

1 BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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3 In the Matter of the :
4 Application of Columbus :
5 Southern Power Company for:
6 Approval of its Electric :
7 Security Plan; an : Case No. 08-917-EL-SSO
8 Amendment to its Corporate:
9 Separation Plan; and the :
10 Sale or Transfer of :
11 Certain Generating Assets.:

 :
12 In the Matter of the :
13 Application of Ohio Power :
14 Company for Approval of :
15 its Electric Security : Case No. 08-918-EL-SSO
16 Plan; and an Amendment to :
17 its Corporate Separation :
18 Plan. :

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20 PROCEEDINGS

21 before Ms. Kimberly W. Bojko and Ms. Greta See,
22 Hearing Examiners, at the Public Utilities Commission
23 of Ohio, 180 East Broad Street, Room 11-C, Columbus,
24 Ohio, called at 10:00 a.m. on Monday, November 17,
25 2008.

26 - - -

27 VOLUME I

21 - - -

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8 and Ohio Power Company.

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17 On behalf of the Appalachian People's
18 Action Coalition.

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20 By Mr. Samuel C. Randazzo
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19 On behalf of EnerNoc, Inc. and
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24 On behalf of the Ohio Association of
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1 APPEARANCES (Continued):

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7 On behalf of Ohio Partners for
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1 Monday Morning Session,

2 November 17, 2008.

3 - - -

4 EXAMINER BOJKO: Let's go on the record.

5 At this time we would like to call the hearing to

6 order In the Matter of the Application of Columbus

7 Southern Power Company for Approval of its Electric

8 Security Plan, an Amendment to its Separate

9 Corporation Plan and the Sale and Transfer of Certain

10 Generating Assets, case number 08-917-EL-SSO, and

11 also In the Matter of the Application of Ohio Power

12 Company for Approval of its Electric Security Plan

13 and Amendment to its Corporate Separation Plan, case

14 number 08-918-EL-SSO.

15 At this time we'd like to take

16 appearances of the parties, we'll begin with the

17 company.

18 MR. RESNIK: Thank you, your Honor.

19 Appearing on behalf of Columbus Southern Power

20 Company and Ohio Power Company, my name is Marvin I.

21 Resnik. I'm with the American Electric Power Service

22 Corporation. The address is One Riverside Plaza,

23 Columbus, Ohio 43215. Also appearing on behalf of

24 the companies is Steven T. Nourse, also with the AEP

25 Service Corporation at the same address, and Daniel

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1 R. Conway of the law firm Porter, Wright, Morris &
2 Arthur, his address is 41 South High Street,
3 Columbus, Ohio 43215.

4 EXAMINER BOJKO: We'll just go around the
5 table.

6 MR. SMALZ: My name is Michael R. Smalz,
7 I'm appearing on behalf of the Appalachian People's
8 Action Coalition. My address is Ohio State Legal
9 Services Association, 555 Buttles Avenue, Columbus,
10 Ohio 43215. And also appearing as co-counsel is
11 Joseph E. Maskovyak at the same address.

12 MR. O'BRIEN: Good morning, your Honors.
13 On behalf of the Ohio Hospital Association, Richard
14 L. Sites, 155 East Broad Street, Columbus, Ohio --
15 what is the zip code here -- 43215, and also Bricker
16 & Eckler, LLP, by Thomas J. O'Brien, 100 South Third
17 Street, Columbus, Ohio 43215.

18 MR. MARGARD: Thank you, your Honors. On
19 behalf of the staff of the Public Utilities

- 20 Commission of Ohio, Sherry Maxfield, First Assistant
- 21 Attorney General, Duane W. Luckey, Section Chief,
- 22 Public Utilities Section, by Assistant Attorneys
- 23 General Warner L. Margard, John H. Jones, and Thomas
- 24 G. Lindgren, 180 East Broad Street, 9th floor,
- 25 Columbus, Ohio.

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1 MR. RINEBOLT: On behalf of Ohio Partners
2 for Affordable Energy, David C. Rinebolt and Colleen
3 L. Mooney, 231 West Lima Street, PO Box 1793,
4 Findlay, Ohio 45839-1793.

5 MR. PETRICOFF: Thank you, your Honors.
6 On behalf of Integrys Energy, the law firm of Vorys,
7 Sater, Seymour & Pease, 52 East Gay Street, Columbus,
8 Ohio, M. Howard Petricoff, Mike Settineri and Betsy
9 L. Elder. I would also like to enter the appearance
10 of Bobby Singh, and he's at 300 West Wilson Bridge
11 Road, Worthington, Ohio.

12 On behalf of Constellation NewEnergy and
13 Constellation Commodity Energy Group I'd like to
14 enter the appearance of the law firm of Vorys, Sater,
15 Seymour & Pease, M. Howard Petricoff, Betty Elder,
16 and Mike Settineri, and also the appearance of
17 Cynthia Fonner, F-o-n-n-e-r, 500 West Washington
18 Boulevard, Chicago, Illinois 60661.

19 On behalf of EnerNoc, Inc., that's

20 E-n-e-r-N-o-c, and Consumer Powerline, Inc., the law
21 firm of Vorys, Sater, Seymour & Pease, once again M.
22 Howard Petricoff, Betsy L. Elder, and Michael J.
23 Settineri.

24 And finally on behalf of the Ohio

25 Association of School Business Officials the law firm

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1 of Vorys, Sater, Seymour & Pease, M. Howard

2 Petricoff, Michael J. Settineri, and Betsy L. Elder.

3 Thank you.

4 MS. GRADY: Thank you, your Honor. On

5 behalf of the residential ratepayers of the

6 companies, Janine L. Migden-Ostrander, Consumers'

7 Counsel, the office of the Ohio Consumers' Counsel,

8 Ten West Broad Street, Suite 1800, Columbus, Ohio,

9 43215, appearing on behalf of counsel, Maureen R.

10 Grady, Terry L. Etter, Jacqueline Lake Roberts,

11 Michael E. Idzkowski, and Richard C. Reese.

12 MR. RANDAZZO: Thank you, your Honor. On

13 behalf of the Industrial Energy Users-Ohio I'd like

14 to enter the appearance of McNees, Wallace & Nurick

15 by Samuel C. Randazzo, Joseph Clark, Lisa McAlister,

16 located at 21 East State Street, Columbus, Ohio

17 43215.

18 Thank you.

19 MS. WUNG: Good morning, your Honor. On

20 behalf of Wal-Mart Stores East LP, Macy's Inc., Sam's
21 East, Inc., collectively The Commercial Group, the
22 law firm of McDermott, Will & Emery, Grace C. Wung,
23 600 13th Street, Northwest, Washington DC 20005.

24 MR. KURTZ: Good morning, your Honors.

25 Mike Kurtz and Dave Boehm for the Ohio Energy Group,

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1 law firm Boehm, Kurtz & Lowry, 1510 URS Center,
2 Cincinnati, Ohio.

3 MR. WHITE: Your Honors, on behalf of the
4 Kroger Company the law firm of Chester, Willcox &
5 Saxbe, Matthew S. White, John W. Bentine, and Mark S.
6 Yurick, 65 East State Street, Suite 1000, Columbus,
7 Ohio 43215.

8 EXAMINER BOJKO: Mr. Bell.

9 MR. BELL: On behalf of the Ohio
10 Manufacturers Association, Langdon D. Bell of the law
11 firm of Bell & Royer, 33 South Grant Avenue,
12 Columbus, Ohio 43215.

13 I'd also like to enter the appearance of
14 Mr. Barth Royer on behalf of the Ohio Environmental
15 Council and Dominion Retail, same address, same firm.

16 EXAMINER BOJKO: Mr. Porter.

17 MS. PORTER: Good morning, your Honor.
18 On behalf of the Association of Independent Colleges
19 and Universities of Ohio, the law firm of

20 Schottenstein, Zox & Dunn, Andre Porter, Christopher

21 Miller, and Gregory Dunn. The address of 250 West

22 Street Columbus, Ohio 43215.

23 EXAMINER BOJKO: Anybody else? Any other

24 intervenors?

25 Mr. Resnik, would you like to call your

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1 first witness?

2 MR. RESNIK: Mr. Conway will.

3 EXAMINER BOJKO: Mr. Conway.

4 MR. CONWAY: Thank you, your Honor. The
5 companies call as their first witness David M. Roush.

6 EXAMINER BOJKO: Mr. Bell.

7 MR. BELL: Your Honor, consistent with
8 past practice to raise at the earliest possible

9 moment motions, I have a motion with respect to the
10 matter that's on for hearing today, the interim rider
11 proposal of the companies. May I be heard?

12 EXAMINER BOJKO: Yes, you may.

13 MR. BELL: Your Honor, at this time --

14 EXAMINER BOJKO: Can everybody hear
15 Mr. Bell?

16 MR. RESNIK: Oh, yes.

17 MR. BELL: At this time I would
18 respectfully move to strike section V.E of the
19 company's filed plan which appears on page 17 and 18

20 of the companies' application, as well as the
21 prefiled direct testimony of Company Witness Roush
22 beginning on page 3, line 1 through the word, quote,
23 riders, end quote -- excuse me, the word riders, end
24 quote, and that's precautionary because, of course,
25 while it references riders generally, it includes

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1 possibly the rider of the company to place into
2 affect the V.E proposal.

3 Additionally, I move to strike page 15,
4 line 18 through page 16, line 7 direct testimony of
5 IEU Witness Murray, although Mr. Randazzo this
6 morning represented that IEU was withdrawing the
7 specific language that I propose moving to strike
8 and, if such be the case, I will not make that
9 motion.

10 MR. RANDAZZO: There's nothing to strike.

11 MR. BELL: I also move to strike the
12 direct testimony of Staff Witness Hess beginning on
13 page 2, line 11 beginning with the word "and" through
14 the word "days" on line 14, the entirety of line 7 on
15 page 5, and the testimony commencing on page 8, line
16 19 through page 8, line 19.

17 Additionally, I would move to strike all
18 of the rebuttal testimony filed in this cause as a
19 result of that testimony being directed to the

20 matters that I have just moved to strike. If the
21 motion is sustained, then that testimony becomes
22 superfluous.

23 The basis for the motion is simply this,
24 that Senate Bill 221 does not provide for any interim
25 action by the Commission, by whatever name it is

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1 characterized, as a rate stabilization plan, as a
2 interim MRO, or as an interim RSP.

3 The companies' proposal not being
4 authorized by law is unlawful and, therefore, the
5 proposal itself should be rejected. While it is --

6 The second basis of the motion to strike
7 is simply this, there has been a tremendous amount of
8 filed testimony in this case by numerous witnesses as
9 to the asymmetrical position that the parties are
10 advancing, that is it is not two sided.

11 I respectfully submit, your Honor, that
12 section V.E of the companies' proposal is
13 unreasonable and unlawful on its face and seeks to
14 restrict the Commission in the exercise of its
15 regulatory jurisdiction in the following manner.

16 Section V.E reads, if I may be permitted,
17 your Honor, as follows: "Section 4928.14(C)(1) Ohio
18 Revised Code requires," and I want to emphasize
19 "requires," this is the companies' language, not the

20 Ohio Manufacturers language. It does not say
21 "requests," it requires the Commission to issue an
22 order on the initial ESP application not later than
23 150 days after the application is filed.

24 Then the company proffers: The companies
25 believe that the Commission intends to take all

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1 necessary actions in order to comply with this,
2 quote, "requirement," end quote. However, in the
3 event that the Commission is unable to meet the
4 statutory requirements, the companies include, as
5 part of its ESP, a provision that establishes a
6 one-time rider to reflect the difference between the
7 ESP proposed rates and the rates charged under the
8 companies' existing standard service offer and
9 reflects the length of time between the end of the
10 December 2008 billing month and the effective date of
11 the new ESP rates.

12 It is proposed that the amount to be
13 recovered under this provision of the ESP would be
14 recovered over the remaining billing months in 2009
15 with a trueup, if necessary, in the first quarter of
16 2010.

17 I respectfully submit that one need not
18 be an attorney to clearly interpret that language.
19 That language clearly makes as part of these

20 companies' ESP plan a proposal that the Commission
21 need not -- need not -- issue an order until the
22 latter part of 2009 as indicated by the clear
23 language of the companies' proposal with, "if
24 necessary, a trueup in the first quarter of 2010."
25 I respectfully submit that that is not

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1 part of Senate Bill 221.

2 Additionally, I would respectfully submit
3 to the Bench that regardless of how well intended the
4 filing of this plan at the time it was filed, that we
5 have witnessed a sea change in the economy of this
6 country and of this state of seismic proportions, the
7 epicenter of which rests in the companies' service
8 territory, and this is reflected in the testimony of
9 several of the witnesses including some of the
10 rebuttal testimony that I've moved to strike.

11 It is entirely conceivable today that an
12 ESP as ordered by the Commission could provide rates
13 less than those in effect on July 31, 2008, but
14 protect -- designed to protect this company in its
15 provision of electricity to its customers into the
16 future against a collapsing market for electric
17 energy.

18 We've seen what has happened with the
19 price of gasoline. We've seen what has happened to

20 retailers bringing back depression-era marketing
21 tools; the layaway plan. We've seen layoffs in every
22 industry in the state where some of this state's
23 largest employers are in Washington unable to get
24 credit through the financial markets from the United
25 States Government.

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1 Today Citicorp announced 53,000
2 additional layoffs; National City 4,000 a week ago.
3 Industry after industry, including retailers, Circuit
4 City, one need not go far from downtown Columbus to
5 see the situation that exists in this state today and
6 the action that this Commission might well decide to
7 take to save the electric utility industry and AEP by
8 effectively ordering rates less than those in effect
9 on July 31, 2008.

10 I respectfully submit that an appropriate
11 reading of the law is that absent the Commission's
12 ability to issue an order by December 31st or
13 December 30th, if one wishes to consider the
14 billing cycle of this company, then the law requires
15 that the rates in effect on July 31st, 2008, are
16 the rates that should be charged to customers should
17 the Commission fail to act on or before July 1.

18 I appreciate the company coming from
19 where it came when it filed this case on July 31st.

20 This is not July 31st. It is November 17th,
21 2008. I can appreciate staff's proposal to split the
22 baby in half, if you will, but even staff's proposal
23 which would provide for these companies based upon my
24 calculations with the 3 -- or, 7 and 11 percent
25 increase applied to Mr. Roush's DMR-1, page 1 of 2

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1 and page 2 of 2 would generate additional revenues on
2 an annualized basis of \$62,610,185 for Ohio Power and
3 \$38,370,858 for Columbus & Southern Power for a total
4 of over \$100 million at a time when the governor of
5 the state is doing everything that he can to avoid
6 increasing taxes, salvaging the workmen's --
7 unemployment fund, at a time where the city of
8 Columbus is looking at an \$80 million deficit. I
9 respectfully --

10 EXAMINER BOJKO: Mr. Bell, are we talking
11 about the motion to strike now or --

12 MR. BELL: Yes.

13 EXAMINER BOJKO: Let's stick to the
14 motion to strike. We're going beyond into legal
15 arguments.

16 MR. BELL: It's argument on the motion to
17 strike, two bases: One, the law does not provide for
18 it; and two, on its face it is unlawful and
19 unreasonable for the very simple reason that, as I

20 read it, it is proposed that the amount to be
21 recovered, not refunded, not recovered or refunded,
22 with a trueup in the first quarter of 2010 if, in
23 fact, we are going to maintain the status quo, then
24 any increase or any order to be issued should be
25 adjusted up or down if we're going to look back and

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1 make it retroactive, and I respectfully submit that
2 the proposed V.E of the companies' plan allowing only
3 for the recovery of additional revenues of the
4 company is unduly restrictive of the Commission and
5 the exercise of its authority.

6 EXAMINER BOJKO: Thank you.

7 Mr. Resnik or Mr. Conway, do you have a
8 response?

9 MR. RESNIK: Your Honor, let me first
10 inquire, I know that at the prehearing conference you
11 had indicated that there were going to be -- there
12 was going to be a briefing schedule on this
13 particular issue because I think you said the first
14 brief due December 2nd, and I would expect that the
15 legal arguments Mr. Bell raised would be raised there
16 and we would address the legality.

17 Now, I'm happy to respond now, but I
18 didn't know if you want the full argument or just
19 leave it for briefs.

20 EXAMINER BOJKO: Do you have any direct
21 response to the motion to strike as opposed to the
22 legal arguments that you just referenced?

23 MR. RESNIK: Yeah. Let me just mention a
24 couple of things, your Honor. First of all, Senate
25 Bill 221, when it's referring to an electric security

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1 plan, lists any number of components that can be
2 included in the plan, but the introductory language
3 at that point talks about the company may include in
4 the ESP, without limitation, and then it goes on and
5 lists those.

6 Without limitation doesn't mean that
7 everything that we put into the plan has to have been
8 thought about by the General Assembly or listed. The
9 General Assembly I think recognized that there be
10 provisions to put in that they weren't able to think
11 about or didn't want to list absolutely everything
12 that they could. So the company put in this section
13 V.E in recognition of the type of procedural schedule
14 that was set for this case, and we believe that
15 putting it in the application is permissible because
16 there is nothing that limited our ability to put in
17 that provision.

18 Once that provision is in, there's
19 absolutely no merit to suggest that people can't

20 testify about it, and we have Mr. Roush that supports
21 it. Other people have filed testimony now in
22 rebuttal and Mr. Hess has put in testimony regarding
23 the proposal. It seems to me it's perfectly logical
24 that if you can put something into the application,
25 parties should be able to testify about it.

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1 So I think that section 143(B), I believe
2 it is, permits us to put in that provision. Now,
3 that's just the underlying premise of why that's in
4 the application.

5 Now, the other thing that I would
6 mention, Mr. Bell started out saying about bringing
7 things in at the earliest possible moment. We filed
8 this on July 31. I don't know how you could say that
9 November 17th is -- he told us on Friday he was
10 going to -- that's the earliest possible moment to
11 bring to the Commission he thinks a part of the
12 application that's been on file for three months
13 shouldn't be included in the application.

14 And I really think that what this is is
15 just an attempt to file a very late memorandum contra
16 to our motion that we filed on September 24th to
17 put that section into effect. Under the procedural
18 schedule you set, parties had five calendar days --
19 business days, I think it was, to respond on October

20 31. There was one response, and that was it. That
21 was the time for Mr. Bell, who was already an
22 intervenor in this proceeding, to have responded
23 concerning the legality of what the company was
24 proposing. He didn't do that. That was the choice
25 of the OMA. And to now try and use a motion to

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1 strike something from the application I think is just
2 subterfuge.

3 By way of example, let me just suggest
4 what had been a motion for an extension of the
5 procedural schedule in this case, and if we had
6 waited, if the company had waited more than the five
7 days that was allowed by your procedural schedule to
8 respond and came in with its own motion to maintain
9 the procedural schedule originally set, I would
10 expect that parties would complain that we were just
11 trying to use a motion to make up for our having been
12 late in responding to the request for extension that
13 had been made.

14 And I think that's what's happening here,
15 for whatever reason the OMA is trying to come in
16 late. It should have responded by October 1.
17 They're here a month and a half later.

18 I could go into the provisions of Chapter
19 4928.141. Frankly, your Honor, I think that what

20 that provision applies to, as far as a rate plan
21 being put into effect, if an order isn't issued in a
22 case where the company did not file their ESP in
23 sufficient time for the 150 days to run so that the
24 Commission would get an order out.

25 This isn't some hypothetical. I think we

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1 can look at the application filed by Dayton Power &
2 Light and their ESP proceeding on October 10th.
3 The Commission has 150 days from October 10th,
4 which, if I remember what I was looking at last
5 night, is somewhere into January, maybe February.
6 141, when it talks about what happens if there isn't
7 an order from the Commission, isn't intended to be a
8 loophole for the Commission, and we're not suggesting
9 the Commission's looking for a loophole to miss the
10 150 days. I think that it applies in a situation
11 where a company such as Dayton came in so that the
12 150 days would run after January 1st of 2009.

13 Now, so the question is, well, what
14 happens then if there isn't an order within the 150
15 days in our case? And I think the very clear answer
16 as far as we're concerned is that it's really up to
17 the Commission to try and carry forward the intent of
18 the General Assembly. That intent was to have new
19 rates that would be in effect as we enter 2009. And

20 the way that we are suggesting that that intent be
21 implemented is our plan for keeping the rates as they
22 are and then an ultimate reconciliation once those --
23 once the Commission's order comes out.

24 I lost track of Mr. Bell in his calendar
25 counting, but the fact is we're not talking about

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1 doing this through the end of '09. We would fully
2 expect, and I think it's your wishes, that there
3 would be an order out sometime within the first
4 quarter of '09 at the latest.

5 All we were suggesting with the trueup
6 into the first quarter of 2010 was that as we were
7 either making up the difference or, as Mr. Bell
8 suggests, that the Commission could lower our
9 existing rate, frankly, that's another legal issue
10 that I don't think he's correct on, but assuming that
11 there is some increase, that that lost increase from
12 January 1 until the Commission order is issued would
13 be spread over X number of months and then, because
14 these projections are never absolutely certain, as
15 you got to the last month, there probably would be a
16 need for a trueup, and that would take place at the
17 beginning of 2010.

18 So the trueup was just in the context of
19 this rider, did it really collect more or less, did

20 it really collect the absolute amount that had been
21 projected, which it never will, or did it overcollect
22 or undercollect. So that's what the trueup is.

23 EXAMINER BOJKO: All right. Thank you.

24 Mr. Margard, did you have a response
25 to -- do you have a response to the motion to strike

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1 Mr. Hess's testimony?

2 MR. MARGARD: If I may and only briefly,
3 your Honor, staff doesn't take a position with
4 respect to Mr. Bell's motion to dismiss that portion
5 of the companies' application. We do wish to state
6 that I don't believe that Mr. Hess's testimony,
7 although it addresses the company's proposal, is
8 necessarily dependent on that portion of the
9 company's application.

10 I think, as Mr. Resnik aptly noted, the
11 potential exists that the Commission may need to do
12 something pursuant to the General Assembly's
13 instructions depending on the timing of how its order
14 proceeds. I think Mr. Hess's testimony addresses
15 staff's view of what the Commission needs to consider
16 in addressing such -- issuing such an order and to
17 that extent I think it's appropriate and would ask
18 that you deny the motion to strike Mr. Hess's
19 testimony with respect to the 1/1/09 portion.

20 EXAMINER BOJKO: Thank you.

21 Ms. Grady.

22 MS. GRADY: Thank you, your Honor. Your

23 Honor, OCC wishes to support Mr. Bell's motion to

24 strike the rebuttal testimony. I believe it is

25 appropriate. OCC would note that the rebuttal

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1 testimony it presented by OCC Witness Hixon presents
2 that very view, that the rates in effect on July
3 1st, 2008, are rates that should be charged to
4 customers.

5 On the basis of that OCC would urge that
6 the other testimonies be stricken, that Ms. Hixon's
7 testimony be permitted to go forward consistent with
8 that view and the position presented by Mr. Bell.

9 EXAMINER BOJKO: Mr. Rinebolt.

10 MR. RINEBOLT: Your Honor, I would speak
11 also in support of the motion of the Ohio
12 Manufacturers Association, Mr. Bell. It is settled
13 law in Ohio that specificity within a statute trumps
14 vagaries. Now, the companies certainly can choose to
15 put anything in its application it desires, but just
16 because it puts it in the application does not make
17 it legal under the statute. It's simply the plain
18 language of section 4928.141 that dictates the path
19 that the Commission must follow in the event an

20 electric security plan is not adopted by December 31,

21 2008.

22 Having participated, as many of my

23 colleagues did, in the legislative consideration that

24 developed 221, I would suggest that after exhaustive

25 testimony the General Assembly made a decision about

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1 what would happen should the accelerated procedural
2 schedule dictated by the statute not be met, and that
3 is that indeed the continuing rates stay in effect.
4 As ex-commissioner Luther Heckman once noted, the
5 General Assembly is free to change the rules, and in
6 fact they have over the activities of regulated
7 distribution utilities and we suggest that the law be
8 followed.

9 Thank you.

10 MR. RESNIK: Your Honor.

11 EXAMINER BOJKO: Mr. Resnik.

12 MR. RESNIK: May I be heard? I was
13 disappointed by the motion that the OMA made, but I
14 must confess I am really disappointed by the position
15 taken by OCC and the Ohio Partners for Affordable
16 Energy. Those two parties, along with two others,
17 asked for a continuance of the hearing schedule in
18 this proceeding, and when they did in that pleading
19 they said -- it says "movant" but I'm sure it was

20 speaking for both these parties now --

21 EXAMINER BOJKO: Can you hear Mr. Resnik

22 over here?

23 Can you speak up a little bit?

24 MR. RESNIK: I will. What OCC and the

25 Ohio Partners for Affordable Energy said in their

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1 pleading when they wanted more time to prepare was
2 that they believed that AEP's proposal to continue
3 the current rates and terms in effect until the final
4 ESP is determined subject to reconciliation is
5 reasonable. This approach is reasonable and should
6 be acceptable to all parties.

7 In their reply memorandum after we had
8 interposed our memorandum contra, they came back
9 again and said if AEP's trueup proposal is adopted,
10 which OCC does not object to, there will be no harm
11 created by granting even the 60-day extension.

12 Now, I have to tell you that for parties
13 to come to this Commission, ask for an extension,
14 indicate that they have no problem with the
15 companies' proposal under section V.E, get their
16 extension, and then stand here before the Bench and
17 say "we don't like that proposal anymore," I think is
18 just absolutely outrageous.

19 You know, if people can't rely on what's

20 put into pleadings, you know, then you can't rely on
21 anything. Except for Mr. Rinebolt who wants to rely
22 on Luther Heckman, and I like Luther, but it just is
23 beyond the pale that that would have happened.

24 And I saw it in Ms. Hixon's testimony. I
25 was rather surprised to see it there. I just don't

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1 think parties can take one position when they want
2 relief from the Commission and then once they get
3 that relief with the various procedural problems
4 that, as we recognized in our prehearing that it
5 created, then drop their willingness to accept the
6 companies' position.

7 EXAMINER BOJKO: Ms. Grady.

8 MS. GRADY: If I may quickly respond,
9 yes, your Honor, you will recall, your Honor, in that
10 motion for time we asked for a full 60 days. If we
11 had gotten the 60 days, we most certainly would have
12 supported a trueup. We did not get 60 days. We got,
13 I believe, two weeks.

14 Our position in that particular -- at
15 that particular time was if we get a full 60 days, we
16 will support the reconciliation in the plan. We did
17 not get the 60 days, therefore, we are not being
18 inconsistent, and you can certainly ask Ms. Hixon on
19 the stand about that.

20 EXAMINER BOJKO: Mr. Kurtz.

21 MR. KURTZ: Your Honors, thank you. I'd

22 just like to state our position, OEG's position on

23 these various issues. The OCC --

24 EXAMINER BOJKO: We're talking about

25 motions to strike.

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1 MR. KURTZ: Yeah, and I'll respond in
2 terms of the motion to strike. The OCC would be
3 correct that the July 31, '08, rates should stay in
4 effect, as well as Mr. Bell, if the Commission does
5 nothing, if the Commission doesn't issue an order.

6 But the reason we're here and the reason
7 you set up the schedule presumably is that the
8 Commission does intend to issue an order before the
9 end of the year saying what the standard service
10 offer rate should be beginning 1/1/09. Because an
11 order will be issued, the provisions that Mr. Bell
12 relies on don't apply.

13 Now, then the question becomes what
14 should the Commission do in its 2008 order. And we
15 think the Commission ought to issue an order that
16 results in as near as you can tell on an interim
17 basis reasonable rates. If you have a reconciliation
18 as part of the order issued before the end of this
19 year, then a lot of it doesn't matter because you'll

20 trueup. You don't want to give rates that are too
21 high or too low because then you have refunds or
22 catch-ups that are burdens on one party or the other.
23 But given the fact that the Commission is
24 going to issue an order before the end of the year,
25 the provisions of the law that were relied on in the

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1 motion to strike don't apply. We have all the
2 testimony in. We have the parties here. Let's go
3 ahead and put this information into the record to
4 give the Commission the information it needs to issue
5 an order by the end of the year.

6 EXAMINER BOJKO: Mr. Randazzo.

7 MR. RANDAZZO: Thank you, your Honor.

8 The section that's controlling is in 141,
9 4928.141(A). It is about 2/3 through the paragraph,
10 and I disagree with Mr. Bell on his notion the
11 General Assembly did not contemplate something on an
12 interim basis.

13 There are specific provisions in Senate
14 Bill 221 dealing with interim adjustments in the
15 event, for example, the Commission were to reject an
16 ESP filing and allow -- and the company then would
17 elect to terminate its proposal and go to an MRO.

18 But section 141, which is the section
19 that drives you into section 142 dealing with MROs

20 and 143 dealing with ESPs says that until the
21 Commission issues an order under 142 or 143, that
22 the -- until a new standard service offer is
23 authorized under 142 or 143, the current rate plan
24 controls. And rate plan is a defined term in Senate
25 Bill 221. Rate plan means the standard service offer

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1 in effect on the effective date of the amendment of
2 this section by Senate Bill 221 of the
3 127th General Assembly.

4 I don't know if a motion to strike or a
5 motion to dismiss is the right question -- is the
6 right procedural vehicle. I do agree that this is a
7 legal question, and to the extent that the Commission
8 can resolve it earlier, I think we would be better
9 served in terms of allocating limited resources to
10 deal fundamentally with the question of what --
11 whether or not the ESP proposed by AEP is acceptable.

12 I would also note that the discussion
13 here regarding a trueup mechanism presumes that there
14 would be an ESP approved by the Commission that would
15 be acceptable to AEP. If you do not have that
16 context and AEP elects to withdraw its ESP and file
17 an MRO, Senate Bill 221 again deals with that
18 circumstance and tells us what plan will be in effect
19 on an interim basis.

20 But to presume that there is a trueup to
21 the ESP presumes that there is an ESP, and we have
22 not got to that point either. So as a means of
23 trying to focus on issues that can have longer term
24 significance for all of us and to allocate limited
25 resources, I would request that the Commission make a

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1 summary judgment on the legal question as soon as
2 possible, and the legal question is, I think, the
3 issue that's framed not by V.E or anything else, but
4 what Senate Bill 221 says in section 141 with the
5 definition that I referenced on what happens in the
6 event that the Commission does not issue an order
7 under 142 or 143.

8 EXAMINER BOJKO: Mr. Bell.

9 MR. BELL: A very brief response, your
10 Honor.

11 EXAMINER BOJKO: Very brief, please.

12 MR. BELL: I'm inclined to agree with
13 Mr. Randazzo. 4928.01(A)(33) says what happens in
14 the event the Commission fails to issue an order.
15 And in determining whether or not to issue an order I
16 respectfully suggest that the Commission might
17 reference Company Witness Baker's testimony, his
18 direct testimony, in which he -- and I'm specifically
19 referencing page 19 and 20 of his testimony, in which

20 he addresses the development of the rates that were
21 in effect 2006, 2007, and 2008, that those rates were
22 increased in each of those years irrespective of
23 whether the companies experienced increases or
24 decreases in their costs and in their revenue
25 requirements in each of those years.

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1 I respectfully submit that in viewing
2 Mr. Baker's own testimony and the testimony of other
3 witnesses in this case that indicate that Columbus &
4 Southern in 2007 had a 23 percent return on equity,
5 that Ohio Power had a 12 percent return, that there
6 is under the rates that were in effect on July
7 31st, 2008, quote, headroom or headway, as
8 Mr. Baker uses that term in the context of his
9 rebuttal testimony.

10 I, too, would respectfully request a
11 ruling by the Commission on this matter because it is
12 critical. I did so, as I indicated in the e-mail
13 that I sent out this weekend, so that we might avoid
14 considerable cross-examination on what some might
15 consider to be very argumentative and patronizing
16 rebuttal testimony that's been filed in this case, so
17 that the examiners could address the real issue, and
18 that is, the substance of the ESP as opposed to the
19 companies' proposed riders.

20 EXAMINER BOJKO: Thank you.

21 Although we appreciate all of the
22 arguments, we recognize that the Commission is the
23 one who needs to decide this decision, and in order
24 for the Commission to decide this decision we have
25 tried to arrange a schedule that would allow us to

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1 receive testimony both on the companies' proposal in
2 its application as well as the overarching legal
3 issues that you have all shared with us this morning.

4 Obviously, everyone in this room doesn't
5 agree, and that's clear, so in order for us to
6 provide the Commission with an adequate record in
7 order to make the decision, we have moved this to
8 hopefully what will be one day of testimony and also
9 a shortened briefing schedule so they can make this
10 decision, as you've all suggested that they do in a
11 manner that they wish. But I think that in order to
12 do that we do need to receive testimony, adequate
13 testimony, for them in evidence to make that kind of
14 decision.

15 So with regard to Mr. Bell's motions to
16 strike, all of the motions to strike, both the
17 companies' application as well as the companies'
18 witness, Mr. Hess's application, all the rebuttal
19 testimony, we're going to deny that motion -- we'll

20 deny those motions at this time.

21 MR. BELL: Your Honor, I respectfully

22 request that the examiners certify their ruling to

23 the Commission for an interlocutory appeal by OMA for

24 a Commission's decision on this issue. It is of

25 critical importance as indicated by argument of

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1 counsel around the table today.

2 EXAMINER BOJKO: Mr. Resnik.

3 MR. RESNIK: Your Honor, I'm sorry, I may

4 have missed something. I thought -- had you ruled

5 that you were denying the motions or that you were --

6 EXAMINER BOJKO: We denied the motions to

7 strike, and he is now asking that we certify an

8 interlocutory appeal.

9 MR. RESNIK: I don't think there's any

10 basis for an interlocutory appeal under the

11 Commission's rules, and you've already set a briefing

12 schedule that the Commission is going to resolve

13 this. We've got a lot to do in this case besides

14 fooling around with needless pleadings.

15 EXAMINER BOJKO: Mr. Bell, if you'd like

16 to make a formal interlocutory appeal, you can put it

17 in writing and file it before the Commission.

18 At this time, as we've stated, legal

19 briefs on these issues are due on December 2nd.

20 The Commission needs to have all the legal arguments
21 before it. You had an opportunity to file a
22 memorandum contra to AEP's motion to approve with
23 regard to this exact issue, and parties either did or
24 did not do that at this time. So if you would like
25 to make a formal interlocutory appeal, you can file

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1 that with the Commission and we'll take it up at that
2 time.

3 Anything further before we move on to the
4 witness?

5 MR. CONWAY: Thank you, your Honors. At
6 this time the companies call Mr. David M. Roush.

7 EXAMINER BOJKO: Mr. Roush, please raise
8 your right hand.

9 (Witness sworn.)

10 EXAMINER BOJKO: Please be seated.
11 Please turn your microphone on.

12 MR. RESNIK: While Mr. Roush is getting
13 settled, may I mark three copies of his testimony as
14 Companies' Exhibit No. 1.

15 EXAMINER BOJKO: Are you marking his
16 entire testimony at this time, just so we're clear?

17 MR. CONWAY: Yes, your Honor. I thought
18 that would be the more efficient way to do it.

19 EXAMINER BOJKO: Please proceed.

20 (EXHIBIT MARKED FOR IDENTIFICATION.)

21 MR. CONWAY: Your Honors, I can't recall

22 whether we got to the point where you had sworn in

23 Mr. Roush before or not.

24 EXAMINER BOJKO: I did swear in Mr. Roush

25 before he threw the microphone.

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1 MR. CONWAY: Thank you, your Honors.

2 - - -

3 DAVID M. ROUSH

4 being first duly sworn, as prescribed by law, was

5 examined and testified as follows:

6 DIRECT EXAMINATION

7 By Mr. Conway:

8 Q. Mr. Roush, could you state your full name

9 for the record?

10 A. My named is David M. Roush.

11 Q. And by whom are you employed?

12 A. I'm employed by American Electric Power

13 Service Corporation.

14 Q. Mr. Roush, I just indicated, as you might

15 have heard, that your prefiled testimony has been

16 marked as Companies' Exhibit No. 1 in this

17 proceeding. Do you have a copy with you of the text

18 of your prefiled testimony?

19 A. Yes, I have a copy of the text of my

20 prefiled testimony.

21 Q. And did you prepare or did you supervise
22 the preparation of that testimony?

23 A. Yes, I did.

24 Q. Mr. Roush, do you have any additions or
25 corrections to that testimony at this point?

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1 A. No, I do not.

2 Q. Mr. Roush, today we are here to take
3 testimony regarding the issue of the companies'
4 proposal under section V.E of the application as well
5 as a proposal concerning other alternative methods
6 for what to do when and if the Commission doesn't
7 issue an order approving the companies' ESP by the
8 end of the year.

9 Could you please indicate what portion of
10 your testimony, your prefiled testimony that has been
11 marked as Exhibit No. 1, addresses that issue?

12 A. Certainly. Starting on page 15,
13 beginning on line 18, through page 16, ending on line
14 7.

15 Q. Mr. Roush, could you just briefly, just
16 to set the stage here, could you recap what your
17 testimony is regarding what happens if approval of
18 the companies' ESP is not received prior to December
19 30th?

20 A. The recommendation in my testimony is
21 that the difference between the actual rates that are
22 charged to customers beginning with the January
23 billing cycle and until the effective date of the
24 ultimately approved ESP rates, the difference between
25 billing under those two different sets of rates, that

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1 amount would be collected through a one-time rider
2 designed to collect that amount over the remaining
3 billing months of 2009.

4 Q. Thank, Mr. Roush.

5 Just one final question. If I were to
6 ask you the questions that are contained in your
7 prefiled direct testimony today, would your answers
8 be the same as they appear in that document?

9 A. Yes, they would.

10 Q. And is that testimony true and accurate
11 to the best of your knowledge and belief?

12 A. Yes, it is.

13 MR. CONWAY: Your Honor, at this time
14 Mr. Roush is available for cross-examination, and my
15 understanding is that the scope of that is with
16 regard to his testimony concerning section V.E that
17 he just recapped.

18 EXAMINER BOJKO: Let's go off the record
19 for a moment.

20 (Discussion off the record.)

21 EXAMINER BOJKO: Let's go back on the

22 record.

23 Let's start with Mr. Bell.

24 MR. BELL: Thank you, your Honor.

25 - - -

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1 CROSS-EXAMINATION

2 By Mr. Bell:

3 Q. Good morning, Mr. Roush.

4 A. Good morning, Mr. Bell.

5 Q. We have not met before. I represent the
6 Ohio Manufacturers Association in this proceeding.

7 Would you agree, Mr. Roush, that the
8 testimony which you just alluded to beginning on page
9 15 on line 18 through line 7 on page 16 of
10 Companies' Exhibit 1 is, in fact, simply a
11 restatement of the companies' proposal as contained
12 on page 17 and 18 of its filing V.E, Electric
13 Security Plan Timing Factor? You've just paraphrased
14 the plan, have you not?

15 A. I think my testimony is really addressing
16 more specifically how it would operate, not
17 necessarily restating all the components of section
18 V.E but getting down to the mechanics of how it would
19 work.

20 Q. Well, how does your testimony differ from
21 the language in the plan as to how it would work?
22 How does your testimony expand upon the verbiage in
23 the section V.E itself?

24 A. I don't have section V.E in front of me
25 and haven't done that comparison.

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1 MR. BELL: Would counsel for the company
2 kindly provide the witness with section V.E of its
3 plan?

4 A. Other than filling in a few specifics
5 that are missing in section V.E, namely dates,
6 materially the language is very similar.

7 Q. Thank you, Mr. Roush.

8 Mr. Roush, can you tell me the effect of
9 your proposal?

10 A. No, I don't even know if my proposal will
11 be needed.

12 Q. Let's assume your proposal is accepted
13 for purposes of argument. What's the effect of your
14 proposal? Do you know?

15 A. It depends on whether the Commission
16 issues an order within that 150-day time frame or
17 not.

18 Q. Assume the Commission does not issue an
19 order within that 150-day time frame; what is the

20 effect of your proposal, Mr. Roush?

21 A. Assuming the Commission does not issue an
22 order within the 150-day time frame such that the
23 company does not implement an ESP until sometime
24 after December 30, 2008, the effect of this proposal
25 would be that the company would ultimately collect

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1 whatever the ultimately approved ESP rate revenue
2 requirement for all of the billing months of 2009.

3 Q. What is the magnitude of that; do you
4 know?

5 A. Not unless -- not without knowing what
6 the Commission ultimately approves.

7 Q. You do know, do you not, the magnitude of
8 the companies' proposed first year increase for both
9 Columbus & Southern and Ohio Power as reflected in
10 your Exhibit DMR-1, 1 of 1 and 1 of 2?

11 A. Yes, I do.

12 Q. And that is, would you agree,
13 \$462,942,834? The sum of the totals for the 2009
14 increase, the first year which is front-end loaded.

15 MR. CONWAY: Your Honor, could I have the
16 question reread?

17 MR. BELL: I'll restate it.

18 Q. Would you agree, Mr. Roush, that the
19 companies' proposal as reflected in your Exhibit

20 DMR-1, 1 of 1 and 2 of 2, exposes the ratepayers of
21 Columbus & Southern and Ohio Power during the year
22 2009, the period that your, quote, rider will be in
23 effect, to increased rates in the order of magnitude
24 of roughly \$463 million? Is that correct?

25 MR. CONWAY: Objection.

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1 EXAMINER BOJKO: Grounds?

2 MR. CONWAY: Your Honor, all Mr. Bell is

3 doing is asking Mr. Roush to explain what the

4 proposal is under the ESP. It has nothing to do with

5 what would happen if the interim proposal is

6 implemented. In fact, Mr. Roush has already

7 explained what would happen, which is that you'd make

8 up whatever the difference is between what's approved

9 and what time period it wasn't in effect starting

10 December 30th, 2008.

11 MR. BELL: Thank you.

12 MR. CONWAY: This is burdensome.

13 MR. BELL: Thank you.

14 Mr. Conway just made my argument for me,

15 and that is during the interim.

16 EXAMINER BOJKO: Whoa, whoa, we're not

17 making arguments to each other. We're making

18 arguments to the Bench.

19 MR. BELL: Yes, your Honor, I apologize.

20 EXAMINER BOJKO: Do you have a response

21 to Mr. Conway's objection?

22 MR. BELL: I am attempting through this

23 witness to identify what is the end result of his

24 proposal, and I'm suggesting the witness does not

25 know. This was an exploration. That question --

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1 EXAMINER BOJKO: The end result of what
2 proposal? Maybe the question needs to be restated
3 and clarified. Try again.

4 Q. (By Mr. Bell) Mr. Roush, can you tell us
5 what the monetary impact of your proposal will be
6 upon the ratepayers of Columbus & Southern and Ohio
7 Power at a time the Commission ultimately issues an
8 order in this case should an order not issue this
9 year?

10 EXAMINER BOJKO: By, Mr. Bell, "your
11 proposal" you mean section V.E that --

12 MR. BELL: V.E, precisely.

13 EXAMINER BOJKO: Thank you.

14 MR. BELL: The subject that this hearing
15 is limited to today.

16 EXAMINER BOJKO: Thank you. I think
17 that's where the confusion was.

18 MR. BELL: I apologize. I thought we
19 were all on the same page that we're addressing only

20 one question and one answer of this witness.

21 EXAMINER BOJKO: Mr. Roush, can you

22 answer that question?

23 THE WITNESS: Yes, I can. Without

24 knowing what rates the Commission ultimately approves

25 for the company under the ESP, I cannot state what

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1 the monetary impact of this proposal would be.

2 Q. (By Mr. Bell) Thank you.

3 Would you agree, Mr. Roush, that your
4 proposal is not, in fact, a continuation of the rate
5 stabilization plan as that plan is in effect as of
6 this date?

7 A. No, I'm not sure I can agree with that.

8 Q. Well, do you have Mr. Baker's testimony?

9 By the way, do you report to Mr. Baker?

10 A. Through one other individual, yes.

11 Q. Do you have Mr. Baker's testimony?

12 A. No, I do not.

13 Q. Would you agree that your proposal --
14 your proposed rider is not directed toward the
15 recovery of the companies' revenue requirements
16 during the year 2009?

17 A. I think you threw some double negatives
18 in there. Can you repeat that one for me, please?

19 Q. Do you know whether or not your proposal

20 will result in the companies' recovery of its 2009

21 revenue requirements?

22 A. No. Our proposal will recover whatever

23 the Commission ultimately approves as its ESP revenue

24 level.

25 Q. I take it you cannot answer my question

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1 yes or no. Can you answer it yes or no?

2 A. I believe I did.

3 Q. Was that a yes or a no?

4 MR. CONWAY: Objection. He answered the
5 question. Everyone knows this is not a revenue
6 requirements case, your Honor.

7 EXAMINER BOJKO: Let's hear his response
8 read back, please.

9 (Record read.)

10 EXAMINER BOJKO: Sustained, he answered
11 the question.

12 Q. Do you know, Mr. Roush, whether your
13 rider will recover more or less than the market for
14 generation during the year 2009? Can you answer that
15 yes or no?

16 MR. CONWAY: Your Honor, I'm going to
17 object at this point for him following up before the
18 witness has had an opportunity to think over his
19 answer and give it to him. If he wants to ask a

20 different question and remove the current question,

21 I'm happy with that, but I don't like the repeating

22 questions and then changing them in midstream.

23 EXAMINER BOJKO: Let's ask one question

24 at a time.

25 Mr. Roush, can you answer the first

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1 question?

2 THE WITNESS: Yes, I can.

3 EXAMINER BOJKO: Please answer the first
4 question.

5 THE WITNESS: Okay.

6 EXAMINER BOJKO: Do you need it read?

7 THE WITNESS: Yes. That would be very
8 helpful.

9 (Record read.)

10 A. To make sure I answer this in context,
11 we're still in the frame of should the Commission not
12 issue an order within the 150 days as --

13 Q. Yes. That's the only thing your one
14 question and answer is directed to, Mr. Roush. I'm
15 not dealing with anything else.

16 A. In that context if the Commission
17 ultimately approves an ESP, it will make that
18 discernment based on that an ESP is more beneficial
19 than an MRO and is, thus, better than market, so the

20 rider will ultimately be collecting revenues which
21 are still better than market from the customers'
22 standpoint; in other words, lower than market.

23 Q. Does that depend upon what the market
24 will be in 2009, Mr. Roush?

25 A. It depends upon what the Commission's

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1 judgment is, which was that under this scenario we're
2 talking about, the Commission's judgment was that an
3 ESP was better than an MRO, which means that the
4 Commission determined that it was better than market
5 in 2009.

6 Q. Better for whom?

7 A. Better for the customer.

8 Q. For the company or for the ratepayer?

9 A. Better for the customer.

10 EXAMINER BOJKO: Mr. Conway, do you
11 have --

12 MR. CONWAY: I do, your Honor. I have an
13 objection to the whole line of questioning which is
14 not directed towards the issue we're supposed to be
15 addressing here. He's asking questions about whether
16 or not the ESP that the company has proposed is going
17 to be a better deal than market rates next year in
18 2009, and that is not the issue that we're dealing
19 with right now.

20 EXAMINER BOJKO: I don't think that's the

21 question he asked. Overruled.

22 Q. Mr. Roush, does your proposal give any

23 consideration whatsoever to its impact upon customers

24 in the year 2009, that is, consider rate mitigation,

25 any mitigation of potential impact upon customers in

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1 2009 based upon circumstances as they exist or are
2 likely to exist in 2009?

3 A. Specifically concerning this one-time
4 rider proposal there is no specific mechanism for
5 mitigation as you're terming it.

6 MR. BELL: Thank you, Mr. Roush. I
7 believe that's all I have.

8 EXAMINER BOJKO: Mr. White?

9 MR. WHITE: Your Honor, I have no
10 questions.

11 EXAMINER BOJKO: Mr. Kurtz?

12 MR. KURTZ: Thank you, your Honor.

13 - - -

14 CROSS-EXAMINATION

15 By Mr. Kurtz:

16 Q. Good morning, Mr. Roush.

17 A. Good morning.

18 Q. Is your section V.E testimony based on
19 the assumption that the Commission will issue no

20 written order by the end of the year regarding the
21 ESP proposal, or is your testimony based on the
22 assumption that there will be some sort of interim
23 order issued?

24 A. At the time my testimony was drafted
25 there was no interim order concept. Ideally my

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1 testimony was drafted as a -- you know, under the
2 assumption that, you know, the Commission would
3 actually get the order out within 150 days, and
4 that's still my hope. But having been around
5 regulatory proceedings it's -- you know, things
6 happen, so that was the frame of which it was
7 drafted.

8 Q. Okay. Is the concept of reconciliation
9 for trueup applicable with respect to a written
10 interim order that was issued by the end of the year
11 before the final ESP order?

12 A. I guess, as I said before, I hadn't even
13 contemplated an interim order at this point. My
14 contemplation was that the ultimately approved ESP
15 rates would be what we would look at as far as the
16 revenues that the company should have collected in
17 2009 and the rider would have been based upon that.

18 Q. A few mechanical details. Is your
19 proposed rider a kilowatt-hour rider, percent of

20 total revenue rider? How would the reconciliation

21 rider function?

22 A. I haven't gotten that far down the

23 thought process because I was hoping never to have to

24 do it.

25 Q. Do you have any opinion as to whether the

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1 reconciliation should be done by rate class or on the
2 company as a whole?

3 A. I'm not sure at this time. I think it
4 depends on what the differences are. I can think of
5 scenarios where it might be reasonable to do it by
6 rate class. I can think of scenarios where it might
7 be reasonable to do it as a percentage of revenue for
8 all customers.

9 Q. Let me ask you this hypothetical: Assume
10 that the Commission does a reconciliation, rates stay
11 where they are, an order's issued April 1, and
12 there's a reconciliation and there's a positive
13 amount of money that needs to be collected. Think
14 about the Ormet aluminum smelter. They're on their
15 own separate rate schedule, right, the proposed joint
16 ESP Ohio Power schedule?

17 A. They are currently. I'm trying to think
18 of how -- what would happen to them if an order is
19 not issued. I'm not sure.

20 Q. Would they be on GS-4, 50 percent CSP,
21 50 percent Ohio Power, the standard large industrial
22 rate?

23 A. I believe so, but I'm not a hundred
24 percent certain.

25 Q. Here's my hypothetical. Assume that an

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1 Ormet special contract of some form or another gets
2 approved the same day the final ESP orders are
3 issued. Would it be appropriate to have the
4 reconciliation associated with Ormet paid by Ormet,
5 or would that be socialized? I'm not trying to pick
6 on Ormet but their load is so huge, it has a material
7 impact on everyone else.

8 A. I guess I'm not sure whether they have or
9 whether in the future they have or don't have a
10 special contract plays into it, but I can certainly
11 understand your point that a reconciliation by rate
12 class makes a lot of sense. I'm just not sure --
13 there's so many hypotheticals out there, I'm just not
14 sure that I'm a hundred percent convinced that's the
15 only way to go.

16 Q. Let's move on. Assume there's no
17 reconciliation, that the staff's position governs
18 that there be a certain level rate increase put into
19 effect but not reconciled with the final ESP order.

20 Are you with me on that so far?

21 A. Yes.

22 Q. What would the standard be for

23 determining the interim rate? Would it be to try to

24 predict what the final ESP order would be and get as

25 close as possible to it?

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1 A. I guess you started with the presumption
2 that staff's proposal was implemented.

3 Q. The nonreconciliation portion of it put
4 into effect rates 1/1/09, and they're effectively --
5 they are what they are until a new set of rates are
6 issued with no trueup.

7 A. I'm just trying to make sure I understand
8 your scenario, Mike. You're saying if interim rates
9 were put in and those interim rates were put in
10 without a reconciliation, then your question was --
11 and I'm sorry, I lost your question.

12 Q. What standard should the Commission use
13 for setting interim rates?

14 A. That's a great question, and I don't know
15 that I can give an answer because I don't know that I
16 can tell the Commission what to do as far as setting
17 the interim rates.

18 Q. Let's use a hybrid in the sense that
19 there is a new set of rates that go into effect

20 January 1 and there is a reconciliation with the
21 final ESP. In that sense it's much less important
22 because there's going to be a trueup. It's much less
23 important what the interim rates are because they
24 will be trued up to the final ESP. In other words,
25 we wouldn't have to try to project out what a fully

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1 just and reasonable interim rate would be because we
2 have a safety net of a trueup. Would you agree with
3 that?

4 A. Yes, I think within certain boundaries it
5 would be less important what the interim rates would
6 be. I don't think you'd want to go too far afield
7 because then the ultimate trueup would be bigger.

8 Q. Right. You wouldn't want to go too far
9 afield because you might have rate shock on the one
10 hand or undue refunds on the other, those type of
11 considerations, correct?

12 A. Yes, I'd agree with that.

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

15 EXAMINER BOJKO: Ms. Wung.

16 MS. WUNG: No questions, your Honor.

17 EXAMINER BOJKO: Mr. Randazzo.

18 MR. RANDAZZO: Just a few.

19 - - -

20 CROSS-EXAMINATION

21 By Mr. Randazzo:

22 Q. Mr. Roush, the conceptual framework

23 that's presented regarding section V.E assumes that

24 there is an approved ESP at some point; is that

25 correct?

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1 A. Yes, I'd agree with that.

2 Q. And that assumption can only be true if
3 the company ultimately agrees to an ESP that's
4 adopted by the Commission; is that correct?

5 A. I can't say I'm a lawyer, but I do
6 remember something akin to that within Senate Bill
7 221.

8 Q. Well, I'd ask you to assume that whether
9 or not an ESP is ultimately put into effect for the
10 AEP-Ohio companies, Ohio Power and Columbus &
11 Southern, is a function of whether or not an ESP
12 approved by the Commission is acceptable to the
13 AEP-Ohio companies. Would you tolerate that
14 assumption with me for a moment?

15 MR. CONWAY: Could I have that question
16 reread, your Honor.

17 EXAMINER BOJKO: Please read the
18 question.

19 (Record read.)

20 Q. The question was would you accept that

21 assumption for purposes of our discussion.

22 A. I think that's my basic understanding of

23 Senate Bill 221, is that the Commission would issue

24 an order and then if the company -- if the Commission

25 had modified the company's proposed ESP, then that

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1 company could withdraw its ESP and refile I believe
2 an MRO.

3 Q. And in that context how does your
4 reconciliation mechanism work? In the event there is
5 no ESP that comes into existence, does your
6 reconciliation mechanism have a life as it has been
7 proposed?

8 A. As it has been proposed, I do not believe
9 my testimony addresses that at all, what would happen
10 in that circumstance.

11 Q. Okay. The ESP application contains a
12 number of things in it that may effect total revenue
13 collection or service terms and conditions, and I'd
14 like to ask you how some of those features work.

15 For example, the ESP application itself
16 contemplates establishing a charge for alternative
17 feed service, right?

18 A. Yes. There is a proposed AFS rider in
19 the ESP application.

20 Q. And if that aspect of the ESP is
21 approved, it would generate incremental revenue for
22 the AEP-Ohio companies, correct?

23 A. I would say it could. I'm not -- I can't
24 say for certain that it would.

25 Q. Well, if it did generate incremental

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1 revenue upon going into effect, would you annualize
2 the revenue from that additional charge for purposes
3 of defining how much revenue needs to be collected
4 through this reconciliation mechanism in V.E?

5 A. I would agree that would be one way to do
6 it.

7 Q. And you are proposing in the ESP that to
8 expand the opportunity for customers to elect -- Ohio
9 Power customers at least to elect interruptible
10 service; is that correct?

11 A. That's correct.

12 Q. If that provision and an ESP was adopted,
13 would you annualize or restate the revenue from
14 customers who elected to go to interruptible service
15 as part of this reconciliation mechanism?

16 A. Again, I'd agree that would be one way to
17 do it. As I answered Mr. Kurtz, I'm still of the
18 opinion that I'm hoping not to have to do this rider
19 at all, so I don't know that I've thought through

20 every logical step and part of it as far as how it
21 would be composed. Because I could see in both of
22 your previous questions, you know, a logical
23 conclusion that if the LMR feed service rider was
24 approved on a certain date, you could reach one
25 conclusion and say, well, that customer should pay

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1 for it back to the beginning of the year. But what
2 if that customer's alternate feed wasn't installed
3 until 2009? Then it wouldn't make sense to.

4 Kind of the same with the interruptible,
5 I could see where a customer volunteered, you know,
6 or chose to sign up for that newly available
7 additional interruptible capacity and they chose to
8 sign up in June, I could see where one may want to
9 annualize that discount and say, well, they should
10 have gotten that discount the whole year. But then I
11 can see the other argument of they weren't available
12 to interrupt for the first five months of the year so
13 there are a lot of details in that I would have to
14 think through.

15 Q. I guess that was part of what I was
16 trying to better understand. The V.E aspect of the
17 companies' application seems to be designed to ensure
18 that if an ESP is approved, that in the first year
19 the company would have an opportunity to collect a

20 full year of revenue. Is that basically the gist of

21 the mechanism as you understand it?

22 A. I think in general to collect a full year

23 of revenue as if the ESP rates went into effect at

24 the beginning of 2009.

25 Q. And how would the benefits associated

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1 with the ESP be reconciled? Do we -- more
2 specifically my question is do we have in your
3 proposal a potential mismatch between the revenue and
4 the benefits?

5 A. I guess I'm not really clear what you
6 mean by "benefits." A benefit might be the
7 companies' gridSMART initiative. If the ESP were
8 ultimately approved and gridSMART was approved as
9 part of that, I believe we'd still -- assuming the
10 delay was as Mr. Resnik discussed earlier, maybe a
11 few months, I think we'd still be able to achieve
12 those benefits. In the context specifically of like
13 the AFS rider you were discussing, there are a number
14 of customer requests currently getting and paying for
15 alternate feed service. The implementation of the
16 rider would just tariff is instead of a special
17 agreement, and future AFS customers I think would be
18 treated in a corresponding manner.

19 You know, the expansion of the

20 interruptible I think specifically, ultimately --

21 absolutely is a benefit of the ESP, and once that was

22 approved, it would be available to all customers to

23 take advantage of it and, correspondingly they

24 wouldn't, you know, until they took service under the

25 interruptible, they wouldn't be subject to

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1 interruptions. So I don't think, at least in my
2 mind, they'd be losing a benefit by not -- by not
3 being subject to interruptions until the time it was
4 made available to them and they signed up.

5 Q. Well, they wouldn't elect the
6 interruptible service unless they thought it was
7 beneficial to them, correct?

8 A. Correct.

9 Q. Okay. Let's take another example. One
10 of the proposals in your ESP is to establish a net
11 metering relationship for hospitals, correct?

12 A. Yeah. That proposal's to comply with
13 Senate Bill 221.

14 Q. And how would you account for -- do you
15 believe that that's a benefit for hospitals?

16 A. It could be. I kind of view that one as
17 a timing issue, Mr. Randazzo. I mean, once the
18 tariff's approved in compliance with Senate Bill 221,
19 then every one knows the rules they have to play by

20 and the hospitals can make the decision as far as
21 installing generation, that kind of thing. I mean,
22 if they make a decision before the tariff's
23 ultimately approved, that's kind of a choice they're
24 making.

25 Q. Well, they don't have a choice presently

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1 because there's not a net metering tariff, right?
2 And in the case of the interruptible customers,
3 somebody can't elect more interruptible service if
4 they're on Ohio Power because it's not available,
5 right?

6 A. Correct. And until the ultimately
7 approved ESP, the ESP is ultimately approved, those
8 tariffs are ultimately approved, I think you're
9 absolutely correct, they can't take advantage of them
10 until the Commission approves them. It's normal
11 regulatory rule.

12 MR. RANDAZZO: I think that's all I have.

13 Thank you.

14 EXAMINER BOJKO: OCC?

15 MS. ROBERTS: No questions.

16 EXAMINER BOJKO: No questions?

17 Mr. Petricoff?

18 MR. PETRICOFF: No questions, your Honor.

19 EXAMINER BOJKO: Mr. Rinebolt.

20 MR. RINEBOLT: Yes, your Honor. Thank

21 you.

22 - - -

23 CROSS-EXAMINATION

24 By Mr. Rinebolt:

25 Q. Good morning, Mr. Roush.

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1 A. Good morning, Mr. Rinebolt.

2 Q. You've referred a couple times to the
3 revenue requirement. Assuming your ESP was approved
4 as proposed, does that, in your mind, establish the
5 revenue requirement which this rider is designed to
6 true up to?

7 MR. CONWAY: Objection; mischaracterized
8 his testimony. He didn't characterize this case as
9 being a revenue requirements case, I don't believe.

10 MR. RINEBOLT: Your Honor, if I may
11 respond. Earlier in Mr. Roush's testimony he did
12 indeed speak in terms of a revenue requirement. I'm
13 trying to elucidate what that is.

14 EXAMINER BOJKO: The requirement issue
15 has been raised.

16 Mr. Roush, if you can respond, please do.
17 If you need the question rephrased or you can't
18 respond, then let us know that.

19 THE WITNESS: Can you please reread the

20 question?

21 (Record read.)

22 A. If I've used the word "revenue

23 requirement," which I don't recall, I know Mr. Bell

24 used it quite extensively, if I've used the term, I

25 would term it more of a revenue target than the ESP

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1 establishes the companies' revenue level under --
2 revenue level, and then to the extent that the
3 Commission's ultimately approved ESP establishes a
4 revenue level for the company, the difference between
5 that revenue level and the revenue level that was
6 collected during the period of time until those ESP
7 rates went into effect in 2009, that delta is the
8 revenue target that would be used for designing this
9 rider.

10 Q. Thank you, Mr. Roush. One last question.
11 Let's assume for the purposes of discussion that the
12 Commission approved an ESP that retains your deferral
13 concept, the idea that rates are capped, and that
14 increases above those rates would be deferred. We're
15 just going to assume that that becomes part of an
16 ultimately approved ESP.

17 A. Okay.

18 Q. Would your trueup essentially include a
19 deferral of the deferrals? Let me explain a little

20 further.

21 A. Thank you.

22 Q. We'll use your application as an example.

23 If the company agrees to cap rates at 15 percent, a

24 15 percent increase, and defer whatever costs are

25 above that, if we go two months into 2009 and an ESP

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1 is passed which provides for collection of deferrals
2 above a 15 percent increase, would the rider that is
3 imposed to collect the delta revenue in the first two
4 months of the year include collection of the
5 deferrals that were assumed in the ESP as approved?

6 A. It's a complicated question so let me try
7 to break it down in parts. First step would be
8 assuming that the Commission -- and let's just for a
9 hypothetical sake use your example that the
10 Commission approves an ESP and an ESP is ultimately
11 put in place in March of 2009, and that ESP includes
12 approximate 15 percent or whatever percentage
13 limitation on customer bill impacts and includes a
14 deferral of FAC that would exceed that amount.

15 So if we start there, the first
16 question -- the first part of that question would
17 be --

18 EXAMINER BOJKO: Mr. Roush, I don't think
19 your microphone's either on or if it needs to be

20 closer.

21 Can everybody hear him?

22 MR. BELL: Thank you. I didn't want to

23 interrupt the witness. I couldn't hear him.

24 EXAMINER BOJKO: Is the green light on?

25 THE WITNESS: It's back on now. Must

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1 have gone off, I'm sorry.

2 EXAMINER BOJKO: Okay.

3 THE WITNESS: I apologize. Is that
4 better?

5 EXAMINER BOJKO: Yes.

6 THE WITNESS: Microphone issues, it's
7 going to be my bane, I guess.

8 EXAMINER BOJKO: Let's go off the record.

9 (Discussion off the record.)

10 EXAMINER BOJKO: Let's go back on the
11 record.

12 Why don't you read it back anyway so we
13 can all get on the same page.

14 (Record read.)

15 A. Great setup. Thank you.

16 The first part of that question would be

17 would the rider be considered as part of the

18 15 percent, approximate 15 percent bill limitation.

19 My recollection of the companies' proposal is that it

20 would not be part of that approximate 15 percent bill
21 limitation so the rider could allow for increases to
22 exceed that approximate 15 percent limitation.

23 The second request was would the company
24 defer FAC for January and February that would have
25 exceeded that approximate 15 percent limitation

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1 rather than collect it through the rider, and the
2 company -- my, at least, thought process at this time
3 was those deferrals would be set up and so the amount
4 that would be collected through the rider would be
5 the amount that got you to that approximate
6 15 percent limitation for January and February and
7 the remainder -- if there was a remaining amount
8 above that, that would create FAC deferrals for
9 January and February. So those deferrals would not
10 be collected in a rider.

11 MR. RINEBOLT: Thank you very much.

12 THE WITNESS: You're welcome.

13 - - -

14 EXAMINATION

15 By Examiner Bojko:

16 Q. Mr. Roush, just to clarify.

17 Mr. Rinebolt -- I couldn't tell if it was a

18 hypothetical or if you agreed with this statement:

19 Under your proposal do the RSP rates currently in

20 effect continue? I think Mr. Rinebolt used the word
21 "capped," but do they continue at the level that they
22 are today?

23 A. Until the ultimate Commission order, was
24 that --

25 Q. Yes.

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1 A. Yes. Yes, I believe that's correct.

2 EXAMINER BOJKO: Okay. And just so we're
3 clear, because on page 9 of your testimony you
4 mention the expiration of certain riders at the end
5 of 2008.

6 MR. CONWAY: Your Honor, I'm sorry.
7 Could I ask a question about the prior -- your
8 request? Did you use the word "RSP" or "ESP" in your
9 request? Which did you intend?

10 EXAMINER BOJKO: I used the word RSP
11 because I thought the company's proposal was to
12 continue the current RSP rates until an order was
13 approved under a new ESP.

14 MR. CONWAY: You think that's our
15 proposal under V.E, your Honor?

16 EXAMINER BOJKO: That's what I'm asking.
17 I'm asking the witness. I thought that was
18 Mr. Rinebolt's either hypothetical or his assumption,
19 and that's what I'm asking.

20 Q. What is your -- I'm trying to understand

21 your proposal.

22 A. And I believe you're correct, the current

23 Columbus Southern Power regulatory asset rider would

24 expire at the end of '08 so we wouldn't continue

25 billing that. The remainder of the RSP rates would

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1 continue until the order came out in the ESP.

2 Q. Okay. You just mentioned the regulatory
3 transition cost rider. Let's go through the rider
4 list then.

5 A. Sure.

6 Q. So does the IGCC recovery rider continue
7 or end at 2008?

8 A. That has already expired.

9 Q. Okay.

10 A. The major storm -- is it okay if I just
11 walk through them?

12 Q. Please.

13 A. Sure. The major storm cost recovery
14 rider, that's already expired. The green pricing
15 option rider, I believe by its terms it expires at
16 the end of 2008 as well. And the same with the OP
17 OAD residential shopping incentive credit rider, that
18 also expires at the end of 2008.

19 Q. Maybe I need to -- so is it the

20 companies' position that whatever rates would be in
21 effect at December 31st, 2008, is the rates that
22 would continue 1/1/09 under the companies' proposal?

23 Or midnight 12/31/08 I guess I'd have to say.

24 A. Yeah, I believe that's correct,

25 effectively. The couple riders we mentioned that are

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1 expiring at the end of 2008 would by their very
2 nature go ahead and expire at the end of 2008, the
3 regular asset, the green, and the shopping incentive
4 credit.

5 Q. Okay. Thank you.

6 EXAMINER BOJKO: Mr. Rinebolt, you were
7 finished; is that correct?

8 MR. RINEBOLT: I was, your Honor, thank
9 you.

10 EXAMINER BOJKO: Mr. O'Brien.

11 MR. O'BRIEN: Your Honor, I have no
12 questions for the witness at this time.

13 EXAMINER BOJKO: Mr. Smalz.

14 MR. SMALZ: Just a couple questions, your
15 Honor.

16 EXAMINER BOJKO: You're going to need a
17 microphone, sir.

18 - - -

19 CROSS-EXAMINATION

20 By Mr. Smalz:

21 Q. Mr. Roush, I represent the Appalachian

22 People's Action Coalition. My voice sounds a little

23 funny. It's because I'm at the tail end of a cold.

24 EXAMINER BOJKO: Pull that closer,

25 Mr. Smalz.

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1 MR. BELL: Is that working?

2 MR. SMALZ: Yes.

3 EXAMINER SEE: You may have to hold it.

4 THE WITNESS: I hope you're feeling
5 better.

6 Q. (By Mr. Smalz) Mr. Roush, just to follow
7 up on Mr. Rinebolt's question or couple of questions,
8 so is it your testimony that, you know, whenever the
9 rider would kick in during 2009, it will not result
10 in a rate increase during 2009 of more than the
11 15 percent cap; is that correct?

12 A. No. That's actually I think backwards
13 from the way the company's proposing it. The
14 company's proposing that the rider not be considered
15 as part of the approximate 15 percent cap, so if the
16 rider happened to produce billing increases of
17 16 percent for that remaining ten-month period, then
18 there would be no increase in the amount of FAC
19 deferrals to bring it back down to 15 percent.

20 Q. I see. I'm sorry for the
21 misunderstanding. So under your proposal customers
22 could actually see a rate increase of more than
23 15 percent during at least part of 2009; is that
24 correct?

25 A. They could, yes. But it would be less

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1 than 15 percent obviously for those initial months of
2 2009.

3 Q. Now, in developing your proposal did you
4 rely on any specific legal authority?

5 A. I guess I worked with the advice of our
6 counsel, so to whatever extent they did, I relied on
7 them.

8 Q. I see. With reference to the trueup or
9 reconciliation component of your proposal, are you
10 aware of any language in Senate Bill 221 which
11 specifically authorizes that type of reconciliation?
12 Actually, let me withdraw that request.

13 Are you aware of any provisions in Senate
14 Bill 221 which authorize the kind of rider which
15 you've proposed as part of the companies' interim
16 rate plan?

17 A. My recollection generally is that within
18 the section that it's discussing ESPs it leads off
19 with the preamble "without limitations." There are a

20 number of clauses in there, one of which I think
21 discusses one-time riders or something to that
22 effect. I just don't remember the specifics of the
23 bill.

24 Q. In the context of the interim rate plan?

25 A. It was in the context of an ESP.

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1 Q. Okay.

2 MR. SMALZ: I have no further questions,
3 your Honor.

4 EXAMINER BOJKO: Mr. Margard.

5 MR. MARGARD: Thank you, your Honor. If
6 I can have just a couple of questions, please.

7 - - -

8 CROSS-EXAMINATION

9 By Mr. Margard:

10 Q. Good morning, Mr. Roush.

11 A. Good morning.

12 Q. Just wanted to follow up on a couple of
13 questions the attorney examiner was asking you. Your
14 proposal, the companies' proposal, as I understand
15 it, is that the current standard service offer would
16 continue effective 1/1/09 with the exception of those
17 riders that expire by their terms; is that correct?

18 A. Yes.

19 Q. In the event that no order is issued,

20 right?

21 A. Yes, that's correct.

22 Q. Yeah. No increases in generation rates,

23 no increases in cost recovery for environmental

24 costs, just the current rates; is that correct?

25 A. Yes, that's my recollection.

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1 Q. Okay. Mr. Kurtz asked you some questions
2 with respect to the Ormet load. What happens to the
3 Monongahela Power load on 1/1/09 under your proposal?

4 A. As they are today, they would be paying
5 the same rates as all other Columbus Southern Power
6 customers.

7 Q. You're not suggesting any change to your
8 POLR rates.

9 A. Again, as part of, just to make sure I'm
10 answering in the right context which I think the
11 context is, strictly what rates will be in effect if
12 there is no order in the ESP by the end of this
13 year --

14 Q. Yes, sir.

15 A. -- then the existing POLR rates would
16 continue.

17 Q. And no additional fuel recovery
18 mechanism, no interim fuel recovery mechanism.

19 A. Again, I believe that's correct.

20 Q. You read Mr. Baker's rebuttal testimony?

21 A. Actually, not all of it.

22 Q. That's fine. I just -- my questions were
23 specifically addressed to the companies' proposal as
24 filed, so that's fine.

25 What happened to the companies' line

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1 extension policy?

2 A. I believe the existing policy would

3 continue.

4 Q. That's your expectation as a part of the

5 companies' proposal?

6 A. If there is no order, again, if there is

7 no order approving an ESP by then, I believe our

8 existing line extension policy would continue.

9 MR. MARGARD: I have no further

10 questions. Thank you, your Honor.

11 EXAMINER BOJKO: All right.

12 Mr. Conway.

13 MR. CONWAY: Thank you, your Honor, just

14 a few.

15 - - -

16 REDIRECT EXAMINATION

17 By Mr. Conway:

18 Q. Mr. Roush, do you recall a line of

19 questions from your -- your line of questions from

20 Mr. Kurtz?

21 A. Generally, yes.

22 Q. Generally, good. Are you aware of any
23 provision in SB 221 that establishes a standard of
24 approval for an ESP that is similar to the standard
25 used in traditional rate cases of just and

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1 reasonable?

2 A. I don't recall one.

3 Q. Thank you.

4 MR. BELL: I'm sorry, I still can't hear

5 the witness.

6 THE WITNESS: I don't recall one.

7 MR. BELL: Thank you.

8 Q. Do you recall several questions from

9 Mr. Randazzo about various rate proposals that are a

10 part of the ESP and what might happen to them in the

11 event of a delay in the Commission's order being

12 issued. Do you recall that?

13 A. Yes, I do.

14 Q. Was your testimony -- in your prefiled

15 testimony, in Company Exhibit No. 1 on this interim

16 rate or, excuse me, this reconciliation proposal that

17 the company has made under section V.E, was it

18 intended to address every detail that might come out

19 of the Commission's order?

20 A. No, it was not, nor was it intended to

21 get into the details of the rider design.

22 Q. And would it be your suggestion that some

23 of these other, I'll call detail level items such as

24 those that -- not that they're not important, but

25 that they're of the type that Mr. Randazzo addressed

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1 with you, that you would expect those kinds of items
2 to be addressed in a Commission order, an interim
3 order?

4 A. I would hope so. If not in that type of
5 order, at least in the order ultimately approving the
6 establishment of the rider itself.

7 MR. CONWAY: Thank you, Mr. Roush.

8 That's all I have, your Honor.

9 EXAMINER BOJKO: I'm sorry, just to
10 clarify, if we're talking about items that aren't
11 approved until the ESP, the Commission couldn't
12 determine those items until the ESP order is issued;
13 is that right?

14 THE WITNESS: I'd agree with that, yes.

15 EXAMINER BOJKO: Okay. So you're
16 suggesting that after that ESP order then maybe that
17 there would be another proceeding where a
18 reconciliation rider -- where the reconciliation
19 rider is established?

20 THE WITNESS: Yes. I guess what I would
21 think would be after the ESP came out, we'd have to
22 determine what was the revenue difference for
23 those -- that period of time, and then once we
24 determine that revenue difference, we'd have to file
25 a rider for the Commission's approval to collect that

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1 money.

2 EXAMINER BOJKO: Okay. Thanks.

3 Recross, Mr. Bell?

4 MR. BELL: No, not recross. I would

5 again renew my motion --

6 EXAMINER BOJKO: Wait a minute. Let's

7 make sure we're done with this witness.

8 Anybody else?

9 Mr. Rinebolt.

10 MR. RINEBOLT: Thank you, your Honor.

11 - - -

12 RECROSS-EXAMINATION

13 By Mr. Rinebolt:

14 Q. Mr. Roush, in Mr. Conway's initial

15 question he asked you if in the statutory sense there

16 was a requirement that rates produced by this be just

17 and reasonable. Now, would you accept, subject to

18 check, that the following is the text of section

19 4928.02(A): "It is the policy of this State to do

20 the following throughout this state, A: Ensure the
21 availability to consumers of adequate, reliable,
22 safe, efficient, nondiscriminatory and reasonably
23 priced retail electric service"?
24 Is that acceptable to you subject to
25 check that that's the language of the statute?

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1 A. I guess the statute speaks for itself. I
2 don't think you need me to testify about it.

3 Q. Thank you, sir.

4 In your mind is your application designed
5 to provide adequate service to customers?

6 EXAMINER BOJKO: Are we talking about the
7 totality of the application or just this one
8 section --

9 MR. RINEBOLT: The totality of the
10 application, your Honor, because counsel indicated
11 that traditional just and reasonable criteria do not
12 apply to the short term. I'm trying to see if
13 there's a part of the statute based on their proposal
14 that does apply.

15 EXAMINER BOJKO: Mr. Randazzo.

16 MR. RANDAZZO: I object. It's beyond the
17 scope of redirect.

18 EXAMINER BOJKO: Can you reread the
19 question, please.

20 (Record read.)

21 EXAMINER BOJKO: I'm going to sustain the

22 objection.

23 MR. RINEBOLT: No other questions, your

24 Honor.

25 EXAMINER BOJKO: Mr. Roush, you can

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1 leave. You're dismissed for now; for now, until you
2 are re-called.

3 THE WITNESS: Thank you.

4 EXAMINER BOJKO: Mr. Conway.

5 MR. CONWAY: Your Honor, I would renew,
6 if I didn't make the motion initially, but renew the
7 motion to admit the testimony of Mr. Roush, at least
8 in regard to the part of the testimony that addresses
9 the section V.E issue.

10 EXAMINER BOJKO: Why don't we address
11 them -- since we marked it as an exhibit in its
12 entirety, why don't we move it after his second round
13 of testimony.

14 MR. CONWAY: Okay.

15 MR. RANDAZZO: Your Honor, if I may.

16 EXAMINER BOJKO: Yes.

17 MR. RANDAZZO: If you wait to admit the
18 testimony until the second round, you're going to
19 have difficulty briefing. I mean, it probably needs

20 to be in the record from an administrative

21 standpoint.

22 EXAMINER BOJKO: I was hoping he would be

23 on and off the stand before December 2nd, but given

24 that he's part of the company's case-in-chief, I hope

25 he's on and off the stand by December 2nd.

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1 Then why don't we move the entire and not
2 just with -- I think you said at least with respect
3 to this section. Let's just move the entire document
4 at this time. And I'm sure Mr. Bell's going to have
5 an objection because that's why he's standing,
6 but . . .

7 MR. CONWAY: Your Honor, at this time I'd
8 move for the admission of Mr. Roush's testimony,
9 Companies' Exhibit No. 1, into the record.

10 EXAMINER BOJKO: Mr. Bell was waiting
11 patiently first.

12 MR. BELL: I just wish to renew my motion
13 to strike based upon the second branch of that
14 motion, that is, that section V.E is asymmetrical,
15 favors only the attempts to limit the Commission, and
16 I think as the cross-examination of the company's
17 sole witness sponsoring V.E, the record now clearly
18 demonstrates that the proposal is not only unlawful,
19 but has not been established to be just and

20 reasonable, nor has it been thought -- nor has it
21 been properly thought out leaving to the Commission
22 the horrendous job of addressing all of the questions
23 posed to Mr. Roush during the course of his
24 cross-examination. For that reason I renew my motion
25 to strike.

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1 EXAMINER BOJKO: Okay. Well, let's
2 hear -- well, I thought I denied your motions in
3 their totality, first branch, second branch, third
4 branch, so if I did not do that clearly, it is done
5 now. They are denied.

6 Mr. Randazzo.

7 MR. RANDAZZO: Your Honor, having sort of
8 started this problem, just to some extent, I don't
9 think it's proper to admit all of Mr. Roush's
10 testimony. I think we need to wait for the cross on
11 the balance of the testimony to do that. I simply --
12 if we're trying to make a record, you have to have
13 the direct testimony in at this point as it's related
14 to section V.E.

15 EXAMINER BOJKO: I'm trying to address
16 your concern, Mr. Randazzo.

17 MR. RANDAZZO: Well, your Honor, if I
18 have to make a choice, then waiting till the end to
19 admit it, I'm just suggesting to you administratively

20 it's going to be a problem relative to the way you've
21 established this process.

22 EXAMINER BOJKO: I wasn't suggesting
23 waiting until the end of the case to admit his
24 testimony. I was suggest to wait until Mr. Roush was
25 finished, which I assume will be by December 2nd.

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1 If it's not, if he is not on and off the stand by
2 December 2nd and that motion is not made and the
3 testimony is not moved in in whole or part at that
4 time, we can take this up again and move part of it.

5 But I hope he is on and off the stand by
6 December 2nd, or we are in a world of hurt because
7 we will be here till Christmas.

8 MR. RANDAZZO: Right.

9 EXAMINER BOJKO: Okay. Anybody else have
10 anything else at this time?

11 Okay. The company has no other witnesses
12 addressing section V.E of their testimony; is that
13 correct?

14 MR. RESNIK: Mr. Baker refers to it in
15 his testimony, but that's in his limited rebuttal
16 testimony.

17 EXAMINER BOJKO: I understand. Okay. So
18 let's move on. It's my understanding that initially
19 at least Mr. Murray has in his prefiled testimony a

20 section related to section V.E of the companies'

21 application, so let's take care of that issue right

22 now.

23 MR. RANDAZZO: Okay. Your Honor, I'd ask

24 that Kevin Murray be called to the stand and sworn.

25 (Witness sworn.)

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1 EXAMINER BOJKO: Mr. Randazzo.

2 MR. RANDAZZO: Your Honor, I'd ask that
3 what has been prefiled in this hearing as the direct
4 testimony of Kevin M. Murray on behalf of the
5 Industrial Energy Users of Ohio be identified as IEU
6 Exhibit No. 1 please.

7 EXAMINER BOJKO: It will be so marked.

8 (EXHIBIT MARKED FOR IDENTIFICATION.)

9 - - -

10 KEVIN M. MURRAY

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

13 DIRECT EXAMINATION

14 By Mr. Randazzo:

15 Q. Mr. Murray, do you have before you what's
16 been marked for identification purposes as IEU
17 Exhibit No. 1?

18 A. Yes, I do.

19 Q. Am I correct that that's the testimony

20 that you prepared and was prefiled in this

21 proceeding?

22 A. Yes.

23 Q. Would you state your business address for

24 the record, please?

25 A. My business address is 21 East State

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1 Street, 17th floor, Columbus, Ohio 43215.

2 Q. Mr. Murray, do you have any changes or
3 corrections that you would like to make in what has
4 been marked as IEU Exhibit No. 1?

5 A. Yes, I do. Beginning on page 15, on line
6 16, the question No. 31 that appears should be
7 stricken as well as the answer that appears on page
8 15 beginning on line 17 continuing over to page 16,
9 line 8.

10 Q. Just so the record's clear, you would
11 strike from your prefiled testimony question 31 and
12 the answer as well.

13 A. Yes.

14 Q. On the bottom of page 15 continuing to
15 the top of page 16, correct?

16 A. Correct.

17 Q. Do you have any other changes or
18 corrections in your testimony?

19 A. No, I do not.

20 Q. Subject to the change that you've made
21 here on the stand today, Mr. Murray, if I were to ask
22 you the questions that are set forth in what has been
23 marked as IEU Exhibit No. 1, would the answers you
24 would give today be those that are set forth therein?

25 A. Yes.

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1 MR. RANDAZZO: Your Honor, I would make
2 Mr. Murray available for cross-examination. I
3 believe given the scope of the hearing today that the
4 change to his testimony would now cause him to be
5 available for cross at a subsequent time, and we
6 would be happy to make Mr. Murray available at that
7 point in time.

8 EXAMINER BOJKO: And that's what we will
9 do. Mr. Murray will be excused today and subject to
10 recross after -- till a later time with an order of
11 witnesses yet to be determined.

12 MR. RANDAZZO: Thank you, your Honor.
13 And we will move Mr. Murray's testimony, IEU Exhibit
14 No. 1, at that time.

15 EXAMINER BOJKO: Thank you.

16 Let's go off the record.

17 (Discussion off the record.)

18 (Recess taken.)

19 EXAMINER BOJKO: Mr. Margard.

20 MR. MARGARD: Thank, your Honors. Staff

21 would respectfully call Mr. Ed Hess to the stand,

22 please.

23 (Witness sworn.)

24 EXAMINER BOJKO: Please be seated.

25 - - -

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1 J. EDWARD HESS

2 being first duly sworn, as prescribed by law, was

3 examined and testified as follows:

4 DIRECT EXAMINATION

5 By Mr. Margard:

6 Q. Please state your name and business

7 address, please.

8 A. My name is J. Edward Hess. My business

9 address is 180 East Broad Street, Columbus, Ohio.

10 MR. MARGARD: Your Honor, I'd

11 respectfully request that the prefiled testimony of

12 J. Edward Hess filed in this case on November 10th,

13 2008, be marked for purposes of identification as

14 Staff Exhibit No. 1.

15 EXAMINER BOJKO: It may be so marked.

16 (EXHIBIT MARKED FOR IDENTIFICATION.)

17 Q. Mr. Hess, do you have that document in

18 front of you?

19 A. Yes, I do.

20 Q. And you are the gentleman who prepared

21 this testimony?

22 A. Yes, I am.

23 Q. Do you have any changes, corrections, or

24 modifications to this exhibit?

25 A. Yes, I do.

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1 MR. MARGARD: Your Honor, I will
2 represent that Mr. Hess has at this time two changes
3 to make to his testimony, one of which pertains to
4 the limited subject of our proceedings today and one
5 which pertains to the remainder of his testimony.
6 Both of those changes have been communicated to the
7 parties, and Mr. Hess is prepared to make both of
8 those changes today if you wish.

9 Staff would like to reserve the
10 opportunity to make additional changes if they are
11 discovered at the time that we re-call Mr. Hess. I
12 will leave it to your discretion whether you wish us
13 to make both changes at this time or only the one
14 pertaining to this subject.

15 EXAMINER BOJKO: Let's make both changes
16 at this time.

17 MR. MARGARD: Very good.

18 Q. Mr. Hess, would you please identify the
19 changes that you would make to your testimony?

20 A. Yeah. The first change is on page 9 of
21 my testimony, line 8, the word "stabilization" should
22 be struck. So that sentence would read: "If the
23 Commission does not issue an Opinion and Order within
24 the one hundred and fifty days, I recommend that the
25 Commission authorize the AEP companies to continue

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1 the rate plan."

2 The second correction is on JEH-1, and
3 it's a mathematical correction. Under the Ohio Power
4 columns 2009, '10, and '11, the POLR line, those
5 should be zeroed out so that there's no POLR
6 accounted for in that. Mathematically that would
7 zero out the POLR under the Estimated Cost of
8 Companies' ESP and then flow through the calculation.

9 Q. Would you like to identify what the
10 specific results of those calculations changes are
11 for us, please?

12 A. The bottom line under the Estimated
13 Benefits of Companies' ESP is a \$92 million benefit
14 for 2009; 2010 is a \$217 million benefit; and 2011 is
15 a \$342 million benefit.

16 Q. Do you have any other changes,
17 corrections, or modifications as pertains the subject
18 matter of this morning's proceeding?

19 A. Not as it pertains to the subject of this

20 morning.

21 Q. And if I were to ask you the questions

22 that pertain to the subject of this morning's

23 proceeding, would your responses be the same as they

24 appear in this exhibit?

25 A. Yes, they would be.

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1 MR. MARGARD: Your Honor, with our
2 reservation noted, I tender Mr. Hess for
3 cross-examination.

4 EXAMINER BOJKO: Mr. Margard, just so
5 we're clear, you already e-mailed or electronically
6 distributed revised Exhibits JEH-1 and 2, or just 1?

7 MR. MARGARD: The only change has been to
8 JEH-2, your Honor.

9 EXAMINER BOJKO: Two.

10 MR. MARGARD: And those exhibits have
11 been distributed to all parties electronically, to
12 the best of my knowledge. If there's any party that
13 has not received that, if they'll advise me, we'll
14 ensure that they receive that posthaste.

15 EXAMINER BOJKO: Thank you.

16 THE WITNESS: I believe my corrections
17 were to JEH-1, at least I have it in my testimony.
18 You two referred to JEH-2, and there were no
19 corrections to that.

20 MR. MARGARD: That's correct, your Honor.

21 I apologize. I need to keep my glasses on at all

22 times.

23 There are additional calculation changes

24 that flow through the exhibit as well that weren't

25 specifically noted by Mr. Hess but aren't germane to

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1 this morning's, but those changes in their entirety
2 have been shared with all of the parties.

3 EXAMINER BOJKO: Okay. Thank you.

4 Before we get started, are there any
5 motions?

6 You made Mr. Hess available for cross,
7 didn't you?

8 MR. MARGARD: Yes, I did, your Honor.
9 Thank you.

10 EXAMINER BOJKO: Mr. Resnik.

11 MR. RESNIK: Your Honor, if I may request
12 based on the cross-examination of Mr. Roush, I have a
13 feeling there may be somewhat of a notable exception
14 here, and I would suggest if you would indulge us to
15 be able to go after other parties to conduct
16 cross-examination of Mr. Hess.

17 MS. ROBERTS: Your Honor, if it's
18 helpful, I could do my cross.

19 EXAMINER BOJKO: Actually, that is what

20 we were talking about upstairs, that maybe if you go
21 now, it might alleviate some of your scheduling
22 conflicts.

23 MS. ROBERTS: So I'd be happy to do that.

24 EXAMINER BOJKO: Please proceed.

25 MS. ROBERTS: Thank you.

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1 - - -

2 CROSS-EXAMINATION

3 By Ms. Roberts

4 Q. Good afternoon, Mr. Hess.

5 A. Afternoon.

6 Q. First I just have a couple of clarifying
7 questions for you.

8 EXAMINER BOJKO: Could you pull the mic a
9 little closer, please?

10 Q. First I just have a couple clarifying
11 questions for you. You proposed that the generation
12 rate increases of 7 for CSP and 11 for OP be
13 implemented in rates, but how do you propose those
14 increases are implemented? Would it be through a
15 rider?

16 A. Yes; some kind of a rider. Some kind of
17 a methodology that it's simple to drop off when the
18 Commission finally comes out with its order in the
19 base part of the ESP case.

20 Q. And you'd apply those increases to the

21 12/31/08 generation rates?

22 A. Yes.

23 Q. If they're implemented through a rider,

24 would the rider that you're talking about replace the

25 current generation cost recovery rider? Or would you

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1 use that cost recovery rider to implement these
2 increases?

3 A. Could you tell me what the generation
4 cost recovery rider is and what it's recovering?

5 Q. Well, it's recovering generation costs,
6 and it's the rider where the increases have been
7 allowed for the companies in the past.

8 A. I don't think that's quite correct. I
9 think what we did with the 3 and the 4 percent were
10 to roll it into base rates and then, and then the 3
11 and the 7 percent I believe were rolled into base
12 rates, and then the -- is that the item that recovers
13 the additional 4 percent recovery mechanism?

14 Q. Yes. I'm sure Mr. Resnik will correct me
15 if I'm wrong, but I believe so.

16 A. No, I don't think that's correct. The
17 additional 4 percent would be in addition to that
18 item, if that is the item that's recovering the past
19 issue of the additional 4 percent.

20 Q. All right. So it would be in addition to

21 that rider and that rider would remain in place.

22 A. Yes.

23 Q. All right. And would that be the same

24 result for the changes to the Monongahela and Ormet

25 rates?

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1 A. I don't believe there is an Ormet rate.
2 I believe that the Monongahela Power incremental is
3 being recovered through, the acronym I think is the
4 PAR, the power acquisition rider, and I'm
5 recommending an incremental increase of that from
6 \$58 to the 70-some dollars that are recommended in
7 Ms. Smith's testimony, so I'm -- for Monongahela
8 Power I'm recommending a revision and an increase to
9 that PAR recovery mechanism. For Ormet there would
10 have to be a new rider created for that recovery
11 mechanism.

12 Q. Thank you.

13 Mr. Hess, in proposing this 1/1/09 plan,
14 what were you trying to accomplish?

15 A. Compliance with the law.

16 Q. And specifically with section 4928.141?

17 A. Yes.

18 Q. Okay.

19 A. Which is I believe what we're using as

20 the basis for this recommendation.

21 Q. All right. And I see in your testimony

22 that you had previously recommended continuing the

23 rate stabilization plan and now you've deleted

24 "stabilization" from that recommendation. And why is

25 that?

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1 A. Well, it's a little confusing, I think
2 the rate plan of this company encompasses more than
3 the 04-169 Commission order. It encompasses -- I
4 mean, I'd have to go all the way back to the ETP
5 cases to encompass the entire set of standard service
6 offer plans that are proposed by this company.

7 Q. And so to continue the rate plans that
8 are currently in place for this company, you had to
9 eliminate the concept of continuing the rate
10 stabilization plan; is that correct?

11 A. I don't understand the question.

12 Q. If you continued the rate stabilization
13 plan, it would limit what rates would be continued as
14 of 1/1/09; is that correct?

15 A. Yes.

16 Q. Okay. And the line extensions would not
17 be continued as part of a rate stabilization plan,
18 would they?

19 A. The line extensions were not addressed in

20 04-169.

21 Q. And they're not generation-related costs,
22 are they?

23 A. I believe that's correct.

24 Q. Okay. And regarding your testimony on
25 page 9, line 11, Ormet was a part of the -- rate

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1 stabilization plan, was it?

2 A. Ormet was not a part of the 04-169-EL --

3 I don't know what the acronym that finishes that is,

4 the 04-169 case.

5 Q. And Mon Power wasn't part of that case

6 either, was it?

7 A. Mon Power was addressed by the Commission

8 under -- I have four other cases, but I believe it

9 was tied to the rate stabilization plan. I think

10 under the -- I think the Commission directed the

11 company to come in and required them to contemplate

12 purchasing that service territory under its authority

13 in the rate stabilization plan -- in 04-169, just so

14 we don't confuse the terms.

15 Q. So at least there may be a request of

16 whether the direction to consider that was part of

17 the rate stabilization plan or the resulting rates

18 were part of the rate stabilization plan depending

19 upon how you interpret that Commission language.

20 A. That's correct. I mean, I'm throwing it
21 all up to the Commission, and they can make the
22 interpretation.

23 Q. All right. You have recommended that OCC
24 Witness Smith's market-based power rates be used as
25 part of the interim plan that you're recommending; is

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1 that correct?

2 A. That's correct.

3 Q. And for what purpose would you use those
4 rates?

5 A. To quantify the delta for the Monongahela
6 Power Service Company customers and to quantify the
7 delta for the Ormet customer.

8 Q. And in recommending that Ormet and
9 Monongahela Power be addressed in this 1/1/09 plan,
10 was your goal to see that AEP recovered its costs or
11 at least was not harmed by a failure to collect costs
12 related to Monongahela and Ormet?

13 A. No. Again, I think I said my goal was to
14 try to comply with the law.

15 Q. And what part of the law would require
16 market-based rates to be applied to Ormet and Mon
17 Power?

18 A. Continuation of the companies' rate
19 plans.

20 Q. And who serves Ormet and Mon Power now?

21 A. Monongahela Power customers are served by

22 Columbus & Southern, and Ormet is served by a

23 collective 50 percent Ohio Power and 50 percent

24 Columbus & Southern.

25 Q. And are they based -- are their rates

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1 market based now?

2 A. Their rates were established in 07 -- I'm
3 sorry. Let me go back. Monongahela Power's rates
4 were established in the 05-765 case, which they were
5 authorized to pay -- where they were required to pay
6 the Columbus & Southern tariff rates and the PAR
7 acquisition rider was spread to all those customers.
8 Is that what you're asking me, what rates the
9 customers are paying?

10 Q. No. I'm asking what rates Mon Power's
11 paying and what rates Ormet is paying.

12 A. Well, Mon Power no longer exists. Those
13 customers are now served by the Columbus & Southern
14 distribution company, and they are paying the rates
15 that have been authorized by this Commission for
16 Columbus & Southern.

17 Q. They're not market-based rates, are they?

18 A. Well, I mean, now we're going to get into
19 some debates about Senate Bill 3 and how we defined

20 what those were under the rate stabilization plan.
21 Those rates were established through a series of
22 cases starting in I think '92 was the last base rate
23 case for Columbus & Southern, and continued through
24 the ETP cases and any of the fuel recovery
25 mechanisms. But yeah, I mean, it has been argued

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1 that they were based -- they were market-based rates.

2 Q. Are they market-based rates today?

3 A. Define for me what you mean by "market
4 based."

5 Q. Well, I'm using your definition of market
6 based, which is the rates that are included in OCC
7 Witness Smith's testimony.

8 A. And that's how I am defining market
9 based. I'm referring to the number that she has in
10 her calculation.

11 Q. And those are the rates that Ormet and
12 Mon Power are paying today?

13 A. No; I didn't say that.

14 Q. Then why would you use these rates?

15 A. Because --

16 Q. As a proxy for what they're paying today?

17 A. Okay. And I'm sorry it's confusing.

18 What I am suggesting is that the PAR, the power
19 acquisition rider, for Monongahela Power be

20 quantified based upon the rate proposed by Smith

21 minus what they're currently paying.

22 Q. Okay. I have the chart that you're

23 referring to from -- if I may approach the witness --

24 from Miss Smith's testimony, and this is the rate

25 that you're proposing. I'd like to discuss it with

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1 you, if I could.

2 MS. ROBERTS: If I could have this marked
3 as OCC Exhibit 1 for identification.

4 EXAMINER BOJKO: It will be so marked.

5 MS. ROBERTS: Thank you.

6 (EXHIBIT MARKED FOR IDENTIFICATION.)

7 EXAMINER BOJKO: Ms. Roberts, you're
8 going to need a microphone if you're going to be
9 standing.

10 MS. ROBERTS: It's table 3 on witness
11 Smith's testimony.

12 Q. Mr. Hess, as you look at what's been
13 marked as OCC Exhibit 1 for identification, the chart
14 shows CSP and OP market-based rates. If you look at
15 the CSP chart, the rates are broken down by
16 components. Do you see that?

17 A. Yes.

18 Q. And is it your opinion that all of these
19 charges are appropriate for a market-based rate to be

20 used for Ormet and Mon Power?

21 A. Later in the proceeding Mr. Johnson will
22 testify to his proposal for market-based rates, and I
23 think he has some differences as far as a
24 recommendation here. For this delta revenue, yes,
25 this is the number that I would recommend.

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1 Q. But you wouldn't want the market-based
2 rate to be any more than AEP itself would pay, would
3 you, since they're supplying Ormet and Mon Power?

4 A. This is what they would be buying it at,
5 if I assume that this is the rate that they would be
6 purchasing it at.

7 Q. And why would you assume that AE -- AE is
8 currently supplying through its own companies?

9 MR. RESNIK: Can I have the question read
10 back, please?

11 (Record read.)

12 EXAMINER BOJKO: Did you mean AEP?

13 MS. ROBERTS: Yes.

14 THE WITNESS: Now, we're on Mon Power; is
15 that correct?

16 Q. That's fine, we can start there.

17 A. As a part of the order -- and I think it
18 was 05-765, I'm pretty sure that's the order that did
19 it -- the company was authorized to bid out the

20 Monongahela Power load under a RFP and to collect
21 that delta revenue, the difference between what the
22 RFP was minus what their standard service offer was,
23 collect that delta revenue over -- to socialize that
24 delta revenue over all of CSP's customers.

25 Again, my recommendation is that this

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1 should be the valuation of the market rate that's

2 used in that calculation.

3 Q. But for the interim period you're not
4 expecting AEP to bid out Monongahela Power's load for
5 a two-month period, are you, or a three-month period?

6 A. No. I didn't think we had the time to be
7 able to do that. That's why I recommended we point
8 to something on the record in this case as far as an
9 estimate of a market rate and what it would be.

10 Q. All right. And if we look specifically
11 at the CSP rate first, you see that included in it
12 are PJM capacity requirements of \$15.78 for
13 residential.

14 A. I see that.

15 Q. And are you aware that AEP self-supplies
16 in the PJM capacity market?

17 A. I don't know the answer to that. Those
18 are probably better addressed to Mr. Johnson when he
19 takes the stand.

20 Q. All right. But in terms of the
21 short-term plan, Mr. Johnson is not taking the stand,
22 is he?

23 A. That's correct.

24 Q. And to the extent that AEP did not have
25 to make this capacity requirement to serve Mon Power,

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1 you wouldn't recommend, would you, that it be

2 recovered from residential customers?

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

4 Q. And to the extent that AEP supplies Mon

5 Power on an interim basis but doesn't incur certain

6 costs for supplying Mon Power, are you recommending

7 that they recover costs that they don't incur in

8 supplying them?

9 A. I'm recommending the market-based rate

10 that was offered up by the Ohio Consumers' Counsel's

11 witness.

12 Q. And was the market-based rate as offered

13 up by Witness Smith specifically designed to address

14 the cost or what market prices or -- the cost or

15 market price components that AEP would have to pay in

16 supplying Mon Power?

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

18 Q. And so you're not -- you don't have any

19 position on whether some of these cost components are

20 appropriate.

21 A. Well, I assume if it was being proposed
22 by an Ohio Consumers' Counsel, we thought they would
23 be appropriate.

24 Q. All right. But was it developed for this
25 purpose? I thought you just testified it wasn't.

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1 A. Again, I don't know the answer to that.

2 Q. So you don't know whether it was
3 appropriately developed for the purpose of serving
4 Mon Power.

5 A. That's correct.

6 Q. And you don't know whether the cost
7 components developed in this market-based rate are
8 appropriate to be charged Mon Power.

9 A. That's correct.

10 Q. And it's your position that whether or
11 not AEP incurs any of these costs in serving Mon
12 Power, that residential customers should pay the
13 rates shown in the first column under CSP
14 Residential.

15 THE WITNESS: Could I have the question
16 reread, please.

17 (Record read.)

18 A. No, that's not at all what I testified
19 to. The Monongahela Power residential customers pay

20 the Columbus & Southern standard service offer, those
21 tariffs.

22 I am saying for the delta calculation in
23 the PAR, that the \$73.94 could be used in the
24 quantification of what the PAR revenue to be spread
25 to all the Columbus & Southern customers would be.

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1 The PAR revenues are not just specifically collected
2 by the ex-Monongahela Power customers.

3 Q. All right. But it's acceptable to you to
4 include in the PAR revenues market cost components
5 that would not be reflective of the costs to serve
6 Mon Power in an interim period.

7 THE WITNESS: Could I have the question
8 reread, please.

9 (Record read.)

10 A. Well, again, it isn't just paid for by
11 the ex-Monongahela Power customers. The delta
12 revenue is socialized to all of the customers.

13 Q. I understand. My question is, is it
14 acceptable to you to socialize over all of the
15 customers delta revenues that include costs that AEP
16 will not incur on an interim basis to serve Mon
17 Power?

18 A. The idea was to reflect some kind of a
19 market rate to quantify the delta revenue. This was

20 the rate proposed by your witness so I'm suggesting

21 that.

22 MS. ROBERTS: I would ask that his answer

23 be stricken as nonresponsive and I would ask the

24 question be reread again.

25 EXAMINER BOJKO: Reread the question,

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1 please.

2 (Record read.)

3 MS. ROBERTS: It was a yes or no

4 question, your Honor.

5 EXAMINER BOJKO: Overruled. I think he

6 answered it the he knew to answer. You can ask him

7 another question.

8 Q. (By Ms. Roberts) For Ohio Power, you're

9 using Witness Smith's post market-based rates and you

10 would agree also that Witness Smith does not say they

11 were designed for the purpose of calculating a delta

12 revenue that will be passed and socialized to all

13 customers; is that correct?

14 A. I've said I didn't know the answer to

15 that.

16 Q. Okay. And regarding the cost components

17 in the Ohio Power market-based rate, are there costs,

18 if you know, in the Ohio Power market-based rate that

19 will not have to be paid by AEP to serve Monongahela

20 on an interim basis for the 1/1/09 plan?

21 MR. RESNIK: Can I have that question

22 read back, please?

23 (Record read.)

24 MR. RESNIK: Your Honor, I'm going to

25 object. The witness has testified Columbus Southern

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1 is serving Mon Power, not Ohio Power. When I say Mon
2 Power, I'm talking about the customers formerly
3 served by Mon Power.

4 EXAMINER BOJKO: Can you rephrase your
5 question?

6 MS. ROBERTS: I'm sorry. Sorry.

7 Q. You would consider, would you not, as
8 part of your plan an adjustment to a market-based
9 rate that actually reflected the costs that AEP would
10 incur to serve Mon Power customers so that the
11 socialization of the delta revenue would not be
12 overpaid by AEP's customer?

13 A. I would suggest if we had time we could
14 put out an RFP and bid the load out, but I just don't
15 think we have that time. I mean, that's what the
16 original authorization was to do.

17 MS. ROBERTS: I would ask that the
18 witness be asked to answer my question, please.

19 MR. MARGARD: Your Honor, I think the

20 answer was responsive.

21 EXAMINER BOJKO: Overruled. He did

22 answer your question.

23 Q. So it's your testimony then with respect

24 to a market rate for -- that would be incurred by AEP

25 to serve these customers, that you have no

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1 information about whether PJM would pay capacity
2 costs in that market rate if it were to serve the
3 customers.

4 A. That's correct.

5 Q. How would your recommendation to use this
6 market rate impact CSP's 1/1/09 rates?

7 A. I'm sorry, I was looking for some
8 information.

9 THE WITNESS: Can I have the question
10 reread? I want to be responsive to it.

11 (Record read.)

12 A. Specific to just Monongahela Power?

13 Q. Yes.

14 A. It's about a \$32 million increase.

15 Q. And if your proposal were adopted, then
16 CSP would be allowed to increase its rates 1/1/09 by
17 7 percent and then above that an additional amount
18 \$32 million that you've just identified.

19 A. The totality of the recommendation would

20 be to increase CSP's generation rates by 3 percent.

21 It would increase CSP's generation rates by

22 4 percent. It would add \$32 million to the PAR delta

23 revenue quantification. It would add an additional

24 \$43.9 million for Ormet. And it would reduce the RTC

25 rate to zero, which is approximately \$54.2 million

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1 per year. Total valuation of that is about
2 \$95 million or about a 5.35 percent increase.

3 Q. And that's with all your recommendations.

4 A. That's the totality of the
5 recommendation, yes. And I'm sorry, that's what I
6 understood you to ask me.

7 Q. No; that's very comprehensive. That's
8 fine.

9 And then for Ormet you intend that
10 AEP-Ohio I think you said would recover the
11 difference between the market rate and the tariff
12 rate at 1/1/09.

13 A. Well, I mean that's actually a very good
14 question. We're talking about Ormet here, I'm sorry;
15 is that correct?

16 Q. Yes.

17 A. That's a very good question. Within her
18 quantification she does have just the industrial rate
19 of 65.20, I believe, and 66.17, that would have to be

20 weighed for the load factor, load shaped for Ormet
21 and -- but the real question there is what will Ormet
22 be contributing 1/1/09?

23 Currently they're contributing about
24 \$43 per megawatt-hour, and that's how my
25 quantification was calculated, assuming Ormet would

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1 continue to pay \$43 per megawatt-hour.

2 Q. Would you be surprised to know that Ormet
3 stated last week that it was expecting a 15 percent
4 rate decrease from AEP starting 1/1/09?

5 A. Would I be -- I don't know how to answer
6 your question. Nothing surprises me anymore. Did I
7 hear that? No.

8 Q. And were you --

9 A. Specifically if you're asking me did I
10 hear that they had made that public announcement, no.

11 MS. ROBERTS: I have no other questions
12 at this time. Thanks.

13 - - -

14 EXAMINATION

15 By Examiner Bojko:

16 Q. Mr. Hess, in discussions with Ms. Roberts
17 I believe a phrase that was thrown out there about we
18 would implement any percentage increases on the
19 12/31/08 rates. Do you remember saying that? Do you

20 remember that discussion?

21 A. Yes.

22 Q. My question is -- you were present for

23 Mr. Roush's testimony, were you not?

24 A. Most of it.

25 Q. My question is: Did you intend that to

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1 be 12/31/08 premidnight, before maybe some of the
2 riders expired, or did you mean that to be after all
3 the -- I know you specifically addressed the RTC
4 rider expiring, but do you also believe the other
5 riders would expire as well?

6 A. The 3 and 7 percent are applied to the
7 generation rate. That doesn't expire.

8 Q. Okay.

9 A. And I don't believe that we had -- let me
10 think about this. I don't believe that we had
11 included those percentages on any of the riders. I
12 think it was just on the generation portion of the
13 tariff.

14 EXAMINER BOJKO: Thanks for that
15 clarification.

16 Let's do reverse order this time. Let's
17 start with Mr. Rinebolt.

18 MR. RINEBOLT: Thank you, your Honor.

19 EXAMINER BOJKO: Oh, wait, wait. If I'm

20 doing reverse, I have to start with Mr. O'Brien --

21 no, Mr. Smalz. I'm used to staff sitting right by

22 the company. Could you please move?

23 Mr. Smalz, I apologize.

24 - - -

25

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1 CROSS-EXAMINATION

2 By Mr. Smalz:

3 Q. Mr. Hess, you just testified that the
4 total impact of your recommendation is about
5 \$95 million; is that correct?

6 A. That's for CSP. It's about a
7 5.35 percent increase, yes.

8 Q. And that's the impact on all of its
9 customers.

10 MR. MARGARD: By "all" are we talking
11 about the totality of the company, or distinguishing
12 this from -- with respect to any particular customer
13 class, I assume?

14 EXAMINER BOJKO: Could you clarify your
15 question?

16 Q. Okay. Well, my first question would be,
17 yes, is that your assessment of the impact on the
18 totality of all customers -- all customer classes?

19 A. The overall 5.35 percent increase, if

20 that's what you're asking me, no, I don't know the
21 answer to that. I don't know how it would be spread
22 to all of the customer classes.

23 Q. And so that 5.35 percent figure applies
24 to which class of customers?

25 A. Again, it applies to the total revenues

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1 collected by the company as compared to the total
2 revenues collected during 2008. And just so we're
3 clear here, this is just CSP.

4 EXAMINER BOJKO: I'm sorry, is that 5.53
5 or 5.35?

6 THE WITNESS: 5.35 percent.

7 Q. And the \$95 million impact on the
8 company, is that an annualized figure if it were
9 extended throughout the year? Or over what period of
10 time --

11 A. It's an annualized value, yes. It's 12
12 months worth of revenues is my estimate of what my
13 recommendation would be.

14 Q. I see.

15 Now, when you say your recommendation is
16 based on your understanding of Senate Bill 221, you
17 aren't saying that's the only possible
18 interpretation?

19 A. Well, I'm not sure I said that was based

20 upon my complete understanding of Senate Bill 221
21 because I'm not sure that I completely understand
22 Senate Bill 221. Based upon discussions with counsel
23 we believe that this is the correct -- this is the
24 recommendation that the Commission should buy into if
25 it doesn't have its order out in 150 days. This is

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1 what we believe 4928.141 meant by a continuation of
2 the rate plan.

3 Q. Okay. So your understanding of the law
4 is that the rate plan, however you define that,
5 that's in effect as of July 31st, 2008, should
6 continue in effect as the interim rates; that's your
7 understanding of Senate Bill 221?

8 MR. RESNIK: Your Honor, may I object to
9 the portion of the question that asks --

10 EXAMINER BOJKO: You can object.

11 MR. RESNIK: Okay, thank you. The
12 portion of the question that says "rate plan
13 regardless of how you define it." Well, it's defined
14 in the statute so I don't know how you ask a question
15 that uses "rate plan" and tells the witness however
16 he defines it.

17 MR. SMALZ: Well, let me in that case --

18 EXAMINER BOJKO: Wait. I think we're
19 here to try to understand some understandings of

20 recommendations, so I'm not going to sustain. But
21 can you clarify your question because I think that
22 this is an important piece. So please rephrase and
23 clarify your question.

24 Q. Subject to check, according to statute
25 4928.141(A) provides -- please tell me if this is

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1 correct based on your understanding --
2 "Notwithstanding the foregoing provision the rate
3 plan of an electric distribution utility shall
4 continue for the purpose of a utility's compliance
5 with this division until a standard service offer is
6 first authorized under section 4928.142 or 4928.143
7 of the Revised Code."

8 Is that the relevant statute with regard
9 to the interim rate plan?

10 A. Yes. You started out with the sentence
11 that starts out: "Notwithstanding the foregoing
12 provision the rate plan of the electric distribution
13 utility"; is that correct?

14 Q. Yes.

15 A. Yes, that's it.

16 Q. Thank you.

17 Now, again, subject to check, the term
18 "rate plan" is specifically defined in this statute
19 in 4928.01 I believe it's (A)(33).

20 A. Thirty-three, that's correct.

21 Q. Which reads: "Rate plan means the

22 standard service offer in effect on the effective

23 date of the amendment of this section by Senate Bill

24 221 of the 127th General Assembly. Is that the

25 definition of rate plan that you're relying on?

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1 A. Yes. Given that the standard service
2 offer is a service provided by the distribution
3 company which is dependent on past Commission orders,
4 it's not a rate. That's not how we viewed the term
5 "standard service offer." It's a service provided by
6 the distribution company.

7 Q. That's your interpretation.

8 A. Based upon discussions with counsel.

9 MR. SMALZ: I have no further questions,
10 your Honor.

11 EXAMINER BOJKO: Mr. O'Brien.

12 MR. O'BRIEN: Thank you, your Honor.

13 - - -

14 CROSS-EXAMINATION

15 By Mr. O'Brien:

16 Q. Good afternoon, Mr. Hess.

17 A. Good afternoon.

18 Q. Just a couple of clarifying questions.

19 Following up on a question that Mr. Smalz asked you

20 concerning how the increased revenues would be
21 recovered from customers, did I understand you to say
22 that you do not have an opinion as to how those
23 revenues should be recovered from individual -- the
24 classes of customers, how the interclass allocation
25 should be made for that recovery?

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1 A. I don't have any changes that would have
2 been already authorized by the Commission.

3 Q. So to the extent that your recommendation
4 is based on Commission authorizations and direction
5 already provided in prior orders, they should just
6 take effect per their existing terms.

7 A. They should continue with that class
8 allocation methodology that was authorized and
9 approved in those cases, yes.

10 Q. Thank you. That's what I was looking
11 for.

12 Now, turning to your answer beginning on
13 line 6 and running through line 13 on page 9, it
14 appears to me that you are recommending a set number
15 of changes or things to happen in this interim
16 period. One involves an increase in generation
17 rates. The second one -- well, the full additional
18 4 percent increase would be the second thing I see in
19 this list. The third thing applies to keeping POLR

20 rates in place. Number four, leave the line
21 extension policy in place. And five deals with the
22 Mon Power and Ormet situation. Number six has to do
23 with the RTC dropping off of Columbus Southern.
24 To the extent something is not --
25 something that's contained in AEP's filed application

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1 is not referenced in your response here, does that
2 mean that in this interim period they would not take
3 effect? Let me give you an example.

4 A. That would help, thank you.

5 Q. You know, like an economic development
6 rider for instance, is that what your recommendation
7 is?

8 A. That's correct.

9 MR. O'BRIEN: I have nothing further,
10 your Honor.

11 EXAMINER BOJKO: Mr. Rinebolt.

12 - - -

13 CROSS-EXAMINATION

14 By Mr. Rinebolt:

15 Q. Mr. Hess, good afternoon.

16 A. Good afternoon.

17 Q. Referring to the same page and same
18 section of your testimony which seems to be the focus
19 here, if you could, refresh my memory, is the

20 3 percent increase for Columbus Southern Power in the

21 rate stabilization plan cost based?

22 A. No.

23 Q. And that's likewise true for the

24 7 percent for Ohio Power customers.

25 A. That's correct.

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1 Q. Now, was the 4 percent rider cost based
2 under the original rate stabilization plan?

3 A. It was to be justified by criteria that
4 was established under the rate stabilization plan,
5 yes.

6 Q. And so if the justification did not
7 amount to 4 percent, then the company would collect
8 whatever level was justified.

9 A. That's correct.

10 Q. Okay. You've participated in a number of
11 proceedings over the years with the Commission. Do
12 you view your proposal as reasonable?

13 A. Yes, I do; just and reasonable.

14 Q. I'm glad to hear that phrase.

15 Now, if I was -- I am a customer of Ohio
16 Power so let's use me as an example. If I was not
17 shopping for power, and I'm not, but let's assume I
18 was shopping and I went back to Ohio Power, would the
19 price that I paid be a standard service offer?

20 A. Under the alternative plan that I'm

21 proposing?

22 Q. No; currently today.

23 A. I believe -- I just don't remember the

24 details of it. If you want me to accept that subject

25 to check, I will. I can do that.

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1 Q. Fine. We'll take it that way.

2 Now, I think in the previous questioning
3 you distinguished between a standard service offer
4 rate, which is what a customer pays, and a standard
5 service offer plan.

6 A. Correct. Standard service offer is a
7 service provided by the distribution company, yes.

8 Q. Okay.

9 A. It's not a rate.

10 Q. Now, does the existing standard service
11 offer plan authorize any increases beyond three years
12 under the terms of the existing plan?

13 A. I'd have to think back through all of the
14 cases. Again, we'd have to go all the way back to
15 the ETP cases and those contemplated ending 12/31/05,
16 and to the 04-169 cases through the line extension
17 cases. I don't remember whether the line extension
18 cases contemplated a period of time into 04-169,
19 which is what has been defined here as the rate

20 stabilization plan.

21 And I don't remember whether there was

22 specific language in there that limited it to just

23 the three years. It makes a lot of sense to me that

24 it did, yes.

25 MR. RINEBOLT: Thank you, Mr. Hess.

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1 - - -

2 CROSS-EXAMINATION

3 By Mr. Petricoff:

4 Q. Good afternoon, Mr. Hess. Just a couple
5 of questions for you. First, are you familiar with
6 the demand response programs that are offered by PJM
7 Interconnect?

8 A. No, sir, I'm not.

9 Q. Are you aware that there are programs
10 that are offered?

11 A. I've heard discussions about it, and I
12 have not really listened in detail to those
13 discussions, I'm sorry.

14 Q. Do you know whether customers of Columbus
15 Southern Power and Ohio Power are participating in
16 those programs today?

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

18 Q. Under your proposal, the interim
19 proposal, are you advocating that the Commission bar

20 customers from participating in the PJM demand

21 response programs?

22 A. I'm advocating that the Commission

23 continue to do what it has done so far in the

24 standard service offer proposals.

25 MR. PETRICOFF: Thank you. No further

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1 questions.

2 EXAMINER BOJKO: Mr. Randazzo?

3 MR. RANDAZZO: Just a couple of

4 questions.

5 - - -

6 CROSS-EXAMINATION

7 By Mr. Randazzo:

8 Q. Mr. Hess, I'm trying to avoid

9 duplication. I'm going to try to pick up on a

10 discussion that's already taken place. You said that

11 standard service offer is a service that's available

12 from the companies, Columbus Southern and Ohio Power;

13 do you recall that?

14 A. Yes. I believe what I further stated was

15 from the distribution company.

16 Q. Correct. And is it also correct that

17 service offering is provided pursuant to a tariff?

18 A. Yes.

19 Q. Like all other service offerings that are

20 available from utilities that are regulated by the

21 Commission, correct? Strike the question.

22 And on July 31st of 2008 there was a

23 tariff in effect for Ohio Power's and Columbus &

24 Southern's standard service offer, correct?

25 A. That's correct.

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1 Q. And if we were to use some numbers that
2 you used in an answer to a question by counsel for
3 OCC, if we were to look at the Columbus & Southern
4 standard service offer tariff that was in effect on
5 July 31st of 2008, that tariff included a provision
6 for recovery of regulatory transition charges,
7 correct?

8 A. For Columbus & Southern, that's correct.

9 Q. For Columbus & Southern.

10 A. Yes.

11 Q. And on an annual basis that tariff, my
12 recollection, you indicated that on an annual basis
13 the revenues associated with that regulatory
14 transition charge was approximately \$54 million.

15 A. That's correct.

16 Q. For Columbus & Southern.

17 A. For Columbus & Southern.

18 MR. RANDAZZO: That's all I have. Thank
19 you.

20 MS. WUNG: No question, your Honor.

21 Thank you.

22 EXAMINER BOJKO: Mr. Kurtz.

23 MR. KURTZ: Thank you, your Honor.

24 - - -

25

ARMSTRONG & OKEY, INC., Columbus, Ohio (614) 224-9481

1 CROSS-EXAMINATION

2 By Mr. Kurtz:

3 Q. Good afternoon, Mr. Hess.

4 A. Good afternoon, Mr. Kurtz.

5 Q. Your understanding of the -- you stated
6 earlier you want to enforce the law, obey the law, or
7 make your proposal consistent with the law; is that
8 right?

9 A. Yes, sir.

10 Q. And your understanding of the law is that
11 if no order is issued by the Commission, the rate
12 plan shall continue; is that right?

13 A. Mr. Kurtz, I don't know how to respond to
14 that. As a layman I'm not positive depending on what
15 part of 221 that you go to that it was contemplated
16 that the Commission wouldn't come out with an order
17 in 150 days. I do believe that that issue is
18 arguable.

19 Q. Now, if the Commission issues an order on

20 the matters we're discussing here today, the interim

21 or the 1/1/09 plan, it will have issued an order;

22 isn't that right?

23 A. Yes.

24 Q. And it will be issuing an order pursuant

25 to the ESP application of Ohio Power and Columbus &

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1 Southern.

2 MR. RANDAZZO: Is there a question
3 pending?

4 THE WITNESS: Yeah. I have to be very
5 careful with this because I believe that depending
6 upon the interpretation of Senate Bill 221 what is
7 the first order of the Commission under the ESP
8 filing.

9 I'm not sure that's quite correct,
10 Mr. Kurtz. I believe that what the Commission would
11 be doing is authorizing an order on an alternative
12 plan based upon the staff's recommendation.

13 Q. Okay. And that order will determine what
14 customers who don't shop pay for electricity,
15 correct?

16 A. That order would authorize the companies'
17 quantification of the standard service offer.

18 Q. So it would set the standard service
19 offer for people who don't shop beginning 1/1/09.

20 A. Well, it sets the standard service offer
21 for everybody, even those who are shopping, I believe
22 if it's correct, could come back to that standard
23 service offer. What it does is authorize the
24 standard service offer.

25 Q. So it sets the standard service offer

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1 beginning 1/1/09 for both shoppers and nonshoppers.

2 A. Yeah; that's how I would envision it.

3 Yes.

4 Q. Okay. Your proposal is that the RTC that

5 Columbus is currently collecting would go away

6 effective 1/1/09; is that correct?

7 A. That's correct.

8 Q. And that's because in the original ETP

9 case from the year I guess 2000 that had -- that RTC

10 had an eight-year life.

11 A. That's correct. That was further

12 addressed by the Commission in the RSP, but I believe

13 the Commission simply referred back to the ETP --

14 Q. Okay. And because --

15 A. -- authority.

16 Q. Because that RTC rider had a set life and

17 it expires. Your belief is under the rate plan it

18 goes away.

19 A. Yeah, under the rate plan it goes away.

20 Q. Okay. Now, let's talk about Mon Power,
21 the customers formerly served by Mon Power who are
22 now CSP customers, okay?

23 A. Thank you. That's a better description.

24 Q. The delta revenue recovery factor for the
25 difference between the CSP tariff and this request

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1 for proposal market, that also expires at the end of
2 2008; isn't that true?

3 A. I'm not sure of that. I'd have to go
4 back and look at the tariff itself to see whether
5 there was an expiration date on it.

6 Q. Okay. If there is an expiration date on
7 it, shouldn't that terminate under the rate plan just
8 as the RTC terminates?

9 A. No. I think that that one simply has to
10 be adjusted to continue with the plan itself.

11 Q. If there is a termination provision for
12 the Monongahela delta revenue under the existing set
13 of Commission orders, the rate plan, why shouldn't
14 that delta revenue recovery factor also terminate
15 just like the RTC?

16 A. Under the authority the Commission was
17 given under Senate Bill 221 4928.141 to continue the
18 rate plans.

19 Q. And that's what I'm saying. In part of

20 the existing rate plan or universe of Commission
21 orders setting rates has that factor terminate, why
22 shouldn't it terminate pursuant to the plan? Or --
23 aren't you proposing to amend the existing rate plan
24 by extending that Mon Power delta revenue if, in
25 fact, there is a termination date?

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1 A. I am proposing to extend the rate plans.

2 Q. Are you proposing to modify the rate
3 plans assuming that there's a termination date and
4 you're proposing to extend it?

5 A. Mr. Kurtz, that's a good question. I'm
6 not sure I have a very good response for it.

7 Q. The Mon Power delta revenue was also
8 recovered in the 4 percent provision of CSP's
9 existing rates; isn't that correct?

10 A. No. The Mon Power delta revenue was
11 recovered through the 4 percent?

12 Q. Let me start again. The Commission
13 authorized the delta revenue for Monongahela Power
14 and said that CSP could recover it within the
15 4 percent provision; is that right?

16 A. I think the Commission, yeah, I think the
17 Commission said it would affect the cap.

18 Q. And aren't you proposing to give CSP the
19 full 3 percent plus 4 percent plus the Mon Power

20 delta revenue?

21 A. Yes, I am. I don't know -- however, I

22 think you also have to account for the Commission's

23 order in I think it was 07 -- I'm sorry, it was

24 05-764 where we litigated the issue as to whether or

25 not it would be 4 percent per year or whether it was

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1 a cumulative value. That's correct. And I don't
2 know how much that cumulative value was left with
3 CSP.

4 Q. Mr. Baker testified that there's like
5 \$21 million left. Do you recall that?

6 A. I think I saw that in his testimony, yes.

7 Q. Was the Commission's order on this
8 cumulative or year-by-year? How did the Commission
9 come out on that?

10 A. They ruled in favor of the company.

11 Q. Let me turn to Ormet. The Ormet delta
12 revenue recovery, the difference between the \$43 per
13 megawatt-hour special contract and market had a
14 two-year life, isn't that right, that expires at the
15 end of this year?

16 A. I don't remember that detail.

17 Q. You recommended --

18 A. I think that the -- I do remember that
19 the rate itself of \$43 was going to be done 12/31/08.

20 Q. And do you believe that the Commission
21 allowed delta revenue recovery beyond 12/31/08?

22 A. I don't remember that, Mr. Kurtz, I'm
23 sorry.

24 Q. Well, let's assume that the existing rate
25 plan has delta revenue recovery for Ormet -- for the

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1 Ormet load only through the end of 12/31/08. If we
2 assume that, isn't your proposal a modification to
3 the existing rate plan, not a continuation of it?

4 A. No. Again, I would argue that it's a
5 continuation of the rate plan.

6 Q. But if the delta revenue for the Ormet
7 load had a set termination date and you're proposing
8 to extend it, aren't you proposing to modify the rate
9 plan?

10 A. I am proposing that under the
11 Commission's authority under 4928.141 that it could
12 extend that rate plan, yes.

13 Q. Okay. So that would --

14 A. To continue the rate plan.

15 Q. Well, but like the RTC, if there was a
16 specific date that said this ends at the end of 2008,
17 isn't that not a mere extension but a change?

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

19 Q. The recovery for the delta revenues

20 associated with Ormet, the company dipped into a
21 regulatory liability account of ratepayer IOU and got
22 its delta revenue that way; is that correct? It was
23 a regulatory liability dealing with taxes from the
24 ETP case.

25 A. That's correct.

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1 Q. Okay. And the Commission said in that
2 Ormet order to the extent you exhaust the regulatory
3 liability, the ratepayer IOU, then we'll deem the
4 Ormet delta revenue to be part of the 4 percent. Do
5 you recall that?

6 A. That, I don't remember. I'm sorry.

7 Q. Okay. The calculation of market for the
8 Ormet delta revenue, that was an administratively
9 determined market price; isn't that correct? Well,
10 let me stop.

11 Didn't the company make a filing at the
12 end of the year right around now giving a forward
13 projection of market pricing and use that to
14 calculate the difference between \$43 and market?

15 A. I think that's correct. And I think it's
16 been done twice. I think they did it in '07 and have
17 since done it in '08, and I don't believe the '08
18 order is out yet.

19 Q. Okay. But that methodology is quite

20 different than using the OCC market calculation of

21 Witness Smith; is it not?

22 A. I'm not all that familiar with their

23 methodology.

24 Q. Okay. Assuming the methodology is

25 something that's filed by the company based on

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1 forward prices, there's adequate time to do that
2 before the end of the year even if there's not
3 adequate time to do an RFP as was done for the
4 Monongahela load; isn't that right?

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

6 Q. Let's talk about reconciliation. You've
7 recommended against reconciling the 1/1/09 plan with
8 the final ESP; is that correct?

9 A. Yes.

10 Q. Why are you against the reconciliation?

11 A. Again, as we spoke informally earlier,
12 I'm concerned about the one-time hit to the customers
13 that would occur to that if there was a large
14 reconciliation that had to be added to, you know, an
15 already large increase. I think it's just better to
16 put the rates in effect, leave them and then not
17 reconcile through those.

18 Q. Of course it all depends on whether it's
19 a large hit to consumers or refund to consumers,

20 depending on what the interim plan is versus the

21 final, and none of us know that, do we?

22 A. No, we don't know that.

23 Q. Okay. If there was a reconciliation, it

24 would make the accuracy of this interim somewhat less

25 important because it would be trued up. We'd still

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1 want to get a reasonable result but it wouldn't have
2 to be quite as precise. Do you agree?

3 A. Yeah. And let me go back to your last
4 question. I think the probability of it being a
5 refund as compared to more of an increase I think is
6 pretty low.

7 Q. Let me just -- I have a few more
8 questions. I'd like to walk you through the
9 11 percent Ohio Power generation increase that you're
10 recommending, the 4 plus the 7 percent.

11 A. 4 plus 7, that's correct.

12 Q. Okay. Is that to the full generation
13 rate or the non-FAC generation rate?

14 A. I don't believe that there is an FAC rate
15 in the current tariffs so it's to the generation
16 rate. It would be applied to the same basis that it
17 was applied to in past cases.

18 Q. Okay. And dollarwise how much would that
19 be?

20 A. Are we with Ohio Power now?

21 Q. Yes.

22 A. I have the 7 percent being about

23 \$72 million and the 4 percent being about

24 \$41 million.

25 Q. Okay. And do you have a percentage as a

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1 total bill?

2 A. For just those two?

3 Q. Yes.

4 A. No.

5 Q. So we can do that math.

6 The 3 percent and the 4 percent for CSP
7 would be applied to the full generation rate because
8 there is no FAC rate currently.

9 A. Again, it would be applied to the same
10 basis that had been applied to in past cases.

11 Q. Can you give me the dollar amounts of
12 those two?

13 A. I have about \$31 million for CSP.
14 3 percent increase is approximately 31.5 million.
15 4 percent is approximately 42 million.

16 Q. Okay. The delta revenue associated with
17 serving Ormet at tariff versus Miss Smith's
18 calculation -- first of all, let me ask you, how did
19 you calculate the Ormet delta revenue?

20 A. Yeah, and I'm not sure we discussed that
21 much here. I took Miss Smith's testimony and I
22 wasn't sure -- I knew the company had an adjustment
23 to her industrial rate for the load factor for Ormet
24 as compared to what they had had here, so I asked
25 them for that number. She had it valued at about

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1 \$63.58 a megawatt.

2 I am assuming that the Commission will
3 direct Ormet to pay \$43 per megawatt.

4 Q. All right. So your delta revenue was the
5 difference between --

6 A. It's about \$20.58 a megawatt.

7 Q. Now, if --

8 MR. RANDAZZO: If your Honor may,
9 Mr. Hess, do you mean megawatt-hour?

10 THE WITNESS: Yes.

11 MR. RANDAZZO: Thank you.

12 Q. So this is a clarification to your
13 testimony. You didn't use Miss Smith's market
14 number; you used 63.58 based upon some input from the
15 company.

16 A. Yes.

17 Q. And that's the blended Ohio Power-CSP
18 market number with the Ormet load factor.

19 A. Yes.

20 Q. And you compared that to Ormet's existing
21 contract amount of \$43 per megawatt-hour.

22 A. That's correct.

23 Q. Now, if Ormet gets a 15 percent rate
24 reduction, as somebody alluded to earlier because
25 they transitioned from this \$43 per megawatt-hour

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1 contract to the standard tariff, the delta revenue

2 would be increased, would it not?

3 A. Yes.

4 Q. Have you made a calculation as to what

5 the delta revenue would be assuming that Ormet pays

6 50 percent GS-4 of Ohio Power and 50 percent GS-4 of

7 CSP, as Mr. Roush indicated he thought was the case?

8 A. No. I haven't done that calculation.

9 Q. If the GS-4 is less than \$43 a

10 megawatt-hour for generation, the delta revenue would

11 be higher.

12 A. Yes.

13 Q. Under your proposal if Ormet is a

14 standard service offer customer, a regular tariff

15 customer, they would get hit -- they would pay this

16 surcharge as well just like everyone else.

17 A. In your question did you say if they are

18 a standard service offer customer?

19 Q. Yes.

20 A. Yes. I believe that's correct, they

21 would have to.

22 Q. Okay.

23 A. You know, in my mind I'm kind of going

24 back and assuming things aren't going to change,

25 they're still going to be ordered to pay \$43, and I

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1 think under \$43 they were not billed the delta

2 revenue.

3 Q. Right. But if they go to standard offer,
4 standard tariff, the GS-4, the 15 percent rate
5 reduction, they'll have to pay the same surcharge as
6 everyone else, as a regular ratepayer presumably; is
7 that your understanding?

8 A. Again, I don't know how the Commission
9 would determine that they would be any different.

10 Q. The delta revenue associated with serving
11 the old Monongahela Power load at the current CSP
12 tariffs, the dollar amount of that delta revenue, did
13 you say that -- do you have that number?

14 THE WITNESS: Can I get the question
15 reread?

16 (Record read.)

17 A. I think I know what you're asking me. If
18 you're asking me if I have quantified the difference
19 between the 63.53 and the \$43 and multiplied that

20 times an estimated megawatt-hours, is that what

21 you're asking me?

22 Q. No. We're off of Ormet. Now we're on

23 Mon Power.

24 A. I'm sorry. I'm sorry.

25 Q. The Mon Power delta revenue.

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1 A. Yeah. I have the \$73.94 per Smith's
2 testimony minus 55.88, which is identified in a
3 Commission order on Monongahela Power, I think it's
4 07-333.

5 Q. Is that the average generation rate paid
6 by all customers?

7 A. No. That's the market rate that they're
8 currently paying, 55.88.

9 Q. Isn't the delta revenue the difference
10 between the generation rate that they're paying and
11 some version of market?

12 A. Yeah. But in my quantification I'm
13 talking about a percentage increase.

14 Q. Okay.

15 A. And the PAR revenues are currently built
16 upon 55.88 as the market rate.

17 Q. What did you use for the -- and you're
18 proposing to use OCC Witness Smith now.

19 A. Right.

20 Q. Okay. And what did you use as the tariff

21 rate those customers would be paying?

22 A. Well, again, I didn't do a tariff rate.

23 I did a rate above and beyond what the PAR market

24 rate is. I'm trying to quantify the percentage

25 increase, not the total delta revenue.

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1 Q. Do you know what the total delta revenue
2 would be?

3 A. No, I don't.

4 EXAMINER BOJKO: What's the percentage
5 increase you keep trying to tell us?

6 THE WITNESS: I think I've said it a
7 couple times. It's \$31.9 million.

8 Q. And what's the percentage, Mr. Hess?

9 A. Well, the total percent of the 3, the 4,
10 Monongahela Power, Ormet, and RTC, that total
11 percentage is 5.35 percent. And that's just CSP.

12 Q. And what is the percentage rate increase
13 for Ohio Power customers?

14 A. I've got it at about 9.13 percent.

15 Q. And under your proposal those numbers
16 would not be trued up. They would just be effective
17 and then when a new ESP is issued or a final ESP is
18 issued, the final ESP rates would just go forward
19 prospectively?

20 A. Yes.

21 MR. KURTZ: Thank you, your Honor. Those
22 are all my questions.

23 EXAMINER BOJKO: Let's go off the record
24 for a moment.

25 (Discussion off the record.)

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1 EXAMINER BOJKO: Let's go back on the
2 record.

3 At this time we are going to recess for a
4 lunch break. We will begin again at 2:45.

5 (At 1:47 p.m. a lunch recess was taken
6 until 2:45 p.m.)

7 - - -

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ARMSTRONG & OKEY, INC., Columbus, Ohio (614) 224-9481

1 Monday Afternoon Session,

2 November 17, 2008.

3 - - -

4 EXAMINER BOJKO: Let's go back on the
5 record.

6 On the record, Mr. White, do you have any
7 questions?

8 MR. WHITE: I have no questions, your
9 Honor.

10 EXAMINER BOJKO: Thank you.

11 Mr. Bell.

12 MR. BELL: Yes, your Honor.

13 - - -

14 CROSS-EXAMINATION

15 By Mr. Bell:

16 Q. Good afternoon, Mr. Hess.

17 A. Good afternoon, Mr. Bell.

18 Q. If you can't hear me, let me know and
19 I'll speak up.

20 A. It's never been a problem.

21 Q. Mr. Hess, during off-the-record inquiry

22 of you did I ask you to confirm whether or not Ohio

23 Power Company had any shopping customers during 2008?

24 A. Well, I mean, you asked me about Columbus

25 & Southern.

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1 Q. Yes.

2 A. You said Ohio Power. But yeah, there are
3 no shopping customers with Ohio Power. There are
4 some shopping customers with CSP.

5 Q. And the shopping customers with CSP is de
6 minimis?

7 A. Yeah. It's not very many -- there are
8 not very many shopping customers with CSP.

9 Q. Would you agree then, Mr. Hess, that all
10 of Ohio Power distribution company's retail customers
11 were standard service offer tariffed customers on
12 July 31, 2008?

13 A. Yes.

14 Q. And with respect to Columbus & Southern,
15 as of July 31, 2008, the vast, vast, vast, vast
16 majority of Columbus & Southern Power's retail
17 distribution customers were, in fact, Columbus &
18 Southern gen customers, were they not?

19 A. Yeah. I'm not sure about your

20 qualification "vast, vast, vast, vast majority."

21 Q. But the figure was mentioned something in

22 the order of a thousand customers.

23 A. That's what we heard from the company

24 here, yes.

25 Q. All right. And how many customers does

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1 Columbus & Southern have?

2 A. Off the top of my head I don't --

3 Q. Several hundred thousand?

4 A. Oh, I think there's more than that.

5 Q. Okay. It's in the record somewhere.

6 I note the coincidence that in discussing
7 your alternative plan in your prefiled testimony you
8 used the same number of sentences to define and
9 describe it as did Company Witness Roush, four
10 sentences. I do appreciate, however, the candor and
11 responsiveness that you've had to inquiring counsel
12 during the course of the hearing which has
13 abbreviated my cross-examination of you considerably,
14 Mr. Hess.

15 I noted, for instance, that you did not
16 submit an attachment to your testimony as you did
17 with the REH-2 that described the impact of your
18 interim proposal. You responded to inquiries of
19 counsel as to the cost of various elements and I'll

20 try not to duplicate that, but at the same vein I

21 want to make sure I understand it and I want to make

22 sure the Bench understands it.

23 EXAMINER BOJKO: Did you mean JEH?

24 THE WITNESS: Yeah. You said "REH-2."

25 MR. BELL: JEH, yes. I apologize.

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1 Q. In response to questions by counsel for
2 OCC you indicated that your proposed 4 percent
3 increase was in addition to the generation cost
4 recovery rider; did you not?

5 A. Yes.

6 Q. And that your proposal would, in effect,
7 be reflected as an increase to the generation cost
8 recovery rider so as to recover the delta revenues
9 associated with Mon Power; is that correct?

10 A. I think we're mixing a lot of things
11 there. Now, the 4 percent increase I'm not sure
12 whether that was rolled into the generation rates
13 historically or not. I think it might be a rider. I
14 believe that's correct. And my recommendations that
15 the -- that a rider be created to increase the
16 recovery mechanism of the company by 4 percent of the
17 generation rates.

18 Q. I'll accept that, Mr. Hess.

19 And you further responded that if the

20 Commission were to continue the RSP, it would limit

21 customer increases; did you not?

22 A. If the Commission would --

23 Q. Were to continue the RSP in effect, it

24 would have the effect of limiting price increases to

25 Columbus & Southern and Ohio Power customers.

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1 A. I don't remember testifying to the fact
2 that it would limit it. We have quantified what it
3 would be. I've estimated what I believe my
4 recommendation would increase the total revenues of
5 the company by -- limited by -- I'm sorry. Could you
6 explain to me in your question what you mean by
7 "limited"?

8 Q. Yes.

9 A. Thank you.

10 Q. If, in fact, the Commission were to limit
11 any interim increase in this case to the rates that
12 were in effect on July 31, 2008, that would, in fact,
13 maintain the existing rate levels without an
14 increase, would it not?

15 A. Again, Mr. Bell, I don't really know what
16 you mean by "limit," if something gets limited by,
17 I'm sorry, I just don't understand that.

18 Q. All right. If the Commission were to
19 hold the rates charged on 1/1/09 to the rates

20 currently charged, there would be no increase as

21 opposed to the increase which you propose; would you

22 accept that?

23 A. Yes, that's correct. I would agree with

24 that.

25 Q. All right. And would you agree that in

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1 so doing the Commission might make the determination
2 that the current rates provide adequate compensation
3 to the companies for the companies' current and
4 expected risks during the period that the 7/31/08
5 rates will be in effect in 2009?

6 MR. RESNIK: Objection. He's asking the
7 witness to speculate on what the Commission might
8 think.

9 EXAMINER BOJKO: Sustained.

10 Q. Was the increase that you have
11 recommended in the interim, your 1/1/01 (sic) plan,
12 was that designed in any way to compensate the
13 company for the risk that the company will be exposed
14 to during the period in 2009 that your interim
15 proposal would be in effect if accepted?

16 A. No.

17 Q. I'm sorry?

18 A. No. And it was, again, based upon what
19 we believe is the proper interpretation of the

20 statute.

21 Q. Do you know the effective date of the
22 amendment of Revised Code 4928.01(A)(33) as effected
23 by Senate Bill 221?

24 A. Now I think you're kind of asking me a
25 legal question here --

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1 Q. No.

2 A. -- and I'm going back to my experience
3 with Senate Bill 3, I think the governor signed it on
4 July 31st of '08, Senate Bill 3. And I'm not sure
5 whether it became effective --

6 Q. Excuse me, Senate Bill 3 or Senate Bill
7 221?

8 A. Oh, Senate Bill 221.

9 Q. You said "Senate Bill 3."

10 A. Thank you for that correction.

11 Q. Would you agree subject to check then,
12 Mr. Hess, that in effect section 4928.01(A)(33) was
13 amended by Senate Bill 221 on July 31st, 2008?

14 MR. RANDAZZO: Could I have the question
15 back.

16 (Record read.)

17 MR. RANDAZZO: Thank you.

18 A. And let me answer this as a layperson. I
19 do believe that that was a new part of the statute.

20 I know that -- I believe the governor signed it on
21 that date. I understand there are issues, though,
22 about when that bill becomes effective as compared to
23 when the governor signed it. I thought it was 90
24 days later.

25 Q. Okay. Let's move on. That's fine,

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1 Mr. Hess.

2 I'd like to understand, putting Ormet and
3 Mon Power aside for the time being, what's the dollar
4 impact on an annualized basis of your proposal for
5 Ohio Power and Columbus & Southern?

6 EXAMINER BOJKO: I'm sorry, did you say
7 putting "your math" or "Ormet" aside?

8 MR. RANDAZZO: Putting Ormet and Mon
9 Power aside.

10 EXAMINER BOJKO: Okay.

11 MR. BELL: Those two issues aside. I'm
12 sorry.

13 EXAMINER BOJKO: Thank you.

14 Q. Did you understand the question?

15 A. I believe so, yeah. Let me read the
16 numbers into the record. For CSP I believe the
17 3 percent increase will create an additional amount
18 of revenues of \$31,550,000; the 4 percent increase
19 will increase the revenues by approximately

20 \$42 million, 42.067, and the RTC will reduce the
21 revenues of the company by 54 million 238. That was
22 Columbus & Southern.

23 Q. Fifty-four?

24 A. 54-238.

25 On the Ohio Power side I believe that

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1 there will be additional revenues driven by the
2 7 percent increase of 72 million 359; the 4 percent
3 increase will increase Ohio Power's revenues by
4 approximately 41 million 348, and that's it. There's
5 no RTC with Ohio Power.

6 Q. Well, for all intents and purposes we can
7 ignore the RTC reduction of 54 million because that
8 takes place in any event under the rate stabilization
9 plan. It expires -- its own life expires on December
10 31, 2008, does it not?

11 A. I don't agree with that. I believe if
12 you go with -- and I believe even under Miss Hixon's
13 recommendation that rate survives.

14 Q. Well, under the current -- I'm not
15 talking about recommendations now. I'm talking about
16 the current rate stabilization plan. Under the
17 current rate stabilization plan when does the RTC for
18 Columbus & Southern terminate?

19 A. 12/31/08.

20 Q. Thank you.

21 So if we were to move that aside, we
22 could identify the effects of your recommendations on
23 an annualized basis by adding up the four numbers
24 that you've given us, correct?

25 A. No. I think you'd also have to add Mon

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1 Power and Ormet, but you said leave those to the
2 side. My full recommendation includes those.

3 Q. Thank you. I appreciate the
4 clarification, Mr. Hess. Now, let's go to
5 Monongahela, Ormet. Now, as I understand it, you
6 indicated that Mon Power had an annualized cost of
7 32 million; is that correct?

8 A. The Mon Power delta revenue that I've
9 quantified is approximately 31.924. \$32 million.

10 Q. Thank you.

11 And that would be the responsibility of
12 Columbus & Southern customers in addition to the 31.5
13 and 42 million. That would be recovered in a rider;
14 is that correct?

15 A. Yes.

16 Q. Okay.

17 A. That's the increase to the PAR rider.

18 Q. So in addition to the 31.5 and the 42.6
19 we have an additional 32 million, correct?

20 A. Yes.

21 Q. Under your proposal.

22 A. Yes.

23 Q. And in addition to that, do we not,

24 Mr. Hess, have the Ormet delta revenues which I

25 believe you quantified as 43.9 million, which was

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1 divided equally between Columbus & Southern and Ohio
2 Power which would present an additional increment of
3 21.95 million for Columbus & Southern or 22 million.

4 A. The 43.9's already been split. That's
5 just Columbus & Southern's portion.

6 Q. Thank you for the clarification. So then
7 we would have to add to Columbus & Southern in
8 addition to the 32 million for Mon Power another
9 44 million for Ormet, correct?

10 A. Yes.

11 Q. So the net effect of your
12 recommendation -- and I'm not getting now to the
13 recovery vehicles. I'm talking about the increased
14 revenue responsibility standard service offer tariff
15 customers of Columbus & Southern -- would be the sum
16 of 31-5, 42, 32, and 44 million, correct?

17 A. Minus 54.

18 Q. Well, if one were to accept your
19 interpretation with respect to the RTC, minus 54. If

20 the Commission were to conclude that the 54 million
21 expires in its own right as of December 31, 2008, as
22 currently provided in the RTC, we would exclude the
23 54 million offset, would we not, mathematically, to
24 determine the rate -- the increased revenue
25 responsibility of Columbus & Southern's retail

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1 standard service offer tariff customers?

2 A. No.

3 Q. How --

4 A. I mean, you have to quantify the fact --

5 you have to add in the fact that there are

6 \$54 million less coming in to the company.

7 Q. All right. In any event, I think we have

8 successfully quantified the impact by segment of your

9 recommendation for Columbus & Southern; would you

10 agree, Mr. Hess?

11 A. Yes.

12 Q. Thank you. Now, for Ohio Power you

13 indicated the 7 percent would be 72.359 million, and

14 the 4 percent would be 41.348 million, and I trust to

15 that figure we would have to add the 43-9 million

16 associated with the Ormet delta revenues, would we

17 not, to come out with the increased cost to Ohio

18 Power retail standard service offer tariffed

19 customers?

20 A. Yes.

21 Q. Thank you.

22 Now, in making your recommendation that
23 the delta revenues associated with Mon Power should
24 be borne by the entirety of Columbus & Southern's
25 retail standard service offer customers, you are in

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1 effect recommending, are you not, the socialization
2 of the delta revenues related to the increase that
3 you're recommending in this case?

4 A. Consistent with the way it's socialized
5 currently, yes.

6 Q. With respect to that determination, do
7 you see any difference, Mr. Hess, in the
8 circumstances surrounding the initial determination
9 that the delta revenues should be socialized when
10 that determination was made as opposed to the current
11 situation?

12 A. Oh, a lot has changed in the last three
13 years.

14 Q. Thank you.

15 Including most recently a substantial
16 decrease in wholesale generation rates; is that
17 correct?

18 MR. RESNIK: I'm sorry, wholesale
19 generation?

20 MR. BELL: Wholesale generation rates.

21 MR. RESNIK: Rates.

22 Q. As evidenced by the testimonies I believe

23 of a number of the witnesses, Mr. Baron,

24 Mr. Kollen --

25 MR. RESNIK: Your Honor, I'm going to

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1 object. I know Mr. Bell has indicated he's his own
2 consultant, but that doesn't mean he should be
3 testifying in his questions.

4 EXAMINER BOJKO: Ask a question.

5 MR. BELL: Thank you.

6 EXAMINER BOJKO: Is there a question
7 pending? Wholesale generation, was that the answer?

8 MR. BELL: There's not a question pending
9 now. If there was, I withdraw it.

10 Q. Mr. Hess, with respect to the rates that
11 were in effect on July 31, 2008, which rates remain
12 in effect to this very day, would you agree that
13 those rates were established by the Commission to
14 compensate the company for all of the risk the
15 company is, was and is now facing?

16 A. No. I think the standard service offer
17 was intended to create some kind of an
18 administratively created market rate.

19 Q. Would you agree that the standard service

20 offer rate established via the RSP was not designed
21 to recover the company's cost, that that rate could
22 underrecover or overrecover the company's cost?

23 A. Well, I have never limited the standard
24 service offer to the RSP, which you assumed in your
25 question. So I disagree with that qualifier that you

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1 had in your testimony. And in response to your
2 question I think I need it reread. I'm sorry, I
3 concentrated on that part that you put in there.

4 MR. BELL: Will the reporter read that
5 back.

6 (Record read.)

7 A. Again, as I testified and the Court's
8 upheld, I think the Court's upheld, what we did
9 during the rate stabilization period was to create a
10 market rate.

11 Q. Fair enough. Mr. Hess, I believe in
12 response to one of the questions of counsel, and it
13 may have been Mr. Kurtz or Mr. Randazzo, you had
14 indicated that your proposal constituted a
15 5.35 percent total revenues of the company during the
16 year 2009.

17 A. Yes, sir.

18 Q. Those -- are not the resultant figures
19 not the same as applying a 5.35 percent increase to

20 the 2008 revenues, is it?

21 A. Oh, it should be. I used the 2008

22 revenues as identified in Roush's testimony as the

23 denominator in my calculation.

24 Q. Oh, you did?

25 A. Yes, sir. That's how I calculated the 3

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1 and the 4 percent too. You can calculate the
2 generation portion of those revenues from that first
3 column.

4 Q. Okay.

5 MR. BELL: I think that's all I have.

6 Thank you, Mr. Hess.

7 THE WITNESS: Thank you.

8 MR. BELL: Most helpful.

9 EXAMINER BOJKO: Mr. Resnik.

10 MR. RESNIK: Thank you, your Honor.

11 - - -

12 CROSS-EXAMINATION

13 By Mr. Resnik:

14 Q. Good afternoon, Mr. Hess.

15 A. Good afternoon.

16 Q. Mr. Hess, earlier before the lunch break
17 I think it was you were asked about the absence of a
18 reconciliation proposal in your plan that you have
19 presented, your interim plan. Do you recall that?

20 A. Yes, sir.

21 Q. And I think that you indicated a concern

22 with what has been characterized as a one-time rider

23 and what impact that would have on customers. Did I

24 remember correctly from your prior testimony?

25 A. I'm sorry, I am suggesting that it be

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1 included as a rider for the alternative period.

2 Q. I understand. But as far as reconciling
3 that rider to the Commission's ultimate ESP order --

4 A. I am not recommending that.

5 Q. Right. And I think you said the reason,
6 at least one of the reasons you were not recommending
7 that, was because of what had been characterized as a
8 one-time rider to catch up the difference between
9 your proposed rate increase on an interim basis and
10 the Commission's ultimate order. Did I have that
11 right?

12 MR. MARGARD: Your Honor, I think the
13 phrase Mr. Hess used was a "one-time hit" as opposed
14 to a one-time rider.

15 EXAMINER BOJKO: I think you're correct.

16 Do you understand now, Mr. Hess? Do you
17 understand Mr. Resnik's question?

18 THE WITNESS: I think so. Now I remember
19 cross, yes.

20 Q. So using the phrase "one-time hit," was
21 it your belief that the reconciliation would take
22 place all in one month, a one-time hit to the
23 customers?

24 A. No; over a period of time. I'm concerned
25 about -- I mean, if we use Ohio Power's customers,

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1 I'm recommending a 24 percent increase. That would
2 be in addition -- and then on top of that we would
3 add on some amortization of the reconciliation.

4 Q. Let's say an order came out in time for
5 the Commission's ultimately authorized increase for
6 rates to be effective with the March 2009 billing
7 cycle, so there would be essentially two months to
8 make up over the succeeding ten months. And that's
9 the concern that you have, the making up of the two
10 months over, say, a ten-month period?

11 A. Ten months or 30 months, yeah, I think
12 that's a concern. I think if the Commission does
13 decide to reconcile to its ultimate order, then it
14 needs to expand that amortization period.

15 Q. Now, that concern of yours is magnified,
16 if you will, by not recommending on an interim basis
17 the implementation of the fuel adjustment clause,
18 isn't it?

19 A. If you're asking me if I would have

20 recommended including the fuel adjustment clause in
21 addition to what I'm recommending, would that have
22 created more -- a bigger increase, yes.

23 Q. Initially a bigger increase, and
24 therefore compared to what the Commission ultimately
25 might authorize there would be less catch-up to

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1 achieve; is that right?

2 MR. MARGARD: That's assuming a
3 reconciliation?

4 MR. RESNIK: Yes. I'm sorry.

5 Q. In other words, you've given us in
6 response to Mr. Bell what the -- on an annualized
7 basis what the dollars are that are associated with
8 the components that you are suggesting be implemented
9 on an interim basis, right?

10 A. Yes.

11 Q. And that total would be even greater if a
12 fuel adjustment clause were implemented as part of
13 your interim proposal, right?

14 A. Which is what I believe I just said, yes.

15 Q. And because that amount would have been
16 greater, there would have been less to catch up once
17 the Commission's final order was issued; is that
18 right?

19 A. Again, it depends on what the

20 Commission's final order says.

21 Q. Right. If it was anything above your
22 plan plus fuel, there would be less to catch up than
23 compared to your plan without fuel.

24 A. I understand the math of what you're
25 saying, yes.

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1 Q. Okay. Now, am I correct that the reason
2 that you have not suggested the implementation of a
3 fuel clause on an interim basis is because of the
4 advice you received about what the law, according to
5 your counsel, requires or permits?

6 A. Yes.

7 Q. And so if it were not -- if that legal
8 interpretation did not prevail and in fact other
9 components could be added, would you suggest
10 implementing fuel cost as part of your interim plan?

11 A. Mr. Resnik, that's not our current
12 interpretation of what the law says.

13 Q. I understand that.

14 A. And you're asking me to express some kind
15 of a legal opinion up here. I just can't do that.

16 Q. Actually, I'm asking you to ignore the
17 legal opinions. What I'm asking you is if there were
18 no legal restrictions and you were just trying to
19 come up with a reasonable interim plan, would you

20 recommend that a fuel clause be part of that interim

21 plan?

22 A. I don't have a response for that, an

23 answer to that.

24 Q. Under your proposal what rate would Ormet

25 pay during this interim period?

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1 A. That's a question I think the Commission
2 is going to have to answer. My quantification of it
3 has Ormet paying \$43 per megawatt-hour.

4 Q. Okay. And so you don't have a specific
5 recommendation as part of your proposal as to what
6 rate Ormet should continue to pay in the interim.

7 A. Yeah, I think the Commission should order
8 Ormet to continue to pay the \$43 per megawatt-hour.

9 Q. Thank you.

10 Now, there's been a lot of discussion
11 this morning and also just even within your
12 cross-examination about what section 4928.141
13 requires or permits or doesn't require or permit, and
14 your position as I understand it is based on the
15 advice you got about the interpretation of that
16 section; is that right?

17 A. Yes.

18 Q. In making your recommendation was there
19 any consideration to the statutory provision that

20 requires the Commission to issue an order within 150

21 days of the companies' filing?

22 A. You're asking me about my conversations

23 between myself and my legal counsel?

24 Q. No. I'm asking as far as your putting

25 together your recommendation, whether you gave any

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1 consideration to the fact that the law also requires
2 that the Commission issue an order within 150 days of
3 the July 31st, 2008, filing.

4 A. No.

5 Q. And why doesn't that enter into your
6 consideration of what is a fair interim plan?

7 A. About my interpretation as to whether or
8 not the statute requires an order come out in 150
9 days, why doesn't that --

10 Q. Enter into your determination of what
11 would be an appropriate interim plan.

12 A. Because I don't think it matters.

13 Q. It doesn't matter. Well, it's the basis
14 for why we even have to work within -- talk about an
15 interim plan, isn't it?

16 A. A statutory requirement?

17 Q. For the 150 days to rule on the
18 companies' application.

19 A. No. I'm just saying that if the

20 Commission doesn't rule within 150 days.

21 Q. Right. I mean, that's the point. You're

22 saying --

23 A. As to whether or not the statute requires

24 the Commission to rule within 150 days or not, I

25 don't have a response for that. My proposal is that

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1 if the Commission in its ultimate wisdom does not get
2 an order out in 150 days, this is what I recommend,
3 that it have the company put rates into effect and
4 what the customers end up having to pay.

5 Q. Now, are you aware that in Senate Bill
6 221 there are certain requirements imposed on the
7 companies as far as achieving certain levels of
8 energy efficiency demand -- peak demand reduction and
9 renewable generation in 2009?

10 MR. MARGARD: To the extent you know.

11 A. Very generally, yes.

12 Q. You're aware, without getting into the
13 specifics of what those requirements are, you're
14 aware that there are some requirements that need to
15 be met by the end of the year.

16 A. Very generally, yes.

17 Q. Okay. And I'm wondering as part of your
18 interim proposal which contemplates a final order
19 from the Commission later than the 150 days, whether

20 you have considered any suggestion as to the
21 companies' continuing obligation to meet those
22 statutory requirements for energy efficiency, peak
23 demand reduction, or renewable generation.

24 A. No; because I don't believe it's a part
25 of a current rate plan before the Commission.

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1 Q. You were asked some questions about
2 whether certain components of the companies' current
3 rates expire at the end of the year 2008. Do you
4 recall those questions?

5 A. From Mr. Kurtz?

6 Q. At least from Mr. Kurtz, perhaps others.

7 A. Yes.

8 Q. And the suggestion I think inherent in
9 those questions, or maybe it wasn't merely suggested
10 but came right out, was if those tariffs say that
11 they expire at the end of 2008, then they should not
12 continue. Do you recall that line of questioning?

13 A. We've already established that I recall
14 the line of questioning, yes.

15 Q. Okay. What I would like to do --

16 A. However, I mean, I'm not jumping to the
17 conclusion you made from that, that you included in
18 your question there.

19 Q. What did I miss?

20 THE WITNESS: Could I have the question

21 reread? I believe you --

22 EXAMINER BOJKO: Can you guys hear over

23 here?

24 Mr. Resnik, you keep trailing off a

25 little bit.

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1 MR. RESNIK: I'm sorry. Maybe I can
2 restate the question.

3 Q. The question is: Do you recall questions
4 from Mr. Kurtz that, if not explicitly at least
5 suggested, if there are current tariff provisions
6 that have a December 2008 expiration date, that those
7 should not continue into 2009 because by the term of
8 the tariff they're supposed to expire?

9 A. And as I have already responded to, I
10 remember the cross-examination. I don't remember the
11 implicit assumptions you're making in your question.

12 Q. Okay.

13 MR. RESNIK: Your Honor, may I approach
14 the witness?

15 EXAMINER BOJKO: Yes, you may.

16 MR. RESNIK: I've got a copy here, this
17 is Mr. Roush's testimony, and I'm afraid that there
18 aren't page numbers I can refer you to, but hopefully
19 that won't be necessary for this line of questioning.

20 And what I would like to show the witness is a copy
21 of two pages that are marked in redline format, and
22 so from those you could see what the current tariff
23 provision states and what the proposed tariff
24 provision states.

25 Q. (By Mr. Resnik) You're familiar with that

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1 redline format, Mr. Hess?

2 A. Generally, yes.

3 Q. So what I'd like to show you, and this is
4 for Columbus Southern, schedule RR, residential
5 service, and by looking at the redline can you
6 determine under the present tariff provision when
7 that rate schedule is set to expire?

8 EXAMINER BOJKO: Mr. Resnik, there's not
9 a page 83 of 285 at the top right-hand corner?

10 MR. RESNIK: Oh, I am sorry. I could
11 refer you to page 35 of 285. I didn't see that, your
12 Honor. Thank you.

13 A. The last sentence in that paragraph
14 states that: "This schedule shall remain in effect
15 through the last billing cycle of December" --
16 crossed out 2008, underlined "2009."

17 Q. And would you understand from that
18 portrayal of what's crossed out and what is
19 underlined that the current tariff says that this

20 schedule would expire in December 2008?

21 A. I'm willing to accept that, yes.

22 Q. Okay. And if one were to accept the

23 argument that rate schedules that have as part of

24 that schedule an expiration date of 2008, would you

25 conclude then that residential service, at least for

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1 the generation component, would be free starting with
2 January of 2009?

3 A. I can't conclude that. I don't know the
4 answer to that. I don't know the legal ramifications
5 of that tariff expiring in 2008.

6 Q. And we can do the same exercise and just
7 looking at page 72 of page 285, and again I ask you
8 to take a look at the way this is redlined with the
9 2008 scored through and 2009 underlined.

10 A. For the GS-4 --

11 Q. This is for GS-4, yes.

12 A. -- tariff.

13 Q. Yes.

14 A. Very similar, yes.

15 Q. Okay. Do you have any reason to believe
16 that the intent of the Commission in approving a
17 tariff with an expiration date of 2008 was that if
18 there wasn't an electric security plan or a market
19 rate offer in effect by January 1, 2009, that these

20 tariffs that I've shown you would become ineffective?

21 MR. BELL: Object.

22 EXAMINER BOJKO: Grounds?

23 MR. BELL: He's asking for the -- as to

24 the Commission's intention and he rendered the same

25 objection to some of my inquiries along the same

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1 line.

2 EXAMINER BOJKO: Sustained.

3 Q. Is it your understanding that, as part of
4 Senate Bill 221, that the intent was if there was not
5 a Commission order on either an ESP or MRO in effect
6 January 1, 2009, that existing rate schedules would
7 become ineffective simply because they had an
8 expiration date on them of December 2008?

9 A. I don't know the answer to that question.

10 Q. What would be the result if the
11 companies' rate schedules all expired in 2008 simply
12 because that was the date that was on them at this
13 point?

14 A. I don't know -- I don't have a response
15 to that, Mr. Resnik. I think you're asking me for a
16 legal interpretation.

17 Q. No.

18 A. If you're asking me for my technical
19 interpretation, I would tell you to leave them in

20 effect.

21 Q. And from a practical interpretation would

22 you agree there would be chaos if all of a sudden

23 these schedules were deemed to be ineffective?

24 A. Which is why I would from a technical

25 suggestion tell you to leave them in place.

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1 Q. Thank you.

2 You were asked some questions about the
3 line extension provisions and whether those were part
4 of the companies' rate stabilization plans. Do you
5 recall that? I think that was questioning from
6 Ms. Roberts.

7 A. She's shaking her head yes. I thought
8 she asked me if they were distribution company
9 charges.

10 Q. I think she asked both.

11 A. She's agreed that she asked me that
12 question. I have no reason to doubt her so yes, I
13 remember that line of questioning.

14 Q. Okay. And I thought you said that they
15 were not part of the rate stabilization plan. Do you
16 recall that answer?

17 A. I don't remember that. I know we went
18 through about a two-year litigation in the early part
19 of the market development year to establish those

20 tariffs. I don't remember them being a part of the
21 rate stabilization plan, which when you refer to the
22 rate stabilization plan, you're talking about 04-169;
23 is that correct?

24 Q. Yes, that is correct.

25 A. I don't remember whether or not line

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1 extension issues were a part of that plan.

2 Q. Do you recall whether as part of the plan
3 in 04-169 there were provisions that said that the
4 distribution rates would stay in place except for
5 certain exceptions? Do you recall that?

6 A. No.

7 Q. Okay.

8 A. I don't.

9 Q. It will speak for itself.

10 A. I know there was an extension of the rate
11 freeze for one of the companies, and I believe it was
12 Ohio Power, a distribution rate freeze. That's about
13 my memory of the distribution side of 04-169.

14 Q. Just hopefully to clear up one other
15 thing, you mentioned data that you had received from
16 the company that made some adjustments to
17 Miss Smith's market-based rates. Do you recall that?

18 A. Yes.

19 Q. And I'm not sure quite how you said it,

20 but I just want to make sure, if you could clarify

21 this for the record, this was something that you had

22 asked for as opposed to the company suggesting that

23 this would be an appropriate adjustment.

24 A. Absolutely, I asked for it, that's

25 correct. I was pretty sure you had already done the

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1 calculation, and I simply asked you for the

2 calculation of what it would be.

3 Q. And since we returned this afternoon

4 Mr. Bell asked you a question about whether all Ohio

5 Power Company retail customers were being served

6 under tariff at July 31st, 2008. Do you remember

7 that?

8 A. Yes.

9 Q. And I think you said that all of them

10 were.

11 A. Yes.

12 Q. Do you know if Ormet is being served

13 under a tariff?

14 A. Oh, I think that's a contract.

15 Q. Okay.

16 MR. RESNIK: May I have just a moment,

17 please?

18 EXAMINER BOJKO: Sure.

19 MR. RESNIK: That's all I have. Thank

20 you, Mr. Hess.

21 THE WITNESS: Thank you.

22 EXAMINER BOJKO: Mr. Hess, in response to

23 somebody's question, I don't remember who it was at

24 this moment, you mentioned that there would be an

25 Ohio Power percent increase of 9.13 percent. Could

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1 you explain what that percentage increase is

2 referencing? Do you recall seeing --

3 THE WITNESS: Yes. I did a calculation,

4 and as Mr. Bell has built onto the record, if you

5 take a 7 percent increase of approximately

6 \$72 million, the 4 percent increase of approximately

7 \$41 million, the Ormet increase of approximately

8 \$44 million, you end up with about a \$157 million

9 increase, and if I divide that by the total revenues

10 identified on Roush's Exhibit 1 for Ohio Power in the

11 2008 column, hopefully I end up with a 9.13 percent

12 increase.

13 EXAMINER BOJKO: Thank you.

14 Mr. Margard, do you have any redirect?

15 MR. MARGARD: I do not. Thank you, your

16 Honor.

17 EXAMINER BOJKO: Thank you, Mr. Hess.

18 THE WITNESS: Thank you.

19 MR. MARGARD: Your Honor, we'll move for

20 admission of Mr. Hess's limited testimony at the

21 conclusion of his direct testimony.

22 EXAMINER BOJKO: Thank you.

23 OCC want to move --

24 MS. ROBERTS: It will be moved with the

25 testimony.

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1 EXAMINER BOJKO: At this time it's my
2 understanding that we have concluded all direct
3 testimony of 1/1/09 plan or section V.E of the
4 companies' application; is that correct?

5 Seeing none, no additional witnesses, we
6 will now continue to the rebuttal witnesses, and we
7 will begin with the companies' rebuttal witness.

8 MR. RESNIK: Thank you, your Honor.

9 The company calls Mr. Baker. While he's
10 taking the stand if I could have marked as Company
11 Exhibit No. 2.

12 EXAMINER BOJKO: Mr. Baker's rebuttal
13 testimony will be so marked as Companies' Exhibit 2.

14 (EXHIBIT MARKED FOR IDENTIFICATION.)

15 EXAMINER BOJKO: Mr. Baker.

16 (Witness sworn.)

17 EXAMINER BOJKO: Please be seated.

18 - - -

19 J. CRAIG BAKER

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. Would you please state your name for the

25 record?

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1 A. Yes. My name is J. Craig Baker.

2 Q. Mr. Baker, do you have before you a
3 document that has now been marked as Companies'
4 Exhibit No. 2?

5 A. Yes, I do.

6 Q. Can you identify that exhibit for the
7 record?

8 A. That is my limited rebuttal testimony
9 that was filed last Friday.

10 Q. And this limited rebuttal testimony
11 pertains to what's being called the January 1, 2009,
12 issue.

13 A. That's correct.

14 Q. Are there corrections that need to be
15 made to this testimony?

16 A. Yes. I would like to make one correction
17 and then suggest something for clarity. The
18 correction I'd like to make is on page 3, line 19,
19 third word in, change the word "proposed" to

20 "proposal."

21 The second thing from a clarity

22 standpoint, I used two different terms which are

23 synonymous. I used the term "a trueup proposal" on

24 page 2, line 9, and then at other places, for example

25 page 3, line 22, I call it a "make-whole proposal."

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1 The intent of that is to be the same. Those are not
2 to be considered to be two different proposals, but
3 that's the way I had drafted it.

4 Q. Mr. Baker, if I were to ask you the
5 questions that appear in Companies' Exhibit No. 2,
6 would your answers be the same as they are in here
7 given that one correction you provided?

8 A. Yes, they would.

9 Q. And those answers are true to the best of
10 your knowledge and belief?

11 A. Yes, they are.

12 MR. RESNIK: Your Honor, I indicated
13 earlier in the morning, seems like a long time ago,
14 but with Mr. Petricoff's indulgence and yours, a
15 couple extra questions for Mr. Baker might help move
16 things along.

17 EXAMINER BOJKO: Please continue.

18 MR. RESNIK: Thank you.

19 Q. Mr. Baker, have you had an opportunity to

20 read the rebuttal testimony that was filed by

21 Mr. Wolfe?

22 A. Yes, I have.

23 Q. And did you have some observations

24 concerning the matters that he raised in that

25 testimony?

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1 A. Yes. I have a few. The first I'd like
2 to start by indicating that AEP and specifically
3 AEP-Ohio is in support of DR-type programs. We have
4 them. We plan to increase them, but we would propose
5 that it be done under company programs.

6 We have opposed these kind of programs at
7 the RTO level because we think there is a risk-free
8 arbitrage opportunity for certain customers that in
9 many cases can come at the expense of other
10 customers, and the arbitrage comes from the -- from
11 the fact that they can effectively purchase at tariff
12 and then sell at market.

13 When I read Mr. Wolfe's testimony, he
14 talks about continuation of the programs because
15 there's no prohibition. I think that we need to
16 clarify that the no prohibition does not come about
17 because of either a Ohio Commission or a FERC
18 Commission having dealt with, in my view, the issues
19 around retail customers in regulated states acting in

20 the wholesale market.

21 The Commission here I don't believe has

22 ever dealt with the legal implications of our tariffs

23 where there's a provision where any power should be

24 used only in customer locations and that there is no

25 ability to resell.

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1 I know that's a legal question, and I
2 know there are people who take a different position,
3 but I don't think it's been addressed. I also don't
4 think the fact that there can be impacts on other
5 customers that may offset the benefits have been
6 addressed.

7 As I read the testimony, I wanted to
8 offer one thing that I hoped was helpful, and that is
9 our proposal that customers not be permitted to
10 participate in the wholesale programs; that they do
11 it through customer programs was not intended in any
12 way to jeopardize anyone who had already signed up
13 for a 2008-2009 planning year. Once they have -- PJM
14 has permitted them to do so, I think they need to
15 finish out that year without any restrictions. Even
16 if the Commission were to come forward and prohibit
17 on a forward-looking basis, I wouldn't want to put
18 those customers in jeopardy for PJM having already
19 signed them up.

20 We also look at it and a concern with the
21 existing customers, as I understand Mr. Wolfe, was
22 that the order -- that an order may not be out in
23 time for a sign-up on March 2nd, I believe is the
24 date. I am certainly hopeful that an order will be
25 out by that March 2nd date and that customers will

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1 be able to go forward and sign up in the event that
2 the Commission chooses not to accept our proposal and
3 allows customers to go forward in the wholesale
4 market.

5 The implication I believe in Mr. Wolfe's
6 testimony is the customers should continue to be able
7 to do this because they may have made investments in
8 their facilities which allows them to participate
9 currently. In my view those customers were fully
10 aware that AEP is opposed to the participation
11 through RTOs. We've been opposing it at a state
12 level. We've been opposing it at a FERC level and a
13 decision to make that investment was a risk that
14 those customers chose to take that at some point that
15 may no longer be available to them. So I don't see
16 that as a reason specifically to take a position by
17 the Commission in 2009 that those customers could
18 participate in a 2009-2010 planning year.

19 And that's the end of the comments I'd

20 like to make to Mr. Wolfe's testimony.

21 Q. Thank you, Mr. Baker.

22 MR. RESNIK: Your Honor, Mr. Baker is

23 available for cross-examination.

24 EXAMINER BOJKO: Do we have any

25 volunteers to start this time? Ah, Mr. Petricoff.

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1 MR. PETRICOFF: I'll start.

2 First I want to indicate that we agreed

3 to permit this because I think it made more sense to,

4 as opposed to bringing Mr. Baker back again for what

5 would be surrebuttal, and this is in effect what he

6 gave now is surrebuttal, and it's probably more

7 efficient to deal with it all at once.

8 But having said that, I don't want to

9 indicate that our agreement in any way indicates that

10 we support any of those comments.

11 - - -

12 CROSS-EXAMINATION

13 By Mr. Petricoff

14 Q. With that in mind, Mr. Baker, I want to

15 take you up on some of the -- the surrebuttal that

16 you have just given.

17 You've indicated that for those who are

18 participating in the 2008-2009 PJM planning year,

19 that regardless of the outcome of either the short-

20 or long-term ESP, it is the companies' view that they
21 should be able to continue to fulfill their
22 participating in that program.

23 A. For that specific planning year
24 2008-2009, yes.

25 Q. Wouldn't you agree with me that the

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1 sign-up period for the 2009-2010 planning period --
2 when I say "planning period," the planning period for
3 demand response programs, and in particular the
4 ILR -- is from January 5th to March 2nd?

5 A. That is my understanding.

6 Q. So on January 5th if a customer who has
7 been participating in the ILR program wants to renew
8 for the upcoming year, what would be the companies'
9 position at this time assuming that there's an
10 interim order that, Should be barred from
11 participating during an interim order or that they
12 could participate during an interim order?

13 A. It would be my position that the customer
14 would be taking a risk of the outcome of either an
15 interim order or an ultimate order that dealt with
16 whether or not customers could participate in RTO DR
17 programs coming out of this case.

18 Q. Wouldn't you agree with me that if a
19 customer signs up for the ILR program, then they must

20 pledge to get off the system, off the system being
21 the PJM system, if told that there is an
22 interruption, an emergency interruption, anytime
23 during the planning year?
24 A. I believe that the customers as part of
25 those programs must make that pledge, yes.

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1 Q. That being the case, how would the
2 company or the Commission tell those customers not to
3 get off the system, assuming that an order comes down
4 sometime after March the 5th which indicates that
5 customers can no longer participate?

6 A. I would suggest that the customers not
7 sign up and that they wait until there is an order,
8 either on an interim basis or on a final order, that
9 either permits them to go forward in these kind of
10 programs or precludes it. That would be the
11 recommendation I would make to customers.

12 Q. Well, I want to follow up to your earlier
13 testimony. You said the customers should take the
14 risk. If the customer is willing to have the
15 interruption and receives the payment from the
16 regional transmission organization, what additional
17 risk are you warning them to avoid?

18 A. The risk I'm suggesting is that the
19 Commission may say that customers should not

20 participate in the PJM programs. PJM may then say
21 that they no longer can participate in the PJM
22 programs, and I don't know what the ramifications of
23 that would be. That would be between the customer
24 and PJM. I'm just saying it is a risk.

25 Q. Let's follow this risk out one more step.

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1 Do you know how many megawatts are in the AEP service
2 territory now signed up under the ILR program at PJM?

3 A. I don't know that number.

4 Q. Have you seen Mr. Wolfe's direct
5 testimony in this case?

6 A. I looked at it once, but I don't remember
7 if that was in there or not.

8 Q. Okay. Well, let's assume that there is
9 in the neighborhood of 500 megawatt-hours, and I'm
10 basing this hypothetical on Mr. Wolfe's testimony.
11 There's about 500 megawatt-hours -- I'm sorry, not
12 megawatt-hours -- 500 megawatts that are signed up
13 for the ILR program. Wouldn't the PJM region be at
14 risk if all of a sudden 500 megawatts got taken out
15 of the emergency response program?

16 A. No, I don't believe it would be.

17 Q. Well, if they could no longer -- if the
18 customers who were in the program could no longer
19 participate in it, then aren't you at risk that they

20 won't interrupt when there's an emergency and PJM

21 would call on them?

22 THE WITNESS: I'm sorry, could I have the

23 question read back?

24 (Record read.)

25 A. There's a couple of assumptions in there,

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1 and that is that there would be an emergency of such
2 a magnitude that that would create a risk. I don't
3 personally believe that's the case with the present
4 capacity situation inside of PJM.

5 Q. Does that mean that you don't believe
6 that there's a need for an emergency interruption
7 program because there's no need -- there's no
8 foreseeable emergency that could cause a need for
9 emergency interruptions?

10 A. I understand why in a wholesale market
11 there is an interest in having demand response
12 programs, just as there is an interest in building
13 new generation. I think you asked me as people
14 couldn't participate in the next year or the year
15 after, whether that posed a risk for PJM which I took
16 to be a reliability risk and that's where I come from
17 with the standpoint that as I look at the reserves of
18 PJM, I don't think that is a risk.

19 Q. So to put it another way, to make sure

20 I'm clear, you don't believe that the loss to PJM of

21 500 megawatts of interruption poses any danger.

22 A. I personally don't think that would

23 create a danger situation for the planning period

24 2009-2010.

25 Q. Let me switch subjects with you. Do you

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1 have your rebuttal testimony in front of you?

2 A. Yes, I do.

3 Q. If you would, turn to page 7, and on line

4 21 you indicate that: "Based on testimony presented

5 to the General Assembly by Ohio Consumers' Counsel,

6 it is my understanding that the company's POLR

7 charges are the lowest in the State." Do you see

8 that difference?

9 A. Yes, I do.

10 Q. Is that statement based entirely on your

11 review of the Consumers' Counsel's testimony?

12 A. That was the basis of my putting it in

13 this testimony, yes. But I have -- there have been

14 other places where people have talked about the fact

15 that AEP-Ohio's POLR that is embedded in its current

16 rates is lower than any other company in the state.

17 Q. But you've not made an independent review

18 of the tariffs of the FirstEnergy companies or Duke

19 or DP&L to verify that.

20 A. I haven't because it's a little difficult
21 to do, and there may be a way to do it, but I know
22 that the POLR approaches that were used for the
23 Commission to approve those kind of inclusions in
24 rates were done in very different ways for the four
25 companies that are involved in the state. When I'm

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1 looking at it in broad companies, for example,
2 FirstEnergy being one, even though I recognize there
3 are three, AEP-Ohio being one, but for all four I
4 know that they were done in different ways.

5 MR. PETRICOFF: Your Honor, I'd like to
6 have a document marked at this time, and this would
7 be Constellation Exhibit No. 1.

8 Your Honor, may I approach the witness?

9 EXAMINER BOJKO: You may. So for
10 identification purposes we'll mark the document
11 entitled Senate Energy and Public Utilities
12 Commission prepared by the Office of Consumers'
13 Counsel as Constellation Exhibit 1.

14 MR. PETRICOFF: Thank you, your Honor.

15 (EXHIBIT MARKED FOR IDENTIFICATION.)

16 Q. Mr. Baker, I ask if this is the testimony
17 of Consumers' Counsel that you referred to in
18 preparing your testimony or that is referenced in
19 your testimony on page 7, lines 21 to 23?

20 If you could let me draw your attention
21 because I know you're looking through it, it's
22 multipage, Attachment A.
23 A. No. This is not the document that I was
24 looking at. It was a graph that I don't see in here
25 that was used in testimony by the OCC as my basis.

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1 Q. Do you recognize either this testimony or

2 Exhibit A, Attachment A?

3 A. I do recognize the testimony, but, as I
4 said, I used a graph that I think was done in concert
5 with this as the basis.

6 Q. On page 8 of your testimony you indicate
7 that the current companies' POLR is, I guess we'll
8 call it 1 mil, 1/10 a cent per kilowatt-hour.

9 A. 1/10 of a cent, yes.

10 Q. And I note on Attachment A they have it
11 listed both for Columbus Southern Power and for Ohio
12 Power 1 mil under the line that says POLR charge.

13 A. 1/10 of a cent, yes.

14 Q. Is that only residential customers?

15 A. The POLR charge is a charge to all
16 customers. I haven't gone back -- I don't know based
17 on this attachment whether it is the same per
18 kilowatt-hour charge when you look at industrials or
19 commercial. I just picked the numbers, as I said,

20 off of the graph.

21 Q. So based on your knowledge today and your
22 testimony, you're not sure what the POLR charges are
23 for commercial and industrial customers.

24 A. I'd have to go back and take a look at
25 precisely how it is -- how the dollars that were

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1 assigned to POLR were attributed to the different
2 customer classes.

3 Q. So likewise I assume that you have no
4 similar comparisons between the commercial and
5 industrial POLR charges for the other
6 Commission-regulated electric distribution companies
7 and the AEP companies.

8 A. No. I have not done an exhaustive search
9 of all of the customer classes, but as I indicated
10 earlier, it was my understanding in discussion with
11 customer groups that AEP's were below others and that
12 didn't seem to be focused only on residential.

13 Q. Is the AEP POLR charge bypassable?

14 A. Today it is.

15 Q. Today it is bypassable?

16 A. The POLR charge during the period of the
17 RSP I believe is bypassable.

18 Q. Let me point you to Attachment A from the
19 Consumers' Counsel's testimony, and they indicate

20 that the POLR charge is nonbypassable. Is this an

21 error on the part of the Consumers' Counsel?

22 MR. RESNIK: I'm sorry, Mr. Petricoff,

23 where are you referring to?

24 MR. PETRICOFF: I'm on Attachment A.

25 Q. I'm looking in the second column under

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1 AEP, Columbus Southern, but you can also look under
2 Ohio Power, it's the same, and it lists the charges
3 and then it lists whether it's bypassable or
4 nonbypassable.

5 A. As I said, I believed it was bypassable,
6 but I would have to go back and check exactly what
7 part of the tariff is to determine whether or not I
8 was correct or this attachment is correct.

9 Q. Okay. Turning now to Duke Energy Ohio,
10 do you know whether their commercial and industrial
11 POLR charge is bypassable?

12 A. In today's RSP?

13 Q. In today's RSP or today's tariffs.

14 A. Today's tariffs, I don't know for a fact.

15 Q. Do you know whether it's bypassable in
16 the Stipulation that's been filed with the Commission
17 in their standard service offer proceeding?

18 A. I don't, because when I read the
19 Stipulation, I was a little confused because I didn't

20 see a provision to reduce the POLR charge. That may
21 already be embedded in rates. I did see that there
22 was as part of the Stipulation a modification to what
23 would happen if a customer left and chose to come
24 back at something that was in excess of the standard
25 service offer, but I wasn't sure that there was

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1 actually reintroduction and fully bypassable, it

2 wasn't clear to me.

3 Q. How about for whether the POLR charge is

4 bypassable for Cleveland Electric Illuminating?

5 A. I don't believe it was.

6 Q. You do not believe it --

7 A. I do not believe it was.

8 Q. Okay.

9 A. And, again, during the tariff -- current

10 tariffs in the period of the RSP.

11 Q. Okay. But you've not made a search of

12 the tariff provision.

13 A. No. But I've heard people complain about

14 the fact that it wasn't bypassable during various

15 times, including the -- all of the legislative

16 activity leading up to Senate Bill 221.

17 Q. And the same would be true for Ohio

18 Edison or Toledo Edison.

19 A. I would make the same statement.

20 Q. Earlier in my questions to you, and I'm
21 going back now to the response demand, you indicated
22 that you do not believe a reduction of 500 megawatts
23 would pose a problem to PJM in terms of reliability.
24 Have you done any studies to support that
25 observation, or is that just an educated guess?

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1 A. It's based on almost 4 -- well, sorry,
2 over 40 years' experience in the industry in dealing
3 with interruptible customers and looking at reserve
4 margins and the likelihood that there would be an
5 emergency whereby you would have to either curtail
6 that customer or curtail other loads.

7 Q. But you've not made any study or seen any
8 study that indicated that there was a 500-megawatt
9 surplus in terms of the emergency planning for PJM.

10 A. Well, I do know that the magnitude of
11 megawatts that cleared the various recent capacity
12 auctions is significantly higher than the amount of
13 reserves that their ILR tells them to have.

14 Q. Would you agree with me that
15 500 megawatts is the equivalent of a small baseline
16 power plant?

17 A. Actually, I'd say it's the equivalent of
18 a medium size power plant. I don't know that I would
19 consider it a baseload power plant but a peaking

20 power plant, perhaps.

21 Q. About the same size as the IGCC plant

22 which AEP filed an application for with this

23 Commission?

24 A. It is the same magnitude of megawatts,

25 but they have very different characteristics because

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1 one is a peaking supply if you have a demand response
2 and the other is baseload supply.

3 MR. PETRICOFF: I have no further
4 questions. Thank you, Mr. Baker.

5 MR. KURTZ: Could we go off the record,
6 your Honor?

7 EXAMINER BOJKO: Yes.

8 (Discussion off the record.)

9 EXAMINER BOJKO: Let's go back on the
10 record.

11 Mr. Kurtz, go ahead.

12 MR. KURTZ: Thank you, your Honor.

13 - - -

14 CROSS-EXAMINATION

15 By Mr. Kurtz:

16 Q. Good afternoon, Mr. Baker.

17 A. Good afternoon.

18 Q. I'd like to understand your position on
19 reconciliation. At some point you say that if the

20 Commission adopts staff's proposal, there should be a
21 reconciliation. Then you seem to indicate later that
22 there should be a reconciliation but especially for
23 fuel, for the fuel component. What is your position
24 if the Commission adopts your proposal?

25 A. The AEP proposal V.E is that if there is

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1 a future -- or, I'm sorry. That isn't the way I want
2 to describe it. When there is an order coming out of
3 the Commission, that the impact of that order on
4 rates would be dealt with retroactively or a trueup
5 and the difference between that which is collected
6 during a period up till an order, assuming it comes
7 after 12/30/08, would create -- a special rider would
8 be created, and it would be amortized and collected
9 over the remainder of 2009.

10 EXAMINER BOJKO: I'm sorry, difference
11 in -- I'm not sure if I heard a difference in what.

12 THE WITNESS: The difference between the
13 rates that are collected from the customers during
14 this period up until an order and we're able to
15 implement the order be calculated and be collected
16 from the customers for the remainder of the year.

17 EXAMINER BOJKO: On a revenue basis?

18 THE WITNESS: Yes. The difference
19 between the revenue collected and the revenue that

20 would have been in place had the Commission been able
21 to put out an order, which we still hope they will be
22 able to do by the 12/30/08 time frame.

23 Q. So if I understand, so if the Commission
24 issues an order at the end of December that says we
25 think rates should stay where they are until there's

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1 a final order, you definitely want a reconciliation
2 or a trueup in that circumstance, don't you?

3 A. I believe there should be a trueup that
4 is subject to the outcome of the final order relative
5 to what is collected from customers until that final
6 order can be implemented.

7 Q. So, and I'm not trying to -- so you want
8 to true up, a reconciliation no matter what the
9 Commission does at the end of this year, whether they
10 adopt staff's interim plan or your interim plan or
11 the OCC's plan or OEG's, your position is the company
12 wants a trueup of those amounts.

13 A. Yes.

14 EXAMINER BOJKO: Before you go on,
15 Mr. Kurtz, does the trueup include any costs
16 associated with Ormet or Mon Power that we've been
17 discussing today?

18 THE WITNESS: As I understand it, if the
19 Commission were to adopt an Ormet or Mon Power

20 adjustment to rates and increase rates during the
21 January time frame, and then the Commission were
22 ultimately to put out an order, which we have not
23 asked for treatment of Mon Power and Ormet in our
24 ESP, so you would have a new revenue expectation for
25 that January period if it had been in place which

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1 could be higher or lower than what would be in
2 place if the Ormet adjustment as proposed by Mr. Hess
3 is put in, you would true that up as well.

4 Q. Just to follow that example, all else
5 equal, since you did not ask for Ormet or Mon Power
6 as part of the ESP, if you get that revenue on an
7 interim and the final order approves your ESP as
8 filed, all else equal, the Ormet and the Mon Power
9 would be a trueup to the customers' benefit that
10 there would be money given back.

11 A. I guess my assumption is probably not
12 dissimilar to Mr. Hess's assumption earlier, that
13 even if you adopted the Hess proposal, as I'll call
14 it, that the ultimate order will probably be a higher
15 number than that, and therefore it would likely be an
16 additional charge to customers.

17 Q. And that's why I said "all else equal."
18 But let me just move on. The 3 percent and the
19 4 percent for CSP generation, that's something you're

20 asking for in your limited rebuttal testimony.

21 A. I'm sorry, can you point me to a specific

22 spot?

23 Q. Well, it is my understanding that you

24 support staff's proposal, but you want a fuel

25 adjustment in addition.

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1 A. That wouldn't be the way I would
2 characterize it, Mr. Kurtz. What I am saying is that
3 AEP's proposal continues to be V.E. What I have
4 proposed is that in the event that the Commission
5 chooses to do something else, I believe they need to
6 recognize fuel in addition to the things that have
7 been addressed by Mr. Hess and also an adjustment for
8 POLR.

9 Q. Okay. Let me just -- so in addition to
10 the things recommended by Mr. Hess, so if the
11 Commission does not do your proposal under V.E, you
12 want Mr. Hess's plan, plus fuel adjustment, plus one
13 half of the POLR charge you've asked for effectively.

14 A. I don't -- again, I'm not sure I'd say it
15 quite that way. What I'm saying is if the Commission
16 were to adopt Mr. Hess's proposal, I think there are
17 modifications to Mr. Hess's proposal that should be
18 made. I am not saying I want Mr. Hess's proposal
19 even with the modifications. But it should be noted

20 even in that case I would assume that it is -- there
21 is a trueup in place, and whatever comes about after
22 the fact, after this alternative or interim time
23 frame, would be trued up.

24 Q. Your primary position is V.E, keep rates
25 where they are and then true up to the final ESP

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1 order.

2 A. That is the position that we have in
3 filing.

4 Q. Why would --

5 EXAMINER SEE: I'm sorry, could you read
6 that last question and answer back, please?

7 (Record read.)

8 EXAMINER BOJKO: So as I understand the
9 questioning, Mr. Kurtz, if the Hess proposal is put
10 in place, you think fuel should be considered in POLR
11 but then that should also be tried up?

12 THE WITNESS: Yes.

13 Q. And your first preference is keep rates
14 exactly where they are, your V.E, and then true up to
15 the final ESP.

16 A. No. My first preference is that the
17 Commission put out an order in the 150 days that the
18 statute requires.

19 Q. Okay.

20 A. In the event they are unable to do that,
21 I am confident that the Commission will attempt to do
22 it, and therefore I don't expect a long period of
23 time for this trueup issue to be in place. But in
24 the event that that doesn't occur, then the trueup
25 against current rates would be our proposal.

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1 Q. Okay. Going to your additions to the
2 staff's proposal in the event that V.E is rejected,
3 can I just have that as sort of a baseline starting
4 point, Mr. Baker, for these questions? Do you
5 understand what I'm referring to?

6 A. Yes, I think I do.

7 Q. Okay. Now, the 7 percent increase for
8 CSP, the 4 plus 3 percent, is it your proposal to
9 apply that to the full generation rate or only the
10 non-FAC portion of generation? I'll refer you to
11 page 7, lines 16 through 17 of your rebuttal.

12 A. I'm sorry, could I have the question read
13 back?

14 Q. I'll restate it. Should the 7 percent
15 CSP increase be to the full generation rate or only
16 the non-FAC portion of the generation rate?

17 A. I need some additional information. Are
18 we assuming the Hess proposal or the Hess proposal
19 with the additions that I have outlined in my

20 testimony?

21 Q. With the additions you have outlined.

22 A. With the additions outlined in my

23 testimony, what I would term the automatic increases

24 should be against the nonfuel portion.

25 Q. Okay. I'm going to try to create a chart

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1 here. That would be for CSP how much money?

2 A. I don't have those numbers. This is not
3 my proposal.

4 Q. Okay. Same questions for the Ohio Power
5 11 percent, if the Commission adds on to the Hess
6 proposal and gives you the FAC, the 11 percent should
7 be on the non-FAC portion of generation?

8 A. Yes. I think that would be the proper
9 way to do it in the event the Commission were to
10 choose that option.

11 Q. And you do not have a quantification of
12 how much money that would be.

13 A. No, I don't.

14 Q. For the Ormet delta revenue you've said
15 that -- same preface, I know this isn't your primary
16 proposal. But if the Commission goes with staff's
17 plan and gives you what you want, the Ormet issue --
18 are you with me?

19 A. Well, no, you lost me because you said if

20 the Commission gives you what you want, and I don't
21 think any of that is premised on the Commission
22 giving me what I want.

23 Q. Let's go with the Ormet delta revenue.

24 How would you calculate it? You heard Mr. Hess

25 calculate the Ormet delta revenue is assuming Ormet

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1 would continue to pay \$43 a megawatt-hour under a
2 special contract which expires at the end of this
3 year. Do you agree with that assumption?

4 A. You know, this is one of the reasons why
5 I'm really hoping for a 150-day decision, because I
6 do not know what happens with the Ormet contract once
7 it goes away and whether the Commission is going to
8 want -- assuming your scenario that there is an
9 interim Mr. Hess type approach -- whether they're
10 going to want the Ormet rate to be the current rate,
11 which is the \$43 per megawatt-hour for G, plus T and
12 D, or they're going to want it to be treated as a
13 GS-4 customer, which is probably closer to the
14 \$43 including the T and the D.

15 Q. Well, when you testified here, did you
16 make any assumption -- did you assume that Ormet
17 would become a regular customer under GS-4 or that
18 the contract which expires at the end of the year for
19 a higher price would continue?

20 A. Can I have a clarification from you,
21 Mr. Kurtz? Are you talking about the limited scope
22 of the testimony I'm talking about today or the broad
23 ESP filing?

24 Q. No; your rebuttal testimony only.

25 A. I didn't make any assumption about Ormet.

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1 Q. Your understanding of staff's Ormet
2 proposal, did you assume anything as to what Ormet
3 would be paying from which the delta revenue would be
4 calculated?

5 A. I assumed that the delta revenue would be
6 calculated based on whatever the Commission ordered
7 us to sell power to Ormet on basically 12/30/08.

8 Q. You heard Mr. Hess -- written testimony
9 says OCC Witness Smith should be used for the other
10 part of the calculation, her market rate, but then we
11 learned this afternoon that Mr. Hess actually used
12 \$63.58 as the market rate rather than the 70-some
13 dollar OCC number based upon conversations with the
14 company, I guess, which would also tend to limit the
15 delta revenue and limit the impact. Is that -- do
16 you agree with that assumption?

17 A. I did not hear -- and I may have been out
18 of the room. I did not hear Mr. Hess say that that
19 was the proper rate. I heard him say that he has

20 looked at other numbers and specifically a number
21 that he asked the company to calculate, which was a
22 lower number.

23 Q. Do you agree the lower the market price
24 assumption, the lower the delta revenue amount that
25 customers have to pay?

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1 A. If you assume in each of the scenarios
2 you're laying out it's the same price that the
3 customer pays, if the market price is in effect
4 lower, you would have lower delta revenues.

5 Q. Basic mathematics on that one.

6 A. That's the way I look at it.

7 Q. You have testified about the Mon Power
8 portion of the staff proposal; have you not?

9 A. I do make some reference to the Mon Power
10 portion of the -- of Mr. Hess's proposal, yes.

11 Q. Okay. Assuming that this is part of the
12 Commission's interim order, do you agree with the way
13 staff has quantified the Mon Power delta revenue?

14 A. In my testimony what I'm talking about
15 here is not whether I agree with their calculation of
16 the delta revenue; it's about the position that I've
17 heard that that should be included in the 4 percent,
18 and what I indicated was there is room under the
19 historical 4 percent, looking at an average of

20 4 percent, where it can be added on top of the
21 4 percent and not get in the way of the 4 percent
22 restrictions.

23 Q. Did you do the same type of analysis with
24 respect to the Ormet delta revenue after the
25 regulatory liability account that ratepayer IOU is

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1 fully amortized?

2 A. I have not done the calculation, but,
3 again, I'm assuming that this will not go very long
4 as an interim proposal, and given the amount of room,
5 at least under Columbus & Southern, I would expect
6 that we would be all right, and I believe we have
7 room as well under Ohio Power.

8 Q. Have you actually done those
9 calculations?

10 A. I have not done a full calculation, no,
11 but my recollection is in discussions that we had
12 that was the case.

13 Q. You would as part of your modifications
14 to staff's plan include one half of your POLR
15 request.

16 A. Yes.

17 Q. That's an easy one. How much money is
18 that?

19 A. I believe it is 94 million is the total

20 number so you'd have to cut that in half and then
21 figure out how many months, one month, six weeks,
22 that that might be in place, and it would be
23 21 million for Ohio Power. That's on an annualized
24 basis. That isn't doing the calculation I just
25 walked you through.

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1 Q. So 94 is half of your --

2 A. No, I'm sorry, 94 is the total. You have
3 to consider that to be half, which would be 47, and
4 in the case of Ohio Power would be 21 cut in half or
5 10-1/2 on an annual basis.

6 Q. All divided by 12 so you get a per-month
7 amount.

8 A. Yeah. That's correct.

9 Q. Okay. The fuel adjustment clause you're
10 proposing to be added to the staff's proposal -- did
11 I say that right?

12 A. We are proposing to implement an active
13 FAC or what we are -- we are proposing that if the
14 Commission were to pursue Mr. Hess's proposal, that
15 that would be a good modification to it.

16 Q. On page 7, line 11, you say that it would
17 be appropriate to use the baseline proposed by staff
18 as the starting point, I guess, rather than your
19 baseline.

20 A. Well, since this was a modification to
21 the staff's proposal, we thought it was the way to do
22 it, and given the fact that we believe there should
23 be a trueup, in our view it really doesn't make any
24 difference whether it's the staff's or ours.

25 Q. That's almost true with any of these

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1 adjustments. If there's a trueup, the customers
2 would be made whole. The company will be made whole
3 basically no matter what the Commission does in the
4 interim; isn't that right?

5 A. That is true, and that's why we proposed
6 a trueup.

7 Q. Okay. What is the dollar difference
8 between the companies' fuel baseline and staff's?

9 A. I believe it's on the order of
10 \$10 million.

11 Q. For both companies?

12 A. Yes.

13 Q. Relatively small in the big scheme of
14 things.

15 A. Relatively small in the scheme of the
16 full ESP.

17 Q. What is the -- can you describe your
18 baseline differences with staff?

19 A. The baseline that we have proposed is

20 taking the unbundled values, which we call the 1990
21 values, and escalating those by 7 percent in the case
22 of Ohio Power for each year 2006, 2007, 2008, and in
23 the case of Columbus & Southern taking that same 1999
24 value and escalating it by 3 percent for each year
25 2006, '07, and '08. As I understand the staff's

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1 proposal, it is a 2007 actual adjusted by 7 percent
2 for Ohio Power and 3 percent for Columbus & Southern.

3 MR. RESNIK: Excuse me, Mr. Kurtz.

4 Rather than having -- your Honor, rather
5 than having the whole answer read back, I thought
6 that Mr. Baker was referring to Columbus Southern and
7 he said taking the 1990 value.

8 EXAMINER BOJKO: '99 is what --

9 MR. RESNIK: Did he say '99?

10 MR. BELL: Yes.

11 MR. KURTZ: I thought he said 1990, too.

12 MR. RESNIK: '90 also.

13 EXAMINER BOJKO: Is it '99, Mr. Baker?

14 THE WITNESS: Yes, '99.

15 EXAMINER BOJKO: Same baseline as in the
16 ETP case?

17 THE WITNESS: Yes, that was the intent,
18 to capture that time frame.

19 Q. (By Mr. Kurtz) You indicate in your

20 testimony that you believe if the Commission were not
21 to give you the fuel adjustment portion, that there
22 would be a taking of the companies' property.

23 A. Yes.

24 Q. You don't have a fuel adjustment now, do
25 you?

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1 A. No, we do not.

2 Q. You're not claiming that there's been
3 some historical taking of the companies' property,
4 are you?

5 A. The current RSP was an arrangement that
6 we filed and that was ultimately approved by the
7 Commission where we chose not to put an FAC in place.
8 It turns out that was probably not the best move I've
9 ever made. But in this case we believe that it's
10 clear from Senate Bill 221 that the intent is to let
11 people put in fuel clauses if you don't have one. So
12 that's the basis of my position on the takings.

13 Q. Well, I know you're not an attorney, but
14 your reliance on Senate Bill 221 might give the
15 company a statutory claim, but that does not rise to
16 a constitutional level. You used the word "taking."
17 That's why I'm asking you these questions.

18 A. You're right, I am not a constitutional
19 lawyer, but that was a term that I thought

20 exemplified what I was trying to describe.

21 Q. You're not familiar with constitutional

22 law, the Duquesne case about what does constitute a

23 taking of utility property?

24 A. No, I'm not.

25 Q. Okay. Your fuel adjustment clause

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1 proposed includes a lot more than just fuel, doesn't
2 it?

3 A. Yes. It's an expanded FAC.

4 Q. It includes, does it not, these
5 10 percent, 20 percent, and 30 percent market
6 purchases?

7 A. No.

8 Q. It does not?

9 A. There are no 10, 20, and 30 percent
10 market purchases.

11 Q. Huh. The 5 percent, 10 percent, and 15
12 percent market purchases.

13 A. The 5 percent, 10 percent, and 15 percent
14 market purchases would be included in the FAC as
15 proposed by the company as part of its ESP.

16 Q. Okay. It would also include a
17 depreciation on the Lawrenceburg facility that CSP
18 owns.

19 MR. RESNIK: I'm sorry, could I have that

20 question back, please?

21 Q. I'll restate. The fuel adjustment clause

22 as proposed by the company would include depreciation

23 of the Lawrenceburg purchased power contract CSP has

24 with AEP generating companies shown on line, well,

25 line 507 of the -- account 507 in the fuel adjustment

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1 clause.

2 EXAMINER BOJKO: You're talking about
3 their ESP proposal?

4 MR. KURTZ: Yes, the fuel adjustment
5 proposal that Mr. Baker is testifying should be part
6 of this interim.

7 THE WITNESS: I'm sorry, I need -- could
8 I have that read back?

9 (Record read.)

10 Q. I'll clarify if it helps. It says: DEPR
11 and Capacity Portion - Affiliate Lawrenceburg as a
12 line item in the fuel adjustment. That would be in
13 Mr. Nelson's exhibits. I read DEPR as depreciation.

14 A. Could you share with me the specific
15 schedule?

16 Q. Yeah. PJN-2, Nelson Exhibit 2, line 35
17 which is -- I mean line 36, which is account 507.

18 MR. RESNIK: Your Honor, may I provide
19 Mr. Baker a copy of what counsel's referring to?

20 EXAMINER BOJKO: Absolutely.

21 MR. RESNIK: Maybe you can redirect the

22 witness to the lines that you asked about.

23 Q. Line 36 of that schedule.

24 A. Okay. I see it.

25 Q. Does that mean depreciation?

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1 A. I believe that is trying to capture the
2 fixed charges associated with the Lawrenceburg --
3 FERC-approved Lawrenceburg transaction between AEG
4 and Columbus & Southern, and the distinction is that
5 you'd be pulling out the fuel aspect and putting it
6 in the 501 accounts and the remainder is the charges,
7 the fixed charges, in the 507 account. I'm sure one
8 of those is depreciation.

9 Q. My only point is that your expanded fuel
10 adjustment includes more than fuel, as we just
11 learned.

12 A. The expanded fuel adjustment includes
13 purchased power, and that is the cost of the
14 purchased power that is approved by FERC for AEG to
15 Columbus & Southern.

16 Q. On line 38 of that same schedule, pool
17 capacity, those are capacity equalization payments
18 made by Columbus & Southern to its affiliate AEP
19 companies.

20 A. That would be the capacity equalization

21 charges, yes.

22 Q. Do you see that footnote 1, applies only

23 to CSP?

24 A. Yes.

25 Q. Is that because Ohio Power actually gets

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1 revenues, capacity equalization payments that you're
2 proposing to exclude from the fuel adjustment?

3 A. It is because we think that purchased
4 power is an appropriate charge, and it is a charge
5 that is actually talked about in the legislation in
6 Senate Bill 221, both in the ESP area and in the MRO
7 area, and we have included that as a charge under the
8 FAC.

9 Q. Is there some prohibition in Senate Bill
10 221 of including the mirror opposite revenues that
11 Ohio Power receives that you're aware of?

12 A. Is there a preclusion?

13 Q. Prohibition.

14 A. Prohibition? I don't know of any
15 prohibition. I believe that the company puts forward
16 its ESP, and if the ESP is more favorable than the
17 MRO, then in effect that gets -- that should be
18 approved and be the basis of rates going forward.

19 Q. Do you think an ESP also has to include

20 prudent expenses?

21 A. I think there is a -- prudence is

22 mentioned under fuel purchased power. It's the first

23 set of costs. I don't think prudent is used in the

24 other things that are identified. It's only in that

25 one section.

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1 Q. As Mr. Rinebolt pointed out, as a policy
2 statement of the State, 4928.02 includes that rates
3 be reasonable. Do you think that's also a
4 prerequisite for an ESP, that it result in reasonable
5 rates?

6 MR. RESNIK: Your Honor, at this point
7 I'm going to object.

8 MR. KURTZ: I'll withdraw the question.

9 MR. RESNIK: Withdrawing, thank you.

10 Q. Just a little bit more on your fuel
11 adjustment. You also have on line 20, 21, 22, gains
12 and losses, consumption of emission allowances; is
13 that right?

14 A. Yes.

15 Q. Those aren't fuel costs per se, are they?

16 A. No, they aren't.

17 Q. Line 31, ash handling, is that a fuel
18 cost per se?

19 A. All of the costs here, you know, are

20 costs -- they're variable costs associated and some
21 fixed costs associated with supplying energy. If you
22 want to ask me is it a cost of coal or oil or gas
23 that is delivered to the company and burned, no, it's
24 not. We have proposed an expanded fuel adjustment
25 clause which we think is consistent with Senate Bill

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1 221.

2 Q. Have you done a calculation as to what
3 the percentage rate increase customers would face if
4 the Commission adopted not your primary position,
5 which is to have an order out by the end of the year,
6 long-term, were not -- even your secondary position
7 of keep rates where they are subject to trueup, but
8 adopt what I understand your third position to be,
9 take what staff did and enhance it with the fuel
10 adjustment and half of POLR.

11 As to that third option, have you
12 identified how much of a rate increase customers
13 would experience?

14 A. No, I have not done that calculation.
15 But, again, I go back to the statement I made earlier
16 that I think it would be still a moderate step on day
17 one toward an ultimate Commission order on ESP.

18 Q. Is your fuel adjustment proposal here
19 with or without a deferral?

20 A. I believe that it would be appropriate if
21 we put a fuel adjustment clause in as an interim
22 arrangement to use the same deferral approach that we
23 used in the ESP for this, whatever this short interim
24 period is.

25 Q. Limit the annual rate increase to

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1 15 percent and defer anything above that?

2 A. Approximately 15 percent, yeah, I think
3 that would be the appropriate way to go.

4 Q. Again, you haven't made a calculation as
5 to -- staff is proposing no deferrals on fuel
6 adjustment in their long-term ESP, correct? Or
7 Mr. Hess gets a 24 percent rate increase in year one
8 for Ohio Power.

9 A. That is correct. As I understand it they
10 are not proposing a deferral.

11 Q. If the Commission put into effect this
12 sort of level 3 plan, staff's proposal plus fuel
13 adjustment plus half of POLR with no deferral, do you
14 have an order of magnitude as to the rate increase
15 customers would experience?

16 A. I believe I answered that where I said
17 that I didn't make that calculation.

18 Q. How can the Commission judge that your
19 proposal is reasonable or fair or good if they don't

20 know how much of a rate increase it's going to be?

21 A. Well, I think the test is whether or not

22 it is better than the MRO. And we have shown that,

23 as far as I'm concerned, in our testimony, that it is

24 in the aggregate better than the MRO.

25 Any of the plans that we are talking

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1 about here are less than the ESP as filed, therefore,
2 I would argue that it is better than the MRO and,
3 therefore, okay for the Commission to approve it.

4 Q. If the Commission wanted to have a little
5 bit more information to understand the impacts on
6 consumers and on the economy and on rates, they
7 really don't have much to go on given the state of
8 this record. Do you agree?

9 A. No, I don't agree. All of the areas of
10 the proposal are outlined in our ESP filing. I just
11 haven't gone back and done a calculation of the
12 option C, which is kind of down the totem pole in our
13 preferred list of options.

14 Q. You're the only witness on this interim
15 plan, Mr. Baker, for the company.

16 A. Yes.

17 Q. So if there's no rate information through
18 you, we just have to go on the way -- on the basis
19 that you just described.

20 MR. RESNIK: I'm sorry, could I have that

21 question read back?

22 Q. Let me rephrase. If you can't give the

23 Commission any rate guidance on rate impact, there's

24 no other witness to help out.

25 MR. RESNIK: Your Honor, I'm going to

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1 object.

2 MR. KURTZ: I'll withdraw the question.

3 MR. RESNIK: Why don't we keep having

4 these questions that Mr. Kurtz just withdraws. I

5 mean, is he playing? Is there an audience here that

6 I'm missing?

7 MR. KURTZ: No. I withdraw the question.

8 And those are all my questions, your Honor. Thank

9 you.

10 EXAMINER BOJKO: Ms. Wung, do you have

11 any questions?

12 MS. WUNG: I have no questions, your

13 Honor.

14 EXAMINER BOJKO: Mr. Randazzo.

15 MR. RANDAZZO: Just a few.

16 - - -

17 CROSS-EXAMINATION

18 By Mr. Randazzo:

19 Q. Good afternoon, Mr. Baker.

20 A. Good afternoon, Mr. Randazzo.

21 Q. On page 2 of your rebuttal testimony,

22 similar to a question that I asked to Mr. Roush

23 earlier in the day, the premise for your rebuttal is

24 that there will be ultimately an ESP approved by the

25 Commission that's acceptable to AEP; is that correct?

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1 A. I would say our proposal could in theory
2 handle two things, Mr. Randazzo, and others can opine
3 on the legality of this, but one would be that if in
4 the case there was an ESP that we said was acceptable
5 to AEP, that that would be handled. I also would
6 take the position that if it was not acceptable and
7 we were to implement the provisions which were the
8 terms and conditions and fuel that are in this
9 section, if we reject the plan, I think that could be
10 retroactive or trued up to 12/30/08 as well.

11 Q. Okay. In Mr. Roush's -- in section V.E,
12 section V.E deals only with what happens to true up
13 to an approved ESP; is that correct?

14 A. I'd have to look at the exact words, but
15 if we want, I'll accept that subject to check.

16 Q. Yeah. If you trust me on this one,
17 accept it subject to check, and if I'm wrong, you
18 will get back to me I'm sure.

19 A. I'm sure I will.

20 Q. Okay. And on page 2 you describe the
21 companies' proposal in section V.E of its application
22 as relating to what is ultimately approved in the way
23 of an ESP, and I'm referring specifically to line 7
24 on page 2; is that correct?

25 A. Yes.

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1 MR. RANDAZZO: That's all I have. Thank
2 you very much. Thank you, Mr. Baker.

3 - - -

4 EXAMINATION

5 By Examiner Bojko:

6 Q. Mr. Baker, I think the line of
7 questioning, just to clear up before we forget it
8 tomorrow because we might forget tomorrow.

9 A. Okay.

10 Q. Mr. Kurtz where he was asking you some
11 questions about the Mon Power rider, and I think you
12 were present for Mr. Roush's testimony, you said that
13 under the companies' application V.E or the section
14 V.E in their application that the Mon Power customers
15 would pay CSP's current tariff rates; is that right?

16 A. The customers are presently paying
17 CSP's --

18 Q. Right. And they would continue under the
19 companies' proposal.

20 A. That's right.

21 Q. Okay. But then the RFP that the rate was

22 set to create the delta that is being paid by all

23 customers, under what is it, PAR? Is that what

24 everyone's calling it?

25 A. PAR.

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1 Q. That RFP ends 12/31/08, right, the power
2 supply RFP?

3 A. The power supply ends at the end of '08,
4 that is correct.

5 Q. But it's the companies' proposal that
6 they would still have the customers pay that rate
7 that was determined under the RFP. Or, I mean, they
8 would pay the current rate but the delta would be
9 created based on the RFP rate.

10 A. I'm getting confused.

11 Q. I'm sorry.

12 A. Let me try to help. I think what we're
13 dealing with here is -- and this is where I'm getting
14 confused -- in one case it's Mr. Hess's proposal --

15 Q. No, no, I want to talk about the
16 companies' proposal.

17 A. The companies' proposal of what rates
18 would be in place for the CSP customers?

19 Q. Mon Power load would be, those customers

20 would pay current CSP rates, right?

21 A. They would pay current CSP rates and it

22 would be our position, unless Mr. Roush disagreed

23 what me this morning, at which point he and I can

24 work it out, that the PAR would continue to stay in

25 place until there's an ultimate order.

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1 Q. Okay. And the PAR would continue to stay
2 in place under the 4 percent additional generation
3 increase that was allowed under the RSP.

4 A. No. Under our understanding, if you're
5 assuming our trueup, we'd have the existing rates
6 just continuing --

7 Q. Okay.

8 A. -- there wouldn't be another 4 percent
9 added or another 7 and 3 added. It would just be
10 what's in the PAR today would continue.

11 Q. Okay. And the delta that creates, that
12 PAR would still be based on CSP tariff rates minus
13 the rate that was established under the RFP.

14 A. It would be the difference between -- it
15 would be the rate that was determined going into the
16 second half of the Mon Power, which was I believe
17 June of '07 through the end of '08. We did a RFP.
18 We took the difference between those two, created a
19 PAR value, so it is -- it was based on that

20 historical look.

21 Q. Okay. And that's the continue -- that

22 calculation would continue so the PAR rate wouldn't

23 change basically.

24 A. I wouldn't -- I don't see us doing

25 another calculation, just the rate -- the PAR rider

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1 would stay in place.

2 Q. Okay.

3 A. Is that helpful?

4 Q. Yes. Thank you.

5 EXAMINER BOJKO: Mr. White, did you have

6 any cross?

7 MR. WHITE: No, I have no questions, your

8 Honor.

9 EXAMINER BOJKO: Mr. O'Brien?

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

11 EXAMINER BOJKO: Mr. Smalz?

12 - - -

13 CROSS-EXAMINATION

14 By Mr. Smalz:

15 Q. Mr. Baker, to follow up on the

16 attorney-examiner's questions, so under the

17 companies' V.E would there continue -- V.E proposal

18 would there continue to be socialization of the cost

19 for the Mon Power load under the PAR after December

20 31st, 2008?

21 A. The reason I'm having a little trouble is
22 socialization almost implies that I'm recalculating,
23 and whatever was created at the time the PAR was
24 developed and put into rates just continues the same
25 way it does now, and all customers in CSP pick up a

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1 part of that PAR.

2 Q. Okay. Thank you for that clarification.

3 Turning to page 6 of your testimony and

4 the sentence near the bottom where it says:

5 "Postponing implementation of the fuel recovery

6 mechanism, without subsequent reconciliation, in my

7 opinion would result in a confiscation of the

8 Companies' property."

9 Now, by "confiscation" do you mean the

10 company would be operating in the red at a loss?

11 A. What I mean is that the company would be

12 paying dollars for fuel that they would not be

13 recovering in rates.

14 Q. But the companies could still be earning

15 a significant rate of return even without that FAC.

16 A. I can't make that assumption.

17 Q. You don't know one way or the other.

18 A. I think that failure to recover fuel

19 would have a significant impact on the company. When

20 I look at 2008, for example, relative to what we
21 believe is in rates, we came up about \$150 million
22 short.

23 Q. And yet -- you were here this morning,
24 weren't you, Mr. Baker? There was a reference this
25 morning, I didn't know if it was during testimony or

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1 during one of the attorneys' examinations, to CSP
2 earning over 20 percent rate of return as of its
3 filing I think in September of this year. Does that
4 ring a bell?

5 MR. RESNIK: Your Honor, excuse me. If I
6 may, actually I understand Mr. Smalz's confusion
7 trying to figure out if it was cross-examination or
8 testimony because it was from Mr. Bell, and he
9 combined the two, so I don't think that that's a
10 legitimate basis for asking Mr. Baker, you know, if
11 he's adopting Mr. Bell's quasi testimony, quasi
12 cross-examination.

13 EXAMINER BOJKO: First of all, I'm having
14 trouble hearing you, Mr. Smalz.

15 MR. SMALZ: I'm sorry.

16 EXAMINER BOJKO: So could you repeat the
17 question, please?

18 Q. This may take a slightly different tact.
19 You testified earlier that there haven't been any

20 fuel adjustments by the company since 1999; is that

21 correct?

22 A. We have not had an active fuel clause

23 since the start of the ETP period, which I believe

24 was 2000, 2001.

25 Q. Now, despite those lack of fuel

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1 adjustments, the companies still earned a significant

2 rate of return, haven't they?

3 A. I guess "significant" is in the eyes of

4 the beholder. We were solvent.

5 Q. Well, the case of CSP, didn't that return

6 amount to more than 20 percent in its most recent

7 reporting?

8 A. I think the only report we filed -- I

9 guess reported where, Mr. Smalz?

10 Q. Let me just ask you. What is the

11 company's latest rate of return, current rate of

12 return?

13 A. I haven't looked it up in -- I look at

14 the total AEP system; I don't look at the individual

15 operating companies on a continuing basis, but --

16 Q. So you have no idea what CSP's rate of

17 return is?

18 A. Oh, I think CSP today was probably around

19 18 to 20 percent, but I don't know the exact number.

20 Q. And that's after these fuel increases.

21 A. That is after some level of the fuel

22 increases, yes. But I think you have to look at both

23 companies, and Ohio Power has been impacted more than

24 Columbus & Southern because of the impact of coal

25 prices.

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1 Q. Now, for this interim rate plan we're
2 talking about a relatively short period of time,
3 maybe two or three months; is that correct?

4 A. I certainly hope it's less than that.

5 Q. Okay. In light of that short period of
6 time, in light of the companies' continuing
7 significant rates of return -- and I'll accept that
8 characterization --

9 A. But I won't.

10 Q. -- it's still your testimony that -- it's
11 still your testimony that failure to grant this fuel
12 adjustment clause for this very short interim period
13 of time would constitute a confiscation of the
14 companies' property.

15 MR. RESNIK: Your Honor, I'm going to
16 object. I think it was Mr. Smalz's characterization,
17 which I understand why he would accept it, but I
18 don't think it was Mr. Baker's characterization.

19 Q. Let me rephrase it. In light of the

20 short period of time, in light of the fact that both
21 companies have continued to earn a profit and,
22 according to you, CSP has continued to earn a profit
23 in the 18 to 20 percent range, rate of return in the
24 18 to 20 percent range, is it still your testimony
25 that failure to grant this FAC for this short interim

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1 time period constitutes a confiscation,
2 quote/unquote, of the companies' property?

3 A. I tried to answer that one earlier with
4 Mr. Kurtz, and I believe what I said was something
5 along these lines: We will be buying fuel. Senate
6 Bill 221 provides, as far as we're concerned, that
7 effective 1/1/09 we should be able to put an active
8 fuel adjustment clause in place and, therefore, any
9 inability for us to recover the dollars that we spend
10 buying fuel in order to provide service to customers
11 we think of as a confiscation.

12 Q. And, by the way, aren't your fuel costs
13 going down now?

14 A. No.

15 Q. In light of the economic downturn?

16 A. No.

17 Q. You see no reduction in natural gas costs
18 in recent months?

19 A. Columbus & Southern burns some natural

20 gas, and there has been some reduction in that, but

21 we continue to see coal prices staying high.

22 EXAMINER BOJKO: I'm sorry, what prices

23 are staying high?

24 THE WITNESS: Coal prices.

25 Q. Turning to page 8 of your testimony and

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1 your discussion of the companies' requested POLR
2 charge, I just want to make sure I understand some of
3 the numbers that were discussed earlier. One half of
4 \$94 million figure that you gave for assessing the
5 cost of the POLR, was that just for CSP?

6 A. Yes. Let me just make it clear.
7 94 million was the incremental POLR charge filed in
8 the ESP for Columbus & Southern Power. In this case
9 we are proposing, if the Commission were to adopt a
10 Hess-type proposal, that subject to reconciliation
11 that they increase the POLR rates by one half of the
12 ask or half of the 94 million.

13 Q. And are you requesting this increase in
14 the companies' POLR charge because you perceive that
15 there will be a greater risk of customer shopping
16 during this interim time period?

17 A. I believe the description of why we need
18 a POLR charge, which is the full 94 million for CSP
19 and 21 million for Ohio Power, is outlined in great

20 detail in my testimony for the ESP case -- I'm sorry,

21 in this case.

22 Q. Your direct testimony.

23 A. In my direct testimony.

24 Q. On page 5 of your testimony, the second

25 sentence on the page where it's stated: "From the

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1 company's perspective any alternative rate plan that
2 was implemented as an interim measure without
3 reconciliation and that is less favorable than the
4 ESP proposed by the companies will unfairly prejudice
5 the companies." So the reason why the implementation
6 of any interim rate plan without reconciliation is
7 improper is because it's unfair.

8 A. I think reconciliation provides a balance
9 for the company and the customer as described in the
10 two sentences you chose to just pick the first
11 sentence, and what we are saying is that if
12 ultimately the Commission rules to be -- the rates to
13 be higher than some interim plan, that the company
14 would be impacted negatively. If, in fact, as a
15 result of the ultimate order the rates are lower than
16 the interim plan, the customer would be harmed,
17 therefore, a trueup provides a balance for both
18 customers and the company.

19 Q. So it's important in your view that the

20 alternative rate plan be, quote/unquote, fair for
21 both the customers and the company.
22 A. I think -- I think that with an interim
23 plan without trueup, either party could think the
24 outcome was unfair. What we think needs to be done
25 is what ultimately comes out of the ESP final order

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1 should be what rates should be for customers starting
2 on the first day of the billing cycle for January
3 2009 and the best way to accomplish that is with a
4 trueup.

5 Q. I'm not sure you entirely answered my
6 question, but let me put it this way. Is it proper
7 for the Commission to consider whether the
8 alternative rate plan is fair to both customers and
9 the company?

10 A. Now you're starting with an assumption
11 that the Commission is going to put out an
12 alternative plan, which is not my hope, so let's
13 start there. The second part of it I believe the
14 alternative plan put out by the Commission should
15 recognize what they ultimately will need to rule to
16 be consistent with Senate Bill 221.

17 Q. Just one final question, Mr. Baker. Can
18 you cite to any legal authority in Senate Bill 221
19 for this, whatever you call it, make-up or

20 reconciliation or, excuse me, make whole or

21 reconciliation or trueup proposal?

22 A. Yes. I believe that I can point out the

23 provisions of an ESP which have some language to say

24 without limitation the plan can include the

25 following, and I would say this fits under the

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1 "without limitations" provision.

2 Q. And with respect to the alternative rate
3 plan, specifically can you point to any authority?

4 A. I'm not proposing an alternative rate
5 plan. I'm saying if the Commission finds that they
6 have the authority to produce one and it looks like
7 Mr. Hess's proposal, that there is some modifications
8 that need to be made to it.

9 MR. SMALZ: I have no further questions,
10 your Honor.

11 EXAMINER BOJKO: Thank you. Let's go off
12 the record for a moment.

13 (Discussion off the record.)

14 EXAMINER BOJKO: Let's go back on the
15 record.

16 Mr. Rinebolt.

17 - - -

18 CROSS-EXAMINATION

19 By Mr. Rinebolt:

20 Q. Good evening, Mr. Baker.

21 A. Good evening, Mr. Rinebolt.

22 Q. If the Commission were to modify the
23 short-term proposal that you have within your ESP

24 proposal, would you -- would the company view that as

25 a modification of the ESP itself in toto authorizing

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1 withdrawal of that ESP?

2 A. I'm sorry, I'm not sure how to answer

3 that because if we assume that the Commission puts

4 out an order between now and the end of the year and

5 all they do is say the trueup is not available, we'd

6 have to look at that, and I don't know whether that

7 constitutes -- I haven't done that evaluation. If it

8 comes out as part of an ESP order, we would look at

9 it in total.

10 Q. Well, but the short-term -- the true up

11 is a part of your ESP plan, is it not? It's part of

12 your filing.

13 A. It is part of our filing.

14 MR. RINEBOLT: Thank you very much.

15 EXAMINER BOJKO: Let's go off the record

16 again.

17 (Discussion off the record.)

18 EXAMINER BOJKO: Let's go back on the

19 record. We are going to continue the hearing until

20 9 a.m. tomorrow when Mr. Baker will retake the stand.

21 Thank you.

22 (The hearing concluded at 5:19 p.m.)

23 - - -

24

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1 CERTIFICATE

2 I do hereby certify that the foregoing is
3 a true and correct transcript of the proceedings
4 taken by me in this matter on Monday, November 17,
5 2008, and carefully compared with my original
6 stenographic notes.

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Maria DiPaolo Jones, Registered
Diplomate Reporter, CRR and Notary
Public in and for the State of
Ohio.

11 (3298-MDJ)

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