

1 In the Matter of the :
 Application of Columbus :
 2 Southern Power Company for:
 Approval of a Mechanism to: Case No. 11-4920-EL-RDR
 3 Recover Deferred Fuel :
 Costs Ordered Under Ohio :
 4 Revised Code 4928.144. :

5 In the Matter of the :
 Application of Ohio Power :
 6 Company for Approval of a :
 Mechanism to Recover : Case No. 11-4921-EL-RDR
 7 Deferred Fuel Costs :
 Ordered Under Ohio Revised:
 8 Code 4928.144. :

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10 PROCEEDINGS

11 before Ms. Greta See and Mr. Jonathan Tauber,
 12 Attorney Examiners, at the Public Utilities
 13 Commission of Ohio, 180 East Broad Street, Room 11-A,
 14 Columbus, Ohio, called at 9 a.m. on Wednesday,
 15 October 5, 2011.

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17 VOLUME II

18 - - -

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1 Wednesday Morning Session,
2 October 5, 2011.

3 - - -

4 EXAMINER TAUBER: Let's go on the record.
5 This is a continuation of Case No. 11-346-EL-SSO,
6 EL-ATA. At this point if we could just do very brief
7 appearances just to let the record reflect who is
8 here and we will start with the companies and just go
9 around the room.

10 MR. NOURSE: Thank you, your Honor. On
11 behalf of the Columbus Southern Power and Ohio Power
12 Companies, Steven T. Nourse, Matthew J. Satterwhite,
13 and Daniel R. Conway.

14 EXAMINER TAUBER: Thank you.

15 MR. MASKOVYAK: Joseph B. Moskovyak, Ohio
16 Poverty Law Center, on behalf of Appalachian Peace
17 and Justice Network.

18 MS. GRADY: Thank you, Maureen R. Grady
19 on behalf of the residential customers, OCC.

20 EXAMINER TAUBER: Thank you.

21 MR. HAYDEN: On behalf of FES, Mark
22 Hayden, David Kutik, Jim Lang, Laura McBride, and
23 Trevor Alexander.

24 EXAMINER TAUBER: Thank you.

25 MR. DARR: On behalf of IEU, Frank Darr

1 and Joe Oliker.

2 EXAMINER TAUBER: Thank you.

3 MS. HAND: On behalf of Ormet Primary
4 Aluminum, Emma Hand.

5 MR. K. BOEHM: Behalf of OEG, Kurt Boehm.

6 MR. O'BRIEN: On behalf of the OHA, Rick
7 Sites, Tom O'Brien, and Matt Warnock.

8 MR. JONES: On behalf of the Commission
9 Staff, Werner Margard, Steve Beeler, John Jones.

10 EXAMINER TAUBER: Thank you.

11 MR. McALISTER: On behalf of the OMA
12 Energy Group, Lisa McAlister and Matt Warnock.

13 EXAMINER TAUBER: Are there any other
14 parties?

15 MR. SINENENG: Duke Energy Retail Sales,
16 Philip P. Sineneng.

17 MS. KALEPS-CLARK: On behalf of the
18 Constellation NewEnergy Group, Constellation Energy
19 Commodities, P3, Exelon, The Compete Coalition,
20 Direct Energy, and RESA, Lija Kaleps-Clark.

21 EXAMINER SEE: Is there a party
22 representing EnerNOC this morning? Mr. Poulos?

23 Okay. Thank you.

24 EXAMINER TAUBER: Mr. Nourse, I
25 understand we have some preliminary matters to

1 address this morning?

2 MR. NOURSE: Thank you, your Honor. I
3 just wanted to note for the record pursuant to the
4 attorney examiners' directive yesterday, companies
5 have prepared additional revisions to the testimony
6 of Mr. Hamrock, Ms. Thomas, and Mr. Allen that
7 reflect application of the MRO test using removal of
8 the POLR charge in 2011, and that has been
9 distributed to the parties.

10 And in addition, the parties have
11 received electronic versions of the additional
12 workpapers associated with those -- those revisions.

13 We, you know, we haven't docketed
14 yesterday's or today's revisions. Our plan would be
15 to use a -- when the witnesses take the stand to use
16 the final revised testimony.

17 I would just note these additional
18 revisions made today are reflected as essentially an
19 alternative analysis per the attorney examiners'
20 directive and so it's all in one version. There is
21 not like an A version and a B version. So it's -- I
22 think that will work and we will have a -- the sort
23 of the second updated revised version will be a piece
24 of testimony that we can put into evidence when the
25 witness takes the stand.

1 EXAMINER SEE: Okay. So it would be one
2 clear copy.

3 MR. NOURSE: One clean copy.

4 EXAMINER SEE: Incorporating all the
5 revisions that have been made thus far.

6 MR. NOURSE: Yes, your Honor. Thank you.

7 EXAMINER TAUBER: Thank you.

8 At this time do we have a witness this
9 morning?

10 MR. SATTERWHITE: Yes, thank you, your
11 Honor. The company would call Kelly D. Pearce to the
12 stand.

13 - - -

14 KELLY D. PEARCE

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

17 DIRECT EXAMINATION

18 By Mr. Satterwhite:

19 Q. Good morning, Mr. Pearce. Could you
20 please state your name and business address for the
21 record.

22 A. Kelly D. Pearce, my business address is
23 155 West Nationwide Boulevard, Columbus, Ohio 43215.

24 Q. And did you cause testimony to be filed
25 under your direction in this case on September 30,

1 2011?

2 A. Yes.

3 (EXHIBIT MARKED FOR IDENTIFICATION.)

4 Q. I would like to place in front of you
5 what I have marked as AEP Exhibit No. 3. Do you
6 recognize that document?

7 A. Yes, I do.

8 Q. Can you tell us what it is?

9 A. It is the testimony that I filed in this
10 case.

11 Q. And sitting here today are there any
12 corrections or changes to this testimony?

13 A. Yes.

14 Q. Could you tell us what those are and the
15 reasons why?

16 A. Yes. On page 11, table 1, from the line
17 that starts under column A, January through May of
18 period 2014, in column C it reads "31 percent" now.
19 It should read "41 percent."

20 And that carries over into the number in
21 column E which would change from the 186.40 to
22 \$164.27 per megawatt day. And that is a correction
23 to make the table consistent with section -- IV.2.b.3
24 of the stipulation.

25 Q. Any other changes?

1 A. No.

2 Q. With that update are all the answers to
3 the questions in this testimony accurate?

4 A. Yes.

5 MR. SATTERWHITE: I turn the witness over
6 for cross-examination.

7 EXAMINER TAUBER: Is there any questions
8 to from the Appalachian Peace and Justice Network?

9 MR. MASKOVYAK: No questions, sir.

10 EXAMINER TAUBER: OCC?

11 MS. GRADY: No questions, your Honor.

12 EXAMINER TAUBER: FirstEnergy.

13 MR. KUTIK: Thank you, your Honor.

14 - - -

15 CROSS-EXAMINATION

16 By Mr. Kutik:

17 Q. Your role in this case, I mean the ESP
18 case, has been fairly limited to date, correct?

19 A. That's correct.

20 Q. And your role has been in the 10-2929
21 case, correct?

22 A. Right.

23 Q. And in that case you filed testimony.

24 A. I did.

25 Q. And your role in that case was, in fact,

1 to file testimony, correct?

2 A. To develop a cost-based capacity charge
3 and file related testimony, that's correct.

4 Q. And your testimony in that case and your
5 testimony now basically deals with the same subject,
6 that being to support a particular price for capacity
7 to be charged to CRES providers, correct?

8 A. Yes.

9 Q. Now, in preparing your testimony it would
10 be fair to say that you do not consider yourself an
11 expert in the reliability assurance agreement from
12 PJM, correct?

13 A. I do not consider myself an expert in the
14 agreement in its entirety, 100 plus pages, no, I
15 would not.

16 Q. In preparing your testimony it's also
17 fair to say that you did not have any understanding
18 of two cases that involved the AEP companies called
19 the ETP cases, correct?

20 A. I have not been involved in the ETP case,
21 that is correct.

22 Q. And in preparing your testimony, you did
23 not review the filings in that case or those cases,
24 correct?

25 A. No, I did not.

1 Q. You also were not aware that those cases
2 were resolved by stipulation, correct?

3 A. I'm not aware of whether it was or it was
4 not, correct.

5 Q. You are also not aware of what the term
6 "transition costs" mean in Ohio.

7 A. No.

8 Q. Now, your proposed rate for capacity is a
9 cost-based rate, correct?

10 A. Yes.

11 Q. And the costs that are involved there are
12 costs that were prudently incurred, correct?

13 A. Yes.

14 Q. Those costs were legitimate and
15 verifiable.

16 A. Yes.

17 Q. Those costs were directly assignable or
18 allocable to retail generation service to customers
19 in Ohio.

20 A. Yes.

21 Q. Those costs in certain instances were not
22 recoverable in a competitive market.

23 A. I'm not sure I agree with that.

24 Q. Do you have a copy of your deposition
25 before you, sir?

1 A. No, I do not.

2 MR. KUTIK: Your Honor, may I approach?

3 EXAMINER TAUBER: You may.

4 Q. Mr. Pearce, I took your deposition,
5 correct?

6 A. That is correct.

7 Q. And you had an opportunity to review the
8 transcript of that deposition and make corrections to
9 it?

10 A. Yes, I did.

11 Q. Could you turn to page 27 of your
12 deposition, sir. Are you there?

13 A. Yes.

14 Q. And directing your attention to line 1 of
15 that page, did I ask you this question and did you
16 provide the following answer:

17 Question: "So in certain circumstances
18 those costs may not be recoverable in a competitive
19 market?"

20 Answer: "Yes, I would agree with that."

21 That was your testimony in your
22 deposition, correct?

23 A. Yes, that was my answer in my deposition.

24 Q. Now, these costs that your proposed rates
25 are based on relate to the generation facilities of

1 AEP Ohio, correct?

2 A. Correct.

3 Q. And with the exception of the Darby,
4 Waterford, and Lawrenceburg facilities, the
5 generation facilities owned by the AEP Ohio companies
6 were in service as of January of 2001, correct?

7 A. Yes.

8 Q. Now, you are familiar with the term
9 "stranded costs," are you not?

10 A. Yes, I am.

11 Q. And would you agree with me that one
12 definition of "stranded costs" would be costs that a
13 utility cannot recover in a deregulated market?

14 A. Yes, I would accept that as one
15 definition of "stranded costs."

16 Q. Now, it would be fair also to say that
17 AEP Ohio would not be able to fully recover its
18 capacity costs if it received revenues solely through
19 RPM pricing.

20 A. No. It could not -- at this point in
21 time through current RPM prices, it could not recover
22 its costs if it was all collected at RPM prices.

23 Q. So you agree with my statement that AEP
24 Ohio would not be able to fully recover its capacity
25 costs if it received revenues solely through RPM

1 pricing, correct?

2 A. Yes. I will agree to that.

3 Q. RPM pricing is a type of market-based
4 pricing, is it not?

5 A. Yes.

6 Q. RPM pricing is also transparent.

7 A. Yes.

8 Q. There is a charge in the stipulation for
9 capacity of \$255 per megawatt day, correct?

10 A. Yes.

11 Q. That price is not a cost-based price.

12 A. No. It's my understanding that it's not.

13 Q. And it's not a market-based price either,
14 correct?

15 A. Correct.

16 Q. There is also a base G rate set out in
17 the stipulation of \$0.0245 per kilowatt hours
18 starting in January of 2012, correct?

19 A. I don't know.

20 Q. Okay. Well, do you have a copy of the
21 stipulation in front of you?

22 A. Yes -- or, no, I don't.

23 MR. KUTIK: Counsel, could you provide
24 him a copy of the stipulation?

25 MR. SATTERWHITE: Mine has writing on it.

1 Do you want him to have it?

2 MR. KUTIK: Sure.

3 Q. I want to direct you to page 7, paragraph
4 F.

5 A. Which paragraph?

6 Q. F, on page 7, the second line refers to
7 an average rate of \$0.025 per kilowatt hour, correct?

8 MR. SATTERWHITE: Let me give you this
9 one so I can keep mine.

10 Q. Let me try it again. \$0.0245 per
11 kilowatt hour.

12 MR. SATTERWHITE: I'm sorry, could you
13 reread that? I was in transit. I am not sure where
14 we are.

15 MR. KUTIK: Fair point.

16 Q. The second line of page 7 of the
17 stipulation in paragraph F there is a reference to a
18 rate of \$0.0245 per kilowatt hour, correct?

19 A. Yes.

20 Q. And that's the base generation rate
21 starting in January of 2012, correct?

22 MR. SATTERWHITE: I'll object, your
23 Honor. We'll stipulate that the settlement says what
24 it says and this witness already says he is not aware
25 of this so I don't know why we are getting into

1 questions of this.

2 MR. KUTIK: Then he should be able to
3 answer yes.

4 MR. SATTERWHITE: The basis isn't -- it
5 isn't a proper question for this witness. He stated
6 he didn't know. You put the stipulation in front of
7 him. You asked him if the number is there, and you
8 are asking further clarification on that number.

9 EXAMINER TAUBER: I am going to overrule
10 your objection. Please ask the question again and
11 allow the witness to answer.

12 Q. (By Mr. Kutik) Sure. It refers to a base
13 generation rate of \$0.0245 per kilowatt hour,
14 correct?

15 A. When I read that, it starts with
16 automatic annual increase or decrease to the
17 bypassable based generation rate would be deemed as
18 necessary to achieve an average rate of \$2 -- excuse
19 me \$0.0245 per kilowatt hours, yes.

20 Q. But to achieve that rate, correct?

21 A. Yes.

22 Q. And with respect to that particular rate
23 we don't know what the cost of capacity is in that
24 number, correct?

25 A. I don't.

1 Q. The rate that you use is based upon a
2 formula that you say was used in a case before the
3 FERC involving a company called SWEPCo, S-W-E-P-C-o,
4 correct?

5 A. Yes.

6 Q. SWEPCo stands for what?

7 A. Southwestern Electric Power Company.

8 Q. That is an affiliate of the AEP Ohio
9 Company, correct?

10 A. Yes, it is.

11 Q. You had no involvement in that case,
12 correct?

13 A. I had no involvement directly in the
14 negotiations, that is correct.

15 Q. You had no involvement in that case,
16 correct?

17 A. No.

18 Q. That's not correct?

19 A. No, I did not have involvement.

20 Q. Okay. But certainly to rely on that case
21 and to discuss that case, you reviewed some of the
22 filings in that case, correct?

23 A. Yes.

24 Q. You reviewed the settlement agreement in
25 that case?

1 A. Yes.

2 Q. You reviewed the companies' filing to
3 support the settlement in that case.

4 A. Yes.

5 Q. And you reviewed the letter order that
6 the companies received from FERC in that case.

7 A. Yes.

8 MR. KUTIK: May I approach, your Honor?

9 EXAMINER TAUBER: You may.

10 MR. KUTIK: Your Honor, I would like to
11 have marked as Exhibits 7, 8, and 9 for FES, the
12 following documents: Your Honor, we would like to
13 have marked as Exhibit 7 a letter dated October 25,
14 2010, to Kimberly B. Bose, Secretary of the FERC,
15 from the firm of Steptoe & Johnson, Stephen J. Ross.

16 (EXHIBITS MARKED FOR IDENTIFICATION.)

17 MR. KUTIK: Next, your Honor, I would
18 like to have marked as Exhibit 8 a document
19 entitled --

20 EXAMINER SEE: Could you provide the
21 bench a copy before you start to describe it?

22 Thanks.

23 MR. KUTIK: A document entitled
24 "Attachment A, Settlement Agreement By and Among
25 SWEPCo, Prescott, and Minden."

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 MR. KUTIK: And as Exhibit 9, your
3 Honors, a letter from the FERC to Stephen J. Ross.

4 (EXHIBIT MARKED FOR IDENTIFICATION.)

5 Q. Mr. Pearce, do you recognize Exhibit 7?

6 A. I'm sorry, you have handed me three
7 documents. I am not sure which exhibit is Exhibit 7.

8 Q. Exhibit 7 was the first document I handed
9 to you, the letter from Steptoe & Johnson to the
10 FERC.

11 A. Okay.

12 Q. That was a filing that SWEPCo made in
13 that case, correct?

14 A. Yes.

15 Q. Let me direct you to page 8.

16 Are you there?

17 A. Yes.

18 Q. The first full paragraph about a third of
19 the way down the page begins with the phrase "The
20 final provisions." Do you see that?

21 MR. SATTERWHITE: What page?

22 MR. KUTIK: Page 8.

23 MR. SATTERWHITE: Page 8 is the signature
24 page.

25 A. This is page 8.

1 Q. I'm sorry, page 4.

2 A. Okay.

3 Q. The first full paragraph is about a
4 little more than a third of the way down, correct,
5 sir?

6 A. Yes.

7 Q. And the second sentence after the
8 citation to the public service case says "...that the
9 Settlement Agreement and the Revised Agreements are
10 for the purpose of this proceeding only and cannot be
11 relied in -- on in other proceedings."

12 It says that, correct?

13 A. Yes, those words are -- said that.

14 Q. And that was the representation that
15 SWEPCo is making to the FERC, correct?

16 A. That is correct.

17 Q. Let me refer you now to Exhibit 8 which
18 is the settlement agreement, correct?

19 A. Yes. Let me -- let me just clarify that.
20 That's what these words say. The -- in our filing in
21 this case as far as appropriate costs, the main point
22 we were making is that the SWEPCo formula rates have
23 been subject to extensive negotiation between the
24 parties at arm's length in that case. It wasn't
25 something unilaterally developed by the company.

1 MR. KUTIK: Your Honor, I move to strike.

2 MR. SATTERWHITE: Your Honor, he is
3 giving context to his answer.

4 MR. KUTIK: I asked him if that's what
5 the document said.

6 THE WITNESS: If that's what the pages --
7 words on the page said, yeah.

8 EXAMINER SEE: Just a minute.

9 EXAMINER TAUBER: We are going to leave
10 it in at this point in time for purposes of the
11 record, and we will let the Commission decide the
12 weight.

13 Q. (By Mr. Kutik) Exhibit 8 is the
14 settlement agreement, correct?

15 A. Yes.

16 Q. Let me direct you to page 5, correct --
17 or page 5, please. Are you there?

18 A. Yes.

19 Q. Paragraph 2 at the bottom of the page
20 says "The Settlement Agreement constitutes a
21 negotiated settlement and neither the Settlement
22 Agreement, the Revised Agreements, nor the Settlement
23 Formulas shall be regarded as establishing any
24 principles or precedents as to the appropriate rate
25 formulas, costs, expenses, revenue, or rates to be

1 used in any other proceeding."

2 That's what it says, correct?

3 A. That's what it says.

4 Q. Let me direct you now to Exhibit 9, the
5 letter order from the FERC, correct?

6 A. Yes.

7 Q. Paragraph 3 of that the first sentence
8 says "The Commission's approval of the Settlement
9 does not constitute approval of, or precedent
10 regarding, any principle or issue in this
11 proceeding."

12 That's what that says, correct?

13 A. That's what it says, yes.

14 Q. Now, the settlement in SWEPCo involved
15 issues other than the capacity charges, correct?

16 A. Yes.

17 Q. The formula that you are recommending in
18 this case, you would not recommend that that formula
19 include capacity -- offsets for energy sales revenue,
20 correct?

21 A. That's correct.

22 Q. And at most if there was a cap, you would
23 propose that the cap be 50 percent of those revenues.

24 A. That's correct.

25 Q. For the delivery year beginning in June,

1 2015, the SSO or nonshopping load for the AEP Ohio
2 area would be procured using a competitive bidding
3 process, that's your understanding, correct?

4 A. Yes.

5 Q. And it would be fair to say that you
6 don't know if the suppliers, the wholesale suppliers
7 that would bid into competitive bidding process,
8 would be able to purchase capacity at an RPM price,
9 correct?

10 A. Generation suppliers bidding in?

11 Q. Yes.

12 A. They -- there's particular rules about
13 what costs they can bid their generation into an RPM
14 auction.

15 Q. No, that wasn't my question.

16 A. Okay.

17 Q. My question was those bidders who are
18 bidding into the competitive bidding process to
19 supply the POLR load in AEP Ohio, is it fair to say
20 that you don't know if those suppliers would be able
21 to purchase capacity at the RPM price?

22 A. I don't know at this time because all the
23 rules have not been determined. Several auctions
24 that is what is used is RPM pricing.

25 Q. Now, you believe that unless CRES

1 suppliers are charged for capacity on a cost basis
2 somebody would be subsidizing somebody else, correct?

3 A. I agree.

4 Q. And if CRES suppliers are charged at
5 prices below AEP Ohio's costs for capacity, you
6 believe that either AEP Ohio shareholders or other
7 customers would be subsidizing CRES providers,
8 correct?

9 A. Yes.

10 Q. Now, you've not done or seen any analysis
11 of whether in that circumstance it would be the
12 shareholders or the other customers that would be
13 subsidizing the CRES providers in your view?

14 A. No, I have not.

15 Q. You also believe that at a charge of
16 \$2 -- excuse me, \$255 per megawatt day, CRES
17 providers would be receiving a subsidy, correct?

18 A. Absent all of the other terms of the
19 stipulation, I would agree with that.

20 Q. Now, you are aware that starting with the
21 delivery year beginning in June of 2015, CRES
22 providers will be paying RPM prices for capacity,
23 correct?

24 A. No, I can't accept that because while
25 financially there may be passthrough of RPM a given

1 CRES provider could hedge himself with his own
2 generation.

3 If he sells that into the market at some
4 cost, RPM clears, he will -- basically what he has to
5 pay in on the load side he will get back on the
6 generation side, so he can create a hedge against the
7 RPM price starting in June, '15.

8 Q. Do you have your deposition there, sir?

9 A. Yes.

10 Q. Let me refer you to page 49 of your
11 deposition. Are you there?

12 A. Yes.

13 Q. Starting at line 17, was this your
14 testimony?

15 Question: "What is your understanding of
16 when CRES providers will be charged on an RPM price
17 basis for all of the capacity?"

18 Answer: "Do the math."

19 And then you said Witness: "Sorry.
20 Could you repeat the question?"

21 The question was read.

22 "My understanding of the stipulation is
23 in the next auction, the '15-'16 auction, that would
24 start the period and all CRES providers would
25 presumably be charged RPM unless they potentially

1 elected to self-supply."

2 Was that your testimony, sir?

3 A. That is my deposition testimony and
4 that's consistent with what I just said is that while
5 they will be charged that in the RPM auction, my
6 point is that they can hedge that financially or
7 through physical asset ownership into that same
8 auction so the effective net price to them is not
9 necessarily going to be the RPM price.

10 Q. But in terms of what they will be
11 charged, they will be charged that.

12 A. What they will be charged they will be
13 charged. What they will be charged and paid as an
14 offset, yes, what they will be charged would be the
15 RPM price --

16 Q. Thank you.

17 A. -- unless they have elected into FRC.

18 Q. Correct. Now, by that time, we are
19 talking the delivery year beginning June of 2015,
20 there will be a separate entity created that would
21 own presumably all of the generation facilities of
22 AEP Ohio except those that might be carved out by the
23 GRR?

24 A. Initially, yes.

25 Q. All right. And with some exceptions the

1 capacity -- or, excuse me, the generation that would
2 be owned by that company would be bid into the RPM
3 auction, correct?

4 A. With some exceptions.

5 Q. And in the case where the CRES providers
6 are buying capacity at an RPM price and the new
7 generation company is selling capacity or receiving
8 for its capacity an RPM price, there would be no
9 subsidy, correct?

10 A. That's correct.

11 MR. KUTIK: I have no further questions.
12 Thank you.

13 EXAMINER TAUBER: Does IEU have any
14 questions on cross?

15 MR. DARR: No questions, your Honor.

16 EXAMINER TAUBER: Any parties I'm
17 missing?

18 Mr. Satterwhite, do you have any
19 questions on redirect?

20 MR. SATTERWHITE: Can I take a quick
21 5-minute break?

22 EXAMINER TAUBER: Let's take 5 minutes.
23 We will reconvene at 10. Let's go off the record.

24 (Recess taken.)

25 EXAMINER TAUBER: Let's go back on the

1 record.

2 Mr. Satterwhite, do you have any
3 questions?

4 MR. SATTERWHITE: Just a couple of
5 questions, thank you.

6 - - -

7 REDIRECT EXAMINATION

8 By Mr. Satterwhite:

9 Q. Mr. Pearce, do you remember the last
10 question Mr. Kutik asked you about the level of
11 subsidy and past June, 2015?

12 A. Yes, I do.

13 Q. What's the significance of your answer
14 that there wouldn't be a subsidy past that point?
15 Why not?

16 A. Well, I believe that there is going to be
17 a fundamental shift in the market. At that point the
18 GenCo is going to have the option of exactly how much
19 of its generation that it provides into the RPM
20 market.

21 It can choose to enter bilateral
22 contracts and offer that in places there is a
23 distinct difference to today where they are required
24 to through the RAA offering all capacity, even that
25 from switched suppliers.

1 Q. Do you remember the line of questions
2 dealing with the \$255 capacity level, whether that
3 was a market-based rate or cost-based rate?

4 A. Yes.

5 Q. What is the basis of that rate as you
6 understand it?

7 A. My understanding is it's a negotiated
8 rate of the stipulation. But, again, the 255 is a
9 price that is well below our cost-based rate as I
10 calculated it.

11 Q. You also had a discussion, there was some
12 exhibits that were presented to you, FES 7, 8, and 9.
13 FES 8 dealt with the settlement agreement between
14 SWEPCo, Prescott, and Minden. Do you remember that
15 questioning?

16 A. Yes.

17 Q. And the precedential value of the
18 formulaic rates used in that agreement?

19 A. Yes.

20 Q. Are you aware of other formulaic rates
21 set at FERC similar?

22 A. Yes, yes. AEP has over 20 similar
23 formula rate contracts with cities and municipalities
24 well over a thousand megawatts in several states.

25 Q. Finally, do you still have your

1 deposition transcript in front of you Mr. Kutik
2 provided to you?

3 A. Yes, I do.

4 Q. Do you remember when Mr. Kutik asked you
5 to read from page 27 dealing with the recoverability
6 of costs in a competitive market?

7 A. Yes.

8 Q. For rehabilitation purposes, I would like
9 to draw you to page 26.

10 A. Yes.

11 Q. Prior to that conversation, that final
12 that he had you read, there was a discussion between
13 you and Mr. Kutik based on this same line of
14 questioning?

15 A. There was.

16 Q. Could you read from line 10 down through
17 14 which immediately precedes the question he had you
18 read into the record?

19 A. Certainly. Question on line 10 was "And
20 would some of these costs be not recoverable in a
21 competitive market?"

22 Answer: "I -- to me a competitive market
23 is a completely different basis so whether they would
24 or would not be recoverable I don't think you could
25 tie one to the other so I can't really answer that

1 question."

2 The question was "Pardon? You can't
3 answer this question?"

4 "I think it's based on a false premise."

5 And what's the false -- Question: "And
6 what's the false premise?"

7 Answer: "Well, it implies in a market
8 based that it would be tied to cost and, you know,
9 short-term "whatever" is whatever the market bears so
10 at least you may or may not get, you know, your cost
11 recovery. You may get more or less than that."

12 MR. SATTERWHITE: Thank you. That's all
13 I have, your Honor.

14 EXAMINER TAUBER: Thank you.

15 Mr. Kutik, questions on recross?

16 MR. KUTIK: Yes, your Honor.

17 - - -

18 RE-CROSS-EXAMINATION

19 By Mr. Kutik:

20 Q. It is the case, is it not, that you're
21 not aware of any FERC decision or any other
22 regulatory decision that has cited the SWEPCo case as
23 precedent as to what the appropriate formula should
24 be to establish capacity rate, correct?

25 A. That is correct.

1 MR. KUTIK: No further questions.

2 EXAMINER TAUBER: Are there any other
3 questions on recross-examination from any parties?

4 There are no Bench questions at this
5 point in time so, Mr. Pearce, you may be excused.

6 MR. SATTERWHITE: Your Honor, at this
7 time I would move for admission of AEP Exhibit 3, the
8 testimony of Mr. Pearce.

9 EXAMINER TAUBER: Are there any
10 objections?

11 MR. KUTIK: No.

12 EXAMINER TAUBER: Hearing none, Exhibit
13 3, the testimony of Mr. Pearce, shall be admitted.

14 (EXHIBIT ADMITTED INTO EVIDENCE.)

15 MR. KUTIK: At this time we move for the
16 admission of FES Exhibits 7, 8, and 9.

17 EXAMINER TAUBER: Is there any objection
18 to the Exhibit 7, which is the letter to -- by
19 Kimberly D. Bose, FES Exhibit 8, which is the
20 Settlement, FES Exhibit 9 which is the letter to
21 Stephen J. Ross.

22 MR. SATTERWHITE: No objection, your
23 Honor.

24 EXAMINER TAUBER: Hearing none, FES
25 Exhibits 7, 8, and 9 shall be admitted into the

1 record.

2 (EXHIBITS ADMITTED INTO EVIDENCE.)

3 EXAMINER SEE: Let's go off the record
4 for a minute.

5 (Discussion off the record.)

6 EXAMINER TAUBER: Let's go back on the
7 record.

8 At this point I understand there is some
9 discussion regarding this afternoon's witness who was
10 scheduled to be on the bench, Mr. Fraley.

11 MR. DARR: That's correct, your Honor. I
12 think we've got things worked out with OHA. I
13 believe we have not circulated the new language. We
14 didn't have time to circulate it before we came back
15 on -- before you came back in the room. We started
16 this discussion so this hasn't been shared with the
17 other parties other than I believe OHA at this point.

18 I think based on where we are at right
19 now, we don't need to have Mr. Fraley here today. We
20 can circulate later this morning and if there is a
21 problem, obviously try to work it out.

22 EXAMINER SEE: And your witness is
23 scheduled to come in this afternoon, correct?

24 MR. O'BRIEN: Yes, yes. We are trying to
25 avoid the need for that.

1 EXAMINER SEE: Mr. Conway.

2 MR. CONWAY: Actually I stood up so I
3 could hear better.

4 MR. MASKOVYAK: It is very difficult to
5 hear with the fans.

6 EXAMINER SEE: I understand.

7 MR. CONWAY: On the companies' side we
8 have reviewed the draft of the stipulations of fact
9 and still have one -- one issue, I think, to work out
10 and I'm hopeful we can. So I would like to just talk
11 to you for another moment.

12 It's my understanding you are not quite
13 ready to circulate what you -- you might be regarding
14 as your -- as your final draft stipulation; is that
15 right?

16 MR. DARR: My concern was that we get it
17 to everyone, everyone has a chance to say "yea" or
18 "nay" for before we put this on the record. That was
19 my only concern.

20 I didn't want to walk in with a draft --
21 we walked in with a draft this morning that we
22 thought would be acceptable. It's been changed a
23 little bit. We haven't circulated it yet.

24 MR. O'BRIEN: What we want to avoid is
25 going through the exercise of putting the -- marking

1 the testimony, reading the statement into the record,
2 and then having somebody say, oh, wait a second, I
3 need to cross-examine.

4 MR. DARR: Possibly if we had a couple of
5 minutes, we could sort this out.

6 EXAMINER SEE: Okay. We'll take another
7 recess, but if not, according to my calendar
8 Mr. Fraley was also going to be available tomorrow
9 and Tuesday. Let's see if we can get things
10 straightened out and then his life will be easier.

11 At this point though the parties are
12 aware of the batting -- of the witness order for the
13 next couple of days. We'll be going through Baron,
14 Irvin, Allen, and Thomas, Ringenbach or Ringenbach,
15 and Honsey Thursday and Friday.

16 We will start tomorrow at 9 in the
17 morning, and we are going to take a brief recess to
18 let some of the parties discuss resolving the issue
19 of Mr. Fraley's testimony. We will reconvene at
20 10:45.

21 MR. DARR: Thank you, your Honor.

22 (Recess taken.)

23 EXAMINER TAUBER: Let's go back on the
24 record.

25 Mr. Darr.

1 MR. DARR: Thank you, your Honor. We've
2 attempted over the last couple of minutes to work
3 something out. We are not quite there yet. We think
4 we're close.

5 Given that we need to do some more
6 discussion about the particular language, we would
7 ask that we be allowed to do that, but in the
8 meantime we ask that you release Mr. Fraley from the
9 schedule today. Let's call it a day and we will try
10 to get this worked out tomorrow.

11 It's a relatively short cross-examination
12 that we are looking at in any case, so we don't think
13 it's going to impact the schedule significantly.

14 EXAMINER TAUBER: Thank you. The Bench
15 will release Mr. Fraley for testifying this afternoon
16 at this point in time.

17 EXAMINER SEE: I take it the other two
18 parties involved with that discussion agree?

19 MR. O'BRIEN: We concur.

20 MR. CONWAY: Yes, your Honor.

21 EXAMINER TAUBER: Thank you. At this
22 point in time we will adjourn today and begin
23 tomorrow morning at 9 a.m.

24 EXAMINER SEE: Before we adjourn I have a
25 question.

1 EXAMINER TAUBER: Before we adjourn we
2 will let Greta go -- Examiner See.

3 EXAMINER SEE: The examination of IEU
4 witnesses? They are both local.

5 MR. DARR: They are both local. We have
6 only one concern. One of our witnesses may not -- we
7 prefer not to be on call for Tuesday of next week. I
8 don't think it's going to be an issue at this point.

9 EXAMINER SEE: No, it's not an issue for
10 Tuesday of next week.

11 MR. DARR: But otherwise I think once the
12 companies complete their case they would be
13 available.

14 EXAMINER SEE: Okay. So you are
15 available after Tuesday of next week and the start of
16 the next, the 17th.

17 MR. DARR: Assuming we get the companies'
18 case completed that day, yes, ma'am.

19 EXAMINER SEE: Okay. That's all I was
20 checking on. And initially you indicated that you
21 had some cross for Fraley, Irvin, Claytor, and
22 Hecker, Staff Witness Hecker. Given the way things
23 have turned out today have you reconsidered on any of
24 those witnesses?

25 MR. DARR: The only one -- no, ma'am.

1 But I will get back to you on, in particular,
2 Mr. Hecker.

3 EXAMINER SEE: Okay. And when do you
4 think you will be able to get -- to confirm whether
5 or not?

6 MR. DARR: Promptly. Does that work?

7 EXAMINER SEE: With attorneys "promptly"
8 never works. It's almost like "I have 10 minutes of
9 questioning."

10 MR. DARR: Can I get back to you
11 either -- tomorrow morning?

12 EXAMINER SEE: Yes.

13 MR. DARR: Thank you.

14 EXAMINER SEE: Thank you, Mr. Darr.

15 EXAMINER TAUBER: We shall be adjourned
16 until tomorrow morning at 9 a.m. Thank you all.

17 (Thereupon, the hearing was adjourned at
18 10:37 a.m.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Wednesday, October 5, 2011, and carefully compared with my original stenographic notes.

Karen Sue Gibson, Registered
Merit Reporter.

(KSG-5424)

- - -

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Summary: Transcript Transcript of Columbus Southern Power Company and Ohio Power Company hearing held on 10/05/11 - Vol II electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.