

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of the :  
Application of Ohio Power :  
Company and Columbus :  
Southern Power Company :  
for Authority to Merge and: Case No. 10-2376-EL-UNC  
Related Approvals. :

In the Matter of the :  
Application of Columbus :  
Southern Power Company :  
and Ohio Power Company :  
for Authority to Establish:  
a Standard Service Offer : Case No. 11-346-EL-SSO  
Pursuant to \$4928.143, : Case No. 11-348-EL-SSO  
Ohio Rev. Code, in the :  
Form of an Electric :  
Security Plan. :

In the Matter of the :  
Application of Columbus :  
Southern Power Company : Case No. 11-349-EL-AAM  
and Ohio Power Company : Case No. 11-350-EL-AAM  
for Approval of Certain :  
Accounting Authority. :

In the Matter of the :  
Application of Columbus :  
Southern Power Company to : Case No. 10-343-EL-ATA  
Amend its Emergency :  
Curtailement Service :  
Riders. :

In the Matter of the :  
Application of Ohio Power :  
Company to Amend its : Case No. 10-344-EL-ATA  
Emergency Curtailement :  
Service Riders. :

In the Matter of the :  
Commission Review of the :  
Capacity Charges of Ohio : Case No. 10-2929-EL-UNC  
Power Company and Columbus:  
Southern Power Company. :

2279

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

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

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## PROCEEDINGS

before Ms. Greta See and Mr. Jonathan Tauber,  
 Attorney Examiners, at the Public Utilities  
 Commission of Ohio, 180 East Broad Street, Room 11-A,  
 Columbus, Ohio, called at 10:00 a.m. on Thursday,  
 October 27, 2011.

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## VOLUME XIII

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## INDEX

- - -

## WITNESS

## PAGE

David M. Roush

Direct Examination by Mr. Satterwhite 2288

Cross-Examination by Ms. Grady 2290

Cross-Examination by Mr. Lang 2300

Cross-Examination by Mr. Darr 2303

Laura J. Thomas

Direct Examination by Mr. Nourse 2314

Cross-Examination by Mr. Darr 2323

Cross-Examination by Mr. Kutik 2341

Redirect Examination by Mr. Nourse 2357

Recross-Examination by Mr. Darr 2360

Recross-Examination by Mr. Kutik 2363

Peter Baker

Direct Examination by Mr. Margard 2365

Cross-Examination by Ms. Grady 2373

- - -

## Company Exhibits

## Identified Admitted

22 Rebuttal Testimony of  
David M. Roush

2289 2313

23 Rebuttal Testimony of  
Linda J. Thomas

2314 2364

- - -

## Staff Exhibit

## Identified Admitted

5 Rebuttal Testimony of  
Peter Baker

2365 2381

- - -

2288

1 Thursday Morning Session,

2 October 27, 2011.

3 - - -

4 EXAMINER TAUBER: Let's go on the record.  
5 Mr. Satterwhite.

6 MR. SATTERWHITE: Thank you, your Honor.  
7 On behalf -- do you want appearances first?

8 EXAMINER TAUBER: No, we are not doing  
9 appearance this is morning, just dive right in.

10 MR. SATTERWHITE: The company would call  
11 David Roush -- just being efficient, right -- to the  
12 stand.

13 EXAMINER TAUBER: Mr. Roush, you are  
14 reminded you are under oath.

15 THE WITNESS: Yes.

16 EXAMINER TAUBER: Thank you.

17 - - -

18 DAVID M. ROUSH

19 being previously duly sworn, as prescribed by law,  
20 was examined and testified on rebuttal as follows:

21 DIRECT EXAMINATION

22 By Mr. Satterwhite:

23 Q. Mr. Roush, could you please state your  
24 name and business address for the record.

25 A. My name is David M. Roush. My business

1 address is One Riverside Plaza, Columbus, Ohio 43215.

2 Q. And did you provide testimony in the  
3 direct phase in support of the stipulation in this  
4 case?

5 A. Yes, I did.

6 Q. And did you also cause rebuttal testimony  
7 to be prepared under your name and filed on  
8 October 21 in this case?

9 A. Yes, I did.

10 MR. SATTERWHITE: I would like to mark  
11 AEP Exhibit No. 22 the rebuttal testimony of David M.  
12 Roush.

13 (EXHIBIT MARKED FOR IDENTIFICATION.)

14 Q. Mr. Roush, do you recognize the document  
15 that's been marked as AEP Exhibit No. 22?

16 A. Yes, I do.

17 Q. Could you identify that for me.

18 A. It is rebuttal testimony of David M.  
19 Roush in support of the stipulation and  
20 recommendation.

21 Q. And was this testimony prepared by you or  
22 under your direction?

23 A. Yes, it was.

24 Q. Do you have any changes to this  
25 testimony?

1           A.    No, I do not.

2           Q.    If we were to ask you all these same  
3 questions under oath today, would your answers be the  
4 same?

5           A.    Yes, they would.

6           MR. SATTERWHITE:  Thank you.

7           Your Honor, at this time I would move for  
8 admission of AEP Exhibit 22 pending  
9 cross-examination.  I offer the witness for  
10 cross-examination.

11           EXAMINER TAUBER:  Thank you.

12           Mr. Smalz?

13           MR. SMALZ:  No questions, your Honor.

14           EXAMINER TAUBER:  Ms. Grady?

15           MS. GRADY:  Thank you, your Honor.

16                               - - -

17                               CROSS-EXAMINATION

18   By Ms. Grady:

19           Q.    Good morning, Mr. Roush.

20           A.    Good morning.

21           Q.    Let's turn to Exhibit DMR-R-3 if you  
22 would.

23           A.    I'm there.

24           Q.    Now, this -- this exhibit purports to  
25 show the distribution increases as a percent of the

1 total rates, does it not?

2 A. In the bottom section of the exhibit?

3 Q. Yes.

4 A. I show the distribution increase as a  
5 percentage of the 2012 total rates before the  
6 stipulation ESP based on what was originally filed  
7 September 13.

8 Q. Now, speaking of what was originally  
9 filed September 13, you refer, do you not, as the  
10 source -- and we are looking at the second -- the  
11 bottom half of that exhibit, one of your sources is  
12 Exhibit DMR-1; in fact, that's the only source you  
13 list?

14 A. That is correct.

15 Q. Okay. If we looked at, for instance, CSP  
16 the residential, that would be the RS rate, and we --  
17 we look at the column 1 and it shows a rate of  
18 \$11.16. Do you see that?

19 A. Yes, I do.

20 Q. And is it your understanding and would  
21 you accept, subject to check, if we went back to  
22 DMR-1 we would see that that \$11.16 includes 57 cents  
23 related to POLR; is that correct?

24 A. Yes, it does, and it wouldn't really make  
25 a difference for what I am showing in the bottom half

1 of that exhibit if I removed POLR from all those  
2 numbers. I didn't do that because I wanted to make  
3 it simple for everybody to trace the source.

4 But if I do so, the percentage increases  
5 would all change correspondingly, and the point of  
6 the exhibit was to say that the increase --  
7 distribution increase does vary by customer class as  
8 a percentage of total bill but does not vary by  
9 customer class very much on a percentage of  
10 distribution.

11 Q. So if we took the POLR charge out of  
12 the -- out, for instance, for the CSP RS column 1, if  
13 we took the \$11.16 and subtracted the 57-cent POLR,  
14 we would show that the column 3 would increase; is  
15 that correct? Or would that decrease?

16 A. The percentage shown in column 3 would  
17 increase for all of the classes if you removed POLR  
18 from the values in column 1.

19 Q. Going to the Ohio Power portion of that  
20 exhibit, for RS you list -- for residential customers  
21 you list \$10.65 2012 total rate before stipulation  
22 under the ESP. Do you see that reference?

23 A. \$10.65, yes.

24 Q. And would you accept, subject to check,  
25 that that includes 23 cents related to POLR?

1           A.    Yes, it does.

2           Q.    Now, if we went to Exhibit DMR-R-4, we  
3 would see on this exhibit as well that there are  
4 January, 2012 -- or 2011 and 2012 rates. Do you see  
5 that?

6           A.    Yes, I do.

7           Q.    And for the -- the rates listed for, for  
8 instance, the residential CSP, there exists for 2012  
9 rate a 11.65 charge, do you see that?

10          A.    No. For 2012?

11          Q.    Yes.

12          A.    11.65.

13          Q.    And does that 11.65 include the POLR  
14 amount?

15          A.    The 11.65 does not include POLR. The  
16 11.05 does include POLR.

17          Q.    And would that POLR be the -- what would  
18 be the amount of POLR shown in the 11.05 under  
19 January, 2011, billed rates?

20          A.    It was 0.75 cents, and as indicated on  
21 this, it all came from my workpaper DMR 65 filed  
22 September 13.

23                Again, the values that I showed I tried  
24 to keep this simple and not introduce changes to  
25 values that were previously filed. But even if you



1 included POLR, the analysis that I am showing on DMR  
2 R-4, or excluded POLR, either way, wouldn't change.  
3 The values would change; the concept, the underlying  
4 premise, would not.

5 Q. The values would change meaning that  
6 column 5, the rate change -- or actually could --  
7 let's go to column 3, the rate change would be --  
8 would be different, would it not?

9 A. Yes, it would. Column 3 would change,  
10 column 4 would not, and column 5 would.

11 Q. And the rate change would increase, would  
12 it not, if POLR were excluded from, for instance, the  
13 CSP RS, line the 11.05, of the POLR, if the 57-cent  
14 POLR was excluded, the rate change would be greater  
15 as shown in -- in column 3?

16 A. In all instances in column 3 if POLR was  
17 removed from the values shown in column 1, the -- in  
18 all instances column 3 would increase, 4 would stay  
19 the same, and column 5 would increase.

20 Q. And if we went to the OP line, the  
21 residential rate shown, the \$10 -- the \$11 and -- I'm  
22 sorry, the \$10.19 shown for 2011, am I correct in  
23 assuming that does not include or that does include  
24 the 23 cents POLR charge?

25 A. The \$10.19 does include POLR as do all of

1 the values in column 1.

2 Q. And with respect to column 2, do those  
3 values include POLR?

4 A. No, they do not.

5 Q. Now, if we move to DMR-R-5 and we look at  
6 the -- the column entitled "Comparable as Filed Total  
7 Rates," and we focus on, for instance, the 2012  
8 rates, do the 2012 rates shown there include POLR?

9 A. All of the values shown in comparable as  
10 filed total rates include the companies' proposed  
11 POLR for 2012 through May of 2014 as we filed it in  
12 this case.

13 Q. And do you know specifically the value  
14 for POLR proposed by the companies in each one of  
15 those rates, 2012, 2013, and 2014?

16 A. My recollection was roughly .28 cents.

17 Q. For each year?

18 A. For 2012, 2013, and January through May,  
19 2014 based on the companies' filing in this case.

20 Q. And if we excluded the POLR values from  
21 the comparable as filed total rates shown on DMR-R-5,  
22 the approximate savings from -- the approximate  
23 savings that you calculate -- let me strike that.

24 And if we removed the POLR from 2012,  
25 2013, and 2014 rates as shown in comparable as filed

1 total rates, DMR-R-5, what happens to the approximate  
2 savings that you calculate on that exhibit? Do they  
3 go up or will they go down?

4 A. Mathematically the calculation would  
5 produce a lower number, but I don't think that's  
6 relevant for the purposes of this exhibit. The  
7 purpose of this exhibit was what did the company  
8 request versus what was the outcome in the  
9 stipulation.

10 Q. And if we -- accordingly, if we looked at  
11 the bottom half of that page where you have as filed  
12 total rates, would those values change -- or do those  
13 values that are listed for 2012, 2013, January  
14 through May, 2014, do those values include POLR?

15 A. Those values, the 8.93 for 2012 and 9.17  
16 for '13 and '14 include the roughly .28 cents of POLR  
17 that the company requested in this proceeding.

18 Q. And if those values are taken out of the  
19 as filed total rates shown on DMR-R5, the comparable  
20 as filed total rates will decrease; is that correct?

21 A. We kind of already covered that ground.  
22 Yes, those values would decrease.

23 Q. Now, when you use the word "savings," how  
24 are you defining "savings" there?

25 A. My definition is various and I cite in my

1 testimony a simplified calculation comparing what the  
2 company requested in this filing in January to what  
3 the outcome that was agreed upon by the stipulating  
4 parties in the stipulation.

5 Q. And in calculating your approximate  
6 savings, you are assuming that the rates as filed  
7 would be approved; is that correct?

8 A. Again, if we go back to my testimony on  
9 page 6, the purpose of that exhibit is to quantify  
10 the revenue increase difference between the  
11 companies' proposal as filed and the stipulation.

12 Q. So the approximate savings assumed that  
13 the companies' as-filed position will be adopted by  
14 the Commission?

15 A. No. No. The -- as the approximate  
16 savings is purely saying, another party in this  
17 proceeding made this comparison and I was just trying  
18 to correct that comparison to say what the company  
19 asked for, not speaking for the Commission as far as  
20 what they may do, what the company asked for versus  
21 what the stipulation provides was a reduction of  
22 \$352 million and change.

23 Q. So the approximate savings reflect an  
24 acceptance of what the company asked for in its  
25 application; is that correct?

1 MR. SATTERWHITE: Objection. I think  
2 that's been asked answered a couple of times already.

3 EXAMINER TAUBER: Overruled.

4 A. Again, the purpose of the comparison was  
5 to compare what the company asked for versus what the  
6 stipulation provides. It does not prejudge whatever  
7 decision the Commission may make.

8 Q. Mr. Roush, I would like you to answer my  
9 question.

10 MS. GRADY: Can we have the question  
11 reread, please, and have it answered?

12 (Record read.)

13 MR. SATTERWHITE: And I'll object again,  
14 your Honor. I think we are asking the same question.  
15 I think he answered the purpose of -- he is comparing  
16 A to B, what the difference would be. Counsel is  
17 trying to add something else in.

18 MS. GRADY: I didn't ask him what the  
19 purpose of the exhibit is. I have heard the purpose  
20 about five times. I am asking him does the  
21 approximate savings reflect what -- accepting what  
22 the company would have filed, and that's my question,  
23 not what the purpose of the exhibit is, it is related  
24 to, is that part of the determination of approximate  
25 savings.

1 MR. SATTERWHITE: If I may, your Honor,  
2 the purpose is important because it explains what he  
3 did. Counsel for OCC is trying to add another step  
4 into it beyond what's been done by the witness in the  
5 exhibit, that's all.

6 MS. GRADY: I think the record is quite  
7 clear what the purpose is.

8 EXAMINER TAUBER: Thank you. The purpose  
9 is important but, Mr. Roush, you do need to answer  
10 the question.

11 A. Okay. Can you clarify whose acceptance?

12 Q. (By Ms. Grady) Well, didn't you testify,  
13 Mr. -- Mr. Roush, that you -- that the comparable as  
14 filed total rates would be accepting the -- what is  
15 filed as -- what the company has filed accepting  
16 those for purposes of your comparison?

17 A. Again, I'm starting with who is accepting  
18 those.

19 Q. Well, I am asking you the question. When  
20 you used the term "accepting the comparable as filed  
21 total rates," what were you meaning?

22 A. I'm sorry. Can you give me a citation?  
23 I don't recall saying that.

24 Q. When we determine the approximate savings  
25 that are shown on DMR-R5, to determine those savings

1 one would have to accept the comparable as filed  
2 total rates that are shown on that exhibit whether  
3 it's by the Commission or by an Intervenor for  
4 purposes of your comparison, we would have to accept  
5 that those values were -- were, in fact, reasonable.

6 A. I don't recall ever saying that. All I  
7 said was I am comparing what we asked for to what the  
8 stipulation provides.

9 Q. And I am asking you would one have to  
10 accept those values in order to accept the  
11 approximate savings that you calculate under DMR-R5?

12 A. One has to use those values. I don't  
13 know whether one has to accept them.

14 MS. GRADY: That's all the questions I  
15 have. Thank you, Mr. Roush.

16 EXAMINER TAUBER: Mr. Lang.

17 MR. LANG: Thank you, your Honor.

18 - - -

19 CROSS-EXAMINATION

20 By Mr. Lang:

21 Q. Just a few questions, Mr. Roush. On your  
22 Exhibit DMR-R3, the top part of the page where you  
23 are showing a residential total distribution rate  
24 increase for 2012 of 10 percent for Columbus  
25 Southern, is that -- and then that 10 percent

1 increase is just for 2012, correct?

2 A. Yes, that's correct. That's the maximum  
3 crease under the capped DIR.

4 Q. And that's -- that's probably -- and then  
5 for using your same Exhibit DMR-4 which you have been  
6 questioned about but using those numbers over the  
7 next three years, that percentage increase for  
8 Columbus Southern residential would be about  
9 14 percent; is that correct?

10 THE WITNESS: I'm sorry, could you read  
11 that back, please.

12 (Record read.)

13 A. I'm sorry. I guess I'm confused. Are we  
14 still on R3 or have we switched to R4?

15 Q. I meant to say DMR-1, your source data is  
16 coming from your DMR-1. I was asking if you had  
17 used -- instead of 2012 you had used 2012, '13, and  
18 '14, you would see approximately a 14 percent  
19 increase.

20 A. I haven't done the arithmetic, but based  
21 on just pencil scribbles here your calculation  
22 seems reasonable of what the distribution increase --  
23 cumulative distribution increase by 2014 would be  
24 under the capped DIR.

25 Q. And I think you guessed at my next



1 question, but if you could just briefly explain  
2 what's the cause of that increase in the total  
3 distribution rates.

4 A. The computation that I am showing is  
5 based on assuming the DIR in the ESP stipulation  
6 actually after the prudence reviews reflects the  
7 maximum values as established.

8 Q. Are there any other distribution cost  
9 components other than the DIR that's in that  
10 percentage increase?

11 A. No, that's -- that's purely reflecting  
12 the DIR.

13 Q. Now, at page 5 of your testimony, at the  
14 top of that page, lines 1 through 9 -- actually I  
15 guess 3 through 9, you have a reference to the total  
16 generation prices saying that the total generation  
17 prices are reflective of market.

18 Now, although your testimony is that  
19 market price relationships were used to develop the  
20 total generation prices, is it fair to say that these  
21 prices -- let's say the 2012 prices under the  
22 stipulation -- are not at market levels?

23 A. It's fair to say I don't know what market  
24 levels are. I'm using the market price relationships  
25 only.

1           Q.    And the total generation prices will not  
2   be at market levels by 2015 potentially; is that also  
3   fair to say?

4           A.    It's fair to say I don't know because I  
5   don't know what market price levels will be in 2015.

6           Q.    If the MTR is in effect for the first 41  
7   months of the electric security plan, customers could  
8   still see abrupt changes when transitioning from the  
9   stipulation rates to market rates effective  
10  January 1, 2015; isn't that true?

11          A.    It is possible that there will still be  
12  an abrupt change in 2014, '15, but in our expectation  
13  that change will be less abrupt than it would have  
14  been without the MTR.

15               MR. LANG:   Those are all the questions I  
16  have, your Honor.

17               EXAMINER TAUBER:   Thank you.

18               Mr. Darr.

19               MR. DARR:   Thank you, your Honor.

20                               - - -

21                               CROSS-EXAMINATION

22  By Mr. Darr:

23           Q.    Housekeeping matter first, Mr. Roush.  
24  Could you take a look at DMR-R1. And under the first  
25  table it says as filed -- "As filed September 13,

1       2001."   Should that be "2011"?

2             A.    Yes, thank you.

3             Q.    And all the other places this shows up in  
4       the exhibits, those should be 2011 as well?

5             A.    Yes, thank you.   I missed that entirely.

6             Q.    Don't thank me, thank Mr. Murray, he  
7       caught it.

8                     With regard to your calculation in DMR-R5  
9       related to the distribution increase this reflects  
10      the distribution increase in the stipulation; is that  
11      correct?   And I am looking at the second table,  
12      second column.

13            A.    Thank you.   Yes, that reflects the  
14      maximum value that the DIR can be in the stipulation.

15            Q.    And do you recall as part of the  
16      application whether or not there was a value assigned  
17      to the proposed DIR?

18            A.    There may have been but I did not have it  
19      or include it in my DMR-1 exhibit filed January 27,  
20      2011.

21            Q.    On page 7, you indicate that part of the  
22      rationale for having CSP and OP customers share in  
23      the cost of paying down the deferrals is reliance on  
24      the Mong -- Mong -- I never could pronounce that,  
25      Monongahela Power litigation termination rider,

1 correct?

2 A. I cited the Mong -- Monongahela Power  
3 litigation termination rider --

4 Q. Glad it's not just me.

5 A. -- as an example of a circumstance  
6 similar.

7 Q. Okay. That rider predated the adoption  
8 of the first ESP, did it not?

9 A. I believe so, but as you noted earlier, I  
10 have had trouble with dates, but I think you're  
11 correct.

12 Q. We could go back and look at the date  
13 that that rider was adopted, correct?

14 A. Yes. I think you are correct. I just  
15 can't exactly swear to it.

16 Q. And as long as we are on this topic, it's  
17 fair to say that what we are talking about in terms  
18 of the PIRR is collecting deferrals that are specific  
19 to Ohio Power currently; is that also right?

20 A. That's our expectation that there will be  
21 no CSP deferral balance.

22 Q. Are you familiar with your last filing  
23 that showed a -- actually a negative balance for CSP,  
24 that there was a -- there may have been an  
25 overpayment?

1           A.    I don't recall specifically. But I know  
2   that all of that's based on projection of what actual  
3   fuels cost do through the end of '11.

4           Q.    I want to turn briefly to your rate  
5   design -- well, just so we're clear, the current  
6   balance represents a deferral related to Ohio Power  
7   customers, correct?

8           A.    I believe that right now there is no  
9   deferral balance for CSP. I can't say definitively  
10  there won't be one at December 31, 2011.

11          Q.    As it sits right now, it is primarily  
12  \$625 million I believe you have reported, and that's  
13  related to Ohio Power, correct?

14          A.    That sounds about right, yes.

15          Q.    Turning to the justification that you  
16  provide in your rebuttal testimony with regard to the  
17  rate design, you also rely on Case No. 10-388 for the  
18  purpose of referring to the rider GEN, correct?

19          A.    I don't know whether I rely on the case.  
20  I just relied on the currently-approved on-file  
21  tariff sheets.

22          Q.    And you would agree that those tariff  
23  sheets are the result of the stipulation in Case  
24  No. 10-388, correct?

25          A.    If they say filed pursuant to order dated

1 August 25, 2010, in Case No. 10-388-EL-SSO, so if  
2 there were any approved stipulation, they would rely  
3 on that.

4 Q. Okay. Did you go back and look at the  
5 stipulation and the terms of that stipulation?

6 A. Not in any detail, no.

7 Q. Were you here to enjoy the moment we had  
8 with Mr. Allen yesterday with regard to whether or  
9 not that stipulation could properly be used in other  
10 proceedings?

11 MR. SATTERWHITE: Objection, your Honor,  
12 I think he is asking about usage in a legal context,  
13 briefs on the case. I don't know whether this  
14 witness can respond to that.

15 MR. DARR: I think I asked if he was here  
16 when we had that discussion.

17 EXAMINER TAUBER: Objection is overruled.

18 THE WITNESS: I'm sorry, I misheard  
19 Mr. Darr. Could you reread the question?

20 Q. Were you here yesterday -- I will just  
21 ask it again.

22 Were you here yesterday when Mr. Allen  
23 and I discussed whether or not it was appropriate to  
24 use the stipulation in 10-388 in this case?

25 A. Yes, I was.

1           Q.    So you are aware that the stipulation  
2           contains language that indicates that it should not  
3           be used in other proceedings as precedent.

4           A.    I don't believe I was relying on the  
5           stipulation. I was just relying on published tariff  
6           rates.

7           Q.    That wasn't my question, Mr. Roush.  
8                    You are aware that that stipulation  
9           contains that language, correct?

10          A.    I remember you discussing language with  
11          Mr. Allen. I don't remember the specifics in the  
12          language.

13          Q.    The point of your argument, I believe, is  
14          that by going to this market, what you described as a  
15          market design, you are going to be able to  
16          rationalize the rate relationships; am I correct in  
17          that?

18          A.    Yes, as I stated on page 2, line 23, 24,  
19          "Quite simply, the design of the Stipulation  
20          generation prices rationalizes the rate relationships  
21          based upon the manner in which the market would price  
22          such loads based upon the load shape for each class."

23               MR. DARR: I'm having trouble hearing  
24          him.

25               EXAMINER TAUBER: We'll stitch it out.

1           A.    I also have problems with microphones, I  
2   guess.

3           Q.    And part of the justification that I  
4   understand you are making here that there  
5   historically have been some interclass subsidies  
6   embedded in the rates, correct?

7           A.    Yes, that's correct.  There have  
8   historically been interclass subsidies in CSP and  
9   OP's rates.

10          Q.    Are you then saying there would not be  
11   interclass subsidies in a market-like rate  
12   distribution?

13          A.    I think there are two totally different  
14   paradigms, and that's kind of what my testimony was  
15   laying out, that folks have criticized the rate  
16   design that it's not cost based.  They have also  
17   criticized the market price relationships.

18                And if you look at it from a historic  
19   prospective of the his -- historic interclass  
20   subsidies, the stipulated rates appear to be  
21   accomplishing removal of those subsidies if you kind  
22   of look from that cost-based frame of reference, and  
23   they also were rational from a market-based frame of  
24   reference kind of if you look at the market price  
25   relationships.



1           Q.    So the market response solves both  
2           problems that you've identified; eliminating  
3           subsidies and moving customers to a more  
4           market-based -- or through a more market-based  
5           transition period?

6           A.    I am not sure what you mean by the  
7           "market response," but the proposed stipulated rates  
8           solve those problems.

9           Q.    Now, if I understand it correctly then,  
10          part of the benefit or part of the rationale for  
11          going forward here is to eliminate or mitigate those  
12          interclass cross-subsidies that you say are existing  
13          in the current rates, correct?

14          THE WITNESS:   Would you mind reading that  
15          one back?

16          (Record read.)

17          A.    I think it's kind of the flip of that,  
18          possibly.  The proposed rate design is rational for a  
19          number of reasons.  One of the supporting indicators  
20          that it's rational is the fact that the resultant  
21          rate changes align very well with what a historical  
22          subsidy removal in the cost-based world would have  
23          done.

24          Q.    And when you talk about removing  
25          subsidies, what you are saying is that the persons or

1 entities that cause the costs are also paying those  
2 costs, correct?

3 A. I guess when I say "removing the  
4 subsidies," I think of it in the traditional  
5 cost-based regulation world where in traditional  
6 cost-based regulations the goal was always to try to  
7 get to equal rates of return which meant all  
8 customers were contributing fairly to pay their costs  
9 plus a reasonable rate of return.

10 And to the extent there was subsidy, that  
11 meant a certain class was underpaying relative to  
12 that standard and another class was overpaying  
13 relative to that standard.

14 Q. And, again, the standard is one of cost  
15 causation, correct?

16 A. I guess underlying it would be a cost of  
17 service study based upon cost-causation principles,  
18 yes.

19 Q. So when Ohio Power customers' deferrals  
20 are being paid by CSP customers, that would be a  
21 violation of the cost causation that we were just  
22 talking about, correct?

23 A. In a normal cost-based class  
24 cost-of-service world, I would agree with you. In  
25 the context of a merger or an acquisition of a

1 service territory, there can be other reasons to do  
2 so.

3 MR. DARR: Thank you. That's all I have.

4 EXAMINER TAUBER: Thank you. Ms. Hand?

5 MS. HAND: Nothing, your Honor, thank  
6 you.

7 EXAMINER TAUBER: Mr. Satterwhite?

8 MR. SATTERWHITE: Can I have two minutes?

9 EXAMINER TAUBER: Let's go off the  
10 record.

11 (Recess taken.)

12 EXAMINER TAUBER: Let's go back on the  
13 record.

14 Mr. Satterwhite.

15 MR. SATTERWHITE: I get that extra minute  
16 I didn't use later, right?

17 EXAMINER TAUBER: We'll see.

18 MR. SATTERWHITE: There's no redirect,  
19 your Honor.

20 EXAMINER TAUBER: Thank you.

21 MR. SATTERWHITE: At this time we would  
22 move for the admission of AEP Exhibit 22, with the  
23 courtesy correction by Mr. Murray of the date in the  
24 exhibits.

25 EXAMINER TAUBER: Are there any objection

1 to AEP Ohio Exhibit No. 22?

2 (No response.)

3 EXAMINER TAUBER: Hearing none, AEP  
4 Exhibit No. 22 shall be admitted into the record.

5 (EXHIBIT ADMITTED INTO EVIDENCE.)

6 EXAMINER TAUBER: Thank you, Mr. Roush.  
7 You may be excused.

8 THE WITNESS: Thank you.

9 MR. NOURSE: Your Honor, ready for the  
10 final AEP Ohio rebuttal witness?

11 EXAMINER TAUBER: Go ahead, Mr. Nourse.

12 MR. NOURSE: The companies call Laura J.  
13 Thomas. And, your Honor -- I will let you swear her  
14 in.

15 EXAMINER TAUBER: Ms. Thomas, I will  
16 remind you, you are under oath.

17 MR. NOURSE: Your Honors, I believe  
18 earlier this morning we handed out revised testimony  
19 for Ms. Thomas pursuant to the direction at the end  
20 of the day yesterday, and I believe the parties were  
21 given a redlined just a courtesy redlined of the  
22 pages and the text that were changed and the -- and a  
23 composite copy which we plan to use this morning for  
24 the exhibit. And I would like to mark that as AEP  
25 Exhibit 23.

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 MR. NOURSE: That's the composite revised  
3 testimony. It does say "October 21" on the cover and  
4 there are certain pages that are marked "revised" and  
5 certain exhibits that are marked "revised" to reflect  
6 the directive.

7 - - -

8 LAURA J. THOMAS

9 being previously duly sworn, as prescribed by law,  
10 was examined and testified on rebuttal as follows:

11 DIRECT EXAMINATION

12 By Mr. Nourse:

13 Q. Ms. Thomas, do you have the exhibit that  
14 was marked AEP Exhibit 23?

15 A. I do.

16 Q. And was that your rebuttal testimony as  
17 revised and prepared by you under your direction?

18 A. Yes, it is.

19 Q. Do you have some corrections to make to  
20 this?

21 A. I might just have one correction on  
22 page 11, line 21. The word "with" should be added  
23 after the word "together" to read together -- "tied  
24 together with the event."

25 Q. Okay. And with that change if we would

1 ask you the same questions contained in Exhibit 23,  
2 would your answers be the same?

3 A. Yes, they would.

4 MR. NOURSE: Okay, your Honor. I would  
5 move for the admission of AEP Exhibit 23, subject to  
6 cross-examination.

7 MR. DARR: Renew my motion to strike,  
8 your Honor, from yesterday.

9 EXAMINER SEE: Using -- using the  
10 references to the prefiled testimony IEU had raised,  
11 made a motion to strike portions of what -- portions  
12 of Ms. Thomas's testimony that related to the MRO  
13 price test by operating company?

14 MR. DARR: That's correct. There were  
15 two prongs to the argument. The first has been  
16 addressed by the Bench's order last night and the  
17 corrections that have been provided this morning.

18 The second prong of the argument was  
19 basically addressed to the problem that's been  
20 inherent since -- basically since the filing in which  
21 we identified in the motion to dismiss and the motion  
22 to -- for a directed verdict at the close of the  
23 companies' case and that is the companies have  
24 provided a case that does not satisfy the  
25 requirements of the statute.

1           The statute requires that an EDU file the  
2 case. At this point there are two EDUs. All we are  
3 getting is information based on a consolidated basis.  
4 When we finally get the nonconsolidated exhibit, it's  
5 in rebuttal.

6           It is improper at that point. The  
7 company can't make its case in rebuttal and that  
8 second prong we renew today.

9           MR. NOURSE: And, your Honor, I believe  
10 we discussed this on the record yesterday. I am  
11 happy to repeat my arguments, if you would like. I  
12 believe we fully argued it, and you said you were  
13 going to take it under advisement.

14           EXAMINER SEE: Yes, that's correct,  
15 Mr. Nourse.

16           MR. NOURSE: Should I repeat that or not?

17           EXAMINER SEE: No, no need.

18           The Bench has considered the motion, both  
19 prongs raised by Mr. Darr in the motion to strike,  
20 and that portion of Ms. Thomas's testimony is denied.

21           MR. KUTIK: Your Honor, I also have a  
22 motion to strike at this time.

23           EXAMINER SEE: And what -- which version  
24 of the testimony are you referring to?

25           MR. KUTIK: The version -- the version

1       that's been marked as Exhibit 23.

2               EXAMINER SEE:   AEP 23, okay.

3               MR. KUTIK:   May I proceed?

4               EXAMINER SEE:   Proceed.

5               MR. KUTIK:   Your Honor, our motion to  
6       strike is directed to the testimony that begins at  
7       page 2, line 10, and carries through revised page 4,  
8       line 15.  Your Honor, I think --

9               EXAMINER SEE:   I'm sorry.  What was the  
10      end?

11              MR. KUTIK:   Yes, revised page 4, line 15,  
12      basically the end of that section of the testimony.

13              EXAMINER SEE:   Okay.

14              MR. KUTIK:   The problem, your Honor, with  
15      this portion of Ms. Thomas's testimony can best be  
16      demonstrated looking at the question and answer that  
17      begins on line 19, page -- on page 2, where she is  
18      asked, whether it be appropriate, to forecast only  
19      changes in fuel.

20              There is no witness that was sponsored by  
21      any of the nonsignatory parties that did a  
22      calculation that forecasted only changes in fuel.  
23      This particular question and answer and, I believe,  
24      your Honor, this entire section of her testimony is  
25      designed to deal with a question that I asked



1 Ms. Thomas on cross-examination, or questions that I  
2 asked Ms. Thomas on cross-examination about whether  
3 if you changed her fuel -- her fuel forecast numbers  
4 or her fuel charges, what effect that would have on  
5 her so-called MRO price test.

6 It is, therefore, inappropriate for AEP  
7 to attempt to correct whatever problems they had with  
8 Ms. Thomas's testimony in response to my questions  
9 through rebuttal testimony.

10 If they wanted to provide some  
11 corrections or commentary as to what was wrong with  
12 my questions or what was wrong with her answers to my  
13 questions, the proper place to do that would have  
14 been redirect and not rebuttal. So on that grounds,  
15 your Honor, we move to strike that portion of her  
16 testimony.

17 MR. NOURSE: Your Honor, as stated in the  
18 testimony that FES Witness Schnitzer did maintain his  
19 testimony that the company underestimates the fuel  
20 cost component that was used in the MRO test in the  
21 analysis and testimony of Ms. Thomas, I think this  
22 section certainly addresses that and rebuts that  
23 testimony relative to the fact that both on the basis  
24 that the Commission hasn't required that in the past  
25 and that it would be inappropriate to -- to use

1 increased or forecasted fuel projections without also  
2 addressing other major factors that would be  
3 projected to change, such as environmental costs.

4 And that's, again, precisely what this  
5 section does, it lays out the actual analysis in  
6 detail of both those factors, the environmental and  
7 fuel, all for the purpose of saying -- rebutting the  
8 criticism of Ms. Thomas's original analysis of using  
9 essentially a flat fuel number throughout the ESP  
10 test for purposes of the MRO test. So I think it is  
11 appropriate rebuttal testimony.

12 MR. KUTIK: Your Honor, I haven't heard  
13 anything that Mr. Nourse said that cited any  
14 testimony from Mr. Schnitzer where he only changed  
15 fuel numbers. He did not. And that's the point of  
16 this testimony and particularly that question that  
17 I -- that I pointed out on page 2, line 19.

18 MR. NOURSE: Again, your Honor, lines 4  
19 and 5 on page 2 indicate in Schnitzer's written  
20 testimony, pages 14 through 16 in transcript VII, the  
21 pages cited there, and I quote the question to -- put  
22 by Mr. Conway to Mr. Schnitzer, "And your view is  
23 that the fuel costs are underestimated for the  
24 January, 2011, to May, 2015, period, right?"

25 Answer: "Yes, sir."

1           MR. KUTIK: That's certainly -- go ahead,  
2 finish.

3           MR. NOURSE: Next question is: "So you  
4 increased them, right?"

5           And the answer: "I did."

6           So, again, your Honor, this ties directly  
7 into Mr. Schnitzer's testimony on this subject and  
8 goes to the -- to fortify the original analysis that  
9 Ms. Thomas did on the MRO price test to conclude that  
10 the existing fuel, leaving it flat is appropriate,  
11 consistent with prior Commission decisions.

12          MR. KUTIK: This question and answer on  
13 page 2 starting at line 19 talks about changing only  
14 fuel. Mr. Nourse's recitation of the record said  
15 nothing about what Mr. Schnitzer did with respect to  
16 only changing fuel. He changed a whole bunch of  
17 things in terms of forecasting.

18          And so to focus only on the fuel or make  
19 comments about changing only fuel and whether that  
20 would be appropriate or not is not the proper --  
21 proper subject of rebuttal because no one during the  
22 nonsignatory parties' case ever said that.

23          MR. NOURSE: Your Honor, let me just  
24 finally say that, you know, Ms. Thomas indicates in  
25 her testimony at the top of page 3 that fuel and

1 environmental are the most significant factors.

2 There's been a ton of cross-examination  
3 about the exhibit that's referenced in  
4 Mr. Schnitzer's testimony in this regard, page 15,  
5 about the confidential fuel forecast. It has been  
6 admitted into the record as -- as evidence. There's  
7 been many, many questions asked about that forecast.

8 This is one of their big positions,  
9 attacking the MRO test, and we believe we are  
10 entitled to submit rebuttal testimony on it. I think  
11 Mr. Kutik's criticisms can be covered through his  
12 cross-examination of this witness.

13 MR. DARR: One last part.

14 EXAMINER SEE: Mr. Darr.

15 MR. DARR: Thank you. I am looking at  
16 the confidential exhibit attached to Mr. Murray's  
17 testimony which is referenced on revised page No. 3  
18 in Ms. -- or in Ms. Thomas's testimony as far as I  
19 can tell has nothing to do with fuel.

20 MR. NOURSE: I'm sorry. What was the  
21 reference in Ms. Thomas' testimony you made?

22 MR. DARR: Her page 3 and the reference  
23 is to, I believe -- excuse me, FES Confidential  
24 Exhibit No. 10 -- pardon me. I've made an error  
25 here. And I want to correct it.

1           The testimony offered by Mr. Murray I  
2 believe uses the numbers provided by the company to  
3 do the calculation. There was nothing in his  
4 testimony that addressed that issue. So the  
5 schedules that apparently in this testimony is  
6 seeking to rebut are not in play.

7           MR. NOURSE: Your Honor, again, this  
8 exhibit has been used throughout the hearing and  
9 discussed extensively during cross-examination. And  
10 it's all based on the confidential fuel forecast that  
11 the company provided. It's company data and  
12 certainly competitively sensitive data and it's the  
13 same basis that both those witnesses are using and  
14 referring to.

15           This is the same forecasted fuel levels  
16 that Ms. Thomas was addressing, the same to say it's  
17 inappropriate to use it in the context of the MRO  
18 test.

19           EXAMINER SEE: First, let me inquire, are  
20 there any other motions to strike Ms. Thomas's  
21 testimony? I know I made that inquiry yesterday.  
22 Are there any others?

23           (No response.)

24           EXAMINER SEE: Considering the arguments  
25 made by the parties, the Bench is going to deny the

1 motion to strike, and the Commission can give -- can  
2 determine and give the appropriate weight to the  
3 testimony.

4 Mr. Nourse.

5 MR. NOURSE: I'm sorry, your Honor? I  
6 think I -- I finished my direct and moved --

7 EXAMINER SEE: I'm sorry, you did mark  
8 and move.

9 MR. NOURSE: -- Exhibit 23, your Honor.

10 EXAMINER SEE: My mistake. Let's start  
11 with cross.

12 Ms. Hand.

13 MS. HAND: Nothing, your Honor.

14 EXAMINER SEE: Mr. Darr.

15 MR. DARR: Thank you, ma'am.

16 - - -

17 CROSS-EXAMINATION

18 By Mr. Darr:

19 Q. Ms. Thomas, turning to page 10, and  
20 really the bulk of the testimony I think starts on  
21 page 11, you indicate there that it is inappropriate  
22 to blend the MRO and ESP prices for the remaining  
23 year, the bid year of the proposed stipulation.

24 Just a couple of questions. As of  
25 July 31, 2008, did the companies that comprise AEP

1 Ohio in whole or in part operate generating  
2 facilities that had -- that had been used and useful  
3 in Ohio?

4 A. Yes, both Ohio Power and Columbus  
5 Southern Power had generating facilities.

6 MR. KUTIK: Ms. Thomas, could you move  
7 the microphone closer to you?

8 Q. There is nothing in your testimony  
9 addressing offers made by AEP Retail; is that  
10 correct?

11 A. That's correct.

12 Q. And there is also nothing in your  
13 testimony addressing offers made by other CRES  
14 providers; is that also correct?

15 A. I guess the only thing in my testimony  
16 that could potentially be considered related to that  
17 is, you know, offers that may have been made by CRES  
18 providers that resulted in the FirstEnergy auction  
19 prices.

20 Q. But none specific to your territory?

21 A. That's correct.

22 Q. Now, in your table 3 which originally was  
23 on page 10, I think it's still there, you start with  
24 the FE auction prices and then you add back certain  
25 items that you think should be included to properly

1       adjust those prices; is that accurate?

2               A.     Well, I think what I'm really doing in  
3       that table is looking at the FirstEnergy auction  
4       price and trying to illustrate that there are, you  
5       know, many differences between the FirstEnergy  
6       auction price and what would be applicable in the AEP  
7       Ohio territory and doing that by looking at the  
8       various elements of the competitive bid price where  
9       we know that there are differences.

10              Q.     So basically what -- you are agreeing  
11       with me that in essence, what you are doing is taking  
12       the FE price and trying to make it comparable to the  
13       numbers that you derived?

14              A.     Yeah, trying to account for those as many  
15       differences as -- as possible in order to illustrate  
16       that you can't just take a FirstEnergy auction price  
17       and equate that to a competitive bid price for AEP  
18       Ohio.

19              Q.     Now, one of the items you change is the  
20       zone differential, and you rely on Mr. Schnitzer's  
21       testimony that was filed on July 25; is that correct?

22              A.     Yes, I show approximately \$3 difference  
23       that he quantified.

24              Q.     And the data that he used was from 2009  
25       to 2012, correct?



1           A.    Yes.  That was the data that he had  
2   available.  His 3.07 is --

3           Q.    I'm sorry, go ahead.

4           A.    You know, that came up with an amount of  
5   \$2.97.  That's the data that would have been  
6   available to suppliers at the time of the FE auction  
7   that produced these prices as well as FirstEnergy in  
8   their investor presentations, they provided  
9   information in terms of the differences between the  
10  FirstEnergy and the AD hub, I believe that was \$2.49,  
11  and if you add to that the basis differential that  
12  the company quantified of 58 cents.

13           MR. DARR:  Pardon me, your Honor.  I  
14  asked her whether or not this was the data she used.  
15  I didn't ask for an explanation of this nature.  I  
16  patiently waited for her to complete the answer.  If  
17  we are going to do this, it's going to be another  
18  long day.

19           MR. NOURSE:  Your Honor, I disagree.  He  
20  didn't wait for the answer to be completed.  He asked  
21  about the basis and he referred to Schnitzer and she  
22  also is saying she has additional bases for -- for  
23  that number, I believe, if she is allowed to finish  
24  her answer.

25           EXAMINER SEE:  Ms. Thomas, you can finish

1 your answer, but I am going to direct you to answer  
2 the questions being posed to you. Go ahead.

3 THE WITNESS: Could you please repeat the  
4 question and my answer so far?

5 (Record read.)

6 A. That's referring to 58 cents a megawatt  
7 hour that produces a total of \$3.07 which is a little  
8 bit higher but, you know, very comparable to the  
9 \$2.97 that Mr. Schnitzer used that was based on 2009  
10 and 2010 data.

11 MR. KUTIK: Your Honor, I move to strike  
12 the answer after -- after the words -- or including  
13 the words "as well as FE or FirstEnergy." This is an  
14 explanation of other data. The question only was  
15 with respect to what Mr. Schnitzer used, not what  
16 someone else used or discussed.

17 MR. NOURSE: Your Honor, again, you know,  
18 Ms. Thomas's testimony states on page 8, line 3, that  
19 this \$3 Schnitzer number is consistent with review of  
20 available information. You know, she is being asked  
21 about the basis for that \$2.97, and so consistent  
22 with her written testimony, she's giving a complete  
23 explanation of the basis for the \$3.

24 MR. KUTIK: That's nice testimony from  
25 Mr. Nourse, but the question still related only and

1 solely to Mr. Schnitzer.

2 MR. DARR: The efficiency of this process  
3 is going to be further degraded if we continue to  
4 have these ongoing explanations.

5 MR. NOURSE: Well, your Honor.

6 EXAMINER SEE: The answer stands.

7 You can continue with your  
8 cross-examination, Mr. Darr.

9 The objection is -- the motion to strike  
10 is denied.

11 Q. (By Mr. Darr) The data that you used  
12 for -- that you drew from Mr. Schnitzer's testimony,  
13 that would be related to the FirstEnergy companies'  
14 participation in the Midwest ISO, correct?

15 A. Yes. It was based upon FirstEnergy data  
16 and AEP zone data that was available at that time.

17 Q. So you're saying that the FE -- FE data  
18 that you relied on also included AEP data?

19 A. Well, the item we are talking about is  
20 the difference in pricing between AEP zone prices and  
21 FirstEnergy prices. And so you use data for both  
22 zones in order to calculate the differential.

23 Q. But specifically what we are talking  
24 about is the effect of the difference on the M -- on  
25 the Midwest ISO system in 2009 and 2010, correct?

1           A.    His data was based on 2009 and 2010 which  
2 was the available data.

3           Q.    Now, you don't have any problem with the  
4 fact that Mr. Murray added back the same number that  
5 you used for the alternative energy requirement, do  
6 you?

7           A.    No, I don't. I believe I referenced that  
8 he recognized that. I believe I reference that in my  
9 testimony.

10           MR. DARR: Your Honor, I am going to ask  
11 to simplify things. I think there are two things we  
12 can do at this point, if the Bench is willing to take  
13 administrative notice of the master supply service  
14 offer which was Attachment E to the FE, FirstEnergy,  
15 competitive bid, and that is filed on October 20,  
16 2009, in Case No. 09-906-EL-SSO.

17           EXAMINER SEE: Say the case number again,  
18 please.

19           MR. DARR: Sure. 09-906-EL-SSO.

20           EXAMINER TAUBER: You said filed October  
21 20.

22           MR. DARR: I'm sorry?

23           EXAMINER SEE: You said filed October 20.

24           MR. KUTIK: 2009.

25           MR. NOURSE: Can we have an opportunity

1 to review that document and respond?

2 EXAMINER SEE: Yes.

3 MR. DARR: And if I may, your Honor, the  
4 point of this.

5 EXAMINER SEE: Go ahead.

6 MR. DARR: The point of this, there has  
7 been a continuing discussion of the loss or lack of  
8 loss in the FE bids and already Mr. Murray has  
9 testified -- testified on this.

10 EXAMINER SEE: You said "loss"?

11 MR. DARR: Yes, loss, testified on this  
12 matter, the documents that he referred to, the  
13 document that is being challenged with regard to the  
14 level of losses is defined by the master service  
15 agreement. That is the master service agreement. It  
16 tells us exactly what's in the bid and how the bid  
17 should be scoped. So the Commission would have that  
18 available to it, and we can stop butting heads and  
19 just go to the document.

20 MR. NOURSE: Well, your Honor, as I  
21 recall on Friday, that was another long day because  
22 of the witness gave a lot of speeches and pulled  
23 stuff out --

24 MR. DARR: Objection, your Honor.

25 MR. NOURSE: He pulled stuff out of his

1 box and read things in paragraph form, and I believe  
2 this document was one of the things he pulled out of  
3 his box and read, made an extensive quote from, based  
4 on the -- based on this very issue, so I'm not sure  
5 why the whole document needs to be placed in the  
6 record and what it's going to short circuit here.

7 But, you know, I guess the only -- the  
8 only comment I would have immediately as far as a  
9 response to this request is that in the stipulation  
10 that's at issue here part of the agreement is to use  
11 the auction format previously approved by the  
12 Commission -- I am reading at the bottom of page 11,  
13 top of page 12 of the stipulation in Case No. 08-935  
14 and 10-388 including Attachment A to that order.

15 Now, I don't know as I sit here whether  
16 the master supply agreement in those case numbers  
17 referenced in the stipulation, you know, differs from  
18 this one, but I guess if we are going to dump things  
19 in the record to save time supposedly, I think we  
20 would want to also incorporate the master supply  
21 agreements from -- used in connection with those case  
22 numbers that the stipulation relies on because I have  
23 not -- I have not done a side-by-side comparison to  
24 see what differences exist.

25 MR. DARR: The point of this exercise,

1 your Honor, is not to compare and contrast various  
2 contracts. The point of putting this in the record  
3 is to address the testimony offered by Ms. Thomas in  
4 rebuttal as to whether or not losses are properly  
5 accounted for. She is adding an increment back that  
6 may or may not be appropriate. This agreement  
7 addresses that issue.

8 MR. NOURSE: Okay. Does that mean you  
9 agree or disagree with my proposed solution?

10 MR. DARR: I've asked to have it  
11 administratively noticed. It is not whether I agree  
12 or disagree. It is a record of the Commission. It  
13 is publicly available. We should be able to rely on  
14 it and take the statements that are contained in it  
15 as being judicially established.

16 MR. NOURSE: And I'm okay with that as  
17 long as we get the other supply agreements admitted  
18 that I referenced.

19 MR. DARR: I object for the simple reason  
20 that they are not relevant to the calculation  
21 provided in this rebuttal testimony. It's -- it's --  
22 it's an attempt to extend the record and it's  
23 improper.

24 MR. NOURSE: Your Honor, you know, to the  
25 extent more recent supply agreements differ on this

1 point, then as we are looking into the future, I  
2 would say it's very -- very relevant and, again, I  
3 don't think it's necessary to dump this in the  
4 record, but if we do, I think we should put the more  
5 recent ones in as well that are actually referenced  
6 in the stipulation we are here litigating.

7 EXAMINER SEE: Mr. Darr, do you have  
8 another area of cross that you are going to be  
9 exploring?

10 MR. DARR: Two matters, your Honor.

11 EXAMINER SEE: Can you move to those  
12 matters and I'll take a moment and think about the  
13 issues at hand?

14 MR. DARR: Certainly, your Honor.

15 EXAMINER SEE: Thank you.

16 MR. DARR: One of them is to take  
17 administrative notice of an order that came out  
18 yesterday.

19 EXAMINER SEE: And may I ask what case  
20 that is?

21 MR. DARR: That would be 10-1284, your  
22 Honor, which are -- the order that came out was a  
23 finding and order regarding the auction results  
24 related to the FE auction.

25 MR. NOURSE: Your Honor, I guess I would



1 just suggest I don't know why we're -- if we are  
2 really trying to save time here. If the idea is to  
3 use orders from the Commission and avoid asking a  
4 witness to give a response or to be permitted to  
5 answer questions about the context or statements in  
6 the order just to be able to use them on brief and  
7 not have the company an opportunity to even respond  
8 or explain, I think that's inappropriate and I would  
9 suggest just asking the questions they have about  
10 these documents or these issues during  
11 cross-examination.

12 MR. DARR: The point of administrative  
13 notice, your Honor, is to allow the Commission to  
14 take certain administrative review. These are  
15 specifically findings made by the Commission  
16 yesterday that certain things have occurred. They  
17 are beyond debate.

18 Now, given the fact that I've raised  
19 these during cross-examination, the company will have  
20 adequate opportunity through its redirect  
21 examination, which is where it should be doing some  
22 of these expansions and discussions, to address any  
23 issues that may be raised by the facts established by  
24 the Commission yesterday in its finding and order in  
25 10-1284.

1           MR. NOURSE: Well, again, your Honor, if  
2 Mr. Darr wants to ask questions about it, then that  
3 would be appropriate for redirect. If he wants to  
4 just keep it to himself and use it on brief, I don't  
5 know what he is going to argue and, you know, he's  
6 making his -- finishing his cross contingent on  
7 getting administrative notice of matters we haven't  
8 even discussed.

9           I haven't seen that order, and I don't  
10 know how he is planning to use this. I think that's  
11 inappropriate.

12           MR. DARR: I will provide copies to  
13 everyone.

14           EXAMINER SEE: Thank you. Is that  
15 10-1284, Mr. Darr?

16           MR. DARR: Yes, ma'am.

17           EXAMINER SEE: And that's -- that's your  
18 next -- for your next line of questioning, Mr. Darr?  
19 Mr. Darr?

20           MR. DARR: Yes, ma'am.

21           EXAMINER SEE: That's for your next line  
22 of questioning?

23           MR. KUTIK: Your Honor.

24           EXAMINER SEE: Mr. Darr, this is what you  
25 need for your next line of questioning?

1 MR. DARR: No, ma'am. I'm sorry, I  
2 misunderstood your question.

3 MR. KUTIK: Your Honor, we join in the  
4 question to take administrative notice of the finding  
5 and order in this case, 10-2184.

6 EXAMINER SEE: In 10-2184?

7 MR. NOURSE: Your Honor, I would note  
8 just looking at it for 5 seconds that there is a --  
9 that the order relies on information that's under  
10 seal deemed confidential for 18 months, and I don't  
11 believe I would have access to that, that that would  
12 be in the record for discussion.

13 But, again, you know, Mr. Darr suggesting  
14 I could do redirect on something he didn't even ask  
15 questions about, I don't think that makes any sense  
16 just asking questions.

17 EXAMINER SEE: Without a ruling on these  
18 two can you proceed with your questioning, Mr. Darr?

19 MR. DARR: Yes, ma'am.

20 EXAMINER SEE: Please do so.

21 MR. DARR: Thank you.

22 Q. (By Mr. Darr) Ms. Thomas, are you aware  
23 whether PUCO considers changes in riders such as FEC  
24 for purposes of evaluating rate stabilization plans  
25 proposed by FirstEnergy in Case No. 03-2144-EL-ATA?

1           A.    I'm not familiar with that case.

2           Q.    In particular, what cases did you review  
3 to form the opinion of the PUCO has not previously  
4 looked at forward or future fuel cost changes to  
5 evaluate rate plans?

6           A.    In the companies' previous ESP that was  
7 an issue that was raised, and the Commission did not  
8 require those types of adjustments to be made to the  
9 MRO test.

10          Q.    So specifically is that the sum and  
11 substance, the prior ESP case, your prior ESP case?

12          A.    No, and I am trying to recall. I believe  
13 it was a Duke case where I was able to ferret enough  
14 information out of the order to determine it did not  
15 require a forecast of -- of those elements. I  
16 believe it was a previous ESP case for Duke, but I  
17 can't recall off the top of my head which case that  
18 was.

19          Q.    So it might have been the one that  
20 resulted in the current ESP for Duke?

21          A.    It may have been. Again, I don't recall  
22 exactly but I know I found at least one other -- one  
23 other than the companies' last ESP where the issue  
24 was raised and the Commission did not require any  
25 adjustment of those items in its MRO test.

1 MR. DARR: If I could have just a moment,  
2 your Honor.

3 EXAMINER SEE: Yes. While Mr. Darr is  
4 taking a moment we will take 5 minutes and go off the  
5 record.

6 (Recess taken.)

7 EXAMINER SEE: Let's go back on the  
8 record.

9 Mr. Darr.

10 MR. DARR: Yes, ma'am.

11 Q. (By Mr. Darr) Ms. Thomas, I want to  
12 follow up on something I just asked you a minute ago.  
13 Are you aware whether the Commission considered the  
14 effect of future changes in riders in the FAC for the  
15 RSP that was approved for FirstEnergy in Case  
16 No. 04-1371? I asked you earlier about 03-2144. I  
17 was wondering if you looked at the other case  
18 04-1371.

19 A. No, I am not familiar with any of the RSP  
20 cases, I'm sorry.

21 MR. DARR: Okay. Other than the two  
22 matters that I have asked for administrative notice  
23 on, your Honor, I have completed my  
24 cross-examination.

25 EXAMINER SEE: Okay.

2339

1 MR. DARR: And if that is denied, then I  
2 have got to address a couple of other issues, so.

3 EXAMINER SEE: We will take -- the Bench  
4 will take notice, administrative notice, of the two  
5 auctions set forth in the stipulation as well as the  
6 master supply agreement in 09-906 and the opinion and  
7 order in that case.

8 MR. DARR: Just so it's clear, you are  
9 talking about the finding in 10-2184?

10 EXAMINER SEE: No, I was not referring to  
11 10-1284. You asked for 0 -- 09-906?

12 MR. DARR: Correct. There I was asking  
13 for the master supply agreement.

14 EXAMINER SEE: The master supply  
15 agreement.

16 MR. DARR: Yes, ma'am.

17 EXAMINER SEE: We are going to take  
18 administrative notice of that.

19 MR. DARR: Thank you, your Honor.

20 MR. NOURSE: I'm not -- sorry. I'm not  
21 sure I heard the rest. You are saying you are also  
22 taking administrative notice of the master supply  
23 agreement in the two cases I referenced in the  
24 stipulation?

25 EXAMINER SEE: Yes.

1 MR. NOURSE: Thank you.

2 EXAMINER SEE: With that you can proceed,  
3 Mr. Darr, with your cross-examination.

4 MR. DARR: The only matter was the taking  
5 administrative notice of the finding and order in  
6 10-1284, your Honor.

7 MR. NOURSE: Again, your Honor, I would  
8 ask the questions be asked about it rather than  
9 blindly taking notice and using it on brief without  
10 giving our witness an opportunity to address the  
11 intended use they have about this document.

12 EXAMINER SEE: We can take -- the -- we  
13 can take administrative notice of the finding and  
14 order in 10-1284.

15 MR. DARR: Thank you, your Honor.

16 MR. NOURSE: Your Honor, could I be  
17 permitted to ask redirect questions about that since  
18 Mr. Darr indicated earlier that would be appropriate  
19 and since even though it's not being specifically  
20 covered in cross?

21 MR. DARR: I have no objection, your  
22 Honor. The point of the administrative notice is to  
23 get these facts on the record. How Mr. Nourse  
24 decides to interpret them is a perfectly reasonable  
25 subject matter for his redirect.

1 MR. NOURSE: Thank you.

2 EXAMINER SEE: Mr. Darr, have you  
3 completed your cross-examination?

4 MR. DARR: Yes, your Honor. I indicated  
5 that.

6 EXAMINER SEE: I'm sorry, I didn't hear  
7 you.

8 Mr. Kutik.

9 MR. KUTIK: Thank you, your Honor.

10 - - -

11 CROSS-EXAMINATION

12 By Mr. Kutik:

13 Q. Ms. Thomas, I want to talk to you a  
14 little bit about your comments about fuel forecasts.  
15 Would it be fair to say that you believe that in  
16 terms of putting together your ES -- your MRO price  
17 test that it be more prudent to keep the fuel charge  
18 level constant rather than make a forecast for fuel  
19 for the period of your study, fair to say?

20 A. No, that's not my testimony.

21 Q. All right. Well, you have kept fuel  
22 costs constant, have you not?

23 A. I kept all of the elements that could be  
24 adjusted to the current ESP rate. I did not adjust  
25 any of those forecasted. I guess by default fuel is



1 constant because I did not forecast any of those  
2 elements.

3 Q. All right. Again, so you kept fuel costs  
4 constant, correct?

5 A. Yes, as part of not forecasting all of  
6 the elements that could be forecasted.

7 Q. All right. Well, you did forecast  
8 certain elements, did you not?

9 A. I'm not sure what you are referring to.

10 Q. Well, did you -- did you use a forecast  
11 for energy prices? You did, didn't you?

12 A. I used -- for energy prices for the  
13 competitive benchmark I used current forward price  
14 information but those are -- were current simple swap  
15 prices.

16 Q. Okay. So you don't view the forward  
17 prices as a forecast of prices, fair to say?

18 A. In some ways you might characterize them  
19 as a forecast, but they are also prices at which  
20 people are willing to transact for those periods.

21 Q. But they may also be considered to be a  
22 forecast, correct?

23 A. Because they occur in the future I guess  
24 you consider them to be a form of forecast, although  
25 it is a price at which people are actually

1 transacting.

2 Q. Now, you make some comments about what  
3 your understanding is about section -- Ohio Revised  
4 Code Section 4928.143(D), correct?

5 A. Could you please show me where in your  
6 testimony --

7 Q. You need a reference to understand  
8 whether you made comments about 4928.143(D)?

9 MR. NOURSE: Your Honor, I object. The  
10 reference is to advice of counsel. He is trying to  
11 portray it as her lack of knowledge.

12 MR. KUTIK: Well, no.

13 Q. Can you answer that question? Do you  
14 need me to give you a reference to refresh your  
15 recollection that you made comments about  
16 4928.143(D)?

17 A. I did reference that section. I'm just  
18 simply asking for a reference in my testimony so I  
19 can be sure that I am putting it in the right  
20 context.

21 Q. All right. But you have an understanding  
22 of what 149 -- 4928.143(D) requires and doesn't  
23 require either based upon your own review or based  
24 upon advice of counsel, correct?

25 MR. NOURSE: Could I have the question

1 reread?

2 (Record read.)

3 MR. NOURSE: Mr. Kutik, I think you  
4 intended to reference 142(D); is that correct?

5 MR. KUTIK: I thought it was 149.

6 MR. NOURSE: You said "143," and I think  
7 you intended "142."

8 MR. KUTIK: Okay. Thank you.

9 Q. Is that the reference in your testimony  
10 143 -- 142(D)?

11 A. The references in my testimony are to  
12 142(D).

13 Q. So do you have an understanding of what  
14 that allows and doesn't allow based upon either your  
15 own review or advice of counsel?

16 A. Yes, as a layperson based on my reading  
17 and upon the advice of counsel.

18 Q. Does that section preclude using  
19 forecasted information to come up with an MRO price  
20 test?

21 A. No, that section does not preclude it nor  
22 does it require it.

23 Q. Now, it would be fair to say that you are  
24 unaware of any forecast of fuel costs for the  
25 circumstances that would apply under the stipulation,

1 correct?

2 A. That's correct. I am not aware of any  
3 new fore -- fuel forecasts at this point that would  
4 account for all of the elements of the stipulation.

5 Q. And it would also be fair to say that you  
6 are unaware of any studies on the effect of shopping  
7 on the companies' fuel costs.

8 A. I am not aware of any specific studies  
9 that have been done, although it is, you know, fairly  
10 logical the way that fuel costs are incurred that if  
11 less load is served by the same resources because of  
12 economic dispatch, your fuel costs would be lower.

13 Q. Now, is it your view that the companies'  
14 manner of procuring fuel would change depending upon  
15 the load it serves?

16 A. Certainly the company would procure less  
17 fuel if it had to serve less load.

18 Q. All right. Well, the company doesn't  
19 differ in terms of how it procures fuel if it's  
20 trying to serve SSO load or it's trying to serve the  
21 load of other AEP companies or it's trying to sell  
22 load in the market, correct?

23 A. It's correct that the procurement would  
24 not change but because of how fuel costs get  
25 allocated to retail customers versus off-system

1 sales, retail customers would get the lowest cost  
2 fuel and the higher cost fuel goes to off-system  
3 sales.

4 Q. Now, it's correct to say that you don't  
5 have any expertise or experience in forecasting.

6 A. I have not worked in -- in forecasting,  
7 no, I haven't.

8 Q. And I think we said before that you're  
9 using what some might view as a forecast of energy  
10 prices by using the forward prices, correct?

11 A. Yes.

12 Q. And your review of the forward prices is  
13 that energy prices are expected to increase over the  
14 term of your study, correct?

15 A. Yes, I believe that, you know, the actual  
16 forward price data showed an increase in the simple  
17 swap over the period of the ESP.

18 Q. And the fuel costs, you believe, would go  
19 down over the term of the your study, correct?

20 A. The average fuel cost as would be  
21 allocated to retail customers certainly would, you  
22 know, be affected by the amount of load that is  
23 served and would be lower, yes.

24 Q. And so one might expect then if those two  
25 things were to happen, that the margin on energy

1 sales would increase, correct?

2 A. I can't say whether the margin on any  
3 off-system sales would increase. I mean, there is a  
4 lot of variables. Actually, you know, because they  
5 get the higher fuel costs -- I can't really say how  
6 that would change. I don't really know.

7 Q. Now, it would be fair to say that you did  
8 not use forecasted values for the period of your  
9 study I think we mentioned for fuel, correct?

10 A. Right. I did not use forecasted for fuel  
11 or any of the other items that fell under that  
12 section that we were talking about in 142(D).

13 Q. And talking about your testimony in  
14 support of the stipulation, you didn't include any --  
15 any forecast for environmental cost, correct?

16 A. That's -- that's correct, I did not  
17 forecast any of those.

18 Q. You didn't include any forecast value for  
19 rider GRR, correct?

20 A. Well, GRR was not included in the MRO  
21 test because there -- there is no -- it's a  
22 placeholder rider. The value today would be zero and  
23 that would be subject -- if there is a charge, it  
24 would be the result of some future Commission  
25 proceeding.

1           Q.    So you didn't attempt to forecast a value  
2   for GRR, correct?

3           A.    That's correct.  I did not forecast a  
4   value because it is zero.

5           Q.    Would it also be fair to say you didn't  
6   forecast a value for the pool termination  
7   modification rider?

8           A.    That's correct.  I did not forecast  
9   something for the pool rider.  Again, that is a  
10  placeholder rider with a zero value until if at some  
11  future point in time the Commission approves  
12  something there.

13          Q.    So would it be fair to say that you might  
14   have other reasons for not doing that but one of the  
15   reasons that you did not do a forecast or include a  
16   forecast for fuel for environmental costs for rider  
17   GRR or the pool termination modification rider is  
18   that you believe that those -- that attempting to  
19   forecast those prices or those values would be  
20   uncertain -- too uncertain?

21          A.    Yes, there would be uncertainty in any  
22   forecast information, but the MRO test does not  
23   require those things to be forecasted and utilized in  
24   the MRO test.  And so my testimony was that I didn't  
25   include those things.  I included -- I included the

1 current levels in terms of the current ESP rate for  
2 purposes of the MRO test.

3 Q. But, again, one of the reasons you didn't  
4 do that, didn't include these forecasted items for  
5 these different types of costs, you believed it would  
6 be too uncertain with respect to what these future  
7 costs might be, correct?

8 A. I mean, there is uncertainty in the  
9 forecast but I wouldn't say that's why I didn't  
10 include them.

11 Q. I -- go ahead.

12 A. Because I -- for those elements that are  
13 part of the current ESP rate I did not include those.  
14 Those are not required adjustments. I didn't believe  
15 it was necessary for the other items that were  
16 mentioned, the GRR and the pool modification rider.  
17 Whether I include a zero or not would have no impact  
18 on the MRO test and those values are zero, so.

19 Q. Well, do you believe it's -- that trying  
20 to predict the value for rider GRR would not be a  
21 good thing because that value is too uncertain at  
22 this time?

23 A. I believe that that value is unknown at  
24 this time and not capable of being forecast. And  
25 that value would be determined in some future



1 Commission proceeding and, therefore, you know, all  
2 we know today that it has a value of zero.

3 Q. Okay. Would your answer be the same for  
4 the pool termination modification rider?

5 A. Yes, it would.

6 Q. And do you believe that trying to come up  
7 with a forecast for environmental costs at this time  
8 would not be appropriate because it would be too  
9 uncertain?

10 A. I -- I think that, you know, we know  
11 there are going to be environmental costs. I know  
12 that the company has provided forecasts of  
13 environmental costs in this proceeding and what my  
14 testimony says is that, you know, that it's not  
15 necessary to forecast those items but if you included  
16 forecasted fuel and included forecasted  
17 environmental, that the only effect that that would  
18 have on the MRO test, you know, would be a positive  
19 one.

20 MR. KUTIK: Your Honor, I don't believe  
21 she answered my question. May I have the question  
22 read, and can the witness be directed to answer the  
23 question?

24 EXAMINER SEE: Reread the question.

25 (Record read.)

1 MR. NOURSE: Your Honor, I believe the  
2 witness did answer her reasons for not doing the  
3 environmental forecast. He is asking if her reason  
4 was uncertainty. She gave a full response of why she  
5 didn't do it.

6 MR. KUTIK: I never heard anything about  
7 "uncertainty."

8 EXAMINER SEE: Can I hear her answer?

9 (Record read.)

10 EXAMINER SEE: Reread the question for  
11 the witness.

12 And, Ms. Thomas, please answer the  
13 question posed to you.

14 (Record read.)

15 A. I believe that some elements of  
16 environmental forecast would be too uncertain, but I  
17 think that there are some elements of environmental  
18 forecasts where the company does have specific plans  
19 for environmental spending and so I think some level  
20 of forecast is certain, is much more certain than --  
21 than other portions of an environmental forecast.

22 Q. But to come up with what would be a  
23 complete environmental forecast or something that  
24 would reflect more accurately what the cost might be,  
25 that would be a hard thing to do at this time, you

1 believe, because of the uncertainty relating to  
2 whatever parts of environmental costs you believe are  
3 uncertain, correct?

4 A. Yes. I believe that there is a lot of  
5 uncertainty as to the environmental rules that are  
6 going to be in place on a going-forward basis.

7 Q. Now, I want to talk with you about your  
8 exhibits. And particularly about your exhibits with  
9 respect to the fuel costs and what the incremental  
10 fuel costs would be or have to be over the \$3 figure  
11 that you used. Now, would it be fair to characterize  
12 your revised Exhibit LJT-R1 as a sensitivity  
13 analysis?

14 A. Yes. It could be characterized as a  
15 sensitivity analysis that determines how much fuel  
16 could increase given all the other parameters  
17 contained within the MRO test where you're  
18 forecasting both fuel and environmental how much fuel  
19 could increase over the period and have no impact on  
20 the MRO test.

21 Q. And the value that you were basically  
22 driving your study to was an overall value of a  
23 negative 71 cents, correct?

24 A. I used that value because I'm -- I was  
25 looking at the impact for fuel relative to coming up

1 with the same result as if you did -- if you did not  
2 include either fuel or environmental.

3 Q. So the answer to my question is "Yes"?

4 A. Yes. It uses the same value as would  
5 have been shown on Exhibit LJT-3 of my direct  
6 testimony.

7 Q. And LJT-3 showed an overall negative ESP  
8 benefit of 71 cents, correct?

9 A. Yes. It showed a negative benefit just  
10 for the MRO price test portion which can't be viewed  
11 in isolation but has to be looked at with the other  
12 elements to determine whether it's more favorable.

13 Q. All right. I just asked you about your  
14 calculation. The calculation had a negative 71  
15 cents, correct?

16 A. Yes, it did. It had a negative value,  
17 but you cannot view that in isolation.

18 Q. Thank you for the explanation of  
19 something I didn't ask you.

20 With regard to a sensitivity analysis  
21 wouldn't you consider a sensitivity analysis of just  
22 seeing what would happen to drive your ESP benefit to  
23 zero?

24 A. You could do that analysis. I do know  
25 that -- that basically for every dollar of

1 approximately a dollar of fuel that would be  
2 decreased from this maximum amount you would see  
3 approximately an increased benefit of 25, 26 cents.

4 Q. Okay. Well, would it be fair to say then  
5 that if you had zero benefit, if you were trying to  
6 figure out what the incremental costs would be,  
7 incremental fuel costs would be, to have zero benefit  
8 using the environmental number you used and using no  
9 POLR, that the incremental fuel costs would be around  
10 \$4?

11 A. I believe mathematically that would be  
12 correct, although I don't believe that, you know,  
13 it's an analysis that makes sense to say I'm going to  
14 force this to be a zero result.

15 Q. Okay. Now, I want to talk with you about  
16 the calculations that you did on Revised LJR-2.

17 A. Are you referring to page 1 or page 2?

18 Q. Actually either one.

19 A. Okay.

20 Q. Would it be fair to say that you believe  
21 that in any year where there would be a competitive  
22 bidding process to procure POLR load, the ESP price  
23 benefit would be zero?

24 A. Yes, I believe that's what -- sort of no  
25 matter how you look at that test, whether you are

1 looking at page 1 or page 2, that, yeah, there is a  
2 zero benefit in that case.

3 Q. So if we were to plug zero in for the  
4 MRO -- excuse me, the ESP price benefit for the year  
5 beginning June, 2015, and then calculate the overall  
6 price benefit for the entire period of ESP, would it  
7 be fair to say that the numbers in all of your  
8 analyses would go down just as a matter of math?

9 A. No. I think if you go back and if you  
10 look at LJT-3, if you plugged in a zero for the  
11 period June, '15, through May, '16, that the benefit  
12 would actually increase and move from a small  
13 negative number to a smaller negative number, so it  
14 would actually increase.

15 Q. All right. So but it would decrease, for  
16 example, in LJT-2?

17 A. Right.

18 Q. Okay. Now, would it be also fair to say  
19 that if the Commission ordered or somehow AEP was in  
20 a position of doing a competitive bidding process of  
21 the year beginning in June, 2014, would it be fair to  
22 say that in all of your analyses the ESP price  
23 benefit would be negative?

24 A. I believe that mathematically that would  
25 change the result. If you did an auction beginning

1 in June of 2014, that that would create a less  
2 favorable ESP than what is contemplated under the  
3 stipulation.

4 MR. KUTIK: May I have the answer read,  
5 please?

6 (Record read.)

7 MR. KUTIK: May I have one moment, your  
8 Honor?

9 EXAMINER SEE: Yes.

10 MR. KUTIK: Your Honor, I have no further  
11 questions. Thank you.

12 EXAMINER SEE: Ms. Grady?

13 MS. GRADY: No questions, your Honor.

14 EXAMINER SEE: Mr. Smalz?

15 MR. SMALZ: No questions, your Honor.

16 EXAMINER SEE: Mr. Nourse, redirect?

17 MR. NOURSE: Could I have a brief  
18 5-minute recess, please?

19 EXAMINER SEE: Sure.

20 MR. KUTIK: Your Honor, may we go off the  
21 record?

22 EXAMINER SEE: Let's go off the record.

23 (Discussion off the record.)

24 EXAMINER SEE: Let's go back on the  
25 record.

1 Mr. Nourse.

2 MR. NOURSE: Thank you, your Honor.

3 - - -

4 REDIRECT EXAMINATION

5 By Mr. Nourse:

6 Q. Ms. Thomas, earlier there was a brief  
7 discussion about a finding and order that came out  
8 yesterday from the Commission in Case No. 10-1284.  
9 Do you recall that?

10 A. Yes, I do.

11 Q. Have you had time to review that order?

12 A. Yes, I briefly read that.

13 Q. Okay. Let me ask you a couple of  
14 questions about that. The -- I note that the -- in  
15 paragraph 8 there is an indication that the auction  
16 clearing price was \$52.80 per megawatt hour for the  
17 June, 2012, to May 31, 2014, delivery period. Do you  
18 see that?

19 A. Yes.

20 Q. Okay. And, first of all, does the  
21 delivery period in this auction match up with the ESP  
22 term in the stipulation?

23 A. No, it does not. This indicates that  
24 it's for the period June, 2012, through May of 2014.  
25 And the ESP period is for January of 2012 through May



1 of 2015.

2 Q. So it's 24 months versus 40 -- 41 months,  
3 I believe?

4 A. Yes.

5 Q. And all else being equal, would you  
6 expect a longer term delivery period to increase or  
7 decrease the auction clearing price?

8 A. Typically the -- the change in the period  
9 you may not know whether it increases or decreases.  
10 Depends on where the market is moving, but this  
11 price, you know, outside of the term would also have  
12 the same concerns that I've expressed in my rebuttal  
13 testimony about its applicable -- applicability to  
14 FirstEnergy but not to AEP Ohio.

15 Q. So the results of this auction as  
16 presented in the finding and order do not change your  
17 position and testimony; is that correct?

18 A. That's correct.

19 Q. Do you have any other explanation that  
20 you would like to offer relative to why the 52.83 is  
21 different from the auction results discussed in  
22 Mr. Murray's testimony?

23 A. This auction is for a -- a different time  
24 period than the numbers presented in Mr. Murray's  
25 testimony. So it is done at a different time for a

1 different time period. And but I -- I guess that's  
2 probably the most significant.

3 Q. And what about relative to the RPM  
4 capacity price inputs that may be involved with the  
5 52.83?

6 MR. KUTIK: I'm sorry, may I have the  
7 question read, please? You need to speak up,  
8 Mr. Nourse. I can hardly hear you.

9 EXAMINER SEE: Yes.

10 (Record read.)

11 A. It's my understanding that the  
12 FirstEnergy prices would reflect RPM capacity prices,  
13 whereas, during this same period '12 through '14 the  
14 company is an FRR entity and, therefore, under FRR  
15 the capacity pricing would be different as reflected  
16 in the companies' competitive benchmark price which  
17 reflects the capacity provisions of the stipulation.

18 Q. And just to be clear, that answer when  
19 you are referring to "the company," you are referring  
20 to AEP?

21 A. Yes. I am referring to the AEP Ohio  
22 companies.

23 Q. Now, Ms. Thomas, have you had access to  
24 the details, the information that related to this  
25 particular auction addressed in this order?

1           A.    No.  I've looked at the publicly -- not  
2           specific to this particular auction but to other FE  
3           auctions.  I looked at the publicly available  
4           information but a lot of the details that underlie  
5           the pricing and everything are -- those are  
6           confidential and I have not had access to those.

7                   MR. NOURSE:  Thank you.  That's all the  
8           questions I have, your Honor.

9                   EXAMINER SEE:  Recross, Ms. Hand?

10                  MS. HAND:  No, your Honor.  Thank you.

11                  EXAMINER SEE:  Mr. Darr?

12                                 - - -

13                                 RECROSS-EXAMINATION

14   By Mr. Darr:

15                  Q.    Ms. Thomas, are you aware of the fact the  
16           capacity prices in the capacity auction were done  
17           under the FRR election?

18                  A.    I'm sorry, I couldn't hear you.  Could  
19           you please repeat that?

20                  Q.    Are you aware that the capacity prices  
21           were done under the FRR transition auction or  
22           transition election by FE?

23                  A.    Yes, I am, except that those auctions  
24           were transitional auctions and, therefore, as  
25           addressed in my testimony, there are differences

1 between those auction prices and those that would be  
2 applicable to the AEP Ohio zone.

3 Q. And do you know whether or not AEP bid  
4 into the FE auction that was completed yesterday?

5 A. I do not know.

6 Q. Now, you made a comment about the periods  
7 not lining up, the period of the proposed ESP and the  
8 auction period; is that correct?

9 A. Yes. They are for two different time  
10 periods.

11 Q. Wasn't the purpose of your rebuttal  
12 testimony to show the direction of the prices so --  
13 with regard to I believe it was table 3?

14 A. In table 3 basically I am looking at a  
15 number of differences that would -- you know,  
16 comparing all elements, the basis, the simple swap,  
17 the alternative energy, the loss, the capacity, how  
18 all of those elements are part of what would be  
19 different between FirstEnergy and AEP Ohio.

20 Q. Right. And the starting point of that  
21 was the FE auction price of January, 2011, correct?

22 A. Yes. I used the price that Mr. Murray  
23 utilized in his testimony in his MRO tests.

24 Q. And if we updated for that price, we  
25 would update to the current auction results that we

1 received yesterday, correct? That would give us the  
2 most current numbers in terms of what the market  
3 perceives the value of energy on a full requirements  
4 contract, correct?

5 A. Right. I would have to update all of  
6 these elements to look at the differences between  
7 that FirstEnergy auction price and the AEP Ohio zone,  
8 not just one but all of them would have to be  
9 reviewed.

10 Q. And I take it that under these  
11 circumstances has not been done?

12 A. That's correct.

13 Q. But minimally you would have to find  
14 another \$5, give or take a few cents, in those other  
15 factors, one of which Mr. Murray has already  
16 recognized the AER to make up that difference,  
17 correct?

18 A. Well, again, I mean, yes, there is a  
19 price movement of those two -- between those two  
20 prices of, you know, four and a half dollars or so,  
21 and I would have to look to explain those differences  
22 as -- as well. I have not -- as we discussed, I have  
23 not done that analysis, but I would have to look at  
24 all the components.

25 MR. DARR: Thank you, very much.

1 EXAMINER SEE: Mr. Kutik?

2 - - -

3 RECROSS-EXAMINATION

4 By Mr. Kutik:

5 Q. Ms. Thomas, would it be fair to say that  
6 the FRR process does not preclude a transitional  
7 auction?

8 A. I believe at least FirstEnergy's FRR  
9 process allowed a transitional auction as they moved  
10 into PJM. Beyond that I don't know whether or not  
11 other transitional auctions can be held or not.

12 Q. And with respect to the various auctions  
13 that have been held for FirstEnergy in Ohio, it's  
14 your understanding, is it not, that there have been  
15 one-year products, two-year products, and three-year  
16 products auctioned, correct?

17 THE WITNESS: I'm sorry, could you repeat  
18 that question?

19 (Record read.)

20 A. Let me just ask a clarifying question  
21 here. You are talking about for retail load, not the  
22 capacity auction?

23 Q. Correct.

24 A. Okay. Yes, there have been for one, two,  
25 and three years, and those prices get blended

1 together to form the retail price is my  
2 understanding.

3 MR. KUTIK: Thank you. No further  
4 questions.

5 EXAMINER SEE: Ms. Grady?

6 MS. GRADY: No questions, your Honor.

7 EXAMINER SEE: Mr. Smalz?

8 MR. SMALZ: No questions, your Honor.

9 EXAMINER SEE: Thank you, Ms. Thomas.

10 MR. NOURSE: Thank you, your Honor. The  
11 company would renew its motion for AEP Exhibit 23.

12 MR. KUTIK: Your Honor, we would object  
13 on the grounds of our motion to strike.

14 MR. DARR: We renew our objections at  
15 this point and motion to strike.

16 EXAMINER SEE: And those motions are  
17 again overruled, and if there are no other  
18 objections, AEP Exhibit 23 is admitted into the  
19 record.

20 (EXHIBIT ADMITTED INTO EVIDENCE.)

21 EXAMINER SEE: Ms. Thomas, you are  
22 excused. Thank you.

23 With that we will take a lunch break  
24 until 1:30 and pick up with Staff Witness Baker.

25 (Lunch recess was taken at 12:26 p.m.)

2365

1 Thursday Afternoon Session,  
2 October 27, 2011.

3 - - -

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

6 MR. MARGARD: Thank you, your Honor.

7 Staff would call Peter Baker to the  
8 stand, please.

9 (Witness sworn.)

10 MR. MARGARD: Your Honor, I would  
11 respectfully request the prefiled rebuttal testimony  
12 of Peter Baker filed in this case on October 21 of  
13 2001, be marked for purposes of identification as  
14 Staff Exhibit No. 5 -- I'm sorry, 20 -- 21.

15 (EXHIBIT MARKED FOR IDENTIFICATION.)

16 - - -

17 PETER BAKER

18 being previously duly sworn, as prescribed by law,  
19 was examined and testified on rebuttal as follows:

20 DIRECT EXAMINATION

21 By Mr. Margard:

22 Q. Mr. Baker, do you have before you what  
23 has been marked as Staff Exhibit 5?

24 A. Yes.

25 Q. And can you identify this for us, please?



1 A. It's my testimony in this proceeding.

2 Q. And are you the same Peter Baker as  
3 identified on page 1 of that exhibit?

4 A. Yes, I am.

5 Q. And was this exhibit prepared by you or  
6 at your direction?

7 A. Yes, it was.

8 Q. Do you have any corrections or changes to  
9 this exhibit today?

10 A. No, I do not.

11 Q. Mr. Baker, if I were to ask you the same  
12 questions as posed in this exhibit, would your  
13 responses be the same?

14 A. Yes, they would.

15 MR. MARGARD: Your Honor, I would  
16 respectfully move for admission of Exhibit 5, subject  
17 to cross-examination, and I tender the witness for  
18 that purpose.

19 EXAMINER SEE: Ms. Grady?

20 MS. GRADY: Yes, your Honor, would now be  
21 an appropriate time to entertain motions to strike?

22 EXAMINER SEE: Yes.

23 MS. GRADY: Thank you, your Honor.

24 The first motion to strike begins on page  
25 2, beginning on line 16, and running through line 21.

1 EXAMINER SEE: 2, 16 through 3, 21? Did  
2 I hear that correctly?

3 MS. GRADY: Page 2, line 16 through page  
4 2, line 21.

5 EXAMINER SEE: All right, 2, 21.

6 MS. GRADY: In other words, the question  
7 and answer to question 6.

8 EXAMINER SEE: Yes.

9 MS. GRADY: The basis for that motion to  
10 strike, your Honor, is Mr. Baker is expressing a  
11 legal opinion on what 4928.143(B)(2) requires and  
12 this is a legal opinion and Mr. Baker is not  
13 qualified to give a legal opinion because he is not  
14 an attorney. "An expert witness is not permitted to  
15 give an opinion related to the law and a trial court  
16 that allows such an opinion abuses discretion." For  
17 citation, State versus Walsh 66 Ohio App. 2d 85, and  
18 that is the first motion to strike.

19 EXAMINER SEE: Do you have others,  
20 Ms. Grady?

21 MS. GRADY: Yes, I do.

22 EXAMINER SEE: Go ahead.

23 MS. GRADY: The next motion to strike  
24 begins on page 4 with a question on line 19 and  
25 ending on line 23. That would essentially be the

1 question 11 and the answer to question 11. The  
2 grounds for that motion to strike, your Honor, are  
3 based on hearsay.

4 Mr. Baker is reporting survey results and  
5 there is no exception to the hearsay rule. Yesterday  
6 when -- or earlier in this proceeding when survey  
7 results were in the testimony of another witness, the  
8 companies claimed that there was a business records  
9 exception that the survey results fell under, under  
10 803 -- under Rule of Evidence 803(6).

11 We would like to note that that exception  
12 is based on the notion that business records are  
13 accepted at face value because the Rules of Evidence  
14 assumed they are probably accurate if the business is  
15 accumulate and rely on the information as part of  
16 their regular business operation.

17 But this rationale does not extend to  
18 statements contained in a business record that are  
19 made by someone who is not part of the business, as  
20 these statements were.

21 Additionally, your Honor, we would submit  
22 that these documents were prepared in anticipation of  
23 litigation in the standards case and, therefore, do  
24 not fall within the scope of 803(6) because they were  
25 created for the specific purpose outside the regular

1 operation of the business.

2 And the final motion to strike, your  
3 Honor -- actually I have got two more, I believe,  
4 sorry. I misspoke.

5 The next motion to strike begins on page  
6 5, lines 2 through 8. This testimony refers to the  
7 stipulation that recommended reliability standards  
8 for the company. Your Honor, we submit that the  
9 stipulation by its very terms cannot be used or cited  
10 as precedents.

11 Specifically at page 2, the first full  
12 paragraph of the stipulation, which is in the record  
13 in this proceeding as OCC Exhibit No. 11, states  
14 "Except for the purposes of enforcement of the terms  
15 of this Stipulation, this Stipulation, the  
16 information and data contained therein or attached  
17 and any Commission rulings adopting it, shall not be  
18 cited as precedent in any future proceeding for or  
19 against any Party or the Commission itself."

20 We submit, your Honor, that allowing the  
21 use of a stipulation against a party, a signatory  
22 party, by a party who signed will have a chilling  
23 affect on a party's willingness to enter into the  
24 stipulation agreement and we believe this is bad  
25 public policy.

2370

1                   The final motion to strike, your Honor --

2                   MR. OLKER: Your Honor, IEU-Ohio will  
3 join the motion to strike.

4                   EXAMINER SEE: Is it just that one or the  
5 others?

6                   MR. OLKER: Just that one, your Honor,  
7 for now.

8                   EXAMINER SEE: Okay. Continuing,  
9 Ms. Grady.

10                  MS. GRADY: Thank you, your Honor.

11                  The final motion to strike begins on page  
12 5, line 10, running through line 12. This is a  
13 statement that claims that the company have met --  
14 has met reliability standards beginning for the year  
15 2010.

16                  This is hearsay, it is an out-of-court  
17 statement made by one other than the declarant  
18 offered to prove the truth of the matter asserted and  
19 there is no exception.

20                  Additionally, these statements refer to  
21 annual reports which in this instance are documents  
22 that are prepared in anticipation of litigation,  
23 therefore, they are not within the business records  
24 exception to hearsay under 803(6) because they were  
25 created for a purpose outside the regular operation

1 of the business.

2 EXAMINER SEE: And that was your last  
3 one, correct, Ms. Grady?

4 MS. GRADY: Yes, your Honor.

5 EXAMINER SEE: Did you wish to reply,  
6 Mr. Margard?

7 MR. MARGARD: Thank you, your Honor.

8 If I might, with respect to the first  
9 motion to strike appearing on page 2, staff will  
10 stipulate Mr. Baker is, in fact, not an attorney.  
11 That this does not reflect a legal opinion but  
12 reflects his lay understanding of what the law  
13 requires as a member of the Commission's staff. And  
14 in the performance of his duties as directed by the  
15 statute.

16 With respect to the motion on page 4,  
17 lines 19 through 23, these are documents that are  
18 filed with, submitted to the Public Utilities  
19 Commission. As such are records of the Commission.  
20 Indeed in are public records. And these are  
21 documents that are regularly maintained by the  
22 Commission and considered by the Commission in the  
23 rendering of its performance of its duties.

24 With respect to the first motion to  
25 strike on page 5, question No. 12, your Honor, the

1 stipulation is not being relied upon in any manner or  
2 cited as precedent or for precedential value. It is  
3 merely being referred to by this witness as an  
4 indication of the process that resulted in the  
5 reliability standards approved by the Commission.

6 It is a matter of fact as part of the  
7 public record that the Consumers' Counsel  
8 participated in those proceedings, that a stipulation  
9 was filed, and that Consumers' Counsel signed the  
10 stipulation.

11 Beyond that, Mr. Baker does not rely on  
12 that stipulation for any precedential value or to  
13 reflect any particular position taken by the  
14 Consumers' Counsel in that matter or this.

15 And as respects the matter in question  
16 No. 13, your Honor, these annual reports are also  
17 filed at the Commission, are part of the docket at  
18 the Commission, are a part of the public record. And  
19 it is Mr. Baker's duty and responsibility, as he  
20 describes in his testimony, to consider and evaluate  
21 those reports. This, in fact, is not hearsay but is  
22 Mr. Baker's opinion.

23 MR. NOURSE: Your Honor, the companies  
24 join the staff in opposing these motions to strike.  
25 I would concur with Mr. Margard and just add a couple

1 of quick points on the question and answer 11.

2 On page 4, certainly the -- when the  
3 hearsay exception for business records applies, it  
4 applies to any party using the information, otherwise  
5 the result would be the company could use it but  
6 another party could not use the same record.

7 And certainly the compliance with PUCO  
8 rules is part of the business of a utility. And the  
9 surveys are required under the rule. And were done  
10 in conjunction with that compliance effort, so they  
11 are regular business records and should be relied  
12 upon and an exception to the hearsay.

13 EXAMINER SEE: Each of OCC's requests to  
14 strike those portions of Mr. Baker's testimony is  
15 denied.

16 Do you want to commence cross, Ms. Grady?

17 MS. GRADY: Yes, thank you, your Honor.

18 - - -

19 CROSS-EXAMINATION

20 By Ms. Grady:

21 Q. Good afternoon, Mr. Baker.

22 A. Good afternoon.

23 Q. Now, Mr. Baker, you testified -- or you  
24 were in -- involved in the -- let me strike that.

25 Mr. Baker, you testified in the



1 companies' first ESP proceeding, did you not, in Case  
2 No. 08-917-EL-SSO?

3 A. I believe so.

4 Q. And do you recall that you testified on a  
5 portion of the companies' enhanced service  
6 reliability plan?

7 A. I believe so.

8 Q. And, in fact, you testified on a specific  
9 portion of that plan and that portion would have been  
10 the distribution automation projects?

11 A. Yes.

12 Q. And was -- is it your understanding,  
13 Mr. Baker, that the distribution automation projects  
14 were proposed as part of the companies' initiatives  
15 under its enhanced service reliability plan?

16 A. I believe so.

17 Q. And is it your understanding that the  
18 company -- the companies' position on that particular  
19 project, the distribution automation project, that  
20 was -- that it was necessary to maintain and enhance  
21 its reliability to go forward with that project?

22 A. Yes.

23 Q. And was it -- was the impetus to go  
24 forward with that project based upon the companies'  
25 perceptions about what the customers -- let me strike

1       that.

2                   Did you understand that the basis -- the  
3       companies' basis for going forward with that project  
4       was that the customer's service reliability  
5       expectations were increasing and would be increasing  
6       in the future?

7           A.     Yes.

8           Q.     Now, in that case, Mr. Baker, you  
9       recommended against the companies' proposal to  
10      install the distribution automation outside of the  
11      gridSMART -- gridSMART Phase 1 area; is that correct?

12          A.     I believe so.

13          Q.     And the basis for your recommendation was  
14      that the company hadn't identified circuits that the  
15      distribution automation was to apply to, correct?

16          A.     That was one of the reasons, yes.

17          Q.     And another reason would have been  
18      because the company could not project any reliability  
19      improvement expected to result from the distribution  
20      automation projects; is that correct?

21          A.     That's correct.

22          Q.     Were there any other bases in your  
23      testimony to recommend against the companies'  
24      proposal related to DA or distribution automation  
25      that you recall?

1           A.     That's all I recall.

2           Q.     Do you recall testifying to the fact that  
3           there was not a quantified benefit to customers from  
4           that particular program?

5           A.     Quantified in terms of reliability or in  
6           terms of cost savings?

7           Q.     Let's talk about quantified in terms of  
8           reliability.

9           A.     That I'm sure of.

10          Q.     And you are not sure about quantifying in  
11          terms of cost/benefit analysis; is that correct?

12          A.     Right.

13          Q.     Now, Mr. Baker, is it your understanding  
14          that the PUCO denied the companies' request to  
15          implement the distribution automation project and  
16          recover the costs associated with that reliability  
17          program?

18          A.     Outside of the area that they had  
19          specified, yes.

20          Q.     And are you familiar with the rationale  
21          that the PUCO used concerning that request?

22          A.     I don't remember the wording in the  
23          order.

24          Q.     Do you remember the rationale that  
25          underlied their decision to deny that request?

1           A.    No, I do not.

2           Q.    Mr. Baker, let's talk about the  
3 stipulation for a moment?

4           A.    Which stipulation?

5           Q.    I'm sorry, that would be the stipulation  
6 filed in this proceeding that the staff of the PUCO  
7 signed on to.

8           A.    Okay.

9           Q.    Are there any projected improvements to  
10 reliability that you are aware of that are tied to  
11 the distribution investment rider associated with the  
12 stipulation in this proceeding?

13          A.    I'm not aware of any but I only did one  
14 brief review of the stipulation. I'm not familiar  
15 with it.

16          Q.    Mr. Baker, there is nothing in the  
17 stipulation that holds the company accountable for  
18 achieving any reliability improvement associated with  
19 the DIR, is there, to your knowledge?

20          A.    Not that I recall.

21          Q.    Is there anything in the stipulation that  
22 you can recall that requires the company -- the  
23 companies to have performance targets related to  
24 reliability?

25          A.    Not that I am aware of.

1           Q.    And when I say "performance targets  
2   related to reliability," do you understand me to  
3   refer to the two indices provided under the Ohio  
4   Administrative Code, the CAIDI and the SAIFI?  SAIFI.

5           A.    Referring to the standards they would  
6   exist independent of the stipulation.

7           Q.    But there's nothing in the stipulation  
8   that requires the company to perform above those  
9   standards, correct, associated with any distribution  
10  investment that might result from the stipulation?

11          A.    Not that I recall.

12          Q.    Now, in question 11 of your testimony you  
13  describe customer survey results.  Do you see that  
14  reference?

15          A.    Yes.

16          Q.    And when you referred to the results  
17  there, are you referring to the results that were  
18  presented in Case No. 09-756?

19          A.    Yes.

20          Q.    And is it your understanding that those  
21  survey results were based on historical customer  
22  perception data?

23          A.    Yes.

24          Q.    And when I say "historical," would you  
25  agree with me that for purposes of that filing, the

1 09-756 filing, that the survey results were based  
2 upon customer perception data from 2004 through  
3 mid-year 2009?

4 A. Yes.

5 Q. Now, you indicate in your testimony, do  
6 you not, that there is a two-step process that --  
7 that staff undertakes to perform an examination of  
8 reliability? Do you see that reference beginning on  
9 page 3 and carrying over to 4?

10 A. You said questions 3 and 4?

11 Q. Actually page 3 and 4, question 9 and  
12 answer. Do you describe that as a two-step process?

13 A. Yes.

14 Q. And you say step 1 is the development of  
15 performance standards. Do you see that?

16 A. Yes.

17 Q. And that step 1 was done in Case  
18 No. 09-756?

19 A. Yes.

20 MS. GRADY: That's all the questions I  
21 have, Mr. Baker. Thank you very much.

22 EXAMINER SEE: Mr. Maskovyak.

23 MR. MASKOVYAK: No questions, your Honor.

24 EXAMINER SEE: Mr. Kutik?

25 MR. KUTIK: No questions, your Honor.

1 EXAMINER SEE: Sorry, Mr. Hayden.

2 Mr. Darr.

3 MR. OLIKER: One second, your Honor.

4 EXAMINER SEE: I tell you what, I'll come  
5 back to you.

6 Ms. Hand?

7 MS. HAND: No questions, your Honor.

8 EXAMINER SEE: Mr. Olikier.

9 MR. OLIKER: No questions, your Honor.

10 EXAMINER SEE: Redirect, Mr. Margard?

11 MR. MARGARD: No redirect, your Honor.

12 EXAMINER SEE: Thank you very much,  
13 Mr. Baker.

14 MR. MARGARD: Your Honor, I would  
15 respectfully renew my motion to admit Staff Exhibit  
16 No. 5.

17 EXAMINER SEE: Objections to Staff  
18 Exhibit 5, to the admission of Staff Exhibit 5?

19 MR. DARR: We would renew the objection  
20 from yesterday, your Honor.

21 MS. GRADY: And renew our motion to  
22 strike and objections.

23 EXAMINER SEE: Okay. Those objections  
24 are overruled and Staff Exhibit 5 is admitted into  
25 the record.

1 (EXHIBIT ADMITTED INTO EVIDENCE.)

2 MR. KUTIK: Your Honor.

3 EXAMINER SEE: Yes, Mr. Kutik.

4 MR. KUTIK: May we be heard on the  
5 subject of motion for leave to file surrebuttal? And  
6 I would like to approach, if I could.

7 EXAMINER SEE: You can be heard and you  
8 can approach.

9 MR. KUTIK: Thank you.

10 Your Honor, at this time FES has filed a  
11 motion for leave to file and be heard on a matter of  
12 surrebuttal testimony. As you know, your Honor,  
13 surrebuttal is allowed from time to time in  
14 Commission proceedings. We believe it's particularly  
15 appropriate in this case for a relatively narrow  
16 issue.

17 During the testimony of Mr. Allen,  
18 specifically during his cross-examination, he made  
19 what we believe to be a fairly material  
20 misrepresentation of the impact of a proposal made by  
21 FES Witness Banks regarding a proposal to provide  
22 discounted SSO service by FES to PIPP customers.  
23 Specifically, Mr. Allen alleged that that would  
24 actually increase costs to other customers.

25 We believe that we should be heard with



1     respect to that and Mr. Banks should be allowed to  
2     explain why Mr. Allen is wrong.

3             We have attached to our motion which we  
4     have provided to the Bench a copy of what we intend  
5     to have as Mr. Banks's testimony. As you can see, it  
6     is fairly limited. And Mr. Banks, unfortunately, is  
7     not in Columbus today but we could make him available  
8     at any time tomorrow.

9             MR. NOURSE: Your Honor, we haven't had  
10    time to review and perhaps we could file a response,  
11    but I would say that I don't see how the offer in  
12    Mr. Banks's testimony that doesn't relate to the  
13    stipulation proposal be deemed a material or critical  
14    matter that has to be addressed in this proceeding.

15            Of course, I won't get into the fact that  
16    Mr. -- Mr. Allen's statements, I believe, were  
17    correct and he was subjected to cross-examination  
18    about them. But I don't, you know, I don't think  
19    surrebuttal is appropriate or necessary at this stage  
20    in this proceeding given that -- given the state of  
21    the schedule. I think we should move on to briefing.

22            MR. KUTIK: Your Honor, we heard very  
23    serious arguments made by Mr. Nourse and Mr. Kurtz on  
24    behalf of the signatory parties how it's important  
25    for the court -- for the Commission to have a full

1 and complete record of the issues that the Commission  
2 may need to consider in looking at the stipulation  
3 and making modifications to the stipulation and  
4 rejecting the stipulation, and certainly this was  
5 part of Mr. Banks's testimony.

6 We believe that as was the case with many  
7 of Mr. Allen's answers, this was a matter inserted by  
8 him that we could not anticipate, that we could not  
9 react to on cross-examination, and, therefore,  
10 surrebuttal is the appropriate venue for us to  
11 address this issue.

12 MR. NOURSE: Your Honor, I guess my  
13 request would be to try to file a response or have  
14 some additional time to review and respond. I mean,  
15 this testimony appears to me to be -- even assuming  
16 it's something FirstEnergy Solutions could -- could  
17 address and would bear the burden of proving should  
18 have addressed earlier, they are coming out with a  
19 lot of additional detail that doesn't relate to,  
20 quote-unquote, rebuttal of Mr. Allen's statements in  
21 any event.

22 MR. KUTIK: Your Honor.

23 EXAMINER SEE: It's fairly unusual that  
24 at this point in the process we would -- the  
25 Commission would entertain surrebuttal and note that

1 the issue is in regards to the percentage of income  
2 payment plan, plus the Bench as well as the  
3 Commission is capable of understanding the offer and  
4 has sufficient record to make any decision regarding  
5 an offer that could be provided to PIPP customers.

6 With that, the request for surrebuttal is  
7 denied and we'll move on to a briefing schedule.

8 MR. NOURSE: And, your Honor, the  
9 companies have a proposal in briefing, if you would  
10 entertain it.

11 EXAMINER SEE: Let's go off the record  
12 and we can discuss briefing schedule.

13 (Discussion off the record.)

14 EXAMINER SEE: Let's go back on the  
15 record.

16 Counsel for AEP Ohio has committed to put  
17 the -- to make the arrangements necessary for the  
18 transcripts of this proceeding to be docketed  
19 tomorrow, October 28, correct, Mr. Nourse?

20 MR. NOURSE: That's my request, your  
21 Honor, and I believe it's possible but need to  
22 confirm that.

23 EXAMINER SEE: Okay. And then there has  
24 been a suggested briefing schedule which certain  
25 parties have agreed to.

1           After considering the briefing schedule  
2 proposed by the parties -- certain parties, the Bench  
3 is going to establish the briefing schedule as  
4 initial briefs being due November 10, reply briefs  
5 will be due November 18 by the close of business.

6           Request that you file -- if you are  
7 filing electronically, that you file the PDF as well  
8 as a Word version with the Commission's Docketing  
9 Division.

10           If you are not filing electronically,  
11 that you submit a Word document in addition to your  
12 PDF to the AEs as well as transmit your briefing --  
13 initial and reply brief to the other parties by  
14 e-mail.

15           If there is nothing further, the hearing  
16 is adjourned. Thank you all.

17           (Thereupon, the hearing was adjourned at  
18 2:09 p.m.)

19                           - - -  
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## 1 CERTIFICATE

2 I do hereby certify that the foregoing is  
3 a true and correct transcript of the proceedings  
4 taken by me in this matter on Thursday, October 27,  
5 2011, and carefully compared with my original  
6 stenographic notes.

7  
8 

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Karen Sue Gibson, Registered  
9 Merit Reporter.

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11 (KSG-5436)

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Summary: Transcript Transcript of Columbus Southern Power Company and Ohio Power Company hearing held on 10/27/11 - Vol XIII electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.