BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application Seeking Approval of Ohio Power Company's Proposal to Enter into an Affiliate Power Purchase Agreement for Inclusion in the Power Purchase Agreement Rider.	:	Case No. 14-1693-EL-RDR
In the Matter of the Application of Ohio Power Company for Approval of Certain Accounting Authority.	:	Case No. 14-1694-EL-AAM

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PROCEEDINGS

before Ms. Greta See and Ms. Sarah Parrot, Attorney Examiners, at the Public Utilities Commission of Ohio, 180 East Broad Street, Room 11-D, Columbus, Ohio, called at 9:00 a.m. on Friday, October 23, 2015.

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' Friday Morning Session,
October 23, 2015.

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EXAMINER PARROT: This is the continuation of the hearing in Case No. 14-1693-EL-RDR, et al. My name is Sarah Parrot. With me on the Bench is Greta See. We are the attorney examiners assigned to hear these cases.

Let's get started with brief appearances.

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

MR. KURTZ: FOR OEG, Mike Kurtz.

MR. PRITCHARD: On behalf IEU Ohio, Matt Pritchard and Frank Darr.

MR. MARGARD: On behalf of th Staff of the Public Utilities Commission, Steve Beeler and Werner Margard.

MR. MICHAEL: Good morning, your Honors. On behalf of AEP Ohio's residential utility consumers, the Office of the Ohio Consumers' Counsel, by William J. Michael, Jodi Bair, Kevin Moore, and as outside counsel, Dane Stinson.

MS. BOJKO: On behalf of Ohio

Manufacturers' Association Energy Group, Kim Bojko and Danielle Ghiloni.

MR. MENDOZA: Tony Mendoza on behalf of Sierra Club.

MS. MOONEY: On behalf of Ohio Partners for Affordable Energy, Colleen Mooney.

MR. O'BRIEN: On behalf of the Ohio Hospital Association, Rick Sites and Tom O'Brien.

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

MS. PETRUCCI: Good morning, your Honor. On behalf of PJM Power Providers, the Electric Power Supply Association, Exelon Generation, and Constellation NewEnergy, Howard Petricoff, Mike Settineri, and Gretchen Petrucci.

EXAMINER PARROT: Thank you, everyone.

Mr. Darr?

MR. DARR: Thank you, your Honor. IEU Ohio calls Dr. Jonathan Lesser.

(Witness sworn.)

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JONATHAN A. LESSER, PH.D.

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

DIRECT EXAMINATION

By Mr. Darr:

Q. Please state your name.

A. Jonathan Lesser, L-e-s-s-e-r.

Q. Would you state your business address, please?

A. My business address is Continental Economics, 6 Real Place, Sandia Park, New Mexico.

MR. DARR: I'd like to have marked as IEU Exhibit 1 the prefiled testimony of Dr. Lesser.

(EXHIBIT MARKED FOR IDENTIFICATION.)

Q. Dr. Lesser, do you have in front of you what's been marked as IEU Exhibit 1?

A. I do.

Q. Would you identify that for us, please.

A. That is a copy of my direct testimony and exhibits.

Q. Do you have any additions or corrections to IEU Exhibit 1?

A. I do not.

Q. If you were asked the questions today contained in IEU Exhibit 1 today, would your answers

contained in that exhibit be the same?

A. Yes, they would.

MR. DARR: I tender the witness for examination, your Honor.

EXAMINER PARROT: Thank you, Mr. Darr.

MR. CONWAY: Just a short voir dire.

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VOIR DIRE EXAMINATION

By Mr. Conway:

Q. Good morning, Dr. Lesser.

A. Good morning, counselor.

Q. Welcome back to Ohio.

A. Thank you.

Q. With regard to your testimony at pages 43 and 44, which I'd ask you to turn to briefly --

A. I'm there.

Q. -- in question 52 and the answer at question 52 you have some testimony regarding your understanding of two FERC decisions. Do you see that?

A. I do.

Q. And are you offering your legal opinions regarding proper interpretation of those decisions in the testimony?

A. I'm not offering a legal interpretation.

I'm offering my interpretation on the economic aspects of those as an expert witness who has participated in market-based rate application cases; and, in fact, I'm in one now.

Q. And so your testimony with regard to these two decisions in comparison to providing a legal opinion about it is in the category of a lay opinion; is that correct?

A. That's my opinion as an expert witness on economics and the economic issues.

MR. CONWAY: Thank you, your Honor. I have no motion to strike in light of the answers.

EXAMINER PARROT: Very good.

Any questions, Ms. Mooney?

MS. MOONEY: No questions, your Honor.

EXAMINER PARROT: Mr. O'Brien.

MR. O'BRIEN: No questions, your Honor.

EXAMINER PARROT: Mr. Dougherty?

MR. DOUGHERTY: No questions.

EXAMINER PARROT: Ms. Petrucci?

MS. PETRUCCI: No questions.

EXAMINER PARROT: Mr. Mendoza?

MR. MENDOZA: No questions, your Honor.

EXAMINER PARROT: Ms. Bojko?

MS. BOJKO: No. Thank you, your Honor.

EXAMINER PARROT: Mr. Michael?

MR. MICHAEL: No. Thank you, your Honor.

EXAMINER PARROT: Mr. Yurick?

MR. YURICK: Nothing, your Honor.

EXAMINER PARROT: Mr. Kurtz?

MR. KURTZ: No questions.

EXAMINER PARROT: Mr. Conway.

MR. CONWAY: Thank you, your Honor.

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CROSS-EXAMINATION

By Mr. Conway:

Q. Dr. Lesser, with regard to the topic of long-term contracts that CRES provides might offer or do offer in Ohio to customers, a few questions.

First of all, is it correct that you do not hold yourself out to be an expert about the offers that CRES providers currently are offering to residential and commercial customers in Ohio?

A. No, I'm not. I'm not an expert on that.

Q. So you wouldn't know how many CRES providers currently are offering long-term contracts for competitive generation service in Ohio?

A. I've not reviewed that, no.

Q. And you haven't then, of course, studied what terms and conditions CRES providers include in

their long-term contract offers for residential and commercial customers, correct?

A. In terms of the specific contractual terms and prices, no, I have not.

Q. And you're not knowledgeable about how long the terms of the contracts for residential and commercial customers are being offered by the CRES providers in Ohio at this time?

A. Not at this time.

Q. And at page 40 of your testimony you refer to the ESP III order for AEP Ohio. Do you see that?

A. Yes, I do.

Q. And so I take it that you have some familiarity with the Commission's order in the AEP Ohio company's last ESP proceeding, ESP III?

A. I do. I have a copy of the order with me, in fact.

Q. And you are aware -- or, let me rephrase that. Are you aware that the Commission in its ESP III order found that rate stability was an essential component to the ESP?

A. Would you refer me to a page in the order?

Q. Sure, page 25. Let me give you a more

precise reference. In the last sentence of the first paragraph on page 25, do you see the statement by the Commission at that point that "As we have consistently emphasized in AEP Ohio's prior ESP proceedings, rate stability is an essential component of the ESP"? Do you see that?

A. I see that sentence. I'm not convinced that this proposal actually would provide that. But I certainly see the sentence.

Q. You see the sentence, all right.

A. Yes.

Q. And do you agree with the Commission's finding that rate stability is an essential element of the ESP?

A. That's the Commission's finding. I don't disagree that the Commission found that at all, no.

Q. My question is, do you agree with the Commission's position on that point?

MR. DARR: Objection, relevance.

EXAMINER PARROT: Overruled. We've been allowing the question, Mr. Darr. I'm not going to go about it any differently with this witness.

So please answer.

Q. Just to be clear, my question isn't whether you agree that the Commission said that in

its order. My question is, do you agree with that position, that rate stability is an essential element of an ESP?

A. Well, that really depends on what is the price to achieve the rate stability, so if there's -- essentially you're asking a question about the value of hedging to stabilize prices, and with any insurance product, it depends on what is the price.

Q. So whether or not you agree with that position is dependent on other factors; is that fair?

A. Other economic factors, that's correct.

Q. And are you also aware that the Commission found in its ESP III order for the company that both shopping and SSO customers may benefit from the PPA rider because it would have a stabilizing effect on the price of retail electric service, irrespective of whether the customer is served by a CRES provider or the SSO?

A. Would you tell me where you're reading please?

Q. What I'm recapping is the Commission's statement at page 22 of the order. Go back a couple pages, and I would direct your attention to the second narrative sentence in that paragraph which is in the middle of the first full paragraph on page 22.

Do you see the statement at that point in the Commission's order, it starts with the phrase "As discussed before"?

A. Thank you, I see that.

Q. Are you aware that the Commission made this finding in its ESP III order, this finding being that "both shopping and SSO customers may benefit from the PPA rider because it would have a stabilizing effect on the price of retail electric service, irrespective of whether the customer is served by a CRES provider or the SSO"?

A. That's what the order says. I assume that's what the Commission found.

Q. And, again, my question is, did you agree or disagree with that finding by the Commission?

MR. DARR: Same objection, your Honor.

EXAMINER PARROT: Noted and overruled.

A. I disagree with that statement because, one, the ESP III order is referring to the OVEC contract only. That is not what AEP is asking for in this case. And as my testimony discusses, I believe there would be -- there's significant likelihood of output volatility and because of the delay in the price adjustment which could actually contribute to volatility. So I would disagree with the statement

that customers will necessarily benefit from the PPA rider.

Q. So you disagree with the Commission's statement at that point in its order, correct?

MR. DARR: Same objection, your Honor.

EXAMINER PARROT: Overruled.

A. The Commission says shopping and SSO customers may benefit, and I emphasize the word "may." They do not say "will" benefit. There is a difference, counselor. And so I certainly disagree that customers will benefit from this proposal in this case for many reasons that are discussed in my testimony.

Q. And so let me just be clear. I wasn't trying to substitute a word, like, such as "will" for another word that's actually in the statement. So with that clarification that you just mentioned, the Commission uses the word "may," do you, with that clarification, agree or disagree with the Commission's statement in the order?

MR. DARR: Objection.

MR. MICHAEL: Objection, asked and answered.

EXAMINER PARROT: Overruled.

A. In my opinion, one, and again, this is

referring to a different PPA and rider than is proposed in this proceeding which involves a different contract in addition to OVEC, it's my opinion that any stabilizing effect on the price of retail electric service, if there, in fact, is a stabilizing effect, which I contend there may not be, is overridden by the short-term and long-term economic damage that will occur because of subsidies in the wholesale electric markets and subsidies in the retail electric market that I believe will damage wholesale and retail competition.

Q. Well, thank you for your explanation of your position.

My question is really getting back to the statement of the Commission's order regarding whether you agree or disagree with it, and my follow-up question for you is, would you agree that this sentence in the Commission order does not refer to or limit itself to the OVEC contract?

A. My understanding is that in this ESP III proceeding, correct me if I'm wrong, AEP was asking for a nonbypassable rider associated with the OVEC contract.

Q. Okay. And so is it your understanding that the Commission's statement in this sentence is

limited to the context of the OVEC contract?

A. I can't give you a legal opinion as to what the Commission was or was not thinking. I see the statement that is made by the Commission. I certainly agree the Commission made the statement, and my testimony stands.

Q. Dr. Lesser, are you aware that the Commission in its ESP III order identified four factors that it said it would balance, among other things, in its decision-making regarding a future application to populate the PPA rider with purchase power agreements?

A. I'm aware of those four factors, but if you refer me to a specific page in the order.

Q. Well, happily, it's the same page we were just talking about, and it's in the next paragraph, and the four factors to which I'm referring begin after the colon at the end of the line that ends with the word "recovery" and the four clauses that follow the colon are the four -- describe the four factors to which I refer.

MR. DARR: Your Honor --

EXAMINER PARROT: Its on page 25.

MR. DARR: Yeah.

Q. I'm sorry, 25.

A. Yeah, I see those.

Q. And you are aware of that aspect of that portion of the Commission's order, correct?

A. I am.

Q. Okay. And do you agree with the Commission's point at this juncture that these four factors are factors that the Commission should consider, among other things, in making its decision in this case?

MR. DARR: Objection.

EXAMINER PARROT: Overruled.

A. Well, its clear from the language in the order, counselor, that the Commission asked AEP Ohio to "at a minimum address the following factors."

Q. That is correct. And I wasn't trying to pose to you a question which assumes that the Commission would be restricted to the four factors. But you would agree that, first, the Commission did announce in this order, the ESP III order, that it would balance the four factors that we just identified, correct?

A. Well, yes, the Commission said it will balance but not be bound by, so yeah, I agree.

Q. And do you agree that its appropriate for the Commission to consider these four factors in its

consideration of the company's application in this case?

MR. DARR: Objection, relevance.

EXAMINER PARROT: Overruled.

A. I have no reason to disagree with the factors the Commission has identified here. I don't know what other factors the Commission might consider. It's simply that is what the Commission has decided.

Q. Thank you, Dr. Lesser.

Let me turn your attention next to your fairly short discussion at page 45, question and answer 55, regarding what a moral hazard is from an economic perspective. Do you see that question and answer on page 55 -- on page 45?

A. I do.

Q. And you believe that traditional cost-of-service ratemaking also can and has created a moral hazard?

A. It can, yes.

Q. And it has in certain instances, in your view?

A. In certain instances it has.

Q. And then let me turn your attention to page 47 of your testimony where you discuss your

understanding of the extent to which AEP Ohio has provided analysis of the likely impacts of the Clean Power Plan on its revenue estimates. Do you see that?

A. Yes, I see that.

Q. Are you aware that in its analysis AEP Ohio has included a $15 per metric ton carbon mitigation cost starting in 2022?

A. Yes, I did see that; however, as you probably know, the Clean Power Plan, in fact, does not impose a carbon tax. It's more of a command and control type of specific reduction. So a carbon tax is -- the analysis of a carbon tax is, in fact, irrelevant to the Clean Power Plan. Moreover, the social carbon embedded in the Clean Power Plan actually rises to $50 a ton by the year 2030.

Q. And are you aware of the aggregate amount of cost, including a $15 per ton carbon mitigation cost, added to the company's cost analysis that it used in this proceeding?

A. I'd have to refer back to Mr. Pearce's workpapers that he used to develop Exhibit KDP-2.

Q. Dr. Lesser, you have five, I'll call them, and can you characterize them, whether similarly or differently, you have four or five --

strike that.

Dr. Lesser, at pages 5 to 8 of your testimony, at the outset you summarize five major concerns that you have with the company's proposal, correct, the proposal regarding the PPA and PPA rider, correct?

A. That is correct, although the first one is really a conclusion that the PUCO should reject the proposal. It's Nos. 2, 3, 4, and 5 that are the specific criticisms.

Q. I'd like to test how hard and fast, how fundamental your concerns that you have summarized there are to your position. Would you be willing to compromise your objections and acquiesce to the company's proposals if the company provided a sufficient amount of other benefits?

A. I'm not sure I understand your question, counselor. What other benefits are you discussing? Where are they in the proposal? Where would I find them?

Q. My question to you is would you be willing to compromise your objections and thus back off from them, overlook them, withdraw them, and acquiesce in the company's proposals in this case if there were sufficient benefits that were provided to

compensate for your acquiescence?

MR. DARR: Objection. The question's vague.

MR. CONWAY: Your Honor, I don't think it's vague. I'm trying to determine, trying to test how hard and fast his criticisms are.

EXAMINER PARROT: I think he did already state he's not sure what kind of benefits you're referring to, Mr. Conway, so I think you need to, at least, put some specificity around that.

Q. The benefits I'm talking about are things that would be of value to you and your client. And it could be -- and I don't want to limit what they might be. I'm just asking conceptually is there any basis on which the benefits that could be provided would be sufficient to overcome your criticisms?

MR. DARR: Objection, your Honor. Not only is it vague, but it's based on a hypothetical that's not established in the record.

EXAMINER PARROT: I think I will allow it.

If you're still not sure where he's trying to go with this, let us know, Dr. Lesser.

A. I'm going to ask a clarifying question. Mr. Conway, in part of your question are you

inferring a change in the proposal that AEP would be offering?

Q. Not at this point, no. You would have a result where the company's proposals are adopted, or at least that you would not object to their adoption, you would withdraw your criticisms or you would, at least, would not pursue them, and in return for doing that, withdrawing your objections, acquiescing in the company's proposals, you and your client would get a sufficient amount of benefits that would cause you to, in the balance, decide that it was a reasonable thing to do for you and your client.

MR. DARR: Same objection, your Honor.

MR. CONWAY: Just to point out, it sounded like he was about to --

EXAMINER PARROT: Yes, I can tell that, Mr. Conway.

I still think it's a little vague myself, Dr. Lesser, but if you think can you answer, go ahead.

THE WITNESS: Well, I'll try, your Honor.

A. First off, when you talk about the benefits to the client, if AEP promised benefits to the client that the client decided that they would withdraw my testimony, et cetera, that's their right.

Obviously, it has nothing to do with me. So your question really almost would be directed at the Industrial Energy Users rather than me.

In terms of do I -- would I withdraw my objections to the current proposal as set forth in this proceeding by AEP and essentially would back off my objections, given that if there were sufficient benefits, even though you haven't identified what those benefits are? My answer is no, because, in my view, the question, the proposal fundamentally and adversely would affect the wholesale market competition in PJM and retail market competition in Ohio, which I believe are policy goals at both the federal level and the state level.

Q. So I think what I heard you say, in part, is that you could envision that your client who's sponsoring your testimony here could back off, withdraw its objections based on your testimony if there were sufficient benefits to cause them to believe that it was a reasonable result for them?

MR. MENDOZA: Objection, mischaracterizes the witness's answer.

MR. DARR: And, additionally, A, it's not relevant what IEU would do or not do; second, there are no settlement conditions that are reviewed here,

nor would it be proper to review them in this context. The question is completely off base here, your Honor.

MR. CONWAY: I'm not asking the witness to propose a settlement to IEU's position or compromise for his principles. I'm simply testing the hard and fastness of the principles that underlie his criticisms, both for him and for IEU.

MR. DARR: And in that regard, then, your Honor, the questions have been asked and answered by counsel.

EXAMINER PARROT: I'm going to ask you to rephrase Mr. Conway, if we can avoid trying to recharacterize his response.

Q. (By Mr. Conway) Do I take your response to indicate that the principles which underlie your concerns are not so fundamental that they cannot be compromised?

MR. DARR: Objection.

A. I believe you --

EXAMINER PARROT: Hang on.

MR. DARR: Hang on, Dr. Lesser.

EXAMINER PARROT: Rephrase.

Q. Was there a problem with the question, Dr. Lesser?

EXAMINER PARROT: Mr. Conway, I asked you to rephrase it, please.

MR. DARR: Thank you, your Honor.

Q. So does your prior testimony indicate that your concerns that you have articulated in your testimony could be compromised and withdrawn under the appropriate -- in return for the appropriate package of other benefits?

MR. DARR: Objection, your Honor, relevance.

EXAMINER PARROT: Overruled.

A. Counselor, your question is again extremely vague. My testimony here today is at the behest and on behalf of IEU Ohio. If IEU Ohio decides at this moment to withdraw my testimony because of some promise that has been provided to AEP -- by AEP Ohio to the clients, the industrial customers themselves, as far as I know, that's their right.

I'm not aware of that. Mr. Darr has not asked me to fold up my tent and leave the room, and I'm not aware -- you're posing a hypothetical, hypothetical benefits of which I don't believe exist under the current proposal that AEP has put forward in this proceeding. So I simply don't -- your

question to me is irrelevant because you're asking me about something that IEU would do and has control over but I don't.

And you're asking me would I compromise my principles over a hypothetical. The answer is no.

Q. Well, let me attack it from a different direction, Dr. Lesser. Are you aware that the FirstEnergy utilities have a proceeding pending before the Commission in which they've made a similar proposal to the proposal AEP has made in this case?

MR. DARR: Objection, your Honor. Now we're really going far afield.

MR. CONWAY: Your Honor, I think I'm still doing exactly the same thing, which is testing the hard and fastness of his positions that he has presented and IEU has sponsored.

MR. DARR: And the relevance of the FE proceeding, which is presenting a different proposal over a different light in a context of a full-blown ESP case, can have absolutely no relevance to the testimony that's presented here on a different proposal contained in AEP's case.

MR. CONWAY: Your Honor, if I might respond. Everybody in this room knows the proposals are very similar, and everyone knows that the

witnesses in this case were, in large part, the same witnesses from the intervenor's side that have testified in the FirstEnergy case, and everybody knows that there's been regular use of statements made in one case to present positions through cross-examination in the other case. So there is relevance. They're very similar, and the positions being taken in the other case by the intervenors are very similar to not only this intervenor, but by other intervenors are very similar.

MR. DARR: I think Mr. Conway has just made my point.

MR. CONWAY: No, that's the point I'm getting to, your Honor, so I think I'm allowed to test the credibility and the weight of his criticisms. That's what I'm doing.

EXAMINER PARROT: I'm going to overrule the objection with respect to this question that's pending and see where it goes from there.

MR. CONWAY: Thank you.

EXAMINER PARROT: You need to reread.

(Record read.)

A. I'm aware that there was a FirstEnergy proceeding. I was not a participant in that proceeding. I have not reviewed any of the materials

in that proceeding. I do not know what FirstEnergy is requesting. I do not know what the intervenors' positions are in that case. I have no opinion on that case. As I told you in my deposition, I simply know nothing about it and, therefore, can offer no opinion on that proceeding whatsoever.

MR. CONWAY: Just a moment, your Honor.

Q. (By Mr. Conway) And, Dr. Lesser, your ignorance of what the particulars are and the issues in the FirstEnergy case and the nature of the FirstEnergy utilities' proposals, is that ignorance the result of instruction from your counsel not to become familiar with it?

MR. DARR: Objection, your Honor.

MR. CONWAY: He's testifying here today, your Honor, as an outside expert. It's perfectly acceptable to ask him what the basis of his engagement is here and what the limitations of it that were imposed by or agreed to with his counsel.

MR. DARR: Both irrelevant, and it also relates to preparation for this matter, your Honor.

EXAMINER PARROT: Sustained.

MR. DARR: Thank you, your Honor.

MR. CONWAY: No further questions, your Honor.

EXAMINER PARROT: Mr. Margard?

MR. MARGARD: No questions, thank you, your Honor.

EXAMINER PARROT: Any redirect?

MR. DARR: If I could have just a moment, your Honor.

EXAMINER PARROT: You may.

(Discussion off the record.)

EXAMINER PARROT: Any redirect?

MR. DARR: No redirect, your Honor.

EXAMINER PARROT: Thank you, Dr. Lesser.

THE WITNESS: Thank you.

EXAMINER PARROT: Mr. Darr, you may move your exhibit.

MR. DARR: Thank you, your Honor, IEU Ohio moves the admission of IEU Exhibit 1.

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

MR. CONWAY: No, your Honor.

EXAMINER PARROT: Hearing none, it is admitted.

(EXHIBIT ADMITTED INTO EVIDENCE.)

EXAMINER SEE: Mr. Margard?

MR. MARGARD: Thank you, your Honor. Staff would call Dr. Hisham Choueiki.

(Witness sworn.)

EXAMINER SEE: Mr. Margard?

MR. MARGARD: Thank you, your Honor. Your Honor, I'd ask that the prefiled testimony of Dr. Choueiki filed in this case on October 9, 2015, be marked as Staff Exhibit 1 for purposes of identification.

EXAMINER SEE: So marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

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HISHAM M. CHOUEIKI, Ph.D., P.E.

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

DIRECT EXAMINATION

By Mr. Margard:

Q. Thank you. Dr. Choueiki, do you have before you what's been marked as Staff Exhibit No. 1?

A. Yes.

Q. And this is your prefiled direct testimony in this case; is that correct?

A. Yes.

Q. And was this testimony prepared by you?

A. Yes.

Q. Do you have any changes, corrections, or modifications to make to the testimony as filed?

A. No.

Q. If I were to ask you the questions contained in it, would your responses be the same?

A. Yes.

MR. MARGARD: Your Honors, I respectfully move for admission of Staff Exhibit No. 1, subject to cross-examination, and I tender Dr. Choueiki for that purpose.

EXAMINER SEE: Any cross-examination for this witness, Ms. Fleisher?

MS. FLEISHER: None, your Honor.

EXAMINER SEE: Ms. Mooney?

MS. MOONEY: No, your Honor.

EXAMINER SEE: Mr. O'Brien?

MR. O'BRIEN: No, your Honor.

EXAMINER SEE: Mr. Dougherty?

MR. DOUGHERTY: No questions.

EXAMINER SEE: Ms. Petrucci?

MS. PETRUCCI: No questions.

EXAMINER SEE: Mr. Mendoza?

MR. MENDOZA: No questions, your Honor.

EXAMINER SEE: Ms. Bojko?

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

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CROSS-EXAMINATION

By Ms. Bojko:

Q. Good morning, Dr. Choueiki.

A. Good morning.

Q. Could we turn to page 10 of your prefiled testimony that's been marked as Staff Exhibit 1, please. On page 10, line 13, you mention the previous Ohio Power proceeding. Do you see that?

A. Yes.

Q. And did you provide testimony on behalf of staff in that proceeding?

A. Yes.

Q. In the AEP ESP III proceeding -- do you know what I mean when I say "AEP ESP III"?

A. Yes.

Q. In the AEP ESP III proceeding, did you oppose the establishment of the PPA rider in that case?

MR. MARGARD: Objection, your Honor. Dr. Choueiki is testifying on behalf of staff. If counsel is requesting whether staff opposed and would rephrase her question in that manner, I would withdraw my objection.

MS. BOJKO: My apologies, I meant to say "staff." I'll rephrase.

EXAMINER SEE: Thank you.

Q. (By Ms. Bojko) Dr. Choueiki, did staff oppose the establishment of the PPA rider in the AEP ESP III case?

A. Yes.

Q. And has staff's testimony and position changed in the proceeding before the Commission today?

A. We still say no. We recommend to the Commission to deny the expanded PPA rider. However, the only difference is the Commission spoke after we opposed -- after staff opposed the PPA rider in both AEP's ESP and Duke's ESP, and they found that the PPA may be in the public interest. So we continue to oppose it unless the Commission finds it's in the public interest.

Q. So your testimony is that staff's position has changed in light of the Commission's decision; is that correct?

A. That is correct. The Commission implements policy, energy policy, and we go there with them.

Q. And the change in your testimony would be that you're proposing alternative recommendations in this case; is that correct?

A. So their recommendation is to deny the expanded PPA. If the Commission disagrees with us, with staff, then here's the alternative based on the necessary conditions that they set in both the AEP and Duke ESP orders.

Q. And on page 11, line 11, of your testimony, you state that the Commission identified a set of conditions that "were necessary but not sufficient." What did you mean by "necessary but not sufficient"?

A. So the Commission articulated a set of conditions; however, the Commission stated that they are not bound by these conditions, so to the extent the company -- and by the company, I mean Ohio Power in this case -- the company satisfies all necessary conditions, the Commission may still say no.

Q. Could you turn to page 3, line -- I'm sorry, page 13, line 3. On line 3 you state that "if properly conceived," the PPA rider "may be in the public interest." Do you see that?

A. Yes.

Q. Staff does not set forth in this testimony what that public interest standard is, do they?

A. No. The Commission decides what's in the

public interest.

Q. So staff doesn't have an opinion on what is or what is not in the public interest?

A. That is correct. We have no opinion.

Q. Now, let's turn to your alternative recommendations on page 17. Here you list staff's alternatives. Are these alternative recommendations regarding the PPA units which are the units owned by AEP Generation in the proposed case, or are they related to OVEC, or are they related to both?

A. I define the expanded PPA at the beginning of my testimony to include two -- the expanded PPA rider to include two purchase power agreements; one between the company and OVEC, the other between the company and AEP Generation Resources. So that's both. Everything is included.

Q. Thank you for that clarification. So all the alternative recommendations are for OVEC and the AEP Generation PPA affiliate unit?

A. Yes.

Q. And are these conditions set forth in your alternative recommendations sufficient for the Commission to approve the expanded PPA rider if they satisfy all of these conditions?

A. No. Again, those are the necessary

conditions that were articulated by the Commission. To the extent the Commission has others, other conditions they'd like to be met, they're not here. That's why -- that doesn't mean if the Commission agrees -- if the company agrees to all these necessary conditions, that still doesn't mean that the Commission will agree.

Q. So this list that you provide isn't necessarily an exhaustive list of alternatives that may be available or that the Commission should consider.

A. It is not.

Q. Let's look at the first alternative. Your first alternative is to limit the PPA to three years; is that correct?

A. To the term of the ESP.

Q. Which is scheduled to be three years; is that your understanding?

A. Less than three years from now, right, because they already are in the ESP.

Q. Good point. Fair enough. Thank you.

If the Commission allows the PPA rider for the term of the ESP III, would that represent a move away from a fully competitive generation market?

A. So staff's opinion is as follows: We

have a fully functional competitive market whereby consumers in AEP Ohio's service territory either shop or not shop, and about 70 percent or more of the megawatt hours are being shopped. So the others are being procured via competitive offer.

So in this case AEP Ohio, the wires company, and it is a wires company now, is basically providing distribution service. Any way to bring back generation into the mix is a move in the opposite direction.

Q. And isn't it true that in the Commission order in the AEP ESP III case the Commission found that there was likely no benefit in the first three years of the rider and that only over a longer timeframe could, perhaps, there be benefits to customers?

MR. NOURSE: Your Honor, it's getting awfully friendly. These are -- there's a lot of softballs. I understand clarifications, but this is definitely friendly.

MS. BOJKO: Your Honor, may I be heard?

EXAMINER SEE: Go ahead.

MS. BOJKO: This is in no way friendly cross. OMAEG does not support the establishment of a PPA rider, doesn't support populating that rider, and

it doesn't support any alternatives. I'm testing his alternatives right now. I'm focusing on the alternatives for that very reason, and I think that the Commission's order was actually adverse to his first alternative, and that's what the question was about.

EXAMINER SEE: I'm going to overrule the objection. I'll allow the question.

THE WITNESS: Can I hear the question?

EXAMINER SEE: Yes.

(Record read.)

A. I can't recall exactly the language in the order, but if they did say that, then they said that. I'm not going to say no, they didn't say it. But to the extent they said it, they said it.

Q. Let's look at your second alternative. Is it staff's understanding that under rider RRS as proposed, that expenses passed through to customers can only be challenged at FERC?

EXAMINER SEE: Ms. Bojko, please reconsider your question.

MS. BOJKO: Oh, I'll withdraw that question.

EXAMINER SEE: Thank you.

Q. Turning to your second alternative, is it

your understanding that under rider PPA as proposed, that expenses passed through to customers could only be challenged at FERC?

A. So to the extent the Commission in Ohio disagrees on an expense item, then my understanding is that the Commission to the extent we want to challenge that, because the AEP Generation Resources is still going to bill AEP Ohio, so if we want to challenge that item, the Commission here would have to go to FERC.

Q. And under your proposed rigorous review, would the Commission review the behavior of AEP and AEP Generation in the marketplace?

A. I'm sorry, clarify for me a bit. I don't get the question. Behavior? What behavior?

Q. Well, under -- you say, "rigorous review of expanded PPA rider," my question is would the Commission or staff review the behavior of AEP or AEP Generation in the marketplace, such as bidding strategies?

A. Oh, bidding behavior, yes. Definitely we would want to review the bidding behavior of AEP, the general resources that are in the PPA, and the ones that are not in the PPA, that are owned by AEP Generation Resources.

Q. And would you review AEP Ohio's bidding behavior?

A. Well, AEP Ohio, would be responsible for the units that are in the PPA. But AEP Generation Resources would be responsible for bidding the units that are not in the PPA. And that's why we have in the condition AEP Ohio and AEP Generation Resource, the two parties to the wholesale contract, would have to agree before they file it at FERC.

Q. And your next alternative, your third alternative, you were recommending that the Commission look beyond the PPA units and OVEC and look at the entire fleet, which is what I believe you just referenced.

A. Right.

Q. Why are you looking at the -- why is your recommendation to look at the entire fleet?

A. Again, to look at the -- want to make sure that the units that are in the PPA are not being disadvantaged over other units that are not in the PPA.

Q. And your last bullet, your fourth recommendation is a sharing mechanism of the risk associated. Does the staff's alternative methodology eliminate the risk to customers under this scenario?

A. No. So here's the situation right now. The risk the company claims is on AEP Ohio to the extent the Commission disallows an expense, AEP Generation Resource will have to bill AEP Ohio and AEP Ohio will have to pay; however, they won't be able to charge consumers.

If AEP Ohio is revenue neutral, and that's what they claim to the situation, then they ought to be risk neutral. That means the risk to AEP Ohio, whether there is a PPA or not, should be exactly the same.

Q. But your alternative doesn't eliminate that risk; isn't that true?

A. Well, our alternative, staff's alternative, would be to -- the risk would be between AEP Generation Resources and consumers, and the Commission with these conditions will manage the consumers' part of the risk and AEP Generation Resources would manage its risk. In the middle AEP Ohio would have no risk at all.

Q. And my question wasn't clear. The risk that you talk about, the managing risk for the AEP customers, that isn't eliminated. There's still a risk to manage; isn't that correct?

A. Oh, yes, there will be a risk,

definitely.

Q. And if we look at your second, third, and fourth alternatives, you reference AEP Generation in those three alternatives. Do you see that?

A. So the full information sharing, the sharing mechanism, and the rigorous review?

Q. Correct.

A. Correct, because AEP Generation has to agree to these recommendations before the official contract is signed.

Q. So in your regulatory opinion, do you believe that the Commission has existing authority to order AEP Generation to accept audit findings which is in your second alternatives?

A. The Commission isn't ordering anything. AEP Generation Resources, upfront on its own, is accepting to share information.

Q. And would your response be the same with regard to your third and fourth alternatives?

A. Correct.

Q. Okay.

A. So this is a wholesale contract. It's not under our jurisdiction. So the two parties to the contract would have to accept it.

Q. I think you just said it's not under

the -- AEP Generation isn't under the Commission's current jurisdiction; isn't that correct?

A. That is correct.

Q. So you believe that AEP Generation would have to accept these conditions through a modification to the purchase power agreement in order to even implement your alternative recommendation?

A. They would have to be conditions in the contract between AEP Ohio and AEP Generation Resources.

Q. So do you believe that --

A. So the Commission in Ohio is not ordering that contract. That contract is under FERC jurisdiction. The two parties in the contract, before they file at FERC, they would agree to conditions, like any other contract.

Q. And with that agreement, you do not believe that AEP Generation would have to agree to subject itself to Commission jurisdiction?

A. No.

Q. And, Dr. Choueiki, you're not providing a legal opinion on whether these three alternatives are legally possible, are you?

A. That is correct, I am not.

MS. BOJKO: Thank you. That's all I

have. Thank you, Dr. Choueiki.

EXAMINER SEE: Mr. Michael?

MR. MICHAEL: Yes, your Honor. Thank you.

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CROSS-EXAMINATION

By Mr. Michael:

Q. Dr. Choueiki, how are you?

A. Pretty good, thank you.

Q. My name is William Michael. I'm a consumers' counsel in the Office of Ohio Consumers' Counsel. I do have a couple questions for you.

First, I'd like to, if I can, follow up on some questions that Ms. Bojko asked you. If I understood correctly, you indicated that as a result of the ESP order, the Commission stated that a PPA rider could be in the public interest, correct?

A. Yes.

Q. But, nonetheless, staff in this proceeding still opposes the PPA rider as proposed by AEP Ohio; is that correct?

A. I'm sorry, there was -- someone sneezed. You're asking if staff is still opposed?

Q. Yes. Notwithstanding the Commission's finding in ESP III that a PPA rider could be in the

public interest, in this proceeding staff, nonetheless, still opposes the PPA rider as proposed, correct?

A. Yes.

MR. NOURSE: Your Honor, I object. It is already obvious he's trying to get him to repeat his arguments that support OCC's position.

MR. MICHAEL: Your Honor, it wasn't obvious to me. The question I asked was not asked by Ms. Bojko, and I just want to be clear because I'm not, based on sort of the half loaf that was presented. I think the Commission deserves the full loaf.

MR. NOURSE: He already stated in his testimony and in response to Ms. Bojko's testimony -- Ms. Bojko's questions.

MR. MICHAEL: We're happy to have her testify if you'd like, Steve.

MR. NOURSE: I would like that.

EXAMINER SEE: Okay, move on, Mr. Michael.

MR. MICHAEL: Thank you, your Honor.

Q. (By Mr. Michael) Another question I wanted to follow up on, Dr. Choueiki, if I could, from Ms. Bojko, was the conversation you had with her

regarding the degree to which the proposal was or was not a move away from moving towards a competitive market. You recall that conversation you had with Ms. Bojko?

A. Yes.

Q. And my recollection, Dr. Choueiki, is that you indicated that anything that brings generation into the mix is a move away; is that correct?

A. Yes.

Q. And does the PPA rider bring generation into the mix, as you described it in your response to Ms. Bojko?

A. Yes.

Q. I also wanted to follow up, Dr. Choueiki, if I could, regarding your conversation with Ms. Bojko on the suggested agreement between AEP Ohio and AEPGR in the PPA. Do you recall that discussion you had with Ms. Bojko?

A. Yes.

Q. Is it your understanding, Dr. Choueiki, that to the degree AEP Ohio and AEPGR did enter into such an agreement that the PUCO could enforce that agreement?

A. No.

Q. In other words, the PUCO could not enforce that agreement, correct?

A. No. To the extent there is something we disagree with after the agreement goes into effect, then the Commission has to go to FERC, and the further approval would be on the Commission.

Q. Thank you, Dr. Choueiki. If I could draw your attention, Dr. Choueiki, to the page 18 of your testimony.

A. Okay.

Q. And I do apologize, Dr. Choueiki, I think my last round of questions already addressed what I was going to ask you regarding page 18 so I'm actually going to move on.

Draw your attention to page 6, please -- I apologize for that -- specifically lines 9 and 10.

A. Okay.

Q. You assert on those lines, Dr. Choueiki, that AEP Ohio will sell all output from the PPA units and the OVEC generation on the PJM markets, correct?

A. Yes.

Q. Is it your understanding, Dr. Choueiki, that not all of the AEPGR generation plants are included in the PPA proposal?

A. That is correct, only the ones that

they're asking for.

Q. And is it your understanding, Dr. Choueiki, that PJM has a must-offer requirement?

A. They do for units that have cleared the capacity market. So units that have committed to the capacity market, they have a must-offer requirement in the energy market.

Now, in the capacity market they also have a must-offer requirement to the extent there is no bilateral contract with someone else or that power plant is a fixed resource requirement plant.

Q. Thank you.

Are the PPA units under a must-offer requirement in the capacity market?

A. I'm not sure I can say. I don't know if this is public information or not.

MR. NOURSE: Are you asking are all of them or are you asking about any individual?

MR. MICHAEL: I'll start with are all of them first.

THE WITNESS: Should I be involved in that discussion?

EXAMINER SEE: If you feel you need to ask this question and you need to close the hearing room and handle it in a confidential portion, fine.

MR. MICHAEL: Not in public?

EXAMINER SEE: Definitely.

MR. NOURSE: Your Honor, I don't think this is for the public record to get into.

MR. MICHAEL: That's fine, your Honor.

MR. NOURSE: The auction results.

MR. MICHAEL: That's fine, your Honor. I'll move on, your Honor.

Dr. Choueiki, if generation that is under a must-offer requirement has costs above the PJM clearing price, they do not have to participate in the PJM capacity market, correct?

A. I'm sorry, there's something wrong with your question.

Q. Certainly. Which part? I'll rephrase.

Is it your understanding, Dr. Choueiki, that the independent market monitor creates a demand curve ahead of the capacity auctions?

A. PJM is the one that creates the demand curve.

Q. PJM creates the demand curve ahead of the capacity auction, correct?

A. Correct.

Q. And if a generating unit's cost is above what ultimately is the clearing price, that

generating unit does not have to clear on the PJM market, correct?

A. They can offer zero if they want. They don't know what the market clearing price is going to be until the market clears.

Q. Correct.

A. So they offer a price. If the price turns out to be lower than the market clearing price, then they're in. If their offer price is higher than what ends up being the clearing price, then they're not, but they must offer.

Q. They must offer. But if they are a must-offer and the must-offer generator's costs are greater than the clearing price, they're not required to participate in the clearing capacity?

A. I think we're speaking past each other. If they have to offer, let's say their cost is $300, okay? $300 a megawatt-day. They offer at zero. The clearing price is 150. Then that means they cleared because they offered at zero, and the clearing price was 150.

Now, if they offered at 300 and the market clearing price is 150, then they didn't clear. So then they're not in the capacity market and they don't have the must-offer requirement in the energy

market because they didn't clear. They didn't commit in the capacity market.

Q. And, Dr. Choueiki, I appreciate your assistance on this. And let me ask another question to clarify for myself your testimony.

Let's assume that an offer is made at 300 as you suggested, okay? And let's further assume that a bid is made at zero by that generator at the cost of 300. Okay?

A. They offered at 300?

Q. No, I apologize. Their cost is 300, they offer at zero and the clearing price is 150.

A. Okay.

Q. Can the generators still come in and show that its costs is above the clearing price and therefore not participate?

A. No.

Q. Okay.

A. They can't do that. Once they clear, that means they're in.

Q. Dr. Choueiki, I'd like to turn your attention to your alternative proposal, and we'll just start on page 17, please. Under your alternative proposal, Dr. Choueiki, could the PPA rider be used as a venue for other unregulated

generation to be contracted and paid for by AEP Ohio distribution customers without being competitively bid?

A. You say "other generators." Other besides the ones in it proposed?

Q. Correct, yes, sir.

A. What I heard yesterday from the CEO is that they won't, they won't add more, from the CEO of AEP. They won't add more units into the PPA rider.

Q. Right.

A. I don't know what the company intends to do in the future.

Q. Okay.

A. The Commission would have to basically say to the extent they agree to the PPA, they'll define what the conditions are, what's in, what's out, what can come in, what can't come in.

Q. And in your questions with Ms. Bojko, Dr. Choueiki, you confirm that you had filed testimony in AEP Ohio's ESP III case, correct?

A. On behalf of staff, yes.

MR. MICHAEL: May we approach, your Honor?

EXAMINER SEE: Yes.

MR. MICHAEL: We'd like to have what has

been handed to Dr. Choueiki, your Honor, marked as OCC Exhibit 20, if we could, please.

EXAMINER SEE: So marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

Q. Dr. Choueiki, can you please identify what has been marked as OCC Exhibit No. 20?

A. That's my prefiled testimony in Case No. 13-2385-EL-SSO.

Q. Thank you. And, Dr. Choueiki, if I could please request that you turn to page 12 of that direct testimony, and specifically the first full paragraph on that page, Dr. Choueiki. You state there that "Staff is concerned that AEP Ohio may use this rider as a venue for other unregulated generation to be contracted and paid for by AEP Ohio distribution customers without it being competitively bid."

Did I read that correctly?

A. Yes.

Q. Does staff have that same concern under your alternative proposal?

MR. NOURSE: Your Honor, I object. It's friendly cross.

MR. KURTZ: Your Honor, can I be heard on this issue? Because if the shoe were on the other

foot, I would support Mr. Nourse, but I support OCC here, and that's the nature of staff's testimony, is they oppose the PPA conceptually, but then they provide alternatives which may make it acceptable. So, in a sense, staff is both hostile and friendly to any party here, and so I think with that has to be factored in in your evidentiary rulings.

MR. NOURSE: And, your Honor, I certainly have not objected to 99 percent of the questions that have happened so far, but in this particular case, he's trying to get this witness to make statements that are -- that he didn't make in his testimony here that favor OCC.

MR. MICHAEL: And, your Honor, if I may interject, I had asked Dr. Choueiki the question about this concept, and I didn't know if the question was unclear or if Dr. Choueiki didn't understand it, so what I'm trying to do is refresh his recollection in what Dr. Choueiki said in Case No. 13-2385 and see if we can't ask some questions about that.

And, your Honor, I would just supplement my remarks to the extent staff has changed their testimony, OCC believes that it's appropriate for questioning Dr. Choueiki to determine to what extent and if it's based on a Commission order or if it's

based on some other factor.

EXAMINER SEE: I'm going to grant the objection.

You can try again, Mr. Michael.

Q. (By Mr. Michael) Dr. Choueiki, it's true that in the ESP III case staff was concerned that AEP Ohio may use the PPA rider that was proposed there as a venue for other unregulated generation to be contracted and paid for by AEP Ohio distribution customers without it being competitively bid, right?

MR. NOURSE: Objection. Same objection, your Honor.

MR. MICHAEL: That's a foundation, your Honor, for the next question, which is has staff changed their position in this matter.

EXAMINER SEE: I'm going to allow the question. You can answer it, Dr. Choueiki.

A. So in the first ESP the company asked only for its entitlement into OVEC with the possibility of expanding the PPA rider to include other generation. So staff recommended no, and to the extent the Commission wanted to grant the PPA, we recommended that they limit it to the OVEC entitlement. That means not add any more into the rider.

Now, the Commission then issued an order saying the PPA may be in the public interest. In this testimony and the new testimony, the one in the rider case staff said no, too, so we haven't changed our position. We said no to a smaller PPA. Now we're saying no to a bigger PPA.

However, the Commission again -- we recognize the Commission has spoken and issued two orders, and that's why we have an alternative recommendation of putting conditions around that rider.

Q. And, Dr. Choueiki, if I might, I believe you stated in that response that staff has not changed its position, but I want to -- when you said that, did you mean that staff did not change its position on this concern?

A. No, staff did not change its position on the concept of a PPA, that we believe we are in a competitive market. It's a fully functionally competitive market in Ohio, a generation service, so there is no need for anything else on the generation side.

Q. Thank you, Dr. Choueiki. In my line of work, sometimes I try to be precise, so I want to focus your attention on this particular concern

stated on page 12 of what we marked as OCC Exhibit 2, if I might. And I just --

EXAMINER SEE: OCC Exhibit 2?

MR. MICHAEL: I apologize, your Honor.

Q. OCC Exhibit 20. And I just want to ask, Dr. Choueiki, when you indicated that staff had not changed its position, I would like to ask you, if I can, did staff not change its position regarding this particular concern? Stated another way, does staff still have this concern in the PPA proposal made by AEP Ohio in Case No. 14-1693?

MR. NOURSE: Objection, your Honor.

EXAMINER SEE: Basis?

MR. NOURSE: As stated at the beginning of this line of questioning, he's trying to get this witness to come up with a new recommendation, new concern that's not in his testimony. It's friendly cross.

MR. DARR: It's not friendly cross at all, your Honor. By the very argument that Mr. Nourse made, he's indicating that the witness is being asked to take a position contrary or to develop a position contrary to the position he's stated in his testimony.

MR. NOURSE: It's not contrary because he

said there could be other concerns and the Commission could add as many things to the list as they want to.

MR. DARR: And we all have the right to explore what those other conditions are and how they may affect the proposal, your Honor.

MR. MICHAEL: And further, your Honor, it's really -- Dr. Choueiki was very clear in stating that staff still opposes. In connection with my question about this particular aspect of his previous testimony, I'm simply wanting to confirm whether or not that opposition and the fact that staff hasn't changed its position applies to that particular concern.

EXAMINER SEE: I'm going to allow the witness to answer the question, but be a little more pointed in your question.

MR. MICHAEL: Thank you, your Honor.

EXAMINER SEE: Do you need it reread, Dr. Choueiki?

THE WITNESS: No. I still remember it.

A. So in the ESP order, in the ESP case, AEP asked for the PPA to be expanded to something else. That's why we had that concern, so we raised it.

In this one, in this rider application, the set is defined, the OVEC entitlement plus all the

other things and nothing more. So I didn't -- the staff did not have an additional concern of what if they had more because it's closed now. They say what is in the PPA rider. It's the OVEC entitlement plus these units, and that's it. They didn't leave room, a door open for more if they wanted to add more.

Q. So it's your understanding then, Dr. Choueiki, that -- I apologize. It's staff understanding that AEP Ohio has committed not to trying to include any other of its generation assets in the PPA rider?

A. Yes.

Q. Were AEP Ohio to attempt to get additional generation units in the PPA rider, would this concern then be one that staff would raise in connection with that effort by AEP Ohio?

MR. NOURSE: Objection. It's not relevant, calls for speculation, incomplete hypothetical.

MR. MICHAEL: Well, your Honor, I'm not quite aware that AEP Ohio has committed definitively to saying they wouldn't attempt to include any other generation resources in the PPA rider, so to the degree that Dr. Choueiki and staff are under a different impression, I think it's fair for OCC to

inquire, based on what it believes to be the facts, whether or not staff would raise that same concern were AEP Ohio to try and get additional generation in the PPA rider.

EXAMINER SEE: And I'll allow Witness Choueiki to answer the question. The objection is overruled.

A. So staff's understanding is that there is no more units that can enter the PPA rider. Now you're asking should I -- what do I think would be staff's position?

Q. Let me rephrase, if I could, Dr. Choueiki. Were AEP Ohio to attempt to get additional unregulated generation in the PPA rider, would the concern expressed by staff on page 12 be one that you would then have in connection with that new generation?

A. So if AEP's application included a statement like it was previously in the ESP case where they're saying currently the PPA rider we're requesting includes two contracts, one OVEC and company, one company and AEP Generation Resources, plus we may want more, then we would have had the same concern.

Q. If I could please direct your attention,

Dr. Choueiki, to page 13 of what was previously marked OCC Exhibit 20, specifically lines 11 through 14.

A. Yes.

Q. Thank you. It states there, "Staff is concerned that the AEP regulated business unit that bids the OVEC generating stations into the PJM capacity, energy, and ancillary services markets may use different strategies than those used by its affiliate, AEP GenCo." Did I read that correctly?

A. Yes.

Q. Does staff have that concern in connection with the present proposal being made by AEP Ohio?

MR. NOURSE: Objection.

EXAMINER SEE: Basis?

MR. NOURSE: Same.

EXAMINER SEE: The objection is overruled.

A. Yes, we have that objection -- that concern, and that's why it is, actually, we're asking for maximum information, not only from units that are in the PPA, but all the AEP Generation Resource units to mitigate that concern.

Q. And just to clarify, Dr. Choueiki, that

concern that I reference in OCC Exhibit No. 20 was specific to OVEC. To clarify, does staff have that same concern with respect to the other PPA units?

A. So the concern that in the alternative recommendation in this case that we're here today for, we have that same concern and it addresses all the units, not only the OVEC units, all units that are in the PPA and outside the PPA.

Q. Dr. Choueiki, under staff's alternative proposal, the reliability of the transmission system would still be under the auspices of PJM, correct?

A. That is correct.

Q. Dr. Choueiki, do you agree that about 70 percent of Ohio's electric generation resource mixes coal?

A. If we're talking nameplate capacity versus generation, so there's capacity and there is energy, nameplate capacity, it's more like coal is about 55 percent. But energy -- I'm just discussing 2014, the latest data we have for a full year.

Q. Correct.

A. For energy it's about in the high 60s.

Q. Dr. Choueiki, would you agree that about 17 percent of Ohio's electric generation resource mix is natural gas?

A. 17 percent?

Q. Yes, sir.

A. Again, energy, it's probably 17 or 18 percent; not nameplate. So there's megawatts and megawatt-hours. In megawatt-hours, 2014 probably was in the high teens, 17, 18 percent.

Q. And, Dr. Choueiki, would you agree that about 12 percent of Ohio's electric generation resource mix of energy is nuclear?

A. You said 12 percent?

Q. Yes, sir, I did.

A. It's in the teens too. I don't remember what the number is. I can't recall.

Q. Dr. Choueiki, in connection with your conversation with Ms. Bojko, you acknowledged that even under your alternative proposal, customers would still bear some risk under the alternative PPA rider, correct?

A. So to the extent the Commission agrees to the conditions and approves the PPA, some risk will be on consumers, but to the extent the Commission has defined the public interest and it includes a little bit of risk, that means there are other benefits to consumers that the Commission found.

Q. And that notwithstanding, any financial

risk associated with generation that's borne by customers is inconsistent with the fully competitive generation market, correct?

A. Customers take risk. There are shopping customers that are month to month. They're taking risk. The risk is on them, but they choose to take that risk. Other customers may do fixed contracts, sign a fixed contract for 12 months or 24 months. But in the construct before us, the PPA construct, there is a risk because costs to the company may increase.

Q. And unlike your previous statement where the shoppers choose to assume the risk, under the construct put forward by AEP Ohio, customers would be forced to accept that risk, correct?

MR. NOURSE: Your Honor, I object. I mean, this is -- OCC had their own witnesses. If they wanted to make these points, they don't need to use Dr. Choueiki as a conduit to make all these additional points that don't relate to his testimony, clarifying his recommendations, and I think it's inappropriate.

MR. MICHAEL: I withdraw the question, your Honor.

EXAMINER SEE: Thank you.

Q. (By Mr. Michael) Under your alternative proposal, Dr. Choueiki, in the testimony you filed in this case, unlike the shopping customers that choose to take on generation risk, the alternative proposal, if adopted, would force customers to assume generation-related financial risk, correct?

A. So if we were to go there, that means the Commission found that it's in the public interest to have that rider, then, yes, it is correct that all customers will be paying for that hedge. But overall the Commission found -- must have found that it's in the public interest.

Q. But the customers under your alternative proposal would be assuming generation-related financial risk irrespective of whether they wanted to or not, correct?

A. It's a nonbypassable charge so everyone is paying for it.

Q. So all of them would be assuming generation-related financial risk irrespective of whether or not they wanted to.

A. There would be some risk involved, yes.

Q. Thank you, Dr. Choueiki. Dr. Choueiki, does staff believe that the alternative proposal in your direct testimony would subsidize generation?

A. Yes.

Q. And, Dr. Choueiki, it's accurate that under your alternative proposal it is unknown whether the PPA rider is going to be either a debit or a credit to customers, correct?

A. That is correct. Because it's all in the future, no one knows.

Q. So staff, obviously, then can't guarantee that the PPA rider will be a net financial benefit to customers, right?

A. If it's just on a financial basis, yes, no one knows.

Q. Dr. Choueiki, are you familiar with the Lakeshore Unit No. 18 up in northeastern Ohio?

A. How familiar? Very familiar? I've seen -- I mean, I've looked at it online, and I know where it is but --

Q. Fair enough.

A. -- that's about it.

Q. What is it?

A. It's a power plant, and I don't even know if it's retired or not.

Q. Coal-fired plant?

A. I think it's coal-fired, yes.

Q. Is it scheduled to be retired, do you

know?

A. I don't remember.

Q. Are you familiar, Dr. Choueiki, with the Eastlake Units 1 through 3 plants up in northeastern Ohio?

MR. NOURSE: Object. Relevance.

MR. MICHAEL: Your Honor, what I am trying to establish is that relates to the reliability element that the Commission set forth in its ESP III order. These units are coal-fired units that are or will be shut down.

My follow-up points are going to be there is additional gas-fired generation coming online, or that is expected to come online, and, thus, there's going to be no net loss of megawatts available to Ohians.

MR. NOURSE: Again, your Honor, these go beyond his testimony. They don't relate to AEP Ohio units.

MR. MICHAEL: Your Honor, I don't recall that the Commission's ESP III order was limited only to AEP Ohio units as it relates to the reliability aspect that it wanted information on.

MR. DARR: I also believe, your Honor, that several witnesses on behalf of AEP Ohio placed

into contention whether or not Ohio will be a successful place for purposes of securing generation resources. I point to the witness testimony of Mr. Wittine, also the testimony I believe of Mr. Thomas, and also the testimony of Mr. Vegas.

MR. NOURSE: That's a different topic than these questions related to, your Honor.

MR. DARR: Not at all, your Honor. It all relates to whether or not Ohio is an area that will be subject to reliability concerns, and I would add Mr. Bradish raised questions about it, as well.

MR. NOURSE: Again, Mr. Williams indicated that might be a future topic but not his current topic.

MR. MICHAEL: I've got to lay a foundation, your Honor, and also I believe AEP Ohio's witnesses are taking the position that if G leaves Ohio, we're going to have to spend all this money on transmission because we're going to have to get it from other states.

And if your Honor will allow me based on the foundation to move forward, I think we'll be able to show there's plenty of generation coming to Ohio.

EXAMINER SEE: I think you need to move on, Mr. Michael.

MR. MICHAEL: Thank you, your Honor. If I might have a brief moment, your Honor.

EXAMINER SEE: Sure.

MR. MICHAEL: Thank you, Dr. Choueiki, for your time. I appreciate it very much.

No further questions, your Honor.

EXAMINER SEE: Mr. Darr?

MR. DARR: Yes, thank you, your Honor.

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CROSS-EXAMINATION

By Mr. Darr:

Q. I'd like to turn to your testimony at page 13, Dr. Choueiki.

A. Okay.

Q. At lines 11 through 16 you indicate that one of the reasons for rejecting the proposal presented by AEP Ohio in this case is that the company did not demonstrate a financial need, correct?

A. Correct.

Q. And the basis for that is that the underlying calculation of the PPA payments would be based on a 50/50 capital structure and 11.24 return on equity; is that correct?

A. Correct. That's what they presented to

us.

Q. Now, your conclusion you did not indicate factors other than the return on equity and 50/50 capital structure for your determination; is that correct?

A. That is correct. The determination was based on what are the revenues and what are the power plant expenditures, and they seem to be even lower without -- that means the power plants are able to pay their bills just from the revenues.

Q. So based on that, you reached the conclusion that there was not a demonstration of a financial need; is that correct?

A. That is correct.

Q. Now, are you familiar with any actions by AEP Ohio to incur accounting impairments for any of the PPA units that are at issue in this case?

A. No.

Q. Is it fair to say that the statement that you make at lines 11 through 16 would indicate that the price to be charged by AEPGR would be too high?

A. The 11.24 percent is too high to be awarded to unregulated assets under the Commission's jurisdiction.

Q. And you understand that even at that high

price, AEP Ohio still claims the plants would produce a profit rather than a cost to customers?

MR. NOURSE: Your Honor, I object. This is not only using pejorative terms, but it's trying to, again, expand and get the witness to elaborate on conclusions that he clearly made in his testimony with no clarification, no adverse challenging questions at all.

MR. DARR: I think it is adverse, your Honor, inasmuch as we have a recommendation here that even under these circumstances, this proposal could be modified in some way to make it adequate for Commission approval, and I should be allowed to explore that.

EXAMINER SEE: I'm going to overrule the objection. You can explore staff's position.

Answer the questions, Dr. Choueiki.

MR. DARR: Could we have the question read back, please?

(Record read.)

A. Yes, based on the energy forecast they are projecting profits.

Q. And does the staff see any reason to have ratepayers pay unrecovered costs when in the longer term AEP Ohio projects the plants will produce

revenues in total that are greater than the purchase price AEP Ohio would pay GR under the proposal?

MR. NOURSE: Objection, your Honor.

EXAMINER SEE: Grounds?

MR. NOURSE: Friendly cross.

MR. DARR: Not at all, your Honor, same question, same issue.

EXAMINER SEE: Objection is sustained.

Q. (By Mr. Darr) Now, you had limited your alternative proposal to three years; is that correct, or to the life of the ESP?

A. Staff position is, yes, the life of the ESP.

Q. And for practical purposes what we would be talking about is the remainder of, well, 2016, 2017, and five months of 2018, correct?

A. Yes.

Q. During that period has staff taken any position with regard to the probabilities that the rider will produce a credit or a charge to customers if the Commission approves AEP Ohio's proposal?

A. We have not for the following reason, because there are revenues, a lot of revenues, for the 5 percent high load, higher load, and there are costs for the 5 percent low load, and the difference

between these two, one of them is a charge of the $900 million; the other one is a credit of $2 billion.

So it's so volatile even -- and, you know, that's only for nine years. We're not sure what's going to happen in the future, so...

Q. My question was a little more specific than that. Has staff taken any position with regard to whether or not the rider would produce a credit or a charge over the remaining term of the current ESP of AEP Ohio?

A. And my answer is we have not because the rider value is different whether you assume a 5 percent lower load or a 5 percent higher load or the one in the middle. So the position was we don't know what's going to happen. So we did not do an analysis of what's going to happen, and that's why you don't see anything in my testimony.

Q. So staff is not taking a position one way or the other with regard to the credibility or reliance that the Commission should place on AEP's forecast contained in KDP-2; is that fair?

A. The first three are easy because we know what the capacity market prices are. We can look in the forward energy market and see the prices, and the

revenues seem to be reasonable, especially after you do the adjustments to the capacity performance revenues, so we have a more accurate number on the revenue side.

The cost side, no one has been talking about. We don't know what the costs are. There is KDP-2, there are costs to the power plants. We don't know how accurate they are.

Q. So staff -- I'm sorry, I didn't mean to interrupt.

A. So the Commission will have to decide how much reliance to put on each one of these for the revenues and for the costs. I mean, it's in the record, so they can decide what they like, what they don't like.

Q. But staff is not taking a position one way or the other whether or not the Commission should take -- should rely on the KDP-2 exhibit; is that correct?

A. That is correct.

Q. And is it fair to say you have not made, "you" meaning staff, have not made any independent analysis of the benefits -- or, excuse me, the credits or charges that would be produced by the rider?

A. We've looked at what the company has given us, but we haven't developed our own forecasts.

Q. At pages 14 and 15 of your testimony, you indicate one of the concerns with the application filed by AEP-Ohio is it's failure to commit to full information sharing, correct?

A. Correct.

Q. And you indicate there that as an alternative, the Commission should consider including rigorous review of both AEP Ohio and AEPGR; is that fair?

A. On the generation side rather than just power plants that are pertinent to the PPA, like AEP is recommending, look at the entire fleet.

Q. Are you familiar with whether or not AEP Generation Resources is required under its market-based rate authority to maintain books and records in accordance with the FERC Uniform System of Accounts?

A. I believe they're required by FERC. We don't have requirements ourselves on AEPGR.

Q. My question was very specific. Are you aware whether or not FERC has or would require AEP Generation Resources to maintain its books in accordance with the Uniform System of Accounts under

the market-based rate's authority of AEPGR.

A. I'm not aware of what under their corporate separation rules and record bookkeeping they're supposed to do with FERC.

MR. DARR: May I have a document marked as IEU Exhibit 16, please.

EXAMINER SEE: 17?

MR. DARR: I'm sorry, is it 17? We withdrew 16, as I recall.

EXAMINER SEE: But you did mark it.

MR. DARR: Yes, I did mark it.

EXAMINER PARROT: So we still consider it.

MR. DARR: Very good, let's call it 17.

EXAMINER SEE: IEU 17 is so marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

MR. DARR: For purposes of the record, I'd like to represent to the Bench that this is drawn from the FERC website, and it is a notice contained on that website published by the FERC.

Q. (By Mr. Darr) As part of your preparation for this case, did you investigate at all the requirements of AEP Generation Resources to maintain its books and records in compliance with FERC Uniform System of Accounts?

A. No.

Q. Were you aware that AEPGR had filed or submitted a request for waiver of the reporting requirements with the Federal Energy Regulatory Commission of FERC Form 1 and FERC Form 3Q for the calendar year 2015?

A. No, I wasn't, until I read it just now.

Q. I want to follow up on a question I asked earlier. Are you aware of whether or not AEPGR has taken any impairments with regard to the PPA units?

MR. MARGARD: Your Honor, if we could get a clarification, specifically with accounting impairments; is that what you're referring to?

MR. DARR: Specifically accounting impairments, yes.

A. I cannot recall if they have or have not.

Q. One final area of concern, one last question or area of concern. You indicated in a prior answer that you looked at the three-year window because there's an availability of market data with regard to revenue; is that correct?

A. Yes. There's transparency on capacity and energy.

Q. And the transparency is afforded by the PJM capacity market and the forward markets with

regard to energy; is that correct?

A. Correct.

MR. NOURSE: Objection.

EXAMINER SEE: Grounds, Mr. Nourse?

MR. NOURSE: I think he already answered the question, your Honor.

EXAMINER SEE: Would you like to respond, Mr. Darr?

MR. DARR: Actually, I don't think I asked him specifically with regard to the transparency. His explanation as to the transparency, I think this is new information, your Honor.

MR. NOURSE: I don't think Dr. Choueiki has testified anything about his opinion about future energy prices. He hasn't done any analysis in his testimony, so there's no basis for him to throw in opinions in answer to Mr. Darr that support IEU's position on that topic.

MR. DARR: Again, it's not IEU's position that any rider should be adopted, your Honor. An alternative proposal is substantially different than that proposed by the staff. Additionally, your Honor, this question goes specifically to why staff proposed a three-year limitation on the PPA rider.

MR. NOURSE: Again, you can say that about any topic, your Honor, but that's not the basis for throwing in opinion on something that the staff has not looked at it and addressed in testimony.

EXAMINER SEE: Did you already respond to the question posed to you, Dr. Choueiki?

THE WITNESS: I can't recall.

MR. DARR: He did, your Honor.

MR. NOURSE: Are we done with that line of questioning?

MR. DARR: No, I have one more question.

MR. NOURSE: I reserve the objection before the response.

EXAMINER SEE: Okay. And, Dr. Choueiki, I need you not to respond until the objection has been ruled on. Go ahead.

MR. DARR: I think the response to my last question was "yes." I just want to make sure that's clear.

EXAMINER SEE: Was that your response, Dr. Choueiki?

THE WITNESS: Yes.

MR. DARR: That's all I've got. Thank you.

EXAMINER SEE: Mr. Yurick?

MR. YURICK: No questions.

EXAMINER SEE: Mr. Kurtz?

MR. KURTZ: Thank you, your Honor.

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CROSS-EXAMINATION

By Mr. Kurtz:

Q. Good morning, Dr. Choueiki.

A. Good morning.

Q. Could you turn to page 13 of your testimony, please. I want to get some clarification on staff's position.

First of all, with respect to the return on equity, you have it listed here at 11.24 percent; is that right?

A. Right.

Q. That's the number AEP used throughout its modeling for the nine-and-a-half years?

A. Yes, nine years and three months.

Q. But do you understand that the actual return on equity being requested is a formula rate?

A. Correct.

Q. Can you identify the formula, if you remember it?

A. I don't remember it, but I remember it was a range of -- they wanted a range between

8 percent and 15 percent.

Q. Do you recall that the return on equity requested by AEPGR would be the long-term cost of debt identified in December of the prior year, Moody's long-term debt index plus 650 basis points?

A. That is correct.

Q. With a floor of 8.9 percent and a ceiling of 15.9 percent.

A. Yes. That's an accurate description. There's evidence in the record from Mr. Taylor using for current -- first of all, do you understand that the 11.24 percent was the December 2014 Moody's bond index plus 650 basis points?

A. That is correct.

Q. Now, there's evidence in the record that using the August 2015 Moody's bond index, the return on equity that would result from the AEP proposal would be 11.69 percent? Were you aware of that?

A. No. So it's gone up, so the cost of debt has gone up.

Q. Right. So the return on equity has, therefore, gone up as well under the formula, correct?

A. Yes.

Q. If 11.24 percent is excessive, would

11.69 percent be more excessive?

A. Yes.

Q. Did you review the testimony of OEG Witness Mr. Taylor regarding his flex-down return-on-equity proposal?

A. Sorry, I did not.

Q. Do you know if anyone from staff reviewed it?

A. I don't know.

Q. Did you or anyone on staff review the testimony of OEG Witness Mr. Kollen?

A. I can't recall if I did or I did not. I'm not sure if others have.

EXAMINER SEE: You're going to need to speak up, Dr. Choueiki.

THE WITNESS: Okay.

Q. Okay. If 11.24 percent after-tax return on equity is excessive, does the staff have a position as to what it should be?

A. Well, to the extent the Commission wants to grant a PPA, it should be at least the cost of debt. Okay. So anything above that is extra, is a bonus.

Now, also to the extent the Commission agrees with the company and wants the company to

invest in these units, then they're going to have to provide some incentive. Should that incentive be 650 basis points? Staff thinks that's way high, especially because it's also unregulated assets, so you're awarding a guarantee on return on equity to unregulated assets?

Q. And you understand that this return on equity of 11.24 percent is after tax?

A. Yes.

Q. And that AEPGR would recover the tax effect from consumers to get it to the after-tax number?

A. Correct.

Q. Since you haven't reviewed Mr. Taylor's testimony, let me ask you just conceptually. If you assume the Commission approves a form of PPA, wouldn't you agree that a return on equity that is lower when the PPA is a charge would be preferrable to a set return on equity that is the same whether the PPA is a charge or credit?

MR. NOURSE: Your Honor, I object. The witness has already stated he didn't review Mr. Taylor's testimony. It is a complicated recommendation with multiple facets, and I think Dr. Choueiki, to the extent he has any qualifications

to address ROE, should not be forced to provide an off-the-cuff decision about something he hasn't looked at and something staff hasn't evaluated.

MR. KURTZ: Your Honor, this is the only staff witness. He does testify that the return on equity proposed by the company is excessive, and I've asked him a hypothetical question, essentially, would it be reasonable if the return on equity is lower when the PPA is a charge and higher if the PPA is a credit?

MR. NOURSE: Your Honor, he's asking for an endorsement of a position he didn't address in testimony and hasn't reviewed.

MR. KURTZ: I think this is a perfectly reasonable hypothetical to understand staff's position.

MR. MARGARD: Your Honor, may I be heard?

EXAMINER SEE: Yes.

MR. MARGARD: Again, Dr. Choueiki is testifying on behalf of staff. To the extent that Dr. Choueiki can testify as to staff's position, he should be permitted to do so. To the extent that requires him to offer his own individual opinion, I believe it's inappropriate.

MR. KURTZ: Can I clarify?

Q. Do you know if staff would have a position on the hypothetical I addressed to you?

A. No.

Q. Speaking about the --

EXAMINER SEE: Go ahead.

MR. KURTZ: He answered, so that's fine.

Q. Speaking about the financial need of the generation units, as you use the term on line 15, did anyone from staff look at whether the cost-of-service calculation that AEPGR made was accurate?

A. No.

Q. Your answer was "no"?

A. No.

Q. If using standard ratemaking cost-of-service adjustments it was assumed that the cost-of-service rate was too high, should it be reduced to more accurately reflect the financial need of the plants?

MR. NOURSE: I object, your Honor. It's the same thing. Now he's trying to get Mr. Kollen's position in for a general undefined hypothetical when it's clearly something that the witness has already indicated staff has not looked at.

MR. KURTZ: I'm asking if staff would have a position on the basic question if they've

overstated their cost, is that wrong and should it get fixed?

EXAMINER SEE: To the extent that staff has a position on the issue and has taken a position, you can answer the question, Dr. Choueiki.

A. If they overstated their cost, then they need to be fixed.

Q. Okay. Page 15, please, line 3: "The Company and AEPGR did not, in Staff's opinion, commit to sharing the financial risk."

If I understand your testimony, the only commitment that AEP Ohio made was that they're subject to disallowance for imprudent costs and so forth, and, therefore, that's the sharing that they think is adequate?

A. That is correct.

Q. Did you towards the end in your specific recommendations on page 19 at the top where you're addressing this as the sharing mechanism, you say that AEPGR should be responsible for a portion of the costs associated with the PPA rider in exchange for a portion of the revenue. That sharing mechanism you think would be appropriate?

A. So a couple of mechanisms. One of them is 50/50. Let's say 50/50. We say the Commission

says 50 percent of the revenues would go to generation resource and the other 50 percent of the revenues would go to consumers in the rider, and 50 percent of the symmetry, that is, 50 percent of the costs would go to consumers, and 50 percent of the costs would go to AEPGR. That's one incentive for the company to profit maximize and cost minimize.

An alternative is to look at -- let's say the Commission decides to go over three years or a PPA. You would look at the value of the rider, so it could be a charge or a credit. Let's say it's a charge and it's $100 million. So then the Commission could say, okay, those are the revenues. Those are the costs. They're causing a $100 million charge. That looks like if you divide if we assume 50 million megawatt-hours for AEP, AEP distribute, AEP Ohio, that's a $2 charge.

Q. More like 44 million. Sorry.

A. 50 million megawatt-hours per year.

Q. I think it's 44, but I get the math.

MR. NOURSE: Your Honor, I think the witness was giving a purely hypothetical, and now Mr. Kurtz is testifying to facts.

EXAMINER SEE: Let the witness finish his answer.

Q. I'm sorry, go ahead.

A. Still going to go with my 50. So 100 million divided by 50 million would be $2. The Commission may say, okay, that's a cap. AEP Ohio and AEP Generation Resource, you have to agree that no more than $2 a megawatt-hour consumers pay.

Now, on the flip side, on the credit, given that everything above $2 goes to AEPGR, not to AEP Ohio, then on the flip side we say anything of more than $2 of credit goes to AEPGR. The first $2 of credit goes to consumers. From then on it goes to AEPGR.

Q. Okay.

A. That's another mechanism.

Q. So you have two sharing, the 50/50 and then the cap, right?

A. Cap on both credits and to give an incentive to AEPGR.

Q. Under your 50/50, would that essentially put AEPGR and ratepayers in the same boat, they would have the incentives to control costs and maximize revenues?

A. Correct.

Q. And that would be they would be in the same boat from the very first dollar.

A. Yes.

Q. Under the cap, as you described it, $100 million band, on either side they wouldn't really have that much incentive if the PPA was going to be 40 million or 30 million or 20 million charge or credit because that would all be on consumers.

A. Within that cap?

Q. Yes.

A. I mean, there would be other conditions too, right. So we're monitoring the behavior, their competitive behavior. We're reviewing other things, their costs. I mean, those conditions would continue. It's not like blindly you go with plus or minus $2 and that's it.

Q. I understand, but wouldn't an advantage of the 50/50 sharing mechanism be that there would be an incentive from dollar one?

A. I can't understand, decide which one is better. If we maybe sit for two days, you and I, and discuss it, one of us will convince the other which one is better. But right now I can't tell you. There are two mechanisms. I know each one of them has pros and cons.

Q. I'm sure that's true.

Page 17 you're proposing to limit the

rider to three years or the term of the ESP; is that correct?

A. Yes.

Q. Let me skip that one.

The rigorous review, the next condition, I talk about reviewing the expenses and so forth, and if the Commission -- you talk about this intervention at FERC with the burden of proof being on the Ohio Commission in a FERC proceeding in this section of your testimony; is that correct?

A. Right.

Q. What would be the case if the Ohio Commission wanted to have a charge disallowed from the AEPGR to Ohio Power as part of the equation, right?

A. So AEPGR bills AEP Ohio, and now the Commission is conducting an audit, and there's $50 million should be the sell-out. So the Commission would have to go to FERC to argue why it should be a sell-out.

Q. Now, if the Commission, though, limits itself to the retail rate recovery through the PPA rider and says here's the $50 million disallowance, AEP Ohio, you have to absorb it, there would be no FERC intervention or burden of proof or any type of

activity at FERC. Wouldn't it all be retail?

A. So the concern is not only that the Commission may disallow their 50 million and then customers aren't charged, the Commission is also concerned with the company it regulates, AEP Ohio.

Let's say the Commission disallows $200 million, but AEP Ohio still committed to paying the $200 million to AEP Generation Resource. Then two years later AEP Ohio will come to us and say, Commission, we need money, and we can't pay our bills. So the Commission has to worry about the financial integrity of the wires company, and that's why at the beginning with one -- I can't remember which, who it was cross-examining me, it's very important that AEP Ohio stays risk neutral.

Q. I understand your concern but you're creating another problem by that, aren't you? Aren't you creating this FERC issue?

A. Not if AEPGR accepts in the PPA that if the Commission in Ohio on a final order disallows a specific expense, then AEPGR can't bill to AEP Ohio.

Q. I know you're not a lawyer, but if it did create legal problems in the sense that it could be argued the Ohio Commission was trying to regulate at the wholesale level, would that be a -- should that

be a concern?

A. I am not a lawyer, but I don't see the legal concern if the two parties agree to conditions in the contract. So AEPGR is agreeing in the contract that -- they are agreeing on their own without any order from the Ohio Commission that if the Ohio Commission on a final order disallows $50 million, then that's it, AEPGR will not bill AEP Ohio that $50 million.

Q. Okay. I understand your concern about the financial integrity of the distribution utility because ultimately that could raise its borrowing cost, cost of capital which could cost native load to consumers; is that right?

A. That's one concern. The other they could come under an emergency statute and ask for money because they pay -- they have lots of liability on their generation side from another company.

Q. Now, that would be a fairly extreme situation, would you agree?

A. It is an extreme situation, but it's a situation that the Commission should be concerned about, especially if they allow a term that long.

Q. Let me walk through the mechanics then under your proposal. AEPGR bills AEP Ohio monthly

under the PPA, correct?

A. That's how they propose it.

Q. Then AEP Ohio would put a charge or a credit through the PPA rider either simultaneously or with a one-month billing lag of some sort; is that right?

A. They reconcile through, like, a true-up once a year or once a quarter.

Q. But the billing will go AEPGR to AEP Ohio and AEP Ohio will charge or credit consumers after they clear power in the market and decide whether there's a profit or a loss.

A. Correct.

Q. Now, staff would audit the PPA rider not monthly.

A. No.

Q. Annually?

A. The Commission will decide whether it should be annually. I mean, I'm pretty sure it's not going to be quarterly either.

Q. So if one of these annual audits you determine there was a $50 million imprudent expense, then there would be presumably some sort of hearing on that?

A. If there is a disagreement, there will

have to be a hearing.

Q. And there could be appeals and so forth?

A. Yes.

Q. If ultimately the Commission is found to be correct that the $50 million imprudent charge should be returned, you're envisioning that instead of making AEP Ohio simply not recover that amount make AEPGR refund it to AEP Ohio who would then in turn refund it to consumers.

A. Or subtract it from future bills. Doesn't have to be a refund, future bills.

MR. KURTZ: Thank you, Dr. Choueiki.

EXAMINER SEE: Mr. Nourse?

MR. MARGARD: Your Honor, could we go off the record for just a brief second?

EXAMINER SEE: Yes.

(Off the record.)

(Recess taken.)

EXAMINER SEE: Let's go back on the record. Mr. Nourse?

MR. NOURSE: Thank you, your Honor.

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CROSS-EXAMINATION

By Mr. Nourse:

Q. Good morning, Dr. Choueiki.

A. Good morning.

Q. I want to ask you some questions, and if I ask you your opinion, I'm really talking about staff because you're representing staff here, right?

A. That is correct.

Q. I'll try to say "staff."

Does staff believe that market-based solutions are always better than regulatory solutions?

A. This is the construct we have right now, and markets seem to be working very well right now.

Q. By your answer are you saying staff does not prefer market-based solutions to regulatory solutions?

A. Oh, no, I'm not saying that.

Q. So staff does prefer market-based solutions to regulatory solutions.

A. Correct.

Q. Any qualification or conditions you want to put on that opinion or preference?

A. No. I mean, shopping is prosper Ross in Ohio and standard service offers were pro curing supply for nonshoppers at highly competitive rates so it's looking good.

Q. Do you consider, you staff consider the

PPA rider a market-based solution or a regulatory solution?

A. There are some market components in it, but it is a -- there is cost base in it, too. So it's like a mixed bag. It has both in it.

Q. Is it fair to say that the regulatory structure in Ohio currently is also a hybrid of competition and regulation?

A. So the ESP Statute 143 is not the MRO. The MRO is all the way for the market. ESP, right now we have this electric security plan statute that gives us security to the utility and to consumers, so there's some protection mechanisms in it. And under the ESP umbrella, we have a fully competitive model.

Q. So you're disagreeing that the ESP is a hybrid of competitive and regulatory components?

A. Well, the only thing that ESP has that the MRO does not have, and that's a nonlegal opinion, is that the ESP, the Commission still has authority under the standard service offer. So the Commission can decide to limit shopping. The Commission can do lots of things that once the company is under an MRO statute they wouldn't.

Q. And has the Commission ever approved an MRO?

A. No.

Q. Would you agree -- that well, strike that.

So is the staff still philosophically opposed to the PPA rider?

A. Staff is opposed to the PPA rider, and that's why our recommendation to the Commission is to deny the PPA rider. However, the Commission, again, has spoken in two orders, and so now basically the Commission may find that the PPA could potentially be in the public interest. So that's why we oppose it; however, we have an alternative recommendation to the Commission -- to the extent the Commission finds that the PPA rider, as modified by the Commission, is in the public interest.

Q. So is it fair to say then that staff has changed its prior view of being philosophically opposed to PPA riders in light of the ESP III order?

A. I don't see that staff changed its position because even in the previous one we stated to the extent the Commission disagrees with staff, here are the conditions. We're doing the same thing here. The only additional two observations we have since staff's position were articulated in ESP orders for Duke and AEP were that we have order and opinions

and orders that state that a PPA may be in the public interest.

Q. And we'll get into the opinion and order a little bit later. So let me ask you some more background questions first. Did staff perform any analysis of whether the PPA rider is expected to be a net charge or credit over the life of the PPA units?

A. We have looked at everything that AEP filed.

Q. So staff hasn't done any independent or quantitative analysis of the life of the PPA units?

A. All the way to 2051, we did not. Neither did AEP. AEP only showed us nine years and three months.

Q. Okay. And so did staff do any quantitative analysis or independent analysis of the PPA financials for any period of time?

A. We did not forecast anything -- energy markets because the error in the forecast is very high post three years.

Q. Does that mean that staff believes that the future is uncertain with respect to capacity and energy prices beyond three years?

A. Not only on the prices, also on the cost. So the revenues and the cost are so uncertain that

basically, whatever -- I mean, you could make energy prices go up or you could make energy prices go down in your forecast and the impact is tremendous --

Q. Oh, I understand.

A. -- on the rider.

Q. I understand that. So I'm asking you about the revenue side. I appreciate you've already stated your opinion about the cost a couple times.

But with respect to future capacity and energy prices in the PJM markets, do you agree that that's volatile and unpredictable when you look out beyond three years?

A. Yes, it's more volatile.

Q. And it's uncertain what the level of the prices will be; is that correct?

A. I think PJM has done a better job now at least with the capacity performance product that, I mean, look at the results of the last two transition auctions and the '18-'19 auction. The price of capacity is more moderately stable than before.

Q. You believe that stability will continue indefinitely in the future; in other words, beyond three years?

A. I think -- I don't believe we'll see $16 prices anymore. I think all these problems have

been fixed. The nuances have been fixed.

Q. You believe the PJM markets are fully functional and effective?

A. The energy market is very competitive. The capacity market is administratively mitigated.

Q. You believe that the PJM markets are fully functional and effective and they don't need any more reforms; is that your testimony?

A. No. I didn't say they're perfect. I said they're fully functional, the energy market. The capacity market needs a little bit more work, but it's going towards a good solution.

Q. Can you identify any flaws today in the capacity or energy PJM markets?

A. I mean, we're reading about flaws right now where consumers, at least in the winter where we had the polar vortex, you had some generators that were unable to procure gas. You had generators that were -- that paid a premium on gas and weren't able to recover it. So those problems are getting fixed now with capacity performance and with increasing the offer cap that PJM was thinking about doing for the energy market.

Q. Anything else come to mind as far as flaws or things that still need fixed?

A. To be sure there are others.

Q. If the Commission finds it to be a quantitative financial benefit, the PPA rider, you would still -- you, staff, would still oppose the PPA rider based on other concerns, correct?

A. The biggest concern is we are in a fully competitive market in AEP service territory. So now we're bringing back generation components as charges instead of just going in the market and buying or going in the market and shopping or going in the market and procuring for the nonshopping. Now we're adding more complexity with a rider that is tied to generation again that is distributed across all customers.

Q. I appreciate your concerns, but is the answer affirmative to my question? Do you need it read back?

A. Yes.

(Record read.)

A. It depends how the Commission comes up with the -- I mean, if they deem it to be in the public interest, then they have the reasons to why it's in the public interest. So long as the staff says we're in a competitive market, we're going to have this thing holding us back. Why are we going

back providing subsidies when we're in a competitive market?

Q. But, again, I want to clarify staff's position. So is it true that if the Commission found that there was a clear quantitative financial benefit for the PPA rider for whatever term that they're looking at or would approve it for, staff would still oppose the proposal based on other concerns; am I correct?

A. Depends. I can't give you an answer, absolute answer, because it really depends. Like you're saying, to the extent another application comes in for a PPA, well, now, the ruler that we're going to use is whatever the Commission used to grant the PPA. So that would be staff's position.

Again, we're implementing Commission policy, so whatever the Commission decides, if the Commission decides in this case that a PPA is in the public interest and they identify exactly what it's going to look like and the company accepts it, then that's the ruler that we're going to use when company Y comes in for a PPA.

Q. Now, you've, I think, referred to the PPA financial hedge construct as a form of insurance, correct?

A. Correct.

Q. And you agree that insurance has value, even if you never make a claim, so to speak, or have a net financial advantage?

A. Consumers buy car insurance and home insurance and life insurance to hedge their risk. And you buy insurance, and even if your house doesn't burn down, you still pay for that insurance, but it's the peace of mind.

Q. And in some cases that kind of insurance is required by law or imposed as an obligation by the government.

A. Yes.

Q. That would be imposed, that obligation would be imposed based on a determination that it is good for the customer, independent of whether the customer would buy their insurance voluntarily, correct?

A. That is correct.

Q. Now, in your review of this case and your testimony in preparation for this case, do you review the Apples to Apples site to monitor CRES retail offerings?

A. Every day? No. Every now and then I may.

Q. When was the last time you did?

A. Been a while.

Q. Like years, more than a year?

A. I can't recall. No, I don't think it has been a year, but I can't recall when I did it.

Q. Do you recall you testified on this point in the FirstEnergy case down the hall a couple days ago?

A. Yes. And they showed me some Apples to Apples stuff.

Q. But you recall in that proceeding stating you hadn't looked at Apples to Apples in the last three or four years?

A. I don't know. I may have said it. I don't recall when was the last time I looked at the Apples to Apples chart.

Q. And you certainly didn't start work on this case three or four years ago, right?

A. No.

Q. It's been a long case, but it hasn't been that long.

Do you review -- well, let me rephrase.

In your work for this case, in your analysis and preparation for your testimony, have you reviewed AEP Ohio's generation capacity and

generation energy rates that are based on SSO auction results?

A. So the last -- I mean, right now AEP is in its first SSO auction result here, so it started in -- when did it start? June 1 of 2015. So we just started, and I think I'm familiar with the rates that cleared the auction.

Q. I asked you about the retail rates. Have you examined the retail rates?

A. Oh, no, I did not.

Q. And FirstEnergy has done SSO auctions longer than AEP, correct?

A. Correct.

Q. Have you looked at retail rates for FirstEnergy, retail rates that relate to FirstEnergy's wholesale SSO auctions?

A. No.

Q. No? Do you make observations or findings about retail volatility for shopping and nonshopping customers on a regular basis?

A. Do I make observations? To whom am I making observations?

Q. Do you examine that? Do you monitor it? Do you follow it?

A. I follow the SSO auctions, not the retail

side.

Q. Okay. And so you don't follow the retail rate volatility.

A. I don't design rates at all myself.

MR. DARR: I missed the end of that.

THE WITNESS: I don't design retail rates myself.

Q. Does someone else on your team or with staff -- since your last answer I think was relating to you, not staff, does someone else on your team or staff monitor and document or report anything about retail volatility or retail rate trends?

A. Could be. I know on our website we publish retail rates by EDU, but I'm not sure like what.

Q. None of your opinions in your testimony were based on review of any of that data, correct?

A. That is correct.

Q. As a general matter, do you agree that closure of PPA units, generation units, would cause significant adverse economic impacts on Ohio's economy?

A. Depends if it impacts them positively or negatively. If a power plant shuts down because its very inefficient and another power plant comes up

that is brand new and highly efficient, I'm not sure why it would impact negatively in that scenario. That's why I can't say like a general statement any power plant that shuts down, it impacts the economy.

Q. But now you're changing my question. I'm not asking about whether five other things happen, there could be a net positive on Ohio. I'm asking whether you agree as a single development, whether the closure of a PPA unit would cause significant adverse affects on Ohio's economy?

A. And I can't agree that this is the only thing that is on a power grid because it's not so. So we never studied the power grid as just this one power plant and that local county. You're looking at the big picture so you have to look at what's happening when this shuts down. You can't say just this shuts down and study the impact on this picture. We don't live in an isolated world where only one thing would happen at a time. I can't answer your question.

Q. Your first response you talked about a new plant opening. Are you saying that whenever a plant closes in Ohio, there's always a new plant that opens in Ohio?

A. No. What I'm saying is a plant shuts

down in Ohio, then to the extent it impacts reliability there might be some transmission upgrade, and to the extent transmission upgrades cause other power plants that are more efficient than the power plant that shut down to sell energy and capacity in the market, then maybe it's better.

Q. And that was actually a separate question. I wanted to ask you about reliability. My current question relates to economic development impacts on Ohio's economy and you saying staff is indifferent to the impact on Ohio's economy of closing a PPA unit.

A. No. Staff would have to look at the impact of the entire Ohio economy and the electricity prices and what's being developed before we make a statement that this is going to be bad for the economy. And it may be. It's just we can't say that just from one power plant shutting down it's a calamity on Ohio's economy.

Q. I didn't say anything about a calamity. I asked you whether there were adverse impacts. And so by your answer when you talk about looking at electric prices, are you suggesting that closing an Ohio PPA plant would cause electric prices to go down somehow and that would offset the cost of the impact

on the economy?

A. It may.

Q. Closing one Ohio plant could cause electric prices to go down and provide a net benefit to Ohio consumers is; is that your testimony?

A. Now you're putting in things that I did not say. What I said, I said it may. And the reason it may because of these other things, that a more efficient power plant may be constructed, that could cause more jobs, that could cause more efficient generation and cheaper prices.

Q. That's your hypothetical. My hypothetical is one thing happens. The plant closes. Are there adverse impacts on Ohio's economy?

MR. MARGARD: Your Honor, I'm going to object. I think this has been answered a number of times. The witness has indicated that he doesn't believe that he can answer such a question, that it has to be looked at in context.

MR. NOURSE: Again, your Honor, I think it's a fairly discrete question that he's giving a different answer to that adds other things that were not related to my question.

MR. MARGARD: I agree that it's discrete. I would also submit that the witness has indicated

that he can't answer that question.

EXAMINER SEE: I would agree. It's been asked and answered.

MR. NOURSE: I'll move on.

Q. (By Mr. Nourse) We have your answer. Thank you. All right. Now let's talk about reliability in a general matter. You started to address this before. You agree that a PPA unit closure would cause the need for transmission grid improvements?

A. It could.

Q. Is it possible that it wouldn't?

A. If all of them closed at the same time, I'm pretty sure they're going to need some reliability upgrades. I'm just not sure -- the probability of all of them closing at the same time is de minimus.

Q. Let's take one plant at a time. So are you saying it's possible that any one of the plants could close without causing any reliability improvements to be made?

A. It's possible that, for example, if Stuart 1 shuts down and all the owners of Stuart 1 agreed to shut it down, that there may not be a reliability problem. It's possible. But it's

possible there might be a reliability problem.

Q. All right. And whenever there's a reliability investment that's caused by a plant closure, there would be a price tag associated with that, correct?

A. Correct.

Q. And Ohio customers would pay for part of that price tag, correct?

A. Yes. Based on what type of a solution it is. If it's like 500 kV and above or 345 double circuit and above, then 50 percent would be locally. 50 percent would be socialized. There are allocation methods, but, yes, Ohio customers would be impacted if there's transmission upgrade.

Q. And you mentioned earlier I think in questions from OCC that you believe, correct me if I'm saying this wrong, that approving the PPA would amount to a subsidy in the context of the PJM markets.

A. Yes.

Q. And does the subsidy that you're referencing there in that context, is that different from cost-of-service rates that occur in other states within PJM that are under regulation, rate regulation?

A. So states that are regulated that are in PJM, they are a vertically integrated utility, they regulate generation, distribution, and transmission, so they look at everything, all the books and records and number of chairs, every generating thing there, they can decide how they grant them costs plus an investment because that's how the regulatory construct is.

Q. So those states -- I'm sorry, were you not finished?

A. In states where there's retail choice those are deemed generation to be competitive service. So then if it's a competitive service, then it's in the market. Generation owners recover in the market their cost.

Q. So if there's a state that has cost-based generation service, then it's okay, the subsidy is not a problem?

A. You have to give me a little bit more. If a state is a regulated state, where is the competition?

Q. Correct me if I'm wrong, but I thought your prior answer was hinged on whether or not there's a vertical utility as opposed to the presence of a cost-based generation rate in that state.

A. Well, there would be a regulated utility. That means generation is regulated like distribution transmission. But you have to give me more information if you have something in mind that you want to talk about.

Q. I'm just trying to understand your distinction where you draw the line.

A. Well, the distinction is a state that has a regulatory construct where it's a regulated monopoly in generation, even if that state isn't PJM, for example --

Q. So that's the -- I'm sorry.

A. -- versus a state like Ohio and Pennsylvania and New Jersey and Maryland where there is competition, generation is a competitive service.

Q. So that's the only circumstance you believe in the program for what you're calling a subsidy, is where you have vertically integrated, additional rate regulation, correct?

A. And I don't consider that a subsidy because they are regulating a cost of service.

Q. Well, in those states the generator still gets paid through the PJM markets for capacity and energy, right?

A. Correct.

Q. And they get paid the cost-based rates from retail customers, correct?

A. We're talking about not an AEP company, right? Because AEP companies outside Ohio are fixed resource requirement companies, so we're talking about another company that is regulated? That isn't PJM?

Q. I'm trying to understand where you draw the line, once again. So I'm asking you whether that's true for your vertically integrated, regulated utility in another state -- we don't have to list all of them again because you already did that -- that those utilities get their revenue from the PJM market, and then they get their cost, their net cost, from retail customers, correct?

A. That is correct.

Q. And in some instances it may be revenues that exceed the cost, in which case the retail customers would benefit, correct?

A. Correct.

Q. And in some instances there may be costs that exceed the PJM revenues and then retail customers pay for that, correct?

A. Correct.

Q. Now, with your subsidy criticism, does

that apply to renewable energy purchase agreements in Ohio?

A. If they're mandated by law, then they may be subsidized, that's true. I mean, subsidy -- subsidy sometimes is good; sometimes it's bad. And in cases where it's in the public interest to subsidize, like in telephone rates, business customers used to subsidize residential customers for the same line, but that was in the public interest, so the Commission did that.

Q. Okay. So if the Commission here in Ohio determines what you're characterizing as a subsidy to be in the public interest, then it's okay, right?

A. The Commission is the body that decides what's in the public interest on every policy.

Q. And you wouldn't take issue with that specific example, right?

A. I wouldn't. If the Commission decides, the Commission decides.

Q. Let me just ask you a few general questions while we're on the PJM markets topic. While we're on the subject of PJM markets, I just want to ask you a few general questions based on your understanding and expertise there.

A. Okay.

Q. So do you agree that the capacity and energy markets in PJM are administrative?

A. The capacity is administrative, more administrative. The energy market, I think, is more competitive than administrative.

Q. Okay. And to be clear, when I say "administrative," I'm referring to the fact that the FERC and then PJM, under FERC's authority, creates a set of rules and administrative determinations to manage and operate the market. Is that the same definition you were using?

A. I was thinking more like, for example, a capacity market, they say it is competitive. Well, it's competitive in terms of offers, but at the end of the day, there's a vertically -- there is a VRR, variable resource requirement, curve that sets the demand curve, so its more administrative than in the energy market.

Q. And there are other administrative features of the PJM capacity market, such as the cap, the cap that's related to CONE, cost of new energy, CONE, correct?

A. In the capacity market.

Q. In the capacity market. That's an administrative determination that's -- generally it's

one-and-a-half times CONE; is that correct?

A. One-and-a-half times CONE is the max.

Q. The cap.

A. The cap.

Q. For energy prices.

A. For capacity.

Q. I'm sorry, capacity prices. And the max was at least temporarily changed recently. Were you aware of that?

A. On what?

Q. On capacity.

A. On the energy market it was changed.

Q. Why don't you tell us about that.

A. The winter after the polar vortex winter, the PJM asked to waive the $1,000 energy price on specific units that are buying gas at the higher rate that their costs are above $1,000, and FERC gave a temporary waiver on that, but that was on the energy side. Now they're revisiting the issue again.

Q. So, again, that's an example even with what you called the competitive energy market where PJM can change the rules and affect pricing, correct?

A. FERC decides. FERC decides, right. So there is a stakeholder process in PJM, and they discuss it ad nauseam, for three or four months, and

then PJM agrees to ask FERC to revise a specific tariff, and then FERC agrees to it. Then it becomes.

Q. So it's administrative and bureaucratic; is that what you're saying?

A. I didn't say any of these two words.

Q. And what FERC/PJM giveth they taketh away, right? In other words, they can change the rules at any time?

A. Of course we have the venue of filing at FERC and opposing things if we don't like it, so it's an open process. It's not like FERC and PJM decide what is going to happen and then it happens.

Q. But it's ultimately FERC that can change the rules, and, in fact, they've done that frequently with the PJM markets. Would you agree?

A. Yes.

Q. When it comes to bidding data for market participants that are involved with the PJM capacity and energy markets, would you agree that PJM and the independent market monitor review such bidding data relating to individual participants for purposes of ensuring compliance with all the rules?

A. Yes.

Q. And, in fact, you, as a PUCO staff member, can have access to that same data; is that

correct?

A. That is correct.

Q. And you regularly do request and receive approval for accessing that data?

A. That is correct.

Q. Now, are you aware of also the feature within the capacity auction, what's called the regulatory backstop option?

A. You have to tell me a little bit more.

Q. Are you aware of a feature if the capacity auction fails to clear enough resources, PJM can ultimately enter into cost-based contracts to ensure capacity resources are available?

A. Yes.

Q. And that's separate and distinct from the reliability, must-run type of cost-based contract, correct?

A. Yeah, those are different, that's true. Those are based on announced retirements, and then PJM would like to keep them on until the grid is upgraded, so they enter into these contracts.

Q. And that's another administrative feature of PJM markets, that you have to get approval to retire a generation unit?

A. Well, a generator makes an announcement,

and PJM conducts a reliability study and the market monitor conducts a market power study, and then to the extent there is nothing, there is no impact on reliability, then that's fine. To the extent there is, then they try to work out a solution with that generation owner and provide them with cost-based contracts until the upgrade is fully deployed.

Q. So in those key respects do you agree that PJM relies on cost-based regulatory monitors to solve their problems?

A. In those aspects they do.

Q. Let me ask you a few more general questions. These kind of relate to PJM as well. And I also want to -- these general questions relate to your role as part of the staff, part of the PUCO staff, as well, okay?

So would you agree with me that fuel diversity is of great importance?

A. Yes.

Q. And would you agree that a significant portion of retiring megawatts are being replaced by natural gas resources -- I'm sorry, let me rephrase that.

Would you agree with that a significant portion of retiring megawatts being replaced by

natural gas resources, we cannot afford to forget about protecting our current resources to help in hedging against any unforeseen natural gas curtailments?

A. So I agree to the generation diversity, but we haven't gotten there yet. I mean, in Ohio at one point in time we were more than 80 percent coal, and now we're more like -- in terms of nameplate capacity after the retirements that just occurred in May, we're more like 50 percent coal; and gas is 30 or 35 percent in nameplate capacity, not in energy.

So we were relying on 80 percent coal. Now we're relying on 50 percent coal. At some point in time we're going to get to a point where we need to make sure we have at least a fair share of each one of the fuel types to maintain generation diversity.

Q. Okay. Well --

A. So we were relying more on coal. Now we're relying more on gas and nuclear. Before it was just coal and nuclear.

Q. But in the context of retiring megawatts being replaced by natural gas, you agree that we cannot afford to forget about protecting our current resources to help in hedging against any unforeseen

natural gas curtailments?

A. I think PJM has done a good job right now trying to include those in the offers for generators having a firm contract and allowing them to include the cost of the firm contract for gas or infrastructure to the extent they need to tap into another pipeline, interstate pipeline.

So before -- I would agree with you before these reforms that have occurred in the capacity performance. Now they're built in explicitly to make sure that a generator that commits to capacity performance that is a natural gas generator has to carry that risk and make sure that they have a firm contract or have access to more than one pipeline of natural gas.

Q. And when you said before "I would agree with you," did you think I was reading something from your prior ESP III testimony?

A. No. I meant before, and I should have said "before CP." Before CP generators weren't even allowed to count the firm contract in their offer price.

Q. What about last week, would you agree with that comment last week?

A. Last week?

Q. At the FirstEnergy hearing.

A. I don't remember what I said at the FirstEnergy hearing.

Q. Okay. I may come back to that. Let me try to move on and see if we can get there otherwise.

A. Okay.

Q. Do you agree that diversity is important so there's value in having a coal plant and a nuclear plant and a gas plant?

A. Yes. I agree we need all three fuels.

Q. Would you agree that coal prices are generally more stable than natural gas prices?

A. Yes.

Q. Now there's been some discussion today about your understanding of the proposed PPA contract so you had some questions about that from other counsel, right?

A. Yes.

Q. And did you review the actual draft contract that's part of this record that constitutes the proposed PPA?

A. I reviewed the actual contract, and then I reviewed also a summary of the contract. More recently I reviewed the summary, which was in Dr. Pearce's testimony, I think.

Q. Correct. Okay. So is it your understanding from reviewing the contract that AEP Ohio has a veto over significant capital investments that would occur going forward?

A. Supposedly there is a three way, three votes. There's an AEP Ohio vote, an AEP Generation Resource vote, and an AEP services vote. And to the extent AEP Ohio and AEP Generation Resource do not agree, then AEP, I don't know if its AEP Generation Energy Services or AEP the parent company, has a vote. That will break the tie.

Q. Do you recall a sentence in the PPA that says, "For major material projects at a wholly owned Seller Facility, Buyer's prior written approval and agreement must first be obtained before proceeding with such Capital Improvements Work"? Does that sound familiar?

A. Yes.

Q. And under that kind of language, would you agree that the PPA -- excuse me, that AEP Ohio would have approval authority and, therefore, veto authority over significant capital investments?

A. The way I understand it is AEP Ohio does not; the Commission, the Ohio Commission.

MR. NOURSE: Your Honor, I'd like to use

Sierra Club Exhibit 2 that's already been admitted into the record as the draft PPA.

May we approach, your Honor?

EXAMINER SEE: Yes.

Q. (By Mr. Nourse) Dr. Choueiki, I realize you're not an attorney. I'm not trying to ask you legal questions or contractual --

A. Yes.

Q. -- the outcomes of any contractual lawsuits or anything like that, but you did state you reviewed the contract and you're making opinions about it so I want to make sure we're on the same page here, if possible.

A. Okay.

Q. So on this issue I was reading from Section 4.2 that's on page 13. And you understand that under this contract, the buyer is AEP Ohio and the seller is AEP Generation Resources?

A. Yes.

MR. DARR: Objection, your Honor. The contract itself doesn't say that, I don't believe. On the front page it says "GENCO." Leaves the date blank.

MR. NOURSE: There are definitions, your Honor, and I'm asking him to accept that for purposes

of these questions.

EXAMINER SEE: All right. Go ahead.

Q. (By Mr. Nourse) So, Dr. Choueiki, in Section 4.2 can you read that second sentence to yourself?

A. Okay.

Q. And would your understanding of that language be that the buyer gets to approve or deny the major material capital projects before they proceed?

MS. BOJKO: Objection.

EXAMINER SEE: Grounds, Ms. Bojko?

MS. BOJKO: He's mischaracterizing the PPA contract. He's leaving off an important phrase at the beginning of the sentence that says, "For major or material projects at a wholly owned Seller Facility." He's misrepresenting the contract to the witness.

MR. NOURSE: I'll accept that clarification, your Honor. I was talking about the AEP affiliate PPA units.

EXAMINER SEE: With that clarification, the witness can answer the question.

THE WITNESS: I'm sorry, what was that question again?

(Record read.)

A. Them and other co-owners. I mean, that's what the contract -- what it says here in the second sentence. It's not like only AEP Ohio would have to agree. If it's Zimmer and they want to do a major investment, then everyone else who co-owns that facility will have to.

Q. But for the fully owned units, the buyer would have the veto authority we talked about, right?

A. So a fully owned unit like Cardinal 1 is owned by AEP Generation Resource, Cardinal 2 and 3 are owned by Buckeye Power, and all three of them are operated by another company. I can't recall. I can't remember the name of it.

Q. Cardinal Operating Company.

A. Cardinal Operating Company. So I'm not sure what happens in these scenarios where you are the owner of Cardinal 1, but does this mean any investment you make does it only have to be approved by you, AEP Ohio, and you have veto power over it? How about the Buckeye Power?

Q. And was your answer related to Cardinal 1 or for the Cardinal plant all together?

A. Could be an expense that is shared by all three Cardinals that is major.

Q. But if it's a capital investment related only to Cardinal 1, would that be an example of how this provision would work, where the buyer gets to approve it?

A. So the buyer, yes, that's what it says there.

Q. And how about fuel contracts, new fuel contracts that come up under the PPA, is your understanding that the buyer gets to approve those?

A. As I recall, all the same thing, that there are three votes, and I don't know if all three of them have to agree or two out of the three have to agree to a contract.

Q. Can you take a look at page 10, Section 3.3, entitled "Fuel."

A. Just looks at the first sentence? Or you want me to read the whole paragraph?

Q. You can read whatever you want. I want to ask you a question about the last sentence. I also want to ask you about a sentence in the middle of the paragraph so go ahead and read the whole thing.

A. Okay.

Q. So is it your understanding from this language that the buyer will have the right to

approve the results of any competitive procurement for new fuel needs or for an extension of or renewal of any preexisting contracts?

MR. MARGARD: I'll object to that as being compound. We've got two incredibly different sets of procurements he's referring to. Can you break it down?

Q. Sure. I was trying to be expedient, but let's take one at a time. Do you agree, based on the language in the middle of that paragraph, that the buyer would have the right to approve the results of any competitive procurement for fuel needs that arise during the administration of the contract?

A. Yeah. They have the right, not the obligation. That means they're not obliged to do so if they don't want to, but they do have the right.

Q. And then the last sentence talks about the preexisting contracts, they wouldn't be renewed or extended unless the buyer approves, correct?

A. Again, the buyer is AEP Ohio, and the Commission doesn't belong anywhere in this whole picture.

Q. Well, we'll get to that.

So then another question for you, Dr. Choueiki, as it relates to Section 3.5 on page

11. And if you need to review it, that's fine, but my question is whether it's your understanding that the seller will dispatch the plant based on the buyer's criteria and instructions as well as the PJM requirement.

THE WITNESS: May I now have the question read back now that I've read the paragraph?

(Record read.)

A. That, and also some physical parameters that the seller would have to tell the buyer about. The buyer would have to instruct the seller that there are some physical parameters on these generating units so they can't say dispatch 50 megawatts if they have to dispatch at least a 100 a specific reason.

Q. Fair enough. And then I think you might have already mentioned this, generally, but is it your understanding that under the PPA that the buyer also votes as part of an operating committee to approve other O&M spending and other minor capital projects?

A. Yes.

Q. And is it your expectation -- or let me ask you that first. Is it your expectation that AEP Ohio's decisions and how they implement the PPA

contract would be actions that would be reviewed by the Commission when they're doing a prudence review for retail recovery of PPA costs?

A. Yes.

Q. Okay.

A. I mean, the Commission is not going to be looking at every decision that AEP Ohio gets into every time there's a decision to be made. I think that after the fact or to the extent, maybe, if AEP Ohio is really nervous about a specific decision, they may let the Commission know, but that's up to AEP Ohio.

Q. But would you agree that the costs associated with those decisions and administration of the contract would be reviewed by the Commission for prudence or would be subject to review by the Commission for prudence?

A. The rider charges would be subject to Commission review.

Q. But the cost, if there are net costs being recovered under the rider, those costs that relate to any of AEP Ohio's obligations or responsibilities under the PPA contract would be fair game for a prudence review, correct?

A. Yes.

Q. And by extension, if there's a prudence review, there could be a disallowance, correct?

A. Correct.

Q. Do you have experience in reviewing other PPA contract terms?

A. No; except ones that have been before us.

Q. Okay. Well, that narrows it down. The items we just talked about, went through the contract, are those similar to the FirstEnergy PPA, or are there distinctions there?

MR. DARR: Objection, relevance.

MR. NOURSE: Well, your Honor, I think he stated his experience is limited to these contracts so I want to ask him at least that observation.

MR. DARR: Still doesn't make the FE contract relevant to this proceeding, your Honor, particularly when it's not even in evidence.

EXAMINER SEE: I'll allow the question.

Dr. Choueiki, you can answer the question.

THE WITNESS: Thank you.

A. I haven't read both of these contracts in over a month or even more, so I can't tell you what are the details and what's different and what's alike with the exception that FirstEnergy is not asking the

Commission for the approval of a PPA.

Q. And did you say you read the FirstEnergy contract months ago?

A. The term agreement, the draft term agreement.

Q. Well, that's one difference, right, that there is an AEP contract that's been put forth, correct?

MR. DARR: Objection, your Honor, same basis.

MR. NOURSE: Your Honor, this goes to his observations about the PPA, his characterizations as to the inadequacy of the Commission review, the information flow, so I think it's a fair question, very fundamental factual question here.

MR. MARGARD: Your Honor, if that's the case, he should ask questions about the PPA contract.

MR. DARR: Agreed, your Honor.

MR. NOURSE: About what? I couldn't hear you.

MR. MARGARD: About this PPA contract.

MR. NOURSE: We just went through that. That's why I'm summarizing a couple things here.

MR. MARGARD: Not sure why he needs the FE PPA agreement to do that.

MR. NOURSE: Well, again, the question pending, your Honor, is simply whether AEP provided a detailed draft contract and whether AEP is alone in doing that.

EXAMINER SEE: And that question the witness can answer.

A. Yeah, this contract is a lot more detailed than the matrix which was like a term sheet, and, I mean, it was also detailed but not to this level --

Q. Okay.

A. -- the legal language that this one does.

Q. Okay. And do you acknowledge that the buyer's prudence terms that we just went through in detail would uniquely promote a prudence review for retail cost recovery disallowance purposes?

MR. DARR: Objection. I'll start with the form --

EXAMINER SEE: First, Mr. Nourse, could you repeat that question, please?

THE WITNESS: I guess maybe I need to.

Q. (By Mr. Nourse) So the terms that we just went through relating to the buyer and then we linked that into the retail cost recovery prudence review, do you recall that?

A. Yes.

Q. And if you have an opinion or an observation, I'd like to know whether those terms would be something that would be commonly included in a PPA or whether they uniquely facilitate cost review under these circumstances.

MR. MICHAEL: Objection. Compound; two materially different compounds in that question.

MR. NOURSE: I think they're alternatives, your Honor.

EXAMINER SEE: Let's try them one at a time.

Q. Do you recognize, Dr. Choueiki, that AEP put forth the specific line-by-line, full draft contract to the parties and ultimately the Commission after the Commission put out its pending order in the ESP III case?

MS. BOJKO: Objection. I think it misstates or mischaracterizes the record. AEP did not put forth the contract in its application for the Commission. It was introduced by intervenors. Fundamentally mischaracterizes what AEP did or didn't do.

MR. NOURSE: Your Honor, AEP put this contract out there. It was going to be in this

record. We gave it to everybody including the staff. We've been very open and transparent about proposing these very specific terms. It's an actual contract. So it is in the record, and I'd like to know whether he understands that that happened after the ESP order, that's my current question.

MR. DARR: The record is very clear in this case, your Honor, that the application, both the original and amended, did not include this document. It was only after Sierra introduced it that it became a part of the record.

EXAMINER SEE: The objection is sustained. Rephrase your question, Mr. Nourse.

Q. (By Mr. Nourse) Dr. Choueiki, do you realize that AEP provided this contract after -- to staff and other parties after the ESP III order?

A. Subject to check, I'll accept that you gave this information after the opinion and order came out in 2015.

Q. And do you acknowledge at all that AEP Ohio in crafting those terms and provisions with AEP Generation Resources has attempted to facilitate prudence review by the PUCO for costs related to the PPA?

MR. DARR: Objection, your Honor.

EXAMINER SEE: Grounds, Mr. Darr?

MR. DARR: Starting with he's asking a supposition based on what AEP did and I'm quite certain that this witness has no knowledge of the collective mind of AEP Ohio.

Second, the question misstates and also contains a mistaken premise. There's nothing in the contract itself that refers to prudence reviews. It simply provides for certain conditions or obligations or opportunities to AEP Ohio.

EXAMINER SEE: I was going to let them.

MS. BOJKO: Same, your Honor.

EXAMINER SEE: Did you want to respond, Mr. Nourse?

MR. NOURSE: I said what AEP did was put forth this contract. So I'm asking about the content of the contract and whether he acknowledges that that does anything to facilitate a prudence review.

MR. DARR: I don't have an objection to the clarification or the question that he actually just asked.

EXAMINER SEE: Okay. So the last question that Mr. Nourse just clarified, you can answer the question, Dr. Choueiki?

THE WITNESS: And that is?

(Record read.)

A. So the contract talks about AEP Ohio reviewing these expenditures and having veto over yes or no. It does not talk about the Commission in Ohio. Now, the Commission can ask questions after the fact about, okay, what decisions were made, what did you say, and show us the detail. But it doesn't talk about the Commission auditing. I didn't see anywhere where it says the Commission will audit anything because that's a wholesale contract.

Q. Right, it wouldn't have that in there.

Did you read the amended application?

A. Yes.

Q. Do you recall that discussing prudence reviews based on the contract?

A. So we go to the amended application, now you can ask me your questions. Because on top of the contract here.

Q. So did you read the amended application?

A. Several times.

Q. And did it address the prudence issues that were identified?

A. It said that the Commission does conduct prudency reviews and disallow. The concern is not whether we conduct the prudency review or not, the

concern is having that liability on AEP Ohio. AEP Ohio committing to a reliability even if the consumers are not because in the long run they might be.

Q. Yeah, I understand that, you talked about that earlier. So you have no concern for the retail consumers whether or not they bear costs that are imprudent?

A. We have concern, of course we do.

Q. Did you read the company testimony that addressed this issue about prudence review, Commission access to information?

A. Yes, I read it and it wasn't satisfactory. I mean, that was...

Q. Which pieces of testimony are you referring to?

A. Because it doesn't address the risk of AEP Ohio. The Commission is concerned about consumers, and it's concerned about the company that it regulates. So AEP Ohio is committing to be revenue neutral. Why would they increase the risk on themselves if they're revenue neutral? They're not making any money.

Q. Dr. Choueiki, in your last answer when you say "Commission is concerned," did you mean to

say the staff?

A. The staff is concerned. Thank you for correcting me.

Q. Now let's talk about the ESP III decision. You are familiar with the opinion and order that came out in February this year in the ESP III proceeding, right?

A. Yes.

Q. And you incorporated the decision, the opinion and order in your -- in formulating your testimony. You're attempting --

A. Correct. So staff interpreted these decisions, these points, and we presented them in testimony.

Q. You're attempting to implement the ESP III order, correct?

A. Correct.

Q. Do you believe you have applied the letter and spirit of the Commission decision to the best of your ability?

A. Yes.

Q. Now, did you just apply the Commission's stated factors or did staff create additional conclusions that are not based directly on the ESP III opinion and order?

A. No, I just -- we just read the opinion and order and derived these necessary conditions based on our understanding of the conditions.

Q. But were you just applying the factors the Commission stated, or were you/staff creating additional conditions beyond those factors?

MR. MARGARD: Your Honor, I'll object as asked and answered. The witness said it was based on staff's understanding of the Commission's conditions.

MR. NOURSE: That's a slightly different answer and question, your Honor.

MR. MARGARD: The nuance eludes me.

EXAMINER SEE: It has been asked and answered. The objection is sustained.

Q. Do you have the opinion and order with you?

A. No.

MR. NOURSE: Your Honor, I'd like to approach.

EXAMINER SEE: Yes.

Q. Okay, Dr. Choueiki, this is the opinion and order excerpt you've been using.

A. Okay.

Q. And do you see based on your familiarity with the order that the excerpt includes the

conclusion section of the PPA rider from the opinion and order?

A. Yes.

Q. Can you turn to page 21.

A. Okay.

Q. And the paragraph that's the full paragraph on that page I'd like you to focus on the bottom half of that. You see the part that says "Although several intervenors dispute the value of the proposed hedging mechanism and its use as a means to promote rate stability, there is no question that the PPA rider would produce a credit or charge based on the difference between wholesale market prices and OVEC's costs, offsetting, to some extent, the volatility in the wholesale market."

Do you see that?

A. Yes.

Q. And was staff one of the parties in the ESP III case that disputed the value in the proposed hedging mechanism?

A. Well, we recommended denying it based on principle that it was a move in the opposite direction. We didn't, I mean, that was the big issue with the PPA the first time around.

Q. Are you saying staff agreed there was

hedging value from PPA in the prior -- in the ESP III case?

A. No. We still thought the laddering and staggering was more effective.

Q. But you see here where the Commission has found there's no question the PPA rider would produce a credit or charge based on the difference in offsetting to some extent the volatility in the wholesale market, correct?

A. Yes.

Q. And then the next sentence says "The impact of the PPA rider would be reflected as a charge of credit for a generation-related hedging service that stabilizes electric retail service, by smoothing out the market-based paid by shopping customers to their CRES providers, as well as the marked-based rates paid by SSO customers, which are determined by a series of auctions that reflect prevailing wholesale prices for energy and capacity in the PJM markets."

Do you see that?

A. I see that.

Q. Let's break that down a little bit. So let's take the end of the sentence first. You agree that SSO rates reflect prevailing wholesale prices

for energy and capacity?

A. Sure, they do.

Q. And do you agree that the PPA rider would stabilize those rates by smoothing out the SSO rates?

MR. OLIKER: Objection. It's hard to tell if Mr. Nourse is talking about the last ESP case or this one.

EXAMINER SEE: Okay, Mr. Oliker.

Did you want to respond, Mr. Nourse?

MR. NOURSE: No, I think the Commission here was talking about PPA rider mechanism as a whole.

EXAMINER SEE: I'll allow the witness to answer the question. He can make any clarification he needs.

A. The Commission did not grant the recovery of charges in this case because they found it wasn't in the public interest. So the Commission here is stating the position, its position on this issue, however, they still didn't grant. That means although there is another hedge, there wasn't enough.

Q. Okay. Dr. Choueiki, what I'm asking you is whether you agree that the PPA rider stabilized SSO rates.

A. It may be but it's not as effective as

the laddering and staggering that we conduct every auction.

Q. Well, do you think when the Commission found that rejected intervenor positions contrary that the PPA rider would smooth out the rate, the SSO rates that it was already aware of staggering and laddering based on your testimony in that case?

MR. MICHAEL: Objection, your Honor. I think Mr. Stevens [verbatim] is misrepresenting the PUCO order because he's leaving off the next sentence that says, talks about the stabilizing effect in theory.

So Mr. Nourse is describing it as if the PUCO found it, but they clearly state in there that in theory it could have these effects. There was no factual content. They were simply stating in theory this could happen.

MR. MENDOZA: If I may, I just add there's nowhere in this order the Commission made a finding there would actually be in fact a stabilizing effect. I think somewhere else the Commission said it was proposed to have that effect, and I agree with counsel for OCC with the question mischaracterizes the PUCO orders.

MR. NOURSE: Well, your Honor, I don't

see anything about theory in this. And the Commission was specifically rejecting arguments to the contrary. And so I'm asking him whether his understanding of this would suggest that the Commission was not aware of staggering and laddering. His answer is simply that staggering and laddering is better.

MS. BOJKO: Your Honor, OMAEG joins the theory in the next sentence that counsel is purposely not reading which is the conclusion of the whole paragraph. So he's mischaracterizing the record.

MR. NOURSE: Well, your Honor, they can do that on redirect if they want to point out different language, but this is a very specific thing, it doesn't relate to the overall conclusion.

And, regardless, if you want to talk about theory or the PPA rider conceptually, that's the same question: Does he think the Commission did not know about staggering and laddering when they made these findings?

MS. MOONEY: I object, there's also the issue of what is the SSO rate which is staggering and laddering theory versus a nonbypassable distribution rider which is the PPA. I'm not sure that the PPA and the nonbypassable distribution rider on all bills

have anything to do with the SSO rates.

MR. OLIKER: Also asking what the Commission knew and he's asking for speculation, inappropriate. The order says what it says.

MR. NOURSE: Your Honor, the whole sentence does relate to the nonbypassable charge effect. At this point I've been focusing on the SSO because that's the only part of the staggering and laddering applies to but the sentence certainly applies to both CRES rates that are market based and SSO rates that are also market based.

MS. MOONEY: Staggering and laddering is a reference to the SSO rate, nothing to do with the PPA or whatever it is, the nonbypassable distribution charge, which all customers pay. Only SSO customers pay the SSO.

EXAMINER SEE: Any of the other intervenors want to chime in at this point?

The objection is overruled. The witness can answer the question.

A. And the question was whether the Commission was -- is aware of the laddering and staggering before they wrote this order?

Q. (By Mr. Nourse) Yes.

A. I'm almost certain that they are aware.

EXAMINER PARROT: I'm going to point you to page 25, Dr. Choueiki. I'm going to help you out here to move this along.

THE WITNESS: Okay. Where would you like me to look, your Honor?

EXAMINER PARROT: The first paragraph in the middle.

THE WITNESS: First paragraph?

Okay, so the Commission found that the PPA rider may, if properly conceived, has the potential to supplement the benefits derived. So when you asked me the question about which one staff finds the laddering and staggering is more effective, the Commission is saying that it's yet more effective to have a PPA on top of the staggering and laddering in certain circumstances.

Q. Okay, and your position, you/staff, in the ESP III was that staggering and laddering is good enough by itself, right?

A. It's very good. It's a very good approach.

Q. And your position in this case here today is that staggering and laddering is good enough by itself, correct?

A. Right.

Q. Can you turn to page 24. Actually, I'm going to cover that later, strike that.

So the Examiner brought us to where I was going to go anyway, so the page 25 language that you were just reviewing about the PPA proposal if properly conceived can supplement the benefits derived from staggering and laddering, so did your testimony incorporate that concept and make recommendations that would, if properly conceived, achieve this goal of additional stability?

A. Again, the testimony goes to first the initial concept, the initial concept of a PPA, and we recommend that the Commission deny it. Now, to the extent the Commission wants to find that with all these other adders, the PPA is in the public interest, then they'll decide so accordingly.

Q. Okay, but is there part of your testimony where you recommend based on your modifications that the Commission would go beyond staggering and laddering and use the PPA rider?

A. No, we don't recommend that. They would have to decide that on their own. If they want a PPA, then they can assess that situation themselves.

Q. Okay. I didn't think so, I just wanted to make sure I didn't miss it.

So sticking to page 25, opinion and order, just at the end of that paragraph, the "In sum" paragraph we've been discussing, you see a statement there that rate stability is an essential component of ESP?

A. Yes.

Q. And you agree with that?

A. I agree that rate stability is very essential, very important.

Q. And how in your testimony in your recommendations have you incorporated that goal to help achieve that goal?

A. I think again the laddering and staggering where you're taking an average of six clearing auctions together reduces the very small variance one year to the other. So staff believes this is already accomplishing that goal. So there is no need for a PPA, that the only thing it's adding is risk.

MR. NOURSE: Your Honor, I've got I'd say at least an hour left but it's a good breaking point before I move into his actual testimony and I would suggest a lunch break so I can review my notes and try to eliminate stuff he's already talked about.

EXAMINER SEE: With that, we'll take a

lunch break until 2:15.

(Lunch recess taken.)

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Friday Afternoon Session,
October 23, 2015.

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EXAMINER SEE: Let's go back on the record. Mr. Nourse?

MR. NOURSE: Thank you, your Honor.

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CROSS-EXAMINATION (Continued)

By Mr. Nourse:

Q. And good afternoon, Dr. Choueiki.

A. Good afternoon.

Q. I wanted to take you in your testimony where you discuss some of the factors from the ESP III decision and ask you to turn to page 13, and there you have a bullet, I guess it's from lines 11 to 16, that addresses the financial need criteria, correct?

A. Yes.

Q. And is that the extent of your financial need analysis in that bullet?

A. Yes. We basically looked at what's in the company record in terms of revenues and costs and weren't convinced that the power plants were in dire straits.

Q. Well, is that what that bullet says,

Dr. Choueiki? Can you point me to the language that refers to the concept you just stated?

A. Those were the assumptions that were used in Dr. Pearce's testimony, 50/50 and the 11.24.

Q. And on line 14 through 16 you say, "Staff believes the proposed ROE is excessive and, therefore, Staff does not believe a demonstration of financial need has been presented." Correct?

A. Correct.

Q. So that is your conclusion on financial need, that sentence I just read.

A. Yes.

Q. And have you ever testified on return-on-equity issues?

A. No.

Q. And I believe earlier in your testimony today you said the reason you believe, or staff believes, 11.24 percent is excessive is for an unregulated or deregulated generation asset; is that correct?

A. I can't recall the words. What my point was, this Commission hasn't granted recovery on an unregulated asset before, so it's not like you can compare and say 11 percent's reasonable or not. Those are unregulated assets, so to the extent the

Commission rushes to grant a PPA and the objective of the PPA would be to help these power plants, one of the objections would be to help these power plants stay in business to the extent they are in financial need and they're not paying their bills.

Q. And I believe --

A. It hasn't been demonstrated.

Q. You stated earlier that you believe the units would be profitable without the PPA?

A. What I stated is based on what Dr. Pearce showed us over nine years and three months, it's looking that it's in the positive -- I can't recall the number -- $570 million or something like that over a nine-year and three-month period.

Q. And that analysis that Dr. Pearce set forth assumes the PPA's in place, does it not?

A. Correct.

Q. Is it your testimony that the PUCO has not established an ROE in an adjudicated case that relates to generation assets?

A. They did in the AEP fixed capacity compensation case 10-2929, but those assets at that time, since AEP was a fixed resource requirement company where it was the only provider of capacity, it was treated like they were a regulated asset.

Q. And is that treatment that you're attributing to the Commission's decision spelled out in the Commission's order?

A. Which Commission order?

Q. The 10-2929 case.

A. I don't recall if it was in the Commission's order in the 10-2929 case. I was involved in it, but I don't remember what the language of the order was. I know they granted a ROE, or they used an ROE -- I can't remember what the number is. It was adjusted from what the company applied for, but I can't recall what the number was.

Q. Does 11.15 percent sound correct?

A. Yeah.

Q. And are you saying that the Commission's adoption of that as an adjudicated decision was based on the FRR status being equivalent to regulated assets?

A. I don't know how the Commission thought of it. That's how I thought of it. But the observation was that it was still AEP Ohio, although generation was a deregulated service back then, too. It was still AEP Ohio, and it had already committed its capacity to all the service territory by being a fixed resource requirement under the reliability

assurance agreement by being in the RPM.

Q. So is it your understanding or is it your opinion that if the Commission were to adopt a lower ROE based on your opinion that 11.24 is excessive, that would meet the financial need criteria?

A. If the Commission is convinced that based on the record that these power plants require assistance, then the Commission can decide to help. The question is how, like, do they want to help pay their bill? Do they want to help give them an abundance, 650 basis points? They will decide. In staff's opinion, 650 basis points is large. The Commission can decide what to do.

Q. Do you know if the cost of debt during the period applicable to the 10-2929 case was significantly higher than it is today?

A. I don't know what it it was.

Q. So you don't know whether the 11.15 adopted in that case was 650 basis points above the cost of debt?

A. You can't compare the two. That's my point. AEP company at that time, or Ohio Power, owned that generation for most of that time. This one now under this application, AEP Generation Resources is an unregulated unit, so they're in the

market and their generation in the capacity market. There's no more -- you can't compare the two, 11.15 then and now it's 11.2.

Q. I understand your position on that. But what I asked you was whether you know if the 11.15 approved based on an adjudicated decision in the 10-2929 case was more than 650 basis points above the cost of debt?

A. And I told you I didn't recall what the cost of debt was in that case.

Q. Okay. Now, you indicated a few moments ago that your staff's basis for concluding the ROE was excessive was reviewing the numbers that Dr. Pearce presented, correct?

A. Yes.

Q. And you indicated that you looked at the nine-and-a-half-year period as a whole, correct?

A. Yes.

Q. So do you think there's any different conclusions that would be reached regarding financial need if one examined a shorter-term period such as three years?

A. So if I'm a generator owner, and I'm not, and I'm looking at whether to close a power plant or not because of financial needs, I'm not going to look

at just one year or just two years. I'm going to look in the long run because this asset is going to earn enough to stay open and to provide a return or not.

So if you were to take a shorter PSP -- shorter PPA, you'd have to look how far you would have to go into the future and calculate the cumulative rider, like, over four years, over five years and see if it's in the positive or in the negative.

Q. And I believe you stated earlier today that anything beyond three years is very uncertain in PJM markets, correct?

A. Correct. So that's why I'm recommending lots of conditions where you put caps to the extent that the market goes in a different direction than what Dr. Pearce or the company -- because Dr. Pearce didn't develop the forecast. Someone else developed the forecast. But to the extent the company's forecasts are not accurate, then at least there is protection.

Q. If we look at the same period you're recommending that the term be shortened to, which is two-and-a-half years, correct?

A. Yes.

Q. Approximately. Do you believe there's a financial need for that period of time?

A. The way staff is defining "financial need" is not whether the rider is a negative or a positive number. It's whether the owner of the generator is able to pay all their bills without the return on equity and income tax or a smaller amount of return on equity and income tax.

Q. Did you do that calculation?

A. We've done some "back of the envelope" calculations but nothing formal.

Q. And you didn't present anything in your testimony about that, correct?

A. That is correct.

Q. Can you turn to page -- well, I think you're on page 13. So the bottom of 13, carrying over to 14 is another bullet where you talk about grid reliability, correct?

A. Correct.

Q. And you basically say that we failed this criteria because there was no -- well, let me just state it like you did. We did not provide an independent assessment of the impact on grid reliability of the affiliate PPA units, correct?

A. Correct.

Q. And this independent assessment, can you define what you mean by "independent"?

A. That the Commission and the company hire an independent, someone who doesn't work for AEP and the scope is not set by AEP, of what the problem is that we're trying to solve and have them do an independent assessment whether there is an impact on reliability, and to the extent there is, how much, what is an estimate of the impact.

Q. So did staff undertake that kind of analysis?

A. No.

Q. Did staff recommend or suggest to the company that such an independent contractor should be hired?

A. No.

Q. So this condition, it was basically impossible for the company to achieve under your interpretation, wasn't it?

A. The company could have hired at that time when they filed the application an independent party to examine that problem.

Q. But I thought you said staff had to approve it or the Commission would have to approve the scope and the selection.

A. Correct, that you would have had to come here first and ask.

Q. And yet we didn't know this was your recommendation until a couple weeks ago, correct?

A. Correct. But it could have been interpreted by AEP when they read the order back in February 2014.

Q. Well, Doctor, I don't think we interpret the order the same way. I think that's already been established.

Can you turn to -- I think we may already be on page 14. I want to ask you about your statement starting on line 7 through 10, and the sentence says, "To the extent there are issues of prudency or concerns about rates, the Company states that the Commission would have to pursue such issues at FERC." Do you see that?

A. Yes.

Q. And you rely on Mr. Allen's testimony for that statement?

A. Allen or Vegas, one of the two.

Q. And in your footnote to the prior sentence it cites to the testimony of William A. Allen at 10.

A. That is correct.

Q. So is that the company statements you're referring to in that sentence?

A. If it says so, then that's probably it. That's several statements about the Commission having jurisdiction to conduct financial audits and information.

Q. Let me try to shortcut this. Is it your understanding today that on the one hand if there's a concern about the actual wholesale rate, that would go to FERC to decide; is that correct?

A. Right.

Q. And on the other hand, if there's a concern or, as you put it here, an issue with prudency of AEP Ohio's actions in implementing the contract, is that also something the company has directed the Commission to go to FERC about?

A. To the extent the Commission does not want AEP Ohio to pay when they disallow an expense -- when they conduct a prudency review and they disallow an expense, the concern is then under currently the way it is, AEP Ohio must pay AEP Generation Resource even if the Commission disallows that expense.

And to the extent the Commission disagrees with that, that means the Commission doesn't want AEP Ohio to pay for that expense, then

they would have to go to FERC because that's the contract at FERC and that's where it can be challenged.

Q. Well, again, I'm trying to distinguish your statement here with what you're attributing to the company. So when you say on line 8 "issues with prudency or concerns about rates" the first part that refers to "prudency," you're really also in that part referring to wholesale rates, correct?

A. A cost that AEP Ohio has to pay to AEP Generation, so I guess would be a wholesale matter.

Q. And by contrast or distinguished from that kind of prudency issues would be AEP Ohio, the buyer in the PPA, coming to the Commission for retail recovery, and the Commission may review the prudence of AEP Ohio's actions or prudence -- I guess I stated that too many times. But do you appreciate that distinction?

A. Correct.

Q. And that latter retail recovery is not a FERC matter, is it?

A. That is correct.

Q. And the company has never stated that that was a FERC matter, to your knowledge, have they?

A. To my knowledge, they have not. Again,

it's the prudency to the extent the AEP Ohio agrees that that's an expense that should be incurred and the Commission disagrees with that.

Q. I understand your position. I just wanted to clarify that distinction.

A. Okay.

Q. Thank you.

Now let's turn to page 16. In lines 8 through 10 you're stating this preference for staggering and laddering that we've talked a little bit about earlier. I want to ask you a few more questions about this.

Do you agree that when staggering and laddering, you're not eliminating price premiums or price risk that's reflected in the SSO rates?

A. Could you be more specific about price premiums and price risk?

Q. Well, do you agree that SSO rates, SSO auction clearing prices, reflect price premiums and compensation for price risk?

A. So the SSO clearing price is a function of many variables. The two largest components are the forward energy markets and the capacity prices. So they're exposed to these, to the volatility in these prices. However, again, the volatility is not

hour to hour. We're talking about long-term contract, 12 months, 24 months, 36 months. So you can't even compare the two. One of them is very high; the other one is not very high.

Q. I understand the definition of staggering and laddering. You point that out in your footnotes there on page 16. So I'm accepting that and I'm using your terminology here. So let me try to restate the question.

So with staggering and laddering, you're not eliminating price premiums or price risk; you're managing the volatility over time by levelizing or smoothing it out you would agree with that, correct?

A. You're managing the volatility because the Commission is buying six products for the same year and averaging them out. That's how the volatility is being managed.

Q. And you're not eliminating price premiums or price risk as part of that, correct?

A. To the extent these risks are reflected in the offers for our SSO auctions, they'll be there, that is correct.

Q. And even with staggering and laddering, there's some price volatility, correct?

A. Yeah. Anytime there is a change in the

capacity price to the extent, like, in the ATSI region, the capacity price tripled one year, so that increased the retail SSO auction clearing prices. But given that we staggered and laddered the product, the generation increased less than three times.

Q. So it reduces the volatility but not eliminated it, correct?

A. I don't think you can eliminate the volatility.

Q. And staggering and laddering only mitigates volatility for nonshopping customers, agreed?

A. So the staggering and laddering, in addition to limiting the volatility for the SSO customers, it also disciplines the market to shoppers, so no one is going to market very far or have a lot higher than what the SSO price is.

So it disciplines the market, so as long as the variability in the SSO price is not very high, the variability in the CRES offers would not be higher because they're competing with the SSO offer.

Q. You talk on the same page, Dr. Choueiki, about fixed-rate CRES contracts, do you not?

A. Yes.

Q. And to the extent that customers lock

into a CRES contract, they wouldn't have a choice of going back to the SSO during the term of that contract, would they?

A. They have a choice. Then they have to pay a penalty, $50 penalty or something.

Q. They don't have an unrestricted choice.

A. Yes.

Q. And to the extent that CRES providers are locking down customers for periods of time under those contracts, they wouldn't go back and revisit those prices based on some subsequent SSO auction result, would they?

A. No. I mean, if a customer is locked for a contract, they're locked for a contract.

Q. And would you recommend that the PPA rider mechanism offers a true hedge that offsets market price trends?

A. The PPA rider has a lot of conditions attached to it and a lot of uncertainties attached to it, so unless staff sees one that is really conditioned and really in a box in terms of how much can the cost go up, how much is the exposures, what is their limitation on the exposures of the consumers, is there a limitation on the exposures of the wires company that the Commission regulates, I

can't answer that question by just saying the PPA rider provides a full hedge.

Q. Well, let me ask you to -- and I understand your position in this case and all the caveats you've given so far. I'm just trying to ask you a few narrow and specific questions as relates to staggering and laddering.

So if we could compare staggering and laddering on the one hand to the PPA rider mechanism on the other hand, I want to ask you to do a couple comparisons there, okay? Are you with me so far?

A. Yes.

Q. And as between staggering and laddering versus PPA rider, which mechanism or approach applies to all customers?

A. The PPA rider definitely is nonbypassable, so it's all customers. The staggering and laddering is directly to SSO customers, indirectly to shoppers.

Q. And which of the two mechanisms operate in the opposite direction of market pricing trends?

A. Either of them would -- well, one of them is if the market is up, the SSO -- let's go with the SSO first. If the clearing price of the market is up, future clearing prices are going to be higher,

reflect what the market is saying.

The PPA rider, I'm not sure because the way the company is displaying the PPA rider has gone opposite of the market, is just purely based on revenues going up. So if the revenues go up, then the consumers get a credit. If the revenues go down, the consumers get a charge. But no one talks about the cost, if the costs go up. So it could be if the revenues go up and the costs go up, it could go also -- there could still be a charge to consumers. So that means it's going with the market.

Q. Do you think based on the track record of cost efficiency for these units, PPA units, that the cost is volatile?

MR. DARR: Objection, your Honor. There's no evidence with regard to the cost efficiency of these units in this record. Assumes a fact not in evidence.

MR. NOURSE: I'm asking him his opinion, so I think he can offer if he doesn't have any.

Let me try to rephrase, your Honor, because I don't think what I'm reading here is what I said.

Q. (By Mr. Nourse) So, Dr. Choueiki, do you believe the costs for these PPA units is volatile?

A. So we're talking about the future now, in the future do I expect them to be as volatile as the market?

Q. I believe in your last answer you said the volatility mitigating effect of the PPA could be offset by price or cost increase, correct?

A. That is correct.

Q. So now I'm asking you whether you think the cost of these units is volatile.

A. It's not as volatile as the revenue, as the market prices, but to the extent a major catastrophe happens at the power plants and there's a $500 million expense, then that's one event that would cause a lot of --

Q. Have you reviewed the historical costs of these units as part of your testimony here or preparation for this case?

A. I think here was data requested someone asked for, but I can't recall. I don't remember them being volatile, let me put it this way.

Q. When you talk about fixed contracts in your testimony on page 16, what's your definition of a fixed-rate contract?

A. This is like CRES providers providing a fixed-rate contract, a fixed rate for 12 months or 24

months.

Q. Fixed is fixed, there's no opportunities for changing the rate; is that what you're talking about?

A. Yes.

Q. Now, on pages 17 through 19, the section in your testimony where you set forth, I think, half a dozen conditions or recommended modifications to the PPA rider, correct?

A. Yes.

Q. I think you said that before, but the Commission only reaches this part of your testimony if they reject your main recommendation of denying the PPA outright, correct?

A. Correct. I mean, the Commission may decide to -- no, that's true. The two options would be -- unless they come up with a third option that I can't think of right now, to the extent the Commission disagrees with staff and decides they want to grant a PPA, then those would be the conditions that we recommend.

Q. And on page 17 you say on lines 5 and 6 that these six recommendations could mitigate staff's concerns. Do you see that?

A. Yes.

Q. Are these your recommendations, or are there other ones that are not reflected in your testimony?

A. Well, I mean, there's always the big concern that we're going in the opposite direction. Like, we're in the market. Why are we going back and bringing generation? So that's a big concern that the Commission can figure out. To the extent they want to add more things about that, more conditions to address that concern, they can.

Q. Anything else?

A. The Commission may come up with others.

Q. Well, I'm asking you about your testimony.

A. Yeah. We're addressing only, I think, the necessary conditions that the Commission articulated as interpreted by us.

Q. And it would be inaccurate or you couldn't agree if we changed the language on lines 5 and 6 that I just read to say that these modifications will or would mitigate staff's concerns, correct?

A. Not until we look at all the details. So this is a move in the right direction. The Commission may think those are appropriate and those

are enough, or they may add more or they may subtract.

Q. And these are -- these six things are staff's preference as opposed to things that would be required under the ESP III decision, correct?

A. By limiting the term of the expanded PPA rider. I can't recall if the Commission had a necessary condition on that. That's a condition that staff proposes because staff is very concerned about the exposure to risk in the future years and the unknown years, the years that we don't know what the capacity price is, what the energy prices are going to be. We don't know if any power plants are going to have any major catastrophes, so that's why there's a limit on the PPA rider.

Q. Well, let me clarify your recommendation here. Are you saying that the term of the PPA should be reduced to -- the wholesale contract of the PPA should be reduced to match the current remaining ESP III term?

A. Yes.

Q. Can I ask you to turn back to the opinion and order on page 24.

A. Okay.

Q. And if you can read the second paragraph,

"Although," I'm going to ask you some questions about that.

A. Okay.

Q. And would you agree that in this paragraph the Commission stated that the company did not propose in the PPA rider extend beyond the ESP term, and in the very last sentence found that the company has made no offer to ensure "the customers receive the alleged long-term benefits of the PPA rider or even a commitment or any type of proposal to continue the rider in subsequent ESP proceedings." Do you see that?

A. Yeah, I see that.

Q. And do you recall in that proceeding and in this proceeding allegations or criticisms of the proposal being that the company would collect the charge during the period there's a charge and then terminate or cut and run or terminate the PPA when it's in the money? Do you recall that?

A. I recall hearing it. I can't recall if neath hearing or I cross the hall but could have been in both.

****(it's in this hearing.

Q. Is it fair to read this this paragraph your, Inc. of it that the Commission was being

critical with am company did not commit to ensure that the alleged long-term benefits of the PPA rider would continue beyond the ESP term?

A. Yes, correct.

Q. Do you recall reading a letter in this docket today, the case we're talking about today, that was a cover letter for the amended application on May 15, 2015?

A. A letter was filed on May 15? With the amended application?

Q. Do you recall the cover letter?

A. I don't know.

Q. How about if I show it to you to refresh your memory?

MR. NOURSE: Your Honor, I'd like to approach and mark AEP Exhibit 49.

EXAMINER SEE: You may.

(EXHIBIT MARKED FOR IDENTIFICATION.)

Q. And, Dr. Choueiki, this is a letter over the signature of Pablo A. Vegas president and chief operating officers AEP Ohio, correct?

A. Yes.

Q. And does this refresh your recollection that this was the cover letter to the amended application filed on the same date?

A. Do I remember the letter exactly, no. But would I agree that was the cover letter? There was an application, I can't recall what was in the application and where was amended. If you say that it was, then and it looks like it's official and it was filed with the Commission.

Q. Well, thank you. And if you look at the last page, does that also help you confirm it was filed in this case in docketing?

A. Yes.

Q. And then if I could direct your attention to the very last sentence of the letter before signing off, can you read that aloud?

A. AEP Ohio is author offering a long-term commitment think the PPA to dedicate generation assets to continue its service to Ohio for the remaining economic life of the power plant.

Q. And so do you believe it's possible to achieve the purpose of the PPA and ensure any long-term benefits that do exist would be received by customers under a two and a half year term?

A. The Commission could decide to do so not because of only interest to like customers would be one of the important issues. Another one would be to the extent the Commission decides that these power

plants are essential to the Ohio economy and they want them to stay in business just for the two or three years that are struggling years, then they may do so anyways.

Q. And can you tell me whether your recommended two and a half year term of the PPA addresses the financial need factor outlined in the ESP III decision?

A. Staff doesn't believe there is a financial need.

Q. The two and a half year term does not address financial need regardless of whether it exists, does it?

A. No, but to the extent the Commission wants to grant a PPA for some reason, they find out that it's in the public interest, then staff's position is to limit the exposures of consumers and the exposure of AEP Ohio.

Q. Well --

A. To risk.

Q. Let me put it this way, any of the reasons the Commission stated in their ESP decision for adopting the PPA rider and any of the factors stated on page 25 of the opinion and order, does this two and a half year term recommendation advance any

of those things?

A. To the extent the Commission thinks this is important to the Ohio economy, then it addresses it. To the extent they believe it's a generation diversity issue they want to preserve these power plants for the next three years, then that will address it. Public interest is a lot larger than just the financial need or a rider charge or credit. By Ms. Bojko:May have E I have the anxious reread please

Q. Dr. Choueiki, if you can turn to faij 18. Top of the page. You're again stating this concept I guess that the Commission will have to file FERC challenging cost components under the PPA and the FERC approval on the Commission to demonstrate its case do you see that?

A. Yes.

Q. Is that the same position staff had in the ESP III proceeding?

A. I believe it is. Because there we had a concern about also to the extent that the Commission wanted to disallow specific expense, then that was a wholesale contract between the company and OVEC.

Q. And did the Commission impose any conditions or factors that incorporate that concern?

A. Well, they did articulate that those are necessary but the Commission isn't bound by these conditions. So they may -- that may be one of the conditions that they also are concerned about.

Q. Okay.

A. Maybe specifically they did not say it. But they left it open.

Q. So this is an example where staff is recommending an additional condition, it doesn't relate to the factors spelled out in the order, correct?

A. Yes.

Q. The top of page 19, and this is under the risk sharing mechanism bullet.

A. Yes.

Q. You basically concluding that under this factor that the parties to the PPA would have to commit to be responsible for a portion of the costs associated with the PPA in can change for a portion of the reaf news social Yates wed the expanded PPA. And you see that Dr. Choueiki?

A. Yes.

Q. And is this explicit obligation something that's found in the ESP III opinion and order?

A. No. This is one of the methodologies

that staff would like the Commission to consider. Another one is the capping on the credit and on the cost.

Q. Okay thank you.?

MR. NOURSE: Thank you Dr. Choueiki. That's all I have. Thank you, your Honor.

EXAMINER SEE: Mr. Margard any redirect?

MR. MARGARD: Your Honor, I don't believe I will but I would like just a moment with my witness to find out.

(Discussion off the record.)

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

Mr. Margard?

MR. MARGARD: Thank you, your Honor. I have no redirect.

And I would at this time renew my motion to admit Staff Exhibit No. 1.

EXAMINER SEE: Any objections to the admission of Staff Exhibit 1?

MR. NOURSE: No, your Honor.

EXAMINER SEE: Staff Exhibit 1 is admitted into the record.

(EXHIBIT ADMITTED INTO EVIDENCE.)

EXAMINER SEE: Mr. Michael?

MR. MICHAEL: Yes, your Honor, at this time we would move for the admission into the record of what we have marked as OCC Exhibit No. 20.

EXAMINER SEE: Are there any objections?

MR. NOURSE: Yes, your Honor. I don't think it's appropriate to put the witness' testimony in from this prior case, particularly given the intervening Commission decision, and I believe there was very limited questioning about it. The relevant parts he was asking about are already in the existing record, so I don't think this exhibit needs to be admitted.

MR. MICHAEL: My recollection, your Honor, is that I cross-examined Dr. Choueiki quite extensively on it. There were objections made at the time I was asking the questions that were overruled because the issue was the degree to which staff's opinion changed or did not change, and the testimony will certainly contribute to a full, complete, and accurate record and put the Commission in the best position to have as much information before it that is germane to its decision as possible.

EXAMINER SEE: The objection is overruled. OCC Exhibit 20 is admitted into the record.

(EXHIBIT ADMITTED INTO EVIDENCE.)

EXAMINER SEE: Mr. Darr?

MR. DARR: Move the admission of IEU 17, your Honor.

EXAMINER SEE: Are there any objections to the admission of IEU Exhibit 17?

MR. NOURSE: Yes, your Honor. The witness stated he was not familiar with the accounting requirements that apply to AEP Generation Resources. He had no knowledge of this document, or, again, the accounting requirements that purported to be addressed here, and he didn't review this issue for purposes of his testimony.

MR. DARR: Once again, I have to thank Mr. Nourse for pointing out the relevance of the document. IEU 17 is self-authenticating inasmuch as it's a government record produced by FERC and is readily available on the FERC website.

The relevance of the document goes to the analysis and the depth of the analysis performed by the staff with regard to the availability of methods to adequately monitor AEPGR's behavior under the proposed PPA. Certainly that's central to the staff's position, that the Commission should adopt a means of doing careful monitoring, rigorous

monitoring of AEPGR.

Given that AEPGR has asked the FERC to withdraw its requirement or to waive its requirement to file a FERC Form 1 and a Form 3Q, it's going to be a little tough for the Commission to do that. So that demonstrates not only the issues related to Mr. Choueiki's issues, but primarily fundamental issues in this case whether or not the review process can take place whatsoever.

MR. NOURSE: First of all, Mr. Darr believes this is some sort of a smoking gun. He had a witness he could have put in testimony about it.

I think to purport all the things that he's read into, this document, it's a simple notice. I think it says way too much about the implications of it, and I certainly disagree. And to that extent if that's what he's using it for, I think it's prejudicial.

And, again, the fact that the witness didn't review the issue, had no knowledge about it, suggests that he couldn't otherwise explain it, the significance or insignificance of it, and there's been no evidence to suggest that the staff asked for any kind of information about cost or accounting from the company that was not provided in all the

thousands of discovery responses we've responded to in this case. If that what he thinks it is, I think it's prejudicial.

MR. DARR: I find that amazing as a response, your Honor. The issue is is the ongoing supervision of the company, not what they provided to the staff in the past or what the staff requested. What it does go to and what the notice specifically says in the first paragraph is that AEP Generation Resources has submitted a request for a waiver of the reporting requirements for Federal Energy Regulatory Commission FERC Form 1 and Form 3Q. That's what we offered it for. And it goes to the review process that Mr. Choueiki specifically says is supposed to take place here under the staff's recommendation.

MR. NOURSE: And if the FERC thought this was somehow unjust and outlandish, as Mr. Darr does, then who knows how it will turn out. This is a notice of request, and there's no other information so I think it's irrelevant and prejudicial.

EXAMINER SEE: The Bench is going to deny admission of IEU Exhibit 17.

MR. NOURSE: Your Honor, company would move for admission of AEP Exhibit 49.

MR. DARR: Objection, your Honor. It was

submitted for the purpose of refreshing recollection. The portion that the witness or that AEP Ohio requested the witness to consider he actually read into the record. There's no reason for admitting AEP 49.

MR. NOURSE: Your Honor, I gave him plenty of time to read the document if he wanted to, asked him questions about it. It does reflect -- first of all, it's already been filed in this case, but it does reflect the context of what Dr. Choueiki did and didn't review in making his recommendations and observations, so I think it's relevant and should be admitted for that reason.

MR. DARR: The document shouldn't have been offered for the purpose of refreshing recollection because under the standard practice, that doesn't serve as a basis for offering it as an exhibit, your Honor.

EXAMINER SEE: Mr. Michael?

MR. MICHAEL: Your Honor, I was just going to point out that -- I'm not going to get between Mr. Darr and Mr. Nourse, but OCC Exhibit 2 was the May 15, 2015, letter and it was admitted into evidence, so.

EXAMINER SEE: I'm sorry, OCC, give me

that again.

MR. MICHAEL: No. 2, your Honor --

MR. DARR: I withdraw the objection, your Honor.

EXAMINER SEE: I'm sorry, say that again, Mr. Darr?

MR. DARR: I withdraw the objection. If it's already in the record, there's no point in arguing this point.

EXAMINER SEE: With that, do we really need AEP Exhibit 49 in the record?

MR. DARR: Unfortunately it's been referred to as 49 in the transcript.

MR. NOURSE: As long as we can stipulate the references with Dr. Choueiki's cross-examination through AEP 49 would be read as cross-referencing OCC Exhibit 2, I'm fine with that. I don't think it's the only exhibit that overlaps other exhibits though, your Honor.

EXAMINER SEE: Okay. Recognizing that it's already in the record but has been referred to as AEP Exhibit 49 in the examination of Dr. Choueiki, AEP Exhibit 49 is admitted into the record.

(EXHIBIT ADMITTED INTO EVIDENCE.)

EXAMINER SEE: Thank you, Dr. Choueiki.

THE WITNESS: Thank you.

MR. NOURSE: Thank you, your Honor.

I'm sorry, are we done?

EXAMINER SEE: Yes, we are.

MR. NOURSE: The company would like to discuss permission to file rebuttal testimony.

EXAMINER SEE: Okay.

MR. NOURSE: And I guess I'll try to describe our proposal for the record. We plan to file two pieces of rebuttal testimony. I would say they're relatively narrow and short, and I expect the total of the narrative portion of the testimony to be approximately 20 pages between the two pieces total.

There's also some exhibits. They're not voluminous. Our proposal would be to file the rebuttal testimony on this coming Monday, the 26th, at 3:00 p.m. -- by 3:00 p.m., and electronically serve it on all the parties along with any workpapers. Those would be served by email, not filed.

And given the relative brevity of the rebuttal and the desire to move this case toward briefing, we would propose that we come back on Friday, the 30th, to do the rebuttal testimony.

EXAMINER SEE: I don't hear any of the

intervenors saying anything, which is very unusual.

MR. DARR: We're waiting for permission to go forward on that one, your Honor.

EXAMINER SEE: Let's hear it.

MR. MENDOZA: May I have a point of clarification? Mr. Nourse, when you say "two pieces," do you mean two witnesses?

MR. NOURSE: Two witnesses, yes.

MS. BOJKO: And you made a point to separate narrative versus nonnarrative. What's the extent of the charts or attachments?

MR. NOURSE: I said they weren't voluminous. I'm not sure of the final number of pages. I can tell you that, again, there's not going to be a lot of -- there's not like a new economic study or new modeling or any kind of voluminous data involved here.

MR. MENDOZA: Are you willing to offer which witnesses it will be?

MR. NOURSE: Yeah. It's Karl Bletzacker and Bill Allen.

So, I guess, your Honor, there's two questions: A, we want to get permission to file rebuttal; B, when are we coming back to put the witnesses on the stand.

And I would suggest that if once -- the reason we wanted to file Monday by 3:00 p.m. was to, again, given the brevity of it, give folks the testimony, actually have a chance to look at it by the end of the day, and, again, would suggest we come back on Friday to complete the rebuttal live testimony

And if for some reason people think that's not enough time after they look at it, perhaps we could have another status conference or something on Tuesday, but I don't think that will be necessary.

EXAMINER SEE: So you're proposing a status conference for Tuesday, the 27th.

MR. NOURSE: Only if parties, after they review the testimony, believe they wouldn't be prepared by Friday and we had to talk about a different date or something. I don't expect that to occur, but I'm just throwing that out as a relief valve if for some reason a discussion is needed.

MR. KURTZ: Can I weigh in?

EXAMINER SEE: You may.

MR. KURTZ: The FirstEnergy rebuttal case is going to be on four, at least I think, four days next week. The only thing I would request is to not have the hearing on Friday, the 30th, but as early

as the following Monday.

I'm not speaking for anyone else, but next Friday would be very difficult, your Honor. Even just moving it to Monday or Tuesday the following week would be very helpful.

MR. DARR: I'm struggling with the same problem, your Honor. As you're aware, I have travel plans beginning on Friday, the 30th, and will be out of town through the end of the day on Sunday.

Normally I'd say somebody else could pick it up for me, but of the three attorneys in our office that handle these sorts of matters, two of us are traveling, and so I've got a staffing problem on top of everything else for that Friday.

Like Mr. Kurtz, I request if we could push the beginning of the hearing to the beginning of next week with the expectation we could finish it in a day or two on that basis, and a lot of that will depend, obviously, on the scope of Mr. Bletzacker's testimony. Both Mr. Bletzacker and Mr. Allen were long live witnesses in this hearing, I think we devoted a day of time to each. I don't know at this point what the scope is going to be.

MR. MENDOZA: And, your Honor, I'll add, while we're on the subject, Sierra Club would prefer

the hearing not occur on Monday. Just because of our various issues with our counsel, we'd prefer that this hearing start on Tuesday of next week.

MS. BOJKO: Your Honor, OMAEG, and I have has also been asked to speak for ELPC who is in depositions in the FirstEnergy case right now, we are in the FirstEnergy, there's five witnesses for there. We are doing those in four or five days. Friday might be a live witness day in there, so we have scheduling concerns.

And then on top of that getting the testimony on Monday at 3:00 p.m. and expecting to cross-examine on Friday is a very short time for 20-some, and we don't know what the exhibits are. We don't know what the workpapers look like.

That, coupled with the FirstEnergy hearing, is very problematic for us, and we would prefer to go the following week, fine going on Tuesday or Monday. We could agree to go Tuesday, and ELPC needs to state that for herself.

MR. NOURSE: I'd like to respond, but I'll let anybody else go first.

MS. PETRUCCI: We've had a lot of overlap between the two hearings, and it has been a long, difficult several weeks for many of us. I know it's

at the tail end of each of these hearings, but trying to avoid some more overlap would be welcome.

MR. DOUGHERTY: We agree, everyone's been very flexible over the past however many weeks. Dealing with these two days, I think adding an extra couple days to get us beyond hopefully the final days of that hearing across the hall.

MR. NOURSE: And can I ask, because the last I checked, which was late yesterday, there was not a FirstEnergy schedule that had been tied down. Is that actually tied down?

MS. BOJKO: No. There's two witnesses on Monday, a witness on Tuesday, a witness on Wednesday, a witness on Thursday, possibly, depending on -- there's two date-certain witnesses, so depending on when the other three get done, it may flow over to Friday.

MR. MENDOZA: If I may add one thing I'd like to mention, I would just like to state for the record we reserve the right to seek to depose these witnesses, of course, depending on what their testimony actually says. Counsel for AEP has been reasonable in this case about scheduling depositions, and I don't foresee that as being a problem.

MS. BOJKO: And having the weekend to

prepare would be very helpful.

MR. NOURSE: Are we done? Your Honor, I guess despite my checking late yesterday I was not aware of the FirstEnergy schedule being set but it sounds like Friday's still open, but kicking it to Monday would be our second choice. I guess this limited testimony I don't think is going to take people a week to look at.

And so I guess certainly my offer to file by 3:00 p.m. Monday was for the purpose of trying to go back, come back on Friday. So that's out. There's no reason we want to file it by 3:00 p.m.

And as far as going beyond Monday, again, I think we're trying to be very narrow in our rebuttal. We want to move this case to briefing, we haven't talked about a briefing schedule yet but based on when the rebuttal hearing is scheduled, we are trying to make arrangements so that all the transcripts will be filed in Docket by then and so again, the company would like to move forward with this case as expeditious as possible and so I think if Monday is the backup plan, then we'd be okay with that and we would plan to file our testimony by the end of the day this coming Monday, October 26.

MR. KURTZ: Are we off the record?

EXAMINER SEE: No, we are a not. Would you like to be?

MR. KURTZ: Yeah, do you mind?

EXAMINER SEE: Let's go off the record.

(Off the record.)

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

Given the discussion that's taken place, company's rebuttal is due to be filed with the Commission and electronically served on the parties with a courtesy copy to the AEs by end of business on October 27th. We'll reconvene the hearing on Tuesday, November 3, starting at 9:00 a.m.

MR. NOURSE: Thank you, your Honor.

EXAMINER SEE: And at this point we're not sure what room it will be in. We probably need to take all of your materials with you. If you're a party to the case taking place down the hall, you may be able to box up your items and put them there. But you'll need to make arrangements to get them out of that room when that hearing concludes.

MR. NOURSE: And, your Honor, I'm sorry if you weren't finished, I was just going to say I think I said that off the record, maybe not, we are trying to make arrangements to get the transcripts

filed, the complete set of transcripts, at least everything but the rebuttal day by the time we come back for the rebuttal hearing. Under the -- in advancing the goal of doing a quick briefing schedule, you want to talk about a briefing schedule now?

EXAMINER SEE: You can.

MR. NOURSE: Because I mean, reality is there is with this schedule some additional space in time, many of the parties have multiple counsel and abundant resources to begin working on briefs, so what I was going to suggest was two weeks after rebuttal hearing for an initial, two weeks after that for reply, which adjusting for the dates you just set up I guess would be the 10th and the 24th of November, to get us done in time for Thanksgiving.

MS. BOJKO: Two weeks after.

EXAMINER SEE: November 17 and December 1? Two and two, is that what you're proposing?

MR. NOURSE: Yeah, two and two.

MS. BOJKO: Your Honor, I think it goes without saying that I don't know who except for AEP that might have abundant counsel and abundant resources but we certainly do not, and there are two

simultaneous hearings going on and it's made it very difficult, the one that started before this one that's going to end before this one, so I'm assuming they're going to make the same argument to have their briefs done along this same path. So we would oppose two weeks and two weeks.

This length of hearing I struggle to sit here and think of a two-week briefing schedule being proposed. I think that we appreciate the transcripts being filed, we do appreciate that, but we would propose much longer than that. I mean, usually it's three weeks for briefs and two or three weeks for reply. Or a week per week of the hearing.

MR. NOURSE: Well, your Honor, I do think first of all, it is more like three and a half weeks from today. We're done with the main part of the hearing.

Secondly, the FirstEnergy case involves an ESP that is not expired until the middle of next year. I don't think, with all due respect, it has the same urgency as this case and so if anything I think we the parties should focus on getting AEP's case briefed.

MR. MICHAEL: Your Honor, OCC is much more supportive of Ms. Bojko's suggestion than

Mr. Nourse's. And at the very minimum it should be three weeks for initial brief and three for reply.

MR. MENDOZA: Sierra Club will join in the Bojko proposal.

MS. BOJKO: Which is three to four weeks.

MS. PETRUCCI: And given that I believe we'll be doing multiple briefs, I'm joining in with the intervenors that have commented thus far.

MR. DOUGHERTY: OEC and EDF also follow Counsel Bojko.

MS. MOONEY: As does OPAE.

MR. O'BRIEN: And we do also.

MS. MOONEY: We'd also like to comment that the FirstEnergy group would be pushed back further as a result of this. But I don't know who's going to make that.

EXAMINER SEE: Wrong hearing, Ms. Mooney.

We'll take the briefing schedule under advisement.

With that, we're adjourned until we reconvene on November 3rd at 9:00.

(Thereupon, the hearing adjourned at 3:42 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 Friday, October 23, 2015, and carefully compared with my original stenographic notes.

_____

Julieanna Hennebert,
Registered Professional
Reporter RMR, and Notary
Public in and for the
State of Ohio.

My commission expires February 19, 2018.

_____

Rosemary Foster Anderson,
Registered Professional
Reporter and Notary Public
in and for the State of Ohio.

My commission expires April 5, 2019.

(rfa-79556kg)

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Summary: Transcript In the Matter of the application of Ohio Power Company hearing held on 10/23/15 - Volume XVI electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Anderson, Rosemary Foster Mrs.