

## BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of :  
 Columbus Southern Power : **FILE**  
 Company's Application :  
 Pursuant to the :  
 Commission's Opinion :  
 and Order in Case : Case No. 07-0333-EL-UNC  
 No. 05-765-EL-UNC, to :  
 Adjust Its Power :  
 Acquisition Rider Included:  
 in its Tariff at Original :  
 Sheet No. 74-1. :

## PROCEEDINGS

before Ms. Greta See and Ms. Christine Pirik,  
 Attorney Examiners, at the Public Utilities  
 Commission of Ohio, 180 East Broad Street, Room C,  
 Columbus, Ohio, called at 10:00 a.m. on Tuesday, June  
 5, 2007.

## VOLUME I

ARMSTRONG & OKEY, INC.  
 185 South Fifth Street, Suite 101  
 Columbus, Ohio 43215-5201  
 (614) 224-9481 - (800) 223-9481  
 FAX - (614) 224-5724

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## 1 APPEARANCES:

2 American Electric Power  
3 By Mr. Marvin I. Resnik  
4 One Riverside Plaza  
5 Columbus, Ohio 43215-2373

6 and

7 Porter, Wright, Morris & Arthur, LLP  
8 By Mr. Daniel R. Conway  
9 41 South High Street  
10 Columbus, Ohio 43215-6194

11 On behalf of Columbus Southern Power.

12 McNees, Wallace & Nurick, LLC  
13 By Ms. Lisa McAlister  
14 Fifth Third Center, Suite 1700  
15 21 East State Street  
16 Columbus, Ohio 43215

17 On behalf of the Industrial Energy  
18 Users of Ohio.

19 Boehm, Kurtz & Lowry  
20 By Mr. Michael Kurtz  
21 and Mr Kurt Boehm  
22 36 East Seventh Street, Suite 1510  
23 Cincinnati, Ohio 45202-4454

24 On behalf of the Ohio Energy Group.

Ohio State Legal Service Association  
By Mr. Joseph V. Maskovyak  
and Mr. Michael R. Smalz  
555 Buttles Avenue  
Columbus, Ohio 43215

On behalf of the Appalachian People's  
Action Coalition.

## 1 APPEARANCES: (Continued)

2 Janine L. Migden-Ostrander

3 Ohio Consumers' Counsel

4 By Ms. Ann Hotz

5 10 West Broad Street, Suite 1800

6 Columbus, Ohio 43215-3485

7 On behalf of the Residential

8 Consumers of the State of Ohio.

9 Marc Dann, Ohio Attorney General

10 Duane W. Luckey, Senior Deputy

11 Attorney General

12 Public Utilities Section,

13 By Mr. Thomas Lindgren

14 Assistant Attorney General

15 180 East Broad Street, 9th Floor

16 Columbus, Ohio 43215-3793

17 On behalf of the Staff of the Public

18 Utilities Commission.

19 - - -

## INDEX

- - -

## WITNESS

## PAGE

David M. Canter  
Direct Examination by Mr. Resnik 8

David M. Roush  
Direct Examination by Mr. Resnik 11  
Cross-Examination by Mr. Kurtz 13  
Redirect Examination by Mr. Resnik 32

Joseph G. Bowser  
Direct Examination by Ms. McAlister 37  
Cross-Examination by Mr. Ms. Hotz 39

- - -

## STAFF/COMPANY EXHIBITS

## IDFD ADMTD

1 - Stipulation and Recommendation 8 --

- - -

## COMPANY EXHIBITS

## IDFD ADMTD

1 - Prefiled Direct Testimony  
of David M. Canter 8 10

2 - Prefiled Direct Testimony  
of David M. Roush 10 35

- - -

## IEU EXHIBITS

## IDFD ADMTD

1 - Prefiled Direct Testimony  
of Joseph G. Bowser 37 45

- - -

1 Tuesday Morning Session,  
2 June 5, 2007.

3 - - -

4 EXAMINER PIRIK: We are here in Case  
5 No. 07-333-EL-UNC, being in the matter of the  
6 application of Columbus Southern Power Company to  
7 adjust its power acquisition rider pursuant to its  
8 post market development period rate stabilization.

9 My name is Chris Pirik. Along with me is  
10 Greta See. We are the attorney examiners assigned by  
11 the Commission to hear this case.

12 At this time I would like to take  
13 appearances on behalf of the parties.

14 On behalf of Columbus Southern Power.

15 MR. RESNIK: Thank you, your Honors.  
16 Appearing on behalf of Columbus Southern Power  
17 Company, my name is Marvin I. Resnik. I am with  
18 American Electric Power Service Department, 1  
19 Riverside Plaza, Columbus, Ohio 43215.

20 Also appearing is Daniel R. Conway of the  
21 law firm Porter, Wright Morris & Arthur, 41 South  
22 High Street, Columbus, Ohio 43215.

23 THE HEARING EXAMINER: We will start with  
24 Mr. Lindgren and go this way around the table.

1 MR. LINDGREN: Thank you. On behalf of  
2 this Commission staff, Attorney General Mark Dann,  
3 Duane Luckey, chief of the Public Utilities Section,  
4 Thomas E. Lindgren, assistant attorney general, 180  
5 East Broad Street, Columbus, Ohio 43215.

6 MS. McALISTER: Thank you, your Honors.  
7 On behalf of the Industrial Energy Users-Ohio, McNees  
8 Wallace & Nurick, by Lisa McAlister and Sam Randazzo  
9 Fifth Third Center, Suite 1700, 21 East State Street,  
10 Columbus, Ohio 43215.

11 MR. KURTZ: On behalf of the Ohio Energy  
12 Group, Mike Kurtz, Kurt Boehm, of the law firm of  
13 Boehm, Kurtz & Lowery, 36 East Seventh Street, Suite  
14 1510, Cincinnati, Ohio 45202-4454.

15 MS. HOTZ: On of behalf of residential  
16 consumers of the Columbus Southern Power Company and  
17 the Ohio Consumers' Counsel, Janine Migden-Ostrander,  
18 by Ann Hotz, 10 West Broad Street, Columbus, Ohio,  
19 43221.

20 MR. MASKOVYAK: Thank you. Joseph  
21 Maskovyak and Michael R. Smalz on behalf of the  
22 Appalachian People's Action Coalition, 555 Buttles  
23 Avenue, Columbus, Ohio 43215.

24 EXAMINER PIRIK: Let the record reflect

1 that the Ohio Partners for Affordable Energy and the  
2 Hospital Association's representatives are not  
3 present at the hearing today.

4 Mr. Resnik.

5 MR. RESNIK: Your Honor, there is an  
6 issue in this case that has been discussed to a  
7 greater or lesser degree, depending upon one's  
8 perspective, with parties and the staff, and we and  
9 the staff have reached an agreement how to deal with  
10 that issue, and it's been reduced to writing as a  
11 Stipulation and Recommendation.

12 I would ask that document be marked as  
13 Staff/Company Joint Exhibit 1, and actually I didn't  
14 realize we didn't have enough copies. If I could ask  
15 Mr. Lindgren, maybe we could take a short recess to  
16 get sufficient copies of that document. I apologize  
17 for that delay.

18 EXAMINER PIRIK: That would be  
19 appropriate. We will take as long as it takes,  
20 Mr. Lindgren.

21 (Recess taken.)

22 MR. RESNIK: If I could have marked as  
23 Staff/Company Joint Exhibit 1.

24 EXAMINER PIRIK: The document is so

1 marked.

2 (EXHIBIT MARKED FOR IDENTIFICATION.)

3 MR. RESNIK: Your Honor, I would suggest  
4 we have our first witnesses Mr. Canter, and when we  
5 get to Mr. Roush, he can speak to this Joint  
6 Exhibit 1.

7 MR. KURTZ: I want to know the process  
8 because we will object to the admission of this  
9 secretly negotiated settlement agreement between  
10 staff and company, but we will wait until Mr. Roush  
11 gets on the stand to make the objection.

12 MR. RESNIK: May have I have marked as  
13 Company Exhibit 1, a document entitled the Direct  
14 Testimony of David M Canter.

15 EXAMINER PIRIK: The document is so  
16 marked.

17 (EXHIBIT MARKED FOR IDENTIFICATION.)

18 - - -

19 DAVID M. CANTER

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

22 DIRECT EXAMINATION

23 By Mr. Resnik:

24 Q. Mr. Canter, do you have before you the

1 document marked Company Exhibit 1?

2 A. Yes, I do.

3 Q. Can you identify that document, please?

4 A. This is my direct testimony I filed on  
5 May 18, 2007.

6 Q. And attached to that testimony is DMC  
7 Exhibit 1, the last page?

8 A. Yes.

9 Q. Are there any changes or corrections that  
10 need to be made to Company Exhibit 1 that you're  
11 aware of?

12 A. No, there is not.

13 Q. If I were to ask you the questions that  
14 appear in this exhibit, would your answers be the  
15 same as contained in the exhibit?

16 A. Yes, they would.

17 MR. RESNIK: I have no further questions  
18 for the witness and he is available for any  
19 cross-examination.

20 EXAMINER PIRIK: Mr. Lindgren, any  
21 questions?

22 MR. LINDGREN: No, thank you, your Honor,  
23 the staff has no questions for this witness.

24 THE HEARING EXAMINER: Ms. McAlister,

1 questions?

2 MS. McALISTER: No questions.

3 MR. KURTZ: No questions.

4 MS. HOTZ: No questions.

5 MR. KURTZ: No questions, your Honor.

6 MR. RESNIK: I have no redirect.

7 THE HEARING EXAMINER: Thank you.

8 MR. RESNIK: Your Honor the company would  
9 move for the admission of Company Exhibit 1.

10 EXAMINER PIRIK: Any objections?

11 (No response.)

12 EXAMINER PIRIK: Hearing none, Company  
13 Exhibit 1 will be admitted onto the record.

14 (EXHIBIT ADMITTED INTO EVIDENCE.)

15 MR. RESNIK: The next witnesses is  
16 Mr. Roush.

17 Could I have marked Company Exhibit No. 2  
18 the direct testimony of the David M. Roush.

19 EXAMINER PIRIK: The document will be so  
20 marked.

21 MR. RESNIK: Thank you.

22 (EXHIBIT MARKED FOR IDENTIFICATION.)

23 - - -

24

1                               DAVID M. ROUSH

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

4                               DIRECT EXAMINATION

5       By Mr. Resnik:

6               Q.     Mr. Roush, do you have a copy before you  
7       of what has been marked Company Exhibit No. 2?

8               A.     Yes.

9               Q.     Can you identify that exhibit for the  
10      record?

11              A.     It is my direct testimony in this  
12      proceeding as filed on May 18.

13              Q.     And that testimony includes the last page  
14      that's been marked as DMR Exhibit 1?

15              A.     Yes, it does.

16              Q.     Are there any changes or corrections that  
17      you are aware of that need to be made to Company  
18      Exhibit No. 2?

19              A.     No, there are not.

20              Q.     If I were to ask you the questions that  
21      appear in Company Exhibit No. 2, would your answers  
22      be the same as contained in it?

23              A.     Yes, they would.

24              Q.     Now, do you have before you a copy of

1 what has been marked as Staff/Company Joint Exhibit  
2 No. 1?

3 A. Yes, I do.

4 Q. Can you identify that document for the  
5 record, please?

6 A. It is titled a Stipulation and  
7 Recommendation in this proceeding.

8 Q. And particularly focusing on page 3,  
9 Paragraph D, can you describe the issue that this  
10 stipulation is addressing?

11 A. In discussions with the parties an issue  
12 was identified where there was a possibility of  
13 double recovery of some costs that were the supplier  
14 responsibility in the power acquisition rider case  
15 that were also part of the transmission cost recovery  
16 rider case. And this document says that the parties  
17 agree to cooperate to identify precisely which of  
18 those costs there are and address that in the next  
19 transmission cost recovery rider proceeding.

20 Q. And that resolution of that issue is  
21 satisfactory with the company?

22 A. Yes, it is.

23 MR. RESNIK: Your Honor, I have no  
24 further questions for the witness. He is available

1 for cross-examination as to Company Exhibit 2 and as  
2 to the Joint Exhibit No. 1.

3 THE HEARING EXAMINER: Mr. Lindgren.

4 MR. LINDGREN: Thank you, your Honor, the  
5 staff has no questions.

6 THE HEARING EXAMINER: Ms. McAlister.

7 MS. McALISTER: Your Honor, we have no  
8 questions on Company Exhibit No. 2. This is the  
9 first time we have seen the Stipulation and  
10 Recommendation. At this point I can't say whether we  
11 have questions or not.

12 EXAMINER PIRIK: Mr. Kurtz.

13 MR. KURTZ: Thank you, your Honor.

14 - - -

15 CROSS-EXAMINATION

16 By Mr. Kurtz:

17 Q. Good afternoon, Mr. Roush.

18 A. Good afternoon.

19 Q. Were you involved in the negotiation of  
20 Staff/Company Exhibit 1?

21 MR. RESNIK: The joint exhibit?

22 MR. KURTZ: Yes.

23 A. Yes.

24 Q. Who else from the company was involved in

1 the negotiation of that document?

2 A. As far as I know, our legal counsel,  
3 Marvin Resnik.

4 Q. And who else?

5 A. I'm not sure who else may have reviewed  
6 the document. Those are the only people I'm aware  
7 of.

8 Q. Who was involved in the negotiations for  
9 the company, just you and Mr. Resnik?

10 A. Well, this issue came up in settlement  
11 discussions with all the parties.

12 Q. I didn't ask you when the issue came up,  
13 I'm talking about the settlement agreement between  
14 and you staff. Were you and Mr. Resnik the only two  
15 people from AEP who negotiated this agreement with  
16 the staff?

17 MR. RESNIK: Can I have the prior  
18 question back because I think this is a different  
19 one, and I think the witness answered the question  
20 that Mr. Kurtz asked.

21 Q. Let me rephrase. When you negotiated  
22 this agreement with the staff, who was there for AEP?

23 A. There was, to my knowledge, never a  
24 face-to-face meeting.

1           Q.    Okay.  Who from staff negotiated this  
2 agreement?

3           A.    I do not know.

4           Q.    You helped negotiate it for the company  
5 but you don't know who you were negotiating with?

6           A.    I received a copy of this document by  
7 e-mail from my counsel and reviewed the document.

8           Q.    How do you know it was the product of  
9 negotiations between knowledgeable parties, as it  
10 says, if you don't know who you were negotiating  
11 with?

12                   MR. RESNIK:  Your Honor, I want to raise  
13 an objection.  We had settlement discussions, and  
14 Mr. Kurtz was in those settlement discussions.  This  
15 issue was mentioned.  Now, we can get into the  
16 details of what was said in our settlement  
17 discussions with all of the parties.  I assume from  
18 an earlier objection in another proceeding this  
19 morning there is some sensitivity about our witness  
20 testifying what other people may have heard and said  
21 in settlement discussions.  So we're willing to do  
22 that, and Mr. Roush can talk about the settlement  
23 discussions we had with all the parties and how this  
24 developed, but that's really the answer.

1                   MR. KURTZ: That's exactly what I want to  
2 inquire about.

3                   MR. RESNIK: That's fine. As long as  
4 Mr. Roush is excused from anyone charging that he is  
5 discussing what went on in these settlement  
6 discussions with parties who were all present, that's  
7 fine, he can go ahead and discuss that.

8                   MR. KURTZ: I received the document  
9 before lunch, an unsigned version. I received the  
10 final version along with everyone else three minutes  
11 ago. This document substantively is fairly weak. It  
12 doesn't require anybody to do anything, but the  
13 procedure that has been followed is appalling, is an  
14 appalling violation of due process where the staff of  
15 this Commission, who is supposed to represent the  
16 public, negotiates in secret with the utility they're  
17 supposed to regulate, and gives everybody in this  
18 case a stipulation that we've settled an issue when  
19 no else in the case had any involvement at all in  
20 settlement process.

21                   This is egregious, and I'm going to  
22 cross-examine on that basis, and at the end of this  
23 cross I expect to strike this document, not because  
24 of the merits of it, but because of the lack of

1 procedural due process.

2 MR. RESNIK: If I can respond to the  
3 issue of procedural due processes, your Honors, in  
4 our settlement discussions Mr. Kurtz and other  
5 parties' representatives were present, and again I  
6 will get into what those discussions were because  
7 that's what Mr. Kurtz wants. On more than one  
8 occasion we started -- and I think so Mr. Johnson  
9 from the staff was there, started out saying there is  
10 this issue about double recovery on transmission, and  
11 Dave Roush would indicate, yeah, that's right and  
12 we're aware of that, and we agree to take care of  
13 that in the transmission rider.

14 Then we moved on to other issues. There  
15 was that discussion. So anyone who was sitting  
16 around this table who was listening to the beginning  
17 of discussions that we had for settlement heard that  
18 and knew there was an issue, knew that we agreed to  
19 resolve it with the staff and whoever else wanted to  
20 be a party of that.

21 So we've done that, and Mr. Lindgren sent  
22 out a note last Friday once the language was  
23 resolved, and, you know, it happened relatively  
24 close, the language was resolved. In fact, I just

1 got it this morning to review for the last time.

2 But the point is there was no secret  
3 here. The issue was out on the table. No one  
4 pursued it, other than Mr. Roush saying: We're aware  
5 of that issue. We are not looking to double-recover,  
6 and we'll take care of it.

7 MR. KURTZ: If I may respond, I think the  
8 policy is far more important than the substance of  
9 this development. We got an e-mail from the lawyer  
10 for the Commission staff on Friday saying: We've  
11 reached an agreement with the utility. Anybody who  
12 would like to sign on, they're more than welcome.  
13 There was no invitation to negotiate or be involved  
14 in this negotiation. There was an invitation to sign  
15 on to an agreement that was already worked out. This  
16 issue may be relatively innocuous, but the staff and  
17 company might as well settle the next rate case.

18 EXAMINER PIRIK: Mr. Kurtz, I understand  
19 what your position is, and your objection is noted  
20 for the record. You can continue to cross the  
21 witness, please.

22 Q. (By Mr. Kurtz) Who was involved in the  
23 negotiations for the staff?

24 MR. RESNIK: Can I ask for clarification?

1 Does Mr. Kurtz want to know who else was in the room  
2 when we were talking to all parties?

3 Q. I'd like to know this answer: Who was  
4 involved with the staff in the writing of this  
5 document?

6 A. I have no idea.

7 Q. When did you first see this document?

8 A. Sometime last week. I don't recall which  
9 day.

10 Q. Who provided you with this document?

11 A. My counsel.

12 Q. Who provided your counsel with this  
13 document?

14 A. I don't know.

15 Q. So you had no sit-down meetings with  
16 staff to negotiate this document.

17 MR. RESNIK: Objection, your Honor.

18 Well, okay, you can answer whether there  
19 were any meetings.

20 A. To my knowledge, I was not in a room with  
21 staff on the specific language of this document. I  
22 did have conversations with staff and others when  
23 this issue was identified.

24 Q. When the first draft of this document was

1 presented to you sometime last week, do you recall  
2 what day it was?

3 A. No, I don't.

4 Q. Was it Monday?

5 A. I really don't recall which day,  
6 Mr. Kurtz.

7 Q. Do you recall if any of the parties  
8 received copies, draft copies of this document when  
9 you saw it?

10 A. I don't recall. I didn't look at the  
11 distribution list that may have been on the e-mail.  
12 All I saw I got the document from my counsel and  
13 reviewed it.

14 Q. Just so I understand, you don't know who  
15 from staff technically was involved in in the  
16 language of this document.

17 A. I do not know who wrote the words. I  
18 don't know who wrote the words. I know who  
19 identified the issue sometime ago and brought it to  
20 everyone's attention, but I don't know who wrote the  
21 words.

22 Q. Who identified the issue?

23 A. Mr. Don Howard.

24 Q. Mr. Howard?

1           A.     Yes.

2           Q.     Did you have conversations with  
3     Mr. Howard about this or did this document get  
4     developed through communications between counsel?

5           A.     I didn't discuss this document with  
6     Mr. Howard at all.

7           Q.     Let me ask you to turn to page 2 of this  
8     document.

9           EXAMINER PIRIK: I'd like to note for the  
10    record that Don Howard works for -- I would like it  
11    to be on the record who Don works for.

12          THE WITNESS: I believe he works for Bob  
13    Fortney of the Commission staff.

14          EXAMINER PIRIK: When you identify  
15    personalities, I want to be sure that I know the  
16    party or entity associated with them for future  
17    reference on the record.

18          THE WITNESS: Sure.

19          Q.     The last phrase of paragraph A, when it  
20    says that this Stipulation and Recommendation between  
21    staff and AEP is, quote, sponsored by a wide range of  
22    interests, including the Commission Staff, who is  
23    that wide range of interest?

24          A.     I guess it would just be signatories to

1 this document.

2 Q. Do you consider the utility and staff to  
3 be a wide range of interest?

4 A. Until a few moments ago I didn't know it  
5 was only the utility and staff that were going to  
6 sign this document.

7 Q. Earlier in this paragraph you were  
8 sponsoring this documents that states it violates no  
9 regulatory principle. Do you see that?

10 A. Yes, I do.

11 Q. And that it is a product of serious  
12 bargaining among knowledgeable and capable parties in  
13 a cooperative process.

14 A. Okay.

15 Q. Are the knowledgeable parties simply the  
16 staff and the utility, is that who you are referring  
17 to there?

18 A. Those are the signatories to the  
19 document, but I think all the parties to the case  
20 were made aware of this issue and agreed it needed to  
21 be corrected.

22 Q. When were all of the parties made aware  
23 that staff and the company had reached a written  
24 stipulation?

1           A.    From what Mr. Resnik said, Friday, I  
2   guess.

3           Q.    When did the Office of Consumers'  
4   Counsel, IEU and OEG actually see this document for  
5   the first time; do you know?

6           A.    You can tell me. I don't know.

7           Q.    Wasn't it about seven minutes ago when  
8   your counsel handed it us?

9           A.    I don't know. You mentioned early you  
10   saw an unsigned version as well.

11          Q.    Before lunch?

12          A.    Okay. I'll take your word for that, sir.

13          Q.    Now, in Paragraph B you state that: This  
14   stipulation is a compromise involving a balance of  
15   competing positions. Whose competing positions were  
16   balanced in this document?

17          A.    In my mind the position as filed by the  
18   company and the position of the staff there was  
19   potential for double counting in the transmission  
20   rider.

21          Q.    Don't you think a balance of competing  
22   positions it would be a good regulatory principle to  
23   involve the Office of Consumers' Counsel in these  
24   negotiations?

1 MR. RESNIK: Your Honor, I'm going to  
2 object. They were involved. They sat in a room.  
3 They heard there was an issue. They didn't say a  
4 word.

5 You didn't say a word. You want to throw  
6 this exhibit out, throw it out. The company will  
7 withdraw the exhibit. We won't have an agreement on  
8 the issue, and we will brief it because we're going  
9 to set a briefing schedule. Personally, I don't  
10 care. We are trying to resolve an issue, and you are  
11 making a big to-do out of absolutely nothing.

12 MR. KURTZ: If the company is willing to  
13 withdraw it, that's fine. We can brief it. I am  
14 more concerned with the procedure.

15 EXAMINER PIRIK: I understand that. I  
16 understand your point. Do you have substantive  
17 issues up to ask about his testimony other than this  
18 exhibit?

19 MR. KURTZ: Yes.

20 EXAMINER PIRIK: If we find it necessary,  
21 we will deal with this exhibit. When the exhibit is  
22 moved into the record, we can address the concerns  
23 and objections on behalf of parties.

24 Q. (By Mr. Kurtz) I'd like to go through

1 paragraph D. "The Parties agree that the Company is  
2 seeking to recover in this filing certain  
3 transmission, ancillary services, and regional  
4 transmission organization costs that are currently  
5 being recovered, or that the Company may seek to  
6 recover in a subsequent filing in the transmission  
7 costs recovery rider in the Transmission Cost  
8 Recovery Rider, which was approved by the Commission  
9 in Case No. 05-1194-EL-UNC."

10 Can you explain that sentence to me?  
11 That grammatically doesn't make sense. What does  
12 that mean?

13 MR. RESNIK: I object to the  
14 characterization it is not grammatically correct.  
15 The witness can answer. It may not make grammatic  
16 sense to Mr. Kurtz or others, but that doesn't need  
17 to be part of the question.

18 Q. Can you explain what you mean in that  
19 sentence?

20 A. We can break it down into parts,  
21 Mr. Kurtz. The first part of the sentence says that  
22 the parties agree the company is seeking to recover  
23 in this filing certain transmission, ancillary  
24 services, and regional transmission organization

1 costs that are currently being recovered. Let's stop  
2 there. The costs we're talking there are as part of  
3 that power acquisition rider. There was an RFP  
4 issued and a power supply agreement reached, and in  
5 that power supply agreement there were certain  
6 ancillary -- transmission, ancillary, regional  
7 transmission organization costs that are identified  
8 as either the responsibility of the buyer, being  
9 Columbus Southern Power Company or the seller, being  
10 whoever won the bids. Those items, those costs are  
11 part of the price of the winning bid.

12 Q. So the winning bidder has agreed to incur  
13 transmission costs that you're already recovering.  
14 Is that what that first phrase means?

15 A. Not quite. The winning bid includes  
16 ancillary service costs primarily. It's ancillary  
17 service costs, related items that are either, A,  
18 being currently recovered through the current power  
19 acquisition rider, or, B, there are ancillary service  
20 costs that are allocated to Columbus Southern Power  
21 that are part of the transmission rider.

22 And the question is, are the charges that  
23 this seller is providing part of this related to the  
24 allocation of those same -- that same ancillary

1 service cost related to it in the transmission rider.

2 Q. What is the dollar amount of ancillary  
3 services or other costs that the company is seeking  
4 to recover in this filing that you're currently  
5 recovering? What's the dollar amount?

6 A. Of costs relates to the RFP in the bid  
7 here?

8 Q. Why are you saying you are seeking to  
9 recover in this case costs that are already being  
10 recovered? Don't they have a dollar amount  
11 associated with them?

12 THE WITNESS: Can you read that one back?  
13 (Question read.)

14 A. The reference to the costs that are  
15 currently being recovered is that are currently being  
16 recovered if you lose -- if you leave out the set-off  
17 by commas: That are currently being recovered in the  
18 transmission cost recovery rider. So the costs at  
19 issue are really costs in the transmission cost  
20 recovery rider and not costs related to this RFP or  
21 in that rider, but because of the allocation in that  
22 rider, Mon Power load is included in that allocation,  
23 so there are costs that are coming to Columbus  
24 Southern Power because they're serving Mon Power load

1 through the allocation process that we're saying that  
2 allocation is allocating too much cost to Columbus  
3 Southern Power and actually not enough cost to Ohio  
4 Power.

5 Q. Let me ask it again. What is the dollar  
6 amount of the costs that the company is seeking to  
7 recover in this filing that are currently being  
8 recovered in the transmission cost recovery rider,  
9 the dollar amount?

10 A. I don't have a bid that tells me the  
11 detail of that out of the RFP. I have one price, so  
12 I don't know how much out of that price is related to  
13 that.

14 Q. What are you asking the Commission to  
15 approve by approving there stipulation if you don't  
16 have a dollar amount in mind?

17 A. We have a dollar amount, a rough  
18 calculation that was made by me and a similar rough  
19 calculation that was made by staff that identified  
20 that there was -- I'm trying to remember the number.  
21 It was on the order of a couple hundred thousand  
22 dollars in the transmission cost recovery rider that  
23 because they were being collected through the bid --  
24 because costs were being collected through the bid

1 here shouldn't have been in the transmission cost  
2 recovery rider.

3 Q. Go to the next sentence. "The Parties  
4 agree to cooperate to identify precisely which of  
5 these costs are subject to recovery in this case and  
6 as part of the Transmission Cost Recovery Rider."

7 Let me stop there. You've agreed with  
8 the staff to cooperate to identify the costs, so  
9 that's something you'll do in the future?

10 A. I think we'll confirm that in the future.  
11 I think we both identified what we thought were the  
12 items current.

13 Q. Why did you not reduce that to writing  
14 and put it for Commission approval? All this says is  
15 you will agree to develop in the future to try to do  
16 it.

17 A. No. It says we'll agree to cooperate to  
18 identify them and to make the appropriate adjustment  
19 in the next transmission rider filing.

20 Q. You're agreeing to do something in the  
21 future to cooperate to identify precisely these costs  
22 yet you haven't identified them in this document,  
23 have you?

24 A. No, they're not identified in this

1 document.

2 Q. What if you agree to cooperate but you  
3 can't agree? What happens then?

4 A. Then the Commission will order us to do  
5 whatever they order us to do in the next transmission  
6 rider filing.

7 Q. Then you go on to say: "to make the  
8 appropriate adjustments in the Company's next TCRR  
9 filings, covering the period ending December 31,  
10 2008, such that the RTO, ancillary services, and  
11 transmission costs are recovered only once,  
12 eliminating the possibility of double recovery."

13 Again, that's a future act you're  
14 proposing to engage in; isn't that right?

15 A. Yes. It's in the next transmission rider  
16 filing, which will be sometime this fall.

17 Q. So you've agreed to cooperate to try to  
18 do something in the next case but you haven't really  
19 spelled out what that is or the dollar implications,  
20 have you?

21 A. Not in this document.

22 Q. Let's go to last sentence of the  
23 Stipulation. "The Stipulation and Recommendation is  
24 submitted for purposes of this case only, and may not

1 be relied upon or used in in any other proceeding  
2 except as necessary to enforce the terms of this  
3 Stipulation and Recommendation." So I guess you'll  
4 introduce it in the next TCRR case; is that it?

5 MR. RESNIK: What does the word "it"  
6 refer to?

7 Q. This stipulation, even though this  
8 stipulation only applies to the 07-333 case, you're  
9 going to introduce this stipulation in the next TCRR  
10 case; is that it?

11 A. I think we would make the appropriate  
12 adjustments in what we file in that case.

13 MR. KURTZ: Those are all my questions,  
14 your Honor.

15 EXAMINER PIRIK: Thank you.

16 Ms. Hotz.

17 MS. HOTZ: Your Honor, I have no  
18 questions. I would like to say it is kind of  
19 disconcerting to receive this so late in the case,  
20 although I have to admit they had discussed it at the  
21 negotiations. But I think that if you're not part  
22 of -- they had discussed it in negotiations of other  
23 matters, but if you are not part of actually creating  
24 the document, you feel like you're kind of left out.

1 I think a lot of time could have been saved if we had  
2 all been involved in creating this document.

3 Thank you.

4 MR. MASKOVYAK: I have no questions your  
5 Honor. I would like to note for the record we were  
6 not involved in the creation of this document either.

7 MR. RESNIK: May I have some redirect?

8 EXAMINER PIRIK: Yes.

9

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10 REDIRECT EXAMINATION

11 By Mr. Resnik:

12 Q. Mr. Roush, let's forget for the moment  
13 Joint Exhibit 1.

14 A. Yes, sir.

15 Q. You have identified an issue that has  
16 been raised concerning a potential for double  
17 recovery of certain costs as between this proceeding  
18 and the future transmission cost recovery rider  
19 proceedings.

20 A. Yes, that's correct.

21 Q. Is it the company's position that it is  
22 willing in future transmission cost recovery rider  
23 filings that would cover the period ending  
24 December 31, 2008 that it would agree to make its

1 attempt to identify the costs that would be recovered  
2 through the power acquisition rider and, therefore,  
3 drop those out of the potential recovery from -- in  
4 the transmission cost recovery rider?

5 A. Yes.

6 Q. And can you just indicate why there is  
7 significance to the transmission cost recovery rider  
8 filings that cover the period ending December 31,  
9 2008? Is it that this issue goes away after that  
10 date?

11 A. Yes. That's correct.

12 Q. And why does it go away?

13 A. It goes away because the power  
14 acquisition rider goes away at that point in time.

15 MR. RESNIK: Thank you.

16 EXAMINER PIRIK: Mr. Resnik, with regard  
17 to these two exhibits.

18 MR. RESNIK: Yes, I move for admission of  
19 Company Exhibit No. 2 and also Staff/Company Joint  
20 Exhibit 1. I would indicate that with respect to  
21 that latter exhibit, that if any of the parties felt  
22 that they were disadvantaged by not seeing the  
23 document until this moment, that I will apologize for  
24 that. Substantively though what we were trying to do

1 was to indicate our willingness to work with the  
2 staff to resolve this issue, an issue that had been  
3 raised. Ms. Hotz indicated she was there. She knows  
4 the issue had been raised.

5 Quite frankly, I think that Mr. Roush has  
6 indicated what the company is willing to do  
7 independent of this document, and so if you want to  
8 keep it out, you can keep it out. We stand by our  
9 readiness to do what we have said we would do in any  
10 event, and that's all we were trying to do, was to  
11 address the concern raised by the staff, brought to  
12 other parties' attention that no one else seemed to  
13 really care about.

14 EXAMINER PIRIK: With regard to Company  
15 Exhibit 2, Mr. Roush's testimony, do I hear any  
16 objections?

17 MR. KURTZ: Your honor, I object to the  
18 Staff/Company Exhibit --

19 EXAMINER PIRIK: I'm asking with regard  
20 to Exhibit 2, are there any objections?

21 (No response.)

22 EXAMINER PIRIK: Hearing none, Company  
23 Exhibit 2 will be admitted into the record.

24 (EXHIBIT ADMITTED INTO EVIDENCE.)

1 EXAMINER PIRIK: Now with regard to  
2 Staff/Company Joint Exhibit 1.

3 MR. KURTZ: Your Honor, I do object.  
4 Mr. Roush testified what the company is willing to  
5 do. That testimony can stand. This document should  
6 not be admitted. On its very face its says sponsored  
7 by a wide range of parties. It is not sponsored by a  
8 wide range, and it sets a terrible precedent if this  
9 Commission was to accept that.

10 Mr. Roush indicated what the company  
11 should do, and this would form a dangerous precedent  
12 and shouldn't be admitted, especially since  
13 substantively the company and staff will get what  
14 they want through his testimony.

15 THE HEARING EXAMINER: Are there other  
16 comments with regard to the admission of this  
17 document?

18 MS. HOTZ: OCC prefers it not be admitted  
19 and the testimony stand on the issue.

20 MR. RESNIK: If I can just add one  
21 additional point, and perhaps it comes from my prior  
22 existence of representing the staff. I think the  
23 staff represents the widest range of interests. That  
24 is what the staff is all about, is to attempt to do

1 the right thing for customers and balance company  
2 interests. So as far as where there's the wide range  
3 of interests, I don't think that's a basis for  
4 keeping it out.

5 As I indicated, Mr. Roush has committed  
6 the company to do what the document would have us do,  
7 and I'm certainly not looking to create difficult  
8 issues for the Bench, but I wouldn't want the ruling  
9 keeping this exhibit out based on the notion the  
10 staff doesn't represent a wide range of interests.

11 THE HEARING EXAMINER: We will take a  
12 short break and reconvene.

13 (Recess taken.)

14 EXAMINER PIRIK: Back on the record.

15 With regard to the Staff/Company Joint  
16 Exhibit 1, the Bench has determined not to admit that  
17 document into the record. We will let this testimony  
18 stand on its own.

19 Mr. Resnik.

20 MR. RESNIK: Your Honor, we have no  
21 further witnesses. Thank you.

22 THE HEARING EXAMINER: Ms. McAlister.

23 MS. McALISTER: Thank you, your Honor.  
24 IEU Ohio calls Mr. Joseph Bowser.

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JOSEPH G. BOWSER

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

DIRECT EXAMINATION

By Ms. McAlister:

Q. Mr. Bowser, please state your full name  
for the record.

A. Joseph G. Bowser.

Q. And by who are you employed?

A. I'm employed by McNeese, Wallace & Nurick,  
LLC.

Q. And, Mr. Bowser, did you prepare the  
testimony that was filed on May 18, 2007 in this  
proceeding?

A. Yes, I did.

MS. McALISTER: Your Honor, I would like  
to have marked as IEU-Ohio Exhibit 1 the prefilled  
testimony of Joseph Bowser.

EXAMINER PIRIK: The document is so  
marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

Q. Do you have a copy of what has been  
marked IEU Exhibit 1?

1 A. Yes I do.

2 Q. Do you have any corrections or additions  
3 to make to your prefiled testimony?

4 A. No, I do not.

5 Q. If I were to ask you the same questions  
6 that were in the document, would your answers be the  
7 same?

8 A. Yes.

9 Q. And are the answers correct to the best  
10 of your knowledge and ability?

11 A. Yes, they are.

12 MS. McALISTER: Your Honor, I move for  
13 admission of IEU Exhibit 1 subject to  
14 cross-examination, and Mr. Bowser is available for  
15 cross.

16 EXAMINER PIRIK: Thank you.

17 Mr. Kurtz.

18 MR. KURTZ: I have no questions, your  
19 Honor.

20 EXAMINER PIRIK: Ms. Hotz.

21 MS. HOTZ: Yes.

22 - - -

23

24 CROSS-EXAMINATION

1 By Ms. Hotz:

2 Q. Good afternoon, Mr. Bowser.

3 A. Good afternoon.

4 Q. On page 3 you state there was little to  
5 no discussion by the Commission or any party in  
6 establishing the power acquisition rider in case  
7 No. 05-765-EL-UNC as to the method by which the PAR  
8 costs would be distributed and collected; correct?

9 A. That's correct.

10 Q. Isn't it true is that IEU had intervened  
11 in that case?

12 A. Yes.

13 Q. Isn't it also true that IEU had an  
14 opportunity to question the method by which the PAR  
15 costs would be distributed and collected in that  
16 case?

17 A. Yes. And my recollection is that IEU  
18 actually opposed the PAR mechanism outright.

19 Q. Isn't it true that IEU did not question  
20 the method by which the PAR costs would be  
21 distributed and collected in that case?

22 A. Well, I think, you know, I would  
23 interpret it that if you're opposing something  
24 outright, then you wouldn't concern yourself

1 necessarily with the methodology for that particular  
2 charge because you'd feel the charge just shouldn't  
3 be there.

4 Q. But you could argue in the alternative,  
5 could you not?

6 A. I suppose somebody could, but I think if  
7 you were against the charge, the whole charge to  
8 begin with, you'd probably leave your argument there  
9 unless you were in settlement talks or something like  
10 that.

11 Q. Isn't it true that in the same case  
12 Columbus Southern Power Company proposed only the  
13 large customers, including IEU's clients, should pay  
14 for the \$10 million in costs that Mon Power states  
15 that it unfairly incurred in providing power to large  
16 customers at the fixed ETP rates during the period of  
17 litigation?

18 A. I don't know. I didn't look at that  
19 section of the order.

20 Q. So you are not familiar with that case  
21 except for one issue?

22 A. That was the focus of my testimony in  
23 this case. I went in and I looked at the  
24 Commission's opinion and order in 05-765, and I

1 focused on the discussion for the PAR.

2 Q. So you did not consider any other issues  
3 in that case.

4 A. No, I did not.

5 Q. Are you familiar with the \$10 million  
6 issue in that case?

7 A. I can recall that there was an issue, but  
8 I don't remember many of the details.

9 Q. On page 5 of your testimony, you applied  
10 your PAR distribution approach to the rate  
11 GS-4 schedule; correct?

12 A. That's correct.

13 Q. Why did you choose the rate GS-4 schedule  
14 for your example?

15 A. The GS-4 schedule is a schedule under  
16 which a lot of larger customers, such as industrial  
17 customers, are served, and so I chose that as an  
18 example of how the methodology created difference  
19 between using the existing methodology versus  
20 applying the PAR as a percentage of generation costs.

21 Q. Are most of your clients GS-4 schedule  
22 customers?

23 A. I don't know for sure. I know GS-4 is  
24 some of the clients. I know GS-3 is some of the

1 clients, but I don't know exactly who is served on  
2 exactly which tariffs.

3 Q. Are you familiar with the GS-1 schedule?

4 A. Not very.

5 Q. Do you know how a customer qualifies for  
6 the rate GS-1 schedule?

7 A. No, I don't.

8 Q. Does the GS-1 schedule have a demand  
9 component?

10 A. I don't know.

11 Q. Did you apply your proposed PAR  
12 distribution and collection methodology to the GS-1  
13 schedule to determine how those customers would be  
14 affected?

15 A. No, I did not.

16 Q. Are you familiar with the GS-3 schedule?

17 A. Yes, I am.

18 Q. How does a customer qualify for the GS-3  
19 schedule?

20 A. Offhand, I don't know. I'm generally  
21 familiar with the tariff. If I had it in front of  
22 me, I'm sure I could see what that is.

23 Q. Does the GS-3 schedule have a demand  
24 responsibility?

1 A. I believe it does.

2 Q. Did you apply your proposed PAR  
3 distribution and collection methodology to the GS-3  
4 schedule to determine how those customers would be  
5 affected?

6 A. No, I did not.

7 Q. Are you familiar with the R-R schedule?

8 A. Yes. In fact, if you look at page 6 of  
9 my testimony, I made a calculation for the R-R  
10 schedule of the impacts of my proposal.

11 Q. So in coming to that conclusion, did you  
12 apply the proposed distribution collection  
13 methodology to the R-R customers?

14 A. Yes, I did, using a hypothetical customer  
15 that took 1,000 kWh of energy per month.

16 Q. Okay. Are you familiar with the R-R-1  
17 schedule?

18 A. No, I'm not.

19 Q. How does a customer qualify for the R-R-1  
20 schedule?

21 MS. McALISTER: Objection, your Honor, he  
22 just said he wasn't familiar with it.

23 Q. Did you apply your proposed usage and  
24 collection method technology to the R-R-1 schedule?

1 A. No, I did not.

2 Q. Are you familiar with RLM schedule?

3 A. No, I'm not.

4 Q. Did you apply your proposed distribution  
5 and collection method on the RLM schedule to  
6 determine how it would affect customers on the RLM  
7 schedule?

8 A. No, I did not.

9 Q. Are you familiar with the RS-ES schedule?

10 A. No.

11 Q. Did you apply your proposed PAR  
12 distribution and collection methodology to the RS-ES  
13 schedule to determine how it would affect the RS-ES  
14 rates?

15 A. No, I did not.

16 MS. HOTZ: Your Honor, at this time OCC  
17 requests to submit rebuttal testimony in this case.

18 EXAMINER PIRIK: We will discuss that at  
19 the conclusion of this witness. Are you done with  
20 this witness?

21 MS. HOTZ: Yes, I am done with the  
22 witness.

23 MR. MASKOVYAK: No questions, your Honor.

24 THE HEARING EXAMINER: Mr. Lindgren, any

1 questions?

2 MR. LINDGREN: No, thank you. Staff has  
3 no questions.

4 EXAMINER PIRIK: Mr. Resnik.

5 MR. RESNIK: No questions, your Honor.

6 EXAMINER PIRIK: Do you have any  
7 redirect?

8 MS. McALISTER: No, your Honor. Thank  
9 you.

10 EXAMINER PIRIK: Thank you.

11 With regard to IEU Exhibit No. 1.

12 MS. McALISTER: Yes, thank you, your  
13 Honor. I move that IEU Exhibit 1 be admitted into  
14 the record.

15 EXAMINER PIRIK: Any objections?

16 (No response.)

17 EXAMINER PIRIK: Hearing none, IEU  
18 Exhibit 1 will be admitted into the record.

19 (EXHIBIT ADMITTED INTO EVIDENCE.)

20 EXAMINER PIRIK: Let's go off the record  
21 for a minute.

22 (Discussion off record.)

23 EXAMINER PIRIK: Back on the record.

24 Ms. Hotz, do you have a motion request?

1 MS. HOTZ: OCC requests the opportunity  
2 to provide rebuttal testimony to Joe Bowser's direct  
3 testimony.

4 THE HEARING EXAMINER: Mr. McAlister.

5 MS. McALISTER: IEU objects to OCC's  
6 motion. The reason is that they have had the  
7 opportunity to file direct testimony. I do not  
8 believe the opportunity to file rebuttal testimony  
9 and I further believe if it's in response to  
10 Mr. Bowser's testimony and they wanted to run the  
11 numbers, they would end up with the same results as  
12 what Mr. Bowser ran as examples and using his  
13 testimony.

14 MS. HOTZ: Mr. Bowser did not run numbers  
15 for most of the schedules. His testimony provides  
16 one view for certain customers and many other  
17 customers are not represented in that testimony.

18 EXAMINER PIRIK: Mr. Resnik.

19 MR. RESNIK: Thank you, Your Honor. It  
20 is the company's view that it is the party that would  
21 have the right if it wished to exercise to file  
22 rebuttal testimony. It is our application, and the  
23 parties were directed to file their case on May 18.  
24 We did that. IEU-Ohio did that. OCC didn't. The

1 fact remains we don't choose to rebut Mr. Bowser's  
2 testimony. I'm not saying I agree or disagree with  
3 it, but we don't choose to rebut, and I don't believe  
4 that any other party has the right to essentially  
5 close the case. That is our right, which we're not  
6 exercising.

7 EXAMINER PIRIK: I think the objections  
8 are noted on the record. However, in light of the  
9 fact of the varied interests of the different parties  
10 in this case, we believe that it would be appropriate  
11 to allow OCC to file some short rebuttal testimony  
12 responding to Mr. Bowser's testimony, so we will  
13 allow that rebuttal testimony to be filed.

14 MR. RESNIK: Does it require it to be  
15 filed, or are you prepared to go forward with it at  
16 this point?

17 MS. HOTZ: We can file it this afternoon.

18 MR. RESNIK: Is it more than mathematical  
19 calculations?

20 MS. HOTZ: Yes.

21 MS. McALISTER: Your Honor, will parties  
22 have the opportunity to cross-examine?

23 EXAMINER PIRIK: Yes, we will allow that  
24 opportunity.

1 MS. McALISTER: Do you have any sense of  
2 timing? IEU has expressed concern with additional  
3 delays in this case given that AEP plans to begin  
4 collecting the PAR July 1.

5 EXAMINER PIRIK: So noted.

6 Off the record.

7 (Discussion off record.)

8 EXAMINER PIRIK: Back on the record.

9 Ms. Hotz, we have determined off the  
10 record that OCC will file their rebuttal testimony  
11 this afternoon and electronically serve that on all  
12 the parties Bates stamped copy.

13 MS. HOTZ: Yes.

14 EXAMINER PIRIK: And then we will  
15 reconvene this hearing on 10:00 a.m. on Thursday,  
16 June 7, for the rebuttal portion, and at that time we  
17 will determine the briefing schedule.

18 Thank you.

19 (Thereupon, the hearing concluded at 3:50  
20 p.m.)

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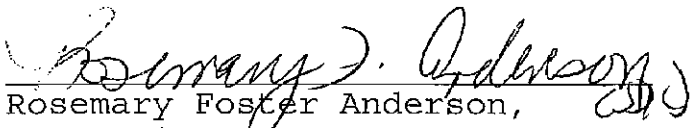
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## 1 CERTIFICATE

2 I do hereby certify that the foregoing is a  
3 true and correct transcript of the proceedings taken  
4 by me in this matter on Tuesday, June 5, 2007, and  
5 carefully compared with my original stenographic  
6 notes.

7   
8 Rosemary Foster Anderson,  
9 Professional Reporter and  
the State of Ohio.

10 My commission expires April 5, 2009.

11 (RFA-7055)

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<p><b>A</b></p> <p>ability 38:10  about 14:13  15:19,22 16:2  17:10 21:3  23:7 24:17  34:13 35:24  absolutely 24:11  accept 35:9  acquisition 1:7  5:7 12:14 26:3  26:19 33:2,14  39:6  act 30:13  Action 2:21 6:22  actually 7:13  23:4 28:3  31:23 39:18  add 35:20  additional 35:21  48:2  additions 38:2  address 12:18  24:22 34:11  addressing 12:10  adjust 1:6 5:7  adjustment 29:18  adjustments 30:8  31:12  admission 8:8  10:9 33:18  35:16 38:13  admit 31:20  36:16  admitted 10:13  10:14 34:23,24  35:6,12,18  45:13,18,19  ADMTD 4:11,14,19  AEP 14:15,22  21:21 48:3  affect 44:6,13  affected 42:14  43:5  Affordable 7:1  after 33:9  afternoon 13:17  13:18 39:2,3  47:17 48:11  again 17:5 28:5  30:13  against 40:7  ago 16:11 20:19  22:4 23:7  agree 12:17  17:12 25:1,22  29:4,15,17  30:2,3 32:24  47:2  agreed 17:18  22:20 26:12</p>	<p>29:7 30:17  agreeing 29:20  agreement 7:9  8:9 14:13,15  14:22 15:2  18:11,15 24:7  26:4,5  ahead 16:7  allocated 26:20  allocating 28:2  allocation 26:24  27:21,22 28:1  28:2  allow 47:11,13  47:23  along 5:9 16:10  already 18:15  26:13 27:9  alternative 40:4  although 31:20  American 2:2  5:18  among 22:12  amount 27:2,5,10  28:6,9,16,17  ancillary 25:3  25:23 26:6,6  26:16,16,19,24  27:2 30:10  Anderson 49:7  Ann 3:3 6:18  another 15:18  answer 15:24  19:3,18 25:15  answered 14:19  answers 9:14  11:21 38:6,9  anybody 16:12  18:11  anyone 16:4  17:15  anything 16:12  apologize 7:16  33:23  Appalachian 2:20  6:22  appalling 16:13  16:14  appear 9:14  11:21  appearances 2:1  3:1 5:13  appearing 5:16  5:20  application 1:4  5:6 46:22  applied 41:9  applies 31:8  apply 42:11 43:2  43:12,23 44:4  44:11</p>	<p>applying 41:20  approach 41:10  appropriate 7:19  29:18 30:8  31:11 47:10  approval 29:14  approve 28:15  approved 25:8  approving 28:15  April 49:10  argue 40:4  argument 40:8  ARMSTRONG 1:21  around 5:24  17:16  Arthur 2:5 5:21  asked 14:20  asking 28:14  34:19  assigned 5:10  assistant 3:9  6:4  associated 21:16  27:11  Association 2:17  Association's  7:2  assume 15:17  attached 9:6  attempt 33:1  35:24  attention 20:20  34:12  attorney 1:12  3:7,8,9 5:10  6:2,4  available 9:18  12:24 38:14  Avenue 2:19 6:23  aware 9:11 11:17  14:6 17:12  18:4 22:20,22  away 33:9,12,13  33:14  a.m 1:14 48:15</p> <p><b>B</b></p> <p>B 23:13 26:19  back 14:18 27:12  36:14 45:23  48:8  balance 23:14,21  36:1  balanced 23:16  bargaining 22:12  based 36:9  basis 16:22 36:3  Bates 48:12  before 1:1,11  8:24 11:6,24  16:9 23:11</p>	<p>begin 40:8 48:3  beginning 17:16  behalf 2:8,12,16  2:20 3:5,11  5:13,14,16 6:1  6:7,11,15,21  24:23  being 5:5 8:20  11:2 25:5 26:1  26:8,9,18 27:9  27:15,15,17  28:7,23,24  37:3  believe 21:12  43:1 46:8,9  47:3,10  Bench 36:8,16  best 38:9  between 8:9  14:13 15:9  21:4,20 32:17  41:19  bid 26:11,15  27:6 28:10,23  28:24  bidder 26:12  bids 26:10  big 24:11  Bob 21:12  Boehm 2:13,14  6:12,13  both 29:11  Bowser 4:8,20  36:24 37:2,7,9  37:13,19 38:14  39:2 46:12,14  Bowser's 46:2,10  47:1,12  break 25:20  36:12  brief 24:8,13  briefing 24:9  48:17  Broad 1:13 3:4  3:10 6:5,18  brought 20:19  34:11  Buttles 2:19  6:22  buyer 26:8</p> <p><b>C</b></p> <p>C 1:13  calculation  28:18,19 43:9  calculations  47:19  called 1:14  calls 36:24  came 14:10,12  Canter 4:4,15</p>	<p>8:4,14,19,24  capable 22:12  care 17:12 18:6  24:10 34:13  carefully 49:5  case 1:5,5 5:4  5:11 7:6 12:14  12:16 16:18,19  18:17 22:19  25:9 27:9 29:5  30:18,24 31:4  31:8,10,12,19  39:6,11,16,21  40:11,20,23  41:3,6 44:17  46:23 47:5,10  48:3  Center 2:10 6:9  certain 25:2,23  26:5 32:17  46:16  certainly 36:7  CERTIFICATE 49:1  certify 49:2  changes 9:9  11:16  characterization  25:14  charge 40:2,2,7  40:7  charges 26:22  charging 16:4  chief 6:3  choose 41:13  47:1,3  chose 41:17  Chris 5:9  Christine 1:11  Cincinnati 2:15  6:14  clarification  18:24  clients 40:13  41:21,24 42:1  close 17:24 47:5  Coalition 2:21  6:22  collected 28:23  28:24 39:8,15  39:21  collecting 48:4  collection 42:12  43:3,12,24  44:5,12  Columbus 1:3,14  1:22 2:3,7,8  2:11,19 3:4,10  5:6,14,16,19  5:22 6:5,10,16  6:18,23 26:9  26:20 27:23  28:2 40:12</p>
--	---	---	--	--

comes 35:21	Conway 2:6 5:20	customer 42:5,18	31:20,22	early 23:9
coming 27:23	cooperate 12:17	43:14,19	discussing 16:5	East 1:13 2:10
43:11	29:4,8,17,21	customers 36:1	discussion 17:15	2:15 3:10 6:5
commas 27:17	30:2,17	40:13,16 41:16	39:5 41:1	6:9,13
comments 35:16	cooperative	41:17,22 42:13	45:22 48:7	egregious 16:21
commission 1:1	22:13	43:4,13 44:6	discussions	either 26:8,17
1:13 3:12 5:11	copies 7:14,16	46:16,17	12:11 14:11	32:6
6:2 16:15	20:8,8		15:13,14,17,21	Electric 2:2
18:10 21:13,22	copy 11:6,24		15:23 16:6	5:18
25:8 28:14	15:6 37:23		17:4,6,17	electronically
29:14 30:4	48:12		distributed 39:8	48:11
35:9 39:5	correct 25:14		39:15,21	eliminating
49:10	32:20 33:11		distribution	30:12
Commission's 1:5	38:9 39:8,9		20:11 41:10	employed 37:10
40:24	41:11,12 49:3		42:12 43:3,12	37:11
committed 36:5	corrected 22:21		44:4,12	end 16:22 46:11
communications	corrections 9:9		DMC 9:6	ending 30:9
21:4	11:16 38:2		DMR 11:14	32:23 33:8
company 4:14 5:6	cost 12:15,19		document 7:12,16	energy 2:12,16
5:17 6:16 8:10	25:7 27:1,18		7:24 8:13,15	6:7,11 7:1
8:13 9:1,10	27:19 28:2,3,8		9:1,3 10:19	43:15
10:8,9,12,17	28:22 29:1,6		12:4,16 14:1,6	enforce 31:2
11:7,17,21	32:18,22 33:4		15:6,7 16:8,11	engage 30:14
12:21 13:1,8	33:7		16:23 19:5,7	enough 7:14 28:3
13:24 14:9	costs 12:13,18		19:10,13,16,21	entitled 8:13
15:4 18:17	25:4,7 26:1,2		19:24 20:8,12	entity 21:16
22:23 23:18	26:7,10,13,16		20:16 21:3,5,8	especially 35:12
24:6,12 25:1,5	26:17,20 27:3		22:1,6,19 23:4	essentially 47:4
25:22 26:9	27:6,9,14,18		23:16 29:22	establishing
27:3 28:6	27:19,20,23		30:1,21 31:24	39:6
33:19 34:6,14	28:6,24 29:5,8		32:2,6 33:23	ETP 40:16
34:22 35:4,10	29:21 30:11		34:7 35:5,17	even 31:7
35:13 36:1,6	32:17 33:1		36:6,17 37:20	event 34:10
40:12	39:8,15,20		38:6	everybody 16:17
company's 1:4	40:14 41:20		documents 22:8	everyone 16:10
30:8 32:21	counsel 3:3 6:17		dollar 27:2,5,10	everyone's 20:20
46:20	14:2 15:7		28:5,9,16,17	EVIDENCE 10:14
compared 49:5	19:11,12 20:12		30:19	34:24 45:19
competing 23:15	21:4 23:4,8,23		dollars 28:22	exactly 16:1
23:15,21	counting 23:19		Don 20:23 21:10	42:1,2
component 42:9	couple 28:21		21:11	Examination 4:4
compromise 23:14	cover 32:23 33:8		done 17:21 44:19	4:6,7,8 8:22
concern 34:11	covering 30:9		44:21	11:4 32:10
39:24 48:2	create 36:7		double 12:13	37:5
concerned 24:14	created 41:18		17:10 23:19	examined 8:21
concerning 32:16	creating 31:23		30:12 32:16	11:3 37:4
concerns 24:22	32:2		double-recover	EXAMINER 5:4,23
concluded 48:19	creation 32:6		18:5	6:24 7:18,24
conclusion 43:11	cross 16:23		down 25:20	8:15 9:20,24
44:19	18:20 38:15		draft 19:24 20:8	10:7,10,12,19
confirm 29:10	cross-examina...		drop 33:3	13:3,6,12
consider 22:2	4:6,9 9:19		Duane 3:7 6:3	18:18 21:9,14
41:2	13:1,15 38:14		due 16:14 17:1,3	24:15,20 31:15
consumers 3:3,6	38:24		duly 8:20 11:2	32:8 33:16
6:16,17 23:3	cross-examine		37:3	34:14,19,22
23:23	16:22 47:22		during 40:16	35:1,15 36:11
contained 9:15	current 26:18			36:14,22 37:20
11:22	29:12			38:16,20 44:18
continue 18:20	currently 25:4			44:24 45:4,6
Continued 3:1	26:1,18 27:4			45:10,15,17,20
conversations	27:15,15,17			45:23 46:4,18
19:22 21:2	28:7			47:7,23 48:5,8

48:14 examiners 1:12 5:10 example 41:14, 18 examples 46:12 except 31:2 40:21 excused 16:4 exercise 46:21 exercising 47:6 exhibit 7:13, 23 8:2, 6, 13, 17 9:1, 7, 10, 14, 15 10:9, 13, 14, 17 10:22 11:7, 9 11:14, 18, 21 12:1 13:1, 2, 8 13:20, 21 24:6 24:7, 18, 21, 21 32:13 33:19, 20 33:21 34:15, 18 34:20, 23, 24 35:2 36:9, 16 37:18, 22, 24 38:13 45:11, 13 45:18, 19 exhibits 4:11, 14 4:19 33:17 existence 35:22 existing 41:19 expect 16:23 expires 49:10 explain 25:10, 18 expressed 48:2 e-mail 15:7 18:9 20:11	23:17 37:14 47:13, 15 filing 25:2, 6, 23 27:4 28:7 29:19 30:6, 16 filings 30:9 32:23 33:8 final 16:10 find 24:20 fine 16:3, 7 24:13 firm 5:21 6:12 first 8:4, 20 11:2 13:9 19:7 19:24 23:5 25:21 26:14 37:3 fixed 40:16 Floor 3:10 focus 40:22 focused 41:1 focusing 12:8 followed 16:13 follows 8:21 11:3 37:4 foregoing 49:2 forget 32:12 form 35:11 Fortney 21:13 forward 47:15 Foster 49:7 frankly 34:5 Friday 17:22 18:10 23:1 from 13:24 14:15 15:1, 7, 17 16:4 17:9 18:9 20:12, 15 23:1 33:3 35:21 front 42:21 full 37:7 further 9:17 12:24 36:21 46:9 future 21:16 29:9, 10, 15, 21 30:13 32:18, 22	goes 33:9, 13, 14 going 16:21 22:5 24:1, 8 31:9 good 13:17, 18 23:22 39:2, 3 grammatic 25:15 grammatically 25:11, 14 greater 7:7 Greta 1:11 5:10 Group 2:16 6:12 GS-1 42:3, 6, 8, 12 GS-3 41:24 42:16 42:18, 23 43:3 GS-4 41:11, 13, 15 41:21, 23 guess 21:24 23:2 31:3	43:14 <hr/> I idea 19:6 IDENTIFICATION 8:2, 17 10:22 37:22 identified 12:12 19:23 20:19, 22 26:7 28:19 29:11, 22, 24 32:15 identify 9:3 11:9 12:4, 17 21:14 29:4, 8 29:18, 21 33:1 IDFD 4:11, 14, 19 IEU 4:19 23:4 36:24 37:24 38:13 39:10, 13 39:17, 19 45:11 45:13, 17 46:5 48:2 IEU's 40:13 IEU-Ohio 37:18 46:24 impacts 43:10 implications 30:19 important 18:8 INC 1:21 included 1:7 27:22 includes 11:13 26:15 including 21:22 40:13 incur 26:12 incurred 40:15 independent 34:7 INDEX 4:1 indicate 17:11 33:6, 20 34:1 indicated 34:3, 6 35:10 36:5 industrial 2:12 6:7 41:16 innocuous 18:16 inquire 16:2 interest 21:23 22:3 interests 21:22 35:23 36:2, 3 36:10 47:9 interpret 39:23 intervened 39:10 introduce 31:4, 9 invitation 18:13 18:14 involve 23:23 involved 13:19	13:24 14:8 18:13, 22 19:4 20:15 24:2 32:2, 6 involvement 16:19 involving 23:14 issue 7:6, 10 12:9, 11, 20 14:10, 12 15:15 16:18 17:3, 10 17:18 18:3, 5 18:16 19:23 20:19, 22 22:20 24:3, 8, 10 27:19 32:15 33:9 34:2, 2, 4 35:19 40:21 41:6, 7 issued 26:4 issues 17:14 24:17 36:8 41:2 items 26:10, 17 29:12 <hr/> J Janine 3:2 6:17 Joe 46:2 Johnson 17:8 joint 7:13, 23 8:5 12:1 13:2 13:21 32:13 33:19 35:2 36:15 Joseph 2:18 4:8 4:20 6:20 36:24 37:2, 9 37:19 July 48:4 June 1:14 5:2 48:16 49:4 just 14:9 17:24 20:14 21:24 33:6 35:20 40:2 43:22 <hr/> K keep 34:8, 8 keeping 36:4, 9 kind 31:18, 24 knew 17:18, 18 know 8:7 14:2 15:3, 5, 8, 10 17:23 19:1, 3 19:14 20:14, 17 20:18, 18, 20 21:15 22:4 23:5, 6, 9 28:12 39:22 40:18 41:23, 23, 24
<hr/> F face 35:6 face-to-face 14:24 fact 17:24 43:8 47:1, 9 fairly 16:11 fall 30:16 familiar 40:20 41:5 42:3, 16 42:21 43:7, 16 43:22 44:2, 9 far 14:2 18:8 36:2 FAX 1:23 feel 31:24 40:2 felt 33:21 few 22:4 Fifth 1:21 2:10 6:9 file 31:12 46:7 46:8, 21, 23 47:11, 17 48:10 filed 9:4 11:12	<hr/> G G 4:8, 20 37:2, 9 general 3:7, 8, 9 6:2, 4 generally 42:20 generation 41:20 gets 8:11 given 48:3 gives 16:17 go 5:24 16:7 24:24 29:3 30:7, 22 33:12 45:20 47:15	<hr/> H handed 23:8 happened 17:23 happens 30:3 hear 5:11 34:15 heard 15:20 17:17 24:3 hearing 5:23 7:3 9:24 10:7, 12 13:3, 6 34:22 35:15 36:11, 22 44:24 45:17 46:4 48:15, 19 helped 15:4 High 2:6 5:22 honor 7:5 8:3 9:22 10:5, 8 12:23 13:4, 7 13:13 15:12 19:17 24:1 31:14, 17 32:5 34:17 35:3 36:20, 23 37:17 38:12, 19 43:21 44:16, 23 45:5 45:8, 13 46:19 47:21 Honors 5:15 6:6 17:3 Hospital 7:2 Hotz 3:3 4:9 6:15, 18 10:4 31:16, 17 34:3 35:18 38:20, 21 39:1 44:16, 21 45:24 46:1, 14 47:17, 20 48:9 48:13 Howard 20:23, 24 21:3, 6, 10 hundred 28:21 hypothetical	<hr/> I idea 19:6 IDENTIFICATION 8:2, 17 10:22 37:22 identified 12:12 19:23 20:19, 22 26:7 28:19 29:11, 22, 24 32:15 identify 9:3 11:9 12:4, 17 21:14 29:4, 8 29:18, 21 33:1 IDFD 4:11, 14, 19 IEU 4:19 23:4 36:24 37:24 38:13 39:10, 13 39:17, 19 45:11 45:13, 17 46:5 48:2 IEU's 40:13 IEU-Ohio 37:18 46:24 impacts 43:10 implications 30:19 important 18:8 INC 1:21 included 1:7 27:22 includes 11:13 26:15 including 21:22 40:13 incur 26:12 incurred 40:15 independent 34:7 INDEX 4:1 indicate 17:11 33:6, 20 34:1 indicated 34:3, 6 35:10 36:5 industrial 2:12 6:7 41:16 innocuous 18:16 inquire 16:2 interest 21:23 22:3 interests 21:22 35:23 36:2, 3 36:10 47:9 interpret 39:23 intervened 39:10 introduce 31:4, 9 invitation 18:13 18:14 involve 23:23 involved 13:19	<hr/> J Janine 3:2 6:17 Joe 46:2 Johnson 17:8 joint 7:13, 23 8:5 12:1 13:2 13:21 32:13 33:19 35:2 36:15 Joseph 2:18 4:8 4:20 6:20 36:24 37:2, 9 37:19 July 48:4 June 1:14 5:2 48:16 49:4 just 14:9 17:24 20:14 21:24 33:6 35:20 40:2 43:22 <hr/> K keep 34:8, 8 keeping 36:4, 9 kind 31:18, 24 knew 17:18, 18 know 8:7 14:2 15:3, 5, 8, 10 17:23 19:1, 3 19:14 20:14, 17 20:18, 18, 20 21:15 22:4 23:5, 6, 9 28:12 39:22 40:18 41:23, 23, 24

42:1,5,10,20 knowledge 14:23 19:20 38:10 knowledgeable 15:9 22:12,15 knows 34:3 Kurt 2:14 6:12 Kurtz 2:13,14 4:6 6:11,12,13 8:7 10:3,5 13:12,13,16,22 14:20 15:14 16:1,8 17:4,7 18:7,18,22 19:1 20:6 24:12,19,24 25:16,21 31:13 34:17 35:3 38:17,18 kWh 43:15	listening 17:16 litigation 40:17 little 39:4 LLC 2:9 37:12 LLP 2:5 load 27:22,24 long 7:19 16:3 look 20:10 40:18 43:8 looked 40:23 looking 18:5 36:7 lose 27:16 lot 32:1 41:16 Lowery 6:13 Lowry 2:13 Luckey 3:7 6:3 lunch 16:9 23:11	36:22,23 37:6 37:17 38:12 43:21 45:8,12 46:4,5 47:21 48:1 McNees 2:9 6:7 37:11 mean 25:12,18 means 26:14 mechanism 39:18 meeting 14:24 meetings 19:15 19:19 mentioned 15:15 23:9 merits 16:24 method 39:7,14 39:20 43:24 44:5 methodology 40:1 41:18,19 42:12 43:3,13 44:12 Michael 2:14,18 6:21 Migden-Ostrander 3:2 6:17 might 18:17 Mike 6:12 million 40:14 41:5 mind 23:17 28:16 minute 45:21 minutes 16:10 23:7 moment 32:12 33:23 moments 22:4 Mon 27:22,24 40:14 Monday 20:4 month 43:15 more 17:7 18:8 18:12 24:14 47:18 morning 5:1 15:19 18:1 Morris 2:5 5:21 most 41:21 46:15 motion 45:24 46:6 move 10:9 33:18 38:12 45:13 moved 17:14 24:22 much 28:2,12	need 9:10 11:17 25:16 needed 22:20 negotiate 15:4 18:13 19:16 negotiated 8:9 14:15,21 15:1 negotiates 16:16 negotiating 15:5 15:10 negotiation 13:19 14:1 18:14 negotiations 14:8 15:9 18:23 23:24 31:21,22 never 14:23 next 10:15 12:18 18:17 29:3,19 30:5,8,15,18 31:4,9 none 10:12 34:22 45:17 Notary 49:8 note 17:22 21:9 32:5 noted 18:19 47:8 48:5 notes 49:6 nothing 24:11 notion 36:9 number 28:20 numbers 46:11,14 Nurick 2:9 6:8 37:11	2:19 3:3,4,6,7 3:10 5:19,22 6:5,10,11,14 6:17,18,23 7:1 28:3 36:24 49:9 okay 15:1 19:18 22:14 23:12 43:16 OKEY 1:21 once 17:22 30:11 one 2:3 14:19 17:7 18:3 27:12 28:11 34:12 35:20 40:21 46:16 one's 7:7 only 14:6,14 22:5 30:11,24 31:8 40:12 onto 10:13 opinion 1:5 40:24 opportunity 39:14 46:1,7,8 47:22,24 opposed 39:18 opposing 39:23 order 1:5 28:21 30:4,5 40:19 40:24 organization 25:4,24 26:7 original 1:7 49:5 other 15:20 17:4 17:14 18:4 24:17 27:3 31:1,22 34:12 35:15 41:2 46:16 47:4 others 19:22 25:16 out 17:9,22 18:3 18:15 24:6,6 24:11 27:16 28:11,12 30:19 31:24 33:3 34:8,8 36:4,9 outright 39:18 39:24 own 36:18
L	M		O	P
L 3:2 lack 16:24 language 17:22 17:24 19:21 20:16 large 40:13,15 larger 41:16 last 9:7 11:13 17:22 18:1 19:8 20:1 21:19 30:22 late 31:19 latter 33:21 law 5:21 6:12 8:20 11:2 37:3 lawyer 18:9 leave 27:16 40:8 left 31:24 legal 2:17 14:2 lesser 7:7 let 6:24 14:21 21:7 28:5 29:7 36:17 let's 26:1 30:22 32:12 45:20 light 47:8 like 5:12 18:12 19:3 21:9,10 24:24 31:18,24 32:5 37:17 40:9 Lindgren 3:9 5:24 6:1,4 7:15,20 9:20 9:22 13:3,4 17:21 44:24 45:2 Lisa 2:9 6:8 list 20:11	M 4:4,5,15,17 8:14,19 10:18 11:1 made 9:10 11:17 22:20,22 28:18 28:19 43:9 make 8:11 25:11 25:15 29:18 30:7 31:11 32:24 38:3 making 24:11 many 41:8 46:16 Marc 3:7 Mark 6:2 marked 7:12,22 8:1,2,12,16,17 9:1 10:17,20 10:22 11:7,14 12:1 37:18,21 37:22,24 market 5:8 Marvin 2:2 5:17 14:3 Maskovyak 2:18 6:20,21 32:4 44:23 mathematical 47:18 matter 1:3 5:5 49:4 matters 31:23 may 8:12 9:5 11:12 14:5 15:20 18:7,16 20:11 25:5,15 30:24 32:7 37:14 46:23 maybe 7:15 McAlister 2:9 4:8 6:6,8 9:24 10:2 13:6,7	N name 5:9,17 37:7 necessarily 40:1 necessary 24:20 31:2	object 8:8 24:2 25:13 34:17 35:3 objection 8:11 15:13,18 18:19 19:17 43:21 objections 10:10 24:23 34:16,20 45:15 47:7 objects 46:5 OCC 35:18 44:16 46:1,24 47:11 48:10 occasion 17:8 OCC's 46:5 OEG 23:4 off 45:20,22 48:6,7,9 Offhand 42:20 Office 23:3,23 Ohio 1:1,13,14 1:22 2:3,7,11 2:12,15,16,17	page 4:3 9:7 11:13 12:8 21:7 39:4 41:9 43:8 PAR 39:7,14,18 39:20 41:1,10 41:20 42:11

43:2 44:11 48:4 paragraph 12:9 21:19 22:7 23:13 25:1 part 12:15 25:17 25:21 26:2,11 26:21,23 29:6 31:21,23 particular 40:1 particularly 12:8 parties 5:13 7:8 12:11,16 14:11 15:9,17,23 16:6 17:5 19:2 20:7 22:12,15 22:19,22 24:23 25:1,22 29:3 33:21 34:12 35:7 46:23 47:9,21 48:12 Partners 7:1 parts 25:20 party 17:20 21:16 39:5 46:20 47:4 pay 40:13 people 14:6,15 15:20 People's 2:20 6:22 per 43:15 percentage 41:20 perhaps 35:21 period 5:8 30:9 32:23 33:8 40:16 personalities 21:15 Personally 24:9 perspective 7:8 phrase 21:19 26:14 Pirik 1:11 5:4,9 6:24 7:18,24 8:15 9:20 10:10,12,19 13:12 18:18 21:9,14 24:15 24:20 31:15 32:8 33:16 34:14,19,22 35:1 36:14 37:20 38:16,20 44:18 45:4,6 45:10,15,17,20 45:23 46:18 47:7,23 48:5,8 48:14 plans 48:3	Plaza 2:3 5:19 please 9:3 12:5 18:21 37:7 point 13:10 18:2 24:16 33:14 35:21 47:16 policy 18:8 Porter 2:5 5:21 portion 48:16 position 18:19 23:17,18 32:21 positions 23:15 23:15,22 possibility 12:12 30:12 post 5:8 potential 23:19 32:16 33:3 power 1:3,6 2:2 2:8 5:6,7,14 5:16,18 6:16 12:14 26:3,4,5 26:9,18,20 27:22,24,24 28:3,4 33:2,13 39:6 40:12,14 40:15 precedent 35:8 35:11 precisely 12:17 29:4,21 prefers 35:18 prefiled 4:15,16 4:20 37:18 38:3 prepare 37:13 prepared 47:15 prescribed 8:20 11:2 37:3 present 7:3 16:6 17:5 presented 20:1 price 26:11 28:11,12 primarily 26:16 principle 22:9 23:22 prior 14:17 35:21 probably 40:8 procedural 17:1 17:3 procedure 16:13 24:14 proceeding 11:12 12:7,19 15:18 31:1 32:17 37:15 proceedings 1:10 32:19 49:3 process 8:7 16:14,20 17:1	22:13 28:1 processes 17:3 product 15:8 22:11 Professional 49:8 proposal 43:10 proposed 40:12 42:11 43:2,12 43:23 44:4,11 proposing 30:14 provide 46:2 provided 19:10 19:12 provides 46:15 providing 26:23 40:15 public 1:1,12 3:8,11 6:3 16:16 49:8 purposes 30:24 pursuant 1:4 5:7 pursued 18:4 put 29:14 p.m 48:20 <hr/> Q qualifies 42:5 qualify 42:18 43:19 question 14:18 14:19 25:17 26:22 27:13 39:14,19 questions 9:13 9:17,21,23 10:1,2,3,4,5 11:20 12:24 13:5,8,11 31:13,18 32:4 38:5,18 44:23 45:1,3,5 quite 26:15 34:5 quote 21:21 <hr/> R R2:6,18 5:20 6:21 raise 15:12 raised 32:16 34:3,4,11 ran 46:12 Randazzo 6:8 range 21:21,23 22:3 35:7,8,23 36:2,10 rate 5:8 18:17 41:10,13 42:6 rates 40:16 44:14 reached 7:9	18:11 22:23 26:4 read 27:12,13 readiness 34:9 realize 7:14 really 15:24 20:5 27:19 30:18 34:13 reason 46:6 rebut 47:1,3 rebuttal 44:17 46:2,8,22 47:11,13 48:10 48:16 recall 19:8 20:1 20:5,7,10 41:7 receive 31:19 received 15:6 16:8,9 20:8 recess 7:15,21 36:13 recollection 39:17 Recommendation 4:12 7:11 12:7 13:10 21:20 30:23 31:3 reconvene 36:12 48:15 record 6:24 10:13 11:10 12:5 18:20 21:10,11,17 24:22 32:5 34:23 36:14,17 37:8 45:14,18 45:20,22,23 47:8 48:6,7,8 48:10 recover 25:2,6 25:22 27:4,9 28:7 recovered 25:5 26:1,18 27:10 27:15,16,17 28:8 30:11 33:1 recovering 26:13 27:5 recovery 12:13 12:15,19 17:10 25:7,8 27:18 27:20 28:8,22 29:2,5,6 30:12 32:17,18,22 33:3,4,7 redirect 4:7 10:6 32:7,10 45:7 reduce 29:13 reduced 7:10	refer 31:6 reference 21:17 27:14 referring 22:16 reflect 6:24 regard 33:16 34:14,19 35:1 35:16 36:15 45:11 regional 25:3,24 26:6 regulate 16:17 regulatory 22:9 23:22 related 26:17,23 27:1,20 28:12 relates 27:6 relatively 17:23 18:16 relied 31:1 remains 47:1 remember 28:20 41:8 rephrase 14:21 Reporter 49:8 represent 16:15 36:10 representatives 7:2 17:5 represented 46:17 representing 35:22 represents 35:23 request 45:24 requests 44:17 46:1 require 16:12 47:14 residential 3:5 6:15 Resnik 2:2 4:4,6 4:7 5:15,17 7:4,5,22 8:3 8:12,23 9:17 10:6,8,15,21 11:5 12:23 13:21 14:3,9 14:14,17 15:12 16:3 17:2 18:24 19:17 23:1 24:1 25:13 31:5 32:7,11 33:15 33:16,18 35:20 36:19,20 45:4 45:5 46:18,19 47:14,18 resolution 12:20 resolve 17:19 24:10 34:2
--	--	---	---	--

resolved 17:23 17:24 respect 33:20 respond 17:2 18:7 responding 47:12 response 10:11 34:21 45:16 46:9 responsibility 12:14 26:8 42:24 results 46:11 review 18:1 reviewed 14:5 15:7 20:13 RFA-7055 49:11 RFP 26:3 27:6,20 28:11 rider 1:7 5:7 12:14,16,19 17:13 23:20 25:7,8 26:3,19 26:21 27:1,18 27:20,21,22 28:8,22 29:2,6 29:19 30:6,15 32:18,22 33:2 33:4,7,14 39:6 right 17:11 30:14 36:1 46:21 47:4,5 Riverside 2:3 5:19 RLM 44:2,5,6 room 1:13 19:1 19:20 24:2 Rosemary 49:7 rough 28:17,18 Roush 4:5,17 8:5 8:10 10:16,18 11:1,6 13:17 15:22 16:4 17:11 18:4 32:12 34:5 35:4,10 36:5 Roush's 34:15 RS-ES 44:9,12,13 RTO 30:10 ruling 36:8 run 46:10,14 R-R 43:7,9,13 R-R-1 43:16,19 43:24  S Sam 6:8 same 9:15 11:22 26:24,24 38:5 38:7 40:11 46:11	sat 24:2 satisfactory 12:21 saved 32:1 saw 20:9,12 23:10 saying 17:9 18:4 18:10 27:8 28:1 47:2 says 12:16 15:10 21:20 25:21 29:14,17 35:6 schedule 24:9 41:11,13,15,15 41:21 42:3,6,8 42:13,16,19,23 43:4,7,10,17 43:20,24 44:2 44:5,7,9,13 48:17 schedules 46:15 secret 16:16 18:2 secretly 8:9 section 3:8 6:3 40:19 see 1:11 5:10 19:7 22:9 23:4 42:22 seeing 33:22 seek 25:5 seeking 25:2,22 27:3,8 28:6 seemed 34:12 seen 13:9 seller 26:9,23 Senior 3:7 sense 25:11,16 48:1 sensitivity 15:19 sent 17:21 sentence 25:10 25:19,21 29:3 30:22 serious 22:11 serve 48:11 served 41:17 42:1 service 2:17 5:18 26:16,17 26:19 27:1 services 25:3,24 27:3 30:10 serving 27:24 Session 5:1 set 24:9 sets 35:8 settle 18:17 settled 16:18 settlement 8:9 14:10,13 15:13	15:14,16,21,22 16:5,20 17:4 17:17 40:9 set-off 27:16 seven 23:7 Seventh 2:15 6:13 Sheet 1:8 short 7:15 36:12 47:11 sign 18:12,14 22:6 signatories 21:24 22:18 significance 33:7 similar 28:18 simply 22:15 since 35:12 sir 23:12 32:14 sitting 17:15 sit-down 19:15 Smalz 2:18 6:21 some 12:13 15:19 32:7 41:24,24 47:11 somebody 40:6 something 29:9 29:20 30:18 39:23 40:9 sometime 19:8 20:1,19 30:16 South 1:21 2:6 5:21 Southern 1:3 2:8 5:6,14,16 6:16 26:9,20 27:24 28:3 40:12 speak 8:5 specific 19:21 spelled 30:19 sponsored 21:21 35:6,7 sponsoring 22:8 stabilization 5:8 staff 3:11 6:2 7:8,9 8:10 9:23 13:5 14:14,16,22 15:1 16:14 17:9,19 18:10 18:16,23 19:4 19:16,21,22 20:15 21:13,21 21:22 22:2,5 22:16,23 23:18 28:19 29:8 34:2,11 35:13 35:22,23,24 36:10 45:2	Staff/Company 4:11 7:13,23 12:1 13:20 33:19 34:18 35:2 36:15 stamped 48:12 stand 8:11 34:8 35:5,19 36:18 start 5:23 started 17:8,9 state 2:10,17 3:6 6:9 23:13 37:7 39:4 49:9 states 22:8 40:14 stenographic 49:5 stipulation 4:12 7:11 12:6,10 13:9 16:18 21:20 22:24 23:14 28:15 30:23,23 31:3 31:7,8,9 stop 26:1 29:7 Street 1:13,21 2:6,10,15 3:4 3:10 5:22 6:5 6:9,13,18 strike 16:23 subject 29:5 38:13 submit 44:17 submitted 30:24 subsequent 25:6 substance 18:8 substantive 24:16 substantively 16:11 33:24 35:13 sufficient 7:16 suggest 8:3 Suite 1:21 2:10 2:15 3:4 6:9 6:13 supplier 12:13 supply 26:4,5 suppose 40:6 supposed 16:15 16:17 sure 14:5 21:15 21:18 41:23 42:22 sworn 8:20 11:2 37:3  T table 5:24 17:16 18:3 take 5:12 7:15	7:19 17:12 18:6 23:12 36:11 taken 7:21 36:13 49:3 takes 7:19 talk 15:22 talking 14:13 19:2 26:2 talks 40:9 tariff 1:7 42:21 tariffs 42:2 TCRR 30:8 31:4,9 technically 20:15 technology 43:24 tell 23:6 tells 28:10 terms 31:2 terrible 35:8 testified 8:21 11:3 35:4 37:4 testifying 15:20 testimony 4:15 4:16,20 8:14 9:4,6 10:18 11:11,13 24:17 34:15 35:5,14 35:19 36:17 37:14,19 38:3 40:22 41:9 43:9 44:17 46:2,3,7,8,10 46:13,15,17,22 47:2,11,12,13 48:10 thank 5:15 6:1,6 6:20 9:22 10:7 10:21 13:4,13 31:15 32:3 33:15 36:21,23 38:16 45:2,8 45:10,12 46:19 48:18 their 46:23 48:10 thing 36:1 think 14:18,19 17:8 18:7 22:19 23:21 29:10,11 31:11 31:21 32:1 34:5 35:22 36:3 39:22 40:6 47:7 Third 2:10 6:9 Thomas 3:9 6:4 though 31:7 33:24 thought 29:11 thousand 28:21
---	--	---	---	---

three 16:10	V 2:18	34:6 35:4	1,000 43:15	555 2:19 6:22
through 21:4	varied 47:9	willingness 34:1	10 3:4 4:15,16	
24:24 26:18	version 16:9,10	winning 26:11,12	6:18	6
28:1,23,24	23:10	26:15	10:00 1:14 48:15	6 43:8
33:2 35:14	versus 41:19	wished 46:21	101 1:21	614 1:22,23
throw 24:5,6	very 35:6 42:4	withdraw 24:7,13	11 4:6	
Thursday 48:15	view 46:16,20	witness 4:3 9:18	13 4:6	7
time 5:12 13:9	violates 22:8	9:23 12:24	1510 2:15 6:14	7 48:16
18:1 23:5 32:1	violation 16:14	14:19 15:19	1700 2:10 6:9	74-1 1:8
33:14 44:16	VOLUME 1:17	18:21 21:12,18	18 9:5 11:12	
48:16		25:15 27:12	37:14 46:23	8
timing 48:2	W	44:19,20,22	180 1:13 3:10	8 4:4,12,15
titled 12:6	W 3:7	witnesses 8:4	6:4	800 1:22
today 7:3	wait 8:10	10:15 36:21	1800 3:4	
to-do 24:11	Wallace 2:9 6:8	won 26:10	185 1:21	9
transcript 49:3	37:11	word 23:12 24:4		
transmission	want 8:7 15:12	24:5 31:5	2	9th 3:10
12:15,19 17:10	16:1 19:1	words 20:17,18	2 4:16 10:17	
17:13 23:19	21:15 24:5	20:21	11:7,18,21	
25:3,4,6,7,23	34:7 35:14	work 34:1	13:1,8 21:7	
25:24 26:6,7	36:8	worked 18:15	33:19 34:15,20	
26:13,21 27:1	wanted 17:19	works 21:10,11	34:23	
27:18,19 28:8	46:10	21:12	2007 1:15 5:2	
28:22 29:1,6	wants 17:7	wouldn't 36:8	9:5 37:14 49:4	
29:19 30:5,11	wasn't 23:7	39:24	2008 30:10 32:24	
30:15 32:18,22	43:22	Wright 2:5 5:21	33:9	
33:4,7	way 5:24	writing 7:10	2009 49:10	
true 39:10,13,19	weak 16:11	19:4 29:13	212:10 6:9	
40:11 49:3	week 19:8 20:1	written 22:23	223-9481 1:22	
try 29:15 30:17	welcome 18:12	wrote 20:17,18	224-5724 1:23	
trying 24:10	well 14:10 18:17	20:20	224-9481 1:22	
28:20 33:24	19:18 23:10			
34:10	39:22	Y	3	
Tuesday 1:14 5:1	went 16:5 40:23	yeah 17:11	3 12:8 39:4	
49:4	were 9:13 11:20		3:50 48:19	
turn 21:7	12:13,15 13:19	\$	31 30:9 32:24	
two 14:14 33:17	14:14 15:5,10	\$10 40:14 41:5	33:8	
	16:6 17:5,6		32 4:7	
U	19:2,19 22:5,7	0	35 4:16	
under 41:15	22:20,22 23:15	05-1194-EL-UNC	36 2:15 6:13	
understand 18:18	24:2 26:5	25:9	37 4:8,20	
20:14 24:15,16	28:23,24 29:11	05-765 40:24	39 4:9	
unfairly 40:15	32:5 33:22,24	05-765-EL-UNC		4
unless 40:9	34:10 38:5,6	1:6 39:7		
unsigned 16:9	40:7,9 46:23	07-0333-EL-UNC	41 2:6 5:21	
23:10	West 3:4 6:18	1:5	43215 2:11,19	
until 8:10 22:4	we'll 18:6 29:10	07-333 31:8	5:19,22 6:5,10	
33:23	29:17	07-333-EL-UNC	6:23	
usage 43:23	we're 15:21	5:5	43215-2373 2:3	
used 31:1	17:12 18:4		43215-3485 3:4	
Users 2:12	24:8 26:2 28:1	1	43215-3793 3:10	
Users-Ohio 6:7	47:5	1 4:12,15,20	43215-5201 1:22	
using 41:19	we've 16:18	5:18 7:13,23	43215-6194 2:7	
43:14 46:12	17:21 18:10	8:6,13 9:1,7	43221 6:19	
Utilities 1:1,12	whole 40:7	9:10 10:9,13	45 4:20	
3:8,12 6:3	wide 21:21,23	11:14 12:2	45202-4454 2:15	
utility 16:16	22:3 35:7,8	13:2,20 32:13	6:14	
18:11 22:2,5	36:2,10	33:20 35:2		5
22:16	widest 35:23	36:16 37:18,24	5 1:15 5:2 41:9	
V	willing 15:21	38:13 45:11,13	49:4,10	
	24:12 32:22	45:18 48:4		

EXHIBIT

Case Number 07-333-EL-UNC  
Volume I

**The following exhibit(s) were prefiled and can be located with the pleadings:**

## Exhibits

**Date Filed**

COMPANY EXHIBITS

- 1 - Prefiled Direct Testimony of David M. Canter
- 2 - Prefiled Direct Testimony of David M. Roush

May 18, 2007

May 18, 2007

## IEU EXHIBITS

- 1 - Prefiled Direct Testimony  
of Joseph G. Bowser

May 18, 2007