thank you, your Honor.

4 - - -

5 CROSS-EXAMINATION

6 By Mr. Satterwhite:

7 Q. Good morning, Mr. Burcat. How are you
8 doing today?

9 A. Good. Thank you.

10 Q. My name is Matt Satterwhite. I'm going
11 to ask you some questions on behalf of Ohio Power
12 today.

13 One thing just to clear up my confusion,
14 I believe you testified today and in your testimony,
15 that the goal of the MAREC position is to be an adder
16 on top of whatever AEP Ohio is already requesting,
17 correct?

18 A. That's correct.

19 Q. Are you aware that AEP Ohio is requesting
20 not to add this power to the SSO auction, but to sell
21 this power in the market?

22 A. Yes.

23 Q. And your proposal is different than that;
24 is that my understanding? You want to add this to
25 the SSO auction for the standard service offer; is

1 that correct?

2 A. That's correct.

3 Q. Now let's look at page 10 of your
4 testimony. Do you have your testimony in front of
5 you?

6 A. Yes.

7 Q. Specifically on lines 9 and 11 you make
8 the statement, "The Application does not account for
9 any potential impacts from these proposed
10 environmental rules and, as demonstrated above, the
11 AEPGR plants produce significant carbon dioxide
12 emissions." Do you see that?

13 A. Which line? I'm sorry.

14 Q. There's a line -- line 9 there's a
15 sentence starting "The application."

16 A. Okay.

17 Q. Take a second and read that.

18 A. Yes.

19 Q. Now, when you mentioned the application,
20 with a capital A in that sentence, are you referring
21 solely to the header document in the case in chief,
22 the application, or the entire case in chief that was
23 filed by the company?

24 A. I'm sorry, the header?

25 Q. What do you mean by "application" in that

1 sentence?

2 A. I think what I specifically mean in that
3 case is what we're proposing as opposed to the
4 application.

5 Q. Well, my understanding is the application
6 is referring to what AEP Ohio has filed, and your
7 statement is that what AEP Ohio has filed does not
8 account for potential impacts or environmental rules;
9 is that right?

10 A. That's correct. I'm sorry. Yes.

11 Q. So my question is when you say
12 "application," do you mean the sort of summary
13 application that goes along with all the
14 case-in-chief testimony, or do you mean the entire
15 case in chief of the application as well as the
16 testimony of the 11 witnesses of AEP Ohio?

17 A. No, just the summary.

18 Q. So you did not review the testimony of
19 AEP witnesses John McManus and Toby Thomas?

20 A. I did not.

21 Q. So you don't know whether they did
22 address any future potential impacts from the rules
23 that you discuss in your testimony, correct?

24 A. That's correct.

25 Q. And if they had, this would make this

1 statement that you have here, if we add in "case in
2 chief" beyond "application incorrect," correct?

3 A. You're asking me to add in something I
4 didn't have in my testimony.

5 MR. O'DONNELL: Your Honor, I'm just
6 going to object. That's not what he testified.

7 MR. SATTERWHITE: I can rephrase it. It
8 was poorly worded.

9 EXAMINER SEE: Okay.

10 Q. So you stated this sentence only applies
11 to the application document, not to the entire filing
12 of AEP Ohio, correct?

13 A. That's correct.

14 Q. And you have no idea if AEP Ohio has
15 actually provided this information in its supporting
16 testimony, correct?

17 A. That's correct.

18 Q. Now, the proposal you have, this adder
19 proposal I'll call it, can this be done if the
20 Commission were to approve the case as filed by
21 AEP Ohio and then perform this adder proposal that
22 you've proposed?

23 A. I would say it would be part and parcel.

24 Q. But if the Commission were to approve the
25 PPA as filed by AEP Ohio and approve your

1 recommendation to add the thousand megawatts, the
2 Commission wouldn't need to wait for the RFP to come
3 in and everything to be done with your renewable
4 adder to go ahead and start the proposal that
5 AEP Ohio has proposed, correct?

6 A. Assuming it was, they were both approved,
7 yes, that's correct.

8 Q. And you also propose a cap on what would
9 go into that RFP.

10 A. That's correct.

11 Q. And that cap is based on the average
12 price of the units that are currently in the AEP PPA;
13 is that correct?

14 A. Yes. You're talking about a price cap on
15 the PPAs that we proposed.

16 Q. Right.

17 A. Yes.

18 Q. So an RFP would go out -- I'm just trying
19 to think the final process for the Commission.

20 A. That's correct.

21 Q. So the Commission could approve
22 AEP Ohio's PPA and then order an RFP to be issued,
23 correct?

24 A. Yes.

25 Q. In that RFP there would be a price not to

1 exceed based on the average price of the provision of
2 power capacity.

3 A. That's correct. We said these particular
4 purchased power agreements would not exceed and
5 likely be lower than the prices in the proposal by
6 AEP.

7 Q. And you answered some questions that
8 Mr. Darr, counsel for IEU, had asked you based on the
9 level of facilities that are currently permitted in
10 Ohio. Do you remember that?

11 A. Yes.

12 Q. And MAREC is really focused on wind
13 renewable projects, correct?

14 A. That's correct.

15 Q. And you state that you want a thousand
16 megawatts to be added as far as the AEP Ohio
17 proceeding, correct?

18 A. Yes.

19 Q. And then you've also proposed that
20 800 megawatts be added in the FirstEnergy proceeding,
21 correct?

22 A. That's correct.

23 Q. And you cite in your testimony that
24 there's 1,400 megawatts currently available if all of
25 the things were actually to be built, correct?

1 A. In Ohio, yes.

2 Q. So would you agree that if the Commission
3 were to approve both your proposal in the AEP Ohio
4 case and the FirstEnergy case, there are not enough
5 resources to fit your recommendation?

6 A. Well, there are not enough resources
7 permitted at this time in Ohio, but certainly for the
8 Clean Power Plan in the final rule, it certainly
9 allows for trading and working and dealing with
10 out-of-state resources as part of the -- as part of
11 the final rule.

12 Q. So your proposal is agnostic on whether
13 the facilities are located in Ohio or out of Ohio,
14 correct?

15 A. Well, I don't think that. I do think
16 that, you know, there's certainly -- for the economic
17 development benefits it certainly makes a lot of
18 sense to do as many of these projects as possible
19 within Ohio and then, if necessary, go outside the
20 state to make up the, you know, the shortfall, if
21 any.

22 Q. You also provide some testimony dealing
23 with what you call the benefits of the fuel supply
24 for renewables versus the cost of fuel supply for
25 power plants fueled by coal, correct?

1 A. Yes.

2 Q. But you've not reviewed any of the coal
3 contracts for the PPA units, correct?

4 A. I've looked at the term sheet or the
5 terms that were listed in Witness Pearce's testimony,
6 but I have not specifically looked at the coal
7 contracts themselves or the proposed contracts
8 themselves.

9 Q. And you have no idea what the terms are
10 going forward for these power plants and what they've
11 locked in for coal prices, correct?

12 A. I don't have the specifics for that,
13 that's correct.

14 Q. You've not reviewed that at all, correct?

15 A. I have not reviewed that at all.

16 Q. And the numbers on page 12 of your
17 testimony that deal with economic development --

18 A. Yes.

19 Q. -- are you familiar with those?

20 A. Yes.

21 Q. That's an extrapolation of the general
22 fact sheet used for another wind farm, correct?

23 A. That's right. We were trying to get a
24 wind farm in Ohio that was -- and we used that to
25 extrapolate the benefits, but those are the benefits

1 that were determined by that company as to what the
2 benefits were for that particular wind farm, and
3 they're consistent with my understanding and review
4 in the region with benefits that are happening in
5 other states as well.

6 Q. What was the size of the wind farm that
7 the numbers were based upon?

8 A. 304 megawatts.

9 Q. And so you just scaled that to a thousand
10 for your testimony here?

11 A. That's correct.

12 Q. But there was no specific economic study
13 done to compare the thousand megawatts and what
14 numbers that would produce for economic development,
15 correct?

16 A. There was no specific study.

17 MR. SATTERWHITE: One second, your Honor.

18 Q. And if the Commission were to approve
19 your proposal and order the ordering, I guess, of a
20 thousand megawatts of wind, would the investors in
21 those wind farms expect a return on equity for what
22 they invest in those farms?

23 A. Well, any smart businessperson would
24 expect to earn a return on equity, but not in the
25 same way that your proposal is because it's not built

1 into the specific contract like it is in your
2 contracts. It would be something that the investors
3 would put into their pricing when they bid in and
4 would be subject to the competitive procurement
5 process that would be involved and that would
6 ultimately have an impact, and if the lowest price
7 was accepted, ultimately there would be some kind of
8 profit or return in the -- I mean, you wouldn't
9 expect somebody to do something where they would be
10 operating at a loss for the --

11 Q. Right.

12 A. -- the contract.

13 Q. I didn't mean to cut you off. So you're
14 saying there's an expectation to get a return on
15 equity whenever there's a large investment, correct?

16 A. Yes. And any business would expect that,
17 but there are -- you know, it's a competitive process
18 so it's going to be as low as possible, and it would
19 be, obviously, to reduce the price enough that, you
20 know, that they could get the proposal without
21 putting them in some kind of financial distress for
22 doing it but also comply with what we had talked
23 about with the upper limits to the pricing.

24 Q. And I think it's what you're saying, but
25 I just want to make sure. Someone wouldn't invest

1 unless they were going to get a return on that,
2 correct?

3 A. I think that's the general theory, yes.

4 Q. And for the thousand megawatts that
5 you're proposing in your adder proposal, MAREC has
6 not done any study on the transmission upgrades that
7 would be needed to add those to the system, correct?

8 A. Well, the investors who are proposing
9 these -- the developers who are proposing these
10 projects review that information. Most of the times
11 they try to build as close as they can to the
12 transmission system, and they typically are required
13 to, you know, pay some of the costs, if not all of
14 the costs, of those upgrades, and that would be
15 included in the pricing.

16 Q. But you're just guessing now; you don't
17 know what any of those costs are, correct?

18 MR. O'DONNELL: Objection, your Honor.
19 He said the developers already provided that
20 information. It's not a matter of him guessing or
21 not.

22 MR. SATTERWHITE: I believe, your Honor,
23 he said "typically." I'm asking examples here. He's
24 made a recommendation to the Commission, and I want
25 to know if he can sit on the stand here and tell us

1 what the impact's going to be.

2 A. I can tell you --

3 EXAMINER SEE: I'm sorry. Hold on just a
4 moment. I'll allow the question.

5 A. I can tell you that the prices are going
6 to be lower than what's in the AEP proposal, and that
7 would include the costs, any of the costs, that the
8 developers have to pay for that transmission, which
9 is usually substantial, if not the whole portion, to
10 attach to the transmission system.

11 MR. SATTERWHITE: Your Honor, I move to
12 strike. I asked him if he's aware of any study and
13 that no study has been done. We were talking about
14 his awareness of what was done, and he gave me a
15 speech in comparison of his proposal with AEP's
16 proposal.

17 MR. O'DONNELL: Your Honor, if I may
18 respond.

19 EXAMINER SEE: Yes.

20 MR. O'DONNELL: The witness said the
21 developers did the study and he -- that was his
22 response.

23 MR. SATTERWHITE: I was still trying to
24 get an answer to my first question, your Honor.

25 EXAMINER SEE: Just a moment.

1 Let's try that again. I don't think it
2 was an answer in response to the question.

3 MR. SATTERWHITE: So did your Honor grant
4 the motion to strike on the "not answer"?

5 EXAMINER SEE: No. Let's try it again.

6 Q. (By Mr. Satterwhite) As you sit here
7 today, you've not reviewed a study that's compared
8 the thousand megawatts that you're proposing to the
9 necessary transmission upgrades that would have to
10 come along with that, correct?

11 A. I would say having not reviewed a study
12 would be a correct characterization of it.

13 Q. So any statements you make pertaining to
14 what might need to be added to the transmission
15 system is a guess on your part, correct?

16 A. No. I know that developers count that in
17 their costs as part of their proposal so they would
18 do a study. And they're not going to bid in if the
19 transmission costs are, you know, such that it would
20 make their proposal uneconomic.

21 Q. So it's your testimony that the RFP that
22 the Commission puts out, the prices that come in
23 response to that will include the prices for the
24 transmission upgrades?

25 A. Yes. That the generation owners would

1 pay, yes.

2 Q. So those costs would be included or at
3 least would be eligible for inclusion in response to
4 those prices that come in from the RFP, correct?

5 A. Yes.

6 MR. SATTERWHITE: Thank you. That's all
7 I have.

8 EXAMINER SEE: Mr. Beeler?

9 MR. BEELEER: No questions, your Honor.

10 EXAMINER SEE: Any redirect,
11 Mr. O'Donnell?

12 MR. O'DONNELL: Yes. May I have two
13 minutes?

14 EXAMINER SEE: Yes.

15 MR. O'DONNELL: Thank you, your Honor.

16 EXAMINER SEE: Mr. O'Donnell, did you
17 want to step out with the witness?

18 MR. O'DONNELL: Pardon?

19 EXAMINER SEE: Did you want to step out
20 and confer with your witness?

21 MR. O'DONNELL: Yes, please, your Honor.
22 Thank you.

23 (Off the record.)

24 EXAMINER SEE: Let's go back on the
25 record.

1 Mr. O'Donnell, redirect?

2 MR. O'DONNELL: Thank you, your Honor.

3 - - -

4 REDIRECT EXAMINATION

5 By Mr. O'Donnell:

6 Q. Mr. Burcat, a few questions for you, sir.
7 You were asked about capacity factor for wind and
8 went back and forth over whether a 12 percent
9 capacity factor or something more around 34,
10 35 percent was appropriate. For purposes of the
11 calculation provided in your testimony, which
12 capacity factor did MAREC use and why?

13 A. We used the mid-30s capacity factor
14 because that's the average capacity factor for these
15 units through the entire year. What's used for a
16 very specific market at PJM, called the reliability
17 pricing model, is very specific for something called
18 capacity resource, and we're not claiming that wind
19 is some kind of significant capacity resource; that's
20 only for a peak-day resource, and so they use -- it's
21 13 percent. They use 13 percent at PJM, and -- but
22 it's clearly understood and the folks at PJM would
23 concur that the average capacity factor which should
24 be used in this type of calculation would be the
25 mid-30s level.

1 MR. DARR: Objection, your Honor. That's
2 a statement with regard to the knowledge of PJM or
3 what PJM would believe. That can't possibly be
4 within the permissible testimony of this witness, and
5 I move to strike that portion of that answer.

6 MR. O'DONNELL: Your Honors, I could just
7 ask Mr. Burcat. We can strike that portion of the
8 answer.

9 Q. (By Mr. O'Donnell) But I would ask
10 Mr. Burcat if he has a basis, additional basis to
11 support the mid-30s capacity factor, including based
12 on your knowledge of PJM.

13 A. Yeah. I mean, this is just understood.
14 I mean, these are the actual capacity factors that
15 these developers in the region are getting for their
16 particular projects. They're also -- as you go
17 further in the Midwest, the capacity factors actually
18 go up. So -- but the capacity factors are actually
19 going up for wind projects, in general, because of
20 the -- and it's the design, partly the design of the
21 wind turbines are improving, they're more efficient,
22 they're larger, so that's a huge reason.

23 So, if anything, capacity factors are
24 going to go up over time, not down. So we're using a
25 pretty conservative number here as these projects are

1 actually to be developed sometime in the future.

2 Q. Thank you. I want to ask a question.
3 You were asked about the price cap that MAREC has
4 proposed for purposes of the renewables procurement.
5 How does that price cap work as proposed?

6 A. If through a procurement process, which
7 is what we propose, a competitive procurement
8 process, the prices, the ultimate prices, the winning
9 price, however you want to call it, exceeds -- equals
10 or exceeds, the price of the -- the average price of
11 the proposal by AEP, then that contract would not be
12 something that AEP would be required to enter into,
13 and I would assume it would be in the order of the
14 Commission.

15 We're not asking to develop a project
16 that would, you know, be more expensive than what's
17 being proposed here, for sure, and we strongly
18 believe it would be less expensive --

19 Q. Thank you.

20 A. -- on an average and firm through the
21 entire length of the contract. The price would be
22 known from day one to the last day of the purchased
23 power agreement. It's 15, 20 years.

24 Q. Thank you. And those prices would
25 include any transmission costs in addition to the

1 generation?

2 A. It would, yeah. It would be an all-in
3 price.

4 Q. All-in price, thank you.

5 On the question of the Clean Power Plan,
6 you were asked whether Ohio has a choice to pursue
7 sort of a rate-based framework or a mass-based
8 framework in terms of compliance with the Clean Power
9 Plan. Is it your testimony that the MAREC proposal
10 would assist Ohio's compliance with the Clean Power
11 Plan in either case or only under one of those
12 scenarios?

13 A. No; in either case. Yeah, the wind power
14 was determined under both scenarios to be a very
15 cost-effective way of meeting the Clean Power Plan
16 requirements. And let me be clear about that, that
17 we're not just saying it should be wind power, we
18 think there should be a portfolio approach. We
19 totally are supportive of a portfolio approach for
20 the same reason why we think our proposal supports
21 diversity with what AEP is proposing here. But under
22 the Clean Power Plan, I think there's no expectation
23 from the wind industry that they're going to be
24 the -- necessarily the supporting just about the
25 whole compliance. It's going to be some kind of

1 portfolio approach, and it may be between different
2 building blocks. It may be between different
3 renewable energy resources. It could be a number of
4 different ways that the plan could be met.

5 So we're not just saying it has to be
6 wind, but we think wind will be a very strong player
7 in that final -- once the plan gets underway and
8 ultimately we get to 2030 when the final goals have
9 to be met.

10 Q. Thank you.

11 Last question. You were asked about the
12 feasibility of the plan in terms of permitted
13 projects in Ohio, wind specifically. Do you believe
14 that the MAREC proposal is feasible in terms of
15 building the renewables that are recommended, and if
16 so, why?

17 A. Yeah. And I do want to clarify that even
18 though there's 1,400 megawatts in the -- that have
19 been permitted to this point in time, there are a lot
20 of other projects in the pipeline that, you know,
21 over time -- this is not going to go in in the first
22 day -- over time to get permitted and to get built.

23 So even though there's 1,400 permitted
24 projects, there can certainly be a substantial
25 amount. I don't know the number of what's being --

1 what's out there, but I do know there are a lot of
2 different proposals, a lot of different developers
3 developing projects but may not have gotten permits
4 at this time. And then, as I said, if there's a
5 shortfall, they can certainly go outside the state,
6 but I don't see that necessarily as something that
7 has to happen here.

8 Q. To be clear, is the MAREC proposal for
9 the thousand megawatts wind specific or renewable
10 specific?

11 A. Renewable specific.

12 MR. O'DONNELL: Thank you. That's all.

13 EXAMINER SEE: Mr. Mendoza?

14 MR. MENDOZA: No questions, your Honor.

15 EXAMINER SEE: Ms. Bojko?

16 MS. BOJKO: No questions.

17 EXAMINER SEE: Ms. Bair?

18 MS. BAIR: No questions.

19 EXAMINER SEE: Mr. Darr?

20 MR. DARR: Just a couple, your Honor.

21 - - -

22 CROSS-EXAMINATION

23 By Mr. Darr:

24 Q. With regard to the capacity factor that
25 you used, you indicated that what you were using was

1 the available capacity over an annual period,
2 correct?

3 A. Yes.

4 Q. So when you calculate it, you assume the
5 available capacity for both peak and nonpeak hours,
6 correct?

7 A. Yes.

8 Q. And when we're talking about the capacity
9 factor used by PJM, that's the availability of the
10 resource during the summer peak hours, the five
11 summer peak hours, correct?

12 A. Yeah. I mean, assuming that it usually
13 does occur in the summer, but yes.

14 Q. So the contribution to the summer peak is
15 currently estimated based on a three-year rolling
16 average of about 13 percent --

17 A. That's correct.

18 Q. -- for a wind resource, correct?

19 A. Yeah.

20 Q. So the difference, roughly 20 or
21 21 percent, is the differential between the peak and
22 nonpeak with the availability being during the
23 nonpeak periods, correct?

24 A. The availability being?

25 Q. The availability of the wind unit being

1 more available during the nonpeak periods, correct?

2 A. Well, I have to say I disagree with that
3 to some degree.

4 Q. Well, we know that the rolling average is
5 13 percent for --

6 A. Right.

7 Q. -- an intermittent resource, right?

8 A. For?

9 Q. A wind intermittent resource.

10 A. Well, the rolling average for purposes of
11 the reliability pricing model market being used is
12 that 13 percent, but there are -- have been peak
13 times, such as the polar vortex, where wind was
14 operating at a dramatically higher level of capacity
15 than most other resources out there at the time. And
16 actually from a pricing standpoint, there was a study
17 that showed that wind during that two-day period in
18 2014 saved a billion dollars for --

19 Q. Going back to --

20 A. -- users.

21 Q. Sorry. I didn't mean to interrupt.

22 Going back to my question, though, for purposes of
23 measuring the summer peak, we're looking at the five
24 days in the period June through September in which
25 the system is the most heavily used, correct?

1 A. Well, it can -- like I said, there can be
2 other peak times.

3 Q. I understand that. But for purposes of
4 the PJM market, we're using the five summer peak
5 days, correct?

6 A. For purposes of RPM, we're using those
7 five peak days.

8 Q. And during those five peak days over the
9 last three years, the rolling average is 13 percent,
10 correct?

11 A. I can't tell you exactly how they've
12 gotten to the 13 percent, but I know they used that
13 factor as part of the RPM market.

14 Q. And for each of the resources, and the --
15 this 13 percent is used for those resources that have
16 no operating history, correct, no or limited
17 operating history.

18 A. The 13 percent?

19 Q. Yes.

20 A. Yes. There could be an actual capacity
21 factor that's being used once it's known, once a
22 project's in -- has a history.

23 Q. And for the 11 plants or 11 projects that
24 you've identified, none of those has any operating
25 history since they currently are simply on the

1 blackboard, correct?

2 MR. O'DONNELL: Objection. I think he's
3 referring to permitted projects. They're not just on
4 the blackboard.

5 Q. Let me rephrase. For the 11 sited
6 projects that you identify in your testimony, none of
7 those have any operating history, correct?

8 A. Correct.

9 MR. DARR: Thank you. Nothing further.

10 EXAMINER SEE: Mr. Kurtz?

11 MR. KURTZ: A little bit. Thank you,
12 your Honor.

13 - - -

14 CROSS-EXAMINATION

15 By Mr. Kurtz:

16 Q. On redirect your counsel asked you
17 whether your thousand megawatt renewable proposal
18 would help if the state went to a mass-based approach
19 or rate-based approach, and your answer was it would
20 help either way.

21 A. Well, that's what EPA has --

22 Q. Is that your belief?

23 A. Yeah, I believe what the EPA has
24 provided.

25 Q. Okay. And when you say "state," what you

1 really mean are the fossil generators located within
2 the state of Ohio that have to comply under Section
3 111(d)?

4 A. That's correct. Yeah, it's the state.
5 Well, the state has to come up with its plan, but,
6 yes, those particular generators have to reduce their
7 carbon emissions by what EPA has required.

8 Q. Okay. So your proposal is to have a
9 thousand megawatts of renewable generation paid for
10 by the nonshopping customers of AEP Ohio to benefit
11 the unregulated merchant generators located
12 throughout the entire state of Ohio; is that correct?

13 A. It's a benefit to those ratepayers. It's
14 not -- it's a benefit to the ratepayers because the
15 state has to meet the CPP in a effective way, and
16 this would be a dramatically improved cost-effective
17 way of meeting that.

18 Q. Generators have to meet the CO2 emission
19 requirement just like generators have to comply with
20 SO2 and generators have to comply with NOx. Why is
21 it reasonable to burden the nonshopping customers of
22 AEP Ohio to help the merchant generators located
23 throughout the state meet their environmental
24 requirements?

25 A. Well, they're, in essence, going to be

1 paying for those particular plants, so the continued
2 operation of those continued plants.

3 Q. No. My question is why are you singling
4 out the nonshopping ratepayers of AEP Ohio to take on
5 a burden that helps the merchant generators located
6 throughout the entire state?

7 A. Maybe I should -- I probably didn't
8 articulate it as clearly as I could have, because
9 what our proposal says clearly in my testimony is
10 that we've talked about a nonbypassable surcharge, so
11 that would be all customers that would actually pay
12 that, so I'm sorry for the confusion.

13 Q. Okay. So now you're changing your
14 testimony. Wouldn't the -- the physical generation
15 would not go to the SSO customers, you're saying it
16 would be paid for by all AEP Ohio customers?

17 A. That's correct.

18 Q. Okay. With that change in your
19 testimony, why should all AEP Ohio customers take on
20 a burden that will benefit all of the unregulated
21 merchant generators located throughout the entire
22 state of Ohio?

23 A. I think I just answered that question by
24 saying that they're getting the benefit of or
25 they're -- they should get the benefit of the

1 cost-effective way of complying with the Clean Power
2 Plan, and I'm talking about the customers should get
3 the benefit because there would be a reduction in the
4 costs of compliance that those customers would
5 ultimately pay if they were using the AEP plan. In
6 this way, we're actually reducing the burden to those
7 customers.

8 Q. You're reducing the burden on the
9 unregulated merchant generators located throughout
10 the state of Ohio?

11 A. Well, and those prices are, in essence,
12 through the market process going to get passed on to
13 customers in Ohio.

14 Q. Well, why don't we just pick on the
15 ratepayers of a different utility to make them take
16 on this burden?

17 A. I'm talking opposite. I'm talking about
18 a benefit to ratepayers.

19 Q. Well, if it's a benefit, why don't we
20 triple your proposal? If it's a perpetual motion
21 machine where this is just all going to lower costs,
22 why don't we just quadruple it?

23 A. Well, I mean, you know, there's an
24 advantage to doing more. We thought a reasonable
25 approach to bring those plants 50 percent closer to

1 compliance made a lot of sense.

2 Q. Ultimately, you do agree that it's
3 generators that have to comply with the Clean Power
4 Plan?

5 A. They do, but it would be totally wrong to
6 assume that that doesn't have any impact on customers
7 in the state.

8 Q. Customers in the state will pay higher
9 rates through the PJM to the extent that -- to the
10 extent PJM market prices go up, but that's going to
11 be -- that's how the customers will pay. Why should
12 they pay a second time by your thousand megawatt
13 renewable?

14 A. They're not paying a second time.
15 They're actually going to be paying lower prices.

16 Q. So in, other words, your proposal would
17 help all the ratepayers throughout the entire PJM
18 footprint by, in the first case, burdening the
19 nonshopping customers, but now we know it's changed
20 to burdening all AEP Ohio customers?

21 A. I disagree with your premise.

22 MR. KURTZ: Okay. Thank you, sir.

23 EXAMINER SEE: Ms. Petrucci?

24 MS. PETRUCCI: No questions.

25 EXAMINER SEE: Mr. Satterwhite?

1 MR. SATTERWHITE: Just one, your Honor.

2 - - -

3 CROSS-EXAMINATION

4 By Mr. Satterwhite:

5 Q. Mr. Burcat, do you remember your counsel
6 asking you some questions about the feasibility of
7 implementing your plan in relation to the MAREC
8 permits that are already approved?

9 A. Yes.

10 Q. And it's true that you don't believe that
11 the 11 permitted wind facilities will be built absent
12 some long-term financing contracts like your
13 proposal, correct?

14 A. I can't say that for a surety but I can
15 say that having those long-term contracts makes a big
16 difference in this type of market for financing,
17 obtaining the appropriate financing, and given the
18 advantages of doing it. That's why we proposed it.

19 Q. And you don't know if any of the ones now
20 that are permitted already have long-term contracts,
21 correct?

22 A. I do not.

23 MR. SATTERWHITE: One second.

24 That's all I have, your Honor. Thank you

25 EXAMINER SEE: Mr. Beeler?

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1 MR. BEELER: No questions, thank you.

2 EXAMINER SEE: Mr. O'Donnell, did you
3 already move for the admission of your exhibit?

4 MR. O'DONNELL: I believe I did already
5 move for the admission of the exhibit, your Honor.
6 If I haven't, I would at this time move to introduce
7 the direct testimony of Mr. Burcat for MAREC as MAREC
8 1.

9 EXAMINER SEE: Are there any objections
10 to MAREC Exhibit 1?

11 (No response.)

12 EXAMINER SEE: Hearing none, MAREC
13 Exhibit 1 is admitted into the record.

14 (EXHIBIT ADMITTED INTO EVIDENCE.)

15 EXAMINER SEE: Thank you, Mr. Burcat.

16 THE WITNESS: Thank you very much.

17 MR. DARR: I'm not going to move IEU 16.

18 EXAMINER SEE: Say that again, Mr. Darr?

19 MR. DARR: I'm withdrawing IEU 16, your
20 Honor. I assume we'll leave the number intact,
21 but --

22 EXAMINER SEE: You can come back around
23 and use IEU Exhibit 16 later.

24 MR. DARR: Thank you.

25 EXAMINER PARROT: Ms. Bojko, you may call

1 your witness.

2 MS. PETRUCCI: Your Honor, can we go off
3 the record for just a second? I just want to ask
4 about the schedule for tomorrow to make sure I
5 understand the order.

6 EXAMINER PARROT: Let's go off the
7 record.

8 (Discussion off the record.)

9 EXAMINER PARROT: Let's go back on the
10 record.

11 Ms. Bojko.

12 MS. BOJKO: Thank you, your Honors. At
13 this time OMAEG calls witness Dr. Edward Hill to the
14 stand.

15 EXAMINER PARROT: Dr. Hill, please raise
16 your right hand.

17 (Witness sworn.)

18 EXAMINER PARROT: Very good.

19 - - -

20 EDWARD W. HILL, PH.D.

21 being first duly sworn, as prescribed by law, was
22 examined and testified as follows:

23 DIRECT EXAMINATION

24 BY Ms. Bojko:

25 Q. Dr. Hill, could you please state your

1 name and business address for the record?

2 A. I'm Edward Hill. My business address is
3 Page Hall, The Ohio State University, 1810 College
4 Road, Columbus, Ohio.

5 Q. Sir, did you file testimony in this case
6 on September 11th, 2015?

7 A. I did.

8 MS. BOJKO: Your Honors, at this time I'd
9 like to mark as OMAEG Exhibit 19 the prefiled direct
10 testimony of Dr. Edward Hill.

11 EXAMINER PARROT: So marked.

12 (EXHIBIT MARKED FOR IDENTIFICATION.)

13 Q. Sir, do you have in front of you what has
14 been marked as OMAEG Exhibit 19?

15 A. I do.

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

18 A. It was.

19 Q. Since filing your testimony, do you have
20 any corrections?

21 A. I do. I prepared an errata sheet.

22 MS. BOJKO: Your Honor, at this time I
23 would like to have marked as OMAEG 20 the errata
24 sheet of Dr. Edward Hill to his direct testimony
25 filed on September 11th, 2015.

1 EXAMINER PARROT: So marked.

2 (EXHIBIT MARKED FOR IDENTIFICATION.)

3 Q. Dr. Hill, do you have in front of you
4 what has been marked as OMAEG Exhibit 20?

5 A. I do.

6 Q. Is this the errata sheet with your
7 changes you just referenced?

8 A. It is.

9 Q. Sir, did you also bring with you a copy
10 of the public record obtained from the legislative
11 committee, Energy Mandate Study Committee created by
12 law that was attached to your testimony as EWH-4?

13 A. I did.

14 Q. And have you confirmed the accurateness
15 of the copy of the public record of that which was
16 attached to your prefiled testimony?

17 A. I did.

18 Q. And are the copies identical?

19 A. They are.

20 Q. Sir, with the changes that are contained
21 in your errata sheet, if I were to ask you the same
22 questions today contained in your testimony, would
23 your responses be the same?

24 A. Are you asking did anything I put in the
25 errata sheet change my answers?

1 Q. No. I'm just asking with the changes
2 that you made in the errata sheet, if I were to ask
3 you all the questions contained in your testimony
4 today on the stand, would your responses be the same?

5 A. They would be.

6 MS. BOJKO: At this time, your Honors, I
7 would like to move OMAEG Exhibits 19 and 20, subject
8 to cross-examination, and I tender the witness for
9 cross-examination.

10 MR. NOURSE: Your Honor, we prefiled a
11 motion to strike. I would like to ask a couple of
12 voir dire questions before redoing the motion to
13 strike and before proceeding with cross-examination.

14 EXAMINER PARROT: All right, Mr. Nourse.

15 MR. NOURSE: Thank you.

16 - - -

17 VOIR DIRE EXAMINATION

18 By Mr. Nourse:

19 Q. Good morning, Dr. Hill.

20 A. Good morning.

21 Q. I'm Steve Nourse representing AEP Ohio in
22 this case. I just want to ask you a few preliminary
23 questions about the exhibits in your testimony EWH-1,
24 EWH-2, 3, and 4.

25 A. Uh-huh.

1 Q. Okay. And I'll try to be expedient here
2 and ask about those as a group. You let me know if
3 any of your answers differ as to 1, 2, 3, and 4,
4 okay? Are you with me?

5 A. I am with you. I'm just going through to
6 make sure I can identify all three of them there.

7 Q. Yes, please. Take your time.

8 A. Yes.

9 Q. In each of those four documents, did you
10 participate as an author for any of the documents?

11 A. I was the dean of the College for Urban
12 Affairs and participated in the energy research in
13 the college, and with EWH-2 I helped formulate the
14 methodology, was consulted on the project, and I was
15 part of the research team, but I was not an author.

16 Q. And your name is not listed anywhere on
17 that document, is it?

18 A. No, it is not.

19 Q. Okay. And that EWH-2 was prepared
20 specifically for the Ohio Manufacturing Association?

21 A. It was.

22 Q. And so that's an advocacy piece that was
23 done for a fee?

24 A. It was not an advocacy piece. It was a
25 piece of research. There was no contracted or

1 intended result. It was to -- and it's databased and
2 factual. There was a fee involved because it was
3 prepared by our energy research group within the
4 Levin College of Urban Affairs. I say "ours,"
5 because I retired from that job in June, and that was
6 essentially costs recovered.

7 Q. So CSU did this report for a fee for OMA?

8 A. Correct.

9 Q. And with regard to the other three
10 documents, 1, 3, and 4, did you participate in any
11 way in the preparation of those documents?

12 A. I used the documents not to build my
13 testimony, but to corroborate. I used the documents
14 to illustrate my points, but to answer your question,
15 I did not participate in writing those documents.

16 MS. BOJKO: Excuse me.

17 Q. You're not familiar with --

18 MS. BOJKO: Excuse me, I can't hear you,
19 Dr. Hill. If you would speak up, I would appreciate
20 it.

21 A. I will.

22 Q. So you're not familiar with any of the
23 process or the factual details about how those
24 documents were prepared?

25 A. I've been for 31 years an economist and

1 degreed planner, a public policy analyst; and for
2 more than ten years, I edited the leading economic
3 development journal, Economic Development Quarterly.
4 As such --

5 Q. Dr. Hill, I'm sorry for interrupting. I
6 just asked you a very simple, straightforward, narrow
7 question. I didn't ask you anything about your
8 background.

9 MS. BOJKO: Your Honor, I object. We've
10 historically allowed the witness to speak and then
11 take up any concerns after the witness has finished
12 his answer and not interrupt the witness.

13 MR. NOURSE: Well, this is
14 not cross-examination, your Honor. This is voir
15 dire. And I asked him a very narrow question, and
16 the answer so far has nothing to do with my question.

17 MR. DARR: Just to make the record clear,
18 I don't know that there's any distinction between the
19 cross-examination during a voir dire or during the
20 remainder of the matter. I leave to the merits,
21 though, the question of whether or not the answer was
22 responsive.

23 EXAMINER PARROT: I'm going to overrule
24 your objection, Mr. Nourse.

25 I don't know if you need to start over

1 maybe, Dr. Hill. Go ahead and do that, please.

2 A. The point I was trying to make is that in
3 my experience, I used other people's research and I
4 look at the methods and the data that are contained
5 in that research and evaluate it based on that. So I
6 did not write the testimony that -- the pieces that
7 were submitted, but I did evaluate the methods used
8 and the data submitted based within the context of
9 the -- within the pieces themselves, and they are
10 explanatory as to the methods used.

11 Q. Let me ask you again. Do you have any
12 direct factual knowledge about how the documents were
13 prepared for Exhibits 1, 3, or 4?

14 MS. BOJKO: Objection.

15 EXAMINER PARROT: Overruled.

16 A. I do have factual knowledge based on
17 what's presented within those documents themselves.
18 They are very clear in the way they lay out the
19 research method and the data used.

20 Q. So your knowledge about those documents
21 is -- was based on reading them?

22 A. Correct.

23 Q. Okay.

24 MR. NOURSE: Thank you, Dr. Hill.

25 Your Honor, I'd like to renew the motion

1 to strike we prefiled on October 15th. Unless
2 you'd like me to, I'll skip reviewing all the
3 arguments made. I just wanted to support the factual
4 statements that were made and the factual
5 characterizations that we gleaned from reviewing the
6 testimony about those exhibits, and so I renew the
7 motion to strike at this time.

8 EXAMINER PARROT: Thank you, Mr. Nourse.

9 Your response, Ms. Bojko, to the motion?

10 MS. BOJKO: Yes. Thank you, your Honor.

11 As an initial matter, and as AEP has previously
12 conceded in response to similar motions to strike AEP
13 Company Witness Hawkins' testimony in AEP
14 11-346-EL-SSO proceeding, the Commission is not
15 strictly bound by the Ohio Rules of Evidence.

16 In a December 14, 2011, entry in the same
17 proceeding, the Commission explained that when it has
18 deemed it appropriate, it has allowed the admission
19 of hearsay testimony. The Commission explained that
20 hearsay rules are designed, in part, to exclude
21 evidence not because it is not relevant or probative,
22 but because of concerns regarding jurors' inability
23 to weigh evidence appropriately, and these concerns
24 are inapplicable to administrative proceedings.

25 There are reasons that if AEP is claiming

1 hearsay, as they do in their motion, there are
2 reasons that hearsay may be admitted by the
3 Commission. Some of the attachments referenced by
4 Dr. Hill, as you just heard today, he has actually
5 had experience, and I think it might be helpful to go
6 through each of the motions to strike and the
7 testimony related to it because there are different
8 rationales for each of the documents.

9 One's a public record, so it's an
10 exception to the hearsay; one, the COMPETE report,
11 was used to support Dr. Hill, and there are similar
12 provisions in AEP Exhibit 14, the chart that AEP
13 provided and was admitted. This is the exact same
14 testimony in front of a House Energy and Technical
15 Committee. It contains the same chart and discussion
16 of material that's contained in the COMPETE report.

17 And additionally -- I can go through each
18 one, your Honor, but as a general matter there are
19 exceptions to hearsay. Many of these attachments
20 meet those or there's another reason why they should
21 be allowed in the record.

22 I would also note that prior to reviewing
23 each of those items, AEP has cited the FE hearing
24 across the hall as a basis for granting the motions
25 to strike in its motions filed with the Commission

1 without the full discussion or the context of that
2 hearing.

3 As your Honors explained to the parties
4 previously, I believe on October 6th, this is not
5 the FirstEnergy hearing. The Examiners are not bound
6 by the rulings of other Examiners in the other
7 proceedings as it relates to the procedural motions,
8 including motions to strike.

9 The prefiled testimony has been filed
10 since September 11th, 2015, and the company's
11 waited until after the First Energy hearing to file
12 its motion. Additionally, even if the rulings were
13 considered, AEP has mischaracterized or misstated
14 what was or was not struck in the FirstEnergy
15 hearing, including comparable exhibits that have
16 already been admitted in the FirstEnergy hearing.

17 So now, your Honor, if you'd like to go
18 through, I don't know what your desire is, we can go
19 through each of the attachments and the supporting
20 testimony. Would you like to hear arguments about
21 which hearsay exception they fall into, things of
22 that nature, at this time?

23 EXAMINER PARROT: I'll leave that to you,
24 Ms. Bojko, to decide if you think you need to do that
25 or not. This is your opportunity to respond. I

1 recognize the motion was fairly recently filed, so --

2 MS. BOJKO: I appreciate that.

3 EXAMINER PARROT: -- do what you need to
4 do.

5 MS. BOJKO: Thank you, your Honor.

6 Specifically, Attachment EWH-1,
7 Dr. Hill's statements stand on their own. There is
8 no reason to strike his statements. He is giving his
9 expert opinion and his own conclusion regarding the
10 proposal in this case. And then he adds an example.
11 The footnote actually says "for example" of a
12 supporting opinion through a footnote.

13 Dr. Hill is offering the report to show
14 that others in the industry agree with him and hold
15 similar opinions and have drawn similar conclusions,
16 as he explained this morning. He has looked at
17 the methodologies used in the reports, and he has
18 tested that; therefore, the report is not hearsay as
19 it is not offered for the truth of the matter
20 asserted therein. He's demonstrating that the energy
21 industry is interested and concerned about the PPA
22 proposal.

23 We agree that the report states that it
24 should not be used for determining investment
25 recommendations; however, AEP in its motion filed

1 with the Commission leaves out what the report
2 explicitly states that it does do. It is a
3 discussion piece focused on the topic of the U.S.
4 energy sector with respect to investment policy and
5 regulatory trends and the risks of stranded costs.

6 Moving on to EWH-2, the Levin report, I
7 think the voir dire clearly demonstrates that
8 Dr. Hill was sought out to do the project. He agreed
9 to do the project with his team, and the project was
10 done under his direction and supervision.

11 Specifically, he was part of the
12 development of the report. He had input into the
13 methodologies used in the report. He oversaw the
14 research and writing of the report. He was part of
15 the economic metrics of the report, and he also did a
16 technical review of the report.

17 He has the necessary educational
18 qualifications, and an analysis was performed by him
19 or under his direction. Although he did not
20 ultimately author the report, just as AEP Witness
21 Allen did not write his economic development reports,
22 Dr. Hill had more involvement in the research,
23 methodologies and underlying analysis than Mr. Allen
24 in his reports that were admitted over objections.

25 Additionally, the report is admissible

1 under Ohio Rule of Evidence 803(6), the business
2 records exception. Under Ohio law to qualify for a
3 business records exception, a record must meet the
4 following criteria, which Dr. Hill just explained.
5 It is a record of the business of the College of
6 Urban Affairs that he was dean of, he can attest to
7 that. It is a business record as required by the
8 rules.

9 Furthermore, Dr. Hill has personal
10 knowledge of this report and can lay a proper
11 foundation and can be cross-examined on the report.
12 So consistent with your ruling regarding Mr. Allen's
13 economic development reports, we respectfully request
14 that Dr. Hill's also be admitted.

15 As for Attachment EWH-3, this is a
16 COMPETE study. As I pointed out, this report
17 contains identical information to data contained in
18 AEP Exhibit 14 that was admitted into the record.
19 Figure 1 on page 3, is the same data, and the COMPETE
20 report explains that data. Dr. Hill's statements
21 regarding this report stand on their own. He, again,
22 is giving his expert opinion and his own conclusion
23 regarding the proposal in this case, and then he adds
24 an example of supporting opinion through a footnote,
25 thus, even if the COMPETE report is struck,

1 Dr. Hill's statements in his testimony should remain.

2 Moving on to EWH-4, this is the testimony
3 of Andrew Ott on behalf of PJM Interconnection before
4 the Ohio Energy Mandate Study Committee. First, this
5 is the same type of testimony that was allowed for
6 AEP Exhibit 14, which was Ken Rose before the
7 Michigan House Energy and Technology Committee. It
8 is also a PJM document that contains a compilation of
9 data of the PJM region. It's an exception to hearsay
10 under 803(17).

11 Additionally, other reports of PJM have
12 been admitted. For example, AEP Exhibit 35 and 36
13 and Sierra Club Exhibit 32 are comparable AEP -- or,
14 excuse me, PJM data compilation market reports.

15 Also, your Honor, this document is a
16 public record and, thus, it falls under the hearsay
17 exception, Rule 803(8). The Energy Mandate Study
18 Committee is a government committee that was created
19 by Ohio law, Senate Bill 310, specifically. The
20 committee regularly hears testimony in the course of
21 fulfilling its public mission to study Ohio's
22 renewable energy, energy efficiency, and peak-demand
23 reduction mandates. It is on the legislative website
24 at <http://EMSC.legislature.oh.gov>.

25 Pursuant to Rule 902(4), the testimony is

1 self-authenticating as a copy of an official record
2 or report or entry therein, or a document authorized
3 by law to be recorded or filed and actually is
4 recorded or filed in a public office, certified as
5 correct by the custodian or other person authorized
6 to make the certification.

7 We have a true and accurate copy of the
8 testimony available on the legislative committee's
9 website. We brought that with us here today, your
10 Honor, and we can provide the Bench with a copy of
11 both the public website where the testimony can be
12 found and the website attesting to it being a public
13 record filed with the committee.

14 Furthermore, in voir dire or, actually,
15 in direct testimony the witness testified to the
16 accurateness of the copy of the public record that
17 was attached to his testimony pursuant to Evidence
18 Rule 100(5), thus, we have met the standards for
19 providing a copy with the testimony on September
20 11th, 2015.

21 There's no foundation required with
22 self-authenticating documents, thus, the public
23 record is an exception to hearsay and it is
24 self-authenticating -- it is self-authenticating,
25 and, thus, there is no additional foundation

1 required.

2 The document itself, the Andrew Ott
3 testimony, is relevant. The issues discussed in the
4 PJM testimony are directly on point of what the
5 energy committee was studying. There is ample
6 resources in the PJM region and Ohio and whether new
7 energy is being built and whether reliability
8 concerns exist for Ohio.

9 AEP has raised these issues before the
10 Commission, and this testimony is directly responsive
11 to that and is very similar to other PJM documents
12 that have already been admitted in the record.

13 Your Honor, AEP only touched on the
14 Attachments EWH-1, 2, 3, and 4. I believe their
15 motion to strike went well beyond that, included
16 other footnotes and other line items and pieces of
17 testimony. I'm not sure your preference. He only
18 spoke to the first four attachments at this time.

19 EXAMINER PARROT: Well, again, this is
20 your opportunity to fully respond to the motion as
21 filed, so let's do that, please.

22 MS. BOJKO: Thank you.

23 EXAMINER PARROT: If you have something
24 else to add, go ahead.

25 MS. BOJKO: Thank you. I didn't want

1 to --

2 EXAMINER PARROT: No. Go ahead.

3 MS. BOJKO: Okay. In addition to the
4 footnotes and the testimony that are associated or
5 correlated with the attachments that we just went
6 through, AEP has moved to strike page 9, footnote 10
7 and 11. Page 9, the footnote 10 is the Lord and
8 Ruble law review article. This is a law review
9 journal from the South Carolina School of Law
10 published regularly on a semiannual basis.

11 The report is admissible under Ohio Rule
12 of Evidence 803(6), the business records exception.
13 The article directly addresses the economic
14 development issues before the Commission and supports
15 Dr. Hill's statements in the record. This, again, if
16 you're looking at precedent, this footnote was not
17 struck in the FirstEnergy case. It's seen as being a
18 reliable copy and an authoritative piece.

19 Page 9, footnote 11, AEP has moved to
20 strike the Buelow and upgrades Trkulja article. This
21 is the Area Development Magazine. It's a trade
22 periodical for economic development professionals
23 and, thus, it is self-authenticating under Rule
24 902(6).

25 The statements relied upon by Dr. Hill

1 are an exception to hearsay under Rule 803(18) as a
2 learned treatise. A statement contained in a
3 published periodical on a subject of history,
4 medicine, or other science or art established as
5 reliable authority by the testimony or admission of
6 the witness, or by other expert testimony, is allowed
7 if relied upon by the expert witness in direct
8 examination.

9 On voir dire Dr. Hill explained some of
10 such statements that he relies upon in his work. The
11 statements under the exception of the hearsay rule
12 may be read into evidence, and Ohio law allows
13 experts to rely on background knowledge in
14 establishing their qualifications in forming their
15 opinions. That's Worthington City Schools versus
16 ABCO Insulation, 84 Ohio APP 3d 144, 1992. The
17 background knowledge in the form of out-of-court
18 statements of textbook authors, colleagues and others
19 that form much of the basis of the expert's training
20 and education.

21 Area Development Magazine is such -- is a
22 periodical. Dr. Hill has relied on the periodical
23 over the years to form his expert opinions. These
24 works are subject to peer review, and Area
25 Development Magazine is known for their rigor and

1 quality of work by economic development experts.

2 Furthermore, Dr. Hill will tell you this
3 published periodical compiles and publishes economic
4 development data on critical location factor. It is
5 considered a data source in the economic development
6 industry, thus, even if the reports were offered for
7 the truth, they are admissible under the market
8 reports exception to the Hearsay Rule 803(17).

9 In 803(17) provides that market
10 quotation, tabulations, lists, directories, or other
11 published compilations generally used and relied upon
12 by the public or by persons in particular occupations
13 are not excluded by the hearsay rule. And this is
14 exactly what we have here. AEP put the economic
15 development issues at issue, and Dr. Hill is
16 responding to those.

17 Lastly, I would add with regard to
18 footnote 11, that other market reports have been
19 admitted by AEP in this case.

20 AEP then moved to strike page 17,
21 footnote 27. I understand the Commission's
22 unwillingness at times to allow newspaper articles or
23 statements contained therein as evidence; however,
24 this article is no different than AEP 23, which was a
25 press release by Energy, and AEP 21, which is an

1 article from the Sierra Club regarding natural gas
2 that have already been admitted into the record.

3 The newspaper article is
4 self-authenticating under Rule 902(6) and,
5 additionally, we're not offering the newspaper
6 article or statements contained therein as evidence
7 in this instance. Dr. Hill is merely citing an
8 article where he made -- was made aware of the
9 occurrence of the bankruptcy

10 Actually, as an economist, Dr. Hill is
11 aware of economic upheavals in various industries.
12 He lived in Cleveland for years. He has personal
13 knowledge of this statement he's made, and even if
14 the Commission did not want to retain the cite to the
15 newspaper article, Dr. Hill's statements should stand
16 and they can stand on their own.

17 AEP moved to strike Attachment EWH-5.

18 MR. NOURSE: No.

19 EXAMINER PARROT: No.

20 MS. BOJKO: Well, you moved to strike
21 page 20, footnote 29, in its entirety, and footnote
22 29 contains the PJM Attachment EWH-5. So if that
23 wasn't the intent, then I don't have to go into --

24 MR. NOURSE: That's correct. I believe
25 we intended to strike everything before or up to the

1 semicolon before the "see also."

2 MS. BOJKO: Okay, we can agree.

3 MR. NOURSE: Yeah.

4 MS. BOJKO: If you could bear with me
5 just one minute, I think I touched on all of them,
6 your Honor. I believe I touched on all of them.

7 MR. NOURSE: Okay. Your Honor, may I
8 briefly respond?

9 EXAMINER PARROT: You may.

10 MR. NOURSE: First of all, let me just
11 cover the items that she covered at the end. On
12 footnote 10, I don't believe we --

13 EXAMINER PARROT: You did not.

14 MR. NOURSE: -- asked for footnote 10.

15 On footnote 11, I did forget to ask him
16 in voir dire about that, and based on her argument,
17 I'll withdraw the motion regarding footnote 11. So
18 nice job, we agree again.

19 MS. BOJKO: Thank you.

20 MR. NOURSE: On the newspaper article,
21 you know, I think -- I'm not going to go into the
22 reasons why prior exhibits were admitted in this
23 case, but I don't think we've had any newspaper
24 articles, and I would note that we did not move to
25 strike the text associated with that statement that

1 was based on his knowledge, and we didn't move to
2 strike the text, just the newspaper article citation.

3 MS. BOJKO: Your Honor. I was just going
4 to agree that we'll stipulate to strike the footnote.

5 MR. NOURSE: Okay. Thank you.

6 Then let me go back to the main thrust of
7 our motion to strike on the Exhibits 1, 2, 3, and 4,
8 and briefly address those again. First of all, it's
9 interesting because Ms. Bojko cites the FE hearing at
10 times but then wants to distinguish it. I think the
11 fact is there is -- there should be some level of
12 consistency at the Commission and certainly in
13 proceedings involving the same documents, so we made
14 note of the fact that those rulings exist.

15 And certainly Dr. Hill's knowledge and --
16 lack of knowledge and lack of participation in the
17 creation of those documents is the same as between
18 the two proceedings.

19 And while I agree that there's certainly
20 the concept the Commission is not strictly bound to
21 the Rules of Evidence, I think, you know, dumping
22 these kind of hearsay documents into the record goes
23 way beyond the latitude that would be afforded in an
24 administrative hearing.

25 And so let me just go through the 1, 2,

1 3, 4, again. No. 1, you know, Ms. Bojko is saying
2 they're not offering this as proof, but I think it's
3 obvious that is the case from the statements in
4 Dr. Hill's testimony and the reliance on that
5 exhibit. He had no involvement whatsoever. His
6 knowledge, you know, is strictly related to reading
7 the document after it was created. There's no
8 hearsay exception that applies here.

9 Exhibit 2, I think Ms. Bojko overstated
10 what the witness said about this, especially in her
11 comparison to Mr. Allen's economic development study
12 where he testified extensively how he set the
13 parameters of that study. He oversaw the
14 preparation. He reviewed it and had extensive
15 discussion with folks directly involved with it.

16 Dr. Hill here was not an author, he's
17 listed nowhere on that document. He said he had a
18 review at some point, but certainly it wasn't
19 prepared under his direction. And it was a paid
20 advocacy piece. It's not a learned treatise and it's
21 not an objective, you know, peer-reviewed, economic
22 article. It's a paid advocacy piece.

23 Exhibit 3, actually with Exhibit 3 and
24 Exhibit 4, I believe the arguments were made about
25 AEP Exhibit 14 which was admitted in conjunction with

1 Dr. Rose's testimony, and this exhibit, Exhibit 14,
2 is something that Dr. Rose was directly involved and
3 had personal knowledge about and was on the stand
4 subject to cross-examination about at the time that
5 that went into the record.

6 And, you know, with the legislative
7 testimony, again, I think the Commission has a
8 consistent practice of excluding that. It clearly,
9 you know, can't be saved by the public record
10 exception. And we're not questioning whether there's
11 a certified copy available or not. It's the fact
12 that the person, in this case either Janine Migden or
13 Andy Ott, is not appearing here and is not subject to
14 cross-examination, and I think has been consistently
15 excluded by the Commission when legislative testimony
16 is proffered.

17 Certainly I think the only exception I'm
18 aware of is if it involves, you know, a party that's
19 in the case, like the utility. And I believe that's
20 one of the issues going on with the FirstEnergy
21 hearing down the hall.

22 So that's it, your Honor. I think our
23 motion should be granted.

24 EXAMINER PARROT: Thank you, Mr. Nourse.

25 Okay. I'm sure you'll not be surprised

1 to hear the Bench is going to grant in part and
2 strike in part or, I'm sorry, grant in part and deny
3 in part to strike portions of Dr. Hill's testimony
4 and certain exhibits attached to that testimony.

5 Ms. Bojko, I think you said at the
6 outset, you recognized that the Commission is not
7 strictly bound by the Ohio Rules of Evidence, that is
8 a correct statement, as I understand it. I also
9 agree that maybe, perhaps more often than not, the
10 Commission has allowed hearsay into the record and so
11 I'm just going to say that at the outset.

12 But let's kind of go through this, not
13 item by item, but I am going to just -- the portions
14 that I'm agreeing with Mr. Nourse on, I'm going to
15 single those out, and then everything else we are
16 going to allow to stand.

17 So the first here, let's take this, and I
18 think you two resolved some of these for me already,
19 so I just want to make sure I understood kind of what
20 you were agreeing to as we went through this. But on
21 page 9, footnote 11, let's start there.

22 MR. NOURSE: Yes. And we withdrew our
23 motion to strike.

24 EXAMINER PARROT: All right. So on that
25 footnote, we're going to leave in its entirety to

1 stand, then, based on that.

2 Let me see. A couple of the other, you
3 also discussed I think on page 17, footnote 27, and I
4 think on that one, Ms. Bojko, you agreed to --

5 MS. BOJKO: Strike that.

6 EXAMINER PARROT: -- strike that from the
7 record.

8 MS. BOJKO: Strike the footnote, not the
9 testimony itself.

10 EXAMINER PARROT: Right, got that. I
11 just wanted to get that clear at the outset.

12 All right. Then let's turn to page 18.
13 Let's see, actually, no. I'm sorry. It's page 19,
14 footnote 28. There we are going to strike the
15 reference to Ms. Migden Ostrander's testimony, so the
16 first part of that footnote will stand. It's just
17 the second part that refers to her testimony that we
18 are going to strike.

19 And then page 20, footnote 29, which is
20 the footnote to Andrew Ott's testimony and the
21 exhibits that goes along with that, which is
22 Attachment EWH-4, we're going to strike those from
23 the record.

24 The reference in footnote 29, as you
25 mentioned, Ms Bojko, to Attachment EWH-5, though,

1 that stands.

2 MS. BOJKO: Okay.

3 EXAMINER PARROT: All right. Is that
4 clear? Clear as mud? So anything I didn't mention,
5 we are denying the motion to strike, those items.

6 MR. DARR: Just so it's clear, so EWH-4
7 is stricken?

8 EXAMINER PARROT: Is stricken, yes.

9 MR. DARR: In its entirety?

10 EXAMINER PARROT: In its entirety.

11 MS. BOJKO: Your Honor, the testimony,
12 however, associated on that page stands; is that
13 correct?

14 EXAMINER PARROT: Right. I think is it
15 just the one, yeah, the one sentence there stands.
16 That's right, Ms. Bojko. Thank you for that
17 clarification.

18 MS. BOJKO: Thank you, your Honor.

19 EXAMINER PARROT: And with the other
20 exhibits, Mr. Nourse, I will just say we are going to
21 allow those to stand and the Commission will
22 determine what weight to give those exhibits.

23 MR. NOURSE: Thank you, your Honor.

24 EXAMINER PARROT: Any other motions?

25 Anything before we get started with our

1 cross-examination?

2 (No response.)

3 EXAMINER PARROT: Mr. Mendoza?

4 MR. MENDOZA: No questions, your Honor.

5 EXAMINER PARROT: Ms. Petrucci?

6 MS. PETRUCCI: No questions.

7 EXAMINER PARROT: Ms. Bair?

8 MS. BAIR: No questions.

9 EXAMINER PARROT: Mr. Darr?

10 MR. DARR: No, thank you.

11 EXAMINER PARROT: Mr. Kurtz?

12 MR. KURTZ: No questions.

13 EXAMINER PARROT: Mr. Nourse?

14 MR. NOURSE: Thank you.

15 - - -

16 CROSS-EXAMINATION

17 By Mr. Nourse:

18 Q. All right, Dr. Hill, now we can talk
19 about your testimony. Don't you love attorneys? No,
20 don't answer that.

21 (Laughter.)

22 A. I was sworn in.

23 Q. All right. Let me ask you a question
24 about kind of the scope of what you've done in this
25 case and the analysis that you've performed in

1 connection with the application here.

2 So is it correct you've not done a study
3 or specific quantitative analysis of the impacts of
4 the PPA proposal on AEP Ohio customers or the Ohio
5 economy?

6 A. That's incorrect. I performed a -- I
7 built an economic model and a public choice model of
8 the impact of the PPA proposal as submitted, and
9 the -- and I did a review of the impact analysis that
10 AEP presented, but I did not run statistical --
11 independent statistical models, if that's what you're
12 asking.

13 Q. And you didn't reach quantitative
14 conclusions about the economic impact of the PPA
15 proposal on AEP Ohio customers or the Ohio economy,
16 did you?

17 A. I reached directional impacts and
18 conclusions, qualitative.

19 Q. Yes. Thank you.

20 On the bottom of page 6, your direct
21 testimony, and carrying over to page 7, you make a
22 statement about your opinion about a chilling effect
23 on future investments by CRES providers. Do you see
24 that?

25 A. I do.

1 Q. And what, in your mind, or to your
2 knowledge and understanding, what investments have
3 CRES providers made in Ohio to date?

4 A. There are standing now five large
5 investments in natural gas power plants that are
6 going forward. One was on the books, this is the
7 Avon Lake Plant, is staying with coal, not moving to
8 natural gas. The investments are being made and
9 supported by hedge funds largely. The role of the
10 CRES providers would be executing long-term contracts
11 to purchase power from those plants.

12 Q. So that would be a future investment,
13 correct?

14 A. Exactly. I mean, all of the work that
15 I've done has been looking to the future. In working
16 and thinking about the structure of markets with
17 great uncertainty of prices going forward, you try to
18 do the modeling so that logic models are frequently
19 more powerful and insightful than quantitative
20 models.

21 Q. Again, I appreciate your clarification.
22 But going back to my question about whether CRESs
23 have made investments to date in Ohio --

24 A. I believe the answer is no.

25 Q. Okay. Thank you.

1 Let me ask you to turn to page 10, all
2 right, and in lines 3 through 6 there you're talking
3 about energy-intensive or electricity-intensive
4 customers, and I guess this would be manufacturing
5 customers that you're referring to here, correct?

6 A. In this case, the answer is yes.

7 Q. And you talk about an energy- or
8 electric-intensive customer being one that spends
9 roughly 2 to 6 percent of every dollar on
10 electricity, correct?

11 A. Correct.

12 Q. Okay. So I want to go through an example
13 with you.

14 MR. NOURSE: Your Honor, can we approach?

15 EXAMINER PARROT: You may.

16 MR. NOURSE: I'd like to mark AEP Ohio
17 Exhibit 37.

18 (EXHIBIT MARKED FOR IDENTIFICATION.)

19 Q. Okay. Dr. Hill, the first two pages of
20 this exhibit are some tariff sheets for AEP Ohio that
21 apply to GS-3 and GS-4 customers. Are you aware of
22 what a GS-3 or a GS-4 customer is?

23 A. I'm aware of what GS usually stands for.
24 The subcomponents 3 or 4 I'm not aware of.

25 Q. Okay. I think you can tell from these

1 tariff sheets that they're large capacity demand and
2 energy users. If you look at that, it would
3 encompass certainly manufacturing customers, okay?
4 Can you assume that with me?

5 A. Yes.

6 Q. And you see the -- let's go with the
7 first page. This is called the "Generation Capacity
8 Rider." Do you see that at the top?

9 A. Yes.

10 Q. And do you see where further down at the
11 bottom of the table, GS-3 and GS-4 rates there for
12 capacity are in cents per kWh and dollars per month
13 at the top of that column to the far right?

14 A. Yes.

15 Q. Okay. And so you see those two rates,
16 0.98100 for GS-3 and 0.39000 for GS-4?

17 A. Yes.

18 MS. BOJKO: Objection, your Honor.

19 Q. And the second page --

20 MR. NOURSE: I'm sorry.

21 MS. BOJKO: I objected. I've given
22 counsel many questions and I still haven't heard any
23 foundation that the witness has ever seen this
24 document, and now we're starting to read numbers into
25 the record without that foundation.

1 MR. NOURSE: Well, yeah, your Honor. I
2 want to get to page 3, which is my example, and it
3 relates to what his testimony was about the impact on
4 energy-intensive customers. So, I mean, I think I
5 would be able to use AEP Ohio Commission-approved
6 tariffs in that context. I was trying to explain to
7 him what they are, and then I want to go into the
8 example that's on page 3.

9 Is there an objection to AEP Ohio tariffs
10 being --

11 EXAMINER PARROT: Well, the witness has
12 already answered this question, so let's see where we
13 go and go from there.

14 MR. NOURSE: Okay.

15 Q. (By Mr. Nourse) Dr. Hill, same thing on
16 page 2. This one's entitled "Generation Energy
17 Rider." Do you see that?

18 A. Yes.

19 Q. And the rates listed for GS-3 and GS-4,
20 it's the same rate for winter and summer, 4.38100.
21 Do you see that?

22 A. Yes.

23 Q. Now, I want to turn to page 3. This is
24 the example I wanted to talk to you about and go
25 through some calculations with you. At the top of

1 the page, we've got 43,652 gigawatt-hours. Does that
2 sound about right for AEP Ohio's connected load?

3 MS. BOJKO: Objection. Your Honor, now
4 we're going to a document that has absolutely no
5 foundation. He's attached it to a tariff, but I
6 don't believe it's part of the tariff. In fact, I
7 know it's not part of the tariff, and there's been no
8 foundation for the question that he just asked or
9 anything else.

10 MR. NOURSE: Well, your Honor, I've
11 indicated on the page here that it's from Mr. Allen's
12 testimony, which is already in evidence, and
13 representing to the witness that's what it is. And
14 the rest of everything that's on this page is math,
15 so I wanted to walk through that.

16 EXAMINER PARROT: I'm going to overrule
17 the objection.

18 If at any point, Dr. Hill, you're not
19 able to follow along with what Mr. Nourse is trying
20 to ask you to do, just let us know that. All right?

21 THE WITNESS: I will be glad to do so.

22 EXAMINER PARROT: Thank you.

23 Q. (By Mr. Nourse) So I want to do some
24 examples here to try to flesh out your point about
25 the energy-intensive customer. And so do you agree

1 with me, though, mathematically that if you have --
2 if a rider were recovering 43.6 million across 43.6
3 gigawatt-hours, that would equal a dollar per
4 megawatt-hour?

5 A. Yes.

6 Q. Okay. And then there's two examples on
7 this page, GS-3 at the top and GS-4 at the bottom,
8 and you see where we've created a total rate for GS-3
9 that uses those two rates we just went through, the
10 .0098 and the .0438?

11 A. Yes.

12 Q. And then it comes up with a total rate of
13 5.36 cents per kWh? Do you see that?

14 A. I see it.

15 Q. And then that's equivalent to \$53.60 per
16 megawatt-hour, right?

17 A. Yes.

18 MS. BOJKO: Your Honor, again, I'm going
19 to object. There's nothing in the record that says
20 what Gen-C rate is, Gen-E rate, if it's appropriate
21 to average those, which is apparently what he's
22 doing. He's just reading it into the record and
23 asking the witness to agree with what he's reading.
24 There are no questions here.

25 If he wanted to do this, he could have

1 done it with Allen to actually -- would probably have
2 more knowledge of the tariffs that he's trying to
3 read into the record.

4 MR. NOURSE: Yeah. Your Honor, this is a
5 cross-examination exhibit and, you know, I'm using
6 information that's, again, it's already in the record
7 or in a Commission-approved tariff to do a simple
8 example here.

9 Again, the rest of everything that's on
10 this page is simply mathematics at this point. I'm
11 trying to walk through, and I think the witness has
12 been following it fine and is with me because this
13 relates, again, to his testimony on page 10 and what
14 that really means in terms of actual energy-intensive
15 customers.

16 EXAMINER PARROT: The objection is
17 overruled.

18 Q. So, Dr. Hill, you know, do you see, we've
19 already got to the point of the dollars per
20 megawatt-hour being equivalent to 43.6 million being
21 collected through the rider. And so what these
22 tables represent are a dollar, which is the
23 43.6 million, \$2 which doubles that, and \$3 which
24 triples that, and says if you were flowing in the
25 \$3 example, 130.8 million through the rider, it would

1 be a rate increase for GS-3 of the 5.36 cents per
2 kWh. It would increase by 5.6 percent. Do you see
3 that?

4 A. I see it.

5 Q. And then do you follow the other columns
6 where if you were going to take a 5.6 increase to a
7 2 percent customer, a 2 percent energy-intensive
8 customer, then you would multiply 0.056 -- excuse me,
9 .056 by .02 and get 0.112. Do you follow that?

10 A. I'm sorry, if I can -- I follow the math.
11 Actually, it's arithmetic, but that's okay.

12 Q. Yes.

13 A. It's arithmetic. So your column heading
14 I believe says this is the percent increase to the
15 total bill cost of production for 2 percent, someone
16 who uses -- where 2 percent of the total cost of
17 goods goes to energy?

18 Q. Yes. Well, the column rate increase says
19 how much the actual rate would increase, but then
20 applying it to a customer that here stated on page 10
21 has a 2 percent of every dollar energy-intensive
22 impact, so that's what those columns represent,
23 2 percent --

24 A. So just to make certain we're talking the
25 same language, so that this arithmetic shows that the

1 total cost of production that is experienced by the
2 customer will go up by 1.1 mils.

3 Q. Yes. Just like in your testimony you say
4 2 percent of every dollar or 6 percent of every
5 dollar, that's the range you give for energy
6 intensive, correct?

7 A. Right.

8 Q. So if you have these rate increases of
9 1.8, 3.7, 5.6 percent for a GS-3 customer, the cost
10 impact on every dollar would be the -- for the
11 \$1 example, .036 percent, and the 6 percent customer
12 would experience 0.108 percent.

13 A. Right. So these two columns should be --
14 have a heading on top of them "Increase in Total Cost
15 of Production."

16 Q. Okay. That's fair.

17 A. Okay.

18 Q. All right. And then if we similarly go
19 through the GS-4 example on the bottom half of the
20 page, we then also illustrate the 2 percent
21 energy-intensive customer for the 1, 2, and 3 dollar
22 examples, and we also go through the 6 percent
23 energy-intensive customer example for the 1, 2, and 3
24 dollar examples. Do you see that?

25 A. I see it.

1 MS. BOJKO: And, your Honor, objection.
2 Sorry. Just so the record's clear, I don't want to
3 interrupt, but he doesn't have a calculator up there.
4 Mr. Nourse is asking him to agree with numbers, and I
5 just want to make sure that the record is clear. We
6 either need to take a break so he can actually run
7 the math or that we just understand that he's not
8 doing the math. He's just reporting what the
9 document says.

10 MR. NOURSE: And that was actually going
11 to be my next question, your Honor.

12 Q. Would he agree, subject to -- subject to
13 check, that the math, the arithmetic that we've
14 walked through, produces the numbers in the 2 percent
15 and 6 percent columns.

16 A. It looks accurate. I would, you know,
17 reserve the right to just kind of pull out a
18 calculator or spreadsheet and just run it on through,
19 but they look like they're in the right ballpark.

20 Q. And I believe we covered all of the
21 arithmetic of how we got to these numbers. Do you
22 have any other concerns or questions about how that
23 was done?

24 A. None.

25 Q. Okay. Thank you. Let's move on.

1 On page 11 of your testimony in the
2 question and answer starting on line 9, so this is an
3 example of where you're relying on the, I believe the
4 study -- I'm sorry. I've got to be clear on which
5 study -- yeah, this is the Cleveland State University
6 study that you're referencing in this discussion,
7 correct?

8 A. Correct. I believe it's EWH-2.

9 Q. Okay. So you make the statement about a
10 1 cent, and I'm on line 10, 1 cent per kilowatt-hour
11 correlated to a decrease in gross product generated
12 of \$2,527 per employee, a total 2.2 percent. Do you
13 see that?

14 A. Yes.

15 Q. And you go on to say, "In economic terms,
16 this is a price elasticity of negative 2.2," correct,
17 "2.2%"?

18 A. Correct.

19 Q. Okay. So I want to talk to you about
20 that calculation of negative 2.2 percent in that
21 context. First of all, from an arithmetic standpoint
22 do you agree that 1 cent per kWh is equal to \$10 per
23 megawatt-hour?

24 A. I do.

25 Q. Okay. And that would be about

1 436.5 million per year?

2 A. I'll have to take your word on that one.

3 Q. Okay. And, I'm sorry, I didn't really
4 clarify what I meant there. I'm asking about if the
5 rider, if the PPA rider, were to be a charge of
6 436.5 million for a given year, that would have an
7 impact of \$10 per megawatt-hour. Is that consistent
8 with what we just went through?

9 A. That's consistent with your arithmetic.

10 Q. Okay. And the load that's in Mr. Allen's
11 testimony is what I based that on; is that correct?

12 A. That's what you have told me.

13 Q. That's your understanding, okay.

14 All right. So back to the negative 2.2
15 price elasticity calculation -- first of all, is
16 2.2 percent high elasticity or low? Can you give me
17 a sense of what that means?

18 A. A negative 2.2 percent means for every
19 1 percent increase of the factor price or the cost in
20 question, the value of value added goes down by
21 2.2 percent. Anything that's above 1 percent is
22 considered to be price elastic.

23 Q. Okay. Something below 1 percent would be
24 low?

25 A. Something below 1 percent is considered

1 to be price inelastic.

2 Q. What about something that's .13 percent,
3 would that be really low?

4 A. It would only be done if you're measuring
5 it in percent change -- in terms of percent change,
6 and it has -- it should be run econometrically
7 through a statistical equation.

8 Q. Okay. Now I'd like you to turn to EWH-2,
9 page 31.

10 A. Page 31?

11 Q. Page 31. And in the middle of the
12 page -- let me know when you're there --

13 A. I am here.

14 Q. In the middle of the page it goes into
15 this same example, right?

16 A. Uh-huh.

17 Q. And there's the 1 percent -- I'm sorry.
18 The 1 cent per kilowatt-hour?

19 A. You're on page 31.

20 Q. Page 31.

21 A. Middle of the page starting with these
22 statistical results.

23 Q. Yes. It talks about the 1 cent per
24 kilowatt-hour, and it talks about the 2,527 drop in
25 productivity, and that's the same example you're

1 talking about, right?

2 A. Right. It says -- so we're talking about
3 the second sentence in that paragraph?

4 Q. The whole paragraph.

5 A. But you're particularly referring to the
6 second sentence.

7 Q. Well, I think the whole paragraph is
8 talking about this same example --

9 A. Oh, correct.

10 Q. -- that you use on page 11 of your
11 testimony; is that correct?

12 A. Correct.

13 Q. In fact, that's what you cited on your
14 footnote 17 on page 11.

15 A. You're correct.

16 Q. And doesn't the study, the actual study,
17 calculate a productivity drop of 0.13 percent?

18 A. It says the productivity change resulting
19 from industrial electricity price changes has a low
20 elasticity of 0.13. So that is the 2.2 percent
21 divided by 16.3 percent.

22 Q. Right. So that's a low --

23 A. That's an inelastic response.

24 Q. Inelastic, okay.

25 And like you talked about before, that's

1 very low, correct?

2 A. It's low.

3 Q. Anything below 1 percent is low, is what
4 you said before, correct?

5 A. But I'd refer you back to the second
6 sentence, which is the important one. It says, "an
7 increase in industrial electricity price of 1 cent
8 per kilowatt-hour (16.3%) increase... is likely in
9 99% of cases to decrease manufacturing average
10 productivity in the five selected states, on average,
11 by \$2,527 of annual GSP per employee." That's
12 "2.2 percent."

13 So what we've got is a 1 percent increase
14 in the kilowatt-hour charge resulting in a
15 2.2 percent decrease in GSP per capita. That's the
16 calculation I'm relying on.

17 Q. And just to be clear, I think you said
18 1 percent increase in kilowatt-hour charge. It's 1
19 cent, correct, 1 cent per kilowatt-hour?

20 A. Well, I'm looking at the 1 percent in my
21 testimony. Well, not my testimony, in the study.
22 Let me get this right.

23 Q. In page 31 of the study in the second
24 sentence, it's talking about a 1 cent per kilowatt
25 increase, correct, not a 1 percent increase?

1 A. Oh, you're right. I misread it. Thank
2 you.

3 Q. Okay. Thank you.

4 Have you studied the -- in connection
5 with your FirstEnergy testimony in the proceeding
6 down the hall, have you studied the SSO rates of
7 FirstEnergy?

8 MS. BOJKO: Objection.

9 EXAMINER PARROT: Grounds?

10 MS. BOJKO: Relevancy to this case.

11 MR. NOURSE: I want to ask him about the
12 changes that occur with competitive auctions,
13 comparing to some of the stuff he's saying here.

14 EXAMINER PARROT: Overruled.

15 Q. (By Mr. Nourse) Do you need the question
16 read back, sir?

17 A. Please. When motions are ruled or
18 overruled, sometimes I don't have a clue as to what
19 direction the answer is.

20 MR. NOURSE: I understand. The attorneys
21 start talking. You just tune out for a while.

22 (Record read.)

23 A. No.

24 Q. Okay. Can you turn to page 12.

25 A. Of what?

1 Q. Of your testimony.

2 A. Thank you.

3 Q. And you make a statement there in lines 5
4 through 7 --

5 A. Correct.

6 Q. -- that "In the three deregulated states,
7 the average industrial price of electricity dropped
8 after deregulation and the average total productivity
9 per employee increased." Do you see that?

10 A. I do, yes.

11 Q. And you're citing -- again, you're citing
12 Exhibit 2 for that proposition?

13 A. Page 31-32.

14 Q. Okay. First of all, have you studied the
15 effects on nonindustrial customers of deregulation?

16 A. The research project I was referring to
17 was just industrial customers. No, don't -- look at
18 the front -- I have to look at the beginning of that
19 piece to make certain I'm accurate.

20 The research was done just with
21 manufacturing industries.

22 Q. And you've not studied the impacts on
23 nonindustrial customers of deregulation; is that
24 correct?

25 A. That's correct.

1 Q. Can you turn to page 33 of Exhibit 2. I
2 want to ask you about Figure 11. Do you see that,
3 Figure 11?

4 A. I do.

5 Q. Would you agree -- well, first of all,
6 for purposes of this question and your statements and
7 testimony, can we agree that the deregulated states
8 listed on this chart would be Pennsylvania, Michigan,
9 and Ohio?

10 A. That's correct.

11 Q. And the regulated states on this chart
12 are Indiana and Kentucky, correct?

13 A. Correct.

14 Q. Would you agree based on Figure 11 that
15 the electricity price for industrial customers is
16 higher pretty much throughout all or most of the
17 period -- the 20-year period in this table for the
18 deregulated states?

19 A. The absolute dollar amounts are higher.
20 The importance of this particular chart is the slope
21 because the discussion is about the change in the
22 prices of electricity.

23 Q. So, I understand your opinion. But you
24 are agreeing, you said the absolute dollar amounts
25 are higher throughout?

1 A. Correct.

2 Q. Okay. Then back to page 12 of your
3 testimony, slightly different question about that
4 same answer. Starting on line 2, are you suggesting
5 that electric price changes are the only reasons for
6 changes in productivity for manufacturers?

7 A. Not the sole change.

8 Q. So you agree there are many reasons for
9 gross productivity to change and not necessarily
10 related to electric pricing, correct?

11 A. That's correct.

12 Q. For example, less efficient plants could
13 be eliminated and aggregate efficiency would rise,
14 correct?

15 A. Correct.

16 Q. New plants could be added or plants could
17 be refurbished and also increase efficiency overall,
18 correct?

19 A. In all of your examples, those decisions
20 would be partially predicated on the cost of energy.

21 Q. Okay. But do you agree that those
22 factors would change and they could be unrelated to
23 the price of energy?

24 A. I did -- I would agree that those facts
25 come in, but the decision would be unrelated to the

1 price of electricity. The electricity price would
2 fit into the decision-making calculus.

3 Q. But even if it's -- okay. So if you're a
4 2 percent energy-intensive customer, 2 percent of
5 every dollar relates to electric pricing, is that
6 customer going to make all these decisions, the ones
7 we just discussed, based strictly on electric prices?

8 A. Not strictly.

9 Q. Okay. And so you agree there could be
10 other drivers that would cause a manufacturer to make
11 those decisions that are not based on the price of
12 electricity, correct?

13 A. The critical location factors for a
14 industrial customer vary in different surveys, but
15 consistently -- but electricity is consistently
16 ranked anywhere from 3 to 5 in most of them. So the
17 critical location factors would be location of the
18 customer, location of critical suppliers. For heavy
19 industrial users, energy cost usually shows up in the
20 third position, and transportation cost and workforce
21 or talent would be in the mix. All those are factors
22 at play.

23 Q. Okay. And your answer you just gave was
24 about location; in other words, where -- a decision
25 of where to locate a business or manufacturing --

1 A. That's the decision, to locate a
2 brand-new business. When you're making incremental
3 investments in a plant, it depends sometimes if you
4 have a multi -- a company with multiple plants or if
5 the company has just one plant. The calculus is, you
6 know, a balance sheet, pro-forma decision on the part
7 of the company.

8 Q. And would you agree, in addition to the
9 relative price of electricity, in making those
10 investment decisions, the uncertainty or stability
11 that's expected for those electric prices is also
12 important?

13 A. In all of my experience on this -- I'm
14 going through conversations in my mind -- I've never
15 heard uncertainty mentioned. Relative energy costs
16 I've heard mentioned frequently, and we've seen it in
17 location studies. So if the uncertainty were to
18 change the relative cost of power compared to other
19 locations, it would have an impact. If it's -- if
20 the company is looking at the uncertainty as
21 affecting the relative positions across all their
22 locations, it would wash out.

23 Q. So you're saying that industrial
24 customers do not factor in rate stability when making
25 investment decisions?

1 A. I believe industrial customers would look
2 at the pattern of rates to see whether they can rely
3 on the cost, the relative cost of that location
4 versus other locations. The cost of electricity will
5 also factor in decisions, say, between -- North
6 American decisions, so it's plant specific.

7 Q. So --

8 A. But I would believe that the rate is more
9 important than the volatility of the rate.

10 Q. So if the manufacturer is trying to
11 decide whether to locate in Ohio and they were told
12 that the electric prices are really low right now and
13 may be low for the next couple years, but I expect
14 them to increase significantly and/or be volatile, up
15 and down, up and down, over the next ten years, are
16 you saying that that manufacturer would act just
17 based on the current low prices?

18 A. No. The manufacturer would look at the
19 forecast that you've given him and compare it to the
20 forecast in other competing locations. So if the
21 Ohio location is guaranteed to be low relative to the
22 other locations, then it will wash out. If it turns
23 out that the expected price is going to be high
24 relative to the other locations, then it will have a
25 negative effect.

1 So it really is the degree of risk that
2 the company is willing to take, also the time frame
3 in which they can essentially write off their
4 investment.

5 Q. Yes. And so if a company were looking at
6 a -- locating in a regulated jurisdiction, and, let's
7 say, current prices were even a little bit higher in
8 those regulated jurisdictions but very stable, would
9 you agree that certain companies would opt for the
10 stability and not the low price, today's low price?

11 A. That would all -- talking about
12 hypothetical, but it's a legitimate question. The
13 company would have to take into consideration the
14 veracity in which they have -- that they give to that
15 price forecast.

16 Q. Yes. And assuming they believe that to
17 be credible, would you agree that some companies may
18 opt for stability instead of today's low price?

19 MS. BOJKO: Objection, your Honor. Or
20 request for clarification. Are we talking about
21 energy prices? I'm not sure what the question's
22 implying.

23 MR. NOURSE: Electric prices, and I
24 didn't repeat the whole hypothetical, but we're
25 having a dialogue here.

1 EXAMINER PARROT: Overruled.

2 MS. BOJKO: Thank you.

3 THE WITNESS: Can you repeat that one?

4 Q. (By Mr. Nourse) Yeah, okay. So if you
5 didn't follow me, then I will go back.

6 A. No. It's just in the intervening time
7 period I want to make certain I'm answering exactly
8 what you asked.

9 Q. So I was asking you about how
10 manufacturers make decisions. Energy-intensive
11 manufacturers make decisions, based on your
12 experience, and if they were looking at locating a
13 facility in a regulated state that might have current
14 prices that are slightly higher than the competitive
15 market, volatile rates in another location that's a
16 candidate, and I simply asked you whether you'd agree
17 that some companies would prefer the stable rate,
18 even if it's a little bit higher than today's current
19 lower rate in the other jurisdiction, because of the
20 stability. Do you agree that some companies may opt
21 for stability?

22 A. I can't -- I can't give you a "yes" or
23 "no" or that. What I could do is I would tell you
24 what I would do if I was advising the company, and
25 what I would do would be to take -- to work with

1 their accountant, who has a pro-forma model on the
2 location cost, and I would try to build in a risk or
3 uncertainty band around the cost of energy given the
4 current price and the rate, whatever the rate
5 forecast is.

6 And then I would work with the accountant
7 to look at what the net present value of the
8 differential would be. So if it turns out that the
9 price is a bit higher, then it would really come down
10 to what the forecast is to the variability and how
11 sensitive they are to the electric prices versus
12 other issues. So that is purely a pro-forma
13 exercise.

14 Q. So you believe, under that kind of
15 analysis that you just described, that volatility and
16 the potential for price spikes would be boiled down
17 to a quantitative number and factored into that
18 decision?

19 A. It should be.

20 Q. Okay. All right.

21 A. And the other thing that would be also
22 involved would be their ability to offset through
23 conservation measures, capital cost of conservation,
24 but then you look at the other critical location
25 factors, which is where their customers are and other

1 parts of the location decision.

2 Q. Sure. Okay. Dr. Hill, did you review
3 the Commission's decision in the AEP Ohio ESP III
4 case in preparation of your testimony?

5 A. Colloquially known as the AEP factors?

6 Q. Yes.

7 A. Yes, I did.

8 Q. You reviewed that decision, okay. I want
9 to ask you a couple of questions about that. Do you
10 happen to have it with you?

11 A. I did. Let me see.

12 MR. NOURSE: Counsel, do you have it or
13 do you need a copy?

14 MS. BOJKO: I do not, thank you.

15 MR. NOURSE: You do have a copy?

16 MS. BOJKO: Yes, I do. I do not need it.
17 Thank you.

18 MR. NOURSE: Thank you. Compound
19 question, sorry.

20 MS. BOJKO: Objection.

21 MR. NOURSE: Your Honors, do you need a
22 copy?

23 MS. BOJKO: More importantly, does the
24 witness need a copy?

25 THE WITNESS: I had one this morning.

1 MR. NOURSE: If you don't have one, I'll
2 give you one. I thought you said you had it. I can
3 just give it to you unless you want to keep looking.

4 THE WITNESS: No, I'm just fumbling
5 around.

6 MR. NOURSE: May I approach, your Honor?

7 EXAMINER PARROT: You may.

8 Q. (By Mr. Nourse) Okay. Dr. Hill, does
9 this look familiar? Is this a decision that you
10 reviewed in preparing your testimony?

11 A. It does. Much smaller type.

12 Q. I apologize for that. Saving paper.
13 Didn't know if you'd need a copy.

14 Okay.

15 MS. BOJKO: May we go off the record?

16 MR. NOURSE: I'm sorry. Do you want to
17 go off the record?

18 (Discussion off the record.)

19 EXAMINER PARROT: Back on the record.

20 MR. NOURSE: Thank you, your Honor.

21 Q. Dr. Hill, can you turn to -- well, first
22 of all, let's look in the table of contents, and can
23 you confirm that the conclusion, the Commission's
24 conclusion section for the PPA rider starts on page
25 19 under section II-B-1(c) of the decision?

1 A. Nineteen to page 26/27.

2 Q. Okay. Then let's turn to that section
3 and start on page 22. And on page 22 the first full
4 paragraph says, "The Commission finds that" -- and
5 I'll skip the RC. That's the ESP statute --
6 "authorizes electric utilities to include, in an ESP,
7 terms related to 'bypassability' of charges to the
8 extent that such charges have the effect of
9 stabilizing or providing certainty regarding retail
10 electric service." Do you see that?

11 A. I do.

12 Q. And without regard to any legal opinions,
13 I just want to ask you, based on your understanding,
14 whether you agree with that notion that the
15 Commission can include a nonbypassable stability
16 charge in an ESP. Is that your understanding?

17 A. That's a legal conclusion. I'm an
18 economist, so I'm not in a position to make a
19 statement as to whether it can or should be --
20 whether it be included or not.

21 Q. Okay. It's really a background question,
22 but that's what the Commission said right there,
23 correct?

24 A. Correct.

25 Q. And then the next sentence, "As discussed

1 above, both shopping and SSO customers may benefit
2 from the PPA rider because it would have a
3 stabilizing effect on the price of retail electric
4 service, irrespective of whether the customer is
5 served by a CRES provider or the SSO." Do you see
6 that?

7 A. I do see it.

8 Q. And do you agree with that statement?

9 A. Do I agree with it?

10 Q. Yeah.

11 A. On the whole, I disagree with it.

12 Q. You disagree.

13 A. I disagree.

14 Q. Okay. That's what I thought.

15 A. I'm glad I didn't disappoint you.

16 Q. Well, I didn't take your deposition so I
17 don't know for sure what you're going to say.

18 A. Okay.

19 Q. All right. Can you turn to page 25?

20 A. Yes.

21 Q. And in the, I believe it's the third
22 sentence --

23 A. "We conclude"?

24 Q. "Nevertheless," so I didn't count
25 correctly.

1 A. Oh, "Nevertheless." Yes.

2 Q. "Nevertheless, the Commission does
3 believe that a PPA rider proposal, if properly
4 conceived, has the potential to supplement the
5 benefits derived from the staggering and laddering of
6 the SSO auctions, and to protect customers from price
7 volatility in a wholesale market." Do you see that?

8 A. I do.

9 Q. And do you disagree with that statement?

10 A. On the whole, I disagree with that
11 statement. I would have one small caveat.

12 Q. Okay. Go ahead and give your caveat.

13 A. The caveat would be, and it comes from in
14 my testimony, when we look at what's required to give
15 time out for a company that's failing, the caveat
16 would be that the company would have to, in that
17 shelter time period, substantially restructure its
18 operations, deal with cost issues, and comes out
19 essentially as a very different competitive firm.

20 If the shelter is just to shelter them
21 from competition, then I disagree with it quite
22 strongly. In fact, what I've found a bit
23 discouraging, as I read the materials in both cases,
24 is this insistence on stable prices, which to me is a
25 stalking horse for above-market prices, that when the

1 companies involved are saying that they are
2 supporting and looking for stability of prices means
3 that, to me, that they're trying to earn prices
4 above and shelter themselves from market rates of
5 return from merchant generation.

6 Q. Okay. And would you agree that, in your
7 terms, the shelter, if the shelter provides other
8 benefits and the Commission determines that other
9 benefits would exist, that then would you agree that
10 it's worthwhile?

11 A. You mean outside of giving the company an
12 opportunity to restructure and lowering its operating
13 costs?

14 Q. Yes.

15 A. I can't -- I can't foresee every single
16 circumstance, but my instinctive answer would be no.

17 Q. Okay. So if -- I'm sorry.

18 A. I go back to what we learned with Ormet.
19 Ormet was given almost \$300 million worth of subsidy
20 by ratepayers in Central Ohio, and there was no
21 way -- and they couldn't restructure their costs in a
22 way to make themselves a competitive firm. They
23 eventually bankrupted. The PUCO gave Ormet the
24 ability to collect, I think it was, \$308 million from
25 ratepayers across the state of Ohio. There were

1 1,500 jobs at play at the beginning. But an aluminum
2 smelter had no economic reason to be operated in this
3 part of the market, so the end result was bankruptcy,
4 and ratepayers lost 200-some-odd million dollars --
5 well, no. I'd have to look up the exact amount, but
6 200-some-odd million.

7 If we look at the steel cases, and the
8 reason why I mentioned the steel mills in Cleveland,
9 they went through multiple bankruptcies, and, in fact
10 the LTV bankruptcy and several workouts, and the end
11 result was a very different company came out. It was
12 built by -- bought by Mittal and became
13 ArcelorMittal. But, more importantly, they had
14 different en work rules. They shed their pension
15 costs, lowered their operating costs, and in that
16 labor environment, the company invested in more
17 equipment making a very different steel mill. So
18 providing them shelter without going through that
19 excruciating pain would have been lemon socialism, a
20 waste of the taxpayers' money.

21 We learned the exact same thing with the
22 bankruptcy of Chrysler and GM. I think I've gone a
23 little, I may have gone a little bit afield.

24 Q. That's okay. Did you say Lenin
25 socialism?

1 A. Lemon.

2 Q. Oh, lemon socialism.

3 A. That's essentially where you take
4 companies that are lemons and socialize them.

5 Q. Since you mentioned Ormet, I do have a
6 couple more questions, then we're going to get back
7 to what we talked about before.

8 Do you know what role the global aluminum
9 price played in Ormet's bankruptcy?

10 A. It played a substantial role because of
11 the oversupply of aluminum in the global market, but
12 the cost of electricity was one where they, the
13 company, kept on coming back for lower and lower
14 costs.

15 Q. Yeah. But that didn't help overcome the
16 low -- sustained low aluminum prices on a global
17 scale, correct?

18 A. That's correct.

19 Q. Okay.

20 A. That's the reason why the subsidy should
21 never have been given in the first place.

22 Q. So are you saying the Commission wastes
23 money when authorizing special arrangement discounts
24 to industrial customers?

25 A. No, I'm not saying that at all. What I'm

1 saying is that the Commission conducted an experiment
2 in the case of Ormet, and that was an unusually large
3 discount.

4 Q. Do you agree that in some cases the
5 economic development benefit of a rate discount can
6 outweigh your concerns and help retain Ohio jobs or
7 tax revenue and other positive benefits?

8 A. I believe that there is a rationale for
9 giving industrial customers and large industrial
10 customers rate discounts, but what I didn't put in
11 this testimony, it was in the other case, I outlined
12 the conditions under which I thought it would be
13 tolerable and/or acceptable.

14 Q. Okay. But, fair to say, that the
15 Commission proceeded in good faith in dealing with
16 the Ormet issues and thought --

17 A. Absolutely.

18 Q. -- the discounted electric price was
19 going to help the Ohio economy and AEP customers
20 overall, correct?

21 A. That is correct.

22 Q. And with respect to your Cleveland steel
23 mills example, would you agree that labor, the cost
24 of labor, was a major factor in that example?

25 A. It was a combination of cost of labor and

1 work rules, and you could argue the total cost of
2 labor would include pension costs.

3 Q. Okay. Now, let's get back to the ESP III
4 decision, and then we'll get back to your testimony.
5 So we were on page 25. In the next sentence, after
6 what we just read before, it says, "We recognize that
7 there may be value for consumers in a reasonable PPA
8 rider proposal that provides for a significant
9 financial hedge that truly stabilizes rates,
10 particularly during periods of extreme weather." Do
11 you see that?

12 A. I do.

13 Q. Do you disagree with that?

14 A. I do.

15 Q. Okay. One more, if I can find it here.
16 I can't find it right now but, if the Commission in
17 its decision stated that rate stability is essential
18 in an ESP, would you also disagree with that?

19 A. As long as it's not associated with some
20 form of fundamental transformation of the company.
21 So here's -- again, it's not in this testimony, it's
22 in my testimony in the FirstEnergy case, I do have
23 concern about the disposition of generating capacity
24 that's noneconomic, and I do argue in that proceeding
25 that I do believe that that is an issue of stranded

1 costs and assets that's triggered because of a change
2 in regulatory environment and a change in the
3 fundamental price of fuels, and that this is a change
4 on a par with what the domestically headquartered
5 automobile industries went through.

6 Q. Okay.

7 A. So a long way of getting there, that if
8 there was a multistate workout of stranded assets and
9 that was a part of the fundamental restructuring of
10 the companies that are doing generating, then some
11 form of safe harbor could be justified, but it's got
12 to be transitional and it has to sunset.

13 Q. With some assistance, I did find that
14 quote I was looking for, Dr. Hill. It's on page 25
15 just after the language we were discussing earlier.
16 And do you see where it says, "rate stability is an
17 essential component of the ESP" near the end of that
18 same paragraph we were in?

19 A. It's the -- the clause that starts at the
20 third-to-last line of that first paragraph?

21 Q. Uh-huh.

22 A. Yes.

23 Q. Okay. And you disagree with that, just
24 to be clear, correct?

25 A. Correct.

1 Q. Okay. Let's put this aside. Go back to
2 your testimony. I just want to ask you about your
3 testimony on page 13, lines 6 through 9. Near the
4 end of that sentence, you express a concern about the
5 PPA potentially driving lower-cost generation out of
6 the market. Do you see that?

7 A. Correct.

8 Q. And you understand under the PPA proposal
9 that the actual capacity and energy retail customers
10 would be served by SSO auctions and/or CRES
11 providers, correct?

12 A. Correct.

13 Q. And that the capacity, energy, and
14 ancillary services associated with the PPA units
15 would be liquidated into the PJM markets, correct?

16 A. What do you mean by "liquidated"?

17 Q. That they would not -- the capacity,
18 energy, and ancillary services would not be used to
19 serve load in Ohio. It would be sold in the PJM
20 markets to yield revenue that would be credited to
21 the PPA rider. Is that your understanding?

22 A. Can I do it in my own words to make
23 certain we're understanding each other?

24 Q. Go ahead.

25 A. That the generating plants would sell

1 their electricity to the operating companies. The
2 operating companies then sells it into the PJM
3 market. If in a sale in the PJM market there's a
4 loss, that gets distributed across all ratepayers in
5 the territory, and if it's sold at a profit, that
6 gets distributed across all ratepayers throughout the
7 territory, whether they're AEP's customers or not.
8 Are we saying the same thing?

9 Q. Well, you're explaining your concern and
10 I think you -- that's fine.

11 A. No, I'm trying to -- this is the way I
12 understand it.

13 Q. Yeah. Okay. I think I get you.

14 I think based on what you already said,
15 I'm going to skip this whole line of questioning.
16 You don't like rate stability, right, so we don't
17 need to talk about it anymore?

18 MS. BOJKO: Objection.

19 A. I am a huge fan of nonregulated rate
20 stability.

21 Q. Okay.

22 A. My concern -- well, you haven't asked me
23 a question so I don't want to go off, so I apologize.

24 Q. All right. If you could turn to page 15,
25 this section of your testimony that starts on page

1 14, you're discussing the effects of the proposal,
2 PPA proposal, and I want to ask you about the
3 statement you make in lines 1 and 2, that "the
4 proposal ignores a fundamental problem facing Ohio in
5 the coming years: Carbon regulation." Do you see
6 that?

7 A. I wrote that, yes.

8 Q. Okay. And is it your understanding that
9 the company's financial -- quantitative financial
10 study did include approximately three-quarters of a
11 billion dollars in carbon regulation costs?

12 A. I saw that in Allen's testimony and, I
13 believe, in the CEO's summary.

14 Q. Okay. And do you know, if you know, the
15 EPA's expected reduction of coal as a percentage of
16 fuel supply that relates to implementation of the
17 Clean Power Plan?

18 A. Simple short answer is no. I looked at
19 the .70 parts per million regulation, I looked at the
20 .60 parts per million regulation, and rapidly reached
21 the conclusion that to understand its impact on the
22 operating costs of the plant, I needed someone who
23 really understood the engineering.

24 Q. Okay. But I'm --

25 A. That's the longest "I don't know" I think

1 I've ever given.

2 Q. Okay. Well, I'm just asking you if you
3 know whether the EPA, the USEPA who's, you know, the
4 author, I guess, and proponent of the Clean Power
5 Plan, whether it's their expectation to reduce coal
6 as a percentage of generation supply by less than
7 10 percent or more than 10 percent, if you know?

8 A. I do not know that.

9 MR. NOURSE: Okay.

10 MS. BOJKO: Your Honor, is this an
11 appropriate time to take a personal health break?

12 EXAMINER PARROT: Let's go off the
13 record.

14 (Discussion off the record.)

15 EXAMINER PARROT: Let's go back on the
16 record. Let's take a ten-minute break.

17 (Recess taken.)

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

20 Mr. Nourse.

21 MR. NOURSE: Thank you, your Honor.

22 Q. (By Mr. Nourse) So, Dr. Hill, we were
23 talking about -- well, let's do it this way. Would
24 you turn to -- I was going to say we were talking
25 about lemon socialism, which I guess you mention on

1 page 18 of your testimony. I found that.

2 Further down page 18 you make reference
3 in lines 18 and 19 to, I guess, the regulated
4 business model, and you're saying it previously
5 failed. Do you see that?

6 A. Yes.

7 Q. And can you tell me how you believe the
8 regulated industrial model failed?

9 A. Well, the regulated business --
10 regulated -- let's take a step back.

11 There are actually three components to
12 this particular industry. There's merchant
13 generation, there's transmission, and distribution.
14 One of the tenets of good industrial regulation is to
15 relieve the negative effects of market power, and if
16 you can have a competitive market, we tend to be
17 better off.

18 And you noted, when we were going through
19 the graph of power prices across different states,
20 that Ohio, as well as Michigan, had rates that were
21 above its southern competitors. And I believe that
22 higher entry point, the intercept of that graph, is
23 because the graph goes back to the days of regulated
24 power and since then our rate of increase has
25 declined substantially. So I believe that, or it's

1 my observation, that moving from a regulated
2 generation market to a deregulated market has
3 provided price benefits to electric users in the
4 state.

5 I also find that in this particular case
6 there are three aspects that are trying to impose a
7 form of regulation that is disconcerting. The first
8 aspect is I can't find an end point for the PPA.
9 Your data analysis stops in 2024, but in the
10 application I couldn't say, "When does this get
11 revisited?" In fact, in the application it says --
12 it seems to say, I'm not a lawyer so I might be
13 misinterpreting the language, that once it's passed,
14 it doesn't get revisited. That's a little
15 disconcerting.

16 The second part that's disconcerting
17 about this request for this peculiar form of
18 reregulation is that the definition of "stability" is
19 also subtle. I mentioned that stability seemed to
20 be -- to embrace higher-than-market prices, but when
21 I'm thinking about how stability's defined in the
22 application, I still see volatility, just at a higher
23 rate, because it seems that the power consultant in
24 the market, and there's a rate of return, and the way
25 it gets sold into the market, but it's going to

1 continue to be volatile, just a higher intercept. So
2 if you have stability with eventually higher prices,
3 that's not a good sign.

4 And my largest concern in my testimony,
5 throughout the entire testimony, is the incentive to
6 bring new generating capacity into the marketplace,
7 because the way this is structured is that you could
8 never put an existing power plant out of business
9 because it takes the loss of the plant, puts that
10 into the marketplace and whatever the loss is the
11 ratepayers pick up.

12 So where's the decision to shut down a
13 plant? And how do we move to a more efficient,
14 economically efficient form of generation?

15 So as I looked at this particular PPA,
16 the definition of rate stability seems to be odd, the
17 lack of an end date seems to be bad regulatory policy
18 and, third, there's no economic incentive to run a
19 plant efficiently because you have a guaranteed rate
20 of return.

21 The bad old days of regulation is one law
22 where it was really up to the administrators in the
23 PUCO to know the operations of the plant so well to
24 understand whether the costs were right or not.

25 Q. Okay. So I think the very first part of

1 your answer may have answered my question about
2 regulatory failings. So you're saying that
3 regulators allowed the price to go too high and then
4 moving to deregulation provided price benefits,
5 correct?

6 MS. BOJKO: Objection. Mischaracterizes
7 his testimony.

8 EXAMINER PARROT: Overruled.

9 THE WITNESS: Am I supposed to respond or
10 not at this point?

11 EXAMINER PARROT: You are, and if you
12 need to correct something about his characterization
13 of your testimony, please do that.

14 THE WITNESS: Exactly.

15 EXAMINER PARROT: But I'll allow the
16 question.

17 THE WITNESS: Thank you.

18 A. I'm not impugning in any way, shape, or
19 form the staff of the PUCO, and I'm not impugning at
20 all the attempts in the past to inspect costs and
21 operating efficiency. What I am saying is that
22 markets are a lot smarter than any one person can
23 figure out what the true efficient price of a product
24 is, and I believe, going forward, there are a couple
25 of things about what has already transpired in this

1 marketplace that are important to recognize. The
2 first is that the reliability of the system no longer
3 rests on the state of Ohio, it rests across the
4 entire PJM footprint. That has to be recognized.

5 The second issue that needs to be
6 recognized is that the price of fuels have changed
7 dramatically, and if you have a regulatory regime
8 that says that if a new lower-cost entrant generator
9 enters this marketplace that causes current operating
10 plants to lose money, those current operating plants
11 will never sunset. That's just bad economics.

12 Q. Okay. Dr. Hill, let me try to focus --
13 narrow this down a little bit.

14 A. Okay.

15 Q. Your answer two answers ago, in part of
16 your answer I believe said that moving to
17 deregulation provided price benefits, correct?

18 A. Correct.

19 Q. And let's talk about Ohio specifically,
20 and let's talk about your understanding with AEP Ohio
21 retail customers, okay? Okay, are you with me?

22 A. I'm with you.

23 Q. And so after the transition, the market
24 development period associated with Senate Bill 3
25 occurred, and we're into 2006 and beyond, that would

1 be the deregulation period where price benefits have
2 occurred; is that what we're talking about?

3 A. Correct.

4 Q. Okay. And do you know, under what was
5 called the rate stabilization plan and subsequently
6 under Senate Bill 222 the electric security plans, do
7 you know if the Commission found that there were
8 billions of dollars of benefits to retail customers
9 in getting regulated rates over market rates during
10 that period?

11 A. I'm not aware of that statement.

12 Q. Let's move to page 19 of your testimony,
13 and in this section I believe you're talking about
14 distributed generation and the potential benefits --

15 A. Page 19 now?

16 Q. Page 19. You're talking about
17 distributed generation and the potential benefits
18 associated with DG, correct?

19 A. Uh-huh. I'm sorry. I should say "yes."

20 Q. All right. So do you believe -- well,
21 first of all, do you believe distributed generation
22 customers should receive subsidies from other -- the
23 other customers?

24 A. What I believe is that we need room in
25 the state of Ohio and across the PJM footprint to

1 engage in industrial-scale experiments around power
2 generation and transmission, that if we close the
3 door of being a place where these technologies are
4 implemented and deployed, we will not be -- we will
5 always be trailing in the technology that's available
6 to power generation.

7 So my statements here around distributed
8 generation could also go to cogeneration or energy
9 efficiency and other new technologies. We need to
10 find a regulatory space to make certain that those
11 technologies are experimented with, but they should
12 be treated as an industrial-scale experiment complete
13 with sunset provisions and evaluations at the end of
14 that time period.

15 Q. Okay. So with respect to things like
16 distributed generation, cogeneration, renewable
17 energy, energy efficiency, you're saying all those
18 things, in all those areas subsidies can be
19 appropriate and useful for certain energy policy
20 goals?

21 A. Yes. As long as they are put in a
22 framework so it looks and acts like an experiment
23 could be evaluated and can sunset.

24 Q. Okay. And let's talk about the potential
25 new gas generation facilities that may be developing

1 or may occur in the future. Now, do you believe it's
2 appropriate to give those facilities subsidies?

3 A. I just have to ask you to be specific
4 about what you mean by "subsidies" in this case.

5 Q. Okay. But I'm asking you categorically,
6 do you think it's okay or not okay for those
7 facilities to receive some form of assistance through
8 the government or through regulation?

9 A. There's some forms of assistance I
10 believe are appropriate. There's assistance around
11 site assembly, connecting the site to the grid,
12 infrastructure going into the site, and those are
13 appropriate. The tax treatment of the plant should
14 be treated -- I believe the plant should be treated
15 in tax terms on par with other generating plants.

16 Q. So tax abatements are inappropriate for
17 those kinds of facilities?

18 A. There are certain types of -- tax
19 abatements for -- there is a statewide forgiveness of
20 tax on capital goods and equipment. There are issues
21 around the CAT tax that I'm not totally familiar with
22 around the treatment of these, but as a rule, I would
23 rather see the plant pay its full costs.

24 Q. Okay. And how about loan guarantees?

25 A. I would rather not see them.

1 Q. How about discounted electric -- I'm
2 sorry. Withdraw that question.

3 And going back to the discussion we had
4 about distributed generation and cogeneration,
5 renewable energy, energy efficiency, I just want to
6 be clear, so are you suggesting that OMA members,
7 manufacturers in Ohio, are willing to pay an
8 above-market electric price to support the
9 advancement of those areas?

10 A. I'm not in a position to speak for them.
11 My relationship with OMA and OMA Energy Group in this
12 issue is a bit different because when I saw the PPA
13 proposals, I thought that the impact that they would
14 have on the structure of the market and the
15 ability -- the way in which they would discourage new
16 generation of electricity and the economic
17 development impacts would be so bad that I called the
18 president of OMA and asked to testify, and I'm a
19 volunteer, and that is -- so I can't speak in terms
20 for the membership of OMA, their energy users group,
21 but -- I'll leave it at that.

22 Q. Okay. Thank you.

23 In your analysis involving the PPA
24 proposal, did you quantitatively incorporate or study
25 the costs for any reliability investment that may be

1 required if the PPA units are closed?

2 A. I relied on PJM's testimony and PJM's
3 response, and the fact that not all of current
4 generating capacity cleared auction was a sign to me
5 that there was sufficient reliability -- there was
6 sufficient capacity in the market and, unfortunately,
7 the Ott's testimony about reserve capacity was
8 stricken so I can't rely on that.

9 Q. But you didn't do any independent
10 analysis or quantification of the cost, the
11 transmission improvements that may be needed if the
12 PPA units are closed, did you?

13 A. No. I actually relied on AEP's
14 submissions. In fact, they were kind of interesting
15 because the net present value difference between
16 building transmission lines versus the perpetual --
17 the net present value of the perpetual subsidy of the
18 operating plants was never really compared.

19 So you had the, I think, the
20 3 billion-dollar number out there for new
21 transmission facilities without the net present value
22 result of the perpetual subsidy for the operating
23 plants, so it was really impossible to compare the
24 economic efficiency of building transmission,
25 improving the transmission grid versus keeping plants

1 that didn't clear capacity auctions up and going.

2 Q. Okay. Well, since you already agreed, I
3 believe, that you did not do any quantitative
4 analysis of your own about the potential impacts of
5 the PPA rider on retail customers, exactly whose
6 analysis are you relying on when you talk about a
7 perpetual study -- or, I'm sorry, a perpetual
8 subsidy?

9 A. Your own testimony, I mean, own
10 submissions for three years show that the plants were
11 going to lose money, and in the out years out to 2024
12 that's where your estimates show there would be a
13 return to customers. Is that -- I'm not in a
14 position to judge the credibility of those estimates
15 in a very uncertain fuel environment, but I look at
16 the incentives that are provided through the PPA to
17 the generator to have a guaranteed rate of return and
18 the logical impossibility of closing the plant that
19 are in your proposal to form that statement.

20 Q. So your statement of a perpetual subsidy
21 is based on company testimony?

22 A. It's starting with the company testimony,
23 starting with the fact that you're requesting the
24 PPA, which means that through the request of the PPA
25 you aren't trusting the ability to make money in the

1 markets. Those to me are the most important pieces
2 of evidence.

3 Q. Okay. And did you, likewise, consider
4 the cost of new generation in Ohio as part of your
5 analysis of the PPA?

6 A. I'm -- the cost of new generation. I
7 don't understand that.

8 Q. Well, under your scenario if PPA units
9 are pushed out of the market and new units are built,
10 did you consider or quantify specifically the costs,
11 the long-term costs on market prices of these new
12 generation units?

13 A. Well, I don't have to. I mean, right now
14 we've got five new plants either under construction
15 or permitted, and my concern much more is about the
16 market signals that are set off, if it's impossible
17 to compete with existing power plants, meaning it's
18 impossible to take their baseload out of the
19 marketplace, which is what the PPA is designed to do.

20 Q. Yeah, okay. Well, I wasn't asking you
21 whether you had to include that analysis or do it. I
22 was asking you whether you did the analysis.

23 A. The answer is no.

24 Q. Okay. And would it be your expectation
25 that a new entrant would expect a greater ROE, return

1 on equity, or risk premium as compared to a regulated
2 level of ROE?

3 A. The ROE is irrelevant. It's the price of
4 the power that's relevant.

5 Q. That's where you get the ROE over the
6 life of your asset, right?

7 A. Yes.

8 Q. Revenue.

9 A. But also the efficiency of operating the
10 plant, the efficiency of the fuel source and the cost
11 of adding pollution controls.

12 Q. Correct. So would you expect the risk
13 premium for a new generation investor to be greater
14 or less than a regulated ROE level?

15 A. I have no opinion on that.

16 Q. Okay. Can you turn to page 26, and in
17 the bottom half of the page there, which is an answer
18 that carried over from page 25, I guess you're
19 talking about competitive concerns, and in line 12
20 you say there would be a "differential between
21 AEP Ohio's affiliate price and that of its
22 competitors." Do you see that?

23 A. I have to -- that's the tail end of a
24 very long sentence.

25 Q. Go ahead and review it.

1 A. Okay. I'm done.

2 Q. And then you talk about two negative
3 outcomes from that following that sentence, correct?

4 A. Correct.

5 Q. And the first one talks about narrowing
6 costs -- their cost advantage meaning new entrants
7 would otherwise have a cost advantage. Is that your
8 implication?

9 A. Correct.

10 Q. And is it your understanding that under
11 the PPA that CRES providers and SSO auction suppliers
12 would be competing against the PPA on a price basis?

13 A. Can you repeat that, please.

14 MR. NOURSE: Can you read it back,
15 please.

16 (Record read.)

17 A. That's a very, very subtle question. So
18 it's my understanding that AEP's distribution
19 companies, companies that deal with the consumer,
20 will purchase the power from the merchant generating
21 plants, they'll sell the power into the PJM auction,
22 and whatever -- if there's a loss in the auction,
23 that gets distributed over all consumers within the
24 footprint, and if there is a profit, it gets
25 distributed across all consumers in the footprint.

1 And it makes no difference whether you're
2 SSO or whether you're a CRES provider that's AEP or
3 non-AEP, you pay or you get a credit.

4 Q. Okay. And I'm not accused of being
5 subtle very often, so I want to be clear --

6 A. I haven't been accused of being quiet
7 before too, so...

8 Q. I want to be clear, the fact is that the
9 PPA rider as proposed would be nonbypassable,
10 correct?

11 A. Correct.

12 Q. So that CRES providers would compete
13 amongst themselves based on the same, you know, cost
14 advantage if they have one or cost disadvantage if
15 they have one, and the same applies to SSO suppliers,
16 correct?

17 A. Not quite. So legally what you are
18 saying, or I believe is correct, but the real
19 differential is it removes the ability of CRES
20 providers and aggregators to purchase power directly
21 from a new plant or new entrant to the marketplace
22 by -- the real problem to this PPA is that it
23 discourages new merchant generating capacity from
24 entering the marketplace, so that is where the
25 distortion takes place.

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1 So, yes, if everyone is paying the exact
2 same tax, it could be determined to be a level
3 playing field. But the decision whether you're
4 operating in Ohio or not really is a decision around
5 that tax and the access to more competitive power.
6 So by denying the ability or making -- not denying,
7 strike that, increasing the hurdle to enter this
8 marketplace for a merchant generator, that is having
9 distorting effects.

10 MR. NOURSE: Okay. I think I understand.

11 That's all I have. Thank you, Dr. Hill.

12 THE WITNESS: You're welcome.

13 EXAMINER PARROT: Mr. Beeler?

14 MR. BEELEER: No questions, thank you.

15 EXAMINER PARROT: Any redirect? Do you
16 want a minute?

17 MS. BOJKO: We literally just need two
18 minutes, please.

19 EXAMINER PARROT: Okay. Let's go off the
20 record.

21 (Recess taken.)

22 EXAMINER PARROT: Let's go back on the
23 record. Any redirect?

24 MS. BOJKO: Yes, your Honor, thank you.

25 - - -

REDIRECT EXAMINATION

By Ms. Bojko

Q. Dr. Hill, in some of your responses you used the term "operating companies," and I know you just came from a different hearing last week. Did you mean AEP Ohio when you said "operating companies"?

A. Yes.

Q. Were your responses the same when you said "operating," you meant the AEP Ohio's operating companies?

A. That is correct.

Q. Okay. And you had some questions regarding stability of electric prices and regulated versus unregulated rates. Is Ohio a regulated state?

A. It's a partially regulated state; so merchant generation is deregulated, the other components are regulated.

Q. So who owns the generation that's subject to the purchased power arrangement?

A. In this case it is the unregulated component of AEP -- yes, the currently unregulated component of AEP.

Q. And in the context of the stability of electric prices that you were questioned about, is

1 the PPA a charge for energy costs?

2 A. Is the PPA a charge for energy costs?

3 The way I think about it, the answer would be no, the
4 PPA is a markup on top of energy costs, so the energy
5 costs themselves would be whatever the power provider
6 purchases. I mean, there are PPAs all over this
7 marketplace, so CRES providers and aggregators enter
8 into long multiyear, multimonth, and multiyear
9 contracts for electricity, and this wouldn't affect
10 any of those.

11 What it would do would be a way of taking
12 the presumed losses from AEP's generating plants and
13 spreading them out over all users so all that it
14 really is is a markup or a tax.

15 Q. Do you think the proposed PPA in this
16 proceeding provides the stable or certain rates that
17 you discussed with Mr. Nourse with regard to the
18 AEP Ohio proceeding -- the order? Excuse me.

19 A. Well, what it provides is a stable rate
20 of return to the generator. I don't see anything in
21 the proposal that will change the market rate of
22 electricity. So it's as if you have a graph of
23 electricity prices out there and you had the graph
24 without the PPA, and it would hit the Y axis at a
25 certain point, the intercept, and then the trend will

3320

1 be whatever the percent change in the market rate of
2 electricity would be.

3 With the PPA you just take that exact
4 same line and just jack it up the Y axis a little
5 bit. It changes the intercept, but the slope of the
6 curve won't change at all.

7 Q. But is the PPA a fixed price under that
8 scenario?

9 A. No. What the PPA is, it's a fixed
10 markup. So it takes whatever the loss is with the
11 guaranteed rate of return to the generator and
12 spreads that loss over the rate base, in addition to
13 whatever electricity costs that they are paying,
14 market price.

15 MS. BOJKO: Thank you. I have no further
16 questions.

17 EXAMINER PARROT: Mr. Mendoza?

18 MR. MENDOZA: No questions, your Honor.

19 EXAMINER PARROT: Ms. Fleisher?

20 MS. FLEISHER: No questions, your Honor.

21 EXAMINER PARROT: Ms. Mooney?

22 MS. MOONEY: No questions, your Honor.

23 EXAMINER PARROT: Ms. Bair?

24 MS. BAIR: No questions.

25 EXAMINER PARROT: Mr. Darr?

1 MR. DARR: No thank you.

2 EXAMINER PARROT: Mr. Kurtz?

3 MR. KURTZ: No, thank you.

4 EXAMINER PARROT: Mr. Nourse?

5 MR. NOURSE: Just a couple your Honor.

6 RECROSS-EXAMINATION

7 By Mr. Nourse:

8 Q. Dr. Hill, when you just now referred to
9 the PPA pricing as a fixed markup, you drew the chart
10 with your fingers there. Is it your understanding
11 that the cost-based rates under the PPA would always
12 be above-market rates?

13 A. Well, I would have to go back and look at
14 the cost projections that AEP had in their
15 submissions as to when it turned -- when your models
16 show it turning cash positive. And so I don't know
17 if that was 2024 or whether it's 2020. It is
18 conceivable that it could be a credit to the
19 customer, but I just don't see the market dynamics
20 that would get there because the plants that they are
21 sheltering right now are having difficulty clearing
22 auction, and the fuel that they use is going to be
23 increasingly expensive to use, not purchased price,
24 but naturally the ability to burn it compared to
25 other sources of fuel.

1 Q. Okay.

2 A. So the answer is in theory, correct, it
3 could end up as a credit. In actuality, I would be
4 surprised if it ever does.

5 Q. Okay. But your observations about the
6 markup are based on, even though you don't remember
7 the details right now, are based on the company's
8 quantitative analysis, that is correct?

9 A. Well, it's based largely on the company's
10 application.

11 Q. Okay. Thank you.

12 MR. NOURSE: That's all I have, your
13 Honor.

14 EXAMINER PARROT: Mr. Beeler?

15 MR. BEELER: Nothing. Thank you.

16 EXAMINER PARROT: Ms. Bojko, I believe
17 you already moved, I believe --

18 MS. BOJKO: I did.

19 EXAMINER PARROT: -- for the admission.

20 MS. BOJKO: I'd like to renew, thank you.

21 EXAMINER PARROT: Okay. OMA Exhibits 19
22 and 20, any objection?

23 MR. NOURSE: Your Honor, I will note my
24 objection to Attachments 1, 3, and 4, again, for the
25 record, and move for a ruling that strikes those

1 exhibits.

2 EXAMINER PARROT: Do you mean 1, 2, and
3 3, Mr. Nourse?

4 MR. NOURSE: 1, 3, and 4. I believe 2
5 was his CSU study that he took ownership of.

6 EXAMINER PARROT: I already struck 4.

7 MR. NOURSE: I'm sorry, so 1 and 3.

8 EXAMINER PARROT: 1 and 3.

9 MR. NOURSE: Yes.

10 EXAMINER PARROT: Thank you for that
11 clarification. Based on my earlier ruling, I'm going
12 to deny the motion to strike the Attachments 1 and 2.

13 MS. BOJKO: Thank you, your Honor.

14 EXAMINER PARROT: Any other objection?

15 MR. NOURSE: No.

16 EXAMINER PARROT: All right. With that,
17 OMA Exhibits 19 and 20 are admitted into the record.

18 (EXHIBITS ADMITTED INTO EVIDENCE.)

19 EXAMINER PARROT: Thank you, Dr. Hill.

20 THE WITNESS: Thank you.

21 MR. NOURSE: Your Honor, I'd move for the
22 admission of AEP Exhibit 37.

23 EXAMINER PARROT: Any objection?

24 MS. BOJKO: Yes, your Honor, I object to
25 the admission of AEP Exhibit 37. While the tariff

1 may be something that could be taken administrative
2 notice of, he did not have specific knowledge to the
3 tariff.

4 But particularly problematic is the last
5 sheet which is a sheet created by, I don't know who.
6 We don't know who created it, whether it was
7 Mr. Nourse, Mr. Allen. It was a document that has
8 calculations that the witness did not actually
9 physically verify and check. There was no
10 foundation. He actually had some concerns with the
11 titles of this document. Mr. Nourse just read it
12 into the record, and it's extremely misleading and
13 prejudicial, and it's not an exhibit that was
14 provided through discovery that parties could verify
15 and check the accuracy of.

16 MR. NOURSE: Your Honor, it is a
17 cross-examination exhibit, so there's no need to
18 distribute it or give parties advanced warning of
19 this. I think the witness verified all the
20 arithmetic associated with all the calculations here
21 and, you know, the driving force of all the
22 calculations, aside from the rates that are in the
23 Commission's approved tariff, was simply the load
24 that's listed in Mr. Allen's testimony. And the
25 witness, by suggesting that we clarify the 2 percent

1 and 6 percent columns to be increase in total cost to
2 production, I think, agreed with the nature of the
3 illustration here and clarified he understands it and
4 with that change accepted it, subject to the math
5 being confirmed, which anyone can do at any point.

6 So I think it was illustrative of the
7 impact of his testimony related to statements he made
8 in his testimony about energy-intensive customers.

9 EXAMINER PARROT: Mr. Nourse, I'm going
10 to admit Company Exhibit 37. I also want to clarify
11 earlier I misspoke and, I think I referenced
12 Attachments EWH-1 and 2, I meant 1 and 3. I was
13 denying your motion to strike those Exhibits 1 and 3,
14 Mr. Nourse.

15 MR. NOURSE: I gathered that, your Honor.

16 EXAMINER PARROT: I just wanted to state
17 that for clarification.

18 (EXHIBIT ADMITTED INTO EVIDENCE.)

19 EXAMINER PARROT: All right. At this
20 point let's take a break for lunch. We will
21 reconvene at 1:45.

22 MR. KURTZ: Your Honor, will Mr. Taylor
23 go on at that point?

24 EXAMINER PARROT: Yes.

25 MR. KURTZ: Okay.

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(At 1:07 p.m. a lunch recess was taken.)

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1 Monday Afternoon Session,
2 October 19, 2015.

3 - - -

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

6 Mr. Kurtz, would you like to call your
7 next witness?

8 MR. KURTZ: Thank you, your Honor. We
9 call Alan Taylor.

10 EXAMINER SEE: Mr. Taylor, if you'd raise
11 your right hand.

12 (Witness sworn.)

13 EXAMINER SEE: Thank you. Have a seat.

14 - - -

15 ALAN S. TAYLOR

16 being first duly sworn, as prescribed by law, was
17 examined and testified as follows:

18 DIRECT EXAMINATION

19 By Mr. Kurtz:

20 Q. Will you identify yourself for the
21 record, please.

22 A. My name is Alan Taylor. I'm the
23 president of Sedway Consulting.

24 Q. Do you have in front of you a document
25 marked Direct Testimony of Alan S. Taylor?

1 A. Yes, I do.

2 Q. Was this prepared by you or under your
3 direct supervision?

4 A. Yes, it was.

5 Q. If I were to ask you the same questions
6 as those contained therein, would your answers be the
7 same?

8 A. Yes, except for one minor correction. On
9 page 11, line 1, there's a numerical correction.
10 There's a reference to the number \$12.3 million.
11 That should be, consistent with the rest of my
12 testimony, \$12.2 million, and it's simply
13 representing the savings associated with a 1 percent
14 reduction in return on equity.

15 Q. Are those all of your corrections?

16 A. Yes, they are.

17 MR. KURTZ: Your Honor, I ask that this
18 be marked as OEG Exhibit 2, and that the witness be
19 tendered for cross.

20 EXAMINER SEE: The exhibit is so marked.

21 (EXHIBIT MARKED FOR IDENTIFICATION.)

22 EXAMINER SEE: And any cross-examination
23 for this witness, Mr. Mendoza?

24 MR. MENDOZA: Yes, your Honor.

25 - - -

CROSS-EXAMINATION

By Mr. Mendoza:

Q. Good afternoon, Mr. Taylor.

A. Good afternoon.

Q. I'm Tony Mendoza. I represent Sierra Club in this proceeding.

You used the phrase "skin in the game" in your testimony, right?

A. Correct.

Q. Could you define for us what you mean by "skin in the game"?

A. It's basically an incentive cost and benefits sharing mechanism that would ensure that AEP Ohio and AEPGR were acting in the best interests of all parties in the sense that if they have skin in the game or if they have a stake in bearing the cost or reaping the benefits of the PPA rider, that they would actually maximize revenues and do their best to minimize costs.

Q. Okay. Thank you.

And, I think, correct me if I'm wrong, but your proposal is that 80 percent of the costs and benefits would be, just generally speaking, 80 percent would be allocated to customers and 20 percent would be retained by AEP; is that right?

1 A. Generally speaking, yes.

2 Q. Okay. And so absent your proposed
3 modification, AEP's proposal -- AEP has no skin in
4 the game, correct?

5 A. Correct.

6 MR. MENDOZA: Your Honor, I have no
7 further questions.

8 EXAMINER SEE: Ms. Bojko?

9 MS. BOJKO: Just a couple, your Honor.
10 Thank you.

11 - - -

12 CROSS-EXAMINATION

13 By Ms. Bojko:

14 Q. Good afternoon, Mr. Taylor.

15 A. Good afternoon.

16 Q. Kim Bojko with the Ohio Manufacturers'
17 Association Energy Group.

18 As I understand your testimony, you're
19 not supporting the AEP PPA as proposed; is that
20 correct?

21 A. That is correct.

22 Q. So you haven't done an analysis regarding
23 AEP's projections for their operating costs of the
24 plants; is that right?

25 A. That is correct, I have not.

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1 Q. Nor have you done any kind of analysis
2 regarding the forecasted energy and capacity
3 revenues; is that correct?

4 A. That is correct.

5 Q. So your testimony is to offer some
6 modifications to the PPA; is that right?

7 A. Yes.

8 MS. BOJKO: Thanks. I have nothing
9 further. Thank you, sir.

10 EXAMINER SEE: Ms. Bair?

11 MS. BAIR: Thank you.

12 - - -

13 CROSS-EXAMINATION

14 By Ms. Bair:

15 Q. My name is Jodi Bair. I represent the
16 residential ratepayers in AEP's territory.

17 You were talking about the 20/80 split
18 that you propose. Did you come up with that 20/80?

19 A. It seemed like a reasonable,
20 middle-of-the-road kind of 80/20 concept that I've
21 seen in other incentive ratemaking mechanisms. I
22 think it's a good starting point. Obviously, the
23 Commission could decide on whatever percentages, if
24 at all, would be appropriate, but I think to go too
25 lean on the utility side, to pare that down to, say,

1 5 percent isn't enough skin in the game, to use the
2 colloquial reference here, and I think that a
3 20 percent number is in the right ballpark.

4 MS. BAIR: Thank you.

5 That's all I have.

6 EXAMINER SEE: Mr. Darr?

7 MR. DARR: Thank you, ma'am.

8 - - -

9 CROSS-EXAMINATION

10 By Mr. Darr:

11 Q. Besides the 80/20 proposal and the
12 proposal to flex the return on equity, you also have
13 a recommendation that a plant be removed if it's
14 projected to have three bad years and has had three
15 bad years. And by "bad," I mean its costs exceed the
16 revenues that it's produced; is that correct?

17 A. That's correct.

18 Q. And by "costs" what we're talking about
19 are the costs that are generated by the PPA proposed
20 by AEP Ohio, correct?

21 A. Correct.

22 Q. Now, if AEP were successful in
23 demonstrating that a plant which had three uneconomic
24 years would have one positive year in the succeeding
25 three years, that plant would stay in the PPA

1 agreement; is that right?

2 A. Yes. In a broad-brush sense, I mapped
3 out in very general terms what this could look like.
4 I think that a three-year period, three consecutive
5 calendar years where a plant had failed to have any
6 positive net benefit would trigger a Commission
7 proceeding.

8 The Commission would then open a docket.
9 There would be an opportunity for intervenors to
10 review AEP's forecast, generate their own forecast,
11 if need be, and the Commission then would have a
12 decision in front of it as far as whether it believed
13 the company's forecast or other forecasts, so there
14 would be a decision-making process in looking at this
15 prospective three-year period.

16 And whether the Commission decided to go
17 with a rule of just one of those three years needs to
18 be positive or whether they needed to see a positive
19 cumulative number over the three years, I would leave
20 to the Commission, but the idea is to, yes, to make
21 sure that this plant that's had three bad consecutive
22 years is turning the corner.

23 Q. In terms of deciding whether or not a
24 particular unit is showing an uneconomic -- is
25 uneconomic -- let me start again.

1 In terms of deciding whether or not a
2 particular plant is uneconomic, you're proposing that
3 this be done on a unit-by-unit basis. And by that do
4 you mean generator by generator?

5 A. Yes, generating unit by generating unit,
6 so there would basically be 12 different entities --
7 I'm sorry, 10 different entities that are tracked
8 here, the 9 individual power plants, and then the
9 OVEC entitlement is a separate piece.

10 Q. And each one would be identified
11 separately for this particular calculation; is that
12 correct?

13 A. That is correct.

14 Q. Now, several of the plants are co-owned.
15 You're aware of that, correct?

16 A. Yes, I am.

17 Q. And with the exception of Zimmer, these
18 are all part of multiunit facilities also, correct?

19 A. That is my understanding, yes.

20 Q. Have you done anything with regard to
21 determining whether or not these plants share
22 operation and maintenance costs?

23 A. I have not. I imagine that they probably
24 do, so it does get complicated as far as tracking
25 things on an individual basis.

1 Q. Would that also be true with regard to
2 general and administrative costs?

3 A. Perhaps. Although I would hasten to add
4 that in reviewing at least Dr. Kelly Pearce's -- AEP
5 Witness Kelly Pearce's workpapers, he had mapped out
6 exactly what the costs would be by plant, so I
7 presume that AEP has policies in place for taking
8 joint facility costs and allocating them to
9 appropriate facilities so that they are tracked on a
10 unit-by-unit basis.

11 Q. Is there anything in the PPA agreement
12 that indicates there are fixed formulas with regard
13 to either operation and maintenance costs or general
14 and administrative costs that you're aware of?

15 A. I don't believe so. And I think that is
16 part of Mr. Lane Kollen's testimony, is to get much
17 more specific if a PPA were to be -- if a PPA rider
18 were to be approved.

19 Q. With regard to allocation of costs, would
20 you agree that retirement costs may include some
21 common costs across multiple units, for example,
22 retirement of a slurry pond or things like that?

23 A. I presume so. I don't know for sure.

24 Q. And you're not making any recommendations
25 on the allocation of operation and maintenance

1 expenses; is that correct?

2 A. That is correct.

3 Q. And you're not making any recommendation
4 with regard to GNA charges, correct?

5 A. That is correct.

6 Q. And you haven't made any recommendations
7 with regard to retirement costs, is that also
8 correct?

9 A. That is also correct.

10 Q. Now, if I understand it correctly, if the
11 company were successful in demonstrating that a
12 plant -- or, excuse me, a unit would have a positive
13 return in one or more years, that unit would stay
14 within the calculation; is that correct?

15 A. That is correct.

16 Q. But then you have what amounts to a
17 stop-loss if the unit processes a loss over six
18 consecutive years, correct?

19 A. Correct.

20 Q. So under your proposal, a particular unit
21 could effectively be uneconomic for six consecutive
22 years before it would be withdrawn from the PPA
23 agreement -- from the PPA?

24 A. Correct. And by "uneconomic," it simply
25 means that the costs do exceed the benefits. It may

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1 be by a fairly small margin, but a negative number is
2 a negative number.

3 MR. DARR: Thank you. That's all I have.

4 EXAMINER SEE: Mr. Nourse?

5 MR. NOURSE: Thank you, your Honor.

6 - - -

7 CROSS-EXAMINATION

8 By Mr. Nourse:

9 Q. Good afternoon, Mr. Taylor.

10 A. Good afternoon.

11 Q. I'll ask you to turn to page 4 of your
12 testimony, and on that page you're introducing your
13 risk allocation proposal. And I think you might have
14 stated earlier in questions from Sierra Club counsel
15 that you don't believe AEP Ohio has skin in the game
16 under the proposed structure; is that correct?

17 A. That's correct.

18 Q. Okay. And would you agree that costs
19 that are going to be passed through to retail rates
20 under the proposal will be subject to audit, prudence
21 review, potential disallowance as part of that retail
22 ratemaking process?

23 A. I agree that there are some limited
24 auditing elements of the PPA. I think it is Mr. Lane
25 Kollen's testimony that a lot of that oversight needs

1 to be strengthened because it's not clear what sort
2 of Commission control there would be over the PPA in
3 its current -- as it's currently written.

4 Q. Okay. When you say "limited potential
5 for review and disallowance," is that based on your
6 review of the contract, the proposed contract?

7 A. That is, yes.

8 Q. What's your understanding of when that
9 limited exposure would occur?

10 A. I don't know. I did not study the draft
11 contract closely, so I am not in a position to
12 provide any sort of expert testimony and exactly what
13 the regulatory oversight provisions of the contract
14 are. It's my impression that they are somewhat
15 light.

16 Q. Okay. So is it fair to say that you
17 would agree there's some risk for AEP Ohio incurring
18 costs under the contract and then not getting retail
19 rate recovery?

20 A. I don't know what sort of Ohio Commission
21 disallowance potential there is, given that the
22 contract, arguably, comes under FERC jurisdiction.
23 So I think a lot of it depends on what sort of
24 parameters are ultimately agreed to in a final
25 determination here.

1 Q. Okay. But as far as the proposed
2 contract, you haven't reviewed it to determine
3 whether there are unique provisions in the PPA that
4 give AEP Ohio cost decision-making as a buyer under
5 the contract?

6 A. No. There are provisions that give
7 AEP Ohio a place on an operating committee and a
8 voice in the fuel contracting and some other elements
9 associated with the PPA facilities.

10 Q. So AEP Ohio as the buyer in the contract
11 has authority to approve fuel contracts; is that one
12 thing you mentioned?

13 A. I believe they have a role in it, yes.

14 Q. Do you know whether they have an approval
15 role?

16 A. I don't recall.

17 Q. How about for significant capital
18 investments, do they have an approval role for those
19 under the contract?

20 A. I don't recall specifically.

21 Q. Okay. And you mentioned the operating
22 committee. What's your understanding of that role?

23 A. That there is a member from AEP Ohio and,
24 I believe, one member from AEPGR, and that they would
25 be meeting periodically to discuss budgets and

1 cost-related and performance-related issues related
2 to the PPA units.

3 Q. So is it fair to say your understanding
4 of the contract exposes AEP Ohio to prudence findings
5 or imprudence findings relative to capital costs,
6 fuel costs, and O&M?

7 A. Again, I don't know what sort of statutes
8 would govern this from the Ohio Commission versus the
9 FERC regulation issue, so I am reluctant to put into
10 the record a yes, I agree that there are prudence or
11 disallowance risks. A lot of it will depend on the
12 details of the final contract.

13 Q. Okay. And given that you don't know the
14 extent of that exposure, I gather you didn't consider
15 that when you stated that AEP Ohio had no skin in the
16 game under the proposal?

17 A. Correct. And I think that the idea of
18 having 20 percent of the costs and benefits being
19 borne or enjoyed by the company provides a good
20 incentive mechanism to make sure that they are doing
21 everything they can to minimize the costs of
22 operating these facilities to minimize their fuel
23 costs, to minimize the capital outlays, and to
24 maximize the selling of the units' capacity, energy,
25 and ancillary services into the PJM markets.

1 So I think that to the extent that there
2 may be some sort of a prudence or limited oversight
3 element, I think the idea of structuring the PPA
4 rider that really has a 20 percent kind of
5 cost-benefit sharing mechanism is a very good
6 strengthening element for the PPA rider.

7 Q. Mr. Taylor, setting aside your
8 recommended modifications, would you acknowledge that
9 the PPA proposal as the company proposed it
10 represented a trade-off of interests, a balancing of
11 interests as between the buyer and seller?

12 A. I don't know the negotiation history
13 behind the draft PPA. Generally, that's a statement
14 that you can make about any negotiated agreement. It
15 is a meeting of the minds of buyer and seller, but I
16 don't know the history of exactly how this affiliate
17 transaction was put together.

18 Q. Okay. Well, absent the PPA, would you
19 agree that provided that these units would be
20 operated for, you know, for the next, let's say, 20
21 years, would you agree that AEP Generation Resources
22 would be able to keep all profits that had occurred
23 where the market prices are above their costs?

24 A. Yes.

25 Q. Okay. And under the proposed PPA, that's

1 not the case, right?

2 A. That's correct.

3 Q. And that's because the costs are being
4 incurred and netted against all the revenues
5 associated with these generation units at the retail
6 level from the PPA rider.

7 A. That's correct.

8 Q. Okay. Now, would you agree that your
9 flex-down ROE proposal will serve as a disincentive
10 for AEP Generation Resources to make capital
11 investments?

12 A. No. I think if the capital investments
13 are appropriate for the long-term health of the
14 facility, I think that AEPGR will be well-served to
15 make whatever decisions in the operation or capital
16 investment for the facilities that will maximize the
17 value of the facilities.

18 Q. But there are a lot of things that can
19 affect the ROE for a generation unit, correct?

20 A. Correct.

21 Q. AEP Generation Resources is not going to
22 be able to just look at an individual investment and
23 make it on the merits of that investment, are they,
24 under the ROE flex-down proposal?

25 A. Well, this is assuming that the ROE is

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1 even getting flexed down. If the units are operating
2 in a lucrative market environment and their costs are
3 being minimized, the flex-down doesn't kick in.

4 Basically AEPGR would make the full
5 Commission-authorized ceiling or the formulaic ROE
6 that the Commission has approved.

7 So it's not a foregone conclusion that
8 the ROE is going to be less than that. It would only
9 be less than that under those circumstances where the
10 market prices are very low and the cost of the units
11 are above market.

12 Q. Are you saying we don't need the
13 flex-down ROE?

14 A. No. I think that it's a very good
15 mechanism to have in place to ensure that the best
16 decisions are being made by AEPGR.

17 Q. Okay. Well, what drives the operation or
18 triggering the ROE flex-down mechanism you're
19 proposing is market prices, correct?

20 A. That's one of the parameters that feeds
21 into the flex-down process.

22 Q. Well, revenues, the market revenues that
23 are being received, will determine whether for any
24 given time period, the PPA rider would be a charge or
25 a credit, correct?

1 A. The market revenues and the costs of the
2 generation that is providing the capacity and energy
3 that is yielding those revenues.

4 Q. So the GR -- if I refer to "GR," do you
5 know what I mean?

6 A. Yes, I do.

7 Q. Okay. So GR will be more cautious about
8 making capital investments not knowing those future
9 market prices, correct?

10 A. I don't know. I think that if a capital
11 investment is going to make sense for the long-term
12 value of the facility, it will make sense for GR to
13 make that investment.

14 Q. Well, lowering costs to eliminate risk of
15 nonrecovery under the zero ROE flex-down proposal
16 would be one way for GR to manage that risk, wouldn't
17 it?

18 A. If you could ask the question again, I
19 didn't entirely follow.

20 Q. Okay. Well, lowering costs by not making
21 capital investments would be one way that GR would
22 manage the risk associated with your flex-down
23 proposal, wouldn't it?

24 A. Yes. I think, I mean, the whole
25 incentive mechanism is in place to try and encourage

1 GR to lower their costs. If deciding not to make an
2 appropriate capital investment for a short-term
3 situation could be disadvantageous, though, to GR, if
4 they could spend a million dollars and save several
5 million over later years, that's going to be in their
6 interest to go ahead and do that.

7 Q. Okay. On your 20 percent "skin in the
8 game" proposal, is that recommendation financially
9 equivalent of only providing a 2,500-megawatt hedge?

10 A. If you could elaborate on where you're
11 getting the 2,500 megawatts.

12 Q. Yeah. You're aware that the proposal by
13 the company is to provide a 3,100-megawatt hedge?

14 A. Yes.

15 Q. Okay. And reducing that by 20 percent
16 financially through your proposal would reduce the
17 level of hedge to approximately 2,500; is that
18 correct, 2,500 megawatts?

19 A. I hadn't really thought of it that way,
20 but I will accept your math.

21 Q. Okay. So is your 80/20 proposal, as I
22 understand it, your explanation on page 6, you talk
23 about the dead band, which I believe would be from
24 the -- we'll call it the authorized ROE level down to
25 zero; is that right?

1 A. That's correct. So the 80/20 does not
2 apply during the dead band of the ROE flex zone, so
3 that makes the previous discussion about 2,500
4 megawatt equivalent hedge a little bit murky because
5 the 20/80 percent split only occurs really on the
6 outer ranges beyond that flex zone.

7 Q. Well, but in the dead band, as you call
8 it, the company is at risk for an ROE that goes down
9 to zero, correct?

10 A. That is correct. Basically, the
11 flex-down provision ensures that customers would not
12 see one cent of a PPA rider on their bills at the
13 same time that AEPGR was making a profit. So --

14 Q. And that --

15 A. -- until the profits go down to zero, the
16 equity portion, there would be no PPA rider passed
17 through to customers.

18 Q. And that ROE reduction is not based on
19 any imprudent decision by the company or
20 mismanagement, correct?

21 A. Correct. It would be strictly a function
22 of the company doing its best, but still having
23 market forces perhaps yield results that have the
24 units for some period of time at above-market prices.
25 So it's not meant to be an imprudence kind of charge

1 at all, it's meant to be an incentive mechanism and
2 an insulating mechanism to make sure that customers
3 don't even see these PPA rider charges at the time
4 that AEPGR is actually making profits.

5 Q. Okay. And on page 8 you refer to pretax
6 revenue a couple times. Do you see that?

7 A. Pretax return on equity, yes.

8 Q. Yeah. What's the significance or the
9 purpose of talking about pretax ROE?

10 A. That's what drives a revenue requirement
11 calculation for the PPA costs.

12 Q. Well, does the company get to retain
13 pretax earnings?

14 A. No. Those are the earnings pretax, so
15 they include effectively two components; they include
16 the taxes that the company would be paying on their
17 earnings and then the after-tax portion of the
18 equity.

19 Q. So is that like saying I get a higher
20 paycheck if they didn't take out all the taxes?

21 A. Effectively, yes. Unfortunately, the
22 customers in a fully functioning PPA rider that is in
23 the money wouldn't be paying the pretax numbers
24 because they've got to pay AEP sufficient dollars
25 such that AEP can pay the state and federal taxing

1 authorities and still earn their after-tax return on
2 equity.

3 Q. I understand the revenue requirement,
4 Mr. Taylor, but it's not really an ROE for anyone, is
5 it?

6 A. It is from the customer's standpoint.
7 It's a pretax or a tax-loaded ROE.

8 Q. But it's not realized by the company,
9 correct?

10 A. That's correct. It has a tax element on
11 top of it, so it is a number that is what the
12 customers would be paying on the rate base as far as
13 the equity portion of the rate base.

14 Q. And that's a revenue requirement; it's
15 not an ROE, correct?

16 A. I still see it as an ROE. It's just --
17 it's the revenue requirement that's associated with
18 the ROE along with the taxes that would need to be
19 paid on that ROE.

20 Q. On page 9 in your answer that starts on
21 line 8, you mention a couple times what you
22 characterize as the Commission negotiating the PPA.
23 Do you see that?

24 A. Negotiating the long bilateral cost of
25 service contract, yes.

1 Q. And then down in line 14, "effectively
2 negotiating with AEPGR."

3 A. Correct.

4 Q. All right. Just to be clear here, what
5 you're really talking about is a conditional approval
6 in the Commission's decision imposing certain
7 conditions?

8 A. Yes. I'm not actually referring to a
9 negotiation session where the Commissioners would get
10 in the room with AEP. Basically, the application is
11 an initial proposal by AEP. The Commission can
12 propose modifications. AEP may look at those
13 modifications in a final order and decide that they
14 don't want to move ahead with the deal, so there are
15 those back-and-forth risks, but I see this as an
16 application that is AEP's initial position. And I
17 think that the recommended elements of my testimony
18 are important considerations for the Commission to
19 fold into a final response to make sure that a PPA
20 rider, if the Commission wanted to move ahead with
21 one, was, indeed, in the customers' best interest.

22 Q. Okay. So it's similar -- is it similar
23 to your understanding to what happens in an electric
24 security plan where the Commission may impose
25 conditions and then the company gets to decide

1 whether to accept them or not after the order is
2 issued?

3 A. Yes.

4 Q. And in this case both the buyer and the
5 seller to the proposed contract would have to go back
6 and review, basically, on a take-it-or-leave-it basis
7 what the Commission's saying in their order, correct?

8 A. That is my understanding, yes.

9 Q. All right. Well, that's not how most
10 negotiations work; would you agree?

11 A. Well, I guess by using the word
12 "negotiation" in the context of the paragraph on page
13 9, I'm, again, not referring to a negotiation where
14 people are getting together around a table and
15 arguing out various positions or provisions. AEP has
16 stepped in with an initial proposition here that I
17 don't think the Commission needs to take on a
18 take-it-or-leave-it basis.

19 Q. Okay.

20 A. I think that there is room for pushing
21 back and establishing conditions, and I'm referring
22 to that slow-motion process, perhaps colloquially, as
23 "negotiation."

24 Q. Okay. I just wanted to clarify it, thank
25 you. So you have a question at the bottom of page 9,

1 your answer is on page 10, and this deals with why
2 you think GR would accept the flex-down proposal,
3 right?

4 A. Yes.

5 Q. And as part of your answer you're saying,
6 down on line 9 on page 10, we know that GR's
7 preferred outcome is a PPA.

8 A. Correct.

9 Q. All right. But what you know about the
10 preferred outcome is what's been proposed, correct,
11 not what's been amended, the proposal in your
12 testimony?

13 A. That's a fair statement, yes.

14 Q. Now, when it comes to part of your answer
15 up on line 4, for example, you say, "The capital
16 associated with the PPA units is sunk." Do you see
17 that?

18 A. Yes, I do.

19 Q. Now, sunk capital is only a portion of
20 what would drive the ROE under the PPA, correct?

21 A. I think that it is expected that there
22 will be some ongoing capital expenditures. There
23 are, invariably, with any power plant. I think the
24 majority of the rate base that the ROE would be
25 applied to is invested capital. It's money that was

1 spent years ago in building these facilities
2 originally, and it's the net book value net of
3 accumulated depreciation.

4 Q. Okay. Regarding your ROE flex-down
5 proposal, your stated purpose of incentivizing the
6 company and the companies, meaning AEP Ohio and
7 AEPGR, to be incentivized to spend money wisely,
8 let's say; is that fair?

9 A. And to pursue revenues vigorously, yes.

10 Q. Okay. So to, yeah, to maximize revenues
11 or optimize CK and also to manage costs to the
12 smallest amount reasonable.

13 A. Correct.

14 Q. Okay. And, well, would you agree that
15 the ROE would not have to flex all the way down to
16 zero to accomplish those same goals?

17 A. If the Commission adopts a flex-down and
18 wants to consider a different floor than zero, I
19 think at least having a low floor is a good direction
20 to go to make sure that the appropriate incentives
21 are in place. But I would agree that zero isn't an
22 absolute necessity to provide the incentives that are
23 behind my testimony.

24 Q. Okay. Let's talk a little bit about how
25 both of your proposals, the ROE flex-down and the

1 skin in the game risk allocation proposal, work
2 together, okay? So we talked about the dead band
3 earlier. And is it true that the 80/20 allocation
4 would apply above and below the dead band?

5 A. Correct. Yes.

6 Q. So in reality under your proposals, GR
7 could earn an ROE that's negative, correct?

8 A. That is correct.

9 Q. Specifically, if going down to zero does
10 not avoid the PPA rider charge and there's an
11 additional increment by which costs exceed revenues,
12 your proposal would also have the company take an
13 additional 20 percent of the charge even below a zero
14 ROE, correct?

15 A. That's correct.

16 MR. DARR: Objection, your Honor. The
17 reference there to company, in this case it actually
18 makes a difference so I'm going to ask for some
19 clarification on that.

20 MR. NOURSE: I think he already answered,
21 your Honor.

22 THE WITNESS: I would like to expound on
23 it.

24 EXAMINER SEE: Just a minute.

25 Go ahead and answer the question,

1 Mr. Taylor.

2 A. In the spirit of the question, I wanted
3 to emphasize that, yes, the ROE could go negative if,
4 indeed, we left the lower end of the flex zone and
5 were now in a position of an 80/20 split of the net
6 costs that exceeded the benefits of the PPA units.

7 There's also the flip side, that AEPGR,
8 presuming that's the way the PPA is structured,
9 getting to Mr. Darr's point, there is a question as
10 far as who would actually be enjoying these
11 additional profits or bearing these profit --
12 negative profit implications on the low end, but
13 setting that aside temporary, whoever it is, they
14 will be in a bidirectional and a balanced kind of
15 incentive structure where they actually could earn
16 more than the ceiling ROE in instances where the PPA
17 rider is very positive, has benefits that exceed the
18 costs.

19 So the flex zone flexes up to the
20 Commission-authorized rate of return, then all of the
21 net benefits above that are going to be split 80/20
22 between customers and the company, and I'll leave
23 that murky for a moment as far as whether that's
24 AEP Ohio or AEPGR. But in that instance they would
25 be enjoying a return on equity that would actually be

1 greater than the authorized return. So I think it's
2 a -- the proposition that I've put into my testimony
3 here is a balanced one.

4 Q. So the flex zone or the dead band,
5 100 percent of the risk of nonrecovery of
6 \$137 million is on AEP Ohio and AEP Generation
7 Resources, correct?

8 A. In a large sense, yes, but I would put an
9 asterisk next to that answer in that to the extent
10 that a facility is uneconomic, part of what drives
11 whether the facility is uneconomic is that rate base
12 number. And that's part of the question that this
13 case is revolving around is, is the cost of this
14 hedge, the pricing that's been built in with this
15 PPA, at market? And if it isn't or if the Commission
16 decided to reject the PPA and AEP had to take other
17 actions, one of those other actions may be to turn
18 around and sell those units.

19 If a unit is uneconomic at a rate base
20 of, say, \$300 million, a buyer is not going to step
21 forward invariably and buy it for 300 million.
22 They're probably going to pay less. So this is a
23 long-winded way of saying in the flex zone as far as
24 being at risk of not making the rate of return on, in
25 my example, a \$300 million rate base, the alternative

1 is to sell the facility and probably sell it for
2 just, let's say, 270 million. At a \$270 million
3 purchase price or transfer price or rate base,
4 effectively, that's where you would be back into
5 presumably a reasonable ROE.

6 So a lot of this can get murky as far as
7 what is the appropriate rate base for these units,
8 and that's not at issue as a direct point in this
9 proceeding. The flex-down ROE effectively gets at
10 that, though.

11 Q. Okay. But, again, for the dead band, the
12 entire dead band, \$137 million, that risk is driven
13 by market revenues, and nothing that the companies
14 have done in managing the facility is a hundred
15 percent on the companies, correct?

16 A. It is primarily, yes, although it is not
17 just the managing of the assets but the rate base,
18 the net book value that's been established for those
19 assets which may not be a market defensible price.

20 Q. Okay. And, again, you're not stopping at
21 zero. Combining both of your proposals can actually
22 produce a negative ROE; is that correct?

23 A. That is correct, as customers would also
24 be then kicking in what I think some intervenor
25 experts have termed a subsidy by kicking in

1 80 percent of the losses below that dead band.

2 Q. Okay. Now, on the top of page 13,
3 carryover sentence from page 12 -- well, I'm sorry.
4 It's not actually a carryover sentence. The first
5 sentence on page 13 says your proposal would make the
6 PPA self-policing and reduce the need for PUCO
7 oversight.

8 A. Yes.

9 Q. Okay. And are you saying that the costs
10 that flow through the PPA rider would not be subject
11 or would not need to be subject to audit and
12 disallowance by the Commission?

13 A. No. I'm saying it would simply reduce
14 the need, but not eliminate the need.

15 Q. Okay. Would you turn to page 15. The
16 answer that's at the bottom of page 15 and carries
17 over to page 16, you're saying that the Commission
18 should protect consumers from a scenario where there
19 would be charges in the next couple years and then
20 the company sells the PPA rider units at a high price
21 when they turn profitable. Is that true?

22 A. That's the essence of my Q and A, yes.

23 Q. Okay. And, to be clear, this criticism
24 or this concern does not apply to the situation
25 that's dealt with in the contractual language of the

1 PPA where a unit could be transferred subject to the
2 buyer agreeing to follow the terms of the PPA and
3 keep the deal in place; that's not what you're
4 talking about, is it?

5 A. So just so I understand the basis of your
6 question, this is where AEPGR would sell or transfer
7 the unit to some other entity --

8 Q. Right.

9 A. -- who would continue to honor all of the
10 aspects of a reconstituted PPA, what's been approved
11 by the Commission and approved ultimately by AEP Ohio
12 and AEPGR that may contain elements like what's in my
13 testimony.

14 Q. It would be the signed contract, whatever
15 it is, whether or not it incorporates all your
16 recommendations. I'm just trying to clarify your
17 example which seems to be one where the contract, the
18 PPA, would be terminated such that it would not flow
19 through the PPA rider, customers wouldn't get the
20 benefits as you're describing when the plants turn
21 profitable. So that's the situation you're
22 addressing here, right?

23 A. Yes. Certainly in this Q and A my
24 concern was surrounding a new owner taking full
25 ownership rights to a facility, paying a price for

1 the facility that would give them full control and
2 not having to honor any sort of conveyance of
3 capacity and energy and ancillary service benefits
4 back to AEP Ohio and ultimately to the customers.

5 That's an interesting question as far as
6 whether a third party now could buy the facility and
7 assume all of the contractual obligations of the PPA.

8 Q. All I'm asking is whether that latter
9 scenario, subject to my question, was what you were
10 addressing here or not.

11 A. It was not what I was addressing. I was
12 assuming this was a scenario that would have a new
13 owner and full flexibility how to use this facility
14 that they now owned.

15 MR. NOURSE: Thank you, Mr. Taylor.
16 That's all the questions I have.

17 EXAMINER SEE: Mr. Beeler?

18 MR. BEELER: No questions, your Honor.

19 EXAMINER SEE: Any redirect, Mr. Kurtz?

20 MR. KURTZ: Could we have a few minutes,
21 please?

22 EXAMINER SEE: Yes.

23 MR. KURTZ: Yes.

24 (Recess taken.)

25 EXAMINER SEE: Let's go back on the

1 record.

2 - - -

3 REDIRECT EXAMINATION

4 By Mr. Kurtz:

5 Q. Mr. Taylor, do you recall some questions
6 from counsel for AEP about essentially equating the
7 prudence review process that the Commission has under
8 the proposed PPA and your "skin in the game"
9 proposal?

10 A. Yes, I do.

11 Q. Does the prudence review provide the same
12 type of regulatory protection as the skin in the
13 game?

14 A. It's not my understanding that it does,
15 and that prudence reviews are kind of a one-time,
16 one-off situation. The skin in the game would be an
17 ongoing, day-to-day, week-to-week, month-to-month
18 kind of incentive mechanism to encourage AEP Ohio and
19 AEPGR to do the right thing, to make the right
20 investment decisions, to try to minimize costs and
21 maximize revenues.

22 A prudence review is really more of a
23 one-off kind of circumstance that would not be a
24 regular incentive kind of element.

25 Q. Under your understanding of the proposed

1 PPA contract, is there a disincentive or a regulatory
2 disincentive, what's been termed as a poison pill,
3 from the Commission exercising the prudence
4 jurisdiction?

5 A. Yes. Actually, anything that would
6 determine or result in a failure to make full cost
7 recovery is dealt with in Article 2.

8 Article 2.3 is an early termination right
9 that basically says subject to the buyer complying
10 with its obligations under Article 5 and provided
11 buyer, AEP Ohio, in other words, is not a defaulting
12 party, buyer will have on or after the first
13 anniversary of the start date the right, but not the
14 obligation upon no less than 365 days' notice to
15 seller, to terminate in whole this agreement prior to
16 the end date -- and here's the important clause -- if
17 retail cost recovery for buyers' costs hereunder is
18 discontinued or substantially diminished, including
19 for a one-time significant disallowance for retail
20 rate recovery of costs.

21 So this clause basically gives AEP the
22 threat that the entire PPA could be crushed and
23 eliminated if the Commission acts on a prudence
24 issue. So that ends up kind of holding a sword over
25 the Commission's head of "don't be harsh" in any sort

1 of prudence review, because any sort of significant
2 disallowance for buyers' costs being discontinued or
3 substantially diminished then could trigger this
4 poison pill clause if this clause stays in the final
5 PPA.

6 Q. And if that clause stays in the final
7 PPA, what happens with respect to the remaining net
8 book costs and retirement costs?

9 A. I think Mr. Kollen may be getting to this
10 in a little more detail, but, effectively, my
11 understanding is that that triggers all of the
12 retirement costs then being borne by the ratepayers.
13 So there's a substantial additional cost element that
14 comes into the picture very quickly.

15 Q. And if the Commission makes a prudence
16 disallowance in addition to retirement costs, what
17 about remaining net book costs?

18 A. Those remaining net book costs also come
19 into the picture as a cost that would be shouldered
20 by the ratepayers under the provisions here.

21 Q. So those two things constitute the poison
22 pill, repayment of a hundred percent of retirement
23 costs, or payment of a hundred percent of retirement
24 costs and payment of a hundred percent of the
25 remaining net book costs.

1 A. That is my understanding, yes.

2 Q. Do you recall questions from counsel for
3 AEP about with the ROE flex-down there would be a
4 disincentive for AEPGR to invest in needed capital?

5 A. Yes.

6 Q. Without the flex-down, what incentive
7 would they have to invest in more rate base?

8 A. Well, that's a good point. The flex-down
9 in this zone is really status quo right now. AEPGR
10 gets to enjoy 100 percent of the benefits and
11 100 percent of the costs under the status quo. So as
12 it stands right now, there is no sharing mechanism.
13 There is nothing on the lower end. Their ROE is in a
14 position to go as negative as the markets will take
15 it under the current provision.

16 So what I've got in my testimony is
17 really a structure that will allow some sharing of
18 both the pain and the benefits of this system and
19 provide actually some protections on the downside
20 that AEPGR does not currently have.

21 Q. Without the flex-down, would AEPGR have
22 an incentive to overinvest in new capital and earn a
23 return on that goldplating, so to speak?

24 A. Assuming that the Commission were to
25 accept the PPA and the PPA rider as it's been

1 proposed by AEP in the application, yes. They would
2 be guaranteed a return on equity that would be
3 formulaic and set at a level where they very well
4 could have an incentive to overspend on these plants
5 because they're guaranteed a very attractive final
6 rate of return.

7 Q. If the ROE did flex down to zero, would
8 there be any debt service or -- debt service and/or
9 cash flow benefits or ramifications that would still
10 flow to AEPGR?

11 A. Yes. When we're talking about the ROE
12 flex-down we're just talking about the equity
13 profits, so the revenue requirement structure of the
14 PPA still includes a lot of cash flow that goes to
15 AEPGR in the form of depreciation and debt service
16 components. I think the depreciation is
17 approximately \$90 million per year. So we're talking
18 about significant additional cash elements that are
19 unaffected by the flex-down process.

20 Q. Let's talk about the negotiation, the
21 take-it-or-leave-it, but effective negotiation
22 between the Commission and AEPGR. Do you remember
23 those questions?

24 A. I do.

25 Q. You may have not meant this, but I think

1 one of your answers was that if the Commission issued
2 a conditional order, that would be take it or leave
3 it as to AEPGR. Did you --

4 A. Yes.

5 Q. -- say that?

6 A. I did say that, and that was perhaps a
7 more draconian kind of construct than is probably the
8 case. Obviously, if the Commission comes in with an
9 order that AEP is not satisfied with, AEP does have
10 the ability to request rehearing and the Commission
11 can hold further proceedings.

12 Q. Well, actually, they don't need to. It's
13 paper at that point.

14 A. It's paper at that point, okay. So
15 effectively there is a back and forth.

16 Q. But under your understanding, is there
17 any limit on the number of order on rehearing, on
18 second rehearing application, second order on
19 rehearing, third application, could that de facto
20 negotiation go on throughout that process?

21 A. That's my understanding, is there's no
22 limit on the back and forth there. So if my original
23 questions made it sound like it was a one-shot
24 application and one-shot Commission decision, I wish
25 to revise the record to reflect that there's more

1 back and forth available in the regulatory process.

2 Q. Do you recall questions indicating that
3 under your flex-down proposal, a hundred percent of
4 the risk is on AEPGR?

5 A. Yes.

6 Q. Who has a hundred percent of the risk
7 now?

8 A. AEPGR has 100 percent of the risk across
9 the entire range.

10 Q. Now, under the company's projections, if
11 the company's projections are true or accurate or
12 come to pass, would they really have much risk?

13 A. No. And I really am directed to Kelly
14 Pearce's testimony, one of the exhibits, the Exhibit
15 KDP-2 that I reviewed. It shows the four scenarios
16 that he looked at, and setting aside the 2015
17 numbers, because, obviously, we're in late-October of
18 2015, this PPA rider is not going to be a 2015 issue
19 at all. Just focusing on the nine years in his
20 exhibits here, he's got four different scenarios, and
21 two of those scenarios every year of the entire
22 nine-year period is showing positive benefits,
23 positive net benefits, so there's no flexing down at
24 all there. These are benefits that would be shared
25 on the 80/20 process.

1 In one of the other scenarios, the
2 weather-normalized case, there are really only two
3 initial years and then a very minor year later in the
4 study period where there are some negative numbers,
5 and they're fairly small. The only significant case
6 is the most pessimistic case, the 5 percent
7 lower-load forecast, which shows losses in the nine
8 years.

9 So out of all of the numbers on the page,
10 the overwhelming majority of these numbers are
11 indicating that it's likely that over the long term,
12 there would be positive net benefits associated with
13 the PPA rider. So to focus entirely on the negative
14 scenario where there are losses that need to be
15 captured in the flex-down process or in the 80/20
16 zone that is even on the lower side of the flex-down
17 zone is really not aligned with the forecasts that
18 have been entered into this case.

19 Q. Thank you.

20 A. So there's only one year, actually -- as
21 I pointed out in my testimony, there's only one year
22 where the flex-down would go all the way to zero in
23 all of these four scenarios and all of the years that
24 are covered by them.

25 Q. So nine times four is 36. And one year

1 out of the 36-year study the ROE would go to zero?

2 A. Correct.

3 Q. And it would simply be one year.

4 A. Correct.

5 MR. KURTZ: Thank you, Mr. Taylor.

6 EXAMINER SEE: Recross for this witness.

7 Mr. Mendoza?

8 MR. MENDOZA: No questions, your Honor.

9 EXAMINER SEE: Ms. Bojko?

10 MS. BOJKO: No, thank you.

11 EXAMINER SEE: Ms. Bair?

12 MS. BAIR: No questions.

13 EXAMINER SEE: Mr. Darr?

14 MR. DARR: Just a couple, your Honor.

15 - - -

16 RECROSS-EXAMINATION

17 By Mr. Darr:

18 Q. Mr. Taylor, you're not endorsing the
19 results of Dr. Pearce's study, correct?

20 A. I am not. I am simply pointing out that
21 the numbers as reflected in the record indicate
22 that's not likely that a flex-down to an ROE of zero
23 would occur.

24 Q. And just so it's clear, under the status
25 quo, meaning where we are sitting today absent a

1 Commission order, there is no risk of an uneconomic
2 unit that is shifted to retail customers; isn't that
3 correct?

4 A. That is correct.

5 Q. And under your proposal there is a chance
6 of some of that risk being shifted to retail
7 customers if the PPA units lose at such a level as to
8 be more than the implied ROE flex-down, correct?

9 A. That is correct. The flex-down is an
10 insulated zone where customers won't bear any costs.
11 If the net costs are greater, then there is the
12 sharing on the part of the customers. But part and
13 parcel to that is the sharing on the upside, and
14 that's where I see balance in the skin in the game.

15 The 80 percent/20 percent proposal that
16 I've put here is that customers would have an
17 opportunity to share in the benefits and receive
18 credits on their bills, particularly in instances
19 where market prices may be very high which offers
20 this hedging and counterbalancing kind of effect that
21 is kind of the reason for the PPA rider.

22 Q. So it's fair to say that there would be
23 some sharing of the risk and benefit that would not
24 occur under the current system if the Commission
25 approved a proposal such as yours, correct?

1 A. I'm not sure I understood all of the back
2 and forth. If you could ask that one more time.

3 Q. Let me try it again. Given the status
4 quo is that customers are not at risk for the gains
5 and losses associated with the AEPGR units, your
6 proposal would reassign some of the benefits and
7 risks associated with those units to retail
8 customers, correct?

9 A. That's correct. And those gains or costs
10 would be effectively countercyclical to what might be
11 happening in the marketplace.

12 MR. DARR: That's all I want. Thank you.

13 EXAMINER SEE: Mr. Nourse?

14 MR. NOURSE: Thank you, your Honor.

15 - - -

16 RE CROSS-EXAMINATION

17 By Mr. Nourse:

18 Q. Mr. Taylor, do you recall counsel for OEG
19 asking you about overinvestment and goldplating under
20 the proposed PPA?

21 A. Yes.

22 Q. Is it your understanding that AEP Ohio,
23 as the buyer, has a veto right under the contract for
24 any significant capital investment?

25 MR. DARR: Objection, your Honor. Asked

1 and answered.

2 EXAMINER SEE: Objection is overruled.

3 You can answer the question, Mr. Taylor.

4 A. That is my understanding of the PPA.

5 Q. So AEP Ohio would be at risk for
6 nonrecovery if they consent to a imprudent capital
7 investment, correct?

8 A. Potentially. There would have to be an
9 investigation on the part of the Commission to
10 determine prudence and, as I alluded to Section 2.3
11 of the current draft PPA, there is an "honest to God"
12 concern about a poison pill associated with an
13 imprudence proceeding.

14 Q. Again, I asked you if they were at risk
15 for nonrecovery; is that correct?

16 MR. DARR: Objection. Asked and
17 answered.

18 MR. NOURSE: Well, your Honor, I think he
19 went into a different explanation. I want to be
20 clear about this line of questioning.

21 EXAMINER SEE: The witness can answer the
22 question.

23 A. I think my previous answer did address
24 that in that I said yes, AEP Ohio would be at risk of
25 cost -- of not getting cost recovery, however, there

1 are these additional elements that are an important
2 counterbalance to that that I think the Commission
3 needs to be aware of.

4 Q. Thank you. Your prior answer said
5 potentially, so "yes" is what I was looking for.

6 The next question relates to what you
7 characterize as the poison-pill provision, so I want
8 to ask you about that. Do you agree that the
9 Commission is reviewing the proposed PPA in this case
10 and determining whether it's a good deal to proceed
11 with?

12 A. That is my general understanding.

13 Q. Okay. And so do you agree that if
14 everyone -- well, if the companies and the
15 Commission, you know, agree that it's a good deal and
16 should be -- we should move forward with it, that
17 that should be a final decision and a deal is a deal?

18 A. Yes. Certainly, my testimony is that
19 there should be elements included in that deal --

20 Q. Right.

21 A. -- such as the risk sharing and economic
22 tests and other things, but, yes, assuming that there
23 are appropriate risk sharing and loss tests and other
24 things in the process, then if all the parties are in
25 agreement, then a deal is a deal.

1 Q. And this is a long-term proposal. It's
2 not something that would be subject to temporary
3 price changes in the market or temporary increases in
4 costs or anything else temporary, correct?

5 A. Correct. I mean, I think the testimony
6 of Steve Baron and Lane Kollen have focused on the
7 fact that this really should be of a distinct period
8 of time, like 15 years, rather than the long-term,
9 the ultra-long-term nature of what AEP has proposed.
10 But subject to that, yes, I think that if the
11 Commission has in place the kind of parameters that I
12 specified in my testimony, then absent any -- or, in
13 light of any changes in the marketplace as far as
14 pricing, this hedging deal would be a deal that all
15 parties are signing onto and moving ahead with.

16 Q. Okay. So would it be fair, and setting
17 aside -- even assuming the Commission adopted your
18 test for uneconomic unit to be removed, would it be
19 fair for a future Commission to disallow costs
20 whenever there would be a period of a charge under
21 the PPA rider in the future without regard to whether
22 the costs were imprudently incurred?

23 A. That's the important distinction. I was
24 pausing because, obviously, future Commissions have
25 to have the ability to review prudence issues and

1 disallow costs that are deemed to be imprudent.

2 And I know there's always a touchy
3 situation about how much current Commissions can bind
4 future Commissions, but I would encourage the deal to
5 be as ironclad as possible within the regulatory
6 constructs that are permitted in Ohio.

7 Q. Okay. You also were asked earlier about
8 prudence reviews and you characterized them as
9 one-time and one-off. Do you recall that?

10 A. Yes, I do.

11 Q. Now, in reality, wouldn't you expect each
12 annual period under the PPA rider to be -- the costs
13 that are flowing through to be reviewed for two
14 things, one is for accounting and arithmetic
15 accuracy, and, two, for prudence?

16 A. I presume so. I don't know what the
17 frequency of review would generally be.

18 Q. And as we discussed earlier, the buyer,
19 AEP Ohio, would have decisional rights under the
20 proposed contract regarding capital investments, fuel
21 contracts, and O&M spending, among other things,
22 correct?

23 A. Correct. I think that the nice thing
24 about a risk-sharing and cost-sharing mechanism like
25 the 80/20 skin in the game is it is self-policing,

1 and the Commission would not have to be as diligent
2 in these once-a-year kind of reviews to make sure
3 that all of the right decisions had been made because
4 there would be an actual incentive for AEP Ohio and
5 AEPGR to be making the right decisions.

6 Q. Okay. And, finally, Mr. Taylor, you were
7 asked earlier by counsel for OEG whether debt service
8 and depreciation would be unaffected by your
9 flex-down ROE proposal. Do you recall that?

10 A. Yes, I do.

11 Q. And I just want to be clear, when you
12 combine both of your proposals, the risk allocation,
13 the 80/20, and the ROE flex-down, you would agree
14 that the negative ROE potential we discussed earlier
15 could actually affect debt service and depreciation,
16 couldn't it?

17 A. That is true. If one is outside of the
18 flex-down zone on the low side, then that would be
19 further eroding the cash flows that the company might
20 be hoping to receive. But, as I noted earlier, the
21 majority of scenarios here are likely to have a
22 sharing on the high side of the flex zone, and
23 certainly within the flex zone there would be no
24 impairment of the cash flows associated with
25 depreciation and debt service.

1 MR. NOURSE: Thank you, Mr. Taylor.

2 That's all I have.

3 EXAMINER SEE: Mr. Beeler?

4 MR. BEELER: No questions, thank you.

5 EXAMINER SEE: Mr. Kurtz? You already
6 offered --

7 MR. KURTZ: Yes, ma'am. I move for the
8 admission of OEG Exhibit 2.

9 EXAMINER SEE: Are there any objections
10 to the admission of --

11 MR. NOURSE: No objections, your Honor.

12 EXAMINER SEE: -- of OEG Exhibit 2?

13 MR. NOURSE: I'm sorry.

14 EXAMINER SEE: Hearing none, OEG Exhibit
15 2 is admitted into the record.

16 (EXHIBIT ADMITTED INTO EVIDENCE.)

17 EXAMINER SEE: Thank you, Mr. Taylor.

18 THE WITNESS: Thank you, your Honor.

19 EXAMINER PARROT: Mr. Kurtz, you may call
20 your next witness.

21 MS. BAIR: I thought we were going next
22 at 3. Is that okay?

23 MR. KURTZ: I thought so, too. But we'd
24 be happy to go.

25 EXAMINER PARROT: Let's go off the

1 record.

2 (Discussion off the record.)

3 EXAMINER PARROT: Let's go back on the
4 record.

5 MR. KURTZ: We call Mr. Lane Kollen.

6 EXAMINER PARROT: Please raise your right
7 hand.

8 (Witness sworn.)

9 EXAMINER PARROT: Have a seat.

10 THE WITNESS: Thank you.

11 - - -

12 LANE KOLLEN

13 being first duly sworn, as prescribed by law, was
14 examined and testified as follows:

15 DIRECT EXAMINATION

16 By Mr. Kurtz:

17 Q. Will you identify yourself for the
18 record, please?

19 A. Yes. My name is Lane Kollen.

20 Q. Do you have in front of you a document
21 entitled Direct Testimony and Exhibits of Lane
22 Kollen?

23 A. Yes.

24 Q. Was this document prepared by you or
25 under your direct supervision?

1 A. Yes.

2 Q. If I were to ask you the same questions
3 as those contained therein, would your answers be the
4 same?

5 A. Yes.

6 Q. Do you have any corrections or
7 modifications you'd like to make?

8 A. No.

9 MR. KURTZ: Your Honor, I ask that this
10 be marked OEG Exhibit 3, and Mr. Kollen is ready for
11 cross.

12 EXAMINER PARROT: The exhibit is marked
13 as OEG Exhibit 3. Thank you, Mr. Kurtz.

14 (EXHIBIT MARKED FOR IDENTIFICATION.)

15 EXAMINER PARROT: Mr. Mendoza, any
16 questions?

17 MR. MENDOZA: No questions, your Honor.

18 EXAMINER PARROT: Ms. Bojko?

19 MS. BOJKO: I do have a few. Thank you,
20 your Honor.

21 - - -

22 CROSS-EXAMINATION

23 By Ms. Bojko:

24 Q. Good afternoon, Mr. Kollen.

25 A. Good afternoon.

1 Q. You're not an attorney, are you, sir?

2 A. No.

3 Q. And you're not offering a legal opinion
4 through your testimony; is that correct?

5 A. That's correct.

6 Q. And as I understand your testimony,
7 you're recommending revisions to the purchased power
8 agreement arrangement; is that correct?

9 A. Well, there's two areas really. One is a
10 recommendation for a series of conditions, among
11 which would be the reforming of the PPA contract, the
12 draft contract that we have, so that the costs are
13 subject to a formulaic representation with inputs
14 that are specified and the source of those inputs.

15 Q. So as I understand your recommendations,
16 they include PPA contract changes that you just
17 discussed; is that right?

18 A. Well, they really are directed towards
19 conditions. In other words, if the Commission
20 approves the PPA concept, the PPA rider concept, then
21 I have a recommendation for a series of conditions,
22 among which is the reformation of the contract so
23 that it reflects a formulaic representation of the
24 costs that will be incurred by AEP Generation
25 Resources and then charged to AEP Ohio.

1 Q. And I believe you also are recommending
2 changes to the actual contract terms and conditions
3 such as the term; is that correct?

4 A. Yes.

5 Q. The term of the PPA.

6 A. Yes, that's correct. I'm sorry. I
7 didn't mean to interrupt you.

8 Q. You also are recommending limitation on
9 future revising of the contract; is that correct?

10 A. Yes, that's correct.

11 Q. And, thirdly, you're recommending that
12 the Commission have the ability to review and audit
13 the costs; is that correct?

14 A. Yes, that's correct. So that the
15 Commission does not cede jurisdiction to either the
16 contracting parties, either AEP Generation Resources
17 and Ohio Power or to the FERC.

18 Q. Is that last recommendation, is that in
19 addition to the revenue requirement recommendations
20 that you're making on page 4 in the table of your
21 testimony?

22 A. It is, yes.

23 Q. Okay. So are those all the purchased
24 power agreement changes that you're recommending?

25 A. The list that I have here, and then some

1 of them are I would characterize as somewhat general,
2 meaning that the definitions contained in the draft
3 PPA and the terms for the different payments, for
4 example the depreciation payment, the O&M payment,
5 those types of things, necessarily would need to
6 conform to the recommendations that I have.

7 Q. Okay. And then, as I understand the
8 other two modifications to the purchased power
9 agreement, is the -- the first one is the
10 disallowance or removal of costs allowed to be
11 recovered; is that correct?

12 MR. NOURSE: Your honor, I'd just object.
13 I keep waiting for questions. I thought they were
14 background for something, and all she's doing is
15 summarizing, giving him an opportunity to embellish
16 what he's already said in testimony, friendly cross.

17 MS. BOJKO: Actually it's not friendly
18 cross. I don't agree with Mr. Kollen's underlying
19 approval of the PPA. I don't agree with all the
20 modifications, and I'm, frankly, trying to understand
21 the layers embedded in his testimony because it goes
22 through three sections and then it goes back and
23 talks about different sections, so I'm trying to
24 understand his full recommendations in order to be
25 able to better oppose them.

1 EXAMINER PARROT: Overruled.

2 Q. I don't think there was an answer to that
3 last one. I can rephrase because it didn't look like
4 you were completely understanding my question.

5 You're recommending that the Commission
6 through table -- the table on page 4, that the
7 Commission disallow or remove certain costs
8 associated with the PPA; is that correct?

9 A. Well, perhaps I could state it a little
10 bit differently, but that to clarify the calculations
11 and to remove certain of the costs that are present
12 in Dr. Pearce's workpapers where he made the
13 calculation of the revenue requirement impact or the
14 charges and the credits pursuant to the PPA rider.
15 And what I've done is I've identified a number of
16 problems in Dr. Pearce's calculations where those
17 calculations are inconsistent with prior Commission
18 decisions, for example, in the most recent base rate
19 case and also in the capacity case.

20 And then on this table here on page 4
21 I've quantified the effect for the calendar year
22 2016 using Dr. Pearce's workpapers.

23 Q. So that was my next question. So is this
24 just an example of what the revenue requirement
25 adjustments would be for 2016, and then would you

1 have to also make those adjustments in future years
2 of Mr. Pearce's forecast?

3 A. Yes, that's correct. In other words,
4 this is a cost side of the equation, and what
5 Dr. Pearce did was he didn't necessarily follow the
6 proposed draft PPA because that doesn't have the
7 level of detail that Dr. Pearce reflected in his
8 workpapers, but he has workpapers that extend from
9 the short period in 2015 through 2024.

10 And what I did was I just simply took the
11 first year, 2016, and quantified the effect of what I
12 believe are incorrect amounts included in his
13 calculations.

14 Q. Okay. And then I think the last
15 modification is on page 5, which is what Mr. Taylor
16 was discussing today. You actually quantified
17 Taylor's ROE flex-down recommendation; is that
18 correct?

19 A. I did. It starts on the bottom of page 4
20 and extends to the top of page 5. But if you use
21 Dr. Pearce's calculations from his workpapers -- and,
22 again, you cannot do this from the draft PPA itself
23 at this point. There are no formulas in there.
24 There are just general descriptions of the costs.
25 But if you go from Dr. Pearce's workpapers, I

1 calculated the effect of a 1.0 percent return on
2 equity at \$12.2 million using the company's estimate,
3 and it's 10.9 million if you use the company's
4 estimate with the adjustments that I recommend.

5 Q. And you're the sponsoring witness of the
6 15-year recommendation for the life of the PPA; is
7 that correct?

8 A. I support that, yes. But Mr. Baron, on
9 behalf of the OEG, also recommended that.

10 Q. You didn't do any quantitative analysis,
11 did you, of allowing a 15-year PPA versus a
12 three-year PPA or zero-year PPA, did you?

13 A. I did not. Of course, a zero-year PPA
14 would be zero, but I did not do any other
15 quantifications.

16 Q. And your recommendation through the
17 15-year PPA would still allow retirement costs to be
18 passed on, or a portion of the retirement costs to be
19 passed on to customers; is that correct?

20 A. Yes. A portion pro rata to the number of
21 years really that the PPA existed for the particular
22 unit, assuming that it continued to operate for that
23 period of time, compared to its total service life.
24 So if it was a 40-year, you know, service life for
25 the unit, just using that as an example, and the unit

1 operated ten years under the PPA, then customers
2 would be responsible for one-fourth, or 10 divided by
3 40, of the retirement costs.

4 Q. And as I understand your testimony with
5 all those changes that you talked about, you're not
6 recommending approval of the PPA as proposed, it has
7 to include those recommendations. Is that your
8 position?

9 A. Yes. If the Commission approves a PPA
10 rider in concept, I would strongly recommend that it
11 not do so unless all of the conditions that OEG
12 proposes be included, and those extend from the
13 recommendations of Mr. Baron and Mr. Taylor and those
14 that are reflected in my testimony.

15 Q. And you're also not precluding any other
16 recommendations that may be necessary in order to
17 protect customers' interests, are you?

18 A. I am not.

19 MS. BOJKO: That's all I have. Thank
20 you, your Honor.

21 EXAMINER PARROT: Thank you.

22 Ms. Bair?

23 MS. BAIR: No questions.

24 EXAMINER PARROT: Mr. Darr?

25 MR. DARR: No questions, your Honor.

1 EXAMINER PARROT: Mr. Nourse?

2 MR. NOURSE: Thank you, your Honor.

3 - - -

4 CROSS-EXAMINATION

5 By Mr. Nourse:

6 Q. Good afternoon, Mr. Kollen.

7 A. Good afternoon.

8 Q. You were present for Mr. Taylor's
9 testimony a few moments ago?

10 A. Yes.

11 Q. And he and I had a discussion, as well as
12 with his own counsel, about the issue of the
13 Commission negotiating the PPA. Do you recall that?

14 A. I do.

15 Q. Do you agree with the statements and
16 responses that Mr. Taylor gave, or do you have
17 anything else that you would change if I asked you
18 the same questions?

19 A. Well, I think that Mr. Taylor expanded
20 upon his initial answer, and there is, I would
21 consider, a give and take in a sense where the
22 company has made an offer. It's up to the Commission
23 to determine whether or not that offer is reasonable.
24 And to the extent that it -- you know, at least the
25 PPA rider is a concept that the Commission can

1 accept, then we believe that there should be a series
2 of conditions reflected in the Commission's order
3 adopting a PPA rider.

4 The next step is AEP, of course, can
5 determine that it will not accept those conditions
6 and withdraw its offer. So I view that as a fair
7 negotiating process, although it's not the typical
8 negotiating process because of the nature of the
9 regulatory process.

10 Q. Okay. Were you intending to change
11 anything Mr. Taylor said, or just summarizing your
12 understanding which you think matches up with his
13 testimony?

14 A. Well, that's a pretty broad-based
15 question. I'm not sure I agree with every word that
16 Mr. Taylor said or would have said it exactly the
17 same, but conceptually I agree with everything he
18 said, yes.

19 Q. Okay. All right. I'd like to ask you to
20 focus on part three of your testimony, it starts on
21 page 11.

22 A. Okay.

23 Q. I'll ask you some questions about these
24 adjustments, if you can call it that. So the first
25 one is for accumulated depreciation. It starts at

1 the bottom of page 11 there. Are you with me?

2 A. I'm at the bottom of page 11, yes.

3 Q. Your first adjustment relates to
4 accumulated depreciation, saying the amounts on GR's
5 books are significantly understated, correct?

6 A. For accumulated depreciation, that's
7 correct.

8 Q. Yeah. By the way, if I say "GR," you
9 know I'm referring to AEP Generation Resources,
10 correct?

11 A. I do.

12 Q. And in this item we're talking about
13 nonlegal post-retirement costs, right?

14 A. That's correct. And for that matter,
15 retirement costs that are incurred during the life of
16 the unit as well, what is normally referred to as
17 interim retirement. So it's both the interim
18 retirement and then the post-retirement costs or
19 dismantling costs.

20 Q. But the asset retirement obligations is a
21 separate category that we can talk about later,
22 correct? These are different costs?

23 A. Yes. That isn't the issue of dispute.
24 There are really two types of retirement costs. One
25 is characterized as a legal obligation, and those

1 costs are, for example, for asbestos removal and
2 cleanup and ash pond site remediation because those
3 are legal obligations.

4 The company, meaning Ohio Power Company,
5 did not reverse the amounts that have been collected
6 from customers for those legally required costs, but
7 the other retirement costs that did recover for
8 interim retirements or dismantling costs or
9 post-retirement costs, did reverse and took those as
10 income.

11 Now, what the company has included in its
12 proposal, or at least in Dr. Pearce's workpapers, is
13 recovery of costs that customers have already paid.

14 Q. So do you know when the last test year
15 was in the last base rate cases in Ohio for Columbus
16 Southern Power and Ohio Power Company -- prior
17 companies?

18 A. I don't know.

19 Q. Okay. Early-'90s sound correct?

20 A. I don't know.

21 Q. You were -- well, strike that.

22 So your recommendation assumes that costs
23 were collected in rates previously set, in bundled
24 rates, correct?

25 A. Yes, that's correct. I reviewed the one

1 or two most recent depreciation studies that were
2 performed by Ohio Power Company, Columbus Southern
3 Power Company prior to deregulation, and they
4 included interim retirements and terminal retirements
5 or dismantling costs.

6 Q. And so isn't looking at this one issue
7 and concluding that the companies -- and I'll say
8 companies here because it used to be Columbus
9 Southern Power and Ohio Power Company. There was a
10 merger. Now it's just Ohio Power Company. Is that
11 your understanding?

12 A. That's correct.

13 Q. But that was --

14 A. That's true.

15 Q. Back at the time of the last rate case,
16 it was the two separate companies, right?

17 A. Yes.

18 Q. Okay. And so isn't this adjustment
19 you're looking at like a single-issue ratemaking
20 approach of going in and looking at one cost and then
21 making a conclusion that -- making a conclusion that
22 those specific costs have been recovered in rates?

23 A. No, I don't think so. The company has
24 proposed what it has characterized as a cost-based
25 tariff, and the question is what are the appropriate

1 costs that go into that tariff. To the extent that
2 there was an accumulated depreciation amount as of
3 the end of 2002 that included these costs, meaning
4 the interim retirement costs and the terminal
5 retirement costs, then those are costs that
6 necessarily were paid for by customers, and that's
7 always the presumption in cost-of-service ratemaking.

8 But the company took those amounts out of
9 the accumulated depreciation reserve, took them to
10 income. Now, those dollars are not available for the
11 retirement costs, and so under the company's
12 proposal, they're asking for Ohio Power to pay those
13 costs, and we don't think that's appropriate. We
14 think that's a double count.

15 Q. Does your approach work both ways; in
16 other words, we can go into any cost or expense now
17 and presume that it's been recovered because it was
18 reflected in the last base rate case?

19 A. I'm not sure what you're referring to,
20 but the plant-in-service and other rate-base items,
21 such as accumulated depreciation, necessarily are
22 cumulative, and so it necessarily affects the history
23 of expenditures reflected in the plant-in-service
24 amount or the accumulated depreciation; whereas other
25 revenues and expenses are period costs, meaning that

1 once you're through a year or a month, or whatever
2 the case may be, there's no accumulation of those
3 amounts.

4 Q. Well, Mr. Kollen, you recognize the
5 difference between costs being reflected in rates and
6 costs actually being recovered in rates; am I right?

7 A. Very seldom is there a direct one-to-one
8 correlation, but the ratemaking process is designed
9 to measure the costs using a test year, and then,
10 presumably, the revenues going forward are sufficient
11 to recover the costs going forward unless and until
12 there's a complaint to reduce rates or a request to
13 increase them.

14 Q. Or unless the rate base is deregulated,
15 right?

16 A. Well, that's true to some extent, or
17 could be.

18 Q. Doesn't your 15-year-term recommendation
19 already avoid paying for these post-retirement costs?

20 A. No, it doesn't. The reason for that is
21 that the accumulated depreciation is used in the rate
22 base, as shown in Dr. Kelly's workpapers. If that
23 accumulated depreciation -- and, remember, this is
24 cumulative through -- for all history to the date
25 which this calculation is performed. And I looked at

1 2016, but the company had nine-and-a-quarter years
2 worth of computations in Dr. Kelly's workpapers, but
3 the accumulated depreciation is understated because
4 the company removed a portion of that, took it as
5 income in 2003.

6 Now, under the capacity payment term
7 under the PPA and the depreciation payment term of
8 the PPA, Ohio Power would be required to pay those
9 amounts both through depreciation and return on to
10 AEPGR and then recover those costs essentially
11 through the rider.

12 Q. Okay. Speaking of deregulating rate
13 base, when did that happen?

14 A. 2001, deregulated generation. But the
15 rates were not deregulated. In a sense, they were
16 unbundled.

17 Q. And between 2001 and 2014 when the
18 generation units were divested, AEP Ohio paid for
19 retirements, didn't it?

20 A. They paid for interim retirements, but as
21 far as I am aware, no terminal retirements, no
22 dismantling costs. And those costs were recorded in
23 an O&M expense account, and they will be recovered
24 from customers under the PPA as an O&M payment.

25 Q. And going back to the single-issue

1 rate-making problem, there may be other costs that
2 have increased since the last base case, which is now
3 a couple decades, that have changed, wouldn't you
4 expect that?

5 MR. DARR: Objection. Couple reasons,
6 number one, it assumes something in evidence that
7 isn't in evidence, that is, when was the last rate
8 case, which this witness has already indicated at
9 least three times he doesn't know; second, he's
10 already denied that the single-issue ratemaking is an
11 issue here. So, with that, I object to the question.

12 MR. NOURSE: I'm entitled to contest his
13 assertion that this is not ratemaking, your Honor.
14 And, you know, I think we all know it's been decades
15 since there was a rate base that involved true
16 generation.

17 MR. DARR: We may all know that, but this
18 witness does not, your Honor.

19 EXAMINER PARROT: Mr. Nourse, can you
20 rephrase, please.

21 MR. NOURSE: Okay.

22 Q. (By Mr. Nourse) Mr. Kollen, assuming
23 there hasn't been a base rate case since the
24 early-'90s that has incorporated generation plant,
25 would you agree that over the course of two-plus

1 decades that there are likely some costs that have
2 occurred and are not reflected in the base rates that
3 were set way back when?

4 A. Well, that maybe requires more of a
5 philosophical answer rather than "yes" or "no"
6 because the ratemaking construct is such that you
7 have a defined test year to determine what the costs
8 are, and then you set the revenue requirement and
9 establish rates to recover those costs.

10 Well, of course, over time your load
11 changes, it grows, revenues grow, some costs go down,
12 other costs go up. But to the extent that the
13 revenues cover those costs, nobody -- no party comes
14 in for a rate reduction and the company doesn't seek
15 a rate increase. That's why I totally disagree with
16 your concept of a single-issue adjustment.

17 Q. Well, I think we've established that
18 disagreement. But do you know whether these costs
19 were excluded from the SEET test in 2009 up through
20 2014?

21 A. Yeah. You're talking about the
22 generation-related costs, 2009 through 2014?

23 Q. Yeah. I'm talking about the retirement
24 costs that we're talking about here for the last five
25 years of the SEET test. You are familiar with the

1 SEET test, correct?

2 A. Yes.

3 Q. And so I'm asking you whether these costs
4 were reflected in the ROEs that were used for
5 AEP Ohio's SEET tests in the last five years.

6 A. And by "these costs" you mean what?

7 Q. The retirement costs that's the subject
8 of your first adjustment we're discussing.

9 A. Well, it is true that the accumulated
10 depreciation was less than it should have been, you
11 know, because of this taking the income in 2003; but,
12 on the other hand, the depreciation expense was less,
13 so how those two balanced out, I'm not sure. They go
14 in opposite directions, and they may have netted out
15 to zero or some small dollar amount. I just simply
16 don't know.

17 Q. So the earnings subject to the SEET test
18 could have been higher than what they would have been
19 if your approach was taken; is that what you're
20 saying?

21 A. They could have been different, higher or
22 lower. I just don't know.

23 Q. Okay. Your next adjustment is the ARO,
24 asset retirement obligation, starting in the middle
25 of page 14, correct?

1 A. That's correct.

2 Q. Okay. And you mention there in line 17
3 that your recollection is that the company correctly
4 excluded the AROs from the calculation of capacity
5 costs in the 10-2929 case, right?

6 A. It's more than my recollection. I went
7 back to the filing schedules and they specifically
8 say "excluding ARO."

9 Q. Great. So since you reviewed that, do
10 you know if the liability was also removed?

11 A. It should have been. I believe it was.

12 Q. Did you remove it here in your
13 adjustment, the liability?

14 A. We asked for a disaggregation of that
15 and, to my recollection, did not receive it.

16 Q. You agree, since you're making these
17 conceptual adjustments, that the ARO liability should
18 be removed if you're going to remove the ARO asset
19 for this rate-base analysis?

20 A. I do.

21 Q. All right. You have -- sticking with
22 this ARO adjustment and recommendation, you basically
23 recommend a proration that you characterize, I think,
24 as more of a rental payment; is that fair?

25 A. Let's see. You're looking at page 15.

1 Q. Page 15 goes into this analogy, I guess,
2 of ownership versus rental, and then page 16 is your
3 proration recommendation.

4 A. Right. I think my question was just
5 simply to clarify where you were right now because
6 you prefaced the question with a reference to ARO,
7 but this is really the retirement dismantling costs
8 and other miscellaneous payment.

9 Q. I apologize.

10 A. I was just trying to get that clarified.

11 Q. Okay. Good point. So in the first Q and
12 A on page 15, you shift into retirement dismantling
13 costs and the miscellaneous other payment costs.

14 A. That's correct.

15 Q. So that's a separate adjustment?

16 A. It is, yes.

17 Q. And in that adjustment is where you
18 distinguish between the ownership versus rental
19 concept and then make the proration recommendation?

20 A. Correct.

21 Q. Okay. So what I want to ask you about
22 this concept, the rental versus ownership, isn't this
23 treatment consistent with normal ratemaking to
24 include these costs versus prorating?

25 A. I'm not sure I follow your question,

1 "these costs" or what is consistent with traditional
2 ratemaking.

3 Q. Well --

4 A. I just don't understand the question.
5 I'm sorry.

6 Q. Under traditional ratemaking we have a
7 generation unit. These costs, these dismantling
8 costs, retirement costs, would be recoverable in
9 rates, correct?

10 A. That's true, but they would be recovered
11 over the life of the unit, which was true in the past
12 when the units were regulated, when the generation
13 function was regulated.

14 The disconnect here in the company's
15 proposal is that the costs are all packed into the
16 final five years of the PPA, the final five years of
17 the lives of each of the generating units subject to
18 the PPA and in their entirety. That's the problem.
19 It's not a pro-rata share based upon the number of
20 years that the assets are used.

21 Q. Okay. But your recommendation for the
22 pro-rata-share approach is premised on -- essentially
23 it's premised on your other recommendation that this
24 be a limited term, not a life-of-the-unit contract,
25 correct?

1 A. Well, that's certainly one factor, but
2 it's not the only factor because, let's say, for
3 example, that it was a life of the unit, and that
4 life of the unit was 20 years, not 15 years.

5 Well, still the principle remains the
6 same, 20 years divided by the service life of the
7 asset -- of the generating unit, not a hundred
8 percent of the retirement costs. So if that
9 generating unit had a 60-year service life, the PPA
10 extends 20 years, then you should only pay one-third
11 of the retirement costs.

12 Q. Well, okay. So in that example you're
13 saying that the first 40 years don't count?

14 A. Well, they counts in terms of the
15 accumulated depreciation, the prior issue that we
16 discussed, and they count in terms of the
17 responsibility. To the point where the PPA starts of
18 the -- of Ohio Power Company and its customers under
19 the PPA rider to the point where the PPA ends for
20 that particular unit, it should be prorated.

21 Q. Does that incorporate the prior time when
22 plants were in service and dedicated to Ohio retail
23 customers?

24 A. It would not, because during the period
25 of time when the generation function was regulated,

1 the customers previously paid for the interim
2 retirements and the terminal retirements.

3 Then there was some period of time when
4 the generation effectively was deregulated. This,
5 from a ratemaking perspective, will reregulate it, in
6 a sense, but everything that went before, prior to
7 the initiation of the PPA in this case, is not the
8 responsibility of Ohio Power Company during the term
9 of the PPA.

10 Q. I think I understand your answer.

11 Your next adjustment is the plant held
12 for future use, starting at the bottom of page 16,
13 correct?

14 A. Correct.

15 Q. When those purchases are made by the
16 company for plant held for future use, that's usually
17 done, or really should be done, when it's going to be
18 cost effective and, you know, save money, the
19 likelihood of saving money rather than trying to buy
20 an adjacent property later on the day you need it. I
21 mean -- let me restate this, Mr. Kollen.

22 Doesn't plant held for future use provide
23 operational flexibility in the likelihood of cost
24 savings in order to be prudent when those purchases
25 are made?

1 A. It's possible that's true; however, the
2 plant held for future use typically is a new plant
3 site or a site for a transformation -- transformer or
4 a condensation series station or something of that
5 nature. I don't think that the company is going to
6 have any plant held for future use with respect to
7 these existing power plants.

8 But, nevertheless, the PPA has that
9 terminology included in it. Dr. Pearce's workpapers,
10 to the extent that I could tell, had no dollars
11 associated with it, but what I did was simply flag it
12 here. But it's true that, presumably, the concept
13 underlying the acquisition of plant prior to the need
14 for it is that it's economical to do so.

15 Q. And if the Commission were to review for
16 prudence such purchases, would that alleviate your
17 concern?

18 A. I don't think so, because typically the
19 requirement for rate-base recovery of a plant cost is
20 that it is used and useful. And a plant held for
21 future use, by definition, is not used and useful,
22 even if it may have been a cost prudently incurred.

23 Q. Okay. Moving on to your next
24 recommendation for construction work in progress, on
25 page 17 there you have a couple Q and As concerning

1 CWIP adjustment, right?

2 A. Yes.

3 Q. Now, you agree that the PPA is a
4 wholesale purchased power agreement subject to FERC's
5 jurisdiction?

6 A. The PPA contract itself is. The PPA
7 rider is not subject to the FERC jurisdiction. It's
8 exclusively PUCO jurisdiction.

9 Q. I asked you about the wholesale power
10 contract. So you agree that's a FERC jurisdictional
11 contract?

12 A. I said yes.

13 Q. So, therefore, a lead-lag study is not
14 appropriate, right?

15 A. That's correct.

16 Q. And are you familiar with the FERC 1
17 one-agent method?

18 A. I am. But, remember, this is a cost that
19 will be incurred by Ohio Power Company and recovered
20 in -- essentially through the PPA rider, which is a
21 PUCO retail rate, and there is no reason why this
22 Commission should cede a revenue requirement
23 calculation in a PPA retail rider based upon a, you
24 know, a methodology that it does not recognize.

25 Q. Do you agree that GR would accrue

1 financing costs during construction in these power
2 plants?

3 A. If there are capital expenditures that
4 are not just overnight purchases, for example, you
5 might buy a valve or something like that, that's an
6 overnight purchase.

7 Q. Right.

8 A. If you have an extended construction
9 period, there would be some form of financing costs,
10 probably short-term, low-cost financing.

11 Q. So would it be fair for the GR to book
12 AFUDC in this circumstance?

13 A. I think so, or some form of it. It's an
14 unregulated entity, so it would have to capitalize
15 interest and it doesn't have the opportunity for
16 AFUDC, but it could capitalize interest equivalent to
17 its financing costs.

18 Q. Okay. Then, Mr. Kollen, your, I believe,
19 hopefully last recommendation was on cash working
20 capital starting at the bottom of page 17. Do you
21 see that?

22 A. I do.

23 Q. Actually, I don't have any questions
24 about that.

25 A. Well, you already did, actually.

1 Q. Actually, I wanted to go through each
2 one, but I want to skip that one.

3 A. You did ask about the one-agent
4 methodology.

5 Q. Yeah, I'm sorry. I've drawn too many
6 notes in my copy here.

7 Okay. Then you have on page 18, the
8 bottom half, you have a prepaid pension asset
9 adjustment.

10 A. I do.

11 Q. This discussion relates to the AEP-owned
12 units, correct?

13 A. That's correct, where there are
14 co-owners.

15 Q. Okay. And so would this go the other way
16 for Zimmer and Stuart?

17 A. No.

18 Q. Why not?

19 A. Well, because, to my knowledge, the other
20 companies, the other co-owners that operate the
21 plants Zimmer and Stuart, do not charge AEP those
22 amounts.

23 Q. So it's just a financial windfall for
24 customers that pay for those costs, for the PPA
25 costs?

1 A. I don't think I would characterize it
2 that way. I think it's a reflection of the actual
3 costs that Ohio Power would incur for the prepaid
4 pension assets that are on the books of the
5 co-owners, not on the books of AEP Generation.

6 Q. Okay. And then let me go back to the
7 recommendation we discussed earlier about the -- and
8 so for your recommendation about the retirement
9 dismantling costs and your proration recommendation
10 with adjustment to rate base, I want to go back to
11 that. I have a question I just came up with.

12 A. Those are two issues, if I could clarify.

13 Q. You can tell me if your answer differs
14 between the two.

15 A. Okay.

16 Q. Since your only recommendation, since
17 your -- excuse me -- let me start over. I've got to
18 read this writing.

19 Since you are only recommending that the
20 PPA include a percentage of the future retirement
21 costs, wouldn't it be inappropriate to reduce the
22 rate base for past expense retirement costs since
23 under your proposal the company would be responsible
24 for a share of the retirement costs in proportion to
25 those past years?

1 A. I understand that.

2 Q. Okay.

3 A. And the answer is there's no double
4 counting. Essentially, regulated customers pay for
5 the retirement costs up until the assets were
6 deregulated and, I believe, continuing on beyond
7 that. But let's -- you know, for the sake of
8 argument, I just left it at through 2002 prior to the
9 adoption of Statement 143.

10 After that, the responsibility for those
11 retirement costs was with Ohio Power Company, and
12 then once the assets were transferred to Generation
13 Resources, it became the responsibility of Generation
14 Resources.

15 So all of the years that have already
16 gone past should already be properly accounted for.
17 There should properly be assignment of
18 responsibilities of those costs already, including
19 through regulated customers, and by increasing the
20 depreciation, it recognizes the fact that regulated
21 customers contributed to those costs.

22 Q. Okay. Your position assumes that the
23 costs have already been recovered in the past, right?

24 A. From regulated customers, that's correct,
25 in part, and to the extent that AEPGR, Ohio Power

1 Company, and Columbus Southern, for that matter, and
2 subsequently AEP Generation Resources were not
3 charging those costs, nevertheless, by virtue of
4 their usage of those units during that time as
5 deregulated assets, that's their share during those
6 years. We should only pick up under the PPA a
7 pro-rata share of those costs based upon our usage.

8 Q. And that gap, I guess, that you talk
9 about in that time, the deregulated assets, can you
10 tell me exactly what period of time you're referring
11 to?

12 A. Well, it would be from 2001 through --
13 well, through the last day prior to the initiation of
14 the PPAs if, in fact, the Commission approves them
15 and -- approves it and it is implemented.

16 Q. And that's all you're recommending
17 exclusion of?

18 A. I'm recommending that the accumulated
19 depreciation be restored through 2002 because that's
20 what retail customers paid for, and then I'm
21 recommending that Ohio Power, Columbus Southern
22 Power, and AEP Generation Resources be allocated the
23 next number of years, which would be from 2003
24 through, let's say, 2015, and then if the PPA is
25 approved for the next 15 years, assuming all of the

1 units operate for the 15 years, then Ohio Power would
2 pay 15 divided by whatever the number of years'
3 service life of each of the units subject to what the
4 affiliate PPA had.

5 MR. NOURSE: Got it. Thanks, Mr. Kollen.
6 That's all the questions I have, your
7 Honor.

8 EXAMINER PARROT: Mr. Beeler?

9 MR. BEELER: No questions, your Honor,
10 thank you.

11 EXAMINER PARROT: Redirect?

12 MR. KURTZ: May we have a couple minutes?

13 EXAMINER PARROT: You may.

14 (Recess taken.)

15 EXAMINER PARROT: Go ahead, Mr. Kurtz.

16 MR. KURTZ: Thank you, your Honor.

17 - - -

18 REDIRECT EXAMINATION

19 By Mr. Kurtz:

20 Q. Mr. Kollen, do you recall questions from
21 counsel for AEP regarding the effect of accumulated
22 depreciation on the rate base?

23 A. I do.

24 Q. Explain the mechanics of how that works
25 and why that's an important calculation.

1 A. Okay. As you go through time, the cost
2 of an asset is depreciated. That means it's
3 effectively used up over its lifetime, and then the
4 depreciation expense is accumulated in accumulated
5 depreciation so that the net book value is the
6 original cost of all of the plant minus the
7 accumulated depreciation. If you've done it right,
8 at the end of the life of the plant, the net is zero.

9 And the accumulated depreciation marches
10 on. Regardless of whether the asset is regulated or
11 deregulated, it's going to continue on. The only
12 difference is, in the case that we have here, is the
13 legal -- the asset retirement obligation, the legal
14 obligation for asbestos and ash pond closure, because
15 you've got environmental requirements versus the
16 nonlegal requirements.

17 Q. And so by understating accumulated
18 depreciation, it's your opinion that the rate base or
19 the net book cost, which is the same as rate base, is
20 overstated.

21 A. It is, because accumulated depreciation
22 is a subtraction from rate base because that's the
23 amount of money that has either been recovered from
24 customers or already depreciated on that plant, and
25 then if you take away a part of it, a part that

1 customers have paid while the asset was regulated,
2 and the AEP companies, Ohio Power Company and
3 Columbus Southern, took that to income, so they
4 increased income over a quarter of a billion dollars,
5 \$260 million. Those were funds that were contributed
6 by customers. They're now asking customers to pay
7 for that cost all over again a second time.

8 Q. Does the timing of the last rate case in
9 the early-1990s have any bearing on rate base
10 proposed by the company or rate base you're
11 proposing?

12 A. It doesn't. With the -- you know, it
13 depends on how you address or define this non-ARO
14 issue, the accumulated depreciation that was taken by
15 Ohio Power and Columbus Southern to income. But
16 aside from that, it doesn't make any difference
17 because that depreciation is going to continue to
18 accumulate year after year after year after year, and
19 it is what it is on the books of AEP Generation
20 Resources throughout the test years under the PPA,
21 subject to the adjustment that I propose.

22 Q. Just to be clear, does your proposal to
23 add back or make accumulated depreciation the
24 appropriate number, in your opinion, prevent
25 consumers from being charged the same cost twice?

1 A. It would act to do that, because what it
2 would do is that when depreciation rates are
3 redetermined, they're always based upon the net plant
4 at the time the depreciation study is done; in other
5 words, what amount of net plant, meaning gross plant
6 minus accumulated depreciation, still needs to be
7 recovered over the remaining life of the plant.

8 If accumulated depreciation is too
9 little, then the net plant to be recovered is too
10 high, depreciation expense necessarily over the rest
11 of the life of the plant is too high. And so what
12 we're attempting to do is make sure that we don't pay
13 through the depreciation expense or through the
14 rate-base amounts that we've already paid or that
15 should be -- should have been paid by Ohio Power
16 Company, Columbus Southern Power Company, and AEP
17 Generation Resources during the deregulation time
18 period.

19 Q. You were asked if this adjustment to
20 accumulated depreciation was made with respect to the
21 significantly excessive earnings test cases. Do you
22 recall that?

23 A. Yes.

24 Q. And I think you talked about it was not,
25 but had it been, it would cut both ways?

1 A. That's correct.

2 Q. What does that mean?

3 A. Well, what that means is that if the
4 depreciation expense was too low because it didn't
5 include an accrual for the terminal retirements, then
6 that would reduce the revenue requirement under the
7 SEET test or increase earnings. On the other hand,
8 the rate base was too high, so that would reduce
9 earnings under the SEET test.

10 So you have the depreciation expense too
11 low increasing earnings, the rate base too high
12 reducing earnings; the net of those two, I don't
13 know.

14 Q. One last question on this dismantling
15 cost. Is there a number in the record as to how much
16 it would cost to dismantle these plants?

17 A. No, there isn't. Under the proposed PPA
18 it would be the estimated retirement cost, and the
19 estimate would be provided by AEP Generation
20 Resources. There would be no true-up, and it could
21 range, I suppose, from doing nothing, basically, to a
22 complete remediation of the plant site into what is
23 known as a greenfield.

24 So it's really an open-ended exposure to
25 not only in terms of the company's proposal to

1 collect all of the costs of the retirement over five
2 years, not prorated, and we don't know what the
3 retirement -- the scope of the retirement activities
4 will be.

5 Q. So if the PPA turned out to be for a term
6 of six years, beginning in year two, customers would
7 begin paying for 100 percent of the unknown
8 retirement costs of the plants?

9 A. Yes. That's correct. It's unknown, but
10 nevertheless AEP Generation Resources will make a
11 projection, for example, let's just say a hundred
12 million dollars, and then under the PPA, under the
13 company's version of the PPA, \$20 million would be
14 charged to Ohio Power Company each of five years,
15 years two through six, and AEP Generation Resources
16 would be holding a hundred million dollars but -- and
17 there would never be any true-up to that amount of
18 money, but AEP Generation Resources could go 10, 15,
19 20, 50 years into the future, put a fence around the
20 power plant site, you know, monitor it
21 electronically, and never remediate the site. So
22 that's really kind of an open-owned structure.

23 Q. And the reason it's called nonlegal
24 retirement is because there's no obligation to tear
25 down a power plant?

1 A. That's right, there's no legal obligation
2 to dismantle.

3 Q. In your experience, what do utilities do
4 with power plants that are retired?

5 A. The preponderance of what I'll call
6 abandoned plants are left in place. Some utilities
7 have been, and particularly if it's a low-cost
8 option, for example, in some of your combustion
9 turbine units where you don't have coal piles and,
10 you know, you don't have the problems of nuclear
11 decommissioning, but if you have a gas-fired plant
12 it's relatively inexpensive to pull the equipment
13 out, bulldoze whatever structures you have, and
14 remediate the site in that manner.

15 Q. But there's no legal requirement to do
16 so?

17 A. No legal requirement to do so.

18 Q. Okay.

19 MR. KURTZ: Thank you, your Honor. No
20 more questions.

21 EXAMINER PARROT: Mr. Mendoza?

22 MR. MENDOZA: No questions.

23 EXAMINER PARROT: Ms. Bojko?

24 MS. BOJKO: No, thank you, your Honor.

25 EXAMINER PARROT: Ms. Bair?

1 MS. BAIR: No questions.

2 EXAMINER PARROT: Mr. Darr?

3 MR. DARR: Very briefly, your Honor.

4 - - -

5 RECROSS-EXAMINATION

6 By Mr. Darr:

7 Q. Mr. Kollen, in response to questions from
8 Mr. Kurtz, you referred to rate base and test year
9 under the PPA. Do you recall those comments?

10 A. Yes.

11 Q. And I would assume that for purposes of
12 rate base, if we were looking at a traditional case,
13 we would also need to determine a date certain,
14 correct?

15 A. Yes, that's correct. And there's a
16 variety of dates under the company's proposed draft
17 PPA that could be refined, but I'll let you ask
18 further questions.

19 Q. Well, and that really gets to my point.
20 Under the proposal which we've referred to as the
21 proposed PPA, can you identify for me a test year, a
22 date certain, or something similar to that that would
23 conform to either a statutory rule or a
24 administrative rule that we would all be familiar
25 with?

1 A. I have not made that inquiry, but
2 essentially what the company proposes to do is
3 project the costs for a test year using the year-end
4 rate-base amounts and projected operating expenses
5 for whatever the current calendar year is, and then
6 that would be what would be charged to Ohio Power
7 Company. When I said "company," I meant AEP
8 Generation Resources.

9 Q. And going back to my question, which is,
10 did you attempt to see whether or not that would
11 conform with anything that you were familiar with in
12 terms of Ohio law, I know you've testified here
13 multiple times, whether that conformed with something
14 you were familiar with under federal rules and
15 regulations? Did you make that analysis?

16 A. I did not; other than just to note that
17 they used historical rate-base numbers subject to
18 update for projected changes during the projected
19 test year, but it's a projected test year concept
20 that the company -- that AEP Generation Resources has
21 proposed.

22 MR. DARR: That's all the questions I
23 have. Thank you.

24 EXAMINER PARROT: Mr. Nourse?

25 MR. NOURSE: Thank you, your Honor.

1 - - -

2 RECROSS-EXAMINATION

3 By Mr. Nourse:

4 Q. Mr. Kollen, I'm not going to rehash our
5 areas of disagreement that we covered on redirect,
6 but I do want to ask you to clarify something for me.

7 The 260 million that you referenced
8 during your redirect examination, that's the same
9 260 million that you reference on page 12 of your
10 testimony, and you cite to a FERC Form 1 in footnote
11 7 for the support for that?

12 A. That's correct.

13 Q. And can you tell me, if you know, was
14 that amount related just to the PPA units?

15 A. No. And in my quantifications on the
16 table that I show on page 4 of my testimony, and I
17 believe we provided these workpapers to AEP, but they
18 were competitively sensitive because they were based
19 upon Dr. Pearce's workpapers, what we did was we
20 scaled that \$261 million down to the power plants
21 that were the subject of the affiliate PPA. In other
22 words, the 261 million is all of the generation units
23 that Ohio Power and Columbus Southern Power
24 transferred to AEP Generation Resources, but we
25 scaled that down to get the quantifications on page

1 4.

2 Q. Okay. So turning to page 14, the
3 sentence beginning at line 4 where you quantify the
4 cost reductions resulting from your recommendation,
5 do you see those figures, 10 million, 7.2 million,
6 and 2.8 million?

7 A. I'm sorry. You're on page 4?

8 Q. Page 14.

9 A. Oh, 14. Okay. I'm sorry.

10 Q. Line 4.

11 A. Okay. Okay.

12 Q. This is your adjustment for the
13 accumulated depreciation issue we've been discussing?

14 A. Correct.

15 Q. And so those numbers would represent what
16 you called the scaled-down version of the
17 260 million?

18 A. That's correct, yes.

19 Q. And can you tell us how you scaled the
20 262 down?

21 A. Yes. We used gross plant-in-service as a
22 scaler.

23 MR. NOURSE: Thank you, Mr. Kollen.

24 EXAMINER PARROT: Mr. Beeler?

25 MR. BEELER: No questions. Thank you.

1 MR. KURTZ: Your Honor, we move the
2 admission of OEG Exhibit 3.

3 EXAMINER PARROT: Are there any
4 objections?

5 MR. NOURSE: No objections.

6 EXAMINER PARROT: Hearing none, OEG
7 Exhibit No. 3 is admitted.

8 (EXHIBIT ADMITTED INTO EVIDENCE.)

9 EXAMINER PARROT: Thank you, Mr. Kollen.

10 THE WITNESS: You're welcome.

11 EXAMINER SEE: Mr. Stinson.

12 MR. STINSON: Yes, your Honor, we call
13 Dr. Sioshansi.

14 If I may approach, your Honor.

15 EXAMINER SEE: Yes.

16 Please raise your right hand.

17 (Witness sworn.)

18 EXAMINER SEE: Thank you. Have a seat.

19 (EXHIBIT MARKED FOR IDENTIFICATION.)

20 RAMTEEN SIOSHANSI, PH.D.

21 being first duly sworn, as prescribed by law, was
22 examined and testified as follows:

23 DIRECT EXAMINATION

24 By Mr. Stinson:

25 Q. Would you please state your full name and

1 business address for the record?

2 A. Ramteen Sioshansi, 60 East Spring Street,
3 Columbus, Ohio 43215.

4 Q. I've placed before you what's been marked
5 as OCC Exhibit No. 12. Can you identify that for me?

6 A. Yes. That is a copy of my direct
7 testimony.

8 Q. Do you have any additions or corrections
9 or deletions to that testimony today?

10 A. Yes. I have two corrections. On page
11 15, line 3 where it currently reads "retirement of
12 preretirement," the "of" should be changed to "or."

13 Q. Any other corrections?

14 A. One other correction, on page 37, line 17
15 where it currently says "SB 33," that should be
16 changed to "SB 3."

17 Q. If I were to ask you the same questions
18 today, would your answers as corrected be the same?

19 A. Yes, they would.

20 Q. Are those answers true and accurate to
21 the best of your knowledge?

22 A. Yes, they are.

23 MR. STINSON: At this point I move the
24 admission of OCC Exhibit 12 subject to cross, and
25 tender Dr. Sioshansi for cross-examination.

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1 EXAMINER SEE: Mr. Mendoza?

2 MR. MENDOZA: No questions, your Honor.

3 EXAMINER SEE: Ms. Bojko?

4 MS. BOJKO: No questions, thank you.

5 EXAMINER SEE: Mr. Darr?

6 MR. DARR: No questions.

7 EXAMINER SEE: Mr. McKenzie?

8 MR. McKENZIE: Yes, your Honor.

9 EXAMINER SEE: I'm sorry. Hold on.

10 MR. K. BOEHM: I switched with Mr. Kurtz,
11 and OEG has no questions.

12 EXAMINER SEE: That's not permitted, but
13 thank you.

14 (Laughter.)

15 EXAMINER SEE: Now, Mr. McKenzie.

16 MR. McKENZIE: Thank you, your Honor.

17 - - -

18 CROSS-EXAMINATION

19 By Mr. McKenzie:

20 Q. Good afternoon, Dr. Sioshansi. My name
21 is Matthew McKenzie. We've met before.

22 A. Yes.

23 Q. Let's go to your testimony, page 1, line
24 10, please.

25 A. Yes.

1 Q. Here you say, "I have 17 years of
2 academic and consulting experience within the
3 electric power industry." Did I read that correctly?

4 A. You did.

5 Q. So your first experience was in 1998; is
6 that correct?

7 A. That is correct, yes.

8 Q. And you were a sophomore in college in
9 1998, correct?

10 A. I was, that is correct.

11 Q. And your work experience in 1998 was a
12 summer internship, correct?

13 A. It was an internship with Pacific Gas and
14 Electric Company, which is a gas and electric utility
15 in Northern California.

16 Q. It was over the summer?

17 A. It was over the summer. It may have, I
18 don't recall, stretched into the preceding spring or
19 proceeding fall semester.

20 Q. And when you say you have 17 years of
21 academic experience, you're counting your time in
22 college, correct?

23 A. Yes. I'm counting training that I did as
24 an undergraduate and as a graduate student, as well
25 as research that I did that pertained to my current

1 field of work, which is predominantly in the electric
2 power industry.

3 Q. Okay. It's fair to say throughout your
4 testimony that you say that the PPA proposal is an
5 improper subsidy; is that correct?

6 A. Well, there are points in my testimony
7 where I raise issues related to subsidization from
8 the PPA and the rider, and there are points where I
9 say that having such a subsidy is detrimental or
10 could be detrimental to the intended design of the
11 PJM market.

12 Q. So you don't think the PPA proposal is an
13 improper subsidy?

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

15 Q. So you do think it's an improper subsidy?

16 A. I believe that --

17 MR. STINSON: Objection, asked and
18 answered.

19 EXAMINER SEE: Overruled.

20 You can answer the question.

21 A. As I said, I believe that there are --
22 the way that it is designed, that the PPA and the
23 rider results in full transfer of the cost of the PPA
24 units to AEP Ohio's customers and also subsidizes the
25 cost risks of separating the PPA units. So I do,

1 based on those features, characterize it as
2 subsidizing the operation of the plants.

3 Q. Okay. Now, you would agree that
4 subsidies are not necessarily bad things, correct?

5 A. Subsidies are not necessarily bad things,
6 I would agree with that.

7 Q. And subsidies could be beneficial for new
8 technologies, like solar, correct?

9 A. There are instances in which subsidies
10 can be beneficial.

11 Q. And there are instances in which
12 subsidies could be beneficial to address
13 environmental concerns such as concerns about carbon,
14 correct?

15 A. Subsidies are one mechanism that could be
16 used to address environmental concerns, yes.

17 Q. And subsidies could be beneficial for
18 economic development, for example, encouraging a
19 manufacturer to locate in a particular location?

20 A. Yes. A subsidy could be used for the
21 type of goal that you stated.

22 Q. Now, you don't know whether solar
23 resources are subsidized by the state of Ohio,
24 correct?

25 A. I don't know specifically what types of

1 policy mechanisms are in place with respect to solar.

2 Q. And you don't know whether wind resources
3 are subsidized by the state of Ohio?

4 A. Again, I don't know what specific policy
5 mechanisms are in place for wind.

6 Q. And, generally, you don't know whether
7 demand response resources receive subsidies, correct?

8 A. I don't know specifically what policy
9 mechanisms are in place for demand response.

10 Q. Okay. Let's go to page 3 of your
11 testimony, lines 12 through 14. You say here that
12 you were, quote, asked to evaluate the effect of the
13 proposed PPA and PPA rider on the efficiency of the
14 PJM-operated markets. Did I read that correctly?

15 A. You did, yes.

16 Q. Could you go to page 9, please, of your
17 testimony. Starting on line 5 here, here you purport
18 to "explain how the PJM-operated wholesale markets
19 are intended to ensure short-run efficiency of the
20 electric power system for the benefit of customers."
21 Did I read that correctly?

22 A. You did read that correctly.

23 Q. Let's go to page 10, line 1. Here you
24 "explain how the PJM-operated wholesale markets are
25 intended to ensure long-run efficiency," correct?

1 A. In this question I do, yes.

2 Q. Okay. Now, let's go to page 11 starting
3 on line 17. Here you say, "The proposed PPA and PPA
4 Rider threaten to undermine the short-run efficiency
5 benefits of the PJM-operated wholesale markets." Did
6 I read that correctly?

7 A. You did, yes.

8 Q. All right. Last one. Go to page 14,
9 please, line 16. You say, "The proposed PPA and PPA
10 Rider threaten to undermine the long-run efficiency
11 benefits of the PJM-operated wholesale markets in two
12 ways." Did I read that correctly?

13 A. Yes, you did.

14 Q. Now, do you believe that you have
15 sufficient expertise and knowledge of the PJM markets
16 to draw these conclusions?

17 A. My expertise and knowledge pertains to
18 the principles of how to design wholesale markets
19 such as the one operated by PJM.

20 Q. So yes?

21 A. And I would say --

22 Q. Sorry --

23 A. -- based on that knowledge and that
24 expertise, I would say that I would characterize
25 myself as being able to assess potential impacts of

1 the PPA and PPA rider on the short- and long-run
2 efficiency of those markets.

3 Q. You're familiar with PJM's BRA, or base
4 residual auction, correct?

5 A. I have heard the term, yes.

6 Q. But you don't know what PJM's incremental
7 capacity auctions are, correct?

8 A. I've heard the term "incremental capacity
9 auction." My broad understanding is that they are
10 additional auctions that are run after the BRA. My
11 understanding is if additional capacity is needed
12 between when the BRA was run and when the delivery
13 period begins.

14 Q. Well, let's put it this way, you don't
15 know how the incremental auctions differ from the
16 BRA; is that correct?

17 A. I don't know all the specific details of
18 the BRA versus the incremental auction. I do know
19 that the incremental auctions are operated after the
20 BRA operates. So at a minimum, when the incremental
21 auction is operated, given that it's after the BRA,
22 there would be more information available since the
23 incremental auction is operated closer to the
24 delivery period.

25 Q. So the fact that the incremental auctions

1 are held after the BRA, that's something you learned
2 since your deposition, correct?

3 A. It's something that I refreshed myself on
4 after -- since the deposition.

5 Q. Well, you didn't know at the deposition;
6 is that correct?

7 A. I didn't know all the specifics of the
8 incremental auction versus the base residual auction.

9 Q. You were deposed on October 9th; is
10 that correct?

11 A. I believe that was the date.

12 Q. And so ten days ago, isn't it fair to say
13 that you didn't know how often incremental auctions
14 are held?

15 MR. STINSON: Objection, your Honor.
16 That's an improper use of impeachment for the
17 deposition.

18 EXAMINER SEE: I'll allow it. You can
19 answer the question.

20 THE WITNESS: Can you reread the
21 question?

22 (Record read.)

23 A. That would be fair to say, yes.

24 Q. Okay. And you don't know whether a
25 bidder who clears the BRA can cover its capacity

1 obligations by purchasing capacity in the incremental
2 auction, correct?

3 A. I don't know that for certain, no.

4 Q. You don't know how the demand curve for
5 the capacity auction is determined, correct?

6 A. I don't know the details of how the
7 demand curve is derived.

8 Q. And you don't know what the, quote,
9 variable resource requirement, end quote, is,
10 correct?

11 A. I've heard the term, but I don't know the
12 details of it.

13 Q. You don't know who the buyers in the PJM
14 capacity auctions are, correct?

15 A. I don't know definitively who the buyers
16 are.

17 Q. And you don't know whether PJM accounts
18 for demand response resources on the supply side or
19 the demand side of the capacity auctions, correct?

20 A. No, I don't know that detail.

21 Q. And you don't know whether demand
22 response resources have the same performance
23 obligations as traditional generation resources,
24 correct?

25 A. I don't know the specific performance

1 requirements for demand response resources.

2 Q. And you don't know any of the rules of
3 the demand response participation in the PJM market,
4 correct?

5 A. I don't know specific rules regarding
6 demand response...

7 Q. You don't know whether there are any
8 limits on how a generator can price its bids into the
9 PJM market, correct?

10 A. I don't know the limits on capacity.

11 Q. And you're not aware of any rules
12 governing bid caps for the PJM capacity auction,
13 correct?

14 A. I'm not aware of the specific rules, no.

15 Q. You don't know whether a plant can bid
16 into the PJM capacity market at zero, correct?

17 A. I believe that they can.

18 Q. Do you recall you testified in a
19 FirstEnergy hearing down the hallway?

20 A. Yes, I do.

21 Q. Is it fair to say that when you testified
22 in that hearing, you didn't know whether a plant can
23 bid into the PJM capacity market at zero?

24 MR. STINSON: Objection. Your Honor, if
25 counsel has a deposition or a transcript and if he

1 gets an inconsistent statement from the witness, the
2 counsel can present that to the statement to try to
3 impeach him, but, again, this is improper
4 impeachment.

5 MR. McKENZIE: We'll do that.

6 EXAMINER SEE: Okay.

7 MR. McKENZIE: I was just trying to move
8 things along.

9 I'm sorry. Keep the small print one.

10 Q. Dr. Sioshansi, I've handed you the
11 transcript from your testimony in the FirstEnergy
12 hearing. For the record, this is an excerpt of the
13 day in which you testified, but it has your entire
14 testimony.

15 A. Okay.

16 Q. Could you please turn to page 4451, line
17 5. Question: "And you don't know whether a plant
18 can bid into the PJM capacity market at zero as a
19 price taker, correct?"

20 Answer: "I don't know definitively one
21 way or the other."

22 That was your testimony, correct?

23 A. That is, and it's consistent with what I
24 told you.

25 Q. So you don't know whether a plant can bid

1 into the PJM capacity market at zero, correct?

2 A. I believe it can. I don't definitively
3 know.

4 Q. Okay. How about this, you don't know
5 whether any resources currently actually bid into the
6 PJM capacity market at zero, correct?

7 MR. STINSON: Objection. Asked and
8 answered.

9 MR. MCKENZIE: It's a different question,
10 your Honor. Previously I asked him whether they can.
11 Now I'm asking him whether they do.

12 EXAMINER SEE: The objection is
13 overruled.

14 A. I don't know specifically as I've never
15 examined bids into the PJM market.

16 Q. Do you know if that information is widely
17 available on the PJM website?

18 A. I do not definitively know. I believe
19 that bid data are available on PJM website.

20 Q. Okay. You don't know whether generators
21 outside PJM can bid into the capacity auctions,
22 correct?

23 A. I don't know specifically, no.

24 Q. And, finally, you don't know how the
25 term, quote, locational deliverability area, or LDA,

1 fits into the PJM capacity market, correct?

2 A. I've heard the term, and I believe it's
3 locational delivery area.

4 Q. And you don't know how it fits into the
5 PJM capacity market, correct?

6 A. I don't know all the specifics of how
7 LDAs play out, no.

8 Q. If PJM fails to procure sufficient
9 capacity in its capacity auction, you don't know what
10 actions it can take under its tariff, correct?

11 A. I don't know the specific details of the
12 actions that it can take, no.

13 Q. And, in particular, you do not know
14 whether under the PJM tariff PJM has the ability to
15 offer a reliability must-run, or RMR, contract,
16 correct?

17 A. I don't know the specifics of how RMR
18 contracts play into the PJM market.

19 Q. Okay. Let's talk about ancillary
20 services for a second. You reference ancillary
21 services throughout your testimony, correct?

22 A. That is correct.

23 Q. But you don't know all the ancillary
24 services products that PJM procures through markets,
25 correct?

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1 A. I don't hundred percent definitively know
2 them all. Certainly I don't know them all by name.
3 However, I broadly know what ancillary service
4 products or what types of services PJM would be
5 procuring from resources in the market.

6 Q. Okay. What ancillary services products
7 does PJM procure outside a market construct?

8 A. I don't know specifically the ancillary
9 service products that it procures outside the market
10 construct.

11 Q. Let's just take one. How about reactive,
12 is that procured through the market or outside the
13 market?

14 A. My understanding is that typically
15 reactive power is not procured within the market
16 construct.

17 Q. Do you know how PJM does it?

18 A. I don't definitively know.

19 Q. Okay. Let's talk about the PJM energy
20 markets. You don't know how PJM determines the
21 demand for the realtime energy markets, correct?

22 A. I don't know the specific steps that it
23 goes through to determine the demand, no.

24 Q. You don't know whether PJM energy market
25 offers are made by plant or by unit, correct?

1 A. No, I don't know that detail.

2 Q. And you don't know whether PJM energy
3 market offers are based on marginal costs or average
4 variable costs, correct?

5 A. I don't know definitively, no.

6 Q. You don't know the specific structure of
7 offers that get submitted to the market on a daily
8 basis, correct?

9 A. I don't know the specific structure of
10 offers that are made per the PJM market rules today.
11 I have worked with PJM market data in the past so I
12 have worked with offer data in the past, and I could
13 go back and look at the offer data that I've worked
14 with in the past to refresh my memory on the full
15 structure of the offers.

16 Q. Okay. But you're aware that there are
17 written rules that govern how entities offer energy
18 into the PJM energy markets, correct?

19 A. My understanding is that there are rules
20 that govern those type of things.

21 Q. You've never read those rules, correct?

22 A. I have not read them exhaustively, no.

23 Q. And, in particular, you don't know the
24 rules that govern above-cost offers at PJM, correct?

25 A. Again, I don't know the specific details

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1 of the rules that govern those, no, types of things.

2
3 Q. You are aware that all offers in the PJM
4 markets are monitored by the PJM market monitor,
5 correct?

6 A. Yes. I am aware that there's an
7 independent market monitor that evaluates offers into
8 the market.

9 Q. But you don't know the specific criteria
10 that the market monitor uses to monitor those offers,
11 correct?

12 A. No. I don't know the specific criteria
13 that are used, no.

14 Q. And you're also aware that FERC has an
15 ability to examine market participation, correct?

16 A. My understanding is that FERC does have
17 that authority.

18 Q. But, again, you're not aware of the
19 written FERC policies that govern bidding behavior,
20 correct?

21 A. No, I'm not aware of that specific
22 detail.

23 Q. Okay. Let's go back to your testimony,
24 page 6, please, line 1. You state, "The PPA and PPA
25 Rider directly subsidize the operating and capital

1 costs of the PPA units. Such a subsidy has no place
2 in a competitive wholesale market, such as those
3 operated by PJM," and then it goes on. Did I read
4 that correctly?

5 A. You did.

6 Q. I'd like to ask about your knowledge of
7 subsidies in PJM. You don't definitively know
8 whether parts of West Virginia are in PJM, correct?

9 A. I don't definitively know, no.

10 Q. And you don't know whether there are
11 cost-of-service retail rates for generation in
12 West Virginia, correct?

13 A. I don't definitively know.

14 Q. And you don't know whether parts of
15 Kentucky are in PJM, correct?

16 MR. STINSON: I'm going to object, your
17 Honor. This is outside the scope of his direct
18 testimony.

19 MR. MCKENZIE: Your Honor, as I just
20 read, he's saying that the PPA proposal is
21 inconsistent with the competitive market including
22 PJM. PJM necessarily involves the region that PJM
23 encompasses and so his knowledge of other things that
24 look a lot like the PPA proposal is directly
25 relevant.

1 MR. STINSON: He's talking about
2 cost-of-service regulations in surrounding states.

3 MR. MCKENZIE: That's right.

4 EXAMINER SEE: And your objection is
5 overruled.

6 You can answer the question.

7 THE WITNESS: Can you reread the
8 question?

9 (Record read.)

10 A. I don't definitively know without having
11 the PJM footprint map in front of me.

12 Q. And that map is readily available,
13 correct?

14 A. It is, yes.

15 Q. Okay. You don't know whether there are
16 cost-of-service rates for generation in Kentucky,
17 correct?

18 A. I don't definitively know.

19 Q. You don't know whether parts of Indiana
20 are in PJM, correct?

21 A. I don't definitively know.

22 Q. And you don't know whether there are
23 cost-of-service rates for generation in Indiana,
24 correct?

25 A. I don't definitively know.

1 Q. You don't know whether parts of Michigan
2 are in PJM, correct?

3 A. I don't definitively know.

4 Q. And you don't know whether there are
5 cost-of-service rates for generation in Michigan,
6 correct?

7 A. I don't definitively know.

8 Q. Now, you are aware that parts of Virginia
9 are in PJM, correct?

10 A. I believe that there are parts of
11 Virginia that are in PJM, yes.

12 Q. But you don't know whether there are any
13 vertically integrated utilities operating in
14 Virginia, correct?

15 A. I don't definitely know one way or the
16 other.

17 Q. And you don't know whether the parts of
18 Virginia in PJM have cost-of-service retail rates for
19 generation, correct?

20 A. I don't definitively know.

21 Q. You also don't know whether Dominion
22 operates a utility in Virginia, correct?

23 A. I know that there is a utility that
24 operates under the name Dominion. I don't know what
25 state it operates in.

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1 Q. And you don't know whether Dominion
2 participates in the PJM markets, correct?

3 A. I don't definitely know.

4 Q. And you don't know whether Dominion has
5 cost-based retail rates for generation, correct?

6 A. I don't definitely know.

7 Q. You don't know whether there are
8 cooperatives in PJM that own generation assets,
9 correct?

10 A. I don't definitively know.

11 Q. And you don't know whether cooperatives
12 recover the costs of their generation through
13 cost-based retail rates, correct?

14 A. I don't definitely know.

15 Q. And you've never heard of the Eastern
16 Kentucky Power Cooperative, right?

17 A. No, I have not.

18 Q. And you don't know whether there are
19 municipal utilities in PJM, correct?

20 A. I don't definitively know one way or the
21 other.

22 Q. And you've never heard of American
23 Municipal Power, sometimes called AMP, correct?

24 A. I have not heard that name, no.

25 Q. Now, you have heard the term "fixed

1 resource requirement," or FRR, as it relates to PJM,
2 correct?

3 A. I have heard the term, yes.

4 Q. But you don't know how much generation in
5 PJM is owned by FRR entities, correct?

6 A. No, I don't definitively know how much
7 FRR capacity there is in PJM.

8 Q. And you don't know whether FRR entities
9 participate in the PJM energy markets, correct?

10 A. I don't definitively know what -- how the
11 participation of FRR units and cost recovery differs
12 from other units.

13 Q. And you don't know where PJM has
14 different bidding rules for regulated generation
15 assets, correct?

16 A. I don't definitively know that.

17 Q. Okay. You don't know whether AEP Ohio
18 currently has two wind PPAs, correct?

19 A. I don't know of any specific PPAs that
20 AEP Ohio has.

21 Q. Presumably you also don't know whether
22 AEP Ohio recovers the net costs of any of its PPAs in
23 retail rates, correct?

24 EXAMINER PARROT: Objection. No
25 foundation. He already said he doesn't know about

1 PPAs.

2 MR. MCKENZIE: I don't know how there
3 could be a lack of foundation, asking him if he
4 doesn't know something.

5 EXAMINER SEE: The witness can answer the
6 question.

7 THE WITNESS: Can you read the question?
8 (Record read.)

9 A. Not knowing definitively about the PPAs,
10 no, I don't.

11 Q. And, in fact, you're not aware of any
12 specific PPAs in PJM between a utility and any
13 generator, correct?

14 A. I'm not aware of any specific ones, no.

15 Q. Okay. A couple questions about OVEC.
16 You don't know when AEP Ohio obtained its OVEC
17 entitlement, correct?

18 A. No, I don't off the top of my head recall
19 when that was.

20 Q. Okay. And you don't know whether
21 AEP Ohio has previously recovered the net cost of its
22 OVEC entitlement in its retail rates?

23 MR. STINSON: Could I have that reread,
24 please?

25 EXAMINER SEE: Sure.

1 (Record read.)

2 A. I don't know any specifics of historical
3 cost recovery for OVEC.

4 Q. And you don't know whether any of the
5 other OVEC members include the net cost of their OVEC
6 entitlement in retail rates, correct?

7 A. I don't know the specifics of cost
8 recovery for OVEC, no.

9 Q. Including for the other OVEC members.

10 A. Including for other OVEC members.

11 Q. Let's go to your testimony, page 17,
12 please, line 5. Here you say, "AEP Ohio has a number
13 of affiliates that own generation assets
14 participating in the PJM-operated markets that are
15 not covered by the proposed PPA." Did I read that
16 correctly?

17 A. You did.

18 Q. Now, you don't know the names of the AEP
19 affiliates you're referring to here, correct?

20 A. No, I don't.

21 Q. And you don't know whether those AEP
22 affiliates are regulated or unregulated or both,
23 correct?

24 A. I don't definitively know.

25 Q. And you don't know the extent to which

1 these AEP affiliates have cost-based rates, correct?

2 A. I don't know the specifics of their cost
3 recovery structure.

4 Q. And you don't know how these affiliates
5 bid their generation into the retail markets or
6 whether they even do, correct?

7 MR. STINSON: Compound, objection.

8 Q. I'll ask again. You don't know how these
9 affiliates currently bid their generation into the
10 PJM markets, correct?

11 A. I don't definitively know. I seem to
12 recall from the testimony in this case one of the
13 utility witnesses, one of the witnesses on behalf of
14 the utility discussing support service, that provided
15 for bidding generation assets into, I can't
16 definitively remember if it was specifically PJM or
17 other markets that generation assets participate in.

18 Q. Okay. Let's go to page 19 of your
19 testimony, line 16, you say, quote, "By subsidizing
20 these costs and guaranteeing profits to AEPGR, and at
21 the same time fully transferring these costs from
22 AEP Ohio to its customers through the PPA rider, the
23 proposal eliminates any incentives to reduce the
24 operating or capital costs of the PPA units." Did I
25 read that correctly?

1 A. You did.

2 Q. Are you aware that the proposed PPA
3 contains a provision in which AEP Ohio will vote on
4 an operating committee for the PPA units?

5 A. My recollection -- my recollection, and
6 on page 20 of my testimony beginning at line 18, was
7 that -- my recollection was that a lot of the
8 decisions involving the PPA units have to be made by
9 mutual agreement between AEP Ohio and AEPGR.

10 Q. Is that on an operating committee or some
11 other basis?

12 A. I don't recall the detail of the
13 actual -- the structure of the committees that would
14 be making the decisions; however, my recollection is
15 that, again, as I state here, that major decisions
16 would have to be made by mutual decision between the
17 two parties.

18 Q. Are you aware if AEP Service Corp. has
19 any role in making decisions for the PPA units?

20 A. I don't recall specifically.

21 Q. And are you aware if decisions regarding
22 capital costs are any different when it comes to
23 AEP Ohio's role?

24 MR. STINSON: Objection. Please reread
25 the question, please.

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1 (Record read.)

2 MR. STINSON: Objection as to form and
3 foundation.

4 MR. McKENZIE: I guess I can rephrase,
5 your Honor.

6 EXAMINER SEE: Yes.

7 Q. You say here that AEP "unit retirement
8 decisions must be made by mutual agreement between
9 AEP Ohio and AEPGR." Did I read that correctly?

10 A. On lines 18 and 19 of page 20?

11 Q. Yes.

12 A. Yes, you read that correctly.

13 Q. Are you aware if capital investments at
14 the PPA units are different when it comes to how the
15 decisions will be made?

16 MR. STINSON: Objection as to form, too,
17 considering there's different types of units and
18 their ownership structure.

19 MR. McKENZIE: If the witness is capable
20 of making that distinction, he can clarify it.

21 THE WITNESS: Can you reread the
22 question?

23 EXAMINER SEE: Sure. The objection is
24 overruled.

25 (Record read.)

1 A. I don't know what you mean by
2 "different."

3 Q. Okay. Do you know whether when it comes
4 to making decisions about capital investments at the
5 PPA plants, those decisions will be made by mutual
6 agreement between AEP Ohio and AEPGR or whether some
7 other procedure will apply?

8 A. I don't definitively 100 percent recall
9 off the top of my head.

10 Q. Okay. Are you aware that AEP Ohio has
11 proposed that the Commission will conduct annual
12 financial and managerial audits under the PPA rider?

13 A. My recollection is that Commission staff
14 would have the opportunity to essentially do an
15 annual audit to check that the amount of the costs
16 that are going towards computing the PPA rider is
17 computed correctly.

18 Q. Okay. So my question then is, are you
19 aware whether as part of that audit the Commission
20 will review the prudence of AEP Ohio's decisions
21 under the PPA contract, including its decisions on
22 the operating committee of the PPA plants?

23 A. I don't recall that detail off the top of
24 my head.

25 Q. Okay. Now, are you aware that when the

1 PPA units were built, they were part of the
2 cost-of-service rates of either Ohio Power or
3 Columbus Southern Power?

4 MR. STINSON: Again, objection. Beyond
5 the scope of his direct.

6 EXAMINER SEE: I'll allow it. The
7 objection is overruled.

8 A. I don't know the specific history of the
9 plants to know their historical cost recovery.

10 Q. Okay. Let me just ask it this way. When
11 you say that the PPA proposal eliminates incentives
12 to reduce the operating or capital costs of the PPA
13 units, how is the prudence review that the company
14 has proposed here different, in your view, from the
15 traditional cost-of-service prudence review that was
16 conducted when these plants were built?

17 MR. STINSON: Objection. Dr. Sioshansi
18 said he wasn't certain regarding the prudency review.

19 MR. MCKENZIE: Your Honor, if he says "I
20 don't know" to this question, I would be fine by
21 that.

22 MR. DARR: The question is bad in form,
23 your Honor. It assumes a fact that's not in evidence
24 at this point.

25 EXAMINER SEE: So I take it you're

1 joining the objection, Mr. Darr.

2 MR. DARR: Yes, ma'am.

3 EXAMINER SEE: I'm going to allow the
4 question, and the witness can give any clarification
5 or context to his answer that he feels necessary.

6 THE WITNESS: Can the question be reread?

7 EXAMINER SEE: Of course.

8 (Record read.)

9 A. So I would answer that by essentially
10 directing you to the response -- to my response to
11 question 16 in my direct testimony, which is that
12 the -- my understanding of the proposed PPA is that
13 costs that are incurred at the PPA units are fully
14 borne by AEP Ohio through the terms of the PPA and
15 then those costs through the rider would be
16 transferred to AEP Ohio's customers.

17 So given those two features of the PPA
18 and the PPA rider, there -- I would say that AEPGR
19 has no clear incentive to control costs because any
20 cost that's incurred, gets repaid by AEP Ohio through
21 the PPA, plus a return on investment. And I would
22 say that AEP Ohio's essentially indifferent to costs
23 that's incurred because that cost gets transferred to
24 AEP Ohio's customers through the PPA rider.

25 Q. Okay. I understand your view, and my

1 question is this: When the annual managerial audit
2 is conducted as proposed by the company here, how
3 will the prudence review of costs in that audit
4 differ from the prudence review that was conducted
5 when these plants were in cost-of-service rates, if
6 you know?

7 MR. DARR: Objection.

8 EXAMINER SEE: Grounds, Mr. Darr?

9 MR. DARR: Same grounds as before, your
10 Honor. If you'll go back and look at the
11 Commission's review, for example, of Zimmer. I think
12 you're going to find that that process was a lot more
13 interesting than what's implied by this question.
14 And whether or not there were other prudence reviews
15 has not been demonstrated on the face of the record
16 here today or at any other time during this hearing.

17 EXAMINER SEE: Mr. McKenzie, response?

18 MR. McKENZIE: Your Honor, that would be
19 interesting if Mr. Darr were testifying. I didn't
20 hear an evidentiary objection there. If this witness
21 doesn't know the answer to my question, he can say
22 so.

23 MR. DARR: The objection, your Honor, was
24 very clear, which is he's assuming facts in evidence
25 which simply are not there. The question assumes

1 that certain things took place, and there is no
2 demonstration in this record that any of those things
3 took place.

4 MR. STINSON: And it's been asked and
5 answered.

6 MR. DARR: If I may, your Honor, one
7 other thing --

8 EXAMINER SEE: Just a second.

9 MR. DARR: Certainly, your Honor.

10 EXAMINER SEE: Hold on, Mr. Darr.

11 I'm going to overrule the objection, and
12 the witness can answer the question as best he can.

13 THE WITNESS: Would you mind rereading
14 it.

15 EXAMINER SEE: Yes.

16 (Record read.)

17 A. So not knowing the specifics of how or --
18 how cost of these plants was historically recovered,
19 I can't comment on that.

20 Q. Okay. Let's go to your testimony, page
21 21, line 21. You say, "If the Early Termination
22 clause is invoked, the PUCO may find itself in the
23 position of having to allow for recovery of Early
24 Termination clause-related costs from ratepayers or
25 having AEP Ohio bear these costs. This latter option

1 may prove untenable, because it could harm AEP Ohio's
2 financial solvency and reduce AEP Ohio's ability to
3 reliably serve customer demands." Did I read that
4 correctly?

5 A. Yes, you did.

6 Q. First of all, you'd say that AEP Ohio has
7 an incentive to avoid harm to its financial
8 insolvency, correct?

9 A. I'm not sure that I make such a claim in
10 the --

11 Q. No, I'm asking.

12 A. -- in the sentences that you read.

13 Q. Right. I'm asking you. You do reference
14 AEP Ohio's financial solvency, here, correct, on line
15 3 of page 22?

16 A. I do, yes.

17 Q. And you say that AEP Ohio has an
18 incentive to avoid harm to its financial solvency,
19 correct?

20 A. I would assume so. I don't definitively
21 know management decisions that are made by -- within
22 AEP Ohio.

23 Q. And the early termination clause payments
24 that you're referring to there, they're measured, in
25 part, by the net book value of the PPA plants,

1 correct?

2 A. That is my recollection of what I saw in
3 reviewing the PPA term sheet.

4 Q. And you reviewed the company's
5 application and the company witnesses' testimony in
6 this case, correct?

7 A. I reviewed the application, and I
8 reviewed testimony that pertained to the portions of
9 the application that I was -- that I'm addressing in
10 my testimony.

11 Q. Okay. But you don't know what the
12 current net book value of the PPA plants is, correct?

13 A. No. I don't recall that detail.

14 Q. You're not familiar with the PPA plants'
15 depreciation schedules or rates, correct?

16 A. No, I'm not aware of that detail.

17 Q. You don't know what AEP Ohio's current
18 credit rating is, correct?

19 A. No, I'm not aware of its current credit
20 rating.

21 Q. And you don't know what AEP Ohio's
22 current debt-to-equity ratio is, correct?

23 A. No, I don't know that detail.

24 Q. You reference the competition transition
25 charge in the next paragraph, and you say that this

1 led to financial difficulty and the eventual
2 bankruptcy of Pacific Gas and Electric Company; is
3 that right?

4 A. In lines 6 through 14?

5 Q. Right. Pacific Gas and Electric, that's
6 the company you had the summer internship for?

7 A. I had that and other working engagements
8 with Pacific Gas and Electric, yes.

9 Q. And what was Pacific Gas and Electric's
10 financial status before it declared bankruptcy?

11 A. Is your question immediately before it
12 filed bankruptcy, or decades before or, when are you
13 asking?

14 Q. Well, how about at the institution of the
15 competition transition charge, when did that happen?

16 A. I don't definitively remember off the top
17 my head exactly when it began. I believe it was in
18 the late-1990s.

19 Q. And when it began, do you know what
20 Pacific Gas and Electric Company's credit rating was?

21 A. I do not recall that.

22 Q. Do you know what its debt-to-equity ratio
23 was at that time?

24 A. I do not recall that.

25 Q. Okay. Let's go to page 28 of your

1 testimony, please. I'm sorry. I'm sorry, I misread
2 that. Page 23 of your testimony, line 18. You say,
3 "AEP Ohio's claim that the PPA could produce a \$574
4 million credit to ratepayers over its term is
5 difficult to accept prima facie." Did I read that
6 correctly?

7 A. You did, yes.

8 Q. I believe you just said you did review
9 AEP Ohio's witness testimony in this case, correct?

10 A. I did review testimony that pertained to
11 the portion or pertained to matters in the
12 application that my testimony addresses.

13 Q. Okay. But you don't know what Witness
14 Bletzacker's fundamentals forecast is, correct?

15 A. I don't know what you mean by
16 "fundamentals forecast."

17 Q. Okay. You haven't done any analysis or
18 competing price forecasts for this proceeding,
19 correct?

20 A. I have not done any price forecasting
21 myself, no.

22 Q. Nor have you done any dispatch models for
23 the PPA units, correct?

24 A. I have not, no.

25 Q. You're familiar with the Commission's

1 February 25th, 2015, order in AEP Ohio's most
2 recent ESP case, correct? You reference it on page 4
3 of your testimony.

4 A. So are you referring to the order in
5 which the Commission outlined what it termed and what
6 I term AEP Ohio PPA factors?

7 Q. Yes. You're familiar with that, correct?

8 A. I am familiar with that, yes.

9 Q. You don't believe those factors are
10 appropriate, correct?

11 A. I do not believe those factors on their
12 own are sufficiently exhaustive to make a completely
13 informed judgment regarding the PPA and the PPA
14 rider.

15 Q. And you think those factors are biased,
16 correct?

17 A. I believe that the factors and the way
18 that AEP has responded to them shows a bias towards
19 building a case for approving the PPA and the PPA
20 rider.

21 Q. You had two things in there I just want
22 to make sure I understand. The factors themselves
23 are biased, correct?

24 A. I believe the factors themselves, the
25 way that they are worded, could be interpreted as

1 introducing a bias.

2 Q. And you were aware that the Commission
3 established those factors, correct?

4 A. That's my understanding.

5 Q. So you're saying the Commission is
6 biased; is that what you're saying?

7 MR. STINSON: Objection, your Honor,
8 that's argumentative.

9 MR. MCKENZIE: I'll withdraw the last
10 question.

11 Q. Let's go to page 27 of your testimony,
12 please, line 1.

13 A. Yes.

14 Q. You say, "Reliability benefits of
15 generating units are typically measured by conducting
16 a loss of load expectation (LOLE) or similar
17 reliability study of a power system?" Did I read
18 that correctly?

19 A. Yes, you did.

20 Q. Now, you have yourself conducted loss of
21 load expectation and reliability studies in the past,
22 correct?

23 A. I have, that is correct.

24 Q. But you did not do a loss of load
25 expectation study for this proceeding, correct?

1 A. No, I did not.

2 Q. Okay. Let's go to page 37 of your
3 testimony, please, line 13. You say, "The state of
4 Ohio has demonstrated a commitment to allowing
5 competitive wholesale markets, such as those operated
6 by PJM, to provide lower-cost, more reliable, and
7 more efficient electricity service to the benefit of
8 customers throughout the state. The state of Ohio's
9 commitment has been demonstrated through the adoption
10 of S.B. 3 and subsequently through S.B. 221." Did I
11 read that correctly?

12 A. Yes, you did.

13 Q. Did you review Senate Bill 221 prior to
14 writing this statement?

15 A. I have -- I have read Senate Bill 221 in
16 the past. I have a broad understanding of what
17 Senate Bill 221 contained, but not being a legal
18 expert, I don't -- I don't have a full -- I don't
19 have the ability to provide a full legal analysis of
20 the bill.

21 Q. I just want to get the timing. You say
22 you've read Senate Bill 221 in the past. Had you
23 read it before you wrote this statement?

24 A. Yes, I have.

25 Q. Okay. What part of Senate Bill 221 were

1 you thinking of when you said it, quote, demonstrated
2 a commitment to allowing competitive wholesale
3 markets?

4 A. Well, my understanding of Senate Bill 221
5 is that one of the things that it allowed for is it
6 essentially provided two standard mechanisms to
7 provide something that's akin to default service to
8 utility distribution company customers, which are the
9 ESP and, I believe, MRO is the other option.

10 And so my understanding and
11 interpretation of that was that what the legislator
12 was hoping to do was to basically provide mechanisms
13 for default service to customers that could sort of
14 coexist with the wholesale competitive markets that
15 PJM operates and competitive retail service by CRES
16 providers.

17 Q. Okay. Let's put it this way. You can't
18 say whether Senate Bill 221 was a move toward more
19 competition for generation supply or less competition
20 for generation supply, correct?

21 A. No, I wouldn't offer a definitive opinion
22 on that, no.

23 Q. And you don't know whether as part of an
24 ESP under Senate Bill 221, a utility can include a
25 charge for recovering the cost of building new

1 generation, correct?

2 A. My recollection is that Senate Bill 221
3 allowed certain types of nonbypassable charges under
4 certain circumstances. I don't recall off the top of
5 my head the details of what those charges could be
6 used to recover the cost of and what are the
7 conditions under which such a charge can be imposed
8 on customers.

9 Q. So the answer is you don't know whether
10 under Senate Bill 221 the utility can include a
11 charge for recovering the cost of building new
12 generation, correct?

13 MR. STINSON: Objection. Asked and
14 answered.

15 EXAMINER SEE: The witness can answer the
16 question.

17 A. So I would tell you that I just
18 summarized my understanding of the fact that a -- the
19 Commission can allow for nonbypassable charges on
20 customers. I don't know the details of what types of
21 costs those can be used to recover, and I don't know
22 the details of what are the requirements to impose
23 such a charge on customers.

24 Q. Do you recall that you were deposed for
25 this proceeding?

1 A. I do, yes.

2 MR. McKENZIE: May we approach?

3 EXAMINER SEE: Yes.

4 MR. McKENZIE: Thank you.

5 Q. I'm sorry, one other question, when you
6 were deposed, you were under oath, correct?

7 A. I was, yes.

8 Q. Dr. Sioshansi, I have handed you a copy
9 of your deposition transcript. Could you please turn
10 to page 74.

11 A. Yes.

12 Q. Line 21: Question: "So you do not know
13 whether as part of an ESP an electric distribution
14 utility can include a charge recovering the cost of
15 building new generation?"

16 Answer: "I don't specifically -- I don't
17 remember the details to say definitively."

18 That was your answer, correct?

19 A. That's correct.

20 Q. Okay. Let's go back to your testimony,
21 page 40, please, line 14. You say, "The PUCO's
22 consideration of an economic analysis should take
23 into account any of the costs of keeping potentially
24 inefficient plants running. In addition, such an
25 analysis should take into account the economic

1 development associated with the potential entry of
2 new generating or transmission assets if the PPA
3 Units are retired. Thus, in sum, the PPA may have
4 detrimental effects on economic development, job
5 retention, and the local and statewide tax base that
6 are not captured at all in the limited analysis
7 provided by AEP Ohio." Did I read that correctly?

8 A. Yes, you did.

9 Q. Now, you, yourself, did not do any
10 economic analysis for this case of the alleged
11 detrimental effects on economic development, job
12 retention, and the local and state tax base, correct?

13 A. That's correct.

14 MR. MCKENZIE: No further questions.

15 EXAMINER SEE: Mr. Beeler?

16 MR. BEELER: No questions, your Honor.

17 EXAMINER SEE: Any redirect, Mr. Stinson?

18 MR. STINSON: If we could have a few
19 moments, your Honor, I'd appreciate it.

20 EXAMINER SEE: Yes, you may.

21 (Recess taken.)

22 EXAMINER SEE: Let's go back on the
23 record.

24 Mr. Stinson.

25 MR. STINSON: Just a few questions on

1 redirect, your Honor.

2 - - -

3 REDIRECT EXAMINATION

4 By Mr. Stinson:

5 Q. Dr. Sioshansi, do you recall the counsel
6 for AEP asked certain questions about whether certain
7 subsidies may be beneficial?

8 A. I do.

9 Q. And did you identify any beneficial
10 subsidies in this proceeding?

11 A. So, based on my examination of the
12 application, I don't see any benefits from the
13 potential subsidy here. If we were to look, for
14 instance, at the so-called AEP Ohio PPA factors, I
15 don't see any demonstration of the PPA units
16 addressing reliability concerns, so, for instance,
17 the application doesn't include a loss of load
18 expectation or a similar type of reliability study to
19 demonstrate that it addresses reliability concerns.

20 I haven't seen that there's been an
21 exhaustive analysis of economic development benefits.
22 Again, as I outline in my testimony, I don't see that
23 there's any supply diversity benefit of -- provided
24 by the PPA units.

25 Q. Also do you recall through much of his --

1 or many questions that counsel for AEP referenced
2 many PJM rules? Can you just explain the purpose of
3 your testimony, the general purpose of your testimony
4 Dr. Sioshansi?

5 MR. McKENZIE: Objection. That's too
6 broad of a question for redirect. It's outside the
7 scope of cross, to ask him to summarize the purpose
8 of his testimony.

9 MR. STINSON: I disagree, your Honor
10 counsel spent a considerable amount of time
11 referencing specific rules, and Dr. Sioshansi's
12 testimony is based upon various policy
13 considerations. He can elaborate on that.

14 MR. McKENZIE: Your Honor, I don't
15 believe that was the question. He asked him to
16 summarize the purpose of his testimony not to discuss
17 any particular PJM rules.

18 MR. STINSON: Your Honor, I prefaced it
19 on the basis that many of counsel's cross was based
20 upon PJM rules and Dr. Sioshansi's knowledge of those
21 rules, and here I'm asking Dr. Sioshansi to indicate
22 what his testimony is based upon, the rules or policy
23 or what's that basis.

24 EXAMINER SEE: And I'm going to allow the
25 witness to answer that question.

1 A. So my testimony is, in large part, based
2 off of expertise in general design principles of how
3 restructured wholesale markets are supposed to help
4 improve short- and long-run efficiency of electricity
5 supply. My expertise is not in the particular
6 details of PJM market rules, but, again, it's in a
7 broad understanding of how markets are supposed to be
8 designed to improve efficiency, reliably serve
9 customer demands, things of that sort.

10 Q. And, finally, Dr. Sioshansi, do you
11 recall counsel for AEP's questions regarding whether
12 SB 221 presented a move toward or away from
13 competition?

14 A. Yes, I do.

15 Q. Do you have an opinion on that?

16 A. So in thinking about it, I would say that
17 in some sense Senate Bill 221 reaffirmed the market
18 restructuring that Senate Bill 3 had started earlier
19 insomuch as Senate Bill 221 did not move towards
20 having utilities -- I'm not sure that this is a real
21 word but "undebundle" their service. You didn't have
22 a move back towards vertically integrated utilities
23 in Senate Bill 221, rather, the state essentially
24 kept the restructured wholesale markets in place in
25 the state in Senate Bill 221.

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1 MR. STINSON: Thank you.

2 No further questions, your Honor.

3 EXAMINER SEE: Mr. Mendoza?

4 MR. MENDOZA: No questions, your Honor.

5 EXAMINER SEE: Ms. Bojko?

6 MS. BOJKO: No, thank you.

7 EXAMINER SEE: Mr. Darr?

8 MR. DARR: No questions.

9 EXAMINER SEE: Mr. Boehm?

10 MR. K. BOEHM: No questions, your Honor.

11 EXAMINER SEE: Mr. McKenzie?

12 MR. McKENZIE: Just one second, your

13 Honor.

14 I have no questions.

15 MR. STINSON: At this time, your Honor --

16 MR. BEELER: No questions from staff,

17 your Honor.

18 MR. STINSON: I'm sorry.

19 EXAMINER SEE: Thank you, Mr. Beeler.

20 MR. BEELER: You're welcome.

21 EXAMINER SEE: Mr. Stinson, go ahead.

22 MR. STINSON: Thank you, your Honor. At

23 this time I would move admission of OCC Exhibit

24 No. 12.

25 EXAMINER SEE: Are there any objections

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1 to admission of OCC Exhibit 12?

2 MR. McKENZIE: No, your Honor.

3 EXAMINER SEE: Hearing none, OCC Exhibit
4 12 is admitted into the record.

5 (EXHIBIT ADMITTED INTO EVIDENCE.)

6 EXAMINER SEE: Thank you.

7 THE WITNESS: Thank you.

8 EXAMINER SEE: With that, we're adjourned
9 for today. We'll start again tomorrow at 9 a.m.

10 (The hearing adjourned at 5:33 p.m.)

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CERTIFICATE

I do hereby certify that the foregoing is
a true and correct transcript of the proceedings
taken by me in this matter on Monday, October 19,
2015, and carefully compared with my original
stenographic notes.

Maria DiPaolo Jones, Registered
Diplomate Reporter and CRR and
Notary Public in and for the
State of Ohio.

My commission expires June 19, 2016.

Rosemary Foster Anderson,
Professional Reporter and Notary
Public in and for the State of
Ohio.

My commission expires April 5, 2019.

(79551-mdj/rfa)

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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 10/19/15 - Volume XIII electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Anderson, Rosemary Foster Mrs.