

1 BEFORE THE PUBLIC UTILITIES
2 COMMISSION OF OHIO

3 -----X
4 In the Matter of the Commission's
5 Investigation into PALMco Power, OH,
6 LLC d/b/a Indra Energy and PALMco
7 Energy, OH, LLC d/b/a Indra Energy's
8 Compliance with the Ohio Administration
9 Code and Potential Remedial Actions for
10 Non-Compliance,

11 Case No:
12 19-957-GE-COI

13 -----X
14 87-51 18TH Avenue
15 Brooklyn, New York

16 October 10, 2019
17 1:13 p.m.

18 DEPOSITION of ROBERT PALMESE,
19 the Witness herein, taken by the Attorney
20 Examiner, held at the above-noted time and
21 place, before a Notary Public of the State
22 of New York.
23
24
25

A P P E A R A N C E S:

Whitt & Sturtevant, Llp

On behalf of the Company

88 East Broad Street - Suite 1590

Columbus, Ohio 43215

BY: Mark A. Whitt, ESQ.

Public Utilities Section

On behalf of the Staff of the Public
Utilities Commission of Ohio.

30 East Broad Street - 16th Floor

Columbus, Ohio 4215

BY: Barb Bossart

Rob Farley

Melissa Scarberry

Alla Magaziner-Tempesta

(Telephonic)

Bruce J. Weston, Consumers' Counsel

Office of the Ohio Consumers' Counsel

65 East State Street - 7th Floor

Columbus, Ohio 43215

BY: Terry L. Etter, Assistant Consumers'
Counsel

Amy Botschner O'Brien, Assistant
Consumers' Counsel

Gary Atkins, Assistant Consumers' Counsel
(Telephonic)

and

Carpenter Lipps & Leland, LLP

On behalf of Ohio's Residential Consumers

280 North High Street - Suite 1300

Columbus, Ohio 43215

BY: Kimberly W. Bojko, Esq.

Shaun Lyons, Esq.

(Telephonic)

1
2 R O B E R T P A L M E S E, the witness herein,
3 having been first duly sworn by
4 Stephanie Catalano, a Notary Public
5 in and for the State of New York, was
6 examined and testified as follows:

7 EXAMINATION BY

8 MS. BOJKO:

9 Q. Mr. Palmese, am I saying it correctly?

10 A. Yes. Thank you.

11 Q. You've been sworn in, sir?

12 A. Yes.

13 Q. Before we get started I want to go over
14 some rules. Have you ever been deposed before?

15 A. Yes.

16 Q. Is there anyone in the room with you
17 besides the court reporter and Mr. Witt?

18 A. No.

19 Q. And I would ask that because we are
20 telephonic, that you should not be passing any
21 notes or talking to your counsel while a question
22 is pending. If you need a break, we need to make
23 sure there is no question pending and then please
24 ask and we'll take a break at your convenience.
25 Also, can you please turn off all electronic

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2 devices and avoid communicating with anybody
3 outside or inside the room electronically.

4 A. Okay.

5 Q. And I can't see you nod or shake your head,
6 but obviously the court reporter cannot take down
7 that either so that if you can ensure that your
8 responses are verbal for the record, that will be
9 helpful to the record.

10 A. I understand.

11 Q. Sir, could you please state your name for
12 the record?

13 A. Robert Palmese.

14 Q. What's your business address?

15 A. 8751 18th Avenue, Brooklyn, New York 11214.

16 Q. And what is your position with PALMco?

17 A. I'm the president and CEO.

18 Q. How long have you held those two positions?

19 A. 17 years.

20 Q. And is that since the inception of PALMco?

21 A. Since the inception of our deregulating
22 business, so PALMco is probably ten years.

23 Q. What would be the regulated business that
24 you're referencing?

25 A. It's not that regulated business, but our

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2 other brand, Columbia Utilities, was operating
3 before PALMco was, and that was since my start in
4 2002.

5 Q. And Columbia Utilities, did it ever operate
6 in Ohio?

7 A. No.

8 Q. Have you held any other positions at PALMco?

9 A. No.

10 Q. Were you provided with the notice to take
11 depositions and request for production of documents
12 that was filed on September 9, 2019?

13 A. I believe it was through my counsel.

14 Q. So have you reviewed the deposition notice
15 and the request for documents?

16 A. I would have to say yes. But I can't
17 clearly remember because I've seen a lot of papers.
18 I'm not trying to be evasive. I'm just trying to
19 give you the truth.

20 Q. And I have a copy in your packet. So you
21 do understand that your deposition is being taken
22 pursuant to that notice as well as the instruction
23 by the attorney examiner at the hearing in this
24 matter?

25 MR. WITT: I'll object and let the

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2 witness answer, if he knows.

3 A. Can you repeat the statement? It didn't
4 come out clearly over the phone.

5 Q. Sure. Do you understand that the
6 deposition is being taken pursuant to the notice
7 that was filed and as instructed by the attorney
8 examiner at the hearing in this matter and
9 subsequent e-mails?

10 A. Without having the paperwork in front of
11 me, yes.

12 Q. In the deposition notice there was a list
13 of documents that were requested to be produced one
14 day prior to the deposition. Did you produce any
15 documents to your counsel?

16 A. No.

17 Q. Did you bring any of the listed documents
18 with you today?

19 A. No.

20 Q. What documents did you bring with you
21 today?

22 A. I don't have anything.

23 Q. OCC, the Consumers' Counsel, OCC served
24 five sets discovery on PALMco in this case. Were
25 you responsible answering any of those discovery

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2 responses?

3 MR. WITT: Objection.

4 Q. You can answer, sir.

5 A. No, I was not the main person responsible.

6 Q. You're not the main person. But did you
7 assist in answering those questions?

8 A. Only if it was required.

9 Q. Was it a fair assumption that at times you
10 had to help provide an answer to those questions in
11 the discovery?

12 A. I think yes.

13 Q. Let's talk about a little about the
14 corporate structure you mentioned previously. How
15 many entities are owned by the PALMco family?

16 A. Active companies, maybe 18.

17 Q. And you said "active." In 2016, one of
18 your filings before the commissioners' board, you
19 said you had 26 entities and in 2018, you only had
20 22 entities. And now you're stating you have 18
21 active entities. What happened to the entities?
22 Why are they no longer active?

23 A. As far as the two different dates you gave
24 me, I can't comment. But the difference between
25 what I gave you now and what number you most

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2 recently gave me is there are companies we have
3 formed but are not active in business.

4 Q. As I understand the structure, there are
5 two Columbia Utilities that called Columbia
6 Utilities Power; LLC; is that correct?

7 A. Columbia Utilities Power is one of them,
8 yes.

9 Q. What's the other Columbia Utilities name?

10 A. Columbia Utilities, LLC.

11 Q. And those two utilities operate in New
12 York; is that correct?

13 A. That is correct.

14 Q. And Columbia Utilities, LLC is the parent
15 company of the PALMco entity?

16 A. No.

17 Q. And it appears there are two PALMco
18 entities in each state where you are operating; is
19 that correct?

20 A. Yes.

21 Q. One is PALMco Power, which is a competitive
22 energy supplier; and one is PALMco Energy, which is
23 a competitive gas supplier?

24 A. When you say the word "energy supplier",
25 you mean electricity, then yes.

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Q. I apologize. Let's take it one by one.

One is PALMco Power and that is an electricity supplier; is that correct?

A. That is correct.

Q. One is PALMco Energy and that is a natural gas competitive supplier; is that correct?

A. That is correct.

Q. So for New York, you mentioned -- we talked Columbia Utilities Power, LLC company and Columbia Utilities, LLC. You also have a PALMco Energy New York and PALMco Power New York; is that correct?

A. That is correct.

Q. You have four competitive retail providers in New York?

A. That is correct.

Q. And who are the current owners of the PALMco entities?

A. Myself and my three siblings.

Q. So Christina Palmese is a sister?

A. Correct.

Q. And then we have Ronald Palmese, Jr., a brother?

A. Correct.

Q. And is it Stephen Palmese?

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A. Stephen.

Q. Oh, I'm sorry. Stephen is another brother?

A. Correct.

Q. You and each of your three siblings owns 25 percent of each of the companies except for PALMco Utilities, LLC, correct?

A. That is correct.

Q. And for Columbia Utilities, LLC, you and your siblings each own 20 percent and your father, Ronald Palmese, Sr., owns the other 20 percent; is that correct?

A. Correct.

Q. And those same individuals own PALMco Ohio entities, correct?

A. Who are you referring to?

Q. Well, my apologies. The three siblings and yourself own the PALMco Ohio entities, correct?

A. Correct.

Q. And who are the current officers of PALMco Ohio?

A. Just myself.

Q. So president and CEO of PALMco Energy and PALMco Power in Ohio?

A. Correct.

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Q. There are no other officers?

A. No.

Q. And would you call yourself the managing member as well?

A. Correct.

Q. What role, if any, do your siblings have in the Ohio PALMco companies?

A. They are passive equity owners.

Q. Is it fair to say that you make all the decisions?

A. Yes.

Q. And just to clarify, both PALMco Ohio companies have that same structure, correct?

A. Which structure is that? Just making sure I answer it properly.

Q. Sure. Well, you're the CEO, president, managing member and your sibling are the passive equity owners?

A. Correct.

Q. Who is Indra?

A. Indra is our d/b/a name.

Q. And is it purely the d/b/a name? There are no separate ownership companies or individuals?

A. Correct.

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2 Q. Who is the current management team for the
3 PALMco Ohio entities?

4 A. You want me to give you names?

5 Q. Yes.

6 A. We have our CFO, which is Michelle
7 Hofstetter. We have Penny Guida, who is our senior
8 director of operations. James Bradley, who is our
9 senior business development -- senior director of
10 business development; Keena Joseph, who is our VP
11 of regulatory and compliance. And I think I got
12 everybody. And Steven Schemet (phonetic) is our
13 director of door-to-door sales.

14 Q. You would not consider any of the
15 individuals also to be officers in these companies?

16 A. That is correct.

17 Q. Do you know the start date of the
18 individuals on the management team, the approximate
19 start date?

20 A. Michelle, our CFO, has been here since I
21 believe November of '17; penny has been here since
22 March of '19; James has been here since April or
23 May of '19; Steve has been with us for three or
24 four years; and Keena has been with us since April
25 of '19.

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2 Q. On April 16, 2019, of this year, staff
3 requested an investigation into PALMco's marketing
4 and enrollment due to the high number of complaints
5 it had received and high rates being charged. Are
6 you aware of the letter that staff submitted
7 requesting the investigation?

8 A. Yes.

9 Q. And on April 17, 2019, the Commission
10 opened a Commission ordered an investigation and
11 directed staff to investigate the alleged unfair
12 and deceptive or unconscionable acts or practices
13 in the state by PALMco, correct?

14 A. I think I might be confusing the two
15 letters. I think I only recollect seeing the
16 second one you're referring to.

17 Q. So the second one is the commission order
18 that was issued ordering staff to do an
19 investigation?

20 A. Okay.

21 Q. Is that the one you're familiar with?

22 A. Yes.

23 Q. And is it your understanding that staff
24 then performed an investigation specific to the
25 complaints that were filed between the

1 ROBERT PALMESE

2 December 2018 and April 15, 2019?

3 A. What were the dates again?

4 Q. December 2018 and April 15, 2019.

5 A. I do not now how deep the investigation
6 was, yes, I do -- yes. Correct.

7 Q. And are you familiar with the staff issuing
8 a staff report on May 10, 2019?

9 A. Yes.

10 MS. BOJKO: Mark, do you happen to
11 have the staff report and the stipulation
12 with you?

13 MR. WITT: I do, actually. I think
14 I have printed copies here. I think these
15 are clean enough to probably use as
16 exhibits. Are you okay with -- in terms of
17 what we do for the record --

18 MS. BOJKO: I think you'll have
19 them in your inbox by the time we're done.
20 I'm fine moving forward, even with your
21 notes.

22 MR. WITT: They are not extensively
23 marked up. I have them.

24 Q. Mr. Palmese, you're familiar with the staff
25 report, correct?

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2 A. Not intimately, but yes.

3 Q. Would you agree that, generally speaking,
4 then the staff report explains what staff reviewed,
5 it lists equitable commission rules and then it
6 provides examples how the rules were violated?

7 MR. WITT: Objection.

8 MS. BOJKO: Mark, for your
9 objections, I think you're going to have to
10 state a reason because we have to go
11 through this process of challenging
12 objections or challenging the material that
13 was taken from objections, we need to know
14 the basis of the objection.

15 MR. WITT: The basis is it calls
16 for speculation as to staff and its thought
17 processes and preparing the staff report.

18 MS. BOJKO: I'll rephrase.

19 Q. I'm purely asking for if that staff report
20 set up where the staff explains what the staff
21 reviewed and then the staff reports lists
22 acceptable rules and then the staff report lists
23 how the rules were violated. Is that your
24 understanding, Mr. Palmese?

25 A. It sounds like it's asking for my opinion.

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2 I think what you're asking me to do is to try to
3 make a joke above my pay rate.

4 Q. When you read the staff report, did you see
5 that staff explained what they reviewed in the
6 staff report in their investigation?

7 A. I believe there were limited items that
8 they did list.

9 Q. And they -- I think you're explaining that
10 they did actually put forth examples of customer
11 calls or customer complaints that they reviewed; is
12 that correct?

13 A. Correct, they reviewed customer calls and
14 customer complaints.

15 Q. And in the staff report you see that staff
16 listed rules that were applicable to the
17 discussions and the violations that were alleged.
18 Correct?

19 A. Into the allegations there were the rules
20 listed, yes.

21 Q. Do you know how many customer complaints
22 were received about PALMco entities between
23 December 2018 and April 15, 2019?

24 MR. WITT: Objection. Calls for
25 speculation.

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2 MS. BOJKO: I'm asking if
3 Mr. Palmese knows how many customer
4 complaints that they received between
5 December 2018 and April 15, 2019.

6 MR. WITT: "They" meaning PALMco or
7 "they" meaning staff?

8 MS. BOJKO: Well staff receives
9 them and then sends them to PALMco, so
10 both.

11 MR. WITT: Well, my objection
12 stands with respect to how many complaints
13 staff received. There's no way the witness
14 would be able to know that. But if the
15 witness know how many complaints PALMco
16 received, could answer that, if he knows.

17 A. Are you going to restate or you need to an
18 answer?

19 Q. I thought your counsel restated for me, but
20 I could re-ask.

21 How many customer complaints did PALMco
22 receive from staff between December 2018 and
23 April 15, 2019?

24 A. I'm unsure as the accurate number, but I
25 think Ohio, maybe 350.

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2 Q. Was PALMco serving customers on both the
3 electric side and natural gas side prior to
4 December 2018?

5 A. Yes.

6 Q. And do you know whether staff was
7 investigating PALMco prior to December 2018?

8 A. No.

9 Q. How many complaints did PALMco receive from
10 staff prior to December 2018?

11 A. I do not know.

12 Q. You would agree with me that some customers
13 could have been harmed prior to December 2018,
14 correct?

15 A. I don't know what "harmed" means.

16 Q. We'll talk about that. The settlement
17 addresses a period of October 1, 2018 to
18 November 3, 2018, correct?

19 A. I think so.

20 Q. And those dates are prior to the
21 December 2018 date that stated in the staff report,
22 correct?

23 A. Yes.

24 Q. Isn't it true that staff notified PALMco of
25 its concerns and warned PALMco its business

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2 practices and non-compliance of the commission
3 rules three years, in 2016?

4 A. I can't recollect the detail you're
5 describing, but I do recollect being contacted by
6 staff.

7 MS. BOJKO: Can I have the answer
8 read back?

9 (Whereupon, the record was read by
10 the reporter.)

11 (Whereupon, a recess was taken at
12 this time.)

13 Q. Mr. Palmese, you explained before the break
14 that you recollect a contact made by staff in
15 January 2016 concerning rule Ohio and Ohio revised
16 code and Ohio Administrative Code, Rule,
17 Violations?

18 A. I recollect communication and contact, but
19 I do not recollect the details.

20 Q. And do you recollect that you were again
21 contacted in February 2016 by staff regarding
22 similar concerns?

23 A. February 2016?

24 Q. Yes.

25 A. No.

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Q. Mr. Palmese, your e-mail address is
rvpalmese@palmcoenergy.com; is that correct?

A. Yes.

Q. And do you recollect that in January 2019
staff sent an e-mail to PALMco stating that they
were again receiving complaints PALMco viable high
rates?

A. I thought that was February of '19. But
yes, I do recollect the Commission contacting my
staff.

Q. And the date of the e-mail I'm referencing
is January 31, 2019. I believe then PALMco
responded to staff e-mail in February 2019. So is
that the correspondence that you're recollecting?

A. I believe so.

Q. Isn't it true that during the February 2019
time frame PALMco rationalized the staff that had
poor financial performance in 2018 and that's why
it made a business decision to raise rates?

A. That is what Briana Ashiotes had said, but
I don't think that that was fully, I guess,
explained response.

Q. And who is Briana Ashiotes?

A. Briana is our former regulatory corporate

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counsel.

Q. And Briana no longer works at PALMco; is that correct?

A. That's correct.

Q. And who is Briana's replacement?

A. Keena Joseph.

Q. And is Keena Joseph also corporate counsel?

A. No, she is not a lawyer.

Q. Do you have a new corporate counsel?

A. No.

Q. And staff met with PALMco in February -- on February 25, 2019; is that correct?

A. I remember a meeting. If it was February then correct, yes.

Q. Were you at that meeting, sir?

A. No.

Q. So who attended the meeting for PALMco?

A. Briana and I believe she was accompanied by Christina Kosta (phonetic).

Q. And who is Christina Kosta?

A. I don't mean to demean her in any way, I think her title her regulatory specialist.

Q. And is she still with the company?

A. Yes.

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2 Q. Did you discuss PALMco's position prior to
3 PALMco attending the staff meeting?

4 A. When you say "PALMco's position", can you
5 clarify, please?

6 Q. Sure. Did you direct Briana and Christina
7 to respond in a certain manner during the meeting
8 with staff?

9 A. No, I don't believe so.

10 Q. Did your staff come back and explain to you
11 the contents of the meeting?

12 A. Yes.

13 Q. So you are aware of what was discussed at
14 the meeting?

15 A. To whatever degree, I was relayed the
16 information, yes.

17 Q. And you have no reason to not trust that
18 your staff relayed the meeting correctly to you,
19 right?

20 A. Correct.

21 Q. And at that meeting, were you told that
22 PALMco again explained that it was a business
23 decision to raise variable prices?

24 A. I'm sorry, can you repeat the question?

25 Q. Sure. At the meeting did your staff

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2 explain to you that PALMco's response to staff was
3 that it was a business decision to raise variable
4 prices?

5 A. I do not recollect.

6 Q. You're familiar with a settlement that was
7 reached in this Commission ordered investigation
8 proceeding, correct?

9 A. Yes.

10 Q. And the settlement negotiations resulted in
11 a stipulation that was filed in this case on
12 July 31, 2019?

13 A. Yes.

14 Q. And you are familiar with that settlement;
15 is that correct?

16 A. Yes.

17 Q. And I believe you might have a copy in
18 front of you of that settlement now?

19 MR. WITT: He does.

20 MS. BOJKO: For the record, since
21 we'll be attaching these documents to the
22 deposition transcript, I have marked all of
23 the documents with exhibit labels so these
24 will be Deposition Exhibit labels. And I
25 will describe them as I go through them.

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2 But this particular document is marked as
3 Exhibit 15 and that is the stipulation
4 filed in this case on July 31, 2019.

5 Q. Sir, the settlement direct the rule
6 violations set forth in the staff report; is that
7 correct?

8 A. I do not know that intimately.

9 Q. Who negotiated the settlement on behalf of
10 PALMco?

11 A. My counsel.

12 Q. Are you talking about your outside counsel,
13 Mr. Witt?

14 A. Yes.

15 Q. Who had sign-off authority for the
16 settlement terms?

17 A. At our company here?

18 Q. Yes.

19 A. That would be me.

20 Q. So you gave the ultimate authority to
21 settle the case at the terms and conditions
22 identified in the stipulation that was filed on
23 July 31, 2019?

24 A. Correct.

25 Q. But you're not intimate with the individual

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2 and terms and conditions of the settlement?

3 A. With the item that you had asked me about,
4 no.

5 Q. Let's turn to page 2 of the settlement. On
6 page 2 there is a statement that says, "the primary
7 objective of this stipulation is to provide redress
8 for the consumers that were harmed and to avoid, to
9 the extent possible, the potential for future
10 customer harm resulting from the marketing,
11 solicitation, sales, provisions, or administration
12 of contract or competitive electric retail service
13 (VERX) and/or competitive retail natural gas
14 service (CRNGS) by PALMco customers." Do you see
15 that sentence?

16 A. Yes.

17 Q. You would agree with that the settlement is
18 remedying the harm caused to consumers by PALMco's
19 actions, correct?

20 MR. WITT: Objection, to the extent
21 the document speaks for itself.

22 Q. You can answer, sir.

23 A. Well, the document is a negotiated
24 settlement between my company and the staff.

25 Q. It's a negotiated settlement to remedy the

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2 harm caused to consumers caused by REMco's actions,
3 correct?

4 MR. WITT: Objection.

5 Q. You can answer.

6 A. Again, my answer would be the same.

7 Q. You would agree with me that the definition
8 of redress is a remedied restitution of
9 compensation of wrong or grievance, correct?

10 A. I honestly do not know the exact definition
11 of redress.

12 Q. In the sentence that uses the word "harm"
13 and that "harm" in that sentence is overcharging
14 customers or charging customers high rates,
15 correct?

16 MR. WITT: Object, again, to the
17 extent that the staff report raises
18 allegations that were not and have not been
19 adjudicated by the Commission but instead
20 resulted in a settlement.

21 MS. BOJKO: I'm talking about a
22 sentence in the settlement. I'm not
23 talking about the staff report.

24 Q. I'm asking -- the settlement uses the word
25 "harmed" and I'm asking if the reference to "harm"

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2 is the overcharging customers or charging customers
3 higher rates.

4 A. I cannot agree with that because that's not
5 what the sentence says.

6 Q. The sentence doesn't say that the
7 stipulation provide redress for the consumers that
8 were harmed?

9 A. That is what it says, but it doesn't say
10 the other pieces that you had stated.

11 Q. Well, what harm did consumers endure that
12 the settlement is addressing?

13 A. I mean, that I don't believe is necessarily
14 defined here.

15 Q. Would you agree with the settlement, what
16 did you believe that the stipulation was addressing
17 with regard to consumers that were harmed?

18 A. As far as the bigger picture of the
19 settlement is exactly that. It's a structured
20 settlement in order to come to a known conclusion
21 that is acceptable by both sides.

22 Q. The harm was that customers were being
23 charged too high rates; is that correct?

24 A. I cannot agree that what it says in this
25 document.

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2 Q. I'm asking in the alleged harm that the
3 settlement is trying to resolve is staff
4 allegations that PALMco was charging too high rates
5 or overcharging customers?

6 A. I mean, gone not very intimate with this
7 document, but the complaints that were received I
8 believe had various topics.

9 Q. And you believe that staff filed a staff
10 report alleging that harm was caused to consumers
11 and that they should be reimbursed or compensated
12 for that harm, correct?

13 A. Compensated for the harm, yes.

14 Q. What do you believe the harm is in this
15 case that the settlement addresses?

16 A. You know, it can take on various forms. So
17 unfortunately, I can't give you an exact answer.

18 Q. In what redress do you believe is going to
19 customers for the harm that the settlement
20 addresses?

21 A. I'm not understanding your question.

22 Q. What's the redress in the settlement? Is
23 it credits and refunds to customers?

24 MR. WITT: I'll object. The
25 settlement explains exactly what the

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2 redress is.

3 Q. You can answer, if you know.

4 MR. WITT: We will stipulate that
5 the settlement was executed to address the
6 allegations in the staff report.

7 MS. BOJKO: I'm asking the deponent
8 if he believes the settlement that he
9 signed off on that he approved as the
10 president and CEO provides redress to
11 customers and what that redress is.

12 MR. WITT: No. What you're asking
13 for is the deponent to admit that the
14 approval of the settlement is an
15 acknowledgments of rule violations, which
16 he's not going to do.

17 MS. BOJKO: I didn't say that at
18 all.

19 Q. You can answer my question, sir.

20 A. Again, the settlement to address the
21 allegations in the report and to create a
22 settlement that is acceptable by both sides.

23 Q. And that settlement provides restitution or
24 compensation to customers in the form of credits
25 and refunds, correct?

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2 A. The staff and our company decided that,
3 yes, to give credits to customers.

4 Q. What is your understanding of harm? You
5 said a moment ago that harm can take many forms.
6 What do you think that harm is that is referenced
7 in the settlement that you approved?

8 MR. WITT: I'll again object, to
9 the extent we're now getting into
10 confidential settlement discussions and
11 attorney work product. And your questions
12 assume that the company's litigation
13 position is that it agrees that harm
14 occurred, and which the company does not
15 agree to as a litigation position. But
16 again, as reflected in the stipulation, the
17 allegations have been resolved by
18 settlement, not by admission.

19 MS. BOJKO: I'm fully aware of the
20 litigation position. I'm asking in the
21 context of the settlement that was approved
22 by Mr. Palmese what the use of word "harm"
23 is, which Attorney (indiscernible) ruled we
24 can ask about.

25 A. I did not create definition so I can't

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2 comment on it.

3 Q. Do you have any definition or understanding
4 of the word "harm"?

5 A. Harm could be somebody got an unsolicited
6 call that they did not want.

7 Q. Any other types of harm?

8 A. That come to my mind, not right now.

9 Q. Could harm be that a customer was charged
10 too much or overcharged?

11 A. Well, what does -- it's very difficult for
12 me to answer the question because we set our rates,
13 so I don't know what they would be overcharged for.

14 Q. And you, sir, are the sole person that sets
15 rates; is that correct?

16 A. I take the information that is supplied by
17 my managerial team and other staff. And yes, I set
18 the prices.

19 Q. Would you agree with me that there are
20 credits and refunds provided to customers through
21 the settlement, correct?

22 A. Customers are getting credits, yes.

23 Q. And it's dose done through a mechanism
24 called re-rating; is that correct?

25 A. Re-rate is one manner, yes.

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1
2 Q. The re-rating discussed in the settlement
3 in Paragraph 3.1, 2, and 7, Pages 4 and 5. Let's
4 start with 1, Paragraph Roman Numeral 3.1.

5 A. Okay.

6 Q. In this paragraph, PALMco already re-rated
7 customers who enrolled between December 1, 2018 and
8 April 18, 2019, correct?

9 A. Correct.

10 Q. And that was in the manner of approximately
11 \$385,000; is that correct?

12 A. That is what is here, yes.

13 Q. An going to Paragraph 3.2, PALMco already
14 reviewed informal complaints and re-rated accounts;
15 is that correct?

16 A. That is what this says, yes.

17 Q. That amount was approximately \$55,000; is
18 that correct?

19 A. Give me one second. That is what it says,
20 yes.

21 Q. Is the \$55,000 in addition to the \$385,000
22 or is that part of the \$385,00 in the preceding
23 paragraph?

24 A. It's in addition to.

25 Q. Over what period of time did customers

1 ROBERT PALMESE

2 enroll that received the \$55,000 refund in
3 paragraph 3.2?

4 A. I don't believe there is a specific
5 enrollment time frame.

6 Q. So anybody that enrolled that filed an
7 informal complaint that you reviewed?

8 A. That is correct.

9 Q. Paragraph 3.2 states that PALMco will
10 continue to review such informal complaints and
11 issued refunds where appropriate; do you see that?

12 A. Yes, I see that.

13 Q. Is that in addition to \$55,00 and the
14 \$385,000 or part of?

15 A. In addition to.

16 Q. And over what period of time did customers
17 enroll that may benefit from this re-rating and
18 this sentence?

19 A. I do not believe there is a time frame.

20 Q. Let's turn to paragraph 3.7 that's on
21 page 5.

22 A. Okay.

23 Q. Here, there's a provision that requires
24 PALMco to re-rate all customers who enrolled
25 between October 1, 2018 and November 3, 2018 that

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2 were not previous re-rated; do you see that?

3 A. Yes, I do.

4 Q. The re-rating is contingent from sale of
5 customer contracts; is that correct?

6 A. That is correct.

7 Q. And the re-rate will be cap at \$800,000?

8 A. Based upon the research we did, the
9 accounts that are in the time frame and using, I
10 guess, symmetric as to the \$385,000 and \$55,000, we
11 calculated to be approximately \$800,000.

12 Q. So the \$800,000 could be decrease if there
13 were a customer that called and had an informal
14 complaint under paragraph 3.2?

15 A. That is correct, or if there are not in 3.2
16 and called afterwards.

17 Q. Why would they not be in 3.2?

18 A. Because 3.2 is a specific period of time as
19 to when this was written.

20 Q. Are you saying that the first sentence of
21 paragraph 2 was prior to the filing date of July 5,
22 2019?

23 A. Yes.

24 Q. But the second sentence I thought you told
25 me that that was forward looking and was not

1 ROBERT PALMESE

2 constrained by a time period?

3 A. You are correct.

4 Q. So if they filed an informal complaint, the
5 customer would get a refund under 3.2, not 3.7,
6 correct?

7 A. I mean it's 6 and 1, half dozen of another.

8 Q. Well, paragraph 3.7 is contingent upon the
9 sale of contracts, correct?

10 A. Well, you are correct.

11 Q. And 3.2 is not contingent upon the sale of
12 the contracts, correct?

13 A. That is correct.

14 Q. Had the contracts been sold?

15 A. No, they have not.

16 Q. Is there any pending transactions regarding
17 the sales without telling me the contents?

18 A. We do not have pending transactions. But I
19 do have interested parties. But unfortunately we
20 had to pause discussions until this hearing was, I
21 guess, closer to be concluded.

22 Q. And why is that?

23 A. Because the parties who I'm talking to did
24 not want to walk into a beehive.

25 Q. So if the settlement is approved in its

1 ROBERT PALMESE

2 entirety, you expect those discussions to
3 re-engage?

4 A. Yes; if not, even sooner.

5 Q. If the -- do you envision Section 7A being
6 realized from the transactions you're discussing?

7 A. Yes.

8 Q. What about 7C?

9 A. I do not think 7C would reach the \$750,000.
10 But based upon the most recent calculations, it
11 should be a substantial amount.

12 Q. So you believe the \$800,000 in re-ratings
13 will occur and that there would be forfeiture of 50
14 percent of the remaining funds?

15 A. I believe so, yes.

16 Q. And that is contingent on the sale amount,
17 correct?

18 A. Correct.

19 Q. Could you pull up Exhibit 6? It should be
20 in the first e-mail.

21 MR. WITT: I have it, Kim.

22 Q. Exhibit 6, you can see in the top, this was
23 a request for production response from the Company.
24 It was 2-16. Can you -- do you know what this
25 document is?

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2 A. I know what it is, but I don't what
3 question was answered.

4 Q. I was going to ask you, because we received
5 multiple documents, and if you look at the back
6 total amount of this is credit 85,585.20; do you
7 see that?

8 A. We're not on the bottom yet, but that
9 number sounds familiar.

10 Q. This Excel spreadsheet, I was going to see
11 which category of the settlement that you know that
12 it fell into or that it responded to.

13 A. I really don't remember. I believe it was
14 money that we -- it was clearly money we gave back,
15 but I don't remember which piece.

16 Q. Look at Exhibit 7. This was a response to
17 a question 2-17 that asked about the 800,000,
18 paragraph 3.7A.

19 A. Okay.

20 Q. And this is would not have been refunds
21 that actually occurred. But this would be
22 projected re-rating that could happen in the
23 future; is that correct?

24 A. This is our calculation for 7A.

25 Q. For \$800,000 return is the sale of the

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2 contract through that level?

3 A. That's correct.

4 Q. Let's assume that the sale is less than
5 800,000, how would PALMco provide refunds to only
6 some customers or would it be prorated to all
7 customers?

8 A. I believe it would be prorated to all
9 customers.

10 Q. Do you know how that calculation would
11 occur?

12 A. No.

13 Q. That's something that's not in the
14 settlement; is that correct?

15 A. I don't believe it is, no.

16 Q. Do you know how many customers are affected
17 for the few months enrollment period in 7A?

18 A. No, I do not.

19 Q. Would the document, Exhibit 7B, be the
20 total number of customers?

21 A. Should be.

22 Q. Do you know how the October and
23 November 2018 time period was selected for 7A?

24 A. Not specifically, no.

25 Q. Under all of the re-rating scenarios that

1 ROBERT PALMESE

2 we talked about, is the re-rating methodology the
3 same for each of the settlement paragraphs?

4 A. Yes, I believe so.

5 Q. And that is that the re-rating of customers
6 was done by comparing the rate that the customer
7 was charged to the rate that the local utility
8 would have charged the customer over the applicable
9 rating period?

10 A. I believe that is correct, yes.

11 Q. And what would the applicable billing
12 period be in that context?

13 A. Which context?

14 Q. Well, the re-rating is described in the
15 staff report to be what I just stated, that you're
16 comparing the rate the customer is charged to the
17 rate that the local utility would have charged the
18 customer over the applicable billing period. And
19 I'm asking you what would the applicable billing
20 period be?

21 A. I am unsure.

22 Q. The comparison is between the rate PALMco
23 actually charged the customer and the local utility
24 standard operating rates; is that correct?

25 A. Yes.

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Q. Do you know if that involved one billing period or multiple billing periods?

A. I do not know.

Q. Do you know if the re-rating is based on customers actual usage or average usage?

A. I do not know.

Q. Under of the settlement, not all of PALMco customers will be re-rated, correct.

A. I believe it's only a certain time frame category.

Q. Remind me, PALMco has been serving Ohio customers since for ten years; is that you stated?

A. No, I did not say that.

Q. How long has PALMco been operating in Ohio?

A. I think maybe since 2012.

Q. Let's go back to the settlement. Do you have that in front of you again?

A. Yes.

Q. Go to page 2, please.

A. Okay.

Q. I want to go back to the sentence we were talking about. We talked about the first part of the sentence with regard to harm. And now I want to talk to you about the words "the potential for

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future customer harm." Do you see that?

A. Yes, I do.

Q. Can you tell me what was meant by that phrase?

A. I cannot tell you.

Q. And can you tell me how the settlement prevents possible potential future harm?

A. I unfortunately cannot tell you.

Q. Going to page 7 of the settlement. Its paragraph 3.9. Here, PALMco has agreed not to operate or PALMco's owners. So that's you and three siblings, correct?

A. That is correct.

Q. You four have agreed not to operate as an owner, director or partner for another certified retail or natural gas supplier in Ohio for five years; is that correct?

A. That is what the stipulation says, yes.

Q. And if we look at page 4 of the settlement, under paragraph 3.4, PALMco has agreed agree not to renew its Ohio certificate; is that correct?

A. Correct.

Q. And the certificates expire in, I believe it's March 2020, one of them, and February 2020,

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the other; is that correct?

A. That's correct.

Q. And prior to that date, you stated PALMco's going to continue to try to sell its Ohio business; is that correct?

A. I just want to make sure I understood you. It came through a little muffled. Prior to the non-renewal of the certificates, we're going to try to sell our business; is that what you said?

Q. Yes, your book of business or contracts.

A. That is correct.

Q. And just to clarify when we were talking about paragraph 7B a little bit ago, the amount of the forfeiture discuss on page 6 -- I think it's 7C, 7C of the settlement -- is also dependent upon the amount of sale of PALMco's Ohio book of business, correct?

A. That is correct.

Q. And if PALMco sells the book of business for less than \$800,000 there will be in forfeiture; is that correct?

A. That is correct.

Q. If PALMco cannot sell its Ohio book of business, then there will be no refund to the

1 ROBERT PALMESE

2 customers in paragraph 7A, correct?

3 A. I believe that is correct.

4 Q. Under the settlement, PALMco cannot market
5 or enroll new customers in Ohio, correct?

6 A. That is correct.

7 Q. But current customers that you have, they
8 may renew their current contracts with PALMco,
9 correct?

10 A. Correct.

11 Q. How many current customers do you have?

12 A. I think about 11,000 combined between
13 electricity and gas.

14 Q. Before PALMco's current Ohio customers
15 decide whether to renew their contracts, their
16 current contracts, does the settlement require
17 PALMco to notify those customers that it is exiting
18 Ohio in 2020?

19 A. I don't believe we have to make any
20 notification until a sale comes about.

21 Q. Isn't it true that the rates that the
22 PALMco charges those current customers are not
23 capped or limited in any way?

24 A. It depends what product they are on,
25 whether it be variable or fixed.

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2 Q. Well, the settlement does not restrain a
3 fixed price or variable price for those who are
4 renewing contracts, correct?

5 A. You said does not restrain?

6 Q. Yes.

7 A. Correct, the customer can renew whichever
8 option they like.

9 Q. I mean the settlement doesn't state that
10 your fixed price contracts cannot exceed the
11 standard server or cannot go above the standard
12 server by 100 percent, correct?

13 A. I'm not totally following. But our renewal
14 notices follow the code as to what is required for
15 renewals.

16 Q. Right. But my question is: If somebody
17 got a variable price or their fixed priced ends and
18 they renew with the PALMco, there's nothing in the
19 settlement that states what that price can be or
20 somehow limit the price or rate you can charge the
21 customer, correct?

22 A. That is if they renew to a variable
23 product.

24 Q. Are your renewals and fixed priced
25 contracts only renewals for continuing the same

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2 fixed price or could they be renewed to a different
3 fixed product?

4 A. It would be a different fixed price.

5 Q. So the settlement also does not restrain or
6 constrain or limit the rate that you are allowed to
7 charge for the renewal of a new product, correct?

8 A. Correct.

9 Q. During the October 2018 to April 2019
10 period that's discussed in the settlement in this
11 case, did PALMco use one variable rates for all of
12 the variable rate natural gas customers or did you
13 have multiple variable rates?

14 A. For the same time period or for the entire
15 time period?

16 Q. For October 2018 to April 2019.

17 A. The variable rate changed.

18 Q. And you're saying that because your
19 variable rate changes monthly, correct?

20 A. That is correct.

21 Q. Let's take the same month, October 2018,
22 would all of your customer been charged the same
23 variable rate or did you have multiple variable
24 rates and products for different customers?

25 A. Well, it depends upon the weight and

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2 averaging. So you know, the customers would be
3 getting all different blended types of rates based
4 upon what rate changes from one to the next and
5 what the time frame is. So it's not an easily
6 answerable question.

7 Q. Fair enough. Is it fair to say you have
8 multiple variable rates in the market?

9 A. Yes.

10 Q. And PALMco did have monthly variable rate
11 contracts in existence before October 1, 2018,
12 correct?

13 A. That is correct.

14 Q. PALMco has hired several third-party
15 contractors to market its natural gas and electric
16 services and enroll customers in Ohio, correct?

17 A. Yes.

18 Q. Does PALMco periodically add third-party
19 contractors for compliance with Commission rules?

20 A. I mean, we -- I don't know if the audit is
21 proper, but we definitely train and retrain.

22 Q. How does PALMco monitor the third-party
23 contractors then; just from training materials or
24 something else?

25 A. We have a channel manager. We also have

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2 our operations team as well as our QA process,
3 which is the processing of a new sale and its
4 qualify, and then we have our compliance
5 departments as well.

6 Q. So what do they do to monitor the
7 third-party contractors?

8 A. The QA team would process the sale in their
9 work. If they find an issue, they would notify
10 both compliance and the channel manager. And the
11 channel manager or compliance team would notify the
12 vendor. And whatever action would be taken would
13 be taken. If we saw some sort of pattern, then
14 that person would deactivated from selling until we
15 could come to a resolution as to what the issue is.

16 Q. How do you ensure that the third-party
17 contractor comply with the Commission rules; do you
18 request documentation that they obtain?

19 A. Well, our channel manager would visit the
20 vendors and make sure that they're doing things by
21 the rules that are set forth.

22 Q. Just by random sampling or some kind of
23 process that you have in place?

24 A. Our channel manager would visit and spend
25 one, two or more days, and you know, our sales

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2 processing and our, you know, compliance team would
3 do their job and follow up with a customers, if
4 need be, to ensure that the sale is done
5 compliantly.

6 Q. So I think I'm hearing you say that during
7 the process of processing sales if a team member
8 notices something of concern then that's when they
9 elevate it. You don't have any kind of regular
10 audit or samplings put in place; is that fair?

11 A. Well, no. Our channel manager would -- so
12 I guess my channel manager does do what you're
13 calling an audit, but we sample every agent's sales
14 that are made every day.

15 Q. And you have one channel manager?

16 A. One channel manager, yes.

17 Q. Who is that?

18 A. It was Steve Schetz (phonetic).

19 Q. And Steve has a different role?

20 A. Steve is now director, yes.

21 Q. So who is a the current channel manager?

22 A. We are looking to fill the void.

23 Q. Does PALMco have access to third-party
24 verification recordings maintained by contractors
25 or documents maintained by contractors?

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2 A. I don't know what you mean by documents,
3 but we have do have access to third-party
4 verifications.

5 Q. Well, door-to-door solicitations require
6 contracts and they also require acknowledgment form
7 for gas. So do you have access to those?

8 A. Yes, with have access to.

9 Q. So third-party verifier maintain those
10 records?

11 A. The third-party verifier do not maintain
12 those records. The third-party verifier only
13 maintain their third-party verification.

14 Q. I'm sorry, I misspoke. The third-party
15 vendors maintain their either, I guess it would
16 telephonic sales, you have sale recordings, or if
17 it's door-to-door, you have acknowledgment form and
18 signed contracts, correct?

19 A. They we have access to them? I'm sorry, I
20 lost track of what you spoke.

21 Q. Sure. I was asking who maintains those
22 records?

23 A. So we do.

24 Q. The vendors sends them to you and PALMco
25 maintains on PALMco's site?

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2 A. They might be stored electronically. So
3 they might be in the Cloud somewhere.

4 Q. Does PALMco have to request recordings and
5 documentation from the vendor or you have access
6 for that request?

7 A. I believe it depends on the vendor.

8 Q. Does PALMco have any of its own employees
9 that natural gas or service to Ohio?

10 A. No.

11 Q. Let's go to the staff report. And I have
12 marked the staff report Exhibit 3. If you go to
13 page 7, please. In the second bullet on the page
14 7, there is an instance where the customer was told
15 that PALMco shop the market to get the customer
16 best rate available at the time; do you see that?

17 A. Yes.

18 Q. How does PALMco determine what the best
19 rate available is?

20 A. Well, I don't believe that is an approved
21 statement. And our scripts were approved by our
22 former regulatory counsel and our former chief. So
23 I'm going to have to assume that that was not part
24 of the script.

25 Q. So that's not a true statement that PALMco

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2 would tell customers that they go look for the best
3 available rate?

4 A. I mean, that's our intent, but that's not
5 -- I don't believe that's part of the script.

6 Q. So if your intent is to get the best
7 available rate for your customer, how would that be
8 determined?

9 A. How would the best rate be determined?

10 Q. Yes. What would you do; would you look at
11 the apples to apples chart; would you look at
12 nationwide pricing; would you like at Ohio pricing?

13 A. I mean we would certainly get the best rate
14 we would get and that would be going to our
15 suppliers and seeing what they offer us and
16 calculating the price and factors all items that in
17 our pricing language and come up with a number.

18 Q. So it wouldn't necessarily be the best rate
19 available in the market, it's what PALMco deems is
20 the best rate available to PALMco?

21 A. That sounds more like it, yes.

22 Q. In the third bulleted paragraph on page 8
23 of the staff report, the Commission staff found
24 that a customer was charged \$17.36 in the MCS while
25 the utilities rate was about \$3.00 in the MCS; is

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that a fair summary of that third bulleted point?

A. I mean, it's comparing what we charge versus the utility.

Q. So PALMco at times or at least in the March statement charge customers six times the default rate; is that accurate?

A. In this example, but it's a little under six times.

Q. And that is typical for PALMco?

A. Well, we don't price our variable products or even our fixed products against what the utility is.

Q. So you're not disputing that the \$17.36 MCF was actually charge to a customer, correct?

A. I mean, I can't say if it was or wasn't because I don't have any information other than a staff report in front of me. If this was pulled directly from a customer bill, then they must've gotten charged that rate.

Q. Look at the end of the first paragraph on page 9 of the staff report. Staff says it was told by PALMco that it had made a business decision to increase variable rates to makeup the lower than expected financial in 2018. Do you see that?

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1
2 A. Where are you looking again?

3 Q. It's the last sentence in -- it's the --
4 it's not a first full paragraph, but the first
5 paragraph at the top, the last sentence of that,
6 page 9.

7 A. I see that.

8 Q. And this is the statement that you
9 disagreed with earlier. You don't believe that
10 this was stated to staff; is that correct?

11 A. What I said was, I don't believe that
12 Briana's statement was properly explained to staff;
13 it was not fully expounded on. But I believe that
14 that is what she told staff.

15 Q. Let's turn to page 15 of the staff report.
16 The second full paragraph of page 15 of staff
17 report discusses an investigation into PALMco's
18 marketing practices in Connecticut, correct?

19 A. That is what this says, yes.

20 Q. Were you involved in the settlement
21 negotiations in the Connecticut investigation?

22 A. To a limited degree.

23 Q. As part of that settlement, PALMco agreed
24 to not do business in Connecticut and pay a
25 \$5 million forfeiture, correct?

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1
2 A. It doesn't say a \$5 million forfeiture but
3 a \$5 million payment.

4 Q. A \$5 million payment to the State of
5 Connecticut?

6 A. That's what this says, yes.

7 Q. Was payment of that \$5 million payment
8 contingent on PALMco selling its Connecticut book
9 of business?

10 A. No.

11 Q. The second paragraph of page 16 of the
12 staff report discusses a lawsuit filed by the State
13 of Illinois against PALMco regarding PALMco's
14 marketing practices; is that correct?

15 A. What paragraph?

16 Q. Second paragraph of 16. It's underneath
17 the quote --

18 A. What's your question?

19 Q. Well, do you see that in the staff report?

20 A. I'm on that paragraph, yes.

21 Q. And are you familiar with the lawsuit that
22 occurred in Illinois?

23 A. I am familiar, yes.

24 Q. As a result of that lawsuit, PALMco paid
25 almost \$1 million in restitution to customers; is

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2 that accurate?

3 A. Yes.

4 Q. Was payment of any of the \$1 million
5 contingent upon selling any or all of its book of
6 business?

7 A. That wasn't an issue because it was not a
8 commission matter and our license was not in
9 discussion.

10 Q. So the answer is no, it wasn't contingent
11 on anything such as selling your book of business?

12 A. To shorten it as you said, correct.

13 Q. Over what period of time do you believe
14 this settlement states that PALMco agreed not to
15 renew its CRS or CRNGS certificates in Ohio,
16 C-R-E-S or C-R-N-G-S certificate in the State of
17 Ohio?

18 A. The question is for how long will we not
19 try to get a license?

20 Q. Yes. How long per settlement, over what
21 period of time has PALMco agreed not to renew
22 PALMco's electric and gas certificates in the State
23 of Ohio?

24 A. I believe it says five years from the date
25 of this document.

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2 Q. And you're attaching to PALMco's
3 certificate renewal the same five years that
4 discussed in the settlement regarding the officers
5 or owners or partners of PALMco?

6 A. Sorry, I didn't follow the question. Can
7 you please repeat?

8 Q. Look at page -- tell me what you believe --
9 we'll do it this way. Tell me you believe the
10 settlement states that PALMco has agreed not to
11 renew its competitive certificates in Ohio for a
12 five-year period?

13 A. Where is the section I should be looking?

14 Q. Well, I'm asking where you believe the
15 settlement says that. But I did point you to
16 paragraph 9 on page 7. I'm asking about the
17 language you're relying upon for your statement.

18 A. You said page 7?

19 Q. Of the stipulation, paragraph 3.9.

20 A. This is the information that I'm referring
21 to, yes.

22 Q. Are you familiar with the competitive
23 retail electric service and competitive retail gas
24 service rules and minimum standards in Ohio?

25 A. Not intimately, no.

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2 Q. You are familiar that PALMco has to be
3 certified as we've been discussing correct?

4 A. That is correct.

5 Q. And I found the date. I believe that that
6 for gas PALMco has been certified since March 8,
7 2010 and electric would be March 10, 2010; does
8 that sound accurate?

9 A. Sounds accurate.

10 Q. Did you or would you have prepared any of
11 the certification or renewal applications for
12 PALMco?

13 A. I don't recollect if I did or my counsel
14 did.

15 Q. You would have a part in the gathering of
16 documents in that submittal, correct?

17 A. Myself or my team supplied the information
18 that was necessary in order to have counsel create
19 the document to submit.

20 Q. So would you say you're familiar with the
21 most recent renewal filings that were made in
22 January 2018?

23 A. Not really, no.

24 Q. Are you aware that in 2018 PALMco filed
25 seven notices of material changes to their

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2 application?

3 A. No.

4 Q. Would you -- well, I think you recognize
5 during the deposition today that there has been
6 several changes to your management team officers
7 and regulatory contacts?

8 A. I can't recollect how many times people may
9 have changed. I'm sorry.

10 Q. But you would agree with me there has been
11 several change in your company's employees since
12 January 2018, correct?

13 A. I honestly can't recollect that far back,
14 so I can't, no.

15 Q. You told me you had some recent hires and
16 about three of your current management team for the
17 PALMco company all began in the spring of 2019,
18 correct?

19 A. Spring of '19, yes.

20 Q. So that would have been after January of
21 2018, correct?

22 A. Yes.

23 Q. You are familiar with the -- before we go
24 there. PALMco sells its receivables to Duke Energy
25 Ohio for both gas and electric, correct?

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2 A. We are in the PR program, yes.

3 Q. And also for Dominion, Faster (phonetic),
4 and Columbia?

5 A. That is correct.

6 Q. Do you know how much monthly revenue PALMco
7 receives from the purchase of receivables?

8 A. No, I do not.

9 Q. If we could look at Exhibits 4 and 5.

10 These are the Exhibits C3s that were attached to
11 the your certification applications that you filed
12 with the Commission and were produced in response
13 RPD-2-12 and RPD-2-13. Do you have them?

14 A. Yes.

15 Q. I believe -- to shortcut this a little bit,
16 these are the same; is that right? You have filed
17 you filed consolidated financial's, so the
18 financial's you would file for both the electric
19 supplier and gas supplier would be the same,
20 correct?

21 A. That's correct.

22 Q. And you would agree or you recommended
23 these files with the certificate application?

24 A. That is correct.

25 Q. The 2016 combined financial's for Columbia

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2 Utilities, LLC and PALMco, LLC, these combined
3 financial's applied to 26 entities; is that correct?

4 A. I believe so.

5 Q. And the combined companies in 2016 made
6 \$10.2 million; is that correct?

7 A. I think so. I'm not at that page, but if
8 that's what you're looking at, yes.

9 Q. In 2018, PALMco Power Ohio projected to
10 make almost \$800,000, correct?

11 A. Are you looking at the same income
12 statement?

13 Q. Yes.

14 MR. WITT: Kim, are you on Exhibit
15 4 or 5?

16 MS. BOJKO: They're identical,
17 Mark.

18 Q. PALMco Power for the electric supplier in
19 Ohio projected to make almost \$800,000 in 2018,
20 correct?

21 A. We're still working our way there.

22 MS. BOJKO: I take that back, Mark;
23 they are not the same. Exhibit 4 is PALMco
24 Energy Ohio and Exhibit 5 is PALMco Power.
25 The consolidated financial's in the

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2 beginning are the same documents, but the
3 forecast, they are different for the
4 different suppliers. My apologies.

5 MR. WITT: We're still scrolling
6 through Exhibit 4.

7 MS. BOJKO: Let me restate my
8 question.

9 Q. Per Exhibit 4, the last page, page 74, in
10 2019 PALMco Energy Ohio forecasted net income of
11 \$129,768, correct?

12 A. Yes.

13 Q. So now let's go to Exhibit 5, which was my
14 prior question. For PALMco Power Ohio, in 2019
15 PALMco Power projected a profit of about \$1.9
16 million; is that correct?

17 A. That is what the forecast states, yes.

18 Q. If you look underneath revenue column up at
19 the top, the second line, it says, "Less discounts
20 and allowances." Do you see that?

21 A. Yes.

22 Q. What does that mean?

23 A. It's generally for anything that would
24 subtract from the revenue. So it could be customer
25 discounts or anything of that nature.

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2 Q. And what do you mean a "customer discount";
3 are you talking about a rate discount, are you
4 talking about some kinds of payment to a customer?

5 A. It would be probably be a credit or
6 something of that nature to the customer after the
7 bill was generated.

8 Q. And look at the prior page, for 2018 PALMco
9 Power was forecasted net income almost \$800,000; is
10 that correct?

11 A. That's what the forecast says, yes.

12 Q. I am done with those two exhibits. If you
13 can turn now to Exhibit 8. Do you have Exhibit 8
14 in front of you?

15 A. Yes.

16 Q. Exhibit 8 is from Keena Joseph; is that
17 correct?

18 A. Yes.

19 Q. If you look into -- and you said Keena is
20 on your management team, she is one of your VPs; is
21 that correct?

22 A. That is correct.

23 Q. Are you familiar with the complaint process
24 of the Commission?

25 A. To some degree.

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1
2 Q. If you turn to the second page, there is a
3 document that's titled a Public Utilities
4 Commission. And it says the Public Utilities
5 Commission of Ohio Consumer Services Division
6 Memorandum?

7 A. Yes.

8 Q. Is this how PALMco -- is this a form that
9 the Commission would fill out and send to PALMco
10 with a customer complaint?

11 A. It appears that way.

12 Q. And you seen these types of customer
13 complaints and forms before?

14 A. In very limited numbers, yes.

15 Q. And then the form -- would the complain get
16 sent to you and then somebody from PALMco, like
17 Keena Joseph or Briana Ashiotes would respond to
18 the Commission complaint, customer complaint with a
19 response?

20 A. Well, it wouldn't come to me. I assume you
21 meant "you," you meant the company?

22 Q. Yes.

23 A. Correct. We would get it and respond and
24 contact the customer as well.

25 Q. And you would provide refunds or re-rates

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2 to the customer through this e-mail process?

3 A. Well, it depends on what is the complaint
4 and what would make the customer satisfied
5 depending upon what we could do.

6 Q. So in this instance, it looks like you had
7 already given the customer a credit of \$50.00 and
8 presumably they complained to PALMco, correct?

9 A. That's what is on the chart.

10 Q. And then this chart demonstrate the
11 customer is receiving a re-rate and through that
12 re-rate they are getting an additional amount of
13 the \$82.25, correct?

14 A. That's what the chart says, yes.

15 Q. And this is a re-rate for the billing cycle
16 of March 5, 2019 to April 3, 2019?

17 A. That is what's here, yes.

18 Q. In this re-rate calculation, the customer
19 is getting a total adjustment of \$132.25?

20 A. That's what's here, yes.

21 Q. And this also demonstrates that it was
22 based on at billed usage by the customer; is that
23 fair?

24 A. Billed usage, yes.

25 Q. Who is Lee Gary?

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2 A. Who?

3 Q. I'm sorry, Bill Schaffe, William Schaffe
4 (phonetic)? Is he a PALMco employee?

5 A. William Schaffe was a former member of our
6 compliance team.

7 Q. He is no longer with the company?

8 A. That is correct.

9 Q. And as a member of the compliance team,
10 would he had receive complaints from the Commission
11 and responded in a similar way?

12 A. Well, I don't know if Will got it because
13 he was a member of the team and I assume that our
14 compliance officer and our assistant compliance
15 officer would have gotten the complaint probably
16 distributed them out to be handled.

17 Q. So if you look at Exhibit 9, this appears
18 to be such a compliant that William Schaffe did
19 respond to; is that correct?

20 A. Yes.

21 Q. So this is him responding to a complaint
22 from the customer?

23 A. Yes, that's correct.

24 Q. And this is a demonstration of Indra or
25 PALMco responding to the staff that they have

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2 reviewed the account and they've agreed to re-rate
3 the customers last two bills for a total adjustment
4 of \$562.35?

5 A. I don't know if that is the company method
6 or policy, but that's what occurred here in this
7 e-mail.

8 Q. And you have given the authority to the
9 compliance officers to do these kind of price and
10 refunds on PALMco's behalf?

11 A. The compliance department was under the
12 supervision under Briana previously so she gave
13 them whatever authority that they had been doing.

14 Q. Let's turn to Exhibit 10. Exhibit 10 is a
15 document entitled Indra Energy Rewards. It's
16 responsive to OCC RPD-4-19; is that correct?

17 A. Yes.

18 Q. Can you tell me about the Indra energy
19 reward program?

20 A. I really don't know the details of it. But
21 I do know that customers get points for their
22 energy they use and that then gets applied to their
23 accounts, so to speak and they could get whatever
24 items are in the program or listed on this sheet as
25 a reward for using the energy.

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2 Q. So are the rewards pertinent to cash or do
3 the customers get discounts on the product?

4 A. I do not know.

5 Q. Is that the extent of your knowledge about
6 the rewards program?

7 A. Yeah. I got to high level and I left it up
8 to my chief's sale officer and regulatory corporate
9 counsel and to, you know, enact, if it was kosher,
10 for lack of a better word.

11 Q. And I'm sorry, who created the program?

12 A. I don't know who created it, but I know my
13 chief sales officer told me that he found the
14 program and wanted to implement it.

15 Q. When did PALMco start or began to using
16 Indra Energy name?

17 A. I believe it was October of 2018 was when
18 we rolled it out, but it was a process that took a
19 couple of months for it to actually make its way
20 through all the different utilities and
21 commissions.

22 Q. So is Indra now used nationwide or just in
23 Ohio?

24 A. Everywhere with the exception of New York.
25 I'm sorry, can I ask for a restroom break for two

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2 minutes?

3 Q. You may. Of course.

4 A. I'll be right back. Thank you.

5 (Whereupon, a recess was taken at
6 this time.)

7 Q. Before the break we were talking about
8 Indra Energy and you stated that there was a
9 nationwide except for New York change in name in
10 October of 2018. Why did PALMco decide to make
11 that name change?

12 A. Well, we wanted to have a name that was, I
13 guess, more like our competitors whereas PALMco is
14 a variation of our last name with co after it and
15 it sounds a little corporate. So we wanted
16 something that sounded more in line with the
17 competition which is more odd names.

18 Q. Is Indra Energy is the name for both the
19 electric competitor supplier and the natural gas
20 competitor supplier; is that correct?

21 A. That's correct.

22 Q. You're no longer using the power
23 distinction; is that correct?

24 A. Well, the legal names don't disappear so
25 the Indra Energy is just a d/b/a name.

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2 Q. Right. The same d/b/a name for the
3 electric supplier as the gas supplier?

4 A. Correct.

5 MS. BOJKO: I have no further
6 questions. Thank you for your time,
7 Mr. Palmese.

8 THE WITNESS: My pleasure. Thank
9 you for accommodating me over the phone.

10 (Time Noted: 3:55 p.m.)

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A C K N O W L E D G E M E N T
BEFORE THE PUBLIC UTILITIES
COMMISSION OF OHIO

I, ROBERT PALMESE, hereby certify
that I have read the transcript of my
testimony taken under oath in my
deposition of October 10, 2019; that
the transcript is a true, complete and
correct record of what was asked,
answered and said during this
deposition, and that the answers on the
record as given by me are true and
correct.

ROBERT PALMESE

Subscribed and sworn to
before me this ____ day
of _____, 2019.

NOTARY PUBLIC

C E R T I F I C A T E
STATE OF NEW YORK)

s s :

COUNTY OF KINGS)

I, STEPHANIE CATALANO, a
Shorthand Reporter and Notary Public in
and for the State of New York, do hereby
certify:

That the testimony of ROBERT PALMESE
was held before me at the aforesaid time
and place. That said witness was duly
sworn before the commencement of the
testimony and that the testimony was taken
stenographically by me and is a true and
accurate transcription of my stenographic
notes.

I further certify that I am not
related to any of the parties to the
action by blood or marriage and that I am
in no way interested in the outcome of
this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 28th day of October, 19.

Stephanie Catalano



STEPHANIE CATALANO

E R R A T A S H E E T

DEPOSITION OF: ROBERT PALMESE

RE: PALMco ENERGY

DATE TAKEN: OCTOBER 10, 2019

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ROBERT PALMESE

Subscribed and sworn to

before me this ____ day

of _____, 2019.

NOTARY PUBLIC

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