

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

20 - - -

21 PROCEEDINGS

22 before Ms. Kimberly W. Bojko and Ms. Greta See,
23 Hearing Examiners, at the Public Utilities Commission
24 of Ohio, 180 East Broad Street, Room 11-C, Columbus,
25 Ohio, called at 9:00 a.m. on Tuesday, December 2,
26 2008.

27 - - -

20 VOLUME X

21 - - -

22 ARMSTRONG & OKEY, INC.

185 South Fifth Street, Suite 101

23 Columbus, Ohio 43215-5201

(614) 224-9481 - (800) 223-9481

24 Fax - (614) 224-5724

25

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

1 APPEARANCES:

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

5 Porter, Wright, Morris & Arthur, LLP
By Mr. Daniel R. Conway
6 41 South High Street
Columbus, Ohio 43215-6194

7
On behalf of Columbus Southern Power
8 and Ohio Power Company.

9 Janine L. Migden-Ostrander
Ohio Consumers' Counsel
10 By Ms. Maureen R. Grady
Mr. Terry L. Etter
11 Ms. Jacqueline Lake Roberts
Mr. Michael E. Idzkowski
12 Mr. Richard C. Reese
Assistant Consumers' Counsel
13 Ten West Broad Street, Suite 1800
Columbus, Ohio 43215-3485

14
On behalf of the Residential
15 Ratepayers of Columbus Southern Power
and Ohio Power Company.

16
Sherry Maxfield, First Assistant
17 Attorney General
Duane W. Luckey
18 Senior Deputy Attorney General
Public Utilities Section
19 By Mr. Werner L. Margard III
Mr. John H. Jones

20 Mr. Thomas G. Lindgren
Assistant Attorneys General
21 180 East Broad Street, 9th Floor
Columbus, Ohio 43215-3793

22

On behalf of the staff of the Public
23 Utilities Commission of Ohio.

24

25

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

1 APPEARANCES (Continued):

2 Mr. Richard L. Sites
3 General Counsel, Ohio Hospital Association
4 155 East Broad Street, Floor 15
5 Columbus, Ohio 43215-3620

6 Bricker & Eckler, LLP
7 By Mr. Thomas J. O'Brien
8 100 South Third Street
9 Columbus, Ohio 43215-4291

10 On behalf of the Ohio Hospital
11 Association.

12 Mr. Joseph V. Maskovyak
13 Mr. Michael R. Smalz
14 Ohio State Legal Services Association
15 555 Buttles Avenue
16 Columbus, Ohio 43215

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

19 McNeese, Wallace & Nurick
20 By Mr. Samuel C. Randazzo
21 Ms. Lisa McAlister
22 Mr. Joseph M. Clark
23 Fifth Third Center, Suite 1700
24 21 East State Street
25 Columbus, Ohio 43215

26 On behalf of the Industrial Energy
27 Users of Ohio.

28 McDermott, Will & Emery
29 By Ms. Grace C. Wung
30 600 Thirteenth Street, NW

20 Washington, DC 20005-3096

21 On behalf of Wal-Mart Stores East, LP,
Macy's, Inc., Sam's East, Inc.

22

23

24

25

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

1 APPEARANCES (Continued):

2 Boehm, Kurtz & Lowry
By Mr. David Boehm
3 Mr. Michael Kurtz
36 East Seventh Street
4 Suite 1510
Cincinnati, Ohio 45202-4454

5
On behalf of the Ohio Energy Group.

6
Chester, Willcox & Saxbe, LLP
7 By Mr. John W. Bentine
Mr. Matthew S. White
8 Mr. Mark S. Yurick
65 East State Street
9 Columbus, Ohio 43215

10 On behalf of the Kroger Company.

11 Bell Royer, Co., LPA
Mr. Langdon D. Bell
12 33 South Grant Avenue
Columbus, Ohio 43215-3927

13
On behalf of the Ohio Manufacturers
14 Association.

15 Bell Royer, Co., LPA
Mr. Barth E. Royer
16 33 South Grant Avenue
Columbus, Ohio 43215-3927

17
On behalf of the Ohio Environmental
18 Council and Dominion Retail.

19 Schottenstein, Zox & Dunn
By Mr. Andre Porter

20 Mr. Christopher Miller
Mr. Gregory Dunn
21 250 West Street
Columbus, Ohio 43215-2538

22

On behalf of the Association of
23 Independent Colleges and Universities of
Ohio.

24

25

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

1 APPEARANCES (Continued):

2 Vorys, Sater, Seymour and Pease, LLP
By Mr. M. Howard Petricoff
3 Mr. Michael J. Settineri
Ms. Betsy L. Elder
4 52 East Gay Street
Columbus, Ohio 43216-1008

5
Mr. Bobby Singh
6 300 West Wilson Bridge Road
Worthington, Ohio 43085

7
On behalf of Integrys Energy.

8
Vorys, Sater, Seymour and Pease, LLP
9 By Mr. M. Howard Petricoff
Mr. Michael J. Settineri
10 Ms. Betsy L. Elder
52 East Gay Street
11 Columbus, Ohio 43216-1008

12 Ms. Cynthia Fonner
500 West Washington Boulevard
13 Chicago, Illinois 60661

14 On behalf of the Constellation NewEnergy
and Constellation Commodity Energy Group.

15
Vorys, Sater, Seymour and Pease, LLP
16 By Mr. M. Howard Petricoff
Mr. Michael J. Settineri
17 Ms. Betsy L. Elder
52 East Gay Street
18 Columbus, Ohio 43216-1008

19 On behalf of EnerNoc, Inc. and
Consumer Powerline.

20

Vorys, Sater, Seymour and Pease, LLP

21 By Mr. M. Howard Petricoff

Mr. Michael J. Settineri

22 Ms. Betsy L. Elder

52 East Gay Street

23 Columbus, Ohio 43216-1008

24 On behalf of the Ohio Association of
School Business Officials.

25

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

1 APPEARANCES (Continued):

2 Mr. David C. Rinebolt
3 Ms. Colleen Mooney
4 231 East Lima Street
5 P.O. Box 1793
6 Findlay, Ohio 45839-1793

7 On behalf of Ohio Partners for
8 Affordable Energy.

9

10

11

12

13

14

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16

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1	INDEX	
2	---	
3	WITNESSES	PAGE
4	Barbara R. Alexander	
	Direct examination by Mr. Rinebolt	11
5	Cross-examination by Mr. Bell	17
	Cross-examination by Mr. Resnik	28
6	Redirect examination by Mr. Rinebolt	98
	Recross-examination by Mr. Rinebolt	107
7		
	Howard Solganick	
8	Direct examination by Mr. O'Brien	109
	Cross-examination by Ms. Conway	112
9		
	Michael J. McGarry, Sr.	
10	Direct examination by Mr. O'Brien	128
	Cross-examination by Ms. Conway	131
11	Redirect examination by Mr. O'Brien	142
	Recross-examination by Ms. Conway	143
12		
	J. Craig Baker	
13	Direct examination by Mr. Resnik	149
	Cross-examination by Mr. Smalz	187
14	Cross-examination by Mr. Rinebolt	231
	Cross-examination by Mr. White	269
15		

16		
17		
18		
19		

20

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1	INDEX		
2	---		
3	COMPANY EXHIBITS	ID'D	REC'D
4	2A- Direct Testimony of J. Craig Baker	149	---
5	2B- Errata Sheet of J. Craig Baker	149	---
6			
7	2C- Interrogatory Response 4-109	183	---
8	2D- Interrogatory Response 3-5	183	---
9	13- Interrogatory Response to 3-36	73	108
10	OCC EXHIBITS	ID'D	REC'D
11	1 - Table 3, Updated, Revised Market Based Power Prices	V-I	148
12	STAFF EXHIBITS	ID'D	REC'D
13	1 - Direct Testimony of J. Edward Hess, P.8, 1.19 through P.9, 1.19	V-I	147
14			
15	OPAE EXHIBITS	ID'D	REC'D
16	1 - Direct Testimony of Barbara R. Alexander	11	108
17			
18	OHA EXHIBITS	ID'D	REC'D
19	3- Direct Testimony of Michael J. McGarry, Sr.	129	145

20

4- Direct Testimony of

21 Howard Solganick 111 127

22 4A-Erratum of

Howard Solganick 111 127

23

5 -Direct Testimony of

24 Peter B. Fleming 146 146

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1 Tuesday Morning Session,

2 December 2, 2008.

3 - - -

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

5 This is a continuation of case number

6 08-917 and 08-918, In the Matter of Columbus Southern

7 Power Company and Ohio Power Company's Electric

8 Security Plans.

9 At this time I'd like to take abbreviated

10 appearances

11 On behalf of the company.

12 MR. RESNIK: Marvin Resnik, Dan Conway,

13 and Steve Nourse.

14 EXAMINER SEE: Mr. Maskovyak.

15 MR. MASKOVYAK: On behalf of the

16 Appalachian People's Action Coalition, Mike Smalz and

17 Joe Maskovyak.

18 MR. O'BRIEN: On behalf of the Ohio

19 Hospital Association, Rick Sites and Tom O'Brien.

20 MR. JONES: Werner Margard, Thomas

21 Lindgren, and John Jones on behalf of Commission

22 staff.

23 MS. GRADY: On behalf of the residential

24 ratepayers of the companies Janine L.

25 Migden-Ostrander, Consumers' Counsel, Maureen R.

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

1 Grady, Michael E. Idzkowski, and Jacqueline L.

2 Roberts.

3 MR. RANDAZZO: Sam Randazzo, Joe Clark,

4 Lisa McAlister on behalf of the Industrial Energy

5 Users of Ohio.

6 MS. WUNG: On behalf of The Commercial

7 Group, Grace Wung.

8 MR. RINEBOLT: On behalf of Ohio Partners

9 for Affordable Energy, David C. Rinebolt and Colleen

10 L. Mooney.

11 MR. BOEHM: On behalf of the Ohio Energy

12 Group, David Boehm and Michael Kurtz.

13 MR. BELL: On behalf of the OMA, Langdon

14 Bell.

15 MR. YURICK: And on behalf of the Kroger

16 Company, John Bentine, Mark Yurick, and Matthew

17 White.

18 EXAMINER SEE: Thank you.

19 Mr. Rinebolt, would you like to call your

20 witness, please?

21 MR. RINEBOLT: Thank you, your Honor.

22 I call Barbara R. Alexander to the stand,

23 and I request that her prefiled testimony be marked

24 as OPAE Exhibit 1.

25 EXAMINER SEE: The exhibit is so marked.

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1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 (Witness sworn.)

3 EXAMINER SEE: Mr. Rinebolt.

4 - - -

5 BARBARA R. ALEXANDER

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

7 examined and testified as follows:

8 DIRECT TESTIMONY

9 By Mr. Rinebolt:

10 Q. Ms. Alexander, would you state your full

11 name and address for the record?

12 A. Yes. My name is Barbara R. Alexander.

13 My office is located at 83 Wedgewood Drive, Winthrop,

14 Maine 04364.

15 Q. By whom are you employed?

16 A. I am a consultant. I have appeared in

17 this case as a witness on behalf of the Ohio Partners

18 for Affordable Energy.

19 Q. Do you have before you a copy of what has

20 been marked as OPAE Exhibit No. 1?

21 A. I do.

22 Q. What is OPAE Exhibit No. 1?

23 A. This is my direct testimony in the matter

24 of the American Energy Power companies proposal for

25 an electric security plan.

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1 Q. And was OPAE Exhibit 1 prepared by you or
2 under your supervision?

3 A. Yes, it was.

4 Q. Do you have any changes to make to the
5 exhibit?

6 A. I do have one change, and I believe you
7 have a piece of paper that describes the change. But
8 it is a revision of a sentence that appears on page 6
9 of my testimony, lines 5 through 8, and as revised
10 the sentence would read as follows: "AEP proposes a
11 non-bypassable Provider of Last Resort charge for all
12 customers to compensate AEP for the risk of customer
13 migration, shopping, and return to SSO equal to an
14 average 5.28% increase in customer bills for CSP and
15 1.23% for OP customers in 2009." Then "See Exhibit
16 DMR-1, Direct Testimony of David M. Roush."

17 Q. If you were asked the same questions
18 today in your testimony, subject to the changes just
19 discussed, would you provide the same answers?

20 A. Yes.

21 MR. RINEBOLT: Ms. Alexander is available

22 for cross-examination.

23 MR. RESNIK: Your Honor.

24 EXAMINER SEE: Mr. Resnik.

25 MR. RESNIK: Before proceeding with

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1 cross-examination, I do have three separate motions
2 to strike.

3 EXAMINER SEE: Okay.

4 MR. RESNIK: The first is on page 14, the
5 sentence that begins at the end of line 13 and
6 extends pretty much to the end of line 15 as well as
7 the footnote associated with that sentence. This
8 sentence is bringing in newspaper clippings with
9 which, frankly, the company strongly disagrees with
10 the conclusions or the theories that are stated in
11 that newspaper article. We just don't think this
12 adds anything of any evidentiary value and should be
13 stricken from the record.

14 MR. RINEBOLT: Your Honor, the reference
15 is what it is and the article says what it says.
16 Certainly the issue of AEP's compliance with
17 reliability standards is an issue in this case, and
18 should the company take issue with the comments in
19 the newspaper or the comments of my witness, they can

20 deal with those in their brief.

21 MR. RESNIK: There's no one here from the
22 newspaper to cross-examine as to why they wrote the
23 things they did so there's not much that we can do in
24 the brief. And I don't disagree that reliability is
25 an issue in this case, but just throwing in a bunch

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1 of newspaper clippings and then relying on those for
2 the witness's position is inappropriate.

3 MR. RINEBOLT: I would suggest --

4 EXAMINER SEE: I'm sorry, Mr. Rinebolt.

5 Tell me where the other two motions to
6 strike are.

7 MR. RESNIK: The other two, actually the
8 next one is the next sentence that begins at the end
9 of line 15 on page 14 and finishes up with the first
10 word on page 15. And there's also a footnote there.
11 This is a sentence that is based on IEEE surveys
12 which, number one, those surveys are not in front of
13 us; number two, they are irrelevant comparisons.

14 In fact, staff testified that the staff
15 doesn't judge reliability based on comparisons among
16 the companies within Ohio, let alone to draw any
17 reliability conclusion based on a nationwide
18 comparison. There's no accounting for differences in
19 geography, urban density, or rural nondensity. We

20 just think that the sentence and the footnote that's
21 associated with that adds nothing to the record and
22 should be stricken.

23 And the third piece of the motion is on
24 page 27, the sentence beginning at the end of line 1
25 and extending through line 3, relying on an article

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1 from Public Utility Fortnightly, and again there is a
2 footnote with that sentence we believe should be
3 stricken. Mr. Anderson, apparently who's the author
4 of this article, is not here to be cross-examined,
5 and we just think that as with the first motion that
6 we made, that loading up the record with newspaper
7 clippings and magazine articles adds nothing of value
8 and should be stricken.

9 EXAMINER SEE: Mr. Rinebolt, would you
10 like to respond?

11 MR. RINEBOLT: Your Honor, in reference
12 to the second piece that's a proposal to strike, I
13 would point out that the references to an AEP
14 response to an OCC exhibit, now the position of the
15 staff regarding the relevance of CAIDI, SAIDI, and
16 whatever the other one is, SAIFI, is the staff's
17 position. I think litigants in this case are free to
18 take other positions and justify them with
19 information that is available from the company and

20 can be put on the record.

21 Regarding the third request to strike,

22 Ms. Alexander is our witness. She can rely on things

23 that she's read in other publications. In this case

24 she provided the cite. The company had adequate

25 opportunity to review that article, and to provide us

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1 with any discovery that they may have wanted
2 regarding the article.

3 MR. RESNIK: May I just briefly respond
4 to one point, your Honor?

5 EXAMINER SEE: Yes, briefly.

6 MR. RESNIK: Yeah, it is true that on
7 that second part about the IEEE survey that the
8 witness cites the company's discovery response, but
9 what Mr. Rinebolt and the witness fail to tell you is
10 what the first paragraph of that discovery response
11 is, and if I can just read it, it says that:

12 "AEP-Ohio objects to providing the requested
13 information because it is neither relevant nor likely
14 to lead to the discovery of admissible evidence.
15 Without waiving its objection, AEP-Ohio states the
16 following."

17 We were trying to minimize discovery
18 problems. And to, frankly, to have the fact that we
19 answered the question now be held against us is

20 further inappropriate.

21 MR. RINEBOLT: And, your Honor, I --

22 EXAMINER SEE: Thank you.

23 MR. RINEBOLT: Okay.

24 EXAMINER SEE: Mr. Resnik, we're going to

25 grant the first motion to strike, which is in

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1 relation to page 14, the sentence beginning on lines
2 13 and ending on line 15, including the footnote.

3 MR. RESNIK: Thank you.

4 EXAMINER SEE: As to your second motion
5 to strike, which begins on line 15 and continues over
6 with the first word on page 15 including the
7 footnote, the motion to strike that sentence is
8 denied.

9 As to your third motion to strike which
10 begins towards the end of line 1 on page 27 and ends
11 on line 3, including the footnote, which is footnote
12 No. 18, the motion to strike that sentence and the
13 footnote is granted.

14 MR. RESNIK: Thank you, your Honor.

15 EXAMINER SEE: Okay. With that,
16 Mr. Yurick, any questions, cross-examination for
17 Ms. Alexander?

18 MR. YURICK: I have no questions of this
19 witness. Thank you, your Honor.

20 EXAMINER SEE: Mr. Bell?

21 MR. BELL: Just a few questions.

22 - - -

23 CROSS-EXAMINATION

24 By Mr. Bell:

25 Q. Good morning, Ms. Alexander.

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1 A. Good morning.

2 Q. In your testimony this morning you
3 reference the POLR charge and what that amounts to in
4 a percentage increase for residential customers; do
5 you not?

6 A. Yes.

7 Q. Your percentage increase, I take it, was
8 derived from DMR Exhibit 5; is that correct?

9 A. Yes.

10 Q. DMR Exhibit 5 reflects the increase in
11 rates only for the year 2009 associated with the POLR
12 charge; is that correct?

13 A. That is correct, sir.

14 Q. Would you agree that the POLR charge
15 continues for the year 2010 and 2011?

16 A. Absolutely.

17 Q. So that the impact of the increase for
18 which authorization is requested in this case would
19 be three times the amount shown on Exhibit DMR; is

20 that correct?

21 A. Yes, that would be true, unless the
22 company altered the percentage increase in any
23 particular year. But assuming, subject to check,
24 that it is a straight line amount, it would be three
25 times the amount I have listed here.

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1 Q. Now, your position in this case is, if I
2 understand it correctly, directed toward opposing
3 only the imposition of the POLR charge on the
4 residential class of customers?

5 A. That is the basis for which I have
6 provided my opposition to this charge, yes, sir.

7 Q. And that basis is premised upon the
8 conclusion that there is no risk extant for either
9 Ohio Power and Columbus & Southern as respects
10 residential customers leaving or coming -- leaving
11 and/or, having left, returning to the system?

12 MR. RESNIK: Your Honor, I object. This
13 is friendly cross-examination.

14 MR. BELL: It is not, if you will allow
15 me to pursue it, one or two questions further.

16 MR. RESNIK: Mr. Bell opposes the POLR
17 charge. This witness opposes the POLR charge. I
18 don't know how he could be asking questions and not
19 have it be friendly cross.

20 EXAMINER BOJKO: The objection is
21 overruled, Mr. Resnik.

22 MR. BELL: Thank you, your Honor.

23 A. My objection, and I do so from the
24 perspective of the residential class, is not that
25 there is no risk. It is that the company failed to

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1 analyze the risk specifically with respect to
2 residential customers. I then pointed to the actual
3 experience of other states with regard to customer
4 migration and indicated that that risk was quite low.

5 Q. You have not in any way, shape, or form
6 proposed an adjustment as to the POLR responsibility
7 of any other class, have you?

8 A. No, I have not addressed that issue.

9 Q. Are you aware of the testimony of
10 Mr. Roush -- were you made aware of the testimony of
11 Mr. Roush during his cross-examination that the only
12 customers that the company has experienced any
13 shopping with is commercial customers?

14 A. I'm not aware of that testimony, but I
15 did understand when I wrote my testimony that there
16 was no customer migration of residential customers,
17 so I assumed that if there was any migration or
18 shopping or competitive options being made, it would
19 be to larger customers only, yes.

20 Q. All right. So that if that assumption
21 was incorrect, you would have no basis for directing
22 your testimony only to the residential class of
23 customers; is that correct?

24 MR. RESNIK: Your Honor, I renew my
25 objection.

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1 EXAMINER SEE: I'm going to grant the
2 objection.

3 Q. Do you know what the magnitude of the
4 POLR charge on the residential class is over the
5 three years of the ESP plan?

6 A. I think we just went through that the
7 dollar amounts would be approximately three times the
8 amount that I indicated in my direct testimony.
9 There are data requests on the record I believe in
10 this case that tote up those totals, I don't have
11 them in front of me.

12 Q. Well, if we were to look at DMR-5, the
13 increase in 2009 for the residential class on
14 Columbus & Southern would be 6.3 million and for Ohio
15 Power it would be 12.4 million.

16 A. I'll take that, subject to check, sir,
17 yes.

18 Q. Excuse me, I apologize. I misspoke. I
19 read from the wrong column.

20 A. Okay.

21 Q. The increase for Columbus & Southern

22 residential class of customers for 2009 is shown in

23 the very middle of Exhibit DMR-5. Do you have that?

24 A. I don't think I do, but let me quickly

25 check, sir. I brought some materials with me to the

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1 stand.

2 I do not have DMR-5 with me. I have

3 DMR-1. Sorry.

4 MR. RESNIK: Your Honor, before people

5 start shuffling for their papers, I would once again

6 object. For Mr. Bell to be asking this witness

7 questions about the impact of the residential POLR

8 charge can be nothing but friendly cross-examination,

9 unless Mr. Bell wants to indicate that he's trying to

10 allocate some of the POLR charges that the OMA would

11 have onto the residential class. I haven't heard

12 that.

13 MR. BELL: All I'm suggesting, your

14 Honor, is this witness's testimony is unreasonable

15 because it discriminates against those customers that

16 have no greater risk than the residential class as

17 far as POLR, and this witness's testimony is directed

18 only towards the residential class. That is adverse

19 cross-examination, I submit.

20 MR. RESNIK: Your Honor --

21 EXAMINER SEE: Yes, Mr. Resnik.

22 MR. RESNIK: I'm sorry.

23 EXAMINER SEE: Yes, go ahead.

24 MR. RESNIK: The fact that the witness

25 only addresses the concerns of a particular client,

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1 she has taken no position concerning what should or
2 shouldn't happen with nonresidential customers, and
3 if Mr. Bell wants to ask that simple question,
4 whether she's taking any position as to POLR charges
5 for nonresidential customers, I think he can ask
6 that. But beyond that, there's been no foundation
7 that she is somehow trying to discriminate against
8 nonresidential customers simply because she was
9 retained just to address a limited portion of the
10 issue.

11 MR. BELL: Your Honor, if I may. I
12 appreciate Mr. Resnik's assistance in constructing my
13 cross-examination, but I respectfully submit that I
14 ought to be permitted to construct my own
15 cross-examination to demonstrate the unreasonableness
16 of this witness's focused testimony on the
17 residential class to the detriment of manufacturers
18 and other nonresidential classes.

19 EXAMINER SEE: All right, gentlemen, I'm

20 going to ask you again, direct your objections to the

21 Bench, not to each other.

22 I'll give you a limited amount of leeway

23 with this witness. You may continue.

24 MR. BELL: Thank you, your Honor.

25 EXAMINER SEE: Rein it in, Mr. Bell.

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1 MR. RINEBOLT: May I approach, your

2 Honor?

3 EXAMINER SEE: Yes, Mr. Rinebolt.

4 MR. RESNIK: Can I have the question read

5 back, your Honor?

6 EXAMINER SEE: Yes.

7 (Record read.)

8 Q. (By Mr. Bell) Do you have DMR-5 now

9 before you, Ms. Alexander?

10 A. Yes, I do.

11 Q. Can you respond to the question?

12 A. And the question was the amount of the

13 residential increase as a result of the POLR charge;

14 is that correct?

15 Q. For the single year 2009 for the

16 residential class.

17 A. Right. And according to my understanding

18 of this chart, the total increase for Columbus

19 Southern Power is 93.6 million. The residential

20 class is approximately 40.5 million.

21 Q. And for Ohio Power?

22 A. For Ohio Power the total increase is

23 21.19 million, and the residential charge, which I

24 assume is RS on this chart, is 6.6 million.

25 Q. So if we were to attempt to quantify,

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1 pursuant to Senate Bill 221 whether in the aggregate
2 the ESP plan is more favorable to customers, we would
3 have to look at the aggregate increase over the three
4 years of the plan; would we not?

5 A. Yes, sir.

6 Q. And if we were to do so, would you
7 accept, subject to check, that the aggregate increase
8 to the residential class would be \$141.7 million?

9 MR. RESNIK: Your Honor, I object. For
10 one thing, if Mr. Bell wants to put mathematics in
11 his brief, he can do it. Again, I'm not trying to
12 tell him how to write his brief. The point is he
13 said he was conducting his cross-examination to show
14 some discrimination between the proposed treatment
15 for residential and nonresidential. His questions,
16 as it turns out, are aimed at how the test of more
17 favorable in the aggregate should be performed.

18 So he hasn't gone where he said he was
19 going to go and I think that the question is

20 objectionable and he should not be permitted to ask

21 it.

22 EXAMINER SEE: Mr. Bell.

23 MR. BELL: I am going in the direction

24 that I represented to the Bench. If I may be

25 permitted, I'll address the Bench and not Mr. Resnik

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1 or the witness, for instance, demonstrating the point
2 that I'm attempting to make, if permitted to do so,
3 the increase to the residential class for Ohio Power
4 is 6 million. The increase to GS-4 IRP for Ohio
5 Power is almost 6 million. The witness here is
6 recommending that there be some adjustment to the
7 residential class but not to the other class that
8 represents manufacturers, and it's to that end that
9 I'm directing my cross-examination.

10 EXAMINER SEE: Well, then hurry up and
11 get there, please, Mr. Bell.

12 MR. BELL: Thank you.

13 EXAMINER SEE: Objection is overruled.

14 Q. (By Mr. Bell) Do you have any reason to
15 believe, Ms. Alexander, that for the Ohio Power class
16 GS-4 IRP that would bear almost -- a \$5.6 million
17 POLR responsibility, do you have any reason to
18 believe that any greater risk exists for that class
19 than would exist for the residential class as

20 respects the provider of last resort?

21 A. I have not done the analysis. My

22 criticism was that AEP had not done the analysis.

23 And I think I need to point you to a sentence in my

24 testimony on page 3, lines 13 to 15: "My testimony

25 should not be interpreted as approving those aspects

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1 of the AEP ESP filing that are not specifically
2 addressed in my testimony."

3 So that I don't think it's appropriate to
4 assume that I approve something simply because I
5 haven't addressed it specifically in my testimony.

6 MR. BELL: Thank you, Ms. Alexander.

7 Nothing further.

8 EXAMINER SEE: Mr. Boehm?

9 MR. BOEHM: I have no questions, your
10 Honor. Thank you.

11 EXAMINER SEE: Ms. Wung?

12 MS. WUNG: I have no questions, your

13 Honor. Thank you.

14 EXAMINER SEE: Ms. Grady or Ms. Roberts?

15 MS. GRADY: No questions, your Honor.

16 EXAMINER SEE: Mr. O'Brien?

17 MR. O'BRIEN: No questions, your Honor.

18 EXAMINER SEE: Mr. Maskovyak?

19 MR. MASKOVYAK: No questions, your Honor.

20 EXAMINER SEE: Mr. Jones?

21 MR. JONES: No questions, your Honor.

22 EXAMINER SEE: I'm sorry, Mr. Randazzo.

23 MR. RANDAZZO: I'm in the back of the

24 room. Yes, I have no questions, your Honor.

25 EXAMINER SEE: How did I

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1 miss Mr. Randazzo?

2 Mr. Resnik.

3 MR. RESNIK: Thank you, your Honor.

4 - - -

5 CROSS-EXAMINATION

6 By Mr. Resnik:

7 Q. Good morning, Ms. Alexander.

8 A. Good morning, sir.

9 Q. Could you tell me what materials you

10 reviewed in the preparation of your testimony?

11 A. Yes. I reviewed the filing, the

12 exhibits. I reviewed quite a bit of the data

13 responses that had arrived at the time I was

14 preparing my testimony, yes.

15 Q. Did you review Senate Bill 221?

16 A. Yes, I did.

17 Q. And how would you rate your familiarity

18 with that statute?

19 A. I would rate it fairly high. I don't

20 deal with it on a daily basis as many of you of
21 course do, but I was following the development of the
22 bill and have had occasion to review it since its
23 enactment, yes.

24 Q. Thank you. And the goal of your
25 testimony is to, I assume, is to present objective

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1 opinions to the Commission.

2 A. Yes, sir.

3 Q. Okay. At page 3, lines 8 through 10 you
4 say that: "The standard service offer operates as a
5 default service for customers who have not selected
6 an alternative provider." And I was wondering if
7 that was your understanding of the full scope of the
8 availability of the standard service offer.

9 A. That is a very high level description of
10 the intent of the SSO service. It is available to
11 anyone who is not otherwise being served by an
12 alternative provider.

13 Q. Okay. So it is available for someone who
14 has switched and chooses to return to the standard
15 service offer?

16 A. That is my understanding, yes, sir.

17 Q. And would also be available to someone
18 who has switched but the supplier has defaulted and
19 so they return to the electric distribution utility?

20 A. That is the typical event, yes.

21 Q. Okay. And when you say that's the

22 typical event, is it typical that alternative

23 providers have defaulted?

24 A. Yes. Well, let me say you used the word

25 "typical." I don't mean to imply that the majority

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1 of them have defaulted. I'm just saying that there
2 are instances in almost every state in which such
3 events have occurred, yes. Sorry.

4 Q. Do you know if there were instances like
5 that in Ohio?

6 A. Actually, I do not.

7 Q. Okay.

8 A. I'm not familiar with the Ohio
9 experience.

10 Q. Now, is it your view that the generation
11 rate to be charged within the standard service offer
12 must be least cost?

13 A. That is a term that I have used in my
14 testimony as shorthand for the reasonable rate
15 language of the SB 221 law, yes.

16 Q. Is it your understanding that the
17 standard service offer is required to be cost based?

18 A. I understand that the predicate for the
19 standard offer ESP option is that it is, quote,

20 regulated, unquote, and, therefore, has some --
21 should have relationship to the costs being incurred
22 by the utility's generation fleet to provide this
23 service, yes.

24 Q. And by that answer -- let me ask you, are
25 you familiar with the cost-based regulation that

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1 existed in Ohio prior to the enactment of Senate Bill

2 3?

3 A. In general, yes, sir.

4 Q. And is that the same kind of cost-based
5 relationship you think exists now for the standard

6 service offer under Senate Bill 221?

7 A. If I can interpret your sentence as
8 asking me if a full-fledged revenue requirements
9 based rate case is required, is that the --

10 Q. Yes.

11 A. -- distinction you're asking me to draw?

12 Q. Yes.

13 A. I did not understand that SB 221 did
14 require that kind of filing in this proceeding.

15 Q. So where does the line get drawn between
16 that pre-Senate Bill 3 full cost based kind of rate
17 case on the one hand and your understanding of where
18 cost figures into the standard service offer under
19 Senate Bill 221?

20 A. I would start --

21 MR. RINEBOLT: Your Honor --

22 EXAMINER SEE: Mr. Rinebolt.

23 MR. RINEBOLT: -- I would object to the

24 extent that Mr. Resnik is attempting to solicit a

25 legal opinion from my client. My client may be a

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1 lawyer, but she's not on the stand in her capacity as
2 an attorney.

3 EXAMINER SEE: Okay.

4 Q. As an expert witness, not as an attorney,
5 if you can answer my question.

6 A. My answer would be that it is my
7 understanding that SB 221 starts with your current
8 rates and any changes to the current rates, in my
9 opinion, should then be justified by actual facts and
10 analysis of the underlying costs and options that you
11 have considered in putting forth your proposed
12 generation supply pricing in this proceeding.

13 Q. So if the company had not proposed any
14 changes as part of its electric security plan, had
15 not proposed any changes to the existing standard
16 service offer, you're saying there would be no
17 analysis required of the currently existing standard
18 service offer.

19 A. That would be hard for me to determine.

20 I'm not sure I want to go so far as to say "any
21 analysis," but I know there is a -- what do you want
22 to call it? An assumption in SB 221 that the current
23 rates stay in place until they're changed. So that I
24 would imagine -- it is my off-the-cuff reaction that
25 a company that proposed retaining current generation

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1 supply prices for the ESP would probably not be
2 subject to the same type of analytical and critiquing
3 as a company such as yours that has proposed
4 unjustified rate increases.

5 Q. And the unjustified, that's part of your
6 opinion, right?

7 A. Well, no. The company admitted they had
8 no cost-based reason for suggesting a number of these
9 percentage rate increases.

10 Q. Okay. And this goes back to your notion
11 that any increase to the existing standard service
12 offer has to be cost based.

13 A. Yes, sir.

14 Q. Now, when we're talking about least cost,
15 if the cost of including renewables into the
16 generation rate was not the least cost, are you
17 suggesting that it's least cost with some
18 suggestions, or are you just suggesting we forget
19 about renewables?

20 A. I understand your question.

21 Q. Good.

22 A. No, you absolutely must comply with the

23 statutory mandates. You must do so in the most least

24 cost way that you can, the most effective, the most

25 efficient way that you can, but that rate increases

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1 that are due to that statutory mandate are, per se,
2 required to be considered in this proposal, yes.

3 Q. Is it your suggestion or your
4 recommendation that the company should have filed an
5 integrated procurement plan as part of their ESP?

6 A. To justify a rate increase, yes, sir.

7 Q. And what is an integrated procurement
8 plan?

9 A. It is a plan that starts out by looking
10 at currently incurred costs, reviews your obligations
11 under various demand and load shape scenarios,
12 constructs a variety of alternative portfolios, and
13 models the results of those portfolio options during
14 the term of your plan, presents the results of that
15 analysis, and makes a recommendation on your proposed
16 approach based on the results of your planning
17 analysis.

18 Q. And that plan would have been the subject
19 of review through cross-examination and otherwise in

20 this proceeding?

21 A. Yes, sir.

22 Q. Now, just jumping around a little bit,

23 and I'm actually at page 4 of your testimony where,

24 as I understand, you're just sort of summarizing what

25 you're going to discuss.

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1 A. Yes, these bullet points are summaries.

2 Q. Right. Lines 8 through 14 you're talking
3 about gridSMART, and I was wondering if you can take
4 a look at that and then, if you would, also look at
5 page 23 of your testimony, lines 10 through -- 10 and
6 11.

7 A. Yes.

8 Q. Just hopefully you can clarify something
9 for me. Back on page 4 you say, "The proposal for
10 enhancing distribution automation and 'smart grid'
11 technologies should be approved." And back on page
12 23 you indicate that: Distribution automation and
13 smart grid portions of the gridSMART proposal are
14 adequately supported by the application.

15 What are the smart grid technologies or
16 smart grid portions that you're talking about?

17 A. I am talking about the distinguishing
18 expenditures and implications and results that the
19 company itself identified in its response to staff

20 set 5-5, the data response. The distribution
21 automation portion of the entire smart grid proposal
22 it is my intent to suggest should receive a favorable
23 approach in this proceeding as opposed to the
24 individual metering and the HAN, H-A-N, home area
25 network aspects of your proposal.

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1 Q. Can you give me some examples of what you
2 mean when you talk about the smart grid technologies?

3 A. Sure. The installation of the advanced
4 communication devices and the communications systems
5 to support those devices that will be installed on
6 the transmission and the distribution system and in
7 the substations. And I don't have the dollar amount
8 in front of me, but the company distinguished that
9 aspect of its proposal in this data response that I
10 cited.

11 Q. And what you've just described is
12 something different than distribution automation?

13 A. No; that is the distribution automation
14 portion that I am suggesting should be favorably
15 viewed in this proceeding.

16 Q. Okay.

17 A. And I interpret that -- excuse me. I
18 interpret the distribution automation portion of this
19 as the smart grid technologies that I'm trying to

20 distinguish from the individual customer metering,
21 the meter data management system, the billing and IT
22 changes, and the home area network portion of your
23 proposal.

24 Q. All right. On page 4 when you talk about
25 distribution automation and smart grid technologies,

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1 and on page 23 when you talk about distribution
2 automation and smart grid portions of the gridSMART
3 proposal, are you saying it's not really an "and,"
4 It's one and the same?

5 A. The sentence on -- which page are you
6 quoting?

7 Q. Well, first on page 4.

8 A. Right, but --

9 Q. Line 14, 13 and 14.

10 A. The sentence on page 23 is a more
11 accurate statement, and it is possible that in my
12 summary on page 4 that I didn't include the portion
13 of the smart grid technology language that would have
14 made this a bit clearer.

15 Q. Okay. Well, let's look at page 23 if
16 that's more accurate. I'm still at line 10, confused
17 by the word "and" because I thought that you've
18 answered me this morning that the smart grid portion
19 you're talking about is the distribution automation.

20 A. It is. And I only used the word "smart
21 grid" because you have encompassed your entire
22 proposal as something called smart grid, and you've
23 got various pieces of it that you have presented, and
24 I was just trying to refer to the language that you
25 had used. But I do want to make clear, my proposal

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1 is directly related to the distribution automation
2 portion of your entire proposal.

3 Q. Okay. Thank you.

4 A. Yes.

5 Q. Back now on page 4, and I'll try not to
6 flip around too much, on line 20 you talk about
7 "costs and benefits for residential customers for
8 each Ohio utility." Do you mean for the two AEP-Ohio
9 utilities?

10 A. Oh, yes.

11 Q. Okay. On page 7 of your testimony you
12 indicate, talking about various demand-side
13 management programs, that at line 6 the company
14 didn't provide any cost-benefit analysis for these
15 initial programs. Do you see that?

16 A. Yes, I do.

17 Q. I certainly don't expect you to have
18 memorized the numbering of various -- a lot of
19 discovery that the company sent out. I'd like to

20 refer to company's request for production of
21 documents No. 91 from the Office of Consumers'
22 Counsel.

23 MR. RESNIK: And if I could approach the
24 witness just to let her take a look at this and see
25 if she has seen this.

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1 THE WITNESS: Yes.

2 EXAMINER SEE: Okay.

3 Q. Take what time you want to look at it.

4 My ultimate question is going to be, have you seen

5 this before?

6 A. I saw it subsequent to the preparation of

7 my testimony. I do not know, it doesn't say here

8 what date this was submitted. Do you have a date for

9 me?

10 Q. Not offhand I don't.

11 A. Okay. But I will say that after my

12 testimony was submitted I became aware of the

13 existence of this document, and I can give you a

14 comment on it, but maybe you don't want me to do

15 that. But I have seen it now.

16 Q. Well, okay, I appreciate that answer.

17 A. Right. Do you want it back?

18 Q. Please.

19 A. Okay.

20 Q. Now, I gather that your point is that you
21 believe that this comment you have at page 7, line 6,
22 were you suggesting that some analysis, which you may
23 or may not agree is sufficient in this response to
24 the discovery, needed to be provided in discovery, or
25 was it your thought that it should have been made as

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1 part of the filing in this case?

2 A. I think that there needed to be an actual
3 plan that would build up the appropriate
4 recommendation for spending based on that type of
5 analysis, as well as bill impact analysis, customer
6 participation ratios among various classes, and a
7 description of what programs were evaluated but not
8 proposed and why.

9 And so there was a variety of fact-based
10 information that was missing from this filing, and
11 that document was part of it, but not all of it.

12 Q. Okay. And if all of that was in there,
13 in the filing, all the things you had been looking
14 for, it would be your view that those would have
15 needed to have been reviewed in the context of
16 approving or disapproving the company's electric
17 security plan?

18 A. It is possible that it may have been
19 proposed, that this information could then be

20 referred to a collaborative for further
21 implementation or description or evaluation or
22 consideration, so it's not that I felt that it all
23 had to be litigated in this case.

24 But the lack of any information of the
25 kind I described made it very difficult for me to

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1 recommend that the dollar amount of spending that the
2 company recommended in this proceeding could be
3 approved at this time.

4 Q. You've been involved in a lot of
5 regulatory proceedings, I assume.

6 A. Yes, I think that's fair.

7 Q. I figured it would be.

8 Would it be your expectation if the
9 company filed all the information that you're talking
10 about as part of its ESP filing, that it would be the
11 focus of positions by intervenors, cross-examination,
12 and the like, just be another issue to be resolved at
13 this time as part of the ESP?

14 A. It certainly could have proceeded that
15 way, yes.

16 Q. Okay. So far, just keeping track, we
17 should have, in your view, submitted an integrated
18 procurement plan and now also additional detail
19 concerning cost/benefit and other analyses suggesting

20 these initial DSM programs, right?

21 A. Yes.

22 Q. Okay. On page 7 still, line 16, there is

23 a phrase that I was hoping you could explain, you

24 say, "There is no net-back of the proceeds." What do

25 you mean by "net-back"?

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1 A. Well, if there had been any revenues, net
2 revenues, obtained from these activities, they should
3 be clearly accounted for as to the benefit of the
4 customers.

5 MR. RESNIK: Can I have that answer read
6 back, please?

7 EXAMINER SEE: Yes.

8 (Record read.)

9 Q. Now, are you aware that some of the
10 generating assets that have been identified by
11 Columbus Southern Power in its request for authority
12 to sell or transfer have never been included in rate
13 base in a company rate proceeding?

14 A. I am not aware of the details of the
15 nature you just described. I did not do a detailed
16 analysis of your corporate separation plan. This is
17 a description of your filing. I did not make a
18 recommendation on this matter in my testimony.

19 Q. Okay. Well, you make an observation,

20 though.

21 A. That's correct.

22 Q. Correct. So in the context of that

23 observation, I'm just wondering if you would assume

24 with me for a moment that some of the units that the

25 company -- that Columbus Southern Power is talking

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1 about as far as asking for authority to sell or
2 transfer have never been included in rate base for
3 their rates. If such a sale or transfer did occur,
4 do you think that there should still be a net-back of
5 proceeds to customers?

6 A. I do not know enough to form an opinion
7 about that, I'm sorry.

8 Q. Okay. Thank you.

9 Is it your view that the company should
10 have addressed each of the state policies enumerated
11 in 4928.02 of the Ohio Revised Code as part of its
12 filing?

13 A. Yes.

14 Q. Have you reviewed those policies?

15 A. Yes.

16 Q. Do you have -- without going back and
17 rereading them, just whether you have any
18 recollection as to whether -- your reaction in
19 reading those policies, that some of them were

20 contradictory with one another.

21 A. I can fully understand that taken to some
22 extremes there are potentials for tension, at the
23 very least, I will agree with you, among some of
24 these policies.

25 Q. Thank you.

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1 A. The issue is how you have resolved those
2 tensions in your filing, and that is what is missing
3 here.

4 Q. Now, going back to this question of
5 looking at whether the adjustments that the company
6 was proposing to their current standard service offer
7 rates -- and I think you said that the adjustments in
8 your view needed to be cost based. Do you recall
9 that testimony?

10 A. Yes.

11 Q. Okay. Are you also familiar with the
12 concept -- I won't call it a test, but maybe it will
13 avoid controversy if we just call it a concept --
14 that the Commission is to examine whether the ESP in
15 the aggregate is more favorable than the expected
16 results from a market rate option?

17 A. Yes, I'm aware of that comparison.

18 Q. So I'm curious, if the Commission
19 determined that despite the fact that some of the

20 adjustments were not cost based but nonetheless in
21 the aggregate the ESP was more favorable than what
22 would be expected from a market rate offer, what
23 would your recommendation to the Commission be as far
24 as approving or disapproving the electric security
25 plan?

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1 A. My recommendation would be that the
2 Commission not approve an ESP simply because a
3 witness on the record was able to find that that
4 price was lower than some hypothetical market based
5 option. That suggests that the utility would have
6 every incentive to push up their proposed generation
7 supply prices as close as they could get with perhaps
8 unreasonable profits, given their actual costs,
9 simply based on the finding that some wholesale
10 market price might be higher than the one they're
11 recommending.

12 Q. Are you aware that Senate Bill 221
13 contains an after-the-fact review based on
14 significantly excessive earnings or what perhaps you
15 were characterizing as unreasonable profits?

16 A. I'm aware of that provision existing,
17 yes. After the fact.

18 Q. After the fact.

19 A. Yes.

20 Q. Now, on page 8, line 16, this still is
21 talking about the state policies, you talk about a
22 Commission's "rule that requires utilities and their
23 proposals to take into account the impact of the
24 proposal on 'at risk' populations."

25 A. Yes.

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1 Q. I was wondering what rule you're
2 referring to?

3 A. The final version of the Commission's
4 rule that they have adopted.

5 Q. Do you know if those rules are in effect?

6 A. I understand you have a legislative
7 process that would not allow the rules to be in final
8 form and effect, but I'm referring here to the
9 Commission's order.

10 Q. Okay.

11 A. Yes.

12 Q. And how do you define "at-risk
13 populations"?

14 A. I am trying to remember if the final
15 Commission order in this matter defined this term,
16 and if it did, I want to defer to that, and so I
17 can't remember if it did.

18 But clearly it includes low-income
19 customers, elderly, disabled, those who are not able

20 to, you know, handle the burden of electricity
21 service in relationship to their income or other
22 factors that have an impact on their ability to
23 afford reasonable service.

24 My concern is that the utility has not
25 defined that term or looked at it in the context of

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1 its own proposal either, so . . .

2 Q. From your answer would I be correct in
3 saying that your definition of "at-risk populations"
4 is essentially a financially related definition?

5 A. Financially not merely in the sense of
6 what the income is of the customer, but the burden of
7 their essential service in relationship to their
8 household income. So that you could have people who
9 were not, quote/unquote, low income but who had
10 special needs because of the need for breathizers or
11 oxygen equipment that required them to use far more
12 than average electricity and that imposed a special
13 burden on their ability to afford service, even if
14 they're not, quote, low income.

15 Q. Well, I may not have been at the
16 beginning of this hearing, but I think at this point
17 I'm approaching the elderly. So let me ask you as
18 someone approaching the elderly --

19 A. Do you have your card yet?

20 Q. I've had my card for ten years, thank

21 you.

22 A. Very good.

23 Q. Plus my Buckeye card from the state of

24 Ohio.

25 A. I won't tell you where mine's from.

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1 Q. In any event, I mean, is it simply enough
2 that you're elderly or --

3 A. No.

4 Q. -- do we have to look at the financial
5 status of the elderly customer?

6 A. I think you need to look at something
7 other than merely age.

8 Q. I would certainly agree with that. And
9 so how does that happen? I mean, is the company
10 supposed to -- when it considers at-risk populations,
11 is it supposed to figure out some special plan for
12 the elderly and in that sense just the elderly who
13 meet some threshold of financial difficulty?

14 A. I appreciate the question you're asking
15 me. I think we're talking about the necessity to not
16 just propose a special program, although you may
17 choose to do that, but an analysis of bill impacts
18 and quality of service on a wide variety of
19 residential customers under certain circumstances.

20 And you may end up with respect to those
21 who have oxygen equipment, for example, suggesting
22 that they be included in a special low-income
23 program, even though they are not technically
24 low-income by the 150 percent of poverty level.
25 I am not saying you must do these things.

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1 I'm saying this is the kind of analysis that you
2 might undertake, your bill impact analysis of your
3 15 percent rate increases, for example.

4 Q. Whatever rate is ultimately determined in
5 this case, are you suggesting there should be sort of
6 a basic rate and then something lower than that for
7 whoever is deemed to be at risk?

8 A. No, I am not suggesting a particular
9 program. I'm suggesting an approach to analyze the
10 statutory obligation, and I do not know the results
11 of what that analysis would show. But it is the kind
12 of thinking that needed to be done or revealed to
13 have been done by the company. I do not have a
14 program in mind for you.

15 Q. And are you aware that the company has
16 suggested as part of its ESP a Partnership with Ohio
17 fund, a portion of which would go to help fund
18 low-income programs in the state of Ohio --

19 A. Yes.

20 Q. -- in those service territories.

21 A. Yes, I am aware of that proposal.

22 Q. Does that start to scratch the itch of

23 the at-risk issue that you raise?

24 A. I think it is a part of that discussion,

25 absolutely, without question, yes.

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1 Q. Okay. Now, at page 9, line 12, actually
2 beginning at the end of line 11 you observe that the
3 companies did not submit an analysis of their
4 generation supply options, so let me stop at that
5 point. The analysis of generation supply options, is
6 that the same thing as the integrated procurement
7 plan?

8 A. Yes, sir.

9 Q. And then you go on and say "or
10 procurement plans for fuel or purchased power."
11 That's something different?

12 A. A resource plan would look at capacity
13 and energy and fuel and provide for that in various
14 mixes and approaches in its total recommendation.

15 Q. You said a resource plan. Are you
16 referring to an integrated resource plan?

17 A. Resource in the broadest sense of the
18 word, yes, the resources available to you to provide
19 generation supply.

20 Q. And so what did you have in mind when you
21 talk about submitting a procurement plan for fuel and
22 purchased power?

23 A. Well, there is nothing in the record here
24 that describes how the company goes about purchasing
25 its fuel, what kind of long-term, short-term,

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1 medium-term contracts, what policies govern the
2 acquisition of these fuels, what policies are in
3 effect, what risk factors you have taken into
4 account, how much hedging you do. All of that is
5 missing here, and that would be reflected in a fuel
6 procurement plan.

7 Q. And based on your experience in
8 regulatory proceedings, would those be the kinds of
9 issues that would typically be reviewed in a fuel
10 adjustment clause audit proceeding?

11 A. Well, typically what happens in an audit
12 proceeding is that you're doing that after the fact.
13 A procurement plan is submitted prior to a planning
14 period and it describes what you are going to do and
15 why you're going to do it. And then that plan is
16 then approved. You implement the plan. The audit is
17 to determine how you've implemented the plan that's
18 been approved.

19 Q. And so the procurement of fuel, for

20 instance, let's say the company came into this
21 proceeding and said: "We're going to have 70 percent
22 long-term and 30 percent spot market reliance." Are
23 you suggesting that it would then be up to the
24 Commission to say: "We don't like those percentages.
25 We're ordering you to do 60 percent long-term and

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1 40 percent spot"?

2 A. Well, it is the company that has come
3 forward with the fuel adjustment clause and given us
4 numbers here about the rate increases that will occur
5 as a result of that, and so to justify that my
6 reaction is you need to tell us how you're buying
7 fuel and with what policy and what type of
8 procurement planning has been done in order to get an
9 approval for a three-year plan to collect these kinds
10 of costs.

11 Q. Are you talking about approval of the
12 fuel adjustment clause or approval of the plan
13 itself?

14 A. In both cases I am talking about the
15 overall plan, which is the generation supply non-FAC
16 portion of your proposal, and your FAC portion of
17 your proposal.

18 Q. No, what I was asking is what is it that
19 you would think, just focusing on the context of

20 fuel, whether it's your recommendation that the
21 Commission should have to approve not just the fuel
22 adjustment clause as a concept but also the fuel
23 procurement plan that the company, in your world,
24 would have presented.

25 A. That is correct, sir.

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1 Q. Both.

2 A. Yes, sir.

3 Q. Okay. So as far as the actual
4 procurement and how that was implemented by the
5 company, that would also get reviewed again in the
6 context of a fuel adjustment clause proceeding; is
7 that right?

8 A. I do not know the details as to how your
9 fuel adjustment clause proceedings take place, but
10 typically the price is approved on like quarterly,
11 monthly, annually. You know, each state is different
12 in that regard, and then there are occasional
13 backward-looking audits that occur with respect to
14 the prudence of the purchases that led up to those
15 prices.

16 Q. Okay.

17 A. But that's after the fact.

18 Q. So we're going to do an integrated
19 procurement plan in this case, or in your view we

20 should have. We should have included for litigation
21 in this proceeding the various cost-benefit tests
22 that people might want to discuss in the context of
23 DSM programs, and now we also should have done a fuel
24 procurement review as part of this case; is that
25 right?

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1 A. Yes, sir.

2 Q. Now, I'd like you to take a look for a
3 moment on page 22, lines 9 and 10. This is in the
4 context of gridSMART.

5 A. Yeah.

6 Q. Do you see where it says there that:
7 "There are too many unanswered questions and
8 insufficient time in this proceeding to fully explore
9 AEP's stated costs and benefits"?

10 A. Yes.

11 Q. In your view is there sufficient time in
12 this proceeding to conduct an integrated procurement
13 plan review, a DSM cost-benefit review, a fuel
14 procurement review, on top of everything else that is
15 being reviewed in this proceeding?

16 A. Yes. The ones you just named go to the
17 heart of what this case is about. The gridSMART
18 proposal is not necessary to approve the ESP; it can
19 be legitimately put off into a different proceeding.

20 Q. Well, let's talk about the DSM. If the
21 company is going to have an energy efficiency
22 rider -- is that your understanding?

23 A. That's your proposal, yes.

24 Q. Okay. -- would it be your expectation
25 that at that point the Commission would look at the

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1 dollars and see whether those were reasonably
2 incurred and should be recoverable? Is it necessary
3 to do it up front?

4 A. Yes, it is necessary to do it up front.

5 Q. Even though there's an opportunity for
6 doing it after the fact.

7 A. Yes. They are two entirely different
8 approaches and proceedings and results.

9 Q. I think I would agree with all that.

10 Okay. At page 10, lines 3 through 5,
11 you're talking about how the company should be
12 evaluating its ESP proposal, and you say that an
13 analysis should be conducted to assure generation
14 supply service to customer classes. Do you see that?

15 A. Yes.

16 Q. Then you say, "The analysis may and
17 should vary by customer class," and I was hoping you
18 could explain that for me.

19 A. In almost every state of which I'm aware,

20 the default or standard offer service is provided to
21 residential and small commercial customers with a
22 different set of policies and procurement planning
23 compared to those provided to larger commercial and
24 industrial customers.

25 Q. Are there any other aspects of the

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1 company's ESP proposal that you believe should be
2 analyzed on a customer class basis, maybe just
3 focusing on the issues that you touch on in your
4 testimony?

5 A. Well, the migration risk surely differs.
6 The need for rate stability might differ. I'm not
7 saying it should. I'm just saying it might. The
8 kinds of purchases you might make in light of
9 migration risk and rate structure and need for
10 stability might differ among the two groups, widely
11 considered two groups, not necessarily implying that
12 there are only two groups.

13 Q. Are you talking about residential and
14 nonresidential?

15 A. Exactly. Although in most states the
16 small commercial is included with the residential in
17 this analysis, so that a single price for generation
18 supply for all customers is typically not the
19 approach to standard offer service in other

20 restructuring states.

21 Q. As far as the risk of customer migration,

22 you talk about that in the context of residential

23 customers. You say that it's very small except

24 through governmental aggregation. Are you familiar

25 with the extent to which governmental aggregation has

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1 been a vehicle for residential migration in the state

2 of Ohio?

3 A. I am familiar with that in the northern

4 part of the state, yes.

5 Q. And how would you quantify or

6 characterize the extent of migration in that northern

7 part of the state?

8 A. Well, I know that it is fairly extensive

9 in the sense that it was done quite early on in the

10 restructuring. It was done under a contract that

11 provided some real benefits to the resulting

12 aggregated class. It's my understanding that that

13 benefit is almost entirely gone based on current rate

14 structure.

15 But the point is the context within which

16 AEP operates does not indicate any indication of

17 imminent formation of widespread customer aggregation

18 and that is the kind of analysis that one would have

19 expected to have occurred in this case.

20 Q. And why do you think that that's the case
21 as far as the different risk of migration in the AEP
22 service territories?

23 A. I would hesitate to say that I know why,
24 but some of the more obvious generic reasons might be
25 the political interest and will in going through the

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1 process and becoming municipal aggregated groups, and
2 then looking at the potential benefit in the way of
3 lower prices that might occur, and presumably some
4 folks have looked at that and perhaps not seen an
5 advantage to doing it.

6 Q. Okay. Do you have any reason to think
7 that the political will in the communities that we
8 serve is any different than the political will in the
9 communities that the FirstEnergy companies serve up
10 north?

11 A. No, not at all.

12 Q. So that sort of leaves us with AEP-Ohio's
13 prices are such that you're saying that it's not
14 attractive.

15 A. I am saying that those are generic
16 hypothetical reasons. I do not know any of the
17 specific reasons or evaluations that may have
18 occurred by folks in your service territory.

19 Q. But based on your familiarity with

20 residential customer migration and governmental
21 aggregation concepts, can you think of other reasons
22 that might exist for the differential in the amount
23 of government aggregation in the AEP-Ohio service
24 territory versus the FirstEnergy companies' service
25 territories?

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1 A. Offhand, no, I do not know of any.

2 Q. Okay. Now, when you were stating your
3 opinions in your testimony concerning risk of
4 residential migration, did you make any assumptions
5 about forward market prices for the three-year term
6 of the electric security plan?

7 A. I did not conduct such an analysis, no,
8 sir.

9 Q. And based on your understanding of Senate
10 Bill 221, is it your understanding that residential
11 customers are legally entitled to switch?

12 A. Yes. They are in every restructuring
13 state legally entitled to switch.

14 Q. Still on page 10, line 19 and 20, you
15 refer to "identifying the least cost and most cost
16 effective means." Is there a difference there
17 between -- that you're intending between something
18 being least cost and something else being most
19 cost-effective?

20 A. Well, I think I was getting at the issue
21 that you probably raised with your question about the
22 renewable and energy efficiency mandates which will
23 require the additional costs to be met through
24 increased customer prices, at least in the short run,
25 and by that I'm talking about the least cost and most

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1 cost effective way to meet these mandates and achieve
2 your generation supply analysis.

3 Q. Just above that on page 10 you talk about
4 "cost-competitive renewable energy supplies equal to
5 or exceeding the requirements of Senate Bill 221."
6 And if renewables are more costly than other
7 alternatives, are you suggesting that the company
8 should exceed the renewable requirements in Senate
9 Bill 221?

10 A. No. I said "cost-competitive." That is,
11 you meet the requirement of SB 221 and you may find
12 even more renewables available to you at a
13 competitive or even lower cost-effective price
14 compared to your options.

15 Q. Okay.

16 A. Yes.

17 Q. The company's options would include their
18 embedded cost of generation.

19 A. Yes.

20 Q. Okay.

21 A. Or, your need for new capacity, which you

22 claim to have built into here, or power purchase

23 agreements.

24 Q. Are you intending to state any opinion as

25 to whether there is, in fact, cost-competitive

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1 renewable energy supplies that should be procured
2 above the statutory requirements?

3 A. No. I have not done that analysis.

4 Q. Okay. Now, on page 11, and this gets
5 back to the fuel procurement plan, beginning at line
6 3 and you talk about the proposed FAC and you say
7 that: There's a lack of any portfolio analysis and
8 procurement planning information that would result in
9 delegating to AEP complete discretion in planning and
10 acquisition, and you go on.

11 I'm curious whether you think that the
12 company's discretion to manage its business should be
13 controlled by the Commission?

14 A. Well, the short answer to that is yes,
15 you are regulated by the Commission. The fuel
16 adjustment clause is a regulated mechanism for you to
17 recover your costs. The nature of those costs are
18 approved and reflected in a tariff. That is a
19 regulated price and should be the subject of

20 oversight and appropriate control by the Commission.

21 Q. Okay. Going back to my earlier example

22 about the portfolio between long-term and spot-market

23 procurement, in your view it would be appropriate for

24 the Commission as an -- on an up-front basis to

25 direct the company as to what the appropriate long

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1 term versus spot split would be; is that right?

2 A. Yes. And in many states the utility
3 submits a procurement plan that is the subject of an
4 analysis by the Commission, potential public input
5 and reaction by approval of or otherwise agreement by
6 the Commission. And there are aspects to those plans
7 that are occasionally litigated, too long-term, too
8 short-term, not enough analysis, risk modeling not
9 done properly. All those things are the subject of
10 Commission review in many states.

11 Q. On an up-front basis --

12 A. Absolutely.

13 Q. -- as opposed to after the fact.

14 A. Absolutely, sir.

15 Q. And that's what you're suggesting the
16 Commission should do in the context of the ESP.

17 A. Yes.

18 Q. Okay. Now, still on page 11 you indicate
19 that the purpose of the standard service offer

20 "should be to ensure stable, reasonable, and
21 affordable rates." I wanted to focus on the word
22 "affordable." How does one determine that?
23 A. An analysis of all of the policies of
24 SB 221 that we talked about earlier, the ones that
25 are not all able to be met without some discussion of

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1 tension, would, in the last analysis, require you to
2 do some thinking about the bill impact analysis of
3 your proposal. I mean, I would think that that would
4 be the bare minimum on a wide variety of customer
5 groupings, low usage, medium usage, high usage, and
6 income evaluation, all of which may not be in your
7 computer but which is certainly available from state
8 and federal resources, and to talk about the impact
9 of electricity on a variety of, you know, of
10 scenarios, of different customer groupings and
11 impacts.

12 So that these are words that are quite
13 similar to the statutory obligation "just and
14 reasonable." There is no single answer that I can
15 provide you. It is the type of analysis that I am
16 suggesting needs to be done here to allow us to come
17 to some grips with the pros and cons of your proposal
18 on a wide variety of customer situations in your
19 service territory.

20 Q. So what is your recommendation if, in
21 fact, all the components that the company had
22 suggested as adjustments to the current standard
23 service offer were, in your opinion, cost based, they
24 passed your muster, and customers came forward and
25 said "I can't afford it." I mean, where, talking

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1 about tensions, where is the tension between rates
2 that are determined by the Commission to be justified
3 and having customers and, quite frankly, not just
4 residential but commercial and industrial customers
5 who say "I can't afford it"?

6 A. That is an issue that is much bigger than
7 the one that I can address for you here in this
8 testimony. It is an issue that goes to the economic
9 situation that many cities and towns and industries
10 in Ohio, and elsewhere, are facing. It is that kind
11 of analysis that has led to dramatic shifts in the
12 manufacturing base in this state and in people's
13 ability to find small businesses to create jobs here,
14 and that is a big picture political problem that I
15 cannot address here.

16 What I have addressed here is the lack of
17 analysis of your proposed rate increases in light of
18 these criteria, and that is about all I can do for
19 you in the context of this case.

20 Q. Well, I'm just trying to figure out what
21 sort of analysis you would suggest should have been
22 submitted to address the question of affordable.

23 A. Well, what I'm doing here is suggesting
24 that your proposed non-FAC rate increases, which by
25 your own admission had no cost-based basis, would be

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1 extraordinarily difficult to justify in light of the
2 need to make sure that we had reasonable and
3 affordable rates.

4 You posed a different question, what if
5 it turned out they were all cost based and the
6 Commission did approve them?

7 Q. Right.

8 A. And so what do we do then. And that's a
9 different issue. It's a bigger picture political
10 problem about what we do about the price of
11 electricity in light of the current economic
12 situation.

13 Q. And assume for the moment that your
14 premise is incorrect, that not every adjustment to
15 the standard service offer has to be cost based, and
16 the Commission were to agree with that
17 interpretation. How does the question of
18 affordability relate to proposed adjustments --
19 adjustments proposed by the company?

20 A. Well, again, that might be a legal
21 matter. Maybe you will be sued because of that
22 decision. I do not know. But certainly it suggests
23 that there might be more attention paid to expanding
24 those available subsidized or discounted rates.

25 But again, all of those costs are paid by

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1 other customers so there is a fine balance to be made
2 here that the pros and cons of which were not
3 reflected in the filing, and that was about the limit
4 of what I could do with the information I had
5 available here.

6 Q. Okay. On page 12 of your testimony,
7 lines 3 and 4 and again down on line 12 you talk
8 about the company proposing to require customers to
9 pay for new capacity investments, and I was wondering
10 what you were referring to.

11 A. Well, let's see here. I don't have a
12 footnote here, but it was my recollection that
13 you had proposed the potential for new capacity
14 purchases as part of your generation supply rate
15 increases.

16 Q. Okay. So you're talking about the
17 purchased power proposal?

18 A. Yes.

19 Q. All right. And you characterize that as

20 an investment; is that right?

21 A. Yes. In the broadest sense of the word.

22 It was an investment in your portfolio of generation

23 supply resources, yes, not a -- not a purchase of

24 plant investment.

25 Q. And then at the bottom of page 12 you've

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1 got a mock-up of a proposed rule that the Commission
2 is at this time considering, or at least it's pending
3 before the Commission; is that right?

4 A. Yes.

5 Q. And in the, I guess, line 19 there's a
6 word that says "assure." Do you see that, the last
7 word there on line 19 on page 12?

8 A. Yes.

9 Q. So the result of this rule, if it were
10 adopted, is that the utility would have to assure
11 these items that you go on and list?

12 A. Well, the utility should propose a plan
13 in which it proposes that it -- in which its
14 recommendation is that it is more likely than not
15 that these objectives will be met.

16 Q. Okay.

17 A. And I, upon thinking about it, that word
18 may not be exactly the perfect word, but that's my
19 understanding of what the proposal was.

20 Q. Did you have any role in putting this

21 proposal together?

22 A. I was involved in conference calls in

23 which these words were discussed, but I was not

24 responsible for the written product.

25 Q. Okay. So I'm just trying to figure out

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1 your understanding of it --

2 A. Yes.

3 Q. -- and beginning at line 22 you say that

4 "the plan shall reflect a full and fair

5 consideration" of certain things. Do you know what a

6 "full and fair consideration" is?

7 A. A "full" meaning complete and

8 comprehensive, and "fair" meaning a proper,

9 respectable modeling and analysis.

10 Q. And to the extent that those are somewhat

11 subjective, would you expect there to be differences

12 of opinion as to whether the consideration was full

13 and whether it was fair?

14 A. That is -- yes, I do. And that is why

15 you submit the plan for comment and review. Yes.

16 Q. Okay. Then it goes on to say at the top

17 of 13, line 1, "and shall include but not be limited

18 to the consideration of resources, contracts, and

19 facilities that, taken together, will meet the

20 utility's projected demand and energy requirements in
21 the most cost-effective manner possible," and it goes
22 on. Okay?

23 A. Yeah.

24 Q. So if this rule were adopted, there would
25 be a requirement to include consideration of these

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1 items, right?

2 A. Yes.

3 Q. But those wouldn't be the only items that
4 might be included because it says "but not be limited
5 to"; is that right?

6 A. Well, sure. Making sure that there was
7 no intent to prohibit the utility from considering
8 other options that may not have been the more obvious
9 ones, but listing the more obvious ones.

10 Q. Right. That would be your common
11 understanding of a phrase that would say "but not
12 limited to" or "without limitation."

13 A. Yes.

14 Q. Okay. On page 14, line 6, you talk about
15 "reports written in plain language." What is "plain
16 language"?

17 A. That's a technical term.

18 Q. I thought there was an oxymoron there
19 somewhere.

20 A. Yes, indeed. Well, I don't know what was
21 in the head of the legislators by using that word,
22 but my interpretation of that as one who has dealt
23 with consumer-oriented utility populations for 20
24 years is that it is written with nontechnical
25 language, in active voice, and geared toward 8th or

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1 9th or 10th grade educational level. But that's
2 my interpretation of that term, and I don't know what
3 was meant by it other than the obvious.

4 Q. Okay. At line 9 on page 14 you're
5 talking about or criticizing the company's proposal
6 because there was not an analysis of alternatives
7 considered.

8 A. This is the distribution reliability --

9 Q. Yes.

10 A. -- proposals.

11 Q. I'm sorry.

12 A. Yes.

13 Q. In the context of controlling trees or
14 brush in the right-of-way or outside the
15 right-of-way, are there alternatives to that other
16 than trimming trees and clearing brush or taking down
17 trees?

18 A. There are a tremendous number of
19 alternatives as to how you trim the trees, how often

20 you do it, how far back you trim them, what kinds
21 of -- what you do in right-of-way, how you educate
22 people about the need for tree trimming, how you
23 interact with your customers on trees located on
24 private land that impact the distribution lines. I
25 mean, there are many, many rules and many, many cases

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1 written about how vegetation management is done by
2 utilities.

3 Q. Okay. And that's the kind of analysis
4 you think should have been submitted in this
5 proceeding.

6 A. Well, there was nothing submitted in this
7 proceeding about what exactly you were doing, what
8 plan you were operating under. The statute uses the
9 word "plan." I'm trying to describe the minimum
10 context of an improvement plan would start from the
11 bottom up, say what your current situation is,
12 identify where improvement is needed, talk about the
13 variety of investments that could be done, whether
14 it's circuits, whether it's realigning circuits,
15 whether it's vegetation management, whether it's
16 upgrading your transformers.

17 I mean, there's a wide variety of options
18 to improving reliability, and we don't know what
19 options were considered and what was embedded in the

20 cost numbers that you gave us here.

21 Q. Do you think -- I'm just remembering one

22 of the items that you mentioned when you talked about

23 what all could be in an analysis, whether the company

24 should have come before the Commission to explain how

25 it proposed trimming trees so that the Commission

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1 could take testimony on that and tell the company how
2 to trim the trees.

3 A. The Commission is not, I'm sure,
4 interested in telling you how to trim trees. What
5 the Commission would naturally be interested in is a
6 plan, and in that plan would be a variety of specific
7 proposals that you are going to do differently with
8 the new moneys you are proposing to obtain from
9 customers.

10 And you would have to justify what you
11 are doing with that money and showing how it is a
12 best practice, how it improved your current
13 vegetation management, how it was incremental to
14 costs already reflected in rates, and how just --
15 perhaps what you should be doing, for example, is
16 redirecting current costs into a different way.

17 But none of that could be evaluated here.
18 It was just a suggestion that more money would be
19 needed and that reliability would somehow magically

20 improve as a result of spending these moneys.

21 Q. Have you reviewed Mr. Boyd's testimony?

22 A. Say it again.

23 Q. Did you review Mr. Boyd's testimony?

24 A. And that was your witness?

25 Q. Yes.

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1 A. Yes, I did.

2 Q. And do you recall any testimony
3 concerning inventorying trees to determine growth
4 rates to help set trimming patterns for the company?

5 A. Yes.

6 Q. Okay. Do you recall any other testimony
7 by Mr. Boyd where he was describing the differences
8 between the company's current vegetation management
9 program and what was proposed under the enhanced
10 program?

11 A. I remember reviewing that, yes, sir.

12 Q. Okay. Thank you.

13 Now, I think the sentence at the bottom
14 of page 14 is still in the record, your statement
15 that the company's "performance is below average as
16 reflected in the IEEE surveys."

17 A. That is my sentence, yes.

18 Q. And you refer there to the company's
19 response to 3-36; is that right?

20 A. Yes.

21 MR. RESNIK: Your Honor, if I could have
22 this document marked as Companies' Exhibit, and I
23 believe the next one up is 13.

24 EXAMINER SEE: Yes, it is. The exhibit
25 will be so marked.

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1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 Q. Ms. Alexander, is this the -- what's been
3 marked as Companies' Exhibit 13, is this the response
4 that you were referring to?

5 A. Yes.

6 Q. And the company's response made some
7 observations -- besides its objection, made some
8 observations about the usefulness of this
9 information; is that right?

10 A. Yes.

11 Q. And your reference in the testimony to
12 the result and citing this response doesn't
13 incorporate any of the cautionary provisions, if you
14 will, that were in the company's response, do they?

15 A. No.

16 Q. I'm curious why that was since you're
17 trying to give an objective view to the Commission.

18 A. Well, I am not asking the Commission to
19 make a finding with respect to your reliability

20 service with my testimony. What I'm suggesting here
21 and trying to lead up to is to provide a variety of
22 reasons why the proposal you made should include
23 specific reliability improvement objectives and
24 penalties for the failure to meet those objectives.

25 And so I included information from a

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1 number of resources to justify my concern about your
2 lack of attention to that matter. I have no problem
3 with the statements you're making in your data
4 response, but the fact is that once you calculate, as
5 you did, your indices using the IEEE -- I-E-E-E --
6 survey method, which is by the way the Commission's
7 rules recommend be used, you get the results shown
8 here. So this is another indication of a potential
9 issue that should be addressed in the context of your
10 distribution improvement plan.

11 Q. Well, do you agree with the company that
12 these survey results are not indicative of
13 comparative performance among surveyed companies?

14 A. No, I don't agree with that. What I
15 would agree with is that it is not the only basis for
16 any conclusion that should be reached about a
17 company's reliability.

18 Q. And I'm just focusing on this IEEE
19 survey.

20 A. Right.

21 Q. So you're saying that in your mind it is

22 fair to compare results for a company, let's say,

23 that serves -- has a service territory with a large

24 dense forestry concentration in a hilly area in

25 comparison to a company that basically is flat and

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1 doesn't have much in the way of trees mingling among
2 its lines.

3 A. I indicated that this is totally
4 insufficient by itself but it is indicative of
5 comparative performance. What you're saying is this
6 is not sufficient, that there are other variables,
7 and I would agree with you about that.

8 Q. All I'm focusing on is your sentence
9 which I think is insufficient by itself.

10 A. Oh, all right.

11 Q. I'm trying to figure out -- you presented
12 this survey result as having some value for the
13 Commission's consideration. What I'm asking you is
14 whether you would agree that these particular results
15 as indicated by the company are not indicative of
16 comparative performance among the survey companies,
17 they're based on a different method of identifying
18 different events used by the companies in their PUCO
19 reports?

20 A. I do not agree with your suggestion that
21 they are not indicative of comparative performance
22 results.

23 Q. So your --

24 A. Many states use these survey results to
25 suggest further investigation or different actions or

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1 further regulatory response.

2 Q. So you believe that it is appropriate to
3 compare reliability results of a company whose
4 service territory is, relatively speaking, heavily
5 wooded, hilly terrain, with a company with flatter
6 terrain and not much in the way of forestry.

7 MS. GRADY: Objection.

8 EXAMINER SEE: On what grounds,
9 Ms. Grady?

10 MS. GRADY: It's been asked and answered.

11 EXAMINER SEE: Objection is overruled.

12 Answer the question.

13 A. As a general matter I do think it is
14 appropriate to make those comparisons. That is the
15 first level. It is not the end of the analysis but
16 it is the beginning of it.

17 Q. And you didn't even suggest it in your
18 testimony as a factor affecting the IEEE survey
19 results, did you?

20 A. I did not because it was not my intent to
21 ask the Commission to make a finding based on these
22 results.

23 Q. Well, what was your intent in this
24 particular sentence? Was it just to show the company
25 in a bad light surveywise --

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1 MR. RINEBOLT: Your Honor, objection.

2 Q. -- regardless of what the differences are
3 among the companies?

4 MR. RINEBOLT: It is, once again, asked
5 and answered. We've been going over this for several
6 minutes now.

7 MR. RESNIK: I don't think that question
8 was asked because I probably would have heard an
9 objection earlier.

10 MS. GRADY: I would object. It's
11 argumentative.

12 EXAMINER SEE: Go ahead, Ms. Grady.

13 MS. GRADY: It's argumentative, your
14 Honor.

15 EXAMINER SEE: The objection is
16 sustained.

17 MR. RESNIK: Objection.

18 Q. (By Mr. Resnik) Regarding each of the
19 components of the company's proposed enhanced service

20 reliability plan, is it your belief that strict
21 reliability targets can be established for each of
22 these programs, for the results of each of these
23 programs?
24 A. Not for any individual program but for
25 the intent of the program as a whole, yes.

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1 Q. And so you're saying that the company
2 should have come in with some overall proposed
3 improvement in reliability indices associated with
4 the enhanced reliability plan?

5 A. Yes.

6 Q. Okay. And you indicate in your footnote
7 10 that while there was apparently some information
8 provided in a data response, that you say, "Even in
9 this response, the Companies 'hedge' their
10 estimates." Is that right?

11 A. I did say that, yes.

12 Q. Do you remember what the hedge was?

13 A. I think I attached it to my testimony,
14 and the question is do I have that attachment with
15 me.

16 I don't. I'm asking my counsel if he's
17 got it with him in his version of this. Or if you
18 do, I'll --

19 MR. RESNIK: I do.

20 THE WITNESS: It doesn't matter.

21 MR. RINEBOLT: You're closer, Marv.

22 MR. RESNIK: Okay.

23 Q. Is this the exhibit you were referring

24 to?

25 A. Yes. The response contains the phrase in

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1 almost each paragraph somewhere here assuming all
2 other things remain equal from the 2005 through 2007
3 averages, which they will not. I'm quoting now, "See
4 Karl Boyd's direct testimony." The estimated
5 improvement associated with, that's the hedging.

6 Q. And then they go on.

7 A. Yes.

8 Q. Okay. So would you agree that with the
9 implementation of these enhanced service reliability
10 plans, that there are other factors out in the real
11 world that are going to affect the actual reliability
12 indices the companies will achieve?

13 A. Well, my point is that you have not made
14 a promise about any specific amount of improvement in
15 reliability with this plan, and the data response
16 speaks for itself as to the numbers you've provided,
17 but that does not translate into a promise.

18 Q. Well, I'm focusing on your comment about
19 that we hedged.

20 A. Yes.

21 Q. I'm trying to figure out whether you
22 think that was an unreasonable comment to make in
23 this answer, that we could only provide numbers
24 assuming all other things remain equal.

25 A. I am just pointing out that you did not

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1 make a promise. You did estimate some impacts, but
2 you hedged that answer and so there was no promise.
3 That's my point.

4 Q. Do you think that the hedge was
5 inappropriate?

6 A. I did not do an analysis of how you came
7 up with your suggested improvements, but my concern
8 was not the number you provided; it is the fact that
9 you did not make a promise about any level of
10 improvement in your filing.

11 Q. Do you think the hedge was inappropriate?

12 A. I have no idea.

13 Q. Okay. I'm curious, I see that you did
14 attach Exhibit BA-3, this interrogatory request No.
15 4-2, you attached that to your testimony. Is there a
16 reason that you did not attach the response
17 concerning the IEEE survey to your testimony?

18 A. No, sir. I cannot recall thinking about
19 whether I should or should not. I really -- it was

20 probably an oversight. I have no problem with

21 attaching it.

22 Q. Well, it's been marked as an exhibit now

23 so I think we're all set.

24 A. That's fine.

25 Q. On page 17 we're talking now about DSM

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1 programs and the sentence actually begins the last
2 word on page 16, you talk about "these initiatives
3 appear reasonable as an 'interim' set of programs for
4 these vulnerable customers." Are you suggesting that
5 the Commission should authorize the companies to
6 begin these programs and permit cost recovery?

7 A. No. I think I recommended that a
8 collaborative take place to consider the details, the
9 penetration, the budgets, and the implementation of
10 these programs, and that subsequent to that a filing
11 be made to the Commission which once approved would
12 allow cost recovery.

13 Q. And your opinion is that the
14 collaborative should have the authority to actually
15 make changes in the program; is that right?

16 A. Subject to the final review and approval
17 by the Commission, yes.

18 Q. For a moment I thought you were going to
19 say subject to the final review of the company that

20 has to implement them.

21 A. I presume the company is part of the

22 collaborative, so when you said "the collaborative,"

23 I presumed you meant a consensus had been reached in

24 the collaborative about changes.

25 Q. But ultimately would you agree that it is

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1 the companies that have the statutory obligation to
2 meet the energy efficiency requirements in Senate
3 Bill 221?

4 A. Yes; but that does not mean the company
5 has to implement the programs.

6 Q. No. But what you're suggesting is that
7 the collaborative effectively could overrule what the
8 company wants to do.

9 A. I suspect that that would result in a
10 dispute that would come to the Commission to be
11 resolved.

12 Q. In some sort of a litigated proceeding or
13 what?

14 A. I suppose it could be litigated in some
15 quick and modified way, but yes.

16 Q. Are you familiar with Battelle, the
17 facilitator the company retained?

18 A. No, not really. I mean, I know the name,
19 I'm familiar with the scope of its operations, but

20 not in any detailed sense at all, no.

21 Q. And do you know whether the company is
22 paying Battelle for acting as facilitator?

23 A. No, I don't, actually.

24 Q. Then so once the collaborative -- well,
25 let me ask you, what is the reason for having a

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1 collaborative?

2 A. For the company to hear about information
3 that would be important for it to learn about the
4 design and implementation of these programs.

5 Q. And to hear --

6 A. From people who are -- many of them have
7 had experience in other states who can bring forward
8 pros and cons of different approaches, things that
9 have worked, things that have not worked, bring
10 forward to you best practices, evaluations, and
11 approaches based on experiences that have happened to
12 people who are going to partake of these programs.

13 Q. And are you aware of whether
14 collaboratives typically also have participation
15 by -- representing those groups that will be the
16 recipients of the programs?

17 A. It is certainly possible that that could
18 be done, yes.

19 Q. At page 19, lines 15 -- beginning at the

20 end of line 15 you say that once the collaborative
21 concludes its analysis and makes a recommendation to
22 the Commission, there be some public process to
23 review and obtain input. Again, what sort of process
24 are you talking about? Is that a hearing?
25 A. It could be a public notice of a proposed

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1 plan, a description of a 20- to 30-day comment
2 period, and a requirement that anybody who wants a
3 hearing needs to justify why they need one, and other
4 than that, it might result in an order approving.

5 Q. Okay. Now, on page 20, and we've had
6 some discussion about this at-risk concept and at
7 lines 11 and 12 you talk about it, and you say one of
8 the groups that could be in this at-risk concept is
9 residential customers such as families facing
10 foreclosure; is that right?

11 A. Yes.

12 Q. Now, if we're talking about a DSM program
13 to do something in the house and the house is about
14 to be foreclosed, how would you go about doing a
15 cost-benefit analysis?

16 A. I think the issue here is families who
17 are suffering the potential inability to remain in
18 their home, one of the things that might affect their
19 ability to remain in their home would be the energy

20 and fuel costs, you know, heating and lighting and
21 electricity, and that they may need some special
22 attention with regard to subsidized incentives or
23 participation in some of these programs.

24 But I agree with you, if the house is on
25 the block, there's probably not any point at this,

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1 you know, with respect to investing ratepayer money
2 with that particular customer at risk of foreclosure,
3 not a benefit.

4 Q. And the reason for that is you wouldn't
5 want to put investments into the house to make it
6 more energy efficient if it's going to sit closed up
7 with no one in it for some matter of months or
8 longer.

9 A. I understand that, yes.

10 Q. Okay. I just wanted to make sure we
11 were --

12 A. That's fair to consider that, yes.

13 Q. -- on the same point.

14 A. Yes.

15 Q. Okay. Now, looking at page 24 of your
16 testimony, you talk about -- actually, again, this
17 begins at the bottom of page 23. It says, "AEP has
18 acknowledged that the Distribution Automation portion
19 of its proposal" -- and we're talking about gridSMART

20 -- "could be implemented independently of the

21 metering and HAN deployment," right?

22 A. Yes.

23 Q. And you refer to the company's response

24 to staff interrogatory 5-5.

25 A. Yes.

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1 Q. Do you recall whether in that response
2 the companies also said that there would be cost
3 savings associated with distribution automation being
4 deployed simultaneously or about the same time frame
5 as AMI and HAN?

6 A. Yes.

7 Q. Okay. Page 25, lines 13 through 15, you
8 talk about most residential customers not caring to
9 monitor their electric usage and electric prices on
10 an hourly or daily basis. Putting myself in the
11 group of residential customers, are we just totally
12 disinterested?

13 A. Well, I don't think you're totally
14 disinterested. I do think that there has not been
15 any demonstration that a widespread majority of
16 residential customers will persist in an interest in
17 hourly and daily electricity prices.

18 Q. Do you -- I'm sorry.

19 A. And I say that based on over 20 years'

20 experience in dealing with residential customers and
21 in a state which had a mandatory time-of-use rate
22 required for residential customers who hit a certain
23 usage level during the winter, and the intent was to
24 aim this time-of-use rate to electric heating
25 customers.

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1 And the reaction to that over a period of
2 time as prices began to significantly increase and
3 the price at the on-peak usage became front page
4 news, that experiment was eliminated.

5 The same occurred in the Puget Sound
6 energy mandatory time-of-use program in the state of
7 Washington in the early-2000s. You know, there's a
8 group of people who profess a great deal of interest
9 in monitoring electricity usage and taking action to
10 shift to perhaps lower prices during the day, but
11 most folks are not high-use customers; they're medium
12 and low-use customers, and they don't have a lot of
13 usage to shift.

14 Q. Do you think this what I'll characterize
15 as disinterest, if you could agree with that word,
16 among the residential class is likely to change as
17 there is increasing focus on the environment and as
18 energy prices rise?

19 A. I think that there are programs that can

20 be promoted to customers who have the ability to
21 shift usage or to monitor their air conditioning
22 load, for example, which is really what the focus of
23 this ought to be, in ways that would provide benefit
24 to all customers, the utility, and the individual.

25 And some of those programs do not require

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1 the customer to monitor anything. They allow direct
2 load control to be operated on their air conditioning
3 load by the company in return for a modest monthly
4 credit during hot summer months.

5 So there's a wide variety of ways we can
6 approach the concern about the environment, about the
7 need to reduce peak load usage, none of which have
8 been evaluated in your filing.

9 Q. I thought somewhere in your testimony you
10 may have indicated that just automatically cutting
11 off the air conditioner, let's say, may be raising an
12 invasion of privacy rights.

13 A. No. I'm reacting to your proposal of
14 focusing on installing these home area networks as
15 part of your gridSMART proposal and funding that
16 through ratepayer funds for part of this proposal. I
17 know of no utility that has made such a proposal or
18 had it approved.

19 Q. Okay. Or had it what?

20 A. Approved.

21 Q. Okay.

22 A. Can I distinguish smart thermostats from

23 home area networks?

24 Q. Sure. Go ahead.

25 A. The program I'm referring to in my

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1 testimony Baltimore Gas & Electric in Maryland
2 installs a, quote, and I'm using this word that they
3 use, smart, unquote, thermostat for customers who
4 volunteer to participate in their peak shaver
5 program. They communicate with that thermostat
6 through a utility-owned communication network. It's
7 a two-way communication. And they don't shut off the
8 air conditioner. They monitor the level, the
9 temperatures, the thermostatic setting tied to the
10 air conditioner.

11 And the customer understands the
12 conditions under which the cycling will occur, how
13 often, what they will be paid, how they will be
14 notified in advance. But this is not a home area
15 network that connects all of their appliances to some
16 in-home display device so they can instantly see how
17 much power they're using and at what time of day
18 electricity is most expensive, so there are two
19 different approaches here.

20 Q. As I was reading this, I was thinking
21 you're saying that residential customers really
22 aren't interested in that level of detail, and I was
23 wondering if it is comparable to the proliferation of
24 personal computers in people's homes. I mean,
25 initially I'm not sure there was a high interest in

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1 computers at home, and now there seems to be quite a
2 high degree of penetration of home computers. Is
3 that same sort of transition something that could
4 happen through implementation of the company's plan,
5 that if the technology is there, customers would pay
6 attention to it and would appreciate it?

7 A. I think that you are correct and that I
8 would agree with you, that there is an emerging sense
9 that there are a variety of technologies that are
10 going to be coming along with respect to customers
11 knowing more about the price of electricity. I can
12 go to Home Depot today and for 30 or 40 bucks buy a
13 device that will tell me a lot about the usage of
14 some of my key appliances.

15 My point is tying that knowledge to the
16 notion that we need dynamic or smart or hourly
17 pricing tied to the customer's bill, and that's the
18 disconnection that I beg to differ with in regard to
19 many of the advocates with respect to these devices

20 and how we change electricity prices.

21 Q. Okay. Speaking of disconnection --

22 A. Yes.

23 Q. -- let's look at page 26 of your

24 testimony --

25 A. Okay.

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1 Q. -- lines 10 through 16, and you raise a
2 concern about the utility remotely disconnecting
3 service to nonpaying customers. Do you see that?

4 A. Yes.

5 Q. Are you aware that the Ohio Commission
6 has a fairly detailed set of rules concerning
7 disconnection of service for nonpayment?

8 A. I am aware of that.

9 Q. Okay. Is it your concern that those
10 rules would be ignored and the company, someone would
11 just sit back at the company and willy-nilly start
12 disconnecting nonpaying customer?

13 A. Well, of course you would not ignore
14 those rules, but you might seek a waiver or obtain a
15 change in the rules that would require you to conduct
16 a premise visit prior to the disconnection of
17 service.

18 Q. Okay. What is your understanding of the
19 requirement for making a premise visit?

20 A. I do not know those -- that level of

21 detail.

22 Q. Okay.

23 A. But you do have to go to the customer's

24 premise right now and you would not if you had this

25 device, and that is the distinction I'm raising.

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1 Q. Now, let's just talk a little bit about
2 the provider of last resort, and mercifully for all
3 of us, page 28, last page of your testimony, you say
4 that, in the second line, that "AEP has the ability
5 to sell excess power into the wholesale market." Is
6 that right?

7 A. I would presume -- yes, it is correct
8 that I said that. Yes.

9 Q. And when would that be occurring, the
10 sale of excess power into the market?

11 A. Whenever you wanted to.

12 Q. In the context of customers switching
13 from standard service offer to a competitive
14 provider, I guess what I was interpreting from this
15 rather short sentence was that as customers switch,
16 there would be power available then to the company
17 and what is currently available to sell into the
18 wholesale market.

19 A. My point was that you can manage your

20 portfolio by purchases and sales to reflect migration

21 activity of your customer base.

22 Q. Right.

23 A. Yes.

24 Q. So customers would be likely to migrate

25 when the market prices are low.

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1 A. If there is a marketer seeking to provide
2 them with service under the terms that they find
3 acceptable, the market price movement might expand
4 those options, yes.

5 Q. The market price movement downward.

6 A. Right.

7 Q. Yes. And that would be the time then
8 that the company would have the ability to sell
9 excess power into the wholesale market, when the
10 prices were on a downward trend in?

11 A. Yes.

12 Q. Now, in the next sentence you say "AEP
13 has the ability to purchase power in the wholesale
14 market." I assume that would be to be able to serve
15 returning customers; is that right?

16 A. Or newly acquired customers.

17 Q. Right. But just focusing on the
18 migration issue associated with POLR.

19 A. Yes. You want -- yes. The answer to

20 that is yes.

21 Q. Thank you.

22 A. But any analysis of your load shape has

23 to take into account that customers are coming and

24 going all the time, and it has nothing to do with

25 obtaining service from an alternative marketer.

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1 Q. But I'm focusing on customer migration,
2 which is what you're talking about in the context of
3 the company's POLR proposal; is that right?

4 A. Right.

5 Q. Okay. So would you agree that it is more
6 likely for customers to be returning to the company
7 at a time when market prices were escalating rather
8 than at a time when market prices were going down?

9 A. Well, you say "customers." I am speaking
10 about residential customers in my testimony.

11 Q. Okay, let's just stick with residential
12 customers.

13 A. And there is very little evidence that
14 residential customers monitor the market and move
15 from supplier to the utility based on that event.

16 Q. Well, first of all, residential customers
17 may sign up for a variable rate; is that a
18 possibility?

19 A. Well, of course it's a possibility.

20 There are marketers in some states that offer
21 products to residential customers. What I can assure
22 you is that in most cases what the marketers want to
23 do is sign up these customers for one, two, three,
24 four, and in some cases five-year deals with very
25 heavy early termination fees so that the customer

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1 cannot leave them --

2 Q. Okay.

3 A. -- when the market power changes.

4 Q. Let's focus on governmental aggregation.

5 A. Ah, okay.

6 Q. And if a governmental aggregator supplier

7 were to default, which I think you said is not the

8 majority of the time but it's typical, it happens.

9 A. I've never heard of an aggregator

10 supplier defaulting, just individual suppliers

11 defaulting. But go ahead.

12 Q. I'm talking about the supplier to the

13 governmental aggregation organization.

14 A. Oh, I understand that.

15 Q. Okay.

16 A. I've never heard of that happening, but

17 on the other hand, I certainly have heard of

18 marketers who have gone out of business suddenly,

19 yes.

20 Q. So either one, whether the supplier is
21 just selling directly to residential customers,
22 indirectly through a governmental aggregation, would
23 you expect that if there were going to be a default
24 by that supplier it is more likely to occur at a time
25 when market prices are rising rather than market

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1 prices are falling?

2 A. Well, it would happen when the marketer
3 decided they couldn't make a profit under the deal
4 that they had offered people and signed them up
5 under, and, I mean, who knows why that would happen,
6 but the scenario you suggested is certainly a
7 reasonable one, yes.

8 Q. Okay.

9 MR. RESNIK: That's all I have.

10 THE WITNESS: Okay.

11 MR. RESNIK: Thank you very much.

12 THE WITNESS: Sure.

13 EXAMINER SEE: While Ms. Alexander was
14 being cross-examined, I think Mr. Petricoff came in.

15 MR. PETRICOFF: I have no questions, your
16 Honor. Thank you.

17 EXAMINER SEE: Mr. Rinebolt, redirect?

18 MR. RINEBOLT: If we could go off the
19 record for just 30 seconds while I check with my

20 witness, we could carry on and get this done.

21 EXAMINER SEE: Sure.

22 MR. RINEBOLT: Thank you.

23 (Off the record.)

24 EXAMINER SEE: Excuse me, Mr. Rinebolt.

25 Let's just take five.

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1 MR. RINEBOLT: Okay. As you like, your

2 Honor.

3 (Recess taken.)

4 EXAMINER SEE: Mr. Rinebolt.

5 MR. RINEBOLT: Thank you, your Honor.

6 - - -

7 REDIRECT EXAMINATION

8 By Mr. Rinebolt:

9 Q. Ms. Alexander, the company in its filing
10 acknowledges that cost-effectiveness criteria applies
11 to energy efficiency programs; am I correct?

12 A. Yes.

13 Q. Now, is there any reason why a
14 cost-effectiveness criteria, then, shouldn't apply to
15 acquisitions of renewable energy --

16 A. No, there is no reason why that same kind
17 of analysis should not occur for any purchase of
18 renewable energy, yes.

19 Q. Or, frankly, for generation as a whole.

20 A. That's correct.

21 Q. Now, counsel for the company directed you

22 to a response to an OCC data request regarding

23 cost-effectiveness of programs. Did that relate to

24 programs that are currently operating in Ohio?

25 A. No. It is my understanding that those

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1 calculations were done based on assumptions that
2 reflected the company's experience with these
3 programs in Texas, primarily.

4 Q. And so there's no indication that those
5 cost-effectiveness numbers were based upon the
6 characteristics of energy use in Ohio or in the
7 climate zones within the company's service territory.

8 A. Well, we don't know. I mean, the
9 material I saw was not a live spreadsheet. I do not
10 know the variables and the assumptions and the
11 calculations that went into those -- the printed out
12 version of the spreadsheet, which I only saw in Adobe
13 Acrobat format. So there is many questions relating
14 to those calculations that would normally be
15 appropriate to do before accepting those results at
16 face value at this point.

17 Q. Now, you had a long dialogue with
18 Mr. Resnik about the terms "least cost" and
19 "cost-effective" as applied to a resource plan and

20 other elements of the company proposal. Should that
21 analysis be limited to the three years of the ESP
22 proposal, or should it look at a longer term than
23 just the three years? And let's start with, say,
24 renewable energy.
25 A. Renewable energy must be evaluated on a

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1 much longer term as an investment or purchases of
2 renewable energy credits, whatever it is the
3 company's purporting to do to comply with the
4 requirements of the statute. Any investment in new
5 capacity would require, you know, 10-, 15-, 20-year
6 type of payback analysis, and for energy efficiency
7 it would depend on the measure.

8 A number of measures can be easily looked
9 at as three-, four-, and five-year paybacks, but many
10 other measures are investments that are long term in
11 order to determine if they're beneficial in the long
12 run for customers to lower bills. So all of those
13 options require longer-term planning beyond the scope
14 of the three-year ESP analysis.

15 Q. Speaking of DSM activities, do you
16 believe the collaboratives are particularly important
17 when you're working with a distribution company or a
18 utility that has no track record in demand-side
19 management programs?

20 MR. RESNIK: Objection. There's no

21 foundation for that and it's inaccurate.

22 MR. RINEBOLT: I was just asking for an

23 opinion from the witness regarding the efficacy of

24 collaboratives, your Honor.

25 MR. RESNIK: The question contained the

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1 assertion that the utility had no track record with
2 DSM. There's no foundation for that. It's
3 inaccurate.

4 MR. RINEBOLT: And I guess my response
5 would be, your Honor, counsel for the company
6 indicated that -- in talking about CAIDI and SAIDI
7 standards talked about hilly, wooded country. Well,
8 that -- certainly the company has some of that in its
9 service territory. It also has flat empty land. I'm
10 just asking a question.

11 EXAMINER SEE: Rephrase your question,
12 Mr. Rinebolt.

13 MR. RINEBOLT: Very well.

14 Q. (By Mr. Rinebolt) To your knowledge, does
15 the Ohio Power Company or the Columbus Southern Power
16 Company currently operate demand-side programs that
17 it designed?

18 A. It is my understanding that there is no
19 significant -- and I'll use that word in the broadest

20 sense of the word -- ratepayer funding of energy

21 efficiency programs in effect for the two AEP

22 companies in Ohio at this time, and that the purpose

23 of the filing here was to make a dramatic increase in

24 expenditures with a wide variety of programs which

25 the company claimed to have experience in operating

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1 elsewhere, but not yet in Ohio.

2 Q. And the company proposed a collaborative,
3 and you would presume that that collaborative would
4 be important to the company crafting a set of
5 programs that would be effective in Ohio.

6 A. Yes. For exactly the reasons I tried to
7 explain to the company upon questioning, that the
8 lack of experience in Ohio, coupled with the fact
9 that much of the experience is, frankly, in the Texas
10 environment, it might provide a fruitful exchange of
11 information among the company's experiences and these
12 folks who are in many cases for the low-income
13 programs have been operating them on the ground very
14 successfully in Ohio for many, many years, and with
15 some of the other members of the collaborative aware
16 of residential, nonlow-income programs and how they
17 work in a wide variety of states and environment.

18 Q. To your knowledge, are there any
19 nationally recognized standards for smart grids?

20 A. No, there are not. The functionality of
21 individual smart grid proposals, the degree of
22 functionality of the meters, the communications
23 system, the meter data management system, the types
24 of information that is made available to customers as
25 opposed to information that a utility can obtain from

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1 the meter which is not in the customer's home vary
2 widely and are the subject of some debate and
3 investigation by a number of states at this time.
4 There is no uniform set of understanding what that
5 term means.

6 Q. And finally, there was a discussion,
7 obviously at the end of your -- of the
8 cross-examination regarding the migration issue and
9 provider of last resort. Could you tell me, if you
10 know, what the migration rates in other states -- are
11 in other states that have moved to a competitive
12 marketplace?

13 A. Right. There are a number of states who
14 have ended all of their rate caps many years ago. I
15 know Ohio's just about to do that, but many states
16 have had many years of experience with no rate caps
17 in effect by the utility.

18 And the standard offer service is
19 provided in many of these states entirely with

20 wholesale market purchases by the utility according
21 to a set of contracts or terms that are approved by
22 the Commission.

23 And in almost none of these states has
24 any market for residential customers developed.
25 There are almost no marketers who seek residential

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1 customers, and even where they are being offered
2 options to the utility's wholesale market-priced
3 default service, there are very, very few customers
4 who are interested in these options.

5 In New Jersey, in Maine, in
6 Massachusetts, you're talking less than 1 percent of
7 the residential customers, and this is after many,
8 many years of, quote, market-based prices for
9 residential service.

10 The only areas in which we see any
11 significant amount of residential customer shopping
12 has occurred in some of the service territories in
13 the state of New York, and that is, in my opinion --
14 and I have looked at this quite thoroughly --
15 directly attributable to the Commission's ordering a
16 very volatile and monthly price changing approach to
17 default service. In other words, they made that
18 service, quote, ugly, unquote and therefore the
19 marketers come in and offer people one and

20 two-year fixed rate options for their electricity,
21 and in those service territories we have maybe
22 15 to 20 percent of the folks on an alternative
23 service.

24 But the unique part of that is not going
25 to be applicable to the Ohio situation, and because

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1 it's not, I don't think you can rely on it to predict
2 what would happen here. I think we're much more like
3 the New Jersey, the Massachusetts, the Maine, the
4 Maryland approach.

5 MR. RESNIK: Your Honor, I'm not going to
6 ask for the whole question to be read back, but there
7 is something I'd like to hear again toward the
8 beginning of the question so, if the reporter could
9 just start reading it back and then I could --

10 MR. RINEBOLT: He said "the question."

11 EXAMINER SEE: Yes, he said the question.

12 MR. RESNIK: The answer, I'm sorry, and
13 then I can cut her off when I hear what I wasn't sure
14 I heard.

15 EXAMINER SEE: Please read the answer.

16 (Record read.)

17 EXAMINER SEE: Mr. Rinebolt.

18 Q. And then the final question, given the
19 likelihood, the small likelihood of customer

20 migration from the POLR rate as witnessed in other

21 states, do you believe it's possible for a large

22 utility to manage its portfolio to accommodate that

23 migration without incurring large capacity charges or

24 large energy charges?

25 MR. RESNIK: Excuse me, Mr. Rinebolt, in

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1 your question you said "customers." Are you limiting
2 this to residential customers?

3 MR. RINEBOLT: We'll limit it to
4 residential customers. That was my focus. Thank
5 you, Mr. Resnik.

6 A. The answer is yes. Utilities manage
7 their portfolio all the time. You know, loads shift.
8 Customers come and go. People grow with respect to
9 their usage of electricity. Economic downturns occur
10 and people reduce their usage, which is now widely
11 being reported as phenomena as a result of the
12 economic recession. All of those changes occur,
13 along with at the margin some modest changes in
14 customer migration rates for residential customers.

15 And there is no basis for assuming that a
16 company that owns a generation portfolio such as AEP
17 could not manage that portfolio without any
18 significant or any additional charge being imposed on
19 customers as a, quote, POLR charge, as they recommend

20 in this case.

21 MR. RINEBOLT: Thank you, Ms. Alexander.

22 I have no more redirect.

23 EXAMINER SEE: Is there recross,

24 Mr. Resnik?

25 MR. RESNIK: Just one, your Honor. Thank

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1 you.

2 - - -

3 REXCROSS-EXAMINATION

4 By Mr. Resnik:

5 Q. Ms. Alexander, in the question I was
6 having reread, you talked about what was going on in
7 other states, and you talked about purchasing under
8 wholesale contracts under terms and conditions that
9 are approved by the Commission.

10 A. Yes.

11 Q. Are those wholesale contracts approved by
12 the state commission or by the Federal Energy
13 Regulatory Commission?

14 A. They are approved as the standard offer
15 service rates for contracts that are acquired by the
16 utility, the distribution utility, in the wholesale
17 market, and those rates are then approved by the
18 Commission because the terms of the contract, fixed
19 year, full requirements, one year, two years, six

20 months, whatever that portfolio is, it is approved by
21 the commission, and the RFPs are issued under a
22 master supplier agreement approved by the commission,
23 the state commission, and the resulting rates are
24 then approved by the state commission.

25 Q. But who approves the purchase contract?

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1 A. FERC doesn't approve specific contracts
2 in these cases. To my knowledge, they don't use
3 filed rates anymore unless they find you have market
4 power.

5 Q. Thank you.

6 A. Yes.

7 EXAMINER SEE: With that, are there any
8 objections to the admission of OP&E Exhibit 1?

9 MR. RESNIK: No, your Honor.

10 EXAMINER SEE: Hearing none, OP&E Exhibit
11 1 is admitted into the record.

12 (EXHIBIT ADMITTED INTO EVIDENCE.)

13 MR. RESNIK: Your Honor, I would move for
14 the admission of Companies' Exhibit 13.

15 EXAMINER SEE: Are there any objections
16 to Companies' Exhibit 13?

17 Hearing none, Companies' Exhibit 13 is
18 admitted into the record.

19 (EXHIBIT ADMITTED INTO EVIDENCE.)

20 EXAMINER SEE: Thank you, Ms. Alexander.

21 THE WITNESS: Thank you.

22 EXAMINER SEE: Let's go off the record

23 for a minute.

24 (Discussion off the record.)

25 EXAMINER SEE: Let's go back on the

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1 record.

2 Mr. O'Brien, would you like to call your

3 next witness.

4 MR. O'BRIEN: Thank you, your Honor. The

5 Ohio Hospital Association would call as its first

6 witness Howard Solganick to the stand, please.

7 EXAMINER SEE: Mr. Solganick, would you

8 raise your right hand?

9 (Witness sworn.)

10 EXAMINER SEE: Thank you.

11 - - -

12 HOWARD SOLGANICK

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

14 examined and testified as follows:

15 DIRECT TESTIMONY

16 By Mr. O'Brien:

17 Q. Please state your name and business

18 address for the record.

19 A. Howard Solganick, 810 Persimmon Lane,

20 Langhorne, PA.

21 Q. And by whom are you employed?

22 A. By Energy Tactics & Services as a

23 subcontractor to Blue Ridge Consulting Services.

24 Q. And do you have before you a document

25 that has been marked for identification as OHA

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1 Exhibit 4 and 4A?

2 A. Yes, I do.

3 MR. O'BRIEN: And I will just state for

4 the benefit of the parties assembled that

5 Mr. McGarry's testimony is going to be OHA Exhibit 3

6 but, you know, we're not too hung up on precise

7 ordinals here, so just so people don't get confused.

8 Q. Could you please describe for the record

9 what those documents purport to be?

10 A. Exhibit 4A is my direct testimony on --

11 excuse me. Exhibit 4 is my direct testimony on

12 behalf of the Ohio Hospital Association, and Exhibit

13 4A is a summary of my background testimony in other

14 jurisdictions or other cases.

15 MR. O'BRIEN: And just for clarification

16 of the record, Exhibit 4A was inadvertently omitted

17 from the service and initial filing of

18 Mr. Solganick's testimony and so it was late filed.

19 Q. If I were to ask you the questions

20 contained in that document here today on the stand,

21 would your's answers be the same?

22 A. With one exception, yes.

23 Q. And what might that exception be?

24 A. On page 3, line 17, I delete the word

25 "concurrently" and insert the following phrase: "for

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1 two years during the above period, comma."

2 Q. Do you have any other changes, additions,
3 or corrections that you would make to your testimony
4 at this time?

5 A. No, I do not.

6 Q. Was this document prepared by you or
7 under your direction?

8 A. Yes, it was.

9 MR. O'BRIEN: Your Honor, I would move
10 into evidence OHA Exhibit 4 and 4A subject, of
11 course, to cross-examination by the parties here in
12 attendance.

13 EXAMINER SEE: Okay. Mr. O'Brien, clear
14 something up for me.

15 MR. O'BRIEN: Sure.

16 EXAMINER SEE: You said Mr. Solganick's
17 testimony is Exhibit 4?

18 MR. O'BRIEN: 4. I was trying to be a
19 good citizen this morning and it's come back to bite

20 me.

21 EXAMINER SEE: Okay. Exhibit 4 and 4A

22 are so marked.

23 (EXHIBITS MARKED FOR IDENTIFICATION.)

24 MR. O'BRIEN: The witness is available

25 for cross-examination.

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1 EXAMINER SEE: Mr. Yurick.

2 MR. YURICK: I have no questions of this
3 witness. Thank you, your Honor.

4 MR. BOEHM: No questions, your Honor.

5 EXAMINER SEE: Mr. Randazzo?

6 MR. RANDAZZO: No questions, your Honor.

7 EXAMINER SEE: Ms. Wung?

8 MS. WUNG: No questions, your Honor.

9 EXAMINER SEE: Ms. Grady?

10 MS. GRADY: No questions, your Honor.

11 EXAMINER SEE: Mr. Petricoff?

12 MR. PETRICOFF: No questions, your Honor.

13 EXAMINER SEE: Mr. Smalz or

14 Mr. Maskovyak?

15 MR. MASKOVYAK: No questions, your Honor.

16 EXAMINER SEE: Mr. Jones?

17 MR. JONES: No questions, your Honor.

18 EXAMINER SEE: Mr. Conway.

19 MR. CONWAY: Thank you, your Honor.

20 - - -

21 CROSS-EXAMINATION

22 By Mr. Conway:

23 Q. Mr. Solganick, my name is Dan Conway.

24 I'm one of the lawyers for the AEP-Ohio companies.

25 A. Good morning.

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1 Q. Good morning.

2 Could you turn to page 8 of your

3 testimony?

4 A. Yes.

5 Q. At the bottom of that page you recount

6 that the company's proposed schedule NEMS-H includes

7 the requirement that the qualifying hospital

8 customer-generator must comply with the requirements

9 that it be "owned and operated by the customer and is

10 located on the customer-generator's premises." Do

11 you see that?

12 A. Yes, I do.

13 Q. I want you to focus on the word "it" on

14 line 16. It's part of the phrase that "it be owned

15 and operated by the customer. Is the "it" on line

16 16, is that the net metering system?

17 A. No. I read the company's submission to

18 be that generator be owned and operated by the

19 company -- by the customer and be located on the

20 customer-generator's premises.

21 Q. And does the generator also have

22 connected with it a net metering system?

23 A. I believe under the regulatory regime

24 that yes, you need some kind of metering system.

25 Q. And would that also then be located on

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1 the customer-generator's premises?

2 A. Generally they are.

3 Q. The hospital customer-generator that has

4 the generating equipment and the net metering

5 equipment installed on its premises, could it provide

6 for the operation of the facilities and the net

7 metering system through an arrangement with a third

8 party?

9 A. In general in the industry, yes.

10 Q. Okay. And would you agree that there is

11 nothing in the company's proposal that would prohibit

12 the hospital customer-generator from doing that if it

13 decided to install the generating facilities and

14 establish a net metering system?

15 A. Could you clarify the question in terms

16 of if the hospital installed it, are you referring to

17 a situation where the hospital did not own the

18 generator?

19 Q. No. I'm just talking about the situation

20 where it installs the equipment, the generating
21 equipment. It establishes the net metering system,
22 whatever that involves under the rule in the statute,
23 and assume for a moment that it owns the generating
24 facility and the net metering system equipment.
25 Wouldn't it be possible for it to enter into a

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1 contractual arrangement with a third party for the
2 operation and maintenance of the generating equipment
3 and the net metering system?

4 A. Restricting it to operation and
5 maintenance, I believe that that would be possible.

6 Q. And would it be possible or wouldn't it
7 be possible for various hospital customer-generators
8 who have done that to contract with the same third
9 party for those operating and maintenance services?

10 A. I think that would be possible, yes.

11 Q. And as a result of doing that, would you
12 agree with me that the group could then obtain the
13 scale of economies that might be available?

14 A. Yes.

15 Q. Did you review the provisions of the Ohio
16 law that's prompted this proceeding, SB 221, relating
17 to the net metering and -- net metering systems and
18 customer generating -- excuse me, customer-generators
19 and hospital customer-generators that are addressed

20 in that law?

21 A. Generally, yes.

22 Q. And did you review the provisions of the
23 Ohio Administrative Code, not the statutes, but the
24 rules that the PUCO administers, that apply to net
25 metering?

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1 A. Yes, generally.

2 Q. And do you recall whether the provisions
3 of the statues of SB 221 or the PUCO's rule that
4 addressed net metering, addressed whether net
5 metering facilities are to be located on the
6 customer-generator's premises?

7 A. I believe that the SB 221 indicates that
8 the net metering for the generating facility, the
9 subject net metering should be on the customer's
10 premises.

11 Q. And are you familiar with the net
12 metering rule that's on the books right now and what
13 it says about the location of the generating
14 facilities or the net metering equipment?

15 A. You mean the nonhospital one, net
16 metering bill or --

17 Q. Just the existing net metering rule.

18 A. I don't know if you're talking about a
19 net metering rule for hospitals or in general.

20 Q. What I'm referring to is the rule that's
21 cited in the tariff proposal of the company for the
22 hospital net metering service. It's also recited in
23 your testimony on page 9.

24 A. Okay.

25 Q. And it is identified as Ohio

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1 Administrative Code 4901: 1-10-28.

2 A. Right.

3 Q. Net metering. Once you've gotten to it,
4 let me know and maybe I'll restate the question.

5 A. I have it in front of me now.

6 Q. The question I have is, first, did you
7 look at that rule at the time that you prepared your
8 testimony?

9 A. I looked at the net metering rule, yes.

10 Q. And do you recall whether the rule
11 addresses whether net metering facilities, the
12 customer-generator facilities, are to be located on
13 the customer-generator's premises?

14 A. It says it in subparagraph (1)(B) that
15 the generating -- located on the customer's
16 generating premises.

17 Q. Okay.

18 A. Excuse me. Yes, customer-generator's
19 premises.

20 Q. Let me back up just a bit. At page 7 of
21 your testimony -- and I'm changing subjects here also
22 just to warn you.

23 A. Okay.

24 Q. I'm interested in a few questions about
25 your testimony regarding payments to the customer by

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1 the utility in the event of net energy deliveries,
2 and I believe that you address that subject at page
3 7. And it's actually at the top of the page, lines 1
4 through 3, the last clause of that carryover sentence
5 that I think it summarizes your issue No. 2.

6 A. Okay. I see that.

7 Q. Do you see the place where your testimony
8 states that: "Payments for net deliveries should be
9 made monthly by the Companies without a requirement
10 for the customer-generator to request any net
11 payments"?

12 A. Yes, I do.

13 Q. And what is your understanding of what
14 the companies are proposing with regard to making
15 payments to customer-generators in the event that
16 there are net energy deliveries to the grid by the
17 customer-generator?

18 A. That the customer-generator can request
19 payments from the company, and I believe there's a

20 limitation of not more than, you know, a year at a
21 time.

22 Q. So is the gist of it that under the
23 company's proposal the customer could request a
24 payment for net energy deliveries once per year and
25 basically capture whatever the net energy delivery

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1 value is for that period?

2 A. Yes, that's the way I understand it.

3 Q. Do you know whether the PUCO's net
4 metering rule addresses the circumstances under which
5 the EDU must make payments to customer-generators?

6 A. Yes, I do.

7 Q. And is the company's proposal with regard
8 to the net energy metering hospital tariff consistent
9 with the current rule?

10 A. I believe it is.

11 Q. Okay. I have a few clarifying questions
12 for you regarding your recommendation. I think it's
13 part of your third issue. Correct me if I'm wrong,
14 it's the recommendation that you make about lead time
15 for making the election. If you're the customer that
16 wants to maintain alternate feed service, you can do
17 one of several different things, and I believe it's
18 at page 14.

19 A. My recommendation you say is on 14?

20 Q. I have a note here in my notes that says
21 page 14, so let me just ask a question or two. You
22 make a recommendation regarding the company's
23 alternate feed service proposal with regard to how
24 much notice the company should give an existing
25 customer of AFS that it needs to make an improvement

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1 or investment in the local facilities to continue to
2 provide the service, right?

3 A. Yes, I do.

4 Q. And the three options that the customer
5 has to make once the company notifies them of the
6 need to make the improvements or additional
7 investments. What are the three options that are
8 under the company's proposal that the customer has to
9 select from?

10 A. As I read the company's proposal, the
11 company offers three options: To discontinue
12 alternate feed service, to take partial alternate
13 feed service at a reduced level, or to continue
14 alternative feed service by paying for the service
15 under schedule AFS. I believe I've summarized that
16 on page 14.

17 Q. And your first recommendation is that --
18 regarding the lead time is that instead of being
19 given six months' notice about the need to make the

20 election, a customer should have 24 months; is that

21 correct?

22 A. I say that on page 17 of my testimony.

23 Q. Would you agree that the companies would

24 require some amount of time after the AFS customer

25 elects to continue receiving AFS service to install

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1 the upgrades or make the investments that are
2 necessary in order to continue providing service?

3 A. I think that's absolutely clear, that you
4 can't upgrade facilities with a snap of your finger.

5 Q. And do you have any view or estimate of
6 what would be the range in time it might take once a
7 customer says "Yes, go ahead, I want to keep taking
8 the AFS and I'll pay the tariff rate for it, go ahead
9 and improve the facilities, make the investments,"
10 what would be a range in time the utility would have
11 to -- would take in order to from that point go
12 forward and make the improvements?

13 A. If we make the presumption that the
14 company performed adequate engineering and load
15 forecasting work before they notified the customer,
16 all right, that range of time could be very, very
17 broad from the company's point of view. It could be
18 as simple as changing a fuse to a sectionalizing, I
19 would call it a relay, but a sectionalizing device,

20 to as complex as replacing a substation feeder

21 transformer, all right? And that's a very, very wide

22 range.

23 And, in fact, I think that is supported

24 by the company's statement in its testimony, that

25 there may be situations where the customer is willing

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1 to pay for AFS service but the company is not able to
2 provide full AFS service within its own time frame,
3 all right? And I think they used the words "we'll
4 work with the customer to," you know, "for some
5 period of time to get it worked out." So I can't put
6 a range on it.

7 Q. Okay.

8 A. Because there is different alternatives
9 depending on the situation of that feeder in
10 particular.

11 Q. Would the time that you would expect it
12 to take to actually make the upgrade, would it fit
13 within the 24-month period that you've identified, or
14 would it be in addition to that?

15 A. As I've structured it here, it would be
16 in addition to that.

17 Q. So in that event the notice to the
18 customer that an upgrade is necessary and an election
19 must be made, that requires 24 months under your

20 scenario, and on top of that we would add if there's
21 a go-forward decision by the customer, we would then
22 have to add on whatever the time it takes to actually
23 make the upgrades.

24 A. I think your mathematics would be
25 correct.

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1 Q. Would it be possible to shrink the notice
2 period to less than 24 months?

3 A. As I proposed in my testimony, I think
4 cooperatively both parties can work together, all
5 right? I think what's unfortunately absent in a
6 situation where the company proposes a tariff, the
7 company has to propose a tariff and it has to read,
8 you know, in a bright line fashion, you know, the
9 company will do this; the customer will do that.

10 However, if the process could be
11 structured to be cooperative, all right, where
12 initially the company would highlight to various
13 customers that they have feeders that at some point
14 in time are threatened with loss of the capability of
15 AFS that the customer now enjoys in a prospective
16 basis, then that would allow the customer to start
17 considering its alternatives and shrink its portion
18 of the notice proceeding, and if everybody worked
19 together cooperatively and explored some of the

20 alternatives, yes, I think it could be done.

21 But it would require a different approach

22 than has been articulated within the proposed rate

23 schedule AFS, all right? I'm not saying that, you

24 know, we all have to work within the documents that

25 we're required to file.

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1 But if, for example, if the company were
2 not filing at all but saw this as a problem and
3 approached the hospital association, let's say,
4 entirely separate from this proceeding, presuming
5 this proceeding didn't go on, cooperatively everybody
6 might come to a process that required less than 24
7 months for the hospitals and also met what I would
8 believe the company's concerns about being able to
9 provide the service in a timely fashion with good
10 engineering and good operating parameters.

11 MR. BELL: Excuse me, not to interrupt,
12 could the witness speak into the microphone? At this
13 end of the hearing room it's not coming through that
14 clear. You're facing inquiring counsel and not in
15 the direction the mic.

16 THE WITNESS: Is this any better?

17 EXAMINER SEE: Yes.

18 MR. CONWAY: Mr. Bell, can you hear me?

19 MR. BELL: No, but that's all right.

20 Q. (By Mr. Conway) We actually have great

21 affection for each other.

22 A. I've heard that.

23 Q. Your second recommendation in the, I'll

24 say issue No. 3, is that until the companies

25 demonstrate that AFS service offers an increase in

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1 reliability compared to other forms of general
2 service, all customers should be treated equally.
3 And I think that's on page 18 of your testimony at
4 lines 1 through 4, roughly.

5 A. Yes, it is.

6 Q. And at the tail end of that section you
7 explain, as I understand it, that in your view the
8 companies' existing practice of providing alternative
9 feeds to hospitals should entail no incremental costs
10 to the customer. Is that an accurate recap of what
11 you said?

12 A. If you're talking about what I'm saying
13 on page 18, 1 to 4, I'm saying one other determinant
14 here that's missing from this, as I would view it,
15 cooperative process, is that from the strict wording
16 of schedule AFS where the company basically says
17 "we're really not promising a hundred percent
18 reliable service," all right, that there's not been
19 any way yet for a hospital to assess the level -- the

20 increased level of reliability that AFS service does

21 or will provide.

22 We asked on discovery for some

23 information about more specific than general

24 companywide, and if I recollect, the company was not

25 able at that time to provide that information. So

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1 part of this negotiation, cooperative, however we
2 want to characterize this interaction between the
3 company and a specific hospital, is how does the
4 hospital know what it's getting for its money, even
5 if it is predictive in nature as opposed to a legal
6 guarantee?

7 Q. The phrase "the practice of providing
8 alternate feeds to hospitals should entail no
9 incremental costs until some other point in time in
10 the future," that phrase is meant to be that the
11 customer should not have to pay for any incremental
12 costs; is that right?

13 A. That phrase says that, yes.

14 Q. Okay. Is it your view that alternate
15 feed service does not provide increased reliability
16 to the hospitals?

17 A. No, it is not my view. My view is that
18 we all don't know on a specific basis what level of
19 increased reliability it does provide because,

20 unfortunately, the schedule deals in generics and
21 overall averages, whereas any individual hospital has
22 a range of alternatives not only from the company
23 but, for example, for the installation of emergency
24 generation or other means that it might have, and
25 hopefully it would have the information from the

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1 company as to the performance of its alternative.

2 Q. And the hospital is not compelled to buy
3 the alternate feed service from the company, is it?

4 A. At this moment, no. As I read the rate
5 schedule, I still think it's optional, but . . .

6 MR. CONWAY: That's all I have, your
7 Honor.

8 EXAMINER SEE: Mr. Bell, I believe you
9 were out of the room when I asked if there were any
10 questions.

11 MR. BELL: I have no questions, but thank
12 you, your Honor.

13 EXAMINER SEE: Mr. O'Brien, redirect?

14 MR. O'BRIEN: I have no redirect, your
15 Honor. I'd renew my motion at this time for the
16 admission of OHA Exhibit 4 and 4A.

17 EXAMINER SEE: Are there any objections
18 to the admission of OHA Exhibit 4 or 4A?

19 MR. CONWAY: No, your Honor.

20 EXAMINER SEE: There are none, OHA

21 Exhibit 4 and 4A shall be admitted into the record.

22 (EXHIBITS ADMITTED INTO EVIDENCE.)

23 EXAMINER SEE: And we will resume at

24 1:15.

25 (Discussion off the record.)

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1 EXAMINER BOJKO: Let's go back on the
2 record.

3 Mr. O'Brien, would you like to call your
4 next witness?

5 MR. O'BRIEN: Thank you, your Honor. At
6 this time I would call as OHA's next witness, Michael
7 McGarry, to the stand.

8 EXAMINER BOJKO: Mr. McGarry, please
9 raise your right hand.

10 (Witness sworn.)

11 EXAMINER BOJKO: Please be seated.

12 - - -

13 MICHAEL J. MCGARRY, SR.

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

15 examined and testified as follows:

16 DIRECT EXAMINATION

17 By Mr. O'Brien:

18 Q. Please state your name and address for

19 the record.

20 A. My name is Michael J. McGarry, Sr. My
21 address is 2131 Woodruff Road, Suite 2100, Box 309,
22 Greenville, South Carolina 29607.

23 Q. And by whom are you employed?

24 A. I am employed by Blue Ridge Consulting
25 Services, Inc.

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1 Q. Do you have a document before you that
2 the court reporter's previously marked as OHA Exhibit
3 3?

4 A. It's not marked on my copy, but yes,
5 that's my understanding.

6 Q. Please so mark it.

7 EXAMINER BOJKO: It will be so marked.

8 (EXHIBIT MARKED FOR IDENTIFICATION.)

9 MR. O'BRIEN: His copy.

10 A. Okay.

11 Q. Could you please describe for the record
12 what this document purports to be?

13 A. This is my direct testimony and exhibits
14 on behalf of the Ohio Hospital Association.

15 Q. And was this document prepared by you or
16 under your direct supervision and control?

17 A. It was.

18 Q. Do you have any additions or corrections
19 you would like to make to this document at this

20 particular time?

21 A. Just one typographical error.

22 Q. And where might that be?

23 A. On page 14, line 13, the sentence

24 beginning on line 12 actually reads "As a result of a

25 meeting with Staff, ordered." I would suggest we

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1 change that to "As a result of meeting with Staff and
2 as ordered by the Attorney Examiner."

3 Q. Do you have any other corrections you
4 would like to make to your testimony at this time?

5 A. No, I do not.

6 Q. If I asked you the questions contained in
7 this prefiled testimony, if I asked you those
8 questions at this time would your answers be the
9 same?

10 A. They would.

11 MR. O'BRIEN: Your Honors, I would move
12 OHA Exhibit 3 into evidence at this time subject to
13 cross-examination and tender the witness for that
14 cross.

15 EXAMINER BOJKO: We'll begin
16 cross-examination, Mr. Yurick.

17 MR. YURICK: I have no questions of this
18 witness, your Honor.

19 EXAMINER BOJKO: Thank you.

20 Mr. Bell.

21 MR. BELL: No questions, your Honor.

22 EXAMINER BOJKO: Mr. Boehm.

23 MR. BOEHM: No questions, your Honor.

24 EXAMINER BOJKO: Mr. Rinebolt.

25 MR. RINEBOLT: Same.

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1 MS. WUNG: Ms. Wung.

2 MS. WUNG: No questions, your Honor.

3 EXAMINER BOJKO: Mr. Randazzo.

4 MR. RANDAZZO: No questions.

5 EXAMINER BOJKO: Ms. Roberts or --

6 MS. ROBERTS: No questions, your Honor.

7 EXAMINER BOJKO: Mr. Petricoff.

8 MR. PETRICOFF: No questions, your Honor.

9 EXAMINER BOJKO: Mr. Smalz?

10 MR. SMALZ: No questions, your Honor.

11 EXAMINER BOJKO: Staff?

12 MR. JONES: No questions, your Honor.

13 EXAMINER BOJKO: Company. Mr. Conway.

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

15 a few.

16 - - -

17 CROSS-EXAMINATION

18 By Mr. Conway:

19 Q. Mr. McGarry, could you turn to page 8 of

20 your testimony.

21 A. I'm there.

22 Q. At lines 7 to 12 on page 8 you refer to

23 the Public Utilities Commission's order in case No.

24 08-777-EL-ORD. That order addresses rules for the

25 standard service offer, corporate separation,

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1 reasonable arrangements, and transmission cost
2 recovery riders for the electric distribution
3 utilities.

4 A. Yes. That's what I state there, yes.

5 Q. Okay. And do you know whether the rules
6 that are adopted by the PUCO's order in that case
7 have become effective yet?

8 A. At the time -- no, they were not at the
9 time of my testimony. They were not in effect, is my
10 understanding.

11 Q. Do you know whether they have become
12 effective or, if they haven't, when they will become
13 effective?

14 A. I do not know.

15 Q. Could you turn to page 11. At page 11
16 towards the top of the page you comment on the fuel
17 adjustment cost recovery proposal that the companies
18 have made. Do you see that?

19 A. I do.

20 Q. And you note at lines 4 to 6, I believe,
21 that the companies will be deferring fuel costs
22 during the period of the electric security plan; is
23 that right?

24 A. That is correct.

25 Q. And you also refer to the fact that the

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1 companies' proposal for deferring fuel costs will
2 include carrying charges on the deferred costs during
3 the period of the ESP, right?

4 A. That is correct.

5 Q. And you identify specific amounts for the
6 deferred fuel costs and the carrying charges on those
7 deferred fuel costs on page 11; is that right?

8 A. I didn't identify them, I just have
9 restated what was in the company's filing as
10 footnoted there on footnote No. 9.

11 Q. And footnote No. 9 refers to Exhibit
12 LVA-1.

13 A. That's correct.

14 Q. And that's Mr. Assante's exhibit.

15 A. Yes.

16 Q. So what you're telling me is that you
17 have taken information from Mr. Assante's Exhibit
18 LVA-1 and you've recounted it, restated it on page 11
19 of your testimony.

20 A. Yes.

21 Q. And is it your understanding that the
22 values for the deferred costs and carrying charges
23 that Mr. Assante provided in his Exhibit LVA-1 are
24 values that he provided in order to illustrate how
25 the company's deferral mechanism will work?

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1 A. Subject to check, I'd have to go back and
2 look at Mr. Assante's testimony, but I believe that
3 is the case. I think I would accept your premise.

4 Q. And the operative word in my question is
5 that Mr. Assante's LVA-1 is an illustration of how
6 the mechanism would work.

7 A. With the understanding that those were
8 the projected costs that the company sees as what
9 will happen in the '09, '10, and '11 time frame.

10 Q. Okay. So let me break that down. Your
11 understanding is that Mr. Assante's Exhibit LVA-1
12 depicts what the company's expectation is for fuel
13 costs and then deferred fuel costs and carrying
14 charges for '09.

15 A. With the caveat that it was at the time
16 he filed his testimony, that was his information, the
17 best information -- I'm assuming was the best
18 information he had available on what costs would be
19 under the FAC for 2009, '10, and '11.

20 Q. And what is your understanding of the
21 nature of the values that he has depicted on his
22 Exhibit LVA-1 for the next two years, '10 and '11?

23 A. I'd have to go back and look at that. In
24 terms of the fuel costs itself or the deferrals?

25 Q. The question is, is it your understanding

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1 that the values that Mr. Assante has for the deferred
2 fuel costs for '10 and '11 are actual forecasts, are
3 based on actual forecasts of fuel costs, or are they
4 presented on some other basis?

5 A. Maybe I'm not understanding the question
6 clearly here.

7 Q. I'm sorry, let me withdraw the question
8 and let me ask it a different way.

9 Do you know whether Mr. Assante assumed
10 for purposes of his Exhibit LVA-1 and its development
11 that if fuel costs would remain the same on the same
12 basis in '010 and '011 as opposed to being escalated
13 from their '09 levels?

14 A. I don't know the answer to that. My
15 intent was not to reflect or to make an adjustment or
16 to pass any -- to make an opinion on behalf of the
17 hospital association of what those fuel charges would
18 be. The point of this testimony is just to reflect
19 the initial estimates of what the deferrals would be

20 and the associated carrying charges.

21 Q. The initial estimates as depicted on

22 Mr. Assante's Exhibit LVA-1.

23 A. That is correct.

24 Q. Okay. But the actual values for each of

25 the years could be different, both for the deferred

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1 fuel costs and the carrying charges, depending on
2 what occurs in each year of the ESP, right?

3 A. It's a projection.

4 Q. At the bottom of page 11 and then
5 carrying over to the top of page 12, you refer to the
6 company's proposal to begin recovering costs
7 associated with previously authorized regulatory
8 assets. Do you see that at the bottom of page 11 --

9 A. I do.

10 Q. -- and the sentence that carries over to
11 the top of page 12?

12 A. I do.

13 Q. And then you describe the composition of
14 those reg assets in your footnote No. 12. I'm sorry,
15 number --

16 A. Yes, No. 12.

17 Q. Thank you.

18 What I want to focus on is a small point,
19 but at the top of page 12, line 1, you indicate that

20 the companies are planning to start recovering those

21 regulatory assets starting in 2012. Do you see that?

22 A. Yes.

23 Q. Did you mean to say 2011?

24 A. I'd have to go back and look, but I

25 believe I've checked it. It may be, but I'd have

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1 to -- I believe it was 2012. I'd have to go back and
2 check. If it's an error, then it should be 2011.

3 Q. At the risk of improperly testifying
4 myself, would you agree, subject to check, that it
5 should be 2011 then?

6 A. I'd have to go back and look at the
7 information to make sure -- to see whether or not
8 I've incorrectly stated the date. The point, though,
9 is that it's going to start recovery after the ESP is
10 expired.

11 Q. But it is possible, as you sit here, that
12 you're incorrect about that and recovery may be
13 proposed to start before the end of the ESP.

14 A. I'd have to look that up.

15 Q. Okay. At page 13 of your testimony, at
16 the top of the page you describe the non-FAC annual
17 cost increases of 3 percent per year for CSP and
18 7 percent per year for OPCO, right?

19 A. That is correct.

20 Q. And you state in the next couple of
21 lines, I think it's 2 and 3, you state that the
22 purpose, as you understand it, of the 3 percent,
23 7 percent annual increases to the non-FAC generation
24 rates is to recover capital costs associated with
25 investments made to meet environmental requirements

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1 during the 2001 through 2008 period and then
2 similarly for the costs of anticipated expenditures
3 in the 2009, 2010, and 2011 periods; is that right?

4 A. That's correct; based on what's in the
5 company's application as I footnoted there in No. 14,
6 footnote No. 14.

7 Q. It's another fairly small point to start
8 with, but do you know whether the 3 and the 7 percent
9 annual increases for the non-FAC generation rates are
10 not actually based on the 2001 through 2008
11 environmental investment cost recovery proposal?

12 A. There is a document, and I don't remember
13 which one, I believe it's in response to a number of
14 data requests that breaks down a derivation of the
15 3 percent and the 7 percent and shows those
16 environmental projects, lists them out and comes up
17 with a calculation of the 3 and 7 percent. I don't
18 have that document in front of me.

19 Q. That's in Mr. Nelson's testimony?

20 A. I'd have to go search it out. I would

21 take that, subject to check. But there is a

22 derivation of the 3 and 7 percent.

23 Q. Would you agree that the 3 and 7 percent

24 annual increases overall are not actually tied to a

25 specific set of costs but are simply automatic

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1 increases that the company has proposed to provide
2 for cost increases of perhaps an unspecified nature
3 at this point?

4 A. I don't know that I want to say that
5 because that exhibit may have taken it out throughout
6 the three years of the ESP and then, as I recall,
7 that document breaks it down.

8 Q. Could you turn to page 14. The order
9 that you refer to on line 10 that you say the
10 Commission issued on September 17th, do you know
11 whether that was an entry that the Commission's
12 attorney-examiners issued, or was it an order that
13 the Commission issued?

14 A. I believe it was an order from the
15 Commission. Again, I'd have to go back and check,
16 but I believe, as I recall, it was in the initial
17 order, it was in the order list from the Commission.
18 I don't believe it was a hearing examiner order.

19 Q. Okay. Fair enough.

20 A. Whereas the one at 13, line 13, for sure

21 is an attorney-examiner order.

22 Q. Now, we talked about the rules that I

23 think that you mention on line 11 and the fact that

24 they weren't effective at the time the company filed

25 its application, and that, I believe, you indicated

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1 you weren't sure that they're currently effective or
2 when they will be effective. Do you recall that?

3 A. I do.

4 Q. Would you agree with me that what
5 happened with regard to the submission of the
6 additional information that you mentioned in your
7 testimony that was submitted on October 16th, would
8 you agree with me that that information was submitted
9 by the companies in response to the
10 attorney-examiner's entry as opposed to in compliance
11 with the as-of-yet-not-effective rule?

12 A. Yeah, I would agree with that.

13 Q. Okay. Now, you reviewed the provisions
14 of SB 221 at the time that you prepared your
15 testimony; is that right?

16 A. That is correct.

17 Q. Is it your understanding of the law that
18 it requires each provision of an electric
19 distribution utility's ESP to be cost based or not?

20 A. I believe that the provisions of the bill
21 require that the costs be reasonable from the --
22 that -- let me back up.

23 They do not have to be cost based, let's
24 put it that way. They were based on the current
25 rates. The law goes from the current rates out.

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1 Q. Okay. So the individual provisions of
2 the ESP, the incremental adjustments that the ESP
3 makes compared to the existing rates, those
4 incremental provisions, do they all have to be cost
5 based?

6 A. They have to be justified. As I'm
7 sitting here recalling, they have to be justified and
8 necessary to provide safe and reliable service in the
9 opinion of the Commission.

10 Q. Let me turn your attention to page 16,
11 and I'd like to focus your attention specifically at
12 lines 9 through 12. Do you see the point where you
13 state that, quote, "Mr. Roush does not mention in his
14 testimony where the starting column comes from"? Do
15 you see that?

16 A. I do.

17 Q. You're referring to the Current Rates
18 column of DMR-1, right?

19 A. That is correct.

20 Q. Did you review Mr. Roush's workpapers
21 that were provided to the parties in response to Ohio
22 Energy Group's discovery request 1-9? Do you
23 remember whether you looked at those?

24 A. I looked at many, many data requests.
25 Any one specifically I don't recall. If you had it

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1 available for me to look at, I could take a look.

2 Q. Well, do you recall looking at

3 Mr. Roush's workpapers?

4 A. I do.

5 Q. Okay. And those workpapers, if you

6 recollect, they explained how the companies developed

7 the revenues that are displayed in the Current Rates

8 column of the DMR Exhibit 1.

9 A. I believe that's correct.

10 Q. Okay.

11 MR. CONWAY: Your Honor, I have no

12 further questions.

13 EXAMINER BOJKO: Redirect?

14 MR. O'BRIEN: I have just one very brief

15 clarification.

16 Could I approach the witness, your Honor?

17 EXAMINER BOJKO: Yes.

18 - - -

19 REDIRECT EXAMINATION

20 By Mr. O'Brien:

21 Q. Mr. McGarry, in response to some
22 questioning from Mr. Conway concerning the date on
23 which the collection of deferrals will begin, and I
24 believe that was on page 12 of your testimony he was
25 asking you those questions, you indicate that the

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1 collections will begin on 2012 through 2018. Of
2 course, in your testimony you referenced the
3 testimony of Mr. Assante. Have you had a chance to
4 review that portion of Mr. Assante's testimony?

5 A. Yes, I did.

6 Q. And what does Mr. Assante's testimony
7 indicate about those dates?

8 A. Mr. Assante indicates that it begins in
9 2011 which would require that I modify my testimony
10 on page 12, line 1, the 2012 should be 2011.

11 MR. O'BRIEN: Thank you.

12 I have nothing further, your Honor.

13 MR. CONWAY: I apologize, but just one
14 additional follow-up question just so that I'm clear

15 - - -

16 RE-CROSS-EXAMINATION

17 By Mr. Conway:

18 Q. When you corrected your testimony, that
19 sentence that begins at the bottom of page 12, or is

20 it 11?

21 A. Eleven.

22 Q. It comes over to --

23 A. Comes over to 12.

24 Q. What you're addressing there is the

25 company's proposal to start recovering the reg assets

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1 that were created in the prior cases, the ETP cases
2 back in around 2000 and the RSP case that was in
3 2004, those are the reg assets that you're discussing
4 the company will begin recovering in 2011, right?

5 A. That is correct. That is noted in
6 footnote No. 12 on page 11.

7 Q. Thank you. You're not discussing the
8 recovery of the new deferrals that would result in
9 the company's proposal to defer certain fuel costs
10 and carrying charges on deferred fuel costs at that
11 point in your testimony.

12 A. I just want to make sure because there's
13 so many numbers in terms of what's being collected
14 when.

15 Yes.

16 MR. CONWAY: That's all I have, your
17 Honor.

18 EXAMINER BOJKO: Okay. I need to have
19 the question before the last one.

20 (Record read.)

21 EXAMINER BOJKO: Thank you.

22 MR. O'BRIEN: Your Honor, at this time I

23 renew my motion to admit OHA Exhibit No. 3.

24 EXAMINER BOJKO: Do you have an

25 objection, Mr. Conway?

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1 MR. CONWAY: One objection. It is with
2 regard to Exhibit MGM-2, and the basis for the
3 objection, which is to the introduction of the
4 October 16th submission which we've consistently
5 objected to on the grounds of relevance and which
6 you've consistently noted our objection to and then
7 allowed them to go forward.

8 EXAMINER BOJKO: But overruled it.

9 MR. CONWAY: But overruled it, that's
10 right. And so my objection is simply on a consistent
11 basis that we have made it previously, but other than
12 that, I have no objection to the admission of the
13 testimony.

14 EXAMINER BOJKO: And, again, your
15 objection is overruled. And we will admit OHA
16 Exhibit 3.

17 (EXHIBIT ADMITTED INTO EVIDENCE.)

18 EXAMINER BOJKO: Mr. O'Brien.

19 MR. O'BRIEN: Your Honor, in view of the

20 hour, I wouldn't interfere with the --

21 EXAMINER BOJKO: No, let's take care of

22 it now.

23 MR. O'BRIEN: Your Honor, at this time I

24 would move for the admission of -- let me back up.

25 The court reporters have marked as OHA

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1 Exhibit 5 the prefiled testimony of Peter Fleming,
2 and in previous discussions amongst the parties it
3 was indicated that there would be no
4 cross-examination for Mr. Fleming and that the
5 parties would have no objection for the admission of
6 Mr. Fleming's testimony without appearance.

7 (EXHIBIT MARKED FOR IDENTIFICATION.)

8 MR. O'BRIEN: And at this time I would
9 move that exhibit into the record.

10 EXAMINER BOJKO: Any opposition pursuant
11 to Mr. O'Brien's statement that the Fleming testimony
12 will be stipulated to and it will be admitted into
13 the record?

14 Hearing none, it will be admitted.

15 MR. O'BRIEN: Thank you, your Honors.

16 (EXHIBIT ADMITTED INTO EVIDENCE.)

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

18 (At 12:46 p.m. a lunch recess was taken
19 until 2:00 p.m.)

20 - - -

21

22

23

24

25

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1 Tuesday Afternoon Session,

2 December 2, 2008.

3 - - -

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

5 Mr. Margard.

6 MR. MARGARD: Thank you, your Honor.

7 As a preliminary matter in owing to the

8 briefing schedule regarding the first phase of this

9 hearing, staff would like to move to be admitted into

10 the record that portion of Staff Exhibit No. 1, the

11 Direct Testimony of Ed Hess relating to the interim

12 or alternative plan, specifically that portion

13 beginning on page 8 at line 19 through page 9 at line

14 19.

15 EXAMINER BOJKO: Any opposition for the

16 admission of Mr. Hess's partial testimony given the,

17 I guess, the briefing schedule on the 1/1/09 plan?

18 Hearing none, it will be admitted.

19 (EXHIBIT ADMITTED INTO EVIDENCE.)

20 EXAMINER BOJKO: Ms. Grady.

21 MS. GRADY: Yes, your Honor, at this time

22 OCC would move for the admission of Exhibit No. 1,

23 which is the table 3, Updated Revised Market Based

24 Power Prices contained in Ms. Smith's testimony.

25 EXAMINER BOJKO: Any opposition to the

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1 admission of OCC Exhibit 1?

2 MR. RESNIK: May I just have a minute,
3 your Honor?

4 EXAMINER BOJKO: Yes. This has already
5 been attached to Ms. Smith's testimony, but given
6 that we referred to it as Exhibit 1 during the
7 1/1/09 cross-examination, we determined yesterday
8 that we were going to mark it and admit it separately
9 for ease of briefing on Wednesday.

10 MR. RESNIK: Thank you.

11 EXAMINER BOJKO: OCC Exhibit 1 will be a
12 admitted.

13 MS. GRADY: Thank you, your Honor.

14 (EXHIBIT ADMITTED INTO EVIDENCE.)

15 EXAMINER BOJKO: Anything else before we
16 begin with AEP's next witness?

17 Please call your next witness,
18 Mr. Resnik.

19 MR. RESNIK: Thank you. The companies

20 call Mr. Craig Baker.

21 EXAMINER BOJKO: Mr. Baker, please raise

22 your right hand.

23 (Witness sworn.)

24 EXAMINER BOJKO: Please be seated.

25 MR. RESNIK: Your Honor, if I could have

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1 marked as Companies' Exhibit 2A the direct testimony
2 of J. Craig Baker in this docket.

3 EXAMINER BOJKO: It will be so marked.

4 MR. RESNIK: Thank you.

5 (EXHIBIT MARKED FOR IDENTIFICATION.)

6 MR. RESNIK: And also to mark as
7 Companies' Exhibit 2B a two-page document that is an
8 errata sheet to Mr. Baker's testimony.

9 EXAMINER BOJKO: It will be so marked.

10 MR. RESNIK: Thank you.

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 - - -

13 J. CRAIG BAKER

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

15 examined and testified as follows:

16 DIRECT EXAMINATION

17 By Mr. Resnik:

18 Q. Mr. Baker, will you state your name,

19 please?

20 A. My name is J. Craig Baker.

21 Q. And do you have before you a copy of what

22 has been marked as Companies' Exhibit 2A?

23 A. Yes, I do.

24 Q. Can you identify that exhibit for the

25 record?

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1 A. That is my direct testimony in this case.

2 Q. And do you have changes or corrections to
3 make to that testimony?

4 A. Yes, I do. And those are contained in a
5 two-page errata sheet which has been suggested be
6 labeled 2B.

7 Q. And it has been marked as Companies'
8 Exhibit 2B. And the second page of Companies'
9 Exhibit 2B, could you explain what the changes are or
10 why changes were made on that exhibit?

11 A. Yes, I can. This exhibit is part of my
12 original testimony which compared the ESP with the
13 MRO and looked at whether in the aggregate the ESP
14 was more beneficial to customers than the MRO.

15 When I originally drafted it, I had put
16 in the full POLR calculation for both companies for
17 the ESP and then had reduced it by 90, 80, 70, for
18 the MRO, recognizing the phase-in of certain markets,
19 certain amount of power under the MRO.

20 I realized that this really ought to be
21 the incremental portion of the POLR, that amount
22 which was above what is already in rates, and so this
23 adjustment was just to reduce it to the incremental
24 POLR addition we are proposing in this case over and
25 above what's already in rates.

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1 Q. Okay. And then that change in the POLR
2 amount in both the top half and bottom half of this
3 exhibit, those just flow through to the totals for
4 the MRO and for the ESP?

5 A. Yes, they do.

6 Q. And then the comparison of those two
7 totals, that POLR change then flows through to the
8 very bottom line of -- the estimated benefit line?

9 A. That's correct.

10 Q. Okay. Mr. Baker, if I were to ask you
11 the questions that appear in Companies' Exhibit 2A,
12 would your answers be the same as are contained
13 therein and as modified by the errata sheet that's
14 been labeled Companies' Exhibit 2B?

15 A. Yes, they would.

16 MR. RESNIK: Your Honor, I have no
17 further questions for the witness, and he is
18 available for cross-examination.

19 EXAMINER BOJKO: Mr. Resnik, do you have

20 an additional copy of 2B?

21 My understanding --

22 Mr. Bell.

23 MR. BELL: Motion to strike, your Honor.

24 EXAMINER BOJKO: Please.

25 MR. BELL: Your Honor, I have three

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1 distinct motions to strike relative to Mr. Baker's
2 testimony. The first motion to strike would begin on
3 Mr. Baker's prefiled testimony, page 22, line 16,
4 through page 24, line 3.

5 EXAMINER BOJKO: 24, line 3?

6 MR. BELL: Yes. I'll list the three
7 motions to strike and then provide the basis, or
8 would the Bench prefer that I address each of them
9 separately?

10 EXAMINER BOJKO: Do they have distinct
11 rationales?

12 MR. BELL: Yes.

13 EXAMINER BOJKO: Let's go one by one.

14 MR. BELL: Very well.

15 With respect to the first motion to
16 strike, the question appearing on page 22, line 16,
17 is simply the predicate for the following question
18 and answer which relates to securitization, and as
19 the testimony itself reveals, this is all moot. This

20 might be an appropriate discussion for submission to
21 the Ohio General Assembly but not to this Commission,
22 as evidenced on the bottom of page No. 23, Mr. Baker
23 states: "If the present law is amended to make
24 securitization feasible," acknowledging that under
25 current law it is not feasible, "the Companies will,

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1 with the Commission's approval," i.e., if the
2 Commission were to approve the same, "securitize the
3 remaining balance of the deferred unrecovered
4 phase-in FAC costs."

5 As a result, the material that I had
6 moved to strike is totally irrelevant, calls for
7 speculation, and has no relevance to the proceeding
8 before this Commission.

9 If you wish, I'll move on to the second
10 motion to strike.

11 EXAMINER BOJKO: No, I'd like to hear
12 counsel's response.

13 MR. RESNIK: Thank you, your Honor.
14 4928.1 3(B)(2)(f) refers to securitizing phase-ins
15 inclusive of carrying charges. Given that that was
16 one of the options referred to in Senate Bill 221,
17 the company believes that it is appropriate to
18 explain to the Commission why a specific
19 securitization is not being proposed in the context

20 of this proceeding and what the company's intentions
21 would be if such a securitization could be made, and
22 we think that that is important information for the
23 Commission to understand and is relevant to the
24 framework of the deferral and phase-in that the
25 company is proposing.

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1 MR. BELL: May I respond, your Honor?

2 EXAMINER BOJKO: One second.

3 Yes.

4 MR. BELL: I think Mr. Resnik's response
5 underscored the substance of my motion, and that is
6 let me explain why I didn't order pasta for lunch
7 today. This witness's explanation of why they are
8 not seeking securitization in this proceeding I think
9 underscores the basis of the motion. It's totally
10 irrelevant. It's not part of this application.

11 If they want to address this argument to
12 the General Assembly in support of its argument --
13 their argument that the law must be amended before
14 they might seek securitization, that's an entirely
15 different matter.

16 But the address of this subject in the
17 context of this proceeding as to explain why they
18 didn't request securitization in this proceeding
19 underscores the merits of my motion.

20 EXAMINER BOJKO: That motion to strike is

21 denied.

22 Move on to the next one, please.

23 MR. BELL: Yes, your Honor. The next

24 motion to strike would begin on page 24, line 5,

25 through page 25, line 12.

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1 EXAMINER BOJKO: Carrying Costs on

2 Environmental Investment?

3 MR. BELL: The basis for that --

4 EXAMINER BOJKO: I'm sorry, is this

5 subject matter Carrying Costs on Environmental

6 Investment?

7 MR. BELL: Yes.

8 EXAMINER BOJKO: Please proceed.

9 MR. BELL: The witness has indicated on

10 page 1 of his prefiled testimony and on page 3 of his

11 prefiled testimony that his position is to deal with

12 regulatory policy and his purpose is to discuss the

13 policy and other issues.

14 As revealed on its face, the material

15 that I have sought to strike in this motion simply

16 repeats, if you will, the testimony of Mr. Nelson as

17 evidenced with the question beginning on line 6:

18 "Are you aware that Mr. Nelson testified regarding,"

19 and it goes on and on.

20 Then he effectively repeats, if you will,
21 the testimony of Mr. Nelson through page 25, line 12,
22 which adds nothing to this proceeding and is simply
23 replicating the testimony previously submitted by
24 Mr. Nelson.

25 EXAMINER BOJKO: Go ahead, Mr. Resnik.

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1 MR. RESNIK: Your Honor, Mr. Nelson has a
2 quantification in his testimony of the carrying
3 charge and explains which portions of the
4 environmental investment that carrying charge would
5 be applied to. Mr. Baker's testimony in this portion
6 cited by Mr. Bell is explaining the rationale for why
7 there should be a carrying charge recovered as part
8 of the electric security plan.

9 EXAMINER BOJKO: Mr. Bell.

10 MR. BELL: I believe that Mr. Nelson's
11 testimony went far more than making a calculation.
12 It went to the underlying basis and rationale for the
13 calculations that he made and why he made them. I
14 renew the motion to strike.

15 EXAMINER BOJKO: What are you basing your
16 motion on, relevance or --

17 MR. BELL: Yes.

18 EXAMINER BOJKO: -- duplicativeness?

19 MR. BELL: It's duplicative. It's simply

20 reiterating the testimony of a prior witness, and I
21 think it's improper. We can have ten witnesses come
22 on and say "I repeat the testimony of X, Y, and Z."
23 I attempted to point this out I believe in my initial
24 cross-examination of Mr. Roush, as did the inquiries
25 of Ms. Grady and I believe Mr. Randazzo. One cannot

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1 in effect build, if you will, the merits of a case by
2 simply repeating the testimony of a previous witness
3 and that, I respectfully submit, in all deference to
4 Mr. Baker, is the essence of the testimony that I've
5 just moved to strike.

6 EXAMINER BOJKO: The motion will be
7 denied. I think Mr. Baker is one of the overall
8 witnesses that is trying to bring all the pieces
9 together and compare the ESP to the MRO.

10 Next one, please.

11 MR. BELL: Yes. I'm not easily
12 frustrated, as I think everyone in this room knows.

13 MR. RANDAZZO: There's a quote that is
14 unnecessary.

15 MR. BELL: The next motion to strike
16 begins on page 40 of Mr. Baker's testimony, line 5,
17 through page 45, line 19, and if you will --

18 EXAMINER BOJKO: 45, line 19?

19 MR. BELL: Yes. Beginning on page 40,

20 line 5, through page 45, line 19. If I may, your

21 Honor.

22 EXAMINER BOJKO: Just so we're clear,

23 you're moving to strike six pages.

24 MR. BELL: That's correct.

25 EXAMINER BOJKO: Okay. Please proceed.

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1 MR. BELL: While I recognize, your Honor,
2 that this is an ESP proceeding and not a, quote, rate
3 proceeding in which the Commission can consider
4 nonmonetary matters and consider matters that some
5 might describe as bells and whistles and the like, I
6 believe that the Commission in this proceeding is
7 faced with a number of very substantive matters that
8 must be addressed.

9 As this testimony clearly reveals, and it
10 begins with the corporate separation plans, the
11 response of the company -- first of all, the
12 separation I believe is more appropriately under the
13 statute considered as part of the MRO proceeding, not
14 the ESP proceeding. But the company is making a
15 proposal in this proceeding regarding separation
16 based upon, and I quote line 16 of page 40, "The
17 Companies are proposing that the Commission authorize
18 the Companies to remain functionally separated and
19 authorize a plan to retain the distribution and, for

20 now, the transmission assets" -- and I want to
21 emphasize this -- "to eventually move their
22 generation assets to a to-be-formed affiliate
23 company."

24 Such a company has not been formed. The
25 substance of such a transaction is not before the

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1 Commission at this time. And following -- on the
2 following page the companies -- Mr. Baker addresses:
3 "Why do the Companies request this authority?" And
4 he states: "We believe the three-year ESP
5 accommodates a reasonable extension period of
6 functional separation," end quote.

7 The testimony of Mr. Baker, taken as a
8 whole, is requesting in this proceeding authorization
9 for the transfer of these assets upon the expiration
10 of the three-year ESP plan as reflected in his
11 response to the question appearing on lines 9 and 10
12 of page 41, which I just quoted.

13 This is underscored by this is some
14 future proposal of the company, and this is the
15 essence of the entire motion that I've just set
16 forth, and if I may, I will carry that over with
17 respect to the Darby and Waterford. The company is
18 requesting authorization to sell these generating
19 assets in this proceeding, not at some point in time,

20 based upon the contention that such assets are not in

21 rate base.

22 The same goes with respect to the

23 Lawrenceburg facility, and I think as the record in

24 this proceeding reflects, those assets do impact upon

25 the rates to be paid by employers under the -- given

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1 the operation of the companies' purchased power
2 arrangements with its affiliates.

3 The company requested a similar exclusion
4 with respect to -- or authorization with respect to
5 Columbus & Southern and Ohio Power Company's
6 relationship with OVEC, notwithstanding the fact that
7 the OVEC transaction is the subject of the
8 intercompany power agreement which, as indicated on
9 page 44, line 23, has been extended to March 13th,
10 2026. So the company's rights and obligations under
11 that agreement the company is requesting permission
12 to dispose of in the context of this ESP proceeding.

13 Further, on the same theory and thought
14 and basis of the motion to strike, Mr. Baker then
15 addresses the Lawrenceburg. In that particular
16 situation Mr. Baker opines, page 45, lines 14 and 15,
17 "Though Commission approval of the intended
18 transactions I have just described" -- referencing
19 the OVEC and Columbus & Southern Power Lawrenceburg

20 entitlements -- "is not required," he nonetheless has
21 requested such authorization in this proceeding.

22 He has been advised by counsel that such
23 authorization is not required, as indicated on page
24 45. His answer beginning on line 7, "I have been
25 advised by counsel that since these entitlements are

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1 contractual in nature and do not arise from
2 generating assets, that either Company wholly or
3 partially owns, Commission approval for such
4 transaction is not required."

5 Thus, by Mr. Baker's own admission the
6 approval of the sale of certain assets of the company
7 is not required, that they don't intend to exercise
8 that authorization in the near future, yet Mr. Baker
9 is requesting authorization in these proceedings.

10 I respectfully submit that the Bench has
11 much more meaty matters in this case to resolve than
12 to provide authorization for the company to take some
13 action in the future that it says is not required by
14 law and which the company doesn't even know at this
15 time whether it will pursue.

16 For those reasons I respectfully request
17 that the third branch of my motion to strike be
18 granted.

19 MR. RANDAZZO: Your Honor, I don't want

20 to speak to the merit of Mr. Bell's motion. I would
21 note for the record that the question of whether or
22 not the Commission's authority to transfer these
23 interests is a matter that's in dispute. We have
24 specifically addressed that issue, and if it's going
25 to be stricken, we will need to modify our testimony

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1 accordingly, but it is a matter that's a contested
2 issue at this point. We do believe the Commission's
3 authority is required.

4 MR. RESNIK: Your Honor, part of the
5 premise of Mr. Bell's motion is that corporate
6 separation is just a matter for a market rate offer
7 application. Actually, 4928.17 stands on its own and
8 addresses the requirements for corporate separation
9 and indicates that ultimately that has to occur.
10 While there can be an interim plan for functional
11 separation, that is not forever.

12 And as we've indicated throughout the
13 hearing, the scope of an electric security plan is
14 not limited by these points that are specifically set
15 out in 4928.143(B)(2), but that language says
16 "without limitation." And so we have brought before
17 the Commission issues concerning corporate
18 separation. We think that they belong in this
19 proceeding.

20 I know this morning we heard testimony
21 from a witness who thought a lot of other things
22 should belong in this proceeding, so everyone seems
23 to have their own views as to what should be
24 accomplished in this proceeding. We think it's
25 appropriate to have brought these issues before the

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1 Commission and, you know, whether the Commission
2 chooses to rule on them or how they rule on them is
3 up to the Commission, but I just don't see how they
4 can be viewed as irrelevant.

5 There's been testimony relative to our
6 purchased power plan and questions have been raised
7 about our proposal to sell or transfer generating
8 assets. These things may or may not tie together,
9 but they may -- but it's difficult to say that
10 they're not relevant so we believe that these six
11 pages of testimony should stay in.

12 EXAMINER BOJKO: Mr. Bell.

13 MR. BELL: I'm simply trying to assist
14 the Bench in addressing the matters. If this motion
15 is sustained, Mr. Randazzo's argument disappears. If
16 this motion is sustained, it supports the company's
17 position that perhaps this matter need not be decided
18 in this case because of its opinions -- its counsel's
19 opinion the Commission doesn't have jurisdiction. I

20 rest on the argument previously presented.

21 EXAMINER BOJKO: Once again, Mr. Bell, I

22 appreciate you attempting to assist the Bench and the

23 Commission in its daily activities, and we are well

24 aware of all of the issues that are before us and, in

25 fact, I think the Commission has adopted rules that

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1 address this very matter. So I think that it is very
2 relevant, and I think it is up to the Commission to
3 decide what they approve and do not approve in the
4 company's application.

5 And I also think, as Mr. Randazzo pointed
6 out, that some of the issues and concerns you raise
7 are the exact matters that you should be discussing
8 on cross-examination with the witness because I think
9 some of these items are disputed.

10 So I know I have confidence that we will
11 hear these arguments from you in the cross of
12 Mr. Baker, so --

13 MR. BELL: I was attempting to facilitate
14 Mr. Resnik's desire to shorten the proceeding by
15 shortening the testimony.

16 EXAMINER BOJKO: Once again, always
17 trying to help everybody else out.

18 The motion to strike is denied.

19 Ms. Roberts.

20 MS. ROBERTS: Thank you, your Honor. I

21 also would like to strike parts of Mr. Baker's errata

22 sheet, so --

23 EXAMINER BOJKO: You'd like to strike

24 them or you'd like to move to strike.

25 MS. ROBERTS: I'd like to move to strike.

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1 EXAMINER BOJKO: What's your motion?

2 MS. ROBERTS: I'd like to move to strike
3 portions of Mr. Baker's errata sheet. First, the
4 errata identified on page 32 of his testimony where
5 he substitutes the three-year Treasury note for
6 LIBOR.

7 Your Honor, under the Commission's rules,
8 specifically 4901.129(A) and (H), the company's
9 direct case needed to be filed before these hearings
10 proceeded. This is a substantive change to
11 Mr. Baker's testimony. This isn't an error or a
12 simple typographical correction.

13 And I know that the Bench has latitude
14 under section (C) of that rule to allow more
15 expansive oral testimony of a witness if it's called
16 for, and I guess I would say that this argument would
17 not be inconsistent with what's proposed in the
18 errata sheet, but only if it does not delay the
19 hearing or prejudice the proceedings, and this does

20 all of that.

21 The three-year Treasury note is a cash

22 equivalent. Mr. Baker identifies in his testimony

23 that it is a risk-free interest rate. LIBOR is

24 anything but that. LIBOR is a London Interbank

25 Offered Rate, it is a UK and European rate determined

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1 by the interbank loans that those select institutions
2 that are included in the LIBOR calculation will
3 make -- the rate at which they will make loans,
4 interbank loans. It is not risk free. It is not a
5 domestic rate. It is not equivalent to a three-year
6 Treasury because of that.

7 And LIBOR, which is calculated and issued
8 by the BBA, and only by them, only has rates that are
9 monthly rates up to 12 months. There's no three-year
10 LIBOR indicated by the BBA.

11 And, in addition, in the errata Mr. Baker
12 doesn't even identify which LIBOR he uses. And by
13 way of example, it would be like Mr. Baker saying he
14 used a U.S. Treasury note as the interest component
15 in the calculation of the Black-Scholes model. You
16 know, there are different Treasury notes and
17 different Treasury investments issued by the fed and
18 backed by the U.S. government, and there are also
19 different rates and instruments issued by the BBA and

20 different LIBORs. We don't even know what LIBOR was
21 used.

22 Even if it were comparable, which it's
23 not, the reason this is so important is because the
24 company bases its request of over half a billion
25 dollars from customers, most of them being

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1 residential customers, during the term of the ESP
2 plan.

3 Mr. Baker has now identified the critical
4 component in the calculation of the Black-Scholes
5 model that we were unaware of, although we deposed
6 Mr. Baker. We propounded discovery requests upon
7 Mr. Baker. We issued requests for production to
8 Mr. Baker. And now, you know, just two, three weeks
9 into the hearing we find that this huge request of
10 customers in terms of a rate increase is based on
11 data and criteria that were not known to the parties.

12 So for this reason I move to strike
13 Mr. Baker's errata as it relates to the substitution
14 of the three-year Treasury for LIBOR.

15 EXAMINER BOJKO: Mr. Resnik.

16 MR. RESNIK: Your Honor, it's my
17 understanding -- and I think counsel's free to
18 cross-examine Mr. Baker on it, but it's my
19 understanding that the only change was to the

20 reference. It was the incorrect reference. And the
21 calculation, as I understand it, has not changed. It
22 was simply that the reference that was put in there
23 was mistaken.

24 It is also my understanding --

25 EXAMINER BOJKO: So the calculation was

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1 actually based on LIBOR?

2 MR. RESNIK: That is my understanding.

3 Mr. Baker can clarify that.

4 The other thing is, and I'm looking for

5 it, but there was -- I'm not looking for it, but

6 someone's looking for it, there was a discovery

7 response that went out to all the parties that

8 specified this error and corrected it.

9 So, you know, I think they're free to

10 cross-examine Mr. Baker in that regard, but I don't

11 see why you would go about striking that errata. I

12 think we want the correct reference in there.

13 MS. ROBERTS: Your Honor, if I may

14 respond, I understand that the partial differential

15 equation which constitutes the Black-Scholes model

16 calculation did not change because LIBOR was actually

17 used and not a three-year Treasury. But the

18 importance of that is it was represented that a

19 risk-free money equivalent, a U.S. T note, was used

20 for the interest input of the Black-Scholes model by
21 the company, and an interest-free input was not used,
22 and not only was an interest-free not used, a foreign
23 index was used that's determined by eight European
24 banks.

25 Whether that's equivalent to a U.S.

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1 Treasury, how different it is, what the basis point
2 spread is between the value of the interest rates,
3 none of that has been established, and it's not
4 something that you can do when you're talking about
5 this kind of expert testimony and cross-examination
6 on the stand. It's something that you need to have
7 ahead of time so that when your witness, Ms. Medine,
8 is addressing the Black-Scholes model as filed by
9 Mr. Baker and supported by Mr. Baker, she can also
10 address why LIBOR was not an appropriate interest
11 rate to use in the calculation.

12 She testified that the Black-Scholes
13 model was very sensitive, and you're talking about
14 one of the five inputs being wrong -- and in terms of
15 what it was represented to be. And so it's not
16 something you can fix by cross-examination, your
17 Honor.

18 EXAMINER BOJKO: Mr. Randazzo.

19 MR. RANDAZZO: Yes, your Honor, just

20 briefly. I just for the record would note that on
21 page 31 of Mr. Baker's testimony at line 17 he's
22 there responding to the question about what are the
23 required quantitative inputs, and the fourth item is
24 a risk-free interest rate. I do not see that changed
25 on the errata sheet, so to the extent that this

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1 dispute involves more than just the errata at the top
2 of page 32, we're substituting LIBOR for the
3 Treasury, three-year Treasury.

4 EXAMINER BOJKO: I guess I'm confused.
5 If this was a -- I mean whatever was inputted into
6 the Scholes model was inputted. We can't change what
7 was inputted. So the company's now saying that LIBOR
8 was used.

9 I guess that interest rate should have
10 reflected something different than the risk-free
11 three-year Treasury note, correct?

12 MR. RESNIK: No. I suspect Mr. Baker can
13 speak better to it if you wanted to ask him, but
14 again, my understanding is the LIBOR rate is what was
15 used in the calculation. The reference in this table
16 on the top of page 32 is an incorrect reference.

17 EXAMINER BOJKO: Right. And striking the
18 errata is not going to assist OCC at all because then
19 it's going to be an incorrect reference. That's why

20 I'm trying to figure out --

21 I understand your concern of maybe not

22 having the information or you think that that

23 shouldn't be the proper rate used, but I'm not sure

24 striking the errata is the proper way either. I'm

25 trying to think of a remedy here. Why don't we ask

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1 Mr. Baker what was --

2 MS. ROBERTS: Your Honor, may I connect
3 the dots or try to connect the dots?

4 EXAMINER BOJKO: Sure.

5 MS. ROBERTS: I understand that LIBOR was
6 used, but we weren't told LIBOR was used. We were
7 told that a risk-free interest rate was used, which
8 would have changed our complete evaluation of the
9 case.

10 Now, what that means if the errata is
11 struck is that Mr. Baker's testimony as prefiled is
12 incorrect, and if you have one of his assumptions in
13 the Black-Scholes model that is unsupported in the
14 record, and it will be unsupported in the record
15 because I don't think you can do the calculation
16 using three-year Treasuries at this point, then the
17 model itself is unsupported in the record and must
18 fail.

19 EXAMINER BOJKO: Well, that's a matter

20 for the Commission, the evidence before it.

21 MS. ROBERTS: I understand, but that's

22 the importance of striking the errata, is that the

23 calculation was made on five inputs that are highly

24 sensitive. Four of them were subjective. The only

25 objective input was the U.S. Treasury, three-year

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1 Treasury note, which we did not object to because it
2 is risk-free money, and that he substitutes now for
3 that input LIBOR, which is not risk-free money. It's
4 an interbank loan rate.

5 EXAMINER BOJKO: Did you know about LIBOR
6 before this? I thought I just heard you say in your
7 answer you understood that that rate was used.

8 MS. ROBERTS: Well, I understand now that
9 rate was used. We did our analysis based on his
10 testimony, which was that he used a risk-free cost of
11 money.

12 EXAMINER BOJKO: Mr. Baker, could you
13 provide a little guidance of is it truly an error?
14 Was LIBOR actually used in the input to the
15 Black-Scholes model?

16 THE WITNESS: Yes, that's what was used.
17 It's an error in the testimony in the table and
18 perhaps in another location as to which interest rate
19 we used.

20 But I think there's another piece of
21 information that maybe people are misunderstanding,
22 and that is, the purpose of the interest rate is to
23 discount the value of the results that you get from
24 this. So if we were to use a three-year Treasury
25 note as opposed to LIBOR, we would actually get a

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1 higher calculation for the value of the POLR than we
2 did using LIBOR.

3 MS. ROBERTS: I'm sorry, your Honor, that
4 is not in his testimony, and it is not in his errata
5 and is new evidence being offered which we are unable
6 to address in this hearing.

7 EXAMINER BOJKO: Actually, counselor, you
8 have not even had the opportunity of
9 cross-examination. I asked the question and so I did
10 want the witness to answer. To me this is an input
11 that was used and it would be --

12 MS. ROBERTS: That's right.

13 EXAMINER BOJKO: -- it is a mistake if it
14 was used in the actual calculation. The chart here
15 is an actual errata. That's why I'm trying to
16 determine right now -- so I did ask the question.
17 I'd appreciate you giving the witness a chance to
18 respond to my question.

19 Were you finished, Mr. Baker?

20 THE WITNESS: Unless you have another
21 question.

22 EXAMINER BOJKO: I have a question as to
23 whether Mr. Resnik found a data response that was
24 submitted.

25 MR. RESNIK: Not as yet, your Honor. I

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1 believe there was, but I don't want to be held to
2 that, but that was my understanding.

3 EXAMINER BOJKO: But, Mr. Baker, it's
4 your testimony today that this was truly an error in
5 the table, and maybe on page 31, that this was the
6 input that was actually used in the Black-Scholes
7 calculation?

8 THE WITNESS: The LIBOR is the value that
9 was used in the Black-Scholes evaluation.

10 EXAMINER BOJKO: The motion to strike is
11 denied. I think that counsel can raise all these
12 concerns on cross-examination and ask the witness. I
13 also think that you have the opportunity possibly, I
14 regret saying this, but for rebuttal opportunities if
15 this is truly a change in testimony that you believe
16 is necessary to file rebuttal on.

17 MS. ROBERTS: Thank you, your Honor. And
18 I would lodge a continuing objection to this
19 testimony remaining in the record on the basis that

20 the OCC has been denied its right to due process to
21 confront a witness offered against it because it has
22 been denied the information on how this Black-Scholes
23 model was calculated.

24 The error was not in how it was
25 calculated. The error was that the parties to this

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1 case were told it was calculated in a different way
2 than it was.

3 EXAMINER BOJKO: So what are you
4 suggesting, Ms. Roberts? Do you want to stop the
5 hearing right now and depose Mr. Baker on this
6 particular issue?

7 MS. ROBERTS: Well, your Honor --

8 EXAMINER BOJKO: I've listened to you
9 talk. You've given an argument. I've listened to
10 both sides. I've listened to a third party speak,
11 and I've asked the witness some clarifying questions,
12 and I've made a ruling, and now you're still
13 objecting on due process.

14 I've said you have the opportunity to
15 cross-examine and you have the opportunity to offer a
16 rebuttal witness on this. What would you suggest
17 that we do at this point in the hearing?

18 The errata sheet was given to all parties
19 when, Mr. Resnik?

20 MR. RESNIK: Last week sometime.

21 EXAMINER BOJKO: Why has this not been

22 brought before the Commission before moments before

23 Mr. Baker testifies?

24 MS. ROBERTS: Because I didn't get the

25 errata sheet until yesterday morning.

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1 EXAMINER BOJKO: I've had it for over a
2 week.

3 MS. ROBERTS: It was handed out the last
4 day of hearings last week. I was not here when it
5 was handed out. It was not served on the parties as
6 the other errata were, and so I saw it when I came in
7 yesterday morning, and I've attempted to address it.

8 Now, your Honor, there is something that
9 would be helpful to move this along, and that would
10 be it would be very helpful to know what LIBOR
11 Mr. Baker used in the Black-Scholes calculation. As
12 I've said, there are many LIBORs and we don't even
13 know which one was used.

14 EXAMINER BOJKO: Well, I think that can
15 be brought out on cross-examination, I think that
16 question.

17 But if you believe that this would help
18 OCC in its due process rights, Mr. Baker, could you
19 explain which LIBOR was used?

20 THE WITNESS: I would have to get with
21 one of my experts for just a short period of time and
22 we can supply that.

23 EXAMINER BOJKO: Okay. I think in order
24 to attempt to move this along quickly and give
25 everybody an opportunity to fairly cross-examine the

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1 witness, let's take a brief recess and find that
2 information out so we can have all documentation, and
3 I'd also like to find a discovery response if it
4 exists with regard to this as well so the record is
5 clear.

6 MR. RESNIK: Thank you.

7 THE WITNESS: Thank you, your Honor.

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

9 (Recess taken.)

10 EXAMINER BOJKO: Let's go back on the
11 record. It's my understanding off the record that
12 the company has located some information.

13 Mr. Resnik, would you like to explain
14 that, please?

15 MR. RESNIK: Yes, your Honor. There were
16 two data requests that we found. One was in response
17 to one of the questions in OCC's fourth set of
18 discovery. We're getting copies made right now. I
19 think it was 4-109, but somewhere around there, that

20 was sent out I believe on October 3rd, 2008, and
21 specifically indicated that the companies used the
22 LIBOR rate for the 2009 through 2011 period that was
23 being priced and it was used as a risk-free proxy for
24 the Black-Scholes purposes.

25 The other data response that we served,

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1 and we believe as early as August 22nd, was to a
2 third set of discovery from the OEG, the Ohio Energy
3 Group, and that had as one of the attachments to it a
4 listing of all the interest rates for the dates that
5 were used by the company and that were determined as
6 of July 24th, 2008.

7 So it is certainly our view that all
8 parties had the -- were aware that the company used
9 LIBOR rates. They were aware of what the rates were,
10 and it confirms what we were saying, that this
11 reference on page 32 to the chart under the interest
12 rate was simply a wrong reference but the right
13 interest rates were used.

14 EXAMINER BOJKO: And the changing of the
15 reference to the table at the top of page 32 did not
16 affect the output of the Black-Scholes model and, in
17 fact, it reflects the correct inputs to the
18 Black-Scholes model, and that's your understanding?

19 MR. RESNIK: Yes.

20 EXAMINER BOJKO: And it was also brought
21 to our attention before the recess that the reference
22 on page 31 might also be incorrect, or could you
23 clarify that? I think the response -- we don't have
24 the data here, but when you read it, I thought it had
25 the word "risk free" in it.

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1 MR. RESNIK: It was used as a risk-free
2 proxy, so we believe the reference on page 31, line
3 17 is still accurate.

4 EXAMINER BOJKO: So still the request is
5 to merely errata page 32 and the word "LIBOR" put in
6 place of the "three-year Treasury note."

7 MR. RESNIK: Correct.

8 EXAMINER BOJKO: For my purposes this
9 data request was served on October 3rd, 2008. But
10 for the record I should say that was provided to all
11 parties in this case, and that was provided almost a
12 month before direct testimony of the intervenors was
13 due.

14 Is that correct?

15 MR. RESNIK: That is correct. And the
16 only hesitation I have about the October 3rd date
17 is that that was the -- that would be ten days after
18 the discovery was served on us. To my knowledge, I
19 don't think we missed the ten-day requirement on any

20 of the discovery. If we did, we would have notified
21 counsel in advance, and it may have been a day or so
22 later. There may have been some that even went out a
23 day or so early, but we're certainly talking about
24 right around October 3rd.

25 EXAMINER BOJKO: And also, just so we're

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1 clear, because there was some discussion of this on
2 the record, the errata sheet was passed out to all
3 parties last week on Wednesday the 26th; is that my
4 understanding, at the hearing?

5 MR. RESNIK: That would have been the
6 latest. I must confess that it was a little foggy
7 whether it was Wednesday or Tuesday, but no later
8 than that Wednesday that you've identified.

9 MR. RINEBOLT: Your Honor, for what it's
10 worth, the discussion down here seemed to think it
11 was Wednesday after we concluded the hearing.

12 EXAMINER BOJKO: Okay. We're waiting for
13 copies of that, and I'm assuming that the company is
14 going to mark that as an exhibit.

15 MR. RESNIK: Yes, your Honor, although I
16 thought, and we can still do it, but I thought off
17 the record, and I hope I'm not out of line saying
18 this, that this particular motion to strike was being
19 withdrawn, but we can still put it on the record.

20 EXAMINER BOJKO: I would like it to be in

21 the record.

22 MR. RESNIK: That's fine.

23 EXAMINER BOJKO: And now, OCC, do you

24 have, Ms. Roberts, do you have a response?

25 MS. ROBERTS: To?

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1 EXAMINER BOJKO: Everything that you've
2 heard.

3 MS. ROBERTS: I guess my response to
4 everything I have heard is that my only response is
5 that it appears that the OCC received a data response
6 that says the LIBOR was used. I don't believe it
7 indicates that it was used instead of the three-year
8 Treasury. It doesn't indicate what LIBOR was used;
9 we still don't know that, but it appears that that
10 information was in the hands of the OCC before these
11 hearings commenced.

12 EXAMINER BOJKO: And are you withdrawing
13 your motion to strike, or are you having your motion
14 to strike stand?

15 MS. ROBERTS: No, I'll withdraw my
16 motion. Thank you.

17 EXAMINER BOJKO: And just so the record
18 is clear, you're withdrawing your continual objection
19 to any due process claims that OCC might raise at a

20 later time with regard to the adequacy of preparation

21 with regard to this subject matter that we've been

22 discussing this morning?

23 MS. ROBERTS: I'm withdrawing my motion

24 to strike and any continuing objection I had to my

25 motion to strike.

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1 EXAMINER BOJKO: Mr. Resnik, may I review
2 that data request, please?

3 MR. RESNIK: Sure. This is 4-109, and
4 this was the OEG. I just copied the cover page and
5 one of the pages of the attachment that had the
6 interest rates.

7 EXAMINER BOJKO: Just for the record, I
8 believe this was stated when we were off the record,
9 but the interrogatory request No. 4-109 response C
10 states that: "The risk-free interest rate was
11 determined by taking the average of the LIBOR rate
12 for the calendar years 2009 through 2011 period that
13 was being priced."

14 So with that, I think any other questions
15 regarding the LIBOR can be appropriately discussed on
16 cross-examination, and since there's no longer a
17 pending motion to strike, the errata sheet No. 7 will
18 stand.

19 Ms. Roberts, I believe you have another

20 motion for us?

21 Oh, I'm sorry.

22 MR. RESNIK: Thank you.

23 EXAMINER BOJKO: Mr. Resnik, for

24 identification purposes would you like to mark these

25 two data responses?

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1 MR. RESNIK: Yes. If I could mark the
2 one-page response as Companies' Exhibit 2C and the
3 two-page document, if we could have marked as
4 Companies' Exhibit 2D.

5 EXAMINER BOJKO: They will both be so
6 marked.

7 MR. RESNIK: Thank you.

8 EXAMINER BOJKO: The one page, Companies'
9 Exhibit 2C will be the interrogatory request or, I
10 guess, AEP's response to OCC's interrogatory request
11 No. 4-109, and what's been marked -- and Companies'
12 Exhibit 2D will be AEP's response to OEG's
13 interrogatory request No. 3-5.

14 (EXHIBITS MARKED FOR IDENTIFICATION.)

15 MR. RESNIK: Thank you, your Honor.

16 EXAMINER BOJKO: Thank you.

17 Now, Ms. Roberts, did you have a second
18 motion to strike?

19 MS. ROBERTS: Yes. I would move to

20 strike the fourth errata listed on Mr. Baker's sheet
21 that proposes to insert a question in the answer that
22 suggests that the automatic increases of 3 percent a
23 year for CSP and 7 percent a year for OPCO are based
24 on costs as identified in that errata on page 25 of
25 his testimony.

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1 I would note that that is a substantive
2 addition to his direct testimony as filed and in
3 contravention of statements made by Mr. Baker in his
4 deposition that the 3 and 7 percent increases were
5 not cost based. And I have -- the deposition has
6 been filed, and I have copies here if you would like
7 to review the language.

8 EXAMINER BOJKO: Are you going to mark
9 those and admit the deposition?

10 MS. ROBERTS: Sure.

11 EXAMINER BOJKO: I don't mean now. I
12 just meant --

13 MS. ROBERTS: We can.

14 EXAMINER BOJKO: -- so it's in the record
15 at some point during Mr. Baker's cross-examination.

16 MS. ROBERTS: Sure, I'd be happy to do
17 that. But in his deposition, if the company has it,
18 on page 64 Mr. Baker says: "We propose a 3 and
19 7 percent increase annually in the nonfuel component

20 of the generation rates.

21 "And that's not based on cost?"

22 Answer: "It will be used to cover costs

23 but it is not based on costs."

24 EXAMINER BOJKO: Just so I understand,

25 Mr. Resnik, this is to be inserted in the middle of

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1 the answer, I guess, before the last sentence, or the
2 question and answer in 5 to 12. Am I reading that
3 errata sheet correctly?

4 MR. RESNIK: Yes, that is correct, your
5 Honor.

6 EXAMINER BOJKO: Do you have a response?

7 MR. RESNIK: I do, your Honor. First of
8 all, I don't think there's any inconsistency between
9 Mr. Baker's deposition and what is in this question
10 and answer. But in any event, counsel is free to
11 cross-examine Mr. Baker to explore whether there is
12 an inconsistency.

13 Second of all, you know, I see that, for
14 instance, in OCC's Exhibit 10A Ms. Smith added
15 additional paragraphs into her testimony, so I think
16 I see this as the same sort of errata, this was a
17 question and answer that was intended to be in
18 Mr. Baker's testimony and was inadvertently omitted
19 and we're correcting that.

20 I think that as Ms. Roberts indicated,
21 there's been discovery on this. There's nothing new
22 here in what Mr. Baker is saying relative to
23 discovery that has been served and what any number of
24 parties have addressed already in their testimony,
25 intervenor parties.

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1 MS. ROBERTS: Your Honor, if I may
2 respond.

3 EXAMINER BOJKO: One minute, please.
4 Please respond.

5 MS. ROBERTS: If I may respond, your
6 Honor, this is adding a justification for expansion
7 of Mr. Baker's direct testimony. In deposition his
8 testimony was devoid of that justification for the
9 automatic increase. In his direct testimony in
10 deposition Mr. Baker confirmed that the 3 and
11 7 percent were not cost based but that they were to
12 generally -- I think he said generally address
13 unforeseen increases in certain things, but it was
14 never the environmental cost, and the items specified
15 in his errata have never been identified as a basis
16 for supporting that.

17 You know, it's a matter of amending the
18 evidence so that there now is support of that, and I
19 don't think that that's appropriate. I think, you

20 know, in rebuttal if he wants to say things have
21 changed and now they're going to use environmental
22 costs to try to support this, he could try to do
23 that, but I don't think it's appropriate to change
24 the substantive portion of his direct testimony.

25 EXAMINER BOJKO: I'm not going to get

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1 into whether I believe his deposition is consistent
2 or not consistent with this statement. I think that
3 is a matter for cross-examination. However, I do
4 believe that this is a substantive addition as
5 opposed to a true errata and, thus, we will grant the
6 motion to strike.

7 MS. ROBERTS: Thank you, your Honor.

8 EXAMINER BOJKO: Anything further?

9 MS. ROBERTS: No, your Honor. Thank you.

10 EXAMINER BOJKO: Anything further from
11 anybody else before we proceed with
12 cross-examination of Mr. Baker?

13 Seeing none, I believe that Mr. Smalz is
14 going to start us off today.

15 MR. SMALZ: Yes, thank you, your Honor.

16 - - -

17 CROSS-EXAMINATION

18 By Mr. Smalz:

19 Q. Good evening, Mr. Baker.

20 A. Good afternoon, Mr. Smalz.

21 Q. Yeah, really. I guess it's not quite

22 dark yet. Anyway, can everybody hear me?

23 EXAMINER BOJKO: I don't think the

24 microphone is on.

25 MR. SMALZ: It's certainly not working

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1 now.

2 EXAMINER BOJKO: There you go. It's on

3 now. The green light's on.

4 Q. Okay, Mr. Baker, actually, I was going to

5 start out by asking you questions about your errata

6 No. 4, but it looks like those are moot now.

7 So turning to errata No. 7, the insertion

8 of LIBOR in place of the three-year Treasury note

9 with reference to the Black-Scholes model, when you

10 refer to this as being a risk-free interest rate,

11 what do you mean?

12 A. What I mean by that is it is an interest

13 rate that is commonly used in various pricing of

14 interest rate commodities, swaps, et cetera, that

15 people term to be a proxy for risk-free federal

16 rates. That's what it means.

17 Q. Is it a very stable interest rate?

18 A. I don't think there's a correlation

19 between risk-free and stable interest rates.

20 Interest rates are driven by a lot of things, even

21 when they're risk-free.

22 Q. Are you aware that adjustable rate

23 mortgages which helped to cause our current economic

24 crisis are often tied to the LIBOR interest rate?

25 A. I wouldn't be surprised that they were

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1 tied to the LIBOR rate, but I'm not sure that I
2 would, again, make a correlation to the crisis in
3 mortgage rates are because LIBOR was used for that
4 purpose.

5 Q. Is the LIBOR rate a very volatile
6 interest rate?

7 A. I would say it's no more volatile than
8 any interest rate.

9 Q. Than the interest rate on three-year
10 Treasury notes?

11 A. I have looked at it, and what I have -- I
12 examined a period when we did the model and recently
13 compared LIBOR to the three-year Treasury, and the
14 difference between the two of them was pretty much
15 the same.

16 Q. But my question had to do with the
17 volatility of the two interest rates.

18 A. Well, what I'm saying is if I take two
19 points in time and I get similar interest rate

20 relativity, I would say they are not -- one is not

21 more volatile than the other.

22 Q. Mr. Baker, before I get into the meat of

23 your testimony, so to speak, I have a couple of

24 general questions pertaining to your testimony. Are

25 you familiar with Senate Bill 221?

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1 A. I have some familiarity, yes.

2 Q. And specifically are you familiar with
3 the policy goals that are set forth in section
4 4928.02 in Senate Bill 221?

5 A. I have read them.

6 Q. Okay. To your knowledge, is one of those
7 policy goals to ensure the availability to consumers
8 of adequate, reliable, safe, efficient,
9 nondiscriminatory, and reasonably priced retail
10 electric service?

11 A. Yes, I see that. I believe that also,
12 though, was in Senate Bill 3 when we were expecting
13 to go to market pricing.

14 Q. But it is in Senate Bill 221.

15 A. Yes.

16 Q. In designing the company's ESP did the
17 company take into account the statutory policy goal
18 that rates be reasonably priced?

19 A. Yes, we did.

20 Q. Now, in your understanding would the term
21 "reasonably priced" require some consideration of the
22 impact of those rates on customers?

23 A. When I look at this, I think of
24 reasonably priced. I look at it in the view relative
25 to other locations pricing the commodity in a similar

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1 fashion. And when I look at that, I consider that

2 what we have put in front is reasonable.

3 Parties always look at the impact on

4 customers, which is why we have proposed the capping

5 effect in any year at 15 percent, even though we

6 believe that it justifies a much higher rate than the

7 cap of the 15 percent.

8 Q. And would it be appropriate for the

9 Commission to consider whether the rates resulting

10 from your ESP are reasonably priced in determining

11 whether to approve your ESP?

12 A. They would. But I would recommend they

13 do it in reference to, as I suggested earlier,

14 comparatively to what other states around us are

15 experiencing as well as what the value is, and when

16 you think of value, that's recognized by what the

17 market is going to pay for.

18 Q. But it is a relevant factor.

19 A. Under the conditions that I just

20 described.

21 Q. Mr. Baker, are you also aware of the
22 statutory policy goal to protect at-risk populations
23 that's set forth in Senate Bill 221? Actually I
24 should read it in its entirety: "To protect at-risk
25 populations, including but not limited to, when

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1 considering the implementation of any new advanced
2 energy or renewable energy resource." Are you aware
3 of that statutory goal?

4 A. Yes, I see that in the bill.

5 Q. And in designing the company's ESP, did
6 the company consider the impact of its proposed rates
7 on, quote/unquote, at-risk populations?

8 A. Yes, we did.

9 Q. And did the companies do any studies or
10 analyses of how their rates could impact at-risk
11 populations?

12 A. What we did was we proposed the
13 \$75 million Partnership in Ohio, some of which will
14 be put toward those at-risk populations. Did we do a
15 specific study in regards to each customer class and
16 how many in any customer class were at risk? No.

17 Q. And more specifically, did the companies
18 consider the impact on low-income customers?

19 A. Yes. And we recognized that there is

20 PIPP and the \$75 million plan that we propose, so

21 yes, we did consider it.

22 Q. And in your opinion would it be

23 appropriate for the Commission to consider the impact

24 of the rates resulting from the company's proposed

25 ESP in determining whether to approve the ESP?

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1 A. I think what the Commission should do if
2 they're concerned is perhaps find ways through rate
3 design to move some dollars around if that's a goal
4 of the Commission to protect at-risk populations.

5 Q. And can you be a little more specific in
6 that answer?

7 A. I just don't think that should be the
8 condition to approve or disapprove the ESP plan.
9 That should be based on whether in the aggregate it
10 is better for customers than the MRO. If they feel a
11 need to make special arrangements for at-risk
12 populations over and above what we've already stated,
13 then I think they have some discretion to make those
14 kind of movements between customer classes.

15 Q. And the Commission, in your view, has the
16 discretion to do that in its order in this case.

17 A. I think they can -- I'd never say the
18 Commission doesn't have discretion to put things in
19 orders in any case.

20 Q. Thank you, Mr. Baker.

21 Now turning to your original direct

22 testimony. On page 1, line 17, beginning at line 17,

23 you state that you're employed by the American

24 Electric Power Service Corporation and that that

25 corporation is a subsidiary of American Electric

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1 Power, Inc. Is American Electric Power, Inc. the
2 holding company for all the individual companies,
3 such as CSP and Ohio Power?

4 A. They are the parent company.

5 Q. The parent company, okay. Is there such
6 an entity as AEP-Ohio?

7 A. We do business as AEP-Ohio, and I think
8 the term that's often used is d/b/a, doing business
9 as, AEP-Ohio, so it is a -- we use that term as well
10 as the legal terms of the company, which is Ohio
11 Power Company, which is the legal designation.

12 Q. Okay. Are there any shareholders in
13 Columbus Southern Power?

14 A. The shares of Columbus & Southern Power
15 are owned by the parent company.

16 Q. And similarly are there any shares owned
17 by investors in Ohio Power?

18 A. The specific common stock is owned by the
19 parent company. There may be some preferred, I don't

20 know, that may be issued at an operating company

21 level. I have not checked that for those two

22 companies.

23 Q. I see. Thank you for clarifying those

24 relationships.

25 Turn to page 7 of your testimony, your

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1 first answer beginning on line 3 where you state:
2 "Calendar years 2009-2011 match the proposed time
3 frame of the ESP and thus provide an 'apples to
4 apples' comparison between the ESP and the
5 Competitive Benchmark."

6 Now, I understand that this statement has
7 to do with the comparison between the MRO and the
8 ESP; is that correct?

9 A. That's what I'm talking about there, yes.

10 Q. Okay. In making that comparison, did the
11 companies consider the additional cost to consumers
12 resulting from the amortization of the FAC expenses
13 during the 2012 to 2018 time period? Was that part
14 of the comparison, in other words?

15 A. When we were looking to -- this is in the
16 whole section which is the comparison of the ESP with
17 the market rate offer, which is my JCB-2, which was
18 amended as part of the errata, and when we developed
19 this, we considered the question you're asking.

20 And we believe that in the aggregate
21 there is benefit to the ESP because of the deferrals
22 that we don't think would be there in the MRO. But
23 we thought it would bias this analysis too much to
24 put forward the cost to customers without the caps in
25 the MRO and then take credit for the caps in the ESP.

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1 So we didn't think that would be a fair
2 comparison for purposes of really making it an
3 apples-to-apples comparison, so what we did was we
4 took out that from both sides of the equation.

5 If we had put it in, then we would have
6 gotten into a long debate about the time value of
7 money, and are customers better off paying today and
8 not having a future obligation, or are they better
9 off having a future obligation, which is actually a
10 lot of the discussion on whether there should be
11 deferrals or not deferrals. But in order to make it
12 an apples-to-apples comparison, we left it out of
13 both sides of the equation.

14 Q. So the impact of the deferrals was left
15 out of the equation entirely.

16 A. No; it's left out because we didn't put
17 the same factor into the MRO.

18 Q. But the burden on ratepayers beginning in
19 2012 of having to pay those deferred charges was not

20 considered in the equation.

21 A. As I said, you can't -- the equation left

22 out both the impact of the cost changes as a result

23 of the FAC in both the MRO and the ESP.

24 Q. Mr. Baker, turning to page 17 of your

25 testimony, and this would be the last full paragraph

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1 beginning at line 18 where you mention "the
2 shareholder funded commitment focused on economic
3 development and low-income customer assistance," is
4 this the Partnership for Ohio proposal?

5 A. Yes, it is.

6 Q. Now, is that proposal actually part of
7 the company's ESP?

8 A. I consider it to be part of the ESP.

9 EXAMINER BOJKO: I'm sorry, which page
10 are you on, Mr. Smalz?

11 MR. SMALZ: I'm sorry, it's page -- I
12 hope I didn't misstate it -- page 17, line 18.

13 EXAMINER BOJKO: Thank you.

14 A. I would say that I consider it a
15 component, just as all parts of our filing are
16 components.

17 Q. So if the Commission approves the ESP,
18 would the companies be legally bound to follow
19 through and implement the Partnership for Ohio

20 proposal?

21 A. I guess that would depend on how the
22 order was written. I don't have an answer for that.
23 I'm not a lawyer, and I don't know how the filing
24 would relate to the order if those look different.
25 I'd have to wait to see what the order looked like.

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1 Q. But if the order approved this part of
2 the ESP, then the companies would have to commit the
3 \$75 million; is that correct?

4 A. The companies intend and would fund the
5 \$75 million over the three years if the plan was
6 approved.

7 Q. Thank you.

8 Turning to the FAC, which you discuss, I
9 guess, beginning on page 18, now, I understand that
10 the company selected the year 1999 as the baseline
11 for then calculating the incremental FAC or fuel cost
12 increases; is that correct?

13 A. At a point in time when we unbundled the
14 rates and unbundled the fuel, which was in 1999.

15 Q. Now, couldn't the companies have selected
16 a more recent year such as, say, 2007, and then
17 determined what its actual costs in that year were
18 and then used that year as the baseline?

19 A. No. I don't think that would be at all

20 representative. What we were trying to do was

21 represent what is currently in rates.

22 Q. And are you saying that what's currently

23 in rates does not reflect any fuel cost increases

24 since 1999?

25 A. I think that would be a reasonable

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1 proposition for AEP to take since we have not made an
2 adjustment to those fuel rates specifically since
3 that time. But the company chose, as a more
4 conservative approach, to treat the 7 percent for
5 Ohio Power and the 3 percent increases that were part
6 of our RSP, we took the 1999 numbers and adjusted
7 them by 7 percent for each of three years, the period
8 of the RSP for Ohio Power, and by 3 percent each of
9 the years for Columbus & Southern to get an adjusted
10 value that's in rates. So I believe that we took a
11 conservative approach to determining what the
12 baseline is.

13 Q. Well, might have that then -- did the
14 company's automatic rate increases during the ESP
15 period then include, to some extent, reimbursement to
16 the companies for fuel expenses, for fuel cost
17 increases?

18 A. The automatic, as it's been described, 7
19 and 3 percent were not cost-of-service increases. At

20 the time we made the filing for the RSP, we explained
21 that those were increases that were intended to move
22 the company's price of generation service toward
23 market, and we would have to cover our cost increases
24 under that.

25 Q. But in practical terms could those

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1 automatic cost increases also have reimbursed the
2 company for fuel cost increases?

3 A. As I said, they had no relationship to
4 fuel. They were not intended to be reflective of
5 fuel increases.

6 Q. Turning to page 21, line 10, now, this,
7 as I understand it, is a table of 2009 FAC costs or
8 an approximation of those costs. First of all, can
9 you explain to me what this table means?

10 A. The purpose of this table is to implement
11 the 15 percent cap, I'll call approximates 15 percent
12 cap we are trying to put on the various rate classes
13 and explains how much of the fuel the 2009 fuel costs
14 would be included in rates and how much we would,
15 therefore, need to defer.

16 So let me give you an example. If I look
17 under CSP, I would be putting 57 percent of the 2009
18 FAC costs through rates and deferring the difference
19 between 57 percent and 100 percent. In the case of

20 OPCO, I would be putting 18 percent into rates and
21 deferring the difference between 18 and 100 percent.

22 Q. And when were these projections prepared?

23 A. These projections were prepared at the
24 time we made the filing.

25 Q. Was that in August?

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1 A. That would have been July.

2 Q. July? Have fuel prices changed since you
3 prepared these projections?

4 A. Spot market prices of fuels have changed,
5 but much of our coal is under contracts that carry us
6 into 2009.

7 Q. And have those spot prices gone down?

8 A. The spot prices have gone down, what we
9 have seen, more for gas and oil than for coal. Some
10 for coal, but we still see difficulty in getting
11 coal.

12 Q. But just so I understand, prices have
13 declined for both natural gas and coal.

14 A. If you can find it and you have ability
15 to buy spot.

16 Q. And have the companies prepared any new
17 projections based on the declining fuel prices?

18 A. No, we haven't. But it is a fuel clause
19 approach with trueups, so if fuel costs go down from

20 our forecast, they'll be trued up.

21 Q. And if there is an overrecovery by the
22 company, are there any carrying costs on that
23 overrecovery?

24 A. I don't believe there are carrying costs
25 on either an over- or an underrecovery as part of the

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1 fuel cost -- clause, the FAC.

2 Q. I see.

3 Further down on page 21 where you discuss
4 some power purchases, now, I have several fairly
5 maybe basic questions here, but I want to make sure I
6 understand this. The companies are proposing to
7 purchase power from outside sources, is that correct,
8 outside the companies?

9 A. That is correct.

10 Q. Now, why don't CSP and Ohio Power simply
11 purchase power from other companies in the AEP pool?

12 A. The AEP pool doesn't provide for
13 operating companies to enter into these kind of
14 contracts with each other.

15 Q. So the companies in the AEP pool never
16 sell power or transfer power to each other?

17 A. They sell and transfer power to each
18 other under what we affectionately call a pool
19 agreement. It doesn't provide for these kind of

20 purchase arrangements.

21 Q. Now, with respect to the individual Ohio
22 companies, isn't it true that Ohio Power has a
23 substantial surplus capacity for electric production?

24 A. Ohio Power is a long company. It has
25 more generation than needed to serve its peak load

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1 and its reserves.

2 Q. So are any -- would Ohio Power be making
3 any of these proposed power purchases from outside
4 sources?

5 A. Yes, it would.

6 Q. Now, if Ohio Power has substantial
7 surplus power, why would it be purchasing power from
8 outside sources?

9 A. I think that's described in my testimony
10 on page 21 and 22.

11 Q. Could you provide a brief explanation?

12 A. Sure. Sure. I think the first thing I'd
13 point to is that we have entered into two
14 arrangements, I'll call them, to help out the state
15 of Ohio from the standpoint of economic development.
16 One is Monongahela Power where we acquired the
17 customers and the assets of a service territory in
18 order to keep that service territory from going to
19 market in, I believe it was, 2006. And we entered

20 into that arrangement and were given the right to go

21 out and purchase power in order to meet that.

22 In the case of Ormet, we went forward and

23 agreed with some helpful suggestion, it seemed to us,

24 from the Commission to go ahead and do a deal with

25 Ormet, which resulted in a thousand jobs coming back

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1 and, effectively, we got market prices for that
2 power. One of the purposes of this is to replace
3 that impact on the company for entering into those
4 two transactions.

5 Q. Now, does Ohio Power provide service to
6 any of the former Monongahela Power customers?

7 A. Ohio Power doesn't.

8 Q. Only CSP?

9 A. CSP provides the service to Mon Power
10 customers.

11 Q. Now, is it likely that the companies
12 would pay higher prices for the power that's
13 purchased from outside the pool than the companies
14 would supply from their own capacity?

15 THE WITNESS: Could I have that question
16 read back, please?

17 EXAMINER BOJKO: You may.

18 (Record read.)

19 A. Based on today's situation, I would

20 expect that the purchases could be higher than the
21 price of generating out of the generating units the
22 two companies own.

23 Q. And would those purchased power prices
24 also likely be higher than what CSP or Ohio Power
25 would pay under the pool agreement for power from the

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1 other AEP companies?

2 MR. RESNIK: Your Honor, I'm going to
3 object. I think the witness previously testified
4 that this kind of purchase is not available through
5 the pool.

6 EXAMINER BOJKO: Do you have a response?

7 I think the witness can answer if he
8 knows, or if that's his response, he can answer that
9 as well.

10 MR. RESNIK: I'm sure of that. Thank
11 you.

12 THE WITNESS: Could I have the question
13 read back, please?

14 (Record read.)

15 A. Without doing a very detailed study, I
16 don't know how much the companies would be buying
17 under the pool agreement, which, as I described
18 before, is not the same kind of contract we're
19 talking about here.

20 Q. So your answer is you don't know.

21 A. I haven't done that study.

22 Q. Thank you.

23 On page 23 in your testimony, line 21,

24 you state that: "The Companies intend to pursue the

25 legislative changes needed to achieve

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1 securitization." To your knowledge, is there any --
2 well, first of all, let me ask you this, would this
3 require legislation to be passed by the Ohio General
4 Assembly?

5 A. I believe it would. Now, we need to go
6 back and look at the question and answers that start
7 on page 22, and on page 22, the carryover question
8 talks about the best way to do it for customers, and
9 the best way to do it for customers is to get
10 securitization with a AAA credit rating that provides
11 the lowest carrying cost to customers.

12 Our analysis of Senate Bill 221 would say
13 that there's not enough assurance in that to give the
14 bondholders comfort to provide a AAA rating, so if we
15 wanted to go forward and do securitization with a AAA
16 rating, then I believe we would need to make changes
17 at a legislative level that would assure that the
18 bondholder would get their payment through the life
19 of the bond.

20 Q. And is there any pending legislation to

21 that effect?

22 A. Not that I know of.

23 Q. Do you know of any imminent legislation

24 to that effect?

25 A. I don't know of any imminent legislation,

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1 but I believe if there are significant deferred
2 amounts coming out of anybody's ESP or -- that that
3 may become a very important issue as a way to finance
4 those in a very effective fashion.

5 Q. And are you aware of any draft
6 legislation?

7 A. Well, we provided some draft legislation
8 during the legislative process, but other than that,
9 no.

10 Q. Okay. Turning to the next page, page 24,
11 and your discussion of the carrying cost on
12 environmental investment --

13 MR. RESNIK: Could we go off the record
14 for a moment.

15 EXAMINER BOJKO: Yes.

16 (Discussion off the record.)

17 EXAMINER BOJKO: Let's go back on the
18 record.

19 Mr. Smalz, do you need the last question?

20 I don't know if there was a question actually

21 pending.

22 (Record read.)

23 Q. Yes. And with reference to the carrying

24 costs on the environmental investments that were made

25 during the 2001 to 2008 time period, shouldn't the

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1 cost of those environmental investments have been
2 recovered during the RSP and ESP time periods?

3 MR. RESNIK: Can I have that question
4 read back, please?

5 (Record read.)

6 Q. Actually, maybe I should strike that and
7 ask: Shouldn't those rates have been recovered
8 during the earlier transition plans during the 2001
9 to 2008 time period?

10 A. These are not the carrying costs that
11 were incurred for the periods 2001 through 2008.
12 This is the carrying cost on the investments made
13 during that time frame. So there's a difference
14 between historical carrying costs that we didn't
15 recover under those plans and what we're asking to
16 recover now.

17 We have reflected that we, under the
18 4 percent, as we've called it, cases that were filed
19 where we were allowed to increase up to 4 percent

20 during the RSP period for certain environmental costs
21 that were not mandated prior to that, we have given
22 credit for the recovery of that that is already in
23 rates.

24 Q. And to your knowledge, is there any
25 authority in Senate Bill 221 for recovering those

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1 costs?

2 A. Yes. I believe that the ESP lists a
3 number of costs but says "without limitation."

4 Q. Do you have Senate Bill 221 with you?

5 A. Yes, I do.

6 Q. Are you referring to the language in
7 section 4928.143(A)(2)?

8 A. Yes.

9 Q. Excuse me, is that --

10 A. I'm sorry.

11 Q. I'm sorry, that's (B)(2).

12 A. I am looking on -- I always have trouble
13 with the numbering on these bills. I am looking on
14 page 22 in the ESP section, No. 2 that says: "The
15 plan may provide for or include, without limitation,
16 any of the following."

17 Q. Now, with reference to "any of the
18 following," do any of the following clauses mention
19 recovery of carrying costs on environmental

20 investments predating the ESP?

21 MR. RESNIK: Could I have the question

22 read back, please?

23 EXAMINER BOJKO: Yes.

24 (Record read.)

25 MR. RESNIK: If I can just have a

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1 clarification whether the question is asking about
2 environmental investment before a certain date or the
3 carrying costs before a certain date.

4 MR. SMALZ: I'm referring to the carrying
5 costs on the environmental investments that were made
6 before the date of the ESP.

7 A. I do not see a specific reference, but I
8 don't see anything that limits our ability to put
9 that in as part of our plan.

10 Q. But it's not expressly addressed in
11 Senate Bill 221.

12 MR. RESNIK: Your Honor, I'm going to
13 object. Frankly, I've got an answer to that one, and
14 I know I'm not on the stand, but we're just getting
15 this witness's nonlegal interpretation here.

16 EXAMINER BOJKO: Actually, I was going to
17 sustain on the basis of asked and answered.

18 MR. RESNIK: I'll try that one.

19 EXAMINER BOJKO: Sustained.

20 MR. RESNIK: Thank you.

21 Q. (By Mr. Smalz) Mr. Baker, I have several
22 questions regarding the proposed POLR charges in the
23 ESP. On page 26, first paragraph, line 3, third
24 sentence, you refer to customers who basically come
25 back to AEP -- come back to the companies, excuse me,

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1 after having earlier left. Is this -- how much of
2 the POLR charge is attributable to the supposed risk
3 of customers coming back to the companies from a
4 competitive supplier?

5 THE WITNESS: Could I have that read
6 back, please?

7 (Record read.)

8 A. The POLR -- the value to customers that's
9 provided in this ability to shop and come back that's
10 provided for in the bill is, as we've talked about,
11 tried to talk about in here, is both a put and a
12 call. The put is the ability for the customer to
13 leave the company's tariff rate when prices are low,
14 and then if they exercise that option, then to come
15 back at a tariff rate in the future, whether they
16 come back from a CRES supplier or however they come
17 back.

18 Having run the models, the majority of
19 the value comes about as a result of the put part of

20 the series of options; less of it is related to the

21 call.

22 Q. I'm sorry, and the call risk --

23 A. The call risk is once a customer has

24 left, coming back at tariff.

25 EXAMINER BOJKO: Mr. Baker, you still

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1 might need to pull that closer.

2 THE WITNESS: Is that better, your Honor?

3 EXAMINER BOJKO: Yes.

4 Q. So if no customers initially leave the
5 companies and go to CRES suppliers, is there any call
6 risk to the company?

7 A. Yes.

8 Q. Even if no customers have left in the
9 first place?

10 A. The risk exists because customers can,
11 not whether they exercise it. It is when -- when you
12 deal in looking at options, it gives -- an option
13 gives you a right to do something, and you pay for
14 the right to do it. This is -- it's irrelevant
15 whether you actually decide to exercise it or not.

16 Q. Now, are the companies actually planning
17 on purchasing any options?

18 A. That is a decision we would make during
19 the period of the ESP. But from my standpoint I

20 don't know why that is relevant to this plan as we

21 filed it.

22 Q. But the companies do not currently have

23 any plan to purchase such options.

24 A. We don't have a plan to purchase or we

25 don't have a plan not to purchase. What we will do

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1 is we will make a decision during the period of the
2 ESP, assuming it's approved as filed, and we'll make
3 a decision whether to buy options or not.

4 Q. Now, let's assume that the Commission
5 approves your requested POLR charge and it turns out
6 that no customers leave the company to go to CRES
7 suppliers and, therefore, none come back. What
8 happens to these POLR charge revenues? Do the
9 companies get to keep those revenues?

10 THE WITNESS: Could I have the question
11 read back?

12 EXAMINER BOJKO: Yes.

13 (Record read.)

14 A. First, I'd just say that what the company
15 gets to keep is the margins, which is the difference
16 between their costs -- total costs and their total
17 revenues. We do not look at it and say this specific
18 cost relates to this and -- or, this revenue relates
19 to this and this cost relates to this and take those

20 in a determination of where those go.

21 If the company chooses not to exercise

22 any options, then it would be income to the company.

23 I think an important factor to think about is I'm

24 not -- is why does that matter? From a customer

25 standpoint, assuming we price this right, which I

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1 totally believe we did, the customer's indifferent to
2 whether I go out and exercise an option or I don't
3 exercise the option.

4 The generation sits with the distribution
5 company and it decides whether to take the risk or
6 not take the risk.

7 Q. Are you suggesting that the company
8 should be indifferent to having to pay the POLR
9 charge?

10 A. I said the customers are indifferent to
11 whether the company exercises and goes out and buys
12 options to cover the risk inherent in what we have to
13 provide to customers going forward. That's what I
14 said they're indifferent to.

15 Q. Now, with reference to those supposed
16 risks, I'd like to call your attention to page 27,
17 and your sentence beginning on line 18 which begins
18 "While charging those market prices," and you go on
19 to refer to possible action by the Commission or

20 General Assembly.

21 Now, do you mean to say that in

22 determining these risks you've included some

23 component for political risk of what the political

24 bodies in the state of Ohio might do?

25 A. No. What we have done in developing the

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1 POLR charge, as it's been called, is to value the
2 option of being able to come back at tariff. There
3 are those who have said, oh, let's just get rid of
4 this charge, and you will -- by getting rid of that
5 piece -- now, remember, there are two pieces here.
6 There's the right to leave and then the right to come
7 back, and people have suggested that a solution to
8 the right to come back is just to charge market.

9 And I'm saying that that's not provided
10 for, and I think it is unlikely if that were a
11 provision of some tariff that ultimately it would be
12 supported by the Commission or the General Assembly,
13 and my experience is Mon Power and Ormet.

14 Q. So in some sense your request for a POLR
15 is based on your fear of what the General Assembly
16 might or might not do.

17 A. No, that's not right. My POLR charge is
18 based on the rights the customers have, as I see it,
19 under Senate Bill 221.

20 Q. I still don't quite understand. If
21 possible action by the General Assembly and the
22 Governor has nothing to do with your POLR charge, why
23 do you mention it in your testimony?

24 A. Because it does deal with one specific
25 area of customer shopping, and that's governmental

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1 aggregation where there is a provision that customers
2 come back at market, and under normal circumstances
3 if a customer's shopping, there is no provision for
4 them to come back at market.

5 Q. Now, you just mentioned the possibility
6 of customers coming back at market prices. Instead
7 of imposing a POLR charge, couldn't the companies
8 simply pass through the actual cost of any departing
9 or returning customers through adjustments to the
10 FAC?

11 A. Well, first of all, let's talk about the
12 departing customers. And I think in that case --
13 that's a stranded cost. You're being left with the
14 fact that you expected to serve these customers at
15 tariff for the three-year period, and you are in a
16 position now where you have generation that's no
17 longer serving those customers and you go out and
18 sell it in the market, and you would sell it at less
19 than that tariff rate because that's why the customer

20 would leave, because it was economically
21 advantageous, and you'd be stuck with the difference
22 between those two, in my view that would be a form of
23 stranded cost.

24 I believe that the OCC Witness Medine
25 truly recognized that that difference between the

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1 price of tariff and the price in the market was a
2 POLR charge, so let's take that one as the first part
3 of the answer.

4 The second part is what if they come
5 back? And the provision isn't that you can go out
6 and buy power just because customers came back. I
7 don't see that provided for and our provision where
8 we're trying to buy some power as a result of the Mon
9 Power and Ormet is being thoroughly opposed by most
10 of the intervenors.

11 Q. Now, do the companies have a current POLR
12 charge in their rates?

13 A. We have a charge that the Commission has
14 designated as a POLR charge.

15 Q. And when did the Commission make that
16 designation?

17 A. As part of their order in our rate
18 stabilization plan.

19 Q. And in that order did the Commission

20 determine that the POLR rate which is now in the
21 company's rate was a reasonable POLR charge?
22 A. The Commission granted a rate that was
23 equivalent to costs that we were trying to recover
24 for PJM costs as well as environmental costs, and
25 they designated that POLR. I believe that we are the

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1 first people to come forward in this Commission with
2 a scientific approach to determining what the value
3 of POLR is, and I didn't see any such analysis in the
4 Commission order.

5 MS. GRADY: Your Honor, may I have his
6 answer reread, please?

7 EXAMINER BOJKO: Sure.

8 (Record read.)

9 EXAMINER BOJKO: I'm sorry, were you
10 still referring to the RSP case?

11 THE WITNESS: Yes.

12 EXAMINER BOJKO: The scientific approach?

13 THE WITNESS: Yes. We just saw a value
14 from the Commission attributable to POLR, and it was
15 just a similar amount. We didn't know how they got
16 there.

17 MR. RESNIK: Your Honor, I want to make
18 sure that Mr. Baker properly understood your
19 question.

20 EXAMINER BOJKO: Yeah. I'll ask a
21 follow-up. You weren't suggesting that AEP proposed
22 POLR via a scientific approach in the RSP case.

23 THE WITNESS: I'm sorry, your Honor, no.
24 It was during this case. I was dealing with what --
25 how POLR was developed in the RSP case.

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1 EXAMINER BOJKO: Thank you.

2 THE WITNESS: My apologies. Thank you
3 for the correction.

4 Q. (By Mr. Smalz) And since the Commission
5 approved your current POLR charge, has there been any
6 change in the risk confronted by the companies?

7 A. I don't think -- it's not that I don't
8 think -- the Commission didn't approve our POLR
9 charge. The Commission gave us a rate increase that
10 they attributed to POLR.

11 Q. And since the Commission did that, have
12 there been any significant changes in the risk that
13 the company now encounters with respect to departing
14 or returning customers?

15 A. Yes.

16 Q. And what are those changes?

17 A. Senate Bill 221.

18 Q. And is it your contention that Senate
19 Bill 21 (sic) enhances that risk?

20 A. Yes.

21 Q. In what ways?

22 A. In at least two ways. And I haven't gone

23 through and looked at every way, but two that quickly

24 come to mind is one is in the RSP. It was limited to

25 a three-year provision of that option, and then we

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1 were going to market and there would no longer be a
2 risk. We would have separated our generating assets
3 and the distribution company wouldn't be carrying
4 that risk anymore.

5 And number two, there is a promotion of
6 governmental aggregation in Senate Bill 221 that
7 wasn't in Senate Bill 3.

8 Q. Wasn't governmental aggregation still
9 allowed --

10 MR. RANDAZZO: Could I have the last
11 answer read back, please?

12 EXAMINER BOJKO: I was going to ask at
13 least the first half of that last answer.

14 I'm sorry, Mr. Smalz.

15 (Record read.)

16 Q. With respect to governmental aggregation,
17 wasn't that option also available under Senate Bill
18 3?

19 A. I think there is language in here that

20 enhances and promotes governmental aggregation, is my

21 recollection.

22 EXAMINER BOJKO: In Senate Bill 221?

23 THE WITNESS: In Senate Bill 221. If you

24 want to give me a minute, I'll see if I can find it.

25 I believe it, again, pardon me for not

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1 knowing the numbers, but on page 33, provision (K) I
2 think is a new provision that says: "The Commission
3 shall adopt rules to encourage and promote large
4 scale government aggregation in the state."

5 EXAMINER BOJKO: You were referring to
6 4928.143(K), I believe. Is that correct?

7 THE WITNESS: I'm sorry, I have a
8 different -- I'm sorry, pagination.

9 EXAMINER BOJKO: I have different numbers
10 so I don't have the same pages you have.

11 THE WITNESS: I'll try to work my way
12 through.

13 MR. RESNIK: Your Honor, if I may, I
14 think it is 4928.20(K).

15 EXAMINER BOJKO: 20(K).

16 Q. (By Mr. Smalz) So did do the companies
17 expect to actually see more governmental aggregation
18 after the ESP is approved?

19 A. I'd say that would be very dependent on

20 the future price of power in the wholesale market.

21 Q. Has the company done any studies or

22 surveys to assess that risk?

23 A. In my view the way we evaluated the risk,

24 not specifically of government aggregation, but part

25 of it is our development of the POLR charge.

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1 Q. But again, have the companies done any
2 studies or surveys to try to determine that risk?

3 A. And I'm trying to answer you in that it's
4 built in inherently to the calculation of the POLR
5 charge through the Black-Scholes model. And I'm
6 talking about the broad risk, not just government
7 aggregation.

8 Q. But have the companies done any actual
9 customer surveys to try to assess that level of risk?

10 A. No.

11 Q. Have the companies done any studies apart
12 from the Black-Scholes model to try to assess that
13 risk?

14 A. I don't know why -- I'm not sure where
15 you're going, Mr. Smalz. That is the way we analyzed
16 the risk.

17 Q. Let me ask you this, do either CSP or
18 Ohio Power currently have any residential customers
19 who are shopping -- who have shopped for their power

20 from CRES suppliers?

21 A. I don't believe we have.

22 Q. Have the companies ever had any

23 residential shopping customers?

24 A. We have not during the period of the ESP

25 or -- the ETP, I'm sorry, and the RSP, but I believe

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1 had wholesale prices stayed where they were in the
2 '90s and customer choice was available, we would have
3 seen that residential shopping. That's one of the
4 reasons that many were supporting Senate Bill 3, was
5 because prices in the wholesale market were cheaper
6 and people wanted to shop.

7 Q. Okay. But there haven't been any during
8 the past eight years.

9 A. That's correct.

10 Q. Now, in assessing the risk of departing
11 or returning customers, did the companies look at the
12 experiences of other states?

13 A. I don't think you can make a comparison.
14 If you're talking about residential customers -- is
15 that what we're talking about here, or are we talking
16 about commercial?

17 Q. Yes; for this immediate question yes, I'm
18 talking about residential customers.

19 A. Yes. I don't think you can make the

20 analogy, and the reason is that in the case, and it
21 was mentioned earlier today by one of the witnesses,
22 I believe for OP&E, that prices for customers,
23 residential customers, in these other states are set
24 at a wholesale level. So you build in wholesale
25 pricing at a distribution level with load shapes and

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1 they're a -- a marketer has to go out and buy it
2 wholesale to compete against a wholesale-shaped
3 price. I'm not surprised there's a big -- or hasn't
4 been a lot of movement in that case for residential.

5 What we're looking at here is the fact
6 that our price will be set based on the ESP, not
7 wholesale prices, and if wholesale prices drop, I
8 would expect residentials as well as commercials and
9 industrials to shop.

10 Q. I appreciate your explanation, Mr. Baker,
11 but is your answer no, the companies did not look at
12 the experiences of other states?

13 A. Yes, we looked at it, and we decided it
14 was not the same situation.

15 Q. So the experiences in other states were
16 not taken into account at all in assessing the risk
17 underlying your proposed POLR charge.

18 A. That would not be one of the inputs to a
19 Black-Scholes model.

20 Q. Thank you.

21 Did the companies do any studies or

22 surveys -- I think I earlier asked you about

23 governmental aggregation. But did the companies do

24 any studies or surveys of residential customers to

25 try to determine the likelihood that those customers

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1 would leave the companies for CRES suppliers?

2 A. Again, I go back to that that's an

3 inherent piece of the modeling. Did we go out and do

4 a survey to ask customers at what price they would

5 shop? No.

6 Q. And did you do any type of residential

7 customer surveys?

8 A. I believe I answered that we didn't do a

9 residential survey as far as when they would shop.

10 Q. Thank you.

11 Turning away from the POLR charge to a

12 different topic, the significantly excessive earnings

13 test, I believe I just have a couple of clarifying

14 questions. Is it the company's contention that in

15 looking at the company's excessive -- at whether the

16 companies are earning significantly excessive

17 earnings that the Commission should look at the AEP

18 companies as a whole and not at the individual CSP

19 and Ohio Power companies?

20 A. That is our recommendation, that they
21 look at them on a combined basis. We think that's
22 the best way to allow the company to operate in the
23 most efficient manner.

24 Clearly, there are many who believe that
25 that's not permitted under Senate Bill 221, so the

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1 Commission may have to look at both individually and
2 in a combined basis to determine that, whether
3 something is significantly excessive.

4 Q. Now, are you familiar with Dr. -- and
5 forgive me if I butcher his name -- Dr. Makhija's
6 testimony?

7 A. Yes.

8 Q. Now, if I remember correctly, he
9 testified that in looking at the company's risk, that
10 the Commission should look at the risk of the
11 individual companies, that is, CSP's risk and Ohio
12 Power's risk. Is that your understanding?

13 A. I believe what he did was he calculated
14 the -- what would be a significantly excessive
15 earnings result for test purposes against 2007 for
16 the companies on an individual basis.

17 Q. But in his proposed methodology -- does
18 his proposed methodology take into account the risk
19 of the individual companies, that is, CSP and Ohio

20 Power?

21 A. I believe his methodology would work

22 whether it were done on an individual company basis

23 or a combined company basis.

24 Q. Now, I realize this question may have

25 been more appropriately directed to Dr. Makhija, but

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1 if you can answer it, I'd appreciate it. Could you
2 please explain to me why it makes sense to look at
3 the earnings of the combined companies but then look
4 at the risk of the individual companies? Isn't there
5 a certain inconsistency or discrepancy there?

6 A. I can't answer that one.

7 Q. Okay. Is it true that in applying the
8 companies' proposed significantly excessive earnings
9 test methodology, that the companies' margins from
10 off-system sales would not be considered?

11 THE WITNESS: Could I ask the question be
12 read back?

13 EXAMINER BOJKO: Yes.

14 (Record read.)

15 A. That's what we have proposed.

16 Q. Doesn't that give the companies a
17 financial incentive to try to maximize their
18 off-system sales?

19 A. The company is, in this case, is AEP, and

20 AEP tries to maximize its off-system sales.

21 Q. I see. Skipping ahead to page 41 of your

22 testimony --

23 EXAMINER BOJKO: Let's go off the record

24 for a minute.

25 (Discussion off the record.)

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1 EXAMINER BOJKO: Let's go back on the
2 record.

3 Q. On page 41, your first answer, you
4 discuss the possibility of legal separation of the
5 components of the companies' -- of the distribution,
6 transmission, and generation components. Do the
7 companies have a specific plan for a legal
8 separation?

9 THE WITNESS: Could I have the question
10 read back, please, in its entirety?

11 (Record read.)

12 A. I believe that that Q and A is much more
13 talking about the fact that we would expect to remain
14 functionally separated during the ESP -- three-year
15 ESP period rather than the legal separation of the
16 generation from the T and D. So we have outlined a
17 plan that says when we would do legal separation, we
18 would be dropping down the G instead of dropping down
19 the transmission and distribution as we previously

20 had put in front of the Commission during the ETP
21 plan. So we do have that, but have we -- we haven't
22 gone further than that at this point because we're
23 looking at an ESP that would be functionally
24 separated for three years.

25 Q. And do the companies have a time frame

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1 for implementing legal separation?

2 A. I think that very much depends on what
3 comes out of this case and any future ESP or MRO
4 filing. I just know that it can't be forever,
5 according to the legislation. That's what I've been
6 advised by counsel.

7 Q. The next question relates to the CSP's
8 request concerning the possible sale or transfer of
9 the Darby and Waterford facilities, and specifically
10 I would call your attention to page 16 -- excuse me,
11 page 42, line 16 where you state: "CSP requests
12 authority to sell or transfer these two plants."

13 This is just a technical question. Is
14 there any difference between sell or transfer, and if
15 so, what is the difference?

16 A. As I wrote it, the difference I saw, and
17 I'm not sure whether it's legally different, would be
18 I was thinking of a provision where you could sell to
19 a third party and you could transfer to an affiliate,

20 so that was why I used "sell or transfer."

21 Q. Now, what reasons, if any, might the
22 companies have for selling or transferring these two
23 plants at a time when they have to purchase power
24 from outside sources?

25 A. These are assets that shareholders took

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1 risks in buying in anticipation of -- in anticipation
2 of Senate Bill 3 going all the way and our actually
3 going to market. So we took the risk. The costs
4 associated with these plants have not been built into
5 rates, nor are we proposing that in the case of the
6 two that you're talking about, that they be included
7 in rates.

8 So I think we would have every right to
9 transfer them, regardless of the fact that we may
10 have to -- may have to purchase some power in the
11 market.

12 Q. And that would be true even if you have
13 to purchase power at a much higher price than the
14 cost of producing electricity in those two
15 facilities.

16 A. I think we would be entitled to. Whether
17 we would or not would be a decision the company would
18 make.

19 Q. I see. On page 56, line 4, you state

20 that: "CSP has acquired additional generating
21 capacity." What additional generating capacity is
22 that?

23 A. That would be Waterford, Darby, and
24 Lawrenceburg.

25 Q. I see.

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

3 EXAMINER BOJKO: Thanks.

4 Let's go off the record for a minute.

5 (Discussion off the record.)

6 (Recess taken.)

7 EXAMINER BOJKO: Let's go back on the
8 record.

9 Mr. Rinebolt, I apologize. I promised
10 WAS GOING to go to Ms. Wung first.

11 MS. WUNG: Your Honor, I have no
12 questions for Mr. Baker.

13 EXAMINER BOJKO: Thank you.

14 Mr. Rinebolt.

15 MR. RINEBOLT: Thank you, your Honor.

16 - - -

17 CROSS-EXAMINATION

18 By Mr. Rinebolt:

19 Q. Good evening, Mr. Baker.

20 A. Good evening, Mr. Rinebolt.

21 Q. Let's talk first about your \$75 million

22 commitment to customers, progress for Ohio, or I

23 forget the name of it. Partnership for Ohio, yes,

24 thank you. Are those ratepayer funds or shareholder

25 funds?

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1 A. There is no provision in the ESP to
2 collect the dollars that we would be assigning to the
3 Partnership with Ohio.

4 Q. No specific rider collection or
5 integration of those costs into rates?

6 A. That's correct.

7 Q. All right.

8 THE WITNESS: Can everybody hear me? I
9 can't tell whether this is on or not.

10 MR. RANDAZZO: So far.

11 MR. RESNIK: I think it's off.

12 EXAMINER BOJKO: It's off?

13 MR. RANDAZZO: No, it's on.

14 THE WITNESS: Is that better?

15 MR. RANDAZZO: It's the same.

16 THE WITNESS: Then I'll sit the way I
17 was.

18 Q. (By Mr. Rinebolt) Now, were you here when
19 Mr. Hamrock testified?

20 A. I was.

21 Q. All right. And Mr. Hamrock indicated
22 that expenditure of the 75 million in funds was not
23 guaranteed.

24 A. That's true.

25 Q. And what is the condition precedent for

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1 those funds being made available?

2 A. That the Commission approves our ESP.

3 Q. And would be in a form which is

4 acceptable to the company?

5 A. We haven't dealt with what happens if

6 there are modifications and wouldn't want to deal

7 with that question until we find out what the

8 modifications are.

9 Q. Well, the reason I ask this is that you

10 indicated during the questioning by Mr. Smalz that

11 this 75 million is where you address the needs of

12 at-risk customers.

13 A. I believe I said that was one way. PIPP

14 was another way.

15 Q. PIPP is another way?

16 A. I think of it as another way, yeah.

17 Q. And does AEP manage the PIPP program?

18 A. No. I think the PIPP -- the fact that

19 you have a PIPP program is a way that at-risk is

20 dealt with.

21 Q. All right. Now, part of the

22 justification for these Partnership funds or part of

23 your intention with these is to promote economic

24 growth; is that true?

25 A. Economic development is one of the uses

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1 of this money, yes.

2 Q. Okay. Let's move to page 5 of your
3 testimony if we could. It actually begins at the
4 bottom of page 4, but it's where you are discussing
5 the MRO and -- or, excuse me, where you are
6 discussing whether Senate Bill 221 contemplates slow
7 transition to market through an MRO proceeding.

8 Now --

9 A. I'm sorry, can you --

10 Q. It's at the very bottom of page 4 and
11 rolls over to page 5.

12 MR. RESNIK: Mr. Rinebolt, was there some
13 reference specifically to slow transition to market?

14 MR. RINEBOLT: Let me rephrase.

15 Q. You indicate that under Senate Bill 221
16 should a utility go to a market price, the statute
17 contemplates that 10 percent of the load would move
18 to market in year 1, 20 percent in year 2, no less
19 than 30 percent in year 3. Is that what your

20 testimony indicates?

21 THE WITNESS: Could I have that read

22 back?

23 (Record read.)

24 A. The distinction I would make,

25 Mr. Rinebolt, is I have here no less than 20 percent

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1 in year 2, not 20 percent. And then, of course, in
2 the next answer I have how Senate Bill 221 was
3 amended.

4 Q. Now, you indicate it is in your proposal
5 that you will blend 5 percent of market and
6 10 percent of market -- 5 percent of market in year
7 1, 10 percent of market in year 2, and 15 percent in
8 year 3. You will purchase those percentages from the
9 market.

10 A. Our proposal is to purchase those kind of
11 amounts. We didn't talk about it as a blend, I don't
12 believe.

13 EXAMINER BOJKO: As a what?

14 THE WITNESS: As a blend.

15 EXAMINER BOJKO: Oh.

16 Q. That's correct, you did not blend it.

17 Are you calculating that the -- when one
18 looks at the ESP to determine whether it is more
19 advantageous than the MRO, that the differences in

20 those percentages coming from market is one of the
21 elements that makes the ESP more favorable in the
22 aggregate?

23 A. Those are two line items in Exhibit JCB-2
24 that differentiate the results as we see it that
25 would come out from an MRO in one case and an ESP in

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1 another case that leads to my belief that in the
2 aggregate, the ESP as filed is better than the MRO
3 option.

4 Q. All right. Now, under the ESP proposal
5 who will or what types of customers will be served
6 with the market rate power?

7 A. When AEP goes out and purchases the
8 5 percent slice of system, it would go into the
9 portfolio of both Ohio Power and Columbus & Southern.
10 So it would be in the total supply portfolio of those
11 companies. It wouldn't be to serve individual
12 customers.

13 Q. Let's turn to page 6, if we could, and
14 the question focuses on the Q and A that begins at
15 line 6. Could you tell me in what states there have
16 been auctions for full-requirements service?

17 A. By that Q and A what I was trying to
18 designate was that there were people who went out and
19 purchased slice of system in tranches, not that there

20 would be a single contract for the full requirements

21 of whatever the distribution utility was.

22 Q. Very well. Now, let's return to my

23 question. In what states have those types of

24 auctions been conducted?

25 A. I believe that that type of auction has

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1 been done in Maryland, New Jersey, Illinois. I don't
2 know of -- I haven't done exhaustive research, but I
3 believe at least in those three, and there may be
4 some other states as well up in, you know, the New
5 York-New England kind of area.

6 Q. To your knowledge, has Maryland adopted a
7 change in how they procure power for their standard
8 service offer compared to the slice of system
9 auction?

10 A. I don't know.

11 Q. Do you know, if you know, does New Jersey
12 combine or have separate bids for energy and
13 capacity?

14 A. I don't know.

15 Q. And to your knowledge, if you know, has
16 Illinois changed how it purchases standard service
17 offer power compared to the slice of system tranche
18 approach?

19 A. The last I looked at it, it was done by a

20 slice of system.

21 Q. You say farther down on page 6 that

22 Delaware has used an energy and capacity approach to

23 determine these prices. Has Delaware, to your

24 knowledge, changed and begun procurement through a

25 managed portfolio approach to buy its standard

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1 service offer service?

2 A. I don't -- I'm not sure that that
3 matters, in my view. The whole idea here was to go
4 out and replicate what we would need to do for an
5 MRO. If there were a better approach and we were
6 going through an MRO than slice of system, we would
7 implement it.

8 Q. But, Mr. Baker, you have indicated
9 previously, correct me if I'm wrong, that the only
10 test of whether your ESP should be approved is
11 whether it is better than an MRO.

12 A. And I have made that statement, and I
13 stand by it. What I'm suggesting is one has to look
14 at the best approach given how much load you're
15 trying to serve at the distribution company, and we
16 know that people have used slice of system. They may
17 have modified it as a result of serving load, but I
18 think if you were starting with a 10-20-30 type
19 approach to an MRO, slice of system may very well be

20 the most effective.

21 But if we decide to go the MRO route, we
22 would analyze all the options that people have used
23 for supplying the 10, 20, 30 and see what's best.

24 Q. Did you analyze other approaches to
25 establish the MRO proxy price to which you are

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1 comparing the ESP?

2 A. We used slice of system as our approach.

3 As I say, I'm not sure it would make a lot of
4 difference, and I don't know why -- if those other
5 states changed, it may not have anything to do with
6 they thought they could get a more effective price.

7 One of the reasons you might split
8 capacity and energy is what PJM did, and that is to
9 say: How do I make a capacity payment to parties in
10 order to get new capacity built in the state? So
11 there may have been other public policy reasons for
12 the change.

13 Q. But did AEP look at alternative
14 methodologies for procuring for an MRO procurement?

15 A. For purposes of the study that we did, we
16 used the slice of system approach.

17 Q. And you did not look at any other options
18 than slice of system.

19 A. I don't remember looking at any other

20 approaches.

21 Q. Let's move to page 7, line 16, and you

22 talk about capacity and energy charges. Can capacity

23 be procured separately from energy?

24 A. Yes.

25 Q. Can capacity be procured under a variety

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1 of different types of contracts?

2 A. I guess I need more definition as to what
3 you're trying for me to answer, Mr. Rinebolt. Are
4 you talking about for time periods? Are you talking
5 about recallability, commitment to build. I mean, I
6 don't know what you're trying to get at there for me
7 to be able to really answer your question.

8 Q. Well, I think actually you just have.
9 There are clearly other considerations that you can
10 take to procure capacity other than a slice of system
11 approach.

12 A. The capacity in a slice of system is just
13 saying how many megawatts of capacity you need as a
14 portion of the capacity. Slice of system really
15 looks at more an energy supply than a capacity
16 supply.

17 Q. Well, then you could also purchase energy
18 in a variety of different methods rather than simply
19 a slice of system purchase, couldn't you?

20 A. You could, but then you have more
21 responsibility to manage the difference between that
22 which you contract for and that which your load needs
23 to serve -- to be served.

24 Q. You could perhaps hedge to avoid that
25 risk, couldn't you?

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1 A. I guess that depends on your definition
2 of hedging. I've heard a lot of definitions of
3 hedging. Hedging has been termed in some cases I go
4 out and I purchase a supply to back up a commitment I
5 have. That's considered to be a hedge by many
6 people. There are others where you just buy an
7 option and that's considered to be a hedge. So I
8 don't know that you can just buy a hedge that assures
9 the supply will be there, which is what I think
10 you're trying to do when you go out and try to meet
11 10 percent of your load and 20 percent of your load.

12 Q. But both those financial tools and those
13 more asset-based tools are indeed available to a
14 company, such as yours, in order to serve -- provide
15 standard service offer, power under a standard
16 service offer.

17 A. Under an MRO?

18 Q. Under an MRO or under an ESP.

19 A. You could approach the acquisition of

20 supply in different fashions.

21 Q. Let's move to page 10, please. We'll

22 start with the first Q and A. You indicate that:

23 "The AEP-Dayton hub is a liquid trading location

24 where market quotes are available." What is the

25 volume of trades on the -- at the AEP-Dayton hub on a

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1 daily basis, an average, if you know?

2 A. I don't know.

3 Q. Then how do you justify using the term
4 "liquid trading location"?

5 A. Because as I've talked to people who are
6 in the industry, both our own traders and others,
7 they have characterized that as a liquid trading hub.

8 Q. But you're not aware of any data other
9 than your conversations with your colleagues and
10 others in the trading field, you are not personally
11 aware of whether that's a liquid hub.

12 A. People trade at liquid locations, so if
13 that's a location that parties trade at, then it's
14 liquid.

15 Q. I see. But once again, do you have any
16 awareness of the volume of trades at that location?

17 A. I believe I answered that I did not.

18 Q. Let's jump all the way to page 30 if we
19 could, Mr. Baker. I believe this question was asked

20 by Mr. Smalz, but I'm not sure and I just want to

21 ensure that this is the case.

22 Did AEP conduct any studies or develop

23 any projections of how many people might switch,

24 might choose to take services from a marketer during

25 2009, 2010, and 2011?

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1 A. We did not perform any studies other than
2 as I described the way we developed the POLR, nothing
3 outside of that that would determine how many people
4 would switch.

5 Q. Now, if customers indeed did switch away
6 and then came back, couldn't the costs of serving
7 those customers be passed through the FAC to
8 customers?

9 MR. RESNIK: I'll object, your Honor. I
10 think Mr. Smalz asked that same question.

11 MR. RINEBOLT: Actually, I don't recall
12 that he asked that specific question. Oh, he did?

13 MR. BELL: He did, yeah.

14 MR. RINEBOLT: Fine, I'll withdraw. Read
15 the transcript.

16 Q. Further down on page 30 at line 18,
17 underlying your testimony here do you believe that
18 customers leave only because of a lower price?

19 A. I would believe that's the major driver

20 for customers leaving.

21 Q. In a marketplace which, as you

22 characterize as having high volatility in prices,

23 what would be the economic convenience to customers

24 to leave and move into a volatile market price?

25 A. A customer could leave potentially for a

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1 number of reasons: One, because they're
2 sophisticated and believe the price might stay low,
3 because they could find a supplier who was willing to
4 give them a term contract at the lower price, or a
5 belief that they could come back to the company at
6 tariff if the price went above tariff.

7 Q. Now, if a residential customer, say, were
8 to leave when a price was low -- strike that.

9 Are you aware of any month-to-month
10 contracts available to residential customers?

11 A. Today, no, because right now the price in
12 the wholesale market is higher than our tariff rates.
13 I could certainly foresee if the wholesale prices
14 dropped, marketers coming in and offering to provide
15 supply.

16 Q. Wouldn't that require that not only the
17 short-term prices decline, but the long-term prices
18 decline?

19 A. I would believe that if there is a period

20 where the price is going to be down for some period,
21 people will come in and try to provide service to
22 customers, not on an hourly basis, but certainly if
23 they thought there was time enough to sign somebody
24 up and provide a supply, I believe they would.

25 Q. Are you aware of whether in any other

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1 states where customers are entitled to shop that
2 there has been a term contract for residential
3 customers that is less than a year?

4 A. I don't know whether that's the case or
5 not. But as I indicated to Mr. Smalz, I think the
6 difference is that in the locations where prices are
7 set at a wholesale basis for the distribution
8 company, not a tariff based on an ESP, that there is
9 a very close relationship between the wholesale price
10 that the distribution company is providing and the
11 wholesale price that a marketer could provide.

12 In this case you could have a dislocation
13 between the ESP price and the wholesale price which
14 would permit it for residential customers much more
15 easily than it would be in other locations.

16 Q. But are you aware of any contracts for
17 residential customers in other states where the term
18 is less than a year?

19 A. I have not made that analysis.

20 Q. Okay. Now, in a period of a year when
21 AEP is purchasing power to serve its POLR load,
22 demand changes within the system during that year,
23 doesn't it?

24 MR. RESNIK: Can I have the question read
25 back, please?

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1 EXAMINER BOJKO: Yes.

2 (Record read.)

3 A. Load changes during the year. I'm having
4 a little difficulty with when AEP purchases power.
5 Are you talking about our proposal here or are you
6 talking about our generically being out in the
7 market? I'm not sure what the underlying premise of
8 your question is.

9 Q. Actually, let's move from the response
10 that you did give me, that load changes during the
11 year. Does that load vary from your forecasts from
12 time to time?

13 A. Yes.

14 Q. Okay. And, in fact, you could lose load
15 just because of the economic conditions we're
16 currently facing; is that a reasonable assumption?

17 A. Yes.

18 Q. So do you manage for that risk right now?

19 A. We do manage for that risk, Mr. Rinebolt,

20 but it's a very different risk, in my view. You
21 know, for example, earlier there was some discussion
22 with a witness and said customers come and go all the
23 time. And, you know, that's true, but what we see is
24 that load increases by a half a percent, 1 percent,
25 1-1/2 percent. That's something that you manage and

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1 you manage with just your generation resources that
2 are there and your reserves that you have.

3 Similarly, if you see a downturn in the
4 recession -- recessionary period, we see some and we
5 have some additional surplus then that we can either
6 take to the market or sit idle if it's not economic.

7 I'm talking about a situation where if
8 prices go down significantly, you could see
9 migration, different than just the normal load
10 growth.

11 Q. Thank you for that statement. It's not
12 the question I asked, but I appreciate the
13 edification.

14 To your knowledge, in states that have --
15 strike that.

16 Have there been large-scale customer --
17 residential customer migrations to market-based rates
18 in other jurisdictions where competition is
19 available?

20 A. I don't believe there is, but I stand
21 behind what I said before about the relationship of
22 the wholesale price to the distribution company and
23 the wholesale price to a marketer.

24 Q. Would it be fair to say that had those
25 types of events occurred in the market, since we've

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1 had choice, that customers would indeed have

2 switched?

3 MR. RESNIK: I'm sorry. What kind of

4 events? I may have missed something. You were

5 talking about events.

6 Q. Well, Mr. Baker was just speaking of if

7 the wholesale market price declined significantly,

8 and it was relative to that.

9 MR. RESNIK: Thank you.

10 THE WITNESS: Could I have the question

11 reread?

12 (Record read.)

13 A. I would say that when I think of other

14 states that have gone through transition to choice,

15 they tended to have periods where they had rate caps

16 which were below wholesale prices, as far as anyone

17 that I've looked at, and, therefore, you would not

18 have had shopping at that point.

19 And then we had the period where the

20 wholesale distribution cost to customers kind of

21 matched what a marketer could do.

22 If you had the situation that I'm

23 proposing could happen in Ohio, I think you would

24 have significant switching.

25 Q. So choice, in and of itself, in your

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1 mind, is not a virtue; it's really the economic
2 potential associated with that choice.

3 A. As a person who's driven by economics,
4 personally I would feel that it's an economic driver.
5 I guess there are people who would just be pleased to
6 have choice. I don't know.

7 Q. On page 32 you speculate, and I'm talking
8 between line 12 and line 14, you speculate on why
9 customers urged the passage of Senate Bill 3 and then
10 urged the passage of Senate Bill 221. Do you believe
11 that customers may have supported Senate Bill 221
12 because there is not an effectively competitive
13 wholesale market?

14 THE WITNESS: I'm sorry, can I have that
15 read back?

16 EXAMINER BOJKO: Yes.

17 (Record read.)

18 A. That was a strong area of debate during
19 Senate Bill 221, and clearly the people who were

20 supporting Senate Bill 221 came out strongly saying
21 that there was no competitive -- effective
22 competitive wholesale market. There were many of us
23 on the other side of that debate pointing out the
24 RTOs and the amount of marketers and the amount of
25 people who bid on auctions saying we believe that it

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1 was an effective competitive wholesale market.

2 Q. Well, if there is an effectively
3 competitive wholesale market, then why haven't
4 marketers been able to make offers that permit
5 customers to switch?

6 A. Because -- in Ohio, because we've had
7 prices that have been below the wholesale market.
8 Just because prices are high in a wholesale market
9 does not mean it is not competitive.

10 Q. But that competitive wholesale market, at
11 least in Ohio, has not resulted in retail market
12 offerings available to residential customers.

13 A. That is because prices have been held
14 below the, as I see it, the market price which I
15 would believe is the value of electricity.

16 Q. Have you conducted any analysis of the
17 proposed -- the impact of the proposed POLR charge on
18 residential customers switching?

19 A. I have not done that analysis, but my

20 assumption is since it's a nonbypassable charge, that

21 it would not have an effect on customers switching.

22 Q. So on what do you base your assertion on

23 page 32, line 10, that this POLR charge "is the best

24 way to provide customers the freedom to explore

25 competitive alternatives"?

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1 MR. RESNIK: I'm sorry, could I have that
2 question read back, please?

3 EXAMINER BOJKO: Yes.

4 (Record read.)

5 A. I don't see that language on page 32,
6 line 10.

7 Q. Let me double-check my page numbers here.
8 I'm sorry, sir, it's page 34, line 10.

9 THE WITNESS: Now could I have the
10 question read back?

11 EXAMINER BOJKO: Yes.

12 (Record read.)

13 A. It is not the POLR charge by itself. It
14 is the fact that rather than limit customers shopping
15 or customers coming back at tariff, the combination
16 of POLR with rules that allow broad switching gives
17 customers the benefit of that bargain that's provided
18 in Senate Bill 221.

19 Q. But you said in your answer to the

20 previous question that your POLR design is

21 competitively neutral, correct?

22 A. The POLR design is competitively neutral,

23 but we're talking about -- you could put restrictions

24 on customers moving as opposed to putting a POLR in.

25 That's a very different -- I'm talking about in the

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1 first case, the one about the competitive the
2 customer still makes the decision. He's got a G rate
3 that he can go out and find if there's a better
4 supply and purchase. If I limit the amount of
5 purchase -- the ability to purchase or the ability to
6 come back, I've restricted the customer's options.

7 Q. Have you done any studies or analysis to
8 indicate that a POLR charge is more likely to prompt
9 shopping than, say, an approach that allows customers
10 to come back at market?

11 A. I don't see, other than government
12 aggregation, that Senate Bill 221 has the provision
13 to charge customers market when they come back and,
14 therefore, we didn't do such a study.

15 Q. Instead you just chose to use a POLR
16 charge and have decided that that is the best way to
17 encourage shopping; is that --

18 A. What I said is it maintains the -- I was
19 trying to say it maintains the provisions of Senate

20 Bill 221 and compensates us for the value that's

21 provided to customers.

22 Q. What provisions of Senate Bill 221 does

23 it maintain?

24 A. That customers can shop and customers, in

25 my view, can come back at tariff, except in the case

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1 of governmental aggregation.

2 Q. But customers could shop without a POLR
3 charge mechanism, couldn't they, under Ohio law?

4 A. They could definitely shop without that,
5 but we wouldn't be compensated for the risk that we
6 are incurring in order to provide that service.

7 Q. Well, speaking of that, isn't it the
8 customers that shop that cause the POLR obligation to
9 exist?

10 A. The POLR obligation, as I see it, is just
11 a piece of Senate Bill 221 that the company is
12 required to supply customers at tariff. Customers
13 have the right to shop and customers have the right
14 to come back.

15 Q. I agree with you that customers have the
16 right to come back. Does Senate Bill 221 dictate
17 that they have the right to come back at tariff?

18 A. That's the way --

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

20 object. I could read the statute. Again, we're
21 asking this witness a legal question. He can give
22 his lay opinion, but if we're trying to get to what
23 the law provides, it's in there. All we have to do
24 is look at 4928.14.

25 EXAMINER BOJKO: Well, I think we've been

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1 allowing all witnesses to give their regulatory
2 opinion on SB 221, and that would include Mr. Baker
3 and his lay opinion.

4 But I also think that we've been
5 continuing at this for some time so I think -- I
6 don't think he's going to change his answer no matter
7 how many times you ask him, Mr. Rinebolt.

8 MR. RINEBOLT: It was my last attempt.

9 EXAMINER BOJKO: Well, if it's your last,
10 let's let him answer if he can.

11 THE WITNESS: Can I have the question
12 reread? I'm sorry, I should be able to answer it
13 since I've heard it before.

14 (Record read.)

15 A. I believe they do have the right to come
16 back at tariff.

17 Q. The next area I want to take up with you,
18 Mr. Baker, is questions related to an issue that
19 Mr. Roush punted to you yesterday. I don't know if

20 you were in the room at the time. I was questioning
21 him about how the costs associated with the POLR
22 requirement were allocated to the various customer
23 classes.

24 Now, can you provide me with some insight
25 into the method of allocation used to assess POLR

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1 charges on individual customer classes?

2 A. I'm absolutely shocked that Mr. Roush
3 punted a question about allocation of rate -- and
4 rate design to me, and I'm going to tell you I can't
5 answer it if he did punt it to me because he's the
6 one who did the allocation.

7 MR. BOEHM: He's shaking his head.

8 Q. Have -- in your experience and in your --
9 in your experience do you believe that industrial
10 customers have shopped more than residential
11 customers?

12 A. My experience would say in places
13 where -- which is really our only experience right
14 now, in places where the distribution company's
15 wholesale price is market based and, therefore,
16 they're priced to customers as market based, there is
17 more shopping at an industrial level than a
18 residential. I don't think that's what we're looking
19 at here in Ohio.

20 Q. Do you think it would be appropriate to
21 charge -- to allocate a POLR charge based on the
22 likelihood that a particular class of customers would
23 shop?

24 A. I think that's one way to do it. There
25 could be other ways of doing it, and there are --

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1 there may be at-risk customers that you'd want to do
2 something different for. I don't know. That's a
3 rate design question, would be what you were trying
4 to accomplish.

5 Q. You are familiar with the concept of cost
6 causation?

7 A. Yes, I am.

8 Q. And so do you think it would be
9 reasonable for POLR charges to follow the cause of
10 the cost?

11 A. Not the cause, Mr. Rinebolt. I don't
12 believe cost causation fits here because that would
13 lead down a path that only to charge those costs when
14 it actually occurs.

15 If you're saying could you change the
16 allocation because one had a higher likelihood of
17 shopping than others, I think you could. We just
18 don't have the information relative to the conditions
19 in the state of Ohio to indicate that one would have

20 a higher likelihood than the other.

21 Q. You didn't attempt to evaluate the

22 relative risks of customer classes shopping, then.

23 A. I think customers will shop when there's

24 an economic advantage.

25 Q. Let's turn to page -- let me double-check

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1 my page numbers here -- 36, and you talk about the
2 earnings test beginning at line 6 in response to a
3 question. Isn't uncertainty an inherent risk of
4 business?

5 A. Uncertainty is a risk of business. A
6 earnings test as provided for in Senate Bill 221 is
7 not a traditional part of business risk, as I see it.

8 Q. Well, let's see, regulated utilities are
9 only granted an opportunity to earn their revenue
10 requirement, correct?

11 A. Regulated utilities that don't have
12 migration risk and some of the other risks that I've
13 outlined in Senate Bill 221, that's exactly right.

14 Q. Well, let's say for the distribution
15 component of your rates, you are granted -- because
16 those have remained regulated, you are granted an
17 opportunity to earn the revenue requirement
18 associated with that -- those rates.

19 A. If you are a stand-alone distribution

20 company, I would agree with that, or if you had just
21 a distribution case only in the state of Ohio, I
22 would agree with that.

23 Q. And if you know, have regulated
24 utilities -- and I'm talking about vertically
25 integrated utilities that are regulated -- in the

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1 past agreed to share profits over the allowable
2 revenue requirement with customers?

3 A. I believe there are some utilities who
4 have entered into that kind of an arrangement with
5 customers as part of a settlement.

6 Q. Let's turn to the next page, please,
7 where the discussion turns to the deferrals. Don't
8 earnings accrue to a corporation at the time that
9 they are -- that the transaction occurs?

10 THE WITNESS: Could I have the question
11 read back?

12 (Record read.)

13 A. I need more definition as to what the
14 term "transaction" means. I'm not trying to be
15 evasive, but I could have a transaction that I lose
16 money and I don't have any earnings from it.

17 Q. Then you would accrue the loss.

18 A. Toward earnings? I have earnings.
19 That's the result of the difference between my

20 revenues and my cost after taxes.

21 Q. Let's ask this a different way. If you

22 make a sale to me of 100 kilowatts of electricity and

23 you ask -- and you book -- the revenue from 10 of

24 those kilowatts is what I pay you for in cash and I

25 promise to pay you for the other 90 kilowatt-hours

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1 later, have you earned the revenue associated with
2 that 100 kilowatt-hour sale?

3 A. That would depend on whether our auditors
4 believed that we really had an assured revenue stream
5 in the future associated with that 90 kilowatt-hours.

6 Q. All right. So in the case of your
7 phase-in deferrals, when you book that deferral from
8 an accountant's standpoint, in order for that
9 deferral to be valuable to the company you have to
10 have some assurance that it will be collected going
11 forward, correct?

12 A. If it were to be treated in earnings in
13 the year that the deferral was set up.

14 Q. So then why shouldn't we count that
15 deferral as revenue in the year the deferral is
16 created?

17 A. For a number of reasons, in my view. One
18 is there really isn't any cash coming in the door,
19 and we are talking here about paying back customers

20 potentially values that they never paid because it is
21 something on a promise in the future. We also, if
22 there is a risk, that there wouldn't be the -- or
23 that it was treated as part of the earnings test. I
24 think it may not be includable as earnings on a --
25 from an auditor's standpoint. And I believe the more

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1 appropriate way is to include the future revenues in
2 the year that they're received.

3 Q. So even though your accountants or your
4 auditor would treat it, you know, have certain
5 requirements for what constitutes a deferral, in your
6 mind there is still a risk because that's a promise
7 to be paid in the future and you might not get paid?

8 A. It's not my determination; it's what the
9 auditors allow you to do as to whether it counts
10 towards earnings. It's not my view.

11 Q. So if a deferral, if a deferral survives
12 an auditor or accountant's scrutiny and is allowed to
13 be placed on your books, it is, in fact, earned at
14 the time it goes on your books.

15 A. It is considered earnings from a GAAP
16 reporting basis. I don't think it's appropriate to
17 include it in the significantly excessive earnings
18 test because the cash hasn't been received.

19 Q. And as you said before, if you -- the

20 alternative would be to count it when you receive the

21 cash.

22 A. Yes.

23 Q. Okay. On the top of page 38, lines 5

24 through 7, you allude to an issue associated with the

25 treatment of off-system sales vis-a-vis the

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1 companies' return on equity. Are the companies
2 proposing to return revenues from off-system sales to
3 customers?

4 A. No.

5 Q. Okay. So those off-system sales, the
6 profits from off-system sales will inure to the
7 operating companies as a part of the revenue
8 available to those companies, correct?

9 A. As the owners of the assets when they
10 make off-system sales, they would receive the
11 benefits associated with those sales.

12 Q. Thank you.

13 Further down on page at line 14 and 15,
14 you indicate that the company plans for generating
15 facilities to meet current and anticipated firm
16 loads. Now, under Ohio's current regulatory scheme
17 is there a requirement that companies own capacity to
18 meet firm loads?

19 A. There is the requirement to meet the firm

20 load. There is no requirement to build new capacity.
21 Where I get a little -- I have a little trouble with
22 the answer is the fact that we can't necessarily move
23 assets that are in rate base, as I look at it, to
24 another affiliate without the Commission approval, so
25 the Commission in some way will decide whether or not

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1 that generation is assigned effectively to serving
2 the load.

3 Q. Do you have generation in Ohio that is in
4 rate base?

5 A. What we have is generation that was not
6 transferred by the -- prior to Senate Bill 221 and
7 those assets were in rate base the last time we did a
8 rate case in the '90s.

9 Q. But the regulatory scheme has changed
10 twice since those plants were in rates, correct?

11 A. That's right. They were in rates. The
12 bill said we could move them, and now it says we have
13 to get Commission approval.

14 Q. I guess back to my original question,
15 there is no longer a requirement that the company own
16 capacity to meet its firm loads.

17 A. There is no specific requirement that I
18 know of in Senate Bill 221.

19 Q. Now, in the ESP AEP is asking ratepayers

20 to pay for generation capacity; is that correct?

21 A. The only additions will be -- the only

22 capacity that the customers will be charged over and

23 above what's already in rates would be that

24 associated with any pool capacity equalization

25 payments, which are debatably purchases or not,

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1 depending on your terminology, and the Lawrenceburg
2 facilities.

3 Q. But customers will --

4 MR. BOEHM: I'm sorry, could I have that
5 last answer again, please?

6 EXAMINER BOJKO: Yes.

7 MR. BOEHM: The last question and answer,
8 please. Thanks.

9 (Record read.)

10 MR. BOEHM: Thank you very much.

11 Q. Nonetheless, customers under current
12 rates pay for capacity, and they will continue to pay
13 for capacity at a somewhat different price if this
14 ESP is adopted, correct?

15 A. There was a historical revenue
16 requirement which separates, and then under the
17 provisions of the RSP there were adjustments to those
18 rates, and under the ESP there will be other
19 adjustments to those rates. There isn't a specific

20 capacity breakout in the RSP or the ESP that says

21 this is what customers are paying for capacity.

22 That's the distinction I'm making.

23 Q. Well, put it this way, customers are

24 paying for capacity. They're paying for fuel.

25 They're paying for environmental upgrades so that

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1 capacity complies with regulatory requirements.

2 They're paying for all of that, aren't they?

3 A. They're paying for service, and some of
4 the components that you mentioned are provided for
5 recovery under Senate Bill 221.

6 Q. So in your mind all we are buying now is
7 service. We're not buying the right to utilize
8 particular assets owned by the company.

9 MR. RESNIK: May I have that question
10 read back, please?

11 EXAMINER BOJKO: Yes.

12 (Record read.)

13 MR. RESNIK: Your Honor, I'll object, I
14 guess, to the inclusion of the word "now," which
15 suggests that somehow at a prior time customers were
16 paying for particular assets.

17 EXAMINER BOJKO: I think he meant in
18 current rates.

19 Didn't you, Mr. Rinebolt?

20 MR. RINEBOLT: In current rates.

21 MR. RESNIK: Thank you.

22 A. Again, I think they always paid for

23 service, but there was a revenue requirement approach

24 to calculating rates, which is done in vertically

25 integrated utilities, and the carrying -- the fixed

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1 costs associated with facilities and then the energy
2 costs associated with supplying the energy were some
3 of the costs that made up that revenue requirement.

4 Q. Does functional separation satisfy the
5 statutory requirements for corporate separation in
6 Senate Bill 221 and its predecessor?

7 A. As I understand it, functional separation
8 for some period of time satisfied, but there was
9 still ultimately a legal -- an obligation to legally
10 separate.

11 Q. And I believe that's based on advice of
12 counsel.

13 A. Yes.

14 Q. Okay. At the bottom of page 42 at line
15 20-21, you indicate that the changes in Section
16 4928.17(E) was a reversal of state law.

17 A. I'm sorry, could you give me the line
18 numbers again?

19 Q. I'm sorry, 20 and 21.

20 A. Well, I have a problem. Somehow my page

21 42 isn't in here. Thank you.

22 MS. GRADY: Does that mean we can all go

23 home?

24 MR. RANDAZZO: It's that rogue errata.

25 A. Okay. Yes, I see where I make the

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1 statement that the amendment to 4928.17(E), Ohio
2 Revised Code, concerning the sale or transfer of
3 generating assets could not have been more of a
4 reversal of state law. I think that's the sentence
5 you're referring to Mr. Rinebolt. Yes, I see it.

6 Q. So do you believe that changing the law
7 to put a limitation on the sale of assets is beyond
8 the power of the General Assembly?

9 MR. RESNIK: Again, from a nonlegal
10 perspective, right?

11 MR. RINEBOLT: From a nonlegal
12 perspective.

13 A. I don't know about the legality. I think
14 it was pretty unfair.

15 Q. Well, then let's turn to page 43, lines
16 16 to 18. Am I right to understand that your last
17 sentence, the sentence that begins on 16 to 18,
18 indicates that it would have been imprudent to sell
19 these assets or transfer these assets while the

20 General Assembly was considering Senate Bill 221?

21 A. The answer I think says -- it states it

22 was, one, it was impractical once we knew that that

23 limitation was going to be imposed, could we have got

24 it done purely from a transactional standpoint; and

25 how would the company have been looked at if it tried

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1 to slide one by the legislature didn't seem to us to
2 be a very good move in this state, or in any state,
3 now that I think about it.

4 Q. Not a good move. What would the negative
5 ramifications potentially have been from such a move?

6 A. I don't know, and I didn't want to find
7 out.

8 Q. So essentially it was a business decision
9 of AEP not to transfer those plants.

10 A. Again, I don't think we could have gotten
11 it done once we knew that there was going to be that
12 change in time to have it done by July 31st, 2008.

13 Q. Let's go to the bottom of page 47. In
14 the last sentence you talk about \$14 million that was
15 provided through the rate stabilization plan to,
16 among other things, promote economic development. Do
17 you know what that money was spent on?

18 A. I don't have the specific breakdown on
19 how it was spent, no.

20 Q. Do you know that it was spent on any
21 economic development project that produced more jobs
22 in this state or increased your load?

23 A. This is really just saying that if it did
24 result in increased load, we should remove that from
25 the baseline.

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1 Q. Since you raised the 14 million, I was
2 just curious if you knew what it got spent on.

3 A. Okay.

4 Q. I just have one last question for you,
5 and it's not related to a specific part of the
6 testimony. There's been a lot of discussion today
7 about Mon Power or the legacy of Mon Power. Now,
8 Monongahela Power doesn't exist in Ohio anymore, does
9 it?

10 A. No, it does not.

11 Q. Okay. And those former Monongahela Power
12 customers are now Columbus Southern Power customers,
13 correct?

14 A. That is correct.

15 MR. RINEBOLT: Thank you very much,
16 Mr. Baker, appreciate it.

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

18 (Discussion off the record.)

19 EXAMINER BOJKO: Let's go back on the

20 record.

21 Mr. O'Brien, do you have any questions?

22 MR. O'BRIEN: I have no questions, your

23 Honor.

24 EXAMINER BOJKO: Mr. Jones, do you have

25 any questions?

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1 MR. JONES: No questions, your Honor.

2 EXAMINER BOJKO: Mr. White, do you have
3 any questions?

4 MR. WHITE: Yes.

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

6 (Discussion off the record.)

7 EXAMINER BOJKO: Let's go back on the
8 record.

9 Mr. White, please proceed.

10 - - -

11 CROSS-EXAMINATION

12 By Mr. White:

13 Q. Mr. Baker, I'm Matt White, and I'll be
14 asking questions on behalf of the Kroger Company.

15 A. Okay.

16 Q. I just wanted to ask you a few questions
17 regarding the Black-Scholes model you discuss on page
18 31 of your testimony.

19 A. Yes.

20 Q. Are you aware of the efficient market
21 hypothesis or do you know what I'm talking about when
22 I reference the efficient market hypothesis?

23 A. I could use a little help.

24 Q. Well --

25 MR. RANDAZZO: Not responsive, your

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1 Honor.

2 Q. Essentially are you aware that for doing
3 calculations under the Black-Scholes model for the
4 price of the options to be accurate, markets must be
5 efficient? I mean, does that sound familiar to you?

6 A. Yes.

7 Q. Okay. And would you say that some of the
8 assumptions under the efficient market hypothesis or
9 under an efficient market might be the availability
10 of perfect information by the holder of the option
11 and also relatively low transaction costs of the
12 holder of the option?

13 THE WITNESS: I'm sorry, can I have that
14 read back?

15 (Record read.)

16 A. The black-Scholes model, in my view, is
17 used for a lot of things. We use it for transacting
18 options and power sales, and I've got to say that
19 it's hard for me to believe that anybody has perfect

20 knowledge of the market. One has some ideas of what
21 the market will do. Transaction costs perhaps could
22 have an impact if we thought they were very high, but
23 I don't see that that changes in any way our use of
24 it for this purpose.

25 Q. Would you know that when formulating the

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1 Black-Scholes model, I believe it was Mr. Black and
2 Mr. Scholes, they created the model, though, based on
3 the efficient market hypothesis in order -- their
4 theory was that in order for the prices to be
5 accurate, efficient, most accurate, the efficient
6 market hypothesis would have to apply.

7 MR. RESNIK: I'm not sure if that's a
8 question, but it sounds like testimony, and I object.

9 MR. WHITE: I'm asking if he's aware of
10 that.

11 EXAMINER BOJKO: He can answer if he's
12 aware.

13 A. I'm not aware of that, but I'm, again,
14 I'm not sure why it matters. What the theory was
15 when it was developed is one thing. How it's used
16 today and how much it's used today determines whether
17 people in various markets think it's an efficient
18 model for pricing options, and I believe it's being
19 used in many, many places for that purpose.

20 As a matter of fact, we had some
21 witnesses who said they -- in certain markets they
22 thought it was a very good way of pricing, and those
23 weren't company witnesses, at least one. And so I'm
24 not sure why the theory at the time the person built
25 the model is really relevant today.

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1 Q. Okay. Would you agree that if
2 transaction costs are high, though, it might affect
3 the price of the option? If it was harder or more
4 costly to exercise the option, would the price of the
5 option go up or down?

6 A. If it were more difficult to exercise the
7 option, the price, I believe, would go down, but I'm
8 not sure in what case -- I'm trying to figure out an
9 option that would have a high price to exercise the
10 option.

11 Q. How about if it's not heavily traded and
12 it costs a lot of money to facilitate the process,
13 the transaction, if the transaction cost costs a lot
14 of money, for just one example of the difficulty of
15 exercising an option?

16 A. I would say that if there is a very high
17 transaction cost, that could have an impact on the
18 value of the option.

19 Q. To decrease the value, correct?

20 A. And I think it would, in effect, reduce

21 the value of the option.

22 Q. Okay. And would you also say that if

23 that transaction cost could include not just a price

24 but also the difficulty of maybe switching, switching

25 from one service offer to another service offer, if

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1 it's kind of difficult for customers to switch?

2 MR. RESNIK: Your Honor, I'll object to
3 the question. There's no foundation at all that it's
4 difficult for a customer to switch.

5 MR. WHITE: I just asked the question.

6 MR. RESNIK: The system's in place. The
7 customers have switched whether allowed or not, but
8 it's not difficult to switch.

9 EXAMINER BOJKO: Can I see the question,
10 Maria.

11 The end of his question said "if it's
12 kind of difficult for customers to switch," so I
13 think he is asking in part if it's difficult for
14 customers to switch.

15 Let's start with that question and then
16 you can move on to your other question.

17 Mr. Baker, is it difficult for customers
18 to switch?

19 THE WITNESS: I guess that depends on the

20 size of the load and experience in the market. Today
21 it would be more difficult given the difference
22 between we talked about the wholesale price and the
23 tariff price for residentials to switch because there
24 aren't a lot of marketers having set up shop today.
25 On the other hand, I could see a large

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1 industrial who could switch just by joining PJM, and
2 we know that there are parties here who believe they
3 should be able to play in the market to do demand
4 response, so obviously they feel that they can play
5 in the market without a whole lot of difficulty.

6 Q. Just a couple questions about perfect
7 information. If a customer didn't have perfect
8 information as to the price of the power, how would
9 that affect the price of an option? If the customer
10 was not aware or it was not constantly given to them,
11 the price, how would that affect the option, in your
12 opinion?

13 A. The option in the way we valued POLR, the
14 option is to buy at tariff. So they know what the
15 price is. They have perfect information in that
16 case.

17 Q. So you'd say customers always read -- I
18 mean, every customer knows exactly what the tariff
19 price is at all times?

20 A. I think that they can very easily. If
21 they have the slightest desire to, all they have to
22 do is look at the bottom of their bill and see what
23 rate they're paying.

24 Q. Okay.

25 MR. WHITE: I have no further questions,

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1 your Honor.

2 EXAMINER BOJKO: Thank you.

3 We will be adjourned until 9 a.m.

4 tomorrow morning.

5 Thank you.

6 (The hearing adjourned at 6:42 p.m.)

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

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 Tuesday, December 2,
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 (3307-MDJ)

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

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