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MC GINNIS & ASSOCIATES, INC.
COLUMBUS, OHIO (614) 431-1344

1 PUBLIC UTILITIES COMMISSION
2 STATE OF OHIO
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4 In the Matter of the) Case Nos. 99-1658-EL-ETP
5 Application of the Cincinnati) 99-1659-EL-ATA
6 Gas & Electric Company for) 99-1660-EL-ATA
7 Approval of its Transition) 99-1661-EL-AAM
8 Plan and For Authority to) 99-1662-EL-AAM
9 Collect Transition Revenues,) 99-1663-EL-UNC
10 et al.,)

11 Deposition of J. Bertram Solomon, a witness herein,
12 called by Cinergy Corp. for cross-examination under the statute,
13 taken before us, Valerie J. Grubaugh, Registered Merit Reporter,
14 Certified Realtime Reporter, and Deborah J. Holmberg, Registered
15 Merit Reporter, and Notaries Public in and for the State of
16 Ohio, pursuant to notice and stipulations of counsel hereinafter
17 set forth, at the offices of Thompson, Hine & Flory, One
18 Columbus, 10 West Broad Street, Columbus, Ohio, on Friday, May
19 26, 2000, beginning at 9:10 o'clock a.m. and concluding on the
20 same day.
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13 ON BEHALF OF BUCKEYE POWER, INC. AND OHIO RURAL ELECTRIC
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1 S T I P U L A T I O N S

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3 It is stipulated by and among counsel for the
4 respective parties herein that the deposition of J. Bertram
5 Solomon, a witness herein, called by the Cinergy Corp. for
6 cross-examination under the statute, may be taken at this time
7 and reduced to writing in stenotype by the Notaries, whose notes
8 may thereafter be transcribed out of the presence of the
9 witness; that proof of the official character and qualification
10 of the Notaries are waived; that the witness may sign the
11 transcript of his deposition before a Notary other than the
12 Notaries taking his deposition; said deposition to have the same
13 force and effect as though the witness had signed the transcript
14 of his deposition before the Notaries taking it.

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1 J. BERTRAM SOLOMON

2 of lawful age, being first duly placed under oath, as prescribed
3 by law, was examined and testified as follows:

4 CROSS-EXAMINATION

5 BY MR. FINNIGAN:

6 Q. Good morning, Mr. Solomon.

7 A. Good morning.

8 Q. My name is John Finnigan. I'm an attorney employed by
9 Cinergy Service, that's an affiliate of Cincinnati Gas &
10 Electric Company, and we're here today to take your deposition
11 in connection with the Cincinnati Gas & Electric transition plan
12 filing and the hearing that's scheduled to begin next Tuesday.

13 Sir, I take it from reviewing your qualifications that
14 you have prepared testimony in many different regulatory
15 proceedings.

16 A. That's correct.

17 Q. I assume you've probably been deposed many times
18 before.

19 A. I have been deposed before, yes.

20 Q. What's your best estimate of how many times you've
21 given a deposition like we're doing here today?

22 A. Well, actually, I haven't been deposed all that often.
23 For the most part, I have either just appeared at hearings -- to
24 present testimony at hearings, so I would guess that I've been
25 deposed in a setting like this probably five times, four or five

1 times.

2 Q. What's your best estimate of how many times you've
3 given testimony at a hearing?

4 A. Oh, probably 35 or 40 times.

5 Q. Okay. Do you understand that my purpose here today is
6 the same purpose as attorneys who have cross-examined you at
7 hearings, that is, to explore your opinions that you've offered
8 in your direct testimony and ask you questions about those
9 opinions.

10 A. Yes.

11 Q. Sir, as we proceed through your deposition this
12 morning, let me just mention, if you want to take a break at any
13 time, just let me know and we'll be happy to do that.

14 A. Thank you.

15 Q. And one thing I would ask from you is that as we're
16 going through this process, if there's any point in time where
17 you do not understand one of the questions that I ask you, just
18 mention that and I'll be happy to either withdraw the question
19 or rephrase it in a manner that's understandable. Is that fair
20 enough?

21 A. Yes, sir.

22 Q. And, by the same token, if you answer one of my
23 questions, I'll assume that you understood what I meant by the
24 question. Is that fair?

25 A. That is fair.

1 Q. Sir, I take it that you're not under the influence of
2 any kind of medication this morning that would impact your
3 testimony in any way?

4 A. No, I am not.

5 Q. Mr. Solomon, I have received from Scott Campbell a
6 copy of your direct testimony in this case that's dated May
7 24th.

8 Did you prepare this testimony with Mr. Campbell or
9 other attorneys at his office?

10 A. I think the answer to that question is yes. If I
11 understand what you're asking is, did I -- You're not asking me
12 if I prepared it here in this office.

13 Q. No. No.

14 A. You're asking me if I prepared it in consultation with
15 Mr. Campbell or others who are employed at Thompson, Hine &
16 Flory.

17 Q. Yes, sir. That's right.

18 A. The answer is yes.

19 Q. Have you had an opportunity to review your direct
20 testimony?

21 A. Yes.

22 Q. Does your direct testimony completely and accurately
23 set forth the opinions that you intend to offer in this case?

24 A. I believe it does, unless there are questions that are
25 asked that would elicit opinions on -- that -- that perhaps

1 might be different than those, or -- or in different areas than
2 those.

3 Q. But certainly, the main focus of your testimony was to
4 address the issue of whether CG&E's transition plan filing
5 complies with the requirements of Senate Bill 3 and the Public
6 Utilities Commission of Ohio rules?

7 A. Yes, that is correct.

8 Q. Have you set forth in your direct testimony all the
9 opinions relative to that issue, to the best of your knowledge?

10 A. Yes. Again, on the -- the basis of the questions that
11 I -- are put forth in that testimony. Again, I -- there might
12 be questions that you might ask or others might ask that might
13 elicit opinions on other aspects of the filing that I have
14 addressed.

15 I've mainly addressed the issue of rate pancaking
16 and the independent Part G of the transition plan, which is
17 related to the independent transmission plan of the company.

18 Q. I take it that one of your intentions in preparing
19 this direct testimony was to list the reasons why CG&E's filing
20 does not comply with Senate Bill 3 and the Commission rules in
21 the area of its independent transmission plan?

22 A. Yes.

23 Q. To your knowledge, have you listed all the reasons
24 you're aware of why you feel that CG&E's transition plan filing
25 doesn't comply with Senate Bill 3 and the Commission rules in

1 your direct testimony?

2 A. Yes, with the possible exception that I'm -- I didn't
3 really discuss -- I might have touched on in a very, very minor
4 way. I am concerned that -- that the company's plan would not
5 meet the legislative requirement for qualifying as an
6 independent transmission entity in that it -- it doesn't appear
7 likely to substantially increase the economical supply options
8 to customers in the state.

9 I -- I didn't spend, as I say, a great deal of time on
10 that. I know that Mr. Procario in his testimony, you know,
11 didn't -- said he didn't see the need to get into market
12 analysis and that he didn't think it was appropriate to put that
13 burden on the transmission company, and it appears to me that
14 while there may be -- there certainly appeared to be -- the
15 Midwest ISO does get approved finally and go forward in
16 operation, that in the CG&E area of the state economical supply
17 options should be increased because of the ISO; however, the
18 problem is that that doesn't affect the remainder of the state,
19 it only affects a small portion of the state.

20 Q. Is there some reason why you didn't address this in
21 the summary of conclusions that you offered in your direct
22 testimony?

23 A. Well, yeah. Again, Mr. Procario just touched on it
24 very, very lightly and I think I did touch on it very, very
25 lightly in maybe one -- one statement or so, but I didn't -- I

1 didn't expound upon that anymore.

2 Q. Is that because you feel that that was not really one
3 of the significant issues with respect to CG&E's transition plan
4 filing, that in your mind the more significant issues were the
5 matters that you discussed at more length in your testimony,
6 that is, the failure to minimize pancaking of rates and the
7 issue of independent operation of transmission facilities?

8 A. I do think those are more significant; however, I
9 do -- I wouldn't take lightly the -- the requirement that is in
10 the Act, Senate Bill 3, that a qualifying transmission entity
11 actually substantially increase economical supply options.

12 Q. Why didn't you discuss that at more length in your
13 testimony?

14 A. As I just said, I thought the other issues bore more
15 discussion, and actually, the -- the thrust of my discussion in
16 large part is that -- is related to the fact that CG&E and,
17 therefore, the Midwest ISO, only touches a small part of the
18 state and doesn't really cover any of the utilities in Ohio,
19 and, therefore, actually doesn't cover the vast majority of the
20 state, so the point, I think, generally has been made, and the
21 underlying rationale would be essentially the same, and so
22 that's another reason why I didn't -- didn't spend a lot of time
23 on it in my testimony.

24 Q. Well, in any event, would it be fair to say that in
25 your testimony you list certain recommended actions that you

1 feel that CG&E should take to address certain deficiencies in
2 its transition plan filing?

3 A. Yes.

4 Q. Those recommended actions involve the transmission
5 owners in Ohio coming together in one transmission entity; is
6 one recommended action?

7 A. Yes.

8 Q. You discuss -- Another recommended action you discuss
9 is providing for reciprocity among the different transmission
10 owners in Ohio in terms of their transmission rates.

11 A. Reciprocity, as well as clear definitive coordination
12 agreements that would address one-stop shopping and some of the
13 reliability issues that deal with the congestion that interfaces
14 among RTOs or utilities in the state, yes.

15 Q. Do you have an opinion as to whether, if either one of
16 those recommended actions were pursued, that that would address
17 your concern about providing economical supply options within
18 the State of Ohio?

19 A. Yes, I think either or both of those would.

20 Q. Have you had an opportunity to review CG&E's
21 independent transmission plan that it filed as part of its
22 transition plan filing in December of 1999?

23 A. Yes.

24 Q. Have you also had an -- I'm sorry.

25 MR. FINNIGAN: Let's go off the record.

1 (Discussion held off the record.)

2 MR. FINNIGAN: Let's go back on the record, and could
3 you read back the last question and answer, please?

4 (Record read back as requested.)

5 BY MR. FINNIGAN:

6 Q. Did you also have an opportunity to review the
7 stipulation of settlement of CG&E's independent transmission
8 plan?

9 A. Yes.

10 Q. Are you aware that one of the commitments that CG&E
11 made in the settlement of its independent transmission plan is
12 that it would attempt or pursue actions to try to bring the
13 transmission owners within the State of Ohio into one
14 transmission entity?

15 A. Yes, and I discuss that in my testimony.

16 Q. Okay. Do you have an opinion as to whether, if CG&E
17 were successful in achieving that objective, that that would
18 comply with the requirements of Senate Bill 3 and the Commission
19 rules?

20 A. You'll have to define what you mean by "successful".

21 Q. By "successful", I mean that if CG&E were able to
22 achieve its objective of having the transmission owners within
23 the State of Ohio organized within one regional transmission
24 organization that meets the requirements under FERC and the
25 Public Utilities Commission of Ohio rules for being a qualified

1 transmission entity.

2 A. Yes.

3 Q. Okay. Mr. Solomon, I reviewed the summary of your
4 opinions at Page -- beginning at Page 6 of your direct
5 testimony, and I note that one of the opinions that you've
6 provided is that CG&E's independent transmission plan is
7 deficient because it does not provide for independent operation
8 of transmission facilities by 1-1-2001, and have I correctly
9 summarized one of your opinions in this matter?

10 A. Yes.

11 Q. Now, you're aware, I'm sure, that CG&E has joined the
12 Midwest ISO?

13 A. Yes.

14 Q. Do you have an opinion as to whether, after the
15 Midwest ISO becomes operational, that it would -- that CG&E
16 would then satisfy the requirement that it provides for
17 independent operation of transmission facilities?

18 A. Your question is restricted to the independent
19 operations of transmission facilities?

20 Q. Yes, sir.

21 A. As I understand it, the answer would be yes.

22 Q. So your opinion is not so much that CG&E hasn't made
23 any provision for independent operation of transmission
24 facilities, your -- your opinion in this area is more directed
25 towards the timing of when that's scheduled to occur?

1 A. No. I would agree that the company has -- has made --
2 in joining the Midwest ISO, if it ultimately becomes
3 operational, I would agree that -- that it would meet the
4 independence requirements of the Act and of the Commission's
5 regulations.

6 What I -- What I have a problem with is that it
7 doesn't meet all nine of the requirements to be a qualifying
8 transmission entity under the Act and the Commission's
9 regulations, and I address that at some length in my testimony.

10 Q. The one that stood out to me in reviewing your
11 testimony was the requirement to minimize pancake rates. Is
12 that one of the nine areas --

13 A. Yes.

14 Q. -- that you feel that --

15 A. I'm sorry.

16 Q. -- that the Midwest ISO doesn't meet the requirements
17 of Senate Bill 3 of the Commission's rules?

18 A. Yes, primarily because it only extends to a very, very
19 small part of the state, CG&E being the only Midwest ISO member
20 that serves in Ohio.

21 Q. What are any of the other nine areas that you feel
22 that CG&E's membership in the Midwest ISO would not satisfy the
23 nine-part requirements for the independent transmission plan and
24 Senate Bill 3 and the Commission rules?

25 A. We've already talked a little bit about the

1 requirement that the transmission entity significantly increase
2 economical supply options within the state.

3 The other primary one would be I don't think it would
4 significantly improve reliability in the state, again, in that
5 it only covers a small part of the state. It won't address
6 issues of reliability improvement in the vast majority of the
7 state.

8 Q. Are those all the areas that you feel that CG&E's
9 independent transmission plan does not satisfy the nine-part
10 requirement for a qualifying transmission entity under Senate
11 Bill 3 and the Commission rules?

12 (Pause.)

13 A. Yes.

14 Q. Now, I'd like to direct your attention to Page 6 of
15 your testimony and, in particular, please direct your attention
16 to the last question at the bottom of Page 6 and your answer
17 that continues on through Page 7 and following.

18 Now, you discuss in that answer that one of the
19 deficiencies in CG&E's independent transmission plan is that it
20 hasn't provided an adequate proposal to provide for independent
21 operation of transmission facilities as of January 1, 2001; is
22 that correct?

23 A. Yes, that is one of the aspects.

24 Q. Now, is it your understanding that this requirement to
25 provide for independent operation of transmission facilities as

1 of January 1, 2001 is an absolute requirement, or on the other
2 hand whether the Commission has any discretion to extend that
3 time beyond January 1 of 2001?

4 A. The Commission has discretion to extend that beyond
5 January 1, 2001.

6 Q. And that's something that the Commission could approve
7 in CG&E's case if it has that discretion?

8 A. Yes, that's correct, if the Commission finds that the
9 company has met the burden of proof that would be required by
10 the Commission to grant that, that extension.

11 Q. And if the Commission would grant discretion to extend
12 the time beyond January 1, 2001, and if CG&E is in a -- an
13 independent transmission organization that is operational by
14 whatever date the Commission approves, then that would satisfy
15 the requirement of providing for independent operation of its
16 transmission facilities?

17 A. Yes.

18 Q. Do you know when the Midwest ISO is scheduled to be
19 operational?

20 A. Mr. Procaro says in his testimony sometime in the
21 year 2001.

22 Q. Do you have any reason to dispute that?

23 A. No.

24 Q. Okay. Do you have any estimate of when the Alliance
25 RTO is scheduled to be -- Strike that.

1 At this point the Alliance RTO has not received
2 regulatory approval; is that correct?

3 A. I would agree with that, but I would -- I would like
4 to qualify that by saying, as I recognize, I think in my
5 testimony, they have received an order, a December 20, 1999
6 order from the FERC, the language in which order said that --
7 that the FERC was conditionally approving the Alliance RTO.

8 There has -- Subsequently, there was a compliance
9 filing made by the Alliance companies, and the Commission just
10 recently ruled on that, I think May the 18th the order was
11 dated, and the Commission found that they would -- that it would
12 allow the ISO part of the Alliance proposal to go forward upon a
13 further compliance filing of the Alliance companies, making
14 certain changes in the governance and other areas of the
15 documents that would make the Alliance ISO operational.

16 So I would say they've gotten conditional approval,
17 but they don't have final approval.

18 Q. Can you characterize how close or -- or how far away
19 the Alliance is from receiving regulatory approval, if it's able
20 to receive regulatory approval at all?

21 A. Under the current state of affairs, I would say they
22 have quite a ways to go to get regulatory approval.

23 Q. Quite a ways to go would mean many, many months?

24 A. Yes.

25 Q. In fact, are you aware that one of the FERC

1 commissioners in discussing the FERC's ruling on the Alliance's
2 latest compliance filing described the status of their
3 compliance filing as woefully inadequate?

4 A. Yes.

5 Q. Do you agree with his characterization?

6 A. Yes.

7 Q. Now, let's talk about the status of the Midwest ISO as
8 far as its regulatory approval.

9 The Midwest ISO has received conditional regulatory
10 approval; is that correct?

11 A. Yes.

12 Q. And you discuss in your testimony that the -- the one
13 step that the Midwest ISO has yet to accomplish in terms of
14 getting regulatory approval is to make an explanatory filing
15 that was required as a result of the FERC Rule 2000 order?

16 A. Yes.

17 Q. Could you go into some -- some explanation -- or,
18 strike that.

19 Could you explain what this explanatory filing is
20 expected to consist of?

21 A. Yes. It -- I think in the case of the Midwest ISO it
22 would primarily be an explanation of the Midwest ISO's
23 consideration of scope and configuration that would be required
24 to meet the requirements of FERC Order 2000, and what the
25 Midwest ISO has done to meet the scope and configuration

1 requirements of Order 2000 and what it plans to do in order to
2 meet those requirements.

3 Q. Do you expect that the Midwest ISO is reasonably
4 expected to be able to make a compliance filing that would
5 satisfy these requirements?

6 A. Well, I interpret your question to be asking my view
7 of whether the FERC would approve the Midwest ISO as an RTO upon
8 it making such a filing, and I -- I have to answer I don't know.

9 Q. Let me ask it this way. The filing that the Midwest
10 ISO is required to provide is one that will explain the scope
11 and configuration of the Midwest ISO and will attempt to
12 demonstrate that its scope and configuration complies with the
13 FERC requirements for an independent transmission organization?

14 A. Yes.

15 Q. Do you feel that the present size and configuration of
16 the Midwest ISO is sufficient to satisfy the FERC requirements
17 for an independent transmission organization size and
18 configuration?

19 A. You're not going to like this, but the answer to that
20 question has to be yes and no from my perspective.

21 Q. I like the "yes" part.

22 A. I can't give you a yes or a no, and the reason I can't
23 is because, really, it relates -- First of all, in light of the
24 circumstances in the Midwest region, and in light of the
25 statements that the FERC has made, including the one that you

1 referred to a moment ago, addressing how far short of the mark
2 one commissioner thought the Alliance filing was, leads to me to
3 believe that as the Midwest ISO is currently configured might
4 not in the -- in the FERC's view meet its scope and
5 configuration requirements, primarily because it would leave --
6 One of the things the Commission said in its December 20th
7 Alliance order was that -- and, in fact, in its Order 2000, was
8 that a properly configured RTO would not disrupt existing
9 trading patterns and would not institute barriers or -- or add
10 additional charges that might act as a barrier to existing
11 trade.

12 And it explained that it was concerned that since the
13 Alliance companies basically go -- went north to south or
14 northwest to southeast in sort of a line between the Midwest ISO
15 utilities and the PJM and others in the northeast, and since
16 there are established trading patterns between the midwest and
17 the northeast, they would have to control the Alliance, and that
18 it was concerned that the Alliance wouldn't meet the
19 Commission's scope and configuration requirements.

20 Now, it seems logical that if the Midwest ISO is still
21 separated from the PJM, that there would still have to be
22 questions as to whether the Midwest ISO meets those
23 requirements, and so the Commission might find that neither of
24 the two meet those requirements and that they might have to be
25 combined in order to meet them.

1 Q. You qualified your answer that you just gave by
2 addressing the present configuration of the Midwest ISO. Let me
3 ask you about that.

4 Were you including MAPP as a member of the Midwest ISO
5 when you were discussing present configuration of the Midwest
6 ISO, or were you conceiving that MAPP would be out of the
7 Midwest ISO?

8 A. I guess I don't really know the existing status of
9 MAPP. I assumed that they are currently not part of the Midwest
10 ISO, but that it is likely that they would be. And the concerns
11 that I raised really would not be affected by the participation
12 of the MAPP.

13 First of all, I would say that the Midwest ISO,
14 especially including MAPP within it, covers a quite large -- a
15 very large geographic area and, therefore, would have a large
16 scope and configuration.

17 Again, the concerns that I have -- And, again, you're
18 asking me to give an opinion with respect to what I think the
19 FERC might say, and I'm just telling you what my concern would
20 be -- would be with whether or not the Commission would say that
21 the Midwest ISO has met its scope and configuration
22 requirements, "its" being the FERC's, given what they've said
23 in other orders.

24 Q. So I take it, basically, you have doubts whether the
25 FERC would approve the size and configuration of the Midwest ISO

1 as being in compliance with the FERC's requirements?

2 A. I do, yes.

3 Q. And that's even with the expectation that MAPP is
4 likely to join the Midwest ISO?

5 A. Yes.

6 Q. I think you just mentioned in one of your prior
7 answers that if MAPP joins the Midwest ISO, that would make the
8 Midwest ISO the largest independent transmission entity in the
9 United States?

10 A. I didn't say that, but I think it would, that would be
11 my understanding. I would agree with that.

12 Q. And your opinion, in essence, is that even if MAPP
13 completes its steps to join the Midwest ISO, which you've said
14 is likely, thus making the Midwest ISO the largest independent
15 transmission organization in the United States, you still harbor
16 doubts that that will comply with FERC's requirement with regard
17 to the size and configuration of the Midwest ISO?

18 A. Yes.

19 Q. Are you aware whether in FERC's prior rulings on the
20 Midwest ISO compliance filings that FERC has -- whether FERC has
21 commented on the size and configuration of the Midwest ISO as it
22 existed at those points in times in terms of whether the size
23 and configuration was adequate?

24 A. Yes. It's my understanding that the Commission in its
25 prior Midwest ISO orders found that the Midwest ISO met its ISO

1 requirements, it's Order 888 scope and configuration
2 requirements for an ISO. It has yet to render a decision as to
3 whether it meets its Order 2000 RTO requirements, however.

4 Q. And the concern you have is in the area of trading
5 patterns in terms of the scope and configuration requirement?

6 A. Yes.

7 Q. And one of the ways that this concern on the trading
8 patterns -- patterns could be addressed is by resolving the
9 seams issues that exist between different regional transmission
10 organizations?

11 A. I recognize that, yes, as a possibility; however, I
12 would at the same time remind you that the same commissioner who
13 said the Alliance compliance filing was woefully short has
14 expressed significant skepticism that -- that seams agreements
15 would, in fact, solve the scope and configuration concerns that
16 the Commission has.

17 Q. When did this effort to address the seams issues
18 arising from the FERC Order 2000 begin?

19 A. Can I have that question read back?

20 Q. Let me strike that. That was a pretty poor effort.

21 Is it fair to say that in the FERC Order 2000, FERC
22 tried to address the seams issues by initiating a collaborative
23 effort to resolve seams issues among regional -- regional
24 transmission organizations?

25 A. No, I would not agree with that statement. You want

1 me to explain why?

2 Q. Yes, please.

3 A. Forgive me for putting questions in your mouth. I'll
4 try not to do that in the future.

5 I wouldn't agree with that because it is my view that
6 the Commission initiated the collaborative process in order to
7 encourage the voluntary formation of RTOs that would meet its
8 scope and configuration requirements, and so while I think the
9 resolutions of seams issues, as you put it, certainly is a part
10 of the collaborative process, but also a part of the
11 collaborative process, and again I think the Commissioner of
12 which we've spoken on the Commission has indicated that it would
13 make a lot more sense if the collaborative process led to a
14 single RTO in the Midwest as opposed to trying to resolve the
15 scope and configuration issues by some sort of seams agreements.

16 Q. So would it be fair to say that in your view the
17 collaborative process that arises from the FERC Order 2000 has
18 two goals: The primary goal is to encourage the formation of
19 the RTOs that satisfy the FERC's size and configuration
20 requirement, and the secondary purpose is that if that's
21 unsuccessful, then it will try to resolve the seams issues?

22 A. I wouldn't disagree with that.

23 Q. This FERC-sponsored collaborative process arising from
24 Order 2000 began approximately when?

25 A. The Midwest collaborative meeting was actually the

1 first one, and it was held March the 1st and 2nd of 2000.

2 Q. So this is a very young initiative, would you say?

3 A. I would, yes.

4 Q. Okay. It's only been in existence for what, two
5 months now?

6 A. Yes.

7 Q. Would you agree that it's too early to tell at this
8 point whether that initiative will be successful?

9 A. Yes.

10 Q. I take it that you hold out at least a reasonable hope
11 that that initiative will be successful?

12 A. Yes.

13 Q. And, in fact, you're actively participating in this
14 collaborative process yourself on behalf of the regional co-ops
15 that you represent?

16 A. And municipals, yes.

17 Q. Okay. Can you briefly describe what your activities
18 are and have been to participate in this collaborative effort?

19 A. Yes. I have attended each of the collaborative
20 meetings that have been held, and as you alluded to,
21 participated in those on behalf of a group of clients that spans
22 municipals and cooperatives in several states in the midwest.

23 Q. I take it you would not go to the trouble of actively
24 participating in those workshops if you thought that this
25 collaborative process had no hope of resolving this size and

1 configuration issue?

2 A. Yes.

3 Q. Now, as a result of your participation in the FERC
4 collaborative process arising from the Order 2000, have you had
5 an opportunity to observe whether Cinergy and CG&E have been
6 active participants in that process?

7 A. Yes, I have.

8 Q. And what have you observed in that area?

9 A. They have had a person attending each of those
10 meetings as well, and their representative, who I think is there
11 on behalf of not only CG&E, Cinergy, but some of the -- but the
12 Midwest ISO transmission owners, perhaps, as well, in that. At
13 least the group that is meeting now is comprised more generally
14 of representatives rather than all of the parties who might have
15 an interest.

16 CG&E's employee who is attending has been an active
17 participant, it's been my observation, and has volunteered to
18 propose a straw man for presentation on one of the issues that
19 has been discussed for the upcoming meeting that is scheduled
20 for May the 30th.

21 Q. You referred to a certain Cinergy participant. Do you
22 know that person's name?

23 A. Ron Jackups.

24 Q. In addition to Mr. Jackups, isn't it true that Cinergy
25 has had other employees at least at some of these collaborative

1 workshop meetings?

2 A. Yes.

3 Q. Especially the one in Cincinnati.

4 A. Yes, that's -- I had that one particularly in mind.

5 Q. Now, in addition to being an active participant in the
6 process, can you characterize whether Mr. Jackups' efforts have
7 been made in good faith from your perspective?

8 A. I have assumed that they have been made in good faith
9 and have seen no indication otherwise.

10 Q. Okay. And have you had an opportunity to observe
11 whether Mr. Jackups has taken reasonable steps and made
12 reasonable proposals to begin to try to address these issues
13 under discussion in the FERC collaborative workshops?

14 A. I believe he has, yes.

15 Q. Okay. Now, I'd like to spend a few moments discussing
16 the status of the Midwest ISO in comparison to the Alliance RTO.

17 With regard to the Midwest ISO, have you ever attended
18 any of the meetings of the Midwest ISO board?

19 A. No.

20 Q. Okay. You're aware that those are open to the public?

21 A. I am, yes.

22 Q. Same question with respect to the Midwest ISO advisory
23 committee or policy committee: You're aware those meetings are
24 open to the public?

25 A. Yes.

1 Q. Have you ever attended any of those meetings?

2 A. No.

3 Q. Either the advisory committee or the policy committee?

4 A. No.

5 Q. Have you ever attended any of the operating or
6 infrastructure meetings of the Midwest ISO?

7 A. No.

8 Q. You're aware that you have the opportunity to attend
9 those?

10 A. Yes. And I do have clients who have been to those,
11 all of the above; have been to all of those.

12 Q. So your knowledge about the status of the Midwest ISO
13 is not based on any firsthand involvement as an active
14 participant at those meetings, but instead is based on
15 information that you received from your clients or your review
16 of filings and orders relating to the Midwest ISO?

17 A. That's correct.

18 Q. Okay. Now --

19 A. And the testimony of Mr. Procaro.

20 Q. Yes.

21 A. Of course.

22 Q. Obviously, you have not had any input in the formation
23 of the Midwest ISO because you haven't been participating in any
24 of these meetings?

25 A. That's correct.

1 Q. Do you -- or, strike it -- that.

2 Are you generally aware of the status of the Midwest
3 ISO today in terms of becoming functional or operational?

4 A. Perhaps not as intimately as if -- as I would if I had
5 been to the meetings you referred to, but I am aware that they
6 have hired staff, that they have made decisions with respect to
7 hiring people to do software and prepare to go buy hardware that
8 would be required to implement the Midwest ISO.

9 Again, as you alluded to, they have hired a board of
10 directors, so they are moving along toward implementation.

11 Q. They have secured a location in Carmel, Indiana?

12 A. Yes.

13 Q. Okay. And acquired a building there that they --
14 where they have employees who are taking steps to make the
15 Midwest ISO operational?

16 A. Yes.

17 Q. Does the Alliance have any of that?

18 A. No.

19 Q. Okay. So would you agree with me that the Midwest ISO
20 is much farther along than the Alliance in terms of becoming
21 functional or operational?

22 A. Yes.

23 Q. Another aspect of the two organizations I'd like to
24 talk about is the independent governance.

25 How would you compare the Midwest ISO and the Alliance

1 in terms of the independent governance requirement under the
2 FERC?

3 A. Well, FERC has given approval to the governance
4 aspects of the Midwest ISO. It has not yet given final approval
5 to the governance aspect of the Alliance RTO. It has indicated
6 that with the changes that it required in its May 18th, 2000
7 order that the governance aspects of the ISO portion of the
8 Alliance proposal would receive approval, but that a lot more
9 work needed to be done by the Midwest -- excuse me, by the
10 Alliance RTO companies on the governance aspects of the Transco
11 part of the Alliance proposal, so I would say that, again, to
12 get what they want approved in the form of an overall governance
13 package, the Alliance has a long way to go yet, whereas the
14 Midwest ISO has actually been approved in that area by the FERC.

15 Q. Would you agree that independent governance is one of
16 the important requirements for satisfying the FERC regulations
17 for establishing an independent transmission organization?

18 A. Yes.

19 Q. Now, you have made filings that -- or, strike that.

20 You've submitted testimony commenting on the Alliance
21 RTO, not only in this proceeding, but also in proceedings before
22 the FERC; is that correct?

23 A. Actually, the only thing that I have submitted before
24 the FERC would have been an affidavit that was included as part
25 of a protest of the original Alliance filing at the FERC.

1 Q. Do you have any concerns as to whether the Alliance
2 RTO Transco portion will be able to satisfy the independent
3 governance requirements of the FERC regulations?

4 A. As I just said, the FERC has indicated that in their
5 present form they're not sufficient to satisfy those
6 requirements; however, the FERC has allowed the Alliance
7 companies the opportunity to go back to the drawing board and
8 make changes and provide additional information and contracts
9 that the FERC would review in the future. That's my
10 understanding of the state of affairs with respect to that
11 issue.

12 Q. Would it be fair to say that in your view the Alliance
13 will need to make some substantial changes to the Transco
14 portion in order to satisfy the FERC's independent governance
15 requirements?

16 A. I think the Alliance companies would view the changes
17 that are required as substantial, yes.

18 Q. What about the pricing requirements under the FERC
19 regulations within the ISO territory, do you have any
20 information as to whether the FERC has approved the Midwest
21 ISO's pricing structure?

22 A. Yes, it has.

23 Q. What about the Alliance, has the FERC approved its
24 pricing structure?

25 A. No, it has specifically rejected its first proposed

1 pricing structure.

2 Q. Does the Alliance RTO pricing structure allow for
3 pancaking of rates within the Alliance RTO itself as -- as it
4 currently is constituted?

5 A. As it was originally proposed to the FERC, it would
6 have. As I said, the FERC has rejected that, so I'm assuming
7 that it's gone.

8 Q. But --

9 A. As it was originally proposed, it would allow
10 pancaking in the Alliance RTO. Again, the Commission -- the
11 FERC clearly rejected that pancaking of rates as that would not
12 meet its ISO or RTO requirements.

13 Q. And to this point in time, the Alliance hasn't
14 submitted any other compliance filing that would address the
15 FERC's ruling that its pricing structure does not meet its
16 requirements because of the pancaking of rates within the
17 Alliance RTO?

18 A. That is correct. I understand that they are working
19 on a new rate proposal, which -- which they gave a preview of in
20 an April 20th, 2000 steering committee meeting, but it's my
21 understanding at this point in time they've not made a filing
22 that would address the Commission's concerns with respect to
23 pricing.

24 Q. It's an open issue whether the Alliance members will
25 be able to come to some agreement on pricing that would

1 eliminate the pancaking of rates within the Alliance RTO and
2 satisfy the FERC's requirements?

3 A. Yes, that would be a fair statement of my
4 understanding.

5 Q. And pricing within an RTO is also another important
6 part of the FERC's requirements for establishing an independent
7 transmission organization?

8 A. Yes.

9 Q. Now, what about the tariff itself, are you aware of
10 whether the Midwest ISO tariff and agreement have been approved
11 by FERC?

12 A. Yes. As I understand your question, they have been.

13 Q. Has the FERC approved any Alliance tariff and
14 agreement?

15 A. No.

16 Q. Okay. That's also an important part of the FERC's
17 regulations for establishing an independent transmission
18 organization?

19 A. Yes.

20 Q. Do you know what the status is of the Alliance RTO in
21 terms of how definitive its member companies' commitments are
22 to -- to join the Alliance RTO?

23 A. My understanding is that they are committed to see the
24 formation process through final orders of the FERC, but that
25 they have reserved the right to remove themselves from the

1 Alliance should they find that the final requirements of the
2 FERC are not consistent with their own interests.

3 Q. So in other words, they can drop out at any time if
4 they unilaterally choose to do so in response to any FERC
5 ruling?

6 A. That's my understanding.

7 Q. Now, are you aware of whether the participating
8 transmission owners in the Midwest ISO would incur any adverse
9 consequences or penalties if they attempted to withdraw from the
10 Midwest ISO?

11 A. Yes, I think there are within the agreements of the
12 Midwest ISO certain penalties that would be incurred if that
13 were to happen.

14 Q. So bottom line, it's -- Well, strike that.

15 Another adverse consequence that Midwest ISO
16 participating transmission owners could incur if they tried to
17 withdraw from the Midwest ISO is not only contractual penalties
18 but also adverse consequences from the state commissions where
19 they operate?

20 A. I guess I'm not necessarily familiar with the latter.

21 Q. So you don't have an opinion either way as to whether
22 a Midwest ISO transmission owner would incur adverse
23 consequences from the state commission if it attempted to
24 withdraw from the Midwest ISO?

25 A. No.

1 Q. Do you have any information regarding any positions
2 that any state commissions have taken with regard to the
3 Alliance RTO transmission ownerships' membership in the Alliance
4 RTO?

5 A. Can I have that question --

6 Q. Let me strike that and try again. That was pretty
7 bad, too.

8 I guess what I'm trying to ask is this: Do you know
9 if any of the state commissions besides Ohio where the Alliance
10 transmission owners are located have expressed any opinions as
11 to whether the Alliance -- whether membership in the Alliance
12 RTO will satisfy those state commission requirements for the
13 transmission owners who are located in those states?

14 A. My only knowledge with respect to those commissions
15 other than Ohio, and the statements that they have made, would
16 be in connection with the Midwest collaborative process where a
17 group of state commissions, including Michigan and Indiana and
18 Ohio, and perhaps West Virginia, I'm not that sure about West
19 Virginia, but indicated that from their perspective they thought
20 a merger of the Midwest ISO and the companies in one Midwest RTO
21 organization would be the most appropriate resolution of the
22 matter, so in the Midwest, I do know that several state
23 commissions filed comments and protests before the FERC in
24 connection with the Alliance RTO application at the FERC. I
25 don't remember the details of those, though, at this point.

1 Q. Do you know if the Virginia Commission has taken any
2 position as to whether Virginia Power's membership in the
3 Alliance RTO would satisfy the Virginia Commission's
4 requirements?

5 A. Not the Commission itself. I think the Commission
6 staff has indicated -- to my knowledge, the staff of the
7 Virginia State Corporation Commission has indicated that the --
8 joining the Alliance would not meet their compliance. As far as
9 I know, the state Commission itself has not provided an
10 indication for that.

11 Q. Given the fact that the staff has taken a position
12 that Virginia Power's membership in the Alliance would not
13 satisfy Virginia Commission requirements, wouldn't you agree
14 that that makes it more likely that Virginia Power would not
15 ultimately join the Alliance RTO?

16 A. Yes.

17 Q. Do you know whether Virginia Power -- Strike that.

18 Have you heard that Virginia Power is engaged in
19 discussions with any other transmission owners about joining any
20 different transmission entities besides the Alliance RTO?

21 A. No.

22 Q. Do you know whether the Michigan Commission or staff
23 has taken any position or expressed any opinion about whether
24 the Michigan utility companies' membership in the Alliance RTO
25 would satisfy Michigan Commission requirements?

1 A. I'm not familiar with any Commission -- Michigan
2 Commission statements regarding that. I am aware that the staff
3 of the Michigan Commission has indicated that they didn't think
4 it would meet the requirements of Michigan.

5 Q. Since the Michigan staff has taken that position, just
6 as you testified with respect to Virginia Power, would you feel
7 that that position makes it more unlikely that the Michigan
8 transmission owners will ultimately follow through and join the
9 Alliance RTO?

10 A. Yes. I think using your words in your question, more
11 than likely I would agree with that. I wouldn't go so far as to
12 say that it means they will not, but I do think it makes it more
13 unlikely.

14 Q. Now, what is your opinion as to how the Alliance, as
15 it's presently constituted, stacks up against a Midwest ISO in
16 terms of its present constitution on the size and configuration
17 requirement?

18 A. Looking at them independently, I would say that the
19 Midwest ISO would, in general, reflect a better size and scope
20 configuration than the Alliance, but from my perspective they
21 both fall short in that they are intimately involved in
22 transactions in the Midwest region and they really should merge
23 into one organization in order to best facilitate the meeting of
24 the requirements of the legislature in Ohio, as well as the
25 requirements of the FERC for regional size and scope and

1 configuration.

2 Q. Now, that could be accomplished in a couple of
3 different ways; that is, the -- some companies in the Midwest
4 ISO could join the Alliance, would be one way to accomplish it.

5 Another way would be if some Alliance companies joined
6 the Midwest ISO, or a third way would be if the Midwest ISO and
7 the Alliance combined?

8 A. Yes.

9 Q. Do you have any opinion as to whether any one of those
10 outcomes would satisfy the requirement to, No. 1, have an
11 adequate -- adequate scope and configuration, and, No. 2, to
12 minimize pancaking of rates within Ohio?

13 A. The last one that you mentioned, I think it was the
14 last one, which would be for the members of the Alliance and
15 members of the ISO to combine in one organization, I think would
16 meet those requirements.

17 As to what I think you mentioned as the second one,
18 which would be some of the Alliance utilities joining the
19 Midwest ISO, I think it would depend on which ones of the
20 Alliance companies joined with the Midwest ISO.

21 And as to the first one you mentioned, which I think
22 was some of the Midwest ISO companies joining the Alliance
23 companies, I think if Cinergy were the one who joined with the
24 Alliance companies, that would lead to the accomplishment of
25 what the Senate Bill 3 requirements, I think, envision; however,

1 I'm not sure if that would meet the full requirements of the
2 FERC for an RTO.

3 Q. Clearly, the best outcome in your mind, as you stated
4 in your direct testimony, would be for the Alliance and Midwest
5 ISO to come together and form one RTO that meets the FERC's
6 requirements for qualifying transmission entity?

7 A. Yes.

8 Q. Now, any of these outcomes that we have talked about,
9 whether it's the Alliance and the Midwest ISO coming together as
10 one, or some Midwest ISO companies joining the Alliance, or some
11 Alliance companies joining the Midwest ISO, all of these things
12 are outside of any one company's sole control?

13 A. All except the -- the one where Cinergy would join
14 with the Alliance, Cinergy and CG&E. That is, I think, solely
15 within the purview of Cinergy.

16 Q. But as we already talked about, Cinergy would incur
17 some adverse consequence if that were to occur?

18 A. Yes.

19 Q. One of those adverse consequences would be its
20 contractual commitments that it has made with the other
21 participating transmission owners of the Midwest ISO?

22 A. Yes.

23 Q. And Cinergy is a multi-state holding company with
24 operating utility companies in the states of Indiana and
25 Kentucky as well?

1 A. Yes.

2 Q. And Cinergy would likely incur adverse consequences
3 from the Indiana and Kentucky Commissions if it unilaterally
4 pulled out of the Midwest ISO and joined the Alliance RTO at
5 this point in time?

6 A. I don't know the answer to that.

7 Q. Do you have any opinion?

8 A. No.

9 Q. So even though the Midwest ISO is much further along
10 in terms of getting regulatory approval than the Alliance --
11 You'd agree with that, wouldn't you?

12 A. Yes.

13 Q. And even though the Midwest ISO is much further along
14 than the Alliance in terms of being operational and
15 functional -- You'd agree with that?

16 A. Yes.

17 Q. Even though both of those conditions are true, you
18 don't have any opinion as to whether Cinergy would incur adverse
19 consequences from the commissions in Kentucky and Indiana if it
20 unilaterally pulled out of the Midwest ISO and joined the
21 Alliance?

22 A. That's correct.

23 Q. Not any.

24 Do you think --

25 A. I have had no involvement in either of those states

1 with those commissions regarding these issues, so I would not
2 state an opinion with respect to likely consequences.

3 Q. Would you be surprised if they incurred adverse
4 consequences from those other states if they did that?

5 A. I would not be surprised.

6 Q. In fact, would you reasonably expect that they
7 probably would incur adverse consequences from those states,
8 given the state of affairs with -- between the Midwest ISO and
9 the Alliance?

10 A. I don't have an opinion on that.

11 Q. And certainly it would be a lot easier for the
12 Alliance companies that are located in Ohio to withdraw from the
13 Alliance and join the Midwest ISO because they wouldn't incur
14 any adverse consequences?

15 A. Yes, that's correct.

16 Q. That would be a lot more practical than Cinergy
17 withdrawing and joining the Alliance, wouldn't it, because of
18 the adverse consequences that would entail to the different
19 companies?

20 A. It would be more practical.

21 Q. Now, with regard to the Midwest ISO and the Alliance
22 RTO, would you agree that the Midwest ISO, as it's presently
23 constituted, is what, approximately double the size of the
24 Alliance RTO, or at least 50 percent to a hundred percent?

25 A. Are you including the MAPP companies.

1 Q. Well, you said that it's reasonably likely that MAPP
2 will follow through and join the Midwest ISO; is that correct?

3 A. Yes.

4 Q. Well, let's include MAPP then.

5 A. Yes, then the answer is yes.

6 Q. And given that state of affairs, the Midwest ISO would
7 have greater economies of scale than the Alliance RTO?

8 A. Yes.

9 Q. Now, are you aware that AEP is under a requirement as
10 a condition for the approval of its merger with CSW to be in a
11 fully functional ISO by December 15th, 2001?

12 A. Yes, except that I don't remember the date
13 specifically, but I would certainly not dispute that date. It
14 sounds like it's the right date. But yes, I am aware that they
15 are under an obligation to that effect.

16 Q. In your opinion, what is the likelihood that the
17 Midwest ISO will receive regulatory approval and be fully
18 functional and operational by that date of December 15th, 2001?

19 A. I think there's very high probability that they would.

20 Q. What's your opinion as to the likelihood that the
21 Alliance RTO will receive full regulatory approval and be fully
22 functional and operating by that date of December 15th, 2001?

23 A. Much less likely.

24 Q. Given that state of affairs -- Well, strike that.

25 Now, another topic that you discuss in your testimony

1 is reciprocity, and I'd like to talk about that for just a
2 little bit. Let me strike that.

3 Before we get to that, just one other area on the
4 Alliance versus the Midwest ISO. One of the things that you
5 talk about in your testimony is the possibility of Cinergy --
6 the Cinergy operating companies joining the Alliance RTO, and we
7 have spent a little time talking about that; correct?

8 A. Yes.

9 Q. Now, that part of your opinion is based on a couple of
10 different inferences. No. 1, you are inferring that DP&L will
11 follow through on its announced intention to join the Alliance.

12 A. Yes.

13 Q. And another inference you're making is that DP&L's
14 membership in the Alliance will be approved by the Ohio
15 Commission.

16 A. Yes.

17 Q. And another inference that you're making is that the
18 Alliance will be able to restructure itself with regard to the
19 pancaking of its rates and its independent governance and come
20 up with a compliance finally that will satisfy the requirements
21 of FERC.

22 A. Yes.

23 Q. And you're also inferring there that the Virginia
24 companies and the Michigan companies will follow through on
25 their stated intention to join the Alliance RTO even though

1 their Commission staffs have expressed disapproval of that.

2 A. Yes.

3 Q. And another inference you're making is that the FERC
4 will finally approve the Alliance RTO with the changes that they
5 have ordered the Alliance RTO to make.

6 A. Yes.

7 Q. Now, let's go to that topic of reciprocity.

8 You state in your direct testimony that that's another
9 means that the Ohio transmission owners could use to overcome
10 the problems with their independent transmission plans, and in
11 particular, CG&E, if it would adopt reciprocity with the other
12 transmission owners in Ohio, that would overcome the problems
13 you see with CG&E's independent transmission plan?

14 A. Yes. Yes, the proper reciprocity agreements.

15 Q. Now, could you explain for a minute what you mean by
16 reciprocity, not only for a minute, take as much time as you
17 need, sorry.

18 (Laughter.)

19 A. Yeah, the primary thing is -- that I have when I talk
20 of reciprocity agreements is regarding transmission across two
21 entities that yet would only charge one rate, so that there
22 would be reciprocity of use of facilities that would not incur
23 two or more transmission charges but only one transmission
24 charge.

25 Q. Okay. So again, reciprocity is like combining RTOs in

1 the sense that reciprocity is also outside the control of any
2 one transmission owner, it takes agreement among multiple
3 transmission owners?

4 A. Yes.

5 Q. How does reciprocity operate when one transmission
6 owner that has a reciprocity agreement with another transmission
7 owner, has to send the transmission across the territory of a
8 third transmission owner? How does that operate?

9 A. It would require agreement by all three of the
10 parties, and would entail, again, only one transmission charge
11 rather than three.

12 Q. Okay. So what you're proposing basically as a means
13 for CG&E to have an acceptable independent transmission plan, is
14 that for CG&E to enter into reciprocity agreements with the
15 other Ohio transmission owners to provide for one uniform
16 transmission charge for transmission within the State of Ohio?

17 A. No, it wouldn't have to be a uniform charge, it could
18 be a zonal charge so that it could be the charge of the utility
19 in whose area the load is located.

20 Q. But, in any event, that would be a pricing scheme that
21 would apply throughout the State of Ohio?

22 A. Yes.

23 Q. Okay. And this kind of reciprocity arrangement, how
24 would it impact out-of-state transmission customers that were
25 either seeking to send transmission into or out of the State of

1 Ohio?

2 A. It depends on how the agreements are set up, but in
3 order to work for the State of Ohio, when -- when power is
4 coming into the State of Ohio from outside, in order for there
5 to be one transmission charge, there would have to be
6 reciprocity agreements that extended to the outside entity.

7 As far as something originating within the state and
8 going outside to serve a load outside the state, in that similar
9 entities would have to be involved in reciprocity agreements
10 where the transaction went in the other direction, from a
11 practical perspective there would probably need to be
12 reciprocity agreements involved there as well; however, as far
13 as load within the state, it wouldn't be absolutely necessary,
14 but I think from a practical perspective it would -- it would be
15 likely to be required.

16 Q. So would it be fair to say that the bottom line is
17 that if the Ohio transmission owners had reciprocity agreements
18 among themselves, but not with out-of-state transmission owners,
19 then the Ohio transmission customers would have a pricing
20 advantage as compared to out-of-state customers?

21 A. It depends on what is going on outside the state, but
22 in general, I would not disagree with your implication.

23 Q. And that would -- that pricing advantage, would that
24 be discriminatory against these out-of-state transmission
25 customers that seek to either send transmission into or get

1 transmission out of Ohio?

2 A. If there were not reciprocal agreements with those,
3 yes.

4 Q. How do you think FERC would view that?

5 A. I think it would not view them very highly.

6 Q. It would be likely to disapprove of any kind of
7 arrangement that discriminated against those out-of-state
8 transmission customers?

9 A. For transactions under its regulatory authority, I
10 think it would.

11 Q. What kind of transmission transactions are under
12 FERC's regulatory authority?

13 A. Those where wholesale transactions are involved, or
14 retail transactions where under state legislative or state
15 regulatory authority retail competition has been introduced.

16 Q. Like in Ohio?

17 A. Like as planned for the State of Ohio, yes.

18 Q. Okay. So in other words, as a practical matter, the
19 Ohio transmission owners couldn't adopt that kind of arrangement
20 unless they got FERC approval?

21 A. Yes, that's correct.

22 Q. Now, with respect to the other possibility that you
23 talked about, the possibility of getting reciprocity agreements
24 between or among the Ohio transmission owners and out-of-state
25 transmission owners, that would tend to minimize any kind of

1 discriminatory impact on the out-of-state transmission customers
2 if those reciprocity agreements were in effect with outside, out
3 of Ohio utility companies?

4 A. Yes.

5 Q. However, that would be a rather monumental task,
6 wouldn't it, for all the Ohio transmission companies, No. 1, to
7 try to get reciprocity arrangements in place among themselves,
8 and then also try to go outside all the adjoining transmission
9 owners and try to get reciprocity agreements with all of them?

10 A. It would, yes, I think, taken individually. If there
11 are two ISOs or RTOs only that are operating in the state,
12 however, it would be a little bit less difficult. But still I
13 think it, you know, would require significant work.

14 Q. Now, are you aware of any instance where the FERC has
15 approved the type of arrangement that you've proposed where
16 transmission owners within a single state adopt reciprocity
17 pricing arrangements among themselves without adopting
18 reciprocity agreements among -- or, with out-of-state utilities?

19 A. I'm not aware that the FERC has ruled on any
20 arrangements like that one way or another.

21 Q. Now, you talk in your direct testimony about the
22 efforts that Cinergy has made to try to combine the -- the
23 Midwest ISO and the Alliance, correct?

24 A. Yes.

25 Q. And I believe you mention that in your opinion those

1 efforts have been ongoing since at least 1995?

2 A. I referred to the date Mr. Procaro mentioned about
3 1995 in terms of his involvement. There hadn't actually been
4 two identified organizations or groups that long. However,
5 during '95 or shortly thereafter some -- at least some of the
6 utilities involved currently in the Alliance were also involved
7 in discussions with Cinergy and others who ultimately formed the
8 Midwest ISO, so from that perspective there has been discussion
9 ongoing, and it's my understanding regarding a large ISO or RTO
10 in the Midwest area among all of those utilities in terms of
11 actually trying to combine the Alliance group and the Midwest
12 ISO group, you know, it would have had to have been later than
13 that.

14 Q. That could not have dated back to '95 because there
15 was no Alliance in '95. That was a poor attempt.

16 But as far as trying to combine the Ohio transmission
17 owners with the Midwest ISO like AEP and DP&L, and FirstEnergy,
18 those efforts have been underway on Cinergy's part since at
19 least 1995?

20 A. I think that's a fair statement, yes.

21 Q. And based on everything you know and all of your
22 experience in the field of transmission, would you say that, in
23 your opinion, Cinergy has been very active in trying to get
24 those Ohio transmission owners into the Midwest ISO?

25 A. Yes.

1 Q. And has been participating with good faith and
2 reasonable efforts to try to do that?

3 A. To the best of my knowledge, yes.

4 Q. Are you aware that the Midwest ISO made provisions
5 somewhat recently for independent transmission companies to come
6 under the Midwest ISO?

7 A. Yes.

8 Q. Do you believe that that's a reasonable effort to try
9 to accommodate companies like AEP and FirstEnergy and DP&L's
10 membership in the Midwest ISO?

11 A. It is a reasonable effort. Obviously, to this point,
12 not a sufficient one.

13 Q. But it's at least one reasonable step toward getting
14 those companies into the Midwest ISO?

15 A. Yes.

16 Q. And are you aware that Cinergy has actively pursued
17 this goal of getting those companies in the Midwest ISO through
18 filings with different regulatory agencies?

19 A. Yes.

20 Q. Okay. Now, are you also aware that one of the goals
21 that Cinergy has pursued is to try to get FERC involvement in
22 mediating this effort towards getting the other Ohio
23 transmission owners into the Midwest ISO?

24 A. Yes.

25 Q. And up until now, that effort has been unsuccessful,

1 but now FERC has gotten involved with this -- these
2 collaborative workshops?

3 A. That statement is correct.

4 Q. And now that FERC is actively involved in trying to
5 get the RTOs into an adequate size and configuration, do you
6 think that that increases the possibility of success in forming
7 a RTO that -- that meets FERC requirements?

8 A. I do think it increases the probability some, yes.

9 Q. Do you think it increases the -- the likelihood that
10 the Midwest ISO and the Alliance RTO could come together to form
11 one independent transmission organization that meets the FERC
12 requirements for being a qualifying transmission entity?

13 A. To some degree, yes.

14 Q. Okay. Now, another area that you talk about in your
15 testimony is reliability, correct?

16 A. Yes.

17 Q. Could you please define what you mean by reliability?

18 A. Yes. Basically what I have in mind when using the
19 term "reliability" is the provision of continuous electric
20 service, or as continuous as reasonably possible.

21 Q. Now, this area of continuous electric service, that
22 has to do with the physical action of delivering transmission
23 service from one area to another?

24 A. Yes.

25 Q. And that's something that involves different

1 electrical engineering considerations in terms of how
2 transmission systems are designed and structured and how they
3 operate?

4 A. Yes.

5 Q. You're not an electrical engineer?

6 A. No, I'm not.

7 Q. So would it be fair to say that an electrical engineer
8 would have more expertise than you would have with respect to
9 whether a transmission system provides for increased reliability
10 or not?

11 A. From a physical perspective, yes. I wouldn't
12 necessarily agree with that in terms of agreements among
13 utilities that would work toward that end.

14 Q. Okay. Now, you have a lot of experience in dealing
15 with agreements among utilities that you've outlined in your
16 deposition (sic), but the reliability, itself, is concerned on
17 the actual physical flow of electricity from one point to
18 another point, isn't it?

19 A. It certainly is. And it's also concerned with the
20 cooperation among utilities and the contractual requirements
21 and/or other agreements among utilities that relate to how they
22 operate. So it's not just dependent upon the physical systems
23 and how they are designed, but also how they are physically
24 operated and any coordination agreements that might be in place
25 among utilities.

1 Q. So really, you would say reliability has two
2 components; one is the actual physical flow of electricity from
3 one point to another point, and the other component of
4 reliability is the contractual agreements in place between
5 transmission owners that allow for reliable flow of the physical
6 energy to take place?

7 A. It has a lot more than two components. I mean, there
8 are a lot of components that are involved in reliability in
9 addition to the physical transmission system and how it's
10 designed and built and physically operated. It has to do with
11 generation on the system. It has to do with requirements for
12 providing adequate reserves for generation, and it has to do
13 with adequate cooperation and planning for the systems and the
14 generation and coordination among the utilities.

15 So there are a lot of aspects, but at least those two,
16 those are two aspects, and there are a number of others as well.

17 Q. Okay. But if we were to categorize the different
18 considerations that touch upon reliability or that affect
19 reliability, one general category would be engineering
20 considerations, and another general category would be
21 contractual considerations.

22 The engineering considerations are concerned with the
23 physical flow of power and the power flow studies, how the
24 transmission system is configured, and how the power flows, and
25 the contractual arrangements deal with what agreements are in

1 place between the transmission owners that allow for the
2 reliable flow of electricity to happen?

3 A. Yes.

4 Q. And you have expertise in the contractual agreements
5 among utilities, and you spent some 25 years of your career in
6 that area of consulting and -- and advising clients on those
7 contractual agreements?

8 A. Yes.

9 Q. But would it be fair to say that the engineering
10 considerations of reliability are an area that would be outside
11 of your expertise?

12 A. It would, although involved in -- in the contractual
13 matters is working together with engineers and others with
14 expertise in the physical systems in order to -- to take that
15 into account in agreements.

16 Q. I understand that you've -- you've worked with
17 engineers before and -- but you don't have any direct expertise,
18 yourself, in those engineering considerations?

19 A. I am not an engineer, that's correct.

20 Q. Okay. Mr. Solomon, I think I'm just about done.
21 Could we take a short break and I'd like to confer with
22 Mr. Johnson and just resume in about five minutes or so?

23 A. Certainly.

24 (Recess taken.)

25 MR. FINNIGAN: Let's go back on the record.

1 BY MR. FINNIGAN:

2 Q. Mr. Solomon, I just have a few more questions.

3 Have you spent any time studying the overall
4 stipulation and settlement in CG&E's transition case as
5 distinguished from the stipulation and settlement of the
6 independent transmission plan?

7 A. I have spent "any time", but not a great deal of time.
8 Let me -- I'll just tell you, you know, I've read through it
9 real quickly, didn't really focus very much on the other aspects
10 of it.

11 Q. Okay. Your focus has been on these transmission
12 issues?

13 A. That's correct.

14 Q. You were not involved, yourself, in the negotiations
15 of the overall stipulation?

16 A. No, I was not.

17 Q. And you are not familiar with the bargaining that may
18 or may not have taken place among the parties on the overall
19 stipulation side?

20 A. That's correct.

21 Q. And you have not sat down and studied the extent to
22 which the overall stipulation of settlement may or may not
23 benefit ratepayers?

24 A. No.

25 MR. FINNIGAN: That's all the questions I have. Thank

1 you, Mr. Solomon.

2 THE WITNESS: You're welcome, thank you.

3 MR. FINNIGAN: I'm going to go ahead and order this
4 deposition to be transcribed, so Mr. Solomon, you've got an
5 opportunity to review the transcript before filing, or you can
6 waive that right, and which --

7 THE WITNESS: I'd like to review it.

8 MR. FINNIGAN: Okay. Let's go off the record, then.

9 (Discussion off the record.)

10 (Signature not waived.)

11 - - -

12 (Thereupon, the deposition was concluded at 10:58
13 o'clock a.m. on Friday, May 26, 2000.)

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A F F I D A V I T

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STATE OF _____,)
COUNTY OF _____,) SS:

J. Bertram Solomon, having been duly placed under
oath, deposes and says that:

I have read the transcript of my deposition taken on
Friday, May 26, 2000 and made all necessary changes and/or
corrections as noted on the attached correction sheet, if any.

J. Bertram Solomon

Placed under oath before me and subscribed in my
presence this _____ day of _____, 20____.

Notary Public

My Commission Expires: _____.

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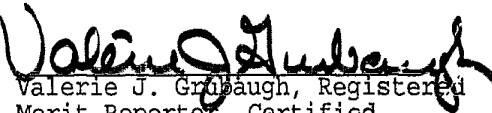
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C E R T I F I C A T E

State of Ohio,)
County of Franklin,) SS:

I, Valerie J. Grubaugh, Registered Merit Reporter and Notary Public in and for the State of Ohio, hereby certify that the foregoing is a true and accurate transcript of the deposition testimony, taken under oath on the date hereinbefore set forth, of

J. BERTMAN SOLOMAN
I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action in which the deposition was taken, and further that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in the action.


Valerie J. Grubaugh, Registered Merit Reporter, Certified Realtime Repoter and Notary Public in and for the State of Ohio.

My Commission Expires:
August 07, 2001.

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State of Ohio,)
County of Delaware,) SS:

- - -

I, Deborah J. Holmberg, Registered Merit Reporter and Notary Public in and for the State of Ohio, hereby certify that the foregoing is a true and accurate transcript of the deposition testimony, taken under oath on the date hereinbefore set forth, of

J. BERTRAM SOLOMON

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action in which the deposition was taken, and further that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in the action.

Deborah J. Holmberg
Deborah J. Holmberg,
Registered Merit Reporter
and Notary Public in and for
the State of Ohio.

My Commission Expires:
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