

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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City of Cincinnati,	:	
	:	
Complainant,	:	
	:	
v.	:	Case No. 16-1975-EL-CSS
	:	
Duke Energy Ohio, Inc.,	:	
	:	
Respondent.	:	

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PROCEEDINGS

before Mr. Nicholas Walstra, Attorney Examiner, at the Public Utilities Commission of Ohio, 180 East Broad Street, Room 11-D, Columbus, Ohio, called at 10:00 a.m. on Wednesday, August 16, 2017.

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VOLUME I

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On behalf of the Respondent, Duke Energy  
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1 Wednesday Morning Session,  
2 August 16, 2017.

3 - - -

4 EXAMINER WALSTRA: The Public Utilities  
5 Commission of Ohio has called for hearing at this  
6 time place, Case No. 16-1975-EL-CSS, being In the  
7 Matter of the Complaint of the City of Cincinnati  
8 versus Duke Energy Ohio, Incorporated.

9 My name is Nick Walstra. I am the  
10 Attorney Examiner assigned by the Commission to hear  
11 this case.

12 We'll begin by taking appearances from  
13 the parties. For Cincinnati.

14 MR. LANG: Thank you, your Honor. On  
15 behalf of the City of Cincinnati, Paula Boggs  
16 Muething, City Solicitor, City of Cincinnati, and  
17 James Lang, Steve Lesser, and Mark Keaney, on behalf  
18 of Calfee, Halter & Griswold, 1405 East Sixth Street,  
19 Cleveland, Ohio 44114.

20 EXAMINER WALSTRA: Thank you.

21 MR. SAMFORD: Good morning, your Honor.  
22 My name is David Samford with the law firm of Goss  
23 Samford in Lexington, Kentucky, 2365 Harrodsburg  
24 Road, on behalf of Duke Energy Ohio today.

25 EXAMINER WALSTRA: Thank you.

1 MR. D'ASCENZO: And also on behalf of  
2 Duke Energy Ohio, Rocco D'Ascenzo, Associate General  
3 Counsel, 139 East Fourth Street, Cincinnati Ohio.

4 EXAMINER WALSTRA: Okay. Cincinnati,  
5 you're the Complainant. Go ahead.

6 MR. LANG: Thank you, your Honor. We  
7 call, as our first witness, Lawrence Moster.

8 EXAMINER WALSTRA: Raise your right hand.  
9 (Witness sworn.)

10 EXAMINER WALSTRA: Please take a seat.

11 - - -

12 LAWRENCE MOSTER

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

15 DIRECT EXAMINATION

16 BY MR. LANG:

17 Q. Mr. Moster, can you introduce yourself?

18 A. My name is Larry Moster. I work for the  
19 City of Cincinnati, the Greater Cincinnati Water  
20 Works.

21 Q. And did you prepare prefiled direct  
22 testimony for this proceeding?

23 A. Yes.

24 MR. LANG: And, your Honor, we provided a  
25 copy to the court reporter and ask that it be marked

1 as City Exhibit 1.

2 EXAMINER WALSTRA: So marked.

3 (EXHIBIT MARKED FOR IDENTIFICATION.)

4 MR. LANG: Does your Honor require a  
5 copy?

6 EXAMINER WALSTRA: I do.

7 Q. Mr. Moster, do you have City Exhibit  
8 No. 1 in front of you?

9 A. Yes.

10 Q. And this is your prefiled testimony dated  
11 July 26th, 2017; is that correct?

12 A. Yes.

13 Q. Do you have any corrections to make to  
14 this testimony?

15 A. I do.

16 Q. You can take us to page and line number.

17 A. On page 6, line No. 4, in checking my  
18 calculations, when I was doing these calculations I  
19 used the previous table for calculating the outage in  
20 minutes and that table has a footnote on it that I  
21 did not include Lunken Airport in that table. It  
22 does not include Lunken Airport. To come up with the  
23 total cost on line 4, I used Exhibit A, which is Amy  
24 Spiller's estimate of the cost for the rider and in  
25 that exhibit it did include Lunken Airport.

1 Q. So the correction would be?

2 A. The correction actually is instead of  
3 \$5,694,259.92, it should be \$5,661,874.23. And that  
4 same correction needs to be in the footnotes.  
5 Footnote No. 5 and Footnote No. 3 should have that  
6 same correction.

7 Also on line 5, that makes the number  
8 787, that number should now be 782, because you  
9 divide the number by the total number of minutes and  
10 then that -- that is my correction.

11 Q. Okay. And then with that change in 787  
12 to 782, would that also change then at the end of  
13 Footnote 5?

14 A. It also does change at the end of  
15 Footnote 5, yes.

16 Q. Do you have any other corrections?

17 A. That's the only corrections.

18 Q. Mr. Moster, if I were to ask you the  
19 questions in City Exhibit 1 today, would you provide  
20 the same answers with the corrections that you just  
21 made?

22 A. Yes.

23 MR. LANG: Your Honor, Mr. Moster is  
24 available for cross-examination.

25 EXAMINER WALSTRA: Thank you.



1 Go ahead.

2 MR. SAMFORD: Thank you, your Honor.

3 - - -

4 CROSS-EXAMINATION

5 BY MR. SAMFORD:

6 Q. Mr. Moster, it's good to see you again.  
7 As I said earlier, my name is David Samford. So  
8 let's just jump right into it.

9 You're not offering any expert opinions  
10 in this case today, are you?

11 A. I'm offering testimony as the City's  
12 witness.

13 Q. Okay. But do you have any expert  
14 opinions or are you a fact witness?

15 A. For the most part I'm a fact witness.

16 Q. What would be the areas where you're  
17 offering expert testimony?

18 A. At this point -- a fact witness.

19 Q. You're not an attorney, correct?

20 A. I am not an attorney.

21 Q. You're not a certified public accountant?

22 A. I'm not a certified public accountant.

23 Q. And I understand that you've never  
24 prepared a cost of service study?

25 A. No, I have never prepared a cost of

1 service study.

2 Q. You've never prepared a study to  
3 determine what price should be assigned to a service  
4 rendered to the City's water customers?

5 A. No.

6 Q. And you've never prepared a study to  
7 determine what price should be assigned to a service  
8 rendered by any utility, correct?

9 A. Correct.

10 Q. Let's talk for a minute about the  
11 facilities that are in question. The City owns the  
12 airport and the water treatment plants that are  
13 included in the list of Critical Facilities in the  
14 Complaint, correct?

15 A. Yes, that is correct.

16 Q. The wastewater treatment plants, however,  
17 are owned by MSD, which is an agency of county  
18 government, correct?

19 A. They're operated by the City and there is  
20 actually still question who actually owns them in the  
21 case, but I generally agree that they are owned by  
22 the county.

23 Q. Okay. And they are managed by the City  
24 pursuant to some sort of a contract or agreement;  
25 have you ever seen the contract governing that

1 management arrangement?

2 A. No.

3 Q. Do you know who is actually the account  
4 holder for the MSD plants on the Duke electric  
5 system?

6 A. The City of Cincinnati pays the Duke  
7 electric bills as part of the operating of MSD.

8 Q. And then is the City reimbursed by the  
9 county for those electrical bills?

10 A. I am not absolutely sure. MSD is a --  
11 like the Water Works, MSD is an agency that all the  
12 funding that's used, that's collected for sewer  
13 service and/or water service is used to pay the  
14 bills. Whether the county is sort of the owner of  
15 that, in the middle of that, I'm not clear.

16 Q. Okay. But MSD is a separate agency than  
17 the Greater Cincinnati Water Works, correct?

18 A. It is a separate agency.

19 Q. Do you know whether MSD or Hamilton  
20 County has given its consent for the City to raise  
21 these claims on behalf of MSD?

22 A. I believe, yes.

23 Q. And what is the basis for your belief?

24 A. I have been working with the lawyers who  
25 represent MSD, and the lawyers report to the director

1 of MSD who reports to the county.

2 Q. Are those attorneys different than the  
3 ones who represent the City in this proceeding?

4 A. The people who I have talked to are City  
5 of Cincinnati lawyers who are working for MSD.

6 Q. Okay. Do you have anything in writing  
7 from MSD regarding consent to pursue these claims on  
8 MSD's behalf?

9 A. I do not have anything in writing.

10 Q. Do you have your testimony in front of  
11 you, Mr. Moster?

12 A. I do.

13 Q. Can you please look at page 3 of your  
14 testimony?

15 A. Okay.

16 Q. Particularly I'd ask you to look at I  
17 believe it's line 3 through 5. Actually lines 3  
18 through 8. I think that's all one sentence. Would  
19 you mind reading that sentence into the record?

20 A. "For most of the Critical Facilities,  
21 when the primary electric feeder loses power, a  
22 secondary electric feeder automatically switches over  
23 to ensure reliably electric power is always available  
24 so that the general public, businesses, institutions,  
25 and the environment are not harmed or endangered from

1 loss of potable water, firefighting flow, or from  
2 discharge of untreated sewage or sewage backup into  
3 residential homes and/or business establishments from  
4 a power outage or interruption."

5 Q. Okay. Now, I'm not an electrical  
6 engineer, so you have to forgive me if I ask this  
7 inartfully, but it is not the automatic switch that,  
8 to use your words, "ensures reliable electric power  
9 is always available;" is that correct?

10 A. The automatic switch is part of the  
11 reliability that we enjoy that allows this to work  
12 very seamlessly and allows us to get quickly switched  
13 over to ensure that the public institutions are  
14 protected.

15 Q. Is the automatic switch the only piece of  
16 equipment that guarantees that there's a reliable  
17 source of power?

18 A. Besides the automatic switchover, there  
19 is the secondary or dual feed that gives us the  
20 ability to -- to give us the reliability.

21 Q. Would the City have reliable electric  
22 power if there was no available distribution capacity  
23 on that secondary circuit?

24 EXAMINER WALSTRA: Could you repeat that  
25 question?

1           Q.    Would the City have reliable electric  
2 power if there was no capacity available on that  
3 secondary distribution circuit?

4           A.    If there was no excess capacity?  Is that  
5 what you're asking?

6           Q.    Yes, sir.

7           A.    In the case of all the Critical  
8 Facilities that we're talking about, there is excess  
9 capacity on the backup or the secondary circuits.  So  
10 I believe that there is reliability posed by the  
11 automatic switches and the secondary service that  
12 Duke provides.

13          Q.    But wouldn't you agree that they have to  
14 both be present in order for there to be a continued  
15 power flow?

16          A.    Yes.  Back in the '70s when they put this  
17 in, it was to improve the reliability of the system.  
18 And we actually -- it dates actually back beyond the  
19 '70s.  When the City used to produce its own steam to  
20 run these plants, Duke made promises -- not  
21 promises -- they made commitments to us that they  
22 would provide this reliable service, and dual feeders  
23 or secondary-primary feeders were part of that  
24 original commitment that they have made.  So they are  
25 both needed in order to ensure the reliability or

1 continued reliability for providing firefighting  
2 flow, potable water, and sewage treatment.

3 Q. So when you say in your testimony that  
4 "when the primary electric feeder loses power, a  
5 secondary electric feeder automatically switches over  
6 to ensure the reliable electric power is always  
7 available," it's not just the automatic switch that  
8 allows that to happen, it's also the presence of that  
9 secondary feeder, correct?

10 MR. LANG: Objection. Asked and  
11 answered.

12 EXAMINER WALSTRA: You can answer.

13 A. I'll just repeat what I said is the two  
14 of them work in conjunction to provide the reliable  
15 service and have been in place since the early 1970s.

16 Q. Are you aware if there are other Duke  
17 Energy Ohio customers that are currently taking  
18 service pursuant to Rider BDP service agreements?

19 A. During discovery we did ask for that  
20 information from Duke, and Duke did provide us with  
21 some -- they did not give us names, but they provided  
22 us with a redacted copy of some -- of the BDR  
23 contracts that they had -- had gotten signed by other  
24 customers.

25 Q. Are you familiar whether those other

1 customers that have Rider BDP service agreements in  
2 effect whether they may also have a primary-secondary  
3 feed configuration?

4 A. We was not able to tell based on the  
5 information that was in those contracts. I can't say  
6 for certain.

7 Q. So, likewise, you probably wouldn't have  
8 any personal knowledge as to whether any of those  
9 customers may have a dual feed type of  
10 interconnection?

11 A. That is correct.

12 Q. Are there any other forms of a backup  
13 service interconnection other than primary-secondary  
14 service or dual feed service that you're aware of?

15 A. Say that again, please.

16 Q. Are there any other forms of a backup  
17 service interconnection arrangement that you would be  
18 aware of other than a primary-secondary configuration  
19 or a dual feed configuration?

20 A. You could also, I suppose, have emergency  
21 generators might be another way.

22 Q. Okay. Do you have any reason to believe  
23 that the other customers who have Rider BDP service  
24 agreements in effect have a completely different  
25 configuration for their backup service than what the



1 City would have at its Critical Facilities?

2 A. I do not know what their configuration is  
3 or has been in the past.

4 Q. Is there anything about the City's  
5 Critical Facilities' backup interconnections that you  
6 think make it unique as opposed to other customers on  
7 the Duke system?

8 A. I'm familiar with what the City has.  
9 I've worked for the City for 33 years. I've been  
10 involved in the City-owned facilities, the MSD  
11 facilities. I do not know what the other potential  
12 customers might have for a setup. There are other  
13 possibilities of which I don't know what they are.

14 Q. But you are an electrical engineer,  
15 correct?

16 A. I am an electrical engineer, yes.

17 Q. So just looking at it solely from the  
18 standpoint of the City's or the Critical Facilities'  
19 backup interconnections, is there anything in your  
20 mind that stands out that would make them somehow  
21 unique or unusual?

22 A. The City is considered a -- the City  
23 Critical Facilities are considered to be critical  
24 customers of Duke. I know that is one of the things  
25 that I know sets us a little apart. We have had very

1 close relations with Duke. In my 33 years I can talk  
2 about that and documentation that I've read of the  
3 City has shown that we have had a close relationship  
4 with Duke for a very, very long time.

5 And those relationships are based on most  
6 of the things that I've already stated that we are an  
7 important institution to the general public in  
8 general, you know, we provide an extremely important  
9 service. Water and wastewater are handled by, you  
10 know, we're a government agency, so we're not a  
11 for-profit type agency. Those are the only kind of  
12 things I can think of that might be possibly  
13 different. But again, I do not know the  
14 configurations that everybody else has or what might  
15 make them different.

16 Q. Okay. All of the things that I think you  
17 described were more maybe policy-type considerations.  
18 I'm just trying to drill in on the actual technical  
19 configuration of the interconnection.

20 There's nothing, from an electrical  
21 engineer's perspective, that makes the City's  
22 Critical Facilities' primary-secondary  
23 interconnection or dual feed interconnection special  
24 or unique, is there?

25 A. There's many different ways that that

1 could be configured, okay, and it actually is  
2 configured differently for some of our facilities.  
3 So sometimes you have one meter that measures both of  
4 the feeders, they come together as a common area.  
5 Sometimes you might have a loop connection that might  
6 connect you in.

7           There's a lot of different ways that it  
8 could be configured as an electrical engineer that  
9 could be considered and I've seen a lot of different  
10 ones. The City -- the City Critical Facilities have  
11 several different ones. So I would guess there's  
12 possibly other ways that some of these vendors might  
13 tie things in -- these other customers. I'm sorry, I  
14 didn't mean that.

15           Q. So let's come down to the second half of  
16 that same sentence that you were reading earlier.  
17 You are talking about not letting there be any harm  
18 or endangerment to the public, correct?

19           A. That is correct.

20           Q. How long can a water treatment plant be  
21 out of service before the City has to issue a boil  
22 water alert?

23           A. The boil water alert is required if the  
24 pressure in the system gets below 20 psi.

25           Q. So how long would a water treatment plant

1 be out of service before the pressure would drop to  
2 below 20 psi?

3 A. That definitely varies by system.  
4 There's a lot of things that go into that. How much  
5 storage, what the pressure is, what the topography of  
6 the system is. There's a lot of things that go into  
7 how long it would take.

8 Q. How long can a water treatment plant be  
9 out of service before the general public is harmed?

10 A. We are a very conservative group in that  
11 we are responsible for the general public's potable  
12 water, firefighting, and treatment of sewage. We do  
13 not think there should be a whole lot. A very short  
14 time; very short time.

15 Q. Well, define "very short" for me.

16 A. I don't -- I don't -- I can't give you a  
17 number. I'm not sure if you're looking for minutes  
18 or hours. There's so much that goes into your  
19 question. I just, I can't answer it in a general way  
20 like what you're suggesting.

21 Q. I'm trying to understand, though, the  
22 allegation that you have in your testimony is very  
23 serious that with loss of water -- with loss of the  
24 water treatment plant that some danger would enure to  
25 the public, and I'm trying to understand what your

1 personal knowledge is to support that statement.

2 MR. LANG: Your Honor, could we have a --  
3 could we have a question based on Counsel's statement  
4 of what he's trying to understand?

5 MR. SAMFORD: Yeah. I'm trying to  
6 understand how quickly is the public endangered.

7 EXAMINER WALSTRA: For water treatment  
8 specifically?

9 MR. SAMFORD: Yes, for water treatment.

10 MR. LANG: And, your Honor, to that  
11 question, he's tried to answer that as best he can,  
12 that it depends on many variables depending on the  
13 plant. So that question would be asked and answered.

14 Q. (By Mr. Samford) So is the answer that  
15 you don't know?

16 A. My answer is that it varies based on a  
17 lot of parameters. The Critical Facilities are not  
18 all treatment facilities. Some of them are pumping  
19 facilities, some of them are sewer plants, one of  
20 them is even an airport.

21 Q. I haven't got to those yet. We'll get to  
22 those. I'm just talking about the water treatment  
23 plants.

24 A. There's one water treatment plant in that  
25 group of Critical Facilities.

1           Q.    Okay.  So how long can it be without  
2 power before the public is endangered in your  
3 opinion?

4           A.    Again, there is many variables that go  
5 into that.  It -- I can't give you a straight -- an  
6 answer on that.

7           Q.    Okay.  How about a wastewater treatment  
8 plant, how long can it be out of service before it  
9 begins to create a public danger?

10          A.    In the case of wastewater service, the  
11 treatment plants, if we lose power, they basically  
12 have to discharge the waste directly to the nearest  
13 river or stream.  So losing power from them will very  
14 quickly require them to have to overflow and present  
15 a violation, technically present a violation to the  
16 system.

17          Q.    So is your answer immediately after  
18 losing power the public is endangered?

19          A.    I mean, again, there's lots of variables.  
20 It will be very quickly for what I just described.  
21 There's also the possibility that there could be  
22 backups in residents' homes if the pump stations of a  
23 sewer system are not functioning.  All of those vary  
24 based on, you know, how bad the conditions are, how  
25 quickly they come on.  All of those are variables.

1 But it is -- but it is pretty quickly that they all  
2 start to affect it.

3 Q. And so is that the same for any  
4 mechanical problems that occur within the plant or  
5 within a pump?

6 A. We build a lot of redundancy into our  
7 facilities. Dual feeds is one of those forms of  
8 redundancy. So there is -- if there's mechanical  
9 failures, we typically do have redundant mechanical  
10 pieces, redundant pumps, redundant valves, redundant  
11 directions that the water or sewage can pass. So  
12 there is just a lot of redundancy. There has to be a  
13 lot of redundancy built into water and wastewater  
14 facilities and that is why it is very important that  
15 things like automatic transfer switches and dual  
16 feeds are available so that the power can continue to  
17 be provided.

18 Q. Okay. Look at that same page of your  
19 testimony but this time lines 14 through 16. You say  
20 there, "It is my understanding that Duke has built  
21 into these feeders a certain amount of reserved  
22 capacity so that its customers (i.e., not just the  
23 City) can be switched from one to the other in the  
24 event the primary feeder goes out of service." Do  
25 you see that?

1           A.    Yes.

2           Q.    When you're talking there about reserved  
3 capacity, you're really referring to unused capacity,  
4 correct?

5           A.    Yeah.  I -- I would like to at least talk  
6 about and make sure it's clarified here what --  
7 what -- the term "reserved" is a lot of times used  
8 where we are talking about unused or excess capacity.  
9 I know during my testimony earlier it sometimes was  
10 confusing to me.  So I am talking about here  
11 unused -- unused capacity on the existing Duke  
12 system.

13          Q.    Okay.  You've never operated Duke Energy  
14 Ohio's distribution system, correct?

15          A.    Only as far as the substations that the  
16 City owns.  If Duke was to call us and ask us to do  
17 some switching, we will do that for Duke.

18          Q.    Are you familiar with an outage that  
19 occurred at the Bolton Water Treatment Plant on July  
20 7th of this year?

21          A.    Yes.

22          Q.    Was there not a storm outage that  
23 affected both the Willey 51 and the Fairfield 56  
24 circuit?

25          A.    Yes.



1           Q.    How long was the Bolton Water Treatment  
2   Plant out of service due to a loss of power?

3           A.    I believe it was out from around 9:00 in  
4   the evening until around 3:00 a.m. in the morning.

5           Q.    Okay.  So that's about 6 hours.

6           A.    Yes.

7           Q.    And subject to check, if I were to tell  
8   you it was actually out closer to 7:00 p.m. --

9           A.    Okay.

10          Q.    -- would you have reason to disagree with  
11   that?

12          A.    I would not.

13          Q.    So that plant was out for a period of --  
14   strike that.

15                That plant had no power supply for  
16   approximately 8 hours due to a storm outage on both  
17   the primary and the secondary service, correct?

18          A.    That is correct.

19          Q.    And so did the City issue any sort of a  
20   boil water alert?

21          A.    No, we did not.

22          Q.    In your opinion was the public health  
23   endangered?

24          A.    We were in contact with Duke on about an  
25   hour-by-hour basis to make sure that they are taking

1 our outage very seriously. Duke did not initially  
 2 respond to that outage as we asked. It wasn't until  
 3 almost 9 o'clock when we had to make another call  
 4 back to Duke and explain to them that we were a water  
 5 treatment plant and we are going to have some  
 6 problems very shortly, and especially in the morning  
 7 if people started waking up in the morning and  
 8 started using a lot of water, which is typical of our  
 9 day. So we were very, very concerned during that  
 10 outage that the public was going to be harmed.

11 Q. Do you recall what the water pressure in  
 12 the system was at that point? Just for purposes of  
 13 clarification, at 3 o'clock in the morning when power  
 14 was restored?

15 A. I do not know that off the top of my  
 16 head.

17 Q. Do you know how much unused capacity  
 18 exists on the Duke distribution system at any given  
 19 point in time?

20 A. Not at any given time, no.

21 Q. Do you have any knowledge as to how much  
 22 unused capacity exists on any single circuit serving  
 23 the Critical Facilities at any given point in time?

24 A. When we were working with Duke after they  
 25 told us that Rider BDP applies -- applied to our

1 facilities or they felt that it applied to our  
2 facilities back in November of 2015, we had a series  
3 of meetings with Duke representatives and they did  
4 present to us, on a circuit-by-circuit basis, both  
5 the primary and secondary maximum and average load,  
6 as well as the date that those had occurred in the  
7 last five years.

8 Q. But an electrical distribution system is  
9 a lot more dynamic than just a piece of paper that's  
10 handed to you, correct?

11 A. This was an indication to me -- that was  
12 your question -- as to whether or not there was  
13 enough excess capacity in general on all the  
14 circuits, both the primary and secondary circuits, to  
15 handle our load and our switch-overs. But it is a  
16 dynamic system.

17 Q. So, for example, as we sit here today,  
18 can you tell me how much unused capacity is currently  
19 on the Fairfield 43 circuit?

20 A. No, I cannot.

21 Q. Fairfield 41 circuit?

22 A. No.

23 Q. If I were to go through all the circuits  
24 that serve the Critical Facilities, you would not  
25 know how much unused capacity exists right now?

1           A.     That is correct.

2           Q.     And that is generally true.

3           A.     That is generally true.

4           Q.     And I think you said this earlier, but  
5 just to make sure I understood what you said, you  
6 would agree that the amount of unused capacity can  
7 and does change over time?

8           A.     It would change during the day, it would  
9 change by season, but the papers that Duke did show  
10 us were meant to show the maximum over a five-year  
11 period. And so we kind of had a good idea -- I  
12 forgot to mention they did give us the capacity of  
13 the feeders, you know, they gave us a fair amount of  
14 information. They gave us the feeder maps so we  
15 could kind of see what was potential out there under  
16 typical conditions.

17                 So, in general, I felt pretty good  
18 about -- I do feel pretty good about their ability to  
19 provide us with capacity. Their operators, that is  
20 the job of the Duke operators and engineers is to  
21 manage their system very similar to the way our water  
22 operators manage our water pressure in our systems.

23           Q.     You would agree with me that Duke has  
24 been very transparent regarding its distribution  
25 system during the time that you've had discussions

1 over Rider BDP?

2 A. Duke has provided us with the  
3 information, most of the information we've asked for.  
4 There are a few things that, you know, were  
5 concerning to us that we didn't get all the answers  
6 we needed, but for the most part they were very  
7 cooperative.

8 Q. Let's look at lines 20 through 22 of that  
9 same page 3 of your testimony. There again you're  
10 talking about the City relying upon the automatic  
11 switching procedure to transfer the load from the  
12 primary to the secondary circuit. Do you see where  
13 I'm referring to?

14 A. Yes.

15 Q. Do you always know a primary feeder is  
16 going to be lost?

17 A. In the case of the Bolton plant, it's a  
18 dual feeder, that's what we were talking about, so  
19 both of the feeders are active at the same time.

20 Do I know when the primary-secondary  
21 feeder is going to switch? Duke sometimes does --  
22 Duke always calls us if they're doing maintenance on  
23 one or the other lines and informs us that they are  
24 going to do maintenance and we're going to be down to  
25 one feeder for a given amount of time.

1                   But I cannot -- I don't know when there's  
2 going to be a storm or a car might run into a pole.  
3 I can't predict those kind of things.

4                   Q.    So in order for that other circuit to be  
5 able to pick up the load that can't be serviced from  
6 the primary or the dual, again it's not just the  
7 automatic switch, it's also the presence of unused  
8 capacity on that other line that makes that power  
9 flow be able to occur, correct?

10                  A.    As I indicated, it's the job, I believe,  
11 of the Duke operators to make sure that there is that  
12 capacity on the line and to make the switches that  
13 are necessary in order to ensure that. I think they  
14 do a good job of that.

15                  Q.    So would you agree with me that in a dual  
16 feed configuration both lines are, in fact, the  
17 primary lines?

18                  A.    Yes.

19                  Q.    But if you lose one of those primary  
20 lines, then the other primary line may be called upon  
21 to fill in the slack for the line that's been lost,  
22 correct?

23                  A.    That is the way it works to the best of  
24 my knowledge.

25                  Q.    So in that situation are both primary

1 lines not also serving as backup lines to the other  
2 primary line?

3 A. One does backup the other, I guess.

4 Q. Now on page 6 of your testimony you have  
5 this chart and you talk about the amount of outages  
6 and the average duration of outages and how much  
7 total time was lost. But if I read your chart  
8 correctly and your testimony, the secondary feeder  
9 was only used .28 percent of the time, correct?

10 A. That is how the calculations worked out,  
11 yes.

12 Q. So would you agree with me that the  
13 City's reliance upon the secondary feeder being that  
14 figure, that means that Duke has provided power to  
15 the City on the primary feed 99.72 percent of the  
16 time?

17 A. That is how it would calculate out, yes.

18 Q. And in your opinion is that a very high  
19 reliability factor?

20 A. My opinion is we rely on needing power as  
21 much as we possibly can. You know, 99.9, you know,  
22 97, I mean it's got to be there when we need it.

23 The point of this was to actually not  
24 show -- wasn't as much to show that amount of time.  
25 The point of this was to kind of show the high cost

1 that we'd be paying for the backup feed, which seemed  
2 very, very high to us at the time.

3 Q. But in your calculation that's the amount  
4 of time that you're paying for actually having used  
5 that secondary feed, correct?

6 A. That is correct.

7 Q. But that secondary feed was there the  
8 full 59 months that you took into account in doing  
9 your calculation?

10 A. That feed was there during all 150  
11 outages that we experienced over that period of time.

12 Q. And that period of time was about 59  
13 months if I remember?

14 A. Yes.

15 Q. So for that 59 months, the City only used  
16 it less than 3/10 of a percent of the time, but Duke  
17 had to make sure that it was physically operational  
18 100 percent of the time, correct?

19 A. That is what the -- has been agreed to.  
20 That's what it takes for us to be confident and  
21 comfortable with our Critical Facilities, having a  
22 dual feed or a primary-secondary feed absolutely  
23 is, you know, it's redundancy again. It's back to  
24 the redundancy thing. Whether you use all the  
25 redundancy in the plant or not, we need to have it



1     there in order to make sure that we can meet the  
2     public's -- what the public expects of us.

3             Q.     And that's the same from Duke's  
4     perspective.  Whether you use that secondary circuit  
5     or not, it has to be there, correct?  In the event  
6     that you do need to use it.

7             A.     Yes.

8             Q.     Come over, if you will, to page 6 of your  
9     testimony.  Here you're talking about, I believe you  
10    characterize it as regulatory obligations for having  
11    a backup power service; is that correct?

12            A.     Yes, that is correct.

13            Q.     Do you have any personal responsibility  
14    for seeking environmental permits for any of the  
15    Critical Facilities?

16            A.     I contribute to -- I contribute to  
17    filling out paperwork that needs to be submitted to  
18    the EPA.  I do contribute to the reports that we need  
19    to use when there's sanitary inspections of water,  
20    city facilities.  I do have a Class III Water  
21    License, but it's the people who have the Class IV  
22    Water License who actually are responsible for that.

23            Q.     Do you have any conversations in the  
24    course of your work with representatives or employees  
25    of the Ohio Environmental Protection Agency?

1           A.    I participate in the City annual  
2   inspections of our facilities.

3           Q.    Okay.  And so, in the course of that, you  
4   do come into contact with EPA employees?

5           A.    With our local and the state  
6   representatives who would come on those tours.

7           Q.    And are you aware of any recommendations  
8   that the Ohio EPA has made with regard to backup  
9   generation for the Critical Facilities?

10          A.    Yes.

11          Q.    What are those recommendations?

12          A.    They're stated in the -- the  
13   recommendations are referencing the 10 States  
14   Standards that we're required to have backup power at  
15   all of our Critical Facilities.

16          Q.    And so has the City developed a plan to  
17   be able to follow through on that recommendation?

18          A.    The dual feeders and the  
19   primary-secondary feeders meet that requirement.

20          Q.    Has the City developed a plan to install  
21   any sort of generation facilities at the Critical  
22   Facilities?

23          A.    Back in 2003 there was a regional outage  
24   in northeastern Ohio, where a good part of the  
25   FirstEnergy system and places in Pennsylvania totally

1 lost power. The Cincinnati system was not affected.

2 After that event, we did -- we did employ  
3 a consultant to help us do an electric reliability  
4 study and to look at the potential of how we would be  
5 able to provide a level of service to our customers  
6 in case of a regional power outage. As part of that  
7 study, the Critical Facilities were part of that  
8 study.

9 Q. And so did that plan call for the  
10 placement of generators at the Critical Facilities?

11 A. In order to provide power for a regional  
12 complete outage, which is different than the  
13 day-to-day outages that we rely on our dual feeds and  
14 primary-secondary feeds for, there was plans -- there  
15 is plans to install some level of backup generation  
16 at those facilities sometime in the future.

17 Q. I think I heard you say it, but clarify  
18 this for me, that plan was first developed in 2007?

19 A. Well, 2005, I think was the original. I  
20 think 2007 was the supplement. I need to check that,  
21 okay?

22 Q. Approximately 10 years ago --

23 A. It's approximately 10 years.

24 Q. -- for the supplement. Approximately 12  
25 years ago for the plan itself.

1           A.     That is correct.

2           Q.     Has that plan been completed?

3           A.     No.

4           Q.     When will all the generators that the  
5 City envisions placing at its Critical Facilities  
6 actually be installed?

7           A.     There is not a firm date established for  
8 that. There is an order as to how we plan to put  
9 them in, but there is not a firm date that's been  
10 established.

11          Q.     Approximately how many total generators  
12 would be installed as a result of the implementation  
13 of that plan?

14          A.     I do not know, off the top of my head,  
15 that number. I'd have to look at the plan.

16          Q.     Could you put it in a ballpark range  
17 perhaps?

18          A.     To date, we've put about 18 generators  
19 in. That does not include any of the Critical  
20 Facilities' generators that we're talking about,  
21 which are the largest facilities.

22          Q.     So the City has been putting in smaller  
23 generators more so than the large generators that are  
24 necessary to power the Critical Facilities?

25          A.     Because this plan was set up for a

1 regional outage, we elected to take care of the  
2 facilities that did not have any -- only one had one  
3 feed before we elected to do the ones that have  
4 backup secondary feeds.

5 Q. So let's just use the Bolton Water  
6 Treatment Plant as an example. How many generators  
7 have been installed there?

8 A. At the Bolton plant, the only generator  
9 that we have installed there was a small, I think  
10 it's like 125 kW generator that will power the sewage  
11 pumps at the plant, so that in case of a regional  
12 outage the sewage would not back up on the floor of  
13 the plant.

14 Q. Going back to this outage that we talked  
15 about earlier that occurred on July 7th of this year.  
16 Was that generator called into service during that  
17 outage?

18 A. Yes.

19 Q. Do you happen to recall what the cost of  
20 a 7-day outage would be at the Bolton Water Treatment  
21 Plant?

22 A. It's in the book. I don't have it.

23 Q. Subject to check, if I told you it was  
24 approximately \$20.7 million in 2007 dollars, does  
25 that sound correct?

1           A.    Not for the Bolton plant by itself.

2           Q.    Okay.  Is that for the entire system?

3           A.    That might be for the entire system.

4   That sounds familiar for the entire system.

5           Q.    On page 7 of your testimony, lines 8  
6   through 10, you say, "Duke agreed that the City's  
7   facilities would receive reliable service using  
8   double feeds with, in some cases, cross-ties between  
9   plants and other enhancements to its services."  In  
10   that context you're talking about historical  
11   commitments that Duke had made several decades ago;  
12   is that correct?

13          A.    Yeah.  The early part of that, basically  
14   the earlier part of that basically says it's been  
15   pretty continuous for the whole time.  So it goes  
16   back to the 1930s and 1960s where, you know, Duke  
17   did persuade and commit to the City that if we  
18   abandoned our in-house generation of steam to power  
19   our pumps, that they would continuously provide  
20   reliable service using double feeds, and in some  
21   cases they have continued to do that.  That  
22   commitment, as far as we're concerned, is still  
23   there.  We hope that that's still there.

24          Q.    That's what I was going to ask you.  I  
25   mean Duke has fulfilled that commitment.  You've had

1 power from your primary circuit 99.7 percent of the  
2 time, correct?

3 A. We have been very happy with the service  
4 we have received historically. Now, up until about  
5 November of last year was the first time that Duke  
6 has ever made an insinuation that that is something  
7 that they do not feel they need to continue to do.

8 Q. What has Duke told you they feel they no  
9 longer have to do?

10 A. The insinuation that was made during the  
11 group of meetings that we've had between November and  
12 June was that if we did not sign on with -- for the  
13 BDP Rider, that they would make -- they would be  
14 forced to do -- they would be forced to remove or  
15 disconnect one of our services, or label the  
16 automatic transfer switch, you know, disconnect the  
17 automatic transfer switch in some manner. So that's  
18 the concern that we got when we first started talking  
19 to them about this.

20 Q. Was it that they were going to disconnect  
21 the automatic switch or simply put it into manual  
22 operation?

23 A. They both accomplish the same thing. I  
24 don't know how they would actually -- actually the  
25 switch belongs to us and so it's actually physically

1 in our station. So, you know, they saw that as -- we  
2 saw the fact that they were threatening that  
3 automatic transfer switch as a concern.

4 Q. Has Duke ever dedicated its distribution  
5 capacity to serve the Critical Facilities on the  
6 secondary circuits that you're aware of?

7 A. I am not aware of them dedicating  
8 capacity for our facilities. I believe they --  
9 during discovery they mentioned that, that they had  
10 not dedicated reserve capacity for us on any of our  
11 circuits.

12 Q. Do you believe Duke has any obligation to  
13 dedicate a certain amount of distribution capacity to  
14 the City?

15 A. I would like to think that Duke will  
16 continue to honor their commitments to the Water  
17 Works and the City, to provide reliable service to  
18 our facilities, and to continue to support the  
19 equipment that they not only helped us design and  
20 install.

21 Like in the 1970s when we put the  
22 automatic transfer switches in, Duke helped us with  
23 that design, Duke helped us with those purchases.  
24 And we would like to think that they will continue  
25 to -- over the years they've helped us with



1 maintenance of that equipment. We hope that they  
2 would continue to honor those commitments that they  
3 have kind of -- that they have done, have provided  
4 for us throughout our history.

5 Q. Mr. Moster, you keep using the word  
6 "commitments" and I'm curious about that. I mean  
7 what commitment are you referring to specifically?  
8 Is there a written commitment that you have in mind?

9 A. There is not a written commitment. There  
10 is the way that Duke has -- the policies and the --  
11 my personal experience is, you know, they do have an  
12 account rep who is dedicated to the City, who a lot  
13 of times or at least in the tenure I've been here and  
14 the gentleman who did the job I did before me, Paul  
15 Krause, those account reps have been our voice with  
16 Duke. They have given us indication that Duke is  
17 committed to the City and to providing the service.  
18 I have not got any -- I have received no indication  
19 that there was anything like that, any problems with  
20 that commitment, and I consider it a commitment.

21 It goes back to, you know, the 1930s.  
22 There actually was a letter and I don't know if  
23 that's been in the system here, but in 1965 there was  
24 some question as to whether or not there was -- there  
25 must have been some problems, and one of the

1     superintendents wrote to Duke and was complaining  
2     about some of the issues of his day that were  
3     concerns, and Duke wrote back and used the word  
4     "commitment."

5             And so I'm using that word based on some  
6     of that historical correspondence that I've read and  
7     that I've experienced through the account reps who  
8     I've dealt with at Duke over the years.

9             Q.     Do you agree with me, though, that a  
10    utility has to abide by the tariffs that have been  
11    approved by the Public Utility Commission of Ohio?

12            MR. LANG:  Objection to the extent it  
13    calls for him to provide a legal conclusion, but to  
14    the extent as a layperson and the experience he's had  
15    with working with Duke, he can say what he knows, I  
16    guess.

17            EXAMINER WALSTRA:  All right.  Say what  
18    you know and the Commission will give it the weight  
19    that they desire.

20            THE WITNESS:  Say it again for me.  Maybe  
21    repeat it again.  I get lost when we do this.

22            EXAMINER WALSTRA:  Sure.

23            Q.     Sure.  Do you believe, though, that a  
24    utility has an obligation to abide by the tariffs  
25    that have been approved by the Public Utility

1 Commission of Ohio?

2 A. The tariffs are the regulations that you  
3 guys have to follow. I do believe that the policies  
4 that you issue and work with your customers on, and  
5 in this case especially you can still follow the  
6 tariffs and honor your commitments that you have made  
7 to the City over the years.

8 Q. And so you agree with me, though, that  
9 Rider BDP is the first time that Duke has ever  
10 offered to dedicate distribution capacity for the use  
11 of its customers, correct?

12 A. The Rider BDP is the first time that  
13 there has been a dedicated reserve that Duke would  
14 like to have, yes. I agree with that.

15 Q. Is it fair to say that under the  
16 predecessor service, Duke only committed to transfer  
17 load when there was actually unused capacity  
18 available on that second circuit?

19 A. "Predecessor service," what are you  
20 talking about here?

21 Q. Prior to the implementation of Rider  
22 BDP -- would you like me to repeat the question?

23 EXAMINER WALSTRA: I would.

24 THE WITNESS: Thank you.

25 (Laughter.)

1           Q.    Okay.  Prior to the implementation of  
2 Rider BDP, would you agree with me that Duke only  
3 committed to allow load transfers from a primary to a  
4 secondary circuit when there was, in fact, unused  
5 capacity available on that secondary circuit?

6           A.    Just I want to clarify the word  
7 "predecessor service" is what I am kind of having  
8 trouble with.  The commitment that Duke had to  
9 provide the primary and secondary or dual feed  
10 services was not a tariffed service.  It was not a  
11 service that we had special agreements on of any  
12 sort.  It was -- it was part of the policies and  
13 commitments that were made to ensure that we had  
14 reliable service.

15          Q.    Okay.  So let me pose a hypothetical  
16 question.  If you have a water treatment plant with a  
17 primary and secondary feeder, the primary loses  
18 service and so the automatic transfer switch  
19 transfers the load to the secondary, does Duke  
20 currently, as we sit here today, have an obligation  
21 to disconnect some other customer on that secondary  
22 in order to be able to serve your load?

23          A.    That's a hypothetical that's really --  
24 there's a lot more to the hypothetical question, I  
25 think, than what you're posing to me.

1           Q.   Well, I'm just asking you to render an  
2   opinion based on the facts that I gave you, and you  
3   can explain your answer.

4           A.   First of all, is there a -- is there a --  
5   that doesn't match any of the existing Critical  
6   Facilities that we're talking about, so I don't think  
7   your hypothetical is a realistic hypothetical for any  
8   of the locations that we have.

9           Q.   And your basis for saying that is just  
10   because the power has always been there, correct?  
11   Or, excuse me, the unused capacity has always been  
12   there?

13          A.   I do have a lot of confidence in Duke's  
14   Operations group. They have done very similar to  
15   what we do in the water system which is to ensure  
16   that there is ample capacity available for the  
17   Critical Facilities that we have.

18          Q.   And so, in your mind, is it inconceivable  
19   that there would ever be a scenario where that  
20   secondary circuit would be overloaded?

21          A.   Again, Duke has done a very, very good  
22   job over the years to ensure that there has been a  
23   reliable service there in case we needed to switch  
24   over. I have a lot of confidence in their group, in  
25   the design of their system, I believe that they have

1 always ensured that there was enough capacity  
2 available, unused capacity available.

3 Q. And I understand that you have  
4 well-placed confidence in the management of Duke to  
5 be able to operate their distribution system  
6 efficiently. That's not the question I asked.

7 A. Okay. I'm sorry. I'm sorry.

8 Q. What I asked, is it inconceivable in your  
9 mind that there is any set of circumstances under  
10 which a secondary feeder could become overloaded?

11 A. I mean that is so hypothetical, any  
12 circumstances, I don't know how to --

13 Q. Then just say "no" if that's your answer.

14 A. I don't know how to --

15 Q. I don't care what your answer is, I just  
16 want to know what it is.

17 MR. LANG: If we could just -- we're  
18 talking over each other, so if we could have one  
19 person at a time, your Honor.

20 THE WITNESS: Okay. Sorry.

21 EXAMINER WALSTRA: That works me.

22 THE WITNESS: Can you repeat where we're  
23 at?

24 (Record read.)

25 A. I just don't know that answer.

1 Q. Okay. Fair enough.

2 Now, no one from Duke has ever told you  
3 or implied to you that they are unconcerned with  
4 public safety, correct?

5 A. No, they have not told me.

6 Q. And has anybody from Duke said if you  
7 don't sign up for Rider BDP service, we're going to  
8 take away your customer service representative and  
9 you'll never be allowed to talk to them again?

10 A. They didn't say that, but they did  
11 consider -- they did say they may consider  
12 disconnecting our second feed or disabling our  
13 automatic transfer switch if we did not sign up.

14 Q. But as we sit here today, do you know  
15 whether they would be required to do that by the  
16 terms of their tariff?

17 A. I do not know if the tariff -- I don't  
18 think the tariff mentions automatic transfer switches  
19 in it. So I don't know what the tariff -- if they  
20 would be allowed to do that under the tariff. No, I  
21 don't know.

22 Q. Let's go back to, again, some of these  
23 commitments that were supposedly made several decades  
24 ago. Do you know whether any of the circuits that  
25 serve the Critical Facilities have experienced load

1 growth since the 1970s?

2 A. Yes, they -- I am sure that some of the  
3 circuits have experienced load growth since the  
4 1970s.

5 Q. Have any of the City's Critical  
6 Facilities themselves expanded since the 1970s?

7 A. Yes. The City has -- continues to try to  
8 improve our systems to meet the growth that is --  
9 that is provided, that our customers demand.

10 Q. Does the City have an obligation --

11 MR. LANG: One moment.

12 THE WITNESS: Can we take a break for  
13 just a minute?

14 MR. LANG: Can we go off the record?

15 EXAMINER WALSTRA: Yeah, we can go off  
16 the record.

17 (Discussion off the record.)

18 (Recess taken.)

19 EXAMINER WALSTRA: We'll go back on the  
20 record.

21 You're still under oath.

22 Q. (By Mr. Samford) Mr. Moster, right before  
23 we took a break I think I started a question, but  
24 maybe hadn't finished it. Does the City have an  
25 obligation to protect the integrity of its water and



1     sewar system?

2             A.     Yes, I think we have an obligation to do  
3     that for the general public.

4             Q.     Do you think that Duke has the same  
5     obligation to protect its electric delivery system?

6             A.     Of course. To run a business you have to  
7     protect your assets.

8             Q.     Now, when we go back to the 1970s and  
9     1940s and 1950s and the commitments that were made,  
10    did the City commit to purchase energy from Duke?

11            A.     At the time that was the only way you  
12    could purchase energy.

13            Q.     Okay. Well, fair enough. Has the City  
14    followed through on its commitments? Does it  
15    purchase energy from Duke today?

16            A.     Yes.

17            Q.     Do you know if it purchases energy from a  
18    competitor?

19            A.     The distribution system is Duke. The  
20    distribution system, under deregulation, is still our  
21    local utility. We do purchase our generation portion  
22    of our electric from a third party. My understanding  
23    is Duke has -- no longer has generation.

24            Q.     Do you know if Duke still offers a  
25    standard offer of supply for energy?

1           A.    Yes, they do.

2           Q.    And so does the City purchase that  
3 standard offer of supply?

4           A.    No, we do not follow that right now.

5           Q.    So the City hasn't kept all of its  
6 commitments from the 1930s, has it?

7           A.    I do not agree with the way that you have  
8 characterized that. I don't agree with that, no.  
9 The City has kept its commitments.

10          Q.    Except for the part about buying -- I  
11 didn't mean to interrupt you.

12          A.    That's okay.

13          Q.    Except for the part about buying energy  
14 from Duke.

15          A.    Our account rep from Duke has been very  
16 supportive, when deregulation took place, to  
17 encourage us to seek a more cost-effective way to  
18 purchase energy. So Duke has accepted that and Duke  
19 has encouraged that to us. So I do not see that as  
20 being -- since Duke has encouraged it, I think that  
21 does not void the commitment that we made.

22          Q.    You agree with me that laws have changed  
23 since the 1930s?

24          A.    Yes.

25          Q.    Technology has changed since the 1930s?

1           A.    Equipment has changed, yes.

2           Q.    Does the City take Duke's load management  
3 rider?

4           A.    At some of our facilities we do.

5           Q.    Do you know whether that existed in the  
6 1970s?

7           A.    I am not sure.  No, I don't know.

8           Q.    Do you think the City is the only  
9 critical customer, to use your term, that the Company  
10 has?

11          A.    On the feeder maps that I'm aware of,  
12 there are other critical customers listed on some of  
13 them.

14          Q.    Do you think the City's operations are  
15 more important than the operations of hospitals?

16          A.    Our account rep has indicated to us, our  
17 account reps over the years have indicated that  
18 water, wastewater, and hospitals are the highest  
19 level of critical customers that Duke serves; and  
20 when there's problems with them, they address them as  
21 quick as possible.

22          Q.    Do you know whether Duke's essential  
23 customers are defined in its tariff?

24          A.    I do not believe they're defined in the  
25 tariffs that I'm aware of.

1           Q.    Subject to check, if they were, in fact,  
2 defined, would you think that the City is any more  
3 important than any of the other customers that are on  
4 that list?

5           A.    What list are we talking about again?

6           Q.    A tariff list of essential customers.

7           A.    Again, I don't know that there is such a  
8 list.

9           Q.    Okay.

10          A.    If there is a list, I'm not aware of  
11 that.

12          Q.    Even if Duke had unused distribution  
13 capacity on its system in the '70s, the '80s, the  
14 '90s, is it possible that load growth could cause  
15 that unused capacity to evaporate as it becomes used  
16 by other customers?

17          A.    In talking with the distribution  
18 engineers who kind of came and talked to us, they  
19 ensured us that as there's growth in the Duke system,  
20 that they have continued to add infrastructure for  
21 the system. So my belief is that they have taken  
22 that growth into consideration in designing their  
23 system. Very similar to the way we have in the water  
24 system. As the system expands, we have to add  
25 infrastructure to serve those customers. And I would

1 believe -- I believe it's that way for Duke based on  
2 discussions we've had with their distribution and  
3 even the transmission engineers.

4 Q. So you would agree with me then that Duke  
5 has made capital investments in order to make sure  
6 that there is unused capacity on its system, correct?

7 A. I think Duke has continued to develop  
8 their system as the customers that they serve have  
9 grown.

10 Q. And they've made those investments so  
11 that you can continue to have unused capacity  
12 available to you on the secondary circuits?

13 A. I think they've done that as part of the  
14 service that they provide to all those customers,  
15 every customer on the line Duke is supposed to serve.

16 Q. But you would agree with me that the City  
17 has benefited from those capital investments to  
18 expand its distribution system, correct?

19 A. The City has expanded or? Sorry.

20 Q. Would you agree with me that the City has  
21 benefited by the investments that Duke has made in  
22 its distribution system?

23 A. The customers that they've added, they  
24 have expanded their system to meet those customers'  
25 needs. The City, if it expanded some of our needs, I

1     assume Duke has upgraded transformers as necessary.

2     I mean I think we're saying the same thing.

3             Q.     That's what I was going to ask, so I  
4     think your answer is "yes."

5             A.     Well, the characterization you're saying  
6     is that all expansion for all customers benefits the  
7     City. And it's like no, it benefits the customers  
8     who have requested that expansion and who, you know,  
9     they've paid for it. It's not just the City has  
10    benefited. That's where I'm having trouble with your  
11    question.

12            Q.     Okay. You think it's benefited the  
13    entire system by adding enhancements to the  
14    distribution system?

15            A.     I would agree with that.

16            Q.     Okay. Are you familiar with the 2008  
17    rate case that was filed by Duke here at the  
18    Commission?

19            A.     I did read up on it since the BDP Rider  
20    discussions started in November of 2015.

21            Q.     Very impressive of you; you anticipated  
22    my next question. You were not aware of that rate  
23    case until after this controversy with Rider BDP came  
24    into being in November of 2015?

25            A.     I know when there's rate cases that Duke

1 is providing, so I was aware that there was a rate  
2 case in 2008.

3 Q. Did you have any personal knowledge as to  
4 the Company proposing Rider BDP in the course of that  
5 2008 rate case? And let me clarify my question.  
6 Personal knowledge at the time, back in 2008, while  
7 that case was pending.

8 A. No.

9 Q. So you didn't personally have any  
10 conversations with anybody in the 2008 time frame  
11 about Rider BDP, correct?

12 A. Not about Rider BDP, that is correct.

13 Q. And so during the pendency of that rate  
14 case, you were not personally familiar with the Staff  
15 Report that the Commission Staff had issued in that  
16 proceeding?

17 A. That is correct.

18 Q. And similar question, you were not  
19 personally familiar with the settlement agreement  
20 that was signed by the City as part of that  
21 proceeding?

22 A. The settlement agreement, I had -- there  
23 were issues that the City raised at that time, things  
24 like pole assessments and economic development and  
25 street car and things like that, I think how many

1 Duke employees were going to still remain in the  
2 Cincinnati area. I think those were the issues that  
3 the City was raising in signing that agreement.

4 Q. Did anybody ask you what your opinion was  
5 as to whether or not the City should enter into that  
6 settlement agreement in 2008?

7 A. No.

8 Q. And were you aware at the time that Rider  
9 BDP was part of the settlement agreement?

10 A. No.

11 Q. So look at page 9, lines 3 through 5 of  
12 your testimony, if you will.

13 A. Okay.

14 Q. Before that, the question is: "Why did  
15 the City support the Commission-approved stipulation  
16 that established Rider BDP?" Do you see that?

17 A. Yes.

18 Q. And then your answer is: "The City  
19 believed Rider BDP did not apply to the Critical  
20 Facilities...." But that testimony is not based upon  
21 any personal knowledge you had at the time, correct?

22 A. That testimony is based on my reading of  
23 the stipulation since BDP was brought up in 2015.

24 Q. Okay. But your testimony says "the City  
25 believed." And that's really not what you're saying.



1 You're saying that you believe the City believed. Is  
2 that a fair assessment?

3 A. I work for the City and I believe based  
4 on that -- I don't think -- I think that's semantics  
5 that you're pointing to.

6 Q. I'm trying to understand. You didn't  
7 have any personal knowledge as to Rider BDP in 2008,  
8 correct?

9 A. That is correct.

10 Q. So you don't know what the City believed  
11 at that time. You can only know what somebody told  
12 you after the fact or based upon your interpretation  
13 of documents several years later. Am I misreading  
14 that?

15 A. The issues that were brought up in 2008  
16 were not Rider BDP, and the reason that they were not  
17 part of -- Rider BDP was not part of it in my reading  
18 of it was that it does not apply to the City  
19 facilities. It applies to new facilities, new load.

20 Q. When did you become aware that hospitals  
21 had negotiated an exemption from Rider BDP as part of  
22 the 2008 rate case?

23 A. In my reading after November of 2015.

24 Q. And do you agree with me that those  
25 hospitals would have had primary and secondary

1 interconnections or dual feed interconnections prior  
2 to 2008?

3 A. I do not know what the configuration of  
4 the hospitals were. I do not know what agreements  
5 the hospitals had with Duke. Apparently, based on  
6 the reading that I did of this, apparently the  
7 hospitals felt that Rider BDP was, in fact, something  
8 that affected them; otherwise, they would not have  
9 tried to put an exemption forth.

10 Q. So the hospital exemption applied to the  
11 hospitals' existing load at the time in 2008,  
12 correct?

13 A. I assume so.

14 Q. And so at the time that Rider BDP was  
15 approved in 2008, weren't the hospitals also relying  
16 upon Duke's unused capacity on its distribution  
17 system to satisfy their backup obligations?

18 MR. LANG: Objection, your Honor. I  
19 think we've gotten far past the point of asking  
20 Mr. Moster to speculate as to separate parties in a  
21 different case and Mr. Moster has already said he  
22 doesn't know what they were doing.

23 MR. SAMFORD: Your Honor, I'd be happy to  
24 rephrase the question.

25 EXAMINER WALSTRA: Please rephrase.

1           Q.    Do you have any personal knowledge as to  
2 whether or not the City -- the hospitals were relying  
3 upon Duke to provide backup power through a primary  
4 or secondary service or dual feed configuration prior  
5 to implementation of Rider BDP?

6           A.    I do not know what the hospitals'  
7 situation was back in 2008.

8           Q.    Fair enough.

9           A.    Again, it's -- I'm guessing if I was to  
10 say any more.

11          Q.    Okay. And so then, by the same token,  
12 you don't know really if the regulatory obligation to  
13 have a backup power source that the hospitals have is  
14 substantially similar to one that the City has.

15          A.    I do not know.

16          Q.    Are you aware of whether any other  
17 customers of Duke Energy Ohio raised challenges or  
18 asserted issues regarding Rider BDP during the 2006  
19 case where the tariff had first been proposed?

20          A.    I believe I read something about AMP Ohio  
21 raising some concerns.

22          Q.    But you were not aware of that until --

23          A.    No.

24          Q.    -- within the last two years, correct?

25          A.    That's correct. That is correct.

1           Q.    If you would look at page 11 of your  
2    testimony and particularly lines 7 through 10.  
3    Before I ask you that though, let me ask you:  You  
4    said you are aware that AMP had raised a concern.  
5    What is AMP?

6           A.    I can't give you a real good definition.  
7    I think they represent municipal utilities across the  
8    State of Ohio and maybe other states.  I'm not  
9    familiar exactly what their business model is or  
10   anything like that.  I'm just aware that they're a  
11   large energy player for municipalities in the state  
12   of Ohio.  I see them when I go to conferences and the  
13   like.

14          Q.    Subject to check, would you agree it was  
15    maybe the Industrial Energy Users, not AMP?

16          A.    It might have been Industrial Energy  
17    Users.  I could be corrected in that, yes.

18          Q.    So coming back to page 11 of your  
19    testimony, lines 7 through 10.  You talk there about  
20    a cost increase that you believe Rider BDP would  
21    impose upon the City.  You say that Rider BDP charges  
22    will increase costs of electric service by over  
23    100 percent per year for the City's Critical  
24    Facilities.  And then for the MSD Critical Facilities  
25    it would be an increase of electric service costs by

1 approximately 67 percent. Do you see that, sir?

2 A. Yes.

3 Q. Now, Rider BDP only applies to the  
4 distribution portion of the electric bill, correct?

5 A. Yes.

6 Q. Rider BDP will not increase the cost of  
7 energy for the City.

8 A. I consider electric service the  
9 distribution part of my bill.

10 Q. I'm sorry, say that again.

11 A. I consider electric service the  
12 distribution part of my bill.

13 Q. Okay.

14 A. Electric generation is another part of my  
15 bill.

16 Q. So you're agreeing with me that it will  
17 not increase the cost of your actual energy.

18 A. It will increase the cost of electric  
19 service, the distribution part of my bill, by  
20 100 percent. I will be charged double the  
21 distribution rate that I'm charged currently if BDP  
22 is applied.

23 Q. But your entire electric bill will not  
24 double.

25 A. My entire electric bill will not double.

1 That is not what that says, though.

2 Q. I'm making sure I understand because it  
3 wasn't perfectly clear to me.

4 A. Okay.

5 Q. Duke is not requiring the City to take  
6 service under Rider BDP, is it?

7 A. Duke has portrayed the service as being  
8 an optional service. The City is very dependent on  
9 that service and so it is very hard for us to see  
10 this as an optional service based on our requirements  
11 and regulations and duty to our customers. That's  
12 part of the reason we feel that this is an unfair  
13 charge because the service that we're getting is  
14 similar to the service that we have previously  
15 received and are very happy with.

16 Q. In the Complaint the City says in  
17 paragraph 36 and I'll read this quote, "Rider BDP  
18 does not apply to backup delivery points that existed  
19 prior to the implementation of Rider BDP." Are you  
20 aware of any facts that support that statement?

21 A. Read it one more time, please.

22 Q. This is from paragraph 36 of the  
23 Complaint. "Rider BDP does not apply to backup  
24 delivery points that existed prior to the  
25 implementation of Rider BDP."

1           A.     The reason that we believe that that is  
2     the case, it does not apply, is because we have never  
3     contracted for reserve capacity on any of our  
4     existing facilities. This is again the feeling that  
5     BDP is for new services. And I think in the actual  
6     stipulation or one of the documents I've read is it  
7     even characterizes, the Duke documents actual  
8     characterize it as this is for new services. And so  
9     we have no reason to believe that this applies to any  
10    of the services that were in place prior to the BDP  
11    Rider.

12           Q.     So help me understand this, because I'm  
13    not clear what you're saying. Are you saying that  
14    Rider BDP was not a new service at the time it was  
15    offered in -- at the time it was approved in 2008?

16           A.     I missed that.

17           Q.     Are you saying that Rider BDP was not a  
18    new offering, a new tariffed offering by the Company  
19    at the time it was approved in 2008 -- or 2009?

20           A.     BDP was a new tariff in 2009.

21           Q.     Okay.

22           A.     Apparently. That's what I -- I think  
23    that's what you asked.

24           Q.     That's what I was trying to understand.

25           A.     Okay. Yes.

1           Q.    Thank you.

2                    Do you know whether Duke's distribution  
3 rate is based upon the unique cost to serve every  
4 individual customer or is it an average of all the  
5 system costs for distribution?

6           A.    I am not sure of that answer.

7           Q.    Are you familiar -- strike that.

8                    In paragraph 47 of the Complaint it says,  
9 "DEO's" -- referring to Duke Energy Ohio -- "DEO's  
10 own witness testifying about Rider BDP acknowledged  
11 that the Access Charge would have limited  
12 application, i.e., the Access Charge under Rider BDP  
13 applies only to backup facilities that are  
14 'distinctly different' from the facilities providing  
15 primary service."

16                   Do you have any personal knowledge as to  
17 what the phrase "distinctly different" means in that  
18 context?

19           A.    I don't think I can answer that question.  
20 Maybe you can ask it a different way. No,  
21 "distinctly different" does not -- I don't know what  
22 that means exactly.

23           Q.    Okay. Are you familiar with the use of  
24 that phrase in the testimony of Duke's witness in the  
25 2006 tariff case and I think also in the 2008 rate



1 case?

2 A. I probably read that, but I am not  
3 intimately familiar with that.

4 Q. If I were to ask you any questions about  
5 what he meant, you just wouldn't know.

6 A. I wouldn't know.

7 Q. Okay.

8 A. I wouldn't know.

9 MR. SAMFORD: Give me just a moment, your  
10 Honor. We may be close to done here.

11 EXAMINER WALSTRA: Okay.

12 MR. SAMFORD: Could we go off the record  
13 for just a second?

14 EXAMINER WALSTRA: Sure. We'll go off  
15 the record.

16 (Off the record.)

17 EXAMINER WALSTRA: We'll go back on the  
18 record.

19 Q. (By Mr. Samford) Mr. Moster, going back  
20 to my line of questions having to do with this phrase  
21 "distinctly different." First off, would you agree  
22 with me that the Critical Facilities are each served  
23 by two different circuits?

24 A. Yes.

25 Q. And would you know whether or not those

1 circuits ultimately tie back to different transformer  
2 banks within a substation?

3 A. Yes, they do.

4 Q. Okay. And in some cases they actually  
5 tie into completely different substations, correct?

6 A. Yes, that is correct.

7 EXAMINER WALSTRA: You're asking the  
8 circuits?

9 MR. SAMFORD: Yes, sir.

10 That's all the questions I have, your  
11 Honor.

12 EXAMINER WALSTRA: Thank you.  
13 Any redirect?

14 MR. LANG: No, your Honor.

15 EXAMINER WALSTRA: Thank you.

16 MR. LANG: Your Honor, we would move into  
17 evidence City Exhibit No. 1.

18 EXAMINER WALSTRA: Any objections?

19 MR. SAMFORD: No objection.

20 EXAMINER WALSTRA: It will be admitted.

21 (EXHIBIT ADMITTED INTO EVIDENCE.)

22 Your next witness.

23 MR. LANG: Thank you, your Honor. The  
24 City calls Thomas Gantzer to the stand.

25 EXAMINER WALSTRA: Raise your right hand.

1 (Witness sworn.)

2 EXAMINER WALSTRA: Thank you. Please be  
3 seated.

4 - - -

5 THOMAS E. GANTZER

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

8 DIRECT EXAMINATION

9 BY MR. LANG:

10 Q. Good morning, Mr. Gantzer. Could you  
11 introduce yourself, your name and your business  
12 address, please.

13 A. Sure. My name is Thomas Gantzer. My  
14 business address is 8366 Princeton Glendale Road,  
15 Suite B1, West Chester, Ohio.

16 Q. And, Mr. Gantzer, did you draft prefiled  
17 direct testimony that was filed on or about  
18 July 26th, 2017?

19 A. Yes, I did.

20 MR. LANG: Your Honor, may I approach and  
21 have this marked?

22 EXAMINER WALSTRA: You may.

23 MR. LANG: We ask that this be marked as  
24 City Exhibit No. 2.

25 EXAMINER WALSTRA: So marked.

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 Q. Mr. Gantzer, do you have in front of you  
3 City Exhibit No. 2, your direct testimony dated  
4 July 26th, 2017?

5 A. Yes.

6 Q. Do you have any corrections to make to  
7 this testimony?

8 A. Yes. I have one addition to make on  
9 page 1, line 15. After "Energy Group" there was  
10 another employer, Stand Energy Corp., which was not  
11 listed.

12 Q. Any other corrections?

13 A. No, sir.

14 Q. Mr. Gantzer, if I were to ask you the  
15 same questions that are in this City Exhibit No. 2,  
16 would you provide the same answers?

17 A. Yes.

18 MR. LANG: Your Honor, Mr. Gantzer is  
19 available for cross.

20 EXAMINER WALSTRA: Thank you.

21 Whenever you're ready.

22 MR. SAMFORD: Thank you, your Honor.

23 - - -

24 CROSS-EXAMINATION

25 BY MR. SAMFORD:

1           Q.    Mr. Gantzer, you are providing an expert  
2 opinion in this case, correct?

3           A.    Yes.

4           Q.    So let's talk briefly about your  
5 qualifications to render an expert opinion. Are you  
6 a professional engineer?

7           A.    No.

8           Q.    Are you a certified public accountant?

9           A.    No.

10          Q.    Are you a licensed attorney?

11          A.    No.

12          Q.    Do you have a college degree?

13          A.    No, I do not.

14          Q.    Did you complete your engineering  
15 studies?

16          A.    When I first started with the Cincinnati  
17 Gas & Electric Company I was going to night school at  
18 University of Cincinnati. Once I started at the  
19 Company, I went into Operations on a rotating shift  
20 position. At that point it made it very difficult to  
21 continue my schooling. So after 9 years of that, I  
22 never really got back to it.

23                However, even though UC is a fine school,  
24 their Electrical Engineering Technology Degree did  
25 not have a concentration in power. What they did

1 have was one elective class on power and nothing else  
2 about power system operations.

3 Q. So the answer is "no"?

4 A. That is correct.

5 Q. You worked for the Cincinnati Gas &  
6 Electric Company from 1978 through 1997, correct?

7 A. Yes.

8 Q. Did you ever work in the company's legal  
9 department?

10 A. No.

11 Q. Did you ever work in any utility's legal  
12 department?

13 A. No.

14 Q. Did you work in the company's utility  
15 rates department?

16 A. No.

17 Q. Have you ever worked in any utility's  
18 rates department?

19 A. No.

20 Q. Have you ever written a tariff?

21 A. No.

22 Q. Have you ever attended a rate school?

23 A. No.

24 Q. Have you ever prepared a cost of service  
25 study?

1           A.    No.

2           Q.    Have you ever had occasion as a  
3 professional to use the Federal Energy Regulatory  
4 Commission's Uniform System of Accounts?

5           A.    No.

6           Q.    Are you personally familiar with the  
7 NARUC Cost Allocation Manual?

8           A.    I know of its existence.  I don't know  
9 the manual itself, no.

10          Q.    Do you know whether the NARUC Cost  
11 Allocation Manual is used by utilities in Ohio in  
12 their ratemaking activities?

13          A.    I don't know.

14          Q.    Have you ever personally designed a  
15 utility-scale electric distribution system?

16          A.    My testimony has to do with the  
17 operations of the system, not the design.  I've never  
18 been involved in the design of a system.

19          Q.    So again the answer is "no"?

20          A.    No.

21          Q.    The last time that you personally  
22 operated a utility's electric distribution system was  
23 in 1989?

24          A.    I was a system operator in 1989.  After  
25 that I was an instructor for the Cincinnati Gas &

1 Electric Company. And then after that, in 2009,  
2 while working at MISO, the Midcontinent Independent  
3 System Operator, I received a NERC Certification for  
4 Reliability Coordinator. The RC Certification is the  
5 highest certification for system operators and that  
6 certification enabled me to operate transmission,  
7 distribution, and generation in any  
8 utility-controlled system in the U.S. or Canada.

9 Q. And when was the last time that you  
10 personally operated a utility's electric distribution  
11 system?

12 A. The last time I operated high-voltage  
13 distribution equipment was December of 2016.

14 Q. And that was while you were at MISO?

15 A. No. That was in my current role.

16 Q. Okay. But that equipment -- well,  
17 describe what that equipment is.

18 A. That equipment is a 80 MVA substation at  
19 the former Ford Batavia transmission plant in  
20 Clermont County, Ohio. It's currently being used by  
21 a company called Huhtamaki, and we're under contract  
22 with them to operate and maintain that substation.

23 Q. So let me come back to my original  
24 question. The last time that you personally operated  
25 a utility's electric distribution system was in 1989,



1 correct?

2 A. There is no difference between the  
3 equipment at the Batavia substation than that that is  
4 currently used at Duke right now.

5 Q. How many miles of distribution system  
6 does that plant have in its distribution system?

7 A. I have no idea.

8 Q. How many substations does it have?

9 A. One.

10 Q. Is that substantially different in your  
11 mind than Duke Energy's distribution system?

12 A. This substation at Batavia that I operate  
13 is probably 40 times the size of the average Critical  
14 Facility of the City's. So while it does not compare  
15 to an entire utility distribution system, it is quite  
16 substantial as compared to the City's facilities.

17 Q. So I think I'll have to ask it for the  
18 fourth time. When was the last time that you  
19 personally operated a utility's electric distribution  
20 system?

21 MR. LANG: I'd object as argumentative.  
22 I believe the first couple times he asked the  
23 question it was not a utility's, but like  
24 utility-scale. He's changed it along the way. So if  
25 we could drop with the argumentative aspect and

1 simply get the questions, your Honor.

2 EXAMINER WALSTRA: When was the last time  
3 you operated for a utility?

4 THE WITNESS: Distribution system would  
5 have been 1994, I believe.

6 Q. Okay. Your expert testimony today  
7 concerns how Rider BDP charges are described in the  
8 tariff and in the testimony that Duke filed with the  
9 Commission; discussing the costs Duke claims are  
10 associated with reserving backup capacity under the  
11 tariff; discussing why those costs are not  
12 appropriate in your opinion to impose on the City;  
13 and then how Rider BDP presents a system management  
14 issue for Duke in your opinion; is that correct?

15 A. That was a great deal of verbiage there,  
16 but yeah, I believe that's correct.

17 Q. You're not offering expert opinion on any  
18 other rates or tariffs other than Rider BDP, correct?

19 A. Correct.

20 Q. Apart from what people have told you and  
21 what documents you've reviewed, you've not done any  
22 personal or independent research about Rider BDP,  
23 have you?

24 A. No.

25 Q. You're not offering any testimony

1 concerning the reasonableness or appropriateness of  
2 any of the other of Duke's rate schedules or tariffs,  
3 correct?

4 A. Correct.

5 Q. Let me ask you, do you have your  
6 testimony in front of you?

7 A. Yes.

8 Q. Let me ask you to look at page 4 of your  
9 testimony. On lines 4 and 5, you say, the complete  
10 sentence there, "Duke has not provided any cost of  
11 service study showing the cost to reserve capacity  
12 under Rider BDP." Do you see where I'm referring to?

13 A. Yes, I do.

14 Q. Are you familiar with how cost of service  
15 studies are performed?

16 A. Roughly. I'm certainly no expert on cost  
17 of service studies.

18 Q. Can you tell me where reservation  
19 capacity costs are generally captured in a utility's  
20 cost of service study?

21 A. No.

22 Q. Now, you would agree with me that Rider  
23 BDP is a service that ensures space is available on  
24 an adjacent feeder so that a customer can switch to  
25 this adjacent feeder during an outage or

1 interruption, correct?

2 A. That's how Rider BDP is portrayed, but  
3 that's just giving a new name to something that's  
4 always existed and that's the capacity, the excess  
5 capacity available on lines so that equipment can be  
6 taken out of service for maintenance and other lines  
7 can be restored during outages.

8 Q. How is unused capacity on a distribution  
9 system created?

10 A. It's created by building substations and  
11 lines that exceed the current load.

12 Q. So if a utility builds too much unused  
13 capacity into its system, then the ratepayers end up  
14 paying for something that's not needed, correct?

15 A. Certainly if a company builds an excess  
16 of what is needed, that does increase the customers'  
17 cost. Building what is necessary to operate the  
18 system during outages and during system maintenance  
19 is not considered an overcharge. I mean, clearly  
20 Duke and its predecessor companies have been doing  
21 that for years and recovering those costs through  
22 rates.

23 Q. If a utility doesn't build enough unused  
24 distribution capacity into its system, then that  
25 could present reliability concerns, correct?

1           A.     Correct.

2           Q.     Now, you were here for the testimony  
3 earlier this morning, correct?

4           A.     Yes.

5           Q.     And I asked this question of Mr. Moster,  
6 but let me ask you as well: Do you know whether  
7 distribution rates are based upon customer specific  
8 charges or whether they are system averages?

9           A.     Given the fact that distribution rates  
10 are based on class, then it would have to be a system  
11 average, not per customer.

12          Q.     What amount of unused distribution  
13 capacity in your opinion should a utility have  
14 available on its system?

15          A.     During my deposition the numbers that I  
16 threw out were 25 to 50 percent. That's based on my  
17 experience as a system operator. When circuits  
18 needed to be taken out of service for maintenance,  
19 oftentimes an individual 13 kV feeder was only tied  
20 to one other circuit to carry its load. So obviously  
21 in that situation those two feeders did not exceed  
22 50 percent loading. That was one end of the  
23 spectrum.

24                   The other end of the spectrum is I don't  
25 think I've ever switched out a circuit that required

1 more than four ties. So if you could take one  
2 circuit, break it up into four pieces, tie it to four  
3 other circuits and carry all the load, then it does  
4 strongly imply that the excess capacity on each of  
5 those feeders is 25 percent.

6 Q. So, in your opinion, any unused capacity  
7 that's less than 25 percent would be unreasonable?

8 A. In my opinion, excess capacity of less  
9 than 25 percent probably jeopardizes the customer as  
10 far as being able to restore their load during an  
11 outage.

12 Q. By the same token, anything above  
13 50 percent you think would be excessive?

14 A. That depends. The way the network is  
15 designed, in the high-load areas there's numerous  
16 additional feeders nearby. So the system is very  
17 compact in those areas and in those areas you might  
18 have four or five different places where you can tie  
19 the circuit. The farther out you go in the system in  
20 the more rural areas there are fewer and fewer ties.

21 Q. So your range of 25 to 50 percent,  
22 there's an element of subjectivity in that, correct?

23 A. Based on the available circuits, yes.

24 Q. You're not aware of any federal mandate  
25 dictating that there has to be a certain percentage

1 of unused capacity on a distribution system?

2 A. Not to my knowledge.

3 Q. You're not aware of any state mandate?

4 A. Not to my knowledge.

5 Q. And really that would be set by a  
6 utility's engineers on a case-by-case basis.

7 A. Yes. It's based on, you know, good  
8 utility practice; something that Duke has maintained  
9 and Duke's predecessor companies have maintained for  
10 many years.

11 Q. Now, you've criticized Rider BDP as being  
12 an unreasonable rate, but you're not offering  
13 testimony as to what a more appropriate rate would  
14 be, are you?

15 A. Going back to my filed testimony where I  
16 said Duke has not provided any cost of service study  
17 showing the cost to reserve capacity under Rider BDP.  
18 They have not generated a rate either. They just  
19 simply took the distribution rate and copied that  
20 into Rider BDP. They do not calculate a rate.

21 Q. But we do have -- there is a tariff,  
22 correct?

23 A. Yes.

24 Q. And the tariff is a rate.

25 A. Yes, with no calculation behind it.

1           Q.    But it has been approved by the Public  
2   Utility Commission of Ohio.

3           A.    Yes.

4           Q.    And prior to being approved by the Public  
5   Utility Commission of Ohio, it was the subject of an  
6   investigation by the Staff, correct?

7           A.    I would assume.

8           Q.    Do you spend much time here at the Public  
9   Utilities Commission of Ohio?

10          A.    Could you define "much"?

11          Q.    How many times a year do you travel here  
12   on official business approximately?

13          A.    Very few.

14          Q.    Are you aware of whether the Staff has  
15   accountants on its staff?

16          A.    I would assume.

17          Q.    Are you aware of whether they have  
18   engineers on their staff?

19          A.    I would assume.

20          Q.    Are you aware of whether they have  
21   attorneys on their staff?

22          A.    I would assume.

23          Q.    Do you have any reason to believe that  
24   they are untrained?

25          A.    I have no reason to believe that.



1           Q.    Do you have any reason to believe that  
2 they're incapable of conducting an investigation into  
3 the reasonableness of a rate structure?

4           A.    No.

5           Q.    Look at page 5 of your testimony, if you  
6 would, please, lines 11 through 13.  There's a  
7 sentence, "Also, Duke has not shown that it would  
8 reserve more capacity on a circuit for the City than  
9 it otherwise would for reliability purposes."

10                   And so you're talking, just to make sure  
11 I understand, you're talking in that context about  
12 Rider BDP reservations, correct?

13           A.    If you could, please, give me a minute to  
14 read this.

15           Q.    Absolutely.

16           A.    Okay.  Could you restate or re-ask?

17           Q.    Yeah.  Your statement there about "Duke  
18 has not shown that it would reserve more capacity on  
19 a circuit for the City than it otherwise would for  
20 reliability purposes," you're referring there  
21 specifically to Rider BDP, correct?

22           A.    Yes.  What I'm saying is that provided  
23 Duke continues to use good utility practices and has  
24 sufficient capacity on those lines for reliability  
25 reasons, then there's no real reason to reserve any

1 additional for Rider BDP because the capacity already  
2 exists.

3 Q. Do you know whether Duke has entered into  
4 any Rider BDP service agreements with some of its  
5 customers?

6 A. I did see redacted contracts through  
7 discovery.

8 Q. Do you have any reason to believe that  
9 Duke has not actually reserved the distribution  
10 capacity on its system as it agreed to do in those  
11 service agreements?

12 A. I really don't know, because in Simms'  
13 testimony he stated that the Company would reserve  
14 capacity under Rider BDP for the customer and that  
15 capacity would not be used for any other customer for  
16 any reason for any emergency; it would be held out  
17 and reserved for the customer paying Rider BDP.

18 Then in his deposition he said just the  
19 opposite, that the excess capacity would be used to  
20 pick up customers on another feeder who had lost  
21 service and actually take that Rider BDP capacity  
22 away from the customer who is paying for it.

23 So no, I can't say whether or not Duke is  
24 actually reserving Rider BDP capacity for customers  
25 who have signed a contract.

1           Q.    Are you familiar with the steps that Duke  
2 takes to reserve capacity once a Rider BDP service  
3 agreement has been signed?

4           A.    No, I do not know.

5           Q.    Did you look at the testimony filed by  
6 Michael Pahutski in this case?

7           A.    Could you give me his name again, please?

8           Q.    Michael Pahutski.

9           A.    I do recall reviewing some of it.

10          Q.    But, as we sit here today, you don't  
11 remember any procedures that were outlined in that  
12 testimony?

13          A.    No, I don't.

14          Q.    When you left the Company it was still  
15 Cincinnati Gas & Electric in 1997, correct?

16          A.    It was Cinergy.

17          Q.    So when you left Cinergy in 1997, did  
18 they have a tariffed program by which they offered to  
19 dedicate unused capacity on the distribution system  
20 for their customers?

21          A.    Not to my knowledge.

22          Q.    So that's something that's new since you  
23 left the Company.

24          A.    The excess capacity on the distribution  
25 system for outages and maintenance is not new. The

1 creation of BDP as a billable tariff is.

2 Q. But when you left the Company there was  
3 no -- there was never any dedicated excess capacity  
4 to serve a customer, correct?

5 A. Excuse me, could you repeat that?

6 Q. When you left the Company in 1997, there  
7 were no customers to whom unused capacity on the  
8 distribution system was dedicated, correct?

9 A. In essence it was dedicated to everybody.  
10 It was there for every customer to use.

11 Q. So if it's dedicated to everyone, then it  
12 isn't actually dedicated to any single customer,  
13 correct?

14 A. Correct.

15 Q. So any procedures that the Company might  
16 have in place now to dedicate unused distribution  
17 capacity would not have been in place when you left  
18 the Company in 1997.

19 A. Can you say that again?

20 Q. Any procedures which the Company might  
21 have in place now to dedicate unused distribution  
22 capacity on its system for the use by a particular  
23 customer would not have been in existence when you  
24 left the Company, correct?

25 A. Not to my knowledge, no.

1           Q.    Do you have any reason to believe that  
2 Duke would not take each of the steps that it has  
3 outlined in testimony to be able to implement a Rider  
4 BDP service agreement?

5           A.    I have no reason to think they wouldn't.

6           Q.    Okay. Look at page 6 of your testimony,  
7 please, lines 12 and 13. Let me know when you're  
8 there.

9           A.    I'm there.

10          Q.    The sentence in question says, "...the  
11 City has relied on automatic switching procedures at  
12 the Critical Facilities to ensure the delivery of  
13 reliable electric service." Do you see that  
14 sentence?

15          A.    I do.

16          Q.    Now, it's not just the automatic  
17 switching procedure that's necessary for there to be  
18 reliable electric service, correct?

19          A.    Yes. As I said, what makes this  
20 reliable, other than the automatic transfer, is the  
21 excess capacity that's necessary in the system for  
22 outages and maintenance.

23          Q.    And so who is going to be in the best  
24 situation to be able to determine how much unused  
25 capacity exists on the distribution system at any

1 given point in time? Will it be a customer or will  
2 it be the utility's engineers?

3 A. The utility's engineers have done an  
4 outstanding job over many decades.

5 Q. Do you believe that it is possible that  
6 they could have a concern that an automatic switch  
7 could throw over an amount of load that would cause  
8 the secondary circuit to fail and have its own fault?

9 A. You're referring to a fault or an  
10 overload?

11 Q. An overload.

12 A. To my knowledge that's never happened  
13 with the City's Critical Facilities. And provided  
14 that Duke continues with good utility practices, it  
15 should never happen.

16 Q. So my question was do you think that it's  
17 possible that an engineer for a utility could be  
18 concerned that it could happen.

19 MR. LANG: Just for clarification, you're  
20 talking in a general sense, not specific to the City?

21 MR. SAMFORD: Yes, sir.

22 A. Yes.

23 Q. You were here earlier when I talked to  
24 Mr. Moster about this, but let me ask you a couple of  
25 the same questions I asked him. I asked him whether

1 he agreed that Duke had an obligation to protect the  
2 integrity of its system. Do you think that Duke has  
3 an obligation to protect the integrity of its system?

4 A. They do, that's why all those costs are  
5 recoverable in rates.

6 Q. So let me ask you a series of questions  
7 here about your familiarity with the Duke system. Do  
8 you know how many circuits are on the Duke  
9 distribution system today?

10 A. I'm familiar with the circuits that feed  
11 the Critical Facilities for the City of which I'm  
12 testifying about.

13 Q. So you don't know how many total circuits  
14 there are in the system.

15 A. I do not.

16 Q. You don't know how many miles of  
17 distribution lines Duke maintains on an annual basis?

18 A. No.

19 Q. You don't know how many substations it  
20 owns and operates?

21 A. No.

22 Q. You don't know how many automatic  
23 switches are on its system?

24 A. I know how many the City has.

25 Q. But as for how many other customers may

1 have, you don't know.

2 A. I do not.

3 Q. You don't know how many manual switches  
4 are on the system?

5 A. I do not know.

6 Q. You don't know how many dual feed  
7 customers there are on the system?

8 A. No.

9 Q. You don't know how many of its customers  
10 have two meters?

11 A. No.

12 Q. Do you know what the overall system,  
13 unused capacity on the distribution system would be  
14 today?

15 A. Assuming as the load grows and the  
16 Company collects more in distribution rates, that  
17 money should be plowed back into the system to  
18 upgrade the system. So the excess capacity today  
19 should be the same as it was 30 years ago.

20 Q. Do you know what that level would be?

21 A. Not on the system as a whole, but  
22 generally on individual feeders, yes.

23 Q. Do you know what the average annual  
24 unused capacity on the distribution system would be?

25 A. No.



1           Q.    Do you know what the unused capacity  
2 would be at a time when the system is at peak, is  
3 operating at its maximum peak?

4           A.    No.

5           Q.    You would agree with me that the amount  
6 of unused capacity on the system changes as loads  
7 come and go?

8           A.    Sure.

9           Q.    And that can change literally minute to  
10 minute?

11          A.    Minute to minute within reason. I mean  
12 it's certainly, you know, the load isn't going to  
13 double minute per minute.

14          Q.    But it is a dynamic system.

15          A.    Yes.

16          Q.    And you would agree with me that it's not  
17 really the system that's dynamic, it's also the  
18 individual circuits; is that correct?

19          A.    Yes.

20          Q.    Are you aware of other customers on the  
21 Duke system that have backup interconnections?

22          A.    In general I am aware, yes.

23          Q.    Do you know of other customers that have  
24 a primary or secondary backup configuration?

25          A.    Sure.

1           Q.    Do you know of other customers that have  
2 a dual feed configuration?

3           A.    Sure.

4           Q.    From an electrical engineering  
5 perspective, is there anything about those -- strike  
6 that question.

7                       From an electrical engineering  
8 perspective, is there anything about the City's  
9 interconnections that make them somehow unique or  
10 different than other customers with primary-secondary  
11 or dual feed interconnections?

12          A.    If you're asking me if the physical  
13 hardware is different, I'd have to say no, it's not.

14          Q.    Please look at page 6 of your testimony,  
15 lines 13 through 15. Is it theoretically possible  
16 that when a load is shifted from one circuit to  
17 another that that other circuit can become  
18 overloaded?

19          A.    Certainly. That's why I stated in my  
20 deposition that not only can that occur with an  
21 automatic transfer switch, it can happen with a  
22 manual switch and it does happen.

23          Q.    And so to be able to guard against that  
24 occurrence from happening, is it important to have a  
25 high degree of confidence that that second circuit

1 will be able to accept the load that is transferred  
2 to it?

3 A. Yes.

4 Q. When a load is transferred pursuant to an  
5 automatic switch, there's not time for any engineer  
6 to be consulted prior to that transfer of power,  
7 correct?

8 A. There is no need to. The area engineer  
9 who is basically in charge of managing that  
10 distribution feeder knows what loads are out there,  
11 knows what loads are on the transfer switch, and  
12 knows whether or not the adjacent or the backup  
13 feeder can handle that additional load. If that  
14 wasn't the case, there wouldn't be an automatic  
15 transfer switch there.

16 Q. Is the engineer going to know in every  
17 single circumstance that there's always going to be  
18 sufficient unused capacity on the secondary circuit?

19 A. The engineer has intimate knowledge of  
20 the load behind that transfer switch, so yes, he  
21 would know.

22 Q. Do you always know beforehand when a  
23 primary circuit is going to fail?

24 A. No. That's why this excess capacity is  
25 designed based off of peak load.

1           Q.    So is it possible that if you have --  
2   this is a hypothetical -- if you have a primary  
3   circuit in operation and then you have a secondary  
4   circuit that's being used to help restore service to  
5   customers on a completely different line, a third  
6   line that have lost power, is it possible that if the  
7   first line then loses power that could cause an  
8   overload on the secondary circuit as well?

9           A.    That situation can exist on every circuit  
10   on the system. I mean it's not hard to tie enough  
11   circuits together to overload one.

12          Q.    Okay. In your testimony you talk about  
13   operating a distribution system at emergency ratings.  
14   Do you recall that?

15          A.    Yes.

16          Q.    Have you ever personally published any  
17   studies describing the effect that operating a  
18   distribution system at an emergency rating would have  
19   on the equipment?

20          A.    No. There's no reason for me to do that.

21          Q.    Have you ever personally performed any  
22   studies to determine the effect that operating at  
23   emergency ratings has on a utility's distribution  
24   system?

25          A.    No, but I've read a few.

1           Q.    When you worked for CG&E in the 1980s,  
2   were you encouraged to operate the distribution  
3   system at emergency ratings?

4           A.    As a system operator we had a pretty good  
5   feeling of which circuits out there were heavily  
6   loaded.  It was not uncommon for us, in an outage  
7   situation, to go ahead and close a tie disconnect,  
8   pick up a feeder, knowing that we were going to  
9   overload, and then call up an area engineer in the  
10  middle of the night and say, hey, this is what  
11  happened, that is what we did, what do you think.

12                   And at that point usually the area  
13  engineer would say close this tie, open that one, you  
14  know, do a couple of those in order to split that  
15  circuit up into smaller pieces.  But it's not  
16  uncommon to find heavily-loaded circuits.

17           Q.    So I'm not sure you answered my question.  
18  Were you encouraged to operate the system at  
19  emergency levels?

20           A.    I'll let you decide.  We were under a  
21  mandate that no outage should be longer than 45  
22  minutes.

23           Q.    How frequently did you have to run the  
24  system at emergency levels in order to be able to  
25  comply with that mandate?

1           A.     Probably a couple dozen times, but then  
2 each occurrence probably no more than a half-hour.

3           Q.     Do you agree with me that the longer that  
4 you have to operate a distribution system at its  
5 emergency ratings that it's more likely to become  
6 damaged?

7           A.     Certainly. And I anticipated this  
8 question, so I did do some review. I went back and  
9 looked at an old ECAR study that showed that copper  
10 conductors, suspended in air with no insulation, can  
11 operate at I think 130 degrees C for 24 hours before  
12 they have 1 percent loss of strength.

13          Q.     Did you look at any other effects upon  
14 equipment other than just the conductor?

15          A.     Not recently. So the conductor, when it  
16 gets hot, the metal tends to anneal, it hardens, it  
17 loses a little bit of strength if it's hot for a long  
18 period of time.

19                 Other devices such as transformers,  
20 transformers have oil cooling and often radiators and  
21 fans. They have an enormous capacity to absorb and  
22 hold heat. So typically with a transformer it's 4 to  
23 8 hours at maybe 150 percent loading before you  
24 experience 1 percent loss of life.

25          Q.     Please look at page 9 of your testimony,

1 lines 11 through 13 in particular. You say, "The  
2 secondary circuits at the Critical Facilities are  
3 essentially identical sources for providing  
4 distribution service, and cannot be fairly or  
5 reasonably characterized as 'distinctly different.'"  
6 Do you see that, sir?

7 A. Yes.

8 Q. When you submitted your testimony, what  
9 did the phrase "distinctly different" mean in your  
10 mind?

11 A. "Distinctly different" to me meant that  
12 the circuits were more than just two different  
13 circuits. I mean obviously if we're just talking  
14 about Circuit 1 and Circuit 2 and they're completely  
15 identical in all regards other than the fact that  
16 they're different circuits, then why call them  
17 "distinctly different"? Why not just call them  
18 "different"?

19 Q. So can you give me an example of what  
20 would make two circuits distinctly different in your  
21 mind?

22 A. For some of the customers that I consult  
23 with we recommend that, you know, in order to  
24 increase reliability, take service at a higher  
25 voltage.

1                   So in the case of the City's Critical  
2 Facilities if they took service, one service was at  
3 13 kV and another one was at 69 kV, then I would say  
4 the 69 kV is distinctly different from the 13 kV.  
5 It's higher voltage, higher up on poles, less  
6 exposure to tree limbs and squirrels. So that  
7 circuit is distinctly different and has higher  
8 reliability.

9                   Q. Are there any other examples of a  
10 distinctly different circuit that you can think of?

11                  A. Well, certainly an underground circuit, a  
12 circuit that is completely underground, it doesn't  
13 have all that exposure to the elements and like I say  
14 trees and cars and squirrels. So that would  
15 certainly be distinctly different and a great deal  
16 more reliable.

17                  Q. So the phrase "distinctly different" in  
18 your testimony is in quotation marks. So are you  
19 familiar with the source of where that phrase comes  
20 from? Where did the phrase "distinctly different"  
21 originate if you know?

22                  A. I believe that was in testimony for the  
23 2008 rate case, and I'm not sure how to pronounce the  
24 gentleman's name, but I believe it's Mr. Ziolkowski,  
25 I believe.



1           Q.    Okay. Did you review the 2008 testimony  
2 of Mr. Ziolkowski prior to preparing your direct  
3 testimony?

4           A.    A portion of it I did, yes.

5           Q.    Had you reviewed that portion of his  
6 testimony where he uses the phrase "distinctly  
7 different"?

8           A.    Yes.

9           Q.    "Distinctly different," do you know the  
10 context in which he actually used that phrase in  
11 2008?

12          A.    I read the paragraph in which he uses  
13 that term "distinctly different," but to my knowledge  
14 he didn't offer a definition or any sort of  
15 clarification.

16          Q.    Is it possible that he may have had a  
17 different understanding in his mind when he prepared  
18 his testimony in 2008 than when you prepared your  
19 testimony in 2017?

20          A.    It sounds like you're asking me to  
21 speculate. I'm sure anything is possible as to what  
22 he may have thought.

23          Q.    Is it possible that power that comes from  
24 two different circuits could come from a different  
25 source?

1           A.    "Source" is very vague.  You know,  
2 ultimately it all comes from generators somewhere,  
3 so.

4           Q.    Is it being delivered at two separate --  
5 two separate points -- strike that question.  That  
6 question didn't make any sense.

7                       When you have -- let's talk about the  
8 Critical Facilities.  When power is delivered at the  
9 primary and secondary, is it being delivered at the  
10 same point?

11          A.    I'm sorry.  And your question is?

12          Q.    When power -- I'm asking if it's being  
13 delivered at the same point, is the delivery point  
14 the same point when it's being delivered in a primary  
15 and secondary configuration at the City's Critical  
16 Facilities?

17          A.    I'm not sure I understand the question.  
18 Are you saying does the primary and the secondary  
19 source come to the same point at the City's  
20 facilities?

21          Q.    Yes.

22          A.    Well, they would have to.

23          Q.    And so, if you were to start at the point  
24 of interconnection of the primary and secondary and  
25 work your way back towards the generators that are

1 ultimately supplying that power, does that path lead  
2 you different places?

3 A. It can.

4 Q. With regard to the Critical Facilities,  
5 does it?

6 A. I believe in every instance it does go  
7 back to -- I think it does go back to different  
8 stations, substations, but then many of those  
9 substations are fed by the same exact high lines. So  
10 there still is that single point of failure.

11 Q. But from the substations on towards the  
12 generation units, that's transmission voltages,  
13 correct?

14 A. Correct.

15 Q. Please look at page 9 of your testimony.  
16 I'm looking particularly at lines 15 and 16. Do you  
17 see the sentence there that says, "Applying Rider BDP  
18 to these secondary feeders that are essentially  
19 identical sources for providing distribution service  
20 would be double billing for the same distribution  
21 service"? Do you see that sentence, sir?

22 A. Yes.

23 Q. Are you aware of whether Duke currently  
24 has an electric distribution rate case pending before  
25 the Commission?

1           A.    I believe they do.

2           Q.    You're not offering any opinions today  
3 concerning that rate case filing, are you?

4           A.    No.

5           Q.    Have you personally reviewed that filing?

6           A.    I don't believe so.

7           Q.    You don't believe so or you have not?

8           A.    I don't believe I have.

9           Q.    Okay.  So as we sit here today you don't  
10 know whether Duke has included any Rider BDP revenue  
11 as an offset to the company's total distribution  
12 revenue requirement?

13          A.    I think in order to determine that, you'd  
14 have to go back and look when those contracts were  
15 signed for BDP service and also when the test year is  
16 for the distribution case.

17          Q.    So, as we sit here today, do you know the  
18 answer to that?

19          A.    No.

20               MR. SAMFORD:  Your Honor, may I have a  
21 minute to go off the record?  I think that may be the  
22 end of my examination.

23               EXAMINER WALSTRA:  Okay.  We'll go off  
24 the record.

25               (Off the record.)

1 EXAMINER WALSTRA: Go back on the record.

2 MR. SAMFORD: That will be all the  
3 questions we have, your Honor.

4 EXAMINER WALSTRA: Thank you.  
5 Any redirect?

6 MR. LANG: Can we have two minutes?

7 EXAMINER WALSTRA: Sure. We'll go off  
8 the record.

9 (Off the record.)

10 EXAMINER WALSTRA: Back on.

11 MR. LANG: Your Honor, we have no  
12 redirect.

13 EXAMINER WALSTRA: Thank you.

14 MR. LANG: Your Honor, at this time we  
15 would move City Exhibit No. 2.

16 EXAMINER WALSTRA: Any objections?

17 MR. SAMFORD: No objections.

18 EXAMINER WALSTRA: It will be admitted.

19 (EXHIBIT ADMITTED INTO EVIDENCE.)

20 MR. LANG: Your Honor, can we go off the  
21 record?

22 EXAMINER WALSTRA: Yes. Go off the  
23 record.

24 (Discussion off the record.)

25 (At 12:45 p.m. a lunch recess was taken

1 until 1:45 p.m.)

2 - - -

3 EXAMINER WALSTRA: We are back on the  
4 record. If you'd like to call your next witness.

5 MR. KEANEY: The City calls John T.  
6 Courtney.

7 EXAMINER WALSTRA: Please raise your  
8 right hand.

9 (Witness sworn.)

10 EXAMINER WALSTRA: Thank you. Please be  
11 seated.

12 - - -

13 JOHN T. COURTNEY

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

16 DIRECT EXAMINATION

17 BY MR. KEANEY:

18 Q. Mr. Courtney, can you state your full  
19 name and business address for the record?

20 A. John Courtney, 1016 North Blanchard  
21 Street, Suite A, Findlay, Ohio 45840.

22 Q. Mr. Courtney, did you submit prefiled  
23 direct testimony, on or around July 26th, 2017, in  
24 Case No. 16-1975-EL-CSS?

25 A. Yes, I did.

1 MR. KEANEY: Your Honor, may I approach?

2 EXAMINER WALSTRA: You may.

3 MR. KEANEY: I'm going to ask the court  
4 reporter to label this City Exhibit 3.

5 EXAMINER WALSTRA: So marked.

6 (EXHIBIT MARKED FOR IDENTIFICATION.)

7 Q. Mr. Courtney, do you have City Exhibit 3  
8 which is your prefiled direct testimony in this case  
9 in front of you?

10 A. I do.

11 Q. Do you have any corrections to make to  
12 your testimony?

13 A. No, I do not.

14 Q. If I asked you the questions stated in  
15 City Exhibit 3, would you give me the same answers?

16 A. Yes.

17 MR. KEANEY: Your Honor, I make this  
18 witness available for cross-examination.

19 EXAMINER WALSTRA: Thank you.

20 Whenever you're ready.

21 - - -

22 CROSS-EXAMINATION

23 BY MR. SAMFORD:

24 Q. Good afternoon, Mr. Courtney. My name is  
25 David Samford. It's good to see you again.

1           A.     Good to see you.

2           Q.     Let me just start out by talking to you a  
3     little bit about the scope of your testimony.  You  
4     say that the purpose of your testimony is twofold:  
5     To point out the appropriateness of the charges set  
6     forth in Rider BDP, and then to propose an  
7     appropriate method for recovering costs associated  
8     with providing a backup delivery point.  Are there  
9     any other subjects upon which you're offering an  
10    expert opinion?

11          A.     I think in addition to the ones you've  
12    just outlined, I also in my testimony included a  
13    concern that I had about adjustments being made to  
14    Duke's average system distribution rates to reflect  
15    changes in revenues from, you know, from Rider BDP.

16          Q.     Okay.  And that goes to your concern in  
17    your testimony as to whether there's a potential for  
18    double recovery?

19          A.     That's correct.

20          Q.     Okay.  You are offering an expert  
21    opinion, correct?

22          A.     That's correct.

23          Q.     You don't have any independent or  
24    personal knowledge about the facts of the underlying  
25    dispute?



1           A.    I'm not sure I understand what you mean  
2 by "the facts." I'm aware of some of the discovery  
3 items, I'm aware of the Complaint filing, so I'm not  
4 sure what you mean by "the facts."

5           Q.    Well, you're not here as a fact witness,  
6 correct?

7           A.    No. I'm here as an expert witness.

8           Q.    Okay. Now, are you a certified public  
9 accountant?

10          A.    No, I'm not.

11          Q.    You are a professional engineer, correct?

12          A.    Yes, I am a registered professional  
13 engineer.

14          Q.    Okay. Now, is your background as an  
15 electrical engineer?

16          A.    My education is actually as a civil  
17 engineer, but the majority of my career actually has  
18 been working in the utility rate area for both  
19 electric, water, wastewater, and gas utilities.

20          Q.    Have you ever designed an electrical  
21 distribution system?

22          A.    No, I've not.

23          Q.    Have you ever operated an electrical  
24 distribution system?

25          A.    No, I've not.

1           Q.    Please look at page 2 of your testimony.  
2    On line 4 -- well, 4, 5, 6, 7, 8, and 9. You answer  
3    the question: "Why are the charges set forth in Rider  
4    BDP inappropriate for recovering costs associated  
5    with providing a backup delivery point?" Would you  
6    please read your answer to that into the record,  
7    please.

8           A.    The answer to the question starting on  
9    line 1?

10          Q.    Yes, sir.

11          A.    "Question: Why are the charges set forth  
12    in Rider BDP inappropriate for recovering costs  
13    associated with providing a backup delivery point?"

14               And my answer is: "The charges in Rider  
15    BDP, as they are being applied by Duke, are  
16    inappropriate for recovering costs associated with  
17    providing a backup delivery point because they  
18    arbitrarily presume that the cost of providing a  
19    backup delivery point are at least equal to, or  
20    greater than the costs that are being recovered under  
21    the unbundled distribution and/or transmission rates  
22    of the customer's most applicable rate schedule, as  
23    stated in Section 2 of the Net Monthly Bill provision  
24    of Rider BDP."

25          Q.    Okay. Now, Rider BDP isn't really

1 imposing a customer charge for having a backup  
2 delivery point, correct?

3 A. I'm not sure what you mean by "customer  
4 charge."

5 Q. Let me ask it a different way. What is  
6 the service that's being offered by Duke pursuant to  
7 Rider BDP?

8 A. It's my understanding the service is for  
9 providing a backup delivery point.

10 Q. Okay. Do you know whether the Company is  
11 offering to dedicate unused capacity on its  
12 distribution system as part of Rider BDP?

13 A. Well, it's my understanding that as a  
14 part of providing the backup delivery point, that  
15 Duke is dedicating and reserving capacity to provide  
16 that service.

17 Q. Are you familiar with the testimony of  
18 Mr. Tom Gantzer that was filed in the proceeding?

19 A. No, I'm not.

20 Q. Have you looked at his testimony at all?

21 A. No, I've not.

22 Q. If I were to tell you on page 5, lines 1  
23 through 4 of his testimony that he says "Rider BDP is  
24 a service that ensures space is available on an  
25 adjacent feeder so that a customer can switch to this

1 adjacent feeder during an outage or interruption,"  
2 would you disagree with his characterization of the  
3 rider?

4 A. I'm not sure of the context of what he's  
5 referring to, so --

6 Q. Do you have City Exhibit No. 2 in front  
7 of you by chance?

8 A. I'm sorry?

9 Q. Do you have City Exhibit 2 in front of  
10 you by chance?

11 A. No. All I have is my testimony.

12 MR. SAMFORD: May I approach, your Honor?

13 EXAMINER WALSTRA: You may.

14 Q. If I could give that to you to take a  
15 moment to look at. I believe I said on page 5 was  
16 the language I was referring to.

17 A. Which portion did you want me to review?

18 Q. Beginning on lines 1 through 4.

19 A. Okay.

20 Q. Do you disagree with Mr. Gantzer's  
21 characterization of Rider BDP in that answer to the  
22 question posed in his testimony?

23 A. I would agree with his answer.

24 Q. Okay. So coming back to your testimony.  
25 On page 2 of your testimony you refer to Rider BDP as

1 recovering the costs associated with providing a  
2 backup delivery point. But again, it's really not a  
3 backup delivery point; it's the provision of  
4 dedicated capacity on the secondary circuit, correct?

5 A. Well, again, providing that backup  
6 delivery point, a part of that is dedicating and  
7 reserving capacity to provide that backup delivery  
8 point.

9 Q. Okay. So in your mind those two things  
10 are synonymous with one another?

11 A. As I understand it, Rider BDP is  
12 synonymous, yes.

13 Q. Is it possible for the Company to provide  
14 a backup delivery point separate and apart from Rider  
15 BDP?

16 A. If you're referring to providing a backup  
17 delivery point without reserving capacity, if that's  
18 what you're describing it as, I mean is that what  
19 you're meaning by a "backup delivery point"?

20 Q. I'm just trying to understand what you  
21 mean when you say "backup delivery point."

22 A. Well, "backup delivery point" was in  
23 reference to what the tariff is calling the service  
24 that Duke is defining that they're providing.

25 Q. Okay. So would you agree with me then

1 that Rider BDP is actually imposing a charge for the  
2 provision of dedicated capacity on a distribution  
3 circuit and secondary circuit?

4 A. Rider BDP is providing a charge for  
5 providing a backup delivery point, yes.

6 Q. And again, I don't mean to get into  
7 semantics, I just want to make sure I understand.  
8 When you say "backup delivery point," you're using  
9 that in the same context as the tariff, correct?

10 A. That's correct.

11 Q. Okay. Thank you.

12 So would you agree then that the accurate  
13 measure of costs for Rider BDP is the measure of  
14 costs for providing reserve capacity?

15 A. Well, in my testimony what I proposed is  
16 that the charge be based on the actual incremental  
17 cost incurred to provide that service. So again, I'm  
18 not sure we're using the same semantics, basically it  
19 would be those identifiable, actual identifiable  
20 costs that are incurred to provide that service.

21 Q. Okay. When you're talking about "actual  
22 identifiable costs," can you give me an example of  
23 what such a cost would be?

24 A. Well, a cost could be to, you know, have  
25 a larger conductor to provide additional capacity or

1 it could be to have a larger transformer to provide  
2 that capacity if it's required.

3 Q. So that could include the cost of a  
4 second meter for instance?

5 A. It could include the cost of a second  
6 meter as well.

7 Q. It could include the cost of a service  
8 line.

9 A. It could include the cost of a second  
10 service line, yes.

11 Q. Could it include the cost of a larger  
12 distribution line?

13 A. It's basically what I'm saying, yes.

14 Q. Could it include the cost of a pole?

15 A. If additional poles would be required to  
16 provide that service, that would be additional costs,  
17 yes.

18 Q. Could it include the cost of a line  
19 insulator?

20 A. It could, yes.

21 Q. How about a substation transformer bank?

22 A. If it's required, it could include those  
23 costs, yes.

24 Q. And a substation transformer would be an  
25 example of one of those cost categories perhaps?

1           A.     That's correct.

2           Q.     Maybe even the cost of the substation  
3     itself in certain instances?

4           A.     To the extent it required a new  
5     substation to be built separately and dedicated for  
6     that customer, that could be the case. But I would  
7     expect that normally it would be oversizing the  
8     facilities that are in an existing substation.

9           Q.     Could it include the cost for sending a  
10    crew to maintain the line and to restore it when  
11    there's a fault on the line?

12          A.     Well, those costs would be costs  
13    associated with maintaining that line already if  
14    there are other customers served under it, but that  
15    could be a component of costs associated with that  
16    facility, yes.

17          Q.     Could it include a cost for the labor  
18    needed to design the distribution line in the first  
19    place?

20          A.     Well, again, only that incremental  
21    additional cost required to provide the backup  
22    delivery service would be costs that would be  
23    incremental.

24          Q.     Okay. And so, by extension, the cost  
25    included to construct the line, the labor cost, that



1 expense would potentially be one of those costs,  
2 correct?

3 A. It could be if it was incrementally  
4 required to add that additional service, yes.

5 Q. And then the cost for maintaining the  
6 right-of-way and keeping vegetation clear of the  
7 distribution line, that would be perhaps a cost  
8 associated with it?

9 A. Well, again, only to the extent that it's  
10 incrementally required. If it's already required to  
11 provide service to the customers on those lines, it  
12 wouldn't be considered an incremental additional  
13 cost.

14 Q. So in addition to the cost of  
15 right-of-way and vegetation management, the labor  
16 cost there, you'd also have the cost of the equipment  
17 to be able to undertake those tasks, that would be  
18 potentially a part of that cost, correct?

19 A. Well, I don't think I necessarily  
20 included all those costs you said in addition to.  
21 Again, only to the extent that the costs are incurred  
22 in addition to or incrementally to provide that  
23 service, those are the only costs that would be  
24 considered incremental additional costs.

25 Q. I understand your caveat, but I'm trying

1 to get an idea of the scope of what the costs could  
2 be. Property taxes associated with the distribution  
3 line, could that be a cost?

4 A. I wouldn't expect taxes to be  
5 incrementally higher, necessarily, because of adding  
6 additional capacity to a feeder. Again, if it was a  
7 dedicated feeder, those could be specific costs for  
8 that service.

9 Q. And then there could be some back office  
10 support that has to be provided, some paperwork that  
11 has to be done in association with that line, could  
12 that be a part of the cost?

13 A. Again, to the extent that they are  
14 required, incrementally required to provide that  
15 service, it could included be, yes.

16 Q. Would depreciation be a part of that  
17 cost?

18 A. Again, to the extent it applies to the  
19 incremental costs, the items, it could apply.

20 Q. What about maybe a cost for making  
21 payments to investors or creditors who lent the  
22 capital to be able to make that investment in the  
23 first place?

24 A. Again, with the same caveat that I've had  
25 before, to the extent it would only apply to those

1 identifiable incremental costs that were required to  
2 provide that service.

3 Q. So I've gone through a list here of maybe  
4 10 or 15 different categories of costs that are  
5 associated with a secondary feed; which of those  
6 costs that we've identified are different and unique  
7 from the costs of designing, building, and operating  
8 a circuit that's used as a primary feed?

9 MR. KEANEY: Objection. He's assuming  
10 facts not in evidence. This witness has not agreed  
11 that those costs are associated with a second line.

12 MR. SAMFORD: I respectfully disagree,  
13 your Honor. I think he said that they all could be  
14 associated with it.

15 EXAMINER WALSTRA: I'll overrule. You  
16 can answer.

17 A. Again, to the extent those costs are  
18 required to provide that service, incrementally  
19 required to provide that service, they would be  
20 included, but they just would not automatically be  
21 included because they are costs associated with that,  
22 so.

23 Q. You're familiar with how cost of service  
24 studies work, correct?

25 A. Yes, I am.

1           Q.   And so the costs, various costs are  
2 allocated to customer classes, correct?

3           A.   Or to rate categories or customer  
4 classes, yes.

5           Q.   So do you know when a -- strike that.  
6                Are distribution rates based upon the  
7 incremental cost of serving every individual customer  
8 or are they set based upon a system average cost?

9           A.   Whose distribution costs are we referring  
10 to?

11          Q.   Well, I'm just trying to understand. In  
12 your experience, how are distribution rates set? Are  
13 they set based upon a system average cost or does  
14 every customer pay its own unique distribution rate?

15          A.   For most systems that I'm familiar with  
16 and for the majority of the customers where customers  
17 are receiving a like service, the distribution  
18 component of the rates is reflective of the average  
19 system cost to provide that service because those  
20 customers are all receiving basically a like service.  
21 But I do know of cases where those costs, they are  
22 not common to the customers, where there are  
23 different distribution charges or different rates for  
24 individual customers.

25          Q.   And as I understand your testimony, what

1     you're saying is that customers who take -- customers  
2     who have access to a dedicated distribution capacity  
3     on a secondary service should pay only the unique  
4     cost associated with the provision of that service,  
5     correct?

6             A.     Well, maybe I can explain a little  
7     different.  As I said before, typically you're going  
8     to have systemwide rates for the majority of the  
9     customers.  In the case of Duke, you know, their  
10    distribution rate would apply to hundreds of  
11    thousands of customers.  So you have a common rate  
12    that basically is based on those average system  
13    costs.

14            But here with Rider BDP we've got a  
15    situation where we have a couple dozen customers, not  
16    hundreds of thousands of customers, that are  
17    receiving a unique or discrete service from what the  
18    normal, you know, distribution service is.  And so,  
19    in my opinion, those customers really should be --  
20    the rate that you charge them should be based on that  
21    cost to provide that service.  It's identifiable and  
22    you should be able to calculate what it would be for  
23    the individual customers.

24            Q.     So have you calculated what that cost  
25    should be for each of the Critical Facilities in this

1 case?

2 A. Have I calculated that? No, I have not.

3 Q. Okay. And is it your opinion that that  
4 cost should be calculated only one time or should it  
5 be calculated every month?

6 A. Well, it would initially be calculated  
7 based on the initial request for service. If that  
8 request were to change in the future, there could be  
9 a reason to recalculate that cost, but it would  
10 typically be one time based on that initial request  
11 if it didn't change.

12 Q. Would you agree with me that a  
13 distribution system is a dynamic system and what I  
14 mean by that is that the load demand changes on a  
15 fairly frequent basis?

16 A. I would agree that loads change on  
17 electric systems over time, yes.

18 Q. So even if you have the same number of  
19 customers, sometimes they'll be using more, sometimes  
20 they'll be using less, in the aggregate, correct?

21 A. That's correct.

22 Q. And sometimes when you have a  
23 distribution circuit that's already constructed,  
24 you'll have new load that comes onto that circuit and  
25 that could change the dynamics for operating that

1 particular circuit, correct?

2 A. Well, it could change the dynamic of the  
3 load on that circuit, but it doesn't change the fact  
4 that the customer requesting backup delivery service  
5 is paying a charge based on that initial request.

6 Q. Okay. And so that's a key word, you said  
7 "initial," because if you go with the initial cost to  
8 the customer, could that customer end up not paying  
9 more and paying less based on subsequent changes on  
10 the load demand that's on the circuit?

11 A. Not based on my recommendation, no,  
12 because that customer has agreed to pay its share of  
13 the cost at the time it made its request. If other  
14 loads cause that line to be upgraded, then the  
15 customer who has reserved that capacity or the  
16 capacity has been reserved for should not see an  
17 increase in their charge.

18 Q. Okay. And this is an important point,  
19 maybe that's why I'm getting hung up, but that's why  
20 I asked you the question earlier about whether or not  
21 that should be recalculated every month, because I  
22 read your testimony to say that they should pay only  
23 the actual incremental cost associated with that  
24 reservation. Did I misread your testimony?

25 A. No, that's what my testimony says.

1           Q.    And so my follow-up question to that is  
2   if the dynamics of the circuit are changing on a  
3   daily, weekly, hourly, monthly, annual basis, doesn't  
4   that amount change over time in terms of what are the  
5   actual identifiable costs that are dedicated  
6   specifically to serving that customer?

7           A.    No, it doesn't change, because, again,  
8   that customer who made that request isn't the  
9   customer that's causing the change to be required.  
10   So no, it wouldn't change for that customer. It may  
11   change for the average system cost that gets applied  
12   to all the rest of the customers, but it wouldn't  
13   change necessarily for that customer who had made the  
14   request for backup delivery service.

15          Q.    Is it possible for a utility to calculate  
16   the precise costs of providing distribution capacity  
17   to every customer on an annual basis?

18          A.    To every Rider BDP customer or every  
19   customer on the system?

20          Q.    Every customer in general.

21          A.    It would be unlikely that they would do  
22   it. It would be difficult to calculate incremental  
23   costs of providing capacity for every single customer  
24   on the system. That's why we have  
25   average-system-based rates for the bulk of the



1 customers.

2 Q. Now remind me, when were you retained by  
3 the City to provide testimony in this case?

4 A. It was sometime in July, last month.  
5 July of 2017.

6 Q. So you didn't have a chance to see the  
7 Complaint before it was filed?

8 A. No, I did not.

9 Q. Did you have an opportunity to look at  
10 the Commission's Staff Report from Duke's 2008 rate  
11 case prior to filing your testimony?

12 A. I reviewed certain documents that were  
13 filed as a part of the Complaint and Duke's response.  
14 I don't recall if I saw all of those items that were  
15 in there.

16 Q. So you just don't remember whether you  
17 saw that particular document or not?

18 A. Well, I may have, but I don't recall the  
19 document.

20 Q. Okay. While he's retrieving that, let me  
21 ask you a couple of different questions.

22 You don't have access to Duke's financial  
23 records, correct?

24 A. Only to the extent they're available  
25 publicly, but I've not reviewed them.

1           Q.    So as we sit here today, do you know what  
2 Duke's average system cost for distribution service  
3 is?

4           A.    Well, I recall Duke, you know, provided a  
5 cost of service study in prior rate cases that  
6 supported their average system cost. I've not  
7 reviewed them in great detail because, you know, in  
8 my opinion it didn't apply in this case. But I am  
9 aware they have filed cost of service studies to  
10 support their average system cost.

11          Q.    Do you have any reason to believe that  
12 Duke's stated average distribution, system  
13 distribution cost is inappropriate or unreasonable?

14          A.    As far as applying it to the bulk of the  
15 customers as a distribution rate?

16          Q.    As a distribution rate.

17          A.    I have no opinion on that.

18          Q.    You're not offering an expert opinion on  
19 any other tariff other than Rider BDP, correct?

20          A.    That's correct.

21          Q.    Do you know whether prior to 2009, when  
22 Rider BDP was approved, whether Duke had offered  
23 dedicated distribution capacity to customers?

24          A.    I do not know that.

25               MR. SAMFORD: May I approach the witness,

1 your Honor?

2 EXAMINER WALSTRA: You may.

3 MR. SAMFORD: Mark this as Company  
4 Exhibit 1, if I could.

5 EXAMINER WALSTRA: So marked.

6 (EXHIBIT MARKED FOR IDENTIFICATION.)

7 MR. KEANEY: Do you have another copy,  
8 David?

9 MR. SAMFORD: It's Exhibit 3 to your  
10 Complaint.

11 Q. If the witness could take a moment to  
12 look at that and let me know when you're ready to  
13 talk about it.

14 A. You want me to read the entire document?

15 Q. You don't have to read the whole thing.  
16 Maybe if you could look at the cover page, and then  
17 there's another page that is tabbed, that will be the  
18 one we're talking about mostly.

19 MR. SAMFORD: Your Honor, just for  
20 purposes of clarification, this was Exhibit 3 to the  
21 City's Complaint.

22 EXAMINER WALSTRA: Okay.

23 A. I've read the page that was tabbed.

24 Q. Okay. Page 21 of that report.

25 A. Yes.

1           Q.    So let me begin just by asking you, if  
2   you can, to identify what this document would be.

3           A.    The document titled Exhibit 3, Staff  
4   Report by the Staff of the Public Utilities  
5   Commission of Ohio, Duke Energy Ohio, Inc., Case No.  
6   08-709-EL-AIR, et al.

7           Q.    Okay. And what was the date that it was  
8   received by the Docketing Division?

9           A.    It's stamped as being received by the  
10   Docketing Division on January 27th, I believe it says  
11   2008.

12          Q.    I think, subject to check, maybe 2009?

13          A.    Probably 2009. The stamp is a little  
14   hard to read.

15          Q.    Sure, I understand.

16                Have you seen that document prior to  
17   today?

18          A.    It may have been in the packet of  
19   information I was originally provided to review, but  
20   I don't recall reviewing the entire document.

21          Q.    Is it fair to say that it wasn't a  
22   material part of your consideration when you were  
23   putting together your testimony?

24          A.    Again, I just -- I don't recall, you  
25   know, reading through this document in preparation of

1 my testimony.

2 Q. Fair enough.

3 The page that is tabbed page 21 of that  
4 exhibit, do you see there is a header there that says  
5 "Backup Delivery Point Capacity Rider"?

6 A. Yes, I see it.

7 Q. Okay. Would you please just read into  
8 the record the third paragraph from that page,  
9 please?

10 A. The entire paragraph?

11 Q. Yes, sir.

12 A. "Staff has reviewed the Applicant's  
13 proposal and generally believes the tariff sets forth  
14 a reasonable basis for the pricing of this service.  
15 Staff believes the tariff should be revised to  
16 specify, for the calculation of acceleration of  
17 costs, that the annual charge shall be equal to the  
18 product of the capital investment which has been  
19 advanced, and the levelized fixed charge rate. In  
20 addition, the tariff should specify that the  
21 acceleration of costs only applies to the extent that  
22 the revenue requirement for such costs exceeds the  
23 monthly unbundled distribution and/or transmission  
24 charges. The peculiarities of any one customer's  
25 load requirements relative to their location and to

1 the state of the then-existing capacity of the  
2 Applicant's distribution and transmission networks  
3 precludes a more precise rate design."

4 Q. Now, you've appeared in several  
5 proceedings before the Public Utility Commission of  
6 Ohio, correct?

7 A. I've been here on occasion, yes.

8 Q. And are you aware if the Staff has  
9 accountants in its employ?

10 A. I believe the Staff has accountants, yes.

11 Q. Are there attorneys who work here?

12 A. That's my understanding, yes.

13 Q. And are there engineers who would work  
14 here as well?

15 A. I assume there are, yes.

16 Q. Do you believe that the Staff has  
17 adequate training to be able to examine the  
18 reasonableness of proposed rates such as Rider BDP?

19 A. I don't think I'm in a position to speak  
20 to the qualifications of the PUCO Staff.

21 Q. Do you have any reason to believe that  
22 they're not capable of conducting an investigation as  
23 to a tariff's reasonableness?

24 MR. KEANEY: Objection. Asked and  
25 answered.

1 EXAMINER WALSTRA: Overruled.

2 A. Again, I don't believe I have any reason  
3 to suspect that they have the capabilities or that  
4 they don't have the capabilities.

5 Q. Do you think that the Staff's  
6 recommendation was wrong in this instance?

7 A. Yes, I do.

8 Q. Are you aware of whether the City of  
9 Cincinnati was a party to this proceeding where this  
10 Staff Report was issued?

11 A. I'm not aware if they were or if they  
12 were not.

13 Q. Are you aware of whether the Company  
14 currently has a rate case pending for its electric  
15 distribution rates?

16 A. I assume "the Company," we're meaning  
17 Duke Ohio?

18 Q. Yes, sir.

19 A. I'm aware that Duke has a rate -- a  
20 pending rate case, 2017 case I believe it's referred  
21 to as, that's currently pending, yes.

22 Q. And have you reviewed that filing?

23 A. I've not reviewed that filing in detail,  
24 no.

25 Q. So you haven't reviewed it in detail or

1     you haven't reviewed it at all?

2             A.     Well, I've looked through the cost of  
3     service that was filed as a part of that, but not in  
4     great detail because, again, as I understand the  
5     Company is still proposing to continue to use its  
6     average system cost for Rider BDP and not, you know,  
7     make a change to that tariff.

8             Q.     You're familiar with NARUC's Cost  
9     Allocation Manual, correct?

10            A.     If you're referring to the NARUC's Cost  
11    Allocation Manual, 1992, I'm familiar with that, yes.

12            Q.     Where, in the Cost Allocation Manual that  
13    NARUC has developed and published, would dedicated  
14    reserve distribution capacity show up?

15            A.     Well, the NARUC cost of service -- Cost  
16    Allocation Manual is really designed for developing  
17    systemwide rates and that's really the purpose of  
18    that document is a guide to develop systemwide rates.

19                    But as I said previously, in my opinion,  
20    because we have a handful of customers here, a couple  
21    of dozen, I don't believe it's appropriate to apply a  
22    systemwide rate where we can specifically identify  
23    the cost associated with the services being provided  
24    to these customers.

25            Q.     Are you aware of whether Duke has



1 included any revenue from Rider BDP in the statement  
2 of its revenues in its currently pending rate case?

3 A. It's my understanding that Duke has  
4 included, in the 2017 filing, some portion of revenue  
5 credit against distribution costs for revenue to be  
6 derived from or that are being derived from Rider  
7 BDP.

8 Q. And would you agree that if Duke had  
9 Rider BDP revenue that was known and measurable  
10 during its rate case test year, it would serve as an  
11 offset to its revenue requirement for the cost of its  
12 distribution plan?

13 A. Well, again, it's my understanding that  
14 they have reflected some portion of revenue for Rider  
15 BDP. But in my testimony what I suggest or proposed  
16 is that there should be a periodic true-up of those  
17 numbers of the revenue from Rider BDP and an  
18 adjustment to the average system distribution rate to  
19 reflect any changes in revenue from Rider BDP.

20 Q. If Duke had included known and measurable  
21 Rider BDP revenues as an offset to its distribution  
22 revenue requirement, would that mitigate your concern  
23 as to the revenue neutrality of the rider?

24 A. Well, again, it would at the time the  
25 rates took effect, but what I am proposing is that

1 there be an adjustment on a periodic basis. At least  
2 once a year, for example, there should be an  
3 adjustment made to the distribution rates to reflect  
4 changes in the Rider BDP revenue.

5 So just having it take effect in a rate  
6 case, I mean it could be 5, it could be 10 years  
7 before there's another change in those base rates.  
8 What I'm recommending is that it be adjusted at least  
9 once every year or at least periodically there be an  
10 adjustment made to reflect changes in revenue from  
11 Rider BDP.

12 Q. So help me understand. What you're  
13 really describing is just regulatory lag, right? I  
14 mean, a rate case is sort of a snapshot in time of  
15 utility's revenues and expenses, correct?

16 A. It's oftentimes referred to as a  
17 "regulatory lag." The fact that rates go into effect  
18 and there's time before there's another rate  
19 adjustment.

20 Q. But that phenomenon isn't unique to Rider  
21 BDP; that's true of all utility rates, correct?

22 A. That's correct.

23 Q. And so there's nothing about Rider BDP  
24 that is really different in terms of other utility  
25 tariffs in terms of the effect of regulatory lag,

1 correct?

2 A. No, but that's not to say there shouldn't  
3 be similar adjustments for other changes that take  
4 place between rate cases. I'm just addressing Rider  
5 BDP in this instance.

6 Q. And then my question was, that same  
7 regulatory lag exists in every rate, a tariffed rate  
8 that a utility has, correct?

9 A. No, not necessarily every rate. It  
10 depends on each individual rate, but it certainly has  
11 some affect on systemwide rates when they're only  
12 changed when there are rate cases.

13 Q. And depending on what happens between  
14 rate cases, sometimes the utility may over-earn on  
15 some rates as opposed to its test year, but in other  
16 cases it may under-earn, correct?

17 A. That can happen, yes.

18 Q. And that could happen with regard to  
19 Rider BDP as well.

20 A. Yes, but if we had a periodic adjustment  
21 that would mitigate that happening.

22 Q. It would reduce the interval between when  
23 the full set of rates, revenues, and expenses are  
24 looked at, correct?

25 A. That's correct.

1           Q.    So do you think that a utility should  
2   have a rate case every year?

3           A.    I'm not sure they need to have one every  
4   year, but I think there are ways to set up formulas  
5   that adjust. I mean even at the transmission level,  
6   you know, Federal Energy Regulatory Commission allows  
7   for formula rates, formula transmission rates that  
8   are adjusted every year. So certainly those are  
9   changes that are taking place in the regulatory  
10  environment.

11          Q.    But as a matter of Ohio, you think that  
12  every tariff should be looked at every year, or do  
13  you think just Rider BDP should be subject to an  
14  annual true-up?

15          A.    Again, I'm only addressing Rider BDP in  
16  my testimony here.

17          Q.    I'll come back to a topic I asked you  
18  earlier. Do you happen to know if any Duke customers  
19  have a backup delivery point with a manual switching  
20  capability?

21          A.    I seem to recall a discussion with the  
22  representative of the City who indicated in that  
23  discussion that there are some -- some of the  
24  deliveries for the City have a manual transfer for  
25  that backup, so I believe there are some at least.

1 That's my understanding.

2 MR. SAMFORD: Thank you, your Honor.

3 That's all the questions we have.

4 EXAMINER WALSTRA: Thank you.

5 Any redirect?

6 MR. KEANEY: Your Honor, do you mind if  
7 we go off the record for a minute?

8 EXAMINER WALSTRA: Sure. Go off the  
9 record.

10 (Off the record.)

11 EXAMINER WALSTRA: Back on the record.

12 - - -

13 REDIRECT EXAMINATION

14 BY MR. KEANEY:

15 Q. Mr. Courtney, do you remember you were  
16 asked about a series of costs that hypothetically  
17 could be incremental to reserving capacity on a  
18 second line, correct?

19 A. Yes.

20 Q. For the existing Critical Facilities, any  
21 of those costs that were mentioned, would any of  
22 those be realistically considered incremental for the  
23 existing Critical Facilities?

24 A. Well, I wouldn't expect them to be. You  
25 know, certainly a lot of the costs that we discussed

1 in that line of questioning had to do with things  
2 like right-of-way maintenance and taxes. You know,  
3 those types of costs typically are not going to be  
4 incrementally going up because you put in, you know,  
5 more capacity in a wire or you put in more capacity  
6 in a transformer. So a lot of those costs, you know,  
7 would likely not apply.

8 Q. And for the Critical Facilities is it  
9 possible that there may not be any incremental costs?

10 A. Well, in any situation it's possible that  
11 there may not be any incremental costs associated  
12 with providing a backup delivery point.

13 MR. KEANEY: I have no more questions,  
14 your Honor. Thank you.

15 EXAMINER WALSTRA: Thank you.

16 MR. SAMFORD: Just a couple, your Honor.

17 EXAMINER WALSTRA: Okay.

18 - - -

19 RECROSS-EXAMINATION

20 BY MR. SAMFORD:

21 Q. You're not changing your testimony,  
22 correct? I mean you still haven't completed any  
23 calculation for what the cost associated with  
24 providing dedicated service to the Critical  
25 Facilities would be, have you?

1           A.    No, I've not changed my testimony.

2           MR. SAMFORD:   Okay.   Thank you.

3           No further questions, your Honor.

4           EXAMINER WALSTRA:   Thank you.

5           You're all set.

6           MR. SAMFORD:   Your Honor, if I could move  
7 to admit the exhibit that was Duke Exhibit 1, which  
8 was the Exhibit 3 to the Complaint.

9           EXAMINER WALSTRA:   Okay.   Any objections?

10          MR. KEANEY:   No objections.

11          EXAMINER WALSTRA:   That will be admitted.

12          (EXHIBIT ADMITTED INTO EVIDENCE.)

13          MR. KEANEY:   And if we could also move  
14 City Exhibit 3.

15          EXAMINER WALSTRA:   Any objections?

16          MR. SAMFORD:   No objection.

17          EXAMINER WALSTRA:   That will be admitted.

18          (EXHIBIT ADMITTED INTO EVIDENCE.)

19          MR. KEANEY:   Your Honor, that concludes  
20 the City's witnesses.

21          EXAMINER WALSTRA:   Thank you.

22          Mr. Samford.

23          MR. SAMFORD:   We'd call Mr. Jim  
24 Ziolkowski to the stand, please.

25          EXAMINER WALSTRA:   Raise your right hand.

1 (Witness sworn.)

2 EXAMINER WALSTRA: Thank you. Please  
3 take a seat.

4 MR. SAMFORD: Your Honor, I move to mark  
5 this as Company Exhibit 2.

6 EXAMINER WALSTRA: So marked.

7 (EXHIBIT MARKED FOR IDENTIFICATION.)

8 - - -

9 JAMES E. ZIOLKOWSKI

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

12 DIRECT EXAMINATION

13 BY MR. SAMFORD:

14 Q. Mr. Ziolkowski, did you cause certain  
15 testimony to be filed in the record in this  
16 proceeding?

17 A. Yes.

18 Q. Do you have any changes to your  
19 testimony?

20 A. Yes.

21 Q. Could you point those out for me, please?

22 A. Yes. On page 3, line 4, the Case No.  
23 that is cited should read "Case No. 17-1263-EL-SSO."

24 Also on page 7, line 4, the word  
25 "reasonable" should be changed to "unreasonable."



1                   And on page 22, line 1, the Case No.  
2                   should read "11-3549-EL-SSO." Those are all the  
3                   changes.

4                   Q.     Thank you.

5                   With those changes noted, if I were to  
6                   ask you these questions again, would your answers be  
7                   the same?

8                   A.     Yes.

9                   Q.     And is it your desire and intent to have  
10                  this testimony entered into the record of this  
11                  proceeding?

12                  A.     Yes.

13                  MR. SAMFORD: Your Honor, I tender the  
14                  witness for cross-examination.

15                  EXAMINER WALSTRA: Thank you.

16                  Whenever you're ready.

17                                 - - -

18                                 CROSS-EXAMINATION

19                  BY MR. KEANEY:

20                  Q.     Good afternoon, Mr. Ziolkowski.

21                  A.     Good afternoon.

22                  Q.     You are familiar with the term "Critical  
23                  Facilities" as the City used that in the Complaint,  
24                  correct?

25                  A.     Yes.

1           Q.    You don't dispute that the Critical  
2   Facilities provide basic communal necessities like  
3   potable water or proper sanitization disposal,  
4   correct?

5           A.    That's correct.

6           Q.    You also don't dispute that the operation  
7   of the Critical Facilities impacts the health and  
8   wellbeing of hundreds of thousands of residents in  
9   the City of Cincinnati, correct?

10          A.    Correct.

11          Q.    You don't dispute that some of Duke's  
12   customers are required by law to have a backup or a  
13   secondary power source, correct?

14          A.    Correct.

15          Q.    You're familiar with a primary and  
16   secondary feed configuration, correct?

17          A.    Yes.

18          Q.    You're also familiar with a dual feed  
19   configuration, correct?

20          A.    Yes.

21          Q.    For the sake of a hypothetical, I want  
22   you to assume that a customer takes Rider BDP service  
23   and has a primary and secondary configuration. Are  
24   you with me there so far?

25          A.    Yes.

1           Q.    If there's an outage on the customer's  
2 primary circuit and then that customer's load is  
3 transferred to the secondary circuit, the customer is  
4 only using one circuit at a time, correct?

5           A.    Yes.

6           Q.    In such a scenario like that, the Rider  
7 BDP customer does not take distribution service on  
8 the primary and secondary circuits simultaneously,  
9 correct?

10          A.    I disagree with that statement.

11          Q.    Why?

12          A.    Distribution service is mostly a fixed  
13 cost service and the services directly tie to the  
14 availability of the service. What you're referring  
15 to, in my opinion, as far as taking service on one  
16 feed or another feed really refers to electrons  
17 flowing. Clearly electricity is not flowing on both  
18 of those circuits; however, both of those feeders,  
19 under normal circumstances, are available to serve  
20 that customer and that is what distribution service  
21 is all about.

22          Q.    So when a primary circuit is overloaded  
23 it switches its load over to the secondary circuit;  
24 is it your testimony that there is electric service  
25 available on that primary circuit?

1 A. I don't understand your question.

2 Q. What don't you understand?

3 A. You said when the primary circuit is  
4 overloaded and --

5 Q. I'm sorry. The primary circuit is down.  
6 There's an interruption on the primary circuit and  
7 it's transferred over to the secondary circuit. Are  
8 you following me so far?

9 A. Yes. Will you restate the question?

10 Q. Sure. What I'm asking is, when a primary  
11 circuit is out and it transfers over to the secondary  
12 circuit, there is no power available on that primary  
13 circuit, correct?

14 A. Correct.

15 Q. The customer is not using that primary  
16 circuit at that time, correct?

17 A. Correct.

18 Q. You're familiar with the contents of the  
19 Rider BDP application in Case No. 06-718-EL-ATA,  
20 correct?

21 A. Yes.

22 Q. In that application for Rider BDP, Duke  
23 has classified that as a "new service," correct?

24 A. Correct.

25 Q. You were personally involved in the

1 preparation of that particular application in that  
2 particular case, correct?

3 A. Yes.

4 Q. And one of the reasons stated that Duke  
5 offered for proposing Rider BDP in that case was that  
6 there was this growing customer demand for some type  
7 of redundant feed service, correct?

8 A. Yes.

9 Q. Now, that case had eventually -- the  
10 application was eventually consolidated into the 2008  
11 rate case, correct?

12 A. Yes.

13 Q. So Duke's Rider BDP application in the  
14 '06 case lay dormant at the Commission for a little  
15 over two years, correct?

16 A. Yes.

17 Q. If you can turn to Attachment JEZ-5 in  
18 your prefiled testimony and let me know when you're  
19 there. And specifically if you can turn to page 17  
20 of 27 in that attachment.

21 A. I'm there.

22 Q. This is the direct testimony that you  
23 filed in Duke's 2008 distribution rate case, correct?

24 A. Yes.

25 Q. And in that testimony you described some

1 of Duke's reasons for proposing Rider BDP service,  
2 correct?

3 A. Yes.

4 Q. You were the only witness that offered  
5 any sort of testimony on Rider BDP in that case,  
6 correct?

7 A. As far as I recall.

8 Q. I want to move just back to your prefiled  
9 testimony in this case. If you could go to page 9,  
10 line 18 and 19, read that, and let me know when  
11 you're ready.

12 EXAMINER WALSTRA: What was that page and  
13 line again?

14 MR. KEANEY: Page 9. Line 18 and 19.

15 EXAMINER WALSTRA: Thank you.

16 Q. Just to clarify, the sentence ends at 21,  
17 so you actually read from 18 to 21.

18 A. I've read it.

19 Q. Okay. When you use this term "many  
20 customers" on line 18 and 19 here, you mean that  
21 there are dozens of customers, correct?

22 A. Yes.

23 Q. And to your knowledge it is possible that  
24 there are more than 20 customers that were demanding  
25 and willing to pay for this backup service, correct?

1 A. Yes.

2 Q. You started seeing this increase in  
3 customer demand for some sort of backup service in  
4 the late '90s and early 2000s, correct?

5 A. Yes.

6 Q. And some of these customers that were  
7 demanding that service were hospitals and water  
8 treatment plants, correct?

9 A. Yes.

10 Q. I just want to make clear, you're not  
11 suggesting, though, that the City of Cincinnati water  
12 treatment plants were requesting this new service,  
13 correct?

14 A. I'm using the term "water treatment  
15 plants" very generically because those are the types  
16 of facilities that want backup service, but I was not  
17 specifically referring to Cincinnati Water Works or  
18 MSD.

19 Q. You cannot, though, remember any specific  
20 customer that you're referring to here where there  
21 was this growing customer demand, though, correct?

22 A. No.

23 Q. In that 2006 -- let me just make sure.  
24 When I said "correct" and you said "no," let me make  
25 sure I ask this question again so we're on the same

1 page.

2 All right. You cannot remember any  
3 specific customer that was requesting, through this  
4 new customer demand, for this new service, right?

5 A. I cannot remember any specific customer.

6 Q. Thank you.

7 In the 2006 Rider BDP application, and as  
8 well actually in the 2008 rate case, Duke had  
9 represented in both those cases that this proposed  
10 Rider BDP was precipitated by this growing customer  
11 demand for a backup service, correct?

12 A. That's correct.

13 Q. In making those statements, Duke was not  
14 representing to the Commission that there was a  
15 growing customer demand for the type of service that  
16 was described in the Rider BDP tariff, correct?

17 A. There was a growing -- the statement is  
18 saying that there's a growing demand for customers to  
19 have a second feed with an automatic throw-over  
20 switch.

21 Q. Again, what I'm asking is the customer  
22 demand was not for Rider BDP service as Duke is  
23 interpreting it today, correct?

24 A. No customer specifically requested Rider  
25 BDP. Customers were asking for a backup feed so they



1 could have an automatic throw-over switch to their  
2 second feed and that's what customers wanted, but no  
3 customer specifically asked for Rider BDP, so we  
4 developed Rider BDP.

5 Q. Let me ask you a more specific question.

6 Duke did not intend to represent to the  
7 Commission or anyone else that customers wanted to  
8 have a reservation of capacity as a backup delivery  
9 service, correct?

10 A. In our filings we stated, for Rider BDP  
11 we stated that we are reserving capacity, so that was  
12 contained within our filing our desire to reserve  
13 capacity. And as support for that filing we stated  
14 that customers have wanted a second feed, they've  
15 been requesting second feeds. So that was support  
16 for our filing, but our filing did include reserved  
17 capacity. So the statement was support for our  
18 filing.

19 And then the Commission, once it received  
20 that filing, it took our filing, our proposed tariff,  
21 and our supporting documents all into consideration  
22 when it -- and eventually it was approved in the 2008  
23 base rate case.

24 Q. Let me ask my question again. Perhaps I  
25 was unclear. I'm asking, when you're referring to

1 this growing customer demand in the '06 case and then  
2 in your testimony in the 2008 rate case -- are you  
3 following me there?

4 A. Yes.

5 Q. Okay. Was it Duke's intention to  
6 represent to the Commission that there was a growing  
7 customer demand for a type of service that involved  
8 the reservation of capacity?

9 A. Our intention was to represent to the  
10 Commission that there was a growing demand for -- by  
11 customers for a second feed. But customers never  
12 said, "And oh, by the way, we want to reserve  
13 capacity on your feeders and pay for it." They never  
14 said that.

15 Q. You were deposed in connection with this  
16 case, correct?

17 A. Yes.

18 Q. And you were deposed in the presence of a  
19 court reporter, correct?

20 A. Yes.

21 Q. And in that deposition you swore to tell  
22 the truth, correct?

23 A. Yes.

24 Q. Do you have a copy of your deposition  
25 with you?

1           A.    No.

2                   MR. KEANEY:  Your Honor, may I approach?

3                   EXAMINER WALSTRA:  You may.

4           Q.    Can you turn to page 55 of your  
5 deposition.  And when you're there, please let me  
6 know.

7           A.    I'm there.

8           Q.    And on line 21 there's a question that  
9 says:

10                   "Question:  Customer demand was one of the  
11 reasons the Company cited for proposing Rider BDP,  
12 correct?

13                   "Answer:  No.  Customer demand for backup  
14 service was one of the reasons we cited for Rider  
15 BDP.

16                   "Question:  So it wasn't that customers  
17 were demanding reservation of capacity, correct?

18                   "Answer:  Correct."

19                   Did I read that passage correctly?

20           A.    You did.

21           Q.    Duke did not intend to represent to the  
22 Commission that there were these growing number of  
23 customers that were requesting and willing to pay the  
24 full distribution rate to reserve capacity, correct?

25           A.    Are you referring to our -- the '06

1 filing and the 2008 base rate case?

2 Q. Both.

3 A. What we filed, in my opinion, speaks for  
4 itself. It was represented that there were a growing  
5 number of customers that were requesting backup  
6 feeds; therefore, we prepared Rider BDP and filed it.  
7 And the Commission looked at both our proposed tariff  
8 and our supporting statements in totality and made a  
9 initiative decision.

10 Q. Can you turn to page 60 of your  
11 deposition, please. Let me know when you're there.

12 A. I'm there.

13 Q. On line 4 there's a question:

14 "Right. Okay. So when we're talking  
15 about these new customer requests growing, it's not  
16 that the customer wanted Rider BDP as the tariff is  
17 currently written, correct?"

18 "Correct."

19 Line 9. "They wanted a predecessor --  
20 they want more of a backup service that they didn't  
21 have to pay for."

22 Line 12. "Correct."

23 Did I read that correctly?

24 A. You did.

25 Q. Now, Rider BDP was ultimately approved by

1 the Commission on or around July 8th, 2009, correct?

2 A. Yes.

3 Q. After it was approved by the Commission  
4 in July of 2009, you don't know if this customer  
5 demand increased or stayed the same, correct?

6 A. That's correct.

7 Q. You also don't know how many new backup  
8 delivery points that Duke added to its system after  
9 the Commission approved Rider BDP to satisfy this  
10 growing customer demand, correct?

11 A. Yes. Correct.

12 Q. After Rider BDP had been approved in July  
13 of 2009, there were only a handful of customers that  
14 actually signed Rider BDP agreements, correct?

15 A. Restate that question again.

16 Q. Sure. After Rider BDP was approved in  
17 July of 2009, there were only a handful of customers  
18 that actually signed Rider BDP agreements, correct?

19 A. That's my understanding.

20 MR. SAMFORD: Your Honor, I object to the  
21 extent that "handful" is a little bit vague.

22 A. Well, I'll interpret --

23 EXAMINER WALSTRA: If you could answer  
24 with specificity if you know.

25 A. I don't know the exact number, but I

1 believe it was half a dozen, ballpark, but I'm not  
2 the appropriate witness for that question.

3 Q. So you would not say a "handful" is an  
4 accurate description of how many customers signed  
5 Rider BDP agreements?

6 A. In my opinion that's a ballpark accurate  
7 description, but I do not know the exact number of  
8 customers.

9 Q. Okay. In your prefiled testimony in this  
10 case you have described distribution system integrity  
11 issues that related to this predecessor backup  
12 service, correct?

13 A. Correct.

14 Q. You did not and you do not work in Duke's  
15 distribution operating -- excuse me -- Duke's  
16 Distribution Operations group, correct?

17 A. Correct.

18 Q. You did not and do not work in Duke's  
19 Distribution Design group, correct?

20 A. Correct.

21 Q. So you don't have any firsthand knowledge  
22 or any personal knowledge of any of these alleged  
23 distribution system integrity issues related to this  
24 backup -- predecessor backup service, correct?

25 A. Correct.

1           Q.    You can't identify for me when these  
2           supposed distribution system integrity issues even  
3           arose, correct?

4           A.    Correct.

5           Q.    Your only knowledge, just to be clear, of  
6           these purported distribution system integrity issues  
7           comes from what other people have told you, correct?

8           A.    Correct.

9           Q.    Now, you have worked for Duke, including  
10          Duke's corporate predecessors, for about 27 years,  
11          correct?

12          A.    Yes.

13          Q.    And in your 27 years working for Duke and  
14          its corporate predecessors, prior to Rider BDP's  
15          approval, you are not aware of any widespread outages  
16          that were caused by customers using multiple feeds  
17          having this auto-transfer capability, correct?

18          A.    That's correct.

19          Q.    In your 27 years working at Duke, prior  
20          to Rider BDP's approval, you are not aware of any  
21          widespread outages that were caused by the City's use  
22          of their automatic switching equipment at the  
23          Critical Facilities, correct?

24          A.    That's correct.

25          Q.    And in your 27 years working at Duke,

1 prior to Rider BDP's approval, you are not aware of  
2 any instance where Duke communicated to the City its  
3 concerns about these distribution system integrity  
4 issues with respect to the Critical Facilities,  
5 correct?

6 A. Correct, I'm not aware of that.

7 Q. From May 19th, 2006, when Rider BDP's  
8 application was first filed by Duke, all the way  
9 through July 8th, 2009, you don't know of any steps  
10 that Duke took to address its concerns about these  
11 alleged distribution system integrity issues that  
12 relate to the Critical Facilities, correct?

13 A. Correct.

14 Q. And you don't know if Duke conveyed these  
15 concerns to the Staff at the PUCO, correct?

16 A. I'm not aware of that, correct.

17 Q. You're not aware if they conveyed these  
18 concerns to the Commission during that time, correct?

19 A. That's correct.

20 Q. If you can turn to page 10 of your  
21 testimony in this case and I'm looking specifically  
22 at lines 12 through 17. If you could read those to  
23 yourself. Take your time and let me know when you  
24 are finished. Again, that's page 10, lines 12  
25 through 17.



1           A.    I've read it.

2           Q.    Irrespective of whether Rider BDP exists  
3 or not, Duke can still keep track of and monitor the  
4 occurrence of automatic load transfers, correct?

5           A.    Not working in Operations or in Design, I  
6 would think it would be feasible to do that.

7           Q.    So based on your understanding and your  
8 27 years' experience, the answer is "correct"?

9           A.    Correct.

10          Q.    In other words, Duke does not need Rider  
11 BDP to keep track of, or monitor, the occurrence of  
12 automatic load transfers, correct?

13          A.    That's right.

14          Q.    I want to talk a little about the  
15 historical relationship from, again, your knowledge.

16                In drafting your prefiled testimony in  
17 this case, you are not aware of any facts related to  
18 the historical relationship or any of these  
19 commitments that we talked about earlier between the  
20 City and Duke with respect to the Critical  
21 Facilities, correct?

22          A.    Yes.

23          Q.    And in drafting your prefiled testimony  
24 you are also not aware that the City and Duke had  
25 worked together to construct, install, and operate

1 the automatic switches, correct?

2 A. Correct.

3 Q. In looking at the terms of the Rider BDP  
4 tariff, how much customers are charged pursuant to a  
5 Rider BDP agreement is going to vary, correct?

6 A. That's right.

7 Q. In fact, the tariff assumes that there's  
8 going to be some degree of negotiation in terms of  
9 calculating the monthly charge, correct?

10 A. Yes.

11 Q. The Rider BDP also describes a \$300  
12 connection fee that Duke will charge if an additional  
13 metering point is required, correct?

14 A. Yes.

15 Q. Duke has never charged a \$300 connection  
16 fee for any additional metering point, correct?

17 A. Correct, because we have not needed any  
18 additional metering points, so that provision never  
19 was applicable.

20 Q. Meaning that no customer had ever  
21 requested an additional metering point, correct?

22 A. Correct.

23 Q. The distribution rate is comprised of a  
24 collection of services that the utility provides for  
25 the entire distribution system, correct?

1           A.    Yes.

2           Q.    As an example of that, some of those  
3 components in setting the distribution rate would be  
4 substation equipment, poles, O&M expenses, billing  
5 expenses, taxes, things like that?

6           A.    Yes.

7           Q.    I want to talk specifically about O&M  
8 expenses that are recovered during the test year in  
9 the distribution rate case. Within O&M expenses  
10 there are labor costs, correct?

11          A.    Yes.

12          Q.    And specifically within those labor costs  
13 there are costs for Duke's system designers, correct?

14          A.    I have not seen all of the labor items  
15 because that's not really my area in the rate case,  
16 but -- and also I would presume that many or some of  
17 the designers would work for our shared services  
18 organization, but, at a minimum, I think some of the  
19 allocated costs and potentially some dedicated Duke  
20 Energy Ohio employee engineers who work in system  
21 design would be included in the labor costs in the  
22 rate case. So probably the answer is yes.

23          Q.    The unbundled distribution rate, then,  
24 includes system design costs, correct?

25          A.    Yes.

1           Q.    Based on your 27 years' experience with  
2 Duke and your experience as an engineer, Duke's  
3 system designers build in a certain amount of reserve  
4 capacity as part of Duke's distribution system  
5 design, correct?

6           A.    Correct.

7           Q.    The cost to have reserve capacity is  
8 implicit in the design of that system, correct?

9           A.    No, I disagree with that.

10          Q.    Can you turn to page 82 of your  
11 deposition, Mr. Ziolkowski. Let me know when you're  
12 there.

13          A.    I'm there.

14          Q.    And move your finger down to line 4 on  
15 page 82. Line 4 reads:

16                "Question: And the cost to do that is  
17 part of the distribution rate, not necessarily a line  
18 item, but it's included in those costs in setting the  
19 rate, right?

20                "Answer: The cost to have reserve  
21 capacity is implicit in the design which, for  
22 example, substation transformer banks will be  
23 designed and purchased and installed in a little  
24 larger size than we think might otherwise be needed  
25 to ensure that there's some reserve available in the

1 case of emergencies; that's just a smart thing to do  
2 from a general engineering standpoint."

3 It appears, Mr. Ziolkowski, I forgot the  
4 first part of that. Let me step back up into page 81  
5 where on line 21 is the first question.

6 "Question: Okay. So you wouldn't be  
7 able to say whether Duke reserves capacity on its  
8 system design to enable transfers of load, not  
9 necessarily the entire load, but you wouldn't be able  
10 to answer that?

11 "Answer: Well, I can speak generally as  
12 an employee who has been with the Company a long  
13 time, as an engineer, that our designers are going to  
14 build some reserve into all of our systems.

15 "Question: And the cost to do that is  
16 part of the distribution rate, not necessarily a line  
17 item, but it's included in those costs in setting the  
18 rate, right?

19 "Answer: The cost to have reserve  
20 capacity is implicit in the design which, for  
21 example, substation transformer banks will be  
22 designed and purchased and installed in a little  
23 larger size than we think might otherwise be needed  
24 to ensure that there's some reserve available in the  
25 case of emergencies; that's just a smart thing to do

1 from a general engineering standpoint."

2 Did I read that correctly?

3 A. Yes, you did.

4 Q. The cost associated with reserving this  
5 excess capacity is include in the distribution rate,  
6 correct?

7 A. The term "reserve" is being used in two  
8 ways throughout this proceeding is what I've noticed.  
9 First off, Rider BDP talks about explicitly reserving  
10 capacity for a specific customer; whereas, my  
11 statement here talks about general reserve margin  
12 associated with prudent engineering design of a  
13 system. So that's where the disconnect is.

14 Q. If you can look at line 16 of your  
15 deposition on page 82.

16 "Question: And just so I'm clear, that  
17 cost to do that is included in the distribution rate.

18 "Answer: That's correct."

19 Did I read that correctly?

20 A. Yes.

21 MR. KEANEY: May I approach, your Honor?

22 EXAMINER WALSTRA: You may.

23 MR. KEANEY: I'm handing the witness a  
24 document marked as City Exhibit No. 4.

25 EXAMINER WALSTRA: So marked.

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 Q. I just handed you a document identified  
3 as City Exhibit 4. Mr. Ziolkowski, have you seen  
4 this document before?

5 A. Yes.

6 Q. What is it?

7 A. This is a data request from the City that  
8 I sponsored.

9 Q. So, just to be clear, you are identified  
10 as the person responsible for Duke's response in the  
11 document identified as City Exhibit No. 4?

12 A. Yes.

13 Q. Is this a true and accurate copy of  
14 Duke's response to City Interrogatory 01-033?

15 A. Yes. I have no reason to think it's not,  
16 but it looks -- it looks correct, but unless I would  
17 go back to our own systems and compare what we  
18 actually filed or prepared back at work I can't know,  
19 but I have no reason to doubt it's not true and  
20 accurate.

21 Q. In setting your distribution rate, Duke  
22 includes O&M expenses, correct?

23 A. Correct.

24 Q. And an example of an O&M expense would be  
25 costs associated with wear and tear on the

1 distribution system, correct?

2 A. There's no line item in our FERC  
3 accounting called "wear and tear."

4 Q. Is it your testimony that O&M expenses  
5 would not include costs that are associated with wear  
6 and tear?

7 A. I don't know what "wear and tear" means  
8 in terms of a distribution system.

9 Q. Let me ask it a different way. In other  
10 words, the cost to fix the parts of the distribution  
11 system that have grown old or failed due to usage or  
12 high load -- high loading are included in setting the  
13 distribution rate, correct?

14 A. Yes.

15 Q. That's what I mean by "wear and tear."  
16 Do you understand that definition?

17 A. Yes.

18 Q. Okay. Duke has approximately 700,000  
19 retail customers using its distribution system,  
20 correct?

21 A. Yes.

22 Q. And only a handful of customers are Rider  
23 BDP customers, correct?

24 A. Correct.

25 Q. In the aggregate, 700,000 customers will



1 cause more wear and tear to a distribution system  
2 than a handful of customers, correct?

3 A. Yes.

4 Q. Cost of service studies or cost of  
5 service analysis is something you're familiar with,  
6 correct?

7 A. Yes.

8 Q. Now, a cost of service study or a cost of  
9 service analysis can be created for a specific  
10 customer, correct?

11 A. It can be, but it shouldn't be.

12 Q. Before we get into the reasons why it's  
13 not, the answer is "yes"; is that correct?

14 A. Yes.

15 Q. And it's also true that a cost of service  
16 study or a cost of service analysis could be specific  
17 to one specific scenario, correct?

18 A. Yes.

19 Q. And isn't it true Duke has created cost  
20 of service analyses for a specific customer or a  
21 specific scenario, correct?

22 A. Correct.

23 Q. And isn't it also true that you have  
24 personally seen a cost of service analysis conducted  
25 by Duke that was specifically to or directed to a

1 customer or a specific scenario, correct?

2 A. Yes.

3 Q. Now, you had earlier said you thought  
4 they shouldn't be done, correct?

5 A. Correct.

6 Q. Now, I understand you think they  
7 shouldn't be done, but there are others at Duke that  
8 do not share your point of view, correct?

9 A. I don't know. The person that created  
10 that cost of service study that I was referring to is  
11 retired.

12 Q. So you do know the individual who  
13 disagrees with you, correct?

14 MR. SAMFORD: Your Honor, I object to the  
15 extent that it's characterizing it as a disagreement.  
16 I don't know that that's been established.

17 EXAMINER WALSTRA: The witness can  
18 clarify.

19 A. I know who the head of that department  
20 was, and the study I'm referring to specifically was  
21 prepared 23 years ago, and that person has retired.  
22 But I never discussed that issue with that person, so  
23 I would not be able to say I had a disagreement with  
24 that person.

25 Q. That person believed that performing a

1 cost of service study to a specific customer scenario  
2 was worthwhile, correct?

3 A. I don't know because I wasn't involved.  
4 I don't know what that person believed.

5 Q. Okay. You have not, nor has anyone else  
6 at Duke, created a cost of service study specifically  
7 for Rider BDP, correct?

8 A. Correct.

9 Q. You have not, nor has anyone else at  
10 Duke, created a cost of service study specifically  
11 addressing the cost to reserve capacity, correct?

12 A. That's correct.

13 Q. To your knowledge, neither you, nor  
14 anybody at Duke, ever even considered creating a cost  
15 of service study for the cost to reserve capacity,  
16 correct?

17 A. That's correct.

18 Q. Based on your 27 years' experience at  
19 Duke, you understand what the term "incremental cost"  
20 means, correct?

21 A. Yes.

22 Q. You do not know of any incremental costs  
23 that Duke has incurred to reserve capacity, correct?

24 A. I disagree with that statement.

25 Q. Can you turn to page 95 of your

1 deposition. Let me know when you're there.

2 A. Yes, I'm there.

3 Q. If you can go to line 6 on page 95.

4 Sorry. Go to line 2, start of the question.

5 "Question: Okay. Well, that's why I  
6 asked. So I'm going to a question about incremental  
7 costs and I'm just using it as it's generally used in  
8 the industry, nothing different.

9 "Has Duke incurred any incremental costs  
10 to reserve capacity?

11 "Answer: I don't know."

12 Did I read that correctly?

13 A. You did.

14 Q. I'm not asking you to speculate here.  
15 You are unable to identify any Duke employee that  
16 would be able to tell me whether Duke has ever  
17 incurred an incremental cost to reserve capacity,  
18 correct?

19 A. Could you state that again?

20 Q. Sure. Without speculating, you are  
21 unable to identify any Duke employee that would know  
22 if Duke has incurred an incremental cost to reserve  
23 capacity, correct?

24 A. I've never discussed that with any other  
25 Duke employee, that specific topic. So any answer,

1 any employee I would identify as potentially knowing  
2 would be speculation on my part; therefore, you're  
3 correct.

4 Q. And Duke has never reserved capacity for  
5 the City's Critical Facilities, correct?

6 A. That's my understanding.

7 Q. Okay. And as a result, if Duke hasn't  
8 ever reserved any capacity, it hasn't ever incurred  
9 any incremental cost to reserve capacity, correct?

10 A. Correct.

11 Q. Along with your supervisor, you helped  
12 design the Rider BDP tariff, correct?

13 A. Yes.

14 Q. Sitting here today, you cannot recall if  
15 you or anybody else at Duke had ever discussed  
16 alternative methods to charge Rider BDP, correct?

17 A. Could you state that question again?

18 Q. Sure. I went a little fast. I'm sorry.  
19 I'll slow down.

20 Sitting here today, you cannot recall if  
21 you or anyone else at Duke had discussed alternative  
22 methods for rate design of Rider BDP, correct?

23 A. That's correct. I don't recall the  
24 discussions from those years ago, those many years  
25 ago.

1           Q.    As someone who has a lot of experience  
2   designing retail electric rates, when you design  
3   rates for a new service, you have some latitude in  
4   selecting the type of rate design, correct?

5           A.    Yes.

6           Q.    And isn't it true you could have  
7   developed a different rate design for Rider BDP,  
8   correct?

9           A.    Yes.

10          Q.    I want to talk a little bit about Rider  
11   BDP's rate impact here.  Again, as somebody who has  
12   broad experience with designing rates and creating  
13   tariffs, it is common for you to consider the rate  
14   impact that a new service or a new tariff would have  
15   on customers, correct?

16          A.    Correct.

17          Q.    In fact, in your experience it's quite  
18   common to create a bill impact study or a bill impact  
19   schedule, correct?

20          A.    Correct.

21          Q.    Duke never created a bill impact study or  
22   a bill impact schedule with respect to Rider BDP,  
23   correct?

24          A.    Not that I recall, so I believe the  
25   answer is correct.

1           Q.    You knew that Rider BDP would have a  
2 large impact on some customers, correct?

3           A.    Yes.

4           Q.    And you did not provide that bill impact  
5 information to any customers, correct?

6           A.    Well, bill impact studies are normally  
7 filed with the Commission. Many customers ask for  
8 their own analyses separate from the filing. But  
9 the term "bill impact study" or "rate impact study"  
10 would normally be part of the filing to the  
11 Commission or be part of a discovery response.

12          Q.    Okay. So let me ask it this way: You  
13 didn't provide that bill impact information to the  
14 Commission, correct?

15          A.    Correct.

16          Q.    In your 27 years' experience working at  
17 Duke and almost 20 years in the Rate department, you  
18 have never seen a single tariff increase a customer's  
19 distribution bill by 100 percent, correct?

20          A.    Actually, I would disagree with that.

21          Q.    Well, you would agree the City's  
22 distribution bill for the Critical Facilities would  
23 double --

24          A.    Yes.

25          Q.    -- if Rider BDP, as interpreted by Duke,

1 were applied to it, correct?

2 A. Yes. Or roughly. It would -- it would  
3 depend upon the amount of reserve -- capacity that  
4 was reserved. If they reserve the full amount on the  
5 secondary feed that they were using on the primary  
6 feed, it would basically double.

7 Q. So is that a "yes"?

8 A. You have to rephrase the question. It  
9 would double.

10 Q. In your 27 years' experience working for  
11 Duke and almost 20 years working in the Rate  
12 department, it would be an aberration for the  
13 Commission to approve a rider or a tariff that would  
14 raise a customer's distribution bill by 67 percent,  
15 correct?

16 A. Yes, but we need to be more specific  
17 about "distribution" versus "riders." Since Customer  
18 Choice started in 2000, 2001, there are a lot of  
19 costs that are recovered through riders and many of  
20 those riders are considered related to distribution.  
21 So I would agree that a base distribution rate would  
22 not increase by 67 percent, that would be unheard of,  
23 but there have been some other riders that at least  
24 for a short period of time have had that much of an  
25 impact on a customer's bill.



1 MR. KEANEY: Your Honor, I move to strike  
2 everything after "Yes" starting with "but."

3 EXAMINER WALSTRA: Mr. Samford.

4 MR. SAMFORD: I'm not aware of why the  
5 witness shouldn't be allowed to explain his answer,  
6 your Honor.

7 EXAMINER WALSTRA: I'm going to deny the  
8 motion.

9 Q. Mr. Ziolkowski, you cite the Electric  
10 Utility Cost Allocation Manual on page 24 of your  
11 prefiled testimony, correct?

12 A. Yes.

13 Q. There are single-issue situations where  
14 it would be inappropriate to follow the procedures  
15 that are set forth in that manual, correct?

16 A. Would you state the question again,  
17 please?

18 Q. Sure. There would be single situations  
19 or situations that involve a single rider where it  
20 would be inappropriate to follow the procedures set  
21 forth in this manual, correct?

22 A. Yes.

23 Q. In the past Duke has calculated various  
24 riders in a way that are, in fact, not consistent  
25 with that manual, correct?

1           A.     Correct.

2           Q.     The manual does not specifically address  
3 how to design a rate for backup delivery service,  
4 correct?

5           A.     That's correct.

6           Q.     The manual does not require that backup  
7 delivery service be charged in a manner consistent  
8 with the way Duke seeks to impose Rider BDP, correct?

9           A.     State that question again.

10          Q.     I went too fast again. I'm sorry.

11                 The manual does not require that backup  
12 delivery service be charged in a manner consistent  
13 with the way Duke is trying to charge the City for  
14 Rider BDP service at the Critical Facilities.

15          A.     That's correct.

16          Q.     When you were working with your  
17 supervisor to create the Rider BDP tariff, you did  
18 not consult this manual, correct?

19          A.     Correct.

20          Q.     Now, you're generally familiar with the  
21 concept of "reasonable arrangements" under Ohio law,  
22 correct?

23          A.     Yes.

24          Q.     You're aware that Ohio enables a utility  
25 to provide a sliding scale of charges, including a

1 variation in rates, based on a reasonable arrangement  
2 between that customer and the utility, correct?

3 A. Correct, if approved by the Commission.

4 Q. If approved by the Commission. Thank  
5 you.

6 Now, Duke has entered into reasonable  
7 arrangements with customers before, correct?

8 A. I don't recall. I don't know.

9 Q. Can you turn to page 114 of your  
10 deposition transcript, please. Let me know when  
11 you're there.

12 A. I'm there.

13 Q. If you can go to line 5. It starts with:

14 "Question: To your knowledge, has Duke  
15 ever entered into a reasonable arrangement with any  
16 customer?

17 "Answer: Duke definitely has, or its  
18 predecessor CG&E has definitely entered into special  
19 contracts with customers over the years since I've  
20 been employed."

21 Did I read that correctly?

22 A. Yes.

23 Q. So Duke has entered into special  
24 contracts or reasonable arrangements with customers  
25 that involved a variation in rates, correct?

1           A.    Correct.  Your previous question  
2 addressed reasonable arrangements, not special  
3 contracts, and that's why I said "no."

4           Q.    Fair enough.  Let's keep it to reasonable  
5 arrangements then, okay?

6                   Duke has entered into special -- excuse  
7 me.  Duke has entered into reasonable arrangements  
8 with customers that involved a variation in rates,  
9 correct?

10          A.    Are we using the term "reasonable  
11 arrangement" as a generic term for any special  
12 contract over the past 50 years?

13          Q.    I'm using that term as it's defined in  
14 Ohio law.  It's a term of art under Ohio law.

15          A.    As defined in Senate Bill 221?

16          Q.    I'm referring to --

17          A.    However it's currently defined in the  
18 code?

19          Q.    How it's defined by statute currently.

20          A.    The answer is that I do not know if we  
21 have any reasonable arrangements currently on file  
22 between Duke Energy Ohio and the State or  
23 the Commission -- between us and a customer that have  
24 been approved by the Commission, I don't know.

25          Q.    You are aware, though, that they've

1 entered into special contracts with customers,  
2 correct?

3 A. Back in the 1990s, I was aware that the  
4 Company had a whole series of special contracts with  
5 some very large customers.

6 Q. Mr. Ziolkowski, you don't know of any  
7 instance where Duke had to deny other customers  
8 access to its distribution system due to the City's  
9 use of its automatic transfer equipment at the  
10 Critical Facilities, correct?

11 A. Correct.

12 Q. You cannot identify any specific  
13 occurrence where the City's operation of its  
14 auto-transfer equipment at the Critical Facilities  
15 has actually endangered Duke's distribution system,  
16 correct?

17 A. Correct.

18 Q. Similarly, you're not aware of any  
19 specific occurrence where the City's operation of its  
20 automatic transfer equipment at the Critical  
21 Facilities has actually compromised the integrity of  
22 Duke's distribution system, correct?

23 A. I'm not aware, correct.

24 Q. Again, earlier we had talked about the  
25 Commission approving Rider BDP in July of 2009,

1 correct?

2 A. Yes.

3 Q. Duke did not actually start to implement  
4 and collect revenue, Rider BDP revenue, until 2015 or  
5 2016, correct?

6 A. Correct.

7 Q. To your knowledge, Duke has collected  
8 since then, 2015 or 2016, about approximately 1 to  
9 2 million dollars in revenue, correct?

10 A. I believe that that number is basically  
11 correct; in the ballpark. I don't know the exact  
12 number.

13 Q. It's an approximate; is that fair?

14 A. Yes.

15 Q. The distribution rate Duke is currently  
16 charging customers right now was established in the  
17 2012 rate case, correct?

18 A. Yes.

19 Q. And in that 2012 rate case, the test year  
20 in that case was the 12-month period preceding  
21 December 31st, 2012, correct?

22 A. That sounds correct.

23 Q. Do you have any reason to dispute that's  
24 not correct?

25 A. I have no reason to dispute. I'm just

1 saying I don't quite remember and I'd have to look it  
2 up.

3 Q. Would seeing a copy of Duke's application  
4 in the 2012 rate case refresh your recollection?

5 A. I'd be willing to just agree that that's  
6 the correct number. I mean, I'll take a look at the  
7 application, but I don't see any reason to dispute  
8 that. I just haven't looked it up.

9 The test year is 12 months ending  
10 December 31st, 2012.

11 Q. So given that Duke did not start to  
12 collect Rider BDP revenue until 2015 or 2016, the  
13 Company did not factor into or credit against its  
14 overall revenue requirement any Rider BDP revenue it  
15 would or could have collected during the term of the  
16 2012 rate case, correct?

17 A. Correct.

18 Q. While distribution rates from the 2012  
19 rate case have been in effect, Duke has collected  
20 approximately 1 to 2 million dollars in revenue,  
21 Rider BDP revenue, correct?

22 A. Correct.

23 Q. So none of that revenue that they've  
24 collected so far to date has been offset or credited  
25 against any overall revenue requirement in the 2012

1 base rate case, correct?

2 A. Correct.

3 Q. Now, Duke has filed a new distribution  
4 rate case in 2017, correct?

5 A. Yes.

6 Q. And Duke's 2017 distribution rate case  
7 established a test year for the 12-month period  
8 ending March 31st, 2017, correct?

9 A. Yes.

10 Q. In filing the 2017 distribution rate  
11 case, this is the first time Duke will be including  
12 Rider BDP revenue in its overall distribution revenue  
13 requirement, correct?

14 A. Yes.

15 Q. During the test year in the 2017 case,  
16 Duke never collected any Rider BDP revenue from the  
17 City, correct?

18 A. Correct.

19 Q. You are aware that Duke has provided the  
20 City with an estimate of annual and monthly Rider BDP  
21 charges for the Critical Facilities, correct?

22 A. Yes.

23 Q. Isn't it true that Duke has estimated  
24 that Rider BDP charges at the Critical Facilities  
25 will cost the City \$1,158,154.56 per year?



1           A.     That's a number I saw, but I have not  
2     done the analysis myself, but that is the number I  
3     saw that I believe was represented to the City.

4           Q.     So that is the estimate that Duke  
5     provided to the City of annual Rider BDP charges as  
6     applied to the Critical Facilities, correct?

7           A.     That's a number that I saw that I believe  
8     was prepared by somebody from Duke that was provided  
9     to the City. I did not prepare those numbers and so  
10    I can't confirm them, but I accept that that's  
11    probably about right. Beyond that, I can't verify  
12    the accuracy of those numbers.

13          Q.     You don't have any reason to dispute the  
14    accuracy of those numbers, correct?

15          A.     Correct.

16          Q.     So we're talking about approximately  
17    \$1.2 million per year according to Duke's estimate,  
18    correct?

19          A.     Yes.

20          Q.     So given that the 2012 and 2017 rate  
21    cases don't include any Rider BDP revenue from the  
22    City, any Rider BDP revenue that was collected from  
23    the Critical Facilities going forward would not act  
24    as an offset to Duke's overall distribution revenue  
25    requirement, correct?

1 A. That's correct.

2 Q. Duke has entered into Rider BDP service  
3 agreements with only a handful of customers as we  
4 talked about, correct?

5 A. Yes.

6 Q. And any customer who takes service under  
7 a Rider BDP agreement must do so for a minimum of  
8 five years, correct?

9 A. I believe so. I need to look at the  
10 tariff to confirm that.

11 Q. If you can turn to JEZ-3 of your  
12 testimony. Attachment JEZ-3, page 2 of 2, paragraph  
13 6, please. Let me know when you're there.

14 A. Yes, I'm there.

15 Q. And you've been able to read paragraph 6,  
16 correct?

17 A. Yes. It's a minimum term of five years.

18 Q. So any customer who takes service must do  
19 so for five years, correct, a minimum?

20 A. Correct.

21 Q. So given that Duke would only enter Rider  
22 BDP service agreements in 2015 or 2016, none of the  
23 Rider BDP service agreements have expired yet,  
24 correct?

25 A. Correct.

1           Q.     Since Duke first entered Rider BDP  
2     service agreements with these handful of customers in  
3     2015 or 2016, you're not aware of any Rider BDP  
4     service agreement that's been terminated, correct?

5           A.     I'm not aware, correct.

6           Q.     You don't have any reason to believe that  
7     any of the current Rider BDP service agreements will  
8     be terminated early, do you?

9           A.     I have no reason to believe that.

10          Q.     If you can stay on that JEZ-3 attachment  
11     in your testimony. This is the current Rider BDP  
12     tariff on file with the Commission, correct?

13          A.     Yes.

14          Q.     Now, under the Terms and Conditions  
15     section, paragraph 2, it states that Rider BDP --  
16     excuse me -- "The amount of backup delivery point  
17     capacity shall be mutually agreed to by the Company  
18     and the Customer....," correct?

19          A.     Correct.

20          Q.     And Duke requires that a customer sign a  
21     five-year contract for the peak capacity, correct?

22          A.     Well, the capacity is mutually agreed  
23     between the customer and the Company. I'm actually  
24     not familiar with any specific language in the -- in  
25     the contract, but if both parties sign the contract

1 they're agreeing to the capacity. So generally it  
2 would be a peak -- it would be based on a peak  
3 number, but I can't say "correct" because I don't  
4 have a copy of the contract in front of me.

5 Q. Let me see if you know this,  
6 Mr. Ziolkowski: For dual feeds, Duke requires that a  
7 customer sign a five-year contract for combined peak  
8 capacity, correct?

9 A. The tariff says that customers have to  
10 sign a contract and it's a five-year contract, but I  
11 don't know the terms specifically contained within  
12 the contract. And so without looking at the  
13 contract, I can't answer that.

14 Q. Okay. Just a few more questions,  
15 Mr. Ziolkowski.

16 I want to talk a little bit about this  
17 section where you discuss in your testimony that the  
18 City's case has been brought in an inappropriate  
19 forum. Do you remember that section of your  
20 testimony?

21 A. Yes.

22 Q. You're not a lawyer, correct?

23 A. Correct.

24 Q. You're not offering a legal opinion,  
25 correct?

1           A.     Correct.

2           Q.     You have never reviewed Revised Code  
3     Section 4905.26, correct?

4           A.     I think after the deposition I went and  
5     looked it up, but I am not an expert on that section  
6     of the Revised Code or any section really.

7           Q.     So if I asked you questions about the  
8     meaning or what terms were in 4905.26, you wouldn't  
9     be able to answer; is that fair?

10          A.     I'm not -- I'm not an expert on that part  
11     of the Revised Code and I'm not a lawyer.

12          Q.     You're not familiar with any statutory or  
13     administrative rule requirements for filing a  
14     complaint in the PUCO, correct?

15          A.     I'm not an attorney or an expert in that  
16     area, so.

17          Q.     If you can turn to page 28 of your  
18     testimony and look at lines 21 through 23. If you  
19     can read those and let me know when you're finished.

20          A.     I'm finished.

21          Q.     I just actually have one more question.  
22                 You don't dispute that a complaint case  
23     would be a proper forum to adjudicate a customer's  
24     claim that the customer is not subject to a tariff,  
25     correct?

1 MR. SAMFORD: Your Honor, I just object  
2 to the extent it's calling for him to make a legal  
3 judgment.

4 MR. KEANEY: Your Honor, if I may? On  
5 pages 28, 29, and part of 30, it's all dedicated to  
6 the question whether this is a proper legal forum to  
7 pursue the City's case. It's exactly the topic of  
8 his testimony. If he wants to strike his testimony  
9 because he's not a lawyer, we're happy to concede.

10 MR. SAMFORD: I certainly don't have a  
11 problem with him testifying as to his factual  
12 knowledge and belief and opinion, but he obviously  
13 can't render a legal judgment.

14 EXAMINER WALSTRA: Understood. He can  
15 give his opinion of his understanding of things and  
16 the Commission will give it the weight it deserves,  
17 understanding that he's not a lawyer.

18 A. My experience is that complaint cases  
19 address specific issues for specific customers and  
20 are generally not applicable to all customers within  
21 a rate class or under the utility's purview.

22 Generally, rate changes that affect or  
23 tariff changes that affect all customers or all the  
24 customers in a class are generally handled through  
25 rate cases, base rate cases. Customer complaints

1     tend to be issue specific and apply to a single  
2     customer. And I'm not a lawyer, but that's my  
3     experience.

4             Q.     So let me ask you the question then  
5     again, because you didn't answer it.

6                     You don't dispute that a complaint case  
7     would be the proper forum to adjudicate at customer's  
8     claim that the customer is not subject to a tariff,  
9     correct?

10            A.     You had three or four negatives in that  
11     sentence. Could you state it in a --

12            Q.     If a customer is making a claim in a PUCO  
13     case that that customer is not subject to a tariff --  
14     you there with me?

15            A.     Yes.

16            Q.     Would that claim the customer is making  
17     be properly in the forum of the PUCO?

18            A.     In my opinion, yes.

19                     MR. KEANEY: Your Honor, I have no more  
20     questions.

21                     EXAMINER WALSTRA: Thank you.

22                     Any redirect?

23                     MR. SAMFORD: Your Honor, may I have a  
24     moment to consult with Counsel?

25                     EXAMINER WALSTRA: Sure.

1 (Off the record.)

2 MR. SAMFORD: Your Honor, just a couple  
3 of questions on redirect if permissible.

4 EXAMINER WALSTRA: Go ahead.

5 - - -

6 REDIRECT EXAMINATION

7 BY MR. SAMFORD:

8 Q. Mr. Ziolkowski, do you recall being asked  
9 some questions by Counsel for the City regarding cost  
10 of service studies that are prepared for a single  
11 customer or a single scenario? Do you remember that  
12 line of questioning?

13 A. Yes.

14 Q. Did you explain the circumstance -- well,  
15 first off, what I heard you say is that has happened  
16 one time in your 27 years with the Company, correct?

17 A. I've only seen that happen once.

18 Q. Can you explain the circumstance in which  
19 that particular cost of service study was prepared?

20 A. Yes. That was a gas cost of service  
21 study and it was to determine the rates associated  
22 with a large pipeline from Duke Energy Ohio, it was  
23 actually Cincinnati Gas & Electric at the time, to  
24 the City of Oxford.

25 Q. And I believe I also heard you say that



1 you believe that that was -- it was not a good idea  
2 to do single-customer cost of service studies, but I  
3 don't think you had an opportunity to explain why you  
4 have that belief. Could you explain why you think  
5 that's not a prudent utility practice?

6 A. Yes. The NARUC Cost of Service Manual  
7 identifies procedures for performing rate -- for  
8 calculating rates for large groups of customers or I  
9 should say for the utility as a whole. And the  
10 problem with using those procedures for an individual  
11 customer is some customers might have new plant  
12 dedicated, you know, in the case of electricity, new  
13 wires, new substations, new transformers. Other  
14 customers with the same service might have 30- or  
15 40-year-old equipment that's highly depreciated.

16 Therefore, if you do a cost of service  
17 study for two specific customers that are taking  
18 similar service, but one's in a new area, one's in an  
19 old area, you might develop very different rates.

20 That's why, as a utility, we do cost of  
21 service studies for all customers or generally  
22 actually six or seven classes of customers, for  
23 example residential, large industrials, and all those  
24 customers pay the average rate for their class. So  
25 that's why I think it's not appropriate.

1           Q.    Would you have those same concerns if the  
2 Company was required to, in essence, do a cost of  
3 service study for every single Rider BDP service  
4 agreement?

5           A.    I would have those same concerns.

6                    There's one other issue that I'd like to  
7 mention, too, is that in the utility business, both  
8 the electric and gas utility business are highly  
9 fixed cost businesses. We have lots of fixed costs  
10 that have to be allocated through standard  
11 allocators. A lot of the Company's O&M costs or  
12 general administrative costs have to be allocated and  
13 it's very difficult to allocate costs to individual  
14 customers.

15                   I think that if you did that, ultimately  
16 you could end up with the situation where if you  
17 calculated a cost for every customer rate for every  
18 customer and you added up the dollars in revenue  
19 collected from those customers, it would be way  
20 different from what the Company's true cost of  
21 service is. So, in other words, it becomes very  
22 inaccurate.

23           Q.    You mentioned there the NARUC Cost  
24 Allocation Manual. I think you were asked a question  
25 by Counsel for the City as to whether the NARUC Cost

1 Allocation Manual dictated the manner in which Rider  
2 BDP was calculated and your answer was "no"; is that  
3 correct?

4 A. That was my answer, yes.

5 Q. Is Rider BDP inconsistent with the NARUC  
6 Cost Allocation Manual in your opinion?

7 A. In my opinion, Rider BDP is consistent  
8 because in our position, Duke Energy Ohio's position,  
9 the backup feed is identical to the primary feed and,  
10 therefore, the cost of that backup feed is the same  
11 as the cost of the primary feed.

12 Q. In your 27-some years of working in rates  
13 and with utilities, do you believe that Rider BDP is  
14 a reasonable rate mechanism?

15 A. Yes.

16 MR. SAMFORD: Thank you, your Honor.

17 EXAMINER WALSTRA: Thank you.

18 MR. KEANEY: Nothing further.

19 EXAMINER WALSTRA: Thank you. You're all  
20 set.

21 MR. SAMFORD: Your Honor, we'd move to  
22 enter his testimony as Company Exhibit 2.

23 EXAMINER WALSTRA: Any objection?

24 MR. KEANEY: No objection.

25 The City moves to admit City Exhibit 4.

1 EXAMINER WALSTRA: Any objection?

2 MR. SAMFORD: No objection.

3 EXAMINER WALSTRA: Both of those exhibits  
4 will be admitted.

5 (EXHIBITS ADMITTED INTO EVIDENCE.)

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

8 (Discussion off the record.)

9 (Recess taken.)

10 EXAMINER WALSTRA: Go back on the record.

11 MR. SAMFORD: Your Honor, we'd like to  
12 call Mr. Michael Pahutski to the stand, please.

13 (Witness sworn.)

14 EXAMINER WALSTRA: Please be seated.

15 MR. SAMFORD: Your Honor, may we approach  
16 the witness with his testimony?

17 EXAMINER WALSTRA: You may.

18 - - -

19 MICHAEL J. PAHUTSKI

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

22 DIRECT EXAMINATION

23 BY MR. SAMFORD:

24 Q. Mr. Pahutski, did you cause certain  
25 testimony to be filed in the record of this

1 proceeding?

2 A. Yes, I did.

3 Q. Do you have any changes to that  
4 testimony?

5 A. Yes, I do. I have two changes I'd like  
6 to make.

7 Q. Can you please explain those changes and  
8 identify them, please?

9 A. Yes. On page 9, line 23, I'd like to  
10 strike the word "only."

11 And on page 10, line 3, strike the word  
12 "or" and add "and may not be."

13 MR. LANG: Say that one more time,  
14 please.

15 A. Page 9, line 23, strike the word "only."

16 And page 10, line 3, strike the word "or  
17 and add "and may not be."

18 Q. So, Mr. Pahutski, if I were to ask you  
19 these same questions again with those corrections,  
20 would your testimony be the same?

21 A. Yes.

22 Q. And is it your desire and intent to have  
23 your testimony incorporated into the record of this  
24 proceeding?

25 A. Yes.

MR. SAMFORD: Your Honor, I would move to mark this as Company Exhibit 3, and I would tender the witness for cross-examination.

EXAMINER WALSTRA: So marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

EXAMINER WALSTRA: Whenever you're ready.

MR. LANG: Thank you, your Honor.

- - -

CROSS-EXAMINATION

BY MR. LANG:

Q. Good afternoon, Mr. Pahutski.

A. Good afternoon.

Q. Start on page 3, and here on page 3 you're asked the question when did Duke implement Rider BDP, and you say Duke began to implement the rider in the 2009; is that right?

A. Yes, that's right.

Q. Now, you assumed your Large Account Management role in 2010?

A. April of 2010, that's right.

Q. Thank you.

And fair to say you were not involved in the implementation of Rider BDP prior to 2010?

A. That's fair.

Q. Also fair to say you do not know what

1 steps Duke took to implement Rider BDP in 2009?

2 A. That's correct.

3 Q. Okay. The first step you know about was  
4 in late 2011, early 2012?

5 A. That's correct.

6 Q. And that step was to identify customers  
7 with two feeds and what load those customers had on  
8 those feeds?

9 A. That was the first step, yes.

10 Q. Now, the information needed by Duke to  
11 identify those customers and their load was all in  
12 Duke's possession as of 2009, correct?

13 A. That's my understanding, yes.

14 Q. And that was -- was that information  
15 gathered by the Large Account Management group?

16 A. In 2012, when we began to take some steps  
17 towards implementing this rider and applying it to  
18 our customers, the Large Account Management team,  
19 under my direction, had a person assigned to  
20 undertake identifying those customers, so it was an  
21 individual assigned.

22 Q. And is it correct that you do not know  
23 how that individual obtained that information?

24 A. My understanding is they obtained that  
25 information through asking others at Duke Energy and

1 kind of picking the, call it the institutional  
2 knowledge of the Company, various engineers and  
3 others in the Company who perhaps may have installed  
4 the second feed for customers or at least were  
5 operating the system with those second feeds.

6 Q. Okay. Now, under Rider BDP, if a  
7 customer is interested in the product, your group  
8 will help them take the product, take service under  
9 the product, following the process described in your  
10 testimony; is that right?

11 A. That's correct.

12 Q. And you're aware that the City of  
13 Cincinnati has had facilities with two feeds for  
14 decades, correct?

15 A. I understand that they've had facilities  
16 with two feeds prior to 2010 when I got involved with  
17 them, yes.

18 Q. And do you -- so you're saying you have  
19 no knowledge of how they had two feeds, where they  
20 had two feeds prior to 2010?

21 A. I wouldn't dispute that they did.

22 Q. So prior to Rider BDP, so prior to 2008,  
23 you are aware of one customer that had a special  
24 contract with Duke related to the construction of a  
25 second feed serving the customer, correct?



1           A.    Yes, that's correct.

2           Q.    And that customer paid for the second  
3 feed so there was no charge to reserve capacity on  
4 the second feed, correct?

5           A.    No, that's not correct. The customer  
6 paid for the construction of the second feed, but in  
7 addition to that they're paying to reserve capacity  
8 on that second feed as well. When they're paying for  
9 the construction of the second feed they're really  
10 paying for a portion of that feed that serves them  
11 precisely.

12                       There are other parts of that feed, of  
13 course, the main line that serves other customers  
14 that we have to reserve capacity on that line to  
15 accommodate those customers' load on that line. So  
16 not only do they pay for the construction of the  
17 line, but they're also paying a monthly fee for us to  
18 reserve capacity on that line for them as well.

19           Q.    And is that -- help me understand.  
20 Because we were talking about a customer with a  
21 special contract prior to Rider BDP.

22           A.    Uh-huh.

23           Q.    Are you saying they're now paying -- now  
24 that Rider BDP was implemented, that customer is  
25 paying a Rider BDP charge?

1           A.    I wouldn't say that specifically. We are  
2   trying to negotiate with that customer to put them  
3   under Rider BDP specifically, but they're still under  
4   the special contract. But that special contract was  
5   modeled in the same way, they're paying under the  
6   same mechanism that customers under Rider BDP would  
7   be paying.

8           Q.    Okay. So in the special contract they  
9   paid for the second feed and then there's a separate  
10  charge in that contract for paying for reserving  
11  capacity on that feed; is that correct?

12          A.    I want to be more precise if I can.  
13                So they paid for construction of a line  
14  from what I will term the second feed to their  
15  facility and that feed -- that particular line from  
16  the second feed to their facility is solely used by  
17  them, by no one else, and they paid for construction  
18  of that. And they're also paying for us to reserve  
19  capacity on the entire second feed and all the  
20  pertinent facilities and that contract was approved  
21  by the Commission.

22          Q.    Do you remember what year that was done?

23          A.    If I'm not mistaken that was 2004.

24          Q.    Do you know what the rate is for  
25  reserving capacity?

1           A.    To the best of my knowledge and belief,  
2   the capacity reservation charge is priced on a per-kW  
3   basis and is the standard distribution demand charge  
4   that they're taking service under. We have a couple  
5   different rates that customers can take distribution  
6   service under, and I can't remember which one of  
7   those they're under, but they're paying based on the  
8   the kW they reserved, an amount of distribution  
9   demand charge based on the rate of the underlying  
10   distribution tariff.

11           Q.    So let's go back to Rider BDP. So under  
12   Rider BDP, if a second line needs to be expanded to  
13   increase the load to serve a Rider BDP customer,  
14   that's addressed in the acceleration of costs section  
15   of the tariff; is that right?

16           A.    In part, yes. So if a particular line  
17   needs to be expanded or the capacity on that line  
18   needs to be expanded, and I say that because  
19   sometimes the line to the transformer back in the  
20   substation perhaps doesn't have the capacity, but if  
21   some of our facilities need to be upgraded to serve  
22   that additional load we'll look at how much of  
23   that -- how much of those upgrades are specific to  
24   that customer and don't benefit any other customer,  
25   and then the customer will have to pay a hundred

1 percent of those costs.

2 If there are some costs relating to  
3 upgrades that we have within our planning horizon  
4 anyway, then we would accelerate essentially or do  
5 sooner those upgrades than we normally would. That's  
6 what's referred to in the acceleration of costs  
7 provision of Rider BDP.

8 Q. So if approving a line was already in  
9 Duke's planning horizon and the customer's request  
10 accelerated that work, then Duke compares the cost of  
11 capital to accelerate the project to the reserve  
12 capacity revenues which are the monthly charges that  
13 the customer will be paying; is that right?

14 A. Not quite. It's not just the cost of  
15 capital, but it's the revenue requirement I believe  
16 is terminology used in Rider BDP.

17 Q. So if those monthly charges exceed Duke's  
18 cost to accelerate the project, then Duke does not  
19 impose an additional line charge; is that right?

20 A. If the costs of -- if the revenue  
21 requirement associated with the cost of upgrading  
22 facilities that are upgrades we would have made  
23 within the planning horizon, and the revenue from the  
24 reserve capacity charge exceeds that revenue  
25 requirement, then we will not charge the customer for

1 that; to the extent that revenue requirement is  
2 covered by the reserve capacity revenues, we will not  
3 charge the customer for those upgrades to that  
4 extent.

5 Q. Okay. So what I asked you is correct?

6 A. I think the distinction is you mentioned  
7 cost of capital, and I think cost of capital is only  
8 one component of the revenue requirement.

9 Q. Okay. And then if -- if improving the  
10 line is not in Duke's planning horizon, then Duke  
11 charges the customer for the cost to expand the  
12 line; is that right?

13 A. That's correct.

14 Q. And then once the line is expanded, Duke  
15 charges the customer each month to reserve capacity  
16 on the expanded line; is that correct?

17 A. That's correct.

18 Q. Now, at the top of page 5 of your  
19 testimony. It actually starts at the bottom of 4 and  
20 goes to the top of page 5. You reference requiring a  
21 customer to change from an automatic transfer process  
22 to a manual transfer process. I want to ask you  
23 about that.

24 It's possible for a customer to have a  
25 manual switch that it operates without consultation

1 with Duke, correct?

2 A. Well, yes, it is possible physically to  
3 do that, but if I can clarify? We're asking  
4 customers that if -- well, we would say if the  
5 customer has reserved their peak load under Rider  
6 BDP, then if they have a manual switch or they want  
7 to operate their switch in manual mode, because  
8 they've reserved that capacity then we know that's  
9 available for them and they don't need to consult  
10 with us in order to operate the manual switch.

11 Q. So specifically in your testimony here at  
12 the top of page 5 when you refer to a manual transfer  
13 process, that's a process, that is a switch done  
14 after consultation with Duke, correct?

15 A. So for customers who have two feeds and  
16 they have a switch that perhaps is in manual mode and  
17 they want to be able to operate that switch, then  
18 as -- go back to page 4 of my testimony -- they need  
19 to either reserve adequate capacity under Rider BDP  
20 so that when they operate that switch they're not  
21 going to cause any system integrity issues on the  
22 second feed;

23 Or, if they have a switch in the  
24 automatic mode and they don't choose to reserve the  
25 full peak load of their facility, then we do require

1 that they go into -- they operate that switch in a  
2 manual mode. And in that case, because they haven't  
3 reserved the full peak demand of their facility, it  
4 may not be available on our second feed at the time  
5 they want to switch, then we require that  
6 consultation.

7 Q. So what I asked you is true, the manual  
8 transfer process you're referencing here is a switch  
9 done only after consultation with Duke. Duke has to  
10 approve the switch.

11 A. That's correct. In this case that's  
12 correct.

13 Q. And that category of customer with the  
14 manual switch in that case would not pay Rider BDP  
15 charges; is that right?

16 A. They may not choose to pay Rider BDP  
17 charges and then they may operate their switch  
18 manually after consultation with Duke Energy. I'll  
19 leave it at that. I'll let you ask the questions.

20 Q. So just talking about that category of  
21 customer; manual switch after consultation with Duke.  
22 That customer has the ability to switch between those  
23 circuits for maintenance on the switchgear -- we'll  
24 start with that -- correct?

25 A. Again, after consultation with Duke, yes,

1     that's correct.

2             Q.     And it's your belief that Duke will not  
3     permit customers to use the second feed as an  
4     emergency backup for when the primary feed goes down,  
5     correct?

6             A.     No, that's not correct. And, in fact,  
7     that's the point of my changing my testimony taking  
8     the stand.

9             Q.     I was curious about that. So let's cover  
10    the timing on this. When you were deposed, your  
11    understanding was that Duke would not permit  
12    customers to use the second feed as an emergency  
13    backup for when the primary feed goes down, fair?

14            A.     In manual mode, if they're not reserving  
15    the entire amount of capacity, that's correct.

16            Q.     And since your deposition you talked to  
17    someone and your opinion changed, correct?

18            A.     Yes. I spoke with Mr. Simms, and  
19    Mr. Simms who runs the Operations, Distribution  
20    Operations, informed me that that is something that  
21    we would consider.

22                    We would take a phone call from a  
23    customer, and provided that the Operations team is  
24    not overly busy with let's say storms and trying to  
25    restore many, many customers, they would entertain a



1 call from a customer and examine that customer's  
2 second feed to determine whether or not there was  
3 adequate capacity and, if there was, then we would  
4 permit the customer to manually operate their switch,  
5 yes.

6 Q. And so when that call is made, Duke can  
7 evaluate whether there's capacity on the second feed?

8 A. My understanding, yes.

9 Q. So is it still your view that Duke will  
10 not tell the customer, you know, "Sorry, we've got  
11 other customers we have to restore, wait in line."

12 A. We may as well. As I said, if we've got  
13 a big storm that moved through and our team is heads  
14 down, trying to restore thousands of customers, then  
15 we may very well say I really can't look at that  
16 right now for one customer; I've got to focus on  
17 these many customers.

18 But if we have available resources and,  
19 again, leave this up to the best judgment of  
20 Mr. Simms and his team, they could, in fact, look at  
21 the second feed, determine whether there was capacity  
22 available at that time, and then permit the customer  
23 to operate their switch.

24 Q. Okay. So let's assume Duke has a new  
25 distribution customer, talking about this first

1 outside the context of Rider BDP, so it's a single  
2 feed customer. Duke has to expand a line, maybe  
3 reconnect a line to provide service to that customer.  
4 In that case, Duke will charge the customer for some  
5 part of the expansion cost.

6 A. Yes, that's correct.

7 Q. And you believe there's a table showing  
8 what portion of the cost would be allocated to the  
9 customer; is that right?

10 A. Yeah, I believe we have a table or a  
11 document that lays that out. I believe that document  
12 really goes hand in hand with our line extension  
13 policy as well.

14 Q. And that was kind of my next question.  
15 There is an actual line extension, there's a line  
16 extension policy under which the customer pays  
17 100 percent of the line extension cost, correct?

18 A. No. Under the line extension policy, the  
19 customer pays 40 percent of the cost of extending the  
20 line to serve them and we cover 60 percent of that  
21 under our line extension policy in Ohio.

22 There may be additional costs necessary  
23 to serve that customer besides simply extending the  
24 line, perhaps upgrades in the substation, et cetera,  
25 and that's where that table comes in. And I'm not

1 sure what portions of that would be charged to the  
2 customer and which would not.

3 Q. Now, the same new customer we're talking  
4 about, but Duke does not need to expand capacity on a  
5 line to provide service. In that circumstance, the  
6 new customer is generally not charged anything but  
7 the normal distribution charges and a line extension  
8 cost; is that correct?

9 A. That's correct.

10 Q. Do you have a copy of Rider BDP in front  
11 of you?

12 A. It doesn't appear as though I do. No, I  
13 do not.

14 Q. I'll just give you a couple pages here.

15 MR. LANG: May I approach, your Honor?

16 EXAMINER WALSTRA: You may.

17 MR. LANG: And, your Honor, and for  
18 Counsel, I'm giving him a copy of, it's actually from  
19 Mr. Ziolkowski's testimony, Attachment JEZ-3, the two  
20 pages of the Rider BDP.

21 THE WITNESS: Thank you.

22 Q. Now, looking at the top of page 2 of 2,  
23 under Terms and Conditions, paragraph 4, it refers to  
24 "directly assigned facilities" there. Do you see  
25 that?

1           A.     Yes, I do.

2           Q.     Okay.  And "directly assigned facilities"  
3     in the context of Rider BDP, that means any line  
4     extension between the customer and the Duke system  
5     and any other necessary upgrades that Duke would not  
6     otherwise undertake under the category of  
7     acceleration of costs.

8           A.     That's correct.

9           Q.     So any costs associated with backup  
10    service that was not previously planned by Duke would  
11    be a directly assigned facility for that customer,  
12    correct?

13          A.     I will agree with that.

14          Q.     And a customer is responsible for  
15    100 percent of the costs of directly assigned  
16    facilities.

17          A.     That is correct.

18          Q.     Now, conversely, if a Rider BDP customer  
19    can be provided a second line using the existing  
20    available capacity on that line, the customer would  
21    not be charged for directly assigned facilities; is  
22    that fair?

23          A.     So typically -- take the Critical  
24    Facilities as an example.  They already have a second  
25    feed built, right?  So no, they wouldn't have to pay

1 for the construction of the line.

2 But a customer who only has one feed, if  
 3 he wants to receive a second feed, there may be  
 4 capacity available on the nearest-next feed, but he  
 5 still needs to pay for construction from his facility  
 6 to the nearest-next feed. But then, if there were no  
 7 further upgrades necessary to that nearest-next feed  
 8 because there was available capacity, there wouldn't  
 9 be any further upgrade costs to the customer but they  
 10 would still have to pay the monthly reservation.

11 Q. Okay. Now on page 5 of your testimony,  
 12 you really have a list of procedures to reserve  
 13 capacity under Rider BDP. It's fair to say the costs  
 14 associated with providing backup service will vary by  
 15 customer?

16 A. Yes.

17 Q. And the provisions for switching  
 18 procedures, which are listed on line 22 there of your  
 19 testimony, the provisions for switching procedures  
 20 will also vary by customer?

21 A. Yes, that's correct.

22 Q. And Duke has switching procedures with  
 23 the City going back to the 1970s, correct?

24 A. My understanding is that for some of our  
 25 large customers who have two feeds, there are some

1 switching procedures that have been previously  
2 developed. I'm not certain whether we have those for  
3 the Critical Facilities or not.

4 Q. Okay. So you've never seen switching  
5 procedures for the Critical Facilities?

6 A. I've seen switching procedures. I can't  
7 recall whether they are for the Critical Facilities  
8 or not, yeah, but I've seen some old switching  
9 procedures.

10 MR. LANG: May I approach, your Honor?

11 EXAMINER WALSTRA: You may.

12 MR. LANG: Your Honor, I have two  
13 documents. One has handwritten at the top "Western  
14 Hills." The other one has handwritten at the top  
15 "Main Station." I'd like to have the Western Hills  
16 one marked as City Exhibit 5, and the Main Station  
17 one as City Exhibit 6.

18 EXAMINER WALSTRA: So marked.

19 (EXHIBITS MARKED FOR IDENTIFICATION.)

20 Q. Mr. Pahutski, you have in front of you  
21 what's been marked as City Exhibits No. 5 and 6. You  
22 see one has "Main Station" at the top, the other one  
23 has "Western Hills" written at the top. We were just  
24 talking about switching procedures. Do you recognize  
25 these as switching procedures for two of the Critical

1 Facilities, the Main Station and Western Hills?

2 A. They appear to be what you've described.

3 Q. And on the document that has "Western  
4 Hills" at the top, there's names listed there,  
5 including it looks like it's signed by J.F. Raga,  
6 Chairman, Electric Department Operating Committee of  
7 Cincinnati Gas & Electric Company.

8 Are there -- and understanding this looks  
9 like it's back from the 1980s, are there any  
10 individuals there that you recognize?

11 A. I do not.

12 I take that back. Monson, I think there  
13 was a name -- when I first started with the Company  
14 there was a guy by the name of Ron Monson, but that's  
15 the best I can do for you.

16 Q. And when you -- and you said these appear  
17 to be switching procedures for Main Station and  
18 Western Hills. Can you tell me generally what would  
19 be included in switching procedures?

20 A. Well, let me speak first, let me speak  
21 from my experience with reviewing switching  
22 procedures that we have developed for those customers  
23 who have taken service under Rider BDP; that's what  
24 I'm most familiar with. And also caveat this by  
25 saying I'm not an engineer, but I do like to review

1 some of these documents before they go back to the  
2 customer for the customer's final review.

3 The switching procedures that I've  
4 reviewed typically contain photographs of the  
5 customer's site with indications, annotations, where  
6 the customer's transformers are located, where  
7 switchgear is located. They typically contain  
8 photographs of the customer's switchgear with various  
9 knobs and buttons and what have you labeled.

10 Then there's a description typically  
11 describing whether the customer is operating on  
12 automatic mode or manual mode. In some cases it's a  
13 little bit of each. The customer's switchgear will  
14 operate in automatic mode when they detect an outage  
15 on their primary feed.

16 But in order to return to normal  
17 configuration, we do ask them to consult with us and  
18 do that in a manual fashion, because when that outage  
19 occurs on the primary feed, we want to make sure that  
20 it's all clear and ready to go for the customer to  
21 switch back again. So we typically, in the switching  
22 procedures I've viewed, they will address a  
23 return-to-normal situation and that's typically in  
24 manual.

25 We also address whether switching can



1 occur in an open transition or a closed transition.  
 2 And if you have questions about what that means, I  
 3 would defer that to Mr. Simms; he's the engineer.  
 4 But those are the sorts of things that I've seen the  
 5 switching procedures contain.

6 I think the key with the switching  
 7 procedures is it's Duke Energy and the customer  
 8 really coming to a like mind on here's an  
 9 understanding of the customer's switchgear and it can  
 10 be very different from customer to customer, and how  
 11 the customer wants to operate it so we can understand  
 12 that and have some ability to work with the customer  
 13 to ensure that the manner in which they operate the  
 14 switch, whether it's manual or automatic, is not  
 15 going to impair our system. So that's typically what  
 16 the switching procedures I've reviewed contain

17 Q. And the switching procedures as you've  
 18 described would be -- essentially would contain the  
 19 same category of information whether it's post Rider  
 20 BDP or prior to Rider BDP, correct?

21 A. I'm only familiar with switching  
 22 procedures we developed post Rider BDP.

23 Q. And those switching procedures include a  
 24 line map?

25 A. They contain a single line diagram of the

1 customer's installation or customer's switchgear,  
2 yes.

3 Q. And I'd like for you to turn to the last  
4 page for the one for Main Station. There's a line  
5 map there. Do you recognize that as the line map for  
6 the Tennyson Avenue pumping station?

7 A. I could not say that I recognize it as  
8 that's what that is. No, I don't have that level of  
9 familiarity.

10 Q. A question for Mr. Simms maybe?

11 A. Yes. Yes, it does look like a single  
12 line diagram that I would typically see in our  
13 switching procedures; however, I think the ones that  
14 I've been seeing it looks like they're produced in  
15 some sort of automated mechanic --

16 Q. CAD/CAM.

17 A. -- or computerized, something or other,  
18 not hand-drawn.

19 Q. Now, the City today, at the Critical  
20 Facilities, has two feeds with automatic transfer  
21 switches. You understand that, right?

22 A. Yes.

23 Q. Now, if the City were to stop using the  
24 automatic transfer switches and would take service  
25 from a single feed, Duke would not see an immediate

1 reduction in costs, correct?

2 A. I believe that's correct.

3 Q. And you have reviewed what Duke wants to  
4 charge the City under Rider BDP to take service at  
5 peak demand at each facility, correct?

6 A. That's correct.

7 Q. And you believe that's \$1.1 million per  
8 year, correct?

9 A. I believe that's correct.

10 Q. Now, under Rider BDP, customers who  
11 automatically transfer their load must reserve their  
12 entire peak load, correct?

13 A. That's correct. If they want to remain  
14 in automatic mode, yes.

15 Q. So if peak load -- and you agree that  
16 peak load is often higher than average load?

17 A. I think by definition it is, yes.

18 Q. It should be. And your understanding is  
19 that Duke calculates the peak, for purposes of Rider  
20 BDP, using the highest single 15-minute peak over a  
21 12-month period prior to entering into a Rider BDP  
22 contract?

23 A. That's correct.

24 Q. Now, fair to say you don't have customers  
25 clamoring for this product. So in the event a

1 customer comes to you and expresses interest, you can  
2 look at that peak individually for that specific  
3 customer over the prior 12 months.

4 A. That's correct.

5 Q. Now, with the implementation of Rider  
6 BDP, Duke did not need any new software to reserve  
7 capacity under Rider BDP; is that correct?

8 A. I don't know.

9 Q. Duke did not need any new employees to  
10 reserve capacity, correct?

11 A. I believe that's correct. To the best of  
12 my knowledge we didn't hire people to implement Rider  
13 BDP specifically.

14 Q. And you believe the cost to reserve  
15 capacity on a secondary line or a dual line is the  
16 same as providing distribution service; that's your  
17 testimony.

18 A. That's correct.

19 Q. And the fact that the City uses the  
20 secondary line less than 1 percent of the time,  
21 doesn't affect that analysis, correct?

22 A. Well, I would quibble with the word  
23 "use." They're using it as a risk mitigation device  
24 a hundred percent of the time. It's available for  
25 them in the event they need it. They may have energy

1 flowing through that .2 percent of the time or  
2 whatever, but I would say that line is available for  
3 them, serving their need for risk mitigation to meet  
4 certain regulatory requirements they may have a  
5 hundred percent of the time.

6 Q. And your understanding is that the cost  
7 of constructing and maintaining the line, that  
8 secondary line, is the same as the primary, correct?

9 A. Generally speaking, that's going to be  
10 correct, yeah.

11 Q. Now, you're generally aware of the types  
12 of costs that are collected through the base  
13 distribution rate, correct?

14 A. I generally am, yes.

15 Q. And among other things that includes the  
16 cost of billing for service, correct?

17 A. In base rates, yes.

18 Q. And fair to say there's shared service  
19 costs in that distribution rate, that base  
20 distribution rate, that don't increase based on two  
21 feeds or one feed?

22 A. I would agree with that. But let me back  
23 up. Your prior question asked whether there were  
24 billing costs included in base rates and my answer  
25 was yes. But your follow-up question specifically

1 focused on base distribution rates. I would qualify  
2 my prior answer to say that I don't believe there are  
3 billing costs included in base distribution rates; I  
4 think those are included in a customer charge if I'm  
5 not mistaken.

6 Q. And by "customer charge" do you mean a  
7 separate rider?

8 A. No. In our -- excuse me -- distribution  
9 primary and distribution secondary rate schedules  
10 there is a charge called "customer charge" and that  
11 is a flat rate per month.

12 Q. Flat rate.

13 A. Then there is a distribution demand  
14 charge and I believe that the cost of billing and  
15 probably meters and other things really are captured  
16 in the customer charge not in the base distribution  
17 charge.

18 Q. Got it. Thanks for that explanation.

19 Now, you're also aware that Duke has a  
20 Provider of Last Resort obligation

21 A. I'm aware of that.

22 Q. And Duke does not incur an additional  
23 POLR obligation if the City is using two feeds  
24 instead of one, right?

25 A. That's correct.

1           Q.    Now, under Rider BDP, the charge to  
2   reserve capacity is, you know, I guess for the  
3   City's -- the City's Water Works facilities would be  
4   \$4.33 per kW; is that your understanding?

5           A.    I believe that's correct and I'll qualify  
6   that a tad because I know the \$4.33 is a per-kW  
7   charge under one of our riders, and I'm not sure what  
8   the charge under the other one is. And I can't be  
9   certain which rider, of the two distribution riders  
10   we have, which of the two the Critical Facilities  
11   takes service under. But, subject to check, I'll  
12   agree with that.

13          Q.    And you understand that reflects the  
14   charge for the service, not the cost of the service,  
15   correct?

16          A.    I believe that reflects the cost of the  
17   service. Our rates are cost-based rates, so the rate  
18   reflects the cost of the service.

19          Q.    Mr. Pahutski, you were deposed on -- if I  
20   can find a date -- on Friday, August 11th.

21          A.    Sounds about right.

22          Q.    There was a court reporter there and you  
23   were sworn to tell the truth?

24          A.    Yes.

25          Q.    Is that your first deposition?

1           A.     First one I've given, yes.

2           MR. LANG:   And may I approach?

3           EXAMINER WALSTRA:   You may.

4           Q.     Mr. Pahutski, if I could ask you to turn  
5 to page 94 of your deposition transcript.

6           A.     I'm there.

7           Q.     And I'm going to direct you, starting on  
8 line 23 of page 94, I'm going to read a couple  
9 questions and answers and if you can follow along.

10                  Starting on line 23, the question is:

11                  "So what are costs associated with  
12 reserving capacity?

13                  "Answer:   \$4.33 per kW.

14                  "Question: That is a rate at which it's  
15 charged.   That is not a cost.   Those are different  
16 things.

17                  "Answer: I don't know what the cost is."

18                  Did I read that correctly?

19           A.     Yes, you did.

20           Q.     Now, you also believe that there could be  
21 incremental costs if reserving capacity as part of  
22 Duke's planning function causes Duke to incur new  
23 costs that it would not otherwise bear?

24           A.     That's correct.

25           Q.     And an example would be if a new customer



1 comes along, you can't use -- let's break this up  
2 kind of to make it more clear.

3 So an example would be you have a Rider  
4 BDP customer with a primary line and a secondary  
5 line. Duke has reserved capacity on the secondary  
6 line. A new customer then comes along that  
7 potentially could use that secondary line, but  
8 because there's already reserved capacity on that for  
9 the first customer, Duke may incur new costs to serve  
10 the second customer.

11 A. That's correct.

12 Q. Now, also fair to say if there's no load  
13 growth on that line, there may be no incremental  
14 costs associated with the reservation of capacity?

15 A. There may not be; there may be.

16 Q. Now --

17 A. There may be because although there's no  
18 load growth on that second line, there may be load  
19 growth elsewhere in the system and through tying out  
20 lines we determine that we need to leverage that  
21 second line for load growth in another part of the  
22 system. It's not always one for one.

23 Q. Now, in your testimony at page 9,  
24 starting at line 18, you're describing a situation of  
25 a customer with dual feeds with a switch operated in

1 manual mode. And I think this is where you made the  
2 changes, I think?

3 A. In this section, yeah.

4 Q. And what you described here, you have  
5 customers like this today, correct?

6 A. Can you describe, when you say "like  
7 this," what you're referring to?

8 Q. In this situation where the customer with  
9 two feeds and a manual switch, what you're describing  
10 kind of at the bottom of page 9 over to 10.

11 A. We have customers who have two feeds and  
12 their switchgear is in manual mode, yes.

13 Q. What you describe here applies only to  
14 existing customers with dual feeds, you describe it,  
15 Duke would not do this for a customer requesting a  
16 new second feed, correct?

17 A. We would not build a new second feed for  
18 a customer who is not taking service under Rider BDP,  
19 yes.

20 Q. So the answer is "yes"?

21 A. Well, when we say "do this," so a  
22 customer may elect to reserve less than their full  
23 peak load and we'll permit that with the customer, I  
24 think I've testified to this earlier today, to  
25 operate their switchgear in manual mode after

1 consultation with us.

2 So I just want to be very clear. If a  
3 customer were to approach us and say, "I'd like to  
4 reserve capacity for half of my load, would you build  
5 a second feed for me?" We would consider that, yes.

6 If he says, "I'm not interested in  
7 reserve capacity at all, I just want a second feed,"  
8 then we would say we're not interested in building a  
9 second feed.

10 Q. You are not aware of any customers Duke  
11 has been unable to serve because the City's Critical  
12 Facilities have automatic switching gear, right?

13 A. That's right.

14 Q. And Duke is not and has not reserved  
15 capacity for the Critical Facilities, correct?

16 A. We have not reserved capacity for the  
17 Critical Facilities. We held in abeyance charging  
18 for that. We allow the City to keep the Critical  
19 Facilities in automatic mode during the pendency of  
20 this proceeding. We have not charged for that. We  
21 are not specifically reserving it following the very  
22 detailed process I outlined in my testimony, but we  
23 are managing that to ensure that -- to ensure the  
24 integrity of the system on behalf of other customers.

25 So we want to be sure that in the event

1     there's an outage on one of the main feeds feeding a  
2     Critical Facility and that automatic switchgear  
3     operates, we're not affecting other customers.

4             Q.     So I believe what you just said there,  
5     Duke is -- even without Rider BDP, Duke is managing  
6     today, as it has for decades, the City using  
7     automatic switching at the Critical Facilities.

8             A.     We are managing that today.

9             Q.     And you are not aware of any specific  
10    improvements Duke has been forced to make to its  
11    system because the City is using automatic switching  
12    at the Critical Facilities, correct?

13            A.     There is one set of Critical Facilities,  
14    there's three of those that I understand if all three  
15    were to go offline at the same time and all three  
16    were to -- the automatic switches were to operate at  
17    the same time, then one or more of the second feeds  
18    would be overloaded in that event, so we are keeping  
19    a close eye on that. But other than that, no, I'm  
20    not aware of any investment we need to make. That's  
21    an investment that we would contemplate making in the  
22    event the City wanted us to reserve that capacity for  
23    them to alleviate that very situation.

24            Q.     And you're speaking of three City  
25    facilities that are all served by one backup circuit,

1 Linwood 43?

2 A. Yes, that's the one I'm referring to.

3 Q. And fair to say since you've been  
4 testifying about Rider BDP, you do not know whether  
5 Duke had a process for reserving capacity prior to  
6 Rider BDP.

7 A. I'm not aware of one.

8 Q. Your understanding is that before Rider  
9 BDP, the operation of dual feeds was managed by your  
10 Distribution Planning engineers and your Distribution  
11 Operations team.

12 A. Yes.

13 MR. LANG: That's all the questions I  
14 have, your Honor.

15 EXAMINER WALSTRA: Thank you.

16 MR. LANG: I would note it's six minutes  
17 to 5:00.

18 (Laughter.)

19 EXAMINER WALSTRA: Any redirect?

20 MR. SAMFORD: Your Honor, I intend to  
21 take five of those minutes.

22 (Laughter.)

23 EXAMINER WALSTRA: No problem.

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REDIRECT EXAMINATION

BY MR. SAMFORD:

Q. Mr. Pahutski, let me refer you back to the deposition transcript that was handed to you. Do you recall being asked questions about the costs associated with reserving capacity versus the rate that's being charged for that?

A. Yes, I do.

Q. And I believe the transcript on page 95 was read to you where you were asked if you know what the cost is.

A. Yes.

Q. On the top of page 95, lines 1 and 2.

A. Yes, I see that.

Q. And you were asked to read line 3, I believe, which says you don't know what the cost is.

In subsequent examination in the course of that deposition that appears on that transcript, did that question come up in such a way that you might have addressed that question?

A. When Mr. Lang -- Mr. Lang, correct?

MR. LANG: Yes, sir.

A. -- asked me earlier did the \$4.33 reflect the cost, I said it did. He referred me back to my deposition and indicated I didn't know what the cost

1 was. And I don't know specifically what it is, but I  
2 do believe that the \$4.33, while not being the cost,  
3 does reflect the cost such that if the cost  
4 increased, that rate would have to increase as well.

5 Q. So on line 4 of your deposition, that  
6 page you were asked, "So you don't know the cost  
7 associated with reserving capacity."

8 Then on line 6 you say, "No," but then  
9 you say what the cost of the distribution line is, is  
10 that --

11 A. Can you refer me to the page number  
12 again? I think I'm on the wrong --

13 Q. We're on page 95.

14 MR. LANG: 95.

15 THE WITNESS: That's someone else's  
16 deposition. Sorry.

17 A. Okay. Page 95.

18 Q. Yes. I was just reading an additional  
19 question and answer beyond the one that Mr. Lang had  
20 quoted to see if that was somehow relevant to your  
21 answer.

22 A. So on page 95, I don't know the costs  
23 specifically, but I understand that the cost of the  
24 distribution line, of us constructing it, maintaining  
25 it, contains all of those elements that go into

1 maintaining, you know, constructing, owning,  
2 operating a distribution line. And that cost,  
3 through ratemaking, is reflected in rates, in this  
4 particular case, on this particular type of cost, on  
5 a per-kW basis.

6 Q. And then I think on line 15 of that same  
7 page you were maybe asked the same question for the  
8 third time and I think your answer might have been a  
9 little bit, maybe not the exact same question, but  
10 very similar, but you go on to say you don't agree  
11 with that, and then you explain that in lines 20  
12 through 23. Is that still relevant to your opinion?

13 A. Yes, it is. And Mr. Lang asked me  
14 earlier, as well, whether there were any immediate  
15 costs incurred, and I said no, there weren't any  
16 immediate costs. But those costs really come later  
17 and that's where there's additional load or  
18 additional customers wanting to put load on that  
19 line. We're reserving that capacity for a customer,  
20 then that capacity is not available for a new  
21 customer, new load, and we would have to upgrade that  
22 facility and incur costs to serve that new customer.  
23 And that's the clarification I think I was trying to  
24 make at the bottom of page 95 of my deposition.

25 MR. SAMFORD: Thank you, your Honor.



1 EXAMINER WALSTRA: Thank you.

2 Any follow-up?

3 MR. LANG: No, your Honor.

4 EXAMINER WALSTRA: Thank you.

5 MR. SAMFORD: Your Honor, we'd move to  
6 admit this as Company Exhibit 3.

7 EXAMINER WALSTRA: Any objections?

8 MR. LANG: No, your Honor.

9 EXAMINER WALSTRA: That will be admitted.

10 (EXHIBIT ADMITTED INTO EVIDENCE.)

11 MR. LANG: Your Honor, we move City  
12 Exhibits 5 and 6.

13 EXAMINER WALSTRA: Any objections?

14 MR. SAMFORD: No objections.

15 EXAMINER WALSTRA: Those will both be  
16 admitted.

17 (EXHIBITS ADMITTED INTO EVIDENCE.)

18 EXAMINER WALSTRA: At this point, we will  
19 adjourn until tomorrow, 9:00 a.m.

20 MR. LANG: 9:00 is good.

21 EXAMINER WALSTRA: We'll go off the  
22 record. Thank you.

23 (Thereupon, at 5:00 p.m. the proceedings  
24 concluded.)

25 - - -

CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Wednesday, August 16, 2017, and carefully compared with my original stenographic notes.

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Carolyn M. Burke, Registered  
Professional Reporter, and  
Notary Public in and for the  
State of Ohio.

My commission expires July 17, 2018.

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